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IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT

THE PHILADELPHIA
COMMUNITY BAIL FUND, et al.,

Petitioners,

v.

ARRAIGNMENT COURT
MAGISTRATE FRANCIS
BERNARD of the
COMMONWEALTH OF
PENNSYLVANIA, *et al.*

Respondents.

No. 21 EM 2019

INDIVIDUAL PETITIONERS' MOTION FOR CLASS CERTIFICATION
PURSUANT TO PENNSYLVANIA RULE OF CIVIL PROCEDURE 1707

Petitioners M.W., P.R., G.T., T.J., S.T., D.M., K.B., J.H., H.J., and Z.L., by and through his mother, A.B., (collectively, "Individual Petitioners"), through their counsel, hereby move pursuant to Pa. R. C. P. 1707 for certification of the following Class:

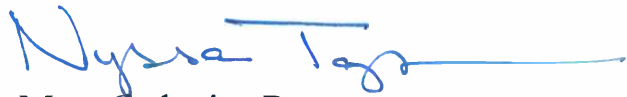
All arrestees in Philadelphia who have appeared or will appear for a preliminary arraignment in the First Judicial District.

In support of this Motion, Individual Petitioners rely upon and incorporate by reference the Complaint, and all accompanying exhibits, as well as all other evidence introduced at any hearing to be convened by the Court pursuant to Pa. R. Civ. P. 1707. They seek class certification from the Court for all the reasons set forth in the attached Memorandum of Law.

Date: April 30, 2019

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No. 21 EM 2019

ORDER

AND NOW, this _____ day of _____, 2019, pursuant to Rule 1710 of
the Pennsylvania Rules of Civil Procedure and upon consideration of:

(1) Petitioners' Motion for Class Certification, the Memorandum of Law
in Support of Petitioners' Motion for Class Certification, and all attached exhibits;

(2) Respondents' response thereto;

(3) any reply briefing; and

(4) a hearing conducted pursuant to Pa. R. Civ. P. 1707 before this Court

on _____, 2019;

it is hereby ORDERED as follows:

(1) Petitioners' Motion is GRANTED.

(2) This action shall be maintained as a class action in accordance with Pennsylvania Rule of Civil Procedure 1701, *et. seq.* on behalf of a class ("the Class") consisting of:

All arrestees in Philadelphia who have appeared or will appear for a preliminary arraignment in the First Judicial District.

(3) Petitioners M.W., P.R., G.T., T.J., S.T., D.M., K.B., J.H., H.J., and Z.L., by and through his mother, A.B., shall serve as class representatives.

(4) Mary Catherine Roper and Nyssa Taylor of the ACLU of Pennsylvania, and David Gersch and Sally L. Pei of Arnold & Porter Kaye Scholer LLP, are certified as Class Counsel.

BY THE COURT:

J.

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MEMORANDUM OF LAW IN SUPPORT OF
INDIVIDUAL PETITIONERS' MOTION FOR CLASS CERTIFICATION
PURSUANT TO PENNSYLVANIA RULE OF CIVIL PROCEDURE 1707

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INTRODUCTION

On March 12, 2019, Petitioners M.W., P.R., G.T., T.J., S.T., D.M., K.B., J.H., H.J., and Z.L., by and through his mother, A.B., (collectively, “Individual Petitioners”), together with the Philadelphia Community Bail Fund and the Youth Art & Self-Empowerment Project, filed this mandamus action to compel the Arraignment Court Magistrates of the First Judicial District to conduct preliminary arraignments in conformance with the Pennsylvania Rules of Criminal Procedure and the Pennsylvania Constitution.

Pennsylvania’s class action procedures are well suited for this type of case, one in which a large group of claimants seek redress for a wrong that might otherwise go unlitigated in individual actions. *See Dunn v. Allegheny Cnty. Prop. Assessment Appeals & Review*, 794 A.2d 416, 427 (Pa. Commw. Ct. 2002) (the avowed purpose of the class action rules is to permit aggregation of claims that would otherwise go unlitigated); *Kelly v. Cnty. of Allegheny*, 546 A.2d 608, 612 (Pa. 1988) (the class action in Pennsylvania is a “procedural device designed to promote efficiency and fairness in addressing large numbers of similar claims”) (citing *Lilian v. Commonwealth*, 354 A.2d 250, 253 (Pa. 1976)).

