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7 Attorneys for Plaintiffs

UNITED STATES COURT

NORTHERN DISTRICT OF CALIFORNIA

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

18 Plaintiffs

19 vs.

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

27 Defendants.

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

**PLAINTIFFS' REPLY TO
DEFENDANTS' OPPOSITION TO
PLAINTIFFS' MOTION FOR ORDER TO
SHOW CAUSE;
DECLARATIONS OF CESAR
PLAGLEVA, LCSW; IRWIN KIRISIK;
KAITLIN ALLERTON; RAY PRINGER;
ARTHUR BRUCE; SANDRA DENNING;
MICHAEL ORTEGA; DEAN
DUSENBERGER; RYLY COLO; GUY
KELLY; CLARENCE WERTZ and
MICHAEL ADAMS.**

Hearing Date: April 29, 2021
Time: 1:30 pm
Courtroom: 5-17th Floor (Zoom)
Judge: Hon. Edward M. Chen

**PLAINTIFFS' REPLY TO DEFENDANTS' OPPOSITION TO PLAINTIFFS'
MOTION FOR ORDER TO SHOW CAUSE**

28 Even accepting as true that Defendants had a legitimate basis to seize the houseboat in
question –which Plaintiffs do not concede--it is the manner in which Defendants executed the
seizure that is at the heart of Plaintiffs' motion for an Order to Show Cause.

1 While there was no direct, apparent and obvious attempt to clear the encampment, the effect,
2 if not the intent of the police overreaction was to frighten the Dunphy Park campers such that many
3 considered and some decided to “voluntarily” leave the camp.
4

5 The Court is urged to carefully consider the Declarations of those who witnessed the
6 incident and the fear that pervaded and continues to pervade the camp as a result of the excessive
7 show of force. Defendants admit that they approached the houseboat in question not by way of
8 using SPD boats, but by going through the encampment. In none of the police reports submitted is
9 there a denial that police threatened to contact Child Protective Services for the purpose of taking
10 children of very small children with little or no explanation to those so threatened. As evidenced in
11 the Declarations attached hereto, other mothers fear and continue to fear that the police may return
12 on a pretext and take their children. Defendants own Exhibits reveal that a plan was deployed
13 anticipating resistance specifically naming Homeless Union President Robbie Powelson.
14

15 With regard to Defendants’ claim that Irwin Kirisik, the brother of the deceased owner of
16 the boat, had authorized the destruction of the boat, Defendants fail to produce a single document
17 supporting this false assertion. In fact, as set forth in his own declaration attached hereto, Mr.
18 Kirisik specifically informed the authorities that he did not want and did not authorize the boat’s
19 destruction.
20

21 Defendants knew from the beginning that there was a dispute as to the ownership of the boat
22 yet paid no attention to Plaintiffs’ repeated notifications and requests to leave the boat alone until
23 the ownership issue was resolved. Indeed, that is ultimately what happened after persistent efforts
24 on the part of the Union.

25 The use of excessive force in the arrest of Mr. Powelson, witnessed by many whose
26 declarations are attached hereto, was an integral part of the fear instilled in the Dunphy Park
27 community.
28

1 Prior to the events in question there was a plan of which the City was aware that anticipated
2 protest and generally called for aborting the operation should there be protests. In anticipating
3 “resistance” the plan specifically named Robbie Powelson as making efforts to organize protests.
4 After the incident of March 25, Defendant Sausalito Mayor Jill Hoffman was herself wondering
5 why the plan was abandoned and force was used. (See, Declaration of Jill Hoffman)

6 Defendants were aware from the beginning that there was a dispute over ownership of the
7 boat which could have been resolved without the need for the police show of force that took place.
8 Regardless of who initiated the incident, once the SPD was summoned, they could and should have
9 resolved the situation peacefully and without making threats and using excessive force.
10

11 Also revealed in the Supplemental Declaration of Robbie Powelson, it appears that a report
12 prepared by employees of Urban Alchemy, the city’s contractor for “homeless services” which
13 indicated overwhelming opposition among Dunphy Park residents to relocation to Marinship Park
14 specifically due to the adjacent boat crushing operation.
15

16 Generally, constructive eviction involves substantial interference with a tenant’s right of
17 quiet enjoyment such that the premises have become unlivable. Here, the Dunphy Park residents
18 were legally upon the land and protected by this Court’s injunction and, in that sense, occupied a
19 status legally equivalent to that of tenant. In acting as they did, Defendants—and particularly the
20 Sausalito Police Department—substantially interfered with the protected status of the camp
21 residents in the manner and with the effects described in the declarations filed in support of
22 Plaintiffs’ Reply. While some declarants actually left the camp for fear of another raid, that the
23 majority remain does not diminish the harm they suffered and ongoing consternation regarding their
24 safety. With regard to the intent element generally required for constructive eviction, it is well-
25 settled that intent can be inferred from conduct as described in the attached declarations.
26

27 Finally, even if the Court finds that the incident does not fit the legal category of
28 constructive eviction, it nevertheless constituted a violation of the Preliminary Injunction inasmuch

1 as Defendants interfered with Plaintiffs' status as being permitted to camp, unmolested, at Dunphy
2 Park so long as the Injunction is in place.

