

1 LAW OFFICE OF MARK E. MERIN
Mark E. Merin, SBN 043849
2 2001 P Street, Suite 100
Sacramento, CA 95814
3 Telephone: 916/443-6911
Facsimile: 916/447-8336
4 E-Mail: mark@markmerin.com

5 Attorneys for Plaintiffs

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RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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7 UNITED STATES DISTRICT COURT
8 NORTHERN DISTRICT OF CALIFORNIA
9 SAN JOSE DIVISION

RS

10 C⁰⁰—07

0941

11 DENNIS BUTLER, on behalf of himself and
12 all those similarly situated;

CASE NO:

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

13 Plaintiffs,

14 v.

15 SANTA CRUZ COUNTY; SANTA CRUZ
16 COUNTY SHERIFF STEVE ROBBINS, in
his Individual and Official Capacities;
17 SANTA CRUZ COUNTY SHERIFF'S
DEPUTIES DOES 1 THROUGH 50; and
18 ROES 1 THROUGH 20

19 Defendants.

20 PLAINTIFF ALLEGES:

21 INTRODUCTION

22 This is an action for declaratory and injunctive relief, damages, and punitive damages, against
23 the COUNTY OF SANTA CRUZ, SANTA CRUZ COUNTY SHERIFF STEVE ROBBINS,
24 Individually and in His Official Capacity, SANTA CRUZ COUNTY SHERIFF'S DEPUTIES sued
25 under their fictitious names as DOES 1 THROUGH 50, and ROES 1 THROUGH 20, for violations
26 of Plaintiff's constitutional rights resulting from an application of SANTA CRUZ COUNTY'S and
27 the Sheriff's policies, practices, and customs concerning strip searches and visual body cavities
28 searches in Santa Cruz County Jail. Plaintiff seeks an order declaring illegal Defendants' policy of

1 subjecting detainees in their custody to strip and visual body cavity searches before they are
2 arraigned and without having any reasonable suspicion that the searches will be productive of
3 contraband. Plaintiff further seeks an order declaring illegal Defendants' policy of conducting
4 repetitive strip searches without detainees having an opportunity, between strip searches, to acquire
5 contraband. In addition, Plaintiff seeks an order declaring illegal Defendants' policy and practice
6 of conducting the complained of searches, in groups, and/or in areas that can be and are observed
7 by persons not officially participating in the searches.

8 Finally, Plaintiff seeks an order declaring illegal Defendants' policy of conducting strip
9 searches on persons returning from Court after being ordered released on their own recognizance or
10 after the charges against them have been dismissed.

11 Defendants' strip search and visual body cavity search policies, practices, and customs
12 violate those rights of Plaintiff, and all those he represents, that are secured by the Fourth and
13 Fourteenth Amendments to the United States Constitution and entitles Plaintiff, and all those
14 similarly situated to recover damages under the Federal Civil Rights Act (42 U.S.C. § 1983).

15 Additionally, Plaintiff includes, on behalf of himself and on behalf of all those he represents,
16 supplemental claims under California State Law against Defendants: 1) for violation of California
17 Penal Code § 4030 which prohibits pre-arraignment strip searches of most misdemeanants, requires
18 such searches to be conducted in an area of privacy where they cannot be observed by persons other
19 than those whose official duties require them to participate in the searches, and requires them to be
20 pre-approved in writing by a supervisor; and, 2) for violation of the Bane Civil Rights Act
21 (California Civil Code § 52 and § 52.1(b)), which provides for civil penalties in case where persons
22 are coerced to give up their constitutional or statutory rights. California Penal Code § 4030 provides
23 for minimum damages of \$1,000.00 for each illegal search and the Bane Act entitles Plaintiff, and
24 each of those he represents to receive statutory minimum damages of \$4,000 per violation.

