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GEORGIA DEFILIPPO AND CHRISTINA DEFILIPPO

8 UNITED STATES DISTRICT COURT

10 EASTERN DISTRICT OF CALIFORNIA

12 GEORGIA DEFILIPPO AND CHRISTINA
DEFILIPPO,

13 Plaintiffs,

14 vs.

15 COUNTY OF STANISLAUS, CITY OF
16 MODESTO, CITY OF TURLOCK, CITY
OF CERES, BIRGIT FLADAGER,
17 MARLISSA FERREIRA, KIRK BUNCH,
STEVE JACOBSON, DALE LINGERFELT,
18 FROILAN MARISCAL, LLOYD
MACKINNON, JON EVERS, DEREK
19 PERRY, CORY BROWN, GREG JONES,
TIMOTHY REDD, KENNETH
20 BARRINGER, FRANK NAVARRO, and
DOES 1-10, inclusive,

21 Defendants.

Case No.

COMPLAINT FOR DAMAGES

1. **VIOLATION OF CIVIL RIGHTS (42 U.S.C. § 1983)**
2. **MALICIOUS PROSECUTION**
3. **VIOLATION OF CALIFORNIA CIVIL CODE SECTION 52.1**
4. **FALSE IMPRISONMENT/FALSE ARREST**
5. **INTENTIONAL INFLECTION OF EMOTIONAL DISTRESS**
6. **DEFAMATION**

DEMAND FOR JURY TRIAL

GWILLIAM, IVARY, CHIOSSO, CAVALLI & BREWER

ATTORNEYS AT LAW

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1 **I. INTRODUCTION**

2 1. Plaintiffs Georgia DeFilippo (“Georgia”) and Christina DeFilippo (“Christina”)
3 are the wife and stepdaughter, respectively, of Frank Carson (“Carson”), a prominent Stanislaus
4 County criminal defense attorney. In August 2015, they were arrested for alleged involvement in
5 the murder of a known thief and drug addict. After an 18-month preliminary hearing, one of the
6 longest in California history, a judge ordered them released, explaining that it was “not difficult,”
7 given the clear lack of evidence against them.

8 2. How did this happen? It happened because the Stanislaus County District
9 Attorney and Sheriff’s Department, and Modesto, Turlock, and Ceres police departments – stung
10 by a series of high-profile defeats by Carson – falsely and maliciously concocted a fanciful tale,
11 wherein Carson and his family, concerned about the theft of antiques from their property,
12 resorted to murder for hire. Thus, Carson, Georgia, and Christina’s efforts to secure their
13 property, including through police assistance, were “evidence” of a murderous conspiracy, while
14 exculpatory evidence was ignored or destroyed. Indeed, the sum total of the evidence used to
15 bring charges against Georgia and Christina amounts to a few innocuous communications, which
16 no reasonable officer would find established probable cause.

17 **II. JURISDICTION AND VENUE**

18 3. Pursuant to 28 U.S.C. section 1331, the Court has original jurisdiction over this
19 action because it arises, *inter alia*, under the Constitution and laws of the United States.

20 4. The Court has personal jurisdiction over the defendants because, *inter alia*, they
21 transact business in and engaged in wrongdoing in the District.

22 5. Pursuant to 28 U.S.C. section 1391(b)(1)-(2), venue is proper because the
23 defendants reside in this District and a substantial part of the events or omissions giving rise to
24 the action occurred in the District.

25 **III. CONDITIONS PRECEDENT**

26 6. For the state law claims against public entities and employees, plaintiffs Georgia
27 DeFilippo and Christina DeFilippo (collectively, “Plaintiffs”) timely filed government claims
28 against the County of Stanislaus, City of Modesto, City of Turlock, and City of Ceres, and their

1 respective employees, on October 3, 2017. The City of Turlock issued a notice of deficient
2 claim on October 4, 2017. Plaintiffs filed amended government claims with the County of
3 Stanislaus, City of Modesto, City of Turlock, and City of Ceres on November 13, 2017. The
4 County of Stanislaus and City of Modesto rejected the claims on November 11, 2017, and the
5 City of Turlock rejected the claim on December 13, 2017.

6 **IV. PARTIES**

7 7. Plaintiff Georgia DeFilippo was 64 years old when she was falsely and
8 maliciously arrested for murder with the special circumstance of lying in wait, conspiracy to
9 commit murder, and false imprisonment. Georgia is, and was at all times herein mentioned, a
10 citizen of the United States and a resident of Stanislaus County.

