

AMENDED SUMMONS **(CITACION JUDICIAL)**

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):
LESLIE RULE; JON E. DRUCKER

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

DAVID BYRNE, VICKIE CARLTON-BYRNE; THOMAS DREW MASHBURN; GERALD SCHWANKE; JOEL MAHARRY; DOUGLAS LA BARRE; LESLIE FERRARO

NOTICE: You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **(AVISO: Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.)**

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desear el caso.

CASE NUMBER: (Número del Caso):
2023CUMC008352

The name and address of the court is:

(El nombre y dirección de la corte es): Ventura County Superior Court, Hall of Justice,
800 South Victoria Avenue
Ventura, California 93009

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: (El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Brian Acree, Law Office of Brian Acree, 5042 Wilshire Blvd., Suite 38524, Los Angeles, 90036, (323) 813-5093

DATE:
(Fecha) 05/03/2023

Clerk, by

(Secretario)

Deputy
(Adjunto)

Brenda L. McCormick

Nina Lemos

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

(SEAL)



- ☒ as an individual defendant.
- ☐ as the person sued under the fictitious name of (specify):

- ☐ on behalf of (specify):

under: ☐ CCP 416.10 (corporation)

☐ CCP 416.20 (defunct corporation)

☐ CCP 416.40 (association or partnership)

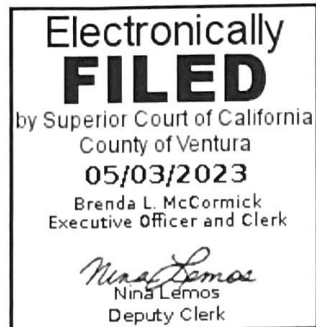
☐ other (specify):

- ☐ by personal delivery on (date):

☐ CCP 416.60 (minor)

☐ CCP 416.70 (conservatee)

☐ CCP 416.90 (authorized person)



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Attorneys for Plaintiffs,

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF VENTURA**

DAVID BYRNE, VICKIE CARLTON-
BYRNE; THOMAS DREW MASHBURN;
GERALD SCHWANKE; JOEL MAHARRY;
DOUGLAS LA BARRE; LESLIE
FERRARO, individuals

Plaintiffs,

v.

LESLIE RULE; JON E. DRUCKER,
individuals; and DOES 1-10

Defendants.

Case No.: 2023CUMC008352

**FIRST AMENDED COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF**

California Ralph M. Brown Act, [Gov.
Code] §54963;
California Code of Civil Procedure
§§ 526; 1060

Plaintiffs allege as follows:

1. This action challenges the disclosure of confidential and privileged information acquired during closed sessions of the Ojai City Council ("City Council") in violation of the California Ralph M. Brown Act, §54950 et seq., by newly-elected Ojai City Councilmember,

Leslie Rule, (hereinafter “Defendant Rule”) and her agent, attorney Jon Drucker (hereinafter “Defendant Drucker”). Plaintiffs seek declaratory and injunctive relief to prevent additional illegal disclosures.

THE PARTIES

2. Plaintiff David Byrne is an individual who has resided in the City of Ojai for 31 years, and at all times relevant to this Complaint Plaintiff has resided in the City of Ojai. Plaintiff also brings this action in the public interest.

3. Plaintiff Vickie Carlton-Byrne is an individual who has resided in the City of Ojai for 31 years, and at all times relevant to this Complaint, Plaintiff has resided in the City of Ojai. Plaintiff also brings this action in the public interest.

4. Plaintiff Gerald Schwanke is an individual who has resided in the Ojai Valley for 43 years, some of which were spent within the City-limits. At all times relevant to this Complaint Plaintiff has resided just outside of the City-limits, and frequents many businesses within the City of Ojai, participates in Ojai City Council meetings, and supports local Ojai City organizations, including the Ojai Valley Shelter homeless shelter where he volunteers. Plaintiff also brings this action in the public interest.

5. Plaintiff Thomas Drew Mashburn is an individual who has resided in the Ojai Valley for 72 years, 20 years of which were spent within the City-limits. At all times relevant to this Complaint Plaintiff has resided just outside of the City-limits, and frequents many businesses within the City of Ojai, participates in Ojai City Council meetings, and supports local Ojai City organizations. Plaintiff also brings this action in the public interest.

6. Plaintiff ^{Douglas} Doug La Barre is an individual who has resided in the City of Ojai for 43 years, and at all times relevant to this Complaint Plaintiff has resided in the City of Ojai. Plaintiff also brings this action in the public interest.

