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9 Attorneys for Plaintiffs

—o0o—

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA

—o0o—

12 ELIN SPELLMAN, on behalf of herself and all
13 those similarly situated;

14 Plaintiffs,

15 v.

16 HUMBOLDT COUNTY, HUMBOLDT
17 COUNTY SHERIFF GARY PHILP, IN HIS
18 INDIVIDUAL AND OFFICIAL CAPACITIES,
19 HUMBOLDT COUNTY SHERIFF'S
20 DEPARTMENT, HUMBOLDT COUNTY
21 SHERIFF'S DEPUTIES DOES 1 THROUGH 50,
22 AND ROES 1 THROUGH 20, INCLUSIVE,

23 Defendants.

24 **C 05 0568**
25 **CLASS ACTION COMPLAINT**
26 **DEMAND FOR JURY TRIAL**

PLAINTIFF ALLEGES:

INTRODUCTION

27 This is an action for declaratory and injunctive relief, damages, and punitive damages against
28 the HUMBOLDT COUNTY, HUMBOLDT COUNTY SHERIFF'S DEPARTMENT, HUMBOLDT
29 COUNTY SHERIFF GARY PHILP, Individually and in His Official Capacity, HUMBOLDT
30 COUNTY SHERIFF'S DEPUTIES sued under their fictitious names as DOES 1 THROUGH 50, and

ORIGINAL
FILED

05 FEB -8 PM 3:34

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

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1 ROES 1 THROUGH 20, for violations of plaintiff's constitutional rights resulting from application of
2 HUMBOLDT County's and the Sheriff's policies, practices, and customs concerning the use of strip
3 searches and visual body cavity searches in HUMBOLDT County Jails. Plaintiff seeks an order
4 declaring illegal defendants' policy of subjecting detainees in their custody to strip and visual body
5 cavity searches before they are arraigned and without having any reasonable suspicion that the searches
6 will be productive of contraband.

7 Defendants' strip search and visual body cavity search policies, practices, and customs violate
8 those rights of plaintiff, and all those she represents, that are secured by the Fourth and Fourteenth
9 Amendments to the United States Constitution and entitle plaintiff, and all those similarly situated, to
10 recover damages under the Federal Civil Rights Act (42 U.S.C. § 1983).

11 Additionally, plaintiff includes, on behalf of herself and on behalf of all those she represents,
12 supplemental claims under California state law against defendants: 1) for violation of California Penal
13 Code § 4030 which prohibits pre-arraignment strip searches of most misdemeanants and provides for
14 minimum damages of \$1,000 for each illegal search; and 2) for violation of the Bane Civil Rights Act
15 (California Civil Code § 52 and § 52.1(b)) pursuant to which plaintiff and each similarly situated
16 person denied a statutory, state, federal, or constitutional right is entitled to recover a minimum of
17 \$4,000 for each violation.

18 JURISDICTION

19 This action is brought pursuant to 42 USC §§ 1983 and 1988, and the Fourth and Fourteenth
20 Amendments to the United States Constitution. Jurisdiction is founded upon 28 USC §§ 1331 and
21 1341(3) and (4) and the aforementioned statutory and constitutional provisions.

22 1. Under 28 USC § 1367(a) the Court has supplemental jurisdiction over the state claims
23 alleged herein.

24 2. The amount in controversy exceeds \$10,000, excluding interest and costs.

25 ///

26 ///

PARTIES

1
2 3. Plaintiff ELIN SPELLMAN, and all those similarly situated, are, and at all material
3 times herein, were citizens of the United States and residents of the state of California who were
4 arrested within the period beginning two (2) years before the filing of this Complaint, and continuing
5 to this date, and who were subjected to strip and/or visual body cavity searches at a HUMBOLDT
6 County Jail (hereinafter referred to as the "HUMBOLDT County Jail"), prior to being arraigned and/or
7 without the defendants first having, and recording in writing, a reasonable suspicion that the searches
8 would be productive of contraband or weapons.

9 4. Defendant HUMBOLDT COUNTY SHERIFF GARY PHILP is, and at all material
10 times referred to herein, was the duly elected Sheriff of the HUMBOLDT COUNTY, responsible for
11 administering the Jail facilities and for making, overseeing, and implementing the policies, practices,
12 and customs challenged herein relating to the operation of the HUMBOLDT County Jail. He is sued
13 in his individual and official capacities.

