

1 THOMAS F. BERTRAND, State Bar No. 056560  
2 RICHARD W. OSMAN, State Bar No. 167993  
3 BERTRAND, FOX & ELLIOT  
4 The Waterfront Building  
5 2749 Hyde Street  
6 San Francisco, California 94109  
7 Telephone: (415) 353-0999  
8 Facsimile: (415) 353-0990  
9 Email: [rosman@bfesf.com](mailto:rosman@bfesf.com)

10 Attorneys for Defendant Sonoma County  
11 Sheriff Steve Freitas in his personal capacity

12 UNITED STATES DISTRICT COURT  
13 NORTHERN DISTRICT OF CALIFORNIA

14 RAFAEL MATEOS-SANDOVAL and  
15 SIMEON AVENDANO RUIZ, individually  
16 and as class representatives,

17 Plaintiffs,

18 v.

19 COUNTY OF SONOMA, SONOMA  
20 COUNTY SHERIFF'S DEPARTMENT,  
21 STEVE FREITAS, CITY OF SANTA ROSA,  
22 SANTA ROSA POLICE DEPARTMENT,  
23 TOM SCHWEDHELM, and DOES 1 through  
24 20, individually and in their official capacities,

25 Defendants.

Case No. CV-11-05817 TEH (NC)

**JOINT STIPULATION TO (1) SET  
BRIEFING AND HEARING SCHEDULE ON  
MOTIONS FOR SUMMARY  
ADJUDICATION, AND (2) RESCHEDULE  
CASE MANAGEMENT CONFERENCE;  
~~PROPOSED~~ ORDER**

CMC Date: September 8, 2014  
CMC Time: 1:30 p.m.  
Courtroom: 19

26 TO THE HON. THELTON E. HENDERSON, UNITED STATES DISTRICT COURT JUDGE:

27 This Joint Stipulation to (1) Set Briefing and Hearing Schedule on Motions for Summary  
28 Adjudication, and (2) Reschedule Case Management Conference is submitted by the following  
parties in this action: Plaintiffs Rafael Mateos-Sandoval and Simeon Avendano Ruiz (collectively,  
"Plaintiffs"); Defendant Sonoma County Sheriff Steve Freitas sued in his personal capacity only  
("Sheriff Freitas"); and Defendants the City of Santa Rosa, Santa Rosa Police Department, and Santa

Joint Stipulation to (1) Set Briefing and Hearing Schedule on Motions for Summary Adjudication,  
and (2) Reschedule Case Management Conference; [Proposed] Order

*Mateos-Sandoval, et al. v. County of Sonoma, et al.*, U.S.D.C. No. cv-11-05817 TEH (NC)

1 Rosa Police Chief Tom Schwedhelm (collectively, “City Defendants”). Defendants the County of  
2 Sonoma, Sonoma County Sheriff’s Office, and Sonoma County Sheriff Steve Freitas sued in his  
3 official capacity are not parties to this stipulation, as this action is currently stayed as to all claims  
4 against them based on their pending appeal. (See e.g., Dkt. No. 92.)

5 The parties to this stipulation request the Court to enter an order setting a briefing and  
6 hearing schedule on a single issue to be addressed via cross-motions for summary adjudication. The  
7 parties further request the Court to reschedule the Case Management Conference currently scheduled  
8 to occur on September 8, 2014, to October 20, 2014, at 10:00 a.m., to be held at the same time as the  
9 hearing on the cross-motions for summary adjudication. The parties submit that good cause  
10 supports their requests, as set forth below.

11 **RECITALS**

12 A. After a discovery hearing conducted by Magistrate Judge Cousins on August 13,  
13 2014, counsel for all parties met to discuss procedural issues and whether a settlement magistrate  
14 should be assigned to assist the parties in settlement discussions. During these discussions,  
15 Plaintiffs’ counsel identified a key legal question that is a threshold issue for anticipated and  
16 upcoming motions for class certification and summary adjudication. Specifically, Plaintiffs identify  
17 their issue as follows:

18 Assuming that the initial seizure and towing of Plaintiffs’ vehicles was lawful  
19 under both state and federal law, can Defendants justify, under the Fourth  
20 Amendment, the warrantless seizures of Plaintiffs’ vehicles for the 30-day time  
period provided in California Vehicle Code § 14602.6?

21 B. The parties agree that resolution of Plaintiffs’ proposed issue will significantly and  
22 materially affect the resolution of Fourth Amendment claims in the case, including putative class  
23 issues. Plaintiffs contend the justification for the 30 day impounds of Plaintiffs’ vehicles is the same  
24 for all vehicles impounded under Cal. Veh. Code § 14602.6. Plaintiffs further contend that, should it  
25 be determined that Defendants cannot justify the 30 day impounds of Plaintiffs’ vehicles, that failure  
26 would apply to all vehicles impounded for 30 days under § 14602.6 regardless of whether Fourth  
27 Amendment justification existed for initially seizing and removing the vehicle from the street. At

1 this time, the parties do not believe that there are any disputed material facts that would preclude  
2 resolution of the identified issue.

3 C. Plaintiffs contend that resolving this issue is “outcome determinative.” The Court’s  
4 resolution of this issue will significantly affect the outcome of the case in several ways including,  
5 but not limited to, the nature and extent of any classes of plaintiffs that could be certified under  
6 FRCP Rule 23. Specifically, the size of the proposed classes will differ greatly depending on  
7 resolution of the identified issue, as it begs the following question: do the proposed classes consist of  
8 all persons who have had their vehicles impounded by Defendants under Vehicle Code § 14602.6  
9 within the statute of limitations period, or do the proposed classes consist of only a small  
10 subcategory of such a group?

