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13 *\*Application for admission  
pro hac vice to be filed*

14 UNITED STATES DISTRICT COURT  
15 EASTERN DISTRICT OF CALIFORNIA

16 DARIO GURROLA,

17 *Plaintiff,*

18 v.

19 DAVID DUNCAN, in his official  
20 capacity as director of the California  
Emergency Medical Services  
21 Authority, and JEFFREY KEPPLER,  
22 in his official capacity as Medical  
Director of Northern California  
EMS, Inc.,

23 *Defendants.*

No.

**COMPLAINT**

**INTRODUCTION**

1  
2           1.       This is a Fourteenth Amendment challenge to California’s  
3 categorical ban on certifying people with two or more felony convictions as  
4 emergency medical technicians (EMTs). There is no rational basis for a  
5 blanket, lifetime prohibition on people with two felony convictions—including  
6 old and irrelevant convictions—becoming certified EMTs. And the prohibition  
7 is doubly irrational because California trains and uses prisoners with felony  
8 records to fight wildfires, and it allows people with felony records to serve as  
9 seasonal or volunteer firefighters. Yet, because fulltime firefighting usually  
10 requires EMT certification, the state effectively prohibits these same people  
11 from pursuing firefighting careers. This irrational prohibition does not pass  
12 constitutional muster.

13           2.       Plaintiff, Dario Gurrola, highlights the irrationality. Dario is  
14 barred from becoming certified as an EMT by his two felony convictions. A  
15 decade after he turned his life around, Dario remains prohibited from  
16 receiving basic EMT certification. That means he cannot fight fires as a  
17 career, even though he learned to fight fires in custody, he fights fires  
18 seasonally today, and he has already satisfied all EMT qualifications. The  
19 prohibition will last the rest of his life. Nothing he has done, and nothing he  
20 can ever do, will change it.

21           3.       That is unconstitutional. Under the Fourteenth Amendment,  
22 laws must, at a minimum, be rational. It is irrational for the state to  
23 categorically prohibit every person with two felony convictions from being

1 certified as EMTs, no matter the crimes or the circumstances since. This  
2 harsh restriction does nothing to protect the public. It just makes it harder for  
3 people like Dario to work toward a better life. Dario thus seeks a judgment  
4 declaring California's ban unconstitutional, enjoining its application, and  
5 allowing him to pursue EMT certification.

#### 6 **JURISDICTION AND VENUE**

7 4. This is a civil-rights action brought under the Fourteenth  
8 Amendment to the U.S. Constitution; the Civil Rights Act of 1871, 42 U.S.C.  
9 § 1983; and the Declaratory Judgment Act, 28 U.S.C. § 2201. Plaintiff seeks  
10 declaratory and injunctive relief against the enforcement of California's total  
11 ban on people with two felony convictions obtaining EMT certifications, 22  
12 Cal. Code Regs. § 100214.3(c)(3), and the policies and practices of the  
13 California Emergency Medical Services Authority and Northern California  
14 EMS in enforcing these provisions, which, both facially and as applied, violate  
15 Plaintiff's constitutional rights.

16 5. This Court has jurisdiction under 28 U.S.C. §§ 1331 (federal-  
17 question jurisdiction) and 1343(a)(3) (civil-rights jurisdiction).

18 6. Venue is proper under 28 U.S.C. § 1391(b)(1)–(2). As described  
19 below, Plaintiff and Defendants all reside in this district, and the events at  
20 issue arose in this district.

#### 21 **PARTIES**

22 7. Plaintiff, Dario Gurrola, is a seasonal firefighter living in  
23 Alturas, California.

1 8. Defendant David Duncan is the director of the California  
2 Emergency Medical Services Authority, the state agency that regulates EMT  
3 certification. The Authority is in Sacramento County. Defendant Duncan is  
4 sued in his official capacity.

5 9. Defendant Jeffrey Kepple is the medical director of Northern  
6 California EMS, Inc., which is a “local EMS agency,”<sup>1</sup> and which administers  
7 EMT certification in Alturas and other parts of northern California.<sup>2</sup>  
8 Defendant Kepple is sued in his official capacity.

