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5 Presented on behalf of Plaintiff and
6 Class Representative, D. KINNEY

7 **UNITED STATES DISTRICT COURT**
8 **CENTRAL DISTRICT OF CALIFORNIA**
9 **WESTERN DIVISION**

10 **PEOPLE OF LOS ANGELES WHO ARE UN-**
11 **HOUSED, WHO RESIDE IN VEHICLES ON**
12 **PACIFIC COAST HIGHWAY, AND**
13 **ELSEWHERE, AND WHO ARE BEING**
14 **TICKETED FOR ILLEGAL PARKING BY**
15 **LOS ANGELES SHERIFF'S DEPARTMENT**
16 **DEPUTIES, AND WHOSE UN-HOUSED**
17 **STATUS THEREBY HAS BEEN**
18 **UNCONSTITUTIONALLY CRIMINALIZED,**
19 **AS A CLASS, AND WHO ARE REPRESENTED**
20 **BY D. KINNEY, AS CLASS**
21 **REPRESENTATIVE,**

22 Plaintiffs,

23 v.

24 **ALEJANDRO VILLANUEVA, KATHRYN**
25 **BARGER, JANICE HAHN, SHEILA KUEHL,**
26 **HILDA SOLIS, HOLLY MITCHELL, and**
27 **FIFTY¹ UNKNOWN NAMED DEFENDANTS**
28 **WHO ARE LOS ANGELES COUNTY**
SHERIFF'S DEPUTIES,

Defendants.

COMPLAINT

(To Prevent County of Los Angeles-Practiced, Negative Eugenics², Against Poor People, Civil Rights Violations, RICO Violations, and Fraud, and Damages)

CLASS ACTION ALLEGATIONS

JURY DEMAND

¹ There actually are more than 10 defendants whose names are unknown, so more than 10 must be pled.

² Eugenics is the mildest term that could be used to describe defendants' wrongful conduct: both quasi-ethnic cleansing and quasi-genocide accurately could be used.

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3 Plaintiff makes the following allegations, on information and belief, on
4 behalf of plaintiff and of the putative class members, in support of the this
5 complaint, and to prevent defendants' Nazi-Like wrongful conduct, which is the
6 criminalization of homelessness:

7 **JURISDICTION AND VENUE**

8 1. Plaintiff asserts federal claims, under 42 U.S.C. § 1983 (civil rights) and
9 18 U.S.C. § 1961-64 (RICO), against defendants, subject matter jurisdiction lies
10 pursuant to 28 U.S.C. § 1331 of the federal claims, and defendants' conduct affects
11 and interferes with interstate commerce.

12 2. The matters that are the bases for this action occurred in Los Angeles
13 County, California, and therefore venue lies in the United States District Court for
14 the Central District of California, and in its Western Division, pursuant to 28
15 U.S.C. § 1391.

16 **THE PARTIES**

17 3. Plaintiff and the putative class members are un-housed persons³ who live
18 and stay in vehicles parked in Los Angeles County and/or on Pacific Coast
19

20 _____
21 ³ Federal law defines the terms "homeless" or "homeless individual" or "homeless
22 person" to include:

- 23 (1) an individual or family who lacks a fixed, regular, and adequate
24 nighttime residence;
25 (2) an individual or family with a primary nighttime residence that is a
26 public or private place not designed for or ordinarily used as a regular
27 sleeping accommodation for human beings, including a car, park,
28 abandoned building, bus or train station, airport, or camping ground;
(3) an individual or family living in a supervised publicly or privately
operated shelter designated to provide temporary living arrangements
(including hotels and motels paid for by Federal, State, or local government

1 Highway, and who number in the multitude, and defendants are **ALEJANDRO**
2 **VILLANUEVA**, Los Angeles County Sheriff, and **KATHRYN BARGER**,
3 **JANICE HAHN**, **SHEILA KUEHL**, **HILDA SOLIS**, **HOLLY MITCHELL**, al
4 of whom are Los Angeles County supervisors, and **FIFTY⁴ UNKNOWN**
5 **NAMED DEFENDANTS, WHO ARE LOS ANGELES COUNTY**
6

7 programs for low-income individuals or by charitable organizations,
8 congregate shelters, and transitional housing);

9 **(4)** an individual who resided in a shelter or place not meant for human
10 habitation and who is exiting an institution where he or she temporarily
11 resided;

12 **(5)** an individual or family who--

13 **(A)** will imminently lose their housing, including housing they own, rent, or
14 live in without paying rent, are sharing with others, and rooms in hotels or
15 motels not paid for by Federal, State, or local government programs for low-
16 income individuals or by charitable organizations, as evidenced by--

17 **(i)** a court order resulting from an eviction action that notifies the individual
18 or family that they must leave within 14 days;

19 **(ii)** the individual or family having a primary nighttime residence that is a
20 room in a hotel or motel and where they lack the resources necessary to
21 reside there for more than 14 days; or

22 **(iii)** credible evidence indicating that the owner or renter of the housing will
23 not allow the individual or family to stay for more than 14 days, and any
24 oral statement from an individual or family seeking homeless assistance that
25 is found to be credible shall be considered credible evidence for purposes of
26 this clause;

27 **(B)** has no subsequent residence identified; and

28 **(C)** lacks the resources or support networks needed to obtain other
permanent housing

42 U.S.C. §11302(a). Plaintiffs and class members are within the definition of this
section, and choose to call themselves "un-housed," because "homeless" has
become a pejorative term.

⁴ There actually are more than 10 defendants whose names are unknown, so more
than 10 must be pled.

1 **SHERIFF'S DEPUTIES**, whose true identities presently are unknown, who
2 participated in the wrongful acts alleged hereinbelow, and whose conduct is
3 culpable, and whose unknown names will be replaced by their true identities when
4 those true identities are learned, or are persons and/or entities whose true names
5 presently are unknown, and who may have engaged in some conduct that is
6 culpable with respect to plaintiffs, as set forth hereinbelow. All defendants
7 engaged in the same conduct by participating in, facilitating, and making the
8 decisions to enact and to enforce anti-unhoused ordinances, and to criminalize
9 homelessness by posting and enforcing the no parking signs attached hereto as
10 Exhibits 1 & 2, and similar signs, in violation of the United States Constitution
11 and the principles set forth in *Martin v. City of Boise*, whose contents are
12 incorporated herein by this reference.

