

1 JEREMY TALCOTT
JTalcott@pacificlegal.org
2 CA Bar No. 311490
Pacific Legal Foundation
3 701 Kimberly Ave, Suite 200
Placentia, CA 92870-6354
4 Telephone: (916) 419-7111
Facsimile: (916) 419-7747
5

6 DANIEL T. WOISLAW*
DWoislaw@pacificlegal.org
VA Bar No. 91180
7 DAVID MCDONALD*
DMcdonald@pacificlegal.org
8 CO Bar No. 53709
Pacific Legal Foundation
9 3100 Clarendon Blvd., Suite 1000
Arlington, VA 22201
10 Telephone: (202) 888-6881
Facsimile: (916) 419-7747
11 * *Pro Hac Vice*

12 *Attorneys for Plaintiffs*

13
14 **UNITED STATES DISTRICT COURT**
15 **CENTRAL DISTRICT OF CALIFORNIA**
16

17 DAVID HOOD,
18
19 Plaintiff,

20 v.

21 KAREN ROSS, Secretary of Agriculture of
the California Department of Food and
Agriculture, SEAN A. DURYEE,
22 Commissioner of the California Highway
Patrol, RYAN DALLIN, California
23 Highway Patrol officer, PABLO
GUERRERO, formerly known as JOHN
24 DOE #1, agent of California Department of
Food and Agriculture, DERRICK
25 PETERSON, formerly known as JOHN
DOE #2, California Highway Patrol
26 officer,

27 Defendants.
28

Case No. 5:24-cv-02275-AH-SHK
FIRST AMENDED COMPLAINT

INTRODUCTION

1
2 This lawsuit asserts a homeowner’s Fourth Amendment rights against the
3 execution of an unconstitutional general warrant against the curtilage of his home.
4 Under the U.S. Constitution’s Fourth Amendment, a warrant must particularly
5 describe the property to be searched. The warrant executed against Mr. Hood’s
6 property did not. Instead, it included a map with a border drawn around a 554-square-
7 mile area. Mr. Hood’s property was one of the many thousands inside that border.

8 The reason Mr. Hood’s property was searched was the control of an invasive
9 species of fly. No flies or larvae were found. But while controlling invasive species
10 is a legitimate and laudable goal, it must be accomplished through legitimate and
11 constitutional means. There are a great many reasons to protest invasions into one’s
12 private property by agents of the state, even for those with nothing to hide. Indeed,
13 intrusions into the curtilage are constitutionally equivalent to intrusions into the home
14 itself because the intimate activities of daily life extend to this area immediately
15 surrounding the home and thus intrusions there threaten the security and privacy that
16 the Fourth Amendment was drafted to defend. When Mr. Hood objected to the search
17 of his property, the officers should have furnished a judge with probable cause that
18 fruit flies were likely to be found on his property and obtained a specific warrant.
19 They had ample time to request such a warrant from a judge.

20 Mr. Hood pursues legal relief through this lawsuit for nominal damages, a
21 declaratory judgment, and prospective injunctive relief to hold those accountable
22 who have resurrected the primary evil the Fourth Amendment was drafted to kill, and
23 to prevent them from doing it again.

JURISDICTION AND VENUE

- 24
25 1. This Court has subject-matter jurisdiction pursuant to 28 U.S.C. §§ 1331
26 (federal question jurisdiction) and 1343 (jurisdiction to redress deprivations of
27 civil rights), and the Civil Rights Act of 1871, 42 U.S.C. § 1983.

28 ///

- 1 2. The Court has authority to provide the relief requested under the Fourth
2 Amendment, as incorporated against the states by the Fourteenth Amendment,
3 28 U.S.C. §§ 2201 and 2202 (Declaratory Judgment Act), 42 U.S.C. § 1983,
4 and its inherent equitable powers.
- 5 3. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(1) and (2)
6 because all parties to the litigation reside, a substantial part of the events or
7 omissions giving rise to Plaintiff's claims occurred, and the property that is the
8 subject of this action is located, within this judicial district.
- 9 4. Defendants Ross, Duryee, Dallin, Guerrero, and Peterson are "persons" within
10 the meaning of 42 U.S.C. § 1983. *See Will v. Michigan Dep't of State Police*,
11 491 U.S. 58, 71 n.10 (1989).

