

1 Matthew Strugar, SBN 232951
2 Law Office of Matthew Strugar
3 3435 Wilshire Blvd, Suite 2910
4 Los Angeles, CA 90010
5 323-696-229
6 matthew@matthewstrugar.com

7 Shakeer Rahman, SBN 332888
8 Law Office of Shakeer Rahman
9 838 East 6th Street
10 Los Angeles, CA 90004
11 323-546-9236
12 shakeer@loosr.net

13 Attorneys for Plaintiffs

14
15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **COUNTY OF LOS ANGELES – CENTRAL DISTRICT**
17

18 GINA VIOLA, an individual, YOUTH CLIMATE
19 STRIKE LOS ANGELES, an unincorporated
20 association, and SIM BILAL, an individual,

21 Plaintiffs,

22 vs.

23 CARUSO MANAGEMENT COMPANY, LTD., a
24 California limited partnership, GMF, LLC, a
25 Delaware limited liability company, and
26 Does 1–10, inclusive,

27 Defendants.
28

Case No.

**Complaint for Declaratory and Injunctive Relief
for Violations of California Constitution, Article
I, Section 2**

1 Plaintiffs Gina Viola, Youth Climate Strike Los Angeles, and Sim Bilal, on behalf of themselves
2 and the general public, allege as follows against defendants Caruso Property Management and GFM,
3 LLC:

4 INTRODUCTION

5 1. This is a private attorney general action brought by Plaintiffs on their own behalf and on
6 behalf of the public. Plaintiffs seek injunctive and declaratory relief barring viewpoint discriminatory
7 enforcement of Defendants’ time, place, and manner rules for expressive activities, as well as any
8 enforcement of several of Defendants’ time, place, and manner rules, at the Grove, a retail shopping
9 mall located at 101 The Grove Drive in Los Angeles.

10 2. Defendants allow, encourage, and even facilitate noncommercial expressive activity at
11 the Grove supportive of Rick Caruso’s candidacy for Mayor of Los Angeles.

12 3. But Defendants do not allow Plaintiffs and other members of the public to engage in very
13 similar noncommercial expressive activity at the Grove in opposition to Rick Caruso’s candidacy for
14 Mayor of Los Angeles.

15 4. Moreover, Defendants require Plaintiffs and other members of the public to follow a
16 variety of unconstitutional rules to engage in noncommercial expressive activity on any issue.

17 5. In *Robins v. Pruneyard Shopping Center* (1979) 23 Cal.3d 899 (*Pruneyard*), the
18 California Supreme Court held that common areas of a shopping mall are public forums where the
19 public has the right to engage in expressive activity such as issue advocacy and picketing. *Pruneyard*
20 allows a mall to adopt “reasonable regulations” as to the “time, place and manner” of expressive
21 activity, provided such rules are content and viewpoint neutral. In the years since *Pruneyard* was
22 decided, dozens of decisions by California and federal courts have provided further guidance as to the
23 scope of rights originally recognized in *Pruneyard*.

24 6. Defendants do not *apply* their time, place, and manner regulations in a content and
25 viewpoint neutral way. While Defendants allow and encourage private persons’ noncommercial
26 expressive activity in favor of Caruso’s mayoral campaign, they prohibit similar speech in opposition to
27 Caruso’s mayoral campaign.

28 7. And rather than adopting *reasonable* time, place, and manner regulations, Defendants

1 promulgate and demand compliance with a number of facially unconstitutional rules for expressive
2 activity. Defendants further require any person or group desiring to engage in expressive activity on any
3 issue at the Grove to follow rules and an application process containing provisions that are illegal,
4 unenforceable, and even impossible to comply with.

5 8. Defendants' refusal to obey the law in its promulgation and enforcement of expressive
6 activity rules and applications has injured, and continues to injure, Plaintiffs and the public.

7 9. The need for judicial relief from Defendants' unconstitutional rules and restrictions is
8 urgent, given that Defendant is enforcing this scheme to boost expressive activity that promotes
9 Caruso's mayoral campaign while suppressing other expressive activity educating the public about
10 Caruso's political positions.

