

# **Exhibit A**

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16 **UNITED STATES DISTRICT COURT**

17 **NORTHERN DISTRICT OF CALIFORNIA**

18  
19 WHERE DO WE GO BERKELEY, on behalf of ) Case No.: 21-CV-04435-EMC  
20 itself and those it represents; RONNIE )  
21 BROOKS; JASON MILLER; KINNDRA ) **SECOND AMENDED COMPLAINT**  
22 MARTIN; KEVIN CODDINGTON; )  
23 JONATHAN JAMES; MARIAH JACKSON; )  
24 SARAH TEAGUE; TERRY LEE WALKER; )  
25 JOSE MORFIN; ALEJANDRO MEYERS; and )  
26 SHAWNA GARCIA, )  
27 Plaintiffs, )  
28 vs. )  
29 CALIFORNIA DEPARMENT OF )  
30 TRANSPORTATION (Caltrans), et al. )  
31 Defendants. )

**INTRODUCTION**

1  
2 1. Plaintiff WHERE DO WE GO BERKELEY (“WDWG BERKELEY”) has served  
3 encampments of unhoused residents on property owned by the State of California and operated  
4 by the CALIFORNIA DEPARTMENT OF TRANSPORTATION (“CALTRANS”) for two years. Its  
5 mission is to represent, support, and serve the residents of the encampments along the I-80  
6 corridor on the Caltrans right-of-way in Berkeley and Emeryville, and other homeless  
7 individuals living in the East Bay. Until August, 2021, the three largest encampments were: (1)  
8 the encampment located on land adjacent to the Ashby Avenue off ramp from I-80, which leads  
9 to Shellmound Street at the Berkeley Emeryville border (“Ashby Shellmound”); (2) the  
10 encampment located west of I-80 at University Avenue in Berkeley (“Seabreeze”) and (3) the  
11 encampment at University Avenue under the freeway adjacent to the exit ramp, eastbound I-80  
12 (“Downstairs”).

13 2. In June 2021, CALTRANS noticed the closure of the Ashby Shellmound  
14 encampment. A successful temporary restraining order by residents of the encampment  
15 postponed the closure. In August 2021, CALTRANS closed Seabreeze and Downstairs.

16 3. When CALTRANS closed the encampments at Downstairs and Seabreeze,  
17 residents from those encampments who had not been offered alternative shelter or who had  
18 disabilities that prevented them from accessing alternative shelter dispersed into the  
19 community. Some residents went to the Ashby Shellmound encampment, despite CALTRANS’  
20 indication that it intended to close that encampment. Still others went to a more dangerous and  
21 less accessible location on the west side of the Ashby Shellmound encampment (“Ashby West”).  
22 Some moved into adjacent cities.

23 4. Plaintiffs RONNIE BROOKS, TERRY LEE WALKER, JR., and JOSE MORFIN  
24 moved to Ashby Shellmound.

25 5. Plaintiffs KEVIN CODDINGTON, JONATHAN JAMES, MARIAH JACKSON,  
26 SARAH TEAGUE, ALEJANDRO MEYERS, and SHAWNA GARCIA, moved to Ashby West,  
27 where plaintiff KINNDR MARTIN already resided.

28 6. Plaintiff JASON MILLER moved into Berkeley.

7. Many individuals living in the Ashby Shellmound, Ashby West, Downstairs, and

1 Seabreeze encampments have physical and/or mental impairments and are qualified persons  
2 with disabilities as defined by Title II of the Americans with Disabilities Act (“ADA”) and  
3 Section 504 of the Rehabilitation Act (“Section 504”). This includes plaintiffs KINNDRA  
4 MARTIN, MARIAH JACKSON, SARAH TEAGUE, SHAWNA GARCIA, KEVIN CODDINGTON,  
5 ALEJANDRO MEYERS, and JONATHAN JAMES.

6 8. CALTRANS receives federal funding and operates a service, program, or activity,  
7 within the meaning of 42 U.S.C § 12132, when it clears homeless encampments on its property.  
8 Pursuant to its Interim Guidance on Encampments, part of CALTRANS’ role in addressing  
9 encampments is to collaborate with local partners to help connect residents with critical  
10 services and shelter/housing solutions and to offer alternative state land for encampment  
11 relocation.

12 9. CALTRANS continues to clear encampments in a manner that does not allow  
13 sufficient time for outreach workers to work with and place residents into accessible alternative  
14 shelter. Caltrans does not accommodate people with disabilities in the clearing of its  
15 encampments by allowing them more time to move their belongings, or offering them  
16 assistance they need because of their disabilities. As a result, they lose valued possessions that  
17 are important for their survival.

18 10. CALTRANS has cleared the major encampments along I-80, including Seabreeze  
19 and Downstairs, without allowing sufficient time for residents to secure alternative shelter and  
20 without offering anywhere that the residents can go. They have cleared encampments while  
21 efforts during ongoing to find alternative places where people can safely reside. They have not  
22 accommodated people with disabilities, who are harder to place in safe and accessible shelter.  
23 Many residents have dispersed widely and are residing in unsafe locations, where they do not  
24 have access to services. Other residents have moved to other CALTRANS land, including the  
25 Ashby Shellmound encampment and the Ashby West encampment. The Ashby West  
26 encampment can only be reached by crossing lanes of fast-moving traffic on the ramps leading  
27 to and from I-80/580.

28 11. By closing encampments when people have no place to go by not allowing

1 sufficient time for outreach workers to contact people being displaced and find them safe,  
2 accessible housing, and by leaving people evicted from those encampments no choice but to  
3 move to more dangerous locations where the health and safety at risk, Caltrans has placed  
4 people whom it has evicted in harm's way. Caltrans has created dangers for their health and  
5 safety. These dangers are particularly acute for the many people who have been displaced with  
6 no place to go who have serious mental and physical disabilities. People with disabilities are  
7 harder to place than people who are able-bodied and of sound mind. They require more time  
8 and more intensive assistance because of their disabilities.

