

1 MATTHEW T. HEARTNEY (Bar No. 123516)
 matthew.heartney@arnoldporter.com
 2 DANIEL SHIMELL (Bar No. 300931)
 daniel.shimell@arnoldporter.com
 3 KATHRYN CAMPBELL (Bar No. 350536)*
 katie.campbell@arnoldporter.com
 4 DANIA QAHOUSH (Bar No. 335202)*
 dania.qahoush@arnoldporter.com
 5 **ARNOLD & PORTER KAYE SCHOLER LLP**
 777 South Figueroa Street, 44th Floor
 6 Los Angeles, CA 90017-5844
 Telephone: 213.243.4000
 7 *C.D. Cal Admission Pending

8 RITU MAHAJAN (Bar No. 252970)
 rmahajan@publiccounsel.org
 9 MARK ROSENBAUM (Bar No. 59940)
 mrosenbaum@publiccounsel.org
 10 SYLVIA TORRES-GUILLEN (Bar No. 164835)
 storres-guillen@publiccounsel.org
 11 SOPHIA L. WRENCH (Bar No. 354416)
 swrench@publiccounsel.org
 12 CASSIDY J. BENNETT (Bar No. 347811)
 cbennett@publiccounsel.org
 13 ELIZABETH R. BROWN (Bar No. 360601)
 ebrown@publiccounsel.org
 14 JACOB MADDOX (Bar No. 354368)
 jmaddox@publiccounsel.org
 15 **PUBLIC COUNSEL**
 610 South Ardmore
 16 Los Angeles, CA 90005
 Telephone: 213.385.2977

17 *Attorneys for Plaintiffs*

18 UNITED STATES DISTRICT COURT
 19 CENTRAL DISTRICT OF CALIFORNIA EASTERN DIVISION
 20

21 A.M., A.P., L.C., and INLAND COALITION
 22 FOR IMMIGRANT JUSTICE,

23 Plaintiffs,

24 v.

25 CITY OF FONTANA and 4LEAF, INC.,
 26

27 Defendants.

Case No. 5:25-CV-2092-SSS-SP

28 **SECOND AMENDED
 COMPLAINT**

TABLE OF CONTENTS

1

2 PRELIMINARY STATEMENT..... 1

3 JURISDICTION AND VENUE5

4 PARTIES6

5 FACTUAL ALLEGATIONS8

6 I. In 2019, the State of California Enacts SB 946 to Legalize

7 Sidewalk Vending and Protect Vendors.....8

8 II. Fontana Contravenes SB 946 With Unlawful Permitting

9 Requirements and Seizure Provisions 12

10 III. In 2022, the State of California Enacts SB 972 and Fully

11 Decriminalizes Sidewalk Vending..... 14

12 IV. Fontana Rebels Against California’s Decriminalization of

13 Sidewalk Vending and Hires 4LEAF..... 16

14 LEGAL FRAMEWORK.....22

15 I. Fontana’s and 4LEAF’s Policies and Practices Violate the United

16 States Constitution22

17 a. Fourth Amendment22

18 b. Fourteenth Amendment.....25

19 c. First Amendment.....31

20 II. Fontana’s Sidewalk Vending Laws Are Preempted By California

21 State Law33

22 A. Or. 1925, FMC § 1-14 – Enforcement Obstruction

23 Consequences.....35

24 B. Or. 1789, FMC § 15-828 – Seizure of Vendor Property as

25 Evidence.....36

26 C. Or. 1925, FMC § 15-829(b)(1) – Local Enforcement

27 Authority Requirements.....37

28 D. Or. 1925, FMC § 15-829(b)(2) – Seizure of Unattended

Property.....38

1 E. Or. 1925, FMC §§ 15-829(b)(4), (5), (9) & (c) –
2 Impoundment Provisions Dependent on Other Violations of
3 the City’s Sidewalk Vending Article39
4 F. Or. 1925, FMC §§ 15-829(b)(6) & (8) – Other Impoundment
5 Provisions Based on Vendor Conduct.....41
6 G. Or. 1925, FMC §§ 15-826 & 15-829(h) – Appeal and
7 Impoundment Fees.....42
8 H. Or. 1925, FMC § 15-820(a)(10) – Insurance Coverage
9 Requirement.....43
10 I. Or. 1789, FMC §§ 15-820(a)(15) – Risk Acknowledgment
11 Requirement.....44
12 J. Or. 1789, FMC § 15-820(b) – LiveScan Background Check.....46
13 *MONELL ALLEGATIONS*.....48
14 *HARMS TO ORGANIZATIONAL PLAINTIFF ICIJ AND ITS MEMBERS*.....49
15 *FIRST CAUSE OF ACTION*.....54
16 *SECOND CAUSE OF ACTION*56
17 *THIRD CAUSE OF ACTION*57
18 *FOURTH CAUSE OF ACTION*.....58
19 *FIFTH CAUSE OF ACTION*60
20 *SIXTH CAUSE OF ACTION*.....62
21 *SEVENTH CAUSE OF ACTION*63
22 *EIGHTH CAUSE OF ACTION*.....64
23 *NINTH CAUSE OF ACTION*.....65
24 *PRAYER FOR RELIEF*66
25
26
27
28

TABLE OF AUTHORITIES

Page(s)

Cases

American Financial Services Assn. v. City of Oakland,
 34 Cal.4th 1239 (Cal., 2005)33, 34, 35, 63

Brown v. Texas,
 443 U.S. 47 (1979).....41

Chevron U.S.A. Inc. v. Cnty. of Monterey,
 15 Cal.5th 135 (Cal., 2023).....63

City of Houston, Texas v. Hill,
 482 U.S. 451 (1987).....31, 32, 61

*Community Legal Services in East Palo Alto v. U.S. Dept. of Health &
 Human Services*,
 780 F.Supp.3d 897 (N.D. Cal. 2025).....53

Dombrowski v. Pfister,
 380 U.S. 479 (1965).....31

E. Bay Sanctuary Covenant v. Biden,
 993 F.3d 640 (9th Cir. 2021)53

Eastlick v. City of Los Angeles,
 29 Cal. 2d 661 (1947)34

Fireman’s Fund Ins. Co. v. City of Lodi, California,
 302 F.3d 928 (9th Cir. 2002)39

Florida v. Royer,
 460 U.S. 491 (1983).....41

Food & Drug Admin. v. All. for Hippocratic Med.,
 602 U.S. 367 (2024).....7, 51

Garay v. City of Las Vegas,
 2025 WL 1676845 (D. Nev. June 13, 2025).....53

Havens Realty Corp. v. Coleman,
 455 U.S. 363 (1982).....53

1 *Immigrant Defenders Law Center v. Noem*,
 2 145 F.4th 972 (9th Cir. 2025)7, 53
 3 *Kincaid v. City of Fresno*,
 4 2006 WL 3542732 (E.D. Cal. Dec. 8, 2006)39
 5 *Kolender v. Lawson*,
 6 461 U.S. 352 (1983).....32, 61
 7 *In re Lane*,
 8 58 Cal. 2d 99 (1962)34, 35, 63
 9 *Lavan v. City of Los Angeles*,
 10 693 F.3d 1022 (9th Cir. 2012)22
 11 *Lavan v. City of Los Angeles*,
 12 797 F. Supp. 2d 1005 (C.D. Cal. 2011), *aff'd*, 693 F.3d 1022 (9th Cir.
 2012)39
 13 *Lewis v. City of New Orleans*,
 14 415 U.S. 130 (1974).....32, 61
 15 *Mathews v. Eldridge*,
 16 424 U.S. 319 (1976).....28
 17 *Monell. Tsao v. Desert Palace, Inc.*,
 18 698 F.3d 1128 (9th Cir. 2012)49, 54
 19 *Monell v. Dep’t of Soc. Servs.*,
 20 436 U.S. 658 (1978).....*passim*
 21 *Muffett v. City of Yakima*,
 22 No. CV-10-3092-RMP, 2012 WL 2915472 (E.D. Wash. July 17, 2012)48
 23 *Mustaqeem v. City of San Diego*,
 24 No. D085750, 2026 WL 174947 (Cal. Ct. App. Jan. 22, 2026).....*passim*
 25 *Papachristou v. City of Jacksonville*,
 26 405 U.S. 156 (1972).....32
 27 *Prado v. City of Berkeley*,
 28 2025 WL 3171588 (N.D. Cal. Nov. 13, 2025)53
Recchia v. City of Los Angeles Dep’t of Animal Servs.,
 889 F. 3d 553 (9th Cir. 2018)22

1 *Saenz v. Roe*,
 2 526 U.S. 489 (1999).....4
 3 *Sherwin-Williams Co. v. City of Los Angeles*,
 4 4 Cal.4th 893 (Cal., 1993).....33, 34, 62
 5 *Smith v. Goguen*,
 6 415 U.S. 566 (1974).....61
 7 *United States v. Jacobsen*,
 8 466 U.S. 109 (1984).....22
 9 *United States v. James Daniel Good Real Property*,
 10 510 U.S. 43 (1993).....26
 11 *United States v. Nordling*,
 12 804 F.2d 1466 (9th Cir. 1986)39
 13 *United States v. Stevens*,
 14 130 S. Ct. 1577 (2010).....60
 15 *Water Quality Ass’n v. Cnty. of Santa Barbara*,
 16 44 Cal. App. 4th 732 (1996)33, 62
CONSTITUTIONAL PROVISIONS
 17 United States Constitution*passim*
 18 U.S. Const., amend. I*passim*
 19 U.S. Const., amend. IV*passim*
 20 U.S. Const., amend. XIV*passim*
 21 U.S. Const., amend. XIV, Due Process Clause32
 22 Constitution of the State of California33
 23 California Constitution Article XI, § 739
FEDERAL STATUTES
 24 28 U.S.C. § 13316
 25 28 U.S.C. § 13436
 26 28 U.S.C. § 13676

1 28 U.S.C. § 22015
 2 42 U.S.C. § 1983*passim*
 3 **STATE STATUTES**
 4 Cal. Civ. Code § 52.165, 66
 5 **California Government Code**
 6 § 815.2(a)65
 7 § 5103743
 8 § 51037(a)10, 34
 9 § 5103834
 10 § 51038(b)11, 34
 11 § 51038(b)11
 12 § 51038(c)11, 14
 13 § 51038(c)(1)45
 14 § 51038(c)(1)(D)(iii)(I)46
 15 § 51038(c)(5)43, 48, 63
 16 § 51038(e)12
 17 § 51039*passim*
 18 § 51039(a)42
 19 § 51039(a)(1)*passim*
 20 §§ 51039(a)(1)(A)-(C)47
 21 § 51039(a)(3)40
 22 §§51039(a)(3)(A)(i-iii)47
 23 § 51039(c)11, 42, 47
 24 § 51039(d)(1)64
 25
 26
 27
 28

1 § 51039(d)(1)(2)35, 47, 64

2 California Health & Safety Code

3 § 11370315

4 § 11370515, 35, 37

5 § 11376315

6 § 11377315, 35, 37

7 § 1377435, 37, 38

8 § 113831(c).....15

9 § 114368.8(a).....15

10 § 114368.8(b).....35, 47, 64

11 § 114368.1(b)(2).....15

12 § 114368.8(c).....15, 38, 47

13 § 114368.8(d).....15, 38

14 § 114368.8(c).....47

15 § 114368.8(d).....37, 47

16 § 14368.8(e).....37

17 § 11439338

18 Cal. Stat. Chapter 489 (2021-2022 Reg. Sess.)15

19 **LEGISLATIVE MATERIALS**

20 SB 946.....*passim*

21 SB 946, § 1(a)(3)–(4).....45

22 SB 946, § 1(a)(4)–(5).....10

23 SB 946, § (a)(1)(6).....11

24 SB 972.....*passim*

25

26

27

28

CITY CODE AND ORDINANCES

1 **Fontana Municipal Code**.....*passim*

2

3 §15-820.....12, 46

4 § 15-820(A)(10).....12, 43, 48

5 § 15-820(A)(15).....13, 44, 45, 48

6 § 15-820(B).....63

7

8 § 15-820(a)(9).....44, 63

9 § 15-820(a)(14).....45

10 § 15-820(a)(15).....45

11 § 15-820(a)(15)(B).....63

12 § 15-820(b)13, 46, 48

13 § 15-822(B)(2)41

14 § 15-826*passim*

15 § 15-827(f).....24

16 § 15-828*passim*

17 § 15-829*passim*

18 § 15-829(a).....23

19 § 15-829(b)17, 23, 26

20 § 15-829(b)(1).....*passim*

21 § 15-829(b)(2).....36, 38, 39, 55, 58

22 § 15-829(b)(3).....36, 47, 55, 58

23 § 15-829(b)(4).....*passim*

24 § 15-829(b)(5).....*passim*

25 § 15-829(b)(6).....36, 41, 42, 47, 55, 58

26

27

28

1 § 15-829(b)(8).....36, 42, 47, 55, 58
 2 § 15-829(b)(9).....*passim*
 3 § 15-829(c).....*passim*
 4 § 15-829(d)17, 27, 55
 5 § 15-829(d)(1).....47
 6 § 15-829(e).....17
 7 § 15-829(f)26
 8 § 15-829(f)(2)27
 9 § 5-829(h)42, 43, 47
 10 § 15-829(h)42
 11 § 15-958(f)(1)44
 12 § 17-39744
 13 § 24-11124
 14 § 24-11424
 15 § 25-213(a)(2).....44
 16 § 30-36045
 17
 18 Fontana Ordinances.....*passim*
 19 Ordinance 1789.....2, 12, 14, 41, 45
 20 Ordinance 1925.....3, 16, *passim*
 21 Ordinance 1981.....46
 22
 23 **OTHER AUTHORITIES**
 24 City of Fontana, 2/14/2023, Council Meeting,
 25 https://fontana.granicus.com/player/clip/797?view_id=1&redirect=true
 2616
 27
 28

1 City of Fontana, 2/28/23 City Council Meeting,
2 https://fontana.granicus.com/player/clip/816?view_id=1&redirect=true
3 (last accessed 8/8/2025).....16

4 City of Fontana, 10/10/2023, Council Meeting,
5 https://fontana.granicus.com/player/clip/897?view_id=1&redirect=true3, 18

6 City of Fontana, Impacts of Unlicensed Street Vending in Fontana,
7 <https://www.Fontanaca.gov/3641/Impacts-of-Unlicensed-Vending->13

8 Heil, Nichole, *Increasing Equity in Los Angeles’ New Street Vending*
9 *Program* (June 1, 2019).....9

10 Victoria, Anthony, KVCR 91.9 NPR, *Fontana credits 4LEAF FOR ITS*
11 *EFFECTIVE STREET VENDING LAW. Vendors say their livelihoods*
12 *are hurt*, (June 27, 2024), [https://www.kvcrnews.org/2024-06-](https://www.kvcrnews.org/2024-06-27/fontana-credits-4leaf-for-its-effectivestreet-)
13 [27/fontana-credits-4leaf-for-its-effectivestreet-](https://www.kvcrnews.org/2024-06-27/fontana-credits-4leaf-for-its-effectivestreet-)25

14 Yen Liu, Yvonne, Patrick Burns, & Daniel Flaming, SIDEWALK
15 STIMULUS: ECONOMIC AND GEOGRAPHIC IMPACT OF LOS ANGELES
16 STREET VENDORS3 (Economic Roundtable, 2015).....10

1 **PRELIMINARY STATEMENT**

2 1. Driven by racial and economic animus, the City of Fontana (“City” or
3 “Fontana”) and its third-party contractor 4LEAF Inc. (“4LEAF,” together with the
4 City, “Defendants”) are engaged in a lawless and harrowing campaign designed to
5 eradicate sidewalk vendors from the City.

6 2. Through roving patrols, threats, and property destruction, the City and
7 4LEAF have devastated the livelihood and well-being of hundreds of vendors,
8 many of whom are low-income monolingual Spanish-speaking immigrants.

9 3. Plaintiffs A.M. and L.C., Fontana residents and pupusa vendors, had
10 their food thrown out by City and 4LEAF agents over thirty times. They recall one
11 such incident, where “ten agents boxed us in with multiple vehicles, some were
12 wearing masks covering their faces. They pushed us to the side, saying if we got in
13 the way they would arrest us. They immediately threw all the food we were selling
14 into the trash, and they tossed our table, grill, and canopy into their truck. *All we*
15 *could do was watch as they destroyed everything we worked so hard for. We*
16 *hugged each other, prayed, and cried.”*

17 4. Plaintiff A.P., a Fontana resident and *tejuino*¹ vendor, was approached
18 by police while on the sidewalk, and told he could not vend in the City. When he
19 later went to City Hall to inquire about applying for vending permits, he was
20 dismissed by City employees who informed him there was no way to get permits.

21 5. Sidewalk vendors selling food, clothing, and other goods contribute to
22 our state and local economies, but for decades they have been pushed into the
23 shadows because of discrimination based on their occupation, race, ethnicity, and
24 immigration status.

25
26
27
28 ¹ Tejuino is a traditional cold drink from Western Mexico. It is refreshing, made of
ground corn and *piloncillo* (evaporated sugarcane).

