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By _____, Deputy
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11 Prime Auctions LLC, Propagate LLC, Elizabeth R.,
12 Nicolas M., Kari H., Sean M., and Patrick K.

13 **SUPERIOS COURT OF THE STATE OF CALIFORNIA**
14 **COUNTY OF SACRAMENTO**

15 Prime Auctions, LLC., a California limited
16 liability company; Propagate, LLC., a
17 California limited liability company;
18 Elizabeth R., an individual; Nicolas M., an
19 individual; Kari H., an individual; Sean
20 M., an individual; Patrick K., an individual

21 Plaintiffs,

22 v.

23 CITY OF SACRAMENTO and DOES 1
24 through 100, inclusive

Case No.

COMPLAINT FOR:

- 25 **1) Negligence**
- 26 **2) Public Nuisance**
- 27 **3) Private Nuisance**
- 28 **4) Inverses Condemnation**

1 Plaintiffs Prime Auctions LLC, Propagate LLC, Elizabeth R., Nicolas M., Kari H., Sean
2 M., and Patrick K. (collectively "Plaintiffs") hereby file this Complaint against defendant City
3 of Sacramento (the "City") and Does 1 through 100, inclusive, as follows:

4 **INTRODUCTION**

5 1. Sacramento is the most important and influential state capital in the country. As
6 the epicenter of the fifth largest economy in the world,¹ the decisions emanating from the City
7 reverberate throughout the United States and across the globe.

8 2. Sadly, the City is dying. Darrell Steinberg ("Steinberg"), the City's Mayor, is
9 the executioner. The failure to address the ubiquitous spread of homelessness throughout the
10 City is Steinberg's poison.

11 3. Since Steinberg took office in 2016, the City's homeless population has
12 increased more than 250 percent. This unprecedented surge in homelessness is the direct result
13 of a mayoral decree (the "Steinberg Decree") which prohibits police and other City officials
14 from clearing dangerous homeless encampments that clutter the sidewalks and pollute local
15 neighborhoods.

16 4. The Steinberg Decree has transformed this once bucolic tree-lined city into a
17 rotting cesspool of decay and despair. Far from exuding the prestige which accompanies being
18 the nerve center of a massive global economy, the streets and neighborhoods of Sacramento
19 resemble the urban decay that blight the world's poorest developing nations.

20 5. Once prominent City streets and parks are now shanty towns ("Shanty Towns")
21 littered with tents, urine, feces, and garbage. Prostitutes openly peddle their trade. Drug dealers
22 sell with impunity. Drug addicts inject narcotics in plain sight. Shattered drug vials, used
23 syringes, and discarded contraceptives blanket the ground in their wake.

24 6. Perhaps even more shocking is the public health crisis ravaging the homeless
25 occupants of these Shanty Towns. Medieval diseases have reemerged and are decimating
26 homeless communities. The encampments lack basic necessitates such as running water,

27 _____
28 ¹ Only the United States, China, Japan, and Germany, respectively, boast larger economies than
California.

1 bathrooms, showers, kitchens, and laundry facilities. Rats and fleas infest these communities,
2 spreading disease and sickness person-by-person. The homeless occupants are dying at an
3 estimated rate of two people per-day.

4 7. Violent crime pervades the Shanty Towns. Homeless residents are routinely
5 beaten and robbed. The women are raped and sexually abused. In many cases, homeless
6 residents with no prior history of drug abuse have turned to methamphetamines to keep awake
7 to fend off nightly attacks.

8 8. This constant, inescapable sorrow is the unique byproduct of the Steinberg
9 Decree. Though every citizen and City resident continues to suffer from its effects, Plaintiffs,
10 as alleged herein, have individualized stories and injuries capable of redress. With this Action,
11 Plaintiffs seek to end the regime of suffering caused by Steinberg and the Steinberg Decree.

12 PARTIES

13 9. Defendant City of Sacramento is a charter city organized and existing under the
14 laws of the State of California and located in the County of Sacramento.

15 10. Plaintiff Prime Auctions LLC ("Prime Auctions") is a California limited liability
16 company organized under the laws of the State of California. Prime Auctions is situated and
17 conducts business in the City of Sacramento.

18 11. Plaintiff Propagate LLC ("Propagate") is a California limited liability company
19 organized under the laws of the State of California. Propagate is situated and conducts business
20 in the City of Sacramento.

21 12. Plaintiff Elizabeth R. is an individual who resides and works within the City of
22 Sacramento.

23 13. Plaintiff Nicolas M. is an individual who resides and works within the City of
24 Sacramento.

25 14. Plaintiff Kari H. is an individual who resides and operates a business within the
26 City of Sacramento.

27 15. Plaintiff Sean M. is an individual who resides and works within the City of
28 Sacramento.

1 23. The homeless inhabitants regularly light campfires (“Campfires”) on the
2 sidewalk and in the street. The Campfires endanger Commerce Plaintiffs’ properties and the
3 safety of their employees and prospective clients. Compounding this obvious danger, the
4 Shanty Town and its inhabitants impede necessary access to public fire hydrants.

