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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

ANNETTE HUBBELL and ANNETTE HUBBELL PRODUCTIONS, Plaintiffs, v. MIGELL ACOSTA, in his personal and official capacity as Director of the San Diego County Library; EBONY SHELTON, in her official capacity as Chief Administrative Officer of San Diego County; SAN DIEGO COUNTY LIBRARY; SAN DIEGO COUNTY BOARD OF SUPERVISORS; and the COUNTY OF SAN DIEGO, Defendants.	No. 3:25-cv-01105-WQH-SBC **PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION TO DISMISS** Judge: Hon. John A. Houston Court Room: 13B Date: July 16, 2025 Time: 2:30 p.m.

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INTRODUCTION

This case asks whether a local government can cancel a contract with a private citizen solely because of her race. Defendants—the County of San Diego, its library system, and various officials (County)—admit they canceled Plaintiff Annette Hubbell's performance because of her race. The County now seeks dismissal, claiming its decision was protected as "government speech." But the government speech doctrine does not give government officials the power to discriminate by race.

Annette was not speaking for the government—she was contracted by it. The County invited her to perform her original play and approved promotional materials in advance. If the County had genuine concerns about the content of the performance, it could have addressed them before entering the agreement. But it did not. The County's objection was not to what Annette planned to say, but to who she is. What it cannot do—at any stage—is cancel a contract based solely on the speaker's race. In any event, whether her performance qualifies as private or government speech is, at minimum, a fact-bound question inappropriate for resolution at the motion-to-dismiss stage.

Even accepting the County's dubious premise that its actions constituted "government speech," that doctrine does not authorize race discrimination. The First Amendment protects expression—it does not immunize unconstitutional conduct. And the Equal Protection Clause positively prohibits the government from making decisions based on race.

The motion to dismiss should be denied.

FACTUAL BACKGROUND

Annette Hubbell is an actress and a storyteller. She wrote a one-woman play, *Women Warriors*, in which she tells the stories of women from history who achieved great things despite overwhelming odds

through the power of their faith. Dkt. 1, Complaint ¶¶ 23–25. These women include Amy Carmichael, Corrie ten Boom, Mary McLeod Bethune, Sojourner Truth, Gladys Aylward, Harriet Beecher Stowe, Elizabeth Fry, and Harriet Tubman. Some of these women are white and some are black. *Id.* ¶¶ 25, 29.

Annette does not use any make-up in her performances, only historically representative costumes and props.[1] For years, Annette has performed her play at multiple venues in multiple states and has received nothing but positive feedback from audience members of all backgrounds. Dkt. 1, Complaint ¶ 26; *see also* Annette Hubbell Prods., Testimonials, (last visited July 1, 2025), https://annettehubbell.com/testimonials/.

In May 2023, Annette signed a contract with San Diego County, agreeing to perform *Women Warriors* at a to-be-determined future date for San Diego County Library (SDCL), at a to-be-determined location. Dkt. 1, Complaint ¶ 27. The County agreed in the contract that it would not "control or direct" Annette's performance. Dkt. 8-3, Declaration of Austin Uhler, Ex. 1 at 1. It also disclaimed any liability for her speech. *Id.* at 4.

On December 18, 2023, Rancho Sante Fe Library Branch Manager Christina Patterson invited Annette to perform *Women Warriors* at the Rancho Santa Fe branch. Complaint ¶ 28. At Annette's suggestion, they agreed that Annette would portray three of the women from her play: Harriet Beecher Stowe, Mary McLeod Bethune, and Harriet Tubman. *Id*; Dkt. 1-1, Ex. A at 9–10. They agreed that the performance would take place on March 21, 2024, and that SDCL would pay Annette $280. Dkt. 1,

[1] A sample of Annette's performances can be found at Annette Hubbell Prods., Theatrical Prods., (last visited July 1, 2025) https://annettehubbell.com/find-a-speaker/.

Complaint ¶ 28.

