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16 IN THE UNITED STATES DISTRICT COURT
17 FOR THE EASTERN DISTRICT OF CALIFORNIA

18 JOHN PRUITT; DARRYL BERG; and
19 DEBRA BERG,

20 Plaintiffs,

21 v.

22 COUNTY OF SACRAMENTO; Sacramento
23 County Sheriff’s Department Sheriff JOHN
24 MCGINNESS; Detective RAMOS; Detective
25 SEAN BERRY; Detective BRAD ROSE;
26 Detective RANDY MOYA; Detective KLOSS;
27 Detective STEED; Probation Officer
28 TIMOTHY RUIZ; Probation Officer
WHARTON; Deputy THOMAS LYNN;
Deputy CRAIG HARMON; UNITED STATES
OF AMERICA, and DOES 1-100, inclusive,

Defendants.

Case No.

**COMPLAINT FOR VIOLATION OF
CIVIL RIGHTS**

JURY TRIAL DEMANDED

INTRODUCTION

1
2 1. This case involves the wrongful arrest and prosecution of Plaintiffs JOHN PRUITT
3 and DARRYL BERG by members of the Sacramento Intelligence Narcotics Task Force
4 (“SAINT”, the Sacramento chapter of the federally funded High Intensity Drug Trafficking Areas
5 program (“HIDTA”) hereinafter referred to as “SAINT/HIDTA task force”), an interagency drug
6 interdiction task force.

7 2. SAINT/HIDTA task force officers and agents were engaged in the investigation of a
8 methamphetamine distribution ring involving Leslie Shugart, a suspected dealer. The arrest of
9 Plaintiffs DARRYL BERG and PRUITT occurred as the result of an undercover operation where
10 one officer had set up a controlled purchase from Shugart. Surveillance officers followed Shugart
11 in an attempt to find her supplier. After watching her bob and weave through the streets for more
12 than 30 minutes, the officers saw her park in a hardware store parking lot where she was seen
13 exiting her car and talking to the occupant(s) of a parked white Chevrolet Impala. The identity of
14 the person or persons inside the car was obscured from the surveillance officers’ vision.
15 Nonetheless, after losing sight of the Impala for hours, the officers stopped Plaintiffs DARRYL
16 BERG and PRUITT in an Impala, searched and arrested them. DARRYL BERG and PRUITT
17 were ultimately indicted as coconspirators in the methamphetamine distribution ring without any
18 reasonable suspicion much less probable cause that they were involved in any way. In an effort to
19 cover up the lack of any probable cause to arrest Plaintiffs PRUITT and DARRYL BERG, the
20 defendants engaged in an all-too-familiar pattern of fabrication and deceit in a deliberate violation
21 of Plaintiffs DARRYL BERG and PRUITT’s constitutional rights.

22 3. Due to the government’s malfeasance, Plaintiff PRUITT, a single father of four and
23 small business owner, was detained in Sacramento County Jail for over fourteen months. He
24 continues to be harassed by the defendants.

25 4. Plaintiff DARRYL BERG, a licensed private investigator and bail bondsman,
26 suffered a three week detention, the loss of his business, and estrangement from his wife and
27 family.
28

1 5. Plaintiff DEBRA BERG, wife of DARRYL BERG, suffered the loss of her
2 husband's day-to-day companionship and support, which has resulted in the deterioration of the
3 marriage and the loss of the family home.

4 **JURISDICTION AND VENUE**

5 6. This case is brought pursuant to 42 U.S.C. § 1983. Jurisdiction is based on 28
6 U.S.C. §§ 1331 and 1343. With respect to those claims brought pursuant to California law,
7 Plaintiffs have complied with the administrative claim requirement. The court has supplemental
8 jurisdiction over Plaintiffs' state claims pursuant to 28 U.S.C. § 1367. The claims alleged herein
9 arose in the County of Sacramento, California. Therefore, venue in the Eastern District of
10 California is proper pursuant to 28 U.S.C. § 1391(b)(2); Local Rule 3-120(b).

11 **PARTIES**

12 7. Plaintiff JOHN PRUITT is a resident of the City of Sacramento, County of
13 Sacramento, and State of California. JOHN PRUITT is presently a free person and brings this
14 action on his own behalf.

15 8. Plaintiff DARRYL BERG is a resident of the City of Riverside, County of
16 Riverside, and State of California. DARRYL BERG is presently a free person and brings this
17 action on his own behalf.

18 9. Plaintiff DEBRA BERG is a resident of the City of City of Riverside, County of
19 Riverside, and State of California. DEBRA BERG is presently a free person and brings this
20 action on her own behalf.

21 10. Defendant COUNTY OF SACRAMENTO ("COUNTY") is a public entity, duly
22 organized and existing under the laws of the State of California. Under its authority, Defendant
23 COUNTY operates the Sacramento County Sheriff Department ("SCSD"). Upon information and
24 belief, Defendant COUNTY through the SCSD directly or indirectly participated in the
25 authorization of the actions at issue here.

26 11. Defendant JOHN MCGINNESS was the Sheriff of Sacramento County and head of
27 the SCSD at all times relevant hereto. In committing the acts and omissions alleged herein,
28 Defendant MCGINNESS was acting under color of state law and within the course and scope of

1 his employment as the Sheriff of Sacramento County and head of the SCSD. As Sheriff,
2 Defendant McGINNESS was an official with final policymaking authority regarding the
3 supervision, discipline, training and equipping of officers for the COUNTY. In the alternative,
4 upon information and belief, Defendant McGINNESS delegated final policymaking authority to
5 Defendants RAMOS and BERRY in their supervisory positions on the SAINT/HIDTA task force
6 with respect to the investigation and arrest of suspects of drug crimes, including Plaintiffs
7 PRUITT and DARRYL BERG. Defendant McGINNESS is being sued in his official capacity.

8 12. Defendant RAMOS, sued in both his official and individual capacities here, is a
9 resident of California. Upon information and belief, at all times relevant hereto, Defendant
10 RAMOS, badge #3, was a Detective in the SCSD and was Defendant BERRY's supervisor on the
11 SAINT/HIDTA task force. Defendant RAMOS was one of the officers who conducted the search
12 and arrest of Plaintiffs PRUITT and DARRYL BERG. In committing the acts and omissions
13 alleged herein, Defendant RAMOS was acting under color of state law, or alternatively under
14 color of federal law, and within the course and scope of his employment as a detective in the
15 SCSD.

16 13. Defendant SEAN BERRY, sued in both his official and individual capacities here, is
17 a resident of California. At all times relevant hereto, Defendant BERRY was a Detective in the
18 SCSD and was a case agent and head investigator on the SAINT/HIDTA task force. Defendant
19 BERRY was one of the officers who conducted the search and arrest of Plaintiffs PRUITT and
20 DARRYL BERG. Defendant BERRY also later testified under oath falsely and in a materially
21 misleading manner at the hearing on Plaintiffs PRUITT and DARRYL BERG's motion to
22 suppress. In committing the acts and omissions alleged herein, Defendant BERRY was acting
23 under color of state law, or alternatively under color of federal law, and within the course and
24 scope of his employment as a detective in the SCSD.

25 14. Defendant BRAD ROSE, sued in both his official and individual capacities here, is a
26 resident of California. At all times relevant hereto, Defendant ROSE, #849, was a Detective in the
27 SCSD, a member of the SAINT/HIDTA task force, and the undercover agent who, while wearing
28 a recorded body wire, participated in the surveillance of and controlled drug buy from Leslie

1 Shugart. Defendant ROSE was one of the officers who conducted the search and arrest of
2 Plaintiffs PRUITT and DARRYL BERG. Defendant ROSE also later testified falsely under oath
3 at the hearing on Plaintiffs PRUITT and DARRYL BERG's motion to suppress. In committing
4 the acts and omissions alleged herein, Defendant ROSE was acting under color of state law, or
5 alternatively under color of federal law, and within the course and scope of his employment as a
6 detective in the SCSD.

7 15. Defendant RANDY MOYA, sued in both his official and individual capacities here,
8 is a resident of California. At all times relevant hereto, Defendant MOYA, badge #1065, was a
9 Detective in the SCSD, a member of the SAINT/HIDTA task force, and part of the surveillance
10 team investigating Shugart and Plaintiffs PRUITT and DARRYL BERG. In committing the acts
11 and omissions alleged herein, Defendant MOYA was acting under color of state law, or
12 alternatively under color of federal law, and within the course and scope of his employment as a
13 detective in the SCSD.

14 16. Defendant KLOSS, sued in both his official and individual capacities here, is a
15 resident of California. At all times relevant hereto, Defendant KLOSS, badge #1323, was a
16 Detective in the SCSD, a member of SAINT/HIDTA task force, and part of the surveillance team
17 investigating Shugart and Plaintiffs PRUITT and DARRYL BERG. In committing the acts and
18 omissions alleged herein, Defendant KLOSS was acting under color of state law, or alternatively
19 under color of federal law, and within the course and scope of his employment as a detective in
20 the SCSD.

21 17. Defendant STEED, sued in both his official and individual capacities here, is a
22 resident of California. Upon information and belief, at all times relevant hereto, Defendant
23 STEED, badge #484, was a Detective in the SCSD, a member of the SAINT/HIDTA task force,
24 and part of the surveillance team investigating Shugart and Plaintiffs PRUITT and DARRYL
25 BERG. Defendant STEED took Shugart's statement upon her arrest detailing how she obtained
26 the drugs from her supplier before selling them to Defendant ROSE. In committing the acts and
27 omissions alleged herein, Defendant STEED was acting under color of state law, or alternatively
28

1 under color of federal law, and within the course and scope of his employment as a detective in
2 the SCSD.

3 18. Defendant WHARTON, sued in both his official and individual capacities here, is a
4 resident of California. Upon information and belief, at all times relevant hereto, Defendant
5 WHARTON, badge #188, was a Detective in the SCSD, a member of the SAINT/HIDTA task
6 force, and part of the surveillance team investigating Shugart and Plaintiffs PRUITT and
7 DARRYL BERG. In committing the acts and omissions alleged herein, Defendant WHARTON
8 was acting under color of state law, or alternatively under color of federal law, and within the
9 course and scope of his employment as a detective in the SCSD.

10 19. Defendant TIMOTHY RUIZ, sued in both his official and individual capacities here,
11 is a resident of California. At all times relevant hereto, Defendant RUIZ, badge #389, was a
12 Senior Deputy Probation Officer and Narcotic K-9 Handler in the SCSD, a member of the
13 SAINT/HIDTA task force, and part of the surveillance team investigating Shugart and Plaintiffs
14 PRUITT and DARRYL BERG. Defendant RUIZ was one of the officers who conducted the
15 search and arrest of Plaintiffs PRUITT and DARRYL BERG. Defendant RUIZ also conducted
16 the “dog sniff” search of Plaintiff DARRYL BERG’s car after it was stopped. In committing the
17 acts and omissions alleged herein, Defendant RUIZ was acting under color of state law, or
18 alternatively under color of federal law, and within the course and scope of his employment as a
19 probation officer and narcotic dog handler in the SCSD.

20 20. Defendant THOMAS LYNN, sued in both his official and individual capacities
21 here, is a resident of California. At all times relevant hereto, Defendant LYNN was a Deputy in
22 the SCSD and conducted the vehicular stop, search and arrest of Plaintiffs PRUITT and DARRYL
23 BERG. Defendant LYNN also later testified falsely under oath at the hearing on Plaintiffs
24 PRUITT and DARRYL BERG’s motion to suppress. In committing the acts and omissions
25 alleged herein, Defendant LYNN was acting under color of state law, or alternatively under color
26 of federal law, and within the course and scope of his employment as a deputy in the SCSD.

