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DEPUTY, SANTA CRUZ COUNTY

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF SANTA CRUZ  
10 UNLIMITED JURISDICTION

12 KRISTOPHER KLAY,

13 PLAINTIFF,

14 v.

15 SANTA CRUZ COUNTY SHERIFF'S  
16 OFFICE; WATSONVILLE POLICE  
17 DEPARTMENT; STEFAN FISH and DOES  
18 1-20, inclusive,

18 DEFENDANTS

Case No.: CV 178166

PLAINTIFF'S COMPLAINT AND  
DEMAND FOR JURY TRIAL

1. 42 U.S.C. § 1983;
2. Violation of Labor Code § 432.7(g)(1);
3. Violation of Labor Code § 432.7(g)(2);
4. Defamation;
5. Negligent Infliction of Emotional Distress; and
6. Intentional Infliction of Emotional Distress.

23 COMPLAINT AND DEMAND FOR JURY TRIAL

24 Now comes PLAINTIFF in the above styled action, and files this Complaint and  
25 Demand for Jury Trial and further alleges as follows:

26 INTRODUCTION

27 1. This action is brought by Plaintiff KRISTOPHER KLAY (hereinafter "KLAY"  
28 or "PLAINTIFF") against Defendants SANTA CRUZ COUNTY SHERIFF'S OFFICE;

1 WATSONVILLE POLICE DEPARTMENT; STEFAN FISH; and DOES 1-20 (hereinafter  
2 “DEFENDANTS”) for violations of 42 U.S.C. § 1983; Labor Code § 432.7(g)(1) and (g)(2);  
3 Defamation; Negligent Infliction of Emotional Distress; and Intentional Infliction of Emotional  
4 Distress. DEFENDANTS’ illegal conduct caused great harm to the PLAINTIFF.

5 2. PLAINTIFF was a firefighter employed with the South Lake Tahoe Fire  
6 Department.

7 3. PLAINTIFF was traveling on a motorcycle with another companion, a friend and  
8 fellow Emergency Medical Technician, in Watsonville, CA.

9 4. PLAINTIFF’S companion was stopped because the law enforcement officer  
10 claimed that he could not view the motorcycle’s registration from his position. The motorcycle  
11 was properly registered.

12 5. PLAINTIFF was detained and released. PLAINTIFF was never charged with any  
13 crimes as a result of this detention.

14 6. Despite this, DEFENDANT FISH, a member of the Santa Cruz County Task  
15 Gang Task force of the Santa Cruz County Sheriff’s Office and the Watsonville Police  
16 Department, communicated PLAINTIFF’S detention by law enforcement in Watsonville to  
17 PLAINTIFF’S employer, South Lake Tahoe Fire Department. DEFENDANT FISH further  
18 claimed that PLAINTIFF was a member of a motorcycle gang. DEFENDANT FISH also  
19 provided PLAINTIFF’S employer with a copy of the police report which concluded that  
20 PLAINTIFF was the member of a motorcycle gang and that he was engaged in “gang activity”  
21 despite the fact that he was not arrested, cited or charged with any crime.

22 7. Defendant was thereafter terminated from his firefighter position with the South  
23 Lake Tahoe Fire Department.

24 **PARTIES**

25 8. PLAINTIFF, KRISTOPHER KLAY, is an adult male residing in California, who  
26 was detained by DEFENDANTS SANTA CRUZ COUNTY SHERIFF’S OFFICE;  
27 WATSONVILLE POLICE DEPARTMENT, DEFENDANT STEFAN FISH and DOES 1-20.

28 9. DEFENDANT SANTA CRUZ COUNTY SHERIFF’S OFFICE is a public

1 entity, organized under the laws, rules and regulations of California and Santa Cruz County and  
2 is located and operated in Santa Cruz County, California.

3 10. DEFENDANT WATSONVILLE POLICE DEPARTMENT is a public entity,  
4 organized under the laws, rules and regulations of California and Watsonville and is located and  
5 operated in Watsonville, Santa Cruz County, California.

6 11. DEFENDANT STEFAN FISH is an adult male employed and/or working under  
7 the authority of DEFENDANTS SANTA CRUZ COUNTY SHERIFF'S OFFICE and  
8 WATSONVILLE POLICE DEPARTMENT.