Two weeks before her scheduled performance date, on March 6, 2024, Ms. Patterson requested that Annette change her performance and refrain from portraying the two African American women, Tubman and Bethune. *Id.* ¶ 29. The reason Ms. Patterson gave was that "our administration was uncomfortable with you performing a black character as a white woman." *Id.* She asked Annette to replace Bethune and Tubman with white figures. *Id.*

That same day, Annette spoke on the telephone with the supervisor of the Rancho Santa Fe branch, Rebecca Lynn, about the administration's request to change her performance. *Id.* ¶ 30. Annette asked whether she could "only honor women of courage and integrity if they're white," and Ms. Lynn confirmed, stating, "that's pretty much it," or words to that effect. *Id.*

On March 8, 2024, Annette told Ms. Patterson that she would decline the library's invitation to perform if it prohibited her from portraying certain historical figures because of race. *Id.* ¶ 31. Annette noted that Mary McLeod Bethune had once been rejected from a job as a missionary because of her race and asked how this was different. *Id.* ¶ 32. Expressing her belief that it would be wrong "[t]o exclude someone's story of bravery, courage, and integrity because of one's race, gender, or anything else[,]" Annette respectfully requested that the library reconsider. *Id.*

That same day, the library canceled Annette's performance without any additional explanation. *Id.* ¶ 33. Annette subsequently reported the library's discriminatory treatment of her to San Diego County Supervisor Joel Anderson, prompting an inquiry and a response from SDCL. *Id.* ¶ 34.

After reviewing the incident, SDCL Director Migell Acosta wrote to Annette on June 25, 2024, and affirmed the library's race-based decision.

Id. ¶ 35. Mr. Acosta explained in his letter, "The decision was discussed with our executive administration, as well as our Diversity and Inclusion team in early March 2023 [sic], who concurred with SDCL's decision to ask that Ms. Lynn request that you perform different characters." Dkt. 1-2, Ex. B.

LEGAL STANDARD

Dismissal under Rule 12(b)(6) for failure to state a claim is only proper where there is "no cognizable legal theory" or "an absence of sufficient facts alleged to support a cognizable legal theory." *Navarro v. Block*, 250 F.3d 729, 732 (9th Cir. 2001). When reviewing a motion to dismiss under Rule 12(b)(6), courts must "accept all well-pleaded allegations of material fact as true and construe them in the light most favorable to the nonmoving party." *Sateriale v. R.J. Reynolds Tobacco Co.*, 697 F.3d 777, 783 (9th Cir. 2012).

ARGUMENT

The County makes two arguments in this case. First, they argue that Annette's scheduled performance of *Women Warriors* was the government's speech, not Annette's. Second, they argue that the government speech doctrine permits the government to discriminate based on race. Both arguments fail.

I. The County Cannot Use Government Speech to Avoid Its Constitutional and Statutory Obligations

Even if Annette's play were considered government speech, that would not dispose of the case. The reason is simple: government speech is not a license to violate the Constitution. The County does not gain immunity from civil rights laws simply by characterizing its actions as expressive. Government entities remain bound by the Equal Protection Clause and federal antidiscrimination statutes—even when selecting or

funding their own speech. The government speech doctrine gives the government discretion over its messaging, but it does not give it the power to discriminate based on race.

The County fundamentally misunderstands the government speech doctrine. Government speech is a defense to compelled speech and viewpoint discrimination claims brought under the First Amendment—not a blank check for the government to violate other constitutional provisions. The government speech doctrine simply means that "when the government speaks for itself, the First Amendment does not demand airtime for all views." *Shurtleff v. City of Boston*, 596 U.S. 243, 247–48 (2022). This principle exists so that the government can "promote a program" or "espouse a policy"—not so it can engage in unlawful discrimination.[2] *Id.* at 248 (quoting *Walker v. Texas Div., Sons of Confederate Veterans, Inc.*, 576 U.S. 200, 208 (2015)); *see also R.J. Reynolds Tobacco Co. v. Bonta*, 272 F.Supp.2d 1085, 1106 (E.D. Cal. 2003) ("[T]he 'government speech' doctrine [does not] offer[] a blank check for abuse.").

