

SAN LUIS OBISPO SUPERIOR COURT
BY: 
H. Esquivel, Deputy Clerk

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9 John Sears

10 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**
11 **COUNTY OF SAN LUIS OBISPO**

12 JOHN SEARS) Case No. 21CVP-0017
13)
14 Plaintiffs,) **COMPLAINT FOR VIOLATIONS OF**
15) **CIVIL RIGHTS (42 U.S.C. § 1983);**
16 v.) **STATE LAW CLAIMS FOR**
17) **DAMAGES, INJUNCTIVE AND**
18 CALIFORNIA HIGHWAY PATROL, a) **DECLARATORY RELIEF**
19 State Agency; DAVID AGREDANO, an)
20 officer with the California Highway Patrol;) **[DEMAND FOR JURY TRIAL]**
21 and DOES 1-40, inclusive,)
22)
23 Defendants.)
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29 **INTRODUCTION**

30 1. On January 23, 2020, Plaintiff John Sears, also known as “Mule,” was
31 traveling on Lake Nacimiento Drive, in San Luis Obispo County, leading his two
32 mules, when he was approached by Defendant California Highway Patrol Officer
33 David Agredano. CHP Officer David Agredano requested and then ordered that
34 Plaintiff “stay off the road.” Such order and Plaintiff’s subsequent arrest was in
35 violation of the Plaintiff’s natural, Constitutional and statutory rights to use the public

1 thoroughfare. By this action John Sears seeks to protect this ages-old nomadic way of
2 life and the sacred relationship between man and horse to travel together with
3 reverence and respect for this beautiful place in which we all reside called Earth.

4 2. Nacimiento Lake Drive is part of the Juan Bautista de Anza Trail, a
5 National Park Service Historic Trail that stretches 1200 miles between San Francisco
6 and Nogales Mexico. It is a two-lane country road that twists through scenic golden
7 hills characteristic of San Luis Obispo County. It is the ONLY route between town of
8 Bradley and Paso Robles that avoids traveling on Highway 101.

9 3. Along substantial stretches, Nacimiento Lake Drive is hemmed in by a
10 hill on one side and a drop-off on the other. It has narrow to non-existent shoulders in
11 many areas. The area directly adjacent to the road (off the pavement) would be
12 difficult to impossible for a human walking two pack mules in toe to safely navigate.

13 4. At the time that CHP Officer Agredano approached, Mr. Sears was
14 approximately 8 miles outside of Paso Robles. A number of cars had called
15 dispatchers claiming the mules were a safety hazard. Dash cam video demonstrates
16 that cars were speeding by Mr. Sears and his mules, irrespective of the California
17 vehicle code that requires them to slow down and even stop to avoid frightening or
18 endangering the animals. CHP Officer Agredano did nothing to enforce such law.
19 Instead, he arrested Mr. Sears a mile later at the intersection of Nacimiento Lake Drive
20 and San Marcos Drive. Mr. Sears was 5.2 miles outside of the Paso Robles, with no
21 alternative route to travel.
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23 5. Mr. Sears was arrested for failure to comply with a lawful order of a
24 peace officer (Cal. Veh. Code 2800(a)) and pedestrian outside of crosswalk. (Cal.
25 Veh. Code § 21954.) His mules and personal property were impounded and only
26 released upon payment of a fee. Such \$266 fee constitutes more than 90% of Mr.
27 Sears' monthly income.
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1 6. The demand of the CHP Officer to keep off the road was not only
2 impossible to safely comply with, but inconsistent with vehicle codes that provide that
3 animals that are ridden or driven have the same rights as vehicles to use the public
4 highway. In addition, video Mr. Sears was complying with the laws applicable to
5 pedestrians and Californian Food and Agricultural Codes applicable to livestock on
6 roads.

7 7. If Plaintiff Sears arrest was lawful, it would destroy his ability to freely
8 and safely travel throughout the state. Plaintiff has a natural, Constitutional and
9 statutory right to travel the public thoroughfares while driving an animal (in this case a
10 mule), without fear of arrest.

