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10 Attorneys for Plaintiffs

11 UNITED STATES DISTRICT COURT
12 EASTERN DISTRICT OF CALIFORNIA
13 FRESNO DIVISION

15 PETER STAVRIANOUDAKIS; KATHERINE
STAVRIANOUDAKIS; SCOTT TIMMONS;
16 ERIC ARIYOSHI; **and** AMERICAN FALCONRY
CONSERVANCY,

17 Plaintiffs,

18 v.
19

20 UNITED STATES FISH & WILDLIFE SERVICE;
CHARLTON H. BONHAM, in his official capacity
21 as Director of California Department of Fish and
Wildlife; **and** AURELIA SKIPWITH, in her
22 official capacity as Director of United States Fish &
Wildlife Service,

23 Defendants.
24

No. 1:18-cv-01505-NONE-BAM

**SECOND AMENDED
COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

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28 *Licensed to practice law in Arizona and Colorado. Not licensed to practice law in California.

INTRODUCTION
CIVIL RIGHTS COMPLAINT FOR
DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs Peter Stavrianoudakis, Eric Ariyoshi, Scott Timmons, American Falconry Conservancy (“Falconers”), and Katherine Stavrianoudakis (“Katherine”), by and through undersigned counsel, bring this Second Amended Complaint, filed pursuant to this Court’s January 24, 2020 Order, ECF 59 at 54, for declaratory and injunctive relief, and allege as follows:

JURISDICTION & VENUE

1. This Court has subject-matter jurisdiction pursuant to 28 U.S.C. §§ 1331 (federal question jurisdiction) and 1343 (jurisdiction to redress deprivations of civil rights), and the Civil Rights Act of 1871, 42 U.S.C. § 1983.

2. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because this judicial district is one in which a defendant is subject to the court’s personal jurisdiction.

3. The Court has authority to provide the relief requested under the Fourth Amendment, First Amendment, Fourteenth Amendment, 28 U.S.C §§ 2201 & 2202 (Declaratory Judgment Act), 42 U.S.C. § 1983, and its inherent equitable powers.

4. Defendant Charlton Bonham is Director of the California Department of Fish and Wildlife, and is a “person” within the meaning 42 U.S.C. § 1983. *See Will v. Michigan Dep’t of State Police*, 491 U.S. 58, 71 n.10 (1989).

INTRODUCTION

5. The First and Fourth Amendments contain some of the most important and well-protected individual civil liberties contained in the United States Constitution, and constrain both federal officials and, through the Fourteenth Amendment, state officials.

6. Falconry is the art of housing, tending, training, flying, and hunting with birds of prey, such as falcons, hawks, and eagles.

7. In 2008, ostensibly for the purpose of regulating the “taking, possessing, purchasing, bartering, [or] selling” certain birds of prey pursuant to the Migratory Bird Treaty Act, 16 U.S.C. § 703, *et seq.*, and the Bald and Golden Eagle Protection Act, 16 U.S.C. § 668, *et seq.*, the U.S. Fish and Wildlife Service promulgated regulations governing falconry. *See* 50 C.F.R. § 21.29(a).

1 8. The Migratory Bird Treaty Act grants Defendants the “authority, with a search
2 warrant, to search any place” and by plain implication denies the authority to search without a
3 warrant. 16 U.S.C. § 706.

4 9. Neither the Migratory Bird Treaty Act nor the Bald and Golden Eagle Protection
5 Act grant Defendants the authority to conduct warrantless searches of private property or regulate
6 falconers’ speech.

7 10. The federal regulations include 50 C.F.R. § 21.29(b)(4)(i), which authorizes
8 Defendants to conduct warrantless searches of falconry “facilities” to ensure that the “facilities
9 standards” in § 21.29 are met, and 50 C.F.R. § 21.29(d)(2) and (d)(9), which grant state officials
10 the power to conduct warrantless searches of the “equipment and records” of falconers.

11 11. The federal regulations also include 50 C.F.R. § 21.29(f)(8)–(9), which prohibit
12 falconers from photographing or filming their birds to make movies, commercials, or in other
13 commercial ventures unrelated to falconry, limit compensation for falcon-related educational
14 speech, and dictate the content of conservation education programs.

15 12. The federal regulations encourage states to create licensing and regulatory schemes
16 consistent with the federal regulations. Any state rules must be at least as restrictive as the federal
17 rules. 50 C.F.R. § 21.29(b).

18 13. Pursuant to 50 C.F.R. § 21.29(b), California promulgated falconry regulations in
19 2014, including 14 C.C.R. § 670(h)(13)(A), which contains substantively identical speech
20 restrictions as those contained in the federal regulations, and further bans any compensation of
21 falconers’ speech if the “fees charged, compensation, or pay received ... exceed the amount
22 required to recover costs.”

23 14. In 2017, the California regulations were amended to include 14 C.C.R.
24 § 670(j)(3)(A), which authorizes warrantless searches of falconry “facilities, equipment, or raptors
25 possessed” by licensees, including the power to “inspect, audit, or copy any permit, license,
26 book[,]” or other required record.

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1 15. As a condition of receiving their licenses to practice falconry in California,
2 Falconers are required to waive their Fourth Amendment rights and allow warrantless searches of
3 their “falconry facilities” and “equipment and records.” 14 C.C.R. § 670(j)(1)(D)–(3).

4 16. The vast majority of licensed falconers, including the Falconers in this case, keep
5 their birds housed either within their private homes, or within falconry weathering structures called
6 mews located directly adjacent to their private homes.

7 17. Housing falcons within private homes or within protected curtilage is the common
8 practice among licensed falconers.

9 18. As a result of the challenged regulations, Falconers’ and Katherine’s private homes,
10 protected curtilage, and protected papers and effects, are subject to unreasonable warrantless
11 searches.

12 19. Warrantless searches of Falconers’ private homes and property, and specifically
13 American Falconry Conservancy members’ private homes and property, by Defendants is
14 widespread and on-going.

15 20. This suit seeks to vindicate the rights of Falconers to be free from the imposition of
16 an unconstitutional condition on their falconry licenses, and for Falconers and Katherine to be
17 secure in their private homes and curtilage against unreasonable warrantless searches by armed
18 government agents under the Fourth Amendment, and Falconers their rights to freedom of speech
19 under the First Amendment.

20 21. Falconers and Katherine will suffer the continued deprivation of their constitutional
21 rights due to the continual enforcement of the unconstitutional condition and rules complained of
22 herein by state and federal officials, unless the regulations challenged herein are declared
23 unconstitutional and unlawful and Defendants are enjoined from enforcing them.

24 22. This action alleges both as-applied and facial challenges to the relevant regulations,
25 and seeks wholly prospective declaratory and injunctive relief and no monetary damages against
26 any party.

27 23. “[F]acial challenges under the Fourth Amendment are not categorically barred or
28 especially disfavored.” *City of Los Angeles, Calif. v. Patel*, 135 S. Ct. 2443, 2449 (2015).

PARTIES

24. Plaintiff Peter Stavrianoudakis is a United States citizen, Deputy Public Defender for Stanislaus County, and President of American Falconry Conservancy. He resides in Hilmar, California, and was first licensed as a falconer over 30 years ago. He is a Master Falconer.

