

Orozco, Norma

From: Tim Johnson <tjohnson@jlkrlp.com>
Sent: Monday, September 20, 2021 4:16 PM
To: Hernandez, Johnathan; Sarmiento, Vicente; Penaloza, David; Mendoza, Nelida; Lopez, Jessie; Bacerra, Phil; Phan, Thai; eComment
Cc: Ridge, Kristine; Carvalho, Sonia R.; Funk, John
Subject: Closed Session Item 3D
Attachments: 340- SA Settlement Agreement dtd 9.23.19.pdf; 390- Carter ruling on emergency hearing re El Centro & 450 beds in SA.pdf

Council (cc City Manager Ridge and City Attorneys Carvalho and Funk)...On Tuesday you will be discussing in closed session item 3D (Catholic Worker Case; Case No. SA CV 18-0155-DOC (KESx)). This item is where the City is a defendant in the Catholic Worker case (note: defendant by choice). The goal of this email is twofold:

1. Encourage the city to provide an update on the Catholic Worker case specifically regarding its compliance with the Settlement Agreement (attached "340- SA Settlement Agreement dtd 9.23.19), and
2. To provide the residents information as to how many beds the city needs to maintain in accordance with the Settlement Agreement in order to enforce certain laws and how many beds are actually available.

Update to the Public

Homelessness is one of the biggest, if not the biggest, concern of residents of Santa Ana. The public deserves to have an update as to the city's response with this case specifically with its compliance with the Settlement Agreement. Obviously, this is a closed session item and such the information you may be required to disseminate to the public may be limited but there is nothing stopping the city from providing an update on this matter as long as it is not privileged information or would jeopardize a strategy of the city.

of Beds Required

The public is hearing or reading conflicting information as to the number of beds that the Settlement Agreement requires the city to maintain in order to enforce its Anti-Camping Ordinances. We are hearing 1 empty bed, we are hearing 200 shelter beds regardless of capacity, while others are hearing 450 beds. This should be a very straight forward communication per the Settlement Agreement. Please communicate to the public the city's required number of beds available in order to enforce its Anti-Camping Ordinances.

I will assist you here also by providing Judge Carter's language in his Order Re Emergency Hearing filed 5/8/21 (initiated with the El Centro case) attached. The pertinent language is highlighted below but Judge Carter clearly indicates "Therefore, the City may not enforce until they have complied with the terms of the Settlement and have **450 bed spaces available.**" {emphasis mine} This seems pretty clear that the city needs to have 450 beds in order to enforce straight from the Judge who is presiding over this case. Do you agree? It feels like the city does not believe that 450 is the "the number" based on prior comments made in council and also based on the number of beds that I believe are available (both in Santa Ana and contracted out to the shelter in Fullerton). Here is the language from the above referenced Carter ruling:

process detailed herein.” *Id.* at 2-8. Therefore, the City may not enforce until they have complied with the terms of the Settlement and have 450 bed spaces available. This instant action is not enforcement of the anti-camping ordinance, but the order of abatement from the Superior Court. The City’s stated position is that it will not enforce in violation of the settlement. The City is ORDERED to file its position formally on the docket.

Finally, Plaintiff requests sanctions with attorneys’ fees and other actions. This request is held in abeyance pending the outcome of this dispute.

The Court ENCOURAGES that the City of Santa Ana open shelter immediately for the benefit of the displaced homeless population and the citizens of Santa Ana.

The language in the Settlement Agreement article 3 may be confusing due to wordsmithing, but even that seems to be apparent that it is 200 beds from The Link plus another 250 for a total of 450 beds. Section 3.2 and 3.3 are the confusing areas but section 3.5 seems to clarify that by referencing the number of placements equal to The Link and the Additional Shelter (i.e. 200 plus 250).

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1 3.5 Although the above-referenced shelters are not the exclusive
2 means by which the City may satisfy its obligation to meet the needs of homeless
3 individuals in the City, OCCW Plaintiffs acknowledge and agree that the creation
4 and operation of The Link and the Additional Shelter, or a number of placements
5 equal to The Link and the Additional Shelter, shall satisfy the City’s obligations
6 under Section 3 of the Agreement, as well as any other requirement by the Court
7 pertaining to the number of available beds for the unsheltered individuals in the
8 City.

Regardless, Judge Carter clarified this matter in his ruling in Doc 390. Can you provide information to the public stating:

1. How many qualifying shelter beds (qualify under the Settlement Agreement) the city of Santa Ana has presently?
2. How many shelter beds are required for the City of Santa Ana to be able to enforce its Anti-Camping Ordinances? If this number is something less than 450 beds, please provide how this is reconciled with Judge Carter’s Order in Document 390 of this case.
3. Is the City currently enforcing its Anti-Camping Ordinances?