9 12. By clearing people experiencing homelessness from their encampments before  
10 they have been able to access adequate and accessible shelter, by causing them to be dispersed  
11 into isolated groups, by leaving them no choice but to shelter in places that are difficult and  
12 dangerous to access, Caltrans has made the work of WDWG BERKELEY more difficult and  
13 costly and has frustrated its mission of meeting the needs of residents of encampments on  
14 CALTRANS' right-of-way.

#### 15 **JURISDICTION AND VENUE**

16 13. Jurisdiction is based on 28 U.S.C. Sections 1331 and 1343. This case is brought  
17 pursuant to 42 U.S.C. Section 1983 and 42 U.S.C. Section 12132 and raises questions of federal  
18 constitutional law and federal statutes. Jurisdiction also exists under the Declaratory Judgment  
19 Act, 28 U.S.C. Sections 2201(a) and 2202.

20 14. The state law claims in this action are so related to the claims in the action within  
21 the original jurisdiction of this Court that they form part of the same case or controversy under  
22 Article III of the United States Constitution. The Court's jurisdiction over these claims is  
23 invoked under 28 U.S.C. § 1367.

24 15. Venue is proper in the Northern District in that the events and conduct  
25 complained of in this action are occurring in the Northern District.

#### 26 **INTRADISTRICT ASSIGNMENT**

27 16. Because this action arises in Alameda County, it is assigned to the Oakland or San  
28 Francisco Division.

#### **PARTIES**

1           17. Plaintiff WHERE DO WE GO BERKELEY is a 501(c)(3) organization made up of  
2 homeless and housing insecure individuals and advocates. WDWG BERKELEY's mission is to  
3 serve, support, and advocate for homeless individuals living in the East Bay. WDWG  
4 BERKELEY's main focus is to represent, support, and serve encampments along the I-80  
5 corridor on Caltrans' right-of-way in Berkeley and Emeryville, California: (1) The encampment  
6 located on land adjacent to the Ashby Avenue off ramp from I-80, which leads to Shellmound  
7 Street at the Berkeley Emeryville border ("Ashby Shellmound"); (2) the encampment located  
8 west of I-80 at University Avenue in Berkeley ("Seabreeze") and (3) the encampment at  
9 University Avenue under the freeway adjacent to the exit ramp, eastbound I-80 ("Downstairs").  
10 WDWG BERKELEY brings this suit on behalf of itself and on behalf of homeless individuals,  
11 whom it is its mission to serve, who are encamped along the I-80 corridor in Berkeley and  
12 Emeryville.

13           18. Plaintiff RONNIE BROOKS has been homeless in the Bay Area for approximately  
14 six years. Mr. BROOKS was a resident of the Seabreeze encampment when it was cleared by  
15 CALTRANS. He was not offered accessible alternative shelter when CALTRANS closed the  
16 Seabreeze encampment. He is now a resident of Ashby Shellmound West encampment.

17           19. Plaintiff JASON MILLER has been homeless in the East Bay for seven years. He  
18 was a resident of the Seabreeze encampment when it was closed by CALTRANS. He suffers from  
19 post-traumatic stress disorder from his time in prison. Mr. MILLER currently lives at Dwight  
20 Street and Fourth Street in Berkeley, CA. He was not offered accessible alternative shelter when  
21 CALTRANS closed the Seabreeze encampment. Mr. MILLER is a qualified individual with a  
22 disability within the meaning of the ADA, section 504, and Ca. Gov't code §12926. Mr. MILLER  
23 has not been offered accessible housing or a hotel.

24           20. Plaintiff KINNDRA MARTIN has been homeless for five years. She is a disabled  
25 woman who is diagnosed with bipolar disorder and depression. Ms. MARTIN is a former  
26 resident of the Seabreeze encampment and now lives at Ashby Shellmound West. Ms. Martin  
27 has not been offered accessible housing or a hotel. Ms. MARTIN is a qualified individual with a  
28 disability within the meaning of the ADA, Section 504, and Ca. Gov't code §12926.

1           21. Plaintiff KEVIN CODDINGTON has been homeless for 23 years. He is a disabled  
2 man who is diagnosed with depressive disorder. He is a former resident of the “Downstairs” I-  
3 80 Underpass encampment and the Seabreeze encampment. He currently resides at Ashby  
4 Shellmound West. Mr. CODDINGTON is on the permanent supportive housing list but has not  
5 been contacted by a worker or a representative. Mr. CODDINGTON is a qualified individual  
6 with a disability within the meaning of the ADA, Section 504, and Ca. Gov’t code §12926.

7           22. Plaintiff JONATHAN JAMES has been homeless for approximately four to five  
8 years. He suffers from mild post-traumatic stress disorder from being shot twice. He resided at  
9 the Downstairs when CALTRANS closed the encampment and moved to Seabreeze. He was  
10 evicted from Seabreeze when CALTRANS closed the encampment. He currently lives at Ashby  
11 Shellmound West. Mr. JAMES has not been offered accessible housing or a hotel. Mr. JAMES is  
12 a qualified individual with a disability within the meaning of the ADA, Section 504, and Ca.  
13 Gov’t code §12926.

14           23. Plaintiff MIRAH JACKSON has bipolar disorder and post-traumatic stress  
15 disorder. She was a resident of the Seabreeze encampment when it was closed by CALTRANS.  
16 She now lives at Ashby Shellmound West with her boyfriend. Ms. JACKSON is a qualified  
17 individual with a disability within the meaning of the Americans with Disabilities Act (“ADA”)  
18 and Ca. Gov’t code §12926. Ms. JACKSON was offered and accepted a place at the Grayson  
19 shelter, but the shelter was not accessible to her due to her disabilities and she lost her spot. She  
20 has not been offered accessible housing or a hotel.

