

1 Phil Telfeyan (CA Bar No. 258270)
2 Attorney, Equal Justice Under Law
3 601 Pennsylvania Avenue NW
4 South Building — Suite 900
5 Washington, D.C. 20004
6 (202) 505-2058
7 ptelfeyan@equaljusticeunderlaw.org
8 *Attorney for Plaintiffs Riana Buffin and Crystal Patterson*

9 **THE UNITED STATES DISTRICT COURT**
10 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
11 **OAKLAND DIVISION**

12	_____)	15-CV-4959 (YGR)
13)	
14	RIANA BUFFIN and CRYSTAL)	
15	PATTERSON, on behalf of themselves and)	JOINT CASE MANAGEMENT
16	others similarly situated,)	STATEMENT
17)	
18	Plaintiffs,)	
19)	
20	v.)	Hearing: March 6, 2017, 2pm
21)	Department: Courtroom 1, Fourth Floor
22	VICKI HENNESSY in her official capacity)	Judge: The Honorable Yvonne
23	as the San Francisco Sheriff, <i>et al.</i> ,)	Gonzalez Rogers
24)	
25	Defendants.)	
26	_____)	

27 Pursuant to this Court’s Order in ECF No. 116, Plaintiffs and Defendant (“the Parties”)
28 hereby submit this Joint Case Management Statement. Proposed Intervenor California Bail
29 Agents Association has reviewed this Case Management Statement and agrees to its contents.

30 **I. Jurisdiction and Service**

31 This is a civil rights action arising under 42 U.S.C. § 1983 and 28 U.S.C. § 2201, *et seq.*,
32 and the Fourteenth Amendment to the United States Constitution. This Court has jurisdiction
33 pursuant to 28 U.S.C. §§ 1331 and 1343. Regarding Plaintiffs’ claims against Defendant, there
34 are no issues regarding personal jurisdiction, venue, or service, and no parties remain to be
35 served.

1 **II. Facts**

2 A fuller chronology of facts is outlined in the Third Amended Complaint (ECF No. 71, ¶¶
3 27–80). Briefly, in late October 2015, named Plaintiffs Riana Buffin and Crystal Patterson were
4 arrested, and they were each booked in the San Francisco County Jail and told they would be
5 released if they paid \$30,000 and \$150,000, respectively. According to Plaintiffs, neither could
6 afford the requested amount; as a result, Ms. Buffin spent approximately 46 hours in jail and Ms.
7 Patterson spent approximately 31 hours in jail. The San Francisco Sheriff continues to detain
8 arrestees who are booked in the county jail by reference to preset bail amounts as set forth in the
9 bail schedule established by the San Francisco Superior Court. This lawsuit is a putative class
10 action on behalf of similarly situated arrestees in the San Francisco jail.

11 **III. Legal Issues**

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

16 **IV. Motions**

17 The Parties have proposed a resolution to CBAA’s Fourth Motion to Intervene (ECF No.
18 110), resulting in limited intervention (*see* ECF No. 117). After completion of discovery,
19 Plaintiffs and CBAA intend to bring cross Motions for Summary Judgment. Plaintiffs’ previous
20 Motion for Class Certification was denied without prejudice, and Plaintiffs plan to renew it in
21 accordance with this Joint Case Management Statement.

22 **V. Amendment of Pleadings**

23 The parties do not anticipate any further amendments to the pleadings. Should a need

1 arise, the parties will meet and confer on the propriety and timing of any amendments before
2 proposing them to the court.

3 **VI. Evidence Preservation**

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

6 **VII. Disclosures**

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

11 **VIII. Discovery**

12 **A. Scope of Discovery**

13 The Parties agree that no amendments to the Federal Rules of Civil Procedure are needed.
14 Discovery in this matter should be complete within approximately six months. Should CBAA be
15 allowed to intervene, discovery will follow the protocol set forth in the Joint Statement
16 Regarding Proposed Intervention and Case Management (ECF No. 117). The Parties intend to
17 begin by sharing proposed stipulations and reaching as many stipulated facts as possible, and the
18 Parties will complete a list of stipulated facts within the first three (3) weeks of the opening of
19 discovery. Any facts not mutually agreed will be subject to discovery requests by Plaintiffs,
20 followed by a round of discovery requests by CBAA. All discovery will be solely limited to the
21 issue of the constitutionality of the laws conditioning pretrial release on the payment of amounts
22 specified in the bail schedule, and will be conducted in such a way as to minimize the burden on
23 the responding party, consistent with the propounding party's reasonable need for information.

1 The validity of private bail contracts and the social value of private bail companies are not
2 relevant topics for discovery.

3 **B. Limits on Discovery**

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

6 **C. E-Discovery**

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

12 **D. Discovery Disputes**

13 There are no pending discovery disputes.

14 **IX. Class Actions**

15 This action is brought as a Class action pursuant to Rule 23(a)(1)–(4) and Rule 23(b)(2)
16 of the Federal Rules of Civil Procedure. Plaintiffs propose one Class seeking declaratory and
17 injunctive relief. The proposed definition for the Declaratory and Injunctive Class is: all
18 arrestees who are or will be in the custody of the City and County of San Francisco and are or
19 will be detained for any amount of time because they are unable to pay money bail. The facts on
20 which Plaintiffs rely to maintain the class action are fully set forth in the Third Amended
21 Complaint. ECF No. 71, ¶¶ 86–103.

