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ORANGE COUNTY BUSINESS COUNCIL

7  
8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION**

10  
11 CITY OF COSTA MESA, AND  
KATRINA FOLEY,

12  
13 Plaintiffs,

14 v.

15  
16 UNITED STATES OF AMERICA, THE  
DEPARTMENT OF HEALTH AND  
17 HUMAN SERVICES, THE UNITED  
STATES DEPARTMENT OF DEFENSE,  
18 THE UNITED STATES AIR FORCE,  
THE CENTERS FOR DISEASE  
19 CONTROL AND PREVENTION, THE  
STATE OF CALIFORNIA, FAIRVIEW  
20 DEVELOPMENTAL CENTER  
(FAIRVIEW), THE CALIFORNIA  
21 GOVERNOR'S OFFICE OF  
EMERGENCY SERVICES, and THE  
22 CALIFORNIA DEPARTMENT OF  
GENERAL SERVICES,

23  
24 Defendants.

Case No. 8:20-CV-368-JLS-JDE

**AMICUS BRIEF OF THE ORANGE  
COUNTY BUSINESS COUNCIL IN  
SUPPORT OF PLAINTIFFS CITY OF  
COSTA MESA AND KATRINA  
FOLEY**

Judge: The Honorable Josephine L. Staton

1 **INTRODUCTION**

2 Orange County Business Council (“OCBC”) submits this amicus brief in support  
3 of Plaintiffs City of Costa Mesa, California, and Costa Mesa Mayor Katrina Foley.  
4 OCBC is the premier business association in Orange County, California. Through this  
5 amicus brief, OCBC endeavors to present the Orange County business community’s  
6 perspective on the issue at hand.

7 **DISCUSSION**

8 OCBC is the leading voice of business in Orange County, California. OCBC is  
9 comprised of the most influential global businesses and organizations in the region,  
10 working to assure effective investment in infrastructure, an advanced education system  
11 producing skilled workers for a 21<sup>st</sup> century global economy, growth of venture capital  
12 and high tech companies, and increased housing opportunities for the workforce. OCBC  
13 membership is comprised of the world’s largest global corporate leaders as well as  
14 representation from local government and academia. For more than 125 years, OCBC  
15 and its predecessor organizations have promoted economic development and served as  
16 the voice of business in America’s sixth largest county. The organization works to  
17 enhance Orange County’s economic development and prosperity to preserve a high  
18 quality of life. *See* <http://www.ocbc.org>.

19 As the CDC has noted, “[t]he potential public health threat posed by COVID-19 is  
20 high, both globally and to the United States.”<sup>1</sup> OCBC submits this amicus brief to  
21 express its views, from the business perspective, about the planned move of coronavirus  
22 patients and evacuees to the Fairview Developmental Center in Costa Mesa.

23 OCBC recognizes the critical health situation presented by the new coronavirus,  
24 and the devastating effects that it can have on persons afflicted and their families. OCBC  
25 unequivocally supports our federal and state governmental institutions’ efforts to combat  
26 coronavirus, and assist and cure persons afflicted and exposed, as well as to prevent the  
27 virus from causing a health pandemic within the United States.

28 <sup>1</sup> <https://www.cdc.gov/coronavirus/2019-nCoV/summary.html#risk-assessment>

1 At the same time, OCBC expresses concern about the potential and substantial  
2 negative impacts that making Fairview a treatment location could have on Orange  
3 County, unless an informed decision is made after a thorough study of alternative  
4 locations, consultation with local community and business leaders, consideration of the  
5 overall effects on Orange County, rehabilitation of the location, and the development of  
6 an adequate health, treatment and management plan for the location and patients.

7 We begin by highlighting these important and well-known facts about Orange  
8 County and its population and business community. Orange County’s population of 3.2  
9 million people makes it the sixth largest populated area in the nation, with more residents  
10 than twenty-one states. Notably, Orange County consists of 8% of the California  
11 population but only 0.5% of its land area. As a result, Orange County is a small, compact  
12 and second in density (4,033 persons per square mile) only to San Francisco  
13 County. Orange County is denser in population than Los Angeles County by almost  
14 double (4,033 vs. 2,527 persons per square mile). In turn, the population density in the  
15 City of Costa Mesa, with 7,004 persons per square mile, is almost double that of Orange  
16 County.

