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Attorneys for Defendants
MAYOR LONDON BREED,
DIRECTOR SHIREEN MCSPADDEN and
CITY AND COUNTY OF SAN FRANCISCO

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

UNLIMITED JURISDICTION

RAMONA MAYON,

Plaintiff,

vs.

MAYOR LONDON BREED AND
DIRECTOR SHIREEN MCSPADDEN OF
DEPT OF HOMELESSNESS AND
SUPPORTIVE HOUSING OF CITY AND
COUNTY OF SAN FRANCISCO, ONLY IN
THEIR OFFICIAL CAPACITY, AND DOES
1-50,

Defendants.

Case No. CGC-24-611907

**DECLARATION OF ZUZANA IKELS IN
SUPPORT OF DEFENDANTS' DEMURRER
TO PLAINTIFF'S COMPLAINT**

Hearing Date: March 27, 2024
Time: 9:30 a.m.
Place: Dept. 302

Date Action Filed: January 26, 2024
Trial Date: Not Set.

I, Zuzana Ikels, declare as follows:

1. I am a Deputy City Attorney and counsel of record for Defendants Mayor London Breed, Director Shireen McSpadden of Dept of Homelessness and Supportive Housing of City and County of San Francisco (the "City Defendants"). I have personal knowledge of the following facts except for those stated on information and belief. As to those facts, I believe them to be true. If called upon to testify, I could and would testify competently to the contents of this declaration. I am counsel of record for the City. I submit this declaration pursuant to California Code

1 of Civil Procedure section 430.41 in support of the Demurrer of Defendant City And County Of San
2 Francisco the Complaint of Ramona Mayon.

3 2. Ramona Mayon is representing herself in pro per in this action. The Complaint was
4 filed on January 26, 2024, and served the summons on the City, although it was not separately named
5 as a defendant in the caption, and the Mayor on January 30, 2024. Plaintiff indicated that she mailed a
6 copy on Director McSpadden, but there is no record she was personally served or the basis for
7 substitution service.

8 3. Attached as **Exhibit A** are a true and correct copies of the only Government Claim
9 associated with Ms. Mayon, dated March 4, 2021, and the City's written denial of the Government
10 Claim, dated March 26, 2021, which specified Ms. Mayon had six months to file a complaint. The
11 Complaint was filed nearly three years later.

12 4. In order to meet and confer before filing the demurrer, on both February 16, 2023, I
13 called Ms. Mayon at the number listed on the pleadings, 415-598-6308, but the phone was
14 disconnected. I then emailed her at: ramonamayon@yahoo.com, which is the contact information
15 provided on both the Summons and Complaint. On February 20, 2024, I sent a letter to Ms. Mayon's
16 address provided on the Summons and Complaint. A true and correct copy of the emails and letters
17 that I sent are attached as **Exhibit B**. Ms. Mayon responded on February 26, 2024 by email. A true
18 and correct copy of the entire email chain of communications is included in Exhibit B, which reflect
19 Ms. Mayon's confirmation she did not submit a Government Claim, nevertheless would not dismiss
20 the action, and that her purpose of the litigation is: "I want to change how the rules are made at safe
21 parking sites in California (well, the 9th circuit, actually). The Real Parties have exceeded their
22 authority by about a hundred miles and squandered the taxpayer's money meant to make it safe,
23 dignified, livable."

24 I declare the foregoing to be true and correct under penalty of perjury under the laws of the
25 State of California. Executed this 28th day of February, 2024, in San Francisco, California.

26
27 
28 ZUZANA S. IKELS

Exhibit *A*

CITY AND COUNTY OF SAN FRANCISCO



DENNIS J. HERRERA
City Attorney

OFFICE OF THE CITY ATTORNEY

Nichelle Flentroy
Claims Adjuster

DIRECT DIAL: (415) 554-4232
E-MAIL: NICHELLE.FLENTROY@SFCITYATTY.ORG

March 26, 2021

Ramona Mayon
3377 Deer Valley Road, #278
Antioch, CA 94531

RE: Claim of Ramona Mayon / Claim Number 21-01418

Department: DSHS Dept of Homelessness & Supportive Housing
Incident Date: December 23, 2020
Claim Filed: March 4, 2021

NOTICE OF ACTION UPON CLAIM

PLEASE TAKE NOTICE THAT

An investigation of your claim filed with the City and County of San Francisco has revealed no indication of liability on the part of the City and County. Accordingly, your claim is **DENIED**.

