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8 *Attorney for Plaintiffs*

9 THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 IN AND FOR THE COUNTY OF SANTA BARBARA

11 COMMITTEE FOR SOCIAL JUSTICE,) Case No.
12 LINDA TREVINO, BRADLEY BEACH,)
13 PATRICIA WEST, LARRY CARVER,)
14 RICHARD PALUCH, ALAN SCHWAB,)
15 ARTHUR LOPEZ, ANDREW NEVAREZ,)
16 THOMAS GOODWIN, and JUDY ATKINS) **COMPLAINT AND DEMAND FOR JURY**
17 Plaintiffs,) **TRIAL**
18 vs.)
19)
20 CITY OF SANTA BARBARA, SANTA)
21 BARBARA POLICE DEPARTMENT, SANTA)
22 BARBARA POLICE CHIEF LORI LUHNOW,)
23 and DOES 1-20)
24)
25 Defendants.)

1 **INTRODUCTION**

- 2 1. In the midst of a severe housing crisis characterized by dramatically rising rents, shrinking
3 affordable housing supply, long waits for housing subsidies, scarcity of shelter beds, and a
4 homeless population that has grown dramatically in the last 18 years, the City of Santa Barbara
5 (“CITY”) is targeting its most vulnerable residents, the homeless. There exist a large number of
6 unsheltered homeless residents in Santa Barbara, many with disabilities, who seek shelter in
7 recreational vehicles (RVs), campers, or other vehicles. For these people, their vehicles are
8 their only reliable, safe shelter from the elements and only place to store their belongings.
9 Despite this, the CITY decided that those living in their RVs created a significant public
10 nuisance due to sanitation, littering, excessive noise, placement by RV owners of personal
11 belongings outside of RVs and illegal dumping. In order to restrict RV parking, the CITY
12 adopted ordinances to restrict RV parking on certain streets, and at certain time periods,
13 eventually prohibiting RV parking completely on any street in Santa Barbara. This forced the
14 homeless RV dwellers to park their RV in specific locations designated by the CITY for both
15 day and night parking, or pay \$ 48.00 for every offense parking on a city street. For RV
16 dwellers, living on a very limited disability or retirement income, payment of each \$48 fine
17 results in a severe reduction in available cash for living expenses such as food, gas, clothing,
18 and vehicle insurance.
- 19 2. The CITY’s pattern of passing ordinances targeted toward homeless RV dwellers started on
20 November 19, 2002, when the City adopted Ordinance No. 5263 to prohibit overnight parking
21 from 2 a.m. to 6 a.m. That same year the CITY amended the Zoning Ordinance to allow the use
22 of RV as overnight accommodations in certain non-residential zones of the city. (Ordinance
23 Committee Agenda Report (“OCAR”), June 7, 2016, page 2, ¶ 2, [https://
24 services.santabarbaraca.gov/CAP/MG132188/AS132189/AS132191/AI136050/DO136061/
25 DO_136061.pdf](https://services.santabarbaraca.gov/CAP/MG132188/AS132189/AS132191/AI136050/DO136061/DO_136061.pdf))
- 26 3. Thereafter, Santa Barbara residents sued the CITY over the 2 a.m. to 6 a.m. parking ordinance.
27 That suit was resolved with an agreement by the CITY to amended its overnight RV parking

- 1 ordinance by making it applicable only in a defined area of the City's waterfront. (OCAR, page
2 2, ¶ 2-3.)
- 3 4. In November 2008, the Public Works and Police Departments approached the City Ordinance
4 committee with a new RV parking ordinance, citing increasing and significant public nuisance
5 problems associated with RVs, such as lack of proper sanitation or fire safety, littering,
6 excessive noise, placement by RV owners of personal belongings outside RVs and illegal
7 dumping. (OCAR, page 3, ¶ 2.)
- 8 5. In December, 2008, the City adopted a new ordinance restricting excessive number of RVs
9 parking within 500 feet of at least one of the following land uses: any school or education
10 institution; any child care center, family day care center or group home; any park, public
11 library, museum open to the public; any community center or social center public or private;
12 any city or nonprofit recreational facility; any community care facility, skilled nursing facility,
13 health care facility, or hospital; any homeless shelter; any church or other religious facility. The
14 City defined excessive as a single RV. (OCAR, page 3, ¶ 2-3.)
- 15 6. Overt time, in response to public complaints, the CITY added locations where RV parking was
16 prohibited under the excessive RV ordinance. At some locations, even one RV was considered
17 excessive. The public complaints by persons living in residential areas concerned the nuisance
18 and safety concerns posed by long-term RV parking adjacent to their stationary homes. These
19 concerns included problems with litter, sewage disposal and noise. (OCAR, page 4, ¶ 1.)
- 20 7. Since December 16, 2016, the CITY has used ordinance number 5781(SBMC 10.44.220),
21 which prohibits oversized vehicles-vehicles longer than 25 feet, or wider than 80 inches, or
22 taller than 82 inches from parking on any streets or portions of streets where the public works
23 director has caused signs or markings giving adequate notice of restriction, to repeatedly ticket
24 and harass those individuals seeking shelter in their vehicles, or simply owning a vehicle and
25 having nowhere to park. Under the California vehicle code, vehicles may be up to 102 inches
26 wide, 14 feet high, and 40 feet in length. By further restricting and conflicting with the
27 California vehicle code, the city is violating the constitutional rights, specifically equal

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protection of the law, of plaintiffs.

8. The city is using this ordinance to target homeless vehicle owners, ticketing them and impounding the vehicles for unpaid tickets. The city is aware of the rights of low income RV dwellers and disabled persons, and the impact this ordinance has upon them but has elected to ignore these consequences. (Council Agenda Report (“CAR”), October 18, 2016, page 8, ¶ 1-2, https://services.santabarbaraca.gov/CAP/MG133395/AS133399/AS133413/AS133415/AI136954/DO136955/DO_136955.pdf) As further described hereafter, the city has intentionally discriminated against, and infringed upon the constitutional rights of both RV dwellers and disabled persons.
9. The CITY carried out this discriminatory, cruel, punitive and unconstitutional policy against homeless vehicle owners, many of whom have disabilities, despite the fact that these individuals have nowhere else to go. Sky high rents and extremely low incomes, among other conditions, have excluded these city residents from the housing markets. RV parks are often as costly as renting an apartment and thus are not a viable option. The Safe Parking program, discussed below, does not have enough spaces for RV dwellers, as evidenced by the CITY’s ongoing search for additional Safe Parking spaces. (Council Agenda Report Re: Ad Hoc Stakeholder Committee to Consider Additional Off-Street Parking Opportunities for Persons Living in Oversized Vehicles (“Ad Hoc”), November 8, 2016, https://services.santabarbaraca.gov/CAP/MG133585/AS133589/AS133603/AS133608/AI137317/DO137318/DO_137318.pdf; Oversized Vehicle Off-Street Parking Ad-Hoc Stakeholder Committee Minutes, https://www.santabarbaraca.gov/SBdocuments/Advisory_Groups/Oversized_Vehicle_Committee/Current/05_Minutes/2016-11-30_Minutes_for_November_30_2016.pdf.)
10. The city has established Safe Parking locations for RV dwellers to park at night and in the daytime, but the number of daytime locations are limited because they are used for other purposes. Safe Parking locations require RV dwellers to give up their constitutional rights to park in Safe Parking locations. Thus RV dwellers are faced with two options: 1) pay \$48

