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14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

15 **COUNTY OF ORANGE**

16 CYNDI UTZMAN, DEBORAH KRAFT,  
17 WENDY POWITZKY, PORCELAIN  
18 OGLE, WOLF OGLE, LION OGLE AND  
19 BROOKLYN OGLE as successors in  
20 interest to JOSHUA OGLE,  
21 JORDYNNE LANCASTER,  
22 CATHERINE MOORE, CALLIE  
23 RUTTER, THIEN CHI BUI, JESS  
24 MARTINEZ, FRANK HOGAN, & OMA'S  
25 ANGEL FOUNDATION,

26 Plaintiffs,

27 v.

28 COUNTY OF ORANGE, CITY OF  
ANAHEIM, ILLUMINATION  
FOUNDATION, MIDNIGHT MISSION,  
MERCY HOUSE LIVING CENTERS &  
PROTECTION AMERICA, INC.

Defendants.

Case No. 30-2020-01174005-CU-CR-CXC

Assigned for all purposes to:  
The Hon. Randall J. Sherman, Dept. CX105

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

**JURY TRIAL DEMAND**

**[RELATED TO ROA #514 AND #410]**

Complaint filed: December 10, 2020  
Trial Date: None set

1  
2 **INTRODUCTION**

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

11 2. But many shelters owned, funded, or operated by County, Anaheim,  
12 Midnight Mission, Mercy House Living Centers (“Mercy House”), and Illumination  
13 Foundation have or had policies, practices, and conditions that violate the fundamental  
14 constitutional and statutory rights of their residents. The following shelters continue to  
15 implement the harmful policies outlined below: Bridges at Kraemer Place (“Bridges”)  
16 (funded by County and operated by Mercy House); the Yale Navigation Center (“Yale”)  
17 (funded by County); the Anaheim Emergency Shelter (funded by Anaheim); the Santa  
18 Ana Navigation Center (operated by Illumination Foundation); and the Fullerton  
19 Navigation Center (operated by Illumination Foundation). Anaheim previously funded  
20 the La Mesa Shelter (“La Mesa”), which was operated by Illumination Foundation.  
21 County previously funded the Courtyard Transitional Center (“Courtyard”), which was  
22 operated by Midnight Mission. La Mesa and Courtyard are no longer operational but had  
23 policies, practices, and conditions that violated the fundamental constitutional and  
24 statutory rights of their residents.

25 3. Staff and contractors working at Courtyard and La Mesa subjected residents  
26 to relentless sexual harassment, such as verbal harassment and propositioning, improper  
27 touching, and invasive strip searches in full view of other staff and residents. County and  
28

1 Anaheim were aware of these actions and failed to properly supervise these shelters.

2 4. In addition, La Mesa, Bridges, Yale, the Fullerton Navigation Center, the  
3 Santa Ana Navigation Center, and Anaheim Emergency Shelter impose or imposed an  
4 unreasonable and harmful “lock-in/shut-out” policy, where shelter residents are required  
5 to approach and leave the shelters only in a vehicle. The effect of this policy is that the  
6 shelter residents are prevented from leaving or returning to the shelters unless they have  
7 the money for, or access to, a vehicle. Otherwise, shelter residents have to wait for one of  
8 the infrequent shelter shuttles that can accommodate only a fraction of the resident  
9 population. The practical impact of this policy, which has no legitimate purpose, is to  
10 make it difficult or impossible for shelter residents to move freely to or from the shelter,  
11 such as for attending work in order to earn the income necessary to get back on their feet.

12 5. Compounding these civil rights abuses, all of the shelters maintain or  
13 maintained such filthy and unhealthy living conditions that they endangered the health  
14 and safety of residents. Examples include rodent, bedbug, and roach infestations; filthy or  
15 broken toilets, sinks, and showers; overcrowding; and extreme temperatures. Residents  
16 who complain about these unlawful practices or dangerous conditions face retaliation,  
17 including loss of shelter access.

18 6. Shelter residents, some of the most vulnerable people in our society, are  
19 forced to choose between living in these inhumane conditions or living on the street,  
20 where they risk arrest, theft, violence, and prosecution for sleeping outdoors, or worse.  
21 Moreover, unhoused residents frequently cycle in and out of shelters and may stay at  
22 several shelters over a period of years. Some unhoused persons, including Plaintiffs  
23 Wendy Powitzky and Patrick Hogan, have indicated that they are unwilling to stay at the  
24 named shelters due to the living conditions and policies at the shelters. Oma’s Angel  
25 Foundation continues to receive and respond to complaints from unhoused residents  
26 about the lock-in/shut out policies and other shelter conditions at shelters funded by the  
27 County or run by Mercy House Living Centers. While specific shelter locations may open  
28

1 and close, Anaheim and County routinely fund shelters that have inhumane conditions  
2 and policies that harm shelter residents, and require that these shelters impose the lock-  
3 in/shut out policy.

4 7. A 2019 report by the ACLU Foundation of Southern California, entitled “*This*  
5 *Place is Slowly Killing Me: Abuse and Neglect in Orange County Emergency Shelters*” (the  
6 “ACLU Report”), documents many of Defendants’ violations and was compiled from  
7 attorney visits to the shelters and more than 70 interviews with residents, staff members,  
8 and shelter volunteers at three facilities, including Defendants’ shelters, Courtyard in  
9 Santa Ana, and Bridges in Anaheim.<sup>1</sup> Since the ACLU Report’s publication four years ago,  
10 Defendants have ignored the serious problems documented therein.

11 8. Because Defendants’ policies and practices violate the constitutional and  
12 statutory rights of shelter residents, Plaintiffs bring this suit for equitable relief and  
13 damages.

14 **THE PARTIES<sup>2</sup>**

15 9. Plaintiff Cyndi Utzman has lived in Orange County for thirty years. Ms.  
16 Utzman resided at Bridges from August to October 2018. She lived at Courtyard from  
17 November 2018 to February 2019, and she lived at La Mesa from September 2019 to May  
18 2020.

19 10. Plaintiff Deborah Kraft grew up in Marin County. She has a master’s degree  
20 in psychology and worked in marketing for over thirty years. Ms. Kraft lived at  
21 Courtyard from October 2016 to October 2018.

22 11. Plaintiff Wendy Powitzky has lived in Orange County for over twenty years  
23 and worked as a hairdresser. Ms. Powitzky lived at La Mesa from July 2019 to March  
24 2020. Ms. Powitzky remains unhoused. Despite being unsheltered, she refuses to live in

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25 <sup>1</sup> See ACLU Foundation of Southern California, “*This Place is Slowly Killing Me.*” *Abuse and*  
26 *Neglect in Orange County Emergency Shelters* (2019),  
27 [https://www.aclusocal.org/sites/default/files/aclu\\_socal\\_oc\\_shelters\\_report.pdf](https://www.aclusocal.org/sites/default/files/aclu_socal_oc_shelters_report.pdf).

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

1 any homeless shelter in Orange County that maintains and enforces the harmful policies  
2 and practices that she experienced as a resident at La Mesa, including the lock-in/shut out  
3 policy.

4 12. Plaintiff Joshua Ogle lived in Orange County for his entire life. Mr. Ogle  
5 lived at Bridges from August 2018 to November 2019. Mr. Ogle passed away in 2021. His  
6 four minor children, Porcelain Ogle, Wolf Ogle, Lion Ogle and Brooklyn Ogle, have been  
7 appointed as successors in interest in this litigation.

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

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

12 15. Plaintiff Callie Rutter grew up in Newport Beach and has lived in Orange  
13 County for most of her life. Ms. Rutter lived at Bridges from March 2019 to February 2020.

14 16. Plaintiff Thien Chi ("Patrick") Bui has lived in Orange County since he  
15 moved there during high school. Mr. Bui lived at Courtyard from June 2019 to January  
16 2020, and he lived at Bridges from April 2021 to December 2022.

17 17. Plaintiff Patrick Hogan lived at Bridges in May 2018. Mr. Hogan performs  
18 volunteer work and conducts advocacy to support homeless individuals. Despite being  
19 unsheltered, Mr. Hogan refuses to live at Bridges, or any homeless shelter that implements  
20 the lock-in/shut-out policy.

21 18. Plaintiff Jess Martinez is a veteran, having served in the Army and National  
22 guard, and has lived at Bridges since September 2023.

23 19. Plaintiff Oma's Angel Foundation is a nonprofit corporation located in  
24 Anaheim that seeks to foster the survival, health, and well-being of unhoused persons  
25 living in shelters, nursing homes, and other institutions in Orange County. Oma's Angel  
26 Foundation has been operating in Orange County since 2013. It was established before  
27 there were any permanent shelters in Orange County. Oma's Angel Foundation  
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1 distributes food, clothing, tents, and other basic necessities to unhoused persons in Orange  
2 County.

3 20. Ms. Utzman, Ms. Kraft, Ms. Powitzky, Mr. Ogle, Ms. Lancaster, Ms. Moore,  
4 Ms. Rutter, Mr. Hogan, Mr. Martinez, and Mr. Bui all resided in Orange County and paid  
5 taxes, including sales taxes, to County in 2020, within one year of commencing this action.

6 21. Ms. Moore, Ms. Lancaster, Ms. Powitzky, and Oma’s Angel Foundation  
7 reside in Anaheim and have paid taxes, including sales taxes and Anaheim’s transient  
8 occupancy tax, to Anaheim in 2020, within one year of commencing this action. Mr.  
9 Martinez resides in Anaheim and has paid taxes, including sales taxes and Anaheim’s  
10 transient occupancy, to Anaheim in 2023, within one year of filing this Third Amended  
11 Complaint.

12 22. Ms. Utzman, Mr. Ogle, and Ms. Kraft resided in Anaheim, California, and  
13 paid taxes, including Anaheim’s transient occupancy tax, to Anaheim within one year of  
14 commencing this action.

15 23. Defendant County of Orange is a political subdivision of the State of  
16 California (the “State”). It pays or paid Defendants Midnight Mission and Mercy House  
17 to operate Courtyard and Bridges. County also pays People Assisting The Homeless  
18 (“PATH”) to operate the Yale Navigation Center (“Yale”). County also pays or paid  
19 Illumination Foundation to operate Fullerton Navigation Center. County receives funding  
20 from the State, including funding that it uses to pay the shelters to operate. Bridges, Yale  
21 and the Fullerton Navigation Center currently impose the lock-in/shut out policy.

22 24. Defendant City of Anaheim is a California municipal corporation located  
23 within Orange County. It paid Defendant Illumination Foundation to operate the La Mesa  
24 shelter. Anaheim pays the Salvation Army Orange County (“Salvation Army”) to operate  
25 the Anaheim Emergency Shelter. Anaheim Emergency Shelter currently imposes the lock-  
26 in/shut out policy. Anaheim receives funding from the State, including funding that it  
27 used to pay the shelter to operate.

1 25. Defendant Illumination Foundation is a non-profit corporation that operated  
2 La Mesa under a contract with Anaheim. Illumination Foundation operates the Fullerton  
3 Navigation Center under a contract with the city of Fullerton; and for at least some period  
4 during 2020-2021, under a contract with County.<sup>3</sup> Illumination Foundation also operates  
5 the Santa Ana Navigation Center under a contract with the City of Santa Ana.

6 Illumination Foundation received funding from the State, including funding it used or  
7 uses to operate La Mesa, the Fullerton Navigation Center, and the Santa Ana Navigation  
8 Center.

9 26. Defendant Midnight Mission is a non-profit corporation that operated  
10 Courtyard under a contract with County. It received funding from the State, including  
11 from the California Department of Resources Recycling and Recovery, which it used to  
12 operate this shelter.

13 27. Defendant Mercy House Living Centers is a non-profit corporation that  
14 operates Bridges under a contract with County. It receives funding from the State,  
15 including funding that it uses to operate this shelter.

16 28. Defendant Protection America, Inc. is a for-profit corporation based in Los  
17 Angeles, California, which specializes in providing security guard and patrol security  
18 services, including at homeless shelters. Protection America, Inc. provided security  
19 services at La Mesa when at least one of the Plaintiffs resided there.

## 20 JURISDICTION AND VENUE

21 29. This Court has jurisdiction under Article VI Section 10 of the California  
22 Constitution.

23 \_\_\_\_\_  
24 <sup>3</sup> See Community, *Navigation Center for Homeless Opens in Fullerton*, FULLERTON OBSERVER, Aug. 22, 2020, <https://fullertonobserver.com/2020/08/22/navigation-center-for-homeless-opens-in-fullerton/> (last accessed December 4, 2023); See David Goodkind, *City Council Moves Forward With Funding for Homeless Navigation Center*, DAILY TITAN, Nov. 18, 2021, [https://dailytitan.com/news/local/city-council-moves-forward-with-funding-for-homeless-navigation-center/article\\_ea2915de-47fe-11ec-a74b-23e640227b28.html](https://dailytitan.com/news/local/city-council-moves-forward-with-funding-for-homeless-navigation-center/article_ea2915de-47fe-11ec-a74b-23e640227b28.html) (last accessed December 4, 2023).

1           30.     Venue is proper in this Court: the Defendants reside in, and the acts and  
2 omissions complained of herein occurred in, Orange County. *See* Civ. Proc. Code  
3 §§ 393(b), 394, 395(a).

4                                 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

5           31.     Plaintiffs have exhausted all required administrative remedies, including the  
6 following claims filed under the Government Claims Act, Gov't Code § 900 *et seq.*

7           32.     Catherine Moore filed a claim with Anaheim on November 8, 2019,  
8 requesting damages for the invasive body searches conducted by the staff at La Mesa from  
9 April of that year until the date of her claim, as well as for the staff's retaliation against her  
10 for complaining about these searches.

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

15           34.     On October 14, 2020, Cyndi Utzman filed a claim against Anaheim on behalf  
16 of herself and other similarly situated persons. This claim requested damages for the  
17 invasive body searches conducted by the staff at La Mesa, for sexual harassment by staff  
18 and residents, and for the staff's retaliation against her for complaining about this  
19 mistreatment, all of which occurred on a continuing basis from September 2019 to May  
20 2020. This claim also requested damages, during the same time period, for losses caused  
21 by the lock-in/shut-out policy.

22           35.     Anaheim never responded to any of these claims.

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

24           36.     In early 2018, a number of organizations and individuals sued County,  
25 Anaheim, and other municipal defendants, alleging that those defendants violated state  
26 and federal law by enforcing trespass, loitering, and anti-camping laws against people  
27 experiencing homelessness where there were no accessible and appropriate beds or  
28



1 housing available to them in Orange County. *See Catholic Worker v. County of Orange*, No.  
2 8:18-cv-00155-DOC-JDE (C.D. Cal., Filed Jan. 29, 2018); *Ramirez v. County of Orange*, No.  
3 8:18-cv-00220-DOC-KES (C.D. Cal., Filed Feb. 7, 2018).

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

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

21 39. In fact, 33 of the 34 cities located in Orange County have similar laws that  
22 essentially criminalize homelessness. *See* ACLU Foundation of Southern California,  
23 *Nowhere to Live: The Homeless Crisis in Orange County & How to End It* 24-25 (2016),  
24 [https://www.aclusocal.org/sites/default/files/field\\_documents/nowhere-to-live-aclu-](https://www.aclusocal.org/sites/default/files/field_documents/nowhere-to-live-aclu-socal-report.pdf)  
25 [socal-report.pdf](https://www.aclusocal.org/sites/default/files/field_documents/nowhere-to-live-aclu-socal-report.pdf); Theresa Walker and Jordan Graham, *What's next for the Santa Ana River*  
26 *Trail homeless encampments*, Orange County Register, Feb. 12, 2018. The net effect of these  
27 ordinances and settlements is that County residents who cannot afford or otherwise obtain  
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1 private housing must accept a shelter placement, agree to leave the jurisdiction, or face  
2 arrest and prosecution for being homeless.

3 40. County and Anaheim contract with private organizations to run shelters in  
4 order to provide available shelter placements and enforce their anti-camping laws. These  
5 shelters thus provide an essential state function. Further, County and Anaheim work  
6 jointly with these shelters to enforce and implement the lock-in/shut out policy. County  
7 and Anaheim's failure to properly supervise the now-closed shelters they previously  
8 funded is an issue capable of repetition at other shelters they currently fund and/or  
9 shelters they will fund in the future. This includes failure to investigate known and  
10 repeated complaints of sexual harassment, civil rights and habitability violations, failure  
11 to reprimand responsible parties, and failure to take action to prevent known and ongoing  
12 harms. Instead, County and Anaheim continue to contract with and fund the contractors  
13 responsible for these harms or contractors who may engage in similar harms without  
14 proper supervision, and continue to require the lock-in/shut out policy that violate the  
15 rights of shelter residents.

