

1 Andrew C. Schwartz (State Bar No. 64578)
Thom Seaton (State Bar No. 62713)
2 **CASPER, MEADOWS & SCHWARTZ**
A Professional Corporation
3 California Plaza
2121 North California Blvd., Suite 1020
4 Walnut Creek, California 94596
Telephone: (925) 947-1147
5 Facsimile: (925) 947-1131
Email: Schwartz@cmslaw.com
6

7 Mark E. Merin (State Bar No. 043849)
Jeffrey I. Schwarzschild (State Bar No. 192086)
8 LAW OFFICES OF MARK E. MERIN
2001 P Street, Suite 100
9 Sacramento, CA 95814
Telephone: (916) 443-6911
10 Facsimile: (916) 447-8336
Email: mark@markmerin.com
11

12 Attorneys for Plaintiffs

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA

15 DARCELLE L. CHATOIAN, CYNTHIA
16 TASCA, KORISSA RUSSELL, CORIN
17 RASMUSSEN and all others similarly
situated,

18 Plaintiffs

19 vs.

20 COUNTY OF MARIN, MARIN COUNTY
21 SHERIFF'S DEPARTMENT, MARIN
COUNTY SHERIFF ROBERT T. DOYLE,
22 Individually and in His Official Capacity,
MARIN COUNTY SHERIFF'S DEPUTIES
23 DOES 1 THROUGH 100, and ROES 1
THROUGH 20, INCLUSIVE,

24 Defendants.

Case No. C04-2790 MJJ

**FIRST AMENDED CLASS ACTION
COMPLAINT**

DEMAND FOR JURY TRIAL

25
26 **INTRODUCTION**

27 This is an action for declaratory and injunctive relief, damages, and punitive
28 damages against the COUNTY OF MARIN, MARIN COUNTY SHERIFF'S

DEPARTMENT, MARIN COUNTY SHERIFF ROBERT T. DOYLE, Individually and in His Official Capacity, MARIN COUNTY SHERIFF'S DEPUTIES sued under their fictitious names as DOES 1 THROUGH 100, and ROES 1 THROUGH 20, for violations of plaintiffs' constitutional rights resulting from application of Marin County's and the Sheriff's policies, practices, and customs concerning the use of strip searches and visual body cavity searches in Marin County Jails. Plaintiffs seek an order declaring illegal defendants' policy of subjecting detainees in their custody to strip and visual body cavity searches before they are arraigned and without having any reasonable suspicion that the searches will be productive of contraband.

Defendants' strip search and visual body cavity search policies, practices, and customs violate plaintiffs' rights secured to them by the Fourth and Fourteenth Amendments to the United States Constitution and entitle plaintiffs to recover damages under the Federal Civil Rights Act (42 U.S.C. § 1983).

Additionally, plaintiffs include supplemental claims under California state law against defendants: 1) for violation of California Penal Code § 4030 which prohibits pre-arraignment strip searches of most misdemeanants and provides for minimum damages of \$1,000 for each illegal search; and 2) for violation of the Bane Civil Rights Act (California Civil Code § 52 and § 52.1(b)) pursuant to which each plaintiff denied a statutory, state, federal, or constitutional right is entitled to recover a minimum of \$4,000 for each violation.

JURISDICTION

1. This action is brought pursuant to 42 U.S.C. §§ 1983 and 1988, and the Fourth and Fourteenth Amendments to the United States Constitution. Jurisdiction is founded upon 28 U.S.C. § 1331 and 1341(3) and (4) and the aforementioned statutory and constitutional provisions.

2. The court has supplemental jurisdiction over plaintiffs' state claims under 28 U.S.C. § 1367(a).

1 3. The amount in controversy exceeds \$10,000, excluding interest and
2 costs.

PARTIES

3 4. Plaintiff DARCELLE L. CHATOIAN, CYNTHIA TASCA, KORISSA
4 RUSSELL, CORIN RASMUSSEN and all those similarly situated, are, and at all
5 material times herein, were citizens of the United States and residents of the state of
6 California who were arrested within the period beginning on July 12, 2002, and
7 continuing to this date, and who were subjected to strip and/or visual body cavity
8 searches at a Marin County Jail (hereinafter referred to as the "Marin County Jail"),
9 prior to being arraigned and/or without the defendants first having, and recording in
10 writing, a reasonable suspicion that the searches would be productive of contraband or
11 weapons.

