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12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **COUNTY OF LOS ANGELES**

14 LEROY BUTTS,

15 Petitioner and Plaintiff,

16
17 CITY OF LANCASTER, a municipal entity;
18 LOS ANGELES COUNTY SHERIFF'S
DEPARTMENT; and ANDREW LIZARDE,
19 Deputy Sheriff,

20 Respondents and Defendants.

Case No.

**VERIFIED PETITION FOR WRIT OF
MANDATE (CODE CIV. PROC. § 1085)
AND COMPLAINT FOR DAMAGES AND
DECLARATORY AND INJUNCTIVE
RELIEF (CIV. CODE § 52.1, CODE CIV.
PROC. § 526A)**

21 Filed:
22 Judge:
Date:
Time:
Department:

1 **INTRODUCTION**

2 1. This action challenges the City of Lancaster’s administrative citation system, the
3 Los Angeles Sheriff’s Department’s enforcement of that system and their unconstitutional
4 treatment of Petitioner Leroy Butts.

5 2. The City of Lancaster (“City”) maintains an administrative citation system that is
6 designed and enforced to punish poverty, in violation of the California Constitution.

7 3. The City issues administrative citations to penalize alleged violations of the
8 Lancaster Municipal Code (“L.M.C.”) and state misdemeanors specified by City ordinance. The
9 Los Angeles County Sheriff’s Department (“LASD”) enforces the City’s citation scheme, issuing
10 citations that illegally target the City’s poorest residents and, in Petitioner’s case, in retaliation
11 for exercising constitutionally protected rights.

12 4. Through this administrative citation scheme, the City imposes excessive financial
13 penalties. Each citation carries a penalty of \$500 or \$1000, including citations issued to
14 unhoused people for conduct inseparable from their homelessness, such as sleeping outdoors,
15 sitting outside “without a reason,” and failing to leave encampments that the City has decided to
16 clear (erroneously cited as “disturbing the peace”).

17 5. The City provides no pre-deprivation opportunity to contest a citation charge or
18 fine. The City’s administrative citation system allows for appeal to a hearing officer appointed
19 by the City Manager but denies people without economic means even that limited opportunity to
20 be heard. The City conditions the right to appeal on prepayment of the entire \$500 or \$1000
21 citation penalty, systematically precluding indigent persons from challenging citations unfairly
22 issued against them.

23 6. If a person is not able to pay a citation penalty within thirty days, the City
24 threatens to block the person’s driver’s license renewal and to file a claim against their income
25 tax return, then refers the citation to a private collections agency that imposes an additional \$150
26 fee.

27 7. The City’s administrative citation system is part of a deeply punitive enforcement

1 regime that discriminates on the basis of both race and poverty. Since 2018, forty percent of the
2 people that LASD reportedly stopped to enforce Lancaster’s municipal code were Black, and
3 more than half were reported to be homeless.¹ LASD imposes nearly half of its infraction
4 citations in Lancaster on Black people, and more than a quarter of them on people reported as
5 homeless.² An investigation by the United States Department of Justice into LASD’s racially
6 discriminatory policing practices in the Antelope Valley led to a consent decree in 2015.
7 Nevertheless, LASD continues to stop Black people at disproportionate rates in Lancaster and
8 the surrounding Antelope Valley.³ LASD’s Lancaster patrol station conducts more stops than
9 any other LASD station.⁴

10 8. Petitioner Leroy Butts, an unhoused Black man, attempted to protect members of
11 his community from this punitive, discriminatory system. Mr. Butts was handing out “Know
12 Your Rights” flyers in a Lancaster community park when LASD officers approached a group of
13 unhoused persons lawfully present in the park. When Mr. Butts offered information about the
14 unhoused persons’ legal rights, LASD officers retaliated against him by insulting him, baselessly
15 issuing him an administrative citation, taunting him that the citation would result in a \$500 fine,
16 and then ordering him to leave the park and thereby cease his constitutionally protected
17 activities. Thus, the officers utilized the City’s administrative citation system as a mechanism for
18 retaliation and chilling protected speech.

19 9. Mr. Butts attempted to challenge this retaliatory citation, but the City
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22 ¹ County of Los Angeles Open Data, LASD Officer Contacts – Incident Details,
23 <https://data.lacounty.gov/Public-Safety/LASD-Officer-Contacts-Incident-Details/mwug-nk2r>
(last visited Dec. 15, 2020).

24 ² County of Los Angeles Open Data, LASD Officer Contacts – Person Details,
25 <https://data.lacounty.gov/d/5ran-xbck> (last visited Jan. 2, 2020).