1 7. Plaintiff Leslie Ferraro is an individual who has resided in the City of Ojai for 16
2 years, and at most times relevant to this Complaint Plaintiff has resided in the City of Ojai.
3 Plaintiff also brings this action in the public interest.
4

5 8. Plaintiff Joel Maharry is an individual who has resided in the City of Ojai for 6 years.
6 At all times relevant to this Complaint Plaintiff has resided just outside of the City Limits, and
7 frequents many businesses within the City of Ojai, participates in Ojai City Council meetings,
8 and supports local Ojai City organizations. Plaintiff also brings this action in the public interest.
9

10 9. Defendant Leslie Rule is an individual residing in the City of Ojai, California.
11 Defendant Rule is a newly-elected City Councilmember. Ms. Rule won her District One council
12 seat in November, 2022 by 17 votes. Defendant Rule was and is a member of the Ojai City
13 Council during all times relevant to this Complaint.

14 10. Defendant Jon E. Drucker is an individual residing and doing business in Ventura
15 County, California. Defendant Drucker is licensed to practice law in California and maintains the
16 "Law Offices of Jon E Drucker" in the City of Ojai, California.
17

18 11. At all times mentioned herein, Defendant Drucker was the agent, servant, employee,
19 representative of, and/or joint venturer with Defendant Rule. At all times alleged hereinafter,
20 Defendant Drucker was acting within the purpose and scope of the agency, employment,
21 representation, and joint venture, and each Defendant has ratified and approved the acts of the
22 other Defendant.
23

24 12. Plaintiffs are ignorant of the true names or capacities of the defendants sued herein
25 under the fictitious names DOES 1 through 10, and will seek leave to amend this Complaint to
26 identify them in their true names and capacities when and if identified.

27 13. Plaintiffs are informed and believe and therefore allege that each of the Defendants
28 designated herein as a DOE is legally responsible in some manner for the events and

1 happenings herein referred to, and legally caused injury and damages proximately thereby to
2 each Plaintiff, and each of them as herein alleged.

3 14. Plaintiffs are informed and believe and thereon allege that all of the acts set forth in
4 this Complaint alleged to have been done by each Defendant were authorized, approved, or
5 ratified by each of the other Defendants. Plaintiffs are further informed and believe and thereon
6 allege that each of the Defendants did the acts set forth in this Complaint, in whole or in part,
7 for their own individual advantage.
8

9 **JURISDICTION AND VENUE**

10 15. Jurisdiction over each Defendant exists because they reside and/or operate within the
11 jurisdictional limits of the county of Ventura, California or do business within the county of
12 Ventura.

13 16. Jurisdiction over the subject-matter of this lawsuit exists because Plaintiffs' claims
14 arise under California state law, and the matter is not a limited civil case pursuant to Code of
15 Civil Procedure Section 85 or 86.

16 17. This Court has jurisdiction over Plaintiffs' claim for declaratory relief under Code of
17 Civil Procedure Section 1060.

18 18. Venue is proper in this Court under Code of Civil Procedure Section 392 because the
19 Defendants reside and do business in Ventura County.
20

21 **BACKGROUND AND FACTUAL ALLEGATIONS**

22 19. On October 25, 2022, the then-majority Ojai City Council approved a Development
23 Agreement for the benefit of an entity named the Becker Group. The Development Agreement
24 granted entitlements to the developer for four different development projects that would result
25 in a **substantial net loss of low-income housing units** within the City of Ojai. In the public
26 hearings prior to the City Council's approval of the Development Agreement, the attorney for
27
28

1 the Becker Group publicly threatened to sue the City for millions of dollars if the City did not
2 approve the Development Agreement.

3 20. On December 1, 2022, a local non-profit, Simply Ojai, filed a lawsuit against the City
4 of Ojai to challenge the City's approval of Development Agreement (hereinafter "Development
5 Agreement Litigation"). The Development Agreement Litigation (*Simply Ojai v. City of Ojai*)
6 named the following parties as Real Parties In Interest: Ojai Bungalows, L.P., Green Hawk,
7 LLC, and The Becker Group, Inc, as they had a financial interest in the Development
8 Agreement at issue in the case.
9

10 21. In November, 2022 there was an election for City Council of Ojai. Four of the five
11 seats were up for election. The following members were elected: Betsy Stix was re-elected as
12 Mayor; Andrew Whitman was elected as District 3 representative; Rachel Lang was elected as
13 District 2 representative, and Leslie Rule was elected as District 1 representative. District 4 was
14 not up for election, a seat which is currently occupied by Councilmember Suza Francina. In
15 December, 2022 the new city council was seated.
16

