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 12 California Cannabis Couriers Association
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14 SUPERIOR COURT OF CALIFORNIA
 15 FOR THE COUNTY OF LOS ANGELES
 16 UNLIMITED JURISDICTION

17 SOUTHERN CALIFORNIA COALITION, A
 18 DOMESTIC NONPROFIT; CALIFORNIA
 19 CANNABIS COURIERS ASSOCIATION; A
 20 DOMESTIC NONPROFIT; AND ZACH
 21 PITTS, AN INDIVIDUAL.

22 Petitioners,

23 vs.

24 CITY OF LOS ANGELES; AND LOS
 25 ANGELES DEPARTMENT OF CANNABIS
 26 REGULATION, CAT PACKER.

27 Respondents.
 28

Case No.:

**VERIFIED PETITION FOR WRIT OF
 MANDATE TO INVALIDATE ILLGAL
 AND UNCONSTITUTIONAL
 ORDINANCE UNDER CCP 1085 AND
 FOR DECLARATORY RELIEF
 UNDER CCP 1060.**

Department:

Date Action Filed: October 19, 2020

VERIFIED PETITION FOR WRIT OF MANDATE TO INVALIDATE ILLGAL AND
 UNCONSTITUTIONAL ORDINANCE UNDER CCP 1085 AND FOR DECLARATORY
 RELIEF UNDER CCP 1060.

INTRODUCTION

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2 1. The Respondents - the City of Los Angeles (“City”), its Department of Cannabis
3 Regulation (“DCR”), and the DCR Executive Director Cat Packer - have so poorly implemented
4 and unreasonably delayed cannabis regulations in the City related to cannabis delivery licenses
5 that they took away clear rights granted to the Petitioners under law.

6 2. Prior to the summer of 2020, the Los Angeles Municipal Code required the
7 Respondents to accept and process applications for 20 non-social equity delivery licenses in the
8 City. These delivery licenses were to be issued under what was known as the Delivery Pilot
9 Program, which also included licenses for 40 social equity applicants. *See* the former Los Angeles
10 City Code Section 104.06.1(f).

11 3. Prior to the summer of 2020, DCR committed in writing to begin accepting these
12 non-social equity delivery applications immediately after Round I of Phase 3 licensure was
13 completed. However, the City dragged out implementation of Round I of Phase 3 for several
14 years. When the City did finally proceed with Round I of Phase 3, the implementation of this
15 round was botched and several applicants for that round complained that the City violated their
16 rights by allowing some parties to apply early for cannabis licenses. DCR poor implementation
17 led to several lawsuits, including the *Social Equity Owners and Workers Association v. City of*
18 *Los Angeles* (“*Shockley*”) case, case number 20STCP1426 in Superior Court of Lost Angeles
19 County.

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21 4. Due to the well founded allegations in the *Shockley* case, the City unreasonably
22 delayed implementation of the Delivery Pilot Program for at least nine months while an audit of
23 its handling of Round I of Phase 3 was conducted. Had the City not improperly implemented
24 Round I Phase 3 of licensing, the Delivery Pilot Program would not have been unreasonably
25 delayed and the Petitioners or their members would have been able to apply for the 20 non-social
26 equity delivery license in the fall of 2019 or winter of 2020. Instead, while cannabis delivery
27 licensing was unreasonably delayed, the City Council amended the Ordinance at DCR’s request
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1 and terminated the right of non-social equity applicants, such as the Petitioners or their members,
2 to apply for cannabis delivery licenses under the Delivery Pilot Program until 2025.

3 5. Petitioners or their members took numerous actions in reliance on the commitment
4 by the City to begin licensing non-social equity applicants for cannabis delivery licenses,
5 including signing leases and paying rent on commercial real estate to hold a space for future
6 licensing, foregoing other opportunities in expectation of the City issuing these delivery licenses,
7 and making other modifications to their operations to accommodate future licensing of the
8 premises for delivery operations.

9 6. Through the summer of 2020, DCR was required by law to issue 20 non-social
10 equity licenses under the Delivery Pilot Program. The Petitioners or their members would have
11 obtained some of the licenses in question. DCR never did accept applications for or issue licenses
12 for non-social equity delivery licenses during this time.

13 7. Respondents' actions create numerous causes of action for the Petitioners.

