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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

BLACK LIVES MATTER LOS ANGELES, et al,
Plaintiffs,
v.
CITY OF LOS ANGELES, et al,
Defendants.

Case No.: 2:20-cv-05027-CBM-(ASx)

**ORDER RE: MOTION TO
CERTIFY CLASS [136]**

The matter before the Court is Plaintiffs’ Motion for Class Certification.
(Dkt. No. 136.)

I. BACKGROUND

This putative class action concerns the response of the Los Angeles Police Department (“LAPD”) to protests and demonstrations which occurred throughout Los Angeles in late May and early June of 2020 in response to the death of George Floyd. Black Lives Matter and other named Plaintiffs move for an order certifying one class seeking injunctive relief under Rule 23(b)(2) and three classes seeking damages under Rule 23(b)(3) or 23(c)(4), and appointing Plaintiffs’ counsel as class counsel under Rule 23(g).

1 **1. Injunctive Relief Class**

2 Plaintiffs’ injunctive relief claims concern their First Amendment right to
3 protest. They allege that the LAPD has a long history of settlements and consent
4 decrees resulting from LAPD’s historical pattern and practice of aggressive and
5 unlawfully shutting down First Amendment protected protests through failing to
6 provide proper unlawful assembly notices, failing to provide reasonable
7 opportunity to disperse, failing to provide directions for dispersal, unleashing
8 unreasonable and excessive force against protestors, kettling and detaining or
9 arresting protestors (including arresting on charges entitling the arrestee to
10 immediate field release on a promise to appear), engaging in punitive arrests,
11 holding arrestees on buses without water and bathrooms in tight handcuffs, and
12 failing to release (or not arresting but only citing) people entitled to immediate
13 release on their own recognizance.

14 The “Injunctive Relief Class” is defined as “[a]ll persons who have in the
15 past participated, presently are participating, or may in the future participate in, or
16 be present at, demonstrations within the City of Los Angeles in the exercise of
17 their rights of free speech, assembly and petition in general, and particularly as it
18 relates to protesting police violence and discrimination against people of color,
19 especially African-Americans.

20 The proposed class representatives for the Injunctive Relief Class are Black
21 Lives Matter Los Angeles and CANGRESS (d/b/a Los Angeles Community
22 Action Network).

23
24 **2. Damages Classes**

25 Plaintiffs seek certification for three classes seeking damages:

26 (1) the “Arrest Class,” which is defined as “[b]eginning May 29, 2020, and
27 continuing through June 2, 2020, all persons present at or during the aftermath of
28 protests regarding the killing of George Floyd in the City of Los Angeles, who

1 were arrested by the LAPD on charges of failure to obey a curfew, failure to
2 disperse, failure to follow a lawful order of a police officer and/or unlawful
3 assembly, and who were held on buses and subjected to prolonged tight hand-
4 cuffing, denied access to bathrooms, water and food, and held in enclosed spaces
5 without ventilation.”

6 The proposed class representatives for the Arrest Class are Alicia Barrera-
7 Trujillo, Krystle Hartsfield, Nelson Lopez, Nadia Khan, Devon Young, Linus
8 Shentu, Alexander Stamm, Steven Roe, Maia Kazin and Jonathan Mayorca.

9 (2) the “Infraction Class,” which is defined as “[b]eginning May 29, 2020,
10 and through June 2, 2020, all persons present at or during the aftermath of protests
11 regarding the killing of George Floyd in the City of Los Angeles, who were
12 arrested and taken into custody, charged with infractions, and not released in the
13 field, as required by Penal Code § 853.5.”

14 The proposed class representatives for the Infraction Class are Jonathan
15 Mayorca, Nadia Khan, Nelson Lopez, Alicia Barrera-Trujillo, Maia Kazin, and
16 Devon Young.

17 (3) the “Direct Force Class,” which is defined as “[b]eginning May 29,
18 2020, and continuing through June 2, 2020, all persons present at or during the
19 aftermath of protests regarding the killing of George Floyd in the City of Los
20 Angeles, who were struck by either “less-lethal weapons” (including 37mm and
21 40 mm projectiles, and bean-bag shotguns), batons, or otherwise physically struck
22 by an LAPD officer, and who were neither violently resisting nor posing an
23 immediate threat of violence or physical harm.