12 **PARTIES**

- 13 5. Plaintiff David Hood is a United States citizen and homeowner residing at
14 30595 Palo Alto Drive, Redlands, CA 92373.
- 15 6. Mr. Hood's home is located within the 554-square-mile project area
16 boundaries covered by the warrant at issue in this action and he resided there
17 at the time of the controversy that forms the basis for this Complaint.
- 18 7. The warrant is attached to this Complaint as Exhibit A and incorporated by
19 reference.
- 20 8. Defendant Karen Ross is the California Secretary of Agriculture and head of
21 the California Department of Food and Agriculture (CDFA).
- 22 9. In her capacity as Secretary of Agriculture, she is charged with enforcing the
23 California Food and Agricultural Code. By enforcing the policies complained
24 of in this action, she deprived Mr. Hood of his right to be free from
25 unreasonable searches. Defendant Ross is sued in her official capacity.
- 26 10. The CDFA is the California state governmental department responsible for
27 enforcing the California Food and Agricultural Code.

28 ///

1 11.CDFA promulgated the January 12, 2024 Proclamation of Emergency
2 Program (Proclamation), under the direction of Defendant Ross, and then
3 sought, obtained, and executed the warrant at issue in this action under the
4 purported authority of said proclamation and Defendant Ross.

5 12.Defendant Pablo Guerrero is employed by the CDFA and, in conjunction with
6 Defendants Dallin and Peterson of the California Highway Patrol, executed the
7 warrant to search Mr. Hood’s property on April 4, 2024. Defendant Guerrero
8 is sued in his personal capacity for nominal damages and official capacity for
9 equitable relief.

10 13.Defendant Sean A. Duryee is the Commissioner of the California Highway
11 Patrol (CHP). In his capacity as Commissioner of the CHP, Defendant Duryee
12 is responsible for enforcing the laws of the State of California, including those
13 laws under which the warrant that is the subject of this action was executed.
14 Defendant Duryee is sued in his official capacity for equitable relief.

15 14.The CHP is the principal state police agency for the State of California
16 responsible for, *inter alia*, assisting state agencies such as the CDFA in the
17 enforcement of administrative warrants. CHP officers, in conjunction with
18 CDFA officers, executed the unconstitutional general warrant to search Mr.
19 Hood’s property on April 4, 2024.

20 15.Defendant Ryan Dallin is an officer of the CHP who, together with Defendants
21 Derrick Peterson and Pablo Guerrero, executed the warrant to search Mr.
22 Hood’s property on April 4, 2024. Defendant Dallin is sued in his personal
23 capacity for nominal damages and official capacity for equitable relief.

24 16.Defendant Derrick Peterson is an officer of the CHP who, together with
25 Defendants Dallin and Guerrero, executed the warrant to search Mr. Hood’s
26 property on April 4, 2024. Defendant Peterson is sued in his personal capacity
27 for nominal damages and official capacity for equitable relief.

28 ///

1 17. Defendants Ross, Guerrero, Duryee, Dallin, and Peterson have authority under
2 the laws of California to implement and administer the CDFA’s provisions.
3 The officials are accordingly subject to an official capacity suit for equitable
4 relief from the unconstitutional enforcement of general warrants that violate
5 Mr. Hood’s federal constitutional rights under *Ex parte Young*, 209 U.S. 123
6 (1908).

7 **LEGAL BACKGROUND**

8 **The Fourth Amendment Prohibits General Warrants**

9 18. The Fourth Amendment to the United States Constitution states:

10 The right of the people to be secure in their persons, houses,
11 papers, and effects, against unreasonable searches and seizures, shall
12 not be violated, and no Warrants shall issue but upon probable cause,
13 supported by Oath or affirmation, and particularly describing the places
14 to be searched and the persons or things to be seized.