11 8. Plaintiff Sears alleges that the arrest was in violation of the United States
12 and California Constitution in that Defendant Agredano lacked probable cause for the
13 arrest, sought to prevent Plaintiff from exercising his natural, Constitutional and
14 statutory rights.

15 9. Plaintiff Sears also seeks injunctive and declaratory relief to prevent
16 further arrests and avoid a multiplicity of lawsuits. (Code Civ. Proc. § 1060.) A
17 judicial declaration is necessary so that he may present such judicial declaration to law
18 enforcement in the future, and secure his right to safely travel the public thoroughfares
19 without fear arrest.

20 10. In summary, John Sears was arrested on the historically designated Juan
21 Bautista de Anza Trail for using the same manner of travel as Juan Bautista de Anza
22 used in 1775-1776. Judicial intervention is necessary to preserve Mr. Sear's historic
23 way of life.
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HISTORICAL AND LEGAL BACKGROUND

11. Plaintiff John Sears practices an ancient nomadic way of life. Leading two mules, Mr. Sears travels constantly throughout California. He calls his group of travelers the “3 Mules” or “The Mules”, with John being the “third mule”.

12. Plaintiff John Sears considers walking his mules a sacred act, and through his blog posts, he educates the community about the benefits of this ages-old nomadic way of life – walking with reverence and respect for the Natural World. The use of mules for travel has been documented to at least 3,000 bc in ancient Egypt.

13. Mules were critical for the United States’s western expansion. Because mules have harder hoofs and greater stamina than horses, they were the favored steed for miners during California’s gold rush. By 1852, there were an estimated 16,000 mules in Northern California, and by 1855, the mule population swelled to over 31,000.

14. The right to travel is not only enshrined in the United States Constitution and California Constitution, but dates back to at least the Magna Carte in 1215.

15. Equating travel with the notion of “liberty” in the U.S. Supreme Court stated:

Freedom of movement across frontiers in either direction, and inside frontiers as well, was a part of our heritage...It may be as close to the heart of the individual as the choice of what he eats, or wears, or reads. Freedom of movement is basic in our scheme of values.

(*Kent v. Dulles* (1958) 357 U.S. 116, 126.)

16. As recognized by California Courts “[T]he right to intrastate travel (which includes intramunicipal travel) is a basic human right protected by the United States and California Constitutions as a whole. Such a right is implicit in the concept of a democratic society and is one of the attributes of personal liberty under common law.”

1 (*In re White* (1979) 97 Cal.App.3d 141, 148 (citing U.S. Const., Art. IV, § 2 and the
2 5th, 9th and 14th Amends.; Cal. Const., art. I, § 7, subd. (a) and art. I, § 24).)

3 17. Thus, the choice of how, when and where one travels cannot be
4 unreasonably restricted.

5 18. The California Vehicle Code 21050 recognizes that horses, mules and
6 other animals are permitted to be ridden and driven on public road. Such code states:

7 Every person riding or driving an animal upon a highway has all of the
8 rights and is subject to all of the duties applicable to the driver of a
9 vehicle by this division and Division 10 (commencing with Section
10 20000), except those provisions which by their very nature can have no
11 application.

12 (Cal. Veh. Code § 21050.)

13 19. Because of the significant speed difference between an equestrian and a
14 motor vehicle, California placed the burden of motor vehicles to operate safely around
15 equestrians and other animals. Cal. Vehicle Code states:

16 The driver of any vehicle approaching any horse drawn vehicle, any
17 ridden animal, or any livestock shall exercise proper control of his vehicle
18 and shall reduce speed or stop as may appear necessary or as may be
19 signalled or otherwise requested by any person driving, riding or in
20 charge of the animal or livestock in order to avoid frightening and to
21 safeguard the animal or livestock and to insure the safety of any person
22 driving or riding the animal or in charge of the livestock.

