

1 HEATHER MARIA JOHNSON (SB# 300960)
hjohnson@aclusocal.org
2 BELINDA ESCOBOSA HELZER (SB# 214178)
bescobosahelzer@aclusocal.org
3 ACLU FOUNDATION OF SOUTHERN CALIFORNIA
Orange County Office
4 1851 E. First Street, Suite 450
Santa Ana, CA 92705
5 Telephone: (714) 450-3962
Facsimile: (714) 543-5240

6 *Attorneys for Plaintiffs*

7 [Additional counsel listed on next page]

8
9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA
11 SOUTHERN DIVISION

12 Kenneth Glover; David Sestini;
13 Douglas Frederes Jr.; Jeffrey Aiken;
14 Katrina Aune; John Miller; and Lisa
Holbrook, individually, and on behalf
of all others similarly situated
15 Plaintiffs,

16 vs.

17 CITY OF LAGUNA BEACH; THE
LAGUNA BEACH POLICE
18 DEPARTMENT, a California charter
city

19 Defendants.

CASE NO. 8:15-CV-01332-AG-DFM

CLASS ACTION

**PLAINTIFFS' NOTICE OF MOTION
AND MOTION FOR PROVISIONAL
CLASS CERTIFICATION**

Date: December 21, 2015

Time: 10:00 a.m.

Courtroom: 10D

Hon. Andrew J. Guilford

[Memorandum of Points and Authorities
in Support Motion for Preliminary
Injunction; Declarations of H. Johnson,
K. Aune, D. Sestini, J. Aiken, L.
Holbrook, J. Miller, K. Glover, D.
Frederes, J. Oldham, P. Donaldson, and
B. Henwood in Support Thereof; Notice
of Motion and Motion for Provisional
Class Certification; Memorandum of
Points and Authorities in Support of
Motion for Provisional Class
Certification; and [Proposed] Orders filed
and served concurrently herewith]

1 DAVID M. HERNAND (SB #162733)
davidhernand@paulhastings.com
2 ANDREW B. GROSSMAN (SB# 211546)
andrewgrossman@paulhastings.com
3 KATHERINE F. MURRAY (SB# 211987)
katherinemurray@paulhastings.com
4 PAUL HASTINGS LLP
515 South Flower Street
5 Twenty-Fifth Floor
6 Los Angeles, CA 90071
Telephone: (213) 683-6000
Facsimile: (213) 996-3273

7
8 DANIEL LIM (SB# 292406)
daniellim@paulhastings.com
9 PAUL HASTINGS LLP
695 Town Center Drive
Seventeenth Floor
10 Costa Mesa, CA 92626-1924
Telephone: (714) 668-6200
11 Facsimile: (714) 979-1921

12 *Attorneys for Plaintiffs*

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1 **TO DEFENDANTS AND THEIR COUNSEL OF RECORD:**

2 PLEASE TAKE NOTICE that on December 21, at 10:00 a.m. or as soon
3 thereafter as counsel may be heard in Courtroom 10D of the above entitled Court,
4 located at 411 West Fourth Street, Santa Ana, CA 92701, California, Plaintiffs
5 DAVID SESTINI, JEFFREY AIKEN, KATRINA AUNE, JOHN MILLER, AND
6 LISA HOLBROOK (collectively "Plaintiffs") will, and hereby do, move this Court
7 for an order, pursuant to Rules 23(a) and 23 (b)(2) of the Federal Rules of Civil
8 Procedure, provisionally certifying this action as a class action for the purpose of
9 enforcing the preliminary injunction sought in Plaintiffs' concurrently filed Motion
10 for Preliminary Injunction. Specifically, Plaintiffs will and hereby do move this
11 Court for an order provisionally certifying the following class:

12 All homeless individuals living in Laguna Beach during
13 the pendency of this litigation and who suffer from a
14 mental and/or physical disability.
15

16 Plaintiffs also seek an order appointing Plaintiffs as Class Representatives,
17 appointing their counsel, the ACLU Foundation of Southern California and Paul
18 Hastings LLP, as Class Counsel, and deeming that notice to the class need not be
19 disseminated.

