

JESSICA K. PRIDE (SBN 249212)
jpride@pridelawfirm.com
DANTE PRIDE (SBN 262362)
dpride@pridelawfirm.com
CHANDLER TERAOKA (SBN 339498)
cteraoka@pridelawfirm.com
THE PRIDE LAW FIRM
2831 Camino Del Rio S., Suite 104
San Diego, CA 92108
Telephone: (619) 516-8166
Facsimile: (619) 785-3414
Attorneys for Plaintiff

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

M.R.,

Plaintiff,

v.

FEDERAL CORRECTIONAL
INSTITUTION (“FCI”) DUBLIN;
ROSS KLINGER; RAY J. GARCIA;
and UNITED STATES OF
AMERICA, a governmental entity,

Defendants.

CASE NO. 4:22-cv-05137-YGR

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

Date: March 15, 2023
Time: 1:00 p.m.
Dept.: 1, Fourth Floor
Judge: Hon. Yvonne Gonzalez Rogers

The parties to the above-entitled action jointly submit this Joint Case Management Statement & [Proposed] Order pursuant to the Standing Order for All Judges of the Northern District of California and Civil Local Rule 16-9.

1. Jurisdiction & Service

Plaintiff brought this action for claims under 34 U.S.C. § 30301, *et seq.*

All parties have been served. There are no issues concerning personal jurisdiction, venue, or service.

1 2. Facts

2 Plaintiff's Statement:

3 M.R., a former federal inmate at Federal Correctional Institute ("FCI")
 4 Dublin, contends she was repeatedly subjected to sexual abuse in violation of
 5 federal and state law. Plaintiff brings this civil action and assert claims: (1) against
 6 Ross Klinger ("Klinger") and Ray J. Garcia ("Garcia") under the Eighth
 7 Amendment's Cruel and Unusual Punishment Clause (Excessive Force),
 8 California's gender violence and sexual assault statutes (Civil Code §§ 52.4 and
 9 1708.5), and California common law (Battery and Negligence); (2) against FCI
 10 Dublin under the Eighth Amendment's Cruel and Unusual Punishment Clause
 11 (Deliberate Indifference); (3) against FCI Dublin under the Fifth Amendment's Due
 12 Process Clause (Procedural Due Process); and (4) against the United States of
 13 America under the Federal Tort Claims Act (28 U.S.C. §§ 1346(b), 1671-2680)
 14 ("FTCA") for various tort claims against all Defendants arising under California
 15 common law committed within the course and scope of their federal office or
 16 employment.

17 Defendants' Statement:

18 The United States maintains that FCI Dublin is not a proper party to this
 19 lawsuit, as the Federal Tort Claim Act only permits claims against the United
 20 States, not against federal agencies or entities. The United States also states that its
 21 liability may be reduced in whole or in part to the extent that the actions of
 22 Defendants Klinger and Garcia were not within the scope of their authority.

23 Defendant Garcia has no knowledge of or involvement in this case.

24 3. Legal Issues

25 At this time, Plaintiff's legal issues involve claims: (1) against Ross Klinger
 26 ("Klinger") and Ray J. Garcia ("Garcia") under the Eighth Amendment's Cruel and
 27 Unusual Punishment Clause (Excessive Force), California's gender violence and
 28 sexual assault statutes (Civil Code §§ 52.4 and 1708.5), and California common

1 law (Battery and Negligence); (2) against FCI Dublin under the Eighth
2 Amendment's Cruel and Unusual Punishment Clause (Deliberate Indifference); (3)
3 against FCI Dublin under the Fifth Amendment's Due Process Clause (Procedural
4 Due Process); and (4) against the United States of America under the Federal Tort
5 Claims Act (28 U.S.C. §§ 1346(b), 1671-2680) ("FTCA") for various tort claims
6 against all Defendants arising under California common law committed within the
7 course and scope of their federal office or employment.