14 5. Defendants HUMBOLDT COUNTY SHERIFF DEPUTIES sued herein by their
15 fictitious names (Does 1 through 50) are all deputies who, as part of their duties at the HUMBOLDT
16 County Jail, subjected plaintiff, and all those she represents, to pre-arraignment strip and/or visual
17 body cavity searches without having, and recording in writing, a reasonable suspicion that the searches
18 would be productive of contraband or weapons.

19 6. At all material times mentioned herein, each of the defendants was acting under the
20 color of law, to wit, under color of statutes, ordinances, regulations, policies, customs and usages of
21 the state of California, the HUMBOLDT COUNTY and/or the HUMBOLDT COUNTY SHERIFF'S
22 DEPARTMENT.

23 7. Defendants whose names are not now known and who are sued by the fictitious names
24 of ROES 1 through 20, are all agents and/or employees of one or another of the other named
25 defendants who ordered, condoned, authorized, covered up, or were otherwise associated with the
26 implementation of the illegal policy and practices relating to strip searches complained of herein.

1 8. Defendant HUMBOLDT COUNTY is, and at all material times referred to herein, was
2 a division of the state of California, that maintained or permitted an official policy or custom or
3 practice causing or permitting the occurrence of the types of wrongs complained of herein, which
4 wrongs damaged plaintiff, and all those similarly situated, as herein alleged. Plaintiff's allegations
5 against the COUNTY are based on acts and omissions of the SHERIFF and his DEPUTIES and on acts
6 and omissions of persons who are COUNTY employees, and on the COUNTY's breach of its duty to
7 protect plaintiff, and all those she represents, from the wrongful conduct of said persons and
8 employees.

9 9. Defendants HUMBOLDT COUNTY SHERIFF'S DEPARTMENT and HUMBOLDT
10 COUNTY SHERIFF GARY PHILP, in his Individual and Official Capacity, also maintained or
11 permitted an official policy or custom of causing or permitting the occurrence of the types of wrongs
12 complained of herein, which wrongs damaged plaintiff, and all those similarly situated, as herein
13 alleged.

14 10. Class action plaintiffs are those similarly situated who, during the period beginning two
15 (2) years before the filing of this Complaint, and continuing to this date, were subjected by defendants
16 to pre-arraignment strip and/or visual body cavity searches without defendants having, and recording
17 in writing, a reasonable suspicion that the searches would be productive of contraband or weapons.

18
19 **FACTS**

20 11. On or about September 23, 2004, plaintiff ELIN SPELLMAN (hereinafter referred to as
21 "plaintiff") was arrested for allegedly driving under the influence of alcohol. Plaintiff was taken to the
22 HUMBOLDT County Jail in Eureka, California, where she was coerced, forced, and compelled to
23 disrobe so that she was naked from the waist up in the presence of persons who were not participating
24 in the search and who were of the opposite sex.

25 12. Plaintiff is informed and believes, and thereon alleges, that she, like all those she
26 represents, was videotaped during the complained of search, and that the videotaping of those

1 subjected to the complained of searches is a component of the defendants' strip/visual body cavity
2 search policy, custom, and practice.

3 13. Within six (6) months of the aforesaid strip search, plaintiff filed a group Government
4 Tort Claim for herself and for all persons similarly situated (a copy of said claim is attached hereto as
5 Exhibit "A", and incorporated herein to the extent relevant by this reference). Plaintiff's group claim
6 was denied on or about January 10, 2005, allowing the filing of this class action complaint on state
7 statute and constitutional violations.

8 14. Plaintiff is informed and believes, and therefore alleges, that defendants routinely
9 follow their policy, practice, and custom of subjecting pre-arraignment detainees, including plaintiff,
10 and all those she represents, to strip and visual body cavity searches without first having, and recording
11 in writing, a reasonable suspicion that the search will be productive of contraband or weapons.
12 Plaintiff is further informed and believes, and therefore alleges, that defendants routinely follow their
13 policy, practice, and custom of videotaping the complained of searches.

