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13 (Additional Counsel Continued on Next Page)

14
 15 UNITED STATES DISTRICT COURT
 16 NORTHERN DISTRICT OF CALIFORNIA

17 SAUSALITO/MARIN COUNTY CHAPTER
 OF THE CALIFORNIA HOMELESS UNION,
 18 et al.,

19 Plaintiffs,

20 v.

21 CITY OF SAUSALITO, et al.

22 Defendants.
 23
 24

Case Number: 3:21-cv-01143-LB

DEFENDANTS' STATUS REPORT

Judge: Hon. Judge Edward M. Chen

Dept.: Courtroom 5 – 17th Floor

Date: April 19, 2022

Time: 2:30 p.m.

1 Additional Counsel:

2 ARTHUR GAUS, Cal Bar No. 289560
3 KAUFMAN, DOLOWICH, & VOLUCK, LLP
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6 Telephone: 415-523-4992
7 Email: agaus@kdvlaw.com

8 Attorneys for Defendants in All Related Pro Se Cases
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1 Defendants submit this status report as directed by the Court. (Dkt. Nos. 92 and 93.)
2 Defendants attempted to coordinate with Plaintiffs' counsel on a joint status report. However,
3 Plaintiffs' counsel indicates that he will file a separate report due to family medical issues.

4 **1. Encampment Status**

5 On December 13, 2021, this Court issued an Order denying Plaintiffs' motion for contempt
6 and modification of the preliminary injunction and partially granting Defendants' motion for
7 modification of the preliminary injunction. (Dkt. No. 73.) The Order authorized Defendants to
8 relocate the Marinship Encampment to the adjacent tennis courts. The ruling further provided that
9 absent good cause, the tennis court site should include the wooden platforms described by
10 Defendants and that Defendants should offer the campers the tents described in their papers.
11 (Order, pp. 6-7.) The Court's ruling additionally provided that "if there are future disputes, the
12 parties are directed to meet and confer with the assistance of Judge Illman." (*Id.*, p. 7.)

13 Following the Court's ruling, Defendants prepared the tennis courts for the encampment
14 and retained homeless encampment consultant, Urban Alchemy, to manage the encampment
15 move. Urban Alchemy initially encountered resistance from the residents, and it recommended
16 that the City delay the move to allow Urban Alchemy additional time to convince encampment
17 members to peacefully relocate. Soon thereafter, following a rain storm, Plaintiffs alleged that
18 several of the wooden tent platforms placed on the tennis courts had evidence of delamination and
19 other claimed problems. In response, Defendants replaced all 40 platforms with new materials.
20 Once that was finalized, the City, with Urban Alchemy's assistance, completed the move of the
21 encampment to the tennis courts. Defendants have also installed a charging station for electronic
22 equipment. Defendants are also providing showers and mobile handwashing stations and are
23 servicing bathrooms at the encampment.

24 **2. Case Status and Coordination of the Related Cases**

25 Defendants have retained Arthur Gaus of Kaufman, Dolowich, & Voluck, LLP to defend
26 the recently-filed pro se cases associated with the Marinship Encampment. Sheppard Mullin will
27 continue representing Defendants in the main litigation.

28

1 ***a. New Pro Se Filings Seek Individualized Relief Relating to Operation of the Marinship***
2 ***Encampment***

3 Since February 14, 2022, seven individual plaintiffs have filed pro se actions, which the
4 Court has related to this main litigation. (*See* Appendix 1, hereinafter the “Pro Se Cases.”) The
5 Pro Se Cases are brought by persons living in or associated with the Marinship Encampment,
6 some of whom are purportedly represented by counsel in the main case, either individually or
7 through the Sausalito/Marin County Chapter of the California Homeless Union (the “Homeless
8 Union”). The Pro Se Cases frequently include a complaint together with an ex parte application
9 for temporary restraining order (TRO).

10 Although the Pro Se Cases often seek different relief, each purportedly arises out of the
11 administration of the Marinship Encampment. Defendants thus believe these filings are
12 inconsistent with the intent of this Court’s previous order, which directed the parties to meet and
13 confer on future encampment disputes with the assistance of Judge Illman before engaging in
14 motion practice.

