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CENTRAL DISTRICT OF CALIF.
LOS ANGELES

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13 UNITED STATES DISTRICT COURT
14 FOR THE CENTRAL DISTRICT OF CALIFORNIA
15

16 SHAWN NEE; GREGGORY MOORE;
17 SHANE QUENTIN; and THE
NATIONAL PHOTOGRAPHERS'
RIGHTS ORGANIZATION,

18 Plaintiffs,

19 v.

20 COUNTY OF LOS ANGELES; LOS
21 ANGELES COUNTY SHERIFF'S
DEPARTMENT; SERGEANT
22 MAURICE HILL, in his individual
capacity; SERGEANT SALVADOR
23 BECERRA, in his individual capacity;
DEPUTY RICHARD GYLFIE, in his
24 individual capacity; DEPUTY BAYES,
in his individual capacity; DEPUTY
25 D'ANDRE LAMPKIN, in his individual
capacity; DEPUTY LASHON
26 O'BANNON, in her individual capacity;
DEPUTY CARLOS L. SANCHEZ, in
27 his individual capacity; DEPUTY
JASON CARTAGENA, in his
28 individual capacity; DEPUTY
MICHAEL A. CHACON, in his
individual capacity; DEPUTY MARINA

CASE NO.: 11-cv-08899 DDP (JCGx)

**SECOND AMENDED
COMPLAINT**

1 GARCIA, in her individual capacity;
2 DEPUTY RYCK BURWELL, in his
3 individual capacity; DEPUTY
4 GUSTAVO CARRANZA, in his
5 individual capacity; DEPUTY ERNIE
6 KING, in his individual capacity;
7 DEPUTY ANTHONY PAEZ, in his
8 individual capacity; DEPUTY JOSE
9 CARBAJAL, JR., in his individual
10 capacity; and DOES 1 through 30,
11 inclusive.

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Defendants.

JURISDICTION AND VENUE

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2 1. This Court has subject matter jurisdiction over Plaintiffs' claims
3 pursuant to 28 U.S.C. § 1331 (in that they arise under the Constitution of the
4 United States), § 1343(a)(3) (in that they are brought to redress deprivations, under
5 color of state authority, of rights, privileges, and immunities secured by the United
6 States Constitution), § 1343(a)(4) (in that they seek to secure equitable relief under
7 42 U.S.C. § 1983), and the Declaratory Judgment Act, 28 U.S.C. §§ 2201(a) and
8 2202.

9 2. Venue is proper in the Central District of California under 28 U.S.C.
10 § 1391(b) because a substantial part of the events or omissions giving rise to the
11 claims herein occurred in this District.

12 3. This Court has the authority to grant damages, declaratory and
13 injunctive relief, and any other appropriate relief pursuant to 28 U.S.C. § 1331; 28
14 U.S.C. § 1343; and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

INTRODUCTION¹

15
16 4. Photography is not a crime; it is a means of artistic expression. In
17 public spaces, on public streets and from public sidewalks, no law bars Los
18 Angeles residents and visitors from photographing the world around them, from
19 documenting their own lives or using their lenses to find the sublime in the
20 commonplace.

21 5. The Los Angeles Sheriff's Department ("LASD") has taken a
22 different, and erroneous, view of photography. LASD deputies have repeatedly
23 subjected the three Plaintiffs in this action, and others, to detention, search, and
24 interrogation simply because they took pictures from public streets. LASD
25 deputies have also ordered some Plaintiffs, and others, not to photograph at all

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27 ¹ The allegations of this complaint are based on information and belief, unless
28 otherwise specified.

1 from public places where photography is not prohibited. These acts plainly violate
 2 Plaintiffs' First Amendment right to free expression and their Fourth Amendment
 3 right to be free of unjustified searches and seizures.

4 6. For as long as human society has existed, we have turned our creative
 5 attentions to exploring not only the fantastic and the grand, but also daily life
 6 around us. From early cave paintings that depict hunting and farming, scenes of
 7 peasant life in illustrated manuscripts, the "genre painting" works of 17th Century
 8 Dutch and Flemish painters, the Impressionists such as Monet who broke with the
 9 establishment's preference for pastoral landscapes or classical themes in favor of
 10 the industrial scenes or depictions of workers and artists, to 20th century American
 11 artists like Edward Hopper (who painted city life in works like *Nighthawks*) –
 12 painters have captured beauty and humanity in everyday subjects.

13 7. Photographers, too, have used their talents and skills to mine daily life
 14 for their art. Through its Artists Project, the Works Progress Administration in the
 15 1930s sent photographers forth to document America and the WPA, a mission that
 16 guided photographers like Dorothea Lange and Walker Evans into careers that
 17 blended documentary and artistic styles and shaped art photography for decades to
 18 come. Some of the 20th century's best-known photographers captured urban street
 19 life, transit, and industrial scenes: photographs of the New York subways by
 20 Walker Evans, Bruce Davidson, and William Claxton,² trains and stations by
 21 O. Winston Link,³ industrial equipment by Bernd and Hilda Becher,⁴ images of

22 _____
 23 ² See, e.g., Bruce Davidson and Arthur Ollman, *SUBWAY* (Aperture 1986); Walker
 24 Evans, *MANY ARE CALLED* (Houghton Mifflin 1966); Charles Hagen, *What Walker*
 25 *Evans Saw on His Subway Rides*, N.Y. Times (Dec. 31, 1991), available at
<http://www.nytimes.com/1991/12/31/arts/review-photography-what-walker-evans-saw-on-his-subway-rides.html>.

26 ³ See generally Website of the Link Museum at <http://www.linkmuseum.org>.

27 ⁴ See, e.g., Blake Stimson, *The Photographic Comportment of Bernd and Hilla*
 28 *Becher*, Tate Papers (Tate Museum 2004), available at <http://www.tate.org.uk/>
 (cont'd)

1 urban New York in Jacob Riis's *How The Other Half Lives*⁵ and Andy Warhol's
 2 *Street Diaries*,⁶ or the romance of the Paris street in Robert Doisneau's iconic *Le*
 3 *Baiser De L'Hôtel De Ville*.⁷

4 8. With digital cameras now inexpensive and ubiquitous, and capable of
 5 taking thousands of photographs with no developing costs, photography today is
 6 no longer practiced only by dedicated artists and professionals, but has become a
 7 widely used mode of expression. One photo-sharing website, Flickr, reportedly
 8 stored 5 billion photos as of September 2010, while, at the time, social-networking
 9 site Facebook reported its users uploaded half that number (2.5 billion) every
 10 month.⁸

11 9. Plaintiffs also photograph the world around them. But LASD
 12 deputies detained and searched Plaintiff Shawn Nee for photographing turnstiles
 13 on the Los Angeles Metro, asking if he planned to sell the photos to Al Qaeda and
 14 threatening to put his name on the FBI's "hit list." LASD deputies detained and
 15 searched Plaintiff Moore while he was photographing drivers for a news story,
 16 accusing him of "suspicious activity." LASD deputies detained and searched
 17 Plaintiff Quentin while he was photographing the brilliantly lit refineries in South
 18 Los Angeles at night, placing him in the back of a squad car for about forty-five
 19

20 research/tateresearch/tatepapers/04spring/stimson_paper.htm.