26 ³ *Id.*; see also Carlos Granda and Grace Manthey, “Data analysis shows a pattern of racial
27 disparities in police stops in recent years by law enforcement in Los Angeles,” ABC7 (Sept. 8,
2020) <https://abc7.com/lapd-lasd-racial-disparities-police-stops/6414103/> (Black residents in
Lancaster three times more likely to be stopped by LASD than white residents).

⁴ County of Los Angeles Open Data, Contacts by Patrol Station, <https://data.lacounty.gov/Public-Safety/Bar-graph-Contacts-by-Patrol-Station/yiix-qd8x> (last visited Dec. 15, 2020).

1 categorically precludes him, and all other indigent persons, from appealing, by maintaining an
2 appeal process that is accessible only to those who can afford to immediately pay the citation
3 penalty.

4 10. As Mr. Butts experienced, the City’s administrative citation scheme violates the
5 due process and equal protection guarantees of the California Constitution and exposes Lancaster
6 residents like him to unchecked abuse, harassment, and retaliation by the City’s police force,
7 LASD.

8 **THE PARTIES**

9 **A. Petitioner**

10 11. Petitioner and Plaintiff Leroy Butts is and was, at all times mentioned in this
11 Complaint, a resident of Los Angeles County, California; Mr. Butts lives in the jurisdiction of
12 the City of Lancaster and Los Angeles County Sheriff’s Department. Mr. Butts has paid sales tax
13 on purchases in the City within one year of the commencement of this action.

14 **B. Respondents**

15 12. Respondent and Defendant City of Lancaster (“City”) is a municipal entity with
16 the capacity to sue and be sued and is duly formed under the laws of California. The City is a
17 proper defendant in this action as to Mr. Butts’ claims made pursuant to the California Tort
18 Claims Act, Gov’t Code §§ 810-996. City employees and agents carried out the acts complained
19 of herein pursuant to the City’s official policies, practices, and customs. The City has a clear,
20 present and ministerial duty to ensure that the execution and imposition of its ordinances are
21 lawful and do not violate the California Constitution. The City further has a duty to conduct
22 administrative hearings that afford the due process required by the California Constitution. The
23 City is responsible for ensuring its employees and agents act in conformity with the law.

24 13. Respondent and Defendant Los Angeles County Sheriff’s Department (“LASD”)
25 is a law enforcement agency and department of the County of Los Angeles. LASD is the law
26 enforcement agent of the City; it carries out policing activities, including enforcement of the
27 City’s administrative citation scheme, on the City’s behalf and subject to the City’s control. The

1 City contracts with LASD for law enforcement services and gives LASD deputies authority to
2 act on its behalf, including by issuing and enforcing administrative citations. LASD has a clear,
3 present and ministerial duty to ensure that its execution and imposition of the City's ordinances
4 are conducted in a manner that does not violate the California Constitution. It also has a clear and
5 present duty to conduct policing actions in the City in a manner that conforms with the law.
6 LASD at all times relevant was acting as an agent of the City under color of law.

7 14. Defendant Andrew Lizarde ("Lizarde") is a Deputy Sheriff of the LASD. Lizarde
8 carried out the acts complained of in the Complaint pursuant to the policies, practices, and
9 customs of LASD and the City. Lizarde at all times relevant was acting as an agent of LASD and
10 the City under color of law. Lizarde is sued in his official capacity as an agent of LASD and the
11 City for executing LASD and City policies that violate the rights of Lancaster residents. Lizarde
12 is also sued in his individual capacity for interfering with the civil rights of Petitioner Leroy
13 Butts.

14 15. The City and LASD, and their employees and agents, including Lizarde,
15 participated in the unlawful conduct challenged herein, and, to the extent that they did not
16 personally participate, the City and LASD authorized, acquiesced, set in motion, or otherwise
17 failed to take necessary steps to prevent the acts that resulted in the unlawful conduct of
18 Defendants and Respondents. Each acted in concert and under color of state law.

19 JURISDICTION AND VENUE

20 16. This Court has jurisdiction under Code of Civil Procedure §§ 1085 and 526a, and
21 Civil Code § 52.1.

22 17. Venue is proper in this Court pursuant to Code of Civil Procedure § 395(a)
23 because the harm alleged herein occurred in Los Angeles County.

24 FACTUAL ALLEGATIONS

25 **A. The City of Lancaster's Unconstitutional and Wasteful Administrative Citation System**

26 18. The City of Lancaster maintains an administrative citation system that is
27 unconstitutional, wasteful, and highly punitive by design.