14 8. First, Respondents' unreasonable delay and poor handling of the licensing process,
15 followed by a change in the law, violated the Petitioners' due process rights under the California
16 Constitution and the United States Constitution.

17 9. Second, even if the City may eventually allow non-social equity applicants to apply
18 for delivery licenses in 2025, the delay in licensing amounts to a Constitutional taking of the
19 Petitioners' clear rights to obtain these licenses prior to that time.

20 10. Third, Respondents took away Petitioners' rights without proper notice to the
21 public of the change in law. Respondents provided public notice that the City Council was
22 addressing a change in fees and fines, but in fact the ordinance change made numerous substantive
23 changes in law beyond fees and fines, including terminating the Delivery Pilot Program. While
24 the substantive changes were embedded in web links, the notice itself was misleading. In addition,
25 Respondents passed the changes under the ruse that there was an immediate public health urgency
26 requiring the immediate adoption of the change, when in fact there was no urgency justifying the
27 immediate adoption of this ordinance change.
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1 11. For these reasons, Petitioners requests this Court to invalidate the current
2 ordinance adopted by the City, at least with respect to reinstating the right of 20 non-social equity
3 cannabis delivery licenses to be issued by the Respondents. Petitioner are not seeking to limit the
4 right of social equity applicants to obtain additional delivery licenses, but are merely seeking to
5 reinstate their own rights previously granted under law. Petitioners make this request on the
6 grounds the amended ordinance violates the California Constitution on due process and takings
7 grounds, and based on the improper public notice for the amended ordinance.
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9 **PARTIES**

10 12. Petitioner **SOUTHERN CALIFORNIA COALITION** (“SCC”) is a domestic
11 nonprofit corporation organized and existing under the laws of the State of California and is and
12 was at all times mentioned herein qualified to do business in California. SCC is Southern
13 California’s largest cannabis trade association representing every sector of the cannabis industry,
14 including pre-ICO and Proposition D compliant dispensaries, cultivation, manufacturing,
15 distribution, transportation, lab testing, and existing or prospective cannabis delivery businesses.
16 The organization’s mission is to ensure that local, state and federal legislation is inclusive, fair,
17 and implemented in a responsible manner. The organization’s members are interested in parties
18 in the outcome of this challenge and one or more of it members had rights at issue in this case.

19 13. Petitioner the **CALIFORNIA CANNABIS COURIERS ASSOCIATION**
20 (“CCCA”) is a domestic nonprofit corporation organized and existing under the laws of the State
21 of California and is and was at all times mentioned herein qualified to do business in California.
22 CCCA is a statewide cannabis industry association, consisting of current and prospective cannabis
23 delivery businesses. CCCA works towards fair, responsible, and clear regulation of cannabis
24 deliver in California. The organization’s members are interested in parties in the outcome of this
25 challenge and one or more of it members had rights at issue in this case.

26 14. Petitioner **ZACH PITTS** (“Pitts”) is the majority owner of Strategic Star
27 Properties, Inc., which has cannabis manufacturing and distribution licenses in the City of Los
28 Angeles. Given Mr. Pitts licensure and background, he was qualified to apply for a non-social

1 equity cannabis delivery license under the Delivery Pilot Program and is an interested party in
2 this matter.

3 15. Petitioners SCC, CCCA, and Pitts will be collectively referred to as Petitioners.

4 16. Respondent **CITY OF LOS ANGELES (“City”)** is a municipal corporation
5 located in the County of Los Angeles, State of California.

6 17. Respondent **LOS ANGELES DEPARTMENT OF CANNABIS**
7 **REGULATION (“DCR”)** is an Agency of the City and is responsible for issuing licenses to sell
8 commercial cannabis pursuant Los Angeles Municipal Code 104.00, *et seq.*

9 18. Respondent **CAT PACKER**, in her official capacity, is the director and/or
10 managing agent of the DCR.

11 19. Respondents CITY, DCR, AND CAT PACKER shall be referred to collectively
12 as Respondents.

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14 **JURISDICTION AND VENUE**

15 20. This court has jurisdiction to grant injunctive relief on behalf of Petitioners under
16 Code of Civil Procedure Sections 1085.

17 21. This court has jurisdiction to grant declaratory relief on behalf of Petitioners under
18 Code of Civil Procedure Sections 1060.

