

1 HARMEET K. DHILLON (SBN: 207873)
 2 harmeet@dhillonlaw.com
 3 KRISTA L. BAUGHMAN (SBN: 264600)
 4 kbaughman@dhillonlaw.com
 5 GREGORY R. MICHAEL (SBN: 306814)
 6 gmichael@dhillonlaw.com
 7 DHILLON LAW GROUP INC.
 177 Post Street, Suite 700
 San Francisco, California 94108
 Telephone: (415) 433-1700
 Facsimile: (415) 520-6593

8 Attorneys for Intervenor Defendant
 9 California Bail Agents Association

10
 11 **UNITED STATES DISTRICT COURT**
 12 **NORTHERN DISTRICT OF CALIFORNIA**
 13 **OAKLAND DIVISION**

14
 15 RIANA BUFFIN and CRYSTAL
 16 PATTERSON, on behalf of themselves and
 other similarly situated,

17 Plaintiffs,

18 v.

19
 20 CITY AND COUNTY OF SAN
 21 FRANCISCO, *et al.*

22 Defendants.

23 v.

24
 25 CALIFORNIA BAIL AGENTS
 26 ASSOCIATION,

27 Intervenor Defendant.
 28

Case No. 4:15-cv-04959-YGR

**INTERVENOR DEFENDANT
 CALIFORNIA BAIL AGENTS
 ASSOCIATION'S ANSWER TO
 PLAINTIFFS' THIRD AMENDED
 COMPLAINT**

Action Filed: October 28, 2015

Trial Date: None Set

1 Intervenor Defendant California Bail Agents Association (“CBAA”), through the
2 undersigned counsel, hereby answers the Third Amended Class Action Complaint (Doc. 71) (the
3 “3AC”) filed by Plaintiffs Riana Buffin and Crystal Patterson (collectively, “Plaintiffs”), as
4 follows:
5

6 1. Paragraph 1 is prefatory and sets forth legal conclusions to which no response is
7 required. To the extent a response is required, CBAA denies the allegations of this paragraph.

8 2. Paragraph 2 is prefatory and sets forth legal conclusions to which no response is
9 required. To the extent a response is required, CBAA denies the allegations of this paragraph.

10 3. Paragraph 3 is prefatory and sets forth legal conclusions to which no response is
11 required. To the extent a response is required, CBAA denies the allegations of this paragraph.

12 4. Paragraph 4 is prefatory and sets forth legal conclusions to which no response is
13 required. To the extent a response is required, CBAA denies the allegations of this paragraph, and
14 further denies that any relief is proper.

15 5. CBAA denies that Defendant San Francisco Sheriff Vicki Hennessy (the “Sheriff”)
16 operates a “wealth-based detention scheme” or require that pretrial release or detention decisions
17 are based on “wealth-status.” The remaining allegations of Paragraph 5 are prefatory and set forth
18 legal conclusions to which no response is required. To the extent a response is required, CBAA
19 denies the allegations of this paragraph, and further denies that any relief is proper.

20 6. CBAA admits that this Court has jurisdiction over this matter.

21 7. CBAA admits that venue in this Court is proper.

22 8. CBAA does not contest intradistrict assignment in the San Francisco Division of
23 this Court.

24 9. CBAA admits that named Plaintiff Riana Buffin has identified herself as a 19-year-
25 old resident of Oakland. CBAA lacks knowledge or information sufficient to form a belief about
26 the truth or falsity of the remaining allegations, and therefore denies those allegations.
27
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1 10. CBAА admits that named Plaintiff Crystal Patterson has identified herself as a 29-
2 year-old resident of San Francisco. CBAА lacks knowledge or information sufficient to form a
3 belief about the truth or falsity of the remaining allegations, and therefore denies those allegations.
4

5 11. In response to paragraph 11, the first sentence concerns the City and County of San
6 Francisco, which has been dismissed from this action, and accordingly no response is required.
7 Concerning the second sentence, CBAА states that the Court has held that the Sheriff acts on behalf
8 of the State of California, rather than the City and County of San Francisco, when enforcing the
9 state’s bail laws.

