

1 KEKER & VAN NEST, LLP
JON B. STREETER - #101970
2 ROY L. AUSTIN, JR. - #211491
ROBERT A. BONTA - #202668
3 710 Sansome Street
San Francisco, CA 94111-1704
4 Telephone: (415) 391-5400
Facsimile: (415) 397-7188

5 MICHELLE ALEXANDER - #177089
6 ALAN L. SCHLOSSER - #49957
KENNETH J. SUGARMAN - #195059
7 THE AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF NORTHERN CALIFORNIA
8 1663 Mission Street, Suite 460
San Francisco, CA 94103
9 Telephone: (415) 621-2493

10 Attorneys for Plaintiffs

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN JOSE DIVISION
14

15 CURTIS V. RODRIGUEZ, JOSE F. LOPEZ,
MacARTHUR WASHINGTON,
16 CALIFORNIA BRANCHES of the NAACP
and THE CALIFORNIA LEAGUE OF
17 UNITED LATIN AMERICAN CITIZENS,
INDIVIDUALLY AND ON BEHALF OF
18 ALL OTHERS SIMILARLY SITUATED,

19 Plaintiffs,

20 v.

21 CALIFORNIA HIGHWAY PATROL,
CALIFORNIA HIGHWAY PATROL
22 COMMISSIONER D. O. HELMICK,
CALIFORNIA HIGHWAY PATROL
23 OFFICER JOSEPH NARDIL, CALIFORNIA
HIGHWAY PATROL OFFICER MICHAEL
24 ARPAIA, CALIFORNIA HIGHWAY
PATROL OFFICER STEVE C. WOISIN,
25 CALIFORNIA HIGHWAY PATROL
OFFICER ROBERT J. WOODS and Does 7 –
26 100, inclusive,

27 Defendants.
28

Case No. C-99-20895-JF/EAI

**FIFTH AMENDED CLASS ACTION
COMPLAINT FOR DECLARATORY
RELIEF, INJUNCTIVE RELIEF AND
DAMAGES**

DEMAND FOR JURY TRIAL

I. INTRODUCTION

1
2 1. This is a class action lawsuit seeking declaratory, injunctive and monetary relief
3 against the California Highway Patrol (“CHP”) for engaging in and condoning a continuing
4 pattern and practice of race-based stops, detentions and searches of African-American and Latino
5 motorists traveling on the public streets and highways of the State of California. The specific
6 abuses giving rise to this action occurred on or in CHP’s Central and Coastal Divisions.

7 2. Plaintiffs in this case, Curtis V. Rodriguez ("Rodriguez"), Jose F. Lopez
8 (“Lopez”), MacArthur Washington (“Washington”), California Branches of the NAACP
9 (“NAACP”) and California League of United Latin American Citizens (“LULAC”), represent a
10 class and subclass of African Americans and Latinos who have been or will be subjected to the
11 humiliation of being targeted, interrogated, detained and searched by defendants in CHP’s
12 Central and Coastal Divisions due to the defendants’ policy and practice of what is commonly
13 known as “racial profiling.” The moment Mr. Rodriguez, Mr. Lopez and Mr. Washington were
14 stopped by the defendants they became victims of what the United States Court of Appeals for
15 the Ninth Circuit called “an all too familiar set of circumstances – an intrusive law enforcement
16 stop and seizure of innocent persons on the basis of suspicions rooted principally in the race of
17 the ‘suspects.’” *Washington v. Lambert*, 98 F.3d 1181, 1182 (1996).

18 3. To any person of color, regardless of ethnic background, level of education, or
19 economic station in life, the insidious problem of racial profiling by law enforcement officers is
20 all too familiar. It is a continuing reminder that, despite popular notions of progress in race
21 relations, racial discrimination remains a day-to-day reality in our society.

22 4. By the Complaint in this case, plaintiffs seek judicial redress for violations of
23 their civil rights due to racial profiling. But they also seek to confirm what everyone has a right
24 to expect in the United States: that people of color may use the public streets and highways, just
25 like anybody else, without having to suffer the indignities of racial discrimination at the hands of
26 government officials.

27 5. Plaintiffs’ claims are brought pursuant to the Fourth, Fifth and Fourteenth
28 Amendments to the United States Constitution; Title VI of the Civil Rights Act of 1964 and its

1 implementing regulations, 42 U.S.C. §§ 1981, 1982, 1983 and 1986; Article 1, §§ 7(a) and 13 of
2 the California Constitution; California Civil Code § 52.1; California Government Code §§ 11135
3 and 11139; and the California Common Law.

4 **II. JURISDICTION**

5 6. This court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1343 and
6 2201. The Court has pendent jurisdiction and supplemental jurisdiction over the state law claims
7 alleged in this Complaint pursuant to 28 U.S.C. § 1367. Declaratory relief is authorized under 28
8 U.S.C. §§ 2201 and 2202.

9 7. All administrative remedies have been exhausted. In compliance with California
10 Government Code § 910 et seq., Mr. Rodriguez, Mr. Lopez and Mr. Washington have filed
11 administrative claims for damages under the California Tort Claims Act with the California State
12 Board of Control, which has declined to exercise jurisdiction over these actions.

13 8. A substantial part of the events giving rise to the claims alleged in this Complaint
14 arose in the County of Santa Clara, California. Venue therefore lies in the United States District
15 Court for the Northern District of California, San Jose Division, pursuant to 28 U.S.C. § 84(a),
16 28 U.S.C. § 1391(b)(2) and Civil Local Rule 3-2(d).

17 **III. PARTIES**

18 9. Plaintiff Curtis V. Rodriguez is, and at all relevant times herein mentioned was, a
19 citizen of the State of California and a resident of the County of Santa Clara. Mr. Rodriguez is
20 of Latino descent and, by physical appearance, is a person of color.

21 10. Plaintiff Jose F. Lopez is, and at all relevant times herein mentioned was, a citizen
22 of the State of California and a resident of the County of Los Angeles. Mr. Lopez is of Latino
23 decent and, by physical appearance, is a person of color.

24 11. Plaintiff MacArthur Washington is, and at all relevant times herein mentioned
25 was, a citizen of the State of California and resident of the County of Merced. Mr. Washington
26 is African-American and, by physical appearance, a person of color.

27 12. Plaintiff California Branches of the NAACP (the California NAACP) is a non-
28 profit membership organization dedicated to eradicating race-based discrimination throughout

1 California and to securing equal protection of the laws for all persons. Upon information and
2 belief, individual members of the California NAACP regularly travel on the Highways of
3 California, including those located within CHP's Central and Coastal Divisions, and at various
4 times have been stopped and detained by members of the CHP on the basis of their race. The
5 California NAACP is representative of the class and subclass of African-American and Latino
6 motorists who have been or are being subjected to race-based discrimination by the CHP. The
7 California NAACP participates as a plaintiff only for the purpose of securing declaratory and
8 injunctive relief.

