

# EXHIBIT B



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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

- - -

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

Plaintiffs, )

vs. )

No. 2:16-cv-02129-SJO (RAOx)

LUNADA BAY BOYS; THE )  
INDIVIDUAL MEMBERS OF THE )  
LUNADA BAY BOYS, including )  
but not limited to SANG LEE, )  
BRANT BLAKEMAN, ALAN )  
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. )

Deposition of STEVEN BARBER, taken on behalf  
of Plaintiffs, at 19200 Von Karman Avenue, Fourth Floor,  
Irvine, California, commencing at 10:35 a.m., Thursday,  
June 22, 2017, before Denise J. Pagano, CSR No. 7233.

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1           A       I'm sure. 12:08  
2           Q       Do you know if the Ferraras have ever made a  
3 donation?  
4           A       I have no idea if the Ferraras have.  
5           Q       How about someone named Charlie Mowat?  
6           A       Charlie probably has made a donation in the past.  
7 He's a resident.  
8           Q       Do you know Mr. Mowat?  
9           A       Yes, I do.  
10          Q       And do you know him permanently?  
11          A       I do.  
12          Q       And how do you know him personally?  
13          A       I've probably gotten to know Charlie just over the  
14 years of seeing him around in the city. He went to -- he's  
15 a local guy. He went to Palos Verdes High School, went to 12:09  
16 Margate Intermediate. He's a pilot. Just become friendly  
17 with him over the years. Nice guy, and so I consider  
18 Charlie a friend.  
19          Q       Okay.  
20          A       Yeah.  
21          Q       And does -- consider him a friend, does that mean  
22 family vacations and that type of thing?  
23          A       Nothing like that; not that close, no.  
24          Q       Okay. But over to his house for events and that  
25 type of thing?

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1           A     I have been, yes. 12:10  
2           Q     Okay. Barbecues?  
3           A     Yes.  
4           Q     Poker?  
5           A     No, never played poker with Charlie.  
6           Q     Is there -- do any of the officers play poker with  
7 any of the residents, do you know?  
8           A     No, not that I know of, no.  
9           Q     How about -- do you know if Brant Blakeman has made  
10 any donations to the POA?  
11          A     I'm not sure if Brant has or not.  
12          Q     How about his wife? Would you know if she's made a  
13 donation?  
14          A     Like I said, I can't remember the last time I  
15 actually looked at a list of who donated. 12:10  
16          Q     And I'm going to ask about a few -- how about  
17 Mr. Papayans? Do you know the Papayans family?  
18          A     I do.  
19          Q     And is there a -- there is a Michael more senior  
20 Papayans. Do you know that person?  
21          A     Yes.  
22          Q     Do you know if he's ever made a donation?  
23          A     Like I said, I don't know.  
24          Q     Do you recall any other donations by any  
25 individuals?

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1 it or to a private entity or -- 12:34  
2 A That would be normally how we would do things.  
3 Q To another police department first?  
4 A If they're available and can do it, yes. And we  
5 usually ask for permission through, you know, a captain or a  
6 sergeant from their department.  
7 Q And are there -- in terms of the evidence, is there  
8 a -- if a phone -- is there a chain of custody log that goes  
9 to another department where --  
10 A Of course, yes.  
11 Q And then it gets locked up by whomever that is that  
12 takes receipt of it on the other end?  
13 A Yes.  
14 Q As you sit here today, you don't know what happened  
15 in those -- N.F.'s phone in particular from that day? 12:35  
16 A I do not, no.  
17 Q Is there a rule at Palos Verdes Estates where  
18 officers are not permitted to bring their cell phones into  
19 the field, personal cell phones?  
20 A Personal cell phones? No.  
21 Q Do officers bring their personal cell phones into  
22 the field?  
23 A Yes, they do.  
24 Q Is there -- how do officers -- do -- have you ever  
25 received a text from another officer in the field?

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1 MR. FLAUTT: Vague and ambiguous as to how? What 12:36  
2 phone?

3 BY MR. FRANKLIN:

4 Q On your personal phone?

5 A Yes.

6 Q And how often might you receive a text from another  
7 officer when he or she is in the field or you are in the  
8 field?

9 A It could be a couple times a day.

10 Q Do you have the cell phone numbers of the other  
11 officers available to you?

12 A Yes, I do. Not all.

13 Q Is there a -- what type of -- what type of personal  
14 phone do you have that might go into the field?

15 A My personal cell phone? 12:37

16 Q When I say what type, is it an Apple or --

17 A It's an Apple iPhone.

18 Q Do you know what -- kids know better than me --  
19 what?

20 A Oh, what type it is?

21 Q Yes.

22 A 6S Plus.

23 Q Okay. And do you -- do you carry that into the  
24 field with you virtually every time you go into the field?

25 A Yes.

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1 Q And would it be more common for people than not for 12:37  
2 people to bring their personal phones into the field?

3 A It's probably more common.

4 Q Does the City issue a phone available for officers?

5 A They do -- they do issue a phone for certain  
6 positions, and then we do have patrol assigned phones in  
7 case we need to contact a victim or something.