The proposed Class satisfies each prerequisite for certification enumerated in Pennsylvania Rule of Civil Procedure 1702: numerosity, commonality, typicality, adequacy of representation, and fairness and efficiency of the method of

adjudication. Individual Petitioners “represent the entire class asserted and . . . the relief sought . . . is common to all of the members of the class.” *Oas v. Commonwealth*, 301 A.2d 93, 97 (Pa. Commw. Ct. 1973).

To advance the interests of justice and ensure Respondents meet their obligations to ensure that preliminary arraignments comply with the Pennsylvania Rules of Criminal Procedure, Individual Petitioners request that this Court certify the proposed class of all arrestees in Philadelphia who have appeared or will appear for a preliminary arraignment in the First Judicial District.

BACKGROUND

A. THE ARRAIGNMENT COURT MAGISTRATES ROUTINELY FAIL TO FOLLOW THE PENNSYLVANIA RULES OF CRIMINAL PROCEDURE

As detailed in the Class Action Complaint and Petition for Writ of Mandamus, Respondents maintain a common practice of conducting preliminary arraignments that violate the Rules of Criminal Procedure and the Constitution. This practice does not vary meaningfully from Respondent to Respondent; neither does it vary meaningfully from defendant to defendant. Moreover, the Respondents’ practices affect thousands of people, as more than 38,000 people go through arraignment court in Philadelphia every year. Compl. ¶ 47. This is why Individual Petitioners’ claim for mandamus relief should be adjudicated as a class action.

The Rules require Respondents to inquire into the individual circumstances of the defendant in each case that comes before them, but Respondents fail to do so. Recognizing the harms that flow from pre-trial incarceration, the Philadelphia district attorney has announced that prosecutors will no longer seek bail for certain low-level offenses. But in cases that fall outside that category, Respondents regularly impose cash bail upon indigent defendants without any inquiry into those individuals' ability to pay, or whether available alternative conditions on release would serve the primary purpose of bail—ensuring the defendant's appearance at future court dates. In fact, Respondents routinely appoint counsel on the basis of a defendant's indigence in one breath, then set thousands of dollars in bail in the next, without investigating whether the defendant can afford the bail. In many cases with more serious charges, Respondents impose high cash bail *specifically to ensure* that defendants remain incarcerated pending trial, thus using an illusory condition of release as a de facto detention order. Compl. ¶¶ 3, 57–71.

Respondents make these bail determinations in cursory “hearings” that last on average three minutes or less, and at which the defendant typically can neither hear nor be heard. Compl. ¶¶ 5, 55. Respondents threaten to impose higher bail on defendants who complain that they cannot afford the bail set; they have told others to “grow up” and stop complaining. Compl. ¶ 76.

These practices conflict with the Pennsylvania Constitution and the Rules promulgated by this Court under its constitutional authority. In Pennsylvania, all prisoners, with very narrow exceptions, “shall be bailable by sufficient sureties.” Pa. Const. art. 1 § 14. Unless the individual faces a capital offense or life imprisonment, a court may not refuse to release a person facing criminal charges unless “no other condition or conditions can reasonably assure safety of any person and the community” and the “proof is evident or presumption great.” Pa. Const. art. 1 § 14.

This Court promulgated the Rules of Criminal Procedure that govern bail determinations to give effect to these foundational principles, and “reaffirm that the purpose of bail is to ensure the defendant’s appearance and that Pennsylvania law favors the release, rather than detention of an individual pending a determination of guilt or innocence.” 25 Pa. Bull. 4100, 4116 (Sept. 30, 1995). This Court also sought to “encourage the use of conditions of release . . . other than those requiring a deposit of money, thereby deemphasizing the concept of finance loss as the primary means of ensuring a defendant’s appearance and compliance with the conditions of bail bond.” *Id.*

B. INDIVIDUAL PETITIONERS HAVE BEEN DIRECTLY AFFECTED BY RESPONDENTS' DISREGARD FOR THE APPLICABLE RULES

As detailed in the Complaint and Petition for Writ of Mandamus, Individual Petitioners have suffered direct harm as a result of Respondents' refusal to follow the applicable rules. Compl. ¶ 107. Individual Petitioners each appeared for a preliminary arraignment, during which Respondents imposed monetary bail without asking whether the Individual Petitioner could afford the amount of bail set. Each Individual Petitioner was detained because he or she lacks the financial ability to pay the amount required for release. This unduly prolonged detention has separated Individual Petitioners from their families and livelihoods, and Individual Petitioners have suffered emotional and financial harms as a result. *See* Compl. ¶ 107.

