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13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA

15 JACQUELYNNE M. CLARK-
16 RUSSELL, KARRA LEWIS, KEVIN
17 LEWIS, on behalf of themselves and all
18 others similarly situated,

19 Plaintiffs,

20 vs.

21 COUNTY OF ALAMEDA, AND
22 DOES 1-10, ET AL.,

23 Defendants

CASE NO: 16-cv-04816-YGR

FIRST AMENDED CLASS
ACTION COMPLAINT

42 U.S.C. §1983
VIOLATIONS OF SHERMAN
ANTITRUST ACT (15 U.S.C. §
1, et seq.)

JURY TRIAL DEMANDED

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1 **I. INTRODUCTION**

2 1. Thousands of Alameda County jail inmates and their families, most of
3 whom are not convicted but facing charges, are held hostage to grossly unfair and
4 excessive phone charges, forcing them to pay these charges in order to maintain
5 contact with their loved ones who are incarcerated. These charges are nothing but
6 money making schemes by Alameda County and its jail to force family members
7 desperately trying to maintain contact with their inmate husbands, parents and
8 children to pay for totally unrelated jail expenses or give up their primary lifeline
9 of communication. Alameda County runs one of the third largest jails in
10 California, and essentially extorts monies from mostly poor and minority families
11 trying to get by and stay in contact with loved ones. It does so by establishing
12 extortionate and outrageous “commissions” to be paid by this vulnerable
13 population to fund the jails.

14 2. The Federal Communications Commission (“FCC”) has recently
15 taken decisive action. After many years of deliberation, on October 2, 2015, it
16 reached the decision that it would set standards for ICS rates in order “to rein in the
17 excessive rates and egregious fees on phone calls paid by some of society’s most
18 vulnerable: people trying to stay in touch with loved ones serving time in jail or
19 prison.” FCC Press Release. [https://www.fcc.gov/document/fcc-takes-next-big-](https://www.fcc.gov/document/fcc-takes-next-big-steps-reducing-inmate-calling-rates)
20 [steps-reducing-inmate-calling-rates](https://www.fcc.gov/document/fcc-takes-next-big-steps-reducing-inmate-calling-rates). The FCC observed that “contact between
21 inmates and their loved ones has been shown to reduce the rate of recidivism,” but
22 “high inmate calling rates have made that contact unaffordable for many families,
23 who often live in poverty.” Reducing the cost of calls “measurably increases the
24 amount of contact between inmates and their loved ones, making an important
25 contribution to the criminal justice reforms sweeping the nation.” As Federal
26 Communications Commissioner Mignon Clyburn has said, this system “is
27 inequitable, it has preyed on our most vulnerable for too long, families are being
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1 further torn apart, and the cycle of poverty is being perpetuated.” She further added
2 that the prison phone industry was “the most egregious case of market failure” she
3 has seen in her career. This lawsuit seeks to put an end to this unconscionable
4 practice by the County of Alameda.

5 3. On November 5, 2015, the FCC released a “Second Report and Order
6 and Third Further Notice of Proposed Rulemaking” (FCC-136) which establishes
7 rate caps on interstate and intrastate calling rates and either eliminates and restricts
8 the fees inmate telephone providers could charge.

9 4. This action against the County of Alameda, along with soon to be
10 filed lawsuits against San Mateo County, Santa Clara County, Contra Costa
11 County and previously filed lawsuits against Los Angeles County, Orange County,
12 Ventura County, Riverside County and San Bernardino County, specifically
13 concerns the role of local California counties and jails, which collect
14 unconscionable “commissions” as payment for granting the exclusive telephone
15 link through which inmates in their various jails can communicate with the outside
16 world, including family, friends, bailbondsmen, legal counsel and others (hereafter
17 collectively “Call Recipients”). That these counties fully understand the injustice
18 they are inflicting, even while they continue it, is captured by the statement of
19 former Los Angeles County Supervisor, Zev Zaroslavsky, “Everyone’s making a
20 lot of money at the expense of inmates’ families. They’re in jail. They’re paying
21 their debt to society. *That doesn’t give us the right to fleece them.*” (emphasis
22 added).¹

23 5. The phone systems are commonly referred to as an Inmate Calling
24 System (“ICS”), which is the term used by the FCC when addressing them.

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27 ¹ See David Lazarus, *Gouging L.A. County Inmates With High Phone Fees*, The
28 Los Angeles Times, September 8, 2014.

1 Counties like the Alameda County enter into exclusive contracts granting to
2 telecommunications companies, the most common of which are Global Tel*Link
3 Corporation (“GTL”) and Securus Technologies, Inc. (“Securus”) (hereafter
4 collectively the “telecommunications companies”), the exclusive right to establish
5 a phone system through which inmates – both pretrial and convicted – may
6 communicate with Call Recipients, who have to establish a pre-paid account with
7 the telecommunications companies and are charged unreasonable, unjust and
8 exorbitant rates, the lion’s share of which are in turn paid to the County of
9 Alameda as what are euphemistically referred to as “commissions.” Said
10 telecommunications companies are common carriers within the meaning of the
11 Federal Communications Act. Under this scheme, the County of Alameda and its
12 jails receive a **guaranteed \$1.5 million annually or 70.5%, whichever is higher,**
13 which comprises the majority of the collected charges, in addition to a yearly
14 \$150,000 technology grant.

15 6. Notably, the State of California provides a stark contrast to the
16 practices of Alameda County. California’s practice establishes that there is no
17 meaningful basis to contend that exorbitant phone rates and commissions are
18 necessary to cover the costs of the service. In August 2007, California began to
19 phase out commissions at its state prisons, ultimately eliminating them in 2010.
20 Prior to August 2007, calls from California's prisons were \$1.50 + \$.15/minute for
21 local calls, \$2.00 + \$.22/minute intrastate and \$3.95 + \$.89/minute interstate.
22 Now, with no commissions, current per minute rates for intrastate and local calls
23 are \$0.135 and \$0.09, respectively, and the cost of an intrastate 15 minute call is
24 \$2.03. Thus, the same 15-minute intrastate call without the commissions is
25 61.70% less than when the State received commissions (\$3.27 differential in the
26 post commission fee divided by \$5.30 total fee when commissions were used).

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1 7. These payments, euphemistically called “commissions,” are an
2 integral part of a scheme by virtue of which the County of Alameda and the
3 telecommunications companies conspire and share in charging Call Recipients
4 unjust, unreasonable and exorbitant rates to communicate with inmates, as well as
5 fees that are illegal under California law. The rates charged to inmates and their
6 families, friends and associates are far greater than those paid for ordinary
7 telephone service.

