

1 Stephen G. Larson (SBN 145225)
2 *slarson@larsonobrienlaw.com*
3 Jonathan E. Phillips (SBN 233965)
4 *jphillips@larsonobrienlaw.com*

5 **LARSON O'BRIEN LLP**
6 555 South Flower Street, Suite 4400
7 Los Angeles, CA 90071
8 Telephone: 213.436.4888
9 Facsimile: 213.623.2000

10 Attorneys for Plaintiff
11 JEFFREY S. BURUM

12 UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA
14 EASTERN DIVISION

15 JEFFREY S. BURUM

16 Plaintiff,

17 v.

18 COUNTY OF SAN BERNARDINO;
19 MICHAEL A. RAMOS, in his individual
20 capacity; R. LEWIS COPE, in his
21 individual capacity; JAMES
22 HACKLEMAN, in his individual
23 capacity; HOLLIS "BUD" RANDLES, in
24 his individual capacity; ROBERT
25 SCHREIBER, in his individual capacity;
26 JOSIE GONZALES, in her individual
27 capacity; RUTH STRINGER, in her
28 individual capacity; ADAM ALEMAN, in
his individual capacity; EDMUND G.
BROWN, JR., in his individual capacity;
KAMALA D. HARRIS, in her individual
capacity; MELISSA MANDEL, in her
individual capacity; and GARY
SCHONS, in his individual capacity

Defendants.

CASE NO. 5:18-cv-00672

COMPLAINT FOR:

- (1) **RETALIATION (42 U.S.C. § 1983);**
- (2) **MALICIOUS PROSECUTION (42 U.S.C. § 1983);**
- (3) **FABRICATION OF EVIDENCE (42 U.S.C. § 1983);**
- (4) **MONELL CLAIM (42 U.S.C. § 1983);**
- (5) **SUPERVISORIAL LIABILITY (42 U.S.C. § 1983);**
- (6) **CONSPIRACY (42 U.S.C. § 1983);**
- (7) **MALICIOUS PROSECUTION (California Law);**
- (8) **NEGLIGENCE;**
- (9) **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

DEMAND FOR JURY TRIAL

1 1. Plaintiff Jeffrey S. Burum brings this action seeking compensatory and
2 punitive damages against Defendants COUNTY OF SAN BERNARDINO
3 (“County”), MICHAEL A. RAMOS, R. LEWIS COPE, JAMES HACKLEMAN,
4 HOLLIS “BUD” RANGLES, ROBERT SCHREIBER, JOSIE GONZALES,
5 RUTH STRINGER, ADAM ALEMAN, EDMUND G. BROWN, JR., KAMALA
6 D. HARRIS, MELISSA MANDEL, and GARY SCHONS for violations of Mr.
7 Burum’s civil and other rights under the U.S. Constitution and under California
8 law.

9 2. Mr. Burum’s claims are based on an illegal campaign of retaliation,
10 intimidation, and harassment by the County and the State of California, via their
11 employees. Mr. Burum is one of the managing members of Colonies Partners,
12 L.P.’s (“Colonies”) general partner. In that role, Mr. Burum directed Colonies’
13 business and legal efforts, and ultimately became the public face of Colonies’ high-
14 profile legal dispute with the County and the San Bernardino County Flood Control
15 District (“District”). When Defendants and other government officials realized that
16 the dispute had resolved favorably for Colonies and embarrassed the County and
17 District, Defendants targeted Mr. Burum and Colonies with an unlawful campaign
18 of retaliation for Mr. Burum’s and Colonies’ exercise of their First and Fifth
19 Amendment rights.

20 3. This exercise of fundamental constitutional rights began when
21 Colonies, under the leadership and guidance of Mr. Burum, exercised its Fifth
22 Amendment right to receive just compensation for the uncompensated “taking” of
23 72 acres of its land by Defendants County and District for a regional flood control
24 facility. Then, in connection with the civil litigation that resulted from this taking,
25 Colonies and Mr. Burum exercised their First Amendment free speech rights to
26 petition the government and advocate for settlement. As a result of these
27 constitutionally-protected efforts, Colonies secured a \$102 million civil settlement
28 in 2006 from Defendant County and the District (the “Settlement Agreement”).

1 Finally, following the settlement, Colonies continued to exercise its free speech
2 rights, again under the leadership and guidance of Mr. Burum, by making political
3 contributions to general purpose political action committees (“PACs”) affiliated
4 with pro-development politicians, including members of the San Bernardino
5 County Board of Supervisors and others who had supported the settlement. As Mr.
6 Burum made clear in public statements, including to various media outlets, the goal
7 of these PAC contributions was to support pro-development politicians who would
8 root out the intransigent and corrupt elements of the County that had plagued the
9 Colonies civil litigation.

10 4. The Defendants’ retaliatory campaign developed and manifested in
11 several ways, but no more so than in a coordinated effort to target Colonies through
12 an unfounded criminal investigation of its general partner’s two co-managing
13 members without justification or probable cause. This retaliatory investigation
14 ultimately resulted in felony charges being brought against Mr. Burum, more than
15 six years of criminal litigation, and a ten-month criminal trial in San Bernardino
16 Superior Court in the case entitled *People v. Biane, et al.*, Case No. FSB 1102102
17 (the “Criminal Action”). Because the investigation’s motivating and ultimate goal
18 was to punish Colonies and its management, including Mr. Burum, and not to
19 conduct a legitimate and fair examination of the facts, it was no surprise that the
20 prosecution’s case was marred by repeated use of fabricated evidence and perjured
21 testimony; indeed, it was so weak that Mr. Burum did not need to call a single
22 witness in his defense. On August 28, 2017, the next court day after the jury
23 deliberations began, the jury acquitted Mr. Burum on all remaining charges, with
24 the Court having already dismissed several charges for numerous legal and/or
25 factual deficiencies. Mr. Burum was vindicated.

26 5. This thorough repudiation of the prosecution’s case, and the lengths to
27 which prosecutors, investigators, and certain County-affiliated witnesses went to
28 manufacture some semblance of a case against Mr. Burum, is itself evidence of the

1 unjustified and retaliatory motives that drove the criminal investigation from the
2 outset. There was never any credible evidence of criminal conduct involving the
3 Settlement Agreement or subsequent PAC contributions—just a relentless drive by
4 the Defendants to punish Colonies and Mr. Burum for having exercised their
5 constitutional rights, and to chill Colonies and Mr. Burum from daring to exercise
6 their constitutional rights in the future.

7 6. Defendants’ wanton disregard of Mr. Burum’s constitutional rights
8 violates 42 U.S.C. § 1983 and California law. As a direct and proximate result of
9 Defendants’ actions, Mr. Burum has suffered and will continue to suffer damages.
10 For these reasons, and as set forth below, Mr. Burum is entitled to compensatory
11 damages, punitive damages, attorneys’ fees and costs, pre-judgment interest, and all
12 other relief provided by law.

13 **JURISDICTION AND VENUE**

14 7. This case arises under 42 U.S.C. § 1983 and California law. This
15 Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1343, and
16 1367(a).

17 8. Pursuant to California Government Code §§ 810 et seq., Mr. Burum
18 filed his state law claims with Defendant County and the State of California on
19 January 31, 2018. On March 13, 2018, the State, through its Government Claims
20 Program, rejected Mr. Burum’s claim, stating that because it “involves complex
21 issues that are beyond the scope of analysis and legal interpretation typically
22 undertaken by the GCP,” it was “being rejected so you can initiate court action.”
23 On March 23, 2018, the County returned Mr. Burum’s claim “without any action
24 having been taken on it.” The County stated that it was returning the claim
25 “because it was not presented within the time required by law.” Because Mr.
26 Burum’s claims were, in fact, filed timely pursuant to California law, the County’s
27 response is appropriately interpreted as a denial of all claims. Pursuant to
28 Government Code § 945.6, Mr. Burum is now filing these claims with this Court.

1 9. Venue is proper in the Central District of California under 28 U.S.C. §
2 1391 (b)(1) and (2), because the majority of Defendants reside in this District and
3 substantial acts and omissions giving rise to Mr. Burum's claims occurred in this
4 District.

5 **THE PARTIES**

6 10. Plaintiff Jeffrey S. Burum is an individual residing in Rancho
7 Cucamonga, California. He is the co-managing member of the managing partner of
8 Colonies Partners, L.P., a California limited partnership with its principal place of
9 business in Rancho Cucamonga, California.

10 11. Defendant County of San Bernardino is a municipal corporation
11 organized and existing under the laws of the State of California. Defendant County
12 was at all relevant times mentioned herein responsible for its own actions and/or
13 omissions as well as the actions and/or omissions and the policies, procedures,
14 customs, and practices of the San Bernardino County District Attorney's Office.

15 12. At all relevant times, Defendant Michael Ramos was the District
16 Attorney of the County of San Bernardino. In that capacity, he is the official
17 responsible for setting and enforcing the policies, customs, and practices of the
18 District Attorney's Office. Defendant Ramos at all relevant times directed,
19 supervised, authorized, and/or ratified the actions of his office's employees, agents,
20 and officials as alleged herein.

21 13. At all relevant times, Defendant R. Lewis Cope was a Deputy District
22 Attorney for the County of San Bernardino in the District Attorney's "Public
23 Integrity Unit" and was a supervisor in that unit. Defendant Cope is employed by
24 and is an agent of Defendant County and the District Attorney's Office. Defendant
25 Cope was one of the lead prosecutors from the District Attorney's Office assigned
26 to prosecute Mr. Burum, and as such he directed and participated in the retaliatory
27 criminal investigation into Colonies and Mr. Burum, including directing,
28

1 supervising, authorizing, and/or ratifying the actions of the Public Integrity Unit's
2 other employees, agents, and officials working on the Criminal Action.

3 14. At all relevant times until October 2011, Defendant James B.
4 Hackleman was a Deputy District Attorney for the County of San Bernardino, and
5 the lead prosecutor in the "Public Integrity Unit." Defendant Hackleman directed
6 and participated in the retaliatory criminal investigation into Colonies and Mr.
7 Burum, including directing, supervising, authorizing, and/or ratifying the actions of
8 the Public Integrity Unit's other employees, agents, and officials working on the
9 Criminal Action.

10 15. At all relevant times, Defendant Hollis "Bud" Randles was an
11 Investigator in the San Bernardino County District Attorney's office. Defendant
12 Randles was a lead District Attorney investigator in the retaliatory criminal
13 investigation into Colonies and Mr. Burum.

14 16. At all relevant times, Defendant Robert Schreiber was an Investigator
15 in the San Bernardino County District Attorney's office. Defendant Schreiber was
16 a lead District Attorney investigator in the retaliatory criminal investigation into
17 Colonies and Mr. Burum.

18 17. At all relevant times, Defendant Josie Gonzales was the Supervisor for
19 the Fifth District of San Bernardino County. Defendant Gonzales initiated and
20 participated in the retaliatory criminal investigation into Colonies and Mr. Burum.

21 18. At all relevant times until October 2010, Defendant Ruth Stringer was
22 an attorney with the County Counsel's Office for the County of San Bernardino.
23 Defendant Stringer participated in and encouraged the retaliatory criminal
24 investigation into Colonies and Mr. Burum.

25 19. At all relevant times until December 2006, Defendant Adam Aleman
26 was a Field Representative and assistant to then-Supervisor Bill Postmus. Then,
27 until July 2008, Defendant Aleman was Assistant Assessor for the County of San
28 Bernardino. Thereafter, Defendant Aleman was a cooperating witness who

1 initiated and participated in the retaliatory criminal investigation into Colonies and
2 Mr. Burum.

3 20. At all relevant times until January 2011, Defendant Edmund G.
4 Brown, Jr., was the Attorney General for the State of California. Defendant Brown
5 at all relevant times directed, supervised, authorized, and/or ratified the actions of
6 his office's employees, agents, and officials as alleged herein.

7 21. At all relevant times from January 2011 through January 2017,
8 Defendant Kamala D. Harris was the Attorney General for the State of California.
9 Defendant Harris at all relevant times directed, supervised, authorized, and/or
10 ratified the actions of her office's employees, agents, and officials as alleged herein.

11 22. At all relevant times, Defendant Melissa Mandel was a Supervising
12 Deputy Attorney General for the State of California. Defendant Mandel is
13 employed by and is an agent of the State of California and the Attorney General's
14 Office. Defendant Mandel was one of the lead prosecutors assigned to prosecute
15 Mr. Burum, and as such she directed and participated in the retaliatory criminal
16 investigation into Colonies and Mr. Burum, including directing, supervising,
17 authorizing, and/or ratifying the actions of the Attorney General's Office's other
18 employees, agents, and officials, as well as the District Attorney investigators,
19 working on the Criminal Action.

