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3 Plaintiff In Propria Persona  
4 JAMES CHAFFEE

E-filing

FILED  
2010 OCT -6 A 10-23  
RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
MSH

7 UNITED STATES DISTRICT COURT  
8 NORTHERN DISTRICT OF CALIFORNIA

9  
10 JAMES CHAFFEE,

11 Plaintiff,

12 v.

13 SAN FRANCISCO LIBRARY  
14 COMMISSION; CITY AND COUNTY OF  
SAN FRANCISCO, and DOES 1 through 20,  
inclusive,

15 Defendants.  
16

CV 10 4521

Case No.:

COMPLAINT FOR DAMAGES

- 1) Injunction for Violation of Free Speech
- 2) Violation of Equal Protection
- 3) Violation of Civil Rights (42 US Code §1983)
- 4) Declaratory Relief

Jury Trial Requested

VRW

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18  
19 **INTRODUCTORY ALLEGATIONS**

20 1. Plaintiff, JAMES CHAFFEE, is a citizen of the City of San Francisco,  
21 California, County of San Francisco, and who at all times herein mentioned resides in the City of  
22 San Francisco, California, in San Francisco County, California.

23 2. Defendant, San Francisco Library Commission ("Library Commission"), is  
24 appointed by the Mayor and is responsible under the Charter of the City and County of San  
25 Francisco for development and implementation of library policy within the city. The Library  
26 Commission is now, and at all times mentioned in this complaint was, a governmental entity,  
27 duly empowered and authorized to administer and implement library policy and library  
28 operations for the county. As such, the San Francisco Library Commission is, and at all times

1 mentioned herein has been responsible for the enforcement of ordinances, rules, and regulations  
2 pertaining to the facilities and property and/or operated by the defendant Library Commission.

3 3. The City and County of San Francisco ("City and County") is a local agency  
4 responsible for the maintenance of a public library and as such owes a duty to plaintiff. Also, the  
5 City and County is now, and at all times mentioned in this complaint was, a governmental entity,  
6 duly empowered and authorized to administer municipal operations for the county. As such, the  
7 City and County is, and at all times mentioned herein has been responsible for the enforcement of  
8 ordinances, rules, and regulations pertaining to the facilities and property and/or operated by the  
9 defendant City and County.

10 4. Plaintiff is ignorant of the true names and capacities of defendants sued herein  
11 as Does one through twenty, inclusive, and therefore sues these defendants by such fictitious  
12 names. Plaintiff will amend this complaint to allege their true names and capacities when  
13 ascertained. Plaintiff is informed and believes and thereon alleges that each of these fictitiously  
14 named defendants is responsible in some manner for the occurrences herein alleged, and that  
15 plaintiff's injuries as herein alleged were proximately caused by the aforementioned defendants.

16 5. At all times mentioned in this complaint, unless otherwise alleged, each  
17 defendant was the agent, employee, or coconspirator of every other defendant, and in doing the  
18 acts alleged in this complaint, was acting within the course, scope, and authority of that agency,  
19 employment, and in furtherance of the conspiracy and with the knowledge and consent of each of  
20 the other defendants.

21 6. All actions described in this complaint on the part of Library Commission and  
22 the City and County and its agents and employees constitute state action.

23 7. For several years, and continuing to the present time, defendants, and each of  
24 them, wrongfully and unlawfully barred the plaintiff from equal access to the public forum that is  
25 created by the regular and special meetings of the Library Commission by denying him use of the  
26 graphic displays that were available to other citizens. Such denial of equal access constituted a  
27 denial of the constitutional right to free speech, denial of equal protection of the laws, the denial  
28 of participation in a public forum and discrimination on the basis of economic status.

1 **FIRST CAUSE OF ACTION**

2 (Injunctive Relief Against Violation of

3 Constitutional Right of Free Speech and Free Assembly)

4 Plaintiff incorporates by reference the allegations of paragraphs 1 through 7, inclusive, as  
5 though fully set forth herein.

6 8. The Library Commission by virtue of its role as a policy body created by the  
7 Charter of the City and County of San Francisco holds regular and special meetings that create a  
8 public forum.

