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13 **UNITED STATES DISTRICT COURT**  
14 **CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION**

15  
16 LA ALLIANCE FOR HUMAN  
17 RIGHTS, et al. Plaintiff(s),  
18  
19 vs.  
20 City of Los Angeles, et. al.  
21 Defendant(s).

} CASE NO. 20-CV-02291-DOC-KES

} Hon. David O. Carter  
} Courtroom 1

} PROPOSED INTERVENORS' EX  
} PARTE APPLICATION FOR  
} INTERVENTION AND APPEARANCE  
} AT MARCH 19, 2020 CONFERENCE

} Date: None  
} Time: None  
} Ctrm: 1

} Complaint Filed: March 10, 2020

1  
2 TO ALL ATTORNEYS OF RECORD, pursuant to Fed. R. Civ. Pro. Proc.  
3 65 and Local Civil Rule 65-1, Proposed Intervenor CANGRESS dba Los Angeles  
4 Community Action Network ("LA CAN") and Los Angeles Catholic Worker file  
5 this ex parte application to allow LA CAN and LACW to intervene, pursuant to  
6 Federal Rule of Civil Procedure 24(a)(2) and 24(b) in this action and/or intervene  
7 at the conference currently set for March 19, 2020 at 10:00 a.m. in Courtroom 1 of  
8 the United States District Court in Santa Ana, California before the Honorable  
9 David O. Carter.

10 Absent the requested relief on an ex parte basis, LA CAN and LACW will  
11 suffer irreparable harm. The March 19 conference is likely to deal with matters that  
12 directly and adversely impact LA CAN and LACW, including matters that could  
13 directly interfere with the continued enforcement of the settlement in *Mitchell v.*  
14 *City of Los Angeles*, Case No. 16-cv-01750 SJO JPR.

15 Counsel for LA CAN and LA Catholic Worker advised Counsel for Plaintiff  
16 and the County of Los Angeles by email on March 17, 2020 and March 18, 2020  
17 respectively of the intention to move ex parte for intervenor status. Attorneys for the  
18 City, Scott Marcus, was advised via telephone on March 17, 2020. There is no  
19 indication of their positions to date, regarding the ex parte application.

20 This ex parte application is based on the Complaint, the Memorandum of  
21 Points and Authorities below, the Request for Judicial Notice and corresponding  
22 Exhibits, Notice of Related Case, the argument of counsel, and such further  
23 evidence as the Court may consider regarding this Application.

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Pursuant to Local Civil Rule 7-19, Plaintiff provides the following information:

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Dated: March 18, 2020

Respectfully submitted,  
Legal Aid Foundation of Los Angeles

/s/ Shayla Myers  
Attorneys for Proposed Intervenors

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2  
3 **I. INTRODUCTION**

4 This current action, brought by the Los Angeles Alliance for Human Rights  
5 (“LA Alliance”) an unincorporated association made up primarily of business owners  
6 in Downtown Los Angeles, seeks to have this court issue orders to compel the City  
7 and County of Los Angeles to take actions regarding homelessness that could greatly  
8 impact the rights of homeless people throughout the City and County, and in  
9 particular, the rights of people who currently have no other option but to live outside.  
10 And yet, there are currently no homeless people who are unsheltered in the case.

11 Even worse, Plaintiffs’ lawsuit seeks both implicitly and explicitly to  
12 collaterally attack the settlement in another case, *Mitchell v. City of Los Angeles*, 16-  
13 CV-01760-SJO (JPR), which was a lawsuit brought by four homeless individuals and  
14 Proposed Intervenors, Los Angeles Catholic Worker (“LACW”) and Cangress, dba  
15 Los Angeles Community Action Network (“LA CAN”), (collectively, “Proposed  
16 Intervenors”) against the City of Los Angeles (“City”) in 2016 to protect the  
17 constitutional rights of unhoused people in Skid Row. That case ended in a  
18 settlement that the parties signed in June 2019, which aims to protect unhoused  
19 residents of Skid Row from continuing violations of their civil rights, including by 1)  
20 creating protocols to ensure that unhoused people’s belongings are not seized and  
21 thrown away as part of daily street cleanings in Skid Row; 2) establishing minimum  
22 standards for notice and storage of belongings so people can retrieve those  
23 belongings if they are taken to storage following an arrest or as part of a cleanup; and  
24 3) establishing additional standards to ensure the City can address issues related to  
25 ADA access, access to buildings, and other issues related to the public rights of way,  
26 without violating unhoused people’s rights (an issue that is all the more critical to LA  
27 CAN and LA Catholic worker, since many of their members and clients, as well as  
28 the individual plaintiffs in *Mitchell* have significant disabilities).



