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13 SUSAN DYER REYNOLDS

14 **UNITED STATES DISTRICT COURT**

15 **NORTHERN DISTRICT OF CALIFORNIA**

16 **SAN FRANCISCO DIVISION**

17 SUSAN DYER REYNOLDS, an  
18 individual,

19 Plaintiff,

20 vs.

21 DEAN E. PRESTON, in his individual  
22 capacity,

23 Defendant.

Case Number: 3:22-cv-08408

**FIRST AMENDED COMPLAINT**

**DEMAND FOR JURY TRIAL**

1 Plaintiff Susan Dyer Reynolds (“Ms. Reynolds”), by and through her attorneys, Dhillon Law  
 2 Group Inc., for her First Amended Complaint against Dean E. Preston, in his individual capacity  
 3 (“Supervisor Preston”), alleges and avers as follows:

#### 4 INTRODUCTION

5 1. Writing for a unanimous panel of the United States Court of Appeals for the Ninth  
 6 Circuit, Senior United States Circuit Judge Marsha Berzon wrote:

7 Today, social media websites like Facebook and Twitter are, for many, the  
 8 principal sources for knowing current events, checking ads for employment,  
 9 speaking and listening in the modern public square, and otherwise exploring the  
 10 vast realms of human thought and knowledge. . . . Accordingly, social media  
 11 sites can provide perhaps the most powerful mechanisms available to a private  
 12 citizen to make his or her voice heard.

13 *Garnier v. O’Connor-Ratcliff*, 41 F.4th 1158, 1162–63 (9th Cir. 2022) (internal citations and quotation  
 14 marks omitted).

15 2. In *Garnier*, the Ninth Circuit confirmed what several sister courts of appeal had already  
 16 decreed: that public officials violate the First Amendment of the United States Constitution when they  
 17 block citizens from official social media pages to exclude them from the virtual public square.

18 3. Supervisor Preston, an elected member of the San Francisco Board of Supervisors, ran  
 19 afoul of the First Amendment when he blocked Ms. Reynolds on Twitter.

20 4. Supervisor Preston has long maintained a grudge against Ms. Reynolds, largely borne  
 21 out of his anger about Ms. Reynolds’ criticism of Supervisor Preston’s policy stances (namely his  
 22 “movement goals” of defunding the police and abolishing prisons). Supervisor Preston tried (and failed)  
 23 to exclude Ms. Reynold’s publication from a city-funded advertising program, and he has done little to  
 24 hide his contempt for Ms. Reynolds.

25 5. Despite multiple efforts on Ms. Reynolds’ part to convince Supervisor Preston to unblock  
 26 her on Twitter, Supervisor Preston’s actions reflect his apparent belief that he can disregard the United  
 27 States Constitution while carrying out his duties as an elected official.

28 6. Because Ms. Reynold’s requests for Supervisor Preston to follow the Constitution have  
 fallen on deaf ears, Ms. Reynolds brings this lawsuit to remedy this ongoing violation of her rights.

**JURISDICTION AND VENUE**

7. This Court has subject matter jurisdiction over the subject matter of this Complaint pursuant to 28 U.S.C. § 1331 because this is a civil action arising under the Constitution and laws of the United States.

8. This Court has personal jurisdiction over Supervisor Preston. Supervisor Preston is a citizen of the State of California as he maintains his permanent domicile in the City and County of San Francisco.

9. Venue is proper in this judicial district under 28 U.S.C. § 1391 because Supervisor Preston resides in this District, and a substantial part of the events or omissions giving rise to the claim occurred in this District.

**INTRADISTRICT ASSIGNMENT**

10. This Action is properly assigned to the San Francisco Division of the Court, as the conduct giving rise to this dispute occurred in or was directed to San Francisco County, California. *See* Local Rule 3-2(e).

