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7 Attorneys for Plaintiffs

8 **UNITED STATES COURT**

9 **NORTHERN DISTRICT OF CALIFORNIA**

10 SAUSALITO/MARIN COUNTY CHAPTER )  
11 OF THE CALIFORNIA HOMELESS UNION )  
12 on behalf of itself and those it represents; )  
13 ROBBIE POWELSON; SHERI I. )  
14 MCGREGOR; MICHAEL ARNOLD; )  
15 ARTHUR BRUCE; MELANIE MUASOU; )  
16 SUNNY JEAN YOW; NAOMI )  
17 MONTEMAYOR; MIKE NORTH and )  
18 JACKIE CUTLER on behalf of themselves )  
19 and similarly situated homeless persons, )

20 Plaintiffs

21 vs.

22 CITY OF SAUSALITO; MAYOR JILL )  
23 JAMES HOFFMAN; POLICE CHIEF JOHN )  
24 ROHRBACHER; CITY MANAGER )  
25 MARCIA RAINES; DEPT. OF PUBLIC )  
26 WORKS SUPERVISOR KENT BASSO, )  
27 individually and in their respective official )  
28 capacities, )

29 Defendants.

Case No.: 3:21-cv-01143-EMC

**PLAINTIFFS' SUPPLEMENTAL STATUS  
REPORT AND MOTION TO SHOW  
CAUSE WHY DEFENDANTS SHOULD  
NOT BE HELD IN CONTEMPT FOR  
VIOLATING THE PRELIMINARY  
INJUNCTION;  
DECLARATION OF ROBBIE  
POWELSON; DECLARATION OF  
CAROLINE COLACETO;  
DECLARATION OF MICHAEL  
ORTEGA.**

Status Conference: April 1, 2021

Hon. Edward M. Chen

30 On March 25, 2021, the Sausalito Police Department initiated an action at the encampment  
31 in Dunphy Park which came to include, at the request of the Sausalito Police, officers of the Marin  
32 County Sheriff's Department and representatives of the Richardson Bay Harbor Authority.  
33 On that day, police attempted seize a boat that legally belonged to the descendants of the recently  
34 deceased owner of the boat, tied up and immediately adjacent to the Dunphy Park Encampment.

35 Plaintiffs' Supplemental Update and Motion for Order to Show Cause

1 Upon the boat were members of the deceased's family and friends of hers living in the encampment  
2 who were conducting a memorial service. (See Declarations of Mike Ortega, Robbie Powelson,  
3 Caroline Coaceto)

4 In approaching the boat, approximately half a dozen Sausalito Police, traversed the  
5 encampment to approach the location, pictured below and attached hereto as Exhibit A to the  
6 Declaration of Michael Ortega. They subsequently called in approximately half a dozen members of  
7 the Marin County Sheriffs, who also traversed the encampment. The effect of what was now was  
8 approximately a dozen police officers marching through the camp to the boat was to frighten all  
9 camp residents.  
10

11 At the boat, police refused to hear explanations from Plaintiff Powellson and others  
12 regarding the ownership and status of the boat or agree that if the boat was to be taken by police that  
13 it not be immediately brought to the boat crushing station adjacent to Marinship Park where it  
14 would be destroyed. Police refused all these requests and ultimately, after using excessive force on  
15 Mr. Powelson and threatening to have Child Protective Services seize children belonging to two  
16 Caroline Colaceto and Kaitlin Natasha, also onboard for the memorial, the boat was towed to the  
17 crushing station where it would have been destroyed but for the intervention of Plaintiffs and  
18 Plaintiffs' Counsel and currently remains intact at the Army Corp's crushing operation. (See,  
19 Declarations of Michael Ortega, , Caroline Colaceto.)  
20  
21

## 22 POINTS AND AUTHORITIES

23 Before imposing civil contempt citations based upon violation of a court order, a court only  
24 must conclude:

- 25 (1) The underlying order violated was valid and lawful;
- 26 (2) The underlying order was clear, definite and unambiguous and
- 27 (3) The contemnor had the ability to comply with the underlying order (*King v. Allied*  
28 *Vision, Ltd.*, 65 F.3d 1051, 1058 (2d Cir. 1995).



1 Here, there is no question that all three elements are satisfied and, thus, the issue before the  
2 Court is whether the Defendants' conduct constituted a violation of the Court's order not to clear  
3 the Dunphy Park Encampment.

4 Here, Plaintiffs assert that regardless of whatever legal dispute may have existed concerning  
5 the status of the boat or even the legitimacy of pretext offered for the raid and arrests and threats of  
6 arrest, the excessive show of police force, the bringing in of enforcements from the Sheriff's  
7 department threats to seize children, the aggressive demeanor, excessive force used on Plaintiff and  
8 Union president Powelson and general bullying and intimidation of the campers—nearly all of  
9 whom witnessed the event – constitutes a malevolent attempt to create a climate of repression and  
10 fear that now pervades the camp, with many feeling unsafe in a camp that is protected by this  
11 court's injunction. While Defendants did not physically dismantle the encampment, their actions  
12 were in the nature of an attempt at "constructive eviction" such that a reasonable person would find  
13 them intolerable and "voluntarily" leave. (See, Declarations of Colaceto and Powelson).  
14

### 15 CONCLUSION

16 For the reasons set forth above, the evidence proffered and taking into consideration the  
17 entire record of the case and arguments which may be made in a hearing on this matter, Plaintiffs  
18 pray that an Order showing Defendants to be in contempt of this Court's Order for Preliminary  
19 Injunction and assessing an appropriate sanction be issued.  
20

21  
22 March 31, 2021

Respectfully Submitted,

/s/ Anthony D. Prince

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26 WORKS SUPERVISOR KENT BASSO, )  
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28 capacities, )

Defendants.