8 The United States anticipates that issues may arise as to whether some or all
9 of Klinger's or Garcia's actions fall outside the scope of their employment and are
10 thus not actionable against the United States under the FTCA. Additionally,
11 depending on the nature of Plaintiff's negligent supervision claim against Garcia or
12 other BOP officials, parts of that claim may be barred by the discretionary function
13 exception to the FTCA. The United States believes, however, that it is premature to
14 raise these issues at this time.

15 Defendant Garcia has filed a motion to dismiss in this case, because the
16 complaint fails to state a claim for relief against him. The high bar for pleading a
17 *Bivens* claim has not been met, and there also is no *respondeat superior* liability
18 under *Bivens*.

19 4. Motions

20 Defendant Garcia has filed a motion to dismiss in this case, because the
21 complaint fails to state a claim for relief against him. The high bar for pleading a
22 *Bivens* claim has not been met, and there also is no *respondeat superior* liability
23 under *Bivens*.

24 5. Amendment of Pleadings

25 Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), Plaintiff
26 voluntarily dismisses Defendant FCI Dublin from this action.

27 Defendant Garcia will not be filing an answer until or unless his motion to
28 dismiss is ruled upon and denied.

1 6. Evidence Preservation

2 The Office of the Inspector General is currently investigating matters at FCI-
3 Dublin and is currently in possession of most, if not all, of the relevant information
4 for this matter. It is unclear when that information can be released at this time. We
5 will have a better understanding in the next couple of months.

6 Defendant Garcia does not believe he is in possession of any evidence
7 related to this case, but he will preserve anything related to his prior employment in
8 his possession, custody or control.

9 7. Disclosures

10 The United States will make any disclosures required by the Federal Rules of
11 Civil Procedure or the Court within the required timeframes. The United States
12 notes, however, that due to the ongoing OIG investigation and criminal proceedings
13 against Defendants Klinger and Garcia, it will be prohibitively difficult to obtain
14 information for initial disclosures, at least until the criminal matters are resolved.
15 The United States joined a stipulation to stay this case for this reason.

16 Plaintiff's Counsel also will make any disclosures required by the Federal
17 Rules of Civil Procedure or the Court within the required timeframes. Plaintiff's
18 Counsel notes, that The United States has advised that they cannot produce relevant
19 evidence or provide meaningful answers in the disclosures due to the ongoing OIG
20 investigation and criminal proceedings against Klinger, Garcia, and Bellhouse. For
21 the foregoing reasons, Plaintiff signed the joined stipulation to stay the case until
22 July 1, 2023. However, Plaintiff is entitled to proceed with litigation in a timely
23 fashion and will not agree to further continuances unless there is just cause.
24 Plaintiff believes there is some limited discovery that can be accomplished.

25 Defendant Garcia will make any disclosures required by the Federal Rules of
26 Civil Procedure or the Court within the required timeframes.

1 8. Discovery

2 The United States anticipates propounding written discovery to Plaintiff and
3 to co-defendants and anticipates several depositions. The information obtained in
4 those depositions may be limited by Fifth Amendment rights against self-
5 incrimination.

6 Plaintiff anticipates propounding written discovery to Defendants and
7 anticipates numerous depositions, and a site inspection.

8 If he is not dismissed, defendant Garcia will propound written discovery and
9 participate in taking depositions. Defendant Garcia currently has a right against
10 self-incrimination that will likely prevent him from responding to any discovery
11 related to his ongoing criminal prosecution.

12 9. Class Actions

13 This is not a class action.

14 10. Related Cases

15 A Motion for Administrative Relief to Consider Whether Cases Should be
16 Related or a *Sua Sponte* Judicial Referral for Purpose of Determining Relationship
17 (Civil L.R. 3-12) has been filed. The Court finds that the following cases are
18 related:

19 *USA v. Garcia*, No. 21-cr-429

20 *USA v. Klinger*, No. 22-cr-31

21 *USA v. Bellhouse*, No. 22-cr-66

22 *M.S. v. FCI Dublin*, et al. 22-cv-08924-YGR

23 *Preciado v. Bellhouse*, et al. 22-cv-09096-YGR

24 In addition to the above, Plaintiff's Counsel intends to file thirteen more
25 related cases in the next three months.