8 8. These unjust, unreasonable, excessive and unlawful fees work a
9 terrible hardship on inmates, and their family, friends and associates who bear the
10 brunt of the charges. Most inmates of Alameda County jails are relatively poor and
11 lack significant financial resources; they are disproportionately people of color,
12 especially African-American and Latino; many suffer from serious mental illness.
13 Their families, friends and associates similarly are relatively poor, people of color
14 and lack significant financial resources. The charges at issue in this complaint
15 unlawfully put the burden on inmates’ families, friends and associates of paying
16 for County services and costs that are rightfully the responsibility of the taxpayers
17 and society at large. These practices limit contact between inmates and their
18 families, friends, associates and other Call Recipients due to their exorbitant costs,
19 resulting in greater isolation for inmates and reduced support, and undermining the
20 objective of returning inmates to the community with greater and stronger ties.
21 Many people are forced to limit their contact with inmates far more than they
22 would wish because of the cost.

23 9. Although the Complaint identifies Defendant County of Alameda, the
24 Sheriff’s Department of Alameda County is a part of that County and, as the term
25 “County” or “County Defendants” is used in this Complaint, it encompasses the
26 Sheriff’s Department of Alameda County as well as the County at large.

1 10. Plaintiffs seek damages and injunctive relief, including refunds of the
2 unlawful sums they paid described in this Complaint.

3 11. Defendant Alameda County's wrongful conduct involves relatively
4 small amounts of damages for each class member. Defendants are carrying out a
5 scheme to deliberately collect unlawful but small sums of money from large
6 numbers of Call Recipient Class Members and Inmate Class Members. Call
7 Recipient Class Members are individuals who accept calls from the incarcerated
8 inmate, and set up an account with the third party phone providers. Inmate Class
9 Members are the incarcerated individuals who use the telephone to contact the Call
10 Recipient Class Members. The Defendants conduct unlawfully burdens Class
11 Members' ability to communicate with loved ones, friends, associates or persons
12 important to their or their loved ones' legal situation. Each class brings this action
13 on their own behalf and on behalf of all others similarly situated.

14 12. The gravamen of this Complaint concerns Alameda County's liability
15 for 1) violation of 42 U.S.C. §1983 (for depriving inmates and their families and
16 associates their First Amendment rights of association, denying call recipients
17 rights to equal protection, and unconstitutionally conditioning their use of the
18 phones on such outrageous charges in violation of the Fifth Amendment's unlawful
19 takings provision, and 2) a violation of the Sherman Antitrust Act, 15 U.S.C. §1, et
20 seq.

21 13. Plaintiffs anticipate that the Complaint will be amended to add
22 additional Named Plaintiff Class Representatives for Alameda County.

23 **II. JURISDICTION AND VENUE**

24 14. Plaintiffs present federal claims for relief under 42 U.S.C. §1983 and
25 15 U.S.C. § 1, et seq. Accordingly, federal jurisdiction is conferred upon this
26 Court by 28 U.S.C. §§1331 and 1343.

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1 15. Plaintiffs' claims arise out of acts of the Defendants in Alameda
2 County, located within the Northern District of California. Accordingly, venue is
3 proper within the Northern District of California.

4 16. All Plaintiffs – whether inmates for whom a third party ICS account
5 was in the past or present established, or will in the future be established, and Call
6 Recipients who establish the ICS account (defined more fully in ¶1, *supra*) – have
7 standing because both inmates and Call Recipients suffered an injury in fact.
8 Inmates, even if they did not pay or contribute to payment for the ICS, were and
9 will be injured because the unlawful conduct alleged herein restricted their
10 practical ability to communicate with the outside world. Call Recipients were
11 injured both because the unlawful conduct alleged herein restricted their practical
12 ability to communicate with inmates and because they paid for unlawful fees and
13 charges.

14 **III. PARTIES**

15 **A. PLAINTIFFS**

16 17. Plaintiff Jacquelynn M. Clark-Russell is the mother of Jayson
17 Maleek Russell, who was a male inmate at Santa Rita Jail in Dublin, California
18 since April 2015. Ms. Clark-Russell directly bears the cost of the charges for
19 telephone calls made by her son. Therefore, Plaintiff Jacquelynn M. Clark-Russell
20 qualifies as the payor of said fees.

21 18. Plaintiff Karra Lewis is Kevin Lewis's wife and directly bears the cost
22 of the charges for telephone calls made by her husband. Therefore, Plaintiff Karra
23 Lewis qualifies as the payor of said fees.

24 19. Plaintiff Kevin Lewis is a male inmate at the Santa Rita Jail in Dublin,
25 California, starting in January 2015 and continuing to this date.

26 20. Defendant County of Alameda (hereafter "County") is a public entity
27 organized and existing under the laws of the State of California. The Alameda
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1 County Sheriff's Department (hereafter "ACSD") is a public entity within the
2 meaning of California law, and is an agency of Alameda County (Defendants
3 Alameda County and the Alameda County Sheriff's Department are hereinafter
4 collectively referred to as "County Defendants"). The County is sued in its own
5 right for a County and/or ACSD policy, practice or custom which caused
6 Plaintiffs' injuries in violation of one or more federal rights. ,

7 21. Plaintiffs are ignorant of the true names and capacities of Defendants
8 sued herein as DOES 1 through 10, inclusive, and therefore sue these Defendants
9 by such fictitious names. Plaintiffs will give notice of this complaint, and of one of
10 more DOES' true names and capacities, when ascertained. Plaintiffs are informed
11 and believe, and based thereon allege that Defendants DOES 1 through 10 are
12 responsible in some manner for the damages and injuries hereinafter complained
13 of. Because there are numerous Defendants, each of which may have Doe
14 Defendants that should appropriately be named in the Complaint, ten Doe
15 Defendants may be inadequate. Plaintiffs reserve the right to seek leave to add Doe
16 Defendants.

17 22. Individual Defendants from Alameda County (although not currently
18 named, but who may be named in the future) may at times be referred to herein
19 collectively as the "Individual Defendants."

20 23. Upon information and belief, Plaintiffs further allege that, at all times
21 relevant herein, the Individual Defendants participated in, implemented,
22 supervised, approved, and/or ratified the unconstitutional or illegal acts undertaken
23 on behalf of the County Defendant with regard to which they are named as
24 Individual Defendants.

25 24. Plaintiffs are informed and believe, and thereupon allege that, at all
26 times relevant herein, the Individual Defendants, and each of them, were the
27 agents, servants and employees of the County Defendant with regard to which they
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1 are named as Individual Defendants, and were acting at all times within the scope
2 of their agency and employment with the knowledge and consent of their
3 principals and employers. At all times herein, Defendants, and each of them, were
4 acting under the color of state law.

