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13 *Admission pro hac vice pending

14 *Attorneys for Plaintiffs*

15 UNITED STATES DISTRICT COURT
16 FOR THE EASTERN DISTRICT OF CALIFORNIA

17 MOMS FOR LIBERTY – YOLO COUNTY;
18 INDEPENDENT COUNCIL ON
WOMEN’S SPORTS; CALIFORNIA
19 FAMILY COUNCIL; ELISABETH Y.
BOURNE; ALLISON L. SNYDER;
20 SOPHIA LOREY; KIM JONES; and
CLARE ERIN FRIDAY,

21 *Plaintiffs,*

22 v.

23 YOLO COUNTY; DIANA LOPEZ, in her
official capacity as Yolo County Librarian;
24 and D. SCOTT LOVE, in his official
capacity as Library Regional Manager for the
25 West Yolo County Library Region,

26 *Defendants.*

COMPLAINT

Case No. _____

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JURISDICTION

1. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1343, as Plaintiffs allege that Defendants are violating 42 U.S.C. § 1983 by depriving them, under color of state law, of rights, privileges, and immunities secured by the First and Fourteenth Amendments to the United States Constitution.

VENUE

2. This Court is the proper venue for this action per 28 U.S.C. § 1391(b) because a substantial part of the events and omissions giving rise to the claim have occurred and are occurring in this judicial district.

INTRODUCTION

3. “If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.” *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943).

4. Of all government officials, librarians—people entrusted with disseminating a broad range of perspectives and voices—should be expected to understand this much. But Yolo County librarians Defendants Scott Love and Diana Lopez believe that their job is to enforce conformity with the government’s official views. They not only allow their ideological allies to disrupt speakers whose views they reject, they actively censor speech with which they disagree.

5. Indeed, when Plaintiffs’ ideological opponents disrupted their library event because they disagreed with Plaintiffs’ viewpoint, Love stood ready to escalate the disruption to the level of official censorship—and did so. He declared that Plaintiffs’ mere assertion that “men” should not be allowed to play on women’s teams was unlawful speech, and expelled Plaintiffs from the space they had rented.

6. Defendants are not required to agree with Plaintiffs’ views about protecting women’s sports. The First Amendment, however, requires that Defendants allow Plaintiffs to speak freely about the integrity of female athletics in library meeting rooms. It demands public library officials not enable—let alone participate—in the disruption and cancellation of Plaintiffs’ events

1 on account of their viewpoints. The Court should hold Defendants accountable for the damage they
2 caused in censoring Plaintiffs' event and ensure that such censorship never happens again.

3 THE PARTIES

4 7. Plaintiff Moms for Liberty – Yolo County (“Yolo M4L”) is the Yolo County,
5 California Chapter of Moms for Liberty, a 501(c)(4) organization whose mission is to organize,
6 educate and empower parents to defend their parental rights at all levels of government.

7 8. Plaintiff Elisabeth (Beth) Y. Bourne resides in Yolo County, California, and is the
8 Chair of Plaintiff Moms for Liberty – Yolo County.

9 9. Plaintiff Allison (Allie) L. Snyder is a mother whose child attends a Yolo County
10 public school.

11 10. Plaintiff Sophia Lorey is Outreach Director at Plaintiff California Family Council.

12 11. Plaintiff California Family Council is an organization that seeks to advance God's
13 design for life, family, and liberty through California's Church, Capitol, and Culture.

14 12. Plaintiff Independent Council on Women's Sports (“ICONS”) is a non-partisan,
15 non-profit organization comprised of current and former collegiate and professional women
16 athletes, their families, and their supporters. ICONS engages in public and legal advocacy on the
17 importance of protecting the integrity of female athletics.

18 13. Plaintiff Kim Jones is a co-founder of Plaintiff ICONS.

19 14. Plaintiff Clare (Erin) Friday serves as a regional lead for Our Duty, an international
20 support network for parents who wish to protect their children from the harms of identifying with
21 a gender identity inconsistent with their sex.