Conclusion:

I ask that you continue to pursue a Housing First methodology focused on true housing for those experiencing homelessness. Housing with a lock from the inside. Housing that provides necessary services such as addiction treatment, mental health services, job training and placements, and general life skills. Please also provide the public information to help us understand the Settlement Agreement that was entered into almost 2-years ago to the day. By providing this information, it would feel like everything is transparent and needed/desired information is being provided.

I know everyone works hard on this topic. I do not believe that you are turning a blind eye to those in need. Thank you for caring and listening.

Blessing to each of you, your families, and the residents of your Ward and our City as a whole,

Tim Johnson
Ward 3 Resident



Proudly part of the **PKF** global family



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27 UNITED STATES DISTRICT COURT
28 CENTRAL DISTRICT OF CALIFORNIA - SOUTHERN DIVISION

17 **ORANGE COUNTY CATHOLIC**
18 **WORKER,**

19 Plaintiffs,

20 v.

21 **ORANGE COUNTY, et al.,**

22 Defendants.

Case No. 8:18-cv-00155 DOC (JDE)

**NOTICE OF SETTLEMENT WITH
THE CROSS-DEFENDANT CITY OF
SANTA ANA AND EXHIBIT A:
SETTLEMENT AGREEMENT**

25 Plaintiff Orange County Catholic Worker ("OCCW") files this Notice of
26 Settlement with the Cross-Defendant City of SANTA ANA. A copy of the
27 Settlement Agreement signed by all parties is attached at Exhibit A.
28

1 The Settlement is made between the parties and submitted subject to 1) Court
2 approval of the terms; 2) final ratification by the Santa Ana City Council within 14
3 days of the Court's signing of the Proposed Order; 3) the condition in the Settlement
4 Agreement concerning the prior MOU with the defendant County; and 4) entry of
5 dismissal with prejudice as to Defendant Santa Ana only, with the Court retaining
6 jurisdiction to enforce the Settlement Agreement for the period of time and pursuant
7 to the conditions specified in the Agreement.
8

9 Dated: Sept. 23, 2019 ELDER LAW & DISABILITY RIGHTS CENTER
10 LAW OFFICE OF CAROL A. SOBEL
11 SCHONBRUN SEPLOW HARRIS & HOFFMAN

12 /s/ Carol A. Sobel
13 By: CAROL A. SOBEL
14 Attorneys for Plaintiffs
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EXHIBIT A

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2 JOHN M. FUNK (204605)
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7
8 Attorneys for Defendant and Cross-Claimant
CITY OF SANTA ANA
9

10 UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA
12 SOUTHERN DIVISION
13

14 ORANGE COUNTY CATHOLIC
15 WORKER, an unincorporated
16 association; Lisa Bell, Shawn Carroll,
17 Melissa Fields, Larry Ford, Cameron
Ralston, Kathy Schuler, Gloria
18 Shoemake, as individuals,

19
20 Plaintiffs,

21 v.

22 ORANGE COUNTY, the City of
Anaheim, the City of Costa Mesa, the
23 City of Orange, et al.

24 Defendants.
25
26
27
28

) Case No.: SACV 18-0155-DOC (JDE)

) **SETTLEMENT AGREEMENT BY**
) **AND BETWEEN THE CITY OF**
) **SANTA ANA AND THE ORANGE**
) **COUNTY CATHOLIC WORKER**

1 City of Santa Ana,

2 Cross-Claimant,

3 v.

4
5 County of Orange, City of Aliso Viejo,
6 City of Anaheim, City of Brea, City of
7 Buena Park, City of Costa Mesa, City of
8 Cypress, City of Dana Point, City of
9 Fountain Valley, City of Fullerton, City of
10 Garden Grove, City of Huntington Beach,
11 City of Irvine, City of La Habra, City of
12 La Palma, City of Laguna Beach, City of
13 Laguna Hills, City of Laguna Niguel, City
14 of Laguna Woods, City of Lake Forest,
15 City of Los Alamitos, City of Mission
16 Viejo, City of Newport Beach, City of
17 Orange, City of Placentia, City of Rancho
18 Santa Margarita, City of San Clemente,
19 City of San Juan Capistrano, City of Seal
20 Beach, City of Stanton, City of Tustin,
21 City of Villa Park, City of Westminster
22 and City of Yorba Linda,

23 Cross-Defendants.

24 **SETTLEMENT AGREEMENT**

25 This Settlement Agreement ("Agreement") is entered into by and between
26 Defendant and Cross-Claimant City of Santa Ana ("City"), and Plaintiff Orange
27 County Catholic Worker ("OCCW"), an unincorporated association acting by and
28 through its designated representatives.

The parties to this Agreement are referred to herein individually as a "Party"
and collectively as the "Parties."