17 22. On December 12, 2022, a referendum petition was presented to the City seeking to
18 overturn the Development Agreement approved by the former City Council; the petition
19 obtained well over 10% of registered voters' signatures as required by law.
20

21 23. Thereafter, the City Council held two closed session meetings closed to the public to
22 discuss legal issues related to the approval of the Development Agreement and the resulting
23 litigation and referendum, and the City's options for action regarding those matters. Based on
24 existing facts and circumstances, there was exposure to litigation against the City depending
25 upon how the City responded to both the existing litigation and the options presented to the City
26 by the referendum.
27

28 **Closed Sessions of the City Council**

1 24. On December 7, 2022, the City Council issued a notice and agenda for a closed session
2 to occur on December 13, 2022. The notice/agenda for the closed session included one item,
3 entitled, "Conference with Legal Counsel; Existing Litigation" which identified the
4 Development Agreement Litigation by name and stated, "The City Council finds, based on
5 advice from legal counsel, that discussion in open session will prejudice the position of the City
6 in the litigation."
7

8 25. On December 13, 2022, the City Council held the closed session pursuant to the public
9 notice and on the advice of counsel. Ojai City Attorney Matthew Summers attended the closed
10 session. Each of the five Councilmembers attended the closed session including Councilmember
11 Rule. The information discussed during this closed session included risks associated with both
12 existing litigation and exposure to litigation and therefore the discussions were privileged and
13 confidential.
14

15 26. On January 5, 2023, the City Council issued notices and agendas for a closed session to
16 occur on January 9, 2023 and January 10, 2023. The notices and agendas for the closed sessions
17 included three items. One agenda item was entitled, "Conference with Legal Counsel; Existing
18 Litigation" which identified the Development Agreement Litigation by name and stated, "The
19 City Council finds, based on advice from legal counsel, that discussion in open session will
20 prejudice the position of the City in the litigation." Another agenda item was entitled
21 "Conference with Legal Counsel; Initiating Litigation" and listed the number of potential cases
22 (1).
23
24

25 27. Legal counsel for the City attended these closed sessions. Each of the five Council
26 members attended the closed sessions including Councilmember Rule. The information
27 discussed during these closed sessions included risks associated with both existing litigation and
28

1 exposure to litigation depending on the referendum options selected by the Council and
2 therefore the discussions were privileged and confidential.

3 28. The aforementioned closed sessions of the City Council (December 13, 2022, January
4 9, 2023 and January 10, 2023) shall be collectively referred to hereinafter as the "Closed
5 Sessions."
6

7 29. All notices for the Closed Sessions were in substantial compliance with the Brown Act

8 **Public Disclosure Of Confidential And Privileged Information From Closed Sessions**

9 30. On January 24, 2023, the City Council held a regularly scheduled public meeting. At
10 that meeting, in open session which was attended by the public, Defendant Leslie Rule issued a
11 written public statement and disseminated the written statement to the public at the meeting.
12 Defendant Rule's written statement was entitled, "Leslie Rule's Remarks At Ojai's City
13 Council Open Session, Tuesday, 1/24/2023." Defendant Rule's written public statement
14 included an extensive and detailed discussion of confidential and privileged information she
15 obtained from the Closed Sessions that had occurred earlier.
16

17 31. At that same January 24, 2023 open session of the City Council meeting, Defendant
18 Rule began verbally disclosing confidential closed session information. The City Attorney, Mr.
19 Summers, immediately directed Ms. Rule to cease disclosing the closed session information.
20 Defendant Rule refused to cease and desist and instead continued to disclose confidential
21 information said in closed session. Defendant Rule made a motion to allow public disclosure of
22 confidential information discussed at the closed session. The motion did not receive a second
23 and no vote was taken (ie. Councilmember Rule's request for permission to disclose
24 confidential information from closed session was rejected by the City Council.) A motion was
25 then passed by the majority council to defer discussion of Defendant Rule's accusations to
26 closed session, and to exclude Defendant Rule from the closed session due to the potential
27
28

1 conflict raised by the adverse legal position she had adopted toward the City Council. The
2 matter was agendized for the next Council meeting.