1 19. In 2014, California voters passed Proposition 47, the Safe Neighborhoods and
2 Schools Act. Proposition 47 reclassified six low-level drug and property felonies to
3 misdemeanors in order to reduce spending on incarceration. It mandated that the savings from
4 reduced incarceration be reallocated towards local prevention, treatment, and rehabilitation
5 programs.

6 20. To “counteract” this change in state law,⁵ the Lancaster City Council enacted
7 Ordinance No. 1001, the City of Lancaster’s Administrative Penalties for State Offenses
8 ordinance (“Ordinance”), codified in L.M.C. Chapter 9.48. The Ordinance expressed the City’s
9 intent to implement an administrative program more punitive than the criminal court system, and
10 authorized law enforcement to issue administrative citations imposing fines of \$500 to \$1000 for
11 the state offenses Proposition 47 reclassified. Vice Mayor Marvin Crist said when the Ordinance
12 was introduced: “The Sheriff’s Department is helpless under Proposition 47. We want to put
13 some teeth into it.”⁶

14 21. During and after the City’s consideration of the Ordinance, members of the public
15 expressed concerns about both the legality and effectiveness of the ordinance and questioned
16 whether such high citation fines could even be paid if imposed on unhoused or otherwise
17 indigent individuals.⁷

18 22. Nevertheless, the City passed the Ordinance and continues to enforce its
19 administrative citation system through and with LASD.

20 23. On information and belief, the City and LASD engage in an illegal pattern and
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22
23 ⁵ Chase Scheinbaum, “In a Prop 47 World, Are Tougher Fines the Answer?” KCET (May 9,
24 2016), <https://www.kcet.org/ballot-brief/in-a-prop-47-world-are-tougher-fines-the-answer>.

25 ⁶ “Lancaster Considers Imposing Fines For Certain Crimes In Wake Of Prop. 47,” CBS LOS
26 ANGELES (Jan. 27, 2015), [https://losangeles.cbslocal.com/2015/01/27/lancaster-considers-](https://losangeles.cbslocal.com/2015/01/27/lancaster-considers-imposing-fines-for-certain-crimes-in-wake-of-prop-47)
27 [imposing-fines-for-certain-crimes-in-wake-of-prop-47](https://losangeles.cbslocal.com/2015/01/27/lancaster-considers-imposing-fines-for-certain-crimes-in-wake-of-prop-47).

⁷ *Id.*; see also *supra* n.5; “Lancaster Passes Ordinance That Will Impose Fines For Certain
Crimes In Wake Of Prop. 47,” CBS LOS ANGELES (Feb. 10, 2015),
[https://losangeles.cbslocal.com/2015/02/10/lancaster-passes-ordinance-that-will-impose-fines-](https://losangeles.cbslocal.com/2015/02/10/lancaster-passes-ordinance-that-will-impose-fines-for-certain-crimes-in-wake-of-prop-47)
[for-certain-crimes-in-wake-of-prop-47](https://losangeles.cbslocal.com/2015/02/10/lancaster-passes-ordinance-that-will-impose-fines-for-certain-crimes-in-wake-of-prop-47).

1 practice of imposing invalid administrative penalties under L.M.C. § 9.48.050(F), which
2 authorizes administrative citations for “Disturbing the peace, as set forth in Section 415 of the
3 Penal Code.” On information and belief, the City and LASD maintain a pattern and practice of
4 enforcing L.M.C. § 9.48.050(F) citations where neither the circumstances present nor the factual
5 basis alleged satisfy the elements of Section 415 of the Penal Code—in particular, to cite
6 unhoused people for allegations unrelated to fighting or maliciously disturbing another, but
7 directly tied to their homeless status, including their presence at encampment “clean-up” sites
8 and “sleeping in a vacant lot.”

9 24. As codified in L.M.C. Chapter 9.48, the Ordinance imposes penalties of \$500 for
10 a first citation and \$1000 for a second and any subsequent citation. The City concurrently
11 authorizes LASD to issue administrative citations for alleged violations of the City municipal
12 code and imposes administrative penalties of \$500 pursuant to its general administrative citation
13 ordinance, L.M.C. Chapter 1.16.

14 25. The City’s administrative citation system includes no pre-deprivation process for
15 challenging a citation charge or fine. The City maintains a “pay-to-appeal” scheme that requires
16 pre-payment of the \$500 or \$1000 penalty to obtain any appeal hearing. L.M.C. §§ 1.16.090(A)
17 and 9.48.070 both require a citation appeal to be accompanied by a deposit of the penalty
18 amount. The back of the City’s administrative citation form states, “You must deposit the full
19 amount of the penalty with your request for appeal, which will be returned to you if you are
20 found not to be in violation.”

