

**AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION OF SOUTHERN CALIFORNIA**

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER**

ALIANZA TRANSLATINX; C.A., a minor by  
and through his Guardian ad Litem, E.S.; H.P., a  
minor, by and through her Guardian ad Litem  
C.W.; and ERIN SPIVEY, as taxpayer,

Petitioners and Plaintiffs,

v.

CITY OF HUNTINGTON BEACH, a municipal  
corporation; HUNTINGTON BEACH CITY  
COUNCIL, as the governing body of the  
Huntington Beach Public Library; ASHLEY  
WYSOCKI, in her official capacity as the  
Director of Community and Library Services for  
Huntington Beach; and DOES 1-50, inclusive,

Respondents and Defendants.

Case No. 30-2025-01462835-CU-WM-CJC  
[UNLIMITED CIVIL CASE]

**PETITIONERS' REPLY IN SUPPORT OF  
THEIR MOTION FOR ATTORNEYS' FEES**

**[Code of Civil Procedure section 1021.5]**

Judge: The Honorable Lindsey Martinez

Dept.: C24  
Hearing Date: April 27, 2026  
Time: 1:30 p.m. PDT

Reservation ID: 74735506

Action Filed: February 26, 2025

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1 **I. INTRODUCTION**

2 Nothing in Respondents’ Opposition undermines Petitioners’ showing that they are entitled to  
3 attorneys’ fees, that the requested lodestar and multiplier are reasonable, and that the requested fees should  
4 be awarded. Instead, Respondents invite the Court to (1) revisit issues already decided in the merits phase,  
5 (2) disregard Petitioners’ substantial exercise of billing discretion, and (3) ignore Respondents’ vigorous  
6 defense in this case. The Court should decline the invitation.

7 **II. ARGUMENT**

8 **A. Petitioners Are Entitled to Attorneys’ Fees Under CCP Section 1021.5**

9 As Petitioners explained in detail in their motion for attorneys’ fees, they clearly satisfy all the  
10 elements of CCP section 1021.5 and are thus entitled to attorneys’ fees. (Mot. at 11-13, ROA 184.) They  
11 are the successful parties because they achieved a writ of mandate requiring Respondents to comply with  
12 the Freedom to Read Act (FTRA) and barring them from implementing the “Library Measures.”  
13 (*Graciano v. Robinson Ford Sales, Inc.* (2006) 144 Cal.App.4th 140, 153 [a party is considered a  
14 successful party “if they succeed on *any significant issue* in litigation” that provides “*some of the benefit*  
15 *the parties sought. . .*”].) The enforcement of the FTRA furthers an “important right” because the Act  
16 protects the constitutional rights of freedom of expression and the right to receive information. (Ed. Code,  
17 § 19801, subd. (d).) This Court already has noted that “[t]he issue presented in this case is one of broad  
18 importance” (ROA 128 at 4.) By vindicating the purposes of the FTRA, the suit also provided a significant  
19 non-pecuniary benefit to the communities of Huntington Beach and Orange County, and in particular  
20 thousands of teens and minors who would have been denied access to non-obscene materials absent this  
21 lawsuit. (Pet. at ¶50; *Press v. Lucky Stores, Inc.* (1983) 34 Cal.3d 311, 321 [suit that furthered a  
22 constitutional right and benefitted thousands of people satisfied the requirement in section 1021.5 that suit  
23 benefits a “large class of people”].) Because the suit was against a government entity that ignored two  
24 demand letters that Petitioners’ counsel sent before filing suit, the necessity for private enforcement is  
25 clear. (*Woodland Hills Residents Assn, Inc. v. City Council* (1979) 23 Cal.3d 917, 941; *Vasquez v. State*  
26 *of Cal.* (2008) 45 Cal.4th 243, 252.) Finally, because Petitioners sought only equitable relief, they have  
27 no pecuniary interest in the outcome of the litigation; thus, “the financial burden” of pursuing litigation  
28 justifies an award of attorneys’ fees. (*Press, supra*, 34 Cal.3d at p. 321.)

