EXHIBIT G

Shilpi Agarwal (SBN 270749)
sagarwal@aclunc.org
Avram D. Frey (MJP 804789)
afrey@aclunc.org
Emi Young (SBN 311238)
eyoung@aclunc.org
Hannah Kieschnick (SBN 319011)
hkieschnick@aclunc.org
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF NORTHERN CALIFORNIA, INC.
39 Drumm Street
San Francisco, CA 94111
Telephone: (415) 621-2493
Facsimile: (415) 255-1478

Justina Sessions (SBN 270914)
jsessions@wsgr.com
John P. Flynn (SBN 141094)
jflynn@wsgr.com
Colleen Bal (SBN 167637)
cbal@wsgr.com
Dylan G. Savage (SBN 310452)
dsavage@wsgr.com
Malavika F. Lobo (SBN 317635)
mlobo@wsgr.com
WILSON, SONSINI, GOODRICH & ROSATI
One Market Plaza
Spear Tower, Suite 3300
San Francisco, CA 94105
Telephone: (415) 947-2197
Facsimile: (415) 947-2000

Attorneys for Plaintiffs

ELECTRONICALLY
FILED
Superior Court of California, County of San Francisco
09/14/2022
Clerk of the Court
BY: SANDRA SCHIRO
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN FRANCISCO

JOSHUA SIMON, DAVID BARBER, AND JOSUE BONILLA, individually and on behalf of all others similarly situated, DIANA BLOCK, an individual, and COMMUNITY RESOURCE INITIATIVE, an organization, Plaintiffs, v. CITY AND COUNTY OF SAN FRANCISCO, PAUL MIYAMOTO, IN HIS OFFICIAL CAPACITY AS SAN FRANCISCO SHERIFF, Defendants.	CASE NO.: CGC-22-601686 **DECLARATION OF AVRAM D. FREY IN SUPPORT OF *EX PARTE* APPLICATION FOR ORDER TO SHOW CAUSE AND NOTICE GIVEN** Date: September 29, 2022 Time: 11:00 a.m. Dept: 302 Before: Honorable Richard B. Ulmer, Jr.

DECLARATION OF AVRAM D. FREY

I, AVRAM D. FREY, declare:

1. I am an attorney licensed to practice in the State of California and am employed as a Staff Attorney at the American Civil Liberties Union Foundation of Northern California ("ACLU NorCal"). I have personal knowledge of the facts set forth in this Declaration and, if called upon, could testify to those facts.

2. On September 13, 2022, at 4:15 p.m., I called Margaret Baumgartner, Chief Legal Counsel for the San Francisco Sheriff's Office. I notified Ms. Baumgartner that Plaintiffs would file an *Ex Parte* Application for Order to Show Cause seeking a preliminary injunction. Ms. Baumgartner informed me that she is not representing Defendants in this matter, and that the San Francisco City Attorney would be representing Defendants. In order to facilitate my communication with defense counsel, Ms. Baumgartner offered to communicate with that office, find out who is handling the matter, and provide my contact information. I offered to send Ms. Baumgartner an email for her to forward to the City Attorney's office for this purpose, and she agreed.

3. On September 13, 2022, at 4:40 p.m., I sent an email to Ms. Baumgartner as we had agreed. A true and correct copy of that email is attached as Exhibit 1. The title of this email provided the case name and docket number and included the language "Seeking Contact with Defense Counsel." In the body of the email, I stated that Plaintiffs are attempting to notify defense counsel of their intention to seek preliminary relief *ex parte* through an order to show case, given that no counsel for Defendants has entered an appearance. I provided the date of the *ex parte* hearing, September 29, 2022, stated that Plaintiffs wished to know whether Defendants would oppose a preliminary injunction and whether they intended to appear at the hearing, and requested to be contacted by email or telephone, providing information for both. Since that time, I have received no communication from Ms. Baumgartner.

4. On September 14, 2022, I called the City Attorney's office at approximately 10 a.m. I requested to speak to the attorney assigned to the present matter and ultimately spoke to

two different individuals in reception. After providing the case name and docket number, both informed me that they had no record of this case and could provide no further assistance.