20 This Motion is brought pursuant to Rules 23(a) and 23(b)(2) of the Federal
21 Rules of Civil Procedure. In support of the Motion, Plaintiffs state that: (1) the
22 class is so numerous that joinder of all members is impracticable; (2) there are
23 questions of law and fact common to the class; (3) the claims of the representative
24 parties are typical of the claims of the class; (4) the representative parties will fairly
25 and adequately protect the interests of the class; and (5) Defendants have acted or
26 refused to act on grounds generally applicable to the class, thereby making
27 appropriate interim injunctive relief with respect to the class as a whole.
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This Motion is based upon this Notice of Motion and Motion and Memorandum of Points and Authorities, the supporting exhibits and declarations attached thereto, all other pleadings and papers on file in this action, and such argument as may be heard at the hearing on this matter.

U.S.D.C. Local Rule 7-3: This Motion is made following the conference of counsel which took place on November 5, 2015.

Respectfully submitted,

ACLU Foundation of Southern California and Paul Hastings, LLP

Dated: November 23, 2015

By /s/
Heather Maria Johnson
Counsel for Plaintiffs

1 HEATHER MARIA JOHNSON (SB# 300960)
hjohnson@clusocal.org
2 BELINDA ESCOBOSA HELZER (SB# 214178)
bescobosahelzer@clusocal.org
3 ACLU FOUNDATION OF SOUTHERN CALIFORNIA
Orange County Office
4 1851 E. First Street, Suite 450
Santa Ana, CA 92705
5 Telephone: (714) 450-3962
Facsimile: (714) 543-5240
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10 SOUTHERN DIVISION
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15 of all others similarly situated

16 Plaintiffs,

17 vs.

18 CITY OF LAGUNA BEACH; THE
LAGUNA BEACH POLICE
19 DEPARTMENT, a California charter
city

20 Defendants.
21

CASE NO. 8:15-CV-01332-AG-DFM

CLASS ACTION

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
MOTION FOR PROVISIONAL
CLASS CERTIFICATION**

Date: December 21, 2015
Time: 10:00 a.m.
Courtroom: 10D

Hon. Andrew J. Guilford

[Notice of Motion and Motion for
Provisional Class Certification; Notice of
Motion and Motion for Preliminary
Injunction and Memorandum of Points
and Authorities in Support Thereof;
Declarations of H. Johnson, K. Aune, D.
Sestini, J. Aiken, L. Holbrook, J. Miller,
K. Glover, D. Frederes, J. Oldham, P.
Donaldson, and B. Henwood in Support of
Motions; and [Proposed] Orders filed and
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1 DAVID M. HERNAND (SB #162733)
davidhernand@paulhastings.com
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katherinemurray@paulhastings.com
4 PAUL HASTINGS LLP
5 515 South Flower Street
Twenty-Fifth Floor
Los Angeles, CA 90071
6 Telephone: (213) 683-6000
Facsimile: (213) 996-3273
7

8 DANIEL LIM (SB# 292406)
daniellim@paulhastings.com
9 PAUL HASTINGS LLP
695 Town Center Drive
10 Seventeenth Floor
Costa Mesa, CA 92626-1924
11 Telephone: (714) 668-6200
Facsimile: (714) 979-1921
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13 *Attorneys for Plaintiffs*
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TABLE OF CONTENTS

	Page
I. INTRODUCTION AND STATEMENT OF FACTS.....	1
II. ARGUMENT	2
III. THE PROPOSED CLASS SATISFIES RULE 23(A).....	3
A. The Proposed Class Is Sufficiently Numerous	3
B. There Are Questions of Law and Fact Common to the Class	5
C. The Named Plaintiffs’ Claims are Typical of those of the Class	6
D. The Named Plaintiffs and their Attorneys will Fairly and Adequately Protect the Interests of the Class	7
IV. THE PROPOSED CLASS SATISFIES RULE 23(B)(2)	8
V. CONCLUSION	9

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
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25
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28

