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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA – SOUTHERN DIVISION

**ORANGE COUNTY CATHOLIC
WORKER**, an unincorporated association;
Lisa Bell, as an individual and a
representative of the class; Melissa Fields as
an individual, a representative of the class
and a taxpayer; Gloria Shoemake, as an
individual and a representative of the class;
Richie Thomas, as an individual and a
representative of the class; Shawn Carroll,
Larry Ford, Cameron Ralston, Kathy
Schuler, all as individuals;

Case No.: 18-cv-00155 DOC KES
FIRST AMENDED COMPLAINT
CLASS ACTION: FRCP 23(b)(2)
42 U.S.C. § 1983: 1st, 4th, 5th, 8th
and 14th Amendments; 42 U.S.C. §
3604 (Fair Housing Act); 42 U.S.C.
§ 12132 *et seq.* (ADA); 29 U.S.C. §
794 (§504 Rehabilitation Act)

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Plaintiffs,
v.
ORANGE COUNTY, the CITY OF
ANAHEIM, the CITY OF COSTA MESA,
the CITY OF ORANGE;
Defendants.

Cal. Const. Article I, §§7,13; Cal.
Civ. Code §52.1; Cal. Gov. Code
§11135; Cal. Gov. Code
§ 12955 et seq. (FEHA);
Cal. Gov. Code § 65583 *et seq.*;
Cal. Civ. Code § 815.6

1 **JURISDICTION AND VENUE**

2 1. This is an action for injunctive and declaratory relief for the class
3 pursuant to 28 U.S.C. § 23(b)(2), and injunctive relief and damages for the
4 individual plaintiffs pursuant to 42 U.S.C. § 1983 for violations of Plaintiffs’ rights
5 under the First, Fourth, Fifth, Eighth, and Fourteenth Amendments to the United
6 States Constitution, as well as the Federal Fair Housing Act and the Rehabilitation
7 Act. Jurisdiction exists pursuant to 28 U.S.C. § 1331 and 1343 based on questions
8 of federal statutory and constitutional law, and under the Declaratory Judgment
9 Act, 28 U.S.C. §§ 2201(a) and 2202. Jurisdiction for Plaintiffs’ supplemental state
10 law claims based on 28 U.S.C. § 1367(a).

11 2. Venue is proper in the Southern Division of the Central District in that
12 the events and conduct complained of herein all occurred in Orange County.

13 **PRELIMINARY STATEMENT**

14 3. This action was filed six months ago. In February, in response to the
15 Court’s directive that the Riverbed encampment would be closed in a humane and
16 safe manner, the County approved initial motel placements of 30 days for more
17 than half of the Riverbed residents, with most people moved abruptly after 27 days
18 to avoid creating a tenancy interest. Other Riverbed persons were placed in
19 recuperative care and sober living facilities. Still others were placed at the
20 County’s only emergency shelter, the Courtyard, and transitional shelter, Bridges.
21 In April, people at the Civic Center encampment were included in this process.
22 This was the first time a health care team came in to provide assessment and
23 placement for all people in those encampments and the first time many of them
24 were considered for a mental health housing program.

25 4. This brief respite provided many people the opportunity to reestablish
26 their lives in a supportive environment. For veterans, it meant the assistance they
27 had earned by their service to the nation. For women, it meant not living with the
28 vulnerability of sexual assault on the streets. For others, it meant the opportunity

1 to get some sleep and a shower, medical and social services, a job, a modicum of
2 stability and, in some instances, reunite with family. In all, hundreds benefitted
3 from the County's efforts. But the placements were short term, with no plan
4 beyond the 30-day motel stay and inadequate supportive services. With no plan, as
5 each type of placement came to an end, many people returned to the streets. Many
6 were worse off than before the Riverbed evictions because they lost the stability
7 and survival items they had used in the encampments and were separated from the
8 community that helped keep them safe.

9 5. In mid-August, the lease with the Baymont, the largest of the
10 County's contracts for placement, ends. Persons housed at the Baymont were all
11 assessed as severely and persistently mentally ill ("SPMI") and qualified for Full
12 Service Partnership (FSP) services. In addition, the two emergency winter shelters
13 at the Santa Ana and Fullerton armories closed last week after an initial three-
14 month extension by the Governor. Hundreds of people are, once again, without a
15 place to sleep at night other than on the streets, in the parks and in other public
16 places, where they are experiencing harassment and arrest by law enforcement.
17 All of this underscores the failure of the County to have an adequate system of care
18 in place that meets the needs of the client population.

19 6. In recent weeks, with the imminent end of the Baymont contract,
20 some people assessed as SPMI and FSP were summarily downgraded by Telecare,
21 the County's contract agent, and transferred to new programs the County
22 contracted with Illumination Foundation ("IF"), even though the IF programs do
23 not adequately support SPMI diagnoses. In turn, IF exited people from its "bridge"
24 housing programs as the County re-purposed that space for a new transitional
25 program. Others were told by Telecare that they need to find a place to live for
26 \$650 a month and that, if they cannot, their only option will be a "room-and-
27 board" facility, with no institutional support and a ban on caretaker partners and
28 emotional support animals, even though the money used to pay for the room is

1 from the Mental Health Services Act (“MHSA”) and application of these policies
2 violates the Fair Housing Act and state and federal law disability laws.

3 7. The County’s actions are all the more incredible because, with all of
4 the capricious downgrading that has occurred in the past several weeks, Orange
5 County now has a population of homeless individuals, almost none of whom are
6 SPMI. That defies credulity in view of earlier County reports on the percentage of
7 homeless persons with serious mental illness and the national number of 20 percent
8 of the general population suffering from some mental illness.

9 8. In addition to the downgrading of those previously assessed as SPMI,
10 people in sober living were involuntarily exited without a discharge plan as the 90-
11 day funding ended. And people in recuperative care exhausted their 90-day stays.
12 For those who still have some time left on their placements and have witnesses this
13 process with their community, they live with constant fear about the lack of
14 options in the County, generally, and when they will be returned to the street. The
15 fear impedes their recovery.

16 **STATEMENT OF FACTS**

17 9. The Baymont was master leased by the County for six months, with
18 the goal of housing individuals assessed as SPMI and qualified for FSP care. The
19 FSP program provides funding for a person, and when appropriate their family, to
20 reduce their risk of homelessness and need for additional benefits by providing
21 wrap around services with housing. Almost 100 people stayed there at any one
22 time. The sole contact with the County at the Baymont is through Telecare.

23 10. The Baymont and the services provided by Telecare fail to meet even
24 minimum standards of care. Only the Baymont, operating out of fear and
25 ignorance, stripped the rooms of all amenities, even sheets and shower curtains at
26 the outset, treating people as if they were in a locked-down facility even though
27 they were guilty of no crime. The phones were removed from all of the rooms,
28 leaving people unable to call for emergency assistance. Once individuals were

1 assessed as SPMI and placed at the Baymont, they did not receive supportive
2 treatment. Except for one day when a nurse practitioner came to the motel, no
3 other medical support was provided. On that day, so many residents sought to see
4 the nurse practitioner that they were told to go back to their rooms and they would
5 be called in turn. Few were called and no medical personnel returned any other
6 day despite the critical need for care and treatment for persons diagnosed as SPMI.

7 11. Telecare asked clients to sign an onerous “contract,” with conditions
8 that violated fundamental constitutional and statutory rights, including an
9 agreement in advance to excuse Telecare from any liability for anything and
10 everything that might occur at the placement. The contract was extracted in
11 exchange for what can only be characterized as inhumane treatment. Initially,
12 people at the Baymont were left without food for weeks. Their General Relief
13 (GR) was abruptly cut-off by the County, leaving most with no financial resources.
14 The termination of GR occurred without any prior notice, on the unsupported
15 assumption that the FSP provider would cover all basic needs. But in this instance,
16 that did not happen. On information and belief, Plaintiffs allege that Telecare’s
17 deficient care was the result of a profit motive, County cost-cutting, and deliberate
18 indifference to Plaintiff’s fundamental rights and needs.

19 12. Without GR, people had no money to get food to eat, pay for
20 transportation to social service and medical appointments, or get to work and job
21 interviews. Prescriptions for serious conditions ran out and were not filled. After
22 weeks of complaints about conditions at the Belmont, Telecare began providing a
23 wholly inadequate diet of packaged pastries in the morning and, usually, a
24 sandwich of two pieces of bread and a slice of meat at lunch, but still no dinner.
25 Residents were provided with a card with a small balance to buy food, but those at
26 the Baymont could not readily get to the grocery store to use the cards and, even
27 when they could, had no place to store, cook or heat food because the mini-
28 refrigerators and microwaves were removed from each room.

1 13. Almost three months after initial placements, and after increasing
2 complaints, Telecare began providing a cooked meal for dinner. When residents of
3 the Baymont complained about the quality of the food, Telecare stopped providing
4 any food on the pretext that there would be no Telecare personnel at the Baymont
5 that day. Whether in retaliation for grievances or just indifference, the result was
6 the same: no food was provided because no Telecare staff went to the Baymont.
7 At the same time, the County and Baymont set up almost impenetrable barriers to
8 volunteers who tried to bring food to the residents and also blocked counsel for the
9 residents from contacting them to provide assistance.

10 14. Other people from the Riverbed were enrolled in 90-day recuperative
11 care and residential treatment programs. For them, the 90 days largely ended
12 several weeks ago, with inadequate or no discharge plans. Many of those who
13 found success initially in these placements and improved their health were told the
14 only option now was to go to the Courtyard, Bridges or the streets, with no
15 support. For others with more serious ongoing medical conditions or permanent
16 disabilities, no appropriate placement options were offered.

17 15. Most of the people who are now at the Baymont or who slept at the
18 armories this winter are part of two communities of homeless individuals who
19 lived at the Santa Ana Riverbed or in the Santa Ana Civic Center. Several years
20 ago, Defendants Orange County, Anaheim, Orange, and Costa Mesa started
21 directing unhoused people into the area of the Santa Ana Riverbed between the
22 Santa Ana Freeway and Ball Road. In early 2017, a group of Riverbed residents
23 sued to enjoin an earlier attempt to close the encampment and the Court issued an
24 order preventing the County from seizing their property and removing over a
25 thousand individuals then living at the Santa Ana Riverbed because there was no
26 other place for them to sleep at night without risking arrest.

27 16. At the beginning of 2018, the County announced the intent to close
28 the Riverbed trail, evict the encampment and force people back into the

1 surrounding cities without a plan for housing, shelter, or other critical services. .
2 At the same time, the Defendant Cities announced their intent to increase
3 criminalization and drive unhoused people from their streets. The failure, if not the
4 outright refusal, of Orange County and its cities to adopt positive measures to
5 address the housing crisis and the willingness to criminalize the mere act of
6 existing in public spaces takes a toll on the County’s most vulnerable people. At
7 every opportunity the County and its cities invested in enforcement instead of
8 housing, blaming other entities for the problem, and leaving unhoused people
9 nowhere to turn, nowhere to live, and nowhere to sleep.

10 17. The consequences of the county and municipal governments’
11 abdication of responsibility are significant. Deaths of homeless people in Orange
12 County reached an all-time annual high of 210 in 2017.¹ These deaths come after
13 a decade of indifference by government officials. In 2008, Orange County
14 recognized the desperate need to address these issues and formed the Orange
15 County Ten-Year Plan to End Homelessness Working Group “to serve and protect
16 the homeless . . .”² With no serious effort to implement an actual plan, the
17 homeless population in the County continued to grow. In the 2017 Point-in-Time
18 Count, the County estimated that there were 4,792 homeless people, 2,584 of
19 whom were unsheltered and could find no shelter space. This number included
20 357 veterans, a quarter of whom have vouchers but cannot find a landlord who will
21 rent to them.² More than half of the 2017 sheltered population was in emergency
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25 ¹ [https://www.ocregister.com/2017/12/19/210-homeless-people-who-died-in-
orange-county-the-past-year-will-be-remembered-at-an-interfaith-service-here-are-
their-names/](https://www.ocregister.com/2017/12/19/210-homeless-people-who-died-in-orange-county-the-past-year-will-be-remembered-at-an-interfaith-service-here-are-their-names/)

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28 ²[http://ochmis.org/wp-content/uploads/2012/10/PIT-Final-Report-2017-
07.24.17.pdf](http://ochmis.org/wp-content/uploads/2012/10/PIT-Final-Report-2017-07.24.17.pdf)

1 shelters with the remainder in “transitional shelter.” By the county’s own
2 estimates, the homeless population has increased between 5 and 7 percent annually
3 over the last five years. On information and belief, Plaintiffs allege that the current
4 homeless population exceeds 5,000 individuals.

5 18. In 2017, with an increasing homeless population and no investment in
6 solutions, the County abruptly renamed the Commission to End Homelessness and
7 ended all reference to ending homelessness by 2020. As a part of that change,
8 critical stakeholders, including homeless people and service providers, were
9 removed from the Commission.

10 19. This re-focus away from ending homelessness came at a time when
11 affordable housing in Orange County was increasingly rapidly disappearing.
12 According to the homeless assessment completed in October 2016 by Susan Price,
13 the Orange County Care Coordinator, 64% of jobs available in Orange County in
14 2016 did not pay enough for a person to afford a one-bedroom apartment, rents
15 increased dramatically in 2016, and the Orange County affordable housing stock
16 declined in the face of gentrification in formerly low-income neighborhoods across
17 Orange County. The report issued by the federal Housing and Urban Development
18 (“HUD”) department on June 1, 2017, found that the vacancy rate in Anaheim,
19 Santa Ana, and Irvine declined from 2010 to 2017 from 5.9 % to 3.6%, and
20 average rents rose 3% in May 2017.³ Almost 90,000 people are on the housing
21 authority waiting lists hoping for access to affordable housing.⁴

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25 ³ U.S. Dept. of Housing and Urban Development, Office of Policy Development and
26 Research, *Comprehensive Housing Market Analysis Anaheim-Santa Ana- Irvine,*
27 *California*, <https://www.huduser.gov/portal/publications/pdf/AnaheimCA-comp-17>.

28 ⁴ Susan Price, *An Assessment of Homeless Services in Orange County*,
[http://bos.ocgov.com/ceo/care/HOMELESS%20ASSESSMENT%20DCC%20REPO](http://bos.ocgov.com/ceo/care/HOMELESS%20ASSESSMENT%20DCC%20REPORT_10.18.2016.pdf)
RT_10.18.2016.pdf, pg. 21

1 20. The lack of adequate and appropriate resources was reinforced in a
2 2017 report issued by United Way, prepared with the University of California
3 Irvine and the Association of California Cities. The report, “Homelessness in
4 Orange County: The Costs to Our Community,” found that 75 percent of homeless
5 individuals surveyed lived in Orange County for at least six years, with most more
6 than 10 years.⁵ Cutting against the stereotypes that homeless individuals are
7 substance abusers or mentally ill, the United Way report found that the single
8 greatest factor leading to homelessness in Orange County, by far, is “the gap
9 between the availability of affordable housing and work that pays a wage sufficient
10 to enable the economically marginal to access that housing.”⁶

11 21. Most recently, the National Low-Income Housing Coalition published
12 a 2018 report, “Out of Reach: The High Cost of Housing.” According to the
13 report, the Santa Ana-Anaheim-Irvine Metropolitan Area is the tenth most
14 expensive market in the country, requiring an hourly wage of \$36.08 for a market
15 rate rental of a modest two-bedroom home.⁷ Those earning the minimum wage
16 would have to work 93 hours a week to afford a one bedroom rental at market rate
17 in this metropolitan area.⁸

18 22. All three reports agree that economic disparity is the primary cause of
19 homelessness in the region. Despite the fact that the vast majority of the unhoused
20 population in the County is in this situation through no fault of their own, the
21 response of the government entities has been to punish poverty. Nearly every City
22 in the County criminalizes homelessness through ordinances that make it unlawful
23 to be present, sit or sleep in a public place even if a person is without a home.

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26 ⁵ Homelessness in Orange County: The Costs to Our Community, available at
27 unitedwayoc.org/wp-content/uploads/2017/08/united-way, p. 31.

28 ⁶ *Id.*, p. 34.

⁷ nlihc.org/oor, pg. 14

⁸ *Id.* at pg. 35

1 Many people moved to locations such as the Santa Ana Riverbed, hoping that law
2 enforcement would not interfere or harass them while they try to survive.