11 8. Plaintiff Christina DeFilippo was 36 years old when she was falsely and
12 maliciously arrested for the same crimes as Georgia DeFilippo, due to a typographical error on
13 the arrest warrant that the judge failed to identify. Christina is, and was at all times herein
14 mentioned, a citizen of the United States. With the exception of August 2012 to June 2014,
15 when she resided in New York for graduate school, Christina was a resident of Stanislaus
16 County.

17 9. Defendant County of Stanislaus (“Stanislaus County”) is a county, incorporated,
18 duly organized, and existing under the laws of the State of California. Stanislaus County
19 operates under its authority the Stanislaus County District Attorney and Sheriff’s Department.
20 Stanislaus County is vicariously liable for defendants Birgit Fladager, Marlissa Ferreira, Kirk
21 Bunch, Steve Jacobson, Dale Lingerfelt, Froilan Mariscal, Lloyd MacKinnon, Cory Brown, Greg
22 Jones, and Kenneth Barringer’s wrongful arrest and detention of Plaintiffs, as well as violations
23 of their constitutional rights under California Civil Code section 52.1.

24 10. Based upon the principles set forth in *Monell v. Dep’t of Soc. Servs. of City of*
25 *New York*, 436 U.S. 658 (1978), Stanislaus County is liable for the deprivation of Plaintiffs’
26 rights protected by the United States Constitution, as set forth herein. Stanislaus County bears
27 responsibility because its policies, practices, and/or customs caused Plaintiffs’ injuries. In
28 particular, Stanislaus County and its officials, including Birgit Fladager, Marlissa Ferreira, Kirk

1 Bunch, Steve Jacobson, Dale Lingerfelt, Froilan Mariscal, Lloyd MacKinnon, Cory Brown, Greg
2 Jones, and Kenneth Barringer, maintained or permitted one or more of the following official
3 policies, customs, or practices:

- 4 a. Failure to provide adequate training and supervision of Stanislaus County District
5 Attorney attorneys and investigators, and Sheriff's Department deputies with
6 respect to the constitutional limits on search, seizure, arrest, and detention;
- 7 b. Failure to adequately discipline or retrain employees involved in misconduct;
- 8 c. Selection, retention, and assignation of employees with demonstrable propensities
9 for violation of constitutional rights;
- 10 d. Condonation and encouragement of employees in the belief that they can violate
11 the rights of persons such as Plaintiffs with impunity, and that such misconduct
12 will not adversely affect their opportunities for promotion and other employment
13 benefits; and
- 14 e. Ratification at the highest levels of authority of the specific unconstitutional acts
15 alleged herein.

16 11. Defendant City of Modesto is a municipal entity with the capacity to sue and be
17 sued. It is a Charter City under the laws of the State of California. The city operates under its
18 authority the Modesto Police Department. The City of Modesto is vicariously liable for
19 defendant Jon Evers' wrongful arrest and detention of Plaintiffs, as well as violations of their
20 constitutional rights under California Civil Code section 52.1.

21 12. Defendant City of Turlock is a municipal entity with the capacity to sue and be
22 sued. The city operates under its authority the Turlock Police Department. The City of Turlock
23 is vicariously liable for defendants Timothy Redd and Frank Navarro's wrongful arrest and
24 detention of Plaintiffs, as well as violations of their constitutional rights under California Civil
25 Code section 52.1.

26 13. Defendant City of Ceres is a municipal entity with the capacity to sue and be
27 sued. The city operates under its authority the Ceres Police Department. The City of Ceres is
28 vicariously liable for defendant Derek Perry's wrongful arrest and detention of Plaintiffs, as well

1 as violations of their constitutional rights under California Civil Code section 52.1.

2 14. Defendants Birgit Fladager, Marlissa Ferreira, Kirk Bunch, Steve Jacobson, Dale
3 Lingerfelt, and Froilan Mariscal are and were at all relevant times employed by the County of
4 Stanislaus District Attorney and committed the acts complained of herein while acting within the
5 course and scope of their official duties. They are sued in both their individual and official
6 capacities.

7 15. Defendants Lloyd MacKinnon, Cory Brown, Greg Jones, and Kenneth Barringer
8 are and were at all relevant times employed by the County of Stanislaus Sheriff's Department
9 and committed the acts complained of herein while acting within the course and scope of their
10 official duties. They are sued in both their individual and official capacities.