1 The Plaintiffs in this case previously attempted to intervene in *Mitchell v. City*  
2 *of Los Angeles* to invalidate the settlement. They bring this separate lawsuit to do  
3 what they could not do in *Mitchell*—use the Court to compel the City and County to  
4 take actions that could contravene unhoused residents’ constitutional rights.  
5 Proposed Intervenor LA CAN has a right to intervene in this litigation to protect both their  
6 interests in the *Mitchell* settlement and to ensure that the interests of their members  
7 and are not threatened as well.

## 8 **II. BACKGROUND**

### 9 **a. Proposed Intervenor**

10 Proposed Intervenor LA CAN is a grassroots, non-profit organization that has  
11 operated in Skid Row and throughout Los Angeles for approximately two decades.  
12 The primary purpose of the organization is to organize and empower community  
13 residents to work collectively to address systemic poverty and oppression in the  
14 community. For example, in 2016, LA CAN was a supporter of Measure HHH and  
15 since then, has spent considerable resources working to ensure accountability in the  
16 spending of Measure HHH funds, including threatening litigation in 2016 to prevent  
17 the expenditure of funds on projects that were not authorized by the proposition.

18 Since its founding in 1999, LA CAN has been the only member-driven  
19 organization in Skid Row whose goal is to protect the rights and prevent the further  
20 disenfranchisement of homeless and poor people in Los Angeles. More than 800  
21 low-income residents of Skid Row are involved with LA CAN. Many of its members  
22 are houseless and unsheltered each night on the streets of Los Angeles. LA CAN  
23 moves to intervene in this lawsuit on its own behalf and on behalf of its members  
24 who are unsheltered in Skid Row and throughout Los Angeles.

25 Proposed Intervenor Los Angeles Catholic Worker, (“LACW”), founded in  
26 1970, is an unincorporated lay Catholic community of women and men that operate a  
27 free soup kitchen, hospitality house for the homeless, hospice care for the dying and  
28 by-monthly newspaper. Nicknamed the “Hippie Kitchen,” the facility is located on

1 the Northeast corner of 6th Street and Gladys Avenue in Skid Row. LACW provides  
2 full meals to the community three times a week. In furtherance of its mission, the  
3 Hippie Kitchen associates to provide other services, including access to dental care,  
4 over-the-counter medications, podiatry services, toiletries and other personal items.  
5 In furtherance of its mission, for the past several years, the Hippie Kitchen has  
6 purchased shopping carts to provide them to unsheltered homeless persons to store  
7 and move their personal belongings.

8 Both LA CAN and LACW were plaintiffs in *Mitchell v. City of Los Angeles*,  
9 along with four homeless individuals who lived on the streets in Skid Row, were  
10 arrested for incredibly minor quality of life offenses or subjected to street cleanings,  
11 and had all of their belongings seized and destroyed or otherwise stored in a location  
12 that was completely inaccessible to them. The individual plaintiffs in the action, Carl  
13 Mitchell, Judy Coleman, and Salvador Roque,<sup>1</sup> assigned their rights to enforce the  
14 settlement to LA CAN and LACW. Therefore, Proposed Intervenors bring this  
15 motion to intervene on behalf of themselves, the members of LA CAN, and the  
16 individual plaintiffs in *Mitchell*.

### 17 **b. Factual And Procedural Background**

18 As this Court well knows, and as the Plaintiffs spell out in their complaint, the  
19 issue of the rights of homeless individuals in Southern California has been the subject  
20 considerable litigation for decades, and most relevant here, for the past 10 years.