3 Accordingly, Plaintiffs urge the Court to GRANT Plaintiffs motion and find Defendants in
4 contempt

5 Dated: April 16, 2021

6 Respectfully Submitted,
7 /s/ Anthony Prince

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

**DECLARATION OF CESAR LAGLEVA
IN SUPORT OF PLAINTIFFS'
OPPOSITION TO DEFENDANTS'
MOTION TO MODIFY PRELIMINARY
INJUNCTION**

Hearing Date: April 29, 2021
Time: 1:30 pm
Courtroom: 5-17th Floor (Zoom)

Judge: Hon. Edward M. Chen

DECLARATION OF CESAR LAGLEVA, LCSW

I, Cesar Lagleva, LCSW, hereby swear and affirm that the following is a true and correct statement made under penalty of perjury:

1. I am a licensed clinical social worker (License No. 25152) and founder of Cesar Lagleva Consulting in Berkeley, California.

Declaration of Cesar Lagleva, LCSW

- 1 2. I have received and read the statements and sworn declarations of individuals currently
2 residing in the Dunphy Park encampment in Sausalito, California, including those whose
3 boats were seized and crushed at the Army Corps of Engineers facility.
- 4
- 5 3. I have been in the field of social work since 1990. My career has included working with
6 poor/indigent youth, families and single adults who are or were homeless. In my capacity as
7 a licensed therapist, I treated youth and adults while working at Marin County's Health and
8 Human Services Department for a myriad of mental health disorders/illnesses, especially
9 those who suffered Posttraumatic Stress Disorders (PTSD). Also, under my current capacity
10 as a consultant, I currently oversee a county and non-profit partnership that is currently
11 providing outreach and case management services to Marin's homeless population who are
12 involved in the justice system called Prop 47.
- 13
- 14 4. In this capacity, I am very familiar with the symptomatology that I inferred based on their
15 writing about their experience of displacement and their fear of being moved to Marinship
16 Park where they would see and hear the boat crushing operation. First and foremost, many
17 people who are homeless suffer from some form/type of mental illness, substance use or
18 both. Under-diagnosed and untreated underlying mental disorders that are common with this
19 population is PTSD. It is important to understand the types of trauma that people experience
20 and the sources of their trauma symptoms. They include, but are not limited to:
- 21
- 22 **a. Acute trauma:** Results from exposure to a single overwhelming event/experiences
23 (car accident, natural disaster, single event of abuse or assault, sudden loss or
24 witnessing violence).
- 25
- 26 **b. Forced Displacement:** Forced displacement is a traumatic event that occurs when
27 people face political persecution and are forced to relocate to a new home (as an
28 immigrant or through political asylum) or become a refugee.

1 **c. System-Induced Trauma and Retraumatization:** Many systems that are designed
2 to help individuals and families can actually cause trauma. For example, in child
3 welfare systems, abrupt removal from the home, foster placement, sibling separation,
4 or multiple placements in a short amount of time can retraumatize children. In
5 mental health systems, the use of seclusion and restraint on previously traumatized
6 individuals can revive memories of trauma. Relocating a person to the site of a
7 previous traumatic experience can produce this result.
8

9 **5. Some of the typical signs and symptoms of trauma include:**

- 10 • Helplessness
11 • Guilt, shame or self-blame
12 • Feeling shut-down, flat or dissociated
13 • Avoidance of people, places or situations
14 • Quick to anger and extreme moodiness or irritability
15 • Fearfulness
16 • Nightmares/Reliving the trauma
17 • Startle Response (quick to startle with loud noises or unexpected situations)
18 • Anxiety (hyper-arousal) and/or Depression
19 • Social/Relationship difficulties
20 • Difficulty with short-term memory (poor concentration and attention)
21 • A lost sense of purpose and/or a bereaved sense of self

22 **6.** In reviewing the numerous declarations and other evidence – particularly, pertaining to those
23 who became homeless because their boats were previously crushed at the Army Corps of
24 Engineers facility -- it is my professional opinion that if persons are relocated to Marinship
25 Park, adjacent to the boat demolition operation, they are highly likely to relive the trauma
26 they previously suffered. The impact on the mental health of many, if not the majority, of
27 the relocated homeless by way of such system-induced re-traumatization could be
28 devastating.

