

Kyndra S. Miller, CASBN: 224343
Randolph E. Daar, CASBN: 88195
Brian Ford, CASBN: 305023
506 Broadway
San Francisco, CA 94133
Telephone: 415/986-5591

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

<p>JESSE VANG; WANG CHANG; JOUA CHAO MOUA; ALEXANDER VANG; RICHARD VANG; DANG XIONG; DOLLARSAI YURGH; JOUA YENG VANG; MANISY MOUA; POUA VANG; and DOES 1-200,</p> <p>Plaintiffs,</p> <p>v.</p> <p>COUNTY OF SISKIYOU and DOES 1-200, inclusive.</p> <p>Defendants.</p>	<p>Case No.: 2:16-cv-02172-JAM-CMK</p> <p>THIRD AMENDED COMPLAINT FOR DECLARATORY RELIEF, TEMPORARY RESTRAINING ORDER, PRELIMINARY INJUNCTION, PERMANENT INJUNCTION AND DAMAGES</p> <p>JURY TRIAL DEMANDED</p>
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INTRODUCTION

1. Siskiyou County is engaged in a systemic campaign to deprive Plaintiffs, and other members of the Asian community, of their right to vote and to engage in protected speech and equal protection of the laws. Plaintiffs bring this action for injunctive relief and damages, to preserve the fundamental rights to vote, engage in protected speech and equal protection of the laws as guaranteed by the United States Constitution and the Constitution of the State of California. The Fifteenth Amendment to the United States Constitution guarantees the People the right to vote, regardless of race or ethnicity, enforceable against State and local governments by the Fourteenth Amendment, which also guarantees equal protection of the law. Article 2, Sec. 2 of the California Constitution guarantees California residents the right to vote, and Article 1, Sec. 7 guarantees the right to due process and equal protection.
2. Despite these well-established rights, Defendants conspired to deprive Plaintiffs of their constitutional rights challenging their status as Siskiyou County residents through a racially discriminatory enforcement of county ordinances, and as to one Plaintiff, actual criminal prosecution.

JURISDICTION AND VENUE

3. This action is brought pursuant to 42 U.S.C. §§ 1983 and the Fourth and Fourteenth Amendments to the United States Constitution. Jurisdiction is based upon 28 U.S.C. §§ 1331 and 1343.
4. The claims alleged herein occurred in Siskiyou County. Venue of this action lies in the United States Court for the Eastern District of California (28 U.S.C. §1391(b)(2).)

FACTS APPLICABLE TO ALL CAUSES OF ACTION

5. According to the United States Census Bureau's website, on or around April 1, 2010, Asian Americans comprised 1.2% of the population of Siskiyou County. By July 1, 2015, the Asian American population increased to 1.4%. (www.commerce.gov/quickfacts/table/PST045215/06093). This increase in Asian Americans in Siskiyou County is the reason why Defendant – by and through the County Board of Supervisors, Sheriff Lopey, the county clerk's office and other county employees/agents – launched an unlawful and discriminatory campaign against Plaintiffs – and other Asian Americans – by only enforcing restrictive local ordinances against them and retaliating if they exercised their right to challenge the actions of Defendant. At all relevant times herein, the County Board of Supervisors was the final decision making authority in matters related to enacting local laws.
6. As a response to the increase in Asian American residents in the county, the Board of Supervisors enacted Siskiyou County Code Section 10-14.030 Nuisance Declared ("SCC 10-14.030") on or about April 7, 2015. SCC 10-14.030 required the following in order to lawfully cultivate medical marijuana in Siskiyou County: a) the cultivator must be a resident of Siskiyou County; b) the property must have an "occupied, legally established residence;" c) the property must be a "county approved wastewater disposal system;" and d) the property must have a "legally established water source." At all relevant times, the County Board of Supervisors exercised its legislative, executive, and quasi-judicial powers when enacting the aforementioned local ordinance. Typically, the county board of supervisors is responsible for refining the local application of state law and public policy.

Through these powers, Defendant enacted SCC 10-14.030.

7. The Siskiyou County Board of Supervisors implemented SCC 10-14.030 for the alleged purpose of addressing the issue of Cannabis cultivation complaints received by the county in early 2015. These alleged complaints occurred and directly coincide with the increase of Asian/Pacific Islander residents moving into the county. The County Board of Supervisors passed SCC 10-14.030 after Plaintiffs – and other Asian Americans – began purchasing property in the rural areas. Although SCC 10-14.030 appears neutral on its face, the intent behind enacting the local ordinance was discriminatory because Defendant only restricted the rights of property owners in rural areas and only enforced the ordinance against Asian Americans. Cannabis cultivation has been occurring in the county for decades. However, it was only after Asian Americans began purchasing property in the rural areas of the county that Defendant took affirmative steps to purportedly regulate this activity.
8. Defendant was aware that Plaintiffs could not comply with the new requirements of SCC 10-14.030 in the time allotted under the ordinance, if at all. For example, some of the Plaintiffs properties, which were cited for being in violation of SCC 10-14.030, did not have access to potable water and, therefore, were legally purchasing potable water delivered by trucks. The local ordinance enacted by Defendant – by and through the County Board of Supervisors – required that the property have a “county approved wastewater disposal system” and a “legally established water source.”
9. SCC 10-14.030 does not impact homeowners with a residential structure and a connection to public works in the same way that it impacts rural homeowners in the county who traditionally have not had access to public works - or the requirement of a residential structure on the property. Plaintiffs reside in areas of Siskiyou County that have not

maintained or established a legal water source. To that end, Plaintiffs – and other property owners in the area - must pay for water delivery to their land in order to drink, cook, and/or use for sanitary purposes. Plaintiffs – and the majority of the Asian American community in the county – reside in the rural areas that have not traditionally been required to maintain or establish legal water sources.

10. Certain Plaintiffs were cited under SCC 10-14.030 and received abatement notices in June/July 2015. Defendant did not give Plaintiffs time to comply with the new rules under SCC 10-14.030, including without limitation, time to obtain building and construction permits, and time to obtain permits to drill wells, as required by the ordinance. Defendant told Plaintiffs that a county inspector would not be available to inspect their respective properties for several months. County inspectors must approve all building and/or well permits prior to commencement of work. The properties owned by Plaintiffs did not have wells because there are no known water aquifers in the areas of Siskiyou County where their respective properties are located. In fact, the County intentionally failed to institute a process for obtaining the necessary permits required by SCC 10-14.030 in order to prevent Plaintiffs – and Asian homeowners in general – from coming into compliance with the new ordinance. Despite these legal impossibilities, the Siskiyou County Community Development Department and local law enforcement officers – which were under the control of Sheriff Jon Lopey - began enforcing SCC 10-14.030 against Plaintiffs – and a significant number of Asian residents in August 2015.
11. A review of the August – September 2015 meeting agendas of the Siskiyou County Administrative Hearing Board (also referred to as the Siskiyou County Planning Commission or “Planning Commission”) reveals that a disproportionate number of

individuals cited for nuisance violations under SCC 10-14.030 were of Asian descent – approximately ninety percent (90%). Taking into account that Asian Americans only represented 1.4% of the total population in the county - such disproportionate and discriminatory enforcement of the law was clearly barred by the Supreme Court in *Yick Wo v. Hopkins* (1886) 118 U.S. 356. At all relevant times, the Planning Commission was acting in its official capacity as the governing administrative board for Siskiyou County. Any and all actions taken by the Planning Commission was performed under the authority granted to the governing body by Defendant.

12. On or about August 19, 2015, at the SCC 10-14.030 abatement hearings conducted by the Planning Commission and the Sheriff's department, counsel for Plaintiffs – and approximately twenty other respondents of Asian descent – convinced the Planning Commission and the Sheriff's department to continue all of the hearings of those persons of Asian descent so that the proceedings before the commission could be explained to the respondent property owners through the benefit of an interpreter. The hearings were continued to September 2, 2015.
13. Prior to September 2, 2015, the Planning Commission announced that it was indefinitely suspending all of the SCC 10-14.030 abatement hearings for nuisance violations. Immediately thereafter and in retaliation for exercising their right to seek redress under the ordinance, Sheriff Lopey and his deputies began raiding the properties of Plaintiffs and the other Asian respondents that requested a hearing under SCC 10-14.030. Sheriff Lopey was vocal in the media about his targeting of Asian residents, publicly referring to them as an "Asian drug cartel" and/or "Gang members." During the raids of late 2015, Sheriff Lopey was personally present for the service of several search warrants on Asian property owners.

At all relevant times, Sheriff Lopey was an employee of Siskiyou County.

