

1 Daniel Robert Bartley, SBN 79586
Bartley Law Offices
2 Post Office Box 686
Novato, CA 94948-0686
3 Tel 415/898-4741 · Fax 415/898-4841
4 E-mail DanielBartleyLaw@aol.com

5 Attorney for Plaintiffs
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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF ALAMEDA

10 GENERAL JURISDICTION (UNLIMITED)

11
12 THE PEOPLE OF THE STATE OF
CALIFORNIA, *ex rel.* CAROL SPOONER,
13 et al.,

14 Plaintiffs,

15 vs.

16 PACIFICA FOUNDATION, a California
non-profit public benefit corporation and
17 charitable trust, et al.,

18 Defendants
19
20

CASE NO. 821252-3

PLAINTIFFS' OBJECTIONS TO
EVIDENCE SUBMITTED BY
DEFENDANTS IN OPPOSITION TO
PRELIMINARY INJUNCTION

Hearing Date: April 10, 2001

Hearing Time: 9:00 a.m.

Judge: Hon. Judith D. Ford

Department: 31

Location: U.S. Post Office Building

201 13th Street

Oakland, CA 94607

Tel 510 208 3949
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1 Plaintiffs The People of the State of California *ex rel.* Carol Spooner, et al, submit the
 2 following objections to the evidence submitted by defendants in opposition to the Order to
 3 Show Cause Re Preliminary Injunction.

DEFENDANTS' EVIDENCE	OBJECTIONS TO DEFENDANTS' EVIDENCE
1. Declaration of Jacqueline L. Johnson, ¶ 5	1. Hearsay (Evid. Code §1200)
2. Declaration of Captain Will Pittman, ¶ 3 (beginning with “concerns of Pacifica employees” and ending with “reported threats of physical harm.”)	2. Hearsay (Evid. Code §1200)
3. Declaration of Captain Will Pittman, ¶ 4	3. Violates Secondary (Best) Evidence Rule (Evid. Code §1523)
4. Declaration of Garland Ganter, entire Declaration	4. Irrelevant; lack of foundation and incompetent, in that Mr. Ganter has not averred that the facts alleged are within his personal knowledge. (Evid. Code §§210, 400 - 403)
5. Declaration of James F. Peterson, ¶ 4	5. Irrelevant. (Evid. Code §210)
6. Declaration of Nancy Brown, ¶ 4, and entire attachment.	6. Irrelevant, Hearsay, Violates Secondary (Best) Evidence Rule, Hearsay. (Evid. Code §§ 210, 1200, 1523)
7. Declaration of John M. Murdock, entire Declaration	7. Lack of foundation and incompetent in that Mr. Murdock has not averred that the facts alleged are within his personal knowledge (Evid. Code §210)
8. Declaration of John M. Murdock, ¶ 10, (the words “from individuals purporting to support Plaintiffs’ position in this lawsuit.”) Exhibit F.	8. Irrelevant, Violates Secondary (Best) Evidence Rule. (Evid. Code §§ 210, 1523) Mischaracterizes the evidence, the documents speak for themselves, there is no reference to this lawsuit in any of the documents attached as Exhibit F.
9. Declaration of John M. Murdock, ¶ 10 (beginning with the words “Similar individuals” and ending with “persons uninvolved with Pacifica Foundation.”)	9. Hearsay. (Evid. Code § 1200)
10. Declaration of John M. Murdock, ¶ 10, (beginning with the words “Additionally,	10. Irrelevant. (Evid. Code §210)