3 32. At the same January 24, 2023 open meeting of the City Council, Defendant Rule's
4 agent, attorney Jon Drucker, handed out to members of the public in attendance a written letter
5 prepared by Defendant Drucker on behalf of Defendant Rule (hereinafter referred to as "the First
6 Drucker Letter"). The letter's subject line was, "City Council Closed Sessions and the Duty of
7 Disclosure." In the 12-page Drucker Letter, an extensive and detailed discussion of confidential
8 and privileged information obtained by Defendant Rule during the Closed Sessions was
9 disseminated to the public.
10

11 33. A number of citizens that had received Defendant Rule's and/or Defendant Drucker's
12 letter in the public session, began discussing the confidential contents of the letters during
13 public comment, which was disruptive to the council meeting, and which undermined the
14 majority city council's decision to discuss Defendants Rule's and Drucker's allegations in
15 closed session.
16

17 34. The public statements at issue in this lawsuit made by Defendants Rule and Drucker
18 were confidential and privileged because they related to the attorney-work product, potential
19 liability and legal strategy of the City of Ojai and the Ojai City Council as a legislative body.
20

21 35. On January 27, 2023, Mr. Drucker issued another letter which again disclosed
22 confidential closed session communications and attorney-work product and legal strategy
23 (hereinafter "Second Drucker Letter").
24

25 36. Both the First and Second Drucker Letters were posted thereafter to a public website,
26 called "Transparent Ojai" further compounding the damage to the City resulting from
27 Defendants' disclosures.
28

1 37. Both the First and Second Drucker Letters were published in the local newspaper, the
2 Ojai Valley News. The paper has since taken down the letters from their online news website.
3 Members of the public have subsequently republished, through social media and editorial
4 opinion letters, confidential information from the closed sessions that were disclosed by
5 Defendants Rule and Drucker.
6

7 38. At the April 25, 2023 public meeting of the City Council, Defendant Rule's agent Jon
8 Drucker admitted in public comment that he had disclosed confidential closed session
9 communications.
10

11 39. At that same April 25, 2023 public meeting of the City Council, Defendant Rule made
12 a motion to waive closed session confidentiality. The motion failed by not receiving a majority
13 of the City Councilmember votes.
14

15 40. The offending conduct of Defendant Rule and her agent Defendant Jon Drucker has
16 made it impossible for members of the City Council to effectively discharge their official duties
17 because closed session meetings are effectively no longer confidential.
18

19 41. Defendant Rule and her agent Jon Drucker have made it clear that they do not believe
20 that the communications and information obtained in closed session are confidential or
21 privileged, including advice of legal counsel concerning existing, pending, initiation of, or
22 exposure to, litigation. They will continue to disclose confidential information from closed
23 session unless and until the Court declares them, jointly and individually, to have violated the
24 Brown Act and enjoins them from doing so again.
25
26
27
28

1 **FIRST CAUSE OF ACTION**

2 **(Violation of Section 54963 of the Brown Act - Disclosure of Confidential Communications)**

3
4 42. All of the above paragraphs are incorporated by reference as though set out at length
5 herein.

6 43. Plaintiffs bring this action against Defendants for violation of Section 54963 of the
7 Brown Act, which prohibits the disclosure of confidential communications that are made in
8 closed sessions.

9 44. Under Section 54963 of the Brown Act, certain communications that are made in closed
10 sessions are confidential and may not be disclosed by members of a legislative body or any other
11 person, except as authorized by law. Section 54956.9 of the Brown Act provides a legislative
12 body the right to conduct a closed session to confer with, or receive advice from, its legal counsel
13 regarding pending litigation, initiation of litigation and/or exposure of risk to litigation.

14 45. Section 54963 of the Brown Act prohibits the disclosure of confidential
15 communications that were made in closed sessions pursuant to Section 54956.9 of the Brown
16 Act.

17 46. The ability of the City Council to confer confidentially with its legal counsel is
18 essential to its ability to properly function, and protect the interests of its citizens. "Protecting the
19 confidentiality of communications between attorney and client is fundamental to our legal
20 system. The attorney-client privilege is a hallmark of our jurisprudence that furthers the public
21 policy of ensuring "the right of every person to freely and fully confer and confide in one having
22 knowledge of the law, and skilled in its practice, in order that the former may have adequate
23 advice and a proper defense." *People ex rel. Dept. of Corporations v. Speedee Oil Change*
24 *Systems, Inc.* (1999) 20 Cal.4th 1135, 1145.
25
26
27
28

1 47. Further, an attorney who receives information from a client that the lawyer knows or
2 should know contains or consists of privileged or confidential matter has an ethical and
3 professional obligation not to disclose or make use of such information. *Clark v. Superior Court*
4 (2011) 196 Cal.App.4th 37.
5

