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12
13 **UNITED STATES DISTRICT COURT**
14 **EASTERN DISTRICT OF CALIFORNIA**
15

16 DOE PUBLIUS,

17 Plaintiff,

18 v.

19 DIANE F. BOYER-VINE, in her official
20 capacity as Legislative Counsel of California,

21 Defendant.
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Case No.:

**COMPLAINT FOR DECLARATORY,
INJUNCTIVE, OR OTHER RELIEF**

1 Plaintiff Doe Publius complains of Defendant and alleges:

2 **INTRODUCTION**

3 1. This is a First Amendment challenge to California Government Code section
4 6254.21(c), which prohibits the continued publication on the Internet of the home address or
5 telephone number of any “elected or appointed official,” once an official claims that such
6 publication has caused them to “fear for [their] safety.”

7 2. Plaintiff maintains a political blog under the alias “The Real Write Winger,”
8 <https://therealwritewinger.wordpress.com/>. The blog focuses on California politics, with a
9 particular emphasis on criminal law, civil rights and liberties, and the right to keep and bear arms
10 secured by the Second Amendment to the U.S. Constitution. Plaintiff posted a blog entry
11 criticizing the California Legislature for passing a series of laws that Plaintiff believes compromise
12 the rights and liberties of California gun owners, including a law establishing a registry tracking all
13 ammunition purchases and transfers throughout the State. As part of the article, Plaintiff
14 characterized state lawmakers as “tyrants” and announced the establishment of a “tyrant registry”
15 that listed the home addresses and telephone numbers of 40 legislators who voted to pass the bills
16 Plaintiff was protesting. As the post makes clear, Plaintiff obtained the information through
17 publicly available sources and compiled it in “one convenient location,” to provide broad access to
18 the information.

19 3. In response to Plaintiff’s post, the California Legislative Counsel sent a letter to
20 WordPress.com (the Internet hosting service for Plaintiff’s blog) demanding that it remove the post
21 pursuant to Section 6254.21(c). The letter, sent on behalf of all of the legislators identified in
22 Plaintiff’s blog post, stated that “[p]ublicly displaying elected officials’ home addresses on the
23 Internet represents a grave risk to the safety of these elected officials,” who “fear that the public
24 display of their addresses on the Internet will subject them to threats and acts of violence at their
25 homes.” The Legislative Counsel demanded, on the threat of litigation, that WordPress remove
26 the addresses, and that it “continue to ensure that this information is not reposted on that Web site,
27 any subsidiary Web site, or any other Web site maintained by you.”

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1 4. In response to the demand, WordPress disabled Plaintiff’s post and removed it from
2 the Internet. Under the terms of this “takedown statute,” Plaintiff is barred from reposting this
3 information for four years. Cal. Gov’t Code § 6254.21(c)(1)(C).

4 5. Section 6254.21(c)’s takedown requirement violates the First Amendment on its
5 face and as applied to Plaintiff’s post. “There is no question that speech critical of the exercise of
6 the State’s power lies at the very center of the First Amendment.” *Gentile v. State Bar of Nevada*,
7 501 U.S. 1030, 1034 (1991). “Suppression of the right of the press to praise or criticize
8 governmental agents and to clamor and contend for or against change” violates the most basic
9 principles of the First Amendment. *Mills v. Alabama*, 384 U.S. 214, 219 (1966). “Criticism of
10 government is at the very center of the constitutionally protected area of free discussion. Criticism
11 of those responsible for government operations must be free, lest criticism of government itself be
12 penalized.” *Rosenblatt v. Baer*, 383 U.S. 75, 85 (1966).

13 6. By censoring the content of Plaintiff’s speech, the State has run afoul of “the
14 fundamental rule of protection under the First Amendment, that a speaker has the autonomy to
15 choose the content of his own message.” *Hurley v. Irish–American Gay, Lesbian and Bisexual*
16 *Group of Boston, Inc.*, 515 U.S. 557, 573 (1995); *accord Cohen v. California*, 403 U.S. 15, 24
17 (1971) (noting “the usual rule that governmental bodies may not prescribe the form or content of
18 individual expression.”).