**PARTIES**

11. Ms. Reynolds is an individual who resides in San Francisco, California.

12. Supervisor Preston is an individual who resides in San Francisco, California. While Ms. Reynolds is suing Supervisor Preston in connection with acts he took as a member of the Board of Supervisors, Ms. Reynolds brings this suit against Supervisor Preston in his individual capacity.

**RELEVANT FACTS**

**Ms. Reynolds and the *Marina Times***

13. Ms. Reynolds has lived in San Francisco for almost her entire adult life.

14. Ms. Reynolds is a veteran journalist who writes about public affairs in San Francisco.

15. The *Marina Times* is a newspaper that is distributed free of charge in San Francisco's northern neighborhoods, including the Marina, Cow Hollow, Pacific Heights, Russian Hill, and North Beach. The *Marina Times* has been in print for approximately thirty-eight years.

16. In 2002, Ms. Reynolds became the *Marina Times*' Editor in Chief, and she bought the paper in 2006. Ms. Reynolds took on a partner in her ownership of the *Marina Times* in 2010.

17. In 2021, Ms. Reynolds and her partner sold the *Marina Times*. Ms. Reynolds still writes a column for the *Marina Times* and is its Editor Emeritus.

18. In 2016, Ms. Reynolds opened a Twitter account under the handle @TheMarinaTimes. Both before and after Ms. Reynolds and her partner sold the *Marina Times*, Ms. Reynolds has been the sole owner and operator of the @TheMarinaTimes Twitter account. Ms. Reynolds is the only person with the password to the account, and Ms. Reynolds is the only person who uses the account. Ms. Reynolds further identifies herself in the “bio” section of the Twitter page as the author of the tweets posted by the @TheMarinaTimes account.



19. Ms. Reynolds uses the @TheMarinaTimes Twitter account to express her personal opinions, comment on matters of public concern, and stay up to date with San Francisco politics (which included engaging with Supervisor Preston on Twitter before he blocked her).

20. As an example of Ms. Reynolds’ journalism, on September 4, 2022, Ms. Reynolds published a story on *Gotham* by Susan Dyer Reynolds, a Substack newsletter she maintains (the link to

which is in her Twitter bio), entitled, “Supervisor Dean Preston sold Mendocino nature preserve to founder of firm with city contracts,” reporting on the circumstances surrounding Supervisor Preston and his wife’s sale of a 567-acre ranch in Mendocino, California.

#### Supervisor Preston

21. Supervisor Preston was elected to the Board of Supervisors in a 2019 special election, and he holds himself out as a Democratic Socialist.

22. Prior to his election to the Board of Supervisors, Supervisor Preston engaged in various lines of work, including owning a nightclub and practicing law.

23. Supervisor Preston, whose vast real estate holdings include his primary residence adjacent to Alamo Square Park (a very prestigious location in the San Francisco real estate world, near the famed Painted Ladies, which are notable examples of Victorian architecture), has gained notoriety for his rabid opposition to the construction of nearly all new housing developments in San Francisco.

24. Supervisor Preston has emerged as the most politically extreme member of the Board of Supervisors. Dean Preston has railed against efforts to enforce drug laws even though rampant drug use and distribution has caused serious blight in neighborhoods less ritzy than Alamo Square. Supervisor Preston has gone so far as to call for defunding the police and abolishing prisons.

25. Supervisor Preston endorsed John Hamasaki’s failed bid to unseat Brooke Jenkins as San Francisco’s elected District Attorney. Mr. Hamasaki’s controversial opinions include his call to defund not only the police, but the very office to which he later sought election.



John Hamasaki for DA 濱崎  
@HamasakiLaw

...

There is no thin blue line between police and prosecutors, they are one and the same. Defund them both.