9 **STATEMENT OF FACTS**

10 **I. Dario Gurrola**

11 **A. *Dario’s past***

12 10. Today, Dario Gurrola lives a quiet life in Alturas, supporting  
13 himself by working in seasonal firefighting and doing odd jobs in the  
14 offseason.

15 11. As a young man, however, Dario lived a different life. In high  
16 school, he was involved with a tough crowd from his neighborhood in south  
17 San Diego.

18 12. In 2003, a police officer stopped a 22-year-old Dario and found  
19 the kitchen knife he carried in his jacket pocket for protection. He was  
20 convicted of possessing a concealed dagger, a felony.

21  
22 <sup>1</sup> “Local EMS agency” is the term used in Cal. Health & Safety Code  
§§ 1797.94 and 1798.200 and 22 Cal. Code Regs. §§ 100202, 100204, and  
100214.3.

23 <sup>2</sup> See Cal. Health & Safety Code §§ 1797.202 and 1798.200; 22 Cal. Code  
Regs. §§ 100204 and 100214.3.

1           13.    About two years later, Dario was out one night after drinking  
2           and abusing drugs. A security guard tried to calm him down, and Dario  
3           assaulted the guard. Dario was convicted of assault, another felony.

4           14.    In the following years, Dario was convicted of misdemeanors and  
5           two felonies that were later reduced to misdemeanors, the last in 2011. Those  
6           convictions have since been dismissed. The 2003 and 2005 felonies are the  
7           only ones on his record.

8           15.    Eventually, as Dario's twenties were ending, he realized he had  
9           to change. He accepted full responsibility for his past convictions, which he  
10          believes resulted from his own bad choices. He cut ties with his neighborhood  
11          friends. He reconnected with his father, a retired San Diego sheriff. He  
12          consistently attended church, which he has done ever since because his faith  
13          is the most important part of his life. And he returned to school, focused on  
14          becoming a first responder.

15          16.    Nearly a decade ago, Dario turned his life around.

16                   ***B. Dario's dream of becoming a career firefighter***

17          17.    Dario had always wanted to be a first responder, but he thought  
18          his convictions would prevent him from becoming a police officer. So when he  
19          decided he needed to make something of himself, he chose to pursue  
20          firefighting.

21          18.    A firefighting career made sense. While in custody as a juvenile,  
22          Dario had served in a fire camp in Ventura, California, where he fought a  
23          major fire.

1           19. In the past decade, Dario earned exceptional firefighting and  
2 EMT credentials.

3           20. In 2013 and 2015, Dario successfully served as a seasonal  
4 firefighter for the U.S. Forest Service.

5           21. In 2017, he completed a 212-hour EMT basic training course.

6           22. That same year, he also worked as a certified medical transport  
7 driver.

8           23. In 2018, he completed firefighter training at San Pasqual  
9 Reservation Fire Academy.

10          24. Then he completed further courses in firefighting, fire behavior,  
11 risk assessment, and airway and defibrillation rescue. He has dozens of  
12 certifications.

13          25. In 2019, he successfully served as a seasonal firefighter at the  
14 Cal Pines Fire Department in Alturas.

15          26. And he sat for, and passed, a test with the National Registry of  
16 Emergency Medical Technicians.

17          27. Finally, after preparing for nearly a decade, Dario applied to  
18 Northern California EMS for EMT certification.

19          28. He was denied.

20          29. Dario appealed and represented himself in a hearing before an  
21 administrative law judge.

22          30. Dario brought evidence of rehabilitation to the hearing,  
23 including certificates from his firefighting and EMT training. He brought

1 three letters showing his good character, including one from a fire department  
2 captain who called Dario “professional, courteous, compassionate and  
3 respectful.”

4 31. The administrative law judge explained that “Nor-Cal EMS is  
5 prohibited from granting [Dario] an EMT certification, even on a probationary  
6 basis, based on his two felony convictions.”