22 15. Defendant Yolo County is a corporate body and legal subdivision of the State of
23 California. Defendant Yolo County established the Yolo County Library pursuant to California
24 law. *See* Yolo Cnty., Cal. Ordinances § 2-5.401 (Res. of Oct. 4, 1915); Cal. Educ. Code § 19100.
25 Defendant Yolo County's Board of Supervisors appoints Defendant County Librarian. Cal. Educ.
26 Code § 19140. Under California law, Defendant Yolo County sets general rules and policy for the
27 operation of the County Library. Cal. Educ. Code § 19146.

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1 21. Defendant Lopez interprets the *Policy* to prohibit groups from bringing private
2 security to events in reserved rooms because that security would “interfere” with “library
3 services.”

4 22. Failing to comply with the *Policy*’s terms “will result in withdrawal of room
5 reservation privileges.” *Id.* at 2.

6 23. Defendants also maintain a *Library Code of Behavior* (the “*Code*”), which requires
7 all people on library property to “[t]reat people, materials and furniture with respect.” Ex. B at 1.
8 A true and correct copy of the *Library Code of Behavior* is attached hereto as Exhibit B.

9 24. The *Code* warns that “intentionally interfer[ing] with the business of the library by
10 obstructing or intimidating those attempting to carry on business in the library and . . . refus[ing]
11 to leave the library after being requested to do so by the library management” is a “misdemeanor.”
12 *Id.* (citing Cal. Penal Code § 602.1).

13 25. The *Code* further provides that “[a]ll other laws pertaining to behavior in a public
14 place apply, including California Penal Code Sections 314, 415, 647 and 653b.” *Id.* California
15 Penal Code § 415, “Disturbing the Peace,” imposes fine and imprisonment upon “(2) Any person
16 who maliciously and willfully disturbs another person by loud and unreasonable noise.”

17 26. Defendant Lopez interprets the *Code* to prohibit disrupting scheduled events in
18 reserved rooms.

19 *Defendants’ Discrimination Against Plaintiffs’ Viewpoints*

20 27. The individual Plaintiffs generally believe that sex is binary, biologically
21 determined, and immutable. Moreover, they believe that men’s physiology generally enables them
22 to outperform women athletically. Accordingly, they believe that the participation of boys and
23 men in female sports is dangerous and unfair, and that girls and women are harmed by the
24 ideologies that reject their beliefs regarding sex. The individual Plaintiffs wish to express their
25 views on these subjects in order to persuade others, and ultimately influence public policy.

26 28. Plaintiff Jones founded ICONS to advance these views on sex and participation in
27 athletics. Many Yolo M4L members agree, and Yolo M4L believes that a frank and open debate
28 about these subjects is essential. Plaintiffs believe that parents’ right to direct the upbringing of

1 their children includes the right to counsel and direct their children with respect to matters of sex
2 and gender according to their own values and understanding of the world.

3 29. Accordingly, Plaintiffs wish to foster and participate in the public debate
4 concerning sex, gender identity, and participation in athletics. To that end, Yolo M4L has reserved
5 Yolo County public library meeting rooms for use by the Plaintiffs to advance debate and
6 discussion of their views.

7 30. Defendants have used their governmental authority to frustrate and block
8 Plaintiffs' expression on these subjects by refusing to enforce their rules against the disruption of
9 Plaintiffs' events, and even shouting down and terminating Plaintiffs' speech with which they
10 disagree.

11 February 25 – the “Brave Books Family Hour”

12 31. Yolo M4L and Bourne reserved the Blanchard Room at Yolo County's Mary L.
13 Stevens – Davis Branch Library to present a “Brave Books Family Hour” on February 25, 2023.
14 The event aimed to foster discussion of children's books published by Brave Books, which
15 celebrate families and honor traditional values.

16 32. On February 6, 2023, prior to the Brave Books event, Defendant Lopez emailed
17 Defendant Love and Crista Cannariato, Yolo County Regional Supervisor, West Yolo Region
18 about Plaintiffs Yolo M4L and Bourne's request to use the Blanchard Room for the February 25
19 event, offering that she “was relieved” that some parents had accused Bourne of “transphobia,”
20 and instructing Cannariato that she “should go ahead and proceed as we discussed.” Ex. C at 1. A
21 true and correct copy of that email is attached hereto as Exhibit C.