- 1 parking tickets for each time they park on a city street; or 2) forfeit their constitutional rights so
2 they can park in a designated Safe Parking location, if there are available spots.
- 3 11. Plaintiffs used to be able to park their vehicles at the waterfront parking lots all day by paying a
4 \$100 annual fee. On October 8, 2019 Santa Barbara city Council approved various
5 amendments to the Santa Barbara municipal code Chapter 17 pertaining to waterfront parking
6 regulations. The amendments included denying annual parking to vehicles 22 feet long; or 90
7 inches high; or 82 inches wide. (Ordinance No. 5911, New Waterfront Parking Regulations,
8 October 16, 2019, [https://www.santabarbaraca.gov/documents/Waterfront/
9 Parking%20Orinance_No_5911.pdf](https://www.santabarbaraca.gov/documents/Waterfront/Parking%20Orinance_No_5911.pdf)) Those vehicles whose size exceeds the new size
10 regulations, including recreational vehicles, motor homes, house cars, and campers, will still be
11 able to use the waterfront parking lots but will be required to pay hourly/daily rates. Plaintiffs
12 have limited income and cannot afford to pay hourly or daily rates.
- 13 12. Santa Barbara Municipal Code Section 10.44.220 (“SBMC 10.44.220”) violates numerous
14 state constitutional rights, including the eighth amendment prohibiting cruel and unusual
15 punishment and 14th amendment due process protections, including the prohibition on state
16 created danger, the right to equal protection, the right to travel, and the right to associate.
- 17 13. This is a complaint for money damages, declaratory and injunctive relief by Plaintiffs, some of
18 whom are disabled, many of whom are retired, and all of whom are long time, or native,
19 residents of Santa Barbara. Plaintiffs do not have fixed residences and therefore use residential
20 vehicles as their primary residence as an alternative to being homeless and living on the streets.
21 Plaintiffs seek redress for injuries caused as a result of the City of Santa Barbara’s well-known,
22 long-running, policy of targeting persons without fixed dwelling (“homeless”), such as
23 Plaintiffs, in an effort to force homeless people out of Santa Barbara to preserve Santa
24 Barbara’s status as “one of the leading tourist destinations in the United States,” one of the top
25 125 cities in the USA, and playground for the rich and famous.
- 26 14. Specifically here, Plaintiffs seek redress for injuries caused by the enactment and enforcement
27 of SBMC 10.44.220, on the grounds that it is targeted toward RV dwellers such as Plaintiffs,

1 without justification, and prohibits Plaintiffs from parking their vehicles on public streets, and
2 therefore is unconstitutional and in violation of well-established state constitutional rights,
3 statutes and case laws, including the Vehicle Code, the equal protection clause, and the right to
4 travel.

5 **FACTUAL ALLEGATIONS**

6 **SBMC 10.44.220**

7 15. SBMC 10.44.220 prohibits “oversized vehicles” - vehicles longer than 25’, or wider than 80”,
8 or taller than 82” – from parking on any streets or portions of streets where the public works
9 director has caused signs or markings giving adequate notice of the restriction. (Ordinance No.
10 5781 (“ORD”), November 15, 2016, [https://services.santabarbaraca.gov/CAP/MG133648/
11 AS133652/AS133659/AS133660/AI137320/DO137377/DO_137377.pdf](https://services.santabarbaraca.gov/CAP/MG133648/AS133652/AS133659/AS133660/AI137320/DO137377/DO_137377.pdf).)

12 16. In order to avoid obtaining authorization or permission from the California Coastal
13 Commission, the CITY declared all oversized vehicles to be a nuisance when parked on city
14 streets. (ORD, page 5, ¶ F.)

15 17. In order to avoid obtaining CEQA review, the CITY declared that CEQA does not apply
16 because it could be seen with certainty that SBMC 10.44.220 had no possibility of having a
17 significant impact on the environment. (ORD, page 6, SECTION 5.)

18 **City Council Deliberations Regarding SBMC 10.44.220**

19 18. Prior to enacting SBMC 10.44.220, in November 2015, the CITY decided to review the
20 existing RV parking regulations. City Council staff determined that RVs present two concerns -
21 people living in RVs and traffic safety. (Ordinance Committee Agenda Report Re: Recreational
22 Vehicle Parking Regulations: Amendments to Address the Protection of Sensitive Land Uses
23 Under Municipal Code Chapter 10.44 (“RV Regs”), May 17, 2016, page 4, [https://
24 services.santabarbaraca.gov/CAP/MG131998/AS131999/AS132001/AI135809/DO135810/
25 DO_135810.pdf](https://services.santabarbaraca.gov/CAP/MG131998/AS131999/AS132001/AI135809/DO135810/DO_135810.pdf).) Staff proposed two regulatory option to the City Council. The first was to
26 prohibit RV parking in specific areas based on safety, the second was a citywide ban on
27 oversized vehicle parking. (RV Regs, page 5.)

1 19. Option two, the blanket ban that would become SBMC 10.44.220, initially included 5 broad
2 exemption areas: 1) oversized vehicles delivering good or in the course of construction; 2)
3 oversized vehicles engaged in temporary repairs; 3) oversized state and local governmental
4 vehicles; 4) oversized vehicles displaying a valid disabled placard; 5) oversized vehicles with
5 city-issued permits. (RV Regs, page 6.)

6 20. On June 7, 2016, the City Attorney's Office gave a power point presentation to the City
7 Council. Included in that presentation was the holding from *People v. Garth* (1991) 234 Cal.
8 App. 3d 1797, which established that Vehicle Code § 22507 permitted cities to regulate *certain*
9 streets or portions thereof. (OCAR, Attachment 3, Recreational Vehicle Parking, page 7.) That
10 presentation also discussed the *Desertrain v. Los Angeles* case, which prohibited targeting the
11 homeless. (OCAR, Att. 3., page 39.) Lastly, the presentation referenced prior litigation between
12 the CITY and RV dwellers.¹ (OCAR, Att. 3, 19-29, 33-34.)

13 21. The June 7 power-point presentation provided three "on-street RV parking impacts." All three
14 impacts focused on RVs and the impact of other types of oversized vehicles was not
15 considered. (OCAR, Att. 3, page 46-49.)

16 22. The June 7 power-point presentation also changed the wording of the 5th exemption category
17 from "any oversized vehicle...displaying a permit issued by the City" to "short-term city
18 permit." (OCAR, Att. 3, page 57.)

19 23. The purpose of short term city permits is "to allow a resident, out of town visitor, or
20 commercial enterprise to park on a street adjacent to the residence where they live, are visiting,
21 or conducting business for a limited time period." (OCAR, Att. 3, page 58.)

22 24. Due to this change, residents, including Plaintiffs, have no method of obtaining a long-term
23 permit for their oversized vehicles, and Plaintiffs, who have no fixed residence, are not eligible
24 for any permit.

