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Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RUSSELL MOYLE, a minor, by and
through his Guardian Ad Litem, his
custodial parent, RHONDA BOWERS;
KATHERINE ERMITANO, a minor, by and
through her Guardian Ad Litem, her
custodial parent, MARLON ERMITANO,
and on behalf of themselves and all those
similarly situated,

Plaintiffs,

vs.

CONTRA COSTA COUNTY; CONTRA
COSTA COUNTY PROBATION
DEPARTMENT; CONTRA COSTA
COUNTY CHIEF PROBATION OFFICER
LIONEL CHATMAN, in his individual and
official capacities; CONTRA COSTA
COUNTY CHIEF DEPUTY PROBATION
OFFICER FOR JUVENILE HALL, NANCY
MILLER, in her individual and official
capacities; and DOES 1 THROUGH 100,

Defendants.

Case No. C05-02324

FIRST AMENDED CLASS ACTION
COMPLAINT

DEMAND FOR JURY TRIAL

1 PLAINTIFFS COME BEFORE THIS HONORABLE COURT AND ALLEGE:

2 INTRODUCTION

3 This is an action for declaratory and injunctive relief, damages, and punitive
4 damages against CONTRA COSTA COUNTY, CONTRA COSTA COUNTY
5 PROBATION DEPARTMENT, CONTRA COSTA COUNTY CHIEF PROBATION
6 OFFICER LIONEL CHATMAN in his individual and official capacity, CONTRA COSTA
7 COUNTY CHIEF DEPUTY PROBATION OFFICER FOR JUVENILE HALL, OFFICER
8 NANCY MILLER, in her individual and official capacity; and DOES 1 THROUGH 100
9 (persons sued herein by their fictitious names) for violations of plaintiffs' constitutional
10 rights resulting from application of CONTRA COSTA COUNTY's and CONTRA
11 COSTA COUNTY PROBATION DEPARTMENT's policies, practices, and customs
12 concerning the use of strip searches and visual body cavity searches in Juvenile Hall.
13 Plaintiffs seek an order declaring illegal defendants' policy of subjecting juvenile
14 detainees in their custody to strip and visual body cavity searches before such
15 detainees have appeared at a detention hearing and without having any reasonable
16 suspicion that the searches will be productive of contraband.

16 Defendants' strip and visual body cavity search policies, practices, and customs
17 violated and violate the rights of plaintiffs, and each of those persons similarly situated,
18 secured by the Fourth and Fourteenth Amendments to the U.S. Constitution and
19 entitles plaintiffs, and all of those similarly situated, to recover damages under the
20 Federal Civil Rights Act (42 U.S.C. § 1983).

21 Additionally, plaintiffs include claims under California state law against
22 defendants for violation of the Unruh Civil Rights Act (California Civil Code § 52.1(b))
23 pursuant to which they are, and each of those persons similarly situated is entitled to
24 recover a minimum of \$4,000 for each violation of rights secured to them by the
25 Constitution or laws of the state of California and the constitutional or laws of the
26 United States, and for violation of California Penal Code section 4030's prohibition of
27 pre-detention hearing strip-searches, pursuant to which each plaintiffs are, and each of
28 those persons similarly situated is entitled to recover minimum damages of \$1,000 and
attorneys' fees.

JURISDICTION

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

6 2. The court has supplemental jurisdiction over plaintiffs' state claims under
7 28 U.S.C. § 1367(a).

8 3. A JURY TRIAL IS HEREBY DEMANDED.

PARTIES

9 4. Plaintiff RUSSELL MOYLE, like all those similarly situated, is and at all
10 material times herein was a citizen of the United States and a resident of the state of
11 California who was arrested while a juvenile and who was subjected to multiple strip
12 and/or visual body cavity searches at Contra Costa County's Juvenile Hall, prior to
13 appearing at a detention hearing and/or without the defendants first having a
14 reasonable suspicion that the search would be productive of contraband or weapons.