17 Another relevant factor is the high degree of daily mobility between Orange  
18 County and the surrounding counties. For example, Orange County is a net importer of  
19 workers from all surrounding counties—more workers commute from Los Angeles to  
20 work in Orange County than the other way around. Although Orange County was once  
21 considered to be a “bedroom” community, that is no longer the case. 657,000 people  
22 travel into Orange County for work each day while 490,000 residents work outside of  
23 Orange County. Orange County is a highly complex metropolitan, diverse county also  
24 with the fourth largest international population in the region.

25 These characteristics of Orange County raise serious concerns about the selection  
26 of the Fairview Developmental Center in Costa Mesa as a coronavirus treatment or  
27 housing center. Unless the trend in the spread of the coronavirus is dramatically reversed  
28

1 in short order, which is unlikely, the anticipated patients and evacuees may well be the  
2 beginning of a move that could turn Costa Mesa, as city officials warn, into ground zero.

3 First, creating a coronavirus treatment or housing facility in Orange County does  
4 not seem to make sense, because Orange County, including Costa Mesa, are high-density  
5 population zones. There are plenty of alternative low-density locations throughout the  
6 United States. It seems unlikely that this large group of coronavirus patients would have  
7 been moved, *en masse*, to San Francisco, Los Angeles, Chicago, New York, Washington  
8 D.C. or another cosmopolitan center precisely based on concerns linked to population  
9 density – Orange County is no different.

10 The manner in which the coronavirus apparently spreads counsels against locating  
11 the treatment center in a high-density population zone. According to the CDC’s website,  
12 “virus is thought to spread mainly from person-to-person.”<sup>2</sup> Indeed, the CDC concedes  
13 it can be transmitted “[b]etween people who are in close contact with one another (within  
14 about 6 feet).” *Id.* “It [also] may be possible that a person can get COVID-19 by touching  
15 a surface or object that has the virus on it and then touching their own mouth, nose, or  
16 possibly their eyes, but this is not thought to be the main way the virus spreads.” *Id.* It  
17 also must be considered that “[p]eople are thought to be most contagious when they are  
18 most symptomatic (the sickest).” *Id.* “Some spread [also] might be possible before  
19 people show symptoms; there have been reports of this with this new coronavirus, but  
20 this is not thought to be the main way the virus spreads.” *Id.* Even at this infancy stage  
21 in the study of the new coronavirus and its transmission, it is clear that the virus is easily  
22 transmitted (according to the CDC, “[t]he virus that causes COVID-19 seems to be  
23 spreading easily and sustainably,” *id.*), which would make high-density population zones  
24 a bad choice for treatment and housing centers.

25 CDC officials have indicated that patients infected with the coronavirus and  
26 evacuees were taken to Travis Air Force Base near Sacramento, California. A number  
27 of questions remain unanswered. For example, should patients be contained at one

28 <sup>2</sup> <https://www.cdc.gov/coronavirus/2019-ncov/about/transmission.html>

1 location, as opposed to spreading them and increasing the chances of a systematic spread  
2 of the virus within the United States? Why are military bases and military hospitals, like  
3 Travis Air Force Base or Lackland Air Force Base Hospital in San Antonio, Texas, which  
4 are housing coronavirus evacuees, not better choices than civilian residential locations?  
5 Why are these patients being moved out of a military installation to a residential location  
6 400 miles south? Is the Fairview Developmental Center, which was used to treat patients  
7 with mental health issues and not infectious diseases, and is in the process of being closed  
8 by the state, a better location than full service military hospitals or military installations?  
9 Transparency and dialogue with local public and business leaders is critical.

