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September 2, 2022

VIA TRUEFILING

Presiding Justice Laurence D. Rubin
and Associate Justices
California Court of Appeal
Second Appellate District, Division Five
300 S. Spring Street
2nd Floor, North Tower
Los Angeles, CA 90013

Re: *Spencer v. City of Palos Verdes*
Case No.: B309225; LASC Case No.: BC629596

Dear Presiding Justice Rubin and Associate Justices:

This letter is in response to the Clerk's request on August 25, 2022 that the parties submit a letter brief on any settlements and dismissals of co-defendants in this matter, and "whether any of these settlements, or other developments pending appeal, have any impact on any issues presently before the court." Plaintiffs respond that the settlements with other defendants do not affect the issues on appeal, and, Plaintiffs are unaware of any other developments that would affect the issues on appeal.

Next, there is no settlement discussion or other negotiation currently pending with the City of Palos Verdes Estates ("City") nor will Plaintiffs entertain such discussion and negotiation given full briefing of the important Coastal Act matters and issues before the Court on appeal. See, also, *Fireman's Fund Ins. Cos. v. Quackenbush*, 52 Cal. App. 4th 599 (1997); *Arden Group, Inc. v. Burk*, 45 Cal. App. 4th 1409 (1996); *California v. Superior Court (Lovelace)*, 11 Cal. 4th 50 (1995); 9 Witkin, Cal. Proc. 6th Appeal § 764 (2022).

As a concise update, however, 12 of 17 defendants have settled with Plaintiffs. In alphabetical order, the settling defendants are Brant Blakeman, Cassidy Beukema, Angela Ferrara, Charlie Ferrara, Frank Ferrara, Paul

Hugoboom, Brendon Lamers, Sang Lee, Charlie Mowat, Michael Ray Papayans, Tom Sullivan, and Michael Thiel.¹ Each settling defendant was offered the choice of agreeing to equitable relief in the form of a voluntary stay away, or, paying money. Of the 12 settling defendants, 4 elected the voluntary stay away, 7 elected to pay money, and 1 settling defendant chose a hybrid of voluntary stay away and a payment of money. As to the defendants whose settlement included a voluntary stay away, by stipulation of the parties, the trial court retained jurisdiction over the Plaintiffs and each of the defendants who agreed to the voluntary stay away under Code of Civ. Proc. §664.6 (a), even after dismissal of the matter, until full performance of the settlement.²

The City contested the first Application for Good Faith Settlement Determination (GFSD) made under Code of Civ. Proc. §877.6,³ which was made by settling defendants; the first GFSD was made by Defendants Charlie Ferrara and Frank Ferrara.⁴ After the trial court granted the GFSD,⁵ the City did not file a petition for writ of mandate. Further, after the trial court granted the first GFSD, the City did not challenge the GFSDs made by other defendants.

¹ Besides the City, the defendants who have not settled are: Defendant Devon Demaria [defaulted on June 27, 2019]; Defendant Alan Johnston (a/k/a Jalian Johnston) [trial court granted complete stay pending decision on appeal, 07/20/22]; Defendant Lunada Bay Boys [trial court denied substitute service on November 6, 2019]; and Defendant David Melo [trial court granted complete stay pending decision on appeal, 07/20/22].

² Orders on Good Faith Settlement Determination: 1) Defendant Brant Blakeman, 03/30/22; 2) Defendant Brendon Lamers, 05/10/22; 3) Defendant Sang Lee, 02/22/22; 4) Defendant Michael Rae Papayans, 02/22/22; and 5) Defendant Tom Sullivan, Jr., 07/20/22.

³ Defendant City of Palos Verdes Estates' Motion to Contest Defendants Frank Ferrara And Charlie Ferrara's Application for Determination of Good Faith Settlement filed on March 19, 2021.

⁴ Defendants Frank Ferrara and Charlie Ferrara's Notice of Motion for Determination of Good Faith Settlement filed on February 18, 2021.

⁵ Order Granting Defendants Charlie and Frank Ferraras' Application for Determination of Good Faith Settlement (CCP 877.6) filed on July 13, 2021.

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To assist the Court, a Settlement Agreement Chart is attached as Exhibit A. This chart identifies (1) the settling defendant, (2) the last signature date on the settlement agreement, (3) whether or not the defendant agreed to the Voluntary Stay Away, or chose to pay money instead, (4) the date of the GFSD if one was filed, and, the date of the trial court's order on the GFSD, (5) the date of the dismissal, and (6) the defendants who have not settled.

In conclusion, while this response letter attempts to give the Court a full understanding of the settlements with some of the other defendants, it is Plaintiffs' position that there is no reason to defer full consideration of the pending appeal and resolution of same on the merits.

Respectfully yours,

HANSON BRIDGETT LLP

/s/ Kurt A. Franklin

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Document received by the CA 2nd District Court of Appeal.

EXHIBIT A

Spencer, et al. v. Lunada Bay Boys, et al.
Second Appellate Dist. Case No. B309225; LASC Case No. BC629596

SETTLEMENT AGREEMENT CHART

Party ¹	Latest Signature Date on Settlement	Money Paid By Defendant	12-Month Voluntary Stay-Away With Trial Court Oversight Under CCP §664.6(a)	Good Faith Settlement Determination	Dismissal Entered
Defendants Charlie Ferrara and Frank Ferrara	02/16/21	Yes	No	02/18/21 (Application filed) 07/13/21 (Order)	07/20/21
Defendant Charlie Mowat	04/22/21	Yes	No	None filed.	04/23/21
Defendant Michael Thiel	05/26/21	Yes	No	None filed.	06/09/21
Defendants Cassidy Beukema and Angelo Ferrara	06/14/21	Yes	No	None filed.	11/12/21
Defendant Paul Hugoboom	08/12/21	Yes	No	12/14/21 (Application filed) 01/11/22 (Order)	11/12/21
Defendant Michael Ray Papayans	01/11/22	No	Yes from 02/22/22 – 02/21/23 (expires 02/21/23)	02/01/22 (Application filed) 02/22/22 (Order)	02/25/22
Defendant Sang Lee	01/18/22	No	Yes from 01/21/22 – 01/20/23 (expires 01/20/23)	01/26/22 (Application filed) 02/22/22 (Order)	02/25/22
Defendant Brant Blakeman	02/14/22	Yes	Yes from 04/01/22 – 03/31/23 (expires 03/31/23)	03/03/22 (Application filed) 03/30/22 (Order)	05/09/22
Defendant Brendon Lamers	03/28/22	No	Yes from 05/10/22 – 05/09/23 (expires 05/09/23)	04/18/22 (Application filed) 05/10/22 (Order) 07/07/22 (Notice of Entry of Judgment or Order)	07/11/22
Defendant Tom Sullivan, Jr.	05/12/22	No	Yes from 07/20/22 – 07/19/23 (expires 07/19/23)	06/21/22 (Application filed) 07/20/22 (Order)	07/26/22
NO SETTLEMENT					
Defendant Lunada Bay Boys [Trial Court Denied Plaintiffs Motion for Order Re Service 11/6/19]					
Defendant City of Palos Verdes [Appeal Pending]					
Defendant Devon Demaria [Defaulted 06/27/19]					
Defendant Alan Johnston (a/k/a Jalian Johnston) [Trial Court Granted Complete Stay Pending Decision on Appeal, 07/20/22]					
Defendant David Melo [Trial Court Granted Complete Stay Pending Decision on Appeal, 07/20/22]					

¹ Settlements are listed in chronological order, with the oldest settlements being listed first.