

United States District Court
Northern District of California

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

19 RENÉ QUIÑONEZ and
20 MOVEMENT INK LLC,

21 Plaintiffs,

22 v.

23 UNITED STATES OF AMERICA; and
24 JEFF AGSTER, EVA CHAN, STEPHEN
25 FAJARDO, MARK HODGES, ROBIN LEE,
26 and DOES 1 through 2, United States Postal
27 Service and United States Postal Inspection
28 Service officials in their individual capacities,

Defendants.

Case No. 3:22-cv-3195-WHO

SECOND AMENDED COMPLAINT

DEMAND FOR JURY TRIAL

Judge: Hon. William H. Orrick

INTRODUCTION

1
2 1. The Fourth Amendment guarantees us the right to be secure in our papers and effects.
3 That promise is illusory if postal officials can seize or search personal property without an
4 individualized, articulable basis to believe that the property contains contraband or evidence of a
5 crime. Worse yet would be if postal officials could seize or search personal property because of its
6 political message or to disrupt lawful business. That is why the Constitution requires postal
7 officials—like other government officials—to get a judicial warrant based on probable cause before
8 seizing or searching personal property. It is also why the Constitution, federal statutes, and state
9 statutory and common law provide judicially enforceable remedies for violations of these rights,
10 against both individual federal officials and the United States.

11 2. In this case, postal officials did not have reasonable suspicion—let alone probable
12 cause and a warrant (or probable cause and exigent circumstances)—when they seized and searched
13 four properly addressed and neatly taped brown boxes sent to various cities by René Quiñonez and
14 Movement Ink LLC, which is René’s small, family-run screen-printing business in Oakland,
15 California that, like businesses small and large across the country, regularly ships well-bound brown
16 boxes from one location to cities nationwide.

17 3. As confirmed by the postal official Defendants’ internal notes memorializing the
18 seizures and searches of those boxes, millions of packages shipped every year share the
19 unexceptional characteristics of René’s and Movement Ink’s packages that Defendants relied on to
20 justify their suspicionless, warrantless seizures and searches. And those same internal notes make
21 clear that Defendants knew the packages coming from Movement Ink contained—in Defendants’
22 words—“BLM MASKS.” So Defendants appear to have violated not just the Fourth Amendment,
23 but also the First Amendment, while committing several common law torts in the process.

24 4. The wisdom of our constitutional design is that it knows significant harms befall the
25 public when government officials exceed constitutional bounds and violate rights. That is exactly
26 what happened here. Defendants’ unconstitutional and tortious seizures and searches have inflicted
27 several significant harms, including reputational harms on René and Movement Ink that have cost
28

1 them not only the opportunity to expand their labor of love but also significant business growth.
2 5. First, the packages were delayed by 48 hours. That is no trivial matter. They
3 contained thousands of Covid-protective masks when the pandemic was raging and mass protests
4 over police violence were happening every day. Second, these political mask shipments’ recipients
5 were not only deprived the Covid-protective effects of the masks, but also expression of the political
6 messages emblazoned on the masks. Third, René and Movement Ink—for whom these shipments
7 were not just commercial transactions—similarly had their rights to political speech stymied.
8 Finally, René and Movement Ink lost the goodwill and business relationships they earned over a
9 decade of building community trust based on their activism and their quality products—costing
10 them the opportunity to do substantial business not only with the recipients of the masks, but other
11 existing and potential partners too. And all those partners lost a trusted supplier because of the
12 uncertainty and air of suspicion created by Defendants’ baseless seizures and searches of René’s
13 and Movement Ink’s political mask shipments.

14 6. For all these reasons, René and Movement Ink seek to hold personally accountable
15 the postal and law enforcement officials responsible for their injuries under the Constitution, *Bivens*,
16 the Westfall Act (28 U.S.C. § 2679(b)(2)(A)), and California law, as well as the federal government
17 as those officials’ employer under the Federal Tort Claims Act.

18 **JURISDICTION AND VENUE**

19 7. This Court has jurisdiction under 28 U.S.C. §§ 1331, 1346, 1356, 1357, 1367, 2201,
20 2202, 2674, and 2679 and the United States Constitution.

21 8. Venue is proper in the Northern District of California under 28 U.S.C. § 1391.

22 **PARTIES**

23 9. Plaintiff René Quiñonez is an adult resident of California. He is the majority owner
24 and manager of Plaintiff Movement Ink LLC.

25 10. Plaintiff Movement Ink LLC is a California limited liability company. Its majority
26 owner and manager is Plaintiff René Quiñonez.

27 11. Defendant United States of America is the national federal government established

1 by the United States Constitution and liable for the acts of its officials pursuant to the Federal Tort
2 Claims Act, 28 U.S.C. §§ 1346 and 2671–2680.

3 12. Defendants Jeff Agster, Eva Chan, Stephen Fajardo, Mark Hodges, Robin Lee, and
4 Doe Defendants 1 and 2 are officials of the United States Postal Service and the United States Postal
5 Inspection Service who are responsible for the acts, violations, and injuries alleged in this action.
6 They are sued in their individual capacities under the Constitution, *Bivens*, the Westfall Act (28
7 U.S.C. § 2679(b)(2)(A)), and California law. The acts, violations, and injuries for which they are
8 responsible in this action also form the basis for liability of Defendant United States of America
9 under the Federal Tort Claims Act.

10 13. Plaintiffs initially sued Defendants Agster, Chan, Fajardo, Hodges, and Lee as Doe
11 defendants in this action because, in the months leading up to the filing of this action, the federal
12 government refused to disclose Defendants' names in response to Plaintiffs' Freedom of
13 Information Act (FOIA) requests and their FOIA appeal seeking those names. The federal
14 government agreed to disclose some names in September 2022 in lieu of Plaintiffs seeking pre-
15 service expedited discovery in this Court to ascertain those names. However, the federal government
16 kept undisclosed or redacted the names of one or more individuals responsible for the acts,
17 violations, and injuries alleged in this action, so those individuals remain named as Doe Defendants
18 1 and 2.

19 STATEMENT OF FACTS

20 14. René Quiñonez is a family man, entrepreneur, organizer, businessperson, activist,
21 former youth gang prevention nonprofit director, and current executive director of a youth outreach
22 and job skills development nonprofit. All those aspects of his personality find expression in
23 Movement Ink LLC, the small screen-printing business he and his family have spent the last decade
24 building into a community presence, known for its brand of activism-inspired business practices and
25 relationships.

26 15. From its inception, as the company's name indicates, Movement Ink has been
27 publicly allied and involved with social justice and activism movements, organizations, nonprofits,

1 and individual organizers.

2 16. René and Movement Ink have spent years cultivating their brand, their image, and
3 their reputation in these spaces, including community involvement and social media presence.

4 17. As a result of years of commitment to causes, trust-building, and high-quality screen-
5 printing, René and Movement Ink successfully developed business relationships with activist
6 movements, organizations, nonprofits, and individual organizers, who relied on René and
7 Movement Ink for various screen-printing needs for years leading up to and into 2020, regularly
8 ordering products ranging from t-shirts, to hoodies, to onesies for toddlers.

9 18. René and Movement Ink methodically built and carved out this niche, making René
10 very proud of what he and his family have built.

11 19. The business of screen-printing is hard, labor-intensive work. So is the work of
12 community building and activism. But both, especially together, are a labor of love for René and his
13 family.

14 20. From 2016 to 2019, Movement Ink’s gross annual sales grew steadily.

15 21. So did its reputation—until that long-earned reputation was dashed one day by
16 Defendants’ baseless seizures and searches of Movement Ink’s most high-profile, lucrative, and
17 promising shipments.

18 22. Defendants’ seizures and searches of those shipments impeded Movement Ink’s
19 opportunities for business and activism expansion.

20 23. Defendants’ seizures and searches of those shipments also dashed René’s newfound
21 dream that he might actually be able to retire someday.

22 24. In the early months of the Covid-19 pandemic, from March to May 2020, Movement
23 Ink was able to weather the economy’s lockdowns and downturns, thanks to increases in certain
24 types of orders, including, most notably, screen-printed Covid-protective masks.

25 25. Thanks to the years René and Movement Ink spent promoting and developing social
26 justice causes and organizations, they were the supplier of choice when organizers around the
27 country began ordering Covid-protective masks bearing political messages for the mass protests that

1 broke out following the police killings of George Floyd and Breonna Taylor in 2020.

2 26. In the last week of May and the first week of June 2020, René, his family, and at
3 least a dozen employees and volunteers worked around the clock to print, pack, and ship thousands
4 of Covid-protective masks around the country. René could count on two hands the number of hours
5 he slept over the course of several days.

6 27. The masks that René, Movement Ink, his family, and their employees and volunteers
7 printed were emblazoned with core political messages, such as “STOP KILLING BLACK
8 PEOPLE” and “DEFUND POLICE.”

9 28. To be sure, Movement Ink was getting paid for its products. But this hard work and
10 dedication was borne of much more than a profit motive; it was borne of a desire to contribute to
11 the protest movement and express René’s and Movement Ink’s support for the messages they were
12 printing.

13 29. Before the seizures and searches of the four political mask shipments at issue in this
14 case, René and Movement Ink fulfilled three orders for thousands of political masks to organizers
15 in Atlanta, Los Angeles, and Oakland.

16 30. René shipped those three orders, as well as the four at issue in this case, from the
17 same postal facility and using similar packaging methods as he has done for years on behalf of
18 Movement Ink.

19 31. The postal officials at that facility know René and his business. They were friendly
20 with each other, and the postal officials used to joke about René’s and Movement Ink’s last-minute
21 rush shipments and the high prices he paid for next-day deliveries. But after the seizures and
22 searches at issue in this case, their friendly relationship ended; the postal officials became
23 standoffish and quiet whenever René entered.

24 32. As detailed below, the reason for this change in the relationship is because one or
25 more of those postal officials (Doe Defendants 1 and 2) baselessly diverted the four packages at
26 issue in this case from the mail stream, knowing the packages’ political messages, knowing René’s
27 and Movement Ink’s social activism, and knowing that René and Movement Ink were shipping their

1 political packages for ongoing economic gain, just as they had done days before.

2 33. René’s and Movement Ink’s regular practice was to write on each box that it came
3 from Movement Ink and what it contained, such as “masks.”

4 34. This was done to avoid confusion because Movement Ink shared a workspace with
5 another company, and also so that after boxes were taped up it would be obvious what was in them
6 and where René or another Movement Ink employee should deliver or ship them.

7 35. The initial three political mask shipments to Atlanta, Los Angeles, and Oakland,
8 which René sent about a week before the four at issue in this case, were packaged no differently or
9 sent in any manner different than the subsequent four whose seizures and searches are at issue in
10 this case.

11 36. Like the initial three political mask shipments, René and Movement Ink shipped the
12 four packages at issue in this case in nondescript, securely packaged, cleanly taped boxes. The boxes
13 were full; one or more of them may have had a bulge where masks were squeezed in tightly.

14 37. As usual, all of the political mask shipments were marked or identified with
15 Movement Ink as the sender, and likely had their contents handwritten on the side, in accordance
16 with René’s and Movement Ink’s regular practice.

17 38. Like the initial three political mask shipments, René and Movement Ink shipped the
18 four packages at issue in this case using priority mail express overnight shipping—paying a
19 premium to get the masks delivered as quickly as possible because the protests and Covid were both
20 raging every day.

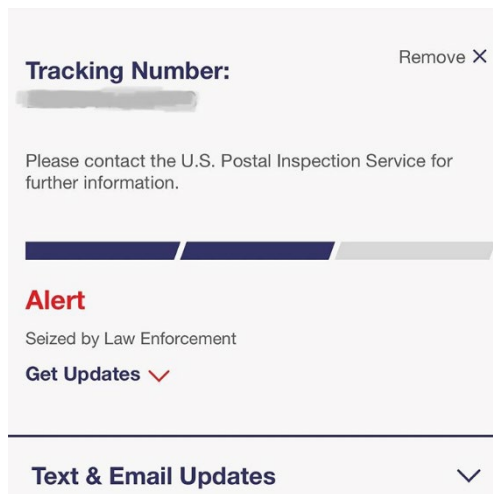
21 39. But unlike so many Movement Ink shipments before—including the initial three
22 political mask shipments—the four that René and Movement Ink shipped on June 3, 2020 did not
23 arrive on time.

24 40. This was no snafu in mail processing or an unavoidable or mistaken delay.