19 22. Venue is proper in the County of Los Angeles, in that Respondents reside in, and
20 the acts and omissions complained of herein occurred in Los Angeles County and the Respondents
21 maintain an office in the City of Los Angeles. *See* California Code Civ. Pro. Sections 393, 394(a).

22 **FACTUAL BACKGROUND**

23 23. At all times relevant to this Petition, Petitioners were interested parties, interested
24 in the outcome of Delivery Pilot Program for themselves and/or their members. Petitioners either
25 were personally eligible to apply for a non-social equity license under the Delivery Pilot Program,
26 or they represent members of their organizations that are eligible to apply for licensure under the
27 program. Petitioners, or their members, would have acquired one or more of the 20 non-social
28 equity licenses available under the program.

1 24. The City has a long and tortured history regarding the regulation of cannabis in
2 general and delivery in particular; including allegations of corruption, incompetence, and
3 fundamental unfairness.

4 25. Under California law, cannabis delivery licenses are known as Type 9 licenses.
5 They are also commonly referred to as non-storefront retailers. *See* Cal. Code Regs. tit. 16, §1514.

6 26. Prior to 2017, for many years, cannabis businesses were operating in the City under
7 protections from Proposition 215, Senate Bill 420, and a variety of City rules such as the Interim
8 Control Ordinance and City Proposition D that created significant confusion regarding the legality
9 of cannabis delivery operations in the City.

10 27. After the passage of the California Adult Use of Marijuana Act (“Proposition 64”)
11 in 2016, voters in Los Angeles approved Measure M, the Los Angeles Cannabis Enforcement
12 Taxation and Regulation Act in March 2017. Following the passage of Measure M, the City
13 Council enacted is commercial cannabis Licensing and Social Equity Program in Los Angeles
14 Municipal Code 104. The program within the City of Los Angeles is administered and run by the
15 DCR and a Cannabis Regulation Commission.

16 28. In 2017, the Los Angeles City Council passed the initial Delivery Pilot Program.
17 Under the program, the City promised to issue 60 total deliver licenses following Phase III Round
18 1 of licensing. Of those 60 licenses, 40 licenses were promised to social equity applicants and 20
19 were promised to non-social equity applicants. Specifically, the Los Angeles Code stated,
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21 (f) **Type 9 Application Processing.**

- 22 1. DCR *shall*, on a date beginning at its sole discretion, accept
23 applications for processing under this section, provided that it posts written
24 notice on its website at least 15 calendar days before the start date of the
25 processing period. To be eligible for processing under this subsection, a
26 Type 9 Applicant shall submit the following application documents: 1) a
27 copy of an executed lease agreement with proof of a deposit or property
28 deed for its Business Premises; 2) a Business Premises diagram; 3)

1 proposed staffing, security and delivery plans; 4) a dated radius map
2 including horizontal lines and labeling of any sensitive uses relative to a
3 Type 9 License; 5) an indemnification agreement; 6) a current Certificate
4 of Occupancy for retail use for the Business Premises; and 7) all business
5 records and agreements necessary to demonstrate that a Tier 1 or Tier 2
6 Social Equity Applicant owns the minimum Equity Share in the Type 9
7 Applicant required under Section 104.20, if applicable.

8 **2. Delivery Pilot Program.** DCR *shall* process the first 60 Type 9
9 Applications that meet the requirements of subdivision 1. of this subsection
10 and comply with the Social Equity Program priority processing ratios
11 specified in Section 104.20(a). An Applicant who is eligible for processing
12 under subdivisions 3. or 4. of this subsection shall not be eligible for the
13 Delivery Pilot Program.

14 Los Angeles City Code Section 104.06.1(f) (emphasis supplied noting the mandatory nature of
15 DCR's obligations to accept and process applications). These provisions made clear that social
16 equity applicants were entitled to 40 deliver licenses under the program and non-social equity
17 applicants, such as Petitioner Pitts or members of the other Petitioners, were entitled to 20 delivery
18 licenses under the Delivery Pilot Program.

19 29. After 2017, Phase 1, Phase 2, and Phase 3 of cannabis business licensing in Los
20 Angeles were all significantly delayed, often due to understaffing and foreseeable funding issues
21 at the DCR. During Phase 2 licensing, the DCR had to ask the City to extend their mandated
22 licensing deadline due to severe understaffing. These delays compounded when the City had to
23 audit the irregularities in the Phase 3 application process. During the years of the DCR's and City
24 Council's delays and setbacks, Petitioners patiently waited for licensing to resume, causing many
25 to lose large amounts of money paying for rent and other application related fees.

