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12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14

15 LISA SUON, et al.,) Case No.: C 07-01770 MMC
16 Plaintiffs,)
17 vs.) **JOINT CASE MANAGEMENT**
18 COUNTY OF ALAMEDA, et al.,) **STATEMENT**
19 Defendants.)
20

21 **1. Does the Court have subject matter jurisdiction over all of the plaintiffs' claim(s)**
22 **and defendants' counter-claim(s)? What is the basis of that jurisdiction? Are all**
23 **the parties subject to the Court's jurisdiction? Do any parties remain to be**
24 **served?**

25 This action is brought pursuant to 42 U.S.C. §§ 1983 and 1988, and the Fourth and
26 Fourteenth Amendments to the United States Constitution. Jurisdiction is founded upon 28
27 U.S.C. §§ 1331 and 1341 (3) and (4). Plaintiffs contend that the Court has supplemental
28 jurisdiction over plaintiffs' state claims under 28 U.S.C. § 1367(a). Venue is proper in the

1 Northern District as the acts complained of occurred in Alameda County and defendants are
2 within the district.

3 All named defendants have been served. Plaintiffs anticipate being able to identify
4 and serve any unnamed Doe defendants within 180 days after the exchange of Initial
5 Disclosures but additional individual employees of named defendants may be identified
6 during discovery of class issues and plaintiffs would then move to amend the complaint to
7 substitute those specific individuals for defendants now identified as Does.
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10 **2. What are the factual and legal bases for plaintiffs' claims and defendants'**
11 **defenses? Defendants counterclaims and defendants defenses to the**
12 **counterclaims?**

13 Plaintiff LISA SUON claims that in or about the year 2003, when she was fourteen
14 years of age, she was arrested for a misdemeanor offense and transferred to Alameda County
15 Juvenile Hall in San Leandro where, prior to a detention hearing, without there being
16 reasonable suspicion, she was subjected to a visual body cavity search. Subsequently, during
17 confinement, at Alameda County Juvenile Hall, she claims that whenever she returned to the
18 unit following a visit she was subjected to a visual body cavity search in groups of juveniles
19 who could see each other and be seen by each other as they were undergoing their strip
20 searches.
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22 Plaintiff JEFFREY PAY claims that he was arrested in or about the year 2004 and
23 again in 2005, for misdemeanor offenses, transported to the Alameda County Juvenile Hall in
24 San Leandro and there, prior to a detention hearing, was subjected to visual body cavity
25 search in violation of the Fourth and Fourteenth Amendments to the U.S. Constitution. He
26 also claims that he was repeatedly subjected to group strip searches whenever he returned to
27 the unit in which he was housed following any visit. During those group strip searches he
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1 could see other juveniles and they could see him undergoing strip searches.

2 Plaintiff ANDY MEAN was arrested in or about the year 2004 for a misdemeanor
3 offense, transported to the Alameda County Juvenile Hall in San Leandro, California, where
4 he was subjected to a visual body cavity search, prior to a detention hearing, in violation of
5 the Fourth and Fourteenth Amendments to the U.S. Constitution. Plaintiff Mean claims that
6 he was also subjected to repetitive group visual body cavity search during his confinement in
7 Alameda County Juvenile Hall whenever he returned to the unit following a visit. During
8 those strip searches he could see and be seen by other juvenile who were also being strip
9 searched simultaneously.
10

11 Plaintiffs claim, for themselves and all others similarly situated, that the complained
12 of visual body cavity searches were conducted pursuant to and in a manner authorized by
13 policies, procedures, and/or customs and practices of defendants and that the searches
14 violated their rights under the Fourth and Fourteenth Amendments of the U.S. Constitution
15 and Penal Code § 4030 which prohibits pre-detention hearing strip searches of most juveniles
16 charged with misdemeanor offenses not involving violence, drugs or weapons and requires
17 that such searches be conducted in an area of privacy, and be pre-approved in writing by a
18 supervisor: Plaintiffs also allege that the conduct of which they complained violation the
19 Bane Civil Rights Act (California Civil Code § 52 and § 52.1(b)), which provides for civil
20 penalties in cases where persons are coerced to give up their constitutional or statutory rights.
21 Plaintiffs contends that this case is appropriate for certification to proceed as a class action.
22

23 Defendants deny each and every of plaintiffs' claim and contend that the matter is not
24 appropriate for class certification. Additionally, even assuming the plaintiffs' claims are true,
25 defendants assert they are shielded from liability by the doctrines of qualified immunity and
26 various immunities set forth in the California Government, Penal and Civil Codes.
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1 **3. What are the factual and legal issues generally in dispute?**

