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ADMITTED TO STATE COURTS OF
CALIFORNIA, CENTRAL &
SOUTHERN DISTRICT COURTS OF
CALIFORNIA, NINTH CIRCUIT
COURT OF APPEALS

Mayor Rusty Bailey
City of Riverside, City Hall
3900 Main Street
Riverside, CA 92501
BY HAND DELIVERY

June 13, 2013

**Re: Your Unlawful and Discourteous Actions on June 11, 2013;
Demand for Public Apology and Reparation**

Dear Mayor Bailey:

I represent Riverside citizens Vivian Moreno, Dvonne Pitruzello and Joel Udayke.

At the City Council meeting on the evening of Tuesday, June 11, 2013, a vote was held on Discussion Agenda Item No. 18. That item concerned the above-noted individuals' ethics complaints against members of the City Council, including you. These individuals had spoken against the adoption of this item, and when it was unanimously adopted, they applauded (obviously ironically). You promptly publicly chastised them for clapping.

One of these individuals then responded by pointing out that, following Discussion Agenda Item No. 17 (a report on a program designed to increase local college graduation rates), there had been audience applause with no such warning by you. Instead of acknowledging that she was right, and that you were wrong to tell them they were not allowed to applaud, you incorrectly asserted that no applause is allowed during the Discussion portion of the proceedings.

However, neither the City's Rules of Decorum nor free speech law prohibit audience members at a city council meeting from demonstrating either their support *or* their disapproval of a report or action by the City Council. In fact, rather than clapping ironically, these and any other audience members could have booed or hissed after the vote on Agenda Item 17, or any Agenda Item – but they were afraid to do so, given the City government's increasing efforts over the past 15 years to stifle dissent and comment at such meetings.

Now, not content to apply restrictive rules evenly, the City government has become so emboldened that it thinks it can treat audience members differently because of who they are and their regular opposition to the City's actions. If you are Cindy Roth from the Chamber of Commerce, you are allowed to applaud; if you are Vivian Moreno, Dvonne Pitruzello or Joel Udayke who opposed Measure A, you are *not* allowed to applaud.

The reason that the law requires open, *public* meetings is not so the citizens can be lectured by their representatives, or forced to watch silently, but so that the people can inform their representatives of their views on the conduct of the people's business. While applause is one form of expressing one's views, any rules that purport to allow applause but no similar

show of *disapproval* would violate the principles that prohibit the government from engaging in content-based discrimination against speech.

Accordingly, on behalf of these individuals, as well as on behalf of all persons who attend any similar public meetings and hearings held by the City of Riverside, I hereby demand that you publicly apologize to them and to all Riverside citizens. Such apology shall consist of the reading, at three consecutive evening City Council meetings (one meeting for each of the individuals who were chastised for exercising their right to free speech and to participation in their government) the following statement:

“At an earlier City Council meeting, I misspoke when I told specific audience members that they were not allowed to applaud following the council taking action on a Discussion Agenda item.

“Any person in attendance at a city council meeting has the right, under both the California and U.S. Constitutions, to express either their approval or disapproval of their representatives’ actions. All that is forbidden is the actual disruption of a public meeting, as the term “disruption” is defined in case law. Approval or disapproval may be expressed by applauding, hissing and/or booing after a discrete presentation and before the next presentation actually begins, and/or following a council vote and before the actual presentation on the next agenda item has begun.”

In addition, on behalf of themselves and the general public, these individuals demand that the City’s Speaker Cards be revised to include the same language in the second paragraph of the apology noted above.

As currently printed, the Speaker Cards misleadingly imply that only approval, not disapproval, may be expressed by audience members, because they do not forbid applause, but provide that “stamping, yells or shouting, *and/or similar demonstrations* are unacceptable public behavior.” (Emphasis added.) The term “and/or similar demonstrations” could be read by the persons in charge of the meeting, as well as by the public, as including booing and hissing. Such an interpretation would be illegal; if applause is allowed to express approval, as it must be, then the government cannot condemn as unacceptable any and all methods of audibly expressing *disapproval*.

Therefore, as written, the Speaker Cards impermissibly chill free political speech and need to be re-written so as to make it clear that audience members may audibly express *disapproval* as well as approval at such meetings.

I look forward to hearing from you within the next ten days, in writing, that you agree to these terms as a method of settling the violation of my clients’ rights, and the public’s right, to free expression of political speech unimpeded by improper government censorship.

Sincerely,

Letitia E. Pepper

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cc Vivian Moreno, Dvonne Pitruzello, Joel Udayke