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CITY OF OAKLAND, et al.

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14 **UNITED STATES DISTRICT COURT**
15 **NORTHERN DISTRICT OF CALIFORNIA**

16
17 ANA BIOCINI, et al
18 Plaintiffs,
19 v.
20 CITY OF OAKLAND, et al,
21 Defendants.

Case No. 3:14-cv-3315-KAW
JOINT CASE MANAGEMENT
STATEMENT & [PROPOSED]
ORDER
Date: October 21, 2014
Time: 1:30 p.m.
Courtroom: 4, 3rd Floor

22
23 The parties to the above-entitled action jointly submit this JOINT CASE MANAGEMENT
24 STATEMENT & PROPOSED ORDER pursuant to the Standing Order for All Judges of the Northern
25 District of California dated August 25, 2014 and Civil Local Rule 16-9.

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1 **1. Jurisdiction And Service**

2 The complaint is based on federal jurisdiction of Plaintiff’s claims under 28 U.S.C. §§1331
3 and 1343 and 42 U.S.C. §1983. The Court has supplement jurisdiction over state law claims under
4 28 U.S.C. §1367. All named defendants have not been served.

5 **2. Facts**

6 **a. Plaintiff’s Statement**

7 The incident took place on July 8, 2013 at approximately 1:30 a.m. at 2365 E. 21st Street in
8 Oakland, CA, at the home of the Decedent HERNAN JARAMILLO (“JARMAMILLO”), and his
9 sister, ANA BIOCINI (“BIOCINI”). Shortly before the time of the incident, Mr. JARAMILLO
10 was in his bedroom making a great deal of noise for reasons unknown. The Decedent’s sister,
11 BIOCINI, heard the disturbance and was frightened. Ms. BIOCINI believed that her brother was
12 being assaulted by an intruder, and called the police for assistance.

13 Fearing for her life, Ms. BIOCINI barricaded herself in her bedroom. When the Defendant
14 officers arrived, Ms. BIOCINI remained locked in her bedroom out of fear she would be attacked
15 by the perceived intruder. Ms. BIOCINI handed the Defendant officers the keys to her home
16 through her bedroom window. Thereafter proceeded to enter Ms. BIOCINI’S home and knocked
17 on Ms. BIOCINI’S locked bedroom door. Ms. BIOCINI opened her bedroom door and explained
18 that she heard the noise coming from her brother, JARAMILLO’S, adjacent bedroom.

19 The Defendant officers then proceeded to Mr. JARAMILLO’s bedroom and knocked on the
20 door. Slowly, as if confused as to who was knocking, Mr. JARAMILLO opened the door for the
21 Defendant officers. The Defendant officers immediately grabbed Mr. JARAMILLO. Ms. BIOCINI
22 identified Mr. JARAMILLO as her brother and a resident of the home. Nevertheless, and without
23 any lawful reason or justification, the Defendant officers continued in handcuffing Mr.
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1 JARAMILLO, and forcing him out of his home. All the while, Ms. BIOCINI implored the
2 Defendant officers to stop, insisting that her brother was not the perceived intruder.

3 Outside of the home, neighbors had gathered because of the commotion. Mr.
4 JARAMILLO's rear neighbor also identified JARAMILLO as a resident of the home and implored
5 the Defendant officers to stop. The Defendant officers forcefully attempted to put Mr.
6 JARAMILLO in a patrol car. The defendant officers offered no justification for Mr.
7 JARAMILLO's arrest. Consequently, Mr. JARAMILLO struggled and was thrown on the ground
8 by four or five Defendant officers. Inexplicably, the Defendant officers threw Mr. JARAMILLO
9 face down on to the ground. One officer pressed his knee into Mr. JARAMILLO's back while
10 other officers used their weight to hold him down. Mr. JARAMILLO screamed out for help and
11 strained to breathe under the collective weight of the four or five Defendant officers. He pleaded
12 with the officers that if they did not let him breathe he would "die". Mr. JARAMILLO then
13 attempted to call out to Ms. BIOCINI to save him. Suddenly, Mr. JARAMILLO became
14 unresponsive.
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16 The Defendant officers flipped Mr. JARAMILLO over. Mr. JARAMILLO was visibly
17 limp, and seemingly lifeless. Mr. JARAMILLO was covered in blood and his head dropped back
18 loudly striking the pavement.
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20 The police began to perform CPR frantically. An ambulance was called. The medical
21 response team attempted to defibrillate Mr. JARAMILLO. Mr. JARAMILLO was taken to
22 Highland Hospital where he was pronounced dead. Mr. JARAMILLO leaves behind a large family
23 including his seven siblings and his young niece.
24

25 Fortunately, there are eye-witnesses to this incident. For example, several neighbors who
26 knew Mr. JARAMILLO were looking on as his life was taken from him during the Defendant

1 officers' onslaught of horrendous abuse of police power. Sadly, Ms. BIOCINI also looked on as
2 the Defendant officers beat and abused her brother.