6 48. On December 13, 2022, January 9, 2023, and January 10, 2023 Defendant Leslie Rule
7 participated in closed sessions of the City Council. All of these closed sessions were properly
8 noticed and were in substantial compliance with the Brown Act. (*Castaic Lake Water Agency v.*
9 *Newhall County Water Dist.* (2015), 238 Cal. App. 4th 1196.)
10

11 49. During all of the above-referenced closed sessions, confidential communications were
12 made. The nature and substance of these communications were privileged and not authorized for
13 disclosure to the public or any other person particularly when the communications are with legal
14 counsel and concern existing litigation, initiation of litigation and/or the exposure to litigation
15 that may arise from action contemplated by the City Council.
16

17 50. Despite the confidentiality of these communications and the verbal warnings by the
18 City's legal counsel (City Attorney Mr. Summers) that the communications were privileged and
19 could not be disclosed, Defendant Rule nevertheless went ahead and disclosed the substance of
20 the confidential Closed Sessions communications to a substantial number of members of the
21 public, and did so thereafter on a number of occasions. These disclosures were not authorized by
22 law and constitute a violation of Section 54963 of the Brown Act.
23

24 51. Despite the confidentiality of these communications, Defendant Rule and her agent
25 Defendant Jon Drucker disclosed the substance of the confidential Closed Sessions
26 communications to a substantial number of members of the public, and on a number of
27 occasions. These disclosures were not authorized by law and constitute a violation of
28 Government Code Section 54963 of the Brown Act.

1 52. As a result of Defendants' violations of the Brown Act, Plaintiffs have suffered harm,
2 including loss of confidence in the integrity of the local legislative process.

3 53. Plaintiffs have also suffered harm or will likely suffer harm because Defendants'
4 conduct has created liability exposure to the City by their disclosure of confidential information
5 and attorney-client communications.
6

7 54. Plaintiffs have also suffered harm or will likely suffer harm because members of the
8 duly elected city council cannot now confidently and freely discuss issues in closed session that
9 require confidentiality, nor can they rely on their legal counsel's legal analysis, opinions and
10 strategy to remain confidential attorney-client privileged communications without risking
11 exposure to litigation adversaries or potential litigation adversaries. For this same reason, there
12 is now effectively a lack of attorney-client privilege which creates an exposure to liability which
13 is injurious to Plaintiffs as taxpayers, business operators, and participants in the democratic
14 process.
15

16 55. Plaintiffs seek declaratory and injunctive relief pursuant to section 54963, subd. (c) of
17 the Brown Act.
18

19 56. Plaintiffs have an interest in ensuring, on behalf of the public, that City Councilmember
20 Leslie Rule carries out her duties responsibly under law and does not subject the City to
21 additional legal peril or expense. There are no plain, speedy and adequate remedies at law.
22

23 57. Plaintiffs request declaratory relief under CCP §1060 declaring that Defendants violated
24 the Brown Act.
25
26
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PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for relief as follows:

- (i) A declaration that Defendant Leslie Rule violated Section 54963 of the Brown Act by disclosing confidential communications obtained from closed sessions of the Ojai City Council;
- (ii) A declaration that Defendant Jon Drucker violated Section 54963 of the Brown Act by disclosing confidential communications obtained from closed sessions of the Ojai City Council;
- (iii) An injunction prohibiting Defendants from disclosing any confidential communications obtained from closed sessions of the Ojai City Council;
- (iv) An order that Councilmember Rule identify each person with whom she shared confidential communications obtained from closed sessions of the Ojai City Council;
- (v) An order that Defendant Jon Drucker identify each person with whom he shared confidential communications obtained from closed sessions of the Ojai City Council;
- (vi) An order that persons identified by Councilmember Rule and/or Jon Drucker cease and desist from future communication of confidential communications obtained from closed sessions of the Ojai City Council;
- (vii) Costs of suit and reasonable attorney's fees;
- (viii) Such other and further relief as is just and proper.

Dated: May 2, 2023

Respectfully submitted,

VENSKUS & ASSOCIATES, APC
LAW OFFICE OF BRIAN ACREE

By: 
Brian Acree
Attorney for Plaintiffs

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address)
Brian Acree (SBN 202505)
 5042 Wilshire Blvd., Suite 38524, Los Angeles, CA 90036

TELEPHONE NO. (323) 813-5093

FAX NO. (Optional)

E-MAIL ADDRESS **brian@brianacree.com**

ATTORNEY FOR (Name): **Plaintiffs David Byrne, et al.**

SUPERIOR COURT OF CALIFORNIA, COUNTY OF VENTURA

STREET ADDRESS **800 S. Victoria Avenue**

MAILING ADDRESS

CITY AND ZIP CODE **Ventura 93009**

BRANCH NAME **Hall of Justice**

CASE NAME:

David Byrne, et al., v. Leslie Rule, et al.