20 23. At all relevant times until October 2011, Defendant Gary Schons was a
21 Deputy Attorney General for the State of California. He was employed by and was
22 an agent of the State of California and the Attorney General's Office. Defendant
23 Schons was one of the prosecutors assigned to prosecute Mr. Burum, and as such he
24 directed and participated in the retaliatory criminal investigation into Colonies and
25 Mr. Burum, including directing, supervising, authorizing, and/or ratifying the
26 actions of the Attorney General's Office's other employees, agents, and officials, as
27 well as the District Attorney investigators, working on the Criminal Action.

28 24. In taking the actions alleged herein, Defendants acted under color of

1 law, with the exception of the County's actions in connection with the Colonies
2 civil litigation and settlement (as alleged in Paragraphs 26-44 below).

3 25. As set forth below, Defendants conspired with each other and others to
4 illegally retaliate against, intimidate, and harass Mr. Burum for directing Colonies'
5 assertion of its First and Fifth Amendment rights and its successful resolution of its
6 dispute with the County and District, and for his ongoing exercise of his own First
7 Amendment Rights.

8 **FACTUAL ALLEGATIONS**

9 **Civil Litigation Over the Uncompensated Taking of Colonies' Land, the**
10 **Settlement, and Colonies' Post-Settlement Political Contributions**

11 26. The County's long campaign to deprive Mr. Burum and Colonies of
12 their rights began in 1999 when Colonies refused to be victimized by the County
13 and District's efforts to unlawfully take 72 acres of prime developable land, without
14 just compensation, to build a regional flood control facility. In 1997, Colonies
15 purchased 434 acres of land in Upland, California for development. When the
16 County and other entities built the 210 freeway extension through Colonies'
17 property, they needed a large area in which to contain the massive water runoff
18 caused by that project and the related 20th Street Storm Drain. The 20th Street
19 Storm Drain was a regional flood-control facility built in Upland to provide 100-
20 year flood protection for the below-grade portion of the 210 freeway west of
21 Colonies' property. The 20th Street Storm Drain ended in a 12-foot-by-14-foot
22 concrete outlet located on the western edge of Colonies' property. Instead of
23 appropriately exercising their power of eminent domain over Colonies' land, or
24 even simply offering to fund the necessarily huge flood control basin, the County
25 and District set out to force Colonies to build the flood control facility itself, on
26 Colonies' own land, and at its own expense.

27 27. In 1999, the District's executive director, Ken Miller—knowing that
28 water runoff from the 210 freeway project would be torrential and would require

1 construction of a new, vast, expensive flood control facility—attempted to trick
2 Colonies into agreeing to hand over the land and build the basin itself. He did so by
3 lying about the amount of water involved and the necessary size of the flood control
4 facility. The truth was that existing flood control facilities were utterly inadequate
5 to contain the up to 80 million gallons of water per hour that could be unleashed
6 onto the property through the 20th Street Storm Drain. Despite having no legal
7 obligation to do so, Colonies offered to end the dispute by giving the County and
8 District the necessary acreage so long as the County and District would pay for the
9 construction of a basin sufficient to control the new storm waters resulting from the
10 210 freeway project and the 20th Street Storm Drain. The County and District
11 refused.

12 28. Instead, the County and District, spurred by their attorneys, some of
13 the County Supervisors, and District management, stubbornly insisted that limited
14 easements dating from the 1930s permitted them to redirect the massive flood
15 waters created by the freeway’s construction onto Colonies’ land—and that it was
16 then Colonies’ responsibility to construct and pay for the necessary regional flood
17 control facilities.

18 29. The County and District also tried to argue that they had obtained
19 “consent” from Colonies in 1999, conveniently ignoring that the only “consent”
20 was as to the physical and geographic placement of the 20th Street Storm Drain,
21 and that even this limited “consent” was based on fraud and deceit. Colonies never
22 consented to the County or District diverting flood water onto Colonies’ property
23 without just compensation.

24 30. As one of Colonies’ managing partners, and Colonies’ primary
25 representative in the course of meetings and negotiations with the County, Mr.
26 Burum saw firsthand the duplicity of County and District staff. Far from ensuring
27 public safety and sound government practice, County and District staff were
28 repeatedly willing to jeopardize not only the Colonies project, but public health and

1 safety by failing to provide adequate infrastructure to safely collect and disperse
2 water runoff from the newly-constructed 210 freeway. Mr. Burum vocally
3 criticized the government for its mishandling of the Colonies project, publicly
4 expressing his concern about County and District practices.

5 31. Facing an intransigent County and District, and with the 20th Street
6 Storm Drain on the verge of being “turned on” with no facilities to contain the
7 resultant flood waters, Colonies had no other option than to file a quiet title action
8 in March 2002 to vindicate its property rights. That action went to trial in 2003
9 before San Bernardino County Superior Court Judge Peter H. Norell. Mr. Burum
10 testified on Colonies’ behalf during that trial. Colonies won the action when Judge
11 Norell ruled that the County and District had no right to divert and dump flood
12 water onto Colonies’ property without just compensation. Undeterred, and still
13 refusing to take responsibility for their actions, the County and District doubled
14 down and appealed the decision, leading to a second trial on the issue three years
15 later.

16 32. In the meantime, recognizing that the lack of adequate flood control
17 facilities posed a grave threat to public safety, Colonies built a new flood control
18 basin on its own land and at its own expense, rushing to finish it before an
19 anticipated El Niño winter deluge in 2003-04. Shockingly, the County and
20 District’s lawyers and public safety officers at this point turned on a dime: After
21 years of haranguing, cajoling, urging, and threatening Colonies to build the basin,
22 they now filed a petition for writ of supersedeas to *stop* Colonies from constructing
23 the basin—an all-too transparent effort to gain a litigation advantage in the pending
24 appeal. Fortunately, the Court of Appeal rejected this ill-conceived gambit,
25 recognizing that the County and District’s interference posed an imminent threat to
26 public safety.

27 33. The seven-year civil battle over Colonies’ land ultimately came to a
28 head in a second trial before San Bernardino County Superior Court Judge

1 Christopher J. Warner in 2006. After hearing six weeks of testimony, Judge
2 Warner released a blistering statement of intended decision on July 31, 2006,
3 finding not only that Colonies was legally right, but also confirming that the County
4 and District had peddled in fraud, coercion, and deceit. Among other things, Judge
5 Warner found that:

- 6 a) The County and District’s claimed easements were insufficient to justify
7 the necessary flood control facilities, and thus the County and District’s
8 actions constituted a “gross surcharge” that permanently extinguished any
9 easements on Colonies’ land—meaning the County and District had no
10 right to dump *any* water onto the property;
- 11 b) The County and District had played “hide the ball,” engaged in “deceit,”
12 and tried to “coerce” Colonies into giving up its land rights;
- 13 c) The County and District had held Colonies’ development “hostage” in an
14 effort to get free flood control construction and had “unreasonably and
15 unjustifiably interfere[d] with [Colonies’] business”;
- 16 d) The County and District had “turned on” the 20th Street Storm Drain in
17 2002 “without providing for any viable flood-control facilities on
18 [Colonies’] property and without ensuring public safety from the flooding
19 hazard”; and
- 20 e) Colonies had taken “every reasonable action to protect the public” even in
21 the face of the County and District’s “deceit and misinformation.”

22 34. Mr. Burum again testified on Colonies’ behalf during this second trial
23 before Judge Warner. In his statement of intended decision, Judge Warner held that
24 Mr. Burum was “a very credible witness” who “answered questions directly,
25 succinctly, and without hesitation and equivocation.” In the eyes of County and
26 District staff, this praise of Mr. Burum was bad enough, but it was worse when
27 contrasted to the Court’s description of County witnesses. The Court criticized the
28 credibility and veracity of multiple County and District staff who testified at trial,

1 including District directors Mr. Miller and Patrick Mead. The Court’s adoption of
2 Mr. Burum’s testimony over the testimony of these District employees added a
3 viscerally personal angle to the County’s dispute with Colonies.

4 35. Judge Warner’s statement of intended decision was a watershed
5 moment in the dispute. County attorney Mitchell Norton later told investigators
6 that Judge Warner’s opinion was “Armageddon” for the County and District. He
7 explained that had Judge Warner’s intended decision become final, it would have
8 paved the way for Colonies to recover upwards of \$300 million in damages in an
9 inverse condemnation action that had been stayed pending resolution of the quiet
10 title case. Moreover, Judge Warner’s multiple findings of bad faith by the County
11 and District would have severely threatened their attempts to obtain indemnification
12 from the other government agencies involved in the 210 freeway expansion.

13 36. Facing this dire legal position, four out of the five County Supervisors
14 repeatedly voted in favor of settlement—yet County lawyers and officials continued
15 to do everything possible to stop a settlement. For example, Mr. Norton bragged
16 that he had inserted “poison pills” into a draft settlement agreement for the purpose
17 of sabotaging the agreement. And Defendant Stringer refused to sign off on the
18 legality of the settlement even though she later admitted having very little
19 involvement with, or understanding of, the underlying civil litigation, and therefore
20 no basis on which to decide that the proposed settlement was unlawful or even
21 improvident.

22 37. The County and District’s high-priced outside attorneys—who had just
23 lost the Colonies trial—likewise had no basis to justify their opposition to
24 settlement. The County and District had unwisely spent millions of dollars on law
25 firms whose lawyers had little or no background in land disputes. Embarrassed by
26 their repeated defeats, these outside attorneys joined County Counsel and other
27 County and District officials in digging their heels in, trying to scuttle the
28 settlement, and championing further appeal and delay.

1 38. In the months following Judge Warner’s tentative decision, Mr. Burum
2 repeatedly commented publicly on the County and District’s intransigence, causing
3 the County, District, and their employees further public embarrassment. Mr.
4 Burum openly advocated for a settlement of the dispute, and also offered sharp,
5 public criticism of the County’s Board of Supervisors and staff. Among Mr.
6 Burum’s public statements were the following:

- 7 a) “Politics has more to do with their inability to make a settlement offer
8 than the law. If these were two private-sector companies, they would
9 have settled this. [The County and District] know that they are wrong.”
- 10 b) “The [Court’s tentative] ruling is a victory for private property owners all
11 over the state and nation who have been bullied and victimized by the
12 government.”
- 13 c) “Judge Warner’s ruling shows you can fight City Hall – and win.”
- 14 d) “[The County] certainly had many opportunities to settle with us but
15 they’ve snubbed us and the public, choosing to waste the public’s money
16 on lawyers instead. The County’s response today is just the latest
17 example of their arrogance and abuse of power.”
- 18 e) “The Board of Supervisors has recklessly spent taxpayer dollars, trampled
19 private property rights and endangered public safety by refusing to
20 provide flood protection.”
- 21 f) “[The County engaged in] shameful behavior toward the Colonies
22 Partners.”
- 23 g) “I find [the County’s] response alarming both for the taxpayers and
24 Colonies. As a taxpayer of San Bernardino County, I am disappointed
25 that the actions of politicians on the Board of Supervisors are going to
26 cost us all additional millions of dollars.”
- 27
28

1 h) “This offer could hardly be considered a sign of good faith. It’s more
2 consistent with the pattern of behavior [Judge Warner] used to describe
3 the county – deceitful.”

4 39. As a result of the litigation and Mr. Burum’s high-profile criticisms,
5 the County suffered a steady stream of negative press articles and public opinion
6 expressing concern that the County and District’s incompetence and misconduct
7 had exposed taxpayers to such massive risk.

8 40. As part of the effort to informally resolve the litigation, Mr. Burum
9 also actively and directly petitioned members of the Board of Supervisors and other
10 County officials and employees to accept responsibility for the County and
11 District’s actions and reasonably settle the dispute.

12 41. These exercises of Colonies’ and Mr. Burum’s First Amendment rights
13 mirrored Colonies and Mr. Burum’s strategy throughout the civil litigation. In
14 addition to litigating the dispute in court, Colonies actively participated in the
15 political process, generally at Mr. Burum’s urging, direction, and encouragement.
16 On behalf of Colonies, Mr. Burum retained professionals such as former California
17 State Senator James Brulte and media consultant Patrick O’Reilly, both of whom
18 were integral to Colonies’ direct communications with County Supervisors and its
19 efforts to shape public discourse regarding the dispute. These efforts publicized the
20 role of County lawyers and staff in botching the dispute, angering these individuals
21 and giving them additional motive for retaliatory action.