9 12. The true names or capacities of, whether individual, corporate, associate,  
10 subsidiary or otherwise, of DEFENDANTS DOE 1 to DOE 20 are unknown to PLAINTIFF,  
11 who therefore sues such DEFENDANTS under fictitious names, and will amend this Complaint  
12 to show their true names and capacities when ascertained. PLAINTIFF is informed and believes  
13 and thereon alleges that each of the DEFENDANTS designated as DOE is negligently  
14 responsible in some manner for the events and happenings referred to, and thereby proximately  
15 caused injuries and damages to the PLAINTIFF as alleged herein.

16 13. At all times mentioned herein, the PLAINTIFF is informed and believes and  
17 thereon alleges that each and every DEFENDANT was the agent, employee, and/or servant of  
18 every other DEFENDANT, and performed the acts complained of herein in the course and scope  
19 of such agency, servitude, and/or employment, and acted with the consent, ratification,  
20 permission, knowledge, and/or authorization of each of the remaining DEFENDANTS. All of  
21 the acts and/or conduct of each DEFENDANT alleged in the causes of action into which this  
22 paragraph is incorporated by reference were consented to, ratified, approved, and/or authorized  
23 by the officers and/or managing agents of every other DEFENDANT. DEFENDANTS are sued  
24 both in their own right and on the basis of respondeat superior.

25 **VENUE AND JURISDICTION**

26 14. PLAINTIFF brings this Complaint for violations of the California Labor Code,  
27 and California common law and the amount in controversy exceeds the minimum required by  
28 this Court. Accordingly, this Court has jurisdiction over the claims in this matter.

1           15.     Given that the various events underlying this lawsuit occurred in the County of  
2 Santa Cruz, records regarding this action are maintained in Santa Cruz County, and  
3 DEFENDANTS principal place of business is in Santa Cruz County, venue is proper in this  
4 Court.

5                                   **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

6           16.     In accordance with the appropriate regulations, codes, and statutes, the  
7 PLAINTIFF has exhausted his administrative remedies by filing a timely tort claim with Santa  
8 Cruz County and Watsonville. Although not required, Plaintiff also filed a citizen complaint at  
9 the relevant law enforcement agencies.

10                                   **GENERAL ALLEGATIONS**

11           17.     On or about May 3, 2013, PLAINTIFF was traveling in Watsonville, Santa Cruz  
12 County with a companion. He and his companion were traveling on motorcycles. They were  
13 wearing vests with patches.

14           18.     At the time, PLAINTIFF was employed as a firefighter with the South Lake  
15 Tahoe Fire Department. His companion was employed as an Emergency Medical Technician.

16           19.     Law enforcement officers in a Watsonville Police Department marked vehicle put  
17 their emergency lights and sirens on. PLAINTIFF and his companion immediately pulled over.

18           20.     When members of the Santa Cruz County Gang task force approached them,  
19 PLAINTIFF and his companion were questioned whether PLAINTIFF'S companion's  
20 motorcycle was properly registered. The motorcycle was in fact properly registered.

21           21.     PLAINTIFF was detained by these law enforcement officers who were members  
22 of the Santa Cruz County Gang Task Force.

23           22.     There was no basis for PLAINTIFF'S detention. The officers could not have  
24 reasonably suspected that PLAINTIFF had any weapons in his possession or that he had been  
25 involved in any sort of criminal activity.

26           23.     PLAINTIFF was searched and then released shortly thereafter and was not  
27 arrested, cited or charged with any offense.

28           24.     Despite not being arrested, cited, or charged with any offense, the law

1 enforcement officers stated in their police report that PLAINTIFF was a member of a motorcycle  
2 gang and that the detention involved "gang activity."

3 25. At the time, PLAINTIFF was associated with the Guerillas Motorcycle Club, a  
4 non-profit organization which raises money for charities. The members of the club included  
5 firefighters and EMT workers who enjoyed riding motorcycles on their off duty time and also  
6 think it is important to raise money for charity.

7 26. PLAINTIFF is not and never has been a member of an unlawful motorcycle gang.

8 27. On or about May 30, 2013, DEFENDANT FISH and/or some other agent of law  
9 enforcement, who participated in the detention of PLAINTIFF, contacted PLAINTIFF'S  
10 employer, the South Lake Tahoe Fire Department without PLAINTIFF'S advance knowledge  
11 or consent. DEFENDANT FISH and/or some other agent of law enforcement told  
12 PLAINTIFF'S employer that PLAINTIFF was a gang member and also produced the police  
13 report to the employer. The South Lake Tahoe Fire Department was not legally authorized to  
14 receive such information from DEFENDANTS.