15 5. Plaintiff KATHERINE ERMITANO, like all those similarly situated, is and
16 at all material times herein was a citizen of the United States and a resident of the
17 state of California who was arrested while a juvenile and who was subjected to
18 multiple strip and/or visual body cavity searches at Contra Costa County's Juvenile
19 Hall, prior to appearing at a detention hearing and/or without the defendants first
20 having a reasonable suspicion that the search would be productive of contraband or
21 weapons.

22 6. Defendant CONTRA COSTA COUNTY CHIEF PROBATION OFFICER
23 LIONEL CHATMAN is, and at all material times referred to herein, was responsible for
24 administering Contra Costa County's juvenile detention facilities and for making,
25 overseeing, and implementing the policies, practices, and customs challenged herein
26 relating to the operation of the Juvenile Hall. He is sued in his individual and official
27 capacities.

28 7. Defendant CONTRA COSTA COUNTY CHIEF DEPUTY PROBATION
OFFICER FOR JUVENILE HALL OFFICER NANCY MILLER is, and at all material

1 times referred to herein, was responsible for assisting in the administration of Contra
2 Costa County's juvenile detention facilities and for assisting in the making, overseeing,
3 and implementing the policies, practices, and customs challenged herein relating to
4 the operation of Juvenile Hall. She is sued in her individual and official capacities.

5 8. Plaintiffs are informed and believe, and thereon allege that defendants
6 sued herein by their fictitious names (DOES 1 through 100) are Contra Costa
7 Probation Officers and/or other persons employed by the defendant CONTRA COSTA
8 COUNTY who, as part of their duties at the Juvenile Hall subjected plaintiffs, and all
9 those similarly situated, to pre-detention hearing strip and/or visual body cavity
10 searches without first having a reasonable suspicion that the searches would be
11 productive of contraband or weapons. Plaintiffs are not currently aware of the true
12 names and identities of those sued herein as DOES 1 through 100, but will amend this
13 complaint to include such persons' real names once said names are made available to
14 them.

15 9. At all material times mentioned herein, each of the defendants was
16 acting under the color of law, to wit, under color of statutes, ordinances, regulations,
17 policies, customs and usages of the State of California, CONTRA COSTA COUNTY,
18 and/or the CONTRA COSTA COUNTY PROBATION DEPARTMENT.

19 10. Defendant CONTRA COSTA COUNTY is, and at all material times
20 referred to herein was, a lawfully created governmental entity created pursuant to the
21 laws of the State of California, that maintained or permitted an official policy or custom
22 or practice causing or permitting the occurrence of the types of wrongs complained of
23 herein, which wrongs damaged plaintiffs, and all those similarly situated, as herein
24 alleged. Plaintiffs' allegations against the COUNTY are based on acts and omissions
25 of the CHIEF PROBATION OFFICER, the CHIEF DEPUTY PROBATION OFFICER
26 FOR JUVENILE HALL OFFICER, and their officers, and on acts and omissions of
27 persons who are COUNTY employees, and on the COUNTY's breach of its duty to
28 protect plaintiffs, and all those similarly situated, from the wrongful conduct of said
persons and employees.

11. Defendants CONTRA COSTA COUNTY PROBATION DEPARTMENT,

1 CONTRA COSTA COUNTY CHIEF PROBATION OFFICER LIONEL CHATMAN,
 2 acting in his individual and official capacities, and CONTRA COSTA COUNTY CHIEF
 3 DEPUTY PROBATION OFFICER FOR JUVENILE HALL OFFICER NANCY MILLER,
 4 acting in her individual and official capacities, also maintained or permitted an official
 5 policy or custom or practice causing or permitting the occurrence of the types of
 6 wrongs complained of herein, which wrongs damaged plaintiffs, and all those similarly
 7 situated, as herein alleged.

8 12. Class action plaintiffs are all those similarly situated juveniles who were
 9 subjected by defendants to pre-detention hearing strip and/or visual body cavity
 10 searches without defendants having a reasonable suspicion that the searches would
 11 be productive of contraband or weapons and who have not yet reached adulthood or
 12 who have turned 18 within two years of the filing of this action.

