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10 **UNITED STATES DISTRICT COURT**  
11 **NORTHERN DISTRICT OF CALIFORNIA**

12 MARIN COUNTY HOMELESS  
13 UNION, a local affiliate of the  
CALIFORNIA HOMELESSNESS  
14 UNION, on behalf of itself and those it  
represents; CAMP COMPASSION, a  
15 Homeless Union-affiliated encampment  
in Lee Gerner Park; Individual Plaintiffs  
16 JASON SARRIS; LEA DEANGELO;  
ZACH BOULWARE; CARRIE  
17 HEALON, LISA NICOLE JOHNSON;  
DONALD HOBBS; DEBORAH ANN  
18 MIROMONTES; LISA JOHNSON;  
CHARLES TALBOT; BETHANY  
19 ALLEN; MICHELANGELO MONTEZ;  
DEBORAH ANN MIRAMONTES;  
20 KALANI WELSCH, and other similarly  
situated homeless persons including  
21 current residents of Camp Compassion  
homeless encampment,

22 Plaintiffs,

23 v.

24 CITY OF NOVATO; CITY MANAGER  
25 ADAM MCGILL, MAYOR PAT  
EKLUND, MAYOR PRO TEM ERIC  
26 LUCAN, CHIEF OF POLICE  
MATHEW MCCAFFREY, PUBLIC  
27 WORKS DIRECTOR CHRIS BLUNK,

28 Defendants.

**CASE NO.: 4:21-cv-05401-YGR**

[Assigned to the Hon. Yvonne Gonzalez  
Rogers]

**DECLARATION OF NOVATO  
RESPONSE TEAM SUPERVISOR  
ALAN BATES IN SUPPORT OF  
DEFENDANT'S OPPOSITION TO  
THE ORDER TO SHOW CAUSE  
REGARDING PRELIMINARY  
INJUNCTION**

Hearing Date: August 9, 2021  
Time: 12:00 p.m.  
Ctrm: 1

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Pasadena, CA 91101  
SCN/CMA CA 05474

DECLARATION OF ALAN BATES

I, ALAN BATES, declare as follows:

1. I am a supervisor for the Novato Response Team in the City of Novato Police Department. Unless otherwise stated, I have personal knowledge of the matters set forth herein and if called upon as a witness, I could competently testify thereto.

2. I make this declaration in support of Defendants’ opposition to the order to show cause regarding the preliminary injunction.

**Background of Supervisor Bates**

3. At the beginning of 2020, I was assigned to the Novato Response Team (“NRT”) as a supervisor. I supervised two officers, Joshua Wax and Thomas Lyons. In July of 2020 Officer Alejandro Muller replaced Officer Tom Lyons.

4. Prior to the COVID-19 pandemic, the NRT would interact with the unhoused on a regular basis and work to find suitable alternatives and resources. Our approach was, and is, individualized. Each person we interact with has different needs. At that time, there was only one option for emergency or temporary shelter, Mill Street. Since the shelter was often full, we would alter our approach to interact with the unhoused early enough in the morning to call Mill Street and secure a bed.

5. I cannot recall a single time where the offer was accepted during 2020. The unhoused we interacted with resisted our offers of housing. Some did, however, accept resources such as food, transportation, and household items. When possible, the NRT would identify other housing options (such as family in other cities) and facilitate their transition.

**History of Outreach at the Lee Gerner Park Encampment**

6. In approximately March of 2020, the NRT regularly interacted with nine individuals at Lee Gerner Park. These unhoused campers were living in seven tents on the south side of the creek, north of the walking path. The nine individuals and others from outside the encampment would congregate during the day and use alcohol and drugs.

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1 7. Complaints about trash, alcohol/drug use, verbal and physical  
2 altercations, dogs off leash, and affected nearby businesses were a common  
3 occurrence.

4 8. The NRT’s approach to these issues was one of compassion and  
5 reasonableness. Despite blatant infraction violations (drinking and smoking, dogs off  
6 leash in the park, and more) we rarely issued citations. It was my opinion that the  
7 ramifications for an unpaid infraction citation inhibited our ability to get unhoused  
8 violators out of homelessness and into new housing and employment.  
9 For example, the team assisted an unhoused camper, Plaintiff Jason Sarris, by  
10 connecting him with Marin Legal Aid because he had 14 unpaid infraction citations.  
11 Since he failed to pay the fines or challenge them in court, his driver’s license had  
12 been suspended 14 times over. Once he was in contact with Legal Aid, he attended  
13 Community Court and was given community service. Once he completed his  
14 community service, our team brought him DMV forms, helped him complete them,  
15 placed the documents into envelopes, and mailed them. His goal was to obtain a  
16 driver’s license and get a job. I recall several interactions when Plaintiff Jason Sarris  
17 was desperate to get out of homelessness and out of Lee Gerner Park. On July 1, 2020  
18 I emailed a clerk at the Marin County Superior Court inquiring how I could assist in  
19 getting Plaintiff Jason Sarris’ drivers license reinstated. It read:

20 “Good heavens! Since its a marijuana cite, do you think the court would kick it?  
21 I’m working to get him out of homelessness and am trying any angle to get him a  
22 license.”