Case No.: 3:21-cv-01143

**DECLARATION OF ROBBIE  
POWELSON IN SUPPORT OF  
PLAINTIFFS' SUPPLEMENTAL STATUS  
REPORT AND MOTION FOR ORDER  
TO SHOW CAUSE WHY DEFENDANTS  
SHOULD NOT BE HELD IN CONTEMPT**

Case Management Conference  
April 1, 2021

Hon. Edward M. Chen

**DECLARATION OF ROBBIE POWELSON**

I, Robbie Powelson, hereby swear that the following is a true statement made under penalty of perjury. I am the President of the Sausalito/Marin County Chapter of the California Homeless Union, a named organizational plaintiff as well as individual named plaintiff in the above-captioned matter. I was an eyewitness to all of the events described as follows:



- 1           1. On March 25, 2021, the Sausalito Police Department initiated an action at the  
2           encampment in Dunphy Park which came to include, at the request of the Sausalito  
3           Police, officers of the Mari County Sheriff's Department and representatives of the  
4           Richardson Bay Harbor Authority.
- 5           2. On that day, police attempted seize a boat that legally belonged to the descendants of the  
6           recently deceased owner of the boat, tied up and immediately adjacent to the Dunphy  
7           Park Encampment. Upon the boat were members of the deceased's family and friends of  
8           hers living in the encampment who were conducting a memorial service.
- 9           3. In approaching the boat, approximately half a dozen Sausalito Police, traversed the  
10          encampment to approach the location, pictured below and attached hereto as Exhibit A  
11          to the Declaration of Michael Ortega. They subsequently called in approximately half a  
12          dozen members of the Marin County Sheriffs, who also traversed the encampment. The  
13          effect of what was now was approximately a dozen police officers marching through the  
14          camp to the boat was to frighten all camp residents.
- 15          4. At the boat, police refused to hear explanations from Plaintiff Powellson and others  
16          regarding the ownership and status of the boat or agree that if the boat was to be taken  
17          by police that it not be immediately brought to the boat crushing station adjacent to  
18          Marinship Park where it would be destroyed. Police refused all these requests.
- 19          5. I was onboard the boat in question -- which I was reliably informed belonged to the  
20          descendants of its recently-deceased owner -- for the purpose of participating in  
21          memorial for the former owner. After spending almost two hours attempting to persuade  
22          Sausalito Police not to seize and destroy the boat and informing them that it was  
23          property belonging to encampment residents, both while I was on and off the boat,  
24          police ultimately threatened to arrest me. This was after I was present and overheard  
25          Sausalito Police Officers telling Caroline Colaceto and Kaitlin Natasha threatening to  
26          take their children and call Child Protective Services. I remained on the boat until the  
27          mothers were safely off. However, fearing for my own safety, I climbed to the top where  
28

1 I was physically seized, dragged off the boat, tightly handcuffed and dragged across a  
2 narrow gangway and a portion of the water arrested and placed in custody. I have since  
3 filed a complaint with the City regarding my arrest. Throughout the entire period of the  
4 events described herein, I repeatedly informed Sausalito Police to no avail, that there  
5 was a federal court injunction protecting the residents and their property and asking  
6 them to hold off and allow the attorneys to work it out.

7 6. Later, after being charged and released, I went to the Army Corps of Engineers Boat  
8 Crushing Operation adjacent to Marinship Park and was able to ultimately persuade the  
9 authorities not to crush the boat, which remains there now, intact.

10 7. Since the events of March 25, 2021, I have had extensive discussions with members of  
11 our local union and other homeless residents of Dunphy Park. They were and continue to  
12 be deeply shaken and frightened by the police action. Nearly all I spoke with feel very  
13 unsafe and fear the City is trying to drive them out. The mothers of the small children  
14 involved in the incident are particularly scared as are their children, now manifesting  
15 observable anxiety including disrupted sleep and diet. (See Declarations of Caroline  
16 Colaceto and Kaitlin Natasha.)

17 8. I have reviewed the photographs attached to the Declaration of Michael Ortega.  
18 I can confirm that they accurately depict events that transpired on that day.  
19 Accordingly, I have provided the photographs and brief descriptions, attached hereto as  
20 Exhibit A to this Declaration of what is portrayed in each.  
21

22 I declare under penalty of perjury under the laws of the United States and the State of  
23 California, that the foregoing is a true and correct statement based on personal knowledge  
24 and otherwise on information and belief.