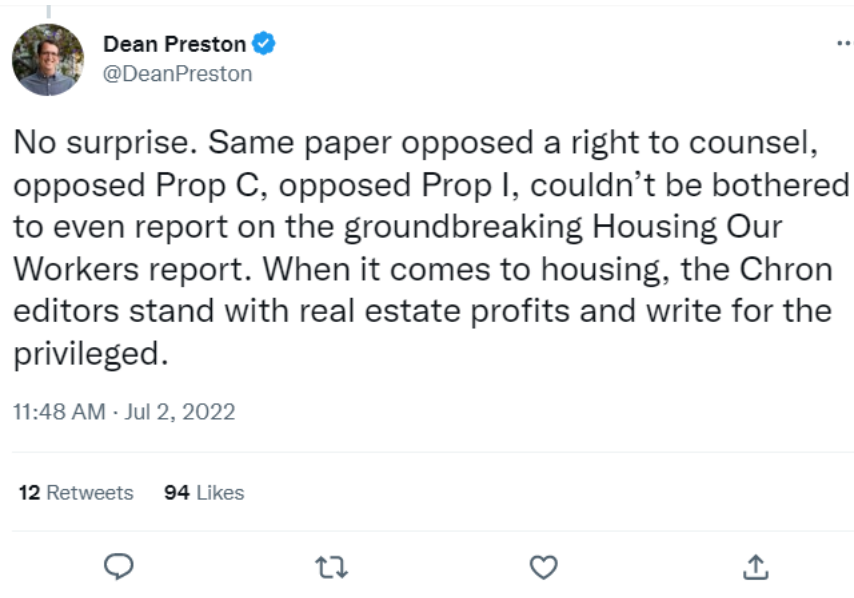
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26. Supervisor Preston regularly disparages anyone who dares to criticize him or the policies he champions. Three days after the *Atlantic* published Nellie Bowles' article, "How San Francisco Became a Failed City," linking San Francisco's chronic problems relating to quality of life to the type of policies Supervisor Preston has long promoted, Supervisor Preston questioned "how anyone who is actually human could write this[.]"



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27. On July 2, 2022, Supervisor Preston stated that *San Francisco Chronicle* editors “stand with real estate profits and write for the privileged” (Supervisor Preston’s apparent exclusion of himself from this group is odd, given his personal fortune and real estate holdings).



### Supervisor Preston’s Twitter Account

28. Supervisor Preston maintains a verified Twitter account (@DeanPreston). Supervisor Preston identifies himself on his Twitter page as the “SF D5 Supervisor” and his banner image is his campaign logo.





32. What follows are just several examples of the way in which Supervisor Preston uses his Twitter page in connection with his official duties as a member of the Board of Supervisors. There are hundreds, if not thousands, of further examples.

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- 1 a. On July 29, 2022, Supervisor Preston retweeted a *San Francisco Examiner* article  
 2 discussing Supervisor Preston's efforts to decriminalize various illicit drugs in San  
 3 Francisco.



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- b. On August 10, 2022, Supervisor Preston used his Twitter page to “urg[e]” Governor Gavin Newsom to sign a bill funding “[s]afe consumption sites,” i.e., government-funded facilities for people to use drugs.



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- c. On August 25, 2022, Supervisor Preston approvingly quote tweeted a tweet criticizing supporters of the successful recall of former District Attorney Chesa Boudin, describing their “ugly, Trumpian heart,” and calling them a “left coast MAGA movement, with all the cult elements, like rejection of reality and unvarnished bigotry[.]”



**Dean Preston** ✓  
@DeanPreston

...



**gil duran** 🇺🇸 ✓ @gilduran76 · Aug 24

Louie's unhinged behavior exposes the ugly, Trumpian heart that animated the most fervent supporters of the Boudin recall. It's a left coast MAGA movement, with all the cult elements, like rejection of reality and unvarnished bigotry, right here in San Francisco.

More to come...

[Show this thread](#)

9:06 AM · Aug 25, 2022

1 Retweet 1 Quote Tweet 36 Likes

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- d. On September 4, 2022, Supervisor Preston approvingly quote tweeted a profane and demeaning tweet about proponents of a ballot initiative Supervisor Preston opposed (a measure that would allow for the construction of affordable housing without project-by-project approval by the Board of Supervisors), adding that the ballot initiative was “everything that’s wrong with SF politics[.]”

