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12	ROHRBACHER, MARCIA RAINES, KENT BASSO			
13				
14	UNITED STATES DISTRICT COURT			
15	NORTHERN DISTRICT OF CALIFORNIA			
16	SAUSALITO/MARIN COUNTY CHAPTER OF THE CALIFORNIA HOMELESS	CASE NO. 3:21-cv-01143-LB NOTICE OF MOTION AND MOTION TO MODIFY PRELIMINARY INJUNCTION		
17	UNION, on behalf of itself and those it represents; ROBBIE POWELSON; SHERI I.			
18	RILEY; ARTHUR BRUCE; MELANIE MUASOU; SUNNY JEAN YOW; NAOMI	Date:	April 29, 2021	
19	MONTEMAYOR; MARK JEFF; MIKE	Time: Courtroom:	1:30 p.m. 5 – 17 th Floor	
20	NORTH; JACKIE CUTLER and MICHAEL ARNOLD on behalf of themselves and	Action Filed:	February 16, 2021	
21	similarly situated homeless persons,	Trial Date: Judge:	T.B.D. Hon. Judge Edward M. Chen	
22	Plaintiffs,	6	0	
23	V.			
	CITY OF SAUSALITO; MAYOR JILL			
24	JAMES HOFFMAN; POLICE CHIEF JOHN ROHRBACHER; CITY MANAGER			
25	MARCIA RAINES; DEPT. OF PUBLIC WORKS SUPERVISOR KENT BASSO,			
26	individually and in their respective official			
27	capacities, Defendants.			
28				
	-1- SMRH:4851-9569-9940.1 CITY OF SAUSALITO'S NOTICE OF MOTION AND MOTION TO MODIFY			
	PRELIMINARY INJUNCTION			

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TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on April 29, 2021, at 1:30 p.m. PST in Courtroom 5 of the 2 3 United States District Court, Northern District of California, located at 450 Golden Gate Avenue, San Francisco, California 94102 before the Honorable Judge Edward M. Chen, Defendants City of 4 5 Sausalito, Mayor Jill James Hoffman, Police Chief John Rohrbacher, City Manager Marcia Raines, and Dept. of Public Works Supervisor Kent Basso ("Defendants") will, and hereby do, 6 move the Court for an order modifying and/or partially dissolving the preliminary injunction 7 8 previously issued by this Court in the above captioned matter, specifically part (2) of the 9 injunction currently enjoins the City to move the encampment from Dunphy Park to Marinship Park. Defendants' Motion for Modification of the Preliminary Injunction ("Motion") is made on 10 the following grounds: 11

First, a qualified expert conducted air and soil testing at Marinship Park during boat
disposal operations at the adjacent boat yard and determined that all toxic materials were either not
detectable or present at ordinary ambient levels and one of the samples came close to exceeding
applicable regulatory limits.

16 Second, Sausalito can accomplish the move to Marinship Park safely, given additional planning and preparation it has undertaken, and improving Covid-19 conditions in Marin County. 17 Sausalito has also provided for improvements to Marinship Park, including deep-cleaning, 18 19 repairing, and repainting the restrooms; supplying portable toilets, handwashing stations, a dumpster, and personal protective equipment; regularly servicing and stocking the facilities; and 2021 installing social distancing markers for tents. Additionally, Sausalito is working with Marin County to bring vaccines directly to the Dunphy Park encampment by the end of April, and offer 22 23 them free of charge to all residents who wish to be vaccinated. Meanwhile, the overall Covid-19 situation continues to improve in Marin County, with reduced case rates, reduced positivity rates, 24 and increased vaccinations. As a result of these improvements, the State recently moved Marin 25 County from the "red" tier to the less restrictive "orange" tier. 26

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1	Finally, the City has developed additional evidence, not available at the preliminary		
2	injunction stage, further demonstrating that Marinship Park is a better location for the		
3	encampment compared to Dunphy Park. The Dunphy Park encampment has continued to grow		
4	and expand, and now includes approximately 44 tents and 44 residents, the majority of whom are		
5	non-local. Due to the small size of the Dunphy Park camping area (approximately 30,000 square		
6	feet), tents are packed closely together, exacerbating Covid-19 risks. By contrast, Marinship Park		
7	offers approximately twice as much space (60,000 square feet) and can better accommodate the		
8	growing encampment. Additionally, the Dunphy Park encampment now encroaches significantly		
9	onto adjoining private property, whose owner has asked for the encampment to be removed. 7.		
10	Sausalito has adopted a new Operations and Maintenance Plan for Marinship Park, which will		
11	ensure that the facilities there are improved, regularly serviced, and made safe for the residents.		
12	This Motion is based upon this Notice of Motion and Motion, the Memorandum of Points		
13	and Authorities, the Declarations of Monte Deignan, Kevin McGowan and John Rohrbacher, the		
14	Request for Judicial Notice, all other matters upon of which this Court may take judicial notice,		
15	the oral argument of counsel, pleadings already on file with this Court and all other evidence that		
16	may be presented at the hearing on this Motion.		
17			
18	Dated: April 9, 2021		
19	SHEPPARD, MULLIN, RICHTER & HAMPTON LLP		
20			
21	By /s/ Arthur J. Friedman		
22	ARTHUR J. FRIEDMAN ALEXANDER L. MERRITT		
23			
24	Attorneys for Defendants CITY OF SAUSALITO, JILL JAMES HOFFMAN,		
25	JOHN ROHRBACHER, MARCIA RAINES, KENT BASSO		
26			
27			
28			
	-3- Case No. CIVMSC20-00842		
	SMRH:4851-9569-9940.1 RUDENKO'S NOTICE OF MOTION AND MOTION FOR SANCTIONS		