

OFFICE OF THE COUNTY COUNSEL
COUNTY OF ORANGE

1 LEON J. PAGE, COUNTY COUNSEL
MARIANNE VAN RIPER, Sr. Assistant (CA SBN 136688)
2 marianne.vanriper@coco.ocgov.com
LAURA D. KNAPP, Supervising. Deputy (CA SBN 162800)
3 laura.knapp@coco.ocgov.com
KAYLA N. WATSON, Deputy (CA SBN 286423)
4 Kayla.watson@coco.ocgov.com
333 West Santa Ana Boulevard, Suite 407
5 Santa Ana, California 92701
Telephone: (714) 834-6020
6 Facsimile: (714) 834-2359

7 Attorneys for Defendants, County of Orange,

8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
10 **SOUTHERN DIVISION – SANTA ANA**

11 ORANGE COUNTY CATHOLIC
WORKER, an unincorporated association;
12 LISA BELL; SHAWN CARROLL;
MELISSA FIELDS; LARRY FORD;
13 CAMERON RALSTON; KATHY
SCHULER; GLORIA SHOEMAKE, as
14 individuals,

15 Plaintiffs,

16 v.

17 ORANGE COUNTY; THE CITY OF
ANAHEIM; THE CITY OF COSTA
18 MESA; and THE CITY OF ORANGE,

19 Defendants.
20

Case No. 8:18-cv-00155 DOC (KESx)

**JOINT STATEMENT OF
SETTLEMENT PROGRESS**

DATE: October 29, 2018
TIME: 9:00 a.m.
DEPT.: 9D

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22 At the October 2, 2018 Status Conference, the Court ordered the parties to file a
23 Stipulation of Settlement on or before October 22, 2018. Since that time, County Counsel
24 and Plaintiffs' counsel in both the *OC Catholic Worker* and the *Ramirez* actions have
25 continued to negotiate with respect to principles of settlement terms. These principles of
26 settlement, which will apply to the settlement of both cases, have now been combined into a
27 single document, a copy of which is attached as Exhibit A. The parties are pleased to report
28 that, with the support of a majority of the Board of Supervisors, County Counsel has been

Orange County Catholic Worker, et al. v. County of Orange, et al.
USDC Case No.: 8:18-cv-00155 DOC (KESx)

Exhibit A

OCCW v. County of Orange, Ramirez et al. v. The County of Orange
Preliminary Settlement Terms (10.18.18 version)
Confidential Settlement Negotiations – Exempt Evidence Code 1152

Enforcement of Public Nuisance Laws

1. On all County properties (other than specific properties exempted in Section 1.A below), and in County unincorporated areas, the County will lead the engagement of those indigent homeless individuals inhabiting areas open to the public with Orange County Health Care Agency Outreach and Engagement personnel. Outreach and Engagement personnel will determine appropriate placements for the indigent homeless persons and the availability of said placements. Disputes over appropriate placement will be subject to the policies and procedures outlined in this agreement. Absent exigent circumstances, after engagement by Outreach and Engagement personnel, an indigent homeless person will be given a warning of the alleged violation and notice (constituting at least one full business day after engagement) of their service and shelter options. After an offer of appropriate placement, a warning, and notice of the need to relocate, and an opportunity to accept the placement or voluntarily relocate, the County may utilize criminal law, including any applicable County ordinances, to effect the person's removal.
 - A. The procedures set forth in this Section shall not apply to the enforcement of County Ordinances and criminal law on (1) Orange County Flood Control District property; (2) John Wayne Airport property; (3) currently lockable, gated, and fenced County park facilities with noticed hours of operation; (4) County libraries during closed hours of operation; or (5) other special use properties as agreed upon by the parties. In such locations, indigent homeless persons shall have and enjoy the same right of access (and shall be subject to the same rules of conduct) as other members of the public, and the County and Sheriff shall, where feasible, provide indigent homeless persons a warning and an opportunity to vacate the area, before issuing a citation or effecting an arrest.
 - B. To further the goals of maximizing eligibility for, and providing services to, unhoused persons so they can be enrolled in available benefit programs, including homeless court, County law enforcement (including the District Attorney and Sheriff) will endeavor, when feasible, to charge offenses based on homeless status as infractions rather than misdemeanors. However, nothing herein shall be construed to preclude County law enforcement from enforcing criminal law not based on homeless status.
 - C. Nothing herein shall be construed to prevent the County from performing routine maintenance, remediation, or cleaning projects, as determined to be necessary by the County. The County will advise Plaintiffs' counsel when a proposal, plan or project is expected to be submitted to the Board of Supervisors or appropriate County agency if said proposal, plan or project will result in the displacement of an unsheltered community and, if necessary, submit the proposal to the Court's dispute resolution process pursuant to this agreement. The parties will meet and confer in good faith on the implementation of the project as it impacts an unsheltered community. Except in cases of emergency, in the event of such projects, the County shall provide at least 24 hours' notice to affected indigent homeless persons and shall provide storage, at no charge, for their personal property. The parties agree to meet and confer on the extent of the County's obligation to store personal property seized during such projects.