9 13. Plaintiff California League of United Latin American Citizens ("LULAC") is a
10 non-profit membership organization dedicated to eradicating race-based discrimination
11 throughout California and to securing equal protection of the laws for all persons. Upon
12 information and belief, individual members of the LULAC regularly travel on the Highways of
13 California, including those located within CHP's Central and Coastal Divisions, and at various
14 times have been stopped and detained by members of the CHP on the basis of their race. The
15 California LULAC is representative of the class and subclass of African-American and Latino
16 motorists being subjected to race-based discrimination by the CHP. LULAC participates as a
17 plaintiff only for the purpose of securing declaratory and injunctive relief.

18 14. Defendant California Highway Patrol, headquartered in Sacramento, California is
19 a division of the State of California in charge of patrolling California State highways. Upon
20 information and belief, the CHP receives federal funds through federal grants from the United
21 States Department of Justice or another federal agency. As such, the CHP is legally required to
22 conduct its activities in a racially non-discriminatory manner.

23 15. Upon information and belief, California Highway Patrol Officer Joseph Nardil,
24 sued here in both his individual and official capacities, is a resident of California who is
25 employed by the CHP. Officer Nardil was involved in the stop of plaintiff Curtis Rodriguez. All
26 actions taken by Officer Nardil while working as an officer of the CHP were taken under color of
27 state law.

28

1 16. Upon information and belief, California Highway Patrol Officer Michael J.
2 Arpaia, sued here in both his individual and official capacities, is a resident of California who is
3 employed by the CHP. Officer Arpaia was involved in the stop of plaintiff Jose Lopez. All
4 actions taken by Officer Arpaia while working as an officer of the CHP were taken under color
5 of state law.

6 17. Upon information and belief, California Highway Patrol Officer Steve C. Woisin,
7 sued here in both his individual and official capacities, is a resident of California who is
8 employed by the CHP. Officer Woisin was involved in the stop of plaintiff MacArthur
9 Washington. All actions taken by Officer Woisin while working as an officer of the CHP were
10 taken under color of state law.

11 18. Upon information and belief, California Highway Patrol Officer Robert J. Woods,
12 sued here in both his individual and official capacities, is a resident of California who is
13 employed by the CHP. Officer Woods was involved in the stop of plaintiff MacArthur
14 Washington. All actions taken by Officer Woods while working as an officer of the CHP were
15 taken under color of state law.

16 19. Upon information and belief, defendant D.O. Helmick is Commissioner of the
17 CHP and a resident of California. Upon information and belief, defendant Commissioner
18 Helmick directly or indirectly participated in the authorization, planning and supervision of the
19 actions of the individual CHP officers involved in this case, including Officers Joseph Nardil,
20 Michael Arpaia, Steve Woisin and Robert Woods. Upon information and belief, defendant
21 Commissioner Helmick failed adequately to train CHP personnel and to promulgate appropriate
22 policies to prevent race-based vehicular stops, and has established, implemented and enforced
23 illegal and unconstitutional policies and practices that have caused plaintiffs' injuries.

24 20. Plaintiffs are informed and believe that Doe defendants 7 through 50 are all
25 officers of the CHP and were at all relevant times acting in the course and scope of their
26 employment and acting under color of law. Upon information and belief, each of Doe
27 defendants 7 through 50 participated in some way in the stop of plaintiffs and others on the basis
28 on race, ethnicity, or national origin. Defendants 7 though 50 are all sued in their individual and

1 official capacities. The true names of these defendants are unknown to plaintiffs. In due course,
2 plaintiffs will amend this Complaint to identify these defendants' true names when they have
3 been ascertained.

4 21. Plaintiffs are informed and believe that Doe defendants 51 through 100 are
5 officials and/or supervisory officers of the CHP and were at all relevant times acting in the
6 course and scope of their employment. Upon information and belief, each of Doe defendants 51
7 through 100 directly or indirectly participated in the authorization, planning and supervision of
8 the actions of the individual CHP officers involved in this case. Upon information and belief,
9 one or more of these defendants failed adequately to train CHP personnel and to promulgate
10 appropriate policies to prevent race-based vehicular stops, and all of them have established,
11 implemented and enforced illegal and unconstitutional policies and practices that have caused
12 plaintiffs' injuries. Does 51 through 100 are sued in their individual and official capacities. The
13 true names of these defendants are unknown to plaintiffs; plaintiffs will amend this Complaint to
14 identify these defendants' true names when they have been ascertained.

15 22. Upon information and belief, at all relevant times each defendant was the agent
16 and/or employee of each of the remaining defendants, and in doing the things herein alleged was
17 acting within the course and scope of his or her employment and under color of law. Each of the
18 defendants caused, and is responsible for, the unlawful conduct described herein. Each
19 defendant is responsible for plaintiffs' injuries by personally participating in the unlawful
20 conduct; acting jointly and in concert with others who did so; authorizing, acquiescing or failing
21 to take action to prevent the unlawful conduct; promulgating policies and procedures pursuant to
22 which the unlawful conduct occurred; failing and refusing, with deliberate indifference, to
23 implement and maintain adequate training and supervision; and/or by ratifying the unlawful
24 conduct.

25 23. All of the defendants, and each of them, are sued both in their individual and
26 official capacities.

27
28

1 **IV. FACTS GIVING RISE TO THIS ACTION**

2 **Operation Pipeline and Other California Drug Interdiction Programs**

3 24. The CHP have long relied upon race and ethnicity in conducting stops, detentions,
4 interrogations and searches of motorists. They have engaged in an unabated, continuing pattern
5 and practice of discrimination.

6 25. In recent years, the law enforcement practice of targeting motorists on the basis of
7 race or ethnicity has increased dramatically nationwide, largely due to federally funded drug
8 interdiction programs operated by state and local law enforcement agencies.

9 26. Today, the defendants, like many law enforcement agencies across the country,
10 participate in a federally funded drug interdiction program sponsored by the United States Drug
11 Enforcement Agency (“DEA”) known as Operation Pipeline. The stated purpose and mission of
12 Operation Pipeline is to remove drugs and weapons from the nation’s highways. The DEA, as
13 the sponsoring agency, provides training and instructors for state and local law enforcement
14 agencies, teaching them how to identify highway travelers as potential drug couriers based on a
15 profile. In addition, plaintiffs believe that the CHP is allowing and encouraging Operation
16 Pipeline-like stops throughout California, such that these abuses are not limited to only those
17 officers technically participating in the Operation Pipeline program.

