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7 UNITED STATES DISTRICT COURT
8 EASTERN DISTRICT OF CALIFORNIA

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10 MICHAEL TODD, JAMESY K. DAVIS,
11 DEANGELA HARRIS, CARMEN HARRIS
ROBINSON, BRADLEY WOLFE, on behalf
of themselves and all those similarly situated;

12 Plaintiffs,

13 v.

14 COUNTY OF SOLANO; SOLANO
15 COUNTY SHERIFF GARY R. STANTON,
IN HIS INDIVIDUAL AND OFFICIAL
16 CAPACITIES; SOLANO COUNTY
SHERIFF'S DEPUTIES DOES 1 through
100, and ROES 1 through 20, inclusive,

17 Defendants.

CASE NO: 2:07-cv-00726-FCD-EFB
**FIRST AMENDED CLASS ACTION
COMPLAINT**
DEMAND FOR JURY TRIAL

18
19 PLAINTIFFS ALLEGE:

20 **INTRODUCTION**

21 This is an action for declaratory and injunctive relief, damages, and punitive damages
22 against the COUNTY OF SOLANO, SOLANO COUNTY SHERIFF GARY R. STANTON,
23 Individually and in His Official Capacity, SOLANO COUNTY SHERIFF'S DEPUTIES sued
24 under their fictitious names as DOES 1 THROUGH 100, and ROES 1 through 20, for violations of
25 plaintiffs' constitutional rights resulting from application of SOLANO COUNTY'S and the
26 SHERIFF'S policies, practices, and customs concerning the use of strip and visual body cavity
27 searches in SOLANO COUNTY Jails. Plaintiffs seek an order declaring illegal defendants' policy
28 of subjecting detainees in their custody to strip and visual body cavity searches before they are

1 arraigned and without having any reasonable suspicion that the searches will be productive of
2 contraband. Plaintiffs further seek an order declaring illegal defendants' policy of conducting the
3 complained of searches in areas which can be and are observed by persons not participating in the
4 searches.

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

9 JURISDICTION

10 This action is brought pursuant to 42 USC §§ 1983 and 1988, and the Fourth and
11 Fourteenth Amendments to the United States Constitution. Jurisdiction is founded upon 28 USC
12 §§ 1331 and 1341(3) and (4) and the aforementioned statutory and constitutional provisions.

13 PARTIES

14 1. Plaintiffs MICHAEL TODD, JAMESY K. DAVIS, DEANGELA HARRIS,
15 CARMEN HARRIS ROBINSON, BRADLEY WOLFE, and all those similarly situated, are, and
16 at all material times herein, were citizens of the United States and residents of the state of
17 California, who were arrested within the period beginning two (2) years before the filing of this
18 Complaint, and continuing to this date, and who were subjected to strip and/or visual body cavity
19 searches at a SOLANO COUNTY Jail (hereinafter referred to as the "SOLANO COUNTY Jail"),
20 prior to being arraigned and without the defendants first having, and recording in writing, a
21 reasonable suspicion that the searches would be productive of contraband or weapons.

22 2. Defendant SOLANO COUNTY SHERIFF GARY R. STANTON is, and at all
23 material times referred to herein, was the duly elected Sheriff of SOLANO COUNTY, responsible
24 for administering the Jail facilities and for making, overseeing, and implementing the policies,
25 practices, and customs challenged herein relating to the operation of the SOLANO COUNTY
26 Jails. He is sued in his individual and official capacities.

27 3. Defendants SOLANO COUNTY SHERIFF'S DEPUTIES sued herein by their
28 fictitious names (Does 1 through 100) are all deputies who, as part of their duties at the SOLANO

1 COUNTY Jail, subjected plaintiffs, and all those they represent, to pre-arraignment strip and/or
2 visual body cavity searches without having, and recording in writing, a reasonable suspicion that
3 the searches would be productive of contraband or weapons and/or conducted the complained of
4 searches so that they could be observed by persons not participating in the searches.

