

BRADLEY & GMELICH LLP

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6 Attorneys for Defendant, DOWNTOWN
LOS ANGELES PROPERTY OWNERS
7 ASSOCIATION

8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION

11 AURELIANO SANTIAGO, an
individual;
12 and UNION POPULOR DE
VENEDORES AMBULANTES, an
13 unincorporated association,

14 Plaintiff,

15 vs.

16 CITY OF LOS ANGELES, FASHION
DISTRICT BUSINESS
17 IMPROVEMENT
DISTRICT, DOWNTOWN LOS
18 ANGELES PROPERTY OWNERS
ASSOCIATION, INC., OFFICER
19 LINTON in her individual and official
capacity; OFFICER OWEN, in her
20 individual and official capacity; DOES
1-10,

21 Defendant.
22

Case No. 2:15-CV-08444-BRO (Ex)

**DEFENDANT DOWNTOWN LOS
ANGELES PROPERTY OWNER'S
ASSOCIATION'S ANSWER TO
COMPLAINT; DEMAND FOR
JURY TRIAL**

(Assigned to the Hon. Beverly Reid O'Connell)

Complaint Filed: 10/28/2015
Discovery Cutoff: None Set
Motion Cutoff: None Set
Trial Date: None Set

23 Pursuant to *Rule 8(b)* of the *Federal Rules of Civil Procedure*, defendant Downtown Los
24 Angeles Property Owners Association (“defendant”) answers the First Amended Complaint of
25 plaintiffs (“plaintiffs”). If an averment is not specifically admitted, it is hereby denied.

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ANSWER TO COMPLAINT

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1. Answering Paragraphs 3, 4, 5, 6, 7, 8, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 48, 49, 50, 51, 53, 54, 55, 56, 57, 59, and 60, defendant denies each and every allegation contained therein.

2. Answering Paragraph 10, defendant lacks sufficient knowledge or information to form a belief concerning the truth of the factual allegations contained therein and on that basis denies such allegations. Paragraph 10 further contain legal conclusions and argument as to which no response is required.

3. Answering Paragraph 9, defendant admits that Mr. Santiago has been cited for illegally selling on the streets of Los Angeles. Except as expressly admitted herein, defendant either lacks sufficient information and belief, and/or denies each and every allegation contained therein.

4. Answering Paragraph 1, 2, defendant admits the allegations contained therein.

5. Answering Paragraph 11, defendant admits that the City of Los Angeles is a municipal entity with the capacity to sue and be sued, and that the LAPD is a department of the City. Except as expressly admitted herein, defendant either lacks sufficient information and belief, and/or denies each and every allegation contained therein. Paragraph 11 further contains legal conclusions and argument as to which no response is required.

6. Answering Paragraph 12, defendant admits that the Fashion District BID was created pursuant to the Streets and Highways Code, and is funded by a property owners assessment. Except as expressly admitted herein, defendant either lacks sufficient information and belief, and/or denies each and every allegation contained therein. Paragraph 12 further contains legal conclusions and argument as to which no response is required.

7. Answering Paragraph 13, defendant admits that the Downtown Los Angeles Property Owners Association is a not-for-profit business corporation, and that it maintains an office in Los Angeles. Except as expressly admitted herein, defendant either lacks sufficient information and belief, and/or denies each and every allegation contained therein. Paragraph 13 further contains legal conclusions and argument as to which no response is required.

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1 8. Answering Paragraph 14, defendant admits that Officer Linton is an officer with
2 the LAPD. Except as expressly admitted herein, defendant either lacks sufficient information and
3 belief, and/or denies each and every allegation contained therein. Paragraph 14 further contains
4 legal conclusions and argument as to which no response is required.

5 9. Answering Paragraphs 46, 52, and 58, defendant incorporates by reference its
6 responses to the allegations incorporated therein.

7 10. Answering Paragraph 47, defendant lacks sufficient information and belief, and it
8 contains legal conclusions and argument, and therefore, denies the allegations contained therein.

9 **AFFIRMATIVE DEFENSES**

10 Defendant pleads the following separate defenses. Defendant reserves the right to assert
11 additional affirmative defenses that discovery indicates are proper.

12 **FIRST AFFIRMATIVE DEFENSE**

13 1. The Complaint fails to state facts sufficient to constitute a cause of action.

