

1 **WINKELMAN LAW, PLLC**
2 2301 E. Speedway Blvd.
3 Tucson, AZ 85719
4 Phone: 520-477-1019
5 Email: alex@winkelmanlaw.com
6 docketing@winkelmanlaw.com

7 By: Alex Winkelman, #34120

8 Attorneys for Plaintiff

ARIZONA SUPERIOR COURT

PIMA COUNTY

10 FRIENDS OF BLENMAN-ELM, an
11 Arizona Nonprofit Corporation,
12
13 Plaintiff,

14 v.

15 GRACE ST. PAUL’S EPISCOPAL
16 CHURCH, an Arizona Nonprofit
17 Corporation,

Defendant.

No. C20260380

**VERIFIED APPLICATION FOR
PRELIMINARY INJUNCTION**

(Honorable Cynthia T. Kuhn)

18
19 Pursuant to A.R.S. §§ 12-1801, 12-1803 and A.R.C.P. Rule 65, Plaintiff Friends
20 of Blenman-Elm (“FOBE”), by and through undersigned counsel, respectfully requests
21 the Court to issue a preliminary injunction against Defendant Grace St. Paul’s
22 Episcopal Church. Pursuant to A.R.S. §12-1803(B), this request is supported by
23 Plaintiff’s filed Verified Complaint and the attached Memorandum of Points and
24 Authorities.

25 **MEMORANDUM OF POINTS AND AUTHORITIES**

26 **I. Introduction and Summary of Argument**

1 Grace St. Paul's Episcopal Church ("GSP") runs a program called Joseph's
2 Pantry and Café (the "Program") at its location on Adams at Norton, one block west of
3 Tucson Boulevard. GSP is located in the residential neighborhood Blenman-Elm. As
4 GSP describes it, "People in our community who are unhoused or living on low
5 income are able to come to us to receive a food box once per calendar month from the
6 Community Food Bank of Southern Arizona. In addition to the monthly food boxes,
7 we hand out a daily snack bag and any toiletries that we have." ([Joseph's Pantry &
8 Cafe — Grace St. Paul's Episcopal Church](#), last accessed 2/25/2026). According to
9 GSP, the size of the program has tripled in recent years.

10 The following map shows where GSP is situated – between the Arizona Inn and
11 a small professional offices complex "Medical Square Plaza." The Program is held
12 between a historic resort, a complex of professional offices, two churches, an
13 elementary school, and numerous private residences.



14
15
16
17
18
19
20
21
22
23
24 As a result of this program, dozens of unhoused individuals travel into the
25 Blenman-Elm neighborhood every Monday, Wednesday, and Friday. GSP does not
26 provide counseling, social services, medical treatment, transportation, housing, or

1 medical care to these individuals. GSP does not appear to have a state license to
2 provide mental or other health services. At various times, GSP has not provided
3 restrooms to patrons of its Program.

4 The impact on the neighborhood has been extreme. GSP's patrons have been
5 threatening and violent toward residents of Blenman-Elm. There is theft and
6 vandalism. There are fires. There is open air-drug use. There is drug paraphernalia left
7 all over the neighborhood. There are visibly mentally ill and extremely intoxicated
8 individuals having violent altercations on GSP's property. There are violent, unleashed
9 dogs. There is trash. There is human excrement throughout the neighborhood. Many
10 residents and folks who work in the neighborhood are afraid to go near GSP, which is
11 especially problematic given that some of them live and work next to GSP.

12 The evidence of these issues is so voluminous that it is difficult to summarize.
13 Fifteen residents and workers in Blenman-Elm have given declarations to demonstrate
14 the above. (See Exhibits 1 through 15). Residents and workers have gathered over 900
15 photographs and videos of problems caused by patrons of GSP. TPD alone has been
16 called out to GSP and the surrounding properties approximately 500 times between
17 January 1, 2022 to August 25, 2025 alone. (Exhibit 16, TPD Address Search Indices).