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

Dated: April 15, 2021
Executed at Berkeley, CA

/s/Cesar Lagleva

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29 Defendants.

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

**DECLARATION OF IRWIN KIRISIK IN
SUPPORT OF PLAINTIFFS' REPLY TO
DEFENDANTS' OPPOSITION
PLAINTIFFS' MOTION FOR ORDER TO
SHOW CAUSE**

Hearing Date: April 29, 2021
Time: 1:30 pm
Courtroom: 5-17th Floor (Zoom)

Judge: Hon. Edward M. Chen

DECLARATION OF IRWIN KIRISIK

I, Irwin Kirisik, hereby swear and affirm that this statement is true and correct under penalty of perjury.

1. I, Irwin Kirisink, am the brother of Diane Kirisik Moyer, the next of kin, and owner of the

Declaration of Irwin Kirisik

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- boat at the center of this dispute.
2. On the day of Diane’s death, I gave permission to Michael Ortega to occupy Diane’s boat and take care of it. It was my understanding that Diane’s last wishes were to give the boat to Michael Ortega.
 3. To the best of my recollection, the following day I was contacted by Curtis Havel. I was very clear that I wanted to hand over ownership of the boat to Michael Ortega and his partner Kaitlin. I told him that Michael Ortega, and any one of his designation, could have access to the boat to preserve belongings with the understanding that the boat be moved to off the anchorage in due time.
 4. On March 24th, Robbie Powelson and Michael Ortega contacted me and let me know that Curtis Havel was in the process of destroying the boat. This was not at all what I wanted. I wanted Curtis Havel to respect Michael Ortega’s wishes. My sister had told me many time that the RBRA would do this to the boat if they could.
 5. I called Curtis Havel after Robbie contacted me and reemphasized that I wanted Havel to release the boat to Michael Ortega and to do no harm to the boat. I did not want the boat destroyed, Michael did not want the boat destroyed. The only person who wanted it destroyed was the Harbormaster.
 6. That night Robbie Powelson called me about going aboard the boat to preserve Diane’s property, and I gave him permission to preserve Diane’s estate to what seemed like reckless behavior by the Harbormaster that went against my own wishes, the wishes of my sister, and wishes of Michael Ortega.
 7. The following morning I was contacted by Robbie Powelson that the boat was at the park. I

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gave him permission to be on the boat.

8. Robbie Powelson followed up by helping me retain Richard Franceni as an attorney to help legally transfer my sister's boat to Michael Ortega. I am currently in the process with Mr. Franceni of transferring the property to Michael, but it will take some time with the process with the DMV

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is a true and correct statement.

Dated: April 15, 2021

/s/ Irwin Kirisik

Executed at Sausalito CA

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

**SUPPLEMENTAL DECLARATION OF
KAITLIN ALLERTON IN SUPPORT OF
PLAINTIFFS' REPLY TO
DEFENDANTS' OPPOSITION TO
PLAINTIFFS' MOTION FOR ORDER TO
SHOW CAUSE**

Hearing Date: April 29, 2021

Time: 1:30 pm

Courtroom: 5-17th Floor (Zoom)

Judge: Hon. Edward M. Chen

DECLARATION OF KAITLIN ALLERTON

28 I, Kaitlin Allerton, hereby swear and affirm that the following is a true and correct statement
made under penalty of perjury.

1. I, Kaitlin "Natasha" Allerton, am a resident of the Dunphy Park homeless encampment and a member of the Homeless Union.

Declaration of Kaitlin Allerton

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2. On the morning of March 25,2021, I went aboard a houseboat that had belonged to Diane MOYER and now belonged to her next of kin, her brother Irwin Kirisik that was tied up in the water on the edge of the encampment. I was there to honor Diane and try to preserve all the paintings and other personal items she had there.

3. Sausalito Police Officer Stacey Gregory showed up with what looked like half a dozen other SPD and immediately had second officer, Padilla, and another officer who I forget, standing next to the plank on the shore and she had them stand there and was like “No one is getting on the boat” in a super authoritative way without really acknowledging that we were having this moment of peace and serenity after all this chaos of protecting her artwork and belongings and losing her.

4. It felt like such a threat, because Caroline was still on the boat, I felt threatened by that. So I got on the boat because Caroline was still on the boat, to make sure nothing happened to her and out of respect for Diane’s honor because I had no idea why SPD Officer Stacey Gregory was announcing that because we had already agreed to move the boat. I felt like I needed to protect the situation, and my friend on the boat.