18 27. Operation Pipeline is a roving program of discrimination that, depending on the
19 area in which it is implemented and has its effects, can and does injure motorists of color
20 throughout the state of California. Pipeline and Pipeline-like programs encourage officers to rely
21 upon minor or fictional traffic code violations that can be used as an excuse or “pretext” to stop
22 motorists that somehow seem “suspicious.” Pipeline and Pipeline-like programs also encourage
23 officers to look for “indicators” of drug trafficking activity, including many common, pedestrian
24 characteristics, thus giving officers virtually unbridled discretion in determining who to stop.

25 28. Officers will also engage in sustained interrogation designed to uncover further
26 “indicators” of criminal drug activity in the form of “suspicious” answers or may engage in
27 roadside testing for drugs or alcohol use pursuant to CHP’s Drug Recognition Expert (“DRE”)
28 program. As yet another technique available to them, officers are trained to seek consent to

1 search – which most unwary motorists readily give – so that there is no need to point to any
2 probable cause should questions about the legality of the search arise later.

3 29. When consent is refused, troopers often detain the motorist until a canine unit
4 performs a sniff test around the exterior of the vehicle. If the dog alerts to something, the
5 detention continues, as the officer will then use the drug dog’s reaction as probable cause. If no
6 canine unit is used, troopers sometimes simply ignore motorists when they refuse consent to
7 search, knowing that if drugs are found a court will be unlikely to conclude that a drug courier is
8 more credible than a CHP officer.

9 30. In addition, CHP officers and supervisors know that, if no drugs are found,
10 motorists are unlikely to complain about their illegal tactics. Studies indicate that most motorists
11 do not even know they have the right to refuse consent to search. Those who do know their
12 rights have been violated are often so relieved that their frightening encounter with police has
13 ended without violence or arrest that they simply go on their way without complaint. Some
14 motorists believe that complaining to law enforcement agencies about their illegal and
15 discriminatory practices is futile. Others fear retaliation.

16 31. CHP officers use the aforementioned set of techniques in one flowing sequence
17 that is designed to end in a search. Officers select and deploy the techniques as they deem
18 appropriate in order to maximize the chances for a search.

19 32. CHP promotes the use of these techniques by encouraging a high volume of
20 traffic stops and rewarding officers for highway drug seizures. As a result of the high volume of
21 stops, CHP ensures that the number of motorists suffering from their escalating battery of
22 investigative techniques is maximized.

23 33. The CHP first became involved in Operation Pipeline in the late 1980’s, but has
24 since become one of the agencies most actively involved in the program, conducting joint
25 operations with local law enforcement agencies. Upon information and belief, the CHP now has
26 Pipeline teams running formal operations on all of California’s major highways, including those
27 located within CHP’s Central and Coastal Divisions, and has more than 40 canine units at its
28 disposal.

1 34. A report regarding Operation Pipeline and the CHP’s racial profiling practices
2 was issued by the Joint Legislative Task Force on Government Oversight on September 29,
3 1999. The report, which was based on a review of thousands of CHP records and testimony
4 from numerous CHP officers and officials, concluded that Operation Pipeline discriminates
5 against motorists of color in general, and Latino motorists in particular.

6 35. According to the report, the goal of Operation Pipeline is to use “intensified
7 enforcement” of traffic laws to generate a very high volume of traffic stops to screen for drug
8 couriers. Pipeline officers are not expected to write many traffic tickets and are often
9 discouraged from doing so. Instead, troopers are trained to stop and search thousands of
10 motorists for insignificant vehicle code infractions, the vast majority of which result in no more
11 than a verbal warning.

12 36. As a matter of policy, officers are encouraged to use vehicle code violations such
13 as weaving, improper lane changes, burned out license plate lights, tinted windows, following
14 too closely or seat belt violations, as excuses to stop drivers and attempt to search their cars for
15 drugs. Once the officers have an excuse for the stop, they are trained to begin questioning and
16 searching the occupants of the vehicle.

17 37. The Task Force report shows that stops conducted with the goal of drug
18 interdiction frequently result in travelers spending lengthy periods of time standing on the side of
19 the road while being interrogated, fielding repeated questions about their family members, their
20 occupations, their marital status, their immigration status, their criminal histories and their
21 recreational use of drugs or alcohol. Many of these motorists have their pulses taken to detect
22 signs of nervousness, a trait which is then cited as grounds for requesting “consent” to search
23 their car. Other motorists are subjected to field sobriety tests even though there is no evidence
24 that the motorist was under the influence of alcohol or a controlled substance.

25 38. CHP policy permits officers to detain a motorist during any traffic stop for the
26 purpose of conducting a search. Pursuant to this policy, CHP officers routinely detain motorists
27 for the purpose of searching their vehicles, even though the officers have no probable cause, or
28 even reasonable suspicion, that the motorists are carrying illegal drugs or engaged in any

1 criminal activity. These searches involve significant intrusion, humiliation, embarrassment and
2 great inconvenience for thousands of innocent motorists, but the practice is condoned and
3 encouraged by CHP supervisors and management.

4 39. The practice of stopping and searching innocent motorists would be alarming no
5 matter who was subjected to this kind of treatment by government officials. The reality,
6 however, is that motorists of color, particularly African-American and Latino motorists, are
7 targeted and subjected to these practices at grossly disproportionate rates. CHP troopers,
8 consistent with their Operation Pipeline training, are determining who to stop, detain, interrogate
9 and/or search in a racially discriminatory manner.

10 40. As set forth in the Task Force report, the CHP's own figures show that between
11 80% to 90% of all motorists arrested by Pipeline units since 1997 have been members of
12 minority groups, and only 10% have been white. More recent data produced by the defendants
13 in this action corroborates a finding of disparate impact on African-American and Latino
14 motorists with respect to both stops and searches. This data strongly suggests that motorists are
15 targeted, stopped and searched on the basis of race by the CHP. Studies of Operation Pipeline
16 programs in other states reveal that, contrary to popular perception, people of color are *not* more
17 likely than whites to be carrying drugs or other contraband in their cars. People of color are
18 arrested at grossly disproportionate rates because they are targeted and searched at grossly
19 disproportionate rates, not because they are more likely to be guilty of carrying drugs in the
20 vehicles. Ironically, the arrest statistics which are the product of racial profiling are often used
21 by law enforcement to justify the continued targeting of motorists of color. The New Jersey
22 Attorney General dubbed this phenomenon: "the perverse illogic of racial profiling."

23 41. The discriminatory impact of the CHP's drug interdiction efforts on minority
24 motorists cannot be justified by law enforcement necessity. Operation Pipeline and Pipeline-like
25 tactics have proven to be extremely costly and largely ineffective, taking a tremendous toll on
26 thousands of innocent motorists every year. According to the CHP's own data, nine out of ten
27 vehicle searches turn up nothing incriminating. Statistical analyses performed in other states
28 show that it is common for between 70% and 95% of all Pipeline stops to produce no arrests or

1 contraband seizures. As a result, thousands of innocent motorists are stopped, searched and
2 treated like criminals by the defendants every year based on nothing more than a police officer's
3 mistaken hunch.