7 32. After the decision, Dario emailed Nor-Cal EMS, pleading for a  
8 way to remedy his denial. A representative of Nor-Cal EMS responded that it  
9 “is bound by the California Code of Regulations.” The representative  
10 continued that she “very much respect[s] your desire to help your community.  
11 Unfortunately, Nor-Cal EMS cannot issue an EMT certification for you.”

12 33. In short, given his experience fighting fires in custody and  
13 seasonally, Dario wants to become certified as an EMT and, ultimately, to  
14 become a career firefighter.

15 34. But because of his criminal record, California forever prohibits  
16 Dario from being certified as an EMT.

17 35. California’s prohibition also effectively prohibits Dario from  
18 becoming a career firefighter because most of California’s 900-plus fire  
19 departments require an EMT certification for career positions.

20 36. Granting Dario an EMT certification would not empower him to  
21 harm anyone or break any law. Granting him an EMT certification would  
22 pose no risk to society.

23

1 ***C. The Conservation Camp Program***

2 37. Dario is not alone. California newspapers have repeatedly  
3 highlighted the problem that California-trained inmate firefighters are  
4 essentially prohibited from later working as career firefighters because of the  
5 EMT restrictions.<sup>3</sup>

6 38. The Conservation Camp Program is a volunteer firefighting  
7 program for prison inmates, jointly administered by the California  
8 Department of Corrections and Rehabilitation and CAL FIRE (the California  
9 Department of Forestry and Fire Protection).

10 39. Founded during World War II, the program aims to help inmates  
11 succeed after release. As a Corrections Department spokesman put it, “Our  
12 primary mission as a corrections system ... is to provide inmates with skills to  
13 improve their lives when they leave.”<sup>4</sup>

14 40. Inmates are admitted case-by-case. Only inmates with sustained  
15 good behavior, and who have taken classes on rehabilitation, are allowed.

16 41. Inmates receive the same training, education, and equipment as  
17 seasonal firefighters with CAL FIRE.

18 42. The training includes a week of classroom instruction, a second  
19 week of field exercises, and more, ongoing training. Inmates learn about fire  
20

21 

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<sup>3</sup> See, e.g., Adesuwa Agbonile, *Inmates help battle California’s wildfires. But*  
22 *when freed, many can’t get firefighting jobs* (Sacramento Bee Sept. 7, 2018);  
*Editorial: Inmates risking their lives to fight California’s wildfires deserve a*  
23 *chance at full-time jobs* (L.A. Times Nov. 1, 2019).

<sup>4</sup> Annika Neklason, *California Is Running Out of Inmates to Fight Its Fires*  
(The Atlantic Dec. 7, 2017).



1 safety, hand-tool use, teamwork, and crew expectations. Inmates are also  
2 evaluated for physical fitness.

3 43. Then, like civilian firefighters, inmate firefighters work to  
4 protect the homes and lives of their fellow Californians.

5 44. Inmate firefighters fight fires in 24-hour shifts. For each day  
6 working in the fire camps, inmates can earn two days off their sentences.

7 45. The fire camps use thousands of inmates each year—there were  
8 about 2,150 authorized to fight fires in 2019.

9 46. In 2016, inmate firefighters outnumbered seasonal CAL FIRE  
10 firefighters about two to one.<sup>5</sup>

11 47. Each year, inmate firefighters perform over three million hours  
12 of emergency response work, saving California around \$90 million annually.

13 48. In 2018, inmate firefighters helped respond to the Camp Fire,  
14 the deadliest wildfire in California history.

15 49. Inmate firefighters are paid a base rate of about two to five  
16 dollars per day, plus another dollar per hour when they are fighting fires.  
17 California civilian firefighters earn an average of \$73,860 per year plus  
18 benefits.

19 50. After a juvenile proceeding, Dario served in a fire camp when he  
20 was 19. He fought two fires there, one of them major. He remembers the  
21  
22

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23 <sup>5</sup> Zoe Todd & Jane McMullen, *“You Can Barely Breathe”*: *The Inmates Who Fought California’s Deadliest Wildfire* (Frontline Nov. 1, 2019).

1 captain saying, “If you ever want to change your life, this is something that  
2 you can do.”

