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7 Attorney for Petitioner and Plaintiff
8 ALLIANCE OF LOS ANGELES COUNTY PARENTS

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF LOS ANGELES**

11 ALLIANCE OF LOS ANGELES COUNTY
12 PARENTS, an unincorporated association

13 Petitioner and Plaintiff,

14 vs.

15 COUNTY OF LOS ANGELES COUNTY
16 DEPARTMENT OF PUBLIC HEALTH;
17 MUNTU DAVIS, in his official capacity as
18 Health Officer for the County of Los Angeles;
19 BARBARA FERRER, in her official capacity as
20 Director of the County of Los Angeles
21 Department of Public Health; and DOES 1
22 through 25, inclusive,

23 Respondents and Defendants.

Case No.: 22STCP02772

**ALLIANCE OF LOS ANGELES COUNTY
PARENTS' OPPOSITION TO COUNTY
OF LOS ANGELES DEPARTMENT OF
PUBLIC HEALTH, MUNTU DAVIS,
AND BARBARA FERRER'S EX PARTE
APPLICATION FOR PROTECTIVE
ORDER**

Hearing Date: September 21, 2023
Time: 8:30 a.m.
Dept: 69
Judge: William F. Fahey

Complaint Filed: 7/26/2022
Trial Date: 10/16/2023

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 This case is about a government agency censoring protected speech critical of its mandates
4 on private digital platforms by leveraging backroom connections to congressional staff, media, and
5 Twitter executives. Los Angeles County Department of Public Health (“LACDPH”), Barbara Ferrer
6 (“Ferrer”) and Muntu Davis (collectively, “County” or “Defendants”) violated constitutionally
7 protected free speech rights by closing a public forum for viewpoint discriminatory reasons and
8 significantly encouraging and/or coercing private social media companies to silence their
9 opponents. Defendants’ actions prevented, and continue to prevent, free and open discourse on
10 issues of critical public importance.

11 It is the height of irony that Defendants now move this court to prevent the attorney for the
12 Alliance of Los Angeles County Parents (“Alliance”) from speaking about the case on private
13 digital platforms and from sharing non-confidential documents produced by government
14 Defendants with the public.¹

15 Defendants’ *ex parte* application for protective order should be denied for the following
16 reasons: (1) the application is untimely, (2) Defendants failed to meet and confer prior to filing the
17 application, (3) Defendants made no affirmative factual showing of irreparable harm, immediate
18 danger, or any other statutory basis for granting relief *ex parte*, and (4) Defendants fail to show
19 good cause to issue a protective order.

20 **II. LEGAL ARGUMENT**

21 **A. The Motion for Protective Order is Untimely Under Cal. Code Civ. Proc. §**
22 **2031.060(a)**

23 A noticed motion is required for a protective order, including a declaration showing a
24 “reasonable and good faith attempt” to resolve the disputed issues outside of court. Cal. Code Civ.
25 Proc. §§ 2016.040, 2031.060(a). Defendants purport to provide *ex parte* notice for this motion, but
26 fail to allege any irreparable harm, immediate danger, or any other statutory basis for granting relief

27 ¹ Defendants’ *ex parte* notice stated an intent to seek a protective order keeping *all* documents in this litigation
28 confidential, and the proposed order does not limit protection to six pages of documents. Alliance does not know what
Defendants contend regarding the need for confidentiality relating to the forthcoming documents referenced in its
moving papers.

1 *ex parte*.

2 The Code requires that the affected party move “promptly” for a protective order. Cal. Code
3 Civ. Proc. § 2031.060(a). Here, the discovery requests were propounded by Alliance on July 27,
4 2023. Declaration of Julie A. Hamill (“Hamill Decl.”), ¶2. Alliance received only objections and no
5 substantive responses from Defendants on August 29, 2023. Hamill Decl., ¶3. **After two meet and
6 confer discussions, during which a protective order for these documents was never discussed,
7 Defendants agreed to produce responsive documents by September 15, 2023.** Hamill Decl., ¶4.
8 This court continued the hearing on Defendants’ summary judgment motion to September 28, 2023,
9 in part to allow Alliance to review the document production that was supposed to be provided by
10 September 15, 2023. Hamill Decl., ¶5.

11 At 10:49 pm on September 15, 2023, Ms. Hamill received supplemental discovery responses
12 but no documents. Mr. Raygor stated: “Please see the attached documents. Please let us know when
13 you have a draft of the stipulated protective order you are discussing with X Corp ready for our
14 review. We will produce documents once it is entered.” Hamill Decl., ¶ 6, Exh. 1.

