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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF RIVERSIDE**

10 NATHAN BERRY, by and through his
11 guardians ad litem DAVID BERRY and
STEPHANIE BERRY; EMIL BARHAM,

12 Petitioners and Plaintiffs,

13 vs.

14 JOSEPH KOMROSKY, President and board
15 member of the Board of Trustees of the
16 Temecula Valley Unified School District;
17 MELINDA ANDERSON, member of the
18 Board of Trustees of the Temecula Valley
19 Unified School District; JENNIFER
WIERSMA, member of the Board of Trustees
of the Temecula Valley Unified School
District; TEMECULA VALLEY UNIFIED
SCHOOL DISTRICT; and DOES 1-100,
inclusive

20 Defendants.

Case No.

**PETITION FOR WRIT OF MANDATE AND
COMPLAINT FOR INJUNCTIVE AND
DECLARATORY RELIEF AND DAMAGES FOR
VIOLATION OF CIVIL RIGHTS**

DEMAND FOR JURY TRIAL

21 **INTRODUCTION**

22 1. Petitioners and Plaintiffs bring this petition for writ of mandate and action for violation
23 of civil rights in order to seek redress for blatant violations of constitutional and statutory rights by the
24 Temecula Valley Unified School District ("TVUSD") and its trustees. These actions were taken against
25 all of the residents and voters of TVUSD, and in particular against petitioner/plaintiff Barham as an
26 elected official and member of the TVUSD board, and against Nathan Berry, a minor and the recently
27 elected TVUSD student board member for the 2026-2027 school year, for the violation of his rights as a
28 student active in student government and the political affairs and governance of the TVUSD district and

**PETITION FOR WRIT OF MANDATE; COMPLAINT FOR DECLARATORY RELIEF AND
DAMAGES**

1 now as a board member. The defendants and respondents accomplished this through the adoption of
2 three school board policies which restrict the rights of free speech and association of elected officials
3 and constituents and students in the community. These board policies also blatantly violate the statutory
4 laws of the State of California. The parties seek a writ of mandate and injunctive and declaratory relief
5 to stop such unconstitutional and illegal practices, and seek damages for compensation.

6 7 **PARTIES**

8 2. Nathan Berry is a minor, born on December 3, 2008. He is presently 17 years old. He
9 attends Chapparral High School in the TVUSD and is presently a junior. Stephanie Berry is his mother
10 and David Berry is his father. They are married and reside together with Nathan Berry and are Nathan
11 Berry's custodians. They have or will apply to the court for appointment as guardian ad litem of Nathan
12 Berry pursuant to Code of Civil Procedure §372.

13 3. Petitioner and Plaintiff EMIL BARHAM is a resident and registered voter in the
14 TVUSD, and is an elected member of the TVUSD Board of Trustees.

15 4. The parties reside in the County of Riverside. The TVUSD is in the County of Riverside. All
16 of the events described herein occurred in the County of Riverside.

17 5. Defendant and Respondent Temecula Valley Unified School District ("TVUSD") is a public
18 school district under the laws of the State of California and in the County of Riverside. Defendants and
19 Respondents Joseph Komrosky, Melinda Anderson, and Jennifer Wiersma are members of the Board of
20 Trustees of TVUSD. The Board of Trustees is also known as the Board of Education, and is described
21 by both designations on TVUSD's website. The policies which are the subject of this action state they
22 are the policies of the Board of Trustees. Komrosky, Anderson, and Wiersma voted for the policies
23 which are referenced herein and provided a majority to adopt the policies, and are responsible for the
24 enforcement of the policies. Komrosky is the board president and was assigned particular duties under
25 the policies to enforce them, and is therefore primarily responsible for making and implementing the
26 decisions under the policies.

27 6. Those defendants and respondents named herein as Does 1 through 100 are responsible in
28 some degree to the injury caused to the petitioners and plaintiffs herein or necessary for the remedies

1 sought herein. Their true names and identities have either not been ascertained or it would be premature
2 to name them as parties at this point. At such time as naming said defendants and respondents is ripe, or
3 if the named defendants and respondents try to pass responsibility for their actions to administrative
4 staff or others, then petitioners and plaintiffs will amend this pleading to allege their true names and
5 capacities.

