

MICHAEL K. JEANES
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1 **Law Office of:**
 2 **ANTONIO D. BUSTAMANTE**
 3 1001 N. Central Ave., Ste. 660
 4 Phoenix, AZ 85004
 (602) 495-1414
 Fax: (602) 253-7724
 antonio_b@qwestoffice.net

5 By: Antonio D. Bustamante
 6 Attorney for Plaintiff
 7 State Bar I.D. No. 7256

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 NOA 101

8 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
 9 **IN AND FOR THE COUNTY OF MARICOPA**

11 GUSTAVO RAMIREZ, a single
 12 man,

13 Plaintiff,

14 -vs-

15 JOSEPH M. ARPAIO, SHERIFF OF
 16 MARICOPA COUNTY, ARIZONA,
 17 individually and in his official
 18 capacity; JOHN & JANE DOE
 19 DEPUTIES 1 – 10, individually and
 20 in their official capacities; JOHN &
 21 JANE DOE DETENTION
 22 OFFICERS 1 – 10, individually and
 23 in their official capacities ; and
 24 JOHN & JANE DOE MCSO
 25 EMPLOYEES 1– 10, individually
 and in their official capacities,

Defendants.

NO. CV2011 013944

COMPLAINT

(Tort – Non Motor Vehicle)

24 The Plaintiff, GUSTAVO RAMIREZ, for his Complaint against Defendants, alleges as
 25 follows:

INTRODUCTION

1
2 1. This is an action for money damages brought for personal injuries pursuant to state
3 tort causes of action for false imprisonment, assault, battery and negligent hiring, training,
4 supervision & retention. This action is also for money damages under federal pendent claims,
5 pursuant to 42 U.S.C. §§1983 & 1988, and the First, Fourth and Fourteenth Amendments to the
6 United States Constitution. The state and federal causes of action are against Joseph M. Arpaio,
7 Sheriff of Maricopa County, Arizona, and Maricopa County Sheriff's Office (MCSO) John &
8 Jane Doe Deputy Sheriffs 1 – 10; John & Jane Doe MCSO Jail Detention Officer 1 – 10; and
9 John & Jane Doe MCSO Employees 1 – 10. Plaintiff filed a Notice of Claim on January 25,
10 2011, pursuant to A.R.S. §12-821.01, to which there was no response.

11 2. Given the circumstances of the misconduct suffered by Plaintiff Ramirez at the hands
12 of Defendants, the names of individual perpetrators are not known to him and could not be
13 previously ascertained. None of the actors responsible for the misconduct complained of herein
14 identified themselves to Plaintiff, nor did they author incident reports pertaining to the events
15 which are the subject of this action. Defendants are fully aware of information regarding the
16 events giving rise to this action, information not yet known to Plaintiff. Thus the fact discussion
17 appearing below is based upon what is currently known to Plaintiff, considering his limited
18 access to information and the absence of discovery tools prior to litigation.

19 3. The claims herein arise out of the events occurring on July 29, 2010, outside of the
20 Maricopa County Fourth Avenue Jail. It is alleged that Defendants made an unreasonable
21 **seizure of the person of Plaintiff and by so doing perpetrated torts, personal injuries and violated**
22 **his rights under the First, Fourth and Fourteenth Amendments to the United States Constitution.**
23 It is further alleged that these torts and civil rights & constitutional violations were committed as
24 a result of policies, practices and customs of Defendant Arpaio and the Maricopa County
25 Sheriff's Office run by him.

PARTIES

1
2 4. Plaintiff Gustavo Ramirez is a resident of Rancho Cucamonga, California, and was
3 outside the Fourth Avenue Jail in Phoenix, Arizona, County of Maricopa, when the acts
4 complained of herein were perpetrated upon him by Defendants.

5 5. Defendant Joseph M. Arpaio was at all material times a resident of Maricopa County,
6 Arizona, and is the elected Sheriff of Maricopa County; he is the public employer of and the
7 elected government official responsible for the acts of the Defendant deputy sheriffs, jail
8 detention officers and MCSO employees.

9
10 6. Defendants John & Jane Doe Deputies 1 – 10 were at all times relevant to this
11 complaint residents of Maricopa County, and the Court is asked for leave to amend this
12 complaint with their true and correct names once they are learned through discovery. As
13 Maricopa County deputy sheriffs they were duly appointed peace officers with the power to
14 enforce the state and federal laws, acting in their official capacities and under color of law, to
15 wit, under the color of the statutes, ordinances, regulations, policies, customs and usages of the
16 State of Arizona and the County of Maricopa.