25 JURISDICTION

26 1. This action is brought pursuant to 42 U.S.C. §§ 1983 and 1988, and the Fourth and
27 Fourteenth Amendments to the United States Constitution. Jurisdiction is founded upon 28 U.S.C.
28 §§ 1331 and 1341(3) and (4) and the aforementioned statutory and constitutional provisions. Under

1 28 U.S.C. § 1367(a) the Court has supplemental jurisdiction over the state claims alleged herein.

2 **PARTIES**

3 2. Plaintiff DENNIS LEE BUTLER, and all those similarly situated, are, and at all
4 material times herein, were citizen of the United States and residents of the state of California who
5 were arrested within the period two (2) years before the filing of this Complaint and continuing to
6 this date, and who were subject to strip and/or visual body cavity searches at Santa Cruz County Jail
7 prior to being arraigned and/or without the Defendants first having, and recording in writing, a
8 reasonable suspicion that the searches would be productive of contraband or weapons. Plaintiff
9 Butler, and some of those he represents, were also subjected to repetitive strip searches, without there
10 being reasonable suspicion to believe he had acquired contraband; were strip searched, in groups
11 and/or were strip searched following return from Court at which he was ordered released on his own
12 recognizance and/or the charges were dismissed.

13 3. Defendants SANTA CRUZ COUNTY SHERIFF STEVE ROBBINS is, and at all
14 material times referred to herein, was the duly elected Sheriff of Santa Cruz County, responsible for
15 administering the jail facilities and for making, overseeing, and implementing the policies, practices,
16 and customs challenged herein relating to the operation of the Santa Cruz County Jail. He is sued
17 in his individual and official capacities.

18 4. Defendants SANTA CRUZ COUNTY SHERIFF'S DEPUTIES sued herein by their
19 fictitious names (Does 1 through 50) are all deputies who, as part of their duties at the Santa Cruz
20 County Jail, subjected Plaintiff and all those he represents, to pre-arraignment and/or visual body
21 cavity searches without having and/or recording in writing, a reasonable suspicion that the searches
22 would be productive of contraband or weapons and/or conducted the complained of searches so they
23 could be observed by persons not officially participating in the search; and/or performed repetitive
24 strip searches without having any reasonable suspicion to believe that, in the interim following the
25 earlier strip search, the detainees had acquired contraband; and/or who strip searches Plaintiff and
26 those he represents following return from Court at which the detainees were ordered released on their
27 own recognizance and/or their cases were dismissed.

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1 5. At all material times mentioned herein, each of the Defendants was acting under the
2 color of law, to wit, under color of statutes, ordinances, regulations, policies, customs and/or usages
3 of the state of California, SANTA CRUZ COUNTY, and/or the Santa Cruz County Sheriff's
4 Department.

5 6. Defendants whose names are not now known and who are sued by the fictitious
6 names of ROES 1 through 20, are all agents and/or employees of one or another of the other named
7 Defendants who ordered, condoned, authorized, covered-up, or otherwise associated with the
8 implementation of the illegal policies and practices relating to strip searches complained of herein.

9 7. Defendant SANTA CRUZ COUNTY is, and at all material times referred to herein,
10 was a division of the state of California, that maintained or permitted an official policy or custom
11 or practice causing or permitting the occurrence of the types of wrongs complained of herein, which
12 wrongs damaged Plaintiff and all those similarly situated, as herein alleged. Plaintiff's allegations
13 against the COUNTY OF SANTA CRUZ are based on acts and admissions of the SHERIFF and his
14 DEPUTIES and on acts and omissions of those who are COUNTY employees, and on the
15 COUNTY's breach of duty to protect the Plaintiff and all those who he represents, from the wrongful
16 conduct of said persons and employees.

17 8. Defendant SHERIFF OF SANTA CRUZ COUNTY, STEVE ROBBINS, in his
18 individual and official capacities also maintained or permitted an official policy or custom of causing
19 or permitting the occurrence of the types of wrongs committed herein, which wrongs damaged
20 Plaintiff, and all those similarly situated, as herein alleged.