21           24. Plaintiff SARAH TEAGUE has been homeless on and off for fifteen years. She has  
22 clinical depression and receives SSI for her disability. She also has post-traumatic stress  
23 disorder and an intestinal problem that can leave her bedridden for days. She was a resident of  
24 the Downstairs encampment when it was closed by CALTRANS. She moved to Seabreeze and  
25 was evicted from there when CALTRANS closed that encampment. She currently resides at the  
26 Ashby Shellmound West encampment. Ms. TEAGUE has not been offered accessible housing or  
27 a hotel. Ms. TEAGUE is a qualified individual with a disability within the meaning of the ADA,  
28 Section 504, and Ca. Gov’t code §12926.



1           25. Plaintiff TERRY LEE WALKER, JR. has been homeless for 29 years. He suffers  
2 from adjustment disorder, severe grief, anxiety, and depression. He was a resident of the  
3 Seabreeze encampment when it was closed by CALTRANS. He current lives at Ashby  
4 Shellmound. Mr. WALKER was offered a place at the Grayson shelter but they could not find his  
5 paperwork and turned him away. He has not otherwise been offered accessible housing or a  
6 hotel room. Mr. WALKER is a qualified individual with a disability within the meaning of the  
7 ADA, Section 504, and Ca. Gov't code §12926.

8           26. Plaintiff JOSE MORFIN has been homeless for five years. He suffers from a  
9 permanent knee injury that affects his daily activities. He was a resident of the Seabreeze  
10 encampment when it was closed by CALTRANS. He has not been offered any housing. Mr.  
11 MORFIN currently lives at the Ashby Shellmound encampment.

12           27. Plaintiff ALEJANDRO MEYERS has been homeless for approximately 15 years.  
13 He suffers from an anxiety disorder. He was a resident of the Seabreeze encampment when it  
14 was closed by CALTRANS. He is currently living with his partner, SHAWNA GARCIA, at Ashby  
15 Shellmound West. Mr. MEYERS has not been offered accessible housing or a hotel room.

16           28. Plaintiff SHAWNA GARCIA has been homeless for approximately twelve years.  
17 She is a victim of domestic violence and interpersonal violence. She was a resident of the  
18 Seabreeze encampment when it was closed by CALTRANS. She now lives at Ashby Shellmound  
19 West. Ms. GARCIA has physical and mental disabilities. She has had surgery on both of her  
20 knees. She has arthritis and permanent ligament damage in her ankle. Ms. GARCIA experiences  
21 back and shoulder pain. She has depression and anxiety as a result of the history of domestic  
22 violence toward her. Ms. GARCIA, a domestic violence victim, was offered a hotel room at the  
23 Roadway Inn but could not accept because her abuser and his girlfriend are staying there. Ms.  
24 GARCIA is a qualified individual with a disability within the meaning of Americans with  
25 Disabilities Act ("ADA") and Ca. Gov't code §12926.

26           29. Defendant the CALIFORNIA DEPARTMENT OF TRANSPORTATION is a  
27 California State Agency under the laws of the State of California, with the capacity to sue and be  
28 sued. CALTRANS receives federal funding.





1 JONATHAN JAMES, MARIAH JACKSON, SARAH TEAGUE, TERRY LEE WALKER, JOSE  
2 MORFIN, ALEJANDRO MEYERS and SHAWNA GARCIA, and they have come to rely on its  
3 support. They also rely on other service and support organizations, which contact them at their  
4 encampments and provide them with weekly medical services, harm reduction supplies, legal  
5 services, and survival supplies to their encampments. These service providers include, but are  
6 not limited to, Berkeley Outreach Coalition, Copwatch, Consider the Homeless, Lifelong  
7 Medical Homeless Outreach team, Berkeley Free Clinic, Berkeley Suitcase Clinic, East Bay  
8 Angels, Berkeley Food Network, Berkeley NEED, Homeless Action Center, and a host of others.

9 36. When encampments are evicted, without the people living in them having an  
10 alternative and accessible place to shelter, WDWG BERKELEY and other organizations have  
11 difficulties maintaining contact with them. The people in the encampments are at significant  
12 risk of harm including the risk of losing the supportive services they rely on for their survival.

13 37. WDWG BERKELEY members engage with city, state, and local leaders and law  
14 enforcement, on behalf of encampment residents, making sure that encampments remain in  
15 place until affordable accessible housing is provided.

16 38. WDWG BERKELEY has partnered with CALTRANS to clean all three subject  
17 encampments, without moving residents, for over a year. WDWG BERKELEY has rented a front  
18 loader and cleared the trash and placed the trash in areas designated by CALTRANS for pick up.  
19 WDWG BERKELEY has arranged for CALTRANS to send crews to pick up the trash and haul it  
20 away once WDWG BERKELEY has collected and moved it to designated areas. Residents of  
21 these encampments have not had to move the structures in which they live during these WDWG  
22 BERKELEY/CALTRANS cleanups. These cleanups have been regularly scheduled for over a  
23 year.

24 **ASHBY SHELLMOUND ENCAMPMENT**

25 39. On or about May 25, 2021, representatives from CALTRANS sent an email to Ian  
26 Rogers, President of WDWG BERKELEY, stating that it intended to close the encampment at  
27 Ashby Shellmound.

28 40. The Ashby Shellmound encampment had been in existence for approximately

1 three years.

2 41. From approximately June 5, 2021 to June 8, 2021, Mr. Rogers emailed  
3 CALTRANS notifying it that there were at least nine individuals at the encampment who were  
4 disabled and in need of accommodations.

