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Noelle Way

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CLERK, U.S. DISTRICT COURT
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DEC 12 2001
12-12-01
CENTRAL DISTRICT OF CALIFORNIA
BY DEPUTY

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CLERK, U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
BY

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

11 NOELLE WAY,)
12 Plaintiff,)
13 v.)
14 COUNTY OF VENTURA; ROBERT BROOKS,)
15 individually and as Sheriff for the County of)
16 Ventura; VENTURA POLICE OFFICER)
ROBERT ORTIEZ; DEPUTY K. HANSON and)
Does 1 through 9, inclusive.)
17 Defendants.)

CASE NO. 01-05401 CBM (Ex)
FIRST AMENDED COMPLAINT

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JURISDICTION

21 1. This action is brought pursuant to 42 U.S.C. sections 1983 and 1988 and on the
22 Fourth and Fourteenth Amendments. Jurisdiction is founded on 28 U.S.C. sections 1331 and 1343
23 and aforementioned statutory and constitutional provisions. Plaintiff further invokes the pendant
24 jurisdiction of the Court to consider claims arising under state law.

PARTIES

26 2. Plaintiff, Noelle Way, is a citizen of the United States and a resident of the State of
27 California, and of full age.

28 3. Defendant Officer Robert Ortiz, at all times relevant hereto, was and is an

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1 employee of the Ventura County Police Department, and at all times herein was acting in such
2 capacity as the agent, servant, and employee of the City of Ventura.

3 4. Defendant Deputy K. Hanson, at all times relevant hereto, was and is an
4 employee of the Ventura County Sheriff's Department, and at all times herein was acting in such
5 capacity as the agent, servant, and employee of the County of Ventura.

6 5. Defendant Robert Brooks ("Brooks") is and was at all times described in this
7 Complaint Sheriff of the County of Ventura. As such, he was the commanding officer of
8 the jail and was responsible for the training, supervision, and conduct of said defendants as more
9 fully set forth below. Brooks is also responsible by law for enforcing the regulations of the
10 Ventura County Sheriff's Department and for ensuring that Ventura County Deputy Sheriffs obey
11 the laws of the State of California and the United States. He is sued individually and in his
12 official capacity.

13 6. The defendant County of Ventura is, and at all times mentioned herein was a
14 county within the State of California and at all times hereto employed the defendants and Brooks
15 respectively.

16 7. At all times relevant hereto, and in all their actions described herein, the persons
17 named in paragraph 3 and 4 were acting under color of law and pursuant to their authority as law
18 enforcement personnel for The County of Ventura.

19 8. Plaintiff does not know the true names of defendants, DOES 1 through 10
20 inclusive and therefore sues them by these fictitious names. Plaintiff will amend this complaint
21 to include their names and capacities once they are known. Plaintiff is informed and believes, and
22 based on that information and belief alleges that each of the defendants designated as a DOE is
23 legally responsible in some manner for the occurrences alleged in this complaint and unlawfully
24 caused the injuries and damages to plaintiff as alleged in this complaint.

25 9. Allegations described in this complaint on the part of the County of Ventura, its
26 agents and employees constitute state action.

27 **FACTS**

28 10. On August 7, 2000, at approximately 2:10 a.m. plaintiff was arrested for

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1 suspicion of being under the influence of a controlled substance.

2 11. Plaintiff was working at the Red Cove in Ventura. She was a bartender at this
3 establishment.

4 12. Earlier on August 7, 2000, plaintiff had asked a customer to leave the Red
5 Cove because he had too much to drink. The customer left the area at first but after the bar
6 closed he returned and sat in front of the bar.

7 13. Officers from the Ventura Police Department saw the individual sitting outside
8 the door and went to talk to him. The Officers knocked on the door of the bar to ask plaintiff,
9 the bartender, why the man was there. Plaintiff spoke to the officers and at that time they
10 determined that she was under the influence of methamphetamine.

11 14. Plaintiff was arrested for Health and Welfare Code Section 11550, and put in a
12 patrol car. While she was sitting in the patrol car the officers searched her purse that was in
13 the bar and took her keys.

14 15. Plaintiff was then taken to the hospital for blood tests and then to the Ventura
15 County jail. She was in jail for approximately 12 hours.

16 16. While waiting in the holding cell, plaintiff was taken into the "changing
17 room/women's shower" at the Ventura County main jail and stripped searched including a
18 body cavity search. This search involved plaintiff having to remove a tampon and tearing it
19 apart for the deputies inspection.

20 17. Plaintiff was verbally harassed by deputies while in jail. She was called a
21 "street walker", "ronk" and "whore".

22 18. Plaintiff's bail was initially \$5,000 and then raised to \$10,000. Her ex-husband
23 appeared and produced bail for her and she was released.

