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 14 CITY OF HAYWARD and
 15 PEOPLE OF THE STATE OF CALIFORNIA

16 SUPERIOR COURT OF CALIFORNIA
 17 COUNTY OF ALAMEDA

18 CITY OF HAYWARD, a municipal
 corporation, and the PEOPLE OF THE
 19 STATE OF CALIFORNIA, by and through
 Michael Lawson, Hayward City Attorney,

20 Plaintiffs/Petitioners,
 21 v.

22 COUNTY OF ALAMEDA, a political
 23 subdivision of the state of California, WOLF
 INVESTMENT CO., LLC, a California
 24 limited liability company, WESTCOAST
 CHILDREN'S CLINIC, a California nonprofit
 25 corporation, and DOES 1 through 100,
 26 inclusive,

27 Defendants/Respondents.

Case No.

**COMPLAINT FOR INJUNCTIVE AND
 DECLARATORY RELIEF: PUBLIC NUISANCE;
 PUBLIC NUISANCE PER SE; RED LIGHT
 ABATEMENT; PETITION FOR WRIT OF
 MANDATE, FAILURE TO PERFORM
 MANDATORY DUTIES**

1
2 Plaintiffs CITY OF HAYWARD and the PEOPLE OF THE STATE OF CALIFORNIA, by and
3 through Michael Lawson, Hayward City Attorney, allege as follows:

4 **INTRODUCTION**

5 1. The COUNTY OF ALAMEDA (“COUNTY”), through the Alameda County Social Services
6 Agency, operates the Alameda County Children’s Assessment Center (“AC”) on Foothill Blvd. in
7 Hayward, California. The AC is a confidential, unlocked receiving center for children, youth and Non-
8 Minor Dependents (“NMD”) entering foster care or changing placements within the county’s foster care
9 system. The COUNTY contracts with WestCoast Children's Clinic (“WESTCOAST”) to manage the day
10 to day operations of the AC and care for the children, youth and NMDs that frequent the AC. The AC
11 serves clients ranging in age from birth to 21 years old. NMDs are previous foster youth that have reached
12 the age of 18 and have chosen to remain in foster care until 21 years of age through Extended Foster Care
13 (“EFC”) also known as AB12. The AC serves between 80 and 150 clients per month.

14 2. The AC is intended to provide a safe and nurturing setting while a new home is found for its clients
15 during their stay in foster care. However, as a consequence of the COUNTY’s willful mismanagement of
16 the AC, including allowing the Alameda County Sheriff’s Office to withdraw deputies from the facility
17 despite a contractual obligation to provide law enforcement and security services, and implementing
18 unreasonable and ineffective operational policies and procedures that do not meet the COUNTY’s legal
19 obligations to safeguard the health and welfare of the children in its charge, juvenile clients face the
20 prospect of assault and sexual exploitation at the hands of other clients, and limited local police resources
21 are burdened with daily calls for service to investigate juvenile clients who have left the AC without
22 permission or who are engaged in criminal conduct.

23 3. The COUNTY has been aware of the vulnerability of juvenile clients at the AC to sexual
24 exploitation since at least 2016, when Bay Area media outlets published news reports regarding juveniles
25 from the AC being ensnared in the local sex trade. The reports allege that pimps and traffickers are aware
26 of the location of the AC in Hayward and peer recruitment into the sex trade was occurring within the AC.

1 COUNTY officials went on the record in those reports acknowledging the situation and stated that they
2 had a plan to address it, including moving the facility.

3 4. As of the date of this complaint, the AC operates from the same location on Foothill Blvd. that it
4 has occupied since 2002 and the situation remains unchanged. The conditions at the AC constitute a public
5 nuisance which the City of Hayward and the People of the State of California have a statutory right to see
6 enjoined and abated.

7 5. Additionally, the Plaintiffs have a clear, present and beneficial right to the performance mandatory
8 duties imposed on the COUNTY by state law since failure to carry out these mandatory duties harms and
9 continues to harm dependent youth in the City of Hayward and the general public, and imposes additional
10 responsibilities on the City of Hayward, specifically the Hayward Police Department, which has been
11 repeatedly called upon to fulfill the duties required of the COUNTY. Moreover, the COUNTY's failure
12 to perform its duty to act in the best interest of the children in its care and the public is a question involving
13 a public right and the Plaintiffs have a public interest in seeing that this important public duty is enforced.

14 15 **JURISDICTION AND VENUE**

16 6. Venue is proper in the County of Alameda under California Code of Civil Procedure § 395,
17 subdivision (a) on the basis that the wrongdoing complained of by plaintiff occurred within the City of
18 Hayward, County of Alameda.

19 **PARTIES**

20 7. The CITY OF HAYWARD ("CITY") is, and at all times mentioned herein was, a municipal
21 corporation organized and existing under the laws of the State of California. It is located within the County
22 of Alameda, State of California.