16 **I. THE SHELTER PROVIDERS**

17 **A. MIDNIGHT MISSION**

18 41. County paid, and had contracts with, Defendant Midnight Mission to run  
19 Courtyard. County relied on the existence of Courtyard in order to enforce its anti-  
20 camping and anti-loitering ordinances against unhoused persons living outside in Orange  
21 County. See Settlement Agreement ¶¶ 4.1-4.2, *Catholic Worker v. County of Orange*, No.  
22 8:18-cv-00155-DOC-JDE (C.D. Cal. Jul. 23, 2019), ECF No. 318-1. Courtyard fulfilled a  
23 necessary state function for County, as set forth in the contract between County and  
24 Midnight Mission: "The PROGRAM will meet the COUNTY's need to provide emergency  
25 shelter with showers, food and supportive services for the homeless population." Fourth  
26 Amendment, Contract #17-23-0036-PS between County of Orange and The Midnight  
27 Mission for Courtyard Transitional Services ("Contract") at 8. The contract required  
28

1 Midnight Mission to provide up to 425 beds as well as drop-in services for 400 to 750  
2 persons. *Id.* at 8.

3 42. Courtyard operated at a County-owned building, the former Santa Ana  
4 Transit Terminal, at 400 West Santa Ana Boulevard in Santa Ana. The shelter was located  
5 in downtown Santa Ana, near City Hall and across from the County Hall of  
6 Administration. County’s licensing agreement with Midnight Mission provided that  
7 County is responsible for “all maintenance and repairs” and for “provision of and  
8 maintenance and cleaning of portable restrooms and shower facilities.” 2016 License  
9 Summary between County of Orange and The Midnight Mission for the Courtyard  
10 Transitional Center, at 2.

11 43. Courtyard was an old, open-sided former bus terminal with plastic tarpaulins  
12 erected around its perimeter as a windbreak. It had no heating or air conditioning except  
13 in a single, closed-off room (i.e., the only indoor space) reserved for staff members. It  
14 could be blistering in the summer and frigid in the winter. Water seeped – and sometimes  
15 poured – into the shelter during downpours, soaking residents and their belongings.

16 44. The contract required Midnight Mission to “[w]ork in partnership with the  
17 County of Orange/OCCR to be a ‘Good Neighbor’ . . . and to work closely with city/local  
18 government to minimize the impact of the program on the surrounding neighborhood.”  
19 Contract at 8.

20 45. The contract additionally required Midnight Mission to “[s]ubmit policies  
21 and procedures for PROGRAM including but not limited to all aspects of services,  
22 management plan, staff responsibilities and staff coordination” to County and to  
23 “[c]oordinate” with a number of County agencies and services. *Id.*

24 46. The contract required that “[s]ecurity is in place 24 hours a day, 7 days a  
25 week.” *Id.* at 11.

26 47. The contract’s staffing plan provided for three full-time security guards, five  
27 part-time security guards, eight part-time in-reach security back-up guards, three part-

1 time security guard supervisors, three full-time security guard supervisors, and one part-  
2 time security exec supervisor.

3 48. Courtyard security and shelter staff were authorized to inspect residents  
4 and/or their belongings at any time for prohibited items. Courtyard security was also  
5 authorized to check all resident bags at the Front Entrance Security Station.

6 49. Residents at Courtyard were required to agree to and sign the Courtyard  
7 Resident Expectation and Rules as a condition of living at the shelter.

8 50. Midnight Mission knew or should have known about any habitability issues  
9 at Courtyard because it had staff onsite at the shelter who would have observed these  
10 conditions first-hand. Midnight Mission knew or should have known about the sexual  
11 harassment at the shelter because their own staff perpetrated the harassment and other  
12 staff observed the harassment. Midnight Mission also knew about the harassment and  
13 substandard conditions because its site manager retaliated against Ms. Utzman after the  
14 ACLU Report, which described these issues, came out, and accused her of being a “spy.”

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

23 52. Despite numerous resident complaints, the ACLU Report, and the meeting  
24 with County staff, Defendants County and Midnight Mission failed to address the  
25 unlawful conditions at Courtyard. County failed to adequately supervise its contractors  
26 providing services at Courtyard. County had notice of the unlawful acts of its contractors  
27 at Courtyard. Yet, County failed to properly investigate known complaints, failed to  
28

1 reprimand the responsible parties, and failed to prevent these known and ongoing harms.

2 53. The Courtyard closed in February 2021.

3 **B. MERCY HOUSE**

4 54. County pays Defendant Mercy House to run Bridges, located at 1000 N.  
5 Kraemer Place, in Anaheim. Bridges provides housing for 200 men and women. Bridges  
6 is located on County-owned land, which County leases to Mercy House.

7 55. County relies on the existence of Bridges in order to enforce its anti-camping  
8 and anti-loitering ordinances against unhoused persons living outside in Orange County.  
9 *See Settlement Agreement* ¶¶ 4.1-4.2, *Catholic Worker v. County of Orange*, No. 8:18-cv-  
10 00155-DOC-JDE (C.D. Cal. Jul. 23, 2019), ECF No. 318-1. County requires Mercy House to  
11 “be part of the COUNTY team to facilitate the successful operations and administration of  
12 the PROGRAM located at 1000 N. Kraemer Place, Anaheim for a year-round emergency  
13 shelter and multi-service center.” Attachment A to County of Orange contract with Mercy  
14 House Living Centers, # 18-22-0037-PS, at 3. Bridges fulfills a necessary state function for  
15 County.

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

22 57. The contract requires that Bridges have a security plan that “will include a  
23 multi-faceted approach involving screening for sex offenders and felons with open  
24 warrants, secured entrances, security searches upon entrance, confiscation of harmful  
25 contraband, trained security personnel providing around-the-clock indoor and outdoor  
26 coverage, security alarms, cameras and lighting.” *Id.* at 9.

27 58. As part of the secured entrances requirement, the contract requires that “[a]ll  
28

1 clients and their belongings will be checked by security personnel, utilizing security  
2 wands each time they enter and exit from the shelter and all contraband will be seized.”  
3 Orange County Year Round Emergency Shelter and Multi-Service Center Management,  
4 Operations and Public Safety Plan at 36. The contract requires that “[s]ecurity will be on  
5 site at all times, and will conduct security rounds of the facility as necessary.” *Id.*

6 59. County requires Bridges to implement a lock-in/shut-out policy.

7 60. Residents at Bridges must agree to and sign Bridges’ Shelter Expectations as a  
8 condition of living at the shelter.

9 61. Mercy House leadership and management, such as Bridges’ Chief of  
10 Operations, Mercy House’s Board of Directors, and other staff in leadership positions,  
11 knew or should have known about the unlawful conditions at Bridges because it had staff  
12 on-site at the shelter who would have seen these conditions first-hand. Mercy House was  
13 also aware of the unlawful conditions because in or around April 2019, several residents of  
14 Bridges spoke at an Orange County Board of Supervisors meeting about the unsanitary  
15 conditions at Bridges. Mercy House was aware of the residents’ public comments because  
16 shortly after that meeting, Bridges staff demanded that each of the residents who had  
17 spoken before the Orange County Board of Supervisors have individual meetings with  
18 staff.

19 62. Mercy House employees, including those in leadership positions, and  
20 members of the Mercy House Board of Directors knew or should have known about the  
21 unlawful conditions at Bridges because of the ACLU Report, which documented many of  
22 the violations by Mercy House. On March 18, 2019, Ms. Rutter emailed Mercy House  
23 employee and counselor Martha Tillman a link to an article covering the ACLU Report.  
24 On July 9, 2019, the Mercy House Board of Directors discussed the ACLU Report and the  
25 results of an internal investigation into the complaints described therein.

26 63. Despite Mercy House employees, managers, and Board members having  
27 advanced knowledge of the unlawful conditions, including Bridges’ Chief of Operations  
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1 and other staff in leadership positions, Mercy House consciously disregarded the rights  
2 and safety of its residents by failing to address the conditions and allowing them to  
3 persist. Following the initiation of this lawsuit in December 2020, Bridges residents  
4 continue to experience substandard conditions. Oma's Angel receives and responds to  
5 regular complaints from Bridges residents about uninhabitable living conditions. As late  
6 as the fall of 2023, Mr. Martinez experienced substandard conditions, and in May 2022,  
7 Mr. Bui filed a grievance with Mercy House, addressing the same unlawful habitability  
8 conditions still present at the shelter. Mercy House responded to Mr. Bui's grievance,  
9 demonstrating that Mercy House knew about the still ongoing misconduct and unlawful  
10 conditions.

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

14 65. On May 21, 2019, several residents of Bridges, including Ms. Rutter,  
15 participated in a public action where they spoke about the horrible conditions at Bridges  
16 to the Orange County Board of Supervisors. On June 18, 2019, several staff of the ACLU of  
17 Southern California met with officials from County, including County CEO Frank Kim, to  
18 discuss the problems highlighted in the ACLU Report, including the conditions at Bridges.

19 66. Despite numerous resident complaints, the ACLU Report, and the meeting  
20 with County staff, Defendants County and Mercy Housing Living Center have failed to  
21 address the unlawful conditions at Bridges.  
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1 C. ILLUMINATION FOUNDATION

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

8 68. La Mesa fulfilled a necessary state function for Anaheim, 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 69. The contract allocated up to \$6.5 million from Anaheim to Illumination  
15 Foundation. *Id.* at 2. Anaheim had the authority under the contract to access all of the  
16 shelter’s services, activities, and facilities, including all of the files and other records  
17 relating to the performance of the agreement. *Id.* at 4. The contract prohibited 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 70. The Scope of Work attachment to the contract required Illumination  
21 Foundation to “recognize[] that transportation is necessary to ensure that the area  
22 surrounding the Shelter is not adversely impacted.” *Id.*, Scope of Work Attachment at 3.  
23 The Scope of Work mandated that “[n]o walk-ins for the Program or Program services will  
24 be permitted.” *Id.* at 2. These requirements resulted in implementation of the lock-

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



1 in/shut-out policy at La Mesa.

2 71. The management-and-operations plan states that returning residents must be  
3 in the “facility by 10 pm unless [they] have permission from staff.” The plan also required  
4 staff to search residents and their bags when they enter the facility and allowed staff to  
5 search storage areas for contraband.

6 72. The plan required Illumination Foundation to “contract with a state licensed  
7 security vendor that will have 2 guards 24 hours 7 days a week.” *Id.*, Scope of Work  
8 Attachment at 4. The security plan required “secured entrances, security searches upon  
9 entrance, confiscation of harmful contraband, trained security personnel providing  
10 around-the-clock indoor and outdoor coverage, security cameras, and lighting.” *Id.* at 4.  
11 During relevant time periods, Illumination Foundation contracted with Protection  
12 America, Inc. to provide security services at La Mesa.

13 73. As part of the management-and-operations plan, Illumination Foundation  
14 implemented the La Mesa Shelter Security Post Orders (the “Security Orders”).

15 74. The Security Orders required that “[a]ll adult program participants will be  
16 searched upon entry.” *Id.* at 1. The Security Orders required that searches and pat downs  
17 are to be conducted by using “the back of your hand to pat down the legs and arms of the  
18 client. Never place hands on a client’s private areas.” *Id.* The Security Orders required  
19 security personnel to “[r]espectfully ask client to lift pant legs up and expose their  
20 socks/ankles” in addition to other areas such as waistbands and headwear. *Id.* The  
21 Security Orders required that “[a]ny bags, including duffle bags and backpacks must be  
22 searched thoroughly before being allowed into the facility.” *Id.* The Security Orders also  
23 provided that “[a]ny client refusing to submit to security protocol will not be allow to  
24 enter the facility. . . **NO SEARCH NO ENTRY.**” *Id.* (emphasis in original). Security  
25 personnel had no discretion whether to conduct such searches on entry.

26 75. In addition to requiring searches on entry, the Security Orders required that  
27 “[d]uring each shift, security will be required to perform Q30 minute rounds throughout  
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1 the facility.” *Id.* Security personnel had no discretion whether to conduct their rounds  
2 throughout the facility.

3 76. The Security Orders also set forth that “[a]ll Guards are expected to set  
4 professional boundaries with clients. No excessive talking or exchanges of personal  
5 information with clients, especially phone numbers.” *Id.*

6 77. The Security Order required “Random Dorm Searches” noting that “it is  
7 imperative to perform random and targeted dorm searches.” *Id.* at 2.

8 78. Residents at La Mesa were required to agree to Guidelines and  
9 Responsibilities as a condition of living at the shelter.

10 79. Anaheim knew or should have known about the unlawful habitability  
11 conditions at La Mesa because it was covered in a March 19, 2020 article in *The Guardian*  
12 that quoted a spokesperson for Anaheim.<sup>5</sup> Despite numerous resident complaints and  
13 publicity over the conditions, Anaheim and Illumination Foundation failed to correct the  
14 unsanitary conditions at La Mesa. Anaheim knew or should have known about the  
15 unlawful searches at La Mesa because three of the Plaintiffs filed claims with Anaheim  
16 regarding these searches.

17 80. Illumination Foundation also knew or should have known about the  
18 unlawful searches because Ms. Utzman, Ms. Moore, and Ms. Powitzky complained to La  
19 Mesa staff about the searches. Illumination Foundation knew or should have known  
20 about the other sexual harassment committed by its staff because Ms. Utzman complained  
21 to a shelter counselor about the harassment. Illumination Foundation knew or should  
22 have known about the sexual harassment Ms. Utzman endured from another resident  
23 because La Mesa staff witnesses the harassment. Illumination Foundation knew or should  
24 have known about the habitability issues at La Mesa because shelter residents, including  
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26 <sup>5</sup> 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 Ms. Moore, complained about the conditions to shelter staff, and because shelter staff were  
2 on-site to observe the conditions first-hand.

3 81. The La Mesa shelter closed in 2022.

4 82. Illumination Foundation continues to operate shelters that impose the lock-  
5 in/shut-out policy on their residents, for example, at the Fullerton Navigation Center and  
6 at the Santa Ana Navigation Center. During at least the years 2020 and 2021, County  
7 contracted with Illumination Foundation to operate the Fullerton Navigation Center.  
8 Illumination Foundation also operates the Santa Ana Navigation Center under a contract  
9 with the City of Santa Ana. These shelters provide a necessary state function.

10 **D. OTHER SHELTERS FUNDED BY COUNTY AND ANAHEIM**

11 **a. Yale Navigation Center**

12 83. County pays PATH to run Yale, located at 2229 S. Yale St., in Santa Ana. Yale  
13 is designed to provide housing for 425 unhoused adult individuals and couples. Yale is  
14 located on County-owned land, which County leases to PATH.<sup>6</sup> Yale opened in January  
15 2021 in order to replace Courtyard, which County had been funding since 2016.<sup>7</sup>

16 84. County requires PATH to implement the lock-in/shut-out policy at Yale.

17 **b. Anaheim Emergency Shelter**

18 85. Anaheim pays Salvation Army to operate the Anaheim Emergency Shelter.

19 86. Anaheim requires Salvation Army to implement the lock-in/shut-out policy  
20 at the Anaheim Emergency Shelter.

21 **II. SUMMARY OF LEGAL VIOLATIONS**

22 **A. SEX DISCRIMINATION AND SEXUAL HARASSMENT**

23  
24 <sup>6</sup> See *County of Orange Investments to Address Homelessness Building a System of Care*, OC  
25 HEALTHCARE AGENCY, Apr. 2, 2019,  
26 <https://ohealthinfo.com/sites/hca/files/import/data/files/92065.pdf> (last accessed  
December 4, 2020).

27 <sup>7</sup> See *Yale Transitional Center Plan*, OC HEALTHCARE AGENCY,  
28 <https://ohealthinfo.com/sites/hca/files/import/data/files/92065.pdf> (last visited on  
Nov. 29, 2023).

1           87.     The staff at La Mesa and Courtyard routinely subjected women residents to  
2 unlawful sexual discrimination and harassment, including groping, other unwanted  
3 touching, leering, lewd comments, and propositioning. Security personnel at La Mesa also  
4 subjected women residents to physically invasive searches. These acts created a hostile  
5 living environment and forced women residents to endure this harassment as a condition  
6 of their shelter stay.

7           88.     Illumination Foundation’s unlawful searches required female residents to  
8 publicly expose themselves to shelter staff and residents during searches, endure  
9 improper touching of their breasts, be subjected to “pat downs” on exposed portions of  
10 their bodies not covered with clothing, be searched multiple times per day even when  
11 they had not left the shelter premises, and risk eviction from the shelter if they protested.