RECITALS

A. WHEREAS, on January 29, 2018, OCCW and certain individual plaintiffs filed an action, entitled *Orange County Catholic Worker et al. v. Orange County et al.*, United States District Court, Central District of California, Case No. 8:18-cv-00155-DOC-KES ("OC Catholic Worker Action"), against the County of Orange ("County"), the City of Anaheim, the City of Costa Mesa, and the City of Orange.

B. WHEREAS, on March 17, 2018, the City of Santa Ana intervened in the OC Catholic Worker Action as a defendant.

C. WHEREAS, on April 26, 2018, the City of Santa Ana filed a cross-complaint in the OC Catholic Worker Action against the County and all other cities in the County, alleging violations of the: (1) Eighth Amendment (cruel and unusual punishment); (2) Fourteenth Amendment (equal protection); and (3) Fourteenth Amendment (due process) ("Cross-Complaint"). The Cross-Complaint was served on the County, the City of Anaheim, the City of Orange, and the City of Tustin. The Cross-Complaint remains unserved on all other cross-defendants.

D. WHEREAS, on July 26, 2018, OCCW filed a First Amended Complaint ("OCCW FAC"), which, among other changes, pleaded a potential class action against the County. At the time of execution of this Agreement, the OCCW FAC is the operative complaint in the OC Catholic Worker Action.

E. WHEREAS, on November 13, 2018, OCCW filed a Supplemental Complaint adding the City of Tustin as a defendant.

F. WHEREAS, on June 28, 2019, OCCW filed a Supplemental Complaint adding the cities of Brea, Buena Park, Cypress, Fullerton, La Habra, La Palma, Los Alamitos, Placentia, Stanton, Villa Park, and Yorba Linda as defendants ("North SPA Cities").

G. WHEREAS, the OCCW FAC as well as the Supplemental Complaints, alleges that OCCW is an unincorporated association dedicated to the

1 service and care of the poor in Orange County, and that the individual OCCW
2 plaintiffs are homeless individuals residing in Orange County. The OCCW FAC
3 alleges, inter alia, that defendants, and each of them, have violated the OCCW
4 plaintiffs' rights by enforcing various laws against them, including trespass,
5 loitering, and/or anti-camping ordinances, at times when, according to the OCCW
6 plaintiffs, there were no immediately accessible and appropriate beds available to
7 them in Orange County. The City of Santa Ana disputes the factual allegations and
8 legal contentions made by OCCW in the OCCW FAC.

9 H. WHEREAS, the OCCW FAC includes the following causes of action
10 against the City of Santa Ana as well as other defendants: (1) violation of the
11 Eighth and Fourteenth Amendments to the U.S. Constitution, and Article VII,
12 section 17 of the California Constitution for alleged "cruel and unusual
13 punishment"; (2) violation of the First and Fourth Amendments to the U.S.
14 Constitution; (3) violation of the right to due process of law under the Fourteenth
15 Amendment to the U.S. Constitution; (4) violation of California Civil Code section
16 52.1; (5) violation of California Government Code section 815.6; and (6) violation
17 of California Government Code section 11135. Defendant City of Santa Ana
18 disputes each and every claim for relief in the OCCW FAC in its entirety and
19 disputes OCCW's underlying legal contentions and theories.

20 I. WHEREAS, the Cities of Anaheim, Costa Mesa, Orange, and Tustin
21 have each entered into separate settlement agreements with OCCW, all of which
22 have been approved by the Court.

23 J. WHEREAS, the North SPA Cities have collectively entered into a
24 settlement agreement with OCCW that has been approved by the Court.

25 K. WHEREAS, the City of Santa Ana has voluntarily dismissed all those
26 parties to the Cross-Complaint that were served such that the County remains the
27 sole cross-defendant that has been served with the Cross-Complaint.
28

1 L. WHEREAS, without admitting any wrongdoing, liability, or legal
 2 violations on the part of the City of Santa Ana, without conceding the validity of
 3 any of the OCCW's legal theories or claims, and for the sole purpose of
 4 preemptively, economically, and efficiently resolving the OC Catholic Worker
 5 Action as to the City of Santa Ana, the Parties now desire to enter into this
 6 Agreement on the terms set forth herein.