12 5. Some plaintiffs, including DARCELLE L. CHATOIAN, CYNTHIA TASCA,
13 and CORIN RASMUSSEN were confined by defendants, after they were strip
14 searched, in cells while they were nude in violation of state statues and the state and
15 federal statutory and constitutions.

16 6. Defendant MARIN COUNTY SHERIFF ROBERT T. DOLYE is, and at all
17 material times referred to herein, was the duly elected Sheriff of the COUNTY OF
18 MARIN, responsible for administering the Jail facilities and for making, overseeing, and
19 implementing the policies, practices, and customs challenged herein relating to the
20 operation of the Marin County Jail. He is sued in his individual and official capacities.

21 7. Defendants MARIN COUNTY SHERIFF DEPUTIES sued herein by their
22 fictitious names (Does 1 through 100) are all deputies who, as part of their duties at
23 the Marin County Jail, subjected plaintiffs to pre-arraignment strip and/or visual body
24 cavity searches without having, and recording in writing, a reasonable suspicion that
25 the searches would be productive of contraband or weapons. Furthermore,
26 Defendants MARIN COUNTY SHERIFF DEPUTIES sued herein by their fictitious
27 names (Does 1 through 100) are all deputies who, as part of their duties at the Marin
28

1 County Jail, confined plaintiffs in cells nude following strip searching said plaintiffs.

2 8. At all material times mentioned herein, each of the defendants was
3 acting under the color of law, to wit, under color of statutes, ordinances, regulations,
4 policies, customs and usages of the state of California, the COUNTY OF MARIN
5 and/or the MARIN COUNTY SHERIFF'S DEPARTMENT.

6 9. Defendants whose names are not now known and who are sued by the
7 fictitious names of ROES 1 through 20, are all agents and/or employees of one or
8 another of the other named defendants who ordered, condoned, authorized, covered
9 up, or were otherwise associated with the implementation of the illegal policy and
10 practices relating to strip searches and nude confinement complained of herein.

11 10. Defendant COUNTY OF MARIN is, and at all material times referred to
12 herein, was a division of the state of California, that maintained or permitted an official
13 policy or custom or practice causing or permitting the occurrence of the types of
14 wrongs complained of herein, which wrongs damaged plaintiffs as herein alleged.
15 Plaintiffs' allegations against the COUNTY are based on acts and omissions of the
16 SHERIFF and his DEPUTIES and on acts and omissions of persons who are
17 COUNTY employees, and on the COUNTY'S breach of its duty to protect plaintiffs
18 from the wrongful conduct of said persons and employees.

19 11. Defendants MARIN COUNTY SHERIFF'S DEPARTMENT and MARIN
20 COUNTY SHERIFF ROBERT T. DOYLE, in his Individual and Official Capacity, also
21 maintained or permitted an official policy or custom of causing or permitting the
22 occurrence of the types of wrongs complained of herein, which wrongs damaged
23 plaintiffs as herein alleged.

24 12. Class action plaintiffs are those similarly situated who, commencing on or
25 after July 12, 2002, and continuing to this date, were subjected by defendants to pre-
26 arraignment strip and/or visual body cavity searches without defendants having, and
27 recording in writing, a reasonable suspicion that the searches would be productive of
28 contraband or weapons. Some of the similarly situated plaintiffs were confined by

1 defendants naked in cells following their having been subjected to strip and/or visual
2 body cavity searches.

3 **JURY TRIAL DEMAND**

4 13. Plaintiffs demand a jury trial in this action.

5 **FACTS**

6 14. On or about late July or early August 2003, plaintiff CYNTHIA TASCA
7 (hereinafter referred to as "plaintiff" or "TASCA" was arrested allegedly for disturbing
8 the peace, a misdemeanor, and transported to the Marin County Jail where she was
9 directed to remove all of her clothes to be strip searched. When she refused to
10 remove her clothes she was forcibly strip searched and confined, nude, in a cell, prior
11 to her arraignment.