25 Dated: March 31, 2021

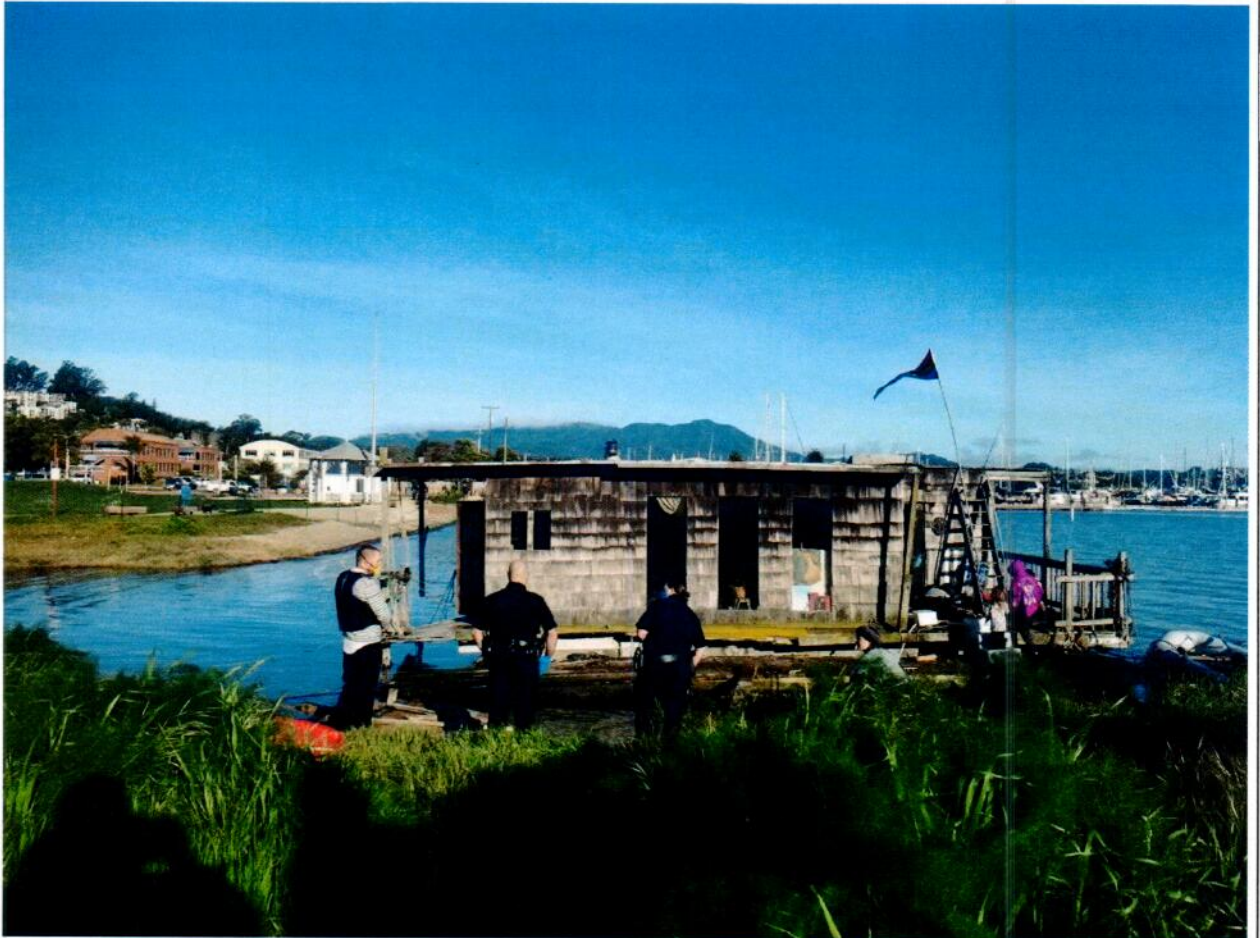
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/s/Robbie Powelson