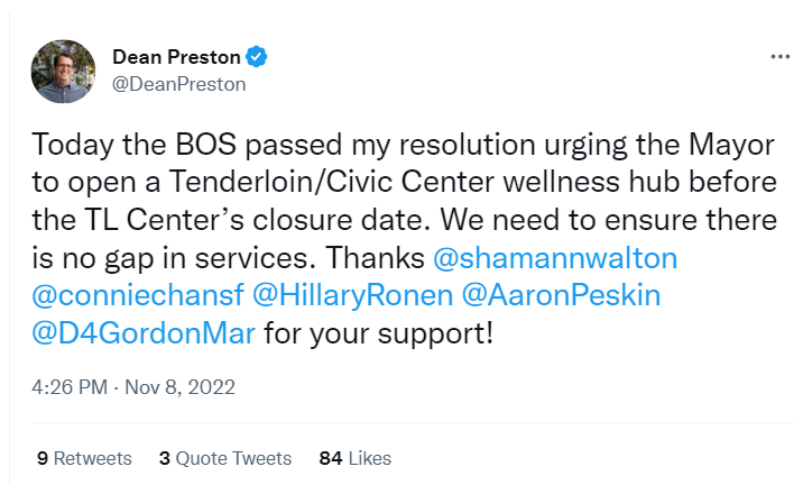


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- e. On or about November 2, 2022, Supervisor Preston “liked” a tweet critical of District Attorney Brooke Jenkins, in which the seemingly anonymous speaker stated that he “prefer[s] to have a DA who doesn’t do crimes[.]” (District Attorney Jenkins has not been charged with any criminal offenses.)



- f. On November 8, 2022, Supervisor Preston announced that the Board of Supervisors passed his resolution regarding a “wellness hub” in the Tenderloin/Civic Center neighborhood. (This neighborhood has been plagued by rampant, open-air drug use and distribution, and the City recently closed a facility that provided services that enabled drug users to continue their lifestyle over Supervisor Preston’s vocal opposition.)



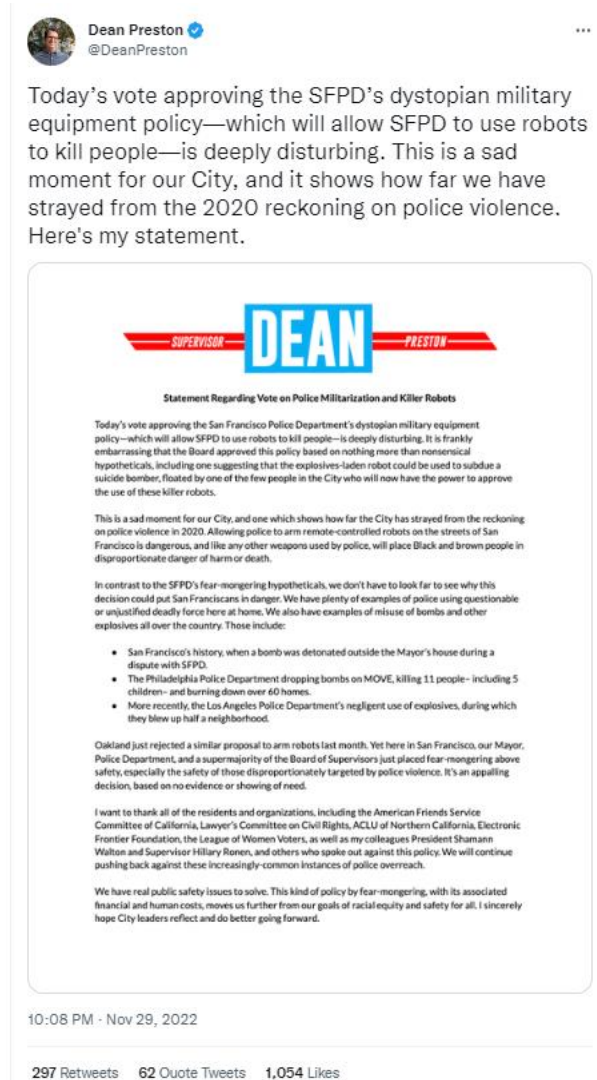
- g. On November 16, 2022, Supervisor Preston took to Twitter to promote his legislative initiative of building affordable housing (a rare stance for Supervisor Preston) on a site currently serving as a DMV parking lot (leading critics to question whether Supervisor Preston's real motive was to inconvenience people who rely on their cars).