Respondents conduct dozens of deficient preliminary arraignments every day, and countless other individuals have been or will be unlawfully incarcerated as a result of Respondents' imposition of unaffordable monetary bail. Accordingly, the proposed class consists of all defendants in Philadelphia who have appeared or will appear for a preliminary arraignment in the First Judicial District.

ARGUMENT

THE COURT SHOULD CERTIFY THE PROPOSED CLASS.

“It is the strong and oft-repeated policy of this Commonwealth that, in applying the rules for class certification, decisions should be made liberally and in favor of maintaining a class action.” *Baldassari v. Suburban Cable TV Co.*, 808 A.2d 184, 189 (Pa. Super. 2002) (citing *Weinberg v. Sun Co., Inc.*, 740 A.2d 1152, 1162 (Pa. Super. 1999)); *see also Kelly*, 546 A.2d at 608 (affirming Superior Court reversal of trial court’s denial of class certification). To prevail on a motion for class certification, the moving party must present evidence sufficient to make out a prima facie case “from which the court can conclude that the five class certification requirements are met.” *Debbs v. Chrysler Corp.*, 810 A.2d 137, 153–54 (Pa. Super. 2002) (internal citation omitted). Because the hearing on class certification is “akin to a preliminary hearing, [the class proponent’s burden] is not a heavy burden.” *Id.* at 153.

The Class should be certified because Individual Petitioners meet their burden of showing that the proposed action satisfies each factor required by Pa. R. Civ. P. 1702: (1) the class is so numerous that joinder of all members is impracticable, as tens of thousands of people appear before Respondents each year and are subject to Respondents’ systemic failure to adhere to the Rules; (2) there are questions of law or fact common to the class in that each member has or will be subjected to

Respondents' systemic failure to comply with the Pennsylvania Rules of Criminal Procedure; (3) the claims or defenses of the Individual Petitioners are typical of the claims or defenses of the class; (4) the Individual Petitioners will fairly and adequately assert and protect the interests of the class; and (5) a class action provides a fair and efficient method for adjudication of this controversy under the criteria established by Rule 1708.

A. THE CLASS IS SO NUMEROUS THAT JOINDER OF ALL MEMBERS IS IMPRACTICABLE

Petitioners must first show that the putative class is “so numerous that joinder of all members is impracticable.” Pa. R. Civ. P 1702(1). There is no specific number requirement. Whether plaintiffs demonstrate numerosity “depend[s] . . . upon the circumstances surrounding each case.” *Janicik v. Prudential Ins. Co.*, 451 A.2d 451, 456 (Pa. Super. 1982) (quoting 3B J. Moore, *Federal Practice and Procedure*, § 23.05 (19)). Courts must determine if “the number of potential plaintiffs would pose a grave imposition on the resources of the court and an unnecessary drain on the energies and resources of the litigants should plaintiffs sue individually.” *Baldassari*, 808 A.2d at 190. Petitioners therefore “need not plead or prove the number of class members so long as [they are] able to define the class with some precision and afford[] the court with sufficient indicia that more members exist than it would be practicable to join.” *Janicik*, 451 A.2d at 456.

Joinder is impracticable here. The proposed class includes “all defendants in Philadelphia who have or will appear for a preliminary arraignment in the First Judicial District.” Compl. ¶ 100. The First Judicial District conducts tens of thousands of preliminary arraignment hearings each year. Compl. ¶ 47. Pennsylvania courts have, unsurprisingly, determined that joinder is impracticable for putative classes with far fewer members. *See, e.g., Temple University*, 374 A.2d 991, 996 (Pa. Commw. Ct. 1977) (certifying a class of 123 members); *ABC Sewer Cleaning Co. v. Bell of Pa.*, 438 A.2d 616, 618 (Pa. Super. 1981) (class of 250 members); *Ablin, Inc. v. Bell Tel. Co. of Pa.*, 435 A.2d 208, 214 n.5 (Pa. Super. 1981) (class of 204 members). Given the size and scope of the putative class, a class action is the most practical means of adjudicating Petitioners’ claims.

B. THERE ARE QUESTIONS OF LAW AND FACT COMMON TO THE CLASS

Second, there must be “questions of law or fact common to the class[.]” Pa. R. Civ. P. 1702(2). Common questions of law or fact “generally exist if the class members’ legal grievances arise out of the same practice or course of conduct on the part of the class opponent.” *Buynak v. Dep’t of Transp.*, 833 A.2d 1159, 1163 (Pa. Commw. Ct. 2003). “[T]he facts surrounding each plaintiff’s claim must be substantially the same so that proof as to one claimant would be proof as to all.” *Weismer by Weismer v. Beechnut Nutrition Corp.*, 615 A.2d 428, 431 (Pa. Super.