3 51. But it isn’t. As one prisoner reentry counselor told the  
4 Sacramento Bee, “I have to tell people right out—I’m sorry, you can’t do this  
5 .... [EMS agencies] are just turning people away with felonies, period.”<sup>6</sup>

6 **II. California Irrationally Bans Ex-Felons from EMT  
7 Certification.**

8 52. California effectively prohibits ex-felons from receiving EMT  
9 certification.

10 53. California uses inmates as firefighters to give them useful job  
11 training. But, once they are released, California effectively prevents them  
12 from becoming firefighters because EMT certification is a prerequisite for the  
13 job in the vast majority of fire departments.

14 54. For people with two felonies like Dario, this ban lasts forever, no  
15 matter what.

16 55. This irrational system stems from 22 Cal. Code Regs. § 100214.3.

17 56. Under 22 Cal. Code Regs. § 100214.3(c)(3), an EMT certification  
18 “shall” be denied if the applicant “[h]as been convicted of two (2) or more  
19 felonies.”

20 57. Subsection 100214.3(c)(3) applies even to ex-offenders convicted  
21 of multiple felonies for a single incident.<sup>7</sup>

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22 <sup>6</sup> Agbonile, *supra* n.3.

23 <sup>7</sup> Further, under 22 Cal. Code Regs. § 100214.3(c)(6), an EMT certification  
“shall” be denied if the applicant “[h]as been convicted and released from  
incarceration for said offense during the preceding ten (10) years for any

1           58. Medical directors of local emergency medical services agencies,  
2 including Defendant Kepple, must and do follow this regulation. Dario's  
3 application is just one example.

4           59. But this categorical, lifetime ban on everyone with two felony  
5 convictions is not rationally related to EMT work.

6           60. "Emergency Medical Technician" means "an individual trained  
7 in all facets of basic life support."<sup>8</sup>

8           61. "Basic life support" means "emergency first aid and  
9 cardiopulmonary resuscitation procedures ... *without* invasive techniques."<sup>9</sup>

10          62. This includes taking temperatures, checking blood pressure,  
11 performing CPR, and administering oxygen.<sup>10</sup>

12          63. EMTs are not paramedics, who receive about ten times as much  
13 training.

14          64. Paramedics, not EMTs, perform more advanced procedures such  
15 as intubation, accessing the veins, and administering most drugs.

16          65. EMT certification does not empower certificate-holders to drive  
17 ambulances.

18          66. There are over 60,000 certified EMTs in California.

19  
20 \_\_\_\_\_  
21 offense punishable as a felony." Unlike the lifetime ban for two felonies, this  
22 separate ten-year ban includes convictions even for misdemeanors that could  
have been charged as felonies. Between these two bans, it is close to  
impossible for any ex-felon to receive EMT certification.

23 <sup>8</sup> Cal. Health & Safety Code § 1797.80.

<sup>9</sup> Cal. Health & Safety Code § 1797.60 (emphasis added).

<sup>10</sup> 22 Cal. Code Regs. § 100063(a).

1 67. EMT certification requires only 170 hours of training.<sup>11</sup>

2 68. EMT certification is not itself a job position. It is a hiring  
3 credential in many kinds of businesses.

4 69. For example, rock-climbing gyms and outdoor adventure  
5 businesses advertise that some employees are EMT certified. EMTs also work  
6 at factories, amusement parks, stadiums, and event venues. Some EMTs  
7 work as dispatchers and do not interact in person with the public at all.

8 70. In recent decades, the number of statutory felonies has  
9 skyrocketed.

10 71. Roughly one in twelve American adults has a felony conviction.<sup>12</sup>

11 72. Given the proliferation of felonies in modern criminal law, a  
12 particular felony conviction may have no bearing on a person's fitness for  
13 EMT certification.

14 73. In fact, California's lifetime ban for two felony convictions harms  
15 the public by making it harder for people with felony records to get EMT  
16 training and, ultimately, to help others.

17 74. There is no evidence that California's lifetime ban for two felony  
18 convictions protects the public from bad EMTs.