21 26. The City’s administrative citation system does not provide access to a waiver or
22 ability to pay assessment for indigent persons who wish to contest or appeal an administrative
23 citation but cannot afford to pay the penalty in advance.

24 27. If a person is not able to pay the citation penalty within thirty days, the City
25 threatens to block the person’s driver’s license renewal and to file a claim against their income
26 tax return, refers the citation to collections, and imposes additional fees. On information and
27 belief, the City has taken such collection action and continues to take collection action on

1 hundreds of citation penalties of \$500 or more that were imposed without any pre-deprivation
2 process or ability to pay determination, pursuant to its administrative citation scheme.

3 28. On information and belief, the City wastes public funds in its attempts to collect
4 the penalties. In the past budget cycle, the City paid contractor Turbo Data Systems, Inc. \$60,000
5 to provide data entry, notice, mail processing, and revenue collection services for its
6 administrative citation system. On information and belief, Turbo Data System's revenue
7 collection services resulted in collection of only \$36,695 in revenue, just over half of the contract
8 cost.

9 29. The City deposits the citation penalties it manages to collect in its general fund.

10 **B. The City of Lancaster and LASD's Retaliatory and Unconstitutional Citation**

11 **Enforcement Against Petitioner Leroy Butts**

12 30. Petitioner Leroy Butts is a sixty-eight-year-old Black man. He has been a resident
13 of the City of Lancaster for six years.

14 31. As a senior citizen and disabled person who is unable to work, Mr. Butts' income
15 is solely from Supplemental Security Income.

16 32. Mr. Butts has experienced homelessness for several years, until he recently
17 secured housing in October 2019. He now lives in an affordable housing unit in the City of
18 Lancaster.

19 33. On the afternoon of Thursday, August 22, 2019, Mr. Butts was in American
20 Heroes Park in the City of Lancaster, handing out "Know Your Rights" pamphlets to educate
21 other unhoused people about their rights.

22 34. Mr. Butts was drinking a grape soda as he handed out pamphlets.

23 35. At approximately 2:00 p.m., Mr. Butts saw two LASD officers approach a group
24 of unhoused persons. Mr. Butts recognized the officers, as he had previously seen them ticket
25 unhoused people in the park.

26 36. Mr. Butts approached the officers and unhoused persons to apprise the unhoused
27 persons of their rights to stay in the park. The soda that he was drinking was still in his hand.

1 37. A LASD officer, later identified as Lizarde, told the unhoused people that they
2 had to leave the park. Lizarde then pointed at a few erected tents and asked if they belonged to
3 any of the people present. (On information and belief, Lizarde had illegally cited someone under
4 L.M.C. 9.48.050(F) for sleeping in a tent outside two weeks earlier.)

5 38. The group stated that the tents did not belong to them. Mr. Butts suggested that
6 the tent owners might have left the park.

7 39. Lizarde responded by calling Mr. Butts a “smartass.” Lizarde then pointed to a
8 beer can on the ground and told Mr. Butts that it belonged to him and that he would be cited for
9 drinking in public. Lizarde did not observe Petitioner possess or consume alcohol in public, or
10 otherwise have any basis in fact to conclude that Petitioner had possessed or consumed alcohol.
11 Mr. Butts immediately showed Lizarde the soda in his hand as proof that he neither possessed
12 nor was drinking the beer can. Lizarde ignored him.

13 40. The officers proceeded to detain and cite Mr. Butts. Lizarde was armed and Mr.
14 Butts did not feel free to walk away or otherwise terminate the coercive encounter. The other
15 LASD officer took Mr. Butts’ identification from him.

16 41. As he issued the administrative citation, Lizarde smirked at Mr. Butts and said to
17 him, “You know this is a five hundred dollar ticket.” Lizarde gave Mr. Butts a \$500
18 administrative citation for allegedly violating L.M.C.§ 9.20.030 — Consuming alcoholic
19 beverages on public streets or parking lots.

20 42. Lizarde then ordered Mr. Butts to leave, even though Mr. Butts was lawfully
21 present at American Heroes Park. Based on Lizarde’s tone and exercise of law enforcement
22 authority, as well as Mr. Butts’ experience with and observations of the LASD officers, Mr.
23 Butts reasonably believed that his compliance with the order would be coerced or compelled by
24 force if he did not leave.

25 43. Mr. Butts attempted to appeal the administrative citation through the City of
26 Lancaster’s administrative citation process. However, the City of Lancaster deprived Mr. Butts
27 of any meaningful opportunity to appeal the administrative citation by requiring payment of the

1 citation penalty as a prerequisite to appealing.