13
14 4. Defendants each and all are sued in their individual capacities, and, for
15 the claims made under *Monell v. Dep't of Soc. Svcs. of the City of New York*, 436
16 U.S. 657 (1978), all defendants are sued in their official capacities only.

17 5. Plaintiff **KINNEY** and class members all reside in vehicles, as described
18 hereinabove, and use those vehicles for both intrastate and interstate travel.

19 6. Defendants and each of them play and played some material role in the
20 acts and/or omissions alleged hereinbelow and in the setting of policies and
21 enforcement of County of Los Angeles ordinances that prohibit parking, and who
22 administer parking enforcement, and/or in the harassment of homeless, and in the
23 wrongful conduct set forth hereinbelow.

24 **ALLEGATIONS COMMON TO EACH COUNT**

25 7. Each and every allegation set forth in each and every averment herein
26 is incorporated by this reference in each and every other averment and allegation
27 of this pleading.

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1 8. All acts and/or omissions perpetrated and/or engaged in by each
2 defendant in their individual capacities were done maliciously, callously,
3 oppressively, wantonly, recklessly, with deliberate indifference to the rights
4 allegedly violated, despicably, with evil motive and/or intent, in disregard of the
5 rights of plaintiffs and class members, and in clear violation of the federal
6 Constitution and of the California Constitution, and of controlling federal law,
7 both statutory and common law, as set forth by both the United States Supreme
8 Court and the United States Court of Appeals for the Ninth Circuit.

9 9. The Eighth and Fourteenth Amendments to the United States Constitution
10 prohibit the threatening of and/or imposition of penalties for merely being on,
11 including sitting, sleeping, lying, or parking vehicles on public property, for
12 homeless individuals who cannot obtain permanent shelter.

13 10. Sitting, lying, and sleeping are defined as acts or conditions, that are
14 universal and unavoidable consequences of "being human," as is parking a vehicle
15 that is one's only means of "housing," on a public street.

16 11. The conduct of parking a vehicle here is conduct that is involuntary and
17 inseparable from the status of being unhoused -- they are one and the same --
18 given that human beings are biologically compelled to rest, whether by sitting,
19 lying, or sleeping.

20 12. As a result, just as governments may not criminalize the state of being
21 "homeless in public places," government may not "criminalize conduct that is an
22 unavoidable consequence of being homeless -- namely sitting, lying, or sleeping on
23 the street," or inhabiting vehicles that are parked on public streets.

24 13. So long as there is a greater number of homeless individuals in the
25 County of Los Angeles than the number of available beds in its shelters, which has
26 for many years been and presently is the case, the County of Los Angeles and
27 defendants cannot threaten, extort, penalize, or prohibit, or threaten or attempt to
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1 do so, unhoused individuals, for involuntarily being in, parking in, sitting, lying,
2 and sleeping on public property.

3 14. The County official defendants have been told this and have known this,
4 for at least 15 years, since 2006, in *Jones v. City of Los Angeles*, 444 F.3d 118 (9th
5 Cir. 2006), and again in 2014, in *Desertrain v. City of Los Angeles*, 754 F.3d 1147
6 (9th Cir. 2014), and yet again in 2019, and in *Martin v. City of Boise*, 920 F.3d
7 584, 604 (9th Cir. 2019).

8 15. As long as there is no option of sleeping indoors, the County
9 government and defendants may not criminalize indigent, homeless people for
10 being outdoors, parking the vehicles in which they exist on County streets,
11 sleeping outdoors, on public property, based on the false premise they these
12 human beings had any choice in the matter.

13 16. Resisting the need to be somewhere, to eat, to sleep, or to engage in
14 other life-sustaining activities is impossible.

15 17. Avoiding public places when engaging in these otherwise innocent
16 conducts is impossible: as long as the unhoused plaintiffs and class members do
17 not have a place where they can lawfully be, the challenged parking restrictions
18 and their enforcement by issuing parking citations, as applied to them, effectively
19 punish them for something for which they may not be convicted under the Eighth
20 Amendment, and hence, the Fourteenth Amendment, to wit, being, sitting, lying
21 down, sleeping, eating, parking their vehicles, and other innocent conduct, so that
22 the challenged ticketing practices and the ordinances on which they are based,
23 both on their faces and as applied against the homeless, are unconstitutional.

24 18. The use of the ordinances criminalizes the simple acts of being outside
25 on public property, when one has nowhere else she or he can be, they penalize the
26 condition of being a human being, and, in that sense, are prohibited status crimes.

27 19. A government entity and its officials may not lawfully or
28 constitutionally criminalize such behavior, consistently with the Eighth

1 Amendment, and hence the Fourteenth Amendment, when no sleeping spaces are
2 practically available in a sufficient number of places and/or shelters. Defendants
3 surely know this from *Martin*, and this needs no clarification.

4 20. So long as there is a greater number of homeless individuals in the
5 County of Los Angeles than the number of available beds in shelters, for the
6 unhoused, County of Los Angeles and defendants may not legally enforce parking
7 restrictions and/or ordinances against unhoused individuals, for involuntarily
8 parking, being, sitting, lying, and/or sleeping in any public place.

9 21. Ordinances and enforcement of parking restrictions violate the Eighth
10 Amendment, and hence the Fourteenth Amendment, insofar as they impose
11 criminal sanctions against unhoused individuals, for being and/or lying down
12 and/or sleeping outdoors, or parking their vehicles, on public property, when no
13 alternative shelter is available to them. *Martin* clearly and unequivocally states
14 this, and it is binding on all defendants, who refuse to obey it, yet it is the law.