25. Plaintiff Katherine Stavrianoudakis is a United States citizen and a Service Coordinator for Valley Mountain Regional Center, a nonprofit that provides services for the developmentally disabled. She resides in Hilmar, California, and is married to and lives in the same residence as Plaintiff Peter Stavrianoudakis. She does not have a falconry license and has not purported to waive her Fourth Amendment rights, but is still subject to the same intrusive unreasonable warrantless searches of her home and curtilage by Defendants as her husband.

26. Plaintiff Eric Ariyoshi is a United States citizen, Marketing Director for a California winery, and Secretary for American Falconry Conservancy. He resides in Novato, California, and has been a licensed falconer for 20 years.

27. Plaintiff Scott Timmons is a United States citizen, and owner of Aerial Solutions, a small privately owned abatement company, and a member of American Falconry Conservancy. He resides in Lompoc, California, and has been licensed as a falconer for 30 years. He has been licensed to use falcons in professional abatement for more than 10 years. Abatement is the practice of flying certain species of raptor over a given area as a deterrent to the presence of other invasive bird species. Abatement is important in the prevention of nuisance caused by seagulls and other bird species at landfills and near airports.

28. Plaintiff American Falconry Conservancy is a membership organization established in 2002 and composed of approximately 100 members across the United States. American Falconry Conservancy is dedicated to protecting and preserving the practice of falconry, and protecting falconers' rights.

29. Defendant Aurelia Skipwith is Director of the U.S. Fish and Wildlife Service. In her capacity as Director of the U.S. Fish and Wildlife Service she is charged with enforcing the federal warrantless search and speech regulations challenged in this lawsuit. By enforcing the policies complained of in this action, she is currently depriving Falconers of their rights to be free from the

1 imposition of an unconstitutional condition, Falconers’ and Katherine’s right to be free from
2 unreasonable warrantless searches of their private property, and Falconers’ rights to freedom of
3 speech guaranteed by the United States Constitution, and will continue to do so absent this Court’s
4 injunction. Defendant Skipwith is sued in her official capacity.

5 30. Defendant Charlton Bonham is Director of the California Department of Fish and
6 Wildlife. In his capacity as Director of the California Department of Fish and Wildlife he is charged
7 with enforcing the California and federal warrantless search and speech regulations challenged in
8 this lawsuit. By enforcing the policies complained of in this action, he is currently depriving
9 Falconers of their rights to be free from the imposition of an unconstitutional condition, Falconers’
10 and Katherine’s right to be free from unreasonable warrantless searches of their private property,
11 and Falconers’ rights to freedom of speech guaranteed by the United States Constitution, and will
12 continue to do so absent this Court’s injunction. Defendant Bonham is sued in his official capacity.

13 31. Defendant U.S. Fish and Wildlife Service is responsible for creating and enforcing
14 the federal warrantless search and speech regulations challenged in this lawsuit. By enforcing the
15 policies complained of in this action, it is currently depriving Falconers of their rights to be free
16 from the imposition of an unconstitutional condition, Falconers’ and Katherine’s right to be free
17 from unreasonable warrantless searches of their private property, and Falconers’ rights to freedom
18 of speech guaranteed by the United States Constitution.

19 LEGAL BACKGROUND

20 Doctrine of Unconstitutional Conditions

21 32. The unconstitutional conditions doctrine limits the government’s ability to require
22 waivers of federally protected rights as a condition of receiving a public benefit. *Dolan v. City of*
23 *Tigard*, 512 U.S. 374, 385 (1994).

24 33. “Broadly stated, the rule is that the right to continue the exercise of a privilege
25 granted by the state cannot be made to depend upon the grantee’s submission to a condition
26 prescribed by the state which is hostile to the provisions of the federal Constitution.” *United States*
27 *v. Chicago, M., St. P & P Railway Co.*, 282 U.S. 311, 328–29 (1931).

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1 34. The doctrine of unconstitutional conditions prevents this indirect deprivation of a
2 constitutional right even when the underlying benefit is fully discretionary, and the government
3 could withhold the benefit altogether. *Perry v. Sindermann*, 408 U.S. 593, 597 (1972); *see also*
4 *United States v. Scott*, 450 F.3d 863, 866 (2006).

5 35. Thus, government cannot achieve “end-runs around the barriers to direct
6 commands” by granting itself the same unconstitutional power as a condition on a public benefit,
7 like a license. *See* Kathleen M. Sullivan, Unconstitutional Conditions, 102 Harv. L. Rev. 1413,
8 1492 (1989).

9 36. “The doctrine [of unconstitutional conditions] is especially important in the Fourth
10 Amendment context.” *Scott*, 450 F.3d at 867.

11 **Falconry Licenses Are Conditioned on Fourth Amendment Waivers**

12 37. California falconry regulations condition receipt of a falconry license on a waiver of
13 the Fourth Amendment right to be free of unreasonable warrantless searches of private homes,
14 curtilage, and other protected papers and effects. 14 C.C.R. § 670(j)(3)(A); 50 C.F.R.
15 § 21.29(b)(4)(i).

16 38. On the application to receive a falconry license, applicants must explicitly
17 acknowledge and certify that they “understand that [their] facilities, equipment, or raptors are
18 subject to unannounced inspection pursuant to Section 670(j), Title 14, of the CCR. [And] certify
19 that [they] have read, understand, and agree to abide by all conditions of this license, the applicable
20 provisions of the FGC, and the regulations promulgated thereto.” California Department of Fish
21 and Wildlife, Falconry License Application. <https://wildlife.ca.gov/Licensing/Falconry>.

22 39. Licensed falconers are thus forced, in violation of the doctrine of unconstitutional
23 conditions, to waive their Fourth Amendment rights in order to receive their licenses.

24 40. Falconry license holders are required to renew their licenses annually, 14 C.C.R.
25 § 670(a)(1); 14 C.C.R. § 670(e)(4); 50 C.F.R. § 21.29(c)(1)(i), and as a consequence suffer a fresh
26 cognizable injury every time they renew their licenses.

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The Fourth Amendment Forbids Unreasonable Warrantless Searches

41. The Fourth Amendment protects “persons, houses, papers, and effects” from unreasonable warrantless searches by government agents. U.S. Const. amend IV.

42. Reasonableness under the Fourth Amendment is generally satisfied by securing a search warrant, based upon probable cause, from a neutral magistrate. *Vernonia School Dist. 47J v. Acton*, 515 U.S. 646, 653 (1995).

43. The Supreme Court has repeatedly held that “[i]t is a ‘basic principle of Fourth Amendment law that searches and seizures inside a home without a warrant are presumptively unreasonable.’” *Brigham City v. Stuart*, 547 U.S. 398, 403 (2006) (quoting *Groh v. Ramirez*, 540 U.S. 551, 559 (2004)).

44. All “‘searches conducted outside the judicial process, without prior approval by [a] judge or [a] magistrate [judge], are *per se* unreasonable ... subject only to a few specifically established and well-delineated exceptions.’” *Patel*, 135 S. Ct. at 2452.

45. Under the privacy-based approach to the Fourth Amendment, a search warrant is required for government searches where (1) a person has exhibited an actual (subjective) expectation of privacy in the area searched, and (2) the expectation is one that society is prepared to recognize as reasonable. *Katz v. United States*, 389 U.S. 347, 361 (1967) (Harlan, J., concurring).

46. Under Fourth Amendment privacy analysis, private homes and curtilage enjoy a strong presumption of privacy. *See Kylo v. United States*, 533 U.S. 27, 34 (2001); *Camara v. Municipal Court of the City and County of San Francisco*, 387 U.S. 523 (1967).