14. In November and December of 2015, the Board of Supervisors proposed several revisions to SCC 10-14.030. However, instead of implementing the proposed revisions through their powers as the county board, they decided to put the matter on the June 7, 2016 ballot for voter approval (unlike their decision to enact the underlying language of SCC 10-14.030 in April 2015 without voter approval). The board's suggested revisions and/or restrictions to SCC 10-14.030 became the basis for Measures T and U appearing on the June 7, 2016 ballot in Siskiyou County. But for the actions taken by the County Board of Supervisors and the Sheriff's department – Measures T and U would not have been placed on the June 2016 ballot.
15. Through SCC 10-14.030, the County Board of Supervisors gave Sheriff Lopey final decision-making authority and the legal capability to enforce of the ordinance. Shortly after the Board of Supervisors approved SCC 10-14.030, Sheriff Lopey began enforcing the ordinance against Asian American residents and launched a very public campaign to rid the county of these so-called “newcomers” – which in this instance is code for people of Asian descent. Sheriff Lopey continued to publicly refer to local Asian residents as “criminals,” “gang members” and “cartel members.” Sheriff Lopey, under color of authority, spewed this racist invective for over two years without facts to support his public claims. The County Board of Supervisors ratified the actions of the Sheriff's department by failing to take any action to prevent the disproportionate enforcement of the local law against Plaintiffs and/or the Asian American community in general.
16. OpenJustice is a “data-driven initiative that embraces transparency to strengthen trust, enhance government accountability, and improve public policy in the criminal justice

system.” OpenJustice – published by the California Attorney General’s Office – uses statistical data maintained by the California Department of Justice (“CA DOJ”). According to OpenJustice, from 2005 to 2014, there were approximately 632 Asian/Pacific Islander residents in Siskiyou County, out of a total population of 45,087. The data in connection with the Asian/Pacific Islander population (inclusive of all juveniles and adults), states that there were fewer than thirty (30) arrests from 2005 to 2014. According to this same database, there were only an average of 143.2 crimes committed per year in Siskiyou County from 2005 to 2014. The rate of arrests of Asian/Pacific Islanders was not calculated in the OpenJustice database because there were fewer than thirty (30) arrests of Asian/Pacific Islander in the entire County during that nine year period. However, if you multiply the total population of Asian/Pacific Islanders in the county (1.4%) by the average number of crimes committed in the county (143.2) per year, the result is an average of 2.0048 crimes committed in Siskiyou County by Asian/Pacific Islanders per year. During this same nine year time period, not one police officer was even assaulted in Siskiyou County. This data clearly shows that Defendant did not have a reasonable basis to target Asian American residents in the area. In fact, the statistics show or tend to show – that the incidents of crimes committed by Asian/Pacific Islanders was so de minimus that the rates were not even calculated by the CA DOJ. To that end, the obvious increase in Asian/Pacific Islander raids, arrests and harassment by the sheriff’s department, Planning Commission, County Clerk’s Office and the county board of supervisors was based on xenophobic and racially prohibited beliefs by persons acting under authority and/or color of local and state law.

17. Based on information and belief, Defendant, by and through its employees, including,

without limitation, Sheriff Lopey, the sheriff's department, Planning Commission, the county clerk's office – under the authority of Colleen Setzer, and the County Board of Supervisors, erroneously and offensively believe that the Asian American community in Siskiyou County is collectively operating as an illegal drug cartel, and that their properties were all purchased by loan or promissory note which would be paid off with the proceeds from the harvesting of Cannabis. As such, by destroying the Plaintiff's real and personal property – Defendants wrongfully believe that Plaintiffs would be forced to default on their property loans and leave Siskiyou County. On information and belief, Plaintiffs believe that the deputies and officers who participated in the raids of 2015 (and the "voter fraud" investigations of 2016) share Siskiyou County's erroneous views regarding Plaintiffs - and the Asian community in general – and are acting at Sheriff Lopey's direction.

18. In January and February of 2016, Plaintiffs – along with large numbers of Asian residents – began registering to vote in Siskiyou County, using the County-assigned parcel numbers of their legally owned property as their residential address. These voter registrations were conducted online and by mail, and were submitted directly to Siskiyou County Clerk Colleen Setzer ("Setzer"). According to Setzer, she was responsible for 1) reviewing voter registrations, and 2) submitting them to the California Secretary of State for processing.
19. According to a declaration signed under penalty of perjury, Setzer stated that on January 5, 2016, she forwarded copies of "several voter registration cards" to the Secretary of State Election Fraud Division for investigation. In her declaration, Setzer claims that these cards were flagged "due to irregularities with residence address" specifically that "the majority of the registrants provided parcel numbers as their county residence." Setzer also noted that the handwriting was similar on a number of the registrations. More importantly, she admits

that the registration cards were “received as part of referenda petitions being circulated in the County to overturn recently adopted ordinances for growing marijuana.” Setzer admits that the reason – or moving force – behind her flagging the voter registration forms of Asian American residents is because she believed that they were registering to vote in order to oppose Measures T and U. This is an impermissible, unlawful and discriminatory basis upon which to launch a voter fraud investigation. However, a letter attached to Setzer’s declaration, and attested to as being a true and accurate copy of her January 5, 2016 letter to the Secretary of State, does not list any information related to handwriting on the registrations. Setzer’s letter merely states that the registration cards were “brought to my attention by staff due to irregularities with the residence addresses,” and that “These cards have been received as part of referenda petitions being circulated in the county, to overturn recently adopted ordinances setting restrictions for growing medicinal marijuana.” Setzer specifically requests that the Secretary of State evaluate the voter registration cards for possible registration fraud. It should be noted that Setzer falsely states in her declaration that she received a response from the Secretary of State on or about February 9, 2016, “indicating an investigation into possible violations of the Elections Code would ensue.” A true and accurate copy of that letter was attached to Setzer’s declaration. It merely states that “Our office is evaluating the material you sent us to determine if there are possible violations of the Elections Code.”

20. On information and belief, Setzer began flagging registration forms for voter fraud investigation after her office received over 1,800 new voter registrations from the unincorporated areas of Siskiyou County – the areas primarily populated by Asian Americans. The fact that these registrations were coming from the rural areas of the county

is significant because the County Board of Supervisors and the sheriff's department had a direct interest in making sure that Measures T and U received enough votes to pass in the June 2016 primary election. New voter registrations from the rural areas most affected by Measures T and U would potentially thwart the Defendants' plan to continue to unlawfully target Asian American residents and deprive them of their right to vote and participate in the democratic political process.

21. Setzer and other county officials knew that the rural areas were heavily populated by Asian American residents. Setzer was further aware of Sheriff Lopey's efforts to clear these "newcomers" from the County, and of the County Board of Supervisor's efforts to use local marijuana ordinances to empower Sheriff Lopey to arbitrarily enforce the law against Asian American residents in furtherance of his racist campaign. Setzer contacted Sheriff Lopey and District Attorney Kirk Andrus to notify them about the new voter registrations prior to contacting the Secretary of State. Setzer, Lopey, and Andrus then commenced a voter fraud investigation because 1) they supported Measures T and U, and 2) they were under the belief that the new Asian residents were registering to vote against Measures T and U. The only common denominator between all the voter registration forms that were flagged by the Defendant are the names on the form – which on first glance - appear to be Asian names. This is an unlawful and discriminatory basis upon which to investigate allegations of voter fraud.
22. Between January and May of 2016, Plaintiffs and other Asian American residents of Siskiyou County received letters from the County Clerk's office claiming that additional information was needed in connection with their voter registration forms. Plaintiffs contacted the County Clerk's office for instruction on how to properly register to vote.

They were given conflicting advice at different times. Some were advised that they should use either their parcel number or a physical description of the location of their residence (cross-streets) on their registration forms. Others had been advised that they could use a Post Office Box. In May 2016, Plaintiffs and other Asian American residents of Siskiyou County submitted corrected voter registration forms online so that they would be able to participate in the 2016 primary and statewide elections, and to vote on Measures T and U which directly impacted their ability to use their property.

23. In or around May 2016, Plaintiffs received letters on county letterhead, in envelopes with the county's office as the return address, stating that "the voter registration card you recently sent to this office does not contain all of the information required by law. You may not be eligible to vote until this information is provided to us." These letters were not dated or signed, but were typed on official county letterhead.
24. According to Setzer's declaration, she again flagged all of the second round of incoming voter registration forms submitted by Plaintiffs - and other Asian American residents of Siskiyou County - as fraudulent and forwarded them to the Secretary of State's office. She also forwarded to the Secretary of State information she received from post office branches in the county claiming that "there were a large number of people coming into the branches to obtain a post office box by listing a parcel number as their physical address and then registering to vote using the newly-acquired post office box on the registration card." Again, Setzer falsely states in her declaration that she received a response from the Secretary of State on or about May 19, 2016, "indicating an investigation into possible violations of the Elections Code would ensue." A true and accurate copy of that letter was attached to Setzer's declaration. It merely states that "Our office is evaluating the material

you sent us to determine if there are possible violations of the Elections Code.” Setzer does not document in her declaration any of the inquiries Asian American residents made of her office about how to properly register to vote, nor does she document any of the incorrect and/or misleading advice which her office dispensed to Plaintiffs regarding use of a post office box on the voter registration form.

