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ROHRBACHER, MARCIA RAINES, KENT BASSO

12
13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA

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

22 Plaintiffs,

23 v.

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

Defendants.

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

**DECLARATION OF MARY ANNE WAGNER
IN SUPPORT OF DEFENDANTS'
(1) OPPOSITION TO PLAINTIFFS' *EX PARTE*
MOTION TO SHOW CAUSE WHY
DEFENDANTS SHOULD NOT BE HELD IN
CONTEMPT FOR VIOLATING THE
PRELIMINARY INJUNCTION, FOR
SANCTIONS AND FOR MODIFICATION OF
PRELIMINARY INJUNCTION; AND
(2) *EX PARTE* MOTION TO MODIFY
PRELIMINARY INJUNCTION**

Date: December 9, 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

DECLARATION OF MARY ANNE WAGNER

I, Mary Anne Wagner, declare as follows:

1. I am the City Attorney for the City of Sausalito and have held that position since July 30, 2002. If called as a witness, I could and would competently testify to all facts stated herein based upon my personal knowledge except where stated upon information and belief. This Declaration is submitted in support of Defendants' (1) Opposition to Plaintiffs' *Ex Parte* Motion To Show Cause Why Defendants Should Not Be Held In Contempt for Violating the Preliminary Injunction, for Sanctions and for Modification of Preliminary Injunction; and (2) *Ex Parte* Motion to Modify Preliminary Injunction.

2. On September 15, 2021, I received via email a letter from Plaintiffs' counsel, Anthony Prince, alleging certain activities with respect to an encampment resident, Holly Wild. Mr. Prince sent a replacement letter via email on September 16, 2021. In his letters, Mr. Prince indicated that there had been an incident at U.S. Army Corps property adjacent to the Marinship Park encampment and that an employee of the Sausalito Police Department, Mike McKinley, had thrown a rock in the direction of Ms. Wild.

3. Upon learning of the alleged incident, I informed the City Manager, Chris Zapata, and Chief of Police, John Rohrbacher, and requested that the Chief of Police look into the allegations.

4. Based on information and belief, I understand that Mr. McKinley is a civilian employee of the Police Department, not a sworn police officer, and he is not permitted to carry a firearm as part of his job.

5. The Chief of Police also reviewed the allegations that Officers Padilla and White failed to take a report of the incident and determined that the Officers would not be placed on administrative leave, but that an internal investigation of all of the allegations in Mr. Prince's letter would be conducted.

6. In keeping with standard practices, the Chief of Police contacted the Marin County Sherriff's Department and requested that they investigate the criminal allegations in Mr. Prince's letter. It is my understanding that the investigation is still on-going.

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7. Also in accordance with standard practices, the City’s internal investigation will commence after the Sherriff’s Department and the District Attorney’s Office complete their investigations.

8. The City’s internal investigation will be conducted by an independent third party.

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 18th day of November, 2021 in Princeton, New Jersey.

DocuSigned by:
Mary Wagner
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Mary Anne Wagner