

1 MARK ROSENBAUM [SBN 59940]
mrosenbaum@publiccounsel.org
2 KATHRYN EIDMANN [SBN 268053]
keidmann@publiccounsel.org
3 LORRAINE LOPEZ [SBN 273612]
llopez@publiccounsel.org
4 JOANNA ADLER [SBN 318306]
jadler@publiccounsel.org
5 JESSELYN FRILEY [SBN 319198]
jfriley@publiccounsel.org
6 PUBLIC COUNSEL
610 South Ardmere Avenue
7 Los Angeles, CA 90005
Telephone: (213) 385-2977
8 Facsimile: (213) 385-9089

9 Attorneys for Plaintiff PUBLIC
COUNSEL

10 *Additional counsel listed on next page*

T.E. GLENN [SBN 155761]
tglenn@innercitylaw.org
DOUGLAS G. CARNAHAN
[SBN 65395]
dcarnahan@innercitylaw.org
INDIRA CAMERON-BANKS
[SBN 248634]
icameronbanks@innercitylaw.org
INNER CITY LAW CENTER
1309 East 7th Street
Los Angeles, CA 90021
Telephone: (213) 891-3275
Facsimile: (213) 891-2888

Attorneys for Plaintiff INNER
CITY LAW CENTER

12 **SUPERIOR COURT OF CALIFORNIA, LOS ANGELES**

13 PUBLIC COUNSEL, on behalf of itself
14 and its clients; INNER CITY LAW
CENTER, on behalf of itself and its
15 clients; NEIGHBORHOOD LEGAL
SERVICES OF LOS ANGELES
16 COUNTY, on behalf of itself and its
clients; BET TZEDEK, on behalf of
17 itself and its clients; LEGAL AID
FOUNDATION OF LOS ANGELES,
18 on behalf of itself and its clients,

19 Plaintiffs,

20 v.

21 PRESIDING JUDGE, SUPERIOR
COURT OF LOS ANGELES
22 COUNTY, in his or her official
capacity; CLERK OF COURT,
23 SUPERIOR COURT OF LOS
ANGELES COUNTY, in his or her
24 official capacity.

25 Defendants.

Case No.

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

1 TRINIDAD OCAMPO [SBN 256217]
trinidadocampo@nlsia.org

2 ANA A. ZUNIGA [SBN 281768]
anazuniga@nlsia.org

3 DAVID PALLACK [SBN 90083]
dpallack@nlsia.org

4 NEIGHBORHOOD LEGAL SERVICES OF LOS ANGELES COUNTY
13327 Van Nuys Boulevard
5 Pacoima, CA 91331
Telephone: (818) 291-1765
6 Facsimile: (833) 537-5529

7 Attorneys for Plaintiff NEIGHBORHOOD LEGAL SERVICES OF LOS
ANGELES COUNTY

8
9 JENNA L. MIARA [SBN 305703]
jmiara@bettzedek.org

10 BET TZEDEK
3250 Wilshire Boulevard, 13th Floor
Los Angeles, CA 90010
11 Telephone: (323) 648-4734
12 Facsimile: (213) 471-4568

13 Attorney for Plaintiff BET TZEDEK

14 BARBARA J. SCHULTZ [SBN 168766]
bschultz@lafla.org
15 LEGAL AID FOUNDATION OF LOS ANGELES
1550 West 8th Street
Los Angeles, CA 90017
16 Telephone: (213) 640-3823
17 Facsimile: (213) 640-3850

18 Attorney for Plaintiff LEGAL AID FOUNDATION OF LOS ANGELES

19

20

21

22

23

24

25

26

27

28

1 **INTRODUCTION**

2 1. This case is about a uniquely dire public health crisis and the unsafe
3 and unlawful conditions it has created in Los Angeles Superior Court. While many
4 courts have shut their doors to in-person appearances, Los Angeles civil legal aid
5 attorneys and disproportionately vulnerable indigent litigants must risk their health
6 and lives to adjudicate non-urgent, non-essential civil matters in unlawful detainer
7 and traffic courts. These matters were properly deferred for months due to the risks
8 of courtroom appearances, yet indefensibly proceed now in-person even as
9 conditions are exponentially more dangerous than they were during the court's
10 closure.

11 2. Plaintiffs PUBLIC COUNSEL, INNER CITY LAW CENTER,
12 NEIGHBORHOOD LEGAL SERVICES OF LOS ANGELES COUNTY, BET
13 TZEDEK, and LEGAL AID FOUNDATION OF LOS ANGELES, on behalf of
14 themselves and their clients, bring this action against Defendants PRESIDING
15 JUDGE, SUPERIOR COURT OF LOS ANGELES COUNTY and CLERK OF
16 COURT, SUPERIOR COURT OF LOS ANGELES COUNTY, each in his or her
17 official capacity, to enjoin the Los Angeles County Superior Court from continuing
18 to permit and even mandate in-person appearances in unlawful detainer and traffic
19 matters, putting litigants and attorneys at high risk of contracting COVID-19 in its
20 courtrooms in furtherance of non-emergency proceedings. These courthouses were
21 closed to in-person hearings for several months, at a time when infection rates were
22 significantly lower and hospitals had capacity to treat new patients. Los Angeles
23 Superior Court has since reopened for in-person proceedings in unlawful detainer
24 and traffic matters and, unjustifiably, has remained open and continued to calendar
25 these matters in the height of the pandemic, even as hundreds of Angelenos die
26 from this virus every day.

27 3. Plaintiffs' staff attorneys and clients are required to appear in-person at
28 courthouses across the county to adjudicate civil matters as minor as a cracked

1 windshield citation. Civil matters in traffic and unlawful detainer courtrooms are
2 not urgent and could easily be deferred again. But Los Angeles Superior Court
3 continues to prioritize continuity of non-essential operations over community safety
4 and human life – even as three court staff members have recently lost their lives to
5 COVID-19.

6 4. The court’s facilities are built and administered in a way that makes it
7 impossible to maintain a safe social distance of six feet or more, particularly within
8 crowded and poorly ventilated courtrooms and hallways. Every day, hundreds of
9 Angelenos crowd into Los Angeles Superior Court courthouses to enter pleas on
10 traffic tickets or defend against eviction lawsuits. Public health experts have
11 determined that not only are these conditions unsafe and likely to result in
12 transmission of the virus, they are ripe for a “super-spreader” event.¹ Because Los
13 Angeles Superior Court does not engage in symptom checking or contact tracing, it
14 is unknown how many of the County’s thousands of daily new COVID-19 cases
15 have originated in the courts.

16 5. Several of the nation’s most respected public health experts state in
17 declarations attached to this Complaint that continuing to hold in-person hearings
18 creates an unacceptable risk of contracting the virus for parties, counsel, court
19 personnel, and families and communities with whom they come into contact.² Dr.
20 Ranit Mishori, Georgetown University’s Chief Public Health Officer, states that
21 Los Angeles Superior Court is not equipped to implement the necessary protocols
22 and practices to prevent or minimize the spread of the virus, and that the court’s
23 administration of in-person hearings at this time is reckless and needlessly
24 endangers people’s lives.³ Numerous physicians and public health experts—
25 including Dr. Parveen Parmar, the Chief of the Division of Global Emergency

26 ¹ Declaration of Dr. Ranit Mishori at ¶¶ 27, 31.

27 ² Declaration of Dr. Ranit Mishori at ¶ 40.

28 ³ Declaration of Dr. Ranit Mishori at ¶¶ 37-38.

1 Medicine at the University of Southern California Keck School of Medicine; Dr.
2 Deborah Ottenheimer, Director of the Women’s Holistic Health Initiative at Harlem
3 United; and Dr. Andrew Goldstein, Assistant Professor at the NYU Department of
4 Medicine—have stated their agreement.⁴ There is no public information suggesting
5 that any public health expert has approved the procedures or practices in place in
6 Los Angeles Superior Court courthouses, nor has the court administration claimed
7 that any public health experts regularly monitor for safety court proceedings that
8 have since fall 2020 required in-person appearances by litigants and their counsel.

9 6. Tellingly, on January 26, 2021, the Presiding Judge publicly requested
10 that Los Angeles County’s limited supply of COVID-19 vaccinations be prioritized
11 for distribution to the court’s judges and employees.⁵ This request comes at a time
12 when vaccinating Angelenos aged 65 and older, an age group that represents 8 out
13 of 10 COVID-19 deaths,⁶ is expected to take another five months.⁷ The Presiding
14 Judge’s request is an implicit recognition of the considerable dangers of spending
15 time in Los Angeles Superior Court courthouses, yet the request does nothing to
16 alleviate the risks borne by litigants and attorneys.

17 7. Again acknowledging the dangers of in-person proceedings, on
18 January 29, 2021, the Presiding Judge extended emergency continuances for
19 criminal and juvenile dependency matters until February 26, 2021, due to the “high
20 number of COVID-19 cases in Los Angeles County.”⁸

21 ⁴ Declaration of Dr. Parveen Parmer; Declaration of Dr. Deborah Ottenheimer; Declaration of Dr. Andrew Goldstein;
22 *see also* Declaration of Dr. Theresa Cheng; Declaration of Dr. Johan Alexander Clarke; Declaration of Sarah
Kureshi.

23 ⁵ *News Release*, Superior Court of California, County of Los Angeles (Jan. 26, 2021),
24 <http://www.lacourt.org/newsmedia/uploads/142021126842921NRLADPHVACCINEREQUEST.pdf>.

25 ⁶ *Older Adults*, Centers for Disease Control and Prevention (Dec. 13, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/older-adults.html>.

26 ⁷ Colleen Shalby, Jaclyn Cosgrove, & Melody Gutierrez, *Vaccinating Californians 65 and Older May Last till June, Pushing Back Timetable for Others* (Jan. 20, 2021), <https://www.latimes.com/california/story/2021-01-20/vaccinating-all-residents-65-and-older-could-take-up-to-5-months-top-public-officials-says>.

27 ⁸ *News Release*, Superior Court of California, County of Los Angeles (Jan. 29, 2021),
28 <http://www.lacourt.org/newsmedia/uploads/14202112915211521NRNEWGOJAN292021.pdf>.

1 8. In-person appearances in Los Angeles Superior Court’s still-open
2 courtrooms disproportionately impact low-income and under-resourced Black and
3 Latinx Angelenos: for example, people facing homelessness in unlawful detainer
4 actions, or people with traffic citations who, if they were better resourced, could opt
5 to avoid their court date by simply paying off the ticket. Los Angeles’s most
6 vulnerable residents—who belong to communities most impacted by this virus—
7 are most harmed by the courts’ refusal to close its doors temporarily to non-
8 essential civil matters.

9 9. Civil legal aid attorneys are also disproportionately impacted by this
10 policy, as they are forced to appear in court again and again, despite risks to their
11 health and the health of their families and communities, and without regard for their
12 preexisting conditions. Plaintiffs’ staff attorneys have appeared in court numerous
13 times; one individual has attended court over twenty times since the courts
14 reopened.⁹ Plaintiffs’ staff attorneys have been forced to go to the courthouse in-
15 person for reasons as minor as picking up paperwork that a clerk was unwilling to
16 fax or mail.¹⁰ Even under the dangerous conditions that prevail at the courthouses,
17 Plaintiffs’ staff attorneys have been threatened with sanctions for not making in-
18 person appearances.¹¹ Meanwhile some judges have exercised their ability to opt
19 out of in-person appearances, requiring in-person appearances in their courtrooms
20 while managing the matters remotely from chambers.¹²

21 10. Los Angeles County continues to impose severe consequences on
22 litigants for not appearing in court on non-urgent matters, which can range from
23 fines to driver’s license suspensions to unlawful detainer orders resulting in
24 evictions and homelessness. There are no exceptions to these consequences, even

25 _____
26 ⁹ Declaration of Lauren Zack at ¶ 10; *see also* Declaration of Elena Popp at ¶ 4.