21 ⁵ Jacob A. Riis, *How the Other Half Lives: Studies Among the Tenements of New*
 22 *York*, (Charles Scribner's Sons 1890).

23 ⁶ See Jonas Mekas, *Andy Warhol's Street Diary: Photographs 1981-86*, ' essay
 24 from exhibition catalog (Deborah Bell Photographs 2010), available at
 25 <http://jonasmekasfilms.com/diary/?p=687>.

26 ⁷ See, e.g. *Classic Kiss Shot Sold at Auction*, B.B.C. News (Apr. 25, 2005)
 27 (reporting on the 2005 sale of an original print for 155,000 Euros), available at
 28 <http://news.bbc.co.uk/2/hi/entertainment/4481789.stm>.

⁸ John D. Sutter, *5 billionth photo uploaded to Flickr*, CNN (Sept. 20, 2010),
 available at http://articles.cnn.com/2010-09-20/tech/flickr.5.billion_1_photo-sharing-site-flickr-facebook.

1 minutes before releasing him. On separate occasions, LASD deputies have ordered
2 Nee and Quentin not to photograph from public sidewalks. And others besides
3 plaintiffs have suffered similar treatment at the hands of LASD.

4 10. The LASD's policy and practices of targeting photographers did not
5 develop spontaneously. Over the past several years, law enforcement agencies
6 across the country have implemented "suspicious activity reporting" programs,
7 under which officers are trained to report certain categories of behavior believed to
8 be potential indicators of terrorism. Many departments include photography as one
9 such "suspicious activity" that should be reported. LASD's policy and practice of
10 subjecting photographers to search and detention, and of ordering people not to
11 photograph in public places where photography is generally allowed, results from a
12 deliberate extension of, or improper training on, these "suspicious activity
13 reporting" programs.

14 11. In the face of the long tradition of photographic art, and the wide
15 embrace of photography today, LASD's custom and practice of detaining,
16 searching, and interrogating people simply for lawfully taking photographs in
17 public not only violates the First and Fourth Amendment, but it also serves no
18 legitimate purpose. LASD's custom and practice of allowing its officers to
19 prohibit photography that is perfectly lawful violates the First Amendment and
20 does not make the public safer.

21 12. By this action, Plaintiffs seek to put an end to LASD harassment of
22 photographers and to obtain a ruling from this Court that photography alone cannot
23 be a basis for criminal suspicion, detention and search.

24 **PARTIES**

25 13. Plaintiff Shawn Nee is a Los Angeles-based award-winning
26 photographer and aspiring professional photojournalist. His primary interests are
27 in documentary photography, particularly in capturing poverty and street life in the
28 Hollywood area, as well as other images of urban public life. Much of Nee's work

1 focuses on street photographs of various Hollywood communities, but he also
2 photographs in downtown Los Angeles, including capturing the homeless in Los
3 Angeles' skid row. His photography has appeared on NBC, National Public Radio,
4 The New Yorker, The Atlantic, the Stranger, LAist.com, and The Advocate, and
5 has been exhibited at various galleries in Los Angeles. Nee is a founder and
6 member of the National Photographers' Rights Organization.

7 14. Plaintiff Gregory Moore is a reporter from Long Beach, California,
8 who works for the Long Beach Post. Moore does not consider himself a serious
9 photographer, but he is generally required to take any photographs that run
10 alongside his stories. Due to the nature of his job and news coverage, Moore
11 intends to continue taking pictures of newsworthy events, including pictures of
12 public facilities in the Los Angeles area, including courthouses, subways, and other
13 public buildings.

14 15. Plaintiff Shane Quentin is an art photographer and part-time freelance
15 photographer based in Los Angeles, California. Quentin received a B.F.A. in
16 Sculpture/New Genres from OTIS College of Art and Design, and an M.F.A. in
17 Studio Art from U.C. Irvine, where he focused primarily on photography and video
18 work. His photographs have been exhibited at art galleries in Los Angeles.
19 Quentin also sells photographs commercially through stock photography services.
20 Quentin's interests include photographing industrial areas, often at night, and
21 Quentin's commercial photography primarily involves industrial subjects.

22 16. Plaintiff National Photographers' Rights Organization ("NPRO") is an
23 advocacy organization founded to educate photographers about their rights and to
24 support photographers who have been wrongfully detained in the course of taking
25 photographs or prevented from taking photographs in public places. The group has
26 a membership of several hundred nationwide, including about thirty in Los
27 Angeles, and has conducted events and actions aimed at educating photographers
28 and law enforcement about photographers' rights.

1 17. Defendant County of Los Angeles (“the County”) is a county of the
2 State of California duly organized under the laws of the State of California.
3 Defendant County is charged by law with the administration and operation of
4 LASD and charged with the employment, control, supervision, discipline, training
5 and practices of its personnel and employees and with the formulation of its
6 policies, practices, and customs of its personnel and its employees.

7 18. Defendant LASD is a municipal corporation that provides law
8 enforcement services within the County. As part of its mandate, LASD polices the
9 Los Angeles County Metro Rail (“Metro Rail”), the rapid transit rail system
10 serving Los Angeles County, via contract with the Los Angeles County
11 Metropolitan Transportation Authority (“MTA”). LASD is responsible for the
12 assignment, training, supervision and discipline of deputy sheriffs assigned to the
13 Metro Rail, just as they are for any other deputy sheriff within LASD.

14 19. Defendant Richard Gylfie is, and at all times material herein was, a
15 duly appointed deputy and agent of Defendants LASD and the County, acting
16 within the scope of his employment with LASD and the County and under color of
17 state law. Deputy Gylfie is sued in his individual capacity.

18 20. Defendant Officer Bayes is, and at all times material herein was, a
19 duly appointed deputy and agent of Defendants LASD and the County, acting
20 within the scope of his employment with LASD and the County and under color of
21 state law. Deputy Bayes is sued in his individual capacity.

22 21. Defendant D’Andre Lampkin is, and at all times material herein was,
23 a duly appointed deputy and agent of Defendants LASD and County, acting within
24 the scope of his employment with LASD and the County and under color of state
25 law. Deputy Lampkin is sued in his individual capacity.

26 22. Defendant Lashon O’Bannon is, and at all times material herein was,
27 a duly appointed deputy and agent of Defendants LASD and County, acting within
28 the scope of her employment with LASD and the County and under color of state

1 law. Deputy O'Bannon is sued in her individual capacity.

2 23. Defendant Carlos L. Sanchez is, and at all times material herein was, a
3 duly appointed deputy and agent of Defendants LASD and County, acting within
4 the scope of his employment with LASD and the County and under color of state
5 law. Deputy Sanchez is sued in his individual capacity.