10 Of concern to the business community is that Fairview does not appear suitable to  
11 house patients with the disease and could pose a risk to public health, yet federal and state  
12 officials would move coronavirus patients there a week after the CDC visited Fairview  
13 for the first time. In court filings, government attorneys stated the facility had been  
14 inspected by the CDC last Monday morning and determined it to be a suitable location.  
15 Federal authorities informed the city that patients could have been transferred as early as  
16 this Sunday, according to court documents. Obviously, more than a cursory inspection  
17 and hastily arrived-at conclusion is required. Federal, state and local officials must  
18 cooperate and jointly develop a thorough health and management plan for the location  
19 and its patients, assuming that Costa Mesa is the most preferable location, which does  
20 not appear to be the case. As Costa Mesa has noted, Fairview is not equipped to handle  
21 coronavirus patients or evacuees. It was recently deemed inappropriate for use even as  
22 an emergency shelter by the California State Department of General Services without  
23 two years' and \$25 million worth of work – this apparent lack of readiness is especially  
24 concerning given the uncertainties about coronavirus transmissions. In other words,  
25 federal and state authorities are planning of moving coronavirus patients and evacuees to  
26 what will be essentially a “makeshift” facility located in an urban setting. This seems  
27 totally unreasonable given the current lack of knowledge about the coronavirus.  
28 According to the CDC, “COVID-19 is an emerging disease and there is more to learn

1 about its transmissibility, severity, and other features and what will happen in the United  
2 States.” *Id.*

3 The decision to move these coronavirus patients to a highly dense population zone  
4 also appears to be contrary to the CDC’s specific recommendation as to how local  
5 communities can protect themselves from the spread of such an easily transmittable virus.  
6 Instead, in terms of community planning, the CDC specifically recommends “social  
7 distancing”:

8 “*Social distancing* and closures [sic.] interventions, while difficult to plan and  
9 carry out, *can be the most effective ways* that a community can protect itself from  
10 a pandemic’s negative impact.”

11 (Emphasis added).<sup>3</sup> It would seem that placing coronavirus patients and evacuees in a  
12 high-density population zone like Costa Mesa is not consistent with the CDC’s “social  
13 distancing” recommendation.

14 Second, the lack of adequate prior consultation with local community and business  
15 leaders is of great concern. As Costa Mesa officials have noted, they were not notified  
16 in advance of the plans. The Orange County business community also was not consulted  
17 about the plans. OCBC calls for a fair and transparent process.

18 In court papers, attorneys for the federal government responded to Costa Mesa’s  
19 request for judicial relief by calling it an “ill-informed and legally baseless application”  
20 that “endangers the safety and well-being of the American people.” *See* ECF No. 13 at  
21 1. Federal government attorneys asserted that the actions of Costa Mesa officials would  
22 aid the spread of the virus: “Plaintiffs’ efforts have only increased the likelihood of the  
23 threats to public health that they seek to avoid.” *Id.* Federal government attorneys also  
24 assert that the Court should “lift the TRO before further harm is done.” *Id.* These  
25 comments are misguided and disingenuous. Costa Mesa is expressing valid concerns,  
26 supported by the CDC’s own warnings published on the CDC website, which should be  
27 addressed by federal and state officials not backhandedly dismissed. Orange County

28 <sup>3</sup> <https://www.cdc.gov/nonpharmaceutical-interventions/community/index.html>

1 residents also are part of “the American people” and their health and safety is as  
2 compelling as that of other Americans elsewhere in this country.

3 In their court filings, the federal government attorneys also seek to minimize  
4 concern over the coronavirus transmission risk presented by noting that “[t]here is an  
5 urgent need to house these *asymptomatic* evacuees.” See ECF No. 13 at 3 (emphasis  
6 added). To the contrary, and as cited above, the CDC has indicated that, in the case of  
7 the new coronavirus, “spread might be possible before people show symptoms.” Thus,  
8 the asymptomatic state of certain evacuees is not a determinative factor.

9 Similarly, the federal government attorneys suggest that Costa Mesa is allegedly  
10 interfering with the federal government’s ability to “implement these *effective, time-*  
11 *tested* measures.” See ECF No. 13 at 1 (emphasis added). To the contrary, the CDC  
12 website warns that “[t]his is an emerging, rapidly evolving situation ....”<sup>4</sup> As also cited  
13 above, the CDC has observed that the new coronavirus “is an emerging disease and there  
14 is more to learn about its transmissibility, severity, and other features and what will  
15 happen in the United States.” *Id.* There are no “effective, time-tested measures” when  
16 it comes to the new coronavirus.