22 42. Defendants’ motive for retaliation was particularly acute because
23 Colonies had been effective in exercising lawful political influence and convincing
24 voters to upend the do-nothing status quo. Mr. Burum was very much the architect
25 and public face of these political efforts. In 2002, Colonies publicly and
26 aggressively opposed the re-election campaign of then-Supervisor Jon Mikels of the
27 Second District—the district in which the development was located. Mr. Burum
28 and his co-managing partner, Dan Richards, had met with Mr. Mikels prior to filing

1 Colonies’ lawsuit to discuss informally resolving the dispute. Mr. Mikels rudely
2 and vulgarly rejected Mr. Burum and Mr. Richards, declaring his absolute
3 opposition to even negotiating a settlement. Rejected by their own Board
4 representative, Colonies unsurprisingly supported Mr. Mikels’ opponent, Rancho
5 Cucamonga City Councilman Paul Biane, who won the 2002 supervisorial election
6 by a large margin. Several individual Colonies partners, including Mr. Burum, also
7 directly donated to Mr. Biane’s campaign. Colonies also financially supported
8 Ontario Mayor Gary Ovitt—another staunchly pro-development politician—in his
9 successful 2004 run for Supervisor. Colonies’ successful engagement in the
10 political process scared and inflamed others who realized that Mr. Burum’s and
11 Colonies’ vigorous public participation could be turned against them as well. It
12 also concerned County lawyers and staff who were concerned that newly-elected
13 officials might not automatically defer to their self-proclaimed expertise. So, when
14 Colonies and Mr. Burum’s persistence in court and in petitioning the government
15 eventually succeeded, Defendants were unwilling to let Colonies and Mr. Burum’s
16 success in enforcing Colonies’ rights go unanswered.

17 43. On November 28, 2006, Colonies, the County, and the District settled
18 the bitter four-year litigation and seven-year public fight over the unlawful “taking”
19 of Colonies’ land. Facing hundreds of millions in damages and the prospect of
20 unending attorneys’ fees, the Board of Supervisors voted 3-2 to approve a \$102
21 million settlement in exchange for Colonies releasing all of its damages claims and
22 deeding the subject land to the District for its flood control purposes. Supervisors
23 William Postmus, Gary Ovitt, and Paul Biane voted in favor of the settlement;
24 Dennis Hansberger and Defendant Gonzales voted against. Defendant Gonzales
25 had consistently supported settlement until the eleventh hour. On information and
26 belief, she changed her vote to avoid the political consequences she feared would
27 flow from her support for a large settlement. She also had her own large donors to
28 appease, some of whom were competitors of Colonies and had benefited from the

1 distraction that protracted litigation had imposed upon Colonies.

2 44. In 2007, months after the settlement vote, Colonies—under Mr.
3 Burum’s leadership—again exercised its First Amendment rights of free speech and
4 petition by making political donations to PACs associated with members of the
5 Board of Supervisors, and others, who had supported the settlement and who would
6 advance pro-development policies. Colonies and Mr. Burum hoped that these
7 contributions would help get politicians elected who not only would support further
8 development in the Inland Empire, but would exercise appropriate authority and
9 oversight over the County’s lawyers and staff so as to avoid future legal debacles.

10 **The Unlawful Investigation**

11 45. No sooner was the ink dry on the Settlement Agreement than upset and
12 embarrassed elements within the County apparatus began planning their retaliation.
13 And they were joined by new allies: The San Bernardino District Attorney’s Office
14 and California Attorney General’s Office. Angered over the civil litigation, the
15 Settlement Agreement, and the 2007 PAC contributions, and motivated by illegal
16 and improper purposes, but without any credible evidence of wrongdoing,
17 Defendants orchestrated a campaign to punish Colonies and Mr. Burum.
18 Defendants intimidated witnesses, falsified evidence, hid exculpatory evidence, and
19 eventually presented false testimony to two grand juries and the trial jury, all to
20 fabricate a case against Mr. Burum, the public face of the Colonies dispute and the
21 target of Defendants’ ire. By attacking Mr. Burum, Defendants could neutralize not
22 only Mr. Burum individually, but Colonies as an organization. This illegal
23 campaign intentionally punished Colonies and Mr. Burum for exercising their
24 constitutionally-protected rights and chilled both Colonies’ and Mr. Burum’s ability
25 to petition their government or make political contributions after 2007 for fear of
26 continuing and additional reprisals.

27 46. The conspiracy to deprive Colonies and Mr. Burum of their
28 constitutional rights was also politically expedient. In 2010, Defendants Ramos

1 and Brown held a joint press conference to announce the prosecution of what they
2 called the largest public corruption scandal in the history of California. Both were
3 facing upcoming elections. Defendant Brown claimed that it was the “most
4 appalling corruption case in decades” and “a shocking example of how money can
5 corrupt the government process”—statements made, as though proven facts, even
6 as Defendant Brown was collecting record amounts of campaign cash for his own
7 race for California Governor. Defendant Ramos noted that two Colonies partners
8 had been named as unindicted co-conspirators at the time, and warned that there
9 was an “ongoing investigation.” Defendant Ramos then decried, again stated as
10 though a proven fact, “a well-orchestrated political and personal attack on this
11 District Attorney, attempting to intimidate me in obstructing justice and finishing
12 this job.” Defendant Ramos, recognizing that Colonies and Mr. Burum were
13 threats to his power, declared that he was going to “finish the job” by aggressively
14 investigating Colonies and Mr. Burum.

15 47. Leaving no doubt that this was a joint campaign between the San
16 Bernardino County District Attorney’s Office and the California Attorney General’s
17 Office, Defendant Ramos assured the public that Defendant Brown was his “crime-
18 fighting partner,” and that both were responsible for the investigation. Defendant
19 Ramos explained that the Attorney General’s Office “went through all of our
20 evidence, and now have worked with us every day on this.” Defendant Ramos
21 expressly named Defendants Hackleman, Schons, and Mandel, and explained that
22 they were “working together every day” on the investigation.

23 48. Defendants Brown and Ramos both made it clear that their real targets
24 in the criminal investigation were Colonies and Mr. Burum. Defendant Ramos
25 lamented that Colonies had obtained compensation for its property in “these tough
26 economic times,” and explained that his goal was to “get that money back to the
27 citizens,” a statement he repeated innumerable times at various political and fund-
28 raising events throughout Mr. Burum’s prosecution. Defendant Ramos further

1 claimed that these “well-funded folks, developers” were somehow trying to “attack
2 and control the D.A.’s office for exposing this corruption.” The truth was the
3 precise opposite: Defendant Ramos was on the attack, using the media and the
4 power of his office to advance the orchestrated campaign of retaliation against
5 Colonies and Mr. Burum.

6 49. Defendant Brown demonstrated similar animus against Colonies and
7 Mr. Burum, stating that he found it significant that there was “\$102 million being
8 voted on,” and explaining that the settlement would be “void” and the \$102 million
9 would be paid back to the County by Colonies. He also claimed as fact that there
10 was “no basis” for the \$102 million settlement, a position readily disproven by a
11 host of witnesses and contemporary documentation. But Defendant Brown, like the
12 other Defendants that participated in the retaliation campaign, had no interest in the
13 actual facts of the case, or a fair investigation.

14 50. After Defendant Harris took office as Attorney General, she issued a
15 press release taking credit for the indictments as “the result of a combined effort by
16 Attorney General Kamala D. Harris and San Bernardino County District Attorney
17 Michael A. Ramos.” The Attorney General’s Office explained that the “two
18 agencies jointly investigated the case and presented it to the grand jury.” Moreover,
19 the press release revealed that the case was “part of a continuing probe by both the
20 Attorney General and the DA into corruption in San Bernardino County.”
21 Attempting to use the indictments for political gain and to turn the public against
22 Colonies, Defendant Harris claimed that her office was sending “a strong message
23 that we will never tolerate this sort of abuse of public trust.” In just one early
24 demonstration of the Orwellian nature of Defendants’ invented case, the press
25 release claimed that the criminal defendants “used political action committees to
26 conceal the bribes.” And yet, all of the PAC contributions at issue had been
27 *disclosed* on public records in the normal course of required reporting under the
28 Political Reform Act.

1 51. Later, Defendant Harris confirmed to local media outlets that
2 Defendant Schons, Defendant Mandel, and Deputy Attorney General Emily Hanks
3 would continue to “assist” County prosecutors in the Colonies case at Defendant
4 Harris’s direction, while confirming that she was “committed to doing everything”
5 she could to support the ongoing investigation.

6 52. In 2011, Defendant Ramos held yet another press conference after Mr.
7 Burum, Mark Kirk, James Erwin, and Mr. Biane were indicted and arrested.
8 During that press conference, Defendant Ramos quoted Defendant Mandel as
9 calling the prosecution team “Team Justice,” a pretext in the ongoing battle to win
10 public support for the retaliation scheme. Defendant Ramos identified “Team
11 Justice” as including Defendant Cope, Defendant Randles, Defendant Schreiber,
12 Defendant Hackleman, Deputy District Attorney Michael Smith, Deputy District
13 Attorney John Goritz, Defendants Schons, Mandel, Brown, and Harris, and others.
14 Defendant Ramos claimed that the team “worked hard” together and uncovered a
15 “significant amount of evidence.” He claimed that “Team Justice” had gathered
16 dozens of witnesses. He claimed that Mr. Postmus’s guilty plea supported what
17 “Team Justice . . . already knew”: The Colonies defendants were guilty. Defendant
18 Ramos’s conduct in this matter demonstrates that when he exclaimed that
19 “corruption would not be tolerated in San Bernardino County,” what he really
20 meant was that “Colonies and Mr. Burum would not be tolerated in San Bernardino
21 County.”

22 53. During this 2011 press conference, Defendant Ramos again brought up
23 the \$102 million settlement payment, and explained that “Team Justice” was going
24 to seek an order of restitution requiring Mr. Burum and Colonies to return the
25 settlement payment—even though the District had already received 72 acres of
26 Colonies’ developable land for regional flood control use. Defendants, angry that
27 the District had been forced to compensate Colonies for that land, used the pretext
28 of the prosecution to pressure Mr. Burum and Colonies to disgorge Colonies’ hard-

1 won compensation guaranteed under the Fifth Amendment. Indeed, Defendant
2 Ramos explained during the press conference that the District Attorney’s Office
3 was also “partners” with the San Bernardino County Counsel’s office in their
4 efforts to recover the \$102 million, leaving no doubt about the County’s and
5 Defendant Ramos’s complicity in their joint retaliation scheme.

6 54. Defendant Schons also spoke at the press conference on behalf of the
7 California Attorney General’s Office. Defendant Schons emphasized the “equal
8 partnership” shared between the District Attorney’s Office and the Attorney
9 General’s Office in investigating and prosecuting the case.

10 55. For his part, Defendant Ramos recognized that the investigation was
11 the ideal opportunity to not only retaliate against and politically neutralize Mr.
12 Burum and Colonies, but to make his vendetta the centerpiece of his supposedly
13 “anti-corruption” reelection campaigns. At one point, Defendant Ramos’s agents
14 described political contributions against him by Mr. Burum’s and Colonies’
15 supporters as “felony stupid”—an unsubtle threat that those supporting Defendant
16 Ramos’s opponents would suffer from similar retributive action. Defendants
17 Mandel, Cope, Randles, and Schreiber, as well as numerous other County officials,
18 likewise used the unlawful and retaliatory investigation to advance their careers.

19 56. Mr. Burum’s public advocacy for Colonies particularly inflamed
20 Defendants, and Mr. Burum thus became the specific target of their ire. As a harsh
21 and vocal critic of the County and District, Mr. Burum raised public awareness and
22 brought attention to the incompetence and intransigence of County and District
23 officials, who could have ended the Colonies dispute at just a fraction of the cost in
24 time and expense to all parties. His effective testimony in the trial before Judge
25 Warner sealed the County and District’s litigation doom, exposing not only the
26 County and District’s fraud and deceit, but also unmasking the County and District
27 *as the actual threat to public safety* in connection with the Colonies project. In
28 light of these revelations, Defendants and others were desperate to change the

1 message by attacking the messenger. On information and belief, Defendants also
2 knew that Mr. Burum was the driving force behind hundreds of thousands of dollars
3 in campaign contributions, a clear and present threat to any candidate—such as
4 Defendant Ramos—who regularly had to face voters in a re-election campaign.
5 Defendants were aware from public filings and the usual political rumor mills that
6 Mr. Burum and Colonies had already opposed one of their number—Defendant
7 Gonzales—in previous elections, and feared for their own political futures.

8 57. The pretext for the retaliatory investigation against Colonies and Mr.
9 Burum was an allegation that the 2007 PAC contributions were “secret” payoffs for
10 the three votes that approved the Colonies settlement. Of course, there was no
11 credible evidence that bribery had taken place, and not even any evidence that the
12 campaign contributions were “secret”—all of them were fully disclosed. On
13 information and belief, because prosecutors and investigators—including
14 Defendants Ramos, Cope, Hackleman, Randles, Schreiber, Brown, Harris, Mandel,
15 and Schons—pursued the investigation for reasons having nothing to do with actual
16 guilt, they ignored or buried all the significant exculpatory evidence they
17 uncovered.

18 58. Defendants’ retaliatory investigation was not about pursuing justice, or
19 any search for truth. By advancing flimsy charges, ignoring or hiding exculpatory
20 evidence, misleading grand juries, and intimidating and manipulating witnesses,
21 Defendants knew they could deter Colonies and Mr. Burum from further exercises
22 of First and Fifth Amendment rights. Defendants knew that Colonies and Mr.
23 Burum would be severely limited in participating in future elections. This was
24 important to Defendants, particularly given Defendant Ramos’s periodic reelection
25 campaigns. Keeping Defendant Ramos in office was a necessary part of the
26 retaliation scheme, as Defendant Ramos was willing to abuse the power of his
27 office to pursue Defendants’ common goal of punishing and deterring Colonies and
28 Mr. Burum.