19 7. Moreover, the U.S. Supreme Court has held repeatedly that the First Amendment
20 prohibits the government from punishing the publication of truthful, lawfully obtained information
21 that is already in the public domain. *See, e.g., Florida Star v. B.J.F.*, 491 U.S. 524 (1989); *Smith v.*
22 *Daily Mail Publ’g Co.*, 443 U.S. 97 (1979); *Cox Broad. Corp. v. Cohn*, 420 U.S. 469 (1975).

23 8. The takedown requirement is presumptively invalid and must satisfy strict scrutiny
24 to survive. *Reed v. Town of Gilbert*, 135 S. Ct. 2218, 2226 (2015); *Florida Star*, 491 U.S. at 541.
25 The takedown requirement cannot meet that standard. Because Section 6254.21(c) violates the
26 First Amendment, Plaintiff seeks declaratory and injunctive relief to invalidate the statutory
27 provisions and enjoin any further action by the Legislative Counsel of California to suppress or
28 punish Plaintiff’s protected speech.

JURISDICTION AND VENUE

9. This case raises questions under the First Amendment and 42 U.S.C. § 1983. This Court has jurisdiction over all claims for relief pursuant to 28 U.S.C. § 1331.

10. Venue is proper under 28 U.S.C. § 1391(b). Assignment to the Fresno division is proper pursuant to Local Rule 120(d) because a substantial portion of the events giving rise to this action occurred in Stanislaus County.

THE PARTIES

11. Plaintiff Doe Publius is a California resident who lives in Stanislaus County.¹ Publius maintains a political blog under the alias “The Real Write Winger,” <https://therealwritewinger.wordpress.com/>.

12. Defendant Diane F. Boyer-Vine is the Legislative Counsel of California. Mrs. Boyer-Vine is sued in her official capacity. The Legislative Counsel provides legal services for the California Legislature and its members. As relevant here, the Legislative Counsel served as the agent for certain California legislators, pursuant to California Government Code section 6254.21(c)(3), for the purposes of making the takedown demand that is the subject of this lawsuit. The Office of Legislative Counsel maintains an office in Sacramento.

GENERAL ALLEGATIONS

Plaintiff Publishes Truthful, Publicly-Available Information Disclosing Legislators’ Home Addresses To Protest Recent Gun Legislation

13. Plaintiff maintains a political blog under the alias “The Real Write Winger,” <https://therealwritewinger.wordpress.com/>. The blog focuses on California politics, with a particular emphasis on criminal law, civil rights and liberties, and the right to keep and bear arms secured by the Second Amendment to the U.S. Constitution.

¹ Plaintiff will file a motion seeking permission to proceed pseudonymously pursuant to *Does I thru XXIII v. Advanced Textile Corp.*, 214 F.3d 1058, 1068 (9th Cir. 2000). Initiating suit anonymously is necessary to preserve Plaintiff’s First Amendment right to speak anonymously when criticizing the government, *see McIntyre v. Ohio Elections Comm’n*, 514 U.S. 334 (1995), and to guard against the risk of retaliatory and unfounded prosecution under the criminal provisions of the statutory scheme Plaintiff challenges, *see* Cal. Gov’t Code § 6254.21(b).

