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

CV 06 7812 PA(RC)

11 JULIO ALVARADO, individually, and as class
12 representative,

13 Plaintiffs,

14 vs.

15 WILLIAM BRATTON, Chief of Police,
16 individually and in his official capacity; LEE
17 BACA, Sheriff, individually and in his official
18 capacity; CITY OF LOS ANGELES, LOS
19 ANGELES POLICE DEPARTMENT,
20 COUNTY OF LOS ANGELES, LOS ANGELES
21 COUNTY SHERIFF'S DEPARTMENT,
22 ASSISTANT SHERIFF WILLIAM STONICH,
23 individually and in his official capacity; LARRY
24 W. WALDIE, individually and in his official
25 capacity; ASSISTANT SHERIFF DOYLE R.
26 CAMPBELL, individually and in his official
27 capacity; ASSISTANT PAUL K. TANAKA,
28 individually and in his official capacity;
DIVISION CHIEF CHARLES JACKSON,
individually and in his official capacity;
DIVISION CHIEF MARC L. KLUGMAN,
individually and in his official capacity; and
DOES 1 through 100, inclusive,

Defendants.

Case No.

**CLASS ACTION
COMPLAINT FOR
INJUNCTIVE RELIEF AND
DAMAGES**

1. 4th & 14th Amend. (42 U.S.C. § 1983)
2. 14th Amend. (42 U.S.C. § 1983)
3. Cal. Const., Art. I, § 13
4. Cal. Civ. Code § 51.1
5. False Imprisonment
6. Declaratory/Injunctive Relief

DEMAND FOR JURY TRIAL

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form -*

*I/S
20*

1 **I. INTRODUCTION, JURISDICTION AND VENUE**

2 1. By this Complaint plaintiff, on behalf of himself and similarly situated persons
3 described below, seeks damages from defendants for wrongful arrest and imprisonment
4 because they were seized and detained in custody by the Los Angeles Police Department
5 (LAPD) and the Los Angeles County Sheriff's Department (LASD) on warrants that
6 commanded the arrest of someone else.

7
8 2. Plaintiff also seeks injunctive and declaratory relief requiring defendants to stop
9 arresting plaintiff and similarly situated persons on warrants for other people when
10 defendants can readily determine that the person in custody is not the person wanted on the
11 warrant.

12 3. Defendants routinely arrest and incarcerate people who have names and other
13 non-dispositive identifiers which seem similar to the names of people wanted on warrants.
14 This results in many arrests of innocent people because many people have similar and/or
15 identical names, dates of birth, and other non-dispositive identifiers.

16
17 4. Moreover, identity theft is a huge problem. Identity theft is reported by the
18 United States Federal Trade Commission to be the Number One consumer complaint in the
19 United States. According to the FTC, "Complaints about identity theft topped the list,
20 accounting for 255,000 of more than 686,000 complaints filed with the agency in 2005."
21 See <http://www.ftc.gov/opa/2006/01/topten.htm>.

22 5. Historically, fingerprints have been a primary method for positively identifying
23 a person. In California, anyone booked into a municipal or county jail, or incarcerated in
24 state or federal prison, or held in a federal detention center, is fingerprinted. Consequently,
25 fingerprints are usually available to identify a warrant's subject, and to confirm whether or
26 a not someone arrested on the warrant is, in fact, the warrant's intended subject. See United
27 States Department of Justice, *Survey of State Criminal History Information Systems*, at
28

1 <http://www.ojp.usdoj.gov/bjs/pub/pdf/sschis01.pdf>.

2 6. California law enforcement agencies have and routinely use “livescan.” Livescan
3 is a process whereby a digital image of an arrestee’s fingerprints is created and
4 electronically transmitted to the California Department of Justice (“CDOJ”). Through
5 livescan, a law enforcement agencies can within minutes determine if an arrestee has a
6 criminal history record, or “rap sheet,” maintained by CDOJ and, if the agency so chooses,
7 obtain the arrestee’s rap sheet. Assuming the arrestee has been previously booked into a
8 California jail, upon the arresting agency livescanning the arrestee the CDOJ will inform
9 the arresting agency of, *inter alia*, (a) arrestee’s full name; (b) arrestee’s AKAs; (c)
10 arrestee’s known address(es); (d) arrestee’s CII and FBI numbers.