14 15. Plaintiff is informed and believes, and thereon alleges, that defendants have the ability
15 to identify all such similarly situated plaintiffs, specifically those who, while in defendants' custody, at
16 the HUMBOLDT County Jail within two (2) years prior to the filing of this Complaint, were subjected
17 to strip searches and/or visual body cavity searches prior to arraignment without defendants having
18 first, and recording, a reasonable suspicion that the searches would be productive of contraband or
19 weapons.

20 16. Defendant HUMBOLDT COUNTY SHERIFF GARY PHILP is personally responsible
21 for the promulgation and continuation of the strip search policy, practice, and custom pursuant to
22 which plaintiff, and those she represents, were subjected.

23 17. As a result of being subjected to the strip searches complained of herein, plaintiff, and
24 each of the persons similarly situated, suffered physical, mental, and emotional distress, invasion of
25 privacy, and violation of due process of law and state and federal statutory and constitutional rights,
26

1 and is entitled to recover damages according to proof but, at a minimum, \$1,000 as specified in
2 California Penal Code § 4030(p) and \$4,000 as specified in California Civil Code § 52 and § 52.1(b).

3 CLASS CLAIMS

4 18. The strip and visual body cavity searches to which plaintiff, and all those similarly
5 situated, were subjected were performed pursuant to policies, practices, and customs of defendants
6 HUMBOLDT COUNTY SHERIFF GARY PHILP, HUMBOLDT COUNTY SHERIFF'S
7 DEPARTMENT, HUMBOLDT COUNTY, the individual SHERIFF'S DEPUTIES sued herein by the
8 fictitious names 1 through 50, and the individuals whose names are not now known and who are sued
9 by the fictitious names of ROES 1 through 20. The searches complained of herein were performed
10 without regard to the nature of the alleged offense for which plaintiff, and all those similarly situated,
11 had been arrested, without regard to whether or not plaintiff, or those she represents, was eligible for
12 cite and release under Penal Code § 853.6, without regard to whether or not plaintiff, and each of those
13 similarly situated, was eligible for and/or was released on his or her own recognizance. Furthermore,
14 the searches complained of herein were performed without defendants having a reasonable belief that
15 the plaintiff, or any of those similarly situated, so searched possessed weapons or contraband, and
16 those facts being articulated and recorded in a supervisor-approved document. And the searches
17 complained of herein were performed without defendants taking reasonable precautions to make
18 certain that plaintiff, and each of those similarly situated, was not observed by others not involved in
19 the search and/or of the opposite sex. Additionally, plaintiff is informed and believes, and thereon
20 alleges, that a component of the searches complained of herein was defendants' videotaping of the
21 plaintiff, and each of those similarly situated.

22 19. Plaintiff brings this action on her own behalf and on behalf of all persons similarly
23 situated pursuant to Rule 23, Federal Rules of Civil Procedure.

24 20. The class is defined to include all persons who, in the period from and including two (2)
25 years prior to the filing of this Complaint, and continuing until this matter is adjudicated and the
26 practices complained of herein cease, were arrested and subjected to a pre-arraignment strip and/or

1 visual body cavity search at the HUMBOLDT County Jail without defendants first having, and
2 recording in writing, a reasonable suspicion that the search would be productive of contraband or
3 weapons.

4 21. In accordance with Federal Rules of Civil Procedure, Rule 23(a), the members of the
5 class are so numerous that joinder of all members is impractical. Plaintiff does not know the exact
6 number of class members. Plaintiff is informed and believes, and thereupon alleges, that there are
7 more than 10 persons per day who are arrested by defendants and/or in the custody of defendants and
8 are subjected to the searches complained of herein as a result of defendants' policy, practice, and
9 custom relating to said searches.

