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CLERK U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
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1 Pro Se Plaintiffs  
Alicia Kuhl,  
2 Homeless Advocate and  
Ross Camp Liaison  
3 c/o Homeless Services Center  
115 "D" Coral Street,  
4 Santa Cruz, CA 95060  
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7 UNITED STATES COURT

8 NORTHERN DISTRICT OF CALIFORNIA

9 San Jose Division

10 CV 19 1898

11 DESIEIRE QUINTERO, SANTOS )  
12 MENDEZ, MICHAEL SWEATT, SONNY )  
13 LOPEZ, RAFAEL SALDANA, CRYSTAL )  
14 OLSSON, VANESSA MONTOYA, JUAN )  
15 MACEDO, MARK HEMERBACH, SHANNON )  
16 VUDMUSKA and ALL OTHERS )  
17 SIMILARLY SITUATED RESIDENTS OF )  
18 THE ROSS HOMELESS ENCAMPMENT )  
19 LOCATED BEHIND ROSS AT THE )  
GATEWAY PLAZA IN SANTA CRUZ, )  
20 CALIFORNIA; ROSS CAMP COUNCIL )  
21 OF THE SANTA CRUZ HOMELESS )  
22 UNION, FOOD NOT BOMBS, HOMELESS )  
23 UNITED FOR FRIENDSHIP AND )  
24 FREEDOM ("H.U.F.F."), )

Case No: )  
Complaint for Injunctive and )  
Declaratory Relief under the )  
Eighth and Fourteenth )  
Amendments to the Constitution )  
of the United States; 42 )  
U.S.C. Section 1983; )  
Declarations of Desiere )  
Quintero, Santos Mendez, Mark )  
Hemerbach, Shannon Vudmuska, )  
Steve Pleich, Keith McHenry, )  
Robert Norse, Alicia Kuhl; )  
Memorandum of Points and )  
Authorities )

Jury Demand )

21 Plaintiffs in Pro Per )

22 vs. )

23 CITY OF SANTA CRUZ, SANTA CRUZ )  
24 CITY COUNCIL, SANTA CRUZ CITY )  
MANAGER MARTIN BERNAL, SANTA )  
25 CRUZ MANAGEMENT ANALYST SUSIE )  
O'HARA, SANTA CRUZ CITY MANAGER )  
26 TINA SHULL, SANTA CRUZ CHIEF OF )  
27 POLICE ANDREW MILLS, in their )  
official and individual )  
28 capacities;"TAKE BACK SANTA )

NC

1 CRUZ" and DOES 1 -100, )  
2 )  
3 Defendants )  
4 )

5 **JURISDICTION AND VENUE**

6 1. This is an action for injunctive relief pursuant to 42 USC  
7 Section 1983 and F.R.Civ.P. 23(b) (2) based upon ongoing violations  
8 and the imminent harm to residents of the Ross Homeless Camp based  
9 upon the violation of rights secured to the Plaintiffs by  
10 Eighth and Fourteenth Amendments to the Constitution of the United  
11 States Constitution. Jurisdiction exists based on 28 U.S.C.  
12 Section 1331 and 1343 in that this case is brought pursuant to 42  
13 U.S.C. Section 1983 and raises questions of federal constitutional  
14 law under the Fourth, Eighth and Fourteenth Amendments.  
15 Jurisdiction also exists under the Declaratory Judgment Act, 28  
16 U.S.C. Sections 2201(a) and 2202.

17 **INTRADISTRICT ASSIGNMENT**

18  
19 2. Because this action arises in Santa County it is assigned to the  
20 San Jose Division.

21 3. Venue is proper in the Northern District in that the events  
22 and conduct complained of in this action are occurring in the  
23 Northern District.

24 4. Deseire Quintero, Santos Mendez, Michael Sweatt, Sonny Lopez,  
25 Rafael Saldana, Crystal Olsson, Vanessa Montoya, Juan Macedo, Mark  
26 Hemerbach, Shannon Vudmuska and all others similarly situated  
27 Residents of the Ross Homeless Encampment located behind Ross at  
28

1 the Gateway Plaza in Santa Cruz, California. ("Plaintiffs") bring  
2 this motion for a Preliminary Injunction and Declaratory Judgment  
3 against The City Of Santa Cruz, The Santa Cruz City Council, Santa  
4 Cruz City Manager Martin Bernal, Santa Cruz Management Analyst  
5 Susie O' Hara, And Santa Cruz City Manager Tina Shull.

6 (collectively, "Defendants") to enjoin Defendants unlawful closure  
7 of the Ross Homeless Encampment on April 17<sup>th</sup>, 2019 located behind  
8 Ross in the Gateway Plaza in Santa Cruz California.  
9

#### 10 INTRODUCTION

11 5. Deseire Quintero, Santos Mendez, Michael Sweatt, Sonny Lopez,  
12 Rafael Saldana, Crystal Olsson, Vanessa Montoya, Juan Macedo, Mark  
13 Hemerbach, Shannon Vudmuska and all others similarly situated  
14 Residents of the Ross Homeless Encampment located behind Ross at  
15 the Gateway Plaza in Santa Cruz, California. ("Plaintiffs") bring  
16 this motion for a Preliminary Injunction against The City Of Santa  
17 Cruz, The Santa Cruz City Council, Santa Cruz City Manager Martin  
18 Bernal, Santa Cruz Management Analyst Susie O' Hara, Santa Cruz  
19 City Manager Tina Shull and "Take Back Santa Cruz" (collectively,  
20 "Defendants") to enjoin Defendants unlawful closure of the Ross  
21 Homeless Encampment on April 17th 2019 located behind Ross in the  
22 Gateway Plaza in Santa Cruz California.  
23

24 6. The City of Santa Cruz has announced its intention to begin  
25 closing a homeless encampment on April 10, 2019 without any  
26 provisions to provide shelter consistent with the requirements of  
27 *Martin v. Boise* for the 200 persons who will be displaced. This  
28

1 announcement was made in an open letter to the public by City  
2 Manager Martin Bernal. (Exhibit A) **The City has admitted it has**  
3 **inadequate shelter to house the displaced campers, yet it has not**  
4 **rescinded the decision to close the camp.** The City's original plan  
5 was to move displaced campers into two outdoor camps, "1220 River  
6 St." and Lot 24. Due to intense anti-homeless pressure from the  
7 residents of the Depot Park neighborhood, the City has dropped  
8 that plan.

9  
10 7. Although there is some disagreement on the City Council  
11 concerning the specific process to be used, there is no  
12 disagreement that the camp will be closed. The whole City Council  
13 is also in agreement that None of the proposals before the City  
14 Council includes the provision of indoor shelter as expressly  
15 provided by the 9<sup>th</sup> circuit in *Martin V. Boise*.

16  
17 8. The City has also announced that it will undertake an  
18 immediate "clean up" of the camp which will entail the eviction of  
19 all of the residents. No provisions have been announced to provide  
20 indoor shelter to the homeless in Ross Camp that will be removed  
21 for this "clean-up". Plaintiffs residents of Ross Camp reasonably  
22 fear that once the clean up begins, most or all of them will be  
23 unable or not allowed to return. Instead, they will be scattered  
24 around the City and beyond where they will be vulnerable to the  
25 elements, police harassment and violent acts by those who don't  
26 want the homeless to be in Santa Cruz.

27  
28 **Facts and Background**

1 9. The Ross Encampment started in late November of 2018 out of  
2 necessity following the closure of the 1220 River street shelter,  
3 and lack of available shelter beds within the City and County of  
4 Santa Cruz. In order to increase their chances of survival,  
5 homeless persons formed a tent community in a City and County  
6 where homeless persons regularly perish alone and forgotten. Only  
7 18 months ago, four days before Christmas, 2017, the headline read  
8 "Homeless Deaths Reach a New High in Santa Cruz County" and the  
9 story reported the Annual Homeless Memorial Service for fifty who  
10 perished, most of them in the City of Santa Cruz. (See Exhibit A).  
11 This case concerns over 200 people who for the last five months  
12 have been living in tents, and similar structures behind the Ross  
13 Store in Gateway Plaza, known as the Ross Camp. In this time the  
14 Camp has established a sense of community, and a Council called  
15 the Ross Camp Council. This council consists of approximately 10  
16 people that live at the camp, and they meet with the city staff on  
17 a weekly basis to keep the city fully informed. For this reason,  
18 the City is well aware that closing the encampment without FIRST  
19 providing indoor shelter will put 200 Ross Camp residents in great  
20 peril.  
21  
22

23 10. All of the Plaintiffs in this case have previously been cited  
24 by law enforcement agencies numerous times for acts related to  
25 homelessness. Every single plaintiff has from a few, to several  
26 pages worth of citations for sitting in public, setting up a  
27 campsite, appearing to set up a camp site, trespassing,  
28

1 limitations on use of public property tickets, bicycle citations,  
2 showing that homeless people have been targets in Santa Cruz both  
3 currently, and in the past by law enforcement in attempt to ticket  
4 homeless people and make their lives as difficult as possible.

