

1 Stephen G. Larson (SBN 145225)  
 2 *slarson@larsonobrienlaw.com*  
 3 Steven E. Bledsoe (SBN 157811)  
 4 *sbledsoe@larsonobrienlaw.com*  
 5 Steven A. Haskins (SBN 238865)  
 6 *shaskins@larsonobrienlaw.com*  
 7 Erica R. Graves (SBN 301785)  
 8 *egraves@larsonobrienlaw.com*  
 9 **LARSON O'BRIEN LLP**  
 10 555 South Flower Street, Suite 4400  
 11 Los Angeles, CA 90071  
 12 Telephone: 213.436.4888  
 13 Facsimile: 213.623.2000  
 14 Attorneys for Plaintiff  
 15 JEFFREY S. BURUM

16 UNITED STATES DISTRICT COURT  
 17 CENTRAL DISTRICT OF CALIFORNIA -  
 18 EASTERN DIVISION

19 JEFFREY S. BURUM  
 20 Plaintiff,  
 21 v.

22 COUNTY OF SAN BERNARDINO;  
 23 MICHAEL A. RAMOS, in his  
 24 individual capacity; R. LEWIS COPE,  
 25 in his individual capacity; JAMES  
 26 HACKLEMAN, in his individual  
 27 capacity; HOLLIS "BUD" RANGLES,  
 28 in his individual capacity; ROBERT  
 SCHREIBER, in his individual  
 capacity; JOSIE GONZALES, in her  
 individual capacity; RUTH  
 STRINGER, in her individual capacity;  
 ADAM ALEMAN, in his individual  
 capacity; EDMUND G. BROWN, JR.,  
 in his individual capacity; MELISSA  
 MANDEL, in her individual capacity;

CASE NO. 5:18-cv-00672 JGB (SHKx)

**SECOND AMENDED COMPLAINT  
 FOR:**

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

1 and GARY SCHONS, in his individual  
2 capacity  
3 Defendants.

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

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

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

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

11 4. The Defendants’ retaliatory campaign developed and manifested in  
12 several ways, but no more so than in an effort jointly coordinated by the offices of  
13 the San Bernardino County District Attorney and the California Attorney General  
14 to target Colonies, Mr. Burum (and the Colonies partners) through an unfounded  
15 criminal investigation conducted without justification or probable cause. This  
16 retaliatory investigation ultimately resulted in felony charges being brought against  
17 Mr. Burum, more than six years of criminal litigation, and a ten-month criminal  
18 trial in San Bernardino Superior Court in the case entitled *People v. Biane, et al.*,  
19 Case No. FSB 1102102 (the “Criminal Action”).

20 5. Because the investigation’s motivating and ultimate goal was to punish  
21 Colonies and its management, including Mr. Burum, and not to conduct a  
22 legitimate and fair examination of the facts, it was no surprise that the prosecution’s  
23 case was marred by repeated use of fabricated evidence and perjured testimony;  
24 indeed, it was so weak that Mr. Burum did not need to call a single witness in his  
25 defense. On August 28, 2017, the next court day after the jury deliberations began,  
26 the jury acquitted Mr. Burum on all remaining charges, with the court having  
27 already dismissed several charges for numerous legal and/or factual deficiencies.  
28 Mr. Burum was vindicated.





1 Cope was one of the lead prosecutors from the District Attorney’s Office assigned  
2 to prosecute Mr. Burum. But before there was a case to prosecute, Defendant Cope  
3 was assigned as a member of the team created with individuals in both the Attorney  
4 General’s Office and the District Attorney’s Office to investigate Colonies and its  
5 partners, including Mr. Burum. As a member of that team, Defendant Cope  
6 assumed the duties of directing and participating in the retaliatory criminal  
7 investigation, including directing, supervising, authorizing, and/or ratifying the  
8 actions of the joint District Attorney/Attorney General investigation team.

9 15. At all relevant times until October 2011, Defendant James B.  
10 Hackleman was a Deputy District Attorney for the County of San Bernardino, and  
11 the lead prosecutor in the “Public Integrity Unit.” Defendant Hackleman was a key  
12 member of the team assigned to gather information about and investigate Colonies  
13 and its partners, including Mr. Burum. To ensure that the investigation could go  
14 forward, Defendant Hackleman assumed the duties of directing and participating in  
15 the retaliatory criminal investigation, including directing, supervising, authorizing,  
16 and/or ratifying the actions of the Public Integrity Unit’s other employees, agents,  
17 and officials working on the Criminal Action.

18 16. At all relevant times, Defendant Hollis “Bud” Randles was an  
19 Investigator in the San Bernardino County District Attorney’s office. Defendant  
20 Randles was an investigator, employed by the San Bernardino District Attorney’s  
21 Office, but assigned to the team created as a joint effort between the District  
22 Attorney’s Office and the Attorney General’s Office to investigate and gather  
23 evidence against Colonies and its partners, including Mr. Burum. As such,  
24 Defendant Randles was directed by other members of the investigation team to use  
25 any means necessary to gather information that would support a lengthy,  
26 embarrassing, and retributive criminal investigation. Defendant Randles followed  
27 those instructions as one of the lead investigators in the resulting retaliatory  
28 criminal investigation.



1           17. At all relevant times, Defendant Robert Schreiber was an Investigator  
2 in the San Bernardino County District Attorney's office. Defendant Schreiber was  
3 employed by the San Bernardino District Attorney's Office, but assigned to the  
4 team created as a joint effort between the District Attorney's Office and the  
5 Attorney General's Office to investigate and gather evidence against Colonies and  
6 its partners, including Mr. Burum. As such, Defendant Schreiber was directed by  
7 other members of the investigation team to use any means necessary to gather  
8 information that would support a lengthy, embarrassing, and retributive criminal  
9 investigation. Mr. Schreiber followed those instructions as one of the lead  
10 investigators in the resulting retaliatory criminal investigation.

11           18. At all relevant times, Defendant Josie Gonzales was the Supervisor for  
12 the Fifth District of San Bernardino County. Defendant Gonzales initiated and  
13 participated in the retaliatory criminal investigation into Colonies and its partners,  
14 including Mr. Burum.

15           19. At all relevant times until October 2010, Defendant Ruth Stringer was  
16 an attorney with the County Counsel's Office for the County of San Bernardino.  
17 Defendant Stringer participated in and encouraged the retaliatory criminal  
18 investigation into Colonies and its partners, including Mr. Burum.

19           20. At all relevant times until December 2006, Defendant Adam Aleman  
20 was a Field Representative and assistant to then-Supervisor Bill Postmus. Then,  
21 until July 2008, Defendant Aleman was Assistant Assessor for the County of San  
22 Bernardino. Thereafter, Defendant Aleman was a cooperating witness who  
23 initiated and participated in the retaliatory criminal investigation into Colonies and  
24 its partners, including Mr. Burum.

25           21. At all relevant times until January 2011, Defendant Edmund G.  
26 Brown, Jr., was the Attorney General for the State of California. Together with  
27 Defendant Ramos, Defendant Brown led the team investigating Colonies and its  
28 partners, including Mr. Burum. In that role, Defendant Brown had direct



1 involvement in the investigation, and supervised the investigation by directing  
2 others to gather evidence using illicit means.

3 22. At all relevant times, Defendant Melissa Mandel was a Supervising  
4 Deputy Attorney General for the State of California. Defendant Mandel is  
5 employed by and is an agent of the State of California and the Attorney General's  
6 Office. With Defendant Cope, Defendant Mandel was one of the lead prosecutors  
7 assigned to prosecute Mr. Burum. But before there was a prosecution, she was  
8 assigned to the investigation team created with individuals in both the Attorney  
9 General's Office and the District Attorney's Office to investigate Colonies and its  
10 partners, including Mr. Burum. As such, she directed and participated in the  
11 retaliatory criminal investigation, including directing, supervising, authorizing,  
12 and/or ratifying the actions of the joint District Attorney/Attorney General  
13 investigation team.

14 23. At all relevant times until October 2011, Defendant Gary Schons was a  
15 Deputy Attorney General for the State of California. He was employed by and was  
16 an agent of the State of California and the Attorney General's Office. Defendant  
17 Schons was one of the prosecutors assigned to prosecute Mr. Burum. But before  
18 there was a prosecution, he was assigned to the investigation team created with  
19 individuals in both the Attorney General's Office and the District Attorney's Office  
20 to investigate Colonies and its partners, including Mr. Burum. As such, he directed  
21 and participated in the retaliatory criminal investigation, including directing,  
22 supervising, authorizing, and/or ratifying the actions of the joint District  
23 Attorney/Attorney General investigation team.

24 24. In taking the actions alleged herein, Defendants acted under color of  
25 law, with the exception of the County's actions in connection with the Colonies  
26 civil litigation and settlement (as alleged in Paragraphs 26-35 below).

27 25. As set forth below, Defendants conspired with each other and others to  
28 illegally retaliate against, intimidate, and harass Colonies for asserting its First and

1 Fifth Amendment rights, successfully resolving its dispute with the County and  
2 District, and for participating in the political process.

3 **FACTUAL ALLEGATIONS**

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

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

22 27. In 1999, the District's executive director, Ken Miller—knowing that  
23 water runoff from the 210 freeway project would be torrential and would require  
24 construction of a new, vast, expensive flood control facility—attempted to trick  
25 Colonies into agreeing to hand over the land and build the basin itself. He did so by  
26 lying about the amount of water involved and the necessary size of the flood control  
27 facility. The truth was that existing flood control facilities were utterly inadequate  
28 to contain the up to 80 million gallons of water per hour that could be unleashed

1 onto the property through the 20th Street Storm Drain. Despite having no legal  
2 obligation to do so, Colonies offered to end the dispute by giving the County and  
3 District the necessary acreage so long as the County and District would pay for the  
4 construction of a basin sufficient to control the new storm waters resulting from the  
5 210 freeway project and the 20th Street Storm Drain. The County and District  
6 refused.

