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15 UNITED STATES DISTRICT COURT
 16 FOR THE CENTRAL DISTRICT OF CALIFORNIA – SOUTHERN DIVISION

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 18
 19 HOUSUBG IS A HUMAN RIGHT
 20 ORANGE COUNTY, et al.,
 21 Plaintiffs,
 22 v.
 23 THE COUNTY OF ORANGE, et al.,
 24 Defendants.

Case No.: 8:19-cv-00388-PA-JDE
 Assigned to the Honorable Percy
 Anderson, 1st Courthouse, Crtm 9A

**PLAINTIFFS’ RESPONSE TO
 ORDER TO SHOW CAUSE AS
 TO WHY ONE OR MORE OF
 THE DEFENDANTS SHOULD
 NOT BE DROPPED FROM THIS
 CASE FOR IMPROPER
 JOINDER**

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1 **I. INTRODUCTION**

2 First, the organizational Plaintiffs—the Orange County Catholic Worker
3 (“Catholic Worker”), Housing is a Human Right OC (“HHROC”), and the
4 Emergency Shelter Coalition, have standing to sue Aliso Viejo and San Juan
5 Capistrano because their resources are diverted to assist unhoused people who have
6 been driven out of those cities by law enforcement. Plaintiffs have brought a *class*
7 *action* on behalf of persons in South County and could add additional named
8 plaintiffs from among the putative class members who were harmed by threats of
9 arrest in Aliso Viejo and San Juan Capistrano.

10 Permissive joinder of multiple defendants is warranted in this case. Permissive
11 joinder “promotes trial convenience and prevents the possibility of multiple
12 lawsuits.” *League to Save Lake Tahoe v. Tahoe Reg'l Planning Agency*, 558 F.2d
13 914, 918 (9th Cir. 1977). “Rule 20... is to be construed liberally.” *Alila-Katita v.*
14 *U.S. Bank Nat'l Ass'n*, No. 16-CV-03950-JSW, 2017 WL 282891, at *1 (N.D. Cal.
15 Jan. 23, 2017)(finding that additional plaintiffs could be added). This case raises
16 common issues of law and fact concerning the unconstitutional practices of Aliso
17 Viejo and San Juan Capistrano, and it arises out of the same series of occurrences—
18 namely, the use of the threat of arrest to push unhoused people out of the South
19 County cities and into the Northern and Central “service planning areas” in the
20 County.

21 **II. ARGUMENT**

22 **A. The Organizational Plaintiffs Have Standing to Sue Aliso Viejo and**
23 **San Juan Capistrano**

24 As discussed in the previous filings, the Organizational Plaintiffs have standing
25 to sue Aliso Viejo and San Juan Capistrano. In their reply brief, Defendants only
26 addressed Organizational Plaintiff HHROC.

27 The Orange County Catholic Worker regularly shelters unhoused women from
28 San Juan Capistrano. FAC ¶ 82. At the current time, the Catholic Worker is

1 sheltering women from both San Juan Capistrano and Aliso Viejo. While Defendants
2 have spuriously argued that there is no frustration of mission or diversion of
3 resources because housing people is at the core of the Catholic Worker’s mission,
4 that is untrue. The founder of the Catholic Worker movement, Dorothy Day,
5 described “liv[ing] with the poor” as giving up “spiritual and material comforts.”
6 *Dorothy Day, The Long Loneliness* 267 (1952). The Catholic Workers live in an
7 intentional community which has as its mission feeding the poor and advocating for
8 equality and peace. Their house is not a shelter, but their residence. When they open
9 the doors of their residence to people who are unhoused, it diverts the resources of
10 their organization from spiritual practice and advocacy to providing shelter for those
11 who cannot afford housing.

