

1 injunction be denied and this court adopted those recommendations on September 1, 2017.
2 Findings and Recommendations, ECF No. 24; Order, ECF No. 41.

3 On September 25, 2017, plaintiff appealed this court's order adopting the findings
4 and recommendations and denying plaintiff's motion for a preliminary injunction. Notice of
5 Interlocutory Appeal, ECF No. 42. On December 10, 2019, a Ninth Circuit panel majority
6 reversed this court's decision and remanded for further proceedings. *Cuviello v. City of Vallejo*,
7 944 F.3d 816 (9th Cir. 2019). The Circuit found the court abused its discretion with respect to its
8 analysis of the four factors necessary to grant a preliminary injunction. *Cuviello*, 944 F.3d at 821.
9 First, the Ninth Circuit found plaintiff would have a likelihood of success on the merits of his
10 argument that the City of Vallejo's revised ordinance requiring a permit before using his bullhorn
11 is an unconstitutional prior restraint on free speech. *Id.* at 826–31. Specifically, the Ninth Circuit
12 found that the ordinance, even in its revised form, burdened more speech than necessary and is
13 not narrowly tailored to a government interest. *Id.* at 828–31; *see also* Vallejo, Cal., Municipal
14 Code § 8.56.030. Second, the panel found the threat of enforcement of the ordinance chills
15 plaintiff's exercise of free speech and constitutes irreparable harm. *Cuviello*, 944 F.3d at 831–34.
16 Finally, the panel found the balance of equities tip in plaintiff's favor and halting enforcement of
17 the law is in the public interest. *Id.* at 834.

18 Based on the reasons set forth in the Ninth Circuit's decision, the court VACATES
19 its order at ECF No. 41 and GRANTS plaintiff's motion for a preliminary injunction. Defendant
20 City of Vallejo is hereby ENJOINED from enforcing Municipal Code Chapter 8.56.030's permit
21 requirement, *see id.* at 825 & n.4 (finding gravamen of plaintiff's First Amendment complaint
22 about state's permit requirement unaffected by recent amendments to Chapter 8.56).

23 Under Local Rule 72-302(c)(21), this matter is REFERRED back to the assigned
24 magistrate judge for further pretrial proceedings

25 IT IS SO ORDERED.

26 DATED: January 14, 2020.

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CHIEF UNITED STATES DISTRICT JUDGE