24 The proposed class representatives for the Arrest Class are David Contreras,
25 Tina Črnko, Abigail Rodas, Christian Stephen Roe, Shannon Lee Moore, Clara
26 Aranovich, and Eva Grenier.

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II. STATEMENT OF THE LAW

Federal Rule of Civil Procedure 23(a) requires that a proposed class satisfy the following four requirements for class certification: (1) numerosity; (2) commonality; (3) typicality; and (4) adequacy of representation. Fed. R. Civ. P. 23(a). In addition, the proposed class must satisfy one of the three options under Rule 23(b)(1), (2) or (3). Rule 23(b)(2) provides that a class action may be maintained if Rule 23(a) is satisfied and if “the party opposing the class has acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole.” Fed. R. Civ. P. 23(b)(2). Rule 23(b)(3) provide that a class action may be maintained if “the court finds that the questions of law or fact common to class members predominate over any questions affecting only individual members, and that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy.” Fed. R. Civ. P. 23(b)(3). Rule 23(c)(4) provides that, “[w]hen appropriate, an action may be brought or maintained as a class action with respect to particular issues.” Fed. R. Civ. P. 23(c)(4).

When analyzing class certification, the court takes the complaint’s allegations as true, and performs a “rigorous analysis,” which may require it “to probe behind the pleadings.” *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 352 (2011).

III. DISCUSSION

1. Evidentiary Objections

Defendants filed over 100 objections to evidence submitted by Plaintiffs on the grounds that the evidence is inadmissible. The Ninth Circuit has held that, for purposes of a motion for class certification, “[t]he court's consideration [of evidence] should not be limited to only admissible evidence.” *Sali v. Corona*

1 *Regional Medical Center*, 909 F.3d 996, 1004 (9th Cir. 2018).

2 Accordingly, the Court overrules the objections and considers the evidence
3 for purposes of this Motion.

4
5 **2. Definiteness**

6 Federal Rule of Civil Procedure 23 requires that the class is defined
7 objectively, is capable of membership ascertainment when appropriate, and is
8 defined without regard to the merits of the claim or the seeking of particular relief.
9 *Melgar v. CSK Auto, Inc.*, 681 F. App’x 605, 607 (9th Cir. 2017) (citing *Vizcaino*
10 *v. U.S. Dist. Ct.*, 173 F.3d 713, 721–22 (9th Cir. 1999)). The Court finds that the
11 class definitions meet the definiteness requirements of Rule 23.

12
13 **3. Numerosity**

14 “In general, courts find the numerosity requirement satisfied when a class
15 includes at least 40 members.” *See Rannis v. Recchia*, 380 F. App’x 646, 651 (9th
16 Cir. 2010)

17 Plaintiffs contend that all four classes — the injunctive relief class, arrest
18 class, infraction class, and direct force class — meet the numerosity requirement
19 because (1) the injunctive relief class includes “tens of thousands of people,” (2)
20 the arrest class includes approximately 4000 people, (3) the infraction includes “at
21 least 800 [or] more” people, and (4) the direct force class includes “at least 75
22 people, likely well in excess of 100.” (*See Sobel Class Decl.* ¶¶ 44–47, 91, 100,
23 104.)

24 Defendants do not dispute that the injunctive relief, infraction, and arrest
25 classes meet the numerosity requirement. Defendants contend, however, that the
26 direct force class does not meet the numerosity requirement because “the size of
27 the proposed class is approximately equal to the number of persons who have
28 already brought individual lawsuits.” (Opp’n – Dkt. No. 144 at 12–13.)

1 Defendants base this argument on the facts that (1) 32 other lawsuits have been
2 filed against the City alleging unreasonable force against protestors at the same
3 demonstrations, and (2) there are already approximately 70 other individual claims
4 that have been filed against the City. (COE, Exs. 25-56.)

5 Plaintiffs' 100-person estimate of the size of the force class excluded those
6 known to have already filed their own lawsuits. Thus, Plaintiffs estimate that
7 there are 100 or more force victims who have not filed their own lawsuit. (Sobel
8 Supp. Dec. – Dkt. No. 150 at ¶16.)