9 9. The meetings of the Library Commission are a public forum that has traditionally  
10 been used by members of the public for expressive purposes.

11 10. That public forum have created the expectation that they will provide for  
12 provisions of a public forum under the United States Constitution.

13 11. The defendants have established procedures that allow certain individuals the  
14 right to use computerized graphic displays but at the same time denied that right to the plaintiff.

15 12. Plaintiff is informed and believes, and on that basis alleges, that the denial of the  
16 use of its computerized graphic displays is a direct result of the content of the message and the  
17 lack of commercial and financial connections on the part of the plaintiff. Plaintiff is informed  
18 and believes, and on that basis alleges that the denial of the use of the public forum described  
19 above was based wholly or in part on the defendants' disagreement with the content of the  
20 message that the plaintiff intended to convey and is motivated by a desire to bar all messages that  
21 are inconsistent with their own interests.

22 13. By holding regular meetings that include the right of the public to participate in  
23 discussions defendants have created a public forum from which, pursuant to Article I section 2 of  
24 the California Constitution, as well as the First and Fourteen Amendments of the US  
25 Constitution, they cannot exclude speech on the basis of its content.

26 14. No compelling state interest justifies the refusal to make a public forum available  
27 for plaintiff. In fact, no legitimate governmental reason was articulated for refusing plaintiff the  
28 right to use the computerized graphic displays that were made available to others. The decision to

1 refuse plaintiff's request for use of the computer graphic facilities was totally arbitrary.

2 15. As a proximate result of defendants' policies and actions, as alleged in this  
3 complaint, plaintiff and the general public has been deprived of the right to free speech and  
4 assembly as guaranteed by the California. Constitution, Article I, §2 and 3, and First and  
5 Fourteenth Amendments to the US Constitution.

6 16. Plaintiff has no adequate remedy at law because monetary damages will not  
7 afford adequate relief for the suppression of plaintiff's message and the deprivation of the  
8 plaintiff's constitutional rights.

9 WHEREFORE, plaintiff prays for judgment against defendants, and each of them, as  
10 hereinafter set forth.

11 **SECOND CAUSE OF ACTION**

12 (Violation of Federal Equal Protection Clause)

13 Plaintiff incorporates by reference the allegations of paragraphs 1 through 16, inclusive,  
14 as though fully set forth herein.

15 17. Defendants by the actions and policies described have unfairly, unequally and  
16 unreasonably singled out plaintiff and others similarly situated and prevents them from obtaining  
17 the benefit of public facilities, receiving the protection of public rights and privileges and  
18 participating in public discussion.

19 18. For this reason, the actions and policies of the plaintiffs violated the plaintiff's  
20 right to the equal protection of the laws, as guaranteed and protected by the Fourteenth  
21 Amendment to the United States Constitution, as well as guaranteed by California Constitution,  
22 Article I, §7. As such defendants' practices constitute differential treatment without probable  
23 cause observed and determined on an individual, case-by-case basis. This differential treatment  
24 was designed to protect certain interests and deny the protection of the laws to plaintiff and  
25 others similarly situated.

26 19. Plaintiff has no plain, speedy, or adequate remedy at law, and for that reason,  
27 they seek declaratory and injunctive relief.

28 WHEREFORE, plaintiff prays for judgment against defendants, and each of them, as

1 hereinafter set forth.

2 **THIRD CAUSE OF ACTION**

3 (Violation of Federally Protected Rights under 42 U.S. Code §1983)

4 Plaintiff incorporates by reference the allegations of paragraphs 1 through 19, inclusive,  
5 as though fully set forth herein.

6 20. Defendants, while acting under the color of state law, deprived plaintiff of his  
7 right to freely exercise his right of free expression and to participate in a public forum, a right  
8 protected by Federal law, in that the defendants have undertaken a campaign to prevent plaintiff  
9 expressing views inconsistent with the private commercial benefit of influential commercial and  
10 financial interests. This campaign to suppress alternative views of the plaintiff and others  
11 includes but is not limited to defamation, slander, harassment, interference with the protections  
12 of open meeting and public records laws, as well as invective and ridicule directed at the  
13 plaintiff.

