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 RAINES, KENT BASSO

12 **UNITED STATES DISTRICT COURT**  
 13 **NORTHERN DISTRICT OF CALIFORNIA**

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

20 Plaintiffs,

21 v.

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

26 Defendants.

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

**DEFENDANTS' SECOND SUPPLEMENTAL  
 STATEMENT**

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

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1 The City of Sausalito respectfully submits this second supplemental statement and the  
2 accompanying declarations of Kevin McGowan, Chris Tubbs, and Chris Zapata to inform the  
3 Court of new facts (including a City Council action last night) demonstrating that the Marinship  
4 Park tennis courts are ready for immediate relocation of the encampment. The City additionally  
5 submits the supplemental declaration of Police Chief John Rohbarcher in response to Plaintiffs'  
6 new claims of police misconduct first raised in the reply.

7 The City has completed all necessary work and taken all necessary personnel actions to  
8 support immediate relocation of the Marinship Park encampment to the adjacent tennis courts –  
9 pending this Court's approval. Specifically:

- 10 • All necessary tent platforms have been constructed and are in place at the  
11 Marinship Park tennis courts. As of December 8, 2021, at 10:00 AM, 39 tent  
12 platforms have been constructed and installed on the tennis courts, with one  
13 remaining to be delivered later the same day. (Supp. McGowan Decl., ¶¶ 4–5.)
- 14 • Sufficient tents to accommodate the encampment have been purchased and are  
15 available to those who request them. The City has purchased a total of 53 tents, 46  
16 of which are available at the Department of Public Works Corporation Yard. The  
17 City will install and securely affix 40 tents on the platforms in place at Marinship  
18 Park tennis courts for those who request them. Encampment members may  
19 alternatively secure their existing tents to the tent platforms. (Supp. McGowan  
20 Decl., ¶¶ 5–6.)
- 21 • On Tuesday, December 7, 2021, the City Council approved a contract with Urban  
22 Alchemy to continue management of the encampment. Urban Alchemy has  
23 reviewed and approved the relocation plan and will facilitate the safe relocation of  
24 the encampment. (Supp. Zapata Decl., ¶¶ 2–4.)
- 25 • The City's Building Official and Southern Marin Fire Department have reviewed  
26 and approved the relocation plan. Based on their recommendations, fencing around  
27 the tennis courts will be adjusted to comply with applicable fire safety standards.  
28 (Supp. McGowan Decl., ¶¶ 7–8, 11.)

1 Cities may lawfully regulate the location of authorized camping and outdoor sleeping sites  
2 for those with no options for sleeping indoors. *Martin v. City of Boise*, 920 F.3d 584, 617 (9th Cir.  
3 2019) (“we in no way dictate to the City that it must provide sufficient shelter for the homeless, or  
4 allow anyone who wishes to site, lie, or sleep on the street... at any time and at any place”).  
5 Plaintiffs have not and cannot satisfy their burden of demonstrating that relocation of the  
6 encampment to the tennis courts constitutes a state created danger. To the contrary, Plaintiffs’  
7 request for unregulated and dispersed overnight camping throughout the City is directly contrary  
8 to both CDC guidance and this Court’s injunction.

9  
10 Dated: December 8, 2021

11 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

12  
13 By                   /s/ Arthur. J. Friedman                  

14 ARTHUR J. FRIEDMAN  
15 ALEXANDER L. MERRITT

16 Attorneys for Defendants  
17 CITY OF SAUSALITO, JILL JAMES HOFFMAN,  
18 JOHN ROHRBACHER, MARCIA RAINES, KENT  
19 BASSO  
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PROOF OF SERVICE

**Sausalito/Marin County Chapter Of The California Homeless Union et al. v. City Of Sausalito et al.**  
**CASE NO. 3:21-cv-01143-LB**

**STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO**

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Orange, State of California. My business address is 650 Town Center Drive, Tenth Floor, Costa Mesa, CA 92626.

On December 8, 2021, I served true copies of the following document(s) described as: **DEFENDANTS' SECOND SUPPLEMENTAL STATEMENT** on the interested parties in this action as follows:

Anthony David Prince  
Law Offices of Anthony D. Prince  
2425 Prince Street, #100  
Berkeley, CA 94705  
510-845-5475  
princelawoffices@yahoo.com  
Assigned: 02/16/2021

Attorney for Plaintiff:  
*California Homeless Union/Sausalito Chapter*

**BY CM/ECF NOTICE OF ELECTRONIC FILING:** I electronically filed the document(s) with the Clerk of the Court by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system. Participants in the case who are not registered CM/ECF users will be served by mail or by other means permitted by the court rules.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on December 8, 2021, at Costa Mesa, California.

  
\_\_\_\_\_  
Linda Samson