47. Property rights also provide an independent basis for requiring a warrant under the Fourth Amendment. *See, e.g., Collins v. Virginia*, 138 S. Ct. 1663 (2018); *Florida v. Jardines*, 569 U.S. 1 (2013); *United States v. Jones*, 565 U.S. 400 (2012).

48. Where the government crosses a real property line with an investigatory purpose without a warrant, it has committed a cognizable trespass that can be redressed under the Fourth Amendment. *Id.* at 406 (“[F]or most of our history the Fourth Amendment was understood to embody a particular concern for government trespass upon the areas (‘persons, houses, papers, and effects’) it enumerates.”).

Federal and California Unreasonable Warrantless Search Regimes

49. Under 50 C.F.R. § 21.29(b)(4)(i), Defendants purport to authorize themselves to search Falconers' facilities, which per the common practice of falconry are actually private homes or mews located within protected curtilage, without a warrant "to ensure that the facilities standards" in § 21.29 are met.

50. 50 C.F.R. § 21.29(d)(2) and (d)(9) grant state officials the purported power to conduct warrantless searches of the "equipment and records" of Plaintiff falconers.

51. 14 C.C.R. § 670(j)(3)(A), authorizes warrantless searches of falconry "facilities, equipment, or raptors possessed" by licensees, including the power to "inspect, audit, or copy any permit, license, book[,]" or other required record.

52. Falconers' falconry "facilities," are located within private homes or structures within the protected curtilage of private homes, as are the targeted "equipment and records."

53. Falconers' birds, falconry equipment, and records are also "papers and effects" protected by the Fourth Amendment.

The First Amendment Presumptively Prohibits Content-Based Speech Restrictions

54. The First Amendment protects the right of free speech by commanding that "Congress shall make no law ... abridging the freedom of speech." U.S. Const. amend. I.

55. Regulations that control speech based on its content are "presumptively invalid, and the Government bears the burden to rebut that presumption." *United States v. Stevens*, 559 U.S. 460, 468 (2010).

56. Movies, commercials, entertainment, advertisements, educational programs, and promotion or endorsement of products are forms of speech protected by the First Amendment.

Federal and California Speech Restrictions

57. 50 C.F.R. § 21.29(f)(9)(i) prohibits Falconers from photographing or filming their birds for "movies, commercials, or in other commercial ventures"—if the images will be used in a production that is not about falcons or falconry.

58. 50 C.F.R. § 21.29(f)(9)(ii) prohibits Falconers from photographing or filming their birds for "advertisements; as a representation of any business, company, corporation, or other

1 organization; or for promotion or endorsement of any products, merchandise, goods, services,
2 meetings, or fairs”—unless the promotion or endorsement is of “a nonprofit falconry organization
3 or association” or “products or endeavors related to falconry.”

4 59. 50 C.F.R. § 21.29(8)(v) imposes content-based restrictions about what Falconers can
5 discuss in conservation education programs—including “information about the biology, ecological
6 roles, and conservation needs of raptors and other migratory birds.”

7 60. 50 C.F.R. § 21.29(f)(8)(iv) prohibits Falconers from being paid to speak in a
8 conservation education program using their birds if they charge a fee for the presentation that
9 exceeds the amount required to recoup their costs.

10 61. 14 C.C.R. § 670(h)(13)(A) prohibits Falconers from being paid to speak in any
11 context using their birds if they charge a fee for the presentation that exceeds the amount required
12 to recoup their costs.

13 **Legal Consequences of Non-Compliance**

14 62. Failure to comply with the above requirements may result in the denial of a falconry
15 license or in a previous license’s immediate suspension. 14 C.C.R. § 670(j)(3)(A).

16 63. A refusal to allow warrantless search may be inferred if, after “reasonable attempts”
17 by the department, the licensee is unavailable. *Id.*

18 64. Failure to follow the state and federal regulations also subjects Falconers to civil and
19 criminal penalties. See 16 U.S.C. § 707; 14 C.C.R. § 747.

20 **FACTUAL ALLEGATIONS**

21 **Peter and Katherine Stavrianoudakis**

22 65. Peter Stavrianoudakis has been interested in, housed, cared for, trained, and flown
23 falcons and other birds of prey used in falconry since he was 16-years old.

24 66. On or about 1980, when he was 20-years old, Peter secured his first falconry license
25 and has held a valid falconry license for the majority of the last 38 years.

26 67. Peter renewed his falconry license in June 2018, June 2019, and will renew his
27 license again in June 2020.

28 68. Peter has continuously complied with all requirements for falconry licensure.

1 69. In approximately 1983, Peter was subject to an unreasonable warrantless search of
2 his home and warrantless arrest by armed members of the California Department of Fish and
3 Wildlife related to his lawful activities as a non-resident falconer in Nevada.

4 70. No charges were filed against Peter related to this incident.

5 71. Peter first became affiliated with American Falconry Conservancy in 2017.

6 72. Shortly thereafter he became the Pacific Coast Director for American Falconry
7 Conservancy for a two-year term expiring in 2019.

8 73. Peter has never been sanctioned or cited by U.S. Fish and Wildlife, California Fish
9 and Wildlife, or any other agency or body, related to his practice of falconry.

10 74. In his time as a falconer, Peter has housed, cared for, trained, and flown
11 approximately 15 birds.

12 75. Currently, Peter owns one four-year-old aplomado falcon named "Ares."

13 76. Peter has owned, housed, cared for, trained, and flown Ares for the last three years.

14 77. Peter has a close personal bond and friendship with Ares that rivals that of any other
15 human and pet.

16 78. Peter does not generate any type of income, or participate in any kind of industry
17 through his ownership, training, or care of Ares.

18 79. Ares lives exclusively inside Peter's home, specifically inside his and Katherine's
19 bedroom, and to ensure Ares' health, is occasionally weathered in a protected enclosure in on their
20 fenced property approximately 20 feet from their home.

21 80. There is no separate structure used for the care or housing of Ares.

22 81. Peter and Katherine Stavrianoudakis were married in May 2014.

23 82. Peter and Katherine's home was originally purchased by Peter's mother Darlene
24 Stavrianoudakis in 1973.

25 83. Peter and Katherine have lived there together for a total of five years.

26 84. Katherine does not, and has never, held a falconry license or practiced falconry.

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Eric Ariyoshi

85. Eric Ariyoshi has been interested in, housed, cared for, trained, and flown falcons and other birds of prey used in falconry since he was 13-years old.

86. In 1988, when he was 16-years old, Eric secured his first falconry license and has held a valid falconry license for approximately the last 30 years.

87. Eric renewed his falconry license in June 2018, June 2019, and will renew his license again in June 2020.

88. Eric has continuously complied with all requirements for falconry licensure.

89. In his time as a falconer, Eric has housed, cared for, trained, and flown approximately 20 birds.

90. Eric has never been sanctioned or cited by U.S. Fish and Wildlife, California Fish and Wildlife, or any other agency or body, related to his practice of falconry.

91. Eric currently owns one three-year-old male Peregrine Falcon named "Finn."

92. Finn is housed in an unrestricted mews located 30 feet away with a direct line of sight to the rear of Eric's home.

93. Eric first became aware of American Falconry Conservancy in 2016, shortly thereafter become the organization's Secretary.

94. Eric has given uncompensated educational presentations about falconry.

Scott Timmons

95. In 1988, when he was 20-years old, Scott secured his first falconry license and has held a valid falconry license for approximately 30 years.