10 12. The allegations of paragraph 12 state a legal conclusion to which no response is
11 required; however, the Court has already held that the Sheriff acts on behalf of the State of
12 California, rather than the City and County of San Francisco, when enforcing the state’s bail laws,
13 and that release and detention decisions are controlled by state law and not by any policy of the City
14 and County of San Francisco.

15 13. Paragraph 13 sets forth legal conclusions to which no response is required, and the
16 cited statutory sections speak for themselves. To the extent that a response is required, CBAА
17 denies the allegations of this paragraph.

18 14. Concerning the first sentence, the Court has held that the Sheriff acts on behalf of
19 the State of California, rather than the City and County of San Francisco, when enforcing the state’s
20 bail laws. The allegations of the second sentence state legal conclusions to which no response is
21 required. The allegations of the final sentence are denied insofar as the Court has already held that
22 the relevant detention and release decisions are controlled by state law, not by any “policy and
23 practice” of the Sheriff’s Department. Except as expressly admitted, denied.
24

25 15. Paragraph 15 sets forth legal conclusions to which no response is required.

26 16. Paragraph 16 sets forth legal conclusions to which no response is required. To the
27 extent that a response is required, CBAА denies the allegations of this paragraph. The Court has
28 already held that the Sheriff’s pretrial release and detention decisions are controlled by state law,

1 over which neither the Sheriff nor the City and County of San Francisco have any policymaking
2 authority or discretion. Furthermore, the Court held that the Sheriff acts on behalf of the State when
3 enforcing the bail laws, and accordingly the City and County of San Francisco is not the relevant
4 actor.

5
6 17. Paragraph 17 sets forth legal conclusions to which no response is required. To the
7 extent that a response is required, CBAA denies the allegations of this paragraph.

8
9 18. Paragraph 18 sets forth legal conclusions to which no response is required. The
10 Court has already held that the challenged actions of the Sheriff are controlled by state law, not by
11 any “policy and practice” of the City and County of San Francisco, which has been dismissed as a
12 defendant. To the extent that a response is required, CBAA denies the allegations of this paragraph.

13
14 19. Paragraph 19 sets forth legal conclusions to which no response is required, and
15 concerns a claim against the City and County of San Francisco, which has been dismissed. To the
16 extent that a response is required, CBAA denies the allegations of this paragraph.

17
18 20. Paragraph 20 sets forth legal conclusions to which no response is required, and
19 concerns a claim against the City and County of San Francisco, which has been dismissed. To the
20 extent that a response is required, CBAA denies the allegations of this paragraph.

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22 21. Paragraph 20 sets forth legal conclusions to which no response is required. To the
23 extent that a response is required, CBAA denies the allegations of this paragraph.

24
25 22. Paragraph 21 sets forth legal conclusions to which no response is required, and
26 concerns a claim the Court has dismissed. The Court has held that pretrial detention is controlled by
27 state law, not by any “policy or practice” of the City and County of San Francisco or of the Sheriff.
28 To the extent that a response is required, CBAA denies the allegations of this paragraph.

29
30 23. Paragraph 23 sets forth legal conclusions to which no response is required, and
31 concerns a claim that the Court has dismissed. To the extent that a response is required, CBAA
32 denies the allegations of this paragraph, and expressly denies the existence of a “wealth-based
33 detention scheme.”

1 24. Paragraph 24 sets forth legal conclusions to which no response is required, and
2 concerns a claim that the Court has dismissed. To the extent that a response is required, CBAA
3 denies the allegations of this paragraph.
4

5 25. Paragraph 25 sets forth legal conclusions to which no response is required, and
6 concerns a claim that the Court has dismissed. To the extent that a response is required, CBAA
7 denies the allegations of this paragraph.
8

9 26. Paragraph 26 sets forth legal conclusions to which no response is required, and
10 concerns a claim that the Court has dismissed. To the extent that a response is required, CBAA
11 denies the allegations of this paragraph.
12

