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15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **COUNTY OF SANTA CRUZ**

17 HANNAH (ELIO) ELLUTZI; LAAILA
IRSHAD; CHRISTINE HONG,

18 Plaintiffs,

19 vs.

20 THE REGENTS OF THE UNIVERSITY OF
CALIFORNIA; CYNTHIA LARIVE, in her
21 official capacity as Chancellor of the
University of California, Santa Cruz
22 (“UCSC”); LORI KLETZER, in her official
capacity as UCSC Campus Provost and
23 Executive Vice Chancellor; EDWARD D.
REISKIN, in his official capacity as UCSC
24 Vice Chancellor for Finance, Operations and
Administration; AKIRAH J. BRADLEY-
25 ARMSTRONG, in her official capacity as
UCSC Vice Chancellor of Student Affairs;
26 ALEX DOUGLAS MCCAFFERTY, in his
official capacity as UCSC Campus Budget
27 Director; SONYA KIERNAN, in her official
capacity as Executive Assistant to the UCSC
28 Chancellor; HERBERT LEE, in his official
capacity as UCSC Vice Provost of Academic

Case No. 24CV02532

**COMPLAINT FOR INJUNCTIVE AND
DECLARATORY RELIEF**

[Cal. Code Civ. Proc. §§ 526, 526a, 1060;
California Constitution, Art. I, §§ 2, 3, 7;
U.S. Constitution, 1st and 14th Amends.;
42 U.S.C. § 1983]

1 Affairs; JESSICA RASHID, in her official
2 capacity as UCSC Assistant Dean of Students,
3 Student Conduct & Community Standards;
4 ADRIENNE RATNER, in her official capacity
5 as UCSC Director of Academic Employee
6 Relations; KEVIN DOMBY, in his official
7 capacity as UCSC Chief of Police and
8 Executive Director of Public Safety; and
9 DOES 1-10,
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11 Defendants.
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1 Plaintiffs HANNAH (“ELIO”) ELLUTZI, LAAILA IRSHAD, CHRISTINE HONG
2 (collectively, “Plaintiffs”), bring this case against Defendant THE REGENTS OF THE
3 UNIVERSITY OF CALIFORNIA, and the following Individual Defendants at the University of
4 California, Santa Cruz (“UCSC”): CYNTHIA LARIVE, in her official capacity as Chancellor of
5 UCSC; LORI KLETZER, in her official capacity as UCSC Campus Provost and Executive Vice
6 Chancellor; EDWARD D. REISKIN, in his official capacity as UCSC Vice Chancellor for
7 Finance, Operations and Administration; AKIRAH J. BRADLEY-ARMSTRONG, in her official
8 capacity as UCSC Vice Chancellor of Student Affairs; ALEX DOUGLAS MCCAFFERTY, in his
9 official capacity as UCSC Campus Budget Director; SONYA KIERNAN, in her official capacity
10 as Executive Assistant to the UCSC Chancellor; HERBERT LEE, in his official capacity as UCSC
11 Vice Provost of Academic Affairs; JESSICA RASHID, in her official capacity as UCSC Assistant
12 Dean of Students, Student Conduct & Community Standards; ADRIENNE RATNER, in her
13 official capacity as UCSC Director of Academic Employee Relations; KEVIN DOMBY, in his
14 official capacity as UCSC Chief of Police and Executive Director of Public Safety; and DOES 1-
15 10 (together, “Defendants”) for deprivation of rights enshrined in federal and state law. Plaintiffs
16 hereby allege as follows.

17 **INTRODUCTION**

18 1. Following the events of October 7, 2023, protests concerning Israel and Gaza spread at
19 universities across California. Schools addressed the community activism in different ways. But
20 UCSC’s response to a pro-Palestine protest on May 30, 2024 stands out for particular
21 condemnation. On that night and into the early morning hours of the next day, Defendants
22 banished from campus Plaintiffs and over 110 students and faculty who were present at a protest
23 near the campus entrance. Defendants banned these individuals on the spot for up to two weeks,
24 invoking California Penal Code section 626.4. Defendants did not first provide notice or an
25 opportunity to be heard as required by law, and they made no individualized findings to justify
26 such an extreme, punitive measure. The impact of being instantaneously banished from campus
27 was devastating. Individuals lost access to housing, jobs, classes, school resources, healthcare, and
28 other campus services.

1 2. This action challenges the unconstitutional and unlawful manner in which Defendants
2 summarily banned Plaintiffs from the UCSC campus. Defendants’ conduct violates not only
3 Plaintiffs’ due process, free speech, and free assembly rights under both federal and state law, but
4 also the plain text and procedural safeguards specifically prescribed by Section 626.4.

5 3. Defendants’ conduct further contravenes the California Supreme Court’s longstanding
6 decision in *Braxton v. Municipal Court*, 10 Cal. 3d 138 (1973), which circumscribed Section
7 626.4’s reach and set a high bar for when a university may exercise the “extraordinary remedy of
8 summary banishment.” *Id.* at 152. Specifically, to avoid the “constitutional infirmities” of “First
9 Amendment overbreadth, unconstitutional vagueness, and the lack of procedural due process,” the
10 *Braxton* court clarified that an official may summarily ban someone from campus prior to a
11 hearing only when “*the situation is such an exigent one that the continued presence on the campus*
12 *of the person from whom consent to remain is withdrawn constitutes a substantial and material*
13 *threat of significant injury to persons or property.*” *Id.* at 144-45 (emphasis added).

14 4. Notwithstanding the specific finding required under *Braxton* and the clear steps mandated
15 by Section 626.4, Defendants indiscriminately banned more than 110 people arrested by UCSC
16 police while dispersing a protest on May 31, 2024. The campus police, acting under Defendants’
17 direction, handed out identical one-page Section 626.4 Notices to arrestees. The officers handed
18 out so many of these form notices *en masse* that they eventually ran out of paper and resorted to
19 verbally informing students and faculty of the ban. Some people were also purportedly banned
20 without getting either written or verbal notice. No hearing or opportunity to be heard was provided
21 before any of these bans went into effect. No individualized findings were made about how, post-
22 arrest, “the continued presence” on campus of each summarily banned person presented “a
23 substantial and material threat of significant injury to persons or property.”

24 5. As the 2024–25 academic year begins, the President of the University of California has
25 threatened strict enforcement of policies and laws to prevent disturbances to “orderly operations”
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1 on campus.¹ Absent a Court order directing Defendants to stop summarily banishing students
2 allegedly engaged in conduct that is disruptive, but below *Braxton*'s substantial and material threat
3 threshold, Defendants are expected to continue their unlawful practice of issuing Section 626.4
4 Notices in an overbroad and indiscriminate manner. This action seeks narrow and particular relief:
5 compel Defendants to comply with the constitutional limits set by *Braxton* and cease summarily
6 banishing people from campus without a hearing and without any individualized determination
7 that such person's continued presence constitutes a substantial and material threat of significant
8 injury to persons or property.