3 23. In addition to the Riverbed encampment, another 200 people were
4 unsheltered and living in an encampment at the Santa Ana Civic Center earlier this
5 year. The unhoused population at this location was nearly 500 people until late
6 2016 when the joint City and County authorities incrementally evicted each
7 smaller encampment in the Civic Center and fenced off large areas, forcing
8 everyone into degrading and inhumane conditions at the concrete Plaza of the
9 Flags. This action followed Santa Ana and Orange County blaming each other for
10 the failure to address this crisis and calling for the County's first year-round
11 emergency shelter,⁹ the Courtyard. Although some of the 500 people at the Civic
12 Center moved to the Courtyard when it opened, approximately half of the 500
13 people who occupied the Civic Center in 2016 moved to the Santa Ana Riverbed.

14 24. The need to respond to the increasing numbers of unsheltered
15 individuals in Orange County is hardly new and neither is the disfavored approach
16 of criminalizing - rather than housing - people who are homeless. More than a
17 decade ago, the Orange County Grand Jury issued a report on "The Homeless
18 Crisis in Orange County." The report noted then that "[h]omelessness is on the
19 rise, often misunderstood, and is inextricably linked to poverty." From 1990 to
20 2005 the homeless population increased at a far greater rate than the overall
21 increase in population in the County. The Grand Jury report concluded that
22 addressing the problem "does not appear to be a priority with the Board of
23 Supervisors." The Grand Jury listed a series of measures to address the crisis then
24 being considered by various municipal entities in the County, including plans to
25 add housing for homeless individuals at the former El Toro Marine Air Station;

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28 ⁹ <https://www.ocregister.com/2016/09/08/santa-ana-declares-homeless-camp-at-civic-center-a-public-health-crisis-wants-more-security/>

1 shelters in San Clemente, Buena Park, Westminster, La Habra and Cypress, and a
2 very “humanistic” outreach approach by the Santa Ana Police Department and
3 Orange County Sheriff’s Department. A dozen years later, few, if any, of these
4 intentions have been realized.

5 25. The 2005 Grand Jury Report also reviewed the history of
6 recommendations in similar reports, going back to 1988. The Report concluded
7 that few of the earlier recommendations were implemented. The Report proves
8 that, over the past 25 years, the primary response of the County and the Cities has
9 been to treat the visible presence of homeless people as a blight, without
10 significantly reducing the number of residents on the street each night. These
11 approaches include criminalizing homelessness by arresting homeless individuals
12 for loitering, making it illegal to sleep in public places at night, seizing and
13 destroying homeless people’s property, and engaging in a pattern of warrantless
14 stops and interrogations. The identical practices have been repeatedly challenged
15 and enjoined by judges of the Central District in Los Angeles and the Ninth
16 Circuit, uniformly rejecting these practices criminalizing homelessness as a
17 violation of the First, Fourth, Eighth and Fourteenth Amendments.

18 26. The 2017-2018 Grand Jury Report, “Where There’s Will, There’s a
19 Way Housing Orange County’s Chronically Homeless,” issued in late May, 2018,
20 echoed the conclusions reached in the 2005 Grand Jury Report. It identified the
21 lack of political will and cooperation between the County and the cities as a
22 significant factor contributing to the inability to develop and implement a
23 comprehensive plan to address the unhoused population in the County,
24 emphasizing the extraordinary cost benefits to providing housing and services as a
25 proactive measure. Beyond dollars and cents, the Grand Jury underscored the dire
26 consequences for people left to survive on the streets, with an average life
27 expectancy for an unhoused person in the United States of only 50 years, almost 50
28 percent less than the 78-year life expectancy for the housed population. In the time

1 since the riverbed community was relocated, several people temporarily housed by
2 the County died of staph infections, late diagnosed cancer and heart disease.

3 27. The County's and Cities' approach is even more indefensible when
4 viewed against the directives by the United States Interagency Council on
5 Homelessness ("USICH"), composed of nineteen federal cabinet and agency heads
6 to organize federal efforts to end homelessness. The most recent USICH report,
7 "Ending Homelessness for People Living in Encampments," is directly on point
8 and counter to the approach taken by the County to homeless individuals forced to
9 live along the river, in the Civic Center and now back to the streets and parks in
10 large part because of the government entities' failures over decades.

11 28. Specifically, the USICH underscored that "forced dispersal" of
12 homeless encampments is inappropriate and undermines the goal of providing
13 services to homeless individuals. While the USICH emphasized the importance of
14 "intensive and persistent outreach and engagement," the County instead opted to
15 disperse the encampment first by telling homeless people that they are no longer
16 permitted to camp in the riverbed and will be cited or arrested for trespass if they
17 remain, forcing them to move out into the streets of nearby cities including
18 Anaheim, Orange, and Costa Mesa, then housing many of the people on a
19 temporary basis, only to provide no alternative other than the sidewalks and parks
20 as the temporary housing in motels, recuperative care, sober living and similar
21 facilities expired. Similarly, the Cities dispersed encampments, telling people that
22 they are not welcome in the city, their mere presence is a crime, and they will be
23 ticketed or arrested if they remain. Before February of this year, the Cities usually
24 coupled their threats with a directive to relocate to the area along the river, or the
25 Santa Ana Civic Center. Since those two possibilities are no longer available, no
26 alternative locations are offered as the harassment continues.

27 29. When the County announced through posted signs that the Riverbed
28 trail would be closed and anyone remaining would be arrested for trespass, few

1 services were offered other than the threat of criminal proceedings. Several
2 individuals with disabilities, such as plaintiff Gloria Shoemake, who was first
3 qualified in 2016 for housing services by the County's earlier outreach through a
4 contract with City Net, were relocated to motels several weeks before the County's
5 original closure date for the Riverbed trail.

6 30. In February, with the Court's involvement, the County was compelled
7 to provide temporary shelter for about 750 people who still in the riverbed when
8 the trail closure began. This number represents slightly less than half of the total
9 unhoused population in that area after the injunction in the *Schuler* action. Several
10 hundred members of the community left in the weeks before the 2018 relocation as
11 local law enforcement personnel blanketed the riverbed and ran wants and warrants
12 for nearly everyone on the fictional premise that those living in the riverbed were
13 trespassing and, therefore, could be compelled to provide identification. Some
14 individuals were arrested on outstanding warrants for the failure to appear on a
15 citation or arrest related to homelessness. Still others, who had no warrants and
16 were not on probation, including Plaintiff Cameron Ralston, feared that they would
17 be arrested for trespass as announced in the County's posted notices, so they left
18 voluntarily just before the 30-day motel, recuperative care and residential
19 substance abuse treatment placements were made available. Many of those who
20 left the Riverbed went to the winter shelters at the armories.

21 31. This action was not the first against the County. In February 2017, an
22 action was filed in the District Court concerning the County's earlier enforcement
23 actions against approximately 1,000 individuals then living in the Santa Ana
24 Riverbed. *See Schuler v. County of Orange*, No. 8:17-cv-00259 DOC KES, (C.D.
25 Ca. 2017) [Dkt. #1]. On March 7, 2017, the parties stipulated to, and the Court
26 granted, a preliminary injunction to prevent the County from violating individuals'
27 constitutional rights in a designated area of the Riverbed just north of the Santa
28 Ana Freeway and south of Ball Road ("the Injunction Area."). [Dkt. #30].

1 32. After the settlement in *Schuler*, the County contracted with City Net
2 to provide outreach to people in the Injunction Area. In July 2017, City Net
3 surveyed 422 people living there. Of those interviewed, 81.2% were interested in
4 having City Net become their case managers to seek housing and services for
5 them. When asked where they lived previously, 25% reported they were from
6 Anaheim, approximately 11% were from Santa Ana, and 9.7% were from Orange.
7 Since this survey was done, the population in the Santa Ana Riverbed increased as
8 people were moved from other areas into the Injunction Area at the direction of the
9 County and adjoining local law enforcement agencies.

10 33. In the year since the *Schuler* injunction issued, the County failed to
11 take steps to provide a safe environment for the unsheltered community in the
12 Riverbed or to find alternatives where they could safely live. In August 2017,
13 Orange County Public Works made public a plan to change the topography of the
14 Riverbed to make it “less desirable for occupation.” The Plan showed how the use
15 of rocks in the Santa Ana Riverbed effectively made the area impossible for a
16 person to lie down and sleep. Again, the County chose to invest in harassment
17 instead of solutions.¹⁰ The primary reason for the Riverbed project was to use
18 rocks and large boulders to exclude homeless persons.

19 34. In September 2017, Supervisor Nelson drafted a plan to use County
20 land in Irvine as a temporary shelter. The Board of Supervisors rejected that plan
21 and instead voted to develop that site into a massive new project containing luxury
22 condominiums and upscale retail shops.¹¹

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27 ¹⁰ <https://voiceofoc.org/2017/08/county-used-rock-riprap-sand-to-make-santa-ana-riverbank-less-desirable-for-occupation/>

28 ¹¹ <https://www.ocregister.com/2017/11/06/orange-county-to-finalize-plan-for-great-park-condo-retail-development-as-irvine-threatens-lawsuit/>

1 35. At the same time, the Cities were taking actions targeted at homeless
2 communities. In August 2017, Anaheim City Council considered community
3 requests to install restrooms near the Santa Ana Riverbed and offers of organizers
4 to provide and maintain those restrooms. Anaheim rejected the proposal, stating
5 that the County should take responsibility for the needs of the people sleeping on
6 County property.¹² Since then, Anaheim has gone a step further and shut down the
7 property check in center that used to operate for people who needed to place their
8 belonging while they visited doctors, went to work, or sought other services.

9 36. In September 2017, the Anaheim City Council passed “Operation
10 Home Safe,” promoted as a comprehensive program to address homelessness along
11 the Santa Ana Riverbed. A main goal of the program was to identify sites for at
12 least 500 shelter beds or other housing options. Additionally, Anaheim committed
13 to expediting the availability of 100 more beds at the Bridges shelter. To date, only
14 the beds at Bridges were added. The only other part of the plan implemented over
15 the last four months involved significantly increased police enforcement.¹³

16 37. In September 2017, Orange Council Member Alvarez announced that
17 the City would be reviewing its loitering, vagrancy, and panhandling laws to
18 strengthen them to provide the police with more tools to combat homelessness.¹⁴

19 38. There is no question that the Defendants coordinated enforcement
20 actions against unhoused individuals living in the Riverbed. On September 5,
21 2017, Anaheim Police Chief Quezada met with command staff from the Fountain
22 Valley, Orange and Santa Ana Police Departments, along with the Orange County
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25 ¹² <http://www.scpr.org/news/2017/08/29/75117/anaheim-to-consider-portable-toilets-for-homeless/>

26 ¹³ <https://www.ocregister.com/2017/09/13/after-anaheim-declares-a-state-of-emergency-homeless-along-river-bed-ponder-whats-next/>

27 ¹⁴ <https://www.ocregister.com/2017/09/13/after-anaheim-declares-a-state-of-emergency-homeless-along-river-bed-ponder-whats-next/>

1 Sheriff's Department. Representatives from these law enforcement groups met
2 again a few days later to discuss coordination of deployment schedules for
3 enforcement in the Riverbed. As part of this plan, the Anaheim Police Department
4 implemented bike patrols on the Riverbed and assigned additional officers to patrol
5 in the Injunction Area. On information and belief, the Orange County Sheriff's
6 Department was the lead agency for this coordinated enforcement action.

7
8 39. On October 26, 2017, the County Flood Control District announced
9 restricted hours for bike trail access in Fountain Valley and complete closure of
10 public access to the west side of the Riverbed in Fountain Valley. More than 100
11 unhoused residents of Fountain Valley were then living along the West bank of the
12 Riverbed next to a public storage facility and a location where they would not be
13 impeding traffic, to avoid harassment by law enforcement. The majority of this
14 group came to the Riverbed after being forced out of nearby cities, including Costa
15 Mesa, and then slowly moved north in the Riverbed as the County closed
16 sequential parts of the Riverbed for purported maintenance projects.¹⁵

17 40. The Orange County Sheriff and Public Works employees began
18 clearing the Fountain Valley area on November 3, 2017 by announcing that
19 residents would not be allowed to remain, and threatening people with citation.
20 County employees said the Injunction Area would not be impacted by the change
21 in hours or closure. At that time, one Public Works employee told a local activist
22 to hurry and move people from the Fountain Valley area to the Injunction Area
23 because the Fountain Valley bike trail was now closed to the public at night, but
24 people could continue to stay in the Injunction Area. With this in mind, a large
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28 ¹⁵ <https://voiceofoc.org/wp-content/uploads/2017/10/County-Announces-Active-Enforcement-of-Public-Hours-Along-Santa-Ana-River-Trail-FINAL.pdf>

1 group of people from Fountain Valley relocated to an area near Katella Road by
2 the bike trail.

3 41. The relocation of persons from Fountain Valley and other areas of the
4 Riverbed sequentially closed by Defendants increased the number present in the
5 Injunction Area significantly. At the time of the filing of this action, an estimated
6 800 to 1,200 people were living in the Riverbed.

7 42. At about the same time, the County contracted with private security to
8 prevent homeless people from entering the Santa Ana Riverbed outside the
9 Injunction Area during the newly-restricted hours.¹⁶ The City of Orange hired
10 private security to patrol its parks in the evenings to prevent homeless individuals
11 from sleeping there. By January 2018, Anaheim also hired private security to
12 police the homeless.¹⁷

13 43. On January 8, 2018, two months after Public Works relocated nearly
14 100 people from the Fountain Valley area to the Injunction Area, the agency
15 announced that it would clear the Injunction Area as well.¹⁸ In truth, the County
16 decided on this plan long before January; however, less than two weeks' notice
17 was given for people to relocate with no plans for their relocation options.

18 44. The "Work Notice" posted by the Orange County Public Works
19 Department on January 8, during the year's first rain, stated that the bike trail
20 would be closed to public access beginning January 22, 2018 at 6:00 a.m. It
21 warned that unauthorized persons remaining in the "Work Area" would be "subject
22 to citation and prosecution for trespass."

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25 ¹⁶ <https://www.ocregister.com/2017/11/14/orange-county-to-hire-private-guards-to-help-enforce-riverbed-curfew-that-displaced-homeless/>

26 ¹⁷ <https://www.ocregister.com/2018/01/23/anaheim-adds-security-as-officials-brace-for-homeless-exodus/>

27 ¹⁸ <https://www.ocregister.com/2018/01/04/orange-county-plans-to-clear-entire-riverbed-homeless-encampment-within-weeks-officials-say/>

1 45. The “Work notice” stated that persons remaining in the “Work
2 Area”— the Injunction Area—would be subject to citation and prosecution for
3 trespass under California Penal Code Sections 603 and 555. The notice further
4 indicated that people who placed personal property in the Work Area could be
5 subject to citation and prosecution Penal Code §§370 and 372.

6 46. As explained in the Notice, the Work Area included the entire
7 “Injunction Area” agreed to in *Schuler*. Area #1 includes the West Bank of the
8 Santa Ana River Channel, between the Santa Ana Freeway and Katella Avenue.
9 Area #2 includes the East Bank of the Santa Ana River Channel, between Katella
10 Avenue and Ball Road/Taft Avenue. County memoranda made clear that homeless
11 persons would not be permitted to return to the Riverbed to live after the project
12 was completed, even if they could find a flat piece of ground. Without any public
13 hearing, the County changed the hours for the bike path and closed it at night.

14 47. After the County announced the impending closure of the Injunction
15 Area, several surrounding cities took steps to prevent homeless individuals from
16 coming into their communities. The City of Orange quickly distributed flyers and
17 visited local housing and business facilities to request that they notify law
18 enforcement if they see homeless individuals in the City. Anaheim also announced
19 that people from the Santa Ana Riverbed could not move into their city.¹⁹

20 48. As of January 19, 2018, City Net had 171 clients in the Riverbed who
21 were actively seeking services from City Net but were not yet placed in any
22 housing or shelter.²⁰ This included Plaintiff Gloria Shoemake, who had been
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26 ¹⁹ <https://www.ocregister.com/2018/01/21/orange-county-is-ready-to-clear-out-the-santa-ana-riverbed-homeless-encampment-but-where-and-exactly-when-will-they-go/> (“In
27 Anaheim, officials bracing for an influx of homeless people have reiterated that their city –
28 like 32 others in Orange County – . . . has an anti-camping ordinance that forbids pitching
tents on sidewalks or in public parks.”)

²⁰ <http://www.ocgov.com/civicax/filebank/blobdload.aspx?BlobID=71640> pg. 5

1 waiting for promised housing since approximately October 2016, when she was
2 first qualified as disabled and eligible by City Net.