25. During this same time period, Plaintiffs received letters on the California Secretary of State’s Letterhead, signed by Secretary of State Investigator Alex Nishimura (Badge #5), notifying the recipient that “This office is conducting an investigation regarding a large number of online California Voter Registration forms that were submitted with a Siskiyou County voting residence.” The letter also prompted the recipient to “review the enclosed California Voter Registration form then respond to the statements/questions listed on the questionnaire page.” The questionnaire asked the recipient: (1) if they consented to having the information entered on the California Voter Registration form; (2) if they consented to the entering and submission of their information on the California Voter Registration form; (3) if someone assisted them with completing the California Voter Registration form, and for the identity of that person; (4) where the California Voter Registration form was completed; (5) if there were other people also registering to vote at that location; and (6) if the person named on the California Voter Registration form “live[s] at this address.”
26. On May 31, 2016, Officer Chris McGrew was contacted by Lt Houtman and Sheriff Lopey and was asked to assist investigators from the California Secretary of State’s office that were conducting investigations into possible voter fraud. On that same day, Officer McGrew met with three investigators from the California Secretary of State’s office. The investigators from the Secretary of State’s office told Officer McGrew that in order to vote,

the person must have a legal domicile on the property in which they are registering. At all relevant times, Officer McGrew and Lt Houtman were employees and/or agents of Defendant.

27. Officer McGrew noticed that the Assessor's Parcel Numbers under investigation for voter fraud were all located in the KRCE, Mt. Shasta Vista, and Mt. Shasta Forest areas. Plaintiffs reside in these three areas. In addition, the majority of the Asian population in Siskiyou County lives in these three areas. Officer McGrew acknowledged in a County of Siskiyou Sheriff's Office Case Report, dated June 29, 2016, that a "large influx of people" had recently purchased property in the KRCE, Mt Shasta Vista, and Mt Shasta Forest areas. Further, a declaration of Sheriff Jon Lopey, signed under penalty of perjury, indicates that "[Secretary of State] was unaware of how geographically dispersed the subject properties were as most had parcel numbers with no established addresses." Thus, it is apparent that county officials, such as Setzer and Sheriff Lopey, were aware that persons residing in those rural areas would use county-created and assigned parcel numbers to identify their residences because historically properties in the rural areas did not have established physical addresses.
28. Siskiyou County Chief District Attorney Investigator Marc Perrin, CAL-FIRE Officer Monte Whipple, Secretary of State Investigator Vesha Francies, and Officer McGrew participated in the "voter fraud" investigations on June 1, 2016. Officer McGrew stated in his report that on this day, several more people were added to the investigation teams due to safety concerns and the number of locations that they needed to visit. Sheriff Lopey instructed Chief District Attorney Investigator Marc Perrin and Officer Mark Baird – as well as other police officers present during that meeting - to carry their service rifles during

the investigation with the Secretary of State. The “service riles” referred to are in fact assault rifles. More than one officer was carrying an assault rifle during the voter fraud investigations.

29. Officer McGrew drove with Secretary of State Investigator Vesha Francies in an unmarked detective unit. Officer McGrew was wearing an outer vest with a Siskiyou County Badge on his left chest, and the word “Sheriff” in big yellow letters on the back of his vest. Officer McGrew also admits to carrying an assault rifle on June 1, 2016, while conducting “voter fraud” investigations. CAL-FIRE Officer Whipple was wearing a CAL-FIRE patrol uniform and was driving a marked CAL-FIRE patrol unit.
30. Officer McGrew claims that out of the 20 properties that they visited on June 1, 2016, they only came into contact with one (1) property owner and he was not one of the persons listed on the fraudulent voter registration card generated by the investigators from the Secretary of State.
31. On June 2, 2016, Officer McGrew admits that he made contact with Plaintiff Dang Xiong at the gate in front of the property. Officer McGrew was carrying his assault rifle during his interaction with Plaintiff Dang Xiong. Officer McGrew identified himself as a Sheriff’s Deputy and told Plaintiff Dang Xiong that he was assisting the Secretary of State with their voter fraud investigation. Officer McGrew asked Plaintiff Dang Xiong if he owned the property, to which he answered in the affirmative. Officer McGrew asked Plaintiff Dang Xiong if he had permits for the structure they were sleeping in and whether or not there was running water or a sewer system on the property. This inquiry from Officer McGrew is directly related to the newly established rules under SCC 10-14.030. Plaintiff Dang Xiong told Officer McGrew that he was in the process of trying to obtain a permit from the

County, but the County inspector was not available for several months. Despite this fact, Officer McGrew issued Plaintiff Dang Xiong a citation for (#34702) for a violation of Siskiyou County Ordinance 5-2.13(a). Plaintiff Dang Xiong was criminally prosecuted for this sewer offense in Siskiyou County, Case No. 34702¹.

32. During these encounters on June 1, 2016, and June 2, 2016, additional Plaintiffs were told that they were not allowed to live on their land without a permitted residential structure, an approved water source, and a wastewater disposal system – in connection with the enforcement of SCC 10-14.030. In addition, Plaintiffs were also told that they could not use their property to register to vote, and would be prosecuted if they attempted to vote on June 7, 2016. Each Plaintiff contacted was confronted by police officers agency carrying assault rifles.

33. Sheriff Lopey confirmed that his officers visited 39 properties during the “voter fraud investigation” and acknowledged that one of his officers was armed with a “service rifle.” A “service rifle” is in fact an assault rifle. Based on Officer McGrew’s testimony, more than one officer was armed with an assault rifle during the voter fraud investigations.

Lopey was quoted as saying that the demographics in the area have “shifted dramatically”

¹ On March 15, 2017, the Siskiyou County District Attorney’s Office dismissed the case against Plaintiff Dang Xiong without arguing against a motion Xiong filed pursuant to *Murgia v Municipal Court* (1975) 15 Cal 3d 286, which specifically alleged that the prosecution was the result of racially discriminatory law enforcement in violation of the Fourteenth Amendment. Shortly thereafter, The Siskiyou County District Attorney’s Office opposed a motion filed in the case of two other Asian American defendants on the exact same legal grounds. Honorable Judge Karen Dixon of the California Superior Court for Siskiyou County ruled against the county and ordered the prosecution to produce ten (10) years of records relating to the enforcement of medical Cannabis ordinances, voter fraud investigations, and law enforcement’s use of assault rifles.

By her order, Hon. Judge Dixon necessarily found that Plaintiffs counsel made a prima facie showing of intentional, invidious discrimination in the enforcement of the law in Siskiyou County. Immediately upon Hon. Judge Dixon granting the *Murgia* motion and ordering the discovery of materials that would establish the intentional racial discrimination against Asian Americans in Siskiyou County, the Assistant District Attorney dismissed the case. In other words, rather than submit to the order requiring the production of documents, the District Attorney decided to dismiss the action and thereby prevent disclosure of the materials which would prove intentional racial discrimination on the part of the county.

in recent years, and stated: “I believe some of these Asian Americans were manipulated, perhaps cajoled or coerced into filling out voter registration cards”; and “[a] lot of these people haven’t been here for a long time.” This statement clearly reflects Sheriff Lopey’s manifested disdain for the Asian American “newcomers,” as well as his intent and belief that Asian Americans were “coerced” into registering to vote. Moreover, Lopey’s false allegations were manufactured to support his contention that Asian Americans are criminals that should be investigated by publically and falsely painting them as a sophisticated criminal organization.

34. On June 3, 2016, the District Attorney and Sheriff Lopey issued a joint press release confirming that State of California investigators, with the assistance of the Siskiyou County District Attorney’s Office and the Siskiyou County Sheriff’s Office, a CAL-FIRE investigator, the Siskiyou County Assessor, Siskiyou County Clerk, and Siskiyou County Planning Department conducted a “series of voter fraud investigations” on May 31 and June 1-2 in three areas of Siskiyou County: the Klamath River Country Estates (“KRCE”) in Hornbrook, Mt. Shasta Vista, and Mt. Shasta Forest. The press release also confirmed that misdemeanor citations were issued for “county ordinance violations.” In this press release, Sheriff Lopey warned: “Voter fraud and illegal voting provisions of law [*sic*] are felony offenses that carry a penalty of up to 3 years for each violation.” In the same press release, District Attorney Kirk Andrus commended the State for taking the voter fraud allegations seriously, and stated: “I put those on notice that have registered to vote at a place where they do not live in an effort to fraudulently impact an election, and then follow through by casting a vote, that we will pursue these cases very seriously.” To date, not one voter fraud case has been filed by the County or the State of California against the

individuals that were investigated in 2016 by this aggressive multi-agency taskforce.

