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11 (Continued on next page)

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **COUNTY OF ORANGE**

14 CYNDI UTZMAN,
15 DEBORAH KRAFT,
16 WENDY POWITZKY,
17 JOSHUA OGLE,
18 JORDYNNE LANCASTER,
19 CATHERINE MOORE,
20 CALLIE RUTTER,
21 THIEN CHI BUI &
22 OMA'S ANGEL FOUNDATION,

19 Plaintiffs,

20 v.

21 COUNTY OF ORANGE,
22 CITY OF ANAHEIM,
23 ILLUMINATION FOUNDATION,
24 MIDNIGHT MISSION,
25 MERCY HOUSE LIVING CENTERS
& PROTECTION AMERICA,

25 Defendants.

Case No.

**VERIFIED COMPLAINT AND
PETITION FOR WRIT OF
MANDATE**

JURY TRIAL DEMAND

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1 INTRODUCTION

2 1. Orange County residents who cannot afford permanent housing face arrest
3 and physical danger if they live outside. In response to a lawsuit challenging the arrest of
4 unhoused persons who lacked alternative living accommodations, Defendants Orange
5 County and Anaheim established additional homeless shelter capacities. These shelters
6 allow Defendants Orange County and Anaheim to arrest unhoused persons living on their
7 streets, on the grounds that those individuals are not availing themselves of the shelters.
8 As a result, people who cannot afford housing are forced to either reside at these shelters
9 or face arrest.

10 2. But three shelters owned, funded, and operated by Orange County and
11 Anaheim – La Mesa, the Courtyard, and Bridges at Kraemer Place – have policies,
12 practices, and conditions that violate the fundamental constitutional and statutory rights
13 of their residents.

14 3. Staff and contractors working at two of these shelters subject residents to
15 relentless sexual harassment, such as verbal harassment and propositioning, improper
16 touching, and invasive strip searches in full view of other staff and residents.

17 4. In addition, two of the shelters impose an unreasonable and harmful “lock-
18 in/shut-out” policy, where shelter residents are required to approach or leave the shelters
19 only in a vehicle. The effect of this policy is that the shelter residents are prevented from
20 leaving or returning to the shelters unless they have the money for, or access to a vehicle.
21 Otherwise, shelter residents have to wait for one of the infrequent shelter shuttles that can
22 accommodate only a fraction of the resident population. The practical impact of this
23 policy, which has no legitimate purpose, is to make it difficult or impossible for shelter
24 residents to move freely to or from the shelter, such as for attending work in order to earn
25 the income necessary to get back on their feet.

26 5. Compounding these civil rights abuses, all of the shelters maintain such filthy
27 and unhealthy living conditions that they endanger the health and safety of residents.
28 Examples include rodent, bedbug, and roach infestations, filthy or broken toilets, sinks,

1 and showers, overcrowding, and extreme temperatures. Residents who complain about
2 these unlawful practices or dangerous conditions face retaliation, including loss of shelter
3 access.

4 6. Shelter residents, some of the most vulnerable people in our society, are
5 forced to choose between living in these inhumane conditions or living on the street,
6 where they risk arrest, theft, violence, and prosecution for sleeping outdoors or worse.

7 7. A 2019 report by the ACLU Foundation of Southern California, entitled "*This*
8 *Place is Slowly Killing Me: Abuse and Neglect in Orange County Emergency Shelters*" (the
9 "Report") documents many of Defendants' violations, and was compiled from attorney
10 visits to the shelters and more than 70 interviews with residents, staff members, and
11 shelter volunteers at three facilities, including Defendants' shelters, the Courtyard
12 Transitional Center (the "Courtyard") in Santa Ana and Bridges at Kraemer Place
13 ("Bridges") in Anaheim.¹ Since the Report's publication a year and a half ago, Defendants
14 have ignored the serious problems documented therein.

15 8. Because Defendants' policies and practices violate the constitutional and
16 statutory rights of shelter residents, Plaintiffs bring this suit for equitable relief and
17 damages.

18 **THE PARTIES²**

19 9. Plaintiff Cyndi Utzman has lived in Orange County for twenty-eight years.
20 Ms. Utzman resided at Bridges at Kraemer Place from August to October 2018. She lived
21 at the Courtyard from November 2018 to February 2019, and lived at La Mesa from
22 September 2019 to May 2020.

23 10. Plaintiff Deborah Kraft grew up in Marin County. She has a master's degree
24 in psychology and worked in marketing for over thirty years. Ms. Kraft lived at the
25

26 ¹ See ACLU Foundation of Southern California, "*This Place is Slowly Killing Me.*" *Abuse and*
27 *Neglect in Orange County Emergency Shelters* (2019),
https://www.aclusocal.org/sites/default/files/aclu_socal_oc_shelters_report.pdf.

28 ² This combined Petition and Complaint refers to the parties as Plaintiffs and Defendants
under Cal. Civ. Proc. Code § 1063.

1 Courtyard from October 2016 to October 2018.

2 11. Plaintiff Wendy Powitzky has lived in Orange County for over twenty years
3 and worked as a hairdresser. Ms. Powitzky lived at La Mesa from July 2019 to March
4 2020.

5 12. Plaintiff Joshua Ogle has lived in Orange County his entire life. Mr. Ogle
6 lived at Bridges at Kraemer Place from August 2018 to November 2019.

7 13. Plaintiff Jordynne Lancaster is a former model and actress. Ms. Lancaster
8 lived at the Courtyard from approximately January 2018 to July 2019.

9 14. Plaintiff Catherine Moore has lived in Orange County for seventeen years.
10 Ms. Moore lived at La Mesa from March 2019 to November 2019.

11 15. Plaintiff Callie Rutter grew up in Newport Beach and has lived in Orange
12 County for most of her life. Ms. Rutter lived at Bridges at Kraemer Place from March 14,
13 2018 to February 9, 2020.

14 16. Plaintiff Thien Chi (Patrick) Bui has lived in Orange County since he moved
15 there during high school. Mr. Bui lived at the Courtyard from June 2019 to January 2020.

16 17. Plaintiff Oma's Angel Foundation is a nonprofit corporation located in
17 Anaheim that seeks to foster the survival, health, and well-being of unhoused persons in
18 Orange County. Oma's Angel Foundation has been operating in Orange County since
19 2013. It was established before there were any permanent shelters in Orange County.
20 Oma's Angel Foundation distributes food, clothing, tents, and other basic necessities to
21 unhoused persons in Orange County.

22 18. All of these plaintiffs reside in Orange County and have paid taxes, including
23 sales taxes, to the County in the past year.

24 19. Plaintiffs Moore, Ogle, Lancaster, Powitzky, and Oma's Angel Foundation
25 reside in Anaheim and have paid taxes, including sales taxes and the City's transient
26 occupancy tax, to the City in the past year.

27 20. Plaintiffs Utzman and Kraft resided in Anaheim and have paid taxes,
28 including the City's transient occupancy tax, to the City in the past year.

1 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

2 29. Plaintiffs have exhausted all required administrative remedies, including the
3 following claims filed under the Government Claims Act, Cal. Gov't Code § 900 *et seq.*

4 30. Catherine Moore filed a claim with the City on approximately November 4,
5 2019, requesting damages for the invasive body searches conducted by the staff at La Mesa
6 from April of that year until the date of her claim, as well as for the staff's retaliation
7 against her as a result of complaining about these searches.

8 31. On March 2, 2020, Wendy Powitzky filed a claim with the City. This claim
9 requested damages for the invasive body searches conducted by the staff at La Mesa from
10 August 2019 until the date of her claim, as well as for the staff's retaliation against her as a
11 result of refusing to comply with one search request.

12 32. On October 14, 2020, Cyndi Utzman filed a claim against the City, on behalf
13 of herself and other similarly situated persons. This claim requested damages for the
14 invasive body searches conducted by the staff at La Mesa, for sexual harassment by staff
15 and residents, and for the staff's retaliation against her as a result of complaining about
16 this mistreatment, all of which occurred on a continuing basis from September 2019 to
17 May 2020. This claim also requested damages, during the same time period, for losses
18 caused by the lock-in/shut-out policy.

19 33. The City never responded to any of these claims.

20 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

21 34. In early 2018, a number of organizations and individuals sued the County,
22 the City, and other defendants, alleging that those defendants violated state and federal
23 law by enforcing trespass, loitering, and anti-camping laws against homeless people
24 where there were no accessible and appropriate beds or housing available to them in the
25 County. *See Catholic Worker v. County of Orange*, No. 8:18-cv-00155-DOC-JDE (C.D. Cal.,
26 Filed Jan. 29, 2018); *Ramirez v. County of Orange*, No. 8:18-cv-00220-DOC-KES (C.D. Cal.,
27 Filed Feb. 7, 2018).

28 35. To resolve these cases, the County agreed that, absent exigent circumstances,

1 it would stop arresting homeless individuals under its anti-camping and anti-loitering
2 laws without first offering them an appropriate shelter placement. Settlement Agreement
3 ¶¶ 4.1-4.2, *Catholic Worker v. County of Orange*, No. 8:18-cv-00155-DOC-JDE (C.D. Cal. Jul.
4 23, 2019), ECF No. 318-1. Individuals who accepted the placement offered would not be
5 cited or arrested. *Id.* People who declined the offered placement could be arrested for
6 offenses such as illegal camping. *Id.* ¶ 4.3; Orange County, Cal., Ordinance 2-5-95 (Aug.
7 31, 1999).

8 36. The City similarly settled the litigation by agreeing to fund or coordinate
9 funding for the construction and operation of temporary homeless shelters with a capacity
10 of at least 325 beds. Settlement Agreement ¶ 2.1, *Catholic Worker v. County of Orange*, No.
11 8:18-cv-00155-DOC-JDE (C.D. Cal. Nov. 2, 2018), ECF No. 276-1. It too agreed in most
12 circumstances not to enforce its anti-camping laws against homeless people without
13 offering an appropriate shelter placement. *Id.* ¶ 3.2. If an individual declines the
14 placement, the City may employ any criminal law against them. *Id.* The City has anti-
15 camping ordinances that criminalize being homeless. *See Anaheim, Cal., Municipal Code*
16 § 11.10 *et seq.* (2013).

17 37. In fact, 33 of the 34 cities located in the County have similar laws that
18 essentially criminalize homelessness. *See* 2016 Report at 24-25;³ Theresa Walker and
19 Jordan Graham, *What's next for the Santa Ana River Trail homeless encampments*, Orange
20 County Register, Feb. 12, 2018. The net effect of these ordinances and settlements is that
21 County residents who cannot afford or otherwise obtain private housing must accept a
22 shelter placement, agree to leave the jurisdiction, or face arrest and prosecution for being
23 homeless.

24 38. The County and City contract with private organizations to run shelters in
25 order to provide available shelter placements and enforce their anti-camping laws. These

26 ³ *See* ACLU Foundation of Southern California, *Nowhere to Live: The Homeless Crisis in*
27 *Orange County & How to End It* 24-25 (2016),
28 https://www.aclusocal.org/sites/default/files/field_documents/nowhere-to-live-aclu-socal-report.pdf.

1 shelters thus provide an essential state function.

2 **I. THE SHELTER FACILITIES**

3 **A. THE COURTYARD**

4 39. The County pays Defendant Midnight Mission to run a homeless shelter
5 called The Courtyard. The County relies on the existence of The Courtyard in order to
6 enforce its anti-camping and anti-loitering ordinances against unhoused persons living
7 outside in Orange County. *See* Settlement Agreement ¶¶ 4.1-4.2, *Catholic Worker v. County*
8 *of Orange*, No. 8:18-cv-00155-DOC-JDE (C.D. Cal. Jul. 23, 2019), ECF No. 318-1. The
9 Courtyard fulfills a necessary state function for the County, as set forth in the contract
10 between the County and the Midnight Mission: “The PROGRAM will meet the
11 COUNTY’s need to provide emergency shelter with showers, food and supportive
12 services for the homeless population.” Fourth Amendment, Contract #17-23-0036-PS
13 between County of Orange and The Midnight Mission for Courtyard Transitional Services
14 (“Contract”) at 8. The contract requires Midnight Mission to provide up to 425 beds as
15 well as drop-in services for 400 to 750 persons. *Id.* at 8.

