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17 **UNITED STATES DISTRICT COURT**
18 **SOUTHERN DISTRICT OF CALIFORNIA**

19 THE KOALA, an unincorporated
20 student association,

21 Plaintiff,

22 v.

23 PRADEEP KHOSLA, in his official
24 capacity as Chancellor of the
25 University of California, San Diego;
26 DOMINICK SUVONNASUPA, in
27 his official capacity as President of
28 the Associated Students of the
University of California, San Diego;
and TRISTAN BRITT, in his official
capacity as Financial Controller of the
Associated Students of the University
of California, San Diego,

Defendants.

Case No.:

**VERIFIED COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

1. First Amendment Violation
(Freedom of the Press)
2. First Amendment Violation
(Freedom of Speech)

Plaintiff *The Koala* brings this First Amendment case against officers of the University of California, San Diego (“UCSD”), and the Associated Students of UCSD (“Student Government”), in their official capacities, and alleges as follows:

1 University. Board of Regents Standing Order 100.4(a). The Regents have created
2 several UC campuses, including UCSD.

3 11. Defendant Pradeep Khosla is the Chancellor of UCSD and responsible
4 for the organization, operation, and internal administration of the campus. Board of
5 Regents Standing Order 100.6(a).

6 12. In particular, the Chancellor is responsible for ensuring that the
7 allocation of funds by UCSD's student government "is consistent with legal
8 requirements and University policies and procedures." UC Policy on Student
9 Governments ¶ 67.00.

10 13. The Student Government is the official student government for UCSD
11 and an official unit of the University of California exercising authority over student
12 affairs with powers delegated by the Regents, President, and Chancellor. UC
13 Regents Policy 3301.

14 14. Defendant Dominick Suvonnasupa is the President of the Student
15 Government. The President is the chief executive officer of the Student
16 Government. Student Government Constitution, Art. VI, §§ 1(a), 1(k).

17 15. Defendant Tristan Britt is the Financial Controller of the Student
18 Government. The Financial Controller is responsible for the Student Government's
19 allocation and expenditures of funds, including but not limited to funding of speech
20 by registered student organizations from revenue generated by campus activity fees.
21 *Id.* § 4(b).

22 16. All Defendants are sued in their official capacities for declaratory and
23 injunctive relief. The statements of UCSD administrators, Student Government
24 officials, and other individuals discussed in this complaint are taken from public
25 records disclosed by UCSD to Plaintiff under the California Public Records Act, or
26 from other official records of UCSD or the Student Government.

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1 **FACTUAL ALLEGATIONS**

2 **A. University of California policy establishes a limited public forum**
3 **for supporting student speech on a wide range of issues, with clear**
4 **disclaimers of official endorsement and a process to issue pro rata**
5 **refunds to students who object to certain speech.**

6 17. Apart from tuition, the University of California collects fees for
7 various purposes, including “a student body fee whenever requested to do so by at
8 least a majority vote of the student body concerned.” UC Regents Policy 3302.

9 18. Pursuant to applicable policies and as approved by student referendum,
10 UCSD collects “compulsory campus-based student fees,” also known as campus
11 activity fees, from its students.

12 19. “Compulsory campus-based student fees are fees levied at individual
13 campuses that must be paid by all registered students to whom the fee applies.” UC
14 Policy on Compulsory Campus-Based Student Fees ¶ 81.10

15 20. UCSD allocates campus activity fee income to the Student
16 Government, which dedicates a portion of that income to support the speech of
17 registered campus organizations.

18 21. The “University's purposes for student governments” include
19 providing “financial and other tangible support for student activities and
20 organizations on a viewpoint-neutral basis ... in order to foster a sense of
21 community and to further discussion among students of the broadest range of
22 ideas.” UC Policy on Student Governments ¶ 61.13.

23 22. The “University’s educational purposes are served” when student
24 governments fund registered campus organizations “to stimulate on-campus
25 discussion and debate on a wide range of issues from a variety of viewpoints.” UC
26 Policy on Compulsory Campus-Based Student Fees ¶ 86.20.

