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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
San Jose Division

Estate of JACOB PARENTI, deceased,
by and through MATTHEW
OBERHOLTZ; D.P-O., a minor, by and
through his guardian, MATTHEW
OBERHOLTZ; and SUSAN PARENTI,

Plaintiffs,

vs.

COUNTY OF MONTEREY; SHERIFF
SCOTT MILLER, in his official and
individual capacities; OFFICER
COLLINS, in his individual capacity;
CALIFORNIA FORENSIC MEDICAL
GROUP; and DR. TAYLOR FITHIAN,

Defendants.

Case No. CV 14-05481-PSG

**JOINT CASE MANAGEMENT
STATEMENT AND [PROPOSED]
ORDER**

Date: April 28, 2015
Time: 10:00 a.m.
Crtrm: 5

Complaint Filed: December 16, 2014
Trial Date: None Set

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1 Plaintiffs Estate of JACOB PARENTI, deceased, by and through
 2 MATTHEW OBERHOLTZ, D.P-O., a minor, by and through his guardian,
 3 MATTHEW OBERHOLTZ, and SUSAN PARENTI (“Plaintiffs”), and
 4 Defendants County of Monterey, Sheriff Scott Miller, Officer Collins, California
 5 Forensic Medical Group, and Taylor Fithian, M.D. (“Defendants”), hereby submit
 6 this Joint Case Management Statement and [Proposed] Order pursuant to the
 7 Standing Order for All Judges of the Northern District of California dated July 1,
 8 2011, and Civil Local Rule 16-9.

9 **1. Jurisdiction and Service:**

10 a. *Jurisdiction*

11 This Court has jurisdiction over Plaintiffs’ federal claims pursuant to 28
 12 U.S.C. §§ 1331 and 1343, and over Plaintiffs’ state law claim pursuant to 28
 13 U.S.C. § 1367.

14 b. *Venue*

15 The parties do not anticipate any issues regarding personal jurisdiction or
 16 venue.

17 c. *Service*

18 All Defendants were personally served with the Complaint herein.

19 **2. Facts:**

20 a. *Plaintiffs’ Statement*

21 On January 15, 2014, Defendants left Jacob Parenti, a 33 year-old man in
 22 Monterey County Jail for a probation violation, lying unconscious, helpless, and
 23 untreated on his dorm bed to die. At the time of Jacob Parenti’s death, the Jail was
 24 already the subject of a class action lawsuit regarding systemic failures to provide
 25 adequate medical care. However, the County, its Sheriff and officers have
 26 stubbornly refused to address these known issues.

27 Mr. Parenti began a one-year jail term for a probation violation at Monterey
 28 County Jail on or around August 1, 2013. On or around January 10, 2014, Mr.

1 Parenti developed flu-like symptoms. He followed the Jail's procedures for
2 seeking medical care and put in a written sick call request. Around the same time
3 period, Mr. Parenti began coughing up blood. Mr. Parenti did not receive a
4 medical appointment in response to the sick call request he put in on January 10,
5 2014. He put in another sick call request slip on or around January 12. Mr. Parenti
6 continued coughing up blood that was thick and mucous-like. He was not called
7 for sick call January 13 or 14.

8 At around 9:45 a.m. on January 15, Defendant Collins called for Mr. Parenti
9 to see the nurse. Mr. Parenti was laying on his bunk and did not and could not
10 respond. Defendant Collins entered D-wing, walked to Mr. Parenti's bunk, and
11 said his name several more times. Mr. Parenti remained unresponsive. Defendant
12 Collins then repeatedly tapped and/or shook Mr. Parenti, but Mr. Parenti remained
13 unresponsive.

14 Deputy Collins then left D-wing without providing or summoning
15 emergency or other medical attention for Mr. Parenti. Over the next hour,
16 Defendants failed, refused, and/or neglected to provide medical attention to an
17 inmate in their custody in obvious and serious need of immediate medical
18 attention.

19 At approximately 10:45 a.m., inmates in Mr. Parenti's housing unit noticed
20 that he had stopped breathing and his face had a bluish tint. Several inmates pulled
21 him down from the bunk and attempted to resuscitate him while other inmates
22 attempted to get the attention of the deputies. After one inmate had already started
23 CPR on Mr. Parenti, deputies arrived in the unit, followed by Fire Department
24 personnel and nurses. On information and belief, the Jail deputies did not attempt
25 CPR on Mr. Parenti.