5. On September 14, 2022, I called the City Attorney's office again at approximately 11:30 a.m. I again provided the case name and docket number for the present matter and requested to speak to the attorney assigned to the matter, this time also providing the first name of the individual who accepted service on behalf of the City and County of San Francisco, Jazlyn. I informed the individual who answered the phone in reception that Jazlyn had apparently declined to provide her last name but stated that she was over the age of 18 and authorized to accept service on behalf of the City and County. I was then transferred to a woman who asked me what the matter is concerning, and when I stated it is a lawsuit concerning the San Francisco Sheriff's Electronic Monitoring Program Rules, she transferred me again to Jana Clark, whom she described as the attorney responsible for matters concerning the Sheriff. Ms. Clark did not answer the phone, but I left a voicemail with my name, telephone number, and the case name and docket number.

6. On September 14, 2022, at 12:41 p.m., I sent an email to the City Attorney. A true and correct copy of that email is attached as Exhibit 2. In that email, I provided the case name and docket number and detailed my previous efforts to communicate with the attorney responsible for representing Defendants in the present matter. I further stated that Plaintiffs intend to seek a preliminary injunction by means of an *ex parte* application for an order to show cause, as no counsel for Defendants has yet appeared. I stated that a hearing on this matter is presently scheduled for September 29, 2022, at 11:00 a.m. in Department 302 of the San Francisco Superior Court, located at 400 McAllister St., San Francisco, CA 94102. I stated that Plaintiffs would like to know whether Defendants intend to oppose a preliminary injunction and whether they intend to make an appearance at the hearing.

7. On September 14, 2022, at approximately 2:35 p.m., I received a telephone call from Jana Clark of the City Attorney's office. She informed me that she would not be handling this matter as she provides more policy-based advice to the Sheriff and is not responsible for

litigation. She stated that no attorney at her office had yet been assigned this matter. She told me that as soon as an attorney is assigned, they would contact me. I asked if I could send her an email memorializing our conversation, and she agreed. She stated that she was familiar with the contents of the email I had sent to the City Attorney earlier in the day. She stated that she did not know how Defendants planned to respond to Plaintiffs' *ex parte* application for an order to show cause.

9. On September 14, 2022, at 2:49 p.m., I emailed Ms. Clark to memorialize our conversation. A true and correct copy of that email is attached as Exhibit 3. In that email, I again stated Plaintiffs' intention to apply *ex parte* for an order to show cause seeking a preliminary injunction. I provided the hearing date, time, and location, as before, and against stated that Plaintiffs request to know whether Defendants intend to oppose and whether Defendants intend to appear at the hearing. As of the time of this writing, I have not received further communication from the City Attorney's office.

I declare under penalty of perjury that the foregoing is true and corrected. Executed this 14th day of September 2022, at San Francisco, California.

Avram Frey

Avram D. Frey

INDEX OF EXHIBITS
(Pursuant to CRC 3.1110(f))

1. EXHIBIT 1: A true and correct copy of an email dated September 13, 2022, titled "Seeking Contact with Defense Counsel."

2. EXHIBIT 2: A true and correct copy of an email dated September 14, 2022, titled "Simon, et al. v. City and County of SF, et al., CGC-22-601686."

3. EXHIBIT 3: A true and correct copy of an email dated September 14, 2022, titled "Simon, et al. v. City and County of SF, et al., CGC-22-601686."

Exhibit 1

From: Avram Frey
To: Margaret.Baumgartner@sfgov.org
Subject: Simon v. City and County of SF, CGC-22-601686- Seeking Contact with Defense Counsel
Date: Tuesday, September 13, 2022 4:40:00 PM
Attachments: image001.png

Dear Margaret,

I am writing to formalize our conversation by phone a moment ago, and to provide you an email to forward on to the City Attorney's Office. When we spoke, you stated that your office will not be representing Defendants in the above-captioned matter, and that the matter will be handled for Defendants by the City Attorney. You offered to forward this email to that office to facilitate our communication with defense counsel, which we greatly appreciate.

We are seeking to provide notice to defense counsel of our intention to seek preliminary relief *ex parte* through an order to show cause, as no one has entered an appearance for Defendants at this time. Presently, we have an *ex parte* hearing date of September 29, 2022. We would like to know whether defense counsel intend to oppose and appear at the hearing to satisfy the notice requirements of Rule 3.1204(b).