21 In 2011, the City of Los Angeles was sued by eight unhoused individuals  
22 related to the destruction of their belongings in Skid Row. *Lavan v. City of Los*  
23 *Angeles*, 2:11-cv-02874-PSG-AJW (filed April 5, 2011). The resulting Preliminary  
24 Injunction issued by Judge Gutierrez, enjoined the City of Los Angeles from seizing  
25 and destroying individuals' belongings. *See Lavan v. City of Los Angeles*, 797  
26 F.Supp.2d 1005 (C.D. Cal. 2011). The City appealed the injunction to the Ninth

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27  
28 <sup>1</sup> Michael Escobedo, the fourth individual plaintiff, passed away during the  
pendency of the litigation.

1 Circuit, which upheld the injunction. *Lavan v. City of Los Angeles*, 693 F.3d 1022,  
2 1033 (9th Cir. 2012).

3        Shortly after the Ninth Circuit upheld the injunction, Proposed Intervenor LA  
4 CAN and LA Catholic Worker, along with four unsheltered residents on Skid Row,  
5 sued the Central City East Association and the Downtown Industrial District  
6 Business Improvement District,<sup>2</sup> as well as the City of Los Angeles, alleging that the  
7 City and Business Improvement District were colluding to deprive unhoused  
8 residents of their constitutional rights. *See Los Angeles Catholic Worker et al. v. Los*  
9 *Angeles Downtown Industrial District, et al*, CV14-7344 PSG (AJWx). Specifically,  
10 Plaintiffs alleged that Defendant City of Los Angeles (“City”) provided law  
11 enforcement support and coordination to LADID to assist them in seizing and  
12 destroying property, despite the Court’s preliminary injunction in *Lavan* to stop these  
13 illegal practices. *See* Proposed Intervenor’s Request for Judicial Notice (“RJN”), ¶1,  
14 Exh. A.

15        After three years of litigation, the parties entered into a settlement agreement,  
16 which among other things, prevented the City of Los Angeles from continuing to  
17 collude with the Central City East Association to violate unhoused people’s rights.  
18 The Los Angeles Police Department was required to issue a special order expressly  
19 instructing LAPD officers not to collude with BID employees to take and destroy  
20 individuals’ belongings, in violation of the injunction issued in *Lavan*. *Id.* The  
21 settlement remains in effect and the U.S. District Court retains jurisdiction to enforce  
22 the agreement. *Id.*

23        In 2016, four more homeless individuals and the Proposed Intervenor filed  
24 *Mitchell v. City of Los Angeles*, which yet again challenged the City’s practice of  
25 seizing and either destroying homeless people’s belongings, or storing seized  
26 belongings in a way that was completely inaccessible to Plaintiffs. After the Court  
27 granted yet another preliminary injunction against the City of Los Angeles, the  
28

1 parties entered into significant negotiations and finally reached a tentative settlement.  
2 The approval of the settlement was incredibly contentious, resulting in what was  
3 certainly a significant debate amongst the City Council members during a three hour  
4 closed session and ultimately, an instruction to the City Attorney to settle the case.

5 Before the settlement was finalized, the Plaintiffs in this lawsuit, then  
6 operating under the name DTLA Alliance for Human Rights,<sup>3</sup> indicated their  
7 intention to intervene in the litigation before the lawsuit was dismissed. The group  
8 inexplicably failed to do so, and the settlement was finally approved. Thereafter, the  
9 Court retained jurisdiction to enforce the settlement, and the Court dismissed the  
10 case. (*See* RJN, ¶2, Exhibit B). Thereafter, the group filed a motion to intervene,  
11 which was denied as untimely. LA Alliance filed a notice of appeal, but dropped the  
12 appeal before filing any briefs. Instead, on the day the group dismissed its appeal,  
13 they filed this instant lawsuit, making the same allegations as those outlined in  
14 Plaintiffs’ Motion to Intervene and as discussed below, seeking in part to invalidate  
15 the settlement agreement in *Mitchell*.

### 16 **III. PROPOSED INTERVENORS ARE ENTITLED TO INTERVENE** 17 **AS A MATTER OF RIGHT**

18 Federal Rules of Civil Procedure 24(a) provides that a party “who claims an  
19 interest relating to the property or transaction that is the subject of the action, and is  
20 so situated that disposing of the action may as a practical matter impair or impede the  
21 movant's ability to protect its interest” must be allowed to intervene in a case “unless  
22 existing parties adequately represent that interest.” Fed. R. of Civ. Proc. 24(a)(2).