TABLE OF AUTHORITIES

	Page(s)
CASES	
<i>Armstrong v. Davis</i> , 275 F.3d 849 (9th Cir. 2001)	5, 6, 7
<i>Arnold v. United Artists Theater Circuit, Inc.</i> , 158 F.R.D. 439 (N.D. Cal. 1994)	2, 9
<i>Cal. Rural Legal Assistance, Inc. v. Legal Servs. Corp.</i> , 917 F.2d 1171 (9th Cir. 1990)	7
<i>Carillo v. Schneider Logistics, Inc.</i> , No. 11-8557, 2012 U.S. Dist. LEXIS 26927 (C.D. Cal. Jan. 31, 2012)	2
<i>Elliot v. Weinberger</i> , 564 F.2d 1219 (9th Cir. 1977)	1
<i>In re Facebook, Inc., PPC Adver. Litig.</i> , 282 F.R.D. 446 (N.D. Cal. 2012)	4
<i>Gay v. Waiters’ & Dairy Lunchmen’s Union</i> , 549 F.2d 1330 (9th Cir. 1997)	4
<i>Gen. Tel. Co. of Southwest v. Falcon</i> , 457 U.S. 147, 102 S. Ct. 2364, 72 L. Ed. 2d 740 (1982)	7, 8
<i>Gray v. Golden Gate Nat’l Rec. Area</i> , 279 F.R.D. 501 (N.D. Cal. 2011)	5, 6
<i>Hanlon v. Chrysler Corp.</i> , 150 F.3d 1011 (9th Cir. 1998)	5, 6, 7
<i>Harris v. Palm Springs Alpine Estates, Inc.</i> , 329 F.2d 909 (9th Cir. 1964)	3
<i>Holmes v. Continental Can Co.</i> , 706 F.2d 1144 (11th Cir. 1983)	2, 9
<i>Johns v. DeLeonardis</i> , 145 F.R.D. 480 (N.D. Ill. 1992)	4
<i>Jordan v. County of Los Angeles</i> , 669 F.2d 1311 (9th Cir. 1982)	3, 6
<i>Meyer v. Portfolio Recovery Assocs., LLC</i> , 707 F.3d 1036 (9th Cir. 2012)	2
<i>Parra v. Bashas’, Inc.</i> , 536 F.3d 975 (9th Cir. 2008)	5

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TABLE OF AUTHORITIES

(continued)

Page(s)

Perez-Funez v. District Director, I.N.S.,
611 F. Supp. 990 (C.D. Cal. 1984)..... 8

Rosario v. Livadities,
963 F.2d 1013 (7th Cir. 1992) 7

Schwartz v. Harp,
108 F.R.D. 279 (C.D. Cal. 1985)..... 7

Sherman v. Griepentrog,
775 F. Supp. 1383 (D. Nev. 1991) 4

Slanina v. William Penn Parking Corp.,
106 F.R.D. 419 (W.D. Pa. 1984) 4

Wal-Mart Stores, Inc. v. Dukes,
131 S. Ct. 2541, 180 L. Ed. 2d 374 (2011) 3, 5, 6

STATUTES

29 U.S.C. § 701 (“Rehabilitation Act § 504”)..... 1, 7

42 U.S.C. § 12131 (“ADA”)..... 1, 7

Cal. Penal Code § 647(e)..... 2

Laguna Beach Municipal Code (“LBMC”)
§ 8.30.030 2
§ 18.05.02 2

OTHER AUTHORITIES

Fed. R. Civ. P.
23 2
23(a)..... 3, 6, 8, 9
23(a)(1) 3
23(a)(2) 5
23(a)(3) 6
23(a)(4) 7
23(b)..... 8
23(b)(2) *passim*

U.S. Const.
amend. VIII 1, 7
amend. XIV 1, 7

1 Plaintiffs Katrina Aune, David Sestini, Jeffrey Aiken, Lisa Holbrook, and John
2 Miller (collectively “Plaintiffs”) submit the following Memorandum of Points and
3 Authorities in support of their Motion for Provisional Certification of a class
4 consisting of all disabled, homeless individuals in Laguna Beach, for the limited
5 purpose of seeking and enforcing the preliminary injunction Plaintiffs seek in a
6 concurrently filed motion.¹

7 **I. INTRODUCTION AND STATEMENT OF FACTS**

8 This case challenges Defendants’ — the City of Laguna Beach (the “City”) —
9 and the Laguna Beach Police Department (“LBPD”) (collectively, “Defendants”) —
10 implementation of a homelessness policy which fails to address the needs of
11 disabled, homeless individuals living in Laguna Beach, in violation of Title II of the
12 Americans with Disabilities Act (“ADA”), Section 504 of the Rehabilitation Act, and
13 the Eighth and Fourteenth Amendments to the United States Constitution, as well as
14 analogous provisions of the California Constitution. Plaintiffs and members of the
15 class they seek to represent — all of whom suffer from mental disabilities such as
16 bipolar disorder, schizophrenia, post-traumatic stress disorder, and depression,
17 and/or physical disabilities — are victims of unlawful discrimination and
18 criminalization by Defendants in the operation of their homelessness program.

