

1 James Chaffee  
 2 63 Stoneybrook Avenue  
 3 San Francisco, CA 94112  
 4 Telephone: (415) 584-8999

5 Plaintiff In Propria Persona  
 6 JAMES CHAFFEE

**FILED**  
 JAN 28 2011  
 RICHARD W. WIEKING  
 CLERK, U.S. DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 OAKLAND

7 UNITED STATES DISTRICT COURT  
 8 NORTHERN DISTRICT OF CALIFORNIA

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 10 JAMES CHAFFEE,

11 Plaintiff,

12 v.

13 SAN FRANCISCO LIBRARY  
 14 COMMISSION; CITY AND COUNTY OF  
 15 SAN FRANCISCO, and DOES 1 through 20,  
 16 inclusive,

17 Defendants.

Case No.: CV-10-4521-SBA

JOINT CASE MANAGEMENT  
 STATEMENT

18 Pursuant to the Court's Standing Order and N.D. Cal. L.R. 16-9, Plaintiff James Chaffee  
 19 ("Plaintiff") and Defendants San Francisco Library Commission and City and County of San  
 20 Francisco (collectively "Defendants") hereby submit the following Joint Case Management  
 21 Conference Statement pursuant to Civil Local Rule 16-9:

22 Jurisdiction and Service

23 This Court has federal question jurisdiction over the claims pled in the Complaint. The  
 24 Parties agree that personal jurisdiction, venue, and service are not at issue.

25 Facts

26 **Plaintiff's Statement of Facts:** The defendant has discriminated in the administration of  
 27 a public forum by allowing those with monetary or special relationships with the administration  
 28 to use the media facilities in the meeting space. At the same time the administration has denied

1 that use to those not similarly situated or do not share the viewpoint of the administration. This  
2 discriminatory treatment for invitees and against the general public has the effect of distorting the  
3 First Amendment character of the public forum. This public forum discrimination is part of a  
4 long-term campaign to discourage access to full participation by the general public in violation of  
5 public policy.

6 **Defendants' Statement of Facts:** Defendant San Francisco Library Commission ("the  
7 Commission") is a seven-member commission appointed by the Mayor of San Francisco. The  
8 Commission sets policy for the San Francisco Public Library and is responsible for the library  
9 budget for the San Francisco Public Library system. To conduct its business, the Commission  
10 holds meetings during which presentations are made by employees and/or invited guests  
11 concerning matters on the agenda. The agenda is set by the Commission President ("President")  
12 and City Librarian. Only items that the President, City Librarian, or the Commission request are  
13 placed on the agenda. In addition, the Commission allows general public comment at the  
14 beginning of each meeting so that members of the public may address the Commission on  
15 matters within its jurisdiction that do not appear on the agenda. Public comment is also heard  
16 after every item on the agenda.

17 Although PowerPoint and other computerized displays are sometimes used by employees  
18 and invited guests of the Commission, the Commission does not allow any member of the public  
19 to use computerized displays during the public comment portion of the meeting. The  
20 Commission does not allow the use of computerized displays during the public comment portion  
21 of the meetings because, *inter alia*, allowing those presentations would cause undue delay and  
22 may threaten the security of the Commission's computer network. The auditorium where Library  
23 Commission meetings are held does not have a separate, dedicated system for members of the  
24 public to use to present PowerPoint presentations during public comment.

25 Contrary to the unsubstantiated assertions in the Complaint, the Commission does not  
26 discriminate based on viewpoint. To the contrary, no member of the public is allowed to use  
27 computerized displays during the public comment portion of meetings regardless of the  
28 viewpoint expressed by the speaker. Members of the public are free to express their views orally

1 during the public comment portion of meetings, or through handouts.

2 Legal Issues

3 **Plaintiff's Legal Issues:** The legal issues are very simple. Public policy forbids  
4 discrimination against speech based on its content. Public policy also forbids creation of a  
5 special class based on financial consideration or economic status. The actions of the defendants  
6 violated both of those policies.

7 **Defendants' Legal Issues:**

8 1. Whether the Library's restriction on using power point and other electronic displays  
9 during the public comment portion of the meeting is a permissible time, place and manner  
10 restriction.