6 24. Defendant Jason Cartagena is, and at all times material herein was, a
7 duly appointed deputy and agent of Defendants LASD and County, acting within
8 the scope of his employment with LASD and the County and under color of state
9 law. Deputy Cartagena is sued in his individual capacity.

10 25. Defendant Michael A. Chacon is, and at all times material herein was,
11 a duly appointed deputy and agent of Defendants LASD and County, acting within
12 the scope of his employment with LASD and the County and under color of state
13 law. Deputy Chacon is sued in his individual capacity.

14 26. Defendant Marina Garcia is, and at all times material herein was, a
15 duly appointed deputy and agent of Defendants LASD and County, acting within
16 the scope of her employment with LASD and the County and under color of state
17 law. Deputy Garcia is sued in her individual capacity.

18 27. Defendant Ryck Burwell is, and at all times material herein was, a
19 duly appointed deputy and agent of Defendants LASD and County, acting within
20 the scope of his employment with LASD and the County and under color of state
21 law. Deputy Burwell is sued in his individual capacity.

22 28. Defendant Gustavo Carranza is, and at all times material herein was, a
23 duly appointed deputy and agent of Defendants LASD and County, acting within
24 the scope of his employment with LASD and the County and under color of state
25 law. Deputy Carranza is sued in his individual capacity.

26 29. Defendant Ernie King is, and at all times material herein was, a duly
27 appointed deputy and agent of Defendants LASD and County, acting within the
28 scope of his employment with LASD and the County and under color of state law.

1 Deputy King is sued in his individual capacity.

2 30. Defendant Anthony Paez is, and at all times material herein was, a
3 duly appointed deputy and agent of Defendants LASD and County, acting within
4 the scope of his employment with LASD and the County and under color of state
5 law. Deputy Paez is sued in his individual capacity.

6 31. Defendant Jose Carbajal, Jr., is, and at all times material herein was, a
7 duly appointed deputy and agent of Defendants LASD and County, acting within
8 the scope of his employment with LASD and the County and under color of state
9 law. Deputy Carbajal is sued in his individual capacity.

10 32. Defendant Maurice Hill is, and at all times material herein was, a duly
11 appointed sergeant and agent of Defendants LASD and County, acting within the
12 scope of his employment with LASD and the County and under color of state law.
13 Sergeant Hill is sued in his individual capacity.

14 33. Defendant Salvador Becerra is, and at all times material herein was, a
15 duly appointed sergeant and agent of Defendants LASD and County, acting within
16 the scope of his employment with LASD and the County and under color of state
17 law. Sergeant Becerra is sued in his individual capacity.

18 34. The true names and capacities of Defendants sued as Does 1 through
19 30 are unknown to Plaintiffs who therefore sue these Defendants by fictitious
20 names. Doe Defendants include the supervisors at LASD and County who directly
21 approved the acts, policies and training described herein, as well as agents,
22 officers, and employees of LASD and County who are liable in connection with
23 one or more of the claims sued upon here and are responsible in some manner for
24 the wrongful acts and conduct alleged herein. Plaintiffs will amend this Complaint
25 to show Doe Defendants' true names and capacities when they have been
26 ascertained. Plaintiffs are informed and believe, and herein allege, that such Doe
27 Defendants are residents of California.

28

FACTUAL ALLEGATIONS

I. First Incident: Defendants' Unlawful Detention of Nee on the LA Metro

35. On the afternoon of Saturday, October 31, 2009, Nee bought a valid ticket for the Metro Rail in order to ride home after a day of photographing.

36. When Nee arrived at his stop at the Hollywood and Western Metro Rail station, he got off the train. He then walked toward the turnstiles and stopped just inside the exit to examine the newly installed turnstiles. Nee was aware that the new turnstile machines were highly controversial and the subject of contentious debate in Los Angeles. Nee decided to snap a few quick photographs before he left the station.

37. As Nee was photographing the turnstiles, Defendants LASD Deputies Gylfie and Bayes approached him and asked why he was taking pictures.⁹ Nee asked Gylfie if he was being detained. Gylfie responded that Nee was being detained because Gylfie wanted to know why Nee was taking pictures in the subway.

38. When Nee protested that he wasn't doing anything wrong, Gylfie told Nee that the subway station was a terrorist target, and that MTA rules prohibit photography.

39. When Nee again protested that MTA rules did not prohibit photography, Gylfie asked for his identification and told him: "I want to know who you are, and I want to know why you're taking pictures of the subway system. Al Qaeda would love to buy your pictures, so I want to know if you are in cahoots with Al Qaeda to sell these pictures to them for terrorist purposes. That's, that's a crime. You understand?" When Nee again said he was committing no crime, Gylfie told Nee he was "being detained until I have determined that you have not

⁹ Nee captured the events on video, which he subsequently posted at <http://www.youtube.com/watch?v=yY2cCPW3H7g>.

1 committed a crime.”

2 40. When Nee continued to protest his innocence of any wrongdoing,
3 Gylfie said, “maybe I should just arrest you.” He then grabbed Nee and pushed
4 him up to a nearby wall and ordered him to put his hands behind his back, interlace
5 his fingers, and spread his legs. Gylfie then held Nee’s hands behind his back
6 while he patted Nee down and searched through his pockets. Defendant Bayes
7 witnessed and participated in the incident and assisted in Nee’s detention. Gylfie
8 neither asked for, nor received, Nee’s consent to conduct the search.

9 41. During the search, Gylfie removed the contents of Nee’s back left
10 pocket (including his money, identification, phone, marker and various papers and
11 receipts) and placed them on the ground. Gylfie and Bayes then scanned Nee’s
12 driver’s license to conduct a warrant check.

13 42. Gylfie continued to question Nee, telling him, “I want to determine
14 whether you’re committing a crime or not. If you’re down here taking pictures and
15 selling them to Al Qaeda so they can blow up our subway system, I’ve got a
16 problem with that. That’s a crime. Is that clear to you or not? ... For the safety of
17 the public, riding the trains.” Gylfie then proceeded to lecture Nee about
18 worldwide terrorist attacks.

19 43. Several minutes into the detention, Nee informed Gylfie that he was
20 exercising his right to remain silent. In response, Gylfie told him, “You know, I’ll
21 just submit your name to T.L.O. [terrorism liaison officer]. Every time your
22 driver’s license gets scanned, every time you take a plane, any time you go on any
23 type of public transit system where they look at your identification, you’re going to
24 be stopped. You will be detained. You’ll be searched. You will be on the F.B.I.’s
25 hit list. Is that what you want? ... Every time you move, you will be stopped and
26 detained and searched. And delayed.”

27 44. Gylfie then again asked Nee what he was taking pictures of. As Nee
28 remained silent, Gylfie continued: “Okay, so you’re taking pictures of the

1 infrastructure of the subway system, possibly to, uh, plant a bomb or something?"
2 Gylfie told Nee that his silence raised more suspicion and again said that he would
3 put Nee's name on "the hit list."