15 U.S. Const. Amend. IV (emphasis added).

16 19. Enacted largely as a response to abuses by British customs agents during the
17 colonial era, the Fourth Amendment expressly prohibits general warrants—
18 that is, warrants that do not specify the particular places to be searched and/or
19 items to be seized. *See Carpenter v. United States*, 585 U.S. 296, 303 (2018)
20 (“The Founding generation crafted the Fourth Amendment as a response to the
21 reviled general warrants and writs of assistance of the colonial era[.]”)
22 (citations and punctuation omitted); *United States v. Chadwick*, 433 U.S. 1, 7–
23 8 (1977) (“It cannot be doubted that the Fourth Amendment’s commands grew
24 in large measure out of the colonists’ experience with the writs of assistance
25 and their memories of the general warrants formerly in use in England.”).

26 20. The Fourth Amendment’s protection of the People’s right to be secure in their
27 “houses” against unreasonable search and seizure extends not just to the
28 interior living area of their homes, but also to the area immediately surrounding

1 them (known as the curtilage), to which the intimate activities of home life
2 extend. *Florida v. Jardines*, 569 U.S. 1, 6–7 (2013).

3 21. The privacy interests protected by the Fourth Amendment are particularly
4 acute in the context of private homes and their surrounding curtilage. *See Kyllo*
5 *v. United States*, 533 U.S. 27, 34 (2001); *Camara v. Mun. Ct. of the City and*
6 *Cnty. of San Francisco*, 387 U.S. 523 (1967).

7 22. The warrant requirement extends beyond the criminal context and applies to
8 administrative searches for code enforcement, regulatory laws, and other
9 special needs. *Camara*, 387 U.S. at 534. While administrative searches may
10 sometimes be justified by something less than probable cause of a specific
11 violation on the property, they must be supported by a warrant that complies
12 with both the Oath-or-affirmation and the particularity requirements of the
13 Fourth Amendment. *Id.* at 536–38.

14 ***California’s Fruit Fly Quarantine Regime***

15 23. Section 5753 of the California Food and Agricultural Code authorizes the
16 Secretary of Agriculture to, “in a summary manner,” “disinfect or take such
17 other action, including removal or destruction, with reference to any such
18 public nuisance, which he thinks is necessary.”

19 24. On January 12, 2024, Defendant Ross issued a Proclamation of Emergency
20 Program, declaring oriental fruit flies in the State to be a significant threat to
21 agriculture and the environment.

22 25. The Proclamation creates a “project area boundary” encompassing a 554-
23 square-mile area (Search Area), and directs CDFA officials to engage in a
24 program of monitoring, treatment, and removal of fruit flies and potentially
25 infected fruit.

26 26. The Proclamation requires consent from property owners for CDFA officials
27 to engage in certain treatments on their properties, but includes no such consent
28 requirements for entries or searches and provides no guidance for responding

1 to any property owners who do not consent to CDFA officials entering their
2 property.

3 27.The Proclamation states that it shall remain in force until July 21, 2025.

4 28.As Secretary of the CDFA, Defendant Ross is responsible for the measures
5 employed by CDFA to control fruit flies, including the use of general warrants,
6 and specifically, the execution of the warrant against Mr. Hood.

7 29.On information and belief, CHP works in conjunction with CDFA in the
8 execution of search and seizure warrants as a general practice.

9 30.Defendant Duryee, as the Commissioner of CHP, is responsible for the CHP
10 officers involved in executing warrants in conjunction with CDFA, and
11 specifically, the execution of the warrant against Mr. Hood.

12 **FACTUAL ALLEGATIONS**

13 ***Mr. Hood's Property***

14 31.David Hood is a homeowner who lives in Redlands, California, in a home he
15 and his wife purchased in 2010.

16 32.Like thousands of his neighbors in this area of Southern California long known
17 for its citrus, Mr. Hood has several citrus trees in his backyard.

18 33.Mr. Hood's home, located at 30595 Palo Alto Drive, Redlands, CA 92373, was
19 within the Search Area boundaries established in the Proclamation.

20 34.Mr. Hood's home has remained within the steadily enlarging boundaries of the
21 area subject to the Proclamation (on October 12, 2023, November 2, 2023,
22 November 29, 2023, and January 12, 2024), and remains within that area at the
23 time of the filing of this Complaint.

24 35.No oriental fruit fly infestation has ever been found on Mr. Hood's property.