11 16. Defendant Jon Evers is and was at all relevant times employed by the City of
12 Modesto Police Department and committed the acts complained of herein while acting within the
13 course and scope of his official duties. He is sued in both his individual and official capacities.

14 17. Defendants Timothy Redd and Frank Navarro are and were at all relevant times
15 employed by the City of Turlock Police Department and committed the acts complained of
16 herein while acting within the course and scope of their official duties. They are sued in both
17 their individual and official capacities.

18 18. Defendant Derek Perry is and was at all relevant times employed by the City of
19 Ceres Police Department and committed the acts complained of herein while acting within the
20 course and scope of his official duties. He is sued in both his individual and official capacities.

21 19. Plaintiffs are informed and believe, and thereon allege that each defendant is, and
22 at all times mentioned herein was, the agent, employee, representative, successor, and/or
23 assignee of each other defendant. Each defendant, in doing the acts or in omitting to act, as
24 alleged herein, was acting within the scope of his or her actual and apparent authority, or the
25 alleged acts and omissions of each defendant as agent were subsequently ratified and adopted by
26 each other defendant as principal. Plaintiffs are informed and believe that each of the individual
27 defendants was in some way responsible for the constitutional violations and torts herein alleged.

28 ///

1 20. Plaintiffs are ignorant of the true names and capacities of the defendants sued
2 herein as Does 1-10, inclusive, and therefore sue these defendants by such fictitious names and
3 capacities. Plaintiffs are informed and believe, and on that basis allege, that each defendant sued
4 under such fictitious names is in some manner responsible for the occurrences herein alleged,
5 and that their injuries as herein alleged were proximately caused by the conduct of such
6 defendants.

7 **V. FACTUAL SUMMARY**

8 21. On August 14, 2015, plaintiff Georgia DeFilippo, age 64, the wife of Frank
9 Carson, a prominent Stanislaus County criminal defense attorney, and Christina DeFilippo, age
10 36, Georgia's daughter and Carson's stepdaughter, were arrested for the murder of a known
11 thief, heroin and methamphetamine addict, Korey Kauffman. The defendants, all members of
12 Stanislaus County law enforcement, conspired to conduct a retaliatory, unconstitutional
13 investigation and prosecution of Frank Carson and his family, solely based on their own disdain
14 for Carson because of his successes against them.

15 22. The defendants then conducted a press conference where Georgia DeFilippo and
16 Christina DeFilippo were defamed and the evidence against them was misrepresented. In fact,
17 there was no evidence that either Georgia or Christina had anything to do with the murder of Mr.
18 Kauffman. The only reason they were arrested was their familial connection to Frank Carson.
19 The arrest warrant, including Georgia and Christina's personal identifying information and social
20 security numbers, was posted online. Thereafter, two credit cards were opened in Carson's
21 name.

22 23. The defendants' theory was that Frank Carson, a well-known lawyer, hired
23 someone to murder anyone coming on his property and stealing from him. The preposterousness
24 of such a theory is obvious. This theory arose because Carson and his wife, Georgia DeFilippo,
25 have a hobby of collecting and selling antiques, including antique books and advertising signs.
26 They owned two properties in Turlock, California, where they stored many of their antiques.
27 Christina DeFilippo was living in one of the properties in Turlock, where antiques were stored.
28 In or about February 2011, Christina noticed that a lock on an outdoor container had been broken

1 and the door was open. Christina notified her mother and stepfather of this. Shortly thereafter,
2 Carson and Georgia saw their belongings being sold by another antique dealer and learned they
3 were being robbed. Upon investigation of their property, they discovered a hole in the fence and
4 a beaten path from the open container to an adjacent home rented by Mike Cooley. Law
5 enforcement was contacted, but Carson and Georgia were told that nothing could be done unless
6 they caught someone in the act of stealing their property.

7 24. Thereafter, Frank Carson, Georgia DeFilippo, and Christina DeFilippo took steps
8 to prevent additional thefts of their property. They left lights on in the house and installed a
9 motion detector, with Christina notifying Carson and Georgia if the motion detector was
10 activated. Carson also repaired sheds and locks to bolster security. In or about February 2011,
11 Carson and Georgia contacted law enforcement when they saw their property in the back of one
12 of the Cooley family vehicles. Unfortunately, the vehicle was driven away before law
13 enforcement arrived. Carson then created a stolen book alert, to give to dealers in the area in the
14 hopes that someone would call the Sheriff's Department and report if his stolen books were
15 presented for purchase. The stolen book alert contained a list of the people who lived in the
16 Cooley household, the books and other antiques that were stolen, a description of the Cooley's
17 vehicle, Carson's phone numbers, and the Sheriff's Department's phone number, along with the
18 report number. Contrary to lies told to the court and the public by Marlissa Fereirra, Stanislaus
19 County Deputy District Attorney, Korey Kauffman was not included on this list as a suspected
20 thief. Indeed, there was never any evidence that Carson, Georgia, or Christina even knew Mr.
21 Kauffman.