12 The failure of San Juan Capistrano to provide affordable housing for
13 individuals within the putative class of plaintiffs directly impacts the Catholic
14 Worker organization by creating a need for them to house the members of the
15 plaintiff class. The Catholic Worker is experiencing a frustration of mission from the
16 increase in unsheltered individuals. It is adequately alleged that because the South
17 Orange County cities repeatedly wake unhoused individuals up at night and threaten
18 them with arrest for sleeping on the streets, that some of those individuals leave those
19 cities and seek shelter at the Orange County Catholic Worker house in Santa Ana.

20 Similarly, the Emergency Shelter Coalition (“ESC”) has provided assistance in
21 the past to numerous unsheltered individuals from San Juan Capistrano. FAC ¶ 83.
22 ESC operates throughout South County and advocates for safe shelter for individuals.
23 FAC ¶ 83. ESC has been forced to redirect resources to advocate against
24 criminalization instead of proactively focusing on shelters and litigation to establish
25 shelters, which is the core of its mission. ESC has at least one member who provides
26 resources in San Juan Capistrano to people who have been threatened with arrest and
27 who have lost property.

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1 Finally, HHROC has also been forced to redirect their resources to the daily
2 needs of homeless individuals due to criminalization; those resources would
3 otherwise have been used for advocacy for long-term housing solutions. FAC ¶ 81.
4 Members of HHROC have been working with people from San Juan Capistrano who
5 were pushed into the San Clemente campsite. They have been donating time and
6 resources to make sure people in the unshaded campsite have water and other
7 necessities. They also provide services in San Juan Capistrano.

8 **B. Plaintiffs Can Add Additional Putative Class Members as Named**
9 **Plaintiffs If Necessary.**

10 Plaintiffs have identified two members of the class from San Juan Capistrano
11 who has been threatened with citation or arrest. These class members have been
12 directed to go to Santa Ana or to Dana Point on various occasions by law
13 enforcement personnel for San Juan Capistrano. As discussed above, the
14 organizational plaintiffs are also serving putative class members from Aliso Viejo. If
15 necessary, Plaintiffs can amend their complaint to add additional named plaintiffs and
16 to discuss the way in which plaintiffs are pushed from one city to another.

17 **C. All Defendants Are Properly Joined in this Action.**

18 All Defendants are properly joined in this action. As discussed in Section A,
19 the harms suffered by the plaintiffs, including both the individual named plaintiffs
20 and the organizational plaintiffs, stem from the collective failure of the South County
21 cities to provide shelter and the threats of arrest they have made without available
22 beds in the region. As a result, the individual plaintiffs in the class have been forced
23 to seek shelter and other assistance from other organizations in the region and even as
24 far away as Santa Ana. Because members of the putative class have been subject to
25 threats of arrest in multiple jurisdictions and pushed from one jurisdiction to another,
26 it would be inefficient and unnecessary to have the case against each jurisdiction
27 proceed as a separate lawsuit with common questions of law and in which each
28 person would need to be deposed separately.

1 i. Joinder is Proper as Each Party Joined May Have Separate Claims and
2 Liabilities

3 Joinder is proper against defendants when any right to relief is asserted against
4 them that arises out of the “same series of occurrences”. FRCP 20(a)(2)(A). It is not
5 necessary that each plaintiff or defendant be involved in every claim set forth in the
6 complaint. FRCP 20(a)(2)(A). The parties joined may have separate claims and
7 liabilities. It is immaterial that no common judgment is sought: “The court may grant
8 judgment to one or more plaintiffs according to their rights, and against one or more
9 defendants according to their liabilities.” FRCP 20(a)(3). Plaintiffs allege that the
10 collective actions of the Defendant cities have injured both individual members of the
11 class as well as the organizational plaintiffs. While each named individual plaintiff
12 may not have any direct harm suffered at the hands of each and every one of the
13 cities, FRCP 20 does not require that every plaintiff be harmed by every defendant.
14 It is enough that multiple plaintiffs have been harmed by multiple defendants, as is
15 the case here.