4 42. The CHP's participation in Operation Pipeline, and the proliferation of Pipeline-
5 like training, has occurred with the strong support of CHP management. The Task Force report
6 found that individual officers involved in these operations and training programs have been
7 carrying out what they perceive to be the policy of the CHP, the Department of Justice and the
8 Administration of the State of California in targeting drivers through profiling. In fact, the
9 officers involved in these operations have been repeatedly commended by their supervisors for
10 the jobs they are doing, and encouraged to continue with the Operation Pipeline stops despite the
11 fact that the vast majority of the stops are unsuccessful and involve motorists of color. Officers
12 are under considerable pressure by their supervisors to pull over as many motorists as possible
13 and to conduct as many searches as possible, and therefore spend thousands of hours conducting
14 unwarranted and intimidating stops of innocent motorists, most of whom are people of color.
15 Because these drug interdiction programs can occasionally find drugs and cash, CHP supervisors
16 and management have continued to encourage Operation Pipeline tactics, despite evidence
17 showing that minority drivers are being targeted and subjected to unwarranted stops, searches,
18 detention and interrogation.

19 43. Plaintiffs allege that CHP supervisors have been aware that troopers are engaging
20 in racial profiling, yet have failed and refused to stop it, thereby showing deliberate indifference
21 to the rights of motorists of color. The supervisory defendants have failed to take effective
22 action to prevent continuation of the egregious pattern of discrimination against motorists of
23 color, despite their rhetoric to the contrary. Due to the supervisory defendants' inaction,
24 plaintiffs, and the class and subclass they seek to represent, have suffered and continue to suffer
25 systematic violations of their civil rights.

26 44. The racially discriminatory impact of Operation Pipeline has been challenged in
27 numerous cases nationwide. New Jersey judges have dismissed more than 600 criminal cases in
28 recent years because of concerns over racial stereotyping by officers in the Operation Pipeline

1 program; the Maryland State Police has settled litigation challenging racial profiling in
2 connection with their drug interdiction efforts; and a federal judge ruled that the Sheriffs
3 Department in Eagle County, Colorado was making “racist assumptions” about drivers who were
4 being pulled over and searched for drugs in connection with their Pipeline program.

5 45. Defendants have turned a deaf ear to the racially imbalanced result of these drug
6 interdiction programs, the complaints of victims, and the trauma these baseless stops and
7 searches have on motorists of color in California. What happened to the plaintiffs, as described
8 below, is not unusual. Their stories are consistent with the defendants’ policy, pattern and
9 practice of discriminating on the basis of race when determining whom to target, stop,
10 interrogate, detain and/or search in their drug interdiction efforts. The clear discriminatory effect
11 of these practices, and the discriminatory purpose hidden behind the defendants’ practice and
12 policy of willful ignorance, is immoral and illegal. These practices must be stopped.

13 **The Illegal Traffic Stops and Searches In This Case**

14 **Curtis V. Rodriguez**

15 46. On June 6, 1998, the CHP acting in concert with agents from the California
16 Department of Justice and BNE carried out a "special narcotics interdiction" operation in the
17 Pacheco Pass area of State Highway 152, south of San Jose. Mr. Rodriguez, accompanied by his
18 associate Arturo Hernandez, happened to drive through the stretch of highway where this
19 operation was taking place on that day. Mr. Rodriguez was at the wheel of his burgundy-colored
20 1995 Mazda Millenia, and Mr. Hernandez was in the passenger seat. Mr. Rodriguez is an
21 attorney.

22 47. Mr. Rodriguez and Mr. Hernandez were traveling from San Jose to Merced to
23 take some photographs as part of an investigation of an ongoing case. While driving eastbound
24 on Highway 152, they noticed two traffic stops being executed by the CHP, and both stops were
25 of Latinos. One of the stops involved two CHP vehicles. On the way back from Merced, Mr.
26 Rodriguez and Mr. Hernandez were driving westbound on Highway 152, again in the Pacheco
27 Pass area. They both noticed five traffic stops and at least ten CHP and BNE vehicles within a
28 ten-mile stretch of highway. All of the detained drivers were of Latinos, and most or all of the

1 drivers were standing outside of their cars by the side of the road. Distressed by what they were
2 witnessing, Mr. Rodriguez and Mr. Hernandez decided to document these race-based police
3 stops to prove to others what they had seen. Mr. Hernandez took photographs of the fourth and
4 fifth stops of Latino drivers, while Mr. Rodriguez concentrated on obeying the speed limit and
5 all traffic laws in order to avoid giving the police any excuse to pull them over. Nonetheless, the
6 officers stopped Mr. Rodriguez and searched his vehicle without consent or probable cause.

7 48. The officer who made the stop, Officer Nardil, told Mr. Rodriguez that he had
8 been stopped because he had his lights on and that he had crossed the line of the lane he was
9 driving in. Both reasons were false and pretextual. Drivers in the area are advised to have their
10 lights on, and Mr. Rodriguez had taken great care to stay perfectly within the middle of his lane
11 in order to avoid accusations of an infraction. When Mr. Rodriguez' counsel inquired of the
12 CHP about the stop as part of the investigation of this lawsuit, the CHP changed even this
13 pretextual basis for the stop; the official version now is that Mr. Rodriguez, while engaged in
14 "random driving," failed to comply with the "requirement that motorists drive with illuminated
15 headlights."

16 49. After stopping Mr. Rodriguez, Officer Nardil asked whether Mr. Rodriguez
17 would consent to a search of the vehicle. Mr. Rodriguez refused. At that point, Officer Nardil
18 stated – in a monotone voice, with a flat affect – that he was in fear for his personal safety, and
19 that he was going to search the car for weapons. He then undertook a search that turned up
20 nothing but the camera that Mr. Hernandez had used to photograph the illegal stops. After a
21 detention that lasted the better part of half an hour, Mr. Rodriguez was released without a ticket
22 or citation. His only "crime," it turned out, was being a Latino male.

23 50. Mr. Rodriguez travels on Highway 152 and Interstate Highway 5, within CHP's
24 Central and Coastal Divisions, for work-related reasons approximately once a month. Mr.
25 Rodriguez has no intention of changing his job or his residence, and therefore has a reasonable
26 expectation that he will travel these highways in the future. Therefore, based on his stop, his
27 observations of other stops, and his need to use the highways for business and personal reasons,
28 and especially in light of the CHP drug interdiction program's policy and practice as described

1 above, Mr. Rodriguez has a valid and reasonable fear that he will be stopped by the CHP again in
2 the future solely on the basis of his race.