12 7. CII and FBI numbers are unique numerical identifiers that are based on a person’s
13 fingerprints. Just as no two persons have the same fingerprints, no two persons should share
14 the same CII number or FBI number. An arrestee’s CII number can be and routinely is
15 ascertained within seconds of the arrestee being livescanned. These facts are widely and
16 well-known within law enforcement.

17 8. If an arrestee has a CII number which is different from the CII number of a
18 warrant’s subject, law enforcement knows or should know that the arrestee is *not* the
19 warrant’s subject unless, through error, the same CII number was assigned to two different
20 persons. Moreover, Law enforcement agency can also rule out, within minutes, the
21 possibility of such an error having occurred.

23 9. There are numerous methods by which a California law enforcement agency can
24 obtain a person’s CII number. A commonly used method is when the person is booked.
25 During booking, the person is livescanned and, as a result, the booking agency obtains the
26 arrestee’s CII number. However, an agency can also obtain a CII number by running, via
27 CLETS (*California Law Enforcement Telecommunications System*), a person’s name and
28

1 birthdate. While that may return two or more persons with each having a unique CII
2 number, by generating the criminal history under each person's CII number a law
3 enforcement agency can then pinpoint the specific person the agency seeks.

4 10. Notwithstanding the foregoing, defendants refuse to utilize readily available
5 computerized information systems to insure they are arresting and incarcerating the
6 individuals for whom warrants are issued. Defendants take the position that they are not
7 required to use the readily available resources at their disposal to determine whether the
8 people they arrest and incarcerate are the persons actually wanted on warrants and
9 consequently arrest and incarcerate innocent people. For example, the arrestee, whose CII
10 number defendants have, complains he is not the subject of the warrant. Even though
11 defendants have or can easily, quickly and reliably determine the warrant's subject's CII
12 number, defendants *refuse* to obtain the warrant's subject CII number or, in instances
13 where defendants already know have the warrant's subject's CII number, *ignore* that the
14 warrant's subject's CII number is different from the arrestee's. In other words, defendants
15 know or should know that the arrestee's fingerprints do not match the fingerprints of the
16 warrant's subject. Despite such knowledge, defendants will book the arrestee on the
17 warrant and refuse to investigate his complaints he is not the warrant's subject.
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19

20 11. Plaintiff presents federal claims for relief which arise under 42 U.S.C. § 1983.
21 Accordingly, federal jurisdiction is conferred upon this Court by 28 U.S.C. §§ 1331 and
22 1343.

23 12. Plaintiff's state-law claims are so related to plaintiffs' federal-law claims that
24 they form part of the same case or controversy. Accordingly, supplemental jurisdiction over
25 those claims is conferred upon this Court by 28 U.S.C. § 1367.

26 13. Plaintiff's claims arise out of acts of the LAPD and LASD in the County of Los
27 Angeles, State of California. Accordingly venue is proper within the Central District of
28

1 California.

2 **II. PARTIES**

3 **A. Plaintiff**

4 14. Plaintiff Julio Alvarado is and was at all times relevant hereto, a resident of the
5 City and County of Los Angeles. Plaintiff has paid taxes to the City and County of Los
6 Angeles within the past year.

7 15. Plaintiff was wrongfully detained, arrested, and incarcerated by defendants and
8 is entitled to money damages for that wrongful arrest, detention and incarceration.

9 **B. Defendants**

10 16. Defendant City of Los Angeles (“City”) is a public entity organized and existing
11 under the laws of the State of California. Defendant Los Angeles Police Department
12 (“LAPD”) is a public entity within the meaning of California law, and is a City agency.
13 Defendants City and LAPD are sued both in their own right for a City and/or LAPD policy,
14 practice or custom which caused decedent’s and plaintiffs’ injuries in violation of one or
15 more federal constitutional guarantees, and on decedent’s and plaintiffs’ state law claims
16 based on *respondeat superior*, under California Government Code § 815.2.
17

18 17. Defendant William Bratton (“Bratton”) is the police chief of the City of Los
19 Angeles, and is the policy maker for the LAPD.
20

21 18. Defendant County of Los Angeles (“County”) is a public entity organized and
22 existing under the laws of the State of California. Defendant Los Angeles Sheriff’s
23 Department (“LASD”) is a public entity within the meaning of California law, and is a
24 County agency. These defendants are sued in their own right for a County and/or LASD
25 policy, practice or custom which caused decedent’s and plaintiffs’ injuries in violation of
26 one or more federal constitutional guarantees, and on decedent’s and plaintiffs’ state law
27 claims based on *respondeat superior*, under California Government Code § 815.2.
28

1 19. Defendant Lee Baca (“Baca”) is the Sheriff of Los Angeles County, and is the
2 policy maker for the LASD.

