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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 THE SEATTLE AFFILIATE OF THE
11 OCTOBER 22ND COALITION TO STOP
12 POLICE BRUTALITY, REPRESSION
AND THE CRIMINALIZATION OF A
GENERATION, an unincorporated
association,

13 Plaintiff,

14 v.

15 CITY OF SEATTLE; R. GIL
16 KERLIKOWSKE, Chief of Seattle Police
Department; SERGEANT DOE(1), a Seattle
17 Police Sergeant; LIEUTENANT DOE(2), a
Seattle Police Lieutenant; and OFFICER
DOE(3), a Seattle Police Officer,

18 Defendants.
19

No. _____

COMPLAINT FOR DAMAGES,
INJUNCTIVE AND DECLARATORY
RELIEF

JURY TRIAL DEMANDED

20
21 **I INTRODUCTION**

22 1. This suit challenges the constitutionality of the City of Seattle's (the "City")
23 Parade and Special Events Ordinances, both as they have been applied to Plaintiff, and on
24 their face. Plaintiff seeks damages for the Defendants' interference with its right of free
25 speech, and its right to due process. The City's conduct, as well as the conduct of several
26 officers from the Seattle Police Department, violated rights protected by both the United

COMPLAINT FOR DAMAGES,
INJUNCTIVE AND DECLARATORY
RELIEF - 1

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1 States Constitution and the Washington State Constitution. Plaintiff also seeks declarations
2 that both the Parade Ordinance and the Special Events Ordinance are facially unconstitutional.

3 **II PARTIES**

4 2. Plaintiff Seattle Affiliate of the October 22nd Coalition to Stop Police
5 Brutality, Repression and the Criminalization of a Generation (the “Coalition”) is the Seattle
6 affiliate of the national October 22nd Coalition to Stop Police Brutality, Repression and the
7 Criminalization of a Generation (“National Coalition”), a 501(c)(3) corporation.

8 3. Defendant, the City of Seattle, Washington, is a municipal corporation.

9 4. Defendant R. Gil Kerlikowske is, and was at all times pertinent to this suit, the
10 Chief of the Seattle Police Department. The chief of police has authority to create municipal
11 policy for the City of Seattle regarding the issuance and enforcement of parade permits.

12 5. Upon information and belief, Defendant Sergeant Doe(1) is, and was at all
13 times pertinent to this suit, a Seattle Police Sergeant.

14 6. Upon information and belief, Defendant Lieutenant Doe(2) is, and was at all
15 times pertinent to this suit, a Seattle Police Lieutenant.

16 7. Upon information and belief, Defendant Officer Doe(3) is, and was at all times
17 pertinent to this suit, a Seattle Police Officer.

18 **III JURISDICTION AND VENUE**

19 8. This is an action for money damages, and for declaratory and injunctive relief,
20 brought under 42 U.S.C. § 1983 and 28 U.S.C. § 2201-02.

21 9. This Court has original jurisdiction over this action pursuant to 28 U.S.C. §§
22 1331 and 1343(a)(3)-(4).

23 10. This Court has supplemental jurisdiction over related claims arising under state
24 law pursuant to 28 U.S.C. § 1367(a).

25 11. Venue is proper in this District under 28 U.S.C. § 1391(b)(1)-(2) because the
26 relevant facts giving rise to plaintiff’s claims occurred in this District.

1 **IV FACTS**

2 **A. The October 22nd Coalition.**

3 12. On October 22nd, 1996 and 1997, a group of activists concerned about police
4 brutality organized national demonstrations to draw attention to victims of police brutality,
5 and to raise awareness of what they perceived as a nationwide epidemic of police violence.

6 13. After the 1997 nation-wide protest, the organizers formed the October 22nd
7 Student/Youth Network, which would become the national October 22nd Coalition (“National
8 Coalition”). The National Coalition has local affiliates in 40 cities throughout the United
9 States.

