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17 Attorneys for Plaintiffs  
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18 REED, and COASTAL PROTECTION  
RANGERS, INC.  
19

20 **UNITED STATES DISTRICT COURT**  
21 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**  
22

23 CORY SPENCER, an individual;  
DIANA MILENA REED, an  
24 individual; and COASTAL  
PROTECTION RANGERS, INC., a  
25 California non-profit public benefit  
corporation,

26 Plaintiffs,

27 v.  
28

CASE NO. 2:16-cv-02129-SJO (RAOx)

**[PROPOSED] ORDER GRANTING  
PLAINTIFFS' MOTION FOR CLASS  
CERTIFICATION**

Date: February 21, 2017  
Time: 10:00 a.m.  
Judge: Hon. S. James Otero  
Ctrm.: 10C  
1st Street Courthouse

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

Defendants.

11 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

12 Plaintiffs' Motion for Class Certification came on for hearing before this  
13 Court on February 21, 2017, at 10:00 a.m. After full consideration of the  
14 matter, including all papers filed in support of and opposition to the motion,  
15 all evidence presented to the Court by the parties, and argument presented  
16 by counsel, the Court finds as follows:

17 Plaintiffs' motion seeks certification of a Class consisting of:

18 All visiting beachgoers to Lunada Bay who do not live in Palos  
19 Verdes Estates ("City of PVE"), as well as those who have been  
20 deterred from visiting Lunada Bay because of the Bay Boys'  
21 actions, the Individual Defendants' actions, the City of PVE's  
22 actions and inaction, and Defendant Chief of Police Kepley's  
23 action and inaction, and subsequently denied during the Liability  
24 Period, and/or are currently being denied, on the basis of them  
25 living outside of the City of PVE, full and equal enjoyment of  
26 rights under the state and federal constitution, to services,  
27 facilities, privileges, advantages, and/or recreational  
opportunities at Lunada Bay. For purposes of this class, "visiting  
beachgoers" includes all persons who do not reside in the City of  
PVE, and who are not members of the Bay Boys, but want  
lawful, safe, and secure access to Lunada Bay to engage in  
recreational activities, including, but not limited to, surfers,  
boaters, sunbathers, fishermen, picnickers, kneeboarders, stand-  
up paddle boarders, boogie boarders, bodysurfers, windsurfers,  
kite surfers, kayakers, walkers, dog walkers, hikers,  
beachcombers, photographers, and sightseers.

28 For Plaintiffs to meet the requirements for class certification under

1 Fed. R. Civ. P. 23, the court must find: “(1) numerosity of plaintiffs; (2)  
2 common questions of law or fact predominate; (3) the named plaintiff’s  
3 claims and defenses are typical; and (4) the named plaintiff can adequately  
4 protect the interests of the class.” *Hanon v. Dataproducts Corp.*, 976 F.2d  
5 497, 508 (9th Cir. 1992). Additionally, the lawsuit must also meet the criteria  
6 of at least one of the three categories described in Rule 23(b). *Evon v. Law  
7 Offices of Sidney Mickell*, 688 F.3d 1015, 1028 (9th Cir. 2012) (citing *Shady  
8 Grove Orthopedic Assocs.*, 559 U.S. at 398).

9 For class actions in the civil rights field such as the instant matter, “the  
10 general rules on burden of proof must not be applied rigidly or blindly. The  
11 court too bears a great responsibility to insure the just resolution of the  
12 claims presented . . .” *Jones v. Diamond*, 519 F.2d 1090, 1099 (5th Cir.  
13 1975).

14 The Class seeks all declaratory, injunctive, and other equitable relief  
15 and related incidental damages as permitted set forth in the prayer for relief  
16 in the Complaint. The Class also seeks damages incidental to the claim,  
17 specifically, to compensate for the alleged denial of access to Lunada Bay  
18 by the Defendants and related loss of enjoyment of recreational  
19 opportunities. Thus, Plaintiffs seek to certify the Class pursuant to Fed. R.  
20 Civ. P. 23(b)(2) and Fed. R. Civ. P. 23(b)(3).