1           **B.     The Court Has Already Rejected Respondents’ Argument that Passage of Measure A**  
2           **Rendered this Litigation Unnecessary, and They Offer No Other Support For Their**  
3           **Assertion that Petitioners Have Not Satisfied Section 1021.5**

4           The only element of Section 1021.5 that Respondents contest is the requirement that the litigation  
5 has resulted in enforcement of an important public right and that “a significant benefit . . . has been  
6 conferred on the general public or a large class of persons.” The sole basis for their argument is that the  
7 passage of Measure A purportedly “effectively repealed Resolution No. 2023-41 months before judgment  
8 was entered in this case.” (Opp. at 10:22-24.) Respondents carefully avoid using the word “moot,” but  
9 their claim is nothing more than a reanimated version of the mootness argument this Court correctly  
10 rejected in granting the writ petition. Respondents may not use an opposition to a fee motion as an  
11 occasion to relitigate arguments they made—and lost—in opposing the writ on the merits. Even if it were  
12 appropriate to rehash a merits argument during post-judgment fees briefing, Respondents have provided  
13 no new arguments about why this Court should revisit its prior holdings. The Court should decline their  
14 invitation to resurrect their meritless, losing arguments.

15           Petitioners have fully demonstrated, and the Court concluded in its ruling on the writ merits, that  
16 Measure A did not repeal Resolution 2023-41 and therefore did not moot this case. (See Reply i/s/o Pet.’s  
17 Opening Br. (POB), ROA 093, pp. 10-12; Minute Order granting writ relief, ROA 128, pp. 3-5.)  
18 Petitioners also demonstrated that leading up to and after Measure A’s passage Respondents were still  
19 implementing Resolution 2023-41 in contravention of the FTRA. (Reply i/s/o POB, ROA 93, p. 9; Pet.’s  
20 Objection and Response to Respondents’ Supp. Request for Judicial Notice (RJN), ROA 127, p. 8.) Thus,  
21 writ relief was necessary to bring Respondents into compliance with the Act, thereby enforcing important  
22 rights and conferring a significant benefit on the general public. (Mot. at 11-12.)

23           Respondents cannot overcome this showing and instead rely upon a misrepresentation of  
24 Petitioners’ pleadings. This case started as a challenge to two separate components of the City’s library  
25 censorship scheme, Resolution 2023-41 and Ordinance No. 4318, which, for ease of reference in the  
26 complaint and briefing, Petitioners have referred to collectively as the City’s “Library Measures.”  
27 Respondents attempt to misconstrue a footnote in the Complaint and Petition for Writ of Mandate, where  
28 Petitioners defined the term “Library Measures” and stated:

          The Library Measures compromise Huntington Beach Resolution No. 2023-41 and

1 Huntington Beach Ordinance No. 4318, which, taken together, announce and implement  
2 the library policies and practices Plaintiffs challenge via this petition and complaint. The  
Resolution is a statement of City policy and the Ordinance *further implements* that policy.

3 (ROA 002, n.2, italics added.) Respondents now argue, solely based on this footnote, that Petitioners have  
4 somehow admitted the Ordinance and Resolution “are to be treated as one of [sic] the same” and that the  
5 purported admission “supports that both” the Resolution and Ordinance were repealed by the enactment  
6 of Measure A. (Opp. at 7.) Not so. Petitioners consistently have asserted, throughout their Complaint  
7 and Petition, their merits briefing, and in the above-quoted footnote, that the Resolution had independent  
8 legal effect and was implemented by the City *months before* the City adopted the Ordinance. (See, e.g.,  
9 ROA 002, pp. 11-17 [discussing the City adopting and implementing the Resolution independently of the  
10 Ordinance and detailing the Resolution’s legal effects); ROA 093, pp.7-9 [detailing independent legal  
11 effects of Resolution].) The quoted footnote does not change the fact that the Resolution has independent  
12 force and effect, as this Court has already held. (ROA 128, p. 4 [adopting Petitioners’ argument that “the  
13 requirement of Section 1 of the Resolution [regulating minors’ access to materials containing sexual  
14 content] remains in effect even without the community parent/guardian review board.”])