5 11. Residents feel safe and protected being in a group setting at  
6 the Ross Encampment especially the females in the encampment,  
7 particularly when camping alone several females at the encampment  
8 have experienced sexual assault in the past. Many of the camp  
9 residents have suffered physical attacks, especially at night  
10 while sleeping.  
11

12 12. Currently there is a harm reduction team meeting at the  
13 encampment up to three times a week providing harm reduction  
14 supplies, and a needle exchange, several people, and organizations  
15 are providing food, socks, and necessity of life products to the  
16 encampment on a weekly basis.  
17

18 13. On February 12th 2019 the Santa Cruz City Council voted to  
19 put a closure date on the encampment as long as they had available  
20 shelter beds to accommodate the number of people that they  
21 estimate to be living at the encampment by March 15th and  
22 announced that a closure date for the encampment would be March  
23 15th, three days later on February 15th a corresponding closure  
24 notice was posted at the encampment, On February 26th the City  
25 Council admitted that there are not enough shelter beds to proceed  
26 with a closure date of March 15th, and put off the March 15th  
27 closure date to a further discussion on March 12th. At the City  
28

1 Council meeting on March 12th a new date was set for closure of  
2 the encampment on April 17th in addition a proposal was passed  
3 requiring the encampment residents be notified just one week  
4 before April 17th of the camps closure. Since that time the City  
5 Manager has put out a public letter in support of the camp  
6 closure, and intent to start moving people out potentially on  
7 April 10th.

8  
9 14. In an effort to try and close the camp a safe sleep location  
10 was proposed on March 19th, it was to be located in a parking lot  
11 adjacent to depot park, and contain tent spaces for 50 people to  
12 sleep, at night forcing them to leave during the day. A week  
13 following it was proposed to be agendized for the safe sleep  
14 location to be recinded on April 9th in the face of massive,  
15 hostile public protest, organized by "Take Back Santa Cruz", an  
16 organization connected to Santa Cruz Police Chief Andrew Mills  
17 which includes members that have perpetrated acts of violence  
18 against the homeless in addition to using social media to spread  
19 myths and anti-homeless hate.  
20

21 15. The constant changing of the encampment closure dates,  
22 outrage from the community, and simultaneously failing to provide  
23 adequate shelter space for the encampment residents has caused an  
24 enormous amount of fear, post traumatic stress, and anxiety and  
25 some irreparable damage has already occured within the camp  
26 residents.  
27  
28

1 16. On March 19th at a meeting at the Camp, Ross Camp Council  
2 liaison Alicia Kuhl spoke to City of Santa Cruz worker Meghan  
3 Bunch who stated that the shelter located at 1220 River street is  
4 not scheduled to be taken over by the Salvation Army until April  
5 17th, and that April 17th is not the opening date of the shelter.  
6 That it may take some time after the Salvation Army takes over to  
7 actually be open. Currently the safe sleep location is agendized  
8 to be repealed on April 9th. Both of those locations are not  
9 indoors and thus do not meet criteria to be considered adequate  
10 available shelter. This adds a great deal of additional stress to  
11 the encampment residents as there are not enough shelter beds to  
12 accommodate the people at the camp even with the opening of the  
13 1220 River Street Shelter and the city council is planning on  
14 closing the encampment on April 17th without adequate shelter  
15 space for all of the encampment residents.  
16

17 17. In addition to a lack of available shelter beds, there are  
18 several barriers to the few that are available in the area of  
19 Santa Cruz, one specific barrier is that Faith Communities shelter  
20 is on a hill and disabled people have trouble with access. At the  
21 VFW people are only allowed one bag, and many homeless people  
22 carry more than that for survival purposes, not to mention that  
23 shelter is consistently full. Another shelter is Rebele, that is  
24 only available to families that meet certain criteria, most of  
25 these "emergency shelters" are scheduled to be closing at the end  
26 of June, and Santa Cruz has very little year round shelters.  
27  
28



1 18. In summary the City of Santa Cruz does not have enough  
2 shelter beds to accomidate the residents of the Ross encampment,  
3 or the rest of the homeless population in Santa Cruz for that  
4 matter.

5 19. Closure of the Ross Encampment on April 17th without  
6 providing adequate and available shelter space for every homeless  
7 individual is a violation of Martin V. Boise, and also poses a  
8 direct risk to the health and safety of the Ross Encampment  
9 residents as well as the health and safety of the community of  
10 Santa Cruz in the following ways, Closure of the encampment would  
11 force the camp residents back out in the community to camp  
12 elsewhere with a lack of safety and security that they have  
13 currently established as a community at the Ross encampment,  
14 specifically the encampment is a safe place for females to sleep  
15 at night and be free from fear of sexual assult, several of the  
16 women at the encampment have been sexually assaulted in the past  
17 while camping alone. Several of the campers have been previously  
18 assaulted by angry citizens. Many of the Campers have in the past  
19 gotten multiple citations for acts of homelessness and would be  
20 subject to that happening again.

23 20. There is regular harm reduction efforts in the encampment  
24 that would not be duplicated if residents were out camping on  
25 their own, the work to establish the Ross Camp Council, and  
26 network supplies for the camp would be lost if the camp were to be  
27 closed on April 17th. The regular needle exchanges, food, and  
28

1 supply drop off's are helping to control the spread of disease and  
2 providing for a safe environment. The city has done very little to  
3 provide services, and supplies like water to the camp, which  
4 appears to be part of its efforts to justify closing it down. It  
5 would be extremely detrimental to the health and safety of over  
6 200 people to close the current Ross encampment without providing  
7 adequate indoor shelter spaces, and the above mentioned services.

8  
9 21. To date the City of Santa Cruz along with Management, and  
10 staff have failed to provide or promise that any adequate indoor  
11 shelter spaces will be available by April 17th or at all for the  
12 Ross Camp residents, or the rest of the homeless population of  
13 Santa Cruz, therefore the Ross Camp Residents and all others  
14 similarly situated pray the Court will grant an immediate  
15 injunction against the closure of the Ross Encampment.

16  
17 **PARTIES**

18 **Plaintiffs:**

19 22. **Plaintiff Deseire Quintero** is a resident of the Ross homeless  
20 encampment located behind Ross in the Gateway plaza in Santa Cruz  
21 California who has lived at the camp for the past several months.  
22 She will be put at great risk if she is forced out of the Ross  
23 Camp and has to camp alone because she is an older female fearing  
24 for safety while camping alone. She has recieved numerous camping  
25 citations that she has not been able to pay and should the City  
26 close the Ross Camp she fears that she will be cited and fined  
27 again when she is forced to camp elsewhere. She has walked down  
28

1 highway 9 and had angry citizens throw frozen water bottles and  
2 shoot paintballs at her. At the Ross Camp, she is protected by  
3 male friends and campmates and will be at great risk if the Camp  
4 is closed and she is forced to camp in the woods where she has  
5 been physically assaulted and her tent and belongings vandalized  
6 by angry citizens who park along the highway and search for  
7 homeless camps. If the Ross Camp is closed, she will no longer  
8 have a steady supply of food and other necessities provided by  
9 charitable institutions. She will not have access to a 24-hour  
10 bathroom and handwashing facilities and will be at risk of arrest  
11 for performance of necessary biological functions.  
12

13  
14 **23. Plaintiff Mark Hemerbach** is a resident of the Ross Encampment  
15 located behind Ross in the Gateway Plaza located in Santa Cruz  
16 California. He has lived in Santa Cruz for thirty-seven years and  
17 was a business owner before becoming homeless. He fears for his  
18 safety if he is forced to leave the Ross Encampment and camp alone  
19 because of fear of getting citations because of non designated  
20 camping areas, getting harassed in public, and vigilantism from  
21 people in the community. He feels safe at the Ross encampment, and  
22 believes there is more safety in numbers. Before he came to Ross  
23 Camp he recieved multiple citations for acts of homelessness  
24 including sleeping citations, trespass violations and multiple  
25 harassing incidents from the police when camping alone and fears  
26 such harassment if the Camp is closed with no indoor shelter  
27  
28

1 provided. He has tried to get into a shelter bed numerous times  
2 and been rejected. The salvation army shelter fills up within an  
3 hour, especially when the weather is foul.

4 24. **Plaintiff Santos Mendez** is a resident of the Ross homeless  
5 encampment located behind Ross in the Gateway Plaza in Santa Cruz  
6 California. He is a member of the Ross Camp Council and lives next  
7 to his female best friend Desiree, also a member of the Ross Camp  
8 Council, and helps her and other females be safe from harm. If the  
9 Ross Camp closes he will have to camp alone again, because in the  
10 past he has been stalked and harassed in the past by angry  
11 citizens while he tries to sleep. He knows several people that  
12 have been physically assaulted while camping alone and homeless in  
13 Santa Cruz. A few of them have gone to the hospital and fears that  
14 could happen to him if he is forced to leave Ross Camp.

