

SIGNATURE

RESOLUTION

Who Knew? Teaching Yoga Is Constitutionally Protected.

Rejoice all ye' practitioners of the ancient modality of yoga! In June, the Ninth Circuit in a unanimous opinion announced that teaching yoga, a philosophy derived from ancient Hindu scriptures and dating back thousands of years, is speech protected by the First Amendment. The Court reasoned that yoga teachers disseminate and communicate information about the ancient spiritual practice, a protected communication.

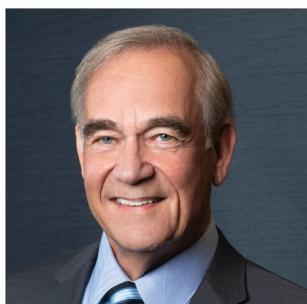
The city of San Diego had enacted an ordinance that prohibits teaching yoga to four or more persons at any of the city's shoreline parks or beaches. Two yoga teachers challenged the ordinance, claiming it was unconstitutional, and sought a preliminary injunction against its enforcement.

With its ruling, the Ninth Circuit reversed a contrary finding of the District Court which had ruled the plaintiffs failed to establish that the activity of teaching a yoga class is protected speech. The differences in the point of view between the District Court and the Ninth Circuit could not be more stark or dramatic.

The District Court reasoned that "to the extent that [the ordinance] goes beyond directing or leading poses to discussing potentially the philosophy of yoga, that is an incidental effect on speech." The District Court found the ordinance is "content-neutral" and that the restrictions imposed by the city were reasonable as to time, place, and manner.

Contrary to the District Court, the Ninth Circuit noted the practice of yoga "teaches students to attain spiritual fulfillment through control of the mind and body. A person who teaches yoga is communicating and disseminating information about this philosophy and practice through speech and expressive movements."

Ninth Circuit summarized the well-known test that courts apply when considering a motion for preliminary injunction: (1) plaintiffs must show they are likely to succeed on the merits; (2) they are likely to suffer irreparable harm in the absence of



Roger W. Clark

(310) 717-2026

rclark@signatureresolution.com

Case Administrator: Jesse Centeno

(310) 810-0008 | jcenteno@signatureresolution.com



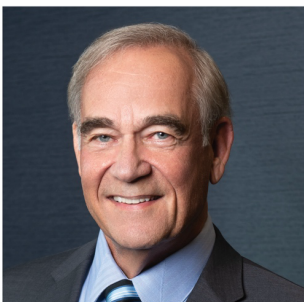
SIGNATURE

RESOLUTION

preliminary relief; (3) the balance of equities tips in plaintiff's favor; and (4) an injunction is in the public interest.

After concluding that teaching yoga is constitutionally protected, the Ninth Circuit applied the strict scrutiny test to its First Amendment analysis. The Ninth Circuit believes: (1) the yoga teachers' challenge to the ordinance is likely to succeed on the merits (It is a relatively light burden to show likelihood of success after establishing protected speech); (2) the ordinance is not content neutral and does not qualify as a valid, time, place, and manner restriction (The ordinance, for example, permits teaching of tai chi and Shakespeare); (3) the ordinance prohibits yoga, yet the city failed to provide an explanation why teaching yoga harms the public (What is it about yoga as contrasted to tai chi or Shakespeare that is a threat to the public?). Accordingly, the ordinance is not narrowly tailored to satisfy the city's interest in protecting the public, nor is the ordinance the least restrictive means available to protect the public. It is underinclusive by not prohibiting teaching of other subjects.

The Ninth Circuit remanded with instructions to enter the preliminary injunction, liberating yogi masters to gather with their shishya on San Diego beaches without fear of arrest or citations. Namaste!



Roger W. Clark

(310) 717-2026

rclark@signatureresolution.com

Case Administrator: Jesse Centeno

(310) 810-0008 | jcenteno@signatureresolution.com

