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IN THE UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

LESLIE DUTTON and AMERICAN ASSOCIATION OF WOMEN, INC.,

Plaintiffs,

v.

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT and LEROY D. BACA, in his official capacity as Sheriff of Los Angeles County,

Defendants.

Case No. CV10 0595 VBF (Ex)

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

DEMAND FOR JURY TRIAL

Plaintiffs LESLIE DUTTON and AMERICAN ASSOCIATION OF WOMEN, INC. hereby sue Defendants LOS ANGELES COUNTY SHERIFF'S DEPARTMENT and LEROY D. BACA for violation of the First and Fourteenth Amendments to the Constitution of the United States and allege as follows:

JURISDICTION AND VENUE

1. This Complaint for declaratory and injunctive relief is asserted by Plaintiffs LESLIE DUTTON and AMERICAN ASSOCIATION OF WOMEN, INC. pursuant to 42 U.S.C. §§ 1983 and 1988. The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1343(3), and 2201.

2. Venue in this Court is proper pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to the claim at issue occurred in this judicial district and Defendants reside within this judicial district.

PARTIES

3. Plaintiff LESLIE DUTTON ("DUTTON") is the President of Plaintiff AMERICAN ASSOCIATION OF WOMEN, INC. Plaintiff DUTTON also is the producer and host of the public affairs television program known as Full Disclosure Network.

4. Plaintiff AMERICAN ASSOCIATION OF WOMEN, INC. ("AMERICAN ASSOCIATION OF WOMEN") is a corporation incorporated under the laws of the State of California. Plaintiff AMERICAN ASSOCIATION OF WOMEN operates as a not-for-profit, educational organization under Section 501(c)(3) of the Internal Revenue Code. Plaintiff AMERICAN ASSOCIATION OF WOMEN disseminates the public affairs television program known as Full Disclosure Network.

5. Defendant LOS ANGELES COUNTY SHERIFF'S DEPARTMENT is, and at all relevant times herein was, a law enforcement agency organized and existing under the Los Angeles County Code, the charter of the County of Los Angeles and the laws of the State of California.

6. Defendant LEROY D. BACA ("BACA") is, and at all relevant times herein was, the Sheriff of Los Angeles County and an officer, agent, and/or employee of Defendant LOS ANGELES COUNTY SHERIFF'S DEPARTMENT. Defendant BACA is being sued in his official capacity only.

FACTUAL BACKGROUND

7. Full Disclosure Network is an Emmy Award winning public affairs television program available on public access cable television channels and streamed over the Internet via the program's website, www.FullDiscloure.net. Full Disclosure Network features videotaped interviews with government officials, community leaders, experts, and other persons of interest, as well as commentary by Plaintiff DUTTON. It also features video news blogs that are made available to the public on Full Disclosure Network's website.

8. Plaintiff LESLIE DUTTON is the producer and host of Full Disclosure Network's programs and video blogs.

9. Full Disclosure Network's programs and video news blogs cover a wide variety of subjects, including national issues, such as border security and terrorism, as well as state and local issues such as California Assembly proceedings, recall elections, local police practices, public corruption, gangs, and education.

10. In 2009, Plaintiffs DUTTON and AMERICAN ASSOCIATION OF WOMEN began a new, multi-episode series of programs for Full Disclosure Network concerning certain benefits paid by the County of Los Angeles to state superior court judges serving in the County of Los Angeles. These benefits are above and beyond the salary and benefits the superior court judges receive as compensation from the State of California for serving as state judicial officials.

The new series has been featured prominently on the Full Disclosure Network website and has been the subject of numerous press releases and email updates issued by Plaintiffs DUTTON and AMERICAN ASSOCIATION OF WOMEN.

11. In this new series, entitled "Judicial Benefits and Court Corruption," Plaintiffs DUTTON and AMERICAN ASSOCIATION OF WOMEN have been very critical of the County of Los Angeles for paying supplemental benefits to the state superior court judges serving in the County of Los Angeles.

12. Since approximately April 2009, Plaintiffs DUTTON and AMERICAN ASSOCIATION OF WOMEN have been attempting to interview Mr. Richard I. Fine, a controversial, disbarred California attorney, for Full Disclosure Network's "Judicial Benefits and Court Corruption" series. Mr. Fine, who describes himself in court pleadings as being "known for fighting government corruption and misappropriation of funds by state, county and municipal governments" and claims to have been "active in fighting judicial corruption" over the last ten years, has been and continues to be a longstanding and outspoken critic of the county-provided judicial benefits.