10 14. The centerpiece of the National Coalition’s efforts is its coordinated annual
11 day of protest. On October 22nd of each year, local affiliates, in conjunction with the
12 National Coalition, organize demonstrations, speeches and other events in an effort to draw
13 attention to the issue of police violence.

14 15. The Coalition was founded in 1996 and is an affiliate of the National Coalition.
15 Like other affiliates, the Coalition organizes an annual parade and rally on October 22nd of
16 each year.

17 **B. The Parade Permitting Process.**

18 16. In 2001, 2002, and 2003, the Coalition applied for and received a Parade
19 Permit pursuant to City of Seattle Municipal Code (SMC) Chapter 11.25 (the “Parade
20 Ordinance”). Each of those permits specified when and where the marchers were to
21 assemble, described the route the March was to follow, required the marchers to move with
22 the “existing traffic flow throughout the march[,]” and specified the area in which the
23 marchers were to disperse. Of the three permits, only the 2002 permit specified that a
24 minimum number of marchers must participate for the permit to be valid.

25 17. The 2001 and 2002 marches occurred without incident. Although the 2002
26 march drew less than the specified minimum number of marchers, the Department allowed

1 the March to proceed according to the terms of the permit.

2 **C. The 2003 March**

3 18. The 2003 Parade Permit authorized the marchers to proceed in the street along
4 a designated route of approximately three miles from Seattle Central Community College to
5 Hing Hay Park.

6 19. The 2003 March (the “March”) was scheduled to begin at 5:30pm on October
7 22nd. The marchers planned to march in one lane of the street along the route designated in
8 the Parade Permit. The Coalition also planned rallies at Hing Hay Park and Seattle Central
9 Community College’s south plaza, at which various speakers would discuss the issue of
10 police brutality. These speakers included victims of police violence and the family members
11 of individuals who have been killed by police.

12 20. In addition to the Parade Permit, the Coalition applied for and received a
13 Special Events Permit pursuant to SMC Chapter 15.52 (the “Special Events Ordinance”). For
14 convenience, the Parade Permit and the Special Events Permit will be collectively referred to
15 as the “Permits.”

16 21. City regulations require groups applying for Special Event Permits for
17 constitutionally protected free speech activities to purchase insurance. Although the City did
18 not enforce that requirement with regard to the Coalition’s 2003 Special Events Permit, City
19 regulations nevertheless authorize the City to enforce the insurance requirement against the
20 Coalition or other similarly situated groups seeking to engage in protected First Amendment
21 expression.

22 22. The Special Events Permit the City granted the Coalition authorized the rally at
23 Hing Hay Park and incorporated the terms of the Parade Permit. Like the Parade Permit, the
24 Special Events Permit did not specify that a minimum number of participants be present for
25 the permit to be valid.

26 23. At 5:30 on October 22nd, approximately 80-100 marchers gathered at Seattle

1 Central Community College to begin the March. They carried flyers to distribute along their
2 route, as well as large signs mounted on wooden handles to extend the signs into the air
3 during the March. Certain of the marchers also carried a banner approximately eight (8) feet
4 in length, which they planned to carry at the front of the March, clearly announcing their
5 message as they proceeded down the street. The banner, prominently titled “Stolen Lives,”
6 features the faces of several individuals killed by law enforcement officers, and symbolizes
7 the Coalition’s mission to ensure that victims of violence by law enforcement officers are
8 remembered as individuals. Smaller signs carried by individual marchers also bore the
9 “Stolen Lives” title, reinforcing the message on the banner.

10 24. As the marchers gathered, approximately twenty-four (24) Seattle Police
11 officers on bicycles and motorcycles, along with a small number of Department officers in
12 squad cars, arrived to escort the March.

13 25. When the marchers began to move into the street, the officers on bicycles
14 blocked them, and informed them that they were required to remain on the sidewalk. The
15 officers instructed the marchers to direct any questions to “the sergeant.” (“Sergeant Doe(1)”).