The Supreme Court has clarified that the government speech doctrine "does not mean that there are no restraints on government

[2] If government speech could override other constitutional rights, the consequences would be absurd—and dangerous. A police department could stage a public demonstration by conducting random home searches without a warrant, claiming it was "expressing" a message about community safety. *But see* U.S. CONST. amend. IV. A city could refuse to allow any religious group but its own preferred faith to use public facilities, justifying the exclusion as part of its effort to promote a governmental spiritual message. *But see* U.S. CONST. amend. I. A town could seize private land to create a government art installation conveying a social message, arguing that it was simply "speaking through" public projects. *But see* U.S. CONST. amend. V.

speech. For example, government speech must comport with the Establishment Clause." *Pleasant Grove City v. Summum*, 555 U.S. 460, 468 (2009). "[E]ven if the Free Speech Clause neither restricts nor protects government speech, government speakers are bound by the Constitution's other proscriptions, including those supplied by the Establishment and Equal Protection Clauses." *Id.* at 482 (Stevens & Ginsburg, JJ., concurring). In addition to constitutional restrictions, the speech of government officials "may be limited by law, regulation, or practice[.]" *Id.* at 468.

The County asserts that "[t]here is no good reason to accord Defendants in this case any less legal protection than has been accorded to private arts producers." Dkt. 8, Motion to Dismiss at 10. But there are two excellent reasons: the Equal Protection Clause of the U.S Constitution, and article I, section 31 of the California Constitution. Both constitutional provisions bind government actors—not private ones—and both provisions flatly prohibit race discrimination.[3] Section 31 in particular "categorically prohibits discrimination" in public contracting, and (unlike the Equal Protection Clause), contains no "compelling state

[3] The Equal Protection Clause may forbid race discrimination by the government specifically *because* it conveys a message by the government. The Supreme Court has held that racial discrimination is unconstitutional not just because of its tangible effects but because it communicates a message of inferiority. *See Brown v. Bd. of Ed. of Topeka, Shawnee County, Kan.*, 347 U.S. 483, 494 (1954) ("[T]he policy of separating the races is usually interpreted as denoting the inferiority of the negro group."); *Strauder v. West Virginia*, 100 U.S. 303, 308 (1879) (The Fourteenth Amendment exempts African Americans "from legal discriminations, implying inferiority in civil society[.]"). In other words, the government cannot justify race discrimination by claiming it is expressive—the Constitution prohibits it precisely because it is expressive.

interest" exception. *Coral Constr., Inc., v. City & Cnty. of San Francisco*, 50 Cal. 4th 315, 327 (Cal. 2010). So even if private parties sometimes enjoy First Amendment leeway to engage in discriminatory expressive conduct, government officials are constitutionally barred from doing so. The County is not entitled to the same freedom as private arts producers—it is held to a higher, constitutionally mandated standard.

II. Annette's Play Is Her Own Speech, Not the Government's Speech

Annette's scheduled play at Rancho Santa Fe Library was her own private expression, not government speech. Under the established factors courts use to assess whether speech is attributable to the government, the San Diego County Library clearly created a platform for private individuals to present their own views on a wide range of topics. This case closely parallels *Shurtleff*, where the Supreme Court held that Boston had opened a forum for private expression by allowing outside groups to raise flags of their choosing on a government-owned flagpole. 596 U.S. at 249–51. Boston could not discriminate against the flags because of the viewpoint they expressed. *Id.* at 251–59. The mere fact that the expression took place on public property and with the cooperation of the government did not transform the private speech into government speech. *Id.* at 256–58. So too here: the County's approval of Annette's event and the use of public space do not transform her performance into government expression.

Determining whether a person's expression constitutes government speech or private speech is not always straightforward. This is because "[t]he boundary between government speech and private expression can blur when . . . a government invites the people to participate in a program." *Id.* at 252. Courts "conduct a holistic inquiry[,]" that includes

"the history of the expression at issue; the public's likely perception as to who (the government or a private person) is speaking; and the extent to which the government has actively shaped or controlled the expression." *Id.*

While determining whether something constitutes government speech *can* be a fact-intensive inquiry, this is not one of those difficult cases. All three *Shurtleff* factors weigh heavily in Annette's favor.