22 25. Rather, Korey Kauffman was a friend of the Cooley family and made his living
23 by stealing things and recycling them for money. He was a known thief and had many enemies,
24 including drug dealers from whom he had stolen. Mr. Kauffman went missing on or around
25 March 30, 2012. His body was found in the Stanislaus National Forest on August 19, 2013,
26 nearly 17 months later. Despite the fact that several people unrelated to Frank Carson, Georgia
27 DeFilippo, or Christina DeFilippo had made threats against Mr. Kauffman, the defendants
28 ignored that evidence and instead started investigating Carson for murder. The investigation was

1 based on statements from known drug addicts and criminals that Mr. Kauffman intended to steal
2 something from the Carson property on the night he disappeared. The defendants ignored the
3 fact that Mr. Kauffman had also stolen marijuana from a known drug dealer and that his body
4 was found near a marijuana farm associated with the drug dealer.

5 26. The thefts on the Frank Carson, Georgia DeFilippo, and Christina DeFilippo
6 property continued until the Cooley family moved in the Spring of 2013.

7 27. There was never any evidence to connect either Georgia DeFilippo or Christina
8 DeFilippo to the disappearance of Korey Kauffman. Indeed, the “evidence” in the August 13,
9 2015, warrant against them was limited to the following:

- 10 a. Christina was told to keep the lights on in her house to keep thieves away.
- 11 b. Fourteen months before Mr. Kauffman went missing, Christina and Georgia
12 exchanged text messages stating that Frank Carson was “freaking out” about
13 thefts on their property and would have a gun when he came to the property that
14 night. The warrant leaves out the fact that Carson was coming to the property to
15 fix a broken lock that had just been discovered and might encounter thieves or
16 may fear for his safety while doing so.
- 17 b. A text message that Carson was coming to the house with a motion detector.
- 18 c. A text message that the maintenance person would be coming over to fix locks
19 and that the alarm had not gone off when this happened.
- 20 d. A text message exchange about an employee of Carson that had nothing to do
21 with the investigation.
- 22 e. When Christina found the broken lock in the yard, Georgia asked her to go out in
23 the field and see if anyone had taken anything or if thieves were present.
- 24 f. Months after the disappearance of Mr. Kauffman, Christina banged on a window
25 in her house because the Cooley family was mowing their lawn early in the
26 morning. She broke the window and called her mother, upset about it. Georgia
27 tried to make light of the incident and said, “what do you want me to do, shoot
28 them?” Georgia told Christina not to worry and that the window could be fixed.

1 She said, “We will have to do something about them,” referring to the installation
2 of energy saving, noise blocking, double pane windows.

3 g. A text message exchange between Christina and Georgia about a cat or racoon
4 setting off the motion detector, wherein they joked about shooting the racoon but
5 not the cat. The defendants maliciously omitted the “lol” (laugh out loud)
6 contained in the exchange, attempting to make it appear sinister.

7 h. Christina was told by Kenneth Barringer, Stanislaus County Sheriff’s Deputy, that
8 her neighbors thought Mr. Kauffman was nailed into the wall of a shed on her
9 family’s property. Christina told Georgia about this, who responded, “there are
10 certainly no dead bodies over there.” Incredibly, the defendants claimed that
11 Christina telling her mother she was contacted by law enforcement was “passing
12 information.”

13 i. Christina informed her mother that she stepped on a board with nails in it.
14 Preposterously, the defendants claim this was a booby trap known to Christina.

15 j. When Georgia learned that the family’s property had been searched by law
16 enforcement with cadaver dogs, she asked if they found any dead bodies, to which
17 Carson responded, “Hell no, there aren’t any.”

18 k. Christina was told to have a lawyer before speaking with police, even though she
19 fully cooperated without a lawyer present.

20 l. Allegedly cell phone data placed Georgia and Christina in Turlock on the night of
21 Mr. Kauffman’s disappearance. This was an outright fabrication, as there was no
22 evidence that Georgia was in Turlock that night. Instead, the evidence showed
23 that Georgia was at her home in Modesto, which the defendants unlawfully hid
24 from the court and defense team. As Christina lived in Turlock, it was not
25 surprising or incriminating that her cell phone was there. There were also lies in
26 the arrest warrant that Christina’s phone was turned off.