19 Defendants’ homelessness program is detailed in Plaintiffs’ Memorandum of
20 Points and Authorities in support of their concurrently-filed Motion for Preliminary
21 Injunction (“PI Motion”). Relevant to Plaintiffs’ request for provisional class
22 certification, Plaintiffs bring this action to vindicate violations of their civil rights —
23 violations that occur because Defendants’ homelessness program fails to consider or
24 address the needs of homeless persons with disabilities. As such, Defendants’
25 actions negatively affect all class members, and class-wide relief is necessary to

26 ¹ In addition, Plaintiffs request that once the class is certified, Plaintiffs not be
27 required to give unnamed class members notice of the pendency of this action prior
28 to judgment. Pre-judgment notice is not required in Rule 23(b)(2) actions. *Elliot v.*
Weinberger, 564 F.2d 1219, 1228-29 (9th Cir. 1977), *aff’d in relevant part, rev’d in*
part, Califano v. Yamasaki, 442 U.S. 682, , 99 S.Ct. 2545 , 61 L.Ed.2d 176 (1979).

1 remedy these acts.

2 **II. ARGUMENT**

3 In connection with their request for a preliminary injunction, Plaintiffs seek
4 provisional certification of a class comprising homeless persons who are living in the
5 City of Laguna Beach during the pendency of this litigation and who suffer from a
6 mental and/or physical disability. Such provisional certification is permitted under
7 this Court's equitable powers. *Carillo v. Schneider Logistics, Inc.*, No. 11-8557,
8 2012 U.S. Dist. LEXIS 26927, at *38-39 (C.D. Cal. Jan. 31, 2012); *see also Meyer v.*
9 *Portfolio Recovery Assocs., LLC*, 707 F.3d 1036, 1041 (9th Cir. 2012). Provisional
10 certification is necessary at this stage of the case so that all disabled, homeless
11 individuals can benefit from the interim relief sought by Plaintiffs — the cessation of
12 enforcement of California Penal Code section 647(e) and Laguna Beach Municipal
13 Code ("LBMC") sections 8.30.030 and 18.05.02.

14 As this case is a civil rights action in which Plaintiffs are primarily requesting
15 injunctive and declaratory relief, it is ideally situated for class certification under
16 Federal Rule of Civil Procedure 23(b)(2). *Arnold v. United Artists Theater Circuit,*
17 *Inc.*, 158 F.R.D. 439, 452 (N.D. Cal. 1994) (noting that Rule 23(b)(2) classes were
18 "specifically designed" for civil rights suits seeking injunctive relief); *Holmes v.*
19 *Continental Can Co.*, 706 F.2d 1144, 1155 (11th Cir. 1983) ("Subsection (b)(2) was
20 'intended primarily to facilitate civil rights class actions, where the class
21 representatives typically sought broad injunctive relief against discriminatory
22 practices.'"); Fed. R. Civ. P. 23, Notes of Advisory Committee on 1966
23 Amendments.

24 Provisional certification is appropriate because Plaintiffs satisfy all applicable
25 requirements for class treatment. The class is numerous, as there are
26 approximately 80 disabled individuals adversely affected by Defendants'
27 homelessness program; Plaintiffs' claims meet the commonality requirement because
28 they revolve around a "common contention" that can be resolved on a class-wide

1 basis; the claims of Plaintiffs are typical of those of the class they seek to represent;
2 and Plaintiffs will fairly and adequately represent the interests of the class. *See* Fed.
3 R. Civ. P. 23(a). Further, Defendants have acted or refused to act on grounds
4 generally applicable to the class, making declaratory and injunctive relief with
5 respect to the class as a whole appropriate. *See* Fed. R. Civ. P. 23(b)(2).

6 **III. THE PROPOSED CLASS SATISFIES RULE 23(a)**

7 To obtain class certification, Plaintiffs must affirmatively demonstrate that
8 they meet the threshold requirements of Federal Rule of Civil Procedure (“Rule”)
9 23(a):

10 (1) [that] the class is so numerous that joinder of all members is
11 impracticable;

12 (2) there are questions of law or fact common to the class; (3) the claims or
13 defenses of the representative parties are typical of the claims or defenses
14 of the class; and (4) the representative parties will fairly and adequately
15 protect the interests of the class

16 *Wal-Mart Stores, Inc. v. Dukes*, 131 S. Ct. 2541, 2548, 180 L. Ed. 2d 374 (2011)
17 (citing Rule 23(a)). Plaintiffs meet all these requirements.