18 GSP's patrons have attempted to hit residents with their cars. (Exhibit 18
19 Parsons Declaration of O. Yiparaki). One of GSP's patrons attempted to kidnap a
20 three-year-old girl, spending approximately an hour trying to break into her home.
21 (Exhibit 14, Declaration of B. Thiltges). GSP's patrons have set major fires adjacent to
22 an adult care home. (See, e.g., Exhibit 4 – Declaration of D. DiStefano). GSP's patrons
23 sell dangerous drugs at GSP during Program hours. (Exhibit 1 – Declaration of A.
24 Dianda). GSP's patrons break into homes in the neighborhood. (Exhibit 2 –
25 Declaration of A. Yoke). GSP's patrons overdose on the sidewalks. (Exhibit 17 –
26 Second Declaration of D. Distefano). A previously quiet neighborhood is crime-ridden

1 such that at least one witness who lives elsewhere in Tucson would never move to the
2 neighborhood, and another witness has compared Blenman-Elm unfavorably to inner
3 city Baltimore. (Exhibit 16; Exhibit 1; Exhibit 7, Declaration of K. Baker).

4 GSP has not just turned a blind eye to these issues. When confronted with the
5 severe negative impact its Program was causing to the neighborhood, GSP informed
6 those affected that it had a holy mandate to “afflict the comfortable” and explicitly
7 invited this very lawsuit. GSP appears directly intent on creating a nuisance in the
8 neighborhood to prove a political point. An immediate injunction is necessary to
9 prevent a substantial risk of harm to the neighborhood.

10 A group of residents formed Friends of Blenman-Elm (“FOBE”) for the express
11 purpose of, inter alia, “preserving, protecting, and enhancing the character, livability,
12 historic and cultural integrity, and architectural quality of the neighborhood of
13 Blenman-Elm in Tucson, Arizona and engaging in lawful advocacy, community
14 organizing, and when appropriate, litigation or related legal remedies to advance the
15 foregoing purposes.” Protecting the neighborhood from the severe nuisance
16 perpetuated by GSP is precisely within the ambit of the FOBE’s mission, and its
17 members would have standing as residents of the neighborhood.

18 **II. Summary of Material Facts**

19 On a continuing basis, patrons of GSP’s Program perpetrate the following in
20 Blenman-Elm:

- 21 - Assault and battery, attempted kidnapping, and vehicular assault.
- 22 - Drug use and public intoxication.
- 23 - Fires.
- 24 - Vandalism, burglary, and theft.
- 25 - Public urination, defecation, nudity, and sexual conduct.
- 26 - Vicious dog attacks and persistent unleashed dogs.

1 There is voluminous evidence of a nuisance caused by GSP. What has been
2 attached as exhibits are declarations and a subset of photographs identifying the
3 primary problems with GSP's program. FOBE will present this evidence more
4 fulsomely at an evidentiary hearing if such is necessary. In short, a review of the
5 declarations and photographs will demonstrate the nature of the nuisance caused by
6 GSP, but this evidence is only a small subset of the total evidence FOBE has already
7 gathered.

8 As detailed more fully below, the reason this injunction is warranted is not just
9 the persistent conditions that have existed over the last few years, but rather that the
10 conditions are as bad, or worse, than they have ever been **since FOBE sent a demand**
11 **letter to GSP**. FOBE sent GSP a demand letter in the summer of 2025. Since that
12 time, residents have experienced the following:

- 13 - One of GSP's patrons intentionally tried to hit a FOBE member and
14 Blenman-Elm resident with a car. (Exhibit 18 – Parsons Declaration
15 of O. Yiparaki)
- 16 - One of GSP's patrons was viciously attacked and injured by the dog
17 of another GSP patron. (Exhibit 19 – Dog Attack Declaration of O.
18 Yiparaki).
- 19 - An attempted aggravated assault or murder by a GSP patron against
20 another GSP patron on GSP's property and in Medical Square Plaza.
21 (Hearing testimony or to-be-filed Declaration of Darwin Greenwell)
- 22 - There has been a significant increase in encampments at GSP in April
23 and May of this year. A collection of photographs taken in May,
24 2026, show a typical amount of camping on a given day. (Exhibit 20
25 – Camping Declaration of O. Yiparaki)

1 - GSP patrons continue to have apparent drug overdoses in public,
2 most recently on June 1, 2026. (Exhibit 17).