6 7. Each of the respondents set forth herein are the agents or employees of the other defendants
7 and are jointly liable for the actions of each. Notwithstanding this allegation, nothing herein is intended
8 to assert that elected members of the board of trustees are employees of TVUSD or subject to
9 restrictions that might otherwise be placed on employees of TVUSD. Nothing herein is intended to limit
10 the individual liability of those public officials who are alleged to have acted in their individual
11 capacities under color of state law.

12 13 **THE POLICIES BEING CHALLENGED**

14 8. Plaintiff and petitioner Barham was elected to the Board of Trustees in 2024. He meets with
15 constituents on a regular basis. As a member of the community, he sees constituents all the time. These
16 meetings with constituents are not limited to registered voters. He sees his duty to reach out to and meet
17 with parents, students, teachers, and all other persons involved with the educational system in TVUSD
18 and to have free, open, and honest communications with everyone. At times those communications
19 might be in private, particularly where a person might be intimidated by speaking in a public forum or
20 in expressing personal viewpoints. Barham believes it is crucial to his performance as a school board
21 trustee to have these communications. The Board of Trustees is sometimes divided on matters that come
22 before it, and Barham believes it is also crucial to his performance to hear dissident points of view,
23 without persons having to fear retaliation or other consequences. Communications might be in person,
24 or they might be by telephone, electronic mail, or social media, or other means of communication.

25 9. Other members of the Board of Trustees object to Barham communicating with dissident
26 voices and do not share his enthusiasm for meeting and communicating with members of the public.
27 Being aware that Barham was communicating with members of the community, including students, the
28 majority of the Board of Trustees, who are Komrosky, Anderson, and Wiersma, enacted three board

1 policies designed to quell Barham's constitutional and inherent statutory right to meet and
2 communicate with people, as well as Nathan Berry's constitutional right to communicate with elected
3 officials. To this end, the board majority, on March 10, 2026, adopted three policies in the bylaws of the
4 Board Policy Manual for the TVUSD, described herein and attached hereto.

6 10. BOARD POLICY BYLAW 9271.

7 Board Policy Bylaw 9271 is entitled Code of Ethics. The policy as amended on March 10, 2026,
8 is attached hereto as Exhibit A.

9 The policy purports to govern interactions between the elected board members and any students
10 of the district. The policy would govern such interactions by creating *an absolute bar* to any
11 communications between the elected school board members and students, of any age or grade, without
12 the prior permission of the superintendent of TVUSD, a position appointed by the board. The policy
13 impugns the rights of all board members and all students. The policy states in part:

14 "This Code of Ethics expresses the personal ideals the Board of Trustees believes should guide
15 each school Board member's activities and conduct."

16
17 In the conduct of their activities as Board members, the application of the above values will
18 encourage each Board member to

19 ...
20 "2. Be constantly aware that they have no legal authority except when acting as a member of the
21 Board, through which authority may only be exercised by majority vote. Board members shall present
22 their concerns and concepts through the process of collegial Board debate. If in the minority of any
23 decision, they shall abide by and support the majority decision. When in the majority, they shall respect
24 divergent opinions."

25
26 "Student Interaction, Political Neutrality, and Digital Communications

27 "Board members shall maintain appropriate professional boundaries in all interactions with
28 District students. Pursuant to SB 848, Pupil Safety, Board members shall not engage in private or

1 unsupervised meetings with District students or Student Board members regarding Board actions,
2 District governance, or political advocacy, at any time.

3 "Board members shall not direct, encourage, solicit, organize, or facilitate student participation
4 in advocacy efforts, campaigns, or demonstrations related to Board decisions, District governance, or
5 the election or recall of any Board member.

6 "Communications with Student Board members regarding governance matters must be
7 professional and consistent with established District protocols. Board members shall not privately
8 influence, direct, or use District students or Student Board members for political or campaign purposes.

9 "Board members shall not engage in private digital or social media messaging (via email, text
10 message, Facebook, 'X- Formerly 'Twitter', Instagram, Snapchat, or any existing or emerging social
11 media platforms) with District students or Student Board members. Board members shall avoid
12 engaging in any and all online conduct reasonably perceived as coercive, unduly influential, or
13 inappropriate. Such conduct includes but is not limited to offers of bribes or other fiscal benefits in
14 relation to political or Board action support, offers of quid pro quo exchanges of academic, disciplinary,
15 political, or sexual transactions, and discriminatory or harassing interactions with District students or
16 Student Board members. Further, Board members are prohibited from disclosing any and all
17 confidential Board communications in any and all platforms to District students or members of the
18 public at large, to preserve the dignity, safety, and well-being of all District students and staff.