18 **A. The Proposed Class Is Sufficiently Numerous**

19 Plaintiffs easily satisfy the numerosity requirement, which requires that
20 members of the proposed class be so numerous that joinder of all members is
21 impracticable. Fed. R. Civ. P. 23(a)(1). “Impracticability does not mean
22 ‘impossibility,’ but only the difficulty or inconvenience [in] joining all members of
23 the class.” *Harris v. Palm Springs Alpine Estates, Inc.*, 329 F.2d 909, 913-14 (9th
24 Cir. 1964). Where a class is large in numbers, joinder will usually be considered
25 impracticable. *Jordan v. County of Los Angeles*, 669 F.2d 1311, 1319 (9th Cir.
26 1982), *vacated on other grounds*, 459 U.S. 810, 103 S.Ct. 35, 74 L.Ed.2d 48 (1982).

27 While the exact number of disabled, homeless persons in Laguna Beach is not
28 precisely known, records indicate that, on average, 100 homeless individuals sought

1 homeless services per month in the City. (*See* Decl. of Heather Maria Johnson
2 (“Johnson Decl.”), dated Nov. 23, 2015, at Ex. G at 522-23 and Ex. K at 2481-82
3 (indicating that 200 persons sought services at the ASL on an annual basis)). The
4 City has estimated that 80% of the homeless population in Laguna Beach is disabled.
5 (*Id.*, Ex. C at 2818.) Based on these records, Plaintiffs estimate that the putative class
6 in this case includes approximately 80 members, which is sufficiently numerous.
7 *See In re Facebook, Inc., PPC Adver. Litig.*, 282 F.R.D. 446, 452 (N.D. Cal. 2012)
8 (“[C]ourts generally find that the numerosity factor is satisfied if the class
9 comprises 40 or more members . . .”).

10 Moreover, the number of purported class members does not, alone, determine
11 whether the class should be certified. *Gay v. Waiters’ & Dairy Lunchmen’s Union*,
12 549 F.2d 1330, 1332 (9th Cir. 1997). In addition to the number of class members,
13 other factors may influence whether joinder is impracticable, including class
14 members’ ability to bring individual action, *Sherman v. Griepentrog*, 775 F. Supp.
15 1383, 1389 (D. Nev. 1991) (finding joinder was impracticable because class of
16 persons challenging Medicaid policy consisted of poor and elderly or disabled person
17 who could not bring individual lawsuits without great hardship), and fear of
18 retaliation, *Slanina v. William Penn Parking Corp.*, 106 F.R.D. 419, 423-24 (W.D.
19 Pa. 1984) (allowing certification of a class of 21 based, in part, on retaliation against
20 named plaintiffs); *Johns v. DeLeonardis*, 145 F.R.D. 480, 482 (N.D. Ill. 1992)
21 (certifying subclass of 25 persons on the grounds that its members were subject to
22 long-standing prejudice and would be unlikely to risk bringing individual claims).

23 Here, members of the proposed class are not only poor, disabled individuals
24 who would have difficulty maintaining individual actions, but are in an incredibly
25 precarious and vulnerable situation. (*See* PI Motion at 3-4, 9). These factors make it
26 unlikely that all class members would pursue their claims individually, and,
27 therefore, joinder of all class members is impracticable.

