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21 FOR THE CENTRAL DISTRICT OF CALIFORNIA
22 WESTERN DIVISION

23 NOAH POLLAK, on behalf of all others
similarly situated, and STANDWITHUS
24 CENTER FOR LEGAL JUSTICE,

25 Plaintiffs,

26 v.

27 CODEPINK WOMEN FOR PEACE, a
California entity, et al.,

28 Defendants.

Case No. 2:24-cv-06253-SVW-PVC

**STATEMENT OF INTEREST OF
UNITED STATES OF AMERICA**

Hearing Date: March 3, 2025
Time: 1:30 p.m.
Courtroom: First Street Courthouse
Courtroom 10A

Honorable Stephen V. Wilson
United States District Judge

1 In 1994, Congress passed the Freedom of Access to Clinic Entrances Act, 18
2 U.S.C. § 248, commonly called the FACE Act.¹ As relevant here, the FACE Act
3 prohibits violent, threatening, damaging, and physically obstructive conduct intended to
4 injure, intimidate, or interfere with the exercise of the First Amendment right of religious
5 freedom at a place of religious worship. 18 U.S.C. § 248(a)(2). The United States
6 submits this Statement of Interest to make clear that the FACE Act prohibits the kind of
7 physical obstructions of places of religious worship alleged in this case, where the
8 physical obstructions are reasonably foreseeable, even if temporary or partial.

9 **I. INTEREST OF THE UNITED STATES**

10 The United States has an interest in enforcing federal laws that protect access to
11 places of religious worship. That includes protecting against physical obstruction of
12 places of religious worship, such as synagogues. As set forth in the White House's
13 Executive Order on Additional Measures to Combat Anti-Semitism, it is the policy of
14 the United States to combat antisemitism vigorously, using all available and appropriate
15 legal tools to prosecute, remove, or otherwise hold to account the perpetrators of
16 unlawful antisemitic harassment and violence.²

17 Though the FACE Act provides for private causes of action, the United States
18 also is charged with enforcing the FACE Act, which authorizes the Attorney General to
19 bring criminal charges for violations, or civil suits when there is reasonable cause to
20 believe that a person or group may suffer injury as a result of violations of the Act. 18
21 U.S.C. §§ 248(b), (c)(2). The United States has authority to file this Statement of
22 Interest under 28 U.S.C. § 517, which permits the Attorney General to attend to the
23 interests of the United States in any case pending in federal court.

24
25 ¹ Freedom of Access to Clinic Entrances Act of 1993, S. 636, 103d Cong. (as
26 introduced in Senate, March 23, 1993).

27 ² Exec. Order No. 14188, Additional Measures to Combat Anti-Semitism, 90
28 C.F.R. 8847, Jan. 29, 2025, *available at*
<https://www.federalregister.gov/documents/2025/02/03/2025-02230/additional-measures-to-combat-anti-semitism>.

1 **II. BACKGROUND**

2 The First Amended Complaint (“Complaint”) alleges that on June 23, 2024,
3 several of the Defendants, CodePink Women for Peace, CodePink Action Fund,
4 Palestinian Youth Movement, Courtney Lenna Schirf, and Remo Ibrahim (collectively,
5 Defendants) used antisemitic and bigoted incitement, intimidation, and violence to
6 physically obstruct access to and from the Adas Torah Synagogue, thus rendering
7 passage to or from the Adas Torah Synagogue unreasonably difficult or hazardous, in
8 violation of the FACE Act.³ ECF No. 71, at ¶¶ 157, 386-405. Specifically, the
9 Complaint alleges that Defendants “incited scores of individuals . . . to terrorize Jewish
10 congregants outside their Synagogue.” ECF No. 71, at ¶ 5. According to the Complaint,
11 “rioters blocked access for some congregants, trapped others inside, and attempted to
12 intimidate all of them,” while “some in the mob . . . bear sprayed and attacked Jewish
13 congregants and others present.” ECF No. 71, at ¶¶ 5-6. The Complaint alleges that the
14 “violence forcibly halted at least one prayer service and multiple religious study
15 sessions.” ECF No. 71, at ¶ 11. Defendants moved to dismiss the Complaint. ECF Nos.
16 98, 117.

17 This Statement of Interest addresses the narrow legal issue of what constitutes
18 “physical obstruction” under the FACE Act. Specifically, the allegations of the
19 Complaint, taken as true, are sufficient to constitute “physical obstruction.”