22 33. The same day, Cannariato emailed Davis City Councilmember Gloria Partida.
23 Partida is founder of the Davis Phoenix Coalition, a group that had previously supported a drag
24 queen story hour at the library and whose views on sex and gender are antithetical to those of
25 Plaintiffs. Cannariato wrote about the “difficult issue the Library [was] facing” from Yolo M4L
26 and Bourne's request to use the Blanchard room for the February 25 event. Cannariato labeled
27 Bourne as a “vocal anti-trans member of the community,” and expressed concerns that Bourne
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1 would “attempt to promote” her “anti-trans” “agenda” at the event. Ex. D at 4. A true and correct
2 copy of that email thread is attached hereto as Exhibit D.

3 34. Ms. Cannariato asked Ms. Partida if the Phoenix Coalition would “be interested”
4 in “partner[ing]” with the library to “host” a “queer-affirming event[].” *Id.*

5 35. Partida responded two hours later, copying Davis Phoenix Coalition’s Rainbow
6 Families Director Anoosh Jorjorian. *Id.* at 3. Partida thanked Cannariato for “bringing” the
7 “deeply disturbing” event to her attention and asked whether the library had “specific rules against
8 holding events that violate creating safe spaces for all?” *Id.* Cannariato replied that,
9 “[u]nfortunately,” the library did “not feel confident” that it “could legally defend refusing the
10 reservation under [its] current meeting room use policy.” *Id.* at 2. But she asserted that the library
11 would “be looking at how” it could “strengthen” its *Policy* and *Code* “in the future to better protect
12 the community against potential hate speech.” *Id.*

13 36. Ms. Cannariato wrote that she “would love to do another Drag Queen story hour”
14 and also “would love to have some queer positive programming scheduled for around the time
15 of” the February 25 event. *Id.* at 2–3.

16 37. On February 9, 2023, Defendant Love emailed the City of Davis Police
17 Department, its chief, Darren Pytel, and a City of Davis official to express “concerns with” Moms
18 for Liberty “using the room.” Defendant Love warned them that “Brave Books” had advertised
19 the event, “which may draw more like-minded individuals to the program.” Defendant Love wrote
20 that Bourne tried “to get an anti-trans book added” to school libraries and “complain[ed] about a
21 trans documentary” shown at Davis Senior High School. Ex. E at 2–3. A true and correct copy of
22 Defendant Love’s email correspondence is attached hereto as Exhibit E.

23 38. On February 18, 2023, Defendant Love emailed Yolo County Sheriff Tom Lopez
24 concerns about the event and informed him that the library was not “involved in” the event
25 because it contravened the library’s “diversity, equity and inclusion values.” Ex. F at 1. A true
26 and correct copy of that email is attached hereto as Exhibit F.

27 39. On February 22, 2023, Defendant Love wrote a community member that the
28 proposed Brave Books event had “been quite the awakening to” the library and that library

1 officials were “none too happy about” it. A true and correct copy of that email is attached hereto
2 as Exhibit G.

3 40. The day before the Brave Books event, Defendant Lopez emailed library staff and
4 informed them that Moms for Liberty is “anti-LGBTQIA, anti-woke, [and] anti-critical race
5 theory.” Lopez told staff that the library would display “LGBTQIA-affirming materials,”
6 including books, “LGBTQIA+ resources bookmark[s],” an “LGBTQIA+ bibliography,” and
7 “LGBTQIA+ flag buttons” in the library during the event. Ex. H at 1, 3. Defendant Lopez also
8 asked staff to “report” “hate speech” to supervisors “immediately,” defining “hate speech” as
9 “offensive discriminatory language that attacks or uses discriminatory language with reference to
10 a person or a group on the basis of who they are, in other words, based on their religion, ethnicity,
11 nationality, race, color, descent, sexual orientation, gender or other identity.” Ex. H at 4. A true
12 and correct copy of that email is attached hereto as Exhibit H.

13 41. The February 25 event hosted approximately 25 people, including three protestors
14 who stood in the back of the room, and finished successfully with no disruption.

15 March 17 – Affirmation Generation film screening

16 42. On March 17, 2023, Yolo M4L hosted a screening of the film *Affirmation*
17 *Generation* and a discussion with its executive producer, Joey Brite, a Northern California
18 lesbian-feminist leader, in the Blanchard Community Room at the Mary L. Stevens – Davis
19 Branch Library. Approximately twenty people attended the event.