27 23. Under university policy, “specific reallocation decisions for the
28 support of Registered Campus Organizations and Registered Campus Organization-
related programs and activities from compulsory campus-based student fees ...

1 must be viewpoint-neutral in their nature; that is, they must be based upon
2 considerations which do not include approval or disapproval of the viewpoint of the
3 Registered Campus Organization or any of its related programs or activities.” UC
4 Policy on Compulsory Campus-Based Student Fees ¶ 86.30.

5 24. The Student Government has adopted rules for the student
6 organization funding process. Standing Rules, Title II, § 10.4 (formerly Title V, §§
7 2.4, 2.5).

8 25. A registered student organization under the Standing Rules is a
9 registered campus organization under University of California policy.

10 26. Under the rules, “[a] student organization must be a registered student
11 organization to request funding through a student organization funding process,”
12 and “[t]he allocation of funds to student organizations does not represent an
13 endorsement or the official position of the ASUCSD, the University of California,
14 or the Regents of the University of California.” Standing Rules, Title II, §§ 10.5(a),
15 10.5(d) (formerly Title V, §§ 2.5(a), 2.5(f)).

16 27. In particular, print media funded by the Student Government were
17 required to include a disclaimer stating, “The publication may have been funded in
18 part or in whole by funds allocated by the ASUCSD. However, the views
19 expressed in this publication are solely those of <publication’s name here>, its
20 principal members and the authors of the content of this publication. While the
21 publisher of this publication is a registered student organization at UC San Diego,
22 the content, opinions, statements and views expressed in this or any other
23 publication published and/or distributed by <publication’s name here> are not
24 endorsed by and do not represent the views, opinions, policies, or positions of the
25 ASUCSD, GSAUCSD, UC San Diego, the University of California and the Regents
26 or their officers, employees, or agents. The publisher of this publication bears and
27 assumes the full responsibility and liability for the content of this publication.”
28 Former Standing Rules, Title V, § 2.5(1)(2).

1 28. The Student Government published a Funding Guide describing
2 viewpoint-neutral conditions for student organizations to receive funding.
3 It contains the same disclaimer for student media as the Former Standing Rules.

4 29. Taken together, University of California policy, the Standing Rules,
5 and Student Government practices establish a limited public forum for funding the
6 speech of registered student organizations without regard to viewpoint.

7 30. Although the Student Government provides various channels for
8 funding various forms of speech within that forum, the disbursement of campus
9 activity fee income is and at all relevant times has been a single forum for
10 supporting student speech.

11 31. In addition to funding print media published by Plaintiff and other
12 organizations, the Student Government has consistently funded a wide range of
13 expression by student organizations. For example, according to its official records,
14 the Student Government funded the following forms of student speech in fall 2015,
15 among others:

- 16 a. African Student Association: African Theme Thanksgiving;
- 17 b. Chabad at UCSD: Learning with Chabad;
- 18 c. College Democrats at UCSD: Political Rhetoric Discussion, City
19 Council Primary Strategizing, Primary Election Showdown,
20 Democratic Debate Watch Party, College Democrats at UCSD;
- 21 d. Indian Student Association: Diwali;
- 22 e. Multi-Asian Student Association: Asian Night Market & Cultural
23 Movie Night;
- 24 f. Muslim Student Association: general meeting;
- 25 g. SAJE & Union of Jewish Students: “Learning Events” that educate
26 “UCSD Students about Jewish law and ideology”;
- 27 h. SangamSD: Fall Banquet 2015, to “educate those in attendance about
28 South Asian culture”;

- i. Triton Art: Artist Talk; and
- j. United Jewish Observance: Shabbat Week.

32. University policy authorizes students to obtain pro rata refunds of their campus activity fees if they object to funding particular speech. “A student government in consultation with the campus, or a campus with the concurrence of the student government, may at its discretion establish and administer a mechanism providing for a pro rata refund to any student of that portion of his or her compulsory campus-based student fees that has been allocated by a student government or other campus entity to support a particular Registered Campus Organization or Registered Campus Organization-related program or activity.” UC Policy on Registered Campus Organizations ¶ 70.83.