27 21. Defendant CRAIG HARMON, sued in both his official and individual capacities
28 here, is a resident of California. At all times relevant hereto, Defendant HARMON was a Deputy

1 in the SCSD and conducted the vehicular stop, search and arrest of Plaintiffs PRUITT and
2 DARRYL BERG. Defendant HARMON also later testified falsely under oath at the hearing on
3 Plaintiffs PRUITT and DARRYL BERG's motion to suppress. In committing the acts and
4 omissions alleged herein, Defendant HARMON was acting under color of state law, or
5 alternatively under color of federal law, and within the course and scope of his employment as a
6 deputy in the SCSD.

7 22. Plaintiffs are ignorant of the true names and capacities of defendants sued herein as
8 DOES 1 through 100, and therefore sue said defendants by such fictitious names. DOES 1
9 through 50 are unidentified federal law enforcement administrators, agents and employees,
10 including, upon information and belief, United States Department of Justice, United States
11 Department of Homeland Security, United States Immigration and Customs Enforcement,
12 HIDTA, Drug Enforcement Administration and Federal Bureau of Investigation agents, officers
13 and/or employees. DOES 50 through 100 are unidentified local Sacramento area law enforcement
14 agents, including, upon information and belief, unidentified Sacramento Police Department,
15 Sacramento County Sheriff's Department, Rocklin Police Department and Folsom Police
16 Department officers. Plaintiffs are informed and believe, and therefore allege on information and
17 belief, that each of them is responsible in some manner for the injuries and damages alleged
18 herein. Plaintiffs therefore sue DOES 1 through 100 by such fictitious names and will seek leave
19 to amend this complaint to add their true names when the same have been ascertained. DOES 1
20 through 100 are sued in their official and individual capacities.

21 23. At all times mentioned herein, the Defendants named in paragraphs 10 through 22,
22 and each of them, acted within the course and scope of their employment.

23 24. At all times mentioned herein, the Defendants, and each of them, acted under color
24 of state law, or, alternatively, under color of federal law.

25 25. Plaintiffs are informed and believe, and on that basis allege, that each Defendant
26 acted in concert with and as an agent of each other Defendant.

1 **EXHAUSTION OF PRE-LAWSUIT STATE AND FEDERAL PROCEDURES**

2 26. Plaintiffs PRUITT, DARRYL BERG, and DEBRA BERG filed state tort claims
3 with Defendant COUNTY OF SACRAMENTO on or about October 20, 2009. Plaintiffs have not
4 received responses to their tort claims filings.

5 27. Plaintiffs PRUITT, DARRYL BERG, and DEBRA BERG filed federal tort claims
6 with Defendant UNITED STATES OF AMERICA on or about February 17, 2010.

7 **FACTUAL ALLEGATIONS**

8 **SAINT/HIDTA Investigation of Leslie Shugart**

9 28. The High Intensity Drug Trafficking Area (“HIDTA”) program is a federal program
10 that purportedly “enhances and coordinates drug control efforts among local, State, and Federal
11 law enforcement agencies. The program provides agencies with coordination, equipment,
12 technology, and additional resources to combat drug trafficking and its harmful consequences in
13 critical regions of the United States.”¹ It is overseen by the Office of National Drug Control
14 Policy, a subset of the Drug Enforcement Administration, which designates areas within the
15 United States that exhibit serious drug trafficking problems and then provides federal funding and
16 resources to task forces in those areas to target the problem in a coordinated fashion. The HIDTA
17 program operates “by facilitating cooperation between drug control organizations through
18 resource and information sharing, collocating and implementing joint initiatives.”² The federal
19 program’s money funds joint initiatives staffed by federal, state, and local law enforcement
20 organizations. The Office of National Drug Control Policy designated Central Valley California
21 (“CVC”), which includes Sacramento County, a HIDTA in 1999. The CVC HIDTA specifically
22 targets the manufacture, trafficking and distribution of methamphetamine.

23 29. According to police records, in or around early 2008, members of the Sacramento
24 Area Intelligence Narcotics Task Force (SAINT), a HIDTA task force in Sacramento County,
25 received information from a confidential informant at Sacramento County Jail that another inmate,

26 _____
27 ¹ See High Intensity Drug Trafficking Areas, <http://www.whitehousedrugpolicy.gov/HIDTA/>.

28 ² See High Intensity Drug Trafficking Area Program: An Overview, <http://www.whitehousedrugpolicy.gov/HIDTA/overview.html>.

1 Gilbert Jones, was selling methamphetamine through his girlfriend, Leslie Shugart. Defendant
2 BERRY and other SAINT/HIDTA task force members were familiar already with Jones, as they
3 had arrested him previously in 2007 for drug and gun crimes. Jones was convicted subsequently
4 in a separate and distinct federal drug trafficking case prosecuted by Assistant United States
5 Attorney Michael Beckwith, *United States v. Jones et al.*, No. 07-CR-514-GEB.

6 30. At the behest of members of the SAINT/HIDTA task force, the Sacramento County
7 Jail informant passed Jones the phone number of Defendant ROSE, a member of the
8 SAINT/HIDTA task force and undercover SCSD detective. Members of the SAINT/HIDTA task
9 force began monitoring the calls between Jones and Shugart.

10 31. Defendant BERRY was the SAINT case agent on the investigation, and Defendant
11 RAMOS was his supervisor. On or about February 19, 2008, Defendant BERRY held a briefing
12 on the Shugart investigation for members of the task force. In attendance were numerous
13 Sacramento County Sheriff's Department officers, including Defendants RAMOS, STEED,
14 WHARTON, ROSE, MOYA, KLOSS and RUIZ. Upon information and belief, DOES 1-100,
15 including federal agents and officers of the Rocklin and Folsom Police Departments, were also in
16 attendance. The goal of the investigation was to arrange for Defendant ROSE to complete a
17 controlled purchase of methamphetamine from Shugart, and to then attempt to learn of and arrest
18 her supplier.

19 32. After a series of monitored calls, Shugart called Defendant ROSE, who then
20 arranged to buy two ounces of methamphetamine from Shugart on February 19, 2008.

21 33. Approximately twelve to fifteen SAINT/HIDTA task force members participated in
22 surveillance efforts related to this investigation. On February 19, 2008, members of the
23 surveillance unit followed Shugart from her home to the location where Defendant ROSE had
24 arranged to meet her to complete the drug sale, a McDonald's parking lot at Watt Avenue and
25 Elkhorn Boulevard. Defendant ROSE was parked in his unmarked pickup truck in lot. He was
26 wearing a body wire that was being monitored remotely by Defendants STEED and WHARTON,
27 both detectives with the SCSD and members of the SAINT/HIDTA task force. The body wire
28 was also being recorded.

1 34. According to police records, in the early afternoon on February 19, 2008, Shugart
2 arrived at the prearranged meet location, parked her vehicle, and got in Defendant ROSE's pickup
3 truck. She purportedly showed Defendant ROSE a small amount of methamphetamine and told
4 him she would need to leave to meet her supplier to obtain more. While she was in the car with
5 Defendant ROSE, Shugart accepted a collect call from a Sacramento County Jail inmate named
6 "Wayne" and they discussed Wayne's recent felony drug charges and, in coded language, the
7 purchase of drugs. Both Shugart and Defendant ROSE were aware that the person calling Shugart
8 was Wayne Patterson, who was then in jail on drug dealing charges for which he was
9 subsequently convicted. Shugart had repeatedly purchased drugs from Wayne Patterson up until
10 the time of his arrest less than three weeks earlier on the instant drug dealing charges.

11 35. According to law enforcement incident reports, Shugart then left the McDonald's
12 parking lot and drove around for approximately forty minutes, during which time she was trailed
13 by Defendants MOYA and KLOSS, both SCSD detectives and members of the SAINT/HIDTA
14 task force, and, on information and belief, DOES 1-100. During this time, Shugart made a
15 number of stops and was not constantly within the officers' sight. At one point, the officers saw
16 Shugart drive into an ACE Hardware parking lot at Watt Avenue and Turner Way in Sacramento.
17 Shugart parked next to a white Chevrolet Impala with dark tinted windows. Shugart then exited
18 her vehicle through the driver's side door, and began talking to someone in the white Impala,
19 leaning thorough the car's passenger window. After a brief conversation, Shugart got back into
20 her vehicle and drove out of the parking lot. The officers watching her reported that they could
21 not see into the Impala, did not know how many people were inside, and did not observe anything
22 being passed between the occupant(s) of the Impala and Shugart.

23 36. Later that same day, Shugart was arrested and gave a different account of the events
24 to the officers. Defendant STEED reported that Shugart said she parked her car in the ACE
25 Hardware parking lot and her supplier, who drove "small white colored vehicle," "just drove by
26 and threw the two (2) ounces [of methamphetamine] into the window of my truck as he drove by."
27 Once he "threw the drugs into [Shugart's] window," she drove back to Defendant ROSE and
28 completed the drug sale.

1 37. More than forty minutes after leaving Defendant ROSE at the MacDonald's, at
2 approximately 3:07 p.m., Shugart returned to the parking lot where Defendant ROSE was waiting,
3 got into his pickup truck, and sold him 57.2 grams of methamphetamine.

4 38. Defendant ROSE then called Shugart and, in a recorded phone conversation, told
5 Shugart that he was being followed by a "white car." During the course of the call, Shugart
6 identified the "white car" as her source. Neither Shugart nor Defendant ROSE referred to the
7 "white car" as an Impala.

8 **DARRYL BERG**

9 39. Despite the fact that the Defendants had not seen Plaintiff DARRYL BERG in the
10 white car from which Shugart reported that her supplier threw the drugs into her truck, nor in the
11 white Impala that surveillance officers saw parked in the ACE Hardware parking lot, they decided
12 to arrest any and all occupants of the white Chevrolet Impala when they saw the vehicle again,
13 hours later. Defendants made this decision without taking any reasonable investigative steps to
14 obtain the requisite probable cause to arrest and charge Plaintiff DARRYL BERG with such a
15 serious charge. They did not conduct surveillance of Plaintiff DARRYL BERG, look into his
16 phone records, obtain a pen register information, obtain authorization to monitor his telephones, or
17 obtain a search warrant. With no evidence that BERG had been involved in any drug transaction,
18 Defendants simply decided to arrest the occupants of the white Impala whether they had legal
19 cause or not.

20 **JOHN PRUITT**

21 40. In the early afternoon on February 19, 2008, Plaintiff PRUITT went to FirstSight
22 Vision and had an eye examination. He next went to Hubacher Cadillac, where he dropped off his
23 car for servicing. Plaintiff PRUITT's friend Debra Triplett met him at Hubacher Cadillac and
24 then drove him to a graphic design shop, Direct2Press, located at 120 Main Avenue in
25 Sacramento, where he stayed until approximately 3:00 p.m. designing and purchasing business
26 cards for his music recording business. Plaintiff PRUITT kept his receipts for both the Hubacher
27 Cadillac and Direct2Press business transactions and put them in his pocket. These receipts were
28 among the personal effects taken from PRUITT when he was arrested, and provided Plaintiff

1 PRUITT with a convincing alibi, as he could not have been 8.91 miles away³ in the ACE
2 Hardware parking lot at 3:02 p.m., and therefore could not have been Shugart's supplier.

3 41. Plaintiff PRUITT, still with Debra Triplett, then went to a restaurant. Plaintiff
4 DARRYL BERG, Plaintiff PRUITT's cousin, picked up Plaintiff PRUITT from the restaurant at
5 approximately 4:30 p.m. in his white Chevrolet Impala in order to give Plaintiff PRUITT a ride
6 home, as Plaintiff PRUITT's car was in the shop for repairs.

7 **The Arrest of PRUITT and DARRYL BERG**

8 42. After Shugart sold the drugs to Defendant ROSE, members of the SAINT/HIDTA
9 task force surveillance team, including Defendants KLOSS, MOYA and, on information and
10 belief, DOES 1-100, attempted to follow Shugart's car as well as the white Impala seen in the
11 ACE Hardware parking lot, but lost sight of both cars on more than one occasion over the course
12 of the next few hours.