26 30. On September 27th, 2019, DCR concluded accepting applicants for the Phase III
27 Round 1 of licensing after numerous delays and setbacks. Immediately following the conclusion
28

1 of Round 1 Phase 3, it was revealed there were irregularities in the application process that
2 allowed certain applicants to start the application process online before the officially announced
3 start time of the round.

4 31. Given the improper implementation of Phase III Round 1 applications, in
5 November 2019, the Office of the Chief Administrative Officer (“CAO”) was directed by the
6 Mayor’s Office to conduct an independent, third-party audit of DCR’s Phase III Round 1 licensing
7 process in response to concerns raised by applicants and other members of the public about the
8 fairness of the Phase III Round 1 licensing process.

9 32. On March 27, 2020, CAO transmitted the final results of the Phase III Round 1
10 Audit to the Mayor and City Council. Based on feedback received, including that of the Audit and
11 from stakeholders, DCR acknowledged that the licensing process was not fair and had not been
12 handled properly.

13 33. At no time from September 2019 through March 2020 did DCR begin accepting
14 applications for the Delivery Pilot Program, despite prior assurances it would begin accepting
15 delivery applications after the completion of the application process for Phase III Round 1. There
16 is no reasonable or justifiable explanation for this delay in implementing the Delivery Pilot
17 Program.

18 34. On April 10, 2020, the Department of Cannabis Regulation wrote a letter to the
19 Rules Elections Intergovernmental Relations Committee with a list of recommendations for
20 “legislative changes,” including change the rules for all Phase 3 “Delivery Pilot Program”
21 applicants. However, DCR did not indicate that the Delivery Pilot Program should be eliminated
22 or that non-social equity applicants be prohibited from obtaining licensure for several years.

23 35. From March 2020 through June 2020, at no time did DCR initiate the application
24 process for the Delivery Pilot Program and there is no reasonable or justifiable explanation for
25 this delay.

26 36. On June 16, 2020, the DCR transmitted a proposed ordinance to the City Council
27 which recommended the elimination of the non-social equity delivery licenses for the first time.
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1 The proposal limited Type 9 delivery licenses to only Social Equity applicants until January 1,
2 2025. The proposed amendments eliminated the Delivery Pilot Program.

3 37. On June 30th, 2020 the *Shockley* case reached settlement resulting in an increase
4 from 100 to 200 retail licenses being issued as part of Phase III Round 1.

5 38. On July 1, 2020, the Los Angeles City Council gave initial approval to an
6 ordinance amending portions of Article 4, Chapter X of the Los Angeles Municipal Code related
7 to the Licensing and Social Equity Program, including the removal of the Delivery Pilot Program
8 and the ability for non-retail Phase 2 applicants to apply for a delivery license until 2025. The
9 amendment to the Los Angeles Municipal Code read as follows: “Type 9 Licenses shall be limited
10 to only Social Equity Individual Applicants, as defined in Section 104.20(a) and (b), until January
11 1, 2025.” *See* LAMC Section 104.06, Sec. 10(c).

12 39. On July 17 and July 23, 2020, the City published notice of the proposed ordinance
13 changes in the Los Angeles Daily Journal. The Public Notice said the Los Angeles City Council
14 was conducting a public hearing on amendments to the cannabis regulations related to “increasing
15 fees and fines.” While there was reference to the elimination of the Delivery Pilot Program buried
16 in a reference to a website, the publication was misleading and did not explicitly say substantive
17 changes were being considered to the Delivery Pilot Program.

18 40. On July 29, 2020, the Los Angeles City Council adopted the amendments,
19 including the elimination of the Delivery Pilot Program. The amended ordinance was adopted
20 using the urgency clause under L.A. Charter Section 253, claiming there was an urgent need to
21 make the ordinance effective immediately. *See* section 32 of the Amended Ordinance.