3 20. Plaintiffs are informed and believe and based thereon allege that William Stonich
4 (“Stonich”) formerly was, and Larry W. Waldie (“Waldie”) currently is, the LASD
5 Undersheriff; that Doyle R. Campbell (“Campbell”) and Paul K. Tanaka (“Tanaka”) are
6 LASD Assistant Sheriffs; and that Charles Jackson (“Jackson”) formerly was, and Marc
7 L. Klugman (“Klugman”) currently is an LASD Division Chief.

8 21. Plaintiffs sue Bratton, Baca, Stonich, Waldie, Campbell, Tanaka, Jackson,
9 Klugman and DOES in both their personal and official capacities.

10 22. Plaintiff is ignorant of the true names and capacities of defendants sued herein
11 as Does 1 through 100, inclusive, and therefore sues these defendants by such fictitious
12 names. Plaintiff will amend this complaint to allege their true names and capacities when
13 ascertained. Plaintiff is informed and believes and thereon alleges that defendants Does 1
14 through 100 are responsible in some manner for the damages and injuries hereinafter
15 complained of.

16 23. Plaintiff is informed and believes and thereupon alleges that at all times relevant
17 herein the Doe defendants, and each of them, were the agents, servants and employees of
18 defendants City and LAPD and were acting at all times within the scope of their agency and
19 employment and with the knowledge and consent of their principal and employers, City and
20 LAPD. At all times herein, defendants, and each of them, were acting under the color of
21 state law.

22 **III. CLASS ACTION ALLEGATIONS**

23 24. Plaintiff brings this action on his own behalf and on behalf of classes of all other
24 persons similarly situated pursuant to Code of Civil Procedure §382, *City of San Jose v.*
25 *Superior Court*, 12 Cal. 3d 447 (1974).
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1 25. The “wrong defendant” class is defined as those persons who, in the two years
2 preceding the filing of this lawsuit and up until the date of class certification were (1) in
3 LAPD or LASD custody, (2) because of a warrant for another person, and (3) were not in
4 LAPD or LASD custody for any reason other than a warrant or warrants for another
5 person.

6 26. The class is so numerous that joinder of all members is impracticable. Plaintiff
7 does not know the exact number of class members. Plaintiff is informed and believes and
8 thereon alleges that there will be in excess of 500 members in the wrong defendant class.

9 27. Plaintiff is informed and believes and thereon alleges that the common questions
10 of fact with regard to the wrong defendant class include, but are not limited to: (1) what
11 efforts defendants make to determine whether persons held on warrants are the persons for
12 whom the warrants were issued; (2) what means defendants have for determining whether
13 persons held on warrants are the persons for whom the warrants were issued; (3) whether
14 defendants routinely ignore generally accepted police practices for determining whether
15 persons held on warrants are the persons for whom the warrants were issued; (4) whether
16 defendants routinely violate the consent decree entered into on September 4, 1984, in *Smith*
17 *v. Gates*, CA 000619.
18

19 28. Plaintiff is informed and believes and thereon alleges that the common questions
20 of law with regard to the wrong defendant class include, but are not limited to: (1) what
21 efforts defendants must make to determine whether persons held on warrants are the
22 persons for whom the warrants were issued; (2) whether defendants must utilize means at
23 their disposal for determining whether persons held on warrants are the persons for whom
24 the warrants were issued; (3) whether defendants must follow generally accepted police
25 practices for determining whether persons held on warrants are the persons for whom the
26 warrants were issued; (4) whether defendants must abide by the consent decree entered into
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1 on September 4, 1984, in *Smith v. Gates*, CA 000619.

2 29. Plaintiff is informed and believes and thereon alleges that the imprisonment of
3 persons on the wrong warrants stems from defendants' gross mismanagement of the City's,
4 LAPD's, County's and LASD's jails.