33. The Student Government adopted such a mechanism. “Any member of the ASUCSD may request a pro-rata refund of a portion of the Campus Activity Fee for any allocation for political, religious, and ideological grounds. The Financial Controller has the authority to judge the veracity and to approve all such requests.” Standing Rules, Title II, § 4.7(a)(3) (formerly Title V, § 1.7(a)(3)).

34. According to its Executive Budget, the Student Government collected \$3,704,964 in campus activity fees during the 2015-2016 school year. It allocated \$432,236 to fund student organizations, with only \$25,000 earmarked for media organizations. Therefore, student media funding constituted only 0.7 percent of the Student Government’s budget and 5.7 percent of student organization funding.

B. *The Koala* is a registered student organization with a history of publishing controversial speech that has drawn the ire of the Student Government and UCSD administration.

35. *The Koala* is and at all relevant times has been a registered student organization at UCSD.

36. *The Koala* has published a satirical student newspaper at UCSD since 1982, and it has consistently qualified for and received campus activity fee funding from the Student Government, as have other student organizations.

1 37. *The Koala* is published several times each academic year. The typical
2 print run for each issue runs to approximately 3000-5000 copies. It is also
3 published on the internet at <http://thekoala.org/>. Each issue supported by campus
4 activity fees has contained the disclaimer required by the Standing Rules.

5 38. *The Koala* distributes each issue of its newspaper by hand for free on
6 the UCSD campus.

7 39. The UCSD administration and Student Government have consistently
8 condemned *The Koala* due to the viewpoint of its speech.

9 40. The UCSD administration and Student Government have made
10 multiple attempts to terminate funding for publication of *The Koala* on the basis of
11 its viewpoint.

12 41. In 2002, UCSD unsuccessfully attempted to revoke *The Koala's*
13 registration as a student organization and its access to funding because one of its
14 members allegedly took photographs at a public meeting hosted by another student
15 organization, and *The Koala* subsequently published them in a manner that mocked
16 the other organization.

17 42. In 2010, then-President of the Student Government Utsav Gupta
18 suspended all student print media funding after *The Koala* broadcast certain content
19 on UCSD's student-run television channel. The Student Government then explored
20 means of defunding *The Koala* before resuming funding for student print media.

21 43. As Mr. Gupta wrote on February 25, 2010, "The Koala has long since
22 been a controversial publication at UC San Diego and is primarily funded by our
23 student fees. I do not believe we should continue funding this organization with
24 our fees. We must develop effective policies to ensure that our fees do not go to
25 support the hateful speech that targets members of our community."¹

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27 ¹ Except as otherwise noted, the statements of officials and individuals quoted in
28 this Complaint are taken from public records obtained from UCSD, true and correct
copies of which are attached hereto as Exhibit 1.

1 44. On March 12, 2010, then-Vice Chancellor for Student Affairs Penny
2 Rue wrote that Mr. Gupta “has worked tirelessly to find a way to disestablish the
3 AS relationship with the Koala, but a concerted effort by other media groups and
4 the spotlight of upcoming elections has hampered his efforts. I cannot tell you how
5 bad a black eye it is for the University that we do not seem to have the power to cut
6 our ties to this body.”

7 45. A few days later, on March 17, 2010, Assistant Vice Chancellor of
8 Student Life Gary Ratcliff wrote to Ms. Rue and a faculty member, alluding to
9 purportedly “legally sound methods that ... I have advised student leaders to
10 consider in order to discontinue student government funding of the Koala.”

11 **C. Immediately after *The Koala* published a controversial parody on**
12 **a topical issue of public concern, the Student Government**
13 **eliminated all funding for student print media but continued to**
14 **fund other forms of speech.**

15 46. On November 12, 2015, UCSD received a complaint about *The Koala*
16 stating, in part, “The Koala is a newspaper that is solely meant to cause hatred...
17 Stop the Koala.”