12 15. On or about November 2, 2003, plaintiff DARCELLE L. CHATOIAN
13 (hereinafter referred to as "plaintiff" or "CHATOIAN") was arrested for allegedly driving
14 under the influence in Mill Valley, California. Plaintiff CHATOIAN was taken to the
15 Marin County Jail in San Rafael, California, where all of her clothing was forcibly
16 removed by three (3) male officers and she was subjected to a visual body cavity
17 search then placed in a cell, nude, for six (6) hours until she was removed and
18 released from custody.

19 16. Within six (6) months of her arrest, plaintiff CHATOIAN filed a group
20 Government Tort Claim for herself and for all persons similarly situated. Plaintiff
21 CHATOIAN's group claim was denied on or about March 3, 2004, allowing the filing of
22 this complaint for state statute and state constitutional violations.

23 17. On or about March 10, 2004, plaintiff KORISSA RUSSELL (hereinafter
24 referred to as "plaintiff" or "RUSSELL") was arrested by members of the Marin County
25 Sheriff's Department on two misdemeanor violations. Plaintiff RUSSELL was taken to
26 the Marin County Jail in San Rafael, California where she was subjected to a visual
27 body cavity search.

28 18. On August 17 2004, plaintiff RUSSELL filed a class Government Tort

1 Claim for herself and for all persons similarly situated.

2 19. Plaintiff RUSSELL'S class claim was denied on September 13, 2004,
3 allowing the filing of this complaint for state statute and state constitutional violations.

4 20. On or about July 4, 2004, plaintiff CORIN RASMUSSEN (hereinafter
5 referred to as "plaintiff" or "RASMUSSEN") was arrested for allegedly driving under the
6 influence on Highway 101 in Marin County, California. Plaintiff RASMUSSEN was
7 taken to the Marin County Jail in San Rafael, California, where officers placed her in a
8 "safety cell" and ordered her to remove all her clothing. While RASMUSSEN removed
9 her clothing she was observed by male deputies. She then was left alone, naked for
10 almost an hour, after which she was given something which resembled a vest which,
11 though partially covering her, left her essentially naked. She remained in the "safety
12 cell" for approximately eight hours before she was placed in a holding cell with a male
13 prisoner. During RASMUSSEN's entire tenure in the "safety cell" she was observed
14 through a video surveillance camera.

15 21. On August 5, 2004, plaintiff RASMUSSEN filed a class Government Tort
16 Claim for herself and for all persons similarly situated.

17 22. Plaintiff RASMUSSEN's class claim was denied on or about September
18 13, 2004, allowing the filing of this complaint for state statute and state constitutional
19 violations.

20 23. Plaintiffs are informed and therefore allege, that defendants routinely
21 follow their policy, practice, and custom of subjecting pre-arraignment detainees,
22 including plaintiffs, to strip and visual body cavity searches without having, and
23 recording in writing, a reasonable suspicion that the search will be productive of
24 contraband or weapons.

25 24. Plaintiffs are further informed and believe, and thereon allege, that
26 defendants routinely follow their policy, practice and custom of confining detainees,
27 including plaintiffs, naked in cells following subjecting them to visual body cavity
28 searches.

25. Plaintiffs are informed and believe, and thereon allege, that defendants have the ability to identify all such similarly situated plaintiffs, specifically those who, while in defendants' custody at the Marin County Jail since July 12, 2002, were subjected to strip searches and/or visual body cavity searches prior to arraignment without defendants first having and recording, a reasonable suspicion that the searches would be productive of contraband or weapons.

26. Defendant MARIN COUNTY SHERIFF ROBERT T. DOYLE is personally responsible for the promulgation and continuation of the strip search policy, practice, and custom pursuant to which some of the plaintiffs herein were subjected to the searches complained of herein.

