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FILED

DEC 17 2004

LISA M. GALDOS
CLERK OF THE SUPERIOR COURT
DEPUTY

7 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
8 **IN AND FOR THE COUNTY OF MONTEREY**

M 7 2 5 9 9

10 EUGENE FORTE,)
11)
12 Plaintiff,)
13 vs.)
14 ROBERT O'FARRELL; in his individual)
15 capacity and his public capacity;)
16 DENNIS MCCARTHY, an individual;)
17 FENTON & KELLER, a corporation;)
18 STEPHANIE CRABB, an individual;)
19 COUNTY OF MONTEREY, a public entity;)
20 MONTEREY COUNTY OFFICE OF THE)
21 DISTRICT ATTORNEY, a public entity;)
22 MONTEREY COUNTY OFFICE OF THE)
23 COUNTY COUNSEL, a public entity;)
24 MONTEREY COUNTY OFFICE OF THE)
25 SHERIFF, a public entity;)
26 DAVE POTTER, in his public and individual)
27 capacity; DEAN FLIPPO, in his public and)
28 individual capacity; TERRY SPITZ, in his)
public and individual capacity; MATT)
BEGOSIAN, in his public and individual)
capacity; J MICHAEL HOGAN, in his)
public and individual capacity; CHARLES)
MCKEE, in his public and individual)
capacity; SERGEANT FERRARI, in his)
public and individual capacity; SERGEANT)
MONARCH, in his public and individual)
capacity; SERGEANT MCMULLAN, in his)
public and individual capacity; SCOTT)
RAGAN, in his public and individual)

Case No. _____

**COMPLAINT FOR PERSONAL
INJURY AND DAMAGES**

1 capacity; MICHAEL KANALAKIS, in his)
2 public and individual capacity; JOHN)
3 CALZADA, in his public and individual)
4 capacity; WILLIAM URETSKY,)
5 an individual; and)
6 DOES 1 through 100, inclusive,)
7)
8)
9 Defendants.)
10)

11 Plaintiff complains and for causes of action alleges as follows:

- 12 1. Plaintiff is an individual and is now, and at all times mentioned in this complaint was, a
13 resident of Monterey County, California.
- 14 2. Defendant O'Farrell is an individual and is now, and at all times mentioned in this
15 complaint was, a resident of Monterey County, California.
- 16 3. Defendant O'Farrell, in his public capacity, is a judge for the Monterey County Superior
17 court.
- 18 4. Plaintiff is suing Defendant O'Farrell, in his individual capacity for civil rights violations
19 as described herein and defined by Title 42 Section 1983 of the Federal Statutes while
20 Defendant was acting under color of law.
- 21 5. Plaintiff is suing Defendant DOE 1 as an individual for civil rights violations as described
22 herein and defined by Title 42 Section 1983 of the Federal Statutes while Defendant was
23 acting under color of law.
- 24 6. Defendant Dennis McCarthy is an individual and is now, and at all times mentioned in this
25 complaint was, a resident of Monterey County, California.
- 26 7. Defendant Fenton & Keller is and at all times herein mentioned, was a Corporation
27 organized and existing under the laws of the State of California with principle offices
28 located at 2801 Monterey-Salinas Hwy, in the City of Monterey, County of Monterey.
8. Plaintiff is informed and believes and thereon alleges that, at all times herein mentioned,
Defendant McCarthy sued herein was the agent and employee of Defendant Firm and was
at all times acting within the purpose and scope of such agency and employment.

- 1 9. Defendant Stephanie Crabb is an individual and is now, and at all times mentioned in this
2 complaint was, a resident of San Benito County, California.
- 3 10. Defendant Dave Potter is an individual and is now, and at all times mentioned in this
4 complaint was, a resident of Monterey County, California.
- 5 11. Defendant County of Monterey, (hereinafter "County"), is and at all times herein
6 mentioned, was a public entity organized and existing under the laws of the State of
7 California with principle offices of the Monterey County Office of the County Counsel
8 located at 60 W. Market Street, Suite 140, in the City of Salinas, County of Monterey.
- 9 12. Plaintiff is informed and believes and thereon alleges that, at all times herein mentioned,
10 Defendant O'Farrell and Defendant Potter sued herein were the agents and employees of
11 Defendant County and was at all times acting within the purpose and scope of such agency
12 and employment.
- 13 13. Defendant Dean Flippo is an individual and is now, and at all times mentioned in this
14 complaint was, a resident of Monterey County, California.
- 15 14. Defendant Terry Spitz is an individual and is now, and at all times mentioned in this
16 complaint was, a resident of Monterey County, California.
- 17 15. Defendant Matt Begosian is an individual and is now, and at all times mentioned in this
18 complaint was, a resident of Monterey County, California.
- 19 16. Defendant Monterey County Office of the District Attorney, (hereinafter "DA's Office"),
20 is and at all times herein mentioned, was a public entity organized and existing under the
21 laws of the State of California with principle offices at 240 Church Street, in the City of
22 Salinas, County of Monterey.
- 23 17. Plaintiff is informed and believes and thereon alleges that, at all times herein mentioned,
24 Defendant Flippo, Defendant Spitz, and Defendant Matt Begosian sued herein were the
25 agents and employees of Defendant DA's Office and were at all times acting within the
26 purpose and scope of such agency and employment.
- 27 18. Defendant J. Michael Hogan is an individual and is now, and at all times mentioned in this
28 complaint was, a resident of Monterey County, California. Defendant Charles McKee is

- 1 an individual and is now, and at all times mentioned in this complaint was, a resident of
2 Monterey County, California.
- 3 19. Defendant Monterey County Office of the County Counsel, (hereinafter “County
4 Counsel’s Office”), is and at all times herein mentioned, was a public entity organized and
5 existing under the laws of the State of California with principle offices at 230 Church
6 Street, Building #1, in the City of Salinas, County of Monterey.
- 7 20. Plaintiff is informed and believes and thereon alleges that, at all times herein mentioned,
8 Defendant Hogan and Defendant McKee sued herein were the agents and employee of
9 Defendant County Counsel’s Office and was at all times acting within the purpose and
10 scope of such agency and employment.
- 11 21. Defendant Sergeant Ferrari is an individual and is now, and at all times mentioned in this
12 complaint was, a resident of Monterey County, California.
- 13 22. Defendant Sergeant Monarch is an individual and is now, and at all times mentioned in
14 this complaint was, a resident of Monterey County, California.
- 15 23. Defendant Sergeant McMullan is an individual and is now, and at all times mentioned in
16 this complaint was, a resident of Monterey County, California.
- 17 24. Defendant Scott Ragan is an individual and is now, and at all times mentioned in this
18 complaint was, a resident of Monterey County, California.
- 19 25. Defendant Michael Kanalakis is an individual and is now, and at all times mentioned in
20 this complaint was, a resident of Monterey County, California.
- 21 26. Defendant John Calzada is an individual and is now, and at all times mentioned in this
22 complaint was, a resident of Monterey County, California.
- 23 27. Defendant Monterey County Office of the Sheriffs, (hereinafter “Sheriff’s Office”), is and
24 at all times herein mentioned, was a public entity organized and existing under the laws of
25 the State of California with principle offices at 1414 Natividad Road, in the City of
26 Salinas, County of Monterey.
- 27 28. Plaintiff is informed and believes and thereon alleges that, at all times herein mentioned,
28 Defendant Ferrari, Defendant Monarch, Defendant McMullan, Defendant Ragan,

1 Defendant Kanalakakis, Defendant Calzada, and Defendant DOES 1, 3, 4, 5, 6, 7, 8, 9, 10,
2 11 sued herein were the agents and employees of Defendant Sheriff's Office and was at all
3 times acting within the purpose and scope of such agency and employment.

4 29. Defendant William Uretsky is an individual and is now, and at all times mentioned in this
5 complaint was, a resident of Monterey County, California.

6 30. Plaintiff Eugene Forte is ignorant of the true names and capacities of defendants sued
7 herein as DOES 1 through 100, inclusive, and therefore sues these defendants by such
8 fictitious names. Plaintiff will amend this complaint to allege their true names and
9 capacities when ascertained.

10 31. In March of 2001, Defendant O'Farrell had been the judge in another case of Plaintiff's
11 called *Forte v. Powell* M45327, a lawsuit regarding a real estate purchase by Plaintiff
12 which involved two separate trials. In this case, Defendant O'Farrell had allowed
13 Plaintiff's attorney, Mr. Larry Lichtenegger, to withdraw forty (40) days before the second
14 trial against Plaintiff's opposition. He then denied a request for continuance of the trial to
15 allow Plaintiff to find another attorney. Plaintiff was forced to go to trial without an
16 attorney, and lost.

17 32. It was also after the first trial in the case of *Forte v. Powell* M45327, which occurred in
18 July of 2000, that Plaintiff's then attorney, Mr. Larry Lichtenegger, agreed with Plaintiff
19 that the trial court, Judge Terrance Duncan, had "rendered an illegitimate ruling." He also
20 agreed that someone from the Horan Law firm (the seller's counsel) had "gotten" to Judge
21 Duncan, and that Judge Silver, the judge assigned to *Forte v. Crabb* M50814, was
22 "manipulating trial dates" and "sabotaging motions."