16 40. The Courtyard operates at a County-owned building, the former Santa Ana
17 Transit Terminal, at 400 West Santa Ana Boulevard in Santa Ana. The shelter is located in
18 downtown Santa Ana, near City Hall and across from the County Hall of Administration.
19 The County’s licensing agreement with the Midnight Mission provides that the County is
20 responsible for “all maintenance and repairs” and for “provision of and maintenance and
21 cleaning of portable restrooms and shower facilities.” 2016 License Summary between
22 County of Orange and The Midnight Mission for the Courtyard Transitional Center, at 2.

23 41. The Courtyard is an old, open-sided former bus terminal with plastic
24 tarpaulins erected around its perimeter as a windbreak. It has no heating or air
25 conditioning except in a single, closed-off room (i.e., the only indoor space) reserved for
26 staff members. It can be blistering in the summer and frigid in the winter. Water seeps—
27 and sometimes pours—into the shelter during downpours, soaking residents and their
28 belongings.

1 42. The contract requires Midnight Mission to “[w]ork in partnership with the
2 County of Orange/OCCR to be a ‘Good Neighbor’ ... and to work closely with city/local
3 government to minimize the impact of the program on the surrounding neighborhood.”
4 Contract at 8.

5 43. The contract additionally requires Midnight Mission to “[s]ubmit policies and
6 procedures for PROGRAM including but not limited to all aspects of services,
7 management plan, staff responsibilities and staff coordination” to the County and to
8 “[c]oordinate” with a number of County agencies and services. *Id.*

9 44. Residents at the Courtyard must agree to and sign Courtyard Resident
10 Expectation and Rules, as a condition of living at the shelter.

11 45. The County knew or should have known about the conditions in the showers
12 and toilets at the Courtyard, as it was responsible for maintaining those facilities. The
13 County knew or should have known about the other problematic conditions at the
14 Courtyard because the Report, published on March 14, 2019, detailed these conditions.
15 The ACLU of Southern California also sent a copy of the Report to the County. On
16 June 18, 2019, several staff of the ACLU of Southern California met with officials from the
17 County, including County CEO Frank Kim, to discuss the problems highlighted in the
18 Report, including the conditions at the Courtyard.

19 46. Despite numerous resident complaints, the ACLU’s Report, and the meeting
20 with County staff, Defendants County and Midnight Mission failed to address the
21 unlawful conditions at the Courtyard.

22 **B. BRIDGES AT KRAEMER PLACE**

23 47. The County pays Defendant Mercy House Living Centers to run a shelter
24 called Bridges at Kraemer Place (“Bridges”), located at 1000 N. Kraemer Place, in
25 Anaheim. Bridges is to provide housing for 200 men and women. Bridges is located on
26 county-owned land, which the County leases to Mercy House Living Centers.

27 48. The County relies on the existence of Bridges in order to enforce its anti-
28 camping and anti-loitering ordinances against unhoused persons living outside in Orange

1 County. See Settlement Agreement ¶¶ 4.1-4.2, *Catholic Worker v. County of Orange*, No.
2 8:18-cv-00155-DOC-JDE (C.D. Cal. Jul. 23, 2019), ECF No. 318-1. The County requires
3 Mercy House Living Centers to “be part of the COUNTY team to facilitate the successful
4 operations and administration of the PROGRAM located at 1000 N. Kraemer Place,
5 Anaheim for a year round emergency shelter and multi-service center.” Attachment A to
6 County of Orange contract with Mercy House Living Centers, # 18-22-0037-PS, p. 3.
7 Bridges fulfills a necessary state function for the County.

8 49. The County has the right to access Bridges for the purpose of monitoring its
9 contract with Mercy House Living Centers. County of Orange contract with Mercy House
10 Living Centers, # 18-22-0037-PS, at 18. The County must approve Bridges’ “Shelter Policy
11 and Procedures Manual,” which must include procedures to “maintain hygienic, sanitary
12 environments for the well-being of clients, volunteers, and staff.” Attachment A to
13 County of Orange contract with Mercy House Living Centers, # 18-22-0037-PS, at 21.

14 50. Bridges implements a lock-in/shut-out policy, as required by the County.

15 51. Residents at Bridges must agree to and sign Bridges’ Shelter Expectations as a
16 condition of living at the shelter.

17 52. The County knew or should have known about the unlawful conditions at
18 Bridges because the Report, published on March 14, 2019, detailed these conditions. The
19 ACLU of Southern California also sent a copy of the Report to the County.

20 53. On May 21, 2019, several residents of Bridges, including Plaintiff Rutter,
21 participated in a public action where they spoke about the horrible conditions at Bridges
22 to the Orange County Board of Supervisors. On June 18, 2019, several staff of the ACLU of
23 Southern California met with officials from the County, including County CEO Frank
24 Kim, to discuss the problems highlighted in the Report, including the conditions at
25 Bridges.

26 54. Despite numerous resident complaints, the ACLU’s Report, and the meeting
27 with County staff, Defendants County and Mercy Housing Living Center failed to address
28 the unlawful conditions at Bridges.

1 C. LA MESA

2 55. Anaheim pays Defendant Illumination Foundation to run a shelter called La
3 Mesa. The City began funding La Mesa directly as a result of the *Catholic Worker* lawsuit,
4 so that it could continue to arrest unhoused persons for violating anti-camping laws.⁴ The
5 City purchased the property where La Mesa operates, specifically to have a location for
6 the shelter, and agreed to make the capital improvements to its property needed to allow
7 Illumination Foundation to operate as a shelter.

8 56. La Mesa fulfills a necessary state function for the City, as set forth in the
9 contract between Illumination Foundation and Anaheim: “Anaheim has determined that
10 an urgent need exists to provide a temporary, low barrier emergency homeless shelter in
11 the City of Anaheim for up to one hundred and two (102) individuals....” *Agreement*
12 *Between the City of Anaheim and Illumination Foundation for the Operation of an Emergency*
13 *Homeless Shelter at 3035 E. La Mesa Street*, Jun. 20, 2019, at 1.

14 57. The contract allocates up to \$6.5 million from the City to Illumination
15 Foundation. *Id.* at 2. The City has the authority under the contract to access all of the
16 shelter’s services and activities and facilities, including all of the files and other records
17 relating to the performance of the agreement. *Id.* at 4. The contract prohibits the shelter
18 from discriminating based on sex and other enumerated factors or permitting sex
19 discrimination to occur at the shelter. *Id.* at 9-10.

20 58. The Scope of Work attachment to the contract requires Illumination
21 Foundation to “recognize[] that transportation is necessary to ensure that the area
22 surrounding the Shelter is not adversely impacted.” The Scope of Work mandates that
23 “[n]o walk-ins for the Program or Program services will be permitted.” These
24 requirements result in implementation of the lock-in/shut-out policy at La Mesa.

25 _____
26 ⁴ See Settlement Agreement ¶ 2.1, 3.2, *Catholic Worker v. County of Orange*, No. 8:18-cv-
27 00155-DOC-JDE (C.D. Cal. Nov. 2, 2018), ECF No. 276-1; City of Anaheim, *Anaheim Shelter*
28 *Plan Fact Sheet* (2020),
<https://www.anaheim.net/DocumentCenter/View/24444/Anaheim-Shelter-Plan-fact-sheet-fall-2020?bidId=>.

1 59. The management-and-operations plan states that returning residents must be
2 in the “facility by 10 pm unless [they] have permission from staff.” The plan also requires
3 staff to search residents and their bags when they enter the facility, and allows staff to
4 search storage areas for contraband. During relevant time periods, Illumination
5 Foundation contracted with Protection America, Inc. to provide security services at La
6 Mesa.

7 60. Residents at La Mesa must agree to Guidelines and Responsibilities as a
8 condition of living at the shelter.

9 61. Defendant City of Anaheim knew or should have known about the unlawful
10 conditions at La Mesa because it was covered in a March 19, 2020 article in *The Guardian*
11 that quoted a spokesperson for the City.⁵ Despite numerous resident complaints and
12 publicity over the conditions, Defendants City and Illumination Foundation failed to
13 correct the unsanitary conditions at La Mesa.

14 **II. SUMMARY OF LEGAL VIOLATIONS**

15 **A. SEX DISCRIMINATION AND HARASSMENT AT THE**
16 **FACILITIES**

17 62. The staff at La Mesa and the Courtyard routinely subject women residents to
18 unlawful sexual discrimination and harassment, including physically invasive searches,
19 groping, other unwanted touching, leering, lewd comments, and propositioning. These
20 acts create a hostile living environment, and force women residents to endure this
21 harassment as a condition of their shelter stay.

22 63. Defendants’ unlawful searches required female residents to publicly expose
23 themselves to shelter staff and residents during searches, endure improper touching of
24 their breasts, be subjected to “pat downs” on exposed portions of their bodies not covered
25 with clothing, be searched multiple times per day even when they had not left the shelter

26 ⁵ Sam Levin, “If I get it, I die”: homeless residents say inhumane shelter conditions will
27 spread coronavirus., *The Guardian*, March 19, 2020,
28 [https://www.theguardian.com/world/2020/mar/19/if-i-get-it-i-die-homeless-residents-
say-inhumane-shelter-conditions-will-spread-coronavirus](https://www.theguardian.com/world/2020/mar/19/if-i-get-it-i-die-homeless-residents-say-inhumane-shelter-conditions-will-spread-coronavirus) (last accessed 12/10/2020).

1 premises, and risk eviction from the shelter if they protested.

2 64. Although the shelters also require male residents to be searched when they
3 return to the facilities, these searches are significantly less intrusive. Staff only pats down
4 the outside of the men’s clothing, have them remove their shoes, and sometimes makes the
5 men roll-up their pants legs to show their socks. Men do not have to lift up their shirts or
6 pull out their pant waistbands in order for staff to check if they have any contraband near
7 their private areas.

8 **B. LOCK-IN/SHUT-OUT POLICY**

9 65. Bridges and La Mesa both enforce a lock-in/shut-out policy that prohibits
10 residents from entering or leaving the shelters unless they do so by car, taxi, ride-share, or
11 other individual transport, or one of the shelters’ shuttles, which only run four times a
12 day. The shuttles can accommodate only a small fraction of the number of residents living
13 at the shelter, which results in many residents being trapped at the shelter all day.

14 66. Residents who violate the lock-in/shut-out policy by walking into or out of
15 the shelter may be evicted.

16 67. The County mandates that Bridges have this policy. *See Orange County Year*
17 *Round Emergency Shelter and Multi-Service Center Management, Operations and Public Safety*
18 *Plan, Apr. 24, 2017, at 2. New and returning residents are to “receive direct transportation*
19 *to and from the shelter daily” from designated locations within the County that will be*
20 *selected by the police. Id. at 3. The County prohibits Bridges from picking-up or*
21 *dropping-off residents at any other places.*⁶

22 68. The County further segregates residents at Bridges from the community by
23 requiring the shelter to enforce an anti-loitering zone *within an entire mile of the shelter.*
24 *Orange County Year Round Emergency Shelter and Multi-Service Center Management,*
25 *Operations and Public Safety Plan, Apr. 24, 2017, at 8. In fact, the County requires Mercy*
26 *House to “conduct random daily checks of 1 mile diameter to shelter and drop-off/pick*

27 _____
28 ⁶ See also *Bridges at Kramer Place, Mercy House,*
<https://mercyhouse.net/portfolios/bridges-at-kraemer-place/> (last visited Dec. 4, 2020).

1 up locations to enforce shelter rules and avoid loitering and homeless congregations.” *Id.*
2 Residents found “loitering” within one mile of Bridges can be evicted from the shelter. *Id.*

3 69. Nothing in the County’s plan defines loitering. The County instead seems to
4 use the term to refer to remaining in a public place. For example, to prevent “long term
5 loitering,” residents are prohibited from arriving at a shuttle stop more than 15 minutes
6 before the scheduled departure time. *Id.* at 29.

7 70. An initial version of the County’s lock-in/shut-out policy, which it calls the
8 “Good Neighbor Policy,” was first presented during the November 17, 2015 Orange
9 County Board of Supervisors meeting, before the Supervisors voted to approve the
10 purchase of the Bridges property. The policy is part of the Orange County Year Round
11 Emergency Shelter and Multi-Service Center Management, Operations and Public Safety
12 Plan. As described during the meeting, the so-called “Good Neighbor Policy” was
13 developed by Orange County in collaboration with local law enforcement.