22 41. The July 29, 2020 amendments resulted in the Los Angeles City Council creating
23 licensing pathways for all pre-existing cannabis business operators within the City, spanning all
24 aspects of the commercial cannabis supply chain, except for non-storefront (delivery) operators
25 such as the Petitioners. In Phase 1 of cannabis business licensing, pre-existing storefront retailers
26 received the opportunity to become licensed operators. In Phase 2 of cannabis business licensing
27 in Los Angeles manufacturers, distributors, and cultivators received the opportunity to become
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1 licensed operators. In other words, all other aspects of the industry have been accommodated
2 except non-social equity delivery licensees such as the Petitioners or their members. This denial
3 of a path to non-social equity delivery applicants is fundamentally unfair given the equities in this
4 case.

5 42. The consequences of the July 29, 2020 amendments is that legacy delivery
6 operators who were promised the opportunity to obtain licensure by the DCR and Los Angeles
7 City Council, but don't qualify as a social equity applicant, are now left without a pathway forward
8 for nearly five years.

9 43. Based on this change in law, Petitioners and/or their members are no longer
10 eligible to apply for or receive a delivery license until 2025.

11 **LEGAL STANDARDS**

12 44. California Code of Civil Procedure 1085 explains a writ of mandate (or non-
13 administrative mandamus) may be issued to any municipal government or its agents, such as
14 Respondents, "to compel the performance of an act which the law" requires. *See* CCP 1085. In
15 other words, CCP 1085 authorizes relief to require Respondents to follow the law, including
16 Constitutional provisions such as the due process and takings clause of the California
17 Constitution. *See e.g. Western States Petroleum v Superior Court*, 9 C4th 559 (1995), *Bollengier*
18 *v Doctors Med. Ctr.*, 222 CA3rd 1115.

19 45. In addition, judicial review of the validity of ordinances is also available through
20 an action for declaratory judgment under CCP 1060 and Government Code 11350(a).

21 46. Exhaustion of administrative remedies is not required when the petitioner
22 challenges the validity of the statute. *See State v. Superior Court (Veta Co.)*, 12 C3d 237, 250
23 (1974). The petitioner "need not show that he has any legal or special interest in the result, since
24 it is sufficient that he is interested as a citizen in having the laws executed and the duty in question
25 enforced ..." *Green v. Obledo*, 29 Cal.3d 126, 144 (1981). Thus, any interested citizens, such as
26 the Petitioners, have standing to challenge an illegal ordinance.

27 47. Claims are ripe when there is no plain, speedy, and adequate remedy at law.
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1 48. A person may not be deprived of life, liberty, or property without due process of
2 law or denied equal protection of the laws. *See* Cal. Const., art. I, § 7.

3 49. Unreasonable delay in issuing licenses can be considered a due process violation.
4 The time agencies take to make decisions must be governed by a “rule of reason;” *See Russell v.*
5 *Landrieu*, 621 F.2d 1037, 1040 (9th Cir. 1980).

6 50. Private property may be taken or damaged for a public use and only when just
7 compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the
8 owner. *See* California Constitution, Article I, Section 7.

9 51. Whether a property-holder possesses a legitimate claim of entitlement to a permit
10 or approval turns on whether, under municipal law, the local agency lacks all discretion to deny
11 issuance of the permit or to withhold its approval. Under this standard, a cognizable property
12 interest exists only when the discretion of the issuing agency is so narrowly circumscribed that
13 approval of a proper application is virtually assured. *See Clark v. City of Hermosa Beach*, 48 Cal.
14 4th 1158 (1996).

15 52. A temporary taking of a property right can give rise to a claim under the California
16 Constitution for a taking. *See First English Evangelical Lutheran Church v. County of Los*
17 *Angeles*, 210 Cal. App. 3rd 1353 (1989). In other words, government-caused delay can amount to
18 a regulatory taking.

19 53. Under Los Angeles Charter Section 251, no ordinance shall be valid or take effect
20 unless published at least once in some daily newspaper circulated in the City of Los Angeles.

21 54. Under Los Angeles Charter Section 253, City Council may adopt an urgency
22 ordinance, to be effective upon publication, only if “required for the immediate preservation of
23 the public peace, health or safety.”
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FIRST CAUSE OF ACTION AGAINST ALL RESPONDENTS

WRIT OF MANDATE (CCP 1085) – VIOLATION OF CALIFORNIA CONSTITUTION

DUE PROCESS CLAUSE ARTICLE I, SECTION 7

55. Petitioners re-allege and incorporate by reference Paragraphs 1 through 54, inclusive, of this Petition as specifically set forth herein.