First: There is a long history of SDCL hosting private speech. SDCL regularly hosts numerous events at its multiple locations on a wide variety of topics. Indeed, SDCL actively encourages members of the community to create their own speech, which the library then hosts. On its website, SDCL describes "Our Mission" as "We celebrate our communities and dedicate our passion and expertise to help *you* create *your own story*."[4] (emphasis added). Consistent with that self-proclaimed mission, the SDCL logo includes the phrase "Create Your Own Story."[5]

To facilitate and encourage private speech, SDCL regularly invites artists and authors to hold events at their libraries, and hosts "storytimes," book clubs, and classes. SDCL speakers discuss everything

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[4] San Diego Cnty. Libr., Strategic Plan (last visited July 1, 2025), https://www.sdcl.org/strategic-plan/. The court may take judicial notice of information on government websites not subject to reasonable dispute. *See Daniels-Hall v. Nat'l Educ. Ass'n*, 629 F.3d 992, 998–99 (9th Cir. 2010); Fed. R. Evid. 201. Plaintiffs request that this Court do so for this document and all other public documents from government websites cited herein.

[5] The SDCL logo, together with the slogan "Create Your Own Story," is clearly visible in library manager Christina Patterson's signature block in her email correspondence with Annette. *See* Dkt. 1-1, Ex. A at 2–8.

from the history of California avocados[6] to unsolved murder cases[7] to astronomy.[8] Some branches even hold an "Open Mic Night" welcoming writers, poets, comedians, and musicians to share their speech.[9] This is not highly curated government speech; far from it. SDCL has cultivated a vibrant and wide-ranging forum for San Diegans to share their own voices and creativity with the community.

Second: The public's perception of the performance also weighs in Annette's favor. While the Supreme Court recognized in *Shurtleff* that flags flown from government buildings traditionally are government speech, in contrast, the government does not have a tradition of using plays to send messages to the public. To the contrary, plays are universally recognized as the creative expression of the playwright, producer, and performers—not the venue. This distinction is well established in precedent. In *Southeastern Promotions, Ltd. v. Conrad*, 420 U.S. 546 (1975), the Court held that a municipal board violated the First Amendment by denying a private theater group access to a public venue to perform a controversial musical. The fact that the city owned or leased the venue did not convert the play into government speech—it remained private expression entitled to constitutional protection.

The advertising for the play further confirms that the public would have perceived *Women Warriors* as Annette's speech, not the

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[6] San Diego Cnty. Publ. Libr., *California Avocados: a Delicious History*, (listing accessed July 1, 2025), https://sdcl.bibliocommons.com/events/6837a192c25cbaf3abbe994f.

[7] *Id.*, *Author Talk: Caitlin Rother,* (listing accessed July 1, 2025), https://sdcl.bibliocommons.com/events/680a687b79b6f832a6d99a0d.

[8] *Id.*, SDAA: Asteroids and Meteors, (listing accessed July 1, 2025), https://sdcl.bibliocommons.com/events/6826672ec99aa4a4604b61b4.

[9] *Id.*, Open Mic Night, (listing accessed July 1, 2025), https://sdcl.bibliocommons.com/events/66992aa1cf36f57164ad2e11.

government's. The flyer prominently displays Annette's name and photograph, and described the event as a "one woman performance" in which "Annette Hubbell brings to life the extraordinary stories of some ordinary women who transformed themselves, paved the way for others, and left the world in a better place." Exhibit A to Declaration of Annette Hubbell ("Hubbell Decl."). SDCL clearly presented the title *Women Warriors*—which Annette created and used in her non-SDCL performances for years—as Annette's original work. Nothing in the flyer suggested that the County authored or endorsed the message of the play. To any reasonable observer, this was a private citizen's creative work hosted at a public library—not a performance created by or on behalf of the government.

