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13 CITY OF OAKLAND, a Municipal Corporation,  
acting by and through its Board of Port Commissioners  
14 (“PORT OF OAKLAND”)  
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16 SUPERIOR COURT OF CALIFORNIA  
17 COUNTY OF ALAMEDA

18 CITY OF OAKLAND, a Municipal Corporation,  
acting by and through its Board of Port  
19 Commissioners,

20 Plaintiff,

21 v.

22 ENRIQUE ALVAREZ; PRUDENCIO UMANA;  
23 NAVDEEP NGILL; FILMON  
24 TEKLEHAIMANOT; and DOES 1-2000,  
inclusive,

25 Defendants.  
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**ELECTRONICALLY FILED**  
Superior Court of California,  
County of Alameda  
**07/25/2022 at 10:02:30 AM**  
By: Jerrie Moyer,  
Deputy Clerk

Case No.: **22CV014917**

**COMPLAINT FOR INJUNCTIVE  
RELIEF; NUISANCE**

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Plaintiff alleges as follows:

**GENERAL ALLEGATIONS**

1. At all times mentioned herein, Plaintiff was and is a municipal corporation organized and existing under and by virtue of the constitution of, and laws of, the State of California and governed by a freeholders' charter; that during all of said times the Board of Port Commissioners of the City of Oakland has been and now is an independent and autonomous department of said City, organized and existing under and by virtue of said charter, vested with exclusive control and management of all properties within the Port area of said City, and authorized by said Charter to sue and defend on its own behalf in all actions involving matters within the jurisdiction of said Board.

2. Plaintiffs are informed and believe that Defendant ENRIQUE ALVAREZ (“ALVAREZ”) is and at all times herein mentioned was, an individual residing in the State of California, and has organized and/or actively participated in a group of independent contractor truckers who have been assembling along Middle Harbor Road, 7<sup>th</sup> Street, and Maritime Street as more fully described below.

3. Plaintiffs are informed and believe that Defendant PRUDENCIO UMANA (“UMANA”) is and at all times herein mentioned was, an individual residing in the State of California, and has organized and/or actively participated in a group of independent contractor truckers who have been assembling along Middle Harbor Road, 7<sup>th</sup> Street, and Maritime Street as more fully described below.

4. Plaintiffs are informed and believe that Defendant NAVDEEP NGILL (“NGILL”) is and at all times herein mentioned was, an individual residing in the State of California, and has organized and/or actively participated in a group of independent contractor truckers who have been assembling along Middle Harbor Road, 7<sup>th</sup> Street, and Maritime Street as more fully described below.

5. Plaintiffs are informed and believe that Defendant FILMON TEKLEHAIMANOT (“TEKLEHAIMANOT”) is and at all times herein mentioned was, an individual residing in the State of California, and has organized and/or actively participated in a group of independent contractor truckers who have been assembling along Middle Harbor Road, 7<sup>th</sup> Street, and Maritime Street as more fully described below.

1           6. Plaintiff does not know the true names or capacities of defendants sued herein as Does 1  
2 through 2000, inclusive, and therefore sues said defendants under the provisions of Section 474 of the  
3 Code of Civil Procedure of the State of California. When the true names of said parties are ascertained,  
4 Plaintiff will amend this complaint to add their true names and capacities together with appropriate  
5 charging allegations. ALVAREZ, UMANA, NGILL, TEKLEHAIMANOT, and the aforementioned  
6 Does are collectively referred to herein as “Defendants.”

7           7. Plaintiff is the owner of premises located on Middle Harbor Road, 7<sup>th</sup> Street, and Maritime  
8 Street, in the City of Oakland, County of Alameda, California, each of which is under lease to business  
9 entities engaged in interstate commerce and providing container shipping facilities.

10          8. Plaintiff is informed and believes that Defendants, and each of them, are independent  
11 contractors engaged in the business of commercial trucking as sole proprietors (“independent truckers”)  
12 or are supporters of such independent truckers. Plaintiff is informed and believes that Defendants are  
13 dissatisfied with the implementation of California’s gig worker labor law, known as AB5.