FOR COURT USE ONLY

**Electronically
FILED**

by Superior Court of California
County of Ventura

04/28/2023

Brenda L. McCormick
Executive Officer and Clerk

Hannah Cress
Hannah Cress
Deputy Clerk

CIVIL CASE COVER SHEET

☒ **Unlimited** (Amount demanded exceeds \$25,000)
☐ **Limited** (Amount demanded is \$25,000 or less)

Complex Case Designation

☐ Counter ☐ Joinder
 Filed with first appearance by defendant
 (Cal. Rules of Court, rule 3.402)

CASE NUMBER

2023CUMC008352

JUDGE

DEPT.:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort

☐ Auto (22)
☐ Uninsured motorist (46)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

☐ Asbestos (04)
☐ Product liability (24)
☐ Medical malpractice (45)
☐ Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort

☐ Business tort/unfair business practice (07)
☐ Civil rights (08)
☐ Defamation (13)
☐ Fraud (16)
☐ Intellectual property (19)
☐ Professional negligence (25)
☐ Other non-PI/PD/WD tort (35)

Employment

☐ Wrongful termination (36)
☐ Other employment (15)

Contract

☐ Breach of contract/warranty (06)
☐ Rule 3.740 collections (09)
☐ Other collections (09)
☐ Insurance coverage (18)
☐ Other contract (37)

Real Property

☐ Eminent domain/Inverse condemnation (14)
☐ Wrongful eviction (33)
☐ Other real property (26)

Unlawful Detainer

☐ Commercial (31)
☐ Residential (32)
☐ Drugs (38)

Judicial Review

☐ Asset forfeiture (05)
☐ Petition re: arbitration award (11)
☐ Writ of mandate (02)
☐ Other judicial review (39)

**Provisionally Complex Civil Litigation
(Cal. Rules of Court, rules 3.400-3.403)**

☐ Antitrust/Trade regulation (03)
☐ Construction defect (10)
☐ Mass tort (40)
☐ Securities litigation (28)
☐ Environmental/Toxic tort (30)
☐ Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment

☐ Enforcement of judgment (20)

Miscellaneous Civil Complaint

☐ RICO (27)
☒ Other complaint (not specified above) (42)

Miscellaneous Civil Petition

☐ Partnership and corporate governance (21)
☐ Other petition (not specified above) (43)

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

- a. ☐ Large number of separately represented parties d. ☐ Large number of witnesses
 b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
 c. ☐ Substantial amount of documentary evidence f. ☐ Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. ☐ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☐ punitive

4. Number of causes of action (specify):

5. This case ☐ is ☒ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015).

Date: April 28, 2023

Brian Acree

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

CM-010

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the Civil Case Cover Sheet contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the Civil Case Cover Sheet to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) *(if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)*

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability *(not asbestos or toxic/environmental)* (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) *(not civil harassment)* (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice *(not medical or legal)*
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract *(not unlawful detainer or wrongful eviction)*
Contract/Warranty Breach—Seller Plaintiff *(not fraud or negligence)*
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage *(not provisionally complex)* (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property *(not eminent domain, landlord/tenant, or foreclosure)*

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) *(if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)*

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims *(arising from provisionally complex case type listed above)* (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment *(non-domestic relations)*
Sister State Judgment
Administrative Agency Award *(not unpaid taxes)*
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint *(not specified above)* (42)
Declaratory Relief Only
Injunctive Relief Only *(non-harassment)*
Mechanics Lien
Other Commercial Complaint Case *(non-tort/non-complex)*
Other Civil Complaint *(non-tort/non-complex)*

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition *(not specified above)* (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address) Telephone Number	FOR COURT USE ONLY
ATTORNEY FOR (Name): SUPERIOR COURT OF CALIFORNIA, COUNTY OF VENTURA ☐ 800 SOUTH VICTORIA AVE. VENTURA, CA 93009	
PLAINTIFF/PETITIONER DEFENDANT/RESPONDENT	
STIPULATION TO USE OF ALTERNATIVE DISPUTE RESOLUTION PROCESS	CASE NUMBER:

The parties and their attorneys stipulate that the claim(s) in this action shall proceed to the following alternative dispute resolution process:

- | | |
|--|--|
| ☐ Private Mediation | ☐ Volunteer Mediation _____ |
| ☐ Mandatory Early Settlement Conference | ☐ Assignment to Private Judge |
| ☐ Binding Arbitration | ☐ Non-Binding Arbitration |
| ☐ Other (specify) : _____ | |

It is further stipulated that the deadline for selection of a neutral and completion of the ADR process is: _____

Plaintiff (print)

Defendant (print)

Signature of Plaintiff

Signature of Defendant

Plaintiff's Attorney (print)

Defendant's Attorney (print)

Attorney's Signature

Attorney's Signature

Dated: _____

Dated: _____

IT IS SO ORDERED.

IT IS FURTHER ORDERED THAT: _____

Dated: _____

Judicial Officer

SUPERIOR COURT OF CALIFORNIA, COUNTY OF VENTURA

ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION

Most civil disputes are resolved without filing a lawsuit, and most civil lawsuits are resolved without a trial. The courts, community organizations, and private providers offer a variety of Alternative Dispute Resolution (ADR) processes to help people resolve disputes without a trial. Many courts encourage or require parties to try ADR before trial, and it may be beneficial to do this early in the case.

Below is some information about the potential advantages and disadvantages of ADR, the most common types of ADR, and how to find a local ADR program or neutral. You can read more information about these ADR processes and watch videos that demonstrate them at www.courtinfo.ca.gov/programs/adr/types.htm. A form for agreeing to use ADR is attached.

Potential Advantages and Disadvantages

ADR may have a variety of advantages or disadvantages over a trial, depending on the type of ADR process used and the particular case:

Potential Advantages

- Saves time
- Saves money
- Gives parties more control over the dispute resolution process and outcome
- Preserves or improves relationships

Potential Disadvantages

- May take more time and money if ADR does not resolve the dispute
- Procedures to learn about the other side's case (discovery), jury trial, appeal, and other court protections may be limited or unavailable

Most Common Types of ADR

Mediation – A neutral person called a “mediator” helps the parties communicate in an effective and constructive manner so they can try to settle their dispute. The mediator does not decide the outcome, but helps the parties to do so. Mediation is usually confidential, and may be particularly useful when parties want or need to have an ongoing relationship, such as in disputes between family members, neighbors, co-workers, or business partners.

Settlement Conferences – A judge or another neutral person called a “settlement officer” helps the parties to understand the strengths and weaknesses of their case and to discuss settlement. The judge or settlement officer does not make a decision in the case but helps the parties to negotiate a settlement. Settlement conferences may be particularly helpful when the parties have very different ideas about the likely outcome of a trial and would like an experienced neutral to help guide them toward a resolution.

Arbitration – The parties present evidence and arguments to a neutral person called an “arbitrator” who then decides the outcome of the dispute. Arbitration is less formal than a trial, and the rules of evidence are usually relaxed. If the parties agree to *binding arbitration*, they waive their right to a trial and agree to accept the arbitrator's decision as final. With *nonbinding arbitration*, any party may reject the arbitrator's decision and request a trial. Arbitration may be appropriate when the parties want another person to decide the outcome of their dispute but would like to avoid the formality, time, and expense of a trial, or want an expert in the subject matter of the dispute to make a decision.

Local ADR Programs for Civil Cases

Mediation – The Ventura Superior Court has maintained a mediation program since April 1, 1993. Its goals are to speed resolution of cases by bringing the parties together before they have made a major economic and emotional investment in litigation, and to increase awareness of this effective method of alternative dispute resolution.

Mediators need not be attorneys, but must have 25 hours of formal mediation training by a recognized mediation training/education provider. Mediator duties include a brief review/preparation time and three hours of hearing time on a pro bono basis and pursuant to such rules as may be designated for mediators by the Ventura Superior Court.

Party Pay Mediation Panel – The court has a second mediation panel where mediators are paid by the parties rather than offering their services pro bono. Mediators on the “party pay” panel must have completed 25 hours of formal mediation training and have participated as mediator a minimum of 25 court assigned mediations with a minimum hearing time of two hours each from any California Superior Court. All mediators on the “party pay” panel will provide three hours of mediation services per case at the rate of \$150 per hour to be shared equally by all participating parties.

Arbitration – Arbitration is normally an informal process in which a neutral person (the arbitrator) decides the dispute after hearing the evidence and arguments of the parties. The parties can agree to binding or nonbinding arbitration. Binding arbitration is designed to give each side a resolution of their dispute when they cannot agree between themselves or with a mediator. If the arbitration is nonbinding, any party can reject the arbitrator’s decision and request a trial.