11 **THE PARTIES**

12 10. Plaintiff Gina Viola is a natural person residing in Los Angeles County. She is an
13 organizer with the LAPC Fails Coalition, an unincorporated association which for years has raised
14 public awareness about the failures of the Los Angeles Police Commission (which Rick Caruso has
15 served as president of) to address police misconduct in Los Angeles.

16 11. Plaintiff Youth Climate Strike Los Angeles is an unincorporated association and youth-
17 led social justice organization focusing on climate change, environmental racism, and systemic
18 inequality. Youth Climate Strike Los Angeles has hundreds of members in Los Angeles County.

19 12. Plaintiff Sim Bilal is a natural person residing in Los Angeles County. He is an organizer
20 with Youth Climate Strike Los Angeles.

21 13. On information or belief, defendant Caruso Management Company, Ltd., is a limited
22 partnership organized under California law and doing business in California, with its principal executive
23 office at the Grove.

24 14. On information or belief, defendant GFM, LLC is a corporation organized under the laws
25 of Delaware corporation and doing business in California, with its principal executive office at the
26 Grove.

27 15. On information or belief, at relevant times herein, Defendants collectively manage the
28 areas and approved or prohibited the noncommercial expressive activity at the Grove at issue in this

1 case.

2 **JURISDICTION AND VENUE**

3 16. This Court has personal jurisdiction over Defendants because they are either is domiciled
4 in, or are authorized or registered to conduct, or in fact do conduct, substantial business in California.

5 17. This court has subject matter jurisdiction over the claims asserted because relief is sought
6 under Article I, Section 2 of the California Constitution and under California Code of Civil Procedure
7 Sections 526 (injunctive relief) and 1060 (declaratory relief).

8 18. Venue is proper in this county as the acts upon which this action is based occurred in this
9 county.

10 **FACTS**

11 19. Rick Caruso is a developer. One of his developments is the Grove, a more than 750,000
12 square foot shopping mall in the Fairfax District of Los Angeles.

13 20. Caruso described his vision for the Grove as “a Main Street for a City that doesn’t have
14 one.” (Trynaur, *Main Street of Dreams* (March 2013) Vanity Fair
15 <<https://www.vanityfair.com/culture/2013/03/rick-caruso-the-grove-la>>.)

16 21. Caruso is also a candidate running for Mayor of the City of Los Angeles.

17 22. Caruso’s campaign is headquartered at the Grove.

18 23. The Grove has hosted various non-commercial uses of common areas in support of
19 Caruso’s campaign.

20 24. When Los Angeles City Councilmember Joe Buscaino dropped his own mayoral bid and
21 endorsed Caruso, it happened at the Grove, complete with amplified sound and dozens of supporters
22 waiving Caruso for Mayor signs.

23 25. The Grove was the site of a similar drop-out-and-endorse-Caruso event by Ramit Varma.

24 26. The Grove hosted the Caruso campaign’s primary night election watch party, complete
25 with amplified sound and hundreds of people with Caruso for Mayor signs.

26 27. The Grove’s concierge desk provides the public with Caruso for Mayor signs on request.

27 28. The concierge desk tells members of the public that they are allowed to march through
28 the Grove displaying Caruso for Mayor signs.

1 29. And when members of the public march through the Grove displaying Caruso for Mayor
2 signs, the Grove’s private security officers do not intervene and even encourage that non-commercial
3 expressive activity.

4 30. Defendants purport to demand that persons seeking to engage in expressive activity at the
5 Grove (a) comply with the “RULES FOR NON-COMMERCIAL USE OF COMMON AREAS” (the
6 Rules) and (b) comply with, complete and submit the “APPLICATION FOR ACCESS TO THE
7 GROVE FOR NON-COMMERCIAL USE OF COMMON AREA” (the Application). A copy of the
8 Rules and the Application is attached as Exhibit A.