27 Clearly, none of the above shows any evidence of a crime or even knowledge of a crime being
28 committed, meaning the defendants had no probable cause to arrest Georgia and Christina.

1 28. In addition to the obvious lack of evidence against Georgia DeFilippo and
2 Christina DeFilippo, the defendants made lies and misrepresentations in search warrants that
3 violated their privacy and Fourth Amendment rights. There is also evidence that at least one
4 judge told the defendants that the warrants lacked probable cause. Georgia and Christina are
5 informed and believe that the same warrant, despite the defendants' knowledge that it lacked
6 probable cause, was used to secure their arrest.

7 29. Georgia DeFilippo spent 50 days in jail until she was released on October 4, 2015,
8 because of egregious ethics violations by defendant Marlissa Ferreira ("Ferreira"), Stanislaus
9 County Deputy District Attorney. Georgia's bail was set at \$10.0 million but ultimately reduced
10 to \$4.5 million. Christina DeFilippo was bailed out of jail the same day she was booked, but not
11 before her entire life was ruined by the malicious acts of the defendants.

12 30. A preliminary hearing began on October 13, 2015, and continued for 18 months,
13 one of the longest in California history. Georgia DeFilippo and Christian DeFilippo were
14 required to sit through every day of the hearing, although only the first day included any
15 evidence against them.

16 31. On April 10, 2017, Judge Barbara Zuniga dismissed the charges against Georgia
17 DeFilippo and Christina DeFilippo, finding there was insufficient evidence to support them. As
18 to Georgia, the judge ruled, "I am going to find that there . . . is no sufficient cause to believe that
19 she is guilty of murder and/or obstruction of justice, and I order that the Complaint be dismissed
20 and she is discharged." Likewise, the judge ruled that there was also insufficient evidence to
21 find that Georgia was guilty of accessory, a charge then planned by the prosecution. As to
22 Christina, the judge ruled, "I am finding that there is no sufficient cause to believe that she is
23 guilty of the alleged crime of accessory and obstruction of justice, and I order that the Complaint
24 as to her be dismissed and that she is discharged." The judge described her rulings as to Georgia
25 and Christina as "not difficult." Thus, after an 18-month preliminary hearing, the judge easily
26 found that there was insufficient evidence to support the charges against Georgia and Christina.

27 32. All of the defendants were involved in a conspiracy to violate Georgia DeFilippo
28 and Christina DeFilippo's constitutional rights and the right to privacy, as well as a conspiracy to

1 defame, falsely arrest, and maliciously prosecute them. Each of the defendants were involved in
2 the malicious, retaliatory investigation and prosecution and/or in furthering the goals of the
3 conspiracy, which was to destroy the life and career of Frank Carson and his family.

4 33. Defendant Marlissa Ferreira acted outside her role as prosecuting attorney by
5 acting as an investigator. In doing so, she tried to dissuade a witness from cooperating with the
6 criminal defense team in an effort to deprive Christina DeFilippo of representation. Ferreira
7 publicly defamed Georgia DeFilippo and Christina, and maliciously abused her position to try to
8 create false testimony. Ferreira repeatedly asked when Georgia was going to run out of money
9 for her defense. Ferreira also used her position to try to fabricate evidence against Frank Carson.
10 She repeatedly told defense attorneys for Georgia and Christina that if they would give testimony
11 implicating Carson in the crime, the charges against them would be dropped. Georgia and
12 Christina refused to do so, as it would have been a lie. Ferreira acted with the consent and
13 knowledge of defendant Birgit Fladager (“Fladager”), Stanislaus County District Attorney, and
14 both were co-conspirators with the other defendants.

15 34. Defendant Kirk Bunch (“Bunch”), Stanislaus County District Attorney
16 Investigator, is a leader of the conspiracy, and Georgia DeFilippo and Christina DeFilippo are
17 informed and believe that he orchestrated the case against them. Bunch submitted false
18 affidavits to the criminal court and directed the malicious investigation and arrest of Georgia and
19 Christina as part of the conspiracy.

20 35. Also as part of the conspiracy, defendant Derek Perry (“Perry”), City of Ceres
21 Police Department Detective, destroyed evidence from game cameras in the area where Korey
22 Kaufmann’s body was found. There was exculpatory evidence on those cameras showing that
23 someone else was likely responsible for Korey Kaufmann’s death.