Mandatory Early Settlement Conference – The MESC program was implemented through joint efforts of the Superior Court and the Ventura County Bar Association working primarily through the Bench/Bar Subcommittee. Cases that are appropriate for the program are identified and referred to a settlement officer to conduct a settlement conference. The parties have the opportunity for a serious exchange of facts, theories, and evaluations at the earliest possible time with an impartial attorney volunteer conducting the conference. The basic difference between cases assigned to the MESC and Mediation programs is the nature of the case and the relief sought. If the injury or damage is compensable in money damages and there is no emotional component or “hidden agenda” on the part of one or more of the parties, as is frequently the case in mediation cases, then the case is sent to the MESC program. MESC may be appropriate when negotiations between the parties have not proven successful.

Settlement Conference – Settlement Conferences may be mandatory or voluntary. In general, if the settlement conference is mandatory, ordered by the judge, the parties to the dispute and their attorneys will meet with a judge who conducts conference aimed at negotiating an agreement to settle the dispute rather than doing through the formal trial process.

More Information about Court-Connected ADR: Visit the court’s webpage at www.ventura.courts.ca.gov.

Dispute Resolution Programs Act (DRPA) funded ADR Program - The following community dispute resolution programs are funded under DRPA (Bus. and Prof. Code 465 et seq.):

- Ventura Center for Dispute Settlement, 4001 Mission Oaks Blvd., #L, Camarillo, CA 93012
805-384-1313
- Ventura County District Attorney’s Consumer Mediation Unit
805-654-3110

Private ADR – To find a private ADR program or neutral, search the internet, your local telephone or business directory, or legal newspaper for dispute resolution, mediation, settlement, or arbitration services.

Legal Representation and Advice – To participate effectively in ADR, it is generally important to understand your legal rights and responsibilities and the likely outcomes if you went to trial. ADR neutrals are not allowed to represent or to give legal advice to the participants in the ADR process. If you do not already have an attorney, the California State Bar or your local County Bar Association can assist you in finding an attorney. Information about obtaining free and low cost legal assistance is also available on the California Courts Website at www.courtinfo.ca.gov/selfhelp/lowcost.

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF VENTURA**

800 South Victoria Avenue
Ventura, CA 93009
(805) 289-8525
www.ventura.courts.ca.gov

NOTICE OF CASE ASSIGNMENT AND MANDATORY APPEARANCE

Your case has been assigned for all purposes to the judicial officer indicated below.

A copy of this Notice of Case Assignment and Mandatory Appearance shall be served by the filing party on all named Defendants/Respondents with the Complaint or Petition, and with any Cross-Complaint or Complaint in Intervention that names a new party to the underlying action.

Case Number: 2023CUMC008352		Location: Hall of Justice
Assigned Judicial Officer: Ben Coats		Department: 43
Hearing: MANDATORY APPEARANCE CMC/Order to Show Cause Re Sanctions/Dismissal for Failure to File Proof of Service/Default		
Event Date: 11/20/2023	Event Time: 8:15 AM	Event Department: 22B

Scheduling Information

Judicial Scheduling Information: The above hearing is MANDATORY. Each party must file a Case Management Statement no later than 15 calendar days prior to the hearing and serve it on all parties. If your Case Management Statement is untimely, it may NOT be considered by the court (CRC 3.725). If proof of service and/or request for entry of default have not been filed: At the above hearing you are ordered to show cause why you should not be compelled to pay sanctions and/or why your case should not be dismissed (CCP 177.5, Local Rule 3.17).

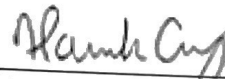
Advanced Jury Fee Requirement: At least one party demanding a jury trial on each side of a civil case must pay a non-refundable jury fee of \$150. The non-refundable jury fee must be paid timely pursuant to Code of Civil Procedure section 631.

Noticed Motions/Ex Parte Matters: To set an ex parte hearing, contact the judicial secretary in the assigned department. Contact the clerk's office to reserve a date for a law and motion matter.

Telephonic Appearance: Telephonic appearance at the Case Management Conference is permitted pursuant to CRC 3.670. In addition, see Local Rule 7.01 regarding notice to the teleconference provider. The court, through the teleconference provider, will contact all parties and counsel prior to the hearing.

Clerk of the Court,

Date: 05/01/2023



Hannah Cressy