15 Lastly, Respondents’ argument cannot be resuscitated by the fact that Resolution 2025-57 stated:  
16 “Resolution No. 2023-41 is no longer in effect because of the passage of Measure A.” (Opp. at 7.) The  
17 Court took judicial notice of Resolution 2025-57 before it granted writ relief and properly concluded  
18 that the case was not moot. (ROA 128 at 1, 3-5.) Resolution 2025-57 (1) did not repeal Resolution  
19 2023-41, (2) did not state that the City would stop enforcing Resolution 2023-41, (3) did not state that  
20 Respondents would return restricted library materials to the children’s section, and (4) did not state that  
21 the City would otherwise come into compliance with the Freedom to Read Act. (ROA 127 at 3.)  
22 Indeed, Resolution 2025-27’s accompanying legislative text makes clear the City’s position that it could  
23 still violate state law. (*Id.*, Ex. A at p. 1 [stating Director for Community and Library Services  
24 Department “now has the authority to determine children’s library materials with sexual content”].)

25 For these reasons, Respondents’ assertion that “the voters’ approval of Measure A achieved the  
26 precise objective of this lawsuit” (Opp. at 10), is incorrect. The City never produced any evidence that it  
27 would comply with the FTRA absent a writ. Measure A was not enough to secure the important rights  
28 at issue in this litigation. This case was, and remains, necessary to enforce those rights. Because

1 Respondents have failed to contest any of the remaining Section 1021.5 elements, they have forfeited  
2 any possible defenses of those elements, and the Court should hold that Petitioners have satisfied the  
3 requirements for fees under Section 1021.5.

4 **C. The Requested Fee Award Is Reasonable**

5 **1. Counsel Submitted Properly Documented Evidence of the Reasonableness of  
6 the Hours for Which Compensation Is Sought**

7 “It is well established that California courts do not require detailed time records, and trial courts  
8 have discretion to award fees based on declarations of counsel describing the work they have done and  
9 the court’s own view of the number of hours reasonably spent.” (*Syers Props. III, Inc. v. Rankin* (2014)  
10 226 Cal.App.4th 691, 698, internal quotation and citation omitted.) Petitioners more than satisfy this  
11 standard. Petitioners’ counsel submitted copious evidence demonstrating the total hours worked, the hours  
12 for which they seek compensation, and the enormous number of hours cut from their requested fee award,  
13 in the exercise of billing judgment. (Declarations of David Loy, Ryan Kendall, Peter Eliasberg, and  
14 Andrew J. Thomas, ROA 187-89, 192.) These declarations either (1) contain detailed descriptions of the  
15 nature of the work performed and the hours spent on that work, and/or (2) attach detailed billing records  
16 as exhibits. This is more than sufficient to support the fees sought. (*Concepcion v. Amscam Holdings,*  
17 *Inc.* (2014) 223 Cal.App.4th 1309, 1324 [“Declarations of counsel setting forth the reasonable hourly rate,  
18 the number of hours worked[,] and the tasks performed are sufficient”].) Because the law is clear on this  
19 point, the Court should reject Respondents’ nonspecific assertions that the fees sought should be reduced  
20 because of allegedly “vague” entries and other unsupported evidentiary objections to Petitioners’  
21 declarations. (Opp. at 11; see also Pets.’ Response to Resp. Evidentiary Objections.)

22 **2. Respondents Provide Meritless Arguments About Reduction of Hours**

23 Respondents argue in generalized terms that Petitioners’ fee award should be reduced, inviting the  
24 Court to (1) rely on Respondent’s legally unsupported arguments, (2) credit Respondents’ outright  
25 misleading, inaccurate, and unsupported assertions, (3) disregard Petitioners’ substantial efforts to  
26 exercise billing discretion in calculating the requested lodestar, and (4) ignore the vigorous manner in  
27 which Respondents chose to defend this case.

28 *First*, Respondents assert that Petitioners are seeking reimbursement for duplicative work, stating  
that “[i]nternal communications alone account for more than 40 percent of ACLU’s and CLA SoCal’s

1 time entries, and CLA SoCal attorneys alone billed more than 300 hours for entries involving conferences,  
2 calls, strategy discussions, and internal communications among counsel.” (Opp at 12.) Respondents do  
3 not explain how they arrived at these figures, which appear to be made up out of whole cloth. Careful  
4 review of the ACLU and CLA SoCal’s billing records debunks this unsupported assertion. The ACLU  
5 seeks compensation for 268.65 hours worked<sup>1</sup> by Peter Eliasberg and Jonathan Markovitz—but only 25.3  
6 hours were spent on internal communications, i.e., litigation team meetings, and phone calls with subsets  
7 of the litigation team. (Eliasberg Decl. Ex. 2, ROA 189.) In other words, internal communications  
8 comprise 9.4% of the ACLU’s hours sought, not 40%.