Referrals to Collaborative Courts

2. The County agrees to make appropriate referrals to the Collaborative Courts regarding citations incurred by homeless individuals.

Development of Standards of Care

3. The County will adopt "Standards of Care" for its homeless services programs to ensure that program eligibility, rules, and services are clearly communicated to program participants, and shall take steps to ensure that said County homeless services programs incorporate applicable disability and due process protections. The County will develop together with Plaintiffs' counsel reasonable rules concerning appropriate behavior for the program to be incorporated into the Standards of Care, specifying when individuals may or may not be exited from the program for violations of rules.

- A. As a condition to the receipt of County moneys, said rules will be clearly communicated and posted at all homeless and health services sites, whether operated by the County, City, or other entity, including private providers, and will be provided to all residents and clients upon entrance.
- B. The Standards of Care described herein shall also be required of all County-run and County-funded programs and services that are available to homeless individuals.

Clinical Assessments

4. The County will provide reasonable access to homeless services, programs and activities and will provide clinical assessments and linkage to appropriate services and programs to those who request it. These clinical assessments will be made available to all homeless persons within the County of Orange who may be eligible for County-funded programs and resources or for programs and resources to which the County may make a referral.

5. For participants in County programs, each individual participant will be reassessed by an appropriate licensed professional, as selected by the County, prior to moving that individual to a different level of care.

6. In conducting assessments of participants in such programs, the County agrees to consider and, where feasible, utilize evidence-based best practices, including but not limited to, the following:

- A. Participants reporting a history of trauma during screening should, with their consent, undergo a comprehensive mental health assessment.
- B. When conducting assessments, County personnel shall emphasize safety, trust, and empowerment, ensuring the physical and emotional safety of participants and of staff members and minimizing re-traumatization to the best extent feasible. Upon assessment, the client will be provided information about the process, the treatment plan and timeline for services, as appropriate.
- C. As part of the treatment plan development, the County will endeavor to include participant choice, control, and collaboration in service and treatment options, recognizing the individual's strengths and skills.

- D. The County will negotiate in good faith with Plaintiffs' counsel regarding how to implement the assessment principles described above.

Due Process Protections

7. The County will ensure appropriate due process protocols, including a timely and effective administrative appeals process, for homeless individuals being denied access to, or being terminated from, County-administered mental health services, shelter, or housing resources. Due process procedures may vary by the provider, program and shelter, but all such due process procedures shall comply and be otherwise consistent with local, state, and federal laws. The due process procedure will incorporate pre-termination written notice given at least 36 hours in advance, to allow for appeals during business hours, although the County is not prohibited from exiting an individual immediately from a placement if a concern arises regarding the safety and/or security of the program operations.

8. The County will make reasonable efforts to provide alternative placements or, if no placements are available, referrals to clients who are exiting programs. The placement process will start when the notice of termination is given and will include assistance by a staff member in securing an alternative placement, although the County is not prohibited from exiting an individual prior to the placement process if the individual is jeopardizing the safety and/or security of the program operations.

9. The parties agree that a more thorough and detailed notice and grievance review procedure that complies and is otherwise consistent with state and federal law must be developed and agreed to by the parties. The parties anticipate that every effort will be made by the parties to resolve the issues prior to seeking review by the District Court. The parties agree that the District Court will have the authority to enforce the terms of the agreement and resolve disputes as they may arise. The parties agree to make reasonable efforts to exhaust any and all applicable meet and confer and/or grievance procedures prior to contacting the Court, except in instances where the health or safety of individuals is at risk of imminent harm. The informal court hearing process will be established by mutual agreement and with the approval of the Court. The parties shall make every reasonable, good-faith effort to have these disputes heard by the Court during normal business hours, but understand that the hearings may be dependent upon (1) the Court's availability, and (2) circumstances in which the health or safety of an individual is at risk of imminent harm.

ADA/Reasonable Accommodation Procedure at All Stages

10. The County will establish a formal, uniform process whereby individuals with disabilities can request reasonable accommodations or modifications to gain equal access to facilities, programs, services, and activities. The parties agree to negotiate in good faith regarding the content of the County's formal, uniform processes to be established.

11. Each individual applying for or participating in the County's programs, services, and activities relating to individuals experiencing homelessness (including, but not limited to, programs and services that assist with mental health, substance abuse, recuperative care, housing, and/or homeless services system) shall be notified, in writing, of his or her right to request reasonable accommodations at any point during participation in those programs, services, and activities.

12. The County will identify ADA Coordinator(s) responsible for ensuring that the County's programs, services, and activities relating to individuals experiencing homelessness are ADA-compliant, including requests for reasonable accommodations and appeals of reasonable accommodation denials.

13. The County will designate and train an ADA Compliance Manager at every County-run and County-contracted site to ensure the County's compliance with the ADA through all of the County's programs, services, and activities relating to individuals experiencing homelessness.