23 8. Michael Lawson is the City Attorney of the City of Hayward and brings this action in his official
24 capacity as city attorney on behalf of the CITY OF HAYWARD and the PEOPLE OF THE STATE OF
25 CALIFORNIA (collectively "PLAINTIFFS") pursuant to Penal Code §11226 and Code of Civil Procedure
26 §731.

27 9. The COUNTY is a political subdivision of the state of California with primary business address at
28

1 1221 Oak Street, Suite 555, Oakland, CA.

2 10. WOLF INVESTMENT COMPANY, LLC (“WOLF”) is a California limited liability company
3 with address of 25151 Canyon Oaks Ct. Castro Valley, CA. On information and belief, PLAINTIFFS
4 allege that WOLF is the property owner of the building on Foothill Blvd., Hayward, California, in which
5 the Assessment Center is located.

6 12. WESTCOAST is a California nonprofit corporation with primary business address at 3301 E. 12th
7 Street, Suite 259 Oakland, CA.

8 13. The true names and capacities, whether individual, corporate, associate, or otherwise, of the
9 defendants named herein as DOES 1 through 100, inclusive, are unknown to PLAINTIFFS, which
10 therefore sues said defendants by fictitious names pursuant to Code of Civil Procedure § 474.
11 PLAINTIFFS will amend this Complaint to allege the true names or capacities when the same has been
12 ascertained. PLAINTIFFS are informed and believe, and on that basis allege, that each of the DOE
13 defendants is responsible in some manner for the wrongful conduct alleged herein.

14 14. PLAINTIFFS are informed and believe, and on that basis alleges, that at all times herein mentioned,
15 each defendant was the agent and employee of each of the remaining defendants, and in doing the things
16 hereinafter alleged, was acting within the course and scope of such agency and employment.

17
18 **FACTUAL BACKGROUND**

19 PLAINTIFFS are informed and believe, and on that basis allege as follows:

20 15. COUNTY, through the Alameda County Social Services Agency, operates the AC at a building
21 located on Foothill Blvd, Hayward, California.

22 16. WOLF owns the building located on Foothill Blvd., Hayward, California, where the AC is located.

23 17. WESTCOAST is a non-profit organization providing psychological services to vulnerable children,
24 youth and their families, based in Oakland, California. WESTCOAST oversees day-to-day operations of
25 the AC through a contract with the COUNTY.

26 18. Due to the confidential nature of the facility and to protect the safety of the juvenile clients,
27 PLAINTIFFS are not including the exact address of the AC in this Complaint. PLAINTIFFS are informed

1 and believe, and on that basis allege, that all DEFENDANTS are aware of the exact location and address
2 of the AC.

3 19. The Alameda County Sheriff's Office ("ACSO") provided 24/7 on-site security and law
4 enforcement services to the AC through a Memorandum of Understanding with the Alameda County Social
5 Services Agency, until ACSO withdrew deputies from staffing the AC on February 15, 2023.

6 20. In January 2023, Hayward Police Department ("HPD") command staff was informed that
7 beginning in mid-February 2023, ACSO deputies would no longer provide on-site security and law
8 enforcement at the AC.

9 21. On or about January 27, 2023, HPD Captain Dan Olsen met with Mia Buckner-Preston, Michelle
10 Love, and Melanie Chadwick from the COUNTY's Department of Children and Family Services, a
11 component of the Alameda County Social Services Agency. At that meeting, the group discussed ACSO's
12 impending withdrawal from the AC and how it would affect HPD's workload. They also discussed
13 operational policies at the AC including the fact that the AC is an unsecure/unlocked facility and staff have
14 a "hands-off" policy regarding preventing anyone over 10 years of age from walking out of the AC without
15 permission and going "AWOL." It was agreed that AC staff would utilize the California Department of
16 Justice, Missing and Unidentified Persons Section (MUPS) form when reporting AWOL clients to HPD
17 and would provide photographs of AWOL clients to HPD to assist with investigation.

18 22. During the January 27 meeting, COUNTY staff advised Capt. Olsen that a private security firm
19 would be hired to provide on-site security in the absence of ACSO deputies. However, private security
20 personnel would be bound to follow the hands-off policy regarding clients leaving without permission.

21 23. On or about January 31, 2023, COUNTY staff provided Capt. Olsen with a copy of AC's
22 operational policies as administered by WESTCOAST. The policies include, among other things:

- 23 • Clients are not allowed "in and out" privileges while at the AC. There may be
24 exceptions for Non Minor Dependents that are employed.
- 25 • Clients are expected to follow all rules during their stay at the AC.
- 26 • Clients are not to exhibit any acts of aggression towards staff or peers including verbal
27 threats, physical posturing and physical assaults.
- 28 • Prior to calling law enforcement AC staff were to employ de-escalation strategies such
as:
 - Providing clear and direct expectations and engaging clients
 - Separating clients from the children's side of the AC and allowing them to take
space in the atrium or outside the building to provide a "cool down" period

- Utilizing other team members, advocates and clinicians to engage and deescalate clients when they are displaying dangerous, escalating or threatening behaviors
- Consulting with county supervisors, WCC supervisors, and managers to create a plan of action

24. On February 15, 2023, ACSO ceased providing on-site law enforcement and security for the AC. Soon thereafter, HPD began receiving one (1) to three (3) calls for service per day to the AC. The calls ranged from assaults between clients, assaults on AC staff, and AWOL clients.

