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UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

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12 DAVID MATSUMOTO, an individual,

Case No.

13 Plaintiff,

**COMPLAINT FOR
 DECLARATORY RELIEF**

14 vs.

15 LOS ANGELES COUNTY BOARD
 OF SUPERVISORS; and DOE 1
 16 through DOE 10, inclusive,

17 Defendants.

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1 Plaintiff David Matsumoto, as and for his complaint against defendants Los
2 Angeles County Board of Supervisors and Does 1 through 10 (“Defendants”),
3 alleges as follows:

4 **JURISDICTION AND VENUE**

5 1. This Court has original jurisdiction of this action under 28 U.S.C.
6 Section 1331 as this action arises under the First and Fourteenth Amendments to the
7 United States Constitution and under federal statutory law, specifically 42 U.S.C.
8 Section 1983.

9 2. This action also contains state law claims arising under the Constitution
10 and laws of the State of California. These claims are so related to the other claims
11 over which the Court has original jurisdiction that they form part of the same case or
12 controversy under Article III of the United States Constitution. Accordingly, this
13 Court has supplemental jurisdiction over the state law claims under 28 U.S.C.
14 Section 1367.

15 3. Venue is proper in this district pursuant to 28 U.S.C. Section 1391(b)
16 because Defendants reside in this judicial district.

17 4. This Court has jurisdiction to grant the declaratory relief requested
18 pursuant to 28 U.S.C. Section 2201 and Federal Rules of Civil Procedure, Rule 57.

19 **PARTIES**

20 5. Plaintiff David Matsumoto, a resident of the County of Los Angeles,
21 brings this action because he wishes and intends to play poker for modest monetary
22 stakes, within the City of Los Angeles and unincorporated areas of the County of
23 Los Angeles, and to know whether doing so is lawful or not.

24 6. Defendant Los Angeles County Board of Supervisors (“Board of
25 Supervisors”) was and is the Legislative body created by the Los Angeles County
26 Charter, empowered by that Charter to enact ordinances and resolutions relating to
27 the governance of the County of Los Angeles.

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1 **FACTUAL ALLEGATIONS**

2 7. Plaintiff desires to play poker for small monetary stakes not to exceed a
3 possible “win” or “loss” of twenty-five dollars (\$25.00) at home games taking place
4 within the city of Los Angeles and unincorporated areas of the County of Los
5 Angeles.

6 8. Los Angeles County, Cal., Code of Ordinances 11114 § 1 (1975) states:

7 “A person shall not deal, play, carry on, or conduct:

8 “A. Any game where players bet or wager money, checks,
9 credits or other things of value against each other; or

10 “B. Any game of chance for money, checks, credits or other
11 things of value.”

12 9. Los Angeles County, Cal., Code of Ordinances 11114 § 2 (1975) states:

13 “A person shall not bet or wager at or on any game.”

14 10. Plaintiff also desires to inhabit homes in which poker is played within
15 the City of Los Angeles and unincorporated areas of the County of Los Angeles.

16 11. Los Angeles County, Cal., Code of Ordinances 9555 § 2 (1968) states:

17 “A person shall not knowingly permit any game prohibited by this chapter to be
18 played, conducted or dealt in any house or other premises owned by, rented by, or in
19 the lawful possession of such person.”

20 12. Los Angeles County, Cal., Code of Ordinances 9555 § 2 (1968) further
21 states: “A person shall not resort to, attend, visit or be in any house, room or other
22 place in the county of Los Angeles where there is any gambling being conducted,
23 played or carried on.”

24 13. The aforementioned Los Angeles County Ordinances shall hereinafter
25 be referred to collectively as the “Gambling Ordinances.”

26 **FIRST CAUSE OF ACTION**

27 **(First Amendment – 42 U.S.C. § 1983 – Violation of Freedom of Association)**

28 14. Plaintiff realleges and incorporates by reference the allegations

1 contained herein.

2 15. The First Amendment protects not only speech and the written word,
3 but also conduct intended to communicate, including the rights of individuals to
4 associate with whom they please and to assemble with others for social purposes.

5 16. The Gambling Ordinances purport to prohibit Plaintiff from (a)
6 wagering on any game in a home, and from (b) inhabiting a home in which such
7 games occur.

8 17. This prohibition, were it enforced, would violate Plaintiff's freedom to
9 associate in the privacy of his own home, and the homes of others with whom
10 Plaintiff seeks to associate.