1 59. On information and belief, because Defendants’ motivation was
2 retribution and revenge against Colonies and Mr. Burum, rather than justice,
3 Defendants ignored that the 2006 settlement legitimately and reasonably ended four
4 years of contentious civil litigation. They ignored that the County was facing legal
5 defeat following Judge Warner’s July 2006 tentative ruling in the underlying civil
6 case. And they ignored that the County avoided financial annihilation by settling a
7 \$300 million claim for \$102 million—a conclusion the County and County-retained
8 counsel and expert witnesses had already recognized and were affirmatively
9 arguing in the County’s ongoing insurance indemnity litigation.

10 60. Investigators and prosecutors—including Defendants Ramos, Cope,
11 Hackleman, Randles, Schreiber, Brown, Harris, Mandel, and Schons—also
12 disregarded other evidence of the Settlement Agreement’s legality. For example, in
13 2007 the San Bernardino County Superior Court conclusively held that the
14 Settlement Agreement was legal and valid following a validation action supported
15 by a unanimous Board of Supervisors and *brought by the County*—a holding
16 subsequently upheld by the Court of Appeal in dismissing a 2012 lawsuit brought
17 by taxpayer groups seeking to challenge and invalidate the settlement (the
18 “Taxpayer Action”). Defendants also ignored evidence from Deputy County
19 Counsel Norton that the 2006 settlement was objectively reasonable given the
20 County’s risk at the time.

21 61. Investigators and prosecutors—including Defendants Ramos, Cope,
22 Hackleman, Randles, Schreiber, Brown, Harris, Mandel, and Schons—also failed to
23 adequately investigate all reasonable leads and evidence in the course of
24 investigating Mr. Burum. They did not even bother to interview any Colonies-
25 related witnesses, including Colonies’ legal counsel in the civil litigation with the
26 County, nor did they interview any of the judges who presided over the two
27 Colonies civil trials or the mediator who helped the parties negotiate the Settlement
28 Agreement.

1 62. Defendants Ramos, Cope, Hackleman, Randles, Schreiber, Brown,
2 Harris, Mandel, and Schons also failed to adequately investigate the veracity of
3 material accusations made by Defendant Aleman during his interviews and
4 testimony. For example, when Defendant Aleman claimed that he had seen
5 political “hit pieces” on Mr. Erwin’s computer, Defendants failed to seize the
6 computer and thus never conducted forensic analysis that would have disproved this
7 claim. Defendant Aleman appeared at one meeting with Defendants Randles and
8 Schreiber carrying a 200-page Power-Point presentation. While this presentation
9 was discussed during the interview, Defendants Randles and Schreiber claimed they
10 did not retain a copy of the PowerPoint, and thus it was never produced to Mr.
11 Burum. Perhaps most egregiously, Defendant Aleman falsely claimed that he had
12 attended several meetings with Mr. Burum and Mr. Postmus at the Red Hill
13 Country Club’s clubhouse in 2006 in which Mr. Burum supposedly offered bribes
14 to Mr. Postmus. Defendants failed to conduct even a basic investigation into these
15 claims, which would have quickly revealed that the clubhouse had been torn down
16 in late 2005 and the new clubhouse was not opened until 2007—meaning these
17 supposed meetings could not have occurred.

18 63. This strategy of failing to adequately investigate any leads that might
19 uncover exculpatory evidence manifested itself in the investigation again and again.
20 For example, Defendants Ramos, Cope, Hackleman, Randles, Schreiber, Brown,
21 Harris, Mandel, and Schons also failed to adequately investigate the veracity of
22 Defendant Gonzales’s false claim that Mr. Burum had pressured her during a trip to
23 China shortly before the Settlement Agreement was finalized. At one point,
24 Defendant Gonzales’s Chief of Staff, Bob Page, brought various email
25 communications with him for an interview with Defendant Randles. One particular
26 email contradicted Defendant Gonzales’s claims regarding this supposed pressure,
27 and yet Defendant Randles did not even bother to collect the email, much less
28 follow up on it as part of the investigation. Defendants also failed to review Mr.

1 Burum's American Express bills, which had been obtained by subpoena, to
2 determine if Mr. Burum had even been in China at the time Defendant Gonzales
3 claimed he pressured her. Even a cursory review of these bills would have shown
4 that Mr. Burum was actually in the Palm Springs, California area attending a
5 wedding during this time. Of course, Defendants also could have confirmed that
6 Mr. Burum was not in China by simply reviewing his passport, which had also been
7 seized and which proved that he had not traveled to China during this time. But
8 apparently they did not bother to take even this simple step to check the veracity of
9 Defendant Gonzales's claims. In fact, Defendant Randles admitted under oath at
10 trial that he did *no* investigation to determine whether Defendant Gonzales's
11 fantastic claims about Mr. Burum were true. Defendants preferred to have
12 Defendant Gonzales testify untruthfully so as to advance their retaliatory agenda—
13 and thus they avoided any investigation that would have disproven her claims.

14 64. Investigators and prosecutors—including Defendants Ramos, Cope,
15 Hackleman, Randles, Schreiber, Brown, Harris, Mandel, and Schons—not only
16 ignored this and other exculpatory evidence, they withheld all manner of
17 exculpatory evidence from the grand jury for the purpose of obtaining an
18 indictment against Mr. Burum, which they knew would require a vast commitment
19 of Mr. Burum and Colonies' time and resources to defend.

20 65. Moreover, Defendants Hackleman and Stringer agreed in 2010 to
21 pursue a dishonest “two paths” strategy, documented in written correspondence
22 discovered during the criminal prosecution. These documents demonstrate that the
23 County agreed to defend the legality of the settlement in its civil indemnity
24 litigation, while prosecutors would simultaneously try to prove its criminality as
25 part of Mr. Burum's prosecution. On information and belief, they reasoned that by
26 pursuing both paths, at least one of them would succeed in punishing Colonies and
27 Mr. Burum. Defendant Stringer even violated her ethical duties in her zeal to
28 punish Colonies and Mr. Burum by sharing attorney-client privileged information

1 with Defendant Hackleman *before* the Board of Supervisors voted to waive the
2 privilege.

3 66. Prosecutors and investigators did not stop at ignoring or burying
4 exculpatory evidence. Members of the prosecution team—including Defendants
5 Randles and Schreiber—affirmatively fabricated evidence to prop up their case.
6 And, on information and belief, they were supervised in doing so by Defendants
7 Ramos, Cope, Hackleman, Brown, Harris, Mandel, and/or Schons.

8 67. Most egregiously, they coerced Mr. Postmus into giving false
9 testimony and leveraged his drug addiction to manipulate his memory. Mr.
10 Postmus was one of the Supervisors who voted in favor of the Settlement
11 Agreement. He was also affiliated with one of the PACs that received political
12 contributions from Colonies in 2007. Investigators needed someone to tie these
13 two events together to build their case of bribery against Mr. Burum—and
14 Defendants Randles and Schreiber, on information and belief supervised by
15 Defendants Ramos, Cope, Hackleman, Brown, Harris, Mandel, and/or Schons,
16 targeted Mr. Postmus as someone they could manipulate because of his ongoing
17 and longstanding methamphetamine addiction and the numerous felony charges he
18 faced based on his drug use and illegal conduct in the Assessor's Office.

19 68. Mr. Postmus had left the Board of Supervisors after being elected to
20 the position of County Assessor in January 2007. As he has since admitted, he was
21 battling severe drug addiction at that time, and the impact of that drug use soon
22 became apparent, especially to trained law enforcement officials. By January 2011,
23 Mr. Postmus had been forced to resign as Assessor and was facing numerous felony
24 charges for actions unrelated to Colonies or Mr. Burum. He was even arrested in
25 court for making an appearance under the influence of methamphetamine.

26 69. On information and belief, Defendants Randles and Schreiber knew all
27 of this because of their involvement in the criminal investigation and case against
28 Mr. Postmus. And because they knew full well how methamphetamine abuse

1 impacts memory—among other things, making someone more susceptible to
2 having false memories implanted by coercive questioning—they recognized and
3 seized the opportunity to manipulate Mr. Postmus into becoming their star witness
4 for their campaign of retaliation and retribution against Colonies and Mr. Burum.
5 In fact, they went so far as to avoid drug testing Mr. Postmus, giving Defendants
6 Cope and Mandel plausible deniability when they eventually elicited false
7 testimony from Mr. Postmus before the indicting grand jury in which he claimed to
8 have been sober for months (only to later admit that he had been using
9 methamphetamine throughout his cooperation with the District Attorney’s Office
10 and his grand jury testimony). Of course, failing to drug test Mr. Postmus had the
11 added benefit to Defendants Randles and Schreiber of increasing the likelihood that
12 Mr. Postmus would continue his methamphetamine abuse and thus remain in the
13 drug-addled state they needed to continue manipulating him.

14 70. Defendants’ strategy worked. Over the course of five interviews in
15 early 2011, Defendants Randles and Schreiber repeatedly and successfully
16 manipulated Mr. Postmus’s memory and coerced him into saying what they wanted
17 to hear.

18 71. Most critically, investigators and prosecutors—including Defendants
19 Ramos, Cope, Hackleman, Randles, Schreiber, Harris, Mandel, and Schons—
20 refused to accept Mr. Postmus’s repeated denials of a corrupt *quid pro quo*
21 agreement to exchange his vote for the 2007 campaign contributions. In his initial
22 interviews with Defendants Randles and Schreiber, Mr. Postmus explicitly and
23 repeatedly denied that he had ever accepted a bribe in exchange for his pro-
24 settlement vote. And he emphatically stated that Mr. Burum had “never crossed the
25 line” with him in dealing with the Colonies matter. On information and belief,
26 Defendants refused to accept this truth because it did not further their retribution
27 campaign against Colonies and Mr. Burum. So, over the course of several
28 interviews, Defendants Randles and Schreiber—on information and belief,

1 supervised by Defendants Ramos, Cope, Hackleman, Harris, Mandel, and/or
2 Schons—convinced Mr. Postmus that he had committed various felony offenses
3 related to the settlement, and coerced him into pleading guilty and testifying to
4 those supposed offenses before the indicting grand jury.

5 72. Defendants Randles and Schreiber also planted smaller deceptions for
6 the purpose of manipulating Mr. Postmus into telling larger lies. For example, they
7 convinced Mr. Postmus during their interviews that he had fired the County’s
8 outside counsel in 2004 at Mr. Burum’s insistence. But they knew that could not be
9 true, as Mr. Postmus had already told them he did not get to know Mr. Burum until
10 a trip to China over a year later. Indeed, it eventually became part of the
11 prosecution’s narrative to claim that Mr. Burum had arranged to go on the 2005
12 China trip for the precise purpose of meeting and “grooming” Mr. Postmus. Of
13 course, even that premise was easily disproven by an objective investigation, which
14 would have found that Mr. Postmus had been invited to go on that China trip a year
15 earlier for reasons entirely unrelated to Mr. Burum. Mr. Postmus later recognized
16 and admitted that his contradictory and nonsensical “memories” of these events had
17 been planted by an unscrupulous and coercive prosecution team.

18 73. Defendants Randles and Schreiber—on information and belief,
19 supervised by Defendants Ramos, Cope, Hackleman, Brown, Mandel, and/or
20 Schons—reinforced their manipulation of Mr. Postmus by using his purported
21 friend, Defendant Aleman, to secretly record conversations in which he tried to
22 trick Mr. Postmus into confirming the false allegations of bribery. But even this
23 exercise soon became mired in fraud and cover-up. Defendants Randles and
24 Schreiber became aware soon after their first meeting with Defendant Aleman that
25 in his eagerness to join the conspiracy, he had already secretly taped a conversation
26 with Mr. Postmus. This was a violation of California law, as Defendant Aleman
27 had not yet been authorized to record any conversations as an agent of the state. Of
28 course, Defendant Aleman already had enough legal trouble, so Defendants

1 Randles and Schreiber went into full cover-up mode. They both filed after-the-fact
2 reports claiming to have given Defendant Aleman timely permission to record Mr.
3 Postmus. But they failed to coordinate their stories, and their separate reports told
4 contradictory accounts of when and how Defendant Aleman was first authorized to
5 secretly record Mr. Postmus.