14 71. The so-called “Good Neighbor Policy” is based on unfounded, negative
15 stereotypes about homeless people, including the assumption that their presence around
16 the shelter would have a negative impact on the surrounding community – and that being
17 a “good neighbor” therefore means preventing “undesirable” people from being in the
18 community. For example, a study commissioned by the County admits that the Anaheim
19 Police Department “does not have any statistical information related to the types of crimes
20 associated with emergency shelters such as that proposed by the County.” County of
21 Orange, *Initial Study Proposed Mitigated Negative Declaration, Emergency Temporary Shelter*
22 *and Multi-Service Center*, Sept. 2015, at 52. The study contains no support for the
23 assumption that unhoused persons in the vicinity of the shelter would pose any different
24 kind of criminal behavior than housed persons residing or transacting business in the
25 vicinity of the shelter. Despite the lack of evidence, the report states that a so-called
26 “Good Neighbor Policy” is justified to mitigate the anticipated negative impacts of the
27 presence of unhoused people in the surrounding area.

28 72. La Mesa similarly prohibits residents from traveling to or from the shelter

1 except by privately owned vehicles or the shelter’s shuttles. As with Bridges, the lock-
2 in/shut-out policy is required by the government. Illumination Foundation’s contract
3 with the City specifically provides that residents “may not walk off or on [the] property.”
4 *La Mesa Shelter Management and Operation Plan 2019*, Illumination Foundation, (2019), at
5 24.⁷

6 73. Although the justification for the lock-in/shut-out policy is to purportedly
7 ensure surrounding businesses and neighborhoods are not adversely impacted by people
8 staying at the shelters, both shelters are located across the street from each other on a
9 dead-end street that butts up against a major freeway. *E.g.* Anaheim City Council Agenda
10 Report from the Office of the City Manager, Dec. 6, 2018, at 2; *see* Map at Appendix A. The
11 shelters are located next to the Taboo Gentleman’s strip club, an industrial contracting/
12 metal-fabrication company, and a self-storage facility. There are no houses or other
13 residences in the area aside from the shelters themselves. There are no restrictions on
14 other establishments’ foot traffic. Only shelter residents face these prohibitions.

15 74. The lock-in/shut-out policy segregates shelter residents from the community
16 without legitimate justification, making it unreasonably difficult for shelter residents to
17 travel locally to work and keep medical and other appointments. At bottom, the policy is
18 based on stereotypes of homeless people.

19 **C. SUBSTANDARD LIVING CONDITIONS**

20 75. Conditions at the three shelters are so unsanitary that they pose a risk to the
21 health and well-being of shelter residents. The shelters fail to meet minimum habitability
22 standards for residential facilities. The Courtyard lacks any heating or cooling, resulting
23 in extreme heat in the summer and frigid temperatures in the winter. Residents are forced
24 to sleep in areas with no roof, and are exposed to the elements. Residents regularly
25 become sick in the winter due to the frigid temperatures and unsanitary conditions, and
26 during the summer, shelter temperatures can soar to 100 degrees Fahrenheit.

27 76. All three shelters are infested with pests, including rodents, bedbugs,

28 ⁷ [Anaheim PRA response - Files - ACLU of California NextCloud \(acluwest.org\)](#) at 561.

1 pigeons, and roaches. Residents are forced to endure pests infesting and defecating on
2 their belongings, including in their sleeping areas. Residents are repeatedly bit by
3 bedbugs, and sometimes the bites become infected. The number of working toilets and
4 showers is woefully inadequate for the number of residents and also poorly maintained.
5 At the Courtyard, there are only three permanent bathrooms for over 200 women. The
6 bathrooms are filthy, covered in blood and feces, and toilet paper is rationed by shelter
7 staff. The portable toilets are overflowing with waste, causing illness and infections in the
8 residents. The number of working showers at the shelters is inadequate for the number of
9 residents and poorly maintained.

10 **D. RETALIATION**

11 77. Residents who alert shelter staff or governmental authorities about the
12 problems at the shelters faced retaliation from shelter staff, including eviction.

13 **III. HARM TO PLAINTIFFS**

14 **A. PLAINTIFF CYNDI UTZMAN**

15 78. Ms. Utzman became homeless in 2017 when her husband gained full
16 ownership of their San Juan Capistrano home by coercing her into signing a quitclaim
17 deed. Her boyfriend at the time – who was sexually and physically abusive – was on her
18 estranged husband’s side and helped coerce her to give up ownership of her home, used
19 up all the money in her savings account, and sold her personal vehicle. He later
20 purchased an RV where they both stayed, until the RV was later impounded and Ms.
21 Utzman had nowhere to go. Lacking alternatives, she moved into a tent in the
22 surrounding hills. Ms. Utzman then spent time in many Orange County shelters,
23 including Defendants’ shelters.

24 79. Ms. Utzman resided at Bridges at Kraemer Place from August to October
25 2018, where she experienced unsanitary living conditions and lost several job interviews
26 due to the lock-in/shut-out policy. Ms. Utzman lived at the Courtyard from November
27 2018 to February 2019, where she similarly endured harmful living conditions and where
28 the staff sexually harassed her. She lived at La Mesa from September 2019 to May 2020,

1 where the staff also subjected her to sexual harassment, including invasive body searches,
2 substandard living conditions, and violated her freedom of movement.

3 80. During the winter at Bridges, it was so cold at night that Ms. Utzman would
4 often wake up at night shivering. When Ms. Utzman lived at Bridges, the bathrooms were
5 left in filthy and unsanitary conditions. In addition, there were not enough toilet stalls
6 and showers for the residents. The shelter had only approximately five toilet stalls and six
7 showers in the woman’s bathroom for approximately 100 women residents. The
8 conditions worsened when one or two of the showers were not working, which happened
9 frequently.

10 81. Some of the residents were unable to control their bladders or bowels and
11 defecated on the furniture, which is cloth-covered, or on the floor. Ms. Utzman sometimes
12 helped residents with their adult diapers because staff refused to help. When residents
13 would soil their beds, the staff would refuse to help clean them up, and other residents
14 would try to help. At night, the smell of excrement sometimes became so extreme that
15 residents could not sleep.

16 82. When Ms. Utzman lived at the Courtyard, she had to sleep in an area with no
17 roof, and she got wet when it rained. Ms. Utzman saw pigeons constantly in the shelter,
18 which would defecate everywhere, including where the residents ate.

19 83. In or around February 2019, a male staff member kicked Ms. Utzman out of
20 the shelter for objecting to sexual harassment. Specifically, when the staff member tried to
21 give Ms. Utzman a hug, she rebuffed him and he responded by insulting her – calling her
22 “a snotty bitch.” When she responded that she had rights and could control who hugged
23 her, the staff member falsely accused her of being intoxicated and threw her out of the
24 shelter into the rain. Other staff members witnessed the incident and did not do anything
25 to stop her from getting kicked out. Moreover, she was not intoxicated at the time and did
26 not have a reputation of being intoxicated. She was never previously suspected or
27 accused of being intoxicated prior to that incident.

28 84. Other former residents report that Courtyard staff would routinely make

1 sexual comments to female residents, such as: "you're looking fine," "you have a good
2 body," "how are those melons doing?" "you've got nice titties" and "I want to lick your
3 pussy."⁸ Some even reported that female residents were being pimped out by the staff.⁹
4 On information and belief, Courtyard staff did not sexually proposition, hug, or grope
5 male residents of the shelter.

6 85. In March 2019, after the ACLU of Southern California published its report on
7 the Courtyard's unhealthy conditions, Ms. Utzman went back to collect some of her
8 belongings. While there, the Director and Site Manager, Doris Starling, called Ms. Utzman
9 a "little bitch," falsely accused her of pretending to be homeless so she could spy on the
10 shelter, did not allow her to collect her property, and told Ms. Utzman never to come back.

11 86. When Ms. Utzman stayed at La Mesa shelter, she complained to numerous
12 staff members about the invasive body searches. Ms. Utzman had to consent to searches
13 as a condition of living in the shelter – albeit coerced consent – since the alternative was
14 eviction from the shelter onto the streets, where she risked arrest.

15 87. From March to May 2020, Ms. Utzman was invasively searched by staff at La
16 Mesa including when she entered the shelter, after brief smoke breaks outside with staff
17 supervision, and even after using the restroom. Sometimes these searches would occur
18 multiple times in a single day or even when Ms. Utzman had not left the shelter. At least
19 half a dozen times, staff members obligated Ms. Utzman to submit to the same search:
20 demanding that she stand up straight, spread her feet apart, pull out her bra, shake her
21 breasts, and pull out her waistband away from her hip so that staff could look down her
22 pants. Many times these intrusive searches occurred in front of staff members and
23 residents – often male – and in full view of the shelter security camera.

24 88. Defendants' repeated searches were unreasonably invasive. On one occasion,
25 Ms. Utzman was wearing a tank top, and a security guard searched Ms. Utzman by
26 patting her bare shoulders and arms. There was no justifiable basis for patting down

27 ⁸ Report at 32-33.

28 ⁹ Report at 32-33.

1 exposed skin.

2 89. Residents expected to be searched after they came back from a smoke break
3 from the on-premises patio area, despite the fact that the area was secured and there was
4 no actual risk that residents could bring contraband into the facility from the patio.
5 However, not everyone was searched and not everyone was searched in the same manner.
6 The guard that was on duty when Ms. Utzman went out for a smoke, determined the level
7 of intrusiveness the search was going to be. Unfortunately for Ms. Utzman, almost all the
8 guards searched her intrusively. Specifically, when staff members Elliot Recendiz or Asia
9 Chaney were on duty, she would always get searched intrusively. When Ms. Utzman
10 complained about these searches, La Mesa staff told her that the City of Anaheim required
11 them.

12 90. Although male residents are also subject to searches when they return to the
13 facilities, these searches are significantly less intrusive. Staff only pat down the outside of
14 the men's clothing, have them remove their shoes, and sometimes makes the men roll-up
15 their pants legs to show their socks. Men do not have to lift up their shirts or pull out their
16 pant waistbands in order for staff to check if they have any contraband near their private
17 areas. They are not ordered to expose their private body parts during searches, while
18 female residents are required to expose their breasts and sometimes endure their breasts
19 being touched by security, often in front of male security and other residents.

20 91. Ms. Utzman complained and asked for the invasive searches to stop to at
21 least six different La Mesa staff members: Brian Southen and Nikki Rivera, case workers;
22 Ukiah Anderson, lead staff; Maria Alzcanar, Elliott Recendiz, and Elmer, staff members.
23 In response to these complaints, La Mesa staff affirmed that the searches were a result of
24 Anaheim's instructions and staff members were simply following orders. In fact, a
25 security guard explained that shelter staff specifically required that security make
26 residents shake out their bras. Ms. Utzman observed that she was searched more often
27 than some other residents.

28 92. Ms. Utzman is a survivor of childhood sexual assault and intimate partner

1 violence, and when shelter staff invasively searched her, she became so distressed that she
2 sought emotional support from a crisis center.

3 93. A male staff member at La Mesa, Elliott Recendiz, repeatedly entered the
4 women's dorm unannounced to watch the female residents while they were changing. On
5 some days, he entered the women's dorm at least eight times without valid justification.
6 He saw Ms. Utzman naked at least once, and saw several other women naked. When Ms.
7 Utzman complained to Recendiz about his constant entries into the women's dorm, and
8 despite the fact that she was sober, he shouted at her in front of the other residents that she
9 was "on contract" (i.e., had agreed to stay sober as a condition of staying the shelter), that
10 she had no right to privacy, and that if she didn't like it, she could leave. Recendiz
11 claimed he needed to enter the dorm to empty the trashcan. When Ms. Utzman moved
12 the trashcan to just outside the dorm's door so that he would not have to enter to empty it,
13 he wrote her up for doing so.

14 94. In or around October 30, 2019, Ms. Utzman told Recendiz that she was going
15 to video-record him coming into the women's dorm because La Mesa was not doing
16 anything to stop him. Recendiz wrote her up for violating La Mesa policy by videotaping
17 him. On information and belief, Recendiz wrongly wrote up Ms. Utzman after she had
18 started complaining about his entries into the women's dorm as retaliation against her for
19 complaining. In February 2020, Ms. Utzman complained to a counselor at La Mesa about
20 Recendiz's behavior, but that counselor never followed-up.