21 9. Class action Plaintiffs are those similarly situated who, during the period, two (2)
22 years before the filing of this Complaint and continuing to this date were subjected by Defendants
23 to pre-arraignment strip and/or visual body cavity searches without Defendants having, and recording
24 in writing, a reasonable suspicion that the searches would be productive of contraband or weapons;
25 and/or who were strip searched prior to arraignment in an area that was observable by persons not
26 officially participating in the search; and/or who were subjected to repetitive strip searches without
27 there being reasonable suspicion that following the earlier strip search the detainees had acquired
28 contraband; and/or who were strip searched following return from Court at which they were ordered

1 released on their own recognizance and/or their charges were dismissed.

2 **FACTS**

3 10. On or about October 18, 2006, Plaintiff DENNIS LEE BUTLER (herein after referred
4 to as "Plaintiff") was arrested on warrants issued for vehicle code violations and transported to Santa
5 Cruz County Jail where, prior to arraignment, he was striped naked and, after waiting several
6 minutes during which time he was observed by multiple deputies, given clothing and taken with
7 several other detainees to housing where, in the presence of other detainees, he was required to
8 remove all of his clothes, bend over, spread his buttocks so that his anal area could be observed, then
9 turn around and lift his penis and scrotum so that the area of his genitalia could be scrutinized.
10 These procedures were performed, in a group so that Plaintiff could see and be seen by the other
11 detainees similarly strip searched.

12 11. Plaintiff was then placed in housing until it was time for him to go to Court to be
13 arraigned at which time, prior to leaving housing, he was again subjected to a group strip search, this
14 time in the presence of females, before being taken to Court at which he was ordered released on his
15 own recognizance. Upon returning from Court, Plaintiff was again subjected to a group strip search
16 and released from Santa Cruz County Jail.

17 12. Within six (6) months of the strip searches described in the previous paragraph,
18 Plaintiff filed a group government tort claim for himself and for all those persons similarly situated
19 (a copy of said claim is attached hereto as Exhibit "A", and incorporated here into the extent relevant
20 by this reference). Plaintiff's group claim was rejected by operation of law on February 9, 2007,
21 allowing the filing of this class action Complaint on state, statutory and constitutional grounds.

22 13. Plaintiff is informed and believes, and on that basis alleges, that Defendants routinely
23 followed their policy, practice, and custom of subjecting pre-arraignment detainees, including
24 Plaintiff, and all those he represents, to strip and visual body cavity searches without first having,
25 and recording in writing, a reasonable suspicion that the search will be productive of contraband
26 and/or weapons. Plaintiff is further informed and believes, and therefore alleges, that Defendants
27 routinely following their policy, practice, and custom of conducting the complained of searches in
28 the presence of persons not officially participating in the searches; of conducting repetitive strip

1 searches without having reasonable suspicion to believe the detainees have acquired contraband
2 following the earlier strip searches; and strip searched persons returning from Court after they have
3 been ordered released on their own recognizance and/or after their charges have been dismissed.

4 14. Defendant SANTA CRUZ COUNTY SHERIFF, STEVE ROBBINS, is personally
5 responsible for the promulgation and continuation of the strip search policy, practice, and custom
6 pursuant to which Plaintiff, and all those he represents, were subjected to strip searched in the
7 manner described above.

8 15. As a result of being subjected to the strip searches complained of herein, Plaintiff and
9 each of the persons similarly situated whom he purports to represents, suffered physical, mental, and
10 emotional distress, invasion of privacy, and violation of due process of law and state and federal
11 statutory and constitutional rights, and are entitled to recover damages, according to proof, and those
12 charged with misdemeanors, not involving violence, drugs or weapons, are entitled to recover
13 damages, according to proof, but at a minimum \$1,000 as specified in California Penal Code §
14 4030(p) and \$4,000 as specified in California Civil Code § 52 and 52.1(b); while those charged with
15 felonies not involving violence, drugs or weapons are entitled to collect damages according to proof,
16 as are those persons charged with offenses involving violence, drugs or weapons who could have
17 been legally strip searched upon intake, but who were repeatedly strip searched, strip searched in
18 groups, and/or strip searched after being OR'd or after their charges had been dismissed.