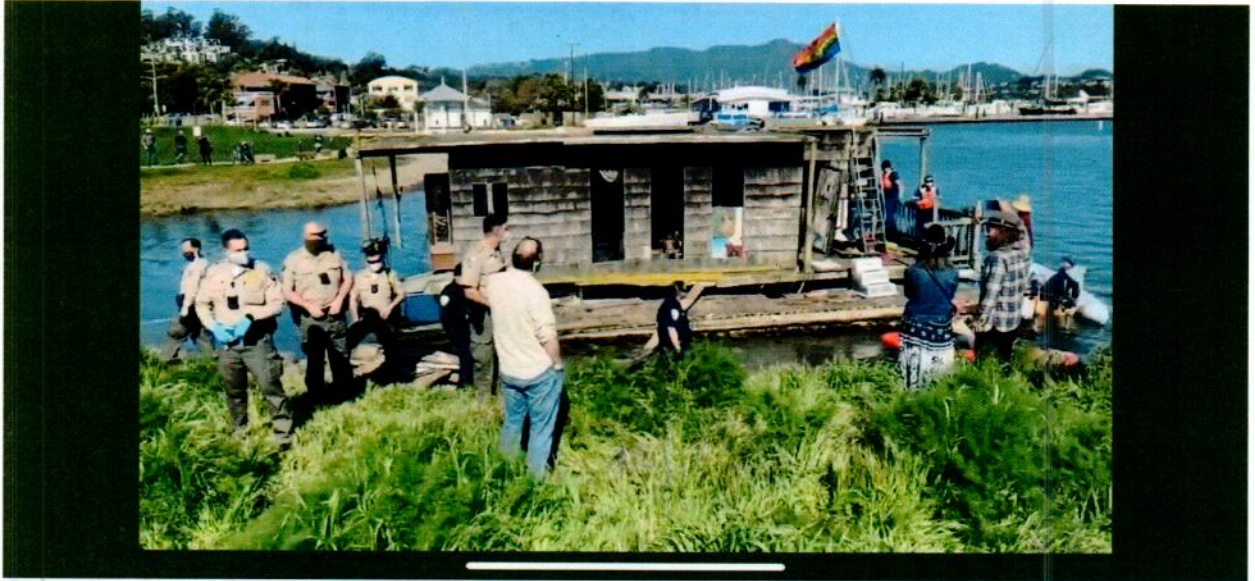
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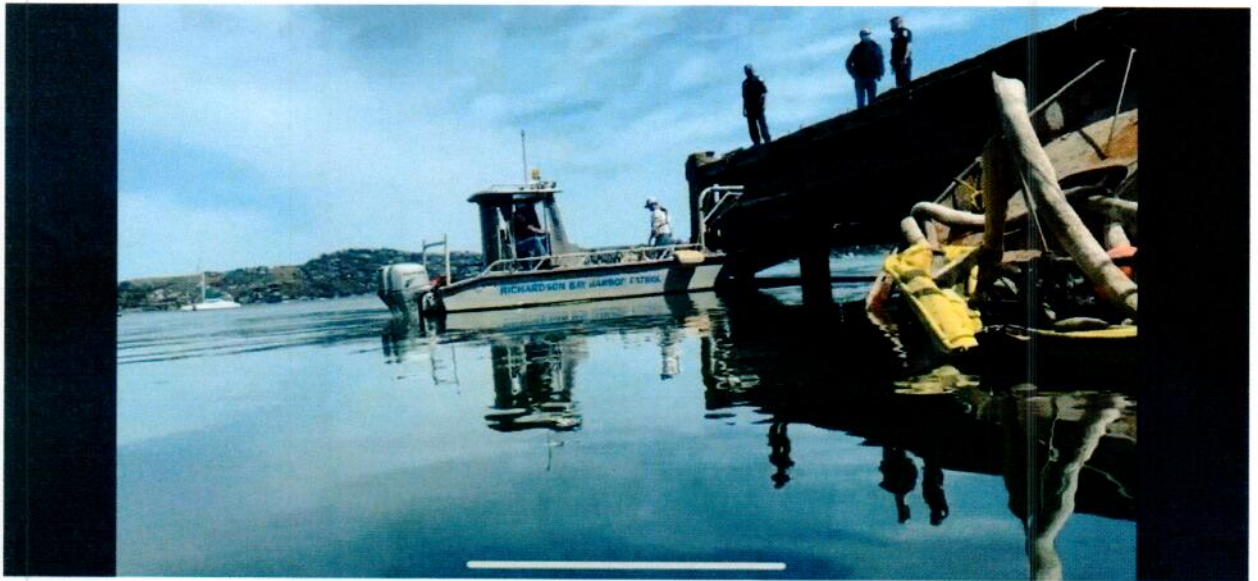
# EXHIBIT A



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19 **After these and other Sausalito Police march through Dunphy Park, they proceed to the boat, while I, at left, attempt to explain the situation.**  
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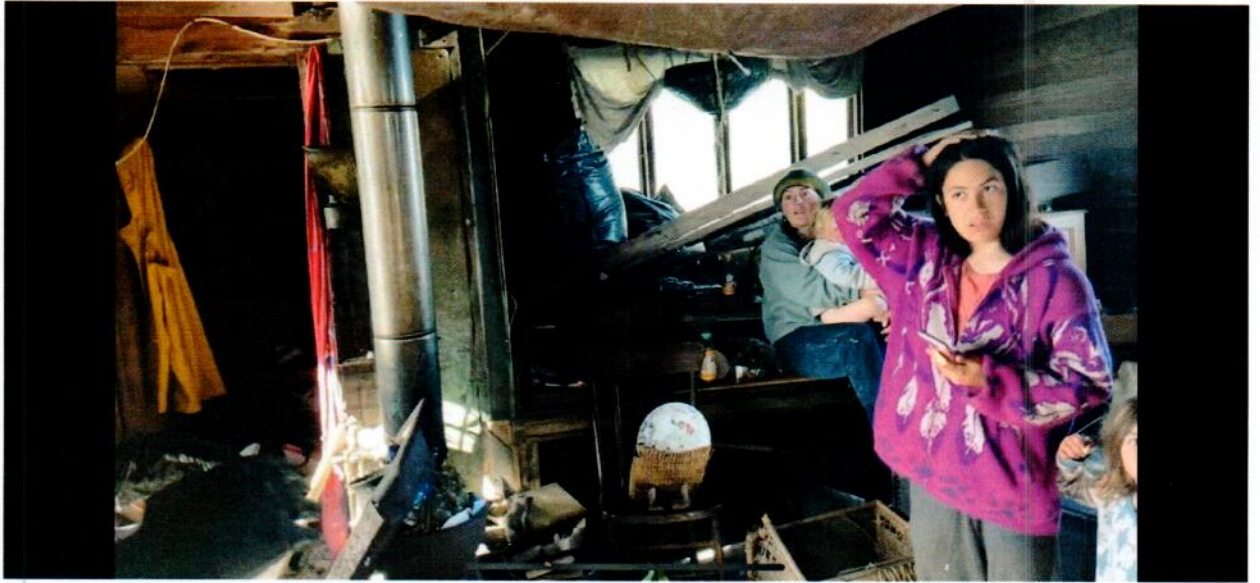
10 After being notified by Sausalito Police, Marin County Sheriffs, at left in brown shirts, arrive  
11 in Dunphy Park.