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a) Whether or not plaintiffs were subjected to visual body cavity searches (strip searches);

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b) Whether or not plaintiffs were subjected to visual body cavity searches in groups;

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c) Whether or not plaintiffs were subjected to repetitive visual body cavity searches;

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d) Whether or not there was reasonable suspicion to strip search plaintiffs;

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e) Whether or not at the time of the complained of alleged strip searches, defendants had written strip search policies that complied with the governing federal and state legal authorities;

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f) Whether or not plaintiffs were strip searched pursuant to a policy;

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g) Whether or not the alleged searches of plaintiffs were typical of other searches conducted of persons admitted to defendants' juvenile hall;

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h) Whether the potential class of plaintiffs is sufficiently large to justify class certification;

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i) Whether defendants policies and procedures for strip searching juveniles and the strip searches of plaintiffs were consistent with the holding of *Bell v. Wolfish* (441 US 520, 1979) ; and,

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j) Whether plaintiffs suffered any compensable injury as a result of the strip searches at defendants' facility.

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4. What are the issues that can be narrowed by agreement or by motions? Are there dispositive or partially dispositive issues appropriate for decision on motion?

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1 Whether or not defendants' visual body cavity search policies, practices, and
2 customs, if any, were constitutional may be appropriate for resolution by motion. Similarly,
3 whether or not individual defendants are entitled to qualified immunity may also be amenable
4 to resolutions by motion.

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6 Plaintiffs' state law causes of action may also be capable of resolution by motion.

7 **5. What are the motions anticipated by the parties?**

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9 **a) Plaintiffs:**

10 Plaintiffs anticipate filing a motion for summary adjudication as to the
11 unconstitutionality of defendants' visual body cavity search policies, practices, and customs
12 as well as to the lack of merit of defendants' affirmative defenses. Plaintiffs anticipate filing
13 a motion to amend the complaint to include additional named class representative as such
14 individuals are identified; filing a motion to amend the complaint to substitute parties whose
15 names become known for defendants now identified by fictitious names. Plaintiffs also
16 anticipate filing a motion for class certification.
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19 **b) Defendants:**

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21 Defendants anticipate filing a motion for summary judgment/adjudication regarding
22 all of plaintiffs' claims.

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24 **6. What relief does plaintiff seek? What is the amount of damages sought by
25 plaintiff's claim(s)? How are the damages computed?**

26 Plaintiffs seek an order declaring illegal defendants' policy and practice of subjecting
27 juvenile detainees in their custody to visual body cavity searches before arraignment and
28 without them having any reasonable suspicion that the searches will be productive of

1 contraband. Plaintiffs further seek an order declaring illegal defendants' policy of
2 conducting the complained of searches in areas which can be and are observed by persons not
3 participating in the searches.

4 Plaintiffs seek monetary damages for the violation of those rights of plaintiffs, and of
5 all those they seek to represent, that are secured by the Fourth and Fourteenth Amendments
6 to the United States Constitution. Additionally, Plaintiffs seek on their own behalf, and on
7 behalf of all those similarly situated, statutory damages under California Penal Code § 4030
8 (minimum of \$1,000 per violation) and under California Civil Code § 52 and § 52.1(b)
9 (minimum of \$4,000 per violation). Because the size of the class of persons covered by this
10 lawsuit is not yet known, plaintiffs are not prepared to provide a precise calculation of the
11 potential damages in this cases; however, recoveries in individual similar cases have
12 exceeded \$100,000, exclusive of punitive damages, and recoveries in class actions in federal
13 courts have been in the tens of millions of dollars.

14 Plaintiffs also request an award of attorneys' fees and costs.

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18 **7. What discovery does each party intend to pursue? Can discovery be limited in any**
19 **manner? Are there any alternative methods available to obtain the necessary**
20 **information? Should a discovery order and conference be entered pursuant to**
21 **Fed.R.Civ.P. 26(f)?**

22 Plaintiffs intend to obtain the following discovery:

- 23 1. Documents used at the defendants' juvenile hall in the last five (5) years that
24 cover the following areas: Booking/Intake procedures; pat, strip, visual, and
25 body cavity search procedures and protocols, and clothing logs.
- 26 2. The numbers and identities of juveniles booked at the Alameda County Juvenile
27 Hall between January 1, 2000, and the present, and a breakdown of those
28 numbers showing, by month, the number of persons booked on crimes involving

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drugs, weapons, and violence, the crimes on which they were charged, the breakdowns by classification (misdemeanor, infraction, welfare and institution code violation, felony).