5 30. The claims of the representative plaintiff are typical of the class. The
6 representative plaintiff was arrested, detained and incarcerated by LAPD and LASD on
7 warrants for another person. After it was, or should have been, determined the warrants
8 were for another person, defendants continued to detain and incarcerate plaintiff without
9 lawful justification.
10

11 31. The representative plaintiff has the same interests and has suffered the same type
12 injuries as the class members. The representative plaintiff and each class member were
13 wrongfully arrested and held in custody. The claims of the representative plaintiff arose
14 because of City's, County's, LAPD's and LASD's failure to utilize readily available and
15 accepted means of determining whether a person held on a warrant is the person for whom
16 the warrant was issued. The claims of the representative plaintiff are based upon the same
17 legal theories as the claims of the class members. Each representative class member
18 suffered actual damages to himself or herself as a result of being held on a warrant for
19 another person. The actual damages suffered by the representative plaintiff are similar in
20 type and amount to the actual damages suffered by each class member.
21

22 32. The representative plaintiff will fairly and adequately protect the interests of the
23 class. The interests of the representative plaintiff are consistent with and not antagonistic
24 to the interests of the class. Prosecutions of separate actions by individual members of
25 the class would create a risk that inconsistent or varying adjudications with respect to
26 individual members of the class would establish incompatible standards of conduct for the
27 parties opposing the class.
28

1 33. Prosecution of separate actions by individual members of the class would create
2 a risk of adjudications with respect to individual members of the class which would, as a
3 practical matter, substantially impair or impede the interests of the other members of the
4 class to protect their interests.

5 34. The questions of law or fact common to the members of the class predominate
6 over any questions affecting only individual members. Plaintiff is informed and believes
7 and thereon alleges that the questions of law and/or fact which predominate over any
8 question affecting only individual members include what defendants must do to determine
9 whether a warrant applies to the person held in custody.
10

11 35. This action is superior to other available methods for the fair and efficient
12 adjudication of the controversy between the parties. Plaintiff is informed and believes and
13 thereon alleges that the interest of members of the class in individually controlling the
14 prosecution of a separate action is low, in that most class members would be unable to
15 individually prosecute any action at all. Plaintiff is informed and believes and thereon
16 alleges that the amounts at stake for individuals are so small that separate suits would be
17 impracticable. Plaintiff is informed and believes and thereon allege that most members of
18 the class will not be able to find counsel to represent them. Plaintiff is informed and
19 believes that it is desirable to concentrate all litigation in one forum because all of the
20 claims arise in the same location, *i.e.*, the County of Los Angeles, and it will promote
21 judicial efficiency to resolve the common questions of law and fact in one forum, rather
22 than in multiple courts.
23

24 36. Plaintiff does not know the identities of the class members. Plaintiff is informed
25 and believes and thereon alleges that the identities of the class members may be ascertained
26 from LAPD and LASD records. Plaintiff is informed and believes and thereon alleges that
27 LAPD and LASD records reflect the identities of persons arrested and/or held in custody
28

1 on warrants for another person, the dates such persons were held in custody, and the dates
2 such persons were released from LAPD and/or LASD custody.

3 37. Class members must be furnished with the best notice practicable under the
4 circumstances, including individual notice to all members who can be identified through
5 reasonable effort. Plaintiff is informed and believes that LAPD and LASD records contain
6 a last known address for class members. Plaintiff contemplates that individual notice be
7 given to class members at such last known address by first class mail. Plaintiff
8 contemplates that the notice inform class members of the following:
9

10 (a) The pendency of the class action, and the issues common to the class;

11 (b) The nature of the action;

12 (c) Their right to 'opt out' of the action within a given time, in which event
13 they will not be bound by a decision rendered in the class action;

14 (d) Their right, if they do not 'opt out,' to be represented by their own
15 counsel and enter an appearance in the case; otherwise, they will be represented by
16 the named plaintiff and their counsel; and

17 (e) Their right, if they do not 'opt out,' to share in any recovery in favor of
18 the class, and conversely to be bound by any judgment on the common issues,
19 adverse to the class.
20

21 **IV. CLAIMS OF CLASS REPRESENTATIVE PLAINTIFF JULIO ALVARADO**

22 38. On or about November 5, 2005, LAPD officers arrested Mr. Alvarado on a
23 warrant for a person other than Mr. Alvarado. Plaintiff is informed and believes that the
24 person for whom the warrant had been issued had stolen or attempted to steal Mr.
25 Alvarado's identity.