13. Since on or about March 4, 2009, Mr. Fine has been incarcerated indefinitely in the Men's Central Jail of Defendant LOS ANGELES COUNTY SHERIFF'S DEPARTMENT pursuant to a civil contempt order entered by the state superior court. Mr. Fine's continuing, indefinite incarceration is related, at least in part, to various legal arguments he has asserted with respect to the county-provided benefits. Mr. Fine has initiated a host of legal actions challenging his continuing, indefinite incarceration and the county-provided benefits. At a minimum, Mr. Fine's legal claims and activities and his continuing, indefinite

incarceration for civil contempt make him newsworthy and a person of public interest.

14. On information and belief, Mr. Fine has not been charged with or convicted of any crime and would be released if he cured himself of the civil contempt found by the superior court.

15. Also on information and belief, Mr. Fine, who is seventy (70) years old and is in failing health, does not present a disciplinary problem or security risk to Defendant LOS ANGELES COUNTY SHERIFF'S DEPARTMENT or the Men's Central Jail.

16. In addition to reporting on the county-provided judicial benefits, Plaintiff DUTTON and AMERICAN ASSOCIATION OF WOMEN also have chronicled the continuing, indefinite incarceration of Mr. Fine as part of their "Judicial Benefits and Court Corruption" series and accompanying video news blogs. Plaintiffs DUTTON and AMERICAN ASSOCIATION OF WOMEN also have produced a related series of video news blogs regarding Mr. Fine entitled "Fight for Freedom & Judicial Benefits." Plaintiffs DUTTON and AMERICAN ASSOCIATION OF WOMEN have been highly critical of the continuing, indefinite incarceration of Mr. Fine.

17. On information and belief, Defendants LOS ANGELES COUNTY SHERIFF'S DEPARTMENT and BACA are aware of Plaintiffs DUTTON's and AMERICAN ASSOCIATION OF WOMEN's "Judicial Benefits and Court Corruption" series and accompanying video news blogs on Full Disclosure Network and their criticism of the county-provided judicial benefits. On information and belief, Defendants LOS ANGELES COUNTY SHERIFF'S DEPARTMENT and BACA also are aware of Plaintiffs DUTTON's and

AMERICAN ASSOCIATION OF WOMEN's coverage and criticism of Mr. Fine's continuing, indefinite incarceration for civil contempt.

18. Plaintiffs DUTTON and AMERICAN ASSOCIATION OF WOMEN have repeatedly requested permission from Defendants LOS ANGELES COUNTY SHERIFF'S DEPARTMENT and BACA to interview Mr. Fine at the Men's Central Jail for Full Disclosure Network's "Judicial Benefits and Court Corruption" series and related video blogs. Plaintiffs DUTTON and AMERICAN ASSOCIATION OF WOMEN seek to interview Mr. Fine to discuss his various legal claims and his continuing, indefinite confinement, as well as to observe Mr. Fine's physical condition and the conditions of his confinement.

19. In addition, Mr. Fine wishes to be interviewed by Plaintiffs DUTTON and AMERICAN ASSOCIATION OF WOMEN.

20. Defendants LOS ANGELES COUNTY SHERIFF'S DEPARTMENT and BACA have repeatedly denied Plaintiff DUTTON's and AMERICAN ASSOCIATION OF WOMEN's requests to interview Mr. Fine at the Men's Central Jail. Defendant LOS ANGELES COUNTY SHERIFF'S DEPARTMENT's and BACA's denials of Plaintiff DUTTON'S and AMERICAN ASSOCIATION OF WOMEN's requests to interview Mr. Fine at the Men's Central Jail have been arbitrary and capricious, and, on information and belief, also have been unlawfully based, at least in part, on Plaintiff DUTTON'S and AMERICAN ASSOCIATION OF WOMEN's coverage and criticism of Mr. Fine's continuing, indefinite incarceration for civil contempt.

21. Plaintiffs DUTTON and AMERICAN ASSOCIATION OF WOMEN were first denied permission to interview Mr. Fine in April 2009. At that time, Defendant LOS ANGELES COUNTY SHERIFF'S DEPARTMENT Deputy

Johnnie Jones informed Plaintiffs DUTTON and AMERICAN ASSOCIATION OF WOMEN that the request was denied because "the judge said so," although Plaintiffs DUTTON and AMERICAN ASSOCIATION OF WOMEN were not provided with a copy of any order prohibiting interviews of Mr. Fine, and Plaintiffs DUTTON and AMERICAN ASSOCIATION OF WOMEN have not been able to identify any such ruling in the court record.

22. On or about September 11, 2009, Plaintiffs DUTTON and AMERICAN ASSOCIATION OF WOMEN made a second request to interview Mr. Fine at the Men's Central Jail. In response, Defendant LOS ANGELES COUNTY SHERIFF'S DEPARTMENT Spokesperson Steve Whitmore told Plaintiffs DUTTON and AMERICAN ASSOCIATION OF WOMEN that the request was denied because it was the policy of Defendant BACA not to allow interviews of Mr. Fine.

