

DALE L. ALLEN, JR., # 145279
LINDA MEYER, # 118190
DIRK D. LARSEN, # 246028
LOW, BALL & LYNCH
505 Montgomery Street, 7th Floor
San Francisco, California 94111-2584
Telephone (415) 981-6630
Facsimile (415) 982-1634

Attorneys for Defendants
BAY AREA RAPID TRANSIT DISTRICT,
GARY GEE in his official capacity as CHIEF OF
POLICE for BAY AREA RAPID TRANSIT
DISTRICT, and DOROTHY DUGGER
in her official capacity as GENERAL MANAGER
for BAY AREA RAPID TRANSIT DISTRICT
Email: dallen@lowball.com
Email: lmeyer@lowball.com
Email: dlarsen@lowball.com

ALISON BERRY WILKINSON, # 135890
BERRY WILKINSON LAW GROUP
4040 Civic Center Drive, Suite 200
San Rafael, CA 94903
Telephone (415) 259-6638
Facsimile (866) 578-1333

Attorney for Defendant
MARYSOL DOMENICI
Email: alison@berrywilkinson.com

MICHAEL L. RAINS, # 91013
LARA CULLINANE-SMITH, # 268671
RAINS LUCIA STERN, P.C.
2300 Contra Costa Boulevard
Pleasant Hill, CA 94523
Telephone (925) 609-1699
Facsimile (925) 609-1690

Attorneys for Defendant
JOHANNES MEHSERLE

Email: Mrains@rlslawyers.com
Email: Lsmith@rlslawyers.com

JOHN L. BURRIS, # 69888
ADANTE D. POINTER, # 236229
LAW OFFICES OF JOHN L. BURRIS
7677 Oakport Street, Suite 1120
Oakland, California 94621
Telephone (510) 839-5200
Facsimile: (510) 839-3882

Attorneys for Plaintiffs
WANDA JOHNSON, individually and as personal
representative of the ESTATE of OSCAR J.
GRANT III, the ESTATE OF OSCAR J. GRANT
III, SOPHINA MESA as Guardian ad Litem of
minor, T.G.

Email: john.burris@johnburrislaw.com
Email: adante.pointer@johnburrislaw.com

WILLIAM R. RAPOPORT, # 47086
LAW OFFICES OF WILLIAM R. RAPOPORT
634 Bair Island Road, Suite 400
Redwood City, CA 94063
Telephone (650) 340-7107
Facsimile (650) 572-1857

Attorney for Defendant
ANTHONY PIRONE
Email: williamrapoport@yahoo.com

PANOS LAGOS, #61821
LAW OFFICES OF PANOS LAGOS
5032 Woodminster Lane
Oakland, California 94602
Telephone (510) 530-4078
Facsimile (510) 530-4725

Attorneys for Plaintiff
OSCAR J. GRANT, JR.

Email: panoslagos@aol.com

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3 WANDA JOHNSON, et al.,

4 Plaintiffs,

5 vs.

6 BAY AREA RAPID TRANSIT DISTRICT, et al.,

7 Defendants.

) Case No.: C09-00901 EMC

) Related Cases:

) C09-04014 EMC (Oscar Grant, Jr.)

) C09-04835 EMC (Bryson, et al.)

) C10-00005 EMC (Caldwell)

) JOINT SUPPLEMENTAL CASE STATUS
) REPORT AND REQUEST FOR
) CONTINUANCE OF CASE MANAGEMENT
) CONFERENCE; [~~PROPOSED~~] ORDER

) Date: August 10, 2012

) Time: 10:30 a.m.

) Courtroom: 5, 17th Floor

) Judge: Hon. Edward M. Chen

13 AND RELATED ACTIONS.
14

15 The parties to the above-entitled action jointly submit this Joint Supplemental Status Report. As
16 set forth below, the action is presently stayed pending appeals taken by defendants Mehserle, Pirone
17 and Domenici, and those appeals remain unresolved. Accordingly, the parties respectfully request that
18 the Court vacate the August 10, 2012 case management conference and schedule a further case
19 management conference to take place in approximately 120 days.

20 1. Factual and Procedural Background:

21 These related cases arise out of an incident that occurred in the early morning hours of January
22 1, 2009, at the Fruitvale BART Station in Oakland, California. Defendant BART Police Officers
23 Anthony Pirone, Marysol Domenici, Johannes Mehserle, Jon Woffinden and Emery Knudtson
24 participated in the detention of decedent Oscar Grant III and plaintiffs Jack Bryson, Jr., Nigel Bryson,
25 Carlos Reyes, Michael Greer, Fernando Anicete and JohnTu Caldwell. During the encounter, Officer
26 Mehserle shot Grant, who later died from his injuries.

