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Attorneys for Plaintiffs VANG HER, individually and as Guardian ad Litem for BEE HER, a minor, JOUA HER, a minor, SONG HER, a minor, SENG HER, a minor, FUE HER, a minor, SHEUR HER, a minor, and GAOHLY HER, a minor, SAI XIONG and MAO YANG

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA

CIV-S- 97 - 1413 WBS GGH

VANG HER, individually and as Guardian ad Litem for BEE HER, a minor, JOUA HER, a minor, SONG HER, a minor, SENG HER, a minor, FUE HER, a minor, SHEUR HER, a minor, and GAOHLY HER, a minor, SAI XIONG and MAO YANG,

CASE NO. COMPLAINT FOR DAMAGES DEMAND FOR JURY TRIAL

Plaintiffs,

v.

BRIAN FREEMAN, Deputy Sheriff of Yuba County, THENG SAECHAO, Deputy Sheriff of Yuba County, LIEUTENANT RON JOHNSON, of the Yuba County Sheriff's Department, MIKEIAL K. WILLIAMSEN, Deputy Sheriff of Yuba County, and the COUNTY OF YUBA,

Defendants.

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1 I. INTRODUCTION

2 This is a civil action seeking damages against defendants for
3 committing acts, under color of state law, which deprived plaintiffs of
4 rights secured under the Constitution and laws of the United States and
5 State of California. Plaintiffs allege that defendants, Deputy Sheriffs
6 of the County of Yuba, deprived them of rights under the Fourth and
7 Fourteenth Amendments to the United States Constitution, Article 1,
8 Section 1 of the California Constitution, and California Civil Code
9 Section 52.1, by unlawfully entering plaintiffs' residence, illegally
10 detaining, arresting, and transporting plaintiffs, illegally searching
11 the residence, and illegally removing plaintiffs from school to transport
12 them to a Sheriff's facility for prolonged illegal interrogation.
13 Defendant COUNTY OF YUBA is liable as the employer of defendant Deputy
14 Sheriffs, under state law claims over which this Court has supplemental
15 jurisdiction.

16 II. JURISDICTION

17 1. This action is brought pursuant to 42 U.S.C. § 1984 and
18 the Fourth and Fourteenth Amendments to the United States Constitution.
19 Jurisdiction is based upon 28 U.S.C. § 1331. Furthermore, this Court has
20 supplemental jurisdiction under 28 U.S.C. § 1367(a) for related state
21 claims.

22 III. VENUE

23 2. A substantial part of the events or omissions giving rise
24 to the claims occurred in the County of Yuba, California. Pursuant to
25 28 U.S.C. § 1391(b)(2), venue therefore lies in the Eastern District of
26 California.

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IV. PARTIES

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2 3. Plaintiffs VANG HER and SAI XIONG are residents of Yuba
3 County and the parents of minor children BEE HER, JOUA HER, SONG HER,
4 SENG HER, FUE HER, SHEUR HER, and GAOHLY HER, all of whom reside with
5 their parents in the County of Yuba. VANG HER is the Guardian ad Litem
6 for his minor children, BEE HER, JOUA HER, SONG HER, SENG HER, FUE HER,
7 SHEUR HER, and GAOHLY HER. MAO YANG is an aunt of VANG HER, who resides
8 with him and his family in Yuba County.

9 4. Defendants FREEMAN, SAECHAO, JOHNSON and WILLIAMSEN are,
10 and at all material times were, Deputy Sheriffs of the County of Yuba,
11 acting within the course and scope of their employment and acting under
12 color of state law.

13 5. Defendant COUNTY OF YUBA is a political subdivision of the
14 State of California, and the employer of individually named defendants
15 FREEMAN, SAECHAO, JOHNSON and WILLIAMSEN.

16 6. On or about the afternoon of August 21, 1996, defendant
17 FREEMAN, without a warrant and without seeking or obtaining consent,
18 entered the residence of plaintiffs at 1336 Jason Drive, in Marysville,
19 California, and began an interrogation of plaintiff VANG HER. Defendant
20 FREEMAN asked VANG HER if he or any family members owned a B-B gun and
21 became abusive and threatened to incarcerate plaintiff VANG HER if he did
22 not produce a B-B gun.

23 7. Plaintiff VANG HER, who is Hmong and not a native speaker
24 of English, requested defendant FREEMAN to provide a Hmong translator,
25 but defendant FREEMAN denied VANG HER'S request. Instead, defendant
26 FREEMAN took VANG HER'S 10 year old daughter, plaintiff BEE HER, outside
27 of the residence without her consent or the consent of her parents,
28 detained her, questioned her, and refused to permit plaintiff VANG HER to

1 observe or be present during defendant FREEMAN's interrogation of
2 plaintiff BEE HER.

3 8. Defendant FREEMAN confined plaintiff BEE HER in the back
4 of his Sheriff's patrol car, closed the door, and continued to
5 interrogate plaintiff BEE HER without her or her parents' consent.

6 9. Defendant FREEMAN returned to the HER home with plaintiff
7 BEE HER, re-entered the residence without a warrant or consent of
8 plaintiffs, and searched the home, declaring he was looking for a B-B
9 gun.

10 10. Defendant FREEMAN directed BEE HER to open locked areas of
11 the house and searched those areas, repeatedly instructing VANG HER to
12 remain silent, and threatening to put all of the plaintiffs in jail if
13 they failed to produce the B-B gun he sought.

14 11. Finding no B-B gun after his warrantless search, FREEMAN
15 departed the residence.