23 9. Despite the NRT’s best efforts, housing offers provided to him were  
24 quickly met with refusal. Plaintiff Jason Sarris often referred to Homeward Bound as  
25 “blown out.” Plaintiff Jason Sarris did not want to have a curfew and follow rules in a  
26 shelter setting.

27 10. Our team worked exhaustively with the nine individuals at the  
28 encampment to locate family or other opportunities in early July, 2020. Four quickly

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1 found family outside the area and were reunited. One unhoused camper identified his  
2 own apartment. One unhoused camper located a family member in Vallejo. One  
3 unhoused camper, Plaintiff Jason Sarris, decided he wanted to “live out of his  
4 backpack” and move on. One unhoused camper left the area before his decision was  
5 identified. One unhoused camper refused all assistance and remained at the park.  
6 Three of the nine unhoused camper accepted stays in local hotels while they  
7 transitioned from the park, but the rest declined the offer of transitional hotel rooms.

8 11. Simultaneous to this transition, the City of Novato conducted a  
9 significant cleanup and elicited a report from an arborist to determine if there was  
10 permanent damage to the park. The arborist determined that human presence was  
11 having a detrimental effect on the creek bank and heritage trees. As a result, the  
12 affected area was fenced off and, eventually, a split rail fence was installed by  
13 volunteers and Novato Public Works.

14 12. During the summer of 2020, and prior to the permanent fence being  
15 installed, several of the nine unhoused campers returned to the park. One subject  
16 voiced his desire to invite others to the park so the County would be “forced” to bring  
17 in restrooms and handwash stations per CDC guidelines.

18 13. In the summer of 2020, when the COVID pandemic was in full swing,  
19 the Marin County Emergency Operations Center provided restrooms and handwash  
20 stations to the unhoused subjects at the Lee Gerner Park encampment. The presence of  
21 these amenities resulted in an increase of “visitors” during the day. The NRT regularly  
22 received complaints about COVID-19 violations taking place at the park. Despite the  
23 nightly population of unhoused being relatively low, the daytime population was often  
24 double. Once eight of the nine campers left Lee Gerner Park voluntarily, the County  
25 removed the restrooms and handwash stations. The unhoused falsely claimed the City  
26 of Novato chose to have the restrooms and handwash stations removed during August  
27 of 2020. On August 19, 2020, I received an email from Rebekah Reali of the Marin  
28 County EOC which read:

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1 a. In March, we conducted an assessment of the encampments across  
2 the county.

3 b. Based on that assessment and coordination with cities and towns,  
4 we strategically placed porta potties and sanitation stations at sites across the  
5 county.

6 c. In July, we assessed those who were at Lee Gerner Park and  
7 determined that all but one person was connected to housing.

8 d. Placement of the sanitation stations were no longer serving the  
9 Public Health goal to reduce the spread of the virus and we felt they may have  
10 been encouraging congregation, so they were removed.

11 e. Earlier this week, our Emergency Operations Center inquired with  
12 our vendor about how long it would take to place sanitation stations in the  
13 community. We did not ask them to place them back at Lee Gerner Park, but  
14 there was apparently a miscommunication and they were put back in place  
15 earlier today without our knowledge.

16 f. We are continually assessing the homeless encampment situation  
17 and working with our city partners to make decisions, informed by Public  
18 Health, about where to place stations.

19 14. In late 2020, the NRT initiated a pilot program with the Multicultural  
20 Center of Marin and Marin County Health and Human Services. The pilot program,  
21 known as PIVOT (Prop 47 Improving Lives Via Opportunity and Treatment),  
22 embedded a case worker in the NRT with the goal of preventing those with behavior  
23 health issues from becoming a part of the criminal justice system. Librado Garcia was  
24 hired as the case worker representing PIVOT since he had already been working with  
25 the unhoused at Lee Gerner throughout 2020. Garcia partnered with the NRT, Debbie  
26 Walker with the Community Action Marin - CARE Team, and the Downtown Streets  
27 Team. The three non-law enforcement agencies have been collaborating with the NRT  
28 on a regular basis since late 2020.