11 D. In addition, the parties believe that resolution of the identified issue will enable them  
12 to begin conducting meaningful settlement discussions on all claims in the case. Plaintiffs’ counsel  
13 has indicated that, without resolution of the identified issue, settlement discussions will not likely be  
14 fruitful based on the substantial difference in damages implicated by the size of the proposed classes  
15 of plaintiffs. The parties have discussed requesting the Court to appoint a magistrate judge as a  
16 settlement magistrate in this case; however, it appears that such appointment is premature at this  
17 time and should await resolution of the identified issue.

18 E. The parties agree that the most expeditious and direct method to resolve the identified  
19 issue would be through Plaintiffs’ filing of a motion for summary adjudication and Defendants’  
20 filing of oppositions and cross-motions thereto. Counsel submit that these cross-motions for  
21 summary adjudication may be brought before the Court pursuant to FRCP Rule 56(a), as they seek  
22 summary adjudication of a portion of Plaintiffs’ Fourth Amendment claims against Defendants  
23 brought under 42 U.S.C. § 1983.

24 F. Defendants agree to the proposed summary adjudication process for Plaintiffs’ issue  
25 identified in Section A, above, *only if* the Court permits them to subsequently file additional  
26 summary judgment and/or summary adjudication motions on other issues in the future. If the Court  
27 does not consent to this process of resolving multiple motions for summary judgment and/or

1 summary adjudication via a staged process, then Defendants withdraw their consent to this request  
2 for consideration of this single issue via cross-motions for summary adjudication.

3 G. Nothing in this stipulation is intended to affect Plaintiffs' proposed class certification  
4 motions or to extend the time for the filing thereof. Further, by entering this stipulation, Defendants  
5 do not waive any defenses they may have to Plaintiffs' yet-to-be-filed class certification motion  
6 including, but not limited to, their objection to the motion on the grounds that Plaintiffs have  
7 unreasonably delayed its filing in violation of FRCP Rule 23 and that such delay has resulted in  
8 prejudice to Defendants.

9 H. A Case Management Conference is set to be held on September 8, 2014, at 1:30 p.m.  
10 The parties believe that this conference would be more productive if it were held at the same time as  
11 the hearing on the cross-motions for summary adjudication.

12 WHEREFORE, the parties to this stipulation, through their respective counsel of record,  
13 hereby agree and request entry of an order as follows:

14 **STIPULATION**

15 1. The parties request the Court to order the following briefing and hearing schedule  
16 with respect to the cross-motions for summary adjudication regarding Plaintiffs' issue identified in  
17 Section A, above:

18 Plaintiffs' Motion for Summary Adjudication:	September 8, 2014
19 Defendants' Oppositions and Cross-Motions:	September 29, 2014
20 Plaintiffs' Reply:	October 6, 2014
21 Hearing on Motions:	October 20, 2014, at 10:00 a.m.

22 2. The parties further request the Court to enter an order providing that these cross-  
23 motions for summary adjudication may be brought without prejudice to Defendants' ability to file  
24 subsequent motions for summary judgment and/or summary adjudication on other issues in the case.

25 3. The parties request the Court to enter an order rescheduling the upcoming Case  
26 Management Conference, currently set for September 8, 2014, to October 20, 2014, at 10:00 a.m., so  
27 that it could be held concurrently with the hearing on the cross-motions for summary adjudication.

1 4. Nothing in this Stipulation and request for order is intended to modify the other  
2 matters addressed in any Court order unless expressly identified herein, nor does it preclude the  
3 parties from seeking additional relief from this Court, to amend this stipulation and order or  
4 otherwise.

5 Respectfully Submitted,

6 Dated: August 20, 2014

Bertrand, Fox & Elliot

7 By: /s/ Richard W. Osman  
8 Richard W. Osman  
9 Attorneys for Defendant Sheriff Steve Freitas

10 Dated: August 20, 2014

Caroline L. Fowler, Santa Rosa City Attorney

11 By: /s/ Robert L. Jackson  
12 Robert L. Jackson, Assistant City Attorney  
13 Attorneys for City Defendants

14 Dated: August 20, 2014

Robert Mann & Donald W. Cook, Attorneys at Law

15 By: /s/ Donald W. Cook  
16 Donald W. Cook  
17 Attorneys for Plaintiffs  
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1 **PROPOSED ORDER**

2 Pursuant to and in accordance with the foregoing Stipulation, and with good cause appearing,  
3 IT IS HEREBY ORDERED as follows:

4 1. The following briefing and hearing schedule is ordered with respect to the cross-  
5 motions for summary adjudication regarding Plaintiffs' issue identified in Section A of the  
6 Stipulation:

7 Plaintiffs' Motion for Summary Adjudication:	September 8, 2014
8 Defendants' Oppositions and Cross Motions:	September 29, 2014
9 Plaintiffs' Reply:	October 6, 2014
10 Hearing on Motions:	October 20, 2014, at 10:00 a.m.

11 2. These cross-motions for summary adjudication may be brought without prejudice to  
12 Defendants' ability to file subsequent motions for summary judgment and/or summary adjudication  
13 on other issues in the case.

14 3. The upcoming Case Management Conference, currently set for September 8, 2014, is  
15 rescheduled to October 20, 2014, at 10:00 a.m., to be held concurrently with the hearing on the  
16 cross-motions for summary adjudication. The parties shall submit a joint case management  
17 statement at least one week prior to the Case Management Conference.

18 **IT IS SO ORDERED.**

19 Date: 08/21/2014

20   
21 HONORABLE THELTON E. HENDERSON  
22 United States District Court Judge  
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