3. The names and arrest charges of the persons booked at the Alameda County Juvenile Hall between January 1, 2000, and the present on charges not involving drugs, weapons, or violence.
4. Depositions of the jail personnel involved in the booking, processing, and strip searching of plaintiffs.
5. Depositions of Alameda County Juvenile Hall personnel and supervisors involved in the intake, booking, processing, strip searching, and transportation of plaintiffs and the class they seek to represent.
6. Deposition of the policy-makers at the Alameda County Juvenile Hall facilities.
7. Depositions of persons most knowledgeable about the Alameda County Juvenile Hall facility's computer systems and data retrieval systems.
8. Depositions of group counselors/juvenile hall personnel who conducted strip searches of pre-detention hearing detainees during the class period.
9. Site inspection.
10. Production and review of videotapes, if any, made at the juvenile hall during the relevant period.
11. Production and review of training materials used to train juvenile hall personnel in strip search policies and procedures.

Defendants intend to obtain the following discovery:

1. All documentation pertaining to the arrests which lead to plaintiffs' incarceration.

- 1 2. All documentation of plaintiffs’ arrest and incarcerations prior and subsequent
- 2 to the arrests which they describe in the complaint in this action.
- 3 3. All records relating to plaintiffs’ education, work history, and treatment for
- 4 mental or emotional problems or substance abuse.
- 5 4. Depositions of plaintiffs and family members.
- 6 5. Depositions of any subsequently named proposed class
- 7 representatives/plaintiffs.
- 8

9 At this point the parties believe it is too early to determine if discovery can be limited
10 in any manner. A discovery order and conference pursuant to Fed.R.Civ.P. 26(f) is not
11 necessary.
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13 **8. Is this case suitable for reference to a binding arbitration, to a Special Master, or**
14 **to a Magistrate Judge for trial. Is the case suitable for reference to the Judicial**
15 **Panel on Multidistrict Litigation?**

16 The parties do not believe this case is appropriate for binding arbitration.
17 Neither party consents to this matter being referred to a Special Master or Magistrate
18 Judge for trial.

19 This case is not suitable for reference to the Judicial Panel on Multidistrict Litigation.

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21 **9. Will this case be tried by a jury? What is the anticipated length of trial? Is it**
22 **possible to reduce the length of trial by stipulation, use of summaries or**
23 **statements, or other expedited means of presenting evidence? Is it feasible and**
24 **desirable to bifurcate issues for trial?**

25 Both parties have requested that this case be tried by a jury. The length and evidence
26 of the trial is dependent upon whether or not plaintiffs’ anticipated motion for class
27 certification is granted. Therefore, the parties request that these matters be re-visited
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1 following a ruling on plaintiffs’ anticipated motion for class certification.

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3 **Are there related cases pending before other Judges of this Court?**

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No.

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6 **11. If a class action, how and when will the class(es) be certified?**

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8 Plaintiffs anticipate bringing a motion for class certification within nine (9) months of
9 the Court’s Scheduling Order.

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11 **12. What are the earliest reasonable dates for discovery cutoff, pretrial conference, and trial?**

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13 Discovery Cutoff (90 days before pretrial conf.): August 1, 2008

14 Final Pretrial Conf. (90 days before trial): November 3, 2008

15 Trial: February 2, 2009

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17 **13. What are the prospects for settlement? Does any party wish to have a settlement conference with another Judge or Magistrate Judge? How can settlement efforts be assisted?**

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20 A settlement conference or other alternative dispute resolution may be desirable but
21 that question should be deferred until after the parties have had an opportunity to exchange
22 initial disclosures and conduct a first round of discovery. The parties anticipate that they will
23 employ a private mediator (perhaps the Honorable Raul Ramirez (U.S. District Court Judge,
24 ret.) to assist them in resolving this matter as he has experience in the resolution of class
25 action strip search cases in this and other jurisdictions.
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28 **14. Such other matters as any party considers conducive to the just, speedy, and inexpensive determination of this action.**

1 The parties have no other suggestions to offer at this time.

2 DATED: July 17, 2007

Respectfully submitted,

3 LAW OFFICE OF MARK E. MERIN

4

5 BY: /s/ - "Mark E. Merin"

Mark E. Merin

Attorney for Plaintiffs

6

7 DATED: July 17, 2007

Respectfully submitted,

8 BOORNAZIAN, JENSEN & GARTHE

9

10 BY: /s/ - "Gregory J. Rockwell"

Gregory J. Rockwell, Esq.

Attorney for Defendant

COUNTY OF ALAMEDA

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