15  
16 In the Ross Camp, he is able to sleep without the fear of harm or  
17 persons hostile to the homeless ruining his belongings, some of  
18 which are necessary for his survival. He fears that if he must  
19 camp alone everyone will be able to steal, or ruin his belongings,  
20 while at the Ross Encampment he has people to watch my belongings  
21 including those necessary to survival. He has been cited several  
22 times in the past for camping, sitting in public, and acts of  
23 homelessness that he could not avoid for survival. He fears that  
24 he will be cited again, which he cannot afford. He has attended  
25 meetings with City officials and has volunteered in efforts to  
26 maintain, clean, and organize the camp.  
27  
28

1 25. **Plaintiff Shannon Vudmuska** is a resident of the Ross homeless  
2 encampment located behind Ross in the Gateway plaza in Santa Cruz who has  
3 been both housed and homeless in Santa Cruz while living in Santa Cruz  
4 over the past 27 years. She came to Ross Camp as a survivor of domestic  
5 violence who suffers from PTSD who struggles to exist and to get stable  
6 again.

7 26. Ms. Vudmuska has been repeatedly harassed by the authorities,  
8 ordered to pack up her camp and leave with nowhere to go. She fears to  
9 leave the Ross Encampment because sexual assault is common against  
10 homeless women who camp alone. She fears that she could dehydrate and or  
11 starve somewhere in the woods all alone if forced to leave the safety of  
12 the Ross Encampment.

13 27. Ms. Vudmuska feels same from such dangers while staying at the Ross  
14 Camp whereas if something happened to her while camping alone, something  
15 bad could happen or if she died, it would take a long time for others to  
16 find her. If something should happen to her while camping alone, she  
17 fears reporting to the police, who she says treat the homeless like  
18 criminals and might not help her. If she had to leave the Ross Camp, and  
19 camp away from the safety and community it provides, she fears violence  
20 from community vigilanties, including a local group called "Take Back  
21 Santa Cruz" that goes around throwing frozen water bottles at the  
22 homeless. She has watched this group shake motorhomes with women inside,  
23 stalk the homeless at night and harass and terrorize them with acts of  
24 violence. It's very common that this happens while sleeping away from a  
25 large group. In the past she has been struck with a jar flying from a  
26 vehicle and been shot at with paintballs from people driving past her  
27 with Take Back Santa Cruz bumper stickers and has seen the same group  
28

1 raid the smaller camps, destroy tents, hit things with baseball bats and  
2 fears being forced out of the Ross Camp for this reason.

3 28. With regard to the shelter system, she has been made the object of  
4 inappropriate comments including being called a "cunt" at least half a  
5 dozen times at the Homeless Service Center and she is not allowed to have  
6 her registered service dog stay with her at certain shelters.

7 **Defendants:**

8 29. Defendant CITY OF SANTA CRUZ is a municipal corporation  
9 subject to suit.

10 30. Defendants SANTA CRUZ CITY COUNCIL, SANTA CRUZ CITY MANAGER  
11 MARTIN BERNAL, SANTA CRUZ MANAGEMENT ANALYST SUSIE O'HARA, SANTA  
12 CRUZ CITY MANAGER TINA SHULL and SANTA CRUZ CHIEF OF POLICE ANDREW  
13 MILLS are elected or appointed officials of the City of Santa  
14 Cruz. "TAKE BACK SANTA CRUZ" is an organization connected to the  
15 Santa Cruz Police Department and Police Chief Andrew Mills which  
16 includes members that have perpetrated acts of violence against  
17 the homeless in addition to using social media to spread myths and  
18 anti-homeless hate.  
19

20 **Cause of Action**

21 **Violation of the Eighth Amendment of the Constitution as**  
22 **Applied to the States Through the Fourteenth Amendment to the**  
23 **United States Constitution.**

24 31. As described above, the City's announced intention to close  
25 the Ross Camp having admitted that it cannot and will not provide  
26 any alternative indoor shelter is in direct contradiction to  
27  
28

1 *Martin v. Boise*[quote] and, as such, constitutes a violation of  
2 the Eighth Amendment to the Constitution of the United States.

3  
4 **Request for Injunctive Relief and Declaratory Judgment**

5 **Memorandum of Points and Authorities**

6 32. Plaintiffs are entitled to a preliminary injunction where  
7 they are able to establish: (1) A likelihood of success on the  
8 merits; (2) a likelihood of irreparable harm in the absence of  
9 preliminary relief; that the balance of equities tips in the  
10 plaintiffs' favor; and (4) preliminary relief is in the public  
11 interest. *Winter v. Natural Resources Defense Council, Inc.* 555  
12 U.S. 7, 20 (2008)

13  
14 33. In this case the City of Santa Cruz, as has been described  
15 above and in the Plaintiffs' declarations, has effectively  
16 admitted that it is in violation of the 8<sup>th</sup> Amendment in as much as  
17 it has announced its intention to close the Ross Camp despite its  
18 admission that no indoor alternative shelter exists. The City Code  
19 is full of prohibitions that they have used repeatedly and would  
20 use again against those in the Ross Camp who would not or could  
21 not leave.  
22

23 34. On March 25, 2019, Santa Cruz City Manager Martin Bernal  
24 posted "An Open Letter to the Santa Cruz Community" on the City's  
25 website. In it, Bernal announced that the City will close the Ross  
26 Camp beginning one week before a "final close out on April 17<sup>th</sup> or  
27 18<sup>th</sup>", i.e., tomorrow, Wednesday, April 10, 2019. (Exhibit A,  
28

1 Bernal Open Letter.

2 35. At the same time, in the same Open Letter, Bernal concedes  
3 that under the decision of the U.S. Court of Appeals for the Ninth  
4 Circuit in *Martin v. City of Boise*, 902 F.3d 1031 (9th Cir. 2018),  
5 *as amended on denial of rehearing*, ---F.3d---, 2019 WL 1434046  
6 (Apr. 1, 2019), the City of Santa Cruz "can't simply close down  
7 the encampment as we have done in the past" but has to "identify  
8 alternatives for those sleeping [there]" before attempting to do  
9 so. Finally, Bernal's Open Letter expressly admits that the **CITY**  
10 **DOES NOT HAVE AVAILABLE SHELTER.**

11 36. Yet, despite these admissions, as of the filing of this  
12 complaint and motion, the City of Santa Cruz has not rescinded its  
13 decision to begin dismantling the Ross Camp, thus placing 200  
14 homeless Ross Camp residents at great in imminent legal and  
15 physical peril. Should residents remain, they will run afoul of a  
16 number of local code sections, for which they may be cited as  
17 infractions or misdemeanors including 6.36.010 (setting up  
18 campsite with intent to remain overnight); 13.04.011(C)-In Park  
19 After Hours); 13.04.010 (limitations on access and use of public  
20 property); 9.5.012(D) (Sitting Down - Within 14 feet of  
21 sidewalk);9.5.0.012(B);(Sitting down on public sidewalk within 14  
22 feet of any building window.)

24 37. In this case the City of Santa Cruz will bring irreparable  
25 harm to those in the camp should it close Ross Camp. As shown in  
26 the Declarations in Support of Plaintiffs' Motion, pushed out of  
27 the Camp where at least there is safety in numbers, access to food  
28



1 and sanitary facilities, etc., the homeless—and especially  
2 females—will be forced out to isolated areas where they were  
3 previously at risk for violence and will once again be in the same  
4 dangerous position of suffering irreparable harm. We should not  
5 have to wait for one of us to be raped or physically assaulted or  
6 become ill for lack of food or sanitation facilities or suffer  
7 arrest and confiscation of our possessions before the Court  
8 intervenes.  
9

10 38. In this case the balance of equities tips strongly in our  
11 favor and an Injunction to stop the closing of Ross Camp until  
12 everyone is actually provided with indoor shelter is in the public  
13 interest. We are members of the public, too. We have a right to be  
14 protected, too. And right now, the City of Santa Cruz wants to  
15 send us back out to the dangerous, isolated circumstances where we  
16 are vulnerable to being shot with paintballs, sexually assaulted  
17 and to the loss of everything we own and depend upon to survive by  
18 violent persons who have been stirred up by the constant fear-  
19 mongering against homeless persons as described in the  
20 Declarations supporting this legal action.  
21

22  
23 **The City of Santa Cruz Does Not Have Sufficient Available**  
24 **Indoor Beds to Accommodate Ross Camp Residents, Let Alone all**  
**Homeless in the Jurisdiction**

25 39. It is undisputed that the number of homeless in Santa Cruz  
26 far exceeds the number of available shelter beds. (See Declaration  
27 of Steve Peich) According to the most recent "point in time" count  
28 for which data is available, in 2017 there were over 1,200

1 unhoused persons within the City and just under 2,250 unhoused  
2 persons within the County, and it is likely that the numbers have  
3 increased since then. (Also, as the *Martin* court observed, "it is  
4 widely recognized that a one-night point in time count will  
5 undercount the homeless population..." 902 F.3d at 1036.) Yet at  
6 present, it appears that there are fewer than 300 shelter beds in  
7 the County as a whole, and fewer in the City. Many of these beds  
8 are at shelters with some type of restriction, for example only  
9 for families or only for people with a mental illness. Moreover,  
10 these shelters are all at or near capacity. (See Declaration of  
11 Steve Pleich). Even if all of these could be counted as truly  
12 "available" within the meaning of *Martin* (which they plainly  
13 cannot), that would mean that the City has beds available for at  
14 most 20% of its unhoused population.