2 44. Mr. Butts could not afford to pay the penalty deposit required to appeal, as the
3 \$500 fine constitutes more than half of his monthly income from Supplement Security Income.

4 45. The City of Lancaster’s administrative citation appeal process is categorically
5 unavailable to indigent persons like Mr. Butts, who may have a fixed income and rely on public
6 benefits.

7 46. Mr. Butts wrote a letter to the City Attorney of the City of Lancaster, explaining
8 that he believed that he received the administrative citation in retaliation for handing out “Know
9 Your Rights” flyers in public and informing other unhoused persons of their right to remain in
10 the park. He explained that he wanted to challenge the administrative citation but could not
11 afford to pay the citation penalty and was thus precluded from seeking an appeal and his right to
12 a hearing on whether he violated any city ordinance. He asked the City of Lancaster to waive the
13 payment requirement for administrative citation appeals, provide him with a hearing on whether
14 the citation was properly issued, and cease all collection activity.

15 47. Mr. Butts never received a response from the City acknowledging this letter.

16 48. On September 23, 2019, Mr. Butts received a letter from the City of Lancaster’s
17 Assistant City Attorney, informing him that he was a day late on his payment of the citation
18 penalty. The letter stated that the City would pursue various means of collecting the penalty,
19 including blocking the renewal of his driver’s license and filing a claim against his income tax
20 refund.

21 49. On October 16, 2019, Mr. Butts received a letter from Innovative Collection
22 Services, a private debt collection agency, regarding the debt he purportedly owes to the City.
23 Innovative Collection Services sought to collect the past due \$500 administrative penalty and
24 imposed an additional \$150 collection fee because Mr. Butts had not already paid the original
25 citation.

26 50. Because of his indigence, Mr. Butts was not and is not able to pay the \$500
27 citation penalty, nor is he able to pay the \$150 collection fee imposed on him as a result of his

1 inability to pay the penalty.

2 **PREREQUISITES FOR MANDAMUS**

3 51. Petitioner, Leroy Butts, is an individual and is now, and at all times mentioned in
4 this petition was, a resident of Los Angeles County, California. Mr. Butts is beneficially
5 interested in the outcome of the proceeding, has exhausted all administrative remedies, and lacks
6 a plain, speedy, and adequate remedy at law.

7 52. Respondent, Andrew Lizarde, is an individual and is now, and at all times
8 mentioned in this petition was, a resident of Los Angeles County, California, and is employed by
9 Defendant LASD. In the execution of his duties as an employ of LASD, Respondent Lizarde has
10 a clear and present duty to conduct his duties in accordance with the California Constitution. By
11 executing the City of Lancaster’s unconstitutional administrative citation scheme, Lizarde
12 violates his clear and present duty to provide due process and equal protection under the law to
13 Petitioner and other people in the City of Lancaster.

14 53. Respondent, LASD, as an agency of the state of California, has a ministerial duty
15 to act in accordance with the California Constitution. By engaging in practices and procedures to
16 cite people under the City of Lancaster’s unconstitutional administrative citation scheme, LASD
17 violates its ministerial duty to provide due process and equal protection under the law to
18 Petitioner and other people in the City of Lancaster.

19 54. Respondent, the City of Lancaster, as a municipality in the state of California, has
20 a ministerial duty to act in accordance with the California Constitution. By passing into law,
21 causing people to be cited under, and engaging in debt collection pursuant to its unconstitutional
22 administrative citation scheme, the City of Lancaster violates its clear and present duty to
23 provide due process and equal protection under the law to Petitioner and other people in the City
24 of Lancaster.

25 55. Respondents have the present ability to perform the duty.

26 56. As a direct and proximate result of Respondents’ failure to ensure that their
27 actions do not violate the constitutional rights of Petitioner and other persons, Petitioner Leroy

1 Butts has been damaged, continues to be damaged by Respondents' attempt to collect unlawful
2 debt from him, and faces a foreseeable risk of future harm by Respondents.

3 **FIRST CAUSE OF ACTION**
4 **ORDINARY MANDATE (CODE CIV. PROC. § 1085):**
5 **PROCEDURAL DUE PROCESS**
6 **Article I, Section 7 of the California Constitution**
7 **As to the City and LASD**

8 57. Petitioner realleges and incorporates by reference each and every allegation as
9 though fully set forth herein.

10 58. Article I, Section 7 of the California Constitution provides that “[a] person may
11 not be deprived of life, liberty, or property without due process of law[.]”

12 59. The City, as a municipality in the State of California, has a clear, present, and
13 ministerial duty under Article I, Section 7 to provide notice and a meaningful opportunity to be
14 heard prior to depriving persons of their liberty or property and to conduct the City’s
15 administrative citation program in accordance with due process.