11. Relief

Plaintiff's Statement

Plaintiff seeks nominal, compensatory and punitive damages, attorneys' fees and costs, and any other relief that the Court deems appropriate.

Defendants' Statement

The United States may seek dismissal of any claims against it to the extent that those claims arise out of actions falling outside Klinger's or Garcia's scope of employment.

Defendant Garcia seeks dismissal and an award of attorney's fees and expenses if he is the prevailing party.

12. Settlement and ADR

The United States believes that this case is amenable to mediation, but it will need to obtain some information in discovery to properly value the case. As noted above, the United States anticipates significant difficulty obtaining information necessary to properly value the case for several months, while criminal cases are still proceeding.

Plaintiff is amenable to mediation.

Defendant Garcia will participate in any court-ordered ADR.

13. Other References

The parties agree that this case is not suitable for reference to binding arbitration or a special master, or reference to the Judicial Panel on Multidistrict Litigation.

14. Narrowing of Issues

Defendant Garcia believes the issues will be narrowed by considering his dismissal motion at the earliest possible time.

15. Expedited Trial Procedure

The United States is opposed to an expedited trial. Plaintiff is also opposed.

Defendant Garcia is opposed to an expedited trial since this case is likely to

1 be stayed and his motion to dismiss has been dismissed without prejudice and will
2 have to be refiled.

3 16. Scheduling

4 Defendants' Statement:

5 The United States believes that a schedule is premature at this time because
6 obtaining information in discovery will be prohibitively difficult for several months
7 due to ongoing criminal proceedings, which is why the United States has joined a
8 stipulation to stay the matter until July 1, 2023. Should the Court nonetheless
9 desire to set a case schedule, the United States asks that it provide for an extended
10 period of fact discovery to account for difficulties the parties are likely to encounter
11 in obtaining information.

12 Defendant Garcia requests that his motions to dismiss be heard and ruled
13 upon before he is required to engage in any discovery. Defendant Garcia also may
14 not be available to participate personally in trial proceedings. He has no other
15 scheduling concerns.

16 Plaintiff's Statement:

17 Plaintiff also believes that a schedule is premature, because obtaining
18 information in discovery will be prohibitively difficult for several months due to
19 ongoing criminal proceedings, which is why the Plaintiff joined a stipulation to stay
20 the matter until July 1, 2023. Should the Court nonetheless desire to set a case
21 schedule, the Plaintiff asks that it provide for an extended period of fact discovery
22 to account for difficulties the parties are likely to encounter in obtaining
23 information.

24 17. Trial

25 This case is expected to be a jury trial. The trial is estimated to last 14 days.

26 18. Disclosure of Non-Party Interested Entities or Persons

27 Unknown at this time.
28

1
2 Dated: March 8, 2023

LAW OFFICE OF KEVIN
G. LITTLE

3
4 By: /s/ KEVIN G. LITTLE
KEVIN G. LITTLE

5
6 *Counsel for Ray J. Garcia*

7
8 Dated: March 8, 2023

ROSS KLINGER

9
10 By: /s/ ROSS KLINGER
ROSS KLINGER

11
12 *Defendant in pro per*

13 CASE MANAGEMENT ORDER

14 The above JOINT CASE MANAGEMENT STATEMENT & PROPOSED
15 ORDER is approved as the Case Management Order for this case and all parties
16 shall comply with its provisions. [In addition, the Court makes the further orders
17 stated below:]

18
19
20
21
22 IT IS SO ORDERED.

23
24 Dated:

UNITED STATES DISTRICT/MAGISTRATE JUDGE