1 6. Recognizing this history of stigmatization and the critical statewide
2 benefits of sidewalk vending, including affording economic development
3 opportunities to low-income and immigrant communities, the State of California
4 passed comprehensive legislation to prevent precisely what Fontana and 4LEAF
5 are doing. In 2018, the California Legislature passed Senate Bill No. 946 (“SB
6 946”), adopting state-wide standards safeguarding vendors against discriminatory
7 local regulation and requiring local governments to treat vendors as a legitimate
8 part of the state’s economy. In 2022, Senate Bill No. 972 (“SB 972”) followed,
9 ending the treatment of sidewalk vendors selling food as a misdemeanor offense
10 and creating a new category for vendors—“compact mobile food operation[s]”—in
11 the State’s Retail Food Code.

12 7. While many cities in California have embraced the State’s enactments,
13 Fontana has chosen a different path. Reminiscent of the immigration enforcement
14 raids currently ravaging communities across the country, Fontana and 4LEAF have
15 been carrying out a premeditated campaign to, in the Mayor’s words, “grab some
16 hammers” and “get rid of illegal vendors.” The City has doubled down on its
17 efforts to remove sidewalk vendors, treating them as hardened criminals dangerous
18 to other residents, illegally seizing their property, hiring 4LEAF to enforce its
19 unlawful rules, and threatening to bring criminal sanctions against those who
20 interfere or protest this conduct.

21 8. First, the City enacted Ordinance 1789 in 2019, purportedly
22 authorizing the seizure of sidewalk vendor property. The Ordinance also
23 deliberately singles out sidewalk vendors by including burdensome permitting
24 requirements that the City does not require of other small businesses. These
25 provisions—including mandates for vendors to purchase multi-million-dollar
26 insurance policies, pay for and submit to annual Livescan background checks, and
27
28

1 agree to use public sidewalks at their own risk—lack any tether to “objective
2 health, safety, or welfare concerns” and violate state law.

3 9. The City’s disdain of the U.S. Constitution and California law, and its
4 reign of terror against sidewalk vendors, gained momentum over time. By early
5 2022, the City’s enforcement efforts were in full swing. The City carried out
6 hundreds of seizures of vendors’ perishable goods—which officers disposed of and
7 destroyed.

8 10. But even this was not enough. In the fall of 2023, the City adopted a
9 new and more aggressive strategy to eradicate all sidewalk vendors from the City’s
10 limits by passing Ordinance 1925. Fontana, Cal. Ordinance 1925 (2023) (“Or.
11 1925”) (adding FMC sections 1-14 and 15-829); *see* Fontana City Council Meeting
12 (Oct. 10, 2023), at 1:20:08 – 1:20:23,² <https://fontana.granicus.com/player/clip/897>
13 (hereafter, “10/10/2023 City Council Meeting”).

14 11. Ordinance 1925 escalated the City’s attack on sidewalk vendors by
15 making it a criminal misdemeanor for a vendor to “obstruct, impede, threaten,
16 follow, intimidate, or interfere in any way” with “any city official including a code
17 compliance officer ... engaged in the performance of their respective duties,”
18 punishable by fines up to “\$1,000 or . . . imprisonment” for up to six months. Or.
19 1925, FMC § 1-14 (the “Enforcement Obstruction Consequences” provision or
20 “EOC”). It also added a new impoundment section purporting to authorize officers
21
22

23
24 ² Throughout this Complaint, references are made to Fontana’s City Council
25 meetings, as reflected above. These meetings are preserved on the City’s website
26 for the public in the form of video recordings, and the links that are kept by the
27 City necessarily record the entire meeting. To find the portion of the meeting
28 being cited, Plaintiffs identify the beginning and end of the portion measured by
the length of time from the meeting’s beginning, such as
“[hour]:[minutes]:[seconds] – [hour]:[minutes]:[seconds]” or, as above, “1:20:08 –
1:20:23”.

1 to seize vendors’ goods and equipment under multiple additional grounds. Or.
2 1925, § 15-829.

3 12. Rather than entrust the oversight and enforcement of its laws to City
4 employees, the City hired private mercenaries. The City paid over \$600,000 to
5 retain 4LEAF to enforce its new and existing vending regulations.

6 13. The City and 4LEAF have since conducted an unlawful crusade to
7 strong-arm vendors into abandoning their rights and leaving the City. City and
8 4LEAF personnel routinely confiscate vendors’ property without giving vendors
9 any notice or opportunity to be heard and threaten to arrest vendors if they get in
10 the way. One vendor stated, “they showed up in four cars with the police. I am a
11 single dad, and my children were with me. They threatened to arrest me. I was
12 very scared. They threw out all my food, even unopened water bottles and soda
13 cans, and damaged my tent, table, and grill. I did not vend in Fontana again.”

14 14. Through its illegal enactments and its agents’ implementation thereof,
15 the City and 4LEAF have succeeded in expelling Fontana’s vending population.
16 Given the numerous economic, cultural, and community benefits of sidewalk
17 vending, there is no other plausible explanation for the City’s heavy-handed and
18 hostile undertaking against vendors other than racial and economic animosity. The
19 City has become the ultimate arbiter of who may live and work within its borders,
20 a determination no locality has the right to make, particularly when it is based on
21 skin color and occupation as is the case here. But “whether rich or poor, [people]
22 have the right to choose to be citizens of the State wherein they reside. . . The
23 States, however, do not have any right to select their citizens.” *Saenz v. Roe*, 526
24 U.S. 489, 510–11 (1999) (internal quotations and citations omitted).

25 15. As the City and 4LEAF persist in their efforts to harass, dehumanize,
26 and remove sidewalk vendors, Plaintiff Inland Coalition for Immigrant Justice
27 (“ICIJ” or “Coalition”) has continuously supported its members, including
28

1 Plaintiffs A.M., L.C., and A.P., and its mission of advancing the economic well-
2 being of immigrant communities, including sidewalk vendors.

3 16. Through this lawsuit, Plaintiffs challenge Fontana and 4LEAF's
4 unlawful violation of sidewalk vendors' rights secured by the First, Fourth, and
5 Fourteenth Amendments to the U.S. Constitution and the laws of the State of
6 California. The City of Fontana's and 4LEAF's illegal and oppressive conduct
7 against sidewalk vendors must stop. Where the City and 4LEAF have been keen
8 on circumventing and contravening clear directives codified in our laws, Court
9 intervention is crucial. Plaintiffs therefore seek a preliminary and permanent
10 injunction prohibiting Defendants from enforcing, implementing, or utilizing the
11 challenged provisions of the City's Ordinances 1789 and 1925; and a determination
12 by this Court (a) declaring that the challenged provisions of Ordinances 1789 and
13 1925 are unconstitutional, unlawful, and preempted by California state law, and in
14 violation of the First, Fourth, and Fourteenth Amendments of the United States
15 Constitution, 42 U.S.C. § 1983, the Bane Civil Rights Act, and state law; (b)
16 enjoining the City and its personnel and 4LEAF and its operatives from
17 implementing or enforcing the unconstitutional and illegal challenged provisions;
18 (c) ordering the City to end any contract with 4LEAF used to promote the City's
19 illegal campaign to threaten and expel all sidewalk vendors from Fontana; (d)
20 ordering 4LEAF to stop threatening, intimidating, and discriminating against the
21 sidewalk vendors in Fontana; and (e) ordering restitution and the economic,
22 noneconomic, statutory, and punitive damages and fees dictated by the law, justice,
23 and fairness.

24 **JURISDICTION AND VENUE**

25 17. This is an action for injunctive relief, declaratory relief and other
26 lawful relief pursuant to 42 U.S.C. § 1983 and 28 U.S.C. § 2201, based upon
27 Defendants' ongoing violations of the United States Constitution and laws of the
28

1 State of California that violate the rights of Plaintiffs A.M., L.C., and A.P., Plaintiff
2 ICIJ and its members, and other sidewalk vendors that now operate or have
3 operated in the City. Jurisdiction exists under 28 U.S.C. §§ 1331 and 1343 as this
4 case is brought pursuant to 42 U.S.C. § 1983 and raises questions of federal
5 constitutional law under the First, Fourth, and Fourteenth Amendments. This
6 Court has supplemental jurisdiction over Plaintiffs' California state law claims
7 pursuant to 28 U.S.C. § 1367.

8 18. Venue is proper in the Central District of California because the
9 events and conduct challenged in this action occurred in the Central District,
10 Eastern Division.

11 **PARTIES**

12 ***Individual Plaintiffs***

13 19. **Plaintiff A.M.** has lived in Fontana since 2021. She started sidewalk
14 vending with her partner L.C. in 2021 to provide for their family and because it
15 was difficult to get a traditional job in Fontana. A.M. vended in Fontana from
16 2021 to 2024. City and 4LEAF agents threw out A.M.'s food over thirty times,
17 impounded and destroyed her equipment including tables, chairs, canopy, and grill,
18 and threatened to arrest her if she interfered. The City and 4LEAF's actions made
19 it impossible for her to continue vending in the City.

20 20. **Plaintiff L.C.** has lived in Fontana since 2021. He started sidewalk
21 vending with his partner A.M. in 2021 to provide for their family and because it
22 was difficult to get a traditional job in Fontana. L.C. vended in Fontana from
23 2021 until 2024. City and 4LEAF agents threw out L.C.'s food over thirty times,
24 impounded and destroyed his equipment including tables, chairs, canopy, and grill,
25 and threatened to arrest him if he interfered. The City and 4LEAF's actions made
26 it impossible for him to continue vending in the City.

1 organization has direct standing to sue where a defendant's behavior has ‘frustrated
2 its mission and caused it to divert resources in response to that frustration of
3 purpose.’”) (internal citation omitted). Furthermore, ICIJ members have been
4 irreparably harmed by Defendant’s policies and practices. Individual ICIJ
5 members have been threatened and thereby silenced by City and 4LEAF personnel
6 under the challenged Enforcement Obstructions Consequence provision (Or. 1925,
7 FMC § 1-14); their food and property have been seized by City and 4LEAF
8 personnel pursuant to the challenged impoundment provisions; and they have been
9 unable to obtain sidewalk vending permits because of the City’s challenged permit
10 provisions. ICIJ brings this suit on behalf of itself and its members.

11 **23. Defendant City of Fontana** is a municipality and general law city.
12 The City, through its City Council, adopted sidewalk vending regulations,
13 including Or. 1789 and Or. 1925, that violate the United States Constitution and
14 laws of the State of California.

15 **24. Defendant 4LEAF, Inc.** is a California corporation with its principal
16 place of business in Pleasanton, California. It has an office in San Bernardino,
17 California, among other locations. In the fall of 2023, 4LEAF entered into a
18 contract with the City to enforce the City’s unlawful sidewalk vending regulations.
19 4LEAF is sued in its official capacity as a state actor.

20 **FACTUAL ALLEGATIONS**

21 **I. In 2019, the State of California Enacts SB 946 to Legalize Sidewalk**
22 **Vending and Protect Vendors**

23 25. In 2018, after years of organizing and advocacy by sidewalk vendors
24 and community organizations across California—including Plaintiff ICIJ—the
25 California Legislature enacted SB 946 to fundamentally reform the regulation of
26 sidewalk vending. SB 946: (1) decriminalized sidewalk vending throughout the
27 state; (2) established a comprehensive and uniform statewide framework governing
28

1 how local governments may regulate sidewalk vendors, and (3) strictly limited the
2 penalties that local governments may lawfully impose for violations of local
3 sidewalk vending regulations.

4 26. Sidewalk vendors have been a staple of California’s culture since
5 before statehood. Yet by the early twentieth century, cities across the state
6 increasingly enacted laws that criminalized sidewalk vending. Beginning in the
7 1980s, cities saw an increase in sidewalk vending, particularly among recent
8 immigrant communities and often as a matter of economic survival.³ As vending
9 became more prominent, municipal enforcement likewise intensified, and local
10 governments increasingly framed vendors as a “problem” rather than as legitimate
11 business owners.

12 27. By the 1990s, misdemeanor arrests of sidewalk vendors had increased
13 substantially, often attributed to nearby brick and mortar businesses complaining
14 about vendors. Nichole Heil, *Increasing Equity in Los Angeles’ New Street*
15 *Vending Program*, at 5 (June 1, 2019) (Master’s capstone, UCLA). In addition to
16 such complaints, vendors have been frequently targeted based on racial, ethnic, or
17 immigration-based animus, and are especially vulnerable because of their visibility
18 and lack of political power. *Id.* (“fears of racism and harassment [have] kept street
19 vendors in the shadows for the better part of the 20th century”).

20 28. Despite decades of restrictive local policies, sidewalk vending
21 continued to expand and became a significant engine of economic activity
22 statewide. A 2015 study examining the economic and geographic impact of
23 sidewalk vendors in Los Angeles reported:

24
25
26 ³ Dick Carpenter, UPWARDLY MOBILE, STREET VENDING AND THE
27 AMERICAN DREAM, at 6 (Institute of Justice, 2015) (“For much of our nation’s
28 history, street vending . . . has been a way for lower-income workers, particularly
new immigrants, to make a living and climb the economic ladder”).

1 Street vending is a \$504 million industry in Los Angeles.
2 Every year, 50,000 microbusinesses set up shop on the
3 sidewalks of the city, according to the Bureau of Street
4 Services. Three-quarters sell merchandise, such as
5 clothing and cell phone accessories. The other 10,000
6 sell bacon-wrapped hotdogs, tamales, and ice cream

7 Yvonne Yen Liu, Patrick Burns, & Daniel Flaming, SIDEWALK STIMULUS:
8 ECONOMIC AND GEOGRAPHIC IMPACT OF LOS ANGELES STREET VENDORS³
9 (Economic Roundtable, 2015). The study further concluded that “the multiplier
10 effects from the supplies [sidewalk vendors] purchase and the income they spend
11 accumulate and reverberate through the local economy.” *Id.* For example, a
12 comprehensive study of New York City vendors found they generated “an
13 estimated 17,960 jobs, \$192.3 million in wages and \$292.7 million in value
14 added,” including approximately \$71.2 million in local, State and federal tax
15 revenue. D. Carpenter, *supra* note 3, at 5.

16 29. Over time, the growing economic benefits of sidewalk vending—
17 along with its essential role in supporting immigrant and economically
18 disadvantaged communities—drew the attention of social scientists, advocates,
19 policymakers, and ultimately the California Legislature. The Legislature found
20 that “the safety and welfare of the general public is promoted by encouraging local
21 authorities to support and properly regulate sidewalk vending,” and by “prohibiting
22 criminal penalties for violations of sidewalk vending ordinances and regulations.”
23 SB 946, § 1(a)(4)–(5). Against this backdrop, the Legislature enacted SB 946 to
24 end the criminalization of sidewalk vending and replace it with a uniform, civil,
25 and non-punitive regulatory system aimed at protecting and supporting vending.

26 30. To accomplish these goals, the Legislature established a
27 comprehensive scheme sharply limiting local authority. SB 946 provides that a
28 “local authority shall not regulate sidewalk vendors except in accordance with” the
statute. Cal. Gov’t Code § 51037(a). Any local vending program “shall comply

1 with” enumerated statewide standards. *Id.* § 51038(b). The statute also prohibits
2 local governments from treating violations as crimes and requires that any
3 violations be “punishable only by” a prescribed range of civil administrative fines.
4 *Id.* § 51039(a)(1), (c). In fact, Cal. Gov’t Code § 51039 “does not authorize
5 impoundment of a vendor’s equipment and/or goods *for any reason.*” *Mustaqeem*
6 *v. City of San Diego*, No. D085750, 2026 WL 174947 at *17 (Cal. Ct. App. Jan. 22,
7 2026) (emphasis added).

8 31. The Legislature further declared that the regulation of sidewalk
9 vending is a “matter[] of statewide concern” and that SB 946 “applies to any city,
10 county, or city and county” in the State. SB 946, § (a)(1)(6).

11 32. While some of SB 946’s provisions are unconditional—such as
12 its prohibition on any sanctions for sidewalk vending violations other than the
13 prescribed administrative fines—other provisions strictly limit when local
14 governments may impose restrictions on sidewalk vending. Specifically, a local
15 authority may adopt such restrictions only if they are justified by an “objective
16 health, safety, or welfare concern” that is “directly related” to the regulated
17 vending conduct. Cal. Gov’t Code §§ 51038(b), (c); *see id.* § 51039(a)(1). This
18 requirement lies at the core of SB 946’s regulatory framework.

19 33. Where this standard applies, a local government may not rely on
20 speculation, generalized fears, or conclusory assertions. Any asserted “health,
21 safety, or welfare concern” must be supported by objective, observable facts
22 demonstrating that the restriction is necessary to address a genuine public concern
23 of significant importance. Cal. Gov’t Code § 51038(c). As the California Court of
24 Appeal recently explained, “any restriction must be based on direct and objective
25 (i.e., known or observable) concerns” and must be “adequately explained” by the
26 local government. *Mustaqeem v. City of San Diego*, No. D085750, 2026 WL
27 174947, at *12 (Cal. Ct. App. Jan. 22, 2026) (emphasis in original).

1 34. SB 946 further makes clear that certain rationales can never qualify as
2 an “objective health, safety, or welfare concern.” Local governments may not
3 justify restrictions on sidewalk vending by invoking “perceived community
4 animus” or the “economic competition” between vendors and other businesses.
5 Cal. Gov’t Code § 51038(e). The California Legislature expressly foreclosed the
6 kind of discriminatory and restrictive laws challenged in this action.