16 ii. Joinder is Proper as the Right to Relief Arises from the Collective Policies,
17 Laws, and Actions of the Defendant Cities

18 The requirement that the right to relief arise from the “same transaction,
19 occurrence or series of transactions or occurrences” is broadly construed. It is
20 sufficient if there is a *logical relationship* between the claims joined. *In re EMC*
21 *Corp.* (Fed. Cir. 2012) 677 F3d 1351, 1357-1358; *Waterfall Homeowners Ass’n v.*
22 *Viega, Inc.*, 279 F.R.D. 586, 589 (D. Nev. 2012) (“All ‘logically related’ events
23 entitling a person to institute a legal action against another generally are regarded as
24 comprising a transaction or occurrence.”). Here, there is a logical relationship
25 between the claims joined, as the collective, albeit independent, actions of the
26 Defendant cities, have jointly caused the harms suffered by the individual and/or
27 organizational plaintiffs. Each Defendant city, with its “not-in-my-back-yard”
28 approach to criminalizing homelessness, collectively contributes to the harm against

1 plaintiffs, pushing them out of their communities, threatening them with arrest for
2 actions they cannot avoid such as sleeping in public, foreclosing them from the
3 ability of seeking housing in a separate Defendant city, and forcing them to seek
4 shelter in North Orange County, which in turn impacts the organizational plaintiffs.

5 Independent acts made by independent actors can still be part of the “same
6 transaction or occurrence.” In *United States v. Mississippi*, 380 US 128, 142, 85 S.Ct.
7 808, 815-816 (1965), joinder of six voting registrants was proper each allegedly, and
8 independently, acted as part of statewide system to enforce laws in discriminatory
9 manner. Similarly, the actors of each Defendant city are acting in a county-wide
10 system to threaten and arrest the homeless. The court also found joinder proper in *In*
11 *re EMC Corp.* 677 F3d 1351, 1357-1358 (Fed. Cir. 2012) where independent
12 defendants in a patent action used the same products and processes to infringe on a
13 patent. Similarly, Defendants are each using the same tactics to push the homeless
14 into San Clemente’s new campsite and into other cities.

15 iii. Joinder is Proper as Common Questions of Law and Fact Arise in the
16 Action

17 Many question of law and fact common to all parties arises in the action,
18 including whether the threats of arrest made by these cities, who admittedly have no
19 available shelter, violate the rule laid out in *Martin v. Boise*, 920 F.3d 584, 618 (9th
20 Cir. 2019). Due to the overlapping nature of the facts in this case, i.e. the impact of
21 each Defendant city creating the harm suffered by Plaintiffs, and the common
22 questions of law, it would be judicially inefficient to severe the case into five separate
23 cases, each of which is going to involve, to some extent, the admission of facts from
24 the other cases, and each of which would involve one named Defendant (the County).

25 Plaintiffs are aware of at least one putative class member at the San Clemente
26 campsite who would have claims related to disability discrimination at the campsite,
27 but who has been pushed to that campsite by threats of arrest from San Juan
28 Capistrano. That person has overlapping claims that can most efficiently be tried in a

1 single lawsuit. Other members of the class will have similarly overlapping claims as
2 they have sought a safe place to stay where they will not be woken up and threatened
3 with arrest.

4 **D. The State Law Claims Are Properly Joined**

5 Because Plaintiffs’ federal claims should not be dismissed and Plaintiffs
6 should be given leave to amend if necessary to strengthen their federal claims,
7 supplemental jurisdiction over the state law claims is proper. The state law claims
8 form part of the same transaction or occurrence as they are jointly contributing to the
9 movement of unhoused individuals out of South County to the service planning areas
10 where shelters have been built, and they are one of the joint causes of the need for
11 assistance of unhoused individuals in South County.

12 **III. CONCLUSION**

13 For all of the foregoing reasons, the Court should not dismiss this action, any
14 claims, or any of the Defendants from this action.

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16 Dated: August 2, 2019

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