96. Scott renewed his falconry license in June 2018, June 2019, and will renew his license again in June 2020.

97. Scott has continuously complied with all requirements for falconry licensure.

98. In his time as a falconer, Scott has housed, cared for, trained, and flown approximately 40 birds; 20 falconry birds and 20 birds used for abatement services.

99. Species that Scott has owned include red-tailed hawks, coopers hawks, peregrine falcons, and hybrid species.

1 100. In 1992, Scott was approached on his mother's private property in Thousand Oaks,
2 California, by officers of the California Fish & Game Department.

3 101. Scott was living with his mother and attending college at the time.

4 102. The officers claimed to be there to inquire as to whether he was still in possession
5 of a certain red-tailed hawk.

6 103. Scott told them that said hawk had flown away, and they soon revealed that they
7 were already in possession of the hawk.

8 104. Scott believes the officers used the hawk as pretext to attempt an unreasonable
9 warrantless search of his mother's private property.

10 105. Scott has never been sanctioned or cited by U.S. Fish and Wildlife, California Fish
11 and Wildlife, or any other agency or body, related to his practice of falconry.

12 106. Currently, Scott owns three birds: "June," is a five-year-old Goshawk, "Jeppa" is a
13 five-year-old Peregrine Falcon, and "Tio" is a six-year-old Harris Hawk.

14 107. Scott has a close personal bond and friendship with June, Jeppa, and Tio that rivals
15 that of any other human and pet.

16 108. Scott's falcons live exclusively in mews and other structures directly adjacent to his
17 home.

18 109. Scott first heard of and became acquainted with American Falconry Conservancy in
19 2014 and became a member in 2018.

20 110. Scott is the owner of an abatement services company called Aerial Solutions.

21 111. Abatement is the practice of flying certain species of raptor over a given area as a
22 deterrent to the presence of other invasive bird species. Abatement is important in the prevention
23 of nuisance caused by seagulls and other bird species at landfills and near airports.

24 112. Scott has been asked to perform educational presentations, including conservation
25 education presentations, at the same time that he is flying his birds for abatement. But he has
26 declined to perform these demonstrations because of the regulations that prohibit compensation for
27 speaking that exceeds the amount required to recoup his costs.

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American Falconry Conservancy

113. American Falconry Conservancy is a membership organization established in 2002 and composed of approximately 100 members from across the United States.

114. American Falconry Conservancy's stated purpose is to promote "the broadest liberties possible that are not in conflict with legitimate conservation efforts based upon sound biological and legal reasoning," and "promote knowledge of quality falconry, as well as to instill pride in falconers for the cultural heritage of the sport, and its place in world history."

115. American Falconry Conservancy is comprised of six districts across the United States, with each region overseen by a regional director.

116. American Falconry Conservancy is managed by an executive board consisting of a president, vice-president, secretary, and treasurer, with membership decisions vested in a board of directors.

117. American Falconry Conservancy membership is open to "[a]ny falconer—neither antagonistic nor detrimental to the association or its purpose—of good moral character and over the age of 17 years."

118. American Falconry Conservancy members pay annual dues, starting at \$30 for one year.

119. By virtue of holding falconry licenses, all members of American Falconry Conservancy are subject to the federal warrantless search provisions challenged herein.

120. By virtue of holding falconry licenses, all members of American Falconry Conservancy residing in California are subject to the California warrantless search provision challenged herein.

121. By virtue of holding falconry licenses, all members of American Falconry Conservancy who live in California suffer the imposition of an unconstitutional condition by being forced to agree to allow unreasonable warrantless searches of their private homes, curtilage, and other protected property as a condition of receiving their falconry licenses.

122. This cognizable injury occurs annually every time they renew their California falconry licenses.

1 123. By virtue of holding falconry licenses, all members of American Falconry
2 Conservancy are subject to the federal speech restrictions challenged herein.

3 124. By virtue of holding falconry licenses, all members of American Falconry
4 Conservancy residing in California are subject to the California speech restrictions challenged
5 herein.

6 125. The vast majority of licensed falconers, including the members of American
7 Falconry Conservancy, keep their birds housed either within their private homes, or within falconry
8 weathering structures called mews located directly adjacent to their private homes within protected
9 curtilage.

10 126. Housing falcons within private homes or on protected curtilage is the common
11 practice among licensed falconers.

12 127. As a result of the challenged regulations, American Falconry Conservancy
13 members' private homes, protected curtilage, and personal property are subject to unreasonable
14 warrantless searches.

15 128. Warrantless searches of American Falconry Conservancy members' private homes
16 and other property by Defendants is widespread and on-going.

17 129. Fred Seaman ("Seaman") is a currently licensed falconer in California and member
18 of American Falconry Conservancy whose private home, curtilage, and other property was searched
19 by armed California Fish and Wildlife agents without a warrant in 2016.

20 130. Seaman held a valid California falconry license and was a member of American
21 Falconry Conservancy at the time this warrantless search occurred.

22 131. Seaman has been a member of American Falconry Conservancy continuously since
23 2009.

24 132. But for the condition placed on his falconry license, Seaman would not allow the
25 warrantless search of his private home, curtilage, and other property by armed Fish and Wildlife
26 agents.

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1 133. Leonardo Velazquez (“Velazquez”) is a currently licensed falconer in California and
2 member of the American Falconry Conservancy whose private home, curtilage, and other property
3 was searched by armed California Fish and Wildlife agents without a warrant in 2017.

4 134. Velazquez held a valid California falconry license and was a member of American
5 Falconry Conservancy at the time this warrantless search occurred.

6 135. Velazquez has been a member of American Falconry Conservancy continuously
7 since 2016.

8 136. But for the condition placed on his falconry license, Velazquez would not allow the
9 warrantless search of his private home, curtilage, and other property by armed Fish and Wildlife
10 agents.

11 137. Lydia Ash (“Ash”) is a member of the American Falconry Conservancy whose
12 private home, curtilage, and other property was searched by armed federal Fish and Wildlife agents
13 without a warrant in 2009.

14 138. Ash held a valid Washington state falconry license at the time the warrantless search
15 occurred.

16 139. But for the condition placed on her previous falconry license, Ash would not allow
17 the warrantless search of her private home, curtilage, and other property by armed Fish and Wildlife
18 agents.

19 140. Stephen Layman (“Layman”) is a currently licensed falconer in Washington state
20 and member of the American Falconry Conservancy whose private home, curtilage, and other
21 property was searched by armed federal Fish and Wildlife agents without a warrant in 2004.

22 141. Layman held a valid Washington state falconry license at the time this warrantless
23 search occurred.

24 142. But for the condition placed on his falconry license, Layman would not allow the
25 warrantless search of his private home, curtilage, and other property by armed Fish and Wildlife
26 agents.

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143. Due to the unconstitutional condition placed on their licenses, and the unreasonable warrantless searches routinely carried out by both armed federal and state Fish and Wildlife officers, members of American Falconry Conservancy experience daily fear and anxiety.

144. American Falconry Conservancy members are subject to the speech prohibiting regulations complained of in this action.

145. Certain members of American Falconry Conservancy have declined to create photographs, movies, commercials, and other expression due to Defendants' active enforcement of the regulations complained of in this action.

146. Certain members of American Falconry Conservancy have modified the content of their educational presentations due to Defendants' active enforcement of the regulations complained of in this action.