7 **II. Fontana Contravenes SB 946 With Unlawful Permitting Requirements**
8 **and Seizure Provisions**

9 35. On February 12, 2019, the City adopted Ordinance 1789, purportedly
10 to comply with SB 946. The City even attached a copy of SB 946 to the ordinance
11 as part of its official legislative record. Or. 1789 (amending Chapter 15, Article
12 XVII of the FMC). While certain provisions of Ordinance 1789 mirror SB 946,
13 critical portions violate state law and the U.S. Constitution.

14 36. Two provisions directly conflict with state law and are unlawful.
15 First, Or. 1789, § 15-828, authorizes officers to “seize as evidence any item used
16 [by a sidewalk vendor] in the commission of a violation of any provision” of the
17 City’s sidewalk vending Article. Second, Or. 1789, §15-820, imposes, *inter alia*,
18 three requirements on sidewalk vendors to obtain a local vending permit:

- 19 i) The purchase of a costly insurance policy that includes multi-million-
20 dollar coverage provisions (ranging from \$1 million to \$2 million per
21 occurrence) purportedly needed to protect the City (§ 15-
22 820(A)(10));
- 23 ii) Annual purchases of a LiveScan background check through the
24 California Department of Justice, justified by unfounded claims
25 about vendors’ alleged “risks to children” when operating in public
26 areas (§ 15-820(b); see Or. 1789, 11th Whereas cl.); and
27
28

1 iii) Vendors’ agreement to utilize public sidewalks “at [their] own risk”
2 while the City disclaims any obligation “to ensure public property is
3 safe or conducive to sidewalk vending” (§ 15-820(A)(15)).

4 37. These requirements—which bear no relationship to health and safety
5 and are not imposed on other small businesses operating in Fontana—pose
6 substantial financial and legal barriers that have effectively prevented many
7 sidewalk vendors in Fontana, including Plaintiffs A.M, L.C., A.P., and Plaintiff
8 ICIJ’s members, from obtaining permits.

9 38. The City used these unlawful provisions to justify the widespread
10 confiscation of vendors’ property. According to a City report, by January 2022, its
11 “Code Compliance teams [had begun] the enforcement” of Or. 1789, §15-828 to
12 “confiscate[e] [vendors’] perishable goods” – purportedly to “protect public
13 health” – and confiscations continued to grow thereafter. City of Fontana, Impacts
14 of Unlicensed Street Vending in Fontana,
15 <https://www.Fontanaca.gov/3641/Impacts-of-Unlicensed-Vending-> (accessed
16 8/6/2025). By 2023, City officers reportedly “confiscated [vendors’] perishable
17 goods over 400 times,” and comments from the City’s community meetings
18 confirm such intentional and aggressive confiscations. *Id.*; *see also*, City of
19 Fontana, Minutes of July 27, 2023 Area 2 Community Meeting, 2 (“Cynthia Gil
20 with Code Compliance advised we do street vendor details 3 times a week. We are
21 throwing away their items, but they keep coming back”).

22 39. Or. 1789, FMC § 15-828, which allows officers to seize sidewalk
23 vendors’ property, is unlawful. *See Mustaqeem*, 2026 WL 174947 at *17
24 (“Reading section 51039 in its entirety, we see no indication that the Legislature
25 intended to permit local authorities to impound vendor equipment and/or goods
26 based solely on a violation of local health, safety or welfare ordinances.”).
27 Furthermore, vendors’ perishable goods seized by the City have never been used
28

1 “as evidence” as required by the text of the provision itself. Instead, after City and
2 4LEAF officers seize a vendor’s goods, they discard those goods immediately
3 without using them for any evidentiary purpose. Vendors lose their valuable
4 merchandise for no lawful purpose, with no opportunity to be heard and no
5 recompense.

6 40. Although SB 946 allows local governments to require sidewalk
7 vendors to obtain local vending permits, localities may adopt *only* those vending
8 requirements that are “directly related to objective health, safety, or welfare
9 concerns.” Cal. Gov’t Code § 51038(c). The City’s prerequisites that vendors
10 purchase multi-million-dollar insurance policies, submit to annual background
11 checks, and waive any claim regarding the safety of City sidewalks to obtain
12 permits do not satisfy this standard. The City has identified no objective,
13 evidence-based justifications for these restrictions. By enacting and enforcing
14 Ordinance 1789, the City has violated SB 946 and erected unlawful hurdles that
15 deterred Plaintiffs A.M, L.C., A.P, and Plaintiff ICIJ’s members from applying for
16 local vending permits.

17 **III. In 2022, the State of California Enacts SB 972 and Fully Decriminalizes**
18 **Sidewalk Vending**

19 41. After SB 946 decriminalized sidewalk vending, many food vendors
20 discovered that they still could not obtain health permits. The California Retail
21 Food Code recognized only “Mobile Food Operations” (i.e., food trucks), whose
22 infrastructure requirements far exceeded what a sidewalk cart could provide. To
23 close this gap, sidewalk vendors and community organizations—including Plaintiff
24 ICIJ—again worked with the State Legislature to create a lawful pathway for
25 sidewalk food vending.

26 42. In response, the Legislature enacted SB 972 in September 2022. SB
27 972 formally recognized sidewalk food vendors as legitimate retail food providers
28

1 by creating a new category in the Retail Food Code—the “compact mobile food
2 operation” (“CMFO”)—and by prohibiting criminal penalties for violations of
3 sidewalk food vending regulations. SB 972 (adding Chapter 11.7 to Part 7 of
4 Division 104 of the California Health & Safety Code), 2022 Cal. Stat. ch. 489
5 (2021-2022 Reg. Sess.). Through these reforms, the Legislature sought to end the
6 discriminatory treatment of sidewalk food vendors and enable their full
7 participation in the formal economy. SB 972 added Chapter 11.7 to the California
8 Retail Food Code and thereby placed the regulation of sidewalk food vending
9 within a uniform, statewide public health framework administered and enforced
10 exclusively by the California Department of Public Health (the “Department”) and
11 designated local health agencies—not cities. *See* Cal. Health & Safety Code §§
12 113703, 113705, 113763, 113773; *see also id.* § 113705 (Legislative finding that
13 “the public health interest requires that there be uniform statewide health and
14 sanitation standards [governing] retail food facilities”).

15 43. A CMFO is defined as a food operation conducted from “a pushcart,
16 stand, display, pedal-driven cart, wagon, or other nonmotorized conveyance.” Cal.
17 Health & Safety Code § 113831(c). CMFOs may sell food in compliance with
18 statewide standards governing food preparation, storage, sanitation, and
19 equipment, and are subject to permitting and routine or complaint-based
20 inspections by the appropriate local health agency—here, the San Bernardino
21 County Department of Environmental Health Services (“DEHS”). *Id.* §§
22 114368.1(b)(2), 113773. Like SB 946, SB 972 limits enforcement to civil
23 administrative fines and prohibits criminal penalties for CMFO violations. *Id.* §
24 114368.8(a), (c), (d).

1 **IV. Fontana Rebels Against California’s Decriminalization of Sidewalk**
2 **Vending and Hires 4LEAF**

3 44. Public statements by City officials, including Mayor Warren, have
4 long displayed their hostility toward sidewalk vendors and a clear intent not just to
5 regulate vendors but to actively exclude them from the City. For instance, at
6 consecutive City Council meetings, Mayor Warren labeled sidewalk vendors as
7 “illegal” and urged the public to boycott them. City of Fontana, City Council
8 Meeting Minutes (Feb. 14, 2023)⁴ (Mayor Warren: “[T]here is something
9 everyone can do, and that is not to patronize those illegal street vendors”); City
10 Council Meeting Minutes (Feb. 28, 2023)⁵ (Mayor Warren: “DO NOT purchase at
11 these street vendors”).

12 45. In October 2023, dissatisfied with Or. 1789’s results despite the City’s
13 increase in confiscation and enforcement, the City Council, Mayor Warren, and
14 other senior City officials enacted Ordinance 1925, which represented a new and
15 still more aggressive strategy to end what they viewed as a problem.

16 46. Or. 1925 contains two components that conflict with state law and
17 violate the U.S. Constitution. First, the “Enforcement Obstruction Consequences”
18 (“EOC”) provision created a new criminal misdemeanor offense under which
19 sidewalk vendors who “interfere in any way” with officers engaged in their duties
20 could be fined up to \$1,000 or imprisoned for up to six months. Or. 1925, § 1-14.
21 Second, Or. 1925 added an explicit “Impoundment” provision to the City’s
22 sidewalk vending Article, authorizing “[a]ny City official” to “impound a Sidewalk
23 Vendor’s vending cart, equipment, food, utensils, goods, flowers, toys, furniture, or
24

25 ⁴ City of Fontana, 2/14/2023 City Council Meeting,
26 https://fontana.granicus.com/player/clip/797?view_id=1&redirect=true (last
accessed 8/8/2025), time stamp at 0:58:00--1:02:25.

27 ⁵ City of Fontana, 2/28/23 City Council meeting,
28 https://fontana.granicus.com/player/clip/816?view_id=1&redirect=true (last
accessed 8/8/2025), time stamp at 2:24:26--2:26:43.

1 merchandise” used “in violation of” that Article for any of eleven enumerated
2 offenses, nine of which are challenged here. Or. 1925, § 15-829(b). Under this
3 provision, officers “immediately dispose” all items that are “perishable and/or
4 cannot be safely stored” and the City holds the remaining property for 30 to 60
5 days. *Id.* §§ 15-829(d)–(e).

6 47. At the same October meeting, the City also approved a contract with
7 4LEAF to supplement City officers with contracted personnel, alleviate staffing
8 limitations, and carry out the City’s approach of aggressively discouraging and
9 ending sidewalk vending in the City by impounding property.

10 48. Prior to contracting with 4LEAF, City Council members and senior
11 officials discussed the City’s strategy of destroying vendors’ property as a
12 deterrent, but the City’s primary constraint was the cost of staffing code
13 enforcement on a weekly basis.

14 49. The contract with 4LEAF filled the City’s gap in property destruction
15 capacity and was signed November 14, 2023. The City committed to pay \$644,498
16 for 4LEAF’s services over six months, subject to further extension to execute its
17 vision to end sidewalk vending in Fontana. City of Fontana Professional Services
18 Agreement, BS-24-5- SP-1 (“Contract”), attached hereto as Exhibit 1.⁶ The
19 intention was for 4LEAF to provide citywide coverage six evenings per week, with
20 a total of six Code Officers working eight hours per shift. *Id.* The City’s
21 requirements for 4LEAF, set forth in the Contract’s “Scope of Work,” require
22 4LEAF to “provide contracted Code Enforcement Officers (CCEO)” to address the
23 City’s issues with “all non-permitted sidewalk vendors.” *Id.* To accomplish this,
24 the City agreed to provide 4LEAF with the “locations” of the targeted vendors. *Id.*

25
26 ⁶ Public records do not reflect whether the Contract has been formally renewed or
27 extended beyond its initial six-month term. Nevertheless, it appears that 4LEAF
28 has continued to perform code enforcement services for the City and that the City
has continued to authorize and pay for those services.

1 Pursuant to the Contract, for those vendors “continu[ing] to operate without
2 proper[] permits” after an initial warning, the City directed 4LEAF personnel to
3 “confiscate all perishable/nonperishable items” in their possession and then process
4 these items pursuant to Or. 1925’s provisions. *Id.* The City also emboldened
5 4LEAF’s personnel, giving them direct access to the City’s police department “for
6 support ... when necessary.” *Id.*

7 50. During the October 2023 City Council meeting, Mayor Warren
8 reiterated the City’s anti-vendor stance, declaring:

9 “[I]t’s time for us to take a stand. We have tried
10 everything we can . . . to help [sidewalk vendors] get
11 legal *So now it’s time to grab a couple of hammers.*
Done. Any more questions?”

12 City of Fontana, 10/10/2023 City Council Meeting, at 1:20:08 – 1:20:23

13 https://fontana.granicus.com/player/clip/897?view_id=1&redirect=true (emphasis
14 added). These sentiments were promptly adopted by 4LEAF and its personnel,
15 whose ongoing conduct continues to reflect the City’s animosity toward sidewalk
16 vendors.

17 **V. 4LEAF Brutally Enforces Fontana’s Unlawful Ordinances, Harming**
18 **Plaintiffs and ICIJ Members and Extinguishing Sidewalk Vending in**
19 **Fontana**

20 51. Once tasked with enforcing the City’s sidewalk vending regulations,
21 4LEAF created its own enforcement practices designed to intimidate sidewalk
22 vendors.

23 52. 4LEAF officers confront individual vendors unannounced and in
24 organized groups, wearing all black garb and frequently covering their faces with
25 balaclavas, masks or hoods. 4LEAF officers often tell vendors that they are “from
26 the City.” They do not wear badges or nametags.
27
28

1 53. 4LEAF officers tell vendors that they have no right to vend in the City
2 and must leave immediately. The only information that 4LEAF officers provide to
3 vendors during an enforcement action is a written bulletin, which largely advises
4 vendors to obtain City permits or else leave the City.

5 54. ICIJ staff have observed patterns of 4LEAF officers' conduct, and
6 individual ICIJ members have experienced the brunt of the ordinances and
7 4LEAF's enforcement practices firsthand. Individual ICIJ members have been
8 threatened with prosecution under the challenged Enforcement Obstructions
9 Consequence provision (Or. 1925, FMC § 1-14) by City and 4LEAF personnel and
10 been bullied and silenced thereby, had their property seized by City and 4LEAF
11 personnel pursuant to the challenged impoundment provisions, and have been
12 unable to obtain sidewalk vending permits because of the City's challenged permit
13 provisions.

14 55. A.M. and L.C. are members of ICIJ that sold pupusas, hot dogs, tacos,
15 and empanadas on Fontana's sidewalks between 2021 and 2024. Their income
16 from vending helps to support their family and pay for rent and food. It also
17 allows them to care for their children. In 2023, A.M. went to Fontana City Hall at
18 least three times to try to obtain vending permits. City staff told A.M. that she
19 could not obtain a permit. When she asked whether she could get a permit if she
20 operated a food truck, she was told that food trucks were not allowed in Fontana
21 either.

22 56. Due to economic necessity and the administrative barriers to obtaining
23 a permit, A.M. and L.C. continued to sell food that A.M. prepared with care. A.M.
24 is a member of the Fontana community, and she cooks with an eye toward making
25 sure that her customers both relish the taste and suffer no harm from doing so.
26 A.M. keeps her hands and cooking area clean, and she takes pride in the food that
27
28

1 she produces. But beginning in 2023, A.M. and L.C. were repeatedly targeted by
2 enforcement actions, and often multiple times in a single day.

3 57. The City and 4LEAF agents would approach A.M. and L.C.’s vending
4 area by vehicle – they would drive up quickly and park their car in a way to block
5 A.M. and L.C.’s car, preventing them from leaving. Agents would then all get out
6 of their cars, surround them, and corner them. Some of these agents were wearing
7 plain clothes and masks, which made A.M. and L.C. fear for their lives. The plain
8 clothes agents would claim that they were “from the City” and demand to see A.M.
9 and L.C.’s vending permits. On a few instances, Fontana police arrived alongside
10 the City and 4LEAF agents.

11 58. While A.M. would stammer to try to speak, the officers would begin
12 throwing away the food that she and L.C. were selling. On at least one occasion,
13 an officer told A.M. and L.C. that their food was “dirty” and that Mayor Warren
14 did not want sidewalk vendors in the City, which made A.M. and L.C. feel
15 degraded.

16 59. At the end of 2023, the officers went beyond trashing A.M. and L.C.’s
17 food merchandise and confiscated all their vending equipment. They soon
18 thereafter decided to stop vending in Fontana.

19 60. During multiple encounters, City and 4LEAF agents also threatened to
20 arrest A.M. and L.C. if they interfered with them. These threats were terrifying
21 and caused severe distress. A.M. and L.C. expressed deep sorrow and anger at
22 being treated like criminals for simply trying to make a living. They frequently cry
23 while recalling the last enforcement action they experienced in Fontana.

24 61. A.M. and L.C. have suffered immense financial losses due to the
25 City’s Ordinances and 4LEAF’s enforcement. In addition to a \$100 citation, A.M.
26 and L.C. have lost the monetary value of all the food that City and 4LEAF officers
27 have repeatedly destroyed. They have had their food thrown out over thirty times.
28

1 A.M. and L.C. also lost their table, chairs, canopy, and grill that officers
2 impounded because they could not afford to pay the City's \$250 retrieval fee.

3 62. To this day, A.M. and L.C. long to return their business to Fontana.
4 Fontana is where they live and where their loyal customers are located. However,
5 Fontana's restrictive vending regime has made it impossible to obtain a permit, and
6 they can no longer endure the terror inflicted by the City and 4LEAF.

7 63. A.P. is another ICIJ member and Fontana resident who, just like A.M.
8 and L.C., the City and 4LEAF have successfully terrorized off Fontana's
9 sidewalks.

10 64. A.P. started selling *tejuino*, *raspados*, and *aguas frescas* prepared with
11 potable water and fresh, clean fruit in Fontana in 2020 after being injured at his
12 construction job.