9 Respondents’ contention is equally misleading with respect to CLA SoCal. Ryan Kendall worked  
10 about 65% of the hours requested for CLA SoCal, and a careful review of his billing entries shows that he  
11 spent approximately 15.6% of his time on internal meetings, discussions, and calls—not 40%. (Kendall  
12 Supp. Dec. ¶11.) If one aggregates the hours requested for Messrs. Kendall, Markovitz, and Eliasberg,  
13 the total is approximately 673, of which 88 hours or 13.1% were spent on internal communications.<sup>2</sup>  
14 Respondents fail to demonstrate such numbers are unreasonable in light of the nature of this case. (See  
15 *Premier Med. Mgmt. Sys., Inc. v. Cal. Ins. Guarantee Assn.* (2008) 163 Cal.App.4th 550, 562 [noting that  
16 “[c]ollaboration does not necessarily amount to duplication”].)

17 *Second*, Respondents misleadingly assert that Petitioners are improperly seeking fees for time  
18 spent on purely clerical or administrative tasks. (Opp. at 14-15.)<sup>3</sup> Respondents’ own case citations  
19 contradict this position. For example, Respondents identify Ms. Rowe’s billing entry for “review[ing]  
20 and proofread[ing] demurrer briefing for nits, typos, and conduct[ing] cite check (3.2 hours) and claim  
21

22 <sup>1</sup> This number is drawn from the billing records submitted with the motion. Petitioners will seek some  
additional time for work done on the reply brief in support of the motion.

23 <sup>2</sup> Respondents reach their 40% and 300-hour figures without showing any of their work, and it appears  
24 that they may have treated any billing record for a CLA SoCal lawyer that mentioned internal  
25 communications as if *all* the time for that entry was spent on internal communication. But the billing  
records for Ms. Rowe and Ms. Ettinger plainly include time entries where, in a single day, they engaged  
26 in strategy discussions and communications and also performed other legal work such as conducting legal  
research, drafting briefs, and/or preparing for oral argument. (Kendall Supp. Decl. ¶12.)

27 <sup>3</sup> Respondents misrepresent controlling Supreme Court case law (Opp at 14:25-27), claiming that *Missouri*  
28 *v. Jenkins* (1989) 491 U.S. 274, 288, states that “purely clerical or secretarial tasks should not be billed at  
a paralegal rate, let alone an attorney’s rate,” because such tasks “are normally considered part of  
overhead.” But this case does not include the phrase “let alone an attorney’s rate” and does *not* state that  
such tasks “are normally considered part of overhead.” (*Jenkins, supra*, 491 U.S. at 288.)

1 these are purely administrative tasks. (*Id.*) Yet in one of the cases Respondents rely on, *Ridgeway, (Id.)*,  
2 the court held it is proper for attorneys to seek fees “for time spent cite checking their briefs.” (*Ridgeway*  
3 *v. Wal-Mart Stores, Inc.* (N.D. Cal. 2017) 269 F.Supp.3d 975, 992.) Respondents also chide Petitioners  
4 for seeking fees for inserting citations in a brief and “send[ing] cover emails,” which Respondents claim  
5 is “not legal analysis.” (Opp. at 15.) *Ridgeway* again undercuts their position, recognizing that there are  
6 all sorts of tasks that lawyers may be compensated for that are not “legal analysis.” (*Ridgeway, supra*,  
7 269 F.Supp.3d at p. 992.) Moreover, Respondents ignore that drafting cover emails is not a purely  
8 administrative task; cover emails frequently raise substantive legal questions and concerns to co-counsel  
9 about draft briefs or pleadings and discuss next steps for completing a project—classic attorney work  
10 product. (Eliasberg Supp. Decl. ¶¶6-8.) In addition, Respondents *selectively edit* many of CLA SoCal’s  
11 time entries to misleadingly claim they were for clerical or administrative tasks. (Kendall Supp. Decl.  
12 ¶ 15 [detailing five examples of billing entry text that Respondents omitted to justify the false claim that  
13 these entries were solely clerical or administrative].)