26 39. Plaintiff was booked at an LAPD jail. During booking, LAPD employees
27 livescanned Mr. Alvarado and obtained his CII number. During this time, Mr. Alvarado
28

1 complained repeated to LAPD personnel that he was *not* the warrant's subject. LAPD
2 personnel ignore Mr. Alvarado's complaints despite the ready availability of the warrant's
3 subject's CII number and fingerprints. Had LAPD personnel responded to his complaints,
4 using the readily-available information the personnel would have determined within a few
5 minutes that Mr. Alvarado was not and could not be the warrant's intended subject.

6 40. Mr. Alvarado is informed and believes and thereon alleges that the LAPD
7 personnel refused to respond to his complaints pursuant to the customs, practices and
8 policies of the Los Angeles Police Department, failed to conduct a reasonable investigation,
9 and continued to hold Mr. Alvarado in custody despite constructive knowledge that Mr.
10 Alvarado was not the person wanted on the warrant.
11

12 41. Mr. Alvarado was kept in LAPD custody until November 8, 2005. On
13 November 8, 2005, Mr. Alvarado was placed into LASD custody where he remained until
14 November 9, 2005, on the authority of the warrant described above..

15 42. Mr. Alvarado complied with the provisions of the California Tort Claims Act,
16 by filing the claim required by Government Code § 910 on his own behalf and on behalf
17 of all other persons similarly situated.
18

19 43. As a result of his wrongful arrest and incarceration, plaintiff suffered general and
20 special damages including but not limited to loss of earnings, fear, discomfort,
21 embarrassment, humiliation, anxiety, and loss of privacy.

22 44. Defendants City, County, LAPD and DOES are alleged to have maintained or
23 permitted official policies or customs or practices causing or permitting the occurrence of
24 the types of wrongs set forth herein below knowingly, with gross negligence, or with
25 deliberate indifference and, based on the principles set forth in *Monell v. New York City*
26 *Dept. of Soc. Servs.*, 436 U.S. 658 (1978), and *City of Canton v. Harris*, 489 U.S. 378
27 (1989), are liable for all injuries sustained by plaintiff as set forth herein below.
28

1 45. Under California law, all governmental entities are liable pursuant to California
2 Government Code § 815.2.

3 **FIRST CAUSE OF ACTION**

4 **(4TH and 14th Amendments/42 U.S.C. § 1983)**

5 **(Plaintiff, individually and on behalf of the class**

6 **he seeks to represent, against all defendants)**

7 46. The conduct of each defendant violated the right of plaintiff and others similarly
8 situated to be secure in home, person, and effects against unreasonable searches and
9 seizures and not to be falsely arrested, as guaranteed by the Fourth and Fourteenth
10 Amendments to the United States Constitution and entitles each plaintiff to recover
11 damages pursuant to 42 U.S.C. 1983. The conduct of the defendants which violated
12 plaintiff's Fourth and Fourteenth Amendment rights included a conspiracy by one or more
13 of the defendants to violate plaintiff's Fourth Amendment rights.
14

15 **SECOND CAUSE OF ACTION**

16 **(14th Amendments/42 U.S.C. § 1983)**

17 **(Plaintiff, individually and on behalf of the class**

18 **he seeks to represent, against all defendants)**

19 47. The conduct of each defendant violated the right of plaintiff and others similarly
20 situated to due process of law, as guaranteed by the Fourteenth Amendment to the United
21 States Constitution and entitles each plaintiff to recover damages pursuant to 42 U.S.C.
22 1983. The conduct of the defendants which violated plaintiffs' Fourteenth Amendment
23 rights included a conspiracy by one or more of the defendants to violate plaintiff's
24 Fourteenth Amendment rights.
25

26 ///

27 ///

1 **THIRD CAUSE OF ACTION -- WRONGFUL ARREST/DETENTION**
2 **UNDER THE CALIFORNIA STATE CONSTITUTION**
3 **(California Constitution, Article I, § 13)**

4 **(Plaintiff, individually and on behalf of the class**
5 **he seeks to represent, against all defendants)**

6 48. The conduct of each defendant violated the right of plaintiff and others similarly
7 situated to be secure in their persons and effects, against unreasonable searches and
8 seizures, as guaranteed by Article I, § 13, of the California Constitution.