5. In a very short time, more and more police showed up, including Sausalito Police and Marin County Sheriffs. Two Sausalito police came into the boat. I told them they didn’t have permission to be on the boat. But they said that we didn’t have permission to be on the boat, to which I replied “Yes we do, I have permission by the owner, Diane’s brother Irwin Kirisink, and that Irwin was aware that Diane’s last wishes were to leave the boat to Michael [Ortega]”

6. At that point, a Sausalito police officer, I believe Officer Padilla, immediately says “If you don’t get off the boat, you are going to be arrested” and I asked him “arrested for what” he

1 said some code I didn't understand, a bunch of numbers I asked him what that meant. He
2 said obstruction. I said obstruction of what? He said "You know, we are going to call Child
3 Protective Services" I said WHAT? I was scared but I asked Padilla, why would you be
4 calling CPS? He said, well because you would be under arrest, your child needs to be in
5 custody. Well, I said "his father, Michael Ortega, is right here and he's not on the boat". But
6 they still continued to threaten to call CPS.
7

- 8 7. I could see that Caroline was really in distress, she was in distress because that is a very
9 egregious thing to threaten because it is viewed in a very negative way as separation. Being
10 very frightened, Caroline said "I'm getting off the boat" because it was too much.
11
12 8. As a citizen, as someone who was raised in Sausalito, whose parents and grandparents were
13 raised in Sausalito on both sides of my family. To feel like the police are serving the City
14 Council over us, over our needs, providing due process for their sake but not our sake, that
15 feels like a violation of safety. In terms of dignity, respect, trust, I mean physical safety yeah
16 where do I sleep tonight. Physical safety, to protect my personal life, and my time with my
17 child to go to jail while I'm still breast feeding. To have to be threatened to be arrested to
18 make it clear what they are doing is wrong – I feel totally violated. Mental health wise, this
19 completely disrupted our grieving process for this person who was a matriarch for us and
20 this whole community. We were planning her funeral from the beginning and it turned into
21 this huge rock on our backs.
22

23 I hereby swear and affirm that the foregoing is a true and correct statement under
24 penalty of perjury under the laws of the United States and the State of California.
25

26 Dated: April 15, 2021

/s/ Kaitlin Allerton

27 Executed at Sausalito, CA
28

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

**DECLARATION OF RAY PRINGER IN
SUPPORT OF PLAINTIFFS'
OPPOSITION TO DEFENDANTS'
MOTION TO MODIFY INJUNCTION**

Hearing Date: April 29, 2021
Time: 1:30 pm
Courtroom: 5-17th Floor (Zoom)

Judge: Hon. Edward M. Chen

DECLARATION OF RAY PRINGER

28 I, Ray Pringer, hereby swear and affirm that this statement is true and correct under
penalty of perjury.

Declaration of Ray Pringer

1 1. I, Ray Pringer, am a lifelong resident of Sausalito and a current resident of the camp by
2 Dunphy Park. I've had messed up knees since I was a kid, and recently it has been so painful
3 that I have to walk with a cane to get moving. I cannot break camp every day because of my
4 physical disability.

Pag
- 2 -

5
6 2. I had my last boat home crushed by Harbormaster Curtis Havel at the Army Corps Debris
7 Yard by Marinship Park. I suffer from diagnosed depression. If I was forced to camp next to
8 where other people's boat homes were getting crushed, it would trigger my symptoms and
9 greatly affect my wellbeing. I can't stand seeing all of the crying and screaming when
10 people get all of their possessions taken and their boats destroyed.

11
12 3. On March 2021, I witnessed the police raid in Dunphy Park. I saw them threaten mothers
13 with CPS to take their children. I saw a lot more police than necessary to deal with whatever
14 the problem was. I saw them drag our Homeless Union President Robbie Powelson off the
15 boat. This was very intimidating to us all. A lot of us thought about leaving, but Robbie
16 kept us together. Still, I don't feel safe at the camp after the raid. Even the other day, the
17 police the other day forced me to move a tent trailer out of camp.
18

19 I declare under penalty of perjury under the laws of the United States and the State of California
20 that the foregoing is a true and correct statement.

21 Dated: April 15, 2021

/s/ Ray Pringer

22 Executed at Sausalito CA
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**DECLARATION OF ARTHUR BRUCE IN
SUPPORT OF PLAINTIFFS'
OPPOSITION TO DEFENDANTS'
MOTION TO MODIFY INJUNCTION**

Hearing Date: April 29, 2021
Time: 1:30 pm
Courtroom: 5-17th Floor (Zoom)

Judge: Hon. Edward M. Chen

DECLARATION OF ARTHUR BRUCE

28 I, Arthur Bruce, hereby swear and affirm that this statement is true and correct under
penalty of perjury.

1. I, Arthur Bruce am a professional landscaper. I have 4 grown children, and a two-year old daughter. I have lived anchored out on Richardson Bay for the past 6 years. I currently live

Declaration of Arthur Bruce

1 in a 26-foot Erickson that is anchored in Richardson Bay.

