GRABLE
PLLC

May 1, 2026

VIA EMAIL:
City of Sedona
c/o Mayor, Vice Mayor, and Councilors
cc: City Manager, Chief of Police, City Clerk

Re: Pre-Suit Demand and Notice of Intent to File 42 U.S.C. § 1983 Action—Jason Gutterman and Ben Gutterman—Incident of April 8, 2026, North State Route 89A, Uptown Sedona

Counsel:

This firm represents Jason Gutterman and Ben Gutterman in connection with civil rights claims arising from their unlawful detention and the formal trespass warning issued to them on the public right-of-way along the south side of North State Route 89A in Uptown Sedona on the afternoon of April 8, 2026. We write to demand pre-litigation resolution. Specifically, each of my clients demands $25,000.00 each ($50,000.00 total), a formal written apology, confirmation that the trespass was issued in error and has since been revoked, and mandatory First Amendment training for all city employees provided by an independent third party. Absent a substantive written response within forty-five (45) days, our clients intend to file a *Monell* action against the City of Sedona in the United States District Court for the District of Arizona.

This is a federal civil rights demand. Our clients' § 1983 claims do not require a Notice of Claim under A.R.S. § 12-821.01. *See Felder v. Casey*, 487 U.S. 131 (1988).

I.
THE PARTIES AND THE INCIDENT

A. The Clients.

Jason Gutterman publishes the YouTube channel Amagansett Press, a First Amendment journalism project documenting public spaces and law enforcement interactions across the United States. Ben Gutterman publishes the YouTube channel Watching the Watchmen, an independent First Amendment journalism project. Father and son were filming together in Uptown Sedona on April 8, 2026, capturing the same activity from independent angles for their respective channels and audiences. Each is a journalist with his own claims arising from this incident.

B. The Encounter.

On the afternoon of April 8, 2026, our clients were on the public pedestrian sidewalk along the south side of State Route 89A in Uptown Sedona, filming storefronts. Neither was on private property. Neither was engaged in any unlawful activity.

Jesse Alexander, Chief Operating Officer of Sinagua Plaza 3, LLC ("SP3"), approached our clients and demanded they leave. When asked where SP3's property ended, he stated on video that SP3 had "a lease all the way to the curb" and "I know we do" own the sidewalk. He called the Sedona Police Department.

Three SPD personnel responded—Sergeant Jesus Perron (#1019), Officer Steven Willadsen (#886), and Officer John Klafin (#1122). Officer Willadsen took the lead. Sergeant Perron remained in his patrol vehicle for the

relevant portion of the encounter; Officer Klafin observed without speaking much. Both clients provided identification. Both were affirmatively told they were not free to leave.

C. The Chief's Involvement.

During the encounter, captured on video, Mr. Alexander placed a call from his personal cell phone. The contact reached on that call was Chief Stephanie Foley. Mr. Alexander then handed his phone—with Chief Foley still on the line—to Officer Willadsen. Officer Willadsen took the phone, recognized Chief Foley, and stated audibly: "Oh, is that chief? Cool." He then conducted a conversation with Chief Foley lasting approximately 25 to 27 seconds. He returned the phone to Mr. Alexander. Within seconds of ending the call, Officer Willadsen turned to our clients and stated, in substance: "Again, I'm going to ask you not to talk over him while he tells you where the property is that you are going to be officially trespassed from."

That single statement establishes three things: that Officer Willadsen had, by the time the chief call ended, decided that a trespass warning would issue; that he treated Mr. Alexander's account of the property boundaries as authoritative without further investigation; and that he silenced our clients while the private complainant articulated a property line that he, Officer Willadsen, was about to enforce. Mr. Alexander then described boundaries that purported to extend SP3's exclusionary right to the highway. Officer Willadsen issued the formal trespass warning that followed:

"*You are about to be officially trespassed from, which includes where you currently are*," and when Jason asked, "the public sidewalk?" Officer Willadsen responded, "*Yup*."

"*Let's go off the public sidewalk*."

"*If you come back to this area, you can be arrested. Do you understand? Do you both understand?*"

Both of our clients were trespass-warned. Both were ordered to exit onto State Route 89A. Jason disclosed that he had recently undergone knee surgery and asked to use a nearby alternate route; that request was initially refused.