Counsel for Defendants should feel free to contact me either by return to this email address (afrey@aclunc.org) or by phone (646-229-4385).

Thank you kindly for your assistance in this matter.

Sincerely,
Avi Frey

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ACLU
AMERICAN CIVIL LIBERTIES UNION FOUNDATION
Northern California

Avi Frey
Pronouns: he/him/his
Deputy Director, Criminal Justice Project
ACLU Foundation of Northern California
39 Drumm Street, San Francisco, CA 94111
(646) 229-4385 | afrey@aclunc.org

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Exhibit 2

From: Avram Frey
To: cityattorney@sfcityatty.org
Subject: Simon, et al. v. City and County of SF, et al., CGC-22-601686
Date: Wednesday, September 14, 2022 12:41:00 PM
Attachments: image001.png

Hello,

I am an attorney with the ACLU of Northern California representing Plaintiffs in the above-captioned matter. Yesterday, I spoke with Margaret Baumgartner of the legal office of the Sheriff and she informed me that your office is representing Defendants in this matter. I sent her an email to forward to your office, but to ensure we are providing legally valid notice, I am reaching out to your office directly, as well.

Twice this morning, I attempted to speak with an attorney at your office who is handling this matter. Initially I called just before 10 a.m. After providing the case name and the docket number, I was told by two different individuals in reception that there was no record of this matter in your office. I called back at 11:30 a.m. and tried again, this time providing the first name of the individual who accepted service of the complaint according to our records, Jazlyn Doe – as I indicated on the phone to an individual in reception, Jazlyn apparently declined to provide her surname but stated that she was over 18 and authorized to accept service on behalf of the City and County of San Francisco. I was ultimately transferred to an attorney named Janice Clark, whom I was informed represents the City Attorney in matters related to the San Francisco Sheriff. Ms. Clark was not available, but I left a voicemail with my name, contact information, and the case name and docket number. I have not heard back as of this time.

We intend to seek a preliminary injunction in this matter. As no one has entered an appearance for Defendants at this time, we will be proceeding *ex parte* through an application for an order to show cause. Presently, we have a hearing scheduled for September 29, 2022 at 11:00 a.m. in Department 302 of the San Francisco Superior Court, located at 400 McAllister Street, San Francisco, CA 94102. If possible, we would like to know before filing our *ex parte* application whether Defendants intend to oppose a preliminary injunction and whether Defendants will appear at the September 29 hearing.

I can be reached by return to this email address (afrey@aclunc.org) or by phone (646-229-4385).

Thank you for your time and consideration of this matter.

Sincerely,
Avi Frey

-

Avi Frey
Pronouns: he/him/his
Deputy Director, Criminal Justice Project
ACLU Foundation of Northern California
39 Drumm Street, San Francisco, CA 94111
(646) 229-4385 | afrey@aclunc.org

ACLU
AMERICAN CIVIL LIBERTIES UNION FOUNDATION
Northern California

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Exhibit 3

From: Avram Frey
To: jana.clark@sfcityatty.org
Subject: Simon, et al v. City and County of San Francisco, et al., CGC 22-601686
Date: Wednesday, September 14, 2022 2:49:00 PM
Attachments: image001.png

Dear Jana,

I am writing to memorialize our conversation by phone a moment ago. As you are aware, I am an attorney with the ACLU of Northern California representing Plaintiffs in the above-captioned matter. You informed me by phone that you are not representing Defendants in this matter and that an attorney for Defendants has not yet been assigned. You told me that once an attorney is assigned by your office, they will contact me.

I stated to you that we intend to seek a preliminary injunction in this matter by means of an *ex parte* application. You indicated that you were aware of this per my earlier email to your office. At the risk of being redundant, we want to notify your office that we have a hearing scheduled for September 29, 2022 at 11:00 a.m. in Department 302 of the San Francisco Superior Court, located at 400 McAllister Street, San Francisco, CA 94102. If possible, we would like to know before filing our *ex parte* application whether Defendants intend to oppose a preliminary injunction and whether Defendants will appear at the September 29 hearing. You indicated to me that you are not aware of what Defendants intend in this regard.

I can be reached by return to this email address (afrey@aclunc.org) or by phone (646-229-4385).

Thank you for your time and consideration of this matter.

Sincerely,
Avi Frey

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