23. On or about September 12, 2009, Plaintiffs DUTTON and AMERICAN ASSOCIATION OF WOMEN received an email from Mr. Whitmore stating, "The Sheriff has respectfully declined your request to interview Mr. Fine at this time. Thank you for your interest. And I'm sure we will talk soon." The email indicated that it also had been sent to Defendant BACA and Defendant BACA's Executive Assistant, Thomas M. Laing.

24. On or about September 14, 2009, Plaintiffs DUTTON and AMERICAN ASSOCIATION OF WOMEN made a third request to interview Mr. Fine via an intermediary. The request was denied.

25. On or about September 17, 2009, Plaintiffs DUTTON and AMERICAN ASSOCIATION OF WOMEN made a fourth request to interview Mr. Fine at the Men's Central Jail by contacting Defendant BACA's Executive

Assistant, Mr. Laing, by telephone. Mr. Laing advised Plaintiffs DUTTON and AMERICAN ASSOCIATION OF WOMEN that he would speak to Defendant BACA about the request.

26. When Plaintiffs DUTTON and AMERICAN ASSOCIATION OF WOMEN did not receive a response to their September 17, 2009 request to Mr. Laing, they left a voice mail message for Defendant LOS ANGELES COUNTY SHERIFF'S DEPARTMENT Spokesperson Whitmore on or about September 23, 2009, in which they made a fifth request to interview Mr. Fine.

27. On or about September 24, 2009, Defendant LOS ANGELES COUNTY SHERIFF'S DEPARTMENT Spokesperson Whitmore left the following voice mail message for Plaintiffs DUTTON and AMERICAN ASSOCIATION OF WOMEN:

> Hi, Leslie. This is Steve Whitmore. I am unfortunately the bearer of bad news. The Sheriff has repeatedly told me that that will not happen, and so your request has been denied. And . . . I just talked to him yesterday about this and he said again, he said, "No, that's not going to happen." So it's not going to happen, Leslie. And I'm sorry to have to deliver that to you but that is what the Sheriff's decision is and it's his discretion. And I know that it's bad news, and I'm sorry for that, but that is a final decision. Thank you and stay well. Bye.

28. On October 26, 2009, Plaintiffs DUTTON and AMERICAN ASSOCIATION OF WOMEN sent a letter to Defendant BACA regarding the repeated denials of their requests to interview Mr. Fine.

29. On November 6, 2009, Plaintiffs DUTTON and AMERICAN ASSOCIATION OF WOMEN sent a follow-up letter to Defendant BACA regarding the repeated denials of their requests to interview of Mr. Fine.

30. Plaintiffs DUTTON and AMERICAN ASSOCIATION OF WOMEN received no response from either Defendant LOS ANGELES COUNTY

SHERIFF'S DEPARTMENT or Defendant BACA to their letters of October 26, 2009 and November 6, 2009.

31. In contrast to the repeated denials of the requests of Plaintiffs DUTTON and AMERICAN ASSOCIATION OF WOMEN to interview Mr. Fine at the Men's Central Jail, a reporter for the *Los Angeles Times*, Victoria Kim, was allowed to interview Mr. Fine at the Men's Central Jail on or about May 22, 2009.

32. On June 7, 2009, the *Los Angeles Times* published an account of Ms. Kim's interview of Mr. Fine at the Men's Central Jail. *See* Victoria Kim, "Lawyer Takes a Stand From His Cell; Jailed for contempt because he won't discuss his personal finances, he alleges judicial bias," *Los Angeles Times*, June 7, 2009 at A31. The *Los Angeles Times* has not reported on the continued, indefinite incarceration of Mr. Fine as frequently or as critically as have Plaintiffs DUTTON and AMERICAN ASSOCIATION OF WOMEN.

33. When Plaintiffs DUTTON and AMERICAN ASSOCIATION OF WOMEN reported on the Full Disclosure Network that the *Los Angeles Times* reporter "apparently sneaked into" the Men's Central Jail to interview Mr. Fine, Defendant LOS ANGELES COUNTY SHERIFF'S DEPARTMENT Spokesperson Whitmore sent Plaintiff DUTTON an email on or about September 30, 2009 strongly denying the report and asserting that Ms. Kim "got lucky":

> Leslie:
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> You need to know upon checking, Ms. Kim did not sneak in. She just apparently got lucky. Your reporting is wrong and I would have told you this if you had bothered to check back with me.

34. According to records subsequently produced by Defendant LOS ANGELES COUNTY SHERIFF'S DEPARTMENT in response to a California Public Records Act request, when Ms. Kim went to the Men's Central Jail to

interview Mr. Fine, she filled out a Men's Central Jail visitor's pass identifying herself as a representative of the media and an employee of the *Los Angeles Times*. On information and belief, Ms. Kim also wore press credentials during the interview, and deputies of Defendant LOS ANGELES COUNTY SHERIFF'S DEPARTMENT were aware of Ms. Kim's presence.