24 19. On November 6, 2000, the blood tests came back negative and the district
25 attorney declined to file charges against plaintiff.

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FIRST CAUSE OF ACTION

Against Defendants Officer Robert Ortiz and The County of Ventura and Does 1-9
Civil Rights Violation 4th and 14th Amendments,
Right To Be Free From Illegal Search And Seizure.

20. The allegations set forth in paragraphs 1 through 19 inclusively in this complaint are incorporated herein as if fully set forth.

21. After plaintiff was arrested and while she was sitting in the police car, two officers went into the bar and searched plaintiff's purse. The officers took plaintiff's keys from her purse and gave them to the owner of the bar. Plaintiff did not consent to this search of her personal property and the seizure of her keys.

SECOND CAUSE OF ACTION

Against Defendants Officer Ortiz, The County of Ventura and Does
Civil Rights Violation 4th and 14th Amendments,
Illegal Arrest and False Imprisonment

22. The allegations set forth in paragraphs 1 through 21 inclusively in this complaint are incorporated herein as if fully set forth.

23. Plaintiff was cooperative with Officer Ortiz when he came to her place of business. She fully answered all of his questions.

24. Plaintiff assured the officer that she had not been drinking and does not do drugs.

25. When asked why she was sweating plaintiff responded that she had just restocked the bar. She also told him that her pulse was fast because she had been drinking coffee all night.

26. Officer Ortiz decided to arrest plaintiff for Health and Welfare Code Section 11550, suspicion of being under the influence of a controlled substance. There was no probable cause to arrest plaintiff.

27. Officer Ortiz transported plaintiff to the main jail for booking.

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THIRD CAUSE OF ACTION

Against Defendants Sheriff Bob Brooks, Officer K. Hanson and

The County of Ventura and Does 1-9 :

Civil Rights Violation 4th and 14th Amendments,

Invasion of Privacy

28. The allegations set forth in paragraphs 1 through 27 inclusively in this complaint are incorporated herein as if fully set forth.

29. While waiting in the holding cell at the Ventura County Main Jail, plaintiff was stripped searched which included a body cavity search.

30. Plaintiff was a pretrial detainee who was given bail and made bail.

31. Plaintiff was indiscriminately strip searched. There was no probable cause to believe that a weapon or contraband was secreted on plaintiff's body. Plaintiff was arrested without probable cause and definitely without probable cause that she was in possession of drugs or weapons.

33. Without specific facts as to why plaintiff was to undergo a body cavity search, Officer K. Hanson proceeded to strip search plaintiff.

34. Plaintiff had to remove her tampon while being stripped searched in order for the Deputy to perform a body cavity search. Plaintiff was also required to tear apart her tampon to show that there was nothing hidden in it. This intrusion was not reasonable under the circumstances in particular, the plaintiff was charged with suspicion of being under the influence of a controlled substance and was released on bail.

35. Plaintiff underwent an extremely intrusive unreasonable stip/body cavity search when there was no probable cause to believe that plaintiff was carrying contraband in her genital area/within her body. This was a violation of her constitutional right to privacy.

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FOURTH CAUSE OF ACTION

Against Defendants Officer Ortiz, Sheriff Bob Brooks,

The County of Ventura and Does 1-9

State Claim

False Imprisonment

36. The allegations set forth in paragraphs 1 through 35 inclusively in this complaint are incorporated herein as if fully set forth.

37. Defendants intentionally and unlawfully confined plaintiff against her will.

38. Plaintiff was arrested and held in jail for 12 hours without probable cause.

39. Plaintiff's false imprisonment lead to her having to undergo an illegal stip and body cavity search.

FIFTH CAUSE OF ACTION

Against Defendants Officer Ortiz, Sheriff Bob Brooks,

The County of Ventura and Does 1-9

State Claim

False Arrest

40. The allegations set forth in paragraphs 1 through 39 inclusively in this complaint are incorporated herein as if fully set forth.

41. Plaintiff was arrested without probable cause. Plaintiff was at work and was closing up the bar when she was approached by defendant officers. She spoke to them briefly about the man who was sitting outside the bar.

42. After speaking to plaintiff for a couple of minutes the officer began to question her about any drinking or drug use.

43. Plaintiff denied drinking or taking any drugs and told the officers that she had about 7 cups of coffee that night.

44. Plaintiff was cooperative and fully coherent and did not display signs of a person under the influence.

45. Plaintiff was arrested for the suspicion of being under the influence of a

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1 controlled substance. Plaintiff was held in jail for 12 hours where she was stip searched and
2 then posted bail and was released on her own recognizance.

3 46. The drug tests later came back negative and the charges against her were
4 dismissed.