5 42. On June 8, 2021, at around 10:15 a.m., CALTRANS posted “No Trespassing”  
6 notices at the Ashby Shellmound encampment notifying residents that they needed to remove  
7 themselves and their belongings by 8:00 a.m. on June 10, 2021. The notices stated that “all  
8 persons on the site at that time will be required to leave.” The notices stated that “[a]ll property  
9 that is collected will be discarded if not claimed within 60 days of the date of the cleaning.” The  
10 notices did not specifically state that personal property would be stored in a manner that  
11 homeless residents could retrieve them afterwards.

12 43. The notices also directed residents to contact a number for information about  
13 items collected. The number was a private residential telephone number and not the number to  
14 CALTRANS or its representatives.

15 44. As a result, WDWG BERKELEY and the residents did not know how to retrieve  
16 any belongings that CALTRANS took and stored during the clearing of the encampment.

17 45. The residents of Ashby Shellmound encampment had nowhere to go where they  
18 could legally shelter and nowhere to move their belongings.

19 46. Many of the residents of the Ashby Shellmound encampment had mental and  
20 physical disabilities and were qualified persons with a disability under the terms of the ADA and  
21 within the meaning of 42 U.S.C. § 12102; 42 U.S.C. § 12131, 28 C.F.R. § 35.104 and Cal. Gov’t  
22 Code §12926. CALTRANS was on notice that many of the residents of the encampment had  
23 physical and mental disabilities.

24 47. The actions of CALTRANS in posting notices of eviction from the Ashby  
25 Shellmound campsite when people had no place to go, caused encampment residents anxiety  
26 and exacerbated the mental health disabilities of residents with disabilities.

27 48. Residents of the encampment relied on medical services, harm reduction supplies,  
28 legal services, survival supplies, and food provided at the encampment by service organizations

1 including WDWG BERKELEY. They reported to WDWG BERKELEY that they feared that if  
2 they were evicted, they would be cut off from the services on which they relied.

3 49. Prior to CALTRANS posting notices of eviction on June 8, 2021, WDWG  
4 BERKELEY had been working with the County of Alameda, the City of Berkeley, and Lifelong  
5 Medical to find accessible shelter for people at the Ashby Shellmound encampment. These  
6 efforts were known to CALTRANS. Despite this, CALTRANS knowingly sought to evict the  
7 encampment residents including those with disabilities. CALTRANS knew or should have  
8 known that conducting an eviction while these efforts were ongoing would disrupt and imperil  
9 the ability of WDWG BERKELEY and its outreach partners to find suitable accessible  
10 transitional and permanent shelter for the inhabitants.

11 50. After a successful temporary restraining order allowed sufficient time to find  
12 accessible alternative shelter for most of the residents at Ashby Shellmound, residents from  
13 other encampments closed by CALTRANS during the effect of the temporary restraining order  
14 moved to Ashby Shellmound. The encampment is now split into an east side and a west side.

15 51. The east side of the Ashby Shellmound encampment has porta-potties,  
16 handwashing stations, potable water for drinking, and a common donation site where  
17 community members will deliver food and basic necessities. It is safely accessible from city  
18 streets and well-served by organizations such as Berkeley Outreach Coalition, Copwatch,  
19 Consider the Homeless, Lifelong Medical Homeless Outreach team, Berkeley Free Clinic,  
20 Berkeley Suitcase Clinic, East Bay Angels, Berkeley Food Network, Berkeley NEED, Homeless  
21 Action Center, and a host of others.

22 52. The west side of Ashby Shellmound is more remote and more dangerous to access.  
23 As a result, there are minimal services provided there, with very few donations, no porta-  
24 potties, no handwashing stations, and no potable water tank. The west side felt to plaintiffs like  
25 the only place to go, because Downstairs and Seabreeze were closed and CALTRANS had posted  
26 notice on the east side of Ashby Shellmound, all of which were safer and more accessible  
27 encampments than the west side of Ashby Shellmound.

28 **DOWNSTAIRS ENCAMPMENT**

1           53.     On July 30, 2021, CALTRANS posted “No Trespassing” notices at the Downstairs  
2 encampment stating that the operation to clear the encampment would take place on August 9  
3 and 10, 2021.

4           54.     Residents of this encampment including plaintiffs Ms. TEAGUE, Mr.  
5 CODDINGTON, Mr. JAMES, and Mr. MEYERS have relied on WDWG BERKELEY and other  
6 organizations for services and support and for food, tents, and supplies. Many of the residents  
7 of this encampment have mental and physical disabilities.

8           55.     WDWG BERKELEY has partnered with CALTRANS to clean and remove trash  
9 from this encampment.

10          56.     On August 9, 2021, CALTRANS conducted its operation clearing the Downstairs  
11 encampment and evicting its inhabitants before all of them had a legal and accessible,  
12 alternative place where they could shelter. WDWG BERKELEY, the County of Alameda,  
13 Lifelong Medical and other service organizations had been working with the inhabitants of this  
14 encampment to find them accessible transitional and/or permanent shelter. The eviction before  
15 people were placed in alternative and accessible shelter severed the connections WDWG  
16 BERKELEY had established with the inhabitants of this encampment making it harder to  
17 contact them and fulfill its mission of meeting their needs in helping them survive.

18          57.     Plaintiffs SARAH TEAGUE and her partner, KEVIN CODDINGTON lived  
19 downstairs for approximately three to four years so they had nowhere to go when they were  
20 evicted from the Downstairs encampment. A friend with a car helped them move all their  
21 belongings upstairs to the Seabreeze encampment on the day of the CALTRANS eviction. Ms.  
22 TEAGUE was not offered a hotel room or a space at the Grayson shelter while living downstairs.  
23 She moved upstairs so that she could still have access to services and resources.

24          58.     Plaintiff KEVIN CODDINGTON was offered a space at the Grayson shelter in  
25 Berkeley, but he declined the offer because they would not accept his large dog “Cubit” that is a  
26 part of his family. Mr. CODDINGTON was not offered a hotel room. Mr. CODDINGTON is on  
27 the permanent supportive housing list but he has not heard from his case worker and he does  
28 not know who is representing him.

