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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.

**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.<sup>1</sup> 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 <sup>1</sup>See 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”].<sup>2</sup> Ms. Kletzer is sued in her official capacity.

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28 <sup>2</sup> 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.<sup>3</sup> 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 <sup>3</sup> 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[.]”<sup>4</sup>

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.”<sup>5</sup>

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

<sup>5</sup> *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”].<sup>6</sup>

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  
27

28 <sup>6</sup> 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.<sup>7</sup> 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 <sup>7</sup> Cynthia Larive, *Update on this morning’s actions at the main entrance*, UC Santa Cruz  
Newscenter (May 31, 2024), <https://tinyurl.com/mrx3zxzr>.

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.<sup>8</sup> 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.<sup>9</sup>

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 <sup>8</sup> 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 <sup>9</sup> 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),<sup>10</sup> 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

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26  
27 <sup>10</sup> 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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