

1 HANSON BRIDGETT LLP  
KURT A. FRANKLIN, SBN 172715  
2 kfranklin@hansonbridgett.com  
SAMANTHA WOLFF, SBN 240280  
3 swolff@hansonbridgett.com  
JENNIFER ANIKO FOLDVARY, SBN 292216  
4 jfoldvary@hansonbridgett.com  
425 Market Street, 26th Floor  
5 San Francisco, California 94105  
Telephone: (415) 777-3200  
6 Facsimile: (415) 541-9366

7 HANSON BRIDGETT LLP  
TYSON M. SHOWER, SBN 190375  
8 tshower@hansonbridgett.com  
LONDON D. BAILEY, SBN 240236  
9 lbailey@hansonbridgett.com  
500 Capitol Mall, Suite 1500  
10 Sacramento, California 95814  
Telephone: (916) 442-3333  
11 Facsimile: (916) 442-2348

12 OTTEN LAW, PC  
VICTOR OTTEN, SBN 165800  
13 vic@ottenlawpc.com  
KAVITA TEKCHANDANI, SBN 234873  
14 kavita@ottenlawpc.com  
3620 Pacific Coast Highway, #100  
15 Torrance, California 90505  
Telephone: (310) 378-8533  
16 Facsimile: (310) 347-4225

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

27 Plaintiffs,  
28

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

**DECLARATION OF KURT A.  
FRANKLIN IN SUPPORT OF  
PLAINTIFFS' MOTION FOR CLASS  
CERTIFICATION**

Date: February 21, 2017  
Time: 10:00 a.m.  
Judge: Honorable S. James Otero  
Ctrm.: 10C

1st Street Courthouse

v.

LUNADA BAY BOYS; THE INDIVIDUAL MEMBERS OF THE LUNADA BAY BOYS, including but not limited to SANG LEE, BRANT BLAKEMAN, ALAN JOHNSTON AKA JALIAN JOHNSTON, MICHAEL RAE PAPAYANS, ANGELO FERRARA, FRANK FERRARA, CHARLIE FERRARA, and N. F.; CITY OF PALOS VERDES ESTATES; CHIEF OF POLICE JEFF KEPLEY, in his representative capacity; and DOES 1-10,

Defendants.

Complaint Filed: March 29, 2016  
Trial Date: November 7, 2017

I, Kurt A. Franklin, declare as follows:

1. I am an attorney duly admitted to practice before this Court. I am a partner with Hanson Bridgett LLP, a California-based law firm with more than 165 attorneys, and serve on Hanson Bridgett's Management Committee. Along with Otten Law PC, Hanson Bridgett serves as the attorneys of record for lead Plaintiffs CORY SPENCER, DIANA MILENA REED, and COASTAL PROTECTION RANGERS, INC., and with the Motion for Class Certification ask the Court to appoint Hanson Bridgett LLP and Otten Law PC as Class Counsel. I have personal knowledge of the facts set forth herein, except as to those stated on information and belief and, as to those, I am informed and believe them to be true. If called as a witness, I could and would competently testify to the matters stated herein.

2. I received a Bachelor of Arts degree from University of California, Los Angeles (UCLA), and a Juris Doctor degree from the University of San

1 Francisco (USF). I have practiced law full time for more than 20 years,  
2 focusing on areas including civil rights, government law, multi-party and  
3 complex litigation, and class actions. After graduating from law school in  
4 1994, I started working for a plaintiff's class action anti-trust law firm in San  
5 Francisco called Saveri & Saveri, Inc. From mid-1995 until mid-1998, I  
6 moved to San Diego to work for law firm called Zampi & Associates, that  
7 specialized in representing local government – specifically, school districts  
8 and community colleges. In mid-1998, I moved back to San Francisco to  
9 start work for Hanson Bridgett in their labor and employment, civil rights,  
10 litigation, and government sections. At Hanson Bridgett, I regularly defend  
11 businesses, local government, and the State of California in class actions  
12 and other complex litigation – including civil rights claims. The majority of  
13 my practice is in federal court.