15 28. On or about June 5, 2013, the South Lake Tahoe Fire Department communicated  
16 its intent to terminate PLAINTIFF'S employment as a firefighter. The sole reason provided for  
17 the termination was the police report referencing the detention of PLAINTIFF on May 3, 2013.

18 29. On or about June 11, 2013, PLAINTIFF was directed to attend a brief meeting  
19 with Fire Chief Bruce Martin. PLAINTIFF stated he was not a gang member and that he in no  
20 way supported any gangs. PLAINTIFF further advised that his involvement with the Guerillas  
21 Motorcycle Club was for the purpose of associating with other EMTs and firefighters and to  
22 raise money for charities. PLAINTIFF further provided documentation in support of his  
23 statements.

24 30. On or about June 11, 2013, PLAINTIFF was terminated from his employment  
25 with the South Lake Tahoe Fire Department.

26 31. On or about July 8, 2013, Plaintiff issued a complaint to DEFENDANT SANTA  
27 CRUZ COUNTY SHERIFF'S OFFICE through his legal counsel claiming that DEFENDANTS  
28 SANTA CRUZ COUNTY SHERIFF'S OFFICE and FISH had violated the law when it



1 contacted his employer and provided false information leading to his termination of  
2 employment.

3 32. On or about August 14, 2013, DEFENDANT SANTA CRUZ COUNTY  
4 SHERIFF'S OFFICE issued a correspondence stating PLAINTIFF'S allegation was "Sustained.  
5 Meaning the investigation disclosed sufficient evidence to prove the allegation made in the  
6 complaint." See Exhibit A attached hereto.

7 33. As a result of this event, PLAINTIFF has suffered the loss of his employment as  
8 a firefighter, loss of training opportunities and opportunities to advance in his chosen field.  
9 PLAINTIFF'S reputation has been marred by baseless claims that he is a gang member.  
10 PLAINTIFF has also suffered emotional distress.

11 **FIRST CLAIM FOR RELIEF**

12 **VIOLATION OF 42 U.S.C. § 1983**

13 **(AGAINST ALL DEFENDANTS)**

14 34. PLAINTIFF hereby incorporates paragraph 1 through 33 as though fully set forth  
15 herein. PLAINTIFF also incorporates by reference each and every other paragraph of this  
16 Complaint except those that are inconsistent with a cause of action for a violation of 42 U.S.C.  
17 § 1983.

18 35. At all times herein mentioned 42 U.S.C. § 1983 was in full force and effect and  
19 was binding upon DEFENDANTS. Said section prohibits actions under color of state law that  
20 violate federally protected rights. At all times herein mentioned, DEFENDANTS were state  
21 actors acting under color of state law.

22 36. DEFENDANTS unlawfully detained PLAINTIFF and obtained information  
23 including the name of his employer which was then recorded in a police report.

24 37. DEFENDANTS defamed PLAINTIFF in the police report by stating that he was  
25 a member and/or associated with a gang that engaged in criminal activity.

26 38. DEFENDANTS thereafter broadcast these same statements to PLAINTIFF'S  
27 employer both verbally and in writing. PLAINTIFF'S employer was not authorized to receive  
28 such information. Thereafter, PLAINTIFF was terminated from his position with the South

1 Lake Tahoe Police Department.

2 39. As a direct and proximate result of DEFENDANTS' unlawful actions as  
3 described above, PLAINTIFF has incurred, and will continue to incur loss of employment,  
4 training, advancement and promotional opportunities, loss of wages and benefits, medical  
5 expenses, all to his damage in an amount according to proof.

6 40. As a direct, foreseeable, and proximate result of DEFENDANTS' actions,  
7 PLAINTIFF has suffered and continues to suffer humiliation, embarrassment, mental and  
8 emotional distress and discomfort, all to PLAINTIFF'S damage in an amount in excess of the  
9 minimum jurisdiction of this court, the precise amount to be proven at trial.

10 41. As a further direct and proximate result of DEFENDANTS' violation of the 42  
11 U.S.C. § 1983, PLAINTIFF has been compelled to retain the services of counsel in an effort to  
12 remedy the harm inflicted upon him by DEFENDANTS, and has thereby incurred, and will  
13 continue to incur, legal fees and costs, the full nature and extent of which are presently unknown  
14 to PLAINTIFF, and PLAINTIFF is therefore entitled to reasonable attorneys' fees and costs of  
15 suit.