35. On or about June 6, 2016, the American Civil Liberties Union, the Secretary of State, and the Attorney General's office took steps to monitor the June 7, 2016, primary election in Siskiyou County. Plaintiffs – and the vast majority of Asian voters – were not listed on the rolls of registered voters and were forced to vote provisionally.
36. Since the passage of local county Measures T and U on June 7, 2016, which unilaterally declared the outdoor cultivation of medicinal Cannabis a public nuisance (Siskiyou Co. Code sec. 10-14.030) and created a civil enforcement procedure which subverts the traditional warrant requirements of the Fourth Amendment (Siskiyou Co. Code sec. 10-14.090) (“2016 Ordinance”), Defendants have continued to engage in the racially selective prosecution of Asian American residents. Defendants have deliberately policed subdivisions where high concentrations of Asian American property owners are known to reside. Further, notices of nuisance violations have been issued overwhelmingly to Asian property owners as opposed to white property owners, which comprise the majority racial population in Siskiyou County.
37. From 2015 to the present, representatives of the County made public statements about Plaintiffs and other Asian American residents that are not supported by facts. These statements served to fuel xenophobic and racist beliefs about Asian residents, despite the facts and statistics published by CA DOJ and the California Attorney General's Office stating the exact opposite about the criminal activity of Asian residents in Siskiyou County.
38. Defendant, by and through its representatives, employees and/or independent contractors, created and continues to maintain a climate of fear, intimidation, and racially motivated disenfranchisement and persecution of Plaintiffs and other Asian Americans in Siskiyou

County. Defendants' intimidation tactics are directed towards those Asian Americans that have attempted to register to vote and/or attempted to seek redress after false claims were alleged by the local police officers, Planning Commission, Board of Supervisors and/or the county clerk's office. Moreover, through the racially selective intimidation of Plaintiffs, Defendants' actions constitute an unconstitutional taking in violation of the Fourteenth Amendment, and implicate the equal protection laws guaranteed by the Fifth Amendment.

39. Measures T and U took effect on July 2, 2016. Asian American residents began receiving notices of nuisance violations under the new 2016 Ordinances as early as July 12, 2016. On July 20, 2016, deputies of the Siskiyou County Sheriff's Office issued a public statement in the media claiming that 21 nuisance violation notices had been issued in the first week of enforcement. At least 33 of the 39 total nuisance violation notices (or approximately 85%) issued under the new 2016 Ordinance were issued to Asian American property owners.
40. On or about August 29, 2016, Code Enforcement Officer Seth Dressler patrolled the subdivision of Iron Gate, located in Supervisorial District 1 and known to contain a large concentration of Asian American property owners. Officer Dressler issued at least 10 nuisance violations to Asian American property owners, including Plaintiffs. Administrative hearings were timely requested by Plaintiffs on September 2, 2016. Plaintiff Dang Xiong requested an administrative hearing, and was raided by Sheriff's officers days after making such request.
41. A declaration of Interim Director of the Siskiyou County Community Development Department ("CDD"), signed under penalty of perjury, states that "After the County's Board of Supervisors July 5, 2016 certification of the vote on ... Ordinance 15-18 ... and 15-19 ... Notices and Orders to Abate ("NOA") pursuant thereto were issued. ... CDD then

scheduled twenty-two (22) administrative hearings on the NOAs before a Hearing Officer for University of the Pacific, McGeorge School of Law.” It should be noted that counsel for Plaintiffs represented no less than thirty (30) Asian American residents of Siskiyou County who received NOAs, all of whom requested administrative hearings. Twelve of those Asian American residents received hearings and the remainder were never scheduled, including Plaintiff Dang Xiong’s requested hearing. Plaintiff Dang Xiong’s property was raided days after he requested an administrative hearing, in direct retaliation for the exercise of his right to seek redress of a public grievance and due process under the law. Non-Asian American residents who received nuisance violation notices and requested abatement hearings were provided hearings and were not raided by the sheriff’s department. Thus, seizures of property in 2016 constitutes an unconstitutional taking and intentional denial of Plaintiffs’ due process rights under the Fifth Amendment to the United States Constitution, and each raid of an Asian American owned property constitutes a violation of the equal protection clause of the Fourteenth Amendment.

42. Beginning on September 7, 2016, Defendant executed a series of search warrants in a systematic sweep of the Iron Gate subdivision. These search warrants were served primarily on Asian residents and property owners who had requested hearings on September 2, 2016 under the new 2016 Ordinance. Plaintiff Dang Xiong was among the individuals raided who had previously requested, but not received, and administrative hearing.
43. In September 2016, local police officers began executing search warrants, residents who were present were handcuffed and held at gunpoint while their properties were ransacked, and personal belongings were damaged or destroyed. Those residents who were not present

for the raids - returned to find their personal belongings strewn about the ground of their homes, water bottles emptied for no reason, food wrappers thrown around their living spaces, and furniture rearranged or upended. Defendant, by and through its local law enforcement officers, searched and seized personal property, without legal cause or justification. To date, only two criminal cases have been filed in connection with these searches, despite the fact that Sheriff Lopey has claimed that over one hundred (100) warrants were executed. Both of the criminal cases were filed against Asian Americans. Not one single case was filed against non-Asian residents after the raids in 2015 or 2016.

44. On September 7, 2016, counsel for Plaintiffs sent a Notice to Cease and Desist to Defendant, demanding a cessation to the raiding of properties which had recently requested administrative hearings under the new 2016 Ordinance. On September 8, 2016, County Counsel Natalie Reed sent a letter to Plaintiffs' counsel advising that the September 7, 2016, raids were "potential ongoing criminal enforcement processes" and not administrative abatements. Reed advised that "the County's use of administrative abatement proceedings is not the exclusive remedy for violations of its Code. The County may, in addition to instituting administrative proceedings, also simultaneously pursue violations criminally or through civil actions." However, the County cannot pursue violations criminally and/or civilly in violation of the United States Constitution. Defendant issued search warrants only against those Asian Americans that requested a hearing in 2016. This pattern or custom of punishing Plaintiffs – and Asian Americans – for exercising their constitutionally protected rights has been ongoing since 2015 when Asian Americans first began purchasing property in Siskiyou County.

PARTIES

A. Individual Plaintiffs

Jesse Vang

45. Plaintiff JESSE VANG (age 45) is a landowner in Siskiyou County, California. Mr. Vang purchased the property in March 2016.
46. No well or septic system existed on the property when Mr. Vang purchased it. Mr. Vang began taking steps to obtain the proper permitting in order to bring the property up to code.
47. On June 2, 2016, Mr. Vang was working on his property when he heard someone call out his name. When he turned towards the direction of the voice, he saw a sheriff's deputy standing at his gate holding an AR-50 assault rifle.
48. Mr. Vang asked the deputy the purpose of his visit, and the deputy informed him that he was investigating voter fraud. There were two vehicles parked outside of the gate, and in a location where Mr. Vang could not see their respective license plates.
49. When Mr. Vang opened the gate for the deputy, a second plain clothed officer approached him and asked him for his name and identification. When Mr. Vang asked the officer for his name and badge, the officer initially refused to disclose this information. Eventually, Mr. Vang was able to identify this individual as Nishimura, an agent of the California Secretary of State.
50. Nishimura told Mr. Vang that he would go to jail if he voted on June 7, 2016, because he did not register properly online.
51. Mr. Vang was terrified by the interaction with Nishimura, and other unidentifiable sheriff's deputies and/or government agents and employees, and felt particularly threatened by the

presence of the assault rifles. Mr. Vang grew up in Laos and Thailand during the Vietnam War. This experience with the Defendants triggered many traumatic childhood memories for Mr. Vang and put him in a state of mental panic. He has had continuous nightmares since the incident, and is afraid to be alone on his property.