1 14. On July 1, Governor Jerry Brown signed several gun-control bills into law. *See*
2 Patrick McGreevey, *Gov. Jerry Brown signs bulk of sweeping gun-control package into law,*
3 *vetoed five bills*, L.A. Times, July 1, 2016, online at <http://lat.ms/29bvT5P>. Included in this
4 package of legislation was a law that, among other things, requires the State to establish and
5 maintain a database tracking all ammunition purchases throughout California (the “Ammunition
6 Purchase Records File”). Senate Bill No. 1235 (2015-2016 Reg. Sess.), ch. 55, §§ 12, 14 (enacting
7 Cal. Penal Code §§ 30352 and 30369). The ammunition database will include the driver’s license
8 information, residential address and telephone number, and date of birth for everyone who
9 purchases or transfers ammunition. *See id.*

10 15. On July 5, 2016, Plaintiff posted a blog entry criticizing the Legislature’s firearms
11 legislation. Plaintiff believes the laws violate the constitutional rights and liberties of California
12 gun owners. The article, titled “Tyrants to be registered with California gun owners,” states:

13 If you’re a gun owner in California, the government knows where you live. With
14 the recent anti gun, anti Liberty bills passed by the legissexuals in the State Capitol
15 and signed into law by our senile communist governor, isn’t it about time to register
these tyrants with gun owners?

16 Compiled below is the names, home addresses, and home phone numbers of all the
17 legislators who decided to make you a criminal if you don’t abide by their dictates.
18 “Isn’t that dangerous, what if something bad happens to them by making that
19 information public?” First, all this information was already public; it’s just now in
one convenient location. Second, it’s no more dangerous than, say, these tyrants
making it possible for free men and women to have government guns pointed at
them while they’re hauled away to jail and prosecuted for the crime of exercising
their rights and Liberty.

20 These tyrants are no longer going to be insulated from us. They used their power we
21 entrusted them with to exercise violence against us if we don’t give up our rights
22 and Liberty. This common sense tyrant registration addresses this public safety
hazard by giving the public the knowledge of who and where these tyrants are in
case they wish to use their power for violence again.

23 So below is the current tyrant registry. These are the people who voted to send you
24 to prison if you exercise your rights and liberties. This will be a constantly updated
25 list depending on future votes, and if you see a missing address or one that needs
updating, please feel free to contact me. And please share this with every California
gun owner you know.

26 To be fair, the only way for a tyrant to have their name removed from the tyrant
27 registry is to pass laws which repeal the laws that got them added to the list, or upon
28 the tyrant’s death. Otherwise, it is a permanent list, even after the tyrant leaves
office. The people will retain this information and have access to it indefinitely.

1 The article then listed the home addresses and phone numbers of fourteen California State
2 Senators and twenty-six California State Assembly Members. A true and correct copy of the
3 article is attached to the Complaint as Exhibit A.

4 16. Plaintiff obtained the addresses and phone numbers listed in the article through
5 searching public records online, then compiled the results of the search for the post.

6 **Legislative Counsel Issues A Takedown Demand And The Post Is Censored**

7 17. On or before July 11, the California Legislative Counsel sent a written demand to
8 WordPress.com (the Internet hosting service for Plaintiff's blog), threatening to pursue a lawsuit if
9 WordPress did not remove the post pursuant to Section 6254.21(c):

10 To whom it may concern:

11 My office represents the California State Legislature. It has come to our attention
12 that the home addresses of 14 Senators and 26 Assembly Members have been
13 publically posted on an Internet Web site hosted by you without the permission of
14 these elected officials. Specifically, the user on your platform by the name of
"therealwritewinger" posted the home addresses of these elected officials on his or
her Web site at [https://therealwritewinger.wordpress.com/2016/07/05/
tyrantstoberegisteredwithgunowners](https://therealwritewinger.wordpress.com/2016/07/05/tyrantstoberegisteredwithgunowners).

15 This letter constitutes a written demand under subdivision (c) of Section 6254.21 of
16 the Government Code that you remove these home addresses from public display
17 on that Web site, and to take steps to ensure that these home addresses are not
18 reposted on that Web site, a subsidiary Web site, or any other Web site maintained
19 or administered by WordPress.com or over which WordPress.com exercises
20 control. **Publicly displaying elected officials' home addresses on the Internet
21 represents a grave risk to the safety of these elected officials.** On the
22 "therealwritewinger" blog site, the user describes the listed legislators as "tyrants,"
encourages readers to share the legislators' home addresses with other gun owners,
and threatens that the home addresses will not be removed unless the legislator
repeals specified gun laws or "upon the tyrant's death." The Senators and Assembly
Members whose home addresses are listed on this Web site fear that the public
display of their addresses on the Internet will subject them to threats and acts of
violence at their homes.