23 To be granted intervention as a matter of right, Proposed Intervenors must  
24 demonstrate that 1) they have a “significant protectable interest” relating to the  
25 matter that is the subject of the action; 2) a decision in the action may, as a practical  
26 matter, impair or impede Proposed Intervenors’ ability to protect its interest; 3) the  
27 request to intervene is timely; and 4) the existing parties may not adequately

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28 <sup>3</sup> See <https://www.la-alliance.org/press>.

1 represent proposed Intervenor’s interest. *Donnelly v. Glickman*, 159 F.3d 405, 409  
2 (9th Cir. 1998). “Though the applicant bears the burden of establishing these  
3 elements, we have repeatedly instructed that ‘the requirements for intervention are [to  
4 be] broadly interpreted in favor of intervention.’” *Smith v. Los Angeles Unified*  
5 *School District*, 830 F.3d 843, 853 (9th Cir. 2016). Proposed Intervenor’s easily  
6 satisfy each of these prongs.

7 **a. Proposed Intervenor’s have a Significant Protectable Interest in**  
8 **This Litigation**

9 Proposed Intervenor’s have a significant protectable interest in this litigation.  
10 Rule 24(a) does not require that the protectable interest at stake in the litigation be a  
11 specific legal or equitable interest. “The ‘interest’ test is not a clear-cut or bright-line  
12 rule, because no specific legal or equitable interest need be established. Instead, the  
13 ‘interest’ test directs courts to make a practical, threshold inquiry, and is primarily a  
14 practical guide to disposing of lawsuits by involving as many apparently concerned  
15 persons as is compatible with efficiency and due process. *In re Estate of Ferdinand*  
16 *E. Marcos Human Rights Litigation*, 536 F.3d 980, 984–85 (9<sup>th</sup> Cir. 2008)( quoting *S.*  
17 *Cal. Edison Co. v. Lynch*, 307 F.3d 794, 802 (9th Cir.2002).

18 Proposed Intervenor’s have a legally protectable interest in the settlement in  
19 *Mitchell v. City of Los Angeles*, which Plaintiff’s explicitly and implicitly challenge in  
20 this lawsuit. Plaintiff’s allege in the seventh cause of action that the settlement in  
21 *Mitchell* was a project under CEQA, for which an environmental review was  
22 required. See Comp. ¶ 165. The eleventh cause of action challenges the settlement  
23 on due process and equal protection grounds, namely that the settlement  
24 distinguished between Skid Row and the rest of the City without a rational reason for  
25 doing so. In addition to those causes of action that explicitly mention the *Mitchell*  
26 settlement, other causes of action, including the first, third through fourth, and  
27 seventh causes of action for negligence, nuisance, and violations of substantive due  
28 process, relate to conditions in Skid Row that Plaintiff’s allege throughout the

1 complaint were caused by the *Mitchell* injunction and settlement. *See e.g.*, Comp. ¶¶  
2 30, 37, 48; Comp. Pg. 47. <sup>4</sup>

3 **b. A Decision in this Action May Impair Intervenor’s Ability to**  
4 **Protect their Interests**

5 To satisfy the second prong of the test for intervention as a matter of right,  
6 Plaintiffs must show that “the disposition of this case will, as a practical matter,  
7 affect” the interest at stake. *California ex rel Lockyer v. U.S.*, 450 F.3d 436, 442 (9<sup>th</sup>  
8 Cir. 2006). Again, as with all of the factors, the proposed intervenors “need not  
9 demonstrate that their interest would be impaired in a legal sense, only that their  
10 interest ‘would be substantially affected in a practical sense.’” *Sw. Ctf. for Biological*  
11 *Diversity v. Berg*, 268 F.3d 810, 822 (9th Cir.) (quoting Fed. R. Civ. P. 24, Advisory  
12 Committee Notes).