WARNING

Subject to certain exceptions, you have only six (6) months from the date this notice was personally delivered or deposited in the mail to file a court action on this claim. See Government Code section 945.6. This time limitation applies only to causes of action arising under California law for which a claim is mandated by the California Government Claims Act, Government Code sections 900 et. seq. Other causes of action, including those arising under federal law, may have shorter time limitations for filing.

You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.

Please also be advised that, pursuant to Code of Civil Procedure sections 128.7 and 1038, the City and County of San Francisco will seek to recover all costs of defense in the event an action is filed in this matter and it is determined that the action was not brought in good faith and with reasonable cause.

Very truly yours,

DENNIS J. HERRERA
City Attorney

A handwritten signature in black ink, appearing to read "Nichelle Flentroy".

Nichelle Flentroy
Claims Adjuster

Claim of: Ramona Mayon

Claim Filed: March 4, 2021

I, Nichelle D. Flentroy, say: I am a citizen of the United States, over eighteen years of age, and not a party to the within action; that I am employed by the City Attorney's Office of San Francisco, Fox Plaza, 1390 Market Street, 7th Floor, San Francisco, CA 94102.

That on March 26, 2021 I served:

NOTICE OF ACTION UPON CLAIM

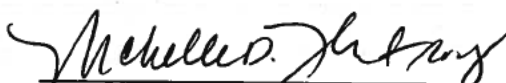
by placing a true copy thereof in an envelope addressed to:

Ramona Mayon
3377 Deer Valley Road, #278
Antioch, CA 94531

Following ordinary business practices, I sealed true and correct copies of the above documents in addressed envelope(s) and placed them at my workplace for collection and mailing with the United States Postal Service. I am readily familiar with the practices of the San Francisco City Attorney's Office for collecting and processing mail. In the ordinary course of business, the sealed envelope(s) that I placed for collection would be deposited, postage prepaid, with the United States Postal Service that same day.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 26, 2021 at San Francisco, California.


Nichelle D. Flentroy

DECLARATION OF SERVICE BY MAIL

CITY AND COUNTY OF SAN FRANCISCO



DENNIS J. HERRERA
City Attorney

OFFICE OF THE CITY ATTORNEY

Nichelle Flentroy
Claims Adjuster

DIRECT DIAL: (415) 554-4232
E-MAIL: NICHELLE.FLENTROY@SFCITYATTY.ORG

March 9, 2021

Ramona Mayon
3377 Deer Valley Road, #278
Antioch, CA 94531

RE: File Name: Ramona Mayon
File Number: 21-01418
Incident Date: December 23, 2020
Filed: March 4, 2021

Dear Sir or Madam:

Your correspondence was received by this office on March 4, 2021 and a review is underway.

When the review has been completed, I will be in touch with you. If you have not been contacted within 30 days, you may call me directly at (415) 554-4232.

Very truly yours,

DENNIS J. HERRERA
City Attorney

A handwritten signature in blue ink, appearing to read "Nichelle Flentroy".

Nichelle Flentroy
Claims Adjuster

Before completing this form please read the instructions on the back. Untimely claims will be returned. Please submit this form and supporting documentation to the Controller's Office, Claims Division, 1390 Market Street, 7th Floor San Francisco, CA 94102 in person or by mail.