3 49. Plaintiffs filed this action and sought a temporary restraining order
4 against the closure of the riverbed without a plan for relocating those living there.
5 The Court initially denied Plaintiffs' request for a temporary restraining order but
6 set a hearing on February 13, 2018. After the temporary restraining order was
7 denied, the County announced plans to go forward immediately with the closure of
8 the Riverbed and to arrest anyone still present.

9 50. Plaintiffs then sought an emergency order from the Court to stay the
10 Riverbed closure until the matter was heard by the Court on February 13, 2018.
11 The Court issued the requested relief.

12 51. At the hearing on February 13, 2018, County elected officials spoke
13 and informed the Court of plans to locate additional emergency shelters on County
14 property. In addition, the County committed to a process to assess the needs of
15 persons living on the riverbed and place people at shelters, veterans' facilities,
16 recuperative care, residential substance abuse programs and similar facilities, as
17 well as time-limited motel stays, depending upon individual situations.

18 52. More than 400 people were placed at area motels. At most, there
19 were very successful results, with individuals able to get rest, a shower and a job or
20 other services, even though the County was and is not now adequately prepared to
21 accommodate the complex needs – often compound disabilities – of unsheltered
22 individuals. Motel staff lacked training to deal with individuals with disabilities
23 and understand what was required for a reasonable accommodation. As a result,
24 many people fell through the cracks without adequate structure to evaluate whether
25 their involuntary exit from a program or facility was related to a disability and
26 required a reasonable accommodation that did not occur and, in fact, was not taken
27 into account at all. For example, one person housed at a motel suffered a seizure
28 and was hospitalized, after which he was not allowed to return to the motel.

1 53. In another instance, the partner of a schizophrenic woman asked motel
2 staff to call for help when she had an acute event. The couple lived at the Baymont
3 without incident for weeks. Instead of calling trained emergency responders, as
4 requested, the manager came to the room and entered without permission. The
5 disabled woman was initially in the shower. When she exited the shower, she was
6 startled by the manager's presence and pushed her to leave the room. The manager
7 then evicted the couple from the room despite the fact that there was no violation
8 of any reasonable residence rule, no accommodation of the resident's disability,
9 and no due process before or after the eviction.

10 54. After this litigation was filed, the County offered to board assistance
11 animals of Riverbed residents for 90 days while the people went to placements.
12 This was not a reasonable accommodation for those who rely on the support of
13 their assistance animals. People were given a Hobson's choice: give up their
14 assistance animals, if even for 90 days, or stay on the streets. Ultimately, and as a
15 result of telephone calls made by activists with Housing is a Human Right, more
16 motel placements were found that accepted assistance animals. The Court also
17 directed the County to allow some assistance animals at both Bridges and the
18 Courtyard. But, as the County's efforts decrease, FSP assessments are
19 downgraded and private facilities violate federal and state laws that place the
20 burden on the facility to show why a specific emotional support animal should be
21 excluded, many people are again being presented with the same impossible choice.
22 Since then, the County has ended the 90-day animal boarding. In fact, the OC
23 Animal Care no longer accepts animal surrenders at all. That means if there is not
24 an available assistance animal space at a shelter, a person is left to choose between
25 remaining outside or abandoning the animal in the street.

26 **The Courtyard and Bridges:**

27 55. The Courtyard in Santa Ana is the only full-time, low-barrier
28 emergency shelter in the County. It has a high-density population, which is not

1 conducive to accommodating the needs of individuals with physical and mental
2 impairments. A significant number of people relocated from the Riverbed suffered
3 anxiety episodes at the emergency shelter. There are regular reports of bed bugs,
4 untrained staff harassing residents, and unsafe conditions or inadequate food. The
5 only other County facility is the Bridges at Kraemer. It was intended as a
6 transitional facility with the expectation that clients would work with a housing
7 navigator and find appropriate long-term housing, leaving Bridges within six
8 months. Even before the ending of the Riverbed and Civic Center encampments,
9 clients at Bridges had difficulty meeting this requirement because of a severe lack
10 of affordable housing in the area, which led to a change in this requirement to find
11 housing or leave in six months. Plaintiff Kathy Schuler's experience is typical.
12 After about four months, she is still waiting for that help at Bridges. She was
13 denied GR. She has had no help to apply for supplemental security income. The
14 little progress she made with her original housing navigator at Bridges abruptly
15 ended when the employee left and she has not been assigned to a someone else.

16 56. The staff at Bridges are not equipped to respond to persons with
17 significant disabilities. They often mischaracterize manifestations of a disability as
18 unacceptable behavior, summarily ejecting persons for whom the Courtyard is the
19 last resort. Similar situations occurred at Bridges, which was at double capacity
20 for several months before the new wing opened last month. Extreme crowding at
21 both facilities exacerbated the trauma of many individuals who lived in the
22 Riverbed for years.

23 57. After Plaintiffs' counsel repeatedly raised objections based on
24 disability laws, the Courtyard now provides a limited number of beds for couples
25 and individuals with assistance animals. For individuals with medical conditions
26 and weakened immune systems, the Courtyard is an environment that poses serious
27 risks to health. For those with vision disabilities, it is an unnavigable space. For
28 those with physical or emotional disabilities that require the assistance of a partner

1 to get through daily life activities, it is unworkable because it does not provide an
2 appropriate space for couples. The lack of privacy for anyone within the facility,
3 outside of the bathrooms and showers, is particularly key because many
4 unsheltered women are the victims of domestic violence and sexual assault.
5 Bridges suffers from similar deficiencies, although it, too, now allows a few people
6 to stay with their emotional support animals but still has no space for couples.

7 58. Both the Courtyard and Bridges lack appropriate and explicit
8 guidelines and standards that take into consideration the need to provide reasonable
9 accommodations for persons with disabilities. Consequently, individuals are often
10 ejected and banned for at least a month when, as a direct manifestation of a
11 disability, they say or do something to which staff takes offense. These ejections
12 occur without notice or an opportunity to appeal the decision and are not made on
13 objective standards but, rather, on the capricious and uninformed biases of the
14 facility staff. This is a special hardship because there is nowhere to go after the
15 Courtyard.

16 59. The first year-round transitional shelter, Bridges at Kraemer Place,
17 started operating with approximately 100 beds and recently expanded to 200
18 beds.²¹ Under immense pressure with the growing homeless population, the
19 County opened the first 100 beds months earlier than originally anticipated in a
20 warehouse in May 2017. The second hundred beds were to be ready by the end of
21 May but became available only recently. Like the Courtyard, and even with
22 additional temporary beds added and tents for people with assistance animals,
23 Bridges is routinely at or over a reasonable capacity. Often there are no beds
24 available at Bridges, especially for women. At one point, eight cots for women
25 were placed in the middle of the men's section. The cots were up against each

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28 ²¹ <https://www.ocregister.com/2016/09/15/mercy-house-to-operate-year-round-anaheim-homeless-shelter/>

1 other, making some of them inaccessible to those with physical disabilities. All of
2 these additional women's beds were fully visible to men in adjoining bunk beds.

3 60. Originally, access to Bridges was limited to homeless persons in nine
4 North County cities. To stay at Bridges, a person must be referred by a non-profit
5 partner social services agency and must be staying within the northern cities of
6 Orange County, which include Anaheim and Orange, but not Costa Mesa. Now,
7 the approval has expanded to include County Counsel. The usual admission
8 process is daunting: a person must call a number to start the intake process. That
9 telephone number is usually busy and it can take hours, if not days, to get through
10 to the shelter. The first step is to submit to a background check that must be
11 completed before admission. The homeless person must wait to receive a call back
12 if they are approved and meet at a pickup location at a specific time. The
13 admission process is often so discouraging that people give up after a few days of
14 calling. If a person gains admission, they can only stay at Bridges for a limited
15 amount of time. After six months, if they are unable to find regular housing, they
16 are usually required to leave, although the County has now relaxed this rule on a
17 case-by-case basis because of the lack of affordable and appropriate housing.

18 61. At Bridges, as with the Courtyard, the staff does not have the training
19 or expertise to interact with individuals with severe mental illness. Bridges was
20 not originally envisioned to provide for these needs. The consequence of packing
21 Bridges with individuals never intended for the facility is that people are routinely
22 banned because of "conduct" deemed inappropriate by shelter staff, but directly
23 related to the person's disability, requiring a reasonable accommodation by law.

24 **The Lack of Shelter in the County:**

25 62. The available shelter spaces in the County are woefully inadequate
26 both in number and accessibility to meet the needs of the unsheltered population.
27 By the County's own estimates, more than 2,500 people lacked any shelter nightly
28 in the 2017 Point-in-Time Count. The first and only year-round emergency

1 facility, the Courtyard, was opened by the County in 2016. Now, it is regularly at
2 more than double its original announced capacity, making it extremely crowded
3 and creating barriers for disabled individuals. On a typical night, over 400 people
4 sleep in very close quarters in the repurposed bus terminal without walls. On many
5 nights, there are no beds for men. On other nights, there are no beds for couples or
6 individuals with emotional support animals. On most nights, people camp on the
7 sidewalk outside the Courtyard because they cannot get a bed inside.

8 63. Because of the lack of shelter in the County and the increased demand
9 from the closures of the riverbed and Civic Center encampments and now the
10 armories, the Courtyard recently implemented a referral system for admission,
11 limited the length of time someone can stay there to 30 days and added a
12 requirement for clients to create a housing and services plan. These changes
13 resulted from the Court's directive in April 2018 to ensure that there was space for
14 individuals being relocated from the nearby Santa Ana Civic Center. The Court
15 limited the County from placing people at the Courtyard and also directed that
16 other cities, acting through contract agencies such as CityNet, stop transporting
17 people to the Courtyard to ensure that there was space for individuals being
18 relocated from the nearby Santa Ana Civic Center encampment. Until the Court's
19 directive, people were regularly dropped off there by hospitals, various cities'
20 police, social workers contracted with other cities in the County, and others with
21 nowhere else to bring homeless people.

22 64. Santa Ana has the largest homeless population in part because all of
23 the County social services are located there, the only GR office is there, the County
24 jail is there. Moreover, the current policy in the County is that everyone who is
25 arrested and taken into custody, other than in a few cities with their own jails, are
26 taken to the County jail in Santa Ana and released into Santa Ana, without a
27 discharge plan or other resources. This adds to the number of homeless individuals
28 in the City. While the need to address these issues and ensure that Santa Ana has

1 access to the Courtyard for its unhoused residents is an understandable goal,
2 increasing numbers of people sleep outside the facility because of a lack of space.
3 The Courtyard is the shelter of last resort in the County. In addition, because it is
4 not near any other shelter, a person who shows up without a referral from a County
5 employee and is told that the Courtyard is full has no choice but to sleep outside
6 because it is too late to find transportation and get to any other shelter before it
7 closes for the night. Most of the year, there is no other shelter available.

8 65. Sixty emergency beds for women were created at Safe Place in Santa
9 Ana after this action was filed. Although this facility provides a safe respite for
10 women who live on the street, the additional emergency beds are not appropriate
11 for some women, particularly senior or disabled clients, so Safe Place staff must
12 call the County to find alternative placements for these groups. To date, Safe Place
13 is an open space because the facility has not received the partitions that would
14 create privacy for clients and that were in the plan they presented the County. In
15 addition, the emergency shelter contract with Safe Place is only 6 months with no
16 indication of whether it will be renewed. Admission to the facility requires a
17 referral by HCA. Santa Ana and the County are in some tension about who will
18 get to use the limited beds. Safe Place filled the 60 emergency beds almost
19 immediately upon opening and has continued to be full each night.

20 66. The two emergency shelters at the local National Guard armories are
21 now closed. They only operate during winter months, although Governor Brown
22 recently approved a three-month extension this year until mid-July 2018. On
23 information and belief, these two shelters were at about half capacity prior to the
24 beginning of the Riverbed clearance. The Fullerton Armory had 237 total spots,
25 while the Santa Ana Armory had 200 spots.

26 67. Apart from the fact that they were open for only a few months a year,
27 the armories were inadequate for other reasons, especially for homeless individuals
28 with disabilities. Sleeping facilities at the armories were limited to thin mats on

1 the floor and largely inaccessible for people with wheelchairs or other mobility
2 challenges because of the very close placement of the mats, making it difficult, if
3 not impossible, to get down and up from the mats, especially if the shelter rules
4 prevent a partner from being with them. Both emergency winter shelters
5 prohibited couples from staying together, did not allow support animals, and
6 limited possessions to small bags of belongings without a storage option for other
7 property. Additionally, the Armories only accepted people who were able to come
8 and go at the required hours. For people who work, need to attend court or school
9 or meet with service providers, the restricted hours imposed an additional and often
10 insurmountable hurdle.

11 68. The County has no system with established guidelines and standards,
12 for assisting homeless individuals on a timely basis. For the Courtyard, Bridges
13 and Safe Place, the three locations offering some emergency shelter space since the
14 Court's intervention in the Riverbed evictions, an ad hoc system has developed.
15 Many of those seeking to sleep inside each night have depended upon the attorneys
16 for Plaintiffs urgently and repeatedly calling and emailing County lawyers to
17 obtain referrals for former Riverbed and Civic Center residents who faced removal
18 from placements and no alternative but the streets. On some occasions, the Court
19 and Special Master have been drawn into ad hoc hearings to decide people's
20 placements. On many occasions, Plaintiffs' counsel and volunteers assisting the
21 Plaintiff class have paid for motel rooms so that people would not be left on the
22 streets when no appropriate alternative was offered.

23 69. In addition to the Courtyard and Bridges, there are private facilities
24 providing a continuum of options for unhoused persons. Most of these have strict
25 limitations on eligibility for services. Nearly all have significant time constraints
26 on how long a person may reside at the facility, ranging from one night to six
27 months. Some require a referral and/or a background check for entry, some are
28 restricted by gender, some are restricted to pregnant women, and some are

1 restricted to women or families with children. Still others, such as the Rescue
2 Mission, require that the individual engage in sectarian worship as a condition of
3 receiving services. Most have a blanket prohibition on pets other than registered
4 service animals despite the fact that the federal and state Fair Housing laws apply
5 to public and private shelters and, with federal and state disability protections,
6 require that assistance animals be allowed as a reasonable accommodation.

7 70. For example, the Salvation Army runs the Hospitality House in Santa
8 Ana with 25 beds for transitional housing and 25 beds for emergency shelter, all
9 for men. To stay there, you must be able-bodied and employable. Service animals
10 are admitted only with federal paperwork. No other assistance animals are
11 allowed. Attendance is required at a meeting before dinner that includes a
12 religious service with prayer. Clients must arrive between 3:30 and 5:00 p.m. A
13 man must arrive by 3:30 in the afternoon to enter a lottery for any available
14 emergency shelter beds. If not selected, he can wait until 5:00 to see if another man
15 who is already approved missed curfew. There are almost always more applicants
16 than beds. In January 2018, between 2 and 12 lottery beds were available nightly.

17 71. Another shelter, Colette's House, is open only to women and children.
18 In this six-month transitional program, women are required to have a job and work
19 32 hours per week. No animals are allowed. Colette's House is a small shelter and
20 is usually at capacity.

21 72. Friendship Shelter operates the Alternative Sleeping Location (ASL)
22 in Laguna Beach in South County. The shelter has only a few dozen beds, all of
23 which are usually filled each night. In addition to the ASL, Friendship Shelter
24 operates a second facility in Laguna Beach that is a 60-day self-sufficiency
25 program. According to Friendship Shelter's website, the 32-person facility always
26 has a waiting list and is only available to individuals who are able to work.

27 73. The Rescue Mission in Tustin is one of the larger private shelters in
28 the County, with approximately 200 beds available. However, it requires persons

1 to accept an intensive Christian religious program as a condition of receiving
2 services. In addition, the Rescue Mission does not permit individuals to bring in
3 certain prescriptions containing opioids which are commonly prescribed for mental
4 health conditions, especially panic and anxiety disorders. Individuals are not
5 allowed to have assistance animals other than registered service animals.

6 **The Mandatory Duty to Provide Housing and Shelter**

7 74. In 1982, the California Legislature passed the California Housing
8 Accountability Act. California Government Code § 65589.5. Formerly known as
9 the Anti-NIMBY law, the statute bans discrimination against housing for lower-
10 income households. The legislature declared that the provision of housing for all
11 Californians is a “priority of the highest order.” §65580.