5 24. The inhabitants openly sell and use drugs, break into cars, steal property,
6 defecate in the street and on the sidewalk, and engage in prostitution. Further, many of the
7 homeless residents have dogs which roam Commerce Circle off leash and/or unsupervised.
8 Commerce Plaintiffs’ employees have been chased and/or threatened by vagrant canines.

9 25. Piles of garbage litter the street and sidewalk, attracting rats and other vermin to
10 Commerce Circle. The rodents and vermin infest Commerce Plaintiffs’ properties, to their
11 profound detriment. Prior to the homeless taking over Commerce Circle, Commerce Plaintiffs
12 did not experience rodents and/or other vermin infestations on/in their respective properties.

13 26. The Shanty Town residents regularly trespass upon Commerce Plaintiffs’
14 properties, finding alcoves and dimly lit areas to defecate, use drugs, fornicate and/or
15 masturbate. The trespasses have resulted in piles of feces and toilet paper festering on the
16 properties, creating foul smells and unsanitary conditions.

17 27. The Shanty Town residents dump garbage on Commerce Plaintiffs’ properties.
18 Shanty Town residents camp and sleep on Commerce Plaintiffs’ properties. Late at night,
19 Shanty Town residents routinely attempt to break into the buildings on Commerce Plaintiffs’
20 properties.

21 28. The Shanty Town residents have become increasingly aggressive and territorial.
22 Commerce Plaintiffs’ employees are regularly threatened and/or assaulted.

23 29. Commerce Plaintiffs have called the City’s 3-1-1 non-emergency response line
24 (“311”) on numerous occasions. Commerce Plaintiffs have also complained to law
25 enforcement. In response to the complaints, Police and other City officials routinely inform
26 Commerce Plaintiffs that nothing can be done.

27 30. Commerce Plaintiffs are informed and believe, and thereon allege, that the Police
28 and other City officials refuse to address the dangers posed by the Shanty Town on Commerce

1 Circle subject to the express directive of the Steinberg Decree.

2 **The Midtown Encampments**

3 31. Elizabeth R., Kari H., and Patrick K. live in and around the neighborhood
4 encompassing 17th to 30th Street between I Street and C Street ("Midtown"). Propagate LLC
5 operates a business in and around Midtown. Elizabeth R., Kari H., Patrick K. and Propagate
6 LLC are collectively referred to herein as the "Midtown Plaintiffs." Several large Shanty
7 Towns are now embedded in and around Midtown.

8 32. Elizabeth R. has lived in Midtown for years. The Shanty Town residents
9 regularly trespass upon her property and steal items from her porch. The Shanty Town residents
10 defecate on and in front of her yard. The Shanty Town residents have stolen bikes from her
11 yard and leave garbage on and in front of her property. Further, a neighbor near her home has
12 established a community refrigerator for Shanty Town residents which draws homeless persons
13 to the area, causing damage to and around her property. Shanty Town residents have thrown
14 bricks at her house, bottles at her head, and have threatened her as she enters and exits her
15 home. Shanty Town residents regularly sit on the stairs of her front porch, and scream
16 obscenities throughout the night.

17 33. Kari H. has owned her home in Midtown for years. She has a separate rental unit
18 ("Rental Unit") attached to her home. To generate additional income, she advertises the Rental
19 Unit on the website Airbnb.com. On several occasions, Shanty Town residents have broken
20 into the Rental Unit and claimed it as their own. Further, prospective tenants of the Rental Unit
21 have, on more than one occasion, cancelled their Airbnb reservations (the "Airbnb
22 Cancellations"), citing the Shanty Towns near and around Kari H's home as the reason for their
23 cancellations. The Airbnb Cancellations have caused Kari H. substantial financial injury. Kari
24 H. has and continues to regularly encounter Shanty Town residents sleeping under the stairs of
25 her porch and defecating on her property. She has witnessed transactions between prostitutes
26 and "Johns" in nearby Marshall Park. As a result of the multiple Shanty Towns near and around
27 her home, Kari H. is unable to walk her dog down certain streets and in certain parks in
28 Midtown.

1 maintain, and keep safe public areas, including parks, sidewalks, streets, and public buildings.
2 Consistent with this obligation, the City must enforce laws and local ordinances to ensure public
3 health and safety. City must, *inter alia*, maintain public areas such as parks, sidewalks, and
4 streets in a manner that does not unreasonably interfere with Plaintiffs' free passage or use.
5 Further, the City must address and alleviate conditions which are harmful to Plaintiffs' health
6 and/or offensive to the senses, including remediating conditions which encourage/permit Shanty
7 Town residents to light fires, defecate, camp, sell drugs, use drugs, and peddle prostitution in
8 City parks and on City streets and sidewalks.

9 40. Plaintiffs are entitled to the free and unobstructed use of City parks, streets, and
10 sidewalks. City has the duty to ensure Plaintiffs can enjoy free passage on and through the
11 parks, streets, and sidewalks. The Steinberg Decree, and the City's adherence thereto, breaches
12 this duty.

13 41. The bases for this cause of action include the conduct, acts and omissions of
14 Steinberg and other City officials pursuant to, *inter alia*, the doctrine of *respondeat superior*.