14 3. For more than a decade at Hanson Bridgett, I have served as  
15 lead counsel in class action matters – advocating on behalf of defendants.  
16 In addition, I have led and trained lawyers, and helped build Hanson  
17 Bridgett's class action practice. The class action matters where I've served  
18 as lead counsel and/or the primary strategist include: (a) *McBride v.*  
19 *Alameda County Water District* (N.D. Cal. Case No. CV-14-02789 EDL); (b)  
20 *Newport v Burger King Corp./Vallabhapurapu v. Burger King Corp.*, (N.D.  
21 Cal. Case Nos. CV 10-04511 WHA and 11-0667 WHA) (franchisee counsel);  
22 (c) *Castaneda v. Burger King Corp.* (N.D. Cal. CV-08-04262 WHA)  
23 (franchisee counsel); (d) *Dominguez v. MV Transportation, Inc.* (Los  
24 Angeles County Superior Court, Case No. BC440717); (e) *Lockhart v. MV*  
25 *Transportation, Inc.* (Alameda County Superior Court, Case  
26 No.RG10516044); (f) *Garcia v MV Transportation, Inc.* (Los Angeles County  
27 Superior Court, Case No.BC438727); (g) *Gonzales v. MV Transportation,*  
28 *Inc.* (City and County of San Francisco Superior Court, Case No.CGC-09-

1 493382); (h) *Buckley v. MV Transportation, Inc.* (Los Angeles County  
2 Superior Court, Case No. BC 441322); (i) *Smith v. MV Transportation, Inc.*  
3 (Alameda County Superior Court, Case No. RG08389864); (j) *Greater Napa*  
4 *Fair Housing Center v. Harvest Redwood Retirement Center* (N.D. Cal. CV-  
5 07-3653 PJH); (k) *Klemaske v. California Department of Corrections and*  
6 *Rehabilitation* (E.D. Cal Case No. 2:04-cv-01750-FCD-KJM); (l) *Hecker v.*  
7 *California Department of Corrections and Rehabilitation* (E.D. Cal. Case No.  
8 2:05-cv-02441-LKK-JFM); (m) *Cherry v. City College of San Francisco* (N.D.  
9 Cal. Case No. 3:04-cv-04981)(represented developer, post certification); (n)  
10 *Roth v NaHoku, Inc.* (City and County of San Francisco Superior Court,  
11 Case No. CGC-08-476548); (o) *Valentine v. Thekkek* (Alameda County  
12 Superior Court, Case No. RG10546266); (p) *Topper v. Red Wing Shoe Co.*  
13 (Alameda County Superior Court, Case No. RG06256269); (q) *Chao (U.S.*  
14 *Dept. of Labor) v. Diablo Pool Specialties, Inc.* (N.D. Cal. 3:01cv02865)  
15 (DOJ FLSA action); (r) *Campos v. Golden Gate Bridge, Highway, and*  
16 *Transportation District* (City and County of San Francisco Superior Court,  
17 Case No. CGC-99-304391). Moreover, I have consulted and worked on  
18 many other class action matters at Hanson Bridgett.

19 4. Beyond serving as lead counsel in class action matters and  
20 serving in leadership for the Hanson Bridgett class action practice, I keep up  
21 on class action law by closely following trends, new case filings, class action  
22 developments, and by attending two or three continuing education seminars  
23 each year that focus exclusively on class action developments.

24 5. In addition to my civil rights, class action, and complex litigation  
25 experience, during my entire career I've regularly worked with public  
26 agencies, including the State of California, counties, cities, special districts,  
27 the University of California, school districts, and community colleges.

28 6. I started investigating issues related to localism and public

1 access at Lunada Bay on December 30, 2015, and was later introduced to  
2 my co-counsel Victor Otten on February 16, 2016 – who had independently  
3 investigation issues related to localism at Lunada Bay.

4 7. Mr. Otten and I continued to investigate the problem with  
5 localism at Lunada Bay. As part of our investigation, we interviewed  
6 witnesses, spoke with non-profits dedicated to public access, and  
7 communicated with representatives of the California Coastal Commission.  
8 While Hanson Bridgett typically represents local governments, it has a long  
9 history of pro bono advocacy, interest in the community, and open space  
10 advocacy. In this matter, along with Mr. Otten as co-counsel, Hanson  
11 Bridgett agreed to take on the representation of Plaintiffs Cory Spencer,  
12 Diana Milena Reed, the Coastal Protection Rangers, and the class of  
13 beachgoers who have been denied access to Lunada Bay. We have  
14 expended substantial resources and professional time in efforts to create  
15 open access at Lunada Bay, and in prosecuting this matter on behalf of the  
16 class, will continue to do so, and are committed to seeing this matter  
17 through. I have no conflicts with unnamed class members. I am informed  
18 and believe that the named plaintiffs in this matter do not have any conflicts  
19 with unnamed members of the class.