13 27. CBAA lacks knowledge or information sufficient to form a belief about the truth or
14 falsity of these allegations, and therefore denies the allegations.
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16 28. CBAA lacks knowledge or information sufficient to form a belief about the truth or
17 falsity of these allegations, and therefore denies the allegations.
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19 29. CBAA lacks knowledge or information sufficient to form a belief about the truth or
20 falsity of these allegations, and therefore denies the allegations.
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22 30. CBAA lacks knowledge or information sufficient to form a belief about the truth or
23 falsity of these allegations, and therefore denies the allegations.
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25 31. CBAA lacks knowledge or information sufficient to form a belief about the truth or
26 falsity of these allegations, and therefore denies the allegations.
27

28 32. CBAA lacks knowledge or information sufficient to form a belief about the truth or
falsity of these allegations, and therefore denies the allegations.

 33. CBAA lacks knowledge or information sufficient to form a belief about the truth or
falsity of these allegations, and therefore denies the allegations.

 34. CBAA lacks knowledge or information sufficient to form a belief about the truth or
falsity of these allegations, and therefore denies the allegations.

1 35. CBAA lacks knowledge or information sufficient to form a belief about the truth or
2 falsity of these allegations, and therefore denies the allegations.

3 36. CBAA lacks knowledge or information sufficient to form a belief about the truth or
4 falsity of these allegations, and therefore denies the allegations.

5 37. With respect to paragraph 37, CBAA admits that there is an existing contract
6 between Plaintiff Crystal Patterson and a private bail bond company, Bail Hotline Bail Bonds,
7 which is a member of CBAA. CBAA further admits that pursuant to that contract, Ms. Patterson
8 agreed to pay \$1,500 of her bail amount as an initial down payment, and that Ms. Patterson and a
9 co-signor agreed to pay the balance of \$15,000, financed over years “at the maximum rate of
10 interested allowed by law.” CBAA further states that Bail Hotline Bail Bonds is a member of
11 CBAA. CBAA lacks knowledge or information sufficient to form a belief about the truth or falsity
12 of the remaining allegations, and on that basis and to the extent not expressly admitted, the
13 allegations of this paragraph are denied.

14 38. CBAA admits that Ms. Patterson is indebted to Bail Hotline Bail Bonds for the
15 balance of her \$15,000 debt. CBAA lacks knowledge or information sufficient to form a belief
16 about the truth or falsity of the remaining allegations, and to the extent not expressly admitted, the
17 allegations of this paragraph are denied.

18 39. The allegations of paragraph 39 set forth speculations to which no response is
19 required. To the extent that a response is required, CBAA denies the allegations of this paragraph.

20 40. CBAA admits that upon arrest, arrestees in San Francisco are generally transported
21 to San Francisco County Jail #1 for booking, and that the Sheriff’s Custody Division performs
22 booking processes on arrestees. To the extent not expressly admitted, the allegations of this
23 paragraph are denied.

24 41. CBAA admits that the Sheriff’s Department has a computerized Jail Management
25 System, which records various data on inmates in the county jail. CBAA further admits that these
26 records are generally updated on an ongoing basis as events occur, and include information about
27
28

1 the time of arrest and the charge(s), the posting of any bail, and the date and time of release from
2 custody. To the extent not expressly admitted, the allegations of this paragraph are denied.

3 42. CBAA admits that the booking processes of arrestees generally include searching
4 arrestees, medical triage, photographing, fingerprinting to include warrant checks, classification,
5 criminal history review, review by the San Francisco Pretrial Diversion Own Recognizance Project
6 (“O.R. Project”) for eligibility to be released on one’s own recognizance, review for eligibility to be
7 cited and released, DNA collection from persons arrested for felony charges, and inventory and
8 storage of property. To the extent not expressly admitted, the allegations of this paragraph are
9 denied.
10

11 43. Concerning the last sentence of this paragraph, CBAA denies that the process of
12 obtaining release through the O.R. Project may take “several days,” and states that this process
13 would generally take a maximum of 24 hours. CBAA admits the remaining allegations set forth in
14 paragraph 43.

15 44. CBAA admits that at the end of booking processes, arrestees are generally given a
16 booking sheet, which includes their booking charge and their bail amount. CBAA further admits
17 that bail is determined by referring to the Felony and Misdemeanor Bail Schedule as established by
18 the Superior Court of California, County of San Francisco, and that Deputy Sheriffs use this bail
19 schedule, referring to an arrestee’s booking charge(s), when determining an arrestee’s bail amount.
20 To the extent not expressly admitted, the allegations of this paragraph are denied.