23 (Cal Veh. Code § 21759.)

24 20. The California Driver's Handbook states:

25 Horse-drawn vehicles and riders of horses or other animals are entitled to
26 share the road with motor vehicles. It is a traffic offense to scare horses or
27 stampede livestock. Slow down or stop, if necessary, or when requested
28 to do so by the riders or herders.

1 21. Numerous other codes place conditions on the proper handling livestock
2 and animals, while upholding the basic right to use the public thoroughfare. (See e.g.,
3 Cal. Food & Ag. Code § 16902, 16903.)
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5 **VENUE**

6 22. Venue is proper in San Luis Obispo Superior Court in that the incidents
7 complained of herein occurred in San Luis Obispo County.

8 23. This Case should be assigned to the Paso Robles Branch of the San Luis
9 Obispo Superior Court, pursuant to Local Rule 9.27, because the incidents complained
10 of herein occurred in the unincorporated area of the County, near Paso Robles.
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12 **PARTIES**

13 24. Plaintiff John Sears is an individual. He lives a nomadic life and,
14 therefore, considers himself a citizen of California without a residential address.

15 25. Defendant California Highway Patrol is a state agency. It is alleged on
16 information and belief that the California Highway Patrol has jurisdiction to enforce the
17 traffic laws on all roads throughout California, including in the area where Plaintiff was
18 arrested.
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20 26. Defendant David Agredano is a law enforcement officer employed with
21 the California Highway Patrol. Defendant David Agredano is being sued in his
22 individual capacity. It is alleged on information and belief that all acts complained of
23 herein were done within the scope of his employment with the California Highway
24 Patrol.

25 27. DOES 1-40 are currently unknown to Plaintiff. DOES 1-40 may be either
26 other individuals or state agencies that are, in some way, responsible for the actions
27 complained of herein. Plaintiff will seek to move the court to add such parties as their
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1 names, and capacities are discovered, unless Plaintiff determines that DOES 1-40 are
2 not necessary or indispensable parties and are not required for the court to fully
3 adjudicate the issues of the case.

4 28. Pursuant to Code of Civil Procedure section 389, subd. (c), Plaintiff is not
5 naming Commissioner Amanda Ray, in her official capacity, based on case law
6 indicating that it would be redundant to name both the public agency and the policy
7 making head of the public agency. It is alleged on information and belief that complete
8 relief sought under the declaratory relief cause of action can be afforded without
9 Commissioner Amanda Ray as a party. However, if Commissioner Amanda Ray is a
10 necessary and indispensable party, Plaintiff will seek a stipulation or leave of court to
11 add her to the complaint.
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13 29. It is further alleged, on information and belief, that Defendant California
14 Highway Patrol is uniquely positioned and qualified to represent the interest of all law
15 enforcement throughout the State with regard to the natural, Constitutional, and
16 statutory rights sought to be protected in this action. To the extent that the State of
17 California is a necessary and indispensable party, Plaintiff will seek to add such party.
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19 **FIRST CAUSE OF ACTION**
20 **VIOLATION OF CONSTITUTIONAL RIGHTS**
21 **(42 USC § 1983)**
22 **SEARS V. AGREDANO AND DOES 1-40**

23 30. Plaintiff incorporates and re-alleges all previous paragraphs as if fully set
24 forth herein.

25 31. Plaintiff has natural, Constitutional and statutory right to travel along the
26 public roadways with his mules, including, but not limited to the Fifth and Fourteenth
27 Amendments of the U.S. Constitution and Art I, sections 1 & 7 of the California
28 Constitution.

1 32. Defendant violated such rights by ordering him off the road in violation
2 of such rights.

3 33. Defendant's order was not a lawful order, and was not possible to comply
4 without grave risk to his livestock.

5 34. Defendant lacked probable cause to arrest Plaintiff for failing to comply
6 with an order that was not lawful.