17 7. Defendants John & Jane Doe Detention Officers 1 – 10 were at all times relevant to
18 this complaint residents of Maricopa County, and the Court is asked for leave to amend this
19 complaint with their true and correct names once they are learned through discovery. As
20 Maricopa County jail detention officers, they were duly appointed to manage, direct and control
21 persons detained within the Maricopa County Jails, acting in their official capacities and under
22 color of law, to wit, under the color of state and federal statutes as well as ordinances,
23 regulations, polices, customs and usages of the State of Arizona and the County of Maricopa.
24
25

1 14. The sally port has a tall, wide garage door that opens to allow law enforcement
2 vehicles transporting prisoners to enter into an enclosed garage. The Fourth Avenue Jail is the
3 central booking location used by Maricopa County's police agencies to book prisoners, who are
4 thereafter processed and remain at that jail or are transported from there to one of the county's
5 other jail facilities.

6 15. Approximately 23 people were arrested near the sally port. The first wave of arrests
7 resulted in the detention of the protestors who had chained themselves in the manner described in
8 paragraph 13 above. They were charged with (1) obstructing a public thoroughfare under A.R.S.
9 §13-2901(A) and (2) failure to obey a police order, pursuant to A.R.S. §28-622(A).

10 16. Also arrested in the first wave were individuals who were standing directly behind
11 the chained protestors and individuals who were sitting immediately in front of them.
12 The aforementioned arrests cleared the sally port entrance of the persons who had chained
13 themselves as well as the supporters standing behind them and those sitting in front of them. All
14 of these individuals seemed to intend to perform civil disobedience and get arrested.

15 17. After the arrests, the crowd near the sally port, numbering between one and three
16 hundred people, remained and did not clear out. On the contrary, the crowd continued to grow.

17 18. Several minutes after the first wave of arrests, MCSO deputies went into the crowd
18 and began to arrest other people who were not engaged in civil disobedience and did not plan on
19 getting arrested, among them Plaintiff Gustavo Ramirez.

20 **B. Unreasonable Seizure of Plaintiff's Person**

21 19. Plaintiff Ramirez went to the Fourth Avenue Jail on July 29 upon learning that many
22 citizens were gathering there to demonstrate against SB 1070. He had been elsewhere in
23 downtown Phoenix with a megaphone which he used to chant opposition to the new law.
24
25

1 20. Like so many others, Plaintiff was in front of the Fourth Avenue Jail with ordained
2 ministers, lawyers, professionals from many walks of life, college professors, graduate students
3 and college students. He was not blocking the sally port entrance.

4 21. Plaintiff expressed his views, saying, for example, "We are not criminals; the sheriff
5 is a criminal; arrest Arpaio, not the people, this has been one of the deadliest months for
6 undocumented people crossing the desert," etc. He also used his voice magnifier to warn people,
7 "Clear away if you do not want to get arrested. Thank you for standing on the side of love."

8 22. As Plaintiff was saying these things and helping to maintain public calm, deputies
9 entered the assemblage and began arresting people. One of the citizens they were intent on
10 singling-out is Plaintiff Ramirez, although he was not violating any laws.

11 23. Because Plaintiff was exercising his First Amendment rights to publicly assemble
12 and openly criticize the Maricopa County Sheriff, deputies singled him out to be silenced.

13 24. An angry deputy came up to Plaintiff, grabbed him and took him into the garage on
14 the other side of the sally port doors where a large number of deputies in riot gear were staged.

15 25. The other citizens who were arrested in the first and second wave of arrests were
16 inside the expansive garage as well. Mr. Ramirez does not know the name of the deputy(ies)
17 who arrested him.

18 **C. Unjustifiable Use of Force Following Arrest**

19 26. Plaintiff was taken into the garage on the interior side of the sally port gate, as were
20 other arrestees. But what happened after that did not befall the others.

21 27. As Plaintiff was taken inside the enclosed Fourth Avenue Jail parking area, he was
22 unnecessarily pulled and pushed by the Defendants who were not displaying name tags. He had
23 a hard time maintaining his balance and nearly fell down.