16 42. PLAINTIFF is informed and believes and thereon alleges that the conduct of  
17 DEFENDANT STEFAN FISH and DEFENDANT DOES was grossly intentional, negligently  
18 reckless, willful, wanton, malicious, oppressive and/or unmindful of obligations to PLAINTIFF  
19 and/or exhibits that entire want of care which would rise to the presumption of conscious  
20 indifference to the consequences so as to warrant the imposition of punitive damages in an  
21 amount sufficient to punish, penalize or deter DEFENDANTS, for which DEFENDANTS are all  
22 liable to PLAINTIFF.

23 **WHEREFORE**, PLAINTIFF prays for judgment against DEFENDANTS as set forth  
24 below.

25 **SECOND CLAIM FOR RELIEF**

26 **Violation of Labor Code § 432.7(g)(1)**

27 **(BY PLAINTIFF AGAINST ALL DEFENDANTS)**

28 43. PLAINTIFF incorporates by reference the allegations contained in paragraphs 1

1 through 42, inclusive, as though fully set forth herein.

2 44. At all times herein mentioned Labor Code § 432.7(g)(1) was in full force and  
3 effect and was binding upon DEFENDANTS. The statute prohibits peace officers or employees  
4 of law enforcement agencies with access to criminal offender record information from  
5 knowingly disclosing, with the intent to affect a person's employment any information which  
6 pertains to an arrest or detention to any person not authorized by law to receive such  
7 information.

8 45. DEFENDANTS, including DEFENDANT FISH, law enforcement,  
9 communicated information regarding PLAINTIFF'S detention with law enforcement officers on  
10 or about May 3, 2013 to PLAINTIFF'S employer. DEFENDANTS, including DEFENDANT  
11 FISH, also provided a copy of the police report referring to PLAINTIFF'S detention by law  
12 enforcement officers which referred to him as a gang member and to the detention as "gang  
13 activity." DEFENDANTS' sole purpose in making contact with PLAINTIFF'S employer and  
14 communicating such information was to affect PLAINTIFF'S employment. PLAINTIFF'S  
15 employer was not entitled to receive such information and DEFENDANTS were not legally  
16 permitted to provide this information.

17 46. As a direct and proximate result of DEFENDANTS' unlawful actions as  
18 described above, PLAINTIFF has incurred, and will continue to incur loss of employment,  
19 training, advancement and promotional opportunities, loss of wages and benefits, medical  
20 expenses, all to his damage in an amount according to proof.

21 47. As a direct, foreseeable, and proximate result of DEFENDANTS' actions,  
22 PLAINTIFF has suffered and continues to suffer humiliation, embarrassment, mental and  
23 emotional distress and discomfort, all to PLAINTIFF'S damage in an amount in excess of the  
24 minimum jurisdiction of this court, the precise amount to be proven at trial.

25 48. As a further direct and proximate result of DEFENDANTS' violation of the  
26 Labor Code section 427(g)(1), PLAINTIFF has been compelled to retain the services of counsel  
27 in an effort to remedy the harm inflicted upon him by DEFENDANTS, and has thereby incurred,  
28 and will continue to incur, legal fees and costs, the full nature and extent of which are presently



1 unknown to PLAINTIFF, and PLAINTIFFS are therefore entitled to reasonable attorneys' fees  
2 and costs of suit pursuant to, but not limited by, Cal. Civ. Pro. Sec. 1021.5.

3 49. PLAINTIFF is informed and believes and thereon alleges that the conduct of  
4 DEFENDANT STEFAN FISH and DEFENDANT DOES was grossly intentional, negligently  
5 reckless, willful, wanton, malicious, oppressive and/or unmindful of obligations to PLAINTIFF  
6 and/or exhibits that entire want of care which would rise to the presumption of conscious  
7 indifference to the consequences so as to warrant the imposition of punitive damages in an  
8 amount sufficient to punish, penalize or deter DEFENDANTS, for which DEFENDANTS are all  
9 liable to PLAINTIFF.

10 **WHEREFORE**, PLAINTIFF prays for judgment against DEFENDANTS as set forth  
11 below.