23 33. In June of 2001, it was in this case of *Forte v. Powell* M45327 and the related case of
24 *Forte v. Crabb* M50814 that Plaintiff discovered proof, after he had already lost both trials
25 in *Forte v. Powell*, that a material witness, Defendant Crabb, an employee for Alain Pinel
26 Realty who was the realtor in the underlying transaction, had committed perjury suborned
27 by their attorney Defendant McCarthy of Defendant Fenton & Keller law firm.

28 34. After being presented information showing the suborned perjury of Defendant Crabb,

1 Judge Silver granted terminating sanctions against Plaintiff to dismiss the case of Forte v.
2 Crabb M50814 for “egregious abuse of discovery” despite the fact that no court order had
3 been violated and that a violation of a court order is a requirement for such terminating
4 sanctions.

5 35. Defendant O’Farrell was also involved in another related legal malpractice case of
6 Plaintiff’s called Forte v. Lichtenegger M58208 in which Defendant O’Farrell granted
7 Defendant Lichtenegger a demurrer dismissing the case. In a declaration, Lichtenegger
8 had stated that his testimony would only foment discomfort among the local judiciary.
9 Plaintiff appealed this ruling and on December 10, 2003 filed his opening brief with the
10 Sixth Appellate court, and served all parties and Defendant O’Farrell, the trial judge.
11 Plaintiff claimed abuse of discretion by Defendant O’Farrell due to bias based on his
12 actions against Plaintiff in the past across all of Plaintiff’s lawsuits that a “reasonable”
13 person would doubt were impartial. Plaintiff also alleged trial fixing and subsequent
14 coverup by the Monterey Judicial community in his briefs. On August 30, 2004, the Sixth
15 Appellate Court reversed Defendant O’Farrell’s ruling in Forte v. Lichtenegger M58208.

16 36. On or about November 3rd of 2003, Plaintiff subpoenaed Defendant Crabb, the witness that
17 had previously committed perjury in the previous case of Forte v. Powell M45327, to oral
18 deposition for the first time in a related legal malpractice lawsuit called Forte v. Albov
19 Case No M54914.

20 37. Defendant Crabb, through her attorney Defendant McCarthy, made a motion to quash her
21 deposition subpoena set for December 19, 2003 (nine days after Defendant O’Farrell
22 received service of the Opening Brief of the appeal in Forte v. Lichtenegger M58208).

23 38. The case had originally been assigned to Judge Kay Kingsley, however, on December 15,
24 2003, four days prior to the motion hearing on December 19, 2003, Plaintiff discovered
25 that it had been re-assigned to Judge Michael Fields. On checking back with Judge
26 Michael Fields’ clerk on late Wednesday afternoon on December 17, 2003, Plaintiff was
27 told that Defendant Robert O’Farrell was now assigned as the judge to hear the motion.

28 39. When Plaintiff asked Judge Field’s clerk in a recorded telephone call why Judge Fields

1 was no longer the assigned judge, she told Plaintiff that he should ask Defendant O'Farrell
2 that question.

3 40. On December 19th, 2003, Plaintiff appeared before Defendant O'Farrell for the Motion to
4 Quash Deposition Subpoena of Defendant Crabb in the lawsuit of *Forte v. Albov* Case No.
5 M54914. See Exhibit "1" which is a transcript of the hearing.

6 41. Prior to the commencement of this hearing, according to California Code of Civil
7 Procedure § 170.6(a)(2) and his constitutional right to a fair forum, Plaintiff requested how
8 the case was assigned as suggested by Judge Field's clerk, and then submitted a
9 peremptory challenge §170.6. Plaintiff's wife actually filed the peremptory challenge
10 §170.6 document that morning at 9:30am when the filing clerk's office opened. The
11 peremptory challenge §170.6 established Defendant O'Farrell's prejudice against Plaintiff
12 which resulted in automatic disqualification of Defendant O'Farrell as judge and removed
13 any and all jurisdictional authority of Judge Robert O'Farrell by statute. At that point in
14 time, for all intents and purposes of Plaintiff, Judge Robert O'Farrell became Mr. Robert
15 O'Farrell, a private citizen.

16 42. Before Plaintiff managed to submit his challenge, Defendant O'Farrell was hostile and
17 intimidating to Plaintiff. Defendant O'Farrell told Plaintiff, "It's my case, I'm taking it.
18 Judge Fields had the matter. He disqualified himself¹. I have got the case. That is the end
19 of it." See Exhibit "1", page 1 line 13-16. Defendant O'Farrell then kept interrupting
20 Plaintiff as Plaintiff attempted to submit the peremptory challenge. Defendant O'Farrell
21 stated untruthfully that Plaintiff was interrupting Defendant O'Farrell and that Defendant
22 O'Farrell would cite Plaintiff for contempt if he continued to do so. Defendant O'Farrell
23 fabricated the scenario that Plaintiff was interrupting Defendant in order to "set up"
24 Plaintiff for a charge of contempt even though Defendant O'Farrell later admitted at the
25 contempt hearing that day on record that he, Defendant O'Farrell, was the one interrupting
26 Plaintiff when he stated, "This is what you wanted to say when I interrupted you? See
27

28

¹ There is no order in the file dated in December of 2003 wherein Judge Fields disqualified himself.

- 1 Exhibit "2" p.8 line 16-17.
- 2 43. There was no contempt of court by Plaintiff.
- 3 44. In violation of the Code of Judicial Ethics, Canon 3 wherein a judge shall accord to every
4 person who has a legal interest in a proceeding full right to be heard according to law,
5 Defendant O'Farrell in fact was attempting to prevent Plaintiff from speaking and
6 submitting the peremptory challenge and denying him his right to due process.
- 7 45. Due process requires that once the peremptory challenge is submitted, immediate
8 disqualification of the judge is mandatory according to law and the Code of Judicial
9 Ethics, therefore, Defendant O'Farrell no longer had any jurisdiction over plaintiff in the
10 case. Defendant O'Farrell was required to accept the peremptory challenge and step down
11 off the case for it to be reassigned to another judge. Case law dictates that Defendant
12 O'Farrell no longer had authority to issue any orders against Plaintiff whatsoever.
- 13 46. In spite of this and after Plaintiff submitted the peremptory challenge §170.6, Defendant
14 Robert O'Farrell then proceeded to intentionally intimidate and harass Plaintiff with the
15 purpose of inflicting emotional distress and harm upon Plaintiff to set upon a course of
16 action to conceal the criminal activities of himself and other officers of the court involved
17 in the trial fixing of the cases of Forte v. Powell M45327, Forte v. Crabb M50814, Forte
18 v. Albov M54914 Forte v. Lichtenegger M58208, and Forte v. Loop M52049.
- 19 47. Defendant O'Farrell ordered the Monterey County Sheriff/Bailiff who Plaintiff is herein
20 suing as another defendant and hereinafter referred to as Defendant "DOE 1" to take
21 plaintiff into custody and remove plaintiff from the courtroom.
- 22 48. Defendant O'Farrell, by his words, conduct, tone of voice, and aggression, treated Plaintiff
23 as if he were a criminal that needed subduing, and in doing such, instructed the Monterey
24 County Sheriff/Bailiff, Defendant DOE 1, to intimidate and harass Plaintiff.
- 25 49. The Monterey County Sheriff/Bailiff, Defendant DOE 1, proceeded to handcuff plaintiff
26 using rough and excess force, twisting and exerting pressure on plaintiff's wrist
27 unnecessarily after handcuffing, and then throwing Plaintiff into the wall in order to
28 intimidate and prevent Plaintiff from speaking into the record. At all times, Plaintiff did

1 not resist arrest.

2 50. In a state of anxiety, stress, and panic, Plaintiff called from the hallway several times after
3 being roughly escorted out of the courtroom to his wife to “call the police,” because in his
4 state of panic, he felt that a crime was being committed against him that the authorities
5 needed to be called for his protection. In his emotional state and distress at being arrested,
6 he did not consciously realize that the harm being inflicted on him, which in essence
7 resembled the act of thugs mugging him, was by the “police.” Still handcuffed with his
8 arms behind his back, Plaintiff was then put into the holding cell at that courthouse in
9 Monterey. Defendant DOE 1 was the only person to lay their hands on Plaintiff at all
10 times, no other bailiffs were needed to “subdue” Plaintiff because he did not resist.

11 51. This arrest and wrongful treatment of Plaintiff by Defendants were done in the presence of
12 Plaintiff’s wife and two of his children, aged eight and five, who were in the courtroom as
13 well as Mr. Anthony Lombardo and Mr. Michael Stamp, two of the attorneys in the
14 courtroom awaiting motion hearings.

15 52. Defendant DOE 1 did not read Plaintiff the Miranda Rights as required by law upon arrest.

16 53. Defendant DOE 1 later told Plaintiff that this was the first time he had ever been a civil
17 bailiff in the Monterey Courthouse where civil cases are normally held, and that normally
18 he was a criminal bailiff in the Salinas Courthouse.

