

1 F. Mario Trujillo (SBN 352020)
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Electronically Filed
Superior Court of California
County of San Joaquin
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Clerk: Tracy Hoffmaster

Motion
2025-02-11 9:00AM in 10A

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF SAN JOAQUIN**

10 PEN-LINK, INC.,
11 Plaintiff/Petitioner,
12
13 v.
14 SAN JOAQUIN COUNTY SHERIFF'S
OFFICE, and DOES 1-10,
15 Defendants/Respondents.

16
17 ELECTRONIC FRONTIER
FOUNDATION,
18 Proposed Intervenor.
19

Case No.: STK-CV-UWM-0016425

**NOTICE OF MOTION AND
UNOPPOSED MOTION TO INTERVENE**

DATE:
TIME:

DEPT: 10A

Judge: Hon. George J. Abdallah

Dept: 10A

Action Filed: November 22, 2024

Trial Date: Unassigned

Filed Concurrently With: (1) Memorandum of
Points and Authorities in Support of Motion to
Intervene; (2) Declaration of F. Mario Trujillo in
Support of Motion to Intervene

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

22 PLEASE TAKE NOTICE that on a date of the court's choosing (proposed dates include
23 January 28-29 or February 4-6 of 2025) the matter may be heard in Dept. 10A, of the above-entitled
24 court, located at 180 E. Weber Ave. Stockton, CA 95202, Proposed Intervenor Electronic Frontier
25 Foundation ("EFF") will and hereby does move to intervene in this matter pursuant to Cal. Civ.
26 Proc. Code § 387. *See Carlsbad Police Officers Ass'n v. City of Carlsbad*, 49 Cal. App. 5th 135,
27 149 (2020) (holding that persons seeking public records "qualified for intervention of right" in
28 action seeking to prevent agencies from disclosing requested records); *Marken v. Santa Monica-*

1 *Malibu Unified Sch. Dist.*, 202 Cal. App. 4th 1250, 1268 (2012) (stating that person who requested
2 records “should be named as a real party in interest and, if not, allowed to intervene in a reverse-
3 CPRA lawsuit if he or she wishes”).

4 EFF’s motion for leave to intervene is based on the following:

5 Proposed Intervenor EFF can petition the court for leave to intervene by a timely noticed
6 motion in the above captioned case. Cal. Civ. Proc. Code § 387(c). EFF’s proposed cross-petition
7 for a writ of mandate under the California Public Records Act (“CPRA”) is attached to the
8 declaration of the undersigned counsel filed herewith.

9 Pursuant to California Constitution, article I, section 3(b)(1), (7), and the CPRA, Gov’t Code
10 § 7920.000, *et seq.* (“CPRA”), every person has a right of access to information concerning the
11 conduct of the people’s business.

12 EFF filed a CPRA request with Defendant San Joaquin County Sheriff’s Office (“Sheriff’s
13 Office”) seeking the disclosure of records concerning its purchase of technology from private
14 vendors, including from Plaintiff Pen-Link, Inc. (“Pen-Link”). Through this suit, Pen-Link seeks to
15 prevent the disclosure of the records EFF sought in its CPRA request.

16 EFF’s motion to intervene is timely. Pen-Link initiated this action on November 22, 2024.
17 EFF learned of the filing on November 26, 2024. EFF meets the requirements of intervention as of
18 right under Cal. Civ. Proc. Code § 387. EFF alternatively meets the requirements for permissive
19 intervention under the same provision.

20 All parties to this action have been notified through their counsel of record that EFF would
21 petition this Court for leave to intervene.

22 Defendant/Respondent San Joaquin Sherriff’s Office consented to EFF’s motion to
23 intervene thought Deputy County Counsel Rachel Allgaier. Plaintiff/Petitioner Pen-Link does not
24 oppose intervention. Declaration of F. Mario Trujillo ¶ 8.

25 This motion is based upon the information provided herein, the supporting declaration of
26 undersigned counsel, the accompanying memorandum in support of this application, the verified
27 cross-petition attached hereto, the pleadings on file in this action, any matter of which the Court
28 may take judicial notice and any other material the Court deems proper.

1 DATED: December 18, 2024

ELECTRONIC FRONTIER FOUNDATION

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/s/ F. Mario Trujillo

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F. MARIO TRUJILLO

4

AARON MACKEY

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BETELHEM ZEWGE GEDLU

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Attorneys for Electronic Frontier Foundation

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1 **PROOF OF SERVICE**

2 I, James A. Littau, declare as follows:

3 I am over the age of 18 years and not a party to the within action. My business address is
4 815 Eddy Street, San Francisco, California 94109. I am employed in the office of a member of the
5 bar of this court at whose direction the service was made.

6 On December 18, 2024, I served the foregoing document(s) entitled:

7 **NOTICE OF MOTION & UNOPPOSED MOTION FOR LEAVE TO INTERVENE**

8 On the following:

<p>9 <u>By Email</u></p> <p>10 Rachael Allgaier, Esq. 11 Deputy County Counsel, 12 Office of County Counsel 13 County of San Joaquin 14 allgaier@sjgov.org</p> <p>15 Counsel for Defendant/Respondent San Joaquin Sherriff’s Office (email only, with consent)</p>	<p><u>By Electronic Transmission via One Legal</u></p> <p>Samuel D. Jubelirer, Esq. DENTONS US LLP 1999 Harrison Street, Suite 1210 Oakland, CA, 94612-4709 Samuel.jubelirer@densons.com</p> <p>Counsel for Plaintiff Pen-Link, Inc.</p>
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16 **BY ELECTRONIC TRANSMISSION VIA ONE LEGAL:** I caused a copy of the
17 foregoing document to be sent via File and Serve California to the persons at the e-mail addresses
18 listed above. The above parties and/or counsel of record are designated for electronic service in this
19 matter on the File and Serve California website. I did not receive, within a reasonable time after the
20 transmission, any electronic message or other indication that the transmission was unsuccessful.

21 **BY E-MAIL:** I caused a copy of the document(s) to be sent from e-mail address
22 james@eff.org to the persons at the e-mail addresses listed above. I did not receive, within a
23 reasonable time after the transmission, any electronic message or other indication that the
24 transmission was unsuccessful.

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

27 Executed on December 18, 2024 at San Francisco, California.

28 /s/ James A. Littau _____
James A. Littau