27 ¹⁰ Declaration of Gina Bianca Amato at ¶¶ 12-13.

28 ¹¹ Declaration of Alisa Randell at ¶ 16.

¹² Declaration of Amy Tannenbaum at ¶ 20; Declaration of Christina Gonzalez at ¶ 9.

1 for people who have tested positive for COVID-19. People are punished for not
2 showing up to their court dates, even if they know they have contracted the virus
3 and can spread it to others.

4 11. In persisting with in-person appearances through the most dangerous
5 months of the pandemic, Los Angeles Superior Court is an anomaly: federal courts
6 (the United States Supreme Court,¹³ the Ninth Circuit,¹⁴ and the Central District of
7 California¹⁵) and state appellate courts (California Supreme Court¹⁶ and the Second
8 Appellate District¹⁷) are closed for all in-person civil appearances.

9 12. Compelling in-person hearings in these circumstances has created fear
10 and panic among lawyers and litigants. In this time of horrific tragedies and
11 preventable suffering and death, our government must set an example by removing
12 risks and sending a clear and unmistakable message that nothing is more important
13 than pulling together to beat this virus.

14 13. Plaintiffs have made every effort to avoid this litigation. On
15 December 2, 2020, Plaintiffs requested a meeting with the Presiding Judge,
16 Assistant Presiding Judge, and relevant Supervising Judges and court staff. On
17 December 7, 2020, the Chief Deputy of the Court Counsel Legal Services Division
18 responded, requesting a list of topics Plaintiffs wanted the court to address. On
19 January 6, 2021, Plaintiffs sent a follow-up letter more specifically outlining their
20 concerns. On January 15, 2021, Plaintiffs received a response from the Chief

21 ¹³ *Press Release*, Supreme Court of the United States (Jan. 22, 2021),
22 https://www.supremecourt.gov/publicinfo/press/pressreleases/pr_01-22-21.

23 ¹⁴ *COVID-19 Update*, United States Court of Appeals for the Ninth Circuit (June 29, 2020),
<http://cdn.ca9.uscourts.gov/datastore/general/2020/06/29/covid%20update%20june%2025.pdf>.

24 ¹⁵ *Notice from the Clerk*, United States District Court, Central District of California (Jan. 6, 2021),
25 <https://www.cacd.uscourts.gov/sites/default/files/documents/2021-01-06%20Notice%20-%20Extension%20of%20COOP%20Plan.pdf>.

26 ¹⁶ *Order Suspending In-Person Oral Argument and Setting All Argument Sessions at the Court's San Francisco*
Headquarters, Supreme Court of California (Mar. 16, 2020),
27 https://www.courts.ca.gov/documents/administrative_order_2020-03-13.pdf.

28 ¹⁷ *Special Announcement*, Court of Appeal, Second Appellate District (June 24, 2020),
<https://www.courts.ca.gov/2dca.htm>.

1 Deputy which did not address the concerns raised but instead defended the choice
2 to continue in-person non-essential operations.¹⁸ The Chief Deputy alleged that
3 Plaintiffs and other organizations were operating under “misapprehensions” in
4 detailing what their attorneys and clients had experienced in courtrooms first-
5 hand.¹⁹

6 14. Having run out of options, Plaintiffs seek equitable and injunctive
7 relief to enjoin this unlawful and unconstitutional action. Plaintiffs respectfully
8 request that the Court compel Defendants to close Los Angeles Superior Court
9 courthouses to all in-person appearances in traffic and unlawful detainer matters,
10 until doing so no longer poses a public health threat.

11 VENUE

12 15. Venue is proper in this judicial district because the actions and events
13 alleged herein occurred principally within Los Angeles County.

14 PARTIES

15 **A. Plaintiffs**

16 16. Plaintiff PUBLIC COUNSEL is the nation’s largest pro bono public
17 interest law firm. Its staff members are lawyers, social workers, and community
18 organizers who assist over 30,000 children, youth, families, and community
19 organizations every year. Founded in 1970, Public Counsel strives to foster
20 economic justice by providing individuals and institutions in underserved
21 communities with access to quality legal representation. Public Counsel serves
22 people who live at or below the poverty level. Its clients are primarily Black and
23 Latinx residents of Los Angeles County who live in and belong to communities
24 disproportionately impacted by the COVID-19 virus. On behalf of these clients and
25 in furtherance of Public Counsel’s mission, Public Counsel’s attorneys frequently
26

27 ¹⁸ Letter from Ivette Peña, Chief Deputy, to Diego Cartagena, Exec. Director, Bet Tzedek, *et al.* (Jan. 15, 2021).

28 ¹⁹ *Id.*

1 defend against unlawful detainer actions and seek dismissal of traffic citations.

2 17. Plaintiff INNER CITY LAW CENTER is the only legal-services
3 provider located in Skid Row and has been providing free legal services to the
4 poorest and most vulnerable residents of Los Angeles County for over forty
5 years. Nearly 90% of our clients live below the federal poverty level. Since the
6 beginning of the COVID-19 pandemic, ICLC has served over 4,700 individuals—
7 approximately 80% of whom identify as Black or Latino, 60% of whom live with
8 disabilities, and 13% of whom are seniors. Providing legal services in the areas of
9 tenant defense, benefits advocacy, homelessness prevention, policy advocacy, slum
10 housing, disability rights, and more, ICLC attorneys, paralegals, staff, and
11 volunteers focus on serving low-income tenants, working poor families, homeless
12 veterans, immigrants, people experiencing homelessness, people living with
13 HIV/AIDS, and a people living with disabilities in Los Angeles County.

14 18. Plaintiff NEIGHBORHOOD LEGAL SERVICES OF LOS
15 ANGELES COUNTY (“NLSLA”) provides legal representation and other services,
16 without charge, to more than 150,000 low-income families and individuals
17 throughout Los Angeles County each year. Many are Black, Latinx and others who
18 are disproportionately impacted by the Covid-19 pandemic. NLSLA has a staff of
19 more than 170, including 70 lawyers, and provides a wide range of civil legal
20 services in areas such as housing, health, public benefits, family, immigration, re-
21 entry, employment, and disaster relief. Eviction defense is NLSLA’s largest
22 practice group, providing full representation at all stages of litigation, including
23 motions and trials. These attorneys, those in other practice areas, and NLSLA’s
24 clients appear in most or all courthouses in the county. NLSLA and its clients are
25 thus directly impacted by the Los Angeles Superior Court’s court appearance
26 policies and the requirements of individual bench officers.

27 19. Plaintiff BET TZEDEK is a legal services organization providing free
28 legal services to low-income individuals living in Los Angeles County regardless of

1 race, religion, ethnicity, or immigration status. Its staff of attorney, paralegals, and
2 secretaries assist over 50,000 individuals every year, ranging from abused,
3 abandoned, and neglected immigrant children to seniors, including Holocaust
4 survivors. Over half of Bet Tzedek’s clients are Black and Latinx, nearly half live
5 with a disability, and nearly half are aged sixty or older. Among its various areas of
6 practice, Bet Tzedek provides clients with direct representation services to defend
7 against unlawful detainers and traffic citation matters.

8 20. Plaintiff LEGAL AID FOUNDATION OF LOS ANGELES
9 (“LAFLA”) is a nonprofit legal services organization whose mission is to achieve
10 equal justice for poor and low-income residents in greater Los Angeles. For over
11 90 years, LAFLA has provided free civil legal services, helping approximately
12 80,000 people each year. Over 2.1 million people are low-income in Los Angeles
13 County, and many of these individuals are in dire need of civil legal aid. LAFLA
14 focuses a great deal of resources on providing legal representation to tenants in
15 eviction court, victims of domestic violence in family law court, and to justice-
16 involved individuals in traffic court.

17 **B. Defendants**

18 21. Defendant PRESIDING JUDGE, SUPERIOR COURT OF LOS
19 ANGELES COUNTY is responsible for assigning cases and judges to departments,
20 setting and overseeing the policies of all Los Angeles Superior Court courthouses,
21 and managing its approximately 5,400 employees. The Presiding Judge is
22 responsible for “[e]nsuring the effective management and administration of the
23 court,”²⁰ including supervising the court’s calendar²¹ and directing expenditures
24 from the Trial Court Operations Fund.²² The Presiding Judge issues guidance and
25 rules related to operations in Los Angeles Superior Court courthouses during the

26 _____
²⁰ Cal. Rule of Court 10.603(a)(1).

27 ²¹ Cal. Rule of Court 10.603(b)(1)(F).

28 ²² Cal. Rule of Court 10.603(c)(1)(C).

1 COVID-19 pandemic.²³ The Presiding Judge is sued in their official capacity only.

2 22. Defendant CLERK OF COURT, SUPERIOR COURT OF LOS
3 ANGELES COUNTY is the Executive Director of the Superior Court of Los
4 Angeles. The Clerk of Court is responsible for assisting the Presiding Judge with
5 “leading the court, establishing policies, and allocating resources in a manner that
6 promotes access to justice for all members of the public, provides a forum for the
7 fair and expeditious resolution of disputes, maximizes the use of judicial and other
8 resources, increases efficiency in court operations, and enhances service to the
9 public.”²⁴ The Clerk of Court plays an integral role in managing costs and delays,
10 including the development of web applications for remote services.²⁵ The Clerk of
11 Court is sued in their official capacity only.

12 FACTS

13 **I. LOS ANGELES COUNTY IS THE EPICENTER OF THE COVID-19** 14 **PANDEMIC.**

15 23. The COVID-19 pandemic is an ongoing public health emergency that
16 has hit Los Angeles especially hard. Public health experts characterize Los Angeles
17 as “the epicenter of the coronavirus pandemic.”²⁶

18 24. Since the pandemic began, at least 1 in 9 people who live in Los
19 Angeles County have been infected with SARS-COV-2, the virus that causes
20 COVID-19, and at least 1 in 565 people have died as a result.²⁷ Scientific models
21 suggest that the total number of infections may be more than triple the number of

22 ²³ E.g., *General Order 2020-GEN-025-00* (Nov. 23, 2020) (limiting courthouse access to judges, staff, litigants,
23 attorneys, jurors, witnesses, and other authorized persons); *General Order 2020-Gen-026-00* (Dec. 2, 2020)
(authorizing continuances for criminal and juvenile dependency matters due to the spike in COVID-19 cases);
24 *General Order 2020-GEN-027-00* (Dec. 31, 2020) (again continuing juvenile dependency and criminal matters);
General Order 2021-GEN-010-00 (Jan. 28, 2021) (again continuing juvenile dependency and criminal matters).

25 ²⁴ Cal. Rule of Court 10.603(a).