16 60. The City violates its duty to ensure due process by denying persons it issues
17 administrative citations a fair or meaningful opportunity to be heard, creating an unreasonable
18 risk of erroneous deprivation. By requiring, without exception, full prepayment of an
19 administrative citation in order to access an appeal hearing, the City effects a pre-hearing
20 deprivation and denies due process to people who cannot pay to appeal. The City also violates its
21 duty by enforcing and attempting to collect citation penalties imposed without due process.

22 61. In its capacity as an agent of the City of Lancaster, by issuing and enforcing
23 citations pursuant to the City’s administrative citation program, Respondent LASD violates its
24 clear, present, and ministerial duties under Article I, Section 7 of the California Constitution to
25 uphold and act in accordance with due process.

26 62. Respondents have the present ability to provide due process in conformity with
27 Article I, Section 7 of the California Constitution.

63. Petitioners have no plain, speedy, and adequate remedy in the ordinary course of
the law other than the issuance by this Court of a writ of mandamus.

1 64. Petitioner Leroy Butts has a beneficial interest in the performance of the above
2 duty because he is subject to the Lancaster Municipal Code; he has sought and seeks access to a
3 full and fair hearing to challenge the erroneous allegation made against him in the administrative
4 citation issued by LASD on behalf of the City; and the City categorically denied him access to
5 any such hearing because he could not afford to pay \$500 to appeal the citation.

6 **SECOND CAUSE OF ACTION**
7 **ORDINARY MANDATE (CODE CIV. PROC. § 1085):**
8 **DUE PROCESS**
9 **Article I, Section 7 of the California Constitution**
10 **As to the City and LASD**

11 65. Petitioner realleges and incorporates by reference each and every allegation as
12 though fully set forth herein.

13 66. The imposition of penalties and fees on indigent persons who cannot pay punishes
14 them for their poverty and violates due process. *People v. Dueñas*, 30 Cal. App. 5th 1157, 1164
15 (2019).

16 67. The City, as a municipality in the State of California, has a clear, present, and
17 ministerial duty under Article I, Section 7 of the California Constitution to provide due process
18 in its administrative citation program, including by ascertaining a person’s ability to pay before
19 imposing burdensome citation penalties and fees.

20 68. The City and its agents violate this duty by imposing and attempting to collect a
21 \$500 or \$1000 citation penalty and collection and late payment fees from indigent individuals—
22 persons who are unhoused, relying on public benefits, or otherwise unable to pay—without a
23 process for ascertaining ability to pay. The City’s administrative citation program, imposed upon
24 unhoused individuals and those least able to afford monetary penalties, violates due process
25 because the City and its agents fail to offer any waiver of the citation or related fees for those
26 unable to pay, thus placing an unconstitutional burden on the poor.

27 69. In its capacity as an agent of the City of Lancaster, by issuing and enforcing
28 citations pursuant to the City’s administrative citation program, Respondent LASD violates its
29 clear, present, and ministerial duties under Article I, Section 7 of the California Constitution to

1 uphold and act in accordance with due process.

2 70. Petitioners have no plain, speedy, and adequate remedy in the ordinary course of
3 the law other than the issuance by this court of a writ of mandamus.

4 71. Petitioner Leroy Butts has a beneficial interest in the performance of the above
5 duty because he is subject to the Lancaster Municipal Code, and because LASD, the City and its
6 agents have imposed and attempted to collect from him an unpayable \$500 citation penalty and
7 \$150 collection fee without assessing his ability to pay or affording him a waiver based on his
8 inability to pay.

9 **THIRD CAUSE OF ACTION**
10 **ORDINARY MANDATE (CODE CIV. PROC. § 1085):**
11 **EQUAL PROTECTION**
12 **Article I, Section 7 of the California Constitution**
13 **As to the City and LASD**

14 72. Petitioner realleges and incorporates by reference each and every allegation as
15 though fully set forth herein.

16 73. Article I, Section 7 of the California Constitution prohibits the “deni[al] of equal
17 protections of the laws.” Thus, the California Constitution prohibits municipalities from taking
18 punitive measures against people on the basis of their poverty.

19 74. The City, as a municipality in the State of California, has a clear, present, and
20 ministerial duty under Article I, Section 7 of the California Constitution to provide indigent
21 persons equal protection of the laws.

22 75. The City has the present ability to perform its duty to uphold and act in
23 accordance with equal protection.

24 76. The City violates its duty to ensure that all persons are treated equally under the
25 law by denying access to the administrative process for appealing a citation to individuals who
26 lack the ability to pay the citation, and by enforcing and attempting to collect citation penalties
27 imposed on such individuals.