19 **CLASS CLAIMS**

20 16. The strip and visual body cavity searches to which Plaintiff, and all those similarly
21 situated, were subjected were performed pursuant to policies, practices, and customs of Defendants
22 SANTA CRUZ COUNTY SHERIFF STEVE ROBBINS, SANTA CRUZ COUNTY, the individual
23 SHERIFF'S DEPUTIES sued herein by the fictitious names 1 through 50, and the individuals whose
24 names are not now known and who are sued by the fictitious names of ROES 1 through 20. The
25 searches complained of herein were performed without regard to the nature of the alleged offenses
26 for which Plaintiff, and all those similarly situated, had been arrested, without regard to whether or
27 not Plaintiff, or those he represents, was eligible for cite and release under Penal Code § 853.6,
28 without regard to whether or not Plaintiff, and each of those similarly situated, was eligible for

1 and/or was released on his or her own recognizance. Furthermore, the searches complained of herein
2 were performed without Defendants having a reasonable belief that the Plaintiff, or any of those
3 similarly situated, so searched possessed weapons or contraband, and those facts being articulated
4 and recorded in a supervisor-approved document. In addition, the searches complained of herein
5 were repetitive without any reasonable belief that the Plaintiff, or those person similarly situated
6 whom he represents, had acquired contraband following the prior strip search. Furthermore, the
7 searches complained of herein were performed without Defendants taking reasonable precautions
8 to ensure that Plaintiff, and each of those similarly situated, was searched in an area affording
9 privacy and was not observed by others not participating in the search but, to the contrary, were, in
10 fact, performed in groups and when going to and returning from Court, performed in places where
11 Plaintiff, and others similarly situated, could be and were view by members of the opposite sex.

12 17. Plaintiff brings this action on his own behalf and on behalf of all persons similarly
13 situated pursuant to Rule 23, Federal Rules of Civil Procedure.

14 18. The Class is defined to include all persons who, in the period from and including two
15 (2) years prior to the filing of this Complaint, and continuing until this matter is adjudicated and the
16 practices complained of herein cease, were arrested and subjected to a pre-arraignment strip and or
17 visual body cavity search at the Santa Cruz County Jail without Defendants first having, and
18 recording in writing, a reasonable suspicion that the search would be productive of contraband or
19 weapons. This class includes persons who were arrested on felonies and/or misdemeanors or
20 infractions. The class includes all persons who were subjected to repetitive strip searches with no
21 reasonable suspicion to believe that the detainees searched had acquired contraband subsequent to
22 the prior search. The class also includes all those persons who were subjected to pre-arraignment
23 strip and/or visual body cavity searches in the presence of persons who were not officially
24 participating in such searches and/or those who were searched in places where they could be and
25 were visualized by members of the opposite sex. Finally, the class includes all persons strip searched
26 upon returning from Court after they were released on their own recognizance and/or the charges
27 against them were dismissed.

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1 19. In accordance with Federal Rules of Civil Procedure, Rule 23 (a), the members of the
2 class are so numerous that joinder of all members is impractical. Plaintiff does not know the exact
3 number of class members. Plaintiff is informed and believes, and thereupon alleges, that there are
4 more than 40 persons per day who are arrested by Defendants and/or in the custody of Defendants
5 who are subjected to the searches complained of herein as a result of Defendants' policy, practice,
6 and custom relating to said searches.