15 22. There is no rational basis to prohibit parking a vehicle *only* between the
16 hours of 12:00 a.m. and 2:00 a.m., Exhibit 1, or 2:00 a.m. and 4:00 a.m.,
17 Exhibit 2, alternatively at the places at which no-parking signs have been posted,
18 much less any compelling government interest, or for any of the other ordinances
19 and their implementations as set forth herein.

20 23. Very obviously, these signs force homeless people who reside in
21 vehicles to move their vehicles from one side of the street to the other side of the
22 street, in the middle of the night, to disrupt their sleep. (It is as annoying and
23 crazy, but much meaner, as American soldiers playing loud, Nancy Sinatra music
24 through loudspeakers, and directing it at the Panamanian Papal Nuncio's residence
25 from Dec. 24, 1989 to Jan. 3, 1990, to make Gen. Manuel Noriega come out, to be
26 captured by American troops.) Defendants who thought up this County of Los
27 Angeles scheme at minimum are evil sadists and tormentors. What kind of person
28 would do something like this?

1 24. To be clear, defendants' posting of these no parking signs and their
2 enforcement are pretextual, in that they create the false appearance that their
3 function is valid, when in fact and in reality they serve as a fictitious means for
4 defendants to rid the County's streets of the unhoused, as a means to just make
5 them go away or disappear: the higher-up defendants use the Sheriff's deputies to
6 try to make the unhoused go away, similarly to the way the Nazis used Jewish
7 people as straw bosses⁵ in the Nazi concentration and extermination camps, like
8 Heinrich Himmler's⁶ *Geheime Staatspolizei* (the Gestapo). This is a principal
9 means by which defendants attempt to rid the County of the unhoused, making it
10 impossible for them to exist at all. It is inhumane and it is horrible, and the three-
11 pretend-liberal supervisors, defendants Solis, Kuehl, and Mitchell, all ought to be
12 ashamed of themselves.

13 25. All of these actions by defendants were done intentionally, in concert,
14 they are coordinated, conspiratorially, and were both attempts to do and the doing
15 of things that constitute fraud, extortion under both state and federal law, and
16 which obstruct justice, all as set forth more fully herein.

17 26. Defendants' actions are a form of government-sanctioned eugenics⁷, to
18 alter, by government edict -- here, parking enforcement and parking ordinances, a
19

20 ⁵ A worker who has some responsibility, but little authority.
21

22 ⁶ The head of the *Schutzstaffel* (German for "Protection Squads," or "Protection
23 Echelon," the "SS," self-described political soldiers) and the Third Reich's chief of
24 police, from 1936 until his dismissal on May 6, 1945, just 17 days before his
25 suicide on May 23, 1945, as a British prisoner, at an interrogation camp near
Lüneberg, Germany.

26 ⁷ "Eugenics" (/ju: 'dʒeniks/ *yoo-JEN-iks*; from Greek εὖ- "good" and γενής "come
27 into being, growing") is a set of beliefs and practices that aim to improve
28 the genetic quality of a human population, historically, and here, by excluding
people and and/or groups of people judged to be inferior, or promoting those

1 specific population that is disfavored by society and by government -- the
2 homeless.

3 27. In general, eugenics is the practice of arranging a human population to
4 increase or to decrease the occurrence of characteristics regarded as desirable or
5 undesirable. Here, poverty -- the state of being poor -- is regarded by defendants
6 as being an undesirable characteristic, and defendants' wrongful conduct as
7 alleged herein is designed to decrease the visible manifestations and occurrences
8 of this characteristic in public places. It is akin to the Nazis' and the *Geheime*
9 *Staatspolizei*'s treatment of the Romani population, and the same treatment of the
10 Romani (colloquially known as "Roma") by many countries in modern-day
11 Europe.

12 28. The American eugenics movement was formed during the late
13 Nineteenth Century and continued as late as the 1940s, and currently, and to a
14 much lesser extent into the late 20th Century.⁸ (Negative eugenics did not

15
16 judged to be superior. In recent years, the term has seen a revival in bioethical
17 discussions, on the usage of new technologies, such as CRISPR (a gene therapy
18 technique) and genetic screening, with a heated debate on whether these
19 technologies should be called eugenics or not.

20 ⁸ Many Americans, especially those born after the WWII, Baby Boomers, and
21 post-Baby Boomer generations, incorrectly believe that Stanford Univ. Professor
22 William Bradford Shockley, Jr. was the father of eugenics. He was not. In the
23 1970s, Shockley contended that a higher rate of reproduction among the less
24 intelligent was having a dysgenic effect, and that a drop in average intelligence
25 would ultimately lead to a decline in civilization. He also claimed that blacks were
26 genetically inferior to whites on an intellectual level -- a view held by the National
27 Football League until June 2021, as a means for denying brain-damaged, Black
28 former players equal compensation to White players in the brain damage class
action settlement. (Shockley was a candidate for the Republican nomination in
the 1982 United States Senate election in California. He ran on a single-issue
platform of highlighting the "dysgenic threat" of some racial groups, including
African-Americans, to American society.)

1 originate with the Nazis, as commonly is believed to the case: rather, the Nazis got
2 it from the Americans.) The American eugenics movement embraced negative
3 eugenics, as a purported method of improving the human race, and was
4 increasingly discredited as unscientific and racially-biased during the 20th
5 Century, especially after the adoption of its doctrines by the Nazis (in order to
6 justify their treatment of Jews, Romani, disabled people, and other minority
7 groups). Incredibly, eugenics was *not* invented by the Nazis, but rather was first
8 employed by "scientists" in New York, principally Charles Benedict Davenport, a
9 Brooklyn-born, Harvard biology professor, and anti-miscegenanistic, who
10 believed that race determined behavior. That is, the Nazis got eugenics from the
11 Americans. It is important to recognize that, in America, eugenics was and is a
12 movement used to reduce an undesired population -- as defendants here use their
13 County of Los Angeles, parking ordinances and enforcement of them,
14 to push racist, classist, and ableist ideals, rather than a movement that explicitly
15 worked toward the improvement of the human race, against unhoused persons,
16 who are "an undesired population." *See also*, involuntary sterilization,
17 lobotomization, and William Sheldon's somatotyping, all also conceived and
18 pioneered in America. The English-language term "eugenics" translates to "well-
19 born," from the Greek word, "*eugenes*." Eugenics reinforces the prejudices of the
20 time by deeming those with desirable genetic traits such as White, of higher
21 economic status, and healthy, when, on the other hand, those with undesirable
22 traits are identified as non-White, of lower economic status, or physically or
23 mentally disabled.
24