19 54. Defendant O’Farrell then called a recess. When court reconvened, Defendant O’Farrell, in
20 ex parte communication outside of the presence of plaintiff who was in the holding cell,
21 acknowledged plaintiff’s preemptory challenge §170.6 to opposing counsel, Defendant
22 Dennis McCarthy, who represented Defendant Crabb in the Motion to Quash Deposition
23 Subpoena of Stephanie Crabb. Defendant O’Farrell also acknowledged that this Motion to
24 Quash would have to be reassigned to another judge. He determined that time was not of
25 the essence, so he then continued the Motion to Quash Deposition Subpoena of Stephanie
26 Crabb until the following 9th of January, 2004. See Exhibit “1” page 3.

27 55. There existed no urgent time of the essence need to hear the contempt hearing at that
28 immediate time. According to case law, a judge that has been disqualified and that has

1 been personally embroiled with a party cannot hear a contempt hearing but must have it
2 assigned to another jurist. Defendant O'Farrell intentionally persisted in keeping Plaintiff
3 handcuffed behind his back and holding the contempt hearing himself. He did not allow
4 Plaintiff the opportunity to have an attorney present during the contempt hearing which is
5 criminal in nature by law. Defendant O'Farrell again violated Plaintiff's civil rights.

6 56. Defendant O'Farrell then brought Plaintiff back into the courtroom and made Plaintiff sit
7 in the jury box for almost two hours in handcuffs with his arms behind his back. After all
8 the other motions scheduled that day in other cases were heard by Defendant O'Farrell, he
9 left Plaintiff handcuffed and alone with bailiff DOE 1 in the courtroom for approximately
10 thirty minutes.

11 57. When Defendant O'Farrell returned, he convened the contempt hearing wherein he began
12 by saying he was reaffirming his finding of contempt against Plaintiff based on Plaintiff's
13 conduct in court that same morning, "I did find and I do find or affirm the finding of
14 contempt...." See Exhibit "2", page 2 line 3-4. The court transcripts (Exhibits "1" and "2"
15 attached) when compared show that Defendant O'Farrell intentionally lied about the series
16 of events during the first hearing leading to the filing of the peremptory challenge §170.6
17 and the arrest of Plaintiff. In the hearing for contempt, Defendant O'Farrell lied in order
18 to conceal his crimes. The first hearing's transcript shows that Defendant O'Farrell did not
19 ask Plaintiff to take a seat in the jury's box and Plaintiff did not refuse to do so, and
20 Plaintiff did not raise his voice. (Exhibit "1", Page 1-2, Exhibit "2", page 2-3) In addition,
21 attorney witnesses already deposed in *Forte v. Albov* M54914 found there was no raising
22 of voice or aggressive demeanor by Plaintiff during the hearing. Defendant O'Farrell
23 stated, "You've been in court many, many times.....Certainly in the past I have warned
24 you about contempt.....I've warned you. You've been aggressive and disruptive...."
25 Exhibit "2", page 3 line 12-20. Transcripts of every single hearing previously with
26 Defendant O'Farrell in any of Plaintiff's cases show that this is untrue. (All transcripts
27 have been filed in the REQUEST FOR JUDICIAL NOTICE OF ATTACHED
28 TRANSCRIPTS AND COURT DOCUMENTS in *Forte v. Albov* M54914 on January 30,

1 2004.) Never did Defendant O'Farrell warn Plaintiff about contempt to the court in any
2 prior hearing.

3 58. Defendant O'Farrell did not at any time acknowledge the peremptory challenge §170.6
4 filed by Plaintiff to Plaintiff and in fact, concealed the fact that he had acknowledged it to
5 Defendant McCarthy, Defendant Crabb's counsel, in ex parte communication while
6 plaintiff was in a holding cell.

7 59. Defendant O'Farrell sentenced Plaintiff to immediate incarceration in the Monterey
8 County jail for eight (8) hours that same day.

9 60. By doing such, Defendant O'Farrell again violated Plaintiff's Civil Rights again by
10 ignoring California Code of Civil Procedure §1209(c) which requires that any execution of
11 sentencing be stayed pending the filing within three judicial days of a petition for
12 extraordinary relief testing the lawfulness of the court's order.

13 61. The local Monterey County newspaper, the Monterey Herald, printed an article regarding
14 the Plaintiff's arrest causing further public humiliation and indignity.

15 62. Plaintiff's thirteen year old daughter, a straight A student who had in fact won a National
16 Steinbeck Center writing award presented by Mrs. Leon Panetta of the Panetta Institute,
17 came home crying from school after a schoolmate saw the article in the Monterey Herald
18 and told her that she should be "ashamed" of her father getting arrested.

19 63. Because Defendant Crabb had never been deposed by Plaintiff in *Forte v. Albov* M54914,
20 the Motion to Quash Deposition Subpoena of Stephanie Crabb brought forth by Defendant
21 Crabb and Defendant McCarthy was totally unfounded and an abuse of process.

22 64. The motion by McCarthy also threatened Plaintiff with sanctions.

23 65. Based on the above allegations, Plaintiff further alleges that Defendant O'Farrell,
24 Defendant McCarthy, Defendant Firm, and Defendant Crabb acted in concert to bring
25 forth the unfounded motion in front of Defendant O'Farrell so that he could grant the
26 motion with the mutual benefit to all of them that they could continue to conceal
27 Defendant McCarthy's previous subornation of perjury by Defendant Crabb, and other
28 unethical and illegal acts previously ignored, allowed, and perpetrated by certain members

1 of the Monterey County Superior Court and others of the legal community as described in
2 this complaint which amount to “sabotaging motions” and “fixing trials” against Plaintiff.
3 66. Plaintiff further alleges that Defendant O’Farrell had a special criminal bailiff (Defendant
4 DOE 1) assigned from the criminal court in Salinas in fear and anticipation that his
5 outrageous conduct he planned for the hearing would infuriate Plaintiff Forte and be the
6 final straw to break Plaintiff’s back to the point of losing control, so Defendant O’Farrell
7 felt it important to have a criminal bailiff present to protect himself from any bodily harm
8 and to aid him in intimidating Plaintiff during the hearing should the need arise, much as a
9 guard dog that is trained to “sic” on command.

10 67. Defendant DOES 3 through 10 are the Monterey County Sheriffs that acted as bailiffs in
11 the Salinas Courthouse, Judge Grover’s court, on September 1, 2004 at the hearing of
12 Forte v. Albov M54914 in which Plaintiff suffered a heart attack.

13 68. Defendant DOE 3 is the bailiff that attended the previous hearing on August 17, 2004 for
14 Forte v. Albov.

15 69. Plaintiff has had a medical stay granted to him in the Forte v. Albov M54914 based on
16 doctors’ recommendations for six months until March 21, 2005, however, Plaintiff has
17 been required to file this complaint due to the statute of limitations on the cause of actions
18 in order to protect his rights, and has been unable to retain legal counsel due to their fear
19 of reprisal by fellow judicial officers and judges for exposing the crimes of members of the
20 Monterey Superior Court bench and Defendants named herein. Such fear of reprisal
21 effectually emulates racketeering against Plaintiff.

22 **I**

23 **FIRST CAUSE OF ACTION**

24 **(False Arrest and Imprisonment)**

25 70. Plaintiff refers to and incorporates herein in their entirety, paragraphs 1 through 69,
26 inclusive, of this Complaint.

27 71. Plaintiff was wrongfully arrested and imprisoned by Defendant Robert O’Farrell and
28 Defendant DOE 1.

- 1 72. Defendants O'Farrell and DOE 1 intentionally caused Plaintiff to be arrested without a
2 warrant.
- 3 73. Defendants O'Farrell and DOE 1's actions on December 19, 2003 were intentional,
4 wrongful, malicious, and designed to embarrass, intimidate, and damage Plaintiff.
- 5 74. As a direct and proximate result of Defendants O'Farrell and DOE 1's conduct, Plaintiff
6 suffered extreme mental and emotional anguish.
- 7 75. As a further direct and proximate result of Defendant O'Farrell and DOE 1's conduct,
8 Plaintiff also suffered damage to his physical health due to the extreme amount of stress
9 forced upon Plaintiff, an in pro per, in being falsely arrested with unreasonable and
10 intimidating force, in trying to clear his name and reputation, and in getting Defendant
11 O'Farrell's improper and unlawful finding of Contempt vacated and addressed by the
12 proper authorities during the following months. Defendants O'Farrell and DOE 1's illegal
13 arrest of Plaintiff was used by the subsequent judge, Judge Adrienne Grover and
14 Defendant McCarthy, counsel for Alain Pinel Realty and Defendant Crabb, to imply that
15 Plaintiff was possibly a violent and dangerous man. The stress culminated in Plaintiff's
16 suffering a heart attack in the courtroom of Judge Adrienne Grover on September 1, 2004
17 requiring open heart surgery for double bypass surgery on September 3, 2004.
- 18 76. Plaintiff has suffered harm to his reputation, humiliation, embarrassment, mental anguish
19 and distress as well as physical harm to his health by being falsely arrested by the
20 Monterey County Sheriff/Bailiff, DOE 1, on the false charges brought by Defendant
21 O'Farrell.
- 22 77. Defendants O'Farrell and DOE 1's conduct was a substantial factor in causing Plaintiff's
23 harm.
- 24 78. As a direct and proximate result of Defendants O'Farrell and DOE 1's conduct, plaintiff
25 was required to obtain medical services and treatment in an amount to be determined by
26 proof at trial and will, in the future, be compelled to incur additional obligations for
27 medical treatment in an amount to be determined by proof at trial..
- 28 79. Defendants O'Farrell and DOE 1's conduct herein reflect a malicious, intentional, willful,

1 and in conscious disregard of the rights of Plaintiff and in conscious disregard of the law
2 herein and warrant an award of punitive damages to Plaintiff.

