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Superior Court of California  
County of Santa Barbara  
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**SUPERIOR COURT OF CALIFORNIA**  
**COUNTY OF SANTA BARBARA – UNLIMITED JURISDICTION**

**CELESTE BARBER**, an individual,  
  
Plaintiff,  
  
v.  
  
**SANTA BARBARA COMMUNITY COLLEGE DISTRICT BOARD OF TRUSTEES**, the governing board for Santa Barbara City College; **HELEN BENJAMIN**, an individual; **ROBERT MILLER**, an individual; and **RAEANNE NAPOLEON**, an individual,  
  
Defendants.

Case Number: 19CV04390  
  
**VERIFIED COMPLAINT FOR DECLARATORY RELIEF**  
  
**JURY TRIAL DEMANDED**



1 Plaintiff Celeste Barber (“Barber”) brings this action against the Santa Barbara Community  
2 College District Board of Trustees (the “Board”); the Interim Superintendent/President of Santa  
3 Barbara City College and Interim Clerk for the Board, Helen Benjamin (“Benjamin”); President of  
4 the Board, Robert Miller (“Miller”); and Santa Barbara City College instructor, Raeanne Napoleon  
5 (“Napoleon;” hereafter, Trustees, Benjamin, Miller, and Napoleon are collectively, “Defendants”),  
6 for declaratory judgment against the Defendants arising from their violations of the First and  
7 Fourteenth Amendment to the United States Constitution and the California Ralph M. Brown Act  
8 (“Brown Act”).

### 9 INTRODUCTION

10 1. The public’s Constitutional right to petition its government, free from oppression is  
11 uncompromising.

12 2. In direct violation of this core right and principle, Miller and the Board did not follow  
13 the law by maintaining an orderly Board of Trustees meeting and thus curtailed Barber’s ability to  
14 petition her government.

15 3. On January 24, 2019, during the public comment section of the Board of Trustees  
16 meeting, Barber attempted to petition the Board to explain why it should return to the policy of reciting  
17 the pledge of allegiance prior to each meeting.

18 4. During Barber’s presentation, Napoleon lead a group of individuals in heckling Barber  
19 and interrupting her, thus making it impossible for Barber to petition her government.

20 5. The Board, which at that time was being led by Miller, gave Napoleon a heckler’s veto  
21 when he did not take sufficient steps to protect the right of Barber to petition the government. Miller  
22 made no effort to remove Napoleon from the meeting as is required by the Brown Act.

23 6. Accordingly, Barber seeks declaratory judgment, and an award of costs and  
24 attorneys’ fees from Defendants.

### 25 JURISDICTION AND VENUE

26 7. This Court has jurisdiction over this action pursuant to the California Constitution,  
27 Article VI, Section 10, which grants the Superior Court “original jurisdiction in all causes except those  
28 given by statute to other courts.” This Court has authority to award the requested declaratory relief

1 under Code of Civil Procedure § 1060.

2 8. Venue is proper in this Court because, on information and belief, one or more of the  
3 Defendants reside in the County of Santa Barbara, regularly transact business in the County of Santa  
4 Barbara, and most of the unlawful practices, acts, and omissions alleged herein took place in the  
5 County of Santa Barbara.

6 9. This Court has personal jurisdiction over each of the Defendants, because each of the  
7 Defendants is domiciled in the State of California, has sufficient minimum contacts with California,  
8 and/or otherwise has intentionally availed himself or herself of significant benefits provided by the  
9 State of California, rendering the exercise of jurisdiction by this Court permissible under traditional  
10 notions of fair play and substantial justice.

11 **PARTIES**

12 10. Plaintiff Celeste Barber is, and at all times relevant was, a resident of the County of  
13 Santa Barbara.

14 11. Defendant Board is the governing body for Santa Barbara Community College District,  
15 which operates Santa Barbara City College. The Board is comprised of the following persons: President  
16 Robert K. Miller; Vice President Peter O. Haslund; Jonathan Abboud; Marsha S. Croninger; Veronica  
17 Gallardo, Craig Nielsen, Kate Parker, and Kenny Igbechi. The Board holds all of its meetings and has  
18 its offices within Santa Barbara County, California.

19 12. Defendant Benjamin is the Interim Superintendent/President of Santa Barbara City  
20 College and the Clerk for the Board. On information and belief, Benjamin resides within Santa Barbara  
21 County, California.

22 13. Defendant Miller is President of the Board, and, on information and belief, resides  
23 within Santa Barbara County, California.

24 14. Defendant Napoleon is a professor at Santa Barbara City College. On information and  
25 belief, Napoleon resides within Santa Barbara County, California.