3 **Jose F. Lopez**

4 51. On April 6, 1999, Jose Lopez, a Latino, was traveling with Stephanie Gevorkian
5 in their 1989 Ford Aerostar minivan north on Interstate Highway 5. Mr. Lopez is a service
6 technician and repairman for Sears. Ms. Gevorkian, who is white, is Mr. Lopez' companion and
7 the mother of his son. Although they are not formally married, Mr. Lopez and Ms. Gevorkian
8 call each other "husband" and "wife." Mr. Lopez and Ms. Gevorkian were traveling from their
9 home in El Monte, California to Ms. Gevorkian's parents' home in Fremont, California. Their
10 son had been visiting his grandparents in Fremont, and his baptism was to take place the next day
11 in Fremont. Mr. Lopez and Ms. Gevorkian were driving to pick up their son, spend time with
12 her family, and celebrate their son's baptism in Fremont before returning home, with their son, to
13 El Monte.

14 52. Near the intersection of Highway 152 and Interstate 5, Mr. Lopez and
15 Ms. Gevorkian noticed a CHP vehicle traveling south on Interstate 5. They looked at the officers
16 (Officer Arpaia and another officer). As they looked at the officers, the CHP vehicle made a U-
17 turn across the median and merged into the northbound lane. The officers immediately pulled up
18 alongside Mr. Lopez' minivan. Mr. Lopez kept the minivan in cruise control at the speed limit.
19 The officers looked inside the van, and stared closely at Mr. Lopez' and Ms. Gevorkian's faces.
20 After following Mr. Lopez alongside and behind the van for a few minutes the CHP officers
21 activated the emergency lights and pulled their vehicle over.

22 53. The officers told Mr. Lopez and Ms. Gevorkian that they had been stopped
23 because a small crystal was hanging from the rearview mirror. Ms. Gevorkian immediately
24 apologized, took the crystal down and put it in the glove compartment. Instead of ticketing Mr.
25 Lopez or allowing the couple to go on their way, however, the officers ordered Mr. Lopez out of
26 the car. Mr. Lopez was taken back to the patrol car by one of the officers, while the other officer
27 stood with Ms. Gevorkian on the passenger side of the minivan.
28

1 54. The officers then interrogated Mr. Lopez and Ms. Gevorkian separately for
2 approximately 30 minutes. The officer with Ms. Gevorkian repeatedly called her by the wrong
3 name. He asked her many times why there were baby clothes but no baby in the car, and what
4 she and Mr. Lopez did for a living. Several times he asked “what are you doing with that man?”
5 His tone was angry and accusing, and she understood him to be asking why she was with a
6 Latino. He asked her repeatedly if she was nervous, and she replied that she was. He then asked
7 her why, telling her that she wouldn’t be if she hadn’t done anything wrong. He asked to search
8 the car. Ms. Gevorkian reluctantly gave her consent, fearing the officers’ anger if she did not.
9 The search turned up nothing.

10 55. Meanwhile, the other officer repeatedly asked Mr. Lopez where he was born,
11 where he was going, what he did for a living, how he got his driver’s license, and what he was
12 doing with Ms. Gevorkian. He focused in particular on Mr. Lopez’ driver’s license, which Mr.
13 Lopez assumed was because the officer thought that Mr. Lopez was not a legal resident of this
14 country. After asking the same questions over and over again, the officers spoke together for a
15 few minutes, ordering Mr. Lopez to continue standing on the side of the highway by the patrol
16 car. They then returned to interrogate Ms. Gevorkian and Mr. Lopez separately, again asking the
17 same questions they had previously asked. After approximately five to ten more minutes of
18 questioning the officers told Mr. Lopez he could go. No citations were issued and no arrests
19 were made.

20 56. Ms. Gevorkian and Mr. Lopez were detained and searched without any legal
21 basis, and have been shamed and demeaned by being forced to endure the humiliating questions
22 and treatment from the officers who stopped them. After the stop, Ms. Gevorkian cried and
23 expressed her fear that she would not be able to visit her parents because she and Mr. Lopez
24 cannot travel on Interstate 5 without being stopped. Mr. Lopez is afraid to put anything on his
25 car that would identify him as a Mexican-American because he believes he will be stopped
26 again, especially since this is not the first time Mr. Lopez has been stopped by a CHP officer
27 without any basis. Because they have family and friends in Northern California, but live in
28 Southern California, Mr. Lopez and Ms. Gevorkian have been, and will in the future, travel on

1 Interstate 5 near Highway 152, within CHP's Central and Coastal Divisions, at least once a
2 month. However, this normal expectation of family visits has been compromised by their stop,
3 and their real and legitimate fear of future stops. In light of this unjustified stop and the policy
4 and practice of CHP drug interdiction programs as set forth above, Mr. Lopez and Ms.
5 Gevorkian have a reasonable belief and fear that they will be stopped again in the future.

6 **MacArthur Washington**

7 57. MacArthur Washington is a California resident of African-American descent. On
8 May 26, 1999, at approximately 2:00 a.m., Mr. Washington was driving near Highway 152 in
9 Los Banos, California. He was in the vicinity of the intersection of Highway 152 and Interstate
10 5. Mr. Washington was on his way to pick up a co-worker and go to work. Mr. Washington
11 lives in an agricultural area, and has worked for about four years for a firm called Smith Hay. As
12 part of his job, Mr. Washington assists with the cutting, raking and baling of hay, a task that must
13 be performed early in the morning. On the date and at the time in question, Mr. Washington was
14 going to pick up Bobby Smith, another employee of Smith Hay, to begin raking and baling. Mr.
15 Washington was driving a Smith Hay company truck, a late model Sierra 4-wheel drive pick up.

16 58. When Mr. Washington arrived at Bobby Smith's residence, Mr. Smith was not
17 waiting outside. Mr. Washington did not knock or call out, because he wanted to avoid waking
18 an elderly member of Mr. Smith's family who lived in the same house. Instead, after waiting for
19 a few minutes, Mr. Washington drove to a pay phone at a nearby Circle K market to call Ron
20 Smith, Smith Hay's owner and Bobby Smith's uncle, and ask what to do. Ron Smith agreed to
21 meet Mr. Washington at Bobby Smith's house. As Mr. Washington drove out of the Circle K
22 parking lot, he saw a CHP vehicle parked in the oncoming lane with its lights off. The car was
23 facing the front of Mr. Washington's car. When he passed the CHP vehicle, the officers made a
24 U-turn, activated their lights and pulled Mr. Washington over. Mr. Washington was informed
25 that he had been pulled over because the light illuminating his rear license plate was broken.