7 35. Defendant lacked probable cause to arrest Plaintiff for failing to comply
8 with Vehicle Code section 21954, in that the evidence demonstrates that all times,
9 Plaintiff, if he could be considered a pedestrian, was complying with Vehicle Code
10 section 21954 and all other codes applicable to Pedestrians.

11 36. Defendant lacked probable cause to arrest Plaintiff because Plaintiff has a
12 right to drive, lead or accompany his mules along the public highway, pursuant to Cal.
13 Vehicle Code § 21050, and there was no evidence that Plaintiff was in violation of
14 Food and Agricultural Codes section 16901, 16902, 16903.

15 37. Defendant denied Plaintiff equal protection under the law in that he was
16 not enforcing laws that prohibit motorists from frightening animals on the road, but
17 arrested Plaintiff for animals being on the road.

18 38. Because of such unlawful arrest, Plaintiff was improperly stripped down
19 to shorts and t-shirt and placed in a cold cell. Because he was placed in isolation, and
20 denied shoes, socks, and a blanket, Plaintiff feared that he was being placed on suicide
21 watch, was potentially subject to being committed, put on a psychiatric hold, being
22 deprived of his animals for an extended period of time, or his animals being
23 permanently confiscated, and losing his freedom. Such detention caused significant
24 emotional distress, including substantial anxiety, fear, anger, outrage, and other
25 disturbing emotions. In addition, the impound fees to free his animals after detention
26 almost matched his monthly income, causing him further emotion distress.
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1 39. After his arrest, the CHP wrongfully publicized his arrest, defamatorily
2 claiming he was violating the law, damaging his reputation as a law abiding citizen, and
3 knowingly publishing false information stating that he was violating the law, despite
4 knowing that equestrians, livestock and animals are legally allowed to use the road.

5 40. Plaintiff is entitled to general damages including pain, suffering and
6 mental distress and previously pled, in amount to be proven at trial.

7 41. Plaintiff is entitled to special and economic damages in amount to be
8 proven at trial.

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11 **SECOND CAUSE OF ACTION**
12 **(FALSE ARREST/FALSE IMPRISONMENT)**
13 **SEARS V. AGREDANO AND DOES 1-40**

14 42. Plaintiff incorporates and re-alleges all previous paragraphs as if fully set
15 forth herein.

16 43. Plaintiff complied with all requirements of the Government Tort Law
17 Claims Act, including, but not limited to timely filing a claim with the California
18 Department of General Services, identifying the incident and describing his damages.

19 44. Any defect in the claim was waived by failure of the California
20 Department of General Service or any other government entity, including the CHP , to
21 object to the claim and identifying the defect in the claim.

22 45. Such claim was denied, without response from the California Department
23 of General Service and/or the California Highway Patrol, by operation of law.

24 46. Plaintiff alleges that he was falsely arrested by Defendant Agredano on
25 January 23, 2020.

26 47. Defendant arrested Plaintiff without a warrant and lacking probable cause
27 that any crime had been committed.

1 48. At no time did Plaintiff resist arrest, however, Plaintiff in no way
2 consented to his arrest, making clear his objections to the arrest, and fully asserting his
3 legal rights to travel along the road.

4 49. Such arrest was without legal authority.

5 50. Because of the arrest, Plaintiff’s livestock and personal belongings were
6 impounded and caused to be wrongfully seized by defendant.

7 51. On the arrest form, David Agredano refused to immediately release him,
8 and instead checked the box stating “if released immediately, would jeopardize the
9 prosecution of the offense or offenses for which arrested or the prosecution of any other
10 offenses. Checking such box, unlawfully resulted in Plaintiff being detained and falsely
11 imprisoned, despite the misdemeanor nature of the false charges.

12 52. Plaintiff is entitled to general damages including pain, suffering and
13 mental distress and previously pled, in amount to be proven at trial.

14 53. Plaintiff is entitled to special and economic damages in amount to be
15 proven at trial.