27. As a result of being subjected to the searches complained of herein, plaintiffs, and each of the persons similarly situated, suffered physical, mental, and emotional distress, invasion of privacy, and violation of due process of law and state and federal statutory and constitutional rights, and are entitled to recover damages according to proof but, at a minimum, \$1,000 as specified in California Penal Code § 4030(p) and \$4,000 as specified in California Civil Code § 52 and § 52.1(b).

28. As a result of being confined, naked, in a cell as complained of herein, following being strip searched, each of the plaintiffs suffered physical, mental, and emotional distress and violation of due process of law and state and federal statutory and constitutional rights, and is entitled to recover damages according to proof, but a minimum of \$4,000 as specified in California Civil Code § 52 and § 52.1(b).

CLASS CLAIMS

29. The strip and visual body cavity searches to which plaintiffs were subjected were performed pursuant to policies, practices, and customs of defendants MARIN COUNTY SHERIFF ROBERT T. DOYLE, MARIN COUNTY SHERIFF'S DEPARTMENT, COUNTY OF MARIN, the individual SHERIFF'S DEPUTIES sued herein by the fictitious names 1 through 100, and the individuals whose names are not now known and who are sued by the fictitious names of ROES 1 through 20. The

1 searches complained of herein were performed without regard to the nature of the
2 alleged offenses for which plaintiffs had been arrested, without regard to whether or
3 not plaintiffs were eligible for cite and release under Penal Code § 853.6, without
4 regard to whether or not plaintiffs were eligible for and/or were released on their own
5 recognizance. Furthermore, the searches complained of herein were performed
6 without defendants having a reasonable belief that the plaintiffs so searched
7 possessed weapons or contraband, or that there existed facts supporting a reasonable
8 belief that the searches would produce contraband, and those facts being articulated
9 and recorded in a supervisor-approved document.

10 30. Plaintiffs bring this action on their own behalf and on behalf of all persons
11 similarly situated pursuant to Rule 23, Federal Rules of Civil Procedure and California
12 Code of Civil Procedure § 382.

13 31. The class is defined to include all persons who, in the period from and
14 including July 12, 2002, to the present and continuing until this matter is adjudicated
15 and the practices complained of herein cease, were arrested and subjected to a pre-
16 arraignment strip and/or visual body cavity search at the Marin County Jail without
17 defendants having, and recording, a reasonable suspicion that the search would be
18 productive of contraband or weapons.

19 32. In accordance with Federal Rules of Civil Procedure, Rule 23(a), the
20 members of the class are so numerous that joinder of all members is impractical.
21 Plaintiffs do not know the exact number of class members. Plaintiffs are informed and
22 believe, and thereupon allege, that there are more than 10 persons per day who are
23 arrested by defendants and/or in the custody of defendants and subjected to the
24 searches complained of herein as a result of defendants' policy, practice, and custom
25 relating to said searches.

26 33. In accordance with Federal Rules of Civil Procedure, Rule 23(a),
27 plaintiffs are informed and believe, and thereupon allege, that there are many
28 questions of fact common to the class including, but not limited to: (1) whether

defendants routinely subject all persons arrested to visual body cavity searches prior to arraignment if they intend such persons to be housed in the Marin County Jail; (2) whether persons are subjected to visual body cavity searches prior to arraignment without there being any reasonable suspicion, based on specific or articulable facts, to believe any particular arrestee has concealed drugs, weapons, and/or contraband in bodily cavities which could be detected by means of a visual body cavity search; (3) whether the visual body cavity searches are conducted in an area of privacy so that the searches cannot be observed by persons not participating in the searches, or whether the visual body cavity searches are conducted in groups and/or in open areas where they may be observed by persons not participating in the searches; and, (4) whether the visual body cavity searches are reasonably related to defendants' penological interest to maintain the security of the jail and whether or not there are less intrusive methods for protecting any such interest.