21 95. In March 2020, La Mesa dispatched a staff member named Paul, Ms. Utzman,
22 and two other La Mesa residents (Amber and Scott) to shop, pick-up prescription
23 medications, and perform other tasks during the COVID lockdown. Paul was driving the
24 van they were using. When Ms. Utzman got into the passenger seat of the van, Scott told
25 her she had to sit in the back with Amber because she was a "stupid woman." During the
26 drive, Scott called Ms. Utzman a "whore" and a "cunt." When Ms. Utzman asked staff
27 member Paul to intercede, he laughed at her.

28 96. The following day, in the shelter dining area and in front of other shelter

1 residents, Scott shouted at Ms. Utzman: “when are you going to sit on my lap, little slut?”
2 At least three staff members heard this verbal abuse but failed to intercede, even after Ms.
3 Utzman asked them to stop Scott from harassing her. Ms. Utzman retreated to the
4 women’s dorm to escape the abuse.

5 97. Later that day, when Ms. Utzman attempted to talk to Paul about the
6 incident, she communicated the need for La Mesa staff to stop this abuse and even
7 suggested that the shelter consider implementing a code of conduct. Paul responded by
8 telling Ms. Utzman that she needed to have thicker skin. That same evening, another staff
9 member, Asia Chaney, announced that Scott would be leading the next shopping trip.
10 When Ms. Utzman and several other female residents protested and tried to explain that
11 his sexual harassment made it a hostile experience for female residents, Chaney told her to
12 shut up. Male residents at La Mesa were not subjected to sexual slurs or verbal sexual
13 harassment. On information and belief, Chaney was very friendly with Scott; they
14 appeared to be very intimate in public and many residents made the same observation.
15 Ms. Utzman never had any trouble with Chaney until Chaney and Scott started getting
16 closer and were seen spending time together at the shelter. On information and belief,
17 Chaney subjected Ms. Utzman to invasive searches to punish her for complaining about
18 sexual harassment from Scott.

19 98. In early April 2020, when Ms. Utzman complained about the staff’s failure to
20 respond to Scott’s harassment, La Mesa staff asked her if Chaney was safe with her at the
21 shelter. They were accusing Ms. Utzman of threatening harm to Chaney and gave her a
22 warning. About a month later, staff singled out Ms. Utzman by writing her up for a
23 purported issue where other similarly situated residents were not written up. She
24 complained and two days later, Defendant Illumination Foundation kicked her out of La
25 Mesa.

26 99. In November 2019, Plaintiff Utzman got a four-day job just a few blocks from
27 the shelter, but she was not allowed to walk there or back due to the lock-in/shut-out
28 policy, which prevents shelter residents from going or coming to the shelter other than in

1 a vehicle. Staff member Recendiz was scheduled to pick Ms. Utzman up at the end of her
2 shift, but she ended up having to wait for four hours past her shift despite the shelter only
3 being a two minute drive or a ten minute walk away. Ms. Utzman was eventually picked
4 up by Recendiz at 9:00 pm – well past daylight hours which caused her to fear for her
5 safety. Ms. Utzman complained about the policy to shelter staff.

6 100. Ms. Utzman does not have permanent housing, and will likely need to use
7 homeless shelters in Anaheim or Orange County again.

8 **B. PLAINTIFF DEBORAH KRAFT**

9 101. Ms. Kraft lived with a violent partner in early 2016. Fearful that her partner
10 would kill her, she fled her home with her two dogs. She stayed at a domestic violence
11 shelter in San Clemente for six weeks, and then lived in a transitional program for two
12 months.

13 102. After leaving the transitional program, Ms. Kraft lived at the Courtyard from
14 October 2016 to October 2018. While living at the Courtyard, Ms. Kraft was subjected to
15 dangerously filthy living conditions that contributed to several bouts of pneumonia. Male
16 staff members sexually harassed her, causing harmful mental health effects, including
17 depression and suicidal thoughts.

18 103. One male staff member at the Courtyard named “Big E” regularly appeared
19 beside Ms. Kraft’s cot and would wake her by taking her hand, massaging her palm,
20 asking her whether she still had a boyfriend, and leering at her. This male staff member
21 also frequently hugged her while groaning in a sexual way.

22 104. Staff members at the Courtyard would frequently proposition Ms. Kraft. For
23 example, a staff member named Tommy approached Ms. Kraft daily, put his arm around
24 her without her consent, and bragged to her about his sexual conquests. Tommy and Big
25 E would compete for her attention. When Big E saw Tommy with his arm around Ms.
26 Kraft, he would ask her, “Are you going to him instead of me? Don’t listen to him.”

27 105. Ms. Kraft made it clear that the conduct was unwelcomed but staff ignored
28 her and continued to harass her. On at least one occasion, she observed Big E staring at

1 her buttocks. She objected, to which he replied: "Well, I'm a man still."

2 106. Ms. Kraft was afraid to complain about the harassment because she feared the
3 staff would retaliate against her by kicking her out of the shelter or withdrawing
4 privileges. Ms. Kraft witnessed staff deny shelter access to a female resident, Trisha, who
5 stood up for herself several times in connection with the staff's sexual harassment. Trisha
6 had complained that there were no female staff members on site at night, and the women
7 residents did not feel comfortable with male staff doing checks on the women's area and
8 leering at the women while they were sleeping. Soon after one of the times that Trisha
9 spoke up, she came back from the hospital after curfew and the staff refused to let her
10 back in, even though coming back after curfew when you have been at the hospital was
11 allowed. Trisha ended up sleeping outside that night.

12 107. Unlike Trisha, even though Ms. Kraft was also uncomfortable with the male
13 staff member who leered at women while they slept, she did not complain out of fear of
14 retaliation. She simply asked one of the staff members if he could get a female staff
15 member for the night shift, but he responded by repeatedly yelling at her to "shut up,"
16 while moving towards her in an aggressive manner. He was significantly larger
17 physically than Ms. Kraft and intimidated her. He paced towards her as she took large
18 steps walking backwards and away from him, until she ended up sitting on her bed.

19 108. Ms. Kraft was also aware of another woman who complained about problems
20 at the shelter, and then had belongings stolen out of her bin that was accessible only to
21 staff. Ms. Kraft was afraid that she would face similar retaliation if she complained.

22 109. Ms. Kraft became involved with a boyfriend in the hopes that being in a
23 relationship would stop staff from harassing her. Once staff learned she had a boyfriend,
24 they then started to retaliate against both her and her boyfriend. One staff member who
25 had previously helped her by moving her cot when the sleeping spots were rearranged
26 and doing other tasks she could not do on her own, stopped doing so. Instead, he started
27 waking Ms. Kraft and her boyfriend, who were sleeping next to each other, up her up at 6
28 am by blowing a leaf blower by their heads. He told Ms. Kraft that she was giving him

1 mixed messages, and he started giving her boyfriend a hard time as well. The staff
2 member would also tell Ms. Kraft and her boyfriend to stop sitting together. Other staff
3 refused to give her boyfriend a bed several times, even though there were available beds,
4 which had not happened before he started dating Ms. Kraft. When The Courtyard set up
5 a couple's area, the staff would not permit him and Ms. Kraft to be together in that area.

6 110. Almost every day, Ms. Kraft would get propositioned by male residents,
7 telling her, "Let's go to a motel together. We can have sex and do meth." Ms. Kraft knew
8 she could not report this harassment to staff because staff engaged in the same sexually
9 harassing conduct with her. Ms. Kraft also knew that she could not report the conduct to
10 the director of the program because the director was already aware that the staff was
11 harassing her and yet did nothing to stop the conduct.

12 111. The director of the Courtyard, Doris Starling, condoned sexual relationships
13 between staff and residents and once asked Ms. Kraft why she was with her boyfriend
14 when she could have been with one of the Courtyard staff members. It was common
15 knowledge that the Courtyard's culture favored residents who went along with staff and
16 as a result would receive privileges. Ms. Kraft knew one resident who was having sexual
17 relations with staff members, and in return, got a job at the shelter. This resident was also
18 later allowed to stay at a sober living home, which had much better living conditions
19 compared to the shelter. On information and belief, residents who chose not to go along
20 the staff's behavior faced retaliation. This made Ms. Kraft feel like she could not complain
21 to management about the sexual harassment. Ms. Kraft had nowhere else to go, and was
22 terrified of having to sleep outside.

23 112. The sexual harassment and abuse by staff and residents caused Ms. Kraft
24 severe emotional distress, even causing her to consider suicide on at least two occasions.
25 The sexual harassment was particularly triggering for Ms. Kraft due to her history of
26 intimate partner violence.

27 113. Ms. Kraft came down with pneumonia two winters in a row after enduring
28 the unsanitary and crowded conditions of the shelter. During the summer, the

1 temperature inside the shelter would often reach (and in some cases exceed) 100 degrees
2 Fahrenheit. During the winter, the temperature would sink to close to 50 degrees
3 Fahrenheit. (See photos of temperature readings from inside the Courtyard at Appendix
4 B.) The toll of extreme temperatures was exacerbated by overcrowding and poor
5 ventilation, as the Courtyard was crammed with hundreds of people.

6 114. The shelter was also infested. Ms. Kraft saw rats running around the facility
7 every night. Every week she found rat droppings in her belongings stored under her cot
8 and had to sweep them out. Sometimes she cleaned rat droppings in her area without
9 access to cleaning supplies or soap to wash her hands. Ms. Kraft was also bitten by
10 bedbugs while living at the Courtyard.

11 115. The shelter did not provide adequate laundry facilities for residents. On one
12 occasion, all of the washing machines were not working, and the shelter did not fix them
13 for several weeks.

14 116. There are only about three permanent bathrooms at the Courtyard for over
15 200 women. The restrooms usually had blood and feces on the toilet seats and floors.
16 The faucets were often broken and the sinks often lacked soap. The person responsible for
17 cleaning the bathrooms did not use any cleaning products when he cleaned, but simply
18 hosed down the bathroom with water only.

19 117. The portable toilets were no better and did not function properly. Moreover,
20 the shelter did not clean them out often enough. As a result, they were always
21 overflowing with urine and excrement. After using the shelter's toilets, Ms. Kraft
22 contracted multiple urinary-tract infections. She sometimes resorted to standing on the
23 toilet seat or urinating in the bushes to avoid contact with the urine, excrement, and other
24 waste covering the toilets. During the summer, the odor of waste would often become so
25 overwhelming that Ms. Kraft would hold her breath while using the toilets in order to
26 avoid fainting. The outhouses were so close to the living area that residents could smell
27 urine and feces in the shelter. The staff doled out squares of toilet paper for residents and
28 sometimes did not give residents enough toilet paper for them to clean themselves

1 properly.

2 118. Attached as Appendix C are two photographs of one of the Courtyard's
3 toilets taken on the morning of July 30, 2018, when Ms. Kraft was living there, and
4 included in the Report.

5 **C. PLAINTIFF WENDY POWITZKY**

6 119. About eight years ago, Ms. Powitzky lost her job when she had to spend time
7 at home with a child who was having challenges at school. As a result, she lost her
8 housing and became homeless.

9 120. The staff at La Mesa subjected Ms. Powitzky to invasive searches. Ms.
10 Powitzky had to consent to searches as a condition of living in the shelter – albeit coerced
11 consent – since the alternative was eviction from the shelter onto the street where she
12 would almost certainly be arrested.

13 121. In August 2019, when Ms. Powitzky returned to La Mesa one night with her
14 adult son, Andrew Powitzky, she passed through the shelter's metal detector without
15 activating it. Nevertheless, a security guard named Tawny had her put her arms above
16 her head and spread her legs. The guard then proceeded to put her hands on each side of
17 Ms. Powitzky's chest, run her hands down the sides of Ms. Powitzky's breasts, then run
18 her hands completely underneath each breast until the guard had the bottom of each
19 breast in the palm of her hand, and then raised Ms. Powitzky's breasts off her chest.
20 Tawney also searched Andrew, but the search was not as invasive. Tawney patted
21 Andrew, while Andrew observed Tawney rub her hands all over Ms. Powitzky. Andrew
22 felt uncomfortable watching his mother get touched in this manner. Ms. Powitzky did not
23 complain because she did not want to be thrown out of the shelter.