26 ²⁵ See *LASC’s Executive Officer Receives Major Award*, Legal Professionals Inc. (last visited Feb. 5, 2021),
<https://www.legalprofessionalsinc.org/los-angeles-lasc-executive-officer-receives-major-award>.

27 ²⁶ Declaration of Dr. Ranit Mishori at ¶ 15.

28 ²⁷ *Track Coronavirus Cases in Places Important to You: Los Angeles County*, N.Y. Times (last visited Feb. 6, 2021),
<https://www.nytimes.com/interactive/2020/us/covid-cases-deaths-tracker.html>.

1 cases confirmed by testing.²⁸ Los Angeles County recently surpassed 15,000 total
2 deaths attributed to COVID-19.²⁹

3 25. Low-income Latinx and Black residents of Los Angeles County are
4 severely impacted by the pandemic because they are more likely to live in dense
5 and crowded housing and more likely to be, or to live with, essential workers
6 unable to work from home.³⁰ The COVID-19 death rate for Latinx Angelenos is
7 nearly triple that of white residents.³¹

8 **A. Los Angeles Superior Court courthouses closed for several months**
9 **due to the risks of in-person appearances, then reopened despite**
10 **escalating case counts.**

11 26. Los Angeles Superior Court courthouses closed on March 17, 2020 in
12 response to the growing public health crisis. On March 20, 2020, the courts opened
13 for a limited number of essential emergency functions, which did not include traffic
14 infraction or unlawful detainer matters. As of March 17, 2020, Los Angeles
15 County was averaging approximately 18 new COVID-19 cases a day, and only one
16 person in Los Angeles County had died from complications associated with
17 COVID-19.³²

18 27. On April 15, 2020, the Presiding Judge extended the March 17, 2020
19 order through at least May 12, 2020 because of the escalating severity of the
20 pandemic.³³ As of April 15, 2020, Los Angeles County was averaging

21 ²⁸ Declaration of Dr. Ranit Mishori at ¶ 15.

22 ²⁹ Shahan Ahmed, *LA County Crosses 15,000 COVID-19 Deaths; More than 5,000 Deaths Reported in Less than 4*
23 *Weeks*, NBC LA (Jan. 24, 2021), [https://www.nbclosangeles.com/news/coronavirus/southern-california-](https://www.nbclosangeles.com/news/coronavirus/southern-california-coronavirus/la-county-crosses-15000-covid-19-deaths-more-than-5000-deaths-reported-in-less-than-4-weeks/2511294)
24 [coronavirus/la-county-crosses-15000-covid-19-deaths-more-than-5000-deaths-reported-in-less-than-4-](https://www.nbclosangeles.com/news/coronavirus/southern-california-coronavirus/la-county-crosses-15000-covid-19-deaths-more-than-5000-deaths-reported-in-less-than-4-weeks/2511294)
25 [weeks/2511294](https://www.nbclosangeles.com/news/coronavirus/southern-california-coronavirus/la-county-crosses-15000-covid-19-deaths-more-than-5000-deaths-reported-in-less-than-4-weeks/2511294); see also *Track Coronavirus Cases*, *supra* note 27 (nearly 18,000 total deaths now reported).

26 ³⁰ Rong-Gong Lin II & Luke Money, *Latino COVID-19 Deaths Hit 'Horrorifying' Levels, Up 1,000% Since November*
27 *in L.A. County*, L.A. Times (Jan. 29, 2021), [https://www.latimes.com/california/story/2021-01-29/la-latino-covid-19-](https://www.latimes.com/california/story/2021-01-29/la-latino-covid-19-deaths-up-1000-percent-since-november)
28 [deaths-up-1000-percent-since-november](https://www.latimes.com/california/story/2021-01-29/la-latino-covid-19-deaths-up-1000-percent-since-november).

³¹ *Id.*

³² *Track Coronavirus Cases*, *supra* note 27.

³³ *News Release*, Superior Court of California, County of Los Angeles (April 15, 2020),
http://www.lacourt.org/newsmedia/uploads/1420204151712620_NR_GO_4-15-20-Final.pdf.

1 approximately 424 new COVID-19 cases per day.³⁴

2 28. On May 13, 2020, the Presiding Judge again extended the closure of
3 Los Angeles Superior Court courthouses except for the most time-sensitive,
4 essential functions due to the ongoing crisis.³⁵ As of May 13, 2020, Los Angeles
5 County was averaging approximately 826 new COVID-19 cases per day.³⁶

6 29. On June 22, 2020, the Los Angeles Superior Court expanded its
7 operations beyond essential, time-sensitive services for the first time since March
8 17, 2020.³⁷ At that time, Los Angeles County was averaging approximately 1,736
9 new cases per day.³⁸

10 30. Los Angeles Superior Court reopened for traffic trials, which are not
11 conducted remotely, on or about August 10, 2020.³⁹ At that time, Los Angeles
12 County was averaging approximately 2,377 new cases per day.⁴⁰

13 31. Los Angeles Superior Court reopened for unlawful detainer trials,
14 which are not conducted remotely, on or about October 5, 2020.⁴¹ At that time, Los
15 Angeles County was averaging approximately 927 new cases per day.⁴²

16 32. Mandated in-person appearances for traffic and unlawful detainer trials
17 have not been cancelled or scaled back, even when Los Angeles County averaged

18 _____
³⁴ *Track Coronavirus Cases, supra* note 27.

19 ³⁵ *News Release*, Superior Court of California, County of Los Angeles (May 13, 2020),
20 http://www.lacourt.org/newsmedia/uploads/1420205141244520_NR_Order5-13-2020.pdf.

21 ³⁶ *Track Coronavirus Cases, supra* note 27.

22 ³⁷ *News Release*, Superior Court of California, County of Los Angeles (June 12, 2020),
<http://www.lacourt.org/newsmedia/uploads/14202061213184920NRGeneralOrderOutliningPhasedReopeningwithGeneralOrder.pdf>.

23 ³⁸ *Track Coronavirus Cases, supra* note 27.

24 ³⁹ *News Release*, Superior Court of California, County of Los Angeles (Aug. 10, 2020),
<http://www.lacourt.org/newsmedia/uploads/1420208111645620NRPRESIDINGJUDGEISSUESNEWGOEXTENDINGTRIALSASCOVID-19INCREASES.pdf>.

25 ⁴⁰ *Track Coronavirus Cases, supra* note 27.

26 ⁴¹ *General Order*, Superior Court of California, County of Los Angeles (July 10, 2020),
27 <http://www.lacourt.org/newsmedia/uploads/14202071016373320NRGODELAYINGJURYTRIALSUNTILAUGUST.pdf>.

28 ⁴² *Track Coronavirus Cases, supra* note 27.

1 over 16,000 cases per day at the turn of the new year.⁴³ At present, Los Angeles
2 County averages nearly 5,000 new cases per day, a dangerous total that still far
3 exceeds the averages reported at *any time* during the court’s closure.⁴⁴

4 **B. Crisis conditions worsened considerably in November and have**
5 **persisted ever since.**

6 33. In November 2020, COVID-19 cases began escalating dramatically.
7 With its high density, economic disparities, and the highest percentage of
8 overcrowded homes of any major metropolitan area in America, Los Angeles
9 County was uniquely vulnerable to this surge.⁴⁵ Los Angeles County quickly
10 became the epicenter of the pandemic statewide and nationally.

11 34. Effective November 25, 2020, in recognition of the unprecedented
12 public health threat posed by the virus at this time, Los Angeles County modified
13 its public health order to further restrict activities such as outdoor dining and
14 travel.⁴⁶ Los Angeles City Mayor Eric Garcetti warned of “a new level of danger”
15 and urged Angelenos to cease social gatherings, despite the upcoming holidays.⁴⁷

16 35. The crisis only worsened in December, when one in 95 people in Los
17 Angeles County were contagious with the virus.⁴⁸ In early January, the scale of the
18 pandemic grew so great that more people were dying in Los Angeles County due to
19 COVID-19 than due to all other causes combined.⁴⁹

20 ⁴³ *Id.*

21 ⁴⁴ *Id.*

22 ⁴⁵ Tim Arango, ‘*We Are Forced To Live in These Conditions*’: *In Los Angeles, Virus Ravages Overcrowded Homes*,
N.Y. Times (Jan. 23, 2021), <https://www.nytimes.com/2021/01/23/us/los-angeles-crowded-covid.html>.

23 ⁴⁶ *News Release*, County of Los Angeles Public Health (Nov. 22, 2020),
24 <http://publichealth.lacounty.gov/phcommon/public/media/mediapubdetail.cfm?unit=media&ou=ph&prog=media&pid=2819>.

25 ⁴⁷ Rong-Gong Lin II, Luke Money, & Iris Lee, *L.A. Told To Stay Home As Much As Possible As COVID-19 Brings*
‘New Level of Danger’, L.A. Times (Nov. 17, 2020), [https://www.latimes.com/california/story/2020-11-17/l-a-](https://www.latimes.com/california/story/2020-11-17/l-a-mayor-urges-residents-to-stay-home-as-covid-rages-unchecked)
26 [mayor-urges-residents-to-stay-home-as-covid-rages-unchecked](https://www.latimes.com/california/story/2020-11-17/l-a-mayor-urges-residents-to-stay-home-as-covid-rages-unchecked).

27 ⁴⁸ Rong-Gong Lin II & Luke Money, *December Is a COVID-19 Disaster in California. January Is Shaping Up To Be*
Bleak Too for Deluged Hospitals, L.A. Times (Dec. 28, 2020), [https://www.latimes.com/california/story/2020-12-](https://www.latimes.com/california/story/2020-12-28/california-covid-cases-spiked-december-january-grim)
28 [28/california-covid-cases-spiked-december-january-grim](https://www.latimes.com/california/story/2020-12-28/california-covid-cases-spiked-december-january-grim).

⁴⁹ Luke Money, Rong-Gong Lin II, & Sean Greene, *California’s Deadliest Day Yet for COVID-19: More Than 670*

1 36. On January 16, 2021, Los Angeles became the first county in the
2 United States to record more the one million cases of COVID-19.⁵⁰

3 37. On January 17, 2021, the South Coast Air Quality Management
4 District issued an emergency order suspending its air quality controls to allow more
5 cremations due to the backlog of bodies caused by the pandemic.⁵¹

6 38. As of early February 2021, California averages over 500 deaths
7 attributable to COVID-19 every day.⁵² Nearly half of these daily deaths—over
8 200—occur in Los Angeles County.⁵³ During the most severe part of the first wave
9 of the pandemic, when Los Angeles Superior Court remained closed for most non-
10 essential business, Los Angeles County’s daily COVID-19 death toll peaked at only
11 50 deaths per day.⁵⁴

12 39. Hospitals in Los Angeles County are dramatically overstressed. The
13 entire southern California region recently had zero percent capacity in its intensive
14 care units (ICUs).⁵⁵ The region is at continual risk of this happening again, as the
15 available percentage of intensive-care beds remains below ten percent.⁵⁶ Hospitals
16

17 *Fatalities*, L.A. Times (Jan. 8, 2021), [https://www.latimes.com/california/story/2021-01-08/la-temporary-morgue-](https://www.latimes.com/california/story/2021-01-08/la-temporary-morgue-covid-19-deaths-climb)
18 [covid-19-deaths-climb](https://www.latimes.com/california/story/2021-01-08/la-temporary-morgue-covid-19-deaths-climb).