25 41. Rather, all four political mask shipments were, as indicated by the Postal Service’s
26 online tracking system, “Seized by Law Enforcement” (i.e., by Defendants) in Oakland from June
27 3 to June 5—the day after the political mask shipments were already supposed to be arriving to

1 organizers in Brooklyn, DC, Minneapolis, and St. Louis.

2 42. René and the shipments' intended recipients were greeted by this cryptic "Alert" on
3 the Postal Service's online tracking system, which said only that René's and Movement Ink's
4 political mask shipments were "Seized by Law Enforcement":



13 43. The four political mask shipments would not end up arriving at their destinations
14 until June 6 (two days and several protests late), having been held by Defendants without reasonable
15 suspicion, probable cause, or a warrant for more than 24 hours.

16 44. René and the mask recipients were all confused, dismayed, and disrupted in their
17 critical work. Instead of focusing on printing and shipping political Covid-protective masks and
18 other apparel, René and Movement Ink had to waste time figuring out why their innocuous packages
19 were in the hands of law enforcement, and how to get them released, while also fielding questions,
20 concerns, and even accusations from partners, community members, and social media commenters.

21 45. Similarly, the recipient organizers had to divert attention and resources to the seizure
22 issue, having to consult legal counsel and field calls about this distraction, and having to post on
23 social media about this latest disruption to their organizing efforts and their health and safety efforts.

24 46. René, Movement Ink, and their partners were left wondering why these Covid-
25 protective political masks were in the hands of law enforcement officials instead of on the faces of
26 political protestors.

27 47. This uncertainty had a catastrophic impact on the reputation and the business that

1 René and Movement Ink had worked so hard and so long to build.

2 48. As evidenced by the seven political mask shipments already made, plus three more
3 sent on June 4, and commitments for more going forward on a rolling basis, René and Movement
4 Ink were poised to become regular, national suppliers of activist Covid-protective masks and other
5 activist apparel for protest movements and organizers.

6 49. Instead, Defendants’ baseless seizures and searches of René’s and Movement Ink’s
7 political mask shipments created a pall of suspicion, distraction, uncertainty, and confusion around
8 René and Movement Ink.

9 50. René and Movement Ink suffered severe reputational harm because of Defendants’
10 baseless seizures and searches of René’s and Movement Ink’s political mask shipments.

11 51. Talks for future orders were terminated, and René could not even get a call back from
12 many of his partners—including not only his new partners, but preexisting ones too.

13 52. For example, in addition to the recipients of the political mask shipments at issue in
14 this case, who terminated talks for future orders, at least three other groups who had regularly
15 ordered from and collaborated with René and Movement Ink ceased their partnerships and cut off
16 all ties with René and Movement Ink.

17 53. Those partnerships have not revived, and that business has not returned.

18 54. Because Defendants’ misconduct destroyed René’s business relationships and
19 caused his clients to sever all ties with him, René does not know what condition the packages at
20 issue in this case were in when they finally arrived at their destinations. No document provided by
21 Defendants or the government indicates that the packages arrived unopened, and René has no reason
22 to think that they did.

23 55. Rather, as detailed below, on information and belief supported by Defendants’
24 internal notes showing that Defendants knew the specific contents of the packages (“BLM
25 MASKS,” in their words), Defendants opened and searched the packages.

26 56. René’s and Movement Ink’s substantial, steady revenue opportunity and their
27 opportunity to do substantial, steady work supporting movements and causes they are deeply

1 committed to were dead on arrival because of Defendants' baseless seizures and searches of René's
2 and Movement Ink's political mask shipments.

3 57. Defendants' baseless seizures and searches also caused and continue to cause René
4 significant emotional and mental distress—not just because of his and Movement Ink's financial
5 and reputational hits, but because he and Movement Ink have been effectively shut out of a
6 movement and a community that they spent (and continue to spend) years investing their time and
7 energy in.

8 58. All of the harms described in paragraphs 38 through 57 and paragraph 91 below are
9 the direct and sole result and effect of Defendants' baseless, suspicionless, unconstitutional, and
10 tortious seizures and searches of René's and Movement Ink's political mask shipments.

11 59. Feeling targeted, surveilled, despondent, and desperate to find out what happened,
12 René worked with the office of his Congressperson, Rep. Barbara Lee, who submitted an official
13 inquiry to the Postal Service.

14 60. The Inspection Service responded in a letter that:

15 *On June 3, 2020, the parcels in question were detained solely*
16 *because the external physical characteristics of the parcels were*
17 *consistent with parcels in other non-related instances that were*
18 *confirmed to contain nonmailable matter, specifically controlled*
19 *substances. The parcels in question were not detained based on the*
20 *sender or recipient, because they were associated with organizations*
21 *involved in protests or any other First Amendment protected activity,*
22 *or because it was known the parcels contained masks or any articles*
23 *containing statements supporting any group or position.*
24 *Furthermore, there were no external characteristics of the parcels*
25 *that indicated they contained masks or were associated with any*
26 *specific organization.*

27 *The customer in this matter did not contact the Inspection*

1 *Service, but instead contacted the news media. On the morning of*
2 *June 5, when the Inspection Service became aware of the media*
3 *stories on the matter and what the contents of the parcels were, we*
4 *immediately took action to rectify the situation. At 7:07 AM the*
5 *parcels were placed back in the mail stream. The parcels were*
6 *delivered on the following day to the intended destinations.*
7 *Additionally, the USPIS assisted Mr. Quinonez with obtaining a full*
8 *refund for the cost of the mailings.*

9 61. Defendants’ own seizure notes, which René obtained through FOIA, elaborate on
10 what actually happened, and explain that the Inspection Service knew the packages contained, in
11 their words, “BLM MASKS” (indicating that one or more Defendants opened and searched the
12 packages).

13 62. Those seizure notes explain the sequence of events.

14 63. First, Postal Service officials at René’s local post office—whose names are redacted
15 from the seizure notes and are identified here as Postal Service Doe Defendants 1 and 2—diverted
16 the four packages from the mail stream by “overlabeling” them (i.e., putting new labels atop the
17 ones affixed by René) so the packages went to the Postal Inspection Service Division Headquarters
18 (“DHQ”) instead of their intended protest destinations.

19 64. That was the first unconstitutional and tortious seizure of the packages, which was
20 done for no lawful reason (indeed, no reason given) by Postal Service Defendants Does 1 and 2—
21 who, on information and belief based on René’s regular interactions with them and the fact he had
22 shipped the same packages a week before from the same location, knew René and Movement Ink,
23 knew that René and Movement Ink were shipping packages to existing customers for economic
24 gain, knew the political and ongoing nature of René’s and Movement Ink’s business, and knew that
25 René and Movement Ink had no reason to ship the packages except for ongoing economic relations
26 with existing and potential customers.

27 65. Given the utter lack of any lawful reason for Postal Service Defendants Does 1 and

1 2 to divert the packages (of which they knew the contents, and which they knew were like René’s
2 and Movement Ink’s other shipments) to the Inspection Service, on information and belief, they did
3 so (1) based on the political messages on the masks inside the packages and René’s and Movement
4 Ink’s political activism and (2) knowing it would disrupt René’s and Movement Ink’s ongoing and
5 future economic relations.

6 66. On information and belief based on Defendants’ internal notes, Postal Service
7 Defendants Does 1 and 2 knew the contents of the packages because they opened and searched them.

8 67. Second, Inspection Service Defendant Chan—after receiving them from Postal
9 Service Defendants Does 1 and 2—kept the diverted packages detained solely because they were
10 “four big boxes” with “green handwriting” and “she remembered them being overlabeled with
11 DHQ’s address, and stated she thought they were sent from Eureka.”

12 68. That was the second unconstitutional and tortious seizure of the packages, because
13 the reasons given by Defendant Chan did not amount to reasonable suspicion. Individually and
14 together, they were completely innocuous characteristics, devoid of any individualized basis to
15 associate the packages with a known or suspected lawbreaker (even if the packages had come from
16 Eureka, which a mere glance would have confirmed they did not, and which should have resulted
17 in their immediate release).

18 69. Given the utter lack of any lawful reason for Defendant Chan to detain the packages,
19 on information and belief based in part on her decision to detain them notwithstanding the obvious
20 fact they did not come from Eureka, Defendant Chan was continuing the Doe Defendants’
21 intentional disruption of the packages’ delivery and of René’s and Movement Ink’s ongoing
22 economic relations, because of the masks’ political messages.

23 70. Defendant Chan’s detention of the packages was, like the Postal Service Doe
24 Defendants’ seizure of the packages, retaliatory, disruptive, and pretextual because a cursory glance
25 would have dispelled the possibility that the packages came from Eureka and should have resulted
26 in the packages’ immediate release. Instead, Defendant Chan kept them detained.

27 71. On information and belief based on Defendants’ internal notes describing the events

1 above, Defendant Chan knew the contents of the packages because she opened and searched them.

2 72. Third, the packages—after being diverted by Postal Service Defendants Does 1 and
3 2 and then detained by Inspection Service Defendant Chan, all without any lawful basis to do so—
4 were left languishing without any investigation or any effort to pursue a warrant for over 24 hours.

5 73. If Defendant Chan actually believed the packages might have come from Eureka, she
6 could have dispelled that possibility in minutes. Instead, she left the political mask shipments
7 detained without even the most cursory of investigation. Therefore, on information and belief,
8 Defendant Chan’s assertions purportedly supporting reasonable suspicion to detain the packages
9 were pretextual; Defendant Chan was continuing the Doe Defendants’ intentional disruption of the
10 packages’ delivery and of René’s and Movement Ink’s ongoing economic relations, because of the
11 masks’ political messages.

12 74. The most cursory investigation would have immediately dispelled the purported
13 notion that the packages might have come from Eureka—indeed, Defendant Hodges confirmed in
14 less than ten minutes that “it was not possible the parcels were sent from Eureka,” when he finally
15 investigated the situation more than 24 hours after it should have been resolved.

16 75. That 24-hour detention was the third unconstitutional and tortious seizure of the
17 packages. An investigatory seizure of property (which here was unconstitutional and tortious from
18 its inception, as described above) cannot extend beyond the time needed to confirm or dispel the
19 propriety of its detention—which in this case would have taken mere minutes, at most. Instead, the
20 packages—which Defendants knew the contents of because they opened and searched them, and
21 which Defendants knew the shippers of—were left languishing for over 24 hours without even the
22 pretense of an investigation or an explanation for delay.

23 76. Fourth, Inspection Service Defendants Hodges and Fajardo completed Parcel Detail
24 Worksheets for each package. Those worksheets list post hoc justifications for the packages’
25 seizures, detentions, and searches in an effort to bolster the baseless and pretextual reasons
26 Defendant Chan gave for the packages’ seizures, detentions, and searches.

27 77. But even the reasons in the worksheets make clear that at no point did any Defendant

1 have reasonable suspicion (let alone probable cause) to conduct the initial seizures of the political
2 mask shipments, to keep them detained, or to search them.

3 78. Defendant Hodges contends in the worksheets that the packages were suspicious
4 because of (1) “bulging contents,” (2) “frequently mailed parcels from the same sender/address,”
5 (3) “parcel destination is a known drug trafficking area,” (4) “taped or glued on all seams,” and (5)
6 “parcel mailed from a known drug source area.”

7 79. Those assertions do not amount to reasonable suspicion because they do not satisfy
8 the Fourth Amendment’s demand for individualized circumstances suggesting that a particular,
9 articulable crime is occurring in order to justify a seizure. To the contrary, those characteristic apply
10 to (1) any United States business or individual (2) that regularly sends padded items (like pillows,
11 or vases wrapped in bulging padding) (3) in well-bound boxes (4) from just about any major United
12 States city to any other major United States city. Those innocuous characteristics do not
13 constitutionally subject people to arbitrary seizure or search of their property by government
14 officials.

15 80. On information and belief, Defendants have no comprehensive list of which cities
16 are or are not “known drug trafficking area[s]” or “known drug source area[s].”

17 81. On information and belief, Defendants do not rely on any clear or coherent definition
18 of “known drug trafficking area” or “known drug source area.”

19 82. On information and belief, most, if not all, American cities could be considered either
20 “known drug trafficking area[s]” or “known drug source area[s].”

21 83. On information and belief, Defendant Hodges’s post hoc assertion that the “parcel[s]
22 were] mailed from a known drug source area” is based on their having purportedly come from
23 Eureka. But any reasonable official could and should have immediately dispelled that possibility.
24 Indeed, according to his own notes, it took Defendant Hodges less than ten minutes to do so.