2 2. To the best of my knowledge, my home could be crushed at any time by Harbormaster
3 Curtis Havel and the Richardson Bay Regional Agency. If that occurred, I would have no
4 choice but to camp in Sausalito and be subject to their ordinance. Being forced next the
5 place would cause me profound emotional distress.

6
7 3. Although I have a boat on the bay, I also spend time, get meals and other assistance at the
8 Dunphy Park encampment. I was there on March 25, 2021 when Sausalito police staged a
9 raid on a number of campers involving a boat tied up by the camp. Police could have used
10 their own vessels to access the boat, but instead they came through the camp which cause
11 myself and others to be fearful.

12
13 4. After the raid, I feel less than ever. I feel like our police force is lawless and can do whatever
14 they want to us and could come back to the park in force.

15
16 I declare under penalty of perjury under the laws of the United States and the State of California
17 that the foregoing is a true and correct statement.

18 Dated: April 15, 2021

/s/ Arthur Bruce

19 Executed at Sausalito CA
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19 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

**DECLARATION OF SANDRA DENNING
IN SUPPORT OF PLAINTIFFS'
OPPOSITION TO DEFENDANTS'
MOTION TO MODIFY INJUNCTION**

Hearing Date: April 29, 2021
Time: 1:30 pm
Courtroom: 5-17th Floor (Zoom)

Judge: Hon. Edward M. Chen

DECLARATION OF SANDRA DENNING

I, Sandra Denning, hereby swear and affirm that this statement is true and correct under penalty of perjury.

1. I, Sandra Denning, live in Dunphy Park encampment in Sausalito Tent city. I am pinned up right now waiting for surgery for my broken hip. I can hardly walk. I rely on my community to assist me

Declaration of Sandra Denning

1 in all things.

2 2. Prior to this, I was a general contractor and built houses for much of my life. I lived anchored out in
3 Richardson Bay for 13 years, but Harbormaster Curtis Havel crushed my home at the Army Corps
4 Debris Yard by Marinship Park and I've been wandering the streets ever since before I came to
5 Dunphy Park.

6
7 3. If I was forced to camp next to Army Corps Debris Yard, it would be extraordinarily traumatizing
8 for me.

9 I declare under penalty of perjury under the laws of the United States and the State of California
10 that the foregoing is a true and correct statement.

11 Dated: April 15, 2021

/s/ Sandra Denning

12 Executed at Sausalito CA
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1 Anthony D. Prince (SBN # 202892)
2 General Counsel, California Homeless Union/Statewide Organizing Council
3 Law Offices of Anthony D. Prince
4 2425 Prince Street, Ste. 100
5 Berkeley, CA 94705
6 Tel: 510-301-1472

7 Attorneys for Plaintiffs

UNITED STATES COURT

NORTHERN DISTRICT OF CALIFORNIA

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

18 Plaintiffs

19 vs.

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

27 Defendants.

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

**SUPPLEMENTAL DECLARATION OF
MICHAEL ORTEGA IN SUPORT OF
PLAINTIFFS' REPLY TO
DEFENDANTS' OPPOSITION TO
PLAINTIFFS' MOTION FOR ORDER TO
SHOW CAUSE**

Hearing Date: April 29, 2021
Time: 1:30 pm
Courtroom: 5-17th Floor (Zoom)

Judge: Hon. Edward M. Chen

DECLARATION OF MICHAEL ORTEGA

28 I, Michael Ortega, hereby swear and affirm under penalty of perjury that the following is
29 true and correct statement based on personal knowledge or otherwise on information and belief:

1. I have lived on the Richardson Bay my whole life. My family has been anchoring out for three
generations. I now live in Richardson Bay at the Dunphy Park encampment with my partner

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Kaitlin, and my son.