13 Here, the remedy sought by the Plaintiffs could have the effect of undermining or  
14 even invalidating Proposed Intervenor’s settlement with the City of Los Angeles.  
15 Indeed, Plaintiffs are seeking to do so here, just Plaintiffs explicitly sought to do  
16 when they moved to intervene in the *Mitchell*, and they intended to object to and  
17 ultimately aimed to invalidate the settlement. This is a more than sufficient showing  
18 for intervention. *See e.g.*, *Idaho Farm Bureau Fed. v. Babbitt*, 58 F.3d 1392, 1398  
19 (1995) (decision in another case that could result in a legal decision undermining the  
20 result of another case is sufficient showing of impairment to support intervention). In  
21

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22 <sup>4</sup> Proposed Intervenor also have legally protected interests stemming from  
23 advocacy to pass and subsequently to protect the integrity of Measure HHH, *see*  
24 *Washington State Building & Construction Trades v. Spellman*, 684 F.2d 627 (9th  
25 Cir. 982), as well as on behalf of their members, who have a protectable interest to  
26 be free from increased enforcement and the violation of their constitutional rights.  
27 Although less concrete than the right to protect their settlement, Courts have  
28 recognized these as sufficient interests to support intervention, particularly where,  
as here, there is no other representation of unsheltered homeless people in Los  
Angeles, who are most likely to be impacted by any proposed remedies in this  
case.

1 addition, however, the settlement could also result in orders related to the  
2 expenditures of Measure HHH funds and changes in the allocation of resources, as  
3 well as the increased criminalization and enforcement of laws against LA CAN's  
4 members. All of these potential outcomes, contemplated by the sweeping complaint  
5 filed by Plaintiffs, could impact Proposed Intervenor's rights. *See Sagebrush*  
6 *Rebellion, Inc. v. Watt*, 713 F.2d 525, 526-27 (1983) (finding a right to intervene  
7 when an adverse decision in the suit would impair the intervenor's interest in the  
8 preservation of birds and their habitats); *Washington State Building & Construction*  
9 *Trades v. Spellman*, 684 F.2d 627 (9th Cir. 982) (public interest group entitled as a  
10 matter of right to intervene in an action challenging the legality of a measure which it  
11 had supported). There is more than enough potential to impair LA CAN and  
12 LACW's rights, that they should be allowed to intervene in this case.

13 **c. The Request is Timely**

14 There should be no dispute that Proposed Intervenor's motion is timely. A  
15 motion made "at an early stage of the proceedings" will generally satisfy the  
16 timeliness requirement. *See Citizens for Balanced Use v. Mont. Wilderness Ass'n*, 647  
17 F.3d 893, 897 (9th Cir. 2011). In fact, Proposed Intervenor could hardly have  
18 moved faster to intervene. This case was filed on March 10, 2020, only eight days  
19 before Proposed Intervenor move to intervene, before even Defendants have  
20 appeared in this case. Proposed Intervenor moved ex parte, in order to intervene  
21 before the first hearing in this case, which has been set for just three days after this  
22 Court accepted the transfer of the case, in order to address emergency issues related  
23 to the Coronavirus. Proposed Intervenor's motion is therefore timely. *See Idaho*  
24 *Farm Bureau Fed. v. Babbitt*, 58 F.3d 1392, 1397 (9<sup>th</sup> Cir. 1995) (intervention timely  
25 when applicant moved to intervene prior to hearing on a preliminary injunction  
26 motion, before any hearings or rulings on substantive matters).

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1                   **d. Existing Parties May Not Represent Proposed Intervenor’s**  
2                   **Interests**

3           Finally, the parties in this case simply cannot adequately represent the  
4 Proposed Intervenor’s interests. Whether another party’s representation of  
5 Applicants’ interests is adequate depends on: “(1) whether the interest of a present  
6 party is such that it will undoubtedly make all of a proposed intervenor’s arguments;  
7 (2) whether the present party is capable and willing to make such arguments; and (3)  
8 whether a proposed intervenor would offer any necessary elements to the proceeding  
9 that other parties would neglect.” *Arakaki v. Cayetano*, 324 F.3d 1078, 1086 (9th Cir.  
10 2003). The burden to show that a party’s interests may not be adequately  
11 represented is minor: “The requirement of the Rule is satisfied if the applicant shows  
12 that representation of his interest ‘may be’ inadequate; and the burden of making that  
13 showing should be treated as minimal. *Trbovich v. United Mine Workers of America*,  
14 404 U.S. 528, 538 (1972).