5 25. When a County Defendant is named on state law claims, it is named
6 not only under a theory of directly liability, but also as an entity responsible in
7 respondeat superior for the actions undertaken by its agents, servants and
8 employees. Said respondeat superior liability extends to and encompasses, but is
9 not limited to, the ministerial acts of implementing the contracts and ICS charges
10 challenged in this Complaint.

11 26. When the phrase “Alameda County Defendants” is used in this
12 Complaint, it refers not only to the County Defendants, but to the Doe Defendants
13 and to any Individual Defendants who may be named with regard to that County.

14 **IV. CLAIMS OF CLASS REPRESENTATIVES**

15 27. Due to the cost of each call, whether through GTL or another
16 telecommunications company, Ms. Clark-Russell has paid many hundreds of
17 dollars to GTL since her son’s imprisonment. Similarly, Mrs. Lewis has also paid
18 many hundreds of dollars to GTL since her husband’s imprisonment. Plaintiffs
19 Jacquelynn M. Clark-Russell, Karra Lewis, and Kevin Lewis bring this suit on
20 behalf of themselves and on behalf of a class of similarly situated persons, defined
21 elsewhere in this Complaint.

22 **V. CLASS ACTION FACTUAL ALLEGATIONS**

23 28. The County of Alameda entered into an *exclusive* contract with
24 Pacific Bell from 1995 through 2007 to provide inmate telephone services in its
25 county jails. In October of 2007, Global Tel*Link (hereinafter referred to as
26 “GTL”) became the assignee and successor in interest to the Agreement with
27 Pacific Bell, from on or about October 2007 through the present, to provide pay
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1 telephone services from Alameda County’s jails and other correctional facilities,
2 resulting in a monopoly for GTL who received the contract. Because these
3 contracts were/are exclusive to GTL and because inmates are literally a captive
4 market with no ability to choose another telephone company, there are no
5 competitive market forces to constrain the prices set by GTL.²

6 29. In return for this monopoly power, however, Pacific Bell and GTL
7 provides kickbacks, masqueraded as “site commissions,” to the County of
8 Alameda. Indeed, the County of Alameda selected Pacific Bell and GTL to be the
9 third party phone providers based on the fact that they were the companies that
10 agreed to pay the highest amount in annual commissions. In order to generate
11 these sizable kickbacks, “[f]amilies of incarcerated individuals often pay
12 significantly more to receive a single 15-minute call from prison than for the basic
13 monthly phone service.”³ In addition, GTL imposes unnecessary and
14 unconscionable fees and charges on accounts used for inmate telephone calls, all of
15 which “inflicts substantial and clear harm on the general public,”⁴ including
16 Plaintiffs.

17 30. Since County Defendant’s commission contract provides a substantial
18 minimum guaranteed fee against an identified percentage of the ICS charges for
19 Alameda County after which GTL still make a substantial profit, it is obvious that,
20 without the commissions, the charges would be substantially lower, and they bear
21 no reasonable relationship to the actual cost of providing the ICS service.

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25 ² See *In re Rates for Interstate Inmate Calling Servs. I*, 28 FCC Rcd. 14107, 14129
26 (F.C.C. Sept. 26,).

27 ³ *Id.*, 28 FCC Rcd. at 14130.

28 ⁴ *In re Rates for Interstate Calling Servs. II*, 40, 15929, 15938 (F.C.C. Nov. 21, 2013).

1 31. County Defendants use its annual commissions as provided by Penal
2 Code §4025(c-d), which states that any money or commission collected by a jail
3 for the use of pay phones primarily used by incarcerated inmates shall be deposited
4 in the Inmate Welfare Fund and used first for the benefit, education and welfare of
5 inmates and, to the extent not needed for that purpose, may be used for the
6 maintenance of county jail facilities. Nonetheless, rather than using the money
7 primarily for vocational and educational programs, or other programs designed for
8 the rehabilitation of inmates, much, if not most, of the money deposited in the
9 Inmate Welfare fund is spent on general jails issues, including maintenance,
10 equipment, office furniture, salaries and, in some instances, food. The
11 demographics of the jail population of County Defendants' jails are highly
12 disproportionate to the demographics of Alameda County as a whole. While
13 Plaintiffs do not currently have statistical breakdown of Alameda County, there
14 are readily available statistics available on the demographics of the California
15 prison population which, on information and belief, mirrors that of the County
16 jails. While approximately 29% of the California male prison population is
17 African-American, less than 7% of the California population is African American.
18 In 2013, 4.367 % of all African-American males (4,367 out of every 100,000) in
19 California were imprisoned, compared to .922 % (922 out of every hundred
20 thousand) for Latinos, and .488% (488 out of every hundred thousand) for whites.
21 Said another way, African-Americans are imprisoned at almost 10 times the rate of
22 whites, and Latinos are imprisoned at almost twice the rate of whites.

23 32. The jail population is similarly disproportionately composed of
24 persons with mental illnesses or drug addiction, both of which qualify as
25 disabilities. A 2006 study by the U.S. Department of Justice found that more than
26 half of all prison and jail inmates have a mental health problem compared with 11
27 percent of the general population, yet only one in three prison inmates and one in
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1 six jail inmates receive any form of mental health treatment. Other data indicate
2 that approximately 20% of incarcerated inmates have a serious mental illness, and
3 30 to 60 % have substance abuse problems. The percentages increase significantly
4 when including broad-based mental illnesses. For example, 50 percent of males
5 and 75 percent of female inmates in state prisons, and 75 percent of females and 63
6 percent of male inmates in jails, will experience a mental health problem requiring
7 mental health services in any given year.

8 33. There are not security or prison administration issues at stake in the
9 question of whether excessive commissions are paid, and there is no rational
10 connection between those issues and payment of an excessive and unreasonable
11 commission. A substantial portion of the commissions does not go into the Inmate
12 Welfare Fund at all, and, on information and belief, much of the funds that do go
13 into that Fund do not redound to the benefit of the inmates. The sole impact of the
14 relief sought here would be to reduce the funds received by the County Jail from
15 the commissions. The requested relief has no direct impact on the security or
16 operation of the jail. To the extent the requested relief impacts the jail's access to
17 funds, jail funding is not an issue entitled to any judicial deference, and in any
18 event is not a justification for an otherwise unlawful prison practice.

19 **A. FACTUAL ALLEGATIONS**

20 34. For a period of several years beginning in 1995 through 2007, the
21 County had a written agreement with Pacific Bell to provide ICS for the Alameda
22 County Sheriff's Department and Alameda County jails. Pursuant to that
23 agreement, Pacific Bell agreed to pay, and did pay, the County signing bonuses
24 between \$500,000 and \$650,000 and commission rates between 41% to 54%.
25 Plaintiffs are currently unaware of the actual commission amounts that Pacific Bell
26 has paid to this County for each year this agreement was in effect.