11 **SECOND CAUSE OF ACTION**

12 **(Fourteenth Amendment – 42 U.S.C. § 1983 – Invasion of Right to Privacy)**

13 18. Plaintiff realleges and incorporates by reference the allegations
14 contained herein.

15 19. The Gambling Ordinances purport to prohibit small-scale communal
16 gatherings in the privacy of one's own home during which friends and family wager
17 on games. They further make it unlawful to even be *present* in a home whether or
18 not a person has knowledge that gambling is occurring on the premises.

19 20. The ordinances violate Plaintiff's right to privacy in the household
20 inasmuch as they are not rationally related to any legitimate government purpose.

21 21. The modest stakes poker games involve minimal bet amounts for which
22 there is, by definition, no possibility that Plaintiff will be subject to insurmountable
23 debt. Nor are the Gambling Ordinances rationally related to preventing organized
24 gambling operations since they prohibit gambling regardless of whether a party
25 receives a rake or any percentage compensation.

26 22. As a result, Plaintiff has been deprived of his right to privacy under the
27 Fourteenth Amendment.

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THIRD CAUSE OF ACTION

(Fourteenth Amendment – 42 U.S.C. § 1983 – Improper Morals Legislation)

23. Plaintiff realleges and incorporates by reference the allegations contained herein.

24. The Due Process Clause of the Fourteenth Amendment guarantees the fundamental rights of citizens will not be encroached by the government. These rights include, among others, the freedom of contract, the right to privacy and the freedom to associate in one’s own home.

25. The Gambling Ordinances are not rationally related to a legitimate government purpose inasmuch as a law may not be grounded merely in the regulation of public morals, which is precisely the situation presented by the Gambling Ordinances written nearly a half century ago, and animated plainly by a desire to prohibit activity based solely on purported moral disapproval.

26. The Gambling Ordinances are not rationally related to any government purpose, and therefore fail rational-based scrutiny under the Due Process clause of the Fourteenth Amendment.

FOURTH CAUSE OF ACTION

(First and 14th Amendment Due Process – 42 U.S.C. § 1983 – Vagueness)

27. Plaintiff realleges and incorporates by reference the allegations contained herein.

28. The Gambling Ordinances are void for vagueness because they do not provide a person of ordinary intelligence a reasonable opportunity to know what conduct is prohibited as unlawful. As a result, the Gambling Ordinances encourage arbitrary and erratic enforcement.

29. Los Angeles County, Cal., Code of Ordinances 11114 § 1 (1975) prohibits persons from dealing, playing, carrying on, or conducting any “game” or “game of chance.” Los Angeles County, Cal., Code of Ordinances 11114 § 2 (1975) prohibits persons from betting or wagering on any “game.” Los Angeles County,

1 Cal., Code of Ordinances 9555 § 2 (1968) prohibits persons from permitting any
2 prohibited “game” in a house or premises owned by such person.

3 30. Plaintiff is left to determine whether small monetary stakes poker, an
4 activity of skill, is a “game of chance” or even a “game” that the Legislature sought
5 to include under the broad banner “game.” Inasmuch as the Gambling Ordinances
6 could be interpreted to include all activities irrespective of their purpose and nature
7 – regardless whether they are based on “chance” and whether the game must be
8 devoid of any element of skill to be a “game of chance” – they fail to provide people
9 of ordinary intelligence a reasonable opportunity to know what conduct is
10 prohibited, as well as have the potential for arbitrary and discriminatory
11 enforcement, thereby chilling the exercise of constitutional rights.

12 **FIFTH CAUSE OF ACTION**

13 **(First and 14th Amendment Due Process – 42 U.S.C. § 1983 – Overbreadth)**

14 31. Plaintiff realleges and incorporates by reference the allegations
15 contained herein.

16 32. The Gambling Ordinances are overbroad because the potential
17 application of the ordinances reaches a significant amount of protected activity and
18 is susceptible of application to protected expression.

19 33. Los Angeles County, Cal., Code of Ordinances 11114 §§ 1-2 (1975)
20 prohibit persons from wagering on a game, regardless of the game’s location in a
21 person’s private residence. Los Angeles County, Cal., Code of Ordinances 9555 § 2
22 (1968) expressly prohibits a person from *permitting* a game to be played in a house
23 he possesses even if he receives no compensation and is not present in the home.
24 Los Angeles County, Cal., Code of Ordinances 9555 § 2 (1968) further prohibits a
25 person from even *being in a house* where gambling is conducted; pursuant to this
26 section, a person could be present in a house he does not own, uninformed that
27 gambling is being conducted in an entirely separate room, and still be subject to six
28 months in jail.