5 4. At all material times mentioned herein, each of the defendants was acting under the
6 color of law, to wit, under color of statutes, ordinances, regulations, policies, customs and usages
7 of the state of California, the COUNTY OF SOLANO, and/or the SOLANO COUNTY Sheriff's
8 Department.

9 5. Defendants whose names are not now known and who are sued by the fictitious
10 names of ROES 1 through 20, are all agents and/or employees of one or another of the above
11 named defendants who ordered, condoned, authorized, covered up, or were otherwise associated
12 with the implementation of the illegal policy and practices relating to the strip searches complained
13 of herein.

14 6. Defendant SOLANO COUNTY is, and at all material times referred to herein, was
15 a division of the state of California, that maintained or permitted an official policy or custom or
16 practice causing or permitting the occurrence of the types of wrongs complained of herein, which
17 wrongs damaged plaintiffs, and all those similarly situated, as herein alleged. Plaintiffs'
18 allegations against the COUNTY are based on acts and omissions of the SHERIFF and his
19 DEPUTIES and on acts and omissions of persons who are COUNTY employees, and on the
20 COUNTY's breach of its duty to protect plaintiffs, and all those they represent, from the wrongful
21 conduct of said persons and employees.

22 7. Defendant SOLANO COUNTY SHERIFF GARY R. STANTON, in his Individual
23 and Official Capacity, also maintained or permitted an official policy or custom of causing or
24 permitting the occurrence of the types of wrongs complained of herein, which wrongs damaged
25 plaintiffs, and all those similarly situated, as herein alleged.

26 8. Class action plaintiffs are those similarly situated who, during the period beginning
27 two (2) years before the filing of this Complaint, and continuing to this date, were subjected by
28 defendants to pre-arraignment strip and/or visual body cavity searches without defendants having,

1 and recording in writing, a reasonable suspicion that the searches would be productive of
2 contraband or weapons, and/or who were strip searched prior to arraignment in an area that was
3 observable by persons not participating in the search.

4 **FACTS**

5 9. On or about September 1, 2006, plaintiff MICHAEL TODD (hereinafter referred to
6 as "TODD" or collectively as "plaintiffs") was arrested on charges not involving violence, drugs
7 or weapons and transported to the SOLANO COUNTY Justice Center Detention Facility (a
8 SOLANO COUNTY Jail) where, prior to arraignment, he was taken to an area where he was
9 forced to submit to a strip search in a group with at least ten (10) other persons who were not
10 participating in the search. He, together with the other persons strip searched, were required to
11 remove all of their clothing and to lift their genitals for inspection and to bend over and expose
12 their rectal areas for individual inspection.

13 10. Plaintiff TODD was again subjected to a strip search, in a group, prior to
14 arraignment, prior to being transferred to the SOLANO COUNTY Jail on Claybank Road.

15 11. On or about November 1, 2005, plaintiff JAMESY K. DAVIS (hereinafter referred
16 to as "DAVIS" or collectively as "plaintiffs") was arrested on charges not involving violence,
17 drugs or weapons and transported to the SOLANO COUNTY Justice Center Detention Facility (a
18 SOLANO COUNTY Jail) where, prior to arraignment, he was taken to an area where he was
19 forced to submit to a strip search in a room with the door open where other persons who were not
20 participating in the search could see him being strip searched. He was required to remove all of
21 his clothing and to lift his genitals for inspection and to bend over and expose his rectal area for
22 inspection.

23 12. On or about November 18, 2005, plaintiff DEANGELA HARRIS (hereinafter
24 referred to as "HARRIS" or collectively as "plaintiffs") was arrested on charges not involving
25 violence, drugs or weapons and transported to the SOLANO COUNTY Justice Center Detention
26 Facility (a SOLANO COUNTY Jail) where, prior to arraignment, she was taken to an area where
27 she was forced to submit to a strip search in a group including at least two (2) other women, who
28 were not participating in the search and forced to submit to a strip search in a room where she was

1 required to remove all of her clothing and to lift her breasts for inspection and to bend over and
2 expose her vaginal and rectal areas for inspection.