11 2. Whether Plaintiff's equal protection claim fails because Plaintiff is not treated differently  
12 than any other individual participating in the public comment portion of Library Commission  
13 meetings.

14 3. Whether Plaintiff's claim under 42 U.S.C. §1983 fails because the Library Commission  
15 permissibly limits the time, place and manner of public comments during Commission meetings,  
16 and treats Plaintiff the same as all others similarly situated with respect to electronic displays  
17 during Commission meetings.

18 Motions

19 There have been no motions pending. Defendants intend to bring a Motion for Summary  
20 Judgment.

21 Amendment of Pleadings

22 **Plaintiff's Statement:** The plaintiff reserves the right to amend the complaint to conform  
23 to evidence developed in discovery and to add parties who may have abetted or conspired with  
24 the defendants in their actions. The plaintiff believes that amendment should be permitted up  
25 until the time of trial.

26 **Defendants' Statement:** The defendants propose that the deadline for amending the  
27 pleadings be set for March 11, 2011.

28 //

1           Evidence Preservation

2           Both plaintiff and defendants aver that they have taken steps to preserve relevant  
3 evidence.

4           Disclosures

5           **Plaintiff Initial Disclosures:** Federal Rules of Civil Procedure, Rule 26(a)(1)(C) states:  
6 "A party must make the initial disclosures at or within 14 days after the parties' Rule 26(f)  
7 conference unless a different time is set by stipulation or court order." Since the Rule 26(f)  
8 conference did not take place on a timely basis because of the reassignment of the case the  
9 plaintiff was not prepared to make initial disclosures prior to this statement. The plaintiff had  
10 misinterpreted the rule in any case. The parties have stipulated to initial disclosures for plaintiff  
11 on January 31, 2011.

12           **Defendants' Initial Disclosures:** Initial Disclosures are due on January 27, 2011.  
13 Defendants served their initial disclosures on January 26, 2011.

14           Discovery

15           **Plaintiff's Discovery Statement:** No discovery has taken place. The plaintiff anticipates  
16 that there will be extensive requests for admissions, special interrogatories and production of  
17 documents. The plaintiff needs to develop information on the defendants' reasons for its action,  
18 the defendants' motivations for its discriminatory conduct and the bad faith on which it is based.  
19 Since the crux of case is abridgement of free speech by content-based discrimination, the plaintiff  
20 needs to delve extensively into the relationships the defendant is protecting and the interests that  
21 motivate the defendants. The plaintiff is uncertain if depositions will be necessary and if they are  
22 necessary, it is unlikely that there will be more than three. It is unknown at this time if expert  
23 witnesses will be necessary but the plaintiff reserves the right to call them.

24           **Defendants' Discovery Statement:** No discovery has been taken to date. Defendants do  
25 not anticipate the need for any discovery before bringing their Motion for Summary Judgment.  
26 Defendants do not anticipate that the parties will need any modification of the limits on discovery  
27 set forth in the Federal Rules of Civil Procedure and this court's local rules.

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1        Class Actions

2        This is not a class action.

3        Related Cases

4        There are no related cases.

5        Relief

6        **Plaintiff's Relief Statement:** Because the defendants have a pecuniary motive for their  
7 actions, the plaintiff expects exemplary damages to deter future conduct and may ask for  
8 attorney fees for outside counsel. If the plaintiff adds causes of action to the complaint for  
9 intentional torts there will be related damage claims.

10       **Defendants' Relief Statement:** Defendants do not seek any relief at this time, but  
11 reserve their right to file counterclaims in the future.

12       Settlement and ADR

13       Plaintiff and Defendants agree that this case is not suitable for ADR. The parties jointly  
14 request an order relieving the parties from their obligations to comply with the Court's ADR  
15 requirements.