25 36.Upon information and belief, Defendants have made no specific findings or
26 allegations regarding Mr. Hood's property to establish probable cause for a
27 specific warrant.

28 ///

1 ***The Warrant***

2 37. Shortly after issuing the Proclamation, the CDFA applied to the San
3 Bernardino County Superior Court for an “inspection and abatement” warrant
4 to enter private properties to inspect them for evidence of oriental fruit flies.
5 The court issued the warrant on February 15, 2024.

6 38. The warrant covered a 554-square-mile area, an area nearly 12 times the size
7 of San Francisco.

8 39. The warrant authorized CDFA officials to enter and search the exterior areas
9 of any property within the 554-square-mile Search Area including curtilage,
10 and further authorized CDFA officials to execute the warrant regardless of
11 whether the property owner was present or even aware of the search.

12 40. The warrant further authorized any peace officer to “use such reasonable force
13 as is necessary for Department employees to gain entry to the exterior premises
14 and to conduct any and all inspection and abatement activities to which this
15 warrant pertains.”

16 41. The warrant provided CDFA officials with judicially unconstrained discretion
17 over which properties to search within the 554-square-mile Search Area, with
18 no mechanism for precompliance review or the establishment of probable
19 cause with respect to the search of any particular property.

20 42. While the Warrant prospectively required CDFA officials to find oriental fruit
21 fly larvae within a certain number of miles of any particular property to be
22 searched, the warrant did not require any oath, affirmation, or affidavit
23 establishing the existence of this precondition.

24 43. No oath, affirmation, affidavit, or statement of probable cause was furnished
25 to any court concerning the finding of oriental fruit flies or their larvae near
26 Mr. Hood’s particular property.

27 44. Defendants, neither jointly nor severally, made any effort or application to
28 obtain a specific warrant for Mr. Hood’s property.

1 45.No oath, affirmation, affidavit, or statement of probable cause was furnished
2 to any court concerning the likelihood of finding oriental fruit flies or their
3 larvae on Mr. Hood’s particular property.

4 46.The warrant did not include Mr. Hood’s name, address, or any identifying
5 information whatsoever to distinguish his home from the thousands of homes
6 the warrant facially applied to.

7 47.No specific places or persons were described in the warrant or any form
8 appended thereto.

9 48.The warrant was set to expire after 90 days, and so expired on June 20, 2024.
10 The Proclamation, however, remains in effect until July 21, 2025.

11 49.Absent action by this Court, there is a substantial likelihood that similar
12 unconstitutional general warrants will be obtained and executed against Mr.
13 Hood’s property in the future.

14 ***CDFFA demands to search Mr. Hood’s property***

15 50.During the Spring of 2024, CDFFA posted a notice on Mr. Hood’s front door
16 requesting permission to search his property for oriental fruit flies, indicating
17 that some flies had been spotted recently in his neighborhood and that his
18 property was believed to contain “host material” (i.e., citrus fruits on the trees
19 in his backyard). While the notice sought consent, it also asserted CDFFA’s
20 authority to search the property regardless of whether Mr. Hood consented.

21 51.Mr. Hood responded by phone and email to CDFFA after reviewing the notice,
22 indicating that he would be withholding his consent. Mr. Hood indicated that
23 he opposed government agents trespassing on his property, but offered to send
24 photographs of his citrus trees to the CDFFA to show they did not currently bear
25 any fruit.

26 52.CDFFA informed Mr. Hood that it had authority to search his property without
27 permission and told Mr. Hood he must allow the inspection.

28 ///

1 53. On or about March 28, 2024, CDFA posted a second notice on Mr. Hood’s
2 front door informing him that the property was subject to inspection and that
3 he must contact CDFA “no later than 4:30 p.m., Monday April 1, 2024 to
4 schedule the removal of all host fruit from [his] property.”

5 54. Communications from CDFA to Mr. Hood repeatedly emphasized that all of
6 Mr. Hood’s neighbors were consenting to the inspections without the need for
7 the execution of the warrant.

8 ***CDFA executes the general warrant against Mr. Hood***

9 55. On or about April 5, 2024, CDFA Defendant Guerrero, accompanied by CHP
10 Defendants Dallin and Peterson, arrived at Mr. Hood’s property to execute the
11 warrant and search his property.