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

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

19 30. As one of Colonies' managing partners, and Colonies' primary  
20 representative in the course of meetings and negotiations with the County, Mr.  
21 Burum saw firsthand the duplicity of County and District staff. Far from ensuring  
22 public safety and sound government practice, County and District staff were  
23 repeatedly willing to jeopardize not only the Colonies project, but public health and  
24 safety by failing to provide adequate infrastructure to safely collect and disperse  
25 water runoff from the newly-constructed 210 freeway. Mr. Burum vocally  
26 criticized the government for its mishandling of the Colonies project, publicly  
27 expressing his concern about County and District practices.

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

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

23           33. The seven-year civil battle over Colonies’ land ultimately came to a  
24 head in a second trial before San Bernardino County Superior Court Judge  
25 Christopher J. Warner in 2006. After hearing six weeks of testimony, Judge  
26 Warner released a blistering statement of intended decision on July 31, 2006,  
27 finding not only that Colonies was legally right, but also confirming that the County  
28 and District had peddled in fraud, coercion, and deceit. Among other things, Judge

1 Warner found that:

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

19 34. Mr. Burum again testified on Colonies’ behalf during this second trial  
20 before Judge Warner. In his statement of intended decision, Judge Warner held that  
21 Mr. Burum was “a very credible witness” who “answered questions directly,  
22 succinctly, and without hesitation and equivocation.” In the eyes of County and  
23 District staff, this praise of Mr. Burum was bad enough, but it was worse when  
24 contrasted to the Court’s description of County witnesses. The Court criticized the  
25 credibility and veracity of multiple County and District staff who testified at trial,  
26 including District directors Mr. Miller and Patrick Mead. The Court’s adoption of  
27 Mr. Burum’s testimony over the testimony of these District employees added a  
28 viscerally personal angle to the County’s dispute with Colonies.

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

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

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

26           38. In the months following Judge Warner’s tentative decision, Mr. Burum  
27 repeatedly commented publicly on the County and District’s intransigence, causing  
28 the County, District, and their employees further public embarrassment. Mr.

1 Burum openly advocated for a settlement of the dispute, and also offered sharp,  
2 public criticism of the County’s Board of Supervisors and staff. Among Mr.  
3 Burum’s public statements were the following:

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

28 39. As a result of the litigation and Mr. Burum’s high-profile criticisms,



1 the County suffered a steady stream of negative press articles and public opinion  
2 expressing concern that the County and District’s incompetence and misconduct  
3 had exposed taxpayers to such massive risk.

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

8 41. Colonies, acting through its co-managing partner, Mr. Burum,  
9 employed a multi-pronged strategy to effectively exercise its First Amendment  
10 rights in its dispute against the government. In addition to litigating the dispute in  
11 court, Colonies actively participated in the political process. It retained  
12 professionals such as former California State Senator James Brulte and media  
13 consultant Patrick O’Reilly, both of whom were integral to Colonies’ direct  
14 communications with County Supervisors and its efforts to shape public discourse  
15 regarding the dispute. These efforts publicized the role of County officials,  
16 lawyers, and staff in botching the dispute, angering these individuals and giving  
17 them additional motive for retaliatory action. During this time period, Mr. Burum  
18 was identified in local newspapers as “the principal face” of Colonies’ efforts.

19 42. For several years prior to the Colonies settlement, Colonies had been  
20 effective in exercising lawful political influence and convincing voters to upend the  
21 do-nothing status quo. Mr. Burum was very much the architect and public face of  
22 these political efforts. In 2002, Colonies publicly and aggressively opposed the re-  
23 election campaign of then-Supervisor Jon Mikels of the Second District—the  
24 district in which the development was located. Mr. Burum and his co-managing  
25 partner, Dan Richards, had met with Mr. Mikels prior to filing Colonies’ lawsuit to  
26 discuss informally resolving the dispute. Mr. Mikels rudely and vulgarly rejected  
27 Colonies’ efforts, declaring his absolute opposition to even negotiating a settlement.  
28 Rejected by their own Board representative, Colonies unsurprisingly supported Mr.

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

13 43. County Supervisors also became enraged at Colonies and Mr. Burum  
14 when, in Fall 2006—at a contentious time in settlement negotiations after Judge  
15 Warner's tentative opinion—Colonies expended hundreds of thousands of dollars  
16 to oppose San Bernardino County's proposed "Measure P." Measure P purported  
17 to be a term-limit proposal, but its passage would have meant a 50% increase in  
18 salary for members of the San Bernardino County Board of Supervisors. The  
19 Board of Supervisors had voted to put Measure P on the ballot, and Colonies  
20 opponents Dennis Hansberger and Defendant Gonzales had taken public positions  
21 in support of Measure P. In opposing Measure P, Mr. Burum—on behalf of  
22 Colonies—declared that the Board of Supervisors had "recklessly spent taxpayer  
23 dollars, trampled private property rights and endangered public safety by refusing  
24 to provide flood protection" and for these reasons should not be voted a raise, and  
25 certainly not under the guise of adopting term limits.

26 44. Indeed, over the course of Colonies' dispute with the County and  
27 District, Mr. Burum's name appeared dozens of times in local media, always on  
28 Colonies' behalf and generally accompanied by pointed and aggressive criticism of

1 the County, its elected officials, and its staff.

2 45. On November 28, 2006, Colonies, the County, and the District settled  
3 the bitter four-year litigation and seven-year public fight over the unlawful “taking”  
4 of Colonies’ land. Facing hundreds of millions in damages and the prospect of  
5 unending attorneys’ fees, the Board of Supervisors voted 3-2 to approve a \$102  
6 million settlement in exchange for Colonies releasing all of its damages claims and  
7 deeding the subject land to the District for its flood control purposes. Supervisors  
8 Postmus, Ovitt, and Biane voted in favor of the settlement; Supervisor Hansberger  
9 and Defendant Gonzales voted against. Defendant Gonzales had consistently  
10 supported settlement until the eleventh hour. On information and belief, she  
11 changed her vote to avoid the political consequences she feared would flow from  
12 her support for a large settlement. She also had her own large donors to appease,  
13 some of whom were competitors of Colonies and had benefited from the distraction  
14 that protracted litigation had imposed upon Colonies.

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

23 **The Unlawful Investigation**

24 47. No sooner was the ink dry on the Settlement Agreement than upset and  
25 embarrassed elements within the County apparatus began planning their retaliation.  
26 And they were eventually joined by new allies: The San Bernardino County  
27 District Attorney’s Office and California Attorney General’s Office. Angered over  
28 the civil litigation, the Settlement Agreement, and the 2007 PAC contributions, and

1 motivated by illegal and improper purposes, but without any credible evidence of  
2 wrongdoing, Defendants orchestrated a campaign to punish Colonies and its chief  
3 spokesman, Mr. Burum. The illegal investigation intentionally punished both  
4 Colonies and Mr. Burum for exercising their constitutionally-protected rights and  
5 chilled their ability to petition their government or make political contributions for  
6 fear of continuing and additional reprisals.

7 48. The District Attorney's Office, already recognizing the political power  
8 that Colonies could wield, set out almost immediately to "investigate" Colonies and  
9 its partners, holding regular strategy meetings and engaging in inquiries about the  
10 settlement. The District Attorney's Office had been conspiring with County  
11 officials in opposition to Colonies since at least 2005, when the public leak of a key  
12 confidential memorandum caused settlement negotiations (which, at the time, may  
13 have resolved the case in a manner far more favorably for the County) to cease.

14 49. The District Attorney's Office also unleashed its investigators, whose  
15 previous dealings had justifiably earned them the nickname of the "Thug Squad."  
16 Defendants Randles and Schreiber repeatedly demonstrated the appropriateness of  
17 this nickname during the Colonies investigation. During one interview, Defendant  
18 Randles exclaimed that he and the "Public Integrity Unit" were "elephant hunters  
19 ... out for big game," leaving no doubt that his big game targets were Colonies and  
20 its partners, including Mr. Burum. Instead of using legitimate interview techniques,  
21 these investigators bullied witnesses, put words in witnesses' mouths, and engaged  
22 in a scorched-earth mission to bring down Colonies no matter the cost. One such  
23 witness, Dino DeFazio, recently had trumped-up perjury charges against him  
24 dismissed after they had been pending for eight years. Mr. DeFazio's lone fault  
25 was telling the grand jury the truth, which was not what the "Thug Squad" wanted  
26 to hear.

27 50. The entire structure of the District Attorney's Office's "Public  
28 Integrity Unit," led by Defendants Cope and Hackleman and overseen and

1 supervised by Defendant Ramos, directly contributed to the unlawful and  
2 unjustified violation of Colonies’ constitutional rights. The District Attorney  
3 investigators and prosecutors were part of a single organizational unit with no true  
4 separation between the investigation and prosecution. Defendants Cope and  
5 Hackleman were directly involved in the botched and corrupt investigation, rather  
6 than remaining sufficiently separate to ensure its integrity and ultimately make  
7 independent charging decisions. This commingling of roles led to investigators and  
8 prosecutors failing to verify or corroborate false information obtained from Mr.  
9 Postmus, Defendant Aleman, Defendant Gonzales, and others. Prosecutors,  
10 investigators, and County witnesses with an axe to grind reinforced each other’s  
11 passions and prejudices, feeding false information and unsubstantiated allegations  
12 into a self-deluding “echo chamber” through which the Defendants’ prejudices  
13 against Colonies could take voice.