6 74. Defendants Randles and Schreiber—on information and belief,
7 supervised by Defendants Ramos, Cope, Hackleman, Brown, Harris, Mandel,
8 and/or Schons—also threatened and intimidated other witnesses, including Matt
9 Brown, in attempts to obtain false testimony. Mr. Brown was Mr. Biane’s Chief of
10 Staff at the time of the Colonies settlement and subsequent PAC contributions.
11 Defendants intimidated Mr. Brown into wearing a wire and making secret
12 recordings of his conversations with Mr. Biane, Mr. Postmus, and others. Although
13 Mr. Brown recorded dozens of conversations with men who knew and trusted him
14 in 2009 and 2010, none of these recordings revealed the slightest evidence of
15 corruption or bribery. To the contrary, Mr. Brown recorded Mr. Postmus stating
16 that there was no bribe. Of course, this notable absence of evidence did not deter
17 Defendants in the slightest. Defendants Cope and Mandel—on information and
18 belief, supervised by Defendants Ramos and Harris—simply hid the exculpatory
19 lack of evidence from the grand jury, and later, the trial jury. In fact, not only did
20 prosecutors fail to introduce a single one of these recorded conversations into
21 evidence during the trial, they aggressively opposed Mr. Burum’s defense team’s
22 efforts to play them for the jury, or even inform the jury that none of the recordings
23 contained any inculpatory evidence.

24 75. As for the District Attorney investigators, they continued pursuing the
25 aggressive and illegal tactics that had justifiably earned them the nickname of the
26 “Thug Squad.” During one interview, Defendant Randles exclaimed that he and the
27 “Public Integrity Unit” were “elephant hunters . . . out for big game,” leaving no
28 doubt that his big game targets were Colonies and Mr. Burum. Instead of using

1 legitimate interview techniques, these investigators bullied witnesses, put words in
2 witnesses' mouths, and engaged in a scorched-earth mission to bring down
3 Colonies no matter the cost. One such witness, Dino DeFazio, recently had
4 trumped-up perjury charges against him dismissed after they had been pending for
5 eight years. Mr. DeFazio's lone fault was telling the grand jury the truth, which
6 was not what the "Thug Squad" wanted to hear.

7 76. Defendant Randles's vendetta against Colonies and Mr. Burum was
8 further motivated by his discovery that Colonies and Mr. Burum had worked with
9 Mr. Erwin when exercising their First Amendment rights to petition the Board of
10 Supervisors to approve the Settlement Agreement. Defendant Randles held a
11 grudge against Mr. Erwin, as illustrated by a statement he made in 2008 that Mr.
12 Erwin was in line to become Chief of Staff to a San Bernardino County Supervisor
13 "unless somebody can stop him." Defendant Randles's vendettas against Colonies,
14 Mr. Burum, and Mr. Erwin escalated when he discovered that they were working
15 together. On information and belief, the mere fact of their association further
16 inflamed his desire for revenge. Despite (or perhaps because of) these obvious
17 biases, Mr. Randles was named as "lead investigator" for the Colonies investigation
18 and remained the lead investigator throughout the entire retaliation campaign.

19 77. As evidenced by the above and other conduct, the entire structure of
20 the "Public Integrity Unit," led by Defendants Cope and Hackleman and overseen
21 and supervised by Defendant Ramos, directly led to the unlawful and unjustified
22 violation of Colonies' and Mr. Burum's constitutional rights. The District Attorney
23 investigators and prosecutors were part of a single organizational unit with no true
24 separation between the investigation and prosecution. Defendants Cope and
25 Hackleman were directly involved in the botched and corrupt investigation, rather
26 than remaining sufficiently separate to ensure its integrity and ultimately make
27 independent charging decisions. This commingling of roles led to investigators and
28 prosecutors failing to verify or corroborate false information obtained from Mr.

1 Postmus, Defendant Aleman, Defendant Gonzales, and others. Prosecutors,
2 investigators, and County witnesses with an axe to grind reinforced each other's
3 passions and prejudices, feeding false information and unsubstantiated allegations
4 into a self-deluding "echo chamber" through which the Defendants' prejudices
5 against Colonies could take voice.

6 78. The result was that Defendants Randles and Schreiber elicited and
7 even fabricated false information, Defendants Cope, Hackleman, Mandel, and
8 Schons—on information and belief, supervised by Defendants Ramos, Brown, and
9 Harris—pushed the investigation to its predetermined outcome, and no one
10 bothered to augment their zeal for retribution with even a shred of concern for truth
11 and justice. Instead, investigators and prosecutors—including Defendants Ramos,
12 Cope, Hackleman, Randles, Schreiber, Brown, Harris, Mandel, and Schons—
13 pursued a wrongful investigation and, ultimately, felony charges against Mr.
14 Burum, despite ample evidence that they were meritless.

15 **Other Conspirators in the Unlawful Retaliation**

16 79. Other current and former County employees instigated and
17 championed the bogus investigation. On information and belief, at least two—
18 Defendants Gonzales and Aleman—conspired with the other Defendants to retaliate
19 against Colonies and Mr. Burum for exercising their constitutional rights. Among
20 other things, Defendants Gonzales and Aleman helped initiate the wrongful
21 investigation and the eventual prosecution of Mr. Burum by providing false
22 statements to District Attorney investigators, and then agreed to repeat those false
23 statements in perjurious testimony before the grand juries and criminal trial jury.

24 80. On information and belief, Defendant Gonzales helped initiate the
25 investigation by making a false report in late 2006 or early 2007 to the District
26 Attorney's Office, apparently claiming that the Settlement Agreement was procured
27 by corruption. Of course, Defendant Gonzales had no actual evidence of corruption
28 to report; rather, on information and belief, she was motivated to avoid political

1 fallout from the size of the settlement and to appease some of her largest financial
2 backers who were rival land developers of Colonies and Mr. Burum.

3 81. Beginning in 2008, Defendant Gonzales volunteered other false
4 information to District Attorney investigators and the grand jury, including that Mr.
5 Burum had supposedly intimidated her in the run-up to the 2006 settlement. For
6 example, Defendant Gonzales falsely claimed that Mr. Burum menaced her in
7 China prior to the settlement, to the point that she feared he was going to kidnap,
8 drug, and take compromising photographs of her. Supposedly the purpose of all
9 this was to intimidate or extort her into voting for the Settlement Agreement. This
10 was fantasy: Defendant Gonzales and Mr. Burum were never in China at the same
11 time, a fact known by prosecutors who nonetheless elicited this false testimony
12 before the grand jury and during Mr. Burum's trial.

13 82. On information and belief, Defendant Gonzales entered into an
14 agreement with one or more of the other Defendants to make false statements and
15 provide perjurious testimony as part of the conspiracy to retaliate against Colonies
16 and Mr. Burum for having exercised their First and Fifth Amendment rights.
17 Defendant Gonzales was motivated to conspire with other Defendants and make
18 these false statements by her desire to punish Colonies and Mr. Burum for
19 vindicating their First and Fifth Amendment rights to approach the government and
20 seek fair compensation in the civil litigation with the County and District, for
21 successfully petitioning the government in connection with the Settlement
22 Agreement, and for making political contributions to PACs associated with
23 Defendant Gonzales's political rivals. She was further upset by Mr. Burum's
24 public advocacy for Colonies' interests and his highly personal criticisms of her,
25 the Board of Supervisors, and County staff.

26 83. Defendant Aleman also conspired with one or more of the other
27 Defendants to initiate the wrongful investigation and prosecution. Beginning in
28 2008, Defendant Aleman started supplying investigators and prosecutors with

1 knowingly false information to initiate and encourage the criminal investigation
2 against Mr. Burum. At the time, Defendant Aleman himself was under
3 investigation for various criminal conduct in the County Assessor's Office. As
4 Defendant Aleman has since admitted, he had lied about Mr. Postmus's drug use
5 and sexuality, used campaign accounts as his own personal slush fund, physically
6 destroyed County equipment to cover up his and Mr. Postmus's misdeeds, altered
7 public documents sought by the civil grand jury in their investigation of the
8 Assessor's Office, and lied under oath to that grand jury.

9 84. Seeking to obtain a favorable plea deal, Defendant Aleman claimed he
10 had information about other criminal conduct in the County. Under questioning by
11 Defendants Randles and Schreiber, Defendant Aleman at first truthfully reported
12 that he had very little information about the Colonies settlement and knew nothing
13 of any crimes in that context. But when it became clear that investigators were
14 willing to ignore Defendant Aleman's wrongdoing in return for his cooperation in
15 the retaliation scheme, Defendant Aleman began to exaggerate his role in the
16 settlement negotiations and to fabricate claims of bribery and corruption. He did
17 this because he knew investigators and prosecutors were focused on punishing
18 Colonies and Mr. Burum for the Settlement Agreement and PAC contributions, and
19 joining the conspiracy against Colonies and Mr. Burum was the best way to avoid
20 consequences for his own illegal actions.

21 85. At the invitation of Defendants Randles and Schreiber—on
22 information and belief, supervised by Defendants Ramos, Cope, Hackleman,
23 Brown, Mandel, and/or Schons—Defendant Aleman began “developing” evidence
24 against Mr. Postmus and Mr. Burum. In text messages and secretly recorded
25 conversations, Defendant Aleman began feeding Mr. Postmus the false narrative
26 that Mr. Burum had bribed Mr. Postmus. Defendant Aleman knew more than
27 anyone else how drug-addled and vulnerable Mr. Postmus was, and how
28 susceptible his memory was to accepting this confabulation as the truth. Defendant

1 Aleman also began to tell investigators he had firsthand information that Colonies
2 and Mr. Burum made the 2007 PAC contributions in a *quid pro quo* exchange for
3 Mr. Postmus's vote. For example, Defendant Aleman invented meetings between
4 Mr. Postmus and Mr. Burum in 2006 during which the corrupt agreement was
5 supposedly struck and at which Defendant Aleman claimed to be present. The
6 meetings were entirely imaginary. Defendant Aleman even placed some of these
7 meetings at the Red Hill Country Club's clubhouse at a time when it did not exist
8 (having been demolished to make way for a new clubhouse), a fact that was readily
9 discoverable had Defendants bothered to engage in objective investigation instead
10 of blindly pursuing their efforts to retaliate against Colonies and Mr. Burum.
11 Despite these obvious lies, prosecutors advocated in Defendant Aleman's
12 subsequent sentencing hearing that he had told the truth, and urged leniency for his
13 crimes. Thus, just as he had hoped, Defendants Ramos, Cope, Mandel, and others
14 ultimately allowed Defendant Aleman to walk away with little more than a slap on
15 the wrist in appreciation for cooperating with the scheme.

16 86. On information and belief, Defendant Aleman entered into an
17 agreement with one or more of the other Defendants to make these false statements
18 and provide perjurious testimony as part of a conspiracy to retaliate against
19 Colonies and Mr. Burum for having exercised their First and Fifth Amendment
20 rights.

21 87. Another member of the conspiracy to illegally retaliate against
22 Colonies and Mr. Burum was Defendant Stringer, the San Bernardino County
23 Counsel at the time of the Settlement Agreement and throughout much of the
24 criminal investigation. In 2010 (if not earlier), Defendant Stringer began
25 cooperating and conspiring with Defendant Hackleman and the District Attorney's
26 Office in the retaliation campaign. Among other things, Defendant Stringer:

27
28

- 1 a) Met with prosecutors regarding their suggestion to “move towards the
- 2 filing of a GC1092 [Government Code § 1092] action to recover the
- 3 \$102M”;
- 4 b) Voluntarily met with prosecutors at least a dozen times in 2010 to assist
- 5 with their investigation and prosecution of Mr. Burum;
- 6 c) Voluntarily provided feedback to prosecutors on the felony complaint
- 7 attacking the Settlement Agreement and its legality;
- 8 d) Signed a voluntary waiver of the attorney-client privilege and the
- 9 mediation privilege on behalf of the County as to “any request by the
- 10 prosecutors to produce or examine any documents maintained by the
- 11 County” or to interview witnesses;
- 12 e) Provided attorney-client privileged information to investigators even
- 13 before the attorney-client privilege was waived by the County; and
- 14 f) Voluntarily met with prosecutors at least an additional two dozen times in
- 15 2011, prior to Mr. Burum’s indictment, to assist them in developing the
- 16 false narrative that the Settlement Agreement was unreasonable and
- 17 illegal.

18 88. Defendant Hackleman expressly told Defendant Stringer that it was the
19 District Attorney’s goal to “be prepared to show that [the settlement] was
20 unreasonable” even though the County was simultaneously defending the
21 reasonableness of the settlement in its indemnity litigation in court and in its
22 insurance arbitrations. Defendant Hackleman went on to explain that having the
23 District Attorney follow a diametrically different path than the County was “an epic
24 challenge.” Nevertheless, on information and belief, Defendant Stringer entered
25 into an agreement with one or more of the other Defendants to continue providing
26 assistance in pursuing the illegal Colonies investigation as part of the conspiracy to
27 retaliate against Colonies and Mr. Burum for having exercised their First and Fifth
28 Amendment rights.