17 Further, the CDC recognizes that potential pandemic planning requires full  
18 cooperation of federal and state authorities with the local communities. The CDC’s  
19 “recommendations” for dealing with potential pandemics include “connecting, planning  
20 and sharing” with local communities. Federal and state officials must endeavor to  
21 “collaborate” with local “professionals, leaders, and administrators in different settings  
22 ....”<sup>5</sup> When a new “virus emerges that can rapidly spread from person to person  
23 worldwide,” such as the coronavirus, it “makes planning and working together even more  
24 important for a community.” *Id.* Unfortunately, such efforts by federal and state officials  
25 seem to be lacking in the present circumstances.

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28 <sup>4</sup> <https://www.cdc.gov/coronavirus/2019-ncov/summary.html>

<sup>5</sup> See Footnote 3.

1 For example, OCBC invites federal and state officials to accept the recent overtures  
2 of Orange County Health Officer Dr. Nichole Quick, who has indicated that she had  
3 hoped “we can engage in a more thoughtful and robust collaboration with our colleagues  
4 at the state and federal level to ensure the health and safety of Orange County residents  
5 is protected and next steps are clearly communicated to the public.”<sup>6</sup>

6 Instead, and even after this Court entered the subject restraining order, the CDC is  
7 sending mixed signals through the press. As reported on February 26, 2020 by *The*  
8 *Sacramento Bee*, “[t]alks to open Fairview Developmental Center, a now-shuttered  
9 mental health facility in Costa Mesa, were only ‘preparatory,’ said Scott Pauley, a U.S.  
10 Centers for Disease Control and Prevention spokesman.”<sup>7</sup> “Pauley on Tuesday said  
11 people housed at Travis who haven’t been in close contact with those infected with  
12 COVID-19 will remain at the base for the remainder of their quarantine. For many, the  
13 14-day period ends March 2, he said.” *Id.* “‘There is no need for them to move’ from  
14 the base, Pauley said.” *Id.* Instead of talking through the media, there must be clear,  
15 consistent direct communications between federal and state officials, on the one hand,  
16 and local authorities and the business community, on the other hand.

17 Third, the overall negative impacts on Orange County could be substantial and  
18 long lasting, in a variety of ways, which are additional compelling considerations in  
19 deciding whether to utilize Fairview for these purposes.

20 Orange County is one of the most desirable places in the world to live, work, raise  
21 families and enjoy an excellent quality of life. The spread of the coronavirus could have  
22 devastating consequences on the quality of life in Orange County. Comments by the  
23 CDC about the potential negative impacts of the spread of the coronavirus on  
24 communities are alarming:

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26  
27 <sup>6</sup> [https://www.latimes.com/california/story/2020-02-21/costa-mesa-coronavirus-  
fairview-developmental-center](https://www.latimes.com/california/story/2020-02-21/costa-mesa-coronavirus-fairview-developmental-center)

28 <sup>7</sup> <https://www.sacbee.com/news/california/article240663166.html>



1 “It’s also *likely that person-to-person spread will continue to occur, including in*  
2 *the United States.* Widespread transmission of COVID-19 in the United States  
3 would translate into large numbers of people needing medical care at the same  
4 time. Schools, childcare centers, workplaces, and other places for mass gatherings  
5 may experience more absenteeism. Public health and healthcare systems may  
6 become overloaded, with elevated rates of hospitalizations and deaths. Other  
7 critical infrastructure, such as law enforcement, emergency medical services, and  
8 transportation industry may also be affected. Health care providers and hospitals  
9 may be overwhelmed. *At this time, there is no vaccine to protect against COVID-*  
10 *19 and no medications approved to treat it.”*

11 (Emphasis added).<sup>8</sup>

12 Notably, the Fairview Developmental Center “sits next to several residential  
13 neighborhoods.” “It is certainly not an isolated location,” as Costa Mesa Mayor Katrina  
14 Foley told *The Los Angeles Times*.<sup>9</sup>