27 Plaintiff Wanda Johnson, Grant's mother, brought suit against BART and its officers
28 individually and as the representative of Grant's estate, along with Grant's minor daughter, T.G., by

1 and through her guardian ad litem, Sophina Mesa, in case no. C09-00901 (the “Johnson matter”).
2 Plaintiffs Brysons, Greer, Reyes and Anicete brought suit in case no. C09-04835 (the “Bryson
3 matter”). Plaintiff Caldwell brought suit in case no. C10-00005 (the “Caldwell matter”). Plaintiff Oscar
4 Grant, Jr., the father of decedent Grant, brought suit in case no. C09-04014 (the “Grant matter”). The
5 plaintiffs alleged civil rights claims under 42 U.S.C. § 1983 and, to varying degrees, supplemental state
6 claims.

7 T.G. settled with all defendants and dismissed her claims in February 2010. The defendants
8 filed motions for summary judgment/adjudication in February 2011. On May 20, 2011, the Court
9 issued an order granting in part and denying in part defendants’ motions. Defendant Officers Pirone,
10 Domenici and Mehserle have appealed the court’s denial of qualified immunity under § 1983 to the
11 Ninth Circuit Court of Appeals. Defendant Mehserle’s reply brief was filed on December 30, 2011;
12 defendant Domenici’s reply brief was filed on February 15, 2012; and defendant Pirone’s reply brief
13 was filed on April 2, 2012. The appeals are thus fully briefed, but the Ninth Circuit has not scheduled
14 oral argument or issued decision in any of the appeals.

15 In June 2011, plaintiff Johnson settled all of her claims against all defendants. In July 2011,
16 plaintiff Caldwell was killed. His mother, Zephoria Smith, has petitioned the Alameda County
17 Superior Court for Letters of Administration and has filed a copy of the petition and related orders in
18 the present *Caldwell* matter. The status of plaintiff Caldwell’s claims and representation is unclear at
19 this time.

20 At the Case Management Conference of September 30, 2011, in the above-captioned actions,
21 the Court formally stayed the actions pending the appeals taken by defendants Domenici, Mehserle and
22 Pirone (see Doc. No. 237). As those appeals are still unresolved, the parties respectfully request that
23 the Court vacate the August 10, 2012 case management conference and schedule a further case
24 management conference to take place in approximately 120 days.

25 2. Amendment of Pleadings:

26 The parties do not anticipate amending the pleadings at this time.

27 3. Motions:

28 No motions are pending.

1 4. Discovery:

2 The parties have completed non-expert discovery and have disclosed experts. Defendants
3 propose that the scope of expert discovery be restricted to depositions of the experts already disclosed.

4 5. Scheduling and Trial Setting

5 At the October 19, 2010 Case Status Conference, the court set October 22, 2010 as the trial
6 date. The court vacated that date at the March 15, 2010 Case Status Conference.

7 All parties demand a jury trial. The length of the trial will be approximately 20-25 days.

8 Defendants request that the expert-discovery and pretrial schedule be discussed at a further
9 Case Management Conference following the disposition of defendant Pirone, Domenici and
10 Mehserle's appeals.

11 6. Settlement and ADR:

12 Decedent Grant's daughter, T.G., settled with all defendants in February 2011. Plaintiff
13 Johnson settled with all defendants in June 2011, at a settlement conference with Magistrate Judge
14 Joseph Spero. Settlement conferences with Judge Spero in June 2011 did not resolve the claims of the
15 plaintiffs in the Bryson, Grant and Caldwell matters.

16 7. Such other matters as may facilitate the just, speedy and inexpensive disposition of this matter.

17 None at this time.

18
19 Dated: August 8, 2012.