9 6. This civil rights action seeks to vindicate the fundamental democratic and constitutional
10 rights to free speech, free assembly, and due process against overreach by university authorities.
11 As such, this lawsuit is in the public interest.

12 **JURISDICTION AND VENUE**

13 7. The Court has jurisdiction over Plaintiffs' claims for declaratory and injunctive relief under
14 Article VI section 10 of the California Constitution and under Code of Civil Procedure sections
15 410.10, 526, 526a, and 1060.

16 8. Venue is proper in this Court pursuant to Code of Civil Procedure section 393 and 395
17 because the conduct complained of occurred in Santa Cruz and this action proceeds against public
18 officers in Santa Cruz for actions taken "in virtue of [their] office." Code Civ. Proc. § 393(b). The
19 relief sought is within this Court's power to grant.

20 **PARTIES**

21 **Plaintiffs**

22 9. Plaintiff HANNAH ("ELIO") ELLUTZI is an undergraduate at UCSC majoring in
23 Community Studies with a minor in History. Mx. Ellutzi qualified for UCSC's Winter Quarter
24 2024 and Spring Quarter 2023 Dean's Honors List. While engaging in expressive activities and
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27 ¹See Letter from University of California President Michael Drake to Chancellors re "Directive on
28 Policies Impacting Expressive Activities" (Aug. 19, 2024), *available at*
<https://tinyurl.com/5f7xjj2k>; *see also* Updates on UC Campus Climate Efforts, University of
California Press Room (Aug. 19, 2024), *available at* <https://tinyurl.com/yc5n8pw>.

1 without the minimum due process guaranteed by constitutional and statutory law, Mx. Ellutzi
2 became subject to a Section 626.4 Notice excluding them from the UCSC campus in May 2024.
3 Mx. Ellutzi intends to continue their student activism and participation in protests in the 2024-25
4 academic year. Mx. Ellutzi is concerned, however, that Defendants will continue to issue Section
5 626.4 Notices in a manner that deprives Mx. Ellutzi of due process and either punishes or chills
6 their protected speech. Mx. Ellutzi is a taxpayer in Santa Cruz County and the State of California.
7 Mx. Ellutzi has paid taxes in Santa Cruz within the past year and has been assessed and/or paid
8 taxes to the State of California within one year of filing this action.

9 10. Plaintiff LAAILA IRSHAD is an undergraduate student at UCSC majoring in Critical
10 Race and Ethnic Studies and Environmental Studies. While engaging in expressive activities and
11 without the minimum due process guaranteed by constitutional and statutory law, she became
12 subject to a Section 626.4 Notice excluding her from the UCSC campus in May 2024. Ms. Irshad
13 intends to continue her student activism and participation in protests in the 2024-25 academic
14 year. She is concerned, however, that Defendants will continue to issue Section 626.4 Notices in a
15 manner that deprives her of due process and either punishes or chills her protected speech. Ms.
16 Irshad is a taxpayer in Santa Cruz County and the State of California. She has paid taxes in Santa
17 Cruz within the past year and has been assessed and/or paid taxes to the State of California within
18 one year of filing this action.

19 11. Plaintiff CHRISTINE HONG is a tenured professor at UCSC. She directs the UCSC
20 Center for Racial Justice. While engaging in expressive activities and without the minimum due
21 process guaranteed by constitutional and statutory law, she became subject to a Section 626.4
22 banishment excluding her from the UCSC campus in May 2024. Professor Hong intends to
23 continue to support student protests and activism in the 2024-25 academic year. She is concerned,
24 however, that Defendants will continue to issue Section 626.4 Notices in a manner that deprives
25 her of due process and either punishes or chills her protected speech. Professor Hong is a taxpayer
26 in Santa Cruz County and the State of California. She has paid taxes in Santa Cruz within the past
27 year and has been assessed and/or paid taxes to the State of California within one year of filing
28 this action.

1 **Defendants**

2 12. Defendant THE REGENTS OF THE UNIVERSITY OF CALIFORNIA is a public agency
3 within the meaning of Government Code section 7920.525(a) and is empowered under the
4 California Constitution, Article IX, section 9, to administer the University of California including
5 the University of California, Santa Cruz. The Board of Regents is the governing body for the
6 University of California system and under Article IX, section 9 of the California Constitution has
7 “full powers of organization and government.” Penal Code section 626(a)(1) defines “university”
8 as “the University of California” and “any affiliated institution thereof and any campus or facility
9 owned, operated, or controlled by the Regents of the University of California.” Pursuant to Penal
10 Code section 626(a)(6), the Regents may designate the “Chief Administrative Officer” as having
11 the authority to issue notices under Penal Code sections 626 through 626.11.

12 13. Defendant CYNTHIA LARIVE is the Chancellor of UCSC. Ms. Larive is responsible for
13 the organization, internal administration, financial management, disciplinary systems, and
14 operation of UCSC. Pursuant to Penal Code section 626(a)(6)(A), she is an “officer designated by
15 the Regents of the University of California or pursuant to authority granted by the Regents of the
16 University of California to administer and be the officer in charge of a campus or other facility
17 owned, operated, or controlled by the Regents of the University of California.” As such, Ms.
18 Larive is the Chief Administrative Officer of UCSC and has authority to issue Section 626.4
19 Notices. Chancellor Larive is sued in her official capacity.

20 14. Defendant LORI KLETZER is the Campus Provost and Executive Vice Chancellor of
21 UCSC. Ms. Kletzer is the campus’s chief academic, operations and budget officer, guiding the
22 academic enterprise and managing UCSC’s day-to-day operations. Pursuant to UCSC official
23 policy, the UCSC Chancellor has delegated authority to the UCSC Executive Vice Chancellor to
24 confirm the withdrawal of consent to remain on campus. *See Authority to Confirm Withdrawal of*
25 *Consent to Remain on Campus (Delegation of Authority SCDA-SPS0001)*, UCSC Policy, (Aug. 7,
26 1997) [hereinafter, “UCSC Delegation Policy”].² Ms. Kletzer is sued in her official capacity.

27 _____
28 ² The UCSC Delegation Policy is *available at*: <https://tinyurl.com/6t69t6ce>.

1 15. Defendant EDWARD D. REISKIN is the Vice Chancellor for Finance, Operations and
2 Administration of UCSC. Mr. Reiskin oversees six offices at UCSC: Budget Analysis and
3 Planning, Financial Affairs, Physical Planning, Development & Operations, Police Department,
4 Risk & Safety Services, Staff Human Resources, and Sustainability Office. Pursuant to the UCSC
5 Delegation Policy, the UCSC Chancellor has delegated authority to the UCSC Vice Chancellor –
6 Business and Administrative Services to confirm the withdrawal of consent to remain on campus.
7 Mr. Reiskin is sued in his official capacity.