21 45. CBAA denies the allegations of this paragraph, and further states as follows:
22 arrestees are told the charges against them and the amount of their bail as set in the bail schedule,
23 and they are generally also told that an agent from the O.R. Project will come to interview them
24 within 24 hours, and are thereby encouraged to work with O.R. as a first action, unless they have a
25 prior conviction, in which case an O.R. release will be less likely. CBAA further states that
26 California Penal Code §1270 gives misdemeanor arrestees a right to O.R. release. CBAA further
27 states that the California Penal Code provides arrestees with additional options, including the ability
28

1 to seek individualized bail reduction or elimination hearing for all bailable offenses, which may
2 take place prior to arraignment (Penal Code §1270.1), and, with an exception for certain, generally
3 violent offenses, the ability to apply – either personally or through his or her attorney, friend, or
4 family member – to a magistrate to set the terms of pretrial release without a hearing, including for
5 release on bail lower than that provided in the schedule of bail or on his or her own recognizance.
6 *See* Penal Code §1269c; §1289; §810 (requiring courts to establish a schedule for on-call magistrate
7 when court is not in session to set orders for release from custody upon bail).
8

9 46. CBAA admits that arrestees who are not able to pay the full bail amount with the
10 Court are shown a poster listing the phone numbers of surety bail bond agents and told that they
11 may call one of these numbers to attempt to secure their release. CBAA further admits that arrestees
12 who obtain release through surety bail agents remain in jail while making arrangements with the
13 agent such as finding cosigners for the bail bond contract. CBAA states that the third sentence of
14 paragraph 46 is too vague and imprecise to permit CBAA to admit or deny, and on that ground
15 denies the allegations of this sentence. To the extent not expressly admitted, the allegations of this
16 paragraph are denied.

17 47. CBAA admits that if an arrestee can afford to pay her full bail amount with the
18 Court, the Sheriff's Department accepts the money and orders the release of the arrestee. To the
19 extent not expressly admitted, the allegations of this paragraph are denied.
20

21 48. CBAA admits that if an arrestee cannot afford to pay her full bail amount with the
22 Court, the Sheriff's Department keeps her in jail until either she can make other arrangements to
23 obtain her release (including in the ways discussed in paragraph 45, above), she is discharged, or
24 she is taken to court within 72 business hours later for arraignment. CBAA further states that
25 California Penal Code affords arrestees alternatives to paying their full bail amount with the Court,
26 including the ability to seek an individualized bail reduction or elimination hearing for all bailable
27 offenses, which can take place prior to arraignment (Penal Code §1270.1), and, with an exception
28 for certain, generally violent offenses, the ability to apply to a magistrate to set the terms of pretrial

1 release without a hearing. See Penal Code §1269c; §1289; §810 (requiring courts to establish a
2 schedule for on-call magistrate when court is not in session to set orders for release from custody
3 upon bail). To the extent not expressly admitted, the allegations of this paragraph are denied.

4 49. CBAA lacks knowledge or information sufficient to form a belief about the truth or
5 falsity of the allegations, and therefore denies the allegations.

6 50. CBAA denies the allegations of this paragraph, and further states as follows: the
7 category of “pretrial detainees” is very broad, and includes arrestees who are in pretrial status but
8 whose circumstances do not permit the posting of a surety bond (for example, an individual subject
9 to a no-bail hold from another jurisdiction; an individual who has been sentenced in another case),
10 not just arrestees who cannot afford to pay their full bail amount with the Court (who account for an
11 estimated 4% of county jail inmates being detained pretrial).

12 51. CBAA denies the allegations of this paragraph, to the extent that Plaintiffs refer to
13 “money bail,” which is a term that finds no definition or support in the law. CBAA further responds
14 that the remaining allegations of this paragraph are too vague and imprecise to permit CBAA to
15 admit or deny, and on that ground denies the remaining allegations of this sentence.

