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12 ROHRBACHER, MARCIA RAINES, KENT BASSO

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA

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

21 Plaintiffs,

22 v.

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

28 Defendants.

CASE NO. 3:21-cv-01143-LB

**DECLARATION OF JOHN ROHRBACHER
IN SUPPORT OF DEFENDANTS'
OPPOSITION TO PLAINTIFFS' MOTION TO
SHOW CAUSE WHY DEFENDANTS
SHOULD NOT BE HELD IN CONTEMPT
FOR VIOLATING THE PRELIMINARY
INJUNCTION**

Date: April 29, 2021

Time: 1:30 p.m.

Courtroom: 5 – 17th Floor

Action Filed: February 16, 2021

Trial Date: T.B.D.

Judge: Hon. Edward M. Chen

1 **DECLARATION OF JOHN ROHRBACHER**

2 I, John Rohrbacher, declare as follows:

3 1. I am the Chief of Police for the City of Sausalito and have held that position since
4 January 2016. If called as a witness, I could and would competently testify to all facts stated
5 herein based upon my personal knowledge except where stated upon information and belief. This
6 Declaration is submitted in support of Defendants’ Opposition to Plaintiffs’ Motion to Show
7 Cause Why Defendants Should Not Be Held In Contempt for Violating the Preliminary
8 Injunction.

9 2. Prior to serving as Chief of Police for the City of Sausalito, I served as a Police
10 Captain for the City of Sausalito from approximately 2009 to 2016 and as an investigator at the
11 Marin County District Attorney’s Office from approximately 2006 to 2009. Before that, I spent
12 approximately 27 years at the City of San Rafael Police Department, departing in 2006 after a 15-
13 month term as Police Chief.

14 3. I have personal knowledge of the events stated herein as I have debriefed with my
15 Departmental staff on these incidents, reviewed relevant City of Sausalito Police Department's
16 records regarding these events and communicated with other witnesses present at the scene on
17 March 24, 2021 including, but not limited to, Curtis Havel (referenced below).

18 4. On information and belief, on March 22, 2021, Diane Moyer was found deceased
19 on her floating home.

20 5. On information and belief, the Marin County Coroner's Office shared this
21 information with the Richardson’s Bay Regional Agency (“RBRA”) and put RBRA staff in
22 contact with Ms. Moyer’s next of kin, Diane's brother, Irwin Karasik. Mr. Karasik indicated that
23 he did not want the floating home nor any of its contents. However, he specifically identified
24 Michael Ortega-Haas as an individual who might have a desire to retrieve belongings from the
25 floating home. Staff informed Mr. Karasik that the RBRA would like to remove the floating home
26 from the anchorage and that they would accommodate the wishes of individuals wishing to
27 retrieve belongings from the floating home, and ultimately dispose of the floating home at no cost
28 to the family.

1 6. On information and belief, Mr. Karasik granted his consent for the RBRA to
2 remove the floating home from the anchorage, but also indicated his interest in allowing Mr.
3 Ortega-Haas to retrieve belongings from the floating home. Subsequently, the RBRA put together
4 an operation order to retrieve the floating home given concerns about health and safety issues
5 related to potential squatters moving on to an unsafe and unpermitted structure, numerous
6 cats/animals aboard without food or water, and ongoing concerns about the structural integrity of
7 the floating home. A true and correct copy of the RBRA's Order is attached to Defendants' Index
8 of Exhibits as **Exhibit 1**.

9 7. On information and belief, in the early morning hours of March 23, 2021, the
10 RBRA contacted Mr. Karasik to inform him of its operation and again affirm his consent for the
11 removal of the floating home from the anchorage. Mr. Karasik again provided his consent, as well
12 as his desire to provide access to Mr. Ortega-Haas.

13 8. On information and belief, at approximately 8:00 a.m. on March 23, 2021, the
14 RBRA, Chief Jason Wu from the Belvedere Police Department, and the U.S. Coast Guard stood
15 by as Parker Diving Services towed the floating home to the Army Corps of Engineers (ACOE).
16 During the tow, Mr. Ortega-Hass approached in a dinghy and was informed that the floating home
17 was not immediately scheduled for demolition, and that he would have an opportunity to retrieve
18 belongings from the floating home consistent with Mr. Karasik's wishes.

19 9. On March 24, 2021 at approximately 12:40 p.m., officers were dispatched to an
20 "unwanted subject" call at the ACOE debris dock at 2100 Bridgeway, where Ms. Moyer's floating
21 home was stationed. The individual on ACOE property in question was identified as Robert
22 Powelson and the reporting party was RBRA Harbor Master, Curtis Havel.

23 10. Mr. Havel reported that Mr. Powelson was interfering with the removal of Ms.
24 Moyer's floating home at the location by tying his kayak to the floating home while Mr. Havel
25 tried to move the boat to a more stable and accessible location.