3 80. Defendants O'Farrell and DOE 1's conduct constitute false imprisonment and false arrest
4 and Plaintiff is entitled to a Judgment of and against Defendants for compensatory and
5 punitive damages in an amount to be determined by proof at trial.

6 **II**
7 **SECOND CAUSE OF ACTION**
8 **(Battery)**

9 81. Plaintiff refers to and incorporates herein in their entirety, paragraphs 1 through 69,
10 inclusive, of this Complaint.

11 82. Defendant O'Farrell and Defendant DOE 1 intended to cause and did cause a harmful
12 contact with plaintiff's person.

13 83. Plaintiff did not consent to Defendant O'Farrell or Defendant DOE 1's act.

14 84. As a direct and proximate result of Defendant O'Farrell and Defendant DOE 1's conduct,
15 plaintiff suffered physical pain in both his shoulder and wrists when DOE 1, at the
16 direction of Defendant O'Farrell, used unreasonable force in arresting and removing non-
17 resisting Plaintiff from the courtroom. Plaintiff has also suffered extreme mental anguish.
18 These injuries have caused plaintiff to suffer general damages in an amount to be
19 determined by proof at trial.

20 85. As a further direct and proximate result of defendants' conduct, Plaintiff also suffered
21 damage to his physical health due to the extreme amount of stress induced by the
22 intimidation tactics of Defendants which were forced upon Plaintiff, an in pro per, that
23 causes an inordinate amount of mental, emotional, and physical stress each time he had to
24 appear in a courtroom before a judge and bailiff. The stress culminated in Plaintiff's
25 suffering a heart attack in the courtroom of Judge Adrienne Grover requiring open heart
26 surgery for double bypass surgery on September 1, 2004. Plaintiff was required to obtain
27 medical services and treatment in an amount to be determined by proof at trial and will, in
28 the future, be compelled to incur additional obligations for medical treatment in an amount

1 to be determined by proof at trial.

2 86. Defendants' act was done knowingly, willfully, maliciously, and in conscious disregard of
3 the rights of Plaintiff and in conscious disregard of the law herein and plaintiff is entitled
4 to punitive damages in an amount to be determined by proof at trial.

5 **III**

6 **THIRD CAUSE OF ACTION**

7 **(Abuse of Process)**

8 87. Plaintiff refers to and incorporates herein in their entirety, paragraphs 1 through 69
9 inclusive, of this Complaint.

10 88. Defendant O'Farrell wrongfully used his employment as a judge of the Monterey County
11 Superior Court to arrest, convict, sentence and imprison Plaintiff when he did not have
12 cause, jurisdiction, or the authority by law to do so.

13 89. Defendant O'Farrell intentionally used this legal procedure to punish, intimidate, and
14 threaten Plaintiff in order to cease Plaintiff's attempt to 1) expose the illegal activities of
15 Defendant McCarthy suborning his client and Defendant Crabb's perjury, which was used
16 in Judge Duncan's ruling against Plaintiff in *Forte v. Powell*, 2) expose the "trial fixing"
17 previously conducted by Defendant McCarthy and Defendant Firm for their client Alain
18 Pinel Realty with the sellers' counsel Mr. Jim Cook of the Horan Law Firm, Judge
19 Duncan, Defendant O'Farrell, Judge Silver, and Plaintiff's previous attorney Mr. Larry
20 Lichtenegger, and 3) expose the subsequent attempted cover-up of these activities, i.e., the
21 dismissal of *Forte v. Lichtenegger* M58208 by Defendant O'Farrell which was later
22 overturned by the Sixth District Appellate Court, Judge Silver's termination of the lawsuit
23 of *Forte v. Crabb*, the preventing of Mr. Lichtenegger's deposition taking by Plaintiff to
24 name a few.

25 90. Further, Defendant O'Farrell also intentionally used these legal procedures in #88 above to
26 prevent Plaintiff's right to have full say in a court of law because Defendant O'Farrell did
27 not want to be disqualified which would then prevent him from being able to hear the
28 motion and "sabotage the motion" (as Mr. Lichtenegger, in legal telephone recordings,

1 has told Plaintiff some judges in Monterey County do). Defendant O'Farrell wanted to
2 control the case, as he stated, "I'm taking the case." See Exhibit "1" page 1. In addition,
3 Plaintiff's full say in court would reveal the personal embroilment by Defendant O'Farrell
4 judge with Plaintiff which would by law require his self-disqualification from any hearing
5 of Plaintiff's, again resulting in the removal of him from hearing the motion which
6 Defendant O'Farrell did not want to happen. This is an improper purpose of a judge's
7 ability to arrest and immediately incarcerate a person for contempt especially when the
8 contempt was fabricated by Defendant O'Farrell and when Defendant O'Farrell has been
9 disqualified by a peremptory challenge removing jurisdictional authority.

10 91. Plaintiff Forte was harmed by Defendant O'Farrell's wrongful arrest, battery, and
11 imprisonment of Plaintiff which caused harm to Plaintiff's reputation, severe humiliation,
12 indignity, embarrassment, mental anguish and emotional distress as well as physical harm
13 to his health.

14 92. Defendant O'Farrell's conduct was a substantial factor in causing Plaintiff Forte's harm.

15 93. Defendant McCarthy, Defendant Fenton & Keller, and Defendant Stephanie Crabb
16 wrongfully made a motion to quash a deposition subpoena of a witness that had never
17 been deposed in the case of *Forte v. Albov* M54914, and wrongfully threatened Plaintiff
18 with sanctions.

19 94. Defendant McCarthy, Defendant Fenton & Keller, and Defendant Stephanie Crabb
20 intentionally used this legal procedure to conceal the previous subornation of perjury by
21 Defendant McCarthy and perjury by Defendant Crabb in the case of *Forte v. Powell* by
22 stopping Defendant Crabb's deposition.

23 95. Plaintiff Forte was harmed by Defendants McCarthy, Crabb, and Firm's wrongful bringing
24 forth of the motion to quash deposition subpoena, an unfounded motion, where then
25 Plaintiff was falsely arrested, battered, and imprisoned by Defendant O'Farrell, who
26 worked in concert with Defendants McCarthy, Crabb, and Fenton & Keller with the intent
27 to stop Defendant Crabb's deposition seemingly at all costs. These events caused harm to
28 Plaintiff's reputation, severe humiliation, indignity, embarrassment, mental anguish and

1 emotional distress as well as physical harm to his health.

2 96. Defendants McCarthy, Crabb, and Fenton & Keller's conduct was a substantial factor in
3 causing Plaintiff Forte's harm.

4 97. If Defendant McCarthy and Defendant Fenton & Keller has been performing their
5 representation of Defendant Crabb as services paid for by someone other than Defendant
6 Crabb such as Alain Pinel Realty or their insurance carrier, then Plaintiff herein sues that
7 third party who is paying for legal representation of Defendant Crabb as Defendant DOE 2
8 and adds DOE 2 in the allegations #87 through #97 as another defendant in the THIRD
9 CAUSE OF ACTION for Abuse of Process in this complaint.

10 IV

11 **FOURTH CAUSE OF ACTION**

12 **(Intentional Infliction of Emotional Distress against Plaintiff Forte)**

13 98. Plaintiff refers to and incorporates herein in their entirety, paragraphs 1 through 97
14 inclusive, of this Complaint.

15 99. Defendant Robert O'Farrell is employed by the County of Monterey as a judge of the
16 Monterey County Superior Court. Judge Robert O'Farrell, by the very nature of his being
17 a judge, has the duty to exercise due care towards plaintiff in the performance of his
18 judicial office in complying with the Code of Judicial Ethics. This certainly includes
19 allowing plaintiff his constitutional right to due process and a fair trial. Compliance with
20 the code is to preserve the integrity of the bench and to ensure the confidence of the
21 public.

22 100. Defendant O'Farrell's act in arresting and imprisoning plaintiff without just cause after a
23 peremptory challenge was submitted taking away his jurisdiction to do such, his act in
24 committing battery, his abuse of process, and his omission to act when he failed to
25 acknowledge to plaintiff his disqualification and therefore his lack of jurisdiction over
26 Plaintiff required by due process constitute a breach of his duty.