14 51. Certain individuals in the District Attorney’s Office actually revealed  
15 their motives on occasion. For example, in the Fall of 2008, Defendant Ramos told  
16 one elected official that he was “going to take some of the ‘westside guys’ down a  
17 few notches.” Mr. Burum, several members of Colonies Partners, and the Colonies  
18 development are all situated in the western-most part of San Bernardino County.  
19 The elected official to whom Defendant Ramos spoke understood that Defendant  
20 Ramos was referring to Mr. Burum, Colonies, and those he perceived as their allies.  
21 And it was no coincidence that in this time period, Mr. Burum and Colonies were  
22 most politically active in terms of financial donations and high-profile public  
23 support for local candidates.

24 52. In the same vein, Defendant Randles discovered that Colonies had  
25 worked with Mr. Erwin when exercising its First Amendment rights to petition the  
26 Board of Supervisors to approve the Settlement Agreement. Defendant Randles  
27 held a grudge against Mr. Erwin, as illustrated by a statement he made in 2008 that  
28 Mr. Erwin was in line to become Chief of Staff to Supervisor Neil Derry “unless

1 somebody can stop him.” Defendant Randles also prepared a search warrant  
2 targeting Mr. Erwin in which he intentionally omitted the fact that Mr. Aleman—on  
3 whose representations the search warrant was based—had been charged with felony  
4 offenses amounting to perjury.

5 53. And Defendant Randles’s vendettas against both Colonies and Mr.  
6 Erwin escalated when he discovered that they were working together. On  
7 information and belief, the mere fact of their association further inflamed his desire  
8 for revenge. Despite (or perhaps because of) these obvious biases, Mr. Randles was  
9 named as “lead investigator” for the Colonies investigation and remained the lead  
10 investigator throughout the entire retaliation campaign.

11 54. In November 2008, County Assistant Assessor Adam Aleman  
12 approached the District Attorney’s Office seeking a deal. Defendant Aleman had  
13 already been caught engaging in misleading a grand jury, leading to felony charges  
14 of changing subpoenaed documents. Defendant Aleman’s capacity for falsehood  
15 was further well-known to the investigation team by that point, as he had  
16 successfully misled County officials and the public about Mr. Postmus’s condition  
17 and whereabouts while Mr. Postmus was County Assessor.

18 55. The District Attorney’s Office was eager to turn Defendant Aleman  
19 into an asset in the vendetta against Colonies, particularly Defendant Aleman’s  
20 track record of being loose with the truth. They knew Defendant Aleman could be  
21 easily manipulated to tell the story they wanted to hear, and they easily manipulated  
22 him into doing so. Moreover, the investigative team attempted to have Defendant  
23 Aleman secretly record conversations in which he tried to trick Mr. Postmus into  
24 confirming their false allegations of bribery.

25 56. But even this exercise soon became mired in fraud and cover-up.  
26 Defendants Randles and Schreiber became aware soon after their first meeting with  
27 Defendant Aleman that in his eagerness to join the conspiracy, he had already  
28 secretly taped a conversation with Mr. Postmus. This was a violation of California

1 law, as Defendant Aleman had not yet been authorized to record any conversations  
2 as an agent of the state. Of course, Defendant Aleman already had enough legal  
3 trouble, so Defendants Randles and Schreiber went into full cover-up mode. They  
4 both filed after-the-fact reports claiming to have given Defendant Aleman timely  
5 permission to record Mr. Postmus. But they failed to coordinate their stories, and  
6 their separate reports told contradictory accounts of when and how Mr. Aleman was  
7 first authorized to secretly record Mr. Postmus.

8 57. Defendants Randles and Schreiber’s illegal actions were a direct result  
9 of their directive to obtain evidence against Colonies at all costs. Even if their  
10 supervisors did not direct this specific illegal behavior, the evidence was  
11 documented in reports Defendants Randles and Schreiber created. The  
12 investigation team either reviewed these reports, and thus knew (and ratified) or  
13 should have known that Defendants Randles and Schreiber were conducting their  
14 duties in an illegal fashion, or purposefully declined to review these reports because  
15 they did not want to interfere with Defendants Randles and Schreiber’s illegal  
16 efforts to obtain false evidence against Colonies.

17 58. Meanwhile, as the County continued its “investigation,” Colonies and  
18 its managing partner, Mr. Burum, significantly increased their profile. In April  
19 2009, for example, Mr. Burum was being publicly identified as a person who had  
20 “built a powerful network that supports his causes.” One local political figure  
21 stated that Mr. Burum had “associates and organizations and political connections  
22 capable of providing power, behind political campaigns.” In 2007 and 2008,  
23 Colonies Partners gave \$250,000 to a public safety union, which in turn contributed  
24 \$400,000 to Neil Derry’s successful campaign for a supervisorial seat. Mr. Burum  
25 was publicly identified as someone with “a conglomerate of money and influence.”

26 59. Indeed, Mr. Burum “and his companies” were publicly credited in  
27 media reports with contributing more than \$1.2 million to political action  
28 committees since 2003, and it was well known that Mr. Burum’s (and Colonies’)



1 interests ran to more than just local elections. Mr. Burum, a prominent and  
2 outspoken Republican who supported Mitt Romney’s presidential campaign in  
3 2008, was expected to serve as the state fundraising chair for the 2010 Republican  
4 gubernatorial frontrunner, Meg Whitman. Ms. Whitman’s foreordained Democratic  
5 opponent, of course, was Defendant Brown, then serving as Attorney General.  
6 Mr. Brown was on heightened alert that Colonies and Mr. Burum’s involvement in  
7 promoting his future opponent posed an unwelcome threat to his political career.

8         60. Then, in July 2009, San Bernardino County Supervisor Neil Derry  
9 issued a press release calling for an independent investigation into Defendant  
10 Ramos for “engaging in improper relationships with female subordinates and  
11 colleagues, along with other women.” Though he had stepped down prior to the  
12 issuance of the press release, Mr. Erwin had been Mr. Derry’s chief of staff. Mr.  
13 Derry’s incendiary announcement kindled the District Attorney’s Office’s animus  
14 toward Mr. Erwin and Colonies, since Colonies was perceived as having indirectly  
15 donated hundreds of thousands of dollars to Mr. Derry’s campaign. Given these  
16 political circumstances, Defendant Ramos interpreted Mr. Derry’s call for an  
17 investigation as a threat to his power and prestige, orchestrated by an elected  
18 official associated with Colonies, Mr. Burum, and Mr. Erwin.

19         61. The very next day, the District Attorney’s Office publicly announced  
20 its ongoing “investigation” into the Colonies settlement. And it was no surprise  
21 that soon after, Defendant Ramos announced that Defendant Brown and the  
22 Attorney General’s Office would assist the District Attorney’s Office in the  
23 “ongoing probe into possible corruption involving the Colonies settlement.”  
24 Defendant Mandel was immediately assigned to the case. Shortly thereafter,  
25 Defendant Mandel participated with Defendant Cope in a 2009 “investigative”  
26 grand jury convened to investigate matters related to Colonies and its partners.

27         62. Meanwhile, Defendant Ramos made no secret of his animus toward  
28 Colonies, including Mr. Burum, making public statements about how his office had

1 come under attack from “very wealthy developers.” Defendant Ramos believed  
2 that the criminal investigation could be used to prevent Colonies, and Mr. Burum in  
3 particular, from becoming significant political foes in the next election, then just a  
4 year away.

5 63. The combination of the forces of the Attorney General’s Office and the  
6 District Attorney’s Office was quickly followed in October 2009 by Defendant  
7 Brown’s headliner appearance at a campaign fundraiser for Defendant Ramos in  
8 San Bernardino County. Both Defendant Ramos and Defendant Brown were facing  
9 upcoming elections in 2010—Defendant Ramos for re-election as District Attorney  
10 and Defendant Brown for Governor of California. Defendant Brown’s appearance  
11 was all the more unusual because Defendant Ramos was registered as a partisan  
12 Republican, while Defendant Brown was running for office as a partisan Democrat.  
13 What united them was simply their mutual animus toward, and desire to take down,  
14 Colonies and their lead partners, especially Mr. Burum.

15 64. The conspirators thus agreed to combine their forces to engage in the  
16 retaliatory investigation. At the end of the day, while all of the various parties  
17 involved in the investigation may have entered the conspiracy with differing  
18 motives for retaliation, all of those motives merged into one overriding goal when  
19 the Defendants joined forces in August 2009: Obtain revenge against Colonies for  
20 its litigation success and, at the same time, take Colonies and Mr. Burum off the  
21 political table as retaliation for supporting the Defendants’ political opponents.

22 65. Defendant Brown’s retributive and punitive purpose for the  
23 investigation was evident from his own words in a communication directed to  
24 former State Senator James Brulte. Mr. Brulte was warned by Defendant Brown,  
25 via intermediaries, to “Stay away from those ‘Colonial’ [sic] guys, because we are  
26 going to take them down.” Mr. Brulte understood the communicated message as a  
27 warning that if he did not want himself to become a target of the retaliatory  
28 investigation, Mr. Brulte should stop associating with Colonies and its partners, or

1 advocating for its interests, as he had done in the past. Mr. Brown communicated  
2 this message through two intermediaries in a transparent attempt to maintain  
3 plausible deniability.

4 66. Of course, Defendants were more than aware of Colonies’ ability to  
5 employ the media and public opinion to tell its side of the story. Colonies had been  
6 effectively using the media for years when having Mr. Burum take its message  
7 directly to the public. The investigation team, led by Defendants Brown and  
8 Ramos, recognized that they could also use media and public relations to carry out  
9 their retaliatory campaign.