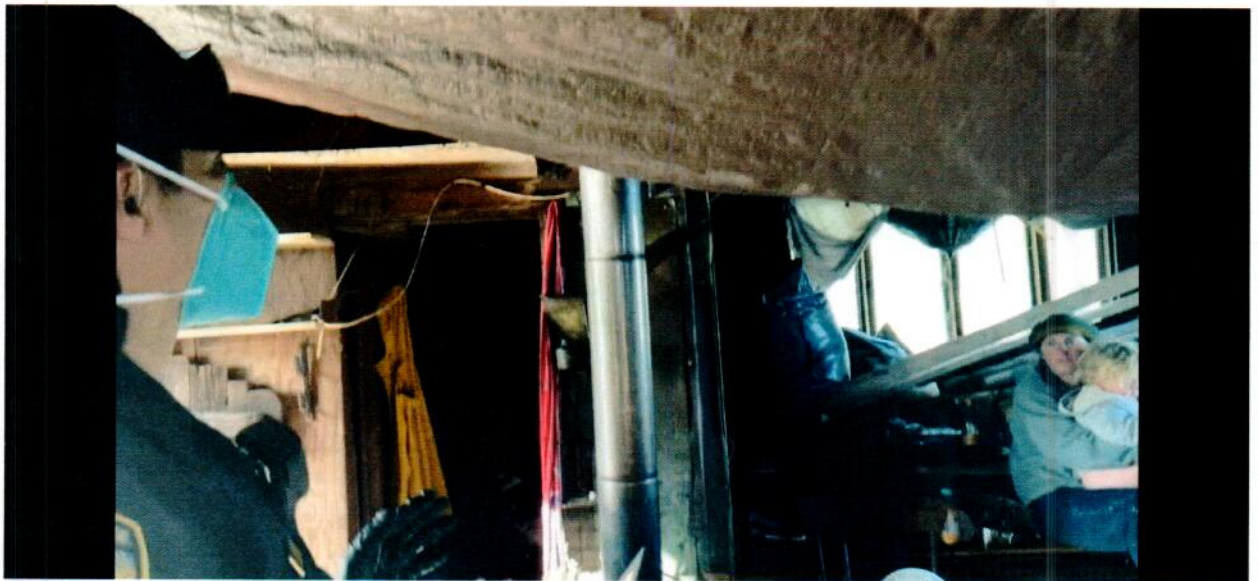
22 Sausalito Police, standing on dock, notify the Richardson Bay Harbor Patrol to come to  
23 Dunphy Park

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10 **Mothers onboard the boat for memorial to deceased former owner watch as police come**  
11 **aboard.**



22 **Onboard the boat, Carolina Colaceto, at right with her child, is confronted by Sausalito**  
23 **police, at left, who threaten to call CPS and take her baby, who appeared to me to be very**  
24 **frightened in her mother's arms.**

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11 **Kaitlin Natasha pleads with officers not to take her children and leave the boat alone.**



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23 **After I feared for my safety and went to the roof of the boat, Sausalito P.D. dragged me**  
24 **down.**  
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Sausalito Police drag me off boat and push me off narrow gangplank into the water



Sausalito P.D. and Marin County Sheriffs hiding me from view as they surround and drag me out of Dunphy Park.

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Dunphy Park Residents Watch as I am taken away by Sausalito P.D.



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25 individually and in their respective official )  
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27 Defendants.

Case No.: 3:21-cv-01143

**DECLARATION OF MICHAEL ORTEGA  
IN SUPPORT OF PLAINTIFFS'  
SUPPLEMENTAL STATUS REPORT  
AND MOTION FOR ORDER TO SHOW  
CAUSE WHY DEFENDANTS SHOULD  
NOT BE HELD IN CONTEMPT**

Case Management Conference  
April 1, 2021

Hon. Edward M. Chen

**DECLARATION OF MICHAEL ORTEGA**

28 I, MICHAEL ORTEGA, hereby swear that the following is a true statement made under  
penalty of perjury:

1. My name is Michael Ortega. I was a witness to and took photographs depicting  
the events that took place at Dunphy Park on March 25, 2021, Attached hereto as

1 Exhibit A. I have read the Declaration of Robbie Powelson and the captions he  
2 provided to my photographs: those captions accurately describe what I observed  
3 and photographed on that day.

4 I hereby affirm that the foregoing is a true statement under penalty of perjury under the laws  
5 of the United States and the State of California.