27 101. Defendant O'Farrell's conduct was outrageous, intentional and malicious and done for the
28 purpose of causing Plaintiff to suffer humiliation, mental anguish, and emotional and

1 physical distress.

2 102. As a proximate result of Defendant O'Farrell's act in the false arrest and imprisonment
3 and battery of plaintiff, his abuse of process, and his omission to act in accordance with
4 the peremptory challenge CCP §170.6 and disqualify himself, Plaintiff has suffered harm
5 to his reputation, severe humiliation, indignity, embarrassment, mental anguish and
6 emotional distress as well as physical harm to his health.

7 103. As a further proximate result of Defendant O'Farrell's act in the false arrest and
8 imprisonment of plaintiff, his act committing battery, his abuse of process, and his
9 omission to act in disqualifying himself and the consequences proximately caused by it, as
10 hereinabove alleged, plaintiff suffered severe humiliation, indignity, embarrassment,
11 mental anguish, and emotional and physical distress, and has been injured in mind and
12 body as follows:

- 13 1a) Plaintiff is involved in several lawsuits, all related, in his efforts to obtain justice as
14 is his right.
- 15 1b) Due to financial difficulties caused by the payment of \$300,000 in previous
16 attorney's fees and costs in the herein underlying litigations Forte v. Powell, Forte
17 v. Crabb, Forte v. Lichtenegger, Forte v. Albov and Forte v. Loop, additional
18 judgments against Plaintiff in excess of \$300,000 for opposing counsel's fees, the
19 loss of the property in the original lawsuit of Forte v. Powell that Plaintiff was
20 purchasing for \$565,000 that the sellers sold to someone else for \$1,050,000, other
21 financial losses Plaintiff has suffered as a result of the actions of the Monterey
22 Judicial community, and the fact that no attorney is willing to represent Plaintiff
23 because they state if they did, they would be punished by the judges and other
24 members of the judicial community and therefore would be unable to practice law,
25 Plaintiff has to represent himself as his own attorney.
- 26 1c) Plaintiff is required to attend many hearings for such lawsuits.
- 27 1d) Every time Plaintiff is required to enter a courtroom for a hearing, he now suffers
28 mental, emotional, and physical distress. He suffers fears and anxiety that at any

1 moment, he may be hostilely prevented from having his full say in court, he may be
2 unjustly "set up" to be arrested, or he may be beaten possibly even severely injured
3 by a bailiff at the behest of a judge attempting to conceal the conspiracy of several
4 judicial officers.

- 5 e) Defendant O'Farrell's false arrest and imprisonment and his overall conduct
6 toward Plaintiff has been used and followed as an example by the subsequent
7 judge, Judge Grover and others such as Defendant McCarthy, counsel for Alain
8 Pinel Realty and Defendant Crabb, Mr. Gerard Rose, co-counsel for Mr. Larry
9 Lichtenegger, and Mr. Larry Lichtenegger himself to imply and treat Plaintiff as if
10 he were a "danger."
- 11 f) Judge Grover, in fact, granted Defendant McCarthy's request for a security guard
12 to attend a limited deposition, limited both in time and topic, of Defendant Crabb,
13 and required Plaintiff to pay for half.
- 14 g) Judge Grover, in fact, refused Plaintiff his right to depose Mr. Larry Lichtenegger
15 in oral deposition because "of the previous relationship" between Plaintiff and Mr.
16 Lichtenegger, and as she stated, not because Plaintiff ever behaved improperly in
17 taking the previous depositions that Mr. Lichtenegger walked out of and
18 unilaterally terminated. This ruling has prejudiced Plaintiff's case with regard to
19 the Summary Judgment Motion rescheduled for April 5, 2005.
- 20 h) Such fears and anxieties for his own well-being and safety caused Plaintiff to
21 request the Monterey County Sheriffs' Department to change the criminal court
22 bailiff in Judge Grover's courtroom to a civil court bailiff on August 27, 2004 for
23 the upcoming hearing on September 1, 2004 due to aggressive behavior at the
24 behest of Judge Grover by the bailiff towards Plaintiff in their effort to prevent
25 Plaintiff from orally presenting his case into the record at the previous hearing of
26 August 17, 2004. Monterey County Sheriffs' Department ignored and denied this
27 request because at the hearing on September 1, 2004, they had approximately six to
28 eight bailiffs there for the hearing including the original criminal bailiff by the first

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- i) Plaintiff believes that Judge Grover has also been enlisted by Defendant O’Farrell to coverup up the crimes of Defendant O’Farrell and other judicial officers as described herein. Because of Plaintiff’s false arrest on December 19, 2004 by Defendant O’Farrell, Judge Grover falsely justifies following Defendant O’Farrell’s example, that Plaintiff is such a danger to herself and her sole bailiff that she could reasonably request the additional six to eight bailiffs for the hearing. In actuality, Plaintiff believes that, like Defendant O’Farrell and following his lead in order to “keep up the pressure”, on September 1, 2004, she requested the bailiffs to intimidate Plaintiff from speaking and to feign the need to protect herself as she prepared to make what she knows is an outrageous and illegal ruling in granting a Summary Judgment Motion to close down the *Forte v. Albov* case in which, due to the underlying case of *Forte v. Powell*, opens up a can of worms revealing to “trial fixing” and “sabotaging of motions” by judicial officers of the Monterey County bench. It is a fact that she had previously stated on record that Plaintiff had never acted improperly in her court. Certainly she would therefore not need six to eight bailiffs unless she had an ulterior plan and motive.
- j) Defendant O’Farrell’s false arrest and imprisonment of him falsely branded Plaintiff as a danger and threat to others, and puts his well-being at risk by giving license to others to injure and threaten Plaintiff under the guise of Defendant O’Farrell’s established mantra, albeit false, of Plaintiff being “aggressive and disruptive,” and that Plaintiff needs to be punished by arrest and by unreasonable physical force by bailiffs.
- k) Such fears and anxieties for his well-being inside of a courtroom caused Plaintiff to formally request permission to have Legal Eagle Video, a licensed court videographer, videotape the upcoming hearing on September 1, 2004, to be paid for by Plaintiff to have an accurate record of the proceedings. Judge Grover denied such request.

1 1) Such fears and anxieties of Plaintiff that he is physically at risk for his freedom and
2 health caused by the treatment of him on December 19, 2003 by Defendants,
3 coupled with Judge Grover and others using Plaintiff's previous false arrest by
4 Defendant O'Farrell to create the false scenario that Plaintiff was a "danger" and
5 required multiple bailiffs "to protect the court", occurred again on September 1,
6 2004. But this time, it occurred to the point that the severe internal emotional
7 stress caused his body to go into what has been described as "fight or flight"
8 syndrome where blood thickens, blocks arteries and resulted in a heart attack in
9 Judge Grover's courtroom of the Monterey County Superior Court, in Salinas,
10 Department 8. The attack resulted in emergency open heart surgery and other
11 complications costing Plaintiff in excess of \$170,000 in an amount to be proven at
12 trial.

13 2a) Plaintiff also suffers severe anxiety over the knowledge that a judge without
14 jurisdictional authority can throw a citizen in jail even when the law states they
15 cannot, that they can seemingly get away with it when other individuals and
16 agencies that are named herein ignore and thereby act as accomplices after the fact,
17 and that bailiffs could severely hurt you at the behest of a judge.

18 104. Defendant O'Farrell's conduct was a substantial factor in causing Plaintiff's severe
19 emotional distress beginning on December 19, 2003 when Plaintiff was falsely arrested
20 and imprisoned and progressively leading to the subsequent physical breakdown in the
21 courtroom of Judge Grover.

22 105. Defendant DOE 1 is employed by the Monterey County Sheriff's Department as a sheriff
23 acting as bailiff for the Monterey County Superior Court. As a peace officer, he has the
24 duty to exercise due care towards plaintiff and accord proper treatment. Plaintiff did not
25 resist arrest, he was already handcuffed behind his back when Defendant DOE 1 twisted
26 his wrists behind his back, ripping his shirt and suit, and then shoved Plaintiff against the
27 wall. Plaintiff was dressed in a suit, was a civil plaintiff, and was standing behind the
28 counsel's table at least ten to twelve feet away from anyone else, and therefore obviously

1 not a physical threat. Defendant DOE 1 had a duty not to use unreasonable force in
2 escorting Plaintiff out of the courtroom when he was already handcuffed and not resisting
3 arrest. Defendant DOE 1 also had a duty to read Plaintiff the Miranda Rights which he did
4 not, nor did anyone else.

5 106. Defendant DOE 1's act in using unreasonable force in arresting and imprisoning plaintiff
6 and his omission to act when he failed to read Plaintiff the Miranda Rights constitute a
7 breach of his duty.

8 107. Defendant DOE 1's conduct was intentional and malicious and done for the purpose of
9 causing Plaintiff to suffer humiliation, indignity, mental anguish, and emotional and
10 physical distress.

