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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

EL COMITE DE APOYO A LOS  
TRABAJADORES AGRICOLAS,

Plaintiff,

CASE NO.

vs.

Civil Action

CITY OF BRIDGETON,

COMPLAINT

Defendant.

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Plaintiff, El Comite de Apoyo a los Trabajadores  
Agricolas (CATA), by way of complaint in this matter, hereby  
avers:

I. PARTIES

1. CATA is a non-profit membership corporation, organized under the laws of the state of New Jersey, with offices at Four South Delsea Drive in Glassboro, New Jersey. CATA advocates for, supports, and provides public education about, immigrant workers, including those who are undocumented immigrants.

2. The City of Bridgeton is a municipal corporation, organized under the laws of the State of New Jersey, with its offices at 181 East Commerce Street, Bridgeton, New Jersey. Bridgeton is organized under the Faulkner Act, NJSA 40:69A-1 et seq., in a mayor-council form of government.

II. JURISDICTION

3. This is a suit for federal civil rights violations, brought pursuant to 42 U.S.C. §1983, together with pendent state constitutional claims.

4. The Court has jurisdiction over plaintiff's federal claims pursuant to 28 U.S.C. §1331, as an action arising under the Constitution of the United States; and 28 U.S.C. §1343(a)(3), to redress the deprivation, under color of state law, of rights secured by the Constitution of the United States; and over plaintiff's pendent state law claims pursuant to 28 U.S.C. §1367.

5. The Court has authority to grant declaratory and injunctive relief pursuant to the Declaratory Judgment Act, 28 U.S.C. §2001 et seq.

6. The Court has the authority to award costs and attorney's fees pursuant to 42 U.S.C. §1988.

7. Venue is properly laid pursuant to 28 U.S.C. §1391(b) in the District of New Jersey, because all parties reside or are located in this district, and the events giving rise to the claim occurred in this district.

### III. SUBSTANTIVE ALLEGATIONS

8. As a community and advocacy organization representing various immigrant workers, plaintiff has in the past engaged, and will in the future engage, in numerous expressive activities within the City of Bridgeton, including demonstrations, parades, marches, leafleting, pamphletting and other similar expressive activities.

9. Last year, on May 1, 2006, CATA held a march in the City of Bridgeton. The purpose of that march was to bring to the public's attention issues affecting farmworkers, to rally public support for their cause, and to demonstrate our political commitment to that cause.

10. The march was held with the concurrence and approval of the City of Bridgeton; CATA notified the city

beforehand of its intentions. The march was peaceful and highly successful; more than 1,000 marchers walked a prescribed route along the public sidewalks on several city streets.

11. The City of Bridgeton did not charge CATA any fee, for "police overtime" or otherwise, in connection with the 2006 march.

12. This year CATA decided to repeat the May 1 march. On March 22, 2007, CATA wrote the Bridgeton City Council to inform it of its plans, and to ask for the city's concurrence, as had occurred in 2006. In that letter CATA set forth the time and date of the march, and the proposed route, which had been presented to, and approved by, the Chief of Police. CATA indicated it expected between 500 and 600 participants this year. See attached Exhibit A.

13. CATA proposed that its march occur on the public streets and/or sidewalks and other public areas of the city, all of which are public forums.

14. CATA did not receive any response from the city to its letter. Accordingly, on April 10, 2007 a CATA representative visited the office of Arch Liston, the city's business administrator, to determine whether the city was going to agree to the march. Mr. Liston indicated that as a

condition of the city's concurrence, the city would require a \$1,800 fee for "police overtime" costs and a \$200 cleanup escrow. This was the first time anyone at CATA had ever heard of a fee for the march.

15. CATA asked Mr. Liston to put the city's position in writing. He did so by letter of April 10, 2007. In that letter Mr. Liston refers to a "park permit" for the march. See attached Exhibit B.

16. Despite its belief that the city's attempt to impose a fee for expressive activity was both illegal and unconstitutional, to resolve the matter CATA attempted in good faith to negotiate a compromise with the city. For example, it offered to shorten or reduce the route of its march as a way of eliminating or reducing the "police overtime" costs the city said the march would engender.

17. Ultimately, although CATA and the city did not reach agreement about the legality or propriety of the city's attempt to charge a fee for police costs, the city agreed to permit it to hold the march without requiring prepayment of that fee. Instead, the city said it would bill CATA for those costs after the march, with both CATA and the city reserving any claims they had about the legality or illegality of the fee.

18. On May 1, 2007, CATA held its march. Approximately 200 to 300 persons participated. The march was peaceful and orderly, and culminated in a rally in the city-owned field in the rear of 168 Commerce Street. The event lasted approximately 3 hours and 45 minutes, from 11 a.m. until 2:45 p.m.

19. On May 25, 2007, CATA received a letter from the city purporting to itemize the "additional" police expenses necessitated by the event. The city calculated those costs at \$1,587.43 and requested that CATA reimburse the city in that amount. See attached Exhibit C.

20. On June 7, 2007, CATA responded to the city's request. It reasserted its position that the fees were unconstitutional and illegal and declined to pay them. It asked the city to withdraw its reimbursement request and to affirmatively state that it would not impose such fees in the future. See attached Exhibit D.