12           89.     Although Illumination Foundation also required male residents at La Mesa to  
13 be searched when they returned to the facilities, these searches were significantly less  
14 intrusive. Staff only patted down the outside of the men’s clothing, had them remove  
15 their shoes, and sometimes made the men roll-up their pants legs to show their socks.  
16 Men did not have to lift up their shirts or pull out their pant waistbands in order for staff  
17 to check if they have any contraband near their private areas.

18           90.     Shelter security had no discretion as to whether to conduct such searches of  
19 shelter residents. Shelter staff demanded that security perform complete body searches on  
20 shelter residents upon entry. Some security personnel complained to shelter staff about  
21 their requirement to conduct invasive body searches but were told by shelter staff that  
22 they were required to do so. Staff members directed security personnel that if they did not  
23 follow staff orders regarding searches and security, they would be fired or transferred.

24           91.     Illumination Foundation contracted with Protection America to provide  
25 security personnel during some of the times that certain Plaintiffs lived at La Mesa.  
26 Protection America staff engaged in improper searches while working at La Mesa.

27           92.     County and Anaheim failed to adequately supervise Midnight Mission and  
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1 Illumination Foundation, their contractors who engaged in sexual harassment, despite  
2 County and Anaheim’s non-delegable duties to ensure non-discrimination in shelters they  
3 fund. Similarly, Midnight Mission, Illumination Foundation, and Protection America  
4 failed to adequately supervise their employees or contractors who engaged in sexual  
5 harassment. County, Anaheim, and Illumination Foundation continue to fund or operate  
6 shelters where a failure to adequately supervise employees or contractors may result in  
7 sexual harassment.

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

9 93. County and Anaheim require the operators of certain shelters they fund  
10 and/or funded, including La Mesa, Bridges, Yale, the Fullerton Navigation Center, the  
11 Santa Ana Navigation Center, and the Anaheim Emergency Shelter, to enforce a lock-  
12 in/shut-out policy that prohibits residents from entering or leaving the shelters unless  
13 they do so by car, taxi, ride-share, or other individual vehicle, or one of the shelters’  
14 shuttles, which only run at limited times. The shuttles can accommodate only a small  
15 fraction of the number of residents living at the shelter, and do not service all the areas  
16 residents need to go, which results in many residents being trapped at the shelter all day.

17 94. Residents who violate the lock-in/shut-out policy by walking into or out of  
18 the shelter may be evicted.

19 95. On information and belief, shelter employees have enforced this policy by  
20 locking the exit doors to one or more of the shelters, including at La Mesa shelter, thereby  
21 physically preventing residents from leaving without permission.

22 96. County mandates that Mercy House impose the lock-in/shut-out policy at  
23 Bridges. *See Orange County Year Round Emergency Shelter and Multi-Service Center*  
24 *Management, Operations and Public Safety Plan*, Apr. 24, 2017, at 2. New and returning  
25 residents are to “receive direct transportation to and from the shelter daily” from  
26 designated locations within Orange County that will be selected by the police. *Id.* at 3.  
27 County prohibits Bridges from picking-up or dropping off residents at any other places.  
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1           97. County further segregates residents at Bridges from the community by  
2 requiring the shelter to enforce an anti-loitering zone *within an entire mile of the shelter.*  
3 *Orange County Year Round Emergency Shelter and Multi-Service Center Management,*  
4 *Operations and Public Safety Plan, Apr. 24, 2017, at 8.* In fact, County requires Mercy House  
5 to “conduct random daily checks of 1 mile diameter to shelter and drop-off/pick up  
6 locations to enforce shelter rules and avoid loitering and homeless congregations.” *Id.*  
7 Residents found “loitering” within one mile of Bridges can be evicted from the shelter. *Id.*

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

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

19           100. The so-called “Good Neighbor Policy” is based on unfounded, negative  
20 stereotypes about homeless people, including the assumption that their presence around  
21 the shelter would have a negative impact on the surrounding community – and that being  
22 a “good neighbor” therefore means preventing “undesirable” people from being in the  
23 community. For example, a study commissioned by County admits that the Anaheim  
24 Police Department “does not have any statistical information related to the types of crimes  
25 associated with emergency shelters such as that proposed by the County.” County of  
26 Orange, *Initial Study Proposed Mitigated Negative Declaration, Emergency Temporary Shelter*  
27 *and Multi-Service Center, Sept. 2015, at 52.* The study contains no support for the  
28

1 assumption that unhoused persons in the vicinity of the shelter would pose any different  
2 kind of criminal behavior than housed persons residing or transacting business in the  
3 vicinity of the shelter. Despite the lack of evidence, the study states that a so-called “Good  
4 Neighbor Policy” is justified to mitigate the anticipated negative impacts of the presence  
5 of unhoused people in the surrounding area.

6 101. County currently pays PATH to operate Yale in Santa Ana. County requires  
7 PATH to enforce a lock-in/shut-out policy at Yale.

8 102. Anaheim currently pays Salvation Army to operate the Anaheim Emergency  
9 Shelter. Anaheim requires Salvation Army to enforce a lock-in/shut-out policy at the  
10 shelter.

11 103. Anaheim previously paid Illumination Foundation to run La Mesa and  
12 required the lock-in/shut-out policy there as well. La Mesa prohibited residents from  
13 traveling to or from the shelter except by privately owned vehicles or the shelter’s shuttles.  
14 Illumination Foundation’s contract with Anaheim specifically provided that residents  
15 “may not walk off or on [the] property.” *La Mesa Shelter Management and Operation Plan*  
16 *2019*, Illumination Foundation, (2019), at 24.

17 104. Although the justification for the lock-in/shut-out policy is to purportedly  
18 ensure surrounding businesses and neighborhoods are not adversely impacted by people  
19 staying at the shelters, Bridges and La Mesa were located across the street from each other  
20 on a dead-end street that butts up against a major freeway. *See, e.g., Anaheim City Council*  
21 *Agenda Report from the Office of the City Manager*, Dec. 6, 2018, at 2; Map at Appendix A.  
22 The shelters are/were located next to the Taboo Gentleman’s strip club, an industrial  
23 contracting/metal-fabrication company, and a self-storage facility. There are no houses or  
24 other residences in the area aside from the shelters themselves. There are no restrictions  
25 on other establishments’ foot traffic. Only shelter residents face these prohibitions.

26 105. Illumination Foundation currently operates the Santa Ana Navigation Center  
27 in Santa Ana and the Fullerton Navigation Center in Fullerton. Illumination Foundation  
28

1 enforces a lock-in/shut-out policy at both shelters.

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

6 **C. SUBSTANDARD LIVING CONDITIONS**

7 107. Conditions at Courtyard, La Mesa, and Bridges were so unsanitary that they  
8 posed a risk to the health and well-being of shelter residents. The shelters failed to meet  
9 minimum habitability standards for residential facilities. Courtyard lacked any heating or  
10 cooling, resulting in extreme heat in the summer and frigid temperatures in the winter.  
11 Residents were forced to sleep in areas with no roof and were exposed to the elements.  
12 Residents regularly became sick in the winter due to the frigid temperatures and  
13 unsanitary conditions, and during the summer, shelter temperatures sometimes soared to  
14 100 degrees Fahrenheit.

15 108. All three shelters were infested with pests, including rodents, bedbugs,  
16 pigeons, and roaches. Residents were forced to endure pests infesting and defecating on  
17 their belongings, including in their sleeping areas. Residents were repeatedly bit by  
18 bedbugs, and sometimes the bites became infected. The number of working toilets and  
19 showers was and is woefully inadequate for the number of residents, and they are also  
20 poorly maintained. At Courtyard, there were only three permanent bathrooms for over  
21 200 women. The bathrooms were filthy, covered in blood and feces, and toilet paper was  
22 rationed by shelter staff. The portable toilets were overflowing with waste, causing illness  
23 and infections in the residents. The number of working showers at the shelters was and is  
24 inadequate for the number of residents, and they were poorly maintained.

25 109. County and Anaheim failed to adequately supervise their contractors at these  
26 shelters. County and Anaheim were informed of the inadequate and unlawful conditions  
27 at the shelters and failed to take action to remedy them, despite their non-delegable duties  
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1 to ensure habitable living conditions at these shelters. Further, County and Anaheim  
2 failed to properly investigate known complaints, reprimand the responsible parties, or  
3 otherwise act to prevent these known harms.

4 **D. RETALIATION**

5 110. Residents who alerted shelter staff or governmental authorities about the  
6 problems at the shelters faced retaliation from shelter staff, including eviction. County  
7 and Anaheim failed to adequately supervise their contractors at these shelters who  
8 engaged in retaliation, despite their non-delegable duties to ensure shelter residents'  
9 rights were respected. County and Anaheim also failed to properly investigate known  
10 complaints, reprimand the responsible parties, or take steps to prevent these known rights  
11 violations.

12 **III. HARM TO PLAINTIFFS**

13 **A. PLAINTIFF CYNDI UTZMAN**

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

23 112. Ms. Utzman resided at Bridges from August to October 2018, where she  
24 experienced unsanitary living conditions and lost several job interviews due to the lock-  
25 in/shut-out policy.

26 113. During the winter at Bridges, it was so cold that Ms. Utzman would often  
27 wake up at night shivering. When Ms. Utzman lived at Bridges, the bathrooms were left  
28

1 in filthy and unsanitary conditions. In addition, there were not enough toilet stalls and  
2 showers for the residents. The shelter had only approximately five toilet stalls and six  
3 showers in the women’s bathroom for approximately 100 women residents. The  
4 conditions worsened when one or two of the showers were not working, which happened  
5 frequently.

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

12 115. Ms. Utzman lived at Courtyard from November 2018 to February 2019, where  
13 she similarly endured harmful living conditions and where the staff sexually harassed her.  
14 When Ms. Utzman lived at Courtyard, she had to sleep in an area with no roof, and she  
15 got wet when it rained. Ms. Utzman saw pigeons constantly in the shelter, which would  
16 defecate everywhere, including where the residents ate.

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

26 117. Other former residents report that Courtyard staff would routinely make  
27 sexual comments to female residents, such as: “you’re looking fine,” “you have a good  
28

1 body," "how are those melons doing?", "you've got nice titties," and "I want to lick your  
2 pussy."<sup>8</sup> Some even reported that female residents were being pimped out by the staff.<sup>9</sup>  
3 On information and belief, Courtyard staff did not sexually proposition, hug, or grope  
4 male residents of the shelter.

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

10 119. Ms. Utzman lived at La Mesa from September 2019 to May 2020, where the  
11 staff also subjected her to sexual harassment, including invasive body searches; subjected  
12 her to substandard living conditions; and violated her freedom of movement.

13 120. In November 2019, Ms. Utzman got a four-day job just a few blocks from the  
14 shelter, but she was not allowed to walk there or back due to the lock-in/shut-out policy,  
15 which prevents shelter residents from going or coming to the shelter other than in a  
16 vehicle. Staff member Recendiz was scheduled to pick Ms. Utzman up at the end of her  
17 shift, but she ended up having to wait four hours despite the shelter only being a two-  
18 minute drive or a ten minute walk away. Ms. Utzman was eventually picked up by  
19 Recendiz at 9 pm – well past daylight hours which caused her to fear for her safety. Ms.  
20 Utzman complained about the policy to shelter staff.

21 121. From March to May 2020, Ms. Utzman was invasively searched by staff at La  
22 Mesa, including when she entered the shelter, after brief smoke breaks outside with staff  
23 supervision, and even after using the restroom. Sometimes these searches would occur  
24 multiple times in a single day or even when Ms. Utzman had not left the shelter. At least  
25 half a dozen times, staff members obligated Ms. Utzman to submit to the same search:

26  
27 <sup>8</sup> ACLU Report at 32-33.

28 <sup>9</sup> ACLU Report at 32-33.

1 demanding that she stand up straight, spread her feet apart, pull out her bra, shake her  
2 breasts, and pull out her waistband away from her hip so that staff could look down her  
3 pants. Many times, these intrusive searches occurred in front of staff members and  
4 residents – often male – and in full view of the shelter security camera.

5 122. Defendants’ repeated searches were unreasonably invasive. On one occasion,  
6 Ms. Utzman was wearing a tank top, and a security guard searched Ms. Utzman by  
7 patting her bare shoulders and arms. There was no justifiable basis for patting down  
8 exposed skin.

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

18 124. Although male residents were also subject to searches when they returned to  
19 La Mesa, these searches were significantly less intrusive. Staff only patted down the  
20 outside of the men’s clothing, had them remove their shoes, and sometimes made the men  
21 roll-up their pants legs to show their socks. Men did not have to lift up their shirts or pull  
22 out their pant waistbands in order for staff to check if they had any contraband near their  
23 private areas. They were not ordered to expose their private body parts during searches,  
24 while female residents were required to expose their breasts and sometimes suffered  
25 security staff touching their breasts, often in front of male security and other residents.

26 125. When Ms. Utzman stayed at La Mesa, she complained to numerous staff  
27 members about the invasive body searches. Ms. Utzman had to consent to searches as a  
28

1 condition of living in the shelter – albeit coerced consent – since the alternative was  
2 eviction from the shelter onto the streets, where she risked arrest.

3 126. Ms. Utzman complained, and asked for the invasive searches to stop, to at  
4 least six different La Mesa staff members: case workers Brian Southen and Nikki Rivera;  
5 lead staff Ukiah Anderson; and staff members Maria Alzcanar, Elliott Recendiz, and  
6 Elmer. In response to these complaints, La Mesa staff affirmed that the searches were a  
7 result of Anaheim’s instructions, and staff members were simply following orders. In fact,  
8 a security guard explained that shelter staff specifically required that security make  
9 residents shake out their bras. Ms. Utzman observed that she was searched more often  
10 than some other residents.

11 127. Ms. Utzman is a survivor of childhood sexual assault and intimate partner  
12 violence, and when shelter staff invasively searched her, she became so distressed that she  
13 sought emotional support from a crisis center.

14 128. A male staff member at La Mesa, Elliott Recendiz, repeatedly entered the  
15 women’s dorm unannounced to watch the female residents while they were changing. On  
16 some days, he entered the women’s dorm at least eight times without valid justification.  
17 He saw Ms. Utzman naked at least once, and he saw several other women naked. When  
18 Ms. Utzman complained to Recendiz about his constant entries into the women’s dorm,  
19 and despite the fact that she was sober, he shouted at her in front of the other residents  
20 that she was “on contract” (i.e., had agreed to stay sober as a condition of staying the  
21 shelter), that she had no right to privacy, and that if she didn’t like it, she could leave.  
22 Recendiz claimed he needed to enter the dorm to empty the trashcan. When Ms. Utzman  
23 moved the trashcan to just outside the dorm’s door so that he would not have to enter to  
24 empty it, he wrote her up for doing so.

25 129. In or around October 30, 2019, Ms. Utzman told Recendiz that she was going  
26 to video-record him coming into the women’s dorm because La Mesa was not doing  
27 anything to stop him. Recendiz wrote her up for violating La Mesa policy by videotaping  
28

1 him. On information and belief, Recendiz wrongly wrote up Ms. Utzman after she had  
2 started complaining about his entries into the women’s dorm as retaliation against her for  
3 complaining. In February 2020, Ms. Utzman complained to a counselor at La Mesa about  
4 Recendiz’s behavior, but that counselor never followed-up.

5 130. In March 2020, La Mesa dispatched a staff member named Paul, Ms. Utzman,  
6 and two other La Mesa residents (Amber and Scott) to shop, pick-up prescription  
7 medications, and perform other tasks during the COVID lockdown. Paul was driving the  
8 van they were using. When Ms. Utzman got into the passenger seat of the van, Scott told  
9 her she had to sit in the back with Amber because she was a “stupid woman.” During the  
10 drive, Scott called Ms. Utzman a “whore” and a “cunt.” When Ms. Utzman asked staff  
11 member Paul to intercede, he laughed at her.

12 131. The following day, in the shelter dining area and in front of other shelter  
13 residents, Scott shouted at Ms. Utzman: “when are you going to sit on my lap, little slut?”  
14 At least three staff members heard this verbal abuse but failed to intercede, even after Ms.  
15 Utzman asked them to stop Scott from harassing her. Ms. Utzman retreated to the  
16 women’s dorm to escape the abuse.