Third: The extent of the government's control over the content also favors Annette. The County points to Rancho Santa Fe Branch Manager Christina Patterson's selection of three characters as evidence of government control. Dkt. 8, Motion to Dismiss at 9. However, it was Annette who suggested that Ms. Patterson choose three of the eight characters because of time constraints. Dkt. 1-1, Ex. A at 10. Ms. Patterson did not have free rein to craft the content of the performance; she could only select from the historical figures Annette had already curated, researched, written, and performed. Involvement of Ms. Patterson and SDCL was minimal and constrained—hardly the level of control necessary to transform private expression into government speech. If a library hosted a performance of Shakespeare and selected which scenes to include for time, no one would seriously argue that *Hamlet* thereby became the government's speech. The same is true here.

Importantly, the library never exercised control over the play's themes, message, dialogue, stage directions, or costumes. Its involvement

was purely logistical: it was to provide a chair and a quilt for the performance at Annette's request. *Id.* at 8–10. And while the Library Guild of Rancho Santa Fe was also involved and agreed to provide light refreshments at Annette's performance, the Guild is a private nonprofit organization, not a government entity.[10] Taken together, these modest contributions are hardly the kind of extensive government control that would transform Annette's play into government speech.

III. Racial Discrimination Is Illegal Conduct, Not Protected Speech

The County argues that government entities have broad speech rights that include the expressive right to discriminate by race. But that argument defies settled law. Racial discrimination is not protected speech—it is unlawful conduct. The Supreme Court has repeatedly held that the government may prohibit racial discrimination without offending the First Amendment, even when that conduct is expressive. And if private actors—who enjoy the full protections of the First Amendment—have no constitutional right to discriminate by race, then government actors—who are additionally bound by the Equal Protection Clause—certainly do not. The County's position would invert constitutional doctrine, granting greater leeway to the government to discriminate than to private citizens. That is not the law.

When interpreting federal civil rights laws, the Supreme Court has long noted that "[i]nvidious private discrimination may be characterized as a form of exercising freedom of association protected by the First Amendment[.]" *Hishon v. King & Spalding*, 467 U.S. 69, 78 (1984)

[10] Library Guild of Rancho Santa Fe Inc., *Nonprofit Explorer*, ProPublica (updated June 30, 2025), https://projects.propublica.org/nonprofits/organizations/956091588.

(quoting *Norwood v. Harrison*, 413 U.S. 455, 470 (1973)). Nevertheless, discrimination "has never been accorded affirmative constitutional protections."[11] *Id.* Accordingly, the Supreme Court has upheld Section 1981 against First Amendment challenges, holding that a private school has no First Amendment right to promote its segregationist beliefs by excluding individuals based on race. *Runyon v. McCrary*, 427 U.S. 160, 176 (1976). The Court held that while the *teaching* of those beliefs may be protected, the *practice* of racial discrimination was not.[12] *Id.*

The County relies on two district court decisions that upheld the right of private entertainment companies to make race-based casting decisions. *See Moore v. Hadestown Broadway LLC*, 722 F.Supp.3d 229 (S.D.N.Y. 2024); *see also Claybrooks v. ABC*, 898 F.Supp.2d 986 (M.D. Tenn. 2012).[13] In each case, the court recognized that highly curated casting decisions in

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[11] More recent cases are not to the contrary. The County points to four cases: *Hurley v. Irish-American Gay, Lesbian, and Bisexual Group of Boston*, 515 U.S. 557 (1995); *Masterpiece Cakeshop v. Colo. Civil Rights Comm'n*, 584 U.S. 617 (2018); *Green v. Miss USA, LLC*, 52 F.4th 773 (9th Cir. 2022); and *303 Creative LLC v. Elenis*, 600 U.S. 570 (2023). None stand for the proposition that the First Amendment protects race-based discrimination. In each of these cases, the courts held that public accommodation laws violated the First Amendment *not* because they prohibited discrimination, but because they compelled private speakers to convey messages they did not wish to express.

[12] A prohibition on the practice of race discrimination is valid even if it incidentally burdens actual speech. For example, a ban on race-based hiring may require employers to remove "White Applicants Only" signs without violating the right to free speech. *Sorrell v. IMS Health Inc.*, 564 U.S. 552, 567 (2011); *Rumsfeld v. Forum for Acad. & Inst. Rights, Inc.*, 547 U.S. 47, 62 (2006).