14          9. On or about Monday, July 18, 2022, Defendants initiated a campaign to protest  
15 implementation of AB5 by assembling along Middle Harbor Road, 7<sup>th</sup> Street, and Maritime Street in  
16 Oakland. Defendants’ activities have gone beyond peaceful protest, protected speech, and lawful petition  
17 for a redress of grievances. Instead, Defendants have violated numerous traffic and other laws, including  
18 but not limited to:

- 19           (a) Walking other than on left edge of roadway (CVC §21956).
- 20           (b) Crossing other than in crosswalk (CVC §21955).
- 21           (c) Failure to yield to vehicles (CVC §21954).
- 22           (d) Unnecessarily stopping or delaying traffic in a marked or unmarked crosswalk (CVC  
23           §21950(b)).
- 24           (e) Trespassing (CPC §555.3).
- 25           (f) Criminal Nuisance (CPC §370)
- 26           (g) Resisting, delaying, or obstructing officer (CPC §148)
- 27           (h) Unlawful assembly (CPC §407)
- 28           (i) Failure to disperse (CPC §409)
- (j) Illegally crossing street (OMC §10.24.030)
- (k) Congregating in streets, refusal to disperse (OMC §12.44.010)

1 (l) Illegal Street Meeting (OMC §12.44.020)

2 (m) Illegal Parade (OMC §12.44.030 *et seq.*)

3 10. Defendants have violated these laws as part of a carefully planned and orchestrated  
4 campaign intended to block traffic, create life safety hazards for persons intending to work and/or do  
5 business on Plaintiff's property and prevent vital interstate and international commerce from being  
6 conducted on and through Plaintiff's property. While the First Amendment to the United States  
7 Constitution protects speech and the right to petition for a redress of grievances, the United States Supreme  
8 Court has unequivocally and repeatedly held that the First Amendment does not permit protesters to  
9 prevent persons and vehicles from traversing public rights of way in the hopes of securing a captive  
10 audience or drawing media attention to their cause. Indeed, the United States Supreme Court has held  
11 that the government has an affirmative responsibility to prevent protesters from blocking streets.

12 11. In *Schneider v. State of New Jersey*, 308 U.S. 147 (1939), the Supreme Court specifically  
13 identified a "duty" that "municipal authorities, as trustees for the public, have . . . to keep their  
14 communities' streets open and available for movement of people and property, the primary purpose to  
15 which the streets are dedicated." The Court explicitly noted that "a person could not exercise [his First  
16 Amendment] liberty by taking his stand in the middle of a crowded street, contrary to traffic  
17 regulations, and maintain his position to the stoppage of all traffic." Likewise, the Court held, "a group  
18 of distributors could not insist upon a constitutional right to form a cordon across the street and to  
19 allow no pedestrian to pass who did not accept a tendered leaflet."

20 12. The Supreme Court restated the same principles 25 years later in *Cox v. Louisiana* 379  
21 U.S. 536 (1965). The *Cox* Court reiterated governments' obligation to keep streets clear, saying  
22 "Governmental authorities have the duty and responsibility to keep their streets open and available for  
23 movement." As in *Schneider*, the Court went on to specifically condemn the exact tactics employed  
24 by Defendants, saying "[o]ne would not be justified in ignoring the familiar red light because this was  
25 thought to be a means of social protest. Nor could one, contrary to traffic regulations, insist upon a  
26 street meeting in the middle of Times Square at the rush hour as a form of freedom of speech or  
27 assembly. . . . A group of demonstrators could not insist upon the right to cordon off a street, or entrance  
28 to a public or private building, and allow no one to pass who did not agree to listen to their  
exhortations."