9 31. But the Rules do not apply to, and are not enforced against, private persons’
10 noncommercial expressive activity in favor of Caruso’s mayoral campaign.

11 32. On Tuesday, July 26, 2022, Plaintiff Viola completed an Application to Defendants for
12 the purpose of engaging in expressive activity at the Grove on August 9, 2022, “or any date the
13 following seven days.” Viola’s Application stated that she sought to have ten to fifteen people “[m]arch
14 in opposition to Rick Caruso’s Mayor candidacy, especially with regard to his failures as President of
15 the Police Commission.”

16 33. The same day, Plaintiff Bilal, on behalf of himself and Plaintiff Youth Climate Strike Los
17 Angeles, completed an Application to Defendants for the purpose of engaging in expressive activity at
18 the Grove on August 8, 10, 13, or 14, 2022. Bilal’s Application stated that he and Youth Climate Strike
19 sought to “[m]arch through the Grove with approximately 30–50 people opposing Rick Caruso’s lack of
20 a climate plan as part of his mayoral candidacy.”

21 34. On August 3, 2022, Defendants responded to Plaintiffs denying both Applications on the
22 purported ground that each request violated the Rules.

23 35. Plaintiffs’ counsel advised Defendants that the denial was viewpoint-discriminatory as
24 applied and that a number of the Rule were unconstitutional on their face in a detailed letter on August
25 8, 2022.

26 36. General Counsel for Defendant Caruso Management Company responded defending
27 Defendants denial of Plaintiffs’ applications.

28 37. The Rules and Application contain several unconstitutional provisions, including but not

1 limited to the following:

- 2 a. The Rules state: “Activity shall only be conducted in the specific Approved Area
3 approved by the Manager for Applicant’s use.” (Rules, § B.4.) “Approved Area will
4 be either (a) the Designated Area . . . , or (b) such other area within the Center
5 designated by the Manager in the approved Application.” (*Ibid.*) “‘Designated Area’
6 is that area selected by the Manager from those portions of the Center’s common
7 areas identified as ‘Designated Areas’ Each Designated Area is approximately
8 one hundred (100) square feet in size.” (Rules, § B.5; see also Rules, Exhibit “A”
9 [mapping Designated Areas].) This provision is facially unreasonable, chills free
10 speech, burdens more speech than necessary, does not take into account the size of
11 the mall, is not narrowly tailored, does not advance significant interests of
12 Defendants, and is unconstitutional.
- 13 b. The Rules provide: “Up to seven (7) people will normally be allowed per Approved
14 Area.” (Rules, § H.) This provision is facially unreasonable, chills free speech,
15 burdens more speech than necessary, does not take into account the size of the mall,
16 is not narrowly tailored, does not advance significant interests of Defendants, and is
17 unconstitutional.
- 18 c. The Rules provide: “Every person desiring to use the Center's Designated Areas for
19 Activity must apply to the Center’s designated management office c/o the Assistant
20 Property Manager or Property Manager (‘Manager’) located and addressed at 189
21 The Grove Drive, Suite C-100, Los Angeles, California, 90036, for permission to use
22 the Center’s Designated Areas in the form attached hereto as Schedule ‘1’ (the
23 ‘Application’). The Application must be completed in full and delivered to the
24 manager’s office by 5:00 p.m. no later than ten (10) business days before the date and
25 time desired for the proposed Activity or when and as otherwise required by the
26 Manager.” (Rules, § C.1.) This provision is facially unreasonable, chills free speech,
27 burdens more speech than necessary, does not advance significant interests of
28 Defendants, and is unconstitutional. Compliance with this provision is also

1 impossible because Suite C-100 is locked during all business hours and there is no
2 means for the public to obtain access to Suite C-100 to deliver the Application.

- 3 d. The Rules provide: “The Application must be accompanied by legible copies of any
4 and all petitions, literature, and leaflets, photographs and detailed descriptions of any
5 signs intended to be used by the Applicant and photographs and detailed descriptions
6 of any other form of displays or devices which will be used to communicate
7 information.” (Rules, § C.2.) This provision is unreasonable, chills free speech,
8 burdens more speech than necessary, is not narrowly tailored, does not advance
9 significant interests of Defendants, and is unconstitutional.