147. Certain members of American Falconry Conservancy have declined to perform educational presentations and engage in other expression due to Defendants' active enforcement of the regulations limiting compensation complained of in this action.

148. American Falconry Conservancy as an association is dedicated to protecting and preserving the practice of falconry and protecting falconers' rights.

149. Neither the claims asserted here, nor the specific relief requested, require the participation of individual members of American Falconry Conservancy.

CLAIMS FOR RELIEF

Count I

**(50 C.F.R. § 21.29(b)(4)(i), 50 C.F.R. § 21.29(d)(2) and (d)(9), and 14 C.C.R. § 670(j)(3)(A))
(Unconstitutional Condition on Falconry Licenses)
(Fourth and Fourteenth Amendments)**

150. Falconers incorporate the allegations in the preceding paragraphs.

151. Under 50 C.F.R. § 21.29(b)(4)(i), Defendants assert the purported authority to search Falconers' facilities without a warrant "to ensure that the facilities standards" in § 21.29 are met.

152. 50 C.F.R. § 21.29(d)(2) and (d)(9) grant state officials the power to conduct warrantless searches of the “equipment and records” of Falconers.

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1 153. 14 C.C.R. § 670(j)(3)(A), authorizes warrantless searches of falconry “facilities,
2 equipment, or raptors possessed” by licensee Falconers, including the power to “inspect, audit, or
3 copy any permit, license, book[.]” or other required record.

4 154. Falconers’ falconry “facilities” are located within private homes or structures within
5 the curtilage of private homes, as are the targeted “equipment and records.”

6 155. Falconers’ birds, falconry equipment, and records are also “papers and effects”
7 protected by the Fourth Amendment.

8 156. As a condition of securing and maintaining their falconry licenses, Falconers are
9 forced, in violation of the unconstitutional conditions doctrine, to waive their Fourth Amendment
10 rights to be free from unreasonable warrantless searches of their private homes, protected curtilage,
11 and protected effects.

12 157. Falconry license holders are required to renew their licenses annually, and as a
13 consequence are forced to annually consent to unconstitutional searches of their private homes and
14 property as a condition of licensure, thereby suffering ongoing and continuing constitutional injury.

15 158. Both facially and as-applied, the warrantless search conditions imposed by both the
16 federal and California search regulations challenged herein violate Falconers’ Fourth Amendment
17 rights.

18 159. Falconers’ are suffering a continuing injury in fact that exists as an immediate
19 controversy between the parties due to the annual licensure requirement that Falconers waive their
20 Fourth Amendment rights against unreasonable searches.

21 160. Falconers have no adequate remedy at law to compensate for the loss of these
22 fundamental freedoms and will suffer irreparable injury absent an injunction restraining
23 Defendants’ enforcement of the regulations complained of in this action. Falconers are therefore
24 entitled to declaratory and permanent injunctive relief against continued enforcement and
25 maintenance of Defendants’ unconstitutional laws, practices, and policies. *See* 28 U.S.C. §§ 2201, 2202.

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Count II
(50 C.F.R. § 21.29(b)(4)(i), 50 C.F.R. § 21.29(d)(2) and (d)(9), and 14 C.C.R. § 670(j)(3)(A))
(Authorization and Practice of Unconstitutional Warrantless
Searches of Property of Falconry License Holders)

161. Falconers incorporate the allegations in the preceding paragraphs.

162. Under 50 C.F.R. § 21.29(b)(4)(i), Defendants assert the purported authority to search Falconers' facilities without a warrant "to ensure that the facilities standards" in § 21.29 are met.

163. 50 C.F.R. § 21.29(d)(2) and (d)(9) grant state officials the power to conduct warrantless searches of the "equipment and records" of Falconers.

164. 14 C.C.R. § 670(j)(3)(A), authorizes warrantless searches of falconry "facilities, equipment, or raptors possessed" by licensee Falconers, including the power to "inspect, audit, or copy any permit, license, book, or other record required [.]"

165. The vast majority of licensed falconers, including the Falconers in this case, keep their birds housed either within their private homes, or within falconry weathering structures called mews located directly adjacent to their private homes within protected curtilage.

166. Housing falcons within private homes or on protected curtilage is the common practice among licensed falconers.

167. Falconers' falconry "facilities" are located within private homes or structures within the curtilage of private homes, as are the targeted "equipment and records."

168. Falconers' birds, falconry equipment, and records are also "papers and effects" protected by the Fourth Amendment.

169. Unreasonable warrantless searches of Falconers' private homes and curtilage by Defendants is widespread and on-going.

170. Falconers challenge the claimed authority of Defendants to conduct unreasonable warrantless searches of Falconers' private homes, protected curtilage, and other property.

171. Both facially and as-applied, Defendants' claimed authority to conduct unreasonable warrantless searches of Falconers' homes and curtilage violate their Fourth Amendment rights.

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172. Upon information and belief, Falconers allege that without the authority provided in the challenged search regulations, Defendants would not conduct warrantless searches of Falconers' private homes, protected curtilage, and protected papers and effects.

173. Falconers challenge the actual practice of Defendants conducting unreasonable warrantless searches of Falconers' private homes, protected curtilage, and protected papers and effects.

174. Defendants' actions demonstrate a pattern or practice of unreasonable warrantless searches pursuant to their claimed authority. *See Melendres v. Arpaio*, 695 F.3d 990, 998–99 (9th Cir. 2012).

175. This pattern or practice creates a sufficient likelihood of individualized injury to sustain Falconers' claims for equitable relief under the Fourth Amendment. *Id.*

176. Day-to-day, Falconers live in ongoing fear of their private homes, protected curtilage, and protected papers and effects being subject to unreasonable warrantless search by armed Fish and Wildlife agents.

177. Both facially and as-applied, Falconers' are suffering a continuing injury in fact that exists as an immediate controversy between the parties due to the ongoing threat of unreasonable warrantless searches.

178. Falconers have no adequate remedy at law to compensate for the loss of these fundamental freedoms and will suffer irreparable injury absent an injunction restraining Defendants' enforcement of the regulations complained of in this action. Falconers are therefore entitled to declaratory and permanent injunctive relief against continued enforcement and maintenance of Defendants' unconstitutional laws, practices, and policies. *See* 28 U.S.C. §§ 2201, 2202.

Count III
(Warrantless Search of Non-Falconry License Holders)
(Fourth and Fourteenth Amendments)

179. Katherine Stavrianoudakis incorporates the allegations in the preceding paragraphs.

180. Under 50 C.F.R. § 21.29(b)(4)(i), Defendants assert the purported authority to conduct warrantless searches of Katherine’s private home and protected curtilage without a warrant “to ensure that the facilities standards” in § 21.29 are met.

1 181. 50 C.F.R. § 21.29(d)(2) and (d)(9) grant state officials the power to conduct
2 warrantless searches of the “equipment and records” located within Katherine’s private home and
3 protected curtilage.

4 182. 14 C.C.R. § 670(j)(3)(A), authorizes warrantless searches of falconry “facilities,
5 equipment, or raptors possessed” by licensees like Katherine’s husband Peter, including the power
6 to “inspect, audit, or copy any permit, license, book[.]” or other required record.

7 183. Katherine does not, and has never, held a falconry license or practiced falconry; yet
8 her private home and curtilage is still subject to unreasonable warrantless searches.

9 184. Katherine has not, and does not, consent to unreasonable warrantless searches of her
10 home and curtilage.