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1 15. Between approximately the summer of 2020 and July of 2021, the  
2 population unhoused campers staying at the Lee Gerner Park encampment has  
3 fluctuated between approximately 10 and 30.

4 16. In January of 2021, the Kerner Shelter opened and offered up to 43 beds  
5 for the unhoused. The NRT, CARE Team, PIVOT, and Downtown Streets began  
6 meeting on a weekly basis to discuss the unhoused individuals at the Lee Gerner Park  
7 encampment and develop individualized strategies for each occupant.

8 17. It has been my experience that a person looking for shelter can quickly  
9 obtain it. Our greatest difficulty has been convincing the unhoused to accept housing.

11 **Covid-19 and the Encampment**

12 18. Regarding the claim that the unhoused campers would be at risk of  
13 COVID exposure if moved, it has been my experience that members of the Lee  
14 Gerner Park encampment have been extremely reckless with their personal COVID  
15 safety precautions.

16 19. Members of the police department responded to numerous calls and  
17 inquiries about why the unhoused were allowed to invite others from outside the park  
18 to visit the encampment during shelter-in-place. Throughout the last year and while  
19 shelter-in-place protocols were in place, I have contacted non-encampment persons  
20 who were attending social gatherings at the Lee Gerner Park encampment.

21 20. Each member of the Lee Gerner unhoused has left the camp at  
22 minimum on a weekly basis. I can recall observing each unhoused camper leave the  
23 camp, even during the most restrictive shelter-in-place orders.

24 21. Unhoused camper S.M.<sup>1</sup> regularly leaves the encampment to play music  
25 for the public and attend parties at associates' residences throughout Marin and San  
26  
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<sup>1</sup> Unhoused campers who are not Plaintiffs in this action are referred to by initials only to protect their privacy.

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1 Francisco counties. In the Spring of 2021, he traveled to Southern California to visit  
2 friends.

3 22. Even when required, I have never seen unhoused camper S.M. wear a  
4 facial covering.

5 23. While conducting outreach at Lee Gerner, there have been several times  
6 when he was not present during the day, despite strict shelter-in-place orders.

7 24. Unhoused camper R.B. and unhoused camper and Plaintiff Bethany  
8 Allen share a tent and are in a relationship.

9 25. Plaintiff Allen regularly visits with her elderly parents in northern  
10 Novato and interacts with her son who is in her parent’s custody. On several  
11 occasions, Plaintiff Allen has brought her son, who appears to be under 10 years old,  
12 to the camp to socialize with the others.

13 26. I recall Plaintiff Allen wearing a face covering at the beginning of the  
14 pandemic, but never after mid-2020.

15 27. Plaintiff Allen’s boyfriend, unhoused camper R.B., obtained a non-  
16 essential job in Sonoma County in early 2021 and still commutes to this day.

17 28. Even during the shelter in place, unhoused camper R.B. regularly left  
18 camp to attend social gatherings. He often invited others to the Lee Gerner Park  
19 encampment to socialize. Plaintiff Allen and unhoused camper R.B. now live in an  
20 apartment in Novato.

21 29. Unhoused camper and Plaintiff Jason Sarris is very rarely at the camp  
22 during the day.

23 30. I specifically recall Plaintiff Sarris inviting other unhoused subjects  
24 from outside the City of Novato to stay at the Lee Gerner Park encampment. His self-  
25 proclaimed motivation for this was to get the County to provide restroom and  
26 handwash stations for the unhoused at Lee Gerner Park based on CDC Guidelines.

27 31. In the early summer of 2020, Plaintiff Sarris requested a stay in a local  
28 hotel. He agreed that he would “live out of his backpack” and leave the park if the

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1 City provided him with a stay. On June 30, 2020, I authored an email to my superior,  
2 Lieutenant Sophie Winter which read:

3 Jason Sarris lives in the large green tent closest to the library. He has  
4 voiced his desire to get away from the park and is willing to “backpack”  
5 instead of establish camp. Although he has no formal arrangements, he  
6 made an agreement...if provided with a hotel stay, he would allow DPW  
7 to discard his camp. I would like to offer him three to four nights in a  
8 hotel so he can transition away from Lee Gerner.

9 32. I provided Plaintiff Sarris with a ride to the local hotel and listened to  
10 him express his appreciation for the team’s help.