15 Alliance did not agree to a protective order with X Corp., but has been working with X
16 Corp. to resolve issues involving their production. Ms. Hamill informed Mr. Raygor of the absence
17 of any protective order. Ms. Hamill followed up four times with Mr. Raygor seeking production of
18 the documents. Hamill Decl., ¶ 8. At the September 18, 2023 hearing on Defendants’ motion to
19 dismiss, Alliance informed the Court of Defendants’ refusal to produce the documents, and the
20 Court ordered them produced by close of business September 21, 2023. Hamill Decl., ¶9.

21 On Tuesday, September 19, 2023, Defendants gave *ex parte* notice of their intent to seek a
22 protective order. Hamill Decl., ¶10. Seeking a protective order nearly two months after receiving
23 written discovery requests, after promising to produce the documents without mentioning a
24 protective order, 25 days out from trial, is not “prompt.”

25 **B. Failure to Meet and Confer As Required under Code Civ. Proc., § 2031.060(a)**
26
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1 Defendants' application should be denied due to Defendants' failure to meet and confer, as
2 required under Code Civ. Proc., § 2031.060(a), which provides: "This motion shall be accompanied
3 by a meet and confer declaration under Section 2016.040."

4 No such meet and confer declaration is included in Defendants' application. Ms. Hamill
5 contacted Defendants' counsel following service of Defendants' *ex parte* papers and asked whether
6 he wished to meet and confer regarding the six pages of documents at issue. As of this writing, no
7 response has been received. Hamill Decl., ¶11.

8 **C. No Affirmative Factual Showing of Irreparable Harm, Immediate Danger, or any**
9 **Other Statutory Basis for Granting Relief Ex Parte**

10 California Rules of Court, Rule 3.1202(c) requires "[a]n applicant must make an affirmative
11 factual showing in a declaration containing competent testimony based on personal knowledge of
12 irreparable harm, immediate danger, or any other statutory basis for granting relief ex parte."

13 No such factual showing is present in Defendants' application. Ms. Hamill has been publicly
14 posting about this case since at least July 2022. If a gag order was necessary to restrain speech that
15 poses a clear and present danger or serious and imminent threat to a protected competing interest in
16 this case (it is not), such order should have been sought in a timely manner at any point in this
17 litigation before the discovery cutoff, and well in advance of the impending trial date.

18 The only new information is the fact that this case appears poised to go to trial, and
19 Defendants do not want to produce the responsive documents.

20
21 **D. Defendants Fail to Show Good Cause to Issue a Protective Order**

22 A party seeking a protective order must show good cause for issuance of the order by a
23 preponderance of evidence. *Stadish v. Sup.Ct. (Southern Calif. Gas Co.)* (1999) 71 Cal.App.4th
24 1130, 1145. There is no attempt by Defendants to explain that the contents of these documents are
25 confidential, are trade secret, or otherwise protected from disclosure. Instead, Defendants focus on
26 Alliance's public posting about this case. None of the documents posted on the Alliance website
27 are confidential documents. They are filings from this case, and communications between the
28

1 government and private digital platforms showing extensive censorship efforts. Every question
2 Alliance has asked Defendants in this case involves the conduct of public business, and thus far, no
3 documents produced by Defendants in this case have been marked “confidential.” Hamill Decl., ¶
4 12.

5 Further, as public employees, Mr. Morrow’s and other Defendant employee emails are
6 subject to the California Public Records Act (“PRA”). The PRA expressly provides that “access to
7 information concerning the conduct of the people’s business is a fundamental and necessary right of
8 every person in this state.” Gov. Code, § 7921.000 (emphasis added). The purpose is to give the
9 public access to information that enables them to monitor the functioning of their government. *CBS,*
10 *Inc. v. Block* (1986) 42 Cal. 3d 646, 651; *Times Mirror Co. v. Superior Court* (1991) 53 Cal. 3d
11 1325, 1350. There is no reasonable expectation of privacy in documents subject to the PRA.

12 In this lawsuit, Alliance has asked Defendants questions that the public has been desperate
13 to ask since March 2020. As alleged in this lawsuit, Defendants shut off public access to Defendants
14 and censored members of the public with divergent viewpoints, and through this *ex parte*
15 application Defendants seek to conceal information critical to the public interest from the public.

16 **E. Defendants’ Allegations**

17 Defendants attach roughly 300 pages of tweets to their declaration in support of an *ex parte*
18 application for a protective order. Alliance asks this Court to strike these exhibits as irrelevant and
19 an attempt to chill speech. The allegations made by Defendants of a violation of Rules of
20 Professional Conduct are not taken lightly, and counsel for the Alliance vehemently denies any such
21 violation. At all times, Ms. Hamill has posted truthful, factual statements regarding this public case
22 brought in the public interest to enforce the constitutionally guaranteed right to free speech. At no
23 point did Ms. Hamill *ever* incite violence, or make any statement with the reasonable expectation
24 that it would have a substantial likelihood of materially prejudicing an adjudicative proceeding in
25 the matter. Ms. Hamill is keeping the public informed regarding issues of significant public
26 importance.