11 185. Peter Stavrianoudakis’s falconry “facility” is located within Katherine’s private
12 home, as are the targeted “equipment and records.”

13 186. Peter’s falcon “Ares” is specifically housed the majority of the time within
14 Katherine’s bedroom.

15 187. Day-to-day Katherine lives in ongoing fear of her home and curtilage being subject
16 to unreasonable warrantless search by armed government agents.

17 188. The federal and California search provisions challenged herein violate Katherine’s
18 Fourth Amendment rights.

19 189. Both facially and as-applied, Katherine and similarly situated non-falconers are
20 suffering a continuing injury in fact that exists as an immediate controversy between the parties.

21 190. Katherine has no adequate remedy at law to compensate for the loss of these
22 fundamental freedoms and will suffer irreparable injury absent an injunction restraining
23 Defendants’ enforcement of the regulations complained of in this action. Katherine is therefore
24 entitled to declaratory and permanent injunctive relief against continued enforcement and
25 maintenance of Defendants’ unconstitutional laws, practices, and policies. *See* 28 U.S.C. §§ 2201, 2202.

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Count IV
(50 C.F.R. § 21.29(f)(9)(i))
(Free Speech)
(First and Fourteenth Amendments)

191. Plaintiffs Peter Stavrianoudakis, Scott Timmons, and American Falconry Conservancy incorporate the allegations in the preceding paragraphs.

192. The First Amendment to the United States Constitution, as applied to the states through the Fourteenth Amendment, protects the truthful, non-misleading speech that Plaintiffs would engage in but for the regulations complained of in this action.

193. On its face and as enforced by Defendants, 50 C.F.R. § 21.29(f)(9)(i) prohibits Plaintiffs from photographing or filming their birds for “movies, commercials, or in other commercial ventures”—but only if the images will be used in a production that is not about falcons or falconry.

194. On its face and as enforced by Defendants, 50 C.F.R. § 21.29(f)(9)(i) prohibits Plaintiffs from engaging in lawful communication using their birds.

195. On its face and as enforced by Defendants, 50 C.F.R. § 21.29(f)(9)(i) burdens speech protected by the First Amendment.

196. On its face and as enforced by Defendants, 50 C.F.R. § 21.29(f)(9)(i) is based on the content of the regulated speech.

197. On its face and as enforced by Defendants, 50 C.F.R. § 21.29(f)(9)(i) is not tailored to serve a substantial or compelling government interest.

198. On its face and as enforced by Defendants, 50 C.F.R. § 21.29(f)(9)(i) is an unconstitutional condition imposed on falconry permits, in violation of the First Amendment.

199. But for Defendants’ active enforcement of 50 C.F.R. § 21.29(f)(9)(i), Plaintiffs would photograph or film their birds for “movies, commercials, or in other commercial ventures” unrelated to falcons or falconry.

200. By prohibiting Plaintiffs from photographing or filming their birds for “movies, commercials, or in other commercial ventures” unrelated to falcons or falconry, Defendants currently maintain and actively enforce a set of laws, practices, policies, and procedures under color

1 of state and federal law that deprive Plaintiffs and American Falconry Conservancy members of
2 their rights to freedom of speech, in violation of the First and Fourteenth Amendments to the United
3 States Constitution and 42 U.S.C. § 1983.

4 201. Plaintiffs have no adequate remedy at law to compensate for the loss of these
5 fundamental freedoms and will suffer irreparable injury absent an injunction restraining
6 Defendants' enforcement of the regulations complained of in this action. Plaintiffs are therefore
7 entitled to declaratory and permanent injunctive relief against continued enforcement and
8 maintenance of Defendants' unconstitutional laws, practices, and policies. *See* 28 U.S.C. §§ 2201, 2202.

9 **Count V**
10 **(50 C.F.R. § 21.29(f)(9)(ii))**
11 **(Commercial Speech)**
12 **(First and Fourteenth Amendments)**

13 202. Plaintiffs Peter Stavrianoudakis, Scott Timmons, and American Falconry
14 Conservancy incorporate the allegations in the preceding paragraphs.

15 203. The First Amendment to the United States Constitution, as applied to the states
16 through the Fourteenth Amendment, protects the truthful, non-misleading speech that Plaintiffs
17 would engage in but for the regulations complained of in this action.

18 204. On its face and as enforced by Defendants, 50 C.F.R. § 21.29(f)(9)(ii) prohibits
19 Plaintiffs from photographing or filming their birds for “advertisements; as a representation of any
20 business, company, corporation, or other organization; or for promotion or endorsement of any
21 products, merchandise, goods, services, meetings, or fairs”—unless the promotion or endorsement
22 is of “a nonprofit falconry organization or association” or “products or endeavors related to
23 falconry.”

24 205. On its face and as enforced by Defendants, 50 C.F.R. § 21.29(f)(9)(ii) prohibits
25 Plaintiffs from engaging in lawful communication using their birds.

26 206. On its face and as enforced by Defendants, 50 C.F.R. § 21.29(f)(9)(ii) burdens
27 speech protected by the First Amendment.

28 207. On its face and as enforced by Defendants, 50 C.F.R. § 21.29(f)(9)(ii) is based on
the content of the regulated speech.

208. On its face and as enforced by Defendants, 50 C.F.R. § 21.29(f)(9)(ii) is not tailored to serve a substantial or compelling government interest.

209. On its face and as enforced by Defendants, 50 C.F.R. § 21.29(f)(9)(ii) is an unconstitutional condition imposed on falconry permits, in violation of the First Amendment.

210. But for Defendants' active enforcement of 50 C.F.R. § 21.29(f)(9)(ii), Plaintiffs would photograph or film their birds for "advertisements; as a representation of any business, company, corporation, or other organization; or for promotion or endorsement of any products, merchandise, goods, services, meetings, or fairs" unrelated to falconry.

211. By prohibiting Plaintiffs from photographing or filming their birds for "advertisements; as a representation of any business, company, corporation, or other organization; or for promotion or endorsement of any products, merchandise, goods, services, meetings, or fairs" unrelated to falconry, Defendants currently maintain and actively enforce a set of laws, practices, policies, and procedures under color of state and federal law that deprive Plaintiffs and American Falconry Conservancy members of their rights to freedom of speech, in violation of the First and Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983.

212. Plaintiffs have no adequate remedy at law to compensate for the loss of these fundamental freedoms and will suffer irreparable injury absent an injunction restraining Defendants' enforcement of the regulations complained of in this action. Plaintiffs are therefore entitled to declaratory and permanent injunctive relief against continued enforcement and maintenance of Defendants' unconstitutional laws, practices, and policies. *See* 28 U.S.C. §§ 2201, 2202.

Count VI
(50 C.F.R. § 21.29(f)(8)(v))
(Compelled Content of Conservation Education Programs)
(First and Fourteenth Amendments)

213. Plaintiffs Peter Stavrianoudakis, Scott Timmons, and American Falconry Conservancy incorporate the allegations in the preceding paragraphs.

214. The First Amendment to the United States Constitution, as applied to the states through the Fourteenth Amendment, protects the truthful, non-misleading speech that Plaintiffs would engage in but for the regulations complained of in this action.

1 215. On its face and as enforced by Defendants, 50 C.F.R. § 21.29(f)(8)(v) imposes
2 content-based restrictions about what Plaintiffs can discuss in conservation education programs—
3 including requiring discussion of “information about the biology, ecological roles, and conservation
4 needs of raptors and other migratory birds.”