20 43. *Affirmation Generation* exposes the consequences of so-called “gender affirming
21 care” and features stories of detransitioners who medically transitioned to live as the opposite sex
22 but have now reverted to living consistent with their natal sex, having suffered numerous lifelong
23 medical complications due to their transition.

24 44. During the event, Anoosh Jorjorian stood in the front of the room, next to the
25 screen and held up signs protesting the film. Jorjorian’s signs included the messages “Transphobia
26 = hate,” “Trans is Natural,” and “Fact-Free Fear-Mongering Propaganda.” Jorjorian wrote new
27 signs, rolled her eyes, and laughed dismissively for approximately 60 minutes of the nearly 90-
28 minute film.

1 57. The Forum aimed to “[e]mpower and protect girls’ sports and female athletes,”
2 “[d]efend the original intent of Title IX,” and “[c]reate a powerful network of coaches, parents,
3 and girls’ sports supporters.” Ex. K at 3.

4 58. Plaintiffs Lorey, Friday, Jones, Snyder, and Bourne all planned to speak at the
5 forum. Lorey intended to discuss her experience playing on her high school and college’s female
6 soccer teams. Friday planned to discuss California state policies and California Interscholastic
7 Federation (CIF) policies regarding participating in sports based on asserted gender identity and
8 the impact on girls’ sports in California. Jones, on behalf of ICONS, intended to discuss the history
9 and current status of Title IX and its protection for female sports. And Snyder and Bourne planned
10 to discuss the damage to girls’ sports caused by CIF’s “Gender Diverse Inclusivity Toolkit,”
11 which allows youth to compete in sports based on asserted gender identity.

12 59. Approximately fifteen minutes prior to the forum’s start, Defendant Love
13 approached Bourne, Snyder, and Jones, in an interaction videoed by Snyder with the consent of
14 all participants.

15 60. Defendant Love told Bourne, Snyder, and Jones that California law and
16 Defendants’ *Code* prohibited “misgendering,” and that “California state law recognizes
17 transgender” as “protected.” Love instructed that if Plaintiffs “speak[] about a transgender
18 female, they need to be referred to as a female; transgender male needs to be referred to as a
19 male.”

20 61. Defendant Love warned Plaintiffs that “if there is any misgendering” he would ask
21 that person to “leave” with “no exceptions.” According to Love, that was “it” and his “direction.”

22 62. Bourne asked Love if Plaintiffs could say, before talking about a transgender-
23 identifying person, that “this was my belief and this is what I see?” But Love prohibited that
24 speech. He declared that Plaintiffs’ proposal would violate Defendants’ *Code* by not treating
25 others with “respect” because it would “call[]” that person “a gender they are not.”

26 63. The forum attracted 65 attendees, including approximately 25 protestors and
27 Defendant Love. Love encouraged protestors outside the library to enter the Blanchard Room,
28

1 and told an attendee that he hoped more people would enter the room so that it would exceed its
2 capacity and require the fire marshal to terminate Plaintiffs' forum.

3 64. Lorey opened the forum, but within two minutes, as soon as she mentioned "men"
4 playing on women's sports teams, a protester in the audience shouted her down for
5 "misgendering," and demanded to know whether Lorey planned to "misgender" throughout her
6 presentation. As on cue, Defendant Love then warned the speakers that if "transgender females"
7 were called "males," the person saying so would violate the library's *Code* and would be asked
8 "to leave immediately." Love told Plaintiffs, "California state law recognizes trans women as
9 women." He added that Defendants' *Code* "talks about treating people with respect and if
10 [Plaintiffs] are misgendering somebody, that is not respectful."

11 65. Lorey continued with her talk for approximately one more minute, during which
12 she discussed her dream to be a college soccer player and her success in achieving that dream.
13 But when Lorey asserted that "current 10-year-old girls cannot live out [the] same dream as long
14 as men are allowed to compete in women's sports," protestors interrupted to shout that she could
15 not refer to "men" competing in women's sports.

16 66. Defendant Love warned that she was "misgendering," and threatened to eject her
17 if she "misgendered" again.