19 ⁵⁰ Alicia Victoria Lozano, *Los Angeles Becomes First County To Hit 1 Million COVID-19 Cases*, NBC News (Jan.
20 16, 2021), [https://www.nbcnews.com/news/us-news/los-angeles-becomes-first-county-hit-1-million-covid-19-](https://www.nbcnews.com/news/us-news/los-angeles-becomes-first-county-hit-1-million-covid-19-n1254498)
21 [n1254498](https://www.nbcnews.com/news/us-news/los-angeles-becomes-first-county-hit-1-million-covid-19-n1254498).

22 ⁵¹ *Press Release*, South Coast Air Quality Management District (Jan. 17, 2021), [http://www.aqmd.gov/docs/default-](http://www.aqmd.gov/docs/default-source/news-archive/2021/emergency-order-for-crematoriums-jan17-2021.pdf)
23 [source/news-archive/2021/emergency-order-for-crematoriums-jan17-2021.pdf](http://www.aqmd.gov/docs/default-source/news-archive/2021/emergency-order-for-crematoriums-jan17-2021.pdf).

24 ⁵² *Track Coronavirus Cases*, *supra* note 27.

25 ⁵³ *Id.*

26 ⁵⁴ Rong Gong Lin II & Luke Money, *California Sees Record-Breaking COVID-19 Deaths, a Lagging Indicator of*
27 *Winter Surge* (Jan. 22, 2021), [https://www.latimes.com/california/story/2021-01-22/california-sees-record-breaking-](https://www.latimes.com/california/story/2021-01-22/california-sees-record-breaking-covid-19-deaths-a-lagging-indicator-of-winter-surge)
28 [covid-19-deaths-a-lagging-indicator-of-winter-surge](https://www.latimes.com/california/story/2021-01-22/california-sees-record-breaking-covid-19-deaths-a-lagging-indicator-of-winter-surge); *see also* Lozano, *supra* note 50 (quoting Los Angeles County
Public Health Director Dr. Barbara Ferrer stating that cases, hospitalizations, and deaths are five times as high as they
were over the summer).

⁵⁵ Bryan Pietsch, *Central and Southern California Have 0 Percent I.C.U. Capacity, in a State Already Low on*
Hospital Beds, N.Y. Times (Dec. 26, 2020), [https://www.nytimes.com/2020/12/26/world/central-and-southern-](https://www.nytimes.com/2020/12/26/world/central-and-southern-california-icu-capacity.html)
[california-icu-capacity.html](https://www.nytimes.com/2020/12/26/world/central-and-southern-california-icu-capacity.html).

⁵⁶ *Tracking the Coronavirus in California Hospitals*, L.A. Times (last visited Feb. 6, 2021),
<https://www.latimes.com/projects/california-coronavirus-cases-tracking-outbreak/hospitals>.

1 are using any available space, from gift shops to cafeterias to conference rooms, to
2 fit more patient beds.⁵⁷ Officials have warned that the quality of care is
3 compromised.⁵⁸ Los Angeles hospitals are withholding treatment from less
4 severely ill people who would ordinarily qualify for hospital care⁵⁹ and from
5 patients deemed to have little hope of survival.⁶⁰ Emergency practitioners are
6 withholding oxygen and using it only for worst-off patients.⁶¹

7 40. Although Governor Gavin Newsom announced on January 25, 2021 a
8 cessation of the statewide Stay at Home directive, he did not relax any of the
9 C.D.C. directives as to how Angelenos should conduct themselves during the
10 pandemic.⁶² Los Angeles Public Health Director Dr. Barbara Ferrer continues to
11 urge that Angelenos cannot yet “get back to normal business,” as social distancing
12 and limiting activities are still critical to curb the devastation wrought by the
13 pandemic.⁶³ These requirements remain the only way to lower the risk of
14 contracting the virus until sufficient numbers of residents have received two
15 vaccinations and herd immunity has been achieved. Tragically, that is not the
16 situation now or in the foreseeable future.

17
18 ⁵⁷ Noah Higgins-Dunn, *LA County Hospitals Forced To Make ‘Tough Decisions’ as COVID Kills Someone About Every 15 Minutes*, CNBC (Jan. 7, 2021), <https://www.cnbc.com/2021/01/06/los-angeles-.html>.

19 ⁵⁸ Luke Money, Rong-Gong Lin II, & Jaclyn Cosgrove, *L.A. County Hospitals Are Losing the Battle Against COVID-19 Surge as Problems Multiply*, L.A. Times (Jan 6, 2021), <https://www.latimes.com/california/story/2021-01-06/l-a-county-hospitals-are-losing-the-battle-against-covid-19>.

20
21 ⁵⁹ Rong-Gong Lin II & Melissa Gomez, *Los Angeles Providers Decline To Transport Certain Patients Due to Hospital Capacity*, EMS1 (Dec. 30, 2020), <https://www.ems1.com/transport/articles/los-angeles-providers-decline-to-transport-certain-patients-due-to-hospital-capacity-BOE3ZJKjzG86TjZc>.

22
23 ⁶⁰ Fenit Nirappil & William Wan, *Los Angeles Is Running Out of Oxygen for Patients as COVID Hospitalizations Hit Record Highs Nationwide*, The Washington Post (Jan. 5, 2020), <https://www.washingtonpost.com/health/2021/01/05/covid-hospitalizations-los-angeles-oxygen>.

24 ⁶¹ *Id.*

25 ⁶² Luke Money, Hannah Fry, & Rong-Gong Lin II, *L.A. County to Resume Outdoor Dining After COVID Stay-at-Home Order Is Cancelled*, L.A. Times (Jan 25, 2021), <https://www.latimes.com/california/story/2021-01-25/how-california-covid-stay-at-home-order-ending-affects-la>.

26
27 ⁶³ Lila Seidman, Luke Money, & Jenn Harris, *With Survival at Stake, L.A. Restaurants Rush To Reopen, Pray the Roller Coaster Ride Is Over*, L.A. Times (Jan. 26, 2021), <https://www.latimes.com/california/story/2021-01-26/with-survival-at-stake-l-a-restaurants-rush-to-reopen-pray-the-roller-coaster-ride-is-over>.

1 **C. The public health emergency is expected to persist for months.**

2 41. Though two COVID-19 vaccines have been authorized for use in the
3 United States,⁶⁴ vaccination efforts have been slow to progress. According to Los
4 Angeles County Public Health Director Dr. Barbara Ferrer, the vaccine supply is
5 “extremely limited” in Los Angeles County.⁶⁵

6 42. Los Angeles County is currently aiming to vaccinate its approximately
7 1.4 million residents who are 65 or older and its 700,000 to 800,000 health care
8 workers.⁶⁶ Los Angeles County would need more than 4 million vaccines to give
9 each of these individuals the two doses required, but the county has received fewer
10 than 1 million doses.⁶⁷

11 43. Angelenos who are not 65 or older nor health care workers can
12 therefore expect a considerable wait before receiving a vaccine. Moreover, early
13 research shows that Black Americans are significantly underrepresented among
14 people receiving vaccines.⁶⁸

15 44. At the current pace of vaccinations, Los Angeles County residents will
16 not be fully inoculated against COVID-19 until 2022.⁶⁹

17 45. A new variant of COVID-19 that originated in the United Kingdom,
18 known as B.1.1.7, has arrived in California. Preliminary data suggests this variant is
19

20 ⁶⁴ *Different COVID-19 Vaccines*, Centers for Disease Control and Prevention (Jan. 15, 2021),
21 <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/different-vaccines.html>.

22 ⁶⁵ Kristine de Leon, *Frustration Mounts Over Slow Vaccine Rollout in L.A. County Amid High Demand But*
‘Extremely Limited’ Supply, KTLA (Jan. 20, 2021), [https://ktla.com/news/local-news/frustration-mounts-over-slow-](https://ktla.com/news/local-news/frustration-mounts-over-slow-vaccine-rollout-in-l-a-county-amid-high-demand-but-extremely-limited-supply)
23 [vaccine-rollout-in-l-a-county-amid-high-demand-but-extremely-limited-supply](https://ktla.com/news/local-news/frustration-mounts-over-slow-vaccine-rollout-in-l-a-county-amid-high-demand-but-extremely-limited-supply).

24 ⁶⁶ *Id.*

25 ⁶⁷ *Id.*; *Vaccinations Moving Slow in LA County, but Officials Say Pace Exceeds Other Large US Counties*, ABC7
26 (Feb. 2, 2021), <https://abc7.com/covid-19-vaccine-latino-california-coronavirus/10251514>.

27 ⁶⁸ Hannah Recht & Lauren Weber, *Black Americans Are Getting Vaccinated at Lower Rates Than White Americans*,
28 Kaiser Health News (Jan. 17, 2021), [https://khn.org/news/article/black-americans-are-getting-vaccinated-at-lower-](https://khn.org/news/article/black-americans-are-getting-vaccinated-at-lower-rates-than-white-americans)
[rates-than-white-americans](https://khn.org/news/article/black-americans-are-getting-vaccinated-at-lower-rates-than-white-americans); Declaration of Dr. Ranit Mishori at ¶ 21.

⁶⁹ Luke Money & Rong-Gong Lin II, *L.A. County Won’t Be Fully Vaccinated Until 2022 Unless Pace Improves,*
Officials Warn, L.A. Times (Jan. 22, 2021), [https://www.latimes.com/california/story/2021-01-22/vaccine-shortage-](https://www.latimes.com/california/story/2021-01-22/vaccine-shortage-could-mean-l-a-covid-shots-last-till-2022)
[could-mean-l-a-covid-shots-last-till-2022](https://www.latimes.com/california/story/2021-01-22/vaccine-shortage-could-mean-l-a-covid-shots-last-till-2022).

1 about 50 percent more contagious than the previous version of the virus, and the
2 C.D.C.’s modeling predicts that it will become the predominant source of all
3 infections in the United States by March 2021.⁷⁰ The variant was first identified in
4 California in a virus sample taken from a San Diego County resident on December
5 29, 2020,⁷¹ and has since spread to Los Angeles.⁷² The C.D.C. warns that the
6 presence of B.1.1.7 in the United States may bring a new phase of “exponential
7 growth” in total COVID-19 cases.⁷³ Moreover, because of anticipated delays in
8 vaccinations reaching low-income and hardest-hit communities, experts warn this
9 variant will further exacerbate health disparities among communities of color.⁷⁴

10 46. Meanwhile, California has its own variant of COVID-19, called
11 CAL.20C. Early data shows that more than one-third of recent COVID-19 cases in
12 Los Angeles may have been caused by CAL.20C.⁷⁵ Experts believe this variant is
13 playing a large part in the surge of cases overwhelming Los Angeles County
14 hospitals.⁷⁶ CAL.20C carries a mutation known as L452R, which may prove to be
15 resistant to the two COVID-19 vaccines that are currently approved in the United
16 States.⁷⁷

17 **D. Los Angeles Superior Court can, and should, close again.**

18 47. Los Angeles Superior Court can easily close for traffic and unlawful
19 detainer matters to protect the public for the duration of this crisis. Los Angeles

20
21 ⁷⁰ Apoorva Mandavilli & Roni Caryn Rabin, *C.D.C. Warns the New Virus Variant Could Fuel Huge Spikes in COVID-19 Cases*, N.Y. Times (Jan. 19, 2021), <https://www.nytimes.com/2021/01/15/health/covid-cdc-variant.html>.