8 16. Defendant AKIRAH J. BRADLEY-ARMSTRONG is the Vice Chancellor of Student
9 Affairs of UCSC. Ms. Bradley-Armstrong leads staff who provide campus-wide coordination and
10 leadership for student affairs and success programs and activities across departments, divisions,
11 colleges, and administrative units. Pursuant to the UCSC Delegation Policy, the UCSC Chancellor
12 has delegated authority to the UCSC Vice Chancellor – Student Affairs to confirm the withdrawal
13 of consent to remain on campus. Ms. Bradley-Armstrong is sued in her official capacity.

14 17. Defendant ALEX DOUGLAS MCCAFFERTY is the Campus Budget Director of the
15 UCSC Department of Budget Analysis and Planning. Pursuant to the UCSC Delegation Policy, the
16 UCSC Chancellor has delegated authority to the UCSC Director – Planning & Analysis to confirm
17 the withdrawal of consent to remain on campus.³ Mr. McCafferty is sued in his official capacity.

18 18. Defendant SONYA KIERNAN is the Executive Assistant to the Chancellor of UCSC. Ms.
19 Kiernan supports the Chancellor’s Office in its mission and goals and oversees the daily
20 administrative activities of the office. Pursuant to the UCSC Delegation Policy, the UCSC
21 Chancellor has delegated authority to the Executive Assistant to the UCSC Chancellor to confirm
22 the withdrawal of consent to remain on campus. Ms. Kiernan is sued in her official capacity.

23 19. Defendant HERBERT LEE is the Vice Provost of Academic Affairs of UCSC. Mr. Lee is
24 among the principal academic advisors to the Campus Provost. His office is responsible for
25 providing analysis to the Campus Provost on faculty personnel matters, working with the
26 Academic Senate and other campus organizations to improve the academic personnel process, and

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28 ³ On information and belief, the “UCSC Director – Planning & Analysis” designated in the UCSC Delegation Policy is now the Campus Budget Director.

1 representing the Campus Provost to the Senate Committee on Academic Personnel. Mr. Lee
2 served as the hearing officer for Plaintiff Christine Hong’s hearing on the withdrawal of
3 Defendants’ consent for her to remain on campus under Section 626.4. Mr. Lee is sued in his
4 official capacity.

5 20. Defendant JESSICA RASHID is the Assistant Dean of Students, Student Conduct &
6 Community Standards of UCSC. The Office of Student Conduct and Conflict Education, which
7 Ms. Rashid leads, sent Plaintiffs Ellutzi and Irshad each a letter bearing the subject line “Notice of
8 Incident Review Meeting” regarding involvement “in an incident on or about May 31, 2024 near
9 the entrance to campus.” This letter included a list of “alleged policy violations” and included a
10 section concerning Section 626.4. Ms. Rashid is sued in her official capacity.

11 21. Defendant ADRIENNE RATNER is the Director of Academic Employee Relations at
12 UCSC. Ms. Ratner sent Plaintiff Christine Hong a “memorandum” purporting to “follow[]
13 [UCSC’s] issuance on May 31, 2024 of a withdrawal of . . . consent to remain on campus,
14 pursuant to California Penal Code 626 et seq.” Ms. Ratner is sued in her official capacity.

15 22. Defendant KEVIN DOMBY is the Chief of Police and Executive Director of Public Safety
16 of UCSC. Mr. Dobby oversees members of the UCSC Police Department, which is charged with
17 enforcing the law, including Section 626.4, on campus pursuant to Penal Code section 830.2(b)
18 and Education Code section 92600. As reflected in the UCSC Delegation Policy, the UCSC
19 “Chief of Police and all UCSC Police sworn personnel are charged with maintaining order on the
20 Santa Cruz campus of the University of California.” Plaintiffs are informed and believe, and on
21 that basis, allege that UCSC police officers were the ones that issued the Section 626.4 Notices
22 during the events in question. Mr. Dobby is sued in his official capacity.

23 23. At all relevant times, Defendant DOES 1-10 were agents or employees of the University of
24 California, as managed by The Regents of the University of California, and acting under color of
25 law within the course and scope of their duties with respect to their employer. Alternatively, to the
26 extent that the University of California did not directly employ Does 1-10, those defendants were
27 acting as agents of the University of California at all relevant times and subject the direction and
28 control of the University of California.

1 **FACTUAL ALLEGATIONS**

2 **I. California Penal Code Section 626.4 Prescribes a Detailed Process For Excluding**
3 **Individuals From Campus and Significant Penalties for Any Violation**

4 24. Section 626.4 is highly prescriptive. It establishes a series of procedural steps for explicitly
5 designated officials to withdraw consent for a person to remain on campus “whenever there is
6 reasonable cause to believe that such person has willfully disrupted the orderly operation of [a]
7 campus or facility.” Cal. Pen. Code § 626.4(a). The statute limits any campus ban to no “longer
8 than 14 days from the date upon which consent was initially withdrawn.” *Id.* § 626.4(c).

9 25. Additionally, the statute makes clear the following:

10 Authority to Issue 626.4 Notices Is Specifically Vested, but Delegation Is Also Permitted.
11 Only “[t]he chief administrative officer of a campus or other facility of . . . the university . .
12 . may notify a person that consent to remain on the campus . . . has been withdrawn”
Id. § 626.4(a). This authority can, however, be delegated to “an officer or employee
designated by the chief administrative officer to maintain order on such campus.” *Id.*

13 If Authority Is Delegated, A Written Report Is Required. Whenever a designee other than
14 the chief administrative officer issues a 626.4 Notice and withdraws a person’s consent to
15 remain, that designee “shall as soon as is reasonably possible submit a written report to the
16 chief administrative officer or designee.” *Id.* § 626.4(b). “The report shall contain all of the
following: (1) The description of the person from whom consent was withdrawn,
including, if available, the person’s name, address and phone number [and] (2) A statement
of the facts giving rise to the withdrawal of consent.” *Id.*

17 Mandatory Review of Written Report and Time-Sensitive Confirmation Are Required.
18 If upon review of a designee’s written report, the chief administrative officer or a person
19 designated to review the report “finds that there was reasonable cause to believe that such
20 person has willfully disrupted the orderly operation of the campus . . . , the chief
21 administrative officer may enter written confirmation upon the report of the action taken.”
Id. However, if the chief administrative officer or the person designated to review the
22 report “does not confirm the action . . . within 24 hours after the time that consent was
withdrawn, the action . . . shall be deemed void and of no force or effect, except that any
arrest made during such period shall not for this reason be deemed not to have been made
for probable cause.” *Id.*

23 Consent Can Be Reinstated and Appeal Permitted. The chief administrative officer must
24 reinstate consent to remain on campus “whenever they have reason to believe that the
25 presence of the person from whom consent was withdrawn will not constitute a substantial
26 and material threat to the orderly operation of the campus.” *Id.* § 626.4(c). Additionally,
27 “[t]he person from whom consent has been withdrawn may submit a written request for a
28 hearing . . . within the two-week period” starting from the date upon which consent was
initially withdrawn. *Id.* “The chief administrative officer shall grant such a hearing not
later than seven days from the date of receipt of the request and shall immediately mail a
written notice of the time, place, and date of such hearing to such person.” *Id.*

1 Violations Result in Criminal Charges and Significant Punishment. “Any person who has
2 been notified by the chief administrative officer” or their designee “that consent to remain
3 on the campus or facility has been withdrawn . . . [and] who has not had such consent
4 reinstated” can be convicted of a misdemeanor if they “willfully and knowingly enter[] or
5 remain[] on such campus or facility during the period for which consent ha[d] been
6 withdrawn” *Id.* § 626.4(d). Such a conviction “shall be punished by” a maximum fine
7 of \$500, by imprisonment in county jail, or both. *Id.* § 626.4(f).