1 13. During the period from July 18, 2022, through the present, Defendants, acting in concert  
2 together have continued their campaign to violate the aforementioned laws, block traffic, prevent persons  
3 having legitimate business on Plaintiff's property from conducting that business there, create life safety  
4 risks and stop the flow of essential interstate and international commerce through Plaintiff's property.  
5 Defendants have pursued their objective by blocking or slowing traffic, particularly trucks, attempting to  
6 enter and leave the container shipping facilities located at the Plaintiff's Inner and Outer Harbors by  
7 standing in intersections and streets, blocking or impeding ingress and egress of persons and vehicles, all  
8 in violation of state and local law and creating a significant risk to public safety.

9 **FIRST CAUSE OF ACTION**  
10 **NUISANCE**

11 14. Plaintiff realleges each of the allegations contained above in paragraphs 1-13, and said  
12 paragraphs are incorporated here in their entirety as if set forth in full.

13 15. Plaintiff brings this action in the name of the People of the State of California to abate a  
14 public nuisance pursuant to Code of Civil Procedure Section 3479. The conduct of Defendants  
15 ALVAREZ, UMANA, NGILL, and TEKLEHAIMANOT, acting alone, or in concert with Does 1-2000,  
16 violates numerous laws, has obstructed, and will continue to obstruct the free use of Plaintiff's premises,  
17 and the free passage of goods and commodities on the streets of and servicing the Port, including, Middle  
18 Harbor Road, Maritime Street and 7<sup>th</sup> Street and creates a continuing risk to public safety.

19 16. Defendants' nuisance-causing activities have caused and are continuing to cause damage  
20 to the Port and its tenants, and to the public.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiff prays judgment against Defendants, and each of them, as follows:

23 1. That a temporary restraining order issue, restraining Defendants, their agents and all  
24 persons acting in concert with them from blocking or obstructing vehicular or pedestrian traffic on  
25 Plaintiff's property, violating traffic laws or other laws on property owned or managed by Plaintiff,  
26 preventing persons with legitimate business on plaintiff's property from conducting that business,  
27 damaging or removing real or personal property or fixtures or improvements on or constituting Plaintiff's  
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1 property, including but not limited to vehicles, structures, water, wood, trees, vegetation, soil, or fences  
2 or creating risks to the lives and/or safety of persons with legitimate business on Plaintiff's property.

3           2. That a preliminary injunction issue, enjoining Defendants, their agents and all  
4 persons acting in concert with them from blocking or obstructing vehicular or pedestrian traffic on  
5 Plaintiff's property, violating traffic laws or other laws on property owned or managed by Plaintiff,  
6 preventing persons with legitimate business on plaintiff's property from conducting that business,  
7 damaging or removing real or personal property or fixtures or improvements on or constituting Plaintiff's  
8 property, including but not limited to vehicles, structures, water, wood, trees, vegetation, soil, or fences  
9 or creating risks to the lives and/or safety of persons with legitimate business on Plaintiff's property during  
10 the pendency of this action.

11           3. On a final hearing, that Defendants, their agents and all persons acting in concert  
12 with them be permanently enjoined from blocking or obstructing vehicular or pedestrian traffic on  
13 Plaintiff's property, violating traffic laws or other laws on property owned or managed by Plaintiff,  
14 preventing persons with legitimate business on plaintiff's property from conducting that business,  
15 damaging or removing real or personal property or fixtures or improvements on or constituting Plaintiff's  
16 property, including but not limited to vehicles, structures, water, wood, trees, vegetation, soil, or fences  
17 or creating risks to the lives and/or safety of persons with legitimate business on Plaintiff's property.

18           4. For injunctive relief pursuant to Code of Civil Procedure, Section 731;

19           5. For costs of suit herein incurred;

20           6. Attorney's fees; and

21           7. For such other relief as the Court may deem proper.

22  
23 Dated: July 25, 2022

**LUBIN OLSON & NIEWIADOMSKI LLP**



24  
25 By \_\_\_\_\_  
26 Richard E. Elder  
27 Attorneys for Plaintiff  
28 CITY OF OAKLAND, a Municipal  
Corporation, Acting by and through its  
Board of Port Commissioners