26 At 11:05 a.m. on January 15, 2014, Mr. Parenti was pronounced dead.

27 In the evening of January 15, 2014, Susan Parenti, Mr. Parenti's mother,
28 received a phone call from an inmate at Monterey County Jail during which the

1 inmate informed her that Mr. Parenti had died. Ms. Parenti had not previously
2 received any notification of her son's death from Defendants.

3 Although the Monterey County Coroner's Report eventually concluded that
4 Mr. Parenti died due to acute mixed drug intoxication, toxicology analysis of Mr.
5 Parenti's blood does not support this conclusion. Based on the findings of the
6 independent autopsy, Parenti's death resulted from viral influenza syndrome
7 complicated by pneumonia, a treatable medical condition.

8 b. *Defendants County of Monterey, Sheriff Scott Miller and Officer*
9 *Collins' Statement*

10 Defendants County of Monterey, Sheriff Scott Miller and Officer Collins
11 ("County Defendants") deny that they singularly or individually caused decedent
12 Jacob Parenti's injury or death.

13 On July 20, 2013, Jacob Parenti was arrested in the City of Seaside, County
14 of Monterey, for violation of Vehicle Code 23152(a); under the influence of, and in
15 possession of a controlled substance, receiving stolen property, and probation
16 violation. Parenti pled guilty to various charges and was sentenced to County jail
17 on August 1, 2013 with a release date of September 18, 2014. Parenti was housed
18 in D-Wing on January 15, 2014. On the morning of January 15, 2014, an inmate in
19 D-Wing, hearing Parenti's name called for "med pass", attempted to wake him up
20 as he appeared to be sleeping. Parenti, in response, waved the inmate off. The
21 inmates believed Parenti was sleeping. Defendant Collins, when he contacted
22 Parenti, was given the same response. Parenti ate breakfast and nothing unusual
23 was noted in his appearance or manner.

24 Parenti was seen in the front area of D-Wing at about 9:15 a.m., as he left
25 the area and returned to his bunk, as he returned to see a television program he
26 regularly watched.

27 Later that morning, various inmates noted that Parenti seemed to be having
28 trouble breathing. Various inmates signaled for help and removed Parenti from his

1 bunk to the cell floor. Jail staff responded at about 10:40 a.m. and found Parenti
 2 unresponsive. Medical staff was called and lifesaving measures were employed.
 3 Medical staff arrived, assessed Parenti and called for paramedics, who responded
 4 at 11:00 a.m., but Parenti was pronounced dead at approximately 11:05 a.m. The
 5 conclusion of the postmortem examination was that Parenti died from an acute
 6 mixed drug intoxication.

7 c. *Defendants California Forensic Medical Group, Inc. and Taylor*
 8 *Fithian, M.D.'s Statement*

9 For his most recent incarceration, Mr. Parenti was booked into the Monterey
 10 County Jail on July 20, 2013. On intake, he provided a history of heart problems
 11 and anxiety, and reported taking Klonopin, Atenolol, Lisinopril and hydrocodone.
 12 He was placed on a low sodium diet and blood pressure checks were ordered and
 13 performed daily for five days, then weekly in the hypertension clinic. Throughout
 14 the remainder of 2013, Mr. Parenti was properly seen and treated by physicians
 15 and staff from CFMG with appropriate medication renewals and adjustments. Mr.
 16 Parenti was also properly examined and treated by CFMG physicians and staff for
 17 mental health and psychiatric care. In the fall of 2013, Mr. Parenti complained of a
 18 skin growth under his nose, which was timely evaluated and monitored by CFMG
 19 physicians and staff and plaintiff was referred to an outside dermatologist, Dr.
 20 Friend, in November 2013 for biopsy and treatment, which biopsy was performed
 21 on January 6, 2014 and presumed to represent basal cell carcinoma.

22 On January 10, 2014 Mr. Parenti submitted a single sick call slip stating
 23 "have the flu." He was scheduled and seen at sick call on January 13, 2014 at
 24 10:30 a.m. by Maureen Hollcraft. During this examination, Mr. Parenti reported
 25 he had the flu and his joints were sore. His vital signs, including temperature, were
 26 normal. His throat was red, tongue was coated and he had slight swelling in his
 27 nodes. Ms. Hollcraft assessed an upper respiratory infection and noted she would
 28 be discussing Mr. Parenti with an "M.D." (Dr. Garcia), which was done

1 approximately one and a half hours later. Orders were written for a decongestant
 2 (Actifed), cough medicine (Robitussin), and an analgesic (Motrin). These
 3 medications were begun with the late afternoon pill pass on January 13, 2014.