Presentation of False Testimony and Evidence

1
2 89. Defendants Cope and Mandel—on information and belief, supervised
3 by Defendants Ramos, Brown, and/or Harris—presented fraudulent evidence to
4 grand juries in both 2009 and 2011 to secure Mr. Burum’s indictment on false
5 charges and without probable cause. Among other things, they presented Mr.
6 Postmus’s, Defendant Aleman’s, and Defendant Gonzales’s false testimony
7 discussed above. They also pressured other witnesses, including Mr. Brown, to
8 give false testimony. And Defendant Randles testified falsely about the timing of
9 his investigation in order to prevent certain charges from being barred due to the
10 statute of limitations.

11 90. Defendants Cope and Mandel—on information and belief, supervised
12 by Defendants Ramos and/or Harris—also manipulated the grand jury process to
13 hide exculpatory evidence. For example, they presented evidence that Judge
14 Warner and others had been the subject of a judicial ethics investigation due to
15 alleged inappropriate contacts with Mr. Burum, knowing that the instigator of that
16 investigation—James Lindley—had recanted his allegations. Mr. Lindley was a
17 County employee who had claimed in 2006 that he had information that one of the
18 judges for the civil case (either Judge Norell or Judge Warner) was golfing buddies
19 with Mr. Burum—with the clear implication being that this improper relationship
20 impacted the case. Defendants Cope and Mandel presented this accusation to the
21 indicting grand jury through testimony from former County Counsel Dennis
22 Wagner, without informing the grand jury at that time that Mr. Lindley had
23 recanted his claim. Then, in what they admitted was a highly unusual move, they
24 called Mr. Lindley to testify in front of a separate civil grand jury at the same time
25 that the criminal grand jury was sitting. During his testimony, Mr. Lindley
26 candidly admitted that he had no basis for the damaging accusation and had
27 presented it to his superiors to inflate his reputation. But because the prosecution
28 manipulated the grand jury process, the indicting grand jury did not get to hear Mr.

1 Lindley’s rueful recantation. Instead, Defendants Cope and Mandel waited until the
2 very end of the grand jury process to present a secondhand, sanitized version of Mr.
3 Lindley’s admissions. This allowed them to present the rumor to the grand jury as
4 further “evidence” of corruption, while hiding for as long as possible the fact that
5 Mr. Lindley’s account was wholly fictitious, and depriving the grand jury of the
6 opportunity to evaluate Mr. Lindley’s credibility or ask him any questions of their
7 own. This strategy paid off, as grand jurors openly wondered—without any basis
8 in reality—whether “Judge Warner was in Jeff Burum’s pocket financially or
9 otherwise.”

10 91. Defendants Cope and Mandel—on information and belief, supervised
11 by Defendants Ramos and/or Harris—also presented other “evidence” to the grand
12 jury that unfairly impugned the reputation of retired California Supreme Court
13 Justice Edward Panelli, who had served as mediator in the Colonies civil case.
14 They introduced testimony from Defendant Gonzales claiming that she saw Mr.
15 Burum talking to Justice Panelli after a mediation session and supposedly giving
16 him a ride in Mr. Burum’s car, and that she knew that this encounter was
17 “extremely wrong” and perhaps “extremely illegal.” Defendants Cope and Mandel
18 also asked a witness hypothetically—without presenting any evidence—if he would
19 have had concerns if Justice Panelli had accepted a plane ride from Mr. Burum.
20 They elicited this testimony despite having no basis to believe that Justice Panelli
21 had engaged in any impropriety. Indeed, as a mediator, Justice Panelli had no
22 decision-making authority over the civil case, so this “evidence” had no relevance
23 to the bribery allegations.

24 92. On information and belief, Defendants Cope and Mandel—supervised
25 by Defendants Ramos and/or Harris—introduced these allegations regarding Judge
26 Warner, Judge Norell, and Justice Panelli in order to create an aura of corruption
27 over the entire civil case, to hint at additional acts of uncharged and unproven
28 crimes by Mr. Burum and others, and to cast doubt over the reasonable—and

1 legal—basis for the Settlement Agreement. In this manner, they implied and
2 ultimately argued, without evidence, that the only possible reason for the Settlement
3 Agreement was bribery and corruption.

4 93. As a result of the Defendants’ fraud, perjury, threats, lies, and sham
5 investigation, the 2011 grand jury indicted Mr. Burum on seven felony charges.

6 94. The criminal trial that eventually followed only served to further
7 expose that the Colonies investigation had not been a legitimate attempt to uncover
8 the truth, but instead a retaliation campaign. The following are only some of the
9 examples of testimony and evidence elicited by the prosecution at trial that
10 backfired, exposing the fraudulent and retaliatory nature of the Colonies
11 investigation:

- 12 a) Defendant Randles again claimed, as he had before the indicting grand
13 jury, that prior to his November 1, 2008 interview of Defendant Aleman,
14 he did not know who Mr. Burum was, a highly material allegation
15 relevant to the delayed discovery exception rule to the statute of
16 limitations. On cross-examination, Defendant Randles’s own words
17 exposed his claim as a lie. Indeed, tapes of Defendant Randles discussing
18 Mr. Burum in earlier 2008 interviews were played in the courtroom.
- 19 b) Defendant Gonzales told the trial jury that Mr. Burum was lurking in
20 China in 2005 for the purpose of taking advantage of her and intimidating
21 her into voting for the Settlement Agreement. On cross-examination, it
22 was proven that Defendant Gonzales was not in China in 2005—she was
23 at various well-publicized events in San Bernardino and Louisiana.
24 Defendant Gonzales then changed her story, under oath, and claimed it
25 was in 2006 that she saw Mr. Burum in China. But Mr. Burum was not in
26 China during that 2006 trip. He was in Palm Springs at the wedding of
27 his business partner’s daughter. When confronted with Mr. Burum’s
28 passport, which established that Mr. Burum did not go to China in 2006,

1 Defendant Gonzales stubbornly refused to admit her lies, instead claiming
2 that he could have flown into Communist China on a private jet and
3 evaded customs. Defendant Gonzales also testified that she had a long
4 record of voting against the Colonies settlement, which was entirely
5 contradicted by her actual voting record of voting in favor of settlement at
6 every opportunity until the very end. At no point during several days of
7 this contradictory, fabricated, and outlandish testimony did prosecutors
8 attempt to prevent or correct this perjury from their own witness; instead,
9 they continued to elicit it and doubled down in redirect examination.

10 c) Defendant Aleman testified on direct examination that Mr. Postmus only
11 became involved in the Colonies litigation after a trip to China in
12 September 2005 that both Mr. Postmus and Mr. Burum attended. This
13 was false, as Defendant Aleman conceded under cross-examination.

14 Defendant Aleman also claimed that he attended several meetings at the
15 Red Hill Country Club clubhouse in 2006 in which Mr. Postmus and Mr.
16 Burum supposedly discussed the alleged bribe. But the evidence showed
17 that there was no Red Hill Country Club clubhouse in that period; it had
18 been torn down and was being rebuilt—a fact anyone could have
19 discovered with little investigation. Defendant Aleman lied about the
20 locations of other supposed meetings as well, with cross-examination
21 exposing that he had told different stories at different times.

22 d) Defendant Mandel also helped Defendant Aleman cover up his illegal
23 receipt of campaign funds. When initially asked about having obtained
24 personal reimbursement for a political event, Defendant Aleman denied
25 having ever done so. Defense counsel then confronted Defendant Aleman
26 with public records evidencing that he received an unlawful personal
27 reimbursement for campaign expenditures. Defense counsel eventually
28 forced Defendant Aleman to admit that he had lied about receiving these

1 funds. Nevertheless, on redirect examination, Defendant Mandel
2 attempted to rehabilitate Defendant Aleman's credibility. She elicited
3 further perjurious testimony from Defendant Aleman that he had not
4 unlawfully received campaign funds, which was contradicted by the
5 documentary evidence she—and everyone in the courtroom—had just
6 viewed. Defendant Mandel also asked questions designed to whitewash
7 Defendant Aleman's embezzlement and dishonesty by eliciting testimony
8 that reimbursement from campaign funds was routine and legal—although
9 they were nothing of the sort in this instance. In doing so, Defendant
10 Mandel tried to hide Defendant Aleman's theft, hide his lies about the
11 theft, and knowingly suborned perjury.

12 e) Defendants Randles and Schreiber became aware soon after first meeting
13 with Defendant Aleman that he had secretly taped a conversation with Mr.
14 Postmus, a violation of California law because he had not yet been
15 authorized to record as an agent of the state. Defendant Aleman admitted
16 that he lied on the stand when he initially claimed he had authority to
17 make the recordings. But Defendant Randles nevertheless insisted that
18 Defendant Aleman had been authorized. On cross-examination, it was
19 shown that Defendants Randles and Schreiber had conspired to provide
20 Defendant Aleman with a cover story—but they failed to coordinate their
21 stories, filing separate police reports with entirely different accounts of
22 when and how Defendant Aleman was first authorized to secretly record
23 Mr. Postmus.

24 f) Mr. Postmus falsely testified on direct examination that he had been
25 bribed by Mr. Burum. Defendants Cope and Mandel—on information
26 and belief, supervised by Defendants Ramos and/or Harris—allowed this
27 testimony despite the fact that Mr. Postmus had repeatedly told their
28 investigators that there was no *quid pro quo* agreement to accept a bribe

1 in exchange for a pro-settlement vote, and that Mr. Burum had never
2 “crossed the line” to obtain the Settlement Agreement. On cross-
3 examination, Mr. Postmus was shown how Defendants Randles and
4 Schreiber had bullied and manipulated him into “confessing” to crimes
5 that never occurred. After recognizing how he had been taken advantage
6 of, Mr. Postmus testified on cross-examination that he was “100%
7 positive” no bribery had occurred, and reaffirmed that Mr. Burum had
8 “never crossed the line” in advocating for the Colonies settlement.

9 g) Mr. Postmus also testified on direct examination that Mr. Burum had
10 engineered Mr. Postmus’s attendance on a 2005 trip to China, which
11 prosecutors argued was an effort to “groom” him to accept bribes. In
12 reality, and as confirmed by documents in the prosecution’s possession,
13 Mr. Postmus had been invited by an unrelated third party a year earlier.

14 95. In short, cross-examination revealed the prosecution’s “evidence” to
15 be pure farce. Indeed, after six months of impeaching every prosecution witness on
16 multiple points, Mr. Burum rested his defense case without calling a single witness.
17 And it took only two days of deliberation for the jury to acquit Mr. Burum on all
18 remaining charges on August 28, 2017, after Judge Smith had already dismissed a
19 number of counts for either legal deficiency or failure to present evidence to
20 support them.

21 96. Interviewed after their verdict, members of Mr. Burum’s jury made no
22 secret of their outrage at the waste of taxpayer dollars and the evident incompetence
23 and fraud they witnessed for so many months. Indeed, they wondered—among
24 other things—why prosecutors had presented obviously false testimony and why
25 Defendants Randles and Gonzales were not facing prosecution for perjury. One
26 juror expressed that prosecutors “lacked any type of grounds to prosecute.”
27 Another juror expressed that Defendant Aleman was untrustworthy and not
28 credible, and “never” should have been on the witness stand. A third, wondering

1 why the trial took several months, suggested that if there had been proof of guilt,
2 the prosecution should have “shown that right away.”

3 97. The answer, of course, is that none of the Defendants had any interest
4 in pursuing justice. The entire exercise was a pure act of retaliation against
5 Colonies and Mr. Burum for exercising their First and Fifth Amendment rights.
6 Judge Warner was absolutely correct when he stated in a September 6, 2017
7 newspaper op-ed that the criminal trial was a “travesty” which “should never have
8 occurred.” And though Colonies and Mr. Burum were finally vindicated, it was at
9 the cost of millions of dollars and irreparable damage to their public reputations.

10 98. Sadly, but not surprisingly, Defendant Ramos has not let up even after
11 the public humiliation he suffered in the Colonies trial. When Mr. Burum and
12 others made campaign contributions to political committees supporting Defendant
13 Ramos’s current opponent in the upcoming election for District Attorney, Mr.
14 Ramos again started making threats of retribution, publicly claiming that these legal
15 and fully-disclosed political contributions constituted “money laundering.” Mr.
16 Ramos’s efforts to chill First Amendment activity thus continue unabated.

17 **FIRST CLAIM**

18 **Retaliation – 42 U.S.C. § 1983**

19 **Against Defendants Ramos, Cope, Hackleman, Randles, Schreiber, Brown,** 20 **Harris, Mandel, and Schons**

21 99. Mr. Burum re-alleges and incorporates each allegation in Paragraphs 1
22 through 98 of this Complaint as though fully set forth herein.

23 100. Defendants Ramos, Cope, Hackleman, Randles, Schreiber, Brown,
24 Harris, Mandel, and Schons, all state actors or acting under color of state law, had a
25 duty to permit Mr. Burum free exercise of his constitutional rights.