18 47. In response, Vice Chancellor for Equity, Diversity, and Inclusion
19 Becky Pettit emailed Vice Chancellor for Student Affairs Juan Gonzalez, Associate
20 Chancellor and Chief of Staff Clare Kristofco, and other UCSD officials: “I think
21 this crosses the ‘free speech’ line and I’d like to explore ways we can do something
22 about it. I know it’s a delicate undertaking.”

23 48. Ms. Kristofco replied, “We have been down this path many times over
24 the years for even more egregious issues.”

25 49. In the same email thread, in response to a suggestion from campus
26 counsel to meet and “discuss the legal landscape,” Ms. Pettit wrote, “I’d like to
27 think creatively about how we can address this.”

28 50. On November 16, 2015, *The Koala* published an article entitled
“UCSD Unveils New Dangerous Space on Campus” that satirized the concepts of

1 “trigger warnings” and “safe spaces.” See [http://thekoala.org/2015/11/16/ucsd-](http://thekoala.org/2015/11/16/ucsd-unveils-new-dangerous-space-on-campus/)
2 [unveils-new-dangerous-space-on-campus/](http://thekoala.org/2015/11/16/ucsd-unveils-new-dangerous-space-on-campus/).

3 51. However offensive or outrageous it may have been, the article remains
4 protected speech on topical issues of public concern, including but not necessarily
5 limited to the nature, purpose, and appropriateness of trigger warnings and safe
6 spaces on college and university campuses.

7 52. Numerous individuals submitted “Bias Incident Report Forms” to
8 UCSD complaining about the viewpoint of *The Koala* and the article in particular,
9 making statements such as:

- 10 a. “The campus newspaper The Koala published an explicitly racist
11 article mocking safe spaces.... The university needs to stop funding
12 the Koala, and stop endorsing it.”
- 13 b. “The newspaper mocks safe spaces, and other resources used for
14 students who have had and are continuing to have experiences being
15 victimized such as CARE. It propagates insensitive mindsets with its
16 sexist and racist comments masked under cruel humor. Screen works
17 to make sure that there is no propagation of these attitudes.”
- 18 c. “Last night they released an article on thekoala.org that mocked
19 students' need for safe spaces, and included allusions to sexual
20 violence and racist acts.... I would like to see UCSD dismantle The
21 Koala immediately.”
- 22 d. “The Koala, titled ‘UCSD Unveils New Dangerous Space on Campus,’
23 promotes hate speech and perpetuates racism and sexism. UCSD
24 should have no place or space for such discrimination.... Defund and
25 shut down The Koala.”
- 26 e. “Pull the funds, and make them turn to personal donations if they want
27 to continue this nonsense. They have the UC stamp/icon on the paper.
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1 UCSD already has a bad racial climate and this is an obvious
2 contributor that can be eradicated.”

- 3 f. “In my research of The Koala's history, funding was pulled from the
4 paper by an AS vote. Why can we not renew that vote and decide
5 against the funding?”
- 6 g. “I would like the University to shut down the koala newspaper and the
7 creators of the newspaper should be punished by their college deans.”
- 8 h. “The Koala newspaper is disturbing, sexist, racist, and homophobic.
9 How can something like this be present at an 'inclusive' campus?
10 The Koala should be more inclusive or be banned from being
11 published.”
- 12 i. “Stop the UCSD students who are editors and publishers of the Koala
13 newspaper from continuing to distribute this newspaper on campus.
14 It is damaging to the self-esteem and overall well-being of many
15 UCSD students on campus.”
- 16 j. “The University needs to immediately take the initiative to end any
17 hate speech, actions, or crimes that offend any groups represented on
18 campus.... I demand an end to this newspaper.”
- 19 k. “Please set up a system for administrative approval of the content
20 published in the magazine.”
- 21 l. “The Koala has recently published a new newsletter that is ruining the
22 campus climate and making me and other students feel unsafe at this
23 university.... I believe the administration needs to shut down the
24 Koala as they have notoriously been discriminating against minorities
25 since their conception.”
- 26 m. “The latest article in the Koala is blatantly offensive and preaches a
27 single point of view.... It is evident that UCSD is not overseeing this
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1 hateful rhetoric. Therefore, the students need control to hold
2 individuals accountable.”