16 40. From City Manager Bernard's March 25, 2019 Open Letter, it  
17 appears that the City believes that it would be entitled to close  
18 down the Ross camp as soon as it has identified a number of new  
19 indoor beds equal to the number of residents of the Ross camp.  
20 *Martin*, however, states that there must be a sufficient number of  
21 indoor beds *throughout the City* to accommodate *all unhoused*  
22 *persons in the City* before closure could take place.

#### 24 **Conclusion**

25 41. As we file this Complaint and Motion, we homeless residents  
26 of Ross Camp are faced with a tragic situation. The City of Santa  
27 Cruz, assisted by hostile elements in the community including some  
28

1 members of the "Take Santa Cruz Back", creating a climate of fear  
2 and violence, is simply ignoring the law at our expense. Any day  
3 we may face danger in the streets and beyond if we are locked out  
4 of Ross Camp with no safe place to go. Any day they can kick us  
5 out with the excuse of a camp clean up or no excuse at all, with  
6 no guarantee most or any of us can come back and no safe indoor  
7 place to go where we might escape the elements or a thrown bottle  
8 or worse. A dangerous climate of fear is in the City, every day  
9 anti-homeless tirades on social media and angry crowds mobbing  
10 City Council meetings. We ask that the City be stopped until  
11 homeless plaintiffs have a chance to put all the facts to the  
12 Court.  
13

14 **Prayer For Relief**

15 42. Wherefore, Plaintiffs pray: That the Court enjoin Defendants  
16 from closing Ross Camp unless and until it has provided this Court  
17 in advance of any evictions with hard, verifiable evidence that  
18 all those who will be displaced are assured safe indoor shelter  
19 consistent with the Ninth Circuit decision in *Martin v. Boise*,  
20 applicable, as the City itself has admitted, to the situation  
21 here; that the Court declare the City's announced policy and plan  
22 to close Ross Camp in the admitted absence of existing or planned  
23 indoor alternative shelter to provide to those displaced from Ross  
24 Camp to be an unconstitutional violation of the Eighth Amendment  
25 as applied to the States under the 14<sup>th</sup> Amendment; and further,  
26 that Defendant "Take Back Santa Cruz" be enjoined from dangerous  
27  
28

1 inflammatory hate speech and ordered to publicly alert its members  
2 and followers to refrain from performing or inciting acts of  
3 physical violence against homeless persons and all other relief  
4 deemed appropriate by the Court.

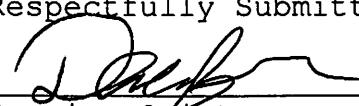
5 **Demand for Jury Trial**


6 43. Pursuant to Federal Rule of Civil Procedure No. 38,  
7 Plaintiffs demand trial by jury of all issues so triable.  
8

9 **Notice to Defendants**

10 44. On April 8, 2019, Per F.R.C.P. Rule 65 "Injunctions and  
11 Restraining Orders", Ross Camp Liaison Alicia Kuhl notified Santa  
12 Cruz City Attorney Tony Condotti via Email that Plaintiffs had  
13 initiated a lawsuit and were going to file a motion for  
14 preliminary injunction on April 9, 2019 and received a  
15 Confirmation that the Email was delivered. Liaison Kuhl's attempts  
16 to locate an appropriate officer of "Take Back Santa Cruz" to  
17 provide notification were unsuccessful. No officers are identified  
18 at the "Take Back Santa Cruz" Website nor otherwise publicly  
19 disclosed. (See Declaration of Alicia Kuhl).  
20

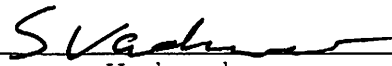
21 Respectfully Submitted,

22   
23 \_\_\_\_\_  
Deseire Quintero

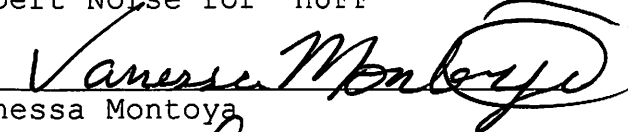
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25 \_\_\_\_\_  
Mark Hemersbach

26   
27 \_\_\_\_\_  
Santos Mendez  
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Shannon Vudmuska

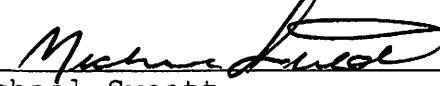
  
Robert Norse for "HUFF"

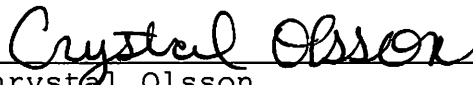
  
Vanessa Montoya

  
Sonny Lopez

  
Rafael Saldana

  
Juan Macedo

  
Michael Sweatt

  
Chrystal Olsson,

Plaintiffs



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# Homeless Deaths Reach A New High In Santa Cruz County

By [KRISTA ALMANZAN \(/PEOPLE/KRISTA-ALMANZAN\)](#) · DEC 20, 2017

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EXHIBIT A



([https://www.kazu.org/sites/kazu/files/styles/x\\_large/public/201712/IMG-0173.JPG](https://www.kazu.org/sites/kazu/files/styles/x_large/public/201712/IMG-0173.JPG))

An annual memorial at the Santa Cruz Homeless Services Center honored the local homeless who died in 2017.

KRISTA ALMANZAN

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The number of homeless deaths in Santa Cruz County has reached a new high. The fifty people who died homeless in 2017 were honored in a memorial service Tuesday.

Annual homeless memorials typically coincide with the Winter Solstice (December 21st) because it's the longest night of the year. About 150 ceremonies will be held across the country, according to Phil Kramer, Executive Director of the Homeless Services Center (<http://www.santacruzshsc.org/>) in Santa Cruz.

It was standing room only at the ceremony there in Santa Cruz. Community members and homeless advocates listened quietly as the names of the people who died homeless this year in Santa Cruz County were read aloud.



“I have really mixed feelings about today. I’m really glad that we are all here and we are together and we are taking time to reflect, remember and hopefully feel a kinship with each other,” Kramer told the group.

“But of course I wish we didn’t need to do this at all. I wish we didn’t need to have a homeless memorial. Having people die on the streets of our community is nothing less than a failure measured in human tragedy.”

On the far wall, brightly colored sheets of paper listed each person’s name and age. The oldest among them was Kathryn Cline. At 86 years old, she was living in her car. She died in the hospital. The youngest was Jaime Espinoza. The homeless 26 year old died on the Pajaro River levy in Watsonville.

Matthew Nathanson knew just about everyone on the list. He’s a Public Health Nurse with the County’s Homeless Persons Health Project. Nathanson also writes the annual report on homeless deaths. The number is up from 37 in 2016 to 50 in 2017.

“Seeing a big jump this year makes me wonder the why of it. I don’t think we fully understand it. Some of it is the homeless population in general has increased,” said Nathanson.

“I also noted that there was a significant increase in the number of people who were over 60 who died, which either you could say ‘well people are living longer’, but I think more it also is a marker that more people later in life are becoming homeless.”

He said drugs and alcohol were a huge factor in many of the deaths.

“I think there are solutions. I think as a community we just have to decide to put the resources into them. I think a piece would be to really increase the funding and resources for drug and alcohol treatment,” said Nathanson.

He said right now when people come to him for help with substance abuse, often he can only offer a spot on the waiting list for existing programs.

Homeless in California is on the rise. According a recent report (<https://www.hudexchange.info/resources/documents/2017-AHAR-Part-1.pdf>) by the U.S. Department of Health and Human Services, California had a 13.7% increase in its homeless population between 2016 and 2017.

The number of estimated homeless in the state is 134,278. That accounts for 25% of the

U.S.'s homeless population.

TAGS: [HOMELESSNESS \(/TERM/HOMELESSNESS\)](#)

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## **OPEN LETTER TO THE SANTA CRUZ COMMUNITY— ON HOMELESSNESS**

**From City Manager Martín Bernal**

Post Date:03/25/2019 4:30 PM

For our residents and visitors to Santa Cruz, the homeless encampment at the Highway 1 and 9 intersection is nearly unmissable. Growing from a handful of scattered tents last fall, by late December the encampment had nearly reached its current size. Our community has shared concerns about the encampment, its effects on nearby residents, local businesses, the environment and the commuters and recreators traveling along the San Lorenzo Riverwalk. In response, homelessness, and specifically how to address this unsanctioned encampment, has been the topic of many recent policy discussions at City Council meetings.

Given the City's rapidly evolving response to the encampment, I understand the confusion about the encampment's current status and what is being done to address the conditions there—as well as impacts on the greater community. We offer this letter to the community to provide a summary of current Council-directed activities, with the intent to provide regular updates on actions and plans with you.

The Gateway Encampment (Camp Ross as described by some) poses significant public health and safety concerns. In addition to ongoing risk of fire and general public safety challenges, the health conditions are very, very poor and the County's Public Health Official has recommended the encampment's immediate closure due to the risk of communicable disease and continued pest infestation. The City recognizes and supports the real urgency to close the encampment for the safety of all.