25 84. One of Defendant Hodges’s post hoc assertions purporting to justify the packages’
26 seizures, detentions, and searches—i.e., that the packages were “taped or glued on all seams”—
27 deems it suspicious if a shipper complies with the Postal Service’s *own public guidance*, which

1 advises: “If you are mailing a very heavy or very dense item, start with a sturdy box, pack the
2 contents securely with a strong material for bracing to prevent shifting, and *tape all the edges with*
3 *reinforced tape*” (emphasis added).

4 85. There was and is no indication anywhere that the packages posed an articulable risk
5 of immediate physical harm, an articulable risk that particular relevant evidence would be destroyed,
6 or an articulable risk that a particular suspect would escape. So Defendants could not keep the
7 packages detained or search them without a warrant; nevertheless, they did both.

8 86. In short, René’s and Movement Ink’s political mask shipments resembled lawful
9 packages that legitimate businesses, including Movement Ink, ship on a regular basis. The four
10 political mask shipments were in neatly taped, nondescript brown boxes with the identities and
11 locations of the sender and the recipients clearly labeled, in accordance with the Postal Service’s
12 own public guidance.

13 87. Given the utter lack of any lawful reason for the packages’ seizure or detention based
14 on the characteristics listed in Defendant Hodges’s worksheets or the reasons given by Defendant
15 Chan, coupled with the fact that the worksheets expressly stated that Defendants knew the packages
16 contained “BLM MASKS,” on information and belief, one or more Inspection Service Defendants
17 (1) opened and searched the packages and (2) continued the retaliatory, disruptive, and pretextual
18 seizures and searches initiated by Postal Service Defendants Does 1 and 2 and Inspection Service
19 Defendant Chan.

20 88. For the reasons explained above, the facts, as depicted by Defendants’ own notes,
21 indicate that Defendants seized, detained, and searched the packages without reasonable suspicion,
22 probable cause, a warrant, or any exigency.

23 89. The retaliatory, disruptive, and pretextual nature of Defendants’ seizures and
24 searches of the packages is evinced by: Defendants’ knowledge of René’s and Movement Ink’s
25 politically motivated business; the change in relationship between René and the postal officials
26 following the packages’ seizure; the lack of any facts, individually or together, amounting to
27 reasonable suspicion to seize, detain, or search the packages; the decision to search and divert the

1 packages notwithstanding a lack of reasonable suspicion; the decision to keep the packages detained
2 for over 24 hours and search them, instead of immediately dispelling the notion that the packages
3 might have come from Eureka and releasing them; the post hoc attempt to justify the packages’
4 baseless seizure, detention, and search, based on purported factors that again did not amount to
5 reasonable suspicion; the internally contradictory nature of that post hoc attempt, by asserting that
6 the packages came from a business that “frequently mailed parcels from the same sender/address”
7 in Oakland (a completely innocuous fact) while also purportedly coming from Eureka (also a
8 completely innocuous fact, but in any event an immediately dispellable hunch); the post hoc decision
9 to purportedly deem it suspicious that René and Movement Ink complied with the Postal Service’s
10 own public guidance for securely taping packages; and Defendants’ admitted knowledge that the
11 packages contained “BLM MASKS.”

12 90. While Plaintiffs maintain that, drawing all inferences from the facts above in their
13 favor, it is plausible that one or more Defendants searched the packages, Plaintiffs plead in the
14 alternative, pursuant to Federal Rule of Civil Procedure 8, the following:

15 a. If one infers, based on the Inspection Service’s letter to Rep. Lee, that no *Inspection*
16 Service Defendant knew the packages’ contents until June 5 (after they were left to
17 languish for over 24 hours), that does nothing to dispel the *Postal Service’s*
18 knowledge of the contents sooner. And, as explained above, the Postal Service
19 Defendants’ conduct plausibly suggests knowledge of the contents, based on their
20 familiarity with René’s and Movement Ink’s business and their opening of the
21 packages. In short, the letter does nothing to dispel Plaintiffs’ allegation that Postal
22 Service Defendants Does 1 and 2 seized and searched the packages for retaliatory,
23 disruptive, and pretextual reasons.

24 b. Additionally, if one infers, based on the Inspection Service’s letter to Rep. Lee, that
25 no Inspection Service Defendant knew the packages’ contents until June 5 (after they
26 were left to languish for over 24 hours), that only makes absolutely clear that the
27 Inspection Service Defendants violated the Fourth Amendment by choosing to leave

United States District Court
Northern District of California

1 the packages languishing rather than doing anything at all to investigate whether they
2 should be detained.

3 c. In Defendants’ own telling, for more than 24 hours, Defendants did not attempt to
4 confirm the identity or location of the sender or recipients of the packages.

5 d. In Defendants’ own telling, for more than 24 hours, Defendants did not seek or obtain
6 a warrant.

7 e. In Defendants’ own telling, for more than 24 hours, Defendants did not establish that
8 the packages posed an articulable risk of immediate physical harm, an articulable
9 risk that particular relevant evidence would be destroyed, or an articulable risk that
10 a particular suspect would escape.

11 f. Instead, in Defendants’ own telling, Defendants abandoned the political mask
12 shipments to sit indefinitely until the issue became national news.

13 g. Indeed, in Defendants’ own telling, had the issue not become national news, the
14 packages would have remained seized even longer.

15 91. In addition to the harms and injuries described in paragraphs 38 through 57 above,
16 Defendants’ baseless, retaliatory, disruptive, and pretextual seizures and searches of René’s and
17 Movement Ink’s political mask shipments have directly resulted in the chilling of René’s and
18 Movement Ink’s political speech in two ways: (1) René and Movement Ink are less active and vocal
19 on social media and in the community because of the pall of suspicion and fear of surveillance that
20 Defendants’ conduct has cast over them, and (2) René and Movement Ink have lost substantial
21 opportunities to express their political views through their work because Defendants’ conduct has
22 significantly depressed their client base and their apparel production, which have always been built
23 on the basis of political activism and speech.

24 92. The Inspection Service’s letter to Rep. Lee’s office asserts that USPIS assisted René
25 in obtaining a refund for the cost of the mailings. That is not true. René and Movement Ink did not
26 receive refunds.

27 93. In any event, a refund could and would do nothing to account for any of the harms

1 described in paragraphs 38 through 57 and paragraph 91, which remain and will remain entirely
2 unremedied.

3 94. On March 11, 2022, the Postal Service and the Inspection Service confirmed their
4 receipt of—and the sufficiency of—René’s and Movement Ink’s administrative claims for relief
5 under the Federal Tort Claims Act. The agencies refused to provide any relief, permitting René and
6 Movement Ink to bring their FTCA claims in this lawsuit, pursuant to 28 U.S.C. § 2675(a).

7 95. Besides the FTCA and individual damages claims in a court of law, there is no other
8 process—let alone potential remedy—that René or Movement Ink could or can pursue.

9 96. René’s and Movement Ink’s complaints do not fall within the purview of the Postal
10 Service Office of Inspector General Hotline, which states expressly that it “generally does not handle
11 individual issues, except for whistleblower reprisal complaints and related executive
12 investigations.” Regardless, that OIG process expressly forecloses any individual remedy or
13 reprieve. Indeed, OIG expressly disclaims any obligation to even investigate any given complaint.

14 CLAIMS FOR RELIEF

15 Count 1 16 Trespass to Chattels 17 Against Defendant United States of America 18 Under the Federal Tort Claims Act

19 97. Plaintiffs reallege and incorporate the allegations in paragraphs 1 through 96.

20 98. Under the Federal Tort Claims Act, Defendant United States of America is liable for
21 the tortious acts, violations, and injuries alleged in this action caused by Defendants Agster, Chan,
22 Fajardo, Hodges, Lee, and Doe Defendants 1 through 2 because they caused those tortious acts,
23 violations, and injuries while acting on behalf of a federal agency in an official capacity.

24 99. Plaintiffs timely and properly exhausted the Federal Tort Claims Act’s administrative
25 claims process.

26 100. Plaintiffs shipped four packages of their personal property via the United States
27 Postal Service. Plaintiffs retained ownership rights and interests and possessory rights and interests
28 in their packages until the packages were delivered to their intended recipients.

United States District Court
Northern District of California

1 101. Without consent, cause, or legal authority, Defendants intentionally interfered with
2 Plaintiffs’ possession, right to possess, use, right to use, enjoyment, and right to enjoy their personal
3 property by seizing, detaining, and searching Plaintiffs’ personal property.

4 102. Defendants’ conduct caused: severe reputational harms to Plaintiffs; Plaintiffs’
5 packages’ intended recipients to sever all ongoing and future contractual and business relationships
6 with Plaintiffs; significant loss of Plaintiffs’ ongoing and future revenue; and ongoing emotional
7 and mental distress to René.

8 103. Plaintiffs are entitled to compensatory damages for their injuries caused by
9 Defendants’ unconstitutional and tortious conduct.

10 **Count 2**
11 **Interference with Contractual Relations**
12 **Against Defendant United States of America**
13 **Under the Federal Tort Claims Act**

14 104. Plaintiffs reallege and incorporate the allegations in paragraphs 1 through 96.

15 105. Under the Federal Tort Claims Act, Defendant United States of America is liable for
16 the tortious acts, violations, and injuries alleged in this action caused by Defendants Agster, Chan,
17 Fajardo, Hodges, Lee, and Doe Defendants 1 through 2 because they caused those tortious acts,
18 violations, and injuries while acting on behalf of a federal agency in an official capacity.

19 106. Plaintiffs timely and properly exhausted the Federal Tort Claims Act’s administrative
20 claims process.

21 107. Plaintiffs had contracts with protest organizers for the rush printing and immediate
22 delivery of four packages containing Covid-protective masks emblazoned with political speech.

23 108. Defendants knew, should have known, or had reason to know of those contracts,
24 based on Plaintiffs’ regular business activities and the packages’ shipping information (including
25 the sender and recipients) that Plaintiffs provided to Defendants.

26 109. Defendants’ intentional seizures, detentions, and searches of the packages, as well as
27 Defendants’ “Alert” to the recipients of the packages that the packages were “seized by law
28 enforcement,” prevented Plaintiffs’ performance of the contracts or made Plaintiffs’ performance of

1 the contracts more expensive or difficult.

2 110. Defendants’ intentional seizures, detentions, and searches of the packages, as well as
3 Defendants’ “Alert” to the recipients of the packages that the packages were “seized by law
4 enforcement,” were certain or substantially certain to prevent Plaintiffs’ performance of the
5 contracts or make Plaintiffs’ performance of the contracts more expensive or difficult.

6 111. Defendants’ conduct caused: severe reputational harms to Plaintiffs; Plaintiffs’
7 packages’ intended recipients to sever all ongoing and future contractual and business relationships
8 with Plaintiffs; significant loss of Plaintiffs’ ongoing and future revenue; and ongoing emotional
9 and mental distress to René.

10 112. Plaintiffs are entitled to compensatory damages for their injuries caused by
11 Defendants’ unconstitutional and tortious conduct.

12 **Count 3**
13 **Interference with Prospective Economic Relations**
14 **Against Defendant United States of America**
15 **Under the Federal Tort Claims Act**

16 113. Plaintiffs reallege and incorporate the allegations in paragraphs 1 through 96.

17 114. Under the Federal Tort Claims Act, Defendant United States of America is liable for
18 the tortious acts, violations, and injuries alleged in this action caused by Defendants Agster, Chan,
19 Fajardo, Hodges, Lee, and Doe Defendants 1 through 2 because they caused those tortious acts,
20 violations, and injuries while acting on behalf of a federal agency in an official capacity.

21 115. Plaintiffs timely and properly exhausted the Federal Tort Claims Act’s administrative
22 claims process.

23 116. Plaintiffs had contracts and other economic relationships with protest organizers for
24 the rush printing and immediate delivery of four packages containing Covid-protective masks
25 emblazoned with political speech and for similar ongoing and regular orders in the future.

26 117. Defendants knew, should have known, or had reason to know of those contracts or
27 those future economic benefits, based on Plaintiffs’ regular business activities, the packages’
28 shipping information (including the sender and recipients) that Plaintiffs provided to Defendants,

1 and the ongoing nature of the need for Covid-protective masks and political protests.

2 118. Defendants intentionally seized, detained, and searched the packages and issued an
3 “Alert” to the recipients of the packages that the packages were “seized by law enforcement.”

4 119. Defendants’ intentional seizures, detentions, and searches of the packages, as well as
5 Defendants’ “Alert” to the recipients of the packages that the packages were “seized by law
6 enforcement,” were certain or substantially certain to prevent Plaintiffs’ performance of the
7 contracts or make Plaintiffs’ performance of the contracts more expensive or difficult and to disrupt
8 similar ongoing and regular orders in the future.