15           When the government is a party, the standard to demonstrate that the proposed  
16 intervenor’s interest are not adequately represented has sometimes been held to be  
17 higher. *See e.g., Arakaki*, 324 F.3d at 1086. However, where as here, the government  
18 is antagonistic to the proposed intervenors or proposed intervenors have a discrete  
19 and particularized interest, the higher standard does not apply. *See Coal. of*  
20 *Arizona/New Mexico Counties for Stable Economic Growth v. Dept. of Interior*, 100  
21 F.3d 837, 844–45 (10th Cir. 1996) (“An applicant may fulfill this burden by showing  
22 collusion between the representative and an opposing party, that the representative  
23 has an interest adverse to the applicant, or that the representative failed in fulfilling  
24 his duty to represent the applicant’s interest.”); *see also Idaho Farm Bureau Fed.*, 58  
25 F.3d at 1398 (9th Cir. 1995) (government agency unlikely to make strong arguments  
26 in support of its actions because it took those actions largely to fulfill a settlement  
27 agreement).

28           In this case, none of the parties can adequately represent Proposed Intervenor’s



1 interests. First, with regards to the City, LA CAN and LACW have been directly  
2 adverse to the City in two lawsuits directly related to the issues in this case.<sup>5</sup> In the  
3 first lawsuit, *LA Catholic Worker v. LADID*, Plaintiffs accused the City of colluding  
4 with the Central City East Association and the Los Angeles Downtown Industrial  
5 District, which is the business improvement district in Skid Row. Although CCEA is  
6 not technically a plaintiff in this case, LA Alliance is intimately intertwined with  
7 CCEA.<sup>6</sup> See *Coalition of Arizona/New Mexico Cnties for Stable Economic Growth*  
8 100 F.3d at 844–45. With regards to the actions to undermine the Mitchell  
9 settlement, even though the parties reached a stipulated settlement, the settlement  
10 came only after a hotly contested Preliminary Injunction, in which the City sought to  
11 overturn the injunction. And as Plaintiffs note in their complaint, the City of Los  
12 Angeles continues to strenuously fight to prevent the protections secured in the  
13 *Mitchell* settlement from being implemented City-wide. See *Garcia v. City of Los*  
14 *Angeles*, 2:19-cv-06182-DSF-PLA. Therefore, “there is reason to doubt that the  
15

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16  
17 <sup>5</sup> To say nothing of the numerous other cases in which the City has been  
18 adverse to houseless residents who have brought suit to protect their civil rights,  
19 but which the Proposed Intervenor was not plaintiff, including most notably,  
20 *Jones v. City of Los Angeles*, 444 F.3d 1118 (9th Cir. 2006), *vacated*, 505 F.3d  
21 1006 (9th Cir. 2007) and *Lavan*, 693 F.3d 1022, 1033 (9th Cir. 2012). See also  
22 *Garcia v. City of Los Angeles*, 2:19-cv-06182-DSF-PLA.

23 <sup>6</sup> Four of CCEA/LADID’s eleven board members appear in the pleadings in  
24 this case. See <http://www.centralcityeast.org/about> (last accessed on March 18,  
25 2020), including Mark Shinbane, the chair of CCEA, Compl. p. 46; Larry Rausch,  
26 the past chair of CCEA and current member of the board, Comp., p. 48; Bob  
27 Smiland, who serves on the CCEA and LADID Board, and Andrew Bales, who is  
28 also on the CCEA board and runs the Union Rescue Mission, which employs or  
houses a number of the individuals involved in the litigation, see e.g., Charles  
Malow, who lives at the Union Rescue Mission, Comp. ¶ 97. In addition the group  
is chaired by Don Steir, the “longtime general counsel of the Central City East  
Association.” See LA Alliance, “Frequently Asked Questions,” available at  
<https://www.la-alliance.org/faqs>; see also LA Alliance Go Fund Me Fundraising  
Account, <https://www.gofundme.com/f/la-alliance-for-human-rights>.