17 132. Later that day, when Ms. Utzman attempted to talk to staff member Paul  
18 about the incident, she communicated the need for La Mesa staff to stop this abuse and  
19 even suggested that the shelter consider implementing a code of conduct. Paul responded  
20 by telling Ms. Utzman that she needed to have thicker skin. That same evening, staff  
21 member Chaney announced that Scott would be leading the next shopping trip. When  
22 Ms. Utzman and several other female residents protested and tried to explain that his  
23 sexual harassment made it a hostile experience for female residents, Chaney told her to  
24 shut up. Male residents at La Mesa were not subjected to sexual slurs or verbal sexual  
25 harassment. On information and belief, Chaney was very friendly with Scott; they  
26 appeared to be very intimate in public and many residents made the same observation.  
27 Ms. Utzman never had any trouble with Chaney until Chaney and Scott became closer and  
28

1 were seen spending time together at the shelter. On information and belief, Chaney  
2 subjected Ms. Utzman to invasive searches to punish her for complaining about sexual  
3 harassment from Scott.

4 133. In early April 2020, when Ms. Utzman complained about the staff's failure to  
5 respond to Scott's harassment, La Mesa staff asked her if Chaney was safe with her at the  
6 shelter. They were accusing Ms. Utzman of threatening harm to Chaney and gave Ms.  
7 Utzman a warning. About a month later, staff singled out Ms. Utzman by writing her up  
8 for a purported issue where other similarly situated residents were not written up. She  
9 complained and two days later, Defendant Illumination Foundation kicked her out of La  
10 Mesa.

11 **B. PLAINTIFF DEBORAH KRAFT**

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

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

21 136. One male staff member at Courtyard named "Big E" regularly appeared  
22 beside Ms. Kraft's cot and would wake her by taking her hand, massaging her palm,  
23 asking her whether she still had a boyfriend, and leering at her. Big E also frequently  
24 hugged her while groaning in a sexual way.

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

3 138. Ms. Kraft made it clear that the conduct was unwelcomed, but staff ignored  
4 her and continued to harass her. On at least one occasion, she observed Big E staring at  
5 her buttocks. She objected, to which he replied, “well, I’m a man still.”

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

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

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

26 142. Ms. Kraft became involved with a boyfriend in the hopes that being in a  
27 relationship would stop staff from harassing her. Once staff learned she had a boyfriend,  
28



1 they then started to retaliate against both her and her boyfriend. One staff member who  
2 had previously helped her by moving her cot when the sleeping spots were rearranged  
3 and doing other tasks she could not do on her own, stopped doing so. Instead, he started  
4 waking Ms. Kraft and her boyfriend, who were sleeping next to each other, up at 6 am by  
5 blowing a leaf blower by their heads. He told Ms. Kraft that she was giving him mixed  
6 messages, and he started giving her boyfriend a hard time as well. The staff member  
7 would also tell Ms. Kraft and her boyfriend to stop sitting together. Other staff refused to  
8 give her boyfriend a bed several times, even though there were available beds, which had  
9 not happened before he started dating Ms. Kraft. When Courtyard set up a couple's area,  
10 the staff would not permit him and Ms. Kraft to be together in that area.

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

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

1           145. The sexual harassment and abuse by staff and residents caused Ms. Kraft  
2 severe emotional distress, even causing her to consider suicide on at least two occasions.  
3 The sexual harassment was particularly triggering for Ms. Kraft due to her history of  
4 intimate partner violence.

5           146. Ms. Kraft came down with pneumonia two winters in a row after enduring  
6 the unsanitary and crowded conditions of the shelter. During the summer, the  
7 temperature inside the shelter would often reach – and in some cases exceed – 100 degrees  
8 Fahrenheit. During the winter, the temperature would sink to close to 50 degrees  
9 Fahrenheit. (See photos of temperature readings from inside Courtyard at Appendix B.)  
10 The toll of extreme temperatures was exacerbated by overcrowding and poor ventilation,  
11 as Courtyard was crammed with hundreds of people.

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

17           148. The shelter did not provide adequate laundry facilities for residents. On one  
18 occasion, all of the washing machines were not working, and the shelter did not fix them  
19 for several weeks.

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

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

9 151. Attached as Appendix C are two photographs of one of Courtyard's toilets  
10 taken on the morning of July 30, 2018, when Ms. Kraft was living there, and included in  
11 the ACLU Report.

12 **C. PLAINTIFF WENDY POWITZKY**

13 152. About ten years ago, Ms. Powitzky lost her job when she had to spend time at  
14 home with a child who was having challenges at school. As a result, she lost her housing  
15 and became homeless.

16 153. The staff at La Mesa subjected Ms. Powitzky to invasive searches. Ms.  
17 Powitzky had to consent to searches as a condition of living in the shelter – albeit coerced  
18 consent – since the alternative was eviction from the shelter onto the streets where she  
19 would almost certainly be arrested.

20 154. In August 2019, when Ms. Powitzky returned to La Mesa one night with her  
21 adult son, Andrew Powitzky, she passed through the shelter's metal detector without  
22 activating it. Nevertheless, a security guard named Tawny had her put her arms above  
23 her head and spread her legs. The guard then proceeded to put her hands on each side of  
24 Ms. Powitzky's chest, run her hands down the sides of Ms. Powitzky's breasts, then run  
25 her hands completely underneath each breast until the guard had the bottom of each  
26 breast in the palm of her hand, and then raised Ms. Powitzky's breasts off her chest.  
27 Tawney also searched Andrew, but the search was not as invasive. Tawney patted  
28

1 Andrew, while Andrew observed Tawney rub her hands all over Ms. Powitzky. Andrew  
2 felt uncomfortable watching his mother get touched in this manner. Ms. Powitzky did not  
3 complain because she did not want to be thrown out of the shelter.

4 155. That same month, a shelter employee named Maria summoned Ms.  
5 Powitzky, who was inside the shelter, to the guard at the front of the facility to search her  
6 for no reason. The guard inappropriately rubbed Ms. Powitzky's body and cupped her  
7 breasts while conducting the search. Although the guard found nothing, Ms. Powitzky  
8 was then ordered to lift her shirt above her breasts, pull her bra away from her body, and  
9 shake her bra. This search exposed Ms. Powitzky's breasts to a male security guard  
10 standing about six feet away, as well as to male and female residents who were present on  
11 the nearby patio. Ms. Powitzky complained about this incident to management and asked  
12 for the searches to stop, but no action was taken.

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

23 157. In October and November 2019, Alzcanar—one of the staff Ms. Powitzky  
24 complained about—gave her write-ups for having drugs, even though Ms. Powitzky had  
25 prescriptions for all the drugs in her possession. On information and belief, these write  
26 ups were retaliation for her complaints about the invasive searches. These write ups could  
27 result in eviction from the shelter.

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

5           159. Ms. Powitzky lost two jobs due to the lock-in/shut-out policy. When she first  
6 started living at La Mesa, she had a warehouse job with a night shift that started around 5-  
7 6 pm and ended around 3 am. The job was only a 12-minute drive away and also had  
8 public bus accessibility that ran from the shelter to the warehouse. However, she was not  
9 allowed to use public transportation because the policy required residents, without their  
10 own car or a ride-share, to use the shelter shuttle to reach the shelter. The shelter shuttle  
11 did not run at convenient times or stop at locations that were convenient for Ms. Powitzky  
12 to get to her workplace. It took her three to four hours to get to the warehouse, and she  
13 eventually quit the job because the commute was so difficult.

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

1           161. Ms. Powitzky was written up on approximately two other occasions for  
2 violating the lock-in/shut-out policy.

3           162. Ms. Powitzky has also worked as a hairdresser in the past, but the shelter  
4 policies make it impractical for her to schedule appointments around her clients'  
5 schedules.

6           163. Ms. Powitzky complained to several staff members about the lock-in/shut-  
7 out policy, including to her counselors, Nikki and Jamie; to Elliott Recendiz, a staff  
8 member; to Director of Operations Jason Wofford; to Associate Director of Operations  
9 Summer Thomason; and to Site Supervisor Ukia Anderson.

10           164. Ms. Powitzky also experienced unsanitary and unsafe conditions at La Mesa.  
11 On Ms. Powitzky's first night in the La Mesa shelter, she slipped in the bathroom due to  
12 the standing water on the floor. She immediately reported this to staff member Asia  
13 Chaney and requested that La Mesa install floor mats to absorb the water. It was not until  
14 about six months later that La Mesa installed mats in the women's bathroom.

15           165. Ms. Powitzky does not have permanent housing and will likely need to use  
16 homeless shelters in Anaheim or Orange County again. Ms. Powitzky, however, will not  
17 use homeless shelters while they continue to enforce the lock-in/shut-out policy and fail  
18 to provide sanitary and safe living conditions. More specifically, the lock-in/shut-out  
19 policy has restricted and, if still permitted to remain in place, will continue to restrict Ms.  
20 Powitzky's ability to maintain employment, spend time with her family, and attend to  
21 other professional and personal matters.

22                           **D. PLAINTIFF JOSHUA OGLE**

23           166. Mr. Ogle was a divorced father of four minor children and one adult son. He  
24 was an artist with a focus on ceramic arts. Following his divorce, he ended up living on  
25 the streets of Anaheim and Fullerton in 2017. During his time at Bridges, he endured  
26 horrible living conditions. Upon information and belief, the shelter staff retaliated against  
27 Mr. Ogle after he spoke out about the shelter's conditions at an Orange County Board of  
28

1 Supervisors meeting.

2 167. While Mr. Ogle stayed there, Bridges was infested with bed bugs and  
3 rodents. Bedbugs bit Mr. Ogle on several occasions, and when infected, the bites filled  
4 with pus. Mr. Ogle contracted cellulitis, a dangerous bacterial skin infection, from the  
5 unsanitary conditions in the shelter. He also observed other residents contract cellulitis at  
6 the shelter.

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

10 169. In or around April 2019, several residents of Bridges, including Mr. Ogle,  
11 spoke at an Orange County Board of Supervisors meeting about the unsanitary conditions  
12 at the shelter. Shortly after that meeting, Bridges staff demanded that each of the residents  
13 who had spoken before the Orange County Board of Supervisors have individual  
14 meetings with staff. The Chief of Operations called Mr. Ogle into a meeting to discuss his  
15 public comment and retaliated by asking Mr. Ogle whether they could get him to leave the  
16 shelter. Mr. Ogle agreed to live in his car if he could get the starter motor fixed, and staff  
17 initially offered to pay for that repair but later refused. Shortly after, staff demanded that  
18 Mr. Ogle remove his car from the shelter parking lot and park along the street. Staff then  
19 called the police and had Mr. Ogle's car towed. The police report confirms that the shelter  
20 security company made the call to tow the car. Mr. Ogle could not afford to pay the fine  
21 and towing fees to get his car back, and it was sold at auction. When Mr. Ogle had first  
22 moved into Bridges, staff members told him not to worry about parking on the street  
23 because cars were never towed.

24 170. After Mr. Ogle spoke at the Orange County Board of Supervisors meeting,  
25 staff also started enforcing rules against him that they had not previously enforced. For  
26 example, although he had previously been able to return after the 10 pm curfew when he  
27 was caring for his children, after he spoke at the meeting, staff suddenly and unexpectedly  
28

1 tried to evict him for this same conduct. This strict enforcement of curfew negatively  
2 affected Mr. Ogle's ability to care for his children. Staff also allowed a resident who had  
3 stolen his car (before it was towed) and threatened his family to stay in the shelter. The  
4 staff knew that Mr. Ogle was not comfortable living in the same shelter with this  
5 individual, and on information and belief, they let the resident back into the shelter in an  
6 attempt to intimidate Mr. Ogle into leaving. Living at Bridges worsened Mr. Ogle's  
7 mental health and caused him to have nightmares. Mr. Ogle already suffered from Post-  
8 Traumatic Stress Disorder, and these events made his condition much worse.

9 171. Mr. Ogle passed away in 2021. He is survived by four minor children and  
10 one adult son.

11 172. The Court has transferred Mr. Ogle's interest in this case to his four minor  
12 children as successors in interest: Brooklyn Ogle, Lion Ogle, Porcelain Ogle, and Wolf  
13 Ogle. The Court has appointed Tiffany Ogle, the mother of Mr. Ogle's four minor children,  
14 to act as the children's Guardian Ad Litem in this litigation. ROA No. 438.

15 **E. PLAINTIFF JORDYNNE LANCASTER**

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

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

26 175. Multiple male staff members incessantly sexually harassed Ms. Lancaster at  
27 Courtyard. Male staff would start by hugging her, and then progress to vulgar comments  
28



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

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

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

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

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

25 180. Ms. Lancaster developed pneumonia and bronchitis during her stay at  
26 Courtyard because of the unsanitary conditions. During the winter, she suffered from  
27 very harsh weather conditions because Courtyard was an open structure facility allowing  
28

1 wind to enter from all sides. Because there were no space heaters or air conditioning at  
2 the shelter, Ms. Lancaster had to rely on her blankets to stay warm. (See Courtyard  
3 Temperature Reading of 54 degrees Fahrenheit at Appendix C). Ms. Lancaster was  
4 hospitalized four times due to illnesses contracted while staying at Courtyard.

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

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

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

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

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

1 told her that it was up to Ms. Starling whether to let Ms. Lancaster back in and it was not a  
2 decision County made. Accordingly, County had knowledge of Ms. Lancaster’s  
3 complaints.

4 **F. PLAINTIFF CATHERINE MOORE**

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

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

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

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

1 security guard also engaged in a similar pat down.

2 190. 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.

5 191. 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.

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

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

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

26 195. 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  
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1 at least eight times without valid justification. He saw Ms. Moore naked at least four  
2 times, and he saw several other women naked.

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

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

20 **G. PLAINTIFF CALLIE RUTTER**

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

26 199. Following the transitional program, Ms. Rutter lived at Bridges where she  
27 was subjected to unsanitary and unhealthy living conditions. After entering the shelter  
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1 system, she was diagnosed with lung cancer and underwent surgery, radiation, and  
2 chemotherapy. The poor sanitary conditions at Bridges exacerbated her medical condition  
3 and compromised her immune system.

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

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

22 202. When Ms. Rutter experienced nausea from her treatments, she sometimes  
23 could not make it to the bathroom in time before she vomited. Staff refused to allow her  
24 to have her own waste basket, which caused her to vomit on her own bed. Initially staff  
25 would not even allow her to have cleaning products to help her clean up after herself  
26 when she threw up unexpectedly. Even when she was able to make it to the bathroom,  
27 she often had to wait because all the stalls were occupied as there were not enough toilets  
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1 for all the residents. One time when she was sick to her stomach from the cancer  
2 treatment and the women’s bathroom stalls were all occupied, she tried to use a staff  
3 bathroom in desperation. A male staff member tried to stop her. She explained that it was  
4 an emergency, and she was sick from the cancer treatment, but he told her she would have  
5 to wait. She pushed past him to use the bathroom and he continued to berate her when  
6 she came out.

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

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

17 **H. PLAINTIFF THIEN CHI (“PATRICK”) BUI**

18 205. Mr. Bui has a bachelor’s degree in computer science from the University of  
19 California, Irvine and worked in computer development for 17 years. Mr. Bui lost his job  
20 and ended up homeless.

21 206. Mr. Bui lived at Courtyard in 2019 and 2020, where he experienced dangerous  
22 living conditions.

23 207. During the winter months, the residents were exposed to very harsh weather  
24 conditions. Given the structure of Courtyard, the lack of walls meant that the residents  
25 were exposed to strong cold winds blowing through the shelter all night. Mr. Bui would  
26 shiver the moment he came out from under his blanket due to the extreme cold.

27 208. Due to the unsanitary conditions, Mr. Bui developed red sores on his arms  
28

1 from bed bug bites.

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

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

20 211. Mr. Bui lived at Bridges from April 2021 to December of 2022, where he was  
21 again subjected to unsanitary living conditions and suffered from the lock-in/shut-out  
22 policy.

23 212. At Bridges, the shelter conditions were usually very cold, and residents were  
24 not provided with adequate blankets to keep warm.

25 213. There were also bedbugs at Bridges, which Mr. Bui found alongside blood  
26 smears in his bed. Mr. Bui repeatedly asked Bridges staff to address these concerns, but  
27 the staff refused and never inspected his bed.



1           214. While Mr. Bui was living at Bridges, the ADA-accessible showers for men  
2 were often unavailable, some of the sinks and urinals in the men’s bathroom were at times  
3 non-functional, and the showers were often dirty.

4                           **I.       PLAINTIFF PATRICK HOGAN**

5           215. Mr. Hogan is a 66-year-old man who had resided at Bridges for about two  
6 days in May 2018.

7           216. Before arriving at Bridges, Mr. Hogan had been unhoused.