25 25. The June 7 power-point provided 16 images to demonstrate what an oversized vehicle looks
26 like. Of the 16 images, 12 are images of RVs. There are no images of oversized construction

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¹ In *Homes on Wheels v. City of Santa Barbara*; Case No. 1112384 the Second Appellate District advised the City that they could not enforce an ordinance that targets the homeless population to banish them from the city.

- 1 vehicles, governmental vehicles, emergency vehicles, or buses. (OCAR, Att. 3, page 60-76.)
- 2 26. The June 7 power-point discussed existing California and federal law, including the holdings of
3 *Fortyune v. City of Lomita* (2014) 766 F.3d 1098, that requires the City to provide equally
4 accessible on-street public parking for disabled persons. (OCAR, Att. 3, page 87, 89.)
- 5 27. On October 18, 2016, staff recommended that private buses be exempted from the oversized
6 vehicle ordinance so that they could park for up to 2 hours for tours and other activities. (CAR,
7 page 9, ¶ 3.) Staff also recommended that disabled persons be required to obtain a city permit
8 in order to park an “oversized” vehicle in designated blue zones. (CAR, page 9, ¶ 4.)
- 9 28. The power-point presentation provided by staff on October 18, 2016 grouped the exemptions
10 into three categories: 1) Short term exemptions for commercial, governmental, and emergency;
11 2) Permits to accommodate persons with disabilities; 3) Permits to accommodate short-term
12 parking needs for businesses. (CAR, Power Point, pg. 66.) Agains, no exemptions were
13 considered for residents needing long-term permits, such as Plaintiffs.
- 14 29. Regarding parking for disabled persons, the city attorney recommended making it more
15 difficult for them to park an oversized vehicle on city streets. Instead of simply displaying a
16 disabled placard, disabled persons would have to apply for and display a disabled parking
17 permit. (CAR, page 9, ¶ 4.) Disabled persons would be required to prove that their proposed
18 parking location is necessary to provide access to a specific fixed residential address sited with
19 a lawful dwelling unit at which the person resides or to a specific facility or facilities at which
20 the person is employed or receives services. (Id.) Disabled persons would also be required to
21 prove that their proposed parking location does not create or exacerbate a dangerous traffic
22 safety condition and that their vehicle is specially equipped and necessary to accommodate the
23 disability. (Id.) The city eventually adopted these requirements into SBMC 10.44.220. (ORD,
24 page 4, ¶ D.)
- 25 30. On October 18, the Council approved an ad hoc stakeholder committee to consider additional
26 off-street parking opportunities for persons living in oversized vehicles. The scope of the
27 committee was to find additional parking spaces for the Safe Parking Program. (CAR, page 1.)

1 31. After the CITY passed SBMC 10.44.220, at a May 2017 public meeting, many contractors
2 commented that high-profile vans had replaced pickup trucks because of the need to store and
3 transport expensive equipment. (Council Agenda Report Re: Final Pre-Enforcement Status
4 Report, Proposed Amendments to Oversized Vehicle Parking Ordinance and Related Fee
5 Resolution (“Amendments”), July 11, 2017, page 7, ¶ 1, [https://records.santabarbaraca.gov/
6 OnBaseAgendaOnline/Documents/ViewDocument/
7 Council%20Staff%20Report%20\(Published\)%20-%205476%20-%20FINAL%20PRE-
8 ENFORCEMENT%20STATUS%20REPORT%20C.pdf?
9 meetingId=196&documentType=Agenda&itemId=5476&publishId=2146&isSection=false](https://records.santabarbaraca.gov/OnBaseAgendaOnline/Documents/ViewDocument/Council%20Staff%20Report%20(Published)%20-%205476%20-%20FINAL%20PRE-ENFORCEMENT%20STATUS%20REPORT%20C.pdf?meetingId=196&documentType=Agenda&itemId=5476&publishId=2146&isSection=false).) In
10 response, staff proposed and the City Council adopted a new annual permit for contractor
11 vehicles. (Amendments, page 7, ¶ 2.) A vehicle displaying a valid contractor permit is exempt
12 from SBMC 10.44.220.

13 32. The CITY was aware of the rights of low-income RV dwellers and disabled persons, and the
14 impact SBMC 10.44.220 would have upon them. (ORD, pg. 1, ¶ 7, pg. 2, ¶ 4.) As further
15 described hereafter, the City has intentionally discriminated against, and infringed upon the
16 constitutional rights of, both RV dwellers and disabled persons.

17 33. As described above, the City council meetings regarding SBMC 10.44.220 make it clear that
18 the CITY passed the ordinance to address issues specific to RV dwellers, such as sanitation,
19 littering, excessive noise, placement by RV owners of personal belongings outside of their RVs
20 and illegal dumping. (OCAR, pg. 4, ¶ 3-4; Att. 3, pg. 46-49.)

21 34. The City’s discrimination against RV dwellers is most clearly evident by the City carving out
22 exceptions to the ordinance for commercial or governmental vehicles, and for those with a
23 fixed residential address - essentially leaving Plaintiffs as the only group against whom the
24 ordinance is enforced.

25 **SBMC 10.44.220 Singles Out Plaintiffs**

26 35. The CITY tells people that it is illegal to sleep in your vehicle on a public street in Santa
27 Barbara, even though this is not true. (Basic Needs: Where Can I Get It, pg. 4, ¶ 1, <https://>

- 1 www.santabarbaraca.gov/civicax/filebank/blobdload.aspx?BlobID=33957.)
- 2 36. RVs used by permanent residents are the only category of oversized vehicles that are not
3 expressly exempt from the ordinance or provided a process to obtain a permit. Plaintiffs are not
4 eligible for commercial or governmental exemptions, or commercial permits. Further, because
5 Plaintiffs lack fixed residential addresses, they are not eligible for residential permits.
6 (Exceptions to Prohibition on Oversized Vehicle Parking (“Exceptions”), [https://](https://www.santabarbaraca.gov/gov/depts/pw/dtp/ovpo/exceptions_to_prohibition_on_oversized_vehicle_parking.asp)
7 [www.santabarbaraca.gov/gov/depts/pw/dtp/ovpo/](https://www.santabarbaraca.gov/gov/depts/pw/dtp/ovpo/exceptions_to_prohibition_on_oversized_vehicle_parking.asp)
8 [exceptions_to_prohibition_on_oversized_vehicle_parking.asp](https://www.santabarbaraca.gov/gov/depts/pw/dtp/ovpo/exceptions_to_prohibition_on_oversized_vehicle_parking.asp).) Even if Plaintiffs were eligible
9 for residential permits, the permits are only valid for 5 consecutive days. (Oversized Vehicle
10 Permits (“OVP”), [https://www.santabarbaraca.gov/gov/depts/pw/dtp/ovpo/ovp_application/](https://www.santabarbaraca.gov/gov/depts/pw/dtp/ovpo/ovp_application/default.asp)
11 [default.asp](https://www.santabarbaraca.gov/gov/depts/pw/dtp/ovpo/ovp_application/default.asp).) Because Plaintiffs are not eligible for any permits, they are forbidden from
12 parking on all city streets.
- 13 37. Although the City claimed that the purpose of the Ordinance was traffic safety, the City exempted
14 the following oversized vehicles: commercial vehicles delivering or loading goods, vehicles
15 needing emergency repair, federal, state, and local government vehicles, emergency vehicles,
16 public utility vehicles, buses, vehicles with temporary permits, specialized vehicles actively
17 engaged in news reporting, vehicles displaying a disability parking permit issued by the City, and
18 in response to public comments made by contractors, contractor vehicles.
- 19 38. According to the CITY, parking **any** oversized vehicle on Santa Barbara streets constitutes an
20 immediate threat to public health, safety, and general welfare. (ORD, page 5, ¶ F.)
- 21 39. No Plaintiff has obtained any permit from the City.
- 22 40. The CITY authorizes “oversized” buses to park in areas that create a hazard to pedestrians and
23 other vehicles. In particular, tourist buses park on Figueroa Street, in between the county
24 courthouses, in such a manner that creates a serious hazard for pedestrians crossing between the
25 courthouses.
- 26 41. Further, the tourists that disembark from these buses use courthouse bathrooms, at times creating
27 long lines for the bathroom, interrupt court proceedings, and create wear and tear on the historic