13 13. On December 30, 2004, plaintiff RUSSELL MOYLE, on his own behalf,
 14 and on behalf of a class of similarly situated individuals filed a Juvenile Class
 15 Government Claim pursuant to California Government Code § 910 against CONTRA
 16 COSTA COUNTY; CONTRA COSTA COUNTY PROBATION DEPARTMENT;
 17 CONTRA COSTA COUNTY CHIEF PROBATION OFFICER LIONEL CHATMAN, and
 18 CONTRA COSTA COUNTY CHIEF DEPUTY PROBATION OFFICER FOR JUVENILE
 19 HALL, JIM MATHERON, and DOES 1 through 100. On February 8, 2005, the Contra
 20 Costa Board of Supervisors denied the claim and on February 9, 2005, a Deputy
 21 County Clerk mailed the Notice of Denial to Plaintiff's counsel.

22 14. On August 1, 2005, plaintiff KATHERINE ERMITANO, on her own behalf,
 23 and on behalf of a class of similarly situated individuals filed a Juvenile Class
 24 Government Claim pursuant to California Government Code § 910 against CONTRA
 25 COSTA COUNTY; CONTRA COSTA COUNTY PROBATION DEPARTMENT;
 26 CONTRA COSTA COUNTY CHIEF PROBATION OFFICER LIONEL CHATMAN, and
 27 CONTRA COSTA COUNTY CHIEF DEPUTY PROBATION OFFICER FOR JUVENILE
 28 HALL, NANCY MILLER, and DOES 1 through 100. On September 13, 2005, the
 Contra Costa Board of Supervisors denied the claim and on September 14, 2005, a
 Deputy County Clerk mailed the Notice of Denial to Plaintiff's Counsel.

FACTS

15. In or about August 26, 2004, plaintiff RUSSELL MOYLE, a minor, was arrested and transported to Juvenile Hall in the County of Contra Costa, California, and there, prior to a detention hearing, was subjected to visual body cavity searches in violation of California Penal Code § 4030, the California state constitution's guarantee of the right of privacy, the Fourth and Fourteenth Amendments to the United States Constitution and the Bane Act (Civil Code § 52.1).

16. Each and every time that plaintiff RUSSELL MOYLE left his housing unit within Juvenile Hall, upon his return, he was subjected to a visual body cavity search. These searches occurred after claimant visited with his parents, his lawyer, and every other time he left his housing unit. The strip searches were performed without particularized reasonable suspicion that the searches would be productive of contraband or weapons. Plaintiff RUSSELL MOYLE is informed and believes, and thereon alleges, that defendants had no reasonable suspicion that a strip or visual body cavity search of plaintiff would result in the discovery of contraband or weapons.

17. On or about May 25, 2005, plaintiff KATHERINE ERMITANO, a minor, was arrested and transported to Juvenile Hall in the County of Contra Costa, California, and there, prior to a detention hearing, was subjected to visual body cavity searches in violation of California Penal Code § 4030, the state constitution's guarantee of the right of privacy, the Fourth and Fourteenth Amendments to the United States Constitution and the Bane Act (Civil Code § 52.1).

18. Each and every time that plaintiff KATHERINE ERMITANO left her housing unit within Juvenile Hall, upon her return, she was subjected to a visual body cavity search. These searches occurred after claimant visited with her parents, her lawyer, after a court appearance, and every other time she left her housing unit. The strip searches were performed without particularized reasonable suspicion that the searches would be productive of contraband or weapons. Plaintiff KATHERINE ERMITANO is informed and believes, and thereon alleges, that defendants had no reasonable suspicion that a strip or visual body cavity search of plaintiff would result in the discovery of contraband or weapons.

1 19. Plaintiffs are informed and believe, and thereon allege, that defendants
2 routinely follow their policy, practice, and custom of subjecting pre-detention hearing
3 juvenile detainees, including plaintiffs, to strip and visual body cavity searches,
4 individually and in groups, without having a reasonable suspicion that the searches will
5 be productive of contraband or weapons.