77. The City further violates its duty by imposing additional punishment on
individuals who, due to their indigency, are unable to pay the citations. The City sends unpaid

1 citations—valid and invalid alike—to collections and imposes additional fees.

2 78. In its capacity as an agent of the City of Lancaster, by issuing and enforcing
3 citations pursuant to the City’s administrative citation program and in a manner that
4 discriminates against unhoused and poor people, Respondent LASD violates its ministerial duty
5 to ensure equal protection of the laws.

6 79. Petitioners have no plain, speedy, and adequate remedy in the ordinary course of
7 the law other than the issuance by this Court of a writ of mandamus.

8 80. Petitioner Leroy Butts is beneficially interested in the performance of the above
9 duties because he was targeted by LASD for administrative citation, denied access to a hearing,
10 and additionally punished by a citation penalty and late payment fee that he is unable to pay, all
11 because of his indigency.

12 **FOURTH CAUSE OF ACTION**
13 **ORDINARY MANDATE (CODE CIV. PROC. § 1085):**
14 **EXCESSIVE FINES**
15 **Article I, Section 17 of the California Constitution**
16 **As to the City and LASD**

17 81. Petitioner realleges and incorporates by reference each and every allegation
18 contained in the above paragraphs as though fully set forth herein.

19 82. Article I, Section 17 of the California Constitution states: “Cruel or unusual
20 punishment may not be inflicted or excessive fines imposed.”

21 83. Respondents have a clear, present, and ministerial duty to act in accordance with
22 Article I, Section 17 of the California Constitution and to ensure that they do not impose
23 excessive fines.

24 84. Respondents violate this duty by imposing administrative citation fines that are
25 grossly disproportionate to the cited conduct, on people who are not culpable and people who are
26 unable to pay.

27 85. In its capacity as an agent of the City, LASD violated and violates its duty under
Article I, Section 17 of the California Constitution by issuing citations and enforcing excessive
fines pursuant to the City of Lancaster’s administrative citation program, including to Petitioner

1 Butts, and in a manner that targets poor and unhoused people who are unable to pay.

2 86. Petitioner Leroy Butts is beneficially interested in the performance of the above
3 duties because LASD, the City and its agents have imposed an excessive fine on him, which is
4 not proportionate to the alleged offense, despite his lack of culpability and inability to pay.

5 **FIFTH CAUSE OF ACTION**
6 **ILLEGAL EXPENDITURE AND WASTE OF FUNDS**
7 **(CODE CIV. PROC. § 526A)**
8 **As to the City and LASD**

9 87. Petitioner realleges and incorporates by reference each and every allegation
10 contained in the above paragraphs as though fully set forth herein.

11 88. The City and LASD waste their resources and employees' and agents' time
12 issuing citations and attempting to collect citation penalties and fees from people who are unable
13 to pay pursuant to the City's Administrative Citation Program.

14 89. The City and LASD's use of public funds to carry out an Administrative Citation
15 Program that is unlawful under Article I, Sections 7 and 17 of the California Constitution is an
16 illegal expenditure.

17 90. The City and LASD's issuance of invalid L.M.C. 9.47.050(F) administrative
18 citations, including those targeting unhoused people based on their homeless status, is an ultra
19 vires discriminatory practice, and the use of public funds to carry out this practice is a waste of
20 funds and an illegal expenditure.

21 91. Petitioner has paid taxes that fund the City and LASD within one year before the
22 commencement of this suit.

23 **SIXTH CAUSE OF ACTION**
24 **VIOLATION OF THE TOM BANE CIVIL RIGHTS ACT**
25 **(CIVIL CODE § 52.1(b); GOV'T CODE §§ 815.2, 820)**
26 **As to the City and Defendant Lizarde**

27 92. Petitioner realleges and incorporates by reference each and every allegation
contained in the above paragraphs as though fully set forth herein.

93. The City, through Defendant Lizarde, and by way of threat, intimidation or
coercion, intentionally and spitefully interfered with Leroy Butts' civil rights.

1 94. Under the First Amendment and Article I, Section 2 of the California
2 Constitution, persons have a right to distribute informational pamphlets in a public park, and a
3 state actor cannot deny persons access to, or otherwise close, a public park to expressive activity.
4 Under the First Amendment and Article I, Section 2 of the California Constitution, persons have
5 a right to be free from retaliation against protected speech.

6 95. Under Article I, Sections 7 and 24 of the California Constitution, all persons have
7 a right to intrastate travel.