1           59. Plaintiff JONATHAN JAMES, despite working in San Francisco delivering flowers  
2 for Garden Party, had no place to go when CALTRANS posted the notice of eviction. While  
3 living Downstairs, no one spoke to him about housing or offered him a spot at a shelter or a  
4 hotel room. Mr. James moved upstairs to the Seabreeze encampment when CALTRANS evicted  
5 everyone from the site. He was not offered alternative shelter or housing.

6           60. Plaintiff ALEJANDRO MEYERS, lived Downstairs for approximately four and a  
7 half years prior to moving upstairs to the Seabreeze encampment. The only offer of shelter that  
8 he received while living Downstairs occurred a couple of years ago. A worker told him he could  
9 go to the STAIR Center in Berkeley. The STAIR Center is not accessible to Mr. MEYERS because  
10 he cannot live in a shelter due to the extreme anxiety that it causes him from the time he spent  
11 incarcerated. His severe anxiety prohibits him from going into a places where he is not free to  
12 come and go and where he cannot have visitors. Additionally, he does not feel safe in shelters so  
13 he doesn't sleep even when he is tired. Sleeping next to strangers triggers his anxiety. Mr.  
14 MEYERS moved upstairs to the Seabreeze encampment after his tent caught on fire.

15 **SEABREEZE ENCAMPMENT**

16           61. On August 6, 2021, CALTRANS posted "No Trespassing" notices at the Seabreeze  
17 encampment. The notices stated that CALTRANS would remove the encampment beginning on  
18 August 18, 2021.

19           62. Residents of this encampment relied on WDWG BERKELEY and other  
20 organizations for services and support and for food, tents, and supplies. Many of the residents  
21 of this encampment have mental and physical disabilities.

22           63. WDWG BERKELEY, the County of Alameda, Lifelong Medical, and other service  
23 organizations had been working with the inhabitants of this encampment to find them  
24 accessible transitional and/or permanent shelter. These efforts were known to CALTRANS and  
25 were ongoing when it posted eviction notices on August 6, 2021.

26           64. On August 18, 2021, CALTRANS began clearing the Seabreeze encampment and  
27 evicting its inhabitants. It did so, despite the fact that it knew or should have known that  
28 conducting an eviction while these efforts were ongoing would disrupt and imperil the ability of



1 its outreach partners to find suitable accessible transitional and permanent shelter for the  
2 inhabitants.

3 65. When they were evicted, life partners, SARAH TEAGUE and KEVIN  
4 CODDINGTON, moved all of their belongings on bike with carts to Ashby Shellmound West  
5 because they had nowhere else to go. Ms. TEAGUE was under the impression that the east side  
6 of the encampment was going to be shut down by CALTRANS so she and her partner moved to  
7 the west side.

8 66. Ms. TEAGUE's depression gets severe when she is evicted. Her depression is  
9 particularly crippling when she moves to a new encampment. Starting over is particularly hard  
10 and she feels immobilized. Ms. TEAGUE's depression is particularly severe now because a few  
11 days after she moved to the Ashby Shellmound West her dog got hit by a car and died. The  
12 eviction from Downstairs was stressful and her dog's behavior became erratic. He chewed  
13 through his leash and ran into traffic. Each eviction amplified the effects of her disabilities and  
14 caused her harm.

15 67. Mr. CODDINGTON has no where he can legally shelter if he is evicted from Ashby  
16 Shellmound West. Due to fear and concern that he and his partner would lose all their  
17 belongings to the Berkeley police, they moved everything they owned on bicycles to Ashby  
18 Shellmound West. That location is easier to get to on a bike than Ashby East. Mr.  
19 CODDINGTON and Ms. TEAGUE, could not move back to Seabreeze encampment because  
20 CALTRANS was closing that camp down around the same time they were evicted from Aquatic  
21 Park.

22 68. At Ashby/Shellmound West, Mr. CODDINGTON and his partner do not have  
23 access to water, porta potties, food or supplies. The lack of porta potties forces him and his  
24 partner to carry their waste out of the camp on their bikes because they are fearful of creating an  
25 open cesspool of sewage. Mr. CODDINGTON is overwhelmed with exhaustion, depression and  
26 hypervigilance. His dog was killed the day after his arrival at Ashby Shellmound West because it  
27 chewed through his leash and ran into oncoming traffic. Animal control would not pick up the  
28 dog's body so Mr. CODDINGTON had to call his friend to take his dead dog to the shelter. As a



1 homeless and disabled individual, he is traumatized by all of the recent evictions and moving.  
2 He is always afraid when he sees CALTRANS trucks coming toward camp. The death of his dog  
3 and the recent evictions triggered his PTSD, grief, and depression.

4 69. Plaintiff ALEJANDRO MEYERS and his partner SHAWNA GARCIA, lived  
5 together at the Seabreeze. When CALTRANS posted the eviction notice at the Seabreeze they  
6 moved to Aquatic Park. When Berkeley police evicted them from Aquatic Park, they moved back  
7 to the Seabreeze. The next day under threat from the California Highway Patrol and CALTRANS  
8 they moved to Ashby/Shellmound West. While living at the Seabreeze Mr. MEYERS was not  
9 offered accessible housing or a place to shelter prior to the CALTRANS eviction. Mr. MEYERS  
10 was told by encampment residents that, at the Roadway Inn, he could not have a key to his  
11 room and that visitors were not allowed. Mr. MEYERS severe anxiety prohibits him from going  
12 to a place where he cannot come and go freely.