3 **III. A Preliminary Injunction is warranted because GSP has failed to**
4 **reasonably use its property, causing ongoing irreparable harm to**
5 **FOBE and those that live and work in Blenman-Elm**

6 A party seeking a preliminary injunction must show (1) a strong likelihood of
7 success on the merits, (2) the possibility of irreparable harm if the relief is not granted,
8 (3) the balance of hardships favors the party seeking injunctive relief, and (4) public
9 policy favors granting the injunctive relief. *Fann v. State*, 251 Ariz. 425, 432, ¶ 16,
10 493 P.3d 246, 253 (2021); *Smith v. Ariz. Citizens Clean Elections Comm’n*, 212 Ariz.
11 407, 410 ¶ 10, 132 P.3d 1187, 1190 (2006). “To meet this burden, ‘the moving party
12 may establish either 1) probable success on the merits and the possibility of irreparable
13 injury; or 2) the presence of serious questions and [that] the balance of hardships tip[s]
14 sharply in favor of the moving party.’” *Id.*, quoting *Smith*, 212 Ariz. 407 at ¶ 10. “This
15 is a sliding scale, not a strict balancing of factors.” *Id.* “The greater and less reparable
16 the harm, the less the showing of a strong likelihood of success on the merits need be.
17 Conversely, if the likelihood of success on the merits is weak, the showing of
18 irreparable harm must be stronger.” *Id.*

19 “Although the two tests contain different wording, the difference in wording
20 does not change the analysis because the standard is ‘not absolute, but sliding.’” *City*
21 *of Flagstaff v. Arizona Dep’t of Admin.*, 255 Ariz. 7, 12, ¶¶ 14-16, 526 P.3d 152, 157
22 (App. 2023), quoting *Smith*, 212 Ariz. 407 at ¶ 10. The “principles are not necessarily
23 separate tests but rather are extremes of a single continuum.” *Id.*, quoting *Justice*
24 *v. Nat’l Collegiate Athletic Ass’n*, 577 F. Supp. 356, 363 (D. Ariz. 1983).

25 FOBE is entitled to an injunction under any standard as it can establish a very
26 strong likelihood of success on the merits, a well-established basis for irreparable
harm, and the balance of hardships tips strongly in FOBE’s favor.

1 **a. FOBE has a strong likelihood of success on the merits as GSP has**
2 **created a textbook third-party nuisance**

3 A private nuisance is a “nontrespassory invasion of another’s interest in the
4 private use and enjoyment of land.” Restatement (Second) of Torts §821D. A public
5 nuisance is “any unreasonable interference with the right common to the general
6 public.” Restatement § 821B. “[T]he same facts may support claims of both public
7 and private nuisance” and “a nuisance may be simultaneously public and private when
8 a considerable number of people suffer an interference with their use and enjoyment of
9 land.” *Armory Park v. Episcopal Community Services*, 148 Ariz. 1, 4 (1985).

10 When a church provides food pantry services to patrons, and those patrons
11 create a nuisance in the neighborhood, that constitutes an actionable nuisance caused
12 by the church. These are the facts and holding of *Armory Park v. Episcopal*
13 *Community Services*, and they could not be more on point. The testimony in that case
14 is instructive:

15 The testimony at the hearing establishes that it was the
16 Center’s act of offering free meals which “set in motion”
17 the forces resulting in the injuries to the Armory Park
18 residents. Several residents testified that they saw many of
19 the same transients passing through the neighborhood and
20 going in and out of the Center. We find the testimony
21 sufficient to support the trial judge’s finding of a causal link
22 between the acts of ECS and the injuries suffered by the
23 Armory Park residents. The court of appeals thus erred by
24 holding that there was no evidence from which the trial
25 court could have concluded that ECS had engaged in
26 conduct which would render it causally responsible for the
interferences. The question is not whether defendant
directly caused each improper act, but whether defendant’s
business operation frequently attracted patrons whose
conduct violated the rights of residents to peacefully use
and enjoy their property.

Armory Park, 148 Ariz. at 7.