7 **TERMS**

8 NOW, THEREFORE, for full and valuable consideration, the sufficiency of
 9 which is hereby acknowledged, and based upon the foregoing Recitals, and the
 10 terms, conditions, covenants, and agreements herein, the Parties agree as follows:

11 **1. Order re Continuing Jurisdiction and Effective Date**

12 Following the full execution of this Agreement by all Parties, the Parties
 13 shall file with the Court in the OC Catholic Worker Action proposed orders
 14 regarding settlement and continuing jurisdiction and incorporating the terms of this
 15 Agreement. Except for the obligations of the City in Section 3, the obligations of
 16 the Parties in the remaining sections of this Agreement, and the releases contained
 17 herein, shall become effective and operative on the date(s) on which the respective
 18 order is fully executed and entered by the Court ("Effective Date"), and shall be
 19 contingent upon the Court's signing and entry of the respective order. The
 20 obligations of the City in Section 3 shall become effective and operative only upon
 21 the Court's approval of a separate settlement agreement between the City and
 22 County as to the City's Cross-Complaint, including but not limited to the subjects
 23 of a replacement site for the County-operated shelter known as the "The
 24 Courtyard" and the parties' obligations under a related Memorandum of
 25 Understanding currently in effect between them. This Agreement shall be in effect
 26 for three (3) years following the Effective Date and then shall terminate.

1 **2. Incorporation of Recitals**

2 The representations in the above-section of this Agreement, entitled
3 “Recitals,” are hereby incorporated into and made a material part of the terms and
4 representations of this Agreement.

5 **3. Construction and Operation of Shelters**

6 3.1 At the time of this Agreement, the City operates a temporary,
7 low-barrier shelter in the City with a capacity of 200 beds, known as “The Link.”

8 3.2 The City shall fund, obtain funding for, and/or coordinate third-
9 party funding for, the construction and operation of an additional low-barrier
10 homeless shelter at a different location within the boundaries of the City, with
11 capacity of 200 beds, expandable to 250 beds (“Additional Shelter”). The City
12 shall have complete discretion in determining which Additional Shelter to fund and
13 which shelter project may be feasible, subject to any limitations set forth herein.
14 The City’s funding commitment for the Additional Shelter shall be for three (3)
15 years, beginning on the Effective Date.

16 3.3 There will be an overlap period of time during which The Link
17 and the Additional Shelter will operate concurrently such that the total number of
18 beds during this time will be up to 450. Any remaining number of beds that may
19 be necessary to satisfy the City’s obligations under Section 3 of this Agreement
20 shall be addressed in the context of a separate settlement agreement between the
21 City and County as to the City’s Cross-Complaint.

22 3.4 The City shall require that the Link and the Additional Shelter
23 be operated on a non-religious basis, but not exclude religious organizations from
24 operating, and in full compliance with all applicable state and federal
25 antidiscrimination laws, including but not limited to, California Government Code
26 section 11135 and the Americans with Disabilities Act, 42 U.S.C. section 12101 et
27 seq.
28

1 3.5 Although the above-referenced shelters are not the exclusive
2 means by which the City may satisfy its obligation to meet the needs of homeless
3 individuals in the City, OCCW Plaintiffs acknowledge and agree that the creation
4 and operation of The Link and the Additional Shelter, or a number of placements
5 equal to The Link and the Additional Shelter, shall satisfy the City's obligations
6 under Section 3 of the Agreement, as well as any other requirement by the Court
7 pertaining to the number of available beds for the unsheltered individuals in the
8 City.

9 4. **Enforcement of Anti-Camping Ordinances**

10 4.1 The City shall establish the following policies and procedures
11 relating to the enforcement of Santa Ana Municipal Code sections 10-400 to 10-
12 403 and 10-550-551 ("Anti-Camping Ordinances"), curfews including park hours,
13 or any comparable provisions of state law, or any law concerning "loitering"
14 against homeless individuals within its jurisdictions. This shall apply to the City
15 and its agents including but not limited to private security:

16 4.1.1 Absent exigent circumstances, any enforcement of the
17 Anti-Camping Ordinances against a homeless individual (including any of the
18 Individual OCCW Plaintiffs) will first be preceded by contacts from outreach and
19 engagement personnel to determine an available and appropriate placement for the
20 individual in question, per the procedures outlined herein. For purposes of this
21 Agreement, "outreach and engagement personnel" may include County Outreach
22 and Engagement Personnel, representatives from CityNet, City employees, the
23 homeless liaison, police officers, and any other organizations with which the City
24 has contracted for such outreach and engagement services (collectively, "O&E
25 Personnel") who are trained in engaging in appropriate clinical assessments of
26 individuals with disabilities to determine an appropriate placement.

27 4.1.2 In implementation of Section 4.1.1, prior to enforcement
28 of the Anti-Camping Ordinances against any homeless individual, O&E Personnel

1 will locate and offer an available and appropriate placement in the City for the
2 individual in question.

3 4.1.3 If the individual declines the offered placement, the City
4 may proceed with enforcement of the Anti-Camping Ordinances in its sole
5 discretion subject to the dispute resolution process detailed herein.

6 4.1.4 If the alleged violation arises from an individual's
7 presence in a park outside of the established operational hours of the park, and if
8 there is no appropriate and immediately available placement for that person, the
9 City will advise the individual that they must leave the park and move to any
10 public area outside of the park. If the person does not leave the park after
11 receiving this warning, the City may issue a citation to the individual.