7 20. In accordance with Federal Rules of Civil Procedure, Rule 23(a), Plaintiff is informed
8 and believes, and thereupon alleges, that there are many questions of fact common to the class
9 including, but not limited to: (1) whether Defendants routinely subject all persons arrested to visual
10 body cavity searches prior to arraignment whether or not they intend such persons to be housed in
11 the SANTA CRUZ County Jail; (2) whether Defendants routinely subject all persons arrested to
12 visual body cavity searches prior to arraignment if they intend such persons to be housed in the
13 SANTA CRUZ County Jail; (3) whether persons are subjected to strip and/or visual body cavity
14 searches prior to arraignment without there being any reasonable suspicion, based on specific or
15 articulable facts, to believe that any particular arrestee has concealed drugs, weapons, and/or
16 contraband in bodily cavities which could be detected by means of a strip and/or visual body cavity
17 search; (4) whether the strip and/or visual body cavity searches are conducted in an area of privacy
18 so that the searches cannot be observed by persons not participating in the searches; (5) whether the
19 strip and/or visual body cavity searches are conducted in groups; (6) whether the strip and/or visual
20 body cavity searches are performed on detainees following their return from Court at which they
21 have been ordered released on their own recognizance and/or their cases have been dismissed; (7)
22 whether the strip and/or visual cavity searches are reasonably related to Defendants' penological
23 interest to maintain the security of the jail and whether or not there are less intrusive methods for
24 protecting any such interest; and (8) whether repetitive strip and/or visual body cavity searches are
25 performed without an intervening opportunity for the detainees to receive contraband.

26 21. In accordance with Federal Rules of Civil Procedure, Rule 23(a), Plaintiff is informed
27 and believes, and thereupon alleges, that there are many questions of law common to the class
28 including, but not limited to: (1) whether Defendants may perform strip and/or visual body cavity

1 searches on persons prior to their arraignment without reasonable suspicion, based on specific or
2 articulable facts, to believe any particular pre-arraignment detainee has concealed drugs, weapons
3 and/or contraband which would likely be discovered by a strip and/or visual body cavity search; (2)
4 whether Defendants may perform strip and/or visual body cavity searches on persons without first
5 reasonably relating the use of the subject search to Defendants' penological interest to maintain the
6 security of the jail and determining if there is a less intrusive method to protect that interest; (3)
7 whether strip and/or visual body cavity searches may be conducted in areas where the search can be
8 observed by people not participating in the search without violating Plaintiff's state and federal
9 constitutional rights and Plaintiff's state statutory rights; (4) whether or not Defendants' strip search
10 policy and procedure is in accordance with the State and/or Federal Constitution; (5) whether or not
11 Defendants' policy and procedure of conducting pre-arraignment strip searches in groups violates
12 Plaintiff's state and/or federal constitutional rights to privacy; (6) whether or not Plaintiff's claims
13 under Penal Code § 4030 are barred by the provisions of Government Code § 844.6; (7) whether or
14 not repetitive strip searches without an intervening opportunity for detainees to acquire contraband
15 violate state and/or federal statutory and/or constitutional law; (8) whether the strip and/or visual
16 body cavity search of persons returning to Court after they have been ordered released on their own
17 recognizance or their cases are dismissed constitute a violation of state and/or federal statutory
18 and/or constitutional law; and (9) whether or not Defendants have an immunity defense to Plaintiff's
19 claims under Civil Code §§ 52 and 52.1, and whether or not those claims are actionable in a class
20 action.

21 22. In accordance with Federal Rules of Civil Procedure, Rule 23(a), the claims of the
22 representative Plaintiff is typical of the class. Plaintiff was searched, prior to arraignment, without
23 reasonable suspicion that a strip or visual body cavity search would produce drugs, weapons or
24 contraband (and without the facts supporting any such suspicion being articulated in a supervisor-
25 approved writing). Representative Plaintiff has the same interests and suffered the same type of
26 injuries as all of the class members. Plaintiff's claims arose because of Defendants' policy, practice,
27 and custom of subjecting arrestees to strip and/or visual body cavity searches before arraignment
28 without having, and recording in writing, a reasonable suspicion that the search would be productive

1 of contraband or weapons. Furthermore, Plaintiff's claims include claims of repetitive strip searches
2 and being strip searched following return from Court after he had been ordered released on his own
3 recognizance. These are claims common to other members of the class or sub-class of those whom
4 Plaintiff seeks to represent. Each class member suffered actual damages as a result of being
5 subjected to a strip and/or visual body cavity search. The actual damages suffered by the
6 representative Plaintiff is similar in type and amount to the actual damages suffered by each class
7 member.