11 108. As a proximate result of Defendant DOE 1's act in committing battery, and his omission in
12 reading Plaintiff the Miranda Rights, Plaintiff has suffered harm to his reputation, severe
13 humiliation, indignity, embarrassment, mental anguish and emotional distress as well as
14 physical harm to his health.

15 109. As a further proximate result of Defendant DOE 1's act in committing battery, and his
16 omission in reading Plaintiff the Miranda Rights and the consequences proximately caused
17 by it, as hereinabove alleged, plaintiff suffered severe humiliation, indignity, mental
18 anguish, and emotional and physical distress, and has been injured in mind and body as
19 follows: Every time Plaintiff is required to enter a courtroom for a hearing, he suffers
20 mental, emotional, and physical distress. Plaintiff suffers fears and anxiety that at any
21 moment he is in a courtroom, he may be arrested and imprisoned with unreasonable force,
22 or beaten possibly even severely injured by a bailiff at the behest of a judge . He suffers
23 fears and anxiety that at any moment he is in a courtroom, he may be arrested and
24 imprisoned without the opportunity to have a criminal attorney represent him in a hearing.
25 Such anxiety and emotional distress again occurred on September 1, 2004 in the presence
26 of multiple bailiffs to the point that the severe emotional stress caused his body to go into
27 what has been described as "fight or flight" syndrome causing a heart attack in Monterey
28 County Superior Court, Department 8. That the attack resulted in emergency open heart

- 1 surgery costing Plaintiff in excess of \$170,000 in an amount to be proven at trial.
- 2 110. Defendant DOE 1's conduct was a substantial factor in causing Plaintiff's severe emotional
3 distress.
- 4 111. Defendant McCarthy and Defendant Crabb, by their intentionally bringing forth an
5 unfounded motion to quash deposition subpoena of Stephanie Crabb in order to conceal
6 their previous perjury and subornation of perjury, caused Plaintiff to suffer severe
7 emotional distress.
- 8 112. Defendant McCarthy and Defendant Crabb's conduct in misusing wrongfully the legal
9 process to quash a deposition was outrageous.
- 10 113. Defendant McCarthy and Defendant Crabb intended to cause Plaintiff emotional distress
11 by doing such in order to make it as difficult as possible for Plaintiff to expose their
12 previous illegal acts.
- 13 114. Plaintiff suffered severe emotional distress at the hearing of the motion to quash
14 deposition subpoena of Stephanie Crabb.
- 15 115. Defendant McCarthy and Defendant Crabb's conduct was a substantial factor in causing
16 Plaintiff's severe emotional distress beginning on December 19, 2003 when he was falsely
17 arrested and imprisoned and progressively leading to the subsequent physical breakdown
18 in the courtroom of Judge Grover.

19 **V**

20 **FIFTH CAUSE OF ACTION**

21 **(Civil Conspiracy Against Plaintiff Forte)**

- 22 116. Plaintiff refers to and incorporates herein in their entirety, paragraphs 1 through 69, 87
23 through 115 inclusive, of this Complaint.
- 24 117. On or about December 19, 2003, Defendant O'Farrell, Defendant McCarthy, and
25 Defendant Crabb and each of them knowingly and willfully conspired and agreed among
26 themselves to commit abuse of process by bringing forth the unfounded motion to quash
27 deposition subpoena and unfounded request for sanctions in Defendant O'Farrell's
28 courtroom so that he could grant the motion with the mutual benefit to all of them that

1 they could continue to conceal Defendant McCarthy's previous subornation of perjury by
2 Defendant Crabb, and other unethical and illegal acts previously ignored, allowed, and
3 perpetrated by certain members of the Monterey County Superior Court including but not
4 limited to Defendant O'Farrell, ex-judge Richard Silver, Judge Terrance Duncan and
5 others of the legal community as described in this complaint which amount to "sabotaging
6 motions" and "fixing trials" against Plaintiff.

7 118. Plaintiff was harmed by these acts of Defendant O'Farrell, McCarthy, and Crabb as
8 described in #98 through #115.

9 119. Defendant O'Farrell, Defendant McCarthy, and Defendant Crabb and each of them did the
10 acts and things herein alleged pursuant to, and in furtherance of, the conspiracy and above-
11 alleged agreement.

12 120. In addition, on or about December 19, 2003, Defendant O'Farrell, Defendant McCarthy,
13 Defendant Crabb, and DOE 1 and each of them knowingly and willfully conspired and
14 agreed among themselves to intentionally inflict emotional distress upon Plaintiff in order
15 to intimidate and threaten Plaintiff to stop any exposure of Defendant McCarthy's
16 previous subornation of perjury by Defendant Crabb, and other unethical and illegal acts
17 previously ignored, allowed, and perpetrated by certain members of the Monterey County
18 Superior Court including but not limited to Defendant O'Farrell and others of the legal
19 community as described in this complaint which amount to "sabotaging motions" and
20 "fixing trials" against Plaintiff.

21 121. In addition, Defendant O'Farrell, Defendant McCarthy, and Defendant Crabb conspired to
22 perpetuate and continue the intentional infliction of emotional distress upon Plaintiff
23 whenever possible evidenced by the request of Defendant Crabb and Defendant McCarthy
24 for a security guard at her deposition.

25 122. Defendant O'Farrell, working in concert with Judge Duncan, the Presiding Judge,
26 continued his infliction of emotional distress by, as is his habit, "taking the case" of *Forte*
27 *v. Lichtenegger* M70711, and not immediately disqualifying himself when Mr.
28 Lichtenegger made a motion for demurrer on November 10, 2004 with a hearing set for

1 December 10, 2004.

2 123. Defendant O'Farrell did not disqualify himself as of November 29, 2004, so Plaintiff was
3 forced and required to file a Challenge for Cause against him to which he did not answer
4 within the required 10 days. The case was then somehow given back to the presiding
5 Judge Duncan who then brazenly re-assigned it to himself and reset the hearing to
6 December 17, 2004. Judge Duncan then did not respond to Plaintiff's written request of
7 December 10th, 2004, to disqualify himself as required due to personal embroilment
8 knowing that the subject matter of the litigation would involve specifically his ruling in the
9 underlying case. All such acts were done in violation of his duties under the Judicial
10 Canon of Ethics. Judge Duncan also did not and refused to stay the proceedings as
11 requested in the documents filed by plaintiff due to medical reasons. Plaintiff after several
12 phone calls was able finally to speak with Judge Duncan's clerk, Terry, on December 13th,
13 2004, in the late afternoon, informed plaintiff Judge Duncan said plaintiff would have to
14 file a Challenge for Cause.

15 124. Judge Duncan is aware through letters to him as presiding judge from Plaintiff and
16 documents filed that Plaintiff had undergone open heart surgery in September of 2004, that
17 Plaintiff has a stay granted to him in *Forte v. Albov* M54914 until March 21, 2005 due to
18 medical reasons, and of all the events of the arrest of Plaintiff by Defendant O'Farrell on
19 December 19th, 2003. On information and belief, Plaintiff alleges that Defendant
20 O'Farrell, in concert with Judge Duncan and Mr. Lichtenegger who also refused to
21 stipulate to a stay of proceedings due to Plaintiff's medical state, is continuing to
22 intentionally cause more duress and stress upon Plaintiff during a time that he needs to
23 recuperate according to doctor's orders in the hopes that Plaintiff will die the next time he
24 needs to appear in court.

25 125. Plaintiff was harmed by acts of Defendant O'Farrell, McCarthy, Crabb, and DOE 1 as
26 described herein in this complaint.

27 126. Defendant O'Farrell, Defendant McCarthy, Defendant Crabb, and DOE 1 and each of
28 them did the acts and things herein alleged pursuant to, and in furtherance of, the

- 1 conspiracy and above-alleged agreement.
- 2 127. Defendant Dave Potter is employed by the Defendant County as a Board of County
3 Supervisor. Defendant Potter, as a public official and agent and employee of a
4 government entity that exists to serve the public and citizens of that public, has the duty to
5 investigate or cause to be investigated by the proper authorities any illegal, negligent, or
6 intentionally negligent acts of county employees, and also any complaints brought to him
7 concerning those same issues in the performance of his public responsibilities.
- 8 128. Defendant Potter furthered the conspiracy by ratifying and adopting the acts of Defendant
9 O'Farrell, Defendant McCarthy, Defendant Crabb, and DOE 1 in that Plaintiff had written
10 letters and sent documents to Defendant Potter requesting an investigation or notification
11 of Federal authorities to investigate the acts of Defendant O'Farrell, a Monterey County
12 agent and employee, McCarthy, Crabb and others in wrongfully and harmfully conspiring
13 against Plaintiff, and Defendant Potter did not respond to such request.
- 14 129. Defendant Potter's refusal to investigate or cause an investigation by the proper authorities
15 constitute a breach of his duty.
- 16 130. Defendant Dean Flippo is employed by Defendant DA's Office as the District Attorney.
17 Defendant Terry Spitz is employed by Defendant DA's Office as the Chief Assistant
18 District Attorney. On information and belief, Defendant Matt Begosian is employed by
19 Defendant DA's Office as an Assistant District Attorney. Defendant Flippo, Spitz, and
20 Begosian, as a public officials and agents and employees of a government entity that exists
21 to serve the public and citizens of that public, has the duty to investigate any complaints
22 brought to him concerning any illegal activities and then prosecute if found to have been
23 committed.
- 24 131. Defendant Flippo, Defendant Spitz, and Defendant Begosian furthered the conspiracy by
25 ratifying and adopting the acts of Defendant O'Farrell, Defendant McCarthy, Defendant
26 Crabb, and DOE 1 in that Plaintiff had written letters, sent documents, and filed police
27 reports to Defendant Flippo, Spitz, and Begosian requesting an investigation of the acts of
28 Defendant O'Farrell, McCarthy, Crabb and others in wrongfully and harmfully conspiring