DEFENDANTS' EVIDENCE	OBJECTIONS TO DEFENDANTS' EVIDENCE
offensive and harassing” and ending with “on the Internet.” Exhibit G.	
11. Declaration of John M. Murdock ¶ 10, (beginning with the words “Further, several websites” and ending with the words “donate them to support Plaintiffs’ lawsuit.”	11. Irrelevant. (Evid. Code §210)
12. Request for Judicial Notice, Declaration of David Acosta, ¶¶ 3, 4 5	12. Hearsay, asserts legal conclusions. (Evid. Code §§ 210; 800; 1200)
13. Request for Judicial Notice, Declaration of David Acosta, ¶¶ 7 and 8.	13. Hearsay, violates Secondary (Best) Evidence Rule (Evid. Code §§ 1200, 1523)
14. Request for Judicial Notice, Declaration of Mary Frances Berry, ¶ 4(beginning with the words “During the time” and ending with “other than the Board members themselves.”)	14. Asserts legal conclusion. (Evid. Code §800)
15. Request for Judicial Notice, Declaration of Mary Frances Berry, ¶¶ 5, 6.	15. Asserts legal conclusions; hearsay; (Evid. Code §§ 800; 1200)
16. Request for Judicial Notice, Declaration of Mary Frances Berry, ¶ 7, (beginning with the words “I am informed and believe” and ending with “whether they affected LABs or not.”	16. Hearsay; violates Secondary (Best) Evidence Rule. (Evid. Code 1200, 1523)
17. Request for Judicial Notice, Declaration of Mary Frances Berry, ¶ 8, and Exhibits K and L	17. Hearsay, asserts legal conclusions. (Evidence Code §§ 800; 1200)
18. Request for Judicial Notice, Declaration of Mary Frances Berry, ¶ 9.	18. Asserts legal conclusions. (Evid. Code §800)
19. Request for Judicial Notice, Declaration of Mary Frances Berry, ¶ 11, (beginning with the words “a comparison of” and ending with “the number of at-large directors who may serve on the Board.”)	19. Hearsay; Violates the Secondary (Best) Evidence Rule. (Evidence Code §§ 1200, 1523)
20. Request for Judicial Notice, Declaration of Mary Frances Berry, ¶ 12 (beginning with the words “In fact, the notices did provide notice of proposed language changes.”)	20. Hearsay; Violates the Secondary (Best) Evidence Rule. (Evid. Code §§1200, 1523)
21. Request for Judicial Notice, Declaration of Mary Frances Berry, ¶ 13. (Beginning with the words “The election of Bertram Lee” and	21. Hearsay; Violates the Secondary (Best) Evidence Rule; asserts legal conclusions.

DEFENDANTS' EVIDENCE	OBJECTIONS TO DEFENDANTS' EVIDENCE
ending with "or the number of 'at-large' directors."	(Evid. Code §800, 1200, 1523)
22. Request for Judicial Notice, Declaration of Lynn Chadwick, Exhibits S and T.	22. Irrelevant. (Evid. Code 210)
23. Request for Judicial Notice, Declaration of John Crigler. entire declaration. The copy provided begins with ¶ 4 and contains no statement that the facts are within the declarants personal knowledge, or on what basis the allegations are made.	23. Lack of foundation, incompetent. (Evid. Code §§400-403)
24. Request for Judicial Notice, Declaration of John Crigler, ¶ 10.	24. Asserts a legal conclusion; hearsay. (Evid. Code §800, 1200)
25. Request for Judicial Notice, Declaration of John Crigler, ¶ 11 (beginning with the words "No provision of Pacifica's Articles of Incorporation" and ending with "approve changes in Pacifica's bylaws.")	25. Asserts a legal conclusion. (Evid. Code §800)
26. Request for Judicial Notice, Declaration of Ambrose I. Lane, Sr., ¶ 2.	26. Asserts a legal conclusion. (Evid. Code §800)
27. Request for Judicial Notice, Declaration of Frank Millspaugh, ¶ 2.	27. Asserts legal conclusions. (Evid. Code §800)
28. Request for Judicial Notice, Declaration of Frank Millspaugh, ¶ 8, (beginning with the words "The Bylaws required" and ending with "or customarry to have a secret ballot.")	28. Asserts a legal conclusion; Violates Secondary (Best) Evidence Rule. (Evid. Code §§ 800, 1523)
29. Request for Judicial Notice, Declaration of Jack O'Dell, ¶ 3 (beginning with the words "Under Pacifica's Bylaws" and ending with "Bylaw amendments directly affected the LABs.")	29. Asserts a legal conclusion. (Evid. Code §800)
30. Request for Judicial Notice, Declaration of Jack O'Dell, ¶ 5, Exhibit B.	30. Irrelevant. (It is irrelevant who elected directors in 1975, as the relevant bylaws provisions for election of directors were adopted in 1984.) (Evid. Code §210)
31. Request for Judicial Notice, Declaration of Jack O'Dell, ¶ 6.	31. Asserts legal conclusions. (Evid. Code §800)
32. Request for Judicial Notice, Declaration of Jack O'Dell, ¶ 7 (beginning with the words	32. Irrelevant. (Evid. Code §210)