18 67. Lorey continued with her talk, stating that "no matter how hard biological girls
19 work, they will . . . never be able to be physiologically faster and stronger than biological men
20 that are trying to play in biological female sports. Allowing biological men in women's sports
21 does not create an equal playing field, but instead robs young girls of their athletic aspirations."
22 But as Lorey spoke, protestors laughed and talked over her.

23 68. Defendant Love then asked Lorey to leave the Blanchard Room because she was
24 "misgendering," and declared that he would "shut the entire program down" if she did not leave.

25 69. At this point, Friday rose to speak about the importance of free speech for all, only
26 to be interrupted and heckled by protestors. And rather than address the disruption of Friday's
27 speech, Love reiterated his command that Lorey leave because of her "misgendering" and again
28 declared that if she did not leave, he would "shut down" the program.

1 70. Lorey moved from the podium and stood quietly on the side of the room at
2 Defendant Love’s command. But Defendant Love then started walking out of the room and said,
3 “The program is over.” Love informed Plaintiffs that if they did “not leave,” it would “affect”
4 Yolo M4L’s “standing” to use the room for future events.

5 71. Friday then began her talk, but Love soon reentered the room. After Friday said,
6 “How did we get to where boys can compete in girls’ sports and take their scholarships, trophies,
7 and podium spots,” Love instructed “everyone” to “leave.” Friday had spoken for approximately
8 three minutes.

9 72. Defendant Love then turned off the projector to prevent the program from
10 continuing, and Plaintiffs left the library. No Plaintiff completed her planned remarks.

11 73. Bourne, Snyder, Lorey, and Friday all incurred travel expenses to attend the forum
12 Defendant Love shut down.

13 74. Bourne incurred advertising, recording, livestreaming, and food and beverage
14 expenses for the forum Defendant Love shut down.

15 *The Continuing Impact of Defendants’ Discriminatory Policies and Practices*

16 75. Plaintiffs desire to host the entire forum in the Blanchard Room, deliver their
17 prepared remarks, and promote their views on women’s sports, as originally planned. To this
18 end, Yolo M4L has reserved the Blanchard Room for March 3, 2024.

19 76. Plaintiffs Yolo M4L, Bourne, and Snyder also intend to continue reserving
20 meeting rooms at Yolo County public libraries to disseminate their views on sex, gender, and
21 other controversial topics—views that are (for now) unpopular in Yolo County and which are
22 unlikely to be aligned with Defendants’ political preferences.

23 77. But when Plaintiffs sought Defendants’ assurances that they would cease
24 discriminating against their viewpoints and take steps to enable their events at the public library,
25 Defendants refused, and instead, all but confirmed that they would remain committed to censoring
26 Plaintiffs’ speech.

27 78. On September 6, 2023, counsel for Plaintiffs wrote to Defendant Lopez, requesting
28 that she “confirm in writing that”:

- 1 a. Plaintiffs and audience members could “express their understanding of sex and
2 gender during the event, even if library officials consider this to be ‘misgendering’
3 or otherwise wrong or offensive”;
- 4 b. Library officials would “not shut down the event or try to censor anyone that refers
5 to a person whose natal sex is male as male, man, boy, he, or him, or that refers to
6 a person whose natal sex is female as female, woman, girl, she, or her”;
- 7 c. Library officials would “not take any adverse action against [Plaintiffs] or
8 members of the audience based on their viewpoint related to gender identity or the
9 sex or gender of participants in sports”;
- 10 d. Library officials would “provide adequate security” and “promptly remove any
11 attendee(s) that attempts to disrupt the event in any way, including but not limited
12 to, shouting down or interrupting the speakers, making sounds that interfere with
13 the speakers’ ability to be heard, blocking entrances or exits, or obstructing views”;
14 and
- 15 e. Plaintiffs could “hire private security” if they desired.

16 Ex. L at 1–2. A true and correct copy of Plaintiffs’ counsel’s email is attached hereto as Exhibit
17 L.

18 79. On September 13, 2023, counsel for Defendant Lopez responded. A true and
19 correct copy of that letter is attached hereto as Exhibit M.

20 80. Counsel for Defendant Lopez “recognize[d]” Defendants’ “legal obligation” to
21 comply with “the First Amendment . . . with the understanding that the Library’s public meeting
22 rooms are a designated public forum.” But rather than agree that Plaintiffs could express their
23 views about sex and gender, Lopez’s Counsel suggested that Defendants are not obliged to permit
24 “‘fighting words’ or other categories of speech that federal courts have previously held [to be]
25 unworthy of First Amendment protection.”