D. Officer Willadsen's Attribution to Deputy City Manager Dickey.

During the encounter, Officer Willadsen identified Deputy City Manager J. Andy Dickey as the source of the representation that the SR-89A sidewalk is privately owned. That attribution—made by the responding officer, on duty, on body camera, in the course of his enforcement decision—is an admission by the City under Federal Rule of Evidence 801(d)(2)(D). It establishes that the legal theory on which the trespass warning issued did not originate with Officer Willadsen, with Sergeant Perron, or even with Mr. Alexander; it originated with the Deputy City Manager.

II.
THE SIDEWALK IS CITY-OWNED PUBLIC RIGHT-OF-WAY

The premise on which the trespass warning issued—that the sidewalk is private property—is contradicted by the City of Sedona's own legal instruments.

A. The Right of Way Lease.

The Right of Way Lease between the City of Sedona and SP3, executed December 10, 2020 by Mayor Sandra J. Moriarty, attested by City Clerk Susan L. Irvine, and approved as to form by then-City Attorney Kurt W. Christianson. Recital C, in the City's own words:

> **The City is the owner of public right-of-way along the South side of State Route 89A in Uptown Sedona, such right-of-way being recently realigned and containing landscaping,**

> **traffic circles and pedestrian sidewalks (the 'City Property') that is adjacent to the boundary of the Premises.**

Section 3(D) provides that "**[t]he Lease and Lease Area are not exclusive, and the City may need to continue to use portions of both for future public purposes.**" Section 6(E) reserves the City's right of entry "**for any lawful purpose without prior notice**" and confirms the agreement is not in derogation of the City's "**police and public safety powers**." The lease was amended November 20, 2024; the amendment did not alter Recital C's characterization of the right-of-way as "City Property," nor the non-exclusivity provision.

The lease grants SP3 the right to maintain landscaping and operate certain improvements (e.g., outdoor restaurant patio seating). It does not convey ownership. It does not grant exclusive use. It does not authorize SP3 to exclude members of the public from the pedestrian thoroughfare. It expressly characterizes the area as the City's and reserves the City's ability to continue to use it for public purposes.

B. Section 2(B) and the SP3-SPD Relationship.

Section 2(B) of the lease provides that SP3 **"[shall] continue to provide at no cost to the City of Sedona Police Department a 708 sq. ft. space for a police substation at the Sinagua Plaza center**." The Sedona Police Department physically occupies space inside SP3's building, rent-free, by ongoing contract. That arrangement provides important context for what happened on April 8: a private property manager who, by prior arrangement, hosts the Sedona Police Department inside his own commercial center placed a direct call to the Chief of Police on his personal cell phone, and the responding officer in the field recognized the Chief on that call without surprise. The arrangement is not a basis for liability standing alone, but it

bears on foreseeability, on institutional context, and on whether the City can credibly claim that the private complainant's representations were treated with arm's-length skepticism.

C. ADOT Right-of-Way.

State Route 89A is an Arizona state highway. Section 107.2 of the ADOT Roadway Design Guidelines (Jan. 2021, rev. Feb. 2022) confirms that ADOT designs, constructs, and maintains pedestrian sidewalks within state highway right-of-way, with maintenance allocated to local governments under cooperative agreements—not to private lessees. Coconino County GIS parcel data also reflects that adjacent private parcels terminate before the SR-89A corridor.

III.
CONSTITUTIONAL VIOLATIONS

A. First Amendment—Public Forum.

Public sidewalks are traditional public fora and have held that status "time out of mind." *Hague v. CIO*, 307 U.S. 496, 515 (1939); United States v. Grace, 461 U.S. 171, 177–80 (1983). The exclusion of citizens from a traditional public forum must satisfy strict scrutiny. *Perry Educ. Ass'n v. Perry Local Educators' Ass'n*, 460 U.S. 37, 45 (1983). Filming in public spaces is itself First Amendment-protected activity in this Circuit. *Askins v. U.S. Dep't of Homeland Security*, 899 F.3d 1035 (9th Cir. 2018); *Fordyce v. City of Seattle*, 55 F.3d 436 (9th Cir. 1995).

Even if the SR-89A sidewalk were on technically private land—which, under the City's own lease, it is not—it would remain a public forum because it is a thoroughfare sidewalk along a state highway, seamlessly connected to public sidewalks at either end and integral to pedestrian movement in the Uptown commercial corridor. *Venetian Casino Resort, L.L.C. v. Local Joint*

Exec. Bd. of Las Vegas, 257 F.3d 937, 947 (9th Cir. 2001); *see also Marsh v. Alabama*, 326 U.S. 501, 506–09 (1946).