23 To comply with the law, please remove the home addresses of these elected
24 officials from your Web site no later than 48 hours after your receipt of this letter
25 (cl. (i), subpara. (D), para. (1), subd. (c), Sec. 6254.21, Gov. C.). You are also
required to continue to ensure that this information is not reposted on that Web site,
any subsidiary Web site, or any other Web site maintained by you (subpara. (D),
para. (1), subd. (c), Sec. 6254.21, Gov. C.).

26 If these home addresses are not removed from this Web site in a timely
27 manner, we reserve the right to file an action seeking injunctive relief, as well as
28 associated court costs and attorney's fees (para. (2), subd. (c), Sec. 6254.21, Gov.
C.).

1 Regards,
2 Kathryn Londenberg
3 Deputy Legislative Counsel
4 Legislative Counsel Bureau

5 18. On or about July 11, WordPress disabled Plaintiff's post and removed it from the
6 Internet. A true and correct copy of an e-mail exchange between Plaintiff and WordPress, which
7 includes the Legislative Counsel's takedown request, is attached as Exhibit B.

8 19. Another website, known as "Burst Updates," reported on Plaintiff's post and the
9 State's demand that it be taken down. Burst Updates, *State Warns Site to Remove List of Senators*
10 *Who Passed Gun Control Requiring Personal Info on Owners: Update, Post Content Deleted*, July
11 11, 2016, online at <http://bit.ly/2avhf71>. The Burst Updates post included a link to the original
12 WriteWinger post, a short quote from the original post, some original content (encouraging readers
13 to see the original post) and a copy of the list of legislators' address included in the original post.

14 20. The Office of Legislative Counsel issued a similar takedown demand under Section
15 6254.21(c), asserting that Burst Updates' separate post also constituted a "grave" threat by listing
16 legislators' addresses.

17 **The Takedown Provisions Of Cal. Gov't Code § 6254.21(c) Violate The First Amendment**

18 21. California Government Code section 6254.21(c) allows virtually any elected
19 official in California to prevent citizens from republishing their home addresses if they feel that
20 such republication threatens them:

21 (c)(1)(A) No person, business, or association shall publicly post or publicly display
22 on the Internet the home address or telephone number of any elected or appointed
23 official if that official has, either directly or through an agent designated under
24 paragraph (3), made a written demand of that person, business, or association to not
25 disclose his or her home address or telephone number.

26 (B) A written demand made under this paragraph by a state constitutional officer, a
27 mayor, or a Member of the Legislature, a city council, or a board of supervisors
28 shall include a statement describing a threat or fear for the safety of that official or
29 of any person residing at the official's home address.

30 (C) A written demand made under this paragraph by an elected official shall be
31 effective for four years, regardless of whether or not the official's term has expired
32 prior to the end of the four-year period.

33 (D)(i) A person, business, or association that receives the written demand of an
34 elected or appointed official pursuant to this paragraph shall remove the official's
35 home address or telephone number from public display on the Internet, including
36 information provided to cellular telephone applications, within 48 hours of delivery

1 of the written demand, and shall continue to ensure that this information is not
2 reposted on the same Internet Web site, subsidiary site, or any other Internet Web
site maintained by the recipient of the written demand.

3 (ii) After receiving the elected or appointed official’s written demand, the person,
4 business, or association shall not transfer the appointed or elected official’s home
address or telephone number to any other person, business, or association through
any other medium.

5

6 (E) For purposes of this paragraph, “publicly post” or “publicly display” means to
7 intentionally communicate or otherwise make available to the general public.