4 45. Gylfie's and Bayes' unlawful and unreasonable detention,
5 interrogation, and search of Nee continued for nearly 30 minutes, during which
6 time Deputies Gylfie and Bayes made clear to Nee that he was not free to leave.
7 Gylfie and Bayes released Nee without issuing a citation and told him to leave the
8 Metro Rail Station.

9 46. Nee subsequently filed a complaint with LASD, providing them with
10 a link to the video footage. On about June 13, 2011, Nee received a letter signed
11 by Capt. Daniel S. Cruz, of LASD's Transit Services North Bureau, about his
12 complaint, which stated, "Based on thorough investigation by Internal Affairs and
13 a review of the audio and video of the incident, they determined that the deputy did
14 not violate any department policies."

15 47. The Metro "Photography Guidelines" listed on the MTA website
16 provide that photography within the Metro Rail system is permitted with limited
17 exceptions.¹⁰ So long as the photography is not for commercial purposes, no
18 permit is required if the photographic equipment is hand held, no tripods or flash
19 are used, and the images are not taken inside moving trains. Nee complied with all
20 of these limitations, and was not taking these photographs for commercial
21 purposes. Nee followed MTA rules and was otherwise engaged in lawful,
22 protected activity when Gylfie and Bayes detained him and accused him of
23 conspiring with terrorists.

24
25
26 ¹⁰ The Metro photography guidelines are available at
27 <http://www.metro.net/about/filming-metro/metro-filming-photography-guidelines/>.
28 In addition to the posted guidelines, the MTA has clarified no permit is necessary
to take photographs for noncommercial purposes.

1 48. As a result of his unlawful and unreasonable detention, Nee now
2 experiences extreme anxiety over riding the Metro Rail and photographing on
3 MTA property and seldom rides the subway anymore.

4 **II. Second Incident: Defendants Unlawfully Prevented Nee From**
5 **Photographing on Hollywood Boulevard**

6 49. On Sunday, May 1, 2011, Nee was photographing people walking on
7 the street along Hollywood Boulevard in Hollywood, California, as part of a long-
8 running project to build a book of photographs on the street life of Hollywood.

9 50. While he was photographing, Nee became aware of a commotion on
10 Hollywood near Vine, in front of the entrance to the Hollywood / Vine Metro
11 Station that is in the base of the W Hotel. Nee approached and saw four to five
12 LASD cars and an ambulance pulled over on the street. About ten officers huddled
13 around the cars, including a senior officer who was videotaping the scene. The
14 incident attracted a number of curious observers, many of whom stopped on the
15 sidewalk as they walked down Hollywood Boulevard.

16 51. Nee began to take pictures of the scene from the public sidewalk in
17 front of the W Hotel and Metro entrance. The sidewalk where Nee stood is wide
18 compared with many in the area, and, as part of the Hollywood Star Walk, is a
19 tourist attraction in its own right. Nee was standing on the Hollywood Star Walk
20 while he photographed, near the star for Shania Twain. Nee photographed while
21 some pedestrians walked past and others stood looking at the incident. The
22 deputies had not closed the sidewalk, nor were Nee or other onlookers blocking the
23 free passage of pedestrians.

24 52. Shortly after he began photographing, an LASD deputy approached
25 Nee.¹¹

26
27 ¹¹ Nee captured the incident from this point forward on video, which he
28 subsequently posted at <http://www.youtube.com/watch?v=IQfLXmVXguw>.

1 53. Upon information and belief, Defendant D'Andre Lampkin was the
2 deputy who approached Nee.

3 54. The deputy told Nee that he was standing "between the W [Hotel]
4 building and MTA property" and that "they don't allow any photography between
5 the W building and MTA property." The deputy also told him that a person at the
6 scene was receiving medical treatment and could sue Nee if Nee took his picture.
7 The deputy told Nee that if he wanted to take photographs, he would ask Nee to
8 move from his current location to the other side of the W Hotel, nearly half a block
9 away.

10 55. Nee protested that he was not doing anything unlawful, and asked if
11 the sidewalk was still open, to which the deputy said that public access was
12 limited. Nee asked the deputy if he could merely stand and take photographs
13 where other individuals were standing watching the scene, but the deputy told him
14 he could not and again directed Nee to relocate behind the W Hotel, indicating that
15 he was giving Nee a "lawful order." During this exchange, Nee asked to speak to a
16 supervisor, and the deputy responded that it was his supervisor who had instructed
17 him to tell Nee to move.

18 56. Nee moved to the property line and continued taking photographs,
19 though his view at this point was obscured. Nee waited for about thirty minutes to
20 speak to a supervisor about not being allowed to photograph while standing next to
21 others surrounding the incident. When an officer Nee recognized as a supervisor
22 by his insignia walked by, Nee asked to speak to him. As the supervisor stopped,
23 Nee explained that one of the deputies was preventing him from photographing the
24 incident from a public sidewalk. The supervisor said, "Alright, alright," and
25 walked away from Nee.

26 57. Upon information and belief, that supervisor was Sergeant Becerra.
27
28

1 **III. Third Incident: Defendants' Unlawful Detention of Nee at Hollywood**
 2 **and Highland**

3 58. On February 2, 2012, around 12:35 p.m., Plaintiff Nee was walking
 4 along Hollywood Boulevard and snapping pictures along the way. At the entrance
 5 to the Hollywood and Highland Metro Station, Nee saw two LASD deputies
 6 standing at the top of the Metro stairs talking to two young women. Nee snapped a
 7 couple of pictures.

8 59. As Nee snapped pictures, one of the deputies raised his hand and
 9 yelled to Nee, "No pictures. Hey! What are you doing?" Nee stated that he could
 10 take pictures in public, and that doing so was his constitutional right. The deputy
 11 said, "Not of me, no." The second deputy told Nee that the two young women
 12 were minors. When Nee said that it did not matter, the deputy said it did and told
 13 Nee to "come here." Both deputies approached Nee.

14 60. Nee asked the second deputy if he was being detained. The deputy
 15 said, "Yeah, you are being detained." Nee asked him why, and the deputy told him
 16 that it was for photographing minors.

17 61. One deputy twisted Nee's arm behind his back and told him to drop
 18 his bag and camera, which Nee did. The deputy then walked Nee to a nearby wall.
 19 There was a lot of tourist traffic in the area, and a crowd quickly formed of people
 20 trying to see what was going on.

21 62. The deputy told Nee to face the wall and to put his hands against it,
 22 then frisked Nee: he took his hat and glasses (and kept them after Nee objected
 23 that he needed his glasses to see), and took Nee's cell phone out of the front pocket
 24 of his sweatshirt. The deputy then handcuffed Nee tightly.

25 63. While one deputy searched Nee at the wall, the other deputy opened
 26 his bag and searched it. The deputy did not ask Nee for permission to search
 27 through his backpack, and Nee told the deputy that he did not want his bag
 28 searched, but the deputy ignored him and continued to search the bag, then

1 dropped it to the ground when he was finished.