19 "All Board member interactions with District students and Student Board members shall avoid
20 the appearance of undue influence or exploitation and shall preserve public trust, alignment with all
21 applicable student welfare protections under both State and Federal law."

22 Bylaw 9271 then prescribes the *penalties* for any perceived violation of the policy:

23 "Breaches of the Code of Ethics

24 "This Code of Ethics and the Bylaws of the Board of Trustees are enforceable by means of a
25 motion calling for the adoption of a Censure resolution, which shall, if adopted by a majority of the
26 Board's membership, express the Board's disapproval of the conduct of one or more of its members.
27 Censure resolutions may also call for such other action as is within the authority of the Board. For
28 example, and not by way of limitation, the Board may direct by Censure resolution, when a Board

1 member has made inappropriate expenditures in connection with Board-authorized travel, that said
2 member be denied the privilege of District-paid travel, and/or that inappropriate expenditures be repaid
3 or not reimbursed.

4 “Depending on the nature of the breach, less severe steps to gain compliance may be taken by
5 the Board President, or Board, as may be deemed appropriate and effective. For example, and not by
6 way of limitation, the Board President may counsel and request compliance with the Code of Ethics
7 and/or Bylaws.”

8 This policy on its face is unconstitutional and in violation of California law. It infringes on the
9 free speech and association rights of board members and students. It is an absolute ban on
10 communications, regardless of the circumstances and regardless of the sophistication or age of the
11 student. It implicitly threatens discipline against students and expressly threatens discipline against
12 board members. It is contrary to the duty of an elected official to meet and discuss matters of all sorts
13 with constituents. The reference to “conduct reasonably perceived as coercive, duly influential, or
14 inappropriate” is vague, overly broad, and chilling of free speech and association. The policy also
15 directly contradicts Education Code §48907.

16 The policy also unconstitutionally restricts the student representative, which Nathan Berry was
17 elected to serve as, and violates California statutory law on student representatives, by providing:
18 “Student participation shall be subject to clearly established expectations regarding professional
19 conduct, respectful collaboration, and appropriate communication protocols. When students serve
20 alongside adult members, communication regarding committee business shall occur through district-
21 approved channels and in a manner that maintains transparency and appropriate professional
22 boundaries.”

23 24 **11. BOARD POLICY BYLAW 9150.**

25 Board Policy Bylaw 9150 is entitled “Student Board Members”. The policy, as amended March
26 10, 2026, is attached hereto as Exhibit B.

27 The policy recognizes, consistent with Education Code §35012, that high school students may
28 serve on the board as a student board member. The student is chosen by students attending the district’s

1 high schools. However, the policy attempts to restrict communications between the student board
2 member and *any* other member of the board, regardless of whether the communication would go to a
3 majority of the board or just an individual member. The policy states: "All communications related to
4 Board business between the Student Board member and an individual trustees [sic] shall copy the
5 Superintendent or designee. Private social media, text messaging, private phone calls, or private emails
6 between trustees and the Student Board member is prohibited".

7 This restriction is not authorized by §35012. Education Code § 35012 also states that a pupil
8 member "shall be seated with the regular members of the governing board... and shall be recognized as
9 a full member of the governing board at the meetings" and shall receive the same materials at the same
10 time, be invited to briefings and board functions, and participate in questioning and discussion alongside
11 regular members. Nothing in the statute allows restrictions between board members, or between board
12 members and the public, beyond those limits for intra-board communications by a quorum as set out in
13 the Brown Act, Govt.C. §54950 *et.seq.*. Nothing in the law allows the board to restrict non-quorum
14 communications among board members. The policy impinges upon the First and Fourteenth
15 Amendment rights of speech and association allowed to every member of the public, including elected
16 board members, impinges upon the rights of board members as elected officials to do their statutory
17 duties by communicating, and impinges on the rights of student board members. The policy also
18 violates the California Constitution, Article I, Section 2.