12 **THIRD CLAIM FOR RELIEF**

13 **Violation of Labor Code § 432.7(g)(2)**

14 **(BY PLAINTIFF AGAINST ALL DEFENDANTS)**

15 50. PLAINTIFF incorporates by reference the allegations contained in paragraphs 1  
16 through 49, inclusive, as though fully set forth herein.

17 51. At all times herein mentioned Labor Code § 432.7(g)(2) was in full force and  
18 effect and was binding upon DEFENDANTS. The statute prohibits anyone who is authorized to  
19 receive criminal offender record information from knowingly disclosing, with the intent to affect  
20 a person's employment any information which pertains to an arrest or detention to any person  
21 not authorized by law to receive such information.

22 52. DEFENDANTS, including DEFENDANT FISH, law enforcement,  
23 communicated information regarding PLAINTIFF'S detention with law enforcement officers on  
24 or about May 3, 2013 to PLAINTIFF'S employer. DEFENDANTS, including DEFENDANT  
25 FISH, also provided a copy of the police report referring to PLAINTIFF'S detention by law  
26 enforcement officers which referred to him as a gang member and to the detention as "gang  
27 activity." DEFENDANTS' sole purpose in making contact with PLAINTIFF'S employer and  
28 communicating such information was to affect PLAINTIFF'S employment. PLAINTIFF'S

1 employer was not entitled to receive such information.

2 53. As a direct and proximate result of DEFENDANTS' unlawful actions as  
3 described above, PLAINTIFF has incurred, and will continue to incur loss of employment,  
4 training, advancement and promotional opportunities, loss of wages and benefits, medical  
5 expenses, all to his damage in an amount according to proof.

6 54. As a direct, foreseeable, and proximate result of DEFENDANTS' actions,  
7 PLAINTIFF has suffered and continues to suffer humiliation, embarrassment, mental and  
8 emotional distress and discomfort, all to PLAINTIFF'S damage in an amount in excess of the  
9 minimum jurisdiction of this court, the precise amount to be proven at trial.

10 55. As a further direct and proximate result of DEFENDANTS' violation of the  
11 Labor Code section 427(g)(2), PLAINTIFF has been compelled to retain the services of counsel  
12 in an effort to remedy the harm inflicted upon him by DEFENDANTS, and has thereby incurred,  
13 and will continue to incur, legal fees and costs, the full nature and extent of which are presently  
14 unknown to PLAINTIFF, and PLAINTIFFS are therefore entitled to reasonable attorneys' fees  
15 and costs of suit pursuant to, but not limited by, Cal. Civ. Pro. Sec. 1021.5.

16 56. PLAINTIFF is informed and believes and thereon alleges that the conduct of  
17 DEFENDANT STEFAN FISH and DEFENDANT DOES was grossly intentional, negligently  
18 reckless, willful, wanton, malicious, oppressive and/or unmindful of obligations to PLAINTIFF  
19 and/or exhibits that entire want of care which would rise to the presumption of conscious  
20 indifference to the consequences so as to warrant the imposition of punitive damages in an  
21 amount sufficient to punish, penalize or deter DEFENDANTS, for which DEFENDANTS are all  
22 liable to PLAINTIFF.

23 **WHEREFORE**, PLAINTIFF prays for judgment against DEFENDANTS as set forth  
24 below.

25 **FOURTH CLAIM FOR RELIEF**

26 **Defamation**

27 **(BY PLAINTIFF AGAINST ALL DEFENDANTS)**

28 57. PLAINTIFF alleges and incorporates by reference Paragraphs 1 through 56 of

1 this Complaint as if fully set forth herein. PLAINTIFF also incorporates into this cause of action  
2 each and every allegation set forth in every paragraph of this Complaint, except those that are  
3 inconsistent with a cause of action for defamation.

4 58. At all times relevant to this action, California Civil Code § 43, et seq. were in full  
5 force and effect. Section 43 provides that every person has, subject to the qualifications and  
6 restrictions provided by law, the right of protection from ... defamation, and from injury to his  
7 personal relations. Defamation is effected by either of the following: (a) Libel; (b) Slander.

8 59. Civil Code Section 44 defines slander as a category of defamation.

9 60. Civil Code section 45 provides: "Libel is a false and unprivileged publication by  
10 writing, printing, picture, effigy, or other fixed representation to the eye, which exposes any  
11 person to hatred, contempt, ridicule, or obloquy, or which causes him to be shunned or avoided,  
12 or which has a tendency to injure him in his occupation."