56. Respondents violated Petitioners’ due process rights due to an unreasonable delay in opening up the application process for the Delivery Pilot Program.

57. Petitioners are interested parties under the law both because they, or their members, have a personal property interest at stake and also because they have an interest having the Respondents follow the California Constitution.

58. There is no plain, speedy, or adequate remedy at law other than this lawsuit.

59. But for the unreasonable delay by Respondents in implementing the Delivery Pilot Program, Petitioners or their members would have already applied for and been granted one or more of the 20 available non-social equity delivery licenses. Respondents’ delay, whether intentional or as a result of negligence, violated Petitioners right to due process.

60. The Respondents had a mandatory duty under the law to issue the 20 non-social equity licenses. Petitioners represent, via their memberships, nearly all of the potential applicants for such licenses. Therefore, to the extent that Respondents had a duty to grant 20 licenses, Petitioners had a property interest at stake in this matter that was protected by the California Constitution.

61. As a result, Respondents elimination of the Delivery Pilot Program after failing to implement the program in a reasonably timely manner violated Petitioners’ rights to due process under the California Constitution.

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SECOND CAUSE OF ACTION AGAINST ALL RESPONDENTS
DECLARATORY JUDGMENT (CCP 1060) – VIOLATION OF CALIFORNIA
CONSTITUTION DUE PROCESS CLAUSE ARTICLE I, SECTION 7

62. Petitioners re-alleges and incorporates by reference Paragraphs 1 through 54, inclusive, of this Petition as specifically set forth herein.

63. Respondents violated Petitioners’ due process rights by causing an unreasonable delay in opening up the application process for the Delivery Pilot Program.

64. Petitioners are interested parties under the law both because they, or their members, have a personal property interest at stake and also because they have an interest having the Respondents follow the California Constitution.

65. There is no plain, speedy, or adequate remedy at law other than this lawsuit.

66. But for the unreasonable delay by Respondents in implementing the Delivery Pilot Program, Petitioners or their members would have already applied for and been granted 20 non-social equity delivery licenses. Respondents delay, whether intentional or as a result of negligence, violated Petitioners right to due process.

67. The Respondents had a mandatory duty under the law to accept applications for and issue 20 non-social equity licenses. Therefore, Petitioners had a property interest at stake in this matter that was protected by the California Constitution.

68. As a result, Respondents elimination of the Delivery Pilot Program after unreasonably delaying the implementation of the program violated Petitioners’ rights to due process under the California Constitution.

THIRD CAUSE OF ACTION AGAINST ALL RESPONDENTS
WRIT OF MANDATE (CCP 1085) – VIOLATION OF CALIFORNIA CONSTITUTION
TAKINGS CLAUSE ARTICLE I, SECTION 19

69. Petitioners re-allege and incorporate by reference Paragraphs 1 through 54, inclusive, of this Petition as specifically set forth herein.

1 70. The Respondents had a mandatory duty under the law to accept applications for
2 and issue 20 non-social equity licenses. Petitioners would have received one or more of those 20
3 non-social equity licenses. Therefore, Petitioners had a property interest at stake in this matter that
4 was protected by the California Constitution.

5 71. By amending the ordinance to eliminate the Delivery Pilot Program, Respondents
6 engaged in a taking of a property interest from Petitioners.

7 72. While non-social equity delivery licenses may be issued after 2025, a delay in
8 allowing a party to exercise its property rights is a taking.

9 73. Respondents did not pay compensation to the Petitioners for the elimination or
10 delay of this property interest.

11 74. Respondents violated Petitioners’ Constitutional rights by taking property without
12 just compensation.

13 **FOURTH CAUSE OF ACTION AGAINST ALL RESPONDENTS**

14 **DECLARATORY JUDGMENT (CCP 1060) – VIOLATION OF CALIFORNIA**

15 **CONSTITUTION TAKINGS CLAUSE ARTICLE I, SECTION 19**

16 75. Petitioners re-allege and incorporate by reference Paragraphs 1 through 54,
17 inclusive, of this Petition as specifically set forth herein.

18 76. The Respondents had a mandatory duty under the law to accept applications for
19 and issue 20 non-social equity licenses. Petitioners would have received one or more of those 20
20 non-social equity licenses. Therefore, Petitioners had a property interest at stake in this matter that
21 was protected by the California Constitution.