2. Diane Moyer was like a grandmother to me. She knew my mother since she was a baby; and me since I was a baby. Me and my family were always stopping by to visit with spend time with her and help out. On the day that Diane passed, I called Irwin Kirisnik about preserving Diane’s home and he gave me permission to protect her home and have someone occupy it so that it would not be destroyed. (See Declaration of Irwin Kirisnik).
3. On March 24th, 2021, I witnessed a Richardson Bay Regional Agency boat, and a Coast Guard boat take Diane’s houseboat to the boat crushing yard at the Army Corps of Engineers. Harbormaster Curtis Havel’s assistant was there and he said they had permission from the next of kin, Mr. Kirisnik, to take and destroy the boat. I knew that this was not true. I wanted to feed Diane’s cats because I was now appointed by her heir, Irwin Kirisnik, to be in charge of Diane’s possessions and to be assisted by Mr. Robbie Powelson who Mr. Kirisnik had asked to go aboard the boat to check on Diane’s possessions. Harbormaster Havel’s assistant then informed me that the Marin Humane Society had already taken the cats. Havel repeated that Mr. Kirisnik, had authorized the Richardson Bay Regional Agency to seize the boat and take it to the ACOE to be destroyed.
4. Subsequently, I observed Mr. Powelson paddle out to the Army Corps of Engineer and board Diane’s boat, then tied up in the water. I was present when Martin Plisch, an employee of the RBRA, yelled at Robbie to get off the boat and that Robbie didn’t have permission, I called out to him and told him that Robbie did have permission to be on the boat. I then witnessed Plisch grabbing Robbie’s paddle, striking him with it, stomping on Powelson’s kayak and attempting to throw him into the water when Robbie had paddled to the boat in his kayak to stop them from pulling it up and destroying the boat.
5. It was very upsetting and frightening to me and others who had come over from Dunphy Park to watch as Diane’s boat was being pulled up the concrete ramp to boat crushing surface known as “the hard” as you could see boards being ripped from the hull. It was also very intimidating to watch as

1 Robbie Powelson was assaulted and struck while trying to explain things and stop damage to the
2 boat.

3 6. The next day, I observed that someone had brought Diane's boat back into the water tied up by the
4 Dunphy Park encampment. As I stated in a previous declaration, I witnessed Sausalito Police,
5 County Sheriffs and other law enforcement barging across the camp, scaring everybody and then
6 Officer Padilla threatening two women, including the mother of my son, who had boarded the boat to
7 pay respects to Diane, that he would have Child Protective Services (CPS) take their children, who
8 were on the boat with their mothers. I told police that I was father to one of the children and that they
9 were scaring the mothers and the children but they continued making threats until the women and the
10 children left the boat.

11 7. Since this incident, witnessed by most of the Dunphy Park campers, there has been fear in the camp
12 and police regularly come into the camp for no reason. As a Homeless Union officer, I talk nearly
13 every day with the campers and most have told me: 1) That they fear more action by the police; 2)
14 that they want to be left alone and 3) that they do not trust the City and don't want to move to
15 Marinship Park .

16 I declare under penalty of perjury under the laws of the United States and the State of
17 California that the foregoing is a true and correct statement.
18

19 Dated: April 15, 2021

/s/Michael Ortega

1 Anthony D. Prince (SBN # 202892)
2 General Counsel, California Homeless Union/Statewide Organizing Council
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4 2425 Prince Street, Ste. 100
5 Berkeley, CA 94705
6 Tel: 510-301-1472

7 Attorneys for Plaintiffs

UNITED STATES COURT

NORTHERN DISTRICT OF CALIFORNIA

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

18 Plaintiffs

19 vs.

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

27 Defendants.

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

**DECLARATION OF DEAN
DUSENBERGER IN SUPORT OF
PLAINTIFFS' OPPOSITION TO
DEFENDANTS' MOTION TO MODIFY
PRELIMINARY INJUNCTION**

Hearing Date: April 29, 2021
Time: 1:30 pm
Courtroom: 5-17th Floor (Zoom)
Judge: Hon. Edward M. Chen

DECLARATION OF DEAN DUSENBERGER

I, Dean Dusenberger, hereby swear and affirm that the following is a true and correct statement:

1. I, Dean Dusenberger, am a resident of the Dunphy Park camp. I have lived in Marin since I came here to get married. I used to backpack out here when I used to be involved with the

1 Sierra Club.

2 2. I was a witness to the police by Sausalito Police on March 25, 2021. They trampled right
3 across the area where we were in our tents to get to a houseboat that was tied up alongside
4 the camp. It was scary to watch. I heard shouts coming from where the boat was tied up and
5 we all went down there but stayed back because of the police.

6 3. The raid has made me feel less safe because it feels like the Sausalito Police are trying to
7 dominate us and won't give us a fair shake. I think they need to be held accountable and
8 liable for their actions. It seems they are trying to force us out and I don't think the move to
9 Marinship Park is going to work. I have two major physical disabilities that would make it
10 impossible for me to break camp every day.

11
12 I hereby swear and affirm that the foregoing is a true and correct statement under
13 penalty of perjury under the laws of the United States and the State of California.

