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10 **UNITED STATES DISTRICT COURT**
11 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

12 Welcome INN, Inc.,

13 Plaintiff,

14 v.

15 RUTH COLEMAN, Director of the
16 California Department of Parks and
17 Recreation, in her official capacities;
18 RICHARD HAYDEN, Acting
19 Superintendent for Doheny State Park, in
20 his official capacities; DOE 1, in his/her
21 official capacities,

22 Defendants.

Case No. : SACV08-00506 DOC (RNBx)

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

FILED
2008 MAY -7 PM 2:33
CLERK OF DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
SANTA ANA

COPY

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Attorneys for Plaintiff

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I.

JURISDICTION AND VENUE

1. In filing this action, Plaintiff Welcome INN, Inc. (“Plaintiff” or “Welcome INN”) seeks declaratory and injunctive relief to redress state authorities’ ongoing interference with the rights to freedom of speech, freedom of assembly, and the free exercise of religion, in violation of the First and Fourteenth Amendment to the United States Constitution. Plaintiff seeks relief under 42 U.S.C. § 1983. This Court has jurisdiction over Plaintiff’s claims under 28 U.S.C. §§ 1331 and 1343, as well as the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

2. Venue is proper in the Central District of California under 28 U.S.C. § 1391(b). Defendants all reside in this district and all of the events or omissions giving rise to Plaintiff’s claims have occurred, or will occur, in this district.

II.

INTRODUCTION

3. Plaintiff seeks redress for Defendants’ ongoing interference with protected speech, associational, and religious activities.

4. In February 2008, state authorities threatened Plaintiff’s members and volunteers with citation and arrest for gathering together to feed homeless people in Doheny State Park. Plaintiff’s members and volunteers are imminently threatened with arrest if they continue their expressive, associational, and religious activities in connection with Welcome INN. As a result of the threatened citations and arrests, Plaintiff has already been forced to curtail its speech, associational, and religious activities in Doheny State Park.

5. Plaintiff seeks declaratory and injunctive relief to prevent the California Department of Parks and Recreation from interfering with or restricting the protected activities of Welcome INN, its members, volunteers, and guests.

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1 15. In late January or early February of this year, Welcome INN purchased
2 four annual passes (at a cost of \$125 each) for day use parking in the northern area
3 of Doheny State Park, where there is a five-acre lawn with picnic facilities.

4 16. Welcome INN invited its members, volunteers, and guests to meet at
5 Doheny State Park.

6 17. On Tuesday, February 5, and Wednesday, February 6, Welcome INN
7 served its guests food in the day-use picnic area of Doheny State Park without
8 incident.

9 18. Both of those days there were approximately 5 or 6 members and
10 volunteers of Welcome INN and 20 of its guests gathered together at approximately
11 4:30 p.m. Before distributing food, the members, volunteers, and guests recited a
12 prayer, such as the Our Father or Hail Mary. Members and volunteers of Welcome
13 INN then distributed food and spoke with the guests. If guests appeared in need,
14 Welcome INN's members and volunteers referred them to available resources in
15 the area, such as recovery centers, homeless shelters, or the local church. And, if
16 guests requested them, Welcome INN's members and volunteers distributed Bibles
17 and rosaries. The members, volunteers, and guests then proceeded to collect any
18 litter or trash before leaving.

19 19. All told, each feeding took approximately 45 minutes.

20 **B. Defendants' Interference with Plaintiff's Activities**

21 20. On Thursday, February 7, at approximately 4:30 p.m., as Welcome
22 INN's members and volunteers were preparing to unload the food from their cars, a
23 uniformed park ranger told them that they could not serve any food.

24 21. Patti Church, a member and officer of Welcome INN, approached the
25 ranger to ask what the problem was. He said that they were engaging in an
26 unlawful assembly and that if they did not leave immediately he would start writing
27 citations.

1 22. Church asked the ranger to write down the provision they were
2 allegedly violating, and the ranger complied, citing Section 4321.

3 23. Church also requested and received the name of the park supervisor.

4 24. Not wanting to risk citation or arrest, Welcome INN's members,
5 volunteers, and guests promptly left the park.

