

1 DENNIS J. HERRERA, State Bar #139669  
 City Attorney  
 2 WAYNE K. SNODGRASS, State Bar #148137  
 JEREMY M. GOLDMAN, State Bar #218888  
 3 Deputy City Attorneys  
 City Hall, Room 234  
 4 1 Dr. Carlton B. Goodlett Place  
 San Francisco, California 94102-4682  
 5 Telephone: (415) 554-6762  
 Facsimile: (415) 554-4699  
 6 E-Mail: jeremy.goldman@sfgov.org

7 Attorneys for Defendant  
 8 SHERIFF VICKI HENNESSY

9  
 10 UNITED STATES DISTRICT COURT  
 11 NORTHERN DISTRICT OF CALIFORNIA

12  
 13 RIANA BUFFIN and CRYSTAL  
 PATTERSON, on behalf of themselves and  
 14 others similarly situated,

15 Plaintiffs,

16 vs.

17 SHERIFF VICKI HENNESSY, in her  
 official capacity,

18 Defendant.  
 19

Case No. C15-04959 YGR

**JOINT CASE MANAGEMENT STATEMENT**

Hearing Date: February 7, 2017  
 Time: 2:00 p.m.  
 Place: Ctrm. 1, Fourth Floor  
 Judge: Hon. Yvonne Gonzalez Rogers

1 The parties hereby submit this Joint Case Management Statement.

2 **I. Jurisdiction and Service**

3 This is a civil rights action arising under 42 U.S.C. § 1983 and 28 U.S.C. § 2201, *et seq.*, and  
4 the Fourteenth Amendment to the United States Constitution. This Court has jurisdiction pursuant to  
5 28 U.S.C. §§ 1331 and 1343. There are no issues regarding personal jurisdiction, venue, or service,  
6 and no parties remain to be served.

7 **II. Facts**

8 A fuller chronology of facts is outlined in the Third Amended Complaint (ECF Doc. 71, ¶¶ 27–  
9 80). Briefly, in late October 2015, named Plaintiffs Riana Buffin and Crystal Patterson were arrested,  
10 and they were each booked in the San Francisco County Jail and told they would be released if they  
11 paid \$30,000 and \$150,000, respectively. According to Plaintiffs, neither could afford the requested  
12 amount; as a result, Ms. Buffin spent approximately 46 hours in jail and Ms. Patterson spent  
13 approximately 31 hours in jail. The San Francisco Sheriff continues to detain arrestees who are  
14 booked in the county jail by reference to preset bail amounts as set forth in the bail schedule  
15 established by the San Francisco Superior Court. This lawsuit is a putative class action on behalf of  
16 similarly situated arrestees in the San Francisco jail.

17 **III. Legal Issues**

18 The fundamental question in this case is whether California law comports with the Equal  
19 Protection and Due Process guarantees of the U.S. Constitution insofar as it requires the detention  
20 described above. In her Answer, the Sheriff stated that she will not defend California's law in this  
21 action.

22 **IV. Motions**

23 Only one motion is currently pending before this Court: the California Bail Agents'  
24 Association Motion to Intervene. Plaintiffs have argued (ECF Doc. 112) that this motion should be  
25 denied, as intervention by the bail industry would only serve to confuse the issues, delay the  
26 proceedings, and interfere with the management of the case. Defendant does not oppose the motion.

27 Plaintiffs' previous Motion for Class Certification was denied without prejudice, and Plaintiffs  
28 plan to renew it in accordance with this Joint Case Management Statement. This Court has also

1 previously denied without prejudice Plaintiffs' Motion for a Preliminary Injunction, which Plaintiffs  
2 also plan to renew.

3 **V. Amendment of Pleadings**

4 The parties do not anticipate any amendments to the pleadings. Should a need arise, the parties  
5 will meet and confer on the propriety and timing of any amendments.

6 **VI. Evidence Preservation**

7 The parties have reviewed the ESI Guidelines and have met and conferred (pursuant to Fed. R.  
8 Civ. P. 26(f)) regarding reasonable and proportionate steps to preserve evidence.

9 **VII. Disclosures**

10 Plaintiffs have provided initial disclosures in accordance with Rule 26(a)(1). The Sheriff has  
11 advised Plaintiffs that, in light of her statement that she will not defend California's bail laws in this  
12 action, she has no initial disclosures to make under Rule 26(a)(1).

13 **VIII. Discovery**

14 **A. Scope of Anticipated Discovery**

15 Absent intervention by additional parties, the scope of discovery will be limited to information  
16 reasonably related to the allegations and claims in Plaintiffs' Third Amended Complaint (ECF Doc.  
17 71). The parties believe that it is premature to propose a discovery completion date until after this  
18 Court has ruled on the motion to intervene.

19 **B. Limits on Discovery**

20 Except as explicitly stated, the parties intend to follow the Rules of Civil Procedure regarding  
21 discovery.

22 **C. E-Discovery**

23 The parties agree that all electronically stored information ("ESI") that relates to the subject of  
24 discovery in this matter shall be preserved. All ESI that is produced must contain associated metadata.  
25 Where a request for ESI does not specify the form in which the ESI will be produced, the parties agree  
26 to produce ESI in its native format and in a format suitable for examination by the requesting party.