5 **SIXTH CAUSE OF ACTION**

6 **Against Defendants Sheriff Bob Brooks, The County of Ventura and Does**

7 **State Claim**

8 **Invasion of Privacy/Illegal Strip Search**

9 47. The allegations set forth in paragraphs 1 through 46 inclusively in this
10 complaint are incorporated herein as if fully set forth.

11 48. While in the Ventura County Jail plaintiff was stip searched and body cavity
12 searched.

13 49. Plaintiff was a pretrial detainee and had bail posted. As such the strip and body
14 cavity search of plaintiff was in violation of Penal Code Section 4030.

15 **SEVENTH CAUSE OF ACTION**

16 **Against Defendants Sheriff Bob Brooks and The County of Ventura**

17 **Monell Claim- Failure to Supervise/Train**

18 50. The allegations set forth in paragraphs 1 through 49 inclusively in this
19 complaint are incorporated herein as if fully set forth.

20 51. Plaintiff was arrested without probable cause by officers of the Ventura Police
21 Department. The arresting Ventura Police Officers also illegally searched and removed
22 property from her purse The County of Ventura has failed to train and supervise its officers on
23 the probable cause standards required to arrest a citizen in particular, the ability to point to s
24 specific articulable facts.

25 52. Deputies at the Ventura County Jail illegally stip searched and performed a
26 body cavity search on plaintiff.

27 53. Penal Code Section 4030 did not authorize a strip/body cavity search on
28 plaintiff and therefore the search was performed illegally.

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1 54. Sheriff Bob Brooks is the supervisor of the Ventura County Jail and is
2 therefore liable for failing to train and supervise his deputies on the procedures and laws of
3 strip searching a pretrial detainee.

4 55. The County of Ventura developed and maintained policies or customs
5 exhibiting deliberate indifference to the constitutional rights of person in the County of
6 Ventura, which caused the violations of plaintiff's rights.

7 56. It was the policy and/or custom of the County of Ventura to inadequately and
8 improperly train and supervise their Deputies on the laws pertaining to strip searching and body
9 cavity searches of pretrial detainees.

10 57. The above described policies and customs demonstrated a deliberate
11 indifference on the part of policymakers of the County of Ventura to the constitutional rights
12 of persons within the County, and were the cause of the violations of plaintiff's rights alleged
13 herein.

14 58. With no specific articulable facts that would lead a reasonable officer to believe
15 that plaintiff was concealing a weapon or contraband on her body, defendants condoned her to
16 be not only strip searched but to undergo a body cavity search as well.

17 59. The way the above referenced Defendants were trained and supervised
18 regarding when and to whom to do body cavity searches, was so inadequate that it showed
19 deliberate indifference to the alleged offensive
20 practices.

21 60. The supervisor of the jail, Sheriff Bob Brooks, who also supervises the
22 Deputies involved in strip searches at the County jail, reasonably should have known that
23 such actions by his Deputies would cause Plaintiff constitutional injury.

24 61. Sheriff Bob Brooks failure to train his subordinate Deputies in the necessary
25 constitutional policies of strip searching forms an affirmative causal link between the
26 defendants actions in this case and the particular
27 constitutional injuries suffered by the plaintiff.

28 62. This is a blatant failure to exercise his duty to supervise/train the Deputies
under his control, this subjects the supervisor, Sheriff Bob Brooks, to be vicariously liable.

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1 **WHEREFORE**, plaintiff demands the following relief, jointly and severally against
2 all the defendants:

3 1. Compensatory, special, and punitive damages in an amount the court deems
4 appropriate.

5 2. Such other and further relief as this Court may deem appropriate, including costs
6 and reasonable attorney fees.

7 3. A jury trial is hereby demanded.
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10 Dated: 12-4-01

12 By: Ernest C.S. Bell
13 Ernest C.S. Bell
14 Attorney for Plaintiff,
15 Noelle Way
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STATE OF CALIFORNIA, COUNTY OF VENTURA

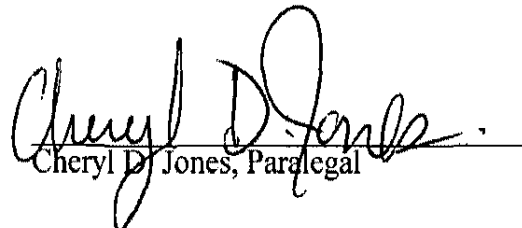
I am employed in the county of Ventura, State of California. I am over the age of 18 and not a party to the within action. My business address is 3897 Market Street, Ventura, California 93003.

On December 4, 2001, I served the attached documents described as, **First Amended Complaint**, on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Mr. Jeffrey Held
Law Offices of Alan Wisotsky
300 Esplanade Drive, Suite 1500
Oxnard, CA 93030

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on December 4, 2001, at Ventura, California.


Cheryl D. Jones, Paralegal