26 81. Moreover, Lopez’s Counsel refused to “extend a vague assurance that those who
27 ‘disrupt the event in any way’ will be removed.” Instead, he sought “additional discussion” about
28 “mutual expectations” regarding “the scope of the County’s legal responsibility and on matters

1 such as the role of security, staffing, costs, as well as other measures, such as ticketing, that may
2 promote a safe and effective event.” But no discussion was welcomed about Plaintiffs’ provision
3 of their own security: “[i]n no circumstance” would Defendants “permit a private security
4 presence.” Ex. M at 1.

5 82. In other words, rather than assure that the library rules prohibiting disruption
6 would be enforced to secure Plaintiffs’ events, Defendants suggested Plaintiffs’ speech is
7 unprotected, and took the position that Plaintiffs would have to pay the County (“mutual
8 expectations” about “costs”) for security or restrict access to their event (“ticketing”), assuming
9 that their speech would be allowed in the first place.

10 83. Counsel for Defendant Lopez did not confirm that Defendants would honor any of
11 Plaintiffs’ five requests.

12 84. Considering (1) Defendants’ hostility to Plaintiffs, and their record of (2) inviting
13 people to disrupt Yolo M4L’s events, (3) failing to enforce basic rules against those who disrupt
14 Yolo M4L events, (4) rigid enforcement of their policies to silence Plaintiffs’ speech, (5)
15 contacting law enforcement to denounce Plaintiffs and their audience, (6) Defendant Love’s
16 expressed hope that Plaintiffs’ event would be shut down by the fire marshal, and (7) Lopez
17 counsel’s suggestion that Plaintiffs’ speech is unprotected and that Plaintiffs must pay for
18 security to present their events, Plaintiffs refrain from holding their March 3 forum or other
19 events at Yolo County public library meeting rooms for fear that if they go forward with the
20 forum or other events, protestors allied with and enabled by Defendants will again shout down
21 Plaintiffs’ forum and other events; and that Defendants will again censor Plaintiffs, terminate
22 Plaintiffs’ forum or other events for “misgendering” and other perceived offenses under their
23 practices and policies, and expel Plaintiffs, including by subjecting them to arrest and
24 prosecution under Cal. Penal Code 602.1 as set forth by their *Code*.

COUNT ONE
FIRST AMENDMENT RIGHT OF FREE SPEECH, 42 U.S.C. § 1983
CONTENT AND VIEWPOINT DISCRIMINATION
FACIAL CHALLENGE TO LIBRARY CODE AND POLICIES

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85. Plaintiffs reallege all matters set forth in paragraphs 1–84 and incorporate them herein.

86. The First Amendment protects the speech that Plaintiffs have expressed, attempted to express, and intend to continue expressing at their events in Yolo County public library meeting rooms.

87. As Defendants acknowledged, the meeting rooms at the Yolo County public libraries are designated public fora for First Amendment purposes. Accordingly, content-based restrictions in the Yolo County public libraries are presumptively unconstitutional and subject to strict scrutiny, and viewpoint-based restrictions in these fora are prohibited.

88. The rule within Defendants’ meeting room policy providing that “[m]eeting rooms must be used in a way so that any use advances the Yolo County Library’s mission to *provide access for all to ideas that inform, entertain, and inspire*,” violates the First Amendment right of free speech on its face by discriminating against speech on the basis of content and viewpoint.

89. The requirement of Defendants’ *Library Code of Behavior* demanding that “people” must be treated with “respect” violates the First Amendment right of free speech on its face by discriminating against speech on the basis of content and viewpoint.

90. Defendants maintain a custom, policy, and practice that prohibits speakers from referring to people in accord with their natal sex (“misgendering”), and from criticizing or questioning any tenet of ideologies that claim that sex is not binary and immutable. This custom, policy, and practice violates the First Amendment right of free speech by discriminating against speech on the basis of viewpoint.