16 52. CBAA denies that any arrestee is in jail solely due to their “wealth-status,”
17 including because wealth is not a consideration for setting bail under California law, and because
18 there are many alternatives available to arrestees who cannot afford to pay their full bail amount
19 with the Court, including the ability to seek an individualized bail reduction or elimination hearing
20 for all bailable offenses, which can take place prior to arraignment (Penal Code §1270.1), and, with
21 an exception for certain, generally violent offenses, the ability to apply to a magistrate to set the
22 terms of pretrial release without a hearing. *See* Penal Code §1269c; §1289; §810 (requiring courts
23 to establish a schedule for on-call magistrate when court is not in session to set orders for release
24 from custody upon bail). CBAA denies the remaining allegations of this paragraph.

25 53. The allegations of paragraph 53 consist of speculation, to which no response is
26 required. To the extent that a response is required, CBAA denies the allegations of this paragraph.
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1 54. Concerning the allegations of paragraph 54, the extent to which arrestees have a
2 right to release pending trial is a legal conclusion to which no response is required. CBAA denies
3 the remaining allegations of this paragraph.
4

5 55. The allegations of paragraph 55 state legal conclusions to which no response is
6 required. To the extent that a response is required, CBAA denies the allegations of this paragraph.
7

8 56. CBAA lacks knowledge or information sufficient to form a belief about the truth or
9 falsity of these allegations, and therefore denies the allegations.
10

11 57. CBAA lacks knowledge or information sufficient to form a belief about the truth or
12 falsity of these allegations, and therefore denies the allegations.
13

14 58. CBAA lacks knowledge or information sufficient to form a belief about the truth or
15 falsity of these allegations, and therefore denies the allegations.
16

17 59. CBAA denies the allegations of this paragraph. The Court has already held that
18 pretrial release is controlled by state law, not by local “policy and practice.” CBAA further states
19 that, like bail bond agents, the Sheriff is tasked with ensuring that arrestees attend their scheduled
20 Court appearances. CBAA further states that many pretrial detainees are detained not due to their
21 inability to pay the bail amount set by the Superior Court, but because their families can afford to
22 pay bail, but have chosen not to do so, as a punitive and/or educational tool.
23

24 60. CBAA lacks knowledge or information sufficient to form a belief about the truth or
25 falsity of these allegations, and therefore denies the allegations.
26

27 61. The allegations of paragraph 61 state a legal conclusion to which no response is
28 required. The Court has already held that release decisions are controlled by state law. To the extent
that a response is required, CBAA denies the allegations of this paragraph.
29

30 62. The Court has already held that pretrial release is controlled by state law, not by
31 local “practice and custom.” To the extent a response is required, denied.
32

33 63. CBAA denies the allegations of this paragraph. The Court has already held that
34 pretrial release is controlled by state law, not by local “practice and custom.” CBAA further states
35

1 that the term “money bail” finds no definition or support in the law. CBAA further states that the
2 Sheriff and the Sheriff’s Department will not detain individuals who cannot pay their full bail
3 amount, if there is another legal basis or authorization for their release.
4

5 64. CBAA admits that some arrestees make arrangements with private surety bail bond
6 companies. CBAA denies the remaining allegations of this paragraph. Specifically, CBAA denies
7 that arrangements with private surety bail bond companies “require significant time spent in jail not
8 suffered by wealthier arrestees,” including because the amount of time it takes for a private surety
9 bail bond company to bail out an arrestee depends on a multitude of factors, and that from the time
10 that the arrestee first places a call to a private surety bail bond agent, to when the agent and arrestee
11 meet to sign papers, to the posting of a bond, can be as little as four hours, depending on the
12 circumstances. CBAA further states that wealthier arrestees will not necessarily obtain the
13 assistance of a private surety bail bond agent more quickly than poorer arrestees, as the amount of
14 time required is based on the experience of the bail bond agent, not the wealth of the arrestee.

15 65. Paragraph 65 sets forth legal conclusions to which no response is required. To the
16 extent that a response is required, CBAA denies the allegations of this paragraph.