1992). “While the existence of individual questions of fact is not necessarily fatal, it is essential that there be a *predominance* of common issues, shared by all the class members.” *Id.* (emphasis in original). The commonality requirement does not demand that all questions of law or fact at issue be common; it only requires that significant common issues of law or fact exist. *Samuel-Basset v. Kia Motors Am., Inc.*, 34 A.3d 1, 23 (Pa. Super. 2011) (noting “the existence of distinguishing individual facts is not fatal to certification”) (internal citation omitted).

Here, the grievances of all members of the proposed Class arise out of the same course of conduct—namely, Respondents’ routine disregard of the Pennsylvania Rules of Criminal Procedure—and give rise to the same legal questions. The resolution of these common legal and factual issues will determine whether the members of the Class are entitled to mandamus relief.

Common questions of fact include:

- Whether Respondents consider all information relevant to the release decision, including the factors enumerated in Rule 523(A);
- Whether Respondents abide by Rule 524’s prohibition against imposing any condition of release for the purpose of ensuring that a defendant remains incarcerated pending trial;

- Whether Respondents conduct Rule 528(A)'s mandatory assessment of a defendant's financial ability to pay prior to imposing cash bail;
- Whether Respondents carry out their duty under Rule 528(B) and Rule 524(C)(5) to only impose cash bail in reasonable amounts; and
- Whether Respondents afford defendants a full opportunity to be heard.

Common questions of law include whether Petitioners have a clear right to relief, whether Respondents have a duty to act in accordance with the mandates of the rules governing preliminary arraignment processes, and the absence of other adequate remedies.

Accordingly, the proposed Class satisfies the commonality requirement. Common facts give rise to each Class member's claim, and the questions of law are common to all members of the Class.

C. THE INDIVIDUAL PETITIONERS' CLAIMS ARE TYPICAL OF THE CLAIMS OF THE CLASS

Petitioners must also show that "the claims and defenses of the representative parties are typical of the claims or defenses of the class." Pa. R. Civ. P. 1702(3). Typicality exists if the class representatives' claims "arise out of the same course of conduct and involve the same legal theories" as those of other putative class members. *Samuel-Bassett*, 34 A.3d at 31. The purpose of this requirement is to ensure that the interests of the class representatives will be sufficiently aligned with

those of absent class members. *Id.* at 30. Typicality “does not require that the claims of the representative[s] and the class be identical.” *Id.* at 31. Class representatives may satisfy this requirement even if there are “factual distinctions between [their] claims . . . and the claims of the proposed class.” *Id.* In sum, the typicality requirement is a low bar: this Court has noted that “atypicality ‘must be clear and must be such that the interests of the class are placed in significant jeopardy.’” *Id.* (quoting *Klussman v. Bucks County Court of Common Pleas*, 564 A.2d 526, 531 (Pa. Commw. Ct. 1989), *aff’d per curiam*, 574 A.2d 604 (Pa. 1990)).

Typicality is easily satisfied here. Petitioners assert a single claim, and seek a single, collective form of relief: a mandate from this Court that Respondents conduct preliminary arraignments as required by the Rules of Criminal Procedure. This joint claim for mandamus relief, by its nature, relies on a single legal theory: that Respondents are obligated to follow the Rules of Criminal Procedure and the Pennsylvania Constitution. Although the circumstances of class members’ underlying criminal cases are unique, they share the same interests in and claims related to securing constitutionally adequate hearings that comply with the rules. The claims of the Individual Petitioners are therefore typical of the claims of the class as a whole.

D. THE INDIVIDUAL PETITIONERS WILL FAIRLY AND ADEQUATELY PROTECT THE INTERESTS OF THE CLASS

For the Class to be certified, the Court must also conclude that the Individual Petitioners “will fairly and adequately assert and protect the interests of the class.” Pa. R. Civ. P. 1702(4). Adequate representation is evaluated under Pennsylvania Rule of Civil Procedure 1709, which requires that: (1) the attorney for the representative parties will adequately represent the interests of the class; (2) the representative parties do not have a conflict of interest in the maintenance of the class action; and (3) the representative parties have or can acquire adequate financial resources to assure that the interests of the class will not be harmed. Pa. R. Civ. P. 1709. Each of these criteria is easily met in this case.