13 43. Defendant BERRY, who was in charge of the Shugart investigation, called in a
14 request to the SCSD to have a marked patrol unit locate and pull over the white Impala. When
15 making the request, Defendant BERRY did not know who or how many people were in the car,
16 but told the patrol units that anyone in the white Impala was "arrestable" due to their purported
17 involvement with the Shugart drug deal, meaning Defendant BERRY had decided already at this
18 stage, based on the flimsiest of evidence, that there was probable cause to stop and arrest the
19 occupant(s) of the white Impala.

20 44. After searching for the car for over an hour with help from the SAINT/HIDTA task
21 force surveillance team, SCSD Deputies Defendants LYNN and HARMON, driving a marked
22 patrol car, pulled over Plaintiffs PRUITT and DARRYL BERG at 4357 Pacific Street in Rocklin,
23 Sacramento County, California, over two hours after the Shugart drug sale. Plaintiff DARRYL
24 BERG, who was driving his white Impala, complied peacefully and pulled the car over.

25
26 _____
27 ³ A Mapquest calculation between 120 Main Ave. and 3555 El Camino, the address for the ACE
28 Hardware Store described by the officers, indicates that the distance between the two locations is
8.91 miles with an estimated driving time of 13 minutes.

1 45. Defendants LYNN and HARMON approached Plaintiff DARRYL BERG's car and
2 requested from Plaintiffs PRUITT and DARRYL BERG their identification and vehicle
3 registration materials. Plaintiffs complied with the request. Then without any legal cause,
4 Defendants LYNN and HARMON demanded that Plaintiffs PRUITT and DARRYL BERG exit
5 the car, put handcuffs on each man, searched their pockets, and then put the men in the patrol car.

6 46. Shortly thereafter, Defendants BERRY, ROSE, RUIZ, and RAMOS arrived at the
7 scene. Defendant RUIZ, who is a Narcotic K-9 Handler, had the drug sniffing dog with him
8 search the vehicle. The officers also searched Plaintiff PRUITT and DARRYL BERG's persons,
9 and proceeded to search the interior of the white Impala and its trunk.

10 47. In the search of Plaintiff DARRYL BERG's vehicle and of Plaintiffs DARRYL
11 BERG and PRUITT's persons, the officers did not find any evidence of drugs, nor did they find
12 any other contraband. They also found no link to Shugart. Nonetheless, the officers arrested
13 Plaintiffs PRUITT and DARRYL BERG, put them in handcuffs, and placed them in separate
14 police cars.

15 48. While Plaintiff PRUITT was in the patrol car at the scene of his arrest, Defendant
16 RAMOS spoke on the phone with Michael Beckwith ("AUSA Beckwith"), a prosecutor from the
17 United States Attorney's Office for the Eastern District of California and a member of the Drug
18 Enforcement Administration-run Organized Crime Drug Enforcement Task Force ("OCDETF").
19 Defendant RAMOS told Plaintiff PRUITT that AUSA Beckwith said to tell Plaintiff PRUITT that
20 he would be indicted on drug charges and face life in prison if he did not cooperate in the
21 investigation and provide the government with information. Plaintiff PRUITT, frightened for his
22 life, remained silent.

23 49. Plaintiffs PRUITT and DARRYL BERG were then transported in separate police
24 cars to a police substation, where officers brought Plaintiff PRUITT inside to meet with Defendant
25 ROSE. Defendant ROSE told Plaintiff PRUITT that he was speaking on behalf of AUSA
26 Beckwith. He told PRUITT that he would be charged as a "career offender" and could face a life
27 sentence if he did not become an informant for the government. Again Plaintiff PRUITT refused
28

1 to talk to the police. Plaintiffs PRUITT and DARRYL BERG were then taken to Sacramento
2 County Main Jail where they were booked on California drug charges and detained.

3 50. A few days later, Defendants ROSE and BERRY visited Plaintiff PRUITT in jail,
4 once again indicating that they were there on behalf of AUSA Beckwith. They told him that
5 AUSA Beckwith could not be there personally because he was currently writing Plaintiff
6 PRUITT's indictment. Defendants ROSE and BERRY made a final effort to coerce Plaintiff
7 PRUITT into cooperating, telling him that AUSA Beckwith would be willing to forego the
8 indictment or charge Plaintiff PRUITT with lesser crimes if Plaintiff PRUITT agreed to cooperate
9 with the government and implicate others. Plaintiff PRUITT once again declined. He was
10 arraigned less than an hour later.

11 51. Shortly after Plaintiff PRUITT's arrest, DOES 1-100 conducted a search of Plaintiff
12 PRUITT's workplace and office. No drugs or anything incriminating was found.

13 **Prosecution of Plaintiffs PRUITT and DARRYL BERG**

14 52. Shugart and Plaintiffs PRUITT and DARRYL BERG were originally charged in
15 Sacramento County Superior Court. Those charges were dismissed when the three were indicted
16 for the same conduct on March 6, 2008 in the Eastern District of California, Case No. 2:08-CR-
17 0103 LKK, for drug trafficking violations 21 U.S.C. § 846 – Conspiracy to Distribute over 50
18 grams of Methamphetamine and 21 U.S.C. § 841(a)(1) – Distribution of Methamphetamine.

19 53. On March 10, 2008, Shugart and Plaintiffs PRUITT and DARRYL BERG were
20 arraigned in federal court before The Honorable Judge Lawrence K. Karlton, Senior District Court
21 Judge in the Eastern District of California. Both men were appointed counsel.

22 54. At the arraignment, AUSA Beckwith asked the Court to detain Plaintiff PRUITT,
23 and the Court ordered him detained pending trial. Plaintiff DARRYL BERG's wife, Plaintiff
24 DEBRA BERG, arranged for a \$250,000 secured property bond by the posting of her mother's
25 home as security. On March 10, 2008, Plaintiff DARRYL BERG was ordered to be released.

26 55. The Court's standing order, issued the same day, ordered that "upon request,
27 discovery shall be made without unreasonable delay."
28

1 56. On March 12, 2008, Plaintiff DARRYL BERG was released on bail from
2 Sacramento County Jail, having spent almost a month in prison. Unable to secure bond, Plaintiff
3 PRUITT remained in jail.

4 57. Counsel for Plaintiffs DARRYL BERG and PRUITT repeatedly asked AUSA
5 Beckwith to turn over all exculpatory and impeachment evidence, pursuant to the Federal Rules of
6 Criminal Procedure, Rule 16, *Brady v. Maryland*, *Giglio v. United States*, *United States v.*
7 *Henthorn*, the Jencks Act and the Due Process Clause of the Constitution. They made such
8 requests on March 11, 2008, on April 7, 2008, and on April 17, 2008.

9 58. Plaintiffs have always maintained that the recording on the body wire worn by
10 Defendant ROSE would be exculpatory. Accordingly, on April 7, 2008, counsel for Plaintiff
11 DARRYL BERG followed up on his initial request for discovery by faxing and mailing to AUSA
12 Beckwith a letter specifically requesting any wire recordings of the Shugart drug sale: "This letter
13 is to request copies of all audio or video recordings in the government's possession concerning this
14 case. I note that the initial discovery refers to 'wire communications' with [Defendant ROSE] and
15 the other officers at page 5 and lists transcriptions of phone calls at pages 1336. Please provide
16 these and any other recordings in this case."

17 59. On May 27, 2008, counsel for Plaintiffs PRUITT and DARRYL BERG moved to
18 suppress the evidence obtained as a result of the unlawful traffic stop of the white Impala.
19 Therein, Plaintiffs argued for relief predicated on the lack of probable cause for the initial stop,
20 search of the vehicle and arrest of Plaintiffs.

21 60. Shugart pled guilty on May 27, 2008.

22 61. On June 17, 2008, AUSA Beckwith responded by e-mail to defense counsels'
23 repeated requests for any body wire recordings, saying, after consulting with Defendant BERRY,
24 "[T]here's no body wire recording. It was monitored by a detective, who then forwarded the info
25 over the radio."

26 62. On July 22, 2008, defense counsel for Plaintiffs PRUITT and DARRYL BERG
27 formally moved for discovery of all exculpatory and impeachment materials.
28

1 63. The Honorable Lawrence K. Karlton held an evidentiary hearing on Plaintiffs
2 PRUITT and DARRYL BERG's motion to suppress on November 13, 2008. Defendants
3 BERRY, ROSE, MOYA, LYNN, and HARMON all testified under oath at the hearing.

4 64. Apparently realizing that the evidence supporting the stop, search, and arrest of
5 Plaintiffs PRUITT and DARRYL BERG was exceedingly thin, the task force officers testified in a
6 false and materially misleading manner in order to manufacture evidence that would support their
7 overly hasty decision to stop, search, and arrest Plaintiffs PRUITT and DARRYL BERG. The
8 testimony specifically contradicted Leslie Shugart's statement on the day she was arrested about
9 how she obtained the drugs from her supplier.

10 65. Defendants LYNN and HARMON falsely testified that Plaintiff PRUITT had
11 volunteered to them the information that he was on parole before they began their search of the car
12 and of Plaintiffs DARRYL BERG and PRUITT's persons. Plaintiff PRUITT made no such
13 statement, nor does the patrol car camera recording of the arrest show any such statement.

14 66. Further, Defendant ROSE testified that Shugart had, during the recorded phone call
15 just after the drug sale, "identified the white Impala as being 'her guys,'" when in fact Shugart and
16 ROSE discussed a white car of no specified make or model. Defendant ROSE also testified that
17 while Shugart had taken and received phone calls in his presence on the day of the sale, nothing
18 about any of the calls was drug related, which is also false.

19 67. In addition, the officers lied about the existence of evidence that would contradict
20 their false version of events. During that hearing, Defendant BERRY unequivocally testified
21 under oath that the body wire worn during the operation was not recorded, and that a reference in
22 a police report referring to such a recording was "a typo or misprint." This testimony was false.

23 68. Defendant ROSE also testified that the body wire was not recorded, and gave a
24 confusing and convoluted explanation for the statements in the police reports referring to such a
25 recording. This testimony was false.

26 69. Upon information and belief, Defendants ROSE, BERRY, LYNN, HARMON, and
27 AUSA Beckwith all knew that the testimony described in paragraphs 64 through 68 was false, but
28 nonetheless failed to act to reveal the truth.

1 70. Based on the testimony of the officers, the Honorable Lawrence K. Karlton denied
2 Plaintiffs DARRYL BERG and PRUITT's motion to suppress and set a trial date for early 2009.

3 71. On November 21, 2008, defense counsel for Plaintiffs DARRYL BERG and
4 PRUITT again requested *Brady* material, on the basis of documents already received in discovery
5 that suggested that the body wire recording did in fact exist.

6 72. On December 11, 2008, the Court ordered the government to produce, inter alia, all
7 *Giglio*, *Brady* and *Henthorne* material, any rap sheets for Plaintiffs PRUITT and DARRYL
8 BERG, and any recent probation search findings for Plaintiff PRUITT.

9 73. On April 7, 2009, the Court set a trial date of April 22, 2009.

10 74. The very next day, AUSA Beckwith produced, along with over 500 pages of
11 documents, a compact disc containing the recording of the ROSE/Shugart body wire. In addition
12 to establishing that Defendants BERRY and ROSE had testified falsely under oath about the
13 existence of the recording, the recording proved that the officers had no legal basis to stop the
14 white Impala and/or arrest Plaintiffs PRUITT and BERG. For instance, the concealed evidence
15 proved that Shugart's conversation with "Wayne" had in fact been drug related, contrary to
16 Defendant ROSE's testimony, and it established that Shugart did not go directly to the white
17 Impala after initially meeting with Defendant ROSE. The concealed tape revealed and confirmed
18 that the surveillance teams had not maintained sufficient visuals on either the white Impala or
19 Shugart during the relevant periods and that ROSE's testimony concerning the white Impala's
20 driving patterns had also been false. The newly discovered recording proved that the meager legal
21 basis the government presented to the Court to support the stop and arrest of DARRYL BERG and
22 PRUITT had all been based on fabrication and deceit.