35. On information and belief, Defendants LOS ANGELES COUNTY SHERIFF'S DEPARTMENT and BACA also have allowed members of the media to videotape interviews of prisoners incarcerated in the Men's Central Jail. On information and belief, Defendants LOS ANGELES COUNTY SHERIFF'S DEPARTMENT and BACA allowed ABC's 20/20 producer Terri Whitcraft to videotape an interview of an inmate at the Men's Central Jail in September 2009.

36. The refusal of Defendants LOS ANGELES COUNTY SHERIFF'S DEPARTMENT and BACA to allow Plaintiffs DUTTON and AMERICAN ASSOCIATION OF WOMEN to interview Mr. Fine at the Men's Central Jail has harmed and is harming the ability of Plaintiffs DUTTON and AMERICAN ASSOCIATION OF WOMEN to obtain and disseminate information to the public about Mr. Fine's various legal claims; his continuing, indefinite confinement; his physical condition; and the conditions of his confinement. It also has harmed and is harming the ability of Plaintiffs DUTTON and AMERICAN ASSOCIATION OF WOMEN to report on and provide commentary about Mr. Fine's claims, confinement, and condition, and to otherwise carry out their public interest mission.

37. There is no reasonably adequate, alternative way for Plaintiffs DUTTON and AMERICAN ASSOCIATION OF WOMEN to interview Mr. Fine

for Full Disclosure Network's programs and video news blogs other than to interview him at the Men's Central Jail.

COUNT I

(Violation of the First Amendment - 42 U.S.C. § 1983)

38 Plaintiffs hereby reallege Paragraphs 1 through 37as if fully stated herein.

39. Plaintiff DUTTON and AMERICAN ASSOCIATION OF WOMEN enjoy the rights of Freedom of Speech and Freedom of the Press, as guaranteed by the First and Fourteenth Amendments to the U.S. Constitution.

40. Defendant BACA, acting within the course and scope of his authority and under color of state law, has deprived and is continuing to deprive Plaintiffs DUTTON and AMERICAN ASSOCIATION OF WOMEN of their rights under the U.S. Constitution by denying their requests to interview Mr. Fine at the Men's Central Prison.

41. As the Sheriff of Los Angeles County, Defendant BACA has final policymaking authority with respect to the requests of Plaintiffs DUTTON and AMERICAN ASSOCIATION OF WOMEN to interview Mr. Fine at the Men's Central Prison, and Defendant BACA's denial of Plaintiffs DUTTON's and AMERICAN ASSOCIATION OF WOMEN's requests constitutes official policy of Defendant LOS ANGELES COUNTY SHERIFF'S OFFICE.

42. Defendant LOS ANGELES COUNTY SHERIFF'S OFFICE's policy of denying Plaintiffs DUTTON's and AMERICAN ASSOCIATION OF WOMEN's requests to interview Mr. Fine at the Men's Central Prison amounts to deliberate indifference to Plaintiffs DUTTON'S and AMERICAN ASSOCIATION OF WOMEN's rights under the First and Fourteenth Amendments to the U.S.

Constitution and is the cause of the violations of Plaintiffs DUTTON's and AMERICAN ASSOCIATION OF WOMEN's rights alleged herein.

43. Plaintiffs DUTTON and AMERICAN ASSOCIATION OF WOMEN are being irreparably and substantially injured as a direct and proximate result of Defendants LOS ANGELES COUNTY SHERIFF'S DEPARTMENT's and BACA's unlawful deprivation of Plaintiffs DUTTON's and AMERICAN ASSOCIATION OF WOMEN's constitutional rights.

44. Plaintiffs DUTTON and AMERICAN ASSOCIATION OF WOMEN have no adequate remedy at law.

WHEREFORE, Plaintiff respectfully requests that the Court: (1) declare the refusal of Defendants LOS ANGELES COUNTY SHERIFF'S DEPARTMENT and BACA to allow Plaintiffs DUTTON and AMERICAN ASSOCIATION OF WOMEN to interview Mr. Fine at the Men's Central Jail to be unlawful; (2) enjoin Defendants LOS ANGELES COUNTY SHERIFF'S DEPARTMENT and BACA from continuing to deny Plaintiffs DUTTON and AMERICAN ASSOCIATION OF WOMEN requests to interview Mr. Fine at the Men's Central Jail; (3) award Plaintiffs DUTTON and AMERICAN ASSOCIATION OF WOMEN reasonable attorney's fees and costs; and (4) grant such other relief as the Court may deem just and proper.

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PLAINTIFF DEMANDS A TRIAL BY JURY.

Dated: January 27, 2010

Respectfully submitted,

JUDICIAL WATCH, INC.

By: _____
Sterling E. Norris

Attorneys for Plaintiffs