8           217. While living at Bridges, Mr. Hogan experienced harm as a result of the lock-  
9 in/shut-out policy. Upon receiving a job opportunity, Mr. Hogan was told by Bridges  
10 staff that he could not leave on his own and would have to take the shuttle. Mr. Hogan  
11 had intended to arrive at the job at 6 am. Unfortunately, the first shuttle at 6 am was full,  
12 and Bridges staff informed Mr. Hogan that he could not receive a cab voucher despite the  
13 full shuttle. Because Mr. Hogan could not leave the shelter on time, or at all for that  
14 matter, he lost the job opportunity, and harmed his opportunities for future jobs from that  
15 employer.

16           218. In addition to harms resulting from the lock-in/shut-out policy, Mr. Hogan  
17 experienced unsanitary and unsafe conditions at Bridges.

18           219. Bridges was overcrowded, with bunks pushed together. Residents were  
19 walking around in the middle of the night, with some residents screaming and causing  
20 disruption, which made it difficult for Mr. Hogan to sleep.

21           220. On one occasion, a resident had soiled himself, causing a mess all over the  
22 floor. Specifically, the mess had been smeared along the hallway where residents lined up  
23 for food. Bridges staff waited until the next day to address this incident and clean the  
24 premises.

25           221. The restrooms were also not cleaned, reeking of urine and sewage.  
26 Additionally, when Mr. Hogan’s close friend, Robert Estle, passed away in the restroom  
27 about a month after Mr. Hogan left Bridges, Bridges staff left him in a locked stall  
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1 overnight, waiting until the next morning to remove him.

2 222. Mr. Hogan remains unhoused. Mr. Hogan refuses to live at Bridges as a  
3 result of the lock-in/shut-out policy. Mr. Hogan continues to perform volunteer work and  
4 advocacy on behalf of the unsheltered. However, these efforts are impossible to conduct if  
5 Mr. Hogan stays at Bridges or any other homeless shelter that implements the lock-  
6 in/shut-out policy.

7 **J. PLAINTIFF JESS MARTINEZ**

8 223. Mr. Martinez is a 62-year-old man who has been residing at Bridges since  
9 about September 2023. Before arriving at Bridges, Mr. Martinez had been unhoused in  
10 Orange County for about a year.

11 224. Mr. Martinez is a veteran, having served in the Army and National Guard.  
12 Due to Mr. Martinez's experiences in the Army, Mr. Martinez suffers from PTSD.

13 225. While living at Bridges, Mr. Martinez experiences harm as a result of the lock-  
14 in/shut out policy. For example, when Mr. Martinez is overwhelmed by his PTSD  
15 symptoms and seeks to walk outside to alleviate his symptoms, staff members have  
16 informed him that he can only leave during designated shuttle pick-up times due to the  
17 lock-in/shut out policy. Mr. Martinez describes himself as feeling "trapped" in the  
18 shelter.

19 226. Living at Bridges has exacerbated Mr. Martinez's PTSD symptoms.  
20 Specifically, given how "trapped" Mr. Martinez feels, he increasingly desires to go  
21 outside, take a walk, and/or participate in activities that help to alleviate his symptoms.  
22 However, the lock-in/shut-out policy prevents him from doing so.

23 227. The lock-in/shut out policy also restricts Mr. Martinez's ability to work. Mr.  
24 Martinez does not own a car, and thus must rely on shuttle services. Because the shuttle  
25 service at Bridges only operates at specific locations and times, it is difficult for Mr.  
26 Martinez to find and maintain employment.

27 228. On one occasion, Mr. Martinez had missed a late-night shuttle pick-up.  
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1 Because Mr. Martinez did not want to sleep on the streets, he walked a couple miles back  
2 to the shelter. When Mr. Martinez arrived, he had to choose between being written up for  
3 violating the “no walk-in” policy or sleeping outside. Mr. Martinez was also aware that  
4 the County’s “Good Neighbor” policy prevents him from sleeping outside near Bridges.  
5 Mr. Martinez elected to take the write-up. However, if Mr. Martinez receives any more  
6 write-ups, his spot at the shelter will be jeopardized.

7 229. In addition to the lock-in/shut out policy, Mr. Martinez has experienced  
8 unsanitary living conditions at Bridges. The sink drain in the men’s bathroom is defective,  
9 causing the bathroom to smell like sewage. Shelter staff have returned damp laundry to  
10 Mr. Martinez. The shower floors are not sanitized, prompting Mr. Martinez to scrub the  
11 floors himself with shampoo and a scrub brush. He has seen bed bugs on the premises.  
12 Bridges has not turned on the heater in the sleeping area, where Mr. Martinez sleeps  
13 under a vent with cold air blowing into him.

14 **K. PLAINTIFF OMA’S ANGEL FOUNDATION**

15 230. Oma’s Angel Foundation was founded to help unhoused persons with their  
16 basic needs, to build small homes, and to provide social support to unhoused persons  
17 when they are living on the street or in hospitals and nursing homes. Heidemarie  
18 Zimmermann, the founder of and primary volunteer at Oma’s Angel Foundation, has  
19 usually spent between five to twenty hours a week, sometimes more, expending her time  
20 to the work of Oma’s Angel Foundation in the past five years. Since Defendants opened  
21 their shelters, Oma’s Angel Foundation has had to expend between 75 and 100 percent of  
22 its time and resources advocating for, and providing case management to, individuals  
23 experiencing homelessness who have been harmed by the practices, policies, and  
24 conditions that gave rise to this case. For example, Oma’s Angel Foundation often  
25 receives calls from shelter residents seeking help, refers them to civil rights attorneys or  
26 other services they need as a result of the abuse they endure in the shelters, and follows up  
27 with them to ensure that they receive assistance. Oma’s Angel Foundation also has to  
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1 spend time providing support to persons who refuse to live in Defendants' shelters  
2 because of the harmful conditions and policies, including the lock-in/shut-out policy.

3 231. Addressing these individuals' problems requires the organization to divert  
4 resources away from its mission of providing for the basic needs of unhoused persons  
5 living on the streets or from being able to help persons in hospitals and nursing homes.  
6 Specifically, Oma's Angel Foundation has had to allocate significant time, money, and  
7 other organizational resources to assist unhoused persons whose constitutional and  
8 statutory rights are violated by Defendants' shelters, including violations of due process  
9 and equal protection rights due to the lock-out/shut-out policy. For example, Oma's  
10 Angel Foundation has received and continues to receive numerous complaints about the  
11 lock-in/shut-out policies at Yale and Bridges, and over half of the unhoused persons  
12 Oma's Angel Foundation currently works with refuse to use any shelter that has the lock-  
13 in/shut-out policy. Indeed, the vast majority of complaints received by Oma's Angel  
14 Foundation relate to the lock-in/shut-out policy across many, if not all, of the homeless  
15 shelters operated or previously operated by Anaheim, County, and/or other Defendants.  
16 Therefore, as a result of the lock-in/shut-out policy, Oma's Angel Foundation will  
17 continue to suffer harm because it cannot direct its limited organizational resources to  
18 support other initiatives it has established or intends to establish as part of its overall  
19 mission.

20 232. From the time Defendants' shelters opened, Oma's Angel Foundation's  
21 ability to distribute food and other necessities, build small homes, and spend time with  
22 unhoused persons living outside or in hospitals and nursing homes was drastically  
23 reduced, because so much of its time was spent helping people experiencing homelessness  
24 who had been unjustly evicted from shelters, who were dealing with abusive shelter  
25 conditions, or who refused to live in the shelters because of the intolerable conditions.<sup>10</sup>

26 \_\_\_\_\_  
27 <sup>10</sup> While Project Roomkey was in effect, Oma's Angel Foundation spent much of its time  
28 responding to unhoused persons who experienced problems with the Project Roomkey  
program. Project Roomkey was a program established by the California Department of

1 Shelters that were set up to supposedly help people have created so many problems for  
2 their residents that Oma’s Angel Foundation cannot perform the work it was created to  
3 do. Oma’s Angel Foundation has supported an unhoused person who died living outside  
4 because they were unwilling to live in County shelters because of the harmful conditions  
5 and policies.

6  
7 **FIRST CAUSE OF ACTION**

8 Disparate Treatment Discrimination Based on Sex: Hostile Environment Harassment  
9 (California Employment and Fair Housing Act, Cal. Gov’t Code § 12955 *et seq.*;  
10 Cal. Gov’t Code §§ 810, 815 *et seq.*)  
11 **(Plaintiffs Kraft, Lancaster, Moore, Powitzky and Utzman Against Defendants County,  
12 Anaheim, Midnight Mission, Illumination Foundation, and Protection America, Inc.)**

13 233. Plaintiffs incorporate by reference the above allegations, as if set forth in full.

14 234. California’s Fair Employment and Housing Act prohibits all providers of  
15 housing accommodation – including homeless shelters – from harassing or discriminating  
16 against any person because of the person’s sex, gender, gender identity, gender  
17 expression, sexual orientation, or marital status.

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

21 236. This statute additionally prohibits otherwise making unavailable or denying  
22 a dwelling based on discrimination because of sex, gender, gender identity, gender  
23 expression, sexual orientation, or familial status.

24 237. The invasive searches at La Mesa, as well as the sexually harassing conduct  
25 by shelter staff at La Mesa and the Courtyard, all violated the Fair Employment and  
26 Housing Act.

27 \_\_\_\_\_  
28 Social Services as part of California’s response to COVID-19. Project Roomkey provided  
non-congregate shelter in hotel and motel rooms to unhoused persons who were sick or  
medically vulnerable. *See Project Roomkey*, California Department of Social Services,  
Angeles, <https://www.cdss.ca.gov/inforesources/cdss-programs/housing-programs/project-roomkey>  
(last visited Dec. 4, 2020).

1           238. California Government Code § 815.2 provides for liability against a public  
2 entity for injuries caused by a public employee within the scope of their employment.

3           239. California Government Code § 815.6 provides for liability against a public  
4 entity when: (1) the entity violates an enactment; (2) the plaintiffs are in the class of  
5 persons protected by the enactment; (3) the enactment is intended to protect against the  
6 type of injury complained of by the plaintiffs; (4) the violation of the enactment is the  
7 proximate cause of the injury; and (5) the public entity did not exercise reasonable  
8 diligence in discharging its duty established by the enactment.

9           240. An enactment includes a federal or state constitutional provision, a statute,  
10 charter provision, ordinance, or properly adopted regulation.

11           241. The California Fair Employment and Housing Act (FEHA), California  
12 Government Code §§ 12955 *et seq.*, is an enactment within the meaning of California  
13 Government Code § 815.6. Plaintiffs are in the class of persons protected by this  
14 enactment, and FEHA is intended to protect against the type of injury complained of by  
15 Plaintiffs. If Defendants provide housing, FEHA creates a mandatory duty to provide  
16 housing free of discrimination, and to take prompt action to correct a discriminatory  
17 practice.

18           242. Defendants County, Anaheim, Midnight Mission, and Illumination  
19 Foundation are all public entities within the meaning of California Government Code §  
20 815.6.

21           243. Defendant Anaheim developed shelter security and search-on-entry policies  
22 and required Defendant Illumination Foundation to implement and follow such policies  
23 through contractual obligations. The decision to implement and the development of such  
24 policies required discretionary policy-level decision-making from Anaheim. The  
25 administration of these search policies was purely ministerial.

26           244. Illumination Foundation and Protection America staff were required to  
27 follow the shelter security and search-on-entry policies. Illumination Foundation and  
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1 Protection America staff were afforded no authority to choose who and what to search at  
2 the shelters. Rather, shelter staff and security personnel merely followed the policies that  
3 Anaheim required Illumination Foundation to implement.

4 245. Because the required searches performed by shelter staff were not a policy  
5 decision or the product of any exercise of discretion, in that they required no conscious  
6 balancing of risks and advantages, any tortious act underlying a body search performed  
7 by shelter staff would not be immunized under California Government Code § 820.2.

8 246. Because the shelter staff's acts are not entitled to immunity, Defendants  
9 County, Anaheim, Midnight Mission, and Illumination Foundation are not entitled to  
10 immunity and are vicariously liable for injury proximately caused by acts or omissions of  
11 employees within the scope of their employment under California Government Code §  
12 815.2. Shelter staff and security personnel at La Mesa and Protection America were acting  
13 within the scope of their employment when they conducted the invasive searches. The  
14 very nature of the searches required by Anaheim included physical contact with residents.

15 247. A body search of a shelter resident by shelter staff inherently requires the  
16 physical touching of that shelter resident. Shelter staff do not touch shelter residents  
17 during such searches for personal reasons but rather are required to do so under the  
18 required search and security policies.

19 248. The staff and security personnel maintained extraordinary power and  
20 authority over the shelter residents, as they determined whether residents had a place to  
21 live. Inappropriate groping occurring during the execution of such searches is a  
22 foreseeable consequence of these policies and the resulting injuries were proximately  
23 caused by acts of shelter staff and security personnel.

24 249. Under the vicarious liability provisions of the Fair Employment and Housing  
25 Act, an agent or employee who engages in sexual harassment may be considered to be  
26 acting within the scope of their agency or employment even if their actions are  
27 "incidental" to their job-related tasks. Cal. Code Regs. tit. 2, § 12010(b)(2). Illumination  
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1 Foundation and Protection America staff were thus acting within the scope of their  
2 employment when they improperly searched Ms. Moore, Ms. Utzman, and Ms. Powitzky.  
3 Anaheim is vicariously liable for the actions of its contractor, whom it required to perform  
4 searches.

5 250. Defendants County, Anaheim, Midnight Mission, and Illumination  
6 Foundation also violated the Fair Employment and Housing Act when staff at La Mesa  
7 and the Courtyard sexually touched, propositioned, leered, groped, or made vulgar  
8 comments to Ms. Kraft, Ms. Lancaster, Ms. Moore, Ms. Powitzky, and Ms. Utzman.  
9 Shelter staff committed these acts of harassment during the scope of their work.

10 251. Plaintiffs complained about or otherwise made clear that they objected to the  
11 conduct described above, and staff continued to engage in or condone the unwelcomed  
12 conduct. Once Midnight Mission and Illumination knew or should have known that  
13 shelter staff and security personnel were engaged in inappropriate conduct in the course  
14 of their official duties, and failed to take prompt action to prevent further sexual  
15 harassment, Midnight Mission and Illumination Foundation were liable for violating the  
16 Fair Employment and Housing Act. Cal. Code Regs. tit. 2, § 12010(a)(1)(B).

17 252. The Fair Employment and Housing Act also imposes vicarious liability on  
18 housing providers for sexual harassment committed by their agents or employees  
19 regardless of whether the provider knew of the conduct. Cal. Code. Regs. tit. 2, § 12010(b).  
20 Defendants did not exercise reasonable diligence in discharging their duties established by  
21 FEHA.

22 253. Defendants' harassing conduct described above created a housing  
23 environment that was hostile, intimidating, offensive, oppressive, or abusive. This  
24 conduct constitutes severe or pervasive sexual harassment and discrimination based on  
25 sex, in violation of the Fair Employment and Housing Act.

26 254. Plaintiffs were harmed, and the searches and harassment were substantial  
27 factors in causing this harm.



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**SECOND CAUSE OF ACTION**

Disparate Treatment Discrimination Based on Sex: Quid Pro Quo Harassment  
(California Employment and Fair Housing Act, Cal. Gov't Code § 12955 *et seq.*;  
Cal. Gov't Code §§ 810, 815 *et seq.*)  
**(Plaintiffs Kraft, Lancaster, Moore, Powitzky and Utzman Against Defendants County,  
Anaheim, Midnight Mission, Illumination Foundation, and Protection America, Inc.)**

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

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

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

258. California Government Code § 815.2 provides for liability against a public entity for injuries caused by a public employee within the scope of their employment.

259. California Government Code § 815.6 provides for liability against a public entity when: (1) the entity violates an enactment; (2) the plaintiffs are in the class of persons protected by the enactment; (3) the enactment is intended to protect against the type of injury complained of by the plaintiffs; (4) the violation of the enactment is the proximate cause of the injury; and (5) the public entity did not exercise reasonable diligence in discharging its duty established by the enactment.

260. An enactment includes a federal or state constitutional provision, a statute, charter provision, ordinance, or properly adopted regulation.

1           261. The California Fair Employment and Housing Act, California Government  
2 Code §§ 12955 *et seq.*, is an enactment within the meaning of California Government Code  
3 § 815.6. Plaintiffs are in the class of persons protected by this enactment, and FEHA is  
4 intended to protect against the type of injury complained of by Plaintiffs. If Defendants  
5 provide housing, FEHA creates a mandatory duty to provide housing free of  
6 discrimination, and to take prompt action to correct a discriminatory practice.