8 26. The Legislature has amended Section 626.4 several times since its passage in 1969 to
9 apply to all schools and to make non-substantive changes (such as replace “junior college” with
10 “community college”). But the statute has remained meaningfully the same since its enactment.

11 27. Although Section 626.4 refers to “any person,” Section 626.6 sets a lower threshold for
12 exclusion if such “person” is not a university “student, officer, or employee . . . who is not
13 required by their employment to be on the campus.” *See id.* § 626(a); *see also id.* § 627(a).

14 28. More practically, and as Defendants themselves recognize in the UCSC “FAQ for Students
15 Who Have Received a 626.4 Notice,” the “immediate effects” of Section 626.4 are sweeping and
16 severe. During the exclusion period, UCSC prohibits a person “from being on [UCSC] property,
17 including but not limited to: Attending classes in-person (remote attendance is up to each
18 professor)[;] Participating in university activities, including clubs and organizations on university
19 property[;] Accessing university facilities, such as dining, athletic facilities, libraries, labs, etc.[;]
20 Residing in university housing[;] Attending university events on campus[.]”⁴

21 29. UCSC’s FAQ guidance also instructs students to reach out to their “professors to inquire
22 about whether and how [they] will be able to participate in [their] classes for the duration of the
23 quarter.” And for students needing to access healthcare services on campus, the FAQ guidance
24 further directs them to call the health center and explain that their “status doesn’t allow [them] to
25 come to campus” and then wait to be directed “accordingly.” “Students under a 626.4 do not have
26 access to the services of the Campus Mobile Crisis Unit because they operate exclusively on
27 campus.”⁵

28 ⁴ *See* FAQ for Students Who Have Received a 626.4 Notice, UC Santa Cruz Newscenter (June 1,
2024), *available at* <https://tinyurl.com/2p4sdwh8>.

⁵ *See id.*

1 **II. The California Supreme Court Narrowed Section 626.4’s Application to Comport**
2 **with Constitutional Free Speech and Due Process Protections**

3 30. More than fifty years ago, the California Supreme Court in *Braxton v. Municipal Court*, 10
4 Cal. 3d 138 (1973) circumscribed Section 626.4’s reach. In that case, a group of San Francisco
5 State College students, who were involved in a demonstration and then charged with violating
6 Section 626.4, brought a facial challenge to the statute. *Id.* at 145. They argued that Section 626.4
7 “on its face suffer[ed] from the defects of First Amendment overbreadth, unconstitutional
8 vagueness, and the lack of procedural due process.” *Id.* at 143-44. The California Supreme Court
9 concluded that the statute should not be “declared void on its face,” *id.* at 145, but in so ruling, the
10 Court did not leave the statute intact. Instead, it construed Section 626.4 narrowly, holding:
11 “Although a broad construction would infest section 626.4 with many of the asserted
12 constitutional infirmities, we believe that a narrower interpretation will both effectuate the
13 legislative purpose of the statute and confine it within constitutional parameters.” *Id.* at 144.

14 31. With respect to the First Amendment, the *Braxton* court ruled that a “literal construction”
15 of Section 626.4 would “violate constitutional mandates in that such vague language would
16 include many forms of constitutionally protected expression and risk a chilling of free speech.” *Id.*
17 The Court recognized: “Obviously the very sound of a voice can ‘disrupt’ the silence, and the
18 content of a speech can ‘disrupt’ the equanimity of an audience.” *Id.* Thus, to confine the statute
19 within constitutional limits and to avoid the penalization of free speech,” the *Braxton* court
20 interpreted the words “willfully disrupted” to apply in a very limited way. *Id.*

21 32. The *Braxton* court likewise recognized that Section 626.4, broadly construed, would
22 violate “the precepts of due process.” *Id.* at 145. It therefore construed the statute to “require
23 notice and a hearing on alleged misconduct before the issuance of any exclusion order unless the
24 campus administrator reasonably finds that *the situation is such an exigent one that the continued*
25 *presence on the campus of the person from whom consent to remain is withdrawn constitutes a*
26 *substantial and material threat of significant injury to persons or property.”* *Id.* at 145 (emphasis
27 added).

28

1 33. Finally, the *Braxton* court held that, “[e]ven when an exclusion order issues without a
2 hearing,” a post-exclusion hearing must be held “as soon as reasonably possible not later than
3 seven days following a request by the person excluded.” *Id.*

4 **III. UCSC’s Published Policy Concerning Section 626.4**

5 34. UCSC’s Student Policies and Regulations Handbook contains policies and procedures for
6 excluding a person from campus under Section 626.4—an exclusion which it characterizes as an
7 “Emergency Suspension.” See Dean of Students Office, *Student Policies and Regulations*
8 *Handbook 2021-2022*, at Section 53.10 (December 17, 2021), [hereinafter, “Handbook”].⁶

9 35. The Handbook declares: “During a state of emergency, Chancellors or their designated
10 representatives are empowered to impose Emergency Suspension on any student, faculty member,
11 or employee where such suspension would be authorized under California Penal Code Sections
12 626.4 and 626.6, as interpreted by the Supreme Court of California in *Braxton v Municipal Court*
13 (1973) 10 Cal.3d 138.”

14 36. The Handbook also clarifies: First, “If Emergency Suspension is imposed by a designated
15 representative of the Chancellor, such representative shall immediately inform the Chancellor and
16 shall submit a written report on the action to the Chancellor as soon as is reasonably possible. The
17 report shall contain a description of the person suspended, including the person’s name and, if
18 available, address and phone number, and a statement of the facts giving rise to the suspension.”
19 *Id.* at Section 53.11. Second, the Handbook states: “If the Chancellor does not affirm the action of
20 the designated representative within twenty-four hours after being informed that the suspension
21 has been imposed, the suspension shall be deemed void and a reasonable effort shall be made to
22 inform the person who was suspended that the suspension is void.” *Id.*

23 37. Unlike Section 626.4, however, the Handbook’s policy on “Emergency Suspension”
24 commands that “[a]ny individual placed on Emergency Suspension shall be given written
25 confirmation of the suspension, either by delivering it to the individual personally or by mailing it
26 to the individual’s last known address of record. The confirmation shall inform the individual of
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28 ⁶ The Handbook is *available at*: <https://tinyurl.com/bdh8jahh>.