24 36. On September 20, 2013, defendants Cory Brown (“Brown”) and Greg Jones
25 (“Jones”), both Stanislaus County Sheriff’s Detectives, visited Christina DeFilippo in her
26 painting class at the Pratt Institute in Brooklyn, New York. She requested a lawyer, but was
27 intimidated into talking to police without a lawyer and threatened with obstruction of justice if
28 she refused. Jones and Brown took Christina to a basement room, falsely imprisoning her and

1 denying her constitutional right to an attorney. She was told that they would make her life
2 miserable if she did not cooperate. Their actions were also a part of the conspiracy.

3 37. Brown, another leader of the conspiracy, was also the author of the Ramey
4 warrant to arrest Georgia DeFilippo and Christina DeFilippo, and a search warrant to wiretap
5 their phone calls. Both warrants misrepresent salient facts of the case. In the search warrant,
6 Georgia's cell phone number is attributed to Frank Carson and her phone calls were monitored
7 without probable cause. With regard to the Ramey warrant, no reasonable officer would have
8 believed that it established probable cause for the arrest of Georgia and Christina. Brown also
9 misrepresented facts he knew, or should have known, to be untrue.

10 38. Defendant Timothy Redd ("Redd"), Turlock Police Department Detective, acting
11 as a co-conspirator, is the author of the search warrant for Georgia DeFilippo and Christina
12 DeFilippo's cell phones at the time of arrest and for the professional office of Frank Carson.
13 Redd misrepresented facts in the warrants and should have known there was no probable cause
14 to search or arrest Georgia and Christina.

15 39. Finally, defendants Steve Jacobson ("Jacobson"), Dale Lingerfelt ("Lingerfelt"),
16 and Froilan Mariscal ("Mariscal"), all Stanislaus County District Attorney Investigators; and
17 Lloyd MacKinnon ("MacKinnon"), Stanislaus County Sheriff Detective; Jon Evers ("Evers"),
18 Modesto Police Department Detective; Frank Navarro ("Navarro"), Turlock Police Department
19 Detective; and Kenneth Barringer ("Barringer"), Stanislaus County Sheriff's Deputy were all co-
20 conspirators who had a history of animosity against Frank Carson and participated in the creation
21 of false evidence against him and in furthering a retaliatory and malicious investigation without
22 probable cause that resulted in the false arrests and malicious prosecution of Georgia DeFilippo
23 and Christina DeFilippo.

24 40. Georgia DeFilippo has an extraordinary amount of economic damages, including
25 \$390,000 in bail, approximately \$500,000 in attorneys' fees, \$87,732.56 in court costs, lost
26 income, and severe emotional distress, including being housed in a maximum-security facility
27 for 50 days. Christina DeFilippo had just graduated with a Master of Fine Arts degree and
28 intended to pursue a career as an artist and teacher. However, due to the press surrounding her

1 arrest, it is unlikely she will ever be hired to teach. Georgia and Christina have become
2 overwhelmed with paranoia, depression, and anxiety because of the defendants' witch hunt
3 against them and the continued efforts to violate their privacy by seeking search warrants for
4 their phones and computers. Georgia and Christina live in fear of the defendants' use of power
5 to try to deprive them of their lives and liberty.

6 **FIRST CAUSE OF ACTION**

7 **42 U.S.C. section 1983 for Fourth and Fourteenth Amendment Violations**
8 **[Plaintiffs Against Defendants County of Stanislaus, Fladager, Ferreira, Bunch, Jacobson,**
9 **Lingerfelt, Mariscal, MacKinnon, Evers, Perry, Brown, Jones, Redd, Barringer, and**
10 **Navarro]**

11 41. Plaintiffs incorporate by reference and reallege each and every allegation set forth
12 above, as though fully set forth herein.

13 42. In doing the acts complained of herein, defendant Stanislaus County and
14 defendants Fladager, Ferreira, Bunch, Jacobson, Lingerfelt, Mariscal, MacKinnon, Evers, Perry,
15 Brown, Jones, Redd, Barringer, and Navarro (collectively, "Individual Defendants") and Does 1-
16 10, inclusive, and/or each of them, acted under color of law to deprive Plaintiffs of certain
17 constitutionally protected rights, including, but not limited to:

- 18 • The right to be free from unreasonable searches and seizures, as guaranteed by the
19 Fourth Amendment to the Constitution of the United States. Plaintiffs' action
20 includes, but is not limited to, the wrongful search of their telephonic
21 communications, the wrongful seizure of their persons, and the malicious
22 prosecution until the criminal charges were dismissed.
- 23 • The right to be free from arrest without probable cause guaranteed by the Fourth
24 Amendment to the Constitution of the United States.
- 25 • The right to due process of law by being informed of all exculpatory evidence in
26 the criminal case against Plaintiffs guaranteed by the Fourth and Fourteenth
27 Amendments of the Constitution of the United States.