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18 **THIRD CAUSE OF ACTION**
19 **(VIOLATION OF THE BANE ACT)**
20 **SEARS V. AGREDANO AND DOES 1-40**

21 54. Plaintiff incorporates and re-alleges all previous paragraphs as if fully set
22 forth herein.

23 55. Plaintiff has a right to travel along the Juan Bautista De Anza Historic
24 Trail by mule that is protected by the U.S. and California Constitution.

25 56. Plaintiff and his animals have a right to use the roads and be protected
26 from motorized vehicles under statutory law.

1 57. Defendant sought to intimidate and coerce plaintiff into foregoing such
2 rights by color of law, by first demanding that Plaintiff stay off the road, and then by
3 arresting plaintiff for exercising his right to use the road to travel with his mules.

4 58. Defendant denied Plaintiff equal protection by failing to enforce the
5 vehicle requiring drivers to slow down or stop in the vicinity of animals on the road,
6 and instead arrested Plaintiff

7 59. Defendant intentionally sought to prevent Plaintiff from using such route
8 in the future for traveling by mule through threat of arrest, arrest, and coercion.

9 60. The portion of Juan Bautista de Anza Historic Trail, that includes
10 Nacimiento Lake Drive, constitutes the only route between Bradley and Paso Robles,
11 other than Highway 101.

12 61. Plaintiff is entitled to general and specific damages under Civil Code
13 sections 52 and 52.1 for such threats and coercion that sought to prevent, and did
14 prevent plaintiff from peacefully enjoying his Constitutional and statutory rights, and
15 the rights of his mules, including the damages arising from his arrest, imprisonment,
16 and the impounding of his animals.

17 62. Plaintiff is entitled to injunctive relief prohibiting Defendant David
18 Agredano and all members of the California Highway Patrol from threatening arrest or
19 arresting Plaintiff for traveling with his mules on the road along the Juan Bautista de
20 Anza Trail or any other public thoroughfares within the jurisdiction of the California
21 Highway Patrol.

22 63. Plaintiff is entitled to equitable and declaratory relief, pursuant to Civil
23 Code sections 52 and 52.1 to a judicial declaration that Plaintiff is entitled to drive,
24 walk, or guide his mules on the road along the Juan Bautista de Anza Trail or any other
25 public thoroughfares within the jurisdiction of the California Highway Patrol.
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1 **FOURTH CAUSE OF ACTION**
2 **DECLARATORY RELIEF AND INJUNCTIVE RELIEF**
3 **SEARS V. CALIFORNIA HIGHWAY PATROL**

4 64. Plaintiff incorporates and re-alleges all previous paragraphs as if fully set
5 forth herein.

6 65. Plaintiff brings this action on behalf of himself and all similarly situated
7 individuals who seek to safely travel and use the public thoroughfares throughout
8 California.

9 66. This action is vital not only to Mr. Sear's way of life, but all owners of
10 equines and livestock who wish or must use the public thoroughfares for travel, work,
11 or enjoyment.

12 67. It is alleged on information and belief that the California Highway Patrol
13 is a State agency created in 1929 to provide uniform traffic law enforcement throughout
14 the State of California.

15 68. It is alleged on information and belief that the California Highway Patrol
16 has jurisdiction to enforce the vehicle codes on all public roads and highways
17 throughout California, including roads in local jurisdictions.

18 69. It is further alleged on information and belief that the California Highway
19 Patrol is uniquely situated to represent the rights of all law enforcement agencies with
20 regard to the right to safely travel along the State's public roads and highways.
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22 70. Plaintiff alleges that he has a right to use the public road, in a safe
23 manner, including using vehicle lanes when necessary.

24 71. Plaintiff alleges that the California Highway Patrol alleges that when
25 Plaintiff is walking with his mules, Plaintiff and his mules are pedestrians with the
26 meaning of California Vehicle Code, must comply with the laws applicable to
27 pedestrians, including not encroaching into the vehicle lanes. (Veh. Code §§ 21954,
28 21956.)