1 county courthouse.

2 **SBMC 10.44.220 Singles Out Disabled Plaintiffs**

3 42. Disabled Plaintiffs have disability placards and/or license plates issued by the California
4 Department of Motor Vehicles pursuant to California Vehicle Code section 22511.55.

5 43. SBMC 10.44.220 prohibits Disabled Plaintiffs from parking their vehicles in a blue zone, as
6 permitted by California Vehicle Code § 22511.7. To park in a blue zone on City streets, Disabled
7 Plaintiffs must apply for a disabled parking permit from the City.

8 44. To obtain a disabled permit, Disabled Plaintiffs must establish, to the satisfaction of the Public
9 Works Director, that their oversized vehicle is specially equipped and necessary to accommodate
10 their disability. (OVP.)

11 45. Disabled Plaintiffs are also required to prove that their parking location is necessary to provide
12 access to their home, workplace, or any place they receive services. Disability permits do not
13 permit disabled persons to park an oversized vehicle in designated blue-curb zones unless that zone
14 is adjacent to their home, workplace, or place they receive services. (OVP; Disability Application,
15 <https://www.santabarbaraca.gov/civicax/filebank/blobdload.aspx?BlobID=187732>.)

16 46. Applicants for commercial or residential permits under SBMC 10.44.220 are not required to
17 show that their vehicle is specially equipped to accommodate them, or necessary to access a
18 particular location.

19 47. Of the Disabled Plaintiffs who have applied, none have been granted a disabled permit from the
20 city. Based on information and belief, CITY has denied all applications for disabled permits.

21 **There is no Basis for Treating Plaintiffs Differently**

22 48. The CITY is aware that RV dwellers are themselves not dangerous. (CAR, pg. 6, ¶ 5.)

23 49. The CITY was unable to conclude that RVs create a traffic hazard, because there is no traffic
24 collision data for oversized vehicles or RVs - law enforcement does not collect sufficient data
25 regarding the size and type of vehicles involved in accidents. (City Collision Data Related to
26 Parked Vehicles, Public Works Department Memorandum, July 3, 2017, p.1, [https://
27 records.santabarbaraca.gov/OnBaseAgendaOnline/Documents/ViewDocument/](https://records.santabarbaraca.gov/OnBaseAgendaOnline/Documents/ViewDocument/)

[Agenda%20Item%20Attachment%20\(Published\)%20-%205476%20-%20ATT%202%20CITY%20COLLISION%20DATA%20RELATE.pdf?meetingId=196&documentType=Agenda&itemId=5476&publishId=2148&isSection=false.](#))

50. Derrick Bailey, Principal Transportation Engineer, provided a Memorandum, titled City Collision Data Related to Parked Vehicles, which demonstrated how parked “oversized” vehicles *could* contribute to a traffic collision. According to Mr. Bailey, due to the lack of data, there is no evidence that “oversized” vehicles actually cause traffic collisions. (Id.)
51. Mr. Bailey’s memorandum identified four scenarios where oversized vehicles could contribute to an accident. Of the four scenarios, three pertained to vehicles creating visual obstructions when parked within 100 feet of an intersection. The fourth scenario imagined the visual and spacial impact of a wide vehicle on a Santa Barbara street. (Id., pg. 2.)
52. Unlike SBMC 10.44.220, Mr. Bailey’s report does not distinguish between types of oversized vehicles.

Parking Citations Place Great Financial Strain on Plaintiffs

53. The fine for violating SBMC 10.44.220 is \$48. The fine is doubled if it is not paid by the due date. The CITY can and has issued multiple tickets in one day to Plaintiffs.
54. A fine of \$48 places a great financial strain on Plaintiffs. Often Plaintiffs do not have \$48 to pay for the fine. The City allows Plaintiffs to initiate a payment plan to pay the tickets. If Plaintiffs are unable to pay their tickets or initiate a payment plan, The Committee for Social Justice has paid and continues to pay many of Plaintiffs’ fines. Unfortunately, the Committee for Social Justice cannot guarantee that they will be able to continue assisting plaintiffs paying their tickets.
55. Once Plaintiffs initiate a payment plan to pay tickets, they cannot add new tickets to the payment plan.
56. If Plaintiffs fail to pay 5 or more tickets, their vehicles can be towed under Vehicle Code Section 22651.3(a).
57. The total cost of towing oversized vehicles is \$810, including (a) a tow fee of \$550 (double the

1 normal rate); (b) a daily impound fee in the amount of \$100; and (c) a release fee in the amount
2 of \$160. Plaintiffs lack financial resources to pay these fees and fear permanent loss of their
3 vehicles if they are unable to pay.

4 **Safe Parking Deprives Plaintiffs of Constitutional Rights, is Cruel and Unusual, and Lacks**

5 **Due Process**

6 58. Because Plaintiffs are forbidden from parking on city streets, and cannot financially afford to
7 pay the \$48 fine for each violation, Plaintiffs' only option for public parking in the City is Safe
8 Parking.

9 59. Safe Parking was initially a voluntary program meant to allow overnight RV parking. The
10 program was later expanded to include daytime parking to get RVs off the city streets.

11 60. There is a waitlist for Safe Parking and the program does not prioritize RV dwellers over those
12 living in standard-sized vehicles. This means that RV dwellers not currently in Safe Parking
13 have nowhere to legally park for free.

14 61. Plaintiffs in Safe Parking must follow the rules of Safe Parking. These rules require Plaintiffs
15 to waive their constitutional rights, impose unreasonable restrictions on Plaintiffs, and subject
16 Plaintiffs to termination from the program without cause or due process. (Exhibit 1 attached
17 hereto, Parking Rules, Restrictions and Responsibilities Associated with the Safe Parking
18 Program.)

- 19 62. According to Safe Parking Rules, participants in the program:
- 20 1) Must remove their vehicles from daytime lots at 7:00 p.m, and cannot park in nighttime
 - 21 lots until 7:30 p.m. Plaintiffs have no safe parking program option for that half of an
 - 22 hour.
 - 23 2) Cannot invite any visitors or patrons into the parking lot.
 - 24 3) Cannot interact with any visitor or anyone else authorized to be present in the lot.
 - 25 4) Cannot park within 3 blocks of their assigned safe parking lot.
 - 26 5) Cannot use the parking lot other than for sleeping.
 - 27 6) Cannot possess firearms on the premises.