22 77. By amending the ordinance to eliminate the Delivery Pilot Program, Respondents
23 engaged in a taking of a property interest from Petitioners.

24 78. While non-social equity delivery licenses may be issued after 2025, a delay in
25 allowing a party to exercise its property rights is a taking.

26 79. Respondents did not pay compensation to the Petitioners for the elimination or
27 delay of this property interest.

1 80. Respondents violated Petitioners’ Constitutional rights by taking property without
2 just compensation.

3 **FIFTH CAUSE OF ACTION AGAINST ALL RESPONDENTS**

4 **WRIT OF MANDATE (CCP 1085) – VIOLATION OF LOS ANGELES CHARTER**

5 **SECTION 251 – PUBLICATION OR POSTING OF ORDINANCES**

6 81. Petitioners re-allege and incorporate by reference Paragraphs 1 through 54,
7 inclusive, of this Petition as specifically set forth herein.

8 82. The City Council cannot enact ordinance unless done in compliance with the
9 requirements of the City Charter.

10 83. The City Charter requires that ordinance be published in a newspaper of general
11 circulation in the City of Los Angeles.

12 84. The amended ordinance in this case was published under the title and auspices of
13 amending the “fees and fines” of the cannabis program in the City. In fact, the amended ordinance
14 made wide ranges substantive changes, including eliminating the Deliver Pilot Program, which is
15 much broader than changing fees and fines.

16 85. The public was not properly noticed about the changes in this ordinance by this
17 deficient publication, or at a minimum the publication was misleading.

18 86. Therefore, the amendment to the ordinance eliminating the Delivery Pilot Program
19 were illegal without proper publication and therefore are void.

20 **SIXTH CAUSE OF ACTION AGAINST ALL RESPONDENTS**

21 **DECLARATORY JUDGMENT (CCP 1060) – VIOLATION OF LOS ANGELES**

22 **CHARTER SECTION 251 – PUBLICATION OR POSTING OF ORDINANCES**

23 87. Petitioners re-allege and incorporate by reference Paragraphs 1 through 54,
24 inclusive, of this Petition as specifically set forth herein.

25 88. The City Council cannot enact ordinance unless done in compliance with the
26 requirements of the City Charter.
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1 89. The City Charter requires that ordinance be published in a newspaper of general
2 circulation in the City of Los Angeles.

3 90. The amended ordinance in this case was published under the title and auspices of
4 amending the “fees and fines” of the cannabis program in the City. In fact, the amended ordinance
5 made wide ranges substantive changes, including eliminating the Deliver Pilot Program, which is
6 much broader than changing fees and fines. The notice was misleading and did not provide clear
7 notice to the public that the Deliver Pilot Program was being eliminated.

8 91. The public was not properly noticed about the changes in this ordinance by this
9 deficient publication, or at a minimum the publication was misleading.

10 92. Had the public been properly noticed, it is likely the City Council would have
11 received substantially more input from effected members of the public.

12 93. Therefore, the amendment to the ordinance eliminating the Delivery Pilot Program
13 were illegal without proper publication and therefore are void.

14
15 **SEVENTH CAUSE OF ACTION AGAINST ALL RESPONDENTS**

16 **WRIT OF MANDATE (CCP 1085) – VIOLATION OF LOS ANGELES CHARTER**

17 **SECTION 253 – URGENCY ORDINANCE**

18 94. Petitioners re-allege and incorporate by reference Paragraphs 1 through 54,
19 inclusive, of this Petition as specifically set forth herein.

20 95. The City Council adopted the Amended Ordinance under an urgency clause,
21 claiming there was an immediate need to pass the Ordinance for the “preservation of the public
22 peace, health or safety.”

23 96. The Delivery Pilot Program was eliminated without any urgent need.

24 97. The claimed urgency in the ordinance was either entirely false or an exaggeration.

25 98. There are already delivery licenses existing within the City. Social equity
26 applicants already had a right to obtain 40 delivery licenses under the Delivery Pilot Program.