1 That case also elucidated a well-established principle of law: “Under general
2 tort law, liability for nuisance may be imposed upon one who sets in motion the forces
3 which eventually cause the tortious act; liability will arise for a public nuisance when
4 ‘one person’s acts set in motion a force or chain of events resulting in the invasion.’”
5 *Armory Park Neighborhood Ass’n v. Episcopal Cmty. Servs.*, 148 Ariz. 1, 7 (1985),
6 *quoting* Restatement (Second) of Torts Sec. 824 cmt b. The defendant in *Armory Park*
7 argued “since it has no control over the patrons when they are not on the Center’s
8 premises, it cannot be enjoined because of their acts.” *Id.* at 7. In squarely rejecting
9 this argument, the Supreme Court of Arizona stated “this position is not supported
10 either by precedent or theory.” *Id.* The evidence shows that GSP “sets in motion” the
11 nuisance behaviors of its patrons by bringing them into the neighborhood and turning
12 away once they’ve provided food.

13 In *Bradford v. City of Tucson*, the Arizona Court of Appeals recently clarified
14 that “A nuisance is the use of property or course of conduct, regardless of an actual
15 trespass or intention, which represents an unreasonable use of one’s own property,
16 which thereby obstructs or injures the right of another person, or that of the public, and
17 causes ‘material annoyance, inconvenience, and discomfort.’” *Bradford v. City of*
18 *Tucson*, 260 Ariz. 227, ¶ 13 (App. 2025). Under Arizona’s public nuisance statute,
19 anything “injurious to health, indecent, offensive to the senses or an obstruction to the
20 free use of property that interferes with the comfortable enjoyment of life or property
21 by an entire community or neighborhood” is a public nuisance. *Bradford*, 260 Ariz.
22 227, ¶ 14, *quoting* A.R.S. § 13-2917(A)(1).

23 The Court of Appeals found a nuisance where the neighbors observed:

24
25 human feces and “fentanyl foil” in the wash, fires near
26 homes, drug paraphernalia, tents, shopping carts, and trash
 which can block drainage from the wash. Additionally, City

1 employees pick up human feces, needles, syringes, and
2 “gobs of aluminum foil where they burn their pills” “every
time” they clean up the wash.

3 *Bradford*, at ¶ 16.

4 One of the neighbors in that case testified that he was punched in the face by an
5 unhoused individual, and another neighbor testified that an unhoused individual
6 exposed himself to a secretary. One of the neighbors also testified that individuals had
7 urinated and defecated on the walls of his business. Both the trial court and the Court
8 of Appeals unequivocally found that these constituted a nuisance. The Court of
9 Appeals explained that the “sanitary and indecent conditions [invaded] the rights of the
10 neighboring residents and business owners.” *Bradford* at ¶ 17. The Court of Appeals
11 affirmed the trial court in finding that “[t]hese conditions are not ‘petty annoyances
12 and disturbances of everyday life’ but are, as the trial court expressly found, a
13 significant interference with the public’s use and enjoyment of [their neighborhood].”
14 *Id.*

15 The facts of this case are similar to, if not worse than, the facts of the *Bradford*
16 and *Armory Park* cases. As noted above, GSP’s program brings third parties to the
17 neighborhood who then engage in dangerous, threatening, and indecent behavior,
18 which at a minimum, significantly interferes with the neighbors’ use and enjoyment of
19 the neighborhood.

20 In remanding for the entrance of an injunction, the Court of Appeals noted that
21 even though the city did nothing to bring the homeless to the wash in that case, they
22 were still liable because it “consent[ed] to third party’s activity involving an invasion.”
23 *Bradford* at ¶ 21. Here, GSP specifically invites the third parties to Blenman-Elm and
24 induces them to do so with food and other services. But even if that were somehow not
25 the case, GSP has “manifest[ed] acquiescence or approval in respect to the persons in
26 question” and has “consented to the activity involving the invasion” as evidenced by

1 the fact that GSP has refused to relocate its program after being confronted with pleas
2 from the neighbors to do something. *Bradford* at ¶ 21.