27 The public has been kept in the dark about what goes on behind Defendants’ closed doors.
28

1 As a result, over ten million people in Los Angeles County were subjected to “the greatest
2 intrusions on civil liberties in the peacetime history of this country” without understanding how this
3 occurred, without accountability, and without any protection against this same intrusion occurring
4 again in the future. *See Arizona v. Mayorkas* (2023) 598 U. S. ____, Statement of Gorsuch, J., at p.

5 4. It is critically important for the public to be informed about what is happening in this case.

6 Ms. Hamill’s speech is not relevant to whether six pages of documents are confidential and
7 require a protective order, and Alliance is unaware of what contentions Defendants make with
8 respect to their purported confidentiality. Further, many of the Tweets included in Defendants’
9 exhibit have nothing to do with this case or the attorneys in this action.

10 While Defendants specify that they only seek to protect six pages, the proposed order is not
11 so limited. Further, Defendants indicate that X Corp. is joining this motion. Alliance had reached an
12 agreement with X Corp. regarding redaction of documents prior to being informed that X Corp. was
13 joining this application to protect Defendants’ six pages of documents.

14 Gag orders on trial participants are unconstitutional unless (1) the speech sought to be
15 restrained poses a clear and present danger or serious and imminent threat to a protected competing
16 interest; (2) the order is narrowly tailored to protect that interest; and (3) no less restrictive
17 alternatives are available. *Hurvitz v. Hoefflin* (2000) 84 Cal. App. 4th 1232, 1241–1242. Like all
18 gag orders, an order restricting media ability to report on an upcoming trial is presumptively invalid.
19 “A prior restraint is the 'most serious and the least tolerable infringement on First Amendment
20 rights.' Such an order is a 'most extraordinary remedy' that may be used 'only in ‘exceptional cases’
21 ... where the evil that would result from the reportage is both great and certain and cannot be
22 militated by less intrusive measures.” *Freedom Communications, Inc. v. Superior Court* (2008) 167
23 Cal. App. 4th 150, 153 (citations omitted). Defendants’ *ex parte* notice and proposed order appear
24 to seek relief much more broad order than six pages of forthcoming documents.

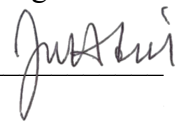
25 **III. CONCLUSION**

26 For the above stated reasons, Alliance asks this Court to deny Defendants’ *ex parte*
27 application for a protective order.

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Dated: September 20, 2023

Hamill Law & Consulting
By: Julie A. Hamill 
Julie A. Hamill
Attorney for Petitioner
Alliance of Los Angeles County Parents

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DECLARATION OF JULIE A. HAMILL

I, Julie A. Hamill, declare as follows:

1. I am a sole practitioner with Hamill Law & Consulting, attorney of record for Plaintiff and Petitioner Alliance of Los Angeles County Parents (“Alliance”) in this action. If called as a witness, I could and would competently testify to all facts stated herein.

2. On July 27, 2023, I served three sets of written discovery on Defendants in this case on behalf of Alliance, one of which is a Request for Production of Documents.

3. Alliance received only objections and no substantive responses from Defendants to the three sets of written discovery on August 29, 2023.

4. After two meet and confer discussions, during which a protective order was never discussed, Defendants agreed to produce responsive documents by September 15, 2023.

5. On September 14, 2023, this court continued the hearing on Defendants’ summary judgment motion to September 28, 2023, in part to allow Alliance to review the document production that was supposed to be provided by Defendants on September 15, 2023.

6. At 10:49 pm on September 15, 2023, I received supplemental discovery responses but no documents from Defendants. Mr. Raygor stated: “Please see the attached documents. Please let us know when you have a draft of the stipulated protective order you are discussing with X Corp ready for our review. We will produce documents once it is entered.” A true and correct copy of this email is attached as **Exhibit 1, p. 2.**

7. I did not agree to a protective order with X Corp., and I have been working with X Corp. to resolve disputes involving their production.

8. I informed Mr. Raygor of the absence of any protective order and followed up four times with Mr. Raygor seeking production of the documents. A true and correct copy of my emails are attached as **Exhibit 1, p. 1.**

1 9. At the September 18, 2023 hearing on Defendants’ motion to dismiss, Alliance
2 informed the Court of Defendants’ failure to produce documents, and the Court ordered the
3 documents produced by close of business September 21, 2023.