28

1 **B. There Are Questions of Law and Fact Common to the Class**

2 In order for the class to be provisionally certified, there must be questions of
3 law or fact common to the class. Fed. R. Civ. P. 23(a)(2). This requirement is met
4 through the existence of a “common contention” that is capable of classwide
5 resolution. *Dukes*, 131 S. Ct. at 2551. Put another way, commonality is satisfied by
6 “the existence of shared legal issues with divergent factual predicates” or a “common
7 core of salient facts coupled with disparate legal remedies within the class.” *Hanlon*
8 *v. Chrysler Corp.*, 150 F.3d 1011, 1019-20 (9th Cir. 1998). Thus, some factual
9 differences between class members do not preclude a finding of commonality. *Parra*
10 *v. Bashas’, Inc.*, 536 F.3d 975, 978-79 (9th Cir. 2008) (although each class member’s
11 circumstances varied, commonality existed because they all sought a common legal
12 remedy for a common wrong). “Commonality is satisfied where the lawsuit
13 challenges a system-wide practice or policy that affects all of the putative class
14 members. In such circumstance, individual factual differences among the individual
15 litigants or groups of litigants will not preclude a finding of commonality.”
16 *Armstrong v. Davis*, 275 F.3d 849, 868 (9th Cir. 2001) (rejecting argument that
17 separate representative suits should be filed by the hearing impaired, the vision
18 impaired, the developmentally disabled, the learning impaired, and the mobility
19 impaired) (citations omitted); *Gray v. Golden Gate Nat’l Rec. Area*, 279 F.R.D. 501,
20 509-10 (N.D. Cal. 2011) (holding that plaintiffs met their burden to establish
21 commonality where “claims stem[med] from the same system-wide, decades-long
22 practices and policies of failing to assess and eliminate accessibility barriers . . .”
23 despite differences in the specific access barriers face by persons with different
24 disabilities).

25 Here, Plaintiffs challenge Defendants’ homelessness program, which
26 combines minimal emergency shelter, inaccessible to and/or inappropriate for
27 persons with disabilities, with heavy law enforcement against those who cannot
28 access this shelter. (PI Motion at 1-2.) Defendants’ program negatively affects all

1 disabled, homeless persons in Laguna Beach because the City’s policy of relying on
2 the ASL as the only legal place for homeless persons to sleep fails to consider the
3 needs of persons with disabilities or to provide any alternative or reasonable
4 accommodation to those homeless individuals who cannot access or tolerate the ASL
5 due to their disability or who experience a deterioration in their mental or physical
6 health when they do stay at the ASL. (*Id.* at 9, 17-21). Accordingly, the claims of
7 all class members “stem from the same source.” *Hanlon*, 150 F.3d at 1019-20.

8 The effects of this common legal wrong can be mitigated during the pendency
9 of this litigation by an injunction limiting the City’s enforcement — or threat of
10 enforcement — against disabled, homeless individuals who sleep outdoors because
11 they lack a safe, legal place to sleep. (PI Motion at 22-24.) Likewise, the permanent
12 injunctive relief Plaintiffs seek — permanent supportive housing and a cessation of
13 enforcement — would remedy the violations experienced by class members by
14 providing class members with equal access to a safe, legal place to sleep. (*Id.* at 13
15 n.8, 21-22). Because the putative class seeks the same relief, namely, permanent
16 supportive housing and a cessation of enforcement, resolution of Plaintiffs’ claims
17 will resolve “in one stroke” the issues that are “central to the validity” of each class
18 member’s claims. *Dukes*, 131 S. Ct. at 2551. Thus, as in *Armstrong* and *Gray*, any
19 factual differences between individual class members with respect to their
20 disabilities does not preclude a finding of commonality.

21 **C. The Named Plaintiffs’ Claims are Typical of those of the Class.**

22 Rule 23(a) further requires that class representatives have claims or defenses
23 that are typical of those of the class. Fed. R. Civ. P. 23(a)(3). This requirement is
24 designed to ensure that named representatives’ interests align with those of the class.
25 *Jordan*, 669 F.2d at 1321. The typicality requirement is satisfied where the
26 Plaintiffs’ claims are “reasonably co-extensive with those of absent class members;
27 they need not be substantially identical.” *Hanlon*, 150 F.3d at 1020. Thus, class
28 representatives satisfy the typicality requirement if their claims arise from the same

1 events, practice or conduct, and are based on the same legal theory as those of other
 2 class members. *Armstrong*, 275 F.3d at 868-69. In other words, typicality is
 3 established where the class is injured through an alleged common practice. *Hanlon*,
 4 150 F.3d at 1020; *Cal. Rural Legal Assistance, Inc. v. Legal Servs. Corp.*, 917
 5 F.2d 1171, 1175 (9th Cir. 1990); *Rosario v. Livadities*, 963 F.2d 1013, 1018 (7th Cir.
 6 1992) (focus is on the “defendants’ conduct and the plaintiff’s legal theory . . .”).