10 The above subparagraphs merely set forth illustrative examples of the many ways the Rules and
11 Application are unconstitutional. The Rules and Application contain additional unconstitutional
12 provisions.

13 38. Plaintiffs and Youth Climate Strike Los Angeles’s members seek to engage in peaceful,
14 expressive activity at the Grove in order, among other things, to educate the public about Rick Caruso’s
15 policies and platform.

16 39. Plaintiffs and Youth Climate Strike Los Angeles’s members also seek to engage in non-
17 commercial expressive activity unrelated to Caruso’s mayoral campaign after the conclusion of the 2022
18 Los Angeles Mayoral election.

19 40. Plaintiffs have advised Defendants that Plaintiffs seek to engage in expressive activity at
20 the Grove, that denial of their Applications is viewpoint-discriminatory as applied, and that the Rules
21 and Application unconstitutionally infringe Plaintiffs’ rights of free speech under state law. However,
22 Defendants contend the Rules and Applications are valid, as well as Defendants’ viewpoint-
23 discriminatory application of those Rules, and continue to demand that Plaintiffs and others abide by
24 them.

25 41. Because Defendants apply the the Rules in a content- and viewpoint-discriminatory way,
26 Defendants’ enforcement of the Rules chills Plaintiffs’ expressive activity, unlawfully constrains
27 Plaintiffs from engaging in free speech, and otherwise prevents Plaintiffs and members of the public
28 from exercising rights protected under state law.

1 42. Because Defendants’ Rules and Application contain unconstitutional provisions,
2 Defendants’ promulgation of, and enforcement of, the Rules and Applications chills Plaintiffs’
3 expressive activity, unlawfully constrains Plaintiffs from engaging in free speech, and otherwise
4 prevents Plaintiffs and members of the public from exercising rights protected under state law.

5 43. As a proximate result of Defendants’ policies and actions, Plaintiffs are either unable to
6 exercise their right to free speech and assembly as guaranteed by the California Constitution, Article I,
7 § 2, or are forced to exercise those rights under the threat of physical removal, arrest, or litigation.

8 44. Defendants’ content- and viewpoint-discriminatory application of the Rules, and their
9 demand that Plaintiffs and members of the public comply with the unconstitutional Rules, are causing
10 Plaintiffs’ and members of the public irreparable injury. Among other things, Defendant’s actions limit
11 or prevent Plaintiffs and members of the public from exercising their free speech rights by presenting
12 information to the public concerning matters of general interest and importance on a time-sensitive
13 issue.

14 45. Plaintiffs desire a declaration as to the validity of the Rules and Application, both on their
15 face and as applied to Plaintiffs’ free speech activities. Unless the court issues an appropriate declaration
16 of rights, the parties will lack certainty on whether the Rules and Applications comply with the law, and
17 there will continue to be disputes and controversy surrounding the Rules and Applications.

18 46. Unless Defendants and their agents are restrained by injunction, Plaintiffs and the public
19 will continue to suffer irreparable harm in that the constitutionally-protected messages of Plaintiffs and
20 the public will not be conveyed and the constitutional rights of Plaintiffs and the public to express their
21 messages will continue to be violated.

22 47. On information or belief, unless the court grants injunctive relief, Defendants will
23 continue to unlawfully restrict the exercise of free speech by Plaintiffs and the public, and Plaintiffs and
24 the public will continue to suffer injury as previously alleged.

25 48. Plaintiffs have no adequate remedy at law because monetary damages will not afford
26 adequate relief for the suppression of the messages of Plaintiffs and the deprivation of Plaintiffs’
27 constitutional rights.

28 49. An actual controversy has arisen and now exists between Plaintiffs and Defendants, in

1 that Plaintiffs contend the challenged provisions in the Rules and Applications are facially unlawful and
2 unenforceable, as well as content- and viewpoint-discriminatory as applied to Plaintiffs, and Defendants
3 contend their actions, and such provisions, are lawful and enforceable.

