

THE HONORABLE RICARDO S. MARTINEZ

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

LISA HOOPER, BRANDIE OSBORNE,
KAYLA WILLIS, REAVY WASHINGTON,
individually and on behalf of a class of
similarly situated individuals; THE
EPISCOPAL DIOCESE OF OLYMPIA;
TRINITY PARISH OF SEATTLE; REAL
CHANGE,

Plaintiffs,

vs.

CITY OF SEATTLE, WASHINGTON;
WASHINGTON STATE DEPARTMENT OF
TRANSPORTATION; ROGER MILLAR,
SECRETARY OF TRANSPORTATION FOR
WSDOT, in his official capacity,

Defendants.

No. 2:17-cv-00077-RSM

**PLAINTIFFS' ANSWER AND
AFFIRMATIVE DEFENSES TO
DEFENDANT CITY OF SEATTLE'S
COUNTERCLAIM TO SECOND
AMENDED COMPLAINT**

Plaintiffs Lisa Hooper, Brandie Osborne, Kayla Willis, Reavy Washington, The Episcopal Diocese of Olympia, Trinity Parish of Seattle, and Real Change (“Plaintiffs”) hereby provide the following Answers and Affirmative Defenses to the Counterclaim to the Second Amended Complaint (“Counterclaim”) filed by Defendant City of Seattle (“City”, “Defendant”):

FIRST COUNTERCLAIM—DECLARATORY JUDGMENT

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2 1. The allegations in paragraph 1 constitute legal conclusions and legal argument
3 to which no response is required. To the extent a response is required, Plaintiffs deny the
4 same.

5 2. Plaintiffs admit that the City of Seattle has been faced with substantially
6 increasing numbers of unhoused individuals, many of whom reside on public property.
7 Plaintiffs admit that the Mayor has declared a “state of emergency” with regard to
8 homelessness and that the City has taken certain inadequate steps to address the issue of
9 homelessness within the City. Plaintiffs otherwise deny the allegations in paragraph 2.

10 3. Plaintiffs admit that the City regularly conducts sweeps of unhoused
11 individuals living outside within the City, including those on public property. Plaintiffs
12 otherwise deny the allegations in paragraph 3.

13 4. Plaintiffs admit that the City claims to follow the MDARs when it conducts
14 sweeps within the City. Plaintiffs admit a controversy exists regarding whether the MDARs
15 as written and the City’s practice in conducting sweeps comply with the constitutional
16 requirements of the Fourth and Fourteenth Amendments to the United State Constitution and
17 Sections 3 and 7 of Article I of the Washington State Constitution. Plaintiffs otherwise deny
18 the allegations in paragraph 4.

19 5. Plaintiffs admit that they oppose the City’s ongoing sweeps insofar as they
20 violate the rights enumerated under the Fourth and Fourteenth Amendments of the United
21 States Constitution and Sections 3 and 7 of Article I of the Washington State Constitution.
22 The remainder of the allegations in paragraph 5 constitute legal conclusions and legal
23 argument to which no response is required. To the extent a responses is deemed required,
24 Plaintiffs deny the same.
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AFFIRMATIVE DEFENSES

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2 Having fully answered Defendant's Counterclaim, Plaintiffs allege the following
3 affirmative defenses:

4 1. Plaintiffs incorporate and re-allege all claims set forth in the Amended
5 Complaint as affirmative defenses to Defendant's Counterclaim.

6 2. Defendant's claims are barred in whole or in part because the Counterclaim
7 fails to allege facts sufficient to state a claim upon which relief can be granted against
8 Plaintiffs.

9 3. Defendant's claims are barred under the doctrine of laches, waiver, unclean
10 hands, and/or estoppel.

11 4. Plaintiffs hereby reserve and assert all affirmative defenses available under
12 federal law and state law. Plaintiffs presently have insufficient knowledge or information
13 upon which to form a belief as to whether it may have other, as yet unstated, affirmative
14 defenses available. Therefore, Plaintiffs reserve the right to assert additional affirmative
15 defenses, counterclaims, cross-claims, or third-party actions as additional facts are obtained
16 through future investigation and discovery.

PRAYER FOR RELIEF

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18 WHEREFORE, having fully answered Defendant's Counterclaim, Plaintiffs pray for
19 relief as follows:

- 20 1. Dismissing Defendant's Counterclaim with prejudice;
- 21 2. Awarding Plaintiffs its reasonable attorneys' fees and costs incurred in
22 defending against Defendant's Counterclaim; and
- 23 3. Awarding Plaintiffs such further relief as the Court may deem just and proper.
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1 DATED this 27th day of June, 2017.

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CERTIFICATE OF SERVICE

I hereby certify that on **June 27, 2017**, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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