13 65. Officers who claimed to be from the City approached A.P. while
14 customers were happily sipping his beverages. The officers told A.P. that he could
15 not sell anything on the sidewalk where he stood, and that he had to go across the
16 street to unincorporated San Bernardino County. A.P. did not understand why
17 selling beverages was allowed on one side of the street but not on the other side.

18 66. A.P. learned later that the City of Fontana was beginning to require
19 permits for vending. A.P. wanted to do things the right way, and went to City Hall
20 to ask about the permits but was told by City officials that there was no way to get
21 permits. He learned about the City's insurance requirement for permits through
22 friends, and was shocked because, having worked in restaurants before, the amount
23 of coverage was higher than he had ever heard. The cost of the insurance alone
24 was insurmountable for A.P.

25 67. Around the same time he learned about the permitting requirements,
26 A.P. personally witnessed an enforcement operation against another sidewalk
27 vendor that frightened and intimidated him. In 2024, he observed officers
28

1 aggressively approach a taco vendor. The officers took away the man’s entire
2 *trompo*—a grill spit packed with approximately 80 pounds of sliced pork—and
3 threw it in a garbage bin. A.P. had never seen such an abrupt operation in all his
4 years selling on sidewalks and working in restaurants. Though he continues to live
5 in Fontana, A.P. fears that its sidewalks are not safe for him or his business. A.P.
6 wishes that he could vend near his home.

7 68. A.M., L.C., and A.P. are three of the hundreds of sidewalk vendors
8 whom the City and 4LEAF have expelled from Fontana. As of February 13, 2026,
9 only a handful of sidewalk businesses remain in the City.

10 **LEGAL FRAMEWORK**

11 **I. Fontana’s and 4LEAF’s Policies and Practices Violate the United States**
12 **Constitution**

13 **a. Fourth Amendment**

14 69. Seizures of private property by a local government are without
15 exception subject to Fourth Amendment scrutiny. *Lavan v. City of Los Angeles*,
16 693 F.3d 1022, 1027 (9th Cir. 2012) (“a ‘seizure’ of property occurs when there is
17 some meaningful interference with an individual’s possessory interests” (quoting
18 *United States v. Jacobsen*, 466 U.S. 109, 113 (1984))). Seizing private property
19 without a warrant is *per se* unreasonable, even when the property is in a public
20 area. *Recchia v. City of Los Angeles Dep’t of Animal Servs.*, 889 F. 3d 553 (9th Cir.
21 2018). The Fourth Amendment protects sidewalk vendors from unreasonable
22 seizures of their property by the City and 4LEAF, acting on the City’s behalf.

23 70. Ors. 1789 and 1925, as codified in the Fontana Municipal Code
24 (“FMC” or the “Code”), contain provisions that unconstitutionally permit officers
25 to seize sidewalk vendor’s private property without a warrant, including:

26 (a) FMC § 15-828, enacted by Or. 1789, provides: “In
27 accordance with applicable rules and regulations, any peace officer or code
28

1 enforcement officer is authorized to seize as evidence any item used in the
2 commission of a violation of any provision of this article. Seized items shall
3 be removed and stored in accordance with law.”

4 (b) FMC §15-829(b), enacted by Or. 1925, provides: “Any
5 city official, including a code compliance officer . . .may impound⁷ a sidewalk
6 vendor's vending cart, equipment, food, utensils, goods, flowers, toys,
7 furniture, or merchandise” for any reason listed in subsections (b)(1)-(b)(10).

8 71. FMC Chapter 15 Article XVII, and the Code as a whole contain no
9 requirement that City officials or code enforcement officers obtain a warrant from
10 a court of competent jurisdiction prior to seizing sidewalk vendor property. Nor
11 does the Code require City officials or code enforcement officers, including
12 4LEAF, to determine whether an exception to the warrant requirement applies
13 before seizing sidewalk vendor property.

14 72. A.M., L.C., and other ICIJ members who have had their property
15 seized by City officials or 4LEAF officers were never shown a warrant prior to or
16 after that seizure or informed of any lawful exception to the warrant requirement.

17 73. In addition, the City has never indicated a widespread pattern that
18 sidewalk vendors were selling goods associated with criminal activity such that
19 seizing the property without a warrant was urgently necessary for evidentiary
20 purposes. Instead of using ICIJ members’ seized property as evidence of any
21 crime, the City and 4LEAF have consistently discarded the property. ICIJ
22 members—including Plaintiffs A.M. and L.C.—have not been, to their knowledge,
23 investigated or charged with any crime associated with their vending equipment.
24 Nor could they, since alleged violation of Fontana’s sidewalk vending ordinances
25 cannot “be punishable as an infraction or misdemeanor.” FMC § 15-827(f).

26 _____
27 ⁷ FMC §15-829(a) defines “impound” as “to seize or take custody of a sidewalk
28 vending cart, equipment, food, utensils, goods, flowers, toys, furniture, or
merchandise.”

1 74. The City and 4LEAF know that officials must either obtain warrants
2 or make formal determinations that exceptions to the warrant requirement apply in
3 a particular situation, before seizing private property, even if the property is in a
4 public space. For example, Code Chapter 24, Article VIII governs the seizure and
5 forfeiture of vehicles that are used “to illegally dump refuse [thereby] bring[ing]
6 decay to local neighborhoods.” § 24-111. However, prior to seizing any vehicle
7 used for dumping, an officer must first seek a “process issued by any court having
8 jurisdiction over the vehicle.” § 24-114. The Code also describes when “seizure
9 without process may be made[.]” including if the “seizure is incident to an arrest or
10 a search pursuant to a search warrant” or if “there is probable cause to believe that
11 the vehicle was used in violation of” Chapter 24. *Id.* at §§ (1), (2).

12 75. On information and belief, 4LEAF is also aware that the law requires
13 a warrant during certain code enforcement activities. Indeed, 4LEAF has publicly
14 acknowledged this legal requirement in its own recruitment materials. Job
15 postings published on LinkedIn list “obtaining various types of inspection warrants
16 and court documents” as a “Key Dut[y]” of Code Enforcement Officer positions.
17 4LEAF has also provided code enforcement services in other California cities,
18 including Tustin, Anaheim, Richmond, Stockton, Newport Beach, San Juan
19 Bautista, and Orange.

20 76. Notwithstanding this knowledge, the City of Fontana and 4LEAF
21 entered into and maintain a contract that expressly authorizes and requires
22 warrantless seizures of sidewalk vendor property pursuant to FMC §§ 15-828 and
23 15-829. Exhibit A to 4LEAF’s contract with the City defines the scope of services
24 to include seizure of vendor property without reference to warrants or
25 constitutional safeguards, stating: “For individuals that chose to continue to operate
26 without the property permits, [4LEAF officers] will confiscate all perishable/non-
27 perishable items[.]” Within the scope of its contract, 4LEAF maintains no policy
28

1 or practice to obtain a warrant prior to seizing vendor property or to determine
2 whether a recognized exception to the warrant requirement applies. This
3 contractual mandate constitutes an official municipal policy and a delegated
4 policymaking decision to authorize warrantless seizures.

5 77. Both the City and 4LEAF have failed to enact procedures requiring
6 code enforcement officers to conduct an individualized assessment of whether
7 seizing a vendor’s property is reasonable under the circumstances, as required by
8 federal law.

9 78. The City’s and 4LEAF’s failure to comply with the Fourth
10 Amendment was no accident. The City and 4LEAF have a policy and practice of
11 disregarding the Fourth Amendment’s warrant requirement in the sidewalk vending
12 context. Warrantless, fast-paced, and unmeasured property seizures are a key
13 feature of their shared objectives and methods of driving out sidewalk vendors
14 from operating within the City and deterring them from returning. In fact, 4LEAF
15 measured its success achieving the City’s goals by quantifying property
16 destruction. Anthony Victoria, KVCR 91.9 NPR, *Fontana credits 4LEAF for its*
17 *effective street vending law. Vendors say their livelihoods are hurt.* (June 27,
18 2024), [https://www.kvcrnews.org/2024-06-27/fontana-credits-4leaf-for-its-](https://www.kvcrnews.org/2024-06-27/fontana-credits-4leaf-for-its-effective-street-vending-law-vendors-say-their-livelihoods-are-hurt)
19 [effectivestreet-](https://www.kvcrnews.org/2024-06-27/fontana-credits-4leaf-for-its-effective-street-vending-law-vendors-say-their-livelihoods-are-hurt)
20 [vending-law-vendors-say-their-livelihoods-are-hurt](https://www.kvcrnews.org/2024-06-27/fontana-credits-4leaf-for-its-effective-street-vending-law-vendors-say-their-livelihoods-are-hurt) (accessed
21 8/6/2025) (“At a city-county conference, Fontana officials said 4Leaf has issued
22 500 warnings to vendors, thrown away food at least 90 times and impounded
23 equipment 43 times since December [2023]”).

23 **b. Fourteenth Amendment**

24 79. In addition to violating the Fourth Amendment, FMC §§ 15-828,
25 829(b) violate the Fourteenth Amendment by failing to provide constitutionally
26 adequate procedural protections.
27
28

1 80. “The general rule [is] that individuals must receive notice and an
2 opportunity to be heard *before* the government deprives them of property.” *United*
3 *States v. James Daniel Good Real Property*, 510 U.S. 43, 48 (1993) (emphasis
4 added). FMC §§ 15-828 and § 15-829(b) fail to establish any procedural
5 protections that must occur before City officials or 4LEAF officers confiscate
6 sidewalk vendor’s property.

7 81. Neither FMC §§ 15-828 nor § 15-829(b) requires pre-seizure notice
8 informing vendors that their property is at imminent risk of confiscation.
9 Additionally, neither provides for a pre-deprivation hearing before a neutral
10 decisionmaker at which a vendor may challenge the legal or factual basis for the
11 seizure. Instead, the City’s ordinances provide automatic “impoundment
12 authorization[,]” FMC § 15-829(b), upon an officer’s unilateral determination that
13 a violation has occurred with no due process of law.

14 82. Nor has the City or 4LEAF adopted any policy or practice that
15 supplies the constitutionally required notice or opportunity to be heard prior to
16 seizing vendor property. To the contrary, the Contract directs 4LEAF officers to
17 “confiscate all perishable/non-perishable items” when an officer purports to find a
18 vendor is operating without a permit, without any notice requirement. The only
19 information 4LEAF officers are instructed to provide vendors concerns how to
20 retrieve non-perishable property after it has already been seized.

21 83. The Contract’s reference to post-deprivation notice regarding the
22 retrieval of impounded non-perishable property mirrors FMC § 15-829(f), which
23 governs procedures that occur only “[u]pon impoundment,” i.e., after a City or
24 4LEAF officer has already deprived a vendor of their private property. Those
25 procedures are limited to providing instructions for retrieving non-perishable
26 items. FMC § 15-829(f)(2). Both the City’s ordinances and 4LEAF’s policy and
27
28

1 practice of impoundment provide no pre-deprivation notice or opportunity to be
2 heard.

3 84. In fact, vendors have no recourse for the seizure of much of their
4 property. For perishable goods—such as fruit, vegetables, and meat—FMC § 15-
5 829(d) expressly authorizes immediate destruction, thereby permanently
6 foreclosing any opportunity for a vendor to challenge the legality of the seizure
7 before a neutral decisionmaker. The ordinance provides: “The city may
8 immediately dispose of impounded items that are perishable and/or cannot be
9 safely stored.” FMC § 15-829(d). This provision effects a final deprivation of
10 vendor’s property without any process whatsoever.

11 85. For non-perishable property, the Code provides sidewalk vendors with
12 only two post-deprivations options: (1) pay the impoundment fees to recover their
13 property, which is no process at all, or (2) “appeal the impoundment of their items
14 by requesting an administrative hearing before the city manager . . . pursuant to the
15 procedures described in section 15-826[.]”

16 86. FMC § 15-826 establishes a post-seizure appeal process that requires:

17 (a) The sidewalk vendor to file “a written appeal statement”
18 with the City Clerk “setting forth the grounds for the appeal;”

19 (b) Payment of “the city’s appeal fee;”

20 (c) Scheduling of a hearing by the city manager within ten
21 days of the appeal’s filing, with the hearing date permitted to occur as late as
22 60 days after the appeal is filed⁸;

23
24
25
26
27
28 ⁸ Even this deadline is arbitrary, because “[t]he city manager may continue the
hearing as deemed necessary” in their discretion. FMC § 15-826.

1 (d) A hearing at which the City is represented by legal
2 counsel and may present evidence without being bound by “the traditional
3 rules of evidence;”⁹

4 (e) A final decision by the city manager that is final and
5 nonreviewable.

6 87. This post-deprivation appeal process fails constitutional scrutiny
7 under the three factor test articulated in *Mathews v. Eldridge*, which requires courts
8 to balance: “[f]irst, the private interest that will be affected by the official action;
9 second, the risk of an erroneous deprivation of such interest through the procedures
10 used, and the probable value, if any, of additional or substitute procedural
11 safeguards; and finally, the government's interest, including the function involved
12 and the fiscal and administrative burdens that the additional or substitute
13 procedural requirement would entail.” 424 U.S. 319, 335 (1976).

14 88. Sidewalk vendors’ private property interest in their non-perishable
15 vending equipment cannot be understated. Sidewalk vendors often engage in
16 vending due to economic vulnerability and lack the resources to lease brick-and-
17 mortar commercial space. Vendors must invest their limited funds in carts, ovens,
18 stoves, roasting equipment, furniture, and merchandise in order to earn a
19 livelihood. For many ICIJ members, the equipment and goods seized by the City
20 and 4LEAF constitute their sole means of income and ability to support themselves
21 and their families. Seizure of this property without prior notice or an opportunity
22 to be heard imposes immediate and severe financial hardship and destabilizes
23 vendors’ ability to meet their basic needs.

24 89. The City and 4LEAF threw out A.M. and L.C.’s food over thirty times
25 and confiscated their equipment including tables, chairs, grill, and canopy. A.M.

26
27 ⁹ The only limited exception to this free evidence rule is “that hearsay evidence
28 may not be *the sole basis* for the decision of the city manager.” FMC § 15-826
(emphasis added).

1 and L.C. lost over \$15,000 in food and \$2,000 in equipment, and could not pay
2 their rent and other expenses after the City and 4LEAF destroyed their property
3 due to financial loss and the impairment of their ability to vend.

4 90. The risk of erroneous property deprivation is unacceptably high,
5 particularly in the absence of any pre-deprivation procedure. Furthermore, when
6 the City and/or 4LEAF impounds a vendor's property, they fail to provide the
7 vendor an inventory of what items have been seized, or explain why they were
8 seized other than the lack of permits.

9 91. Although both FMC § 15-829 and the Contract expressly allow the
10 City and 4LEAF to seize and immediately destroy a vendor's property, the Code
11 and the Contract provide no mechanism *at all* to challenge a decision by officers
12 resulting in disposal of a vendor's property, even though such a decision results in
13 immediate and permanent deprivation of property.

14 92. In fact, Or. 1925, FMC § 1-14 (the EOC provision) actively prevents
15 sidewalk vendors from contesting any decision by City or 4LEAF officers. Or.
16 1925, FMC § 1-14 imposes criminal liability on vendors who "interfere in any
17 way" with an officer engaged in the performance of their official duties. City and
18 4LEAF personnel have threatened sidewalk vendors, including Plaintiffs A.M. and
19 L.C and other ICIJ members, with prosecution under Or. 1925, FMC § 1-14 —
20 silencing vendors and preventing them from speaking up and challenging the
21 decisions of officers that result in the deprivation of their property.

22 93. Even if a vendor were to prevail in a post-impoundment appeal, FMC
23 § 15-826 imposes no deadline to issue a decision, forcing vendors to endure
24 prolonged and potentially indefinite deprivation of their livelihood during the
25 pendency of the appeal. This structure presents vendors with a coercive choice:
26 either pay impoundment fees—ranging from approximately \$230 to \$300—to
27 regain essential property regardless of the seizure's legality, or forgo recovery and
28

1 abandon any challenge altogether. The process thus both risks erroneous
2 deprivation and affirmatively discourages vendors from pursuing an appeal.

3 94. A.M. and L.C.'s equipment was damaged as it was being impounded
4 because the agents haphazardly threw their table, chairs, canopy, and grill into their
5 car. When A.M. went to City offices to retrieve what could be salvaged of her
6 belongings, she was asked to pay a \$250 impoundment fee which she could not
7 afford. She was permanently deprived of her property without a meaningful
8 opportunity to contest the impoundment before or after it occurred.

9 95. By contrast, the City's interest in foregoing pre-deprivation
10 procedures is low. The fiscal and administrative cost of a pre-deprivation hearing
11 is likely equal to the post-impoundment appeal hearing already provided in FMC §
12 15-826. And the City has demonstrated willingness to pay costs since it allocated
13 substantial public funds to sidewalk vending enforcement, including more than
14 \$600,000 over a six-month period for private code enforcement services. Any
15 marginal administrative burden associated with constitutionally adequate
16 procedures is far outweighed by vendors' private interests and the significant risk
17 of erroneous deprivation.

18 96. Consistent with the City's policies and contractual directives, 4LEAF
19 has a policy and practice of seizing sidewalk vendors' property without applying to
20 any court or administrative body for a pre-deprivation process prior to depriving
21 sidewalk vendors of their property.