However, although the health and safety concerns are well documented, the City can't simply close down the encampment as has been done with others in the past. There are new legal rules that require the City to take several steps before the closure of the encampment can occur. The new rules arise from the 9<sup>th</sup> Circuit Court of Appeals case, *Martin v. Boise*, which requires a municipality to have low-barrier shelter available for displaced encampment sleepers in order to legally close the encampment.

With this change in the law, the City has to identify alternatives for those sleeping in the encampment. Our current best estimate is that there are 100 or fewer people sleeping there at night—although the daytime population can swell to 150-200. We believe that alternatives for this number of people can be met with the opening of two programs.

The first is a temporary managed homeless camp at 1220 River Street, the site of last year's River Street Camp. Opening on April 17, 2019, operated by the Salvation Army, and funded with State homeless grants, this program will provide shelter for 60 people. The program will be "bus in/out" and will be staffed and managed. Basic hygiene services will be offered. The program will have safety standards, behavioral expectations including no drug use, and security onsite.

With that program in the works, the City needed to find space for 40-50 more sleepers—so that the Gateway Encampment can be legally and effectively closed. After consideration of potential sites at the March 12 and March 19 City Council meetings, the City Council selected the temporary use of Parking Lot 24, which is north of Depot Park and accessed from Washington Street.

This Lot 24 Program will be a "Safe Sleeping and Storage Program"—also called a "dusk to dawn" program, where sleepers are allowed to enter into an enclosed, monitored space at a determined time in the evening to sleep for the night. Each morning, any tents or sleeping equipment will be taken down and the sleepers will vacate the site for the day. There will be storage onsite for the sleeping equipment and the site will have basic hygiene resources (restrooms and handwashing stations). The program will have safety standards, behavioral expectations including no drug use, and security onsite. This program has been authorized by the City Council to operate for 30 days, with the possibility of 30-day extensions approved by the City Council.

The current deadline is April 17 to have both the 1220 River Street and the Lot 24 programs available to open. The Encampment closure process will likely take a week—beginning days before April 17, with the final close out on the 17th or 18th. Thereafter, the City will need weeks to clean and restore the vacated Gateway Encampment site.

While this planning work is going on, the City and County of Santa Cruz staff continue to provide hygiene (restrooms, handwashing stations, public health checks and resources, and public safety (fire and police) response and interventions. Staff are working this week with the encampment sleepers to establish a safer site footprint and tent configurations.

The Gateway Encampment continues to pose a significant challenge for all in our community and we are working as quickly as we can, within the new legal operating environment, to resolve the unsafe conditions.

Thank you for your engagement and understanding as the City works through this challenge. As I stated at the outset, we will provide ongoing updates.

Martin

Declaration of Deseire Quintero,

1. I am a resident of the Ross homeless encampment located behind Ross in the Gateway plaza in Santa Cruz California. I have lived at the camp for the past several months.

2. I will be put at a greater danger if I leave the Ross Camp and camp alone because I am a female, and being homeless is already dangerous but being a female, especially an older female I have serious fears for my health, and safety while camping alone. I have recieved several citations for acts of being homeless in the past, I have had numerous camping citations that I have not been able to afford to pay off. In the past I struggled to pay citations and I cannot afford for that to happen to me again. The police here will find any reason to give you a ticket if they find you out camping somewhere in the city, it has happened to me so many times, I have a major fear that this will happen to me again. The police here have a reputation to fine the homeless for anything they can possibly come up with.

3. I know several females that have been sexually assaulted, and violently assaulted while camping alone in the Santa Cruz area. I have not been sexually assaulted but I know several people that have, and I have been physically assaulted and threatened by angry citizens in Santa Cruz that hate homeless people.

4. I have walked down highway 9 and had angry citizens throw frozen water bottles at me, and shoot paintballs. I have also been camping in the woods alongside highway 9 and had angry citizens park along the highway and search for homeless camps. When they find a camp they ruin tents, and belongings, and terrorize people, sometimes even assaulting them, this has happened to me while camping there, and I was terrified.

5. I have witnessed angry citizens shoot paintballs at homeless peoples dogs in Santa Cruz.

6. I have steady supplies to eat and drink at the Ross Camp as well as a bathroom to use, if I leave the Ross Encampment I will lose access to a 24 hour bathroom, and hand washing station. I have a very real fear that I could starve or dehydrate out in the elements somewhere while camping alone if I leave the Ross Camp. I have established a sense of community with the people that donate to the camp, and work with the residents and I don't want to lose that.

7. At the Ross Camp I live in a tent next to my male best friend Santos, he helps keep me safe, he helps keep all of the women in the camp as well as some other people here safe from sexual assault, we all watch out for each other, and if I were forced to leave this camp and camp by myself I would lose that safety, and security. I would be put at a very great risk, and I am very scared.

8. I have witnessed friends die in Santa Cruz from various reasons, some of those reasons are from homelessness and lack of shelter, I have a friend who died because she was disabled and stuck in a tent in the woods, she died of the elements.

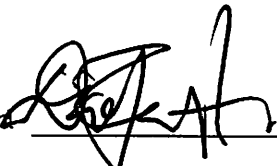
9. I am a cancer survivor and I use medical marijuana, I cannot stay in a local shelter because they basically do not allow me to have my medicine that I have to have. They do not allow it on premises, allow me to consume my medicine while living there, and if they found out in many cases I would get kicked out. I lived at the Rebele shelter in 2009 and was nearly kicked out because they suspected I was using marijuana.

10. I feel safe at the Ross Camp because we are here all together, if we were to have to leave here my biggest fear is that I could get cancer from stress again, or slip and fall in the woods, or be sexually assaulted, or die alone.

11. I became homeless and living at the ross camp because my section 8 voucher expired, and I could not find a rental within the time limit they allow. There is a serious lack of affordable housing and shelter bed availability in santa cruz and so living at the ross camp became my only option.

12. Attached hereto is a true and correct copy of a photograph of myself.

I declare this statement is true under penalty of Perjury,

Signed  Date: 4/8/19

\_\_\_\_\_  
\_\_\_\_\_



Exhibit A  
Deseire Quintero

Declaration of Shannon Vudmuska,

1. I am a resident of the Ross homeless encampment located behind Ross in the Gateway plaza in Santa Cruz. I originally became homeless in 1996. I have been both homeless, and housed while living in Santa Cruz over the past 27 years.

2. People do not become homeless because something great happened to them, its usually from something traumatic. In my case I am a survivor of domestic violence. I have PTSD. There is alot of PTSD and shock involved leading to homelessness, no one just woke up and decided not to live in a house, and its very difficult to just enter back into normalcy. It takes time, we need some place stable to exist and to get stable again.

3. In the past I have been given just twenty four hours and a stay away order to pack up my camp and leave with nowhere else to go, and no shelter available. The rangers and police use selective enforcement in my opinion with how they treat people and enforce laws in Santa Cruz.

4. They selectivly allow people in many of the shelters in Santa Cruz, and it is not on a first come first serve basis.

5. I fear to leave the Ross Encampment and camp alone because sexual assault out here is common. I personally have not been sexually assaulted but I know many people that have, and I have had other attacks happen to me while camping alone. I don't sleep well do to a personal childhood incident in the past, and I feel safe from sexual assault staying at the Ross Camp.

6. I have a dog which is one of the reasons I cannot go into a shelter, he keeps me safe out here.

7. I am worried that if I were out camping alone something bad could happen to me, and if I died alone it could take someone a long amount of time to find me. I also fear that if something happens to me, and I tell the police, the police around here have a known history of treating the homeless like criminals, and they may not help me.

8. If I leave the Ross Camp, and camp away from the safety of the group I fear from community vigilanties, there is a local group called Take Back Santa Cruz that goes around throwing frozen water bottles at the homeless, I have watched this group shake motorhomes with women inside, they stalk the homeless at night and harass and terrorize them with acts of violence. Its very common that this happens while sleeping away from a large group. In the past I was hit with a jar flying from a vehicle. I have been shot at with paintballs from people driving past me with Take Back Santa Cruz bumper stickers. I have been



harassed, and followed around in supermarkets, that in itself is a fear.

8. Vigilanties in Santa Cruz have raided small camps, broken tents, hit things with baseball bats its a continuous thing around here, and I am in danger if I leave the Ross encampment and go out into that.

9. The sexual harassment and verbal abuse that happens at the shelters here is another reason that I have issues with going to a shelter, on several occasions I have had very inappropriate comments made to me by staff members, my most recent experience was just four months ago at the homeless service center some very inappropriate comments about women were made. I feel like I have been treated in a dehumanizing way and humiliated with abusive comments, and experiences while staying at the shelter here. I have fear of this happening again.

10. I have been called a cunt approximatly fifteen times over the past three years while seeking services on the campus of the homeless services center and while living at the shelter in Santa Cruz by the staff. I have fear of the staff at the shelters in Santa Cruz because they hire people with criminal records, and who are on parole. There are three social workers that I am aware of there that started their jobs right out of prison. I do not trust the staff at the shelters, and I have no reason to trust them. The strange thing is that the shelter refuses to hire anyone that is homeless.