2 64. When the deputies had frisked Nee and searched his bag, they walked
3 him over to an LASD patrol car and put him into it, still handcuffed. Inside the
4 car, the deputies questioned Nee extensively and repeatedly about the pictures he
5 was taking, as well as his personal background.

6 65. Eventually, the deputies told Nee they would let him go. They took
7 him out of the car, removed the handcuffs, and released him without any citation.
8 The entire detention lasted approximately 25 minutes.

9 66. Throughout the encounter, the deputies treated Nee roughly, leaving
10 Nee's wrists with marks where the tight handcuffs restrained him, and threatened
11 him with further physical force when he spoke to them to object to the stop or his
12 treatment.

13 67. Upon information and belief, the two deputies who detained Nee in
14 this incident were Defendants Anthony Paez and Jose Carbajal, Jr.

15 **IV. Fourth Incident: Defendants' Unlawful Detention of Moore**

16 68. On June 2, 2011, Moore was working on a story for the Long Beach
17 Post about an April 2011 statewide campaign called Distracted Driving Awareness
18 Month. He left his Long Beach apartment to try to take pictures of drivers talking
19 or texting while driving to accompany his story. Moore walked from his apartment
20 to a nearby busy intersection at Ocean Boulevard and Magnolia Avenue in Long
21 Beach, and began taking pictures of drivers as they stopped at the traffic light. It
22 was early afternoon, and Moore was dressed in a T-shirt, shorts, and running shoes.

23 69. Moore had been photographing for several minutes when a group of
24 several LASD deputies approached and asked him if he was taking pictures of the
25 courthouse. Before Moore could answer fully, one of the deputies told him to step
26 away from the street. The deputies took Moore's camera, while one told him to
27 put his hands behind his back. A deputy held Moore's hands behind him while
28 another one patted him down thoroughly, including grabbing hold of the keys in

1 his pocket and manipulating them, groping the area of his groin twice, pulling up
2 his T-shirt and checking the waistband of his pants.

3 70. Upon information and belief, three of the deputies who actively
4 engaged in the questioning and search of Moore were Defendants Burwell,
5 Carranza, and King.

6 71. As they patted Moore down, the officers arranged themselves in a ring
7 around Moore, so he could not leave, and proceeded to question him. Moore
8 counted eight officers surrounding him.

9 72. One of the officers, whom Moore later identified as Sgt. Hill, asked
10 Moore again what he was doing. When Moore said he was a reporter and
11 explained the story he was working on, Sgt. Hill asked what news publication he
12 worked for.

13 73. After Moore had responded to the deputies' questions, he asked why
14 they had stopped him. Sgt. Hill told Moore that he was across the street from the
15 Long Beach Superior Court. Sgt. Hill told him that the courthouse was a "critical
16 facility" and that his apparent photography of the courthouse was "suspicious
17 activity." When Moore asked if taking pictures of the courthouse was illegal, Sgt.
18 Hill replied that it was not, but told Moore that if his deputies get a call about
19 someone photographing the courthouse, they have to respond.

20 74. At some point, Moore asked the deputy holding his camera to return
21 it. The deputy responded that he wanted to see the photographs Moore had taken.
22 Moore showed the deputies the snapshots of drivers he had taken on the screen on
23 his digital camera. Moore believed from the officer's response and his demeanor
24 that they would only return the camera if Moore showed them the pictures.

25 75. The LASD deputies held Moore for about fifteen to twenty minutes.
26 Before they allowed him to leave, one of the deputies demanded that Moore
27 provide his name, address, phone number, driver's license number, name of the
28 publication he worked for, and the publisher's name and contact information. The

1 deputies eventually released Moore without issuing him any citation.

2 76. Later that day, Moore called Sgt. Hill attempting to inquire further
3 into his detention. Hill told him: "We were detaining you because of a suspicious
4 circumstance to ascertain your intention." Sgt. Hill invited Moore to meet in
5 person about the incident, which Moore did. At the meeting, Sgt. Hill told Moore
6 that the investigation was related to terrorism and that "taking pictures of the
7 courthouse does meet the standard for a pat-down search."

8 77. Following the incident, the National Press Photographers Association
9 ("NPPA") wrote to LASD on July 14, 2011, to express its concern about the
10 conduct of the LASD officers. On about August 18, 2011, NPPA received a letter
11 signed by Sheriff Baca stating that the incident had been investigated and
12 defending the deputies' actions.

13 78. Moore followed up with another interview with LASD Captain Steven
14 M. Roller, who identified himself as "unit commander" officer over the Long
15 Beach courthouse. Capt. Roller defended the deputies' decision to pat Moore
16 down. Roller told Moore that courthouses were potential terrorist targets, so that
17 taking pictures near a courthouse would be suspicious activity, and in investigating
18 somebody taking pictures near a courthouse who is a "potential terrorist," deputies
19 would be entitled to pat him down. Capt. Roller said that if he had been on the
20 scene, he would have patted Moore down.

21 **V. Fifth Incident: Defendants' First Unlawful Detention of Quentin**

22 79. On December 31, 2009, at about 1:00 a.m., Quentin and another
23 photographer were taking photographs of a large refinery from the corner of
24 Wilmington Avenue and East 223rd Street in Carson, California.

25 80. Both Quentin and the other photographer he was with that evening
26 take pictures of industrial areas to sell through stock photo services. By using
27 long exposures and creative framing, Quentin creates dramatic and artistic
28 depictions of industrial buildings. To take pictures of industrial scenery at night,

1 Quentin uses a large, professional-quality camera and takes pictures openly, using
2 a tripod.

3 81. While Quentin and his companion were photographing from a public
4 sidewalk by the intersection, an LASD deputy pulled alongside them in her car and
5 began yelling at them aggressively, saying they had no right to be there and could
6 not take photographs. They protested that they were on a public sidewalk and were
7 violating no laws, and asked why she was telling them to leave, but the deputy
8 continued, without explanation, to yell at them and to order them repeatedly to stop
9 photographing and leave the area.

10 82. Quentin and his companion complied with the deputy's orders and
11 stopped photographing, then walked to a nearby diner and ate a late meal. As they
12 walked out of the diner to return to their car, they began photographing the refinery
13 again. The LASD deputy that had confronted them returned and again confronted
14 them. This time, she told them that it was suspicious that they were out
15 photographing so late, and threatened to place them on the "no fly" list.

16 83. Upon information and belief, the LASD deputy who confronted
17 Quentin and his companion was Defendant Lashon O'Bannon.

18 84. After a few minutes, another LASD officer pulled up and began
19 speaking with Quentin and his companion. The second officer took a calmer tone,
20 but told the two photographers that though he understood their frustrations, they
21 should not anger the first deputy any further and, given the late hour, should leave
22 the area. The second officer told them that their behavior looked suspicious and
23 suggested that they might be affiliated with terrorists. Quentin and the other
24 photographer again protested, politely but repeatedly, that they were breaking no
25 law. But the second officer repeatedly told the two that they could not continue
26 photographing and had to leave the area. Quentin and the other photographer
27 eventually complied, stopped taking photographs, and left. The LASD deputies
28 did not issue either Quentin or his friend a citation.