25. Despite apparent agreement between COUNTY staff and HPD regarding the procedure related to AWOL clients, AC staff were not utilizing the MUPS form, and most of the time photos of AWOL clients were not provided to HPD. Upon inquiry by Capt. Olsen to COUNTY staff, he was informed that client intake was WESTCOAST's responsibility, and they could not be required to follow the previously agreed upon procedures.

26. On or about March 28, 2023, Capt. Olsen met with Joy Baucom, the Chief Executive Officer (CEO) of Diligence Security Group, the security firm that was hired to provide on-site security after withdrawal of the ACSO deputies from the AC. During the meeting Ms. Baucom expressed frustration with staff at the AC. She expressed disbelief at the behavior and conduct that clients were allowed to engage in such as assaults between clients, assaults on AC staff and going AWOL. Most disturbingly, Ms. Baucom advised that Diligence security staff had been witnessing what they believed to be human trafficking and recruiting of 10 to 13-year old girls by other older, predatory AC clients. Ms. Baucom described a specific incident witnessed by Diligence security staff and AC staff of a particular 13-year old client doing the makeup of an 11 year-old female client and telling her what she would have to do when "her brother" came to pick them up. The pair of clients subsequently walked out of the AC and got into a van that was waiting down the street. The allegations of human trafficking were confirmed by a subsequent investigation conducted by HPD.

27. On or about April 7, 2023, HPD Detective Wright was dispatched to the AC regarding a fight that had occurred the prior evening involving three juvenile clients. Based on Det. Wright's investigation, it was determined that a 15-year old female client and a 13 year-old female client had assaulted a 12-year old female client in Oakland when the 12-year old refused to engage in prostitution activities. Det. Wright

1 determined that the three clients left the AC in the afternoon on April 6 and were reported AWOL by AC
2 staff. The AC staff member advised HPD that the clients were likely going to Oakland to engage in
3 prostitution. The victim stated that she went AWOL intending to obtain food and was accompanied by the
4 two older clients. Prior to leaving the AC one of the older clients advised the victim that she had to change
5 her clothes and provided the victim with a pink jacket to wear. While riding the bus to Oakland, one of
6 the older juveniles told the victim that they “wanted to put her on the blade,” meaning they wanted the
7 victim to engage in prostitution when they arrived at their destination. They also stated that the older
8 brother of one of the juveniles would “put [the victim] on the blade.” When they arrived at their destination,
9 the victim refused to engage in prostitution, which prompted the older juveniles to being assaulting her.
10 The victim ran to a nearby gas station and called the police. She was transported by Oakland Police
11 Department back to the AC. Further investigation by HPD revealed that the 13 year-old and 15 year-old
12 clients involved in the investigation used the AC as a recruiting location for juvenile prostitutes and used
13 physical force against clients who refused to participate. Based on the results of the investigation, an arrest
14 warrant was issued for the two clients.

15 28. On or about April 12, 2023, Capt. Olsen spoke with COUNTY staff member Buckner-Preston.
16 Ms. Buckner-Preston acknowledged that the 13 year-old and 15 year-old clients were a source of many
17 issues at the AC but allegedly due to various perceived legal and policy constraints, problem/predatory
18 clients such as these could assault other clients or staff, vandalize the AC, and otherwise break every rule
19 the AC has, and they would be allowed back into the facility to continue their predatory and criminal
20 behavior.

21 29. On or about May 31, 2023 a supervisor from Diligence security contacted Capt. Olsen about a
22 security staff member at the AC who had come into contact with the contents of a plastic bag containing
23 suspected fentanyl brought into the AC by a client. The staff member was later found unresponsive at the
24 AC, requiring a response from Hayward Fire Department.

25 30. From February 15, 2023 through June 7, 2023, HPD has received 321 calls for service to the AC.
26 Approximately 250 calls were related to AWOL clients. HPD has devoted nearly 750 officer-hours
27 investigating AWOL clients.

1 31. On or about June 14, 2023, Capt. Olsen received a call from Ms. Buckner-Preston advising that the
2 13-year old client that was arrested for suspected human trafficking would be returning to the AC after the
3 criminal charges were dropped in juvenile court. Capt. Olsen was also advised that the 15 year-old client
4 who is also involved in human trafficking is currently at the AC and COUNTY staff expects that when the
5 two are reunited they will likely engage in assaultive behavior toward staff and go AWOL together.