14 *Third*, Respondents’ claim that the fees should be reduced because of block billing also fails. They  
15 concede, as they must, that block billing is “not objectionable per se.” (Opp. at 13; see also *Nightingale*  
16 *v. Hyundai Motor Am.* (1994) 31 Cal.App.4th 99, 103.) Moreover, their reliance on *Christian Research*  
17 *Inst. v. Alnor* (2008) 165 Cal.App.4th 1315 is misplaced. (Opp. at 13.) *Christian Research* illustrates that  
18 when courts reduce fees for block billing, they generally do so when the relevant fee-shifting law provides  
19 that only time spent on a winning claim is compensable. Under those circumstances, block billing may  
20 prevent the court from determining whether time was spent on the winning claim or on a claim for which  
21 compensation is barred. (*Ridgeway, supra*, 269 F.Supp.3d at pp. 988-89 [“Block billing may be of more  
22 concern in cases where only certain motions or certain violations allow for statutory fees”] [citing  
23 *Christian Res.*].) This is not an issue here, as the Court did not rule against Petitioners on any claim.

24 *Fourth*, Respondents underplay the substantial billing discretion exercised by Petitioners, referring  
25 to “Petitioners’ *so-called* exercise of ‘billing judgment’ to remove *some* hours.” (Opp. at 12, italics  
26 added.) In fact, “Petitioners’ counsel is writing off more than \$765,000 in lodestar in an exercise of billing  
27 judgment and then applying an *additional* 5% across-the-board reduction to ensure that fees are not  
28 awarded for any excessive or duplicative work.” (ROA 184 at 19.) The decision not to seek fees for a

1 substantial number of hours supports the reasonableness of the hours for which compensation is requested.  
2 (See, e.g., *Ridgeway, supra*, 269 F.Supp.3d at p. 990 [“Plaintiffs have volunteered to exercise a five  
3 percent across-the-board reduction of their lodestar. . . . Such a reduction accounts for just the sort of  
4 excess and redundancy that *Wal-Mart* targets”].)

5 *Lastly*, Respondents ignore the reality that Petitioners’ hours worked were necessitated by the  
6 vigorous manner in which Respondents defended this case. For instance, Respondents dispute the 14.4  
7 hours that four lawyers spent discussing and preparing an opposition to the City’s *ex parte* application.  
8 (Opp at 14.) Respondents downplay that their *ex parte*, if granted, would have delayed the writ hearing  
9 until long after Respondents’ demurrer was heard, thereby irreparably harming Petitioners and Huntington  
10 Beach library patrons. (ROA 062 at 3.) Petitioners had only 24 hours to oppose the application. Given  
11 the compressed time frame, it was reasonable for Petitioners to have multiple lawyers consult about and  
12 divide work on the opposition. The requested 14.4 hours include time spent conducting legal research,  
13 drafting a 9-page opposition brief with multiple arguments, drafting and preparing a supporting  
14 declaration with three exhibits, and having one lawyer prepare for oral argument. (ROA 062, 064; Kendall  
15 Decl. ¶41.) As a result of these reasonable efforts, the Court denied the *ex parte* application on the papers  
16 and entered the schedule Petitioner requested. (ROA 66.) At bottom, Respondents’ assertions ignore two  
17 fundamental realities: first, “lawyers are not likely to spend unnecessary time on contingency fee cases in  
18 the hope of inflating their fees. The payoff is too uncertain, as to both the result and the amount of the  
19 fee.” (*Moreno v. City of Sacramento* (9th Cir. 2008) 534 F.3d 1106, 1112.) “It would therefore be the  
20 highly atypical civil rights case” if Petitioners’ counsel “engage[d] in churning.” (*Ibid.*) Second, “the  
21 court should defer to the winning lawyer’s professional judgment as to how much time he was required to  
22 spend on the case; after all, he won, and might not have, had he been more of a slacker.” (*Ibid.*)