23 75. On April 15, 2009, upon discovering the suppression of *Brady* materials and the
24 false testimony of Defendants ROSE and BERRY, defense counsel for Plaintiffs PRUITT and
25 DARRYL BERG moved to dismiss the charges.

26 **The Evidence of the Pattern of Deceit**

27 76. Defense counsel also alerted the Honorable Lawrence K. Karlton to the fact that
28 Defendants BERRY, ROSE, HARMON, and LYNN had recently been involved in another drug

1 investigation and prosecution in Sacramento Superior Court in the case of *People v. Charles*,
2 Sacramento County No. 06F02213, where they had engaged in similar misconduct. In that case,
3 midway through the trial, in or about August 2008, both Defendants BERRY and ROSE testified
4 at an Evidence Code 402 hearing with regard to Defendant ROSE's purported identification of the
5 defendant's voice on recorded messages. Defendant ROSE's testimony both contradicted that of
6 the other officers, and was itself internally inconsistent and riddled with factually impossible
7 scenarios.

8 77. Also during the mid-trial hearing in *Charles*, Defendant ROSE testified that he had
9 investigated the defendant for six months immediately prior to the search in the case and had
10 found no evidence against the defendant during the lengthy investigation. He also testified that he
11 had monitored a call that an informant had made to the defendant in which the defendant refused
12 to buy drugs from the informant. Neither of these facts had previously been disclosed during
13 discovery in *Charles*, despite their clearly exculpatory nature. Defense counsel in *Charles* moved
14 for dismissal of the case for the clear *Brady* violation. The judge sent the jury home, and the next
15 day, on or about August 21, 2008, the prosecution dismissed the case against the defendants.

16 78. Based on information and belief, Plaintiffs allege that Supervisory DOES did not
17 sufficiently, train, supervise or discipline the officers after learning of their earlier misconduct in
18 the *Charles* case, allowing them loose on the streets to continue the pattern of illegal and
19 unconstitutional behavior.

20 79. On April 20, 2009, after the *Brady* violation had come to light, AUSA Beckwith
21 filed a Notice of Information Charging Prior Convictions Pursuant to 21 U.S.C. § 851 as to
22 Plaintiff PRUITT, thereby raising the mandatory minimum sentence Plaintiff PRUITT was facing
23 if convicted of the underlying charges from ten years to twenty years.

The Dismissal of All Charges

24
25 80. The Honorable Lawrence K. Karlton held a hearing on the defense motions to
26 dismiss on April 21, 2009. In response to the evidence of suppression of exculpatory evidence,
27 the judge told the parties, "I've been at this more than 30 years. . . . This is the first time I've had a
28 situation in which there appears to be at least a credible argument that there was an intentional

1 violation.” The Court also rejected the notion that the misconduct could be explained by a good
2 faith accident, saying “the record just does not play that out in this case.” Describing the case
3 against the still-incarcerated Plaintiff PRUITT as “particularly weak,” the judge immediately
4 ordered that Plaintiff PRUITT be released from jail. (Plaintiff DARRYL BERG had already been
5 released on bail.)

6 81. Plaintiff PRUITT was released from Sacramento County Jail on April 21, 2009—
7 over fourteen months after being unlawfully arrested and maliciously prosecuted by defendants.

8 82. On April 24, 2009, the government moved to dismiss all charges against Plaintiffs
9 PRUITT and DARRYL BERG on the grounds that the government did not believe that it could
10 prevail at trial. The Honorable Lawrence K. Karlton granted the motion on the same day.

11 83. In the months since Defendants were forced to dismiss their case against Plaintiffs
12 DARRYL BERG and PRUITT, DOES 1-100 have repeatedly, and without probable cause or
13 reasonable suspicion, pulled over Plaintiff PRUITT in an effort to harass and intimate him. In a
14 single two-week period, Plaintiff PRUITT was pulled over four times while engaged in
15 completely lawful behavior.

16 Damages

17 84. Plaintiffs PRUITT, DARRYL BERG, and DEBRA BERG have all suffered
18 significant damages as a result of the constitutional violations perpetrated by Defendants in this
19 case.

20 85. As a proximate cause of Defendants bad acts, Plaintiffs PRUITT and DARRYL
21 BERG suffered physical, mental, emotional and financial damages, including, but not limited to,
22 damages related to their unlawful incarceration for fourteen months and three weeks, respectively,
23 as well as significant ongoing damages to each man’s existing and future business opportunities,
24 reputation and familial relationships.

25 86. Further, as a result of the government’s misconduct against her husband, Plaintiff
26 DEBRA BERG has also suffered ongoing physical, mental, emotional and financial damages due
27 to the loss of her husband’s comfort, protection, companionship, love, affection, solace, and
28 inability to perform his familial duties.

FIRST CLAIM FOR RELIEF

42 U.S.C. § 1983

**Violation of the Fifth and Fourteenth Amendment to the Constitution:
Malicious Prosecution and Suppression of Material Exculpatory and Impeachment
Evidence
(Against Defendants ROSE, BERRY, RAMOS, RUIZ, MOYA, KLOSS, STEED,
WHARTON, LYNN, HARMON,
and DOES 1 through 100 in their individual and official capacities)**

For this cause of action against Defendants ROSE, BERRY, RAMOS, RUIZ, MOYA, KLOSS, STEED, WHARTON, LYNN, HARMON, and DOES 1-100, Plaintiffs PRUITT and DARRYL BERG state:

87. Plaintiffs PRUITT and DARRYL BERG reallege and incorporate by reference paragraphs 1 through 86 of this complaint as though fully set forth therein.

88. At all times herein mentioned, Defendants had an obligation to comply with the due process requirements set forth in the Fifth and Fourteenth Amendment to the United States Constitution, including the obligation to testify truthfully under oath and to comply with Defendants' obligations under Federal Rules of Criminal Procedure, Rule 16, *Brady v. Maryland*, *Giglio v. United States*, and *United States v. Henthorn* and the Jencks Act. Defendants failed to meet this obligation with respect to Plaintiffs PRUITT and DARRYL BERG.

89. In the conduct described above, Defendants acted willfully, wantonly, maliciously, oppressively, and with conscious disregard and deliberate indifference for Plaintiffs PRUITT's and DARRYL BERG's rights. By intentionally suppressing material, exculpatory and impeachment evidence, and by testifying falsely under oath in an effort to cover up the existence and content of the exculpatory and impeachment evidence, as well as manufacturing evidence to support the existence of probable cause, Defendants violated Plaintiffs PRUITT's and DARRYL BERG's clearly established due process rights guaranteed by the Fifth and Fourteenth Amendment.

90. At all times herein mentioned, Defendants acted or purported to act within the course and scope of their employment and under color of state law.

1 91. Plaintiff PRUITT was falsely imprisoned from February 19, 2008 through April
2 21, 2009, and Plaintiff DARRYL BERG from February 19, 2008 through March 12, 2008.

3 92. As a result, Plaintiffs PRUITT and DARRYL BERG suffered and continue to suffer
4 mental and emotional distress, humiliation, embarrassment, anxiety, and pain. Defendants'
5 misconduct justifies an award to Plaintiffs PRUITT and DARRYL BERG of compensatory and
6 punitive damages in an amount to be determined at trial, and of reasonable attorneys' fees.

7 WHEREFORE, Plaintiffs PRUITT and DARRYL BERG pray for relief as set forth below.
8

9 **SECOND CLAIM FOR RELIEF**

10 **42 U.S.C. § 1983**

11 **Violation of the Fourth and/or Fourteenth Amendments to the Constitution:**
12 **Unlawful Stop, Search, Seizure, and Arrest Without Probable Cause or Warrant**
13 **(Against Defendants ROSE, BERRY, RAMOS, RUIZ, MOYA, KLOSS, STEED,**
14 **WHARTON, LYNN, HARMON,**
15 **and DOES 1 through 100 in their individual and official capacities)**

16 For this cause of action against Defendants ROSE, BERRY, RAMOS, RUIZ, MOYA,
17 KLOSS, STEED, WHARTON, LYNN, HARMON, and DOES 1 through 100, Plaintiffs PRUITT
18 and DARRYL BERG state:

19 93. Plaintiffs PRUITT and DARRYL BERG reallege and incorporate by reference
20 paragraphs 1 through 92 of this complaint as though fully set forth therein.

21 94. On February 19, 2008, as described above at paragraphs 29 through 49, Defendants
22 deprived Plaintiffs PRUITT and DARRYL BERG of their clearly established rights to be free
23 from unlawful stops, searches, seizures, and arrest in violation of the Fourth and/or Fourteenth
24 Amendments to the United States Constitution. Specifically, Defendants violated Plaintiffs
25 PRUITT and DARRYL BERG's constitutionally protected rights by stopping, searching, seizing,
26 and arresting Plaintiffs PRUITT and DARRYL BERG without a warrant, reasonable suspicion, or
27 probable cause. At no time did Plaintiff PRUITT or DARRYL BERG give the officers
28 permission to search them or the car, nor did Plaintiff PRUITT or DARRYL BERG engage in any

1 behavior that could be construed as threatening or criminal. Defendants did not know that
2 Plaintiff PRUITT was on parole at the time the search began.

3 95. The investigation conducted by the Defendants and their actions taken thereon were
4 taken in bad faith or, in the alternative, negligently, and Plaintiffs PRUITT and DARRYL BERG
5 were damaged by reason thereof in at least the following respects:

- 6 a. Loss of personal freedom;
- 7 b. Loss of business opportunities;
- 8 c. Payments necessary for bond and expenses of defense;
- 9 d. Pain and suffering, both physical and emotional; and
- 10 e. Loss of reputation.

11 96. Plaintiffs PRUITT and DARRYL BERG were subjected to the deprivation of rights
12 by these Defendants, acting or pretending to act under color of state law and of statutes, or
13 ordinances, regulations, customs and usages of the law of the United States, State of California
14 and of the County of Sacramento which rights include, but are not limited to, privileges and
15 immunities secured to Plaintiffs PRUITT and DARRYL BERG by the Constitution and laws of
16 the United States. By reason of the acts specified herein, Defendants violated the constitutional
17 rights of Plaintiffs PRUITT and DARRYL BERG, including those provided in the Fourth and
18 Fourteenth Amendments to the U.S. Constitution.

19 97. As a proximate result of the conduct of these Defendants, Plaintiffs PRUITT and
20 DARRYL BERG have suffered and will continue to suffer from psychological harm, mental
21 distress, humiliation, embarrassment, fear, and defamation of their characters and reputations, and
22 have suffered personal injury and emotional distress and incurred general damages for the
23 deprivation of their constitutional rights, including but not limited to medical expenses.

24 WHEREFORE, Plaintiffs PRUITT and DARRYL BERG pray for relief as set forth below.
25
26
27
28

THIRD CLAIM FOR RELIEF

42 U.S.C. § 1983

**Violation of the First, Fourth and/or Fourteenth Amendments to the Constitution:
Right to be Free from Retaliatory Police Harassment and Intimidation
(Against Defendants DOES 1 through 100 in their individual and official capacities)**

For this cause of action against Defendants DOES 1 through 100, Plaintiff PRUITT states:

98. Plaintiff PRUITT realleges and incorporates by reference paragraphs 1 through 97 of this complaint as though fully set forth therein.