6 Dated: March 31, 2021

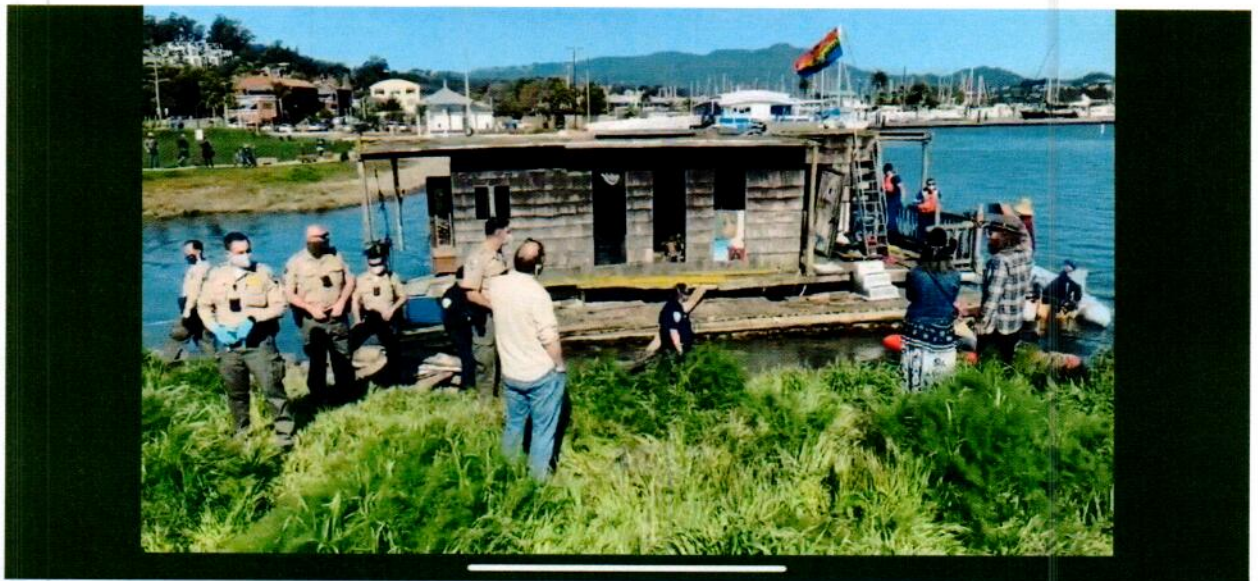
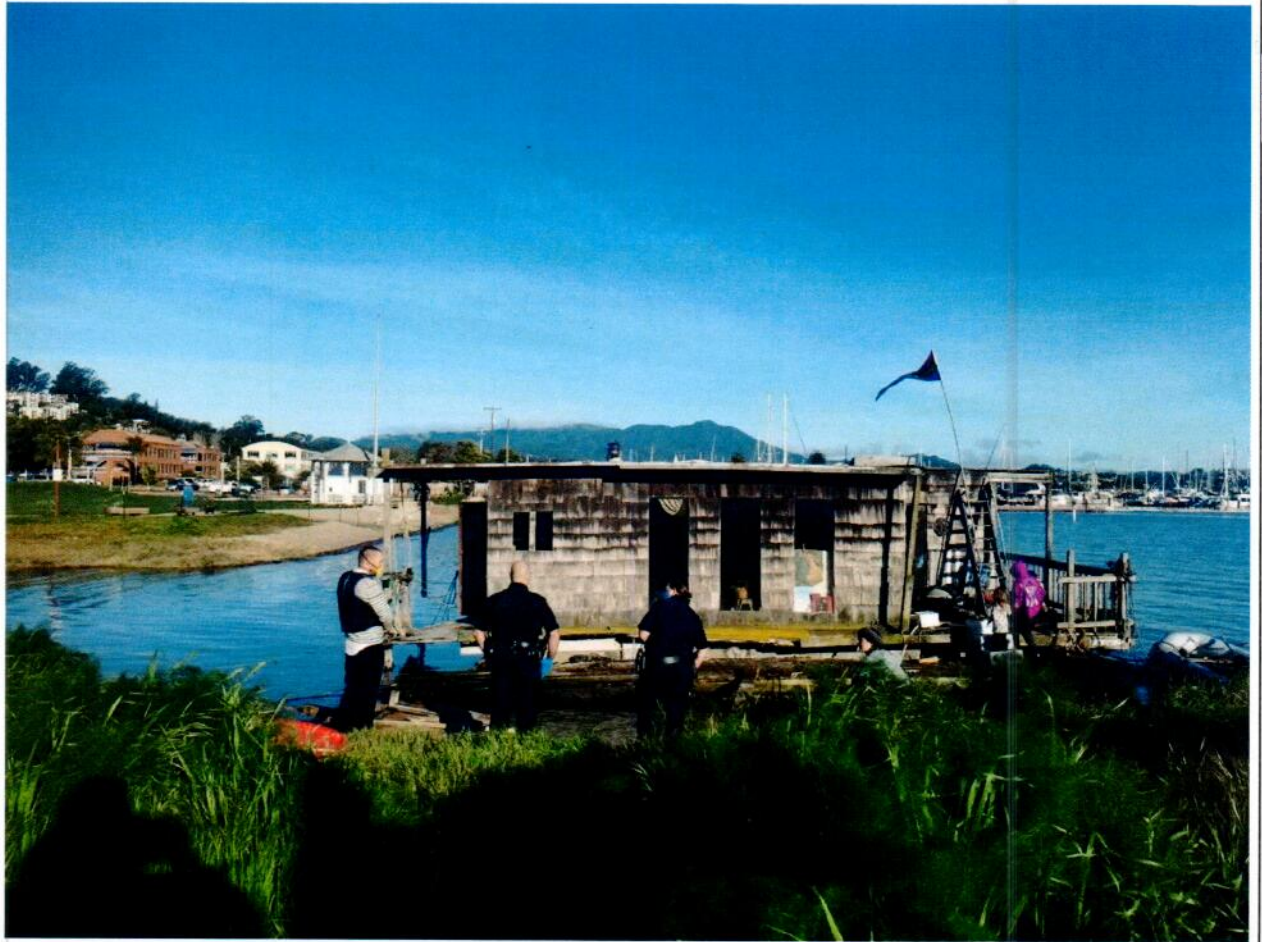
7 Executed at Sausalito, CA

