

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DONALD BANGO and SCOTT BAILEY,
individually and on behalf of all others
similarly situated,

Plaintiffs,

vs.

PIERCE COUNTY, WASHINGTON; BRUCE
DAMMEIER, in his official capacity as Pierce
County Executive; PIERCE COUNTY
SHERIFF'S DEPARTMENT; PAUL A.
PASTOR, in his official capacity as Pierce
County Sheriff; PATTI JACKSON-KIDDER,
in her official capacity as the Pierce County
Chief of Corrections; JANET RHOTON, in her
official capacity as the Pierce County Jail
Mental Health Manager, and their officers,
agents, employees, and successors,

Defendants.

No. 3:17-cv-06002

**DECLARATION OF EMILY CHIANG
IN SUPPORT OF PLAINTIFFS'
MOTION FOR CLASS
CERTIFICATION**

HEARING DATE: JANUARY 26, 2018

ORAL ARGUMENT REQUESTED

1 I, Emily Chiang, declare as follows:

2 1. I am the Legal Director of the American Civil Liberties Union of Washington
3 Foundation (ACLU-WA) and co-counsel for Plaintiffs in this case. I have knowledge of the
4 facts set forth herein and could testify competently to them if called upon to do so.
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6 2. ACLU-WA is the state affiliate of the American Civil Liberties Union
7 Foundation, a national civil rights and civil liberties organization. ACLU-WA has significant
8 experience with complex civil litigation, including class actions in federal and state courts and
9 cases seeking injunctive relief under Fed. R. Civ. P. 23(b)(2). ACLU-WA has obtained
10 injunctive relief for class clients in matters involving due process, right to counsel, freedom of
11 speech and expression, and discrimination, including *Wilbur v. City of Mount Vernon*, 989 F.
12 Supp. 2d 1122 (W.D. Wash. 2013) (judgment in class action finding violation of indigent
13 accused Sixth Amendment right to counsel); *Montes v. City of Yakima*, 40 F. Supp. 3d 1377
14 (E.D. Wash. 2014) (judgment finding violation of the Voting Rights Act and ordering
15 remedial measures); *Trueblood v. Dep't of Soc. and Health Servs.*, No. C14-1178MJP, 2016
16 WL 4268933 (W.D. Wash Aug. 15, 2016) (judgment in class action finding that
17 Washington's systems for competency restoration violate due process); *Wilson v. Rentgrow,*
18 *Inc.*, No. 13-2-15514-1 (King County Sup. Ct. 2013) (class action challenging tenant
19 screening company violations of state credit reporting laws resolved by settlement); *Sanchez*
20 *v. U.S. Office of Border Patrol*, No. 12-5378BHS (W.D. Wash. filed 2012) (class action
21 involving illegal vehicle stops by Border Patrol resolved by settlement); *Tarrer & Garland v.*
22 *Pierce Cnty.*, No. C10-5670BHS (W.D. Wash. filed 2010) (class action involving religious
23 accommodations in jail resolved by settlement); and *Khoury v Asher*, 3 F. Supp. 3d 877 (W.D.
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1 Wash. 2014), *aff'd* No. 14-35482, 2016 WL 4137642 (9th Cir. 2016) (judgment in class action
2 finding mandatory detention of certain individuals in removal proceedings unlawful).

3 3. I have devoted the majority of my career to public policy reform through
4 litigation and other advocacy, with a particular focus on equal access to justice and the right to
5 counsel.
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7 4. I received a B.A., magna cum laude, from Yale University in 1998. In 2001, I
8 received my J.D., cum laude, from Harvard Law School, where I was a Primary Editor on the
9 *Harvard Law Review*.

10 5. After law school, I was an associate at Cravath, Swaine, & Moore LLP, where
11 I was the lead associate for the firm in the groundbreaking case of *White v. Martz* (Mont.), the
12 first lawsuit ever to be filed against a state for failure to provide adequate public defense
13 representation. That case eventually resulted in statewide public defense reform in Montana.
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15 6. After leaving Cravath, I became Associate Counsel in the Poverty Program at
16 the Brennan Center for Justice at N.Y.U. School of Law. While there, I organized and
17 coordinated a multi-organization approach to public defense reform in the state of Michigan
18 that culminated in the filing of *Duncan v. Michigan* (Mich.). I also authored a report on the
19 use of guidelines to determine financial eligibility for public defense services.
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21 7. In 2006, I joined the Racial Justice Program of the ACLU's National Legal
22 Department as a Staff Attorney. At ACLU National, I litigated and conducted advocacy to
23 address violations of the United States and state constitutions, primarily in the areas of
24 indigent defense reform and juvenile justice. For example, I was lead counsel in *Harris v.*
25 *Atlanta Indep. Sch. Dist.* (N.D. Ga.), which succeeded in getting a legal ruling that a private
26 company is a state actor when running a public school.