6 20. Plaintiffs are informed and believe, and thereon allege, that defendants
7 have the ability to identify all such similarly situated plaintiffs, specifically those who
8 are still juveniles or who were juveniles within two years of the filing of this action and
9 who, while in defendants' custody at Juvenile Hall were subjected to strip searches
10 and/or visual body cavity searches prior to appearing at a detention hearing without
11 defendants first having a reasonable suspicion that the searches would be productive
12 of contraband or weapons.

13 21. Defendants CHATMAN and MILLER and defendants DOES 1 through 10
14 are jointly and severally personally responsible for the promulgation and continuation
15 of the strip search policy, practice, and custom pursuant to which plaintiffs herein and
16 the persons in the class plaintiffs purport to represent were subjected to the searches
17 complained of herein.

18 22. As a result of being subjected to the searches complained of herein,
19 plaintiffs, and all those similarly situated, have suffered physical, mental, and
20 emotional distress, invasion of privacy, and violation of due process of law and federal
21 and state statutory and constitutional rights, and are entitled to recover damages
22 according to proof, including exemplary damages.

23 CLASS CLAIMS

24 23. The strip and visual body cavity searches to which plaintiffs, and all those
25 similarly situated, were subjected were performed pursuant to policies, practices, and
26 customs of defendants, and each of them. The searches complained of herein were
27 performed without regard to the nature of the alleged offense for which plaintiffs, and
28 each of those similarly situated, had been arrested, without regard to whether or not
each plaintiff, and each of those similarly situated, was eligible for release under
Welfare & Institutions Code §§ 628 et seq. Furthermore, the searches complained of

1 herein were performed without defendants having a reasonable belief that plaintiffs, or
2 those similarly situated, so searched possessed weapons or contraband, or that there
3 existed facts supporting a reasonable belief that the searches would produce
4 contraband.

5 24. Plaintiffs bring this action on their own behalf and on behalf of all persons
6 similarly situated pursuant to Rule 23, Federal Rules of Civil Procedure.

7 25. The class is defined to include all persons who are currently juveniles or
8 who reached the age of majority within two years of filing of this action, and who were
9 arrested and subjected to a pre-detention hearing strip and/or visual body cavity
10 search at Juvenile Hall without defendants having a reasonable suspicion that the
11 searches would be productive of contraband or weapons.

12 26. In accordance with Federal Rules of Civil Procedure, Rule 23(a), the
13 members of the class are so numerous that joinder of all members is impractical.
14 Plaintiffs do not know the exact number of class members. Plaintiffs are informed and
15 believe, and thereupon allege, that there are more than 25 persons per day who are
16 arrested by defendants and/or in the custody of defendants and subjected to the
17 searches complained of herein as a result of defendants' policy, practice, and custom
18 relating to said searches. Plaintiffs are informed and believe, and therefore allege,
19 that there are thousands of persons in the proposed class.

20 27. In accordance with Federal Rules of Civil Procedure, Rule 23(a),
21 plaintiffs are informed and believe, and thereupon allege, that there are many
22 questions of fact common to the class including, but not limited to: (1) whether
23 defendants routinely subject all juveniles arrested to visual body cavity searches prior
24 to appearance at a detention hearing; (2) whether persons are subjected to visual
25 body cavity searches prior to detention hearings without there being any reasonable
26 suspicion, based on specific or articulable facts; to believe any particular arrestee has
27 concealed drugs, weapons, and/or contraband in bodily cavities which could be
28 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

1 searches are conducted in groups and/or in open areas where they may be observed
2 by persons not participating in the searches; and, (4) whether the visual body cavity
3 searches are reasonably related to defendants' penological interest to maintain the
4 security of the juvenile detention facility and whether or not there are less intrusive
5 methods for protecting any such interest.