11. I cannot take my service dog to the shelter without proving my need for him, regardless of the fact that he is registered as a service dog. I have been told this by a few shelters here. I feel like my health issues have qualified me, yet I have still been denied to have my dog with me at the shelters in Santa Cruz. Most recently I was denied just a year ago at the Paul Lee Loft shelter. I cannot give away my pet that keeps me safe, and sane. The shelter shows extreme favortism sometimes, when it comes to who gets to have their service animals. I have been denied on several occasions.

12. There is a severe shortage in the available resources that are in Santa Cruz, and nearly no available shelter beds, there are also almost no open restrooms in the city of Santa Cruz but the Ross Encampment currently has 10 restrooms including disability restrooms, there is regular water, food, and supply distribution there as well as weekly harm reduction efforts, all of these things would not be available to me if I were to leave the Ross encampment and that would put me at great risk of harm.

13. I fear that I could dehydrate and or starve somewhere in the woods all alone if I were forced to leave the safety of the Ross Encampment, and camp by myself.

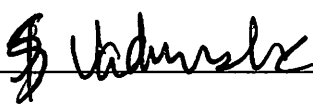
14. In the past I have gotten several citations for being homeless, everything from Camping to Tresspass, and I cannot afford to be cited

like that again for acts of survival because I am homeless. I have fear that I could endure this process again if I leave the Ross Camp.

15. I have been to several weekly meeting with the city, and one included the fire chief in which the Ross Camp residents including myself assisted in planning, organization, and clean up efforts to maintain health and safety standards at the camp.

16. Attached hereto is a true and correct photo of myself.

I declare this statement is true under penalty of Perjury,

Signed  Date: 4/8/19

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Exhibit A.

Shannon  
Vudmuska

Hemersbach

Declaration of Mark Hemersbach,

1. I Am a resident of the Ross Encampment located behind Ross in the Gateway Plaza located in Santa Cruz California. I have been homeless twice, this is my second time. I have lived in Santa Cruz for thirty seven years. I was previously a business owner in the Santa Cruz area.

2. I fear for my safety if I leave the Ross Encampment and camp alone because of fear of getting citations because of non designated camping areas, getting harassed in public, and vigilantism from people in the community.

3. I feel safe at the Ross encampment, and I believe there is more safety in numbers. I would be so much more open and prone to abuse, and the hazards of being on the street if I were out camping alone. I have recieved multiple citations for acts of homelessness including sleeping citations, trespass violations and multiple harassing incidents from the police when camping alone. I have a fear that I will endure such a thing again if I leave the Ross Camp, I can't afford to live that way and get citation after citation it has made my life extemely difficult on top of the challenges that I already face being homeless. I have a fear that I will go through that cycle of citations again that I still haven't recovered from what I have already gone through.

4. I was almost killed the first six months that I lived in Santa Cruz while camping alone. I also watched my surrogate son get murdered on the levee two years ago. I ended up in intensive care for three weeks and was hospitalized for thirteen weeks because someone snuck up behind me and hit me in the head with a chunk of concrete. I feel scared that this could happen to me again.

5. I feel like its dangerous to be a homeless person.

6. A problem that I have with getting into a shelter is that the Salvation Army shelter only allows one small bag per person which leaves me no way to keep my other personal belongings safe. Every homeless person I know does not live out of one bag. Many homeless including myself have been homeless awhile,we often have several bags. Over time we have accumulated things we need, not luxuries but things we have to have to survive.

7. The safe storage program that is currently offered is great, but only one person is doing it, he's full, and he is busy all the time. I think we need more help in that department.

8. It poses a risk to me to not have clean dry clothes, especially in the winter time and that has to do with having a safe place to keep my things.

9. I have tried to get into a shelter bed numerous times and been rejected. The salvation army shelter fills up within an hour, especially when the weather is foul.


10. There are people that stand in line to get into the shelter, sometimes they get turned away because its full, but sometimes its for having more than one bag. People get turned away from the shelter everyday.

11. I feel sad, and its a sad reality that often the mentally ill and severly disabled are the ones turned away because they don't know all the rules and peramiters and criteria of the program, they are the ones out the latest at night. I have witnessed people on the street late at night cold, and with no shoes on, and thats the result of not being able to get into a shelter.

12. Sometimes the shelter shuttle bus that comes around is only there for thirty seconds, most of the people that make it onto the bus will get shelter but sometimes not. Trying to get into a shelter for a night can turn into a half a day project.

13. There is not enough availabilty of services here.

14. Attached hereto is a true and correct photograph of myself.  
I declare this statement is true under penalty of Perjury,

Signed  Date: 4/8/2019

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Exhibit A.  
Mark Hemersbaech

Declaration of Alicia Kuhl,

1. I am a homeless advocate with Santa Cruz County Homeless Advocates, I am a resident of Santa Cruz and have been working closely with the residents of the homeless encampment located behind Ross in the Gateway Plaza in Santa Cruz California for the past several months, I live in a recreational vehicle and myself am also homeless.
2. I have made numerous phone calls to the homeless services center on Coral street which is kind of the hub for knowledge of local shelter space, only to be told on numerous occasions that there is either no available shelter bed for the night, an answer of I don't know, or a response telling me that there is an intake process.
3. In the Beginning days of March I requested to know how many people were on the waiting list to stay at the Paul Lee Loft (Not the amount of time it takes to get in) I requested only the current number of people waiting, and I never got a return call from the director.
4. I have heard numerous stories from homeless people in Santa Cruz that there is either no shelter bed available at all for them, or that the few that are available are extremely difficult to get into for various different reasons. One shelter is Ran by Faith Communities and disabled people have trouble accessing it because of a hill. I myself have tried numerous times to get into the Rebele family shelter, and I have been told that it is not a first come first serve basis. Admission to the Rebele shelter is done by a needs assessment basis, and some people can stay on the waiting list indefinitely.
5. Santa Cruz shelters have strict intake procedures, hold harmless agreements, and regulations that make them really high barrier, especially for disabled people. While I was living at the Rebele shelter in 2009 I was drug tested over seven times by my case manager Valerie and forced to leave the bathroom door open while she watched me urinate. She would pull me away from having dinner with my family, or wait for my return home from work late at night and there would be a drug test waiting for me, she would do this randomly in hopes to catch me doing something wrong even though I have never had a drug problem, and passed every single drug test. It made it very uncomfortable to stay there for the 6 months that I lived there in 2009. There

was also a curfew of 8pm, as well as a rule that you had to eat 2 out of 3 meals a day there. It was almost impossible to keep working so I lost my job while I lived there.

6. The Rebele family shelter is not First come first serve which makes it open for turning people away, instead someone there decides if you are qualified enough for shelter, and then you are placed on a waiting list. I have inquired about the current length of the waiting list but no one will tell me.

7. The City of Santa Cruz is trying to provide band aid shelter remedies that do not meet shelter criteria because they aren't even indoor shelter proposals, and they intend to break up the Ross Encampment and potentially even criminalize the campers based on these newly developed shelter ideas, without actual adequate available accessible shelter spaces available. If they do that it will put the campers at great risk for their health and safety. The City has already announced several closure dates, and plans, and changed them this has already caused fear and anxiety that cannot be repaired. Because of this the campers have no reason to trust that the city has any intention of thinking about what is best for the health and safety of the homeless campers behind Ross. They also do not trust that the city has any plans to provide shelter, as currently there is little to none

8. I have work tirelessly to establish a tight group within the encampment that acts as a hub to work with the city known as the Ross Camp Council many of them are Plaintiffs, we have worked with city staff, the fire chief, we have accomplished setting up weekly meetings and I have worked with the community to set up regular donations of water, and food, as well as clothing and supplies to keep the residents living at the encampment well cared for while they are living there, as much as possible and I have a serious fear that if the camp is closed and they have to go back to camping in the woods and under alcoves again that all of the work I have done to create a better environment for them will be lost, they will not have the resources anymore that they have now if they are forced to leave the encampment, in fact I may not even be able to locate them, and that really scares me.

9. I have observed what I feel is direct and calculated attempts by the shelter staff, and the city staff to avoid answering direct questions about current shelter space and availability. At no time after numerous attempts at calling every single shelter in the area multiple times, over the course of months have I been able to get a straight answer from any one of them,



or from the city as to the question of "Can I get a shelter bed tonight" I find this to be a serious issue, and I do speculate that keeping this information unavailable is intentional.

10. I have been harassed while living in my RV while homeless in Santa Cruz, most recently in November of 2018 I was woken up at 1am by a vigilante home owner named Jason Burdick, he was on his way home from the bar and on his way home he banged on the side of my Rv and screamed for us to "Get the fuck out" when I came to the window and got out to see what was going on he proceeded to scream that if I didn't move my RV immediately that he would come back and break all my windows, he proceeded to tell me that he makes a ton of money and doesn't want RV's in his neighborhood. I wasn't even close to his house I was parked on the corner behind the garden center a local business. I called the police for help, and when they showed up they were rude and they mocked me asking if my RV wanted to file a complaint. Then they told me to try and sympathize with why the guy doesn't want RV's in his neighborhood. They didn't do anything about it, and let the guy go home to bed. I have very little faith in the police department here to protect the rights and safety of homeless people if something does happen to them.