24 122. That same month, a shelter employee named Maria summoned Ms.
25 Powitzky, who was inside the shelter, to the guard at the front of the facility to search her
26 for no reason. The guard inappropriately rubbed Ms. Powitzky's body and cupped her
27 breasts while conducting the search. Although the guard found nothing, Ms. Powitzky
28 was then ordered to lift her shirt above her breasts, pull her bra away from her body, and

1 shake her bra. This search exposed Ms. Powitzky's breasts to a male security guard
2 standing about six feet away, as well as to male and female residents who were present on
3 the nearby patio. Ms. Powitzky complained about this incident to management and asked
4 for the searches to stop but no action was taken.

5 123. In November 2019, a shelter employee, Maria Alzcanar summoned Ms.
6 Powitzky to the same security area and falsely accused her of having contraband. The
7 guard ordered Ms. Powitzky to lean over, pull her bra away from her body, and shake it
8 in front of male security guards and numerous residents. Ms. Powitzky complied, and
9 just like the previous search, no contraband was found. The guard then ordered Ms.
10 Powitzky to expose herself again, which she refused to do. Ms. Powitzky filed a written
11 grievance about this incident with La Mesa Director of Operations, Jason Wofford. Ms.
12 Powitzky specifically complained about the invasive nature of the searches, and requested
13 that La Mesa stop conducting searches in this manner. No La Mesa staff responded to Ms.
14 Powitzky's grievance.

15 124. In October and November 2019, Alzcanar—one of the staff Ms. Powitzky
16 complained about—gave her write-ups for having drugs, even though Ms. Powitzky had
17 prescriptions for all the drugs in her possession. On information and belief, these write
18 ups were retaliation for her complaints about the invasive searches. These write ups can
19 result in eviction from the shelter.

20 125. Ms. Powitzky filed a discrimination complaint with the California
21 Department of Fair Employment and Housing regarding these invasive searches. *See*
22 *Amended Complaint of Discrimination, Powitzky v. City of Anaheim*, No. 201910-08009522,
23 Cal. Dep't of Fair Emp't and Hous. (Mar. 19, 2020).

24 126. Ms. Powitzky lost two jobs due to the lock-in/shut-out policy. When she first
25 started living at La Mesa, she had a warehouse job with a night shift that started around
26 5:00-6:00 p.m. and ended around 3:00 a.m. The job was only a 12 minute drive away and
27 also had public bus accessibility that ran from the shelter to the warehouse. However, she
28 was not allowed to use public transportation because the policy requires residents,

1 without their own car or a ride-share, to use the shelter shuttle to reach the shelter. The
2 shelter shuttle did not run at convenient times, or stop at locations that were convenient
3 for Ms. Powitzky to get to her workplace. It took her three to four hours to get to the
4 warehouse, and she eventually quit the job because the commute was so difficult.

5 127. Around October 2019, Ms. Powitzky secured a job at a nearby Waste
6 Management Plant where she would start work at 3:00 p.m. and finish at around 8:00 p.m.
7 The plant was located less than two miles from the shelter and a public bus went directly
8 from the shelter to the plant. The shelter shuttle did not run at times that coincided with
9 her shift. The lock-in/shut-out policy restricted Ms. Powitzky's ability to walk up to the
10 shelter, forcing her to take a public bus back from work and then wait for a friend to drive
11 her from the bus stop to the shelter by car. When she complained about the impact of the
12 policy to the shelter's staff, she was told to take a Lyft or Uber from the bus stop to the
13 shelter, one block away. Ms. Powitzky could not satisfy these restrictions because she did
14 not have a credit card or bank account which is required to set up a rideshare service
15 account, and she could not afford these services. In or around November 2019, she
16 walked into the shelter on the way back from work and was penalized with a write up. In
17 January 2020, Ms. Powitzky left the job because it was too difficult to go back and forth
18 using only the shelter shuttle.

19 128. Ms. Powitzky has also worked as a hairdresser in the past, but the shelter
20 policies make it impractical for her to schedule appointments around her clients'
21 schedules.

22 129. Ms. Powitzky complained to several staff members about the lock-in/shut-
23 out policy, including to her counselors, Nikki and Jamie, to Elliott Recendiz, a staff
24 member, to Director of Operations Jason Wofford, to Associate Director of Operations
25 Summer Thomason, and to Site Supervisor Ukia Anderson.

26 130. Ms. Powitzky also experienced unsanitary and unsafe conditions at La Mesa.
27 On Ms. Powitzky's first night in the La Mesa shelter, she slipped in the bathroom due to
28 the standing water on the floor. She immediately reported this to Asia Chaney, a staff

1 member, and requested that La Mesa install floor mats to absorb the water. It was not
2 until about six months later that La Mesa installed mats in the women's bathroom.

3 131. Ms. Powitzky does not have permanent housing, and will likely need to use
4 homeless shelters in Anaheim or Orange County again.

5 **D. PLAINTIFF JOSHUA OGLE**

6 132. Mr. Ogle is a divorced father of four children. He is an artist with a focus on
7 ceramic arts. Following his divorce, he ended up living on the streets of Anaheim and
8 Fullerton in 2017. During his time at Bridges, he endured horrible living conditions.
9 Upon information and belief, the shelter staff retaliated against Mr. Ogle after he spoke
10 out about the shelter's conditions at an Orange County Board of Supervisors meeting.

11 133. While Mr. Ogle stayed there, Bridges was infested with bed bugs and
12 rodents, Mr. Ogle was bit by bedbugs on several occasions, and when infected, the bites
13 filled with pus. Mr. Ogle contracted cellulitis, a dangerous bacterial skin infection, from
14 the unsanitary conditions in the shelter. He also observed other residents contract
15 cellulitis at the shelter.

16 134. When Mr. Ogle lived at Bridges, the bathrooms were unmaintained and
17 unsanitary. There were not enough toilet stalls and showers for the residents. Mr. Ogle
18 saw feces in the showers and people with open wounds that leaked onto the floor.

19 135. In or around April 2019, several residents of Bridges, including Mr. Ogle,
20 spoke at an Orange County Board of Supervisors meeting about the unsanitary conditions
21 at the shelter. Shortly after that meeting, Bridges staff demanded that each of the residents
22 who had spoken before the Board have individual meetings with staff. The chief of
23 operations asked Mr. Ogle whether they could get him to leave the shelter. Mr. Ogle
24 agreed to live in his car if he could get the starter motor fixed and staff initially offered to
25 pay for that repair but later refused. Shortly after, staff demanded that Mr. Ogle remove
26 his car from the shelter parking lot and park along the street. Staff then called the police
27 and had Mr. Ogle's car towed. The police report confirms that the shelter security
28 company made the call to tow the car. Mr. Ogle could not afford to pay the fine and

1 towing fees to get his car back, and it was sold at auction. When Mr. Ogle had first moved
2 into Bridges, staff members told him not to worry about parking on the street because cars
3 were never towed.

4 136. After Mr. Ogle spoke at the Board meeting, staff also started enforcing rules
5 against him that they had not previously enforced. For example, although he had
6 previously been able to return after the 10:00 p.m. curfew when he was caring for his
7 children, after he spoke at the meeting, staff tried to evict him for this same conduct. This
8 strict enforcement of curfew negatively affected Mr. Ogle's ability to care for his children.
9 Staff also allowed a resident who had stolen his car (before it was towed) and threatened
10 his family, to stay in the shelter. The staff knew that Mr. Ogle was not comfortable living
11 in the same shelter with this individual, and on information and belief, they let the
12 resident back into the shelter in an attempt to intimidate Mr. Ogle into leaving. Living at
13 Bridges worsened Mr. Ogle's mental health and caused him to have nightmares. Mr. Ogle
14 already suffers from Post-Traumatic Stress Disorder and these events made his condition
15 much worse.

16 137. Mr. Ogle does not have permanent housing, and will likely need to use
17 homeless shelters in Anaheim or Orange County again.

18 **E. PLAINTIFF JORDYNNE LANCASTER**

19 138. Ms. Lancaster is a survivor of domestic violence and of childhood sexual
20 assault. About seven years ago, she was evicted from her condominium in Woodland
21 Hills because her roommate moved out and she could no longer afford the rent. She
22 moved to a residential program in Orange County, and then spent several months in the
23 hospital. In the fall of 2017, she moved into Orange County's Armory winter shelter.
24 After leaving the Armory shelter, she moved into the Courtyard.

25 139. While Ms. Lancaster was at the Courtyard, male staff members constantly
26 sexually harassed her, and she was subjected to unsafe and unsanitary living conditions.
27 Due to the filthy conditions and constant sexual harassment, her mental health
28 deteriorated.

1 140. Multiple male staff members incessantly sexually harassed Ms. Lancaster at
2 the Courtyard. Male staff would start by hugging her, and then progress to vulgar
3 comments and groping. Some staff members would slide their hands down her buttocks
4 while they were hugging her. Some would intentionally get too close and rub up against
5 her breasts when they passed by her in the shelter. Some staff members would, on a daily
6 basis, say things like: “Fine ass, yeah. You know if you didn’t have your man...,” “You
7 tasty meal, you. You’re too fine to be here, come live with me,” or tell her what they
8 wanted to do to her in bed.

9 141. When staff looked at or touched Ms. Lancaster in a sexual way, she would tell
10 them to stop. Ms. Lancaster even stopped showering in an attempt to deter this abuse, but
11 it did not help.

12 142. Ms. Lancaster observed the shelter management turn a blind eye to staff
13 committing criminal acts, like paying residents for their food stamps at a discounted rate
14 or taking recycling away from residents and not paying for it. Ms. Lancaster observed
15 staff stealing donations and residents’ property from the storage bins. Upon seeing that
16 management allowed staff to act in this manner, Ms. Lancaster did not report the sexual
17 harassment.

18 143. Ms. Lancaster initially did not complain because she did not want to be
19 thrown out of the shelter with her husband – who suffers from epilepsy. With her
20 disabled husband, it was particularly dangerous for Ms. Lancaster to be living on the
21 streets. Ms. Lancaster had observed another woman living at the Courtyard get evicted
22 for complaining about sexual harassment.

23 144. The staff at the Courtyard sexually harassed Ms. Lancaster daily. The sexual
24 harassment triggered memories of previous experiences of domestic violence and sexual
25 assault, worsening her mental and emotional health. She became suicidal and was
26 admitted to mental hospitals and a crisis center several times for extended stays.

27 145. Ms. Lancaster developed pneumonia and bronchitis during her stay at the
28 Courtyard because of the unsanitary conditions. During the winter, she suffered from

1 very harsh weather conditions because the Courtyard is an open structure facility
2 allowing wind to enter from all sides. Because there are no space heaters or air
3 conditioning at the shelter, Ms. Lancaster had to rely on her blankets to stay warm. (See
4 Courtyard Temperature Reading of 54 degrees at Appendix C). Ms. Lancaster was
5 hospitalized four times due to illnesses contracted while staying at the Courtyard.

6 146. Ms. Lancaster found rodents infesting her belongings and saw cockroaches
7 and water bugs all around the shelter. Ms. Lancaster was also bitten by bed bugs all over
8 her body and contracted lice at the Courtyard.

9 147. When Ms. Lancaster lived at the Courtyard, the showers were sometimes
10 closed for two weeks, forcing her to shower elsewhere. When she complained to shelter
11 staff about the conditions, she was told that if she did not like the shelter, she could leave.

12 148. Ms. Lancaster contracted *Clostridium difficile* (C. diff.) on two separate
13 occasions from the unsanitary conditions in the toilets at the Courtyard. C. diff is a
14 bacterial infection that can cause diarrhea and can be life threatening. On one of these
15 occasions, Ms. Lancaster became extremely dehydrated from the diarrhea, in part because
16 the Courtyard lacked water fountains or sufficient drinkable water. Ms. Lancaster lost so
17 much fluid that she ended up fainting and was taken to the hospital by ambulance. At the
18 hospital, she learned that she had lost over 70% of the fluids in her body. Ms. Lancaster
19 observed another Courtyard resident who also contracted C. diff.