34. In accordance with Federal Rules of Civil Procedure, Rule 23(a), plaintiffs are informed and believe, and thereupon allege, that there are many questions of law common to the class including, but not limited to: (1) whether defendants may perform visual body cavity searches on persons prior to their arraignment without reasonable suspicion, based on specific or articulable facts, to believe any particular inmate has concealed drugs, weapons and/or contraband which would likely be discovered by a visual body cavity search; (2) whether defendants may perform visual body cavity searches on persons without first reasonably relating the use of the visual body cavity search to defendants' penological interest to maintain the security of the jail and determining if there is a less intrusive method to protect that interest; (3) whether visual body cavity searches may be conducted in areas where the search can be observed by people not participating in the search without violating plaintiffs' State and Federal constitutional rights and the protections afforded to plaintiffs under California Penal Code section 4030; and, (4) whether or not defendants' strip search policy and procedure is in accordance with the State and/or

1 Federal Constitution.

2 35. In accordance with Federal Rules of Civil Procedure, Rule 23(a), the
3 claims of the representative plaintiffs are typical of the class. Plaintiffs were searched,
4 prior to arraignment, without reasonable suspicion that a strip or visual body cavity
5 search would produce drugs, weapons or contraband (and without the facts supporting
6 any such suspicion being articulated in a supervisor-approved writing), and named
7 plaintiffs were placed in cells, nude, for extended periods of time (in excess of one
8 hour). Representative plaintiffs have the same interests and suffered the same type of
9 injuries as all of the class members. Plaintiffs' claims arose because of defendants'
10 policy, practice, and custom of subjecting arrestees to strip and/or visual body cavity
11 searches before arraignment without having, and recording in writing, a reasonable
12 suspicion that the search would be productive of contraband or weapons. Additionally,
13 plaintiffs, in accordance with defendants' policy, practice, and custom, were improperly
14 and unjustifiably confined, nude, in cells for extended periods of time. Plaintiffs'
15 claims are based upon the same legal theories as the claims of the class members.
16 Each class member suffered actual damages either as a result of being subjected to a
17 visual body cavity search and/or as a result of being improperly and unjustifiably
18 placed and confined in a cell nude. The actual damages suffered by representative
19 plaintiffs are similar in type and amount to the actual damages suffered by each class
20 member.

21 36. In accordance with Federal Rules of Civil Procedure, Rule 23(a), the
22 representative plaintiffs will fairly and adequately protect the class interests. Plaintiffs'
23 interests are consistent with and not antagonistic to the interests of the class.

24 37. In accordance with Federal Rules of Civil Procedure, Rule 23(b)(1)(A),
25 prosecutions of separate actions by individual members of the class would create a
26 risk that inconsistent or varying adjudications with respect to individual members of the
27 class would establish incompatible standards of conduct for the parties opposing the
28 class.

1 38. In accordance with Federal Rules of Civil Procedure, Rule 23(b)(1)(B),
 2 prosecutions of separate actions by individual members of the class would create a
 3 risk of inconsistent adjudications with respect to individual members of the class which
 4 would, as a practical matter, substantially impair or impede the interests of the other
 5 members of the class to protect their interests.

6 39. In accordance with Federal Rules of Civil Procedure, Rule 23(b)(2),
 7 plaintiffs are informed and believe, and thereupon allege, that defendants have acted
 8 on grounds generally applicable to the class, thereby making appropriate the final
 9 injunctive or declaratory relief with respect to the class as a whole.

10 40. In accordance with Federal Rules of Civil Procedure, Rule 23(b)(3), this
 11 class action is superior to other available methods for the fair and equitable
 12 adjudication of the controversy between the parties. Plaintiffs are informed and
 13 believe, and thereupon allege, that the interests of members of the class in individually
 14 controlling the prosecution of a separate action is low, in that most class members
 15 would be unable individually to prosecute any action at all. Plaintiffs are informed and
 16 believe, and thereupon allege, that the amounts at stake for individuals are so small
 17 that separate suits would be impracticable. Plaintiffs are informed and believe, and
 18 thereupon allege, that most members of the class will not be able to find counsel to
 19 represent them. Plaintiffs are informed and believe, and thereupon allege, that it is
 20 desirable to concentrate all litigation in one forum because all of the claims arise in the
 21 same location; i.e., the MARIN COUNTY JAIL. It will promote judicial efficiency to
 22 resolve the common questions of law and fact in one forum, rather than in multiple
 23 courts.