15 Plaintiffs’ departure from the meet and confer practice appears to be an intentional and
16 organized effort. The Homeless Union has called for encampment residents to file individual
17 complaints and TRO applications in order to overwhelm the capacity of the City. In fact,
18 responding to individual complaints and TRO applications, and attending serial settlement
19 conferences and motion hearings, is an onerous task and demands significant expenditure of
20 limited public resources. (*See* Appendix 1.) Defendants further believe that the Pro Se Cases have
21 the potential to strain judicial resources. Therefore, Defendants request that the Court
22 appropriately coordinate the Pro Se Cases in order to preserve both civic and judicial resources.

23 ***b. Proposed Coordination***

24 As the Pro Se Cases seek individualized relief with respect to a common set of facts
25 relating to the Marinship Encampment, Defendants envision coordination at one or both of the
26 following junctures:

27 *i. Coordination at the Settlement Conference Phase:* The Court’s practice has been
28 to refer all encampment disputes to Judge Robert Illman for settlement purposes.

1 (E.g. Dkt No. 26.) The Court has also assigned Pro Se Cases to Judge Illman for
2 settlement conference on an individualized basis. Defendants request a modified
3 case management order designating a specific day and time each week for all
4 settlement conferences relating to newly-filed TRO applications. This would permit
5 the parties and Judge Illman to address all cases at a regularly scheduled time each
6 week, as opposed to the current situation in which settlement conferences are
7 staggered throughout the week at different times. Defendants believe a coordinated
8 schedule will conserve both civic and judicial resources.

9 *ii. Coordination for Purposes of Rule 12 Motions:* In addition, Defendants request
10 coordination for purposes of their anticipated motions to dismiss pursuant to Rule
11 12(b). Without conceding the merits of the underlying claims, Defendants have
12 voluntarily provided the requested relief and/or complied with the Court's TROs,
13 and therefore some of the Pro Se Cases are now moot. To the extent the Pro Se Cases
14 are not moot, the complaints share common legal deficiencies that make them subject
15 to dismissal under Rule 12(b). Coordination of the Pro Se Cases for purposes of
16 hearing Defendants' motions to dismiss would reduce the number of filings and
17 permit the resolution of common legal issues in one setting, thereby further
18 conserving both civic and judicial resources.

19
20 Dated: April 12, 2022

21 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

22
23 By

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

24
25 Attorneys for Defendants
26 CITY OF SAUSALITO, JILL JAMES HOFFMAN,
27 JOHN ROHRBACHER, MARCIA RAINES, KENT
28 BASSO

1 Dated: April 12, 2022

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KAUFMAN, DOLOWICH, & VOLUCK, LLP

By /s/ Arthur Gaus
ARTHUR GAUS

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

APPENDIX 1
CITY OF SAUSALITO ENCAMPMENT RELATED PRO SE CASES
Updated April 12, 2022

| CASE NAME/CAPTION | NAMED DEFENDANTS | Requested Relief , Provided Relief | ACTIVITY | HEARINGS/UPCOMING APPEARANCES |
|---|--|---|---|--|
| <p>1 <i>Deschamps v. Sausalito</i> US District Court, Northern District of California Case No. 3:22-cv-00928</p> | <p>City of Sausalito City Manager Chris Zapata Lieutenant Stacey Gregory Janelle Kellman, Mayor Chief Rohrbacher Urban Alchemy</p> | <p>1. Use of own tent– provided. 2. City provide portable charging station – provided. 3. Maintain additional structure between platform and fence – provided, PTF compliance interrupted by arrest.</p> | <p>February 14, 2022: Original Complaint filed February 22, 2022: Original complaint dismissed by the court with leave to amend March 8, 2022: Amended Complaint filed Summons served April 1, 2022 Answer due April 22, 2022</p> | <p>April 19, 2022 Status Conference CMC July 19, 2022 2:30 pm</p> |
| <p>2 <i>Powelson v. Sausalito</i> US District Court, Northern District of California Case 3:22-cv-01809 9th Circuit Court of Appeal 22-15455</p> | <p>City of Sausalito, and in their Individual and Official Capacities Elliot Holt, Lieutenant Stacie Gregory, Detective Devin Rose, Mayor Janelle Kellman, Police Chief Rohrbacher, Corporal Brian Mather, Sergeant Brandon Rodgers,</p> | <p>Alleged civil rights violations. 1. Injunction barring city from impounding vehicle for outstanding tickets. – Denied.</p> | <p>March 22, 2022: Complaint filed March 25, 2022: Judge Chen denied the request for a TRO and referred the matter to Judge Illman March 28, 2022: Notice of appeal of denial of TRO filed with the 9th Circuit Court of Appeal</p> | <p>April 11, 2022 Settlement Conference 1:00 pm April 19, 2022 Status Conference CMC July 19, 2022 2:30 pm May 31, 2022 Appellant’s opening brief served and filed June 27, 2022 Appellees’ answering brief served and filed</p> |