12 4.1.5 The requirements of this Section 4.1 shall only apply
13 until the earlier of: (a) the date on which the case of *Martin v. City of Boise*, 902
14 F.3d 1031 (9th Cir. 2018) ("*Martin v. Boise*") is no longer applicable law within
15 the jurisdiction of the Ninth Circuit or (b) the date on which the Court finds that
16 there are sufficient appropriate and immediately available placements for the
17 unsheltered homeless population in the City.

18 4.2 Nothing in this Agreement constitutes an admission by the City
19 that its current policies and procedures for enforcement of the Anti-Camping
20 Ordinances are either: (a) different from those set forth above or (b) in any way
21 legally inadequate, or a concession by the OCCW Plaintiffs that they are legally
22 adequate.

23 4.3 Nothing in this Agreement constitutes a promise,
24 representation, or warranty, on the part of the City, that any number of beds will be
25 available to any particular person(s) at any time. The lack of availability of an
26 appropriate and immediately accessible bed for any person or persons at any time,
27 including any of the individual OCCW plaintiffs, may impact the ability of the
28 City to punish a purported violation of the Anti-Camping Ordinances.

1 4.4. Absent exigent circumstances, the City shall not cite or arrest
2 any homeless individual for violation of the law based on an alleged obstruction of
3 public property unless that individual, either individually or in conjunction with his
4 or her property, actually obstructs free passage of any person or vehicle on any
5 public highway, alley, sidewalk, or crosswalk and declines to move the object(s)
6 creating obstruction from the public right of way after being requested to do so, or
7 actually obstructs with access to a public highway, alley, sidewalk, or crosswalk
8 for sanitation, cleaning, or routine maintenance or repair purposes and declines to
9 cease the obstruction after being requested to do so.

10 4.5 Nothing in this Agreement shall impact the authority of the City
11 to enforce any law not based on an individual's unsheltered status against a person
12 believed to be homeless, including issuing and arresting the person for an alleged
13 violation of law.

14 **5. Dispute-Resolution Process**

15 The Court shall retain jurisdiction over the OC Catholic Worker Action for a
16 period of three years from the Effective Date for the purposes of (a) overseeing the
17 implementation of this Agreement, and (b) implementing and presiding over the a
18 dispute-resolution process (the "Dispute-Resolution Process") to be established by
19 the Court and to which Plaintiffs and the City hereby consent and agree:

20 5.1 Except as expressly identified in this Agreement, or as may be
21 modified by the Court or the Parties, with the Court's consent, during the three-year
22 period of the Court's continued jurisdiction, this Dispute-Resolution Process shall
23 apply to adjudicate any and all disputes between, on the one hand, the City, and, on
24 the other hand, any homeless individual or individuals who consent, at the time of
25 requesting the Dispute-Resolution Process, to be bound by the Dispute-Resolution
26 Process and the provisions of this Agreement applicable to the OCCW Plaintiffs
27 (including but not limited to the individual OCCW plaintiffs), relating to (a) the
28 implementation of this Agreement, and/or (b) the enforcement of the above-

1 identified Municipal Code sections, or other laws applied against any homeless
2 person arising out of that individual's homeless status, including but not limited to
3 disputes regarding the availability or adequacy of any shelter or shelter services
4 offered to the individual pursuant to Section 4.1 of this Agreement and expressly
5 excluding violations of law relating to conduct not arising from the individual's
6 homeless status (examples include but are not limited to possession of illegal
7 substances or weapons, trespass on private property, acts of violence, public
8 intoxication, etc.) (collectively, the "Disputes," and individually, a "Dispute").

9
10 5.2 In the event of any Dispute arising during the pendency of the
11 Court's retained jurisdiction, the parties to that Dispute will first attempt to meet and
12 confer informally with the other side in an effort to resolve it. In the case of a
13 Dispute raised by one or more homeless individuals against the City, or a Dispute
14 raised by the City against one or more homeless individuals, including any such
15 persons who are known to be, or the City is advised are, represented by counsel of
16 record in the OC Catholic Worker Action, this attempt will at least involve (a) a
17 written communication from the party initiating the Dispute to the other side's
18 counsel describing in detail the Dispute and the requested remedy, and providing
19 any available evidence in relation thereto, and (b) a discussion, either in person or
20 via telephone, seeking to resolve the Dispute. In the event the City receives a
21 complaint from a homeless individual, City employees, as well as the employees of
22 any City shelter facility, shall give any affected individual notice of the Court's
23 Dispute-Resolution Process and the contact information for applicable legal services
24 organizations, including the law center associated with Plaintiffs' counsel, together
25 with a statement that such entities may be available to assist them.