9 120. Defendants’ conduct caused: severe reputational harms to Plaintiffs; Plaintiffs’
10 packages’ intended recipients to sever all ongoing and future contractual and business relationships
11 with Plaintiffs; significant loss of Plaintiffs’ ongoing and future revenue; and ongoing emotional
12 and mental distress to René.

13 121. Plaintiffs are entitled to compensatory damages for their injuries caused by
14 Defendants’ unconstitutional and tortious conduct.

15 **Count 4**
16 **Unreasonable Seizures in Violation of the Fourth Amendment**
17 **Against Defendants Agster, Chan, Fajardo, Hodges, Lee, and Doe Defendants 1 through 2**
18 **Under *Bivens***

19 122. Plaintiffs reallege and incorporate the allegations in paragraphs 1 through 96.

20 123. Plaintiffs shipped four packages of their personal property via the United States
21 Postal Service. Plaintiffs retained ownership rights and interests and possessory rights and interests
22 in their packages until the packages were delivered to their intended recipients.

23 124. Defendants seized Plaintiffs’ personal property in violation of the Fourth
24 Amendment, delaying the packages’ arrival to their intended recipients by 48 hours, during which
25 time the recipients were in dire need of the packages. Defendants’ clearly and obviously unjustified
26 and unreasonable seizures of Plaintiffs’ packages caused the packages’ intended recipients to sever
27 all ongoing and future contractual and business relationships with Plaintiffs.

28 125. Seizures of personal property without reasonable suspicion, probable cause, or a

1 warrant are obviously unconstitutional.

2 126. It is clearly established and every reasonable postal official has fair warning that
3 warrantless seizures of personal property are presumptively unconstitutional.

4 127. It is clearly established and every reasonable postal official has fair warning that
5 postal officials must have at least reasonable suspicion to conduct brief investigatory seizures of
6 personal property.

7 128. It is clearly established and every reasonable postal official has fair warning that
8 postal officials do not have reasonable suspicion to conduct brief investigatory seizures of personal
9 property in the absence of individualized circumstances suggesting that a particular, articulable
10 crime is occurring.

11 129. It is clearly established and every reasonable postal official has fair warning that
12 postal officials must have probable cause that a particular, articulable crime is occurring and either
13 a warrant or exigent circumstances to seize personal property beyond the time needed for a brief
14 investigatory seizure based on reasonable suspicion.

15 130. It is clearly established and every reasonable postal official has fair warning that
16 postal officials do not have probable cause in the absence of individualized circumstances
17 suggesting, to a higher degree of certainty than reasonable suspicion, that a particular, articulable
18 crime is occurring.

19 131. It is clearly established and every reasonable postal official has fair warning that to
20 forgo the warrant requirement, postal officials must have probable cause and face exigent
21 circumstances.

22 132. It is clearly established and every reasonable postal official has fair warning that
23 postal officials do not face exigent circumstances in the absence of an articulable risk of immediate
24 physical harm, an articulable risk that particular relevant evidence will be destroyed, or an
25 articulable risk that a particular suspect will escape.

26 133. It is clearly established and every reasonable postal official has fair warning that
27 postal officials violate the Fourth Amendment by (1) seizing personal property in the absence of

1 reasonable suspicion based on individualized circumstances suggesting that a particular, articulable
2 crime is occurring or (2) seizing property beyond the time needed for a brief investigatory seizure
3 arising from reasonable suspicion in the absence of probable cause (individualized circumstances
4 suggesting, to a higher degree of certainty than reasonable suspicion, that a particular, articulable
5 crime is occurring) plus either a warrant or an articulable risk of immediate physical harm, an
6 articulable risk that particular relevant evidence will be destroyed, or an articulable risk that a
7 particular suspect will escape.

8 134. It is clearly established and every reasonable postal official has fair warning that
9 reasonable suspicion cannot be based on assumed facts that the postal official could dispel before
10 conducting an investigatory seizure of personal property.

11 135. It is clearly established and every reasonable postal official has fair warning that
12 reasonable suspicion cannot be based on characteristics that, individually and as a whole, apply to
13 personal property that has no connection to criminal activity.

14 136. It is clearly established and every reasonable postal official has fair warning that
15 probable cause cannot be based on an assumed fact that purportedly formed the basis for reasonable
16 suspicion but was dispelled while conducting an investigatory seizure of personal property.

17 137. It is clearly established and every reasonable postal official has fair warning that
18 probable cause cannot be based on characteristics that, individually and as a whole, apply to personal
19 property that has no connection to criminal activity.

20 138. It is clearly established and every reasonable postal official has fair warning that
21 probable cause to believe that drugs are present is not, in the absence of a risk of their destruction,
22 an exigent circumstance that permits forgoing the warrant requirement.

23 139. Defendants seized Plaintiffs' personal property without reasonable suspicion. The
24 characteristics they purportedly relied on to seize Plaintiffs' packages (i.e., that the packages were
25 allegedly bulging, were taped all around, were going from one purported drug activity city to
26 another, and were sent by a frequent shipper) apply, individually and as a whole, to entirely innocent
27 packages that businesses small and large—including Plaintiffs themselves—ship throughout the

1 country every single day. Every reasonable postal official should know that those characteristics do
2 not give rise to reasonable suspicion because those characteristics are not individualized
3 circumstances suggesting that a particular, articulable crime (or any crime) is occurring.

4 140. Even with the additional allegation that Plaintiffs' packages resembled some from
5 Eureka that had contained drugs, Defendants did not have reasonable suspicion to conduct an
6 investigatory seizure because (1) that additional factual assumption did not give rise to reasonable
7 suspicion and (2) even if it did, Defendants could have easily dispelled that factual assumption
8 without seizing Plaintiffs' packages simply by confirming that the packages came from Movement
9 Ink LLC in Oakland (not any suspicious sender from Eureka).

10 141. Even if the totality of circumstances did arise to reasonable suspicion (which it did
11 not) and Defendants could not dispel that suspicion before seizing Plaintiffs' packages for a brief
12 investigatory seizure, that suspicion was (or should have been) dispelled immediately by
13 Defendants' confirming that Plaintiffs' packages came from Movement Ink LLC in Oakland (not
14 any suspicious sender from Eureka). Therefore, Defendants should have released Plaintiffs'
15 packages immediately upon that realization, or sought a warrant in order to continue their seizure
16 of the packages or to search the packages.

17 142. But Defendants did not release Plaintiffs' packages immediately upon that
18 realization. And they did not get a warrant (nor could they have, because these circumstances did
19 not amount to probable cause) or have any reason to believe that Plaintiffs' packages posed an
20 articulable risk of immediate physical harm, an articulable risk that particular relevant evidence
21 would be destroyed (after all, it was in Defendants' possession), or an articulable risk that a
22 particular suspect would escape. Nevertheless, Defendants continued to seize and even search
23 Plaintiffs' packages.

24 143. Therefore, at every step, Defendants violated Plaintiffs' clearly established right to
25 be free from unreasonable seizures of their personal property.

26 144. Defendants are line-level postal officials operating in the common and recurrent
27 sphere of garden-variety postal inspections and law enforcement with respect to personal property.

1 personal property.

2 154. It is clearly established and every reasonable postal official has fair warning that
3 postal officials do not have reasonable suspicion to conduct brief investigatory seizures of personal
4 property in the absence of individualized circumstances suggesting that a particular, articulable
5 crime is occurring.

6 155. It is clearly established and every reasonable postal official has fair warning that
7 postal officials must have probable cause that a particular, articulable crime is occurring and either
8 a warrant or exigent circumstances to seize personal property beyond the time needed for a brief
9 investigatory seizure based on reasonable suspicion.

10 156. It is clearly established and every reasonable postal official has fair warning that
11 postal officials do not have probable cause in the absence of individualized circumstances
12 suggesting, to a higher degree of certainty than reasonable suspicion, that a particular, articulable
13 crime is occurring.

14 157. It is clearly established and every reasonable postal official has fair warning that to
15 forgo the warrant requirement, postal officials must have probable cause and face exigent
16 circumstances.

17 158. It is clearly established and every reasonable postal official has fair warning that
18 postal officials do not face exigent circumstances in the absence of an articulable risk of immediate
19 physical harm, an articulable risk that particular relevant evidence will be destroyed, or an
20 articulable risk that a particular suspect will escape.

21 159. It is clearly established and every reasonable postal official has fair warning that
22 postal officials violate the Fourth Amendment by (1) seizing personal property in the absence of
23 reasonable suspicion based on individualized circumstances suggesting that a particular, articulable
24 crime is occurring or (2) seizing property beyond the time needed for a brief investigatory seizure
25 arising from reasonable suspicion in the absence of probable cause (individualized circumstances
26 suggesting, to a higher degree of certainty than reasonable suspicion, that a particular, articulable
27 crime is occurring) plus either a warrant or an articulable risk of immediate physical harm, an

1 articlable risk that particular relevant evidence will be destroyed, or an articlable risk that a
2 particular suspect will escape.

3 160. It is clearly established and every reasonable postal official has fair warning that
4 reasonable suspicion cannot be based on assumed facts that the postal official could dispel before
5 conducting an investigatory seizure of personal property.

6 161. It is clearly established and every reasonable postal official has fair warning that
7 reasonable suspicion cannot be based on characteristics that, individually and as a whole, apply to
8 personal property that has no connection to criminal activity.

9 162. It is clearly established and every reasonable postal official has fair warning that
10 probable cause cannot be based on an assumed fact that purportedly formed the basis for reasonable
11 suspicion but was dispelled while conducting an investigatory seizure of personal property.

12 163. It is clearly established and every reasonable postal official has fair warning that
13 probable cause cannot be based on characteristics that, individually and as a whole, apply to personal
14 property that has no connection to criminal activity.

15 164. It is clearly established and every reasonable postal official has fair warning that
16 probable cause to believe that drugs are present is not, in the absence of a risk of their destruction,
17 an exigent circumstance that permits forgoing the warrant requirement.

18 165. Defendants seized Plaintiffs' personal property without reasonable suspicion. The
19 characteristics they purportedly relied on to seize Plaintiffs' packages (i.e., that the packages were
20 allegedly bulging, were taped all around, were going from one purported drug activity city to
21 another, and were sent by a frequent shipper) apply, individually and as a whole, to entirely innocent
22 packages that businesses small and large—including Plaintiffs themselves—ship throughout the
23 country every single day. Every reasonable postal official should know that those characteristics do
24 not give rise to reasonable suspicion because those characteristics are not individualized
25 circumstances suggesting that a particular, articlable crime (or any crime) is occurring.

26 166. Even with the additional allegation that Plaintiffs' packages resembled some from
27 Eureka that had contained drugs, Defendants did not have reasonable suspicion to conduct an

1 investigatory seizure because (1) that additional factual assumption did not give rise to reasonable
2 suspicion and (2) even if it did, Defendants could have easily dispelled that factual assumption
3 without seizing Plaintiffs' packages simply by confirming that the packages came from Movement
4 Ink LLC in Oakland (not any suspicious sender from Eureka).

5 167. Even if the totality of circumstances did arise to reasonable suspicion (which it did
6 not) and Defendants could not dispel that suspicion before seizing Plaintiffs' packages for a brief
7 investigatory seizure, that suspicion was (or should have been) dispelled immediately by
8 Defendants' confirming that Plaintiffs' packages came from Movement Ink LLC in Oakland (not
9 any suspicious sender from Eureka). Therefore, Defendants should have released Plaintiffs'
10 packages immediately upon that realization, or sought a warrant in order to continue their seizure
11 of the packages or to search the packages.

12 168. But Defendants did not release Plaintiffs' packages immediately upon that
13 realization. And they did not get a warrant (nor could they have, because these circumstances did
14 not amount to probable cause) or have any reason to believe that Plaintiffs' packages posed an
15 articulable risk of immediate physical harm, an articulable risk that particular relevant evidence
16 would be destroyed (after all, it was in Defendants' possession), or an articulable risk that a
17 particular suspect would escape. Nevertheless, Defendants continued to seize and even search
18 Plaintiffs' packages.

19 169. Therefore, at every step, Defendants violated Plaintiffs' clearly established right to
20 be free from unreasonable seizures of their personal property.

21 170. Defendants are line-level postal officials operating in the common and recurrent
22 sphere of garden-variety postal inspections and law enforcement with respect to personal property.

23 171. Plaintiffs have no alternative remedies for their injuries caused by Defendants, and
24 Plaintiffs' claims do not implicate separation of powers, national security considerations, or any
25 other special factors counseling hesitation against a damages remedy for Plaintiffs' injuries.