1 35. In addition, upon information and belief, the County also has an
2 agreement with GTL and/or another third party provider, the details of which are
3 currently unknown to Plaintiffs, but which generally involve the sale of prepaid
4 direct call phone cards directly to inmates. As with the GTL arrangements, the
5 calling cards have unreasonable, unjust and grossly excessive rates, with a
6 connection fee and a rate per minute far exceeding the standard rate for local calls,
7 or those of the Alameda County region.

8 36. Effective on or about October 2007, GTL became the assignee and
9 successor in interest to the original 1995 Agreement (hereinafter "Agreement")
10 between the County and Pacific Bell. In 2008, the Agreement between GTL and
11 the County was extended through January 31, 2011. In February 2011, the
12 Agreement was amended to include a \$75,000 yearly signing bonus and a 56%
13 commission, with the Agreement being extended through January 31, 2012. In
14 February 2012, the Agreement was once again amended extending the contract
15 through April 30, 2012 and implementing the use of pre-paid calling cards at
16 Alameda County jails. In May 2012, the current written Agreement was entered
17 into between GTL and the County. The current Agreement is for a period of five
18 (5) years, from May 1, 2012 through April 30, 2017. Under this Agreement, the
19 County receives a Minimum Annual Guaranty of \$1,500,000 per year, or 70.5% of
20 all revenues generated through the ICS. The Agreement also includes a yearly
21 \$150,000 technology grant to be paid by GTL to the County.

22 37. At no time did the County's residents vote to approve the foregoing
23 commissions paid by GTL to the County or the rates charged to the inmates and/or
24 Call Recipients pursuant to the County's agreements with GTL.

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1 **VI. CLASS DEFINITIONS**

2 38. The Named Plaintiffs bring this action on their own behalf, and on
3 behalf of all other persons similarly situated, pursuant to Rule 23 of the Federal
4 Rules of Civil Procedure.

5 39. The Named Plaintiffs for the General Class of Alameda County are as
6 follows:

- 7 a. Jacquelynn M. Clark-Russell (mother of Jayson Maleek Russell, who
8 established and paid for a pre-paid ICS account to allow her to
9 communicate with her son);
10 b. Karra Lewis, (wife of Kevin Lewis, a male inmate at the Santa Rita
11 Jail); and
12 c. Kevin Lewis, a male inmate at the Santa Rita Jail.

13 40. At times in this Complaint the General Class Named Plaintiffs may be
14 referred to collectively by that title. .

15 41. Additionally, at times in this complaint, the General Class Named
16 Plaintiffs who were or are inmates are referred to collectively as the “Named
17 Inmate Plaintiffs”, and the General Class Named Plaintiffs who were Call
18 Recipients are referred to collectively as the “Named Call Recipient Plaintiffs.”

19 42. Also, the General Class Members who qualify as Call Recipients at
20 times may be referred to collectively as “Call Recipient Class Members,” and the
21 General Class Members who qualify as inmates at times may be referred to
22 collectively as “Inmate Class Members.”

23 **A. GENERAL CLASS DEFINED**

24 43. The General Rule 23(b)(2) Class (referring to the class of people
25 seeking purely injunctive relief) of Alameda County is generally defined as
26 follows:
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1 Those individuals or entities that qualify as either a) a past, present or
2 future Alameda County Jail inmate for whom a third party ICS account was
3 in the past or present, or in the future will be, established, or b) a Call
4 Recipient, i.e., inmates' family, friends, bailbondsmen, legal counsel, or
5 others, who in the past or present has established, or will in the future
6 establish, a pre-paid ICS account with a telecommunications company
7 (currently GTL) that has contracted with the Alameda County to provide
8 third party phone accounts for phone access to County Jail inmates, from
9 which pre-paid accounts the phone charges and administrative or other fees
10 for calls with inmates housed or confined in any Alameda County Jail
11 Facility are paid, and out of which collected funds the County of Alameda is
12 paid commissions pursuant to its contract with the telecommunications
13 company.

14 44. The General Rule 23(b)(3) Class (referring to the class of people
15 seeking monetary relief in addition to injunctive relief) of Alameda County is
16 generally the same, but limited to those who suffered monetary harm and so
17 excludes certain future class members, and is defined as follows:

18 Those individuals or entities, through the earlier of the complete
19 cessation of the challenged conduct or the final resolution of this case, that
20 qualify as either a) a past or present Alameda County Jail inmate for whom
21 a third party ICS account was established, or b) a Call Recipient, i.e.,
22 inmates' family, friends, bailbondsmen, legal counsel, or others, who in the
23 past or present has established, or will in the future establish, a pre-paid ICS
24 account with a telecommunications company (currently GTL) that has
25 contracted with the County of Alameda to provide third party phone
26 accounts for phone access to County Jail inmates, from which pre-paid
27 accounts the phone charges and administrative or other fees for calls with
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1 inmates housed or confined in any County of Alameda Jail Facility are paid,
2 and out of which collected funds the County of Alameda is paid
3 commissions pursuant to its contract with the telecommunications company.

4 **VII. COMPLIANCE WITH RULE 23 REQUIREMENTS DEFINITIONS**

5 **A. NUMEROSITY**

6 45. Because California is such a large state, many of its jail systems are
7 large compared to the average jail system in the United States.

8 46. The Alameda County Jail has a daily average jail population
9 numbering around 3,700 inmates.

10 47. Average jail turnover rate in US jails is 15 times per year.

11 [http://apps.fcc.gov/ecfs/document/view;NEWECFSSESSION=KnsqVy1h8yKTrl2
12 gyF3g621nyZNJN2nJpXX6DFxznyXyXnh8LJhT!1736751079!-
13 973180750?id=60001115155.](http://apps.fcc.gov/ecfs/document/view;NEWECFSSESSION=KnsqVy1h8yKTrl2gyF3g621nyZNJN2nJpXX6DFxznyXyXnh8LJhT!1736751079!-973180750?id=60001115155)

14 48. While the turnover rate is smaller in large jails, the jail population
15 turns over several times per year.

16 49. Even assuming that only a small fraction of inmates and their families
17 avail themselves of prepaid ICS accounts, on information and belief, each class for
18 Alameda County numbers in the thousands.

19 **B. COMMON ISSUES OF FACT OR LAW**

20 50. The County of Alameda has a contract with a telecommunications
21 company, the terms of which provide a minimum annual guaranteed payment
22 against a percentage that goes to the County Jail for the exclusive right to provide
23 pre-paid Call Recipient phone accounts to receive inmate calls.

