

1 ANTHONY L. FRANÇOIS, Cal. Bar No. 184100  
E-mail: TFrancois@pacificlegal.org  
2 TIMOTHY R. SNOWBALL, Cal. Bar No. 317379  
E-mail: TSnowball@pacificlegal.org  
3 Pacific Legal Foundation  
930 G Street  
4 Sacramento, California 95814  
Telephone: (916) 419-7111  
5 Facsimile: (916) 419-7747

6 JAMES M. MANLEY, Ariz. Bar No. 031820\* (*Pro Hac Vice*)  
E-mail: JManley@pacificlegal.org  
7 Pacific Legal Foundation  
3217 E. Shea Blvd., # 108  
8 Phoenix, Arizona 85028  
Telephone: (916) 288-1405  
9 Facsimile: (916) 419-7747

10 Attorneys for Plaintiffs

11 UNITED STATES DISTRICT COURT  
12 EASTERN DISTRICT OF CALIFORNIA  
13 FRESNO DIVISION

15 PETER STAVRIANOUDAKIS; KATHERINE  
STAVRIANOUDAKIS; SCOTT TIMMONS;  
16 ERIC ARIYOSHI; **and** AMERICAN FALCONRY  
CONSERVANCY,

17 Plaintiffs,

18 v.

19  
20 UNITED STATES FISH & WILDLIFE SERVICE;  
21 CHARLTON H. BONHAM, in his official capacity  
as Director of California Department of Fish and  
Wildlife; **and** MARGARET EVERSON, in her  
22 official capacity as Principal Deputy Director  
Exercising the Authority of the Director of United  
23 States Fish & Wildlife Service,

24 Defendants.

No. 1:18-cv-01505-LJO-BAM

**DECLARATION OF  
SCOTT TIMMONS**

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27  
28 \*Licensed to practice law in Arizona and Colorado. Not licensed to practice law in California.

1 I, Scott Timmons, declare:

2 1. I have been a licensed falconer for approximately 30 years. In 1988, I secured my  
3 first falconry license when I was 19-years old. I currently reside in Lompoc, California.

4 2. I am also currently the owner and operator of a small abatement company called  
5 Aerial Solutions. I have been in the abatement industry for 15 years. Abatement is the act of flying  
6 trained birds of prey, like falcons, over a given geographic area as a means to ward off pest birds,  
7 such as seagulls. I currently fly abatement birds over the South Coast Recycling and Transfer  
8 Station, through a contract with the County of Santa Barbara. I have had this contract since 2012.

9 3. In 1992, I was living in my mother's home in Thousand Oaks, California. While I  
10 was at work, I received a call from my mother that armed California Fish and Wildlife (formerly  
11 Fish and Game) officers were on our property demanding to speak with me. In a panic, I raced  
12 home on my lunch break. Just as I arrived and walked up to the gate an officer who I had never met  
13 before greeted me by name and asked me if I was in possession of a certain red tail hawk.

14 4. I told him no, that bird had flown away a month or month and a half prior, as birds  
15 sometimes do. And that I had already reported and filed the proper paperwork regarding the  
16 disposition of the bird.

17 5. When I asked him what they were doing there and what they wanted, he told me that  
18 they had actually already found the red tail hawk they had just asked me if I had. Clearly, these  
19 officers were trying to trap me in a lie and fishing for an excuse to access me and my mother's  
20 home.

21 6. This incident caused great surprise and dismay for my mother. I had previously  
22 informed her of the possibility that Fish and Wildlife officers could show up at our home like this  
23 simply because I was a falconer. However, this prior conversation did not prepare her for the  
24 experience of armed law enforcement officers demanding access to our property or prevent her  
25 from getting upset.

26 7. When I was eventually able to get my red tail hawk back, he was in terrible physical  
27 condition from his time being housed by a Fish and Wildlife "rehabber," including injuries and  
28 malnourishment. I think this incident is representative of the kind of mindset these officers have

1 when it comes to dealing with falconers. They have about as much respect for these birds as they  
2 do for falconer's rights.

3 8. I have experienced discrimination and plain bigotry against our community from  
4 Fish and Wildlife officers. This abuse of power has been going on as long as I have participated in  
5 falconry, since at least the 1980s. I think the time has come to stand up for falconers' rights under  
6 the First and Fourth Amendments. Federal and California Fish and Wildlife have been out of control  
7 for too long.

8 9. Discrimination and bigotry against our community from Fish and Wildlife officers  
9 also includes the whole idea of us not being able to use our falconry birds—or legally flown  
10 abatement birds that I already have a federal permit to fly for money, birds that are captive-bred  
11 and do not even come out of the wild—for paid presentations, photography, or film.