12 75. Under this provision, every city and county is required to adopt a
13 General Plan governing the use of land and development projects in its jurisdiction.
14 The General Plan includes a “housing element,” one of seven mandatory
15 components to the General Plan that must be addressed and approved by the State
16 of California’s Housing and Community Development Department (“HCD”). The
17 Housing Element is prepared every 10 years. Submission to, and approval of, the
18 Housing Element by HCD is a necessary prerequisite for local governments to
19 qualify for public funding for various development programs.

20 76. Each local entity must act consistently with its General Plan and
21 housing element. All land use decisions, zoning codes, the General Plan and all
22 other ordinances and policies affecting land use must be consistent with the
23 housing element. §65580.5, §65860. All local land-use decisions, including site
24 specific plans, must be consistent with the adopted General Plan. §65454.

25 77. In 2007, California passed Senate Bill 2 (SB2). SB2 extended the
26 protections of the Housing Accountability Act to emergency shelters and clarified
27 that it also covers transitional and supportive housing. This measure imposed
28 increased requirements on cities and counties for low-income housing, emergency

1 shelters and transitional/supportive housing. Each city and county must evaluate
2 its need for shelters and provide a comparison to available facilities to address the
3 identified need. The need for emergency shelters must be assessed annually and
4 seasonally. §65583(a)(7).

5 78. Each entity must also designate at least one location where a year-
6 round shelter may be operated without further approval by the local government.
7 The shelter must have sufficient capacity to meet the entity’s entire local need for
8 emergency shelter. The designated location may then be used by right, subject
9 only to reasonable zoning restrictions.

10 79. The express legislative intent of SB2 was to expand the Housing
11 Accountability Act to prevent local entities from denying a proposal to create an
12 eligible facility if it is needed and otherwise consistent with the locality’s zoning
13 and development standards. Recognizing the NIMBYism the statute was enacted
14 to combat, the Legislature expressly prohibited the ability of local entities to
15 impose hurdles such as “a conditional use permit or any discretionary” approval
16 from the local government. §65583(a)(4)(A).

17 80. The statute enumerated factors that may be imposed on a proposed
18 facility. These include, but are not limited to, the number of beds or persons
19 served, off-street parking restrictions, outside lighting, etc. §65583(a)(4)(A)(i)-
20 (viii). However, the local entity has the burden to establish that any restrictions
21 imposed on a proposed facility, as well as any permit processing standards applied,
22 are objective and directly advance the creation of emergency shelters. If the local
23 entity has an existing shelter that satisfies the statute’s intent, a conditional use
24 permit or similar prerequisite may be required to open a new shelter in the same
25 community.

26 81. The Housing Accountability Act provides that an entity shall not
27 “disapprove” a proposed emergency shelter unless it makes written findings, based
28 on substantial evidence, that one of five exceptions are met. §65589.5(d). The

1 allowed exceptions are: (1) the jurisdiction has met or exceeded the need for
2 emergency shelter identified in its housing element; (2) the project would
3 adversely impact the public health or safety in a significant, quantifiable, direct and
4 unavoidable way that cannot be mitigated; (3) denial is required to comply with
5 specified state or federal law and there is no way to comply without rendering the
6 shelter project infeasible; (4) the shelter is proposed on land zoned for agriculture
7 or resource preservation; and, (5) the shelter is inconsistent with both the zoning
8 ordinance and general plan land use designation (but this reason is not allowed if
9 the city failed to identify the mandated “by right” zones, or that its zones have
10 sufficient capacity to accommodate the need and failed to demonstrate that the
11 zones can accommodate at least one emergency shelter). §65589.5(d)(1)-(5).

12 82. Local entities may satisfy the mandate of SB2 in several ways.
13 Jurisdictions that are successfully implementing a supportive housing program
14 model under the entity’s 10-year plan to End Chronic Homelessness are credited
15 for supportive housing units created under the 10-year plan if the entity can
16 demonstrate that the units are identified in the 10-year plan and are either currently
17 vacant or have all funding needed to construct the units during the planning period.

18 83. Local entities may also meet the requirements of SB2 by entering into
19 a multi-jurisdiction agreement provided that any emergency shelter will be opened
20 within two years of the start of the planning period. Gov. Code §65583(d)(1).
21 Entities involved in a joint project must adopt an agreement which, among other
22 conditions, assigns a portion of the new shelter to each jurisdiction. Specifically,
23 the agreement “shall allocate a portion of the new shelter capacity to each
24 jurisdiction as credit toward its emergency shelter need ...” §65583(d)(1)(2). Also,
25 the housing element for each participating local government must set out the
26 following: the method for allocating bed capacity for the shelter; how the
27 jurisdiction’s emergency shelter need is met by the proposed facility; the amount
28 of the financial contribution each entity will make for the development, operation

1 and ongoing management of the shelter; the amount and source of money to be
2 contributed to the shelter; and, finally, that the aggregate total capacity claimed by
3 each participating entity in its housing element is not greater than the total beds
4 available at the shelter. § 65583(d)(1)(3)(A)-(C). In other words, if several cities
5 enter in a multi-jurisdiction agreement for a 200-bed shelter, they may not each
6 claim all 200 beds as evidence that they have complied with the mandate to
7 provide shelter resources.

8 84. Nearly every city in the County and the County currently rely on the
9 same shelters to demonstrate that they are meeting the need for emergency
10 shelter identified in each entity's housing element. Because each housing element
11 lists the same facilities, many of which are in Santa Ana, there is no way that most
12 local entities in Orange County can show they meet the need for emergency shelter
13 identified in its housing element. Thus, most, if not all, of the local entities in
14 Orange County are in violation of the requirements of the Housing Accountability
15 Act, as amended by SB2.

16 **The County's Efforts to Open Additional Shelters**

17 85. In its General Plan, the Defendant County states it is proactive in
18 responding to the needs of the homeless population. When the County prepared its
19 2013-2021 General Plan, there was only one small emergency shelter located in the
20 unincorporated area of the County – American Family Housing in Midway City,
21 with a maximum capacity of 20 persons. Recognizing the significant shortfall
22 between available and needed emergency shelter, and to encourage additional
23 shelter facilities, the County amended its Zoning Code to allow shelters by-right in
24 the commercial and industrial portions of the Housing Opportunities Overlay Zone.
25 This added 177 acres that meet the requirements of SB2 as locations that are
26 served by transit and other critical resources and available for additional
27 emergency shelters.

28

1 86. Over the course of the past several years, multiple cities in the
2 County, including Fullerton, Irvine, Huntington Beach and Laguna Niguel, have
3 blocked the County’s plans to locate new emergency shelters in their communities
4 for reasons other than those allowed by the Housing Accountability Act. In each
5 instance, the cities acted based on NIMBYism and failed, completely, to provide
6 any justification for the denial that complies with the requirements of SB2.

7 87. In 2013, the County identified two locations as potential sites for
8 emergency shelters. The first was in Santa Ana. Although the city originally
9 approved the County’s proposal, Anaheim rescinded its approval after community
10 objections. The County then identified a location in Fullerton in a commercial site.
11 The County BOS approved the purchase of the site in early January 2013. Two
12 years earlier, following the killing by Fullerton Police of Kelly Thomas, a mentally
13 ill homeless man, Fullerton created a homelessness task force. The task force
14 issued a report in 2012 with eight recommendations, one of which was to establish
15 a year-round emergency shelter in the City in partnership with the County.

16 88. Despite the task force report, when the County proposed a location in
17 the city for the first emergency shelter in the area, Fullerton asked that the project
18 be delayed to allow the City to review it further. Ultimately, based on objections
19 by the community, the City blocked the shelter, resulting in a lawsuit against the
20 City by non-profit groups. The lawsuit alleged that the City’s actions violated
21 Government Code § 65589.5. Within the past few weeks, the Fullerton City
22 Council has again rejected a proposal to create a shelter in the city, concluding first
23 that it was “too soon” to make the decision and then, after a local election was
24 completed, rejecting the proposal.

25 89. After losing out on the initial Santa Ana and Fullerton sites, the
26 County then identified the former bus terminal in Santa Ana as the location for the
27 first – and only – year-round, low-barrier emergency shelter in the County. The
28 shelter opened in 2016 with approximately 250 beds, but soon reached almost 400

1 individuals sleeping there each night. The Courtyard shelter continues to operate
2 at or slightly above that number on a nightly basis.

3 90. One goal of the Courtyard was to provide a place where people
4 encamped in the nearby Santa Ana Civic Center could go. Because of the
5 desperate need throughout the County for emergency shelter space, people from
6 other communities soon filled the beds and the Civic Center encampment
7 continued for nearly two more years, until the Court ordered it disbanded in March
8 2018.

9 91. With the recent relocation of approximately 750 unsheltered people
10 living at the Riverbed and the Court's order to dismantle the Civic Center
11 encampment, the County Board of Supervisors voted to approve three additional
12 locations to establish emergency shelters while it developed and implemented a
13 long-term plan for addressing homelessness because the beds at the Courtyard and
14 Bridges were full. The vote to approve additional sites occurred in late March.
15 Each proposed site was in an SB2 area zoned for a shelter on land owned by the
16 County. Three locations were announced: Irvine, Huntington Beach and Laguna
17 Niguel, all in South County.

18 92. Immediately after the County vote, the local communities in question
19 objected vigorously, ultimately forcing the BOS to rescind the vote. Irvine
20 transported nearly 600 people by chartered bus to the BOS meeting. The City sued
21 the County, raising claims of Brown Act violations in the site approval process and
22 characterizing the planned emergency shelter as a "public nuisance." At the same
23 time, Irvine touted its affordable housing work. But, affordable housing is not a
24 substitute for housing for homeless persons as required by State law by
25 Government Code § 65530 et seq., the Housing Accountability Act and SB2.
26 None of the three proposed cities has an emergency shelter in its geographic
27 boundary, as Irvine implicitly conceded in its lawsuit touting only its efforts to
28 include "affordable" housing. The shelter resources each City lists in its Housing

1 Element are in other cities or restrict services based on gender, pregnancy status,
2 families with minor children and similar categories.

3 93. The November 2016 list of Emergency Shelters and Housing
4 Programs available on the website of South County Outreach documents the lack
5 of facilities in this region specifically and the County generally.²² Approximately
6 three dozen resources offer housing for unsheltered families, women with children,
7 pregnant women, single women and domestic violence survivors, and most of
8 these are private facilities run by religious groups. Some of these programs have
9 prerequisites to admission, such as a \$300 fee or a referral from an emergency
10 shelter program. There are only seven facilities that accept single men. Of these,
11 some allow only a one-night stay, others limit a stay to 14 days, while still others
12 require that a person be employable.

13 94. The South Coast Outreach list of Emergency Shelters and Housing
14 Programs is the same list that nearly every entity puts forward. Irvine's Housing
15 Element illustrates this point. In its most recent Housing Element Appendix D:
16 SB2 Compliance Sites Inventory, Irvine reported that its share of the regional
17 unsheltered homeless persons was estimated to be 2,280 people, which Plaintiffs
18 believe may be an error in the Housing Element. City of Irvine Housing Element,
19 Appendix D-1. At a minimum, Irvine has responsibility for more than 100
20 unsheltered persons. Yet, there is no facility for homeless individuals in the city.

21 95. Irvine advanced Families Forward as its primary provider. On
22 information and belief, based on a review of the Families Forward website,
23 Plaintiffs allege that this organization cannot satisfy Irvine's SB2 mandate.
24 Families Forward does not provide emergency services. Applicants must include a
25 minor child and go through a review process. Families Forward's website

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28 ²² www.sco-oc.org/wp-content/uploads/2014/05/Shelters.pdf

1 acknowledges that it does not provide emergency aid and advises individuals in
2 need of emergency shelter to contact OC 2-1-1. In any event, Families Forward is
3 a relatively small organization that maintains a few apartments throughout Orange
4 County where it places families that meet all of its criteria. Other than this
5 organization, Irvine’s July 2015 Housing Element update lists 13 resources in
6 Santa Ana and other cities.²³ These include the Salvation Army facilities in Santa
7 Ana and Tustin, and a number of entities that only offer service referrals.

8 96. The only actual significant *housing* listed which is located in Irvine is
9 the Irvine Inn, categorized by the City as “Homeless Services Facilities Serving
10 Irvine” and described as a “192-unit Single Room Occupancy (SRO) facility.”²⁴
11 The Inn’s website lists rent for a studio apartment as \$548 to \$731 a month.²⁵ The
12 website contains a cryptic caveat that “income restrictions apply on some
13 apartments.” The marketing on the website is directed to students at UCI and
14 Irvine Valley College. It is highly unlikely that the Irvine Inn meets the City’s
15 obligations to provide shelter for homeless persons.

16 97. Most of the “Homeless Facilities” listed in the Irvine Housing
17 Element Supplement are the same resources on every city’s list. Many of these are
18 in Santa Ana, which is approximately seven miles from Irvine. For a homeless
19 person without a car, the bus ride is at least an hour, with multiple transfers. For
20 those without funds for a bus ticket, it is a very long walk. Yet, Irvine residents
21 who attended the BOS meeting were adamant that there is no appropriate place for
22 a shelter in the entire City, despite the requirements of identifying such a site in the
23 General Plan in compliance with Government Code §65583.

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27 ²³ “Homeless Facilities Serving Irvine.” City of Irvine 2015 Housing Element
Supplement, C-66.

28 ²⁴ *Id.*

²⁵ <https://www.irvineinnnaps.com/floorplans.aspx>.

1 98. In addition to its residents' views that their property values somehow
2 exempt them from the Housing Element requirements, Irvine and Huntington
3 Beach objected to the proposed BOS emergency shelter locations because they are
4 toxic sites, unusable for human habitation. Neither City offered any other SB2 site
5 to the County. The objections by the cities are all the more remarkable because, in
6 filing their 2013 Housing Elements, each represented to the California Department
7 of Housing and Community Development (HCD) that the general locations the
8 County now sought to use were appropriate SB2 sites.

9 **Liability for Failure to Provide Housing and Shelter**

10 99. California Government Code § 815.6 provides that:

11 Where a public entity is under a mandatory duty imposed by an
12 enactment that is designed to protect against the risk of a
13 particular kind of injury, the public entity is liable for an injury
14 of that kind proximately caused by its failure to discharge the
15 duty unless the public entity establishes that it exercised
16 reasonable diligence to discharge the duty.

17 100. The requirement to provide for housing and shelter for low-income
18 and homeless individuals in the General Plan and to adhere to the requirements of
19 the government code is an "obligatory duty which a governmental entity is
20 required to perform," not a permissive one. Failure to meet this duty gives rise to
21 liability whether the underlying enactment allows a private right of action or is
22 self-executing. The term "enactment" includes "a constitutional provision, statute,
23 charter provision, ordinance or regulation." Cal. Govt. Code §810.6. To date, the
24 County and each Defendant City has failed to meet their mandatory duty created
25 by California Government Code § 65583 *et seq.*, known as the California Housing
26 Accountability Act.

27 101. Anaheim's most recent Housing Element identified a number of non-
28 profits located in Anaheim and Santa Ana to which it contributed funding through

1 the City's Emergency Shelter Grant program. Not all provide living facilities. Of
2 those that do, almost all are limited to transitional programs for women with
3 children, women who are victims of domestic abuse, families with children, or
4 veterans.²⁶

5 102. The total capacity of the shelter and transitional living facilities
6 located in Anaheim was 202 beds, but none were specifically reserved for
7 Anaheim unhoused individuals. The Bridges at Kraemer is located in Anaheim. It
8 now has 200 beds, but those beds are not reserved for the City of Anaheim, in
9 whole or in part, so they may not be counted as a measure of Anaheim's
10 compliance with its General Plan pursuant to Government Code § 65583(d)(1)(2)
11 and (3)(A)-(C). Even so, the number is far short of the approximately 900
12 homeless individuals in the city.

13 103. It is unlikely Anaheim will meet its mandatory duty absent a change
14 in policy. Since adoption of the 2014 Housing Element, the Bridges at Kraemer
15 opened in Anaheim, but those beds are not reserved for homeless residents of
16 Anaheim. Currently, the City allows a maximum of 50 emergency shelter beds,
17 whether in a single unit or a combination of smaller shelters.²⁷ The City also
18 requires that any emergency shelter must to implement a pre-entry screening
19 process to determine eligibility to stay there.

20 104. The City of Orange has also failed to meet its mandatory duty to
21 provide housing for low-income and homeless individuals. There are no
22 emergency shelter beds in the City of Orange except for a 56-unit facility for
23 families with children.