28 43. As a direct and proximate result of Stanislaus County and the Individual
Defendants' wrongful conduct, Plaintiffs have suffered damages, including, but not limited to,

///

1 legal expenses, economic losses, loss of reputation, emotional distress, and other damages.

2 44. In doing the things alleged herein, Stanislaus County and the Individual
3 Defendants' conduct was despicable. Stanislaus County and the Individual Defendants acted
4 toward Plaintiffs with malice, oppression, fraud, and with willful and conscious disregard for
5 Plaintiffs' rights, entitling them to an award of punitive damages.

6 **SECOND CAUSE OF ACTION**
7 **Malicious Prosecution**
8 **[Plaintiffs Against Defendants Stanislaus County, Fladager, Ferreira, Bunch, Jacobson,**
9 **Lingerfelt, Mariscal, MacKinnon, Evers, Perry, Brown, Jones, Redd, Barringer, and**
10 **Navarro]**

11 45. Plaintiffs incorporate by reference and reallege each and every allegation set forth
12 above, as though fully set forth herein.

13 46. In doing the acts complained of herein, defendants Stanislaus County, Fladager,
14 Ferreira, Bunch, Jacobson, Lingerfelt, Mariscal, MacKinnon, Evers, Perry, Brown, Jones, Redd,
15 Barringer, and Navarro and Does 1-10, inclusive, and/or each of them, acted under color of law
16 to deprive Plaintiffs of certain constitutionally protected rights, including, but not limited to:

- 17 • The right to be free from unreasonable searches and seizures, as guaranteed by the
18 Fourth Amendment to the Constitution of the United States. Plaintiffs' action
19 includes, but is not limited to, the wrongful search of their telephonic
20 communications, the wrongful seizure of their persons, and the malicious
21 prosecution until the criminal charges were dismissed.
- 22 • The right to be free from arrest without probable cause guaranteed by the Fourth
23 Amendment to the Constitution of the United States.
- 24 • The right to due process of law by being informed of all exculpatory evidence in
25 the criminal case against Plaintiffs guaranteed by the Fourth and Fourteenth
26 Amendments of the Constitution of the United States.

27 47. Stanislaus County and the Individual Defendants caused the initiation of criminal
28 proceedings against Plaintiffs without probable cause and with malice and reckless indifference.

48. The criminal proceedings were terminated in Plaintiffs' favor for lack of probable
cause.

1 to their actions.

2 58. The defendants made material misrepresentations and omissions in the arrest
3 warrant that they knew would cause the judge to issue a warrant that was not supported by
4 probable cause.

5 59. California Government Code section 820 provides that a public employee is liable
6 for injury to the same extent as a private person.

7 60. California Government Code section 820.4 specifically provides that a public
8 employee is liable for false arrest or false imprisonment.

9 61. California Government Code section 815.2 provides that a public entity is liable
10 for injury proximately caused by an act or omission of an employee of the public entity within
11 the scope of his/her employment. Defendants County of Stanislaus, City of Modesto, City of
12 Turlock, and City of Ceres are liable under a theory of respondeat superior.

13 62. As a direct and proximate result of the defendants' wrongful conduct, Plaintiffs
14 have suffered damages, including, but not limited to, legal expenses, economic losses, loss of
15 reputation, emotional distress, and other damages.

16 63. In doing the things alleged herein, the defendants' conduct was despicable. The
17 defendants acted toward Plaintiffs with malice, oppression, fraud, and with willful and conscious
18 disregard for Plaintiffs' rights, entitling them to an award of punitive damages.

19 **FIFTH CAUSE OF ACTION**
20 **Intentional Infliction of Emotional Distress**
21 **[Plaintiffs Against Defendants Stanislaus County, Fladager, Ferreira, Bunch, Jacobson,**
22 **Lingerfelt, Mariscal, MacKinnon, Evers, Perry, Brown, Jones, Redd, Barringer, and**
23 **Navarro]**

24 64. Plaintiffs incorporate by reference and reallege each and every allegation set forth
25 above, as though fully set forth herein.