52. After June 2, 2016, Mr. Vang went to the Siskiyou County Clerk's office and spoke with County Clerk Setzer. He received a letter from the County Clerk stating that he was not registered to vote. Setzer informed him that he could not use his property to register to vote. She told him to register to vote with an out of county address.
53. On or about October 18, 2016, or October 19, 2016, deputy sheriffs went to Mr. Vang's property while he was away from the property. They took his Honda Generator 3000, his walking cane, heat blowers, the tarp over his truck and various food items from his cooler. The deputy sheriffs left a property receipt, but no search warrant. They also failed to list the above listed items on the property receipt that was left on the premises.
54. Because of the actions of Alex Nishimura and the sheriff's deputies in June 2016, and again in October 2016 (right before the General Election), Mr. Vang was afraid to vote – and did not do so fearing arrest. Mr. Vang did not vote on June 7, 2016, or November 8, 2016.

Wang Chang

55. Plaintiff WANG CHANG (age 47) is a landowner in Siskiyou County, California, who purchased his property in May 2016.
56. On or about June 1, 2016, Mr. Chang was on the property with his brother when a Ranger and another white vehicle drove onto the property. Mr. Chang and his brother began to approach the vehicles when the rear passenger of the white car exited the vehicle holding a long black gun and pointed it at them.
57. Mr. Chang was confused and did not understand why these individuals were there with

assault rifles. He was terrified because he does not speak English. He believed that they were going to trying to kill him.

58. Mr. Chang fought for the United States in the Vietnam War, and seeing the assault rifle in the ready position aimed at his body-triggered memories of fighting in the war. Panicked, Mr. Chang and his brother fled, jumping two fences to escape the danger, hurting themselves in the process.
59. Mr. Chang registered to vote using his property as his primary residence. When he went to vote on June 7, 2016, he was required to vote on a provisional ballot.

Joua Chao Moua

60. Plaintiff JOUA CHAO MOUA (age 58) is a landowner in Siskiyou County, California. Mr. Moua purchased his property in April 2016. Mr. Moua registered to vote in May 2016 and used his property as his primary place of residence.
61. On June 2, 2016, two SUV's came to his property. One person exited each vehicle. One person was in plain clothes, and the other in a police uniform. Both people were carrying sidearm guns, and the uniformed officer was also carrying an assault rifle. Mr. Moua observed them trying to open the gate to enter his property.
62. Mr. Moua heard stories about armed police officers visiting properties owned by Hmong people. When he saw the armed officers at his gate, he was terrified. He watched the armed individuals from a hiding place on his property. After thirty minutes, the armed individuals left his property.
63. Mr. Moua underwent an Angioplasty and Vascular Stenting in 2000. The incident on June 2, 2016, caused him to have difficulty breathing, which elevated his heart rate and blood pressure. After the armed individuals left his property, Mr. Moua began experiencing sharp pain in his chest and fainted.

64. Mr. Moua was rushed to the Redding Regional Hospital Emergency Room on June 2, 2016, where he was prescribed medication for his heart complications.

Alexander Vang

65. Plaintiff ALEXANDER VANG (age 26) is a landowner in Siskiyou County, California.

Mr. Vang purchased the property in March 2016.

66. On or about June 2, 2016, Mr. Vang was on his property when two vehicles arrived - one was a marked sheriff's vehicle and the other was unmarked.

67. One sheriff's officer exited the marked vehicle armed with a handgun and an assault rifle hanging over his shoulder. A plain clothed person remained in the unmarked vehicle and was armed with a handgun.

68. Mr. Vang approached the sheriff's officer as he exited the vehicle and introduced himself. The sheriff's officer asked him if he had a well and a septic tank. Mr. Vang responded in the affirmative and informed the officer that he had applied for well and septic tank permits.

69. The man in the unmarked vehicle approached Mr. Vang and introduced himself as a "Siskiyou County District Attorney." The attorney told him that he was not registered to vote because he did not have a mailing address.

70. Mr. Vang did not vote on June 7, 2016, because of the information he received from the attorney on or about June 2, 2016.

Dang Xiong

71. Plaintiff DANG XIONG (age 27) is a landowner in Siskiyou County, California. Mr.

Xiong purchased his property in April 2016.

72. There were no structures on the property when he purchased it. Mr. Xiong registered to vote in May 2016, shortly after he purchased the property.

73. On the morning of June 2, 2016, a white pickup truck, a CAL-FIRE truck and a four-door sedan approached Mr. Xiong's gate. A sheriff's deputy exited the pickup truck and scanned Mr. Xiong's property with field glasses. When he noticed Mr. Xiong standing in the distance, he waved for him to approach the vehicles.
74. As Mr. Xiong approached the vehicles, the sheriff's officer and the person in the CAL-FIRE truck pulled out two assault rifles. The sheriff's officer and the person in the CAL-FIRE truck were wearing camouflage, bulletproof vests and had pistols on their hips. One man (who identified himself as a representative of the State) and one female with a badge exited the sedan.
75. The sheriff's officers asked Mr. Xiong to identify himself, which he did. The female asked him if he had registered to vote, and he replied affirmatively. The female asked Mr. Xiong for identification, and he handed it to her. She passed the identification to the sheriff's officer.
76. The sheriff's officer told Mr. Xiong that he could not stay on his property without a sewer and water, and he was not allowed to have a "Port-a-Potty" on his property. Mr. Xiong told the officer that he was "in line" and waiting for the contractor to drill for a well. The sheriff's officer said that he did not care and wrote Mr. Xiong a citation.
77. The sheriff's officer also told Mr. Xiong that he could not vote without a physical address, and if he did vote - he would go to jail.
78. Mr. Xiong was afraid to vote after this interaction with armed sheriff's officer and CAL-FIRE agent(s). Mr. Xiong felt that the armed individuals were ready to "gun someone down." However, Mr. Xiong did go to his polling place on June 7, 2016, but was told that he had to vote using a provisional ballot.

79. On August 29, 2016, Mr. Xiong received a nuisance notice pursuant to the 2016 Ordinance. On September 2, 2016, Mr. Xiong requested an administrative hearing under the 2016 Ordinance.
80. On September 7, 2016, Mr. Xiong's property was one of the Iron Gate properties raided pursuant to a search warrant. Mr. Xiong was not home at the time of the raid. When he returned to his property, he found that some of his property, including medicinal Cannabis plants, had been clear-cut and seized. Additionally, he found that his trailer had been ransacked, with his personal belongings strewn about the floor of his trailer and furniture upended. He found that several bottles of his drinking water had been drunk, and the waste from those water bottles and other wrapped food items were strewn about. The gate to his lock was cut and his gate was damaged. Plaintiff Dang Xiong was not cited nor arrested, and he presently does not have any charges filed against him. On March 15, 2017, the Siskiyou County District Attorney's Office dismissed the misdemeanor charge against him of residing on his property without a sewer (Siskiyou County Ordinance 5-2.13) on June 2, 2016. At that time, Plaintiff Dang Xiong filed a motion seeking ten years of records relating to voter fraud investigations in Siskiyou County, the enforcement of Siskiyou County Ordinance 5-2.13, and marijuana investigations and prosecutions in Siskiyou County. The District Attorney's Office did not oppose the motion.
81. On October 13, 2016, deputy sheriffs again went to Mr. Xiong's property and cut the lock and the chain to his gate. The "No Trespassing" signs were knocked down and torn apart. The sheriff deputies took his Honda EU2000i generator, and threw my personal property around my RV. The sheriff deputies were heavily armed with both handguns and assault rifles.

82. Mr. Xiong was handcuffed, arrested and taken to jail without understanding what he had done wrong. Mr. Xiong was afraid to vote on November 8, 2016, because of the treatment he received from local law enforcement.

Dollarsai Yurgh

83. Plaintiff DOLLARSAI YURGH (age 51) is a landowner in Siskiyou County, California. Mr. Yurgh purchased his property in February 2016. The only structure on his property at the time of purchase was an 8 x 8 shed and a “Port-a-Potty.”
84. Mr. Yurgh applied for county well and septic permits. His permit applications are on file with the County, and he is waiting for the county to conduct a “pour test.”
85. In early June of 2016, Mr. Yurgh was on his property with his brother when he noticed three vehicles drive onto a neighboring lot: a CAL-FIRE truck, a white Ford pickup truck and a small passenger vehicle. The white Ford pickup truck drove over to Mr. Yurgh’s gate, two sheriff’s officers exited the vehicle, and *ordered* Mr. Yurgh to approach them. One of the sheriff’s officers was carrying an assault rifle.
86. As Mr. Yurgh approached them, one sheriff’s officer yelled, “Show me your hands!!” The plain clothed officer flashed a badge and stated that he was with the Secretary of State. He informed Mr. Yurgh that he was there to “audit for the vote.” The agent from the Secretary of State’s office was holding a piece of paper with a list of names, and told Mr. Yurgh that those names were registered to his property.
87. The agent from the Secretary of State’s office told Mr. Yurgh that he could not vote without a physical address, and must be a resident in the county for one hundred sixty (160) days before being eligible to vote. He also told Mr. Yurgh that he would go to jail if he tried to vote without a physical address.
88. Mr. Yurgh did not vote because he did not want to go to jail.