17 66. Paragraph 66 sets forth legal conclusions to which no response is required, and the
18 contents of Cal. Pen. Code § 1269b(b) speak for themselves. To the extent that a response is
19 required, CBAA denies the allegations of this paragraph.

20 67. Paragraph 67 sets forth legal conclusions to which no response is required. To the
21 extent that a response is required, CBAA denies the allegations of this paragraph.

22 68. Paragraph 68 sets forth legal conclusions to which no response is required, and
23 concerns a claim against the Attorney General that has been dismissed. To the extent that a
24 response is required, CBAA denies the allegations of this paragraph.

25 69. Paragraph 69 sets forth legal conclusions to which no response is required, and
26 concerns claim that have been dismissed. The Court held that pretrial detention is controlled by
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1 state law, not by local “policy and practice.” To the extent that a response is required, CBAA denies
2 the allegations of this paragraph.

3 70. CBAA admits that arrestees can apply to a magistrate for release on lower bail or on
4 own recognizance. The remaining allegations of this paragraph are too vague to permit CBAA to
5 respond, including because the allegations do not specify the offense(s) of which the hypothetical
6 arrestee is accused, or the meaning of the term “functionally-non existent.” Except as expressly
7 admitted, denied.
8

9 71. The allegations of this paragraph are too vague to permit CBAA to respond. To the
10 extent that a response is required, CBAA denies the allegations of this paragraph.

11 72. The allegations of this paragraph are too vague to permit CBAA to respond,
12 including because Plaintiffs do not specify to which “wealthy arrestees” they are referring, nor
13 which offense(s) such arrestee has been arrested for. To the extent that a response is required,
14 CBAA denies the allegations of this paragraph.

15 73. CBAA denies the allegations of this paragraph.

16 74. CBAA denies that “tying pretrial freedom to wealth-status is the norm in San
17 Francisco.” The remaining allegations of this paragraph are too vague to permit CBAA to respond,
18 including because Plaintiffs do not specify to which “other jurisdictions” or “other counties” they
19 are referring, or how the “numerous other methods” alleged by Plaintiffs could practically and
20 affordably be implemented in this jurisdiction, and CBAA therefore denies those allegations.

21 75. The allegations of this paragraph are too vague to permit CBAA to respond, as
22 Plaintiffs do not specify to which “other jurisdictions” they are referring. To the extent that a
23 response is required, CBAA denies the allegations of this paragraph.
24

25 76. CBAA lacks knowledge or information sufficient to form a belief about the truth or
26 falsity of these allegations, and therefore denies the allegations.

27 77. The allegations of this paragraph are too vague to permit CBAA to respond, as
28 Plaintiffs do not specify to which “jurisdictions with robust pretrial services and non-monetary

1 conditions of release” they are referring. To the extent that a response is required, CBAA denies the
2 allegations of this paragraph.

3 78. The allegations of this paragraph are too vague to permit CBAA to respond,
4 including because Plaintiffs do not specify to which “studies” they are referring, or the grounds for
5 their conclusion that “unnecessary pretrial detention causes instability in employment, housing, and
6 care for dependent relatives.” To the extent that a response is required, CBAA denies the allegations
7 of this paragraph.
8

9 79. The allegations of this paragraph are too vague to permit CBAA to respond, as
10 Plaintiffs do not specify to which “pretrial supervision programs” and/or “non-monetary tools” they
11 are referring. CBAA further states that recent studies conclude that risk assessment tools are “no
12 more accurate than a coin flip,” and that these tools are often used to promote harsh bail decisions
13 against defendants from poor, highly-policed neighborhoods, and result in disparate and
14 discriminatory impacts. To the extent that a response is required, CBAA denies the allegations of
15 this paragraph.

16 80. CBAA denies the allegations of this paragraph, to the extent that Plaintiffs refer to
17 “money bail,” which is a term that finds no definition or support in the law. CBAA admits that
18 although the bail schedule is the central component of Defendants’ pretrial justice system, in
19 limited circumstances the Sheriff’s Department can and does rely on a variety on non-wealth-based
20 metrics to make release/detention decisions, including where the Sheriff’s Department decides to
21 detain arrestees (without bail) who have violated probation, have violated terms of release, have
22 immigration detainers, or have other holds. CBAA further admits that the Sheriff’s Department can
23 also detain individuals accused of certain serious crimes without bail, and that the Sheriff and the
24 City and County of San Francisco can release arrestees without requiring bail. To the extent not
25 expressly admitted, the allegations of this paragraph are denied.
26

27 81. Paragraph 81 is prefatory and requires no response. To the extent a response is
28 required, CBAA denies the allegations of this paragraph.