99. Plaintiff PRUITT is informed and believes that Defendants acted together to violate his First, Fourth, and Fourteenth Amendment rights by subjecting him to repeated surveillance and vehicular stops in a retaliatory effort to harass and intimidate him. Plaintiff PRUITT is informed and believes these acts were undertaken in retaliation for his exercising of his First Amendment rights by complaining about Defendants' previous violations of his constitutional rights related to his unlawful arrest and prosecution.

100. Defendants deprived Plaintiff PRUITT of his clearly established right to be free from retaliatory police harassment and intimidation, in violation of the First, Fourth and/or Fourteenth Amendments to the United States Constitution.

101. Plaintiff PRUITT was subjected to the deprivation of these rights by Defendants DOES 1 through 100, acting or pretending to act under color of state law and of statutes, or ordinances, regulations, customs and usages of the law of the United States, State of California and of the County of Sacramento which rights include, but are not limited to, privileges and immunities secured to Plaintiff PRUITT by the Constitution and laws of the United States. By reason of the acts specified herein these Defendants have violated the constitutional rights of Plaintiff PRUITT, including those provided in the First, Fourth and Fourteenth Amendments to the U.S. Constitution.

102. As a proximate result of the conduct of these Defendants, Plaintiff PRUITT has suffered and will continue to suffer from psychological harm, mental distress, humiliation, embarrassment, fear, and defamation of his character and reputation, and has suffered personal

1 injury and emotional distress and incurred general damages for the deprivation of his
2 constitutional rights, including those damages plead in paragraphs 84 through 86, and 95, above.

3 WHEREFORE, Plaintiff PRUITT prays for relief as set forth below.

4
5 **FOURTH CLAIM FOR RELIEF**

6 **42 U.S.C. § 1983**

7 **Conspiracy to Violate the Fourth, Fifth and Fourteenth Amendments to the Constitution**
8 **(Against Defendants ROSE, BERRY, RAMOS, RUIZ, MOYA, KLOSS, STEED,**
9 **WHARTON, LYNN, HARMON, and DOES 1 through 100 in their individual and official**
10 **capacities)**

11 For this cause of action against Defendants ROSE, BERRY, RAMOS, RUIZ, MOYA,
12 KLOSS, STEED, WHARTON, LYNN, HARMON, and DOES 1 through 100, Plaintiffs PRUITT
13 and DARRYL BERG state:

14 103. Plaintiffs PRUITT and DARRYL BERG reallege and incorporate by reference
15 paragraphs 1 through 102 of this complaint as though fully set forth therein.

16 104. Beginning on a date unknown to Plaintiffs but since at least February 19, 2008 and
17 continuing up through April 24, 2009, in the Eastern District of California and elsewhere, the
18 Defendants together with others known and unknown, each being a person employed by and/or
19 associated with the Department of Justice and/or HIDTA/SAINT, unlawfully, knowingly, and
20 intentionally did conspire to deprive Plaintiffs' of the rights and privileges guaranteed to them
21 under the Fourth, Fifth and Fourteenth amendments to the United States Constitution.

22 105. It was part of the manner and means of the conspiracy that Defendants agreed to
23 withhold essential exculpatory evidence from criminal defendants in order to secure convictions,
24 and to lie about the existence of such evidence under oath.

25 106. It was further part of the manner and means of the conspiracy that the Defendants
26 agreed to and did engage in unlawful stops, searches, seizures, and arrests, and to manufacture
27 evidence to support said actions.
28

1 107. It was further part of the manner and means of the conspiracy that the Defendants
2 agreed to engage in and did engage in manufacturing of evidence and suborning perjurious
3 testimony to misdirect the court, criminal defendants and their counsel from the truth.

4 108. It was further part of the manner and means of the conspiracy that the Defendants
5 agreed to engage in a pattern and practice of coercing confessions and cooperation by engaging in
6 and threatening acts of malicious and vindictive prosecution.

7 109. As detailed above, the conspiracy directly and proximately caused harm to Plaintiffs
8 PRUITT and DARRYL BERG, including the deprivation of their rights and privileges under the
9 Constitution of the United States and the laws of California.

10 110. Plaintiffs PRUITT and DARRYL BERG are informed and believe that Defendants,
11 acting within the course and scope of their employment, under the color of state law and pursuant
12 to the customs, policies and/or practices of the Defendant COUNTY OF SACRAMENTO,
13 provided intentional, as well as unintentional, support to the conspiracy to deprive Plaintiffs
14 PRUITT and DARRYL BERG of their constitutional rights.

15 111. As a direct and proximate result of the malicious, intentional and reckless actions of
16 the Defendants, Plaintiffs PRUITT and DARRYL BERG suffered the injuries described above.

17 112. The above-described actions of the Defendants were so malicious, intentional and
18 reckless, and displayed such a reckless indifference to Plaintiffs PRUITT and DARRYL BERG's
19 rights and wellbeing, that the imposition of punitive damages is warranted.

20 WHEREFORE, Plaintiffs PRUITT and DARRYL BERG pray for relief as set forth below.

21 **FIFTH CLAIM FOR RELIEF**

22 **42 U.S.C. § 1983**

23 **Violation of the Fourth and/or Fourteenth Amendments to the Constitution:**
24 **Failure to Supervise and Train Adequately Sacramento County Sheriff Department Officers**
25 **(Against Defendants COUNTY OF SACRAMENTO, McGINNESS, RAMOS, BERRY and**
26 **DOES 1 through 100 in their official capacities)**
(Monell Claim)

27 For this cause of action against Defendants COUNTY OF SACRAMENTO, McGINNESS,
28 RAMOS, BERRY, and DOES 1 through 100, Plaintiffs PRUITT and DARRYL BERG state:

1 113. Plaintiffs PRUITT and DARRYL BERG reallege and incorporate by reference
2 paragraphs 1 through 112 of this complaint as though fully set forth therein.

3 114. The allegations contained in paragraphs 115 through 120 below will have additional
4 evidentiary support after a reasonable opportunity for further investigation or discovery.

5 115. Upon information and belief, Defendant COUNTY OF SACRAMENTO, by and
6 through its agent SCSD, delegated final policymaking authority for SCSD to its agent Defendant
7 MCGINNESS in his capacity of sheriff.

8 116. In the alternative, upon information and belief, Defendant COUNTY OF
9 SACRAMENTO, by and through its agents SCSD and Defendant MCGINNESS, who had
10 authority on behalf of the County to delegate such authority, delegated final policymaking
11 authority to Defendants RAMOS and BERRY for the drug investigations assigned to the
12 SAINT/HIDTA task force, including the investigation against Plaintiffs PRUITT and DARRYL
13 BERG.

14 117. Defendant COUNTY had notice -- actual and constructive -- that Defendants
15 BERRY and ROSE were reputed to engage in dishonest police work as part of the SAINT/HIDTA
16 task force, including by testifying falsely under oath, manufacturing evidence, and withholding
17 exculpatory and impeachment evidence. In retaining BERRY and ROSE in positions of
18 responsibility and importance, and in failing to take any steps to control their misconduct or
19 prevent it from occurring, the Defendant COUNTY condoned and adopted their misconduct as
20 policy and custom of the County, and in so doing, deliberately or recklessly disregarded the
21 constitutional rights of California citizens, including Plaintiffs.

22 118. Defendants COUNTY OF SACRAMENTO, MCGINNESS, RAMOS, BERRY, and
23 DOES 1-100, under color of law, intentionally, negligently, and with complete and deliberate
24 indifference to Plaintiffs' rights, proximately caused Plaintiffs to be deprived of their
25 constitutional rights including, but not limited to the First, Fourth and Fourteenth amendments, by:

- 26 a. Failing properly to supervise the training and conduct of SCSD police
27 officers despite constructive or actual knowledge of unlawful actions by
28 SCSD police officers, including in the *Charles* case;

- 1 b. Failing to implement adequate policies and programs to train SCSD police
2 officers as to the proper manner of handling exculpatory evidence, and failure
3 to discipline subordinate officers who failed to handle such evidence in a
4 constitutional manner;
- 5 c. Failing to appoint, promote, train, supervise and discipline SCSD police
6 officers who enforce the laws in effect in the County of Sacramento and who
7 would protect the constitutional rights of the people of the County of
8 Sacramento;
- 9 d. Failing properly and adequately to train SCSD police officers in appropriate
10 investigative techniques and procedures;
- 11 e. Failing to enforce the provisions of the Constitution of the United States,
12 including the First, Fourth, Fifth and Fourteenth Amendments;
- 13 f. Maintaining a policy and custom of harassing certain residents of the County
14 of Sacramento in retaliation for such residents' exercise of First Amendment
15 rights; and
- 16 g. Condoning the open and notorious systematic harassment of and retaliation
17 against Plaintiff PRUITT in violation of his rights under the Constitution of
18 the United States.

19 119. As a direct and proximate result of Defendants' policies, practices, conduct and acts
20 alleged herein, Plaintiffs PRUITT and DARRYL BERG were denied their constitutional rights.

21 120. As a proximate result of the conduct of these Defendants, Plaintiffs PRUITT and
22 DARRYL BERG have suffered and will continue to suffer from psychological harm, mental
23 distress, humiliation, embarrassment, fear, and defamation of their character and reputation, and
24 have suffered personal injury and emotional distress and incurred general damages for the
25 deprivation of their constitutional rights including those damages pled in paragraphs 84 through
26 86, and 95, above.

27 WHEREFORE, Plaintiffs PRUITT and DARRYL BERG pray for relief as set forth below.
28

SIXTH CLAIM FOR RELIEF

Bivens Claim

**Violation of the Fifth and Fourteenth Amendment to the Constitution:
Malicious Prosecution and Suppression of Material Exculpatory and Impeachment
Evidence**

**(Against Defendants ROSE, BERRY, RAMOS, RUIZ, MOYA, KLOSS, STEED,
WHARTON, LYNN, HARMON, and DOES 1 through 100 in their individual and official
capacities)**

For this cause of action against Defendants ROSE, BERRY, RAMOS, RUIZ, MOYA, KLOSS, STEED, WHARTON, LYNN, HARMON, and DOES 1-100, Plaintiffs PRUITT and DARRYL BERG state:

121. Plaintiffs PRUITT and DARRYL BERG reallege and incorporate by reference paragraphs 1 through 120 of this complaint as though fully set forth therein.

122. At all times herein mentioned, Defendants had an obligation to comply with the due process requirements set forth in the Fifth and Fourteenth Amendment to the United States Constitution, including the obligation to testify truthfully under oath and to comply with Defendants' obligations under *Brady v. Maryland*, *Giglio v. United States*, and *United States v. Henthorn* and the Jencks Act. Defendants failed to meet this obligation with respect to Plaintiffs PRUITT and DARRYL BERG.

123. Plaintiff PRUITT was falsely imprisoned from February 19, 2008 through April 21, 2009, and Plaintiff DARRYL BERG from February 19, 2008 through March 12, 2008.

124. In the conduct described above, Defendants acted willfully, wantonly, maliciously, oppressively, and with conscious disregard and deliberate indifference for Plaintiffs PRUITT's and DARRYL BERG's rights. By intentionally suppressing material, exculpatory and impeachment evidence, and by testifying falsely under oath in an effort to cover up the existence and content of the exculpatory and impeachment evidence, as well as manufacturing evidence to support the existence of probable cause, Defendants violated Plaintiffs PRUITT's and DARRYL BERG's clearly established due process rights guaranteed by the Fifth and Fourteenth Amendments.

1 125. Upon information and belief, Defendants ROSE, BERRY, RAMOS, RUIZ, MOYA,
2 KLOSS, STEED, WHARTON, LYNN, HARMON, and DOES 51 through 100, including
3 members of local and state law enforcement agencies, acted with AUSA Beckwith and DOES 1-
4 50, including members of federal law enforcement agencies, as part of the federally funded and
5 controlled SAINT/HIDTA task force to deprive Plaintiffs PRUITT and DARRYL BERG of their
6 constitutional rights, and therefore cloaked the state and local officials under color of federal law.