8 (2) An official whose home address or telephone number is made public as a result
9 of a violation of paragraph (1) may bring an action seeking injunctive or declarative
relief in any court of competent jurisdiction. If a court finds that a violation has
10 occurred, it may grant injunctive or declarative relief and shall award the official
court costs and reasonable attorney’s fees. A fine not exceeding one thousand
11 dollars (\$1,000) may be imposed for a violation of the court’s order for an
injunction or declarative relief obtained pursuant to this paragraph.

12 (3) An elected or appointed official may designate in writing the official’s
13 employer, a related governmental entity, or any voluntary professional association
of similar officials to act, on behalf of that official, as that official’s agent with
14 regard to making a written demand pursuant to this section. . . . A written demand
made by an agent pursuant to this paragraph shall include a statement describing a
15 threat or fear for the safety of that official or of any person residing at the official’s
home address.

16 22. In short, once a public official demands that their address or phone number be
17 removed from the Internet, the publisher has 48 hours to comply, or be subject to a fine, and the
18 publisher is barred from republishing the official’s address or phone number—for any purpose—
19 for four years.

20 23. The takedown provisions violate the First Amendment both on their face and as
21 applied to Plaintiff’s post.

22 24. Plaintiff’s experience demonstrates how the provisions impose a content-based
23 restriction that impinges on the free flow of political speech. Plaintiff’s blog entry criticized the
24 legislators’ actions, and posting the home addresses and telephone numbers was integral to
25 Plaintiff’s message. Indeed, informing others that Plaintiff was establishing a “common sense
26 tyrant registration” as a protest measure against the State’s efforts to compile information about
27 gun owners was the whole point of the post. As Plaintiff explained: “If you’re a gun owner in
28 California, the government knows where you live. . . . [I]sn’t it about time to register these tyrants

1 with gun owners?”

2 25. This political advocacy is protected by the First Amendment. “The First
3 Amendment affords the broadest protection to such political expression in order ‘to assure [the]
4 unfettered interchange of ideas for the bringing about of political and social changes desired by the
5 people.’” *Buckley v. Valeo*, 424 U.S. 1, 14 (1976) (quoting *Roth v. United States*, 354 U.S. 476,
6 484 (1957)). And “[t]here is no question that speech critical of the exercise of the State’s power
7 lies at the very center of the First Amendment.” *Gentile, supra*, 501 U.S. at 1034. “Suppression of
8 the right of the press to praise or criticize governmental agents and to clamor and contend for or
9 against change” violates the most basic principles of the First Amendment. *Mills, supra*, 384 U.S.
10 at 219. “Criticism of government is at the very center of the constitutionally protected area of free
11 discussion. Criticism of those responsible for government operations must be free, lest criticism of
12 government itself be penalized.” *Rosenblatt, supra*, 383 U.S. at 85.

13 26. By censoring the content of Plaintiff’s speech criticizing the government, the State
14 has run afoul of “the fundamental rule of protection under the First Amendment, that a speaker has
15 the autonomy to choose the content of his own message.” *Hurley, supra*, 515 U.S. at 573; *accord*
16 *Cohen, supra*, 403 U.S. at 24 (noting “the usual rule that governmental bodies may not prescribe
17 the form or content of individual expression.”). “As a general principle, the First Amendment bars
18 the government from dictating what we see or read or speak or hear.” *Ashcroft v. Free Speech*
19 *Coalition*, 535 U.S. 234, 245 (2002); *accord Sorrell v. IMS Health Inc.*, 564 U.S. 552, 568 (2011)
20 (“An individual’s right to speak is implicated when information he or she possesses is subjected to
21 ‘restraints on the way in which the information might be used’ or disseminated.”) (quoting *Seattle*
22 *Times Co. v. Rhinehart*, 467 U.S. 20, 32 (1984)).