1 **VI. Sixth Incident: Defendants' Second Unlawful Detention of Quentin**

2 85. On January 21, 2011, an LASD deputy stopped Quentin when he was
3 photographing another refinery by himself at about 1:25 a.m. The deputy
4 immediately ordered him to place his hands behind his back and held them there
5 while he patted him down thoroughly. The deputy removed the contents of
6 Quentin's pockets and placed them on the hood of the LASD car.

7 86. While the deputy searched Quentin, he began asking what Quentin
8 was doing there and why he was out so late. Quentin cooperated, explaining that
9 he was taking photos.

10 87. After searching Quentin, the deputy placed him in the back of the
11 LASD car and waited outside. Before doing so, however, the deputy asked
12 Quentin if his camera was recording video and told him that he had to turn it off if
13 it was.

14 88. Within a few minutes, about four more LASD officers had arrived in
15 at least two more cars. The deputies took turns questioning Quentin in the back of
16 the LASD cruiser. The deputies again asked what he was doing photographing the
17 refinery, and why he was photographing this refinery in particular. They also asked
18 Quentin what he did with the pictures he took and whether he was affiliated with
19 any terrorist organizations or a member of any street gang. They asked where he
20 lived, about his job, and where he had parked that night. They asked some
21 questions several times. After about forty-five minutes, the deputies released
22 Quentin from the car.

23 89. After they released him, Quentin asked what would happen if he kept
24 taking pictures. They responded that they would take him to jail and let a judge
25 decide what to do with him. As a result, Quentin did not take any more
26 photographs. The deputies told him that they would give him a ride to his car.
27 When Quentin said he would walk because it was only a block away, the deputies
28 told him they had to give him a ride. The deputies did not issue Quentin a citation.

1 90. Upon information and belief, the deputies who detained and question
2 Quentin were Defendants Carlos L. Sanchez, Jason Cartagena, Marina Garcia, and
3 Michael A. Chacon.

4 91. As a result of these incidents, Quentin has suffered emotional distress
5 and has been reluctant to take photographs of industrial areas.

6 **VII. Additional Incidents**

7 92. The experiences of Plaintiffs Nee, Moore, and Quentin are not
8 isolated. In addition to the five incidents that have given rise to this litigation,
9 LASD has stopped and seized other photographers, as well as telling
10 photographers that they are not allowed to photograph public buildings from public
11 sidewalks or other places they are legally allowed to be.

12 93. Ted Soqui is a well-known freelance photojournalist based in Los
13 Angeles, California, where he has worked for decades. On April 28, 2011, Soqui
14 was photographing the exterior of the Los Angeles County Men's Central Jail and
15 nearby bail bonds businesses for use in a Los Angeles Weekly story on deputy
16 abuses at the jail. Standing only on public sidewalks, he took photographs openly
17 in broad daylight. As he was walking back to his car, an LASD squad car pulled
18 up to him, and a deputy got out and ordered him to come over. More deputies
19 arrived until a total of six deputies were present at his subsequent questioning.
20 Soqui told the deputies that he was taking pictures for a newspaper, but refused to
21 answer what the story was about. At that moment, the lead deputy put his hand on
22 his gun, moved uncomfortably close to Soqui, and asked to search him. Soqui
23 complied. After deputies took Soqui's license and used it to run a warrant check,
24 the officers released him, telling him that his detention was a national security
25 issue. They informed him that photography was not allowed on Bauchet Street, a
26 public street with sidewalks that run between Twin Towers Correctional Facility
27 and Los Angeles County Men's Central Jail.

28 94. Doran Barons is a photographer, radio and broadcast engineer, and

1 radio host. In about August 2008, Barons was awaiting the Metro Rail subway at
2 the North Hollywood Metro station in Hollywood, California. While waiting, he
3 began taking photographs of lights and subway trains in the station, all the while
4 remaining on the station platform in areas accessible to the public, and otherwise
5 complying with MTA rules regarding photography. Soon after he began taking
6 photos, an LASD deputy came up to him and ordered him to stop photographing,
7 telling Barons that photography was not permitted on MTA property. Barons
8 responded that photography was lawful and allowed, but the deputy demanded that
9 Barons stop photographing and asked for his driver's license. The deputy released
10 Barons without a citation. Barons thereafter became reluctant to ride the Metro
11 Rail or to photograph in the Metro Rail station.

12 95. In mid-September 2011, Catherine Dent was taking photographs of
13 the exterior and signage for Men's Central Jail from Bauchet Street for use in a
14 video project. She had been photographing openly on the publicly accessible
15 sidewalk using a large, professional-quality SLR camera, when two LASD
16 deputies driving in the opposite direction made a U-turn and pulled their car onto
17 the sidewalk near her. The two deputies got out and ordered Dent to come over to
18 them. They asked her to show them her pictures, which she refused to do. They
19 asked for her identification. She told them it was in her car, which was parked in a
20 lot some distance away. They told her to go get it. She replied that she would
21 show it to them if they accompanied her to her car, then turned and walked toward
22 her car. When she arrived at her car several minutes later, no LASD officers were
23 in sight. Dent got into her car and began to drive toward the parking lot exit, when
24 another LASD car pulled across the exit so as to block it and prevent her from
25 leaving the lot. Dent had to stop her car to avoid hitting the deputies' car. Two
26 deputies got out and approached Dent in the manner of a traffic stop and asked for
27 her identification, which she produced. They circled her car and examined her
28 license plate. They also asked her to show them the photographs she had taken,

1 which she refused to do. They asked why she was taking photographs, and she
2 replied it was for a school project. Upon further questioning, Dent told them it was
3 for an extension school class in film and video production at UCLA. The deputies
4 released her after about five minutes.

5 96. On October 19, 2011, Plaintiff Nee was standing in the
6 Wilshire/Normandie Metro station, outside the ticketed area, waiting for protestors
7 from the Occupy LA movement to arrive, when LASD deputies standing nearby
8 told him not to take pictures of them, and told him that photography was not
9 permitted in the Metro station. Nee was not taking photographs at the time, but
10 was holding his camera.

11 **VIII. LASD Training and Suspicious Activity Reporting**

12 97. The incidents described above paint a clear pattern of harassment of
13 photographers at the hands of LASD. Upon information and belief, this custom
14 stems from LASD policy and training providing that photography is, without more,
15 a suspicious activity potentially indicative of terrorism. This policy and training
16 predictably leads to the unconstitutional detention of individuals taking
17 photographs in public spaces, and to the chilling of their First Amendment right to
18 take photographs.

19 98. Over the past several years, law enforcement agencies across the
20 country have begun instituting programs to get officers to investigate and report
21 information that is perceived to be potentially related to national security. To that
22 end, with the encouragement of the U.S. Department of Homeland Security and
23 Director of National Intelligence (“DNI”), many departments have instituted
24 “suspicious activity reporting” programs. These programs require that line officers
25 be trained to identify and report certain kinds of activity (including noncriminal
26 conduct) that may have potential counterterrorism value to their department’s
27 counterterrorism officers. This information can then be used and potentially
28 shared with other agencies through “fusion” centers.