24 51. The common issues of fact or law applicable to each class include:

- 25 a. Are the charges pursuant to which Defendant Alameda County
26 receives Contract Funds so excessive, arbitrary and/or
27 unreasonable as to deprive or limit Class Members' ability to
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- 1 reasonably communicate between Inmate Class Members and
2 their families and loved ones who are Call Recipient Class
3 Members in violation of the First Amendment and/or Equal
4 Protection clause of the United States Constitution?
- 5 b. Does the manner in which the County of Alameda contracts
6 with an ICS provider and/or charges Class Members violate the
7 Sherman Antitrust Act?
- 8 c. Are the charges pursuant to which the Defendant Alameda
9 County receives Contract Funds so excessive, arbitrary and/or
10 unreasonable as to place unconstitutional conditions on Class
11 Members' exercise of their First and/or Fifth Amendment rights
12 and/or constitute an unlawful taking in violation of the unlawful
13 takings clause of the Fifth Amendment?
- 14 d. Are presumed damages available to Plaintiffs and the Class
15 Members for their non-economic damages for violation of the
16 federal rights asserted in the complaint?

17 52. While there are additional common issues, these issues alone more
18 than establish that there are common issues.

19 **C. TYPICALITY**

20 53. In accordance with F.R. Civ. P. Rule 23(a), the claims of the Named
21 Plaintiffs are typical of each class for which they are named as a class
22 representative. All Named Inmate Plaintiffs were in the custody of Alameda
23 County Jail when they were subjected to the unlawful conduct alleged in the
24 Complaint, which unlawful conduct applied and applies to all inmates in Alameda
25 County Jail, who established, or whose family or other associates established, an
26 ICS pre-paid account through Call Recipients. All Named Call Recipient Plaintiffs
27 established a pre-paid ICS account with Alameda County Jail in order to be able to
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1 communicate with an inmate housed in Alameda County Jail, and were
2 accordingly subjected to the unlawful conduct alleged in the Complaint, which
3 unlawful conduct applied and applies to all Call Recipients who established an ICS
4 pre-paid account through Call Recipients.

5 54. Thus, the Named Plaintiffs for the General Class of Alameda County
6 have the same interests, and have suffered the same type of damages as the Class
7 Members of that Class. Named Plaintiffs' claims in this Complaint are based upon
8 the same or similar legal theories as the claims of the Class Members. Each class
9 member herein suffered actual damages as a result of the actions of each Defendant
10 applicable to that class. The actual damages suffered by Plaintiffs are similar in
11 type and amount to the actual damages suffered by each class member.

12 55. The economic losses suffered by each class member are commonly
13 determined by the amount paid by that class member for the ICS charges paid by
14 or on behalf of that class member, plus interest to be determined.

15 **D. ADEQUACY OF REPRESENTATION**

16 56. In accordance with F.R. Civ. P. Rule 23(a), the Named Plaintiffs will
17 fairly and adequately protect the interests of the class. The interests of the Named
18 Plaintiffs are consistent with and not antagonistic to the interests of each class.

19 57. Similarly, class counsel are experienced class action litigators who
20 will fairly and adequately protect the interests of each class.

21 **E. PREDOMINANCE AND SUPERIORITY**

22 58. In accordance with Fed.R.Civ.P. Rule 23(b)(1)(A), prosecutions of
23 separate actions by individual members of the class would create a risk that
24 inconsistent or varying adjudications with respect to individual members of the
25 class would establish incompatible standards of conduct for the parties opposing
26 the class.

1 59. In accordance with Fed.R.Civ.P. Rule 23(b)(1)(B), prosecutions of
2 separate actions by individual members of the class would create a risk of
3 adjudications with respect to individual members of the class that would, as a
4 practical matter, substantially impair or impede the interests of the other members
5 of the class to protect their interests.

6 60. In accordance with Fed.R.Civ.P. Rule 23(b)(2), Plaintiffs are
7 informed and believe, and thereon allege that Defendants have acted on grounds
8 generally applicable to the class.

9 61. In accordance with Fed.R.Civ.P. Rule 23(b)(3), the questions of law
10 or fact common to the members of the class predominate over any questions
11 affecting only individual members, and this class action is superior to other
12 available methods for the fair and efficient adjudication of the controversy between
13 the parties. The interests of Class Members in individually controlling the
14 prosecution of a separate action is low in that most Class Members would be
15 unable to individually prosecute any action at all. The amounts at stake for
16 individuals are such that separate suits would be impracticable in that most
17 members of the class will not be able to find counsel to represent them on an
18 individual basis. It is desirable to concentrate all litigation in one forum because all
19 of the claims arise out of the same basic pattern of conduct, the legality of which is
20 subject to class wide determination. It will promote judicial efficiency to resolve
21 the common questions of law and fact in one forum rather than in multiple courts.
22 Because the unlawful conduct alleged herein is systemic, it is particularly well
23 suited to resolution on a class basis, as the critical questions in the case may be
24 answered on a class wide basis. Indeed, in this case, there are no individualized
25 issues at all regarding liability. Either the charges are lawful under the legal
26 theories implicated by this Complaint or they are not.

1 62. The claims raised herein are susceptible to common proof. Defendant
2 Alameda County has a contract under which it receives a minimum fee against a
3 percentage of certain proceeds in exchange for its grant of exclusive ICS rights.
4 The phone charges and related fees that Class Members pay are uniform across
5 Class Members, and are discoverable from the contracted telecommunications
6 company computerized records.

7 63. Plaintiffs know of no difficulty that will be encountered in the
8 management of this litigation that would preclude its maintenance as a class action.
9 The class action is superior to any other available means to resolve the issues
10 raised on behalf of the classes. The class action will be manageable because
11 computerized records systems exist from which to ascertain the members of the
12 class and to ascertain some of the proof relevant to Plaintiffs' claims. Liability can
13 be determined on a class-wide basis based on class wide evidence because the
14 Plaintiffs complain of systemic and widespread policies and practices that are
15 uniform for Defendant County of Alameda, based on their particular contract with
16 the relevant telecommunications company. Named Plaintiffs and the Class
17 Members are entitled to economic damages under federal law, and to such other
18 damages as may be determined by the Court or the trier of facts; and, in any event,
19 individualization or variability in damages is not a bar to a liability certification
20 based on common liability issues.

21 64. Plaintiffs do not know the identities of the Class Members. The
22 identities of the Class Members are ascertainable from a combination of Alameda
23 County Jail and the County's contracted telecommunications company records.
24 Plaintiffs are informed and believe, and thereon allege, that the foregoing computer
25 records reflect the identities, including addresses and telephone numbers, of the
26 persons who qualify as Class Members, and the charges incurred, and that it is
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1 possible to ascertain from those records who qualifies as a class member of each
2 class.