7 126. As a proximate result of the conduct of these Defendants, Plaintiffs PRUITT and
8 DARRYL BERG have suffered and will continue to suffer from psychological harm, mental
9 distress, humiliation, embarrassment, fear, and defamation of their characters and reputations, and
10 have suffered personal injury and emotional distress and incurred general damages for the
11 deprivation of their constitutional rights, including those damages plead in paragraphs 84 through
12 86, and 95, above.

13 WHEREFORE, Plaintiffs PRUITT and DARRYL BERG pray for relief as set forth below.

14
15 **SEVENTH CLAIM FOR RELIEF**

16 *Bivens Claim*

17 **Violation of the Fourth and/or Fourteenth Amendments to the Constitution:**
18 **Unlawful Search, Seizure, and Arrest Without Probable Cause or Warrant**
19 **(Against Defendants ROSE, BERRY, RAMOS, RUIZ, MOYA, KLOSS, STEED,**
20 **WHARTON, LYNN, HARMON,**
21 **and DOES 1 through 100 in their individual and official capacities)**

22 For this cause of action against Defendants ROSE, BERRY, RAMOS, RUIZ, MOYA,
23 KLOSS, STEED, WHARTON, LYNN, HARMON, and DOES 1 through 100, Plaintiffs PRUITT
24 and DARRYL BERG state:

25 127. Plaintiffs PRUITT and DARRYL BERG reallege and incorporate by reference
26 paragraphs 1 through 126 of this complaint as though fully set forth therein.

27 128. On February 19, 2008, as described above at paragraphs 29 through 49, Defendants
28 deprived Plaintiffs PRUITT and DARRYL BERG of their clearly established rights to be free
from unlawful stops, searches, seizures, and arrest in violation of the Fourth and/or Fourteenth

1 Amendments to the United States Constitution. Specifically, Defendants violated Plaintiffs
2 PRUITT and DARRYL BERG's constitutionally protected rights by stopping, searching, seizing,
3 and arresting Plaintiffs PRUITT and DARRYL BERG without a warrant, reasonable suspicion, or
4 probable cause. At no time did Plaintiff PRUITT or DARRYL BERG give the officers
5 permission to search them or the car, nor did Plaintiff PRUITT or DARRYL BERG engage in any
6 behavior that could be construed as threatening or criminal. Defendants did not know that
7 Plaintiff PRUITT was on parole at the time the search began.

8 129. The investigation conducted by the Defendants and their actions taken thereon were
9 taken in bad faith or, in the alternative, negligently, and Plaintiffs PRUITT and DARRYL BERG
10 were damaged by reason thereof in at least the following respects:

- 11 a. Loss of personal freedom;
- 12 b. Payments necessary for bond and expenses of defense;
- 13 c. Pain and suffering, both physical and emotional; and
- 14 d. Loss of reputation.

15 130. Plaintiffs PRUITT and DARRYL BERG were subjected to the deprivation of rights
16 by these Defendants, which rights include, but are not limited to, privileges and immunities
17 secured to Plaintiffs PRUITT and DARRYL BERG by the Constitution and laws of the United
18 States. By reason of the acts specified herein Defendants violated the constitutional rights of
19 Plaintiffs PRUITT and DARRYL BERG, including those provided in the Fourth and Fourteenth
20 Amendments to the U.S. Constitution.

21 131. Upon information and belief, Defendants ROSE, BERRY, RAMOS, RUIZ, MOYA,
22 KLOSS, STEED, WHARTON, LYNN, HARMON, and DOES 51 through 100, including
23 members of local and state law enforcement agencies, acted with DOES 1-50, including members
24 of federal law enforcement agencies, as part of the federally funded and controlled
25 SAINT/HIDTA task force to deprive Plaintiffs PRUITT and DARRYL BERG of their
26 constitutional rights, and therefore cloaked the state and local officials under color of federal law.

27 132. As a proximate result of the conduct of these Defendants, Plaintiffs PRUITT and
28 DARRYL BERG have suffered and will continue to suffer from psychological harm, mental

1 distress, humiliation, embarrassment, fear, and defamation of their characters and reputations, and
2 have suffered personal injury and emotional distress and incurred general damages for the
3 deprivation of their constitutional rights, including those damages plead in paragraphs 84 through
4 86, and 95, above.

5 WHEREFORE, Plaintiffs PRUITT and DARRYL BERG pray for relief as set forth below.

6
7 **EIGHTH CLAIM FOR RELIEF**

8 ***Bivens Claim***

9 **Violation of the First, Fourth and/or Fourteenth Amendments to the Constitution:**
10 **Right to be Free from Retaliatory Police Harassment and Intimidation**
11 **(Against Defendants DOES 1 through 100 in their individual and official capacities)**

12 For this cause of action against Defendants DOES 1 through 100, Plaintiff PRUITT states:

13 133. Plaintiff PRUITT realleges and incorporates by reference paragraphs 1 through 132
14 of this complaint as though fully set forth therein.

15 134. Plaintiff PRUITT is informed and believes that Defendants acted together to violate
16 his First, Fourth, and Fourteenth Amendment rights by subjecting him to repeated surveillance
17 and vehicular stops in a retaliatory effort to harass and intimidate him. Plaintiff PRUITT is
18 informed and believes these acts were undertaken in retaliation for his exercising of his First
19 Amendment rights by complaining about Defendants' previous violations of his constitutional
20 rights related to his unlawful arrest and prosecution.

21 135. Defendants deprived Plaintiff of his clearly established right to be free from
22 retaliatory police harassment and intimidation, in violation of the First, Fourth and/or Fourteenth
23 Amendments to the United States Constitution.

24 136. Plaintiff PRUITT was subjected to the deprivation of these rights by Defendants
25 DOES 1 through 100, which rights include, but are not limited to, privileges and immunities
26 secured to Plaintiff PRUITT by the Constitution and laws of the United States. By reason of the
27 acts specified herein, these Defendants have violated the constitutional rights of Plaintiff PRUITT,
28 including those provided in the First, Fourth and Fourteenth Amendments to the U.S.
Constitution.

1 137. Upon information and belief, Defendants DOES 51 through 100, including members
2 of local and state law enforcement agencies, acted with DOES 1-50, including members of federal
3 law enforcement agencies, as part of the federally funded and controlled SAINT/HIDTA task
4 force to deprive Plaintiff PRUITT of his constitutional rights, and therefore cloaked the state and
5 local officials under color of federal law.

6 138. As a proximate result of the conduct of these Defendants, Plaintiff PRUITT has
7 suffered and will continue to suffer from psychological harm, mental distress, humiliation,
8 embarrassment, fear, and defamation of his character and reputation, and has suffered personal
9 injury and emotional distress and incurred general damages for the deprivation of his
10 constitutional rights, including those damages plead in paragraphs 84 through 86, and 95, above.

11 WHEREFORE, Plaintiff PRUITT prays for relief as set forth below.

12 **NINTH CLAIM FOR RELIEF**

13 ***Bivens Claim***

14 **Conspiracy to Violate the Fourth, Fifth and Fourteenth Amendments to the Constitution**
15 **(Against Defendants ROSE, BERRY, RAMOS, RUIZ, MOYA, KLOSS, STEED,**
16 **WHARTON, LYNN, HARMON, and DOES 1 through 100 in their individual capacities)**

17 For this cause of action against Defendants ROSE, BERRY, RAMOS, RUIZ, MOYA,
18 KLOSS, STEED, WHARTON, LYNN, HARMON, and DOES 1 through 100, Plaintiffs PRUITT
19 and DARRYL BERG state:

20 139. Plaintiffs PRUITT and DARRYL BERG reallege and incorporate by reference
21 paragraphs 1 through 138 of this complaint as though fully set forth therein.

22 140. Beginning on a date unknown to Plaintiffs but since at least February 19, 2008 and
23 continuing up through April 24, 2009, in the Eastern District of California and elsewhere, the
24 Defendants together with others known and unknown, each being a person employed by and/or
25 associated with the Department of Justice, Drug Enforcement Administration, and/or
26 HIDTA/SAINT, unlawfully, knowingly, and intentionally did conspire to deprive Plaintiffs of the
27 rights and privileges guaranteed to them under the Fourth, Fifth and Fourteenth amendments to the
28 United States Constitution in an effort to secure a baseless conviction on drug charges.

1 141. It was part of the manner and means of the conspiracy that Defendants agreed to and
2 did withhold essential exculpatory evidence from criminal defendants in order to secure
3 convictions, and to lie about the existence of such evidence under oath.

4 142. It was further part of the manner and means of the conspiracy that the Defendants
5 agreed to and did engage in unlawful stops, searches, seizures, and arrests, and to manufacture
6 evidence to support said actions.

7 143. It was further part of the manner and means of the conspiracy that the Defendants
8 agreed to engage in and did engage in manufacturing of evidence and suborning perjurious
9 testimony to misdirect the court, criminal defendants and their counsel from the truth.

10 144. It was further part of the manner and means of the conspiracy that the Defendants
11 agreed to and did engage in a pattern and practice of extorting coerced confessions and
12 cooperation by engaging in and threatening acts of malicious and vindictive prosecution.

13 145. Upon information and belief, Defendants ROSE, BERRY, RAMOS, RUIZ, MOYA,
14 KLOSS, STEED, WHARTON, LYNN, HARMON, and DOES 51 through 100, including
15 members of local and state law enforcement agencies, conspired and acted jointly with AUSA
16 Beckwith and DOES 1-50, including members of federal law enforcement agencies acting as part
17 of the federally funded and controlled SAINT/HIDTA task force, to deprive Plaintiffs PRUITT
18 and DARRYL BERG of their constitutional rights, and therefore cloaked the state and local
19 officials under color of federal law.

20 146. As detailed above, the conspiracy directly and proximately caused harm to Plaintiffs
21 PRUITT and DARRYL BERG, including the deprivation of their rights and privileges under the
22 Constitution of the United States and the laws of California.

23 147. As a direct and proximate result of the malicious, intentional and reckless actions of
24 the Defendants, Plaintiffs PRUITT and DARRYL BERG suffered the injuries described above.

25 148. As a proximate result of the conduct of these Defendants, Plaintiffs PRUITT and
26 DARRYL BERG have suffered and will continue to suffer from psychological harm, mental
27 distress, humiliation, embarrassment, fear, and defamation of their characters and reputations, and
28 have suffered personal injury and emotional distress and incurred general damages for the

1 deprivation of their constitutional rights, including those damages plead in paragraphs 84 through
2 86, and 95, above.

3 WHEREFORE, Plaintiffs PRUITT and DARRYL BERG pray for relief as set forth below.

4
5 **TENTH CLAIM FOR RELIEF**

6 **Civil RICO and RICO Conspiracy Pursuant to 18 U.S.C. § 1962(c), (d)**
7 **(Against Defendants ROSE, BERRY, RAMOS, RUIZ, MOYA, KLOSS, STEED,**
8 **WHARTON, LYNN, HARMON, and DOES 1 through 100 in their individual and official**
9 **capacities)**

10 For this cause of action against Defendants ROSE, BERRY, RAMOS, RUIZ, MOYA,
11 KLOSS, STEED, WHARTON, LYNN, HARMON, and DOES 1 through 100, Plaintiffs PRUITT
12 and DARRYL BERG state:

13 149. Plaintiffs PRUITT and DARRYL BERG reallege and incorporate by reference
14 paragraphs 1 through 148 of this complaint as though fully set forth therein.

