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9 **THE UNITED STATES DISTRICT COURT**
 10 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
 11 **OAKLAND DIVISION**

| | |
|--|-----------------------------|
| 12 _____) | 15-CV-4959 (YGR) |
| 13) | |
| 14 RIANA BUFFIN and CRYSTAL) | |
| 15 PATTERSON, on behalf of themselves and) | JOINT STATEMENT REGARDING |
| 16 others similarly situated,) | PROPOSED INTERVENTION AND |
| 17) | CASE MANAGEMENT |
| 18 Plaintiffs,) | |
| 19) | |
| 20 v.) | |
| 21) | |
| 22 VICKI HENNESSY in her official capacity) | Judge: The Honorable Yvonne |
| 23 as the San Francisco Sheriff, <i>et al.</i> ,) | Gonzalez Rogers |
| 24) | |
| 25 Defendants.) | |
| 26 _____) | |

27 Pursuant to the proceedings held before this Court on February 7, 2017, counsel for
 28 Plaintiffs, Defendant, and Proposed Intervenor (“the Parties”) have met and conferred regarding
 29 the role of Proposed Intervenor California Bail Agents Association (“CBAA”) in this matter.
 30 The Parties discussed the matters outlined below. On all matters, the Parties agree, except where
 31 specifically noted. The Parties intend to provide further details about proposed discovery
 32 deadlines and related matters in the Case Management Statement, due on February 27, 2017.

33 **I. CBAA Is Granted Permissive Intervention for a Limited Purpose**

34 The parties agree that, while it is Plaintiffs’ burden to establish the facts necessary to
 35 prove their case, CBAA may intervene for the limited purpose of vetting the factual presentation

1 before this Court, including fully vetting the discovery process between Plaintiffs and Defendant
2 and, if necessary, seeking supplemental discovery only as relevant to the issues raised in
3 Plaintiffs' claims and any defenses to those claims.

4 The Parties agree that CBAA will not file a motion to dismiss. CBAA proposes that it be
5 permitted to file an answer with affirmative defenses in substantially similar form as proposed
6 with its Fourth Motion to Intervene. Additionally, despite CBAA's original intention of seeking
7 declaratory relief on matters related to Plaintiffs' claims, CBAA submits that it will not pursue a
8 counterclaim in this action.

9 Discovery requests from CBAA will not expand the scope of this litigation or raise new
10 issues, but will fill any necessary gaps or correct any potential factual errors so as to provide the
11 Court with a complete record upon which to rule on Plaintiffs' claims and any defenses to those
12 claims.

13 **II. Factual Matters Will Be Stipulated as Much as Possible to Limit the Need for**
14 **Formal Discovery**

15 All Parties agree that the factual presentation to the Court will be done as much as
16 possible through stipulation, as a first step in discovery. Plaintiffs will propose (at a deadline to
17 be specified in the Case Management Statement) a list of facts on which they intend to rely in
18 proving their claims. Within ten days of receiving Plaintiffs' list of facts, CBAA will propose a
19 list of additional facts on which it intends to rely in defending against Plaintiffs' claims. To the
20 extent all Parties can agree on those facts, they will be stipulated. Only those facts that cannot be
21 established through stipulation will be the subject of formal discovery.

22 **III. Any Remaining Discovery Will Proceed in Phases, with CBAA Vetting All**
23 **Discovery**

24 Regarding any facts that cannot be reached by stipulation, Plaintiffs will propound

1 discovery requests, including requests for admission, interrogatories, requests for production of
2 documents, and depositions. Plaintiffs envision a limited discovery window, allowing time for a
3 first-round of requests to be reviewed and an additional second round of requests if necessary.
4 CBAA will be copied on all discovery requests and responses.

5 After Plaintiffs' initial round of discovery is complete, CBAA may propound discovery
6 requests as needed to fill any gaps left by Plaintiffs, correct any inaccuracies, or otherwise fully
7 vet the factual exchange. This discovery may include deposition notices of parties, if necessary,
8 and/or third parties. CBAA will be permitted to participate in posing questions in any deposition
9 noticed in this case. The Parties contemplate potential expert witnesses who may be identified
10 and/or deposed, at a deadline to be specified in the Case Management Statement.

11 **IV. Parties Will Make Reasonable Efforts to Minimize Discovery Costs**

12 Depositions will be sought only if any factual disputes cannot be resolved through other
13 means, and the Parties will mutually strive to limit discovery costs and duration. The Parties
14 agree that CBAA will not file motions respecting Plaintiffs' discovery requests, but that it may
15 file motions (after meeting-and-conferring) if needed regarding its own discovery requests, and if
16 any discovery requested by Plaintiffs is not provided by the Sheriff or third parties, CBAA
17 reserves the right to request the material in discovery itself.

18 **V. Resolution of Claims**

19 Defendant and CBAA anticipate resolution by cross-motions for summary judgment,
20 including declarations from any expert witnesses. Plaintiffs largely agree that the legal questions
21 they raise may be best suited for resolution by cross-motions for summary judgment; if there are
22 any factual disputes or if the Court would like to hear live testimony from expert witnesses,
23 Plaintiffs are open to a hearing on the merits supplemented by trial briefs. All Parties agree that

1 CBAA should be permitted to file a motion for summary judgment and/or trial brief (as
2 appropriate), and that CBAA should be permitted to respond to any such motion or brief by any
3 other Party. The Parties will propose any briefing/trial schedule in the Case Management
4 Statement.

5 **VI. Class Certification**

6 CBAA reserves decision on whether it seeks to oppose Class Certification. Plaintiffs
7 oppose CBAA having a role in Class Certification on the grounds that Class Certification will
8 not impact CBAA or its members in any way. Although Defendant has not formed a position on
9 Class Certification in advance of such a motion being filed, Defendant does not believe that the
10 considerations that support CBAA's participation in addressing the constitutional issue in this
11 case apply equally to the issue of Class Certification. However, to the extent the Court
12 concludes that such participation would be appropriate or helpful, Defendant does not object.
13 The Parties will propose a Class Certification deadline in the Case Management Statement.

14 Respectfully submitted,

15 EQUAL JUSTICE UNDER LAW
16 /s/ Phil Telfeyan*
17 Phil Telfeyan
18 *Attorneys for Plaintiffs*

19 DENNIS J. HERRERA
20 City Attorney
21 /s/ Jeremy M. Goldman
22 Jeremy M. Goldman
23 *Attorneys for Defendant*
24 SHERIFF VICKI HENNESSY

25 DHILLON LAW GROUP INC.
26 /s/ Harmeet K. Dhillon
27 HARMEET K. DHILLON, ESQ.
28 *Attorney for Defendant-Intervenor*
29 CALIFORNIA BAIL AGENTS ASSOCIATION

1 * Pursuant to Civil Local Rule 5-1(i)(3) of the Northern District of California, I attest that
2 concurrence in the filing of this document has been obtained from each of the other signatories to
3 this document.

4 **CERTIFICATE OF SERVICE**

5 I certify that on February 14, 2017, I electronically filed the foregoing document with the
6 Clerk of the Court using the CM/ECF system, which will send notice of such filing to all
7 attorneys-of-record in this case.

8 */s/ Phil Telfeyan*
9 *Attorney for Plaintiffs*