8 23. In accordance with Federal Rules of Civil Procedure, Rule 23(a), the representative
9 Plaintiff will fairly and adequately protect the class interests. Plaintiff's interests are consistent with
10 and not antagonistic to the interests of the class, even though not each member of the class will,
11 necessarily, have been strip searched under all of the policies complained of herein or be in the sub-
12 class of persons entitled to damages under Penal Code § 4030 and/or Civil Code § 52 and 52.1.

13 24. In accordance with Federal Rules of Civil Procedure, Rule 23(b)(1)(A), prosecutions
14 of separate actions by individual members of the class would create a risk that inconsistent or
15 varying adjudications with respect to individual members of the class would establish incompatible
16 standards of conduct for the parties opposing the Complaint.

17 25. In accordance with Federal Rules of Civil Procedure, Rule 23(b)(1)(B), prosecutions
18 of separate actions by individual members of the class would create a risk of inconsistent
19 adjudications with respect to individual members of the class which would, as a practical matter,
20 substantially impair or impede the interests of the other members of the class to protect their
21 interests.

22 26. In accordance with Federal Rules of Civil Procedure, Rule 23(b)(2), Plaintiff is
23 informed and believes, and thereupon alleges, that Defendants have acted on grounds generally
24 applicable to the class, thereby making appropriate the final injunctive or declaratory relief with
25 respect to the class as a whole.

26 27. In accordance with Federal Rules of Civil Procedure, Rule 23(b)(3), this class action
27 is superior to other available methods for the fair and equitable adjudication of the controversy
28 between the parties. Plaintiff is informed and believes, and thereupon alleges, that the interests of

1 members of the class in individually controlling the prosecution of a separate action is low, in that
2 most class members would be unable individually to prosecute any action at all. Plaintiff also is
3 informed and believes, and thereupon alleges, that the amounts at stake for individuals are so small
4 that separate suits would be impracticable. Plaintiff is informed and believes, and thereupon alleges,
5 that most members of the class will not be able to find counsel to represent them. Plaintiff is
6 informed and believes, and thereupon alleges, that it is desirable to concentrate all litigation in one
7 forum because all of the claims arise in the same location; i.e., the SANTA CRUZ County Jail. It
8 will promote judicial efficiency to resolve the common questions of law and fact in one forum, rather
9 than in multiple Courts.

10 28. Plaintiff does not know the identities of all of the class members. Plaintiff is
11 informed and believes, and thereupon alleges, that the identities of the class members may be
12 ascertained from records maintained by SANTA CRUZ COUNTY and Defendant SANTA CRUZ
13 COUNTY SHERIFF STEVE ROBBINS and the Defendants' Sheriff's Department. Plaintiff is
14 informed and believes, and thereupon alleges, that Defendants' records reflect the identities,
15 including addresses and telephone numbers, of the persons who have been held in custody in the
16 SANTA CRUZ County Jail. Plaintiff is informed and believes, and thereupon alleges, that records
17 of and maintained by Defendants reflect who was subject to a strip and/or visual body cavity search,
18 when the search or searches occurred, where the search or searches occurred, whether any reasonable
19 suspicion for such search existed and was recorded in a supervisor-approved writing, whether the
20 search was conducted in a group, when persons searched were arraigned, and the charges on which
21 such persons were arrested. Plaintiff is informed and believes, and thereupon alleges, that all of the
22 foregoing information is contained in Defendants' computer system and that the information
23 necessary to identify the class members, by last known addresses, and the dates and reasons for their
24 arrests and/or release from custody, is readily available from said computer system.