19 75. California's lifetime ban for two felony convictions does not  
20 protect the public from bad EMTs.

21  
22 

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<sup>11</sup> 22 Cal. Code Regs. § 100074(a).

23 <sup>12</sup> Sarah Shannon et al., *The Growth, Scope, and Spatial Distribution of People With Felony Records in the United States, 1948–2010* (Demography 2017).

1           76.     Indeed, local emergency medical services agencies have separate  
2 authority to deny certificates for behavior indicating that an applicant might  
3 harm someone.

4           77.     Under Cal. Health & Safety Code § 1798.200(c)(6), EMT  
5 certifications can be denied if the applicant is convicted “of any crime which is  
6 substantially related to the qualifications, functions, and duties of”  
7 emergency personnel.

8           78.     California law thus already provides ample authority to reject an  
9 applicant for crimes that are related to EMT work.

10          79.     As a result, the lifetime ban does nothing other than exclude  
11 people whose felony records are unrelated to EMT work.

12          80.     Yet, without EMT certification, ex-offenders can still serve in  
13 seasonal firefighter positions and can perform the same work as that often  
14 performed in EMT-required positions.

15          81.     And, without EMT certifications, ex-offenders can still serve as  
16 volunteer firefighters and do the same work as career firefighters in fire  
17 departments that require EMT certification for career positions.

18   **INJURY TO PLAINTIFF**

19          82.     Because of the categorical, lifetime ban for two felony  
20 convictions, Dario can never receive certification as an EMT.

21          83.     Because of the lifetime ban, Dario is effectively prohibited from  
22 pursuing work as a career firefighter.

23

1           84.    Because of the lifetime ban, Dario must do less stable, lower-  
2 paying work.

3           85.    Because of the lifetime ban, Dario faces career uncertainty.

4           86.    Because of the lifetime ban, Dario continues to be stigmatized  
5 long after he paid his debt to society.

6           87.    Because of the lifetime ban, Dario can work only as a seasonal  
7 firefighter. Dario also has to work odd jobs when he would rather be a year-  
8 round firefighter.

9           88.    To be clear, Dario is not challenging his initial certification  
10 denial or seeking damages based on it. He is seeking relief prospectively, for  
11 his *next* application, based on the unconstitutional burden the lifetime ban is  
12 imposing on him now.

13           89.    But for the lifetime ban, Dario would re-apply for EMT  
14 certification.

15           90.    But for the lifetime ban, Dario could and would satisfy all other  
16 requirements for EMT certification.

17           91.    But for the lifetime ban, Dario would be granted EMT  
18 certification.

19           92.    Because of the ban, however, it is futile for Dario to take any  
20 more steps toward certification, which would only be a pointless waste of time  
21 and money.

22           93.    If the ban were removed, Dario would pursue his EMT  
23 certification.



1           102. Because Dario has two felony convictions and was released from  
2 incarceration more than ten years ago, he is similarly situated, in all relevant  
3 respects, to people with one felony conviction, any number of misdemeanor  
4 convictions, or both who were released from incarceration more than ten  
5 years ago.

6           103. People with two or more felony convictions for certain criminal  
7 acts are similarly situated to people who have committed the same or similar  
8 criminal acts but were not convicted of two felonies.

9           104. Dario is, in all relevant respects, similarly situated to people who  
10 committed the same or similar criminal acts but were not convicted of two  
11 felonies.

12           105. People with two or more felony convictions who want EMT  
13 certification are, in all relevant respects, similarly situated to people who  
14 want EMT certification and who have committed criminal acts for which they  
15 could have been, but were not, convicted of two or more felonies.

16           106. Dario is, in all relevant respects, similarly situated to people who  
17 want EMT certification and who have committed criminal acts for which they  
18 could have been, but were not, convicted of two or more felonies.

19           107. The lifetime ban irrationally discriminates between similarly  
20 situated people because many ex-felons have been rehabilitated and would  
21 present no unique risk to the public if they were certified as EMTs.

22           108. The lifetime ban irrationally discriminates between similarly  
23 situated people because people who served sentences for two felonies long ago



1 would present no unique risk to the public if certified as EMTs because  
2 recidivism decreases with age.