10 67. Several months after the Attorney General’s Office and the District  
11 Attorney’s Office joined forces against Colonies, Defendants Ramos and Brown  
12 held a joint press conference to announce the prosecution of Mr. Postmus and Mr.  
13 Erwin in what they were already calling potentially the largest public corruption  
14 scandal in the history of California. Defendant Brown claimed that it was the “most  
15 appalling corruption case in decades” and “a shocking example of how money can  
16 corrupt the government process”—statements made as though they were proven  
17 facts, even as Defendant Brown was collecting record amounts of campaign cash  
18 for his own race for California Governor. Defendant Ramos noted that two  
19 Colonies partners (neither identified at the time, but in truth Mr. Burum and his co-  
20 managing partner, Dan Richards) had been named as unindicted co-conspirators at  
21 the time, and warned about an “ongoing investigation.” Defendant Ramos then  
22 decried—again stated as though a proven fact—“a well-orchestrated political and  
23 personal attack on this District Attorney, attempting to intimidate me in obstructing  
24 justice and finishing this job.” Defendant Ramos, recognizing that Colonies  
25 remained a threat to his power, declared that he was going to “finish the job” by  
26 aggressively investigating Colonies and its partners, including Mr. Burum.

27 68. Defendant Ramos assured the public that Defendant Brown was his  
28 “crime-fighting partner,” and that both were responsible for the investigation.

1 Defendant Ramos explained that the Attorney General’s Office “went through all of  
2 our evidence, and now have worked with us every day on this.” Defendant Ramos  
3 expressly named Defendants Hackleman, Schons, and Mandel, and explained that  
4 they were “working together every day” on the investigation.

5 69. The same day as the press conference, the Office of the Attorney  
6 General released a statement regarding the ongoing investigation. In that statement,  
7 Defendant Ramos was quoted as stating “[t]he assistance of the Attorney General’s  
8 Office has been, and will continue to be, invaluable *in our investigation*. I would  
9 like to thank Attorney General Brown for providing the excellent assistance of  
10 Deputy Attorney General Melissa Mandel *who has been working directly with our*  
11 *team* and Senior Assistant Attorney General Gary Schons *for his advice and*  
12 *direction over the past months.*”

13 70. While Colonies and its partners remained unindicted at that time,  
14 Defendants Brown and Ramos both made it clear that they were the real target in  
15 the ongoing criminal investigation. Defendant Ramos lamented that Colonies had  
16 obtained compensation for its property in “these tough economic times,” and  
17 explained that his goal was to “get that money back to the citizens,” a statement he  
18 repeated innumerable times at various political and fund-raising events throughout  
19 the Colonies investigation, and the eventual prosecution. Defendant Ramos further  
20 claimed that these “well-funded folks, developers” were somehow trying to “attack  
21 and control the D.A’s office for exposing this corruption.” The subtext was that  
22 that the investigation was punishment against Colonies’ all-too-successful  
23 campaign to lawfully influence the political process. The truth was the precise  
24 opposite: Defendant Ramos was on the attack against Colonies and Mr. Burum,  
25 using the media and the power of his political office to advance Defendants’  
26 orchestrated campaign of retaliation.

27 71. Defendant Ramos did not even bother to hide his intent to squelch  
28 Colonies’ First Amendment rights. Just a week after the February 10 press

1 conference, Defendant Ramos explained that “these people”—a not-very-thinly  
2 veiled reference to Colonies and its partners—wanted to “take [him] out” for  
3 “political reasons.” He then issued the clear threat that he would “watch where  
4 every dime (of campaign spending) came from.” The message was not lost even on  
5 Defendant Ramos’s opponent at the time, who accurately summarized Defendant  
6 Ramos’s statement as a threat to criminally prosecute anyone that offered financial  
7 support to Mr. Ramos’s opposition

8         72. And even after Mr. Burum was acquitted, Mr. Ramos continued to  
9 demonstrate his obsession with revenge and retaliation for the Colonies settlement.  
10 In 2018, referring to Mr. Burum as an “Upland developer,” Mr. Ramos made  
11 various statements suggesting that his political and financial support for Mr.  
12 Ramos’s opponent for the office of District Attorney, Jason Anderson, was  
13 unethical and illegal. In another statement, Defendant Ramos called legal  
14 contributions by Mr. Burum and others to certain legal political action committees  
15 “money laundering,” another threat again designed to chill political speech by Mr.  
16 Burum and his associates, including Colonies and its partners.

17         73. Defendant Brown demonstrated similar animus against Colonies in his  
18 own public statements, stating that he found it significant that there was “\$102  
19 million being voted on,” and explaining that the settlement would be “void” and the  
20 \$102 million would be paid back to the County by Colonies. Defendant Brown  
21 demonstrated his willingness to direct the investigation based on a preordained  
22 assumption of guilt, stating that there was “no basis” for the \$102 million  
23 settlement. Instead, he claimed that without “illicit, improper, and corrupt  
24 influencing . . . then the taxpayers would have never paid anywhere near—if  
25 anything—into this settlement.”

26         74. These statements were provably false, and maliciously made. At the  
27 same time Defendant Brown was making this statement, he knew (as did  
28 Defendants Ramos, Mandel, Cope, Schons, Hackleman, and the other members of

1 the investigation team) that the supposed victim, the County of San Bernardino,  
2 was appearing in court to substantively *defend* the \$102 million settlement on the  
3 basis that if the settlement had not been reached, the County’s damages would have  
4 increased to \$300 million or more. The investigation team also knew that Judge  
5 Warner had publicly urged the parties to settle, telling them in open court that  
6 “resolution is preferred over continued litigation in this matter.” But Defendant  
7 Brown and the other Defendants that participated in the retaliatory investigation had  
8 no interest in the actual facts of the case or a fair investigation.

9       75. In fact, Defendants knew that multiple County lawyers had cleared the  
10 settlement, having been told in 2009 by San Bernardino County Counsel Mitchell  
11 Norton that “the district’s outside counsel, another 18 set of lawyers, in connection  
12 with my office, have engaged expert witnesses in various disciplines and are  
13 prepared to try the case that the settlement was objectively reasonable given the  
14 circumstances at the time.” Mr. Norton added that the County’s legal team in 2009  
15 was “confident that it can demonstrate that the exposure at the time of the  
16 settlement was real.” Having taken the reins of the investigation, Defendant Brown  
17 had this information but, like the rest of the investigation team, turned a blind eye  
18 to the truth.

19       76. To make these statements, Defendant Brown and the investigation  
20 team also had to set aside that the San Bernardino County Superior Court had  
21 conclusively held that the Settlement Agreement was legal and valid following a  
22 validation action *brought by the County* and supported by a unanimous Board of  
23 Supervisors—a holding subsequently upheld by the Court of Appeal in dismissing a  
24 2012 lawsuit brought by taxpayer groups seeking to challenge and invalidate the  
25 settlement (the “Taxpayer Action”).

26       77. Defendant Brown was entirely indifferent to the facts, and both he and  
27 Defendant Ramos set the investigation team on a course that encouraged  
28 investigation by any means, so long as those means resulted in retribution.

1           78.     Meanwhile, Defendants Brown and Defendant Ramos’s directive that  
2 the settlement amount be deemed unjustified and, thus, had to be a product of  
3 corruption, became a mantra among those participating in the investigation. In a  
4 March 17, 2010 letter to San Bernardino County, Defendant Schons wrote that  
5 “relevant to the charge that the settlement was a product of corruption is the fact  
6 that ‘the settlement amount was neither justified nor properly and thoroughly vetted  
7 before it was voted on and approved.’” Again, Defendant Schons knew this was  
8 not the case because the County was taking a contrary position in civil litigation,  
9 complete with expert witnesses testifying that \$300 million was an accurate level of  
10 damages. In the same letter, Defendant Schons repeatedly made reference to the  
11 investigation team and its ongoing “investigation” into supposed corruption.

12           79.     The March 17 letter (and others like it) was Defendant Schons’ effort  
13 to assist Defendants Hackleman and Stringer to pursue a fundamentally dishonest  
14 “two paths” strategy, documented in written correspondence discovered during the  
15 criminal prosecution. The purpose of the “two paths” strategy was to permit the  
16 County to defend the legality of the settlement in its civil litigation, while  
17 prosecutors would simultaneously try to prove its criminality as part of criminal  
18 investigation. In their view, this strategy would permit the County—the supposed  
19 victim in the alleged “crime” being investigated—to defend the very settlement that  
20 Defendants had prejudged as unreasonable and corrupt. On information and belief,  
21 they reasoned that by pursuing both paths, at least one of them would succeed in  
22 punishing Colonies. Defendant Stringer even violated her ethical duties in her zeal  
23 to punish Colonies and Mr. Burum by sharing attorney-client privileged  
24 information with Defendant Hackleman *before* the Board of Supervisors voted to  
25 waive the privilege.

26           80.     Further evidencing their retaliatory animus, Defendants Brown and  
27 Ramos ordered the investigation team to interview dozens of witnesses sympathetic  
28 to the County’s interests. These witnesses, all angry at Colonies for obtaining the



1 settlement, insinuated—falsely, of course—that the settlement must have been the  
2 result of corruption. Defendants sought out these witnesses with a vendetta against  
3 Colonies because that vendetta matched their own.

4 81. Moreover, the investigation team continued to employ Defendants  
5 Randles and Schreiber to conduct the investigation, even after the Attorney  
6 General’s Office joined the investigation, because the team knew that Defendants  
7 Randles and Schreiber would use their usual aggressive and coercive tactics to  
8 manufacture supposed “evidence.” To this end, any witness that dissented from the  
9 investigation’s pre-ordained path was bullied, threatened, and isolated in attempts  
10 to obtain false testimony.