25 29. Defendants are practicing modern-day eugenics against plaintiffs and
26 class members. *See also LA Alliance for Human Rights v. City of Los Angeles*,
27 2:20-cv-02291-DOC-(KESx), Doc. 227 (04/20/21).
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30. Plaintiff and class members are un-housed persons who live in the streets of Los Angeles County in vehicles and who are subjected to unconstitutional ordinances and their enforcement.

31. Defendants' actions in issuing parking citations to plaintiff and to class members subjects them to the criminalization of non-criminal behavior, constitutes the levying of excessive fines, is cruel and unusual punishment, shocks the conscience, and subjects defendants to the unavailability of any qualified immunity, because the law with respect to defendants' conduct was clearly-established in *Martin v. City of Boise*, 920 F.3d 584, 604 (9th Cir.), *amended on denial of reh'g and reh'g en banc, cert. denied sub nom. City of Boise, Idaho v. Martin*, 140 S.Ct. 674 (2019), that homelessness could not legally be criminalized.

32. Virtually every night, after it is dark, and often throughout the night, defendant Villanueva's deputy sheriffs, some of the Unknown Named Defendants, ride by the homeless vehicle encampments on Pacific Coast Highway, north of Sunset Boulevard, with their lights and sirens activated, to harass the inhabitants of those vehicles, many of whom are young children, and some of whom are plaintiff's minor children.

33.-99. Reserved.

COUNT 1

(Fourteenth Amendment, Equal Protection Violations, against all defendants, in both their individual and official capacities, 42 U.S.C. § 1983)

100. The Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution prohibits state action that discriminates against a suspect class of persons, and makes a state governmental unit responsible for the equal protection of its citizens, and provides that "nor shall any state . . . deny to any person within its jurisdiction the equal protection of the laws.

1 plaintiff and class members, pursuant to the principles set forth in *Monell v. Dep't*
2 *of Social Services* and its progeny.

3 **COUNT 3**

4 **(Conspiracy, against all defendants, in both their individual and official**
5 **capacities 42 U.S.C. § 1983)**

6 102. All defendants and each of them understood and agreed that they all
7 would act in combination in the manners described hereinabove and then overt
8 acts were undertaken to carry out their schemes, both hereinabove and
9 hereinbelow.

10 **COUNT 4**

11 **(Fourteenth Amendment, Due Process Violations, against all defendants, in**
12 **both their individual and official capacities, 42 U.S.C. § 1983)**

13 103. The Due Process Clause of the U.S. Constitution provides "nor shall
14 any State deprive any person of life, liberty, or property, without due process of
15 law"

16 103a. The defendants' behavior alleged herein is so egregious, so
17 outrageous, that it fairly may be described as shocking to the conscience, and also
18 it is arbitrary and capricious action by the government: it is an exercise of power
19 without any reasonable justification or legitimate governmental purpose: plain
20 and simple, it is government bullying of those who are least able to defend
21 themselves; it violates the decencies of civilized conduct in a civilized society; it
22 is brutal and offensive, and it does not comport with basic concepts of fair play
23 and decency, so that it violates plaintiff's and class members' substantive due
24 process rights, because it is the government using its vast power arbitrarily and
25 oppressively. It deprives plaintiff and class members of property without due
26 process of law, both procedurally and substantively.

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COUNT 5

(Monell Violations, against all defendants, against all defendants, in their official capacities 42 U.S.C. § 1983)

104. Defendants' wrongful conduct under of color of law occurred so that each defendant knowingly, grossly negligently, recklessly, and with deliberate indifference to the rights allegedly violated, caused to come into being, maintained, fostered, condoned, approved of, either before the fact or after the fact, ratified, and/or took no action to correct, an official policy, practice, procedure, or custom of permitting the occurrence of the categories of wrongs set forth in the immediately-preceding Count, and/or improperly, inadequately, with deliberate indifference to the constitutional or other federal rights of persons, grossly negligently, with reckless disregard to constitutional or other federal rights, failed properly to train, to supervise, to retrain, if necessary, to monitor, or to take corrective action with respect to themselves and/or their personnel with respect to the types of wrongful conduct alleged in this pleading, so that each one of them is legally responsible for all of the injuries and/or damages sustained by plaintiffs' and class members, pursuant to the principles set forth in *Monell v. Dep't of Social Services* and its progeny.

COUNT 6

(Conspiracy, against all defendants, in both their individual and official capacities, 42 U.S.C. § 1983)

105. All defendants and each of them understood and agreed that they all would act in combination in the manners described hereinabove and then overt acts were undertaken to carry out their schemes, both hereinabove and hereinbelow.

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COUNT 7

(Fourteenth Amendment, Privileges and Immunities Abridgement Violations, against all defendants, in both their individual and official capacities, 42 U.S.C. § 1983)

106. The Privileges and Immunities Clause of the Fourteenth Amendment provides that "No State shall make or enforce any law which shall abridge the privileges and immunities of citizens of the United States."

106a. California Welfare & Institutions Code § 17000 provides that

every city . . . shall relieve and support all incompetent, poor, indigent persons, and those incapacitated by age, disease, or accident, lawfully resident therein

106b. This state law provides the substance of a privilege and immunity enjoyed under state law to plaintiffs' and class members, and defendants' conduct violates plaintiff's and class members' Fourteenth Amendment privileges and immunities rights (and this as well violates plaintiff's and class members' rights to both equal protection and to due process).