20 149. Ms. Lancaster also suffered from food poisoning from food served at the
21 Courtyard. On one occasion, she ate sausage served by the Courtyard that tasted rotten,
22 and an hour later she started vomiting profusely. When she told the shelter director,
23 Doris Starling, that she got food poisoning, Doris denied that it was from food served at
24 the Courtyard.

25 150. In July 2019, after Ms. Lancaster complained to staff about the conditions, she
26 left the Courtyard. When she tried to come back, Ms. Starling, refused to let her back in,
27 and claimed the County had said Ms. Lancaster was not allowed back in the Courtyard.
28 However, when Ms. Lancaster checked with Juanita Presidio, a staff member from the

1 County, Ms. Presidio told her that it was up to Ms. Starling whether to let Ms. Lancaster
2 back in and it was not a decision the County made.

3 151. Ms. Lancaster does not have permanent housing, and will likely need to use
4 homeless shelters in Anaheim or Orange County again.

5 **F. PLAINTIFF CATHERINE MOORE**

6 152. In 2008, after the economic collapse, Ms. Moore and her husband lost their
7 jobs and their housing. They moved into an RV, and Ms. Moore started a ministry. In
8 2012, Ms. Moore and her husband divorced, he took the RV, and left her and her three
9 minor children homeless. She lived in encampments along the Santa Ana riverbed in
10 Orange County from 2012 until December 27, 2018, when she secured a spot in a new
11 temporary shelter called Anaheim Way. She moved from Anaheim Way to La Mesa in
12 March 2019.

13 153. While she was at La Mesa, the staff sexually harassed her in many ways,
14 including subjecting her to invasive body searches. Ms. Moore was also exposed to
15 dangerously unsafe and unsanitary living conditions at La Mesa. She was also harmed by
16 La Mesa's lock-in/shut-out policy.

17 154. The guards at La Mesa conducted extremely invasive searches of Ms. Moore.
18 Although staff did not search all residents, they would routinely demand to search Ms.
19 Moore from March to August 2019, even after she passed through a metal detector
20 without setting it off. These searches triggered trauma from her history of childhood
21 sexual abuse. Ms. Moore had to consent to searches as a condition of living in the
22 shelter – albeit coerced consent – since the alternative was eviction from the shelter onto
23 the street, where she risked arrest.

24 155. On two occasions in March and April of 2019, security guard Maria Alzcanar
25 asked to search Ms. Moore even though she had walked through the metal detector
26 without activating it. Both times, Alzcanar placed her open palms on Ms. Moore's hips
27 and waist and rubbed her hands all around Ms. Moore's waist by the belt line, and then
28 toward the front of her thighs near her private areas. On the third occasion, a different

1 security guard also engaged in a similar pat down.

2 156. On June 30, 2019, Ms. Moore was wearing close fitted spandex shorts and a
3 tank top. Nevertheless, staff conducted an intrusive search. There was no justifiable basis
4 for patting down body hugging clothes and bare skin.

5 157. When Ms. Moore objected and asked for the searches to stop, the La Mesa
6 staff told her “you don’t have to live here.” Alzcanar was employed by defendant
7 Protection America, Inc. at the time she searched Moore in the spring of 2019. La Mesa
8 later hired Alzcanar to be staff at the shelter.

9 158. Between March and August 2019, Ms. Moore repeatedly complained about
10 this treatment to the La Mesa management, and asked for the invasive searches to stop.

11 159. In late June 30, 2019, after Ms. Moore was written up for refusing a search,
12 she complained to staff member Recendiz about the invasive searches and the unfair write
13 up. Ms. Moore also filed a written grievance about the write up she received for refusing
14 to undergo a search. Recendiz threatened to evict her, stating “if you don’t like the
15 procedures, you can leave.” In or around September 23, 2019, Ms. Moore complained to
16 Paul Leon, the CEO of Illumination Foundation, about how La Mesa was treating female
17 residents. In or around October 7, 2019, La Mesa Director of Operations Jason Wofford
18 met with Ms. Moore about her complaints, and during the meeting he told her that if she
19 didn’t like the searches, she could leave. On information and belief, La Mesa refused to
20 take any action to stop these invasive searches and Ms. Moore was being threatened with
21 eviction for filing a complaint about sexual harassment.

22 160. Ms. Moore has filed a discrimination complaint with the California
23 Department of Fair Employment and Housing regarding these invasive searches. *See*
24 *Amended Complaint of Discrimination, Moore v. City of Anaheim*, No. 201910-07756401,
25 Cal. Dep’t of Fair Emp’t and Hous. (Jun. 24, 2020).

26 161. Staff member Recendiz repeatedly entered the women’s dorm to look at the
27 female residents while they were changing. On some days, he entered the women’s dorm
28 at least eight times without valid justification. He saw Ms. Moore naked at least four

1 times, and saw several other women naked.

2 162. Ms. Moore also suffered from the lock-in/shut-out policy. Due to La Mesa
3 not running enough shuttles for shelter residents who need to leave the shelter, Ms. Moore
4 has had to sit on another resident's lap at least two times in order to fit in the shelter
5 shuttle. She has also witnessed a resident sit in the cargo area – a space not meant for
6 seating. Due to the lock-in/shut-out policy, when Ms. Moore missed the last shuttle back
7 one evening, she had no choice but to sleep on the street. Ms. Moore had her bike with her
8 and could have biked back if that had been permitted.

9 163. The shelter conditions at La Mesa were unsanitary. Ms. Moore observed that
10 staff with long hair handled the food improperly, without hairnets or gloves. While at the
11 shelter, Ms. Moore was stricken with food poisoning and filed a complaint with the
12 county health department. She often found blood on the toilets and had to wipe them
13 down herself. The cleaning supply cabinet was often locked, and staff refused to unlock it
14 for her, so she was unable to clean her surroundings. There were also cockroaches and
15 rodents in the women's dorm. Ms. Moore brought up the substandard conditions to La
16 Mesa staff, including at "town hall" meetings held to elicit resident feedback on or around
17 April 5, 2019, August 1, 2019, and October 10, 2019. On information and belief, La Mesa
18 lacked a cleaning crew, and staff members cleaned only sporadically.

19 164. Ms. Moore does not have permanent housing, and will likely need to use
20 homeless shelters in Anaheim or Orange County again.

21 **G. PLAINTIFF CALLIE RUTTER**

22 165. Growing up, Ms. Rutter trained to be an Olympic equestrian. She worked at
23 a temp agency but struggled to pay her rent as she managed her epilepsy. In 2017, she lost
24 her housing. When she ran out of money, she moved into her car and parked in front of a
25 police station because it was the safest place to sleep. After living in her car for several
26 months, Ms. Rutter lived in a transitional program for several months.

27 166. Following the transitional program, Ms. Rutter lived at Bridges where she
28 was subjected to unsanitary and unhealthy living conditions. Since entering the shelter

1 system, she has been diagnosed with lung cancer and has undergone surgery, radiation,
2 and chemotherapy. The poor sanitary conditions at Bridges exacerbated her medical
3 condition and compromised her immune system. In addition, staff members and security
4 guards prevented Ms. Rutter from making phone calls in her car, which was parked in the
5 shelter parking lot, restricting her ability to communicate with her family in private.

6 167. When Ms. Rutter was living at Bridges, she suffered from the lock-in/shut-
7 out policy. In addition to preventing walk ups, the Bridges shelter did not allow people
8 who had cars to stay in their cars for more than twenty minutes while parked in the
9 shelter lot. Ms. Rutter would try to make private phone calls from her car, but guards
10 would tell her to make them from inside the shelter if she was taking more than twenty
11 minutes. The shelter limited her to one twenty-minute call per day from her car. This
12 policy isolated Ms. Rutter from family who could offer comfort and a break from her
13 isolation. Ms. Rutter complained to the shelter director about this limitation and never
14 received a response.

15 168. Ms. Rutter was receiving chemotherapy and radiation treatment for lung
16 cancer when she stayed at Bridges. She was often unable to get a warm shower to help
17 with the chills she got from the treatments – there was no hot water, and warm water was
18 limited at the shelter. There was often one-half inch of water covering the women’s
19 bathroom floor and the showers always had standing dirty water. The floors and walls of
20 the showers were covered in mildew and mold. As a result, Ms. Rutter sometimes
21 avoided showering altogether because the cold showers would make her feel sicker. On
22 information and belief, the shelter lacked a cleaning crew, and staff members cleaned only
23 sporadically.

24 169. When Ms. Rutter experienced nausea from her treatments, she sometimes
25 could not make it to the bathroom in time before she vomited. Staff refused to allow her
26 to have her own waste basket, which caused her to vomit on her own bed. Initially staff
27 would not even allow her to have cleaning products to help her clean up after herself
28 when she threw up unexpectedly. Even when she was able to make it to the bathroom,

1 she often had to wait because all the stalls were occupied as there were not enough toilets
2 for all the residents. One time when she was sick to her stomach from the cancer
3 treatment and the women’s bathroom stalls were all occupied, she tried to use a staff
4 bathroom in desperation. A male staff member tried to stop her. She explained that it was
5 an emergency and she was sick from the cancer treatment but he told her she would have
6 to wait. She pushed past him to use the bathroom and he continued to berate her when
7 she came out.

8 170. When Ms. Rutter lived at Bridges, she was constantly cold during the winter
9 because the shelter keeps the temperature at 63 degrees. People got sick so often that
10 residents gave a nickname to the cough that developed while living at Bridges: the
11 Kraemer cough. Ms. Rutter’s bed was also infested with bed bugs while living at the
12 shelter.

13 171. When Ms. Rutter lived at Bridges, the bathrooms were unsanitary. There
14 were not enough toilet stalls and showers for the residents. The shelter had about five
15 toilet stalls and six showers in the woman’s bathroom, and there were around 100 women
16 in the shelter. The conditions got worse at times because one or two of the showers were
17 often not working.

18 172. Ms. Rutter does not have permanent housing, and will likely need to use
19 homeless shelters in Anaheim or Orange County again.

20 **H. PLAINTIFF THIEN CHI (PATRICK) BUI**

21 173. Mr. Bui has a bachelor’s degree in computer science from the University of
22 California, Irvine and worked in computer development for 17 years. Mr. Bui lost his job
23 and ended up homeless.

24 174. Mr. Bui lived at the Courtyard shelter in 2019 and 2020, where he experienced
25 dangerous living conditions.

26 175. During the winter months, the residents were exposed to very harsh weather
27 conditions. Given the structure of the Courtyard, the lack of walls meant that the
28 residents were exposed to strong cold winds blowing through the shelter all night. Mr.

1 Bui would shiver the moment he came out from under his blanket due to the extreme cold.

2 176. Due to the unsanitary conditions, Mr. Bui developed red sores on his arms
3 from bed bug bites.

4 177. There are often not enough working showers or sinks for the residents.
5 Usually, only three out of the five sinks near the portable toilets worked. Although the
6 sinks have soap dispensers, they are often empty and staff fill them with the wrong kind
7 of soap (powdered rather than liquid), which makes them unusable. The Courtyard's nine
8 portable showers are often in a state of disrepair; at times, all the showers have been non-
9 operational for up to two weeks. Water sometimes comes out of the showerheads in a
10 trickle. Residents report black mold in the shower area and black water regularly seeping
11 from the bottom of the units. The staff uses sandbags to manage the leaking water. The
12 floors are always wet. Hot water works only intermittently, forcing people to take cold
13 showers for days or weeks at a time.

14 178. Mr. Bui was often unable to take a hot shower or properly clean himself. The
15 shelter limited times when residents could use the showers, and Mr. Bui often was unable
16 to shower, or had to choose between taking a shower and eating dinner. On one occasion,
17 Mr. Bui was taking a shower when a staff member suddenly rushed into the shower and
18 yelled that he was not allowed to be in the shower at the time. Since there were not
19 enough sinks, toilets, and showers for the residents, they often had to wait in line to use
20 them. The lines were so long that Bui often had to go somewhere else to find a public
21 bathroom to use.

22 179. Mr. Bui does not have permanent housing, and will likely need to use
23 homeless shelters in Anaheim or Orange County again.