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h. On November 29, 2022, Supervisor Preston tweeted an image of his official statement regarding a Board of Supervisors' vote, which, according to Supervisor Preston, will allow the San Francisco Police Department to "use robots to kill people."



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- i. On December 3, 2022, Supervisor Preston proudly announced that the San Francisco Department of Public Health would be providing counseling services to those exposed to gun violence in response to a Board of Supervisors' resolution. (Supervisor Preston routinely opposes efforts to increase law enforcement measures to protect citizens in working class neighborhoods.)



33. As a result of Supervisor Preston's prolific activity on Twitter, anyone wishing to participate in San Francisco politics must at least observe Supervisor Preston's conduct on Twitter to gain a full understanding of the local dynamics.

34. Simply put, Supervisor Preston's Twitter page is a virtual San Francisco town square.


## Supervisor Preston's Campaign of Retaliation Against Ms. Reynolds

35. Supervisor Preston is notorious for opposing law enforcement measures that result in the incarceration of robbers, drug dealers, and other criminals.

36. On June 8, 2020, Supervisor Preston tweeted about various "movement goals" he wanted to work on, which included "[d]efunding police" and "[p]rison abolition." In response, Ms. Reynolds criticized Supervisor Preston's policy stances by quote tweeting his tweet and asking whether Supervisor Preston would want police officers to respond to a hypothetical criminal incident involving his child, and whether Supervisor Preston would want the hypothetical criminal in this scenario to go to prison.



37. That same day, Ms. Reynolds tweeted further criticism of Supervisor Preston's call to defund the police and abolish prisons.

The Marina Times... · 6/8/20  
Hope he doesn't let them out at night by themselves after he gets rid of the entire @SFPD and abolishes prisons 🤪  
#PrestonsPurge