15 150. At all times relevant herein, Defendants were “persons” within the meaning of
16 18 U.S.C. § 1961(3) who conducted the affairs of the enterprise through a pattern of racketeering
17 activity in violation of 18 U.S.C. § 1962(c). In violation of § 1962(c) and (d), Defendants
18 conducted or participated and/or conspired to conduct or participate, directly or indirectly, in the
19 conduct of certain enterprises affairs through a pattern of racketeering activity, thereby
20 proximately causing injury to Plaintiffs PRUITT and DARRYL BERG's businesses or property.
21 Each of these Defendants knew the essential nature and scope of the enterprise that he was
22 employed by or associated with, and each of the Defendants intended to participate in the affairs
23 of the particular enterprise.

24 151. The SAINT/HIDTA task force is and has been a RICO enterprise as that term is
25 defined in § 1961(4) of RICO. At all times relevant hereto, the activities of the SAINT/HIDTA
26 task force enterprise affected interstate or foreign commerce. Defendants ROSE, BERRY,
27 RAMOS, RUIZ, MOYA, KLOSS, STEED, WHARTON, LYNN, HARMON, and DOES 1
28 through 100 were employed by and/or associated with the SAINT/HIDTA task force enterprise,
including by and through AUSA Beckwith's association with the “Organized Crime Drug

1 Enforcement Task Force” (OCDETF), a related task force also within the ambit of the Drug
2 Enforcement Administration. In violation of § 1962(c) of RICO, Defendants conducted and/or
3 conspired to conduct the affairs of the SAINT/HIDTA task force enterprise through a “pattern of
4 racketeering activity,” as that term is defined in § 1961(1) and (5) of RICO. Defendants
5 committed, aided and abetted and/or conspired to commit or threaten to commit violations 18
6 U.S.C. § 1512 (obstruction of justice), as alleged below.

7 152. In the alternative, there existed an associated-in-fact enterprise consisting of the
8 SAINT/HIDTA task force, OCDETF task force, and other members of the SCSD. Each defendant
9 named in this count is a member of the associated-in-fact-enterprise, voluntarily agreed to join the
10 enterprise and played an active role in its affairs. Each of the members of the associated-in-fact
11 enterprise are persons or legally incorporated entities that conducted (and conduct) business
12 activities through the United States and overseas. The activities of the associated-in-fact
13 enterprise affected interstate and/or foreign commerce. The members of the enterprise, including
14 each defendant named in this count, continue their professional and business activities to date.
15 Each of them was motivated by the desire to secure baseless drug convictions against innocent
16 California residents, including Plaintiffs PRUITT and DARRYL BERG, in violation of their
17 constitutional rights. Each member of the associated-in-fact enterprise conducted and/or
18 conspired to conduct the affairs of the associated-in-fact enterprise through a “pattern of
19 racketeering activity,” as that term is defined in § 1961(1) and (5) of RICO.

20 153. In addition, the pattern of racketeering committed and/or aided and abetted by
21 Defendants involves multiple separate instances of violations of 18 U.S.C. § 1512(b), (c) in
22 furtherance of the unlawful scheme in order to secure baseless drug convictions against innocent
23 California residents, including Plaintiffs PRUITT and DARRYL BERG, in violation of their
24 constitutional rights.

25 154. The instances of Defendants’ violations of 18 U.S.C. § 1512(b), (c) in furtherance of
26 the enterprises’ unlawful scheme include:
27
28

1 a. Defendants concealed exculpatory and impeachment evidence in the
2 prosecution of the *Charles* case including and up through August 21, 2008, preventing said
3 evidence from being used in the official criminal proceeding.

4 b. Defendants concealed exculpatory and impeachment evidence in the
5 prosecution of Plaintiff PRUITT and DARRYL BERG including and up through at least April 7,
6 2009, preventing said evidence from being used in the official criminal proceeding.

7 c. Defendant BERRY testified falsely under oath during the hearing on
8 Plaintiffs' motion to suppress on November 13, 2008, in an effort to manufacture probable cause
9 to stop, search and arrest Plaintiffs and to secure a baseless drug conviction against each of them.

10 d. Defendant ROSE testified falsely under oath during the hearing on Plaintiffs'
11 motion to suppress on November 13, 2008, in an effort to manufacture probable cause to stop,
12 search and arrest Plaintiffs and to secure a baseless drug conviction against each of them.

13 e. Defendant HARMON testified falsely under oath during the hearing on
14 Plaintiffs' motion to suppress on November 13, 2008, in an effort to manufacture probable cause
15 to stop, search and arrest Plaintiffs and to secure a baseless drug conviction against each of them.

16 f. Defendant LYNN testified falsely under oath during the hearing on Plaintiffs'
17 motion to suppress on November 13, 2008, in an effort to manufacture probable cause to stop,
18 search and arrest Plaintiffs and to secure a baseless drug conviction against each of them.

19 155. Defendants' acts or threats to violate 18 U.S.C. § 1512 constituted a "pattern of
20 racketeering activity," as that term is defined in § 1961(1) and (5) of RICO, because the acts were
21 related to each other and had continuity. As alleged herein, Defendants' violations of these
22 federal statutes had the same or similar purposes, results, participants, victims, or methods of
23 commission; they were interrelated and not isolated events. Defendants' violations of these
24 federal statutes evidenced continuity because they amounted to a period of repeated conduct or
25 conduct that extended temporally from the past into the future with a threat of repetition.

26 156. Plaintiffs PRUITT and DARRYL BERG have standing to sue under RICO because
27 they have been injured in their business or property by reason of Defendants' violations of §
28 1962(c) and (d), as set forth in paragraphs 84 through 86, and 95 herein. Pursuant to § 1964(c) of

1 RICO, Plaintiffs' PRUITT and DARRYL BERG are entitled to recover threefold the damages
2 sustained, as well as punitive damages and the costs of bringing suit, including reasonable
3 attorney's fees.

4
5 **ELEVENTH CLAIM FOR RELIEF**

6 **California Civil Code Section 52.1**
7 **(Against Defendants ROSE, BERRY, RAMOS, RUIZ, MOYA, KLOSS, STEED,**
8 **WHARTON, LYNN, HARMON, and DOES 1 through 100 in their individual and official**
9 **capacities)**

10 For this cause of action against Defendants ROSE, BERRY, RAMOS, RUIZ, MOYA,
11 KLOSS, STEED, WHARTON, LYNN, HARMON, and DOES 1 through 100, Plaintiffs PRUITT
12 and DARRYL BERG state:

13 157. Plaintiffs PRUITT and DARRYL BERG reallege and incorporate by reference
14 paragraphs 1 through 156 of this complaint as though fully set forth therein.

15 158. Defendants acting within the course and scope of their employment interfered and
16 attempted to interfere with the rights of Plaintiffs PRUITT and DARRYL BERG secured under
17 the Fourth and Fourteenth Amendments to the Constitution and under the California Constitution
18 and laws of California.

19 159. As a proximate result of the conduct of Defendants, Plaintiffs suffered damages, as
20 described in this Complaint, including actual damages within the meaning of California Civil
21 Code Section 52.

22 160. As a proximate result of the conduct of Defendants, Plaintiffs are entitled to an
23 award of exemplary damages, civil penalties, and attorneys' fees, as provided by California Civil
24 Code Section 52.

25 WHEREFORE, Plaintiffs PRUITT and DARRYL BERG pray for relief as set forth below.
26
27
28

TWELFTH CLAIM FOR RELIEF

Negligence

(Against Defendants ROSE, BERRY, RAMOS, RUIZ, MOYA, KLOSS, STEED, WHARTON, LYNN, HARMON, and DOES 1 through 100 in their individual and official capacities)

For this cause of action against Defendants ROSE, BERRY, RAMOS, RUIZ, MOYA, KLOSS, STEED, WHARTON, LYNN, HARMON, and DOES 1 through 100, Plaintiffs PRUITT and DARRYL BERG state:

161. Plaintiffs PRUITT and DARRYL BERG reallege and incorporates by reference paragraphs 1 through 160 of this complaint as though fully set forth therein.

162. At all times mentioned in this Complaint, Defendants owed a duty of reasonable care to Plaintiffs PRUITT and DARRYL BERG. Defendants breached the duty of care in searching, seizing, and arresting Plaintiffs PRUITT and DARRYL BERG without probable cause, and by continuing to detain and prosecute them criminally while fabricating inculpatory evidence and withholding exculpatory evidence. It was reasonably foreseeable that the unjustified search, seizure, arrest, and prosecution in the absence of any valid law enforcement purpose would subject Plaintiffs PRUITT and DARRYL BERG to an undue risk of harm.

163. As a proximate result of the conduct of these Defendants, Plaintiffs PRUITT and DARRYL BERG have suffered and will continue to suffer from psychological harm, mental distress, humiliation, embarrassment, fear, and defamation of their character and reputation, and have suffered personal injury and emotional distress and incurred general damages including those damages pled in paragraphs 84 through 86, and 95, above.

164. The negligent conduct of Defendants was committed within the course and scope of their employment.

WHEREFORE, Plaintiffs PRUITT and DARRYL BERG pray for relief as set forth below.

THIRTEENTH CLAIM FOR RELIEF

Malicious Prosecution

(Against Defendants ROSE, BERRY, RAMOS, RUIZ, MOYA, KLOSS, STEED, WHARTON, LYNN, HARMON, and DOES 1 through 100 in their individual and official capacities)

For this cause of action against Defendants ROSE, BERRY, RAMOS, RUIZ, MOYA, KLOSS, STEED, WHARTON, LYNN, HARMON, and DOES 1 through 100, Plaintiffs PRUITT and DARRYL BERG state:

165. Plaintiffs PRUITT and DARRYL BERG reallege and incorporate by reference paragraphs 1 through 164 of this complaint as though fully set forth therein.

166. On or about February 19, 2008, in Rocklin, Sacramento County, California, Defendants arrested Plaintiffs PRUITT and DARRYL BERG, charged them with drug crimes, and took them to Sacramento County Jail. Plaintiffs PRUITT and DARRYL BERG were detained in custody and arraigned in federal court in the Eastern District of California before Judge Karlton on March 10, 2008.

167. On April 24, 2009, the government moved to dismiss all charges against Plaintiffs PRUITT and DARRYL BERG on the grounds that the government did not believe that it could prevail at trial. Judge Karlton granted the government's motion to dismiss the charges that same day.

168. Defendants acted without probable cause in initiating and maintaining the prosecution of Plaintiffs PRUITT and DARRYL BERG in that they did not honestly, reasonably, and in good faith believe Plaintiffs PRUITT and DARRYL BERG to be guilty of the crime charged, and because exculpatory evidence in their possession defeated probable cause.

169. Defendants acted maliciously and with an intent to harm Plaintiffs PRUITT and DARRYL BERG in instigating and maintaining the criminal prosecution.

170. As a proximate result of the criminal prosecution initiated by Defendants, Plaintiffs PRUITT and DARRYL BERG have been damaged, including incurring costs associated with defending against the prosecution.

1 171. The above described actions of the Defendants were so malicious, intentional and
2 reckless, and displayed such a reckless indifference to Plaintiffs PRUITT and DARRYL BERG's
3 rights and wellbeing, that the imposition of punitive damages is warranted.

4 WHEREFORE, Plaintiffs PRUITT and DARRYL BERG pray for relief as set forth below.

5
6 **FOURTEENTH CLAIM FOR RELIEF**

7 **Loss of Consortium**

8 **(by Plaintiff DEBRA BERG against Defendants ROSE, BERRY, RAMOS, RUIZ, MOYA,**
9 **KLOSS, STEED, WHARTON, LYNN, HARMON, and DOES 1 through 100 in their**
10 **individual and official capacities)**

11 For this cause of action against Defendants ROSE, BERRY, RAMOS, RUIZ, MOYA,
12 KLOSS, STEED, WHARTON, LYNN, HARMON, and DOES 1 through 100, Plaintiff DEBRA
13 BERG states:

14 172. Plaintiff DEBRA BERG realleges and incorporates by reference paragraphs 1
15 through 171 as though fully set forth herein.