22 97. City and 4LEAF officers have never informed ICIJ members that they
23 may seek pre-seizure notice or a hearing. For instance, Plaintiffs A.M. and L.C.
24 had their property seized on more than thirty separate occasions and in none of
25 those instances did City or 4LEAF officers provide them with pre-seizure notice or
26 inform them that they could seek a hearing before their property was taken.

1 Instead, City and 4LEAF officers uniformly inform vendors that their goods and
2 equipment are being seized immediately and without qualification.

3 **c. First Amendment**

4 98. “The freedom of individuals verbally to oppose or challenge police
5 action without thereby risking arrest is one of the principal characteristics by which
6 we distinguish a free nation from a police state.” *City of Houston, Texas v. Hill*,
7 482 U.S. 451, 462-63 (1987). The First Amendment protects sidewalk vendors
8 like A.M., L.C., A.P, and other ICIJ’s members from even the *possibility* of being
9 criminally prosecuted for constitutionally protected speech. Yet the City’s EOC
10 Provision (Or. 1925, FMC § 1-14) enacted by Or. 1925 does just that. *See*
11 *Dombrowski v. Pfister*, 380 U.S. 479, 494 (1965) (“So long as the statute remains
12 available to the State the threat of prosecutions of protected expression is a real and
13 substantial one.”).

14 99. Or. 1925, FMC § 1-14 grants the City and 4LEAF officers the power
15 to threaten sidewalk vendors with criminal sanctions for using speech to question,
16 criticize, or challenge enforcement. The provision states: “It shall be unlawful for
17 any person to obstruct, impede, threaten, follow, intimidate, or interfere in any way
18 with any City official including a code compliance officer . . . or other officers or
19 employees of this City engaged in the performance of their respective duties, job
20 description, and/or enforcement authority Such person shall be guilty of a
21 misdemeanor and, upon conviction thereof, . . . shall be subject to a fine of not
22 more than \$1,000 or by imprisonment. . . for a period of not more than six months,
23 or by both[.]”

24 100. By forbidding sidewalk vendors from “obstruct[ing], impeded[ing],
25 threat[ing], . . . intimidat[ing] or interfer[ing] in any way” with an official’s
26 duties—without defining those terms or limiting them in any way— Or. 1925,
27
28

1 FMC § 1-14 criminalizes a broad swath of constitutionally protected speech and
2 expressive activity in violation of the First Amendment.

3 101. This sweeping and standardless language mirrors the operative terms
4 struck down in multiple Supreme Court decisions, including *Hill*, 482 U.S. at 453,
5 *Kolender v. Lawson*, 461 U.S. 352, 353-54 (1983), and *Lewis v. City of New*
6 *Orleans*, 415 U.S. 130, 131-33 (1974), all of which held that similarly open-ended
7 prohibitions impermissibly burden protected speech.

8 102. Moreover, enactments of this kind are “unconstitutionally vague
9 within the meaning of the Due Process clause of the Fourteenth Amendment.”
10 *Kolender*, 461 U.S. at 353-54. As the Supreme Court has explained, such laws are
11 void for vagueness because they “fail[] to give a person of ordinary intelligence
12 fair notice that his contemplated conduct is forbidden” and “encourage[] arbitrary
13 and erratic arrests and convictions.” *Papachristou v. City of Jacksonville*, 405 U.S.
14 156, 162 (1972) (citation omitted).

15 103. As contracted code enforcement officers for the City, 4LEAF
16 personnel are authorized to enforce the entirety of the Fontana Municipal Code,
17 including the Enforcement Obstruction Code (“EOC”) provision, Or. 1925, FMC §
18 1-14. In practice, 4LEAF has embraced this authority and adopted Or. 1925, FMC
19 § 1-14 as its own enforcement policy.

20 104. A.M., L.C. and other individual ICIJ members have been directly
21 threatened by 4LEAF personnel with arrest and jail under Or. 1925, FMC § 1-14
22 for verbally questioning, objecting to, or challenging enforcement actions. The
23 City and 4LEAF maintain a policy and practice of invoking Or. 1925, FMC § 1-14
24 to silence and chill sidewalk vendors during enforcement encounters.

25 105. City and 4LEAF officers approach vendors after boxing them in the
26 sidewalk with multiple vehicles. They are overly aggressive, wear masks, plain
27 clothes or attire with City logos, and push vendors to the side before confiscating
28

1 their food and equipment, which by design, provokes intimidation and fear in
2 sidewalk vendors.

3 106. City and 4LEAF agents have told A.M., L.C., and other ICIJ members
4 that they will be arrested if they interfere with the confiscation of their property.
5 When A.M. and L.C.’s food and equipment was taken at the end of 2023, they
6 were threatened with arrest and felt they could not say or do anything to question
7 the agents. They felt dehumanized—treated like animals—and watched in horror
8 as their food was thrown out and equipment was impounded, knowing the extreme
9 financial hardship it would cause their family.

10 107. Both the text of Or. 1925, FMC § 1-14 and the conduct of City and
11 4LEAF officers create an unconstitutional chilling effect. Sidewalk vendors,
12 including ICIJ members, are deterred from speaking, questioning officers, asserting
13 legal rights, or protesting unlawful seizures for fear that protected speech will be
14 treated as a criminal offense. The First Amendment forbids such a regime.

15 **II. Fontana’s Sidewalk Vending Laws Are Preempted By California State**
16 **Law**

17 108. The City is a general law city under the laws and Constitution of the
18 State of California. “Where local legislation conflicts with general law, the local
19 ordinance is void.” *Water Quality Ass’n v. Cnty. of Santa Barbara*, 44 Cal. App.
20 4th 732, 741 (1996); *see American Financial Services Assn.*, 34 Cal.4th at 1251;
21 *Sherwin-Williams*, 4 Cal. 4th at 897.

22 109. Here, the challenged provisions in the City’s two Ordinances directly
23 conflict with SB 946 and SB 972 and are therefore preempted on two separate
24 grounds: (1) they intrude upon “an area either expressly or impliedly fully
25 occupied by” state law, and/or (2) they are “contradictory or inimical [to state
26 law].” *American Financial Services Assn.*, 34 Cal.4th at 1251.

27 110. The California Supreme Court has stated:
28

1 Whenever the Legislature has seen fit to adopt a general
2 scheme for the regulation of a particular subject, *the*
3 *entire control over whatever phases of the subject are*
4 *covered by state legislation ceases as far as local*
5 *legislation is concerned.*

6 *Id.* at 1253 (quoting *In re Lane*, 58 Cal. 2d 99, 102 (1962) (emphasis added)); *see,*
7 *e.g., Eastlick v. City of Los Angeles*, 29 Cal. 2d 661, 666-67 (1947) (when the
8 Legislature provides “a general scheme for the presentation of such liability claims
9 to be effective throughout the state . . . with respect to the subjects covered, the
10 [legislation] occupies the entire field and it impliedly precludes control to that
11 extent by municipal or local regulation”) (citation omitted).

12 111. The “occupy the field” standard is satisfied where “the Legislature has
13 expressly manifested its intent to ‘fully occupy’ the area,” *American Financial*
14 *Services Assn.*, 34 Cal.4th (quoting *Sherwin-Williams*, 4 Cal. 4th at 898), or where
15 “there are clear indications of the Legislature’s implicit intent to fully occupy the
16 field of regulation.” *Id.* Among the important indicia of the Legislature’s intent to
17 occupy the field is when “the subject is one which . . . requires uniform treatment
18 throughout the state.” *Id.* at 1252.

19 112. SB 946 and SB 972 satisfy the “occupy the field” ground for State
20 preemption. In the case of SB 946, the Legislature established a comprehensive
21 framework prescribing how local governments may formulate, implement and
22 enforce their sidewalk vending programs, and included provisions expressly
23 mandating local governments’ compliance. Cal. Gov’t Code § 51038(b) (“A local
24 authority’s sidewalk vending program shall comply with all of the following
25 standards”); Cal. Gov’t Code § 51039(a)(1) (“A violation of a local authority’s
26 sidewalk vending program . . . is punishable only by the following,” i.e., sets of
27 tiered tables of administrative fines). To eliminate any doubt, the Legislature
28 expressly stated that “[a] local authority shall not regulate sidewalk vendors except
in accordance with Sections 51038 and 51059.” *Id.* § 51037(a).

1 113. In SB 972, the Legislature adopted a similarly comprehensive
2 framework governing food sales, preparation, storage, sanitation and equipment –
3 as well as inspections and permitting – as set forth fully in the CMFO provisions of
4 the Retail Food Code. *E.g.*, Cal. Health & Safety Code, Division 104, Part 7. The
5 Legislature chose to keep the enforcement authority of the Retail Food Code with
6 the Department of Public Health and local health agencies such as DEHS. Cal.
7 Health & Safety Code §§ 113773 & 113774. And to leave no doubt, the
8 Legislature declared its intent “to occupy the whole field of health and sanitation
9 standards for retail food facilities”—facilities which include sidewalk vendors.
10 Cal. Health & Safety Code § 113705.

11 114. In each instance, SB 946 and SB 972 adopted “a general scheme for
12 the regulation” of an important subject requiring statewide treatment and thereby
13 exercised “entire control over . . . the subject[s] . . . covered by state legislation.”
14 *Am. Fin. Servs.*, 34 Cal. 4th at 1253; *see Lane*, 58 Cal. 2d at 102 (“where the state
15 has fully occupied the field, there is no room for additional requirements by local
16 legislation”).

17 **A. Or. 1925, FMC § 1-14 – Enforcement Obstruction Consequences**

18 115. The City’s EOC Provision is as an enforcement mechanism for the
19 City’s sidewalk vending program. By imposing criminal misdemeanor liability in
20 connection with the enforcement of that program, Or. 1925, FMC § 1-14 directly
21 conflicts with and is prohibited by both SB 946 (Gov’t Code § 51039(d)(1)(2))
22 (prohibiting local sidewalk vending provisions that are “punishable as an infraction
23 or misdemeanor”) and SB 972 (Health and Safety Code § 114368.8(b) (any
24 violation of the sidewalk vending provisions of the Retail Food Code “shall not be
25 punishable as an infraction or misdemeanor”)); *see Mustaqeem v. City of San*
26 *Diego*, No. D085750, 2026 WL 174947, at *7 (Cal. Ct. App. Jan. 22, 2026) (“the
27 Legislature was quite clear that violations of a local authority's sidewalk vending
28

1 regulations are punishable only by the enumerated monetary fines or the rescission
2 of the vendor's permit.”).

3 116. Because the Legislature has fully occupied the field of penalties
4 applicable to sidewalk vending and has expressly prohibited criminal sanctions, the
5 City lacked authority to enact Or. 1925, FMC § 1-14 and therefore the EOC
6 Provision is preempted by state law.

7 **B. Or. 1789, FMC § 15-828 – Seizure of Vendor Property as Evidence**

8 117. The City’s challenged impoundment provisions—FMC §§ 15-828, 15-
9 829(b)(1)-(6), (8)-(9), (c)—impose punishments on sidewalk vendors that are
10 preempted and not permitted under state law. *See Mustaqeem v. City of San Diego*,
11 No. D085750, 2026 WL 174947, at *1 (Cal. Ct. App. Jan. 22, 2026) (“regulations
12 that purport to allow the impoundment of [a sidewalk vendor’s] items . . . are in
13 direct conflict with the state law”); *see id.*, at *7 (“[Gov’t Code] Section 51039
14 does not authorize impoundment of a vendor's equipment and/or goods for any
15 reason.”); *see id.*, at *7 (“the Legislature was quite clear that violations of a local
16 authority's sidewalk vending regulations are punishable *only* by the enumerated
17 monetary fines or the rescission of the vendor's permit.”).

18 118. FMC §15-828 authorizes City’s officers to “seize as evidence any
19 item used in . . . a violation of” the City’s sidewalk vending Article. In practice,
20 however, the City and 4LEAF do not use seized property as evidence. Instead,
21 they discard vendors’ property without preserving it, documenting it, or producing
22 it in any proceeding. These seizures are not evidentiary but punitive—they enforce
23 the City’s unlawful sidewalk vending laws by depriving vendors of their property,
24 harming their livelihood and eroding their customer base.

25 119. State law squarely forbids such punishments. SB 946 provides that
26 any “violation of a local authority’s sidewalk vending program” is “punishable
27 only” by administrative fines. Gov’t Code § 51039(a)(1). Impoundment and
28

1 destruction of vendors’ property is a form of punishment, far more severe than an
2 administrative fine. FMC § 15-828 is preempted and unlawful.

3 **C. Or. 1925, FMC § 15-829(b)(1) – Local Enforcement Authority**

4 **Requirements**

5 120. FMC § 15-829(b)(1) purports to authorize the City to seize food,
6 goods, and vending equipment from sidewalk vendors who are selling food
7 without a County health permit. This provision is unlawful because it conflicts
8 with state law and intrudes into a field that state law has expressly reserved to the
9 State and to the California Department of Public Health and its designated local
10 enforcement agencies.

11 121. Under SB 972, the Legislature confirmed that responsibility for
12 sidewalk vending food safety is vested exclusively in the Department of Public
13 Health and its designated local health agencies, as is the case for all other food
14 safety regulations. The Legislature declared that “the public interest requires that
15 there be uniform statewide health and sanitation standards for retail food facilities”
16 and that it intended “to occupy the whole field of health and sanitation standards
17 for retail food facilities.” Cal. Health & Safety Code § 113705. The Retail Food
18 Code therefore assigns all inspection and enforcement authority to designated
19 “enforcement agencies” and “enforcement officers,” which agencies and officers
20 do not include local cities or their agents. *See id.* §§ 113773–113774. In San
21 Bernardino County, that enforcement agency is DEHS. DEHS is the only entity
22 authorized to issue the County health permits referenced in FMC § 15-829(b)(1)
23 and the only entity authorized to enforce those permitting requirements. *See* Cal.
24 Health & Safety Code § 114368.8(d)–(e).

25 122. Even when a sidewalk vendor is required to obtain a health permit
26 from the designated local authority, SB 972 strictly limits the available penalty. A
27 vendor found “operating without a permit” may be sanctioned “only by” an
28

1 administrative fine “not to exceed three times the cost of the permit.” Cal. Health
2 & Safety Code § 114368.8(c)–(d). Furthermore, state law allows impoundment for
3 health and safety reasons only when conducted by qualified state or county
4 enforcement officers and only under limited circumstances. Under Health and
5 Safety Code § 114393, only a qualified “enforcement officer” may inspect and, if
6 necessary, impound “food, equipment, or utensils.” Such impoundment is
7 permitted only when the items are “found to be, or suspected of being, unsanitary
8 or in such disrepair that food, equipment, or utensils may become contaminated or
9 adulterated,” and only when that determination is “[b]ased upon inspection
10 findings or other evidence.” *Id.*; *see also id.* § 113774 (designated “enforcement
11 officer” is required to carry out this function). Both the enforcement authority and
12 the penalty structure are fixed by state law: DEHS and the State—not the City—
13 may enforce the requirement, and the exclusive punishment is an administrative
14 fine unless impoundment is necessary per the above findings.

15 123. None of those safeguards exist under FMC § 15-829(b)(1). The City’s
16 ordinance authorizes seizures by City personnel and 4LEAF staff who are not
17 health enforcement officers, who lack the qualifications to assess food safety, and
18 who conduct no legally required inspection or evidentiary determination. By
19 creating a parallel, truncated, and unauthorized impoundment regime, the City has
20 usurped authority that state law assigns exclusively to DEHS and the Department
21 of Public Health. FMC § 15-829(b)(1) is therefore preempted and invalid.

22 **D. Or. 1925, FMC § 15-829(b)(2) – Seizure of Unattended Property**

23 124. FMC § 15-829(b)(2) purports to authorize the City to seize sidewalk
24 vendor property that “appear[s] to be unattended or abandoned” for more than
25 thirty consecutive minutes, after officers make “reasonable attempts” to locate the
26 owner “within the first 50 feet” of the property.

1 125. However, California law permits a local government to seize
2 unattended property ““only where [it] is intentionally abandoned,’ [and] not simply
3 ‘unattended.’” *Lavan v. City of Los Angeles*, 797 F. Supp. 2d 1005, 1012 (C.D.
4 Cal. 2011), *aff’d*, 693 F.3d 1022, 1030 (9th Cir. 2012). California courts
5 recognize that property remains the owner’s unless the owner has “intentionally
6 and voluntarily abandon[ed] it.” *Kincaid v. City of Fresno*, 2006 WL 3542732, at
7 *37 (E.D. Cal. Dec. 8, 2006).¹⁰

8 126. Whether property has been abandoned turns on the owner’s intent.
9 The inquiry focuses on whether, “through words, acts, or other objective
10 indications, a person has relinquished a reasonable expectation of privacy in the
11 property at the time of the seizure.” *Lavan*, 797 F. Supp. 2d at 1013 (quoting
12 *United States v. Nordling*, 804 F.2d 1466, 1469 (9th Cir. 1986)). Relevant factors
13 include denial of ownership and physical relinquishment of the property, evaluated
14 under the totality of the circumstances. *Id.*

15 127. By authorizing the seizure of merely unattended—but not
16 intentionally abandoned—property, FMC § 15-829(b)(2) conflicts with controlling
17 California law and is therefore preempted and invalid.