26 101. When Mr. Burum exercised these rights, as set forth above,
27 Defendants Ramos, Cope, Hackleman, Randles, Schreiber, Brown, Harris, Mandel,
28 and Schons retaliated against Mr. Burum in the manner alleged herein for

1 participation in what Defendants knew were First and Fifth Amendment protected
2 activities. These Defendants' retaliatory conduct included, but is not limited to, the
3 following:

- 4 a) Initiating a fraudulent and illegitimate criminal investigation into Colonies
5 and its management, in particular, Mr. Burum;
- 6 b) Publicly threatening to use the criminal investigation as a means to take
7 back the \$102 million Colonies had received as just compensation for the
8 County and District's taking of its land;
- 9 c) Manipulating and coercing Mr. Postmus into falsely claiming that his vote
10 in favor of the Settlement Agreement had been corruptly influenced by
11 Colonies and Mr. Burum;
- 12 d) Eliciting false statements during the investigation, and eventually
13 perjurious testimony, from Defendants Gonzales, Aleman, and others, in
14 particular regarding Mr. Burum's actions prior to the Colonies settlement;
- 15 e) Threatening and attempting to coerce other witnesses, such as Matt
16 Brown, into making false statements during the investigation and
17 providing perjurious testimony;
- 18 f) Fabricating and falsifying evidence during the investigation; and
- 19 g) Hiding exculpatory evidence from two grand juries.

20 102. Mr. Burum's exercise of his constitutional rights, as set forth above,
21 was a substantial and/or motivating factor in Defendants Ramos, Cope, Hackleman,
22 Randles, Schreiber, Brown, Harris, Mandel, and Schons's wrongful retaliatory
23 conduct.

24 103. Defendants Ramos, Cope, Hackleman, Randles, Schreiber, Brown,
25 Harris, Mandel, and Schons's actions against Mr. Burum would chill a person of
26 ordinary firmness from continuing to exercise their constitutional rights;

27 104. The harm to Mr. Burum from Defendants Ramos, Cope, Hackleman,
28 Randles, Schreiber, Brown, Harris, Mandel, and Schons's illegal actions includes

1 lost income, lost business opportunities, loss of reputation, litigation expenses
2 including attorneys' fees, and other compensatory damages, in an amount to be
3 proved at trial.

4 105. Defendants Ramos, Cope, Hackleman, Randles, Schreiber, Brown,
5 Harris, Mandel, and Schons's conduct was willful, wanton, malicious, and done
6 with reckless disregard for Mr. Burum's rights and therefore warrants the
7 imposition of exemplary and punitive damages as to each of them.

8 **SECOND CLAIM**

9 **Malicious Prosecution – 42 U.S.C. § 1983**

10 **Against Defendants Cope, Randles, and Schreiber**

11 106. Mr. Burum re-alleges and incorporates each allegation in Paragraphs 1
12 through 105 of this Complaint as though fully set forth herein.

13 107. As alleged herein, the investigation of Mr. Burum was not undertaken
14 to obtain evidence of a crime, but instead to harass and retaliate against Colonies
15 and Mr. Burum for exercising their First and Fifth Amendment rights and obtaining
16 what Defendants perceived as a favorable settlement of the civil litigation. When
17 the District Attorney's Office learned of the settlement, it immediately began
18 plotting to use its power and authority to retaliate against Colonies and Mr. Burum.

19 108. And yet, even as late as 2017 when he was testifying under oath at
20 trial, Defendant Randles explained "I don't know a lot about the facts" of the civil
21 litigation. Though he testified that he believed the Colonies settlement was
22 egregious and outrageous, he had no factual basis for this belief. He never read any
23 of the documents underlying the civil litigation. He read none of the judge's
24 opinions. He never read, much less understood, the appraisal that valued Colonies'
25 land taken by the County at over \$100 million. He never bothered to interview
26 many Colonies-related witnesses, instead relying almost solely on the biased
27 complaints of County witnesses.

28 109. Defendants Randles and Schreiber were the lead "investigators" in this

1 retaliatory campaign against Colonies and Mr. Burum. But rather than conducting
2 a thorough and open-minded investigation, it was one-sided, biased, and conducted
3 with the preordained goal of convicting Mr. Burum. Defendant Cope likewise
4 participated in and oversaw the unjust investigation, including bullying Mr.
5 Postmus during investigative interviews into making false statements. As alleged
6 above, Defendants Randles and Schreiber also threatened and bullied witnesses,
7 ignored exculpatory evidence that did not serve their purpose of retaliating against
8 Colonies and Mr. Burum, intentionally failed to obtain and/or preserve exculpatory
9 evidence, fabricated evidence, and, in the case of Defendant Randles, even testified
10 falsely under oath before the grand jury and trial jury.

11 110. Moreover, and as alleged above, this improper investigation was
12 carried out by the Public Integrity Unit, in which prosecutors participated in the
13 investigation and the roles of prosecutors and investigators were comingled.
14 Because of their comingled roles, and because prosecutors, including Defendant
15 Cope, had participated in the biased investigation, prosecutors did not exercise
16 independent judgment when prosecuting Mr. Burum.

17 111. In the alternative, on information and belief, Defendants Randles and
18 Schreiber knowingly withheld information from prosecutors in order to secure an
19 indictment against Mr. Burum, including concealing the date on which their
20 investigation began, concealing Defendant Aleman's misconduct, and withholding
21 the extent of Mr. Postmus's drug use and hence his unreliability as a witness, and
22 fabricating evidence, as alleged above. Defendants Randles and Schreiber thus
23 both withheld relevant information from prosecutors, and knowingly supplied false
24 information to prosecutors. As a result of their misconduct, prosecutors were
25 unable to exercise independent judgment in prosecuting Mr. Burum.

26 112. Defendants Randles and Schreiber also manipulated the investigation
27 through their handling of Mr. Postmus, the prosecution's key cooperating witness.
28 Knowing that Mr. Postmus was suffering from a long-time drug addiction,

1 Defendants Randles and Schreiber used interrogation techniques designed to plant
2 memories of events that never happened. To encourage Mr. Postmus further,
3 Defendants Randles and Schreiber never subjected Mr. Postmus to any drug
4 monitoring or testing during the period of Mr. Postmus's cooperation, the better to
5 keep Mr. Postmus pliable and cooperative.

6 113. Defendants Randles, Schreiber and Cope, by their actions and conduct
7 of the investigation as alleged above, maliciously caused Mr. Burum to be
8 prosecuted without probable cause, and they did so for the purpose of denying him
9 his right to exercise his constitutional rights without government retaliation and to
10 deny him the ability to exercise his constitutional rights going forward.

11 114. The harm to Mr. Burum from Defendants Randles, Schreiber, and
12 Cope's illegal actions includes lost income, lost business opportunities, loss of
13 reputation, litigation expenses including attorneys' fees, and other compensatory
14 damages, in an amount to be proved at trial.

15 115. Defendants Randles, Schreiber, and Cope's conduct was willful,
16 wanton, malicious, and done with reckless disregard for Mr. Burum's rights and
17 therefore warrants the imposition of punitive damages as to each of them.

18 **THIRD CLAIM**

19 **Fabrication of Evidence – 42 U.S.C. § 1983**

20 **Against Defendants Randles and Schreiber**

21 116. Mr. Burum re-alleges and incorporates each allegation in Paragraphs 1
22 through 115 of this Complaint as though fully set forth herein.

23 117. As alleged above, Defendants Randles and Schreiber fabricated
24 evidence that was then used to criminally indict and prosecute Mr. Burum. This
25 included the false statements and testimony of Mr. Postmus, Defendant Aleman,
26 and Defendant Randles himself.

27 118. Additionally, as alleged above, Defendants Randles and Schreiber
28 continued their investigation of Mr. Burum despite the fact that they knew that Mr.

1 Burum was innocent, or were deliberately indifferent to Mr. Burum's innocence,
2 and the results of the investigation were then used to criminally indict and prosecute
3 Mr. Burum.

4 119. Additionally, as alleged above, Defendants Randles and Schreiber
5 used techniques that were so coercive and abusive that they knew, or were
6 deliberately indifferent, that those techniques would yield false information that
7 was then used to criminally indict and prosecute Mr. Burum. In particular,
8 Defendants Randles and Schreiber coerced and manipulated Mr. Postmus into
9 changing his testimony from a complete and unequivocal denial of any *quid pro*
10 *quo* agreement with Mr. Burum, to instead pleading guilty to criminal conduct in
11 connection with the Settlement Agreement and subsequent PAC contributions.

12 120. The harm to Mr. Burum from Defendants Randles and Schreiber's
13 illegal actions includes lost income, lost business opportunities, loss of reputation,
14 litigation expenses including attorneys' fees, and other compensatory damages, in
15 an amount to be proved at trial.

16 121. Defendants Randles and Schreiber's conduct was willful, wanton,
17 malicious, and done with reckless disregard for Mr. Burum's rights and therefore
18 warrants the imposition of exemplary and punitive damages as to each of them.

19 **FOURTH CLAIM**

20 ***Monell Claim – 42 U.S.C. § 1983***

21 ***Against Defendant County***

22 122. Mr. Burum re-alleges and incorporates each allegation in Paragraphs 1
23 through 121 of this Complaint as though fully set forth herein.

24 123. Mr. Burum exercised his First and Fifth Amendment rights as set forth
25 above. The individual Defendants, acting under color of state law, then retaliated
26 against Mr. Burum in the manner alleged herein for participation in what
27 Defendants knew were First and Fifth Amendment protected activities.

28 124. The County had in place official, widespread, and/or longstanding

1 policies, practices, and/or customs that amounted to deliberate indifference to Mr.
2 Burum's right to exercise his constitutional rights without government retaliation.
3 These policies, practices, and/or customs were a moving force behind this illegal
4 retaliatory conduct. Specifically, the County maintained or permitted policies,
5 practices, and/or customs that included the following:

- 6 a) Permitting, condoning, and/or ratifying the District Attorney's office
7 to engage its investigators and resources in politically-charged
8 criminal investigations without regard for the existence of credible
9 evidence;
- 10 b) Permitting, condoning, and/or ratifying County employees in the
11 District Attorney's Office to execute falsified search warrants and
12 engage in unwarranted criminal investigations in a manner intended to
13 punish, harass, and embarrass as retaliation;
- 14 c) Permitting, condoning, and/or ratifying collusive action between the
15 District Attorney's Office and other County employees for the purpose
16 of engaging in unwarranted criminal investigations in a manner
17 intended to punish, harass, and embarrass as retaliation;
- 18 d) Permitting, condoning, and/or ratifying the District Attorney's Office
19 to target constitutionally-protected First Amendment speech through
20 unwarranted criminal investigations for the purpose of chilling such
21 speech; and
- 22 e) Permitting, condoning, and/or ratifying the Public Integrity Unit of the
23 District Attorney's Office to employ investigators dedicated to
24 working on Public Integrity Unit investigations, thereby removing
25 important checks and balances between investigators and prosecutors.

26 125. Additionally, Defendant Ramos as the District Attorney is an official
27 with final policymaking authority as it relates to the District Attorney's Office's
28 criminal investigations. As such, his conduct alleged herein—including his

1 supervision of the Public Integrity Unit and his conscious, affirmative ratification of
2 the wrongful and retaliatory criminal investigation of Colonies and Mr. Burum—
3 constituted an act of official government policy.

4 126. As a legal and proximate result of the County’s policies, practices,
5 and/or customs alleged herein, and/or Defendant Ramos’s conduct as an official
6 with final policymaking authority, the County violated Mr. Burum’s right to
7 exercise his constitutional rights without government retaliation, causing him to
8 suffer injury and harm, including lost income, lost business opportunities, loss of
9 reputation, litigation expenses including attorneys’ fees, and other compensatory
10 damages, in an amount to be proved at trial.

11 127. The County’s conduct was willful, wanton, malicious, and done with
12 reckless disregard for Mr. Burum’s rights and therefore warrants the imposition of
13 exemplary and punitive damages.

14 **FIFTH CLAIM**

15 **Supervisory Liability – 42 U.S.C. § 1983**

16 **Against Defendants Ramos, Cope, Hackleman, Brown, Harris, Mandel, and**
17 **Schons**

18 128. Plaintiff re-alleges and incorporates each allegation in Paragraphs 1
19 through 127 of this Complaint as though fully set forth herein.

20 129. On information and belief, Defendant Ramos supervised Defendants
21 Cope, Hackleman, Randles, and Schreiber with regard to their conduct alleged
22 herein. In this capacity, Defendant Ramos knew or should have known of their
23 illegal retaliatory conduct, yet he failed to take action to prevent that conduct and/or
24 acquiesced in the deprivation of Mr. Burum’s rights as alleged herein. Moreover,
25 Defendant Ramos’s training, supervision, and/or control of Defendants Cope,
26 Hackleman, Randles, and Schreiber was a legal and proximate cause of their illegal
27 retaliatory conduct and/or constituted deliberate indifference to the deprivations of
28 Mr. Burum’s rights.