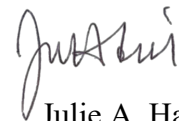
4 10. On Tuesday, September 19, 2023, Defendants gave *ex parte* notice of their intent to
5 seek a protective order.

6 11. Defendants did not attempt to meet and confer regarding this protective order. I
7 contacted Defendants’ counsel following service of Defendants’ *ex parte* papers on September 20,
8 2023 and asked whether he wished to meet and confer regarding the six pages of documents at
9 issue. As of this writing, no response has been received. A true and correct copy of that email is
10 attached here as **Exhibit 2, p. 1**.

11 12. As of this writing, which follows the September 15, 2023 discovery cutoff, no
12 documents produced by Defendants in this case have been marked “confidential.”

13 I declare under penalty of perjury under the laws of the State of California that the forgoing is
14 true and correct.

15 Executed on September 20, 2023, at Rancho Palos Verdes, California



Julie A. Hamill

EXHIBIT 1

Re: Alliance v. LACDPH, et al.

1 message

Julie Hamill <julie@juliehamill-law.com>

Sun, Sep 17, 2023 at 7:35 PM

To: Kent Raygor <KRaygor@sheppardmullin.com>

Cc: Valerie Alter <VAlter@sheppardmullin.com>, Zachary Golda <zgolda@sheppardmullin.com>, Lily Chu <LChu@sheppardmullin.com>

One last follow up here in advance of our hearing tomorrow. Where are the documents?

Julie Hamill
Hamill Law & Consulting
julie@juliehamill-law.com
(424) 265-0529
www.juliehamill-law.com

The information contained in this e-mail and any attachments to it may be legally privileged and include confidential information. If you have received this e-mail in error, please notify the sender immediately of that fact by return e-mail and permanently delete the e-mail and any attachments. Thank you.

On Sun, Sep 17, 2023 at 10:14AM Julie Hamill <julie@juliehamill-law.com> wrote:

Following up on this. Did I miss the County's production?

Julie Hamill
Hamill Law & Consulting
julie@juliehamill-law.com
(424) 265-0529
www.juliehamill-law.com

The information contained in this e-mail and any attachments to it may be legally privileged and include confidential information. If you have received this e-mail in error, please notify the sender immediately of that fact by return e-mail and permanently delete the e-mail and any attachments. Thank you.

On Sat, Sep 16, 2023 at 10:28AM Julie Hamill <julie@juliehamill-law.com> wrote:

Following up on my email of last night. We are not entering into a protective order with X Corp. Either way, that is irrelevant to your obligation to produce the documents that you said would be produced yesterday. Every additional day the County delays production is prejudicial to the Alliance's case. Please send the responsive documents and the recording from our second meet and confer today.

Best regards,

Julie Hamill
Hamill Law & Consulting
julie@juliehamill-law.com
(424) 265-0529
www.juliehamill-law.com

The information contained in this e-mail and any attachments to it may be legally privileged and include confidential information. If you have received this e-mail in error, please notify the sender immediately of that fact by return e-mail and permanently delete the e-mail and any attachments. Thank you.

On Fri, Sep 15, 2023 at 11:21 PM Julie Hamill <julie@juliehamill-law.com> wrote:

No protective order. Please produce the documents.

Sent from my iPhone

Please see the attached documents.

Please let us know when you have a draft of the stipulated protective order you are discussing with X Corp ready for our review. We will produce documents once it is entered.

Kent Raygor

+1 310-228-3730 | direct

KRaygor@sheppardmullin.com | [Bio](#)

SheppardMullin

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Los Angeles, CA 90067-6017

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www.sheppardmullin.com | [LinkedIn](#) | [Twitter](#)

Attention: This message is sent by a law firm and may contain information that is privileged or confidential. If you received this transmission in error, please notify the sender by reply e-mail and delete the message and any attachments.

<Suppl. DFP Response.pdf>

<Suppl. FRog Response.pdf>

<Suppl. RFA Response.pdf>

EXHIBIT 2

Re: Alliance v. County of Los Angeles Dept. of Public Health, et al; Case No. 22STCP02772 - Ex Parte for Protective Order, et al.