16       Consent to Magistrate Judge For All Purposes

17       The parties will not consent to a magistrate judge.

18       Other References

19       This is not a case where other references would be suitable.

20       Narrowing of Issues

21       It is unlikely that the issues can be narrowed

22       Expedited Schedule

23       This is not a case where an expedited schedule would be suitable.

24       Scheduling

25       The parties propose the following schedule:

26    Trial:	December, 2011
27    Deadline for Filing Motions for Summary Judgment:	September 16, 2011
28    Factual discovery deadline:	August 5, 2011

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There is a private nonprofit called “The Friends & Foundation of the San Francisco Public Library” that acts as a conduit for the exchange of donations and public influence. An indirect interest could include its employees, donors, beneficiaries, associated partners, public officials and the library administration itself. All of them have a vested interest in preventing public disclosures and public participation.

**Plaintiff's Disclosure:** The plaintiff has filed the Civil Local Rule 3-16 certification.

There is a private nonprofit called “The Friends & Foundation of the San Francisco Public Library” that acts as a conduit for the exchange of donations and public influence. An indirect interest could include its employees, donors, beneficiaries, associated partners, public officials and the library administration itself. All of them have a vested interest in preventing public disclosures and public participation.

Other Matters That May Facilitate the Just, Speedy, and Inexpensive Disposition of this

**Plaintiff:** Plaintiff anticipates that this case will be greatly facilitated when the court the plaintiff's Motion for Leave of Court to E-file as a Pro Se Litigant.

Dated: JAN 27, 2011

Dated: \_\_\_\_\_, 2011

**Tara Steeley, Counsel for Defendants**

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Trial

The plaintiff requests a trial by jury. The parties request four days for trial.

Disclosure of Non-party Interested Entities or Persons

**Plaintiff's Disclosure:** The plaintiff has filed the Civil Local Rule 3-16 certification. There is a private nonprofit called "The Friends & Foundation of the San Francisco Public Library" that acts as a conduit for the exchange of donations and public influence. An indirect interest could include its employees, donors, beneficiaries, associated partners, public officials and the library administration itself. All of them have a vested interest in preventing public disclosures and public participation.

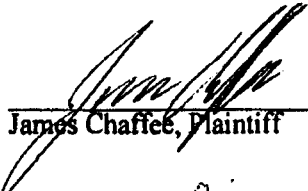
**Defendants' Disclosure:** Defendants are not required to file the Certification of Interested Entities or Persons.

Other Matters That May Facilitate the Just, Speedy, and Inexpensive Disposition of this Matter:

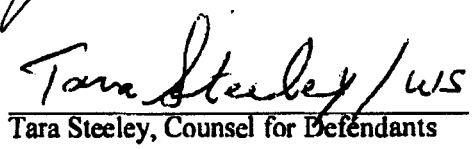
**Plaintiff:** Plaintiff anticipates that this case will be greatly facilitated when the court grants the plaintiff's Motion for Leave of Court to E-file as a Pro Se Litigant.

**Defendants:** None.

Dated: JAN 27, 2011

  
James Chaffee, Plaintiff

Dated: 1/27, 2011

  
Tara Steeley, Counsel for Defendants

PROOF OF SERVICE BY MAIL

Chaffee v. City and County of San Francisco, et al.

I, Linda Chaffee, am employed in the City and County of San Francisco, State of California. I am over the age of 18 and not a party to the within action, my business address is: 63 Stoney brook Avenue, San Francisco, California 94104.

On January 27, 2011, I served the foregoing document described as:

**“JOINT CASE MANAGEMENT STATEMENT”**

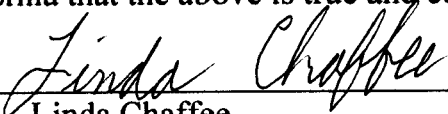
in the above entitled matter, in the U.S. District Court, Northern District of California,  
Case No. 10-04521 SBA

on the persons interested in said action by placing true copies thereof enclosed in sealed envelopes addressed as follows:

Wayne Snodgrass, Tara Steeley  
SF City Attorney  
City Hall, Room 234  
Civic Center  
San Francisco, CA 94102

Said envelopes I then caused to be deposited in the United States Mail, postage prepaid.

Executed on January 27, 2011, at San Francisco, California. I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

  
\_\_\_\_\_  
Linda Chaffee