22 ⁷¹ Rong-Gong Lin II, *New, Potentially More Contagious Variant of the Coronavirus Spreads in California*, L.A. Times (Jan. 5, 2021), <https://www.latimes.com/california/story/2021-01-05/new-potentially-more-contagious-variant-of-the-coronavirus-spreads-in-california>.

23
24 ⁷² Lozano, *supra* note 50.

25 ⁷³ Declaration of Dr. Ranit Mishori at ¶ 17.

26 ⁷⁴ Mandavilli & Rabin, *supra* note 70.

27 ⁷⁵ Declaration of Dr. Ranit Mishori at ¶ 18.

28 ⁷⁶ Carl Zimmer, *New California Variant May Be Driving Virus Surges There, Study Suggests*, N.Y. Times (Jan. 19, 2021), <https://www.nytimes.com/2021/01/19/health/coronavirus-variant-california.html>.

⁷⁷ Declaration of Dr. Ranit Mishori at ¶ 17.

1 Superior Court was closed for non-emergency matters for months when the risks of
2 gathering in courthouses and courtrooms were much lower than they are now.

3 48. Despite court closures in other counties facing less severe outbreaks,⁷⁸
4 and despite the peak severity of the crisis in Los Angeles County, Los Angeles
5 Superior Court continues to force litigants to choose between defending their rights
6 in court and risking their lives and the lives of their attorneys.

7 **II. IT IS UNSAFE FOR ATTORNEYS AND LITIGANTS TO APPEAR IN**
8 **LOS ANGELES SUPERIOR COURT IN-PERSON.**

9 **A. Adherence to public health guidelines is not possible in Los**
10 **Angeles Superior Court Courtrooms.**

11 49. The limited measures the courts have taken to promote social
12 distancing have not and cannot alter the fundamental health risk of hundreds of
13 strangers gathering indoors in unventilated court buildings across Los Angeles
14 County every day.

15 50. Since reopening for in-person hearings, Los Angeles Superior Court
16 has promoted a program called “Here for You, Safe for You.” As a result,
17 courthouses have taken superficial steps to reduce the risk of hundreds of
18 Angelenos congregating in the courts daily, such as enacting a number of Plexiglas
19 barriers around staff members’ desks and placing colored stickers on seats and
20 benches to encourage people to space out from each other.

21 51. The “Here for You, Safe for You” rules, in addition to being
22 inadequate, are not strongly enforced. In November 2020, the Presiding Judge
23 expressly and publicly acknowledged that, despite Orders and signage requiring
24 masks and social distancing, “attorneys, litigants, and others routinely remove their

25 ⁷⁸ See, e.g., *Public Notice*, Superior Court of California, County of Sacramento (Nov. 18, 2020),
26 <https://www.saccourt.ca.gov/general/docs/pn-current-court-services.Pdf> (no in-person unlawful detainer trials or
27 mediations, no in-person traffic hearings); *Services Available During COVID-19*, San Diego Superior Court (Dec. 2,
28 2020) at 10, 20, <http://www.sdcourt.ca.gov/pls/portal/docs/PAGE/SDCOURT/GENERALINFORMATION/COVID-19INFO/GUIDE%20TO%20SD%20SUPERIOR%20COURT%20SERVICES%20DURING%20COVID-19.PDF>
(no in-person appearances for unlawful detainer or traffic matters; traffic litigants with no remote access will receive a continuance).

1 masks, wear their mask improperly, and/or fail to observe social distancing while in
2 courthouses.”⁷⁹ Plaintiffs’ staff attorneys have observed lax adherence to and
3 enforcement of these rules across courthouse buildings, including bailiffs declining
4 to abide by or enforce social distancing guidelines and judges opting not to wear
5 their masks.⁸⁰

6 52. Under the current, loosely enforced system, individuals going to court
7 in-person cannot socially distance from others in accordance with public health
8 guidelines. Unlawful detainer jury trials, traffic hearings, and many other
9 proceedings require a large number of people from separate households to gather
10 for a prolonged period of time in relatively small courtrooms.

11 53. As the Presiding Judge has acknowledged, “courthouses are not
12 designed to facilitate social distancing given their fixed configuration.”⁸¹ For
13 example, there is a very small portion of the courtroom allocated for attorneys, so
14 attorneys who appear must often sit next to other attorneys who are outside their
15 household, without any ability to social distance.⁸²

16 54. It is impossible to maintain six feet from others at all times when
17 navigating courthouses and courtrooms. People inevitably come in close contact
18 with one another when entering and exiting the courthouse, passing through
19 security screenings, using the elevators, and passing through rows of seats where
20 others are already seated to find a stickered seat.⁸³ Courthouse hallways and

21 ⁷⁹ *News Release*, Superior Court of California, County of Los Angeles (Nov. 23, 2020),
22 http://www.lacourt.org/newsmedia/uploads/14202011231739220_NR_GO_FINAL-withOrder.pdf.

23 ⁸⁰ Declaration of Alexander Scott at ¶ 3; Declaration of Amy Tannenbaum at ¶¶ 10-11, 14-16; Declaration of Ryan
24 Kendall at ¶ 3; Declaration of Elena Popp at ¶¶ 5, 8-10; Declaration of Greg Michalak at ¶ 6; Declaration of Rachel
Levy at ¶ 3; Declaration of Jake Crammer at ¶ 9.

25 ⁸¹ Declaration of Dr. Ranit Mishori at ¶ 30; Administrative Order of the Presiding Judge re: COVID-19 Pandemic,
2020-GEN-023-00, Paragraph 3 (Oct. 9, 2020).

26 ⁸² Declaration of Silvana Naguib at ¶ 17, Declaration of Lauren Zack at ¶ 13; Declaration of Alisa Randell at ¶ 22;
Declaration of Robert J. Reed at ¶ 17.

27 ⁸³ Declaration of Dr. Ranit Mishori at ¶ 30; Declaration of Lauren Zack at ¶ 13; Declaration of Silvana Naguib at
28 ¶ 12; Declaration of Greg Michalak at ¶ 7; Declaration of Natalie Cohen at ¶ 4; Declaration of Robert J. Reed at ¶ 16;
Declaration of Jake Crammer at ¶ 10.

1 courtrooms are frequently too small and crowded for people to maintain appropriate
2 social distance from all others.⁸⁴

3 55. Courthouse buildings and courtrooms generally lack windows and
4 adequate ventilation.⁸⁵ Thus, courtrooms are likely locations for “super-spreader”
5 events, which are readily facilitated by spending more than 20 minutes in the same
6 poorly ventilated room as an infected person.⁸⁶

7 56. There is no screening for people who are symptomatic or who have
8 tested positive for COVID-19 entering the Los Angeles Superior Court
9 courthouses.⁸⁷ There is no method for identifying asymptomatic or pre-
10 symptomatic carriers of the disease entering the Los Angeles Superior Court
11 courthouses.⁸⁸

12 57. There is no contact tracing conducted by Los Angeles Superior Court
13 courthouses, even in cases of known or likely exposure. For example, one
14 prospective juror in Beverly Hills appeared for jury service and disclosed that he
15 was under mandatory quarantine due to exposure to someone who had tested
16 positive for the virus.⁸⁹ Though he was excused, the other jurors were not informed
17 that they had potentially been exposed to COVID-19.⁹⁰ As another example, the day
18 after a multi-day jury trial in Alhambra Courthouse concluded, the defense attorney

19 ⁸⁴ Declaration of Elena Popp at ¶¶ 6-7, 12, 21; Declaration of Lauren Zack at ¶ 13; Declaration of Amy Tannenbaum
20 at ¶ 8; Declaration of Silvana Naguib at ¶¶ 13-15; Declaration of David Pallack at ¶¶ 3-4; Declaration of Ysabel
Jurado at ¶ 3; Declaration of Robert J. Reed at ¶ 15.

21 ⁸⁵ Declaration of Dr. Ranit Mishori at ¶ 31; Declaration of Lauren Zack at ¶ 11.

22 ⁸⁶ Declaration of Dr. Ranit Mishori at ¶ 31; Giorgio Buonanno et al., *Quantitative Assessment of the Risk of Airborne*
23 *Transmission of SARS-CoV-2 Infection: Prospective and Retrospective Applications*, MEDRXIV (June 2, 2020),
<https://www.medrxiv.org/content/10.1101/2020.06.01.20118984v1>.

24 ⁸⁷ Declaration of Silvana Naguib at ¶ 12; Declaration of Lucas Oppenheim at ¶ 4; Declaration of Rachel Levy at ¶ 3;
25 *see, e.g.*, Declaration of Elena Popp at ¶¶ 18-19 (describing a visibly ill juror who was permitted to enter the
26 courthouse but was then turned away by the court clerk at the courtroom door); Declaration of Barbara Horne-
Petersdorf at ¶¶ 10-11 (describing a symptomatic defendant carrying a positive COVID-19 test result who was
permitted to enter both the courthouse and a courtroom).

27 ⁸⁸ Declaration of Dr. Ranit Mishori at ¶ 35.

28 ⁸⁹ Declaration of Alisa Randell at ¶ 21.

⁹⁰ *Id.*

1 contacted the court clerk to alert the court that she had spiked a fever of 102
2 degrees and would get tested for COVID-19.⁹¹ However, the court never followed
3 up with her about the results of her test.⁹²

4 58. Los Angeles Superior Court has no uniformly established protocol for
5 rescheduling hearings for people who have knowingly been exposed to COVID-19
6 or who have tested positive for COVID-19.⁹³

7 59. Certain types of hearings, such as traffic court arraignments, cannot be
8 rescheduled and can only be missed.⁹⁴ People who miss traffic court arraignments
9 are routinely charged with a violation of Vehicle Code Sections 40509(a) or
10 40509.5(a) and/or 40508 (known as a “failure to appear” charge), commonly
11 resulting in a \$300 penalty assessment and a driver’s license suspension. A person
12 who receives a positive COVID-19 test before a traffic court arraignment must
13 choose between attending her court date with a known case of the virus or risk
14 receiving a misdemeanor citation, additional fine, and license suspension.

15 60. The stakes are even higher in unlawful detainer cases, where often an
16 individual has to decide between appearing in court and losing their home, in some
17 cases becoming homeless.⁹⁵

18 61. As these conditions persist, the courts have forced litigants to choose
19 between even worse conditions or forfeiting their statutory or constitutional rights.
20 For example, courts have offered the option of stipulating to a smaller jury to make
21 social distancing more feasible,⁹⁶ or have warned that if litigants insist on exercising
22 their right to a speedy traffic trial within 45 days of arraignment, they must accept

23 ⁹¹ Declaration of Elena Popp at ¶ 20.

24 ⁹² *Id.*

25 ⁹³ Declaration of Lauren Zack at ¶¶ 23-24.

26 ⁹⁴ Declaration of Lauren Zack at ¶ 23; Declaration of Jake Crammer at ¶ 6.

27 ⁹⁵ Declaration of Alisa Randell at ¶ 9; Declaration of Christina Gonzalez at ¶¶ 8, 11; Declaration of Robert J. Reed at
28 ¶ 21.

⁹⁶ Declaration of Ryan Kendall at ¶ 5.