1 [City] would fully protect the interests” of the Proposed Intervenor, and instead  
2 would seek to undermine the *Mitchell* settlement. *County of Fresno v. Andrus*, 622  
3 F.2d 436, 439 (9th Cir.1980); *see also Citizens for Balanced Use*, 647 F.3d 893, 900  
4 (9<sup>th</sup> Cir. 2011); *Idaho Farm Bureau Fed.*, 58 F.3d at 1398.

5 Nor can Proposed Intervenor rely on any of the parties in the case to make the  
6 same arguments Proposed Intervenor will make. Although much of the arguments  
7 and remedies ostensibly sought by Plaintiffs could or in some instances, must rely on  
8 *Martin v. City of Boise*, 920 F.3d 584 (9th Cir. 2019). But all of the parties have  
9 demonstrated hostility towards or a desire to overturn it. *See* RJN, ¶ 4, Brief Amicus  
10 Curiae of City of Los Angeles; RJN, ¶ 5, Brief for Amici Curiae California State  
11 Association of Counties and 33 California Counties and Cities; RJN, ¶ 6, Brief of  
12 Amicus Curiae International Downtown Association, California Downtown  
13 Association, Central City East Association of Los Angeles, Hollywood Property,  
14 Owners’ Alliance, Historic Business Improvement District, Property Owners  
15 Association, and Downtown Property Owner/ Association in Support of Petitioner.  
16 This alone is sufficient to demonstrate the parties will not adequately protect  
17 Proposed Intervenor.

18 Finally, “[t]he ‘most important factor’ in assessing the adequacy of  
19 representation is ‘how the interest compares with the interests of existing parties.’”  
20 *Citizens for Balanced Use*, 647 F.3d at 898 (quoting *Arakaki*, 324 F.3d at 1086). In  
21 this case, the LA Alliance brings a sweeping lawsuit to address homelessness in Los  
22 Angeles, including purporting to seek an affirmative right to shelter for individuals  
23 who are currently have no other option but to sleep on the sidewalks in Los Angeles.  
24 Yet not a single identified member of its organization or individual plaintiff is  
25 currently unsheltered. In contrast, the LA CAN seeks to intervene on behalf of its  
26 members, many of whom are homeless, and both LACW and LA CAN seek to  
27 protect the interests of individual plaintiffs in *Mitchell* who assigned their rights to  
28 enforce the settlement to LACW and LA CAN, and therefore, the Proposed

1 Intervenor seek to protect their interests as well.<sup>7</sup> The interests of unhoused  
2 residents are distinct from the business owners in Skid Row, many of whom  
3 represent an organization that has been sued for violating unhoused people’s rights,  
4 and the interests of the City and County of Los Angeles, both of which have been  
5 sued for the same reason.

6 Plaintiffs easily show they have a protectable interest that could be affected by  
7 the resolution in this case, that they were timely in seeking to intervene, and that none  
8 of the parties can protect their interests. As such, Proposed Intervenor are entitled  
9 to intervene as a matter of right.

10 **IV. LA CAN AND LACW SHOULD BE ALLOWED PERMISSIVE**  
11 **INTERVENTION**

12 Even if Proposed Intervenor were not entitled to intervene as a matter of right,  
13 they should be allowed to intervene under the Court’s authority pursuant to Rule  
14 24(b), which allows permissive intervention when “an applicant’s claim or defense  
15 and the main action have a question of law or fact in common.” Fed. R. Civ. P.  
16 24(b)(1)(B).<sup>8</sup> Permissive intervention is in the “broad discretion of the trial court.”

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17 <sup>7</sup>On March 17, 2020, this Court granted intervention to Orange County  
18 Catholic Worker, the lead plaintiff in *Orange County Catholic Worker, et al. v.*  
19 *County of Orange*, 18-CV-00155-DOC-JDE (“OCCW”). Intervenor sought to  
20 intervene based on Plaintiffs’ representations regarding the effect of this litigation  
21 on the consent decree issued by this Court. OCCW represents the interests  
22 unhoused residents in Orange County and seek to protect their consent decree in a  
23 related action. While this perspective is critically important to this litigation and  
24 OCCW complements the perspectives and interests of LACW and LA CAN, their  
interests are distinct from those of Proposed Intervenor, who operate in and whose  
members live in Skid Row and throughout Los Angeles.

