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MISSIONARIES OF CHARITY, BROTHERS

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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

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11 MISSIONARIES OF CHARITY,
BROTHERS,

12 Plaintiff,

13 vs.

14 THE CITY OF LOS ANGELES; and
15 DOES 1 through 10,

16 Defendants.

Case No. CV-01-08511 SVW (JWJx)

DECLARATION OF BROTHER
JOSEPH MCLACHLAN, M.C. IN
SUPPORT OF PLAINTIFF'S TRIAL
BRIEF

Ctrm: 6
Judge: Hon. Stephen V. Wilson

Complaint Filed: September 19, 2001
Trial Date: January 22, 2002

1 **DECLARATION OF BROTHER JOSEPH MCLACHLAN, M.C.**

2 I, Brother Joseph McLachlan, M.C., declare as follows:

3 1. I am a religious brother affiliated with the Missionaries of Charity,
4 Brothers, a party to this action. I have personal knowledge of the facts set forth in
5 this Declaration and, if called as a witness, could and would testify competently to
6 such facts under oath.

7 2. The mission of the Missionaries of Charity, Brothers (the "Brothers") is
8 to fulfill its religious vocation to bring God's love to the poor by promoting the
9 moral, spiritual, social, and physical interests of the poor and destitute and to
10 perform and to contribute to charitable philanthropic work of all kinds. We carry
11 out this mission at the property located at 1345 Alvarado Terrace (the "Property")
12 by providing a place of asylum where homeless young adults in the community can
13 come for five hours a day, three days a week to receive spiritual encouragement as
14 well as material assistance in the form of meals, clothing, showers, and medical
15 attention. The unique character of the Property allows these services to be
16 conducted in a non-threatening, non-institutional, residential environment which we
17 would be unable to duplicate in a commercial setting.

18 3. The Property has been blessed in order to serve as a consecrated
19 location for the celebration of the Mass. A priest is frequently available to hear
20 confessions, and Mass is celebrated at the Property on a periodic basis. The
21 Property contains a chapel where we have received permission to preserve the
22 Blessed Sacrament. A true and correct copy of the letter confirming our ability to
23 preserve the Blessed Sacrament at the Property is attached hereto as Exhibit A.

24 4. The Property is called "Nuestro Hogar," which is Spanish for "Our
25 Home." The Property is open on Mondays, Wednesdays and Fridays from 9:30 a.m.
26 until 2:30 p.m. At all other times, the Property is occupied by a caretaker family
27 who lives on the second floor. Approximately 60 to 85 homeless young adults
28 typically visit the Property during any given day, though the number of people

1 actually at the Property is generally no more than 40 to 50 at any one time. We
2 serve primarily homeless young men between the ages of 18 and 27. Women of any
3 age are permitted, and if a woman is accompanied by a man over the age of 27, he is
4 also permitted to come in. All activities are conducted entirely indoors, on the front
5 veranda, or in the rear yard. No one is allowed to gather in the front of the Property,
6 and everyone is instructed not to remain in the immediate neighborhood after
7 leaving the Property. As befits its religious character, alcohol, drugs, lewd conduct,
8 profanity, and gang activity are strictly prohibited on the Property. Anyone caught
9 engaging in such activity is required to leave and is instructed not to return.

10 5. The hours during which the Property is open were chosen specifically
11 to avoid interfering with activities of surrounding residents. Accordingly, we do not
12 open the doors until 9:30 a.m. because most surrounding residents have left the
13 neighborhood by that time to go to work or school. The doors are closed at 2:30
14 p.m. in order that most visitors to the Property will be gone before surrounding
15 residents return home from work or school.

16 6. Coffee and sweet rolls are served beginning at 9:30 a.m. Lunch is
17 served at 12:00 p.m. Showers are available between 9:30 a.m. and 2:00 p.m. A
18 mobile medical clinic comes to the Property on Mondays and Fridays. Each person
19 can receive 3 shirts, 1 pair of pants, 1 pair of short pants, 1 set of underwear, 1
20 jacket, 1 sweater, and 1 pair of shoes per month. Each week 1 razor is given out,
21 and 1 toothbrush is given out every three months. Free stamps and envelopes are
22 provided, and a telephone is available for use. Laundry facilities are available, and a
23 secure area is provided for the storage of personal belongings. Most importantly,
24 the Property provides a safe, secure, non-threatening, non-institutional, caring,
25 home-like, residential environment where those who are without a home can
26 temporarily find refuge from their lives on the streets and be treated with dignity and
27 love in wholesome and familiar surroundings.