5 216. On its face and as enforced by Defendants, 50 C.F.R. § 21.29(f)(8)(v) prohibits
6 Plaintiffs from engaging in lawful communication using their birds.

7 217. On its face and as enforced by Defendants, 50 C.F.R. § 21.29(f)(8)(v) compels
8 Plaintiffs to communicate particular messages when conducting conservation education programs.

9 218. On its face and as enforced by Defendants, 50 C.F.R. § 21.29(f)(8)(v) burdens
10 speech protected by the First Amendment.

11 219. On its face and as enforced by Defendants, 50 C.F.R. § 21.29(f)(8)(v) is based on
12 the content of the regulated speech.

13 220. On its face and as enforced by Defendants, 50 C.F.R. § 21.29(f)(8)(v) is not tailored
14 to serve a substantial or compelling government interest.

15 221. On its face and as enforced by Defendants, 50 C.F.R. § 21.29(f)(8)(v) is an
16 unconstitutional condition imposed on falconry permits, in violation of the First Amendment.

17 222. But for Defendants’ active enforcement of 50 C.F.R. § 21.29(f)(8)(v), Plaintiffs
18 would determine the content of conservation education programs that they perform.

19 223. By prohibiting Plaintiffs from determining the content of conservation education
20 programs that they perform, Defendants currently maintain and actively enforce a set of laws,
21 practices, policies, and procedures under color of state and federal law that deprive Plaintiffs and
22 American Falconry Conservancy members of their rights to freedom of speech, in violation of the
23 First and Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983.

24 224. Plaintiffs have no adequate remedy at law to compensate for the loss of these
25 fundamental freedoms and will suffer irreparable injury absent an injunction restraining
26 Defendants’ enforcement of the regulations complained of in this action. Plaintiffs are therefore
27 entitled to declaratory and permanent injunctive relief against continued enforcement and
28 maintenance of Defendants’ unconstitutional laws, practices, and policies. *See* 28 U.S.C. §§ 2201, 2202.

Count VII
(50 C.F.R. § 21.29(f)(8)(iv))
(Payment for Conservation Education Programs)
(First and Fourteenth Amendments)

225. Plaintiffs Peter Stavrianoudakis, Scott Timmons, and American Falconry Conservancy incorporate the allegations in the preceding paragraphs.

226. The First Amendment to the United States Constitution, as applied to the States through the Fourteenth Amendment, protects the truthful, non-misleading speech that Plaintiffs would engage in but for the regulations complained of in this action.

227. On its face and as enforced by Defendants, 50 C.F.R. § 21.29(f)(8)(iv) prohibits Plaintiffs from being paid to speak in a conservation education program using their birds if they charge a fee for the presentation that exceeds the amount required to recoup their costs.

228. On its face and as enforced by Defendants, 50 C.F.R. § 21.29(f)(8)(iv) imposes a disincentive to engage in conservation education programs by limiting compensation.

229. On its face and as enforced by Defendants, 50 C.F.R. § 21.29(f)(8)(iv) burdens speech protected by the First Amendment.

230. On its face and as enforced by Defendants, 50 C.F.R. § 21.29(f)(8)(iv) is based on the content of the regulated speech.

231. On its face and as enforced by Defendants, 50 C.F.R. § 21.29(f)(8)(iv) is not tailored to serve a substantial or compelling government interest.

232. On its face and as enforced by Defendants, 50 C.F.R. § 21.29(f)(8)(iv) is an unconstitutional condition imposed on falconry permits, in violation of the First Amendment.

233. But for Defendants' active enforcement of 50 C.F.R. § 21.29(f)(8)(iv), Plaintiffs would accept compensation for conservation education programs that exceeds the amount required to recoup their costs.

234. By prohibiting Plaintiffs from receiving compensation for conservation education programs that exceeds the amount required to recoup their costs, Defendants currently maintain and actively enforce a set of laws, practices, policies, and procedures under color of state and federal law that deprive Plaintiffs and American Falconry Conservancy members of their rights to freedom

1 of speech, in violation of the First and Fourteenth Amendments to the United States Constitution
2 and 42 U.S.C. § 1983.

3 235. Plaintiffs have no adequate remedy at law to compensate for the loss of these
4 fundamental freedoms and will suffer irreparable injury absent an injunction restraining
5 Defendants' enforcement of the regulations complained of in this action. Plaintiffs are therefore
6 entitled to declaratory and permanent injunctive relief against continued enforcement and
7 maintenance of Defendants' unconstitutional laws, practices, and policies. *See* 28 U.S.C. §§ 2201, 2202.

8 **Count VIII**
9 **(14 C.C.R. § 670(h)(13)(A))**
10 **(Free Speech)**
11 **(First and Fourteenth Amendments)**

12 236. Plaintiffs Peter Stavrianoudakis, Scott Timmons, and American Falconry
13 Conservancy incorporate the allegations in the preceding paragraphs.

14 237. On its face and as enforced by Defendants, 14 C.C.R. § 670(h)(13)(A) incorporates
15 the speech restrictions contained in 50 C.F.R. § 21.29 and is unconstitutional for the same reasons.

16 238. On its face and as enforced by Defendants, 14 C.C.R. § 670(h)(13)(A) prohibits
17 Falconers from being paid to speak in any context using their birds if they charge a fee for the
18 presentation that exceeds the amount required to recoup their costs. It is unconstitutional for the
19 same reasons as 50 C.F.R. § 21.29(f)(8)(iv).

20 239. But for Defendants' active enforcement of 14 C.C.R. § 670(h)(13)(A), Plaintiffs
21 would accept compensation for speaking using their birds that exceeds the amount required to
22 recoup their costs.

23 240. By prohibiting Plaintiffs from speaking using their birds and by prohibiting
24 Plaintiffs from accepting compensation for that speech that exceeds the amount required to recoup
25 their costs, Defendants currently maintain and actively enforce a set of laws, practices, policies, and
26 procedures under color of state and federal law that deprive Plaintiffs and American Falconry
27 Conservancy members of their rights to freedom of speech, in violation of the First and Fourteenth
28 Amendments to the United States Constitution and 42 U.S.C. § 1983.

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241. Plaintiffs have no adequate remedy at law to compensate for the loss of these fundamental freedoms and will suffer irreparable injury absent an injunction restraining Defendants' enforcement of the regulations complained of in this action. Plaintiffs are therefore entitled to declaratory and permanent injunctive relief against continued enforcement and maintenance of Defendants' unconstitutional laws, practices, and policies. *See* 28 U.S.C. §§ 2201, 2202.

Count IX
(5 U.S.C. § 706)
(Regulations In Excess of Statutory Jurisdiction, Authority, or Limitations)

242. Falconers and Katherine incorporate the allegations in the preceding paragraphs.

243. The regulations challenged herein were promulgated pursuant to the Migratory Bird Treaty Act, 16 U.S.C. § 703, *et seq.*, and the Bald and Golden Eagle Protection Act, 16 U.S.C. § 668, *et seq.*

244. The Migratory Bird Treaty Act grants Defendants the “authority, with a search warrant, to search any place” and by plain implication denies the authority to conduct searches without a warrant. 16 U.S.C. § 706.

245. Neither the Migratory Bird Treaty Act nor the Bald and Golden Eagle Protection Act grant Defendants the authority to regulate falconers' speech.