23 27. Put simply, Plaintiff is free to publish speech critical of the government and air
24 grievances in the form of Plaintiff’s choosing, and the First Amendment constrains the government
25 from determining the content of Plaintiff’s criticism.

26 28. Beyond Plaintiff’s expressive purpose, however, the publication of legislators’
27 addresses and phone numbers can serve a variety of other lawful purposes. For example,
28 residential picketing is often constitutionally protected, *Carey v. Brown*, 447 U.S. 455 (1980), and

1 concerned citizens can hardly picket demanding action from their legislators without knowing
2 where they live. Though some cities and counties may have valid content-neutral restrictions on
3 residential picketing, *Frisby v. Schultz*, 487 U.S. 474 (1988), many jurisdictions lack such content-
4 neutral limitations; and even in those that have such restrictions, “marching through residential
5 neighborhoods, or even walking a route in front of an entire block of houses,” *id.* at 483, is likely
6 constitutionally protected.

7 29. A second strain of U.S. Supreme Court decisions reinforces the unconstitutionality
8 of the takedown provisions. Time and again, the U.S. Supreme Court has held that the First
9 Amendment prohibits the government from punishing the publication of truthful, lawfully obtained
10 information that is already in the public domain. *See, e.g., Florida Star*, 491 U.S. 524 (1989); *Cox*
11 *Broad. Corp. v. Cohn*, 420 U.S. 469 (1975); *Smith v. Daily Mail Publ’g Co.*, 443 U.S. 97 (1979).
12 Plaintiff lawfully obtained the addresses and phone numbers of public officials by searching public
13 records; once such “truthful information was ‘publicly revealed’ or ‘in the public domain,’” the
14 State cannot “constitutionally restrain its dissemination.” *Florida Star*, 491 U.S. at 535 (quoting
15 *Daily Mail*, 443 U.S. at 103).

16 30. Because the takedown requirement is a content-based restriction on protected
17 political speech that republishes truthful information in the public domain, it is subject to strict
18 scrutiny. *Reed*, 135 S. Ct. at 2226 (content-based laws “are presumptively unconstitutional and
19 may be justified only if the government proves that they are narrowly tailored to serve compelling
20 state interests”); *Florida Star*, 491 U.S. at 541 (laws punishing the publishing of truthful
21 information can be upheld “only when narrowly tailored to a state interest of the highest order”);
22 *see also Citizens United v. Fed. Election Comm’n*, 558 U.S. 310, 340 (2010) (“Laws that burden
23 political speech are subject to strict scrutiny.”) (internal quotation marks and citation omitted).

24 **The Takedown Provisions Fail To Satisfy Strict Scrutiny**

25 31. A statute “which makes criminal a form of pure speech, must be interpreted with
26 the commands of the First Amendment clearly in mind. What is a threat must be distinguished
27 from what is constitutionally protected speech.” *Watts v. United States*, 394 U.S. 705, 707 (1969).
28 Section 6254.21(c) is not narrowly tailored to address unprotected speech, such as “true threats.”

1 *See Virginia v. Black*, 538 U.S. 343, 359 (2003). ““True threats’ encompass those statements
2 where the speaker means to communicate a serious expression of an intent to commit an act of
3 unlawful violence to a particular individual or group of individuals.” *Id.* at 359. On the other
4 hand, true threats must be distinguished from the “vehement, caustic, and sometimes unpleasantly
5 sharp attacks on government and public officials” that take place in “uninhibited, robust, and
6 wideopen” “debate on public issues.” *Watts*, 394 U.S. at 708. “The language of the political arena
7 . . . is often vituperative, abusive, and inexact.” *Id.*

8 32. Section 6254.21(c) permits censorship of speech based on assertions of fear by
9 public officials – not findings in a judicial proceeding – that fall far short of the governing standard
10 set out in *Watts* and *Virginia v. Black*. It requires takedown based on *any* subjective threat of harm
11 articulated by public officials, without respect to whether the alleged threat is objectively
12 reasonable. It applies without regard to the author’s subjective intent, and even without an actual
13 likelihood of harm. Indeed, the takedown statute would apply if the potential harm did not arise
14 from the content of the post, but because a public official feared harm from a third party (even
15 though that same third party could search other readily available public records to get the same
16 information). And it applies, without qualification, for four years. As such, Section 6253.21(c) is
17 overbroad and cannot satisfy strict scrutiny.