6
7 **FIRST CAUSE OF ACTION**

8 **Public Nuisance - Violation of Civil Code §§ 3479-3480;**

9 **(Against COUNTY and WESTCOAST)**

10 32. PLAINTIFFS hereby incorporate by reference paragraphs 1 through 31 of this Complaint, as if
11 fully set forth herein.

12 33. The immunity conferred by § 815 of the Government Code does not bar nuisance actions against
13 public entities to the extent such actions are founded on § 3479 of the Civil Code or other statutory
14 provisions that may be applicable. Nestle v. City of Santa Monica (1972) 6 Cal.3d 920, 937.

15 34. California Civil Code §3479 provides that “[a]nything which is injurious to health . . .
16 or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with
17 the comfortable enjoyment of life or property . . . is a nuisance.”

18 35. California Civil Code §3480 defines a “public nuisance” as “one which affects at the
19 same time an entire community or neighborhood, or any considerable number of persons, although the
20 extent of the annoyance or damage inflicted upon individuals may be unequal.”

21 36. California Code of Civil Procedure §731 authorizes the “city attorney of any . . . city in which the
22 nuisance exists” to bring a “civil action . . . in the name of the people of the State of California to abate a
23 public nuisance,’ and no lapse of time can legalize a public nuisance, amounting to an actual obstruction
24 of public right. Civ. Code, § 3490

25 37. The COUNTY and WESTCOAST have policies and practices with respect to operation of the AC
26 that create a public nuisance.

27 38. PLAINTIFFS are informed and believe, and on that basis allege that the COUNTY and
28

1 WESTCOAST have a pattern and practice of allowing clients as young as 12 years old to freely leave the
2 AC despite knowledge by COUNTY and WESTCOAST staff that the AC is, and has been, used as a
3 location for recruitment of juvenile prostitutes; that some of the young female clients leave the AC to
4 engage in prostitution; that pimps and human traffickers are aware of the location of the AC and the
5 presence of juveniles at the facility, and that AWOL clients are at risk of sexual exploitation upon leaving
6 the AC.

7 39. PLAINTIFFS are informed and believe, and on that basis allege that the COUNTY allowed ACSO
8 to withdraw from the AC, and implements in conjunction with WESTCOAST, a “hands-off” policy at the
9 AC that enables clients to engage in assaultive behavior toward other clients and staff and go AWOL at
10 will, necessitating a law enforcement response by HPD.

11 40. PLAINTIFFS are informed and believe, and on that basis allege that despite a policy that the AC
12 would have specialized advocates available to address sexual exploitation intervention, the AC, with the
13 knowledge of COUNTY and WESTCOAST staff, is a recruiting ground for juvenile prostitutes by other
14 clients within the facility.

15 41. PLAINTIFFS are informed and believe, and on that basis allege that COUNTY and WESTCOAST,
16 despite knowledge of human trafficking activity occurring within the AC, have failed to make the required
17 mandatory reports pursuant to the Child Abuse Neglect and Reporting Act (“CANRA”). Investigations
18 pursuant to CANRA could result in alternate placement of potential victims away from the AC, and to the
19 extent the juvenile clients engaging in predatory behavior are victims of trafficking by adults outside the
20 AC, they too could potentially be re-located to safety.

21 42. PLAINTIFFS have no plain, speedy, or adequate remedy at law and injunctive relief is expressly
22 authorized by Code of Civil Procedure §s 526 and 731.

23 43. A preliminary and permanent injunction is necessary in this case to prevent defendants from further
24 mismanagement of the AC in violation of the law and endangering public health, safety and welfare.

1 **SECOND CAUSE OF ACTION**

2 **Public Nuisance *Per Se* - Hayward Municipal Code §4-15.14(d)-(e), (j)**

3 **(Against COUNTY and WOLF)**

4 44. PLAINTIFFS hereby incorporate by reference paragraphs 1 through 43 of this Complaint, as if
5 fully set forth herein.

6 45. Cities have the police power authority to declare by ordinance what activities or uses constitute a
7 nuisance. (Cal. Const. art. XI, § 7; Gov. Code § 38771.)

8 46. The CITY may make and enforce all regulations and ordinances with respect to its municipal affairs
9 pursuant to Article XI, § 5 of the California Constitution and the CITY Charter.

10 47. The CITY has a duty and interest in protecting the public health, safety, and welfare of residents
11 within the CITY. To that end, the CITY has enacted the Hayward Municipal Code (“ HMC”), which
12 applies to all persons within the CITY and to all entities conducting business within the CITY.

13 48. A violation of a local ordinance declaring an activity or use a public nuisance is a nuisance *per se*.
14 (IT Corp v. County of Imperial (1983) 35 Cal.3d 63; City of Claremont v. Kruse (2009) 177 Cal.App.4th
15 1153, 1166.)