26 5.3 If the parties to a Dispute are unable to resolve it within two (2)
27 court days after it is first raised informally by one of the parties to the Dispute, any
28 party to the Dispute may request a hearing with the Court under the standards and

1 processes to be set by the Court, and the Court will have jurisdiction to resolve that
2 Dispute. If the Dispute involves an emergency situation that presents a threat to the
3 immediate health and safety of an individual, the parties may seek expedited review
4 by the Court.

5 5.4 The fact that a person has initiated the Dispute-Resolution
6 Process shall not impact the City right to enforce any law against that person,
7 including issuing citations to the person, concurrently with the Dispute-Resolution
8 Process. However, the City agrees that no custodial arrest will be made for a
9 violation of the anti-camping, loitering, and similar laws arising from an
10 individual's status as homeless prior to the exhaustion of the Dispute-Resolution
11 Process with the Court pursuant to Section 5.3 of this Agreement. In circumstances
12 involving citation, the Court may issue an order directing the City to stay the filing
13 of formal charges against the homeless individual until the Dispute-Resolution
14 Process has been completed for that Dispute. The City agrees not to contest such a
15 request for a brief stay of the filing of charges. Once the Dispute-Resolution
16 Process has concluded regarding an issue, the City will not be required to await
17 exhaustion of the Dispute-Resolution Process regarding the same issue and the same
18 individual prior to a custodial arrest where the individual does not comply with a
19 warning or leave once a citation has been issued, provided the City complies with
20 the Court's determination of that same issue for that same individual. For purposes
21 of the Section 5.4, "same issue" refers to an issue determined by the Court in the
22 Dispute-Resolution Process where the individual's objections, including any claim
23 of alleged disability, physical limitations and the offered placement are substantially
24 similar for purposes of determining whether the individual's disability or other
25 objection is being reasonably accommodated.
26

27 5.5 In resolving any Dispute, the Court may enforce any rights
28 available to a party under this Agreement, subject to sufficient notice, opportunity to

1 be heard, briefing, evidence, and other due process. The Court shall not be
2 empowered to award damages or any other monetary relief to any party as a result
3 of any Dispute submitted to this process. Nothing in this Agreement limits the
4 ability of any Plaintiff to seek damages in other proceedings not subject to this
5 Agreement.

6 5.6 Should either party disagree with the Court's determination
7 resulting from the Dispute-Resolution Process, nothing in this Agreement shall
8 preclude either party from commencing litigation concerning the subject of said
9 Dispute, and pursuing any remedies available at law; provided that in advance of
10 initiating such action, the parties shall first engage in an in-person meet-and-confer
11 to occur within seven (7) calendar days of a request from the other party.

12
13 **6. Release and Covenant Not to Sue**

14 6.1 In consideration for the terms of this Agreement, OCCW
15 Plaintiffs, and each of them, and any other individual claiming rights under this
16 Agreement (the "OCCW Releasing Parties"), hereby release and forever discharge
17 the City of Santa Ana, as well as its present and former employees, agents,
18 managers, officers, directors, councilmembers, insurance companies, attorneys,
19 departments, and divisions or affiliated entities, whether previously or hereafter
20 affiliated in any manner (the "City Released Parties"), from and against any and all
21 claims, demands, causes of action, obligations, damages, attorney's fees, costs, and
22 liabilities, arising from or relating to the events detailed in the lawsuit of any nature
23 whatsoever, whether or not now known, suspected, or claimed, which the OCCW
24 Releasing Parties, and/or any of them, have, or ever may claim to have, as against
25 the City Released Parties, or any of them, whether directly or indirectly, relating to,
26 or arising out of the: (a) OC Catholic Worker Action; (b) any claims raised in, or
27 that could be raised in, the OC Catholic Worker Action; (c) the availability of
28 homeless shelters, shelter beds, and/or other homeless accommodations in the City
of Santa Ana; (d) the City's alleged obligation to provide or fund such

1 accommodations; and/or (e) the City's alleged inability to enforce any of the Anti-
2 Camping Ordinances and any law that the OCCW Releasing Parties claim
3 criminalizes a person's homeless status, against any person because of his or her
4 homeless status (collectively, the "OCCW Released Claims").

5 6.2 The releases set forth in Section 6.1 are releases of all claims,
6 demands, causes of action, obligations, damages, and liabilities, of any nature
7 whatsoever, and are intended to encompass all known and unknown, foreseen and
8 unforeseen, claims that are possessed by the OCCW Releasing Parties and within
9 the scope of the OCCW Released Claims based solely and only on the events
10 giving rise to the OC Catholic Worker Action. To effectuate the intent of the
11 Parties, the OCCW Releasing Parties expressly agree to waive and relinquish all
12 rights and benefits they may have under California Civil Code Section 1542, which
13 reads as follows:

14 A general release does not extend to claims that the creditor or
15 releasing party does not know or suspect to exist in his or her favor at
16 the time of executing the release and that, if known by him or her,
17 would have materially affected his or her settlement with the debtor or
18 released party.

