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Tem Eric Lucan, Chief of Police Mathew  
9 McCaffrey, Public Works Director Chris  
Blunk

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]

**DEFENDANT CITY OF NOVATO'S  
OBJECTIONS TO EVIDENCE  
SUBMITTED IN SUPPORT OF  
PLAINTIFFS' EX PARTE  
APPLICATION**

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

Colantuono, Highsmith & Whatley, PC  
790 E. Colorado Blvd., Suite 850  
Pasadena, CA 91101  
SCN/CMA CA 05474

1 Defendants respectfully submit the following objections to the Declaration of  
 2 Jason Sarris (“Sarris Decl.”) and Declaration of Flojaune Cofer, Ph.D. (“Cofer Decl.”)  
 3 submitted in support of Plaintiffs’ Amended Ex Parte Application and Complaint for  
 4 Injunctive Relief. Defendants further object to the Declaration of Douglas Storm  
 5 (“Storm Decl.”) submitted in support of Plaintiffs’ Opposition to Defendants’ Motion  
 6 to Modify Temporary Restraining Order.

7 **I. OBJECTIONS TO DECLARATION OF JASON SARRIS**

|   | <b>Material Objected To:</b>  | <b>Grounds for Objection:</b>   | <b>Ruling</b>                         |
|---|---|---|---------------------------------------|
| 1.<br>9<br>10<br>11<br>12<br>13<br>14<br>15<br>16 | ¶ 6: “If the camp is closed and we are dispersed throughout the City and forced to be constantly on the move due to the daytime camping ban, the above-named supporters will not be able to find us to provide the vital support we need to survive.”                                       | Defendants object to this statement on the basis that it lacks foundation (Fed. R. Evid. § 602); provides inadmissible speculation and conclusions (Fed. R. Evid. § 602); is not based on declarant’s personal knowledge (Fed. R. Evid. §602); and provides improper expert testimony by the declarant (Fed. R. Evid. § 701, 702).<br><br>Mr. Sarris provides no basis for his claim about access to resources. | Granted:<br><hr/><br>Denied:<br><hr/> |
| 2.<br>17<br>18<br>19<br>20<br>21<br>22            | ¶ 14: “Very few people in Camp Compassion have been offered or have received a COVID-19 vaccination.”   | Defendants object to this statement on the basis that it lacks foundation (Fed. R. Evid. § 602) and is not based on declarant’s personal knowledge (Fed. R. Evid. §602).<br><br>Mr. Sarris provides no basis for his claim regarding the offer of COVID-19 vaccinations.  | Granted:<br><hr/><br>Denied:<br><hr/> |
| 3.<br>23<br>24<br>25<br>26<br>27<br>28            | ¶ 14: “Many here are afraid to leave the camp to get a vaccine because they fear leaving their belongings and having them seized by police or others. We have members here who are physically unable to go to the library or other location even if a mobile vaccination unit was present.” | Defendants object to this statement on the basis that it lacks foundation (Fed. R. Evid. § 602) provides inadmissible speculation and conclusions (Fed. R. Evid. § 602); and is not based on declarant’s personal knowledge (Fed. R. Evid. §602).<br><br>Mr. Sarris provides no basis for his claims regarding the perceptions or physical ability of other campers.  | Granted:<br><hr/><br>Denied:<br><hr/> |

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|    | <b>Material Objected To:</b>  | <b>Grounds for Objection:</b>   | <b>Ruling</b>                      |
|----|---|---|------------------------------------|
| 4. | ¶ 14: “Neither City of Novato County (sic) has ever come and offered transportation to a vaccination site or even provided information about the vaccinations. For this reason, there are campers who are apprehensive about getting vaccinated, or lack identification documents and fear they will be refused a vaccine.” | Defendants object to this statement on the basis that it lacks foundation (Fed. R. Evid. § 602) provides inadmissible speculation and conclusions (Fed. R. Evid. § 602); and is not based on declarant’s personal knowledge (Fed. R. Evid. §602).<br><br>Mr. Sarris provides no basis for his claims regarding the perceptions or beliefs of other campers. | Granted:<br><hr/> Denied:<br><hr/> |