16 49. Chapter 4, Article 15 of the HMC, known as the Social Nuisance Ordinance, authorizes abatement
17 of specified nuisance-creating behaviors.

18 50. Pursuant to HMC § 4-15.05, every owner of real property within the City is required to manage the
19 property in a manner so as not to violate the provisions of the Ordinance and the owner remains liable for
20 violations thereof regardless of any contract or agreement with any third party regarding the property.

21 51. Pursuant to HMC § 4-15.06, every tenant, occupant, lessee or holder of any possessory interest in
22 the real property is required to behave on the property, and supervise any guests on the property, in a
23 manner so as not to violate the provisions of the Ordinance.

24 52. Pursuant to HMC § 4-15.08(a), the City Attorney may bring a civil action for injunctive relief and
25 civil penalties against any owner who violates the Ordinance.

26 53. Pursuant to HMC § 4-15.14, it is a public nuisance for an owner or tenant of any premises in
27 Hayward to permit the premises to be used in such a manner that one or more of certain specified activities
28

1 are found to occur and occur repeatedly, including:

- 2 • The occurrence of prostitution.
- 3 • Violent criminal acts, whether or not a criminal case is filed, including, but not limited to,
4 rape, attempted rape, robbery, battery, homicide, shooting, kidnapping, or arson.
- 5 • The occurrence of any criminal activity, including the setting off of any fireworks, not
6 specified above which threatens the life, health, safety or welfare of the residents of the
7 property, neighbors or the public.

8 54. PLAINTIFFS are informed and believe, and on that basis allege, that WOLF owns the building
9 located on Foothill Blvd., which houses the AC.

10 55. PLAINTIFFS are informed and believe, and on that basis allege, that the COUNTY operates the
11 AC at the building owned by WOLF on Foothill Blvd. pursuant to a lease with WOLF. .

12 56. Since February 15, 2023, HPD has responded to 19 calls for service to the AC involving battery,
13 criminal threats, or other disturbances.

14 57. HPD investigation revealed that predatory clients within the AC use the facility as a location to
15 recruit juvenile prostitutes.

16 58. PLAINTIFFS are informed and believe, and on that basis allege, that COUNTY and WOLF are
17 aware that the AC is, and has been, used as a location for recruitment of juvenile prostitutes; that some of
18 the young female clients leave the AC to engage in prostitution; that pimps and human traffickers are aware
19 of the location of the AC and the presence of juveniles at the facility, and that AWOL clients are at risk of
20 sexual exploitation upon leaving the AC.

21 59. PLAINTIFFS are informed and believe, and on that basis allege, that the COUNTY allowed ACSO
22 to withdraw from the AC, and implements in conjunction with WESTCOAST, a “hands-off” policy at the
23 AC that enables clients to engage in assaultive behavior toward other clients and staff and go AWOL at
24 will, necessitating a law enforcement response by HPD.

25 60. PLAINTIFFS have no plain, speedy, or adequate remedy at law and injunctive relief is expressly
26 authorized by Code of Civil Procedure §§ 526 and 731 and HMC § 4-15.08(a). A preliminary and
27 permanent injunction is necessary in this case to prevent defendants from further mismanagement of the
28

1 AC in violation of the law and in endangerment of public health, safety and welfare.

2
3 **THIRD CAUSE OF ACTION**

4 **Red Light Abatement Law - Violation of Penal Code §§11225-11235**

5 **(Against COUNTY and WOLF)**

6 61. PLAINTIFFS hereby incorporate by reference paragraphs 1 through 60 of this Complaint, as if
7 fully set forth herein.

8 62. Penal Code §11225 *et. seq.*, known as the Red Light Abatement Law, states in pertinent part that
9 “every building or place in or upon which acts of human trafficking are held or occur, is a nuisance which
10 shall be enjoined, abated, and prevented, and for which damages may be recovered, whether it is a public
11 or private nuisance.”

12 63. Penal Code §236.1 states in pertinent part that “[a] person who causes, induces, or persuades, or
13 attempts to cause, induce, or persuade, a person who is a minor at the time of commission of the offense
14 to engage in a commercial sex act, with the intent to effect or maintain a violation of § 266, 266h, 266i,
15 266j, 267, 311.1, 311.2, 311.3, 311.4, 311.5, 311.6, or 518 is guilty of human trafficking.”

16 64. Pursuant to Penal Code § 11226, the city attorney of a city where a nuisance is kept, maintained or
17 is in existence may maintain an action to abate the nuisance and enjoin the person maintaining the nuisance
18 and the owner of the building in which the nuisance exists, from directly or indirectly maintaining or
19 permitting it.