19 12. BOARD POLICY BYLAW 9130.

20 Board Policy Bylaw 9130 is entitled "Board Committees". The policy, as amended March 10,
21 2026, is attached hereto as Exhibit C.

22 Policy 9130 allows for the creation of committees. The board majority added a section entitled
23 "Student Participation". It provides: "Participation by a minor student shall require prior written consent
24 of the students parent/guardian and may be limited in duration, scope, or subject matter as determined
25 appropriate by the Board or Superintendent." This provision violates §35012 and is vague and
26 ambiguous as to what subject matters can be censored (as in censorship) and kept from the student
27 representative.
28

1 In addition, the provisions state "Student participation shall be subject to clearly established
2 expectations regarding professional conduct, respectful collaboration, and appropriate communication
3 protocols. When students serve alongside adult members, communication regarding committee business
4 shall occur through district-approved channels and in a manner that maintains transparency and
5 appropriate professional boundaries. All committee communication and public reporting shall be
6 coordinated through the committee as a whole and consistent with established district procedures."

7 These provisions are vulnerable if "approved channels" is undefined or if it effectively channels
8 all student expression through administrator-controlled filters which give officials the discretion to
9 suppress, control, or favor, particular student viewpoints. The coordination of all communications
10 outside the public board meeting may itself be a violation of the Brown Act.

11 13. All three policies are unconstitutional on their face and should be enjoined.

12 14. The policies are also contrary to the constitution and statutes of the State of California and
13 should be enjoined on that basis as well.

14 15 **APPLICATION OF THE POLICIES ON THEIR FACE TO NATHAN BERRY**

16 15. The bylaws described herein have had a very real chilling effect on students in the TVUSD
17 and on petitioner and plaintiff Barham, as well as others.

18 16. Nathan Berry is a student at Chaparral High School. He is a junior. He will turn 18 on
19 December 3, 2026. He is an honors student with a grade point average above 4.0. He is also active in
20 student government as a member of the Associated Student Body. He is the president of a student
21 advocacy club. He is captain of the varsity lacrosse team. He is also engaged in the community as co-
22 founder of Green Hope Movement, a nonprofit organization created to benefit local charities. Nathan
23 Berry was also recently elected as senior class co-president. He plans to attend a prominent university
24 and major in political science.

25 17. Nathan Berry has a strong interest in civic engagement and public policy and is actively
26 involved in local government processes. He regularly attends and speaks during public comment at
27 school board meetings, where he expresses his views on student issues, educational policy, and district
28 governance. His participation is thoughtful, respectful, and focused on matters of public concern.

1 18. In addition to public comment, Nathan Berry meets with school administrators, district
2 officials, school board trustees, and city council members to further his understanding of governance
3 and to advocate for positive change in his community. He has consistently engaged in these activities
4 throughout his high school career and intends to continue doing so.

5 19. Nathan Berry is the president of a student club, established in November 2025, that is non-
6 partisan and focused on student education and achievement, and giving voice to students in the district.
7 He helped to organize rallies against some of the more extreme actions of the board majority. He was
8 elected in May of 2026 to the student board position for the district, voted in by fellow students.

9 10 **HISTORY LEADING UP TO THE BYLAW AMENDMENTS**

11 20. On Friday, February 6, 2026, Nathan Berry organized and held a student-led demonstration,
12 with protest signs, in front of Chaparral High School. Approximately thirty students and two teachers
13 were in attendance. Nathan Berry met with school administrators the week prior to make them aware
14 that the protest would occur in front of the school and before school hours. School officials coordinated
15 with the Riverside County Sheriff's Department to ensure the students' safety. The protest occurred in a
16 peaceful manner without incident.

17 21. On Saturday, February 7, at noon, Nathan Berry met with TVUSD Trustee Barham for a
18 lunch meeting at Great Harvest Bread Company in Temecula. This meeting was planned a few days
19 prior, with the knowledge and blessing of Nathan Berry's parents. This meeting was not on school
20 property, and not during school time. They met outside the restaurant, went inside to order, and then
21 went back outside to sit down, in full view of the public. They discussed the demonstration, other civic
22 engagement opportunities, career advice, and how Nathan Berry's classes were going. Nathan Berry did
23 not feel uncomfortable around Barham. Barham showed Nathan Berry the agenda for the February 10th
24 school board meeting, and they discussed some of the items on the agenda.