Programs

14. If a homeless individual with a disability meets the essential eligibility requirements for a County-run or funded program, he or she shall have the equal right to participate in that program with reasonable accommodations, provided that such accommodations do not fundamentally alter the nature of the program.

15. In accordance with State and Federal law, participants will have right to obtain their records from County programs and services in a timely manner.

16. The County shall provide individuals with disabilities with reasonable written notice of changes affecting their housing or access to services. Such changes shall include any modifications to or termination of services. Individuals will have a right to an appeal process if they disagree with the County's terms in the written notice.

17. The County shall commit to providing one informational link to County programs, services, and activities relating to individuals experiencing homelessness, including eligibility standards and qualifications and will update information on a quarterly basis.

Access to Public Benefits and Legal Counsel

18. No individual assessed as, and placed in, FSP will be terminated from General Relief (GR) without an evaluation of the specific components met through the FSP placement.

19. The County's GR procedures shall institute expedited pre-termination notice and hearing requirements for GR recipients pending recertification.

20. The County agrees to expand access to Social Services Agency public benefits for the South County Service Planning Area and will take steps to ensure that eligible homeless persons have access to benefits.

21. The County agrees to provide Plaintiffs' counsel access to their clients who reside in residential programs. The parties will develop procedures so that visits with counsel shall not impact program operations.

Draw-Down of State, Federal and Local Funds ("Funds") to Fund County Programs and Services

22. The County will draw down Funds to support its programs, services, and activities relating to individuals experiencing homelessness, including Funds through the Mental Health Services Act and other eligible funds.

Building an Effective Continuum of Care

23. In building the Continuum of Care, the County agrees to consider and, where feasible, utilize, evidence-based best practices in the sheltering of indigent homeless persons, including Trauma Informed Care, Housing First, and Harm Reduction.

24. The parties will negotiate in good faith regarding how to implement evidence-based best practices in sheltering indigent homeless persons.

Federal Jurisdiction

25. The County and the *OCCW* plaintiffs will enter into a Stipulated Judgment and settlement of the claims set out in the operative complaint. The Stipulated Judgment will provide for the District Court to retain jurisdiction to interpret and enforce the terms of the Stipulated Judgment for a period of three years.

26. The *OCCW* plaintiffs filed a First Amended Complaint in this Action that included a request to certify a Plaintiff class pursuant to F.R.Civ.P. 23(b)(2) for injunctive relief only. The parties agree that, pursuant to applicable Ninth Circuit authority, the Court may issue broad injunctive relief absent certification of a class. Plaintiffs have agreed to seek the Court's approval to dismiss the class claim. The parties agree to consolidate *OCCW* and *Ramirez* cases. In consideration thereof, the County will agree to permit counsel representation of all individuals in Orange County impacted by the terms of this Agreement because of their homeless status. The parties further agree that attorneys for *OCCW* and *Ramirez* Plaintiffs will engage in monitoring of, the terms of this agreement for a term concurrent with the District Court's jurisdiction, subject to reasonable costs and other parameters, as agreed upon by the parties.

Settlement

27. The parties will meet and confer on the payment by the County of *OCCW* and *Ramirez* Plaintiffs' reasonable attorneys' fees and costs and damages to the named Plaintiffs, if any, incurred to date.

CERTIFICATE OF SERVICE

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OFFICE OF THE COUNTY COUNSEL
COUNTY OF ORANGE

I declare that I am a citizen of the United States employed in the County of Orange, over 18 years old and that my business address is 333 W. Santa Ana Blvd., Suite 407, Santa Ana, California 92701, and my email address is patti.owens@coco.ocgov.com. I am not a party to the within action.

I certify that I caused the foregoing **JOINT STATEMENT OF SETTLEMENT PROGRESS** to be served on October 22, 2018, upon all counsel of record listed below by electronic filing utilizing the U.S.D.C.'s CM/ECF:

Attorneys for Plaintiffs:

Carol A Sobel (Email: carolsobel@gmail.com)
Monique Amanda Alarcon (Email: monique.alarcon8@gmail.com)
Avenet Chattha (Email avneet.chattha7@gmail.com)
Law Offices of Carol A Sobel
725 Arizona Ave., Ste. 300
Santa Monica, CA 90401
Ph: (310) 393-3055
Fax: 310-451-3858

Brooke Alyson Weitzman (Email: bweitzman@eldrcenter.org)
William R Wise, Jr. (Email: bwise@eldrcenter.org)
Elder Law and Disability Rights Center
1535 E. 17th Street
Santa Ana, CA 92705
Ph: (714) 617-5353

Catherine Elizabeth Sweetser (Email: csweetser@sshhlaw.com)
Colleen M. Mullen (Email cmullen@sshhlaw.com)
Paul L Hoffman (Email: hoffpaul@aol.com)
Schonbrun Seplow Harris and Hoffman LLP
11543 W. Olympic Blvd.
Los Angeles, CA 90064
Ph: (310) 396-0731
Fax: 310-399-7040

I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

Executed in Santa Ana, California this October 22, 2018.

/s/

Patricia A. Owens