25 29. In accordance with Federal Rules of Civil Procedure, Rule 23(c)(2)(b), class members
26 must be furnished with the best notice practicable under the circumstances, including individual
27 notice to all members who can be identified through reasonable effort. Plaintiff is informed and
28 believes, and thereupon alleges, that Defendants' computer records contain a last known address for

1 each class members. Plaintiff contemplates that individual notice will be given to class members
2 at such last known addresses by first class mail. Plaintiff contemplates that the notice will inform
3 class members of the following:

- 4 i. The pendency of the class action and the issues common to the class;
- 5 ii. The nature of the action;
- 6 iii. Their right to "opt out" of the action within a given time, in which event they
7 will not be bound by a decision rendered in the class action;
- 8 iv. Their right, if they do not "opt out," to be represented by their own counsel
9 and to enter an appearance in the case; otherwise they will be represented by
10 the named class Plaintiff(s) and the named class Plaintiff(s)' counsel; and
- 11 v. Their right, if they do not "opt out," to share in any recovery in favor of the
12 class, and conversely to be bound by any judgment on the common issues
13 adverse to the class.

14 **COUNT ONE**

15 (Violation of Fourth and Fourteenth Amendments to the U.S. Constitution
on behalf of Plaintiff and all persons similarly situated)

16 30. Plaintiff re-alleges and hereby incorporates herein the preceding paragraphs of this
17 Complaint, to the extent relevant, as if fully set forth.

18 31. Defendants' policies, practices, and customs regarding the strip and visual body cavity
19 searches complained of herein violated the rights of Plaintiff, and all those similarly situated, under
20 the Fourth Amendment to be free from unreasonable searches and seizures; violated the rights of
21 Plaintiff, and all those similarly situated, to due process and privacy under the Fourteenth
22 Amendment; and directly and proximately damaged Plaintiff, and all those similarly situated, as
23 herein alleged, entitling Plaintiff, and all class members, to recover damages for said constitutional
24 violations pursuant to 42 U.S.C. § 1983.

25 WHEREFORE, Plaintiff prays for relief, for himself and for all persons similarly situated,
26 as hereunder appears.

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COUNT TWO

(California State Unruh Civil Rights Act, Civil Code §§ 52 and 52.1,
on behalf of Plaintiffs and all persons similarly situated)

32. Plaintiff re-alleges and hereby incorporates herein the preceding paragraphs of this
Complaint, to the extent relevant, as if fully set forth.

33. Defendants' policies, practices, and customs regarding the strip and visual body cavity
searches complained of herein violated the rights of Plaintiff, and all those similarly situated, to
privacy as secured by Article I, Section 1 of the California Constitution and directly and proximately
damaged Plaintiff, and each of those similarly situated, as herein alleged, entitling said Plaintiff, and
each of those she represents, to recover a minimum of \$4,000 each pursuant to California Civil Code
§ 52.1 and § 52, in addition to other damages.

WHEREFORE, Plaintiff prays for relief, for himself and for all persons similarly situated,
as hereunder appears.

COUNT THREE

(Violation of California Penal Code § 4030,
California State Unruh Civil Rights Act, Civil Code §§ 52 and 52.1,
on behalf of Plaintiffs and all persons similarly situated)

34. Plaintiff re-alleges and hereby incorporates herein the preceding paragraphs of this
Complaint, to the extent relevant, as if fully set forth.

35. Defendants' policies, practices, and customs regarding the strip and visual body cavity
searches complained of herein violated rights secured to Plaintiff, and all those similarly situated,
arrested on misdemeanor or infraction offenses not involving violence, drugs or weapons, under
California Penal Code § 4030 and directly and proximately damaged Plaintiff, and each of those
similarly situated, as herein alleged, entitling Plaintiff, and each of those similarly situated, to
recover a minimum of \$1,000 each pursuant to California Penal Code § 4030(p), and to further
minimum damages of \$4,000 each pursuant to California Civil Code § 52.1 and § 52, in addition to
other damages.