/s/Michael Ortega

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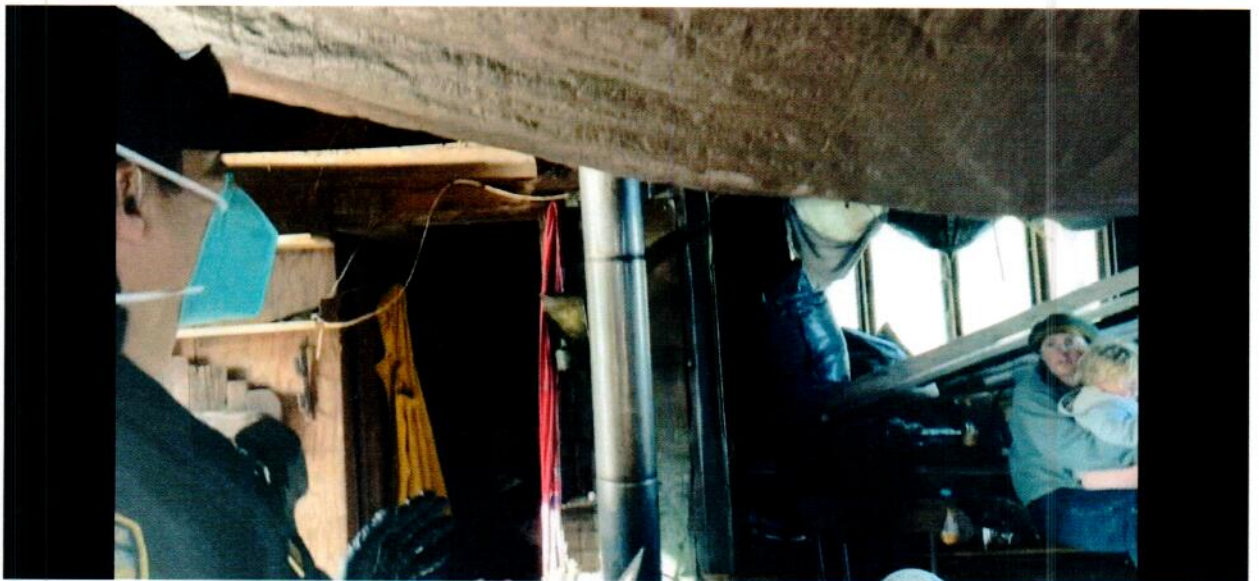
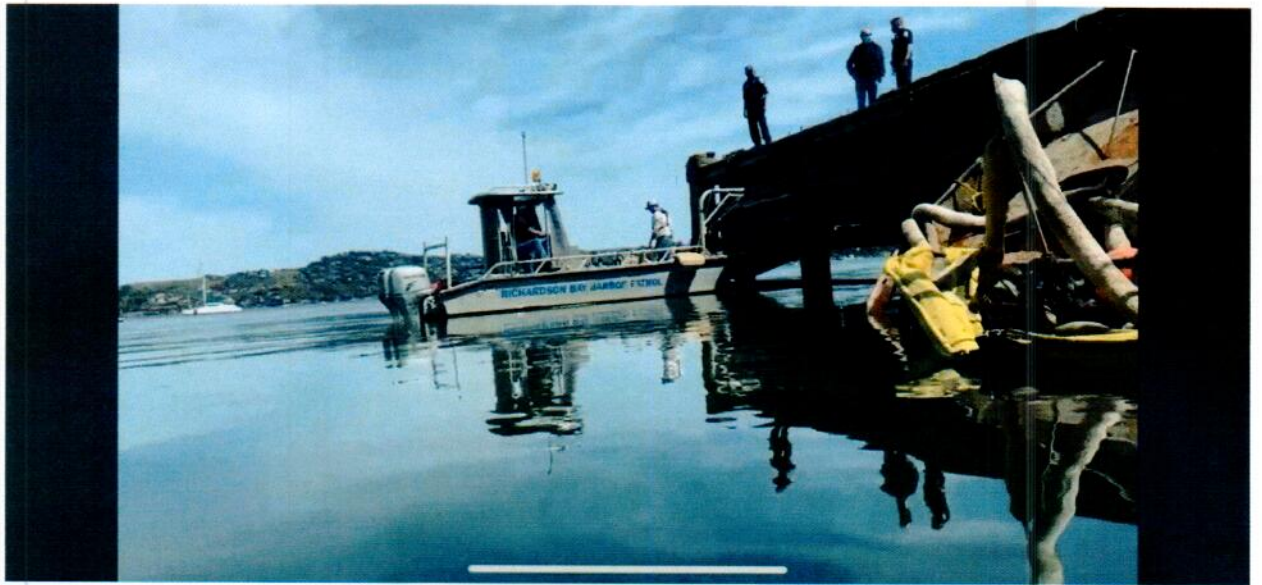
# EXHIBIT A