38. On or around July 2020, Supervisor Preston blocked the @TheMarinaTimes Twitter account.

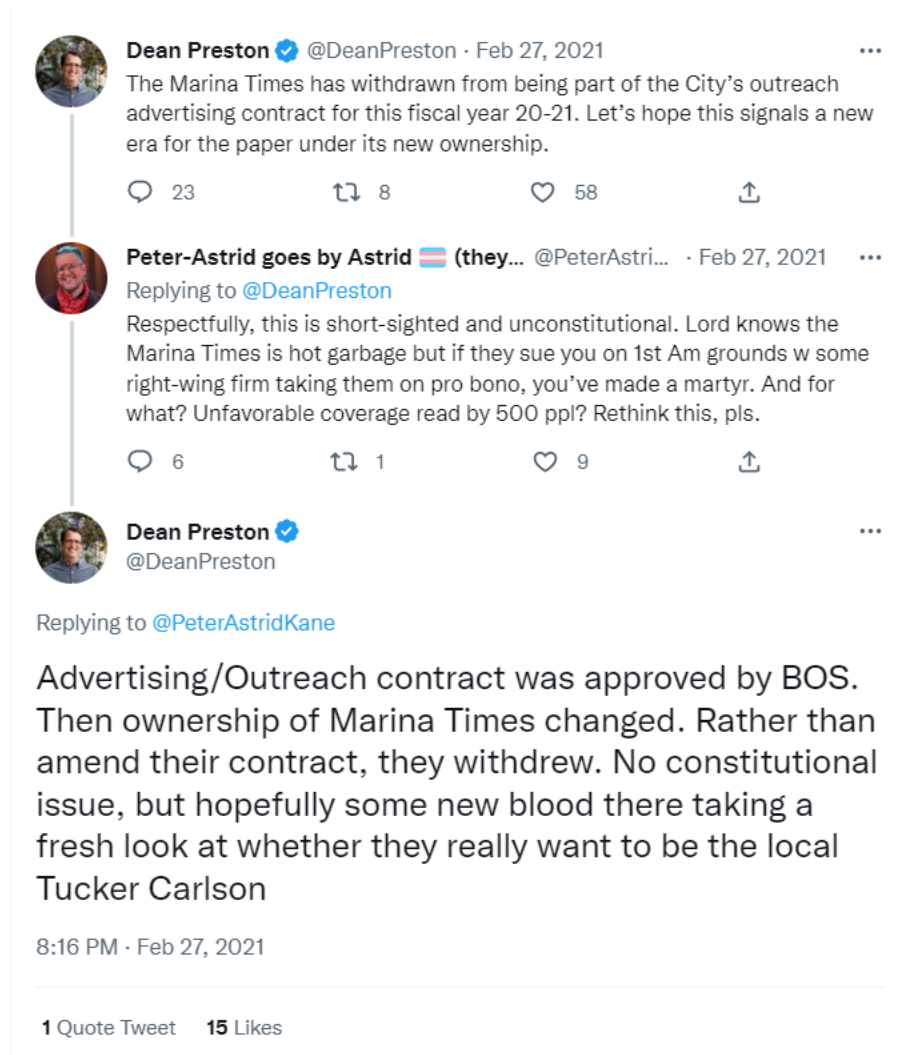
39. Upon information and belief, Supervisor Preston blocked the @TheMarinaTimes Twitter account because Ms. Reynolds used the account to express viewpoints Supervisor Preston found distasteful and/or politically inconvenient.

40. In October 2020, Ms. Reynolds published a column in the *Marina Times* about the troubling conditions in the Haight neighborhood of San Francisco, where Ms. Reynolds has lived for over two decades, and which is one of the neighborhoods Supervisor Preston represents on the Board of Supervisors. Ms. Reynolds' column discussed statistics about increased burglaries, daily reports of street brawls, and open-air drug use. Ms. Reynolds discussed how Supervisor Preston, along with his supporters, handed out nearly 1,000 tents to homeless individuals so that they could set up camp in front of private homes and businesses.

41. On or about December 1, 2020, approximately fifteen minutes before a Board of Supervisors meeting, Supervisor Preston expressed his desire to remove the *Marina Times* from a list of newspapers approved to carry public notices. Supervisor Preston stated that the *Marina Times* was "an entity that has proven time and again that they are a mouthpiece for disinformation, doxing public officials, and personal attacks. I consider them on par with the likes of Breitbart News . . . serving to the public fact-free and often hate-filled propaganda." The Board of Supervisors ultimately renewed the *Marina Times* contract despite Supervisor Preston's political animus and personal vendetta against the *Marina Times* and Ms. Reynolds.



44. On February 27, 2021, Supervisor Preston publicly celebrated the fact that the *Marina Times* withdrew from San Francisco's outreach advertising contract for the 2020–2021 fiscal year.



45. Ms. Reynolds has repeatedly tried to convince Supervisor Preston to cease his ongoing First Amendment violation by unblocking her Twitter account. Ms. Reynolds' efforts include multiple tweets directed at Supervisor Preston and San Francisco City Attorney David Chiu regarding Supervisor Preston's unconstitutional conduct. On February 19, 2022, Ms. Reynolds sent a lengthy email to City Attorney Chiu and Supervisor Preston regarding Supervisor Preston's actions, which both men ignored.