B. Fourth Amendment — Unlawful Detention.

Both clients were subject to a *Terr*y stop. Officer Willadsen confirmed both were not free to leave. A *Terry* stop requires reasonable, articulable suspicion of criminal activity. *Terry v. Ohio*, 392 U.S. 1, 21–22 (1968). Standing on a public sidewalk and filming storefronts is not criminal activity. The articulated basis for the stop—a private party's legal conclusion that his maintenance lease was exclusive and extended over the sidewalk—was legally insufficient and factually false.

C. Arizona Constitution.

Article 2, Section 6 of the Arizona Constitution provides independent state-law protection for free expression. The state-law claim is preserved and may be asserted in any complaint.

IV.
MUNICIPAL LIABILITY UNDER *MONELL*

Our clients intend to proceed against the City of Sedona alone, on a *Monell* theory. Qualified immunity does not protect the City. *Owen v. City of Independence*, 445 U.S. 622 (1980). Liability attaches under any of three independent theories. We address them in order of evidentiary strength on the existing record.

A. *Pembaur*—Chief Foley's Authorization.

Under *Pembaur v. City of Cincinnati*, 475 U.S. 469, 480–83 (1986), a single deliberate decision by an official with final policymaking authority over the action ordered constitutes municipal policy. This case presents *Pembaur* in its archetypal form. The private complainant called the Chief of Police directly. The Chief took that call. The Chief was then handed off to the responding

officer, who conducted a 25- to 27-second conversation with her on the complainant's phone. Within seconds of completing that conversation, the responding officer announced that our clients "are going to be officially trespassed." He had not said any such thing before the call. The temporal proximity, the directional shift in his posture from inquiry to certainty, and the affirmative verb tense ("are going to be" rather than "may be") together establish that the chief call was not informational—it was authorizational.

Sedona City Code § 2.50.010(B)(4) expressly authorizes the Chief of Police to "authorize any peace officer of the city to stop and detain a person as is reasonably necessary to investigate an actual or suspected violation of any provision of this code." As to that category of action, the Chief is the City's final decisionmaker; the City Manager does not review individual investigative-detention authorizations in the ordinary course. *Pembaur* itself contemplates exactly this delegation pattern. 475 U.S. at 482–83 & n.12. To the extent the City argues the Chief's authority is not "final" because she operates under the City Manager (SCC 2.50.010(A), (B)(3)), the response is that finality under *Pembaur* is measured at the level of the action taken, not by reference to general organizational supervision. The Chief's detention-authorization decisions are not subject to City Manager review in any meaningful sense, and that is the operative question.

B. *Praprotnik* / Custom—Deputy City Manager Dickey.

Officer Willadsen attributed the legal theory underlying the trespass warning—the representation that the sidewalk is privately owned—to Deputy City Manager J. Andy Dickey. That attribution, made on body camera in the course of the enforcement action, is the City's own admission of where the policing theory came from. Under *City of St. Louis v. Praprotnik*, 485 U.S. 112,

127 (1988), an official is a final policymaker if his decisions in the relevant area are not, in the ordinary course, meaningfully reviewed.

The Deputy City Manager's representations about the legal character of City property are not, as a practical matter, meaningfully reviewed within the City's administrative structure. They are the City's representations. That a line patrol officer in the field credited Mr. Dickey's representation as authority for an enforcement action establishes both that the representation was made and that it carried the weight of municipal policy. To the extent Officer Willadsen's statement reflects standing departmental understanding rather than a single Dickey communication, the theory becomes one of municipal custom under *Monell v. Dep't of Social Services*, 436 U.S. 658, 690–91 (1978)—an unwritten but operative practice by which SPD officers treated SR-89A sidewalk filming as trespass, on the strength of a senior city executive's representation, despite the City's own lease saying the opposite. Either way, municipal policy attaches.