19 6.3 The OCCW Releasing Parties warrant that they have made no
20 assignment, and will make no assignment, of any claim, chose in action, right of
21 action, or any right, of any kind whatsoever, within the scope of the OCCW
22 Released Claims, and that no other person or entity of any kind had or has any
23 interest in any of the demands, obligations, actions, causes of action, debts,
24 liabilities, rights, contracts, damages, attorney's fees, costs, expenses, losses, or
25 claims within the scope of the OCCW Released Claims.

26 7. **Dismissal of the OC Catholic Worker Action**

27 Upon entry of the Court's Order re Continuing Jurisdiction and Settlement,
28 the OCCW Plaintiffs, as to the City, will take all necessary actions and file all

1 necessary documents to effectuate dismissal of the OC Catholic Worker Action
2 with prejudice.

3 **8. Settlement Payments and Attorney's Fees**

4 All Parties to this Agreement shall bear their own costs, expenses, and
5 attorney's fees in relation to or arising out of: (a) the OC Catholic Worker Action;
6 (b) the resolution, negotiation, and settlement of the OC Catholic Worker Action,
7 including the negotiation of this Agreement; and (c) the implementation of this
8 Agreement.

9 **9. Non-Admission of Liability**

10 By entering into this Agreement, the City does not admit any liability, and
11 explicitly denies any liability or wrongdoing of any kind arising out of or relating
12 to any of the claims alleged in the OC Catholic Worker Action. Nothing herein
13 constitutes an admission by the City as to any interpretation of laws, or as to the
14 merits, validity, or accuracy of any of the claims or legal contentions made in the
15 OC Catholic Worker Action. The City has entered into this Agreement solely to
16 avoid the time, expense, and risk of continued litigation. The Parties agree that an
17 express condition of this settlement is that there has been no finding of liability on
18 the merits, and that this settlement and any document related to this settlement,
19 including this Agreement and any related orders, and the negotiations leading up to
20 this settlement, shall be inadmissible in evidence and shall not be used for any
21 purpose in this or any other proceeding, except in an action or proceeding to
22 approve, interpret, or enforce this Agreement.

23 **10. Knowing and Voluntary**

24 This Agreement is an important legal document that has been voluntarily
25 and knowingly executed by the Parties. The Parties, and each of them, specifically
26 represent that, prior to signing this Agreement: (a) they have each been provided a
27 reasonable period of time within which to consider whether to accept this
28 Agreement; (b) they have each carefully read and fully understand all of the

1 provisions of this Agreement; and (c) they are voluntarily, knowingly, and without
2 coercion entering into this Agreement based upon their own judgment. The
3 OCCW Plaintiffs and City further specifically represent that, prior to signing this
4 Agreement, they have conferred with counsel of their choice to the extent desired
5 concerning the legal effect of this Agreement, and that the legal effect of this
6 Agreement has been adequately explained to them.

7 **11. Entire Agreement**

8 This Agreement constitutes the entire agreement by and between the OCCW
9 Releasing Parties and the City Released Parties regarding the matters discussed
10 herein, and supersedes any and all other agreements, understandings, negotiations,
11 or discussions, either oral or in writing, express or implied, between the OCCW
12 Releasing Parties and the City Released Parties relating to the subject matter
13 hereof. The OCCW Releasing Parties and the City Released Parties each
14 acknowledge that no representations, inducements, promises, agreements, or
15 warranties, oral or otherwise, have been made by them, or anyone acting on their
16 behalf, which are not embodied in this Agreement, that they have not executed this
17 Agreement in reliance on any such representation, inducement, promise,
18 agreement, or warranty, and that no representation, inducement, promise,
19 agreement, or warranty not contained in this Agreement, including but not limited
20 to, any purported supplements, modifications, waivers, or terminations of this
21 Agreement, shall be valid or binding, unless executed in writing by all of the
22 Parties to this Agreement. Any alteration, change, or modification of or to this
23 Agreement shall be made by written instrument executed by each Party in order to
24 become effective.

25 **12. Warranty of Authority**

26 Each individual or entity that executes this Agreement represents and
27 warrants, in his, her or its personal capacity, that he, she, or it is duly authorized
28

1 and empowered to enter into this Agreement on behalf of the party it purports to
2 represent.

3 **13. Counterparts**

4 This Agreement may be executed in multiple counterparts, each of which
5 shall be considered an original but all of which shall constitute one agreement.