6 28. In accordance with Federal Rules of Civil Procedure, Rule 23(a),
7 plaintiffs are informed and believe, and thereupon allege, that there are many
8 questions of law common to the class including, but are not limited to: (1) whether
9 defendants may perform visual body cavity searches on juveniles prior to their
10 detention hearing without reasonable suspicion, based on specific or articulable facts,
11 to believe any particular detainee has concealed drugs, weapons and/or contraband
12 which would likely be discovered by a visual body cavity search; (2) whether
13 defendants may perform visual body cavity searches on juveniles without first
14 reasonably relating the use of the visual body cavity search to defendants' penological
15 interest to maintain the security of the juvenile detention facility and determining if
16 there is a less intrusive method to protect that interest; (3) whether visual body cavity
17 searches may be conducted in areas where the search can be observed by people not
18 participating in the search without violating plaintiffs' Federal and State constitutional
19 rights; and, (4) whether or not defendants' strip search policy and procedure is in
20 accordance with the laws of the State of California and the State and Federal
21 Constitutions.

22 29. In accordance with Federal Rules of Civil Procedure, Rule 23(a), the
23 claims of the representative plaintiffs are typical of the class. Plaintiffs were subjected
24 to a strip and visual body cavity search, prior to his detention hearing, without
25 reasonable suspicion that a strip or visual body cavity search would produce drugs,
26 weapons or contraband. Representative plaintiffs have the same interests and
27 suffered the same type of injuries as all of the class members. Plaintiffs' claims arose
28 because of defendants' policy, practice, and custom of subjecting arrestees to strip
and/or visual body cavity searches prior to detention hearings without having, and
recording in writing, a reasonable suspicion that the search would be productive of

1 contraband or weapons. Plaintiffs' claims are based upon the same legal theories as
2 the claims of the class members. Each class member suffered actual damages as a
3 result of being subjected to a strip or visual body cavity search. The actual damages
4 suffered by representative plaintiffs are similar in type and amount to the actual
5 damages suffered by each class member, in that each member of the class is entitled
6 to minimum damages of \$1,000 under Penal Code Section 4030(p) and \$4,000 under
7 Civil Code Section 52(a).

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

11 31. In accordance with Federal Rules of Civil Procedure, Rule 23(b)(1)(A),
12 prosecutions of separate actions by individual members of the class would create a
13 risk that inconsistent or varying adjudications with respect to individual members of the
14 class would establish incompatible standards of conduct for the parties opposing the
15 class.

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

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

25 34. In accordance with Federal Rules of Civil Procedure, Rule 23(b)(3), this
26 class action is superior to other available methods for the fair and equitable
27 adjudication of the controversy between the parties. Plaintiffs are informed and
28 believe, and thereupon allege, that the interests of members of the class in individually
controlling the prosecution of a separate action is low, in that most class members
would be unable individually to prosecute any action at all. Plaintiffs are informed and

1 believe, and thereupon allege, that the amounts at stake for individuals are so small
2 that separate suits would be impracticable. Plaintiffs are informed and believe, and
3 thereupon allege, that most members of the class will not be able to find counsel to
4 represent them. Plaintiffs are informed and believe, and thereupon allege, that it is
5 desirable to concentrate all litigation in one forum because all of the claims arise in the
6 same location; *i.e.*, CONTRA COSTA COUNTY. It will promote judicial efficiency to
7 resolve the common questions of law and fact in one forum, rather than in multiple
8 courts.

9 35. Plaintiffs do not know the identities of all of the class members. Plaintiffs
10 are informed and believe, and thereupon allege, that the identities of the class
11 members may be ascertained from records maintained by CONTRA COSTA
12 COUNTY, defendant CONTRA COSTA COUNTY PROBATION DEPARTMENT, and
13 defendants CHATMAN and MATHERON. Plaintiffs are informed and believe, and
14 thereupon allege, that defendants' records reflect the identities, including addresses
15 and telephone numbers, of the persons who have been held in custody in the Juvenile
16 Hall. Plaintiffs are informed and believe, and thereupon allege, that records
17 maintained by defendants reflect who was subjected to a strip and/or visual body
18 cavity search, when the search occurred, where the search occurred, whether any
19 reasonable suspicion for the search existed, when persons searched appeared at
20 detention hearings, and the charges on which such persons were arrested. Plaintiffs
21 are informed and believe, and thereupon allege, that all of the foregoing information is
22 contained in defendants' computer system and that the information necessary to
23 identify the class members, by last known addresses, and the dates and reasons for
24 their arrests and/or release from custody, is readily available from said computer
25 system.