18 33. Nor are the takedown provisions narrowly tailored to weed out unprotected speech
19 constituting “incitement.” Even when speech advocates violence, the First Amendment “do[es]
20 not permit a State to forbid or proscribe advocacy of the use of force or of law violation except
21 where such advocacy is directed to inciting or producing imminent lawless action and is likely to
22 incite or produce such action.” *Brandenburg v. Ohio*, 395 U.S. 444, 447 (1969) (per curiam).
23 “Statutes . . . touching on freedom of speech . . . must observe the established distinctions between
24 mere advocacy and incitement to imminent lawless action.” *Id.* at 449 n.4. Yet Section
25 6253.21(c) is not limited to incitement of lawless action (or for that matter even advocacy of such
26 action).

27 34. Plaintiff’s experience demonstrates the statute’s overbreadth: The Legislative
28 Counsel issued a generic takedown demand, on behalf of all 40 legislators, stating that they fear

1 the speculative prospect of future harm (specifically, they “fear that the public display of their
2 addresses on the Internet will subject them to threats and acts of violence at their homes.”).

3 35. Other courts have routinely held unconstitutional the application of statutory
4 schemes that have similarly punished the online publication of publicly available information
5 about public officials. In *Ostergren v. Cuccinelli*, for example, the Fourth Circuit held that the
6 First Amendment protected a privacy advocate who posted unredacted Social Security numbers of
7 Virginia legislators and public officials online as part of her criticism of the government’s
8 collection and handling of personal information. 615 F.3d 263, 270–87 (4th Cir. 2010). In
9 *Sheehan v. Gregoire*, the Western District of Washington reached the same conclusion when
10 invalidating a law broadly prohibiting the dissemination of the “residential address, residential
11 telephone number, birthdate, or social security number” of law enforcement personnel, after the
12 plaintiff had posted such information on his website (www.justicefiles.com) advocating police
13 accountability. 272 F.Supp.2d 1135 (W.D. Wash. 2003). And in *Brayshaw v. Tallahassee*,
14 another district court struck down as facially unconstitutional a statute that prohibited publishing
15 the “residence address or telephone number” of a law enforcement officer, after plaintiff was
16 arrested for posting such information on “Ratemycop.com.” 709 F.Supp.2d 1244 (N.D. Fla.
17 2010).

18 36. As a result of Defendant’s actions, Plaintiff’s post containing legislators’ addresses
19 and phone numbers was removed from the Internet. Making this already-publicly-available
20 information available in one place through Plaintiff’s blog is central to Plaintiff’s message
21 criticizing the government’s actions. But for Section 6254.21(c) and Defendant’s demand (and the
22 threat of statutory sanctions), Plaintiff would re-post the legislators’ addresses and phone numbers
23 to Plaintiff’s blog, and would leave such information on the Internet.

24 37. An actual and judicially cognizable controversy exists between Plaintiff and
25 Defendant regarding whether Section 6254.21(c) violates the First Amendment. Plaintiff desires a
26 judicial declaration of its rights and Defendant’s duties regarding the constitutionality and
27 enforcement of the statutory provision.

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Dated: August 5, 2016

/s Eugene Volokh
EUGENE VOLOKH
Attorney for Plaintiff

BENBROOK LAW GROUP, PC

By /s Bradley A. Benbrook
BRADLEY A. BENBROOK
Attorneys for Plaintiff

EXHIBITS SEALED BY COURT ORDER