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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

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11 **SECURITIES AND EXCHANGE**
12 **COMMISSION,**

13 **Plaintiff,**

14 vs.

15 **RALPH IANNELLI and ESSEX**
CAPITAL CORPORATION,

16 **Defendants.**

Case No.: 2:18-cv-05008

PROPOSED INTERVENOR CVL'S
NOTICE OF MOTION AND
MOTION TO INTERVENE AND
TO REMOVE CVL'S ASSETS
FROM THE COURT-ORDERED
FREEZE

Hearing Date: October 24, 2019
Time: 10:00 a.m.
Crtrm: 6D
Judge: Hon. Fernando M. Olguin

Complaint Filed: June 5, 2018
Trial Date: None

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NOTICE OF MOTION TO INTERVENE AND
TO REMOVE CVL’S ASSETS FROM THE COURT-ORDERED FREEZE

TO THE COURT, ALL PARTIES, AND TO THEIR COUNSEL OF
RECORD:

PLEASE TAKE NOTICE that on October 24, 2019, at 10:00 a.m. or as soon thereafter as counsel may be heard in Courtroom 6D of the above-entitled Court, located at 350 West First Street, Los Angeles, California, 90012, proposed intervenor 915 ELM AVENUE CVL, LLC (“CVL”) will and hereby does move this Court to intervene as a party in the above-captioned action pursuant to Federal Rule of Civil Procedure 24. CVL seeks to intervene to protect its interests that the Securities and Exchange Commission (“SEC”), Essex Capital Corporation (“Essex”), and Ralph Iannelli (“Iannelli”) (collectively, the “Parties”) have placed at issue in this proceeding.

Specifically, the Parties jointly represented to the Court that Iannelli was the “Listed Owner” of certain real property when they knew that CVL is the listed owner. As a result, the Court froze the property based on incorrect information and without notice to CVL. The Parties also had the Court freeze a former CVL bank account, which, without clarification, potentially impedes CVL’s ability to use its other bank accounts. More fundamentally, the Parties have shown they intend to target CVL’s assets from the shadows, employing this enforcement proceeding to develop a narrative to attack CVL through Iannelli’s minority membership interest in the LLC, without allowing CVL the opportunity to correct their misstatements or to oppose their requests. Under governing law, CVL is no different than any other entity Iannelli invested in, and its assets are not available to Iannelli’s creditors. And yet, the SEC, Receiver, and Iannelli are treating CVL’s assets as if Iannelli owned them directly. Such an approach is improper, impairs CVL’s due process rights and its ability to conduct its ongoing business, and results in repeated *ex parte* contacts in which the Parties discuss CVL with the Court without CVL’s knowledge or

1 involvement.

2 CVL through this Motion therefore respectfully requests that the Court:

- 3 1. Grant CVL the right to intervene to ensure that its interests are protected;
- 4 2. Remove CVL's real property from the freeze; and
- 5 3. Clarify that CVL's bank accounts, aside from the one account
- 6 specifically identified, are not subject to the Court's freeze order.

7 Pursuant to Local Rule 7-3, CVL contacted the Parties to meet and confer about
8 its intervention on September 10, 2019, had an initial phone conference on September
9 12, 2019, and follow-up communications over the following weeks.

10 This Motion is based upon this Notice, the attached Memorandum of Points and
11 Authorities, the attached declarations of William S. Reyner, Jr. and David L.
12 Cousineau, and upon all papers and documents on file herein, the Court's files
13 concerning this action, together with those facts and documents of which CVL
14 requests judicial notice and/or matters for which judicial notice is proper, as well as
15 any oral argument that may be presented at the time of the hearing.

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17 DATED: September 25, 2019

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19 By: /s/ David L. Cousineau

20 A. Barry Cappello
21 David L. Cousineau
22 Attorneys for
23 915 Elm Avenue CVL, LLC
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CERTIFICATE OF SERVICE

I, David L. Cousineau, hereby certify that on September 25, 2019, I electronically filed the following documents with the Clerk of the United States District Court for the Central District of California using the CM/ECF system, which shall send electronic notification to all counsel of record:

- PROPOSED INTERVENOR CVL’S NOTICE OF MOTION AND MOTION TO INTERVENE AND TO REMOVE CVL’S ASSETS FROM COURT-ORDERED FREEZE
- MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE AND TO REMOVE CVL’S ASSETS FROM COURT-ORDERED FREEZE
- [PROPOSED] ORDER GRANTING CVL’S MOTION TO INTERVENE AND TO REMOVE CVL’S ASSETS FROM COURT-ORDERED FREEZE
- DECLARATION OF DAVID L. COUSINEAU IN SUPPORT OF MOTION TO INTERVENE
- DECLARATION OF WILLIAM REYNER, JR. IN SUPPORT OF MOTION TO INTERVENE

/s/ David L. Cousineau
David L. Cousineau