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Attorney for Defendants
CITY of EUREKA,
EUREKA POLICE DEPARTMENT,
and ANDREW MILLS, in his official
capacity as Chief of Police

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

STACY COBINE, NANETTE DEAN,
CHRISTINA RUBLE, LLOYD PARKER,
GERRIANNE SCHULZE, SARAH HOOD,
AARON KANGAS, LYNETTE VERA,
AUBREY SHORT, MARIE ANNTONETTE
KINDER, and JOHN TRAVIS,

Plaintiffs,

vs.

CITY OF EUREKA, EUREKA POLICE
DEPARTMENT, and ANDREW MILLS, in
his official capacity as Chief of Police,

Defendants.

) CASE NO.

) **[PROPOSED] ORDER GRANTING IN
PART AND DENYING IN PART
PLAINTIFFS' EX PARTE MOTION FOR
TEMPORARY RESTRAINING ORDER**

This matter came on for Temporary Restraining Order – Non-evidentiary - hearing before the Honorable Jeffrey S. White, U.S. District Court, on April 29, 2016 in Courtroom 5 of the above-referenced court filed by Plaintiffs on April 26, 2016. Plaintiffs were represented by Shelley K. Mack and Defendants were represented by Cyndy Day-Wilson, City Attorney,

1 Eureka.

2 After oral argument and considering the papers, including declarations and exhibits, filed
3 in support and opposition to the motion, the Court hereby GRANTS in part and DENIES in part
4 Plaintiffs' Motion for a Temporary Restraining Order as follows:

5 1. The Court hereby RESTRAINS and ENJOINS Defendants, their agents, servants,
6 employees, attorneys, and all others acting in concert with or at their direction
7 from enforcing Eureka Municipal Code Section 93.02 and the March 18, 2016
8 Notice to Vacate against Plaintiffs on May 2, 2016, unless and until all of the
9 following conditions are first met:

10 a. Defendants must provide emergency shelter, not at the city-owned parking
11 lot located at the corner of Washington & Koster Streets, for all eleven Plaintiffs
12 beginning on Monday, May 2, 2016. Such provision is not indefinite and
13 Plaintiffs stay at any emergency shelter within the City of Eureka shall be subject
14 to the rules and limitations of such shelter.

15 b. Defendants must abide by the following procedures with respect to
16 Plaintiffs' personal property and belongings:

17 i. 96-gallon tote(s) shall be provided for each individual Plaintiff
18 to use for the purpose of storing their personal belongings, with
19 said totes to be provided in sufficient numbers for Plaintiffs to
20 store all of their personal belongings;

21 ii. Each tote container, once packed, closed, and labeled, shall be
22 locked with a padlock or lock of similar quality provided by
23 Defendants, unless Plaintiffs wish to provide their own locks
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1 for securing their individual tote containers;

2 iii. Defendants shall provide identification tags to Plaintiffs for
3 each 96-gallon tote and each larger item stored outside of a tote
4 to allow Plaintiffs to label their belongings for later retrieval
5 from storage;

6
7 iv. In the event that certain items belonging to Plaintiffs can be
8 placed inside a 96-gallon tote, but are too large to permit the
9 tote to be closed and locked, Defendants shall wrap or cover
10 the tote and any protruding items with plastic or similar
11 material before labeling and storage;

12
13 v. Defendants shall permit Plaintiffs to maintain custody of all
14 items they require for their daily lives (e.g., clothing, toiletries,
15 books, items of sentimental importance, etc.) and wish to bring
16 with them to their emergency shelter accommodations, as well
17 as their pets and/or service animals, (to be housed on-site at the
18 temporary shelter at which Plaintiff's will be accommodated
19 in accordance with shelter rules) and shall not confiscate,
20 impound, store and/or destroy such items;

21
22 vi. Defendants shall refrain from discarding or destroying any
23 items belonging to Plaintiffs for any reason, unless Plaintiffs
24 fail to claim and retrieve such items after they have been stored
25 by Defendants for 90 days;

26
27 vii. Defendants shall transport all of Plaintiffs' personal belongings
28

1 (including but not limited to all items stored in 96-gallon tote
2 containers and all larger items unable to fit in 96-gallon tote
3 containers), except for the items referenced in Paragraph 7, to
4 the location where they are to be stored; and

5
6 viii. Defendants shall store Plaintiffs' personal belongings, packed
7 and labeled in accordance with the provisions of this
8 Paragraph, in one or more locked Conex storage containers to
9 be located in the North 40 parking lot at the Bayshore Mall or
10 at the City of Eureka Corp Yard. The Conex storage containers
11 in which Plaintiffs' personal belongings are stored shall be
12 used only to store items belonging to Plaintiffs, and not any
13 other persons residing at the Palco Marsh on May 2, 2016.

14
15 ix. Plaintiffs' personal belongings shall be stored by Defendants
16 for a period of no less than 90 days, at Defendants' expense,
17 unless Plaintiffs request to claim and retrieve those items
18 sooner. At the expiration of this 90-day period, subject to any
19 further orders of this Court, Defendants may dispose of any
20 items that remain unclaimed by Plaintiffs.
21

22
23 2. Plaintiffs Motion for a Temporary Restraining Order to restrain and enjoin
24 Defendants is DENIED as to all parties who are not a named Plaintiff herein. Defendants, their
25 agents, servants, employees, attorneys, and all others acting in concert with or at their direction
26 are free to enforce Eureka Municipal Code Section 93.02, on May 2, 2016 in the Palco Marsh
27 area and proceed with the removal of those individuals the City deems in violation of that code
28

1 section pursuant to the City's March 18, 2016 Notice to Vacate.

2 3. No bond shall be required to be posted by the Plaintiffs, at this time.

3
4 IT IS SO ORDERED.

5 Dated: _____, 2016

6 _____
7 The Honorable Jeffrey S. White, U. S.
8 District Court Judge