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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: December 14, 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 December 14, 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. The Ninth Circuit heard oral argument of those defendants’ appeals on  
12 December 3, 2012, and has not yet issued a decision with respect to those matters.

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

18 At the Case Management Conference of September 30, 2011, in the above-captioned actions,  
19 the Court formally stayed the actions pending the appeals taken by defendants Domenici, Mehserle and  
20 Pirone (see Doc. No. 237). As those appeals are still unresolved, the parties respectfully request that  
21 the Court vacate the December 14, 2012 case management conference and schedule a further case  
22 management conference to take place in approximately 120 days.

23 2. Amendment of Pleadings:

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

25 3. Motions:

26 No motions are pending.

27 ///

28 ///

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: December 10, 2012.

20 LOW, BALL & LYNCH

21  
22 By \_\_\_\_\_ s/ Dirk D. Larsen  
23 DALE L. ALLEN, JR.  
24 LINDA MEYER  
25 DIRK D. LARSEN  
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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: December 10, 2012.

2 RAINS, LUCIA & STERN

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

9 Dated: December 10, 2012.

10 BERRY WILKINSON LAW GROUP

11 By \_\_\_\_\_ s/ Alison Berry Wilkinson  
12 ALISON BERRY WILKINSON  
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14 MARYSOL DOMENICI

15 Dated: December 10, 2012.

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21 ANTHONY PIRONE

22 Dated: December 10, 2012.

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GRANT III, the ESTATE OF OSCAR J. GRANT  
III, SOPHINA MESA as Guardian ad Litem of  
minor, T.G.

1 Dated: December 10, 2012.

2 LAW OFFICES OF PANOS LAGOS

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5 By \_\_\_\_\_ s/ Panos Lagos  
6 PANOS LAGOS  
7 Attorneys for Plaintiff  
8 OSCAR GRANT, JR.

9 Dated: December 10, 2012.

10 LAW OFFICES OF SHIMEA ANDERSON

11 By \_\_\_\_\_ s/ Shimea C. Anderson  
12 SHIMEA C. ANDERSON  
13 Attorneys for Plaintiff  
14 JOHNTU CALDWELL

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 December 14, 2012, is  
19 hereby VACATED;

20 2. That a further Case Management Conference is scheduled for \_\_\_\_\_ April 18, 2013,  
21 ~~2012~~, at \_\_\_\_\_ 10:30 a.m./p.m., in Courtroom 5 of the above-entitled Court.

22 IT IS SO ORDERED.

23 Dated: \_\_\_\_\_ 12/12/12