13 70. Mr. MEYERS did not have enough time to move all of their belongings on August  
14 18, 2021 when CALTRANS and the California Highway Patrol showed up to evict everyone from  
15 the Seabreeze. Since they were threatened with eviction the night before at the micro-  
16 encampment, Mr. MEYERS and his partner moved back to the Seabreeze. The next morning,  
17 they were evicted again. Mr. MEYERS had to move all their belongings using a bike and a bike  
18 trailer. He lost his wallet, his ID and his birth certificate. He injured his back while moving their  
19 belongings to Ashby Shellmound West. Mr. MEYERS is in constant pain and has to spend most  
20 of his time lying down. He has not been able to go to the emergency room because he is afraid if  
21 he leaves his new encampment someone will steal what is left of his belongings.

22 71. Plaintiff SHAWNA GARCIA became homeless because she was a domestic  
23 violence victim and she was trying to get away from abusive men. Ms. GARCIA lived at the  
24 Seabreeze encampment for approximately two years. A couple of weeks before the eviction from  
25 the Seabreeze she was offered a room at the Roadway Inn. Ms. Garcia has three dogs which are  
26 her emotional support animals. She does not believe she would be able to have them in the  
27 room at the Roadway Inn, which she would share with Mr. MEYERS. If she were allowed to  
28 have them, she would need to be able to leave her room after 11 p.m., if they needed to go

1 outside and relieve themselves. Another reason why she cannot go into the Roadway Inn, is that  
2 an ex-partner of hers is living there. She has had violent confrontations with him. He has  
3 broken her ribs and tried to steal her dog.

4 72. Ms. GARCIA and Mr. MEYERS moved from the Seabreeze encampment on  
5 around August 16, 2021 in anticipation of the pending eviction. On August 17, 2021, they were  
6 evicted from their new encampment at Aquatic Park. On August 18, 2021, they were evicted  
7 from the Seabreeze encampment. Having moved back to the Seabreeze the day before, Ms.  
8 GARCIA was sleeping at the Seabreeze when the California Highway patrol yelled for her to get  
9 out and leave because they were bringing a bulldozer in. She did not have time to collect her  
10 belongings and she lost a lot of her personal items like a punching bag, leather jacks, leather  
11 boots, all of her underwear, her bed, her dog's beds, a library of books, and two leather couches.  
12 Her entire home was bulldozed in front of her. She and her partner moved what was left of their  
13 belongings down the road to a patch of land that stands between Frontage Road and the  
14 freeway. During the Seabreeze eviction, she was fighting an anxiety attack. She could barely  
15 breathe or move. She has been hospitalized for anxiety. Loud male voices, like that of the  
16 California Highway Patrol yelling at her to move, can trigger her anxiety due to her previous  
17 abuse.

18 73. Plaintiff JOSE MORFIN has a knee injury that affects his daily activities, and he is  
19 a current resident of the Ashby Shellmound encampment. Mr. MORFIN has been homeless for  
20 five years. When he was kicked out of the house by his mother, he moved to the Gilman  
21 Encampment where he was not offered housing or directed to a place where he could legally  
22 stay. When CALTRANS evicted residents from the Gilman encampment, Mr. MORFIN moved  
23 near the Costco in Richmond, CA. He returned to Berkeley to live near a friend, plaintiff TERRY  
24 LEE WALKER, who lived at the Seabreeze encampment. Mr. MORFIN was not offered housing  
25 or a legal place to stay while living at the Seabreeze encampment. CALTRANS posted a notice to  
26 evict and close the Seabreeze encampment, so Mr. MORFIN moved to Aquatic Park with a few  
27 of his neighbors from the Seabreeze. He and the other residents put up tents and the City of  
28 Berkeley police told the residents that they had to move. Mr. MORFIN moved to Ashby

1 Shellmound because he had nowhere else to go.

2 74. Mr. MORFIN wants to live inside but he does not have a phone or income. He has  
3 not been offered housing or a place to go at Aquatic Park or while living at the Ashby  
4 Shellmound encampment. Currently, he has access to food, water, and donations at the Ashby  
5 Shellmound encampment. He has nowhere to go if evicted from the Ashby Shellmound  
6 encampment.

7 75. Plaintiff RONNIE BROOKS spent many years of his life incarcerated. He cannot  
8 go into a shelter where his movement would be restricted, he cannot come and go freely and  
9 where he would not have control over his surroundings. Mr. Brooks has lived in approximately  
10 six encampments spanning his six years of homelessness. Five of those encampments were on  
11 CALTRANS property. He has not been offered housing or directed to a legal place where he  
12 could go while living at each encampment or at the time of eviction. He is a former resident of  
13 the Gilman and Seabreeze encampments. He now lives at Ashby Shellmound West.

14 76. Plaintiff JASON MILLER spent time in prison and has PTSD. He cannot go in a  
15 shelter because he knows it would trigger his PTSD. Mr. Miller has been homeless for seven  
16 years. He lived at the Seabreeze for approximately two years before he was recently evicted. He  
17 lived at Gilman encampment but he was evicted when CALTRANS posted notice, cleared the  
18 camp, and put up a fence. Mr. Miller has not been offered housing, a hotel, or a legal place  
19 where he can reside.

20 77. Plaintiff JONATHAN JAMES has PTSD from being shot twice. He works,  
21 delivering flowers for Garden Party, in San Francisco. Mr. James lived Downstairs until he was  
22 evicted by CALTRANS. No one offered Mr. James housing or spoke to him about a place where  
23 he could live while living Downstairs. When he moved to the Seabreeze encampment because he  
24 had nowhere else to go, he was offered a hotel room by Lifelong Medical but when they came  
25 back to visit him at the encampment, he was at work. He has not been offered any other housing  
26 options. When CALTRANS evicted him from the Seabreeze, he moved to Ashby Shellmound  
27 West. Mr. James would have moved to the eastside of Ashby Shellmound but he knew Caltrans  
28 was closing down that encampment and he did not want to move again. He visits Ashby  
Shellmound east to access drinking water, food, handwashing stations, and the porta potties. He

1 currently does not have access to food or water donations or services like he did when he lived  
2 Downstairs and at the Seabreeze because his current location is difficult to access.