12 56. CDFA had ample time between its initial communication with Mr. Hood and
13 its search of Mr. Hood’s property to apply for a specific warrant and receive a
14 decision thereon from a court of competent jurisdiction.

15 57. Mr. Hood met the CDFA and CHP officers at the foot of his long, steep
16 driveway.

17 58. Mr. Hood pointed to the warrant in Defendant Dallin’s hands, informing him
18 that the document did not list his name or address and that it was therefore
19 invalid.

20 59. Mr. Hood pointed out to Defendant Dallin that the warrant covered an area of
21 over 500 square miles.

22 60. The officer inspected the warrant carefully and announced that it was valid,
23 concluding verbally that Mr. Hood’s property was within that area.

24 61. Defendant Guerrero informed Mr. Hood while the warrant was being executed
25 that every other property within the neighborhood had already been searched,
26 but that Mr. Hood’s property was the only one that they hadn’t been able to
27 access.

28 ///

1 62. Mr. Hood made it clear that he did not consent to the search, but that he would
2 not resist the warrant's execution.

3 63. Under protest, Mr. Hood then accompanied Defendant Guerrero, Defendant
4 Dallin, and Defendant Peterson up his driveway to the hill atop which his
5 house sits.

6 64. The Defendant officers proceeded past the driveway, around the garage, past
7 a fence, and into Mr. Hood's backyard, where the Defendant officers inspected
8 the trees around Mr. Hood's patio, directly adjacent to his house.

9 65. Mr. Hood's patio is an area directly adjacent to and behind his house.

10 66. The backdoor of Mr. Hood's house opens directly onto the patio.

11 67. The patio is enclosed by a fence and contains a swimming pool, lounge chairs,
12 grill, pergola, fire pit, swing, and basketball hoop.

13 68. The patio is an area to which the intimate activities of Mr. Hood's residential
14 home life extends, where his family cooks, eats, and relaxes.

15 69. No oriental fruit flies or "host material" were found during the inspection.

16 70. After the inspection, Mr. Hood accompanied the officers back down the hill
17 and off his property.

18 71. The officers informed him that he was the only property owner against whom
19 they had to execute the warrant.

20 72. Throughout the April 4 encounter, Mr. Hood was respectful to the officers, but
21 firmly and repeatedly stated that he did not consent to the search of his
22 property.

23 ***CDFR is a repeat offender with general warrants***

24 73. While the particular warrant enforced upon Mr. Hood expired after 90 days,
25 the Proclamation, which was first issued on September 27, 2023, remains in
26 effect until July 21, 2025 and continues to include Mr. Hood's home within
27 the designated Search Area.

28 ///

1 74. CDFA has obtained and executed several general warrants similar to the one
2 at issue in this case targeting residential areas of San Bernardino County,
3 California within the past five years.

4 75. With CDFA's repeated and recent practice of obtaining and executing general
5 warrants within San Bernardino County, there is a substantial and impending
6 likelihood that Mr. Hood's property will again be subject to another general
7 warrant of similar dimension and unconstitutionality as the warrant already
8 executed against his property.

9 **CLAIM FOR RELIEF**

10 **Count I**

11 **Violation of Mr. Hood's Fourth Amendment Rights**

12 **(Fourth Amendment and 42 U.S.C. § 1983)**

13 76. Plaintiff realleges and incorporates the allegations in the preceding paragraphs.

14 77. The Fourth Amendment prohibits general warrants, commanding that all
15 warrants be "supported by Oath or affirmation" and "particularly describ[e]
16 the places to be searched and the persons or things to be seized."

17 78. Physical trespasses to persons, houses, papers, and effects are searches under
18 the Fourth Amendment. *Florida v. Jardines*, 569 U.S. 1, 10–11 (2013) (citing
19 *United States v. Jones*, 565 U.S. 400, 406–09 (2012)).

20 79. The warrant issued on February 15, 2024 and executed against Mr. Hood on
21 April 4, 2024 is a general warrant in violation of the U.S. Constitution's Fourth
22 Amendment.