- 1 7) Must dispose of trash off-site.
- 2 8) Cannot use electricity, water, trash, or any other facilities services.
- 3 9) Cannot shower or bathe if bathroom facilities are provided on site.
- 4 37. Safe Parking lots do not provide the same access to the CITY as on-street parking. Most Safe
- 5 Parking locations are parking lots within a few blocks of each other in downtown Santa
- 6 Barbara. There is a Safe Parking location at Earl Warren Showgrounds and a location outside
- 7 of city limits on Camino Del Remedio.
- 8 38. Safe Parking Lots are inhumane in that they do not have bathroom facilities, including but not
- 9 limited to Cota, Camino Del Remedio, Carrillo, and Micheltorena lots.
- 10 39. Participants are not eligible for Safe Parking if their income exceeds 50% of area median
- 11 income.
- 12 40. Participants may be terminated from Safe Parking at any time, for any reason, and without
- 13 warning. There is no administrative review of Safe Parking’s termination decision.
- 14 41. Currently Safe Parking is an inadequate program that cannot guaranty parking spots for RV
- 15 dwellers in the daytime, forcing plaintiffs to drive their RVs looking for a place to park where
- 16 they will not be ticketed.

THE PARTIES

Disabled Plaintiffs

- 19 42. Plaintiffs, LINDA TREVINO, LARRY CARVER, and RICHARD PALUCH, (“Disabled
- 20 Plaintiffs”) at all relevant times, were, and are, qualified individuals with disabilities
- 21 43. Disabled Plaintiffs, particularly those with physical disabilities, need street parking spaces in
- 22 order to access goods and services.

Plaintiffs

- 24 44. At all relevant times, Plaintiffs were long-time or native residents of the CITY who live in
- 25 recreational vehicles.
- 26 45. At all relevant times, Plaintiffs’ vehicles were within the limitations established by the
- 27 California Vehicle Code with respect to height, width, and length. (Cal. Veh. Code §§ 35100,

1 35250, and 35400.). At all relevant times, Plaintiffs vehicles exceeded, in at least one
2 dimension, the definition of oversized vehicles in SBMC 10.44.220, and therefore Plaintiffs
3 were not permitted to park on Santa Barbara streets. (ORD).

4 46. Plaintiffs must live in RVs to avoid the risks of living on the streets including, infectious
5 diseases, chronic pain and diseases, sexual assault, physical and psychological violence, and
6 vandalism and theft of property.

7 47. Purchasing a smaller vehicle places great financial strain on Plaintiffs and smaller vehicles do
8 not provide Plaintiffs the same protection, privacy, amenities, and living space as RVs.

9 48. Plaintiffs park on city streets to access nearby necessities, including but not limited to food,
10 water, education, clothing, voting locations, employment, religious services, medical services,
11 and government facilities. Due to SBMC 10.44.220, Plaintiffs have no access, or reduced
12 access, to these goods and services.

13 49. Plaintiffs cannot plausibly or financially keep their vehicles in perpetual motion and need to
14 park to fulfill basic human needs, including but not limited to, sleep, rest, relaxation, and
15 bathroom use.

16 50. Of the named plaintiffs, the facts of the diverse few are listed below, as evidence of the various
17 experiences they are forced to endure. The CITY has ticketed Plaintiffs for violations of
18 multiple ordinances or state laws. However, all references below to tickets relate to alleged
19 violations of SBMC 10.44.220.

20 51. Plaintiff LINDA TREVINO is 58 years old and native of Santa Barbara who has lived here her
21 entire life. She is a Chumash Indian and native of Santa Barbara. Ms. Trevino has been designated
22 disabled by the DMV because she suffers from severe back pain that affects her ability to walk. Ms.
23 Trevino lives on disability payments. She has received approximately 9 tickets in the last year from
24 the City for parking on public streets even though she has a DMV disability placard on her vehicle.
25 Ms. Trevino is currently in the safe parking program.

26 52. Plaintiff BRADLEY BEACH is 56 years old and a resident of Santa Barbara. He has limited
27 income and is unable to afford housing in Santa Barbara. Mr. Beach has received tickets from

- 1 the City for parking his vehicle on public streets. Mr. Beach is currently in the Safe Parking
2 program.
- 3 53. Plaintiff PATRICIA WEST is 68 years old, grew up in Santa Barbara, has lived there for over
4 30 years total, and continuously for the past 10 years. Ms. West has disability and lives on
5 monthly social security payments, which are not enough to pay for housing in Santa Barbara.
6 Ms. West cannot park her RV on city streets due to the ordinance even though she has a DMV
7 disability placard on her vehicle.
- 8 54. Plaintiff LARRY CARVER is 57 years old and has been a resident of the City of Santa Barbara for
9 over 20 years. He is a U.S. veteran and has been designated disabled by the DMV. Mr. Carver has
10 mental and physical disabilities. Mr. Carver lives on disability payments. He has received
11 approximately 26-27 tickets from the City for parking on public streets even though he has a DMV
12 disability placard on his vehicle. Mr. Carver applied for a disabled parking permit from the City but
13 was denied.
- 14 55. Plaintiff THOMAS GOODWIN is 58 years old and a resident of Santa Barbara. He lives in his
15 vehicle with his twelve year old daughter, Leilani Goodwin. Mr. Goodwin has limited income and
16 has received approximately 22 tickets from the City for parking his vehicle on public streets. Mr.
17 Goodwin is currently in the safe parking program.
- 18 56. Plaintiff RICHARD PALUCH is 67 years old and has been a resident of the City of Santa Barbara
19 for over 20 years. He has been designated disabled by the DMV due to physical disabilities that
20 limit his mobility. Mr. Paluch lives on disability payments. He has received approximately 5
21 tickets from the City for parking on public streets in a blue zone even though he has a DMV
22 disability placard on his vehicle. Mr. Paluch is currently in the safe parking program.
- 23 57. Plaintiff ALAN SCHWAB is 55 years old and a resident of Santa Barbara. Mr. Schwab is a
24 native of Santa Barbara and has limited income. He has received approximately one ticket from
25 the City for parking on public streets and has had his vehicle towed and impounded in 2018 by
26 the City for parking in beach lots overnight.
- 27 58. Plaintiff ARTHUR LOPEZ is 66 years old and has lived in Santa Barbara for over 18 years.

1 Mr. Lopez has limited income. He has received approximately one ticket from the City for
2 parking his vehicle on public streets.

3 59. Plaintiff ANDREW NEVAREZ is 65 years old and born and raised in Santa Barbara. He has
4 limited income. Mr. Nevarez has received approximately 2 tickets from the City for parking his
5 vehicle on public streets. Mr. Nevarez is currently in the safe parking program.

6 60. Plaintiff JUDY ATKINS is 67 years old and has been a resident of Santa Barbara for 50 years.
7 Ms. Atkins has limited income. She has received tickets from the City for parking her vehicle on
8 public streets. Ms. Atkins is presently in the safe parking program.

