

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 Defendants  
8 CITY AND COUNTY OF SAN FRANCISCO  
and SHERIFF VICKI HENNESSY  
9

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12

13 RIANA BUFFIN and CRYSTAL  
14 PATTERSON, et al.,

15 Plaintiffs,

16 vs.

17 THE CITY AND COUNTY OF SAN  
FRANCISCO, VICKI HENNESSY in her  
18 official capacity as the San Francisco  
Sheriff, and KAMALA HARRIS, in her  
19 official capacity as the California Attorney  
General,

20 Defendants.  
21

Case No. C15-04959 YGR

**JOINT SUBMISSION BY ALL PARTIES IN  
RESPONSE TO SAN FRANCISCO'S  
SUPPLEMENTAL BRIEF REGARDING PILOT  
PROJECT**

Hearing Date: September 27, 2016  
Time: 2:00 p.m.  
Place: Courtroom 1, Fourth Floor  
Judge: Hon. Yvonne Gonzalez Rogers

1 Plaintiffs and Defendants have met and conferred and jointly submit this statement regarding  
2 San Francisco's Supplemental Brief, ECF No. 91.

3 1. Plaintiffs were aware of the pilot project at the time they prepared the Third Amended  
4 Complaint and do not consider it relevant to their claims, because not all arrestees are eligible for pre-  
5 arraignment release through the OR Project and, as with the procedure previously used by the OR  
6 Project, the program still does not allow for immediate release because the information must be  
7 prepared and submitted to the court for a decision. *See* ECF No. 71 ¶ 71. Plaintiffs do not wish to file  
8 an amended complaint addressing the pilot project.

9 2. The City and County of San Francisco and Sheriff Hennessy do not believe that the  
10 pilot project alters the issues raised in their pending motion to dismiss, because that motion is limited  
11 to Eleventh Amendment immunity and the scope of the *Monell* doctrine, and does not address the  
12 merits of Plaintiffs' claims.

13 3. The Attorney General does not believe that the pilot project alters the issues raised in  
14 her pending motion to dismiss because, to the extent the motion reaches the merits of Plaintiffs'  
15 claims, the motion contends that California's bail laws are constitutional regardless of whether or how  
16 the OR Project operates in San Francisco because the classifications in the bail schedule are based on  
17 the seriousness of the offense and the State is not required to remove obstacles not of its own creation.  
18 *See* ECF No. 77 at 9-10.

19 4. Because Plaintiffs contend that the use of money bail as alleged in the Third Amended  
20 Complaint is unconstitutional regardless of the OR Project's operations in San Francisco, and because  
21 the pilot project does not provide a new avenue for pretrial release that did not already exist (although  
22 it provides the superior court with new information), the parties do not believe that the launch of the  
23 pilot project renders any portion of the lawsuit moot.

24 For the foregoing reasons, the parties do not believe that the pilot project impacts the pending  
25 motions. Accordingly, the parties submit this joint statement in lieu of supplemental briefs, without  
26 prejudice to any party's ability to address the pilot project at a later stage of the litigation if applicable  
27 and relevant.

1 Dated: August 17, 2016

2 DENNIS J. HERRERA  
3 City Attorney  
4 WAYNE K. SNODGRASS  
5 JEREMY M. GOLDMAN  
6 Deputy City Attorneys

7 By: /s/Jeremy M. Goldman  
8 JEREMY M. GOLDMAN

9 Attorneys for Defendants  
10 CITY AND COUNTY OF SAN FRANCISCO  
11 and SHERIFF VICKI HENNESSY

12 Dated: August 17, 2016

13 ATTORNEY, EQUAL JUSTICE UNDER LAW

14 By: \*\*/s/Phil Telfeyan  
15 PHIL TELFEYAN  
16 KATHERINE HUBBARD

17 Attorneys for Plaintiffs  
18 RIANA BUFFIN and CRYSTAL PATTERSON

19 Dated: August 17, 2016

20 KAMALA HARRIS  
21 Attorney General of California

22 By: \*\*/s/Jose A. Zelidon-Zepeda  
23 JOSE A. ZELIDON-ZEPEDA

24 Attorneys for Defendant  
25 KAMALA HARRIS

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