3 n. “Find ways to address the Koala by defunding it, finding those
4 complicit in writing, funding, supporting it and putting them on blast
5 for breaking sanctions that make the campus climate cold and
6 negative.”

7 o. “Defund The Koala.”

8 53. Lori Chamberlain, a UCSD official, informed Ms. Pettit, Mr.
9 Gonzalez, Ms. Kristofco, and Mr. Ratcliff by email on November 17, 2015, “I will
10 be forwarding a number of ‘Bias Incident Report Forms’ that we have received
11 regarding the Koala issue.” Ms. Chamberlain then forwarded each of the above
12 complaints to Ms. Pettit, Mr. Gonzalez, Ms. Kristofco, and Mr. Ratcliff.

13 54. Ms. Chamberlain emailed Ms. Pettit, Mr. Gonzalez, Ms. Kristofco, and
14 Mr. Ratcliff later on November 17, 2015: “We do not typically receive so many
15 reports regarding a single issue.”

16 55. As Ms. Chamberlain wrote to a student who completed a “Bias Report
17 Incident Form” against *The Koala*, “We have forwarded your complaint along with
18 others to the Vice Chancellor of Equity, Diversity and Inclusion and to the Vice
19 Chancellor of Student Affairs. I know they will be discussing what further action
20 could be taken.”

21 56. On November 18, 2015, a UCSD student emailed Mr. Gonzalez
22 directly about *The Koala*: “Knowing that my school is funding such a heinous
23 magazine is not okay and I stand by my fellow students to get it off this campus.
24 Please please cease funding for this awful publication.”

25 57. After publication of the “Dangerous Space” article and numerous
26 complaints about its viewpoint, UCSD officials discussed how to respond by email,
27 telephone, or in-person meeting.

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1 58. On November 18, 2015, UCSD released a “Statement Denouncing
2 Koala Publication From UC San Diego Administration” from the Chancellor and
3 other officials. The statement read, “We, the UC San Diego administration,
4 strongly denounce the Koala publication and the offensive and hurtful language it
5 chooses to publish. The Koala is profoundly repugnant, repulsive, attacking and
6 cruel. The UC San Diego administration does not provide any financial support for
7 the Koala, and we call on all students, faculty, staff and community members to
8 join us in condemning this publication and other hurtful acts.”

9 59. In an email on the same date, Vice Chancellor for Resource
10 Management and Planning Gary Matthews stated, “Please note Koala get[s] no
11 University funding[.] The Associated Students find [sic] them. Pressure should
12 [be] brought to that organization to end the madness.”

13 60. On information and belief, UCSD officials communicated with
14 Defendant Suvonnasupa or other Student Government officials to discuss options or
15 proposals for defunding *The Koala*, including but not necessarily limited to the
16 elimination of campus activity fee funding for publication of student print media.

17 61. During the evening of November 18, 2015, the Student Government
18 Council held a regular meeting. According to the Student Government’s official
19 record of the meeting, which is attached to the Request for Judicial Notice filed
20 herewith, students objected to *The Koala* as follows:

21 a. “I speak on the recent issues of Koala. I don't know why this
22 publication is to remain on campus and I would like to know where AS
23 stands on this issue.”

24 b. “There is something to be said about free speech. We're not saying to
25 shut the Koala down but we don't want student funds to support
26 something that feels unsafe.”

27 62. Mr. Gonzalez attended the Student Government meeting and read
28 UCSD’s official statement concerning *The Koala* into the record.

1 63. At the meeting, a motion was made to delete former Title V, § 2.4(d)-
2 (f) of the Standing Rules, which provided the administrative mechanism for funding
3 publication of student print media. The motion did not affect funding for any other
4 form of student speech.