9 Accordingly, the Court finds that the numerosity requirement is met for all
10 of the proposed classes.

11 12 **4. Commonality**

13 To satisfy the commonality requirement, there must be questions of law or
14 fact common to a damages class. Fed. R. Civ. P. 23(a)(2); 23(b)(3). To establish
15 commonality, Plaintiff need only point to a single common question to the class.
16 *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 358 (2011). Where “examination
17 of all the class members’ claims will produce a common answer” to a central
18 common question, Rule 23(a) commonality is met. *Id.* at 352.

19 **4.1. Direct Force Class**

20 The members of the Direct Force Class allege claims for (1) violation of the
21 Fourth and Fourteenth Amendments; (2) violation of California’s Bane Act; (3)
22 assault; (4) battery, and (5) *Monell* liability. (Compl. – Dkt. No. 115 at 63–67.)

23 First, Defendants contend that the commonality requirement is not met on
24 the grounds that the excessive force claims under the Fourth Amendment cannot
25 be proven via common evidence because the claims require examination of the
26 totality of the circumstances surrounding the use of force, including the severity of
27 the crime at issue, whether the suspect posed an immediate threat, and whether the
28 suspect was actively resisting arrest. *Young v. Cnty. of L.A.*, 655 F.3d 1156, 1163

1 (9th Cir. 2011). Second, Defendants contend that Plaintiffs’ Bane Act claim will
2 require establishing both a constitutional violation and that the officer had a
3 specific intent to violate the plaintiff’s right to freedom from unreasonable seizure.
4 *Murchison v. Cnty. of Tehama*, 69 Cal. App. 5th 867, 896 (Cal. Ct. App. 2021).
5 Third, Defendants contend that the claims for assault and battery will also turn on
6 the reasonableness of the force used under the individual circumstances. *J.J. v.*
7 *M.F.*, 223 Cal. App. 4th 968, 976 (Cal. Ct. App. 2014). Fourth, as to the *Monell*
8 claim, Defendants contend that Plaintiffs have not demonstrated any custom,
9 policy, or practice of a failure to train.

10 Plaintiff need only identify a single common question to the class to
11 establish commonality. *Wal-Mart Stores, Inc.*, 564 U.S. at 358. Here, the Court
12 finds that the Direct Force Class’s *Monell* claims concern a common question
13 about the LAPD’s ratification of the individual officers’ use of less-lethal force
14 and subsequent failure to discipline the officers for any misconduct. These
15 *Monell* issues present “important questions apt to drive the resolution of the
16 litigation.” *Torres v. Mercer Canyons Inc.*, 835 F. 3d 1125, 1134 (9th Cir. 2016).
17 Furthermore, in *Multi-Ethnic Immigrant Worker Organizing Network v. City of*
18 *Los Angeles*, 246 F.R.D. 621, 635, C.D. Cal. Dec. 14, 2007), the court found that,
19 while “the conduct of individual officers in the field may present individual issues
20 of reasonableness . . . the individual issues share a common source: the command
21 decisions to disperse the crowd and to authorize the use of less-lethal munitions if
22 the crowd’s behavior warranted it.” This analysis is persuasive, and thus the
23 Court finds that the LAPD command’s decision to employ less-lethal munitions in
24 this case is a common question for the Direct Force class. Accordingly, the Court
25 finds that the commonality requirement is met for the Direct Force class.

26 27 **4.2. Arrest Class**

28 The members of the Arrest Class allege two claims: (1) violation of their

1 Fourth and Fourteenth Amendments rights; and (2) False Arrest/False
2 Imprisonment. (Compl. – Dkt. No. 115 at 60–61, 65.)

3 Defendants contend that the Arrest Class does not have commonality on the
4 grounds that (1) its claims cannot be proven via common evidence, because
5 “claims challenging conditions of confinement turn on the specific facts of the
6 confinement, and the putative class members’ experiences varied significantly
7 based on where they were arrested, when and how they were transported, and
8 where they were transported to” (Opp’n – Dkt. No. 144 at 20), and (2) its claims
9 that they were placed on a bus and placed in zip-tie handcuffs are insufficient
10 alone to establish a violation of their Fourth and Fourteenth Amendment rights.
11 See *Panagacos v. Towery*, 2014 U.S. Dist. LEXIS 98982, at *16 (W.D. Wash.
12 July 21, 2014), affirmed by 692 Fed. Appx. 330 (9th Cir. 2017) (“Panagacos
13 claims the zip tie on her wrist was too tight and left imprints on her skin, and that
14 the conditions during holding and transport were overcrowded. This did not
15 violate any constitutional rights”)