7           262. Defendants County, Anaheim, Midnight Mission, and Illumination  
8 Foundation are all public entities within the meaning of California Government Code §  
9 815.6.

10           263. Defendant Anaheim developed shelter security and search-on-entry policies  
11 and required Defendant Illumination Foundation to implement and follow such policies  
12 through contractual obligations. The decision to implement and the development of such  
13 policies required discretionary policy-level decision-making from Anaheim. The  
14 administration of these search policies was purely ministerial.

15           264. Illumination Foundation and Protection America staff were required to  
16 follow the shelter security and search-on-entry policies. Illumination Foundation and  
17 Protection America were afforded no authority to choose who and what to search at the  
18 shelters. Rather, shelter staff and security personnel merely followed the policies that  
19 Anaheim required Illumination Foundation to implement.

20           265. Because the required searches performed by shelter staff were not a policy  
21 decision or the product of any exercise of discretion, in that they required no conscious  
22 balancing of risks and advantages, any tortious act underlying a body search performed  
23 by shelter staff would not be immunized under California Government Code § 820.2.

24           266. Because the shelter staff's acts are not entitled to immunity, Defendants  
25 Anaheim and Illumination Foundation are not entitled to immunity under California  
26 Government Code § 815.2. Shelter staff and security personnel at La Mesa and Protection  
27 America were acting within the scope of their employment when they conducted the  
28

1 invasive searches. The very nature of the searches required by Anaheim included physical  
2 contact with residents. A body search of a shelter resident by shelter staff inherently  
3 requires the physical touching of that shelter resident. Shelter staff do not touch shelter  
4 residents during such searches for personal reasons but rather are required to do so under  
5 the required search and security policies. Inappropriate and unwanted touching and  
6 groping occurring during the execution of such searches is a foreseeable consequence of  
7 these policies and is not a substantial departure from the duties of shelter staff and  
8 security personnel.

9         267. The staff and security personnel maintained extraordinary power and  
10 authority over the shelter residents, as they determined whether residents had a place to  
11 live. Inappropriate groping occurring during the execution of such searches is a  
12 foreseeable consequence of these policies and the resulting injuries were proximately  
13 caused by acts of shelter staff and security personnel.

14         268. Under the vicarious liability provisions of the Fair Employment and Housing  
15 Act, an agent or employee who engages in sexual harassment may be considered to be  
16 acting within the scope of their agency or employment even if their actions are  
17 “incidental” to their job-related tasks. Cal. Code Regs. tit. 2, § 12010(b)(2). Illumination  
18 Foundation and Protection America staff were thus acting within the scope of their  
19 employment when they conditioned the availability of shelter on the submission to  
20 improper searches by Ms. Moore, Ms. Utzman, and Ms. Powitzky. Anaheim is vicariously  
21 liable for the actions of its contractor, whom it required to perform searches. These  
22 searches constitute quid pro quo sexual harassment, in violation of the Fair Employment  
23 and Housing Act.

24         269. Defendants County, Anaheim, Midnight Mission, and Illumination  
25 Foundation also violated the Fair Employment and Housing Act when staff at La Mesa  
26 and the Courtyard conditioned the provision of shelter on Ms. Kraft, Ms. Lancaster, Ms.  
27 Moore, Ms. Powitzky, and Ms. Utzman’s submission to sexual touches, propositions, leers,  
28

1 gropes, and vulgar comments. Shelter staff committed these acts of harassment during the  
2 scope of their work. This conduct also constitutes quid pro quo sexual harassment, in  
3 violation of the Fair Employment and Housing Act.

4 270. Because the shelter staff's acts are not entitled to immunity, Defendants  
5 County, Anaheim, Midnight Mission, and Illumination Foundation are not entitled to  
6 immunity, and Defendants are vicariously liable for any injury proximately caused by acts  
7 or omissions of employees acting within the scope of their employment under California  
8 Government Code § 815.2.

9 271. Plaintiffs complained about or otherwise made clear that they objected to the  
10 conduct described above, and staff continued to engage in or condone the unwelcomed  
11 conduct. Once Defendants knew or should have known that shelter staff and security  
12 personnel were engaged in inappropriate conduct in the course of their official duties, and  
13 failed to take prompt action to prevent further sexual harassment, Defendants were liable  
14 for violating the Fair Employment and Housing Act. Cal. Code Regs. tit. 2, §  
15 12010(a)(1)(B). The Fair Employment and Housing Act also imposes vicarious liability on  
16 housing providers for sexual harassment committed by their agents or employees  
17 regardless of whether the provider knew of the conduct. Cal. Code Regs. Tit. 2, § 12010(b).  
18 Defendants did not exercise reasonable diligence in discharging their duties established by  
19 FEHA.

20 272. Shelter staff also had the authority under their employment with the shelters  
21 to write-up shelter residents and remove shelter residents from the shelter. Write-ups and  
22 evictions from shelter staff stemming from inappropriate reasons are a foreseeable result  
23 of such authority and are not a substantial departure from shelter staff's authority.

24 273. Plaintiffs were harmed, and the searches and harassment were a substantial  
25 factor in causing this harm.

1 **THIRD CAUSE OF ACTION**

2 Disparate Impact Discrimination Based on Sex  
3 (California Employment and Fair Housing Act,  
4 Cal. Gov't Code § 12955 *et seq.*; Cal. Gov't Code §§ 810, 815 *et seq.*)  
5 **(Plaintiffs Moore, Powitzky and Utzman Against Defendants Anaheim, Illumination  
6 Foundation, and Protection America, Inc.)**

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

8 275. The searches conducted at La Mesa disproportionately impacted women, in  
9 violation of Cal. Gov't Code §§ 12955.1, 12955.8. La Mesa's use of pat down searches that  
10 involve touching and exposing residents' breasts disproportionately impacts women,  
11 whose private parts – their breasts – were touched, patted, and exposed while searches of  
12 men under similar circumstances did not result in such violations.

13 276. Defendant Anaheim developed shelter security and search-on-entry policies  
14 and required Defendants Illumination Foundation to implement and follow such policies  
15 through contractual obligations. The decision to implement and the development of such  
16 policies required discretionary policy-level decision-making from Anaheim. The  
17 administration of these policies was purely administrative.

18 277. Shelter staff and security personnel were required to follow the shelter  
19 security and search-on-entry policies. Shelter staff and security personnel were afforded  
20 no authority to choose who and what to search at the shelters. Rather, Illumination  
21 Foundation and Protection America staff merely followed the policies that Anaheim  
22 required Illumination Foundation to implement.

23 278. California Government Code § 815.2 provides for liability against a public  
24 entity for injuries caused by a public employee within the scope of their employment.

25 279. California Government Code § 815.6 provides for liability against a public  
26 entity when: (1) the entity violates an enactment; (2) the plaintiffs are in the class of  
27 persons protected by the enactment; (3) the enactment is intended to protect against the  
28 type of injury complained of by the plaintiffs; (4) the violation of the enactment is the  
proximate cause of the injury; and (5) the public entity did not exercise reasonable

1 diligence in discharging its duty established by the enactment.

2 280. An enactment includes a federal or state constitutional provision, a statute,  
3 charter provision, ordinance, or properly adopted regulation.

4 281. The California Fair Employment and Housing Act, California Government  
5 Code §§ 12955 *et seq.*, is an enactment within the meaning of California Government Code  
6 § 815.6. Plaintiffs are in the class of persons protected by this enactment, and FEHA is  
7 intended to protect against the type of injury complained of by Plaintiffs. If Defendants  
8 provide housing, FEHA creates a mandatory duty to provide housing free of  
9 discrimination, and to take prompt action to correct a discriminatory practice.

10 282. Defendants Anaheim and Illumination Foundation are public entities within  
11 the meaning of California Government Code § 815.6.

12 283. Because the required searches performed by Illumination Foundation and  
13 Protection America staff were not a policy decision or the product of any exercise of  
14 discretion, in that they required no conscious balancing of risks and advantages, any  
15 tortious act underlying a body search performed by their staff would not be immunized  
16 under California Government Code § 820.2.

17 284. Because the shelter staff's acts are not entitled to immunity, Defendants  
18 Anaheim and Illumination Foundation are not entitled to immunity and are vicariously  
19 liable for injury proximately caused by acts or omissions of employees within the scope of  
20 their employment under California Government Code § 815.2. Shelter staff and security  
21 personnel at La Mesa and Protection America were acting within the scope of their  
22 employment when they conducted the invasive searches. The very nature of the searches  
23 required by Anaheim included physical contact with residents.

24 285. A body search of a shelter resident by shelter staff inherently requires the  
25 physical touching of that shelter resident. Shelter staff do not touch shelter residents  
26 during such searches for personal reasons but rather are required to do so under the  
27 required search and security policies.

1           286. The staff and security personnel maintained extraordinary power and  
2 authority over the shelter residents, as they determined whether residents had a place to  
3 live. Inappropriate groping occurring during the execution of such searches was a  
4 foreseeable consequence of these policies and the resulting injuries were proximately  
5 caused by acts of shelter staff and security personnel. Under the vicarious liability  
6 provisions of the Fair Employment and Housing Act, an agent or employee who engages  
7 in sexual harassment may be considered to be acting within the scope of their agency or  
8 employment even if their actions are “incidental” to their job-related tasks. Cal. Code  
9 Regs. tit. 2, § 12010(b)(2).

10           287. The non-consensual touching of residents’ bodies created particular trauma  
11 for survivors of past abusive nonconsensual touching, such as survivors of sexual abuse,  
12 sexual assault, and intimate partner violence. Because women are disproportionately  
13 survivors of sexual abuse, sexual assault and intimate partner violence, the search policies  
14 which utilized non-consensual touching had a disparate impact on women residents.

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

22           289. Plaintiffs complained about or otherwise made clear that they objected to the  
23 conduct described above, and staff continued to engage in or condone the unwelcomed  
24 conduct. Once Defendants knew or should have known that shelter staff and security  
25 personnel were engaged in inappropriate conduct in the course of their official duties, and  
26 failed to take prompt action to prevent further sexual harassment, Defendants were liable  
27 for violating the Fair Employment and Housing Act. Cal. Code Regs. tit. 2, §  
28

1 12010(a)(1)(B). The Fair Employment and Housing Act also imposes vicarious liability on  
2 housing providers for sexual harassment committed by their agents or employees  
3 regardless of whether the provider knew of the conduct. Cal. Code Regs. tit. 2, § 12010(b).

4 290. Plaintiffs were harmed by these searches and the searches were a substantial  
5 factor in causing the harm.

6 **FOURTH CAUSE OF ACTION**

7 Sex-Based Discrimination and Harassment  
(Cal. Gov't Code § 11135)

8 **(Plaintiffs Kraft, Lancaster, Moore, Powitzky and Utzman Against Defendants County,  
9 Anaheim, Midnight Mission, and Illumination Foundation)**

10 291. Plaintiffs incorporate by reference the above allegations, as if set forth in full.

11 292. Government Code § 11135 prohibits any program or activity that receives any  
12 financial assistance from the State from discriminating against or denying full and equal  
13 access to any benefit to any person on the basis of sex.

14 293. The shelters at issue here receive financial assistance from the State, directly  
15 and through Anaheim and County. Accordingly, Defendants violated Cal. Gov't Code §  
16 11135 and regulations promulgated thereunder. County and Anaheim failed to carry out  
17 their non-delegable duty to ensure that programs they fund do not engage in  
18 discrimination, including sexual discrimination or sexual harassment.

19 294. Defendant Illumination Foundation's conduct of invasive searches denies  
20 women full and equal access to the services and benefits offered by Defendants Anaheim  
21 and Illumination Foundation and constitute sex discrimination in violation of Cal. Gov't  
22 Code § 11135. In addition, Defendants' conduct has the purpose and effect of  
23 discriminating against female residents without adequate justification on the basis of sex.  
24 Defendant Anaheim required shelter staff to search all shelters residents upon entry into  
25 the shelters. Defendant Illumination Foundation failed to train its staff in proper search  
26 techniques, or employ less physically invasive methods to search Plaintiffs. Defendant  
27 Illumination Foundation searched Plaintiffs repeatedly, even when Plaintiffs had no  
28 opportunity to obtain contraband after a previous search.



1           295. Shelter staff and security personnel were required to follow the shelter  
2 security and search-on-entry policies. Shelter staff and security personnel were afforded  
3 no authority to choose who and what to search at La Mesa. Rather, shelter staff and  
4 security personnel merely followed the policies that Anaheim required Illumination  
5 Foundation to implement.

6           296. Defendants County, Anaheim, Midnight Mission, and Illumination  
7 Foundation also violated Government Code § 11135 when staff at La Mesa and Courtyard  
8 sexually touched, propositioned, leered, groped, or made vulgar comments to Ms. Kraft,  
9 Ms. Lancaster, Ms. Moore, Ms. Powitzky, and Ms. Utzman. Shelter staff committed these  
10 acts of harassment during the scope of their work.

11           297. Shelter staff also had the authority under their employment with the shelters  
12 to write-up shelter residents and remove shelter residents from the shelter. Write-ups and  
13 evictions from shelter staff stemming from inappropriate reasons are a foreseeable result  
14 of such authority and are not a substantial departure from shelter staff's authority.

15           298. Plaintiffs complained about or otherwise made clear that they objected to the  
16 conduct described above, and staff continued to engage in or condone the unwelcomed  
17 conduct. Once Defendants knew or should have known that shelter staff and security  
18 personnel were engaged in inappropriate conduct in the course of their official duties, and  
19 failed to take prompt action to prevent further sexual harassment, Defendants were liable  
20 for violating Cal. Gov't. Code § 11135.

21           299. County and Anaheim failed to adequately supervise and Midnight Mission  
22 and Illumination Foundation, their contractors providing shelter services, including by  
23 failing to investigate known complaints of sexual harassment, failing to reprimand the  
24 responsible parties, and failing to prevent these known harms. County and Anaheim  
25 continue to fund these shelter providers for unhoused persons. This failure to supervise is  
26 ongoing and may result in similar violations of Government Code section 11135 at other  
27 shelters that County and Anaheim continue to fund.

1 300. As a direct and proximate result of the Defendants' violations of Cal. Gov't  
2 Code § 11135, Plaintiffs have been injured as set forth herein.

3 301. Plaintiffs seek exclusively equitable and declaratory relief in connection with  
4 their Fourth Cause of Action. California Government Code § 814 provides that the  
5 government immunity provisions do not apply to “the right to obtain relief other than  
6 money or damages against a public entity or public employee.”

7  
8 **FIFTH CAUSE OF ACTION**

9 Invasion of Privacy (Cal. Const. Art. I, § 1 and Common Law;  
10 Cal. Gov't Code §§ 810, 815 *et seq.*)  
**(Plaintiffs Kraft, Lancaster, Moore, Powitzky and Utzman Against Defendants County,  
Anaheim, Midnight Mission, Illumination Foundation, and Protection America, Inc.)**

11 302. Plaintiffs incorporate by reference the above allegations, as if set forth in full.

12 303. The California Constitution and the common law prohibit private and  
13 governmental actors from engaging in unjustified invasions of personal privacy.

14 304. Plaintiffs had a reasonable expectation of privacy while living at Defendants'  
15 shelters.

16 305. Defendants Anaheim, Illumination Foundation, and Protection America  
17 violated that right to privacy by subjecting Ms. Moore, Ms. Powitzky, and Ms. Utzman to  
18 invasive searches. Illumination Foundation and Protection America staff were acting  
19 within the scope of their employment when they searched Plaintiffs. The very nature of  
20 the searches required by Anaheim included physical contact with residents. A body  
21 search of a shelter resident by shelter staff inherently requires the physical touching of that  
22 shelter resident. Shelter staff do not touch shelter residents during such searches for  
23 personal reasons but rather are required to do so under the required search and security  
24 policies.

25 306. Illumination Foundation and Protection America staff and security personnel  
26 maintained extraordinary power and authority over the shelter residents, as they  
27 determined whether residents had a place to live. Inappropriate groping occurring during  
28

1 the execution of such searches is a foreseeable consequence of these policies and the  
2 resulting invasions of privacy were proximately caused by acts of shelter staff and security  
3 personnel. Inappropriate and unwanted touching, propositioning, leering, vulgar  
4 comments, and groping occurring during the execution of such searches is a foreseeable  
5 consequence of these policies and is not a substantial departure from the duties of shelter  
6 staff and security personnel.