13 61. Civil Code section 46 provides:

14 Slander is a false and unprivileged publication, orally uttered, and also  
15 communications by radio or any mechanical or other means which:

- 16 1. Charges any person with crime, or with having been indicted,  
convicted, or punished for crime;
- 17 2. Imputes in him the present existence of an infectious, contagious,  
or loathsome disease;
- 18 3. Tends directly to injure him in respect to his office, profession,  
trade or business, either by imputing to him general  
19 disqualification in those respects which the office or other  
occupation peculiarly requires, or by imputing something with  
20 reference to his office, profession, trade, or business that has a  
natural tendency to lessen its profits;
- 21 4. Imputes to him impotence or a want of chastity; or
- 22 5. Which, by natural consequence, causes actual damages.

23 62. DEFENDANTS made statements set forth above verbally and in writing to  
24 persons other than PLAINTIFF; the persons reasonably understood that the statements were  
25 about PLAINTIFF; the persons reasonably understood the statement(s) to mean that PLAINTIFF  
26 was a gang member who was involved in criminal gang activity; these statements impugned  
27 PLAINTIFF'S reputation in his profession, and the statement(s) were false. DEFENDANTS  
28 were well aware of the falsity of the statements at the time that the statements were made.  
DEFENDANTS failed to use reasonable care to determine the truth or falsity of the statement(s).

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1           63.     As a direct and proximate result of DEFENDANTS' unlawful actions as  
2 described above, PLAINTIFF has incurred, and will continue to incur loss of employment,  
3 training, advancement and promotional opportunities, loss of wages and benefits, medical  
4 expenses, all to his damage in an amount according to proof.

5           64.     As a direct, foreseeable, and proximate result of DEFENDANTS' actions,  
6 PLAINTIFF has suffered and continues to suffer humiliation, embarrassment, mental and  
7 emotional distress and discomfort, all to PLAINTIFF'S damage in an amount in excess of the  
8 minimum jurisdiction of this court, the precise amount to be proven at trial.

9           65.     As a further direct and proximate result of DEFENDANTS' violation of the Civil  
10 Code § 43, et seq., PLAINTIFF has been compelled to retain the services of counsel in an effort  
11 to remedy the harm inflicted upon him by DEFENDANTS, and has thereby incurred, and will  
12 continue to incur, legal fees and costs, the full nature and extent of which are presently unknown  
13 to PLAINTIFF, and PLAINTIFFS are therefore entitled to reasonable attorneys' fees and costs  
14 of suit pursuant to, but not limited by, Cal. Civ. Pro. Sec. 1021.5.

15           66.     PLAINTIFF is informed and believes and thereon alleges that the conduct of  
16 DEFENDANT STEFAN FISH and DEFENDANT DOES was grossly intentional, negligently  
17 reckless, willful, wanton, malicious, oppressive and/or unmindful of obligations to PLAINTIFF  
18 and/or exhibits that entire want of care which would rise to the presumption of conscious  
19 indifference to the consequences so as to warrant the imposition of punitive damages in an  
20 amount sufficient to punish, penalize or deter DEFENDANTS, for which DEFENDANTS are all  
21 liable to PLAINTIFF.

22           **WHEREFORE**, PLAINTIFF prays for judgment against DEFENDANTS as set forth  
23 below.

24                                   **FIFTH CLAIM FOR RELIEF**

25                                   **Negligent Infliction of Emotional Distress**

26                                   **(BY PLAINTIFF AGAINST ALL DEFENDANTS)**

27           67.     PLAINTIFF alleges and incorporates by reference Paragraphs 1 through 66 of  
28 this Complaint as if fully set forth herein. PLAINTIFF also incorporates into this cause of action

1 each and every allegation set forth in every paragraph of this Complaint, except those that are  
2 inconsistent with a cause of action for negligent infliction of emotional distress.

3 68. By engaging in the conduct set forth herein, DEFENDANTS have negligently  
4 breached their duty of care not to engage in the conduct alleged.

5 69. DEFENDANTS, and each of them, knew or should have known that their actions  
6 were likely to result in serious emotional harm, anguish and distress to PLAINTIFF.

7 70. As a proximate result of DEFENDANTS' conduct, PLAINTIFF has suffered and  
8 continues to suffer discomfort, anxiety, humiliation and emotional distress, and will continue to  
9 suffer serious emotional distress in the future in an amount according to proof.