16 For purposes of class certification, the merits of a class’s claims are
17 considered “only to the extent that they are relevant to whether the Rule 23
18 prerequisites are satisfied.” *Amgen Inc. v. Ct. Retirement Plans and Trust Funds*,
19 568 U.S. 455, 466 (2013). Both of Defendants’ arguments address the merits of
20 the proposed class members’ claims, but they do not demonstrate how the
21 differences in length of time of a violation caused by Defendants defeat
22 commonality. Furthermore, the Court finds that, for purposes of class
23 certification, the proposed class members’ claims concerning their confinement
24 and transportation in law enforcement vehicles are sufficiently common based on
25 the evidence cited by Plaintiffs. (See COE – Ex. 12, 12, 21:23-22:11, 22:20-
26 23:11; Ex. 16, 42:23 – 43:1; Ex. 20, 30:18-31:4; Ex. 19, 46:15-18; Ex. 24, 18:5-8;
27 Ex. 21, 29:5-13; Ex. 22, 23:5-7; Ex. 18, 21:6-10; Ex. 17, 27:25-28:3.)

28 Accordingly, the Court finds that the commonality requirement is met for

1 the Arrest Class.

2

3 **4.3. Infraction Class**

4 The members of the Infraction Class allege that the LAPD (1) violated their
5 Fourth and Fourteenth Amendment rights, (2) violated the Bane Act, and (3)
6 violated California Penal Code Section 853.5 when it falsely arrested when issuing
7 infractions to the class members.

8 Defendants contend that the Infraction Class members’ claims do not meet
9 the commonality requirement because they do not give rise to a cause of action.
10 *See People v. McKay*, 27 Cal. 4th 601, 605 (2002) (“[C]ustodial arrests for fine-
11 only offenses do not violate the Fourth Amendment and [] compliance with state
12 arrest procedures is not a component of the federal constitutional inquiry.”);
13 *Virginia v. Moore*, 553 U.S. 164, 172 (2008) (“We thought it obvious that the
14 Fourth Amendment’s meaning did not change with local law enforcement
15 practices—even practices set by rule.”).

16 For purposes of class certification, however, the merits of a class’s claims
17 are considered “only to the extent that they are relevant to whether the Rule 23
18 prerequisites are satisfied.” *Amgen Inc.*, 568 U.S. at 466. Thus, the fact that
19 answers to common merits questions may favor Defendants is irrelevant to class
20 certification because “Rule 23(b)(3) requires a showing that questions common to
21 the class predominate, not that those questions will be answered, on the merits, in
22 favor of the class.” *Id.* at 459.

23 Here, whether the Infraction Class’s claims may give rise to a cause of
24 action is a question based upon the merits of Plaintiffs’ claims, and thus does not
25 relate to the commonality of their claims for purposes of class certification.

26 Accordingly, the Court finds that the commonality requirement is met for
27 the Infraction Class because there are common questions of law and fact as to all
28 three of the Infraction Class members’ claims, and Defendants’ attack of the

1 merits of the Fourth and Fourteenth Amendment claims is premature at the class
2 certification stage.

3 4 **5. Typicality**

5 “The test of typicality is whether other members have the same or similar
6 injury, whether the action is based on conduct which is not unique to the named
7 plaintiffs, and whether other class members have been injured by the same course
8 of conduct.” *Hanon v. Dataproducts Corp.*, 976 F.2d 497, 508 (9th Cir. 1992)
9 (citations omitted). Claims are typical “if they are reasonably coextensive with
10 those of absent class members,” and they need not be “substantially identical.”
11 *Staton v. Boeing Co.*, 327 F.3d 938, 957 (9th Cir. 2003) (quoting *Hanlon v.*
12 *Chrysler Corp.*, 150 F.3d 1011, 1020 (9th Cir. 1998).