24 41. Plaintiffs do not know the identities of all of the class members. Plaintiffs
 25 are informed and believe, and thereupon allege, that the identities of the class
 26 members may be ascertained from records maintained by the COUNTY OF MARIN
 27 and defendant SHERIFF ROBERT T. DOYLE and defendant MARIN COUNTY
 28 SHERIFF'S DEPARTMENT. Plaintiffs are informed and believe, and thereupon

1 allege, that defendants' records reflect the identities, including addresses and
 2 telephone numbers, of the persons who have been held in custody in the Marin
 3 County Jails. Plaintiffs are informed and believe, and thereupon allege, that records
 4 of, and maintained by defendants reflect who was subject to a strip and/or visual body
 5 cavity search, when the search occurred, where the search occurred, whether any
 6 reasonable suspicion for the search existed and was recorded in a supervisor-
 7 approved writing, when persons searched were arraigned, the charges on which such
 8 persons were arrested, whether persons were confined in cells nude, the justification
 9 recorded for placing individuals in cells nude, how long individuals remained in cells
 10 nude, and what treatment they received while so confined. Plaintiffs are informed and
 11 believe, and thereupon allege, that all of the foregoing information is contained in
 12 defendants' computer system and that the information necessary to identify the class
 13 members, by last known addresses, and the dates and reasons for their arrests and/or
 14 release from custody, is readily available from said computer system.

15 42. In accordance with Federal Rules of Civil Procedure, Rule 23(b)(3), class
 16 members must be furnished with the best notice practicable under the circumstances,
 17 including individual notice to all members who can be identified through reasonable
 18 effort. Plaintiffs are informed and believe, and thereupon allege, that defendants'
 19 computer records contain a last known address for class members. Plaintiffs
 20 contemplate that individual notice will be given to class members at such last known
 21 address by first class mail. Plaintiffs contemplate that the notice will inform class
 22 members of the following:

- 23 1. The pendency of the class action and the issues common to the class;
- 24 2. The nature of the action;
- 25 3. Their right to "opt out" of the action within a given time, in which event
 26 they will not be bound by a decision rendered in the class action;
- 27 4. Their right, if they do not "opt out," to be represented by their own
 28 counsel and to enter an appearance in the case; otherwise they will be represented by

1 the named class plaintiffs and their counsel; and

2 5. Their right, if they do not "opt out," to share in any recovery in favor of
3 the class, and conversely to be bound by any judgment on the common issues
4 adverse to the class.

5 **COUNT ONE**

6 Violation of Fourth and Fourteenth Amendments to the U.S. Constitution
7 (On Behalf Of Plaintiffs And All Persons Similarly Situated)

8 43. Defendants' policies, practices, and customs regarding the strip and
9 visual body cavity searches complained of herein violated plaintiffs' rights under the
10 Fourth Amendment to be free from unreasonable searches and seizures, violated said
11 plaintiffs' rights to due process and privacy under the Fourteenth Amendment, and
12 directly and proximately damaged plaintiffs as herein alleged, entitling plaintiffs to
13 recover damages for said constitutional violations pursuant to 42 U.S.C. § 1983.

14 WHEREFORE, plaintiffs pray for relief as hereunder appears.

15 **COUNT TWO**

16 Violation Of The Fourth And Fourteenth Amendments To U.S. Constitution,
17 42 U.S.C. §1983
18 (On Behalf Of Plaintiffs And All Persons Similarly Situated)

19 44. Defendants' policies, practices, and customs regarding confining persons
20 in cells nude as complained of herein violated plaintiffs' Fourth Amendment right to be
21 free from unreasonable searches and seizures and plaintiffs' rights to due process
22 under the Fourteenth Amendment, and directly and proximately damaged plaintiffs as
23 herein alleged, entitling plaintiffs to recover damages for said constitutional violations
24 pursuant to 42 U.S.C. § 1983, in addition to other damages.

