



Rodolfo Cortes

June 14, 2022

Long Beach Mayor Robert Garcia
Long Beach City Hall
411 W Ocean Blvd
Long Beach, CA 90802
mayor@longbeach.gov

Via U.S. Mail and Email

Re: Hiding Replies on the @RobertGarcia Twitter account

Dear Mayor Garcia,

I represent Dr. Rodolfo Cortes Barragan. I understand that you (@RobertGarcia) are hiding replies to your tweets because of the views they express. That is unconstitutional under both the U.S. and California Constitutions. I am writing to demand that, within seven days, you unhide all replies on the @RobertGarcia and commit to no longer hiding replies on the account.

Your @RobertGarcia account is a "public forum" within the meaning of the First Amendment to the U.S. Constitution and Article I, Section 2 of the California Constitution. You use the account as an extension of your office. The account handle itself references your position as Mayor and you use the account to detail initiatives, advocate for your policy positions, and share city resources available to your constituents. The account is a digital forum in which you share your thoughts and decisions as Mayor and in which members of the public directly engage with you and with one another about matters of public policy.

Dr. Cortes Barragan is vocal critic of mainstream Democratic policies and politicians. You have hid at least two of his replies to your tweets, reflected by Twitter itself with his tweet designated as "repl[y] hidden by @RobertGarcia." You hid his reply to your tweet "You didn't even help the people in Long Beach, so it seems highly unlikely you will help 'all the people' from D.C. longbeachtruth.org" <https://twitter.com/RobertGarcia/status/1535042964698697728/hidden>. You also hid "You more than made up for 'no corporate PAC money' with tons of CEO money and not to mention the dark money." <https://twitter.com/RobertGarcia/status/1534645287322390528/hidden>.

Two different United States Circuit Courts of Appeal have held that public officials' social media accounts constitute public forums when they are used in the way that you use the @RobertGarcia account, and they have made clear that public officials violate the First Amendment when they suppress speech in these forums based on viewpoint. The U.S. Court of Appeals for the Second Circuit concluded that President Trump violated the First Amendment by blocking users from his Twitter account because "he disagree[d] with their speech." *Knight First Amendment Inst. at Columbia Univ. v. Trump*, 928 F.3d 226, 230 (2d Cir. 2019). In an earlier case, the Fourth Circuit held that the chairperson of a local county board violated the First Amendment by blocking an individual from her Facebook page. *Davison v. Randall*, 912 F.3d 666 (4th Cir. 2019).

There is no reason to believe that hiding comments, as opposed to blocking users, changes the First Amendment analysis. The reply was unquestionably hidden because of its viewpoint. That is viewpoint discrimination, which is impermissible in a public forum unless the action survives strict scrutiny.

Please unhide all the replies to your account within seven days and commit to not hiding replies in the future. The law is clear and it takes only seconds to do.

If you refuse, my client intends to seek judicial assistance to vindicate his First Amendment rights.

Sincerely,

A handwritten signature in black ink, appearing to read 'Matthew Strugar', with a long, sweeping horizontal line extending to the right.

Matthew Strugar