3 13. On or about June 2005, plaintiff HARRIS was arrested and transported to the
4 SOLANO COUNTY Justice Center Detention Facility (a SOLANO COUNTY Jail) where, prior
5 to arraignment, she was taken to an area where she was forced to submit to a strip search in a
6 group with at least two (2) other women who were not participating in the search. She was
7 required to remove all of her clothing and to lift her breasts for inspection and to bend over and
8 expose her vaginal and rectal areas for inspection.

9 14. On or about August 23, 2005, plaintiff CARMEN HARRIS ROBINSON
10 (hereinafter referred to as "ROBINSON" or collectively as "plaintiffs") was arrested on charges
11 not involving violence, drugs or weapons and transported to the SOLANO COUNTY Justice
12 Center Detention Facility (a SOLANO COUNTY Jail) where, prior to arraignment, she was taken
13 to an area where she was forced to submit to a strip search in a room where she was required to
14 remove all of her clothing and to lift her breasts for inspection and to bend over and expose her
15 vaginal and rectal areas for inspection.

16 15. On or about February 22, 2006, plaintiff ROBINSON was again arrested on charges
17 not involving violence, drugs or weapons and transported to the SOLANO COUNTY Justice
18 Center Detention Facility (a SOLANO COUNTY Jail) where, prior to arraignment, she was taken
19 to an area where she was forced to submit to a strip search in a room where she was required to
20 remove all of her clothing and to lift her breasts for inspection and to bend over and expose her
21 vaginal and rectal areas for inspection.

22 16. On or about July 19, 2006, plaintiff BRADELY WOLFE (hereinafter referred to as
23 "WOLFE" or collectively as "plaintiffs") was arrested on charges not involving violence, drugs or
24 weapons and transported to the SOLANO COUNTY Justice Center Detention Facility (a
25 SOLANO COUNTY Jail) where, prior to arraignment, he was taken to an area where he was
26 forced to submit to a strip search in a group with at least two (2) other persons who were not
27 participating in the search. He and the other persons strip searched were required to remove all of
28 their clothing and to lift their genitals for inspection and to bend over and expose their rectal areas

1 for inspection.

2 17. Plaintiffs are informed and believe, and thereupon allege, that defendants routinely
3 follow their policy, practice, and custom of subjecting pre-arraignment detainees, including
4 plaintiffs, and all those they represent, to strip and visual body cavity searches without first having,
5 and recording in writing, a reasonable suspicion that the searches will be productive of contraband
6 or weapons. Plaintiffs are further informed and believe, and thereupon allege, that defendants
7 routinely follow their policy, practice, and custom of conducting the complained of searches in the
8 presence of persons not participating in the searches.

9 18. Plaintiffs are informed and believe, and thereupon allege, that defendants have the
10 ability to identify all such similarly situated plaintiffs, specifically those who, while in defendants'
11 custody, at the SOLANO COUNTY Jails within two (2) years prior to the filing of this Complaint,
12 were subjected to strip searches and/or visual body cavity searches prior to arraignment without
13 defendants first having, and recording in writing, a reasonable suspicion that the searches would be
14 productive of contraband or weapons.

15 19. Defendant SOLANO COUNTY SHERIFF GARY R. STANTON is personally
16 responsible for the promulgation and continuation of the strip search policy, practice, and custom
17 pursuant to which plaintiffs, and all those they represent, were subjected to strip searches.

18 20. As a result of being subjected to the strip searches complained of herein, plaintiffs,
19 and each of the persons similarly situated, suffered physical, mental, and emotional distress,
20 invasion of privacy, and violation of due process of law, and are entitled to recover damages
21 according to proof but, at a minimum, \$4,000 as specified in California Civil Code §§ 52 and §
22 52.1(b).