20 **III. DISCUSSION**

21 The FACE Act seeks to preserve access to places of religious worship.
22 Specifically, it provides that whoever: (1) by force, threat of force, or physical
23 obstruction; (2) intentionally injures, intimidates, or interferes with, or attempts to injure,
24 intimidate, or interfere with; (3) any person lawfully exercising or seeking to exercise the
25 First Amendment right of religious freedom at a place of religious worship, violates the
26 FACE Act and may be subject to civil and criminal penalties. 18 U.S.C. § 248(a)(2). A

27
28 ³ Plaintiffs also allege that Defendants violated 42 U.S.C. § 1985(3). ECF No. 71,
at ¶¶ 406-32.

defendant engages in “physical obstruction” if he: (1) renders impassable ingress to or egress from a protected location; or (2) renders passage to or from a protected location unreasonably difficult or hazardous. *Id.* § 248(e)(4).⁴

Here, the Complaint states that Plaintiff Noah Pollak “tried to enter the Synagogue through the front entrance, but he was blocked by the angry mob.” ECF No.71, at ¶ 12. It further alleges that “[t]he rioters stood shoulder-to-shoulder, screeching antisemitic slurs and brandishing weapons.” ECF No.71, at ¶ 13. It further alleges that police officers standing between Pollak and the rioters “told him not to come any closer and instructed him to leave.” ECF No.71, at ¶ 313. These allegations, taken as true, are sufficient to constitute “physical obstruction.”⁵ *See, e.g., United States v. Mahoney*, 247 F.3d 279, 284 (D.C. Cir. 2001).

It is of no consequence that “[a]fter fighting through the chaos,” Pollak was eventually able to enter the Synagogue “through a side entrance,” ECF No. 71, at ¶ 14, as courts have consistently recognized that violations occur even where “physical obstructions” are temporary or partial, *see, e.g., Mahoney*, 247 F.3d at 284; *see also New Beginnings Ministries v. George*, No. 2:15-CV-2781, 2018 WL 11378829, at *16 (S.D. Ohio Sept. 28, 2018) (holding that parking in a manner to block a vehicle, standing behind a vehicle, and walking slowly in front of a vehicle could constitute physical obstruction).

The Complaint also alleges that Defendants decided to “organize rioters in front of the Synagogue,” rioters were “armed with various weapons, including bear spray and

⁴ The definition of “physical obstruction” is the same under the FACE Act, regardless of the protected location at issue. See 18 U.S.C. § 248(e)(4). When analyzing the definition of physical obstruction in cases involving places of religious worship, courts consider cases involving physical obstruction of other protected locations. See *New Beginnings Ministries v. George*, No. 2:15-CV-2781, 2018 WL 11378829, at *4 (S.D. Ohio Sept. 28, 2018).

⁵ At the motion to dismiss stage, all well-pleaded facts in the Complaint must be accepted as true and construed in the light most favorable to the non-moving party. *Intri-Plex Techs., Inc. v. Crest Grp., Inc.*, 499 F.3d 1048, 1052 (9th Cir. 2007).

1 blunt objects,” individuals attempting to enter the Synagogue were “bear sprayed” and
2 “attacked,” and police responded to turn congregants away from the entrance. ECF No.
3 71, at ¶¶ 209, 231, 247-48, 312-313. It is reasonably foreseeable that those alleged
4 actions would result in physical obstruction. Individuals and organizations engage in
5 “physical obstruction” when they take acts that have the “foreseeable and intended
6 consequence” of rendering passage unreasonably difficult. *Mahoney*, 247 F.3d at 284.
7 Physical obstruction is, therefore, not limited to acts of “bodily obstruction,” and can be
8 satisfied by planning and organizing a protest that results in physical obstruction, so long
9 as the physical obstruction is a foreseeable and intended consequence. *Id.* (finding
10 physical obstruction within the meaning of the FACE Act when a defendant contributed
11 to a demonstration within a few feet of the clinic entrances, thereby compelling patients
12 to enter the clinic through the “crowded and chaotic” rear entrance).

13 **VII. CONCLUSION**

14 Accepting well-pleaded facts in this Complaint as true and construed in the light
15 most favorable to the Plaintiffs, the Plaintiffs have alleged a physical obstruction within
16 the meaning of the FACE Act.

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1 Dated: February 28, 2025

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