Louis Carroll
363 W 3rd St. Perris, CA 92570
951 657 2027 Home
Pro Se

SUPERIOR COURT
STATE OF CALIFORNIA

Louis Carroll Plaintiff vs. City of Perris AL C. Rojales, Code Enforcement Officer	Case # RIC 1826939 Assigned to: Honorable DANIEL A. OTTOLIA FIRST AMMENDED COMPLAINT FOR INJUNCTIVE RELIEF Hearing Date: TBA Time:

Louis Carroll

OPENING STATEMENT

1) This is a civil action for injunctive relief by plaintiff Louis Carroll, an inhabitant of Perris CA against the defendants City of Perris, and AL C. Rojales, code enforcement officer operating in California,. This complaint is brought in response to:

a) Three (3) citations issued to plaintiff by defendant City of Perris and AJ C Rojales.

b) Violations of Due Process with regard the defendants citations appeal process.

Jurisdiction

2) Jurisdiction should be proper because the plaintiff could sustain damages within the courts jurisdictional area. The defendant is a california government entity who is qualified to do business within the courts jurisdictional area. Plaintiff has sought administrative relief with no good results to date.

Parties

3) Plaintiff, Louis Carroll of Riverside County CA, hereinafter “Plaintiff” is at all times relevant to the facts in this complaint. Plaintiff’s permanent residence and mailing location is located at 363 W 3rd St., Perris CA 92570.

4) Defendants, City of Perris and “AJ C. Rojales” Code Enforcement Officer are being sued in their personal and official capacities, hereinafter “defendants” are government entities or agents that regulate land use in Perris CA, within Riverside County.

Statement of the Facts

5) Defendants issued a parking citation to plaintiff while plaintiffs truck was parked on vacant private property located at 383 W 3rd St. Perris CA. This occurred on 7-23-18 at approximately 2:08 pm. This citation indicated a violation of Perris Municipal Code (hereinafter “PMC”) 10.42-010, which prohibits commercial vehicle parking within residential zones.

6) On 11-30-18, plaintiff received a 2nd citation issued by defendants. This second citation claims that plaintiff has violated PMC 504010 and 19.01.050. 504010 requires a business license to be obtained in order to conduct a business within a residence. 19.01.050 appears to a be restriction upon the City of Perris to refrain from processing or issuing any “permits” that fail to be in accordance with the Perris “General (zoning) Plan”.

7) Defendant Rojales called Plaintiff on 12-7-18 and told plaintiff that he planned on causing plaintiffs commercial truck to be impounded, if plaintiff does not pay the administrative fine levied by the first parking citation.

8) On 2-7-19, defendants issued a third administrative citation alleging that plaintiff illegally parked his commercial vehicle in a residential property located at 383 W 3rd st. Perris CA.

9) Suspecting that defendant Rojales was in “harrassment mode” plaintill took multiple pictures of this unloading event, in anticipation of an administrative citation being issued, and as suspected, the citation arrived via US Mail several days later.

Plaintiff is not liable for the following reasons

10) Regarding the first citation (PMC 10.42-010) against plaintiffs truck, plaintiff parked within the city block of his residence but four (4) lots away at 383 W 3rd St. Perris CA in order to load heavy equipment for transfer to Lake Elsinore CA. Plaintiff temporarily used that property to load, since it is vacant and allows plaintiff to use a forklift to load from 3 sides of his truck without interfering with other drivers or traffic. PMC 10.42.020 part 2 exempts plaintiffs truck from the parking restrictions of PMC 10.42-010 since it was being loaded. Furthermore, PMC 10-42.020 part 3 exempts a commercial truck from the restric-

tions of PMC 10-42.010: “During that period of time in which a vehicle is parked or left standing in connection with, and in aid of, ongoing performance of a service to or on a property located in the city block in which such vehicle is parked or left standing”.

11) Regarding the second citation and PMC 504010, this code requires a business license to be issued before conducting a business would be allowed within a residential zoned property. Plaintiff has been selling a few guitars and also answers customer inquiries via email and telephone within his residence. Plaintiff has a valid business license for his occupation, and conducts his business well within the restrictions of PMC 19.02.140 (Ordinance No. 1357). Plaintiffs business license (exhibit d) was valid prior to the issuance of any citations and does not expire until June 2019, therefore it is confusing as to why the City of Perris would issue a citation regarding PMC 504010, while the business license was and still is valid.