91. Defendants maintain a custom, policy, and practice of enabling the disruption of speakers who refer to people in accord with their natal sex (“misgendering”), and who criticize or question any tenet of ideologies that claim that sex is not binary and immutable. Defendants implement this policy by inviting and directing protestors to meeting rooms with the expectation

1 that the protestors would disrupt the disapproved speech, and by refusing to enforce their *Code* or
2 other policies governing the disruption of library events which are expected to contain the
3 disapproved speech. This custom, policy, and practice violates the First Amendment right of free
4 speech by discriminating against speech on the basis of viewpoint.

5 92. By enforcing these provisions and customs, practices, and policies, Defendants,
6 under color of law, deprive Plaintiffs of the right to free speech in violation of the First and
7 Fourteenth Amendments to the United States Constitution. Plaintiffs are thus damaged in
8 violation of 42 U.S.C. § 1983, and are therefore entitled to damages; declaratory, and preliminary
9 and permanent injunctive relief against continued enforcement and maintenance of Defendants’
10 unconstitutional provisions, customs, policies, and practices; and attorney fees and expenses
11 pursuant to 42 U.S.C. § 1988.

12 COUNT TWO
13 FIRST AMENDMENT RIGHT OF FREE SPEECH, 42 U.S.C. § 1983
14 CONTENT AND VIEWPOINT DISCRIMINATION
15 AS-APPLIED CHALLENGE TO LIBRARY CODE AND POLICIES

16 93. Plaintiffs reallege all matters set forth in paragraphs 1–84 and incorporate them
17 herein.

18 94. As applied against Plaintiffs, the requirement of Defendants’ *Library Code of*
19 *Behavior* demanding that “people” must be treated with “respect” violated and continues to
20 violate the First Amendment right of free speech by discriminating against speech on the basis of
21 content and viewpoint.

22 95. In defining any speech that would require security as an interference with library
23 services, Defendants authorize an unconstitutional heckler’s veto and adopt it as their own
24 content- and viewpoint- based action. Thus, as applied against Plaintiffs, the provision of
25 Defendants’ *Policy* that prohibits speech that “interfere[s] in any way with library services” also
26 discriminates based on content and viewpoint.

27 96. By enforcing these provisions and customs, practices, and policies, Defendants,
28 under color of law, deprive Plaintiffs of the right to free speech in violation of the First and
Fourteenth Amendments to the United States Constitution. Plaintiffs are thus damaged in

1 violation of 42 U.S.C. § 1983, and are therefore entitled to damages; declaratory, and preliminary
2 and permanent injunctive relief against continued enforcement and maintenance of Defendants’
3 unconstitutional provisions, customs, policies, and practices; and attorney fees and expenses
4 pursuant to 42 U.S.C. § 1988.

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COUNT THREE
FIRST AMENDMENT RIGHT OF FREE SPEECH, 42 U.S.C. § 1983
OVERBREADTH

97. Plaintiffs reallege all matters set forth in paragraphs 1–84 and incorporate them herein.

98. A rule is overbroad, in violation of the First Amendment, if “a substantial number of its applications are unconstitutional, judged in relation to [its] plainly legitimate sweep.” *United States v. Stevens*, 559 U.S. 460, 473 (2010) (quoting *Wash. St. Grange v. Wash. St. Republican Party*, 552 U.S. 442, 449 n.6 (2008)).

99. The rule within Defendants’ meeting room policy providing that “[m]eeting rooms must be used in a way so that any use advances the Yolo County Library’s mission to *provide access for all to ideas that inform, entertain, and inspire*,” is facially overbroad, in violation of the First Amendment right of free speech, as it purports to forbid a vast array of protected speech—all speech that Defendants may not find informative, entertaining, or inspiring.

100. The requirement of Defendants’ *Library Code of Behavior* demanding that “people” must be treated with “respect,” is facially overbroad, in violation of the First Amendment right of free speech, as it purports to prohibit all communication that is not “respectful” of other people.

101. By enforcing these provisions and customs, practices, and policies, Defendants, under color of law, deprive Plaintiffs of the right to free speech in violation of the First and Fourteenth Amendments to the United States Constitution. Plaintiffs are thus damaged in violation of 42 U.S.C. § 1983, and are therefore entitled to damages; declaratory, and preliminary and permanent injunctive relief against continued enforcement and maintenance of Defendants’

1 unconstitutional provisions, customs, policies, and practices; and attorney fees and expenses
2 pursuant to 42 U.S.C. § 1988.