26 59. There were two CHP officers (Officers Woisin and Woods) in the CHP vehicle.
27 The officers asked for his license, registration and insurance. They looked inside the truck.
28 They then asked him to get out of the car, and they searched the trunk. At no time did they seek

1 Mr. Washington's consent. The search turned up nothing.

2 60. Although the search had turned up nothing, and although Mr. Washington had not
3 committed any traffic violation, the officers did not allow Mr. Washington to leave. Instead,
4 Officer Woods began to administer field sobriety tests to Mr. Washington. At about this same
5 time, Ron Smith, the owner of Smith Hay and Mr. Washington's boss, came by. Officer Woisin
6 informed Ron Smith that they believed Mr. Washington was driving under the influence. Smith
7 explained that there was no basis for the officers' belief, that he knew Mr. Washington very well,
8 that he was Mr. Washington's AA sponsor, and that Mr. Washington had been sober for over
9 seven years and was on his way to pick up someone for work. Nevertheless, the officers
10 persisted in their search and examination of Mr. Washington.

11 61. Notwithstanding the lack of probable cause to believe that any crime had been
12 committed, the officers then took Mr. Washington to the CHP office on Highway 152 and towed
13 the Smith Hay truck. At the CHP office, Officer Woods and Officer Woisin performed the same
14 field sobriety tests again, and checked his pulse many more times. The officers ordered him to
15 blow into a breathalyzer. When the breathalyzer came back zero, the officers continued to insist
16 that Mr. Washington must be intoxicated or under the influence of an illegal substance. Mr.
17 Washington agreed to submit to a blood test, and was taken to the Merced County Satellite Jail in
18 Los Banos. He was kept there until approximately 5:30 that morning.

19 62. Although Mr. Washington was arrested that night for violating Health & Safety
20 Code § 11550 (under the influence of a controlled substance) and Vehicle Code § 23152(a)
21 (driving under the influence), he has never been charged. Mr. Washington has since learned that
22 the blood test taken that night came out negative, proving that Mr. Washington had not been
23 under the influence of any controlled substance or alcohol.

24 63. Mr. Washington was pulled over because of his race. He was not driving
25 erratically, and had not committed any traffic violations. The rear license plate light was not
26 even broken. The sole "offense" Mr. Washington committed was driving while black at two
27 o'clock in the morning.

28

1 68. There are questions of law and fact common to all members of the class and
2 subclass, because all class and subclass members have been, or will be, adversely affected by the
3 challenged actions of the defendants. Common questions of fact and law include, but are not
4 limited to: whether CHP officers target, stop, detain and/or search individual drivers in a racially
5 discriminatory manner; and whether CHP officers are knowingly trained to employ methods that
6 result in racial profiling and have an unjustified disparate impact on putative class and subclass
7 members in violation of federal and state civil rights laws.

8 69. The claims of the representative plaintiffs are typical of the class as a whole who
9 travel within CHP's Central and Coastal Divisions and have been stopped, detained,
10 interrogated, and/or searched by the defendants. They are also representative of the subclass
11 who travel within CHP's Central and Coastal Divisions who, following a stop, have been or will
12 be searched by the CHP. The experiences of the plaintiffs at the hands of the defendants resulted
13 from the defendants' policy and practice of discriminating on the basis of race and ethnicity,
14 making their claims typical of those held by the class and subclass they seek to represent.

15 70. Plaintiffs can and will fairly and adequately protect the interests of the members
16 of the class and subclass. Plaintiffs will be adequate representatives of the class and subclass in
17 that all of the relevant questions of fact and law applicable to the class and subclass also apply to
18 them.

19 71. Plaintiffs have retained counsel who are familiar with the applicable law and
20 experienced in class action litigation, as well as litigation involving criminal law and civil rights.
21 Counsel for plaintiffs have the resources necessary to pursue this litigation.

22 72. This action is properly maintained as a class action. The defendants have acted or
23 refused to act on grounds generally applicable to the class and subclass, thereby making
24 appropriate final injunctive relief or corresponding declaratory relief with respect to the class and
25 subclass as a whole. Plaintiffs know of no difficulty to be encountered in the management of this
26 action that would preclude its maintenance as a class action.

27 73. The prosecution of separate actions by individual class and subclass members
28 would create a risk of inconsistent and varying adjudication concerning the subject of this action,

1 and such adjudication could establish incompatible standards of conduct for defendants under the
2 laws alleged herein.

3 **VI. REQUISITES FOR RELIEF**

4 74. As a direct and proximate result of the conduct of defendants described above,
5 plaintiffs have been denied their constitutional and statutory rights as stated below and have
6 suffered and continue to suffer mental and emotional distress, humiliation, embarrassment,
7 discomfort, anxiety and pain.

8 75. Defendants' acts were willful, wanton, malicious, oppressive and done with
9 conscious disregard and deliberate indifference for plaintiffs' rights. Therefore, defendants'
10 actions justify an award to plaintiffs of punitive damages in an amount to be determined at trial.

11 76. Defendants' policies, practices, conduct and acts alleged herein have resulted and
12 will continue to result in irreparable injury to plaintiffs, including but not limited to further
13 violations of their statutory and constitutional rights. Plaintiffs have no plain, adequate or
14 complete remedy at law to address the wrongs described herein. Plaintiffs therefore seek
15 injunctive relief restraining defendants from continuing to engage in and enforce the
16 unconstitutional and illegal policies, practices, conduct and acts described herein.

17 77. Defendants acted with discriminatory intent in violation of plaintiffs' legal and
18 constitutional rights, and have directly and proximately caused plaintiffs' humiliation, mental
19 pain and suffering. As a direct, legal and proximate result of defendants' violations of plaintiffs'
20 statutory, constitutional and common law rights, plaintiffs have been damaged in an amount
21 which is not yet known. Plaintiffs will seek leave of Court to amend this Complaint when
22 ascertained, or will amend to conform to proof at time of trial.

23 78. At all times herein mentioned, defendants had an obligation to comply with
24 federal and state laws regarding racial discrimination. Defendants failed to meet these
25 obligations with respect to plaintiffs.
26
27
28

1 **VII. FIRST CAUSE OF ACTION**

2 Race Discrimination in Federally Funded Programs
3 Violation of Title VI of the Civil Rights Act of 1964 and 28 C.F.R. §§ 42.101 *et seq.*
4 42 U.S.C. § 1983
(Against Defendant Helmick in his official capacity)

5 79. Plaintiffs incorporate by reference and reallege paragraphs 1-78 of this
6 Complaint.

7 80. Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, provides:

8 [N]o person in the United States shall, on the ground of race, color, or
9 national origin, be excluded from participation in, be denied the
benefits of, or be subjected discrimination under any program or
activity receiving federal financial assistance.

10 81. Federal regulations implementing Title VI prohibit federally funded programs or
11 activities from having a racially discriminatory impact or effect. The regulations provide that no
12 program receiving financial assistance through the United States Department of Justice Shall:

13 Utilize criteria or methods of administration which have the effect of
14 subjecting individuals to discrimination because of their race, color, or
15 national origin, or have the effect of defeating or substantially
16 impairing accomplishment of the objectives of the program as respects
individuals of a particular race, color, or national origin.