3 Plaintiffs are informed, believe and thereon allege that CITY OF OAKLAND POLICE
4 DEPARTMENT has a history of using excessive force to carry out corrupt schemes and motives.
5 The CITY OF OAKLAND's failure to discipline or retrain any of the involved police officers is
6 evidence of an official policy, entrenched culture and posture of deliberate indifference toward
7 protecting citizen's rights and the resulting false arrests and injuries is a proximate result of the
8 CITY OF OAKLAND's failure to properly supervise its police officers.
9

10 **Defendants' Statement**

11 On July 8, 2013, Ms. Biocini called 911 to report that intruders broke into her home and
12 were trying to kill her brother, Mr. Jaramillo. Extremely frightened and locked in her bedroom, Ms.
13 Biocini let responding officers into her home by passing one officer a key through her bedroom
14 window.
15

16 When officers knocked on a bedroom door, Mr. Jaramillo would not open it at first and then
17 stuck his head out. Mr. Jaramillo was intoxicated. The house was in disarray. Ms. Biocini was
18 still very frightened. The officers handcuffed Mr. Jaramillo and escorted him out the home so that
19 they could investigate. Mr. Jaramillo tensed up and resisted. The officers explained to him that he
20 was not under arrest and asked him to sit in a patrol car with his feet outside the car. Mr. Jaramillo
21 refused and resisted. One of his hands became un-cuffed and Mr. Jaramillo continued resisting.
22 Mr. Jaramillo fell to the ground where the officers were able to re-handcuff Mr. Jaramillo.
23

24 While on the ground Mr. Jaramillo was screaming. Ms. Biocini and officers encouraged
25 Mr. Jaramillo to relax. He stopped screaming and was breathing. The officers called an
26 ambulance. Mr. Jaramillo was breathing. When the paramedics arrived, Mr. Jaramillo had become

1 unresponsive.

2 Mr. Jaramillo had a potentially lethal dose of cocaine in his system. The Coroner listed the
3 cause of death as “multiple drug intoxication associated with physical exertion.”

4 **3. Legal Issues**

5 a. Whether the Defendants unlawfully seized Mr. Jaramillo in his home on the night of the
6 subject incident.

7 b. Whether Defendants used excessive force during their seizure of Mr. Jaramillo on the
8 night of the subject incident.

9 c. Whether Defendants conduct was a substantial factor in the death of Mr. Jaramillo.

10 **4. Motions**

11 The City will file a dispositive motion.

12 **5. Amendment Of Pleadings**

13 Plaintiffs may amend the pleadings to replace doe defendants.

14 **6. Evidence Preservation**

15 The parties will take all necessary steps to preserve all evidence, including
16 electronically stored data.

17 **7. Disclosures**

18 The parties will exchange initial disclosures prior to the upcoming case management
19 conference. These will include identification of anticipated witnesses and key documents.

20 Plaintiffs served their initial disclosure by mail on September 17, 2014. The City will serve its
21 initial disclosure by October 14, 2014

22 **8. Discovery**

23 Other than initial disclosures, no discovery has taken place yet. The parties agree to the
24

1 following discovery plan:

2 (1) Interrogatories, document requests and request for admissions in accordance with
3 Local and Federal Rules of Civil Procedure;

4 (2) Depositions – No limitation on the number in the absence of a stipulation or court
5 order.
6

7 **9. Class Actions** – Not applicable

8 **10. Related Cases** – None

9 **11. Relief**

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11 Plaintiff seeks relief for the following: For general damages in a sum according to proof;
12 For special damages in a sum according to proof; For punitive damages in a sum according to
13 proof; For reasonable attorneys’ fees pursuant to 42 U.S.C. Section 1988; For cost of suit herein
14 incurred; and For such other and further relief as the Court deems just and proper.

15 **12. Settlement And ADR**

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17 The parties agree to a settlement conference before a Magistrate Judge or mediation through
18 the Court’s ADR program.

19 **13. Consent To Magistrate Judge For All Purposes**

20 The City respectfully declines the assignment of a Magistrate Judge in this case.

21 **14. Other References** - Not applicable.

22 **15. Narrowing Of Issues**

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24 The parties agree to meet and confer regarding any stipulations they may reach respecting
25 narrowing of issues and potential bifurcation of any issues, claims or defenses.

26 **16. Expedited Trial Procedure** – Not applicable

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17. Scheduling

The parties propose the following dates for inclusion in the Case Management

Order:

Plaintiffs' Proposed Schedule:

Trial: The parties request a trial date no earlier than February, 2016.

Fact Discovery Cut-off: 75 days before trial

Expert Discovery Cut-off: 30days before trial

Dispositive Motions: To be determined by the Court

Pre-trial conference: To be determined by the Court

The City's Proposed Schedule:

Trial: The parties request a trial date no earlier than February, 2016.

Fact Discovery Cut-off: 180 days before trial

Expert Discovery Cut-off: 150 days before trial

Dispositive Motions: To be filed and heard after discovery closes as determined by
the Court

Pre-trial conference: To be determined by the Court

18. Trial

Each side requests a jury trial

19. Disclosure Of Non-Party Interested Entities or Persons

None – the City of Oakland is permissibly self-insured.

20. Other

None at this time.

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Dated: October 14, 2014

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Dated: October 14, 2014

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By: /s/DeWitt M. Lacy
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CASE MANAGEMENT ORDER

The above JOINT CASE MANAGEMENT STATEMENT & PROPOSED ORDER is approved as the Case Management Order for this case and all parties shall comply with its provisions.

[In addition, the Court makes the further orders stated below:]

IT IS SO ORDERED.

Dated:

HONORABLE JUDGE SUSAN ILLSTON

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