14
15 Dated: April 15,2021

/s/ Dean Dusenberger

16 Executed at Sausalito, CA
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2 General Counsel, California Homeless Union/Statewide Organizing Council
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6 Tel: 510-301-1472

7 Attorneys for Plaintiffs

UNITED STATES COURT

NORTHERN DISTRICT OF CALIFORNIA

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

18 Plaintiffs

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22 ROHRBACHER; CITY MANAGER)
23 MARCIA RAINES; DEPT. OF PUBLIC)
24 WORKS SUPERVISOR KENT BASSO,)
25 individually and in their respective official)
26 capacities,)

27 Defendants.

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

**DECLARATION OF RYLY COLO IN
SUPPORT OF PLAINTIFFS'
OPPOSITION TO DEFENDANTS'
MOTION TO MODIFY INJUNCTION**

Hearing Date: April 29, 2021
Time: 1:30 pm
Courtroom: 5-17th Floor (Zoom)

Judge: Hon. Edward M. Chen

DECLARATION OF RYLY COLO

28 I, Ryly Colo, hereby swear and affirm that this statement is true and correct under
penalty of perjury.

Declaration of Ryly Colo

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1. I Ryly Colo, am a resident of the camp by Dunphy Park. I am trained as a nurse. When I was in my twenties, I traveled across Europe working as a chef. and use to be a professional fundraiser for several different large non-profits. I am a mother and a grandmother.
2. I was dropped off to Dunphy Park Camp after a 40 day psychiatric hold by my social worker. I have bipolar disorder and Post Traumatic Stress Disorder. I have not been able to get any treatment in spite of calling treatment centers all across California.
3. I have a hell of a lot of trauma related to the Army Corps of Engineers boat crushing yard by Marinship Park. My home for the last six years was crushed there by Harbormaster Curtis Havel. I still had my stuff on there, and they crushed it! If I was forced to camp next to that hell hole, it would aggravate my Bipolar and my substance use issues like crazy.

Page
- 2 -

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is a true and correct statement.

Dated: April 15, 2021 /s/ Ryly Colo
Executed at Sausalito CA

1 Anthony D. Prince (SBN # 202892)
2 General Counsel, California Homeless Union/Statewide Organizing Council
3 Law Offices of Anthony D. Prince
4 2425 Prince Street, Ste. 100
5 Berkeley, CA 94705
6 Tel: 510-301-1472

7 Attorneys for Plaintiffs

UNITED STATES COURT

NORTHERN DISTRICT OF CALIFORNIA

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

18 Plaintiffs

19 vs.

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

27 Defendants.

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

**DECLARATION OF GUY KELLY IN
SUPPORT OF PLAINTIFFS' OPPOSITION
TO DEFENDANTS' MOTION TO
MODIFY PRELIMINARY INJUNCTION**

Hearing Date: April 29, 2021
Time: 1:30 pm
Courtroom: 5-17th Floor (Zoom)

Judge: Hon. Edward M. Chen

DECLARATION OF GUY KELLY

I, Guy Kelly, hereby swear and affirm that the following is a true and correct statement:

1. I have lived anchored out for the last six years. Professionally, I am a shipwright and have

1 built homes most of my adult life. I am a certified boat welder. I currently work in a local
2 boatyard.

3 2. I have a sea-worthy vessel and assert that I live legally on Richardson Bay. In spite of this, I
4 am under threat by the Richardson Bay Regional Agency to have my home taken from me. I
5 have witnessed many of my fellow community members lose their homes (boats) for one
6 reason or another.

7 3. My boat is very seaworthy; it's on a mooring I have it on a train wheel with 3 foot chain to a
8 swivel with a another anchor going out 100ft that goes down as set in and that's probably a
9 25-30 pound anchor on chain size. It is a 29 ft Cascade 1973. I have sailed many times. By
10 my assessment my boat is not moving by itself unless I turn the key.

11
12
13 4. It would wrench me apart If my boat is taken away from me while I am at work, which has
14 happened to so many people in Dunphy Park encampment, and then I was forced to camp
15 next to the Army Corps Debris Yard while it was crushed.

16
17 I hereby swear and affirm that the foregoing is a true and correct statement under
18 penalty of perjury under the laws of the United States and the State of California.