18 **E. Or. 1925, FMC §§ 15-829(b)(4), (5), (9) & (c) – Impoundment Provisions**
19 **Dependent on Other Violations of the City’s Sidewalk Vending Article**

20 128. These four impoundment provisions purportedly authorize the seizure
21 of a sidewalk vendor’s goods and equipment based on alleged violations of the
22 City’s sidewalk vending article. All four are unlawful because SB 946 expressly
23

24 ¹⁰ Under Article XI, section 7 of the California Constitution, a city may enact and
25 enforce local ordinances only if they do not conflict with “general laws.” State
26 common law rules established by judicial decisions constitute “general law” for
27 preemption purposes. *See Fireman's Fund Ins. Co. v. City of Lodi, California*, 302
28 F.3d 928 (2002). Because California courts and the Ninth Circuit have clearly
established that property may be seized only when intentionally abandoned, FMC
§ 15-829(b)(2) is preempted by state law and unenforceable.

1 forbids local governments from imposing any sanction other than administrative
2 fines for violations of a local sidewalk vending program. *See* Cal. Gov’t Code §
3 51039(a)(1) (violations are “punishable only” by administrative fines).

4 129. Two of these provisions, FMC §§ 15-829(b)(9) & (c), purport to
5 authorize impoundment to punish vendors who have accumulated a certain number
6 of prior administrative citations for violating the City’s local sidewalk vending
7 Article. § 15-829(b)(9) (authorizing the seizure of a vendor’s property whenever,
8 within a 24-month period, the vendor has received “three or more administrative
9 citations” for violations of the vending Article); § 15- 829(c) (authorizing a
10 “forfeiture impoundment” where a vendor has violated the City’s vending Article
11 twice or more over a 24-month period and received a notice of violation).

12 130. These provisions are directly preempted by SB 946. State law
13 specifies the permissible penalties for repeat violations, including escalating
14 administrative fines up to \$1,000. Cal. Gov’t Code § 51039(a)(3). The Legislature
15 deliberately chose administrative fines—not confiscation of property—as the
16 exclusive available punishment. Because SB 946 provides that violations are
17 “punishable only” by administrative fines, the City has no authority to add the far
18 harsher penalty of impoundment or forfeiture. *Id.*

19 131. The two remaining provisions purport to authorize impoundment for
20 alleged vending violations that occur with additional conduct. FMC § 15-
21 829(b)(4) purports to authorize seizures when a vendor violates any provision of
22 the vending article and “refuses or fails to provide identification”; and FMC § 15-
23 829(b)(5) purports to authorize seizures when a vendor violates the vending article
24 and fails to remove items from public or private property within 30 minutes after
25 being instructed to do so by a City official or 4LEAF agent.

26 132. However, SB 946 does not permit local governments to convert a non-
27 criminal vending violation into a basis for property seizure by attaching ancillary
28

1 conditions. The statute makes clear that all violations of a local sidewalk vending
2 program are punishable only by administrative fines. Cal. Gov’t Code §
3 51039(a)(1). A city may not evade that mandate by adding requirements—such as
4 producing identification or removing property on command—and then using
5 noncompliance as a trigger for impoundment.¹¹ Accordingly, FMC §§ 15-
6 829(b)(4), (b)(5), (b)(9), and (c) all impose penalties that state law forbids. Each
7 provision is therefore preempted and unenforceable.

8 **F. Or. 1925, FMC §§ 15-829(b)(6) & (8) – Other Impoundment Provisions**
9 **Based on Vendor Conduct**

10 133. The final two impoundment provisions purport to authorize the City to
11 seize a sidewalk vendor’s property based on alleged conduct by the vendor. Both
12 provisions are preempted and unlawful.

13 134. FMC § 15-829(b)(6) purports to authorize seizure of a vendor’s goods
14 and equipment when a vendor allegedly “blocks or obstructs the free movement of
15 pedestrians” or fails to maintain “a minimum of forty-eight inches (48”) of
16 accessible path of travel,” or otherwise violates the Americans with Disabilities Act
17 (“ADA”). This provision largely duplicates an earlier ordinance, FMC § 15-
18 822(B)(2), adopted in Ordinance 1789, which already regulates pedestrian
19 clearance. That earlier provision requires vendors to maintain a minimum of
20 thirty-six inches (36”) of accessible sidewalk width—the ADA minimum—and
21 does not invoke the ADA or authorize impoundment. The only substantive change
22 in FMC § 15-829(b)(6) is to increase the clearance requirement by twelve inches
23 and to attach the severe penalty of seizure.

24
25
26 ¹¹ Furthermore, the added conditions are themselves unlawful. A City officer or
27 agent may not demand identification from a person absent reasonable suspicion of
28 criminal activity. *Brown v. Texas*, 443 U.S. 47, 52 (1979). Nor may an officer
compel a person to remove her property or detain them based solely on a
noncriminal regulatory violation. *Florida v. Royer*, 460 U.S. 491, 497–98 (1983).

1 135. Again, the only punishments SB 946 allows are administrative fines,
2 and the City may not transform a regulatory violation into a basis for confiscating a
3 vendor’s livelihood by seizing their equipment and goods. FMC § 15-829(b)(6) is
4 therefore preempted and invalid.

5 136. FMC § 15-829(b)(8) purports to authorize seizure when a vendor
6 possesses “items” that allegedly create “an imminent and substantial danger or
7 environmental hazard to the health, safety, or general welfare of the public.” This
8 provision is unlawful as the City lacks authority to enforce it, and the City may not
9 substitute its own untrained personnel or contractors to enforce the Retail Food
10 Code, which is enforced and administered in Fontana exclusively by DEHS and the
11 State. FMC §§ 15-829(b)(6) and (b)(8) are preempted and unenforceable.

12 **G. Or. 1925, FMC §§ 15-826 & 15-829(h) – Appeal and Impoundment Fees**

13 137. FMC §§ 15-826 and 15-829(h) are preempted by and in direct conflict
14 with State law. Both provisions impose fees and financial conditions that SB 946
15 expressly forbids.

16 138. California Government Code § 51039 strictly limits the penalties that
17 may be imposed for violations of a local sidewalk vending program. A violation is
18 “punishable only by” the administrative fines set forth in subdivision (a), and the
19 provision provides further that: “Additional fines, fees, assessments, or any other
20 financial conditions beyond those authorized in subdivision (a) shall not be
21 assessed.” Cal. Gov’t Code § 51039(a), (c).

22 139. FMC § 15-826 violates § 51039(c) by requiring a vendor to pay “the
23 city’s appeal fee” to challenge a permit denial or impoundment. On information
24 and belief, this fee is hundreds of dollars. Conditioning access to an appeal on the
25 payment of a fee imposes an additional financial penalty prohibited by state law.

26 140. FMC § 15-829(h) likewise violates § 51039(c) by requiring vendors
27 whose property has been impounded to “pay applicable impound fees”—more than
28

1 two hundred dollars—to recover their non-perishable items. This fee is an
2 additional financial condition imposed solely because of an alleged sidewalk
3 vending violation.

4 141. Because California Government Code § 51039 allows only the
5 enumerated administrative fines and prohibits any other fees or financial
6 conditions, both FMC §§ 15-826 and 15-829(h) are unlawful and preempted.

7 **H. Or. 1925, FMC § 15-820(a)(10) – Insurance Coverage Requirement**

8 142. FMC § 15-820(a)(10) requires every sidewalk vending permit
9 applicant to obtain a public liability insurance policy with limits of \$1,000,000 per
10 person, \$2,000,000 per occurrence for personal injury, and \$1,000,000 per
11 occurrence for property damage, issued by an insurer approved by the City. This
12 requirement violates and is preempted by SB 946.

13 143. Under SB 946, any additional local regulations restricting sidewalk
14 vending are presumptively invalid, and allowed only if these “time, place, and
15 manner” regulations are “directly related to an objective health, safety, or welfare
16 concerns,” Cal. Gov’t Code § 51038(c)(5). The Legislature enacted this
17 requirement to prevent cities from erecting “unnecessary barriers” that “block
18 aspiring entrepreneurs from accessing the formal economy, harm California’s
19 economy, and disrupt the regulation of business.” *Id.* § 51037. A local
20 government therefore bears the burden of demonstrating that regulations, including
21 permit conditions, are directly related to an objective health, safety, or welfare
22 concern. Conclusory assertions are not enough.

23 144. Here, the City made no findings, produced no evidence, and cited no
24 data showing that a \$1–\$2 million liability policy for individual sidewalk vendors
25 is directly related to any objective health, safety, or welfare concern. Instead, the
26 City relied only on boilerplate assertions that the ordinance was “consistent with
27 SB 946” and that vendors should “contribute to the administrative and liability
28

1 costs incurred by the community.” Or. 1789, Sixth & Eleventh Whereas Clauses.
2 Those generalized and conclusory statements do not satisfy SB 946’s requirement
3 of a direct connection to objective health, safety, or welfare concerns.¹² The City
4 has not shown—and cannot show—that the \$1–\$2 million insurance mandate is
5 directly related to objective health, safety, or welfare concerns, it simply excludes
6 low-income vendors from accessing the formal economy—precisely one of the key
7 harms SB 946 was enacted to prevent. Accordingly, FMC § 15-820(a)(9) is
8 preempted by state law and void.

9 **I. Or. 1789, FMC §§ 15-820(a)(15) – Risk Acknowledgment Requirement**

10 145. The City’s requirement in Or. 1789, § 15-820(a)(15) that sidewalk
11 vendors accept certain conditions to obtain local vending permits is preempted by
12

13 ¹² The City’s insurance requirements for other business operators and entrepreneurs
14 confirms that the sidewalk vendor requirement is arbitrary and not tied to actual
15 risk:

- 16 • As noted, sidewalk vendors must carry \$1–\$2 million in liability coverage.
17 FMC § 15-820(a)(9).
- 18 • Raceways, racetracks, and drag strips—activities posing obvious and
19 substantial danger—need only \$200,000 to \$500,000 in personal injury
20 coverage and \$50,000 in property damage coverage. FMC § 17-397.
- 21 • Film permits, which can expose the City to wrongful-death claims, need
22 only \$1 million, with no mandatory \$2 million aggregate. FMC § 15-
23 958(f)(1).
- 24 • Excavation permits—for excavating under public streets—require the same
25 \$1–\$2 million coverage imposed on individual sidewalk vendors. FMC §
26 25-213(a)(2).

27 Most strikingly, the City requires individual sidewalk vendors to carry nearly the
28 same insurance limits as 4LEAF, the City’s private enforcement contractor that the
City pays hundreds of thousands of dollars every six months and that conducts
seizures and enforcement operations citywide. *See* Contract § 11(e) (requiring
4LEAF to obtain liability coverage between \$1 million to \$2 million per
occurrence). That parity is illogical as a measure of public risk posed by a single
person selling food or merchandise on a sidewalk. These comparisons show that
the City did not calibrate the insurance requirement to any objective safety risk. It
simply imposed a commercial-grade insurance mandate on individual vendors,
creating a further barrier to entry rather than protecting the public.

1 state law, which prohibits any additional regulations or restrictions on vending
2 unless the regulations are “directly related to objective health, safety, or welfare
3 concerns.” Gov’t Code § 51038(c)(1); *see Mustaqeem v. City of San Diego*, No.
4 D085750, 2026 WL 174947, at *12 (Cal. Ct. App. Jan. 22, 2026) (“any restriction
5 must be based on *direct* and *objective* (i.e., known or observable) concerns” and
6 must be “adequately explained” by the local government) (emphasis in original);
7 *see id.*, at *13 (“the City must demonstrate a *direct* relationship to *objective* health,
8 safety, or welfare concerns to justify any restriction on sidewalk vending”).

9 146. As noted previously, the City must directly relate any additional
10 requirement to an objective health, safety, or welfare concern, and once again, the
11 City has offered no evidence or findings to support such an alleged connection for
12 Or. 1789, § 15-820(a)(14) and (a)(15). Instead, it relied solely on conclusory
13 statements that its permit requirements, in general, are “consistent with SB 946”
14 and that vendors “bear a responsibility to . . . contribute to the administrative and
15 liability costs incurred by the community and caused by [vending goods and
16 equipment].” Or. 1789, Sixth & Eleventh Whereas Clauses. Elsewhere, the City
17 asserted generally that “unless properly regulated, sidewalk vending poses a unique
18 risk to the health, safety, and welfare of the public” Or. 1789, Eleventh Whereas
19 Clause. These generalized statements directly contradict the Legislature’s findings
20 that sidewalk vending “contributes to a safe and dynamic public space” and that
21 the public’s “safety and welfare is promoted by encouraging local authorities to
22 support . . . sidewalk vending.” SB 946, § 1(a)(3)-(4).

23 147. The risk acknowledgment requirement (FMC § 15-820(a)(15)) is
24 uniquely imposed on sidewalk vendors and is not required of other businesses
25 operating on public sidewalks, such as outdoor dining operators. *See Fontana*
26 *Zoning and Development Code* § 30-360. These other businesses are permitted to
27
28

1 use the same public property without signing a similar waiver or acknowledging
2 risk, highlighting the arbitrary and discriminatory nature of the requirement.

3 148. The risk acknowledgment requirement creates unnecessary barriers
4 for sidewalk vendors, unrelated to any objective health, safety, or welfare concern,
5 and is preempted by state law.

6 **J. Or. 1789, FMC § 15-820(b) – LiveScan Background Check**

7 149. FMC § 15-820(b) requires applicants for a sidewalk vending permit to
8 submit a LiveScan background check conducted by the California Department of
9 Justice. This requirement is directly prohibited by state law.

10 150. California Government Code § 51038(c)(1)(D)(iii)(I) expressly
11 provides that a local authority “shall not require an applicant to submit fingerprints,
12 complete a LiveScan fingerprinting, or submit to a background check as part of an
13 application for a permit or valid business license for sidewalk vending.” The
14 City’s ordinance therefore conflicts directly with this statutory mandate.

15 151. Because state law expressly forbids local governments from imposing
16 LiveScan or background check requirements on sidewalk vendors, FMC § 15-
17 820(b) is preempted and unenforceable.¹³

18
19 ¹³ On January 13, 2026, the City Council of Fontana considered Ordinance No.
20 1981, which proposes to amend FMC § 15-820 to bring the City’s sidewalk
21 vending laws into compliance with state law by rescinding the LiveScan
22 background check requirement. Fontana City Council Agenda, Jan. 13, 2026,
23 Ordinance 1981, available at
24 [https://fontana.legistar.com/LegislationDetail.aspx?ID=7786558&GUID=5A6EF9](https://fontana.legistar.com/LegislationDetail.aspx?ID=7786558&GUID=5A6EF980-0E12-4E8F-9923-FF496C562835)
25 [80-0E12-4E8F-9923-FF496C562835](https://fontana.legistar.com/LegislationDetail.aspx?ID=7786558&GUID=5A6EF980-0E12-4E8F-9923-FF496C562835). Despite the City’s consideration of this
26 measure, public records do not reflect whether the City Council approved, rejected,
27 or otherwise acted on Ordinance 1981. Moreover, as of February 13, 2026, the
28 City’s municipal code published online—last updated December 1, 2025—
continues to list FMC § 15-820(b) as operative and to require permit applicants to
submit a LiveScan background check, in direct contravention of state law,
available at
[https://library.municode.com/ca/fontana/codes/code_of_ordinances?nodeId=CO_C](https://library.municode.com/ca/fontana/codes/code_of_ordinances?nodeId=CO_CH15LIPEBURE_ARTXVIISIVE_S15-820PERE)
[H15LIPEBURE ARTXVIISIVE S15-820PERE](https://library.municode.com/ca/fontana/codes/code_of_ordinances?nodeId=CO_CH15LIPEBURE_ARTXVIISIVE_S15-820PERE).

1 152. In sum, the City’s challenged provisions in Or. 1925 and Or. 1789
 2 contradict, and are preempted by state law, in the following manner:

3 Or. 1925, FMC § 1- 4 14 – Enforcement 5 Obstructions 6 Consequences	preempted by Cal. Gov’t Code §§ 51039(d)(1)-(2) and Cal. Health & Safety Code § 114368.8(b)
7 Or. 1789, FMC § 15- 8 828 – seizure of 9 vendor property as 10 evidence	preempted by Cal. Gov’t Code §§ 51039(a)(1)(A)- (C) and <i>id.</i> at (d)(1)
11 Or. 1925, FMC § 15- 12 829(b)(1) - no 13 County health permit	preempted by Cal. Gov’t Code §§ 51039(a)(1)(A- C) and Cal. Health & Safety Code §§ 114368.8(c) & (d);
14 Or. 1925, FMC § 15- 15 829(b)(3) – no local 16 vending permit	preempted by Cal. Gov’t Code § 51039(a)(3)(A)(i- iii); <i>see id.</i> at (a)(1);
17 Or. 1925, FMC §§ 18 15-829(b)(4), (5), (9) & (c) – dependent on other violations of the City vendor ordinance	preempted by Cal. Gov’t Code §§ 51039(a)(1)(A- C)
19 Or. 1925, FMC § 15- 20 829(b)(6) – blockage 21 of free movement of pedestrians	preempted by Cal. Gov’t Code §§ 51039(a)(1)(A)- (C);
22 Or. 1925, FMC § 15- 23 829(b)(8) – alleged 24 substantial danger or hazard	preempted by Cal. Gov’t Code §§ 51039(a)(1)(A)- (C) and Cal. Health & Safety Code § 114368.8(c)
25 Or. 1789 & Or. 1925, 26 FMC §§ 15-826 & 27 15-829(h)	preempted by Cal. Gov’t Code § 51039(c)

1 Or. 1789, FMC § 15- 2 820(a)(10) – 3 insurance coverage permit requirement	preempted by Cal. Gov’t Code § 51038(c)(5)
4 Or. 1789, FMC § 15- 5 820(a)(15) – risk 6 acknowledgment permit requirement	preempted by Cal. Gov’t Code § 51038(c)(5)
7 Or. 1789 FMC § 15- 8 820(b) – submission 9 of a Livescan 10 Background Check permit requirement	preempted by Cal. Gov’t Code § 51038(c)(5)

11
 12 **MONELL ALLEGATIONS**

13 *Defendant City of Fontana*

14 153. Local government bodies like the City may be sued directly under 42
 15 U.S.C. § 1983 for declaratory, injunctive, and monetary relief where the challenged
 16 action “implements or executes a policy statement, ordinance, regulation, or
 17 decision officially adopted and promulgated by that body.” *Monell v. Dep’t of Soc.*
 18 *Servs.*, 436 U.S. 658, 690 (1978). The *Monell* standard is satisfied where “a
 19 plaintiff challenges the constitutionality of a municipal ordinance.” *Muffett v. City*
 20 *of Yakima ex rel. members of its City Council*, No. CV-10-3092-RMP, 2012 WL
 21 2915472, at *4 (E.D. Wash. July 17, 2012).