12) Regarding the second citation and PMC 19.01.050, this code appears to be a restriction upon the City of Perris to refrain from processing or issuing any “permits” that fail be be in accordance with the Perris “General (zoning) Plan”. Since plaintiff is not involved in processing or issuing “permits” for the City of Perris, it is confusing as to how plaintiff could be in violation of PMC 19.01.050, or how this citation could apply to plaintiff.

13) On 2-7-19, defendants issued the third (3rd) citation (PMC Parking Restrictions 10.42-010) against plaintiffs truck. Plaintiff parked within the city block of his residence, four (4) lots away at 383 W 3rd St. Perris CA in order to unload heavy equipment that was transferred from Lake Elsinore CA to plaintiffs property at 363 W 3rd st. Perris CA. Plaintiff temporarily used that property to load, since it is vacant and allows plaintiff to use a forklift to load from 3 sides of his truck without interfering with other drivers or traffic. PMC 10.42.020 part 2 exempts plaintiffs truck from PMC 10.42-010 since it was being unloaded. Furthermore, PMC 10-42.020 part 3 exempts a commercial truck from the

parking restrictions of PMC 10-42.001 “During that period of time in which a vehicle is parked or left standing in connection with, and in aid of, ongoing performance of a service to or on a property located in the city block in which such vehicle is parked or left standing”.

Grandfather clause

14) Plaintiff is residing at 363 W 3rd St. Perris CA and is operating a permitted home based business within the restrictions of PMC 19.02.140. Plaintiff also owns the property adjacent to the west (“west property”), which is essentially a 50’x150’ lot with a few small buildings therein. These structures were properly permitted in 1964, and plaintiff parks his vehicles there, as a use incident the permitted structures. To plaintiffs knowledge, the west property was zoned “professional office” for many years or decades and operating a business or parking a commercial vehicle was arguably legal. Plaintiff has used the west property for minor engineering, product design, and consulting work, which was within the permitted uses Plaintiff suspects that defendant City of Perris changed the zoning to “residential” at some point in time, and the rules of “use” may have changed accordingly. However ownership of the property has not changed hands, and plaintiff has continued to lawfully use his property and structures in accordance to the original permits and prior zoning. This represents a “grandfathered” position, whereby use of the property should be considered currently nonconforming but legal. Plaintiff should be able to use his west property and park his commercial vehicle on his property, as a use consistent with the legal historical use of the property.

Plaintiffs Residential Property

15. Plaintiff resides at 363 W 3rd st. Perris CA, and has business license issued by the City of Perris which allows plaintiff to engage in digital communications with customers who are interested in ballistic rated office panels, or electric guitars with a wider neck. Plaintiff is operating within the limits of his business license.

Violations of Due Process by defendants

16) Upon receiving the first parking citation, plaintiff wrote a letter of appeal and mailed it to a “Administrative Citation Processing Center, PO Box 7275, Newport Beach CA 92658. Plaintiff explained that his commercial truck was being legally unloaded at the time the citation was issued, and should be exempt from the parking restrictions pursuant to PMC 10.42.020 (2), (3). The citation was upheld, with the reason being, plaintiffs “claims of temporary loading are false”. That was it: No face to face hearing, no opportunity to cross examine, no discovery of any evidence, no witness testimony, no indication of who made this decision or whether they had any first hand knowledge of the incident (from Newport Beach CA), and certainly no indication that the tribunal was unbiased. In fact, since defendant City of Perris is a paying “client”, it is doubtful that their vendor “citations processing center” could qualify as unbiased. An unbiased tribunal is a fundamental right of Due Process, and this situation screams of faulty procedural Due Process.

17) One the reverse side of defendants administrative citations are instructions to appeal the citation. A payment of the penalty is demanded before an appeal will be accepted (exhibit g). Thus, pursuant to defendants instructions, a victim will be unjustly separated from his property of interest, namely his money, prior to any appeal consideration.