COUNT 8

(Monell Violations, against all defendants, in their official capacities, 42 U.S.C. § 1983)

107. Defendants' wrongful conduct under of color of law occurred so that each defendant knowingly, grossly negligently, recklessly, and with deliberate indifference to the rights allegedly violated, caused to come into being, maintained, fostered, condoned, approved of, either before the fact or after the fact, ratified, and/or took no action to correct, an official policy, practice, procedure, or custom of permitting the occurrence of the categories of wrongs set forth in the immediately-preceding Count, and/or improperly, inadequately, with deliberate indifference to the constitutional or other federal rights of persons, grossly negligently, with reckless disregard to constitutional or other federal

1 rights, failed properly to train, to supervise, to retrain, if necessary, to monitor, or
2 to take corrective action with respect to themselves and/or their personnel with
3 respect to the types of wrongful conduct alleged in this pleading, so that each one
4 of them is legally responsible for all of the injuries and/or damages sustained by
5 plaintiffs and class members, pursuant to the principles set forth in *Monell v. Dep't*
6 *of Social Services* and its progeny.

7 **COUNT 9**

8 **(Conspiracy, against all defendants, in both their individual and official**
9 **capacities, 42 U.S.C. § 1983)**

10 108. All defendants and each of them understood and agreed that they all
11 would act in combination in the manners described hereinabove and then overt
12 acts were undertaken to carry out their schemes, both hereinabove and
13 hereinbelow.

14 **COUNT 10**

15 **(Eighth Amendment, Cruel and Unusual Punishments Infliction Violations,**
16 **against all defendants in both their individual and official capacities, 42**
17 **U.S.C. § 1983)**

18 109. The Eighth Amendment Cruel and Unusual Punishment Clause
19 provides that "nor cruel and unusual punishments [may be] inflicted."

20 109a. The Eighth Amendment's Cruel and Unusual Punishment Clause
21 prohibits the imposition, or threat to impose, penalties for sitting, or lying outside,
22 or parking a motor vehicle on a public street, by unhoused persons who cannot
23 obtain shelter, and whether these activities are defined as acts or conditions, they
24 are inseparable from status, they are universal and unavoidable consequences of
25 being human -- they are one and the same thing, and are involuntary conduct that
26 is inseparable from status, because human beings are biologically compelled to
27 rest, whether by sitting, lying, or sleeping, and all of these things must occur some
28 place, here on streets, and in vehicles that are banned by the subject ordinances,
no-parking signs, and their enforcement.

1 109b. The County of Los Angeles may not criminalize and/or punish,
2 threaten to punish, or attempt to punish the state of being unhoused in public
3 places, nor may it criminalize conduct that is an unavoidable consequence of being
4 unhoused.

5 109c. As long as there is no option of sleeping indoors, defendants may not
6 criminalize indigent, unhoused persons for being outdoors, on public property,
7 like streets, on the false premise that that they had a choice in the matter.

8 109d. Resisting the need to eat, sleep, or engage in other life-sustaining
9 activities, or parking one's motor vehicle in order to be able to do these things, is
10 impossible.

11 109e. Avoiding public streets when engaging in this otherwise innocent
12 behavior also is impossible.

13 109f. Unhoused persons who must sleep in their vehicles may not be
14 punished, without the punishment being cruel and unusual, because such persons
15 may not be convicted under the Eighth Amendment for innocent conduct.

16 109g. Prohibiting or interfering with sleeping in a public place as applied to
17 unhoused persons is unconstitutional.

18 109h. Here, defendants' application and enforcement of their no parking
19 ordinances criminalizes conduct that is not criminal, and thus is unconstitutional.

20 109i. Ordinances and their enforcement that make the use of public
21 property as a temporary or permanent place of dwelling, lodging, or residence, for
22 storage of personal belongings, for cooking, or using temporary structures -- such
23 as vehicles, or as a living accommodation, or any of these activities in
24 combination with one another, at any time between sunset and sunrise -- here,
25 between 12:00 a.m. and 4:00 a.m., is unconstitutional.
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1 109j. The subject ordinances and their no parking signs are aimed only at
2 unhoused persons who live in their campers and RVs, and, as such, are
3 unconstitutional.

4 **COUNT 11**

5 **(Monell Violations, against all defendants, in their official capacities, 42**
6 **U.S.C. § 1983)**

7 110. Defendants' wrongful conduct under of color of law occurred
8 so that each defendant knowingly, grossly negligently, recklessly, and with
9 deliberate indifference to the rights allegedly violated, caused to come into being,
10 maintained, fostered, condoned, approved of, either before the fact or after the
11 fact, ratified, and/or took no action to correct, an official policy, practice,
12 procedure, or custom of permitting the occurrence of the categories of wrongs set
13 forth in the immediately-preceding Count, and/or improperly, inadequately, with
14 deliberate indifference to the constitutional or other federal rights of persons,
15 grossly negligently, with reckless disregard to constitutional or other federal
16 rights, failed properly to train, to supervise, to retrain, if necessary, to monitor, or
17 to take corrective action with respect to themselves and/or their personnel with
18 respect to the types of wrongful conduct alleged in this pleading, so that each one
19 of them is legally responsible for all of the injuries and/or damages sustained by
20 plaintiffs' and class members, pursuant to the principles set forth in *Monell v.*
21 *Dep't of Social Services* and its progeny.

22 **COUNT 12**

23 **(Conspiracy, against all defendants, in their official capacities, 42 U.S.C. §**
24 **1983)**

25 111. All defendants and each of them understood and agreed that they all
26 would act in combination in the manners described hereinabove and then overt
27 acts were undertaken to carry out their schemes, both hereinabove and
28 hereinbelow.

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COUNT 13

(Eighth Amendment, Excessive Fines Imposition Violations, against all defendants in both their individual and official capacities, 42 U.S.C. § 1983)

112. The Eighth Amendments' Excessive Fines Clause provides that "nor shall excessive fines [be] imposed."

112a. A fine is "excessive" if it is not proportional to and related to the gravity of the offense that it is designed to punish.