17 82. Defendant CHP receives federal financial assistance from the United States
18 Department of Justice, and thus is bound to abide by the terms of Title VI and its implementing
19 regulations, including 28 C.F.R. §§ 42.101 *et seq.*

20 83. The drug interdiction methods employed by the CHP have a discriminatory
21 impact on motorists of color traveling through California, including plaintiffs, as described
22 herein, and thereby violate 28 C.F.R. §§ 42.101 *et seq.* and Title VI. This violation is actionable
23 under 42 U.S.C. § 1983. Through his acts and omissions as alleged in this Complaint, defendant
24 Helmick has caused the violations of plaintiffs' rights secured by Title VI and its implementing
25 regulations.

26 84. Defendant Helmick's violation of Title VI and its implementing regulations has
27 caused and will continue to cause plaintiffs to suffer tremendous harm and public humiliation in
28 that they have been and will continue to be subjected to CHP's practice of race-based

1 discrimination in the absence of judicial intervention.

2 **VIII. SECOND CAUSE OF ACTION**

3 Intentional Race Discrimination in Federally Funded Programs
4 Violation of Title VI of the 1964 Civil Rights Act
(Against Defendant CHP)

5 85. Plaintiffs incorporate by reference and reallege paragraphs 1-84 of this
6 Complaint.

7 86. The CHP intentionally discriminates against motorists of color traveling though
8 California, including plaintiffs, through its drug interdiction methods, as described herein, in
9 violation of § 601 of Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d *et seq.*

10 87. Defendant CHP's violation of Title VI has caused and will continue to cause
11 plaintiffs to suffer tremendous harm and public humiliation in that they have been and will
12 continue to be subjected to CHP's practice of race-based discrimination in the absence of judicial
13 intervention.

14 **IX. THIRD CAUSE OF ACTION**

15 Violation of the Fourteenth Amendment and 42 U.S.C. § 1983
16 (Against all defendants in their individual and official capacities except CHP)

17 88. Plaintiffs incorporate by reference and reallege paragraphs 1-87 of this
18 Complaint.

19 89. Defendants, acting under color of law and in concert with one another, have
20 engaged in a continuing pattern and practice of intentional race discrimination in drug
21 interdiction efforts carried out in the area of CHP's Central and Coastal Divisions. In so doing,
22 defendants have caused plaintiffs, and the class and subclass they seek to represent, to suffer
23 deprivation of their fundamental rights to liberty and to be free from unlawful searches,
24 detentions and seizures on account of their race and/or national origin. These actions violated
25 plaintiffs' rights to equal protection of the laws, in violation of the Fourteenth Amendment to the
26 Constitution of the United States and 42 U.S.C. § 1983.

27 90. Defendants acting under color of law, institute, authorize, tolerate, ratify, permit
28 and acquiesce in policies, practices and customs of detention, searches and seizures which

1 involve intentional race discrimination in the provision of law enforcement services.

2 91. The defendants' acts were done in knowing violation of plaintiffs' legal and
3 constitutional rights, and have directly and proximately caused plaintiffs' humiliation, mental
4 pain and suffering.

5 **X. FOURTH CAUSE OF ACTION**

6 Violation of the Fourth and Fourteenth Amendments to the United States Constitution
7 42 U.S.C. § 1983.

8 (Against all defendants in their official and individual capacities except CHP)

9 92. Plaintiffs incorporate by reference and reallege paragraphs 1-91 of this
10 Complaint.

11 93. Defendants, acting under color of law and in concert with one another, have
12 violated plaintiffs' rights to be free from unreasonable searches and seizures under the Fourth
13 and Fourteenth Amendments to the United States Constitution. Defendants have subjected
14 plaintiffs, and the class and subclass they seek to represent, to lengthy detentions, interrogations
15 and searches, without probable cause or reasonable suspicion to believe that any crime had been
16 committed or that plaintiffs were carrying drugs of any kind, in violation of the Fourth
17 Amendment guarantee against unreasonable searches and seizures, and giving rise to plaintiffs
18 claims pursuant to the Fourteenth Amendment and 42 U.S.C. § 1983.

19 94. Defendants, acting under color of law, institute, authorize, tolerate, ratify permit
20 and acquiesce in policies, practices and customs of detentions, interrogations, searches and
21 seizures without probable cause or reasonable, articulable suspicion of crime, in their provision
22 of law enforcement services.

23 95. Defendants' acts were done in knowing violation of plaintiffs' legal and
24 constitutional rights, without good faith, and have directly and proximately caused plaintiffs'
25 humiliation, mental pain and suffering.
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

XI. FIFTH CAUSE OF ACTION

Violation of the Commerce Clause, Article IV and Fourteenth Amendment
to the United States Constitution 42 U.S.C. § 1983
(Against all defendants in their individual and official capacities except the CHP)

96. Plaintiffs incorporate by reference and reallege paragraphs 1-95 of this
Complaint.

97. Defendants, acting under color of law and in concert with one another, have
caused plaintiffs to be penalized and deterred in the exercise of their fundamental right to
interstate travel and migration on account of his race and/or ethnicity and/or national origin.
These actions violated plaintiffs’ right to travel, in violation of the Commerce Clause and the
Privileges and Immunities Clauses of Article IV and the Fourteenth Amendment.

98. Defendants, acting under color of law, institute, authorize, ratify, permit and
acquiesce in policies, practices and customs of detention, searches and seizures which violate
plaintiffs’ fundamental right to interstate travel.

99. Defendants’ acts were done in known violation of plaintiffs’ legal and
constitutional rights, without good faith, and have directly and proximately caused plaintiffs’
humiliation, mental pain and suffering.

XII. SIXTH CAUSE OF ACTION

Violation of 42 U.S.C. § 1981
(Against all defendants in their individual and official capacities except the CHP)

100. Plaintiffs incorporate by reference and reallege paragraphs 1-99 of this
Complaint.

101. Defendants, acting under color of law and in concert with one another, have
denied plaintiffs their rights to full and equal benefit of the laws and their right to be subject to
like punishment under 42 U.S.C. § 1981.

102. Defendants’ acts were the result of discriminatory intent, and were done in known
violation of plaintiffs’ legal and constitutional rights, without good faith, and have directly and
proximately caused plaintiffs’ humiliation, mental pain and suffering.

1 **XIII. SEVENTH CAUSE OF ACTION**

2 Conspiracy to Violate Civil Rights
3 (42 U.S.C. § 1986)
4 (All defendants except CHP)

5 103. Plaintiffs incorporate by reference and reallege paragraphs 1-102 of this
6 Complaint.

7 104. Defendants, acting under color of law and in concert with one another, and by
8 way of a conspiracy among them, have caused plaintiffs, and the class and subclass they
9 represent, to be denied equal protection of the laws and to be deprived of equal privileges and
10 immunities under the laws, on account of plaintiffs' race and/or national origin, by subjecting
11 them to legally unjustified and racially discriminatory detentions and searches. The supervisory
12 defendants had knowledge of the conspiracy to violate plaintiffs' civil rights and of the violations
13 committed, and had power to prevent these wrongs, but neglected or refused to do so in violation
14 of 42 U.S.C. § 1986.