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28 ²⁶ Anaheim Housing Element, 2/4/2014, Chapter 3: Resources and Constraints, p. 3-27.

²⁷ *Id.*

1 105. As additional resources, the City provides links to County sites but no
2 specific City resources.²⁸

3 106. Other than this one location, Orange responded to the Crisis with
4 increased police and enforcement, not a system of healthcare and housing.

5 107. Costa Mesa's most recent five-year housing plan identified several
6 places as emergency housing and services for homeless individuals, but some
7 provide services only to families or domestic violence victims, some provide only
8 meals, and some, like the HOPE Institute (YWCA of Central Orange County), no
9 longer exist but were in the City of Orange before they closed.²⁹ Orange Coast
10 Interfaith Shelter is the only emergency shelter in Costa Mesa. It offers
11 transitional housing services only to homeless adults with children under 17 living
12 with them.³⁰ The companion shelter has 50 beds available for no more than three
13 days.³¹ Costa Mesa's number of homeless persons is 4% of the 2,584
14 unsheltered homeless people countywide, according to 2-1-1 Orange County,
15 the nonprofit that managed the last PIT count.³² Very low-income workers in
16 Costa Mesa, like Lisa Fields, are left to commute to the shelters in Santa Ana.
17 Despite intermittent support by the City for Ms. Fields with transportation or motel

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20 ²⁸ <https://www.cityoforange.org/1756/Information-on-Homelessness>

21 ²⁹ <https://www.yelp.com/biz/ywca-of-central-orange-county-orange;>
22 <http://www.dnsrsearch.com/index.php?origURL=http%3A//ywcacoc.org/&r=&bc=>

23 ³⁰ Shelter listings, Costa Mesa, Orange Coast Interfaith Center, (last visited Apr. 11, 2018,
24 12:52 PM) <https://www.shelterlistings.org/details/22633>.

25 ³¹ Shelter listings, Costa Mesa, Orange Coast Interfaith Center, (last visited Apr. 11, 2018,
26 12:52 PM) <https://www.shelterlistings.org/details/22633>.

27 ³² Luke Money, Fewer Homeless Counted in Costa Mesa in Latest Survey, L.A. Times,
28 (OCT 20, 2017, 1:45 PM) <http://www.latimes.com/socal/daily-pilot/news/tn-dpt-me-pit-count-results-20171020-story.html>.

1 stays, she spends hours each day commuting to her employment and is unable to
2 find shelter or housing in Costa Mesa.

3 108. Future facilities to meet Costa Mesa's needs are unlikely. The City's
4 General Plan only allows shelters in planned development industrial zones (PDI)
5 area. CITY OF COSTA MESA, HOUSING ELEMENT FOR THE COSTA MESA PLAN 2013-
6 2023, 42;45 (Jan. 21, 2013). PDIs include 115 acres located north of the 405
7 Freeway and on the east side close to John Wayne Airport. A satellite image of the
8 area makes it clear that there are no undeveloped lots in the area.³³ Moreover, the
9 PDI site has a high density of California EPA regulated sites, making them unfit
10 for human habitation.³⁴

11 109. The failure of the County and the cities to meet their obligations under
12 the Housing Accountability Act falls particularly hard on disabled individuals.
13 They face the additional burden of being required to travel considerable distances
14 to obtain the most basic of social services because the local entities have failed to
15 provide such services in their communities. They must carry all of their
16 possessions with them, more often making them a target of local law enforcement
17 as they attempt to navigate the route to obtain services in the few areas of the
18 County that offer it.

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22 ³³ [https://www.google.com/maps/place/John+Wayne+Airport/@33.6911953,-](https://www.google.com/maps/place/John+Wayne+Airport/@33.6911953,-117.8630146,2716m/data=!3m1!1e3!4m5!3m4!1s0x0:0xc941e8f5c31119e2!8m2!3d33.6761901!4d-117.8674759)
23 [117.8630146,2716m/data=!3m1!1e3!4m5!3m4!1s0x0:0xc941e8f5c31119e2!8m2!3d33.6](https://www.google.com/maps/place/John+Wayne+Airport/@33.6911953,-117.8630146,2716m/data=!3m1!1e3!4m5!3m4!1s0x0:0xc941e8f5c31119e2!8m2!3d33.6761901!4d-117.8674759)
24 [761901!4d-117.8674759](https://www.google.com/maps/place/John+Wayne+Airport/@33.6911953,-117.8630146,2716m/data=!3m1!1e3!4m5!3m4!1s0x0:0xc941e8f5c31119e2!8m2!3d33.6761901!4d-117.8674759)

25 ³⁴ CAL-EPA, Web Portal Maps Data on Regulated Sites Statewide, (4/11/18, 12:52 PM)
26 [https://siteportal.calepa.ca.gov/nsite/#?tab=profile&h=668&w=1238&dh=0.0477120765](https://siteportal.calepa.ca.gov/nsite/#?tab=profile&h=668&w=1238&dh=0.04771207655397802&dw=0.10625839233861711&bbbox%5B%5D=33.70210572880489&bbbox%5B%5D=117.82175580382965&bbbox%5B%5D=33.65439365225091&bbbox%5B%5D=-117.92801419616826&tb=33.70210572880489&bb=33.65439365225091&rb=-117.82175580382965&lb=-117.92801419616826&z=13&c%5Bx%5D=-117.874885&c%5By%5D=33.678253&i=true&b=Bing+Hybrid&a=)
27 [5397802&dw=0.10625839233861711&bbbox%5B%5D=33.70210572880489&bbbox%5B%5D=117.82175580382965&bbbox%5B%5D=33.65439365225091&bbbox%5B%5D=-117.92801419616826&tb=33.70210572880489&bb=33.65439365225091&rb=-117.82175580382965&lb=-117.92801419616826&z=13&c%5Bx%5D=-117.874885&c%5By%5D=33.678253&i=true&b=Bing+Hybrid&a=](https://siteportal.calepa.ca.gov/nsite/#?tab=profile&h=668&w=1238&dh=0.04771207655397802&dw=0.10625839233861711&bbbox%5B%5D=33.70210572880489&bbbox%5B%5D=117.82175580382965&bbbox%5B%5D=33.65439365225091&bbbox%5B%5D=-117.92801419616826&tb=33.70210572880489&bb=33.65439365225091&rb=-117.82175580382965&lb=-117.92801419616826&z=13&c%5Bx%5D=-117.874885&c%5By%5D=33.678253&i=true&b=Bing+Hybrid&a=)
28 [117.82175580382965&lb=-117.92801419616826&z=13&c%5Bx%5D=-117.874885&c%5By%5D=33.678253&i=true&b=Bing+Hybrid&a=](https://siteportal.calepa.ca.gov/nsite/#?tab=profile&h=668&w=1238&dh=0.04771207655397802&dw=0.10625839233861711&bbbox%5B%5D=33.70210572880489&bbbox%5B%5D=117.82175580382965&bbbox%5B%5D=33.65439365225091&bbbox%5B%5D=-117.92801419616826&tb=33.70210572880489&bb=33.65439365225091&rb=-117.82175580382965&lb=-117.92801419616826&z=13&c%5Bx%5D=-117.874885&c%5By%5D=33.678253&i=true&b=Bing+Hybrid&a=)

CLASS ALLEGATIONS

1
2 110. The claims set forth in this action are brought by Plaintiffs Bell,
3 Fields, Shoemake and Thomas on their own behalf and on behalf of all of those
4 similarly situated putative class members pursuant to F.R.Civ.P 23(b)(2).

5 111. The Class is defined as:

6 a. All persons who lived in the Santa Ana Riverbed or the
7 Santa Ana Civic Center between January 2018 and April 2018 and
8 experienced arbitrary and capricious treatment by the Defendants on the
9 basis of their actual or perceived status as a homeless person.

10 b. All persons who were diagnosed as SPMI and provided FSP
11 placements at the Baymont and were subsequently downgraded and
12 removed from an FSP placement.

13 112. The members of the class are so numerous that individual joinder of
14 all members is impracticable, if not impossible. Plaintiffs are informed and believe
15 on that basis that members of the class will exceed 1,500 in number, including all
16 those residing in the Santa Ana Riverbed prior to the early January 2018 posting of
17 trespass and closure notices by the County, all those residing at the Santa Ana
18 Civic Center prior to the dissemination of trespass and closure notice by the Santa
19 Ana Police Department beginning in March 2018, and all those residing at the two
20 emergency winter shelters at the armories.

21 113. There are common questions of law and fact that predominate over
22 any questions affecting only individual class members in this instance.

23 114. Among the common questions of law and fact are the following:

- 24 a. Whether the Defendant County has met its statutory duty to
25 provide low-income housing and a continuum of shelter facilities
26 as required by California Government Code § 65589.5;
- 27 b. Whether Defendant County's policies, practices and conduct of
28 assessing eligibility for government programs and services for

1 unboxed individuals violate and continue to violate the class
2 members' state and federal constitutional due process rights;

3 c. Whether Defendant County's policies, practices and conduct of
4 assessing the need for and providing reasonable accommodations
5 for unboxed people with disabilities violates and continues to
6 violate the members' state and federal statutory rights;

7 d. Whether injunctive relief restraining further unconstitutional and
8 unlawful acts by Defendant County should be ordered by the
9 Court and, if so, the nature of that injunctive relief;

10 115. The Class Representatives will fairly and adequately protect the
11 interests of the Class. They have retained counsel who are experienced and
12 competent in class-action and civil rights litigation. The Class Representatives
13 have no interests that are adverse or antagonistic to those of other Class members.

14 116. A class action is superior to any other method to secure a fair and
15 efficient adjudication of this controversy. As the primary relief sought is
16 injunctive in nature, the burden and expense make it impractical for class
17 members to seek redress individually for the wrongs done to them. The nature
18 and amount of monetary damages sustained by each Class member is very
19 similar in nature and may be established by common proof. Individual
20 litigation by each class member would necessarily burden the judicial system
21 and run the risk of inconsistent judgments.

22 117. Plaintiffs are informed and believe and on that basis allege that
23 Defendant County has acted on grounds generally applicable to the class,
24 making injunctive or declaratory relief appropriate for the class as a whole.

25 **PARTIES:**

26 **Plaintiffs**

27 118. Plaintiff **ORANGE COUNTY CATHOLIC WORKER** ("OCCW")
28 operates a community at Isaiah House in Santa Ana. In furtherance of its mission,

1 Isaiah House of the Orange County Catholic Worker has served poor people
2 with dignity since 1987, providing meals, shelter, food, clothing, showers, and
3 emergency assistance to homeless persons. At the request of County workers,
4 OCCW has provided emergency housing to individuals without housing or
5 shelter options, including women exited from Bridges when they exceeded the
6 six-month limit to stay at the shelter while finding appropriate housing.
7 OCCW currently has a woman living at their house who, despite working with
8 a housing navigator at her last placement, was unable to find housing. Her only
9 alternative was to stay in a park, violating local laws against such conduct.

10 119. Jordan Hoiberg is a member of the Orange County Catholic Worker.
11 Since joining the Catholic Worker, Mr. Hoiberg has gone to encampments almost
12 every day. He engages with each person he meets and helps them connect with
13 available resources. On some days he delivers food and on others he brings books
14 or tents. On some occasions, Mr. Hoiberg organizes volunteers to go out with him.
15 Through his work in the Santa Ana Riverbed in 2017, he observed an estimated
16 800 to 1200 people in the area closed at the beginning of the year.

17 120. Carrying out the mission of the Catholic Worker, Mr. Hoiberg
18 organizes volunteers and resources to help people move their belongings when
19 they are told by law enforcement to move from public spaces. Last year, he was
20 present and observed County employees direct people in other areas of the
21 Riverbed to move into the Injunction Area. With other volunteers, he then assisted
22 these individuals to move their property to the Injunction Area. As each adverse
23 action is taken by the government, the Catholic Worker has had to shift priorities to
24 respond to these measures and provide assistance to targeted homeless individuals.

25 121. In 2017, he observed actions taken by the cities and county to exclude
26 homeless people from their jurisdictions, including removal of benches that
27 homeless individuals could lawfully sit on, restricting hours of parking to prevent
28 people living in their vehicles in the area, increasing police and private security

1 presence, and other tactics to encourage people to leave the county. Mr. Hoiberg is
2 familiar with the area and available social services and does not know of any place
3 homeless individuals can relocate without violating laws against camping on
4 public places, placing property on public places, loitering and similar ordinances.
5 Part of his job with the Catholic Worker is to help at Isaiah House. In that role, he
6 has assisted women who came to Isaiah House from the Bridges shelter and the
7 Courtyard shelter. Based on his experience, he is aware that there is a time limit
8 for those in the transitional shelter at Bridges and that once that time limit is
9 reached, if an individual had not found other housing, she must leave Bridges.

10 122. Since the start of the relocation of people from the Riverbed and now
11 the Santa Ana Civic Center, Mr. Hoiberg and others from the Plaintiff OCCW have
12 spent countless hours responding to the needs of unsheltered people who, as the
13 result of the Defendant County's policies, practices and customs, and those of the
14 County's agents and employees, have been left without any shelter or other
15 placement that accommodates their disabilities, without adequate food, and without
16 a means to get to critical appointments and similar service-related issues.

17 123. Plaintiff **LISA BELL** is homeless and physically disabled. She sues
18 on her own behalf and on behalf of the class. In August 2007, she sustained severe
19 nerve damage in her arms and hand, which developed into a medical condition
20 known as Complex Regional Pain Syndrome. She lost her job and her sole source
21 of income now is Social Security Disability Insurance (SSDI). With limited
22 income, she could not afford her rent. She spent her savings, still hoping that she
23 would be well enough to return to work soon.

24 124. After she ran out of money and lost her home, Bell began living in her
25 vehicle in Anaheim. During that time, she had about 30 interactions with Anaheim
26 Police officers. She was repeatedly told that she could not live in her vehicle and
27 that she "better not be seen in Anaheim again." One day, her vehicle was towed
28 for allegedly being parked on a public street for 72 hours. In fact, her vehicle had

1 been parked there for only four hours, but Ms. Bell did not have money to pay the
2 towing and impound fee, nor resources to challenge the seizure of her vehicle.

3 125. With no alternative, Ms. Bell moved to a tent in the Riverbed. When
4 the cold-weather Armory in Fullerton opened, she tried to stay there but the setting
5 and crowd exacerbated her anxieties and caused a severe panic attack, so she did
6 not return there to sleep.

7 126. Ms. Bell returned to the Riverbed and actively worked with City Net
8 to secure affordable housing. She completed the City Net assessment and provided
9 the necessary paperwork to confirm she was homeless for more than one year. She
10 did everything required to secure affordable housing to no avail. She lived in the
11 Riverbed with fear that would be cited and arrested for violating local laws
12 banning sleeping in public spaces even though she had no viable alternative.

13 127. More than a year after she originally qualified for housing assistance,
14 Ms. Bell remains unplaced. She was temporarily at an Illumination Foundation
15 facility but is no longer eligible for that program as it was recently reconstituted.
16 She has worked diligently with City Net to find housing that she can afford with
17 her disability income. She was turned down for one place because of an eviction
18 after she became disabled.

19 128. Recently, she was told by the County that she would no longer receive
20 assistance because she purportedly violated an unwritten rule about too many
21 visitors and missed a meeting with City Net. Both accusations are false. Ms.
22 Bell's partner died unexpectedly of an acute asthma attack a few months ago and
23 people came by to give their condolences. In addition, most days she needs help
24 because her disabilities make it painful and difficult for her to lift and carry items.

25 129. She was approved for in home supportive services before she was
26 homeless. She has continued to spend a great deal of time meeting with City Net
27 without success in obtaining assistance for housing.

28

1 130. Plaintiff **SHAWN CARROLL** was chronically homeless and suffers
2 from multiple disabilities, including a serious heart condition that requires him to
3 wear a life-saving medical alert device at all times. He worked in the automotive
4 industry until 2006, when he had to care full-time for his aging and mentally
5 disabled parents. In 2015, after his parents passed and their home was sold, he
6 began living in his vehicle. His efforts to regain employment were unsuccessful.
7 His current income is limited to General Relief in the amount of \$355 a month.