1 99. “Suspicious activity reporting” was initially developed by the Los
 2 Angeles Police Department (“LAPD”) under their Special Order 11, which
 3 requires officers report as “suspicious activities” any number of different criminal
 4 and noncriminal activity, including when an individual “[t]akes pictures or video
 5 footage (with no apparent esthetic value, i.e. camera angles, security equipment,
 6 security personnel, traffic lights, building entrances, etc.)” and “[e]ngages in
 7 suspected pre-operational surveillance (uses binoculars or cameras, takes
 8 measurements, draws diagrams, etc.).”

9 100. Based in part on Special Order 11 as a model, the DNI has issued
 10 standards for “suspicious activity reporting.”¹² These standards list as a
 11 “suspicious activity,” among other things, “[t]aking pictures or video of facilities,
 12 buildings, or infrastructure in a manner that would arouse suspicion in a reasonable
 13 person.”

14 101. Likewise, the Federal Bureau of Investigation’s (“FBI”) descriptions
 15 of its eGuardian suspicious activity reporting system indicate that reportable
 16 activities include “photography of key infrastructure facilities.”¹³

17 102. Building upon the foundation developed by LAPD and DNI, LASD
 18 implemented an analogous suspicious activity reporting program. LASD policy
 19 5.09/490.10, titled “Notification Process for Potential Homeland Security
 20 Activity,” details the requirements of what it calls “Potential Homeland Security
 21 Activity” (“PHSA”), specifically stating that “[t]he reporting of PHSA is also
 22 known nationally as ‘Suspicious Activity Reporting.’” The policy emphasizes that
 23 all LASD personnel understand PHSA reporting procedures. It further states that
 24

25 ¹² See, e.g., Information Sharing Environment, Functional Standard, Suspicious
 26 Activity Reporting, Version 1.5 (May 2009) (“Functional Standards”), *available at*
 27 http://nsi.ncirc.gov/documents/ISE-FS-200_ISE-SAR_Functional_Standard_V1_5_Issued_2009.pdf.

28 ¹³ See <http://www.fbi.gov/foia/privacy-impact-assessments/eguardian-threat>.

1 personnel should be advised that PHSA “may not rise to the level of a crime” and
2 “may not have a clear nexus to terrorism.”

3 103. As part of its PHSA program, LASD’s Field Operations Directive 03-
4 03 (Apr. 23, 2003) establishes clearance code 709-“Possible Terrorism Related
5 Incident” to be employed by LASD personnel who respond to an incident related
6 to terrorist activities. The first example listed of when such a code should be used
7 is “suspicious persons videotaping public transportation, government facilities or
8 local critical facilities.”

9 104. The actions of the LASD officers described above were not the
10 unauthorized acts of rogue officers. To the contrary, the officers were acting
11 consistent with LASD policy and training. The nature of “suspicious activity
12 reporting” programs, the existence of such a program at LASD, and the pattern and
13 practice by LASD personnel of detention, harassment and prohibition of
14 photographers (and validation of that conduct by superiors who investigate
15 complaints), demonstrate that LASD has adopted, through training or custom, a
16 policy of detaining and searching photographers who photograph what government
17 buildings, infrastructure, or anything officers perceive to be a potential terrorist
18 target. LASD effectively trains its officers that such photography is prohibited, or
19 can be prohibited at the officers’ discretion, even if the photographer is in a public
20 place and violating no law or rule while photographing.

21 105. An actual controversy has arisen and now exists between Plaintiffs
22 and Defendants concerning Plaintiffs’ right to take photographs in public spaces in
23 which photography is not otherwise prohibited without threat of interrogation,
24 harassment, or arrest.

25 106. Defendants contend that their actions as described herein comport
26 with the United States Constitution. Defendants LASD and County of Los
27 Angeles contend that their policies and regulations with respect to photography
28 likewise comport with the United States Constitution.

1 107. Plaintiffs contend that Defendants' actions as described herein
 2 violated Plaintiffs' rights under the First and Fourth Amendments to the United
 3 States Constitution and that, to the extent Defendants' conduct was authorized by a
 4 policy or regulation, those policies or regulations suffer the same constitutional
 5 defects.

6 108. Plaintiffs desire a judicial determination of their rights and a
 7 declaration regarding the constitutionality of Defendants' actions and any policies
 8 or regulations that authorized such actions.

9 109. A judicial declaration is necessary and appropriate at this time so that
 10 Plaintiffs may ascertain their rights to take photographs in public spaces. Plaintiffs
 11 have either partially or totally refrained from exercising this right for fear of
 12 suffering harassment and arrest at the hands of LASD deputies. Plaintiffs and
 13 numerous other photographers, both novice and professional alike, will suffer
 14 irreparable and lasting injury unless declaratory relief is granted, as Plaintiffs' right
 15 to free speech under the First Amendment has been chilled by Defendants' actions.

16 CAUSES OF ACTION

17 **FIRST CAUSE OF ACTION**

18 **Violation of the Fourth Amendment; 42 U.S.C. § 1983**

19 **(Against All Defendants)**

20 110. Plaintiffs reallege and incorporate the foregoing paragraphs as if set
 21 forth herein.

22 111. Defendants' actions described above violated Plaintiffs' rights under
 23 the Fourth Amendment to the United States Constitution by subjecting Plaintiffs to
 24 unreasonable warrantless searches and seizures.

25 112. The violation of Plaintiffs' Fourth Amendment rights occurred
 26 pursuant to a policy, custom, or practice, maintained by LASD and the County, of
 27 having LASD officers detain, search, and interrogate photographers who
 28 photograph in public places where photography is legal and where officers have no

1 reasonable basis to believe the photographer is engaged in any criminal activity or
2 is armed or dangerous.

3 113. Defendants' conduct violated clearly established constitutional or
4 other rights, of which Defendants knew, or of which reasonable public officials
5 should have known, rendering Defendants liable to Plaintiffs under 42 U.S.C. §
6 1983.

7 114. As a direct and proximate result of the unlawful actions of these
8 Defendants, Plaintiffs have suffered emotional and economic harm.

9 115. Plaintiffs all intend to continue photographing, but fear further
10 detention and harassment by the LASD. That fear prevents them from
11 photographing as much as they would like or in places they would like.

12 **SECOND CLAIM FOR RELIEF**

13 **Violation of the First Amendment; 42 U.S.C. § 1983**

14 **(Against All Defendants)**

15 116. Plaintiffs reallege and incorporate the foregoing paragraphs as if set
16 forth herein.

17 117. Defendants' actions described herein violated Plaintiffs' rights under
18 the First Amendment to the United States Constitution by prohibiting Plaintiffs
19 from exercising their constitutional right to free speech and expression, as well as
20 freedom of the press, and by retaliating against Plaintiffs for attempting to exercise
21 those same rights.