15 105. Defendants' acts were done in knowing violation of plaintiffs' legal and
16 constitutional rights, and have directly and proximately caused plaintiffs' humiliation, mental
17 pain and suffering.

18 **XIV. EIGHTH CAUSE OF ACTION**

19 Violation of Government Code §§ 11135 and 11139

20 106. Plaintiffs incorporate by reference and reallege paragraphs 1-105 of this
21 Complaint.

22 107. Government Code § 11135(a) prohibits race discrimination in any program or
23 activity that is funded directly by the state or receives any financial assistance from the state.

24 108. State regulations implementing § 11135 provide that no program receiving
25 financial assistance from the State of California shall have an unjustified discriminatory impact
26 or effect on the basis of race.

27 109. Defendants CHP receive financial assistance from the State of California, and
28 thus is bound to abide by the terms of Government Code §11135 and its implementing
regulations.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

XVII. ELEVENTH CAUSE OF ACTION

Violation of Civil Code § 52.1(b)
(Against all Defendants except CHP)

117. Plaintiffs incorporate by reference and reallege paragraphs 1-116 of this Complaint.

118. Defendants' above-described conduct interfered and/or attempted to interfere with plaintiffs' exercise and/or enjoyment of their rights as secured by the United States Constitution and/or California Constitution, in violation of California Civil Code § 52.1.

XVIII. TWELFTH CAUSE OF ACTION

Intentional Infliction of Emotional Distress
(Against all Defendants except CHP)

119. Plaintiffs incorporate by reference and reallege paragraphs 1-118 of this Complaint.

120. Defendants' above-described conduct was extreme and outrageous. Said conduct was done intentionally and with conscious disregard of plaintiffs' rights, and directly and proximately caused plaintiffs humiliation, mental pain and suffering.

XIX. THIRTEENTH CAUSE OF ACTION

Negligent Infliction of Emotional Distress
(Against all Defendants except CHP)

121. Plaintiffs incorporate by reference and reallege paragraphs 1-120 of this Complaint.

122. Defendants' above-described conduct constituted a breach of defendants' duty of care to plaintiffs to ensure that defendants did not cause unnecessary or unjustified harm to plaintiffs. It was reasonably foreseeable to all defendants that a breach of that duty by defendants would cause emotional distress to plaintiffs.

XX. FOURTEENTH CAUSE OF ACTION

False Imprisonment
(Against all Defendants except CHP)

123. Plaintiffs incorporate by reference and reallege paragraphs 1-122 of this Complaint.

- 1 (ii) to cease and desist from all searches without probable cause of criminal
- 2 activity;
- 3 (iii) to collect and maintain comprehensive records of all traffic stops in the
- 4 State of California, including those stops that do not result in the issuance
- 5 of a citation; and
- 6 (iv) to establish a procedure to enable each person involved in a traffic stop the
- 7 right to file a grievance to contest illegal acts and acts motivated by bias;
- 8 (v) to establish clear and consistent discipline in the event a grievance is
- 9 sustained;
- 10 (vi) to establish a Civilian Complaint Review Board;
- 11 (vii) to appoint an independent auditor who will review the records of officers
- 12 quarterly to determine that there is compliance with these reforms;
- 13 (viii) to establish an early warning system which will collect information such
- 14 as citizen complaints against an officer and other information regarding
- 15 misconduct and will alert the officer's supervisor when a set number of
- 16 incidents are recorded;
- 17 (ix) to establish a mechanism for internal discipline of officers who are found
- 18 to have engaged in racial profiling and pretextual stops; and
- 19 (x) to require that all officers participate in regular and recurring training to
- 20 assure that the officers do not act due to bias based on race or ethnicity.

21 3. Award compensatory and general damages against defendants and each of them,
22 for plaintiffs in an amount to be determined according to proof;

23 4. Award exemplary and punitive damages against all defendants sued in their
24 individual capacities in an amount to be proven at trial;

25 5. Award statutory damages and penalties pursuant to California Civil Codes §
26 52(b);

27 6. Award plaintiffs their costs, expenses and reasonable attorneys' fees pursuant to
28 42 U.S.C. § 1988, California Civil Codes §§ 52(b) and 52.1(h) and California Code of Civil

1 Procedure § 1021.5; and

2 7. Grant such other and further relief as the Court may deem just and proper.

3 **XXIII. DEMAND FOR JURY TRIAL**

4 Pursuant to Rule 38(b), Federal Rules of Civil Procedure and Rule 3-6, Local Rules,
5 United States District Court, Northern District of California, plaintiffs demand trial by jury for
6 all the issues plead herein so triable.

7 Dated: August 13, 2001

KEKER & VAN NEST, LLP

8

9

10

By: _____

JON B. STREETER
ROY L. AUSTIN, JR.
ROBERT A. BONTA

11

12

THE AMERICAN CIVIL LIBERTIES
UNION FOUNDATION OF NORTHERN
CALIFORNIA

13

14

15

16

By: _____

MICHELLE ALEXANDER
ALAN L. SCHLOSSER
KENNETH J. SUGARMAN

17

18

Attorneys for Plaintiffs

19

20

21

22

23

24

25

26

27

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE VIA FACSIMILE AND FEDERAL EXPRESS

I am employed in the City and County of San Francisco, State of California in the office of a member of the bar of this court at whose direction the following service was made. I am over the age of eighteen years and not a party to the within action. My business address is Keker & Van Nest, LLP, 710 Sansome Street, San Francisco, California 94111.

On August 13, 2001, I served the following document(s):

FOURTH AMENDED CLASS ACTION COMPLAINT FOR DECLARATORY RELIEF, INJUNCTIVE RELIEF AND DAMAGES

XX by **FACSIMILE TRANSMISSION (IKON)**, by placing a true and correct copy with IKON Office Solutions, the firm's in-house facsimile transmission center provider, for transmission on this date. The transmission was reported as complete and without error; and

XX by **FEDERAL EXPRESS**, by placing a true and correct copy in a sealed envelope addressed as shown below. I am readily familiar with the practice of Keker & Van Nest, LLP for correspondence for delivery by FedEx Corporation. According to that practice, items are retrieved daily by a FedEx Corporation employee for overnight delivery.

Tyler B. Pon
Supervising Deputy Attorney General
Department of Justice
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-3664
Facsimile: (415) 703-5480

S. Michele Inan
Deputy Attorney General
1515 Clay Street, Suite 2000
Oakland, CA 94612-1413
Facsimile: (510) 622-2270

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

Executed on August 13, 2001, at San Francisco, California.

Lauren Hartz-Lewis