8 131. While living in his vehicle, Carroll was repeatedly questioned and told
9 to move along by police in Anaheim and Garden Grove. He would often go days
10 without sleeping because he could not find a place to park and avoid the police. In
11 April 2016, his vehicle was impounded. Unable to pay the impound fees, he began
12 sleeping on the streets. He tried going to the Courtyard but it was always at
13 capacity, with people sleeping outside, waiting to get in. He went to the Riverbed,
14 where he thought police were less likely to harass him, with only a backpack.

15 132. In December 2016, Mr. Carroll's medical providers discovered that he
16 was at risk of sudden cardiac arrest. He wears a portable defibrillator at all times.
17 The device digitally sends data to his medical providers who can administer a
18 treatment shock if an abnormal heart rhythm is detected. The device must remain
19 powered at all times. For months, he would walk to the UCI Medical Center lobby
20 to charge the battery packs and wireless hotspot that power his defibrillator. Then,
21 a Huntington Beach church group donated a small generator to Mr. Carroll.

22 133. On July 7, 2017, he was exiting the Riverbed when the Orange Police
23 Department cited him for allegedly riding his bicycle in the opposite direction of
24 traffic, even though he was riding on the sidewalk when he was cited. During the
25 stop, the Orange police officer explained that he was told by his superiors to have
26 "zero tolerance for the homeless."

27 134. On at least four occasions, Orange County Sheriff's Deputies stopped
28 Mr. Carroll in the Riverbed and asked for his identification, social security number,

1 and what plans he had to leave the Riverbed. The Deputies repeatedly told him
2 that camping is prohibited in the Riverbed and he was fearful he would be cited
3 and convicted for violating such laws because he had no alternative place to go.
4 Mr. Carroll is now temporarily housed through the 24-month CHIP program in
5 Anaheim.

6 135. Plaintiff **MELISSA FIELDS** has been homeless since January 2017.
7 She is employed in Costa Mesa. She sues on her own behalf and on behalf of the
8 class and as a taxpayer.

9 136. She works between 25 and 30 hours a week at a minimum wage job
10 and does not earn enough to afford housing in Orange County. Before she moved
11 to the Riverbed, she slept on the streets of Costa Mesa to be close to her job, using
12 only a sleeping bag on the ground with no tent or structure and with a backpack
13 full of clothing. In the months before she moved to the Riverbed, Ms. Fields was
14 stopped and cited by the Costa Mesa police multiple times for being unhoused.
15 Some, but not all, of these tickets were dismissed when she went to court. In
16 February and March 2017, she received at least two tickets for camping in a public
17 area or parking lot and one ticket for camping in a park. She was informed that if
18 she continued to sleep outside in Costa Mesa, she would receive citations.

19 137. After receiving those tickets, she moved to the Fountain Valley area
20 of the Riverbed to avoid arrest in Costa Mesa because she feared losing her job if
21 arrested. She remained in this area until the County forced people to move in the
22 first week of November 2017. She relocated to the Anaheim/Orange Riverbed
23 area to keep the support of the community she had gotten to know. As a woman
24 alone and unhoused, she felt unsafe without nearby people she knows.

25 138. Ms. Fields worked with a Community Outreach Worker to try and
26 find housing. She also engaged with County Health Care workers when she was in
27 the Fountain Valley Riverbed. Despite her efforts, no social service agencies
28

1 found suitable housing for her. Because of her work schedule, she is unable to
2 meet the curfew at the emergency shelters.

3 139. Ms. Fields continues to work and recently received a promotion. She
4 works a shift that ends at night. As a result of this action, the City of Costa Mesa is
5 providing her an Uber ride to get from her job in Costa Mesa to Safe Place in Santa
6 Ana, where she stayed after her motel placement ended in March. Her partner was
7 recently released from jail. Ms. Fields tried staying at the Courtyard with him, but
8 left because of the conditions there, including bed bugs. Although Costa Mesa has
9 now paid for a motel for Ms. Fields, this is a temporary respite for two weeks and
10 she may be left with no option but the streets again soon.

11 140. Plaintiff **LARRY FORD** is an Army veteran who served honorably
12 and joined the reserves upon his discharge. He receives treatment at the Long
13 Beach VA Hospital for service-related psychological disabilities. About five years
14 ago, he was laid off from his construction job in a staff reduction. Around the
15 same time, he had an injury that required surgery. During the long wait for surgery
16 at the VA hospital, he was unable to find additional employment and his
17 unemployment ran out. Without income, he could not pay rent and became
18 homeless, causing his mental state to deteriorate.

19 141. When he initially became homeless, he stayed in his car but
20 eventually it was towed and, with no money to pay the impound fees, he was left
21 with no alternative to sleeping outside. He tried to stay at the Armory but could
22 not tolerate the crowded environment because of his disabilities. He has had to
23 move many times as different Riverbed maintenance projects were announced. He
24 moved a little north each time finally ending up just above Katella with others
25 from the former Fountain Valley area. Each time, he lost more of his meager
26 possessions and the stress of moving exacerbated his disabilities.

27 142. Mr. Ford's disabilities are more serious than originally assessed. He
28 has not been placed in an appropriate environment and is back on the streets. He is

1 fearful that he will be cited for violations of ordinances based on unavoidable life
2 necessities resulting from his homelessness.

3 143. Plaintiff **CAMERON RALSTON** slept outside for a year and was
4 staying in the Injunction Area when the County announced its closure. Almost
5 four years ago, he was hit by a car and became physically disabled. He has been
6 diagnosed SPMI, as well. Because of these conditions, Mr. Ralston requires an
7 emotional support animal. He is unable to work and his only income is General
8 Relief and CalFresh. Over the past year, he tried to stay in Orange but was
9 repeatedly stopped and detained by the Orange Police based on his status as a
10 homeless individual. These contacts increased his disability expressed in large part
11 as a paranoia about the police. He tries to stay in areas or housing away from other
12 homeless individuals in an attempt to avoid the police.

13 144. On January 24, 2018, as the City of Orange increased its enforcement
14 in preparation for the County closure of the Riverbed, Mr. Ralston moved to the
15 city sidewalks of Orange, near the Riverbed. He was again cited for blocking the
16 sidewalk. At the time, his belongings were packed and stacked off to the side on a
17 strip of grass, leaving a clearance of more than three feet for passersby. After he
18 received the ticket, Mr. Ralston left his neatly packed property briefly. When he
19 returned, he observed a notice of abandoned property from the Orange Police
20 Department stating if it was not moved within 24 hours it would be seized. He
21 continues to be stopped, detained, searched, cited and arrested in and other nearby
22 cities, including Anaheim, simply for being homeless.

23 145. Plaintiff **KATHY SCHULER** is chronically homeless and slept in a
24 makeshift shelter in the Riverbed. Ms. Schuler and her deceased partner became
25 homeless and stayed at various shelters in the months before his illness and
26 subsequent death in 2015. At the same time, they began caring for their then four-
27 year-old grandson, who also lived with them at shelters. Because her partner was
28

1 the sole wage earner, Ms. Schuler could not secure gainful employment with her
2 very limited work experience.

3 146. Initially, Ms. Schuler and her family tried staying at the two armories.
4 The armories are only open a few months a year. Ms. Schuler stayed there until it
5 closed and she was referred to a shelter in Anaheim Hills. She could not travel to
6 the shelter by bike, her means of transportation, because of the distance and terrain.
7 After her partner died in July 2015, she returned to the Riverbed with her
8 grandson, who lived with her until he was placed in a foster home.

9 147. After moving to the Riverbed, she received citations and threats of
10 arrest by the City of Orange and the County. On August 20, 2015, the Orange
11 Police Department cited her in the Riverbed for allegedly violating Orange County
12 Ordinance, Section 2-5-95, unlawful camping upon land owned by the County.
13 Ms. Schuler was in the Riverbed at the time.

14 148. Her adult children and granddaughter were also living in the
15 Riverbed. The Schulers have been on a subsidized housing waiting list for well
16 more than year. Kathy Schuler, her daughter, Tammy Schuler, and Tammy
17 Schuler's daughter are currently staying at Bridges with their assistance animals.
18 Their family is split up, with several members living on the streets. They will soon
19 reach the six-month limit on stays at Bridges and have no housing prospects.

20 149. Plaintiff **GLORIA SHOEMAKE** sues on her own behalf and all
21 similarly situated class members. She has been homeless since October 2014 and
22 lived in different parts of the Riverbed during that time. She has multiple
23 disabilities that affect her ability to focus and complete tasks. To help with this
24 disability, she has emotional support animals. For about a year prior to the 2018
25 Riverbed closure, she engaged with County outreach workers to find housing.
26 Although she qualified for housing in or about October 2016, she still has no
27 appropriate placement. Two weeks prior to the Riverbed closure, she was moved
28 to a motel with the Illumination Foundation as a temporary measure.

1 150. From that time until now, she has been in various motels, assessed as
2 SPMI and qualified for FSP, then recently downgraded arbitrarily to a room-and-
3 board for no reason other than cost-cutting. A few months ago, she was left on the
4 street by Telecare with no place to stay when she would not to go to a shelter after
5 she was told she would have to give up her two small emotional support animals
6 and her partner, who is also her caregiver. Plaintiff's counsel paid for Ms.
7 Shoemake to stay in a motel room pending a reasonable accommodation by the
8 County. The stress and fear of where to sleep without risk of being detained or
9 arrested exacerbates her medical conditions.

10 151. Only after weeks of emails from Plaintiff's counsel did the County
11 finally agree that Ms. Shoemake could be placed at the Baymont, with her two
12 small assistance animals and her partner. However, the County's lease at the
13 Baymont expires at the end of this month and the County recently exited more than
14 a third of the FSP people housed at the Baymont to lower grade placements
15 without any reassessment or significant interaction with the individuals during the
16 time that they were at the Baymont.

17 152. Ms. Shoemake is concerned and stressed by the instability of her
18 situation, the multiple moves she has already been required to make in the past five
19 months, and the prospect that she will be separated from her partner and her
20 emotional support animals. She is concerned and stressed that she is not receiving
21 the medical support and other assistance she requires to address her disabilities.

22 153. **RICHIE THOMAS** is a paraplegic as a result of an in-custody
23 incident. Since he lost the use of his legs, he has been homeless. He was in Bridge
24 housing and worked with City Net; however, City Net never found him appropriate
25 housing. Eventually he was dropped as a client by City Net and simply left outside
26 the Motel 6 with no alternative. A friend assisted him in getting to the Courtyard
27 recently, but, as occurred on prior attempts to stay at the facility, he was barred
28 admission because of his medical condition. With nowhere else to go, earlier in

1 the summer he slept in his wheelchair on the sidewalk outside the Courtyard.
2 Plaintiffs' counsel paid for him to stay at a motel for a few nights until they
3 persuaded the County to place him in an Illumination Foundation program, where
4 he is now. That program ends in a few months and Mr. Thomas has no idea what
5 will happen to him then. He sues on his own behalf and on behalf of all similarly
6 situated class members.

7 **Defendants:**

8 154. Defendant **ORANGE COUNTY** is a government entity with the
9 capacity to sue and be sued. The departments of the COUNTY include the Public
10 Works, the Orange County Sheriff, and other departments. Employees of the
11 COUNTY have engaged in the acts complained of herein pursuant to the policies,
12 practices and customs of the COUNTY.

13 155. Defendant **ANAHEIM** is a government entity with the capacity to sue
14 and be sued. The departments of ANAHEIM include the Anaheim Police
15 Department. Employees of ANAHEIM have engaged in the acts complained of
16 herein pursuant to the policies, practices and customs of ANAHEIM.

17 156. Defendant **CITY OF ORANGE** is a government entity with the
18 capacity to sue and be sued. The departments of the CITY OF ORANGE include
19 the Orange Police Department. Employees of the ORANGE have engaged in the
20 acts complained of herein pursuant to the policies, practices and customs of the
21 CITY OF ORANGE.

22 157. Defendant **COSTA MESA** is a government entity with the capacity to
23 sue and be sued. The departments of the CITY OF COSTA MESA include the
24 Costa Mesa Police Department. Employees of COSTA MESA have engaged in
25 the acts complained of herein pursuant to the policies, practices and customs of the
26 CITY OF COSTA MESA.

27 158. The Defendants, their employees and agents, participated personally
28 in the unlawful conduct challenged herein and, to the extent that they did not

1 personally participate, authorized, acquiesced, set in motion, or otherwise failed to
2 take necessary steps to prevent the acts that resulted in the unlawful conduct and
3 the harm suffered by Plaintiffs. Each acted in concert with each other. The
4 Defendants developed and implemented a coordinated plan to increase
5 enforcement actions against the homeless community in the Riverbed and
6 surrounding cities. The challenged acts caused the violation of Plaintiffs' rights.

7 159. The identities and capacities of defendants DOES 1 through 10 are
8 presently unknown to plaintiffs, and on this basis, Plaintiffs sue them by fictitious
9 names. Plaintiffs will amend the Complaint to substitute the true names and
10 capacities of the DOE defendants when ascertained. Plaintiffs are informed,
11 believe, and thereon allege that DOES 1 through 10 are, and at all times relevant
12 herein were, employees and/or agents of the Defendant COUNTY and Defendant
13 CITIES and are responsible for the acts and omissions complained of herein.
14 Defendants DOES 1 through 10 are sued in their official and individual capacities.

15 **FACTS RELATING TO COUNTY OF ORANGE**

16 160. The County of Orange is responsible for the operation of the
17 Courtyard, the only low-barrier emergency shelter in the County. One agency
18 within the County of Orange is the Health Care Agency ("HCA"), which is the
19 entity responsible for addressing a variety of community needs, including mental
20 health and medical services for low-income and indigent persons. Employees of
21 HCA, wearing identifying blue shirts, have been the frontline of interaction with
22 the Plaintiff class when the Riverbed and Civic Center encampments were
23 removed, at the Civic Center. Employees of HCA assessed persons seeking
24 assistance both in the field initially, and at mental health clinics operated by the
25 County more recently.

26 161. The Board of Supervisors is the governing entity for the County. The
27 Board of Supervisors is responsible for developing and implementing the General
28

1 Plan, including addressing the need for housing and shelter for low-income and
2 homeless individuals.

3 162. The County is the government agency that contracted with City Net,
4 Telecare and Illumination Foundation to interact with, and fulfill the
5 responsibilities of the County to, the Plaintiff Class. As discussed herein, the
6 County has no system for addressing the needs of the Plaintiff class. When the
7 Riverbed relocations began in earnest in February, the County HCA employees
8 became the interface with the Plaintiff class. While the HCA employees were
9 heroic under pressure, there were no systems in place to define how Riverbed
10 residents would be assessed and assigned to motels or sent to a shelter. On
11 information and belief, Plaintiffs allege that in the six months since then, no
12 adequate systems have been created with the HCA. Decisions are still largely
13 made on ad hoc basis or delegated to private contractors such as Telecare, who
14 have acted in arbitrary and capricious ways with deliberate indifference to the
15 needs of the Plaintiff class.

16 163. The Orange County Sheriff's Department {"OCSD"} is also an
17 agency within the Defendant County. The Sheriff's Department actively engaged
18 in sweeps of the Riverbed in the weeks and days leading up to the Riverbed
19 closure. The premise upon which the OCSD did this was that everyone in the
20 Riverbed was trespassing in violation of County law, despite the fact that the Court
21 previously expressly allowed the encampment to remain in *Schuler*. The OCSD
22 stopped, detained, questioned and arrested residents in the Riverbed.

23 164. The OCSD is the contract law enforcement entity for 13 cities in the
24 County, most of which are in South County. As the unsheltered population in the
25 County spreads out after the Riverbed, Civic Center and armories closures, the
26 OCSD has engaged with homeless individuals in contract cities and enforced local
27 ordinances in those jurisdictions that mirror the ordinances criminalizing
28 homelessness in the Defendant County and cities. The OCSD has also applied and

1 threatened to apply the County’s “quality-of-life” ordinances to compel members
2 of the Plaintiff class to move from public spaces in the contract cities and in public
3 spaces owned and operated by the County when those homeless individuals have
4 no other place they can lawfully be.

5 165. County of Orange Ordinance 2-5-95 makes it “unlawful for any
6 person to camp, occupy camp facilities, use camp paraphernalia, or store personal
7 property upon any lands or easements owned or managed by the County of
8 Orange.” “Camp” is defined as “to pitch or occupy camp facilities; to use camp
9 paraphernalia”. Ordinance 2-5-2. “Camp facilities include but are not limited to,
10 tents, huts or temporary shelters”. Ordinance 2-5-2. “Camp paraphernalia
11 [i]ncludes, but is not limited to, tarpaulins, cots, beds, sleeping bags, hammocks, or
12 non-County designated cooking facilities and similar equipment.”