13 **5.1. Direct Force Class**

14 Defendants contend that the Direct Force class does not meet the typicality
15 requirement because its class representatives experienced different types of force:
16 some allege harm from a 40mm less-lethal launcher; some allege harm from a
17 37mm less-lethal launcher; some allege harm from beanbag shotguns; and some
18 allege harm from batons. Defendants contend this is significant because one of
19 the claims for this class is a *Monell* failure to train claim, and each weapon used
20 by the LAPD requires different training. Defendants also dispute the typicality of
21 class representative Ms. Rodas’ claims, because one of her companions told the
22 medical staff that treated her wounds in the emergency room that her injuries were
23 from a fall. (COE, Ex. 11, 493–10; Dep. Ex. 10,016). The Direct Force Class’s
24 *Monell* claim, however, is one of several claims premised on Defendants’ use of
25 force. Furthermore, Ms. Rodas declares that she fell as a result of being hit by a
26 rubber bullet that shattered her jaw. Thus, there is evidence supporting typicality
27 for her claims.

28 Accordingly, the Court finds that the Direct Force Class meets the typicality

1 requirement.

3 **5.2. Infraction Class**

4 Defendants contend that the claims of Plaintiffs Mayorca, Kazin, and
5 Young of the infraction class do not meet the typicality requirement because they
6 were charged with misdemeanors. (COE, Ex. 6, No. 20, Ex. 7, No. 17; Dkt. 136-
7 25, ¶ 5.) However, Plaintiffs contend that the class members who were arrested
8 for committing misdemeanors, but only charged with an infraction, should not
9 have been arrested for committing misdemeanors and are thus properly included
10 in the Infraction Class. The Court finds that the Infraction Class’s allegations
11 satisfy the typicality requirement.

13 **5.3. Arrest Class**

14 Defendants contend that the Arrest Class does not satisfy the typicality
15 requirement because the class representatives (1) do not have Article III standing
16 to seek recovery for an alleged condition of confinement, (2) were not charged
17 with misdemeanors and therefore are not members of the proposed class, and (3)
18 due to the varying experiences of each person’s transport (length, location, and
19 method of transportation), no representative’s claims are typical of the class they
20 seek to represent. The Court addresses each argument in turn.

21 **5.3.1. Standing**

22 Standing is a threshold issue in any lawsuit and, in the class action context,
23 the standing inquiry focuses on the class representatives. *NEI Contr. & Eng’g,*
24 *Inc. v. Hanson Aggregates Pac. Sw., Inc.*, 926 F.3d 528, 532 (9th Cir. 2019). For
25 a plaintiff to have standing, the plaintiff must have suffered an invasion of a
26 legally protected interest that is “concrete and particularized” and “actual or
27 imminent, not conjectural or hypothetical.” *Spokeo, Inc. v. Robins*, 578 U.S. 330,
28 339 (2016).

1 Defendants contend that the class representatives of the Arrest Class do not
2 have standing based on the following: (1) Plaintiff Roe is the only plaintiff who
3 requested use of the bathroom and was denied; (2) Plaintiffs Roe and Barrera-
4 Trujillo were the only ones to request water and be denied; (3) Plaintiff Hartsfield
5 testified she was allowed to drink water without requesting it; (4) none of the
6 Plaintiffs requested food, and no Plaintiff put forth evidence they were subjected
7 to unsanitary conditions on the bus due to lack of bathroom access; and (5) there is
8 no evidence that Plaintiffs Mayorca, Stamm, Kazin, or Young requested that their
9 handcuffs be loosened.

10 The Court finds that the members of the Arrest Class allege concrete and
11 particularized violations of their constitutional rights in the Complaint.
12 Furthermore, the fact that some members of the Arrest Class did not explicitly
13 request water or access to a restroom is not sufficient to defeat class certification
14 at this stage, because the merits of a class's claims are considered "only to the
15 extent that they are relevant to whether the Rule 23 prerequisites are satisfied."
16 *Amgen Inc. v. Ct. Retirement Plans and Trust Funds*, 568 U.S. 455, 466 (2013).

17 5.3.2. Misdemeanor Charges

18 Defendants contend that Plaintiffs Lopez, Khan, Barrera-Trujillo, and
19 Young do not meet the typicality requirement because "they were not charged
20 with misdemeanors, as the proposed class definition requires." (Opp'n – Dkt. No.
21 144 at 25.) (Dkt. No. 136, p. 4; COE, Ex.5, No. 20, Ex. 8, No. 17, Ex. 9, No. 20.)

22 Plaintiffs submitted evidence demonstrating that each of these class
23 members were charged with misdemeanors for violation of LAMC § 8.78 (they
24 state that Kahn was mistakenly listed in place of Kazin, who was also charged
25 with a misdemeanor). (See Exs. 149-1, 149-6, and 149-11 – Dkt. No. 168). Thus,
26 the Court finds that these Plaintiffs sufficiently demonstrated typicality.