4 Subsequently, on January 14, 2014 at 1555, Mr. Parenti was seen for a
 5 mental health examination by Charlotte Gage. Mr. Parenti was anxious related to
 6 his current basal cell carcinoma diagnosis but his speech was clear and his thought
 7 process was organized. He requested an increase in his psychiatric medications
 8 and Ms. Gage noted she would discuss the request with Dr. Fithian, which was
 9 done on January 15, 2014 at 0900. However, at approximately 1045 hours on
 10 January 15, 2014, CFMG staff was summoned to D-wing where custody was
 11 amidst life-saving efforts for Mr. Parenti. CFMG staff including physician Dr.
 12 Benda continued life-saving efforts and summoned an ambulance but Mr. Parenti
 13 was propounded dead at approximately 11:05 a.m. The postmortem examination
 14 concluded Mr. Parenti died from an acute mixed drug intoxication.

15 **3. Legal Issues:**

16 The disputed legal issues include the following:

- 17 a. Whether any Monterey County Defendant or Monterey County
 18 Sheriff custodial officer/employee was subjectively aware that Jacob
 19 Parenti was at a substantial risk of harm and acted with deliberate
 20 indifference.
- 21 b. Whether the actions or omissions of any Monterey County Defendant
 22 or Monterey County Sheriff custodial officer/employee was the
 23 proximate cause of injury to Jacob Parenti or his death.
- 24 c. Whether Defendants and Monterey County Sheriff custodial
 25 officers/employees were properly trained to recognize and react if and
 26 when an inmate is in acute medical distress.
- 27 d. Whether the Monterey County Sheriff's Office's procedures, practices
 28 and policies regarding the welfare/health checks or care of inmates

1 were adequate.

- 2 e. The availability of absolute and/or qualified immunity as to
3 Defendants County of Monterey, Sheriff Scott Miller and Officer
4 Collins.
- 5 f. Whether any Monterey County Sheriff custodial officer/employee was
6 negligent in the care and custody of Jacob Parenti.
- 7 g. Each and every affirmative defense as set forth in County Defendants'
8 answer to the complaint.
- 9 h. Whether Defendants were deliberately indifferent to the serious
10 medical needs of Parenti in violation of the Eighth and Fourteenth
11 Amendments.
- 12 i. Whether Defendants failed to protect Parenti from harm in violation
13 of the Fourteenth Amendment.
- 14 j. Whether Defendants deprived Plaintiff Susan Parenti and Plaintiff
15 D.P.-O. of their respective relationships with Jacob Parenti in
16 violation of the First and Fourteenth Amendments
- 17 k. Whether Defendants failed to summon or provide appropriate medical
18 care in response to Parenti's alleged need for immediate medical
19 treatment when he was incarcerated in Monterey.
- 20 l. Whether Defendants were negligent in their supervision, training, and
21 hiring of individuals responsible for providing adequate medical care
22 to Parenti.
- 23 m. Whether Defendants are liable for the wrongful death of Parenti.
- 24 n. Whether Defendants were negligent in the provision of medical care
25 to Parenti during his incarceration in Monterey.
- 26 o. What amount of damages, including compensatory and punitive
27 damages, should be awarded to Plaintiffs on a finding of liability
28 against any Defendant(s).

- 1 p. Whether Defendants have violated the Eighth or Fourteenth
- 2 Amendments.
- 3 q. Whether Defendants were deliberately indifferent to Jacob Parenti.
- 4 r. Whether Defendants are entitled to qualified immunity.
- 5 s. Whether Plaintiffs have sufficient evidence for a *Monell* claim.
- 6 t. What are the standards for the provision of medical care to inmates.
- 7 u. Whether Defendants are liable for acts of discretion.
- 8 v. Whether the presence or lack of a policy caused a violation of any
- 9 constitutional rights.
- 10 w. Whether Defendants' supervision of their respective employees has
- 11 been adequate/sufficient to avoid any constitutional violations.
- 12 x. Whether decedent's death or Plaintiffs' claimed damages (or any
- 13 portion) were proximately or legally caused by the alleged negligence
- 14 or claimed violation of civil rights on the part of each of the
- 15 Defendants.