1 8. More recently, I was an Associate Professor of Law at the S.J. Quinney
2 College of Law at the University of Utah, where I taught Constitutional Law; a seminar on
3 Equality, Race, and the Law; and created and directed a public policy clinic. While at the law
4 school, I remained involved in civil rights litigation by helping the Utah ACLU affiliate to
5 prepare a public defense reform lawsuit and by engaging in advocacy designed to end the
6 state's school-to-prison pipeline. I published a number of law review articles related to public
7 policy reform and received multiple awards from the University in recognition of my civil
8 rights work.
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10 9. Since my arrival at the ACLU-WA in September 2015, I have obtained relief
11 for clients in matters involving due process, discrimination, and access to healthcare,
12 including *Coffey v. Public Health Dist. No. 1*, No. 15-2-00217-4 (Skagit Cty. Sup. Ct. filed
13 2015) (holding the Reproductive Privacy Act requires public hospitals to provide abortion
14 services that are the substantial equivalent of the maternity care services provided); and
15 *Trueblood v. Dep't of Soc. and Health Servs.*, No. C14-1178MJP, 2016 WL 4268933 (W.D.
16 Wash Aug. 15, 2016) (ordering the state to provide mentally disabled with timely competency
17 evaluation and restoration services).
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19 10. Jessica Wolfe is the Equal Justice Works Fellow of the American Civil
20 Liberties Union of Washington Foundation (ACLU-WA) and co-counsel for Plaintiffs in this
21 case. She is admitted to the Washington State Bar, the Western District Court of Washington,
22 and the United States Court of Appeals for the Ninth Circuit.
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24 13. Ms. Wolfe received her J.D. from the University of Washington School of Law
25 in 2015, where she was an Articles Editor for the *Washington Law Review*. In 2016, she
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1 received her Master of Studies in International Human Rights Law (equivalent to an LL.M.)
2 from the University of Oxford.

3 14. Prior to joining the ACLU of Washington, Ms. Wolfe clerked for The
4 Honorable Ronald M. Gould on the United States Court of Appeals for the Ninth Circuit.

5 15. As an Equal Justice Works Fellow, Ms. Wolfe focuses on civil rights issues
6 impacting individuals in pretrial detention with mental illness.

7 16. Since her arrival at the ACLU-WA in 2016, Ms. Wolfe has worked to enforce
8 a settlement agreement regarding conditions of confinement at the King County Correctional
9 Facility, aided in class action litigation concerning delays in court-ordered competency
10 services, and filed amicus briefs advocating for due process protections in involuntary
11 treatment hearings and criminal sentencings. *See Hammer v. King County*, No. C89-521-R
12 (W.D. Wash. 1998); *Trueblood v. Dep't of Soc. and Health Servs.*, No. C14-1178MJP, 2016
13 WL 4268933 (W.D. Wash Aug. 15, 2016); Br. for A.C.L.U. of Wash. as Amicus Curiae, *In*
14 *Re T.M.L.*, No. 75318-5-I (Wash. Ct. App. Div. 1 2017); Br. for A.C.L.U. of Wash. as
15 Amicus Curiae Supp. Pet'r/Appellant, *State v. Murray*, No. 94346-0 (Wash. 2017).

16 17. Antoinette Davis is a senior staff attorney at ACLU-WA. She graduated from
17 the University of Washington in 1996 and Seattle University School of Law in 1999. She is
18 admitted to the Washington State Bar and is admitted to practice in the Western and Eastern
19 District Courts of Washington, and the U.S. Court of Appeals for the Ninth Circuit.

20 18. Ms. Davis began her practice of civil rights and general and consumer
21 protection litigation in 1999 at Williams, Kastner & Gibbs, PLLC, where she primarily
22 represented corporate clients. She later served as a law clerk for Washington State Supreme
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1 Court Justice, Tom Chambers, and served as in-house counsel for a publicly traded
2 international corporation, focusing on civil rights defense and commercial litigation.

3 19. Ms. Davis also served as top executive of human resources for a publicly
4 traded multi-state technology company, providing commercial litigation support. In 2007, she
5 joined Crocker Kuno, PLLC and Resolve Legal, PLLC (a subsidiary of Crocker Kuno focuses
6 solely on consumer matters), where she transitioned to and served as lead litigator,
7 representing individuals in consumer-protection and bankruptcy adversary litigation. In 2011,
8 Ms. Davis co-founded Davis Khan, a consumer litigation and bankruptcy law firm that
9 transitioned to Antoinette M. Davis Law, PLLC in 2012.

10 20. Ms. Davis has been the lead attorney or co-counsel in a number of federal
11 complex litigation and class action cases, including but not limited to: *In re Bryce*, 491 B.R.
12 157 (Bankr. W.D. Wash. 2013); *Moon v. GMAC Mortgage Corp.*, C08-969Z, 2009 WL
13 3185596 (W.D. Wash. Oct. 2, 2009); *Minvielle v. Smile Seattle Investments, L.L.C.*, C08-
14 910Z, 2008 WL 4962694 (W.D. Wash. Nov. 19, 2008); *Mosby et al. v. Merchants Credit*
15 *Corporation et. al.*, No. 2:15-cv-01196-RSL (W.D. Wash., Seattle Div. 2016) (consolidated
16 under *Linehan v. AllianceOne Receiveables Management, Inc.*, No. 2:15-cv-01012-JCC
17 (W.D. Wash. 2016)); *Auxier v. Physicians and Dentists Credit Bureau, Inc. et. al.*, No. 2:16-
18 CV-00025-JLR (W.D. Wash., Seattle Div. 2016) (consolidated under *Linehan v. AllianceOne*
19 *Receiveables Management, Inc.*, No. 2:15-cv-01012-JCC (W.D. Wash. 2016)); *Jones v. Audit*
20 *& Adjustment Company, Inc. et. al.*, No. 2:16-cv-00055-MJP (W.D. Wash., Seattle Div. 2016)
21 (consolidated under *Linehan v. AllianceOne Receiveables Management, Inc.*, No. 2:15-cv-
22 01012-JCC (W.D. Wash. 2016)); *Simmons et. al. v. Asset Recovery Group, Inc. et. al.*, No.
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2:16-cv-794-RSM (W.D. Wash., Seattle Div. 2016) (consolidated under *Linehan v. AllianceOne Receiveables Management, Inc.*, No. 2:15-cv-01012-JCC (W.D. Wash. 2016)).

21. All counsel have been involved in the preparation and investigation of this lawsuit and are familiar with the facts. We will zealously represent the Plaintiffs and the proposed Class.

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED this 21st day of December, 2017.

/s/ Emily Chiang
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