

# Daily Journal

MAY 13, 2020

THE 2020 CLAY AWARDS

# CLAY

# 24<sup>TH</sup> ANNUAL CALIFORNIA LAWYER ATTORNEYS OF THE YEAR

3

DAVID RAMIREZ ET AL. V. THE COUNTY OF ORANGE



**ANDREW R. GRAY**  
LATHAM & WATKINS LLP



**MICHELE D. JOHNSON**  
LATHAM & WATKINS LLP



**GRANT E. STROTHER**  
LATHAM & WATKINS LLP

## CIVIL RIGHTS — AMERICANS WITH DISABILITIES ACT

### Going to bat for unsheltered residents yields more resources for the homeless in Orange County

When Orange County officials began clearing out a large homeless encampment along the Santa Ana River Trail in Anaheim in 2018, the move launched an 18-month legal struggle over how to treat unsheltered residents—many of whom experienced mental or physical disabilities or both.

Andrew R. Gray, the chair of Latham & Watkins LLP’s litigation and trial department at the firm’s Orange County office, got a call from advocates at Community Legal Aid SoCal looking for help.

“I was interested,” he said. “I volunteered, and we jumped in.”

His interest emerged partly from a long-time concern for homeless issues that stemmed from his clerkship a decade ago for U.S. District Judge Kim McLane Wardlaw. The 9th U.S. Circuit Court of Appeals jurist had written an influential opinion, *Jones v. City of Los Angeles*, 444 F.3d 1118 (2006), holding it is cruel and unusual punishment for police to arrest homeless people at night when they have nowhere else to go.

Joining forces with Disability Rights California, Gray and Community Legal

Aid lawyers filed a class action to force county officials to use already appropriated government funds to provide treatment and develop necessary programs and facilities under the Americans With Disabilities Act for those displaced by the River Trail evictions and others. *Ramirez v. County of Orange*, 8:18-cv-00220 (C.D. Cal., filed Feb 7, 2018).

The suit dovetailed with a companion effort that focused on shelter beds and enforcement issues, *Orange County Catholic Worker v. County of Orange*, 8:18-cv-00155 (C.D. Cal., filed Jan. 29, 2018).

Last year the county settled the suits, unlocking more than \$70 million of additional support for Orange County’s homeless population and enforcing important changes that will allow individuals with disabilities to manage their conditions while living in shelters or accessing other county services.

Gray said the settlement is an important step toward remedying, as the plaintiffs alleged, the county’s previously deficient efforts to connect the homeless with appropriate services. It contains a class injunctive component requiring the county and its contracted agencies and

the sheriff’s department to follow health care-led outreach approaches when working with unsheltered individuals.

Key to the relatively speedy resolution, Gray said, was the hands-on involvement of U.S. District Judge David O. Carter of Santa Ana, who oversaw both cases.

“There were fast-moving actions by the county to clear out the riverbed encampments, but Judge Carter took control to promote ways to address the issues without letting the cases spiral into years of cost-draining litigation.”

Carter was tireless.

“He was taking marshals and court staff down to the riverbed and setting up tables to hold hearings,” Gray said. “He was out meeting unsheltered individuals on the street and asking questions and taking video himself. He got to the bottom of things.”

Gray was there on a day when Carter was checking for himself on the number of individuals at certain shelters and on the quality of services offered.

“He invited all counsel along. It was eye-opening to see the process and to be there in person.”

Since the settlement agreement was

**Andrew R. Gray,  
Michele D. Johnson,  
Grant E. Strother**  
Latham & Watkins LLP

signed in July 2019, Gray and co-counsel have monitored compliance.

“A key aspect of the deal was to provide Judge Carter with continuing jurisdiction,” Gray said. “Due process rights regarding standard of care-focused settlements are very uncommon. Our clients can seek court intervention if things go wrong.”

So far, the only time it’s been necessary to write to Carter was to let him know that the plaintiffs are asking for discussions with the county over coronavirus issues.

“So far, so good,” Gray said. Latham, which worked pro bono on the case, had donated its share of fees to its non-profit co-counsel. “We’re looking forward to continue working with the county to leverage our pro bono resources and the advocates’ knowledge,” Gray said.

— John Roemer