26 15. All actions of Defendants complained of herein were taken under color of state law.

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1 **GENERAL ALLEGATIONS**

2 16. On January 24, 2019, Barber was the first speaker during the Public Comment section of  
3 the Board’s public meeting.

4 17. California law gives the public the opportunity to address the Board on any topic “that is  
5 within the subject matter jurisdiction of the legislative body.” Gov. Code § 54954.3.

6 18. Santa Barbara City College Board Policy 2350 states that a person “may speak to the  
7 Board either on an agenda item or on other matters of interest to the public that are within the subject  
8 matter jurisdiction of the Board.”

9 19. On January 24, 2019, at 4:00 p.m., the Board held its regularly scheduled board meeting.

10 20. Barber submitted a request to speak during Public Comment indicating that she would  
11 be speaking for the reinstatement of The Pledge of Allegiance at all future Board meetings.

12 21. Barber had prepared a four-minute presentation on the Pledge and why it was important  
13 to her.

14 22. Approximately 30 seconds into the prepared presentation, Napoleon disrupted the Board  
15 meeting, and Barber’s presentation to the Board, when she shouted “[i]t’s racist.”

16 23. Napoleon is a professor at Santa Barbara City College.

17 24. Miller asked the audience to allow Barber to continue.

18 25. Even after this initial warning, Napoleon continued to disrupt the meeting by  
19 interrupting Barber’s prepared comments, forcing Barber to stop her presentation on numerous  
20 occasions.

21 26. Napoleon’s disruptive conduct encouraged students who were in the audience to follow  
22 the example of one of the school’s professors and they similarly began to disrupt Barber’s prepared  
23 presentation.

24 27. California Gov. Code § 54957.9 states that when “any meeting is willfully interrupted  
25 by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible *and*  
26 *order cannot be restored by the removal of individuals who are willfully interrupting the meeting*, the  
27 members of the legislative body conducting the meeting may order the meeting room cleared and  
28 continue in session.”

1           28.     Miller on numerous occasions called for order but never followed the California Brown  
2 Act requirement to remove those who were disrupting the meeting.

3           29.     Though able to remove Napoleon from the meeting, Defendants failed to do so.

4           30.     Napoleon had never submitted a request to speak during Public Comment period of the  
5 meeting and because of her failure to follow the procedures to speak at the Board meeting, she did not  
6 have a right to speak during the Public Comment period of the meeting.

7           31.     In the middle of Barber’s comments, a motion was made to adjourn the meeting “until  
8 order can be established.”

9           32.     During the discussion of the motion, one member of the Board said, “another option  
10 would be to clear the room and allow only the media to stay.”

11          33.     After discussion by the Board, the motion failed.

12          34.     The Board never discussed the Brown Act requirement of removing the disrupters from  
13 the room.

14          35.     After the motion failed, Barber was permitted to continue her prepared comments.

15          36.     Napoleon and the students continued to interrupt Barber’s presentation by interrupting  
16 her and trying to shout her down.

17          37.     The Board never removed any of the disrupters from the room even though they  
18 continued to disrupt the prepared statement of Barber.

19          38.     The January 24, 2019 meeting was not being run orderly based on the numerous  
20 occasions that Miller attempted to call the meeting to order.

21          39.     Rather than remove Napoleon from the room and allow Barber to exercise her  
22 Constitutional and statutorily right to petition, Miller instead allowed Napoleon to continue to disrupt  
23 the meeting and forced Barber to constantly restart her prepared presentation—effectively silencing her  
24 speech and her attempt to petition the government.

25          Because of the disruptive conduct of Napoleon and the failure of Defendants to remove the disrupters  
26 from the room, it took seven minutes and thirty-five seconds for Barber to finish her four-minute  
27 presentation.

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1 **FIRST CLAIM FOR RELIEF**

2 **Violation of the First Amendment Rights to Freedom of Speech**

3 **42 U.S.C. § 1983**

4 **(By Barber against All Defendants)**

5 40. Barber incorporates by reference the allegations in the preceding paragraphs, as if fully  
6 set forth herein.

7 41. At all times, Defendants acted under color of state law.

8 42. Napoleon violated Barber's right to freedom of speech by using a heckler's veto while  
9 Barber was exercising her right to speak, thereby suppressing and effectively silencing her speech.

10 43. The Board, Benjamin, and Miller have violated Barber's right to freedom of speech by  
11 not following California law and removing individuals who were disrupting her protected speech.

12 44. All Defendants knew that Barber had a First Amendment right to speak during the  
13 public comment portion of the meeting.