First, on the adequacy of counsel, “[u]ntil the contrary is demonstrated, courts will assume that members of the bar are skilled in their profession,” and “may also infer the attorney’s adequacy from the pleadings, briefs and other material presented to the court.” *Janicik*, 451 A.2d at 458-59 (citations omitted); *see also Buynak*, 833 A.2d at 1165–66. The appropriate focus should be on the quality of counsel’s work to date, which reflects the requisite skill needed to pursue this type of action. Lead counsel from the ACLU and Arnold & Porter have extensive class action experience, and both the ACLU and Arnold & Porter have substantial experience in civil rights litigation.

Regarding the second factor, “[b]ecause of the difficulty of proving a negative, courts have generally presumed that no conflict of interest exists unless otherwise demonstrated.” *Janicik*, 451 A.2d at 459. Individual Petitioners and all class members have the same interest in establishing the illegality of Respondents’ bail practices and obtaining mandamus relief. There are no conflicts of interest among members of the proposed class, all of whom have a similar interest in ensuring Respondents’ compliance with the rules.

As to the third factor, adequacy of resources is not an issue here. All counsel are working *pro bono*, and this Court has granted Petitioners’ application to proceed *in forma pauperis*, relieving Petitioners of the burden to cover filing fees and other court costs necessary to the conduct of the litigation. Indeed, counsel’s efforts with regard to this litigation have so far included extensive investigation over a period of months, including observing and documenting over 2,000 preliminary arraignments in Philadelphia. Counsel have also conducted interviews with numerous class members. In short, counsel have already devoted significant resources to becoming familiar with the Respondents’ practices and with the relevant laws and procedures, and will continue to devote the same attention and resources to the litigation going forward.

E. A CLASS ACTION PROVIDES A FAIR AND EFFICIENT METHOD FOR ADJUDICATION OF THIS ACTION

Allowing Individual Petitioners to proceed with adjudication of this suit as a class action would be both fair and efficient, as required by Pennsylvania Rule of Civil Procedure 1702(5) and the corresponding criteria set forth in Rule 1708.

Rule 1708 directs courts to consider, in determining whether a class action in which plaintiffs seek only equitable or declaratory relief is a fair and efficient method for adjudication of the controversy: (1) whether common questions of law or fact predominate; (2) the size of the class and the difficulties likely to be encountered in the management of the class action;¹ (3) whether separate actions would create a risk of inconsistent or varying adjudications or the potential for individual adjudications to affect the interests of nonparty class members; (4) the extent and nature of any litigation already commenced by or against members of the class involving the same issues; and (5) whether the particular forum is appropriate for the litigation of the class claims. *See* Pa. R. Civ. P. 1708(b)(1). Petitioners must also demonstrate that “the party opposing the class has acted or refused to act on grounds generally applicable to the class, thereby making final equitable or declaratory relief appropriate with respect to the class.” Pa. R. Civ. P. 1708(b)(2). “In determining fairness and efficiency, [the court] must balance the interests of both the present and

¹Rule 1708 factors 1 and 2 overlap considerably with Rule 1702’s numerosity, typicality, and commonality requirements, and the analysis for the Rule 1702 factors above, in Sections A through C, holds for these Rule 1708 factors as well.

absent litigants and the interests of the court system.” *Muscarella v. Commonwealth*, 39 A.3d 459, 472 (Pa. Commw. Ct. 2012). “Public policy and the purpose of class actions favor the aggregation of small claims that would otherwise go unlitigated in individual actions.” *Id.* (quotation marks and citation omitted).

1. Common Questions of Fact and Law Predominate

Because Petitioners seek a single equitable remedy, common questions of law and fact will necessarily predominate in this litigation. The facts of each class member’s claims are “substantially the same so that proof as to one claimant would be proof as to all.” *Weismer*, 615 A.2d at 431. Each class member either has been or will be subject to a preliminary arraignment in the First Judicial District that fails to comply with the Pennsylvania Rules of Criminal Procedure.

All class members’ claims also raise the same questions of law, *i.e.*, whether class members have a clear right to relief, whether Respondents have a duty to act in accordance with the mandates of the rules governing preliminary arraignment processes, and the absence of other adequate remedies.