1 the procedures by which the validity of the Emergency Suspension can be appealed, including the
2 opportunity to obtain a special hearing on the Emergency Suspension in accordance with
3 applicable campus procedures.” *Id.* at Section 53.12

4 38. Lastly, the Handbook promises: “If an individual is found to have been unjustifiably
5 placed on Emergency Suspension, the University is committed to making reasonable efforts to
6 assist any individual who has been disadvantaged in employment or academic status by that
7 action.” *Id.*

8 **IV. Protests and Unlawful Issuance of Section 626.4 Notices**

9 39. This spring, UCSC Students for Justice in Palestine erected a “Gaza Solidarity
10 Encampment” on campus, originally in Quarry Plaza and later relocated to near the campus
11 entrance. The encampment’s purpose was to raise awareness about what the group’s members
12 view as the Israeli government’s ongoing genocide in Gaza and to put pressure on UCSC to divest.
13 Specifically, those at the encampment were demanding that UCSC withdraw investments in
14 companies profiting from the war and weapons manufacturing and that UCSC comply with the
15 call for Boycott, Divestment, and Sanctions against Israel. They were further demanding that
16 UCSC stop repressing speech advocating in favor of Palestine or an end to the occupation in
17 Palestine. At the encampment, students, faculty, and other members served meals and held
18 educational workshops. UCSC Students for Justice in Palestine also organized protests in
19 traditional public fora on campus, as well as organized town halls and other actions to raise
20 awareness.

21 40. On May 30, 2024, Defendants called in a massive law enforcement presence from multiple
22 agencies and more than approximately 100 officers descended in riot gear to disband the
23 encampment.⁷ The people at the encampment were soon joined by other students, faculty, and
24 community members not directly involved in the encampment. These others came to observe what
25 was happening, protest the deployment of law enforcement officers, and support the expressed
26 messages of those in the encampment.

27 _____

28 ⁷ Cynthia Larive, *Update on this morning’s actions at the main entrance*, UC Santa Cruz
Newscenter (May 31, 2024), <https://tinyurl.com/mrx3xzxr>.

1 41. As the night proceeded, law enforcement officers gave unclear dispersal orders, shoved
2 protesters with batons, kettled them into a tight circle, and placed them in zip-tie handcuffs for
3 hours on end. Officers arrested more than 110 people on misdemeanor citations.⁸ To date, news
4 reporting indicates that UCSC officials have not sent any reports of the arrests from UCSC police
5 to the District Attorney for Santa Cruz County, nor has the District Attorney filed any charges on
6 any of the citations issued in connection with the events of May 30-31.⁹

7 42. On information and belief, officers subjected every single person who was arrested to
8 Section 626.4, summarily and instantly banishing them from campus without an opportunity to be
9 heard. Witnesses to the events of May 30-31 describe UCSC officers doling out paper notices,
10 titled “Violation of Section 626.4 of the Penal Code of the State of California,” to arrestees from a
11 stack of exact copies. The notices bore UCSC letterhead and stated in boilerplate terms: “You are
12 hereby notified by the undersigned, a person designated by the Chancellor of the Santa Cruz
13 campus of the University of California to maintain order on such campus, that your consent to
14 remain on the Santa Cruz campus has been withdrawn.”

15 43. Witnesses further report that, when the stack of paper copies ran out, officers verbally told
16 some arrestees they were excluded from campus subject to Section 626.4. Other arrestees,
17 however, did not receive any written or verbal Section 626.4 Notice, and only later learned that
18 they had been summarily banished from campus.

19 44. Plaintiffs are among those who were arrested for failure to disperse in violation of Penal
20 Code section 409 and thereafter subjected to Section 626.4 as set forth here:

21 **Student Elio Ellutzi**

22 45. During the evening of May 30, 2024, Mx. Ellutzi participated in the protest against
23 UCSC’s decision to deploy police to dismantle the Gaza Solidarity Encampment that had been
24 erected near the main entrance to the UCSC campus. Throughout the protest, Mx. Ellutzi never
25 _____

26 ⁸ Hillary Ojeda, *UC Santa Cruz Protesters See Police Warning as Attempt to Quell Gaza Activism*,
Lookout Santa Cruz (Sept. 3, 2024), <https://tinyurl.com/2s4yzdkz>.

27 ⁹ See, e.g., Hillary Ojeda, *Months after UC Santa Cruz Gaza Protests, Formal Charges Still in*
28 *Limbo*, Lookout Santa Cruz (Aug. 28, 2024), <https://tinyurl.com/tjjuwraz>.; see also Hillary Ojeda,
UC Santa Cruz Protesters See Police Warning as Attempt to Quell Gaza Activism, *supra* note 7.

1 threatened or engaged in violence against anyone, nor did Mx. Ellutzi threaten or engage in the
2 destruction of any property.

3 46. Mx. Ellutzi was arrested in the early morning hours of May 31 after officers surrounded
4 Mx. Ellutzi and other protesters using batons to force them into a tight circle. Mx. Ellutzi was then
5 placed in zip-tie handcuffs and detained without access to a bathroom for hours.

6 47. When officers finally released Mx. Ellutzi on a misdemeanor citation for “failure to
7 disperse” (Cal. Penal Code § 409),¹⁰ an officer verbally advised that, effective immediately,
8 Defendants had withdrawn consent for Mx. Ellutzi to remain on campus under Section 626.4. The
9 officer did not inform Mx. Ellutzi how long the banishment from campus would last. Mx. Ellutzi
10 received no written Section 626.4 Notice at that time.

11 48. On June 4, four days after Mx. Ellutzi had been banished from campus, Mx. Ellutzi
12 received a letter bearing the subject line “Notice of Incident Review Meeting” from the UCSC
13 Office of Student Conduct and Conflict Education. The letter stated that Defendants were sending
14 the notice to Mx. Ellutzi because Mx. Ellutzi was one of “approximately 117 protest participants”
15 who had been arrested on May 31. The letter did not contain any information about what Mx.
16 Ellutzi was alleged to have done specifically. Instead, it purported to summarize the actions of
17 “approximately 200 individuals” who were alleged to have “obstructed public access to [UCSC]
18 and failed to comply with a lawful order to disperse” It further summarized that
19 “[i]ndividuals who failed to comply with the dispersal orders were reported to lock arms or grab
20 the individual in front of them to make themselves difficult to individually arrest.”

21 49. In addition to these generic allegations, the June 4 letter included a list of “alleged policy
22 violations” and included a section concerning Section 626.4. This section explained that UCSC
23 Police had notified the Office of Student Conduct and Conflict Education that a police officer had
24 issued “a trespass notice” under Section 626.4 to Mx. Ellutzi and that the notice was “valid for 14
25

26 _____
27 ¹⁰ On June 17, Mx. Ellutzi received a “Notice of Correction” from the UCSC Police Department
28 advising that the date and time of their first court appearance had been changed from July 2 to
September 30. That Notice of Correction, without explanation, listed an alleged violation of Penal
Code section 148(A)(1).