14 45. All Defendants knew that Barber submitted a request to speak during Public Comment  
15 indicating that she would be speaking for the reinstatement of The Pledge of Allegiance at all future  
16 Board meetings.

17 46. All Defendants knew that Napoleon had not submitted a request to speak during Public  
18 Comment.

19 47. All Defendants knew that Napoleon was disrupting the meeting and depriving Barber of  
20 her ability to speak.

21 48. All Defendants knew that Napoleon's disruptive behavior was encouraging others to  
22 start disrupting the meeting.

23 49. The Board, Benjamin, and Miller knew that Napoleon was trying to exercise a heckler's  
24 veto by shouting down the speech of Barber.

25 50. The Board, Benjamin, and Miller did not remove Napoleon from the meeting as a result  
26 of her disruptive behavior.

27 51. The Brown Act required Defendants to remove Napoleon and other disrupters from the  
28 room.

1           52.     By not removing the disrupters, Defendants Board, Benjamin, and Miller gave way to  
2 the heckler, and thus violated Barber’s First Amendment right to free speech.

3           53.     By not removing the disrupters, Defendants Board, Benjamin, and Miller invited a  
4 heckler’s veto by expressly authorizing the censorship of Barber’s speech.

5           54.     The “First Amendment does not permit a heckler-veto.” (*Center for Bio-Ethical Reform,*  
6 *Inc. v. Los Angeles County Sheriff Dept.* (9th Cir. 2008) 533 F.3d 780, 788.)

7           55.     “The heckler’s veto doctrine is one of the oldest and most venerable in First Amendment  
8 jurisprudence. (*Dariano v. Morgan Hill Unified School Dist.* (9th Cir. 2014) 767 F.3d 764, 769.)

9           56.     “The power to limit or close a forum does not entail any such obligation. If speech is  
10 harassment, the proper response is to silence the harasser, not shut down the forum. And if speech is  
11 not harassment, listeners who are offended by the ideas being discussed certainly are not entitled to  
12 shut down an entire forum simply because they object to what some people are saying. Such a rule  
13 would contravene the First Amendment’s hostility towards laws that “confer broad powers of  
14 censorship, in the form of a ‘heckler’s veto,’ upon any opponent of” certain points of view.” (*Rodriguez*  
15 *v. Maricopa County Community College Dist.* (9th Cir. 2010) 605 F.3d 703, 711.)

16           57.     All Defendants, acting under color of state law, failed to follow the requirements under  
17 the Brown Act to remove those who are disrupting the meeting.

18           58.     As a direct and proximate consequence of Defendants’ violations of Barber’s federal  
19 civil rights under 42 U.S.C. § 1983 and the First Amendment, Barber has suffered and will suffer  
20 irreparable injury that cannot fully be compensated by an award of monetary damages.

21           59.     Pursuant to 42 U.S.C. §§ 1983 and 1988, Barber is entitled to declaratory judgment.

22           60.     Barber found it necessary to engage the services of private counsel to vindicate her  
23 rights under the law. Barber is therefore entitled to an award of attorneys’ fees pursuant to 42 U.S.C. §  
24 1988.

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1 citations omitted].)

2 71. Napoleon, acting under color of state law, was encouraging students to use the heckler's  
3 veto in order to deny Barber's federal civil rights.

4 72. The Board, Benjamin, and Miller, acting under color of state law, failed to follow the  
5 requirements under the Brown Act to remove those who are disrupting the meeting.

6 73. As a direct and proximate consequence of Defendants' violations of Barber's federal  
7 civil rights under 42 U.S.C. § 1983 and the First Amendment, Barber has suffered and will suffer  
8 irreparable injury that cannot fully be compensated by an award of monetary damages.

9 74. Pursuant to 42 U.S.C. §§ 1983 and 1988, Barber is entitled to declaratory judgment.

10 75. Barber found it necessary to engage the services of private counsel to vindicate her  
11 rights. Barber is therefore entitled to an award of attorneys' fees pursuant to 42 U.S.C. § 1988.

### 12 **THIRD CLAIM FOR RELIEF**

#### 13 **Violation of the Fourteenth Amendment Right to Due Process**

#### 14 **42 U.S.C. § 1983**

#### 15 **(By Barber against the Board, Benjamin, and Miller)**

16 76. Barber incorporates by reference the allegations in the preceding paragraphs as if fully  
17 set forth herein.

18 77. The Board, Benjamin, and Miller, acting under color of state law failed to follow the  
19 Brown Acts requirement to remove Napoleon, a disrupter, from the meeting.