10 22. In accordance with Federal Rules of Civil Procedure, Rule 23(a), plaintiff is informed
11 and believes, and thereupon alleges, that there are many questions of fact common to the class
12 including, but not limited to: (1) whether defendants routinely subject all persons arrested to visual
13 body cavity searches prior to arraignment if they intend such persons to be housed in the HUMBOLDT
14 County Jail; (2) whether persons are subjected to strip and/or visual body cavity searches prior to
15 arraignment without there being any reasonable suspicion, based on specific or articulable facts, to
16 believe any particular arrestee has concealed drugs, weapons, and/or contraband in bodily cavities
17 which could be detected by means of a strip and/or visual body cavity search; (3) whether the strip
18 and/or visual body cavity searches are conducted in an area of privacy so that the searches cannot be
19 observed by persons not participating in the searches; (4) whether the strip and/or visual body cavity
20 searches are videotaped and whether and under what circumstances said videotapes are subsequently
21 viewed; and, (5) whether the strip and/or visual body cavity searches are reasonably related to
22 defendants' penological interest to maintain the security of the jail and whether or not there are less
23 intrusive methods for protecting any such interest.

24 23. In accordance with Federal Rules of Civil Procedure, Rule 23(a), plaintiff is informed
25 and believes, and thereupon alleges, that there are many questions of law common to the class
26 including, but are 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 prearraignment 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 plaintiffs' State and Federal
9 constitutional rights and plaintiffs' 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 videotaping those subjected to the complained of searches violates
12 plaintiffs' State and/or Federal Constitutional rights to privacy; (6) whether or not plaintiffs' claims
13 under Penal Code § 4030 are barred by the provisions of Government Code § 844.6; and, (7) whether
14 or not defendants have an immunity defense to plaintiffs' claims under Civil Code §§ 52 and 52.1, and
15 whether or not those claims are actionable in a class action.

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

1 25. In accordance with Federal Rules of Civil Procedure, Rule 23(a), the representative
2 plaintiff will fairly and adequately protect the class interests. Plaintiff's interests are consistent with
3 and not antagonistic to the interests of the class.

4 26. In accordance with Federal Rules of Civil Procedure, Rule 23(b)(1)(A), prosecutions of
5 separate actions by individual members of the class would create a risk that inconsistent or varying
6 adjudications with respect to individual members of the class would establish incompatible standards
7 of conduct for the parties opposing the complaint.

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

12 28. In accordance with Federal Rules of Civil Procedure, Rule 23(b)(2), plaintiff is
13 informed and believes, and thereupon alleges, that defendants have acted on grounds generally
14 applicable to the class, thereby making appropriate the final injunctive or declaratory relief with
15 respect to the class as a whole.

16 29. In accordance with Federal Rules of Civil Procedure, Rule 23(b)(3), this class action is
17 superior to other available methods for the fair and equitable adjudication of the controversy between
18 the parties. Plaintiff is informed and believes, and thereupon alleges, that the interests of members of
19 the class in individually controlling the prosecution of a separate action is low, in that most class
20 members would be unable individually to prosecute any action at all. Plaintiff also is informed and
21 believes, and thereupon alleges, that the amounts at stake for individuals are so small that separate
22 suits would be impracticable. Plaintiff is informed and believes, and thereupon alleges, that most
23 members of the class will not be able to find counsel to represent them. Plaintiff is informed and
24 believes, and thereupon alleges, that it is desirable to concentrate all litigation in one forum because all
25 of the claims arise in the same location; i.e., the HUMBOLDT County Jail. It will promote judicial
26

1 efficiency to resolve the common questions of law and fact in one forum, rather than in multiple
2 courts.

3 30. Plaintiff does not know the identities of all of the class members. Plaintiff is informed
4 and believes, and thereupon alleges, that the identities of the class members may be ascertained from
5 records maintained by the HUMBOLDT COUNTY and defendant SHERIFF GARY PHILP and
6 defendant HUMBOLDT COUNTY SHERIFF'S DEPARTMENT. Plaintiff is informed and believes,
7 and thereupon alleges, that defendants' records reflect the identities, including addresses and telephone
8 numbers, of the persons who have been held in custody in the HUMBOLDT County Jails. Plaintiff is
9 informed and believes, and thereupon alleges, that records of, and maintained by defendants reflect
10 who was subject to a strip and/or visual body cavity search, when the search occurred, where the
11 search occurred, whether any reasonable suspicion for the search existed and was recorded in a
12 supervisor-approved writing, whether the search was videotaped, when persons searched were
13 arraigned, and the charges on which such persons were arrested. Plaintiff is informed and believes,
14 and thereupon alleges, that all of the foregoing information is contained in defendants' computer
15 system and that the information necessary to identify the class members, by last known addresses, and
16 the dates and reasons for their arrests and/or release from custody, is readily available from said
17 computer system.