26 36. In accordance with Federal Rules of Civil Procedure, Rule 23(b)(3), class
27 members must be furnished with the best notice practicable under the circumstances,
28 including individual notice to all members who can be identified through reasonable
effort. Plaintiffs are informed and believe, and thereupon allege, that defendants'
computer records contain a last known address for class members. Plaintiffs

1 contemplate that individual notice will be given to class members at such last known
2 address by first class mail. Plaintiffs contemplate that the notice will inform class
3 members of the following:

- 4 i. The pendency of the class action and the issues common to the
5 class;
- 6 ii. The nature of the action;
- 7 iii. Their right to "opt out" of the action within a given time, in which
8 event they will not be bound by a decision rendered in the class
9 action;
- 10 iv. Their right, if they do not "opt out," to be represented by their
11 own counsel and to enter an appearance in the case; otherwise
12 they will be represented by the named class plaintiffs and their
13 counsel; and
- 14 v. Their right, if they do not "opt out," to share in any recovery in
15 favor of the class, and conversely to be bound by any judgment
16 on the common issues adverse to the class.

17 FIRST CLAIM FOR RELIEF

18 (Violation Of Fourth And Fourteenth Amendments To The U.S.
19 Constitution On Behalf Of Plaintiffs And All Persons Similarly Situated
20 And Against All Defendants And Each Of Them)

21 37. Plaintiffs hereby incorporate herein the preceding paragraphs of this
22 complaint, to the extent relevant, as if fully set forth.

23 38. Defendants' policies, practices, and customs regarding the strip and
24 visual body cavity searches complained of herein violated the rights of plaintiffs, and
25 the rights of each of those similarly situated, under the Fourth Amendment to be free
26 from unreasonable searches and seizures. These policies, practices, and customs
27 also violated the rights of plaintiffs, and the rights of each of those similarly situated, to
28 due process and privacy under the Fourteenth Amendment, and directly and
proximately damaged plaintiffs, and each of those similarly situated, as herein alleged,
entitling plaintiffs, and all those similarly situated, to recover damages for said

1 constitutional violations pursuant to 42 U.S.C. § 1983.

2 WHEREFORE, plaintiffs, on behalf of themselves and on behalf of all those
3 similarly situated, pray for relief as hereunder appears.

4 SECOND CLAIM FOR RELIEF

5 (Violation Of The California State Unruh Civil Rights Act, Civil Code
6 Section 52.1 On Behalf Of Plaintiffs And All Persons Similarly Situated
And Against All Defendants And Each Of Them)

7 39. Plaintiffs hereby incorporate herein the preceding paragraphs of this
8 complaint, to the extent relevant, as if fully set forth.

9 40. By requiring plaintiffs, and all those similarly situated, to submit to pre-
10 detention hearing visual body cavity searches without first having reasonable suspicion
11 that such searches would be productive of weapons or contraband, recording such
12 reasonable suspicion, and having such searches approved in writing by a supervisor
13 prior to conducting such searches; and/or by conducting visual body cavity searches in
14 groups and/or in areas where the searches were viewed by persons who were not
15 participating in the searches, defendants, and each of them, have coerced and
16 interfered with plaintiffs' California Constitutional Right to Privacy (Article I, Section 1)
17 and Statutory Rights (Penal Code section 4030, which prohibits strip searches of
18 persons in groups and pre-detention hearing strip searches of juveniles charged with
19 minor offenses and misdemeanors, without reasonable suspicion, recorded in writing
20 and approved by a supervisor).