3 65. In accordance with Fed.R.Civ.P. Rule 23(b)(3), Class Members must
4 be furnished with the best notice practicable under the circumstances, including
5 individual notice to all members who can be identified through reasonable effort.
6 Plaintiffs are informed and believe that the telecommunications company computer
7 records and County Jail records for Defendant Alameda County contain a current
8 or last known address for Class Members, as well as the billing information
9 pertinent to each class member.

10 **VIII. APPROPRIATENESS OF EQUITABLE RELIEF**

11 66. Inmate Plaintiffs and Class Members currently incarcerated, and Call
12 Recipient Plaintiffs and Class Members with current and operating ICS accounts,
13 are and will continue to be, subject to the unlawful ICS phone charges addressed in
14 this Complaint.

15 67. Defendant Alameda County's continuing violations of law under
16 applicable United States constitutional and statutory provisions causes Plaintiffs
17 and Class Members continuing, sweeping and irreparable harm.

18 68. Because no adequate remedy at law exists for the injuries alleged
19 herein, Plaintiffs seek injunctive relief under both federal and state law, including
20 restitution in amounts to be determined at trial based on the unlawful payments
21 plus interest.

22 **IX. DAMAGES**

23 69. As a result of Alameda County Defendants' unlawful conduct,
24 Plaintiffs and Class Members have suffered, and will continue to suffer,
25 compensable damages in amounts to be determined at trial, including economic,
26 physical and emotional distress damages (for the Call Recipient Plaintiffs), in
27 amounts according to proof at trial. The economic damages and/or
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1 refund/restitution/disgorgement are susceptible to class wide proof based on the
2 computerized records of the applicable telecommunications company, the Alameda
3 County Jail, and the applicable documents and records memorializing and
4 documenting the ICS charges complained of herein.

5 70. Plaintiffs do not seek retroactive reduction of the rates charged by
6 phone companies. Rather, the monetary relief they seek is limited to
7 reimbursement to the class of the commission the County has received to the extent
8 they do not reflect the reasonable facility cost of supporting ICS, plus interest. Nor
9 do Plaintiffs seek to require multiple phone companies operate in the Jail. Nor do
10 Plaintiffs seek to prevent the County for entering into future exclusive ICS
11 contracts with a particular phone provided. The future relief Plaintiffs seek is to
12 restrict the amount of commissions for which the County contracts in the future to
13 an amount that reasonably reflects the cost to the County Jail to support the
14 provision of ICS access.

15 71. Plaintiffs and the class members are entitled to presumed damages
16 under federal law.

17 72. Alameda County Defendants acted maliciously, fraudulently or
18 oppressively, and in reckless disregard of the Plaintiffs' and Class Members'
19 rights, thereby entitling Plaintiffs and the Class to an award of punitive damages
20 from all Defendant individuals except the County Defendants or any governmental
21 entity.

22 **X. CLAIMS**

23 **A. VIOLATIONS OF 42 U.S.C. §1983 [BY ALL PLAINTIFFS AGAINST**
24 **ALAMEDA COUNTY DEFENDANTS]**

25 73. Plaintiffs incorporate all previous and subsequent paragraphs of this
26 Complaint into this claim.

27 74. Defendant Alameda County is a local government entity susceptible
28 to suit under 42 U.S.C. §1983. All of the conduct alleged herein was done under

1 color of state law, pursuant to a governmental policy, custom or practice. Each of
2 the contracts alleged herein was approved by, and entered into under the authority
3 of, the Alameda County Board of Supervisors.

4 **A. FIRST AMENDMENT**

5 75. The conduct alleged herein violates and unduly burdens the Class
6 Members' rights of association and meaningful personal communication with
7 family, friends, associates and other Call Recipients in violation of the First
8 Amendment to the United States Constitution. Furthermore, the commissions
9 exact an unconstitutional tax that impermissibly burdens Class Members' First
10 Amendment rights.

11 76. Even if the County Jail has discretion to deny telephone access to
12 inmates, it has chosen to provide such access. Accordingly, since it has chosen to
13 provide such a benefit to inmates and their families, it may not condition class
14 members' exercise of, and access to, that discretionary benefit on coercive or
15 unreasonable conditions that require payment of money not reasonably related to
16 that benefit or its costs, which is what it has done here.

17 77. As a direct and proximate result of County Defendants' violations,
18 Plaintiffs and the Class Members are entitled to injunctive relief, including
19 restitution, in amounts to be determined at trial based on the unlawful payments
20 plus interest.

21 **B. UNCONSTITUTIONAL CONDITIONS AND UNLAWFUL**
22 **TAKINGS**

23 78. The conduct alleged herein violates the Fifth Amendment to the
24 United States Constitution. Both Call Recipients and Inmate Plaintiffs' and Class
25 Members' ability to speak to loved ones, friends, and counsel is unconstitutionally
26 conditioned on ICS payments that unreasonably burden the exercise of Fifth
27 Amendment rights to just compensation, unreasonably forces Plaintiffs and the
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1 classes alone to bear public costs that should be borne by the public as a whole, and
2 additionally bear no reasonable nexus or rough proportionality to the required
3 payments and the cost to, or burden or effect on, the County of Alameda by
4 allowing the provision of such calls. The FCC has determined that, for jails with
5 an average daily population between 350 and 2,499, the facility cost of supporting
6 ICS is between \$0.05-\$0.08 per minute, based on information provided by the
7 National Sheriff's Association. (See 8/9/16 FCC Order on Reconsideration, 16-
8 102, pg. 15 ¶ 26.

9 79. ICS charges are especially vulnerable to the type of coercion that the
10 unconstitutional conditions doctrine prohibits because the government often has
11 broad discretion to control inmates' access to the outside world, and therefore
12 government entities can pressure and coerce Class Members into paying hugely
13 disproportionate and unreasonable phone charges in order to be able to
14 communicate with loved ones and others herein referred to as Call Recipients.

15 80. Even if the Alameda County Defendants could deny inmate phone
16 calls altogether that is not what has occurred. Once ICS phone calls are allowed, it
17 cannot condition that benefit by infringing and burdening Fifth Amendment rights
18 by forcing Plaintiffs and Class Members to pay funds that are unreasonable and
19 substantially disproportionate to the cost to, or burden or effect on, Alameda
20 County Defendants for allowing ICS calls.

