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18 SUPERIOR COURT OF THE STATE OF CALIFORNIA

19 COUNTY OF ALAMEDA

20 GENERAL JURISDICTION (UNLIMITED)

21 THE PEOPLE OF THE STATE OF
22 CALIFORNIA, *ex rel.* CAROL
23 SPOONER, et al.,

24 Plaintiffs,

25 vs.

26 PACIFICA FOUNDATION, a
27 California non-profit public benefit
28 corporation and charitable trust, et al.,

Defendants.

Case No. 831252-3

**EX PARTE APPLICATION FOR
TEMPORARY RESTRAINING ORDER AND
ORDER TO SHOW CAUSE RE:
PRELIMINARY INJUNCTION; AND
SUPPORTING DECLARATION OF DANIEL
ROBERT BARTLEY RE: ADVANCE
NOTIFICATION**

Hearing Date: Monday, February 26, 2001

Hearing Time: 1:45 p.m.

Judge: Hon. Judith D. Ford

Department: 31

Location: U.S. Post Office Building
201 13th Street
Oakland, CA 94607
Tel 510 208 3949

1 **EX PARTE APPLICATION**

2 Plaintiffs, The People of the State of California *ex rel* Carol Spooner, et al., apply for a
3 temporary restraining order restraining defendants The Pacifica Foundation, Mary Frances Berry,
4 June Makela, Frank Millsbaugh, Andrea Cisco, Ken Ford, Rob Robinson, David Acosta, Michael
5 Palmer, Robert Farrell, Aaron Kriegel, Peter Bramson, Karolyn van Putten, Tomas Moran,
6 Wendell Johns, Leslie Cagan, Valrie Chambers, Bertram Lee, Beth Lyons, John Murdock, Lynn
7 Chadwick, and their agents, servants, and employees, from:

- 9 LXIV1 amending the Pacifica Foundation Bylaws;
- 10 2 appointing new directors of Pacifica Foundation;
 - 11 3 removing current directors of the Pacifica Foundation;
 - 12 4 moving the principle place business of Pacifica Foundation, including the
13 financial offices, from its current location in Los Angeles County, California;
 - 14 5 destruction of relevant documents, including any financial documents; and
 - 15 6. taking any substantial actions affecting the Pacifica Foundation assets,
16 governance, management, and operations;
 - 17
 - 18

19 and for an order to show cause why a preliminary injunction should not be granted enjoining
20 defendants and their agents, servants, and employees, from committing or performing the above
21 described acts during the pendency of this action.

22 This application is made on the grounds that defendants, before this matter can be heard
23 on notice: (1) are threatening to amend the Pacifica Foundation bylaws and to appoint and/or
24 remove directors from the board of directors at a board meeting scheduled for **March 2-4, 2001**,
25 (2) are making preparations to remove the principle offices of the Foundation from Los Angeles
26 County to Washington, D.C., on **February 28, 2001, or March 1, 2001**, (3) and have fired and
27 threaten to continue to fire Pacifica management and staff, including the corporate controller and
28 the General Manager and Program Director of radio station WBAI in New York, and have

1 “banned” station personnel from the WBAI premises and changed the locks, (4) and plaintiffs
2 have reason to believe that relevant financial documents are being or have been destroyed at the
3 financial offices; and on the further grounds that plaintiffs are entitled to the relief requested in
4 the Complaint; the commission of these acts during the litigation would produce waste or great
5 or irreparable harm to the rights of the plaintiffs; defendants are doing and threatening to do acts
6 in violation of the rights of plaintiffs tending to render judgment ineffectual; pecuniary
7 compensation would not afford adequate relief, and the obligations sought to be enforced arise
8 from a trust; and on the further ground that great *and/or* irreparable injury will result to plaintiffs
9 before the matter can be heard on notice.
10

11 Plaintiffs have not previously applied to any judicial officer for similar relief.
12

13 This application is based on the complaint on file in this case, and on the Declaration re
14 Advance Notice of plaintiffs’ counsel, and the supporting Declarations of Daniel Robert Bartley,
15 Carol Spooner, Alice Chan, David Adelson, and Andrew Norris, Memorandum of Points and
16 Authorities filed herewith, and such other evidence as may, in the interim, surface and be
17 produced at the hearing.
18

19
20 Dated: February 23, 2001

Respectfully submitted,
21

22
23 _____
DANIEL ROBERT BARTLEY
Attorney for Plaintiffs
24

25 **SUPPORTING DECLARATION OF DANIEL ROBERT BARTLEY**
26 **RE ADVANCE NOTIFICATION**

27 I, Daniel Robert Bartley, declare: 1. I am an attorney at law duly admitted to
28 practice before all the courts of the State of California and lead counsel of record herein for
plaintiffs in the above-described action.