14 **SECOND AFFIRMATIVE DEFENSE**

15 2. The plaintiff's claim for attorneys' fees is barred by the provisions of California
16 Code of Civil Procedure § 1021.

17 **THIRD AFFIRMATIVE DEFENSE**

18 3. The actions taken by defendant were the exercise of reasonable business judgment.

19 **FOURTH AFFIRMATIVE DEFENSE**

20 4. The actions taken by defendant were in full compliance with the law.

21 **FIFTH AFFIRMATIVE DEFENSE**

22 5. Defendant acted at all times within the scope of discretion, in good faith, with due
23 care, and pursuant to applicable rules, regulations, and practices reasonably and in good faith
24 believed to be in accordance with the Constitution and laws of the United States and/or the State
25 of California.

26 **SIXTH AFFIRMATIVE DEFENSE**

27 6. Defendant alleges that plaintiff's claims, if any, are barred for his failure, and/or the
28 failure of the persons and/or entities acting on his behalf, to mitigate any purported damages.

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SEVENTH AFFIRMATIVE DEFENSE

7. Defendant is not a “person” within the meaning of the Federal Civil Rights Act.

EIGHTH AFFIRMATIVE DEFENSE

8. Plaintiffs lack standing to prosecute the purported claims.

NINTH AFFIRMATIVE DEFENSE

9. The actions complained of are moot.

TENTH AFFIRMATIVE DEFENSE

10. There can be no recovery for a federal civil rights violation when there is no constitutional deprivation occurring pursuant to custom or policy.

ELEVENTH AFFIRMATIVE DEFENSE

11. Plaintiffs have not been injured or damaged as a proximate result of any act or omission for which defendant is responsible.

TWELFTH AFFIRMATIVE DEFENSE

12. Defendant did not act with malicious intent to deprive any person of any Constitutional right or to cause any other injury and therefore is not liable.

THIRTEENTH AFFIRMATIVE DEFENSE

13. Simple negligence is not a Federal Civil Rights violation.

FOURTEENTH AFFIRMATIVE DEFENSE

14. State procedure exists that satisfies the requirements of procedural due process.

FIFTEENTH AFFIRMATIVE DEFENSE

15. Plaintiffs have unclean hands.

WHEREFORE, defendant prays for relief as follows:

1. That the Complaint be dismissed, with prejudice and in its entirety;
2. That plaintiffs take nothing by reason of this Complaint and that judgment be entered against plaintiffs and in favor of defendant;
3. That defendant be awarded his attorneys’ fees and costs incurred in defending this action;

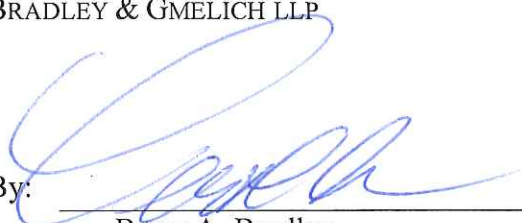
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1 4. That defendant be granted such other and further relief as the Court may deem just
2 and proper.

3 Dated: October 3, 2016

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6 By: _____



Barry A. Bradley
Carol A. Humiston

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8 Attorneys for Defendant DOWNTOWN LOS
9 ANGELES PROPERTY OWNERS
10 ASSOCIATION


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DEMAND FOR JURY TRIAL

Defendant, Downtown Los Angeles Property Owners Association hereby demands Jury Trial in the above-entitled matter.

Dated: October 3, 2016

BRADLEY & GMELICH LLP

By: 
Barry A. Bradley
Carol A. Humiston

Attorneys for Defendant DOWNTOWN LOS ANGELES PROPERTY OWNERS ASSOCIATION

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Los Angeles, State of California. My business address is 700 North Brand Boulevard, 10th Floor, Glendale, California 91203.

On October 3, 2016, I served true copies of the following document(s) described as **DEFENDANT DOWNTOWN LOS ANGELES PROPERTY OWNER’S ASSOCIATION’S ANSWER TO COMPLAINT; DEMAND FOR JURY TRIAL** on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Bradley & Gmelich LLP's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on October 3, 2016, at Glendale, California.



Lorraine Jones

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SERVICE LIST
Aureliano Santiago, et al. vs. City of Los Angeles, et al.
2:15-CV-08444

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