21 81. Accordingly, Alameda County Defendants' actions violate Plaintiffs'
22 and Class Members' Fifth Amendment rights, and/or place unconstitutional
23 conditions on their exercise, thereby violating the Fifth Amendment's prohibition
24 on unconstitutional conditions and taking private property without just
25 compensation.

1 82. As a direct and proximate result of Alameda County Defendants’
2 violations, Plaintiffs and the Class Members have been damaged in amounts to be
3 determined at trial.

4 83. As a direct and proximate result of Alameda County Defendants’
5 violations, Plaintiffs and the Class Members are entitled to injunctive relief,
6 including restitution, in amounts to be determined at trial based on the unlawful
7 payments plus interest.

8 **C. EQUAL PROTECTION**

9 84. The conduct alleged herein denies Call Recipient Class Members’
10 rights to equal protection of the laws. (It is not asserted on behalf of the Inmate
11 Class.)

12 85. First, it denies Class Members’ rights to equal protection because they
13 must pay highly inflated rates in comparison to the phone rates charged all other
14 persons, i.e., the public at large. At least the call recipient class members are
15 similarly situated to the public at large. The only distinction is that they are
16 communicating with a person in jail. The phone rates charged class members,
17 however, are significantly elevated above any reasonable increased costs
18 associated with the fact that the calls in question are with jail inmates.

19 86. That such class members are similarly situated to the public is
20 established by the requirements of the California Constitution limiting
21 governmental charges of any type to those reasonably related to the cost of the
22 governmental service. *See* Cal. Constitution, Article XIII. Since this action
23 challenges that government’s share of the ICS charges only, and that limitation
24 applies to all governmental charges not authorized by voters, ICS call recipients
25 are similarly situated to the general public when it comes to the charges at issue.
26 Further, under Proposition 26 of the California Constitution, Plaintiffs claim that
27 these commissions are, in fact, taxes. Saddling those who wish to communicate
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1 with inmates with the burden of maintaining the budget for the County jails
2 unfairly taxes call recipients relative to other taxpayers living in the County.

3 87. There is no rational basis to justify placing the burden of these
4 commissions solely on the friends and families of inmates, and those individuals
5 providing counseling and professional (legal) services, thereby charging them
6 more per call than similarly situated collect call recipients. Because the conduct
7 alleged herein is not reasonably related to security or safety, that consideration
8 does not provide a rational basis for the unlawful differential treatment alleged
9 herein.

10 88. Second, the conduct alleged herein denies Call Recipient Class
11 Members' rights to equal protection of the laws because it infringes on their
12 fundamental right of free expression and communication under the First
13 Amendment. In this case, even if the government could lawfully (which Plaintiffs
14 dispute) validly deny inmates the right to communicate by telephone, it has not
15 done so. Call Recipient Class Members' fundamental rights of free speech and
16 association are unlawfully burdened and infringed upon by the excessive ICS
17 phone charges challenged herein. When fundamental rights are infringed upon
18 based on invalid or overbroad distinctions, and there are not sufficient regulatory
19 interests justifying differential treatment, which is the case here, equal protection is
20 violated.

21 89. As a direct and proximate result of County Defendants' violations,
22 Plaintiffs and the Class Members have been damaged in amounts to be determined
23 at trial.

24 90. As a direct and proximate result of County Defendants' violations,
25 Plaintiffs and the Class Members are entitled to injunctive relief, including
26 restitution, in amounts to be determined at trial based on the unlawful payments
27 plus interest.

1 91. As a direct and proximate result of Alameda County Defendants’
2 violations, Plaintiffs, Jacquelynne M. Clark-Russell, Karra Lewis and Kevin
3 Lewis, and Call Recipient Class Members have been damaged in amounts to be
4 determined at trial.

5 92. As a direct and proximate result of San Mateo County Defendants’
6 violations, Plaintiffs, Jacquelynne M. Clark-Russell, Karra Lewis and Kevin
7 Lewis, and Call Recipient Class Members are entitled to injunctive relief,
8 including restitution, in amounts to be determined at trial based on the unlawful
9 payments plus interest.

10 **B. VIOLATION OF SHERMAN ANTITRUST ACT [BY ALL PLAINTIFFS**
11 **AGAINST ALAMEDA COUNTY DEFENDANTS] – INJUNCTIVE RELIEF**
12 **ONLY**

13 93. Plaintiffs incorporate all previous and subsequent paragraphs of this
14 Complaint into this claim.

15 94. For purposes of this cause of action, the relevant market is Inmate
16 Phone Services within Alameda County jails. Because inmates and call recipients,
17 including Plaintiffs, are a captive market in that they have no access to phone
18 services other than those offered by the County Defendants, inmate phone services
19 constitute a distinct market from phone services provided outside jails and prisons.
20 Indeed, there are companies, such as GTL and Securus, which compete against
21 each other solely in the inmate phone service market.

22 95. Rather than using their market power to obtain the most competitive
23 phone prices for its consumers (inmates and call recipients), including Plaintiffs,
24 through a typical bidding process, or by allowing more than one company to
25 provide inmate phone services, the County Defendants did the opposite. They used
26 their market control over the jails to enrich themselves at the expense of the phone
27 services end consumers (inmates and call recipients), entering into an exclusive
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1 agreement with the phone company willing to pay the highest kickback to the
2 County.

3 96. By providing GTL exclusive access to a captive market, the County
4 Defendants allow GTL to prey on Plaintiffs and the class they seek to represent by
5 charging exorbitant rates, without any competitive pressures. In addition, by
6 awarding the contract to GTL based on GTL agreeing to pay the County at least
7 \$1.5 million dollars per year, County Defendants functionally require GTL to take
8 advantage of its the exclusive market power granted it by the County Defendants to
9 charge rates far in excess of the rates that would prevail in a competitive market.

10 97. On the other hand, if the County Defendants permitted more than one
11 company to provide phone services within its jails and/or selected an exclusive
12 provider based on which company offered the most competitive pricing for end
13 consumers rather than the highest kickback to the County, consumers like
14 Plaintiffs would receive the benefits of such market competition, including lower
15 prices and increased quality and selection.

16 98. County Defendants' conduct not only thwarted competition for inmate
17 phone services within County Defendants' jails, but totally eliminated competition
18 except competition as to who would provide the County Defendants the greatest
19 benefit in exchange for grant of the exclusive contract.

20 99. The direct, proximate, and foreseeable result and effect of the
21 agreement between County Defendants and GTL was that competition for inmate
22 phone services within County Defendants' jails provided no market choice to the
23 ultimate consumer of inmate phone services. Consumers of inmate phone services,
24 like Plaintiffs, must pay supra-competitive prices for their phone calls.

