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10 School District

11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION**

13 CITY OF COSTA MESA AND
14 KATRINA FOLEY

15 Plaintiffs,

16 vs.

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

Defendants.

) Case No. 8:20-cv-368

)
) **OCEAN VIEW SCHOOL DISTRICT'S**
) **AMICUS CURIAE BRIEF IN**
) **SUPPORT OF PLAINTIFFS'**
) **MOTION FOR PRELIMINARY**
) **INJUNCTION**

) Date: February 24, 2020

) Time: 2:00 p.m.

) Ctrm: 10-A

) Judge: Hon. Josephine L. Staton

1 **I. AMICUS CURIAE BRIEF**

2 Without any advance notice or warning to Ocean View School District
3 (“OVSD”), Defendants decided to transfer individuals infected with COVID-19 (the
4 “Coronavirus”), a deadly and highly contagious virus, to the grounds of Fairview
5 Developmental Center (“Fairview”). Fairview is located within a couple of miles of
6 OVSD’s boundaries in Huntington Beach and dozens of other schools, parks, athletic
7 fields, shopping centers, and restaurants used by OVSD students, teachers, and staff.
8 If there is an outbreak of a communicable disease in the Costa Mesa/Huntington
9 Beach area, OVSD will be impacted by it.

10 According to Defendant Centers for Disease Control and Prevention (the
11 “CDC”), the “best way” to prevent the Coronavirus is to “avoid being exposed to this
12 virus.” ([https://www.cdc.gov/coronavirus/2019-ncov/about/prevention-](https://www.cdc.gov/coronavirus/2019-ncov/about/prevention-treatment.html)
13 [treatment.html](https://www.cdc.gov/coronavirus/2019-ncov/about/prevention-treatment.html))

14 OVSD fully supports the issuance of a Preliminary Injunction to ensure that
15 Fairview is an appropriate and adequate site to house individuals infected with the
16 Coronavirus, and that safeguards and protocols are put into place to ensure that the
17 people in the Costa Mesa/Huntington Beach area are not exposed to the Coronavirus,
18 which has to date killed almost 2,500 people since the Coronavirus was first
19 identified in Wuhan, China, less than two months ago.

20 According to the CDC, the Coronavirus is spread through respiratory droplets,
21 physical contact with individuals infected with the virus, or touching countertops,
22 door handles, or other objects used by individuals infected with the virus. The
23 Coronavirus is so contagious, that the CDC requires individuals infected with the
24 virus to be treated in “Airborne Infection Isolation Rooms,” where negative air
25 pressure is used to contain the virus and is filtered before being released outside of
26 the building. If an “Airborne Infection Isolation Room” is not available, the CDC
27 requires the infected individual to be transferred as soon as feasible to a location with
28 such capabilities. (<https://www.cdc.gov/coronavirus/2019-nCoV/hcp/infection->

1 [control.html](#)).

2 There are approved facilities that are well-positioned to receive, treat, and
3 suppress the spread of the Coronavirus. In coordination with the CDC, California
4 state officials approved and designated certain hospitals to address the Ebola virus.
5 Those hospitals include Kaiser Oakland Medical Center, Kaiser South Medical
6 Center in Sacramento, University of California San Francisco Medical Center,
7 University of California Davis Medical Center in California.

8 ([https://www.infectioncontroltoday.com/viral/35-us-hospitals-are-designated-ebola-](https://www.infectioncontroltoday.com/viral/35-us-hospitals-are-designated-ebola-treatment-centers)
9 [treatment-centers](https://www.infectioncontroltoday.com/viral/35-us-hospitals-are-designated-ebola-treatment-centers)). Based on the designation of these facilities as Ebola virus
10 treatment centers, these facilities are much more appropriate than Fairview, which is
11 basically closed down. These facilities have appropriate treatment rooms to minimize
12 or eliminate the spread of the Coronavirus. More importantly, Medical personnel
13 and staff in these facilities are rigorously trained in preventing the spread of the
14 Ebola virus, which procedures are very similar those recommended by the CDC for
15 treatment of the Coronavirus.

16 Recently, 13 Americans infected with the Coronavirus aboard a cruise ship off
17 the coast of Japan were transported to Omaha, Nebraska for treatment of the
18 Coronavirus at University of Nebraska Medical Center (UNMC).

19 ([https://www.nebraskamed.com/biocontainment/coronavirus-qa-what-it-is-and-how-](https://www.nebraskamed.com/biocontainment/coronavirus-qa-what-it-is-and-how-to-avoid-it)
20 [to-avoid-it](https://www.nebraskamed.com/biocontainment/coronavirus-qa-what-it-is-and-how-to-avoid-it)). It is no coincidence that UNMC is one of the 35 facilities designated to
21 treat the Ebola virus.

22 Fairview was not designated by California state officials as an Ebola treatment
23 facility. Instead, it was set for closure by the California Department of Development
24 Services in 2016, pursuant to a detailed 106-page plan put into place after public
25 comment and hearing on the continued use of the facility. Here, before using the
26 facility to house and treat individuals infected with Coronavirus, there was no public
27 comment period. There was no public hearing. As Plaintiffs' stated, Defendants
28 acted "under the cover of darkness."

1 The lack of transparency on the part of Defendants raises serious questions
2 about the suitability of Fairview for the intended purpose of treating individuals
3 infected with the Coronavirus. OVSD is not aware of any evidence that that
4 Fairview has appropriate facilities, properly trained medical personnel and staff, or
5 even a plan to ensure the treatment of infected individuals does not result in an
6 outbreak of the Coronavirus.

7 OVSD and its students, teachers, and administrators are at risk of being
8 infected by the Coronavirus, which is spread as easily as the common cold and flu.
9 The CDC is mandating a minimum 14-day quarantine period for anyone infected
10 with the Coronavirus. An outbreak would cause OVSD to suffer irreparable harm,
11 including possible school closures and loss of faculty and staff.

12 Given that California has at least four facilities where medical personnel and
13 staff were rigorously trained on how to treat the Ebola virus and there are at least 31
14 additional Ebola designated facilities nationwide, the potential harm in preventing
15 Defendants from using Fairview is greatly outweighed by the risk of harm to
16 Plaintiffs and OVSD.

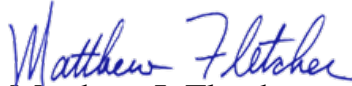
17 Therefore, OVSD supports the issuance of a preliminary injunction preventing
18 the transportation of individuals infected with the Coronavirus from entering Costa
19 Mesa or using Fairview as a treatment facility until Defendants have proven that (1)
20 Fairview is an appropriate treatment facility with for the Coronavirus, (2) it has
21 medical personnel and staff that are specifically trained on how to prevent the spread
22 of the Coronavirus, and (3) appropriate protocols and safeguards are put into place to
23 ensure that individuals infected with the Coronavirus are not permitted to leave the
24 premises until it is certain they no longer are infected by the Coronavirus and do not
25 pose a risk to others.

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