20 65. HPD investigation has revealed that predatory clients within the AC use the facility as a location to
21 recruit juvenile prostitutes. In a specific instance, a 13 year-old female juvenile and a 15 year-old female
22 juvenile accompanied a 12 year-old female juvenile in going AWOL to place her “on the blade” in Oakland
23 to work as a prostitute. When the 12 year-old refused, she was assaulted by the older clients.

24 66. PLAINTIFFS are informed and believe, and on that basis allege, that in another instance, security
25 staff, COUNTY staff and WESTCOAST staff witnessed an older client preparing a younger client to leave
26 the AC and engage in prostitution behavior by doing the makeup of the younger client, grooming her, and
27 telling her what to do “when her brother” arrives.

1 67. PLAINTIFFS are informed and believe, and on that basis allege, that COUNTY and WESTCOAST
2 are aware that the AC is, and has been, used as a location for recruitment of juvenile prostitutes; that some
3 of the young female clients leave the AC to engage in prostitution; that pimps and human traffickers are
4 aware of the location of the AC and the presence of juveniles at the facility, and that AWOL clients are at
5 risk of sexual exploitation upon leaving the AC.

6 68. PLAINTIFFS have no plain, speedy, or adequate remedy at law and injunctive relief is expressly
7 authorized by Code of Civil Procedure §§ 526 and 731.

8 69. A preliminary and permanent injunction is necessary in this case to prevent Defendants from further
9 mismanagement of the AC in violation of the law and in endangerment of public health, safety and welfare.

10 **FOURTH CAUSE OF ACTION**

11 **Failure to Perform Mandatory Duty – Gov. Code §1085, Welfare & Institutions Code**

12 **§§200, 206**

13 **(Against COUNTY)**

14 70. PLAINTIFFS hereby incorporate by reference paragraphs 1 through 69 of the Complaint, as if fully
15 set forth herein.

16 71. State law imposes mandatory duties upon the COUNTY when a minor is taken into protective
17 custody due to abuse or neglect including:

- 18
- 19 • Receiving care, treatment and guidance consistent with the minor’s best interest and the best
20 interest of the public. Welf. & Inst. Code § 202(b).
 - 21 • Being provided a non-secure facility that is segregated from persons within the delinquency
22 jurisdiction of the Court, which provides access to the community with minimal supervision but
23 which may include regulations establishing reasonable hours for residents to come and go from the
24 facility based upon a sensible and fair balance between allowing residents free access to the
25 community and providing the staff with sufficient authority to maintain order, limit unreasonable
26 actions by residents, and to ensure that minors placed in their care do not come and go at all hours
27 of the day and night or absent themselves at will for days at a time; or staff control over ingress
28

1 and egress no greater than that exercised by a prudent parent. Welf. & Inst. Code § 206.

2 72. PLAINTIFFS are informed and believe, and on that basis allege that COUNTY staff charged with
3 administration of the AC had ministerial duties to the children within their protective custody as described
4 herein.

5 73. PLAINTIFFS are informed and believe, and on that basis allege that COUNTY staff have
6 repeatedly failed, and continue to fail, to discharge their mandatory duties to provide the children within
7 their care supervision, protection, and care as required by law, including providing a facility that is
8 segregated from persons falling within the delinquency jurisdiction of the Court.

9 74. PLAINTIFFS are informed and believe, and on that basis allege, that COUNTY is aware that the
10 AC is, and has been, used as a location for recruitment of juvenile prostitutes; that some of the young
11 female clients leave the AC to engage in prostitution; that pimps and human traffickers are aware of the
12 location of the AC and the presence of juveniles at the facility, and that AWOL clients are at risk of sexual
13 exploitation upon leaving the AC.

14 75. PLAINTIFFS are informed and believe, and on that basis allege, that the COUNTY allowed ACSO
15 to withdraw from the AC despite awareness that clients often engage in assaultive behavior towards other
16 clients and staff. The COUNTY compounded the security vacuum created by ACSO's withdrawal by
17 replacing sworn sheriff deputies with unsworn private security staff who have no peace officer powers.

18 76. PLAINTIFFS are informed and believe, and on that basis allege that the COUNTY implements a
19 "hands-off" policy at the AC that enables clients to engage in assaultive behavior toward other clients and
20 staff and allows clients to go AWOL at will, necessitating a law enforcement response by HPD.

21 77. PLAINTIFFS are informed and believe, and on that basis allege that the COUNTY has pursued
22 this course of action despite its statutory duties to act in the best interests of the children in its care and the
23 public, despite its legal duty to exercise the level of supervision that a prudent parent would exercise under
24 the circumstances, and despite statutory authorization to implement reasonable regulations relating to
25 ability of residents to come and go from the facility, to provide staff with sufficient authority to maintain
26 order, to limit unreasonable actions by residents, and ensure that clients do not come and go at all hours of
27 the day and night or absent themselves from the AC for days at a time.