### 23 **3. Petitioners Have Established the Reasonableness of their Hourly Rates**

24 Petitioners submitted copious evidence supporting the reasonableness of the rates they sought. Pro  
25 bono co-counsel Jenner & Block has submitted a declaration from partner Andrew J. Thomas establishing  
26 the reasonableness of the rates sought, including that they are seeking compensation at only 90% of their  
27 ordinary billing rates. (Mot. at 14-15 [citing Thomas Decl.]; see also *Baer v. Tedder* (2025) 115  
28 Cal.App.5th 1139, 1160-61 [declaration of law firm partner that firm’s ordinary billing rates are

1 reasonable and consistent with other similarly situated firms in the legal community supports finding that  
2 the rates charged are reasonable].) In addition, non-profit co-counsel the ACLU, CLA SoCal, and the  
3 First Amendment Coalition supported their hourly rates with attorney declarations demonstrating their  
4 experience and qualifications. (Mot. at 15-16 [citing Eliasberg, Kendall, Loy, and Sobel Decls.].) Those  
5 requested rates are similar to, or lower than, the rates sought by Jenner lawyers with similar skill and  
6 experience. (See *Building a Better Redondo, Inc. v. City of Redondo Beach* (2012) 203 Cal.App.4th 852,  
7 873 [“Our Supreme Court has consistently approved of the compensation of public interest attorneys at  
8 rates equal to those charged by private practitioners in the same community”].) Finally, the expert  
9 declaration of Carol Sobel (ROA 190), which discussed both fee awards and billing rates for lawyers in  
10 the Southern California area with similar skill and experience further supported the reasonableness of the  
11 rates sought. (See, e.g., *The Kennedy Com. v. City of Huntington Beach* (2023) 91 Cal.App.5th 436, 442,  
12 308 [affirming attorneys’ fee award where Superior Court relied in part on declaration of Carol Sobel to  
13 establish reasonableness of rates sought for CLA SoCal and private law firm Jones Day].)

14 Respondents claim the requested hourly rates are too high because this was a straightforward state  
15 court writ with “a discrete administrative record, with no discovery and no trial,” whereas the requested  
16 rates are only appropriate in materially different, complex cases involving “class action fee award,”  
17 “federal civil-rights trials, anti-SLAPP litigation, and elite appellate practices.” (Opp at 15-16.) This  
18 argument fails for two reasons. *First*, Respondents downplay the complexity and novelty of this case and  
19 the substantial efforts Petitioners made to defeat Respondents on demurrer and win the writ trial. (Mot.  
20 at 17-18, ROA 184.) *Second*, Respondents cite no caselaw for their position that hourly rates for state  
21 court work must be lower than rates for federal court work; nor are Petitioners aware of any such cases.  
22 Indeed, Jenner & Block bills the same for work on matters in state court and federal court. (Thomas Supp.  
23 Decl. ¶ 2.) Respondents also fail to establish that Petitioners’ counsel must receive lower rates because  
24 this is not anti-SLAPP litigation—which *never* involves trial and rarely involves discovery. (See Code  
25 Civ. Proc., § 425.16, subd. (f), (g)) [anti-SLAPP motions generally filed within 60 days of service of  
26 complaint and discovery stayed upon filing of motion].)

27 Respondents also dispute the requested rates as based on the rates for “boutique and global firms”  
28 (Opp. at 16), but in fact some of the fee awards that Petitioners cite for support were to lawyers at non-

1 profits. (Sobel Decl. ¶¶ 34-35). In many of the cases that Ms. Sobel cites in her expert declaration, the  
2 rates for lawyers from “boutique and global firms” were *significantly higher* than the rates sought by  
3 Petitioners’ counsel—even though they have similar experience and skill level. (*Id.* ¶¶ 40, 43.) This  
4 further supports the reasonableness of the rates Petitioners are seeking in this case. Lastly, Respondents’  
5 contention that the “market rate for the work performed in this case is less than \$750 per hour,” (Opp. at  
6 16), is meritless, as their sole support is an unpublished appellate decision—which this Court cannot  
7 judicially notice or rely on to determine the relevant market rate. (See Pets.’ Opp. to Resp. RJN at 1-5.)