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1 7. We are assisted in our ministry by volunteers who come from parishes
2 throughout the Southern California region. Volunteers donate clothing and bring
3 prepared food to serve for lunch. No cooking is done at the Property. Instead, food
4 that is already prepared and brought to the Property by volunteers is heated and
5 served. Those who eat meals at the Property are seated at tables and have their food
6 served to them by the Brothers and by their volunteer co-workers.

7 8. There is a small parking area in the rear of the Property which is
8 accessible from a public alley and which has space to park approximately six cars.
9 The parking area is available for off-street parking by volunteers and by the mobile
10 medical clinic. At least once a year, we host a reception for volunteers. At such
11 times, volunteers have been able to park in the parking lot at the Laborers' Union
12 Hall located on Pico Avenue approximately two blocks away from the Property.
13 Access to the Property for people with disabilities is available at grade from the
14 parking area at the rear of the Property.

15 9. A number of social service providers are located in the neighborhood
16 surrounding the Property. El Rescate, which provides legal services to indigent
17 immigrants, is located across the park from the Property to the east. The Union
18 Rescue Mission until recently owned three properties on Alvarado Terrace. I am
19 informed and believe that Union Rescue Mission has sold two of its properties and
20 still owns one of its properties on Alvarado Terrace. Angelica Lutheran Church is
21 located on Burlington Avenue, one block away from the Property to the east, and a
22 Seventh Day Adventist church is located at the end of the block to the west at the
23 intersection of Alvarado Street and Alvarado Terrace. Both churches have large
24 parking lots that are generally almost empty on weekdays.

25 10. If the City were to require us to cease conducting our ministry at the
26 Property, it would be necessary, in order to continue our ministry, to relocate to a
27 suitable alternative property which has the necessary residential character in a
28 permissible zone. Even if we were able to locate such an alternative property, we

1 would be required at a minimum to (1) sell the Property in order to purchase such
2 alternative property, (2) cease conducting our ministry at the Property for whatever
3 period of time is necessary to relocate and recommence the ministry at the
4 alternative property, (3) pay the costs of taxes, appraisals, insurance, recording fees
5 and other costs associated with the sale of the Property and the purchase of the
6 alternative property, (4) pay whatever costs are necessary to move existing fixtures
7 from the Property to the alternative property, and (5) pay whatever costs are
8 necessary to renovate the alternative property to make it suitable for the conduct of
9 our ministry. Such a course of action would interfere with our ability to conduct our
10 ministry because it could deprive us of substantial funds that we could otherwise use
11 to minister to the poor, and it would interrupt our ongoing ability to conduct our
12 ministry for whatever period of time that the transition from the Property to the
13 alternative location would involve. When we relocated our ministry to the Property
14 from its previous location in 1992, some of the visitors who came on a regular basis
15 to our previous location never came to the Property after we moved. We are afraid
16 that if we are required to relocate, some of the visitors to whom we now provide
17 services will not know about the new location and will therefore be deprived of our
18 services. If we are not able to locate a suitable alternative property which has the
19 necessary residential character in a permissible zone, we will be required to
20 discontinue the type of ministry that we currently conduct at the Property altogether.

21 Executed on January __, 2002, at Los Angeles, California.

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

23
24
25 _____
26 Brother Joseph McLachlan, M.C.
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1 **PROOF OF SERVICE BY PERSONAL SERVICE**

2
3 STATE OF CALIFORNIA)
4 COUNTY OF LOS ANGELES) ss.:

5
6 I am employed in the County of Los Angeles, State of California. I am over
7 the age of 18 and not a party to the within action. My business address is 201 South
8 Figueroa Street, Suite 285, Los Angeles, CA 90012.

9 On January` 14, 2002, I served the within:

10 DECLARATION OF BROTHER JOSEPH MCLACHLAN, M.C. IN
11 SUPPORT OF PLAINTIFF'S

12 by placing a true copy thereof enclosed in sealed envelope(s) addressed as
13 stated below.

14 Tayo Popoola, Esq.
15 Los Angeles City Attorney's Office
16 City Hall East
17 Room 1800
18 200 N. Main Street
19 Los Angeles, CA 90012

20 I caused each such envelope to be delivered by hand to the offices of each
21 interested party.

22 Executed on January` 14, 2002, at Los Angeles, California.

23 I declare under penalty of perjury that I am employed in the office of a
24 member of the bar of this Court at whose direction the service was made and that the
25 foregoing is true and correct.

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