18 31. In accordance with Federal Rules of Civil Procedure, Rule 23(c)(2)(b), class members
19 must be furnished with the best notice practicable under the circumstances, including individual notice
20 to all members who can be identified through reasonable effort. Plaintiff is informed and believes, and
21 thereupon alleges, that defendants' computer records contain a last known address for class members.
22 Plaintiff contemplates that individual notice will be given to class members at such last known address
23 by first class mail. Plaintiff contemplates that the notice will inform class members of the following:

- 24 i. The pendency of the class action and the issues common to the class;
25 ii. The nature of the action;

1 each of those she represents, to recover a minimum of \$4,000 each pursuant to California Civil Code §
2 52.1 and § 52, in addition to other damages.

3 WHEREFORE, plaintiff prays for relief, for herself and for all persons similarly situated, as
4 hereunder appears.

5
6 **COUNT THREE**

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

8 34. Defendants' policies, practices, and customs regarding the strip and visual body cavity
9 searches complained of herein violated rights secured to plaintiff, and all those similarly situated,
10 under California Penal Code § 4030 and directly and proximately damaged plaintiff, and each of those
11 similarly situated, as herein alleged, entitling plaintiff, and each of those similarly situated, to recover a
12 minimum of \$1,000 each pursuant to California Penal Code § 4030(p), and to further minimum
13 damages of \$4,000 each pursuant to California Civil Code § 52.1 and § 52, in addition to other
14 damages.

15 WHEREFORE, plaintiff prays for relief, for herself and for all persons similarly situated, as
16 hereunder appears.

17
18 **COUNT FOUR**

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

19 35. By videotaping plaintiff, and each of those she represents, while she, and each of those
20 she represents, was subjected to the searches complained of herein, defendants, and each of them,
21 violated plaintiff's, and each of those similarly situated's, right to privacy as secured by the California
22 State Constitution, Article I, Section 1, and directly and proximately damaged plaintiff, and each of
23 those she represents, by causing emotional distress, humiliation, and embarrassment.

24 WHEREFORE, plaintiff prays for relief, for herself and for all persons similarly situated, as
25 hereunder appears.

26 ///

PRAYER FOR RELIEF

1
2 WHEREFORE, plaintiff, on behalf of herself and all those similarly situated, seeks judgment
3 as follows:

4 1. For declaratory and injunctive relief declaring illegal and enjoining, preliminarily and
5 permanently, defendants' policies, practices, and customs of subjecting pre-arraignment detainees to
6 strip and visual body cavity searches without having a reasonable suspicion that such searches would
7 be productive of contraband or weapons;

8 2. Certification as a class action of plaintiff's complaints concerning defendants' policies,
9 practice, and customs of subjecting pre-arraignment detainees to strip and visual body cavity searches
10 without having a reasonable suspicion that such searches would be productive of contraband or
11 weapons;

12 3. For compensatory, general, and special damages for each representative and for each
13 member of the class of plaintiffs, as against all defendants;

14 4. Exemplary damages as against each of the individual defendants in an amount sufficient
15 to deter and to make an example of those defendants;

16 5. In addition to compensatory and statutory damages as allowed by law, at least \$4,000
17 for each plaintiff pursuant to California Civil Code § 52.1 and § 52, for each violation thereof;

18 6. In addition to compensatory and statutory damages as allowed by law, at least \$1,000
19 for each plaintiff pursuant to California Penal Code § 4030;

20 7. Attorneys' fees and costs under 42 U.S.C. § 1988, California Civil Code § 52(b)(3),
21 California Civil Code § 52.1(h), California Code of Civil Procedure § 1021.5 and California Penal
22 Code ; and § 4030(p); and

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1 8. The cost of this suit and such other relief as the court finds just and proper.