22 118. The violation of Plaintiffs' First Amendment rights occurred pursuant
23 to a policy, custom, or practice, maintained by LASD and the County, of having
24 LASD officers prohibit photographers from photographing in public places where
25 photography is lawful, and of retaliating against photographers who exercise their
26 First Amendment rights to photograph in such places by detaining, searching, and
27 interrogating them.

28 119. Defendants' conduct violated clearly established constitutional or

1 other rights, of which Defendants knew, or of which reasonable public officials
 2 should have known, rendering Defendants liable to Plaintiff under 42 U.S.C.
 3 § 1983.

4 120. As a direct and proximate result of the unlawful actions of these
 5 Defendants, Plaintiffs have suffered significant emotional and economic harm.

6 121. Plaintiffs all intend to continue photographing in public, but fear
 7 further detention and harassment by the LASD. That fear prevents them from
 8 photographing as much as they would like or in places they would like.

9 **THIRD CLAIM FOR RELIEF**

10 **Violation of Cal. Constitution, Art. I, § 2; Cal. Civil Code § 52.1**

11 **(By Plaintiffs Nee and Moore against the County and Doe Defendants)**

12 122. Plaintiffs reallege and incorporate the foregoing paragraphs as if set
 13 forth herein.

14 123. Defendants' actions described in Paragraphs 37-42, 43-51 and 52-61,
 15 above, violated the rights of Plaintiffs to free speech and expression under Article
 16 I, section 2 of the California Constitution. Defendants deprived Plaintiffs of these
 17 rights through, among other means, the threat of force and intimidation.

18 124. Defendants' use of threats, intimidation and coercion, as well as their
 19 attempts to use threats, intimidation and coercion, to deprive Plaintiffs of their
 20 right to free speech and expression violates Plaintiffs' rights under California Civil
 21 Code § 52.1 to be free from such threats, intimidation and coercion in the exercise
 22 of rights guaranteed to Plaintiffs by the United States and California Constitutions.

23 125. On about October 28, 2011, Plaintiffs Nee and Moore filed claims for
 24 damages with the Los Angeles County Board of Supervisors describing the
 25 incidents set forth in Paragraphs 37-42 and 52-61, and seeking damages for
 26 violations of California Constitution Article I, §§ 2 and 13, California Civil Code
 27 § 52.1, and common law torts of false imprisonment, intentional infliction of
 28 emotional distress, and negligent infliction of emotional distress. The County

1 responded with letters mailed on December 21, 2011, denying both Nee's claim
2 and Moore's.

3 126. On about March 20, 2011, Plaintiff Nee filed claims for damages with
4 the Los Angeles County Board of Supervisors describing the incident set forth at
5 Paragraphs 43-51, and seeking damages for violations of California Constitution
6 Article I, §§ 2 and 13, California Civil Code § 52.1, and common law torts of false
7 imprisonment, intentional infliction of emotional distress, and negligent infliction
8 of emotional distress. The County responded with a letter mailed on May 8, 2012,
9 denying Nee's claim.

10 **FOURTH CLAIM FOR RELIEF**

11 **Violation of Cal. Constitution, Art. I, § 13; Cal. Civil Code § 52.1**

12 **(By Plaintiffs Nee and Moore against the County and Doe Defendants)**

13 127. Plaintiffs reallege and incorporate the foregoing paragraphs as if set
14 forth herein.

15 128. Defendants' actions described in Paragraphs 43-51 and 52-61, above,
16 violated the rights of Plaintiffs to be free of unreasonable searches and seizures
17 under Article I, section 13 of the California Constitution. Defendants deprived
18 Plaintiffs of these rights through, among other means, the threat of force and
19 intimidation.

20 129. Defendants' use of threats, intimidation and coercion, as well as their
21 attempts to use threats, intimidation and coercion, to gain compliance with, and
22 submission to Defendants' unlawful searches and seizures violated Plaintiffs'
23 rights under California Civil Code § 52.1 to be free from such threats, intimidation
24 and coercion in the exercise of rights guaranteed to Plaintiffs by the United States
25 and California Constitutions.

26 **PRAYER FOR RELIEF**

27 130. Plaintiffs therefore respectfully request that the Court enter a
28 judgment including:

- a. A declaration that Defendants' actions as described herein violated the First and Fourth Amendments to the United States Constitution;
- b. To the extent the Court finds that Defendants' conduct were authorized by a policy or regulation, a declaration that those policies or regulations are unconstitutional under the First and Fourth Amendments to the United States Constitution;
- c. As to the County of Los Angeles and LASD, an injunction to prevent the unlawful detention, search, interrogation, and harassment of photographers solely based on the fact they are taking photographs, and to prevent LASD officers from prohibiting photography in public places where photography otherwise violates no law.
- d. As to all Defendants, compensatory and statutory damages for violation of the laws and Constitution of the United States and State of California, in an amount to be determined at trial;
- e. Reasonable attorneys' fees and costs; and
- f. Any other relief as may be just and proper.

Dated: September 21, 2012

Respectfully Submitted,

ACLU FOUNDATION OF SOUTHERN
CALIFORNIA

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By: 

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COPY

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UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

SHAWN NEE; GREGGORY MOORE; SHANE
 QUENTIN; and THE NATIONAL
 PHOTOGRAPHERS' RIGHTS ORGANIZATION,

PLAINTIFF(S)

v.

COUNTY OF LOS ANGELES;
 (continued on Attachment)

DEFENDANT(S).

CASE NUMBER

CV11-08899 DDP (JCGx)

SUMMONS

TO: DEFENDANT(S):

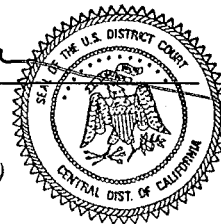
A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☐ complaint ☒ Second amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Peter Bibring, whose address is 1313 West Eighth Street, Los Angeles, CA 90017. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: 11/29/12

By: C. Power
 Deputy Clerk



1197

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

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ATTACHMENT TO SUMMONS

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Facsimile: (310) 229-1001

Defendants continued:

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT; SERGEANT MAURICE HILL, in his individual capacity; SERGEANT SALVADOR BECERRA, in his individual capacity; DEPUTY RICHARD GYLFIE, in his individual capacity; DEPUTY BAYES, in his individual capacity; DEPUTY D'ANDRE LAMPKIN, in his individual capacity; DEPUTY LASHON O'BANNON, in her individual capacity; DEPUTY CARLOS L. SANCHEZ, in his individual capacity; DEPUTY JASON CARTAGENA, in his individual capacity; DEPUTY MICHAEL A. CHACON, in his individual capacity; DEPUTY MARINA GARCIA, in her individual capacity; DEPUTY RYCK BURWELL, in his individual capacity; DEPUTY GUSTAVO CARRANZA, in his individual capacity; DEPUTY ERNIE KING, in his individual capacity; DEPUTY ANTHONY PAEZ, in his individual capacity; DEPUTY JOSE CARBAJAL, JR., in his individual capacity; and DOES 1 through 30, inclusive.