15 42. With this Action generally, and this cause of action specifically, Plaintiffs do not
16 seek monetary damages. Plaintiff's seek only equitable and injunctive relief. Accordingly, the
17 City is not entitled to immunity. *Gov. Code § 814 et seq.*

18 **SECOND CAUSE OF ACTION**

19 **Public Nuisance**

20 **Civ. Code §§ 3490 et seq.**

21 **(All Plaintiffs Against City)**

22 43. Plaintiffs re-allege and incorporate by reference each and every allegation set
23 forth in paragraphs 1 through 42 above as though fully set forth herein.

24 44. California law defines nuisance as “[a]nything which is injurious to health,
25 including, but not limited to, the illegal sale of controlled substances, or is indecent or offensive
26 to the senses, or an obstruction to the free use of property, so as to interfere with the
27 comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use, in the
28 customary manner, of any...public park, square, street or highway[.]” Civ. Code § 3479. A

1 public nuisance is the substantial and unreasonable interference with a public right.

2 45. As described herein, the City's refusal to maintain the public property under its
3 control and to enforce laws and local ordinances thereon facilitates and perpetuates a public
4 nuisance. The Steinberg Decree has and continues to convert City parks, sidewalks, and streets
5 into rotting cesspools overrun with crime and disease. The unsanitary conditions in the Shanty
6 Towns are injurious to the public health and place Plaintiffs at risk of contracting noxious
7 diseases. The crime which runs rampant and unabated throughout the Shanty Towns places
8 Plaintiffs, their homes, their businesses, and their properties at risk. All Plaintiffs have
9 experienced a substantial and unreasonable interference with the enjoyment of their property.
10 Plaintiffs have and continue to suffer injury and the threat of injury as a result of the Shanty
11 Towns near and around their respective properties.

12 46. Each Plaintiff has been damaged in his/her/its own right and in a manner
13 specially injurious to him/her/it. No Plaintiff has consented to the City's tortious conduct.

14 **THIRD CAUSE OF ACTION**

15 **Private Nuisance**

16 **Civ. Code § 3501 *et seq.***

17 **(All Plaintiffs Against City)**

18 47. Plaintiffs re-allege and incorporate by reference each and every allegation set
19 forth in paragraphs 1 through 46 above as though fully set forth herein.

20 48. Each Plaintiff owns, leases, occupies, or otherwise controls all or a portion of the
21 house, apartment, or business identified herein. City's actions and/or inactions, as alleged
22 herein, has/have created a condition and/or permitted a condition to exist that is harmful to
23 Plaintiffs' health; indecent and offensive to the senses; obstructs the free passage and use of
24 public parks, sidewalks, and streets; permits the unlawful solicitation of prostitution near and/or
25 in front of Plaintiffs' property; permits the sale and use of illicit drugs near and/or in front of
26 Plaintiffs' property; leads to the excretion of human waste on and in front of Plaintiffs'
27 property; and constitutes a fire hazard, as alleged herein above.

28 49. The City's conduct is intentional and unreasonable, or unintentional but

1 negligent or reckless. Alternatively, the conditions permitted by way of the Steinberg Decree
2 are the result of abnormally dangerous activities that substantially interfere with each Plaintiff's
3 use or enjoyment of his/her/its land that would reasonably annoy or disturb an ordinary person.
4 No Plaintiff consented to City's conduct; each Plaintiff was harmed; City's conduct was a
5 substantial factor in causing the harm; and the seriousness of the harm outweighs any perceived
6 public benefit, for which there is none.

7 50. Plaintiffs do not seek monetary damages. Plaintiffs seek only equitable and
8 injunctive relief. Accordingly, City is not entitled to any claim of immunity. Gov. Code § 814.

9 **FOURTH CAUSE OF ACTION**

10 **Inverse Condemnation**

11 **Cal. Const. art. I § 9**

12 **(All Plaintiffs Against City)**

13 51. Plaintiffs re-allege and incorporate by reference each and every allegation set
14 forth in paragraphs 1 through 50 above as though fully set forth herein.

15 52. California Constitution, Article I Section 19(a) provides, in relevant part,
16 "Private property may be taken or damaged for a public use and only when just compensation,
17 ascertained by a jury unless waived, has first been paid to, or into court for, the owner."

18 53. City's actions and/or inactions by way of the Steinberg Decree have and continue
19 to limit, damage, and/or burden Plaintiffs' properties and/or businesses to such a degree that
20 they rise to the level of a regulatory taking for which no compensation has been (or can be)
21 provided.

22 54. Plaintiffs do not seek monetary damages. Plaintiffs seek only equitable and
23 injunctive relief. Accordingly, the City is not entitled to any claim of immunity. Gov. Code §
24 814.

25 **PRAYER FOR RELIEF**

26 WHEREFORE, Plaintiffs pray for judgment against Defendant City of Sacramento and for
27 relief as follows:

28 1. Injunctive/equitable relief in a manner to be determined by law;

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2. An award of costs of suit, including attorneys' fees as permitted by law; and
3. Such other and further relief as this Court deems just and proper.

Dated: September 19, 2023

GAVRILOV & BROOKS



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