16 26. At that point, Sergeant Doe(1) announced to the marchers that “the permit was
17 rescinded by the Traffic Lieutenant.” (“Lieutenant Doe(2)”). He further informed the
18 marchers that the decision to rescind the permit was “based on the numbers.”

19 27. When the marchers asked Sergeant Doe(1) how many marchers would be
20 required for the March to proceed, he responded, “a hundred, a hundred plus.” When the
21 marchers informed him that the Permits did not specify a required minimum number of
22 marchers, Sergeant Doe(1) responded, “normally they [Parade Permits] say two-fifty or
23 more.”

24 28. When Daniel DiLeva, the coordinator of the March, presented the Permits to
25 Sergeant Doe(1) and repeated that the Permits did not specify a minimum number of
26 marchers, Sergeant Doe(1) repeated his explanation that an insufficient number of marchers

1 had appeared, and that the March must remain confined to the sidewalk. This conversation
2 continued for several minutes, during which Sergeant Doe(1) repeatedly confirmed that
3 Lieutenant Doe(2) had rescinded the permit based on the reports of the officers on the scene
4 regarding the number of marchers in attendance.

5 29. As the discussion progressed, Sergeant Doe(1) informed the marchers that their
6 only choice was to march on the sidewalk or not to march at all. He ignored requests made by
7 the marchers to produce written proof that the permit had been rescinded. Because the
8 revocation occurred unilaterally at the very moment the March was to begin, the Coalition had
9 no notice of the revocation, no opportunity to challenge the revocation, and no opportunity to
10 appeal Lieutenant Doe(2)'s decision.

11 30. The Coalition's schedule required the marchers to arrive at Hing Hay Park in
12 time to meet with their arranged speakers. Rather than cancel the planned events or fall
13 further behind schedule, the Coalition agreed under protest to obey the police orders, and
14 proceeded along their designated route, staying on the sidewalk.

15 31. Although Sergeant Doe(1) had assured the marchers that the police would clear
16 intersection traffic for them and allow them to freely march on the sidewalk without
17 interruption, the marchers were required to obey all traffic signals and were forced to wait at
18 intersections until they could cross with the traffic signal. On several occasions, a traffic light
19 changed while the marchers were crossing a street. On these occasions, the marchers were
20 divided into two groups while those who had yet to cross the intersection waited for the light
21 to cycle and those who had already crossed stopped their march to wait for their colleagues.

22 32. Throughout the March, the marchers were unable effectively to communicate
23 their message. Rather than calling attention to themselves via the spectacle of a group of
24 advocates marching down the street, they became merely a large group of people walking
25 along one sidewalk. Confined to the sidewalk, the marchers were unable effectively to
26 display their signs or the "Stolen Lives" banner; they were unable effectively to distribute

1 their pamphlets and other literature; and, they were unable effectively to communicate orally
2 with people along the route.

3 33. Throughout the March, the police escorting the marchers remained in the
4 street, oftentimes blocking traffic in the very lane that would have been used for the March.

5 **D. Confiscation of the Coalition's Sign**

6 34. At one point, the marchers crossed the Pine Street bridge over Interstate 5.
7 The sidewalk on the bridge is approximately four (4) feet wide. The curb that divides the
8 sidewalk from the street is approximately eight (8) to twelve (12) inches high, making it
9 necessary for people walking along the sidewalk to be extremely careful that they do not
10 accidentally fall off the high curb into traffic. While the marchers were on the bridge, a
11 number of officers on bicycles moved aggressively into the group began pushing the marchers
12 toward the street. One officer repeatedly shouted "Get back! Get back!" but did not inform
13 the marchers that they were doing anything illegal or why he was issuing the order.

14 35. During this encounter, Officer Doe(3) grabbed a "Stolen Lives" sign that one
15 of the protesters was carrying. He then tossed the sign behind him toward the street, where it
16 was confiscated. Despite repeated requests, Officer Doe(3) refused to return the sign.