11 82. For example, Matt Brown was Mr. Biane’s Chief of Staff at the time of  
12 the Colonies settlement and subsequent PAC contributions. Defendants intimidated  
13 Mr. Brown into wearing a wire and making secret recordings of his conversations  
14 with Mr. Biane, Mr. Postmus, and others. Although Mr. Brown recorded dozens of  
15 conversations with men who knew and trusted him in 2009 and 2010, none of these  
16 recordings revealed the slightest evidence of corruption or bribery. To the contrary,  
17 Mr. Brown recorded Mr. Postmus stating that there was no bribe. And though Mr.  
18 Brown was a cooperating witness, he would not admit that there was a *quid pro*  
19 *quo*. This glaring absence of evidence did not dissuade the investigation team in  
20 the slightest.

21 83. While Defendants Randles and Schreiber were undertaking all of these  
22 aggressive and intimidating actions to supposedly obtain evidence against Colonies,  
23 one thing they were not doing was actually looking at any documents or  
24 interviewing any witnesses that might actually exonerate Colonies and its partners.  
25 On information and belief, Defendants Randles and Schreiber were directed by  
26 their supervisors—Defendants Brown, Ramos, Schons, Mandel, and Cope—to  
27 accept that the settlement could never be justified on the merits, and to ignore  
28 gathering, reviewing, or considering evidence contradicting that point. Defendants

1 Randles and Schreiber therefore ignored information that the settlement could be  
2 reasonable, as it would have been self-defeating to the investigation's primary  
3 purpose as stated by Defendants Brown and Ramos—take down Colonies and its  
4 partners.

5 84. At this point in the investigation, the Defendants were relying on  
6 biased County-related witnesses offering uninformed opinions diametrically  
7 opposed to the County's current legal position, combined with the information  
8 provided by Defendant Aleman, an accused perjurer and all-around liar. They  
9 recognized they needed more evidence to hide the true retaliatory nature of their  
10 investigation.

11 85. It was for this reason that Mr. Postmus's testimony was so important to  
12 the investigation team, and why Mr. Postmus was coerced into giving false  
13 testimony and his drug addiction leveraged to manipulate his memory. Mr.  
14 Postmus was one of the Supervisors who voted in favor of the Settlement  
15 Agreement. He was also affiliated with at least one of the political action  
16 committees that received political contributions from Colonies in 2007. The  
17 investigation team needed someone to tie these two events together to build their  
18 case of bribery against Colonies and Mr. Burum, and they knew that Mr. Postmus  
19 was someone who could be manipulated because of his ongoing and longstanding  
20 methamphetamine addiction and the numerous felony charges he faced based on his  
21 drug use and illegal conduct in the Assessor's Office.

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

1           87. Defendants Randles and Schreiber knew all of this because of their  
2 involvement in ongoing criminal investigations against Mr. Postmus. Defendant  
3 Randles, in particular, had bragged about how he had “studied” Mr. Postmus and  
4 knew him well. And because the seasoned investigative team knew full well how  
5 Mr. Postmus’s methamphetamine abuse could impact memory—among other  
6 things, making him more susceptible to having false memories implanted by  
7 coercive questioning—the team recognized and seized the opportunity to  
8 manipulate Mr. Postmus into becoming their star witness for their campaign of  
9 retaliation and retribution. To Mr. Postmus (and several others as well), Defendants  
10 Randles and Schreiber would claim that they “knew all the answers” before ever  
11 hearing from the witness. Indeed, these statements simply echo the prejudgment of  
12 guilt, and nakedly retributive purpose, that inevitably drove the entire investigation.

13           88. The investigation team went so far as to avoid drug testing Mr.  
14 Postmus during the investigation, giving Defendants Cope and Mandel plausible  
15 deniability when they eventually elicited false testimony from Mr. Postmus before  
16 the indicting grand jury in which he claimed to have been sober for months (only to  
17 later admit that he had been using methamphetamine throughout his cooperation  
18 with the District Attorney’s Office and his grand jury testimony). Of course, failing  
19 to drug test Mr. Postmus had the added benefit to Defendants Randles and  
20 Schreiber of increasing the likelihood that Mr. Postmus would continue his  
21 methamphetamine abuse and thus remain in the drug-addled state they needed to  
22 continue manipulating him. Defendants Cope and Mandel, who directly oversaw  
23 the conduct of Mr. Postmus’s interviews, were aware of and endorsed these  
24 strategies, knowing the importance of Mr. Postmus’s answers.

25           89. Defendants recognized that by working together with textbook carrot-  
26 and-stick manipulation, they could convince Mr. Postmus to offer the false  
27 testimony they needed to politically checkmate Mr. Burum and Colonies. And it  
28 worked. Over the course of five interviews in early 2011, Defendants Randles and

1 Schreiber—aided by Defendants Cope and Mandel—repeatedly and successfully  
2 manipulated Mr. Postmus’s memory and coerced him into saying what they wanted  
3 to hear.

4 90. Multiple Defendants took a hands-on approach to Mr. Postmus’s  
5 interviews. Defendant Cope attended Mr. Postmus’s first interview, and introduced  
6 Defendants Randles and Schreiber, stating that “I have these folks [meaning  
7 Defendants Randles and Schreiber] and they’re professionals.” But in his initial  
8 interviews with Defendants Randles and Schreiber, Mr. Postmus explicitly and  
9 repeatedly denied that he had ever accepted a bribe in exchange for his pro-  
10 settlement vote. And he emphatically stated that Mr. Burum had “never crossed the  
11 line” with him in dealing with the Colonies matter. On information and belief,  
12 Defendants refused to accept this truth because it did not further the retributive  
13 narrative against Colonies created by Defendants Brown and Ramos: that the only  
14 explanation for the \$102 million settlement was corruption.

15 91. Defendant Mandel attended a later interview with Mr. Postmus, with  
16 Defendant Cope explaining that “she’s part of this case and so she’s gonna be here  
17 for just a [inaudible].” Defendant Mandel had looked over transcripts of “some of  
18 [Mr. Postmus’s previous] interviews,” and was clearly concerned because they  
19 tended to emphasize Mr. Postmus’s repeated denials of a corrupt *quid pro quo*  
20 agreement. Defendant Mandel thus coached Mr. Postmus on how he should deliver  
21 his answers so that he could be of maximum use to the investigators. Defendant  
22 Mandel made the investigatory purpose of her presence clear, requesting “bank  
23 records, phone records, text messages, phone messages, [and] emails” for use in the  
24 investigation. At no point did Defendant Mandel mention the upcoming grand jury.  
25 Defendants Randles and Schreiber then set up yet another investigatory interview to  
26 continue grooming Mr. Postmus to testify as they wanted him to testify.

27 92. Defendants Randles and Schreiber also planted smaller deceptions for  
28 the purpose of manipulating Mr. Postmus into telling larger lies. For example, they

1 convinced Mr. Postmus during their interviews that he had fired the County's  
2 outside counsel in 2004 at Mr. Burum's insistence. But they knew that could not be  
3 true, as Mr. Postmus had already told them he did not get to know Mr. Burum until  
4 a trip to China over a year later. Indeed, it eventually became part of the  
5 prosecution's narrative to claim that Mr. Burum had arranged to go on the 2005  
6 China trip for the precise purpose of meeting Mr. Postmus and discussing Colonies  
7 with him. Of course, even that premise was easily disproven by an objective  
8 investigation, which would have found that Mr. Postmus had been invited to go on  
9 that China trip a year earlier for reasons entirely unrelated to Mr. Burum. Mr.  
10 Postmus later recognized and admitted that his contradictory and nonsensical  
11 "memories" of these events had been planted by an unscrupulous and coercive  
12 investigation team. The result was that Defendants Randles and Schreiber elicited  
13 and even fabricated false information to fulfill their mandate to obtain evidence to  
14 be used in retaliating against Colonies at all costs.

### 15 **Other Conspirators in the Unlawful Retaliation**

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

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

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

3 95. Beginning in 2008, Defendant Gonzales volunteered other false  
4 information to District Attorney investigators and the 2009 investigative grand jury,  
5 including that Mr. Burum had supposedly intimidated her in the run-up to the 2006  
6 settlement. For example, Defendant Gonzales falsely claimed that Mr. Burum  
7 menaced her in China prior to the settlement, to the point that she feared he was  
8 going to kidnap, drug, and take compromising photographs of her. Supposedly the  
9 purpose of all this was to intimidate or extort her into voting for the Settlement  
10 Agreement. This was fantasy: Defendant Gonzales and Mr. Burum were never in  
11 China at the same time.

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

25 97. Defendant Aleman also conspired with one or more of the other  
26 Defendants to initiate the wrongful investigation. Beginning in 2008, Defendant  
27 Aleman started supplying the investigative team with knowingly false information  
28 to initiate and encourage the criminal investigation against Colonies and Mr.

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

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

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



1 had firsthand information that Colonies and Mr. Burum made the 2007 PAC  
2 contributions in a *quid pro quo* exchange for Mr. Postmus's vote.

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

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

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

28

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

18 103. Defendant Hackleman expressly told Defendant Stringer that it was the  
19 District Attorney’s goal to “be prepared to show that [the settlement] was  
20 unreasonable” even though the County was simultaneously defending the  
21 reasonableness of the settlement in its indemnity litigation in court and in its  
22 insurance arbitrations. With no little understatement, Defendant Hackleman  
23 explained that it would be “an epic challenge” to gather information to support the  
24 exact opposite position as the position the County was already taking in litigation.  
25 Defendants Schons participated in and endorsed these efforts to manipulate the  
26 investigation in this fashion.