10 71. PLAINTIFF is informed and believes that the wrongful acts and/or conduct  
11 alleged herein which was perpetrated by all DEFENDANTS was done maliciously,  
12 oppressively, and/or fraudulently and with a wrongful intent of harming and injuring  
13 PLAINTIFF and did in fact harm PLAINTIFF with an improper and evil motive amounting to  
14 malice and in conscious disregard of PLAINTIFF'S rights. As a result, PLAINTIFF is entitled  
15 to recover punitive damages against said DEFENDANTS, and each of them, as allowed for  
16 under law.

17 **WHEREFORE**, PLAINTIFF prays for judgment against DEFENDANTS as set forth  
18 below.

19 **SIXTH CLAIM FOR RELIEF**

20 **Intentional Infliction of Emotional Distress**

21 **(BY PLAINTIFF AGAINST ALL DEFENDANTS)**

22 72. PLAINTIFF alleges and incorporate by reference Paragraphs 1 through 71 of this  
23 Complaint as if fully set forth herein. PLAINTIFF also incorporates into this cause of action  
24 each and every allegation set forth in every paragraph of this Complaint, except those that are  
25 inconsistent with a cause of action for intentional infliction of emotional distress.

26 73. The conduct set forth herein above by DEFENDANTS was extreme and  
27 outrageous. Said conduct was intended to cause and did cause severe emotional distress, or was  
28 done in conscious disregard of the probability of causing such distress.



1 74. As a proximate result of said conduct, PLAINTIFF has suffered and continues to  
2 suffer discomfort, anxiety, humiliation and emotional distress, and will continue to suffer serious  
3 emotional distress in the future in an amount according to proof.

4 75. PLAINTIFF is informed and believes that the wrongful acts and/or conduct  
5 alleged herein which was perpetrated by DEFENDANTS was done maliciously, oppressively,  
6 and/or fraudulently and with a wrongful intent of harming and injuring PLAINTIFF and did in  
7 fact harm PLAINTIFF with an improper and evil motive amounting to malice and in conscious  
8 disregard of PLAINTIFF'S rights. As a result, PLAINTIFF is entitled to recover punitive  
9 damages against said DEFENDANTS, and each of them, as allowable under law.

10 **PRAYER FOR RELIEF**

11 **WHEREFORE**, PLAINTIFF demands judgment against all DEFENDANTS as follows:

- 12 a. That process be issued and served as provided by law, requiring DEFENDANTS  
13 to appear and answer or face judgment;
- 14 b. That PLAINTIFF has and recovers a judgment against DEFENDANTS in an  
15 amount to be determined at trial as general, special, actual, compensatory and/or  
16 nominal damages;
- 17 c. That PLAINTIFF has and recovers a judgment against DEFENDANTS for  
18 punitive damages in an amount to be determined at trial sufficient to punish,  
19 penalize and/or deter DEFENDANTS;
- 20 d. That PLAINTIFF has and recovers a judgment against DEFENDANTS in an  
21 amount to be determined at trial for expenses of this litigation, including, but not  
22 limited to, reasonable attorneys' fees, costs and expert fees;
- 23 e. That PLAINTIFF has and recovers a judgment against DEFENDANTS enjoining  
24 DEFENDANTS from engaging in each of the unlawful practices set forth in this  
25 Complaint;
- 26 f. That PLAINTIFF obtain injunctive relief;
- 27 g. That PLAINTIFF recovers pre-judgment and post-judgment interest; and
- 28 h. That PLAINTIFF has such other relief as this Court deems just and appropriate.

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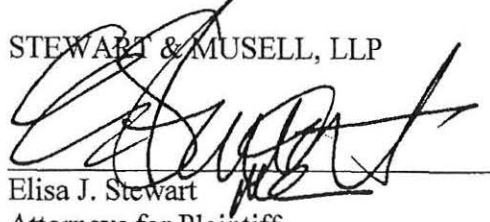
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**PLAINTIFF DEMANDS TRIAL BY JURY.**

Dated: November 14, 2013

Respectfully submitted,

STEWART & MUSELL, LLP



Elisa J. Stewart  
Attorneys for Plaintiff

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 ATTORNEY FOR (Name): Kristopher Klay

FOR COURT USE ONLY

**FILED**

NOV 15 2013

ALAN S. JO, CLERK  
 BY DAVID NEWELL  
 DEPUTY SANTA CRUZ COUNTY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Santa Cruz  
 STREET ADDRESS: 701 Ocean Street  
 MAILING ADDRESS:  
 CITY AND ZIP CODE: Santa Cruz, CA 95060  
 BRANCH NAME: Santa Cruz

CASE NAME:  
 Klay v. Santa Cruz County Sheriff's Office, et al.