15 While, at this time, the overall risk of coronavirus infection is low in the United  
16 States, that would change in Orange County, because the CDC has noted that “healthcare  
17 workers caring for patients with COVID-19 and other close contacts of persons with  
18 COVID-19” “have an increased risk of infection,” and so do Orange County residents  
19 coming into contact with those healthcare workers.<sup>10</sup>

20 Further, creating a coronavirus treatment or housing facility in Costa Mesa could  
21 have substantial and negative impacts on Orange County businesses and the local  
22 economy. For example, tourism and visitor-serving industries are critical to the local  
23 economy, and are continuing to grow in Orange County. The hospitality and tourism  
24 industry employs over 220,000 people in Orange County. Tourism visitors in Orange  
25 County are over 50 million per year and climbing (up 1.6%), with annual spending of

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27 <sup>8</sup> See Footnote 1.

28 <sup>9</sup> See Footnote 6.

<sup>10</sup> See Footnote 4.

1 \$13 billion per year (up 4%). John Wayne Airport (“SNA”) is one of the nation’s busiest  
2 airports with 10.6 million passengers in 2019.

3 At a minimum, and considering coronavirus containment, one must ask: is it the  
4 best choice to move a large group of patients to a county that has over 50 million tourism  
5 visitors a year, and an airport with over 10 million passengers a year, factors which could  
6 significantly facilitate the spread of the coronavirus? As noted, Orange County is also  
7 highly connected to its surrounding counties potentially putting 9 million workers and 19  
8 million Southern California residents at risk. Is Fairview really the best solution?  
9 Relocating coronavirus patients to the most densely populated location in all of Southern  
10 California, and a heavily marketed visitor-serving and tourism destination, particularly  
11 without any apparent plan for containment, treatment and socialization, does not seem  
12 reasonable.

13 A coronavirus outbreak in Orange County could devastate the tourism industry and  
14 local economy, and most importantly local health and welfare. For example, reaction  
15 and fear among prospective tourists and visitors to the placement of a coronavirus  
16 treatment or housing facility in Costa Mesa could significantly and negatively affect the  
17 tourism and visitors industry in Orange County. According to the Anaheim Chamber of  
18 Commerce, two major conventions have already been cancelled at the Anaheim  
19 Convention Center. Such fears among prospective tourists and visitors, whether founded  
20 or unfounded, can result from the legitimate warnings about the ease of spread of  
21 coronavirus articulated by the CDC, and can be exacerbated by misinformation that  
22 continues to circulate in the news and social media. Such fears can readily expand  
23 beyond tourists and visitors, and also affect businesses’ ability to attract workers to the  
24 region, and negatively affect Orange County residents in a variety of other ways. These  
25 various factors aggravate the economic and business risks of creating a coronavirus  
26 treatment center in a location like Orange County.

27 As a result of such public fears, real property values near the facility also could  
28 plummet affecting residents and businesses, and local businesses could be crippled.

1 Located across the street from Fairview are Home Depot, Kmart, Albertsons, Vons and  
2 99 Cents Only Stores, as well as the Orange Coast Community College Swap Meet,  
3 among other businesses, making this a high-traffic location. The risks of coronavirus  
4 transmission could be publicly perceived as great and affecting vulnerable populations,  
5 given that Orange Coast College, Vanguard University, Costa Mesa High School,  
6 Estancia High School, Wilson Elementary School, the Jack R. Hammett Sports Complex  
7 and the Lebard Stadium are all located nearby to Fairview. With the CDC warning that  
8 the coronavirus can be transmitted between individuals standing as little as just six feet  
9 apart, one must question the wisdom of creating a location to house persons exposed to  
10 the coronavirus in close proximity to schools, residential communities and active  
11 commercial centers. The CDC has specifically instructed that, as a result of the  
12 coronavirus, “childcare centers, workplaces, and other places for mass gatherings” are  
13 likely to be impacted.<sup>11</sup> These potential venues for readily spreading the coronavirus  
14 compel against transferring patients and evacuees to Fairview and must be taken into  
15 consideration. Even if Fairview were ultimately considered to be a safe and adequate  
16 location, a socialization plan requiring community involvement also is critical.