8 **D. Petitioners are Entitled to a Multiplier of 1.25 Times Their Lodestar**

9 Petitioners have demonstrated they are entitled to a modest 1.25 multiplier on their lodestar  
10 because of the complexity of the matter, the excellent result achieved, the contingency nature of counsel’s  
11 representation, and the aggressive litigation tactics of Respondents. (Mot. at 19-21; *City of Oakland v.*  
12 *Oakland Raiders* (1988) 203 Cal.App.3d 78, 82-86 [awarding multiplier of 2.34]; *The Kennedy Com. v.*  
13 *City of Huntington Beach* (2023) 91 Cal.App.5th 436, 442 [awarding multiplier of 1.4].) Respondents’  
14 assertions that a multiplier is unwarranted are belied by the record and lack support in case law.

15 Respondents pull out of thin air—with no citation to any authority—a requirement that a multiplier  
16 is only proper in cases with “novel constitutional issues,” rather than cases involving the “application of  
17 State law to city regulations.” (Opp. at 16.) However, this case *does* involve novel constitutional issues:  
18 (1) Respondents relied on the “home-rule” doctrine as their primary defense, which arises from the state  
19 constitution; the application of this doctrine to the FTRA was a novel issue that Petitioners had to rebut in  
20 the writ merits briefing and opposition to demurrer; (2) Petitioners raised claims under the California  
21 Constitution’s Liberty of Speech Clause and Article I, section 1, and briefed those claims in opposition to  
22 the demurrer; and (3) the City added a last-minute, novel constitutional defense that the FTRA somehow  
23 violated the Fourteenth Amendment rights of parents, which Petitioners had to research and oppose in  
24 their briefing, including rebutting Respondents’ reliance on a recently decided United States Supreme  
25 Court case, *Mahmoud v. Taylor* (2025) 606 U.S. 522. Counsel’s familiarity with a wide array of  
26 constitutional principles, and with the interplay between state and municipal law, was critical to securing  
27 the relief Petitioners were seeking.

1 Next, Respondents assert—with no support from case law—that “salaried public-interest counsel”  
2 and law firms acting via their “established pro bono programs” cannot secure a multiplier based on a  
3 contingency risk, which only applies to “fee-bearing work.” (Opp. at 17.) But the Court of Appeal  
4 recently affirmed the award of a 1.4 multiplier against the City of Huntington Beach where the plaintiffs  
5 were represented by non-profit organizations, including CLA SoCal, along with pro bono co-counsel  
6 Jones Day, a private law firm. (*Kennedy Com.*, *supra*, 91 Cal.App.5th at pp. 442, 466-67.) When non-  
7 profit organizations expend time and resources on a case, they risk the possibility they will not be able to  
8 recover those resources or pay for that time, and they will not be able to further their missions. As the  
9 Court of Appeal recognized, the nonprofit organizations and law firm in that case *could have* spent their  
10 time representing other clients. (*Id.* at p. 467; see also *Center for Biological Diversity v. Cnty of San*  
11 *Bernardino* (2010) 185 Cal.App.4th 866, 897-899 [affirming 1.5 multiplier to counsel including non-profit  
12 legal organizations in case involving no constitutional claims]; *Inmates of Sybil Brand Inst. for Women v.*  
13 *Cnty of Los Angeles* (1982) 130 Cal.App.3d 89, 112 [multiplier awarded to ACLU lawyers].)

14 Finally, while the Court may consider that taxpayers may bear the cost of the fee award,  
15 Respondents point to no cases suggesting that this factor would outweigh any of the others Petitioners  
16 have satisfied. Respondents also make no showing that that taxpayers will bear the cost here; they do not  
17 discuss, for example, whether an insurance company might cover the cost. Respondents also ignore case  
18 law establishing that a multiplier may not be denied based “solely on a defendant’s status as a public  
19 entity.” (*Sargent v. Bd. of Trustees of Cal. State Univ.* (2021) 61 Cal.App.5th 658, 675 [approving  
20 multiplier of 2 against public entity]; see also *Center for Biological*, *supra*, 185 Cal.App.4th at pp. 897-  
21 899 [affirming multiplier “based on the contingent nature of the fee award” against county].) Thus, a 1.25  
22 multiplier is justified to compensate counsels’ skill, risk, and effort required to secure a complete victory.