25 WHEREFORE, plaintiffs pray for relief as hereunder appears.

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COUNT THREE

1 California State Unruh Civil Rights Act, Civil Code §§ 52 and 52.1

2 (On Behalf Of Plaintiffs [Except Tasca] And All Persons Similarly Situated)

3 45. Defendants' policies, practices, and customs regarding the strip and
4 visual body cavity searches complained of herein violated plaintiffs' rights to privacy as
5 secured by Article I, Section 1 of the California Constitution and directly and
6 proximately damaged plaintiffs as herein alleged, entitling said plaintiffs to recover a
7 minimum of \$4,000 each pursuant to California Civil Code § 52.1 and § 52, in addition
8 to other damages.

9 WHEREFORE, plaintiffs pray for relief as hereunder appears.

10 **COUNT FOUR**

11 Violation of California Penal Code § 4030,
12 California State Unruh Civil Rights Act, Civil Code §§ 52 and 52.1,
13 (On Behalf Of Plaintiffs [Except Tasca] And All Persons Similarly Situated)

14 46. Defendants' policies, practices, and customs regarding the strip and
15 visual body cavity searches complained of herein violated rights secured to plaintiffs
16 under California Penal Code § 4030 and directly and proximately damaged plaintiffs as
17 herein alleged, entitling said plaintiffs to recover a minimum of \$1,000 each pursuant
18 to California Penal Code § 4030(p), and to further minimum damages of \$4,000 each
19 pursuant to California Civil Code § 52.1 and § 52, in addition to other damages.

20 WHEREFORE, plaintiffs pray for relief as hereunder appears.

21 **COUNT FIVE**

22 (California State Bane Act, Civil Code §§ 52 and 52.1,
23 (On Behalf Of Plaintiffs [Except Tasca] And All Persons Similarly Situated)

24 47. Defendants' policies, practices, and customs regarding their confining
25 persons in cells nude as complained of herein has violated plaintiffs' rights to due
26 process of law and freedom from unreasonable searches and seizures as secured by
27 the California Sate Constitution, Article I, Section 24, and directly and proximately
28 damaged plaintiffs as herein alleged, entitling each said plaintiff to recover a minimum
of \$4,000 each pursuant to California Civil Code § 52.1 and § 52, in addition to other

1 damages.

2 WHEREFORE, plaintiffs pray relief as hereunder appears.

3 PRAYER FOR RELIEF

4 WHEREFORE, plaintiffs seek judgment as follows:

5 1. For declaratory and injunctive relief declaring illegal and enjoining,
6 preliminarily and permanently, defendants' policies, practices, and customs of
7 subjecting pre-arraignment detainees to strip and visual body cavity searches without
8 having a reasonable suspicion that such searches would be productive of contraband
9 or weapons and of using the "safety cells" to compel compliance or to punish
10 detainees.

11 2. Certification of the action as a class action;

12 3. For compensatory, general, and special damages for each
13 representative and for each member of the class of plaintiffs, as against all
14 defendants, except that plaintiffs seek no damages against the County of Marin or the
15 Marin County Sheriff's Department for violations of State law and seek no damages
16 against Sheriff Robert T. Doyle for violations of California Civil Code § 52.

17 4. Exemplary damages as against each of the individual defendants in an
18 amount sufficient to deter and to make an example of those defendants;

19 5. In addition to compensatory and statutory damages as allowed by law, at
20 least \$4,000 for each plaintiff pursuant to California Civil Code §§ 52 and 52.1, except
21 that plaintiffs seek no damages against Sheriff Robert T. Doyle for violations of
22 California Civil Code § 52, or against the County of Marin or Marin County Sheriff's
23 Department for violations of § 52.1.

24 6. Attorneys' fees and costs under 42 U.S.C. § 1988, California Civil Code §
25 52(b)(3), California Civil Code § 52.1(h), and California Code of Civil Procedure §
26 1021.5; and

27 7. The cost of this suit and such other relief as the court finds just and
28 proper.

1 DATED: February 1, 2005

2 Respectfully submitted,

3 LAW OFFICE OF MARK E. MERIN and
4 CASPER, MEADOWS & SCHWARTZ

5 /s/
6 BY: _____
7 Mark E. Merin
8 Attorney for Plaintiffs
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