1 72. Plaintiff disputes such interpretation and alleges that his mules have a
2 right to use and encroach into the vehicle lanes as supported California Vehicle Code
3 sections 21050 and 21759, and implied by California Food and Agricultural Codes
4 sections 16902 and 16903.

5 73. Plaintiff alleges that the California Highway Patrol's interpretation
6 violates the Constitution, in that to comply with such interpretation would render his
7 ability to travel throughout the State null and void, in that he could not safely and
8 reasonably comply with such law.

9 74. A judicial declaration of Plaintiffs rights and duties is necessary, in that
10 Plaintiff is constantly approached by law enforcement, many of whom are simply
11 curious, others who are supportive, many who are uninformed, some of whom can be
12 persuaded that he has a right to use the road, and some of whom, like Defendant David
13 Agredano, who threaten to arrest Plaintiff or actually arrest Plaintiff.

14 75. While Plaintiff believes that the law is clear and no reasonable officer
15 knowing the law could reasonably arrest Plaintiff for using the public road, a judicial
16 declaration of Plaintiff's rights and duties is necessary to allow Plaintiff to travel freely
17 without interference or interaction with law enforcement.

18 76. Such judicial declaration is necessary to avoid a multiplicity of lawsuits.

19 77. Plaintiff also requests injunctive relief compelling the California Highway
20 Patrol to issue a bulletin and training material to all law enforcement agencies
21 informing them of the right for horses, mules, and other livestock to use the public road
22 when accompanied by a human, is a lawful activity, and that motorist must slow down
23 or stop until it is safe to pass without frightening the animal. (Cal. Veh. Code § 21759.)

24 78. Plaintiff is entitled to attorney's fees for enforcing an important right
25 affecting the public interest, pursuant to Code of Civil Procedure section 1021.5.
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1 **PRAYER FOR RELIEF**

- 2 1. For general damages according to proof at trial;
- 3 2. For special damages according to proof at trial;
- 4 3. For injunctive relief prohibiting Defendant David Agredano and all members of
- 5 the California Highway Patrol from threatening arrest or arresting Plaintiff for traveling
- 6 with his mules on the road along the Juan Bautista de Anza Trail or any other public
- 7 thoroughfares within the jurisdiction of the California Highway Patrol;
- 8 4. For injunctive relief mandating the California Highway Patrol publish and
- 9 distribute a training bulletin informing law enforcement that horses, mules, and
- 10 livestock (accompanied by a person) have the right to use the public road;
- 11 5. For declaratory relief that the walking of mules and other livestock on the public
- 12 roads, highways, and thoroughfares is lawful;
- 13 6. For attorney's fees pursuant to 42 USC 1988, Cal. Civ. Code §§ 52 & 52.1, and
- 14 Code of Civ. Proc. § 1021.5 or any other legal right to attorney fees;
- 15 7. For costs of suit incurred herein;
- 16 8. For such other equitable and legal relief that the court may grant in the interest of
- 17 justice.
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20 **DEMAND FOR JURY TRIAL**

21 Plaintiff demands a trial by jury as to each and every cause of action against

22 each and every Defendant, to the extent permitted by law.

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24 DATE: January 19, 2021

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Todd T. Cardiff, Esq.
Attorney for Plaintiff

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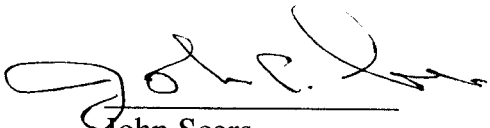
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VERIFICATION

I, John Sears, declare:

I am the Plaintiff in the above-titled action. I have reviewed the foregoing complaint and am familiar with its contents. I verify that the factual are true of my own personal knowledge, except for facts alleged on information and belief, and as to those facts, I believe them to be true. I declare under penalty of perjury under the laws of the State of California, that the foregoing is true and correct. Executed this 19th day of January, 2021, in the County of San Diego.



John Sears