6 **14. No Waiver of Terms of Agreement**

7 The failure to insist upon compliance with any term, covenant, or condition
8 contained in this Agreement shall not be deemed a waiver of that term, covenant,
9 or condition, nor shall any waiver or relinquishment of any right or power
10 contained in this Agreement at any one time or more times be deemed a waiver or
11 relinquishment of any right or power at other time or times.

12 **15. Modification of Agreement**

13 The enforcement terms of this Agreement may be vacated or modified, at the
14 request of any Party hereto, if: (a) the holding of *Martin v. Boise* is reversed or
15 modified, or is otherwise no longer good law; (b) the Court determines that the
16 number of available and appropriate shelter placements in the City warrants
17 termination or modification of the Agreement; or (c) upon petition by the City, the
18 Court determines that other terms of the Agreement have been met.

19
20 IN WITNESS WHEREOF, this Settlement Agreement is hereby entered into
21 and executed by the parties hereto on the dates set forth below.


22
23
24 OC CATHOLIC WORKER

25
26 Dated: Sept 23, 2019

27 By:

Orange County Catholic Worker
by Carol Sobel

1 APPROVED AS TO FORM

2 

3
4 Carol A. Sobel
5 Attorneys for Plaintiffs

6 APPROVED AS TO FORM

7 

8
9 Brooke Weitzman
10 Attorneys for Plaintiffs

11 CITY OF SANTA ANA

12
13 Dated: 9/23, 2019


14 By: 
15 Kristine Ridge
16 City Manager

17 APPROVED AS TO FORM

18 

19 John M. Funk
20 Assistant City Attorney

21 ATTEST

22
23 
24 Daisy Gomez
25 Clerk of the Council
26
27
28

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

AMENDED CIVIL MINUTES – GENERAL

Case No. SA CV 18-00155-DOC-JDE

Date: May 8, 2021

Title: ORANGE COUNTY CATHOLIC WORKER ET AL V. ORANGE COUNTY
ET AL

PRESENT:

THE HONORABLE DAVID O. CARTER, JUDGE

Terri Steele
Courtroom Clerk

Not Present
Court Reporter

ATTORNEYS PRESENT FOR
PLAINTIFF:
None Present

ATTORNEYS PRESENT FOR
DEFENDANT:
None Present

**PROCEEDINGS (IN CHAMBERS): ORDER RE EMERGENCY
HEARING**

In September 2019, the Parties entered into a settlement agreement in which the City agreed to operate temporary shelters that would provide a total of 450 beds for its homeless population. *Settlement* at 6. Plaintiffs allege that the City currently “has zero of the required 450 beds available.” Dkt. 386 at 2. Pursuant to Section four under “Enforcement of Anti-Camping Ordinances”, the City shall “prior to enforcement of the Anti-Camping Ordinances against any homeless individual, [O&E Personnel will] locate and offer an available and appropriate placement in the City for the individual in question.” *See Settlement* at 7. “If the individual declines the offered placement, the City may proceed with enforcement of the Anti-Camping Ordinances in its sole discretion subject to the dispute resolution process detailed herein.” *Id.* at 2-8.

According to Plaintiffs, despite not having the required bed space to shelter its homeless population, the City “now plans to clear an encampment of approximately 40 people at 3:00PM Saturday.” Dkt. 386 at 3.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Date: May 8, 2021

Page 2

Plaintiff first requests an Order finding City to be in violation of the settlement. This Court does not find it appropriate to intervene in a nuisance abatement action involving private property having been decided by the Superior Court on Friday, May 7, 2021. The State Court order does not relate to the Federal Court Consent Decree. Accordingly, Plaintiff's request is DENIED.

Second, Plaintiff requests the Court to suspend City action that would displace people pending 450 beds. Pursuant to Section four under "Enforcement of Anti-Camping Ordinances", the City shall "prior to enforcement of the Anti-Camping Ordinances against any homeless individual, [O&E Personnel will] locate and offer an available and appropriate placement in the City for the individual in question." *See Settlement* at 7. "If the individual declines the offered placement, the City may proceed with enforcement of the Anti-Camping Ordinances in its sole discretion subject to the dispute resolution process detailed herein." *Id.* at 2-8. Therefore, the City may not enforce until they have complied with the terms of the Settlement and have 450 bed spaces available. This instant action is not enforcement of the anti-camping ordinance, but the order of abatement from the Superior Court. The City's stated position is that it will not enforce in violation of the settlement. The City is ORDERED to file its position formally on the docket.

Finally, Plaintiff requests sanctions with attorneys' fees and other actions. This request is held in abeyance pending the outcome of this dispute.

The Court ENCOURAGES that the City of Santa Ana open shelter immediately for the benefit of the displaced homeless population and the citizens of Santa Ana.

The Clerk shall serve this minute order on the parties.

MINUTES FORM 11

Initials of Deputy Clerk: ts

CIVIL-GEN