* = REQUIRED ** = REQUIRED IF KNOWN

DHSA

21-01418

1. Claimant's Name and Home Address (Please Print Clearly)

*

City

State

2. Send Official Notices and Correspondence to:

*

City

State

claim #1) Fair Housing Act

10. Description of Claimant's injury, property damage or loss

*

11. Amount of Claimant's property damage or loss and method of computation. Attach supporting documentation. (See Instructions)

ITEMS

*	\$
	\$
	\$
	\$
	\$
	\$

TOTAL AMOUNT

Court Jurisdiction: Limited (up to \$25,000) ☐
Unlimited (over \$25,000) ☐

12. Witnesses (if any) Name

Address

Telephone

1.

2.

13.

* Ramona Mayan
Signature of Claimant or Representative

3.04.21
Date

Print Name

Relationship to

Do Not Write In This Space

RECEIVED
CITY & COUNTY OF
SAN FRANCISCO
CONTROLLER

21 MAR - 8 PM 2:46

1574-FS

(Copied from "Claim-Form-02-14")

1. Ramona Mayen
no home address #415-595-6308

2. mailing address:
3377 Deer Valley Rd #278
Antioch, CA 94531

3. [REDACTED] (birthday)

4. n/a

5. Date of Incident: Dec 23, 2020

6. n/a

7. unknown

8. n/a

9/10 It is a violation of the Fair Housing Act (specifically it is intimidation of occupancy) to have laws that encourage hatred of nomadic people such as myself, an American-born Scottish Traveller on my father's side and 25% Cherokee ^{matrilineal}. Upon receipt of my RV on Great Highway Dec 23, 2020, 8 to 10 residents came out their houses screaming & cursing at me. I immediately began a hunger strike in protest. This lawsuit will detail the decades

of abuse I have suffered in your City because I am a person whose ethnic background and life history gives me the RIGHT to live on wheels. Books on Amazon and papers at Academia explore the pain in detail. Now I want to do it in a courtroom, because these laws are not only unconstitutional in that they codify hate, they are also genocidal which isn't only murder, rape, etc but also "producing life conditions that make it impossible for the group to survive."

11. Court jurisdiction: unlimited

12. $\frac{7}{a}$

13. Ramona Mayon 3.4.21

Ramona Mayon
3377 Deer Valley Rd #278
Fotioch CA 94531



1000



94102

U.S. POSTAGE PAID
FCM LETTER
SAN FRANCISCO, CA
94132
MAR 04, 21
AMOUNT

\$4.35

R2304E107146-98

7020 1290 0000 2504 4141

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE

CERTIFIED MAIL®



7020 1290 0000 2504 4141

Controller's Office
Claims Division
1390 Market St. 7th floor
San Francisco CA 94102

Exhibit B

Ikels, Zuzana (CAT)

From: Ikels, Zuzana (CAT)
Sent: Friday, February 16, 2024 4:31 PM
To: 'ramonamayon@yahoo.com'
Cc: Adams, Kassy (CAT)
Subject: Mayon v. Breed, et al

Dear Ms. Mayon,

My name is Zuzana Ikels and I am Deputy City Attorney for City and County of San Francisco. I am writing to meet and confer with you about the complaint filed against the City, Mayor London Breed, and Director Shireen McSpadden of Dept of Homelessness and Supportive Housing of City and County of San Francisco, which I will collectively refer to as the "City Defendants". The complaint also has sued "Real Parties in Interest." For the avoidance of doubt, we do not represent the Real Parties in Interest.

Before I discuss the legal issues with the Complaint, I read in the complaint that you have been diagnosed with cancer. I wanted to express my sympathy and offer my sincere wishes for a serene and speedy recovery.

The Complaint asserts two claims, negligence and deceit. Neither claim is cognizable against the City Defendants. California law requires that before suing a public entity for money, such as San Francisco, a plaintiff must comply with the Tort Claims Act by first submitting a proper government claim and timely filing suit. (Gov. Code § 905, *et seq.*) Here, the Complaint is barred by Government Code section 910 because the allegations and claims were not adequately described in an administrative claim, and that the prerequisite administrative claim was not timely (Gov. Code, § 911.2). First, we have only one government claim on file, which was submitted three years ago. It pertains to a dispute with individual residents near the Great Highway. Because it was not involved in the underlying facts, San Francisco provided written notification of its denial of your government claim on March 26, 2021 and noting you had a six month window to file a lawsuit. We have no record of any other government claim filed or any government claim related to the issues raised in the Complaint.