21 Plaintiffs have demonstrated that all requirements under Fed. R. Civ.  
22 P. 23(a) are met here. The Class is alleged to consist of many thousands of  
23 individuals, which is sufficiently numerous so that joinder of all members is  
24 impracticable. Common questions of both law and fact are pervasive  
25 amongst the Class. The claims and defenses of the representative Plaintiffs  
26 are typical of the claims and defenses of the Class, and the representative  
27 Plaintiffs and their counsel have demonstrated that they are able to  
28 prosecute this action vigorously and represent the interests of the Class in

1 this matter, and there are no conflicts that would interfere with such  
2 representation. Thus, the threshold criteria for class certification pursuant to  
3 Fed. R. Civ. P. 23(a) are satisfied here.

4 Plaintiffs have also demonstrated that certification of the Class  
5 pursuant to Fed. R. Civ. P. 23(b)(2) is appropriate here, as “the party  
6 opposing the class has acted or refused to act on grounds that apply  
7 generally to the class, so that final injunctive relief or corresponding  
8 declaratory relief is appropriate respecting the class as a whole.” Fed. R.  
9 Civ. P. 23(b)(2). All members of the Class have allegedly been deprived of  
10 their right to use and enjoy a public beach due to Defendants’ alleged  
11 conduct, and the Class collectively seeks the same equitable relief.

12 Plaintiffs have further demonstrated that certification of the Class  
13 pursuant to Fed. R. Civ. P. 23(b)(3) is also appropriate. Plaintiffs have  
14 demonstrated that “the questions of law or fact common to class members  
15 predominate over any questions affecting only individual members, and that  
16 a class action is superior to other available methods for fairly and efficiently  
17 adjudicating the controversy.” Fed. R. Civ. P. 23(b)(3). Here, the Class  
18 members and representative Plaintiffs all seek precisely the same thing:  
19 incidental damages for the loss of access to a public natural resource. The  
20 Court has considered all of the factors articulated in Fed. R. Civ. P. 23(b)(3)  
21 and finds that the individual Class members have little or no interest in  
22 individually controlling the action, that this forum is appropriate for  
23 adjudication of this dispute, and that the Class is sufficiently ascertainable  
24 and will not be unduly difficult to manage.

25 Finally, the Court finds that the requirements of Fed. R. Civ. P. 23(g)  
26 have been met. Plaintiffs’ attorneys have performed substantial work in  
27 identifying and investigating potential claims in this action, have substantial  
28 experience handling class actions and other complex litigation, know and

1 understand the applicable law, and are prepared to divert substantial  
2 resources to representing the Class. The Court is persuaded that Plaintiffs'  
3 counsel will fairly and adequately represent the interests of the Class.

4 Accordingly, Plaintiffs' motion for class certification is hereby  
5 GRANTED, and this Court Orders as follows:

6 (1) This Court hereby certifies the Class pursuant to Fed. R. Civ. P.  
7 23(b)(2) and Fed. R. Civ. P. 23(b)(3), which is defined as follows:

8 All visiting beachgoers to Lunada Bay who do not live in Palos  
9 Verdes Estates ("City of PVE"), as well as those who have been  
10 deterred from visiting Lunada Bay because of the Bay Boys'  
11 actions, the Individual Defendants' actions, the City of PVE's  
12 actions and inaction, and Defendant Chief of Police Kepley's  
13 action and inaction, and subsequently denied during the Liability  
14 Period, and/or are currently being denied, on the basis of them  
15 living outside of the City of PVE, full and equal enjoyment of  
16 rights under the state and federal constitution, to services,  
17 facilities, privileges, advantages, and/or recreational  
opportunities at Lunada Bay. For purposes of this class, "visiting  
beachgoers" includes all persons who do not reside in the City of  
PVE, and who are not members of the Bay Boys, but want  
lawful, safe, and secure access to Lunada Bay to engage in  
recreational activities, including, but not limited to, surfers,  
boaters, sunbathers, fishermen, picnickers, kneeboarders, stand-  
up paddle boarders, boogie boarders, bodysurfers, windsurfers,  
kite surfers, kayakers, walkers, dog walkers, hikers,  
beachcombers, photographers, and sightseers.

18 (2) Plaintiffs Cory Spencer, Diana Milena Reed; and Coastal  
19 Protection Rangers, Inc. are designated as Representative Plaintiffs for the  
20 Class; and

21 (3) Hanson Bridgett, LLP and Otten Law, PC are appointed Class  
22 Counsel.

23  
24 IT IS SO ORDERED.

25  
26 Date: \_\_\_\_\_

\_\_\_\_\_  
Hon. S. James Otero  
Judge, United States District Court