21. By letter dated June 12, 2007, the city replied that it would not withdraw its reimbursement request and reiterated its demand for payment. The city also indicated that it intended to continue seeking reimbursement for such events in the future. See attached Exhibit E.

22. In the future, CATA intends to hold expressive

events in the city similar to the May 1 march and rally it has held during the past two years; and it intends to engage in other expressive activity on the city's streets, sidewalks, parks and other public spaces to advance its purpose of advocating for immigrant workers.

23. CATA is a non-profit organization with limited funds. What funds it has are grant funds earmarked for specific projects and purposes. It simply cannot afford a fee of \$1,500 or more each time it engages in constitutionally protected expressive activity in the city's public spaces. Accordingly, if the city insists on the payment of this fee, either as a predicate to the activity or as an after-the-fact assessed cost, CATA will not be able to engage in that activity.

25. Bridgeton does not have an ordinance that deals directly or explicitly with parades or marches on the city's streets and sidewalks, or that authorizes the city to impose fees in connection with those expressive activities. Its purported authority to impose a fee on plaintiff appears to be based on City Ordinance 247-3(b).

26. In its entirety, Ord. 247-3(b) provides as follows: "A fee is hereby established for the issuance of a permit for a special event held in a park or recreation

area. The amount is set forth in Ch. 149, Fees, Art II, Schedule of Fees." See attached Exhibit F.

27. Bridgeton Ordinance 149-25 provides that the "park event fee" assessed under Section 247-3(b) is "\$500, plus any extraordinary expenses." See attached Exhibit G.

28. The marches, rallies and other events CATA has held in the past, and proposes in the future, constitute expressive activity that is fully protected by the First Amendment and by Article 1, Paragraphs 6 and 19 of the New Jersey constitution.

29. The actions of the City of Bridgeton, as set forth above, were taken or developed under color of state law and constitute state action.

30. The actions of the City of Bridgeton as set forth above constitute an official policy, procedure, custom, or practice of the City of Bridgeton.

31. The actions of the City of Bridgeton as set forth above have caused plaintiff immediate and irreparable harm by chilling and denying plaintiff its rights under the First Amendment and the cognate provisions of the state constitution, and by chilling and impeding plaintiff's right to engage in legitimate, peaceful expressive activity.

COUNT I  
(First Amendment Violations)

32. Plaintiff incorporates the allegations of Paragraphs 1 through 31 as if fully set forth.

33. CATA's past and proposed expressive activity constitutes political speech in a public forum and is therefore expressive activity entitled to the highest degree of protection under the First Amendment.

34. The city's actions, as applied to CATA's past and proposed expressive activity, violate CATA's rights under the First Amendment in the following ways:

A. They constitute an impermissible prior restraint on CATA's speech.

B. They constitute a content-based regulation of CATA's speech.

C. They embody the exercise of excessive and unfettered arbitrary discretion, ungoverned by objective standards, by the officers, employees or agents of the city who are charged with reviewing CATA's request to hold its march.

D. They constitute an arbitrary and standardless tax or financial burden on plaintiff's speech, and impose arbitrary reimbursement requirements on CATA's attempt to exercise its expressive rights.

E. They are unconstitutionally vague.

F. They are unconstitutionally overbroad.

G. They discriminate against CATA in that they chill or eviscerate CATA's First Amendment rights on the basis of its financial status, and its inability to pay the fees imposed by the city on expressive activity in public forums.

35. As a proximate result of the city's action, CATA has been deprived of its rights under the First Amendment and has suffered immediate and irreparable harm.

COUNT II  
(State Constitutional Violations)

36. Plaintiff incorporates the averments of Paragraphs 1 through 35 as if fully set forth.

37. The city's actions, as described above, deprive CATA of its rights to free expression under Article I, Paragraphs 6 and 19 of the New Jersey Constitution.

38. As a proximate result of the city's action, CATA has been deprived of its rights under the New Jersey Constitution and has suffered immediate and irreparable harm.

COUNT III  
(Lack of Regulatory Authority)

39. Plaintiff incorporates the averments of Paragraphs

1 through 38 as if fully set forth,

40. Bridgeton is organized under the Faulkner Act, N.J.S.A. 40:69A-1 et seq., in a mayor-council form of government. The city council constitutes the legislative branch of city government and must authorize any actions taken by members of the executive branch.

41. To the extent the city seeks to assess fees against CATA for its past or proposed expressive activity, the city is entirely without authority to do so, as no such fees have ever been authorized by the city council.

42. The fees are therefore invalid and the city cannot assess them against CATA.

43. As a proximate result of the city's actions, CATA has been injured as set forth above.

WHEREFORE, CATA demands judgment in its favor and against defendant as follows:

A. Declaring the fees sought by the city invalid and unconstitutional as applied to CATA's past and proposed expressive activity.

B. Enjoining the city from assessing fees against CATA for its expressive activity.

C. Enjoining the city from interfering in any fashion with CATA's proposed expressive activity, except

insofar as it may establish legitimate, content-neutral  
time, place and manner regulations.

D. For costs, fees and other appropriate relief.

DATED: BARRY, CORRADO, GRASSI & GIBSON, P.C.

By: \_\_\_\_\_  
FRANK L. CORRADO, ESQUIRE

AMERICAN CIVIL LIBERTIES UNION  
OF NJ FOUNDATION

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