26 172. Defendants' conduct caused: severe reputational harms to Plaintiffs; Plaintiffs'
27 packages' intended recipients to sever all ongoing and future contractual and business relationships

1 with Plaintiffs; significant loss of Plaintiffs’ ongoing and future revenue; and ongoing emotional
2 and mental distress to René.

3 173. Plaintiffs are entitled to compensatory damages for their injuries caused by
4 Defendants’ seizures of their personal property.

5 **Count 6**
6 **Unreasonable Seizures in Violation of the Fourth Amendment**
7 **Against Defendants Agster, Chan, Fajardo, Hodges, Lee, and Doe Defendants 1 through 2**
8 **Under the Fourth Amendment**

9 174. Plaintiffs reallege and incorporate the allegations in paragraphs 1 through 96.

10 175. Plaintiffs shipped four packages of their personal property via the United States
11 Postal Service. Plaintiffs retained ownership rights and interests and possessory rights and interests
12 in their packages until the packages were delivered to their intended recipients.

13 176. Defendants seized Plaintiffs’ personal property in violation of the Fourth
14 Amendment, delaying the packages’ arrival to their intended recipients by 48 hours, during which
15 time the recipients were in dire need of the packages. Defendants’ clearly and obviously unjustified
16 and unreasonable seizures of Plaintiffs’ packages caused the packages’ intended recipients to sever
17 all ongoing and future contractual and business relationships with Plaintiffs.

18 177. Seizures of personal property without reasonable suspicion, probable cause, or a
19 warrant are obviously unconstitutional.

20 178. It is clearly established and every reasonable postal official has fair warning that
21 warrantless seizures of personal property are presumptively unconstitutional.

22 179. It is clearly established and every reasonable postal official has fair warning that
23 postal officials must have at least reasonable suspicion to conduct brief investigatory seizures of
24 personal property.

25 180. It is clearly established and every reasonable postal official has fair warning that
26 postal officials do not have reasonable suspicion to conduct brief investigatory seizures of personal
27 property in the absence of individualized circumstances suggesting that a particular, articulable
28 crime is occurring.

1 181. It is clearly established and every reasonable postal official has fair warning that
2 postal officials must have probable cause that a particular, articulable crime is occurring and either
3 a warrant or exigent circumstances to seize personal property beyond the time needed for a brief
4 investigatory seizure based on reasonable suspicion.

5 182. It is clearly established and every reasonable postal official has fair warning that
6 postal officials do not have probable cause in the absence of individualized circumstances
7 suggesting, to a higher degree of certainty than reasonable suspicion, that a particular, articulable
8 crime is occurring.

9 183. It is clearly established and every reasonable postal official has fair warning that to
10 forgo the warrant requirement, postal officials must have probable cause and face exigent
11 circumstances.

12 184. It is clearly established and every reasonable postal official has fair warning that
13 postal officials do not face exigent circumstances in the absence of an articulable risk of immediate
14 physical harm, an articulable risk that particular relevant evidence will be destroyed, or an
15 articulable risk that a particular suspect will escape.

16 185. It is clearly established and every reasonable postal official has fair warning that
17 postal officials violate the Fourth Amendment by (1) seizing personal property in the absence of
18 reasonable suspicion based on individualized circumstances suggesting that a particular, articulable
19 crime is occurring or (2) seizing property beyond the time needed for a brief investigatory seizure
20 arising from reasonable suspicion in the absence of probable cause (individualized circumstances
21 suggesting, to a higher degree of certainty than reasonable suspicion, that a particular, articulable
22 crime is occurring) plus either a warrant or an articulable risk of immediate physical harm, an
23 articulable risk that particular relevant evidence will be destroyed, or an articulable risk that a
24 particular suspect will escape.

25 186. It is clearly established and every reasonable postal official has fair warning that
26 reasonable suspicion cannot be based on assumed facts that the postal official could dispel before
27 conducting an investigatory seizure of personal property.

1 187. It is clearly established and every reasonable postal official has fair warning that
2 reasonable suspicion cannot be based on characteristics that, individually and as a whole, apply to
3 personal property that has no connection to criminal activity.

4 188. It is clearly established and every reasonable postal official has fair warning that
5 probable cause cannot be based on an assumed fact that purportedly formed the basis for reasonable
6 suspicion but was dispelled while conducting an investigatory seizure of personal property.

7 189. It is clearly established and every reasonable postal official has fair warning that
8 probable cause cannot be based on characteristics that, individually and as a whole, apply to personal
9 property that has no connection to criminal activity.

10 190. It is clearly established and every reasonable postal official has fair warning that
11 probable cause to believe that drugs are present is not, in the absence of a risk of their destruction,
12 an exigent circumstance that permits forgoing the warrant requirement.

13 191. Defendants seized Plaintiffs’ personal property without reasonable suspicion. The
14 characteristics they purportedly relied on to seize Plaintiffs’ packages (i.e., that the packages were
15 allegedly bulging, were taped all around, were going from one purported drug activity city to
16 another, and were sent by a frequent shipper) apply, individually and as a whole, to entirely innocent
17 packages that businesses small and large—including Plaintiffs themselves—ship throughout the
18 country every single day. Every reasonable postal official should know that those characteristics do
19 not give rise to reasonable suspicion because those characteristics are not individualized
20 circumstances suggesting that a particular, articulable crime (or any crime) is occurring.

21 192. Even with the additional allegation that Plaintiffs’ packages resembled some from
22 Eureka that had contained drugs, Defendants did not have reasonable suspicion to conduct an
23 investigatory seizure because (1) that additional factual assumption did not give rise to reasonable
24 suspicion and (2) even if it did, Defendants could have easily dispelled that factual assumption
25 without seizing Plaintiffs’ packages simply by confirming that the packages came from Movement
26 Ink LLC in Oakland (not any suspicious sender from Eureka).

27 193. Even if the totality of circumstances did arise to reasonable suspicion (which it did

1 not) and Defendants could not dispel that suspicion before seizing Plaintiffs' packages for a brief
2 investigatory seizure, that suspicion was (or should have been) dispelled immediately by
3 Defendants' confirming that Plaintiffs' packages came from Movement Ink LLC in Oakland (not
4 any suspicious sender from Eureka). Therefore, Defendants should have released Plaintiffs'
5 packages immediately upon that realization, or sought a warrant in order to continue their seizure
6 of the packages or to search the packages.

7 194. But Defendants did not release Plaintiffs' packages immediately upon that
8 realization. And they did not get a warrant (nor could they have, because these circumstances did
9 not amount to probable cause) or have any reason to believe that Plaintiffs' packages posed an
10 articulable risk of immediate physical harm, an articulable risk that particular relevant evidence
11 would be destroyed (after all, it was in Defendants' possession), or an articulable risk that a
12 particular suspect would escape. Nevertheless, Defendants continued to seize and even search
13 Plaintiffs' packages.

14 195. Therefore, at every step, Defendants violated Plaintiffs' clearly established right to
15 be free from unreasonable seizures of their personal property.

16 196. Defendants are line-level postal officials operating in the common and recurrent
17 sphere of garden-variety postal inspections and law enforcement with respect to personal property.

18 197. Plaintiffs have no alternative remedies for their injuries caused by Defendants, and
19 Plaintiffs' claims do not implicate separation of powers, national security considerations, or any
20 other special factors counseling hesitation against a damages remedy for Plaintiffs' injuries.

21 198. Defendants' conduct caused: severe reputational harms to Plaintiffs; Plaintiffs'
22 packages' intended recipients to sever all ongoing and future contractual and business relationships
23 with Plaintiffs; significant loss of Plaintiffs' ongoing and future revenue; and ongoing emotional
24 and mental distress to René.

25 199. Plaintiffs are entitled to compensatory damages for their injuries caused by
26 Defendants' seizures of their personal property.

27

28

1
2 **Count 7**
3 **Unreasonable Searches in Violation of the Fourth Amendment**
4 **Against Defendants Agster, Chan, Fajardo, Hodges, Lee, and Doe Defendants 1 through 2**
5 **Under *Bivens***

6 200. Plaintiffs reallege and incorporate the allegations in paragraphs 1 through 96.

7 201. Plaintiffs shipped four packages of their personal property via the United States
8 Postal Service. Plaintiffs retained ownership rights and interests and possessory rights and interests
9 in their packages until the packages were delivered to their intended recipients.

10 202. Defendants seized and searched Plaintiffs' personal property in violation of the
11 Fourth Amendment, delaying the packages' arrival to their intended recipients by 48 hours, during
12 which time the recipients were in dire need of the packages. Defendants' clearly and obviously
13 unjustified and unreasonable seizures and searches of Plaintiffs' packages caused the packages'
14 intended recipients to sever all ongoing and future contractual and business relationships with
15 Plaintiffs.

16 203. Searches of personal property without reasonable suspicion, probable cause, or a
17 warrant are obviously unconstitutional.

18 204. It is clearly established and every reasonable postal official has fair warning that
19 warrantless searches of personal property are presumptively unconstitutional.

20 205. It is clearly established and every reasonable postal official has fair warning that
21 postal officials must have probable cause that a particular, articulable crime is occurring and either
22 a warrant or exigent circumstances to search personal property.

23 206. It is clearly established and every reasonable postal official has fair warning that
24 postal officials do not have probable cause in the absence of individualized circumstances
25 suggesting, to a higher degree of certainty than reasonable suspicion, that a particular, articulable
26 crime is occurring.

27 207. It is clearly established and every reasonable postal official has fair warning that to
28 forgo the warrant requirement, postal officials must have probable cause and face exigent
circumstances.

1 208. It is clearly established and every reasonable postal official has fair warning that
2 postal officials do not face exigent circumstances in the absence of an articulable risk of immediate
3 physical harm, an articulable risk that particular relevant evidence will be destroyed, or an
4 articulable risk that a particular suspect will escape.

5 209. It is clearly established and every reasonable postal official has fair warning that
6 postal officials violate the Fourth Amendment by searching personal property in the absence of
7 probable cause (individualized circumstances suggesting, to a higher degree of certainty than
8 reasonable suspicion, that a particular, articulable crime is occurring) and either a warrant or an
9 articulable risk of immediate physical harm, an articulable risk that particular relevant evidence will
10 be destroyed, or an articulable risk that a particular suspect will escape.

11 210. It is clearly established and every reasonable postal official has fair warning that
12 probable cause cannot be based on an assumed fact that purportedly formed the basis for reasonable
13 suspicion but was dispelled while conducting an investigatory seizure of personal property.

14 211. It is clearly established and every reasonable postal official has fair warning that
15 probable cause cannot be based on characteristics that, individually and as a whole, apply to personal
16 property that has no connection to criminal activity.

17 212. It is clearly established and every reasonable postal official has fair warning that
18 probable cause to believe that drugs are present is not, in the absence of a risk of their destruction,
19 an exigent circumstance that permits forgoing the warrant requirement.

20 213. Defendants seized Plaintiffs' personal property without reasonable suspicion. The
21 characteristics they purportedly relied on to seize Plaintiffs' packages (i.e., that the packages were
22 allegedly bulging, were taped all around, were going from one purported drug activity city to
23 another, and were sent by a frequent shipper) apply, individually and as a whole, to entirely innocent
24 packages that businesses small and large—including Plaintiffs themselves—ship throughout the
25 country every single day. Every reasonable postal official should know that those characteristics do
26 not give rise to reasonable suspicion because those characteristics are not individualized
27 circumstances suggesting that a particular, articulable crime (or any crime) is occurring.

1 214. Even with the additional allegation that Plaintiffs' packages resembled some from
2 Eureka that had contained drugs, Defendants did not have reasonable suspicion to conduct an
3 investigatory seizure because (1) that additional factual assumption did not give rise to reasonable
4 suspicion and (2) even if it did, Defendants could have easily dispelled that factual assumption
5 without seizing Plaintiffs' packages simply by confirming that the packages came from Movement
6 Ink LLC in Oakland (not any suspicious sender from Eureka).

7 215. Even if the totality of circumstances did arise to reasonable suspicion (which it did
8 not) and Defendants could not dispel that suspicion before seizing Plaintiffs' packages for a brief
9 investigatory seizure, that suspicion was (or should have been) dispelled immediately by
10 Defendants' confirming that Plaintiffs' packages came from Movement Ink LLC in Oakland (not
11 any suspicious sender from Eureka). Therefore, Defendants should have released Plaintiffs'
12 packages immediately upon that realization, or sought a warrant in order to continue their seizure
13 of the packages or to search the packages.