1 78. Mandamus will lie to compel a public official to perform an official act required by law. (Code
2 Civ.Proc., § 1085.) Mandamus may issue to compel an official both to exercise his discretion (if he is
3 required by law to do so) and to exercise it under a proper interpretation of the applicable law. Mandamus
4 will lie to correct an abuse of discretion by an official acting in an administrative capacity. Common Cause
5 v. Board of Supervisors (1989) 49 Cal.3d 432, 442 (internal citations omitted).

6 79. PLAINTIFFS have no plain, speedy, or adequate remedy at law and mandamus relief is necessary
7 to prevent the COUNTY's further mismanagement of the AC in violation of the law and in endangerment
8 of public health, safety and welfare.

9 80. The PLAINTIFFS have a clear, present and beneficial right to the performance of the above
10 mentioned duties, since failure to carry out these mandatory duties harms and continues to harm dependent
11 youth in the City of Hayward and the general public, and imposes additional responsibilities on the City of
12 Hayward, specifically the Hayward Police Department, which has been repeatedly called upon to fulfill
13 the duties required by COUNTY Respondents. Moreover, the COUNTY's failure to perform its duty to
14 act in the best interest of the children in its care and the public is a question involving a public right and
15 the PLAINTIFFS have a public interest in seeing that this important public duty is enforced.

16
17 **FIFTH CAUSE OF ACTION**

18 **Failure to Perform Mandatory Duty - Gov. Code §1085, Penal Code§ 11164, et seq.**

19 **(Against COUNTY and WESTCOAST)**

20 81. PLAINTIFFS hereby incorporate by reference paragraphs 1 through 80 of the Complaint, as if
21 fully set forth herein.

22 82. Mandamus will lie to compel a public official to perform an official act required by law. (Code
23 Civ.Proc., § 1085.) Mandamus may issue to compel an official both to exercise his discretion (if he is
24 required by law to do so) and to exercise it under a proper interpretation of the applicable law. Mandamus
25 will lie to correct an abuse of discretion by an official acting in an administrative capacity. Common Cause
26 v. Board of Supervisors (1989) 49 Cal.3d 432, 442 (internal citations omitted).

27 83. The CANRA (Penal Code 11164, et seq.) imposes duties on mandatory reporters to make reports
28

1 of known or reasonably suspected child abuse or neglect to specified investigating agencies. Pursuant to
2 Penal Code § 11165.1 and 11165.6, child abuse or neglect includes sexual exploitation of a child.

3 84. COUNTY and WESTCOAST staff and employees assigned to the AC are mandated reporters
4 pursuant to Penal Code §§ 11165.7(a)(8), (10), (14), (15), and (34), among others.

5 85. HPD has jurisdiction to investigate reports of child abuse or neglect at the AC.

6 86. PLAINTIFFS are informed and believe, and on that basis allege that on numerous occasions,
7 since at least 2016, employees and staff of COUNTY and WESTCOAST have known of, or observed a
8 child that they know or reasonably suspected has been the victim of child abuse, neglect or sexual
9 exploitation at the AC, and have failed and continue to fail, to make the mandated reports and cross-
10 report to the required investigating agencies, such as HPD, in violation of their mandatory duties under
11 Penal Code §§ 11165.9, 11166(a), 11166(f), 11166(g), 11166(j), 11166(k), and 11166.1.

12 87. PLAINTIFFS have no plain, speedy, or adequate remedy at law and mandamus relief is necessary
13 to prevent the COUNTY's further mismanagement of the AC in violation of the law and in endangerment
14 of public health, safety and welfare.

15 88. The PLAINTIFFS have a clear, present and beneficial right to the performance of the above
16 mentioned duties, since failure to carry out these mandatory duties harms and continues to harm dependent
17 youth in the City of Hayward and the general public, and imposes additional responsibilities on the City of
18 Hayward, specifically the Hayward Police Department, which has been repeatedly called upon to fulfill
19 the duties required by County Respondents. Moreover, the County's failure to perform its duty to act in
20 the best interest of the children in its care and the public is a question involving a public right and the
21 PLAINTIFFS have a public interest in seeing that this important public duty is enforced.

22
23 **SIXTH CAUSE OF ACTION**

24 **Declaratory Relief – Code of Civil Procedure §1060**

25 **(Against COUNTY and WESTCOAST)**

26 89. PLAINTIFFS hereby incorporate by reference paragraphs 1 through 88 of the Complaint, as if
27 fully set forth herein.

1 90. An action for declaratory relief pursuant to Code of Civil Procedure §1060 lies when the parties
2 are in fundamental disagreement over the construction of particular legislation, or they dispute whether a
3 public entity has engaged in conduct or established policies in violation of applicable law. See City of
4 Cotati v. Cashman (2002) 29 Cal.4th 69, 79.

5 91. For reasons stated herein, an actual controversy exists between the PLAINTIFFS and the
6 Defendants, which parties have genuine and opposing interests, which interests are direct and substantial,
7 and of which a judicial determination will be final and conclusive.