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46. Supervisor Preston has also endorsed others' attacks on Ms. Reynolds. For example, Supervisor Preston "liked" a November 30, 2022, tweet by an individual named Dmitry Yakoushkin, who told another Twitter user that he should be "glad [Ms. Reynolds] blocked you, it means you did something right and good and truthful."



47. While Ms. Reynolds does not enjoy reading Supervisor Preston's tweets, it is part of her job as a journalist in San Francisco. Yet, because Supervisor Preston blocked Ms. Reynolds, she is unable to view his tweets. Supervisor Preston's Constitutional violation is of a continuing nature because every day that Ms. Reynolds' Twitter account remains blocked, Ms. Reynolds is excluded from this designated public forum.





**COUNT I****Violation of 42 § U.S.C. 1983****(Deprivation of First Amendment Rights)**

48. Ms. Reynolds incorporates every allegation contained in each and every one of the above paragraphs, as though set forth fully herein.

49. Supervisor Preston is a member of the San Francisco Board of Supervisors and is therefore a public official vested with the authority to act under color of state law.

50. Supervisor Preston operates his Twitter page under color of state law, as evidenced by the close nexus between Supervisor Preston's Twitter page and his official duties as a member of the San Francisco Board of Supervisors. Supervisor Preston purports to act in his capacity as a member of the Board of Supervisors in connection with his Twitter page, as he, among other things, identifies himself by his elected office, maintains a verified account because of his status as a government official, uses his campaign logo as his banner photo, and does not maintain separate personal and professional Twitter accounts. Supervisor Preston's Twitter account is overwhelmingly geared toward informing members of the public about Supervisor Preston's official activities and soliciting speech from members of the public related to policy matters affecting San Francisco. Supervisor Preston's presentation and use of his Twitter account influences others as his tweets often provoke public discourse regarding matters affecting San Francisco residents. Supervisor Preston's management of his Twitter account relates in a meaningful way to his government status and the performance of his official duties as he routinely uses his Twitter page to broadcast his official acts, his policy stances, and his political activities.

51. The acts and omissions giving rise to Ms. Reynolds' claim against Supervisor Preston were directly linked to Supervisor Preston's official status, as Ms. Reynolds is informed and believes that Supervisor Preston blocked Ms. Reynolds from his Twitter page for criticizing his policy stances regarding defunding the police and abolishing prisons.

52. Supervisor Preston has opened and continues to open his Twitter page to discussion of public affairs by members of the public without any overriding policy or practice of moderating its content. Supervisor Preston's Twitter page is, therefore, at least a designated public forum.





**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Susan Dyer Reynolds respectfully prays for relief and judgment against Defendant Dean E. Preston, in his individual capacity, as follows:

- i. For judgment in favor of Ms. Reynolds and against Supervisor Preston;
- ii. For injunctive and declaratory relief requiring Supervisor Preston to cease any and all violations of Ms. Reynolds' rights under the First Amendment;
- iii. For compensatory damages in a sum according to proof;
- iv. For nominal damages, in the alternative to compensatory damages;
- v. For exemplary and punitive damages in a sum sufficient to deter Supervisor Preston's unconstitutional conduct;
- vi. For an award of reasonable attorneys' fees pursuant to 42 U.S.C. § 1988;
- vii. For costs of suit herein; and
- viii. For such other and further relief as the Court deems just and proper.

Respectfully submitted,

Date: December 13, 2022

**DHILLON LAW GROUP INC.**

By: /s/ Jesse D. Franklin-Murdock

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Attorneys for Plaintiff

Susan Dyer Reynolds

**DEMAND FOR JURY TRIAL**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff Susan Dyer Reynolds demands trial by jury on all claims and issues so triable.

Respectfully submitted,

Date: December 13, 2022

**DHILLON LAW GROUP INC.**

By: /s/ Jesse D. Franklin-Murdock

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