8 Q So your personal phone, they don't get your  
9 personal number when you call? Is that the idea?

10 A No, it's a separate phone from the City that they  
11 issue to us, that they issue to the office who is out in the  
12 field; so there are two patrol phones and one watch  
13 commander phone that is a City phone.

14 Q So that goes back to the staffing. There is --  
15 each car has a phone -- 12:38

16 A Correct --

17 Q -- in it?

18 A -- that is assigned.

19 Q Okay. And what type of phones are in the patrol  
20 cars when they go out?

21 A Apple, Apple iPhones, and they're old, so I don't  
22 know what kind.

23 Q Something older than 6S?

24 A Oh, yeah.

25 Q How often -- is it more -- because they're old, do



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1 officers use their personal phones more frequently than the 12:39  
2 City-assigned phones or --

3 A For only --

4 MR. FLAUTT: Object to the extent it calls for  
5 speculation.

6 Answer if you know.

7 BY MR. FRANKLIN:

8 Q In your experience?

9 A Just for personal calls to family and friends.

10 Q So what would -- so they use their -- they use  
11 their phone for calls to family and friends. Occasionally,  
12 to other officers; is that right?

13 A Which is usually just personal stuff.

14 Q Have you ever texted -- I'll as you personally --  
15 or have you ever received a text from an officer that might 12:39  
16 be even tangentially work-related?

17 MR. FLAUTT: Object. Vague and ambiguous as to  
18 what it was received on. Was it received on a work phone?  
19 On a personal phone?

20 MR. FRANKLIN: We're talking about his personal  
21 phone.

22 MR. FLAUTT: Okay. Object to the extent that it  
23 violates his privacy rights under the California  
24 Constitution and the U.S. Constitution to his only personal  
25 phone and the contents thereof.

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1 BY MR. FRANKLIN: 12:40  
2 Q I'm not asking about the contents. I'm asking have  
3 you ever received something --  
4 A Related to work?  
5 Q Yes.  
6 MR. FLAUTT: Vague and ambiguous as to related to  
7 work.  
8 Can we get a little bit more definition?  
9 MR. FRANKLIN: No.  
10 BY MR. FRANKLIN:  
11 Q Do you understand what related to work means?  
12 MR. FLAUTT: Do you understand?  
13 THE WITNESS: It could be a multitude of different  
14 things. I mean, I don't --  
15 MR. FLAUTT: For instance, if he's calling in sick 12:40  
16 or somebody else was.  
17 MR. FRANKLIN: Well, let's have it related to work.  
18 BY MR. FRANKLIN:  
19 Q How about related to something you observed in the  
20 field?  
21 A No.  
22 Q How about related to something where somebody else  
23 observed in the field?  
24 A No.  
25 Q That's never happened?

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1 MR. FRANKLIN: I think we have his number, so I 16:49  
2 don't know that that's right.

3 MR. RICHARDS: You didn't get it from us.

4 MR. FRANKLIN: Okay. So, Counsel, if you want to  
5 state that objection so we're gonna have to adjourn at some  
6 point, and we'll go to Magistrate Oliver on this and get a  
7 ruling.

8 MR. FLAUTT: And just ahead of time, we're going  
9 to request briefing on the issue as well, because we do  
10 believe it's a fairly complicated --

11 MR. FRANKLIN: Sure, there is a Protective Order in  
12 place with, say -- so that's fine with us on that.

13 BY MR. FRANKLIN:

14 Q Has anyone from the City asked you to provide them  
15 your cell phone related to this case? 16:50

16 A My personal?

17 Q Yes.

18 A No.

19 Q So no one has approached you and said we need your  
20 cell phone with related to any surfing incidents in Lunada  
21 Bay?

22 A No.

23 Q Do you know whether the cell phones that are in the  
24 police cars that are the City's phones whether those have  
25 been taken out of service so they can be searched for --

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1 STATE OF \_\_\_\_\_ )  
2 COUNTY OF \_\_\_\_\_ ) ss.

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I, the undersigned, declare under penalty of perjury that I have read the foregoing transcript, and I have made any corrections, additions or deletions that I was desirous of making; that the foregoing is a true and correct transcript of my testimony contained therein.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_,  
20 \_\_\_\_, at \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
STEVEN BARBER

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REPORTER'S CERTIFICATE

I, DENISE J. PAGANO, CSR. No. 7233, Certified  
Shorthand Reporter, certify;

That the foregoing proceedings were taken before me  
at the time and place therein set forth, at which time the  
witness, STEVEN BARBER, was put under oath by me;

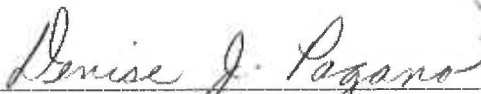
That the testimony of the witness, the questions  
propounded, and all objections and statements made at the  
time of the examination were recorded stenographically by me  
and were thereafter transcribed;

That the foregoing is a true and correct transcript  
of my shorthand notes so taken.

I further certify that I am not a relative or  
employee of any attorney of the parties, nor financially  
interested in the action.

I declare under penalty of perjury under the laws  
of California that the foregoing is true and correct.

Dated this 5th day of July, 2017.

  
DENISE J. PAGANO, CSR NO. 7233

