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7
8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 MICHAEL BLOOM, STEPHEN
CHATZKY, TONY DIAZ, VALERIE
GRISCHY, PENNY HELMS,
11 BENJAMIN HERNANDEZ, DOUG
HIGGINS, SUZONNE KEITH, DAVID
12 WILSON, individually and on behalf of
themselves and all others similarly
13 situation,

14 Plaintiffs,

15 v.

16 CITY OF SAN DIEGO,

17 Defendant.

) Case No. 17cv2324 AJB NLS

) **DEFENDANT CITY OF SAN
DIEGO'S REPORT ON
PRELIMINARY INJUNCTION
OF SAN DIEGO MUNICIPAL
CODE § 86.0137(F)**

) Judge: Hon. Anthony J. Battaglia
Courtroom: 4A, 4th floor Schwartz
Hearing: No hearing date set

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19 **I. INTRODUCTION**

20 On August 21, 2018, the Court granted in part and denied in part Plaintiffs'
21 motion for a preliminary injunction in *Michael Bloom v. City of San Diego* (Case
22 Number 17-cv-2324-AJB-NLS). In relevant part, the Court granted the Plaintiffs'
23 motion for a preliminary injunction to prohibit the City of San Diego ("City") from
24 enforcing San Diego Municipal Code ("SDMC") section 86.0137(f):

- 25 1. The City of San Diego is enjoined from ticketing any person
26 under SDMC section 86.0137(f).
27 2. The City of San Diego is enjoined from impounding any
vehicle on the basis of violating SDMC section 86.0137(f).

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1 195 outstanding parking citations for SDMC section 86.0137(f). The City's
2 Delinquent Accounts Program identified and cancelled the 863 delinquent accounts
3 related to parking citations for SDMC section 86.0137(f). (A true and correct copy
4 of the declaration of DeeDee Alari, Deputy Director Revenue Collections, is attached
5 hereto as Exhibit 3.)

6 4. The People of the State of California are not a party to the above-
7 referenced case. Therefore, the City Attorney's Office, in its independent capacity as
8 a prosecutor for the People of the State of California, is not subject to this injunction.
9 Nonetheless, the City Attorney's office is not currently prosecuting any cases under
10 SDMC section 86.0137(f). (A true and correct copy of a letter from City Attorney
11 Mara W. Elliott is attached hereto as Exhibit 4.)

12 5. The San Diego County District Attorney ("D.A.") prosecutes cases
13 that arise in South Bay, including San Ysidro and the southern parts of the City.
14 The San Diego City Attorney's Office has no control over the D.A.'s prosecutorial
15 decisions. To the extent a SDPD officer is involved in any case brought by the
16 D.A.'s office involving vehicle habitation, the officer would know of the injunction
17 and would inform the prosecutor. The City in those instances could not outright
18 dismiss the charges because it is not the prosecutor of record in those cases.
19 However, to the best of the City's knowledge, there are no cases pending in the
20 DA's office for violations of SDMC section 86.0137(f).

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III. CONCLUSION

The information in this report has been provided to me by employees of the City, and based on my information and belief, under penalty of perjury under the laws of the State of California, that information is true and correct. A copy of this report, outlining the actions the City has taken to comply with the Court’s August 21, 2018 Order, has been served on the Plaintiffs.

Dated: September 20, 2018

MARA W. ELLIOTT, City Attorney

By /s/Marni von Wilpert
Marni Von Wilpert
Deputy City Attorney

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CITYOF SAN DIEGO
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