2 DATED: February 4, 2005

Respectfully submitted,

3 LAW OFFICE OF MARK E. MERIN

4
5 BY: 

6 Mark E. Merin
Attorney for Plaintiffs

7 A JURY TRIAL IS DEMANDED.

8 Respectfully submitted,

9 LAW OFFICE OF MARK E. MERIN

10
11 BY: 

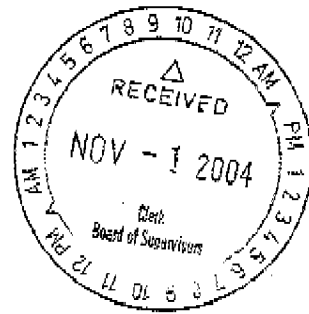
12 Mark E. Merin
Attorney for Plaintiffs

13 S:\Wp\Work\Strip Search Cases\Spellman, Elin\Pleadings\Complaint.wpd

EXHIBIT A

1 LAW OFFICES OF MARK E. MERIN
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4 2001 P Street, Suite 100
5 Sacramento, California 95814
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8 Email: mark@markmerin.com

9 Attorneys for Claimant, and all those
10 similarly situated



11 —o0o—

12 ELIN SPELLMAN, on behalf of herself and all
13 those similarly situated;

14 Claimants,

15 v.

16 HUMBOLDT COUNTY, HUMBOLDT
17 COUNTY SHERIFF GARY PHILP, IN HIS
18 INDIVIDUAL AND OFFICIAL CAPACITIES,
19 HUMBOLDT COUNTY SHERIFF'S
20 DEPARTMENT, HUMBOLDT COUNTY
21 SHERIFF'S DEPUTIES DOES 1-5, AND
22 DOES 1 THROUGH 20, INCLUSIVE,

23 Respondents.

**CLASS CLAIM FILED ON BEHALF OF
ALL PERSONS SIMILARLY SITUATED
AGAINST HUMBOLDT COUNTY,
HUMBOLDT COUNTY SHERIFF GARY
PHILP, IN HIS INDIVIDUAL AND
OFFICIAL CAPACITIES, HUMBOLDT
COUNTY SHERIFF'S DEPARTMENT,
HUMBOLDT COUNTY SHERIFF'S
DEPUTIES DOES 1-5, AND DOES 1
THROUGH 20, INCLUSIVE, PURSUANT
TO GOVERNMENT CODE § 910**

24 Pursuant to the provisions of California Government Code Section 910, claimant, ELIN
25 SPELLMAN, on behalf of herself and all those similarly situated, hereby presents the following claim:

26 (1) CLAIMANTS:

Elin Spellman, on behalf of herself and all those similarly situated
DOB: May 10, 1980
1117 Lantana Drive
Los Angeles, CA 90042

c/o Mark E. Merin, Esq.
Law Office of Mark E. Merin
2001 P Street, Suite 100
Sacramento, California 95814
Telephone: 916/443-6911
Facsimile: 916/447-8336

1 (2) DATE OF INCIDENT:

2 September 23, 2004

3 (3) LOCATION WHERE INCIDENT OCCURRED:

4 Humboldt County

5 (4) FACTS:

6 On or about September 23, 2004, Humboldt County Sheriff Deputies whose names are not know
7 known, stopped a vehicle driven by claimant within five (5) miles of Garberville and arrested her for
8 driving under the influence of alcohol. She was then transported approximately 60 miles to Eureka, where
9 she was taken to a County facility and forced to disrobe so that she was naked to the waist in the presence
10 of male officers. It also appears the forced disrobing was videotaped by Sheriff's Deputies.

9 (5) CLASS CLAIM

10 Claimant is informed and believes, and on that basis alleges that the strip search to which she was
11 subjected was performed pursuant to policy and procedure to which all persons arrested on minor crimes
12 are similarly subjected.

12 This is a class claim made on behalf of all persons similarly situated who were subjected to a strip
13 search, prior to arraignment, at the Humboldt County jails after having been arrested on charges not
14 involving violence, drugs and weapons and for whom there was no stated reasonable suspicion to believe
15 a strip search would be productive of contraband or weapons.

15 (6) VIOLATION

16 The requirement that claimant remove her clothing until she was nude down to the waist constitutes
17 an illegal strip search which violates the Fourth Amendment to the United States Constitution as well as
18 California Penal Code § 4030. It appears that what claimant suffered is standing procedure and that all
19 persons similarly situated, that is arrested on charges not involving violence, drugs or weapons, are
20 routinely strip searched following their arrests and before arraignment.