27 104. On information and belief, Defendant Stringer entered into an  
28 agreement with one or more of the other Defendants to continue providing

1 assistance in pursuing the illegal Colonies investigation as part of the conspiracy to  
2 retaliate against Colonies and Mr. Burum for having exercised their First and Fifth  
3 Amendment rights.

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

19 106. During the 2011 press conference, Defendant Ramos again brought up  
20 the \$102 million settlement payment, and explained that “Team Justice” was going  
21 to seek an order of restitution requiring Colonies to return the settlement payment—  
22 even though the District had already received 72 acres of Colonies’ developable  
23 land for regional flood control use. Defendants, angry that the District had been  
24 forced to compensate Colonies for that land, used the pretext of the prosecution to  
25 pressure Colonies to disgorge its hard-won compensation guaranteed under the  
26 Fifth Amendment. Indeed, Defendant Ramos explained during the press  
27 conference that the District Attorney’s Office was also “partners” with the San  
28 Bernardino County Counsel’s office in their efforts to recover the \$102 million,

1 leaving no doubt about the County’s and Defendant Ramos’s complicity in their  
2 joint retaliation scheme and that Colonies was their target. Defendant Schons also  
3 spoke at the press conference on behalf of the California Attorney General’s Office.  
4 Defendant Schons emphasized the “equal partnership” shared between the District  
5 Attorney’s Office and the Attorney General’s Office in investigating the case.

6 **Presentation of False Testimony and Evidence**

7 107. Defendants Cope and Mandel—on information and belief, supervised  
8 by Defendants Ramos, and/or Brown—presented fraudulent evidence to an  
9 investigative grand jury in 2009 and the indicting grand jury in 2011 to secure Mr.  
10 Burum’s indictment on false charges and without probable cause. Among other  
11 things, they presented Mr. Postmus’s, Defendant Aleman’s, and Defendant  
12 Gonzales’s false testimony discussed above. They also pressured other witnesses,  
13 including Mr. Brown, to give false testimony. And Defendant Randles testified  
14 falsely about the timing of his investigation in order to prevent certain charges from  
15 being barred due to the statute of limitations.

16 108. Defendants Cope and Mandel—on information and belief, supervised  
17 by Defendants Ramos—also manipulated the grand jury process to hide  
18 exculpatory evidence. For example, they presented evidence that Judge Warner and  
19 others had been the subject of a judicial ethics investigation due to alleged  
20 inappropriate contacts with Mr. Burum, knowing that the instigator of that  
21 investigation—James Lindley—had recanted his allegations. Mr. Lindley was a  
22 County employee who had claimed in 2006 that he had information that one of the  
23 judges for the civil case (either Judge Norell or Judge Warner) was golfing buddies  
24 with Mr. Burum—with the clear implication being that this improper relationship  
25 impacted the case. Defendants Cope and Mandel presented this accusation to the  
26 indicting grand jury through testimony from former County Counsel Dennis  
27 Wagner, without informing the grand jury at that time that Mr. Lindley had  
28 recanted his claim. Then, in what they admitted was a highly unusual move, they

1 called Mr. Lindley to testify in front of a separate civil grand jury at the same time  
2 that the criminal grand jury was sitting. During his testimony, Mr. Lindley  
3 candidly admitted that he had no basis for the damaging accusation and had  
4 presented it to his superiors to inflate his reputation. But because the prosecution  
5 manipulated the grand jury process, the indicting grand jury did not get to hear Mr.  
6 Lindley’s rueful recantation. Instead, Defendants Cope and Mandel waited until the  
7 very end of the grand jury process to present a secondhand, sanitized version of Mr.  
8 Lindley’s admissions. This allowed them to present the rumor to the grand jury as  
9 further “evidence” of corruption, while hiding for as long as possible the fact that  
10 Mr. Lindley’s account was wholly fictitious, and depriving the grand jury of the  
11 opportunity to evaluate Mr. Lindley’s credibility or ask him any questions of their  
12 own. This strategy paid off, as grand jurors openly wondered—without any basis  
13 in reality—whether “Judge Warner was in Jeff Burum’s pocket financially or  
14 otherwise.”

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

1           110. On information and belief, Defendants Cope and Mandel—supervised  
2 by Defendant Ramos—introduced these allegations regarding Judge Warner, Judge  
3 Norell, and Justice Panelli in order to create an aura of corruption over the entire  
4 civil case, to hint at additional acts of uncharged and unproven crimes by Mr.  
5 Burum and others, and to cast doubt over the reasonable—and legal—basis for the  
6 Settlement Agreement. In this manner, they implied and ultimately argued, without  
7 evidence, that the only possible reason for the Settlement Agreement was bribery  
8 and corruption.

9           111. As a result of the Defendants’ fraud, perjury, threats, lies, and sham  
10 investigation, the 2011 grand jury indicted Mr. Burum on seven felony charges.  
11 The 2011 grand jury’s findings were the first probable cause finding against Mr.  
12 Burum—prior to the 2011 grand jury, Defendants had not so much as obtained or  
13 served a search warrant against Colonies or Mr. Burum.

14           112. The criminal trial that eventually followed only served to further  
15 expose that the Colonies investigation had not been a legitimate attempt to uncover  
16 the truth, but instead a retaliation campaign. The following are only some of the  
17 examples of testimony and evidence elicited by the prosecution at trial that  
18 backfired, exposing the fraudulent and retaliatory nature of the Colonies  
19 investigation:

- 20           a) Defendant Randles again claimed, as he had before the indicting grand  
21 jury, that prior to his November 1, 2008 interview of Defendant  
22 Aleman, he did not know who Mr. Burum was, a highly material  
23 allegation relevant to the delayed discovery exception rule to the  
24 statute of limitations. On cross-examination, Defendant Randles’s  
25 own words exposed his claim as a lie. Indeed, tapes of Defendant  
26 Randles discussing Mr. Burum in earlier 2008 interviews were played  
27 in the courtroom.  
28

1           b) Defendant Gonzales told the trial jury that Mr. Burum was lurking in  
2           China in 2005 for the purpose of taking advantage of her and  
3           intimidating her into voting for the Settlement Agreement. On cross-  
4           examination, it was proven that Defendant Gonzales was not in China  
5           in 2005—she was at various well-publicized events in San Bernardino  
6           and Louisiana. Defendant Gonzales then changed her story, under  
7           oath, and claimed it was in 2006 that she saw Mr. Burum in China.  
8           But Mr. Burum was not in China during that 2006 trip. He was in  
9           Palm Springs at the wedding of his business partner’s daughter. When  
10          confronted with Mr. Burum’s passport, which established that Mr.  
11          Burum did not go to China in 2006, Defendant Gonzales stubbornly  
12          refused to admit her lies, instead claiming that he could have flown  
13          into Communist China on a private jet and evaded customs.  
14          Defendant Gonzales also testified that she had a long record of voting  
15          against the Colonies settlement, which was entirely contradicted by her  
16          actual voting record of voting in favor of settlement at every  
17          opportunity until the very end. At no point during several days of this  
18          contradictory, fabricated, and outlandish testimony did prosecutors  
19          attempt to prevent or correct this perjury from their own witness;  
20          instead, they continued to elicit it and doubled down in redirect  
21          examination.

22          c) Defendant Aleman testified on direct examination that Mr. Postmus  
23          only became involved in the Colonies litigation after a trip to China in  
24          September 2005 that both Mr. Postmus and Mr. Burum attended. This  
25          was false, as Defendant Aleman conceded under cross-examination.  
26          Defendant Aleman also claimed that he attended several meetings at  
27          the Red Hill Country Club clubhouse in 2006 in which Mr. Postmus  
28          and Mr. Burum supposedly discussed the alleged bribe. But the



1 evidence showed that there was no Red Hill Country Club clubhouse  
2 in that period; it had been torn down and was being rebuilt—a fact  
3 anyone could have discovered with little investigation. Defendant  
4 Aleman lied about the locations of other supposed meetings as well,  
5 with cross-examination exposing that he had told different stories at  
6 different times.

7 d) Defendant Mandel also helped Defendant Aleman cover up his illegal  
8 receipt of campaign funds. When initially asked about having  
9 obtained personal reimbursement for a political event, Defendant  
10 Aleman denied having ever done so. Defense counsel then confronted  
11 Defendant Aleman with public records evidencing that he received an  
12 unlawful personal reimbursement for campaign expenditures. Defense  
13 counsel eventually forced Defendant Aleman to admit that he had lied  
14 about receiving these funds. Nevertheless, on redirect examination,  
15 Defendant Mandel attempted to rehabilitate Defendant Aleman’s  
16 credibility. She elicited further perjurious testimony from Defendant  
17 Aleman that he had not unlawfully received campaign funds, which  
18 was contradicted by the documentary evidence she—and everyone in  
19 the courtroom—had just viewed. Defendant Mandel also asked  
20 questions designed to whitewash Defendant Aleman’s embezzlement  
21 and dishonesty by eliciting testimony that reimbursement from  
22 campaign funds was routine and legal—although they were nothing of  
23 the sort in this instance. In doing so, Defendant Mandel tried to hide  
24 Defendant Aleman’s theft, hide his lies about the theft, and knowingly  
25 suborned perjury.

26 e) Defendants Randles and Schreiber became aware soon after first  
27 meeting with Defendant Aleman that he had secretly taped a  
28 conversation with Mr. Postmus, a violation of California law because

1 he had not yet been authorized to record as an agent of the state.  
2 Defendant Aleman admitted that he lied on the stand when he initially  
3 claimed he had authority to make the recordings. But Defendant  
4 Randles nevertheless insisted that Defendant Aleman had been  
5 authorized. On cross-examination, it was shown that Defendants  
6 Randles and Schreiber had conspired to provide Defendant Aleman  
7 with a cover story—but they failed to coordinate their stories, filing  
8 separate police reports with entirely different accounts of when and  
9 how Defendant Aleman was first authorized to secretly record Mr.  
10 Postmus.