6 25. On February 8, Church spoke with Defendant Haydon, who confirmed
7 that Welcome INN's members, volunteers, and guests would be deemed in
8 violation of Section 4321 if they gathered to eat in the park.

9 26. As a result of the threatened citations and arrests under Section 4321,
10 Welcome INN has not returned to Doheny State Park.

11 27. Plaintiff's expressive, associational, and religious activities are
12 currently being curtailed as the direct result of Defendants' actions and threatened
13 future actions. Defendants, acting jointly, have deprived and continue to deprive
14 Plaintiff of the rights to freedom of speech, association, and religion protected by
15 the First Amendment, and Defendants, acting jointly, have caused injury and
16 threaten future injury to the constitutional rights of Plaintiff.

17 28. Plaintiff faces an actual and concrete threat of imminent future
18 violations of its rights from the actions of Defendants if its members and volunteers
19 engage in expressive, associational, or religious activities in Doheny State Park in
20 connection with Welcome INN. In particular, Welcome INN faces an actual and
21 concrete threat that its members and volunteers will be cited or arrested by
22 Defendants under Section 4321.

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V.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

FIRST AND FOURTEENTH AMENDMENTS; 42 U.S.C. § 1983

UNCONSTITUTIONALITY OF SECTION 4321

29. Plaintiff incorporates by reference each of the allegations contained in the preceding paragraphs.

30. The rights to freedom of speech and association, protected by the First Amendment to the United States Constitution, are made applicable to Defendants under the Fourteenth Amendment and enforceable against Defendants under 42 U.S.C. § 1983.

31. Section 4321 regulates a broad range of protected expression and association in a traditional public forum.

32. Section 4321 is a prior restraint on speech and association; it grants officials the authority to deny use of a forum in advance of actual speech or associational activity.

33. Section 4321 fails to provide narrow, objective, and definite standards to guide the licensing authority, and it lacks procedural safeguards to ensure against unlawful infringement on protected speech and assembly and to render the authority's decision subject to effective judicial review.

34. Section 4321 is not a valid time place, or manner restriction because it is not narrowly tailored to serve a significant governmental interest. It burdens substantially more speech than is necessary to further the government's legitimate interests.

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FIFTH CAUSE OF ACTION

DECLARATORY RELIEF – 28 U.S.C. § 2201

48. Plaintiff incorporates by reference each of the allegations contained in the preceding paragraphs.

49. An actual controversy exists between Plaintiff and Defendants regarding the constitutionality and legal enforceability of Section 4321. On information and belief, Defendants contend Section 4321 is constitutional as written and enforced, and Plaintiff contends that the provision is unconstitutional as written and as enforced against it and others similarly situated.

50. Plaintiff is entitled to a declaration of its rights with regard to Section 4321.

VI.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the following relief:

A. A temporary restraining order restraining and enjoining Defendants, their officers, servants, agents, employees, and those in active concert or participation with them, from interfering with Plaintiff's activities in the picnic area of Doheny State Park.

B. A preliminary and permanent injunction restraining and enjoining Defendants, their officers, servants, agents, employees, and those in active concert or participation with them, from interfering with Plaintiff's activities in the picnic area of Doheny State Park.

C. A preliminary and permanent injunction restraining and enjoining Defendants, their officers, servants, agents, employees, and those in active concert or participation with them, from implementing or enforcing Section 4321.

D. A declaration that Defendants' threatened future actions violate Plaintiff's rights under the First and Fourteenth Amendments to the U.S. Constitution.

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E. Costs of suit.

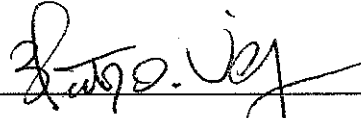
F. Attorneys' fees under 42 U.S.C. §1988 or any other applicable provision of law.

G. Such other relief as this Court deems just and proper.

Dated: May 6, 2008

Respectfully Submitted,

ACLU FOUNDATION OF SOUTHERN CALIFORNIA

By: 

Hector O. Villagra
Attorney for Plaintiff Welcome INN, Inc.