3 GSP has suggested to FOBE in the past that the negative impacts on the
4 neighborhood are not caused by GSP patrons. This position is not justified by the facts.
5 First, many of the individuals committing crimes in the neighborhood have been
6 directly identified by neighbors as GSP patrons. Second, the circumstantial evidence
7 suggests that much, if not all, of the homeless foot traffic in the neighborhood is
8 centered around GSP. By way of example, on May 25, 2026, one of FOBE's members
9 was walking down the alley south of the Arizona Inn between Olsen and Plumer.
10 (Exhibit 21 - Mail Theft Declaration of O. Yiparaki). The area north of the alley has
11 many large oleander plants and on this particular morning had been the site of a
12 homeless encampment. (*Id.*). The alley was filled with cardboard boxes used for
13 makeshift bedding, there was pillow stuffing strewn over the ground, and the alley was
14 filled with trash, bottles, and cups. (*Id.*). The ground was covered in fentanyl foil and
15 empty alcohol bottles.¹ (*Id.*). In the alley was a quantity of mail, including GSP
16 bulletins and mailed fliers. (*Id.*). Similarly, on April 2, 2026, in the dirt lot directly
17 adjacent to GSP, a FOBE member found an abandoned shopping cart including a
18 cardboard box. (*Id.*). The cart contained a GSP bulletin from the March 29, 2026
19 service, a brochure on "Understanding Meth Use", mail addressed to Steve Keplinger,
20 an RTA ballot pamphlet, and a pile of mail that appeared to be stolen from Steve
21 Keplinger, who receives mail at GSP. (*Id.*). Next to the pile of GSP handouts and
22

23
24 ¹ As numerous witnesses will testify, the way fentanyl is commonly ingested on the
25 street is that pills are ground up and then burned and inhaled on small bits of
26 aluminum foil. The small bits of aluminum foil, with black burn marks, are then
discarded. These small bits of aluminum foil with black burn marks are a form of drug
paraphernalia. See [fs-smoking-drugs-foil-04092025-en.pdf](#)

1 stolen mail was an empty box of NARCAN.² (*Id.*). On August 26 and 29, 2025 (after
2 GSP had already received notice that this lawsuit was impending), a FOBE member
3 found evidence of another encampment in that same lot. (*Id.*). There was a trail of
4 orange syringe caps and what appeared to be NARCAN lids that led to a cardboard
5 box and paper Whole Foods bag that contained a significant quantity of mail and drug
6 paraphernalia. (*Id.*). It also contained a paper cup from the GSP program. (*Id.*). The
7 mail appeared to be from three addresses: GSP, 1139 N. Norton and 1135 N. Norton.
8 (*Id.*). Those properties are approximately four blocks directly south of GSP, near
9 Speedway. This evidence demonstrates that, at least some of the time, GSP patrons are
10 the same individuals stealing mail, doing drugs, and camping in the neighborhood.
11 (*Id.*).

12 **b. FOBE and the Blenman-Elm neighborhood as a whole face the**
13 **possibility of irreparable, continuing, and repetitive harm**
14 **because of GSP’s nuisance.**

15 As to this element, FOBE must demonstrate a continuing interference with their
16 right to enjoy their property. The Supreme Court adopted the reasoning of the Superior
17 Court positively when it ruled, in *Armory Park*:

18 “the right to the comfortable enjoyment of one's property is something that
19 another’s activities should not affect, the harm being suffered by the Armory
20 Park Neighborhood and the residents therein is irreparable and substantial, for
21 which they have no adequate legal remedy.”

22 *Armory Park*, 148 Ariz. at 8.

23 As demonstrated above, GSP’s program is severely damaging the
24 neighborhood, and the harm is ongoing. This preliminary injunction was precipitated
25 by GSP’s continuing inability (or refusal) to abate the nuisance caused by its program.
26 Even after being put on notice of the nuisance by undersigned counsel, and then being

² “NARCAN® Nasal Spray is a treatment designed to rapidly reverse the effects of a
life-threatening opioid emergency. Available as an over-the-counter medicine.”
<https://narcen.com/en/>

1 sued, GSP has been entirely incapable of running its program in a way that does not
2 harm others. It is clear that without court intervention, GSP will be unable (or
3 unwilling) to take the steps necessary to protect the safety and quiet enjoyment of its
4 neighbors.