18 Claimant is filing this government claim on behalf of herself and all those similarly situated.

19 (7) PERSONS/ENTITIES RESPONSIBLE:

20 Humboldt County, Humboldt County Sheriff Gary Philp, Humboldt County Sheriff's Department,
21 Humboldt County Sheriff's Deputies Does 1-5, and others whose identities are not now known.

22 (8) DAMAGES:

23 Claimant, and all persons similarly situated on behalf of whom this group claim is submitted,
24 experienced a deprivation of her state statutory and constitutional and federal constitutional rights. She
25 was humiliated, denied of privacy, and subjected to psychological and emotional distress. The strip search
26 to which she was subjected was clearly in violation of well established state and federal Law and therefore
all deputies and other officers and employees of Humboldt County, as well as the Sheriff of Humboldt
County are liable of punitive and exemplary damages.

1 Damages are within the jurisdiction of the Superior Court or of a Federal Court having jurisdiction
2 over Humboldt County.

3 The Sheriff, as the policy maker, is responsible for the blanket strip search policy and the specific
4 deputies who strip searched claimant and all those similarly situated are personally liable for the violations.

5 (9) JURISDICTION OF COURT:

6 This case, if not settled at the claim level, would be appropriately filed in superior court, or in the
7 United States District Court having jurisdiction over Humboldt County.

8 DATED: October 27, 2004

9 Respectfully submitted,

10 LAW OFFICE OF MARK E. MERIN

11 BY 

12 Mark E. Merin
13 Attorneys for Claimants
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DECLARATION OF SERVICE

Re: Elin Spellman, et al. v. Humboldt County, et al.

I, Kari L. Kalista, CCLS, declare:

I am a citizen of the United States, over 18 years of age, employed in the County of Sacramento, and not a party to the within action; my business address is 2001 P Street, Suite 100, Sacramento, California 95814.

On October 27, 2004, I served the within **CLASS CLAIM FILED ON BEHALF OF ALL PERSONS SIMILARLY SITUATED AGAINST HUMBOLDT COUNTY, HUMBOLDT COUNTY SHERIFF GARY PHILP, IN HIS INDIVIDUAL AND OFFICIAL CAPACITIES, HUMBOLDT COUNTY SHERIFF'S DEPARTMENT, HUMBOLDT COUNTY SHERIFF'S DEPUTIES DOES 1-5, AND DOES 1 THROUGH 20, INCLUSIVE, PURSUANT TO GOVERNMENT CODE § 910** on all parties in said action in the following manner:

XXX BY MAIL: I am familiar with this company's practice whereby the mail, after being placed in a designated area, is given the appropriate postage and is deposited in a U.S. mailbox in the City of Sacramento, California, during the normal course of business on the same day it is placed in the designated area. I placed a true copy of said document, enclosed in a sealed envelope with first class postage affixed in the designated area for outgoing mail, addressed as set forth below:

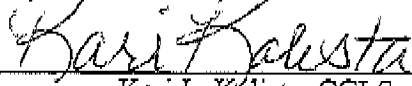
BY PERSONAL DELIVERY: I caused to be personally delivered a true copy of said document to the person(s) at the address(es) set forth below:

BY FACSIMILE: I faxed a true copy of said document to the addressee(s) at the number(s) set forth below; I verified that the transmission was reported by the fax machine as complete and without error; thereafter, I placed a true copy in a sealed envelope with first class postage affixed in the designated area for outgoing mail, addressed as set forth below:

BY OVERNIGHT PRIVATE CARRIER: I placed a true copy of said document, enclosed in a sealed Federal Express Letter envelope in the designated area for outgoing Federal Express deliveries, with an air bill addressed to the indicated party(s) below:

KIMBERLY A. KERR
GENERAL SERVICES DIRECTOR
RISK MANAGEMENT DIVISION
COUNTY OF HUMBOLDT
825 5TH ST ROOM 103
EUREKA, CA 95501-1153

I declare under penalty of perjury that the foregoing is true and correct, and that this Declaration was executed on October 27, 2004, at Sacramento, California.



Kari L. Kalista, CCLS