7 307. Defendants County, Anaheim, Midnight Mission, and Illumination  
8 Foundation also violated the privacy provisions of the Constitution when staff at La Mesa  
9 and Courtyard sexually touched, propositioned, leered, groped, and made vulgar  
10 comments to Ms. Kraft, Ms. Lancaster, Ms. Moore, Ms. Powitzky, and Ms. Utzman.  
11 Midnight Mission and Illumination Foundation staff were acting within the scope of  
12 their employment when they committed these acts which violated Plaintiffs' right to  
13 privacy.

14 308. Defendants' highly invasive searches, groping, improper touching, and  
15 watching Plaintiffs dress are unjustified and violate Plaintiffs' right to privacy.

16 309. Plaintiffs were harmed by these invasions of privacy, and Defendants' actions  
17 were a substantial factor in causing that harm.

18 310. California Government Code § 815.2 provides that a public entity is liable for  
19 injury caused by its employee acting within the scope of their employment if the act or  
20 omission would have given rise to a cause of action against that employee. Because the  
21 shelter staff's acts are not entitled to immunity, Defendants Midnight Mission and  
22 Illumination Foundation are not entitled to immunity and are vicariously liable for injury  
23 proximately caused by acts or omissions of employees within the scope of their  
24 employment under California Government Code § 815.2.

25 311. California Government Code § 815.4 provides that a public entity is liable for  
26 injury caused by its independent contractors to the same extent that the public entity  
27 would be subject to such liability if it were a private person. Here, Defendant Illumination  
28

1 Foundation had knowledge that Protection America invaded Plaintiffs' privacy, or other  
2 resident's privacy, and failed to take effective action to stop or prevent this recurring and  
3 foreseeable harm from occurring. Defendants County and Anaheim had knowledge that  
4 their contractors, Midnight Mission and Illumination Foundation, were engaging in sexual  
5 harassment. Accordingly, Defendants County, Anaheim, and Illumination Foundation are  
6 vicariously liable for injury proximately caused by acts or omissions of independent  
7 contractors under California Government Code § 815.4.

8 312. County and Anaheim failed to adequately supervise Midnight Mission and  
9 Illumination Foundation, their contractors providing shelter services, including by failing  
10 to investigate known complaints of invasive sexual harassment in violation of Plaintiffs'  
11 privacy rights, failing to reprimand the responsible parties, and failing to prevent these  
12 known harms. This failure to supervise is ongoing and may result in similar violations of  
13 the California Constitution's right to privacy at other shelters that County and Anaheim  
14 continue to fund.

15  
16 **SIXTH CAUSE OF ACTION**

17 Sexual Battery (Cal. Civ. Code § 1708.5; Cal. Gov't Code §§ 810, 815 *et seq.*)  
18 **(Plaintiffs Kraft, Lancaster, Moore, Powitzky and Utzman Against Defendants County,  
Anaheim, Midnight Mission, Illumination Foundation, and Protection America, Inc.)**

19 313. Plaintiffs incorporate by reference the above allegations, as if set forth in full.

20 314. Defendants intended to cause a harmful or offensive contact with Plaintiffs'  
21 intimate parts and a sexually offensive contact with Plaintiffs resulted, either directly or  
22 indirectly. The invasive body searches conducted by Illumination Foundation and  
23 Protection America staff against Ms. Moore, Ms. Powitzky, and Ms. Utzman constitute  
24 sexual battery. The non-consensual hugging, groping, and other unwanted touching  
25 described above perpetrated by Illumination Foundation and Midnight Mission staff  
26 against Ms. Kraft, Ms. Lancaster, Ms. Moore, Ms. Powitzky and Ms. Utzman also  
27 constitute sexual battery.

1           315. Any alleged consent to searches was only given to the extent consent was  
2 necessary for a standard screening procedure, and any screening procedures that  
3 exceeded this standard exceeded the scope of the alleged consent. Any purported consent  
4 for the invasive searches was coerced as a condition of staying in the La Mesa shelter.

5           316. California Government Code § 815.2 provides that a public entity is liable for  
6 injury caused by its employee acting within the scope of their employment if the act or  
7 omission would have given rise to a cause of action against that employee.

8           317. California Government Code § 815.4 provides that a public entity is liable for  
9 injury caused by its independent contractors to the same extent that the public entity  
10 would be subject to such liability if it were a private person. On information or belief,  
11 Defendants County and Anaheim had actual notice that shelter staff and security  
12 personnel sexually battered Plaintiffs or other residents at County and Anaheim funded  
13 shelters. Defendant Illumination Foundation had notice that its contractor Protection  
14 American was improperly searching residents at La Mesa. Defendants failed to take  
15 effective action to stop or prevent this recurring and foreseeable harm from occurring.

16           318. Defendant Anaheim developed shelter security and search-on-entry policies  
17 and required Defendant Illumination Foundation to implement and follow such policies  
18 through contractual obligations.

19           319. Illumination Foundation and Protection America staff were required to  
20 follow the shelter security and search-on-entry policies. Illumination Foundation and  
21 Protection America staff were afforded no authority to choose who and what to search at  
22 the shelters. Rather, Illumination Foundation and Protection America staff merely  
23 followed the policies that Anaheim required Illumination Foundation to implement.

24           320. Illumination Foundation and Protection America staff were acting within the  
25 scope of their employment when they conducted the invasive searches. The very nature  
26 of the searches required by Anaheim included physical contact with residents. A body  
27 search of a shelter resident by shelter staff inherently requires the physical touching of that  
28

1 shelter resident. Shelter staff do not touch shelter residents during such searches for  
2 personal reasons but rather are required to do so under the required search and security  
3 policies. The body searches conducted by shelter staff were done so under the fully  
4 authority granted to them by their shelter employers.

5 321. Inappropriate and unwanted touching and groping occurring during the  
6 execution of such searches is a foreseeable consequence of these policies and is not a  
7 substantial departure from the duties of shelter staff and security personnel.

8 322. Midnight Mission and Illumination Foundation staff were also acting within  
9 the scope of their employment when they engaged in non-consensual hugging, groping,  
10 and other unwanted touching of Ms. Kraft, Ms. Lancaster, Ms. Moore, Ms. Powitzky, and  
11 Ms. Utzman.

12 323. Plaintiffs complained about or otherwise made clear that they objected to the  
13 conduct described above, and staff continued to engage in or condone the unwelcomed  
14 conduct. Defendants Midnight Mission, Illumination Foundation, Protection America,  
15 County, and Anaheim knew or should have known that shelter staff and security  
16 personnel were engaged in inappropriate conduct in the course of their official duties, and  
17 failed to take prompt action to prevent further sexual battery.

18 324. Because the shelter staff's acts are not entitled to immunity, Defendants  
19 Midnight Mission and Illumination Foundation are not entitled to immunity and are  
20 vicariously liable for injury proximately caused by acts or omissions of employees within  
21 the scope of their employment under California Government Code § 815.2.

22 325. Because the shelter staff's acts are not entitled to immunity, Defendants  
23 County, Anaheim, Midnight Mission, and Illumination Foundation are not entitled to  
24 immunity and are vicariously liable for injury proximately caused by acts or omissions of  
25 independent contractors under California Government Code § 815.4.

26 326. County and Anaheim failed to adequately supervise Midnight Mission and  
27 Illumination Foundation, their contractors providing shelter services, including failing to  
28

1 investigate known complaints of sexual battery, failing to reprimand the responsible  
2 parties, and failing to prevent these known harms. This failure to supervise may result in  
3 sexual battery at other shelters that County and Anaheim continue to fund.

4 327. Plaintiffs were harmed or offended by Defendants' searches and other  
5 unwanted touching and a reasonable person in Plaintiffs' situation would have been  
6 harmed or offended by the touching.

7  
8 **SEVENTH CAUSE OF ACTION**

9 **Common Law Battery**  
10 **(Plaintiffs Kraft, Lancaster, Moore, Powitzky and Utzman Against**  
11 **Defendant Protection America, Inc.)**

12 328. Plaintiffs incorporate by reference the above allegations, as if set forth in full.

13 329. Defendant Protection America's security personnel intentionally touched Ms.  
14 Moore, Ms. Powitzky, and Ms. Utzman or caused them to be touched.

15 330. The invasive searches and other unwanted touching described above  
16 constitute battery. Any alleged consent for searches was only given to the extent consent  
17 was necessary for a standard screening procedure, and any screening procedures that  
18 exceeded this standard exceeded the scope of the alleged consent. Any purported consent  
19 for the invasive searches was coerced as a condition of staying in the shelter.

20 331. Plaintiffs were harmed or offended by Defendants' touching and a reasonable  
21 person in Plaintiffs' situation would have been harmed or offended by the touching.

22 **EIGHTH CAUSE OF ACTION**

23 **Retaliation (Cal. Gov't Code § 12955 *et seq.*, Cal. Gov't Code §§ 810, 815 *et seq.*)**  
24 **(Plaintiffs Moore, Powitzky and Utzman Against Defendants County, Anaheim,**  
25 **Illumination Foundation, and Midnight Mission)**

26 332. Plaintiffs incorporate by reference the above allegations, as if set forth in full.

27 333. Government Code § 12955(f) prohibits owners of housing accommodations  
28 from harassing, evicting, or otherwise discriminating against any person to retaliate

1 against a person who has opposed practices unlawful under § 12955, informed law  
2 enforcement agencies of practices believed unlawful under this section, has testified or  
3 assisted in any proceeding under this part, or has aided or encouraged a person to exercise  
4 or enjoy the rights secured by the statute.

5 334. Government Code § 12955.7 makes it unlawful to coerce, intimidate, threaten,  
6 or interfere with any person in the exercise or enjoyment of, or on account of that person  
7 having exercised or enjoyed, or on account of that person having aided or encouraged any  
8 other person in the exercise or enjoyment of, any right granted or protected by Cal. Gov't  
9 Code § 12955.

10 335. The retaliatory acts described above violate these provisions.

11 336. California Gov't Code § 815.2 provides that a public entity is liable for injury  
12 caused by its employee acting within the scope of their employment if the act or omission  
13 would have given rise to a cause of action against that employee. Midnight Mission and  
14 Illumination Foundation staff were acting within the scope of their employment when  
15 they retaliated against Ms. Moore, Ms. Utzman, and Ms. Powitzky for complaining about  
16 sexual harassment at La Mesa and the Courtyard.

17 337. California Government Code § 815.6 provides for liability against a public  
18 entity when: (1) the entity violates an enactment; (2) the plaintiffs are in the class of  
19 persons protected by the enactment; (3) the enactment is intended to protect against the  
20 type of injury complained of by the plaintiffs; (4) the violation of the enactment is the  
21 proximate cause of the injury; and (5) the public entity did not exercise reasonable  
22 diligence in discharging its duty established by the enactment.

23 338. An enactment includes a federal or state constitutional provision, a statute,  
24 charter provision, ordinance, or properly adopted regulation.

25 339. The California Fair Employment and Housing Act, California Government  
26 Code §§ 12955 *et seq.*, is an enactment within the meaning of California Government Code  
27 § 815.6. Plaintiffs are in the class of persons protected by this enactment, and FEHA is  
28



1 intended to protect against the type of injury complained of by Plaintiffs. If Defendants  
2 provide housing, FEHA creates a mandatory duty to provide housing free of  
3 discrimination, and to take prompt action to correct a discriminatory practice.

4 340. Defendants County, Anaheim, Illumination Foundation, and Midnight  
5 Mission are all public entities within the meaning of California Government Code § 815.6.

6 341. The Fair Employment and Housing Act imposes vicarious liability on  
7 housing providers for a discriminatory housing practice engaged in by their agents or  
8 employees regardless of whether the provider knew of the conduct. Cal. Code Regs. tit. 2,  
9 § 12010(b). Midnight Mission, Illumination Foundation, Anaheim, and County are  
10 vicariously liable for the retaliatory actions that Midnight Mission and Illumination  
11 Foundation staff took against Ms. Moore, Ms. Powitzky, and Ms. Utzman for complaining  
12 about sexual harassment.

13  
14 **NINTH CAUSE OF ACTION**

15 Retaliation (Cal. Const., art. I §§ 2, 3; Cal. Gov't Code §§ 810, 815 *et seq.*)  
16 **(Plaintiffs Lancaster, Moore, Ogle, Powitzky, and Utzman Against Defendants County,  
Anaheim, Illumination Foundation, Midnight Mission, and Mercy House)**

17 342. Plaintiffs incorporate by reference the above allegations, as if set forth in full.

18 343. The California Constitution's Liberty of Speech clause, Cal. Const., art. I § 2,  
19 provides broad protection for speech, particularly speech related to a matter of public  
20 concern.

21 344. Article I § 3 of the California Constitution protects the right to petition the  
22 government for redress of grievances.

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

25 346. The retaliation against residents for complaining about sex discrimination  
26 and shelter conditions and rules violates the Liberty of Speech and petition clauses.

27 347. Any purportedly legitimate reasons offered by Defendants to justify their  
28

1 denial of housing rights to Plaintiffs was pre-textual.

2 348. California Government Code § 815.2 provides that a public entity is liable for  
3 injury caused by its employee acting within the scope of their employment if the act or  
4 omission would have given rise to a cause of action against that employee. Midnight  
5 Mission, Mercy House and Illumination Foundation staff were acting within the scope of  
6 their employment when they retaliated against Ms. Lancaster, Ms. Moore, Mr. Ogle, Ms.  
7 Utzman, and Ms. Powitzky for complaining about sexual harassment and unsanitary  
8 conditions at Courtyard, Bridges, and La Mesa. These acts of retaliation constitute  
9 malicious and oppressive conduct. Anaheim and County are vicariously liable for the  
10 injuries caused by Midnight Mission, Mercy House, and Illumination Foundation, as they  
11 were acting as independent contractors for Anaheim and/or County.

12 349. California Government Code § 815.4 provides that a public entity is liable for  
13 injury caused by its independent contractors to the same extent that the public entity  
14 would be subject to such liability if it were a private person. On information and belief,  
15 Defendants had actual notice that shelter staff and security personnel retaliated against  
16 Plaintiffs or other residents for complaining about harm suffered at the shelters.  
17 Defendants failed to take effective action to stop or prevent this recurring and foreseeable  
18 harm from occurring.

19 350. County and Anaheim failed to adequately supervise their contractors  
20 providing shelter services, including by failing to investigate known complaints of  
21 retaliation, failing to reprimand the responsible parties, and failing to otherwise prevent  
22 these known harms. This failure to supervise is ongoing and may result in continued  
23 retaliation in violation of the California Constitution at other shelters that County and  
24 Anaheim continue to fund.

25  
26 **TENTH CAUSE OF ACTION**

27 **Due Process (Cal. Const., art. I § 7)**  
28 **(Plaintiffs Powitzky, Hogan, Martinez, and Oma's Angel Foundation against Defendants County, Anaheim, Mercy House, and Illumination Foundation)**

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

352. The California Constitution protects the right to intrastate travel, including the right to travel freely within a city.

353. The limitations on shelter residents' travel created by the lock-in/shut-out policy – the prohibition on their leaving or entering the shelter by foot or on bicycle – is a direct and unjustified restriction of this right.

354. Ms. Powitzky's, Mr. Hogan's, and Mr. Martinez's constitutional rights have been and continue to be violated as long as Defendants County and Anaheim continue to implement the lock-in/shut-out policy at their homeless shelters.

355. Ms. Powitzky has suffered the loss of at least two jobs as a result of unconstitutional lock-in/shut-out policies employed by Anaheim shelters. Ms. Powitzky remains unhoused but is unwilling to seek shelter at any facility that maintains this unconstitutional policy and unlawfully restricts her freedom of movement.

356. Mr. Hogan has suffered the loss of at least one job as a result of the unconstitutional lock-in/shut-out policies employed by Bridges. Mr. Hogan remains unhoused but is unwilling to seek shelter at any facility that maintains this unconstitutional policy and unlawfully restricts his freedom of movement.

357. Mr. Martinez currently resides at Bridges which implements a lock-in/shut-out policy that is exacerbating his PTSD symptoms. The ability to walk out of the shelter as needed would alleviate his symptoms, but this accommodation is not available due to the shelter's policy. Further, Mr. Martinez has not been able to find and retain work due to the shelter's lock-in/shut out policy.

358. Plaintiff Oma's Angel Foundation must divert much of its limited organizational resources to support unhoused persons whose due process rights are violated due to the lock-in/shut-out policy at homeless shelters funded and/or operated by County, Anaheim, Mercy House, and Illumination Foundation.