112b. The factors to be considered are the nature and extent of the underlying offense (none), whether the underlying offense is related to other illegal activities (none), whether other penalties may be imposed for the offense (none), and the extent of the harm caused by the offense (none). Here, defendants created and enforce ordinances to keep rich, habitated folks, who don't want to be bothered by seeing poor, unhoused folks who are forced to live on the sidewalks and streets and in vehicles, and none of the four, evaluative factors is applicable, so that the subject ordinances' and their enforcement -- by confiscating and stealing unhoused persons' property and by towing away an offending vehicle, and thus depriving a poor person or her or his home, is Nazi-esque, unfounded, draconian, and unconstitutional.

112c. The horror of a rich person having to endure seeing a poor person at all or a poor person's camper or RV, or, indeed, the actual poor person, is not a legitimate reason for enforcement of the subject ordinances. It is an ugly, neighborhood beautification project.

113d. Defendants' wrongful conduct, as set forth hereinabove, is in violation of the Ninth Circuit's decision in *Pimentel v. City of Los Angeles*, 974 F.3d 917 (9th Cir. 2020) (Eighth Amendment's Excessive Fines Clause applies to municipal parking fines, notwithstanding that California changed its categorization of

1 parking fines from criminal penalties to civil penalties), *as amended on denial of*
2 *reh'g and reh'g en banc.*

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4 **COUNT 14**
5 **(Monell Violations, against all defendants, in their official capacities, 42**
6 **U.S.C. § 1983)**

7 113. Defendants' wrongful conduct under of color of law occurred
8 so that each defendant knowingly, grossly negligently, recklessly, and with
9 deliberate indifference to the rights allegedly violated, caused to come into being,
10 maintained, fostered, condoned, approved of, either before the fact or after the
11 fact, ratified, and/or took no action to correct, an official policy, practice,
12 procedure, or custom of permitting the occurrence of the categories of wrongs set
13 forth in the immediately-preceding Count, and/or improperly, inadequately, with
14 deliberate indifference to the constitutional or other federal rights of persons,
15 grossly negligently, with reckless disregard to constitutional or other federal
16 rights, failed properly to train, to supervise, to retrain, if necessary, to monitor, or
17 to take corrective action with respect to themselves and/or their personnel with
18 respect to the types of wrongful conduct alleged in this pleading, so that each one
19 of them is legally responsible for all of the injuries and/or damages sustained by
20 plaintiffs' and class members, pursuant to the principles set forth in *Monell v.*
21 *Dep't of Social Services* and its progeny.

22 **COUNT 15**
23 **(Conspiracy, against all defendants, in their official capacities, 42 U.S.C. §**
24 **1983)**

25 114. All defendants and each of them understood and agreed that they all
26 would act in combination in the manners described hereinabove and then overt
27 acts were undertaken to carry out their schemes, both hereinabove and
28 hereinbelow.

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COUNT 16
(Right to Travel Violations, against all defendants in both their individual and official capacities, 42 U.S.C. § 1983)

115. The right to travel, both intrastate, interstate, and intra-municipal, is both a federal right and a state right, which state right has become a part of the federal right to substantive due process of law, and is a basic human right, and as such is a right implicit in the concept of a democratic society that is one of the attributes of personal liberty under the common law.

115a. There is a California constitutional, substantive right to travel, and it recognizes the federal right to interstate travel -- the basic right to go from one place to another, and both state and federal courts recognize the right to travel as a fundamental right that is entitled to constitutional protection, under *both* state and federal law.

115b. The right to intrastate travel, within a municipality, is a federal right, the enforcement of which is the § 1983 remedy, and also it is a federal right because it is incorporated in the substantive Due Process Clause of the Fourteenth Amendment, the enforcement of which also is the § 1983 remedy, and therefore, s and class members may enforce their state right to travel under § 1983. Driving and parking a motor vehicle are inherent parts of the right to travel, and by posting their no parking placards, defendants have unconstitutionally infringed on plaintiffs' and class members' rights to travel.

COUNT 17
(Monell Violations, against all defendants, in their official capacities, 42 U.S.C. § 1983)

116. Defendants' wrongful conduct under of color of law occurred so that each defendant knowingly, grossly negligently, recklessly, and with deliberate indifference to the rights allegedly violated, caused to come into being, maintained, fostered, condoned, approved of, either before the fact or after the

1 fact, ratified, and/or took no action to correct, an official policy, practice,
2 procedure, or custom of permitting the occurrence of the categories of wrongs set
3 forth in the immediately-preceding Count, and/or improperly, inadequately, with
4 deliberate indifference to the constitutional or other federal rights of persons,
5 grossly negligently, with reckless disregard to constitutional or other federal
6 rights, failed properly to train, to supervise, to retrain, if necessary, to monitor, or
7 to take corrective action with respect to themselves and/or their personnel with
8 respect to the types of wrongful conduct alleged in this pleading, so that each one
9 of them is legally responsible for all of the injuries and/or damages sustained by
10 plaintiffs' and class members, pursuant to the principles set forth in *Monell v.*
11 *Dep't of Social Services* and its progeny.

12 **COUNT 18**

13 **(Conspiracy, against all defendants, in their official capacities, 42 U.S.C. §**
14 **1983)**

15 117. All defendants and each of them understood and agreed that they all
16 would act in combination in the manners described hereinabove and then overt
17 acts were undertaken to carry out their schemes, both hereinabove and
18 hereinbelow.

19 118.-141. Reserved.

20 **COUNT 19**

21 **(Racketeer Influenced and Corrupt Organizations, RICO, for Fraud,**
22 **Extortion, Under Both State and Federal Law, and Obstruction of Justice,**
23 **against all defendants in both their individual and official capacities)**

24 142. By doing the things alleged hereinabove, and/or aiding or abetting
25 them, defendants thereby engaged in and committed the related RICO predicate
26 acts, with similar purposes, results, participants, victims, and methods of
27 commission, over a long and continuing period of time, with a threat of continued
28 racketeering activity, of fraud, extortion, under both state and federal law, and
obstruction of justice, and continue to commit fraud, extortion, under both state

1 and federal law, and obstruction of justice, all by using instrumentalities of
2 interstate commerce to accomplish their crimes, and thereby are liable under the
3 civil RICO statute, as set forth hereinbelow.