1 against Plaintiff, and Defendant Flippo and Spitz did not respond to such request except to
2 inform Plaintiff that they would not prosecute Defendant Crabb giving as a reason that
3 Defendant Crabb “technically” did not sign her deposition in which she had committed the
4 perjury. They gave no response to Plaintiff regarding his submission of the police report
5 #06856-04 against Defendant O’Farrell for his false arrest of Plaintiff, except through their
6 co-worker Defendant Matt Begosian who refused to accept from the Monterey County
7 Sheriff’s Department the police report and information, refused to even open the envelope,
8 and returned the package to the Defendant Sheriff’s Department, who then via Deputy
9 Hockenull personally delivered it back to Plaintiff unopened by squad car to plaintiff’s
10 home.

11 132. Defendant Flippo, Spitz, and Begosian’s refusal to investigate or cause an investigation by
12 the proper authorities constitute a breach of their duty.

13 133. Defendant Michael Hogan is employed by Defendant County Counsel’s Office as the
14 Senior Deputy County Counsel. Defendant Charles McKee is employed by Defendant
15 County Counsel’s Office as the County Counsel. Defendant Hogan and Defendant McKee,
16 as public officials and agents and employees of a government entity that exists to serve the
17 public and citizens of that public, have the duty to disclose to the proper authorities for
18 investigation any complaints brought to him concerning any illegal or improper
19 Government activities according to Government code.

20 134. Defendant Hogan and Defendant McKee furthered the conspiracy by ratifying and
21 adopting the acts of Defendant O’Farrell, Defendant McCarthy, Defendant Crabb, DOE 1,
22 and Defendant Potter in that Plaintiff had written letters and sent documents to Defendant
23 Hogan and Defendant McKee to inform him if the acts of Defendant O’Farrell, McCarthy,
24 Crabb and others in wrongfully and harmfully conspiring against Plaintiff, and no response
25 was given or act performed by Defendants Hogan and McKee except by Defendant Hogan
26 to inform Plaintiff that he had been requested by Defendant Potter to response to
27 Plaintiff’s letter dated August 23, 2004 to Defendant Potter. In Defendant Hogan’s
28 response, he stated that Defendant Potter need not take any action because the “matter is

1 being dealt with by the courts, and any remedy that you may have in the litigation should
2 be handled through the court.”

3 135. Defendant Hogan and Defendant McKee’s refusal to disclose to the proper authorities for
4 investigation any complaints brought to him concerning any criminal, illegal or improper
5 Government activities according to Government code constitutes a breach of his duty.

6 136. On information and belief, Defendant Ferrari is employed by Defendant Sheriff’s Office as
7 a Sergeant. Defendant Monarch is employed by Defendant Sheriff’s Office as a Sergeant.
8 Defendant McMullan is employed by Defendant Sheriff’s Office as a Sergeant.
9 Defendant Ragan is employed by Defendant Sheriff’s Office as a Sergeant. Defendant
10 Kanalakis is employed by Defendant Sheriff’s Office as the Monterey County Sheriff.
11 Defendant Calzada was employed by Defendant Sheriff’s Office as Chief Deputy of the
12 Enforcement Operations Bureau until December 3, 2004 when he retired. Peace officers
13 have a duty to protect the public and citizens of the public from harm, to take their
14 complaints and present them to the Defendant DA’s Office. These Defendants, as peace
15 officers, have procedures provided by Defendant Sheriff’s Office to investigate complaints
16 by members of the public against the personnel of the Defendant Sheriff’s Office, and
17 shall make a written description of the procedure available to the public according to the
18 penal code.

19 137. Defendant Ferrari, Monarch, McMullan, and Ragan furthered the conspiracy by ratifying
20 and adopting the acts of Defendant O’Farrell, Defendant McCarthy, Defendant Crabb,
21 DOE 1, in that Plaintiff had written letters and documents to them informing them of such
22 acts and they disregarded such and gave no response. In fact, Plaintiff had written a letter
23 to Defendant Ferrari, Monarch, and McMullan on August 27, 2004 also requesting a
24 change of the criminal court bailiff, DOE 3, to a civil bailiff, due to his aggressive and
25 unwarranted behavior to Plaintiff at the previous hearing of August 17, 2004. However,
26 Defendants Ferrari, Monarch, and McMullan continued the intentional infliction of
27 emotional distress initiated by Defendant O’Farrell, Defendant McCarthy, Defendant
28 Crabb, and sheriff/bailiff Defendant DOE 1 on December 19, 2003. Instead of responding

1 to Plaintiff or investigating the acts, they appointed additional bailiffs, Defendants DOES
2 4 through 10, to attend the hearing on September 1, 2004 with DOE 3. DOES 3 through
3 10 then also continued the intentional infliction of emotional distress to Plaintiff, at the
4 direction and approval of their supervisors Defendants Ferrari, Monarch, and McMullan.
5 Approximately a month after his open heart surgery, Plaintiff requested Defendants
6 Ferrari, Monarch, McMullan, and Ragan to investigate the acts by all these Defendants,
7 but no response was received and no action taken.

8 138. Defendant Kanalakis and Defendant Calzada furthered the conspiracy by ratifying and
9 adopting the acts of Defendants O'Farrell, Defendant McCarthy, Defendant Crabb, DOE
10 1, Defendants Ferrari, Monarch, McMullan, and Defendants DOES 3 through 10 in that
11 Plaintiff had written letters and sent documents to each of them informing them of such
12 acts and the continuation of the intentional infliction of emotional distress by the
13 Defendants. Plaintiff had requested an investigation of the acts of all these Defendants
14 and answers to questions regarding the hearing on September 1, 2004, but no response was
15 received and no action taken by either Defendant Kanalakis or Defendant Calzada except
16 for a response from Defendant Calzada that stated that the police report #06856-04
17 Plaintiff had filed against Defendant O'Farrell (the one that had been returned unopened
18 by Defendant Begosian via Deputy Hockenhull) had been "thoroughly investigated and no
19 criminal acts were committed." Police report #06856-04 had not been mentioned in
20 Plaintiff's letters to Defendant Calzada. Plaintiff wrote a letter on November 18, 2004 to
21 Defendant Ragan informing him that Defendant Calzada had not responded to the previous
22 letters requesting answers to questions regarding the hearing on September 1, 2004, i.e.,
23 what were the name of DOES 3 through 10. Defendant Ragan did not respond.

24 139. Defendants Ferrari, Monarch, McMullan, Ragan, Kanalakis, and Calzada's refusal to
25 respond to questions regarding DOES 1, 3 through 10, and their refusal and failure to
26 investigate or cause an investigation by the proper authorities of the Defendants herein this
27 complaint, and to provide at minimum the written procedures to submit a complaint
28 against peace officer Defendants DOE 3 through DOE 10 according to the penal code, to

1 let Plaintiff know that procedures even existed coupled with their arrangement to have
2 DOES 3 through 10 present at the September 1, 2004 hearing in Department 8, and to have
3 DOES 3 through 10 act in a threatening, intimidating way, i.e., searching for weapons on a
4 civil plaintiff without prior justification (except for Defendant O'Farrell's false arrest),
5 especially in light of the concerns expressed to them by Plaintiff on August 27, 2004,
6 constitute a breach of their duty.

7 140. Defendant DOES 3 through 10 are employed by Defendant Sheriff's Office as a
8 Sheriff/Court Bailiffs. Peace officers have a duty to protect the public and citizens of the
9 public from harm, not to intimidate ordinary citizens who are civil litigants. They have a
10 duty to help a citizen in medical need no matter who they are.