20 8. In addition to my experience as a local government, civil rights,  
21 and class action lawyer, I have been an avid beachgoer since I was a small  
22 child. I have vivid memories of my mom taking my siblings and me to  
23 Corona Del Mar for day trips as a young boy, and of our family renting a  
24 beach house during the summers at 52nd Street in Newport Beach. I would  
25 body surf and body board until about age 12, at which point I started surfing.  
26 I regularly took rides to the beach from my brothers and their friends so that I  
27 could spend my summer days surfing. Occasionally, when I did not have a  
28 ride, I would ride my bicycle more than 10 miles each way to get to the

1 beach. As soon as my friends and I could drive, we regularly surfed Trestles  
2 in North San Diego County, adjacent to the southern-most edge of Orange  
3 County. To this day, even though I live more than 30 miles to the nearest  
4 surfing beach, I regularly surf the California coast.

5 9. On November 29, 2015, we finally received a document from  
6 one of the Individual Defendants, Alan Johnston. This came following our  
7 filing a motion to compel on November 15. The document was a screen-  
8 shot of a text-message chain between Johnston and other Bay Boys, traded  
9 amongst each other on March 30, 2016 – the day after we filed the  
10 Complaint in this matter. (See Decl. Otten, Ex. 9.) Because it was only a  
11 screen-shot, we could not identify all of the recipients.

12 10. However, I asked the Hanson Bridgett library team run reverse  
13 phone number look up on visible numbers. From this reverse lookup, we  
14 were able to identify (310) 480-3207 as belonging to Michael Thiel, a New  
15 Cingular Wireless PCS LLC (AT&T) cellular account. Attached hereto as  
16 **Exhibit 1** is a true and correct copy of the reverse lookup run by the Hanson  
17 Bridgett library on cell phone number (310) 480-3207. In addition, we were  
18 able to identify (310) 291-5891 as a telephone number being associated with  
19 David Hilton, also a New Cingular Wireless PCS LLC (AT&T Mobility)  
20 account. Attached hereto as **Exhibit 2** is a true and correct copy of the  
21 reverse lookup run by the Hanson Bridgett library on cell phone number  
22 (310) 291-5891. (Subsequently, the Court ordered full production of the cell  
23 phone for examination by a forensic expert.)

24 11. In order to comply with LR 7-3 and this Court's Standing Order  
25 20, on December 16, 2016, my office planned and initiated a conference call  
26 with all defense counsel to discuss Plaintiffs motion for class certification  
27 and to attempt to eliminate the need for the motion. I led the call on behalf  
28 of the Plaintiffs, but my colleagues Samantha Wolff, Landon Bailey, and

1 Jennifer Foldvary also attended. In addition, my co-counsel, Victor Otten of  
2 Otten Law PC attended. We discussed the general basis for Plaintiffs' class  
3 certification motion, and explained the grounds for the motion. On behalf of  
4 each Plaintiff, we explained that we would be seeking to certify a class  
5 against all defendants and on all causes of action. And, as to the Bay Boys  
6 whom the defendants are members, we explained that we had asserted a  
7 civil conspiracy. We stated that we would seek certification of a Federal  
8 Rule of Civil Procedure 23(b)(2) class for equitable relief and incidental  
9 damages against the individual defendants and the City and Chief Kepley to  
10 prevent the further exclusion of outsiders seeking to access Lunada Bay and  
11 also for incidental damages. We also explained that we would seek  
12 certification under Federal Rule of Civil Procedure 23(b)(3) as a separate  
13 damages component.

14 12. During our call, I asked if any defendants would stipulate to  
15 certification either under 23(b)(2) or (b)(3). No defendant indicated he would  
16 do so. Counsel for Brant Blakeman and Frank and Charlie Ferrara had  
17 questions about the class certification process and specific causes of action  
18 – which appeared merits driven, rather than class oriented. Mr. Blakeman's  
19 attorney wrote us that afternoon. My office responded to him on December  
20 21. A true and correct copy of that response is attached hereto as **Exhibit**

21 **3.**

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1           13. In addition to the call on December 16, we had discussed class  
2 certification generally during the in-person FRCP Rule 26(f) Conference on  
3 August 5. Also, after questioning both sides, the Court ordered the  
4 scheduling of the class certification motion during August 29 scheduling  
5 conference.

6  
7           I declare under penalty of perjury under the laws of the United States  
8 of America that the foregoing is true and correct.

9           Executed December 29, 2016, at San Francisco, California.

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/s/ Kurt A. Franklin  
Kurt A. Franklin



# Exhibit 1

6 results found for people with Phone Number (310) 480-3207.

