

1 DENNIS J. HERRERA, State Bar #139669
 City Attorney
 2 WAYNE K. SNODGRASS, State Bar #148137
 JEREMY M. GOLDMAN, State Bar #218888
 3 NEHA GUPTA, State Bar #308864
 Deputy City Attorneys
 4 City Hall, Room 234
 1 Dr. Carlton B. Goodlett Place
 5 San Francisco, California 94102-4682
 Telephone: (415) 554-6762 (Goldman)
 6 (415) 554-4665 (Gupta)
 Facsimile: (415) 554-4699
 7 E-Mail: jeremy.goldman@sfgov.org
 neha.gupta@sfcityatty.org

8
 9 Attorneys for Defendant
 SHERIFF PAUL MIYAMOTO

11 UNITED STATES DISTRICT COURT
 12 NORTHERN DISTRICT OF CALIFORNIA

14 RIANA BUFFIN and CRYSTAL
 15 PATTERSON, et al.,

16 Plaintiffs,

17 vs.

18 THE CITY AND COUNTY OF SAN
 19 FRANCISCO, et al.,

20 Defendants.

Case No. C15-04959 YGR

~~PROPOSED~~ ORDER REGARDING
 EMERGENCY RULE 4 OF THE CALIFORNIA
 RULES OF COURT


1 Sheriff Paul Miyamoto and Class Plaintiffs have requested that this Court issue an order
2 regarding the Final Judgment and Injunction, ECF #372, insofar as it may bear on Emergency Rule 4
3 of the California Rules of Court. Emergency Rule 4 was adopted by the Judicial Council of California
4 on April 6, 2020 in response to the COVID-19 pandemic. It requires each superior court, by 5:00 p.m.
5 on April 13, 2020, to apply a new statewide “Emergency Bail Schedule,” which sets bail at \$0 for all
6 misdemeanors and felonies other than those enumerated in subdivisions (c)(1)-(13) of the rule.
7 Subdivision (d) clarifies that courts retain the ability to deny bail pursuant to article I, section 12 or
8 28(f)(3) of the California Constitution. Subdivision (g) provides that Emergency Rule 4 will remain in
9 effect until 90 days after the Governor declares that the state of emergency related to the COVID-19
10 pandemic is lifted, or until amended or repealed by the Judicial Council.

11 The Final Judgment and Injunction does not prevent the Sheriff from enforcing the statewide
12 Emergency Bail Schedule under Emergency Rule 4 insofar as it establishes an entitlement to release
13 on \$0 bail (including as qualified by the superior court’s authority to deny release on bail under the
14 constitutional authority referenced in subdivision (d) of Emergency Rule 4). Such enforcement of the
15 Emergency Bail Schedule is consistent with the Final Judgment and Injunction because the injunction
16 enjoins the Sheriff from enforcing the San Francisco Superior Court’s Bail Schedule “or any form or
17 derivative thereof *that requires or has as its effect that the existence and duration of pre-arraignment*
18 *detention is determined by an arrestee’s ability to pay.*” Dkt. 372 at 2 (emphasis added). Under the
19 Emergency Bail Schedule, where bail is set at \$0 or is denied altogether, the existence and duration of
20 detention is not determined by an arrestee’s ability to pay.

21 Emergency Rule 4 also provides that each superior court’s bail schedule continues to apply to
22 the offenses enumerated in subdivisions (c)(1)-(13) of the rule. Because the Sheriff’s enforcement of
23 the San Francisco Superior Court’s bail schedule has been enjoined and the procedures in the Final
24 Judgment and Injunction have taken its place, the Sheriff is required to continue to apply those
25 procedures to eligible arrestees under the Final Judgment and Injunction who are not released on \$0
26 bail pursuant to the statewide Emergency Bail Schedule.

1 IT IS SO ORDERED.

2
3 Dated: April 13, 2020

4 
5 HON. YVONNE GONZALEZ ROGERS
6 UNITED STATES DISTRICT JUDGE

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28