23 **CLASS CLAIMS**

24 21. The strip and visual body cavity searches to which plaintiffs, and all those similarly
25 situated were subjected, were performed pursuant to policies, practices, and customs of defendants
26 COUNTY OF SOLANO, SOLANO COUNTY SHERIFF GARY R. STANTON, the individual
27 SHERIFF'S DEPUTIES sued herein by the fictitious names 1 through 100, and the individuals
28 whose names are not now known and who are sued by the fictitious names of ROES 1 through 20.

1 The searches complained of herein were performed without regard to the nature of the alleged
2 offenses for which plaintiffs, and all those similarly situated, had been arrested, without regard to
3 whether or not plaintiffs, or those they represent, were eligible for cite and release under Penal
4 Code § 853.6, without regard to whether or not plaintiffs, and each of those similarly situated,
5 were eligible for and/or were released on their own recognizance. Furthermore, the searches
6 complained of herein were performed without defendants having a reasonable belief that the
7 plaintiffs, or any of those similarly situated, so searched possessed weapons or contraband, and
8 those facts being articulated and recorded in a supervisor-approved document. Finally, the
9 searches complained of herein were performed without defendants taking reasonable precautions
10 to insure that plaintiffs, and each of those similarly situated, were searched in an area affording
11 privacy and was not observed by others not participating in the search.

12 22. Plaintiffs bring this action on their own behalf and on behalf of all persons similarly
13 situated pursuant to Rule 23, Federal Rules of Civil Procedure.

14 23. The class is defined to include all persons who, in the period from and including
15 two (2) years prior to the filing of this Complaint, and continuing until this matter is adjudicated
16 and the practices complained of herein cease, were arrested and subjected to a pre-arraignment
17 strip and/or visual body cavity search at SOLANO COUNTY Jails without defendants first having,
18 and recording in writing, a reasonable suspicion that the search would be productive of contraband
19 or weapons. In addition, the class also includes all those persons who were subjected to pre-
20 arraignment strip and/or visual body cavity searches in the presence of persons who were not
21 participating in said searches (Group Strip Searches).

22 24. In accordance with Federal Rules of Civil Procedure, Rule 23(a), the members of
23 the class are so numerous that joinder of all members is impractical. Plaintiffs do not know the
24 exact number of class members. Plaintiffs are informed and believe, and thereupon allege, that
25 there are more than 20 persons per day who are arrested by defendants and/or in the custody of
26 defendants and are subjected to the searches complained of herein as a result of defendants' policy,
27 practice, and custom relating to said searches.

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1 25. In accordance with Federal Rules of Civil Procedure, Rule 23(a), plaintiffs are
2 informed and believe, and thereupon allege, that there are many questions of fact common to the
3 class including, but not limited to: (1) whether defendants routinely subject all persons arrested to
4 visual body cavity searches prior to arraignment whether or not they intend such persons to be
5 housed in the SOLANO COUNTY Jails; (2) whether defendants routinely subject all persons
6 arrested to visual body cavity searches prior to arraignment if they intend such persons to be
7 housed in SOLANO COUNTY Jails; (3) whether persons are subjected to strip and/or visual body
8 cavity searches prior to arraignment without there being any reasonable suspicion, based on
9 specific or articulable facts, to believe any particular arrestee has concealed drugs, weapons, and/or
10 contraband in bodily cavities which could be detected by means of a strip and/or visual body
11 cavity search; (4) whether the strip and/or visual body cavity searches are conducted in an area of
12 privacy so that the searches cannot be observed by persons not participating in the searches; (5)
13 whether the strip and/or visual body cavity searches are conducted in groups; and, (6) whether the
14 strip and/or visual body cavity searches are reasonably related to defendants' penological interest
15 to maintain the security of the jail and whether or not there are less intrusive methods for
16 protecting any such interest.