12 10. In the past I have had abatement contracts with vineyards. If I want to take a bird  
13 out to a vineyard in California to do a demonstration, where I already have a contract for abatement  
14 services, where is the line? There are so many grey areas in these regulations. What am I allowed  
15 to say or do with my birds? The regulations are unclear, and so I often decline to do presentations  
16 with my birds.

17 11. I give tours at the South Coast Recycling and Transfer Station all the time while I  
18 am flying my abatement bird. Everything from groups of school children, to the Boy Scouts, to  
19 executives from downtown who are interested in my abatement work. It seems that I am constantly  
20 giving tours. I do roughly 4 to 6 of them a year, but I cannot be paid for these demonstrations and  
21 I worry about what I am allowed to say because the regulations control the content of conservation  
22 demonstrations.

23 12. I am unable to receive compensation for these tours because of the speech  
24 restrictions at issue in this case. I think that I can and should be compensated for these services.

25 13. I previously performed abatement services for a resort. I was often approached by  
26 curious guests, asking me questions about my birds. So I called California Fish and Wildlife and  
27 asked about the legality of answering these kinds of questions.

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1           14.     I was told on the phone by the California Fish and Wildlife staff that since I have an  
2 abatement permit I am not allowed to provide any kind of educational presentations or speak to the  
3 public about my birds.

4           15.     They told me that if I was driving around the property in a cart with my birds and a  
5 resort guest asked me why I had falcons that I was not allowed to talk to them. Period. I was told  
6 that I was not allowed to stop and talk to people about my birds at all. That I had to be rude and  
7 ignore their questions, or else.

8           16.     I was told by California Fish and Wildlife that even if I wanted to schedule time for  
9 a guest to come out for 30 or 45 minutes to speak with me about my birds, my abatement work, or  
10 watch me fly a falcon, that would be illegal.

11          17.     How can it be legal under the First Amendment for me to satisfy all of the many  
12 requirements for an abatement permit and falconry permit, but illegal for me to simply speak to the  
13 public about my birds if I am already being paid for being there? It is legal for me to fly birds for  
14 abatement and make money, but if I want to give a paid presentation about my birds I cannot charge  
15 anything for it, and am told what I can or cannot say? It makes no sense. It has nothing to do with  
16 protecting the welfare of my birds.

17          18.     I have had calls from individuals in the entertainment industry offering me artistic  
18 opportunities to feature the work of my birds. But because of the speech regulations, I have been  
19 forced to turn these opportunities down. In the last 5 years I have been forced to turn down 4 or 5  
20 such opportunities.

21          19.     I have provided abatement services for individuals in the movie industry in  
22 downtown Pasadena and Los Angeles. They have a large feral parrot community down there that  
23 makes an excess of noise, which makes shooting a film difficult. So they hire us to come in and fly  
24 abatement birds.

25          20.     Once again, I'm using my birds to make money for abatement services, but being  
26 denied the same ability when it comes to simple presentations, demonstrations, or letting someone  
27 take a picture. If someone uses a picture of my birds to promote something artistic or commercial,  
28 I could be in the hot-seat, and maybe even lose my birds and business.

1           21.     I enjoy sharing my experiences with falconry and information about the practice  
2 with the public. I do my best to be a positive ambassador for the sport. I would have more  
3 opportunities to take on this role if not for these regulations.

4           22.     I have had specific conversations with local wine-tasting rooms in my area about  
5 bringing in birds for presentations or demonstrations. Right now that would be illegal. But for the  
6 speech regulations I would be able to make money sharing the sport of falconry in this context.  
7 While I was employed at the resort there were a number of people very interested in starting such  
8 a business, but the legality was just too unclear for us to proceed.

9           23.     In the last 5 years there have been 10 or 15 such opportunities I have been forced to  
10 turn down.

11          24.     Another business idea I have been unable to develop is to take paying clients out  
12 with me on falconry hunting expeditions with my birds. I would explain the mechanics and beauty  
13 of the craft to them. I have had 5 or 6 opportunities for such services in the last 5 years that I have  
14 been forced to turn down because of these restrictive speech rules.

15          25.     I don't think I should have to function this way, unsure of what speech is prohibited  
16 or allowed, or afraid that Fish and Wildlife might interpret something a certain way and take my  
17 birds away.

18          26.     I have been aware of the American Falconry Conservancy since 2014, and became  
19 a member in August 2018.

20          27.     I last renewed my falconry license this past June, and will be renewing my license  
21 again in June 2019.

22          28.     I have never been out of compliance with the requirements of my falconry license  
23 or abatement permits, or cited by U.S. Fish and Wildlife, California Fish and Wildlife, or any other  
24 government or private entity related to my practice of falconry or abatement services.

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1 I declare under penalty of perjury that the foregoing is true and correct, to the best of my  
2 knowledge, and that this declaration was executed the 21 day of January, 2019, in Lompoc,  
3 California.

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5 Scott Timmons

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