9 49. As a direct and proximate cause of the aforementioned acts of defendants,
10 plaintiff was injured as set forth in paragraphs above, thereby entitling plaintiff to damages
11 under the California Constitution, Art. I, § 13.

12 **FOURTH CAUSE OF ACTION -- CAL. CIVIL CODE § 52.1**
13 **(Plaintiff, individually and on behalf of the class**
14 **he seeks to represent, against all defendants)**

15 50. The conduct of each defendant violated the right of plaintiff and others similarly
16 situated to their liberty and to be secure in their persons, and effects against unreasonable
17 searches and seizures, as guaranteed by the Constitution and laws of the United States and
18 the State of California including Article I, §§ 1, 7 and 13, of the California Constitution.

19 51. As a direct and proximate cause of the aforementioned actions of defendants,
20 plaintiff was injured as set forth above, thereby entitling plaintiff to damages under Cal.
21 Civil Code § 52.1.

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1 **FIFTH CAUSE OF ACTION -- FALSE IMPRISONMENT**

2 **(Plaintiff, individually and on behalf of the class**

3 **he seeks to represent, against defendants City,**

4 **County, LAPD and LASD only)**

5 52. By detaining and incarcerating plaintiff and other persons similarly situated after
6 it had been or should have been determined that they were not the person wanted on the
7 warrant on which the arrest was based, defendants City, County, LAPD and LASD
8 imprisoned persons without lawful authority or justification.

9
10 53. As a direct and proximate cause of the aforementioned acts of defendants
11 plaintiffs were injured as set forth in paragraphs above.

12 **SIXTH CAUSE OF ACTION -- INJUNCTIVE ACTION**

13 **(Declaratory and Injunctive Relief)**

14 **(Plaintiff as against all defendants)**

15 54. Plaintiff has been arrested on more than one occasion on the same warrants for
16 another person. Plaintiff is informed and believes that defendants will arrest and
17 incarcerate plaintiff again on the same warrants for another person unless the Court orders
18 defendants to use readily available information, including but not limited to fingerprints,
19 photographs, and California Department of Motor Vehicle records, to verify that the person
20 wanted on a warrant is the person in custody.

21
22 55. Plaintiff is informed and believes that many other people are arrested on
23 warrants for someone other than the person arrested. Plaintiff is informed and believes that
24 defendants will continue to arrest and incarcerate the prospective class members again and
25 again on the same warrants for other persons unless the Court orders defendants to use
26 readily available information, including but not limited to fingerprints, photographs, and
27 California Department of Motor Vehicle records, to verify that the person wanted on a
28

1 warrant is the person in custody.

2 56. Plaintiff has no other speedy or adequate remedy at law.

3 **V. PRAYER FOR RELIEF**

4 57. Wherefore, plaintiff seeks judgment as follows:

5 (a) Compensatory general and special damages in an amount according to
6 proof;

7 (b) In addition to actual damages identified above, statutory damages as
8 allowed by law for each wrongful arrest and/or incarceration;

9 (c) Declaratory and injunctive relief as set forth above under Cal. Const., Art.
10 I, §§ 1, 7, 13; Civil Code §§ 52(c), 52.1(b);

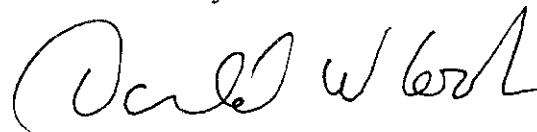
11 (d) Attorneys fees and costs under 42 U.S.C. §1988; Civil Code §§ 52(b)(3),
12 52.1(h); C.C.P. § 1021.5, and whatever other bases may exist;

13 (e) The costs of this suit and such other relief as the Court finds just and
14 proper.
15

16 DATED: December 8, 2006

17 **ROBERT MANN**
18 **DONALD W. COOK**
19 Attorneys for Plaintiff

20
21 By



22 Donald W. Cook
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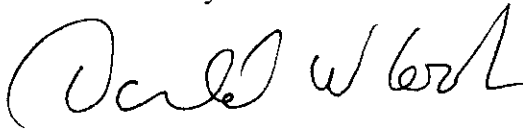
DEMAND FOR JURY TRIAL

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Plaintiff demands a jury trial.

DATED: December 8, 2006

ROBERT MANN
DONALD W. COOK
Attorneys for Plaintiff

By 
Donald W. Cook