1 82. Paragraph 82 sets forth legal conclusions to which no response is required. To the
2 extent that a response is required, CBAA denies the allegations of this paragraph, and further denies
3 that any class may be certified in this litigation pursuant to Rule 23 of the Federal Rules of Civil
4 Procedure.

5 83. Paragraph 83 sets forth legal conclusions to which no response is required. To the
6 extent that a response is required, CBAA denies the allegations of this paragraph, and further denies
7 that any class may be certified in this litigation pursuant to Rule 23 of the Federal Rules of Civil
8 Procedure.

9 84. Paragraph 84 sets forth legal conclusions to which no response is required. To the
10 extent that a response is required, CBAA denies the allegations of this paragraph, and further denies
11 that any class may be certified in this litigation pursuant to Rule 23 of the Federal Rules of Civil
12 Procedure.

13 85. Paragraph 85 sets forth legal conclusions to which no response is required. To the
14 extent that a response is required, CBAA denies the allegations of this paragraph, and further denies
15 that any relief is proper or that any class may be certified in this litigation pursuant to Rule 23 of the
16 Federal Rules of Civil Procedure.

17 86. CBAA lacks knowledge or information sufficient to form a belief about the truth or
18 falsity of these allegations, and therefore denies the allegations.

19 87. The allegations of this paragraph are too vague to permit CBAA to respond,
20 including because Plaintiffs do not specify to which “arrestees” they are referring. To the extent that
21 a response is required, CBAA denies the allegations of this paragraph, and further denies that any
22 relief is proper.

23 88. CBAA lacks knowledge or information sufficient to form a belief about the truth or
24 falsity of these allegations, and therefore denies the allegations.

25 89. Paragraph 89 sets forth legal conclusions to which no response is required. To the
26 extent that a response is required, CBAA denies the allegations of this paragraph, and further denies
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1 that any class may be certified in this litigation pursuant to Rule 23 of the Federal Rules of Civil
2 Procedure.

3 90. Paragraph 90 sets forth legal conclusions to which no response is required. To the
4 extent that a response is required, CBAA denies the allegations of this paragraph, and further denies
5 that any relief is proper or that any class may be certified in this litigation pursuant to Rule 23 of the
6 Federal Rules of Civil Procedure.

7 91. Paragraph 91 sets forth legal conclusions to which no response is required. To the
8 extent that a response is required, CBAA denies the allegations of this paragraph, and further denies
9 that any class may be certified in this litigation pursuant to Rule 23 of the Federal Rules of Civil
10 Procedure.

11 92. Paragraph 92 sets forth legal conclusions to which no response is required. To the
12 extent that a response is required, CBAA denies the allegations of this paragraph, and further denies
13 that any class may be certified in this litigation pursuant to Rule 23 of the Federal Rules of Civil
14 Procedure.

15 93. Paragraph 93 sets forth legal conclusions to which no response is required. To the
16 extent that a response is required, CBAA denies the allegations of this paragraph, and further denies
17 that any class may be certified in this litigation pursuant to Rule 23 of the Federal Rules of Civil
18 Procedure.

19 94. Paragraph 94 sets forth legal conclusions to which no response is required. To the
20 extent that a response is required, CBAA denies the allegations of this paragraph, and further denies
21 that any class may be certified in this litigation pursuant to Rule 23 of the Federal Rules of Civil
22 Procedure.