24 28. The only objective of pulling, pushing and roughing-up Plaintiff was for Defendants
25 to vent their anger over what he had been saying in public about Defendant Arpaio and SB 1070.

1 29. Plaintiff was taken to an area of the garage separated from the location of all the
2 others who had been arrested. The arrested civilians were unable to see where he was taken, and
3 this was by design.

4 30. The agitated Defendants, who had control of Plaintiff's person, literally threw him
5 head first onto the pavement in an isolated area of the garage. His head hit the pavement hard,
6 and at least three of the Defendants went to work, beating him.

7 31. One of the Defendants had his hand on Plaintiff's head and neck, pressing his face
8 forcefully into the garage floor. Other Defendants made sport out of kicking him in the back,
9 legs, abdomen, and other parts of his body, including his hands. They did this while forcing his
10 face into the pavement and as they held his hands behind his back, jamming his arms up so
11 excruciatingly far that he felt they would pop out of their sockets.

12 32. Terrified and in disbelief, Plaintiff yelled, "I'm not doing anything. Why are you
13 doing this to me? I'm not resisting arrest." Callously, the Defendants responded, "Yeah, you
14 are." They escalated the kicking and banging of his head on the pavement, retribution for having
15 dared to say anything.

16 33. Total fear dominated Plaintiff. He believed the perpetrators were going to kill him.
17 He began to ask himself, "What can I do to save my life?" His strategy was to render his body
18 completely limp. Hopefully this would convince his attackers that he was as harmless as an
19 inanimate rag doll.

20 34. When the beating ended, one of the Defendants cynically told Plaintiff, "Now you're
21 not [resisting arrest]." Plaintiff was yanked up and made to stand. Only then he was handcuffed.

22 35. Plaintiff was in a great deal of pain and was able to look around for the first time. He
23 saw approximately 30 MCSO deputies, detention officers and MCSO employees staring at him,
24 but he does not know any of their names.

25

1 36. On information and belief, the persons who beat Plaintiff, assisted those who beat
2 him and who did nothing to stop or deter the beating were deputy sheriffs, detention officers and
3 MCSO employees.

4 37. The fingers of Plaintiff's injured hands would not extend, and he was unable to press
5 them together or manipulate them. Forced to walk hobbling and limping, he was united with the
6 large group of persons who also had been arrested that day in front of the Fourth Avenue Jail.

7 38. Because the beating was administered in an area of the garage away from the other
8 arrestees, none of them were able to see what was done to Plaintiff. He was booked, detained
9 and the following day, July 30, 2010, he was released from custody on his own recognizance.

10 39. After the beating, Plaintiff was taken to a jail cell, and his body ached until after his
11 ultimate release from custody. The emotional devastation caused by the beating was more than
12 he could endure, and he wept uncontrollably.

13 40. His distress was so pronounced that he urinated on himself. Afterwards when
14 Plaintiff tried to go to the bathroom inside the jail, his fingers did not respond to his mental
15 commands to unzip his own trousers.

16 41. While in the jail and many, many times since, memory of the beating has led to
17 terrifying flashbacks associated with the trauma he experienced from a car accident when he was
18 eleven years old. Before the Fourth Avenue Jail beating his mind had protected itself,
19 suppressing painful details of the accident. The emotional block previously provided by his
20 protective mind no longer functioned.

21 42. The flashbacks began during the night he spent in the Fourth Avenue Jail and have
22 continued to the present.

23 . . .
24 . . .
25 . . .

1 CAUSES OF ACTION

2 **Count I: False Arrest/False Imprisonment**

3 43. Paragraphs 1 through 42 are incorporated herein by reference as though fully set
4 forth.

5 44. Plaintiff was arrested and later charged with obstructing a public thoroughfare by
6 recklessly interfering with the passage of traffic by creating an unreasonable inconvenience or
7 hazard, pursuant to A.R.S. §28-2901(A), a class 3 misdemeanor. He obstructed no thoroughfare,
8 but was instead in front of the jail exercising protected rights of assembly and speech against an
9 elected official, the sheriff of Maricopa County. He was also telling people to clear away or risk
10 arrest. He was arrested because deputies resented the fact he was exercising rights guaranteed to
11 him by the First Amendment of the United States Constitution.

