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20 REED, and COASTAL PROTECTION
RANGERS, INC.
21

22 **UNITED STATES DISTRICT COURT**
23 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**
24

25 CORY SPENCER, an individual;
26 DIANA MILENA REED, an
individual; and COASTAL
27 PROTECTION RANGERS, INC., a
28 California non-profit public benefit

CASE NO. 2:16-cv-02129-SJO (RAOx)
**PLAINTIFFS' EX PARTE
APPLICATION FOR AN ORDER
SETTING HEARING ON
PLAINTIFFS' MOTION FOR
SANCTIONS AGAINST**

1 corporation,
 2
 3 Plaintiffs,
 4
 5 v.
 6 LUNADA BAY BOYS; THE
 7 INDIVIDUAL MEMBERS OF THE
 8 LUNADA BAY BOYS, including but
 9 not limited to SANG LEE, BRANT
 10 BLAKEMAN, ALAN JOHNSTON
 11 AKA JALIAN JOHNSTON,
 12 MICHAEL RAE PAPAYANS,
 13 ANGELO FERRARA, FRANK
 14 FERRARA, CHARLIE FERRARA,
 15 and N. F.; CITY OF PALOS VERDES
 16 ESTATES; CHIEF OF POLICE JEFF
 17 KEPLEY, in his representative
 18 capacity; and DOES 1-10,
 19
 20 Defendants.

**DEFENDANTS BLAKEMAN AND
 THE CITY OF PALOS VERDES
 ESTATES**

Complaint Filed: March 29, 2016
 Trial Date: December 12, 2017

I. APPLICATION

21 Plaintiffs file this *ex parte* application for an order setting a hearing date on
 22 their Motion for Sanctions against Defendants Blakeman and the City of Palos
 23 Verdes Estates (Sanctions Motion). Specifically, Plaintiffs request that their
 24 Sanctions Motion be heard by this Court at the parties’ Pretrial Conference, on
 25 November 27, 2017 at 10:00 a.m. or on shortened time on a date determined by the
 26 Court.

II. MEMORANDUM IN SUPPORT OF APPLICATION

27 Plaintiffs request that their Sanctions Motion be heard at the parties’ Pretrial
 28 Conference or on shortened time, whichever the Court prefers. The basis for
 Plaintiffs’ motion is that critical evidence was withheld by Defendants Blakeman
 and the City of Palos Verdes Estates (City) during the course of discovery, and was
 only recently produced by Defendant Papayans pursuant to a September 12, 2017

1 court order. (*See* Sept. 13, 2017 Minute Order, Dock. No. 452.) Per the September
2 12, 2017 Order, Defendant Papayans was required to produce no later than
3 September 22, 2017 certain relevant information that had been in the custody of
4 Papayans' criminal defense attorney. (*Id.*) On October 2, 2017, Defendant
5 Papayans produced over 500 pages of previously unproduced text messages, Bates
6 stamped MP 00117 to MP 00618. (Decl. S. Wolff Supp. Pltfs.' Mot. for Sanctions
7 Against Defs. Blakeman and City of Palos Verdes Estates (Decl. Wolff), ¶ 20.)
8 Papayans' October 2, 2017 production included scores of previously unproduced
9 text messages that were received by Defendant Blakeman on his City-owned cell
10 phone that are critical to Plaintiffs' allegations. (*Id.* at ¶ 21.) None of these text
11 messages had been produced by any party prior to Papayans' production, and were
12 apparently spoliated by Defendants Blakeman and the City. (*Id.*)

13 Through this *ex parte* application, Plaintiffs seek to have their Sanctions
14 Motion heard at the parties' Pretrial Conference. Plaintiffs have brought their
15 Sanctions Motion at the earliest possible opportunity. Indeed, Plaintiffs initiated a
16 meet-and-confer effort with Defendants regarding their spoliation of evidence on the
17 same day as Defendant Papayans' production.¹ (Decl. Wolff, ¶ 22.) Had Defendant
18 Papayans produced the relevant and critical text messages before the discovery cut-
19 off date, Plaintiffs could have filed their Sanctions Motion before the motion cut-off
20 date.

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22
23 ¹ Plaintiffs initiated a meet-and-confer discussion with Defendants Blakeman and
24 the City regarding their spoliation of relevant electronically stored information the
25 same day Plaintiffs received Defendant Papayans' production, on October 2, 2017.
26 (*Id.* at ¶ 22.) Plaintiffs' meet-and-confer efforts with the City spanned from October
27 2, 2017 to October 19, 2017. (*Id.* at ¶¶ 22-25, 32-37.) Plaintiffs exchanged written
28 correspondence with counsel for Defendant Blakeman from October 2, 2017 to
October 19, 2017, though counsel for Defendant Blakeman refused to discuss the
substance of Plaintiffs' motion. (*Id.* at ¶¶ 22, 23, 26-31.)

1 On October 30, 2017, Plaintiffs’ counsel telephoned counsel for Defendants
2 Blakeman and the City to discuss Plaintiffs’ *ex parte* application to have Plaintiffs’
3 Sanctions Motion heard at the parties’ November 27, 2017 Pretrial Conference.
4 Specifically, Plaintiffs’ counsel, Lisa Pooley, contacted the following counsel for
5 Defendants Blakeman and the City:

6 Christopher Glos
7 Edmund Richards
8 Antoinette Hewitt
9 Jacob Song
10 Rebecca Wilson
11 Kutak Rock LLP
12 5 Park Plz., Suite 1500
13 Irvine, CA 92614
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16 Robert Crossin
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19 Los Angeles, CA 90017-1730
20 (213) 891-0700
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21 (Decl. Pooley, ¶¶ 2-3.) Defense counsel for the City and for Defendant Blakeman
22 indicated that they oppose Plaintiffs’ *ex parte* application. (*Id.*)

23 **III. CONCLUSION**

24 Plaintiffs respectfully ask this Court to grant their *ex parte* application and
25 permit their Sanctions Motion to be heard at the November 27, 2017 Pretrial
26 Conference or on shortened time on a date selected by the Court. On the other hand,
27 if Plaintiffs’ *ex parte* application is denied, Plaintiffs will suffer severe prejudice if
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1 Defendants Blakeman and the City’s spoliation of evidence goes unaddressed by
2 this Court.

3 DATED: October 30, 2017

HANSON BRIDGETT LLP

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By: /s/ Samantha D. Wolff
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