27 5.3.3. Varying Experiences

28 Defendants contend that the Plaintiffs do not meet the typicality

1 requirement because of their “varying transportation experiences.” (Opp’n – Dkt.
2 No. 144 at 26.) In support of this argument, they cite to evidence demonstrating
3 that (1) Mr. Roe was arrested downtown on May 29, 2020 and transported on a
4 bus to a jail “only a few blocks away,” (2) Mr. Stamm was arrested in Hollywood
5 on June 1, 2020 and transported by a Sheriff’s Department bus to Westwood, and
6 (3) Ms. Hartsfield was arrested in the Fairfax area on May 30, 2020 and
7 transported via LAPD van to Van Nuys. (Dkt. No. 15 at 64, 73–74; COE, Ex. 10,
8 No. 9.) Thus, Defendants contend that there is no typicality because the vehicles
9 were different, and the conditions of the transportation were different (an LAPD
10 van seats 12 people, a Sheriff’s bus seats about 40, an MTA bus seats about 38,
11 and Sheriff’s and MTA buses have windows, while other vehicles did not. (COE,
12 Ex. 2, ¶ 5.)

13 The Court finds that the variety of the distances traveled and types of
14 vehicles used, the overarching allegations does not undermine the substantive
15 typicality of the Arrest Class’s claims, including the allegations that each class
16 member was arrested, handcuffed, and confined in a law enforcement vehicle.

17 18 **5.4. Injunctive Class**

19 The Court finds that the typicality requirement is satisfied for the Injunctive
20 Class because each class member participated in recent protests, intends to
21 participate in future protests, and experienced the same conduct of the LAPD
22 alleged in the Complaint.

23 24 **6. Adequacy of Representation**

25 Rule 23(a)(4)’s requirements that the representative parties will fairly and
26 adequately protect the interests of the class are met when (1) there is no conflict of
27 interest between the legal interests of the named plaintiffs and those of the
28 proposed class, and (2) counsel for plaintiffs are competent to represent the class.

1 *Lenvill v. Inflight Motion Pictures, Inc.*, 582 F. 2d 507, 512 (9th Cir. 1978).

2
3 **6.1. Proposed Class Representatives**

4 There are nineteen proposed class representatives in this case: Black Lives
5 Matter Los Angeles; CANGRESS; Alicia Barrera-Trujillo; Krystle Hartsfield;
6 Nelson Lopez; Nadia Khan; Devon Young; Linus Shentu; Alexander Stamm;
7 Steven Roe; Maia Kazin; Jonathan Mayorca; David Contreras; Tina Črnko;
8 Abigail Rodas; Christian Stephen Roe; Shannon Lee Moore; Clara Aranovich; and
9 Eva Grenier.

10 As a threshold matter, Plaintiffs' counsel declared that Plaintiffs Jeffrey
11 Trotter and Orlando Hinkston, who Defendants thought were named Plaintiffs,
12 were never intended to be class representatives. (Sobel Decl. – Dkt. No. 150,
13 ¶22). Thus, the Court does not consider them as class representatives.

14 Defendants challenge the adequacy of the named Plaintiffs on three separate
15 grounds: (1) a finding of adequacy is precluded because Black Lives Matter Los
16 Angeles, CANGRESS, Steven Roe, Tina Crnko, Abigal Rodas, Eva Grenier, and
17 David Contreras, did not submit declarations or deposition testimony regarding
18 the adequacy requirement; (2) the declarations that were submitted are inadequate
19 because they were prepared in support of Plaintiffs' earlier request for a
20 restraining order; and (3) representatives Eva Grenier and Jonathan Mayorca
21 attended the protests as a legal observer and for the purpose of filming,
22 respectively.