13 166. The Orange Police Department and the Orange County Sheriff’s
14 Department issued and threatened to issue tickets over the two years prior to the
15 closure of the Riverbed under this County ordinance to persons living in the
16 Riverbed. The Sheriffs also threatened people with citation under trespassing laws.
17 They have issued citations, arrested or threatened plaintiffs with citations and
18 arrest in the months since the end of the Riverbed encampment.

19 **FACTS RELATING TO THE CITY OF ANAHEIM**

20 167. Anaheim Municipal Code §11.10 makes it “unlawful and a public
21 nuisance for any person to Camp in any Public Area.” § 11.10.030. The ordinance
22 was enacted in 2013 in response to the rising homelessness community in the city.

23 168. Anaheim Municipal Code 11.10 makes it a crime to camp, defined as
24 “residing in or using any Public Area for living accommodation or lodging
25 purposes with one’s Personal Property or while storing one’s Personal Property”
26 and/or “constructing, maintaining, occupying, inhabiting or using Camping
27 Facilities” and/or “constructing, using, or maintaining Camping Paraphenalia.”
28 The only exception is “sleeping outside in a park . . . during the time the park is

1 open to the public.” § 11.10.020. Camping Facilities are defined as “Tents, huts, or
2 other temporary physical shelters.” § 11.10.020. Camping paraphernalia is defined
3 as “tarpaulins, cots, beds, sleeping bags, bedrolls, bedding, luggage, hammocks,
4 cooking equipment, and/or other similar articles of equipment or items that are
5 accessory to Camping Facilities.” § 11.10.020.

6 169. Public places include “any public streets, alleys, public parking lots,
7 public parks, public rights-of-way, parkways, public sidewalks, recreational areas
8 or other publicly-owned or controlled property.” In other words, it is prohibited to
9 be in *any* public place with luggage, bedrolls, or other “camping paraphernalia”
10 that one is “maintaining”.

11 170. More than 900 people are unsheltered within its jurisdiction. Of the
12 people who were living on County property in the Santa Ana Riverbed, 25% of
13 them were from Anaheim.^{35 36}

14 171. Anaheim also has a separate provision criminalizing camping in
15 parks. §13.08.020.080. It is a crime to “remain, stay, or loiter in any public park
16 between 10:30 PM and 5:00 AM.” §13.08.020.190. Violations of these two
17 provisions may be charged as an infraction or as a misdemeanor. §13.08.020.220.

18 172. Anaheim also has an anti-loitering ordinance: “Any person who
19 loiters, stands or sits in or upon any public highway, alley, sidewalk or crosswalk
20 so as to in any manner hinder or obstruct the free passage therein or thereon of
21 persons or vehicles passing along the same, or so as in any manner to annoy or
22 molest persons passing along the same, is guilty of a misdemeanor.” §7.28.010.

23 On information and belief, Anaheim disproportionately uses the loitering
24

25
26 ³⁵ [http://beta.latimes.com/local/lanow/la-me-ln-anaheim-homeless-emergency-
27 20170913-story.html](http://beta.latimes.com/local/lanow/la-me-ln-anaheim-homeless-emergency-20170913-story.html)

28 ³⁶ [http://citynet.org/wp-content/uploads/2017/06/FCC-Data-Summary-
FINAL_8.23.17.pdf](http://citynet.org/wp-content/uploads/2017/06/FCC-Data-Summary-FINAL_8.23.17.pdf)

1 ordinance against persons who appear to be homeless by detaining and
2 interrogating them without reasonable suspicion or probable cause based solely on
3 their presence and perceived homelessness. The Anaheim loitering ordinance is
4 unconstitutionally overbroad and vague in violation of a long-line of Ninth Circuit
5 and Supreme Court precedents.

6 **FACTS RELATING TO THE CITY OF ORANGE**

7 173. Orange Municipal Code §12.66.030 prohibits “encampments and
8 camping on public streets and public property.” In particular, it provides that “no
9 person shall: A. ... maintain, erect, or permit the erection of any hut, shanty, tent,
10 tarpaulin, or any other type of temporary structure under his control upon any
11 public street or public property. B. Use public street or public property for the
12 purpose of camping”

13 174. Public streets are defined as “streets, roads, highways, alleys,
14 sidewalks, parkways, bridges ... and all other facilities and areas necessary for the
15 construction, improvement, and maintenance of streets and roads.” §12.66.020.

16 175. Public property is defined as “the exterior of any building or structure,
17 parking lot, plaza, or square, owned or controlled by the city of Orange.”
18 §12.66.020.

19 176. Camping is defined of “the use of public streets or public property for
20 living accommodation or habitation purposes such as sleeping activities, or making
21 preparations to sleep, including the laying down of bedding for purposes of
22 sleeping or using or storing personal belongings such as non-designated City
23 cooking equipment, camping stoves, portable barbecues, sleeping bags, cots, beds,
24 hammocks, extra clothing, or personal items when it reasonably appears, in light of
25 all the circumstances, that the participants, in conducting these activities, are, in
26 fact, using the public street or public property for living accommodation or
27 habitation purposes.”
28

1 177. In other words, using “personal items” or “extra clothing” on the
2 public streets can be a crime in Orange if it “reasonably appears” that the person
3 using those items or using that clothing is living on the street. Camping is also
4 prohibited in parks under § 12.48.045. The same definition as above is laid out
5 again in § 12.48.015.

6 178. The City of Orange has a history of giving Citations using the County
7 anti-camping ordinance after pushing residents into areas of the Santa Ana
8 Riverbed. Plaintiff Kathy Schuler was cited for violating the Orange County
9 ordinance against camping. At the time, she was in the portion of the Riverbed
10 that abuts Orange and that has concurrent jurisdiction with the Orange police. It
11 was the Orange Police Department who cited Ms. Schuler.

12 179. After the Work Notice was issued in the Orange County Riverbed, the
13 Orange Police Department issued a notice of their own. The “Neighborhood
14 Advisory” stated that “All occupants currently living in the Riverbed will be
15 vacating the area.” It then states that “the City of Orange Police Department asks
16 if you see a suspicious person or activity to please call 714-744-7444 for non-
17 emergency matters.”

18 180. On January 24, 2018, officers in the City of Orange ticketed Cameron
19 Ralston for blocking the sidewalk while he was stopped at a sidewalk near the
20 Riverbed. At the time, Mr. Ralston’s property was neatly packed and placed to the
21 side of the sidewalk leaving a clearance of three feet. Over the past year, Mr.
22 Ralston has been regularly threatened with arrest and asked when he will leave the
23 city by Orange Police Department. Mr. Ralston has not been ticketed for camping
24 but has been threatened with citation under the City of Orange camping ordinance.

25 181. Mr. Ralston also left his property briefly to secure food after receiving
26 the obstruction ticket. When he returned, a notice had been posted near his
27 property indicating that the City of Orange considered it to be abandoned and he
28 had 24 hours to move it. City of Orange police officers had that same day seen

1 him with the property and seen that it was his. They did not have an objectively
2 reasonable belief that the property was abandoned.

3 182. Plaintiff Shawn Carroll was also cited by Orange Police officers when
4 leaving the Riverbed, ostensibly for a bicycle offense. On information and belief,
5 Plaintiffs allege that the City of Orange instituted a specific plan to stop homeless
6 individuals as they left the Riverbed and cite them for any purported violation of
7 even a minor violation of the law under a policy of “zero tolerance for the
8 homeless” aimed at forcing homeless individuals to leave the City.

9 **FACTS RELATING TO COSTA MESA**

10 183. Costa Mesa Municipal Code §11-304 makes it illegal for any person
11 to “camp, occupy camp facilities or use camp paraphernalia” in “(1) Any street or
12 alley; (2) Any public parking lot or public area, improved or unimproved; (3) Any
13 park.” The Municipal Code further defines “camp” as “to pitch or occupy camp
14 facilities; to use camp paraphernalia.” §11-302. Camp Paraphernalia “includes, but
15 is not limited to, tarpaulins, cots, beds, sleeping bags, hammocks or non-city
16 designated cooking facilities and similar equipment.” §11-302. Thus, under the
17 Costa Mesa Municipal Code, any homeless person using a sleeping bag to stay
18 warm is “camping” and is breaking the law.

19 184. None of the homeless shelters listed by Behavioral and Health
20 Services in the memorandum accompanying the notice of closure are located in
21 Costa Mesa. On information and belief, there are no homeless shelters available to
22 the general public in Costa Mesa. Plaintiff Melissa Fields was repeatedly cited for
23 camping while attempting to sleep on the sidewalk in Costa Mesa. Ms. Fields was
24 not using a tent but was using a sleeping bag to stay warm. She had a backpack
25 and a bicycle with her as well.

1 190. The Costa Mesa Police Department has a policy and practice of
2 threatening and citing individuals who sleep in public places or exhibit other
3 behaviors which Costa Mesa considers “camping” under Costa Mesa Municipal
4 Code §11-302 to §11-304.

5 191. Plaintiffs further allege that it violates their substantive due process
6 rights to threaten them with citation and arrest for being present on County
7 property. The County lacks adequate and appropriate shelters to provide a safe
8 place for the Plaintiff class to sleep and simply be. The County has not provided
9 any other County land on which Plaintiffs can reside without trespassing. Instead,
10 it intends to enforce County “quality-of-life” violations and expects Plaintiffs and
11 others to move out into surrounding cities such as Anaheim, Orange, and Costa
12 Mesa, in which anti-camping ordinances prevent them from lawfully residing
13 without shelter and loitering laws prohibit even their presence in these cities.

14 192. The citation and threats of citation for behavior such as “the use of
15 public streets or public property for living accommodation or habitation purposes”
16 when there is inadequate shelter available violates the Eighth and Fourteenth
17 Amendments of the United States Constitution and Article 7, §17 of the California
18 Constitution.

19 193. Each Defendant has a custom, policy, and/or practice of encouraging
20 its officers to threaten to issue and to issue tickets to homeless persons for the
21 unavoidable behavior of sleeping or having property in public based on their
22 unhoused status.

23 194. There is an actual controversy between Plaintiffs and the Defendants
24 concerning the threat of citation if Plaintiffs remain and sleep on public property
25 with their personal possessions when they have no alternative location to be that
26 will not violate Defendants’ laws. Plaintiffs desire a judicial determination of
27 their rights and duties and a declaration as to Defendants’ obligations.

28

1 **SECOND CAUSE OF ACTION**
2 **Violation of First and Fourth Amendment; 42 U.S.C. 1983**
3 **(Against All Defendants)**

4 195. Plaintiffs reallege and incorporate the allegations set forth in the
5 preceding paragraphs as though fully set forth hereat.

6 196. Prior to the initiation of this action, each of the Defendants repeatedly
7 and consistently stopped, detained, interrogated and ordered individuals who
8 appear to law enforcement to be homeless to move along from public places where
9 they have a right to be pursuant to the First Amendment. The stops and subsequent
10 detentions and interrogations constitute an unlawful seizure as they were done
11 without reasonable suspicion or probable cause to believe that the individual had or
12 was about to commit a crime other than a purported violation of a law necessitated
13 by their status as homeless individuals plus the lack of available shelter. Plaintiffs,
14 as everyone else, have a First Amendment right to be present in a public space, to
15 “loiter” in a public space for no reason and to not be excluded from that space by
16 threat, intimidation or coercion because they are homeless. Since the closure of the
17 Riverbed and the Santa Ana Civic Center encampments, and since the expiration of
18 the County’s placements of the Plaintiff class in motels, recuperative care, FSP
19 placements, sober living facilities and the closure of the armories, the Plaintiff
20 class is, again, being stopped, detained, interrogated, ordered to move from public
21 places and, in many instances, cited and arrested by Defendants for crimes directly
22 resulting from the fact that they have no place to live other than in public spaces.

23 197. As a direct consequence of Defendants’ past and threatened future
24 actions, Plaintiffs have suffered and will continue to suffer a violation of their
25 constitutional rights. Plaintiffs have suffered damages in the form of pain and
26 suffering as a result of Defendants’ policies, practices and customs.

1 **THIRD CAUSE OF ACTION**
2 **Right To Due Process Of Law; 42 U.S.C. § 1983**
3 **Fourteenth Amendment**
4 **(Against All Defendants)**

5 198. Plaintiffs reallege and incorporate the allegations set forth in the
6 preceding paragraphs as though fully set forth hereat.

7 199. The due process clause of the Fourteenth Amendment prohibits
8 government officials, and those acting in concert with them as their employees and
9 agents, from depriving persons of their rights without due process of law.

10 200. Defendant County lacks an adequate system of care with standards
11 and guidelines for assessing and addressing the needs of homeless individuals in its
12 jurisdiction. As a consequence of this omission, Plaintiffs' rights to due process of
13 law were violated in several ways, including denial of access to programs and
14 placements for which they were qualified based on their disabilities and their status
15 as unsheltered persons; summary removal from programs and placements based on
16 purported violations of unannounced, arbitrary and capricious rules of personal
17 conduct; imposition of ad hoc rules and conditions for participation in publicly
18 funded programs based on the status of the Plaintiff class as homeless persons;
19 termination of public assistance benefits without notice and an opportunity to
20 appeal the decision based on the erroneous assumption that the Defendant
21 County's FSP contractor, Telecare, would provide for the basic needs of Plaintiffs.
22 The Plaintiff class has a property interest in these government benefits and
23 programs and were entitled to a fair and equitable process for providing and
24 denying access to such benefits and programs.

25 201. In addition, Plaintiffs' right to due process of law was violated by
26 each of the Defendants through the application of constitutionally vague laws used
27 to threaten, intimidate, coerce, cite and arrest Plaintiffs for, *inter alia*, "camping" in
28 public, loitering, and placing their possessions on public property when they have
no other place to put it. Defendants' laws violate the Fourteenth Amendment

1 because they are so vague as to be impossible to comply with. The unlawful
2 orders to the homeless to move along or be subject to arrest for camping or
3 loitering are directed toward intimidating plaintiffs. Similarly, under Orange
4 Municipal Code §12.66.020, using “extra clothing” is a crime if the person using
5 that clothing appears to be living outside without defining the terms. Provisions
6 similar to the Defendants’ loitering ordinances listed above have been repeatedly
7 found unconstitutionally vague and overbroad in the past. For example, the
8 Anaheim loitering ordinance makes it a crime to “annoy or molest” any person but
9 does not define these terms.

10 202. The acts and omissions of Orange County, Anaheim, Orange, and
11 Costa Mesa, as described herein, violate the constitutional rights of Plaintiffs under
12 the Due Process Clause of the United States Constitution. The wrongful conduct
13 complained of herein was the product of a policy and practice of the Defendants,
14 and was not the product of accident or inadvertence, and was not random. In so
15 doing, Defendants were deliberately indifferent to the rights of Plaintiffs and the
16 class they represent and acted in willful and reckless disregard of the rights of
17 Plaintiffs and the class.

18 203. Plaintiffs’ rights to substantive due process have been violated as
19 well. As detained herein, numerous members of the Plaintiff class have been
20 abandoned on the streets by Defendant County when its agents exited people from
21 programs and motels and denied them appropriate alternative placements. Time
22 and again, Telecare and other County agents left people in this precarious and
23 dangerous position, without a place to sleep, because they were unable to find a
24 placement for the individual that accommodated their disabilities, including the
25 need to keep their assistance animal and their caregiver partner with them in an
26 appropriate facility. Plaintiffs have alleged and continue to allege that the failure
27 and refusal of the County to provide a safe place for the class members to stay puts
28

1 them in immediate danger and constitutes a state-created danger to a community
2 that predominantly suffers from one or more significant disabilities.

3 204. As a direct and proximate cause of the aforementioned acts of
4 Defendants, Plaintiffs and the Plaintiff Class suffered injuries in that they were
5 denied access to, or ejected from, existing facilities and programs on grounds that
6 were arbitrary, capricious and discriminatory, were unable to obtain appropriate
7 housing or shelter and were threatened, cited and, in some instances arrested, for
8 living in public places when there was no available shelter or housing.

9
10 **FOURTH CAUSE OF ACTION**
11 **VIOLATION OF FAIR HOUSING ACT**
12 **42 U.S.C. § 3604 and California Gov. Code § 12955 et seq.**
13 **(Against County Defendant)**

14 205. Plaintiffs reallege and incorporate the allegations set forth in the
15 preceding paragraphs as though fully set forth hereat.