1 130. On information and belief, Defendant Cope supervised Defendants
2 Randles and Schreiber with regard to their conduct alleged herein. In this capacity,
3 Defendant Cope knew or should have known of their illegal retaliatory conduct, yet
4 he failed to take action to prevent that conduct and/or acquiesced in the deprivation
5 of Mr. Burum's rights as alleged herein. Moreover, Defendant Cope's training,
6 supervision, and/or control of Defendants Randles and Schreiber was a legal and
7 proximate cause of their illegal retaliatory conduct and/or constituted deliberate
8 indifference to the deprivations of Mr. Burum's rights.

9 131. On information and belief, Defendant Hackleman supervised
10 Defendants Cope, Randles, and Schreiber with regard to their conduct alleged
11 herein. In this capacity, Defendant Hackleman knew or should have known of their
12 illegal retaliatory conduct, yet he failed to take action to prevent that conduct and/or
13 acquiesced in the deprivation of Mr. Burum's rights as alleged herein. Moreover,
14 Defendant Hackleman's training, supervision, and/or control of Defendants Cope,
15 Randles, and Schreiber was a legal and proximate cause of their illegal retaliatory
16 conduct and/or constituted deliberate indifference to the deprivations of Mr.
17 Burum's rights.

18 132. On information and belief, Defendant Brown supervised Defendants
19 Mandel and Schons with regard to their conduct alleged herein. In this capacity,
20 Defendant Brown knew or should have known of their illegal retaliatory conduct,
21 yet he failed to take action to prevent that conduct and/or acquiesced in the
22 deprivation of Mr. Burum's rights as alleged herein. Moreover, Defendant Brown's
23 training, supervision, and/or control of Defendants Mandel and Schons was a legal
24 and proximate cause of their illegal retaliatory conduct and/or constituted deliberate
25 indifference to the deprivations of Mr. Burum's rights.

26 133. On information and belief, Defendant Harris supervised Defendant
27 Mandel with regard to her conduct alleged herein. In this capacity, Defendant
28 Harris knew or should have known of Defendant Mandel's illegal retaliatory

1 conduct, yet she failed to take action to prevent that conduct and/or acquiesced in
2 the deprivation of Mr. Burum's rights as alleged herein. Moreover, AG Harris's
3 training, supervision, and/or control of Defendant Mandel was a legal and
4 proximate cause of her illegal retaliatory conduct and/or constituted deliberate
5 indifference to the deprivations of Mr. Burum's rights.

6 134. On information and belief, Defendant Mandel supervised Defendants
7 Randles and Schreiber with regard to their conduct alleged herein. In this capacity,
8 Defendant Mandel knew or should have known of their illegal retaliatory conduct,
9 yet she failed to take action to prevent that conduct and/or acquiesced in the
10 deprivation of Mr. Burum's rights as alleged herein. Moreover, Defendant
11 Mandel's training, supervision, and/or control of Defendants Randles and Schreiber
12 was a legal and proximate cause of their illegal retaliatory conduct and/or
13 constituted deliberate indifference to the deprivations of Mr. Burum's rights.

14 135. On information and belief, Defendant Schons supervised Defendants
15 Randles and Schreiber with regard to their conduct alleged herein. In this capacity,
16 Defendant Schons knew or should have known of their illegal retaliatory conduct,
17 yet he failed to take action to prevent that conduct and/or acquiesced in the
18 deprivation of Mr. Burum's rights as alleged herein. Moreover, Defendant
19 Schons's training, supervision, and/or control of Defendants Randles and Schreiber
20 was a legal and proximate cause of their illegal retaliatory conduct and/or
21 constituted deliberate indifference to the deprivations of Mr. Burum's rights.

22 136. The supervisory Defendants' conduct as described herein was so
23 closely related to the deprivation of Mr. Burum's rights as to be the moving force
24 that caused the ultimate injury. Further, each of the supervisory Defendants was
25 acting under color of state law.

26 137. As a legal and proximate result of Defendants Ramos, Cope,
27 Hackleman, Brown, Harris, Mandel, and Schons's supervisory conduct, Mr.
28 Burum's right to exercise his constitutional rights without government retaliation

1 was violated, causing Mr. Burum to suffer injury and harm, including lost income,
2 lost business opportunities, loss of reputation, litigation expenses including
3 attorneys' fees, and other compensatory damages, in an amount to be proved at
4 trial.

5 138. Defendants Ramos, Cope, Hackleman, Brown, Harris, Mandel, and
6 Schons's supervisory conduct was willful, wanton, malicious, and done with
7 reckless disregard for Mr. Burum's rights and therefore warrants the imposition of
8 exemplary and punitive damages.

9 **SIXTH CLAIM**

10 **Conspiracy – 42 U.S.C. § 1983**

11 **Against All Defendants**

12 139. Mr. Burum re-alleges and incorporates each allegation in Paragraphs 1
13 through 138 of this Complaint as though fully set forth herein.

14 140. Defendants formed a combination of two or more persons acting in
15 concert to commit the individual acts described above, the principal element of
16 which was the agreement between the Defendants to illegally retaliate against Mr.
17 Burum and deprive Mr. Burum of his constitutional rights.

18 141. Defendants combined, colluded, conspired, and/or agreed to act in
19 concert to wrongfully investigate and prosecute Mr. Burum for the purpose of
20 retaliating against Mr. Burum for engaging in litigation against the County and
21 District, for achieving the Settlement Agreement, and for making political
22 contributions, all as alleged herein.

23 142. Defendants performed overt acts in furtherance of the conspiracy as
24 alleged herein.

25 143. This conspiracy was the proximate cause of the illegal retaliation
26 against Mr. Burum and the deprivation of Mr. Burum's constitutional rights, as
27 alleged herein.

28 144. As a direct result of Defendants' conspiracy, Mr. Burum suffered

1 injury and harm, including lost income, lost business opportunities, loss of
2 reputation, litigation expenses including attorneys' fees, and other compensatory
3 damages, in an amount to be proved at trial.

4 145. Defendants' conduct was willful, wanton, malicious, and done with
5 reckless disregard for Mr. Burum's rights and therefore warrants the imposition of
6 exemplary and punitive damages as to each of them.

7 **SEVENTH CLAIM**

8 **Malicious Prosecution – California State Law**

9 **Against Defendants Aleman and Gonzales**

10 146. Mr. Burum re-alleges and incorporates each allegation in Paragraphs 1
11 through 145 of this Complaint as though fully set forth herein.

12 147. Defendants Aleman and Gonzales assisted in initiating and directing
13 Mr. Burum's prosecution by offering malicious and false information about Mr.
14 Burum and Colonies to investigators, a grand jury, and at trial.

15 148. Defendant Aleman assisted in initiating the proceeding against Mr.
16 Burum by knowingly making false statements to Defendants Randles and Schreiber
17 during his November 1, 2008, and other interviews prior to Mr. Burum's
18 indictment, and offering false testimony during both his grand jury and trial
19 testimony, all as alleged above.

20 149. Defendant Gonzales assisted in initiating the proceeding against Mr.
21 Burum by knowingly making false statements to Defendant Randles and Senior
22 Investigator Morey Weiss during her interviews prior to Mr. Burum's indictment,
23 and offering false testimony during both his grand jury and trial testimony, all as
24 alleged above.

25 150. Defendants Gonzales has also testified that she made a report to the
26 District Attorney's Public Integrity Unit soon after Colonies entered into the
27 Settlement Agreement. On information and belief, this report included false
28 information regarding Colonies and Mr. Burum in connection with the Settlement

1 Agreement.

2 151. In taking the actions alleged above, Defendants Aleman and Gonzales
3 both acted with malice against Mr. Burum.

4 152. Defendants Aleman and Gonzales acted for reasons other than a
5 legitimate belief that Mr. Burum had committed any crimes. Defendant Aleman
6 acted for the reason that his statements and testimony would cause him to obtain
7 leniency in his own criminal case. Defendant Gonzales acted for the reasons that
8 she believed her statements and testimony would assist in both criminally
9 prosecuting Mr. Burum without probable cause, a result she believed would punish
10 Mr. Burum for his harsh criticisms of her and the County, and in furthering the
11 County's plot to obtain both Colonies' property and the return of the \$102 million
12 settlement payment, a result she believed would punish Mr. Burum and Colonies
13 and be helpful in her future election campaigns.

14 153. Mr. Burum was held to answer at trial, without probable cause, based
15 on the knowingly false statements and perjured testimony offered by Defendants
16 Aleman and Gonzales.

17 154. The criminal case against Mr. Burum was legally terminated in his
18 favor when the jury found him not guilty on all remaining charges on August 28,
19 2017.

20 155. The harm to Mr. Burum from Defendants Aleman and Gonzales's
21 illegal actions includes lost income, lost business opportunities, loss of reputation,
22 litigation expenses including attorneys' fees, and other compensatory damages, in
23 an amount to be proved at trial.

24 156. Defendants Aleman and Gonzales's conduct was willful, wanton,
25 malicious, and done with reckless disregard for Mr. Burum's rights and therefore
26 warrants the imposition of exemplary and punitive damages as to each of them.

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1 **EIGHTH CLAIM**

2 **Negligence**

3 **Against All Defendants**

4 157. Mr. Burum re-alleges and incorporates each allegation in Paragraphs 1
5 through 156 of this Complaint as though fully set forth herein.

6 158. Defendants owed a duty to Mr. Burum to act reasonably in the
7 criminal investigating against him so as not to cause Mr. Burum undue harm, and a
8 duty to adequately investigate all reasonable leads and evidence.

9 159. Defendants breached their duty to Mr. Burum to act reasonably in his
10 criminal investigation by instead, as alleged above, unreasonably engaging in a
11 biased and unfair investigation designed to retaliate against Mr. Burum and
12 Colonies for their success in the civil litigation, subsequent PAC contributions, and
13 public statements made about the County, District, and various County employees
14 and officials. Nor did Defendants adequately investigate all reasonable leads and
15 evidence, as alleged above, including failing to adequately investigate the veracity
16 of statements made by key prosecution witnesses such as Defendants Aleman and
17 Gonzales. These breaches were a substantial factor in causing Mr. Burum's
18 unjustified prosecution and resulting harm.

19 160. The harm to Mr. Burum from Defendants' illegal actions includes lost
20 income, lost business opportunities, loss of reputation, litigation expenses including
21 attorneys' fees, and other compensatory damages, in an amount to be proved at
22 trial.

23 **NINTH CLAIM**

24 **Intentional Infliction of Emotional Distress**

25 **Against All Defendants**

26 161. Mr. Burum re-alleges and incorporates each allegation in Paragraphs 1
27 through 160 of this Complaint as though fully set forth herein.

28 162. Defendants' actions as alleged above were extreme and outrageous,

1 including but not limited to falsifying evidence and eliciting false testimony to
2 secure indictment without probable cause, and knowingly pursuing an unwarranted
3 investigation and meritless charges in order to subject Mr. Burum to six years of
4 retaliatory criminal prosecution.

5 163. Defendants' actions as alleged above were intended to cause Mr.
6 Burum emotional distress or were taken with reckless disregard of the probability
7 that Mr. Burum would suffer emotion distress.

8 164. Defendants' actions as alleged above caused Mr. Burum severe
9 humiliation, embarrassment, mental anguish, and emotional distress.

10 165. The harm to Mr. Burum from Defendants' illegal actions includes
11 injury to his person from emotional distress and physical manifestations therefrom,
12 lost income and earning capacity, expenses from medical and psychological
13 treatment, lost business opportunities, loss of reputation, litigation expenses
14 including attorneys' fees, and other compensatory damages, in an amount to be
15 proved at trial.

16 166. Defendants' conduct was willful, wanton, malicious, and done with
17 reckless disregard for Mr. Burum's rights and therefore warrants the imposition of
18 exemplary and punitive damages as to each of them.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, PLAINTIFF demands judgment against Defendants for the
21 following relief:

22 A. Damages of no less than \$50 million, but in an amount ultimately to be
23 proven at trial, including, but not limited to:

- 24 a. Compensatory damages, including for injury to person, lost income,
25 lost business opportunities, and loss of reputation; and
26 b. Punitive damages.

27 B. An award of reasonable attorneys' fees, costs, and expenses to
28 Plaintiff, pursuant to 42 U.S.C. § 1988, in an amount to be proven at trial;

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- C. For costs of suit herein incurred;
- D. Pre-judgment interest;
- E. Such other and further relief as this Court shall find just and proper.

Dated: April 2, 2018

LARSON O'BRIEN LLP

By: /s/ Stephen G. Larson
 Stephen G. Larson
 Jonathan E. Phillips
 Attorneys for Plaintiff
 JEFFREY S. BURUM

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff hereby demands a trial by jury of all issues so triable.

Dated: April 2, 2018

LARSON O'BRIEN LLP

By: /s/ Stephen G. Larson
 Stephen G. Larson
 Jonathan E. Phillips
 Attorneys for Plaintiff
 JEFFREY S. BURUM