4 **Rico Predicate Acts**

5 **143. Frauds**

6 **A.** The fraud occurred as follows: defendants made the material
7 misrepresentation to the public, including plaintiffs and class members, that it was
8 constitutionally-permissible to implement the County of Los Angeles' subject
9 ordinances, by posting no parking placards, when those representations were false,
10 defendants intended that plaintiffs and class members rely on the ordinances,
11 plaintiff and class members have, in fact, relied on them, and plaintiff's and class
12 members' reliance on them have harmed and damaged plaintiff and class members,
13 who have been unable to and who have not parked their vehicles in which they
14 live in the posted areas.

15 **144a. Extortion** The extortion occurred as follows: defendants, through
16 the illegal placement of parking placards, have threatened plaintiffs and class
17 members that were they to park their vehicles in which they live in placarded areas
18 that their vehicles would cited and penalties would be imposed on them, and that
19 their vehicles could be forfeited, so that because of this extortionate threat,
20 plaintiffs and class members have been extorted not to park their vehicles in
21 contravention of the warning on the placards.

22 **145. Obstruction of Justice** The obstruction of justice occurred by
23 defendants preventing plaintiff and class members from exercising their federal
24 constitutional rights, all as set forth hereinabove.

25 **146.** Each defendant, in his/her own right, and all defendants together,
26 collectively, as well as their employees, who work in and for the County of Los
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1 Angeles, are all enterprises and associated-in-fact enterprises, within the meaning
2 of 18 U.S.C. 1961(4), and therefore are RICO enterprises.

3 146a. All of the LASD defendants are a separate enterprise, like a true
4 mafia, extortion/protection racket-enterprise.

5 147. Each and all of defendants' activities affect interstate commerce, as
6 well as intrastate and interstate travel.

7 148. Each defendant received and receives income, directly and/or
8 indirectly, by way of insurance premiums, salary, compensation, reimbursement
9 for expenses, *per diem* costs reimbursements, meals, lodging, and/or travel,
10 pensions, *etc.*, from the pattern of racketeering activity alleged herein, and used
11 and uses that income in the acquisition of an interest in and/or operation of the
12 enterprise, in violation of 18 U.S.C. 1962(a), and acquired and/or maintained
13 control over said racketeering enterprise through a pattern of racketeering
14 activities, as set forth herein, in violation of 18 U.S.C. 1962(b).

15 149. Defendants conducted and/or participated, and continue to conduct
16 and participate in, said enterprises' affairs through a pattern of racketeering
17 activities, in violation of 18 U.S.C. 1962(c).

18 150. The pattern of racketeering activities included, and continues to
19 include, a continuous pattern and practice potentially involving activities,
20 including the RICO predicates of fraud, extortion, mail fraud, wire fraud,
21 fraudulent concealment, and obstruction of justice, and defendants' defense of the
22 instant action is and will continue to be and will be a continuation and a part of its
23 RICO schemes, so that those who may participate in the defense of this action may
24 make themselves liable under RICO.
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26 151. Defendants' associated-in-fact enterprises constitute a present and
27 continuing threat of harm and additional RICO violations.
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1 152. The enterprises' activities have occurred on more than one, and on
2 many thousands of occasions, over at least the past 35 years and have been done
3 on numerous occasions and constitute at least a thousand separate acts, as set forth
4 hereinabove, not including the acts that will be included as part of the defense of
5 the instant action.

6 153. At least 100 RICO predicate acts have occurred.

7 154. The wrongful acts described in the matters enumerated hereinabove
8 occurred over a significant period of time, and are related in that they evidence
9 civil RICO predicates, including at least fraud, wire fraud, mail fraud, extortion,
10 and obstruction of justice, and they pose a threat of continued criminal activity,
11 have the same or similar purposes, results, participants and kinds and categories of
12 participants, victims, methods of commission, and are otherwise interrelated by
13 their common characteristics and participants, they are not isolated events, but are
14 both continuous and systemic, and each and all constitute a continuing pattern of
15 racketeering activity and constitute a long term threat of continuing racketeering
16 activity.

17 155. The activities led to defendants' control of and acquisition over the
18 enterprises and resulted in the injuries to plaintiff and class members, as alleged
19 herein, which resulted from defendants' participation in and control of the
20 enterprises.

21 156. By failing to prevent the wrongful conduct herein alleged, misconduct
22 that amounted to racketeering activities, all managerial and non-managerial
23 employees and/or officers and/or agents of defendants engaged in and condoned
24 racketeering activities.

25 157. The willful and/or negligent mismanagement of the enterprises, with
26 knowledge by defendants charged with management, and potentially other
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1 defendants, that they were and continue to be operated as a RICO enterprises,
2 directly caused the harm to plaintiffs, as alleged herein.

3 158. The enterprises are RICO enterprises because they have hierarchical
4 structures and consensual structures for making decisions, and those structures
5 have an existence beyond that which is necessary to commit the RICO predicate
6 acts alleged herein, in that the hierarchical and consensual structures exist to
7 accomplish doing business, and the structures for decision-making exist separate
8 and apart from the racketeering activities.

9 159. Each defendant unlawfully conspired with others, including other
10 defendants, by understanding and agreeing to do and taking overt actions to
11 support the matters hereinabove alleged, to violate the provisions of 18 U.S.C.
12 1962(b), (c), and (d), and, on information and belief, continued and continue to do
13 so with the aid and assistance of co-conspirators

14 160. Defendants' actions involve many thousands of County of Los
15 Angeles unhoused residents and constitute a pattern of racketeering activity and
16 the predicate acts as set forth hereinabove.

17 161. Defendants' actions have taken and thereby injured plaintiff's property.

18 162.-199. Reserved.