[13] The County also quotes from *Green*, 52 F.4th 773, to argue that theatrical productions have a First Amendment right to discriminate by race when making casting decisions. But the opinion's discussion of the musical *Hamilton* is dicta, not controlling case law.

theatrical or entertainment productions may qualify as expressive conduct protected by the First Amendment. But those cases involved private producers engaged in the direct creation of expressive works—making artistic judgments about how best to convey a particular vision or story.[14]

In contrast to these cases, San Diego County and its agencies are not private entertainment companies with robust First Amendment rights to produce creative works of their own design. They are government entities that are bound by the Equal Protection Clause and the California Constitution not to discriminate against any individual because of race.

IV. The County Does Not Have a Blank Check to Racially Discriminate Under the Pretext of Speech

The County defends its authority to engage in race-based decision-making as "a narrow but important right" that "supports the healthy functioning of our communities." Dkt. 8, Motion to Dismiss at 10 (simplified). Plaintiffs emphatically disagree. It is neither healthy nor lawful for government officials to decide what individuals may do based

[14] Nevertheless, the Supreme Court has held that even private actors' First Amendment rights are limited when it comes to racial discrimination. *See*, *e.g.*, *Runyon*, 427 U.S. at 176. And other courts (including the Ninth Circuit) have denied that the First Amendment allows private entities to avoid federal civil rights laws. *See, e.g.*, *Nat'l Ass'n of African American-Owned Media v. Charter Commc'ns, Inc.*, 915 F.3d 617, 628–631 (9th Cir. 2019), *vacated on other grounds*, 140 S.Ct. 2561 (2020) (holding that Section 1981 does not violate a cable company's First Amendment speech rights); *see also McMahon v. World Vision, Inc.*, 704 F.Supp.3d 1121, 1143–46 (W.D. Wash. 2023) (enforcement of Title VII and Washington Law Against Discrimination against Christian nonprofit organization that rescinded a job offer because the applicant was in a same-sex marriage did not violate Free Exercise Clause).

on the color of their skin.[15]

The County asserts that it is claiming "only the very limited speech right" to discriminate by race when deciding who can put on expressive performances at a public library.[16] *Id.* at 10. But the right that the County is claiming is not so modest. To the contrary, if SDCL has the government speech right to pursue its ambition of imposing barriers on what individuals can or cannot do because of their race, then it is a power that all government entities have. And they are likely to use this power in predictable—and unpredictable—ways that violate the right to equal protection.

On June 14, 2025, the Rancho Santa Fe library held an "'Ohana Hawaiian Music" performance.[17] Could library administrators, citing concerns about cultural sensitivity and cultural appropriation, have required that the musicians only be Native Hawaiians? On June 25, another branch of the library hosted a Hatha Yoga class.[18] Could SDCL have insisted that the instructor be of Asian Indian origin? On June 26,

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[15] It would be unacceptable for a public library to tell an Asian American student she cannot give a book talk on *To Kill a Mockingbird* because the characters are white, or to bar a Latino historian from presenting on Martin Luther King, Jr. because he is not black. That would be offensive, unconstitutional, and flatly un-American. The government has no business assigning who can speak about which parts of history based on skin color. That is precisely what SDCL did to Annette—and it was no less wrong because she is white.

[16] The County disclaims any right to break contracts with businesses based on race. Dkt. 8, Motion to Dismiss at 10. But by the County's own admission, that is exactly what it did. *Id.*

[17] San Diego Cnty. Publ. Libr., *Slack Key 'Ohana Hawaiian Music Performance*, (listing accessed July 1, 2025), https://sdcl.bibliocommons.com/events/6806d3742b0fb15d9fb0e180.

[18] *Id.*, *Hatha Yoga* (listing accessed July 1, 2025), https://sdcl.bibliocommons.com/events/67797c02de0d01f36119fa7f.

another library location held a Mah Jongg event, a traditional Chinese game.[19] Could SDCL have required that anyone teaching Mah Jongg must be of Chinese descent? Similarly, an "Ikebana Floral Arrangement" lesson is scheduled for July 12, 2025.[20] Ikebana is a traditional Japanese art. Can SDCL require that the ikebana teacher be Japanese? The answer, under both the U.S. and California Constitutions, is a resounding no. The government has no business assigning who may speak, teach, or perform based on race or ethnicity. Doing so would not promote cultural respect—it would entrench racial division.