24 **I. PLAINTIFF OMA'S ANGEL FOUNDATION**

25 180. Oma's Angel Foundation was founded to help unhoused persons with their
26 basic needs, build small homes, and provide social support to unhoused persons when
27 they are living on the street, or in hospitals and nursing homes. Heidemarie
28 Zimmermann, the founder of and primary volunteer at Oma's Angel Foundation, spends

1 about five to twenty hours a week donating her time to the work of Oma’s Angel
2 Foundation. After Defendants opened their shelters, Oma’s Angel Foundation had to
3 expend about 75 percent of its time and resources advocating for, and providing case
4 management to, homeless individuals who have been harmed by the practices, policies,
5 and conditions that gave rise to this case. For example, Oma’s Angel Foundation often
6 receives calls from shelter residents seeking help, refers them to civil rights attorneys or
7 other services they need as a result of the abuse they endure in the shelters, and follows up
8 with them to ensure that they receive assistance.

9 181. Addressing these individuals’ problems requires the organization to divert
10 resources away from its mission of providing for the basic needs of unhoused persons
11 living on the streets. From the time Defendants’ shelters opened, until recent evictions of
12 many shelter residents from Project Roomkey¹⁰ rooms, Oma’s Angel Foundation’s ability
13 to distribute food and other necessities, build small homes, and to spend time with
14 unhoused persons living outside or in hospitals and nursing homes, was drastically
15 reduced because so much of its time was spent helping homeless people who had been
16 unjustly evicted from shelters or who were dealing with abusive shelter conditions.¹¹
17 Shelters that were set up to supposedly help people have created so many problems for
18 their residents that Oma’s Angel Foundation cannot perform the work it was created to
19 do. Project Roomkey is winding down, and when it ends, Oma’s Angel Foundation
20 expects to go back to fielding shelter complaints.

23 ¹⁰ Project Roomkey is a program established by the California Department of Social
24 Services as part of California’s response to COVID-19. Project Roomkey provides non-
25 congregate shelter in hotel and motel rooms to unhoused persons who are sick or
26 medically vulnerable. *See Project Roomkey*, California Department of Social Services,
Angeles, [https://www.cdss.ca.gov/inforesources/cdss-programs/housing-
programs/project-roomkey](https://www.cdss.ca.gov/inforesources/cdss-programs/housing-programs/project-roomkey) (last visited Dec. 4, 2020).

27 ¹¹ While Project Roomkey is in effect, Oma’s Angel Foundation is spending much of its
28 time responding to unhoused persons who are experiencing problems with the Project
Roomkey program.

1 FIRST CAUSE OF ACTION

2 Disparate Treatment Discrimination Based on Sex: Hostile Environment Harassment
3 (California Employment and Fair Housing Act, Cal. Gov't Code § 12955 *et seq.*;
4 Cal. Code Regs. tit. 2, § 12120(a)(2))
5 **(Plaintiffs Kraft, Lancaster, Moore, Powitzky and Utzman Against Defendants County,
6 City, Midnight Mission, Illumination Foundation, and Protection America)**

7 182. Plaintiffs incorporate by reference the above allegations, as if set forth in full.

8 183. California's Fair Employment and Housing Act prohibits all providers of
9 housing accommodation – including homeless shelters – from harassing or discriminating
10 against any person because of the person's sex, gender, gender identity, gender
11 expression, sexual orientation, or marital status.

12 184. Providers of housing accommodations have a duty not just to refrain from
13 engaging in these unlawful practices, but also to ensure that their staff and other residents
14 do not engage in them or create a hostile environment.

15 185. This statute additionally prohibits otherwise making unavailable or denying
16 a dwelling based on discrimination because of sex, gender, gender identity, gender
17 expression, sexual orientation, or familial status.

18 186. The body searches that female residents were subjected to as a condition of
19 receiving shelter, which involved unwanted touching and exposure of their breasts; the
20 propositioning, leering, vulgar comments, groping, and unwanted sexual touching
21 suffered by female residents from staff; the staff condoning vulgar comments by other
22 residents towards female residents; and other conduct described above, constitute severe
23 or pervasive sexual harassment and discrimination based on sex.

24 187. Plaintiffs complained about or otherwise made clear that they objected to the
25 conduct described above, and staff continued to engage in or condone the unwelcomed
26 conduct.

27 188. Defendants' prior, current, and on-going harassing conduct described above
28 created a housing environment that was hostile, intimidating, offensive, oppressive, or
abusive.

1 189. Plaintiffs were harmed, and the searches and harassment were substantial
2 factors in causing this harm.

3
4 **SECOND CAUSE OF ACTION**

5 Disparate Treatment Discrimination Based on Sex: Quid Pro Quo Harassment
(California Employment and Fair Housing Act, Cal. Gov't Code § 12955 *et seq.*;
6 Cal. Code Regs. tit. 2, § 12120(a)(1)
7 **(Plaintiffs Kraft, Lancaster, Moore, Powitzky and Utzman Against Defendants County,
City, Midnight Mission, Illumination Foundation, and Protection America)**

8 190. Plaintiffs incorporate by reference the above allegations, as if set forth in full.

9 191. California's Fair Employment and Housing Act prohibits providers of
10 housing accommodations from conditioning the availability of those accommodations,
11 services, or facilities in connection with those accommodations, or avoidance of an adverse
12 action, on submission to an unwelcome request or demand to engage in conduct.

13 192. The invasive searches, propositioning, leering, vulgar comments, groping,
14 unwanted sexual touching, and other conduct described above, engaged in by
15 Defendants' staff and contractors, constitute quid pro sexual harassment and
16 discrimination based on sex. Plaintiffs were forced to endure this unwanted conduct as a
17 condition of living at La Mesa and the Courtyard. Ms. Moore and Ms. Utzman received
18 write ups when they complained of the harassment at La Mesa. Ms. Utzman was forced to
19 leave The Courtyard when she refused to allow a staff member to hug her.

20 193. Plaintiffs were harmed, and the searches and harassment were a substantial
21 factor in causing this harm.

22 **THIRD CAUSE OF ACTION**

23 Disparate Impact Discrimination Based on Sex
(California Employment and Fair Housing Act, Cal. Gov't Code § 12955 *et seq.*)
24 **(Plaintiffs Moore, Powitzky and Utzman Against Defendants City, Illumination
Foundation, and Protection America)**

25 194. Plaintiffs incorporate by reference the above allegations, as if set forth in full.

26 195. The searches conducted at La Mesa disproportionately impact women, in
27 violation of Cal. Gov't Code §§ 12955.1, 12955.8. La Mesa's use of pat down searches that
28

1 involve touching and exposing residents' breasts disproportionately impacts women,
2 whose private parts – their breasts – will be touched, patted, and exposed where searches
3 of men under similar circumstances do not result in such violations.

4 196. The non-consensual touching of residents' bodies created particular trauma
5 for survivors of past abusive nonconsensual touching, such as survivors of sexual abuse,
6 sexual assault, and intimate partner violence. Because women are disproportionately
7 survivors of sexual abuse, sexual assault and intimate partner violence, the search policies
8 which utilized non-consensual touching had a disparate impact on women residents.

9 197. There is no legally sufficient justification for the invasive searches; they were
10 not necessary to achieve an important purpose sufficiently compelling to override the
11 discriminatory effect; and there are feasible alternative practices that would equally or
12 better accomplish the policy's identified purpose with a less discriminatory effect.
13 Defendants failed to train their staff in proper search techniques, or employ less physically
14 invasive methods to search Plaintiffs. Defendants searched Plaintiffs repeatedly, even
15 when Plaintiffs had no opportunity to obtain contraband after a previous search.

16 198. Plaintiffs were harmed by these searches and the searches were a substantial
17 factor in causing the harm.

18 FOURTH CAUSE OF ACTION

19 Sex-Based Discrimination and Harassment (Cal. Gov't Code § 11135)
20 **(Plaintiffs Kraft, Lancaster, Moore, Powitzky and Utzman Against Defendants County,**
21 **City, Midnight Mission, and Illumination Foundation)**

22 199. Plaintiffs incorporate by reference the above allegations, as if set forth in full.

23 200. Government Code § 11135 prohibits any program or activity that receives any
24 financial assistance from the State from discriminating against or denying full and equal
25 access to any benefit to any person on the basis of sex.

26 201. The shelters at issue here receive financial assistance from the State, directly
27 and through the City and County. Accordingly, Defendants have violated and continue to
28 violate Cal. Gov't Code § 11135 and regulations promulgated thereunder.

1
2 **SIXTH CAUSE OF ACTION**

3 Sexual Battery (Cal. Civ. Code § 1708.5)
4 **(Plaintiffs Kraft, Lancaster, Moore, Powitzky and Utzman Against Defendants County, City, Midnight Mission, Illumination Foundation, and Protection America)**

5 211. Plaintiffs incorporate by reference the above allegations, as if set forth in full.

6 212. Defendants intended to cause a harmful or offensive contact with Plaintiffs'
7 intimate parts and a sexually offensive contact with Plaintiffs resulted, either directly or
8 indirectly.

9 213. The invasive body searches, non-consensual hugging and groping, and other
10 unwanted touching described above constitute sexual battery. Any alleged consent to
11 searches was only given to the extent consent was necessary for a standard screening
12 procedure, and any screening procedures that exceeded this standard exceeded the scope
13 of the alleged consent. Any purported consent for the invasive searches was coerced as a
14 condition of staying in the shelter.

15 214. Plaintiffs were harmed or offended by Defendants' searches and other
16 unwanted touching and a reasonable person in Plaintiffs' situation would have been
17 harmed or offended by the touching.

18 **SEVENTH CAUSE OF ACTION**

19 Common Law Battery
20 **(Plaintiffs Kraft, Lancaster, Moore, Powitzky and Utzman Against Defendants County, City, Midnight Mission, Illumination Foundation, and Protection America)**

21
22 215. Plaintiffs incorporate by reference the above allegations, as if set forth in full.

23 216. Defendants intentionally touched Plaintiffs or caused them to be touched.

24 217. The invasive searches and other unwanted touching described above
25 constitute battery. Any alleged consent for searches was only given to the extent consent
26 was necessary for a standard screening procedure, and any screening procedures that
27 exceeded this standard exceeded the scope of the alleged consent. Any purported consent
28 for the invasive searches was coerced as a condition of staying in the shelter.

1 government for redress of grievances.

2 226. Governmental, and in some cases private entities, that restrict this speech and
3 petitioning or retaliate against people because of their speech violate these protections.

4 227. The retaliation against residents for complaining about sex discrimination
5 and shelter conditions and rules denies these individuals violates the Liberty of Speech
6 and petition clauses.

7 228. Any purportedly legitimate reasons offered by Defendants to justify their
8 denial of housing rights to Plaintiffs was pre-textual.

9
10 **TENTH CAUSE OF ACTION**

11 Due Process (Cal. Const., art. I § 7)
12 **(Plaintiffs Moore, Powitzky, Rutter, Utzman, and Oma’s Angel Foundation against
13 Defendants County, City)**

14 229. Plaintiffs incorporate by reference the above allegations, as if set forth in full.

15 230. The California constitution protects the right to intrastate travel, including the
16 right to travel freely within a city.

17 231. The limitations on shelter residents’ travel created by the Lock-in/Shut-out
18 Policy – the prohibition on their leaving or entering the shelter by foot or on bicycle – is a
19 direct and unjustified restriction of this right.

20 232. Defendants County and City are ultimately responsible for these policies; the
21 private defendants enforce them as agents of these governments.

22 233. Plaintiffs were harmed, and these policies were a substantial factor in causing
23 Plaintiffs’ harm.

24 **ELEVENTH CAUSE OF ACTION**

25 Equal Protection (Cal. Const., art. I § 7)
26 **(Plaintiffs Moore, Powitzky, Rutter, Utzman and Oma’s Angel Foundation against
27 Defendants County, City)**

28 234. Plaintiffs incorporate by reference the above allegations, as if set forth in full.

235. The California right to equal protection prohibits the government, and those
acting in concert with it, from discriminating against individuals and groups based on

1 unjustified stereotypes. Housed persons living or transacting business in the vicinity of La
2 Mesa and Bridges are permitted to walk on the sidewalks or use bicycles.

3 236. The limitations on shelter residents' travel created by the Lock-in/Shut-out
4 Policy – the prohibition on their leaving or entering the shelter by foot or on bicycle – is
5 unjustified and is based purely on unjustified stereotypes about and animus towards
6 homeless people.