16 **4. Motions:**

17 a. *Prior Motions*

18 Plaintiffs filed a Motion to Consider Related Case pursuant to local Rule 3-
 19 12(b) to consider whether this action relates to *Hernandez v. County of Monterey*,
 20 Case No. 13-cv-2354-PSG (N.D. Cal. filed May 23, 2013) (Dkt. 9). Plaintiffs'
 21 Motion was granted (Dkt. 11).

22 b. *Pending Motions*

23 There are no currently pending motions before the Court.

24 c. *Anticipated Motions*

25 The parties anticipate filing motions *in limine* and discovery motions as
 26 necessary. All Defendants anticipate filing motions for summary judgment or
 27 partial summary judgment. Plaintiffs may also file a motion for summary
 28 judgment or partial summary judgment.

1 **5. Amendment of Pleadings:**

2 The parties do not anticipate additional parties, claims or defenses unless
3 new evidence warranting amendment is revealed during discovery.

4 **6. Evidence Preservation:**

5 The parties have reviewed the Guidelines Relating to the Discovery of
6 Electronically Stored Information, and met and conferred on December 2, 2014,
7 regarding reasonable and proportionate steps taken to preserve ESI.

8 The parties agree to preserve records within their custody relevant to the
9 litigation between the parties and to take all steps necessary to prevent the
10 destruction, loss, concealment, or alteration of any paper, document, or
11 electronically stored information (“ESI”) and other data or information generated
12 by and/or stored on computers, storage media (e.g., thumb/flash drives, portable
13 hard drives, hard disks, floppy disks, backup tapes, etc.), or email servers related to
14 the facts giving rise to this action. The parties also agree to initiate an immediate
15 litigation hold for potentially relevant ESI, documents and tangible things, and to
16 act diligently and in good faith to secure and audit compliance with that litigation
17 hold.

18 The parties also agree to intervene to prevent loss due to routine operations
19 and employ proper techniques to guard against the advertent or inadvertent
20 destruction of all such evidence. If information exists in both electronic and paper
21 form, the parties will preserve both. The parties also agree to immediately identify
22 and modify or suspend features of any information systems and devices that, in
23 routine operation, cause the loss of documents, tangible items, or ESI.
24 Lastly, the parties agree to preserve documents, tangible things, and ESI that
25 comprise or contain potentially relevant evidence and that are created or come into
26 their custody, possession, or control subsequent to the date of this filing. The
27 parties will take all appropriate action to avoid destruction of potentially relevant
28 evidence.

1 **7. Disclosures:**

2 The parties intend to complete their initial disclosures by April 21, 2015.

3 **8. Discovery:**

4 a. *Discovery Taken to Date*

5 There is no discovery currently pending.

6 b. *Scope of Anticipated Discovery*

7 Plaintiffs will seek discovery on the following subjects:

- 8 i. The details of Mr. Parenti's medical condition while in the Jail
- 9 and Defendants' awareness of his medical condition and failure
- 10 to respond to it.
- 11 ii. Defendants' provision of medical care and emergency response
- 12 to Mr. Parenti and other inmates in the Monterey County Jail.
- 13 iii. Defendants' autopsy of Mr. Parenti and conclusion that Mr.
- 14 Parenti died of acute mixed drug intoxication.
- 15 iv. Defendants' policies, procedures, protocols, and training
- 16 regarding the provision of medical care and emergency
- 17 response in the Monterey County Jail.
- 18 v. Whether Defendants were on notice regarding their provision of
- 19 inadequate medical care and emergency response.
- 20 vi. *Monell* issues.

21 Plaintiffs will seek discovery on additional subjects should the need arise

22 during litigation.

23 The parties plan to depose the individual defendants, individuals identified

24 in response to Rule 30(b)(6) notices and various third-party witnesses whose

25 knowledge and impressions will shed light on the events that are the subject matter

26 of this litigation. The parties also plan to propound interrogatories, requests for

27 production of documents, and requests for admission. Plaintiffs may notice a

28 request for inspection of the Jail if necessary.

c. *Limitations or Modifications of the Discovery Rules*

The parties do not anticipate requiring any limitations or modifications of the discovery rules. If the need arises during the course of discovery, the parties may request relief for additional discovery beyond that which is allowed by the Federal Rules.

d. *Stipulated E-Discovery Order*

The parties do not anticipate requiring an e-discovery plan.

e. *Proposed Discovery Plan*

The parties intend to make their initial disclosures by April 21, 2015.