9 61. The Committee for Social Justice (“The Committee”) is a non-profit formed under the laws of the
10 State of California. The Committee’s mission is to advocate for and assist indigents. Due to the
11 City’s unlawful conduct over the years, including enforcement of SBMC 10.44.220, The Committee
12 has had to expend tens of thousands of dollars paying parking fines and impound fees on behalf of
13 indigent individuals. The Committee has also expended thousands of dollars in litigation to protect
14 the rights of indigents. The Committee continues to provide financial assistance to indigent vehicle
15 owners who have had their vehicles towed and/or received tickets for violating parking restrictions,
16 including Ordinance 10.44.220. This has, and continues, to divert resources away from other
17 programs of the Committee, including Safe Parking, Jail Ride, RV Repair, and Litigation. The
18 Committee’s ability to fund these programs is in imminent danger due to the diversion of resources
19 to litigation, and paying fines and impound fees. The Committee’s mission to advocate for the
20 indigent has been frustrated because The Committee’s resources have been drained by payment of
21 fines and impound fees. The Committee has had to spend time negotiating with the City regarding
22 SBMC 10.44.220 and has had to bring this action to rectify the City’s unlawful conduct. This has
23 curtailed The Committee’s ability to advocate for the indigent. The Committee’s ability to pay fines
24 and impound fees is limited.

25 **Defendants**

26 62. Defendant CITY, through its agents SBPD, LUHNOW, and DOES 1-10 have cited Plaintiffs
27 for parking their RVs on city streets.

1 63. Defendant CITY OF SANTA BARBARA, (“CITY”) is a public entity authorized by law to
2 establish certain departments, responsible for enforcing the laws and protecting the welfare of the
3 citizens of the City of Santa Barbara. Defendant CITY was, and is, ultimately responsible for
4 overseeing the operation, management, and supervision of the Santa Barbara Police Department
5 (“SBPD”).

6 64. Defendant SBPD is CITY’s duly authorized law enforcement agency and is responsible for
7 overseeing the operation, management, and supervision of Santa Barbara Parking Enforcement and
8 SBPD personnel including DOES 1-10. Defendant SBPD is responsible for enforcement of CITY’s
9 parking regulations, including SBMC 10.44.220.

10 65. Defendant LORI LUHNOW is the duly appointed Chief of Police for Defendant CITY and is
11 responsible for supervising, operating, and managing SBPD, Santa Barbara Parking
12 Enforcement, and SBPD personnel including DOES 1-10. Defendant LUHNOW is responsible
13 for the policies, customs, and procedures used by SBPD, including the enforcement of parking
14 regulations. She is being sued only in her official capacity.

15 66. Defendant DOES 1-10 are natural persons. DOES 1-10 are duly appointed parking
16 enforcement officers of Defendant SBPD. The true names and identities of Defendants DOES
17 1-10 are presently unknown to Plaintiffs.

18 **First Cause of Action**

19 **SBMC 10.44.220 Violates the California Constitution, Article 1, § 7**

20 67. Plaintiffs incorporate by reference each and every allegation contained in the foregoing
21 paragraphs, as though set forth herein *verbatim*.

22 68. Section 7(a) of the California Constitution states, “A person may not be deprived of life,
23 liberty, or property without due process of law or denied equal protection of the laws.”

24 69. The equal protection clause “compel[s] recognition of the proposition that persons similarly
25 situated with respect to the legitimate purpose of the law receive like treatment.’ ” (*Jensen v.*
26 *Franchise Tax Bd.*, (2009) 178 Cal.App.4th 426, 434; *Metcalf v. U-Haul Internat., Inc.*, (2004)
27 118 Cal.App.4th 1261, 1267.)

- 1 70. No person or class of persons shall be denied the same protection of the laws which is enjoyed
2 by other persons or other classes in like circumstances in their lives, liberty and property and in
3 their pursuit of happiness. (*People v. Romo*, (1975) 121 Cal.Rptr. 111; *Gray v. Whitmore*,
4 (1971) 94 Cal.Rptr. 904.)
- 5 71. “Police power must be reasonably applied and cannot be invoked so as to discriminate in favor
6 of or against particular classes or persons as to whom no reasonable basis of discrimination can
7 be said to exist.” (*Whyte v. City of Sacramento*, (1924) 65 Cal.App. 534, 545.)
- 8 72. “[T]he rule of law implies equality and justice in its application. Vagrancy laws. . . teach that
9 the scales of justice are so tipped that even-handed administration of the law is not
10 possible.” (*Desertrain v. City of Los Angeles*, (2014) 754 F. 3d 1147.) In *Desertrain*, the 9th
11 Circuit held that health and safety concerns are not an excuse for Los Angeles to target
12 homeless persons for discriminatory enforcement. (*Desertrain v. City of Los Angeles*, (2014)
13 754 F. 3d 1147, 1157.)
- 14 73. A meritorious equal protection claim must demonstrate that the state has adopted a
15 classification that affects two or more similarly situated groups in an unequal manner;
16 “similarly situated” in this context means that the compared groups are similarly situated for
17 purposes of the law challenged. (*In re C.B.*, (2018) 237 Cal.Rptr.3d 471.)
- 18 74. Plaintiffs have a fundamental right of free movement and the right to remain in a public place
19 of their choice. (*People v. Sanchez*, (2017) 18 Cal.App.5th 727.) “Personal liberty consists in
20 the power of locomotion, of changing situation or moving one's person to whatever place one's
21 inclination may direct; without imprisonment or restraint, unless by due course of law . . . it is
22 a right strictly natural...” (*In re White*, (1979) 97 Cal.App.3d 141, 149.) “The right to travel is
23 elementary in a free society and basic in our scheme of values.” (*Id.*)
- 24 75. When a statutory classification impinges on a fundamental right, it is subject to strict scrutiny
25 review. (*In re H.K.*, (2013) 159 Cal.Rptr.3d 144.) Under strict scrutiny the state must
26 “demonstrate that its classification has been precisely tailored to serve a compelling
27 governmental interest.” (*Jensen*, *supra.*)

1 76. In *Parr v. Municipal Court*, (1971) 3 Cal.3d 861, the California Supreme Court ruled that
2 Carmel-by-the Sea's facially neutral ordinance violated the equal protection clause because it
3 was enacted in order to excluded hippies from the city. The Court found that the statements
4 made at city council meetings about the hippies presented evidence that ordinance violated the
5 equal protection clause.

6 77. Plaintiffs, for the purposes of SBMC 10.44.220, are similarly situated to all other oversized
7 vehicles; all oversized vehicles have relatively the same visual obstructions and vehicle noise.

8 78. There is no conceivable basis, with respect to SBMC 10.44.220, for the CITY to treat Plaintiffs
9 differently from other oversized vehicles.

10 79. The purpose and motivation for SBMC 10.44.220 is to remove Plaintiffs and other RV dwellers
11 from the CITY by preventing them from stopping their vehicles on public streets.

12 80. Because of the exemptions and permits created by the CITY, SBMC 10.44.220 only applies to
13 RVs used by permanent residents.