22 154. The City adopted the ordinances containing the Enforcement
 23 Obstruction Consequences provision, Or. 1925, FMC § 1-14, and the challenged
 24 impoundment provisions governing sidewalk vendors, FMC §§ 15-826, 15-828,
 25 and 15-829 (collectively, the “Challenged Ordinances”).

26 155. The Challenged Ordinances constitute the City’s official municipal
 27 policy for purposes of § 1983.
 28

1 156. After adopting these ordinances, the City managed, directed, and
2 instructed City officers and 4LEAF personnel to implement them as written.

3 *Defendant 4LEAF*

4 157. Private contractors who act under color of state law to cause the
5 deprivation of a constitutional right, in a manner fairly attributable to the
6 government, are also liable under § 1983 and *Monell. Tsao v. Desert Palace, Inc.*,
7 698 F.3d 1128, 1139 (9th Cir. 2012).

8 158. On November 14, 2023, 4LEAF executed the code-enforcement
9 Contract with the City. Under that Contract, 4LEAF adopted the City’s sidewalk
10 vending ordinances in whole as its own policy and practice.

11 159. Further, Exhibit A to the Contract expressly requires warrantless
12 confiscation of vendor property, stating: “For individuals that chose to continue to
13 operate without the property permits, [4LEAF officers] will confiscate all
14 perishable/non-perishable items.”

15 160. The Contract contains no requirement that 4LEAF officers obtain a
16 warrant, assess whether an exception to the warrant requirement applies, seek
17 judicial or administrative approval, or provide any pre-deprivation process before
18 seizing vendors’ goods and equipment.

19 161. While enforcing the City’s sidewalk vending ordinances and
20 executing the Contract, 4LEAF acts under color of law and is a state actor for
21 purposes of § 1983.

22 **HARMS TO ORGANIZATIONAL PLAINTIFF ICIJ AND ITS MEMBERS**

23 162. Plaintiff ICIJ is a nonprofit membership organization founded in 2008
24 to improve the quality of life of economically vulnerable residents in San
25 Bernardino and Riverside Counties, including sidewalk vendors. ICIJ’s mission is
26 to increase access to resources, education, and policy decision-making for low-
27 income and immigrant communities throughout the Inland Empire. Sidewalk
28

1 vending is a core focus of ICIJ’s work because it is one of the primary means for
2 economically vulnerable individuals to earn a living and support their families.

3 163. ICIJ is a membership organization with both individual and
4 organizational members. It has more than 500 individual members, more than half
5 of whom are sidewalk vendors. ICIJ’s individual members are predominantly low-
6 income, working-class, monolingual Spanish speakers, and many have limited
7 formal education.

8 164. Some ICIJ members pay annual dues to the organization that help
9 fund ICIJ’s operations. Other ICIJ members have become members by virtue of
10 their participation in the organization’s meetings, programs, and policy campaigns.

11 165. ICIJ’s core business activities include providing direct services and
12 education to sidewalk vendors. To carry out its mission, ICIJ:

- 13 • Conducts small business trainings for sidewalk vendors on topics including
- 14 permits and licenses, and fictitious business name (DBA) registration;
- 15 • Provides legal clinics, Know Your Rights (“KYR”) trainings, and
- 16 educational workshops;
- 17 • Facilitates peer-to-peer assistance groups;
- 18 • Assists vendors with permit applications;
- 19 • Helps vendors respond to citations, impoundments, and enforcement actions,
- 20 including reviewing and translating paperwork, and assisting with appeals;
- 21 • Provides marketplace support, including identifying catering opportunities,
- 22 connecting vendors to supporters, and creating and operating outdoor
- 23 markets such as La Quinta Food Market, which ICIJ manages with a
- 24 cooperative of street vendors it helped organize; and
- 25 • Fundraises for and distributes grants to vendors, including emergency
- 26 assistance and, when necessary and available, funds to pay for permits.
- 27
- 28

1 166. Defendants’ policies and practices challenged in this action have
2 directly affected and interfered with ICIJ’s core business activities. *See Food &*
3 *Drug Admin. v. All. for Hippocratic Med.*, 602 U.S. 367, 395 (2024)
4 (organizational standing exists where a defendant’s conduct “affected and
5 interfered with [a plaintiff’s] core business activities”).

6 167. After the City passed Or. 1789 in 2019, ICIJ initially helped vendors
7 comply with the City’s permitting scheme, including providing information about
8 insurance requirements, LiveScan background checks, and application steps.
9 However, many vendors—including ICIJ members—were discouraged or
10 prevented from applying because the City’s requirements were unaffordable or
11 inaccessible. While ICIJ staff provided information on the City’s insurance
12 requirements, and where to possibly purchase insurance, many vendors could not
13 afford the monthly premiums to cover the required level of insurance. ICIJ staff
14 also provided information on the LiveScan background check requirement, which
15 some vendors could not afford or were scared to attempt due to their immigration
16 status. As a result, ICIJ’s permit assistance and trainings were rendered futile.

17 168. Furthermore, when ICIJ staff accompanied vendors to City Hall to
18 apply for permits or seek clarification, City staff told ICIJ and vendors that no
19 permits were available and that there was nothing to do. In the words of one ICIJ
20 staff member, “If there’s no process, then what help can we give?” The City’s
21 conduct rendered ICIJ’s permit assistance services meaningless and further
22 impaired ICIJ’s core activities.

23 169. Before the City passed Or. 1925 in 2023, ICIJ’s work was primarily
24 concentrated in Redlands, Palm Springs, and San Bernardino. When Fontana
25 enacted its new laws, ICIJ was forced “to pivot and go all out” in Fontana, as one
26 staff member recalls. The City and 4LEAf forced ICIJ to divert personnel and staff
27
28

1 time away from its core activities in other cities towards supporting vendors under
2 attack in Fontana.

3 170. In 2023, after the City enacted the challenged ordinances and began
4 coordinated enforcement with 4LEAF, ICIJ had to dramatically increase services to
5 vendors in Fontana. Between October and December 2023 alone, ICIJ spent at
6 least 40–60 staff hours per week responding to enforcement in Fontana, including
7 assigning several staff members daily to reach out to vendors and provide
8 resources. ICIJ also worked with coalition partners to develop rapid-response
9 strategies, update staff on the new policies, and educate vendors. ICIJ staff phone-
10 banked with vendors, prepared community members to give public comment, and
11 conducted media interviews regarding the City’s enforcement campaign. Because
12 of Defendants’ conduct, ICIJ had to provide fewer services, programs, and
13 resources to other Inland Empire communities than it otherwise would have.

14 171. ICIJ staff and its members were also deeply alarmed by the new EOC
15 provision, which criminalizes undefined conduct and speech that “intimidate[s], or
16 interfere[s] in any way” with officers. Or. 1925, FMC § 1-14. Vendors repeatedly
17 asked ICIJ staff what the law meant and what they were permitted to do. ICIJ
18 could not provide clear guidance because of the law’s vagueness. As one ICIJ staff
19 member recalls: “We would tell them, ‘we don’t know what it means.’” Rather
20 than providing inaccurate KYR trainings, ICIJ was unable to provide guidance or
21 assistance in line with its mission. The law’s ambiguity thus impaired ICIJ’s
22 ability to provide accurate KYR trainings and chilled vendor speech and advocacy.

23 172. Defendants’ policies and practices have expelled nearly all sidewalk
24 vendors from the City of Fontana. *See discussion supra*, pp. 4, 12, 15-17, 18. As a
25 direct result of Defendants’ conduct, vendors who previously operated throughout
26 the City stopped vending in Fontana or left the City to avoid arrest, citation,
27 harassment, and the seizure of their property. The resulting disappearance of
28

1 vendors from Fontana caused a sharp decline in attendance at ICIJ’s programs and
2 forced ICIJ to cancel clinics, workshops, and outreach events because there were
3 no longer vendors in Fontana to serve. Because Defendants displaced the very
4 population ICIJ exists to serve, ICIJ’s mission to serve the sidewalk vending
5 community, including through the provision of direct services, is being frustrated.
6 *See Havens Realty Corp. v. Coleman*, 455 U.S. 363, 379 (1982); *Immigrant*
7 *Defenders Law Center v. Noem*, 145 F.4th 972, 978 (9th Cir. 2025).¹⁴

8 173. ICIJ brings this action on behalf of itself and its members, who have
9 also been directly and irreparably harmed by Defendants’ conduct. ICIJ members
10 have been threatened by City and 4LEAF personnel with prosecution under the
11 Enforcement Obstruction Consequence provision (Or. 1925, FMC § 1-14) and
12 silenced thereby, subjected to property seizures under the challenged impoundment
13 provisions, and have been unable to obtain sidewalk vending permits because of
14 the City’s challenged permit provisions.

15
16 ¹⁴ *See also, e.g., Community Legal Services in East Palo Alto v. U.S. Dept. of*
17 *Health & Human Services*, 780 F.Supp.3d 897, 913 (N.D. Cal. 2025) (holding that
18 plaintiff had standing where it was forced “to divert resources to adequately
19 advocate for unaccompanied children,” thereby “impair[ing] [Plaintiffs’] ability to
20 provide [legal] services,” which constituted injury in fact); *E. Bay Sanctuary*
21 *Covenant v. Biden*, 993 F.3d 640, 663 (9th Cir. 2021) (finding organizational
22 standing where a rule barring access to asylum procedures required diversion of
23 organizational resources to assist asylum seekers); *Prado v. City of Berkeley*, 2025
24 WL 3171588, at *6 (N.D. Cal. Nov. 13, 2025) (“The Ninth Circuit has more
25 recently clarified that an organization ‘has direct standing to sue where a
26 defendant’s behavior has ‘frustrated its mission and caused it to divert resources in
27 response to frustration of purpose.’” (quoting *Immigr. Defenders L. Cntr. v. Noem*,
28 145 F.4th 972, 987 (9th Cir. 2025) (citation omitted))); *Garay v. City of Las Vegas*,
2025 WL 1676845, at *3 (D. Nev. June 13, 2025) (concluding that organizational
plaintiff’s allegations were analogous to *Havens* because the organization operated
training and assistance programs, and when its members were detained it had to
“divert its resources away from its traditional programs toward helping its
members get out of immigration detention.”).

1 **FIRST CAUSE OF ACTION**
2 ***Monell* Claim, 42 U.S.C. § 1983**
3 **Violation of Fourth and Fourteenth Amendments**
4 **(Plaintiffs A.M., L.C., and ICIJ Against Defendants)**
5 **(Facial Challenge)**

6 156. Plaintiffs reallege and incorporate by reference each and every
7 allegation contained in the above paragraphs as though fully set forth herein.

8 157. Section 1983 authorizes civil actions for the “deprivation of any rights
9 ... secured by the Constitution and laws” against any party acting under color of
10 state law. 42 U.S.C. § 1983.

11 158. Under *Monell v. Dep’t of Soc. Servs.*, local government entities, like
12 the City, may be sued under Section 1983 “where . . . the action that is alleged to
13 be unconstitutional implements or executes a policy statement, ordinance,
14 regulation, or decision officially adopted and promulgated by that body's officers.”
15 436 U.S. 658, 691 (1978).

16 159. Private entities, including 4LEAF, that act under color of state law and
17 whose conduct is fairly attributable to the state may likewise be held liable under
18 Section 1983 for constitutional violations. *Tsao v. Desert Palace, Inc.*, 698 F.3d
19 1128, 1139 (9th Cir. 2012).

20 160. Pursuant to its Contract with the City, first executed on November 14,
21 2023, 4LEAF adopted the City’s municipal code and sidewalk vending ordinances
22 in their entirety as its own policies and practices. In enforcing those ordinances
23 and executing the Contract, 4LEAF acted jointly with the City and under color of
24 state law. Its conduct was state action, and its deprivations of Plaintiffs’
25 constitutional rights are actionable under Section 1983 and *Monell*.

26 161. As written, the challenged impoundment provisions—FMC §§ 15-
27 828, 15-829(b)(1)-(6), (8)-(9), (c)—permit the City and 4Leaf to immediately seize
28 any items the City deems satisfies the terms of those provisions. These provisions

1 do not require the City or 4LEAF to seek a warrant prior to the seizure of an item,
2 nor must the City or 4LEAF determine that an exception to the warrant
3 requirement applies, such that probable cause exists to seize the item. As such, the
4 challenged impoundment provisions, as written, violate the United States
5 Constitution because the seizure of an item based solely on alleged noncompliance
6 with a local sidewalk vending regulation, without a warrant or probable cause, is
7 unreasonable and contrary to the Fourth Amendment of the U.S. Constitution, as
8 applied to the states by the Fourteenth Amendment to the U.S. Constitution, and 42
9 U.S.C. § 1983.

10 162. In addition to allowing the warrantless seizure of items, as written,
11 FMC § 15-829(d) explicitly permits the City and 4LEAF to immediately destroy
12 any items the City deems “perishable.” FMC § 15-829 does not require the City or
13 4LEAF to seek a warrant prior to destroying an item it determines is “perishable,”
14 nor must the City or 4LEAF determine that an exception to the warrant
15 requirement applies, such that probable cause exists to immediately destroy the
16 item. As such, as written, FMC § 15-829(d) violates the United States Constitution
17 because destroying an item based solely on alleged noncompliance with a local
18 sidewalk vending regulation, without a warrant or probable cause, is unreasonable
19 and contrary to the Fourth Amendment of the U.S. Constitution, as applied to the
20 states by the Fourteenth Amendment to the U.S. Constitution, and 42 U.S.C. §
21 1983.

22 163. Further, as written, Or. 1925, FMC § 1-14 instructs the City and
23 4LEAF to arrest and prosecute anyone who interferes with the seizure or
24 destruction of an item, even though the seizure or destruction of that item violates
25 the Fourth Amendment of the U.S. Constitution, as applied to the states by the
26 Fourteenth Amendment to the U.S. Constitution. This provision, which prohibits
27 an individual from interfering with a constitutionally impermissible seizure, is
28

1 unconstitutional under the Fourth Amendment of the U.S. Constitution, as applied
2 to the states by the Fourteenth Amendment to the U.S. Constitution, and 42 U.S.C.
3 § 1983.

4 164. As a direct and proximate consequence of the acts of the City and
5 4LEAF, Plaintiffs A.M., L.C., ICIJ's members have suffered and continue to suffer
6 injury and loss. Plaintiffs A.M., L.C., and ICIJ's members are entitled to
7 compensatory damages for the loss of and damage to property and other injuries to
8 their persons that resulted from the violation of their Fourth and Fourteenth
9 Amendment rights.

10 **SECOND CAUSE OF ACTION**
11 ***Monell Claim, 42 U.S.C. § 1983***
12 **Violation of Fourth and Fourteenth Amendments**
13 **(Plaintiffs A.M. and L.C. Against Defendants)**
14 **(As-Applied Challenge)**

15 165. Plaintiffs A.M. and L.C. reallege and incorporate the allegations set
16 forth in the preceding paragraphs as though fully set forth here.

17 166. Plaintiffs A.M. and L.C. have a vested interest in their property
18 pursuant to the U.S. Constitution and statutory law. Defendants and Defendants'
19 employees and agents violated Plaintiffs A.M. and L.C.'s constitutional right to be
20 free from unreasonable seizure of their property without a warrant and without
21 probable cause. Defendants and Defendants' employees and agents further
22 violated Plaintiffs' constitutional right to be free from unreasonable seizure when
23 they summarily destroyed Plaintiffs A.M. and L.C.'s property, without a warrant
24 and without probable cause. These unlawful actions were done with the specific
25 intent to deprive Plaintiffs A.M. and L.C. of their constitutional right to be secure
26 in their property.

27 167. Defendants and their employees and agents intentionally failed to
28 protect and preserve Plaintiffs A.M.'s and L.C.'s property and, at a minimum,

1 Defendants and their employees and agents were deliberately indifferent to the fact
2 that they were seizing and destroying Plaintiffs A.M. and L.C.’s property
3 unlawfully.