1 34. Through their overbreadth, the Gambling Ordinances therefore chill
2 speech and deprive Plaintiff of his freedom to associate in the privacy of the home.

3 **SIXTH CAUSE OF ACTION**

4 **(Article I, Section 1 of the California Constitution – Right to Privacy)**

5 35. Plaintiff realleges and incorporates by reference the allegations
6 contained herein.

7 36. Plaintiff has an inalienable right to privacy guaranteed by the
8 Constitution of the State of California, Article I, Section 1. This privacy interest
9 includes activity conducted in the privacy of his own home.

10 37. The Gambling Ordinances prohibit small-scale communal gatherings in
11 the privacy of one's own home during which time friends and family wager on
12 games. The Gambling Ordinances further make it unlawful to be *present* in a home
13 whether or not the person has knowledge gambling is occurring on the premises.

14 38. The Gambling Ordinances cause unwarranted invasion of Plaintiff's
15 privacy interests by prohibiting Plaintiff from gambling in the privacy of a home or
16 even being present at a home in which gambling occurs.

17 39. As a result, Plaintiff has been deprived of his right to privacy under
18 Article I, Section 1 of the California Constitution.

19 **REQUEST FOR RELIEF**

20 WHEREFORE, Plaintiff seeks judgment as follows:

21 1. For a declaration that the Gambling Ordinances are unconstitutional on
22 their face because they violate Plaintiff's rights to freedom of association as
23 guaranteed by the United States Constitution.

24 2. For a declaration that the Gambling Ordinances are unconstitutional on
25 their face because they violate Plaintiff's rights to privacy guaranteed by the United
26 States Constitution.

27 3. For a declaration that the Gambling Ordinances are unconstitutional on
28 their face because they constitute morals legislation, and are therefore

1 unconstitutional under the Due Process clause of the Fourteenth Amendment.

2 4. For a declaration that Los Angeles County, Cal., Code of Ordinances
3 11114 §§ 1-2 (1975) and Los Angeles County, Cal., Code of Ordinances 9555 § 2
4 (1968) are unconstitutional on their face because they are void for vagueness.

5 5. For a declaration that the Gambling Ordinances are unconstitutional on
6 their face because they are overbroad.

7 6. For a declaration that the Gambling Ordinances violate Plaintiff's right
8 to privacy guaranteed by the California Constitution.

9 7. For reasonable attorney's fees;

10 8. For such other relief that the Court deems just and proper.

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12 DATED: May 14, 2015

BROWNE GEORGE ROSS LLP
Eric M. George
Benjamin D. Scheibe
Christopher M. Kolkey

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16 By s/ Christopher M. Kolkey
17 Christopher M. Kolkey
18 Attorneys for Plaintiff David Matsumoto
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From: Christopher M. Kolkey
Sent: Thursday, May 14, 2015 11:40 AM
To: Claudia Bonilla
Subject: FW: Activity in Case 2:15-cv-03624 Matsumoto v. LOS ANGELES COUNTY BOARD OF SUPERVISORS Complaint (Attorney Civil Case Opening)

From: cacd_ecfmail@cacd.uscourts.gov [mailto:cacd_ecfmail@cacd.uscourts.gov]
Sent: Thursday, May 14, 2015 11:31 AM
To: ecfnef@cacd.uscourts.gov
Subject: Activity in Case 2:15-cv-03624 Matsumoto v. LOS ANGELES COUNTY BOARD OF SUPERVISORS Complaint (Attorney Civil Case Opening)

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UNITED STATES DISTRICT COURT for the CENTRAL DISTRICT OF CALIFORNIA

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Case Number: [2:15-cv-03624](#)
Filer: David Matsumoto
Document Number: [1](#)

Docket Text:

COMPLAINT Receipt No: 0973-15721448 - Fee: \$400, filed by Plaintiff David Matsumoto. (Attorney Christopher Kolkey added to party David Matsumoto(pty:pla))(Kolkey, Christopher)

2:15-cv-03624 Notice has been electronically mailed to:

Christopher Kolkey ckolkey@bgrfirm.com

2:15-cv-03624 Notice has been delivered by First Class U. S. Mail or by other means BY THE FILER to :

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] [84ba4d766ff95225880221f0620e1011342593708502f3a85d1d5b85b52ef2eab11
c91a96637448971e285ab77ef659f350c2b4d9d7b64972e87f7557ca7252b]]