5 64. According to the Student Government's official record of the meeting,
6 which is attached to the Request for Judicial Notice filed herewith, Student
7 Government officials made comments such as:

- 8 a. "President Suvonnasupa: The question is do we fund media at all?
9 It expresses an opinion of that group. Should student fees be used to
10 fund these events? There is a difference between print and event in my
11 opinion."
- 12 b. "AVP Juarez: Objectivity does not exist. I'm really upset what has
13 come out of this publication."
- 14 c. "Senator Roberts: We nix them now does not mean that others who
15 are funded by this cannot find alleyways to find different ways of
16 funding. But we should nix this media funding now."
- 17 d. "Senator Pennish: I think alternate funding needs to be secured.
18 It shouldn't be to pull funding away because some groups benefit and
19 are positive to the campus."
- 20 e. "Senator Hunter: Is there a way to receive a list of current orgs who
21 use this funding? By cutting media funding, we will also be cutting
22 other publication. To say it was allocated in funding and back out, it
23 won't look good on our point."
- 24 f. "Senator Vu: Campus climate has gotten so bad across the country. I
25 feel like this should happen so we can represent our constituents."
- 26 g. "VP CA Valdivia: I am open to finding alternative funding. It's been
27 talked about before and nothing has been done. Something should be
28 done now."

1 h. “President Suvonnasupa: It has to be looked as a whole. We aren't
2 saying we are limiting free speech. Everything printed on AS Funds is
3 AS responsibility. Everything printed, good or bad, is partially our
4 responsibility.”

5 65. The motion was then approved, with an official statement that
6 “standing rules supersede the Funding Guide with respect to media funding.
7 AS does not fund printed media.”

8 66. The approval of the motion resulted in elimination of campus activity
9 fee funding for student print media but not other forms of speech or activities by
10 registered student organizations.

11 67. Although the motion was in form directed at terminating funding for
12 all student print media, the motion and its approval were in fact substantially
13 motivated by the viewpoint of *The Koala*'s speech.

14 68. On November 19, 2015, Mr. Ratcliff emailed various UCSD officials,
15 including Mr. Gonzalez, Ms. Pettit, and Ms. Kristofco, stating that “the Associated
16 Students (AS) voted to discontinue funding publications of media student
17 organizations. Students on campus have expressed their disapproval of the Koala
18 and Associated Students (AS) funding of student organization publications.... AS
19 adopted a blanket restriction on a type of student organization expenditure it will
20 not fund. For example, some student governments do not accept funding requests
21 for equipment, travel, and food. The student government at SDSU does not accept
22 requests for publications. Last night, AS voted to do the same.”

23 69. Mr. Gonzalez forwarded the message to Defendant Khosla and other
24 UCSD officials, noting, “I wanted to be certain you were aware of this vote by AS
25 last night.”

26 70. Copying the Chancellor and others in reply, Suresh Subramani,
27 Executive Vice Chancellor of Academic Affairs, directed Mr. Gonzalez, “Let's not
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1 ditch the good ones worthy of this funding and work actively on finding ways to
2 encourage and help them financially. I know you are working on this.”

3 71. The Standing Rules have been amended to state, “The Standing Rules
4 supersede the Funding Guide with respect to media funding. AS does not fund
5 printed media.” Standing Rules, Title II, § 10.4(f).

6 72. The official records of the Student Government show that it has
7 continued to fund other forms of student speech on various topics after eliminating
8 student media funding, for example:

- 9 a. Academic Integrity Peer Educators: Honoring Integrity at UCSD;
- 10 b. Acts 2 Fellowship: Bronanza (to “foster community and Christian
11 values”);
- 12 c. Acts 2 Fellowship: A2F Sisters’ Night (event where “women can get
13 to know each other, learn about the bible and also share some laughs”);
- 14 d. Alpha Epsilon Pi: AEPetting Zoo (to “learn about different Jewish
15 organizations”);
- 16 e. Alpha Epsilon Pi: Hunger Relief;
- 17 f. American Chemical Society Student Affiliates: Finals Study Jam;
- 18 g. Asian and Pacific Islander Student Alliance: 21st Annual Talent
19 Show;
- 20 h. Brazilian Student Association: Brazilian-Israeli Culture Night;
- 21 i. Cal-Animage Beta: AnimeFest;
- 22 j. Chabad at UCSD: Learning with Chabad;
- 23 k. Cognitive Science Student Association: 2016 National Cognitive
24 Science Conference at UC San Diego;
- 25 l. College Democrats at UCSD: Presidential Primaries Update;
- 26 m. Counseling and Psychological Services Peer Education Program:
27 Sweet Dreams (“to promote healthy sleeping, CAPS services, and
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1 general mental health awareness on our campus and in our
2 community”);