1 that the trial courtrooms will be busier.⁹⁷

2 62. The court's lack of a policy to suspend negative consequences of non-
3 appearance for people who have been knowingly exposed to COVID-19, or who
4 have tested positive for COVID-19, is contrary to the County's public health
5 mandates as well as C.D.C. guidelines. The lack of policy places contagious and
6 sometimes critically ill people in the untenable position of choosing between their
7 own strong interests in avoiding fines, license suspensions, and evictions, and their
8 moral and legal duty to self-isolate. For example, on February 5, 2021 in the
9 Stanley Mosk courthouse, a defendant in an unlawful detainer matter appeared in
10 court with a doctor's note stating that he had tested positive for COVID-19 the day
11 before.⁹⁸ It is reasonable to infer that similar situations, in which a contagious
12 individual arrives in Los Angeles Superior Court pursuant to a mandatory notice of
13 appearance, have occurred countless times.

14 63. Criminal trials in Los Angeles Superior Court have been postponed
15 through the height of the pandemic, with the latest extension entered on January 29,
16 2021 and lasting through at least February 26, 2021.⁹⁹ Yet continuously since
17 August 2020, litigants and their attorneys have been required to appear in-person to
18 conduct trials on matters as minor as cracked windshield citations.¹⁰⁰

19 **B. Illnesses and deaths have already been linked back to Los Angeles**
20 **Superior Court courtrooms.**

21 64. The danger of contracting COVID-19 in a Los Angeles Superior Court
22 courtroom is not theoretical. **At least three court staff have died.**

23 65. On January 12, 2021, court interpreter Sergio Cafaro died after

24 _____
25 ⁹⁷ Declaration of Lauren Zack at ¶ 15.

26 ⁹⁸ Declaration of Lucas Oppenheim at ¶ 7; Declaration of Anthony Bonadies at ¶ 6-10; Declaration of Barbara
27 Home-Petersdorf at ¶¶ 5-15.

28 ⁹⁹ *News Release*, Superior Court of California, County of Los Angeles (Jan. 29, 2021),
<http://www.lacourt.org/newsmedia/uploads/14202112915211521NRNEWGOJAN292021.pdf>.

¹⁰⁰ Declaration of Lauren Zack at ¶ 28.

1 contracting COVID-19 in Los Angeles Superior Court. He was among a group of
2 approximately seventeen interpreter employees who were exposed to COVID-19 in
3 court because an interpreter was denied leave from work after self-identifying as
4 having been exposed to the virus and after testing positive for the virus.¹⁰¹

5 66. On January 15, 2021, the Presiding Judge announced that two
6 unnamed court employees, a traffic clerk and a court interpreter, had recently died
7 due to complications associated with COVID-19. The announcement suggested
8 that this outcome was inevitable, stating that “while we continue to implement
9 extensive safety measures in all of our 38 courthouses, none of us is immune to this
10 plague on our nation.”¹⁰²

11 67. On January 17, 2021, another court interpreter, Daniel Felix, died after
12 contracting COVID-19 in Los Angeles Superior Court. His coworker began feeling
13 ill on December 8, 2020 and tested positive on December 11, 2020, but Mr. Felix
14 was required to continue working until December 17, 2020, after his own COVID-
15 19 test came back positive.¹⁰³

16 68. According to recent data published by the County of Los Angeles
17 Public Health Department, 20 total staff members at the Metropolitan Courthouse
18 and 61 total staff members at the Stanley Mosk Courthouse have had laboratory-
19 confirmed COVID-19 cases.¹⁰⁴ **A court spokesperson recently stated that at
20 least 445 Los Angeles Superior Court employees have tested positive for
21 COVID-19.**¹⁰⁵

22
23 ¹⁰¹ *Letter to LASC Presiding Judge Taylor*, California Federation of Interpreters Local 39000 (Jan. 19, 2021),
24 https://www.calinterpreters.org/index.php?option=com_content&view=article&id=463:lasc-letter-to-presiding-judge-taylor&catid=23:news&Itemid=112.

25 ¹⁰² *News Release*, Superior Court of California, County of Los Angeles (Jan. 15, 2021),
http://www.lacourt.org/newsmedia/uploads/1420211152202321_NR_FINAL.pdf.

26 ¹⁰³ *Press Release*, California Federation of Interpreters Local 39000 (Jan. 22, 2021),
<https://www.calinterpreters.org/press-releases>.

27 ¹⁰⁴ *Locations & Demographics*, County of Los Angeles Public Health (last visited Jan. 26, 2021),
<http://publichealth.lacounty.gov/media/coronavirus/locations.htm#nonres-settings>

28 ¹⁰⁵ Nathan Solis, *Courts Urged To Do More To Protect Workers as Virus Ravages LA County*, Courthouse News

1 69. There is no data available to demonstrate how many members of the
2 public have contracted COVID-19 by attending court in Los Angeles County. Los
3 Angeles Superior Court does not screen members of the public for symptoms and
4 does not engage in contact tracing. No qualified public health expert has publicly
5 stated that there is no risk under the current protocols, nor do public health experts
6 regularly monitor in-person hearings to determine if the protocols are safe or
7 followed.

8 70. The Presiding Judge has publicly requested that the county’s limited
9 supply of COVID-19 vaccinations be prioritized for distribution to Los Angeles
10 Superior Court’s judges and employees.¹⁰⁶ The Alliance of California Judges,
11 comprised of 700 members including judges presiding in Los Angeles Superior
12 Court, made a similar public request to the California Department of Public
13 Health’s Community Vaccine Advisory Committee, citing high case counts among
14 staff in Los Angeles courthouses in particular.¹⁰⁷

15 **C. Remote options in certain civil matters are unavailable or**
16 **inadequate.**

17 71. Remote options are currently not available for many types of
18 proceedings in Los Angeles Superior Court. For example, traffic trials¹⁰⁸ and most
19 unlawful detainer trials¹⁰⁹ proceed in person, with no LACourtConnect or WebEx
20 option.

21 72. Though LACourtConnect is theoretically available for some matters,
22 such as traffic court arraignments, it is inaccessible to many litigants. For example,

23 Service (Jan. 25, 2021), <https://www.courthousenews.com/courts-urged-to-do-more-to-protect-workers-as-virus-ravages-la-county>.

24 ¹⁰⁶ *News Release*, Superior Court of California, County of Los Angeles (Jan. 26, 2021),
25 <http://www.lacourt.org/newsmedia/uploads/142021126842921NRLADPHVACCINEREQUEST.pdf>.

26 ¹⁰⁷ *Written Public Comment to Community Vaccine Advisory Committee*, (Jan. 19, 2021 – Feb. 1, 2021) at 73
27 <https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/COVID-19/WrittenCommentsCVAC2.1.21.pdf>.

28 ¹⁰⁸ Declaration of Lauren Zack at ¶ 22.

¹⁰⁹ Declaration of Amy Tannenbaum at ¶ 22; Declaration of Alisa Randell at ¶¶ 14, 16, 18.

1 to utilize LACourtConnect for a traffic arraignment, a litigant must have Internet
2 access, Internet literacy, an email address, a Chase or Mastercard credit card, the
3 ability to pay \$15 per citation, and reliable cellular service.¹¹⁰ There is no
4 opportunity within the online system to request a fee waiver. The litigant must also
5 be familiar enough with court proceedings to forgo the opportunity to ask questions
6 of the bailiff or court clerk before her case is called. Plaintiffs' staff attorneys have
7 observed that it is almost exclusively attorneys, not pro per litigants, who use the
8 LACourtConnect system in traffic court.¹¹¹

9 73. LACourtConnect is also unavailable for most same-day ex parte
10 hearings, because the online system is not programmed to permit scheduling for
11 matters filed and scheduled on the same day.¹¹²

12 74. In general, remote options will always be difficult to access for
13 Plaintiffs' clients, all of whom are low-income and many of whom lack email
14 addresses, Internet-capable devices, or even cell phones.¹¹³ Language barriers in
15 navigating the court system can also require litigants to make in-person
16 appearances.¹¹⁴

17 75. Remote options, even when available and accessible, force attorneys
18 and litigants to make difficult choices. Plaintiffs' staff attorneys often feel that it is
19 practically and ethically necessary to appear in-person when the stakes are high for
20 their client and/or when opposing counsel has made the choice to appear.¹¹⁵ Some
21 judges express dissatisfaction with litigants who choose to appear remotely rather
22
23

24 ¹¹⁰ Declaration of Lauren Zack at ¶ 19.

25 ¹¹¹ Declaration of Lauren Zack at ¶ 20.

26 ¹¹² Declaration of Ana A. Zuniga at ¶¶ 12-14.

27 ¹¹³ Declaration of Robert J. Reed at ¶ 19.

28 ¹¹⁴ Declaration of Ana A. Zuniga at ¶ 9.

¹¹⁵ Declaration of Alisa Randell at ¶¶ 9-11; Declaration of Ryan Kendall at ¶ 2; Declaration of Rachel Levy at ¶ 2.

1 than in-person.¹¹⁶ Technical difficulties can put case outcomes at risk.¹¹⁷

2 **D. Attorneys are forced to risk their health, lives, and families to**
3 **represent their clients.**

4 76. Plaintiffs' staff attorneys are regularly required to appear at Los
5 Angeles Superior Court in-person.

6 77. Plaintiffs' staff attorneys must navigate how to adequately represent
7 their clients and handle mandated in-person court appearances despite managing
8 health risks such as severe asthma¹¹⁸ and other chronic health conditions¹¹⁹ that
9 may increase risks associated with COVID-19. Plaintiffs' staff attorneys are forced
10 to risk not only their own health, but also the health of vulnerable members of their
11 households.¹²⁰

12 78. Plaintiffs' staff attorneys represent clients who are low-income; who
13 are mostly Black and Latinx; who are often homeless, housing insecure, or living in
14 crowded households; and who live in and belong to communities disproportionately
15 impacted by the COVID-19 virus.¹²¹ Many are monolingual Spanish speakers, and
16 many do not have reliable Internet or telephone service.¹²² Many have health
17 conditions that put the in high-risk categories, like asthma or diabetes.¹²³ In
18 providing ethical representation for their clients, Plaintiffs' staff attorneys are often
19 compelled to attend court on their client's behalf at risk to themselves and their

20 _____
21 ¹¹⁶ Declaration of Lauren Zack at ¶ 18.

22 ¹¹⁷ Declaration of Lauren Zack at ¶ 17.

23 ¹¹⁸ Declaration of Amy Tannenbaum at ¶ 3.

24 ¹¹⁹ Declaration of Amy Tannenbaum at ¶ 3; Declaration of Lauren Zack at ¶ 3; *see also* Declaration of Elena Popp at
25 ¶ 3.

26 ¹²⁰ Declaration of Ana A. Zuniga at ¶¶ 5-7; Declaration of Jake Crammer at ¶ 1; Declaration of Gina Bianca Amato
27 at ¶ 3; Declaration of Joshua Epstein at ¶ 2; Declaration of Lauren Zack at ¶ 4; Declaration of Silvana Naguib at ¶¶ 1,
28 10; Declaration of Lucas Oppenheim at ¶ 2.

¹²¹ Declaration of Lauren Zack at ¶ 27; Declaration of Amy Tannenbaum at ¶ 23; Declaration of Silvana Naguib at
¶ 20; Declaration of Alisa Randell at ¶ 3; Declaration of Christina Gonzalez at ¶ 11.