Perhaps most troublingly, recognizing a government speech right to discriminate by race would likely lead to racial discrimination in public schools. It is common for students to portray historical figures as well as fictional characters in school plays.[21] If the government has the right to racially restrict the roles that individuals may play, there is little to stop school administrators from prohibiting children from portraying anyone of a different race. The same arguments about cultural sensitivities are just as likely to be invoked in a public-school setting as in a public library. That would not be progress—it would be a return to the discredited notion that the law may sort individuals by race. The Constitution does not

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[19] *Id.*, *Mah Jongg*, (listing accessed July 1, 2025), https://sdcl.bibliocommons.com/events/6660b1145c3852d70caef9d2.

[20] *Id.*, Ikebana Floral Arrangement, (listing accessed July 1, 2025), https://sdcl.bibliocommons.com/events/6806c73f4f2cd1c0cc8139a1.

[21] *See Lansdale High School Musical Breaks Boys Club*, NewsWorks Tonight, WHYY (Nov. 10, 2017), https://whyy.org/segments/lansdale-high-school-musical-breaks-boys-club/ (A production of the musical, "1776," at North Penn High School in Lansdale, PA, featured female and minority student actors portraying signatories to the Declaration of Independence, including an African-American student performing as John Dickinson.).

permit such a regression.

CONCLUSION

For the reasons stated above, the Defendants' motion to dismiss should be denied.

DATED: July 2, 2025.

Respectfully submitted,

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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

ANNETTE HUBBELL and ANNETTE HUBBELL PRODUCTIONS,

Plaintiffs,

v.

MIGELL ACOSTA, in his personal and official capacity as Director of the San Diego County Library; EBONY SHELTON, in her official capacity as Chief Administrative Officer of San Diego County; SAN DIEGO COUNTY LIBRARY; SAN DIEGO COUNTY BOARD OF SUPERVISORS; and the COUNTY OF SAN DIEGO,

Defendants.

No. 3:25-cv-01105-WQH-SBC

DECLARATION OF ANNETTE HUBBELL IN SUPPORT OF PLAINTIFFS' OPPOSITION TO THE MOTION TO DISMISS

I, Annette Hubbell, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am over eighteen years of age. As to the following facts, I know them to be true of my own knowledge and based on information and belief. If called as a witness, I would and could competently testify thereto.

2. I am the founder and owner of Annette Hubbell Productions. I am a Plaintiff in the matter of *Annette Hubbell and Annette Hubbell Productions v. Migell Acosta et al.*, No. 3:25-cv-01105 (S. D. Cal. 2025).

3. Attached hereto as Exhibit A is a true and correct copy of the flyer I prepared for the performance of "Women Warriors" that was scheduled to take place on March 21, 2024, at the Rancho Santa Fe branch of the San Diego County Public Library. To the best of my recollection, the San Diego County Public Library added its logo and the logos of the County of San Diego and Library Guild of Rancho Santa Fe to the flyer.

I declare under penalty of perjury pursuant to 28 U.S.C. 1746 that the foregoing is true and correct based on my own knowledge and on information and belief.

DATED this 2nd day of July at Poway. California.

Annette Hubbell

ANNETTE HUBBELL

EXHIBIT A

LIBRARY GUILD OF RANCHO SANTA FE

Coffee and Conversation
Courtesy of the RSF Guild

COUNTY OF SAN DIEGO

SAN DIEGO County Library
Create Your Own Story

PRESENT

Women WARRIORS

A journey of a thousand miles begins with one small step.

In this one woman performance, Annette Hubbell brings to life the extraordinary stories of some ordinary women who transformed themselves, paved the way for others, and left the world in a better place.

They all had something in common. . .

Hubbell

HARRIET BEECHER STOWE
Writer

MARY MCLEOD BETHUNE
Civil Rights Activist

HARRIET TUBMAN
Mastermind of the Rescue, Woman of Strong Faith, Military Leader