27 99. The City’s purported urgency was a ruse that does not meet the standard under law.
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EIGHTH CAUSE OF ACTION AGAINST ALL RESPONDENTS
DECLARATORY JUDGMENT (CCP 1060) – VIOLATION OF LOS ANGELES
CHARTER SECTION 253 – URGENCY ORDINANCE

100. Petitioners re-allege and incorporate by reference Paragraphs 1 through 54, inclusive, of this Petition as specifically set forth herein.

101. The City Council adopted the Amended Ordinance under an urgency clause, claiming there was an immediate need to pass the Ordinance for the “preservation of the public peace, health or safety.”

102. The Delivery Pilot Program was eliminated without any urgent need.

103. The claimed urgency in the ordinance was either entirely false or an exaggeration.

104. There are already delivery licenses existing within the City. Social equity applicants already had a right to obtain 40 delivery licenses under the Delivery Pilot Program.

105. The City’s purported urgency was a ruse that does not meet the standard under law.

PRAYER FOR RELIEF

Wherefore, the Plaintiff prays for the following relief:

A. Grant a writ of mandate ordering the Respondents to provide Petitioners due process of law;

B. Enter Declaratory Judgment in Petitioners’ favor declaring the Respondents violated Petitioners’ right to due process.

C. Grant a writ of mandate ordering the Respondents not to engage in a taking of Petitioners property rights without just compensation;

D. Enter Declaratory Judgment in Petitioners’ favor declaring the Respondents took Petitioners’ property rights without just compensation.

E. Grant a writ of mandate ordering that the elimination of the Delivery Pilot Program was done in violation of the requirement to publish all ordinances.

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F. Enter Declaratory Judgment in Petitioners’ favor declaring the Respondents violated Petitioners’ rights by the eliminating of the Delivery Pilot Program without proper publication.

G. Grant a writ of mandate ordering that the elimination of the Delivery Pilot Program did not meet the standard of urgency under the Los Angeles Charter Section 253.

H. Enter Declaratory Judgment in Petitioners’ favor declaring the Respondents violated Petitioners’ rights by eliminating the Delivery Pilot Program under an urgency clause when the amendments did not meet the standard of urgency under the Los Angeles Charter Section 253.

I. Award Petitioners their attorneys fees under CCP 1021.5; and

J. Such other and further relief the Court deems just and proper.

DATED: October 19, 2020

MCALLISTER GARFIELD, P.C.

By: Sean McAllister
Sean T. McAllister, Esq.
Andrew Koussevitzky, Esq.
ATTORNEYS FOR PLAINTIFF

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VERIFICATION

I, Adam Spiker, declare:

I am the Executive Director of the Petitioner, SOUTHERN CALIFORNIA COALITION, a domestic non-profit corporation organized and existing under the laws of California. I have been authorized to make this verification on behalf of such entity, and I am also making this verification on my own behalf.

I have read the foregoing Petition for Writ of Mandate and I know the contents thereof. I declare the facts alleged in the petition are within my own knowledge, and I know these facts to be true.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. This verification was executed on this 16th day of October 2020, in Los Angeles, California.

By: 

Adam Spiker

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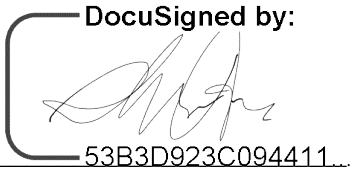
VERIFICATION

I, Steven Domingo, declare:

I am a member of Petitioner, CALIFORNIA CANNABIS COURIERS ASSOCITION, a domestic non-profit corporation organized and existing under the laws of California. I have been authorized to make this verification on behalf of such entity, and I am also making this verification on my own behalf.

I have read the foregoing Petition for Writ of Mandate and I know the contents thereof. I declare the facts alleged in the petition are within my own knowledge, and I know these facts to be true.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. This verification was executed on this 16th day of October 2020, in Los Angeles, California.

By:  53B3D923C094411...

Steven Domingo

VERIFICATION

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3 I, Zach Pitts, declare:

4 I am a Petitioner, and individual living in Los Angeles, California. I am also making this
5 verification on my own behalf.

6 I have read the foregoing Petition for Writ of Mandate and I know the contents thereof. I
7 declare the facts alleged in the petition are within my own knowledge, and I know these facts to
8 be true.
9

10 I declare under penalty of perjury, under the laws of the State of California, that the
11 foregoing is true and correct. This verification was executed on this 16th day of October 2020,
12 in Los Angeles, California.
13

14 By:

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Zach Pitts