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COUNT FOUR
FIRST AND FOURTEENTH AMENDMENT RIGHTS OF FREE SPEECH, DUE PROCESS, 42 U.S.C. § 1983
VAGUENESS

102. Plaintiffs reallege all matters set forth in paragraphs 1–84 and incorporate them herein.

103. As notice is the first element of due process, the Fourteenth Amendment guarantee of Due Process prohibits the enforcement of vague laws. The First Amendment likewise forbids the enforcement of laws that, however valid their application may be in some instances, are so vague as to chill protected speech.

104. The rule within Defendants’ *Policy* providing that “[m]eeting rooms must be used in a way so that any use advances the Yolo County Library’s mission to *provide access for all to ideas that inform, entertain, and inspire,*” is unduly vague, as is the requirement of Defendants’ *Library Code of Behavior* demanding that “people” must be treated with “respect.”

105. Defendants do not define what it means to “[t]reat” others with “respect.”

106. These provisions do not afford a person of ordinary intelligence fair notice of what is prohibited and are so standardless that they authorize discriminatory enforcement.

107. The lack of definitions, the inherent subjectivity of those terms, and the breadth of those terms render Defendants’ *Policy* and *Code* incapable of providing meaningful guidance on what they prohibit to Defendants or Plaintiffs.

108. Accordingly, these provisions, on their face and as applied against Plaintiffs, violate their rights to free speech and due process.

109. By enforcing these provisions and customs, practices, and policies, Defendants, under color of law, deprive Plaintiffs of the right to free speech in violation of the First and Fourteenth Amendments to the United States Constitution. Plaintiffs are thus damaged in violation of 42 U.S.C. § 1983, and are therefore entitled to damages; declaratory, and preliminary and permanent injunctive relief against continued enforcement and maintenance of Defendants’

1 unconstitutional provisions, customs, policies, and practices; and attorney fees and expenses
2 pursuant to 42 U.S.C. § 1988.

3 PRAYER FOR RELIEF

4 Wherefore, Plaintiffs respectfully request that judgment be entered in their favor and
5 against Defendants as follows:

- 6 1. Orders preliminarily and permanently enjoining Defendants, their officers, agents,
7 servants, employees, and all persons in active concert or participation with them who
8 receive actual notice of the injunction, from enforcing, generally and against Plaintiffs:
 - 9 a. The Yolo County public library meeting policy rule that restricts room access to
10 “ideas that inform, entertain, and inspire;”
 - 11 b. The Yolo County public library *Code of Behavior*’s requirement that people
12 be “treat[ed]” with “respect;”
 - 13 c. The Yolo County public library *Policy*’s provision that prohibits “interfer[ing]
14 in any way with library services” on the basis that speech would require
15 security;
 - 16 d. Defendants’ custom, policy, and practice that prohibits speakers from referring
17 to people in accord with their natal sex (“misgendering”), and from criticizing
18 or questioning any tenet of ideologies that claim that sex is not binary and
19 immutable;
 - 20 e. Defendants’ custom, policy, and practice of enabling the disruption of speakers
21 who refer to people in accord with their natal sex (“misgendering”), and who
22 criticize or question any tenet of ideologies that claim that sex is not binary and
23 immutable, including by inviting and directing protestors to meeting rooms
24 with the expectation that the protestors would disrupt the disapproved speech,
25 and by refusing to enforce their *Code* or other policies governing the disruption
26 of library events which are expected to contain the disapproved speech;

2. Declaratory relief consistent with the injunction, to the effect that Plaintiffs enjoy a First Amendment right to refer to people as being of their natal sex, and to assert, criticize or question any ideology or belief with respect to sex or gender;
3. Compensatory damages to make Plaintiffs whole for their expenses incurred in organizing and hosting the August 20 forum, and suffered as a consequence of Defendants' unlawful censorship and disruption of that event;
4. Nominal damages for the violation of Plaintiffs' constitutional rights;
5. Costs of suit;
6. Attorneys' fees and expenses pursuant to 42 U.S.C. § 1988; and
7. Any other relief as the Court deems just and appropriate.

Dated: December 4, 2023

Respectfully submitted,

/s/ Christiana Kiefer

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**Admission pro hac vice pending
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