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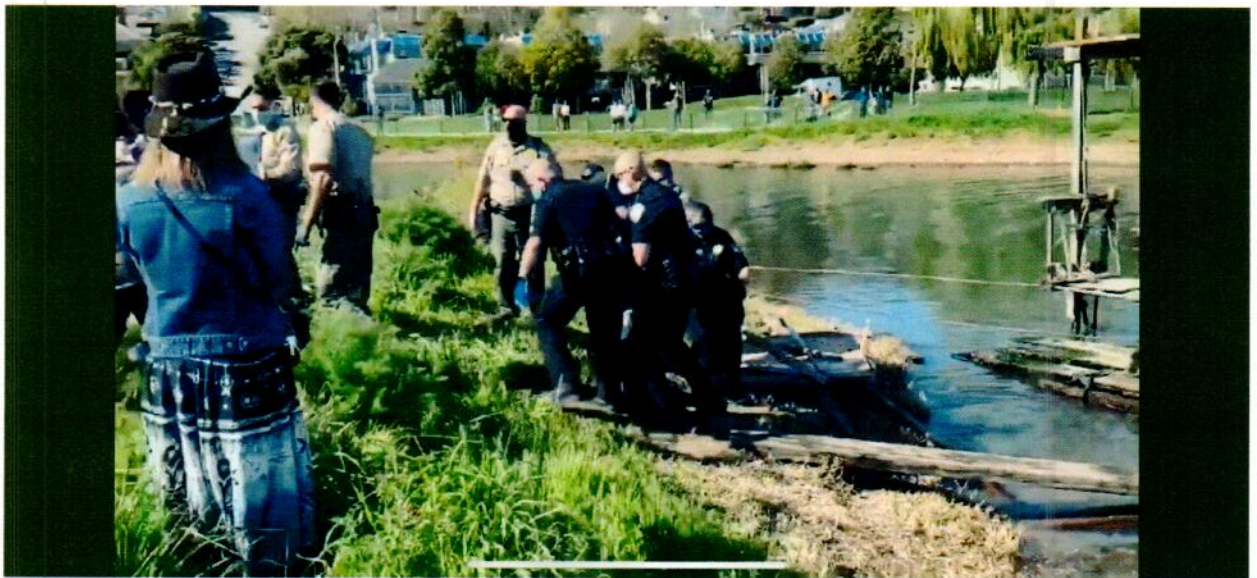


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26 capacities, )

27 Defendants.

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**DECLARATION OF CAROLINE  
COLACETO IN SUPPORT OF  
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REPORT AND MOTION FOR ORDER  
TO SHOW CAUSE WHY DEFENDANTS  
SHOULD NOT BE HELD IN CONTEMPT**

Status Conference, April 1, 2021

Hon. Edward M. Chen

**DECLARATION OF CAROLINE COLACETO**

26 I, CAROLINE COLACETO hereby swear that the following is a true statement made under  
27 penalty of perjury:  
28



1 the Army Corps of Engineers facility just before I gave birth to my second child,  
2 which is how I ended up at Dunphy Park and could never go to Marinship Park  
3 because the boat crushing operation makes it hard to breathe back there and  
4 because it would cause me and my family great stress to see and hear the boat  
5 crushing operations all day.

- 6
- 7 2. On March 25, 2021, I was present in Dunphy Park, and onboard the former  
8 owner, Diane, with my two young children and with permission from the new  
9 owner to order to pay my respects. Another young mother, Kaitlin Natasha, and  
10 the president of our Union, Robbie Powelson, along with Michael Ortega, who  
11 was taking photographs.
- 12 3. When Sausalito Police entered the boat, I became scared. They told us to get off  
13 the boat or they would arrest us and call CPS to take our children. I asked what  
14 we would be arrested for and they didn't answer. I asked how they could take our  
15 children away and they didn't answer. I had one of my children on my lap; she  
16 was very frightened. I told police they were scaring her. I did not want my  
17 children taken from me, so I got off the boat.
- 18
- 19 4. Since this incident, I am very scared that the police will find some excuse to  
20 come back to the Park and arrest us and kick us out. I thought we had a right to  
21 be there because of the court order. I find it hard to sleep and so do my kids. I  
22 and others here talked about leaving, but there are lot of people in Sausalito that  
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1 don't like the homeless. Still, I'm scared now to be here because I'm worried I  
2 they could come back and take my children.

3 I swear under penalty of perjury under the laws of the United States and the State of  
4 California that the above is a true statement.

5 Dated: March 31, 2021

6 Executed at Sausalito, CA

7 /s/Caroline Colaceto

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