Joua Yeng Vang

89. Plaintiff JOUA YENG VANG (age 50) is a landowner in Siskiyou County, California. Mr. Vang purchased his property in February 2016.
90. On or about June 1, 2016, Mr. Yang and his girlfriend noticed a white pickup truck drive onto his property. A second truck was parked outside of the gate. Three people (two male, one female) exited the vehicles and approached Mr. Yang. One of the men was white and the other appeared to be Native American.
91. The white man asked Mr. Vang for identification, which he provided. The white man then asked him if he had registered to vote. Mr. Vang replied affirmatively. The white man asked him for the address he used when he registered. Mr. Vang said he did not remember. Mr. Vang then asked the white man to identify the agency he was representing. The white man said he worked for the Siskiyou County Sheriff's office, and then asked Mr. Vang to write down his address. Mr. Vang wrote down his Assessor's Parcel Number ("APN").
92. This sheriff's officer told Mr. Vang that he had no right to vote - even if he owned the property. The sheriff's officer told him that he could not, and should not vote because - if he did - he would go to jail.
93. Mr. Vang became frightened and scared and started shaking. Mr. Vang's girlfriend then asked the sheriff's officer if she could vote. The sheriff's officer told her that if she used this property to vote that she would "go to jail for sure."
94. Mr. Vang and his girlfriend waited for the sheriff's officer and others to leave the property. After they were out of sight, Mr. Vang immediately left the property.
95. Mr. Vang went to his polling place on June 7, 2016, and had to vote using a provisional ballot. Mr. Vang is afraid to go to his property because he is scared that the officers will come back and arrest him.

Manisy Moua

96. Plaintiff MANISY MOUA (age 53) is in lawful possession of a property located in Siskiyou County, California, which her son purchased in December 2015. Ms. Moua used the address connected to this property on her voter registration. She has resided in a mobile home on that property since December 2015.
97. On June 2, 2016, Ms. Moua was driving home when she noticed two sheriff's officers (one in an SUV, the other in a sedan) on her neighbor's property. One of the sheriff's officers was armed with a "long gun," and the other was carrying a handgun. As she drove past her neighbors' property, she noticed that the officers were walking back to their cars.
98. As Ms. Moua drove to her property, the two sheriffs followed her in their vehicles. When she stopped and exited her car at the gate of her property, the officers pulled up behind her. The sheriff's officer with the handgun approached her at the gate.
99. The sheriff's officer asked her if she was registered to vote. She replied affirmatively. The sheriff's officer then told her that she could not vote because she does not have a septic tank or water.
100. Ms. Moua was harassed by local sheriff's deputies. She feared they would come back and arrest her. She was scared by the encounter because she heard about other people in the Hmong community being harassed and intimidated by local sheriff's deputies.
101. Ms. Moua received a letter from the Siskiyou County Clerk informing her that her voter registration had been processed. Ms. Moua voted by Mail. Ms. Moua received a second letter from the Siskiyou County Clerk's office informing her that her vote did not count.

Poua Vang

102. Plaintiff POUA VANG (age 42) is a landowner in Siskiyou County, California. Mr. Vang purchased the property in March 2016.

103. Approximately two or three days before the election on June 7, 2016, Mr. Vang observed three people (two male, one female) walking around the perimeter fencing of his property. One male appeared to be a sheriff's officer, and the other male identified himself as an attorney. The female told Mr. Vang that he could not live on his property.
104. The male that identified himself as an attorney asked Mr. Vang if he had registered to vote. Mr. Vang replied in the affirmative. The attorney then told Mr. Vang that he would be in violation of the law if he registered to vote using his property address.

Richard Vang

105. Plaintiff RICHARD VANG is a landowner in Siskiyou County, California.
106. On or about June 2, 2016, Mr. Vang was on his property when he heard cars coming up the hill. As they approached, Mr. Vang could see that there were two cars, a sheriff's vehicle and an unmarked vehicle. Mr. Vang's brother approached the vehicles when they reached the property.
107. Mr. Vang went down to speak to the sheriff's officers after they told his brother - Mr. Alexander Vang - that they wanted to speak to him. The sheriff's officer asked him if he had registered to vote. Mr. Vang replied in the affirmative. The sheriff's officer then told him that he could not vote without a physical address and a residential structure on the property. The sheriff's officer asked him about the well and septic system on the property. Mr. Vang informed them that the well and septic system were permitted.
108. Mr. Vang did not vote on June 7, 2016, because of this encounter.
109. Plaintiffs DOES 1-200 are resident homeowners in Siskiyou County who suffered similar fates as the plaintiffs described herein. In particular, they were visited by Defendants prior to the June 7, 2016, election and told that they were not allowed to vote and/or were in violation of SCC 10-14. Plaintiffs are ignorant of their true identities at this time and will

amend the complaint once their true identities are known.

B. Defendant

110. Defendant COUNTY OF SISKIYOU is, and at all relevant times mentioned herein, a municipal corporation within the State of California.
113. Plaintiffs are not aware of the true names of defendants described herein as Does 1 through 200, inclusive, and therefore sue said defendants by such fictitious names. Plaintiffs will amend this complaint to allege their true names and capacities when ascertained. Plaintiffs are informed and believe, and therefore allege that each of the Doe defendants is legally responsible and liable for the injuries and damages hereinafter set forth, and that each of the said defendants directly and/or proximately caused said injuries and damages by reason of their violation of constitutional and legal rights.
114. Each of the defendants caused and is responsible for the unlawful conduct and resulting injuries by, including without limitation: personally participating in the unlawful conduct and/or acting jointly or conspiring with others who did so by authorizing, acquiescing or setting into motion such policies, plans or actions which led to the unlawful conduct; by failing to take action to prevent the unlawful conduct; and by ratifying the unlawful conduct that occurred by agents and officers under its/their direction and/or control. Defendants, individually and collectively, had a duty to protect the constitutional rights of Plaintiffs.
115. In the commission of the acts alleged herein, Defendants, individually and collectively, acted as agent, servant, employee, partner, joint-venturer, co-conspirator and/or in concert with each of said other defendants; and in engaging in the conduct alleged herein, were acting with the permission, knowledge, consent and ratification of their co-defendants.

116. In the commission of the acts alleged herein, Defendants acted under color of law and during the course and scope of their employment with the County of Siskiyou or State of California.
117. Defendants actions were willful, wanton, malicious and oppressive, and done with total disregard for the civil rights, property rights and other legal rights of Plaintiffs as citizens of the United States, thereby justifying the award of exemplary and punitive damages.

STATEMENT OF DAMAGES

118. As a result of the alleged acts and omissions, Plaintiffs have incurred, and will continue to incur, monetary damages for loss of personal property, liabilities incurred in trying to comply with the 2015 and 2016 ordinances in an unreasonable time period (which puts an unreasonable financial burden on Plaintiffs to, including without limitation, dig for wells in areas of the county with no known aquifers), and the loss of the use and quiet enjoyment of their real property,
119. As a result of the alleged acts and omissions, Plaintiffs suffered, and will continue to suffer, general damages including, without limitation, pain, fear, anxiety, terror and other related trauma in an amount to be determined according to proof at trial. In addition, certain Plaintiffs have suffered physical injuries that impact their quality of life and daily life activities.
120. As a result of the acts and/or omissions of Defendant, Plaintiffs have incurred, are likely to continue to incur, and/or may incur in the future, medical treatment and related recovery expenses in amounts to be determined according to proof at trial.
121. The acts and/or omissions of Defendant were willful, wanton, reckless, malicious,

oppressive and/or done with a conscious disregard for the rights of Plaintiffs. Plaintiffs therefore pray for an award of punitive and exemplary damages against Defendants according to proof at trial.

122. Plaintiffs have retained private counsel to represent them in this matter and are entitled to an award of attorneys' fees and costs.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

[42 U.S.C. §1983 – RACIAL DISCRIMINATION IN VIOLATION OF THE EQUAL PROTECTION CLAUSE OF THE FOURTEENTH AMENDMENT]

123. Plaintiffs hereby re-allege and incorporate by reference as though fully set forth herein all prior paragraphs of this Complaint.

124. 42 U.S.C. §1983 provides that:

Every person, who under color of any statute, ordinance, regulation, custom or usage of any state or territory or the District of Columbia subjects or causes to be subjected any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the constitution and law shall be liable to the party injured in an action at law, suit in equity, or other appropriate proceeding for redress...