**CIVIL CASE COVER SHEET**

**Unlimited** (Amount demanded exceeds \$25,000)  
 **Limited** (Amount demanded is \$25,000 or less)

**Complex Case Designation**

**Counter**  **Joinder**

Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER:  
**CV 178166**

JUDGE:  
 DEPT:


Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:
- |  |   |   |
|--|---|---|
| <p><b>Auto Tort</b></p> <p><input type="checkbox"/> Auto (22)<br/> <input type="checkbox"/> Uninsured motorist (46)</p> <p><b>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b></p> <p><input type="checkbox"/> Asbestos (04)<br/> <input type="checkbox"/> Product liability (24)<br/> <input type="checkbox"/> Medical malpractice (45)<br/> <input type="checkbox"/> Other PI/PD/WD (23)</p> <p><b>Non-PI/PD/WD (Other) Tort</b></p> <p><input type="checkbox"/> Business tort/unfair business practice (07)<br/> <input checked="" type="checkbox"/> Civil rights (08)<br/> <input type="checkbox"/> Defamation (13)<br/> <input type="checkbox"/> Fraud (16)<br/> <input type="checkbox"/> Intellectual property (19)<br/> <input type="checkbox"/> Professional negligence (25)<br/> <input type="checkbox"/> Other non-PI/PD/WD tort (35)</p> <p><b>Employment</b></p> <p><input type="checkbox"/> Wrongful termination (36)<br/> <input type="checkbox"/> Other employment (15)</p> | <p><b>Contract</b></p> <p><input type="checkbox"/> Breach of contract/warranty (06)<br/> <input type="checkbox"/> Rule 3.740 collections (09)<br/> <input type="checkbox"/> Other collections (09)<br/> <input type="checkbox"/> Insurance coverage (18)<br/> <input type="checkbox"/> Other contract (37)</p> <p><b>Real Property</b></p> <p><input type="checkbox"/> Eminent domain/Inverse condemnation (14)<br/> <input type="checkbox"/> Wrongful eviction (33)<br/> <input type="checkbox"/> Other real property (26)</p> <p><b>Unlawful Detainer</b></p> <p><input type="checkbox"/> Commercial (31)<br/> <input type="checkbox"/> Residential (32)<br/> <input type="checkbox"/> Drugs (38)</p> <p><b>Judicial Review</b></p> <p><input type="checkbox"/> Asset forfeiture (05)<br/> <input type="checkbox"/> Petition re: arbitration award (11)<br/> <input type="checkbox"/> Writ of mandate (02)<br/> <input type="checkbox"/> Other judicial review (39)</p> | <p><b>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</b></p> <p><input type="checkbox"/> Antitrust/Trade regulation (03)<br/> <input type="checkbox"/> Construction defect (10)<br/> <input type="checkbox"/> Mass tort (40)<br/> <input type="checkbox"/> Securities litigation (28)<br/> <input type="checkbox"/> Environmental/Toxic tort (30)<br/> <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)</p> <p><b>Enforcement of Judgment</b></p> <p><input type="checkbox"/> Enforcement of judgment (20)</p> <p><b>Miscellaneous Civil Complaint</b></p> <p><input type="checkbox"/> RICO (27)<br/> <input type="checkbox"/> Other complaint (not specified above) (42)</p> <p><b>Miscellaneous Civil Petition</b></p> <p><input type="checkbox"/> Partnership and corporate governance (21)<br/> <input type="checkbox"/> Other petition (not specified above) (43)</p> |
|--|---|---|

2. This case  is  is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- a.  Large number of separately represented parties  
 b.  Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve  
 c.  Substantial amount of documentary evidence  
 d.  Large number of witnesses  
 e.  Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court  
 f.  Substantial postjudgment judicial supervision
3. Remedies sought (check all that apply): a.  monetary b.  nonmonetary; declaratory or injunctive relief c.  punitive
4. Number of causes of action (specify): 6
5. This case  is  is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: 11/15/13  
 Elisa Stewart  
 (TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)



**NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

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