1 364. The limitations on shelter residents’ travel created by the lock-in/shut-out  
2 policy – the prohibition on their leaving or entering the shelter by foot or on bicycle – is  
3 unjustified and is based purely on unjustified stereotypes about and animus towards  
4 homeless people.

5 365. Ms. Powitzky’s, Mr. Hogan’s, and Mr. Martinez’s constitutional rights remain  
6 violated as long as Defendants County, Anaheim, Mercy House, and Illumination  
7 Foundation implement the lock-in/shut-out policy at their homeless shelters. Mr.  
8 Martinez currently live at Bridges, which implements the policy. And but for the lock-  
9 in/shut-out policy and other unlawful conditions, Ms. Powitzky and Mr. Hogan would  
10 stay at homeless shelters funded or run by Defendants County, Anaheim, Mercy House,  
11 and Illumination Foundation.

12 366. Plaintiff Oma’s Angel Foundation must divert much of its limited  
13 organizational resources to support unhoused persons whose equal protection rights are  
14 violated due to the lock-in/shut-out policy at homeless shelters funded and/or operated  
15 by County, Anaheim, Mercy House, and Illumination Foundation.

16 367. Plaintiffs seek declaratory relief that County’s, Anaheim’s, Mercy House’s  
17 and Illumination Foundation’s lock-in/shut-out policies violate the equal protection  
18 clause of California’s Constitution, and to enjoin enforcement of this policy. California  
19 Government Code § 814 provides that the government immunity provisions do not apply  
20 to “the right to obtain relief other than money or damages against a public entity or public  
21 employee.” County, Anaheim, Mercy House, and Illumination Foundation continue to  
22 operate homeless shelters that implement the lock-in/shut-out policy.

23  
24 **TWELFTH CAUSE OF ACTION**

25 Breach of Implied Warranty of Habitability (Cal. Gov’t Code §§ 810, 815 *et seq.*)  
26 **(All Plaintiffs Against Defendants County, Anaheim, Illumination Foundation,  
Midnight Mission, and Mercy House)**

27 368. Plaintiffs incorporate herein by reference the above allegations and Counts(s),  
28

1 as if set forth in full.

2 369. California Gov't Code § 815.2 provides that a public entity is liable for injury  
3 caused by its employee acting within the scope of their employment if the act or omission  
4 would have given rise to a cause of action against that employee.

5 370. California Government Code § 815.6 provides for liability against a public  
6 entity when: (1) the entity violates an enactment; (2) the plaintiffs are in the class of  
7 persons protected by the enactment; (3) the enactment is intended to protect the type of  
8 injury complained of by the plaintiffs; (4) the violation of the enactment is the proximate  
9 cause of the injury; and, (5) the public entity did not exercise reasonable diligence in  
10 discharging its duty established by the enactment.

11 371. An enactment includes a federal or state constitutional provision, a statute,  
12 charter provision, ordinance, or properly adopted regulation.

13 372. 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 statutes are enactments within the  
19 meaning of California Government Code § 815.6. These duties run both to the residents of  
20 these facilities but also to the government agencies that finance them and, ultimately, to  
21 the people and to the taxpayers. Plaintiffs are in the class of persons protected by these  
22 enactments, and these enactments are intended to protect against the type of injury  
23 complained of by Plaintiffs. Defendants County, Anaheim, Illumination Foundation,  
24 Midnight Mission, and Mercy House are all public entities within the meaning of  
25 California Government Code § 815.6.

26 373. Plaintiffs are the intended third-party beneficiaries of the contracts between  
27 Defendant Anaheim and Illumination Foundation and between County and Midnight  
28

1 Mission and Mercy House.

2 374. There was an implied-in-fact contract between Illumination Foundation and  
3 Ms. Utzman, Ms. Moore, and Ms. Powitzky that the Plaintiffs would agree to certain  
4 conditions in return for Illumination Foundation providing habitable shelter. There was  
5 an implied-in-fact contract between Midnight Mission and Ms. Utzman, Mr. Bui, Ms.  
6 Lancaster, and Ms. Kraft that Plaintiffs would agree to certain conditions in return for  
7 Midnight Mission providing habitable shelter. There was an implied-in-fact contract  
8 between Mercy House and Ms. Utzman, Mr. Bui, Mr. Ogle, Mr. Hogan, Mr. Martinez, and  
9 Ms. Rutter that Plaintiffs would agree to certain conditions in return for Mercy House  
10 providing habitable shelter.

11 375. All Defendants knew or should have known about the substandard  
12 conditions at La Mesa, Bridges, and Courtyard. Defendants were given a reasonable time  
13 to correct these conditions and failed to do so.

14 376. Defendants have failed to comply with their duties under the law, resulting  
15 in the conditions described above. This failure has resulted in physical and mental injuries  
16 to Mr. Bui, Ms. Kraft, Ms. Lancaster, Ms. Moore, Mr. Ogle, Ms. Powitzky, Ms. Rutter, Mr.  
17 Hogan, Mr. Martinez, and Ms. Utzman. Defendants' failure to comply with these duties  
18 has also harmed Plaintiff Oma's Angel Foundation, by diverting resources from its  
19 mission, and forcing it to assist shelter residents harmed by Defendants' unsanitary  
20 conditions and violations of residents' rights.

21 377. Defendants have failed to provide an adequate number of working showers,  
22 sinks, and toilets, and failed to maintain the ones they do provide.

23 378. During the relevant periods at issue in this case, the County required that  
24 shelters provide one toilet and one shower for every ten beds. Orange County, Cal.,  
25 Municipal Code § 7-9-148.8(d)(7) (2013). During the times that Plaintiffs resided at La  
26 Mesa, Anaheim required shelters to have to have a minimum of one toilet for every eight  
27 beds per gender and a minimum of one shower per every eight beds per gender.

1 Anaheim, Cal., Municipal Code §§ 18.38.125.0404-0405; 18.38.125.1101-1102 (2012).

2 379. The Courtyard had 430 beds but provided only 16 toilets and 9 showers.

3 380. Bridges has 200 beds but provides only 11 toilets and 6 urinals and not all of  
4 them are functional.

5 381. La Mesa had 102 beds but rarely had 10 functioning toilets and 10 functioning  
6 showers that were clean enough to use safely.

7  
8 **THIRTEENTH CAUSE OF ACTION**

9 Common Law Negligence (Cal. Gov't Code §§ 810, 815 *et seq.*)  
10 **(All Plaintiffs Against All Defendants except as limited below  
for violations of Cal. Civ. Code § 1714)**

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

13 **Defendants Committed Negligence Per Se**

14 383. All Defendants violated numerous statutes, including but not limited to Cal.  
15 Civil Code § 1941, Cal. Gov't §§ 12955 *et. seq.*; Cal. Health & Safety Code § 17920.3, Cal.  
16 Code Regs. tit. 25, §§ 34, 8417, Orange County, Cal., Municipal Code § 7-9-148.8(d)(7)  
17 (2013) and Anaheim Municipal Code §§ 18.38.125.0404-0405; 18.38.125.1101-1102 (2012).  
18 These statutes were meant to protect persons like Plaintiffs. These statutes are enactments  
19 within the meaning of California Government Code § 815.6.

20 384. Defendants Illumination Foundation, Midnight Mission, and Mercy House  
21 violated California Civil Code § 1714. This statute was meant to protect persons like  
22 Plaintiffs. This statute is an enactment within the meaning of California Government  
23 Code § 815.6.

24 385. California Government Code § 815.2 provides that a public entity is liable for  
25 injury caused by its employee acting within the scope of their employment if the act or  
26 omission would have given rise to a cause of action against that employee.

27 386. California Government Code § 815.4 provides that a public entity is liable for  
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1 injury caused by its independent contractors to the same extent that the public entity  
2 would be subject to such liability if it were a private person. On information and belief,  
3 Defendants County and Anaheim had actual notice of the negligence of their contractors,  
4 Midnight Mission, Mercy House, and Illumination Foundation. Illumination Foundation  
5 had notice of the negligence of its contractor, Protection America. Defendants County,  
6 Anaheim, and Illumination Foundation had a non-delegable duty to provide habitable  
7 shelter free from discrimination, and these Defendants failed to adequately supervise their  
8 independent contractors.

9 387. California Government Code § 815.6 provides for liability against a public  
10 entity when: (1) the entity violates an enactment; (2) the plaintiffs are in the class of  
11 persons protected by the enactment; (3) the enactment is intended to protect against the  
12 type of injury complained of by the plaintiffs; (4) the violation of the enactment is the  
13 proximate cause of the injury; and (5) the public entity did not exercise reasonable  
14 diligence in discharging its duty established by the enactment.

15 388. An enactment includes a federal or state constitutional provision, a statute,  
16 charter provision, ordinance, or properly adopted regulation.

17 389. Defendants County, Anaheim, Illumination Foundation, Midnight Mission,  
18 and Mercy House are all public entities within the meaning of California Government  
19 Code § 815.6.

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

23 391. Defendants have failed to comply with these duties, resulting in the sexual  
24 harassment and conditions described above. This failure has resulted in physical and  
25 mental injuries to Mr. Bui, Ms. Kraft, Ms. Lancaster, Ms. Moore, Mr. Ogle, Ms. Powitzky,  
26 Ms. Rutter, Mr. Hogan, Mr. Martinez, and Ms. Utzman. Defendants' failure to comply  
27 with these duties has also harmed Plaintiff Oma's Angel Foundation, by diverting  
28

1 resources from its mission, and forcing it to assist shelter residents harmed by Defendants'  
2 unsanitary conditions and violations of residents' rights.

3 392. Defendants' negligence was a substantial factor in causing Plaintiffs' harm.

4 393. Defendants' conduct in tortiously breaching their duty to maintain their  
5 shelters in habitable conditions, free of discrimination, has been grossly negligent.

6  
7 **FOURTEENTH CAUSE OF ACTION**

8 Unlawful Expenditure of Public Funds (Cal. Civ. Proc. Code § 526a)  
9 **(All Plaintiffs against Defendant County and Plaintiffs Moore, Ogle, Utzman,  
Powitzky, Kraft, Lancaster, and Oma's Angel Foundation against Defendant Anaheim)**

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

12 395. Plaintiffs have been assessed and have paid taxes that fund these Defendants  
13 within one year before the commencement of this action.

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

18 397. For the reasons described in the previous Counts, these expenditures of  
19 public funds on shelters that violate the law, and on County and Anaheim's violations of  
20 the law, are illegal expenditures of, waste of, or injury to public funds and property, and  
21 therefore those illegal shelter policies and practices should be enjoined and declared  
22 unlawful under Code of Civil Procedure § 526a and the common law. California  
23 Government Code § 814 provides that the government immunity provisions do not apply  
24 to "the right to obtain relief other than money or damages against a public entity or public  
25 employee."

26 **RELIEF REQUESTED**

27 Therefore, Plaintiffs ask the Court for the following:

- 1           1.       That the Court issue a declaration, a writ of mandate, and an injunction
- 2           prohibiting Defendants from engaging in the unlawful conduct described above.
- 3           2.       That the Court award damages and any applicable penalties for the acts
- 4           described above, including punitive damages against Protection America, Inc.
- 5           3.       That Plaintiffs be awarded attorneys’ fees and costs under Civil Code § 51.9,
- 6           Code of Civil Procedure § 1021.5, Government Code § 12965, and any other applicable
- 7           law.
- 8           4.       Such other and further relief as the Court deems proper and just.

**DEMAND FOR JURY TRIAL**

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

DATED: December 4, 2023

Respectfully submitted,

ACLU FOUNDATION OF  
SOUTHERN CALIFORNIA

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VERIFICATION

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

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

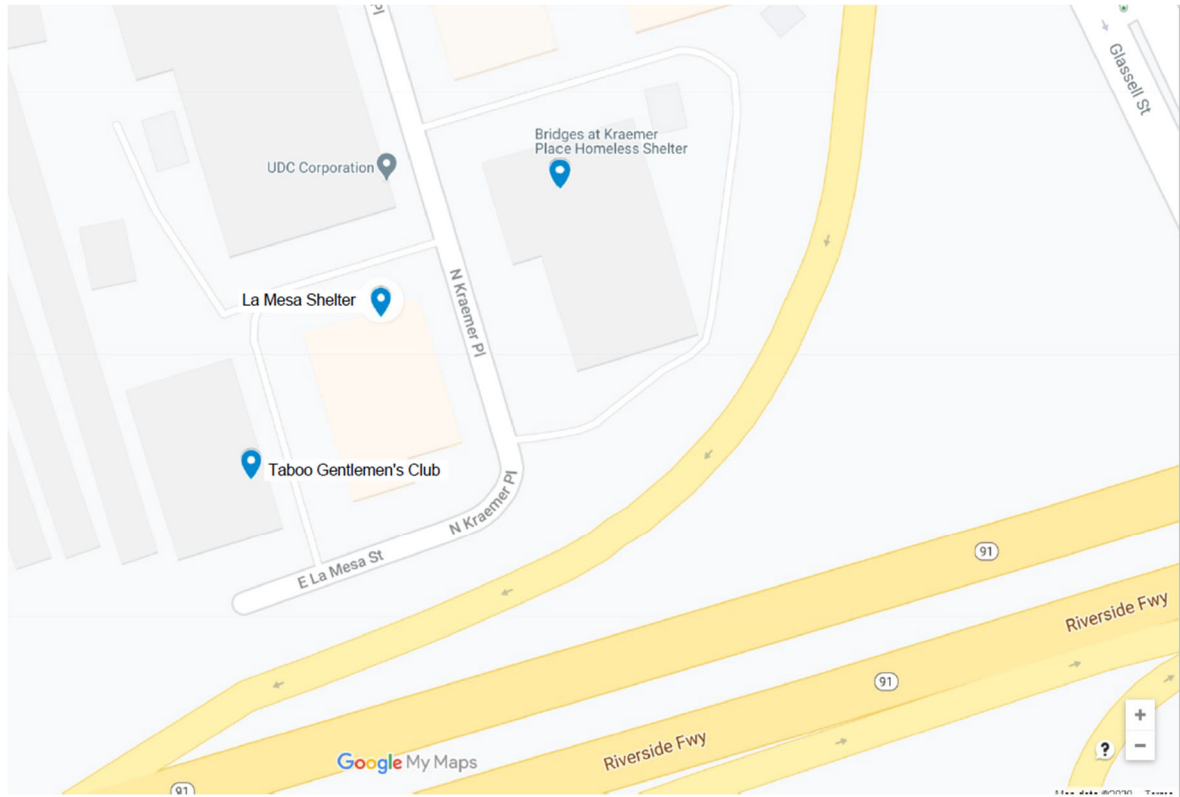
Heidemarie Zimmermann  
Heidemarie Zimmermann (Dec 4, 2023 16:43 PST)

12/04/2023  
DATED: \_\_\_\_\_

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 Courtyard on July 7, 2018



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Temperature Reading From inside Courtyard on December 31, 2018



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APPENDIX C

Photograph of portable toilet at Courtyard taken December 17, 2018



Photograph of portable toilet at Courtyard taken July 30, 2018





1 **PROOF OF SERVICE**

2 I, Keith Catuara, am employed in the County of Los Angeles, State of California. I  
3 am over the age of 18 and not a party to the within action; my business address is 555  
4 South Flower Street, Los Angeles, CA 90071.

5 On December 4, 2023, I served a copy of the following document described as:

6 **THIRD AMENDED VERIFIED COMPLAINT AND  
7 PETITION FOR WRIT OF MANDATE**

8 on the interested parties in this action as follows:

9  **By U.S. Mail**

10 By placing a copy of the document listed above in a sealed envelope in the  
11 United States mail to the addressees set forth below. Under the firm's practice  
12 of collection and processing of documents for mailing, it would be deposited  
13 with the United States Postal Service on that same day with postage thereon  
14 fully prepaid at Los Angeles, California in the ordinary course of business.

15  **By E-Service**

16 By causing such documents to be electronically served via One Legal pursuant  
17 to section 1010.6 of the Code of Civil Procedure. The file transmission was  
18 reported as completed and a copy of the transmission page will be maintained  
19 with the documents in our office.

20  **By Electronic Mail**

21 I caused said document to be transmitted by electronic mail. The names and  
22 email addresses of the persons served are set forth in the service list. The  
23 document was transmitted by electronic transmission and without error.

24 **SEE ATTACHED SERVICE LIST**

25 I declare under penalty of perjury that the foregoing is true and correct.

26 Executed on December 4, 2023 at Los Angeles, California.

27 

28 

---

Keith Catuara

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Attorneys for Defendants  
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Attorneys for Defendant  
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Attorneys for Defendant  
Mercy House Living Centers

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