22 The Parties propose July 1, 2017, as the deadline for Plaintiffs to refile their Motion for
23 Class Certification. CBAA seeks an opportunity to file an opposition to the Motion for Class

1 Certification, should such opposition be appropriate after review.

2 **X. Related Cases**

3 There are no related cases pending before this or any other court. The constitutionality of
4 California's bail laws is also being challenged in the Eastern District of California in a case
5 brought by Plaintiffs' counsel as well. *Welchen v. Sacramento*, No. 2:16-cv-00185-TLN-KJN
6 (E.D Cal. 2016).

7 **XI. Relief**

8 The only relief available to Plaintiffs pursuant to this Court's order (ECF No. 99) are
9 Plaintiffs' claims for declaratory and injunctive relief. Plaintiffs' claims for damages have been
10 dismissed. Regarding equitable relief, Plaintiffs seek the following:

- 11 a. A declaratory judgment that Defendant Sheriff violates the named Plaintiffs' and
12 Class Members' constitutional rights by keeping them in jail solely because they
13 cannot make a monetary payment;
- 14 b. An order and judgment preliminarily and permanently enjoining Defendant from
15 enforcing the unconstitutional wealth-based detention policies and practices
16 against the named Plaintiffs and the Class of similarly situated people that they
17 represent;
- 18 c. An order and judgment preliminarily and permanently enjoining Defendant
19 Sheriff from using money bail to detain any person due to her inability to make a
20 monetary payment and requiring that all release/detention decisions be based on
21 factors other than wealth-status or ability to make a monetary payment;
- 22 d. An order declaring that Defendant Sheriff must follow the requirements of the
23 Equal Protection and Due Process Clauses, regardless of contrary state law or
24 contrary policies and practices;
- 25 e. An order declaring that, as applied by Defendant against Plaintiffs and Class
26 Members, California Penal Code section 1269b(b) and any other state statutory or
27 constitutional provisions that require the use of secured money bail to detain any
28 person without an inquiry into ability to pay are unconstitutional;
- 29 f. An order and judgment granting reasonable attorneys' fees and costs pursuant to
30 42 U.S.C. § 1988, and any other relief this Court deems just and proper.

31 **XII. Settlement and ADR**

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

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

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

6 **XIV. Other References**

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

10 **XV. Narrowing of Issues**

11 The parties do not propose any narrowing of issues.

12 **XVI. Expedited Trial Procedure**

13 The parties do not propose the Expedited Trial Procedure.

14 **XVII. Scheduling**

15 The parties propose the following pre-trial and trial schedule:

- 16 • Non-expert discovery cutoff: August 1, 2017
- 17 • Disclosure of experts (retained/non-retained): Opening: May 4, 2017; Rebuttal: May 18,
18 2017
- 19 • Deadline to file Motions for Summary Judgment and Class Certification: September 1,
20 2017
- 21 • Responses to motions: Sept. 15, 2017
- 22 • Replies to motions: Sept. 22, 2017
- 23 • Hearing on motions: Oct. 3, 2017

- 1 • Pretrial Conference: October 24, 2017
- 2 • Trial Date: November 6, 2017 (Bench Trial)
- 3 • Post-Trial Briefs: Simultaneous deadline for all parties of December 6, 2017; responses
- 4 due December 13, 2017.

5 **XVIII. Trial**

6 The Parties believe this case may be resolved on cross Motions for Summary Judgment,
7 including a motion by CBAA. If this Court wishes to hear testimony or evidence (perhaps from
8 expert witnesses or other matters) subject to cross-examination, a hearing on the merits could be
9 held. Alternatively, the trial date could be used for oral argument on and Motions for Summary
10 Judgment. Any trial in this case would be a bench trial. The parties estimate the length of a trial
11 to be 2 days. The parties will strive as much as practicable to submit non-disputed facts by
12 written stipulation.

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

14 Plaintiffs and Defendant have no non-party interested entities or persons to disclose.
15 CBAA's members who write bail contracts in San Francisco County all have a material interest
16 in the outcome of this case.

17 **XX. Professional Conduct**

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

20 **XXI. Other Matters**

21 The parties do not have other matters to report.

22 Respectfully submitted,

23 EQUAL JUSTICE UNDER LAW
24 /s/ Phil Telfeyan*

1 Phil Telfeyan
2 *Attorneys for Plaintiffs*

3 DENNIS J. HERRERA
4 City Attorney
5 /s/ Jeremy M. Goldman
6 Jeremy M. Goldman
7 *Attorneys for Defendant*
8 SHERIFF VICKI HENNESSY

9 HARMEET K. DHILLON
10 /s/ Harmeet K. Dhillon
11 *Attorney for Proposed Defendant-Intervenor*
12 CALIFORNIA BAIL AGENTS ASSOCIATION
13

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

17 **CERTIFICATE OF SERVICE**

18 I certify that on February 27, 2017, I electronically filed the foregoing document with the
19 Clerk of the Court using the CM/ECF system, which will send notice of such filing to all
20 attorneys-of-record in this case.

21 /s/ Phil Telfeyan
22 *Attorney for Plaintiffs*