1 message

Julie Hamill <julie@juliehamill-law.com>
To: Lily Chu <LChu@sheppardmullin.com>

Wed, Sep 20, 2023 at 10:45 AM

Cc: Kent Raygor <KRaygor@sheppardmullin.com>, Valerie Alter <VAlter@sheppardmullin.com>, Zachary Golda <zgolda@sheppardmullin.com>

Dear Kent et al:

I just reviewed the ex parte application. I do not recall any attempts by your office to meet and confer on the relief you seek. In fact, when you provided ex parte notice, you stated:

"We hereby give you notice that we will be making an *ex parte* application before Judge Fahey in **Department 69** at **8:30 a.m. on Thursday, September 21, 2023**. We will be asking the Court to enter a protective order based on the Court's template located at https://www.lacourt.org/division/civil/pdf/formprotectiveorder1confidential_1.pdf, and **that provides that all documents produced in this action by the parties and non-parties (e.g., Twitter/X), and the contents of such documents, can only be used for the purposes of this litigation.** Our application will also be based on CALIFORNIA RULE OF PROFESSIONAL CONDUCT 3.6."

Now, in your ex parte application, you seek a protective order covering only 6 pages of documents. Would you like to meet and confer regarding the contents of those documents and the need for confidentiality?

Best regards,

Julie Hamill
Hamill Law & Consulting
julie@juliehamill-law.com
(424) 265-0529
www.juliehamill-law.com

The information contained in this e-mail and any attachments to it may be legally privileged and include confidential information. If you have received this e-mail in error, please notify the sender immediately of that fact by return e-mail and permanently delete the e-mail and any attachments. Thank you.

On Wed, Sep 20, 2023 at 8:21 AM Lily Chu <LChu@sheppardmullin.com> wrote:
I'm using Mimecast to share large files with you. Please see the attached instructions.

Please see attached.

Lily Young Chu (주영아)
+1 310-228-2257 | direct
LChu@sheppardmullin.com

SheppardMullin
1901 Avenue of the Stars, Suite 1600
Los Angeles, CA 90067-6017
+1 310-228-3700 | main
www.sheppardmullin.com

----- Forwarded message -----
From: lchu@sheppardmullin.com

To: julie@juliehamill-law.com

Cc:

Bcc:

Date: Wed, 20 Sep 2023 11:20:25 -0400

Subject: You've been sent large files

You've been sent large files

Lily Chu sent you large files. Download them before Thu, 05 Oct 2023 02:59 -0400.

Files

Ex Parte for Protective Order, et al.zip (27.8 MB)

[Download Files](#)

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1 **PROOF OF SERVICE**

2 I am employed in the County of Los Angeles, State of California, I am over the age of
3 18 and not a party to the within action. My business address is 904 Silver Spur Road, #287, Rolling
Hills Estates, California 90274. My e-service address is julie@juliehamill-law.com..

4 On September 20, 2023 I served the foregoing document: **ALLIANCE OF LOS**
5 **ANGELES COUNTY PARENTS’ OPPOSITION TO COUNTY OF LOS ANGELES**
6 **DEPARTMENT OF PUBLIC HEALTH, MUNTU DAVIS, AND BARBARA FERRER’S EX**
PARTE APPLICATION FOR PROTECTIVE ORDER on the interested parties in this action.

7 By placing a true copy thereof enclosed in a sealed envelope addressed as follows:

8 By attaching a true copy via electronic transmission addressed as follows:

9 Valerie Alter, VAlter@sheppardmullin.com
10 Kent Raygor, KRaygor@sheppardmullin.com
11 Zachary Golda, zgolda@sheppardmullin.com
12 Sheppard Mullin
13 1901 Avenue of the Stars, Suite 1600
14 Los Angeles, California 90067-6055
Attorneys for Respondents and Defendants
County of Los Angeles Department of Public Health
Barbara Ferrer
Muntu Davis

15 [X] (VIA ELECTRONIC SERVICE): I uploaded the document without error to
16 <https://platform.onelegal.com/> selecting the proper functions to electronically serve the
17 person(s) listed via the Court’s E-File System.

18 (BY MAIL) As follows: I am “readily familiar” with the firm’s practice of collection and
19 processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal
20 service on that same day with postage thereon fully prepaid at Rancho Palos Verdes, California in the
ordinary course of business. I am aware that on motion of the party served, service is presumed invalid
if postal cancellation date or postage meter date is more than one day after the date of deposit for
mailing in affidavit.

21 (BY OVERNIGHT DELIVERY) By: Federal Express, to be delivered on next business day.

22 (BY PERSONAL SERVICE) I delivered such envelope by hand to the office of the
addressee(s).

23 (STATE) I declare under penalty of perjury under the laws of the State of California that the
24 above is true and correct.

25 (FEDERAL) I declare that I am employed in the office of a member of the bar of this court at
whose direction the service was made.

26 Executed on September 20, 2023 at Rancho Palos Verdes, California.
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Julie A. Hamill

Julie A. Hamill