14 216. But Defendants did not release Plaintiffs' packages immediately upon that
15 realization. And they did not get a warrant (nor could they have, because these circumstances did
16 not amount to probable cause) or have any reason to believe that Plaintiffs' packages posed an
17 articulable risk of immediate physical harm, an articulable risk that particular relevant evidence
18 would be destroyed (after all, it was in Defendants' possession), or an articulable risk that a
19 particular suspect would escape. Nevertheless, Defendants continued to seize and even search
20 Plaintiffs' packages.

21 217. Therefore, Defendants violated Plaintiffs' clearly established right to be free from
22 unreasonable searches of their personal property.

23 218. Defendants are line-level postal officials operating in the common and recurrent
24 sphere of garden-variety postal inspections and law enforcement with respect to personal property.

25 219. Plaintiffs have no alternative remedies for their injuries caused by Defendants, and
26 Plaintiffs' claims do not implicate separation of powers, national security considerations, or any
27 other special factors counseling hesitation against a damages remedy for Plaintiffs' injuries.

United States District Court
Northern District of California

1 220. Defendants’ conduct caused: severe reputational harms to Plaintiffs; Plaintiffs’
2 packages’ intended recipients to sever all ongoing and future contractual and business relationships
3 with Plaintiffs; significant loss of Plaintiffs’ ongoing and future revenue; and ongoing emotional
4 and mental distress to René.

5 221. Plaintiffs are entitled to compensatory damages for their injuries caused by
6 Defendants’ searches of their personal property.

7 **Count 8**
8 **Unreasonable Searches in Violation of the Fourth Amendment**
9 **Against Defendants Agster, Chan, Fajardo, Hodges, Lee, and Doe Defendants 1 through 2**
10 **Under the Westfall Act (28 U.S.C. § 2679(b)(2)(A))**

11 222. Plaintiffs reallege and incorporate the allegations in paragraphs 1 through 96.

12 223. Plaintiffs shipped four packages of their personal property via the United States
13 Postal Service. Plaintiffs retained ownership rights and interests and possessory rights and interests
14 in their packages until the packages were delivered to their intended recipients.

15 224. Defendants seized and searched Plaintiffs’ personal property in violation of the
16 Fourth Amendment, delaying the packages’ arrival to their intended recipients by 48 hours, during
17 which time the recipients were in dire need of the packages. Defendants’ clearly and obviously
18 unjustified and unreasonable seizures and searches of Plaintiffs’ packages caused the packages’
19 intended recipients to sever all ongoing and future contractual and business relationships with
20 Plaintiffs.

21 225. Searches of personal property without reasonable suspicion, probable cause, or a
22 warrant are obviously unconstitutional.

23 226. It is clearly established and every reasonable postal official has fair warning that
24 warrantless searches of personal property are presumptively unconstitutional.

25 227. It is clearly established and every reasonable postal official has fair warning that
26 postal officials must have probable cause that a particular, articulable crime is occurring and either
27 a warrant or exigent circumstances to search personal property.

28 228. It is clearly established and every reasonable postal official has fair warning that

1 postal officials do not have probable cause in the absence of individualized circumstances
2 suggesting, to a higher degree of certainty than reasonable suspicion, that a particular, articulable
3 crime is occurring.

4 229. It is clearly established and every reasonable postal official has fair warning that to
5 forgo the warrant requirement, postal officials must have probable cause and face exigent
6 circumstances.

7 230. It is clearly established and every reasonable postal official has fair warning that
8 postal officials do not face exigent circumstances in the absence of an articulable risk of immediate
9 physical harm, an articulable risk that particular relevant evidence will be destroyed, or an
10 articulable risk that a particular suspect will escape.

11 231. It is clearly established and every reasonable postal official has fair warning that
12 postal officials violate the Fourth Amendment by searching personal property in the absence of
13 probable cause (individualized circumstances suggesting, to a higher degree of certainty than
14 reasonable suspicion, that a particular, articulable crime is occurring) and either a warrant or an
15 articulable risk of immediate physical harm, an articulable risk that particular relevant evidence will
16 be destroyed, or an articulable risk that a particular suspect will escape.

17 232. It is clearly established and every reasonable postal official has fair warning that
18 probable cause cannot be based on an assumed fact that purportedly formed the basis for reasonable
19 suspicion but was dispelled while conducting an investigatory seizure of personal property.

20 233. It is clearly established and every reasonable postal official has fair warning that
21 probable cause cannot be based on characteristics that, individually and as a whole, apply to personal
22 property that has no connection to criminal activity.

23 234. It is clearly established and every reasonable postal official has fair warning that
24 probable cause to believe that drugs are present is not, in the absence of a risk of their destruction,
25 an exigent circumstance that permits forgoing the warrant requirement.

26 235. Defendants seized Plaintiffs' personal property without reasonable suspicion. The
27 characteristics they purportedly relied on to seize Plaintiffs' packages (i.e., that the packages were

1 allegedly bulging, were taped all around, were going from one purported drug activity city to
2 another, and were sent by a frequent shipper) apply, individually and as a whole, to entirely innocent
3 packages that businesses small and large—including Plaintiffs themselves—ship throughout the
4 country every single day. Every reasonable postal official should know that those characteristics do
5 not give rise to reasonable suspicion because those characteristics are not individualized
6 circumstances suggesting that a particular, articulable crime (or any crime) is occurring.

7 236. Even with the additional allegation that Plaintiffs’ packages resembled some from
8 Eureka that had contained drugs, Defendants did not have reasonable suspicion to conduct an
9 investigatory seizure because (1) that additional factual assumption did not give rise to reasonable
10 suspicion and (2) even if it did, Defendants could have easily dispelled that factual assumption
11 without seizing Plaintiffs’ packages simply by confirming that the packages came from Movement
12 Ink LLC in Oakland (not any suspicious sender from Eureka).

13 237. Even if the totality of circumstances did arise to reasonable suspicion (which it did
14 not) and Defendants could not dispel that suspicion before seizing Plaintiffs’ packages for a brief
15 investigatory seizure, that suspicion was (or should have been) dispelled immediately by
16 Defendants’ confirming that Plaintiffs’ packages came from Movement Ink LLC in Oakland (not
17 any suspicious sender from Eureka). Therefore, Defendants should have released Plaintiffs’
18 packages immediately upon that realization, or sought a warrant in order to continue their seizure
19 of the packages or to search the packages.

20 238. But Defendants did not release Plaintiffs’ packages immediately upon that
21 realization. And they did not get a warrant (nor could they have, because these circumstances did
22 not amount to probable cause) or have any reason to believe that Plaintiffs’ packages posed an
23 articulable risk of immediate physical harm, an articulable risk that particular relevant evidence
24 would be destroyed (after all, it was in Defendants’ possession), or an articulable risk that a
25 particular suspect would escape. Nevertheless, Defendants continued to seize and even search
26 Plaintiffs’ packages.

27 239. Therefore, Defendants violated Plaintiffs’ clearly established right to be free from

1 unreasonable searches of their personal property.

2 240. Defendants are line-level postal officials operating in the common and recurrent
3 sphere of garden-variety postal inspections and law enforcement with respect to personal property.

4 241. Plaintiffs have no alternative remedies for their injuries caused by Defendants, and
5 Plaintiffs' claims do not implicate separation of powers, national security considerations, or any
6 other special factors counseling hesitation against a damages remedy for Plaintiffs' injuries.

7 242. Defendants' conduct caused: severe reputational harms to Plaintiffs; Plaintiffs'
8 packages' intended recipients to sever all ongoing and future contractual and business relationships
9 with Plaintiffs; significant loss of Plaintiffs' ongoing and future revenue; and ongoing emotional
10 and mental distress to René.

11 243. Plaintiffs are entitled to compensatory damages for their injuries caused by
12 Defendants' searches of their personal property.

13 **Count 9**
14 **Unreasonable Searches in Violation of the Fourth Amendment**
15 **Against Defendants Agster, Chan, Fajardo, Hodges, Lee, and Doe Defendants 1 through 2**
16 **Under the Fourth Amendment**

17 244. Plaintiffs reallege and incorporate the allegations in paragraphs 1 through 96.

18 245. Plaintiffs shipped four packages of their personal property via the United States
19 Postal Service. Plaintiffs retained ownership rights and interests and possessory rights and interests
20 in their packages until the packages were delivered to their intended recipients.

21 246. Defendants seized and searched Plaintiffs' personal property in violation of the
22 Fourth Amendment, delaying the packages' arrival to their intended recipients by 48 hours, during
23 which time the recipients were in dire need of the packages. Defendants' clearly and obviously
24 unjustified and unreasonable seizures and searches of Plaintiffs' packages caused the packages'
25 intended recipients to sever all ongoing and future contractual and business relationships with
26 Plaintiffs.

27 247. Searches of personal property without reasonable suspicion, probable cause, or a
28 warrant are obviously unconstitutional.

1 248. It is clearly established and every reasonable postal official has fair warning that
2 warrantless searches of personal property are presumptively unconstitutional.

3 249. It is clearly established and every reasonable postal official has fair warning that
4 postal officials must have probable cause that a particular, articulable crime is occurring and either
5 a warrant or exigent circumstances to search personal property.

6 250. It is clearly established and every reasonable postal official has fair warning that
7 postal officials do not have probable cause in the absence of individualized circumstances
8 suggesting, to a higher degree of certainty than reasonable suspicion, that a particular, articulable
9 crime is occurring.

10 251. It is clearly established and every reasonable postal official has fair warning that to
11 forgo the warrant requirement, postal officials must have probable cause and face exigent
12 circumstances.

13 252. It is clearly established and every reasonable postal official has fair warning that
14 postal officials do not face exigent circumstances in the absence of an articulable risk of immediate
15 physical harm, an articulable risk that particular relevant evidence will be destroyed, or an
16 articulable risk that a particular suspect will escape.

17 253. It is clearly established and every reasonable postal official has fair warning that
18 postal officials violate the Fourth Amendment by searching personal property in the absence of
19 probable cause (individualized circumstances suggesting, to a higher degree of certainty than
20 reasonable suspicion, that a particular, articulable crime is occurring) and either a warrant or an
21 articulable risk of immediate physical harm, an articulable risk that particular relevant evidence will
22 be destroyed, or an articulable risk that a particular suspect will escape.

23 254. It is clearly established and every reasonable postal official has fair warning that
24 probable cause cannot be based on an assumed fact that purportedly formed the basis for reasonable
25 suspicion but was dispelled while conducting an investigatory seizure of personal property.

26 255. It is clearly established and every reasonable postal official has fair warning that
27 probable cause cannot be based on characteristics that, individually and as a whole, apply to personal
28

1 property that has no connection to criminal activity.

2 256. It is clearly established and every reasonable postal official has fair warning that
3 probable cause to believe that drugs are present is not, in the absence of a risk of their destruction,
4 an exigent circumstance that permits forgoing the warrant requirement.

5 257. Defendants seized Plaintiffs' personal property without reasonable suspicion. The
6 characteristics they purportedly relied on to seize Plaintiffs' packages (i.e., that the packages were
7 allegedly bulging, were taped all around, were going from one purported drug activity city to
8 another, and were sent by a frequent shipper) apply, individually and as a whole, to entirely innocent
9 packages that businesses small and large—including Plaintiffs themselves—ship throughout the
10 country every single day. Every reasonable postal official should know that those characteristics do
11 not give rise to reasonable suspicion because those characteristics are not individualized
12 circumstances suggesting that a particular, articulable crime (or any crime) is occurring.

13 258. Even with the additional allegation that Plaintiffs' packages resembled some from
14 Eureka that had contained drugs, Defendants did not have reasonable suspicion to conduct an
15 investigatory seizure because (1) that additional factual assumption did not give rise to reasonable
16 suspicion and (2) even if it did, Defendants could have easily dispelled that factual assumption
17 without seizing Plaintiffs' packages simply by confirming that the packages came from Movement
18 Ink LLC in Oakland (not any suspicious sender from Eureka).

19 259. Even if the totality of circumstances did arise to reasonable suspicion (which it did
20 not) and Defendants could not dispel that suspicion before seizing Plaintiffs' packages for a brief
21 investigatory seizure, that suspicion was (or should have been) dispelled immediately by
22 Defendants' confirming that Plaintiffs' packages came from Movement Ink LLC in Oakland (not
23 any suspicious sender from Eureka). Therefore, Defendants should have released Plaintiffs'
24 packages immediately upon that realization, or sought a warrant in order to continue their seizure
25 of the packages or to search the packages.