246. The regulations challenged herein are in excess of statutory jurisdiction, authority, or limitations in violation of 5 U.S.C. § 706(2)(C).

247. Falconers and Katherine have no adequate remedy at law and will suffer irreparable injury absent an injunction restraining Defendants' enforcement of the regulations complained of in this action. Falconers and Katherine are therefore entitled to declaratory and permanent injunctive relief against continued enforcement and maintenance of Defendants' illegal laws, practices, and policies. *See* 28 U.S.C. §§ 2201, 2202.

PRAYER FOR RELIEF

Wherefore, Plaintiffs respectfully request that this Court enter judgment in their favor as follows:

A. Declare that regulations challenged herein violate Plaintiffs' rights to be free from unreasonable searches protected by the Fourth and Fourteenth Amendments on their face and as applied;

B. Declare that regulations challenged herein violate Plaintiffs Peter Stavrianoudakis, Scott Timmons, and American Falconry Conservancy's rights to freedom of speech protected by the First and Fourteenth Amendments on their face and as applied;

C. Preliminarily and permanently enjoin Defendants, their officers, agents, servants, employees, and all persons in active concert or participation with them from enforcing the regulations complained of in this action;

D. Award Plaintiffs their costs, attorneys' fees, and other expenses in accordance with law, including 42 U.S.C. § 1988; and

E. Order such additional relief as may be just and proper.

DATED: February 24, 2020.

Respectfully submitted,

ANTHONY L. FRANÇOIS
TIMOTHY R. SNOWBALL
JAMES M. MANLEY

By: s/ Timothy R. Snowball
TIMOTHY R. SNOWBALL

Attorneys for Plaintiffs

CIVIL COVER SHEET

Case 1:18-cv-01505-NONE-BAM Document 64-1 Filed 02/24/20 Page 1 of 4

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
PETER STAVRIANOUDAKIS, KATHERINE STAVRIANOUDAKIS,
SCOTT TIMMONS, ERIC ARIYOSHI, AMERICAN FALCONRY
CONSERVANCY

(b) County of Residence of First Listed Plaintiff Merced
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Timothy R. Snowball (Attorney of Record), Anthony L. Francois
Pacific Legal Foundation
930 G Street Sacramento, CA 95814 (916) 419-7111 (see attachment)

DEFENDANTS
Please see page 2 of attachment

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

☐ 1 U.S. Government Plaintiff

☐ 3 Federal Question *(U.S. Government Not a Party)*

☒ 2 U.S. Government Defendant

☐ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated or Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated and Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
☐ 110 Insurance ☐ 120 Marine ☐ 130 Miller Act ☐ 140 Negotiable Instrument ☐ 150 Recovery of Overpayment & Enforcement of Judgment ☐ 151 Medicare Act ☐ 152 Recovery of Defaulted Student Loans <i>(Excludes Veterans)</i> ☐ 153 Recovery of Overpayment of Veteran's Benefits ☐ 160 Stockholders' Suits ☐ 190 Other Contract ☐ 195 Contract Product Liability ☐ 196 Franchise	PERSONAL INJURY ☐ 310 Airplane ☐ 315 Airplane Product Liability ☐ 320 Assault, Libel & Slander ☐ 330 Federal Employers' Liability ☐ 340 Marine ☐ 345 Marine Product Liability ☐ 350 Motor Vehicle ☐ 355 Motor Vehicle Product Liability ☐ 360 Other Personal Injury ☐ 362 Personal Injury - Medical Malpractice	PERSONAL INJURY ☐ 365 Personal Injury - Product Liability ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability ☐ 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY ☐ 370 Other Fraud ☐ 371 Truth in Lending ☐ 380 Other Personal Property Damage ☐ 385 Property Damage Product Liability	☐ 625 Drug Related Seizure of Property 21 USC 881 ☐ 690 Other LABOR ☐ 710 Fair Labor Standards Act ☐ 720 Labor/Management Relations ☐ 740 Railway Labor Act ☐ 751 Family and Medical Leave Act ☐ 790 Other Labor Litigation ☐ 791 Employee Retirement Income Security Act IMMIGRATION ☐ 462 Naturalization Application ☐ 465 Other Immigration Actions	☐ 422 Appeal 28 USC 158 ☐ 423 Withdrawal 28 USC 157 PROPERTY RIGHTS ☐ 820 Copyrights ☐ 830 Patent ☐ 840 Trademark SOCIAL SECURITY ☐ 861 HIA (1395ff) ☐ 862 Black Lung (923) ☐ 863 DIWC/DIWW (405(g)) ☐ 864 SSID Title XVI ☐ 865 RSI (405(g)) FEDERAL TAX SUITS ☐ 870 Taxes (U.S. Plaintiff or Defendant) ☐ 871 IRS—Third Party 26 USC 7609	☐ 375 False Claims Act ☐ 376 Qui Tam (31 USC 3729(a)) ☐ 400 State Reapportionment ☐ 410 Antitrust ☐ 430 Banks and Banking ☐ 450 Commerce ☐ 460 Deportation ☐ 470 Racketeer Influenced and Corrupt Organizations ☐ 480 Consumer Credit ☐ 490 Cable/Sat TV ☐ 850 Securities/Commodities/Exchange ☐ 890 Other Statutory Actions ☐ 891 Agricultural Acts ☐ 893 Environmental Matters ☐ 895 Freedom of Information Act ☐ 896 Arbitration ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision ☐ 950 Constitutionality of State Statutes
REAL PROPERTY ☐ 210 Land Condemnation ☐ 220 Foreclosure ☐ 230 Rent Lease & Ejectment ☐ 240 Torts to Land ☐ 245 Tort Product Liability ☐ 290 All Other Real Property	CIVIL RIGHTS ☒ 440 Other Civil Rights ☐ 441 Voting ☐ 442 Employment ☐ 443 Housing/ Accommodations ☐ 445 Amer. w/Disabilities - Employment ☐ 446 Amer. w/Disabilities - Other ☐ 448 Education	PRISONER PETITIONS Habeas Corpus: ☐ 463 Alien Detainee ☐ 510 Motions to Vacate Sentence ☐ 530 General ☐ 535 Death Penalty Other: ☐ 540 Mandamus & Other ☐ 550 Civil Rights ☐ 555 Prison Condition ☐ 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN *(Place an "X" in One Box Only)*

☒ 1 Original Proceeding

☐ 2 Removed from State Court

☐ 3 Remanded from Appellate Court

☐ 4 Reinstated or Reopened

☐ 5 Transferred from Another District *(specify)*

☐ 6 Multidistrict Litigation - Transfer

☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*:
42 U.S.C. Section 1983; 28 U.S.C. Sections 2201 and 2202.

Brief description of cause:
Injunctive and declaratory relief for First and Fourth Amendment violations.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$ _____

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY *(See instructions):*

JUDGE _____ DOCKET NUMBER _____

DATE
02/24/2020

SIGNATURE OF ATTORNEY OF RECORD
/s/ Timothy R. Snowball

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____

Case 1:18-cv-01505-NONE-BAM Document 64-1 Filed 02/24/20 Page 2 of 4
INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

Civil Cover Sheet (continued)

Additional Attorney:

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Defendants:

UNITED STATES FISH & WILDLIFE SERVICE; CHARLTON H. BONHAM, in his official capacity as Director of California Department of Fish and Wildlife; and AURELIA SKIPWITH, in her official capacity as Director of United States Fish & Wildlife Service