26 11. It was observed by Officer Brian Mather (#SP5234) that Mr. Powelson had in fact
27 tied himself to the floating home that was partially removed from the water. On information and
28 belief, Mr. Powelson held onto and then attached himself to the floating home interfering with

1 Havel's work and preventing the floating home from being removed from the water by ACOE's
2 excavator.

3 12. On information and belief, ACOE Supervisor Marty Plisch was standing on the
4 dilapidated deck of the houseboat next to Mr. Powelson during these events. At one point, it is
5 believed that Mr. Plisch tried to push Mr. Powelson away from the floating home while it was
6 being pulled in but Mr. Powelson would not leave.

7 13. Eventually, Mr. Havel agreed to leave the floating home in its resting state until the
8 details of the ownership of the floating home could be worked out. Officer Mather asked Mr.
9 Havel to contact Mr. Karasik again and determine the outcome of the floating home.

10 14. A true and correct copy of the Sausalito Police Department Report (No. 21-198)
11 describing the above-described events of March 22-24, 2021 including multiple witness
12 statements is attached to Defendants' Index of Exhibits as **Exhibit 2**.

13 15. Sometime between the events described above and the events detailed below, Ms.
14 Moyer's floating home was stolen overnight from ACOE debris dock.

15 16. The morning of March 25, 2021 at approximately 8:45 a.m., Police Sergeant Steve
16 Veveiros (#SP5219) requested assistance at 300 Locust Street, near the Dunphy Park
17 Encampment. Ms. Moyer's floating home, stolen from the ACOE debris dock the night
18 previously, was approximately 15 feet from shore and there was a wooden plank connecting it to
19 the shore.

20 17. An adult female with two children appearing to both be less than two years of age
21 were observed standing on the lower level of the floating home and Mr. Powelson was observed
22 sitting on the wooden ladder leading to the roof of the floating home.

23 18. Subsequently, another adult female and child got onto the floating home by running
24 in the water and on top of the wooden plank. Officer Edgar Padilla (#SP5268) then boarded the
25 floating home and demanded that all occupants exit the floating home so it could be returned to
26 the ACOE debris dock pending further investigation as to its ownership. Officer Padilla surveyed
27 the floating home and observed many hazards: several wooden planks with exposed nails sticking
28 up, rotten wooden deck planks, and animal and possible human feces all over the deck. The

1 interior of the floating home also appeared to be in major disrepair and was not habitable.
2 Attached to Defendants' Index of Exhibits as **Exhibits 3a-3g** are true and correct copies of
3 photographs taken by Sausalito Police Department depicting both the exterior and interior
4 conditions of Ms. Moyer's floating home.

5 19. For approximately the next 45 minutes, the occupants demanded the floating home
6 not be moved and stated they would remain on it. At one point, one of the two females decided to
7 disembark the floating home and took her 2 children with her.

8 20. At this point, one female, one child, and Mr. Powelson remained on the floating
9 home. Mr. Powelson was repeatedly ordered to disembark the floating home but continued to
10 disobey the Police Department's verbal orders.

11 21. At approximately 10:15 a.m., the second female and her child disembarked the
12 floating home by getting into an inflatable skiff which was tied to the floating home. Again, Mr.
13 Powelson remained on the floating home despite numerous orders to disembark. Mr. Powelson
14 was warned by multiple officers that if he did not get off the floating home, he would be arrested.

15 22. After one final warning issued by Officer Padilla which Mr. Powelson ignored,
16 Officer Padilla climbed up the ladder and stood above Mr. Powelson on the roof of the floating
17 home while Officer Clerici and Sergeant Veveiros were below Mr. Powelson. Using both of his
18 hands, Officer Padilla grabbed Mr. Powelson from the shoulder straps of the life vest he was
19 wearing and lowered him slowly down toward Officer Clerici and Sergeant Veveiros. Mr.
20 Powelson's body became limp immediately after he began to lower him.

21 23. The officers lowered Mr. Powelson to the deck and requested he comply with
22 lawful requests. Officer Padilla then placed handcuffs on Mr. Powelson, checked for proper fit and
23 double locked the cuffs. Mr. Powelson was again asked if he would stand up and walk under his
24 own power but continued to make his body limp.

25 24. Mr. Powelson was placed into the patrol vehicle and transported to Sausalito Police
26 Department. He was issued a citation (SP4037407) for (1) Trespassing [Penal Code Section
27 602(o); and (2) Resisting/Interfering/Obstructing [Penal Code Section 148(a)(1)] with a pre-

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1 assigned court date of May 6, 2021. Mr. Powelson was subsequently released from custody and
2 escorted out of the Sausalito Police Department.

3 25. A true and correct copy of the Sausalito Police Department Report (No. 21-203)
4 describing the above-described events of March 25, 2021 including Officer Padilla's statement is
5 attached to Defendants' Index of Exhibits as **Exhibit 4.**

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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 30 day of March, 2021 in Sausalito, California.

DocuSigned by:
John Rohrbacher

John Rohrbacher F4AG5EM5PC140E...