25 22. On Tuesday, February 10, during the scheduled TVUSD Board Meeting, trustees Komrosky
26 and Wiersma discussed the Barham – Nathan Berry meeting in open session, stating concerns about a
27 board member meeting with a minor student during non-school hours as inappropriate. Trustees
28 Komrosky, Wiersma, and Melinda Anderson voted to remove Barham from a subcommittee due to their

1 purported concerns about his meeting with a student. During scheduled TVUSD Board Meetings on
2 Tuesday, February 10, and Tuesday, February 24, trustees Komrosky and Wiersma read statements
3 from purported "witnesses" to the Barham – Nathan Berry meeting, and spread disinformation regarding
4 the contents of said meeting. Trustees Komrosky and Wiersma offered no resolution to investigate the
5 meeting to determine if any board bylaws were violated. They also ignored page 24 of the district's own
6 Governance Handbook, which outlines steps in the event that a Board member believes misconduct by a
7 fellow Board member has occurred.

8
9 23. On March 10, 2026, Komrosky, Wiersma, and Anderson voted to pass the amended board
10 bylaws in question.

11 24. As a student within the TVUSD, Nathan Berry is subject to the authority and policies of the
12 school board. The recently adopted policies raise concerns regarding their impact on his ability to freely
13 express his views and participate in civic discourse without fear of restriction or retaliation. As an active
14 student advocate and newly elected student board member, Nathan Berry is directly affected by these
15 policies, which may limit or chill his continued exercise of his First Amendment rights, considering the
16 past chastisements of the current board president toward Nathan Berry's predecessor as student board
17 member.

18 25. Nathan Berry has had no further unsupervised contact with Barham since the resolutions
19 were passed, out of fear that he might be retaliated against or suffer discipline. Other students may well
20 be fearful of having any communications with Barham or other elected officials. Barham is worried that
21 if he has any communication with students, by any means, that will lead to censure or other
22 consequences, and it has chilled his ability to communicate with constituents and with the parents and
23 students whom he serves.

24 26. Petitioners and plaintiffs have no recourse other than to pursue this action. They are being
25 deprived of their rights, and need to remove the chill and be able to exercise their rights without
26 consequence for doing so.

I.

FIRST CAUSE OF ACTION

(Petition for Writ of Mandate)

27. Petitioners and plaintiffs refer to Paragraphs 1 through 26 of this pleading as though set forth in full herein and incorporate them by this reference.

28. The bylaws adopted by the respondents/defendants violate the constitutional and statutory rights of all of the petitioners and plaintiffs, for the reasons set forth herein, including:

A. The restrictions on communications between school board members and students on their face violate the constitutional rights of speech, petition, and assembly as set forth in the First and Fourteenth Amendments of the United States Constitution;

B. The restrictions on communications between school board members and students on their face violate the constitutional rights of privacy and speech as set forth in Article I, Sections 1 and 2, of the California Constitution;

C. The restrictions set forth in the bylaw are unconstitutionally vague and overbroad in that they restrict speech and rights of assembly by chilling actions and speech beyond any reasonable restrictions;

D. The restrictions are beyond the authority of any school board in that students have constitutional rights of free speech and assembly. Students do not shed their constitutional rights at the schoolhouse door. *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503, 506 (1969). As applied, these restrictions purport to apply even to speech and assembly before the student ever reaches the schoolhouse;

E. The restrictions unreasonably attempt to restrict the actions of an elected official to communicate with constituents and members of the public, such restrictions not authorized under any state law, and are in conflict with the democratic process and the statutory and First Amendment rights of elected officials;

F. The restrictions on student board members are in conflict with Education Code §35012 and the Brown Act, Govt.C. §54950 *et seq.*

G. The restrictions violate the equal protection requirements of the federal and state constitutions in that they discriminate against elected officials as opposed to the rest of the population, even though

1 elected officials have more of a need to communicate with constituents and students than the rest of the
2 population;

3 H. As applied in this case, these bylaws were adopted because Barham is in the minority on the
4 school board and Nathan Berry has organized and spoken out against the agenda of the current majority
5 on the school board, and these bylaws have the effect and intent to punish or silence opposing points of
6 view. Paragraph 2 of the section starting with "In the conduct of their activities" that calls upon the
7 minority to "support the majority decision" is contrary to every democratic and representative principle
8 that legislative bodies must accommodate and respect all points of view and not force the minority to
9 conform to the views of the majority.