125. Plaintiffs herein are citizens of the United States and the Defendant is a person for purposes of 42 U.S.C. §1983.

126. In doing the acts and/or omissions alleged herein Defendants and Does 1-200, including without limitation its employees and/or agents, and each of them jointly and severally, were acting under color of state law in their capacity as a members of the county board of supervisors, police officers, members of the Planning Commission, and employees of the County Clerk's office, respectively, and their acts or omissions were conducted within the

scope of their official duties or employment.

127. At all relevant times, Plaintiffs had clearly established constitutional right to be free from racial discrimination in law enforcement by police officers, the Planning Commission and the Board of Supervisors and to enjoy the equal protection of the laws.
128. Plaintiffs, as Asian Americans, are members of a protected class, and thus also had a clearly established constitutional right to be free from racially motivated retaliation for voting and seeking redress from public grievances.
129. Any reasonable police officer, planning commissioner, county clerk and/or member of the county board of supervisors knew or should have known of these rights at the time of the complained of conduct as they were clearly established at that time.
130. Plaintiff's race was a motivating factor in the decisions to 1) enforce local ordinances against them in both 2015 and 2016, 2) use of excessive force when investigating alleged voter fraud and/or execution of search warrants, and 3) target and prosecute Asian Americans under the relevant local ordinances. Defendants' conduct was undertaken with the purpose of depriving Plaintiffs of their right to the equal protection of the laws, equal privileges and immunities under the law, and due process in violation of the Fourteenth Amendment to the United States Constitution.
131. Defendants engaged in the conduct described herein intentionally, willfully, maliciously, in bad faith and in reckless disregard of Plaintiffs' federally protected rights to equal protection of the laws.
132. The acts and/or omissions of Defendant, by and through its employees, agents and/or representatives, were moving forces behind Plaintiff's injuries.
133. The acts and/or omissions of Defendant, by and through its employees, agents and/or

representatives, intentionally deprived Plaintiffs of their constitutional rights and caused Plaintiffs damages.

134. Defendant is not entitled to qualified immunity for the complained of conduct.
135. At all relevant times, Defendant was acting pursuant to local county custom, policy, decision, ordinance, regulation, widespread habit, usage, or practice in their actions pertaining to Plaintiffs.
136. As a proximate result of Defendants' unlawful conduct, Plaintiffs suffered actual physical and emotional injuries, and other damages and losses, as described herein, in an amount to be determined at trial.
137. In addition to compensatory, economic, and consequential damages, Plaintiffs are entitled to punitive damages against Defendant under 42 U.S.C. §1983, in that the actions of Defendant were willful, malicious, or were taken with reckless or wanton disregard of the constitutional and statutory rights of Plaintiffs.
138. Defendants' practice or custom of targeting Asian residents in the County began in 2015 as the number of Asian/Pacific Islander residents increased from 1.2% to 1.4%. This influx of new Asian American residents caused a racial backlash from Defendant that is still ongoing to this day. Defendant and Does 1-200, and each of them jointly and severally, conspired to deny Plaintiffs the right to seek redress for public wrongs when Defendant denied Plaintiffs the right to a due process hearing in 2015, and then subsequently punishing them by obtaining criminal search warrants to search their property and remove their personal belongings from their residence.
139. Defendant, by and through its police officers, went to Plaintiff's properties on June 1, 2016, and June 2, 2016 (days before the June 7, 2016, California Primary Election), to

“investigate” voter fraud, and executed search warrants against Plaintiffs from September through October 2016 (weeks leading up to the November 8, 2016, General Election).

Pointing assault rifles, destroying property, and preventing the delivery of water (the very essence of life) to Plaintiffs was not a part of any lawful voter fraud investigation, and it exceeds the reasonable force required to execute search warrants issued from September through October 2016. These acts were done for the sole vindictive purpose of intimidating Plaintiffs and other Asian American residents in the county and to punish Plaintiffs for their participation and attempts at participation in the 2016 elections and other protected First Amendment activities (assembly, association, speech, and petition for redress).

140. Mr. Jerry Indihar owns and operates two potable water trucks in Siskiyou County. Mr. Indihar is legally licensed to haul potable water, and his trucks clearly display the requisite identification to allow for such service. In May 2016, local law enforcement vehicles began following Mr. Indihar’s water truck and photographing him as he delivered water to Asian Americans in Siskiyou County. In late May to early June 2016, Mr. Indihar observed two law enforcement officers talking to an Asian American resident in the area, one of whom was carting an assault style rifle. In July 2016, Mr. Indihar was in his water truck – on his way to make deliveries – when he was pulled over by two local law enforcement officers and a third person that identified himself as a prosecuting attorney. One officer identified himself as a federal law enforcement officer. The police officers told Mr. Indihar that he would be arrested, jailed and charged with felony conspiracy if he did not stop delivering water to “these properties” – meaning properties owned by Asian Americans. Mr. Indihar did not deliver water to Asian Americans after this encounter or fear of arrest

and prosecution, even though he knew that the Asian American residents would be left without a source for drinkable water.

134. The practice and/or custom of targeting Asian Americans has been consistent and continuous since 2015 after the County Board of Supervisors enacted a local ordinance that was intended to target Asian landowners in the rural areas of the county. The Board of Supervisors gave the local sheriff's department the statutory right to enforce the ordinance. Local law enforcement intentionally enforced SCC 10-14.030 solely against Asian landowners in the rural areas of the county. After the Asian landowners requested a due process hearing, as established by SCC 10-14.030, Defendant, by and through the Planning Commission, suspended such proceedings, thereby preventing Plaintiffs from seeking redress of the allegations in the abatement notice.
135. In September 2016, after the abatement hearings were suspended by the Planning Commission, local law enforcement officers immediately executing search warrants in order to criminally pursue those persons that had exercised their right to a due process hearing in order to retaliate against them for exercising their right to seek redress under the relevant local law.
136. In December 2015, the Board of Supervisors decided to modify SCC 10-14.030 and qualify the modified ordinance (Measures T and U) to be placed on the ballot in June 2016. Beginning in January 2016, Plaintiffs – and other Asian American residents in the county - began registering to vote. After Plaintiffs took steps to exercise their right to vote, Defendant, by and through its County Clerk Colleen Setzer, launched a voter fraud investigation with the California Secretary of State in order to prevent Asian Americans – and Plaintiffs – from exercising their right to oppose Measures T and U. This practice

and/or custom of retaliating against Plaintiffs for exercising their protected First Amendment activities (assembly, association, speech, and petition for redress) is so widespread that the conduct complained of herein was never investigated by Defendant, nor was the conduct of the employees, officers, and/or agents of Defendant ever punished, reprimanded or disciplined for threatening Plaintiffs with criminal prosecution if they exercised their right to vote or unlawfully destroying their personal belongings during these “investigations.” The Defendant’s policy of targeting Asian Americans in the county is so closely related to the deprivation of the Plaintiff’s right to equal protection of the law as to be the force that caused the ultimate injury – denial of the franchise and the right to the quiet enjoyment and use of their property.

WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

SECOND CAUSE OF ACTION

[42 U.S.C. § 1983-RETALIATION IN VIOLATION OF THE FIRST AMENDMENT]

137. Plaintiffs hereby re-allege and incorporate by reference as though fully set forth herein all prior paragraphs of this Complaint.

138. 42 U.S.C. §1983 provides that:

Every person, who under color of any statute, ordinance, regulation, custom or usage of any state or territory or the District of Colombia subjects or causes to be subjected any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the constitution and law shall be liable to the party injured in an action at law, suit in equity, or other appropriate proceeding for redress...

139. Plaintiffs herein are citizens of the United States and the Defendant is a person for purposes of 42 U.S.C. §1983.

140. In doing the acts and/or omissions alleged herein Defendant and Does 1-200, including without limitation its employees and/or agents, and each of them jointly and severally, were acting under color of state law in their capacity as a members of the county board of supervisors, police officers, members of the Planning Commission, and employees of the County Clerk's office, respectively, and their acts or omissions were conducted within the scope of their official duties or employment.
141. At all relevant times, Plaintiffs had clearly established constitutional right to be free from retaliation for the exercise of protected speech.
142. Any reasonable police officer, county clerk or planning commissioner would know or should have known of Plaintiffs right to be free from retaliation for the exercise of protected speech at the time of the complained of conduct – as it was clearly established at this time. From June 2015 to the present, Defendant, by and through, including without limitation, its employees, independent contractors, representatives, prosecuted Plaintiffs and Asian residents in the county both civilly and criminally at a rate extraordinarily disproportionate to the Asian population in the county (approximately 1.4% in 2015 based on information published by the United States Census Bureau) after they began exercising their right to contest the allegations charged against them by the Planning Commission, Sheriff's department, County Clerk's office and/or the District Attorney's office.
143. Plaintiffs exercised their constitutionally protected right to seek redress under the local ordinance and/or engage in protected speech related to the constitutional rights of citizens with respect to searches of their property by police and malicious police conduct during the enforcement of the local laws.
144. Defendant began retaliating against Plaintiffs after exercising their constitutional right to

seek redress under SCC 10-14.030, and again after they filled our voter registration forms and filed them with the County Clerk's office. The County Clerk – Colleen Setzer – flagged Plaintiffs voter registration forms because the names on the form appeared to be Asian. In fact, the only voter registration forms flagged for investigation by Setzer were forms with names appearing to be of Asian descent. This voter fraud investigation was a substantially motivating factor in the use of excessive force used by local police officers on June 1, 2016, and June 2, 2016, as well as in the weeks and days leading up to the general election on November 8, 2016.