APPENDIX 1
 CITY OF SAUSALITO ENCAMPMENT RELATED PRO SE CASES
 Updated April 12, 2022

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| | | Beth Dilego, Lillian Cerini- Ayer, Citation Processing Center, Does 1- 10, Does 11-30 Inclusive | | | |
| 3 | <i>Allen v. Sausalito</i> US District Court, Northern District of California 3:22-cv-01810-EMC | City of Sausalito | <ol style="list-style-type: none"> 1. Allow her access to her car to get her personal possessions. Provided 2. Hire a locksmith to open the car at the tow yard (she alleges that she opens and starts the car with a screw driver but that at the tow yard they rolled up the windows and locked the car and won't let her in because she doesn't have a key) Provided 3. Release her car until there's an admin hearing on the parking tickets. Not Provided; court did not grant requested relief at hearing. 4. Allow her to camp at Marinship and anywhere in the City to shelter and be safe. Provided 5. Not impound her car in the future so long as it is her domicile until she has housing. - Not Provided; court did not grant requested relief at hearing. 6. Not prohibit her from rendering aid to her mother. Provided 7. Accommodate members of the encampment who leave for medical treatment, transient employment and other essential activities that require that they leave for extended periods of time. Defendants intend to provide | <p>March 22, 2022: Complaint filed</p> <p>March 28, 2022: preliminary hearing in front of Judge Orrick</p> | <p>April 19, 2022 Status Conference</p> <p>April 12, 2022 Settlement Conference 12:00 pm</p> |

APPENDIX 1
CITY OF SAUSALITO ENCAMPMENT RELATED PRO SE CASES
Updated April 12, 2022

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| | | | 8. Appoint a special monitor to ensure the safety of campers at camp cormorant and “impose the court’s will on the City.” Not provided | | |
| 4 | <i>Bruce v. Sausalito</i> US District Court, Northern District of California 3:22-cv-01995-EMC | City of Sausalito | 1. Issue M Parking Permit. Provided 2. Injunction permitting PTF to sleep in car overnight. Provided | March 29, 2022: Complaint filed | April 19, 2022 Status Conference April 12, 2022 Settlement Conference 12:00 pm |
| 5 | <i>McGann v. Sausalito</i> US District Court, Northern District of California 3:22-cv-02042-TSH | City of Sausalito Stacey Gregory Chris Zapata Does 1-100 inclusive | 1. Requesting that he be allowed to camp at Marinship Park. City will Provide | March 30, 2022: Complaint filed March 31, 2022: Case referred to Judge Chen to determine if related to <i>Deschamps</i> Case No. 3:33-cv-00928 | April 12, 2022 Settlement Conference 2:00 pm |
| 6 | <i>Moffit v. City of Sausalito, et al.</i> <i>Case No. 3:22-cv-02098-HSG</i> US District Court, Northern District of California (Related to 21-cv-01143) | City of Sausalito John Rohrbacher Chris Zapata | 1. Requesting that he be allowed to camp at Marinship Park. City will Provide | April 1, 2022: Original Complaint filed April 4, 2022: Order relating case to 21-cv-01143 | April 19, 2022 Status Conference CMC July 19, 2022 2:30 pm |

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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 ARIZONA, COUNTY OF MARICOPA

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 Maricopa, State of Arizona. My business address is 1800 N. Central Avenue, 5th Floor, Phoenix, AZ 85004.

On April 12, 2022, I served true copies of the following document(s) described as **DEFENDANTS' STATUS REPORT** 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 | Attorney for Plaintiff: <i>California Homeless Union/Sausalito Chapter</i> |
|--|---|

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 April 12, 2022, at Phoenix, Arizona

/s/ Mary Beth Pimentel
Mary Beth Pimentel