

1 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP  
 A Limited Liability Partnership  
 2 Including Professional Corporations  
 ARTHUR J. FRIEDMAN, Cal. Bar No. 160867  
 3 ALEXANDER L. MERRITT, Cal. Bar No. 277864  
 Four Embarcadero Center, 17<sup>th</sup> Floor  
 4 San Francisco, California 94111-4109  
 Telephone: 415.434.9100  
 5 Facsimile: 415.434.3947  
 E mail: afriedman@sheppardmullin.com  
 6 amerritt@sheppardmullin.com

7 MARY WAGNER, Cal. Bar No. 167214  
 CITY ATTORNEY FOR CITY OF SAUSALITO  
 8 Sausalito City Hall  
 420 Litho Street  
 9 Sausalito, CA 94965  
 E-mail: mwagner@sausalito.gov

10 Attorneys for Defendants  
 11 CITY OF SAUSALITO, JILL JAMES  
 HOFFMAN, JOHN ROHRBACHER, MARCIA  
 12 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 L. 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  
 similarly situated homeless persons,

20 Plaintiffs,

21 v.

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

26 Defendants.  
 27  
 28

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

**DEFENDANTS' SUPPLEMENTAL  
 STATEMENT RE PENDING EX PARTE  
 MOTIONS**

Date: December 9, 2021  
 Time: 1:30 p.m.  
 Courtroom: 5 – 17<sup>th</sup> Floor

Action Filed: February 16, 2021  
 Trial Date: T.B.D.  
 Judge: Hon. Judge Edward M. Chen

1 Since the City filed its briefing on November 18, 2021, the situation at the Marinship Park  
2 encampment has spun further out of control, as residents continue to engage in unlawful,  
3 dangerous, and disorderly behavior.

4 The City submits this supplemental statement and the accompanying declarations of John  
5 Rohrbacher and Kevin McGowan to make the Court aware of the following developments, all of  
6 which underscore the immediate need for a code of conduct and authorization to relocate the  
7 encampment to the adjacent Marinship Park tennis courts:

- 8 • There is mounting evidence of deliberate contamination of Marinship Park to  
9 support encampment members' continuing desire to return the encampment to  
10 Dunphy Park. As explained in Sausalito's opposition filing, weeks ago the  
11 Marinship bathroom toilets overflowed because of the placement of towels and  
12 plastic bags into the toilets. Since Sausalito filed its opposition papers, there has  
13 been another sewage overflow at the Marinship Park bathrooms, apparently due to  
14 sabotage. The latest overflow was caused by the placement of rice, rice bags,  
15 rags/towels, and a large volume of paper towels into the toilets. The City also  
16 suspects tampering with the adjacent manhole and sewer main. (Supp. McGowan  
17 Decl., ¶¶ 8–15.)
- 18 • Despite plaintiffs' purported concerns regarding fecal contamination at Marinship  
19 Park caused by the bathroom overflows, encampment members have engaged in  
20 numerous tactics to impede and delay Sausalito's efforts to clean and clear  
21 Marinship Park. First, encampment residents have obstructed the City's efforts to  
22 provide a temporary sleeping area in the parking lot adjacent to Marinship Park by  
23 dismantling and stealing traffic barriers. (Supp. Rohrbacher Decl., ¶¶ 4–7.)  
24 Second, encampment residents have resisted Sausalito's efforts to prepare the  
25 adjacent tennis courts for relocation of the encampment. During the Thanksgiving  
26 holiday weekend, encampment members stole wooden tent platforms built by the  
27 City and used them to construct unpermitted permanent residential structures. The  
28 residents' actions constitute felony theft given the value of the platforms. (Supp.

1 Rohrbacher Decl., ¶¶ 8–12; Supp. McGowan Decl., ¶¶ 3–7.) Third, encampment  
2 residents have trespassed onto the tennis courts before they were ready, damaged a  
3 locked gate, and converted additional tent platforms into residential structures.

4 (Supp. Rohrbacher Decl., ¶¶ 14–16.)

- 5 • The unpermitted “storage shed” is being used as a residence, contrary to Plaintiffs’  
6 counsel’s agreement that it would be used only for storage of food and materials.  
7 (Supp. Rohrbacher Decl., ¶ 13.) This residence violates the California Building  
8 Code and presents a health and safety threat.
- 9 • A handful of encampment members (the same group in each instance) have both  
10 actively resisted Sausalito’s efforts to prepare the adjacent tennis courts and have  
11 pitched tents at multiple locations outside the designated sleeping area in Marinship  
12 Park, including at Dunphy Park, Robin Sweeney Park at City Hall, Vina Del Mar  
13 Plaza, and public property between Bridgeway and the U.S. Army Corps of  
14 Engineers Bay Model. Some of these same few individuals have refused to comply  
15 with lawful orders and have been arrested. (Supp. Rohrbacher Decl., ¶¶ 21–25.)
- 16 • Emilio Pineda posted a photograph and the location of Mayor Hoffman’s home on  
17 Facebook, and he encouraged encampment supporters to “camp out outside her  
18 door” on Thanksgiving night and “catch the turkey by the neck.” The Police  
19 Department is investigating this as a violation of California Government Code  
20 section 6254.21(b), which criminalizes such disclosures and threats. (Supp.  
21 Rohrbacher Decl., ¶¶ 17–20.)

22 The City respectfully requests that the Court consider this new evidence, and such other  
23 evidence as may be presented before the December 9th hearing, in ruling on the parties’ pending  
24 *ex parte* motions and in granting Sausalito all appropriate relief.

25 ///

26 ///

27 ///

28

1 Dated: November 30, 2021

2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

By                         /s/ Arthur. J. Friedman                          
ARTHUR J. FRIEDMAN  
ALEXANDER L. MERRITT

Attorneys for Defendants  
CITY OF SAUSALITO, JILL JAMES HOFFMAN,  
JOHN ROHRBACHER, MARCIA RAINES, KENT  
BASSO