8 92. PLAINTIFFS are informed and believe, and on that basis allege that the COUNTY's decision to
9 allow withdrawal of ACSO deputies from the AC, coupled with implementation by COUNTY and
10 WESTCOAST of a "hands-off" policy that enables clients to engage in assaultive behavior toward other
11 clients and staff, and to go AWOL at will and be vulnerable to sexual exploitation outside the facility is a
12 violation of the COUNTY's obligation pursuant to Welfare and Institutions Code § 202 to provide care,
13 treatment and guidance consistent with the best interest of the minors in its charge and the public; a
14 violation of the COUNTY's obligation under Welfare and Institutions Code § 206 to exercise the level of
15 supervision of a prudent parent under the circumstances; and a violation of the COUNTY's obligation to
16 safeguard and guarantee the rights contained in the Foster Youth Bill of Rights (Welfare and Institutions
17 Code §16001.9) including, but not limited to, the right to be free from physical, sexual, emotional or
18 other abuse and exploitation.

19 93. PLAINTIFFS are informed and believe, and on that basis allege, that the COUNTY's "hands-off"
20 policy is also based on an erroneous understanding of the scope of the Community Care License issued to
21 it by the state.

22 94. PLAINTIFFS are informed and believe, and on that basis allege, that on numerous occasions,
23 since at least 2016, employees and staff of COUNTY and WESTCOAST have known of, or observed a
24 child that they know or reasonably suspected has been the victim of child abuse, neglect or sexual
25 exploitation at the Assessment Center, and have failed and continue to fail, to make the mandated reports
26 and cross-report to the required investigating agencies, such as HPD, in violation of their mandatory
27 duties under Penal Code §§ 11165.9, 11166(a), 11166(f), 11166(g), 11166(j), 11166(k), and 11166.1.

PRAYER FOR RELIEF

Wherefore the PLAINTIFFS pray for judgment against Defendants as follows:

1. For judgment in plaintiff's favor and against Defendants.
2. For a preliminary and permanent injunction enjoining Defendants from maintaining a public nuisance at the Alameda County Children's Assessment Center located on Foothill Blvd., Hayward, California, including requiring the Defendants to:
 - a. Re-assign Alameda County Sheriff's Office Deputies to the Assessment Center pursuant to the terms of the Memorandum of Understanding between the Alameda County Social Services Agency and the Alameda County Sheriff's Office;
 - b. Implement operational procedures and policies to the fullest extent allowed by law that would minimize AWOL behavior, assaults among clients and against staff, and sexual exploitation of juveniles at the facility;
 - c. Immediately cease or suspend operation of the AC;
 - d. Relocate the AC to a more suitable location.
3. For issuance of a writ of mandate requiring the COUNTY and WESTCOAST to:
 - a. Discharge its duties pursuant to §§202 and 206 of the Welfare and Institutions Code to provide care, guidance and treatment consistent with the best interest of the minors and the public, to provide a facility segregated from persons within the delinquency jurisdiction of the Court, and to exercise the level of supervision of a prudent parent under the circumstances, including where necessary, exercise of discretion under a proper interpretation of applicable law to implement operational procedures and policies to the fullest extent allowed by law that would minimize AWOL behavior, assaults among clients and against staff, and sexual exploitation of juveniles at the facility.
 - b. Discharge its mandatory reporting duties under Penal Code §§ 11165.9, 11166(a), 11166(f), 11166(g), 11166(j), 11166(k), and 11166.1.
4. For declaratory judgment against Defendants, specifically that the COUNTY's decision to allow withdrawal of ACSO deputies from the AC, coupled with implementation by


COUNTY and WESTCOAST of a “hands-off” policy that enables clients to engage in assaultive behavior toward other clients and staff, and to go AWOL at will and be vulnerable to sexual exploitation outside the facility is a violation of:

- a. The COUNTY’s obligation pursuant to Welfare and Institutions Code §202 to provide care, treatment and guidance consistent with the best interest of the minors in its charge and the public;
 - b. The COUNTY’s obligation under Welfare and Institutions Code §206 to exercise the level of supervision of a prudent parent under the circumstances; and
 - c. A violation of the COUNTY’s obligation to safeguard and guarantee the rights contained in the Foster Youth Bill of Rights (Welfare and Institutions Code §16001.9) including, but not limited to, the right to be free from physical, sexual, emotional or other abuse and exploitation.
5. For an award of reasonable attorney’s fees and costs pursuant to Civil Code §3496.
6. For such other and further relief as the Court deems just and proper.

VERIFICATION EXEMPT

This complaint/writ petition is exempt from verification requirements. See Murrieta Valley Unified School Dist. v. County of Riverside (1991) 228 Cal.App.3d 1212, 1223.

Dated: June 22, 2023

By: 
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