C. Ratification by the City Council and the City Manager.

The actual final policymakers under the Sedona City Code are the City Council, which exercises legislative authority, and the City Manager (Anette Spickard, since April 2024), who is the City's chief administrative officer under SCC 2.05.010(E). This letter places both bodies on notice. The video is publicly available. The City's lease is in the City's own files. The factual record is closed. Under *Praprotnik*, a final policymaker's failure to repudiate clearly unconstitutional subordinate action constitutes ratification, and ratification is itself municipal policy. 485 U.S. at 127. Whatever the City decides to do with respect to Officer Willadsen, Sergeant Perron, Chief Foley, and Deputy City Manager Dickey, the actual policymakers' response—or lack of response—to this letter will independently establish the City's policy under § 1983.

V.
RELIEF DEMANDED

Our clients seek the following pre-litigation relief, as a package:

Monetary compensation for Jason in the amount of $25,000.00, and for Ben in the amount of $25,000.00.

Rescission of the trespass warning as to both clients, confirmed in writing, purged from all Sedona Police Department and City records, with written confirmation that both clients are free to return to the area without risk of arrest or detention.

Written apology and acknowledgment by the City that the pedestrian sidewalk along the south side of State Route 89A adjacent to Sinagua Plaza is City of Sedona public right-of-way, that it is a traditional public forum, and that members of the public have the right to be present on it for lawful expressive activity, including photography and videography.

Mandatory, verified, third-party First Amendment training for all Sedona Police Department personnel, covering: (a) the public-forum doctrine as applied to sidewalks and other traditional public fora; (b) the First Amendment right to record public spaces, public officials, and private buildings visible from public fora; and (c) the constitutional limits on investigative detentions where the articulated basis is a private party's assertion of property rights without independent legal verification.

Written policy commitment that the Sedona Police Department will not enforce private parties' exclusion claims on City public right-of-way without independent legal verification by the City Attorney that the asserted property interest is valid and that any exclusion would be constitutionally permissible.

VI.
DOCUMENT PRESERVATION NOTICE

The City and its officers, employees, and agents are placed on formal notice to preserve, in native electronic format where applicable, all documents, communications, and records relating to the subject matter of this letter. This obligation includes, without limitation:

(a) All body-worn camera and dashboard camera video and audio for the entire April 8, 2026 encounter, in original unedited format, including the full duration of Officer Willadsen's telephonic conversation with Chief Foley conducted on Mr. Alexander's phone. The City is directed to preserve any and all chain-of-custody logs reflecting access to, copying of, excerpting from, or modification of these files. Any production of edited, clipped, or excerpted footage, in lieu of the originals, will be treated as evidence of spoliation in itself.

(b) All dispatch, CAD, and SPD substation records relating to the April 8, 2026 call and response, including all call logs, contact logs, and notes.

(c) All phone, text, voicemail, and email records for Sergeant Jesus Perron (#1019), Officer Steven Willadsen (#886), Officer John Klafin (#1122), Chief Stephanie Foley, Deputy City Manager J. Andy Dickey, and any officer or employee located at or assigned to the SPD substation at Sinagua Plaza, for April 8, 2026 and the seven-day periods immediately before and after.

(d) All communications concerning SP3, Sinagua Plaza 3, LLC, any affiliated or successor entity (including but not limited to Canyon Portal Properties), Mr. Alexander, or any tenant or representative

of Sinagua Plaza, regarding the legal character, ownership, exclusionary use, or policing of the SR-89A sidewalk, from January 1, 2024 to present.

(e) The Right of Way Lease, all drafts and negotiation correspondence, and the November 20, 2024 amendment, with all associated drafts and correspondence.

(f) All post-incident internal communications, legal-review materials, risk-management communications, and insurer communications regarding this matter, including any communications with the City Manager's office, the City Attorney's office, and the City Council.

Automatic-deletion protocols on email, text, voicemail, and messaging platforms must be suspended as to all of the above. Destruction of relevant records will be raised in litigation as spoliation and offered in support of adverse-inference instructions and sanctions.

VII.
CONCLUSION

The City's own executed lease—signed by Mayor Moriarty—identifies the sidewalk at issue as "City Property." Its officers, after the responding officer spoke directly with the Chief of Police on the private complainant's cell phone, issued a formal government trespass warning from that property, on the strength of a representation the responding officer attributed to the Deputy City Manager. Two journalists were detained, identified, warned, and ordered into a state highway roadway to exit. The constitutional law has been settled in this Circuit for decades.

We are prepared to meet and confer. Please direct all communications to the undersigned. Thank you for your professional cooperation and courtesy.

Brandon J. Grable