23 80. The execution of the warrant against Mr. Hood's property constituted an
24 unlawful search and violated Mr. Hood's fundamental Fourth Amendment
25 right to be secure in his house and curtilage against unreasonable searches.

26 81. The warrant executed against the curtilage of Mr. Hood's house was not
27 adequately supported by an "oath or affirmation" respecting his property.

28 ///

1 82. The warrant did not “particularly describ[e] the places to be searched and the
2 persons or things to be seized,” rendering it general in nature rather than
3 specific.

4 83. On its face, the warrant applied equally to nearly every piece of property
5 located within a 554-square-mile area, an area that includes thousands of
6 residential households, without regard for whether citrus trees are present on
7 any individual property.

8 84. The warrant included no list of names or addresses, nor any particular,
9 identifying information for the specific properties to be searched.

10 85. Defendants acted under color of state law at all times relevant to the facts
11 related in this Complaint, including the execution of the general warrant
12 against Mr. Hood.

13 86. The right to be free from unreasonable searches of houses and curtilage
14 through general warrants is clearly established in this nation’s history, legal
15 tradition, the plain meaning of the text employed by the U.S. Constitution’s
16 Fourth Amendment, and historical and contemporary judicial interpretations
17 thereof.

18 87. A reasonable government official in each of Defendants’ places would
19 understand that the execution of a general warrant against a homeowner’s
20 curtilage is an unreasonable search in violation of that homeowner’s federally
21 protected Fourth-Amendment rights.

22 88. The Civil Rights Act of 1871 (codified as 42 U.S.C. § 1983) provides a private
23 right of action for challenging deprivations of an individual’s “rights,
24 privileges, or immunities secured by the Constitution and laws” conducted by
25 state and local governments under color of law. It provides for compensatory,
26 equitable, “or other proper proceedings for redress.”

27 89. In the process of executing the warrant against Mr. Hood, CDFA and CHP
28 officers entered the curtilage of Mr. Hood’s private residence without

1 obtaining the consent of Mr. Hood or any other resident and searched his
2 home's curtilage under the asserted authority of the warrant, the Proclamation,
3 and California state law, in violation of the U.S. Constitution's Fourth
4 Amendment, as applied to the States through the Fourteenth Amendment, and
5 42 U.S.C. § 1983.

6 **PRAYER FOR RELIEF**

7 Wherefore, Plaintiff respectfully requests that this Court enter judgment in his
8 favor and provide the following relief:

- 9 1. Declare that the warrant described by this complaint, a copy of which is
10 appended hereto as Exhibit A, is a general warrant that violates the U.S.
11 Constitution's Fourth Amendment;
- 12 2. Declare that the execution of the warrant against the curtilage of Mr. Hood's
13 house violated Mr. Hood's constitutional right to be secure in his house and
14 curtilage against unreasonable searches under the U.S. Constitution's Fourth
15 Amendment;
- 16 3. Permanently enjoin Defendants, their officers, agents, servants, employees,
17 and all persons in active concert or participation with them from enforcing
18 against Mr. Hood's house or curtilage any general warrant of the same or
19 substantially similar dimensions as the one complained of in this action;
- 20 4. Award Plaintiff nominal money damages for the violation of his Fourth
21 Amendment rights, which occurred through an unlawful physical trespassory
22 search pursuant to a general warrant;
- 23 5. Award Plaintiff his costs, attorneys' fees, and other expenses in accordance
24 with law, including 42 U.S.C. § 1983; and
- 25 6. Order such additional relief as justice may require.

26 ///

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATED: December 9, 2024.

Respectfully submitted,

JEREMY TALCOTT

By *s/ Jeremy Talcott*
JEREMY TALCOTT

DANIEL T. WOISLAW

By *s/ Daniel T. Woislaw*
DANIEL T. WOISLAW*

DAVID MCDONALD

By *s/ David McDonald*
DAVID MCDONALD*

** Pro Hac Vice
Attorneys for Plaintiff*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I certify that on December 9, 2024, I submitted the foregoing to the Clerk of the Court via the District Court’s CM/ECF system, which will send notice of this submission to all counsel of record.

By s/ *Jeremy Talcott*
JEREMY TALCOTT