21 41. Plaintiffs, and each of the persons plaintiffs seek to represent, was
22 harmed by defendants' coercion and interference with their aforementioned
23 constitutional and statutory rights.

24 42. By using coercion to interfere with plaintiffs' aforementioned
25 constitutional and statutory rights, defendants, and each of them, have violated the
26 California Bane Act (Cal. Civil Code § 52.1).

27 43. Defendants' violations of the Bane Act makes them liable to each plaintiff
28 for damages up to a maximum of three times the amount of each plaintiff's actual
damages, but in no event less than four thousand dollars (\$4,000), together with any

1 attorney's fees and costs that may be determined by the court.

2 WHEREFORE, plaintiffs, on behalf of themselves and on behalf of all those
3 similarly situated, pray for relief as hereunder appears.

4 THIRD CLAIM FOR RELIEF

5 (Violation Of California Penal Code Section 4030 On Behalf Of Plaintiffs
6 And All Persons Similarly Situated And Against All Defendants And Each
7 Of Them)

8 44. Plaintiffs hereby incorporate herein the preceding paragraphs of this
9 complaint, to the extent relevant, as if fully set forth.

10 45. Defendants' policies, practices, and customs regarding the strip and
11 visual body cavity searches complained of herein violated California Penal Code
12 Section 4030, and directly and proximately damaged plaintiffs, and each of those
13 similarly situated, as herein alleged, entitling each plaintiff, each of those similarly
14 situated, to recover damages for said constitutional violations pursuant to Penal Code
15 § 4030(p) of no less than \$1,000.

16 WHEREFORE, plaintiffs, on behalf of themselves and on behalf of all those
17 similarly situated, pray for relief as hereunder appears.

18 FOURTH CLAIM FOR RELIEF

19 (For Exemplary Damages On Behalf Of Plaintiffs And All Persons
20 Similarly Situated And Against All Individually Named Defendants, And
21 Each Of Them)

22 46. Plaintiffs hereby incorporate herein the preceding paragraphs of this
23 complaint, to the extent relevant, as if fully set forth.

24 47. Plaintiffs and all those similarly situated were minors at the time
25 defendants subjected them to the humiliating, degrading, and unlawful strip searches
26 complained of herein. Defendants exploited on the young age of plaintiffs and all
27 those similarly situated to coerce plaintiffs, and the members of the class they
28 represent, to comply with their unlawful demands. Defendants' conduct was
oppressive, malicious, and done in complete disregard of the rights of plaintiffs and all

1 those similarly situated; and, therefore plaintiffs, and all those similarly situated, are
2 entitled to recover, in addition to actual damages, damages to make an example of
3 and to punish the individually named defendants, and each of them.

4 WHEREFORE, plaintiffs, on behalf of themselves and on behalf of all those
5 similarly situated, pray for relief as hereunder appears.

6 PRAYER FOR RELIEF

7 WHEREFORE, plaintiffs, on behalf of themselves and on behalf of all those
8 similarly situated, seek judgment as follows:

9 1. For declaratory and injunctive relief declaring illegal and enjoining,
10 preliminarily and permanently, defendants' policies, practices, and customs of
11 subjecting pre-detention hearing juvenile detainees to strip and visual body cavity
12 searches without having a reasonable suspicion that such searches would be
productive of contraband or weapons.

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

14 3. For compensatory, general, and special damages for each
15 representative and for each member of the class of plaintiffs, as against all
16 defendants;

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

19 5. Attorneys' fees and costs under 42 U.S.C. § 1988, California
20 Penal Code § 4030(p), and California Civil Code §§ 52 et seq.; and,

21 6. The cost of this suit and such other relief as the court finds just
22 and proper.

23 DATED: September 15, 2005

24 Respectfully submitted,

25
26 _____
27 Andrew C. Schwartz
28 CASPER, MEADOWS, SCHWARTZ & COOK
Attorneys for Plaintiffs