26 260. But Defendants did not release Plaintiffs' packages immediately upon that
27 realization. And they did not get a warrant (nor could they have, because these circumstances did

1 not amount to probable cause) or have any reason to believe that Plaintiffs' packages posed an
2 articulable risk of immediate physical harm, an articulable risk that particular relevant evidence
3 would be destroyed (after all, it was in Defendants' possession), or an articulable risk that a
4 particular suspect would escape. Nevertheless, Defendants continued to seize and even search
5 Plaintiffs' packages.

6 261. Therefore, Defendants violated Plaintiffs' clearly established right to be free from
7 unreasonable searches of their personal property.

8 262. Defendants are line-level postal officials operating in the common and recurrent
9 sphere of garden-variety postal inspections and law enforcement with respect to personal property.

10 263. Plaintiffs have no alternative remedies for their injuries caused by Defendants, and
11 Plaintiffs' claims do not implicate separation of powers, national security considerations, or any
12 other special factors counseling hesitation against a damages remedy for Plaintiffs' injuries.

13 264. Defendants' conduct caused: severe reputational harms to Plaintiffs; Plaintiffs'
14 packages' intended recipients to sever all ongoing and future contractual and business relationships
15 with Plaintiffs; significant loss of Plaintiffs' ongoing and future revenue; and ongoing emotional
16 and mental distress to René.

17 265. Plaintiffs are entitled to compensatory damages for their injuries caused by
18 Defendants' searches of their personal property.

19 **Count 10**
20 **Retaliation in Violation of the First Amendment**
21 **Against Defendants Agster, Chan, Fajardo, Hodges, Lee, and Doe Defendants 1 through 2**
22 **Under *Bivens***

23 266. Plaintiffs reallege and incorporate the allegations in paragraphs 1 through 96.

24 267. Plaintiffs shipped four packages of their personal property via the United States
25 Postal Service. Those packages consisted of Covid-protective masks bearing core political speech,
26 including phrases such as "STOP KILLING BLACK PEOPLE" and "DEFUND POLICE."

27 268. Retaliation for protected speech is an obvious violation of the First Amendment.

28 269. It is clearly established and every reasonable postal official has fair warning that

1 seizing, searching, detaining, or delaying personal property or interfering with contractual or
2 business relationships or operations because of the property's or its owner's speech, message,
3 content, viewpoint, association, or affiliation is a violation of the First Amendment.

4 270. It is clearly established and every reasonable postal official has fair warning that
5 protected speech, adverse government action that might chill an ordinary person from continuing to
6 engage in that speech, and a causal relationship between the two constitute retaliation in violation
7 of the First Amendment, and that a government actor's knowledge of the speech and the temporal
8 proximity of the speech and the adverse government action raise an inference of retaliation.

9 271. Plaintiffs' packages were going to community activists and organizers in four major
10 cities where large racial justice demonstrations were happening every day.

11 272. René is a known community activist and organizer with a community and social
12 media presence promoting racial and social justice messages.

13 273. Movement Ink is a screen printing business; its commercial activity is expressive in
14 nature. And it is known for its community and social media presence promoting racial and social
15 justice messages.

16 274. Plaintiffs' business is more than just a business; it is also an outlet for expressing and
17 helping others express core political speech and activism. Plaintiffs have always publicly cultivated
18 and publicly promoted that expressive and activist identity as core to their business model.

19 275. Plaintiffs are well-known to the postal officials at their local post office, from which
20 Plaintiffs have regularly shipped Movement Ink packages for years.

21 276. When national protests erupted in May 2020 following the police killings of George
22 Floyd and Breonna Taylor, Plaintiffs began receiving a much higher volume of orders than usual.
23 Activists and organizers around the country came to Plaintiffs seeking thousands of Covid-
24 protective masks for protests that were happening all over the country every day.

25 277. Those protests were controversial. In particular, governmental attitudes and
26 responses to the protestors' messages—including "Black Lives Matter" and "Defund the Police"—
27 were highly critical and often violent.

1 278. So while Plaintiffs have for years worked with and been connected to social and
2 racial justice movements, this was the first time they were connected to such high profile, highly
3 publicized, and highly visible protests, organizers, and apparel, and the first time they were shipping
4 such rapid quantities of apparel in such rapid time.

5 279. Covid-protective masks, which all four of Plaintiffs’ seized and searched packages
6 contained, were also controversial and subject to governmental and societal disdain.

7 280. Plaintiffs’ packages were clearly identified as having been shipped from Movement
8 Ink in Oakland to major cities across the country.

9 281. Defendants’ own internal notes clearly state Defendants’ knowledge that Plaintiffs’
10 packages contained, in Defendants’ words, “BLM MASKS.”

11 282. Within days of Plaintiffs’ apparent association with and support for the protests in
12 the form of politically emblazoned Covid-protective masks, Defendants seized, searched, detained,
13 and delayed the shipment of Plaintiffs’ packages, interfering with Plaintiffs’ contractual and
14 business relationships and operations, as well as Plaintiffs’ political speech.

15 283. Plaintiffs’ public association with and support for the protests, their marking of their
16 politically emblazoned Covid-protective masks with Movement Ink identifiers, Defendants’ own
17 “BLM MASKS” notation in their internal notes, and the immediacy of Defendants’ adverse action
18 against Plaintiffs raise an inference of retaliation.

19 284. Therefore, Defendants violated Plaintiffs’ clearly established right to be free from
20 retaliation for protected political speech.

21 285. Defendants are line-level postal officials operating in the common and recurrent
22 sphere of garden-variety postal inspections and law enforcement with respect to personal property.

23 286. Plaintiffs have no alternative remedies for their injuries caused by Defendants, and
24 Plaintiffs’ claims do not implicate separation of powers, national security considerations, or any
25 other special factors counseling hesitation against a damages remedy for Plaintiffs’ injuries.

26 287. Defendants’ conduct caused: severe reputational harms to Plaintiffs; Plaintiffs’
27 packages’ intended recipients to sever all ongoing and future contractual and business relationships

1 with Plaintiffs; significant loss of Plaintiffs’ ongoing and future revenue; and ongoing emotional
2 and mental distress to René.

3 288. Plaintiffs are entitled to compensatory damages for their injuries caused by
4 Defendants’ retaliatory conduct.

5 **Count 11**
6 **Retaliation in Violation of the First Amendment**
7 **Against Defendants Agster, Chan, Fajardo, Hodges, Lee, and Doe Defendants 1 through 2**
8 **Under the Westfall Act (28 U.S.C. § 2679(b)(2)(A))**

9 289. Plaintiffs reallege and incorporate the allegations in paragraphs 1 through 96.

10 290. Plaintiffs shipped four packages of their personal property via the United States
11 Postal Service. Those packages consisted of Covid-protective masks bearing core political speech,
12 including phrases such as “STOP KILLING BLACK PEOPLE” and “DEFUND POLICE.”

13 291. Retaliation for protected speech is an obvious violation of the First Amendment.

14 292. It is clearly established and every reasonable postal official has fair warning that
15 seizing, searching, detaining, or delaying personal property or interfering with contractual or
16 business relationships or operations because of the property’s or its owner’s speech, message,
17 content, viewpoint, association, or affiliation is a violation of the First Amendment.

18 293. It is clearly established and every reasonable postal official has fair warning that
19 protected speech, adverse government action that might chill an ordinary person from continuing to
20 engage in that speech, and a causal relationship between the two constitute retaliation in violation
21 of the First Amendment, and that a government actor’s knowledge of the speech and the temporal
22 proximity of the speech and the adverse government action raise an inference of retaliation.

23 294. Plaintiffs’ packages were going to community activists and organizers in four major
24 cities where large racial justice demonstrations were happening every day.

25 295. René is a known community activist and organizer with a community and social
26 media presence promoting racial and social justice messages.

27 296. Movement Ink is a screen printing business; its commercial activity is expressive in
28 nature. And it is known for its community and social media presence promoting racial and social

1 justice messages.

2 297. Plaintiffs’ business is more than just a business; it is also an outlet for expressing and
3 helping others express core political speech and activism. Plaintiffs have always publicly cultivated
4 and publicly promoted that expressive and activist identity as core to their business model.

5 298. Plaintiffs are well-known to the postal officials at their local post office, from which
6 Plaintiffs have regularly shipped Movement Ink packages for years.

7 299. When national protests erupted in May 2020 following the police killings of George
8 Floyd and Breonna Taylor, Plaintiffs began receiving a much higher volume of orders than usual.
9 Activists and organizers around the country came to Plaintiffs seeking thousands of Covid-
10 protective masks for protests that were happening all over the country every day.

11 300. Those protests were controversial. In particular, governmental attitudes and
12 responses to the protestors’ messages—including “Black Lives Matter” and “Defund the Police”—
13 were highly critical and often violent.

14 301. So while Plaintiffs have for years worked with and been connected to social and
15 racial justice movements, this was the first time they were connected to such high profile, highly
16 publicized, and highly visible protests, organizers, and apparel, and the first time they were shipping
17 such rapid quantities of apparel in such rapid time.

18 302. Covid-protective masks, which all four of Plaintiffs’ seized and searched packages
19 contained, were also controversial and subject to governmental and societal disdain.

20 303. Plaintiffs’ packages were clearly identified as having been shipped from Movement
21 Ink in Oakland to major cities across the country.

22 304. Defendants’ own internal notes clearly state Defendants’ knowledge that Plaintiffs’
23 packages contained, in Defendants’ words, “BLM MASKS.”

24 305. Within days of Plaintiffs’ apparent association with and support for the protests in
25 the form of politically emblazoned Covid-protective masks, Defendants seized, searched, detained,
26 and delayed the shipment of Plaintiffs’ packages, interfering with Plaintiffs’ contractual and
27 business relationships and operations, as well as Plaintiffs’ political speech.

United States District Court
Northern District of California

1 306. Plaintiffs’ public association with and support for the protests, their marking of their
2 politically emblazoned Covid-protective masks with Movement Ink identifiers, Defendants’ own
3 “BLM MASKS” notation in their internal notes, and the immediacy of Defendants’ adverse action
4 against Plaintiffs raise an inference of retaliation.

5 307. Therefore, Defendants violated Plaintiffs’ clearly established right to be free from
6 retaliation for protected political speech.

7 308. Defendants are line-level postal officials operating in the common and recurrent
8 sphere of garden-variety postal inspections and law enforcement with respect to personal property.

9 309. Plaintiffs have no alternative remedies for their injuries caused by Defendants, and
10 Plaintiffs’ claims do not implicate separation of powers, national security considerations, or any
11 other special factors counseling hesitation against a damages remedy for Plaintiffs’ injuries.

12 310. Defendants’ conduct caused: severe reputational harms to Plaintiffs; Plaintiffs’
13 packages’ intended recipients to sever all ongoing and future contractual and business relationships
14 with Plaintiffs; significant loss of Plaintiffs’ ongoing and future revenue; and ongoing emotional
15 and mental distress to René.

16 311. Plaintiffs are entitled to compensatory damages for their injuries caused by
17 Defendants’ retaliatory conduct.

18 **Count 12**
19 **Retaliation in Violation of the First Amendment**
20 **Against Defendants Agster, Chan, Fajardo, Hodges, Lee, and Doe Defendants 1 through 2**
 Under the First Amendment

21 312. Plaintiffs reallege and incorporate the allegations in paragraphs 1 through 96.

22 313. Plaintiffs shipped four packages of their personal property via the United States
23 Postal Service. Those packages consisted of Covid-protective masks bearing core political speech,
24 including phrases such as “STOP KILLING BLACK PEOPLE” and “DEFUND POLICE.”

25 314. Retaliation for protected speech is an obvious violation of the First Amendment.

26 315. It is clearly established and every reasonable postal official has fair warning that
27 seizing, searching, detaining, or delaying personal property or interfering with contractual or

1 business relationships or operations because of the property's or its owner's speech, message,
2 content, viewpoint, association, or affiliation is a violation of the First Amendment.

3 316. It is clearly established and every reasonable postal official has fair warning that
4 protected speech, adverse government action that might chill an ordinary person from continuing to
5 engage in that speech, and a causal relationship between the two constitute retaliation in violation
6 of the First Amendment, and that a government actor's knowledge of the speech and the temporal
7 proximity of the speech and the adverse government action raise an inference of retaliation.

8 317. Plaintiffs' packages were going to community activists and organizers in four major
9 cities where large racial justice demonstrations were happening every day.

10 318. René is a known community activist and organizer with a community and social
11 media presence promoting racial and social justice messages.

12 319. Movement Ink is a screen printing business; its commercial activity is expressive in
13 nature. And it is known for its community and social media presence promoting racial and social
14 justice messages.