Subject 1 of 6 :

(310) 480-3207 - Thiel, Michael (California)

**Michael Thiel**

Address: , Gardena, CA 90247-4915 (Los Angeles COUNTY)

Phone:(310) 480-3207 - Thiel, Michael

Listing Type: **Unknown**

Time Zone: **PT**

Carrier: **NEW CINGULAR WIRELESS PCS LLC (AT&T MOBILITY)**

Carrier Type: **Fully Dedicated Cellular**

City: **COMPTON**

State: **CA**

County: **LOS ANGELES**

Subject 2 of 6 :

(310) 480-3207 - THIEL, MICHAEL R

Score: **99% Likely Active**

**MICHAEL R THIEL** - [ [View Person Record](#) ]

Phone:(310) 480-3207 - THIEL, MICHAEL R (04/10/2009)

Phone Type: **Mobile**

Listing Type: **Unknown**

Time Zone: **PT**

Carrier: **NEW CINGULAR WIRELESS PCS LLC (AT&T MOBILITY)**

Carrier Type: **WIRELESS**

City: **COMPTON**

State: **CA**

County: **LOS ANGELES**

Score: **99**

Subject 3 of 6 :

(310) 480-3207 - THIEL, MICHAEL (California)

Score: **99% Likely Active**

**MICHAEL THIEL** - [ [View Person Record](#) ]

Phone:(310) 480-3207 - THIEL, MICHAEL (11/15/2007 to 02/06/2015)

Phone Type: **Mobile**

Listing Type: **Unknown**

Time Zone: **PT**

Carrier: **NEW CINGULAR WIRELESS PCS LLC (AT&T MOBILITY)**

Carrier Type: **WIRELESS**

City: **COMPTON**

State: **CA**

County: **LOS ANGELES**

Score: **99**

Address: [REDACTED] PALOS VERDES ESTATES, CA 90274-2825 (LOS ANGELES COUNTY)

Subject 4 of 6 :

**(310) 480-3207 - THIEL, MICHAEL (California)**

Score: **99% Likely Active**

**MICHAEL THIEL** - [ [View Person Record](#) ]

Phone:(**310**) 480-3207 - THIEL, MICHAEL (05/17/2009 to 10/10/2016)

Phone Type: **Mobile**

Listing Type: **Unknown**

Time Zone: **PT**

Carrier: **NEW CINGULAR WIRELESS PCS LLC (AT&T MOBILITY)**

Carrier Type: **WIRELESS**

City: **COMPTON**

State: **CA**

County: **LOS ANGELES**

Score: **99**

Address: [REDACTED], RANCHO PALOS VERDES, CA 90275-2249 (LOS ANGELES COUNTY)

Subject 5 of 6 :

**(310) 480-3207 - THIEL, MICHAEL (California)**

Score: **99% Likely Active**

**MICHAEL THIEL** - [ [View Person Record](#) ]

Phone:(**310**) 480-3207 - THIEL, MICHAEL (11/15/2007 to 07/05/2016)

Phone Type: **Mobile**

Listing Type: **Unknown**

Time Zone: **PT**

Carrier: **NEW CINGULAR WIRELESS PCS LLC (AT&T MOBILITY)**

Carrier Type: **WIRELESS**

City: **COMPTON**

State: **CA**

County: **LOS ANGELES**

Score: **99**

Address: [REDACTED], RANCHO PALOS VERDES, CA 90275-1758 (LOS ANGELES COUNTY)

# Exhibit 2

5 results found for people with Phone Number (310) 291-5981.

Subject 1 of 5 :

(310) 291-5981 - FONG HILTON, CAROL Y

Score: 70%

CAROL Y FONG HILTON - [ [View Person Record](#) ]

Phone:(310) 291-5981 - FONG HILTON, CAROL Y (06/29/2012)

Listing Type: Unknown

Time Zone: PT

Carrier: NEW CINGULAR WIRELESS PCS LLC (AT&T MOBILITY)

Carrier Type: WIRELESS

City: COMPTON

State: CA

County: LOS ANGELES

Score: 70

Subject 2 of 5 :

(310) 291-5981 - FONGHILTON, CAROL (California)

Score: 70%

CAROL FONGHILTON - [ [View Person Record](#) ]

Phone:(310) 291-5981 - FONGHILTON, CAROL (04/01/2016)

Listing Type: Unknown

Time Zone: PT

Carrier: NEW CINGULAR WIRELESS PCS LLC (AT&T MOBILITY)

Carrier Type: WIRELESS

City: COMPTON

State: CA

County: LOS ANGELES

Score: 70

Address: [REDACTED], RANCHO PALOS VERDES, CA  
90275-4438 (LOS ANGELES COUNTY)

Subject 3 of 5 :

(310) 291-5981 - CHASE, SIGNED B (California)

Score: 66%

SIGNED B CHASE - [ [View Person Record](#) ]

Phone:(310) 291-5981 - CHASE, SIGNED B (11/16/2011)