**II. OBJECTIONS TO DECLARATION OF FLOJAUNE COFER, PHD, MPH**

|    | <b>Material Objected To:</b>   | <b>Grounds for Objection:</b>  | <b>Ruling</b>                      |
|----|--|--|------------------------------------|
| 5. | ¶ 3: “I have reviewed the recent amendments to the Novato Municipal Code. If enforced, these measures will put the unhoused community, particularly those currently encamped at Lee Gerner Park, at great risk of harm, particularly from the rapidly spreading and highly contagious Delta variant of the coronavirus.”   | Defendants object to this statement on the basis that it lacks foundation (Fed. R. Evid. § 602) provides inadmissible speculation and conclusions (Fed. R. Evid. § 602); and is not based on declarant’s personal knowledge (Fed. R. Evid. §602).<br><br>Dr. Cofer does not establish that she has any personal knowledge of the conditions at Lee Gerner Park.  | Granted:<br><hr/> Denied:<br><hr/> |
| 6. | ¶ 9: “If Marin County reaches the 90% vaccinated rate that the City of Novato has identified as a trigger for enforcement of its general daytime camping ban without having made any particularized assessment of the rate of vaccination of the unhoused and other closely-related health issues, it will in my professional opinion, greatly increase the risk of harm to this already immune-compromised population.” | Defendants object to this statement on the basis that it lacks foundation (Fed. R. Evid. § 602) provides inadmissible speculation and conclusions (Fed. R. Evid. § 602); and is not based on declarant’s personal knowledge (Fed. R. Evid. §602).<br><br>Dr. Cofer does not establish that she has any personal knowledge of the health status of the campers at Lee Gerner Park, and has not provided a foundation for her speculative claim that the campers are immune-compromised. | Granted:<br><hr/> Denied:<br><hr/> |

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|    | Material Objected To:  | Grounds for Objection:   | Ruling                    |
|----|--|--|---------------------------|
| 7. | ¶ 11: “Compounding the still-existing dangers to the unhoused still posed by the pandemic is a summer that has already brought record-breaking extreme heat. ... These risks will be greatly exacerbated if the homeless at Lee Gerner Park are forcibly removed and dispersed into the streets of Novato as access to water, hygiene, shade and the proximity of other campers will be lost.” | Defendants object to this statement on the basis that it lacks foundation (Fed. R. Evid. § 602) provides inadmissible speculation and conclusions (Fed. R. Evid. § 602); and is not based on declarant’s personal knowledge (Fed. R. Evid. §602).<br><br>Dr. Cofer does not establish that she has any personal knowledge of the heat conditions in Lee Gerner Park, or the City in general. | Granted:<br><hr/> Denied: |
| 8. | Exhibit E  | Defendants object to this Exhibit on the grounds it is irrelevant (Fed. R. Evid. 401).<br><br>Exhibit E does not contain any statements establishing heat conditions in Marin County or the City of Novato.  | Granted:<br><hr/> Denied: |

**III. OBJECTIONS TO DECLARATION OF DOUGLAS STORM**

|    | Material Objected To:   | Grounds for Objection:  | Ruling                    |
|----|---|---|---------------------------|
| 9. | ¶ 9: “New Beginnings Center, in spite of any claims, does not provide wrap around mental health and substance use services, and does not have practically available mental health or substance abuse counselors. They have a nurse who wears the titles of “Counselor” and “Caseworker” but is so overutilized that there is accessibly no mental health services or substance use services at the shelter, and residents who come to the shelter with serious mental health issues or substance use problems are at a high risk of being kicked out and have a low chance of getting into permanent housing or acquiring a Section 8 voucher.” | Defendants object to this statement on the basis that it is irrelevant (Fed. R. Rvid. § 401); lacks foundation (Fed. R. Evid. § 602) provides inadmissible speculation and conclusions (Fed. R. Evid. § 602); provides improper expert testimony by the declarant (Fed. R. Evid. § 701, 702); and is not based on declarant’s personal knowledge (Fed. R. Evid. §602).<br><br>Mr. Storm’s statements as to the availability of mental health services is irrelevant to the legal issues present in this action. Mr. Storm further does not establish any qualifications or expertise to remark on the outcomes of residents with mental health or substance use problems. | Granted:<br><hr/> Denied: |

1 DATED: July 27, 2021

**COLANTUONO, HIGHSMITH &  
WHATLEY, PC**

*/s/ Liliane M. Wyckoff*

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JEFFREY A. WALTER  
CARMEN A. BROCK  
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Attorney for Defendants  
City of Novato, City Manager Adam  
McGill, Mayor Pat Eklund, Mayor Pro  
Tem Eric Lucan, Chief of Police Mathew  
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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 **DEFENDANT CITY OF NOVATO’S OBJECTIONS TO EVIDENCE SUBMITTED IN SUPPORT OF PLAINTIFFS’ EX PARTE APPLICATION** 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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