15 320. Plaintiffs' business is more than just a business; it is also an outlet for expressing and
16 helping others express core political speech and activism. Plaintiffs have always publicly cultivated
17 and publicly promoted that expressive and activist identity as core to their business model.

18 321. Plaintiffs are well-known to the postal officials at their local post office, from which
19 Plaintiffs have regularly shipped Movement Ink packages for years.

20 322. When national protests erupted in May 2020 following the police killings of George
21 Floyd and Breonna Taylor, Plaintiffs began receiving a much higher volume of orders than usual.
22 Activists and organizers around the country came to Plaintiffs seeking thousands of Covid-
23 protective masks for protests that were happening all over the country every day.

24 323. Those protests were controversial. In particular, governmental attitudes and
25 responses to the protestors' messages—including "Black Lives Matter" and "Defund the Police"—
26 were highly critical and often violent.

27 324. So while Plaintiffs have for years worked with and been connected to social and

1 racial justice movements, this was the first time they were connected to such high profile, highly
2 publicized, and highly visible protests, organizers, and apparel, and the first time they were shipping
3 such rapid quantities of apparel in such rapid time.

4 325. Covid-protective masks, which all four of Plaintiffs’ seized and searched packages
5 contained, were also controversial and subject to governmental and societal disdain.

6 326. Plaintiffs’ packages were clearly identified as having been shipped from Movement
7 Ink in Oakland to major cities across the country.

8 327. Defendants’ own internal notes clearly state Defendants’ knowledge that Plaintiffs’
9 packages contained, in Defendants’ words, “BLM MASKS.”

10 328. Within days of Plaintiffs’ apparent association with and support for the protests in
11 the form of politically emblazoned Covid-protective masks, Defendants seized, searched, detained,
12 and delayed the shipment of Plaintiffs’ packages, interfering with Plaintiffs’ contractual and
13 business relationships and operations, as well as Plaintiffs’ political speech.

14 329. Plaintiffs’ public association with and support for the protests, their marking of their
15 politically emblazoned Covid-protective masks with Movement Ink identifiers, Defendants’ own
16 “BLM MASKS” notation in their internal notes, and the immediacy of Defendants’ adverse action
17 against Plaintiffs raise an inference of retaliation.

18 330. Therefore, Defendants violated Plaintiffs’ clearly established right to be free from
19 retaliation for protected political speech.

20 331. Defendants are line-level postal officials operating in the common and recurrent
21 sphere of garden-variety postal inspections and law enforcement with respect to personal property.

22 332. Plaintiffs have no alternative remedies for their injuries caused by Defendants, and
23 Plaintiffs’ claims do not implicate separation of powers, national security considerations, or any
24 other special factors counseling hesitation against a damages remedy for Plaintiffs’ injuries.

25 333. Defendants’ conduct caused: severe reputational harms to Plaintiffs; Plaintiffs’
26 packages’ intended recipients to sever all ongoing and future contractual and business relationships
27 with Plaintiffs; significant loss of Plaintiffs’ ongoing and future revenue; and ongoing emotional
28

1 and mental distress to René.

2 334. Plaintiffs are entitled to compensatory damages for their injuries caused by
3 Defendants' retaliatory conduct.

4 **Count 13**
5 **Trespass to Chattels**
6 **Against Defendants Agster, Chan, Fajardo, Hodges, Lee, and Doe Defendants 1 through 2**
7 **Under California Law**

8 335. Plaintiffs reallege and incorporate the allegations in paragraphs 1 through 96.

9 336. Plaintiffs shipped four packages of their personal property via the United States
10 Postal Service. Plaintiffs retained ownership rights and interests and possessory rights and interests
11 in their packages until the packages were delivered to their intended recipients.

12 337. Without consent, cause, or legal authority, Defendants intentionally interfered with
13 Plaintiffs' possession, right to possess, use, right to use, enjoyment, and right to enjoy their personal
14 property by seizing, detaining, and searching Plaintiffs' personal property.

15 338. Defendants' conduct caused: severe reputational harms to Plaintiffs; Plaintiffs'
16 packages' intended recipients to sever all ongoing and future contractual and business relationships
17 with Plaintiffs; significant loss of Plaintiffs' ongoing and future revenue; and ongoing emotional
18 and mental distress to René.

19 339. Plaintiffs are entitled to compensatory damages for their injuries caused by
20 Defendants' unconstitutional and tortious conduct.

21 340. Plaintiffs recognize that this claim may currently be barred by the Westfall Act (28
22 U.S.C. § 2679(b)(1)), but Plaintiffs preserve the issue.

23 **Count 14**
24 **Interference with Contractual Relations**
25 **Against Defendants Agster, Chan, Fajardo, Hodges, Lee, and Doe Defendants 1 through 2**
26 **Under California Law**

27 341. Plaintiffs reallege and incorporate the allegations in paragraphs 1 through 96.

28 342. Plaintiffs had contracts with protest organizers for the rush printing and immediate
delivery of four packages containing Covid-protective masks emblazoned with political speech.

343. Defendants knew, should have known, or had reason to know of those contracts,

1 based on Plaintiffs’ regular business activities and the packages’ shipping information (including
2 the sender and recipients) that Plaintiffs provided to Defendants.

3 344. Defendants’ intentional seizures, detentions, and searches of the packages, as well as
4 Defendants’ “Alert” to the recipients of the packages that the packages were “seized by law
5 enforcement,” prevented Plaintiffs’ performance of the contracts or made Plaintiffs’ performance of
6 the contracts more expensive or difficult.

7 345. Defendants’ intentional seizures, detentions, and searches of the packages, as well as
8 Defendants’ “Alert” to the recipients of the packages that the packages were “seized by law
9 enforcement,” were certain or substantially certain to prevent Plaintiffs’ performance of the
10 contracts or make Plaintiffs’ performance of the contracts more expensive or difficult.

11 346. Defendants’ conduct caused: severe reputational harms to Plaintiffs; Plaintiffs’
12 packages’ intended recipients to sever all ongoing and future contractual and business relationships
13 with Plaintiffs; significant loss of Plaintiffs’ ongoing and future revenue; and ongoing emotional
14 and mental distress to René.

15 347. Plaintiffs are entitled to compensatory damages for their injuries caused by
16 Defendants’ unconstitutional and tortious conduct.

17 348. Plaintiffs recognize that this claim may currently be barred by the Westfall Act (28
18 U.S.C. § 2679(b)(1)), but Plaintiffs preserve the issue.

19 **Count 15**
20 **Interference with Prospective Economic Relations**
21 **Against Defendants Agster, Chan, Fajardo, Hodges, Lee, and Doe Defendants 1 through 2**
22 **Under California Law**

23 349. Plaintiffs reallege and incorporate the allegations in paragraphs 1 through 96.

24 350. Plaintiffs had contracts and other economic relationships with protest organizers for
25 the rush printing and immediate delivery of four packages containing Covid-protective masks
26 emblazoned with political speech and for similar ongoing and regular orders in the future.

27 351. Defendants knew, should have known, or had reason to know of those contracts or
28 those future economic benefits, based on Plaintiffs’ regular business activities, the packages’

1 shipping information (including the sender and recipients) that Plaintiffs provided to Defendants,
2 and the ongoing nature of the need for Covid-protective masks and political protests.

3 352. Defendants intentionally seized, detained, and searched the packages and issued an
4 “Alert” to the recipients of the packages that the packages were “seized by law enforcement.”

5 353. Defendants’ intentional seizures, detentions, and searches of the packages, as well as
6 Defendants’ “Alert” to the recipients of the packages that the packages were “seized by law
7 enforcement,” were certain or substantially certain to prevent Plaintiffs’ performance of the
8 contracts or make Plaintiffs’ performance of the contracts more expensive or difficult and to disrupt
9 similar ongoing and regular orders in the future.

10 354. Defendants’ conduct caused: severe reputational harms to Plaintiffs; Plaintiffs’
11 packages’ intended recipients to sever all ongoing and future contractual and business relationships
12 with Plaintiffs; significant loss of Plaintiffs’ ongoing and future revenue; and ongoing emotional
13 and mental distress to René.

14 355. Plaintiffs are entitled to compensatory damages for their injuries caused by
15 Defendants’ unconstitutional and tortious conduct.

16 356. Plaintiffs recognize that this claim may currently be barred by the Westfall Act (28
17 U.S.C. § 2679(b)(1)), but Plaintiffs preserve the issue.

18 **PRAYER FOR RELIEF**

19 Plaintiffs respectfully request that this Court:

20 357. Declare that Defendant United States of America is liable in damages under the
21 Federal Tort Claims Act for trespasses to Plaintiffs’ chattels.

22 358. Declare that Defendant United States of America is liable in damages under the
23 Federal Tort Claims Act for interference with Plaintiffs’ contractual relations.

24 359. Declare that Defendant United States of America is liable in damages under the
25 Federal Tort Claims Act for interference with Plaintiffs’ prospective economic relations.

26 360. Declare that Defendants Agster, Chan, Fajardo, Hodges, Lee, and Doe Defendants 1
27 through 2 are liable in damages under the Constitution, *Bivens*, and the Westfall Act (28 U.S.C. §

1 2679(b)(2)(A)) for violating Plaintiffs' Fourth Amendment right to be free from unreasonable
2 seizures of personal property.

3 361. Declare that Defendants Agster, Chan, Fajardo, Hodges, Lee, and Doe Defendants 1
4 through 2 are liable in damages under the Constitution, *Bivens*, and the Westfall Act (28 U.S.C. §
5 2679(b)(2)(A)) for violating Plaintiffs' Fourth Amendment right to be free from unreasonable
6 searches of personal property.

7 362. Declare that Defendants Agster, Chan, Fajardo, Hodges, Lee, and Doe Defendants 1
8 through 2 are liable in damages under the Constitution, *Bivens*, and the Westfall Act (28 U.S.C. §
9 2679(b)(2)(A)) for violating Plaintiffs' First Amendment right to be free from retaliation for political
10 speech.

11 363. Declare that Defendants Agster, Chan, Fajardo, Hodges, Lee, and Doe Defendants 1
12 through 2 are liable in damages under California law for trespasses to Plaintiffs' chattels in violation
13 of Plaintiffs' constitutional rights. (Plaintiffs recognize that this relief may currently be barred by
14 the Westfall Act (28 U.S.C. § 2679(b)(1)), but Plaintiffs preserve the issue.)

15 364. Declare that Defendants Agster, Chan, Fajardo, Hodges, Lee, and Doe Defendants 1
16 through 2 are liable in damages under California law for interference with Plaintiffs' contractual
17 relations in violation of Plaintiffs' constitutional rights. (Plaintiffs recognize that this relief may
18 currently be barred by the Westfall Act (28 U.S.C. § 2679(b)(1)), but Plaintiffs preserve the issue.)

19 365. Declare that Defendants Agster, Chan, Fajardo, Hodges, Lee, and Doe Defendants 1
20 through 2 are liable in damages under California law for interference with Plaintiffs' prospective
21 economic relations in violation of Plaintiffs' constitutional rights. (Plaintiffs recognize that this
22 relief may currently be barred by the Westfall Act (28 U.S.C. § 2679(b)(1)), but Plaintiffs preserve
23 the issue.)

24 366. Declare that if there is no remedy available for Plaintiffs' injuries under the
25 Constitution, *Bivens*, the Federal Tort Claims Act, or the Westfall Act, then the Federal Tort Claims
26 Act and the Westfall Act are unconstitutional as applied, and that Defendants Agster, Chan, Fajardo,
27 Hodges, Lee, and Doe Defendants 1 through 2 are liable in damages under California law for their

United States District Court
Northern District of California

1 unconstitutional and tortious conduct in violation of Plaintiffs’ constitutional rights (trespasses to
2 Plaintiffs’ chattels, interference with Plaintiffs’ contractual relations, and interference with
3 Plaintiffs’ prospective economic relations).

4 367. Award Plaintiffs’ compensatory damages for Defendants’ unconstitutional and
5 tortious conduct, in amounts to be proven at trial.

6 368. Award Plaintiffs’ attorneys’ fees, costs, and expenses under 28 U.S.C. § 2412 and
7 any other applicable provisions of law or equity.

8 369. Award any further legal or equitable relief the Court deems just and proper.

9 **DEMAND FOR JURY TRIAL**

10 Pursuant to Federal Rule of Civil Procedure 38 and Civil Local Rule 3-6, Plaintiffs demand
11 a jury trial on all issues so triable.

12 Dated: May 3, 2023

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