

1 DENNIS J. HERRERA, State Bar #139669  
City Attorney  
2 WAYNE SNODGRASS, State Bar #148137  
Deputy City Attorney  
3 TARA M. STEELEY, State Bar #231775  
Deputy City Attorney  
4 City Hall, Room 234  
1 Dr. Carlton B. Goodlett Place  
5 San Francisco, California 94102-4682  
Telephone: (415) 554-4655  
6 Facsimile: (415) 554-4699  
E-Mail: tara.steeley@sfgov.org  
7

ENDORSED  
FILED  
San Francisco County Superior Court

JUL 23 2014  
CLERK OF THE COURT  
BY: JACQUELINE ALAMEDA  
Deputy Clerk

8 Attorneys for Defendants  
CITY AND COUNTY OF SAN FRANCISCO,  
9 GREGORY SUHR [in his official capacity  
as Chief of Police], et al.

10  
11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 COUNTY OF SAN FRANCISCO  
13 UNLIMITED JURISDICTION

14 ROBERT MARTIN OFFER-WESTORT, an  
individual; ELIZABETH ZITRIN, an  
15 individual; and the AMERICAN CIVIL  
LIBERTIES UNION OF NORTHERN  
16 CALIFORNIA, INC.,  
17 Plaintiffs,  
18 vs.  
19 CITY AND COUNTY OF SAN  
FRANCISCO; GREGORY SUHR, in his  
20 official capacity as Chief of Police of the City  
and County of San Francisco; and DOES 1  
21 through 20, inclusive,  
22 Defendants.

Case No. CGC-13-529730  
**STIPULATION AND [PROPOSED] ORDER RE  
DISMISSAL**  
Date Action Filed: March 20, 2013  
Trial Date: None set

1 WHEREAS, Plaintiffs seek two primary remedies by way of the instant lawsuit: (1) an  
2 injunction preventing Defendants from conducting searches of cell phone of arrestees without a  
3 warrant, absent exigent circumstances, and (2) a declaration that conducting warrantless searches of  
4 arrestees' cell phones absent exigent circumstances is unconstitutional under Sections 1, 2, 3 and 13 of  
5 Article I of the California Constitution and the First Amendment of the United States Constitution;

6 WHEREAS, prior to June 25, 2014, Defendants conducted warrantless searches of arrestees'  
7 cell phones under the authority of *People v. Diaz* (2011) 51 Cal. 4th 84; and

8 WHEREAS, on June 25, 2014, the Supreme Court of the United States held in *Riley v.*  
9 *California* and *United States v. Wurie*, that, absent a valid exception to the warrant requirement, a  
10 warrant must be obtained to search a cell phone seized from an arrestee under the Fourth Amendment  
11 of the United States Constitution;

12 The Parties stipulate and agree as follows:

13 1) The Supreme Court's decisions in *Riley v. California* and *United States v. Wurie* are binding  
14 on Defendants;

15 2) Defendants represent to Plaintiffs and the Court that subsequent to June 25, 2014,  
16 Defendants have ceased and desisted and will continue to cease and desist from conducting  
17 warrantless searches of cell phones seized from arrestees, unless the search falls within a valid  
18 exception to the warrant requirement, consistent with the Supreme Court's holding in *Riley v.*  
19 *California* and *United States v. Wurie* and any subsequent caselaw concerning the Fourth  
20 Amendment's warrant requirements;

21 3) The Parties agree that so long as Defendants abide by the representation in Paragraph 2,  
22 Plaintiffs' request for injunctive and declaratory relief is unnecessary;

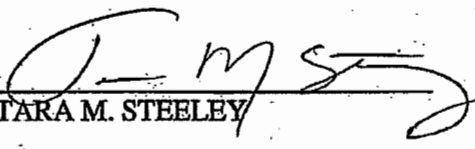
23 In consideration of the foregoing, the Parties agree that the most efficient resolution of this  
24 matter is dismissal without prejudice to refile should Defendants fail to abide by the representation  
25 in Paragraph 2.

26 Each party shall bear its own costs and attorneys' fees in this litigation.  
27  
28

1 IT IS SO STIPULATED.

2 Dated: July 8, 2014

DENNIS J. HERRERA  
City Attorney  
WAYNE SNODGRASS  
TARA M. STEELEY  
Deputy City Attorneys

3  
4  
5  
6 By:   
TARA M. STEELEY

7 Attorneys for Defendants  
8 CITY AND COUNTY OF SAN FRANCISCO,  
9 GREGORY SUHR [in his official capacity as Chief of  
Police], et al.

10 Dated: July \_\_\_\_, 2014

11 THOMAS V. LORAN III  
12 WILLIAM S. HALE  
13 Pillsbury Winthrop Shaw Pittman LLP

14 By: \_\_\_\_\_  
15 WILLIAM S. HALE  
16 Attorneys for Plaintiffs  
17 ROBERT MARTIN OFFER-WESTORT, et al.

18 The above-captioned matter is hereby dismissed without prejudice. IT IS SO ORDERED.

19 A. JAMES ROBERTSON, II

20 \_\_\_\_\_  
21 HONORABLE SUPERIOR COURT JUDGE  
22  
23  
24  
25  
26  
27  
28

1 IT IS SO STIPULATED.

2 Dated: July \_\_\_\_, 2014

DENNIS J. HERRERA  
City Attorney  
WAYNE SNODGRASS  
TARA M. STEELEY  
Deputy City Attorneys

6 By: \_\_\_\_\_  
TARA M. STEELEY

7 Attorneys for Defendants  
8 CITY AND COUNTY OF SAN FRANCISCO,  
9 GREGORY SUHR [in his official capacity as Chief of  
Police], et al.

10 Dated: July 9, 2014

THOMAS V. LORAN III  
WILLIAM S. HALE  
Pillsbury Winthrop Shaw Pittman LLP

13 By: *William S. Hale*  
14 WILLIAM S. HALE  
15 Attorneys for Plaintiffs  
ROBERT MARTIN OFFER-WESTORT, et al.

17 The above-captioned matter is hereby dismissed without prejudice. IT IS SO ORDERED.

20 \_\_\_\_\_  
21 HONORABLE SUPERIOR COURT JUDGE