7 **TWELFTH CAUSE OF ACTION**

8 **Breach of Implied Warranty of Habitability**
9 **(All Plaintiffs Against Defendants County, City, Illumination Foundation, Midnight**
10 **Mission, and Mercy House Living Centers)**

11 237. Plaintiffs incorporate herein by reference the above allegations and Counts(s),
12 as if set forth in full.

13 238. Defendants have statutory and common-law duties to ensure that their
14 facilities are sanitary and fit for human habitation. *See, e.g.*, Cal. Civ. Code § 1941; Cal.
15 Health & Safety Code § 17920.3; Cal. Code Regs. tit. 25, §§ 34, 7959(f), 8417; Orange
16 County, Cal., Municipal Code § 7-9-148.8.(d)(7) (2013) (In effect during relevant time
17 period) and Anaheim, Cal., Municipal Code §§ 18.38.125.0404-0405; 18.38.125.1101-1102
18 (2012) (In effect during relevant time period). These duties run both to the residents of
19 these facilities but also to the government agencies that finance them and, ultimately, to
20 the people and to the taxpayers.

21 239. Plaintiffs are the intended third-party beneficiaries of the contracts between
22 Defendant City and Illumination Foundation and between County and Midnight Mission
23 and Mercy House Living Centers.

24 240. There was an implied-in-fact contract between Illumination Foundation and
25 Plaintiffs Utzman, Moore and Powitzky that the Plaintiffs would agree to certain
26 conditions in return for Illumination Foundation providing habitable shelter. There was
27 an implied-in-fact contract between Midnight Mission and Plaintiffs Utzman, Bui,
28 Lancaster, and Kraft that Plaintiffs would agree to certain conditions in return for
Midnight Mission providing habitable shelter. There was an implied-in-fact contract

1 between Mercy House Living Centers and Plaintiffs Utzman, Ogle and Rutter that
2 Plaintiffs would agree to certain conditions in return for Mercy House Living Centers
3 providing habitable shelter.

4 241. All Defendants knew or should have known about the substandard
5 conditions at La Mesa, Bridges, and the Courtyard. Defendants were given a reasonable
6 time to correct these conditions and failed to do so.

7 242. Defendants have failed to comply with their duties under the law, resulting
8 in the conditions described above. This failure has resulted in physical and mental injuries
9 to plaintiffs Patrick Bui, Deborah Kraft, Jordynne Lancaster, Catherine Moore, Joshua
10 Ogle, Wendy Powitzky, Callie Rutter, and Cyndi Utzman. Defendants' failure to comply
11 with these duties has also harmed Plaintiff Oma's Angel Foundation, by diverting
12 resources from its mission, and forcing it to assist shelter residents harmed by Defendants'
13 unsanitary conditions and violations of residents' rights.

14 243. Defendants have failed to provide an adequate number of working showers,
15 sinks, and toilets, and failed to maintain the ones they do provide.

16 244. During the relevant periods at issue in this case, the County required that
17 shelters provide one toilet and one shower for every ten beds. Orange County, Cal.,
18 Municipal Code § 7-9-148.8.(d)(7) (2013). During the times that Plaintiffs resided at La
19 Mesa, the City required shelters to have to have a minimum of one toilet for every eight
20 beds per gender and a minimum of one shower per every eight beds per gender.
21 Anaheim, Cal., Municipal Code §§ 18.38.125.0404-0405; 18.38.125.1101-1102 (2012).

22 245. The Courtyard has 430 beds but provides only 16 toilets and 9 showers.

23 246. Bridges has 200 beds but provides only 11 toilets and 6 urinals and not all of
24 them are functional.

25 247. La Mesa has 102 beds but rarely has 10 functioning toilets and 10 functioning
26 showers that are clean enough to use safely.

27 248. Although because of the COVID-19 emergency, these shelters are not
28 currently using all of their beds, they will do so when the emergency is over, as they

1 previously did.

2 **THIRTEENTH CAUSE OF ACTION**

3 Common Law Negligence
4 **(All Plaintiffs Against All Defendants except as limited below
for violations of Cal. Civ. Code § 1714)**

5 249. Plaintiffs incorporate herein by reference the above allegations and Counts(s),
6 as if set forth in full.

7 250. Defendants have statutory and common-law duties to maintain their facilities
8 so that they are sanitary and fit for human habitation, and to ensure that their employees
9 and contractors do not take actions that violate residents' rights.

10 **Defendants Committed Negligence Per Se**

11 251. All Defendants violated numerous statutes, including but not limited to Cal.
12 Civil Code § 1941, Cal. Gov't §§ 12955 *et. seq.*; Cal. Health & Safety Code § 17920.3, Cal.
13 Code Regs. tit. 25, §§ 34, 8417, Orange County, Cal., Municipal Code § 7-9-148.8.(d)(7)
14 (2013) and Anaheim Municipal Code §§ 18.38.125.0404-0405; 18.38.125.1101-1102 (2012).
15 These statutes were meant to protect persons like Plaintiffs.

16 252. Defendants Illumination Foundation, Midnight Mission, & Mercy House
17 Living Centers violated Civil Code § 1714. This statute was meant to protect persons like
18 Plaintiffs.

19 253. Defendants have failed to comply with these duties, resulting in the sexual
20 harassment and conditions described above. This failure has resulted in physical and
21 mental injuries to plaintiffs Patrick Bui, Deborah Kraft, Jordynne Lancaster, Catherine
22 Moore, Joshua Ogle, Wendy Powitzky, Callie Rutter, and Cyndi Utzman. Defendants'
23 failure to comply with these duties has also harmed Plaintiff Oma's Angel Foundation, by
24 diverting resources from its mission, and forcing it to assist shelter residents harmed by
25 Defendants' unsanitary conditions and violations of residents' rights.

26 254. Defendants' negligence was a substantial factor in causing Plaintiffs' harm.

27 255. Defendants' conduct in tortiously breaching their duty to maintain their
28

1 shelters in habitable conditions, free of discrimination, has been grossly negligent.

2
3 **FOURTEENTH CAUSE OF ACTION**

4 **Unlawful Expenditure of Public Funds (Cal. Civ. Proc. Code § 526a)**
5 **(All Plaintiffs against Defendant County and Plaintiffs Moore, Ogle, Utzman,**
6 **Powitzky, Kraft, Lancaster, and Oma’s Angel Foundation against Defendant City)**

7 256. Plaintiffs incorporate herein by reference the above allegations and Counts(s),
8 as if set forth in full.

9 257. Plaintiffs have been assessed and have paid taxes that fund these Defendants
10 within one year before the commencement of this action.

11 258. Defendants are and will be expending public funds by paying the shelters at
12 issue to house homeless people, and paying the salaries of peace officers and others who
13 enforce anti-camping and other laws against homeless individuals who decline to stay at
14 the shelters.

15 259. For the reasons described in the previous Counts, these expenditures of
16 public funds on shelters that violate the law, and on the County and City’s violations of
17 the law, are illegal expenditures of, waste of, or injury to public funds and property, and
18 therefore those illegal shelter policies and practices should be enjoined and declared
19 unlawful under Code of Civil Procedure § 526a and the common law.

20 **RELIEF REQUESTED**

21 Therefore, Plaintiffs ask the Court for the following:

22 1. That the Court issue a declaration, a writ of mandate, and an injunction
23 prohibiting Defendants from engaging in the unlawful conduct described above.

24 2. That the Court award damages and any applicable penalties for the acts
25 described above, including punitive damages.

26 3. That Plaintiffs be awarded attorneys’ fees and costs under Civil Code § 51.9,
27 Code of Civil Procedure § 1021.5, Government Code § 12965, and any other applicable
28 law.

4. Such other and further relief as the Court deems proper and just.

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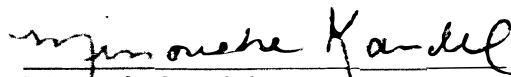
DEMAND FOR JURY TRIAL

Plaintiffs demand trial by jury on all claims and causes of action so triable.

DATED: December 10, 2020

Respectfully submitted,

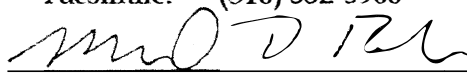
ACLU FOUNDATION OF SOUTHERN CALIFORNIA



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Attorneys for Plaintiffs

VERIFICATION

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2
3 I, Heidemarie Zimmermann, am the President of Oma's Angel Foundation and
4 authorized to verify this Petition as an officer. I have read the foregoing Verified Petition
5 for Writ of Mandate and Complaint in Utzman et al v. County of Orange et al and know
6 its contents. I am informed and believe and on that ground allege that the matters stated
7 in the foregoing document are true.

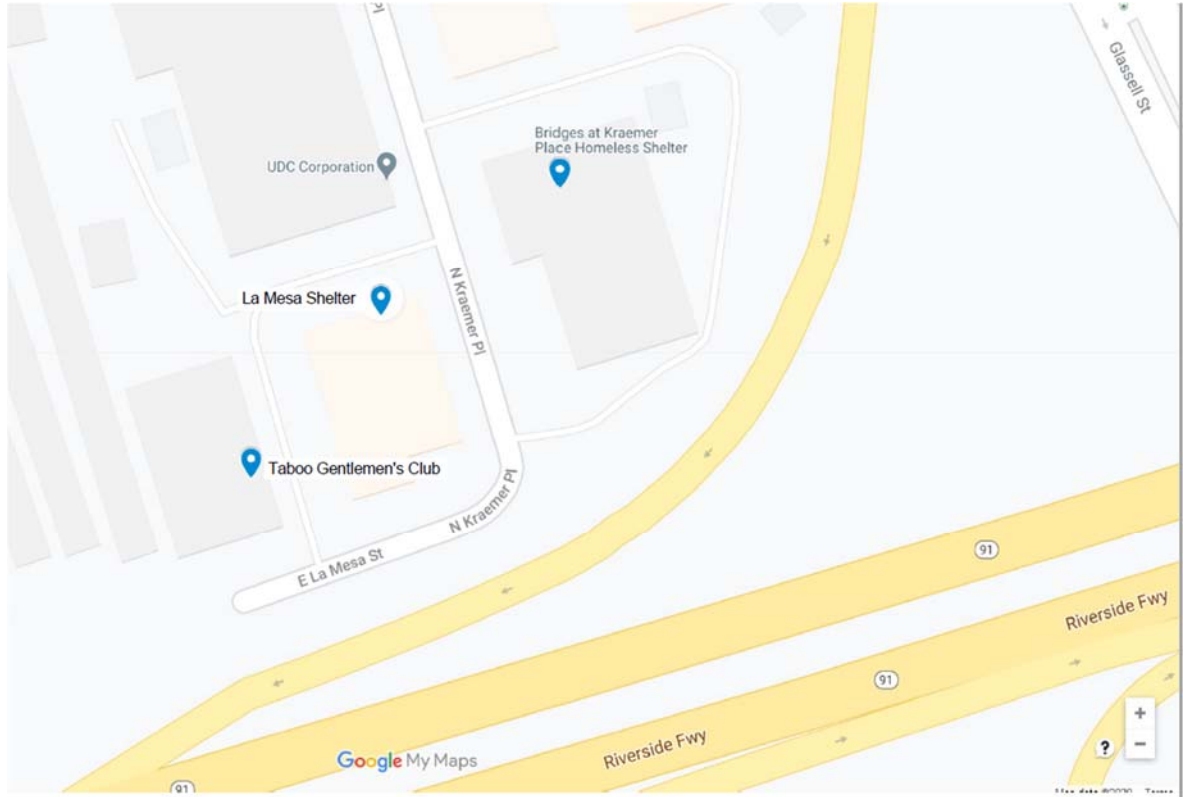
8 I declare under penalty of perjury under the laws of the State of California that the
9 foregoing is true and correct.

10
11 DATED: December 10, 2020

Heidemarie Zimmermann
Heidemarie Zimmermann

APPENDIX A

Map Showing Location of La Mesa Shelter and Bridges at Kraemer Place



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APPENDIX B

Temperature Reading From Inside the Courtyard on July 7, 2018



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Temperature Reading From inside the Courtyard on December 31, 2018



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APPENDIX C

Photograph of portable toilet at The Courtyard taken December 17, 2018



Photograph of portable toilet at The Courtyard taken July 30, 2018