11 141. DOES 3 through 10 furthered the conspiracy by cooperation in intentionally and harmfully
12 inflicting emotional distress upon Plaintiff after Plaintiff had informed them via their
13 supervisors Defendant Ferrari, Monarch, and McMullan of the acts herein alleged of
14 Defendant O'Farrell, Defendant McCarthy, Defendant Crabb, DOE 1, and DOE 3 at
15 previous hearings. Plaintiff had requested investigations, and a change of the criminal
16 bailiff DOE 3 to a civil bailiff. The supervisor Defendants did not respond, instead
17 Plaintiff discovered upon arrival at the courtroom on September 1, 2004, DOES 3 through
18 10 situated in and around the immediate perimeter of the courtroom of Department 8 at the
19 Salinas courthouse, normally where criminal cases were heard. Plaintiff arrived to find
20 that they required a search for weapons upon himself, his wife, and three other persons that
21 were entering the courtroom. One or more of the DOES 3 through 10 were in plain
22 clothes. In fact, Plaintiff spoke cordially to one of the DOES 3 through 10 in plain clothes
23 that Plaintiff recognized as a Sheriff from a previous hearing at the Monterey Courthouse
24 and who was standing at the back of the courtroom. DOES 3 through 10, especially DOE
25 3, the primary and regular bailiff for the courtroom, behaved with hostility and
26 intimidation towards Plaintiff, adding extreme emotional distress to Plaintiff when DOE 3
27 refused to acknowledge Plaintiff's multiple requests (four) for water when he began
28 feeling ill in what ultimately resulted in open heart surgery. DOE 3 did not get water nor

1 did any of the DOES 4 through 10 present who were also asked including the plain clothes
2 DOE at the back of the courtroom that told plaintiff he was the watch commander, until
3 one of the DOES 4 through 10, a female Sheriff, finally and reluctantly agreed to fill the
4 pitcher of water. None of the DOES 3 through 10 within the courtroom called for the
5 paramedics. The third party witness from Legal Eagle Video that Plaintiff had hired to
6 videotape the outside of the courtroom, since Judge Grover had denied videotaping inside
7 her courtroom, alerted Sheriffs outside of the courtroom that medical attention must be
8 summoned for plaintiff and they in fact are the ones that called 9-1-1. DOE 3 was
9 laughing and joking with another lady present up at the front of the courtroom sitting next
10 to "Kelly", Judge Grover's clerk, during the time period that the paramedics were
11 attending to Plaintiff who, by that time was visibly and heavily sweating and in intense
12 pain emanating from his chest. A gurney was required to take Plaintiff out of the
13 courtroom and immediately to Salinas Valley Memorial Hospital via ambulance. The
14 mere presence of DOES 3 through 10 and their search for weapons on a civil case plaintiff
15 created an ambience of hostility and threat to Plaintiff's well-being in light of the acts of
16 the other Defendants and harm inflicted upon Plaintiff as alleged in this complaint starting
17 on December 19th, 2003. In addition, their unwillingness to help a person who is
18 obviously ill (Plaintiff) including DOE 3's laughing and joking attitude at a time when that
19 ill person (Plaintiff) could have possibly died evidences their intentional infliction of
20 emotional duress on Plaintiff. An attorney present, Mr. Samuel Goldstein, wrote a letter to
21 plaintiff saying seriously that "others would argue if plaintiff deserved to have medical
22 assistance summoned to aid him during his heart attack". Plaintiff asserts that some of the
23 "others" would be the defendants named herein.

24 142. Defendant DOES 3 through 10's actions and non-actions at the hearing of September as
25 described herein was an intentional infliction of emotional distress upon Plaintiff and
26 constitutes a breach of their duty.

27 143. Defendant Urestky furthered the conspiracy by cooperation with DOES 3 through 10 in
28 covering up the acts of DOES 3 through 10 and refusing to accurately report their behavior

1 in declaration form as Plaintiff hired him to. Plaintiff had hired Defendant Urestky
2 specifically because he was concerned about the aggression of both Judge Grover and
3 DOE 3 from the previous hearing of August 17, 2004. Because Plaintiff feared for his
4 safety, he hired Defendant Urestky to protect him as well as to observe the events,
5 attitudes, and facial expressions of Judge Grover and DOE 3. Defendant Urestky was the
6 same security officer that attended Defendant Crabb's deposition for her protection from
7 Plaintiff. Plaintiff specifically instructed Defendant Urestky that he wanted a written
8 observation report due after the hearing. After Plaintiff was sufficiently strong enough
9 after his open heart surgery to be able to telephone Defendant Urestky, he called
10 Defendant Urestky to again request the written observation report. Urestky told Plaintiff
11 that if he was required to make such observation report, he would say that Plaintiff was
12 attempting to have a friend smuggle a knife into the court room, that it was Plaintiff that
13 was aggressive to the bailiff on entering the courtroom, that he knew Plaintiff was illegally
14 hiding assets, and other untrue accusations. He threatened plaintiff with untrue and
15 inaccurate allegations of criminal wrong doing by Plaintiff. Plaintiff has audio recordings
16 of this conversation as well as of the interaction with DOES 3 through 10 upon entering
17 the courtroom and a video from outside of the courtroom showing that none of Defendant
18 Urestky's statements were true. Plaintiff filed a police report with Sheriff Wood of
19 Defendant Sheriff's Office submitting this evidence, but Sheriff Wood came back to
20 Plaintiff saying that it was a judgment call and that on the surface he found no crime that
21 Urestky had committed and therefore was closing the case. Sheriff Wood told Plaintiff
22 that he did not discuss the matter with Defendant Urestky or anyone else at all. Defendant
23 Urestky had ample opportunity to speak with DOES 3 through 10 after Plaintiff was taken
24 to the hospital since Defendant Urestky had been called by someone at the courtroom to
25 return and pick up Plaintiff's jacket which had been inadvertently left on the seat. Plaintiff
26 alleges that Defendant Urestky was pressured to not report the acts of DOES 3 through 10
27 in the hearing on September 1, 2004. Upon insisting that Defendant Urestky provide the
28 written report which was to be included in the price of the original services and was

1 already paid for, Uretsky demanded an additional \$140.00 prior to providing the report.
2 Plaintiff paid the \$140.00 with the understanding that Uretsky provide such report in
3 declaration form under penalty of perjury with specific comments regarding the allegations
4 of hiding of the knife, criminal activity known by Uretsky and alleged against plaintiff and
5 the observations of Uretsky of the courtroom and bailiffs' specifically. Defendant
6 Uretsky provided a simple letter stating in essence that he only observed the good conduct
7 of the bailiffs doing their job properly.

8 144. Plaintiff alleges that Sheriff Wood was allowing the intentional infliction of emotional
9 distress by Defendant Uretsky and thereby the intentional infliction of emotional distress
10 by DOES 3 through 10 (fellow Sheriffs) by taking a more than favorable attitude towards
11 Defendant Uretsky's acting in concert with DOES 3 through 10 to cover up their
12 intentional infliction of emotional distress. At this time, Plaintiff reserves the right to sue
13 Sheriff Wood as DOE 11 should he discover that such action is warranted.

14 145. Defendant O'Farrell, Defendant McCarthy, Defendant Crabb, DOE 1, Defendant Potter,
15 Defendant Flipppo, Defendant Spitz, Defendant Begosian, Defendant Ferrari, Defendant
16 Monarch, Defendant McMullan, Defendant Ragan, Defendant Kanalakis, Defendant
17 Calzana, Defendant DOES 3 through 10, Defendant Uretsky and each of them did the acts
18 and things herein alleged pursuant to, and in furtherance of, the conspiracy and above-
19 alleged agreement.

20 146. As a proximate result of the wrongful acts herein alleged, plaintiff Forte has been
21 generally damaged in an amount to be determined at trial.

22 147. Plaintiff has incurred medical costs and now has ongoing costs due to his open heart
23 surgery, has suffered severe emotional distress, mental suffering, and physical pain, and
24 now incurred costs of this action due to the acts of defendants as herein described.

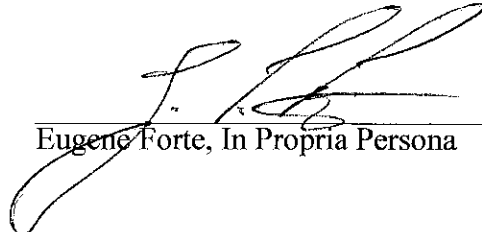
25 148. Defendants did the things herein alleged maliciously and to oppress plaintiff. Plaintiff is
26 therefore entitled to exemplary or punitive damages in an amount to be determined at trial.

27
28

1 WHEREFORE, Plaintiff prays for judgment against Defendants and each of them as follows:

- 2 1. For general damages in an amount to be determined by proof at trial;
- 3 2. For general damages for severe emotional distress and mental suffering in an amount to be
- 4 determined by proof at trial;
- 5 3. For medical and related expenses in an amount to be determined by proof at trial;
- 6 4. For future medical and related expenses in an amount to be determined by proof at trial;
- 7 5. For Punitive damages and Exemplary damages;
- 8 6. For Costs of this action; and
- 9 7. For such other and further relief that the court considers proper.

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11
12
13 DATED: 12/17/04


14 Eugene Forte, In Propria Persona

15
16 VERIFICATION

17 [CCP §§ 446, 2015.5]

18
19 I, Eugene Forte, am the plaintiff in this action. I have read the foregoing complaint and
20 know the contents thereof. The same is true of my own knowledge, except as to those matters
21 which are therein alleged on information and belief, and as to those matters, I believe it to be true.

22 Exhibits "1" and "2" are true and correct copies of the transcripts of the hearings which
23 took place on December 19, 2003.

24 I declare under penalty of perjury that the foregoing is true and correct and that this
25 declaration was executed on December 17, 2004 at Salinas, California.

26
27
28 Eugene Forte 