### 23 **III. CONCLUSION**

24 For these reasons discussed above and in Petitioners’ Motion for Attorney Fees, we respectfully  
25 request the Court enter an order awarding Petitioners \$1,509,868.81<sup>4</sup> in attorney fees, including \$36,106  
26 for time spent on the fees reply (Eliasberg Supp. Decl. ¶¶ 9-12 & Ex. 1) and a 1.25 multiplier.

27 \_\_\_\_\_  
28 <sup>4</sup> This figure encompasses a small reduction for a duplicate entry mistakenly included in the opening  
brief. (Kendall Supp. Decl. ¶¶ 16-17.)

1 Dated: April 20, 2026

2 **AMERICAN CIVIL LIBERTIES UNION**  
3 **FOUNDATION OF SOUTHERN**  
4 **CALIFORNIA**

5 By: /s/ Peter J. Eliasberg

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11 *Guardian ad Litem, E.S.; H.P., a minor, by and*  
12 *through her Guardian ad Litem C.W.; and Erin*  
13 *Spivey*

14 **AMERICAN CIVIL LIBERTIES UNION**  
15 **FOUNDATION OF NORTHERN**  
16 **CALIFORNIA**

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23 *Spivey*

24 **FIRST AMENDMENT COALITION**

25 By: /s/ David Loy

26 David Loy

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*Spivey*

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**JENNER & BLOCK LLP**

By: /s/ Andrew J. Thomas  
Andrew J. Thomas

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Additional attorneys for Petitioners and Plaintiffs listed on next page

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER**

ALIANZA TRANSLATINX; C.A., a minor by  
and through his Guardian ad Litem, E.S.; H.P., a  
minor, by and through her Guardian ad Litem  
C.W.; and ERIN SPIVEY, as taxpayer,

Petitioners and Plaintiffs,

v.

CITY OF HUNTINGTON BEACH, a municipal  
corporation; HUNTINGTON BEACH CITY  
COUNCIL, as the governing body of the  
Huntington Beach Public Library; ASHLEY  
WYSOCKI, in her official capacity as the  
Director of Community and Library Services for  
Huntington Beach; and DOES 1-50, inclusive,

Respondents and Defendants.

Case No. 30-2025-01462835-CU-WM-CJC  
[UNLIMITED CIVIL CASE]

**PROOF OF SERVICE**

Judge: The Honorable Lindsey Martinez  
Dept.: C24

Action Filed: February 26, 2025

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1 **PROOF OF SERVICE**

2 I am a citizen of the United States and resident of the State of California. I am employed in Los  
3 Angeles, State of California, in the office of a member of the bar of this Court, at whose direction the  
4 service was made. I am over the age of eighteen years and not a party to the within action.

5 On **April 20, 2026**, I served the following documents in the manner described below:

6 **Petitioners’ Reply in Support of Their Motion for Attorneys’ Fees**

7 **Petitioners/Plaintiffs’ Objection to Respondents/Defendants’ Request for Judicial Notice in**  
8 **Support of Opposition to Petitioners’ Motion for Attorney Fees**

9 **Supplemental Declaration of Peter J. Eliasberg and Exhibit 1 Thereto**

10 **Supplemental Declaration of Ryan M. Kendall**

11 **Supplemental Declaration of Andrew J. Thomas in Support of Motion for Attorneys Fees**  
12 **and Exhibits A-C Thereto**

13 **Declaration of Ann Cappetta**

14 **[Revised Proposed] Order Granting Petitioners’ Motion for Attorney Fees**


15  (BY ELECTRONIC SERVICE) By electronically mailing a true and correct copy through Jenner &  
16 Block LLP’s electronic mail system to the email addresses set forth below.

17  
18 On the following part(ies) in this action:

19 Michael J. Vigliotta (mvigliotta@surfcity-hb.org) Anthony R. Taylor (ataylor@awattorneys.com)  
20 Peggy Z. Huang (peggy.huang@surfcity-hb.org) Sunny K. Soltani (ssoltani@awattorneys.com)  
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25 2000 Main Street, P.O. Box 190  
26 Huntington Beach, CA 92648

27  
28 *Attorneys for Respondents and Defendants City of Huntington Beach,  
City of Huntington Beach City Council, and Ashley Wysocki*

1 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
2 true and correct. Executed on April 20, 2026, at Los Angeles, California.

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6 Laura Saltzman  
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