20 LOW, BALL & LYNCH

21
22 By _____ s/ Dirk D. Larsen
23 DALE L. ALLEN, JR.
24 LINDA MEYER
25 DIRK D. LARSEN
26 Attorneys for Defendants
27 BAY AREA RAPID TRANSIT DISTRICT,
28 GARY GEE in his official capacity as CHIEF OF
POLICE for BAY AREA RAPID TRANSIT
DISTRICT and DOROTHY DUGGER in her
official capacity as GENERAL MANAGER for
BAY AREA RAPID TRANSIT DISTRICT

1 Dated: August 8, 2012.

2 RAINS, LUCIA & STERN

3
4 By _____ s/ Lara Cullinane-Smith
5 MICHAEL L. RAINS
6 LARA CULLINANE-SMITH
7 Attorneys for Defendant
8 JOHANNES MEHSERLE

9 Dated: August 8, 2012.

10 BERRY WILKINSON LAW GROUP

11 By _____ s/ Alison Berry Wilkinson
12 ALISON BERRY WILKINSON
13 Attorney for Defendant
14 MARYSOL DOMENICI

15 Dated: August 8, 2012.

16 LAW OFFICES OF WILLIAM R. RAPOPORT

17
18 By _____ s/ William R. Rapoport
19 WILLIAM R. RAPOPORT
20 Attorneys for Defendant
21 ANTHONY PIRONE

22 Dated: August 8, 2012.

23 LAW OFFICES OF JOHN L. BURRIS

24 By _____ s/ John L. Burris
25 JOHN L. BURRIS
26 ADANTÉ D. POINTER
27 Attorneys for Plaintiffs
28 WANDA JOHNSON, individually and as personal
representative of the ESTATE of OSCAR J.
GRANT III, the ESTATE OF OSCAR J. GRANT
III, SOPHINA MESA as Guardian ad Litem of
minor, T.G.

1 Dated: August 8, 2012.

2 LAW OFFICES OF PANOS LAGOS

3
4 By s/ Panos Lagos
5 PANOS LAGOS
6 Attorneys for Plaintiff
7 OSCAR GRANT, JR.

8 Dated: August 8, 2012.

9 LAW OFFICES OF SHIMEA ANDERSON

10
11 By SHIMEA C. ANDERSON
12 Attorneys for Plaintiff
13 JOHNTU CALDWELL

14
15 **[PROPOSED] ORDER**

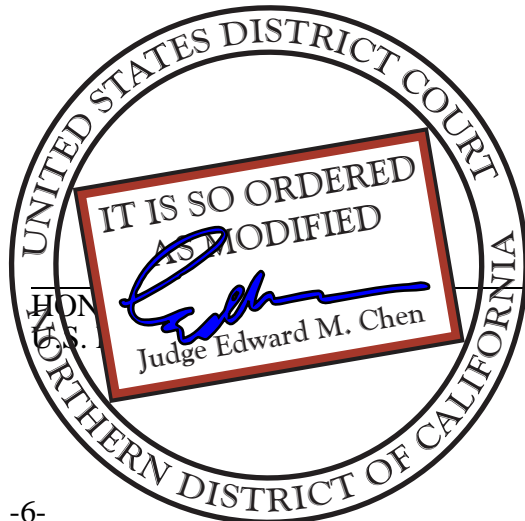
16 Pursuant to the request of the parties herein, and good cause appearing therefor, it is hereby
17 ORDERED:

18 1. That the Case Management Conference currently scheduled for August 10, 2012, is
19 hereby VACATED;

20 2. That a further Case Management Conference is scheduled for December 14,
21 10:30
22 2012, at _____ a.m./p.m., in Courtroom 5 of the above-entitled Court.

23 IT IS SO ORDERED.

24 Dated: 8/8/12
25 _____



- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

I, DIRK D. LARSEN, declare as follows:

1. I have personal knowledge of the following facts, and could and would testify competently thereto if called upon to do so.

2. I am an attorney at law duly licensed to practice before all courts of the State of California and before the U.S. District Court for the Northern District of California, and am employed as an associate with the law firm of Low, Ball & Lynch, attorneys of record herein for defendants BAY AREA RAPID TRANSIT DISTRICT, GARY GEE, JON WOFFINDEN AND EMERY KNUDTSON.

3. Beginning on Wednesday, August 1, 2012, I made multiple attempts to contact Shimea C. Anderson, attorney of record herein for plaintiff JOHNTU CALDWELL, via email at the email address listed on this Court's PACER system regarding the above joint status report / request for continuance of status conference. On August 6, 2012, I attempted to contact Ms. Anderson by telephone at the telephone number listed on this Court's PACER system as well as at the number listed on the California State Bar's website. I left a voicemail message on the second number, and did so again on August 7, 2012. As of approximately 12:00 noon on August 8, 2012, I have received no response from Ms. Anderson to my contact attempts. Accordingly, my office is filing the above report / request without Ms. Anderson's joinder in its contents.

I swear under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my personal knowledge.

Executed this 8th day of August, 2012, in San Francisco, California.

s/ Dirk D. Larsen

 DIRK D. LARSEN