3 109. The lifetime ban irrationally discriminates between similarly  
4 situated people because some people *without* criminal records *would* present  
5 risks to the public if certified as EMTs. But they are not barred from EMT  
6 certification.

7 110. The lifetime ban irrationally discriminates between similarly  
8 situated people because lumping all felonies together irrationally conflates a  
9 wide range of conduct and criminal sentences. This is both overinclusive and  
10 underinclusive. Many felonies have no bearing on whether someone would be  
11 a dangerous EMT. And misdemeanors that do have a bearing on whether  
12 someone would be a dangerous EMT do not factor into the lifetime ban.

13 111. The lifetime ban irrationally discriminates between similarly  
14 situated people because lumping all felonies together irrationally ignores the  
15 reality of the modern criminal justice system, in which people who committed  
16 factually identical conduct can and do receive vastly different legal outcomes.  
17 Some people who commit conduct that could be charged as two felonies are  
18 convicted of only one felony or misdemeanors (or nothing at all) based on  
19 charging decisions and plea bargaining.

20 112. The lifetime ban irrationally discriminates between similarly  
21 situated people because it does not allow for consideration of the nature and  
22 severity of the crimes, the nature and circumstances of an applicant's  
23

1 involvement in the crimes, the time elapsed since the convictions, and the  
2 degree of the applicant's rehabilitation.

3 113. Because the lifetime ban irrationally discriminates between  
4 similarly situated groups of people, it violates the Equal Protection Clause.

5 114. Because the lifetime ban irrationally discriminates between  
6 Dario and similarly situated people, it violates the Equal Protection Clause.

7 115. Dario would present no risk to the public if he were certified as  
8 an EMT. Certifying Dario—who has protected and continues to protect the  
9 public as a non-career firefighter—would benefit the public.

10 116. California already provides local emergency medical services  
11 agencies with authority to deny EMT certificates for behavior indicating that  
12 an applicant might pose a threat to public health and safety in Cal. Health &  
13 Safety Code § 1798.200(c)(6).

14 117. California's lifetime ban on people with two or more felony  
15 convictions receiving EMT certification serves no legitimate purpose given the  
16 existence of Cal. Health & Safety Code § 1798.200(c)(6).

17 118. Categorically banning people with two or more felony convictions  
18 from EMT certification for life makes emergency care less available to  
19 Californians.

20 119. Categorically banning people with two or more felony convictions  
21 from EMT certification for life makes emergency care more expensive for  
22 Californians.

23

1           120. Categorically banning people with two or more felony convictions  
2 from EMT certification for life contributes to a shortage of firefighters in rural  
3 California areas.

4           121. Categorically banning people with two or more felony convictions  
5 from EMT certification for life contributes to recidivism.

6           122. Categorically banning people with two or more felony convictions  
7 from EMT certification for life is not rationally related to the duties of EMTs.

8           123. Categorically banning people with two or more felony convictions  
9 from EMT certification for life is not rationally related to any legitimate  
10 government interest.

11           124. Categorically banning Dario from EMT certification for life is not  
12 rationally related to the duties of EMTs.

13           125. Categorically banning Dario from EMT certification for life is not  
14 rationally related to the duties of firefighters.

15           126. Categorically banning Dario from EMT certification for life is not  
16 rationally related to any legitimate government interest.

17           127. Unless Defendants are enjoined from enforcing 22 Cal. Code  
18 Regs. § 100214.3(c)(3), Dario will suffer continuing and irreparable harm.

19           **Second Claim for Relief—Due Process**

20           128. Plaintiff incorporates the preceding paragraphs by reference.

21           129. By categorically banning people with two or more felony  
22 convictions from EMT certification for life, Defendants violate the Fourteenth  
23 Amendment right to due process of law.

1 130. Due process has both substantive and procedural components.

2 131. The liberty component of the Fourteenth Amendment's Due  
3 Process Clause includes the right to choose one's field of private employment  
4 and the right to earn an honest living.