16 173. Plaintiff DEBRA BERG and Plaintiff's spouse, DARRYL BERG, are, and at all
17 times herein mentioned were, husband and wife.

18 174. Prior to the injuries, Plaintiff DEBRA BERG's spouse, DARRYL BERG, was able
19 to and did perform his duties as a spouse. As a proximate result of the government's acts as
20 described above, Plaintiff DEBRA BERG has suffered, and is reasonably certain to suffer in the
21 future, the loss of her husband's love, companionship, comfort, affection, society, solace, moral
22 support, enjoyment of sexual relations and physical assistance in the operation and maintenance of
23 the home, all to Plaintiff DEBRA BERG's damage.

24 WHEREFORE, Plaintiff DEBRA BERG prays for relief as set forth below.

25 **FIFTEENTH CLAIM FOR RELIEF**

26 **Federal Torts Claim Act (28 U.S.C. § 2674) Violation: California Civil Code Section 52.1**
27 **(Against Defendant UNITED STATES OF AMERICA)**

28 For this cause of action against Defendant UNITED STATES OF AMERICA, Plaintiffs

1 PRUITT and DARRYL BERG state:

2 175. Plaintiffs PRUITT and DARRYL BERG reallege and incorporate by reference
3 paragraphs 1 through 174 of this complaint as though fully set forth therein.

4 176. SAINT/HIDTA task force is a federally funded entity controlled by Defendant
5 UNITED STATES OF AMERICA and comprised of federal and state law enforcement officers.
6 Defendant UNITED STATES OF AMERICA is liable for the SAINT/HIDTA task force
7 members' actions under the Federal Torts Claim Act, 28 U.S.C. § 2674 because the officers on the
8 task force were acting under the control of and within the scope of their employment with
9 Defendant UNITED STATES OF AMERICA.

10 177. SAINT/HIDTA task force members interfered and attempted to interfere with the
11 rights of Plaintiffs PRUITT and DARRYL BERG secured under the Fourth, Fifth and Fourteenth
12 Amendments to the Constitution and under the California Constitution and laws of California.

13 178. As a proximate result of the conduct of the SAINT/HIDTA task force, Plaintiffs
14 suffered damages, as described in this Complaint, including actual damages within the meaning of
15 California Civil Code Section 52.

16 179. As a proximate result of the conduct of the SAINT/HIDTA task force, Plaintiffs are
17 entitled to an award of exemplary damages, civil penalties, and attorneys' fees, as provided by
18 California Civil Code Section 52.

19 WHEREFORE, Plaintiffs PRUITT and DARRYL BERG pray for relief as set forth below.

20
21 **SIXTEENTH CLAIM FOR RELIEF**

22 **Federal Torts Claim Act (28 U.S.C. § 2674) Violation: Negligence**
23 **(Against Defendant UNITED STATES OF AMERICA)**

24 For this cause of action against Defendants UNITED STATES OF AMERICA, Plaintiffs
25 PRUITT and DARRYL BERG state:

26 180. Plaintiffs PRUITT and DARRYL BERG reallege and incorporate by reference
27 paragraphs 1 through 179 of this complaint as though fully set forth therein.
28

1 181. SAINT/HIDTA task force is a federally funded entity controlled by Defendant
2 UNITED STATES OF AMERICA and comprised of federal and state law enforcement officers.
3 Defendant UNITED STATES OF AMERICA is liable for the SAINT/HIDTA task force
4 members' actions under the Federal Torts Claim Act, 28 U.S.C. § 2674 because the officers on the
5 task force were acting under the control of and within the scope of their employment with
6 Defendant UNITED STATES OF AMERICA.

7 182. At all times mentioned herein, the SAINT/HIDTA task force owed a duty of
8 reasonable care to Plaintiffs PRUITT and DARRYL BERG. Members of the SAINT/HIDTA task
9 force breached the duty of care in searching, seizing, and arresting Plaintiffs PRUITT and
10 DARRYL BERG without probable cause, and by continuing to detain and prosecute them
11 criminally while fabricating inculpatory evidence and withholding exculpatory evidence. It was
12 reasonably foreseeable that the unjustified search, seizure, arrest, and prosecution, in the absence
13 of any valid law enforcement purpose, would subject Plaintiffs PRUITT and DARRYL BERG to
14 an undue risk of harm.

15 183. As a proximate result of the conduct of Defendant's agents on the SAINT/HIDTA
16 task force, Plaintiffs PRUITT and DARRYL BERG have suffered and will continue to suffer from
17 psychological harm, mental distress, humiliation, embarrassment, fear, and defamation of their
18 character and reputation and have suffered personal injury and emotional distress and incurred
19 general damages including those damages pled in paragraphs 84 through 86, and 95, above.

20 WHEREFORE, Plaintiffs PRUITT and DARRYL BERG pray for relief as set forth below.

21 **SEVENTEENTH CLAIM FOR RELIEF**

22 **Federal Torts Claim Act (28 U.S.C. § 2674) Violation: Malicious Prosecution**
23 **(Against Defendant UNITED STATES OF AMERICA)**

24 For this cause of action against Defendant UNITED STATES OF AMERICA, Plaintiffs
25 PRUITT and DARRYL BERG state:

26 184. Plaintiffs PRUITT and DARRYL BERG reallege and incorporate by reference
27 paragraphs 1 through 183 of this complaint as though fully set forth therein.
28

1 185. SAINT/HIDTA task force is a federally funded entity controlled by Defendant
2 UNITED STATES OF AMERICA and comprised of federal and state law enforcement officers.
3 Defendant UNITED STATES OF AMERICA is liable for the SAINT/HIDTA task force
4 members' actions under the Federal Torts Claim Act, 28 U.S.C. § 2674 because the officers on the
5 task force were acting under the control of and within the scope of their employment with
6 Defendant UNITED STATES OF AMERICA.

7 186. On or about February 19, 2008, in Rocklin, Sacramento County, California,
8 Defendants arrested Plaintiffs PRUITT and DARRYL BERG, charged them with drug crimes, and
9 took them to Sacramento County Jail. On March 6, 2008, the federal government, represented by
10 AUSA Beckwith, asked a grand jury to indict Plaintiffs PRUITT and DARRYL BERG on charges
11 of distributing and conspiring to distribute methamphetamine. Plaintiffs PRUITT and DARRYL
12 BERG were detained in custody and arraigned in federal court in the Eastern District of California
13 before Judge Karlton on March 10, 2008.

14 187. On April 24, 2009, Judge Karlton, upon AUSA Beckwith's own motion, dismissed
15 all charges against Plaintiffs PRUITT and DARRYL BERG.

16 188. Defendants BERRY and ROSE, as members of the SAINT/HIDTA task force, acted
17 without probable cause in initiating and maintaining the prosecution of Plaintiffs PRUITT and
18 DARRYL BERG in that they did not honestly, reasonably, and in good faith believe Plaintiffs
19 PRUITT and DARRYL BERG to be guilty of the crime charged, and because exculpatory
20 evidence in their possession defeated probable cause.

21 189. Defendants BERRY and ROSE, as members of the SAINT/HIDTA task force, acted
22 maliciously and with an intent to harm Plaintiffs PRUITT and DARRYL BERG in instigating and
23 maintaining the criminal prosecution.

24 190. As a proximate result of the criminal prosecution initiated by Defendants, Plaintiffs
25 PRUITT and DARRYL BERG have been damaged, including incurring costs associated with
26 defending against the prosecution.

27 WHEREFORE, Plaintiffs PRUITT and DARRYL BERG pray for relief as set forth below.
28

EIGHTEENTH CLAIM FOR RELIEF

**Federal Torts Claim Act (28 U.S.C. § 2674) Violation: Loss of Consortium
(Against Defendant UNITED STATES OF AMERICA)**

For this cause of action against Defendant UNITED STATES OF AMERICA, Plaintiff DEBRA BERG states:

191. Plaintiff DEBRA BERG realleges and incorporates by reference paragraphs 1 through 190 as though fully set forth herein.

192. SAINT/HIDTA task force is a federally funded entity controlled by Defendant UNITED STATES OF AMERICA and comprised of federal and state law enforcement officers. Defendant UNITED STATES OF AMERICA is liable for the SAINT/HIDTA task force members' actions under the Federal Torts Claim Act, 28 U.S.C. § 2674 because the officers on the task force were acting under the control of and within the scope of their employment with Defendant UNITED STATES OF AMERICA.

193. Plaintiff DEBRA BERG and Plaintiff's spouse, DARRYL BERG, are, and at all times herein mentioned were, husband and wife.

194. As alleged in paragraphs 172 through 174, inclusive, Defendant is liable in tort for the injury to Plaintiff DEBRA BERG.

195. Prior to the injuries, Plaintiff DEBRA BERG's spouse, DARRYL BERG, was able to and did perform his duties as a spouse. Subsequent to the injuries to Plaintiff DARRYL BERG and as a proximate result thereof, Plaintiff DEBRA BERG has suffered, and is reasonably certain to suffer in the future, the loss of her husband's love, companionship, comfort, affection, society, solace, moral support, enjoyment of sexual relations and physical assistance in the operation and maintenance of the home, all to Plaintiff DEBRA BERG's damage.

WHEREFORE, Plaintiff DEBRA BERG prays for relief as set forth below.

PRAYER FOR RELIEF

Wherefore, Plaintiffs pray for judgment against Defendants as follows:

1. For general damages in an amount according to proof;

- 1 2. For special damages in an amount according to proof;
- 2 3. For compensatory damages in an amount according to proof;
- 3 4. For punitive damages against individual defendants only, in amounts according to
- 4 proof;
- 5 5. For lost wages, employment opportunities, and other losses in an amount according
- 6 to proof;
- 7 6. For reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988, 18 U.S.C. §
- 8 1964, California Civil Code §§ 52 and 52.1, and as otherwise authorized by statute or law;
- 9 7. For costs of suit;
- 10 8. For restitution as the court deems just and proper;
- 11 9. For declaratory and injunctive relief as the court deems just and proper; and
- 12 10. For such other and further relief as the court deems just and proper.

13
14 Dated: February 18, 2010

Respectfully submitted,
ROSEN, BIEN & GALVAN, LLP

15
16
17 By: */s/ Ernest Galvan*
Ernest Galvan
Attorneys for Plaintiffs

18
19 Dated: February 18, 2010

Respectfully submitted,
LAW OFFICES OF GERI LYNN GREEN, LC

20
21 By: */s/ Geri Green*
Geri Green
Attorneys for Plaintiffs

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DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a jury trial.

Dated: February 18, 2010

Respectfully submitted,
ROSEN, BIEN & GALVAN, LLP

By: /s/ Ernest Galvan
Ernest Galvan
Attorneys for Plaintiffs

Dated: February 18, 2010

Respectfully submitted,
LAW OFFICES OF GERI LYNN GREEN, LC

By: /s/ Geri Green
Geri Green
Attorneys for Plaintiffs

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

DEFENDANTS

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Insurance, Personal Injury, Property Rights, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from another district (specify), 6 Multidistrict Litigation, 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23, DEMAND \$ TBD, CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

Attachment to Civil Cover Sheet (Form JS 44)

Section I(a) – Defendants

County of Sacramento; Sacramento County Sheriff's Department Sheriff John McGinness (official capacity); Detective Ramos (individual and official capacity); Detective Sean Berry (individual and official capacity); Detective Brad Rose (individual and official capacity); Detective Randy Moya (individual and official capacity); Detective Kloss (individual and official capacity); Detective Steed (individual and official capacity); Probation Officer Timothy Ruiz (individual and official capacity); Probation Officer Wharton (individual and official capacity); Deputy Thomas Lynn (individual and official capacity); Deputy Craig Harmon (individual and official capacity); United States of America; and DOES 1-100 (individual and official capacities)

Section I(c) - Plaintiff's Attorneys:

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