25 100. The exclusive provider agreements described herein between the
26 County of Alameda and GTL constitutes an unreasonable, vertical agreement in
27 restraint of trade in violation of Section 1 of the Sherman Antitrust Act, 15 U.S.C.

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1 § 1. The anticompetitive effects of the Agreement are not overridden or justified
2 by any procompetitive benefits stemming from the Agreement. The charges paid
3 by consumers to use inmate telephone services are significantly above the actual
4 cost of providing the telephone services. Further, there are no safety concerns that
5 require such monopolistic arrangements, and certainly no requirements that the
6 County receive such substantial kickbacks, or any kickback at all. To the extent
7 that any procompetitive benefits result from the Agreement, they could be
8 achieved by less restrictive means.

9 101. As a direct, proximate, and foreseeable result of the foregoing
10 agreement, Plaintiffs have been injured by being charged supra-competitive prices
11 for use of inmate phone services within the County's jails.

12 102. County Defendant possesses monopoly power over the relevant
13 market (previously defined). It has the power to both control prices by requiring
14 large commissions and the power to exclude competition by allowing only one
15 inmate phone provider access to the market. It controls 100% of the relevant
16 market. It has used its monopoly power to foreclose competition and gain a
17 competitive advantage in violation of Section 2 of the Sherman Antitrust Act, 15
18 U.S.C. § 2.

19 103. County Defendant and GTL have entered into the previously
20 described contract and agreement with the full knowledge and intent to restrain
21 trade, including trade among the various states; have injured competition, and
22 caused an antitrust injury resulting from that anti-competitive conduct to the end
23 consumers (inmates and call recipients) who avail themselves of inmate phone
24 services.

25 104. The commissions constitute a taking of property (money), and, by
26 physically taking the money, also constitute an immediate harm. There are no state
27 administrative avenues of relief to exhaust.

1 105. GTL is not named as a Defendant herein but is an unnamed co-
2 conspirator.

3 106. GTL is a nationwide company that engages in commercial activities
4 throughout the United States. GTL describes itself on its website as “the leading
5 provider of integrated corrections technology for facilities across North America.”
6 GTL lists on its website facility specific information for correctional facilities in
7 California, Illinois, Arizona, Pennsylvania and Indiana. Career opportunities
8 applications for anywhere in the United States are handled through its Human
9 Resources offices in Mobile, Alabama. GTL provides a single contact number to
10 its correctional facilities clients throughout the United States, available on its
11 website. GTL integrates its technology on a national basis and consumer inquiries,
12 wherever based, are handled through a single, integrated Service Center. On
13 information and belief, GTL orders equipment used for its service from the stream
14 of interstate commerce, and many of the members of the Call Recipient class are
15 outside the State of California. Similarly, Defendant County and its County jails
16 regularly do business with companies throughout the United States, and regularly
17 orders products, including the products used for the foregoing contracts, from the
18 stream of interstate commerce. On information and belief, GTL orders equipment
19 used for its service from the stream of interstate commerce, and many of the
20 members of the Call Recipient class are outside the state of California. Similarly,
21 Defendant County and its County jails regularly do business with companies
22 throughout the United States, and regularly orders products, including the products
23 used for the foregoing contracts, from the stream of interstate commerce. Thus,
24 the conduct challenged herein has a substantial effect on interstate commerce.

25 107. Although Defendant Alameda County is a political subdivision of the
26 State of California, the conduct challenged herein has not been taken pursuant to a
27 clearly articulated and affirmatively expressed state policy, and the State of
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1 California did not affirmatively contemplate that Counties and County jails would
2 displace competition and has not delegated to Counties or County jails the
3 authority to act anti-competitively in setting fees or commissions. Enactment of
4 the limitations on local or state government's authority to impose assessments, fees
5 or taxes by virtue of Articles 13 C and D to the California Constitution makes clear
6 that local authorities are not authorized to establish fees of any kind that are not
7 reasonably related to their costs, which necessarily by its terms include
8 anticompetitive fees and charges.

9 108. The Named Plaintiffs and the members of each class who do
10 currently, or may in the future, use or avail themselves of the inmate telephone
11 service provided by GTL will suffer irreparable harm, and there is no adequate
12 remedy at law, unless the Court grants injunctive relief as is further described in
13 the Prayer for Relief section of this complaint.

14 **XI. PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiffs, on behalf of themselves and the Class Members
16 they seek to represent, request monetary and injunctive relief against each
17 defendant as follows:

- 18 1. General and special damages according to proof;
- 19 2. A refund/disgorgement/restitution of the monies paid by Class
20 Members that, in turn, were used to pay the contracted commissions to County
21 Defendants the amounts contracted for in connection with the inmate calling
22 agreements of each with telecommunications companies.
- 23 3. Economic, physical and, on behalf of the Call Recipient Class only,
24 emotional distress damages according to proof (in addition to the damages sought
25 in the preceding paragraph, or to the extent not covered or awarded pursuant to
26 those paragraphs).

1 4. Temporary, preliminary and permanent injunctive relief prohibiting
2 Defendant County of Alameda from continuing to engage in the unlawful practices
3 complained of herein as follows:

4 a. Prohibiting the Defendants from renewing, or entering into
5 new, ICS contracts under which it receives commissions or fees
6 that exceed the reasonable cost of providing the service of
7 allowing telephone access cost after determination of such
8 amounts by the court;

9 b. Prohibiting the Defendants, while the current challenged
10 contract remains in effect, from using the commissions it
11 receives under the contract for any purpose other than
12 placement in a court supervised fund for any purpose other than
13 ultimately restoring such funds back to the class members who
14 paid charges from which said commissions were taken to the
15 extent of said commissions.

16 5. Temporary, preliminary and permanent injunctive relief requiring
17 Defendant County of Alameda to provide refunds/disgorgement/restitution, as
18 permitted by law, of the monies paid or to be paid by Class Members as a form of
19 equitable relief.

20 6. Class wide presumed damages for non-economic damages for class
21 members on the federal claims.

22 7. Attorneys' fees and costs under 42 U.S.C. §1988, 15 U.S.C. § 26, and
23 whatever other statute or law may be applicable.

24 8. Grant any other relief that this Court may deem fit and proper.
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DATED: December 23, 2016 Respectfully Submitted,

KAYE, MCLANE, BEDNARSKI & LITT, LLP
RAPKIN & ASSOCIATES, LLP

By: /s/ Barrett S. Litt
Barrett S. Litt
Attorneys for Plaintiffs

DEMAND FOR JURY TRIAL

Plaintiffs, on behalf of themselves individually and on behalf of the Class,
demand a jury trial to the extent available under applicable law.

DATED: December 23, 2016 Respectfully Submitted,

KAYE, MCLANE, BEDNARSKI & LITT LLP
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