19
20 Dated: April 15,2021

/s/ Guy Kelly

21 Executed at Sausalito, CA
22
23
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1 Anthony D. Prince (SBN # 202892)
2 General Counsel, California Homeless Union/Statewide Organizing Council
3 Law Offices of Anthony D. Prince
4 2425 Prince Street, Ste. 100
5 Berkeley, CA 94705
6 Tel: 510-301-1472

7 Attorneys for Plaintiffs

UNITED STATES COURT

NORTHERN DISTRICT OF CALIFORNIA

8 SAUSALITO/MARIN COUNTY CHAPTER)
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11 ROBBIE POWELSON; SHERI I.McGREGOR;)
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20 CITY OF SAUSALITO; MAYOR JILL)
21 JAMES HOFFMAN; POLICE CHIEF JOHN)
22 ROHRBACHER; CITY MANAGER)
23 MARCIA RAINES; DEPT. OF PUBLIC)
24 WORKS SUPERVISOR KENT BASSO,)
25 individually and in their respective official)
26 capacities,)

27 Defendants.

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

**DECLARATION OF CLARENCE
WERTZ IN SUPPORT OF PLAINTIFFS'
REPLY TO DEFENDANTS'
OPPOSITION TO PLAINTIFFS'
MOTION FOR ORDER TO SHOW
CAUSE AND IN SUPPORT OF
PLAINTIFFS' REPLY TO
DEFENDANTS' OPPOSITION TO
PLAINTIFFS' MOTION FOR ORDER TO
SHOW CAUSE**

Hearing Date: April 29, 2021
Time: 1:30 pm
Courtroom: 5-17th Floor (Zoom)

Judge: Hon. Edward M. Chen

DECLARATION OF CLARENCE WERTZ

26 I, Clarence Wertz, hereby swear and affirm that this statement is true and correct under
27 penalty of perjury.
28

Declaration of Clarence Wertz

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1. I, Clarence Wertz, am pitching a tent at the camp by Dunphy Park. I am a landscape contractor and do work around Marin County doing irrigation systems and landscape management. I am also a liveaboard mariner who has a boat anchored in the bay. I am living in constant fear because at any time, Harbormaster Curtis Havel could take away my home.

2. I was present at the Dunphy Park camp on March 25th when the Sausalito P.D. came through our encampment and staged a raid on some people who were on board a houseboat belonging to a recently deceased person that we all knew. That raid has put me in fear. They did not need to overreact and make us feel threatened.

Dated: April 15, 2021

/s/ Clarence Wertz

Executed at Sausalito CA

1 Anthony D. Prince (SBN # 202892)
2 General Counsel, California Homeless Union/Statewide Organizing Council
3 Law Offices of Anthony D. Prince
4 2425 Prince Street, Ste. 100
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7 Attorneys for Plaintiffs

UNITED STATES COURT

NORTHERN DISTRICT OF CALIFORNIA

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14 NAOMI MONTEMAYOR; MIKE NORTH)
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21 JAMES HOFFMAN; POLICE CHIEF JOHN)
22 ROHRBACHER; CITY MANAGER)
23 MARCIA RAINES; DEPT. OF PUBLIC)
24 WORKS SUPERVISOR KENT BASSO,)
25 individually and in their respective official)
26 capacities,)

27 Defendants.

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

**DECLARATION OF MICHAEL ADAMS
KIRISIK IN SUPPORT OF PLAINTIFFS'
REPLY TO DEFENDANTS'
OPPOSITION PLAINTIFFS' MOTION
FOR ORDER TO SHOW CAUSE AND IN
SUPPORT OF PLAINTIFFS' REPLY TO
DEFENDANTS' OPPOSITION TO
PLAINTIFFS' MOTION FOR ORDER TO
SHOW CAUSE**

Hearing Date: April 29, 2021
Time: 1:30 pm
Courtroom: 5-17th Floor (Zoom)

Judge: Hon. Edward M. Chen

DECLARATION OF MICHAEL ADAMS

28 I, Mike Adams, hereby swear and affirm that this statement is true and correct under
penalty of perjury.

- 1 1. I, Michael Adams, am a lifelong resident of Sausalito and have lived anchored out for the
2 past 40 years. My home was recently crushed by Harbormaster Curtis Havel, and I was not
3 allowed to retrieve not one thing of my boat - lost my baby pictures and things that are
4 totally irreplaceable.
- 5
6 2. I currently live at the camp by Dunphy Park. After the police raid on the 25th, I am afraid
7 for my physical safety with the authorities around here. In my view, the authorities are doing
8 whatever they want to us.
- 9
10 3. When the first move to Marinship Park was proposed - I was one of the two people who
11 went over there and set up a camp. I only lasted a few nights, because seeing all the boats
12 coming up made me want to cry. I'm serious, camping at Marinship Park put me into serious
13 emotional distress to the point I was getting ready to go 5150. This isn't right, and if I am
14 forced to live over there and watch Harbormaster Havel gloat, smile and wave while he
15 destroys people's lives I'm going to blow gasket and I think a lot of other people will too. I
16 have mental health problems, am going to go nuts.

17
18 I declare under penalty of perjury under the laws of the United States and the State of California
19 that the foregoing is a true and correct statement.
20

21 Dated: April 15, 2021

/s/ Michael Adams

22 Executed at Sausalito CA
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