11 f) Mr. Postmus falsely testified on direct examination that he had been  
12 bribed by Mr. Burum. Defendants Cope and Mandel—on information  
13 and belief, supervised by Defendant Ramos—allowed this testimony  
14 despite the fact that Mr. Postmus had repeatedly told their investigators  
15 that there was no *quid pro quo* agreement to accept a bribe in exchange  
16 for a pro-settlement vote, and that Mr. Burum had never “crossed the  
17 line” to obtain the Settlement Agreement. On cross-examination, Mr.  
18 Postmus was shown how Defendants Randles and Schreiber had  
19 bullied and manipulated him into “confessing” to crimes that never  
20 occurred. After recognizing how he had been taken advantage of, Mr.  
21 Postmus testified on cross-examination that he was “100% positive”  
22 no bribery had occurred, and reaffirmed that Mr. Burum had “never  
23 crossed the line” in advocating for the Colonies settlement.

24 g) Mr. Postmus also testified on direct examination that Mr. Burum had  
25 engineered Mr. Postmus’s attendance on a 2005 trip to China, which  
26 prosecutors argued was an effort to “groom” him to accept bribes. In  
27 reality, and as confirmed by documents in the prosecution’s  
28

1           possession, Mr. Postmus had been invited by an unrelated third party a  
2           year earlier.

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

10           114. Interviewed after their verdict, members of Mr. Burum’s jury made no  
11 secret of their outrage at the waste of taxpayer dollars and the evident incompetence  
12 and fraud they witnessed for so many months. Indeed, they wondered—among  
13 other things—why prosecutors had presented obviously false testimony and why  
14 Defendants Randles and Gonzales were not facing prosecution for perjury. One  
15 juror expressed that prosecutors “lacked any type of grounds to prosecute.”  
16 Another juror expressed that Defendant Aleman was untrustworthy and not  
17 credible, and “never” should have been on the witness stand. A third, wondering  
18 why the trial took several months, suggested that if there had been proof of guilt,  
19 the prosecution should have “shown that right away.”

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

27           116. Sadly, but not surprisingly, Defendant Ramos has not let up even after  
28 the public humiliation he suffered in the Colonies trial. When Mr. Burum and

1 others made campaign contributions to political committees supporting Defendant  
2 Ramos’s current opponent in the upcoming election for District Attorney,  
3 Defendant Ramos again started making threats of retribution, publicly claiming that  
4 these legal and fully-disclosed political contributions constituted “money  
5 laundering.” Defendant Ramos’s efforts to chill First Amendment activity thus  
6 continue unabated.

7 **FIRST CLAIM**

8 **Retaliation – 42 U.S.C. § 1983**

9 **Against Defendants Ramos, Cope, Hackleman, Randles, Schreiber, Brown,**  
10 **Mandel, and Schons**

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

13 118. Defendants Ramos, Cope, Hackleman, Randles, Schreiber, Brown,  
14 Mandel, and Schons, all state actors or acting under color of state law, had a duty to  
15 permit Mr. Burum free exercise of his constitutional rights.

16 119. When Mr. Burum exercised these rights, as set forth above,  
17 Defendants Ramos, Cope, Hackleman, Randles, Schreiber, Brown, Mandel, and  
18 Schons retaliated against Mr. Burum in the manner alleged herein for participation  
19 in what Defendants knew were First and Fifth Amendment protected activities.  
20 These Defendants’ retaliatory conduct included, but was not limited to, the  
21 following:

- 22 a) Initiating a fraudulent and illegitimate criminal investigation into  
23 Colonies and its management, in particular, Mr. Burum;  
24 b) Publicly threatening to use the criminal investigation as a means to  
25 take back the \$102 million Colonies had received as just compensation  
26 for the County and District’s taking of its land;  
27  
28

- 1 c) Manipulating and coercing Mr. Postmus into falsely claiming that his
- 2 vote in favor of the Settlement Agreement had been corruptly
- 3 influenced by Colonies and Mr. Burum;
- 4 d) Eliciting false statements during the investigation, and eventually
- 5 perjurious testimony, from Defendants Gonzales, Aleman, and others,
- 6 in particular regarding Mr. Burum's actions prior to the Colonies
- 7 settlement;
- 8 e) Threatening and attempting to coerce other witnesses, such as Matt
- 9 Brown, into making false statements during the investigation and
- 10 providing perjurious testimony; and
- 11 f) Fabricating and falsifying evidence during the investigation.

12 120. Mr. Burum's exercise of his constitutional rights, as set forth above,

13 was a substantial and/or motivating factor in Defendants Ramos, Cope, Hackleman,

14 Randles, Schreiber, Brown, Mandel, and Schons's wrongful retaliatory conduct.

15 121. Defendants Ramos, Cope, Hackleman, Randles, Schreiber, Brown,

16 Mandel, and Schons's actions against Mr. Burum would chill a person of ordinary

17 firmness from continuing to exercise their constitutional rights;

18 122. The harm to Mr. Burum from Defendants Ramos, Cope, Hackleman,

19 Randles, Schreiber, Brown, Mandel, and Schons's illegal actions includes lost

20 income, lost business opportunities, loss of reputation, litigation expenses including

21 attorneys' fees, and other compensatory damages, in an amount to be proved at

22 trial.

23 123. Defendants Ramos, Cope, Hackleman, Randles, Schreiber, Brown,

24 Mandel, and Schons's conduct was willful, wanton, malicious, and done with

25 reckless disregard for Mr. Burum's rights and therefore warrants the imposition of

26 exemplary and punitive damages as to each of them.

27  
28

1 **SECOND CLAIM**

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

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

4 124. Mr. Burum re-alleges and incorporates each allegation in Paragraphs 1  
5 through 123 of this Complaint as though fully set forth herein.

6 125. As alleged herein, the investigation of Mr. Burum was not undertaken  
7 to obtain evidence of a crime, but instead to harass and retaliate against Colonies  
8 and Mr. Burum for exercising their First and Fifth Amendment rights and obtaining  
9 what Defendants perceived as a favorable settlement of the civil litigation. When  
10 the District Attorney’s Office learned of the settlement, it immediately began  
11 plotting to use its power and authority to retaliate against Colonies and Mr. Burum.

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

21 127. Defendants Randles and Schreiber were the lead “investigators” in this  
22 retaliatory campaign against Colonies and Mr. Burum. But rather than conducting  
23 a thorough and open-minded investigation, it was one-sided, biased, and conducted  
24 with the preordained goal of convicting Mr. Burum. Defendant Cope likewise  
25 participated in and oversaw the unjust investigation, including bullying Mr.  
26 Postmus during investigative interviews into making false statements. As alleged  
27 above, Defendants Randles and Schreiber also threatened and bullied witnesses,  
28 ignored exculpatory evidence that did not serve their purpose of retaliating against

1 Colonies and Mr. Burum, intentionally failed to obtain and/or preserve exculpatory  
2 evidence, fabricated evidence, and, in the case of Defendant Randles, even testified  
3 falsely under oath before the grand jury and trial jury.

4 128. Moreover, and as alleged above, this improper investigation was  
5 carried out by the Public Integrity Unit, in which prosecutors participated in the  
6 investigation and the roles of prosecutors and investigators were comingled.  
7 Because of their comingled roles, and because prosecutors, including Defendant  
8 Cope, had participated in the biased investigation, prosecutors did not exercise  
9 independent judgment when prosecuting Mr. Burum.

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

19 130. Defendants Randles and Schreiber also manipulated the investigation  
20 through their handling of Mr. Postmus, the prosecution's key cooperating witness.  
21 Knowing that Mr. Postmus was suffering from a long-time drug addiction,  
22 Defendants Randles and Schreiber used interrogation techniques designed to plant  
23 memories of events that never happened. To encourage Mr. Postmus further,  
24 Defendants Randles and Schreiber never subjected Mr. Postmus to any drug  
25 monitoring or testing during the period of Mr. Postmus's cooperation, the better to  
26 keep Mr. Postmus pliable and cooperative.

27 131. Defendants Randles, Schreiber and Cope, by their actions and conduct  
28 of the investigation as alleged above, maliciously caused Mr. Burum to be



1 prosecuted without probable cause, and they did so for the purpose of denying him  
2 his right to exercise his constitutional rights without government retaliation and to  
3 deny him the ability to exercise his constitutional rights going forward.

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

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

### 11 **THIRD CLAIM**

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

#### 13 **Against Defendants Randles and Schreiber**

14 134. Mr. Burum re-alleges and incorporates each allegation in Paragraphs 1  
15 through 133 of this Complaint as though fully set forth herein.

16 135. As alleged above, Defendants Randles and Schreiber fabricated  
17 evidence that was then used to criminally indict and prosecute Mr. Burum. This  
18 included the false statements and testimony of Mr. Postmus, Defendant Aleman,  
19 and Defendant Randles himself.

20 136. Additionally, as alleged above, Defendants Randles and Schreiber  
21 continued their investigation of Mr. Burum despite the fact that they knew that Mr.  
22 Burum was innocent, or were deliberately indifferent to Mr. Burum's innocence,  
23 and the results of the investigation were then used to criminally indict and prosecute  
24 Mr. Burum.