12 45. Plaintiff was also charged with failing to comply with a lawful order of a police
13 officer having authority to direct, control or regulate traffic, pursuant to A.R.S. §28-622(A), a
14 class 2 misdemeanor. Far from failing to obey a police order, Mr. Ramirez was trying to get
15 people to comply with the warning of deputies to disperse from the sally port. In addition, the
16 deputies were not engaged in the control or regulation of traffic, and the statute in question did
17 not apply to the facts of Plaintiff's case. He was arrested in retaliation for talking on the
18 megaphone and saying things the deputies did not like.

19 46. Both misdemeanor charges were dismissed by the Downtown Justice Court, and the
20 State never sought to re-file other charges. The charges were a sham and an abuse of process.

21 47. The Defendants acted intentionally to restrain Plaintiff to an area within their control,
22 and they acted without lawful authority and without Plaintiff's consent. Their actions resulted in
23 the direct restraint of Plaintiff's liberty and freedom of movement by actual force and from the
24 fear of additional force. Their actions would have caused a reasonably prudent person in the
25 same situation as that of Plaintiff to believe that he was restrained, and Plaintiff was aware of the

1 restraint. Plaintiff suffered damages as a direct and proximate cause of being falsely arrested and
2 imprisoned.

3 **Count II: Assault and Battery**

4 48. Paragraphs 1 through 42 are incorporated herein by reference as though fully set
5 forth.

6 49. Plaintiff was the victim of excessive police force, as described above in detail. The
7 perpetrators intended to and did cause harm or offensive contact upon Plaintiff, and he suffered
8 damages as a result. They also intended to and did cause him apprehension of immediate
9 harmful or offensive contact upon his person, and he suffered damages as a result. It was an
10 inexcusable physical attack by a lawless pack emboldened by the authority of their badges and
11 the hidden environment of the garage where the news media and public were unable to witness
12 the beating.

13 **Count III: Negligent Hiring, Training, Supervision and Retention**

14 50. Paragraphs 1 through 42 are incorporated herein by reference as though fully set
15 forth.

16 51. Plaintiff's claims against Defendant Arpaio are based, in part, upon negligent hiring,
17 training, supervision and retention of the MCSO deputies, detention officers, agents and
18 employees who perpetrated the false arrest and beating. The claims are also based upon
19 principles of *respondeat superior* vicarious liability. Self-evident aspects of negligent hiring,
20 training, supervision and/or retention are that the arrest of Plaintiff was in retaliation for the
21 exercise of First Amendment rights, the inapplicability of the statutes with which he was
22 charged, the immediate dismissal of charges by the Justice Court and the absence of new or re-
23 filed charges.

24 52. Defendant Arpaio, his administrative and supervisory personnel within the MCSO,
25 acting under the color of state law, negligently, knowingly, willfully, or intentionally deprived

1 Plaintiff of his rights, privileges and immunities as described above, including 42 U.S.C. §1983,
2 *et seq.*, by:

- 3 a) Hiring the perpetrators of the false arrest/imprisonment and of the beating
4 without reasonably investigating or adequately determining their propensity for the type
5 of improper conduct committed against Plaintiff;
- 6 b) Failing to adequately discipline the perpetrators for any improper conduct prior to
7 the false arrest/imprisonment and beating visited upon Plaintiff;
- 8 c) Failing to terminate the perpetrators prior to the false arrest and beating of July 29,
9 2010, if such termination would have been justified by prior misconduct;
- 10 d) Implementing, maintaining and tolerating policies, practices and customs which
11 contributed to the false arrest/imprisonment and beating; and/or
- 12 e) Failing to adequately supervise and/or adequately train the perpetrators.

13
14 **Count IV: Violation of First Amendment Rights**

15 53. Paragraphs 1 through 42 are incorporated herein by reference as though fully set
16 forth.

17 54. The First Amendment of the United States Constitution guarantees Plaintiff and all
18 persons “freedom of speech” plus the rights “to peaceably assemble and to petition the
19 government for redress of grievances.” Mr. Ramirez was falsely arrested while in the course of
20 using a megaphone to exercise his right to freedom of speech; he was stopped from doing this,
21 was arrested and thus his right to freedom of expression was violated. He was also arrested for
22 the things he was saying against Sheriff Arpaio, a distinct violation of free speech rights. The
23 false arrest further violated Mr. Ramirez’ rights to peaceably assemble and to petition his
24 government for redress of grievances, two additional things he was stopped from doing when
25 arrested and beaten.