23 Plaintiffs submitted the declarations of Black Lives Matter Los Angeles,
24 CANGRESS, Steven Roe, Tina Crnko, Abigal Rodas, and Eva Grenier after the
25 Court requested that they do so. (See Decl. – Dkt. No. 136.) Furthermore, the fact
26 that some of the class representatives' declarations were prepared in support of the
27 Motion for preliminary injunction has no bearing on the adequacy of their
28 representation. As to Ms. Grenier and Mr. Mayorca, they allege claims based on

1 the LAPD's use of force. Their claims do not implicate the First Amendment.
2 The Court finds no reason to distinguish between observer and protester, because
3 the distinction has no relevance to the LAPD's use of force. The Court thus finds
4 that each class member has sufficiently demonstrates that they will fairly and
5 adequately protect the interests of their respective classes and certifies the
6 proposed class representatives for their respective classes.

7 8 **6.2. Class Counsel**

9 Plaintiffs contend that their lead counsel — Paul Hoffman, Carol Sobel, and
10 Barry Litt — are qualified to represent the class because they have experience
11 litigating class action civil rights cases. *See Multi-Ethnic Immigrant Workers Org.*
12 *Network v. City of Los Angeles*, 246 F.R.D. 621 (C.D. Cal. 2007) (concerning
13 LAPD arrests and brutality at immigrant rights protest); *Aichele v. City of Los*
14 *Angeles*, 314 F.R.D. 478 (C.D. Cal. 2013) (concerning LAPD arrests at Occupy
15 LA area on City Hall lawn); *Chua v. City of Los Angeles*, 2017 WL 10776036
16 (C.D. Cal. May 25, 2017) (concerning LAPD arrests at 2014 Ferguson protests in
17 downtown LA). All three attorneys filed declarations stating that they have
18 extensive experience in these types of cases, and that they are “considered among
19 the premiere attorneys in Los Angeles for such work.” (Litt Decl. – Dkt. No. 136-
20 43; Hoffman Decl. – Dkt. No 136-44; Sobel Decl. – Dkt. No. 136-1.)

21 Defendants do not dispute that the designated counsel has sufficient
22 experience. They do, however, contend that Ms. Sobel and her law office should
23 be disqualified for two reasons: (1) Ms. Sobel “will be a necessary witness at trial”
24 because some of Plaintiffs' claims rely on her personal knowledge and expert
25 testimony; and (2) Weston Rowland (an attorney at Ms. Sobel's firm) is a
26 necessary and percipient witness to proposed class representative Grenier's claims
27 because he attended one of the protests with her.

28 Plaintiffs consented to Ms. Sobel's representation and declared that they

1 understood that there is a remote possibility that she could testify. (Abdullah
2 Decl. – Dkt. No. 157 at ¶¶ 17–19.) *See Maxwell v. Superior Court*, 30 Cal. 3d
3 606, 620 n. 9 (1982) (finding that an attorney-witness need not withdraw from a
4 civil case if the client consents in writing to continued representation); *GayDays,*
5 *Inc. v. Master Ent., Inc.*, No. CV 07-6179-ABC (JWJX), 2008 WL 11339109, at
6 *2 (C.D. Cal. July 8, 2008) (same). Furthermore, Mr. Rowland did not witness
7 any of the use of force that Ms. Grenier’s claims are based upon, and he attended
8 the protest for the purpose of gathering evidence for the impending lawsuit being
9 filed based on police conduct at earlier demonstrations.

10 Accordingly, the Court finds that class counsel is qualified to represent
11 Plaintiffs.

13 **7. Superiority and Manageability**

14 Rule 23(b)(3) requires that class adjudication be “superior to other available
15 methods” and identifies several factors, including individual class member interest
16 in controlling the litigation; the existence of other pending litigation on the same
17 controversy; and manageability. The United States Supreme Court has held that
18 the main consideration is the existence of numerous claims too small to litigate
19 individually. *See Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 617 (1997)
20 (holding that the purpose “at the very core of the class action mechanism” is to
21 make adjudications for “small recoveries” viable.)

22 The Court finds that the class members’ claims here are not significant
23 enough to justify individual litigation for the vast majority of class members.
24 Furthermore, manageability is demonstrated by the fact that similar cases have
25 been certified. Finally, liability can be readily determined on a class-wide basis.

26 Accordingly, the Court finds that the superiority and manageability
27 requirements are satisfied.

28

IV. CONCLUSION

1 Accordingly, the Court **GRANTS** Plaintiffs’ Motion and certifies the four
2 proposed classes.
3

4 **IT IS SO ORDERED.**
5

6 DATED: OCTOBER 3, 2022
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9 CONSUELO B. MARSHALL
10 UNITED STATES DISTRICT JUDGE
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