2. The Class Is Manageable

While the size of the class is substantial, encompassing thousands of members, size alone does not mean the class is unmanageable. Individual Petitioners do not foresee any significant difficulties in managing this Class, particularly given the common legal and factual issues and that Petitioners do not seek damages. *Cf.*

Lipinski v. Beazer East, Inc., 76 Pa. D. & C. 4th 479 (Com. Pl. 522) (manageability criterion not met where trier of fact would have to address individualized issues of exposure, dose, causation, and damages). Regardless, even if difficulties were to arise, “[p]roblems of administration alone ... ordinarily should not justify the denial of an otherwise appropriate class action, for to do so would contradict the policies underlying this device.” *Janicik*, 451 A.2d at 462. Indeed, this Court “should rely on the ingenuity and aid of counsel and upon [the Court’s] plenary authority to control the action to solve whatever management problems the litigation may bring.”

Id.

3. The Class Action Eliminates Any Risk of Inconsistent Adjudication

Pennsylvania Rule of Civil Procedure 1708(a)(3) requires the Court to evaluate whether individual actions (1) would create a risk of inconsistent adjudications or (2) “would as a practical matter be dispositive of the interests of other members not parties to the adjudications or substantially impair or impede their ability to protect their interests.” The Superior Court has clarified that “[f]inding such risks is not essential to certifying the class, but ‘if they exist, they will be forceful arguments in support of the approval of the class action.’” *Janicik*, 451 A.2d at 462 (quoting Explanatory Note to Pa. R. Civ. P. 1708).

Here, a class action could eliminate the potential for piecemeal challenges by individual class members regarding Respondents' failure to follow the Rules. Such piecemeal challenges could result in inconsistent rulings regarding Respondents' mandatory duties. As such, proceeding as a class action, as opposed to individual actions, affords an opportunity for a ruling that could provide consistent, uniform guidance to Respondents regarding their duties to the tens of thousands of arrestees that appear for preliminary arraignment each year.

4. There Is No Preexisting Litigation Regarding Defendants' Failure to Apply the Pennsylvania Rules of Criminal Procedure

Petitioners are not aware of any other pending actions against Respondents involving their systemic failure to apply the proper legal standards.

5. This Court is the Appropriate Forum for This Action

The Court must also consider "whether the particular forum is appropriate for the litigation of the claims of the entire class." Pa. R. Civ. P. 1708(a)(5). That factor is manifestly met here. This Court has exclusive jurisdiction over cases like this one that seek non-ancillary mandamus relief against courts of inferior jurisdiction. *Commonwealth ex rel. Stedman v. Duncan*, 147 A.3d 57, 62 (Pa. Commw. Ct. 2016) (en banc) (citing 42 Pa. C.S. § 721).

6. Respondents Have Acted on Grounds Universally Applicable to the Class Members

When an action seeks declaratory or injunctive relief, Rule 1708 also requires a court to consider “whether the party opposing the class has acted or refused to act on grounds generally applicable to the class, thereby making final equitable or declaratory relief appropriate with respect to the class.” Pa. R. Civ. P. 1708(b)(2). This factor is met here. As twelve months of observation and the detailed allegations of the Class Action Complaint and Petition for Writ of Mandamus confirm, Respondents’ violations of the Rules are routine and almost without variation: Respondents regularly impose cash bail upon indigent defendants without inquiring into individuals’ ability to pay, or whether alternative conditions of release would ensure the defendant’s appearance at future court dates. Respondents make these bail determinations in cursory “hearings” that last on average three minutes or less, and at which the defendant typically can neither hear, or be heard. Almost without exception, all defendants who come before Respondents are subjected to these same practices.

CONCLUSION

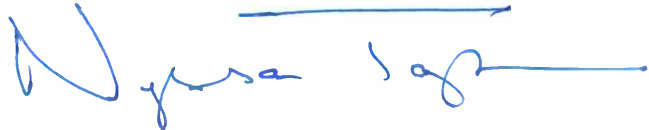
The proposed Class meets the requirements of Pennsylvania’s Rules of Civil Procedure. The Class members are unlikely to have the resources to bring an action on their own against Respondents, particularly when many are indigent and also

incarcerated. All Class members have experienced or will experience Respondents' failure to apply the Pennsylvania Rules of Criminal Procedures, and all of their claims raise the same legal issues. There is no doubt that Individual Petitioners "represent the entire class asserted and that the relief sought ... is common to all members of the class described." *Oas*, 301 A.2d at 97.

Accordingly, for all the reasons described above, Petitioners respectfully request that this Court certify the proposed class.

Date: April 30, 2019

Respectfully submitted,



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CERTIFICATE OF COMPLIANCE WITH Pa.R.A.P. 127

I hereby certify, pursuant to Pa.R.A.P. 127, that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

Dated: April 30, 2019


Nyssa Taylor
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