17 For example, in *Allen v. National Institutes of Health*, 974 F.Supp.2d 18 (D.Mass.  
18 2013), local residents and an environmental group brought an action alleging that the  
19 NIH had failed to comply with the National Environmental Policy Act, 42 U.S.C. §§  
20 4321–4370m-12, (“NEPA”) in deciding to fund the proposed National Emerging  
21 Infectious Diseases Laboratories at a urban university medical center. The court allowed  
22 the project to move forward, but only because the environmental impact statement had  
23 demonstrated a need to build the subject bio-safety laboratory space, had adequately  
24 analyzed the risks of malevolent acts at all potential locations, had adequately analyzed  
25 effects of laboratories on populations in surrounding neighborhoods, and had adequately  
26 considered the environmental consequences of the proposed project, and because the NIH  
27 had obtained sufficiently meaningful input from the public. *Id.*, generally. Notably, the

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28 <sup>11</sup> See Footnote 4.

1 thirteen pathogens selected to be studied at the laboratory included the SARS-associated  
2 coronavirus. *Id.* at 26.

3 Although focused on the requirements of NEPA, the *Allen* court’s decision is  
4 instructive in that it underscores the need for, and benefits of, community participation:

5 “Plaintiffs’ claim fails because these actions demonstrate that the NIH has met its  
6 public participation requirements under NEPA. *By asking important and difficult*  
7 *questions about the BioLab, especially with regards to the risks associated with*  
8 *constructing a BSL–4 laboratory in an urban area, plaintiffs and other members*  
9 *of the public played an integral role in ensuring the NIH adhered to NEPA’s*  
10 *requirements of considering alternatives and risks to the public, and adequately*  
11 *explaining its decision. Appendix O of the [Federal Supplementary Risk*  
12 *Assessment]—682 pages of comments received from the public along with the*  
13 *NIH’s responses—in particular demonstrates the importance of community*  
14 *engagement, and the NIH’s response to public concerns.”*

15 974 F.Supp.2d at 49 (emphasis added).

16 Here, the federal and state agencies involved do not appear to have engaged in any  
17 of these studies or community consultations in connection with their consideration of the  
18 Fairview location. They are also making inconsistent statements that reflect a lack of  
19 direction, preparation and thoughtful consideration. As cited above, although federal  
20 government lawyers represented an “urgent need to house these asymptomatic evacuees”  
21 in their filings before this Court, only days later, Scott Pauley, a CDC spokesman, told  
22 *The Sacramento Bee* that “[t]here is no need for them to move from the base.” The risks  
23 presented by the new coronavirus are too serious to be subjected to such apparently  
24 haphazard decision-making.

25 On February 26, 2020, the CDC also held a tele-briefing update on the coronavirus.  
26 Dr. Nancy Messonnier, Director of the CDC’s National Center for Immunization and  
27 Respiratory Diseases, stated:  
28

1 “Ultimately, we expect we will see *community spread* in this country. It’s not so  
2 much a question of if this will happen anymore but rather more a question of  
3 exactly *when this will happen* and *how many people in this country will have severe*  
4 *illness*. We will maintain for as long as practical a dual approach where we  
5 continue measures to contain this disease but also employ strategies to minimize  
6 *the impact on our communities.*”<sup>12</sup>

7 (Emphasis added).

8 Dr. Messonnier further indicated that:

9 “What these interventions look like *at the community level will vary depending on*  
10 *local conditions*. What is appropriate for one community seeing local transmission  
11 won’t necessarily be appropriate for a community where no local transmission has  
12 occurred.”

13 *Id.* (emphasis added).

14 Therefore, the CDC itself would have to recognize that Costa Mesa’s and Orange  
15 County’s distinguishing characteristic as being high-density population zones would be  
16 a critical factor against selecting the Fairview urban location. Indeed, Dr. Messonnier  
17 specifically reaffirmed the importance of implementing “*distancing measures* designed  
18 to keep people who are sick *away from others.*” *Id.* (emphasis added). The plain meaning  
19 of the phrase “away from others” is not to put them *across the street* from schools,  
20 colleges, residential areas and business centers.