4 **First Cause of Action**

5 **Violation of California Constitution, Article I, § 2**

6 **As-Applied Content- and Viewpoint-Discrimination**

7 50. Plaintiffs refer to, allege, and incorporate by reference herein all preceding paragraphs of
8 this Complaint.

9 51. Defendants selectively enforce the Rules and Application against Plaintiffs' and other
10 members of the public who seek to engage in non-commercial expressive activity at the Grove that is
11 critical of Caruso's mayoral campaign.

12 52. Plaintiffs desire a declaration of their rights with respect to the constitutionality and
13 enforceability of the Rules and Applications and ask the Court to make a declaration of such rights,
14 duties, and responsibilities, and to make a declaration as to the validity and constitutionality of the Rules
15 and Applications. Such a declaration is necessary and appropriate at this time in order that Plaintiffs may
16 proceed under the law. There are no administrative remedies available to Plaintiffs.

17 **Second Cause of Action**

18 **Violation of California Constitution, Article I, § 2**

19 **Facially Unconstitutional Rules and Procedures for Expressive Activity**

20 53. Plaintiffs refer to, allege, and incorporate by reference herein all preceding paragraphs of
21 this Complaint.

22 54. Defendants seek to enforce the Rules and Applications against Plaintiffs and other
23 members of the public.

24 55. The Rules and Applications contain several provisions that violate Article I, § 2 of the
25 California Constitution, as interpreted by and expressed in *Pruneyard* and other cases.

26 56. Plaintiffs desire a declaration of their rights with respect to the constitutionality and
27 enforceability of the Rules and Applications and ask the Court to make a declaration of such rights,
28 duties, and responsibilities, and to make a declaration as to the validity and constitutionality of the Rules

1 and Applications. Such a declaration is necessary and appropriate at this time in order that Plaintiffs may
2 proceed under the law. There are no administrative remedies available to Plaintiffs.

3 **REQUEST FOR RELIEF**

4 Wherefore, Plaintiffs pray for judgment against Defendants as follows:

5 **On the First Cause of Action:**

6 1. For a declaration that Defendants' actions are content- and viewpoint-discriminatory as-
7 applied to Plaintiffs and Plaintiffs' proposed non-commercial expressive activity.

8 2. For preliminary and permanent injunctions enjoining Defendants and their principals,
9 agents, officers, employees, and representatives, during the pendency of this action and permanently
10 thereafter, from prohibiting Plaintiffs' proposed anti-Caruso non-commercial expressive activity, and
11 similar anti-Caruso non-commercial expressive activity by other members of the public, while
12 permitting, facilitating, and encouraging similar pro-Caruso non-commercial expressive activity.

13 3. For attorneys' fees as provided by, *inter alia*, Code Civ. Proc. § 1021.5, and for costs of
14 suit.

15 **On the Second Cause of Action:**

16 1. For a declaration that the challenged provisions in the Rules and Application are
17 unenforceable and unconstitutional.

18 2. For preliminary and permanent injunctions enjoining Defendants and their principals,
19 agents, officers, employees, and representatives, during the pendency of this action and permanently
20 thereafter, from requiring or requesting that any person or group seeking to engage in expressive activity
21 at the Malls comply with the challenged provisions in the Rules and/or Applications.

22 3. For attorneys' fees as provided by, *inter alia*, Code Civ. Proc. § 1021.5, and for costs of
23 suit.

24 **On Both Causes of Action:**

25 1. For pre- and post-judgment interest.

26 2. For reasonable attorneys' fees and costs.

27

28

1 3. For such other and further relief as the Court deems just and proper.

2
3 Dated: August 16, 2022

By:

4 Matthew Strugar
5 Shakeer Rahman

6 /s/ Matthew Strugar
7 Matthew Strugar
8 Attorneys for Plaintiffs
9 Gina Viola, Youth Climate Strike Los Angeles, and
10 Sim Bilal