14 21. Defendants' actions were intentional, and were based on a clearly expressed,  
15 official policy of the Library Commission, and City and County of San Francisco that was  
16 designed to prevent individuals from freely expressing views inconsistent with influential  
17 commercial and financial interests.

18 22. As a direct and proximate cause of defendants' actions, plaintiff has suffered  
19 extreme embarrassment, humiliation, and emotional distress which was the clear intention of the  
20 defendants.

21 23. Plaintiff has also suffered damages in excess of the minimum established for this  
22 court. Plaintiff's damages are uncertain at this time, and plaintiff will amend this complaint to  
23 state his damages with particularity once they are known.

24 24. Under 42 U.S. Code §1988, plaintiff demands attorney's fees for bringing this  
25 action because he is vindicating important public interests and rights.

26 WHEREFORE, plaintiff prays for judgment against defendants, and each of them, as  
27 hereinafter set forth.

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1 **FOURTH CAUSE OF ACTION**

2 (DECLARATORY RELIEF)

3 Plaintiff incorporates by reference the allegations of paragraphs 1 through 24, inclusive,  
4 as though fully set forth herein.

5 25. An actual controversy now exists between plaintiff and defendants as to whether  
6 defendants' policies and practices which allow access to computer graphic displays to some  
7 citizens and not plaintiff constitutes a denial of equal access, a denial of the constitutional right to  
8 free speech, a denial of equal protection of the laws, and a denial of participation in a public  
9 forum and discrimination on the basis of economic status in violation of both the California State  
10 Constitution and the U.S. Constitution.

11 26. An actual controversy now exists between plaintiff and defendants as to whether  
12 defendants' policies and practices, as described above, allocates the use of a public forum on the  
13 basis of the content of speech, and/or economic and financial influence and status in violation of  
14 both the California State Constitution and the U.S. Constitution.

15 27. Unless the court issues an appropriate declaration of rights, the parties will not  
16 know whether defendants' policies and actions comply with the law, and there will continue to be  
17 disputes and controversy surrounding the access to full participation in a public forum.

18 WHEREFORE, plaintiff prays for judgment against defendants, and each of them, as  
19 hereinafter set forth.

20 **PRAYER FOR RELIEF**

21 DAMAGES ON ALL CAUSES OF ACTION

22 1. As a direct and proximate result of the conduct of defendants, and each of them,  
23 plaintiff and the public have suffered and will continue to suffer extreme embarrassment,  
24 humiliation, and emotional distress, as well as denial of the constitutional right to free speech,  
25 denial of equal protection of the laws, the denial of participation in a public forum,  
26 discrimination on the basis of economic status, and, most importantly, the right to distribute  
27 information and to provide information that might prevent damage to the public welfare.

28 2. Defendants' violation of plaintiff's rights, as guaranteed by Cal. Const. art. I, §2,

1 entitles plaintiff to receive compensatory damages, attorney's fees pursuant to Code Civ. Proc.,  
2 §1021.5, and injunctive relief.

3 3. Unless defendants are restrained by a preliminary and permanent injunction,  
4 plaintiff will continue to suffer severe, irreparable harm in that plaintiff's right to express his  
5 message will continue to be impeded. Plaintiff is informed and believes, and on that basis  
6 alleges, that unless the court grants injunctive relief, defendants' will continue to prohibit  
7 plaintiff's exercise of free speech and receive the full benefit of participation in the public forum.

8 4. Plaintiff has no adequate remedy at law because monetary damages will not afford  
9 adequate relief from the deprivation of plaintiff's constitutional rights.

10 WHEREFORE, plaintiff requests judgment against defendants as follows:

11 1. General damages according to proof;

12 2. Special damages according to proof;

13 3. A declaration of rights declaring defendants' policies and practices to be  
14 unconstitutional.

15 4. A preliminary and permanent injunction against defendants, and each of them,  
16 enjoining defendants from refusing to allow plaintiff access to the computerized graphic displays;

17 5. For an award of costs, including attorney's fees pursuant to Code Civ. Proc. §1021.5  
18 and 42 U.S.C. §§1983 and 1988; and

19 6. Such other relief as the court deems just and proper.

20 Dated: October/3 2010

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James Chaffee