1 **Count V: Violation of Equal Protection Rights**

2 55. Paragraphs 1 though 42 are incorporated herein by reference as though fully set
3 forth.

4 56. The Fourteenth Amendment of the United States Constitution guarantees the rights
5 of all persons to equal protection under the law. Unlawfully depriving a person of his liberty and
6 use of excessive police force constituted treatment different from and unequal to the treatment of
7 other citizens who are not falsely arrested or subjected to excessive police force, acts which
8 violated Plaintiff's equal protection rights guaranteed under the Fourteenth Amendment. By
9 instituting policies and perpetrating a culture that ignore or actually encourage denials of equal
10 protection, like those perpetrated against Plaintiff, Defendant Arpaio has promoted the
11 misconduct that is the basis of this complaint.

12 **Count VI: Violation of Due Process Rights**

13 57. Paragraphs 1 through 42 are incorporated herein by reference as though fully set
14 forth.

15 58. The Arizona Constitution, Article 2, Section 4, states: "No person shall be deprived
16 of life, liberty or property without due process of law." This same protection is guaranteed under
17 the Fourteenth Amendment of the United States Constitution. Due process rights have been
18 broadly interpreted to mandate fundamental fairness in the enforcement of the criminal laws.

19 59. By illegally arresting Plaintiff and subjecting him to excessive police force, MCSO
20 perpetrators deprived him of liberty without due process of law. Therefore, Plaintiff's due
21 process rights, guaranteed under the United States and Arizona Constitutions, were violated.

22 **Count VII: Violation of Fourth Amendment Rights**

23 60. Paragraphs 1 through 42 are incorporated herein by reference as though fully set
24 forth.

25 61. The Fourth Amendment of the United States Constitution protects individuals from

1 unreasonable seizure of their persons and affects. The illegal arrest of Mr. Ramirez and the
2 beating perpetrated upon him when he was taken into custody, all as described above, violated
3 his Fourth Amendment right to be protected from unreasonable seizure by law enforcement
4 authorities.

5 **Count VIII: Civil Rights Claims Against Individual Perpetrators, 42 U.S.C. §1983**

6 70. Paragraphs 1 through 42 are incorporated herein by reference as though fully set
7 forth.

8 71. Acting under color of law, the perpetrators violated Plaintiff's civil rights. They
9 knowingly, willfully and intentionally deprived Plaintiff of his rights, privileges and immunities
10 secured by the laws and constitutions of the United States and the State of Arizona as described
11 above, including 42 U.S.C. §1983, *et seq.*, as well as the First, Fourth and Fourteenth
12 Amendments, by:

13 a) Violating his First Amendment right to freedom of speech as he was falsely arrested
14 while using a megaphone to express political and philosophical views, preventing him
15 from peaceably assembling near the Fourth Avenue Jail and preventing him from
16 petitioning his government for redress of grievances as he addressed some of his
17 concerns to MCSO and the sheriff, Defendant Arpaio;

18 b) Violating his right to equal protection of the law guaranteed under the Fourteenth
19 Amendment of the United State Constitution by falsely arresting him and unlaw-
20 fully depriving him of liberty as well as using excessive police force when taken
21 into custody, acts which are unequal to the treatment of other citizens who are
22 not singled out for false arrest and police beating. Defendant Arpaio has promoted,
23 or knowingly turned a blind eye, to a culture of unlawful deprivation of liberty and
24 excessive use of police force against civilians.

25

1 c) Violating Plaintiff's right to due process of law guaranteed by the Fourteenth
2 Amendment of the United States Constitution when he was illegally arrested, deprived of
3 liberty and subjected to excessive police force.

4 d) Violating Plaintiff's right to be free from summary punishment, as guaranteed
5 by the Fourteenth Amendment of the United States Constitution, without due
6 process of law, by administering of the physical beating.

7 e) Violating Plaintiff's right to be free from unlawful arrest and the unreasonable seizure
8 of his person as guaranteed by the Fourth Amendment of the United States Constitution.

9 **Count IX: Civil Rights Claims Against Defendant Arpaio, 42 U.S.C. §1983**

10 72. Paragraph 1 through 42 are incorporated herein by reference as though fully set forth.