17 26. In accordance with Federal Rules of Civil Procedure, Rule 23(a), plaintiffs are
18 informed and believe, and thereupon allege, that there are many questions of law common to the
19 class including, but not limited to: (1) whether defendants may perform strip and/or visual body
20 cavity searches on persons prior to their arraignment without reasonable suspicion, based on
21 specific or articulable facts, to believe any particular pre-arraignment detainee has concealed
22 drugs, weapons and/or contraband which would likely be discovered by a strip and/or visual body
23 cavity search; (2) whether defendants may perform strip and/or visual body cavity searches on
24 persons without first reasonably relating the use of the subject search to defendants' penological
25 interest to maintain the security of the jail and determining if there is a less intrusive method to
26 protect that interest; (3) whether strip and/or visual body cavity searches may be conducted in
27 areas where the search can be observed by people not participating in the search without violating
28 plaintiffs' Federal constitutional rights; (4) whether or not defendants' strip search policy and

1 procedure is in accordance with the Federal Constitution; and (5) whether or not defendants'
2 policy and procedure of conducting pre-arraignment strip searches in groups violates plaintiffs'
3 Federal Constitutional rights to privacy.

4 27. In accordance with Federal Rules of Civil Procedure, Rule 23(a), the claims of the
5 representative plaintiffs are typical of the class. Plaintiffs were strip searched, prior to
6 arraignment, without reasonable suspicion that a strip or visual body cavity search would produce
7 drugs, weapons or contraband (and without the facts supporting any such suspicion being
8 articulated in a supervisor-approved writing). Representative plaintiffs have the same interests and
9 suffered the same type of injuries as all of the other class members. Plaintiffs' claims arose
10 because of defendants' policy, practice, and custom of subjecting arrestees to strip and/or visual
11 body cavity searches before arraignment without having, and recording in writing, a reasonable
12 suspicion that the search would be productive of contraband or weapons. Each class member
13 suffered actual damages as a result of being subjected to a strip and/or visual body cavity search.
14 The actual damages suffered by representative plaintiffs are similar in type and amount to the
15 actual damages suffered by each class member.

16 28. In accordance with Federal Rules of Civil Procedure, Rule 23(a), the representative
17 plaintiffs will fairly and adequately protect the class interests. Plaintiffs' interests are consistent
18 with and not antagonistic to the interests of the class.

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

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

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1 31. In accordance with Federal Rules of Civil Procedure, Rule 23(b)(2), plaintiffs are
2 informed and believe, and thereupon allege, that defendants have acted on grounds generally
3 applicable to the class, thereby making appropriate the final injunctive or declaratory relief with
4 respect to the class as a whole.

5 32. In accordance with Federal Rules of Civil Procedure, Rule 23(b)(3), this class
6 action is superior to other available methods for the fair and equitable adjudication of the
7 controversy between the parties. Plaintiffs are informed and believes and thereupon allege, that
8 the interests of members of the class in individually controlling the prosecution of a separate action
9 is low, in that most class members would be unable individually to prosecute any action at all.
10 Plaintiffs also are informed and believe, and thereupon allege, that the amounts at stake for
11 individuals are so small that separate suits would be impracticable. Plaintiffs are informed and
12 believe, and thereupon allege, that most members of the class will not be able to find counsel to
13 represent them. Plaintiffs are informed and believe, and thereupon allege, that it is desirable to
14 concentrate all litigation in one forum because all of the claims arise in the same location; i.e., the
15 SOLANO COUNTY Jails. It will promote judicial efficiency to resolve the common questions of
16 law and fact in one forum, rather than in multiple courts.