7 Plaintiffs Katrina Aune, Jeffrey Aiken, David Sestini, Lisa Holbrook, and John
 8 Miller satisfy the typicality requirement. Their claims and those of the putative class
 9 members are the same — all allege that Defendants’ conduct violates Title II of the
 10 ADA, Section 504 of the Rehabilitation Act, the Eighth and Fourteenth Amendments
 11 to the United States Constitution, and analogous provisions of the California
 12 Constitution. (PI Motion at 1.) Further, Plaintiffs’ claims all arise from the
 13 operation of Defendants’ homelessness program. (*Id.* at 1-2.) Because Plaintiffs’
 14 claims “arise[] from the same event or course of conduct that gives rise to claims of
 15 other class members and the claims are based on the same legal theory[,]” *Schwartz*
 16 *v. Harp*, 108 F.R.D. 279, 282 (C.D. Cal. 1985), the typicality requirement is satisfied
 17 here.

18 **D. The Named Plaintiffs and their Attorneys will Fairly and**
 19 **Adequately Protect the Interests of the Class.**

20 Representative parties must fairly and adequately protect the interest of the
 21 class. Fed. R. Civ. P. 23(a)(4). Class representatives are deemed adequate so long as
 22 their interests are not antagonistic to the remainder of the class. *Gen. Tel. Co. of*
 23 *Southwest v. Falcon*, 457 U.S. 147, 157, 102 S. Ct. 2364, 72 L. Ed. 2d 740 (1982).
 24 As discussed above, Plaintiffs are all members of the class they seek to represent and
 25 raise the same claims, all subject to a common contention and subject to resolution
 26 on a class-wide basis. The interests of Plaintiffs and the putative class they seek to
 27 represent are fully aligned in seeking an injunction against the City. No conflicts of
 28 interests exist that would prevent these named Plaintiffs from fairly and adequately

1 protecting the interests of all class members.

2 Adequacy of counsel is shown by demonstrating that Plaintiffs’ attorneys are
3 qualified, experienced and able to conduct the litigation. *Id.* In *Perez-Funez v.*
4 *District Director, I.N.S.*, 611 F. Supp. 990, 997 (C.D. Cal. 1984), the court
5 specifically recognized the “qualified and experienced counsel from such
6 organizations as . . . the American Civil Liberties Union.”

7 The attorneys for Plaintiffs in this case have extensive experience both in civil
8 rights and class actions. Attorney Heather Maria Johnson has significant experience
9 representing disabled, homeless persons in civil rights cases. Attorney Belinda
10 Escobosa Helzer has extensive experience litigating complex, civil rights actions,
11 including serving as class counsel. Private counsel from Paul Hastings LLP are
12 experienced in complex, civil litigation. (Johnson Decl. ¶¶ 28-36.) Plaintiffs’
13 attorneys are qualified to conduct this litigation. For these reasons, the named
14 Plaintiffs will fairly and adequately protect the interests of absent class members.

15 **IV. THE PROPOSED CLASS SATISFIES RULE 23(b)(2).**

16 In addition to the threshold requirements of Rule 23(a), Plaintiffs must also
17 meet one of the requirements under Rule 23(b). Plaintiffs seek to maintain a class
18 action under Rule 23(b)(2), which applies when the party opposing certification has
19 acted or refused to act in a manner applicable to the class generally, making
20 injunctive or declaratory relief appropriate with respect to the class as a whole. Fed.
21 R. Civ. P. 23(b)(2).

22 Here, in creating and implementing the City’s homelessness program,
23 Defendants have acted in a manner that fails to take into consideration the needs of
24 its disabled, homeless residents and in so doing have acted with respect to class
25 members generally. The preliminary relief sought, an injunction limiting the City’s
26 enforcement — or threat of enforcement — against disabled, homeless individuals,
27 will mitigate the harm experienced during the pendency of the litigation with respect
28 to the class as a whole. Likewise, the permanent injunctive relief sought, permanent

1 supportive housing and a cessation in enforcement and accompanying declaratory
2 relief, are appropriate with respect to the class as a whole. Further, in bringing a suit
3 to vindicate their civil rights, Plaintiffs' action falls squarely within the category of
4 suits for which Rule 23(b)(2) was designed. *Arnold*, 158 F.R.D. at 452; *Holmes*, 706
5 F.2d at 1155.