3 78. Mr. JAMES has not seen any of the medical providers that visited Downstairs and  
4 at the Seabreeze while living at his current location. Mr. JAMES cannot go into a shelter  
5 because of his PTSD. He cannot live with a lot of people that he does not know. He experiences  
6 anxiety and is hypervigilant around strangers. His PTSD would prohibit him from relaxing in a  
7 shelter setting. Currently, he is cut off from services and he has nowhere to go if forced to move  
8 from his current location.

9 79. Plaintiff TERRY LEE WALKER has adjustment disorder, severe grief, and  
10 depression. The threat of eviction triggers all of Mr. Walker's health disorders. He is unable to  
11 find gainful employment because of his disabilities. Mr. Walker has been homeless for twenty-  
12 nine years, moving away from home at sixteen because his mother was an alcoholic. He lived at  
13 the Gilman encampment until it was closed and he was evicted by CALTRANS. He also lived in  
14 an RV at Wood Street, an encampment in Oakland that is also located on CALTRANS property.  
15 Mr. Walker moved to the Seabreeze encampment after his RV was set on fire at Wood Street. At  
16 the Seabreeze, he can access vital necessities such as food, water, hygiene products, medical  
17 care, tents, clothes, and sleeping bags that are donated by organizations like WDWG Berkeley  
18 and volunteers.

19 80. Approximately one month before he was evicted from the Seabreeze encampment,  
20 Mr. Walker was approached by City of Berkeley outreach workers who asked him if he wanted  
21 to go into the Horizon shelter on Grayson Street. He accepted the offer, but when he was  
22 directed to come to the shelter to be admitted, they did not have his paperwork. The shelter staff  
23 told Mr. Walker that he had to come back. Riding his bicycle and carrying all of his belongings,  
24 he rode back to the Seabreeze encampment feeling overwhelming despair about being turned  
25 away. When he returned to his campsite most of his belongings had been stolen. He was  
26 depressed and felt hopeless. Without being offered any other place to live, CALTRANS posted  
27 eviction notices and closed the Seabreeze encampment. Mr. Walker packed up his belongings  
28 on his bike and moved to the Ashby Shellmound encampment.

1           81. Plaintiff KINNDRA MARTIN has lived at Ashby Shellmound west for  
2 approximately seven months. She lived at the Gilman encampment until it was closed by  
3 CALTRANS. She also lived at the Seabreeze encampment for about a year but left due to a  
4 disagreement with another resident. She has not been visited by any outreach workers nor has  
5 she been offered accessible housing or a hotel.

6           82. Ms. MARTIN suffers from bipolar disorder and depression. Her disabilities  
7 prevent her from going into a congregate shelter. She is unable to work and does not receive  
8 income. She does not have access to food, water and other supplies that were available at the  
9 Seabreeze encampment. Her disability causes her to spend hours just looking at her shoes.

10           83. Plaintiff MARIAH JACKSON suffers from bipolar disorder and lived at the  
11 Seabreeze encampment. She went into the Horizon shelter on Grayson Street but found she  
12 could not obey the rules because of her mental disability. She sometimes has to be alone when  
13 she is experiencing a bipolar episode. She lost her space at Grayson because she was gone for  
14 more than three days which is a violation of the rules. She doesn't know whether she can go  
15 back and is unsure if her behavior will allow her to be in that kind of setting. Ms. Jackson is  
16 worried that her bipolar disorder would prevent her from following the rules at Grayson  
17 because she cannot always control her emotions, and if she cannot get along with people and is  
18 disruptive, she understands that she will have to leave. When she is provoked like when she is  
19 being evicted from an encampment, concentrating on tasks becomes challenging. She loses her  
20 focus, and her thinking and planning is very disorganized. These behaviors make it hard to  
21 navigate evictions. She is also worried because she is not vaccinated against COVID-19.

22           84. When CALTRANS closed the Seabreeze encampment, Ms. Jackson moved to  
23 Ashby Shellmound west to live with her boyfriend. She knows that she always has a somewhere  
24 to come home to even if she has to leave for a few days. She was never offered a motel while  
25 living at the Seabreeze. Without resources at Ashby West, Ms. Jackson crosses the freeway to  
26 get to the east side of Ashby Shellmound. At that encampment she has the ability to wash her  
27 hands, access drinking water and food like vegetables and potatoes or use the porta potty.

28           85. People with disabilities who were living at the Downstairs and Seabreeze

1 encampments, and who were evicted by CALTRANS, before they could access affordable  
2 accessible shelter, have been placed in harm's way. One disabled elderly woman now sleeps,  
3 without shelter or walls, on top of a pile of mattresses alone under a freeway. Other disabled  
4 residents have moved to locations that can only be accessed by crossing lanes of high-speed  
5 traffic.

6 86. CALTRANS' continuing practice of evicting encampments before people have the  
7 ability to secure, accessible, legal, and safe place to shelter is likely to put people who are  
8 evicted, and particularly people with disabilities at risk to their health and safety. Cut off from  
9 the support systems they have in the encampment they are likely to be unable to take care of  
10 their basic bodily needs for food and hygiene. They are likely to be unable to erect a shelter to  
11 protect themselves from the weather and to afford them privacy. Alone, they are likely to be  
12 victims of assault and robbery and other forms of violence. Separated from their support  
13 systems, they are likely to have their mental disabilities exacerbated by anxiety and depression  
14 and re-traumatization. Finally, they are at greater risk of catching COVID, even if they have  
15 been vaccinated.

16 87. On information and belief, defendant EL-TAWANSY approved each of these  
17 evictions. She knew or should have known about the disabilities of many of the residents and  
18 the time needed to provide them with meaningful, accessible offers of shelter.

