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COUNTY OF LOS ANGELES

**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

LA ALLIANCE FOR HUMAN  
RIGHTS, et al.,  
  
Plaintiffs,  
  
v.  
  
CITY OF LOS ANGELES, et al.,  
  
Defendants.

**CASE NO. 2:20-cv-02291 DOC-KES**

**DEFENDANT COUNTY OF  
LOS ANGELES' NOTICE OF  
MOTION AND MOTION TO  
DISMISS FIRST AMENDED  
COMPLAINT**

Date: January 24, 2022  
Time: 8:30 a.m.  
Place: Courtroom 9D

Assigned to the Hon. David O. Carter  
and Magistrate Judge Karen E. Scott

1 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2 **PLEASE TAKE NOTICE** that, pursuant to Rules 12(b)(1) and 12(b)(6) of  
 3 the Federal Rules of Civil Procedure, Defendant Los Angeles County (“County”)  
 4 hereby moves to dismiss all claims asserted by Plaintiffs in the First Amended  
 5 Complaint against the County for lack of subject matter jurisdiction and for failure  
 6 to state a claim. This Motion is set for hearing on January 24, 2022, at 8:30 a.m.,  
 7 before the Honorable David O. Carter in the United States District Court, Central  
 8 District of California, Western Division, located at 411 West Fourth Street,  
 9 Courtroom 9D, Santa Ana, California 92701-4516.

10 The Motion is well-taken. Under Rule 12(b)(1), dismissal for lack of subject  
 11 matter jurisdiction should be granted because Plaintiffs have not sufficiently alleged  
 12 Article III standing to assert their claims against the County. Plaintiffs have not  
 13 alleged cognizable injuries that are “fairly traceable” to the alleged conduct of the  
 14 County. Plaintiffs’ claims are also not redressable because the broad and  
 15 unmanageable injunction that they seek cannot be issued by this Court, as doing so  
 16 would violate the separation of powers. The Court’s Article III power does not  
 17 permit intrusive intervention into legislative prerogatives about how to spend limited  
 18 resources to serve the public. Plaintiffs raise generalized grievances, not an injury  
 19 sufficient to confer standing.

20 In addition, under Rule 12(b)(6), Plaintiffs have not stated any of their federal  
 21 or state law claims against the County. Plaintiffs assert federal claims against the  
 22 County under 42 U.S.C. section 1983 and allege violations of the Fourteenth  
 23 Amendment to the United States Constitution. But these claims fail because  
 24 Plaintiffs have not alleged that (1) the County discriminated against Plaintiffs with  
 25 deliberate indifference, (2) the County infringed on any constitutionally cognizable  
 26 right of Plaintiffs without adequate process, (3) the County affirmatively placed any  
 27 Plaintiff in imminent risk of bodily harm, or had a special relationship with them, or  
 28 (4) the County could be liable, even if any of the above had been alleged, because

1 the harm was caused by an official County policy, practice or custom under *Monell*.

2 Plaintiffs have added the County to their disability discrimination claims  
3 under the California Disabled Persons Act, the Americans with Disabilities Act, and  
4 Section 504 of the Rehabilitation Act, all stemming from sidewalk blockages by  
5 homeless encampments that allegedly impeded Plaintiffs Van Scoy's and Suarez's  
6 free passage by wheelchair. But the FAC alleges no new facts showing that any of  
7 the challenged sidewalk obstruction occurred on County property. And Plaintiffs do  
8 not—and cannot—allege that the obstructed City sidewalks constitute a County  
9 “program or activity receiving Federal financial assistance,” as required to state a  
10 Section 504 claim. The federal disability claims also fail for the independent reason  
11 that Plaintiffs Van Scoy and Suarez have not alleged that they were prevented from  
12 using sidewalks “by reason of their disabilities.”

13 Plaintiffs' state law claims fail as well. Plaintiffs cannot invoke state statutes  
14 that grant the County *discretion* over how to spend funds and provide services to  
15 combat homelessness, and they have failed to plead the essential elements of their  
16 claims in any event. The negligence claim fails because Plaintiffs do not allege any  
17 breach of a statutory duty by the County. The nuisance claim fails because  
18 Plaintiffs do not allege any nuisance that was created by the County. Indeed,  
19 Plaintiffs admit the County has made significant efforts to abate the issues where it  
20 has authority to do so. Further, the common law claims fail for an additional  
21 reason—the County and its policy-making officials are immune from suit under the  
22 California Government Code.

23 This Motion is made following the conference of counsel pursuant to L.R. 7-3  
24 that took place on November 23, 2021. (Declaration of Mira Hashmall ¶¶ 37 & Ex.  
25 36.) This Motion is based on this Notice, the accompanying Memorandum of Points  
26 and Authorities, the Declaration of Mira Hashmall and exhibits attached thereto, the  
27 Request for Judicial Notice, the pleadings and records on file in this action, and any  
28 further evidence or argument received by the Court in connection with the Motion.

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1 DATED: December 3, 2021

MILLER BARONDESS, LLP

By: /s/ Mira Hashmall

MIRA HASHMALL

Attorneys for Defendant

COUNTY OF LOS ANGELES