1 days from when it was issued unless lifted by appeal.” The letter further explained that, if Mx.
2 Ellutzi wanted to appeal the 626.4 Notice, Mx. Ellutzi could do so by signing up for a 30-minute
3 hearing with two different UCSC officials to simultaneously contest both the 626.4 Notice *and* the
4 alleged policy violations. The letter did not provide any option to uncouple these distinct inquiries
5 in separate appeals.

6 50. Mx. Ellutzi attempted to schedule a hearing as soon as possible and confirmed a hearing
7 for June 7. But the Zoom link provided by Defendants for that hearing was “invalid” and did not
8 work. As soon as this issue came to light, Mx. Ellutzi contacted UCSC officials. UCSC officials
9 acknowledged the “technical difficulties,” but nonetheless required that Mx. Ellutzi reschedule.
10 The next scheduled appointment available to Mx. Ellutzi was June 10, three days later.

11 51. On June 10, ten days after having been summarily banished from campus, Mx. Ellutzi
12 finally had a hearing. Defendants permitted Mx. Ellutzi to return to campus that very same day.

13 52. Defendants sent Mx. Ellutzi a letter confirming the return to campus. It was framed as “a
14 follow-up to the findings of the 626.4 Withdrawal of Consent to Remain on Campus (626.4
15 Exclusion) hearing on June 10 regarding the willful disruption of the orderly operation of campus
16 in an incident reported to have occurred on or about May 31, 2024.” The letter stated that, based
17 on Mx. Ellutzi’s responses to questions posed at the hearing, it was not believed that Mx. Ellutzi’s
18 “return will disrupt campus activities or compromise the safety and well-being of the university
19 community.” Neither this correspondence nor the correspondence of June 4 explained how the
20 continued presence on campus of Mx. Ellutzi, specifically, had constituted a substantial and
21 material threat of significant injury to persons or property.

22 53. As a result of Defendants’ conduct instantaneously excluding Mx. Ellutzi from campus,
23 Mx. Ellutzi faced numerous hardships. Mx. Ellutzi was rendered homeless, struggled to obtain
24 food, and cut off from their on-campus work shifts. Mx. Ellutzi was also unable to attend an on-
25 campus medical appointment that had been planned for months to begin important medical
26 treatments. Because that appointment was cancelled and because the school year was concluding,
27 Mx. Ellutzi had to reschedule the appointment for the fall and delay the treatments. Mx. Ellutzi
28 also could not access the library, their notes, school supplies, or teaching assistants. Nor did Mx.

1 Ellutzi have an appropriate environment in which to sit for final exams. Mx. Ellutzi’s ability to
2 complete coursework was disrupted and they suffered academically.

3 54. To date, the District Attorney has not filed any charges against Mx. Ellutzi in connection
4 with the events of May 30-31.

5 **Student Laaila Irshad**

6 55. During the evening of May 30, 2024, Ms. Irshad also participated in the protest against
7 UCSC’s decision to deploy police to dismantle the Gaza Solidarity Encampment that had been
8 erected near the main entrance to the UCSC campus. Throughout the protest, Ms. Irshad never
9 threatened or engaged in violence against anyone, nor did she threaten or engage in the destruction
10 of any property.

11 56. Ms. Irshad was arrested in the early morning hours of May 31 after officers using batons
12 surrounded her and other protesters to force them into a tight circle. She was then placed in zip-tie
13 handcuffs and detained without access to a bathroom for hours.

14 57. When Ms. Irshad was released on a misdemeanor citation for “failure to disperse” (Cal.
15 Penal Code § 409), an officer verbally notified her that, effective immediately, she was excluded
16 from campus pursuant to Section 626.4 for 14 days. She received no written Section 626.4 Notice
17 at that time.

18 58. On June 4, however, Ms. Irshad received a “Notice of Incident Review Meeting” from the
19 Office of Student Conduct and Conflict Education advising that UCSC police had issued her a
20 “trespass notice” under Section 626.4. Like the letter that Mx. Ellutzi had received, the letter sent
21 to Ms. Irshad did not contain any information about what she was alleged to have done
22 specifically or explain how her continued presence on campus had constituted a substantial and
23 material threat of significant injury to persons or property. In fact, except for the addressee’s name
24 and contact information, the two letters were identical. They each included the same incident
25 summary, the same alleged policy violations, the same trespass notice description, and the same
26 problematic hearing procedures for contesting both the 626.4 Notice and the alleged policy
27 violations.

28

1 59. Ms. Irshad proceeded with a hearing on June 11, and Defendants lifted the campus ban the
2 next day.

3 60. As a result of Defendants' conduct instantaneously excluding her from campus, Ms. Irshad
4 was rendered homeless and unable to perform her job as a Resident Advisor. She was therefore
5 unable to access the campus food she receives as compensation for that position, or access the
6 campus library to study for her final exams. Ms. Irshad did not know where to turn for help. And
7 because these events unfolded during the final two weeks of the quarter, Ms. Irshad performed
8 poorly in her exams and her overall academic performance dramatically suffered.

9 61. To date, the District Attorney has not filed any charges against Ms. Irshad in connection
10 with the events of May 30-31.

11 **Professor Christine Hong**

12 62. During the evening of May 30, 2024, Professor Hong also participated in the protest
13 against UCSC's decision to deploy police to dismantle the Gaza Solidarity Encampment that had
14 been erected near the main entrance to the UCSC campus. She was present to support protesting
15 students and observe how they were being treated by law enforcement officers. Professor Hong
16 stood in a little-used dirt parking lot at the base of campus and did not attempt to block the campus
17 entrance or any traffic. At no point did she threaten or engage in violence against anyone, nor did
18 she threaten or engage in the destruction of any property.

19 63. Professor Hong was arrested in the early morning hours of May 31 after officers
20 surrounded her and the protesters using batons to force them into a tight circle. Like Mx. Ellutzi
21 and Ms. Irshad, she was also placed in zip-tie handcuffs and detained without access to a bathroom
22 for hours. During this detention, she observed people who had no choice but to urinate on the
23 stairwells inside of the UCSC buses where they were being detained.

24 64. Officers eventually released Professor Hong on a misdemeanor citation for "failure to
25 disperse" (Cal. Penal Code § 409), but no one advised her, verbally or in writing, that Defendants
26 had withdrawn consent for her to remain on campus under Section 626.4.

27 65. Professor Hong did not receive written notice of Defendant's withdrawal of consent until
28 June 5, which was five days after she had been purportedly excluded from campus and nearly half-

1 way through the summary exclusion period. Specifically, Professor Hong received a one-page,
2 boilerplate “memorandum” signed by Defendant Ratner, the UCSC Director of Academic
3 Employee Relations. The communication purported to “follow[] the University’s issuance on May
4 31, 2024 of a withdrawal of . . . consent to remain on campus, pursuant to California Penal Code
5 626 et seq.” The communication did not contain any information about what Professor Hong was
6 alleged to have done specifically. Nor did the communication contain any reference to evidence or
7 materials on which the allegations against her were based. It merely stated that she could “request
8 a hearing by emailing [the] Vice Provost of Academic Affairs Herbert Lee” and that any such
9 hearing would take place over Zoom.