Second, a municipality cannot be sued for general negligence, negligence per se, or fraud. (*See* Government Code section 818.8; *Eastburn v. Regional Fire Protection Authority* (2003) 31 Cal.4th 1175, 1183; *All Angels Preschool/Daycare v. Cnty. of Merced* (2011) 197 Cal. App. 4th 394, 400.) To the extent the complaint is taking issue with San Francisco's homeless services, the City Defendants have absolute immunity from liability under Government Code sections 815.2 and 820.2. Subdivision (b) of section 815.2 states: "(b) Except as otherwise provided by statute, a public entity is not liable for an injury resulting from an act or omission of an employee of the public entity where the employee is immune from liability." Section 820.2 provides: "Except as otherwise provided by statute, a public employee is not liable for an injury resulting from his act or omission where the act or omission was the result of the exercise of the discretion vested in him, whether or not such discretion be abused."

Finally, as acknowledged in the Complaint, the law does not recognize a landlord-tenant relationship as to persons living in their own vehicles, and you state you signed an agreement acknowledging and agreeing to the law. To the extent the goal of this litigation is to change the statutory scheme, that is a legislative – not judicial – function.

Please let us know if you will agree to dismiss the complaint. If you would like additional time to respond to our meet and confer or plan to amend your complaint, please let us know so we can work out an extension of time as to our response deadline with you. Otherwise, we will file our demurrer.

Thank you very much,

Zuzana Ikels



Zuzana S. Ikels
Deputy City Attorney
Office of City Attorney David Chiu
(415) 355-3307

www.sfoityattorney.org

CITY AND COUNTY OF SAN FRANCISCO



DAVID CHIU
City Attorney

OFFICE OF THE CITY ATTORNEY

ZUZANA S. IKELS
Deputy City Attorney

Direct Dial: (415) 355-3307
Email: Zuzana.Ikels@sfcityattorney.org

February 20, 2024

Ramona Mayon
1559 Sloat Blvd, Suite B-Box 175,
San Francisco, California 94132

Re: *Ramona Mayon v. Mayor London Breed, et al.*
San Francisco Superior Court Case No. CGC-24-611907

Dear Ms. Mayon,

My name is Zuzana Ikels and I am Deputy City Attorney for City and County of San Francisco. I am writing to meet and confer with you about the complaint filed against the City, Mayor London Breed, and Director Shireen McSpadden of Dept of Homelessness and Supportive Housing of City and County of San Francisco, which I will collectively refer to as the "City Defendants". The complaint also has sued "Real Parties in Interest." For the avoidance of doubt, we do not represent the Real Parties in Interest.

Before I discuss the legal issues with the Complaint, I read in the complaint that you have been diagnosed with cancer. I wanted to express my sympathy and offer my sincere wishes for a serene and speedy recovery.

The Complaint asserts two claims, negligence and deceit. Neither claim is cognizable against the City Defendants. California law requires that before suing a public entity for money, such as San Francisco, a plaintiff must comply with the Tort Claims Act by first submitting a proper government claim and timely filing suit. (Gov. Code § 905, et seq.) Here, the Complaint is barred by Government Code section 910 because the allegations and claims were not adequately described in an administrative claim, and that the prerequisite administrative claim was not timely (Gov. Code, § 911.2). First, we have only one government claim on file, which was submitted three years ago. It pertains to a dispute with individual residents near the Great Highway. Because it was not involved in the underlying facts, San Francisco provided written notification of its denial of your government claim on March 26, 2021 and noting you had a six month window to file a lawsuit. We have no record of any other government claim filed or any government claim related to the issues raised in the Complaint.