20 78. As a result of Defendants' failure to follow state law, Barber was deprived of her  
21 constitutional rights of Freedom of Speech and Freedom to Petition her Government.

22 79. A procedural due process claim has two distinct elements: (1) a deprivation of a  
23 constitutionally protected liberty or property interest, and (2) a denial of adequate procedural  
24 protections. (*Brewster v. Board of Educ. of Lynwood Unified School Dist.* (9th Cir. 1998) 149 F.3d 971,  
25 982.)

26 80. The Board, Benjamin, and Miller, acting under color of state law, failed to follow the  
27 requirements under the Brown Act to remove those who are disrupting the meeting.

28 81. As a direct and proximate consequence of the Board, Benjamin, and Miller's violations

1 of Barber's federal civil rights under 42 U.S.C. § 1983 and the Fourteenth Amendment, Barber has  
2 suffered and will suffer irreparable injury that cannot fully be compensated by an award of monetary  
3 damages.

4 82. Declaratory relief is proper here because Barber is informed and believes that the Board,  
5 Benjamin, and Miller will deny that they have violated, and will continue to violate, Barber's Due  
6 Process rights.

7 83. Pursuant to 42 U.S.C. §§ 1983 and 1988, Barber is entitled to declaratory relief.

8 84. Barber found it necessary to engage the services of private counsel to vindicate her  
9 rights under the law. Barber is therefore entitled to an award of attorneys' fees pursuant to 42 U.S.C. §  
10 1988.

#### 11 **FOURTH CLAIM FOR RELIEF**

##### 12 **Violation of the Brown Act**

##### 13 **Cal. Gov. Code § 54950, *et seq.***

##### 14 **(By Barber against the Board, Benjamin, and Miller)**

15 85. Barber incorporates by reference the allegations in the preceding paragraphs as if fully  
16 set forth herein.

17 86. The Board, Benjamin, and Miller have violated, and will continue to violate, the rights  
18 of Barber and the public to participate in Board meetings under the Ralph M. Brown Act by failing to  
19 remove individuals who are disrupting the meeting by interrupting those who are exercising their right  
20 to petition their government.

21 87. The Board Benjamin, and Miller will continue to violate these rights, and Barber and the  
22 general public will suffer irreparable harm.

23 88. California Gov. Code § 54957.9 states that when "any meeting is willfully interrupted  
24 by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and  
25 *order cannot be restored by the removal of individuals who are willfully interrupting the meeting*, the  
26 members of the legislative body conducting the meeting may order the meeting room cleared and  
27 continue in session."

28 89. The Board, Benjamin, and Miller failed to follow the requirements under the Brown Act

1 to remove those who are disrupting the meeting.

2 90. As a direct and proximate consequence of the Board, Benjamin, and Miller's violations  
3 of Barber's right to petition the government under the Brown Act, Barber has suffered and will suffer  
4 irreparable injury that cannot fully be compensated by an award of monetary damages.

5 91. Declaratory relief is proper here because Barber is informed and believes that the  
6 College, Trustees, Benjamin, and Mill will deny that it has violated, and will continue to violate, the  
7 Ralph M. Brown Act.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Barber respectfully pray that the Court:

- 10 i. Issue a declaratory judgment that Defendants' actions complained of herein:  
11 a. Violate the First Amendment to the United States Constitution;  
12 b. Violate the Fourteenth Amendment to the United States Constitution;  
13 c. Violate the Ralph M. Brown Act, Cal. Gov. Code Section 54950, *et seq.*;  
14 ii. For an award of attorneys' fees incurred in bringing this Action against Defendants,  
15 pursuant to 42 U.S.C. § 1988, Cal. Code Civ. Proc. § 1021.5, Cal. Govt. Code § 54960.5, and any  
16 other applicable provisions of law;  
17 iii. For costs of suit incurred herein; and  
18 iv. For such other and further relief as the Court deems just and proper.

19 Respectfully submitted,

20 Date: August 19, 2019

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**DEMAND FOR JURY TRIAL**

Barber demands trial by jury on all claims and issues in this action so triable.

Date: August 19, 2019

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**VERIFICATION OF COMPLAINT**

I, Celeste Barber, declare as follows:

1. I am a Plaintiff in this Action.

2. I have read the foregoing Complaint and know the contents thereof. I have personal knowledge of myself, my activities, and my intentions, including those set out in the foregoing Complaint, and if called on to testify I would competently testify as to the matters stated herein.

3. On all other matters stated in the Complaint, I am informed and believe them to be true.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on August 16, 2019.

DocuSigned by:  
  
742AAE7A388C407...

Celeste Barber