The parties differ regarding the time required to complete discovery in this case and have proposed different discovery schedules and deadlines in Section 17. The parties do not anticipate conducting discovery in phases or of limiting discovery on particular issues.

The parties do not anticipate changes to the discovery rules set out in the Federal Rules or this Court's Local Rules.

9. Class Actions:

Not applicable.

10. Related Cases:

The related case of *Hernandez v. County of Monterey*, No. 13-cv-2354-PSG (N.D. Cal. filed May 23, 2013) is a class action that seeks declaratory and injunctive relief against the County of Monterey, Monterey County Sheriff's Office, and California Forensic Medical Group for violations of class members' civil rights, including their constitutional rights to adequate medical care and protection from harm.

11. Relief:

a. *Relief Sought*

- i. Compensatory, general and special damages against each Defendant, jointly and severally, in an amount to be proven at

trial.

- ii. Damages related to loss of familial relations as to Plaintiffs Susan Parenti and D.P-O.
- iii. Funeral and burial expenses, independent autopsy expenses, and incidental expenses not yet fully ascertained.
- iv. General damages, including damages for physical and emotional pain, emotional distress, hardship, suffering, shock, worry, anxiety, sleeplessness, illness and trauma and suffering, the loss of the services, society, care and protection of the decedent, as well as the loss of financial support and contributions, loss of the present value of future services and contributions, and loss of economic security.
- v. Prejudgment interest.
- vi. For punitive and exemplary damages against each non-governmental entity Defendant in an amount appropriate to punish Defendant(s) and deter others from engaging in similar misconduct.
- vii. For costs of suit and reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988, and as otherwise authorized by statute or law.
- viii. For restitution as the court deems just and proper.
- ix. For such other relief, including injunctive and/or declaratory relief, as the Court may deem proper.

b. *Defendants' Description of Bases for Damages*

Defendants deny Plaintiffs are entitled to any damages.

12. Settlement and ADR:

The parties have met and discussed the available dispute resolution options provided by the Court and private entities, and agreed to request an Early

1 Settlement Conference with a Magistrate Judge. (See Dkt 27.)

2 **13. Consent to Magistrate Judge for all Purposes:**

3 The parties have all consented to a Magistrate Judge conducting all further
4 proceedings.

5 **14. Other References:**

6 This case is not suitable for reference to binding arbitration, a special master,
7 or the Judicial Panel on Multidistrict Litigation.

8 **15. Narrowing of Issues:**

9 At this point in time, Plaintiffs are not aware of any issues that can be
10 narrowed by agreement or by motion at trial.

11 **16. Expedited Trial Procedure:**

12 This case is not suitable for the Expedited Trial Procedure outlined in
13 General Order No. 64, Attachment A.

14 **17. Scheduling:**

15 The parties differ regarding the time required to discover and litigate this
16 case, as well as when the trial in this matter should be set.

	<u>Defendants</u>	<u>Plaintiffs</u>
18 Non-expert discovery cutoff:	July 22, 2016	February 5, 2016
19 Designation of experts:	August 5, 2016	March 4, 2016
20 Expert discovery cutoff:	August 22, 2016	April 1, 2016
21 Deadline for hearing dispositive		
22 motions:	September 28, 2016	June 17, 2016
23 Pretrial conference:	October 28, 2016	August 28, 2016
24 Trial:	November 7, 2016	September 5, 2016

25 **18. Trial:**

26 Defendants have requested a jury trial in this action. The parties anticipate a
27 nine (9) day trial.

28 / / /

19. Disclosure of Non-party Interested Entities or Persons:

Each party has filed the Certification of Interested Entities or Persons required by Local Rule 3-15.

20. Professional Conduct:

All attorneys of record for the parties have reviewed the Guidelines for Professional Conduct for the Northern District of California.

Dated: April 21, 2015

Respectfully submitted,

RIFKIN LAW OFFICE
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By /s/ - Joshua Piovia-Scott

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Dated: April 21, 2015

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Dated: April 21, 2015

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TAYLOR FITHIAN, M.D.*

[PROPOSED] CASE MANAGEMENT ORDER

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

IT IS SO ORDERED.

Dated: _____, 2015

HONORABLE PAUL S. GREWAL