25 137. Additionally, as alleged above, Defendants Randles and Schreiber  
26 used techniques that were so coercive and abusive that they knew, or were  
27 deliberately indifferent, that those techniques would yield false information that  
28 was then used to criminally indict and prosecute Mr. Burum. In particular,

1 Defendants Randles and Schreiber coerced and manipulated Mr. Postmus into  
2 changing his testimony from a complete and unequivocal denial of any *quid pro*  
3 *quo* agreement with Mr. Burum, to instead pleading guilty to criminal conduct in  
4 connection with the Settlement Agreement and subsequent PAC contributions.

5 138. The harm to Mr. Burum from Defendants Randles and Schreiber's  
6 illegal actions includes lost income, lost business opportunities, loss of reputation,  
7 litigation expenses including attorneys' fees, and other compensatory damages, in  
8 an amount to be proved at trial.

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

#### 12 **FOURTH CLAIM**

#### 13 ***Monell Claim – 42 U.S.C. § 1983***

#### 14 **Against Defendant County**

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

17 141. Mr. Burum exercised his First and Fifth Amendment rights as set forth  
18 above. The individual Defendants, acting under color of state law, then retaliated  
19 against Mr. Burum in the manner alleged herein for participation in what  
20 Defendants knew were First and Fifth Amendment protected activities.

21 142. The County had in place official, widespread, and/or longstanding  
22 policies, practices, and/or customs that amounted to deliberate indifference to Mr.  
23 Burum's right to exercise his constitutional rights without government retaliation.  
24 These policies, practices, and/or customs were a moving force behind this illegal  
25 retaliatory conduct. Specifically, the County maintained or permitted policies,  
26 practices, and/or customs that included, but was not limited to, the following:

- 27 a) Permitting, condoning, and/or ratifying the District Attorney's office  
28 to engage its investigators and resources in politically-motivated

1 criminal investigations without regard for the existence of credible  
2 evidence;

- 3 b) Permitting, condoning, and/or ratifying County employees in the  
4 District Attorney's Office to execute falsified search warrants and  
5 engage in unwarranted criminal investigations in a manner intended to  
6 punish, harass, and embarrass individuals and entities, such as Mr.  
7 Burum and Colonies, as retaliation;
- 8 c) Permitting, condoning, and/or ratifying collusive action between the  
9 District Attorney's Office and other County employees for the purpose  
10 of engaging in unwarranted criminal investigations in a manner  
11 intended to punish, harass, and embarrass individuals and entities, such  
12 as Mr. Burum and Colonies, as retaliation;
- 13 d) Permitting, condoning, and/or ratifying the District Attorney's Office  
14 to target constitutionally-protected First Amendment speech through  
15 unwarranted criminal investigations for the purpose of chilling such  
16 speech; and
- 17 e) Permitting, condoning, and/or ratifying the Public Integrity Unit of the  
18 District Attorney's Office to employ investigators dedicated to  
19 working on Public Integrity Unit investigations, thereby removing  
20 important checks and balances between investigators and prosecutors  
21 and enabling the use of unwarranted criminal investigations as  
22 retaliation.

23 143. Additionally, Defendant Ramos as the District Attorney is an official  
24 with final policymaking authority as it relates to the District Attorney's Office's  
25 criminal investigations. As such, his conduct alleged herein—including his  
26 supervision of the Public Integrity Unit and his conscious, affirmative ratification of  
27 the wrongful and retaliatory criminal investigation of Colonies and its partners,  
28 including Mr. Burum—constituted an act of official government policy.



1 of Mr. Burum's rights as alleged herein. Moreover, Defendant Cope's training,  
2 supervision, and/or control of Defendants Randles and Schreiber was a legal and  
3 proximate cause of their illegal retaliatory conduct and/or constituted deliberate  
4 indifference to the deprivations of Mr. Burum's rights.

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

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

23 151. On information and belief, Defendant Mandel supervised Defendants  
24 Randles and Schreiber with regard to their conduct alleged herein. In this capacity,  
25 Defendant Mandel knew or should have known of their illegal retaliatory conduct,  
26 yet she failed to take action to prevent that conduct and/or acquiesced in the  
27 deprivation of Mr. Burum's rights as alleged herein. Moreover, Defendant  
28 Mandel's training, supervision, and/or control of Defendants Randles and Schreiber

1 was a legal and proximate cause of their illegal retaliatory conduct and/or  
2 constituted deliberate indifference to the deprivations of Mr. Burum's rights.

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

11 153. The supervisory Defendants' conduct as described herein was so  
12 closely related to the deprivation of Mr. Burum's rights as to be the moving force  
13 that caused the ultimate injury. Further, each of the supervisory Defendants was  
14 acting under color of state law.

15 154. As a legal and proximate result of Defendants Ramos, Cope,  
16 Hackleman, Brown, Mandel, and Schons's supervisorial conduct, Mr. Burum's  
17 right to exercise his constitutional rights without government retaliation was  
18 violated, causing Mr. Burum to suffer injury and harm, including lost income, lost  
19 business opportunities, loss of reputation, litigation expenses including attorneys'  
20 fees, and other compensatory damages, in an amount to be proved at trial.

21 155. Defendants Ramos, Cope, Hackleman, Brown, Mandel, and Schons's  
22 supervisorial conduct was willful, wanton, malicious, and done with reckless  
23 disregard for Mr. Burum's rights and therefore warrants the imposition of  
24 exemplary and punitive damages.

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**SIXTH CLAIM**

**Conspiracy – 42 U.S.C. § 1983**

**Against All Defendants**

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4 156. Mr. Burum re-alleges and incorporates each allegation in Paragraphs 1  
5 through 155 of this Complaint as though fully set forth herein.

6 157. Defendants formed a combination of two or more persons acting in  
7 concert to commit the individual acts described above, the principal element of  
8 which was the agreement between the Defendants to illegally retaliate against Mr.  
9 Burum and deprive Mr. Burum of his constitutional rights.

10 158. Defendants combined, colluded, conspired, and/or agreed to act in  
11 concert to wrongfully investigate Mr. Burum for the purpose of retaliating against  
12 him and Colonies for engaging in litigation against the County and District, for  
13 achieving the Settlement Agreement, and for exercising political influence that was  
14 threatening to the Defendants’ political interests, all as alleged herein.

15 159. Defendants performed overt acts in furtherance of the conspiracy as  
16 alleged herein.

17 160. This conspiracy was the proximate cause of the illegal retaliation  
18 against Mr. Burum and the deprivation of Mr. Burum’s constitutional rights, as  
19 alleged herein.

20 161. As a direct result of Defendants’ conspiracy, Mr. Burum suffered  
21 injury and harm, including lost income, lost business opportunities, loss of  
22 reputation, litigation expenses including attorneys’ fees, and other compensatory  
23 damages, in an amount to be proved at trial.

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

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**SEVENTH CLAIM**

**Negligence – Government Code § 815.2**

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

163. Mr. Burum re-alleges and incorporates each allegation in Paragraphs 1 through 162 of this Complaint as though fully set forth herein.

164. Defendants owed a duty to Mr. Burum to act reasonably in the criminal investigating against him so as not to cause Mr. Burum undue harm, and a duty to adequately investigate all reasonable leads and evidence. The County is liable for the acts of its employees under Government Code Section 815.2.

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

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

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**EIGHTH CLAIM**

**Intentional Infliction of Emotional Distress - Government Code § 815.2  
Against Defendants County, Ramos, Cope, Hackleman, Randles, Schreiber,  
Brown, Mandel, and Schons**

167. Mr. Burum re-alleges and incorporates each allegation in Paragraphs 1 through 166 of this Complaint as though fully set forth herein.

168. Defendants engaged in a biased and unfair investigation for the purpose of retaliating against Mr. Burum and Colonies for their success in the civil litigation, subsequent PAC contributions, and public statements made about the County, District, and various County employees and officials. Defendants failed to adequately investigate all reasonable leads and evidence, as alleged above, including failing to adequately investigate the veracity of statements made by key prosecution witnesses such as Defendants Aleman and Gonzales. The County is liable for the acts of its employees under Government Code Section 815.2.

169. Defendants’ actions as alleged above were extreme and outrageous, including but not limited to falsifying evidence and eliciting false testimony, and knowingly pursuing an unwarranted investigation in order to subject Mr. Burum and others to six years of retaliatory criminal prosecution.

170. Defendants’ actions as alleged above were intended to cause Mr. Burum emotional distress or were taken with reckless disregard of the probability that Mr. Burum would suffer emotion distress.

171. Defendants’ actions as alleged above caused Mr. Burum severe humiliation, embarrassment, mental anguish, and emotional distress.

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1 172. The harm to Mr. Burum from Defendants’ illegal actions includes  
2 injury to his person from emotional distress and physical manifestations therefrom,  
3 lost income and earning capacity, expenses from medical and psychological  
4 treatment, lost business opportunities, loss of reputation, litigation expenses  
5 including attorneys’ fees, and other compensatory damages, in an amount to be  
6 proved at trial.

7 173. Defendants’ conduct was willful, wanton, malicious, and done with  
8 reckless disregard for Mr. Burum’s rights and therefore warrants the imposition of  
9 exemplary and punitive damages as to each of them.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, PLAINTIFF demands judgment against Defendants for the  
12 following relief:

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

- 15 a. Compensatory damages, including for injury to person, lost income,  
16 lost business opportunities, and loss of reputation; and
- 17 b. Punitive damages.

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

20 C. For costs of suit herein incurred;

21 D. Pre-judgment interest;

22 E. Such other and further relief as this Court shall find just and proper.

23 Dated: July 25, 2018

**LARSON O’BRIEN LLP**

24 By: /s/ Stephen G. Larson

25 Stephen G. Larson  
26 Attorneys for Plaintiff  
27 JEFFREY S. BURUM  
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**DEMAND FOR JURY TRIAL**

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

Dated: July 25, 2018

**LARSON O'BRIEN LLP**

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