5 132. Due process requires that regulations on entry into a profession  
6 must be rationally related, not merely to any legitimate state interest, but  
7 specifically to the applicant's fitness or capacity to practice the profession  
8 itself.

9 133. Categorically banning people with two or more felony convictions  
10 from EMT certification for life is not rationally related to the duties of EMTs.

11 134. Categorically banning people with two or more felony convictions  
12 from EMT certification for life is not rationally related to any legitimate  
13 government interest.

14 135. Irrebuttably presuming that people with two or more felony  
15 convictions are unfit to be EMTs forever denies due process.

16 136. Dario would present no risk to the public if he were certified as  
17 an EMT.

18 137. Certifying Dario—who has protected and continues to protect the  
19 public as a non-career firefighter—would benefit the public.

20 138. Categorically banning Dario from EMT certification for life is not  
21 rationally related to the duties of EMTs.

22 139. Categorically banning Dario from EMT certification for life is not  
23 rationally related to the duties of firefighters.

1 140. Categorically banning Dario from EMT certification for life is not  
2 rationally related to any legitimate government interest.

3 141. Irrebuttably presuming that Dario is forever unfit to be an EMT  
4 denies due process.

5 142. California already provides local emergency medical services  
6 agencies with authority to deny EMT certificates for behavior indicating that  
7 an applicant might pose a threat to public health and safety in Cal. Health &  
8 Safety Code § 1798.200(c)(6).

9 143. California's categorical bans on people with two or more felonies  
10 receiving EMT certification serve no legitimate purpose given Cal. Health &  
11 Safety Code § 1798.200(c)(6).

12 144. Unless Defendants are enjoined from enforcing 22 Cal. Code  
13 Regs. § 100214.3(c)(3), Dario will suffer continuing and irreparable harm.

14 **Third Claim for Relief—Privileges or Immunities**

15 145. Plaintiff incorporates the preceding paragraphs by reference.

16 146. The Fourteenth Amendment's Privileges or Immunities Clause  
17 was meant to protect the right to earn a living free from irrational  
18 government restrictions.

19 147. By categorically banning people with two or more felony  
20 convictions from EMT certification for life, Defendants violate the Privileges  
21 or Immunities Clause.

22 148. By categorically banning Dario from EMT certification for life,  
23 Defendants violate the Privileges or Immunities Clause.

1 149. Plaintiff recognizes that this argument is foreclosed by the  
2 *Slaughter-House Cases*, 83 U.S. (16 Wall.) 36 (1873). He preserves it here  
3 given the “overwhelming consensus among leading constitutional scholars”  
4 that *Slaughter-House* was “egregiously wrong.” *McDonald v. Chicago*, 561  
5 U.S. 742, 756–57 (2010) (quoting Br. for Constitutional Law Professors as  
6 Amici Curiae, Docket No. 08-1521, 561 U.S. 742 (filed July 9, 2009)).

7 **REQUEST FOR RELIEF**

8 Plaintiff respectfully requests:

9 A. A judgment declaring that 22 Cal. Code Regs. § 100214.3(c)(3) is  
10 unconstitutional, both on its face and as applied to him;

11 B. A permanent injunction preventing Defendants from enforcing  
12 22 Cal. Code Regs. § 100214.3(c)(3);

13 C. An award of attorneys’ fees, costs, and expenses per 42 U.S.C.  
14 § 1988; and

15 D. Any further legal and equitable relief that the Court deems just  
16 and proper.

17 Dated: June 19, 2020

Respectfully submitted,

18 /s/ Joshua House

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Attorneys for Plaintiff

*\*Application for admission  
pro hac vice to be filed*

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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE



Case 2:20-at-00599 Document 1-1 Filed 06/19/20 Page 2 of 3  
**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.  
 Original Proceedings. (1) Cases which originate in the United States district courts.  
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.  
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket. **PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

**Civil Cover Sheet – Attachment**

I. (c) Attorneys (Firm Name, Address, and Telephone Number):

Joshua House, Institute for Justice, 901 N. Glebe Road, Suite 900, Arlington, VA 22203, (703) 682-9320

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