11 73. Prior to and including July 29, 2010, Defendant Arpaio and the Maricopa County
12 Sheriff's Office for which he is responsible maintained policies or customs exhibiting deliberate
13 indifference to the constitutional rights of persons under Defendant Arpaio's jurisdiction, which
14 caused the violation of Plaintiff's rights.

15 74. It was the policy and/or custom of Defendant Arpaio and his Sheriff's Office to
16 inadequately and improperly investigate citizen complaints of police misconduct, and acts of
17 misconduct were instead tolerated by the Defendant Arpaio and MCSO.

18 75. It was the policy or custom of Defendant Arpaio and MCSO to inadequately
19 supervise and train deputies, detention officers and employees, including the Defendants hereto,
20 thereby failing to adequately discourage further constitutional violations on the part of the
21 Defendants. Defendant Arpaio and MCSO did not require appropriate in-service training or re-
22 training of deputies, detention officers and MCSO employees who were known to engage in
23 police misconduct or misconduct involving the deprivation of constitutional rights.

24 76. As a result of the above described policies and customs, deputies, detention officers
25 and MCSO employees, including the Defendants, believed that their actions would not be

1 properly monitored by supervisory personnel and that misconduct would not be investigated or
2 sanctioned, but would instead be tolerated.

3 77. The above described policies and customs demonstrated a deliberate indifference on
4 the part of Defendant Arpaio and MCSO policymakers to the constitutional rights of persons
5 within the County of Maricopa, and were the cause of the violations of Plaintiff's rights alleged
6 herein.

7 **DAMAGES**

8 78. Paragraphs 1 through 77 are incorporated herein by reference as though fully set
9 forth.

10 79. The unlawful conduct of MCSO personnel described above proximately caused
11 Plaintiff Ramirez to suffer deprivation of liberty while incarcerated for 20 hours, during which
12 time he was subjected to distressing conditions in the Fourth Avenue Jail, including the insults of
13 deputy sheriffs, jail detention officers and MCSO employees and the humiliation that flowed
14 from their making a mockery of the beating he endured.

15 80. As a direct result of the unlawful conduct complained of herein, MCSO detention
16 officers and employees also directed looks of disapproval and shame because of his physical
17 appearance and bruises that were visible on his body. As a proximate cause of Defendants'
18 unlawful conduct, he suffered humiliation, emotional distress and mental anguish, and
19 throughout his incarceration he remained in fear.

20 81. As a direct and proximate cause of the acts of Defendant Arpaio and those of the
21 perpetrators, Mr. Ramirez suffered severe physical pain, terror, temporary loss of function in his
22 fingers, temporary difficulty walking, depression and sadness, trauma flashbacks to his
23 childhood auto accident, and trauma flashbacks to the false arrest and brutality described above.

24 82. Plaintiff is also entitled to punitive damages, because the false arrest, beating and
25 official mistreatment were intentional. Additionally, the perpetrators acted to serve their own

1 interests in gratifying Defendant Arpaio, having reason to know and consciously disregarding a
2 substantial risk that their conduct would significantly violate Plaintiff's rights. See *Bradshaw v.*
3 *State Farm Mutual Automobile Insurance Co.*, 157 Ariz. 411, 422, 758 P.2d 1313, 1324 (1988).
4 Accordingly, Plaintiff is entitled to punitive damages.

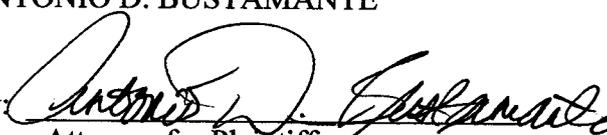
5 **PRAYER FOR RELIEF**

6 WHEERFORE, Plaintiff requests that this Court:

- 7 A. Award compensatory damages to Plaintiff against the Defendants, jointly and
8 severally;
9 B. Award punitive damages against Defendants as permitted by law;
10 C. Award costs of this action to the Plaintiff;
11 D. Award reasonable attorney fees and costs to the Plaintiff as appropriate and permitted
12 by law;
13 E. Award such other and further relief as this Court may deem appropriate.
14 F. Plaintiff hereby demands a jury trial.

15
16 **RESPECTFULLY SUBMITTED** this 28th day of July, 2011.

17 Law Office of
18 ANTONIO D. BUSTAMANTE

19 By: 
20 Attorney for Plaintiff