3 n. Indian Student Association: Bollywood Night: A Night Among The
4 Stars;

5 o. Japanese Student Association: JSA + NSU 8th Annual Matsuri
6 Festival;

7 p. Muslim Student Association: general body meeting;

8 q. Producers & Remixers Organization: PRO Presents (“teaching the art
9 of music production”); and

10 r. Students Against Mass Incarceration: general body meeting.

11 73. Until the Student Government eliminated student media funding, *The*
12 *Koala* satisfied all conditions for campus activity fee funding and in fact regularly
13 received campus activity fee funds. For example, during the fall, winter, and spring
14 quarters of the 2014-15 academic year, it received \$750, \$713.40, and \$1000,
15 respectively. For the fall quarter of the 2015-16 academic year it received \$634.20.

16 74. Shortly before the meeting at which the Student Government
17 terminated student media funding, *The Koala* had been approved for \$452.80 in
18 funding, but the Student Government did not disburse those funds to *The Koala*.

19 75. Because of the Student Government’s elimination of student media
20 funding, *The Koala* is no longer eligible to receive campus activity fee funds for
21 printing its newspaper and in fact no longer receives such funds.

22 76. The print costs to publish an issue of *The Koala* vary somewhat
23 depending on the number of pages and number of copies and whether color is used,
24 but they typically run to several hundred dollars.

25 77. For example, *The Koala* has paid for the printing of two issues without
26 Student Government funding: an 8-page issue in fall 2015 that cost \$423.80, and
27 an 8-page issue in spring 2016 that cost \$384.20.

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SECOND CLAIM
42 U.S.C. § 1983
(First Amendment: Freedom of Speech)

86. The allegations of paragraphs 1 to 85 above are incorporated by reference as though set forth fully herein.

87. Defendants violated and are continuing to violate the Free Speech Clause of the First Amendment by categorically refusing to provide campus activity fee funding for the publication of student print media because of the viewpoint of *The Koala's* speech.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the Court to enter judgment against Defendants as follows:

1. Preliminarily and permanently enjoining Defendants and their officers, agents, servants, employees, and attorneys, and anyone in active concert or participation with any of the foregoing persons, from categorically refusing to provide campus activity fee funding for the publication of student media, or otherwise preventing, impeding, or otherwise interfering with Plaintiff's First Amendment rights to freedom of the press and to speech;
2. Declaring Defendants' conduct to be unlawful;
3. Awarding Plaintiff costs and attorney fees as authorized by Fed. R. Civ. P. 54, 42 U.S.C. § 1988, and/or any other applicable law;
4. Awarding other such relief as the Court deems proper.

Dated: May 31, 2016

Respectfully submitted,

By: s/David Loy
David Loy
davidloy@aclusandiego.org

Ryan T. Darby
Attorneys for Plaintiff
darby@darby.law

1 I, Gabriel Cohen, declare as follows:

2 1. I am editor in chief of *The Koala*. I am enrolled at the University of
3 California, San Diego and have been so enrolled since fall 2012. I have worked on
4 *The Koala* since fall 2013.

5 2. Except for events occurring before my enrollment at UCSD and
6 participation in *The Koala*, I have personal knowledge of matters set forth in the
7 foregoing Verified Complaint concerning student fees, the student media funding
8 process, *The Koala* and its activities, and the contents of public records that *The*
9 *Koala* has obtained from the university. If called up to do so, I would testify
10 competently to those matters.

11 3. I declare under penalty of perjury that the factual statements in this
12 Verified Complaint concerning the above matters within my personal knowledge
13 are true and correct to the best of my knowledge and understanding.

14 Executed this 22 day of May, 2016, in San Diego, California.

15 
16 _____
17 Gabriel Cohen