14 81. Based on information and belief, Defendants LUHNOW, SBPD, and DOES 1-10, discriminate
15 against Plaintiffs by selectively enforcing SBMC 10.44.220 against RV dwellers. There is no
16 conceivable basis, with respect to SBMC 10.44.220, for Defendants to treat Plaintiffs
17 differently than other oversized vehicles.

18 82. As a direct and proximate result of Defendants' wrongful conduct described heretofore,
19 Plaintiffs suffered damages, including harm to their constitutional rights, financial damages,
20 and fear of future enforcement.

21 83. Plaintiffs seek exemplary and punitive damages for Defendant's conduct, which was intended
22 to cause Plaintiffs' injuries.

23 **Second Cause of Action**

24 **SBMC 10.44.220 Conflicts with and Places Further Restrictions on California Law (Cal.**

25 **Veh. Code §§ 21, 22507)**

26 84. Plaintiffs incorporate by reference each and every allegation contained in the foregoing
27 paragraphs, as though set forth herein *verbatim*.

- 1 85. California Vehicle Code § 21 establishes a unified body of laws throughout the state and
2 prohibited local authorities from enacting or enforcing any ordinance or resolution on the matters
3 covered by the vehicle code. The Supreme Court, in *Pipoly v. Benson*, (1942) 20 Cal. 2nd 366,
4 ruled that an ordinance that conflicts with or places restrictions on the Vehicle Code is
5 unconstitutional and therefor violates individuals’ constitutional rights.
- 6 86. California Vehicle Code § 22507 allows local authorities to “prohibit or restrict the stopping,
7 parking, or standing of vehicles, including, but not limited to, vehicles that are six feet or more in
8 height (including any load thereon) within 100 feet of any intersection, on certain streets or
9 highways, or portions thereof, during all or certain hours of the day.”
- 10 87. Courts have interpreted “certain streets or highways” to mean some, not all streets and highways.
11 (See *People v. Garth*, (1991) 234 Cal. App. 3d 1797, 1800-1801, *Boccatto v. City of Hermosa*
12 *Beach*, (1984) 158 Cal. App. 3d 804, 809, *Barajas v. City of Anaheim*, (1993) 15 Cal. App. 4th
13 1808, 1816.)
- 14 88. SBMC 10.44.220 exceeds the grant of authority in Vehicle Code § 22507 because it applies to
15 all, rather than “certain,” Santa Barbara city streets.
- 16 89. Localities do not have “carte blanche and absent express authority, may not determine which
17 traffic shall and which traffic shall not use streets.” (*City of Poway v. City of San Diego*, (1991)
18 229 Cal. App. 3d 857.) “While it is true that the regulation of traffic upon a public street is of
19 special interest to the people of a municipality, it does not follow that such regulation is a
20 municipal affair, and if there is a doubt as to whether or not such regulation is a municipal
21 affair, that doubt must be resolved in favor of the legislative authority of the state.” (*Ex parte*
22 *Daniels*, (1920) 183 Cal. 636, 639.) In *Daniels*, the city of Pasadena passed an ordinance
23 reducing the states minimum speed limited to the entire city, not specific streets. The California
24 Supreme Court ruled that the purpose of having a state unified speed limit was to establish
25 conformity within the state of traffic laws. Pasadena’s ordinance violated that conformity and
26 therefor was in violation of the vehicle code.
- 27 90. California disfavors complete prohibitions on presence within a geographic area at all times. By

- 1 contrast, the courts have upheld prohibitions on entry into selected and particularized places with
2 reasonable restrictions as to time. (*In re White*, supra, at p. 150.)
- 3 91. “Oversized vehicles,” which are of legal size according to the California Vehicle Code, cannot
4 park on the streets of Santa Barbara. Such oversized vehicles can travel through, but not stop in
5 the CITY. In other words, SBMC 10.44.220 detracts from state-wide uniformity by prohibiting
6 the parking of legal registered vehicles on any streets in Santa Barbara.
- 7 92. The California Supreme Court has routinely struck down local laws that disrupt the state-wide
8 uniformity of the vehicle code, including local speed regulations (*Ex parte Daniels*, 183 Cal.
9 636.), and street closures (*City of Poway*, 229 Cal. App. 3d 857; *Rumford v. City of Berkeley*,
10 (1892) 31 Cal.3d 545; *City of Hawaiian Gardens v. City of Long Beach* (1998) 61 Cal.App.4th
11 1101.)
- 12 93. As a direct and proximate result of Defendants’ wrongful conduct described heretofore,
13 Plaintiffs suffered damages, including harm to their constitutional rights, financial damages,
14 and fear of future enforcement.
- 15 94. Plaintiffs seek exemplary and punitive damages for Defendant’s conduct, which was intended
16 to cause Plaintiffs’ injuries.

17 **Third Cause of Action**

18 **SBMC 10.44.220 Conflicts with and Places Further Restrictions on California Law (Cal.**
19 **Veh. Code §§ 21, 22511.5)**

- 20 95. Plaintiffs incorporate by reference each and every allegation contained in the foregoing
21 paragraphs, as though set forth herein *verbatim*
- 22 96. California Vehicle Code § 22511.5 allows persons with disabled placard or license plate to park
23 in any restricted zone on streets upon which preferential parking privileges and height limits
24 have been given pursuant to Section 22507.
- 25 97. Section 22511.5 “does not apply to a zone for which state law or ordinance absolutely prohibits
26 stopping, parking, or standing of all vehicles...”
- 27 98. SBMC 10.44.220 does not “absolutely prohibit stopping, parking, or standing of all vehicles.”

1 Rather, it prohibits only certain “oversized vehicles.” Therefore, section 22511.5 applies, and
2 Disabled Plaintiffs should be allowed to park on city streets while displaying a disabled placard
3 or plate.

4 99. Under SBMC 10.44.220, Disabled Plaintiffs are prohibited from parking on all city streets,
5 including metered spaces, parking with time limits, and blue zones designated for disabled
6 parking. Forcing Plaintiffs to meet the City’s requirements to obtain a disability permit from
7 the City conflicts with and places further restrictions on the vehicle code, is unconstitutional
8 and therefore violates plaintiff’s constitutional rights. (*Pipoly v. Benson*, supra.)

9 100. As a direct and proximate result of Defendants’ wrongful conduct described heretofore,
10 Plaintiffs suffered damages, including harm to their constitutional rights, financial damages,
11 and fear of future enforcement.

12 101. Plaintiffs seek exemplary and punitive damages for Defendant’s conduct, which was intended
13 to cause Plaintiffs’ injuries.

14 **Fourth Cause of Action**

15 **SBMC 10.44.220 Conflicts with and Places Further**

16 **Restrictions on California Law (Cal. Veh. Code §§ 21, 35100, 35250, and 35400)**

17 102. Plaintiffs incorporate by reference each and every allegation contained in the foregoing
18 paragraphs, as though set forth herein *verbatim*.

19 103. Under the California Vehicle Code, vehicles may be up to 102 inches wide, 14 feet high, and
20 40 feet in length. (Cal. Veh. Code §§ 21, 35100, 35250, and 35400.) The vehicle code allows

21 104. Under SBMC 10.44.220, vehicles parked in Santa Barbara can be no more than 80 inches wide,
22 82” high, and 25’ in length.