16 12. During the entire time of FREEMAN's warrantless entry and
17 search of the HER residence, all of the plaintiffs, including VANG HER,
18 SAI XIONG, MAO YANG and minor children BEE HER, JOUA HER, SONG HER, SENG
19 HER, FUE HER, SHEUR HER, and GAOHLY HER were present, and were terrified
20 and upset by defendant FREEMAN's entry, threats of arrest, detention and
21 interrogation of BEE HER, and search of the premises.

22 13. On or about the morning of September 6, 1996, defendant
23 Yuba County Sheriff Deputy SAECHAO went to the HER residence at 1336
24 Jason Drive, in the City of Marysville, California, and without a warrant
25 or consent from the family, directed plaintiffs SAI XIONG, MAO YANG, SONG
26 HER, FUE HER, SHEUR HER and GAOHLY HER to enter a Sheriff's Department
27 van for transport to a Yuba County facility where they were all detained
28

1 for several hours, against their will, and without warrants for their
2 arrest.

3 14. Simultaneously with the detention of the plaintiffs
4 mentioned in paragraph 12, above, defendant SAECHAO and defendant
5 WILLIAMSEN went to Alicia School and Linda School in Marysville,
6 California, whereupon they seized BEE HER, SONG HER and JOUA HER without
7 warrants and without their consent or the consent of their parents,
8 removed them from classes and forced them to enter vehicles for transport
9 to a Yuba County facility where defendant SAECHAO proceeded to
10 interrogate BEE HER without her or her parents' consent, without a
11 warrant or any probable cause to arrest or to detain the juvenile.

12 15. Following hours of interrogation of BEE HER, defendants
13 SAECHAO and JOHNSON loaded the family into a Sheriff's Department van and
14 returned them to their home, whereupon defendants SAECHAO and JOHNSON
15 again, without consent or warrant, re-entered the home and conducted a
16 second unauthorized search of the HER residence, doing physical damage to
17 the premises in the process of their search.

18 FIRST CLAIM

19 16. By the acts alleged in paragraphs 1 through 15 of this
20 Complaint, defendants FREEMAN, SAECHAO, WILLIAMSEN and JOHNSON violated
21 the rights guaranteed to plaintiffs by the Fourth and Fourteenth
22 Amendments to the Constitution of the United States to be secure in their
23 homes against warrantless searches and seizures and not to be deprived of
24 liberty without due process of law, making defendants liable to
25 plaintiffs under the provisions of § 1983 of Title 42 of the United
26 States Code, for all damages suffered by defendants.

1 17. As a proximate result of the violations of their civil
2 rights as stated above, all of the plaintiffs suffered mental and
3 emotional distress and general and special damages according to proof.

4 SECOND CLAIM

5 18. By the acts alleged in paragraphs 1 through 15 of this
6 Complaint, defendants, and each of them, violated California state law,
7 over which this Court has supplemental jurisdiction, by falsely detaining
8 and arresting each and every of the plaintiffs hereto.

9 19. By the acts alleged in paragraphs 1 through 15 of this
10 Complaint, defendants, and each of them, violated Article 1, Section 1 of
11 the California Constitution, over which this Court has supplemental
12 jurisdiction. Defendants violated each and every plaintiffs' reasonable
13 expectation of privacy by unlawfully entering and searching plaintiffs'
14 home.

15 20. By the acts alleged in paragraphs 1 through 15 of this
16 Complaint, defendants, and each of them, violated California Civil Code
17 Section 52.1, over which this Court has supplemental jurisdiction.
18 Defendants violated Section 52.1 by interfering, and attempting to
19 interfere, by threats, intimidation and coercion, with plaintiffs'
20 exercise and enjoyment of rights secured by the Constitution and laws of
21 the United States and of the rights secured by the Constitution and laws
22 of the State of California.

23 21. On February 21, 1997, plaintiffs filed a Government Tort
24 Claim against defendants alleging violation and injuries arising out of
25 the events which occurred on August 21 and September 6, 1996, as more
26 particularly described above. Said claim was denied by the County of
27 Yuba Board of Supervisors on March 25, 1997.

1 22. As a proximate result of the false detention and arrest of
2 plaintiffs, plaintiffs suffered mental and emotional distress, were
3 injured in their bodies and minds and suffered general and special
4 damages, the precise amount of which is presently unknown, and plaintiffs
5 seek leave to amend this Complaint to allege such amounts when the same
6 are ascertained.

7 23. The acts of defendants, and each of them, were wanton and
8 reckless, and engaged in with the intent to oppress plaintiffs who, as
9 among people, largely ignorant of the English language, were particularly
10 vulnerable to abuse of police power. Such conduct justifies the award of
11 punitive damages in an amount in excess of \$250,000.

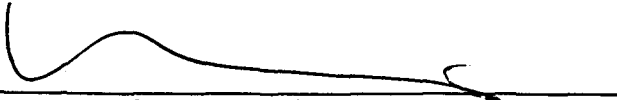
12 WHEREFORE, plaintiffs pray for judgment as follows:

- 13 1. For general and special damages according to proof;
- 14 2. For attorneys' fees under 42 U.S.C. § 1988;
- 15 3. For punitive damages;
- 16 4. For costs of suit;
- 17 5. For such other and further relief as the Court may deem

18 proper.

19 DATED: July 31, 1997

DICKSTEIN & MERIN

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22 By: Mark E. Merin
Attorney for Plaintiffs

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