Phone Type: Mobile

Listing Type: Unknown

Time Zone: PT

Carrier: NEW CINGULAR WIRELESS PCS LLC (AT&T MOBILITY)

Carrier Type: WIRELESS

City: COMPTON

State: CA

County: LOS ANGELES

Score: 66

Address: [REDACTED], PALOS VERDES ESTATES, CA  
90274-2629 (LOS ANGELES COUNTY)

Subject 4 of 5 :

**(310) 291-5981 - HILTON, DAVID J**

Score: **66%**

**DAVID J HILTON** - [ [View Person Record](#) ]

Phone:(310) 291-5981 - HILTON, DAVID J (12/06/2010)

Listing Type: **Unknown**

Time Zone: **PT**

Carrier: **NEW CINGULAR WIRELESS PCS LLC (AT&T MOBILITY)**

Carrier Type: **WIRELESS**

City: **COMPTON**

State: **CA**

County: **LOS ANGELES**

Score: **66**

Subject 5 of 5 :

**(310) 291-5981 - HILTON, DAVID (California)**

Score: **66%**

**DAVID HILTON** - [ [View Person Record](#) ]

Phone:(310) 291-5981 - HILTON, DAVID (08/29/2015)

Listing Type: **Unknown**

Time Zone: **PT**

Carrier: **NEW CINGULAR WIRELESS PCS LLC (AT&T MOBILITY)**

Carrier Type: **WIRELESS**

City: **COMPTON**

State: **CA**

County: **LOS ANGELES**

Score: **66**

Address: [REDACTED], RANCHO PALOS VERDES, CA  
90275-4438 (LOS ANGELES COUNTY)

# Exhibit 3

SAMANTHA D. WOLFF  
SENIOR COUNSEL  
DIRECT DIAL (415) 995-5020  
DIRECT FAX (415) 995-3547  
E-MAIL [swolff@hansonbridgett.com](mailto:swolff@hansonbridgett.com)



December 21, 2016

VIA E-MAIL  
[jworgul@veatchfirm.com](mailto:jworgul@veatchfirm.com)

John Worgul  
Veatch Carlson, LLP  
1055 Wilshire Blvd., 11th Floor  
Los Angeles, CA 90017-2444

Re: *Spencer, et al. v. Lunada Bay Boys, et al.* - Class Certification Motion

Dear Mr. Worgul:

We are in receipt of your letter from December 16, 2016. I write to respond in several respects.

First, the parties' conversation on December 16, 2016, in which we discussed the basis for Plaintiffs' class certification motion, was not "pro forma" as you suggest. Indeed, you acknowledge that we explained the grounds for our motion. Simply because you "cannot fathom how a class can be certified against Brant Blakeman in his personal capacity for assault, battery, or negligence" does not infer that we did not meet and confer in good faith. As we explained during the call and as you note in your letter, we will be seeking to certify a class against all defendants and on all causes of action. And, as to the group, we have asserted a civil conspiracy. We will seek certification of a Federal Rule of Civil Procedure 23(b)(2) class for equitable relief and incidental damages against the individual defendants and the City and Chief Kepley to prevent the further exclusion of outsiders seeking to access Lunada Bay. We will also seek certification under Federal Rule of Civil Procedure 23(b)(3) as a separate damages component.

Second, contrary to your assertion, Local Rule 7-3 (quoted in your letter) does not obligate us to provide legal authority in support of our motion. All that it requires is that we discuss the substance of the contemplated motion and any potential resolution, which we did. Nonetheless, as a courtesy and to assist your understanding of this matter, we provide you with the following legal authority in support of our motion: *Wang v. Chinese Daily News, Inc.*, 737 F.3d 538, 544 (9th Cir. 2013); *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 359 (2011); *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1019 (9th Cir. 1998); *Amchem Prod., Inc. v. Windsor*, 521 U.S. 591, 614 (1997).



John Worgul  
December 21, 2016  
Page 2

Finally, with respect to discussion of potential resolution under Local Rule 7-3, Plaintiffs asked during the call whether any defendant would be agreeable to stipulating to certification – either under FRCP 23(b)(2) or 23(b)(3). No defendant indicated a willingness to do so. If your client's position changes in this regard, please let us know.

Sincerely,



Samantha Wolff

cc: Kurt Franklin  
Victor Otten  
Landon Bailey  
Jennifer Foldvary  
Robert Cooper  
Richard Dieffenbach  
Peter Crossin  
Laura Bell  
Peter Haven  
J. Patrick Carey  
Mark Fields  
Tera Lutz  
Daniel Crowley  
Edward Ward, Jr.  
Thomas Phillips  
Jacob Song  
Ed Richards  
Antoinette Hewitt