17 36. To date, the sign has not been returned to the Coalition. Neither the City nor
18 the Department has compensated the Coalition for the value of the sign.

19 **E. Concern for the 2004 March**

20 37. The Coalition would like to hold its annual march on October 22, 2004. The
21 events alleged above, however, have caused the Coalition to be concerned that the unbridled
22 discretion vested in the Traffic Lieutenant and other unknown City officials will significantly
23 reduce the effectiveness of the 2004 march, if the march occurs at all.

24 38. Based on the events of October 22, 2003, the Coalition has a legitimate and
25 well-founded concern that the insurance requirement will prevent the Coalition from securing
26 a Special Events Permit for the annual rally.

1 free speech and due process rights.

2 **SECOND CAUSE OF ACTION:**
3 **Declaratory Judgment – SMC § 11.25.020 Ordinance is Unconstitutional**

4 46. Plaintiff incorporates by reference, as if fully set forth herein, the allegations
5 set forth in paragraphs 1 through 45 above.

6 47. SMC § 11.25.020 and SMC Chapter 15.52 *et seq.* vest unconstitutional
7 unbridled discretion in City officials to alter or revoke duly issued Parade Permits and Special
8 Events Permits.

9 48. Plaintiff is entitled to a declaration that SMC § 11.25.020 and SMC Chapter
10 15.52 *et seq.* are unconstitutional under the United States and Washington State Constitutions,
11 both as applied to the Coalition and on their face.

12 49. The City of Seattle should be enjoined permanently from enforcing SMC §
13 11.25.020 and SMC Chapter 15.52 *et seq.*

14 **THIRD CAUSE OF ACTION**
15 **Violation of Civil Rights – 42 U.S.C. § 1983**

16 50. Plaintiff incorporates by reference, as if fully set forth herein, the allegations
17 set forth in paragraphs 1 through 49 above.

18 51. The Defendants' conduct as alleged in this Complaint, undertaken under color
19 of state law, constitutes a violation of the Coalition's civil rights pursuant to 42 U.S.C. §
20 1983.

21 52. The Coalition is entitled to an injunction prohibiting the City from violating its
22 civil rights.

23 53. As a proximate result of the defendants' actions, the Coalition was damaged
24 and continues to be damaged.

1 **VIII JURY DEMAND**

2 54. Pursuant to Rule 38 of the Federal Rules of Civil Procedure, a jury trial is
3 demanded on all causes of action.

4 **IX PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff prays for the following relief:

6 1. Entry of a declaratory judgment, pursuant to 42 U.S.C. § 1983, and 28 U.S.C.
7 §§ 2201 and 2202, declaring that:

8 a. The Defendants have violated Plaintiff's free speech and due process
9 rights under the United States Constitution and Washington State Constitution; and

10 b. SMC § 11.25.020 violates the free speech and due process provisions
11 of the United States Constitution and the Washington State Constitution, and is therefore
12 unconstitutional on its face; and

13 c. SMC Chapter 15.52 *et seq.* violates the free speech and due process
14 provisions of the United States Constitution and the Washington State Constitution, and is
15 therefore unconstitutional on its face; and

16 2. Issuance of a permanent injunction pursuant to Rule 65 of the Federal Rules of
17 Civil Procedure and 42 U.S.C. § 1983, prohibiting all Defendants from:

18 a. Violating Plaintiff's free speech and due process rights with regard to
19 any Parade Permit or Special Events Permit for which Plaintiff legally applies or
20 which Plaintiff legally receives in the future; and

21 b. Enforcing SMC § 11.25.020; and

22 c. Enforcing SMC Chapter 15.52 *et seq.*

23 3. Judgment for actual damages in an amount to be proven at trial, and for
24 nominal damages in favor of Plaintiff.

25 4. An award of Plaintiff's reasonable attorneys' fees and costs incurred in this
26 action, pursuant to 42 U.S.C. § 1988.