8 96. Leroy Butts was lawfully present in a public park distributing “Know Your
9 Rights” pamphlets to other unhoused persons, which is constitutionally-protected expressive
10 conduct, when Defendant Lizarde detained him under color of law and threat of force, then cited
11 him and ordered him to leave.

12 97. Lizarde detained and cited Mr. Butts and ordered him to leave the park, pursuant
13 to the City’s official ordinances, policies, and customs, to prevent him from exercising the rights
14 to travel and engage in expressive conduct, and to retaliate against him for having exercised
15 those rights. At all relevant times, Lizarde was acting within the scope of his authority granted by
16 the City.

17 98. The City ratified Lizarde’s issuance of the citation to Mr. Butts and retaliatory use
18 of the City’s administrative citation scheme. The City enforced the citation against Mr. Butts and
19 threatened various means of collecting the citation penalty, including blocking the renewal of his
20 driver’s license and filing a claim against his income tax refund. The City denied Mr. Butts any
21 opportunity to appeal the retaliatory citation.

22 99. Defendants intended to, and did, interfere with Mr. Butts’ enjoyment of the
23 interests protected by the rights to free speech and travel. Defendants’ conduct would stifle a
24 person of ordinary firmness from continuing to engage in speech, by virtue of it constituting an
25 exercise of governmental power that was regulatory, proscriptive, or compulsory in nature and
26 had the effect of punishing someone for their speech.

27 100. Mr. Butts’ protected activities were a substantial or motivating factor behind

1 Lizarde’s conduct leading up to, and including, the issuance of the administrative citation.

2 101. Lizarde’s conduct, as alleged herein, was oppressive, malicious, and fraudulent,
3 and constitutes an intentional scheme to oppress Mr. Butts with the intention of causing injury to
4 him, and was carried out with a malicious, willful, and conscious disregard of Petitioner’s rights.

5 102. As a direct and proximate result of the conduct alleged above, Mr. Butts was
6 harmed. Defendants’ conduct was a substantial factor in causing the harm to Mr. Butts.

7 103. On February 18, 2020, Mr. Butts timely filed a claim with the City under the Tort
8 Claims Act, Gov’t Code § 900 et seq., for damages related to the issuance of the retaliatory
9 citation. The City issued a notice rejecting this claim on February 25, 2020. On February 28,
10 2020, Mr. Butts timely filed a tort claim related to the City ratifying and denying him the ability
11 to appeal the retaliatory citation. The City issued a notice rejecting this second claim on March
12 10, 2020.

13 **PRAYER FOR RELIEF**

14 **WHEREFORE**, Petitioners respectfully request relief as follows:

15 1. For a writ of mandate to issue against all Respondents compelling adherence with
16 the California Constitution such that Respondents:

- 17 a. Immediately cease issuing citations pursuant to the City’s administrative citation
18 program, L.M.C. Code Chapters 1.16 and 9.48;
- 19 b. Immediately cease collection of any debt imposed pursuant to the City’s
20 administrative citation program, L.M.C. Chapters 1.16 and 9.48; and
- 21 c. Immediately discharge and recall from any third-party debt collector debt
22 imposed pursuant to the City’s administrative citation program, L.M.C. Chapters
23 1.16 and 9.48;

24 2. For a permanent injunction enjoining the City and LASD from expending funds,
25 including the paid time of their employees’ and agents, to issue citations or collect debt pursuant
26 to the City’s administrative citation program, L.M.C. Chapters 1.16 and 9.48;

1 **VERIFICATION**

2 I, Adrienna Wong, hereby declare as follows:

3 I am counsel for the Petitioner and Plaintiff in this matter. I have read the VERIFIED
4 PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY AND
5 INJUNCTIVE RELIEF and know its contents. I am informed and believe that the facts stated in
6 the Petition and Complaint are true, and on that basis I allege them to be true and correct.

7 I declare under penalty of perjury under the laws of the State of California that the
8 foregoing is true and correct and that this verification was executed February 8, 2021 in Los
9 Angeles, California.

10 

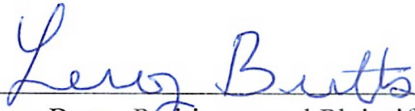
11 _____
12 Adrienna Wong

VERIFICATION

I, Leroy Butts, hereby declare as follows:

I am a petitioner and plaintiff in this matter. I have read the VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DAMAGES AND DECLARATORY AND INJUNCTIVE RELIEF and know its contents. The facts alleged in this matter in paragraphs 8-11, and 30-51 concerning my claims are within my own personal knowledge, and I know these facts to be true, except for matters stated on information and belief, and I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this verification was executed this 28 day of December, 2020 in Lancaster, California.



Leroy Butts, Petitioner and Plaintiff