27 **D. Discovery Disputes**

28 There are no pending discovery disputes.

1 **IX. Class Actions**

2 This action is brought as a Class action pursuant to Rule 23(a)(1)–(4) and Rule 23(b)(2) of the  
3 Federal Rules of Civil Procedure. Plaintiffs propose one Class seeking declaratory and injunctive  
4 relief. The Declaratory and Injunctive Class is defined as: all arrestees who are or will be in the  
5 custody of the City and County of San Francisco and are or will be detained for any amount of time  
6 because they are unable to pay money bail. The facts on which Plaintiffs rely to maintain the class  
7 action are fully set forth in the Third Amended Complaint. ECF Doc. 71, ¶¶ 86–103.

8 Plaintiffs do not believe discovery is needed to certify the class in this case. The parties  
9 propose December 28, 2016, as the deadline for Plaintiffs to refile their Motion for Class Certification.

10 **X. Related Cases**

11 There are no related cases pending before this or any other court. The constitutionality of  
12 California’s bail laws is also being challenged in the Eastern District of California. *Welchen v.*  
13 *Sacramento*, No. 2:16-cv-00185-TLN-KJN (E.D Cal. 2016).

14 **XI. Relief**

15 The only relief available pursuant to this Court’s order (ECF Doc. 99) are Plaintiffs’ claims for  
16 declaratory and injunctive relief. Plaintiffs’ claims for damages have been dismissed. Regarding  
17 equitable relief, Plaintiffs seek the following:

- 18 a. A declaratory judgment that Defendant Sheriff violates the named Plaintiffs’ and Class  
19 Members’ constitutional rights by keeping them in jail solely because they cannot make  
20 a monetary payment;
- 21 b. An order and judgment preliminarily and permanently enjoining Defendant from  
22 enforcing the unconstitutional wealth-based detention policies and practices against the  
23 named Plaintiffs and the Class of similarly situated people that they represent;
- 24 c. An order and judgment preliminarily and permanently enjoining Defendant Sheriff from  
25 using money bail to detain any person due to her inability to make a monetary payment  
26 and requiring that all release/detention decisions be based on factors other than wealth-  
27 status or ability to make a monetary payment;
- 28 d. An order declaring that Defendant Sheriff must follow the requirements of the Equal  
Protection and Due Process Clauses, regardless of contrary state law or contrary policies  
and practices;

1 e. An order declaring that, as applied by Defendant against Plaintiffs and Class Members,  
2 California Penal Code section 1269b(b) and any other state statutory or constitutional  
3 provisions that require the use of secured money bail to detain any person without an  
inquiry into ability to pay are unconstitutional;

4 f. An order and judgment granting reasonable attorneys' fees and costs pursuant to 42  
5 U.S.C. § 1988, and any other relief this Court deems just and proper.

6 **XII. Settlement and ADR**

7 Because this case challenges California law under the federal Constitution, the parties do not  
8 believe settlement is possible until a ruling from this Court addressing the constitutionality of the  
9 challenged laws.

10 **XIII. Consent to Magistrate Judge for All Purposes**

11 The parties do not consent to a magistrate judge for all purposes.

12 **XIV. Other References**

13 This case is not suitable for binding arbitration or a special master. Because similar arguments  
14 are being made in the Eastern District of California, it may be suitable for Multidistrict Litigation.

15 **XV. Narrowing of Issues**

16 The parties do not propose any narrowing of issues.

17 **XVI. Expedited Trial Procedure**

18 The parties do not propose the Expedited Trial Procedure.

19 **XVII. Scheduling**

20 Because the Sheriff has indicated that she will not defend the law, and because the CBAA has  
21 moved to intervene, the parties believe that it is premature to set litigation dates before it is known  
22 whether there will be a party defending the constitutionality of California's bail laws. The Sheriff  
23 believes that any party permitted to intervene to defend those laws should participate in the setting of  
24 litigation dates.

25  
26 **XVIII. Trial**  
27  
28

1 Any trial in this case would be a bench trial. The length of a trial, if any, depends in significant  
2 part on whether the CBAA is permitted to intervene to defend the constitutionality of California's bail  
3 laws.

4 **XIX. Disclosure of Non-Party Interested Entities or Persons**

5 The parties have no non-party interested entities or persons to disclose.

6 **XX. Professional Conduct**

7 All attorneys of record for the parties have reviewed the Guidelines for Professional Conduct  
8 for the Northern District of California.

9 **XXI. Other Matters**

10 The parties do not have other matters to report.

11  
12 Dated: February 6, 2017

Respectfully submitted,

13 DENNIS J. HERRERA  
14 City Attorney

15 By: /s/ Jeremy M. Goldman\*\*  
16 JEREMY M. GOLDMAN

17 Attorneys for Defendant  
18 SHERIFF VICKI HENNESSY

19 Dated: February 6, 2017

EQUAL JUSTICE UNDER LAW  
20 PHIL TELFEYAN

21 By: /s/ Phil Telfeyan  
22 PHIL TELFEYAN, ESQ.

23 Attorney for Plaintiffs  
24 RIANA BUFFIN and CRYSTAL PATTERSON

25 \*\*Pursuant to Civil Local Rule 5-1(i)(3) of the Northern District of California, I attest that  
26 concurrence in the filing of this document has been obtained from each of the other signatories to this  
27 document.