6 **V. CONCLUSION**

7 Plaintiffs satisfy all the requirements of Rule 23(a) and 23(b)(2). Therefore,
8 Plaintiffs respectfully request that this case be provisionally certified as a
9 Rule 23(b)(2) class action for the limited purpose of seeking and enforcing the
10 preliminary injunction.

11

12 DATED: November 23, 2015

ACLU FOUNDATION OF SOUTHERN
CALIFORNIA and PAUL HASTINGS LLP

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By: /s/

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Heather Maria Johnson
Counsel for Plaintiffs

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1 HEATHER MARIA JOHNSON (SB# 300960)
 hjohnson@aclusocal.org
 2 BELINDA ESCOBOSA HELZER (SB# 214178)
 bescobosahelzer@aclusocal.org
 3 ACLU FOUNDATION OF SOUTHERN CALIFORNIA
 Orange County Office
 4 1851 E. First Street, Suite 450
 Santa Ana, CA 92705
 5 Telephone: (714) 450-3962
 Facsimile: (714) 543-5240
 6

7 *Attorneys for Plaintiffs*

8 [Additional counsel listed on next page]

9

10 UNITED STATES DISTRICT COURT
 11 CENTRAL DISTRICT OF CALIFORNIA
 12 SOUTHERN DIVISON

13 Kenneth Glover; David Sestini;
 14 Douglas Frederes Jr.; Jeffrey Aiken;
 Katrina Aune; John Miller; and Lisa
 15 Holbrook, individually, and on behalf
 of all others similarly situated
 16 Plaintiffs,

17 vs.

18 CITY OF LAGUNA BEACH; THE
 LAGUNA BEACH POLICE
 19 DEPARTMENT, a California charter
 city

20 Defendants.

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CASE NO. 8:15-CV-01332-AG-DFM

CLASS ACTION

**[PROPOSED] ORDER GRANTING
 MOTION FOR PROVISIONAL
 CLASS CERTIFICATION**

Date: December 21, 2015

Time: 10:00 a.m.

Dept: 10D

Judge: Hon. Andrew J. Guilford

1 DAVID M. HERNAND (SB #162733)
davidhernand@paulhastings.com
2 ANDREW B. GROSSMAN (SB# 211546)
andrewgrossman@paulhastings.com
3 KATHERINE F. MURRAY (SB# 211987)
katherinemurray@paulhastings.com
4 PAUL HASTINGS LLP
5 515 South Flower Street
Twenty-Fifth Floor
Los Angeles, CA 90071
6 Telephone: (213) 683-6000
Facsimile: (213) 996-3273
7

8 DANIEL LIM (SB# 292406)
daniellim@paulhastings.com
9 PAUL HASTINGS LLP
695 Town Center Drive
Seventeenth Floor
10 Costa Mesa, CA 92626-1924
Telephone: (714) 668-6200
11 Facsimile: (714) 979-1921

12 *Attorneys for Plaintiffs*

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1 This Court heard Plaintiffs' Motion for Provisional Class Certification in the
2 above-referenced action on December 21, 2015, at 10:00 a.m.

3 Having considered the papers filed in support of and opposition to Plaintiffs'
4 Motion, the arguments of counsel, the Court finds and orders as follows:

5 1. Plaintiffs' proposed class is sufficiently large, along with other factors,
6 that joinder is impracticable.

7 2. There are questions of law and fact common to the members of the
8 class.

9 3. The claims of named Plaintiffs are typical of the claims of the
10 members of the class.

11 4. The named Plaintiffs and their counsel will adequately protect the
12 interest of the class.

13 5. Defendants have acted or refused to act on grounds generally
14 applicable to the class, thereby making appropriate interim and final injunctive and
15 declaratory relief with respect to the class as a whole.

16 Therefore, the Court ORDERS that Plaintiff's Motion for Provisional Class
17 Certification is GRANTED. The certified class is defined as:

18 All homeless persons who are living in the City of Laguna Beach during the
19 pendency of this litigation and who suffer from a mental and/or physical
20 disability.

21 The Court further ORDERS that ACLU Federation of Southern California
22 and Paul Hastings LP are appointed Class Counsel, and that Plaintiffs are not
23 required to provide unnamed class members with notice of the pendency of this
24 action at this time.

25 Dated: _____

26 _____
27 The Honorable Andrew J. Guilford
28 U.S. District Court Judge