4 168. Defendants and Defendants’ employees and agents acted pursuant to
5 the City’s and 4LEAF’s policies, practices, and/or customs of seizing and
6 destroying sidewalk vendors’ property without a valid warrant or probable cause.

7 169. These policies, practices, and/or customs are unreasonable and violate
8 the Fourth Amendment of the U.S. Constitution, as applied to the states by the
9 Fourteenth Amendment to the U.S. Constitution; and 42 U.S.C. § 1983.

10 170. Defendants and Defendants’ employees’ and agents’ actions against
11 Plaintiffs A.M. and L.C., dictated by FMC §§ 15-828, 15-829, and the Contract are
12 unreasonable and violate the Fourth Amendment of the U.S. Constitution, as
13 applied to the states by the Fourteenth Amendment to the U.S. Constitution, and 42
14 U.S.C. § 1983.

15 171. Defendants and Defendants’ agents’ and employees’ illegal actions
16 have caused Plaintiffs A.M. and L.C. to suffer and continue to suffer injury and
17 loss. Plaintiffs A.M. and L.C. are entitled to compensatory damages for the loss of
18 and damage to property and other injuries to their persons that resulted from the
19 violation of their Fourth Amendment rights.

20 **THIRD CAUSE OF ACTION**
21 ***Monell Claim, 42 U.S.C. § 1983***
22 **Violation of Fourteenth Amendment**
23 **(Plaintiffs A.M., L.C., and ICIJ Against Defendants)**
24 **(Facial Challenge)**

25 172. Plaintiffs A.M., L.C., and ICIJ reallege and incorporate by reference
26 each and every allegation contained in the above paragraphs.

27 173. As written, the challenged impoundment provisions of Or. 1789 and
28 Or. 1925—FMC §§ 15-828, 15-829(b)(1)-(6), (8)-(9), (c)—permit the City and

1 4LEAF to immediately and illegally seize all of the sidewalk vendors' items,
2 goods, or equipment.

3 174. As written, FMC §§ 15-828 and 15-829 do not require the City or
4 4LEAF to provide any notice or opportunity to be heard before seizing the
5 sidewalk vendors' items. The City and 4LEAF rely on the challenged
6 impoundment provisions to permanently deprive Plaintiffs A.M and L.C. and
7 Plaintiff ICIJ's members of their property and livelihood by immediately
8 destroying their property without any notice or opportunity to be heard. As such,
9 the City and 4LEAF violate the U.S. Constitution because the seizure and
10 destruction of an item without any due process, including adequate notice and an
11 opportunity to be heard, violates the Fourteenth Amendment to the U.S.
12 Constitution and 42 U.S.C. § 1983.

13 175. Moreover, as written, FMC § 15-826 fails to provide a constitutionally
14 adequate post-seizure process.

15 176. The City's and 4LEAF's illegal actions have caused Plaintiffs A.M
16 and L.C. and Plaintiff ICIJ's members to suffer and continue to suffer injury and
17 loss. Plaintiffs A.M. and L.C. are entitled to compensatory damages for the loss of
18 and damage to property and other injuries to their persons that resulted from the
19 violation of their Fourteenth Amendment rights.

20 **FOURTH CAUSE OF ACTION**
21 ***Monell Claim, 42 U.S.C. § 1983***
22 **Violation of Fourteenth Amendment**
23 **(Plaintiffs A.M. and L.C. Against Defendants)**
24 **(As-Applied Challenge)**

25 177. Plaintiffs A.M. and L.C. reallege and incorporate by reference each
26 and every allegation in the preceding paragraphs as though fully set forth herein.

27 178. Plaintiffs A.M. and L.C. have a vested interest in their property
28 pursuant to the U.S. Constitution and statutory law. Defendants and Defendants'

1 employees and agents violated Plaintiffs A.M.’s and L.C.’s constitutional right to
2 due process of law by seizing their property without adequate notice and
3 opportunity to be heard prior to depriving Plaintiffs A.M. and L.C. of their
4 property. Defendants and Defendants’ employees and agents further violated
5 Plaintiffs A.M.’s and L.C.’s constitutional right to due process of law by
6 destroying their property without adequate notice and opportunity to be heard prior
7 to permanently depriving Plaintiffs A.M. and L.C. of their property. Defendants
8 and their employees’ and agents’ unlawful actions were done with the specific
9 intent to deprive Plaintiffs A.M. and L.C. of their constitutional right to due
10 process of law.

11 179. Defendants and their employees and agents intentionally failed to
12 protect and preserve Plaintiffs A.M. and L.C.’s property. At a minimum,
13 Defendants and their employees and agents were deliberately indifferent to the
14 likely consequence that the property would be seized and that the property would
15 be destroyed unlawfully.

16 180. Defendants and Defendants’ employees’ and agents’ actions were
17 taken pursuant to the City’s and 4LEAF’s policies, practices, and/or customs of
18 seizing and seizing and destroying sidewalk vendors’ property without adequate
19 notice and opportunity to be heard prior to being deprived of their property. These
20 policies, practices, and/or customs are unreasonable and contrary to the Fourteenth
21 Amendment of the U.S. Constitution; and 42 U.S.C. § 1983.

22 181. Defendants and Defendants’ employees’ and agents’ actions against
23 Plaintiffs A.M. and L.C., dictated by FMC §§ 15-828, 15-829, and the Contract are
24 unreasonable and violate the Fourth Amendment of the U.S. Constitution, as
25 applied to the states by the Fourteenth Amendment to the U.S. Constitution, and 42
26 U.S.C. § 1983.

1 182. Defendants and Defendants’ agents and employees have caused
2 Plaintiffs A.M. and L.C. to suffer and continue to suffer injury and loss. Plaintiffs
3 A.M. and L.C. are entitled to compensatory damages for the loss of and damage to
4 their property and other injuries to their persons that resulted from the violation of
5 their Fourteenth Amendment rights.

6 **FIFTH CAUSE OF ACTION**
7 ***Monell Claim, 42 U.S.C. § 1983***
8 **Violation of First and Fourteenth Amendments**
9 **Overbreadth and Vagueness**
10 **(All Plaintiffs Against Defendants)**

11 183. Plaintiffs reallege and incorporate by reference each and every
12 allegation in the preceding paragraphs as though fully set forth herein.

13 184. The First Amendment to the U.S. Constitution, as applied to the states
14 by the Fourteenth Amendment to the U.S. Constitution, prohibits any law that
15 abridges the freedom of speech.

16 185. A statute that prohibits substantially more speech than the First
17 Amendment permits is unconstitutionally overbroad even if the State could
18 lawfully punish some of the conduct targeted by the statute. *See United States v.*
19 *Stevens*, 130 S. Ct. 1577, 1587 (2010).

20 186. A statute is unconstitutionally vague—and violates the First
21 Amendment—when it is so vague that “men of common intelligence” would be
22 “forced to guess” at its meaning, *Smith v. Goguen*, 415 U.S. 566, 574 (1974)
23 (citation omitted), and/or when it “fail[s] to provide such minimal guidelines” that
24 it permits ““a standardless sweep [that] allows policemen, prosecutors, and juries to
25 pursue their personal predilections,”” *Kolender v. Lawson*, 461 U.S. 352, 353-54
26 (1983) (citation omitted).

27 187. The Enforcement Obstruction Consequences provision, Or. 1925,
28 FMC § 1-14, is overbroad because it sweepingly prohibits protected speech,

1 creating a chilling effect that silences sidewalk vendors during enforcement actions
2 by the City and/or 4LEAF. *See City of Houston, Texas v. Hill*, 482 U.S. 451, 453
3 (1987) (ordinance that prohibits “interrupt[ing]’ an officer” in carrying out the
4 officer’s duties is facially overbroad under the First Amendment); *accord Lewis v.*
5 *City of New Orleans*, 415 U.S. 130, 131-34 (1974).

6 188. Or. 1925, FMC § 1-14, fails to adequately circumscribe the prohibited
7 conduct that could subject an alleged violator to criminal punishment, and
8 encourages arbitrary enforcement against sidewalk vendors who might simply ask
9 questions to the City and/or 4LEAF.

10 189. Or. 1925, FMC § 1-14 is void for vagueness under the Fourteenth
11 Amendment of the U.S. Constitution because it fails to define the terms “to
12 obstruct, impede, threaten, follow, intimidate, or interfere with . . . in any way”
13 with sufficient precision, which encourages arbitrary and discriminatory
14 enforcement by the City and 4LEAF. It also fails to provide Plaintiffs with fair
15 notice of what conduct and speech is prohibited.

16 190. Plaintiffs and Plaintiff ICIJ’s members fear arrest if they interfere or
17 even protest the arbitrary decision-making by the City and 4LEAF regarding their
18 personal property, even though these decisions have and will continue to result in
19 the permanent loss of these items.

20 191. The City and 4LEAF have used Or. 1925, FMC § 1-14 against
21 Plaintiffs in violation of Plaintiffs’ First Amendment rights intending to chill their
22 speech and interfere with their livelihood.

23 192. As a direct and proximate consequence of the City and 4LEAF’s acts,
24 Plaintiffs have suffered and continue to suffer injury and loss. Plaintiffs are
25 entitled to compensatory damages for the loss of and damage to property and other
26 non-economic and constitutional injuries to their persons, including chilling their
27 protected speech, fear of arrest, retaliation, and future enforcement, emotional
28

1 distress and anxiety caused by the attacks on their livelihood. Plaintiffs are further
2 entitled to punitive damages from 4LEAF for the callous disregard of and violation
3 of their First and Fourteenth Amendment rights. Plaintiffs are also entitled to
4 declaratory and injunctive relief and reasonable attorneys’ fees and costs.

5 **SIXTH CAUSE OF ACTION**
6 **Preemption by State Law**
7 **(All Plaintiffs Against Defendant City of Fontana)**

8 193. Plaintiffs reallege and incorporate by reference each and every
9 allegation in the preceding paragraphs as though fully set forth herein.

10 194. The challenged impoundment provisions of the City’s Ordinances
11 1789 and 1925—FMC §§ 15-826, 15-828, 15-829(b)(1)-(6), (8)-(9), (c), (h)—
12 conflict with, and therefore are preempted by, California state law. Under settled
13 California law, when “local legislation conflicts with state law, it is preempted by
14 such law and is void.” *Sherwin-Williams Co.*, 4 Cal. 4th at 897; *see Water Quality*
15 *Ass’n*, 44 Cal. App. 4th at 741. Here, the City’s challenged impoundment
16 provisions are preempted on two separate grounds:

- 17 a. First, each of the City’s challenged impoundment provisions “enter[s]
18 an area . . . expressly or impliedly fully occupied by” State law.
19 *American Financial Services Assn.*, 34 Cal.4th at 1251, 1253.
20 Through SB 946 and SB 972, the Legislature adopted comprehensive
21 and uniform statewide regulatory schemes governing sidewalk
22 vending and retail food vending, including what penalties may be
23 imposed. In doing so, the Legislature exercised “entire control over
24 the subject[s] . . . covered by state legislation,” *id.*, leaving “no room
25 for additional requirements by local legislation.” *Lane*, 58 Cal. 2d at
26 105.

1 b. Second, local legislation is preempted when it is “contradictory or
2 inimical [to State law].” *American Financial Services Assn.*, 34 Cal.
3 4th at 1251; *see Chevron U.S.A.*, 15 Cal. 5th at 139-40, 145. Each of
4 the City’s challenged impoundment provisions contradict SB 946, SB
5 972 or both, and thereby are preempted on this ground as well.

6 195. As a direct and proximate consequence of the City’s unlawful
7 enactment and enforcement of these provisions, Plaintiffs A.M, L.C., and Plaintiff
8 ICIJ’s members have suffered and continue to suffer injury and loss and are
9 entitled to declaratory and injunctive relief and reasonable attorneys’ fees.

10 **SEVENTH CAUSE OF ACTION**
11 **Preemption by State Law**
12 **(All Plaintiffs Against Defendant City of Fontana)**

13 196. Plaintiffs reallege and incorporate by reference each and every
14 allegation in the preceding paragraphs as though fully set forth herein.

15 197. The City’s challenged permit provisions—FMC §§ 15-820(a)(9), (15),
16 and (B)—are preempted because they contradict SB 946’s requirement that any
17 local restriction on sidewalk vending be “directly related to an objective health,
18 safety, or welfare concern.” Cal. Gov’t Code § 51038(c)(5). These provisions
19 impose restrictions that are not directly related to any objective health, safety, or
20 welfare concern and therefore conflict with SB 946 and are preempted.

21 198. As a direct and proximate consequence of the City’s unlawful
22 enactment and enforcement of these provisions, Plaintiffs and Plaintiff ICIJ’s
23 members have suffered and continue to suffer injury and loss and are entitled to
24 declaratory and injunctive relief and reasonable attorneys’ fees.

1 **EIGHTH CAUSE OF ACTION**
2 **Preemption by State Law**
3 **(All Plaintiffs Against Defendant City of Fontana)**

4 199. Plaintiffs reallege and incorporate by reference each and every
5 allegation contained in the preceding paragraphs as though fully set forth herein.

6 200. Or. 1925, FMC § 1-14 conflicts with and is preempted by California
7 state law. The City’s EOC provision codifying a criminal misdemeanor offense
8 contradicts, and is preempted by, both SB 946 (Cal. Gov’t Code § 51039(d)(1)-(2)
9 (prohibiting local sidewalk vending provisions that are “punishable as an infraction
10 or misdemeanor”) and SB 972 (Cal. Health & Safety Code § 114368.8(b) (any
11 violation of the sidewalk vending provisions of the Retail Food Code “shall not be
12 punishable as an infraction or misdemeanor”)).

13 201. The Legislature has fully occupied the field of punishments applicable
14 to sidewalk vending and has expressly prohibited criminal sanctions. Cal. Gov’t
15 Code § 51039(a)(1) provides that violations of a local sidewalk vending program
16 are “punishable only” by administrative fines, and Cal. Gov’t Code § 51039(d)(1)–
17 (2) and Cal. Health & Safety Code § 114368.8(b) categorically bar criminal
18 sanctions. The City therefore lacked authority to enact Or. 1925, FMC § 1-14, and
19 the provision is void under both field and conflict preemption.

20 202. As a direct and proximate consequence of the City’s unlawful
21 enactment and enforcement of these provisions, Plaintiffs A.M., L.C., and Plaintiff
22 ICIJ’s members have suffered and continue to suffer injury and loss and are
23 entitled to declaratory and injunctive relief and reasonable attorneys’ fees.
24
25
26
27
28

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that the Court enter judgment and other relief against Defendants as follows:

1. A preliminary and permanent injunction that prohibits Defendants from enforcing, implementing or utilizing the provisions of Fontana’s Or. 1789 and Or. 1925 that are challenged herein under the First, Fourth, and Fourteenth Amendments to the United States Constitution and/or that are fully occupied by state law or conflict with the provisions of California’s SB 946 and SB 972 and/or in violation of California Civil Code § 52.1;

2. A declaration resolving the controversy between the Parties determining that the challenged provisions of Fontana’s Or. 1789 and Or. 1925 are unlawful and in violation of the First, Fourth, and Fourteenth Amendments to the United States Constitution and/or are preempted by California state law;

3. A preliminary and permanent injunction that prohibits 4LEAF from performing its contract with the City to the extent that performance requires enforcement of unlawful provisions of Or. 1789 and Or. 1925.

4. Monetary damages according to proof for the loss of Plaintiffs’ property and/or livelihood, in violation of Plaintiffs’ constitutional and statutory rights;

5. Nominal and non-economic damages, including for pain and suffering resulting from the City’s and 4LEAF’s unlawful conduct, in violation of Plaintiffs’ constitutional and statutory rights;

6. Statutory, punitive, and compensatory damages against 4LEAF and the City for the harm they intentionally caused and Plaintiffs suffered through Defendants’ threats, intimidation, and coercion, in violation of California Civil Code § 52.1;

7. An order for restitution requiring the City and 4LEAF to repay the

1 value of all Plaintiffs' property that was seized and destroyed;

2 8. Punitive and exemplary damages, to the extent permitted by law, to
3 be determined in accordance with proof;

4 9. Costs of the suit and attorneys' fees as provided by law; and

5 10. Any such other relief as the Court deems just and proper.

6
7 Date: February 13, 2026

Respectfully submitted,

8
9 **ARNOLD & PORTER KAYE SCHOLER LLP**

10
11 **By:** /s/ Matthew T. Heartney

12 Matthew T. Heartney (SBN 123516)

13 Daniel Shimell (SBN 300931)

14 Kathryn Campbell (SBN 350536)*

Dania Qahoush (SBN 335202)*

*C.D. Cal Admission Pending

15
16 **PUBLIC COUNSEL**

17 **By:** /s/ Ritu Mahajan

18 Ritu Mahajan (SBN 252970)

19 Mark Rosenbaum (SBN 59940)

Sylvia Torres-Guillén (SBN 164835)

20 Sophia L. Wrench (SBN 354416)

21 Cassidy J. Bennett (SBN 347811)

22 Elizabeth R. Brown (SBN 360601)

Jacob Maddox (SBN 354368)

23 *Attorneys for Plaintiffs*