17 33. Plaintiffs do not know the identities of all of the class members. Plaintiffs are
18 informed and believe, and thereupon allege, that the identities of the class members may be
19 ascertained from records maintained by COUNTY OF SOLANO and by defendant SHERIFF
20 GARY R. STANTON and the defendants' Sheriff's Department. Plaintiffs are informed and
21 believe, and thereupon allege, that defendants' records reflect the identities, including addresses
22 and telephone numbers, of the persons who have been held in custody in the SOLANO COUNTY
23 Jails. Plaintiffs are informed and believe, and thereupon allege, that records of, and maintained by
24 defendants reflect who was subject to a strip and/or visual body cavity search, when the search
25 occurred, where the search occurred, whether any reasonable suspicion for the search existed and
26 was recorded in a supervisor-approved writing, whether the search was conducted in a group,
27 when persons searched were arraigned, and the charges on which such persons were arrested.
28 Plaintiffs are informed and believe, and thereupon allege, that all of the foregoing information is

1 contained in defendants' computer system and that the information necessary to identify the class
2 members, by last known addresses, and the dates and reasons for their arrests and/or release from
3 custody, is readily available from said computer system.

4 34. In accordance with Federal Rules of Civil Procedure, Rule 23(c)(2)(b), class
5 members must be furnished with the best notice practicable under the circumstances, including
6 individual notice to all members who can be identified through reasonable effort. Plaintiffs are
7 informed and believe, and thereupon allege, that defendants' computer records contain a last
8 known address for class members. Plaintiffs contemplate that individual notice will be given to
9 class members at such last known address by first class mail. Plaintiffs contemplate that the notice
10 will inform class members of the following:

- 11 i. The pendency of the class action and the issues common to the class;
- 12 ii. The nature of the action;
- 13 iii. Their right to "opt out" of the action within a given time, in which
14 event they will not be bound by a decision rendered in the class action;
- 15 iv. Their right, if they do not "opt out," to be represented by their own
16 counsel and to enter an appearance in the case; otherwise they will be
17 represented by the named class plaintiffs and the named class
18 plaintiffs' counsel; and
- 19 v. Their right, if they do not "opt out," to share in any recovery in favor
20 of the class, and conversely to be bound by any judgment on the
21 common issues adverse to the class.

22 **COUNT ONE**

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

25 35. Plaintiffs re-alleges and hereby incorporates herein the preceding paragraphs of this
26 complaint, to the extent relevant, as if fully set forth.

27 36. Defendants' policies, practices, and customs regarding the strip and visual body
28 cavity searches complained of herein violated the rights of plaintiffs, and all those similarly
situated, under the Fourth Amendment to be free from unreasonable searches and seizures;

1 violated the rights of plaintiffs, and all those similarly situated, to due process and privacy under
2 the Fourteenth Amendment; and directly and proximately damaged plaintiffs, and all those
3 similarly situated, as herein alleged, entitling plaintiffs, and all class members, to recover damages
4 for said constitutional violations pursuant to 42 U.S.C. § 1983.

5 WHEREFORE, plaintiffs pray for relief, for them selves and for all p ersons similarly
6 situated, as hereunder appears.

7 **PRAYER FOR RELIEF**

8 WHEREFORE, plaintiffs, on beha lf of themselves and all those similarly situated, seek
9 judgment as follows:

10 1. For declaratory and injunctive relief declaring illegal and enjoining, preliminarily
11 and permanently, defendants' policies, practices , and custom s of subjecting pre-arraignm ent
12 detainees to strip and visual body cavity searches without havi ng a reasonable suspicion that
13 such searches would be productive of contraband or weapons and conducting said searches in a
14 non-private area observable by persons not participating in the search;

15 2. Certification as a class action of plai ntiffs' complaints concerning defendants'
16 policy, practice, and cu stoms of subjecting pre-arraignm ent detainees to strip and visual body
17 cavity searches without having a reasonable suspic ion that such searches would be productive of
18 contraband or weapons;

19 3. For compensatory, general, and special d amages for each represen tative and for
20 each member of the class of plaintiffs, as against all defendants;

21 4. Exemplary damages as against each of the individual defendants in an a mount
22 sufficient to deter and to make an example of those defendants;

23 5. Attorneys' fees and costs under 42 U.S.C. § 1988; and

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

25 DATED: July 28, 2008

26 Respectfully submitted,

27 LAW OFFICE OF MARK E. MERIN

28 BY: /s/ - "Mark E. Merin"

Mark E. Merin
Attorney for Plaintiffs