¹²² Declaration of Amy Tannenbaum at ¶ 7.

¹²³ Declaration of Lucas Oppenheim at ¶ 15.

1 families.¹²⁴

2 79. At other times, pursuant to Court Order, Plaintiffs' staff attorneys
3 cannot prevent their vulnerable clients from having to appear in person.¹²⁵

4 80. Plaintiffs' staff attorneys have also been forced to make impossible
5 choices about whether to take cases in the first instance, knowing that an in-person
6 court appearance would be mandated.¹²⁶ As a result, litigants who have a right to
7 an attorney to represent them in court may be struggling to find representation
8 because of the court's inflexible appearance policies.

9 81. Plaintiffs' staff attorneys have taken risks for their clients that they
10 have been unwilling to take for their own families. Plaintiffs' staff attorneys have
11 attended in-person court appearances to advance their clients' civil matters even
12 though these attorneys are not traveling, observing holidays with family, meeting
13 newborn family members, or visiting family members who are elderly or critically
14 ill.¹²⁷

15 82. Even as Plaintiffs' staff attorneys have been facing this risk without
16 reprieve, some judges have exercised their ability to opt out of in-person
17 appearances, requiring litigants and attorneys to appear in their courtrooms in-
18 person while managing the matters remotely from chambers.¹²⁸

19 83. Plaintiffs' staff attorneys have been operating remotely since March,
20 communicating with clients via telephone, e-mail, and mail. Plaintiffs' staff
21 attorneys have found creative ways to serve even their most low-resource clients
22 without conducting in-person meetings, to preserve their health and the health of

23 _____
¹²⁴ Declaration of Lauren Zack at ¶ 27.

24 ¹²⁵ Declaration of Gina Bianca Amato at ¶¶ 7-8 (client, a Mexican minor with cancer, was required to appear in court
25 in person); Declaration of Natalie Cohen at ¶¶ 3, 6-7 (client, a senior citizen, was denied a stipulated continuance and
26 was required to appear and remain in the courthouse for six hours); *cf.* Declaration of Ana A. Zuniga at ¶¶ 21-22
(immunocompromised and asthmatic client faced sanctions for not appearing in person).

27 ¹²⁶ Declaration of Silvana Naguib at ¶ 9.

28 ¹²⁷ Declaration of Silvana Naguib at ¶ 10; Declaration of Lauren Zack at ¶ 30.

¹²⁸ Declaration of Amy Tannenbaum at ¶ 20; Declaration of Christina Gonzalez at ¶ 9.

1 their clients.

2 84. Plaintiffs’ staff attorneys assert that in-person appearances have often
3 been unnecessary despite being mandated by the Court.¹²⁹

4
5 **CLAIMS FOR RELIEF**

6 **COUNT ONE**

7 **Public Nuisance (Cal. Code Civ. Proc. § 731)**

8 **Against All Defendants**

9 85. Plaintiffs repeat and incorporate by reference each and every allegation
10 contained in the preceding paragraphs as if fully set forth herein.

11 86. “Anything which is injurious to health . . . so as to interfere with the
12 comfortable enjoyment of life or property . . . is a nuisance.” Cal. Civ. Code
13 § 3479. A public nuisance “affects at the same time an entire community or
14 neighborhood, or any considerable number of persons, although the extent of the
15 annoyance or damage inflicted upon individuals may be unequal.” Cal. Civ. Code §
16 3480. A public nuisance action may be brought by anyone who has been specially
17 injured by a public nuisance. Cal. Civ. Code § 3493. Defendants’ acts and
18 omissions as alleged herein cause a considerable number of persons to suffer
19 increased exposures and risks of exposures to COVID-19, including, but not limited
20 to, litigants, attorneys, other members of the public required to attend in-person
21 legal proceedings, as well as their family members, co-habitants, and any other
22 persons who come into contact with them. Defendants substantially and
23 unreasonably create a grave risk to public health and safety, and wrongfully and
24 unduly interfere with attorneys, litigants, and the public’s comfortable enjoyment of
25 their lives and property.

26 87. While Los Angeles Superior Court’s courthouses are injurious to
27

28 ¹²⁹ See Declaration of Gina Bianca Amato at ¶¶ 5, 8-9, 11-14; Declaration of Lauren Zack at ¶ 29.

1 public health and the community at large, they are also specially injurious to
2 Plaintiffs. Plaintiffs' clients are put in the position of weighing their legal rights to
3 challenge evictions or traffic fines against their own health and the health of their
4 counsel and families. They cannot protect both their legal interests and their health,
5 and are thus harmed whether they choose to appear or default. Plaintiffs are also
6 specially harmed, as they and their staff attorneys must navigate how to adequately
7 represent their clients and handle mandated in-person court appearances despite
8 managing health risks that may increase risks associated with COVID-19. In
9 addition to these risks, Plaintiffs face the daunting task of advising clients about
10 whether to appear in court, as well as making painful choices about whether to take
11 cases that would require in person appearances at all.

12 88. Defendants' acts and omissions as alleged herein have substantially
13 and unreasonably caused, and are reasonably certain to cause, the spread and
14 transmission of severe, life-threatening disease and infection, and the actual and
15 real fear and anxiety of the spread and transmission of severe, life-threatening
16 disease and infection.

17 89. Defendants' acts and omissions as alleged herein have caused, and are
18 reasonably certain to cause, community spread of COVID-19. Such community
19 spread has not been, and will not be, limited to the physical location of the courts
20 that Defendants administer and operate. Attorneys, litigants, and others required to
21 make in-person court appearances have gone home and will go home to interact
22 with their family members, co-habitants, health care providers, local businesses,
23 and others as they undertake essential daily activities such as grocery shopping and
24 doctor's visits. This community spread has resulted in, and will continue to result
25 in, increased numbers of Angelenos who contract, and who die as a result of,
26 COVID-19.

27 90. Defendants' acts and omissions as alleged herein unreasonably
28 interfere with the common public right to public health and safety. The public

1 nuisance caused by Defendants as alleged herein has caused and will continue to
2 cause injury to Plaintiffs and Plaintiffs' clients, especially staff attorneys and clients
3 at heightened risk of severe illness due to existing medical conditions.

4 91. If prompt and immediate injunctive relief is not granted, Plaintiffs and
5 Plaintiffs' clients face a significant risk of irreparable harm in the form of physical
6 and emotional injuries and death from Defendants' continuing operation of the
7 courts under conditions that create and perpetuate a public nuisance. Such threat of
8 future injuries cannot be adequately compensated through an award of damages or
9 otherwise remedied at law.

10 92. The risks of injury faced by Plaintiffs and Plaintiffs' clients outweigh
11 the cost of the closing the courts that handle traffic infraction and unlawful detainer
12 matters for the duration of the COVID-19 pandemic.

13 **COUNT TWO**

14 **Dangerous Condition of Public Property (Cal. Gov. Code § 835)**

15 **Against All Defendants**

16 93. Plaintiffs repeat and incorporate by reference each and every allegation
17 contained in the preceding paragraphs as if fully set forth herein.

18 94. In California, "a public entity is liable for injury caused by a
19 dangerous condition of its property if the plaintiff establishes that the property was
20 in a dangerous condition at the time of the injury, that the injury was proximately
21 caused by the dangerous condition, that the dangerous condition created a
22 reasonably foreseeable risk of the kind of injury which was incurred, and either: (a)
23 A negligent or wrongful act or omission of an employee . . . created the dangerous
24 condition; or (b) The public entity had actual or constructive notice of the
25 dangerous condition [and had] sufficient time prior to the injury to have taken
26 measures to protect against the dangerous condition." Cal. Gov. Code § 835;
27 *Peterson v. S.F. Cmty. Coll. Dist.* (1984) 36 Cal. 3d 799, 809.

28 95. Defendants' acts and omissions with respect to the continued operation

1 of Los Angeles Superior Court during the coronavirus pandemic subject them to
2 liability for dangerous condition of public property. The conditions described
3 above and in the attached declarations, including hallways and waiting areas that
4 are too small to facilitate social distancing, poorly ventilated buildings, and
5 courtrooms without adequate physical barriers between parties, jurors, and litigants,
6 are dangerous due to the risk of exposure to COVID-19. Aside from the injury
7 directly inflicted by this risk, Plaintiffs’ staff attorneys and clients face injuries in
8 the form of fear and emotional distress due to the conditions of the courts in which
9 they are required to appear. *See Delta Farms Reclamation Dist. v. Superior Court*
10 (1983) 33 Cal. 3d 699, 711 (holding that Section 835 permits liability for emotional
11 injuries). These injuries are proximately caused by Defendants’ failure to close the
12 courts to unnecessary in-person appearances until the dangerous conditions created
13 by the pandemic have abated.

14 96. The novel coronavirus pandemic—news of which has been
15 inescapable for nearly a year—created a reasonably foreseeable risk and actual
16 notice that that Plaintiffs’ staff attorneys and clients would face injuries including
17 illness and emotional distress if they were required to appear in person at
18 Defendants’ courts. Countless emergency declarations made at all levels of
19 government in California have described the risks of opening public, indoor spaces
20 where (1) individuals cannot maintain six feet of social distance, (2) individuals
21 must speak with one another in close proximity, or (3) groups of people must spend
22 hours at a time without access to hygiene measures such as handwashing. Indeed,
23 Defendants have acknowledged these risks by attempting to put in place the “Here
24 for You, Safe for You” system, which has utterly failed to keep attorneys and
25 litigants safe. Given the recent cases of COVID-19 among court staff, interpreters,
26 and members of the public who have been to the courts, as well as three recent
27 deaths attributable to court transmission, Defendants cannot deny that the risks of
28 opening courts were foreseeable and that Defendants had actual notice of the

1 dangerous conditions on their property.

2 Defendants have had ample time to protect Plaintiffs' staff attorneys and
3 clients from the spread of COVID-19 at their facilities. Defendants' decision to
4 close court facilities on March 17, 2020, within days of the first stay-at-home orders
5 in California, shows how quickly they can take appropriate measures to protect
6 attorneys and litigants from the dangerous conditions at court facilities.

7 97. On information and belief, Defendants' and/or their employee(s) took
8 the negligent and wrongful act of permitting and often requiring in-person
9 appearances for traffic infraction and unlawful detainer matters during the COVID-
10 19 crisis, which created the dangerous conditions that have harmed Plaintiffs and
11 Plaintiffs' clients.

12 **COUNT THREE**

13 **Violation of Cal. Gov. Code Section 11135**

14 **Against All Defendants**

15 98. Plaintiffs repeat and incorporate by reference each and every allegation
16 contained in the preceding paragraphs as if fully set forth herein.

17 99. California Government Code section 11135(a) provides: "No person in
18 the State of California shall, on the basis of . . . physical disability, [or] medical
19 condition, . . . be unlawfully denied full and equal access to the benefits of, or be
20 unlawfully subjected to discrimination under, any program or activity that is
21 conducted, operated, or administered by the state or by any state agency, is funded
22 directly by the state, or receives any financial assistance from the state."

23 100. As a result of the County's failure to close unsafe court facilities to in-
24 person appearances, attorneys and litigants required to appear in court have been
25 and continue to be subjected to discrimination on the basis of physical disability
26 and/or medical condition, depriving them of the ability to participate in court
27 proceedings without endangering their physical health.