18) The required elements of due process are those that “minimize substantively unfair or mistaken deprivations” by enabling persons to contest the basis upon which a government proposes to deprive them of protected interests. [Fuentes v. Shevin, 407 U.S. 67, 81 (1972). At times, the Court has also stressed the dignitary importance of procedural rights, the worth of being able to defend one’s interests even if one cannot change the result. Carey v. Piphus, 435 U.S. 247, 266–67 (1978); Marshall v. Jerrico, Inc., 446 U.S. 238, 242 (1980); Nelson v. Adams, 529 U.S. 460 (2000) (amendment of judgement to impose attorney fees and costs to sole shareholder of liable corporate structure invalid

without notice or opportunity to dispute)].

CAUSE OF ACTION

19) **Abuse of Process**. All allegations set forth in the paragraphs above are incorporated herein by reference. The herein described actions by defendants could be described as a “willy nilly” issuance of administrative citations in order to either harass or extort money from plaintiff for the coffers of the Defendant City of Perris. These unjust citations represents an Abuse of Process, and are causing plaintiff some distress. The process of collecting these fines are eventually referred to the California Franchise Tax board where they simply seize the money from a victims bank account, and the victim is faced with having to prove his innocence after the seizure, thus losing his money and his right to reasonable due process. This shifts the burden of proof from the accuser to the victim. The defendants can also refer the erroneous parking citation to DMV which could result in the impoundment of plaintiffs truck. Since plaintiff was truly loading/unloading and has ample evidence to support it, and the defendants have no evidence to the contrary, the erroneous conduct of defendants City of Perris and Code Enforcement Officer Rojales is outrageous, abusive, and could cause substantial harm to plaintiff.

20) **Violation of Due Process within the 5th and 14th Ammendments.** Defendants are currently efficiently organized to unjustly separate plaintiff and other victims from their protected interests in defiance of reasonable Due Process for the following reasons:

1) Payment of penalty is demanded prior to consideration of appeal

2) A “financial partner” collections processing service cannot qualify as an unbiased tribunal

3) No instructions or opportunity is offered with regard to the right to call witnesses, the right to see oppposing evidence, the right to cross examine, the right to councel, the opportunity to review a written record of the case or understand the reasoning behind the verdict.

Plaintiff knows just enough law to get himself into trouble . What about the rest of the inhabitants of the City of Perris? What about the contruction workers, plumbers, electricians, welders and common folk? Without extensive knowledge of the law, they have little chance against the defendants and their unfair collections tactics. This has been going on far too long.

21) Under defendant City of Perris's current appeals provision, monies collected from inhabitants of the City of Perris has been done so in violation of due process, and therefore, all monies should be refunded to the victims.

PRAYER FOR RELIEF

22). WHEREFORE Plaintiff requests judgement and relief against the defendants as follows:

a) A judgement that defendants have shown an abuse of process and that the described three (3) citations are meritless.

b) A judgement in favor of plaintiff that the three (3) citations issued to plaintiff are to be voided, and not referred to any other agency for "ambush" collection.

c) A judgement in favor of plaintiff that he can continue to use his properties as he has historically and legally, with grandfather rights in effect.

d) A judgement that defendant City of Perris collection tactics violate Due Process and that all monies from penalties collected are to be returned to their victims..

e) The filing cost for this case to be reimbursed to plaintiff

f) The right to amend this complaint as needed;

g) Such other and further relief as the court deems proper.

Dated: November 30th, 2018

Louis Carroll

Plaintiff, pro se.

Exhibits List

a) Copy of ruling of plaintiffs appeal for the 1st parking citation

b) Copy of parking ticket 2nd request for payment, plus penalties and threat of vehicle impoundment.

c) Copy of second citation regarding business license and use of plaintiffs property.

d) Copy of my valid business license, as issued by City of Perris

Note: Plaintiffs truck was loaded and used to move equipment and materials to our new location at Lake Elsinore CA on 7-23-18, and I offer the following evidence:

e) Map of properties involved in plaintiffs case.

f) Current pictures of the equipment that was loaded on plaintiffs truck on 7-23-18, and transported to his leased building located at 18501 Collier Ave,. Suite A102, Lake Elsinore CA

g) Copy of Perris Municipal Code (PMC) 10.42.010 regarding parking restrictions for commercial vehicles in residential zoned areas.

h) Copy of Perris Municipal Code (PMC) 10.42.020 exemptions to parking restrictions in PMC 10.42.010.

g) Copy of the back of an Administrative Citation issued by defendants in this case.