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20 **COUNT 20**
21 **(Violation of *Jus Cogens* International Law)**

22 200. Defendants' actions, as set forth hereinabove, are in clear violation of
23 and are prohibited by the *jus cogens*, peremptory norms of international law that,
24 among other things, prohibit official use of all cruel and unusual punishment.

25 201. Such *jus cogens*, peremptory norms are the law of the land in the
26 United States of America, and plaintiffs and class members are entitled to damages
27 for the harm caused to them by defendants' violations of *jus cogens*, peremptory
28 norms, and to declaratory and injunctive relief, because the Ninth Circuit, in

1 *Siderman v. Republic of Argentina*, 965 F.2d 699 (9th Cir. 1992), has held these
2 prohibitions to be *jus cogens* norms. That is, plaintiffs and class members claim
3 defendants are liable to plaintiffs and class members for subjecting them to cruel
4 and unusual punishment, in violation of *jus cogens* peremptory norms of
5 international law, whose violation, in turn, is a violation of the law of the United
6 States of America, under the Supremacy Clause of the United States Constitution.

8 **COUNT 21**

9 **(Violation of *Jus Dispositivum* International Law)**

10 203. Defendants' actions, as set forth hereinabove, are in clear violation of
11 the *jus dispositivum* treaty obligations entered into by the United States of
12 America, and which obligations, pursuant to Article VI, Clause 2 of the United
13 States Constitution (the Supremacy Clause), are "the supreme law of the land . . .
14 any thing in the Constitution or laws of any state to the contrary notwithstanding."

15 204. The specific treaties whose provisions prohibit cruel and unusual
16 punishments, to which the United States of America is a signatory, and whose
17 provisions were violated by defendants, are: Universal Declaration of Human
18 Rights, G.A. Res. 217 (A) (III), U.N. Doc. A/810 at 71 (1948); the Declaration on
19 the Protection of All Persons from Being Subjected to Torture and Other Cruel,
20 Inhuman or Degrading Treatment or Punishment, G.A. Res. 3452 (1975);
21 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or
22 Punishment, G.A. Res. 39/46, annex 39 U.N. GAOR Supp. (No. 51) at 197, U.N.
23 Doc. A/39/51, art. 1 (1984); Body of Principles for the Protection of all Persons
24 under Any Form of Detention or Imprisonment, G.A. Res. 43/173, 43 U.N. GAOR
25 Supp. (No. 49), U.N. Doc. A/43/49, at 297, Principle 5 (1988); the American
26 Convention on Human Rights, O.A.S. Treaty Series No. 36, at 1, OEA/Ser.
27 L./V/II.23 doc. Rev. 2, Art. 5); International Covenant on Civil and Political
28 Rights, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc.

1 A/6316 (1966), 999 U.N.T.S. 171, Art. 7; and, the European Convention for the
2 Protection of Human Rights and Fundamental Freedoms, 213 U.N.T.S. 222, Art. 3,
3 and by engaging in the conduct alleged, defendants violated those treaties and
4 conventions, and thereby violated the laws of the United States of America,
5 through the Supremacy Clause.

6 205. By virtue of the violations of the provisions of these treaties, plaintiffs
7 and class members are entitled to recover nominal damages and punitive damages
8 from defendants, and to declaratory and injunctive relief.

9 207.-272. Reserved.

10 CLASS ACTION ALLEGATIONS

11 273. Plaintiff is a member of the class of persons, whose defining
12 characteristics are that they are un-housed persons who reside in vehicles that are
13 parked on Los Angeles County streets and who are subject to harassment and
14 parking violation citing by LASD deputies.

15 274. The class contains about several hundred people and the class is so
16 numerous so that joinder of all members is impracticable.

17 275. There are only common questions of fact and of law with respect to all
18 class members of each class, whose vehicles are in imminent jeopardy of being
19 cited and who are being harassed by LASD deputies.

20 276. The claims made by the representative party are typical of the claims
21 of each member of the class.

22 277. The representative of the class, plaintiff, more than fairly, vigorously,
23 and zealously will represent and adequately protect the interests of all class
24 members, both himself and through their his zealous attorney.

25 278. Prosecution of separate actions by individual class members would
26 create a risk of inconsistent and/or varying adjudications with respect to class
27 members, which would establish incompatible standards for parties opposing the
28

1 classes, and defendants have acted and will continue to act on grounds generally
2 applicable to every class member in both classes, and the class questions not only
3 predominate but are the only questions that exist, and this action is the far superior
4 manner to other available methods for fairly and efficiently adjudicating the
5 controversies.

6 279. Class members' interests in individually controlling the prosecution or
7 defense in separate actions do not exist, and there are no anticipated difficulties in
8 managing this class action, especially as to identification of the amount of
9 damages, identification of class members, and providing actual notice to virtually
10 all class members.

11 280. Therefore, this action is maintainable under F.R. Civ. P. Rule 23(a), &
12 23(b)(1)(A),(B)(1) and (3).

13 281. Although there would appear to be no notice requirement, the nature
14 of the notice to be provided to class members would be that the offensive placards
15 would be taken down and to be decided by the court.

16 **WHEREFORE**, plaintiff and class members request relief against each
17 defendant as follows:

18 1. Compensatory damages for all non-RICO violations, in sums in excess
19 of \$75,000.00, exclusive of costs and interest;

20 2. Punitive damages, in a sum to be determined by a jury, and as a
21 percentage of the net worth of each defendant, in a sum sufficient to deter future
22 misconduct, and not less than \$1,000,000.00 per defendant;

23 3. Damages for the RICO violations, and trebling of them;

24 4. Injunctive relief, according to law;

25 5. The costs of action and interest;

26 6. Attorneys' fees; and,

27 7. Such other relief as is just and proper.
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JURY DEMAND

Plaintiffs demand trial by jury of all issues.

YAGMAN + REICHMANN, LLP

By: /s/ Stephen Yagman
STEPHEN YAGMAN

EXHIBIT 1



EXHIBIT 2