Second, a municipality cannot be sued for general negligence, negligence per se, or fraud. (See Government Code section 818.8; *Eastburn v. Regional Fire Protection Authority* (2003) 31 Cal.4th 1175, 1183; *All Angels Preschool/Daycare v. Cnty. of Merced* (2011) 197 Cal. App. 4th 394, 400.) To the extent the complaint is taking issue with San Francisco's homeless services, the City Defendants have absolute immunity from liability under Government Code sections 815.2 and 820.2. Subdivision (b) of section 815.2 states: "(b) Except as otherwise provided by statute, a public entity is not liable for an injury resulting from an act or omission of an employee of the public entity where the employee is immune from liability." Section 820.2 provides: "Except as otherwise provided by statute, a public employee is not liable for an injury resulting

Letter to Ramona Mayon
Page 2
February 20, 2024

from his act or omission where the act or omission was the result of the exercise of the discretion vested in him, whether or not such discretion be abused.”

Finally, as acknowledged in the Complaint, the law does not recognize a landlord-tenant relationship as to persons living in their own vehicles, and you state you signed an agreement acknowledging and agreeing to the law. To the extent the goal of this litigation is to change the statutory scheme, that is a legislative – not judicial – function.

Please let us know if you will agree to dismiss the complaint. If you would like additional time to respond to our meet and confer or plan to amend your complaint, please let us know so we can work out an extension of time as to our response deadline with you. Otherwise, we will file our demurrer.

Thank you very much,

Very truly yours,

DAVID CHIU
City Attorney



ZUZANA S. IKELS
Deputy City Attorney

Ikels, Zuzana (CAT)

From: Ikels, Zuzana (CAT)
Sent: Tuesday, February 27, 2024 10:32 AM
To: 'Ramona Mayon'
Subject: RE: Meet-and-Confer

Dear Romana,

Thank you for clarifying the lawsuit. Pursuant to fundamental “core power” principles, the judiciary has “no power to rewrite the statute so as to make it confirm to a presumed [or unpresumed] intention which is not expressed.” Courts are “limited to interpreting the statute, and such interpretation must be based on the language use.” *People v. Pacific Guano Co.* (1942) 55 Cal.App.2d 845, 849. term “tenant” does not include people living in their own cars. The term landlord requires rent payments. The term “residential dwelling unit” is defined as a building structure for an exclusive residence. “Such a pretended construction would not be construction at all but would be legislation.” *Id.* “Courts have no power to legislate.” *Id.* The judiciary also cannot reallocate the City budget or order taxpayer dollars be used to build workshop structures for, or issue gift cards to, unhoused individuals. *Max Factor & Co. v. Kunsman*, 5Cal.2d 446, 454.

To change a statute, the remedy is the democratic process, such as contacting your legislative representative. To the extent you would like to change how the City’s budget is allocated, it is also through the democratic process, such as propositions and contacting your Supervisor. As you have also noted, there are also federal, state and local agencies that can help address particular concerns, depending on financial and regulatory constraints.

On a personal note, I wish you a healthy and speedy recovery.

Warmly,
Zuzana

From: Ramona Mayon <ramonamayon@yahoo.com>
Sent: Monday, February 26, 2024 7:06 PM
To: Ikels, Zuzana (CAT) <Zuzana.Ikels@sfcityatty.org>
Subject: Re: Meet-and-Confer

I want to change how the rules are made at safe parking sites in California (well, the 9th circuit, actually). The Real Parties have exceeded their authority by about a hundred miles and squandered the taxpayer's money meant to make it safe, dignified, livable.

Thank you for asking,
Ramona Mayon

On Monday, February 26, 2024 at 06:50:01 PM PST, Ikels, Zuzana (CAT) <zuzana.ikels@sfcityatty.org> wrote:

Ok, thanks for letting me know. Because no government claim was filed, the case is subject to dismissal.

What are you trying to achieve from the lawsuit? It's not clear to me.

Best,

Zuzana

From: Ramona Mayon <ramonamayon@yahoo.com>
Sent: Monday, February 26, 2024 6:28 PM
To: Ikels, Zuzana (CAT) <Zuzana.Ikels@sfcityatty.org>
Subject: Re: Meet-and-Confer

What a quick response. Thank you while it's fresh on my mind!