16 206. Under the Fair Housing Act, a dwelling is “any building, structure, or
17 portion thereof which is occupied as, or designed or intended for occupancy as, a
18 residence by one or more families” 42 U.S.C. § 3602(b). Emergency and
19 bridge shelters, transitional housing, assisted living and recuperative care facilities,
20 sober living facilities, room and board facilities are all subject to the Fair Housing
21 Act (“FHA”) whether publicly or privately owned and operated.

22 The Fair Housing Act requires that an entity not discriminate on a number of bases,
23 including disability. The Defendant County and its agents, including the operators
24 of the Courtyard and Bridges and Telecare have violated the FHA in several ways.

25 207. The staff at the Courtyard and Bridges are not adequately trained to
26 interact with people with significant mental illness. As a result, time and again,
27 individuals are ejected from the only two public shelters in Orange County because
28 of a perceived violation of a rule or offense to the staff. The ejection based on
allegedly wrongful conduct directly related to a disability, without any opportunity

1 to challenge the decision, is a failure to consider a reasonable accommodation of a
2 disability. People have no place to go other than the streets.

3 208. To the extent that there are other privately-operated shelters, nearly all
4 are restricted by gender, with most being available to women with children or
5 pregnant women. None are low-barrier drop-in emergency shelters. Some, such as
6 the Orange County Rescue Mission, require compliance with intensive Christian
7 religious practices as a condition of admission. Still others require that a person be
8 employable, a difficult barrier for many unhoused individuals.

9 209. The physical factors at the Courtyard and Bridges fail to provide
10 adequate accommodation of disabilities for many members of the plaintiff class.
11 For persons with a trauma-enhanced disability, the conditions in the Courtyard,
12 Bridges and the two County-run emergency winter shelters at the armories,
13 exacerbate their physical and mental health conditions. The numbers at the
14 Courtyard are near or above 400 persons each night, sleeping in close quarters on
15 small cots with no privacy for women. At the armories, people sleep on mats on
16 the floor that are difficult for anyone with a physical disability to accommodate to
17 as a matter of course.

18 210. The County and its agent, Telecare, failed to develop and implement
19 adequate policies to ensure that Plaintiffs and others diagnosed as SPMI would not
20 be ejected from services or placements on arbitrary and capricious grounds for a
21 purported failure to follow some unidentified and unwritten “behavioral” rule that
22 directly impacts their disabilities, and without a pre- or post-deprivation process
23 for notice and a hearing before loss of a significant government benefit provided to
24 respond to their serious disability.

25 211. At the time that the County initiated the relocation of unhoused
26 persons from the Riverbed in February 2018, the County had no appropriate
27 placements to accommodate assistance animals. The County’s proposal was to
28 separate people with emotional and physical disabilities from their animals and

1 board the animals for 90 days. Under directives from the Court, the County
2 created a number of “pet beds” at Bridges and the Courtyard to accommodate
3 people with assistance animals. Many of the temporary motel placements allowed
4 accompanying assistance animals, while others did not. Increasingly, as people
5 were relocated from the initial 30-day motel stays, many were pressed to separate
6 from their animals, causing them emotional distress. For those who refused to do
7 so. and demanded a reasonable accommodation for their assistance animals, the
8 response of Defendant County and its agent, Telecare, has been to throw up their
9 hands and abandon people on the streets even though they knew they were SPMI.

10 212. There was and is no process for a person to seek an accommodation
11 for an emotional support animal under a provider’s “no-pet” policy. Both the FHA
12 and Section 504 of the Rehabilitation Act, require consideration of accommodation
13 for an “assistance animal,” including a certified service animal, an emotional
14 support animal, or any other animal that “works, provides assistance, or performs
15 tasks for the benefit of a person with a disability, or provides emotional support
16 that alleviates one or more identified symptoms or effects of a person’s disability.”
17 Providers may deny the accommodation only where they show that the specific
18 assistance animal will cause a threat to the health and safety of others or damage
19 the provider’s property.

20
21 **FIFTH CAUSE OF ACTION**
22 **VIOLATION OF THE 14TH AMENDMENT; ART. I, § 13**
23 **(Against the Defendant County)**

24 213. Plaintiffs reallege and incorporate the allegations set forth in the
25 proceeding paragraphs as through fully set forth hereat.

26 214. Defendants’ conduct, as described herein, constitutes a denial of equal
27 protection to the Plaintiff class based on their status as homeless individuals
28 coupled with their presence in public spaces and the lack of available appropriate
housing options, from shelters to permanent and supportive housing. The equal

1 protection clause prohibits the Defendants from making determinations about
2 access to government programs on the basis of the Plaintiff class' indigent status.

3 215. As individuals with disabilities and as homeless persons, they have
4 been subjected to selective and discriminatory application of the laws and
5 programs, which has had both a discriminatory intent and a discriminatory
6 purpose. As individuals with disabilities and as homeless persons, they have been
7 the subject of selective and discriminatory application of the laws and programs as
8 a result of bias, negative attitudes, animosity and fear directed at the unsheltered
9 community and disabled persons, all done with the intent to harm a politically
10 unpopular group. Plaintiffs and the class that they represent have been
11 intentionally treated differently from others similarly situated and with no
12 rational basis for the difference in treatment as a result of Defendants' willful,
13 malicious and unlawful acts.

14 216. As a direct and proximate consequence of Defendants' actions,
15 Plaintiffs have suffered and continue to suffer a loss of constitutional and statutory
16 rights and pain and suffering. The individual Plaintiffs are entitled to
17 compensatory damages for injury to their person and the Plaintiff class is entitled
18 to injunctive and declaratory relief.

19
20 **SIXTH CAUSE OF ACTION**
21 **VIOLATION OF THE AMERICANS WITH DISABILITIES ACT**
22 **(42 U.S.C. § 12132; 42 U.S. Code § 12133; 29 U.S.C § 794a)**
23 **(Against Defendant County)**

24 217. Plaintiffs reallege and incorporate the allegations set forth in the
25 proceeding paragraphs as through fully set forth hereat.

26 218. The American with Disabilities Act protects individuals with
27 disabilities against governmental action that constitutes intentional discrimination
28 when the government entity knows or should know that its conduct is substantially
likely to result in harm to an individual's federally protected right and, nonetheless,
continues its unlawful action. In this instance, Defendant County engaged in

1 intentional discrimination against the Plaintiff class based on their disabilities by
2 intentionally and arbitrarily denying them access to benefits and programs to which
3 they were otherwise eligible.

4 219. From the beginning of this litigation, through email, telephone calls,
5 in-person meetings with the Court and the Special Master, Plaintiffs' counsel has
6 repeatedly and daily informed Defendant County of the discriminatory treatment
7 directed at the class as a whole and hundreds of individual members of the class
8 and sought reasonable accommodations for the Plaintiffs' disabilities.

9 220. While Defendant initially, and only after multiple demands, made
10 some accommodations for assistance animals and in-home caregivers for those
11 persons assessed as SPMI and placed in a FSP site, even that accommodation has
12 now been rescinded for many individuals as the County has intentionally moved to
13 cut costs, regardless of its obligations to the Plaintiff class as disabled individuals.

14 221. In doing the acts complained of herein, Defendant has acted
15 knowingly and with deliberate indifference to Plaintiffs' disabilities and the harm
16 substantially likely to occur to them as the result of Defendant's unlawful policies
17 and practices. Defendant has accomplished these unlawful acts by using federal
18 and state funds in ways that discriminate against qualified disabled persons.

19
20 **SEVENTH CAUSE OF ACTION**
21 **Violation of California Civil Code § 52.1**
22 **(Against All Defendants)**

23 222. Plaintiffs reallege and incorporate the allegations set forth in the
24 proceeding paragraphs as through fully set forth hereat.

25 223. The Defendants' conduct, as described herein, interferes by threats,
26 intimidation, or coercion, or attempts to interfere by threats, intimidation, or
27 coercion, with the exercise and enjoyment of Plaintiffs' rights as secured by the
28 First, Fourth, Eighth, and Fourteenth Amendments to the United States

1 Constitution or laws of the United States, and of the rights secured by the
2 Constitution or laws of the state of California.

3 224. Defendants have engaged in concerted and repeated conduct to cite
4 and arrest Plaintiffs under unconstitutional ordinances, on their face and as applied,
5 and threatened to cite and arrest them repeatedly. Defendants engaged in coercive
6 and intimidating tactics by conducting unwarranted stops and collecting
7 information on Plaintiffs to push them out of Defendants' respective jurisdictions.

8 225. Defendants' actions are the proximate cause of the harm suffered by
9 the individual Plaintiffs, who are entitled to compensation for their pain and
10 suffering.

11 226. Defendants' continued use of threats, intimidation, coercion against
12 Plaintiffs and the class they represent is ongoing and will continue unless and until
13 the Court enjoins this unlawful conduct.

14
15 **EIGHTH CAUSE OF ACTION**
16 **Violation of California Government Code § 815.6**
17 **(Against All Defendants)**

18 227. Plaintiffs reallege and incorporate the allegations set forth in the
19 proceeding paragraphs as though fully set forth hereat.

20 228. California Civil Code § 815.6 provides for liability against a public
21 entity when: (1) the entity violates an enactment; (2) the plaintiffs are in the class
22 of persons protected by the enactment; (3) the enactment is intended to protect the
23 type of injury complained of by the plaintiffs; (4) the violation of the enactment is
24 the proximate cause of the injury; and, (5) the public entity did not exercise
25 reasonable diligence in discharging its duty established by the enactment.

26 229. An enactment includes a federal or state constitutional provision, a
27 statute, charter provision, ordinance or properly adopted regulation.

28 230. The Fourteenth Amendment of the United States Constitution, Article
I, § 7 of the California Constitution, California Civil Code § 52.1, and California

1 Government Code § 65583 *et seq.* are all enactments within the meaning of
2 California Civil Code § 815.6. Plaintiffs and the Plaintiff Class are in the class of
3 persons protected by these enactments.

4 231. The aforementioned enactments, applied to Plaintiffs separately and
5 together, constitute mandatory duties within the meaning of California Civil Code
6 § 815.6 and were designed to protect against the kind of injuries alleged herein.
7 As described hereinabove, Defendants did not exercise reasonable diligence in
8 discharging their duty established by the enactments identified above to refrain
9 from violating the constitutional and statutory rights of Plaintiffs and the Class.

10 232. As a direct and proximate cause of the aforementioned acts of
11 Defendants, Plaintiffs and the Plaintiff Class suffered injuries in that they were
12 denied access to existing facilities on grounds that were arbitrary, capricious and
13 discriminatory, were unable to obtain appropriate housing or shelter and were
14 threatened, cited and, in some instances arrested, for living in public places when
15 there was no available shelter or housing.

16 233. Plaintiffs and the Plaintiff Class seek injunctive and declaratory
17 relief and damages for the individual Plaintiffs. The damages sought by the
18 individual Plaintiffs are incidental to the injunctive relief sought in this action.

19
20 **NINTH CAUSE OF ACTION**
21 **Violation of California Government Code § 11135**
22 **(Against All Defendants)**

23 234. Plaintiffs reallege and incorporate the allegations set forth in the
24 proceeding paragraphs as though fully set forth hereat.

25 235. California Government Code section 11135 provides that:
26 No person ... shall, on the basis of race, national origin, ethnic group
27 identification, religion, age, sex, sexual orientation, color, genetic
28 information, or disability, be unlawfully denied full and equal access to the
benefits of, or be unlawfully subjected to discrimination under, any program

1 or activity that is conducted, operated, or administered by the state or by any
2 state agency, is funded directly by the state, or receives any financial
3 assistance from the state.

4 236. The Defendant County of Orange is an entity subject to the
5 requirements and prohibitions of section 11135 in that it receives more than 100
6 million dollars annually in the form of funding for MHSA, among other public
7 monies and financial assistance from state agencies and other state funds.

8 237. The term “disability” applies to both mental, medical and physical
9 disabilities as defined in California Government Code section 12926. The
10 Defendant County, directly and through its contractors and agents, has
11 discriminated against Plaintiffs on the basis of their disabilities and has denied
12 them full and equal access to the programs and activities operated by the County
13 for the benefit of unhoused persons.

14 238. As a direct and proximate result of Defendant’s actions, and those of
15 its contractors and agents, Plaintiffs and the Plaintiff Class experienced and
16 continue to experience direct injury, including pain and suffering.

17
18 **TENTH CAUSE OF ACTION**
19 **TAXPAYER’S AND CLASS MEMBERS SUIT FOR**
20 **DECLARATORY AND INJUNCTIVE RELIEF**

21 **California Code of Civil Procedure § 526a**
22 **(Against Defendant County)**

23 239. Plaintiffs reallege and incorporate the allegations set forth in the
24 preceding paragraphs as though fully set forth here.

25 240. Plaintiffs Orange County Catholic Worker and Melissa Fields have
26 been assessed for and are liable to pay taxes in and to the County of Orange.
27 Plaintiffs and the class they represent have suffered and, unless the Court restrains
28 Defendant County, will continue to suffer irreparable harm.

29 241. Plaintiffs are informed and believe, and on that basis allege, that the
conduct of Defendant, and its employees, agents and contractors, has been and,

1 unless restrained, will continue to be deleterious to the constitutional and statutory
2 rights of Plaintiffs and the general public. Plaintiffs thereby seek to enforce
3 important rights affecting the public interest within the meaning of California Code
4 of Civil Procedure § 1021.5.

5 242. Plaintiffs have no adequate remedy at law.

6 243. Unless the Defendant is enjoined from continuing its course of
7 conduct for engagement with the Plaintiff class, Plaintiffs will suffer ongoing and
8 irreparable injury to their rights. Plaintiffs seek injunctive relief pursuant to
9 California Code of Civil Procedure § 526a and the substantive standards reflected
10 in the claims stated above, for which injunctive and declaratory relief are
11 appropriate remedies.

12 244. Defendant has expended public monies and threatens and will
13 continue to spend such monies to implement and engage in the illegal conduct
14 described herein.

15 245. Pursuant to California Code of Civil Procedure §§526 and 526a,
16 and the constitutional and statutory provisions set forth above, the Plaintiffs and
17 Plaintiff Class, as taxpayers and as injured parties entitled to relief, seek
18 declaratory and injunctive relief, damages for the individual plaintiffs, and an
19 accounting to prevent continued harm and to protect themselves and the public
20 from the defendants' unlawful policies and practices. Said damages to the
21 individual plaintiffs is incidental to the injunctive relief sought for the class.

22
23 **WHEREFORE**, Plaintiffs pray as follows:

24 1. For an order enjoining the Defendant County of Orange from
25 removing or denying the Plaintiff class placements in emergency shelters,
26 transitional programs, recuperative care and sober living facilities, or any other
27 placements without due process of law;

1 2. For an order directing the Defendant County of Orange to reassess
2 those members of the Plaintiff class removed from, or denied access to, placements
3 in emergency shelters, transitional programs, recuperative care and sober living
4 facilities, or any other placements between February 1, 2018 and the present
5 without due process of law;

6 3. For an order enjoining and restraining the Defendant County of
7 Orange from removing or denying the Plaintiff class from placements reasonable
8 accommodations in emergency shelters, transitional programs, recuperative care
9 and sober living facilities, or any other housing opportunities in violation of state
10 and federal disability discrimination laws;

11 4. For an order enjoining and restraining Defendants City of Anaheim,
12 City of Costa Mesa, and City of Orange from citing or arresting individuals for
13 violations of camping laws, including Anaheim Municipal Code 11.10, Orange
14 Municipal Code §12.66.030, Costa Mesa Municipal Code §11-304, and/or County
15 of Orange Ordinance §2-5-95.

16 5. For an order enjoining and restraining Defendant City of Anaheim
17 from enforcing its loitering ordinance, §7.28.010.

18 6. For an order enjoining and restraining Defendants City of Anaheim,
19 City of Costa Mesa, and City of Orange from stopping and detaining homeless
20 individuals without probable cause and from threatening homeless persons with
21 tickets or citations if they continue to be present in public space in that city.

22 7. For a declaratory judgment that Defendants' policies, practices and
23 conduct as alleged herein violate Plaintiffs' rights under the United States and
24 California constitutions and federal and state statutory laws governing disability
25 and fair housing;

26 8. For a declaratory judgment that Defendants failed to meet their
27 mandatory duty to provide for shelter and housing for homeless and low-income
28 residents of their jurisdictions, as codified in Government Code §§65583 et seq.;