21 Dr. Messonnier also noted that “the maximum benefit occurs when the elements  
22 [of the recommended prevention measures] are layered upon each other.” *Id.*  
23 Conversely, then, layering the high-density population urban setting of Costa Mesa and  
24 Orange County with all the other characteristics highlighted in this amicus brief, the  
25 Fairview location is not a reasonable option for the treatment or housing of coronavirus  
26 patients and evacuees, according to the CDC’s own recommendations. Taking the  
27 foregoing into account, it was wrong and cavalier for the federal government attorneys

28 <sup>12</sup> <https://www.cdc.gov/media/releases/2020/t0225-cdc-telebriefing-covid-19.html>

1 to march into this Court and accuse the well-intentioned Costa Mesa officials of  
2 “increasing the likelihood of the threats to public health.” Rather, it is the federal and  
3 state agencies’ decision to use Fairview for these purposes that increases the likelihood  
4 of the threats to public health.

5 Finally, OCBC notes that no party to this action or their counsel has authored any  
6 part of this amicus brief or contributed money for the purposes of funding the preparation  
7 or submittal of this amicus brief. OCBC has retained and paid its undersigned counsel  
8 for the preparation and submittal of this amicus brief, and this amicus brief expresses the  
9 views of OCBC.

10 **CONCLUSION**

11 In summary, based on the characteristics of the high-density urban location of the  
12 Fairview Developmental Center and, more generally, of Orange County, and the  
13 foregoing observations including the CDC’s own recommendations about the  
14 coronavirus and pandemic urban planning, OCBC submits that it does not appear that  
15 Fairview is a safe and adequate location for the treatment or housing of coronavirus  
16 patients or evacuees. Further, it appears that it is not necessary to bring persons afflicted  
17 by or exposed to the coronavirus to Costa Mesa, because they can remain at or be moved  
18 to military hospitals or installations in California, Colorado and Texas where they are  
19 currently being safely treated or housed or to low-density population locations around  
20 the country.

21 OCBC submits that, at a minimum, there must be a fair and transparent process.  
22 This process must include informed consultation with local officials, communities,  
23 business leaders and educators, and thorough consideration of alternative locations for  
24 creating the coronavirus treatment and housing facility, of the broad range of potential  
25 impacts on the health, safety and welfare of Orange County residents, businesses and  
26 visitors, and of the risk of exacerbating the pandemic likelihood by creating a treatment  
27 or housing location in a high-density population urban location, with high mobility  
28

1 resulting from the tourism industry, an international population, and Orange County's  
2 business connectivity to surrounding counties and the world.

3 Finally, OCBC submits that, even if Fairview is ultimately determined to be the  
4 best location in California, and in the United States, for the treatment of coronavirus  
5 patients or the housing of coronavirus evacuees, which would seem to be a questionable  
6 determination given the CDC's own recommendations, a thorough plan for coronavirus  
7 transmission prevention, containment, treatment, education and socialization must be  
8 developed through the cooperation of federal, state and local authorities, and in  
9 consultation with the local community, so that Orange County's quality of life is  
10 maintained, its vibrant communities and economy continue to thrive, and the health,  
11 safety and welfare of Orange County residents and visitors are protected from this  
12 potentially deadly virus.

13 Respectfully submitted,

14 Dated: February 27, 2020.

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15  
16 By: /s/ Juan Basombrio

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**CERTIFICATE OF SERVICE**

All Case Participants are registered for the USDC CM/ECF System

*City of Costa Mesa, et al. v. United States of America, et al.*

*Case No: 8:20-CV-368-JLS-JDE*

**AMICUS BRIEF OF THE ORANGE COUNTY BUSINESS COUNCIL IN  
SUPPORT OF PLAINTIFFS CITY OF COSTA MESA AND KATRINA FOLEY**

I hereby certify that on February 27, 2020, I electronically filed the foregoing with the Clerk of the Court for the United States District Court for the Central District by using the appellate CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

Dated: February 27, 2020.

DORSEY & WHITNEY LLP

By:  /s/ Siena Caruso