23 95. Paragraph 95 sets forth legal conclusions to which no response is required. To the
24 extent that a response is required, CBAA denies the allegations of this paragraph, and further denies
25 that any class may be certified in this litigation pursuant to Rule 23 of the Federal Rules of Civil
26 Procedure.
27
28

1 96. CBAA admits that Plaintiffs are represented by an attorney from Equal Justice
2 Under the Law. CBAA lacks knowledge or information sufficient to form a belief about the truth or
3 falsity of the remaining allegations, and therefore denies those allegations. CBAA further denies
4 that any class may be certified in this litigation pursuant to Rule 23 of the Federal Rules of Civil
5 Procedure.

6 97. CBAA lacks knowledge or information sufficient to form a belief about the truth or
7 falsity of these allegations, and therefore denies the allegations. CBAA further denies that any class
8 may be certified in this litigation pursuant to Rule 23 of the Federal Rules of Civil Procedure.

9 98. CBAA lacks knowledge or information sufficient to form a belief about the truth or
10 falsity of these allegations, and therefore denies the allegations. CBAA further denies that any class
11 may be certified in this litigation pursuant to Rule 23 of the Federal Rules of Civil Procedure.

12 99. CBAA lacks knowledge or information sufficient to form a belief about the truth or
13 falsity of these allegations, and therefore denies the allegations. CBAA further denies that any class
14 may be certified in this litigation pursuant to Rule 23 of the Federal Rules of Civil Procedure.

15 100. Paragraph 100 sets forth legal conclusions to which no response is required. To the
16 extent that a response is required, CBAA denies the allegations of this paragraph, and further denies
17 that any relief is proper or that any class may be certified in this litigation pursuant to Rule 23 of the
18 Federal Rules of Civil Procedure.

19 101. Paragraph 101 sets forth legal conclusions to which no response is required. To the
20 extent that a response is required, CBAA denies the allegations of this paragraph, and further denies
21 that any relief is proper or that any class may be certified in this litigation pursuant to Rule 23 of the
22 Federal Rules of Civil Procedure.

23 102. Paragraph 102 sets forth legal conclusions to which no response is required. To the
24 extent that a response is required, CBAA denies the allegations of this paragraph, and further denies
25 that any relief is proper or that any class may be certified in this litigation pursuant to Rule 23 of the
26 Federal Rules of Civil Procedure.
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1 bail,” and in requiring certain considerations to be taken into account when a judge or magistrate
2 “grants or denies bail or release on a person’s own recognizance.”

3 **FIFTH AFFIRMATIVE DEFENSE**

4 5. Plaintiffs’ claims are barred, in whole or in part, by Cal. Pen. Code §1269b, which
5 allows for surety bail in noncapital offenses.

6 **SIXTH AFFIRMATIVE DEFENSE**

7 6. Plaintiffs were on notice of their rights under the California Penal Code – including,
8 *inter alia*, to own recognizance release; to seek an individualized bail reduction or elimination
9 hearing; and to apply to a magistrate to set the terms of pretrial release without a hearing – and
10 failed to exercise these rights, and have therefore waived and/or are estopped from asserting the
11 claims in this lawsuit.

12 **SEVENTH AFFIRMATIVE DEFENSE**

13 7. Plaintiffs fail to state facts sufficient to state a claim upon which relief can be
14 granted under the Equal Protection clause of the U.S. Constitution, because wealth is not a suspect
15 class in Equal Protection jurisprudence, and California’s bail system meets rational basis review.

16 **EIGHTH AFFIRMATIVE DEFENSE**

17 8. Plaintiffs fail to state facts sufficient to state a claim upon which relief can be
18 granted under the Due Process clause of the U.S. Constitution, including because California’s bail
19 system is contains a panoply of options for individuals to be released on their own recognizance or
20 to obtain lowered bail, and because California’s bail system meets both rational basis review and
21 heightened scrutiny review.

22 **NINTH AFFIRMATIVE DEFENSE**

23 9. CBAA specifically reserves the right to raise such additional defenses as may
24 appear appropriate following further discovery and factual development of this case.

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Date: March 28, 2017

Respectfully submitted,

DHILLON LAW GROUP INC.

By: /s/ Harmeet K. Dhillon
Harmeet K. Dhillon (SBN: 207872)
Krista L. Baughman (SBN: 264600)
Gregory R. Michael (SBN: 306814)
Attorneys for Intervenor Defendant
California Bail Agents Association