11. I have witnessed that some of the people at the camp have a substance abuse disorder, but it is my observation that it is less than half of the residents there.

12. I have worked with the city staff, including the fire chief to organize efforts with the camp residents to clean and organize the camp, and in the meetings the residents of the camp were always willing to help and cooperate in the efforts to keep the camp clean, and safe. It is my opinion that the conditions of the camp have been exaggerated in a negative way in order to justify closing of the camp. If the city were concerned to the degree they have cited they could have offered additional harm reduction efforts over the past few months as I have requested them to do, instead of procrastinating to do so, or not at all.

13. I have attended several City Council meeting over the past months and I have witnessed the City Council show an inability to stick to a decision about the Ross Encampment, they proposed a safe sleep location at lot 24 and then a week later agendized to have that repealed. During that time the citizens have become angry and rallied publicly against the homeless, they have flooded city council and made many hateful comments about the homeless. I have seen threats of violence directed at the homeless on social media on multiple occasions, and I am

personally aware of a local group called Take Back Santa Cruz (TBSC) that is known to stalk and attack homeless people, especially when fueled by angry feelings over City Council decisions. I have a very serious fear for unprotected homeless people in Santa Cruz especially in solitude or smaller size groups.

14. On April 8, 2019, Per F.R.C.P. Rule 65 "Injunctions and Restraining Orders", Ross Camp Liaison Alicia Kuhl I notified Santa Cruz City Attorney Tony Condotti via Email that Plaintiffs had initiated a lawsuit and were going to file a motion for preliminary injunction on April 9, 2019 and received a Confirmation that the Email was delivered. My attempts to locate an appropriate officer of "Take Back Santa Cruz" to provide notification were unsuccessful. No officers are identified at the "Take Back Santa Cruz" Website nor otherwise publicly disclosed.

I declare this statement is true under penalty of perjury.

Signed Alicia Kuhl Date: 4/9/19  
Ross Camp Liaison

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## Follow up Notice

From: Alicia Kuhl (Alicia1L@hotmail.com)  
To: tcondotti@abc-law.com  
Cc: rnorse3@hotmail.com; princelawoffices@yahoo.com  
Date: Monday, April 8, 2019, 11:48 AM PDT

Dear Santa Cruz City Attorney,

This is a follow up to our original email,

Please be advised that we have initiated a lawsuit, and tomorrow we are filing for a Preliminary Injunction against the closure of the Ross encampment.

Thank you on behalf of the following,

Deseire Quintero, Santos Mendez, Michael Sweatt, Sonny Lopez, Rafael Saldana, Crystal Olsson, Vanessa Montoya, Juan Macedo, Mark Hemerbach, Shannon Vudmuska, and all others similarly situated. Residents of the Ross Homeless Encampment located behind Ross at the Gateway Plaza in Santa Cruz, California. HUFF, Food Not Bombs, Conscience and Action, The Ross Camp Council, The Santa Cruz Chapter of The California Homeless Union.

Alicia Kuhl -Santa Cruz County Homeless Advocates (831) 431-7766  
Alicia1L@hotmail.com

Declaration of Santos Mendez,

1. I am a resident of the Ross homeless encampment located behind Ross in the Gateway Plaza in Santa Cruz California. I live right next to my female best friend Desiree, and I help keep her safe from harm.

3. I fear for my safety if the Ross Camp were to close and I had to camp alone again, because I have been stalked at night time in the past, and harassed at night by angry citizens while trying to sleep.

4. I have heard numerous stories of sexual assault by the women at the camp who have camped alone, and have been raped and sexually assaulted, here at the Ross Camp I personally help keep the women of the camp safe from things like that. We have safety for the Women here at the Ross Encampment.

5. If I camp alone everyone will be able to steal, or ruin my belongings, here at the Ross Encampment I have people to watch my belongings. Some of my belongings are necessary to survival.

6. I know several people that have been physically assaulted while camping alone homeless in Santa Cruz. A few of them have gone to the hospital. I have a fear that could happen to me.

7. I have been cited several times in the past for camping, sitting in public, and acts of homelessness that I could not avoid for survival. I have fear that that could happen to me again, and financially I cannot afford to be cited for acts of survival.

8. I am on the Ross Camp Council as is my best friend Deseire Quintero, and together we, and up to sometimes 10 or more other camp residents at a time have met on a weekly basis with the staff from the city of Santa Cruz including Susi o'Hara and Megan Bunch, and the Fire Chief. In all the meetings I have attended all the camp residents have been willing to work with the city, and have even volunteered in efforts to maintain, clean, and organize the camp.

9. Attached hereto is a true and correct photo of myself.

I declare this statement is true under penalty of perjury,

Signed



Date:

4-8-19

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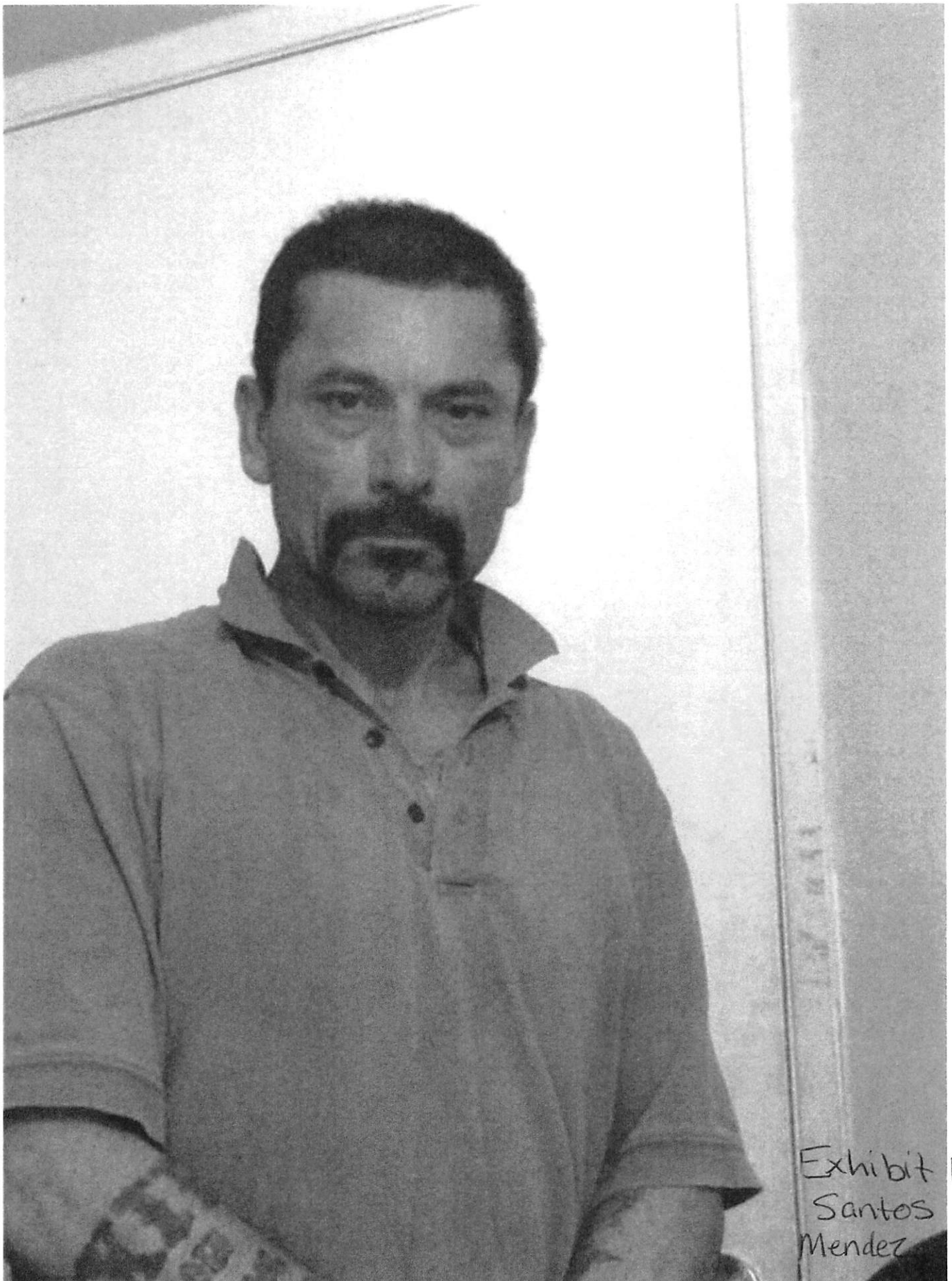


Exhibit A.  
Santos  
Mendez

**Declaration of Keith McHenry,  
Food Not Bombs, Santa Cruz**

My name is Keith McHenry, Founder of Food Not Bombs. If called upon to do so, I would and could competently testify to the following:


1. My organization Santa Cruz Food Not Bombs shares meals with more than 400 unhoused people every week. Our volunteers have been sharing food with the community in Santa Cruz since 1992. The number of people depending on our food has increased each month as has the number of people asking us for information on where to find shelter has also increased.
2. Santa Cruz Food Not Bombs also shares meal and delivers water and supplies with those living at Ross Camp. The camp has become a vital lifeline for our community.
3. The announcement of the imminent eviction has already caused some in tension during our meals with people at time arguing with one another. There was a dramatic increase in fights and outbursts at our meals when it was announced that the Homeless Services Center was closing its emergency shelter in June 2015 and continued for months afterwards. The same was true when the city closed the camp at the San Lorenzo Park in February 2018 and again in November 2018 when the River Street Camp was closed by the city. The closing of Ross Camp and the inadequate offer by the city for alternative accommodations will cause severe harm to our ability to provide adequate support for those without housing in Santa Cruz, California.
4. Since Ross Camp has opened many of those who had been seeking shelter in doorways have told us they found security at the camp and as a result have been able to find work. They are also reporting a decrease in tickets for quality of life crimes including trespassing, sitting, smoking and being in a park after hours. However, those who have not found space at Ross Camp or other shelter locations continue to show us their citations.
5. If Ross Camp is closed it will have a huge impact on our ability to help those who live at the camp. We are able to provide those at the park direct service in addition to our meals outside the Downtown Post Office on the weekends. Many other community groups are also helping provide meals at the Ross Camp. Closing the camp will also impact their ability to provide food. The closing of Ross Camp will mean an even larger increase in those seeking food during our meals downtown and is likely to increase tension among those coming to eat with us.
6. During the first weekend of May 2018 Food Not Bombs volunteer Keith McHenry was approached by a woman who introduced herself as Karen. She told him she had become homeless the day before and had been sexually assaulted on her first night on the streets. She asked if there was a shelter. Mr. McHenry asked if she had been to the Homeless Service Center and she had but they had no space. She also shared she had tried the Walnut Street Women's Center and the Salvation Army but they also did not have space. Desperate to help her Mr McHenry introduced her to a gentleman, Larry, who we trusted and suggested she might want to share a doorway on Front Street. Larry had a history of providing safety in the Front Street doorway for other Linda Lue and a couple of other women we knew.
7. Several more woman have come to us during the past year also saying that they had just become homeless and had been sexually abused on their first nights on the streets. They asked if we could direct them to a shelter. Again when volunteers called around for shelter and found that there was no room for them it was suggested they speak with Larry and ask to share his doorway.

8. During the past few months at least two families with children also asked us for directions to a local shelter but found that there was no room for them and many men have also asked us for help and were not able to find space at the Homeless Service Center or the Salvation Army , the Warming Center or the Association of Faith Communities shelter.
9. Attached hereto as Exhibit A are true and correct copies of photographs taken of Food Not Bombs providing food to Ross Camp residents.

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

Executed at Santa Cruz

Dated: April 8, 2019

  
Keith McHenry







## Declaration of Steve Pleich

I, Steve Pleich, declare as follows,

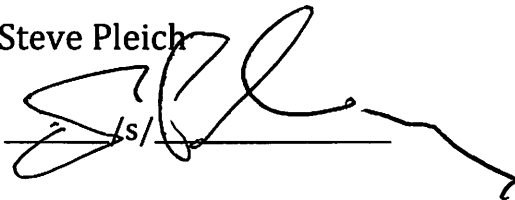
1. I am the Program Manager for Faith Community Shelters in Santa Cruz and an advocate for people experiencing homelessness in Santa Cruz and Santa Cruz County.
2. I have been qualified by our local courts to testify as an expert witness on homeless issues.
3. I am informed and believe that there are currently more than 1000 people who are without shelter every night in the City of Santa Cruz and more than 2000 county wide.
4. I am informed and believe that presently existing shelter space has the capacity to shelter less than 15% of that number.
5. I am further informed and believe that the following shelter resources are currently available on a nightly basis.
  - Winter Shelter at the VFW with capacity of 60 bed spaces.
  - Winter Shelter (women, children, disabled only) 40 bed spaces.
  - Homeless Services Center Paul Lee Loft 32 bed spaces.
  - Homeless Services Center River Street Program 5 bed spaces.
  - Faith Community Shelter 18 bed spaces.
  - Safe Parking Program 30 bed spaces.
  
  - Approximately 75 bed spaces in Watsonville shelters including the Pajaro Valley Shelter.

6. Based on the foregoing, I am informed and believe that the total emergency bed spaces available are wholly inadequate to shelter the number of unsheltered persons as determined by the most recent point in time count.

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

Executed on April 5, 2019 at Santa Cruz, CA.

Steve Pleich

A handwritten signature in black ink, appearing to be "Steve Pleich", is written over a horizontal line. The signature is stylized and includes a small "s/" mark near the beginning of the line.

## Declaration of Robert Norse

My name is Robert Norse, also known as Robert Norris Kahn. If called as a witness, I would competently testify to the following:

1. I co-founded of HUFF (Homeless United for Friendship & Freedom), a Santa Cruz organization in 1988 to establish and defend civil rights for homeless people. HUFF has a website archiving its activities, writings, and radio broadcasts at [huffsantacruz.org](http://huffsantacruz.org).
2. Our organization has been working with Ross Camp residents for some months to assist them in getting local governmental agencies to respect their rights. Santa Cruz has a particularly restrictive series of laws designed to discourage homeless people from coming here including bans against Sitting, Sleeping, Sparechanging, and other homeless activities in public. We encourage homeless peopdle to witness, record, document, and publish violations of basic rights that happen regularly here. To do so we meet regularly, encourage others to join our organization and maintain solidarity with each other when confronted with civil rights violations.
3. We have organized with the California Homeless Union, with whom we are in coalition, at the Ross Camp on a number of occasions. The presence of the community of homeless people together at the Ross Camp facilitates the abiiilty of residents to register to vote, receive our educational materials, respond to our surveys, express their opinions, and pass on those views to the media and city government agencies.
4. I am also a broadcaster for Free Radio Santa Cruz, a local radio station. My twice-weekly show has broadcast and streamed reports, events, and concerns of the homeless community nearly 30 years. We have been particularly focused on the Ross Camp, as it is the largest homeless community in the County, and one that has been under constant threat of dispersal since its inception. Part of my task is to communicate to the general public the needs of the Ross Camp through the airwaves and internet. I also help to organize delegations to speak to the City Council on the needs of the camp.

5. The dispersal of the Ross Camp would severely impact our ability to serve the residents there. The fact that they are located in one area is one issue. Another is their ability to be contacted through friends and neighbors, when their phones (if they have them) are non-functional. Providing them with educational literature, petitions, and other political material is made much more difficult if a stable community is disrupted.
6. Our organization and the Ross Camp residents will suffer significant harm if the camp is dispersed. The rights of our members and the residents to form mutually supportive bonds impacts not only their dignity and spirit, but also their health and welfare.

I declare under penalty of perjury under the laws of the State of California that the foregoing statements are true and based on personal observation or otherwise on information and belief.

Executed at Santa Cruz

Dated: April 9, 2019

A handwritten signature in black ink that reads "Robert Norse". The signature is written in a cursive style with a horizontal line underneath the name.

Robert Norse

CIVIL COVER SHEET

The JS-CAND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Shannon Vudmuska, Desere Quintero, Michael Swapp, Vanessa Montoya, Santos merdez, mark Hemersbach, crystal oisson, Juan macedo, Sonny Lopez, Rafael Saldana

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

The city of Santa cruz, SC City Council, Susie O'hara, Tina Schull, SC City Manager Martin Bernal, Police Chief Andrew mills & Take back Santa Cruz

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED. Attorneys (If Known)

CV 19 1898

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party)
2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, PERSONAL INJURY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation-Transfer, 8 Multidistrict Litigation-Direct File

VI. CAUSE OF ACTION Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S), IF ANY (See instructions): JUDGE DOCKET NUMBER

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)

(Place an "X" in One Box Only) SAN FRANCISCO/OAKLAND SAN JOSE EUREKA-MCKINLEYVILLE

DATE 4/9/19 SIGNATURE OF ATTORNEY OF RECORD

Handwritten signature of attorney

Court Name: U.S. District Court, NDCA  
Division: 5  
Receipt Number: 54611018008  
Cashier ID: waltonb  
Transaction Date: 04/09/2019  
Payer Name: Anthony D Prince

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CIVIL FILING FEE

For: Alicia Kuhl  
Case/Party: D-CAN-5-19-CV-001898-001  
Amount: \$400.00

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CREDIT CARD

Amt Tendered: \$400.00

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Total Due: \$400.00  
Total Tendered: \$400.00  
Change Amt: \$0.00

NC

Checks and drafts are accepted  
subject to collections and full  
credit will only be given when the  
check or draft has been accepted by  
the financial institution on which  
it was drawn.

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Controversial Plan to Clear Out Santa Cruz Homeless Camp Sparks Lawsuit](#)