26 65. As described hereinabove, defendants Stanislaus County, Fladager, Ferreira,
27 Bunch, Jacobson, Lingerfelt, Mariscal, MacKinnon, Evers, Perry, Brown, Jones, Redd,
28 Barringer, and Navarro engaged in outrageous conduct. By such conduct, Stanislaus County and
the Individual Defendants intended to cause Plaintiffs emotional distress, or engaged in conduct
with reckless disregard of the probability of causing Plaintiffs emotional distress, or both.

1 66. As a proximate result of Stanislaus County and the Individual Defendants'
2 conduct, Plaintiffs have suffered severe emotional distress.

3 67. The outrageous conduct of Stanislaus County and the Individual Defendants was
4 a substantial factor in the severe emotional distress suffered by Plaintiffs.

5 68. Stanislaus County and the Individual Defendants' wrongful conduct has caused
6 Plaintiffs to suffer and continue to suffer injury, including, but not limited to, economic damages,
7 severe emotional distress, and other damages.

8 69. In doing the things alleged herein, Stanislaus County and the Individual
9 Defendants' conduct was despicable. Stanislaus County and the Individual Defendants acted
10 toward Plaintiffs with malice, oppression, fraud, and with willful and conscious disregard for
11 Plaintiffs' rights, entitling them to an award of punitive damages.

12 **SIXTH CAUSE OF ACTION**

Defamation

13 **[Plaintiffs Against Defendants Fladager, Ferreira, Bunch, Jacobson, Lingerfelt, Mariscal,
14 MacKinnon, Evers, Perry, Brown, Jones, Redd, Barringer, and Navarro]**

15 70. Plaintiffs incorporate by reference and reallege each and every allegation set forth
16 above, as though fully set forth herein.

17 71. As described hereinabove, defendants Fladager, Ferreira, Bunch, Jacobson,
18 Lingerfelt, Mariscal, MacKinnon, Evers, Perry, Brown, Jones, Redd, Barringer, and Navarro
19 intentionally and knowingly published false information to others, falsely accusing Plaintiffs of
20 serious felonies and crimes of moral turpitude.

21 72. The Individual Defendants' conduct was outside of the criminal investigation, to
22 the public and the press, and amounts simply to defamatory statements designed to influence
23 public opinion about Plaintiffs.

24 73. The Individual Defendants' false publications are defamatory *per se*.

25 74. As a direct and proximate result of the Individual Defendants' wrongful conduct,
26 Plaintiffs have suffered damages, including, but not limited to, legal expenses, economic losses,
27 loss of reputation, emotional distress, and other damages.

28 75. In doing the things alleged herein, the Individual Defendants' conduct was
despicable. The Individual Defendants acted toward Plaintiffs with malice, oppression, fraud,

1 and with willful and conscious disregard for Plaintiffs' rights, entitling them to an award of
2 punitive damages.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, plaintiffs Georgia DeFilippo and Christina DeFilippo pray for judgment
5 against defendants County of Stanislaus, City of Modesto, City of Turlock, City of Ceres, Birgit
6 Fladager, Marlissa Ferreira, Kirk Bunch, Steve Jacobson, Dale Lingerfelt, Froilan Mariscal,
7 Lloyd MacKinnon, Jon Evers, Derek Perry, Cory Brown, Greg Jones, Timothy Redd, Kenneth
8 Barringer, and Frank Navarro, requesting entry of judgment as follows:

- 9 A. For general damages in an amount to be determined at trial;
10 B. For special damages in an amount to be determined at trial;
11 C. For punitive damages in an amount to be determined at trial;
12 D. For costs of suit and reasonable attorneys' fees pursuant to 42 U.S.C. section 1988
13 and other relevant statutes, including a contingency fee enhancement beyond the
14 lodestar;
15 E. For prejudgment interest at the legal rate; and
16 F. For such other and further relief as the court deems just and proper.

17 **DEMAND FOR JURY TRIAL**

18 Pursuant to Rule 38(a) of the Federal Rules of Civil Procedure, Plaintiffs hereby demand
19 a trial by jury.

20 DATE: April 10, 2018

GWILLIAM, IVARY, CHIOSSO, CAVALLI & BREWER

21
22 /s/ J. Gary Gwilliam

23 J. Gary Gwilliam
24 Attorneys for Plaintiffs
25 GEORGIA DEFILIPPO AND CHRISTINA
26 DEFILIPPO
27
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