WHEREFORE, Plaintiff prays for relief, for himself and for all persons similarly situated,
as hereunder appears.

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COUNT FOUR

(Invasion of Privacy, on behalf Plaintiff and all persons similarly situated)

36. Plaintiff re-alleges and hereby incorporates herein the preceding paragraphs of this Complaint, to the extent relevant, as if fully set forth.

37. By strip searching Plaintiff, and all those similarly situated, in a non-private area that could be viewed by persons not participating in the strip search, Defendants, and each of them, violated the rights of Plaintiff, and each of those similarly situated, to privacy as secured by the California Sate Constitution, Article I, Section 1, and directly and proximately damaged Plaintiff, and each of those he represents, by causing emotional distress, humiliation, and embarrassment.

WHEREFORE, Plaintiff prays for relief, for himself and for all persons similarly situated, as hereunder appears.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of himself and all those similar situated, seeks judgment as follows:

1. For declaratory and injunctive relief declaring illegal and enjoining, preliminarily and permanently, Defendants' policies, practices, and customs of subjecting pre-arraignment detainees to strip and visual body cavity searches without having a reasonable suspicion that such searches would be productive of contraband or weapons, and conducting such searches in a non-private area observable by persons not participating in the search;

2. For declaratory and injunctive relief declaring illegal and enjoining, preliminarily and permanently, Defendants' policies, practices, and customs of subjecting persons returning from Court where they were ordered released on their own recognizance and/or their cases were dismissed to visual body cavity searches, without Defendants first having a reasonable suspicion that such searches would be productive of contraband or weapons and/or conducting such searches in a non-private area observable by persons not participating in the search;

3. Certification as a class action of Plaintiff's Complaints concerning Defendants' policy, practice, and custom of subjecting pre-arraignment detainees to strip and/or visual body cavity searches without having a reasonable suspicion that such searches would be productive of

1 contraband or weapons;

2 4. Certification as a class action of Plaintiff's Complaints concerning Defendants'
3 policy, practice and custom of subjecting persons to visual body cavity searches in groups;

4 5. Certification as a class action of Plaintiff's Complaints concerning Defendants'
5 policy, practice and custom of subjecting persons returning from Court where they have been ordered
6 released on their own recognizance and/or their cases have been dismissed to strip and/or visual body
7 cavity searches without reasonable suspicion to believe that the persons so stripped were concealing
8 contraband or weapons;

9 6. For compensatory, general, and special damages for each representative Plaintiff and
10 for each member of the class of Plaintiffs as against all Defendants;

11 7. Exemplary damages as against each of the individual Defendants in an amount
12 sufficient to deter and to make an example of those Defendants;

13 8. In addition to compensatory and statutory damages as required by law, at least \$4,000
14 for each Plaintiff pursuant to California Civil Code § 52.1 and § 52 for each violation thereof;

15 9. In addition to compensatory and statutory damages as allowed by law and pursuant
16 to California Penal Code § 4030, at least \$1,000 for each Plaintiff for each violation of California
17 Penal Code § 4030 suffered thereby;

18 10. Attorney's fees and costs under 42 U.S.C. § 1988, California Civil Code § 52(b)(3),
19 California Civil Code § 52.1(h), California Code of Civil Procedure § 1021.5; and California Penal
20 Code § 4030(p); and

21 11. The costs of this suit and such other relief as the Court finds just and proper.

22 DATED: February 12, 2007

Respectfully submitted,

LAW OFFICE OF MARK E. MERIN

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25 BY: 

26 Mark E. Merin
Attorney for Plaintiff

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DEMAND FOR JURY TRIAL

Jury trial is demanded on behalf of Plaintiff, and all those he seeks to represent.

DATED: February 12, 2007

Respectfully submitted,

LAW OFFICE OF MARK E. MERIN

BY: 

Mark E. Merin
Attorney for Plaintiff