DEFENDANTS' EVIDENCE	OBJECTIONS TO DEFENDANTS' EVIDENCE
<p>“While I served on the Board” and ending with “by a majority vote of the members of the Board itself” and beginning with the words “This sentence also confirms” and ending with “rose was to nominate, not elect.”)</p>	
<p>33. Request for Judicial Notice, Declaration of Jack O’Dell, ¶7, Exhibits F and G.</p>	<p>33. Incomplete documents.</p>
<p>34. Request for Judicial Notice, Declaration of Jack O’Dell, ¶ 8.</p>	<p>34. Asserts legal conclusions. (Evid. Code §800)</p>
<p>35. Request for Judicial Notice, Declaration of Jack O’Dell, ¶ 8, Exhibit I.</p>	<p>35. Irrelevant. (Evid. Code §210)</p>
<p>36. Request for Judicial Notice, Declaration of Jack O’Dell, ¶ 8, (beginning with the words “For example, attached hereto as Exhibit J” and ending with “be seated as members of the board.”</p>	<p>36. Asserts legal conclusions. (Evid. Code §800.)</p>
<p>37. Request for Judicial Notice, Declaration of Jack O’Dell, ¶ 9.</p>	<p>37. Asserts legal conclusions. (Evid. Code §800)</p>
<p>38. Request for Judicial Notice, Declaration of Jack O’Dell, ¶ 10.</p>	<p>39. Violates Secondary (Best) Evidence Rule; asserts legal conclusions. (Evid. Code §§ 800, 1523)</p>
<p>40. Request for Judicial Notice, Declaration of Jack O’Dell, ¶13 (the words “The board could, by way of a motion, change the number of at-large directors that served on the Board.”)</p>	<p>40. Asserts legal conclusions. (Evid. Code §800)</p>
<p>41. Request for Judicial Notice, Declaration of Daniel Rapaport, and all Exhibits thereto.</p>	<p>41. Irrelevant; asserts legal conclusions. The legal conclusions of Mr. Rapaport and the legal opinions of Mr. Siegel are not relevant to this case. (Evid. Code §210, 800)</p>

Dated: April 5, 2001

DANIEL ROBERT BARTLEY, ESQ.
Attorney for Plaintiffs/Relators

1 **PROOF OF SERVICE**

2 The undersigned declares he/she is employed in the County of Marin, State of
3 California, by Daniel Robert Bartley Law Offices, P.O. Box 686, Novato, CA 94948-0686. I
4 am over the age of 18 and not a party to this action. On today’s date, I served true and correct
5 copies of **“PLAINTIFFS’ OBJECTIONS TO EVIDENCE SUBMITTED BY
DEFENDANTS IN OPPOSITION TO PRELIMINARY INJUNCTION”** by placing such
in sealed envelopes addressed as follows:

6 Daniel Rapaport, Esq.
7 Wendel, Rosen, Black & Dean, LLP
8 1111 Broadway, 24th Floor
9 Oakland, CA 94607
10 Tel 510 834 6600 Fax 510 834 1928
11 E-mail drapaport@wendel.com

Daly D. E. Temchine, Esq.
Epstein, Becker & Green, P.C.
1227 25th Street, N.W., Suite 700
Washington, D.C. 20037-1175
Tel 202 861-1837 Fax 202 296 2882
E-mail Dtemchine@ebglaw.com

10 Kenneth N. Frucht, Esq.
11 660 Market Street, Suite 300
12 San Francisco, CA 94104
13 Tel 415 392 4844 Fax 415 392 7973
14 E-mail Kfrucht@aol.com

James Wagstaffe, Esq.
Kerr & Wagstaffe, LLP
100 Spear Street, Suite 1800
San Francisco, CA 94105
Tel 415 371 8500 Fax 415 371 0500
E-mail Wagstaffe@KerrWagstaffe.com

14 Eugene Majeski, Esq.
15 Ropers & Majeski
16 1001 Marshal Street
17 Redwood City, CA 94063
18 Tel 650 364 8200 Fax 650 367 0997
19 E-Mail Emajeski@Ropers.com

Taylor S. Carey, Special Asst. AG
Office of the Attorney General
1300 I Street, 17th Floor
Sacramento, CA 94244
Tel 916 324 7562 Fax 916 322 0206
E-mail CareyT@hdcdojnet.state.ca.us

18 I personally served such document upon opposing defendants’ local counsel, Daniel
19 Rapaport.

20 I mailed, via U.S. mail, first-class postage prepaid, this document to the other listed
21 counsel.

22 I declare under penalty of perjury, under the laws of the State of California, that the
23 foregoing is true and correct and that this declaration was executed this 5th day of April,
24 2001, at Novato, Marin County, California.

25
26 _____
Daniel Robert Bartley