10 I. The bylaws violate the speech rights of students as set forth in Education Code §48907.

11 29. Plaintiffs and petitioners have no adequate remedy at law to protect their rights. If they
12 unilaterally ignore the bylaws, petitioner and plaintiff Barham could be censured or otherwise punished
13 by the board majority, causing reputational harm and interference with his rights and obligations as an
14 elected member of a public body, and Nathan Berry could be deemed to have violated school policy
15 which could lead to a suspension or expulsion or otherwise damage his school record and prevent him
16 from being accepted into colleges of his choice, and interferes with his rights as a student member of the
17 school board. A court determination of their rights is necessary to protect them.

18 30. As a result thereof, an alternative writ of mandate, and a peremptory writ of mandate, and
19 injunctive relief is necessary, in order to stop the bylaws from restricting the constitutional and statutory
20 rights of the petitioners and plaintiffs.

21 22 II. 23 SECOND CAUSE OF ACTION

24 (Injunctive and Declaratory Relief Under 42 U.S.C. § 1983; Violation of Rights Against all 25 Defendants]

26 31. Plaintiffs hereby incorporate the preceding paragraphs as is fully set forth here.

27 32. Under 42 U.S.C. § 1983, it is illegal to act under color of law to deprive any person of
28 their constitutional rights. Each of the actions engaged in by the respondents and defendants were
committed under color of state law.

PETITION FOR WRIT OF MANDATE; COMPLAINT FOR DECLARATORY RELIEF AND DAMAGES

33. Unless enjoined by this Court, respondents and defendants will continue to act in a manner in violation of the Constitution and the rights protected thereunder.

34. Petitioners and plaintiffs therefore seek a judgment for injunctive relief as set forth herein enjoining enforcement or recognition of the bylaws adopted by the respondents and defendants on March 10, 2026.

III.

THIRD CAUSE OF ACTION

(Damages Under 42 USC §1983)

35. Plaintiffs and petitioners refer to paragraphs 1 through 34 as set forth herein and incorporates them by this reference as though set forth in full herein.

36. As a result thereof, plaintiffs have been damaged in an amount to be proved at the time of trial.

37. The actions taken hereby were done in disregard of the rights of the plaintiffs, and were done with oppression, fraud, and malice, and plaintiffs are therefore entitled to punitive damages.

IV.

FOURTH CAUSE OF ACTION

(Injunctive and Declaratory Relief Pursuant to Article I, Section 2, of the California Constitution, and Education Code §48907)

38. Plaintiffs and petitioners refer to paragraphs 1 through 37 and incorporate them by this reference as though set forth in full herein.

39. As a result thereof, plaintiffs are entitled to the relief sought herein.

PRAYER FOR RELIEF

Accordingly, Plaintiffs and petitioners pray for judgment as follows:

1 For an alternative and peremptory writ of mandate directing respondents and defendants
to not enforce the policy bylaws adopted on March 10, 2026 and to treat them as if they were null and

1 void, and to take no action to prevent plaintiffs and petitioners, or any elected official, from
2 communicating with any constituent, or student in any lawful manner;

3 2. For an injunction prohibiting named respondents and defendants from taking any action
4 to enforce the policy bylaws adopted on March 10, 2026 and to treat them as if they were null and void,
5 and to take no action to prevent plaintiffs and petitioners, or any elected official, from communicating
6 with any constituent, or student in any lawful manner;

7 3. For an award of damages, in an amount to be proved at trial;

8 4. For punitive damages;

9 5. For an award of reasonable attorneys' fees and costs pursuant to 42 U.S.C. §1988 and
10 such other federal or state statutes that may be applicable, including C.C.P. §1021.5.

11 6. For such other relief as the Court may deem just and proper.
12

13 DEMAND FOR JURY TRIAL

14 Plaintiffs hereby demand a jury trial on all issues.

15 Dated: May 8, 2026
16



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18 MARK S. ROSEN
19 Attorney for Plaintiffs and Petitioners
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