11 33. Within weeks, Plaintiff Sarris was back at Lee Gerner. He claimed that  
12 his dog was killed because the NRT “evicted” him from the park. I attempted to  
13 investigate how his dog was killed and learned that Plaintiff Sarris had been visiting a  
14 friend (despite the shelter-in-place order and his free hotel room) when the friend’s  
15 dog killed Plaintiff Sarris’ dog.

16 34. Shortly thereafter, Plaintiff Sarris stayed for a brief time at Pioneer Park,  
17 which is north of Lee Gerner Park. I observed him stashing his tent and supplies under  
18 a tree when I engaged him.

19 35. In December of 2020, Plaintiff Sarris and unhoused camper Robbie  
20 Powelson moved from the Lee Gerner Park encampment despite the shelter-in-place  
21 order and established a new camp at 201 Sunset Drive in Novato. They invited others  
22 to come to their new camp and recruited parties from outside the unhoused  
23 community to deliver RVs and other supplies. Plaintiff Sarris and unhoused camper  
24 Robbie Powelson regularly interacted with people outside the unhoused community  
25 while at 201 Sunset Drive.

26 36. During the end of 2020 and beginning of 2021, Plaintiff Sarris spent a  
27 considerable amount of time in southern Marin and the East Bay filming alongside  
28

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1 unhoused camper Robbie Powelson. They often traveled together to record agencies’  
2 outreach to the unhoused population.

3 37. After the NRT assisted him with obtaining his driver’s license, Plaintiff  
4 Sarris obtained a vehicle in early 2021. The vehicle and Plaintiff Sarris regularly stay  
5 the night at the Lee Gerner Park encampment, but both are gone most days.

6 38. Unhoused campers and Plaintiffs Zach Boulware and Carrie Healon are  
7 in a relationship and live in the same tent.

8 39. While working with Plaintiff Healon, I learned she rarely stays at the  
9 camp for more than one day at a time. Although I never met them, she has friends that  
10 live near Pine Avenue in Novato. She regularly stayed with them during the shelter in  
11 place and “took care” of the female occupant. Plaintiff Healon has a daughter in town  
12 that lives with other family members.

13 40. In mid-2020, Plaintiffs Healon and Boulware agreed to move to Oregon  
14 to be with friends and family. They stayed for a short period before coming back to the  
15 Lee Gerner Park encampment. Upon their returned, Plaintiffs Boulware and Healon  
16 said they were dissatisfied with the services available in Oregon and were happier in  
17 Novato.

18 41. Throughout the pandemic, Plaintiff Boulware was regularly seen riding  
19 his skateboard through town. I have personally responded to several calls where a man  
20 matching his description was seen riding a skateboard between traffic on a busy  
21 thoroughfare.

22 42. At least once since they arrived at the Lee Gerner Park encampment,  
23 both Plaintiffs Boulware and Healon have moved from the encampment to other camp  
24 sites. They quickly moved back despite the shelter-in-place orders.

25 43. Unhoused camper and Plaintiff Kalani Welsch was one of the original  
26 campers at the Lee Gerner Park encampment that obtained a city-funded hotel room in  
27 the spring of 2020. He planned to enter a rehabilitation center then move in with  
28 family in Vallejo once his stay at the hotel concluded.

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1 44. Several weeks later, Plaintiff Welsch returned to the Lee Gerner Park  
2 encampment.

3 45. Over the next year, he was regularly picked up by his girlfriend for  
4 social visits. Plaintiff Welsch and his girlfriend (not an unhoused person) would  
5 regularly sit in her car in the library parking lot to talk and smoke.  
6

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

10 Executed on July 26, 2021, at Novato, California.

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14 ALAN BATES  
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**CERTIFICATE OF SERVICE**

*Marin County Homeless Union v. City of Novato, et al.*  
United States District Court, Northern District  
Case No. 4:21-cv-05401-YGR

I, McCall L. Williams, declare:

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 790 East Colorado Boulevard, Suite 850, Pasadena, California 91101. My email address is: MWilliams@chwlaw.us. On July 27, 2021, I served the document(s) described as **DECLARATION OF NOVATO RESPONSE TEAM SUPERVISOR ALAN BATES IN SUPPORT OF DEFENDANT’S OPPOSITION TO THE ORDER TO SHOW CAUSE REGARDING PRELIMINARY INJUNCTION** on the interested parties in this action as follows:

**BY ELECTRONIC TRANSMISSION:** I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States District Court, Northern District by using the CM/ECF system on July 27, 2021. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the USDC, Northern District CM/ECF system.

I declare that I am employed in the offices of a member of the State Bar of this Court at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America that the above is true and correct.

Executed on July 27, 2021, at Pasadena, California.

/s/McCall Williams  
McCall L. Williams

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