28 101. Through its operation of the courts and court facilities, Defendants

1 operate programs or activities that are conducted, operated, and/or administered by
2 the State or by a State agency, are funded directly by the State, or receive financial
3 assistance from the State.

4 102. Defendants have acknowledged that certain populations, including
5 those with certain medical conditions and/or physical disabilities, are more
6 vulnerable to severe illness and death resulting from COVID-19. Yet Defendants
7 knowingly harm attorneys and litigants with physical disabilities and/or medical
8 conditions, including Plaintiffs' staff attorneys and clients, by requiring them to
9 appear in court facilities during this time.

10 103. Defendants' decision to continue operating courts under conditions
11 that are unsafe for anyone, but especially unsafe for individuals with physical
12 disabilities and/or medical conditions, unlawfully denies full and equal access to the
13 benefits of their programs and activities and constitutes unlawful discrimination.

14 **COUNT FOUR**

15 **Due Process (Cal. Const. art. I, § 7)**

16 **Against All Defendants**

17 104. Plaintiffs repeat and incorporate by reference each and every allegation
18 contained in the preceding paragraphs as if fully set forth herein.

19 105. "The right to a pre-eviction hearing is firmly established in unlawful
20 detainer actions," *Arrieta v. Mahon* (1982) 31 Cal. 3d 381, 389, and includes the
21 "the right to the aid of counsel when desired and provided by the party asserting the
22 right." *Mendoza v. Small Claims Court* (1958) 49 Cal. 2d 668, 673 (quoting *Powell*
23 *v. Alabama* (1932) 287 U.S. 45, 69-70). Deprivation of the right to a hearing or the
24 right to counsel in an unlawful detainer proceeding violates procedural due process
25 under the state and federal constitutions. *Arrieta*, 31 Cal. 3d at 389; *Mendoza*, 49
26 Cal. 2d at 673.

27 106. In California, deprivation of a statutorily conferred benefit triggers
28 procedural due process protections under the state constitution. *Chorn v. Workers'*

1 *Comp. Appeals Bd.* (2016) 245 Cal. App. 4th 1370, 1387. “[T]he due process
2 safeguards required for protection of an individual’s statutory interests must be
3 analyzed in the context of the principle that freedom from arbitrary adjudicative
4 procedures is a substantive element of one’s liberty.” *Id.* The due process liberty
5 interest requires fair and unprejudiced decision-making, as well as respect and
6 dignity. *Id.*

7 107. A person charged with a traffic infraction has the statutory right “to
8 confront and cross-examine witnesses, to subpoena witnesses on his or her behalf,
9 and to hire counsel at his or her own expense.” Cal. Veh. Code § 40901(c); *see*
10 *also* Cal. Pen Code ¶ 19.7 (“Except as otherwise provided by law, all provisions of
11 law relating to misdemeanors shall apply to infractions.”).

12 108. Defendants’ operation of in-person courts handling unlawful detainer
13 and traffic matters during the coronavirus pandemic violates procedural due
14 process. A litigant has no real right to a hearing or counsel when she must put
15 herself and her lawyer at risk of severe illness or death in order to exercise that
16 right. Defendants’ insistence on in-person hearings and trials for these matters
17 violates the due process rights of litigants facing traffic infractions and evictions.

18 109. Plaintiffs have suffered distinct and palpable injuries in fact, including
19 risk of severe illness and emotional distress, as a result of Defendants’ refusal to
20 close courts handling traffic and unlawful detainer matters until the danger of the
21 pandemic has passed. As counsel in unlawful detainer and traffic infraction
22 matters, Plaintiffs have a concrete interest in the outcome of this dispute and a close
23 relationship with affected clients. Litigants in traffic and unlawful detainer
24 proceedings, including Plaintiffs’ clients, often do not have opportunities to request
25 continuances of their in-person appearances or their continuance requests are
26 routinely denied, so Plaintiffs are better-situated to protect their interests.

27
28

1 **COUNT FIVE**

2 **Equal Protection (Cal. Const. art. I, § 7)**

3 **Against All Defendants**

4 110. Plaintiffs repeat and incorporate by reference each and every allegation
5 contained in the preceding paragraphs as if fully set forth herein.

6 111. The California Constitution’s equal protection clause prohibits public
7 entities from discriminating on the basis of wealth. *See* Cal. Const., art. I, § 7. A
8 government actor violates equal protection when it adopts a classification that
9 affects two or more similarly situated groups in an unequal manner. *People v.*
10 *Wilkinson* (2004) 33 Cal.4th 821, 836.

11 112. In keeping traffic courts open for in-person appearances, Defendants
12 have adopted a wealth-based classification that treats similarly situated groups
13 unequally. Traffic matters lead to the deprivation of money from poor people.
14 Defendants of means can pay their fines and fees in full without needing to contest
15 their charge in person. By keeping courts open for traffic infraction matters,
16 requiring in-person appearances for arraignments absent the ability to pay a fee to
17 utilize the remote LACourtConnect system, and requiring in-person appearances for
18 trials, Defendants treat the indigent litigants differently from similarly situated
19 litigants who can pay to avoid an in-person proceeding and thus avoid any risk of
20 exposure to COVID-19. These acts and omissions violate the equal protection
21 clause.

22 113. Plaintiffs have suffered distinct and palpable injuries in fact, including
23 risk of severe illness and emotional distress, as a result of Defendants’ refusal to
24 close courts handling traffic matters. As counsel in traffic infraction matters,
25 Plaintiffs have a concrete interest in the outcome of this dispute and a close
26 relationship with affected clients, and are better-situated to protect their clients’
27 interests.

28

1 **COUNT SIX**

2 **Declaratory Relief (Cal. Code Civ. Proc. § 1060)**

3 **Against All Defendants**

4 114. Plaintiffs repeat and incorporate by reference each and every allegation
5 contained in the preceding paragraphs as if fully set forth herein.

6 115. An actual and existing controversy exists between the parties, because
7 Plaintiffs contend, and Defendants dispute, that Defendants' actions and inactions
8 described above have violated California statutes and the constitution.

9 116. Plaintiffs seek a judicial declaration that Defendants have violated
10 these constitutional and statutory provisions.

11 117. Plaintiffs are harmed by Defendants' failure to comply with all
12 applicable provisions of law and their legal duties, as set forth herein.

13 **COUNT SEVEN**

14 **Taxpayer Claim (Cal. Code Civ. Proc. § 526(a))**

15 **Against All Defendants**

16 118. Plaintiffs repeat and incorporate by reference each and every allegation
17 contained in the preceding paragraphs as if fully set forth herein.

18 119. Plaintiffs have been assessed and found liable to pay taxes such as
19 property, payroll, and other taxes in the County of Los Angeles, to the State of
20 California, and the United States of America in the past year.

21 120. Defendants' expenditure of federal, state, county, and/or municipal
22 funds to administer and operate the court system of the County of Los Angeles in a
23 manner that poses severe health risks to litigants and attorneys, as challenged
24 herein, is unlawful. Plaintiffs, as state taxpayers, have an interest in enjoining the
25 unlawful expenditure of tax funds. Pursuant to California Civil Procedure Code
26 section 526a and this Court's equitable power, Plaintiffs seek declaratory and
27 injunctive relief to prevent continued harm and to protect the public from
28 Defendants' unlawful policies, practices, and deliberate indifference, as alleged

1 herein.

2 121. There is an actual controversy between Plaintiffs and Defendants
3 concerning their respective rights and duties, in that Plaintiffs contend that the
4 Defendants have unlawfully administered and operated Los Angeles Superior Court
5 and have failed to satisfy their duty to keep court proceedings safe for attorneys and
6 litigants, as alleged herein, whereas Defendants contend in all respects to the
7 contrary. Defendants' unlawful administration and operation of Los Angeles
8 Superior Court has caused injury to Plaintiffs and Plaintiffs' clients. Plaintiffs seek
9 a judicial declaration of the rights and duties of the respective parties with respect
10 to the instant matter.

11 122. Unless and until Defendants' unlawful policies and practices, as
12 alleged herein, are enjoined by order of this Court, Defendants will continue to
13 cause great and irreparable injury to Plaintiffs and other taxpayers including
14 attorneys, litigants, and members of the public.

15 123. Plaintiffs argue that Defendants' actions and inactions as described
16 above violate California statutes and the constitution.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiffs pray that this Court grant the following relief:

19 124. Enjoining Defendants from further depriving Plaintiffs, attorneys,
20 litigants, and members of the public of their rights as set forth herein;

21 125. Declaratory relief that Defendants have violated the statutes and
22 constitutional provisions listed above by failing to close traffic and unlawful
23 detainer courts to in-person hearings during the coronavirus pandemic;

24 126. Payment of reasonable attorneys' fees and costs of suit incurred
25 therein, including pre- and post-judgment interest at the legal rate; and

26 127. For such other and further relief as the Court may deem appropriate.
27
28

1 Dated: February 9, 2021

2 PUBLIC COUNSEL
3 Counsel for Plaintiff Public Counsel

4 By: /s/ Mark Rosenbaum
5 Mark Rosenbaum
6 Kathryn Eidmann
7 Lorraine Lopez
8 Joanna Adler
9 Jesselyn Friley
10 610 South Ardmore Avenue
11 Los Angeles, CA 90005
12 Telephone: (213) 385-2977
13 Facsimile: (213) 385-9089
14 Email: mrosenbaum@publiccounsel.org
15 keidmann@publiccounsel.org
16 llopez@publiccounsel.org
17 jadler@publiccounsel.org
18 jfriley@publiccounsel.org

12 INNER CITY LAW CENTER
13 Counsel for Plaintiff Inner City Law Center

14 By: /s/ T.E. Glenn
15 T.E. Glenn
16 Douglas G. Carnahan
17 Indira Cameron-Banks
18 1309 East 7th Street
19 Los Angeles, CA 90021
20 Telephone: (213) 891-3275
21 Facsimile: (213) 891-2888
22 Email: tglenn@innercitylaw.org
23 dcarnahan@innercitylaw.org
24 icameronbanks@innercitylaw.org

20 NEIGHBORHOOD LEGAL SERVICES
21 OF LOS ANGELES COUNTY
22 Counsel for Plaintiff Neighborhood Legal
23 Services of Los Angeles County

23 By: /s/ Trinidad Ocampo
24 Trinidad Ocampo
25 Ana A. Zuniga
26 David Pallack
27 13327 Van Nuys Boulevard
28 Pacoima, CA 91331
Telephone: (818) 291-1765
Facsimile: (833) 537-5529
Email: trinidadocampo@nlsia.org
anazuniga@nlsia.org
dpallack@nlsia.org

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

BET TZEDEK
Counsel for Plaintiff Bet Tzedek

By: /s/ Jenna L. Miara

Jenna L. Miara
3250 Wilshire Boulevard, 13th Floor
Los Angeles, CA 90010
Telephone: (323) 648-4734
Facsimile: (213) 471-4568
Email: jmiara@bettzedek.org

LEGAL AID FOUNDATION OF LOS
ANGELES
Counsel for Plaintiff Legal Aid Foundation
of Los Angeles

By: /s/ Barbara J. Schultz

Barbara J. Schultz
1550 West 8th Street
Los Angeles, CA 90017
Telephone: (213) 640-3823
Facsimile: (213) 640-3850
Email: bschultz@lafla.org