19 88. By proceeding with its plans to evict inhabitants of encampments at Ashby  
20 Shellmound and by carrying out the evictions of Downstairs and Seabreeze, while WDWG  
21 BERKELEY is endeavoring to find shelter and meet the survival needs of inhabitants of those  
22 encampments, CALTRANS has frustrated the mission of WDWG BERKELEY to assist people  
23 experiencing homelessness with meeting their basic survival needs and transitioning into  
24 stable, legal, accessible housing.

25 89. WDWG BERKELEY has not been able to continue its work of cleaning and  
26 removing trash from encampments. It has had difficulty maintaining contact and continuing to  
27 provide assistance to residents of encampments who have been forced to leave before they have  
28 a place to go.









1 deprived of life, liberty or property without due process of law.” This state constitutional  
2 provision confers upon plaintiffs a right to be free from a deprivation of their due process rights  
3 by defendants.

4 103. As part of this right, defendants are prohibited from affirmatively placing persons  
5 in known or obvious danger under and objective and deliberate indifference standard.

6 104. By noticing operations to clear encampments and clearing encampments on  
7 CALTRANS right-of-way without allowing time for people living in those encampments to find  
8 alternative accessible shelter, defendants have placed those people, and particularly those with  
9 disabilities at risk to their health and safety. Defendants have affirmatively placed and continue  
10 to place people in those encampments in known and obvious danger. Defendants have been  
11 deliberately indifferent to the danger they have created. As a result, WDWG BERKELEY has  
12 had a divert resources to assisting people in those encampments and has had its mission  
13 frustrated.

14 **THIRD CLAIM FOR RELIEF**  
15 **Violation of the Title II of the Americans with Disabilities Act of 1990**  
16 (against CALTRANS)  
17 (42 U.S.C. § 12132)

18 105. Plaintiff reincorporates by reference each of the preceding paragraphs and  
19 allegations as if fully set forth herein.

20 106. Title II of the Americans With Disabilities Act (“ADA”), 42 U.S.C. § 12132,  
21 provides that: “[N]o qualified individual with a disability shall, by reason of such disability, be  
22 excluded from participation in or be denied the benefits of the services, programs, or activities  
23 of a public entity, or be subjected to discrimination by any such entity.”

24 107. California incorporates all of these federal protections into state law, such that  
25 violations of the ADA are also state law violations and also contains a broad and independent  
26 disability civil rights mandate. (Cal. Gov’t Code § 11135 et seq.)

27 108. The term “disability” includes persons with mental or physical impairments that  
28 limit one or more major life activities. Cal. Gov’t Code § 12926 (i) (medical condition), 12926 (j)  
(mental disability), 12926 (l) (physical disability). WDWG BERKELEY’s mission is to serve  
people who are homeless including those who are qualified individuals with disabilities within

1 the meaning of 42 U.S.C. § 12102; 42 U.S.C. § 12131, 28 C.F.R. § 35.104 and Cal. Gov't Code  
2 §12926.

3 109. The ADA and associated state laws obligate public entities to operate each service,  
4 program, or activity so that the service, program, or activity, when viewed in its entirety, is  
5 readily accessible to and usable by individuals with disabilities. 28 C.F.R. § 35.150.

6 110. CALTRANS is a California state agency that has rules, policies, procedures and  
7 programs that prescribe how and in what circumstances CALTRANS will clear and close  
8 encampments, in what circumstances it will allow them to stay, and how it should work with  
9 neighboring jurisdictions and service organizations to provide accessible shelter for people  
10 living in the encampments. CALTRANS' rules, policies, procedures, and programs do not  
11 accommodate people with disabilities. CALTRANS' refusal to provide people with disabilities  
12 the accommodation of additional time to obtain accessible housing results in the denial of the  
13 benefits of programs it has established, which is a violation of Title II of the Americans with  
14 Disabilities Act. CALTRANS' failure to accommodate persons with disabilities has caused  
15 WDWG BERKELEY to divert resources and has frustrated its mission.

16 **FOURTH CLAIM FOR RELIEF**  
17 **Violation of the Section 504 of the Rehabilitation Act of 1973**  
18 (against CALTRANS)  
19 (29.S.C. § 701)

20 111. Plaintiff reincorporates by reference each of the preceding paragraphs and  
21 allegations as if fully set forth herein.

22 112. WDWG BERKELEY's mission is to serve people are homeless including those who  
23 are qualified individuals with disabilities within the meaning of Section 504 of the  
24 Rehabilitation Act of 1973.

25 113. Defendants are the recipients of federal funds sufficient to invoke the coverage of  
26 the Rehab Act.

27 114. Solely by reason of their disability, the individuals who WDWG BERKELEY serves  
28 have, and continue to be, excluded from participation in, denied the benefits of, and subjected  
to discrimination in his attempts to receive, full and equal access to the services, programs,  
and/or activities offered by defendants in violation of the Rehabilitation Act.

**PRAYER FOR RELIEF**

115. WHEREFORE, plaintiffs request that this Court grant them relief as follows:

- (a) Injunctive relief;
- (b) Declaratory relief;
- (c) Damages against CALTRANS for violation of the ADA and Rehab Act and against EL-TAWANSY for violation of constitutional rights;
- (d) Nominal damages;
- (e) Reasonable attorney’s fees and costs to plaintiffs’ counsel;
- (f) That the Court retain jurisdiction and exercise oversight as to defendants’ compliance with its Orders; and
- (g) Any further relief that this Court deems appropriate.

**DEMAND FOR TRIAL BY JURY**

116. Plaintiffs hereby demand a jury trial as provided by Rule 38(a) of the Federal Rules of Civil Procedure.

Dated: August 30, 2021

SIEGEL, YEE, BRUNNER & MEHTA

By /s/ EmilyRose Johns  
EmilyRose Johns

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