5 Furthermore, given the very real safety risks associated with GSP's program,
6 there is a real risk that Blenman-Elm residents or GSP patrons will be seriously
7 physically injured if the Program is allowed to continue on in its current state. One
8 GSP patron has been attacked by a loose dog, and there are regularly armed
9 individuals in the throes of mental health crises at GSP. (Exhibit 19) One GSP patron
10 has attempted to hit a FOBE member with a car. (Exhibit 18.) Another GSP patron has
11 already pursued a resident and his pre-school aged daughter attempting to kidnap the
12 young girl. (Exhibit 15). There are drug sales at or around GSP, and GSP's patrons
13 suffer severe overdoses. (Exhibit 1, Exhibit 17). There is a substantial risk one of
14 GSP's patrons will die if the program is allowed to continue in its current form.

15 Threatened bodily injury to Blenman-Elm residents (and even GSP patrons)
16 constitutes irreparable harm as a matter of equity. Injuries to health and physical safety
17 are the quintessential form of irreparable harm because they cannot be adequately
18 remedied by a later award of money damages. *See Shoen v. Shoen*, 167 Ariz. 58, 63
19 (App. 1990).

20 **c. The balance of hardships favors FOBE**

21 As set forth above, the hardship to FOBE and the neighbors is a continued
22 inability to quietly enjoy their neighborhood free from increased crime, public
23 camping, fires, open-air drug use and drug paraphernalia, human excrement, trash, and
24 more. This constitutes a significant hardship to FOBE and the neighborhood.

25 On the other hand, GSP is expected to testify that, if enjoined, it will experience
26 a reduction in its ability to practice its religious observance of ministering to the poor.

1 This does not outweigh the hardship to the neighbors because, first and foremost, GSP
2 is not prohibited from ministering to the poor in any other place, or in any other
3 manner. The sought after injunction simply requests that GSP cease conducting its
4 program in a way that causes significant harm to its neighbors. The neighbors cannot
5 move their homes, but GSP can move where it ministers to the homeless – most of
6 whom do not reside in the neighborhood and travel to attend the GSP Program as it is.
7 There is nothing severe about enjoining GSP from conducting its ministry in the
8 middle of a neighborhood, and indeed, the Arizona Supreme Court has already
9 weighed the balance of the hardships in this case: in *Armory Park*, the Supreme Court
10 specifically ruled (and created binding precedent) that the interest of neighbors in a
11 safer neighborhood outweighs any possible restriction on the religious expression of
12 feeding the poor in the center of a quiet residential neighborhood.

13
14 “It is distressing to this Court that an activity such as defendants [sic] should be
15 restrained. Providing for the poor and the homeless is certainly a worthwhile,
16 praiseworthy [sic] activity. It is particularly distressing to this Court because it
17 [defendant] has no control over those who are attracted to the kitchen while
18 they are either coming or leaving the premises. However, the right to the
19 comfortable enjoyment of one's property is something that another's activities
20 should not affect, the harm being suffered by the Armory Park Neighborhood
21 and the residents therein is irreparable and substantial, for which they have no
22 adequate legal remedy.”

23 *Armory Park*, 148 Ariz. at 8. And although GSP’s “charitable purpose, that of feeding
24 the hungry, is entitled to greater deference than pursuits of lesser intrinsic value . . .
25 However, even admirable ventures may cause unreasonable interferences.” *Id.* The
26 Supreme Court has explained “We do not believe that the law allows the costs of a
charitable enterprise to be visited in their entirety upon the residents of a single
neighborhood.” *Id.*

This Court should not reach a different result than the Supreme Court. This

1 Court should recognize that the neighbors' interest in the safety of their neighborhood
2 is more important than the location or procedures surrounding GSP's food program.

3 **d. Public policy is strongly in favor of injunctions like the one**
4 **sought here**

5 The Arizona State Legislature has explicitly set forth public policy on this
6 topic:

7 It is a public nuisance, and is no less a nuisance because the extent of the
8 annoyance or damage inflicted is unequal, for anything:

9 1. To be injurious to health, indecent, offensive to the senses or an
10 obstruction to the free use of property that interferes with the comfortable
11 enjoyment of life or property by an entire community or neighborhood or by a
12 considerable number of persons."