10 66. Professor Hong proceeded with a Zoom hearing on June 10 and met with Defendants
11 Ratner and Lee. That same day, Defendants permitted her to return to campus.

12 67. As a result of Defendants’ conduct instantaneously excluding her from campus, Professor
13 Hong was cut off from school and instructional resources. She also lost a critical opportunity to
14 use the school’s recording studio and tech support to prepare an important online summer course.

15 68. To date, the District Attorney has not filed any charges against Professor Hong in
16 connection with the events of May 30-31.

17 **V. California Public Records Act Request**

18 69. To understand what procedures Defendants did (and did not) follow in issuing Section
19 626.4 Notices, the non-profit entity American Civil Liberties Union of Northern California sent
20 UCSC a public records request on July 22, 2024. *See* Cal. Gov. Code §§ 7920 *et seq.* The request
21 sought, among other things, all records and communications concerning the May 30 and 31 protest
22 and UCSC’s response to that activity (including the decisions by campus administration to order
23 the dispersal of protesters, request assistance from law enforcement, and carry out the issuance of
24 Section 626.4 Notices).

25 70. In response, UCSC stated that, “after a reasonable search,” it had determined that “no
26 records exist” responsive to the request for copies of, or information concerning (1) all written
27 reports submitted by the chief administrative officer’s designee describing withdrawals of consent
28 or (2) all written confirmation of these reports by the chief administrative officer or their designee.

1 Such written reports and confirmation are, however, required by Section 626.4(b) when someone
2 other than the chief administrative officer withdraws consent.

3 71. UCSC further responded that it had “determined that no records exist responding to” the
4 ACLU’s request for the information that Defendants had provided to individuals whose consent
5 was withdrawn under Section 626.4 on how to seek a hearing or otherwise appeal the banishment.

6
7 **FIRST CAUSE OF ACTION**

8 **(All Plaintiffs against All Defendants)**
9 **California Constitution, Art. I, §§ 2, 3, 7**
10 **Violation of Procedural Due Process and Right to Freedom of Speech and Assembly**
11 **Cal. Civ. Proc. §§ 526, 1060**

12 72. Plaintiffs incorporate by reference all foregoing and subsequent paragraphs as though fully
13 set forth herein.

14 73. Article I, section 7 of the California Constitution provides that a “person may not be
15 deprived of life, liberty, or property without due process of law.”

16 74. Defendants violated each Plaintiff’s due process rights by summarily and indiscriminately
17 banning them, along with more than 110 other protesters, from campus without first providing
18 notice and an opportunity to be heard. Under the California Supreme Court’s longstanding and
19 binding decision in *Braxton*, 10 Cal. 3d at 138, Defendants cannot exercise the “extraordinary
20 remedy of summary banishment,” *id.* at 152, without first making an *individualized* determination
21 that “the situation is such an exigent one that the continued presence on the campus of the person
22 from whom consent to remain is withdrawn constitutes a substantial and material threat of
23 significant injury to persons or property,” *id.* at 145. Defendants failed to make any such
24 individualized determination with respect to any Plaintiff.

25 75. Defendants further violated each Plaintiff’s due process rights by failing to provide
26 sufficient notice to each Plaintiff of the fact that Defendants had withdrawn consent for them to
27 remain on campus and/or by failing to provide sufficient notice of all applicable terms, sanctions,
28 and rights flowing from the withdrawal of consent.

76. Defendants further violated each Plaintiff’s due process rights by failing to follow the
specific procedures set forth in Section 626.4, including but not limited to failing to comply with

1 their mandatory duty of submitting, reviewing, and/or confirming any written reports to
2 substantiate Defendants’ banishment of Plaintiffs from campus for up to 14 days.

3 77. Defendants further violated each Plaintiff’s due process rights by not following their own
4 policy and procedures regarding Section 626.4.

5 78. Defendants’ due process violations and overbroad practice of summarily banishing people
6 from campus without any opportunity to be heard further infringes and chills the rights of each
7 Plaintiff to engage in free speech under Article I section 2 of the California Constitution and to
8 “assemble freely to consult for the common good” under Article I section 3. *See Kasky v. Nike,*
9 *Inc.*, 27 Cal. 4th 939, 958–59 (2002) (acknowledging that California’s constitutional free speech
10 protection “is at least as broad as and in some way is broader than the comparable provision of the
11 federal Constitution’s First Amendment” (citations omitted)).

12 79. Plaintiffs wish to continue their free speech activities and activism on campus, but now
13 fear that Defendants could wield Section 626.4 to subject them, on the spot, to indiscriminate,
14 summary banishment whenever Plaintiffs engage in expressive, allegedly disruptive activities,
15 thereby exposing them to irreparable injury, financial penalties, and/or criminal sanctions.
16 Plaintiffs’ harm is ongoing and the chilling impacts of Defendants’ conduct contravenes *Braxton*
17 and violates the California Constitution.

18 80. Plaintiffs have no plain, speedy, and adequate alternative remedy at law to address the
19 harm they face.

20 **SECOND CAUSE OF ACTION**

21 **(All Plaintiffs against Individual Defendants and Does 1-10)**
22 **U.S. Constitution, First Amendment and Fourteenth Amendment, 42 U.S.C. § 1983**
23 **Violation of the Right to Due Process, Freedom of Speech, and Assembly**
Cal. Civ. Proc. §§ 526, 1060

24 81. Plaintiffs incorporate by reference all foregoing and subsequent paragraphs as though fully
25 set forth herein.

26 82. The Fourteenth Amendment to the U.S. Constitution provides that a “person may not be
27 deprived of life, liberty, or property without due process of law[.]” U.S. Const. amend. XIV, § 1.

1 83. Individual Defendants violated each Plaintiff’s federal due process rights by summarily
2 and indiscriminately banning them, along with more than 110 other protesters, from campus
3 without first providing notice and a hearing. To exclude a person from campus prior to any such
4 opportunity to be heard, Defendants had to make an individualized determination that “the
5 situation is such an exigent one that the continued presence on the campus of the person from
6 whom consent to remain is withdrawn constitutes a substantial and material threat of significant
7 injury to persons or property.” *Braxton*, 10 Cal. 3d at 1454; *see also Goss v. Lopez*, 419 U.S. 565,
8 581 (1975) (due process affords “rudimentary precautions against unfair or mistaken findings of
9 misconduct and arbitrary exclusion from school”). Individual Defendants failed to make any such
10 individualized determination with respect to any Plaintiff.