145. In June 2016, immediately after the passage of Measures T and U, Defendant began issuing violation notices to Asian American property owners, including Plaintiff Dang Xiong. Once again, the overwhelming majority of the violation notices were issued to Asian Americans in June 2016. It should be noted that counsel for Plaintiffs represented no less than thirty (30) Asian American residents of Siskiyou County who received violation notices, all of whom requested administrative hearings. Twelve (12) of those Asian American residents received hearings and the remainder were never scheduled by the Planning Commission, including Plaintiff Dang Xiong. Plaintiff Dang Xiong's property was raided days after he requested an administrative hearing.
146. The excessive force used against Plaintiffs in June 2016, and from September to November 2016, in retaliation for seeking redress under the local ordinance and registering to vote would deter a person of ordinary firmness from continuing to engage in the protected conduct.
147. Defendant participated and/or allowed local government actors to participate in this use of force as a means of retaliation for their protected speech and Defendant did not take steps

to protect Plaintiffs from this retaliation for engaging in protected speech. Defendant is therefore liable for the injuries and damages resulting from the objectively unreasonable and conscience shocking force of each law enforcement officer.

137. This practice and/or custom is so widespread that the conduct complained of herein was never investigated by Defendant County of Siskiyou, nor was the conduct of the employees, officers, agents of Defendant ever punished, reprimanded or disciplined for intimidating Plaintiffs and threatening them with criminal prosecution if they exercised their right to vote or seek redress for public grievances. The Defendant's policy of targeting Asian Americans in the county is so closely related to the deprivation of the Plaintiff's right to protected speech as to be the force that caused the ultimate injury – denial of the franchise and the right to quiet enjoyment and use of property.
138. OpenJustice – published by the California Attorney General's Office – uses statistical data maintained by the California Department of Justice ("CA DOJ"). According to OpenJustice, from 2005 to 2014, there were approximately 632 Asian/Pacific Islander residents in Siskiyou County, out of a total population of 45,087. The data in connection with the Asian/Pacific Islander population (inclusive of all juveniles and adults) states that there were fewer than thirty (30) arrests from 2005 to 2014. According to this same database, there were only an average of 143.2 crimes committed per year in Siskiyou County from 2005 to 2014. The rate of arrests of Asian/Pacific Islanders was not calculated in the OpenJustice database because there were fewer than thirty (30) arrests of Asian/Pacific Islanders in the entire County. However, if you multiply the total population of Asian/Pacific Islanders in the county (1.4%) by the average number of crimes committed in the county (143.2 per year), the result is an average of 2.0048 crimes committed in

Siskiyou County by Asian/Pacific Islanders per year. During this same *nine* year time period, not one police officer was assaulted in Siskiyou County. So, the belief that an assault rifle was necessary to investigate something as harmless as voter registration is completely delusional and unreasonable.

139. The OpenJustice data clearly shows that the County did not have a reasonable basis to target Asian residents in the area. In fact, the statistics show or tend to show that the incidents of crimes committed by Asian/Pacific Islanders was so de minimus that the rates were not even calculated by the CA DOJ. To that end, the obvious increase in Asian/Pacific Islander raids, arrests and harassment by Defendants was based on xenophobic and racially prohibited beliefs, and not any legitimate governmental interest.
140. Defendants engaged in the conduct described by this Complaint willfully, maliciously, in bad faith, and in reckless disregard of Plaintiff's federally protected constitutional rights.
141. The acts or omissions of Defendant was the moving force behind Plaintiff's injuries.
142. The excessive force used against Plaintiffs in retaliation for their protected conduct would deter a person of ordinary firmness from continuing to engage in the protected conduct.
143. Defendant allowed its police officers, Planning Commission, Board of Supervisors, county clerk as well as other employees, agents and representatives to retaliate against Plaintiffs for engaging in protected speech, and Defendant did not take reasonable steps to protect Plaintiff from this retaliation for the protected conduct. Defendant is liable for the injuries and damages resulting from the objectively unreasonable and conscience shocking force of each police officer involved herein.
144. Defendant is not entitled to qualified immunity for the complained of conduct.
145. At all relevant times, Defendant was acting pursuant to county custom, policy, decision,

ordinance, regulation, widespread habit, usage, or practice in their actions pertaining to Plaintiffs.

146. As a proximate result of Defendants' unlawful conduct, Plaintiffs suffered actual physical and emotional injuries, and other damages and losses, as described herein, in an amount to be determined at trial.

147. In addition to compensatory, economic, and consequential damages, Plaintiffs are entitled to punitive damages against Defendant under 42 U.S.C. §1983, in that the actions of Defendant were willful, malicious, or were taken with reckless or wanton disregard of the constitutional and statutory rights of Plaintiffs.

WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves and others similarly situated, see the following relief:

1. A temporary restraining order and preliminary and permanent injunction, enjoining the Defendants and their agents and employees from entering the private property of anyone without securing a search warrant, by foot, motor vehicle, drone or helicopter, or any other fashion violate of the Fourth and Fourteenth Amendments to the United States Constitution;
2. A temporary restraining order and preliminary and permanent injunction, enjoining

- the Defendants and their agents and employees from entering or approaching the private property of anyone in Siskiyou County with an assault rifle without first securing a written judicial finding of probable cause upon written and sworn affidavit of facts sufficient to believe that such show of force is necessary to achieve whatever lawful law enforcement objective is at hand;
3. A temporary restraining order and preliminary and permanent injunction, enjoining the Defendants and their agents and employees from taking continued action against anyone under the 2015 or 2016 Ordinances where Defendants failed to secure a warrant and/or failed to provide advance notice;
 4. A temporary restraining order and preliminary and permanent injunction, enjoining the Defendants and their agents and employees from utilizing assault rifles in any law enforcement action against anyone under the 2015 or 2016 Ordinances where Defendants failed to secure a written judicial finding of probable cause upon written and sworn affidavit of facts sufficient to believe that such show of force is necessary to achieve whatever lawful law enforcement objective is at hand;
 5. A temporary restraining order and preliminary and permanent injunction, enjoining the Defendants and their agents and employees from allowing any and all persons under Defendants employ at any time in the future to harass, intimidate, threaten, assault and/or in any way interfere with anyone's right to vote in any local, state, or federal election, including without limitation, entering onto private property to ask questions about voter registration;
 6. An Order from this Court directing Defendant County, its agents, and assigns to properly and lawfully register all Asian residents of Siskiyou County who submitted

- voter registration cards in the calendar year of 2016, and to submit to the Secretary of State an annual and publically verifiable audit of the new voter registration cards submitted and the new voter registration rolls in Siskiyou County to ensure that those persons submitting voter registration cards in Siskiyou County are properly registered to vote by the County at all times in the future, regardless of race, ethnicity, or political affinity or association;
7. An Order from this Court directing and dispatching Federal election monitors to the polls of any election occurring in the County of Siskiyou for the next five (5) years, to ensure that voters in Siskiyou County are properly permitted to vote free from intimidation in Siskiyou County regardless of race, ethnicity, or political affinity or association;
 8. An Order from this Court directing Defendant County to timely process the applications for sewers, wells, construction, and any other requirement of lawful residence in Siskiyou County, regardless of race, ethnicity, or political affinity or association;
 9. For compensatory and economic damages in excess of fifty thousand dollars (\$50,000) according to proof at trial;
 10. For general damages in excess of fifty thousand dollars (\$50,000) according to proof at trial;
 11. For an award of attorneys' fees, interest and costs; and
 12. For such additional and further relief, including without limitation injunctive relief, as the Court may deem just, necessary and proper.

JURY TRIAL DEMAND

Plaintiffs hereby request a jury trial on all issues so triable.

Dated: May 18, 2017

By: /s/Kyndra Miller

Kyndra Miller
Attorney for Plaintiffs