25 <sup>8</sup>The other factors for permissive intervention are 1) the intervention is  
26 timely, which Proposed Intervenor easily demonstrate, *see supra* Section 3(c), and  
27 2) the standing to assert the interests claimed. *GOJO*, 2018 WL 5880829, at \*3.  
28 While the applicant must show that the court has jurisdiction, *Venegas v. Skaggs*,  
867 F.2d 527, 529 (9th Cir. 1989), *aff’d sub nom. Venegas v. Mitchell*, 495 U.S. 82  
(1990), there is no need to independently prove standing. The court has the

1 *GOJO Indus., Inc. v. Barough*, (“GOJO”), No. SACV171382DOCJDEX, 2018 WL  
2 5880829, at \*3 (C.D. Cal. Apr. 2, 2018). LACAN and LACW represent important  
3 interests in this case that are otherwise not represented and as such, should be  
4 allowed to permissively intervene.

5 The Plaintiffs’ argument raises many common questions of fact with the  
6 *Mitchell* case, as discussed above. They allege that requiring due process for  
7 property in Skid Row causes “health and safety risks”. Compl. ¶¶ 29-30. They also  
8 discuss at length how the *Mitchell* settlement purportedly caused those risks.

9 One of the factors to be considered by the court is whether “whether [the]  
10 part[y] seeking intervention will significantly contribute to full development of the  
11 underlying factual issues.” *GOJO*, 2018 WL 5880829, at \*9 (C.D. Cal. Apr. 2,  
12 2018). As noted above, none of the parties currently in the case, include any  
13 individual who is currently unsheltered in Los Angeles. On the other hand, LA CAN  
14 and LACW have members and clients who live on the streets. These perspectives are  
15 critical to a case that seeks as broad of remedies as Plaintiffs purport to seek, it is  
16 unimaginable how the case could go forward without the participation of an  
17 organization that includes unsheltered homeless individuals amongst its members.  
18 Moreover, organizers and staff of LA CAN and LACW monitor what is happening  
19 on the streets, not just in Skid Row, but throughout Los Angeles. For example, the  
20 complaint alleges that the encampment under the overpass at Venice and the 405 is

21 \_\_\_\_\_  
22 discretion to permit LACAN and LACW to intervene at this point in the lawsuit  
23 regardless of whether they have standing. *Bond v. Utreras*, 585 F.3d 1061, 1070  
24 (7th Cir. 2009); *Providence Baptist Church v. Hillandale Comm. Ltd.*, 425 F.3d  
25 309, 315 (6th Cir.2005). Notwithstanding that it is unnecessary, Plaintiffs LACAN  
26 and LACW both would have independent grounds for jurisdiction because  
27 LACAN is a membership organization with unhoused members and LACW diverts  
28 its resources when its unhoused guests and neighbors are treated unlawfully or  
criminalized by the City. LACW expends resources it could be using to feed the  
homeless to monitor the situation regarding property seizure. Thus, both proposed  
intervenors have standing.

1 blocking the sidewalk. LA CAN has organizers and members that regularly visit that  
2 encampment and are familiar with the conditions there. The sweeps and property  
3 seizures at the overpass at Venice and the 405 divert LA CAN's resources; yet this  
4 lawsuit is alleging the need for increased sweeps and enforcement. Complaint at 177.

5 Similarly, LA CAN, as mentioned above, has unhoused members that reside  
6 on Skid Row and would be impacted by increased sweeps and enforcement. Not only  
7 are their interests affected, their participation will aid the court in determining the  
8 factual context of the litigation and in proving or disproving the parties' statements  
9 about accessibility and state-created danger. It will also aid the court to hear from  
10 un-sheltered individuals, as the only unhoused individual represented by Plaintiffs  
11 was sheltered prior to the lawsuit beginning.

12 At this stage of the litigation, the court has the discretion to allow LA CAN  
13 and LACW to intervene in the lawsuit as permissive intervenors.

14  
15 Dated: March 18, 2020

Respectfully submitted,  
Legal Aid Foundation of Los Angeles

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19  
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23  
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25 /s/ Carol A. Sobel  
26 Attorneys for Proposed Intervenor

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