11 84. Individual Defendants further violated each Plaintiff’s federal due process rights by failing
12 to provide sufficient notice to each Plaintiff of the fact that Defendants had withdrawn consent for
13 them to remain on campus and/or by failing to provide sufficient notice of all applicable terms,
14 sanctions, and rights attendant to the withdrawal of consent.

15 85. Individual Defendants further violated each Plaintiff’s federal due process rights by failing
16 to follow the specific procedures set forth in Section 626.4, including but not limited to failing to
17 comply with their mandatory duty of submitting, reviewing, and/or confirming any written reports
18 to substantiate Defendants’ banishment of Plaintiffs from campus for up to 14 days. *See Groten v.*
19 *California*, 251 F.3d 844, 850 (9th Cir. 2001) (“State statutes providing for particular procedures
20 may create entitlements protected by [federal] due process.”).

21 86. Individual Defendants further violated each Plaintiff’s due process rights by not following
22 their own policy and procedures regarding Section 626.4.

23 87. Individual Defendants’ due process violations and overbroad practice of summarily
24 banishing people from campus without any opportunity to be heard further infringes and chills the
25 rights of each Plaintiff to engage in free speech and free assembly under the First Amendment to
26 the U.S. Constitution.

27 88. Plaintiffs wish to continue their free speech activities and activism on campus, but now
28 fear that Defendants could subject them, on the spot, to indiscriminate, summary banishment

1 whenever Plaintiffs engage in expressive and allegedly disruptive activities, thereby exposing
2 them to irreparable injury, financial penalties, and/or criminal sanctions. Plaintiffs' harm is
3 ongoing, and the chilling impacts of Defendants' conduct is intolerable to the U.S. Constitution.

4 89. Plaintiffs have no plain, speedy, and adequate alternative remedy at law to address the
5 harm they face.

6 **THIRD CAUSE OF ACTION**

7 **(All Plaintiffs against Individual Defendants and Does 1-10)**
8 **Declaratory and Injunctive Relief for Violation of California Penal Code § 626.4**
9 **Cal. Civ. Proc. §§ 526, 526a, 1060; Common Law Taxpayer Standing**

10 90. Plaintiffs incorporate by reference all foregoing and subsequent paragraphs as though fully
11 set forth herein.

12 91. Plaintiffs Ellutzi and Irshad are students at UCSC and Plaintiff Hong is a professor at
13 UCSC. They have each paid taxes in Santa Cruz within the past year and have been assessed
14 and/or paid taxes to the State of California within one year of filing this action.

15 92. Individual Defendants are officers, agents, or persons acting in an official capacity on
16 behalf of UCSC, and are subject to suit under Code of Civil Procedure section 526a as well as
17 pursuant to the common law theory of taxpayer standing. *See California Assn. for Safety Educ. v.*
18 *Brown*, 30 Cal. App. 4th 1264, 1281 (1994); *see also Los Altos Prop. Owners Assoc. v. Hutcheon*,
19 69 Cal. App. 3d 22, 26 (1977).

20 93. Individual Defendants have a clear, present, ministerial duty to provide a process that
21 complies with the U.S. Constitution, the California Constitution, state law, and their own policies
22 when banning individuals from campus under Section 626.4. In particular, Individual Defendants
23 have a mandatory, specifically enjoined duty to follow the prescribed statutory steps in Section
24 626.4 and, while doing so, obey the California and U.S. constitutional guarantees of procedural
25 due process and free speech.

26 94. Individual Defendants' conduct violates the plain language and prescribed steps set forth in
27 California Penal Code section 626.4. Individual Defendants have failed to comply with their
28 mandatory, specifically enjoined duties under Section 626.4 by, among other things, failing to
provide Plaintiffs with sufficient notice before excluding them from campus for up to 14 days;

1 failing to provide Plaintiffs with an opportunity to be heard before excluding them from campus
2 for up to 14 days; failing to make any individualized findings as to why the situation was such an
3 exigent one that the continued presence of each Plaintiff on campus constituted a substantial and
4 material threat of significant injury to persons or property; and failing to submit, review, and/or
5 confirm written reports about Defendants' summary banishment of Plaintiffs under Section 626.4.

6 95. By issuing Section 626.4 Notices and enforcing Section 626.4 in this way, Individual
7 Defendants' conduct constitutes an illegal expenditure, a waste of public funds, an ultra vires
8 action, and/or a failure to perform a duty specifically enjoined in violation of Code of Civil
9 Procedure section 526a and the common law.

10 96. Ensuring that Individual Defendants discharge their mandatory, specifically enjoined
11 duties under the California and U.S. Constitutions and California law is a matter of compelling
12 public interest.

13 97. In addition, Plaintiffs have an interest in ensuring that Individual Defendants oversee and
14 manage UCSC in a manner consistent with California law, and, most fundamentally, the
15 California and U.S. Constitutions. They also have an interest in enjoining the waste of government
16 resources and ultra vires activity, as well as in restraining officials from enforcing an unlawful or
17 unconstitutional practice.

18 98. Pursuant to Code of Civil Procedure sections 526, 526a, 1060, the common law, and this
19 Court's equitable power, Plaintiffs seek declaratory and injunctive relief to prevent continued
20 harm and to protect both themselves and the public from Individual Defendants' unlawful
21 practices described herein.

22 99. Unless compelled by this Court to comply with their legal obligations, Individual
23 Defendants will continue to employ a deficient and unlawful process to banish Plaintiffs and
24 others from campus under Section 626.4.

25 100. Plaintiffs have no plain, speedy, and adequate alternative remedy at law to address the
26 harm they face.

27
28

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiffs respectfully request that the Court issue:

3 A. An injunction that (1) prohibits Defendants from imposing pre-hearing banishment
4 orders *en masse* and also from imposing any such order without first making the required
5 individualized finding under *Braxton* that “the situation is such an exigent one that the continued
6 presence on the campus of the person from whom consent to remain is withdrawn constitutes a
7 substantial and material threat of significant injury to persons or property;” and (2) requires
8 Defendants to provide sufficient notice and due process in compliance with federal and state law
9 and UCSC policy when enforcing Section 626.4 on campus.

10 B. Declaratory judgment that—absent the exigent circumstances and individualized
11 determination required by *Braxton*—Defendants’ *en masse* practice of summarily banning people
12 from campus without notice and an opportunity to be heard is unlawful and did violate Plaintiffs’
13 constitutional rights under both federal and state law;

14 C. An award to Plaintiffs of costs and attorneys’ fees pursuant to 42 U.S.C. § 1988, 42
15 U.S.C. § 12205, Cal. Civ. Code § 52, and Cal. Civ. Proc. Code § 1021.5; and

16 D. Such other relief that the Court deems necessary to address the harm to Plaintiffs or
17 which the Court may determine is warranted, just, or proper.

18 Dated: September 9, 2024

Respectfully submitted,

19 ACLU FOUNDATION OF NORTHERN
20 CALIFORNIA, INC.

/s/ Chessie Thacher

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