13 A.R.S. § 13-2917. Legislature has deemed such activities to be a class 2 misdemeanor.

14 *Id.* The Legislature has specifically empowered the government to "abate, enjoin and
15 prevent the activity described in subsection[] A." *Id.* Thus, it is clear that the

16 Legislature has specifically recognized that injunctions to prevent public nuisances are
17 the appropriate remedy. The common law likewise cements the fact that private

18 citizens may bring actions to abate and enjoin public nuisances. *See, e.g. Armory Park,*

19 *148 Ariz. at 8; Bradford, 260 Ariz. 227, ¶ 25* ("City properly may be ordered to abate
20 any public nuisance on property the City owns and controls"). It is nearly axiomatic:

21 when a person commits nuisance, an injunction to abate the nuisance is warranted, and
22 the law favors the reasonable use of land. Furthermore, "[t]he interests of third persons

23 and of the public are factors to be considered in determining the appropriateness of

24 injunction against tort." Restatement (Second) of Torts § 942. FOBE has brought this

25 action on behalf of the entire Blenman-Elm neighborhood, which is a group so

26 numerous as to constitute the public for the purposes of nuisance. This Court should

not be swayed that the interests of GSP's patrons are greater than the numerous people
who live and work in Blenman-Elm.

1 **IV. Scope of the injunction requested**

2 In its earlier Motion to Dismiss, GSP claimed that the injunction sought is not
3 narrowly tailored. This argument is unavailing for many reasons as set forth in the
4 Response filed by FOBE, including the fact that the relevant legal standard is not what
5 GSP claims. Even if it were, however, the injunction sought in this application is
6 narrowly tailored to prevent the relevant harm, and constitutes the least restrictive
7 means. Broadly speaking, FOBE simply seeks an injunction requiring GSP to abate all
8 of the identified nuisance behaviors by its patrons:

- 9 - Violent crimes
10 - Property crimes, including burglary and mail theft
11 - Public camping
12 - Unleashed dogs
13 - Open air drug sales and drug use
14 - Defecating and urinating in public
15 - Leaving trash and other detritus in the neighborhood
16 - Fires

17 Given the fact that all of the above have continued since notice of this lawsuit
18 was sent to GSP in July of 2025, it is clear that GSP is unable to abate the nuisance
19 while continuing to operate its program in the location. Indeed, GSP's representatives
20 are expected to testify that it is not GSP's responsibility to control the activities of its
21 patrons, especially once they leave GSP's campus. Given GSP's failed performance to
22 date and GSP's position on its responsibilities, it is entirely unlikely that an injunction
23 merely requiring GSP to "abate" the nuisance without more specific strictures will be
24 effective, and will put the parties in a position where continued litigation is required to
25 determine enforcement. Given the fact that GSP cannot fix these problems even when
26 sued, an injunction requiring GSP to relocate the program out of Blenman-Elm is the

1 least restrictive means.

2 If the Court disagrees with the scope of that injunction, it is within this Court's
3 discretion to fashion a more restrictive injunction, but given GSP's complete failure to
4 protect its neighbors, FOBE believes GSP is inadequately equipped with the
5 appropriate funding, personnel, expertise, and facilities to safely and reasonably
6 conduct homelessness mitigation services at GSP's campus.

7 **V. Conclusion**

8 In conclusion, this Court must enter an injunction requiring GSP to relocate or
9 at least cease its Program until the resolution of this action to prevent irreparable harm
10 to the Blenman-Elm neighborhood and those that live and work there.

11
12
13 DATED: June 5, 2026.

14 WINKELMAN LAW PLLC

15
16 By: /s/ Alex Winkelman
17 Alex Winkelman
18 Attorney for Plaintiff
19
20
21
22
23
24
25
26

1 Original filed in AZTurboCourt this
2 5th day of June, 2026 with
3 copies emailed to:

4 Jeanna M.W. Chandler
5 Curl, Glasson & Patrascioiu, P.L.C.
6 485 S. Main Ave., Bldg. 1
7 Tucson, AZ 85701
8 jeanna@curllaw.com

9 Jeffrey Willis, Esq.
10 Patick A. Tighe, Esq.
11 Alexander L. Bevans, Esq.
12 Snell & Wilmer LLP
13 One East Washington St., Ste. 2700
14 Phoenix, AZ 85004
15 jwillis@swlaw.com
16 ptighe@swlaw.com
17 abevans@swlaw.com

18 *Attorneys for Defendant*

19 /s/ Traci Lopez