No, I don't want to dismiss. It's such an interesting question. I think it would (eventually) solve a ton of problems if WIC 8255 is ruled the controlling law. It does, after all, refer to tenant or tenancy 13 times. I'm not just pulling something out the air. I don't feel like I am wasting either of our resources since it seems to pertain entirely to the foundation of what IS a safe parking site.

Even could be considered an economical question. I do remember seeing in the Contract requirements the City signs with shelter providers it let's you sue the subcontractors for breaking the rules.

As for the HSH-as-landlord question, we each signed said agreement which allows us a license number to be here, under SFPD code 97-98. So there's sufferance for us to BE here on-site. As for "rent" I would argue that comes in the form of monies from Prop C taxes, the general fund, as well being part of the federally-required Coordinated Entry. And then there's the COVID-19 relief funds. Oh my goodness. Makes my head spin.

I do recognize the novelty of what I am saying, but I didn't write these laws. The legislature did. I am merely asking for a declaratory statement, which one or the other of us will appeal. It really is a fascinating question.

Respectfully,
Ramona Mayon

On Monday, February 26, 2024 at 05:47:13 PM PST, Ikels, Zuzana (CAT) <zuzana.ikels@sfcityatty.org> wrote:

Hi Ramona,

Thanks for your response. I represent the Defendants Mayor London Breed, Shireen McSpadden and the City and County of San Francisco. We don't represent the third parties.

Just to make sure I understand, given you haven't submitted a government claim and will be submitting a government claim some time in the future, will you be dismissing the complaint? This will ensure we don't have to file our demurrer, and then the City will not seek its costs/fees from you.

As for the "tenant" issue, have you had a chance to review the legal definition of "tenant"? It applies only to "residential dwelling units," buildings, payment of rent, landlords and housing.

Under the Administrative Code of San Francisco, which you cite, it states: "Tenant shall have the meaning set forth in Administrative Code Section 37.2."

Under Section 37.2, it defines a tenant, at sub-section (t) as: "Tenant. A person entitled by written or oral agreement, sub-tenancy approved by the landlord, or by sufferance, to occupy a **residential dwelling unit to the exclusion of others**."

At sub-section (h), Landlord is defined as "An owner, lessor, sublessor, **who receives or is entitled to receive rent** for the use and occupancy of any residential rental unit or portion thereof in the City and County of San Francisco, and the agent, representative or successor of any of the foregoing."

None of the definitions apply to the safe parking site or the fact pattern in the case.

All the best,

Zuzana

From: Ramona Mayon <ramonamayon@yahoo.com>
Sent: Monday, February 26, 2024 4:35 PM
To: Ikels, Zuzana (CAT) <Zuzana.Ikels@sfcityatty.org>
Subject: Meet-and-Confer

Nice to meet you.

Forgive my delay in answering. There were HUD inspectors re. ADA violations out to see us on Feb 16 and I've been waiting to see the results of that. Not my own complaint, but another person out here.

Allow me to go point-by-point through your email.

A) I understand that you only represent the Dept of Homelessness. Do the Real Parties even get input?

B) Thank you. Part of the life journey.

C) This isn't a tort action. The grievance-then-admin claim process, I know about. I am still here at the VTC. Every single day in this hellscape is an ongoing violation of my civil rights. I can't really see any point of me bringing it in as a tort action until it's over. Until I leave. If I leave. But you are right, I need to quit putting it off. This week I will submit required grievances to the subcontractors, then HSH, wait the 45 days, then send you a list of laws I believe broken. Requirement if I want to discuss in federal court. No prior admin claim needed there unless one wishes to discuss the violation of said State laws. Which I do.

D) There is no discretion to include a falsehood into HSH's agreement's first paragraph. That's a conspiracy to deny a group of people their rights because WIC 8255 clearly states people in navigation centers are tenants.

E) Gov Code 814 doesn't affect the right to obtain relief other than money or damages.

Again, nice to meet you.

Sincerely,

Ramona Mayon