23 105. SBMC 10.44.220 conflicts with and places further restrictions on the vehicle code because it
24 imposes additional size requirements for parking on City streets. A vehicle, within the vehicle
25 code size restrictions, could park on public streets throughout California, except in Santa
26 Barbara. Plaintiffs’ vehicles are all within the vehicle code size restrictions.

27 106. Persons travelling to Santa Barbara, including Plaintiffs, must determine whether their vehicle

1 is within the size limits of SBMC 10.44.220. Further, travelers must determine if they fall into
2 one of the exemptions for oversized vehicles. A person temporarily passing through Santa
3 Barbara, with no fixed address, does not qualify for any oversized permit, and thus is
4 prohibited from parking anywhere in Santa Barbara.

5 107. If every city in California acted like the City of Santa Barbara, it would create a patchwork of
6 local ordinances with varying size requirements for vehicles parked on public streets, which
7 would eliminate the conformity established by the vehicle code.

8 108. As a direct and proximate result of Defendants' wrongful conduct described heretofore,
9 Plaintiffs suffered damages, including harm to their constitutional rights, financial damages,
10 and fear of future enforcement.

11 109. Plaintiffs seek exemplary and punitive damages for Defendant's conduct, which was intended
12 to cause Plaintiffs' injuries.

13 **Fifth Cause of Action**

14 **SBMC 10.44.220 Violates California's Right to Travel**

15 110. Plaintiffs incorporate by reference each and every allegation contained in the foregoing
16 paragraphs, as though set forth herein *verbatim*.

17 111. "The streets of a city belong to the people of the state, and every citizen of the state has a right
18 to the use thereof, subject to legislative control...The right of control over street traffic is an
19 exercise of a part of the sovereign power of the state..." (*Ex parte Daniels* (1920) 183 Cal.
20 636, 639, see also *Friedman v. City of Beverly Hills*, (1996) 47 Cal. App. 4th 436, 442.)

21 112. "The use of highways for purposes of travel and transportation is not a mere privilege, but a
22 common and fundamental right, of which the public and individuals cannot rightfully be
23 deprived ... [A]ll persons have an equal right to use them for purposes of travel by proper
24 means, and with due regard for the corresponding rights of others." (*Rumford v. City of*
25 *Berkeley*, (1892) 31 Cal.3d 545, 550, citing *Escobedo v. State of California* (1950) 35 Cal.2d
26 870, 875-876; see also *City of Poway*, supra.)

27 113. A city may not close a street, or part of it, to the state citizens generally but not to its own

- 1 residence or other exempted drivers. (*City of Lafayette v. County of Contra Costa*, (1979) 91
2 Cal. App. 3d 749, 758.)
- 3 114. In *Poway*, the court ruled that vehicle code section 21101(f) did not “empower any local
4 authority to promote the health and safety of its own citizens by interfering with the rights of
5 other members of the public to safely travel on the public streets.” (*City of Poway*, supra, 857.)
- 6 115. “All people are by nature free and independent and have inalienable rights. Among these are
7 enjoying and defending life and liberty, acquiring, possessing, and protecting property, and
8 pursuing and obtaining safety, happiness, and privacy.” (*Robbins v. Superior Court*, (1985) 38
9 Cal.3d 199, 214.)
- 10 116. In *Robbins*, the Superior Court struck down a Sacramento County regulation that required
11 residents who are single, employable and eligible for general assistance to live in a county
12 facility in lieu of cash benefits. Similarly here, the CITY has required those dwelling in “over-
13 sized” vehicles to park in Safe Parking in lieu of the public benefit of on-street parking and to
14 give up some of their constitutional rights.
- 15 117. There is a California constitutional right to intrastate travel. “The right to intrastate travel
16 (which includes intramunicipal travel) is a basic human right protected by the United States
17 and California Constitutions as a whole. Such a right is implicit in the concept of a democratic
18 society and is one of the attributes of personal liberty under common law.” (*In re White*, supra,
19 148.)
- 20 118. “Many other fundamental rights such as free speech, free assembly, and free association are
21 often tied in with the right to travel. It is simply elementary in a free society. Freedom of
22 movement is basic in our scheme of values. (*In re White*, supra 149.)
- 23 119. In *In re White*, the court found that probation conditions that imposed a blanket prohibition
24 against being in a designated area of Fresno anytime, day or night, is unduly harsh and
25 oppressive. SBMC 10.44.220 acts as a blanket prohibition, preventing Plaintiffs from accessing
26 the CITY by parking on city streets at anytime.
- 27 120. “When receipt of a public benefit is conditioned upon the waiver of a constitutional right, the

1 government bears the heavy burden of demonstrating the practical necessity for the limitation.”
2 (*Bagley v. Washington Township Hospital Dist.*, (1966) 65 Cal.2d 499, 505.) Here, the City has
3 conditioned the public benefit of public parking on the condition that Plaintiffs park in Safe
4 Parking, a program that requires the relinquishment of fundamental constitutional rights, lacks
5 basic amenities, and provides no due process.

6 121. SBMC 10.44.220, by prohibiting “over-sized” vehicle parking on city streets, restricts the
7 movement of “over-sized” vehicles to passing through the CITY. “Over-sized” vehicles cannot
8 park on CITY streets to travel within the CITY.

9 122. As a direct and proximate result of Defendants’ wrongful conduct described heretofore,
10 Plaintiffs suffered damages, including harm to their constitutional rights, financial damages,
11 and fear of future enforcement.

12 123. Plaintiffs seek exemplary and punitive damages for Defendant’s conduct, which was intended
13 to cause Plaintiffs’ injuries.

14 **Prayer for relief:**


15 Plaintiffs ask the Court to rule that:

- 16 1.The CITY’S ordinance violates the California Vehicle Code;
- 17 2.The CITY’s ordinance violates the Plaintiffs’ Constitutional Rights of Due Process, under the
18 California Constitution;
- 19 3.The CITY’s ordinance violates Plaintiffs’ Constitutional Rights to Travel;
- 20 4.The CITY’s ordinance violates Plaintiffs’ Constitutional Rights to Association;
- 21 5.The CITY’s ordinance violates Plaintiffs’ Constitutional Rights under the Excessive Fines
22 Clause the California Constitution Article I;
- 23 6.The CITY’s ordinance violates the California Coastal Act, as administrated by the California
24 Coastal Commission’s rules and regulations;
- 25 7.That the Court issue an injunction against enforcement of the CITY’s ordinance;
- 26 8.That the CITY reimburse Plaintiffs all of their costs that have resulted from the CITY’s
27 ordinance, including any tickets, towing and storage fees;

- 1 9.The CITY reimburses Plaintiffs for any loss of personal belongings that were lost as a result of
- 2 the towing and sale of their vehicles;
- 3 10.The CITY pay actual and punitive damages for the violation of Plaintiffs' constitutional
- 4 rights; and,
- 5 11.That the CITY pay all costs of suit, and reasonable attorney fees, as provided by Civil Code
- 6 of Procedure.

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Dated: 9/3/20



Russell Brown
Attorney for Plaintiffs