

1 LAW OFFICES OF DALE K. GALIPO
Dale K. Galipo, SBN 144074
2 dalekgalipo@yahoo.com
Eric Valenzuela, SBN 284500
3 evalenzuela@galipolaw.com
21800 Burbank Blvd., Suite 310
4 Woodland Hills, California 91367
dalekgalipo@yahoo.com
5 Telephone: (818) 347-3333
Facsimile: (818) 347-4118

6 *Attorneys for Plaintiff*

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10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 TESHAWN GATHIER,
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14 Plaintiff,
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16 vs.
17 COUNTY OF LOS ANGELES; JAY
BROWN; and DOES 1-10, inclusive,
18
19 Defendants.

Case No.

COMPLAINT FOR DAMAGES

1. Unreasonable Search and Seizure—
Excessive Force (42 U.S.C. §
1983)
2. Denial of Medical Care (42 U.S.C.
§ 1983)
3. Municipal Liability for
Unconstitutional Custom, Practice,
or Policy (42 U.S.C. § 1983)
4. Battery
5. Negligence
6. Violation of Bane Act (Cal. Civil
Code § 52.1)

DEMAND FOR JURY TRIAL

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24
25 **COMPLAINT FOR DAMAGES**

26 Plaintiff TESHAWN GATHIER, for his complaint against Defendants
27 COUNTY OF LOS ANGELES, JAY BROWN, and Does 1-10, inclusive, allege as
28

1 follows:

2 **INTRODUCTION**

3 1. This civil rights action seeks compensatory and punitive damages
4 from Defendants for violating various rights under the United States
5 Constitution and state law in connection with the April 10, 2015, shooting of
6 TESHAWN GATHIER by Deputy JAY BROWN.

7 **PARTIES**

8 2. At all relevant times, TESHAWN GATHIER (“PLAINTIFF”) was
9 an individual residing in Los Angeles County, California.

10 3. At all relevant times, Defendant COUNTY OF LOS ANGELES
11 (“COUNTY”) is and was a duly organized public entity, form unknown,
12 existing under the laws of the State of California. At all relevant times,
13 COUNTY was the employer of Defendants JAY BROWN (“BROWN”) and
14 DOES 1-4, who were COUNTY Sheriff’s Deputies, DOES 5-6, who were
15 COUNTY sheriff’s deputies’ supervisory officers, and DOES 7-10, who were
16 managerial, supervisory, and policymaking employees of the COUNTY
17 Sheriff’s Department. On information and belief, at all relevant times, JAY
18 BROWN and DOES 1-10 were residents of Los Angeles County, California.
19 JAY BROWN and DOES 1-10 are sued in their individual capacity for damages
20 only.

21 4. At all relevant times, Defendants JAY BROWN and DOES 1-10
22 were duly authorized employees and agents of COUNTY, who were acting
23 under color of law within the course and scope of their respective duties as
24 sheriff’s deputies and with the complete authority and ratification of their
25 principal, Defendant COUNTY.

26 5. At all relevant times, Defendants JAY BROWN and DOES 1-10
27 were duly appointed officers and/or employees or agents of COUNTY, subject
28 to oversight and supervision by COUNTY’s elected and non-elected officials.

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6. In doing the acts and failing and omitting to act as hereinafter described, Defendants JAY BROWN and DOES 1-10 were acting on the implied and actual permission and consent of COUNTY.

7. At all times mentioned herein, each and every COUNTY defendant was the agent of each and every other COUNTY defendant and had the legal duty to oversee and supervise the hiring, conduct and employment of each and every COUNTY defendant.

8. The true names of defendants DOES 1 through 10, inclusive, are unknown to Plaintiff, who therefore sues these defendants by such fictitious names. Plaintiffs will seek leave to amend this complaint to show the true names and capacities of these defendants when they have been ascertained. Each of the fictitious named defendants is responsible in some manner for the conduct and liabilities alleged herein.

9. On September 29, 2015, Plaintiff filed comprehensive and timely claim for damages with COUNTY pursuant to applicable sections of the California Government Code.

10. On October 20, 2015 COUNTY rejected Plaintiff's claim for damages.

JURISDICTION AND VENUE

11. This civil action is brought for the redress of alleged deprivations of constitutional rights as protected by 42 U.S.C. §§ 1983, 1985, 1986, 1988, and the Fourth and Fourteenth Amendments of the United States Constitution. Jurisdiction is founded on 28 U.S.C. §§ 1331, 1343, and 1367.

12. Venue is proper in this Court under 28 U.S.C. § 1391(b), because Defendants reside in, and all incidents, events, and occurrences giving rise to this action occurred in Los Angeles County, California.

FACTS COMMON TO ALL CLAIMS FOR RELIEF

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2 13. PLAINTIFF repeats and realleges each and every allegation in
3 paragraphs 1 through 12 of this Complaint with the same force and effect as if
4 fully set forth herein.

5 14. On or about April 10, 2015, PLAINTIFF was at “Southside Tow
6 and Recovery” located at 8917 Juniper Street, in the City of Los Angeles,
7 California.

8 15. At or near 8917 Juniper Street, BROWN discharged his firearm at
9 PLAINTIFF, who was unarmed, striking him several times, including a gunshot
10 wound to the back, causing PLAINTIFF serious physical and emotional injuries.

11 16. PLAINTIFF was inside a vehicle and BROWN was on foot at the
12 time of the shooting.

13 17. PLAINTIFF never attempted to strike BROWN or any other person
14 with his vehicle.

15 18. At no point during this incident did PLAINTIFF cause serious
16 bodily injury to BROWN or anyone else.

17 19. At the time of the shooting, BROWN was not in danger of being
18 struck by the car PLAINTIFF was driving, nor was anyone else.

19 20. After BROWN shot PLAINTIFF numerous times, the involved
20 deputies pulled PLAINTIFF out of the car and punched and kicked him,
21 including strikes to both PLAINTIFF’s head and body. As a result of these
22 strikes, PLAINTIFF suffered further severe physical and emotional injuries,
23 including, but not limited to, a broken rib.

24 21. As a result of the multiple gunshot wounds PLAINTIFF had
25 sustained, PLAINTIFF was unable to defend himself against these punches and
26 kicks.

27 22. Plaintiff never attempted to punch, kick or verbally threaten
28 anyone.

1 23. After being shot multiple times by BROWN, PLAINTIFF was
2 bleeding profusely. Despite PLAINTIFF's obvious serious injuries, BROWN
3 did not timely summons medical attention for PLAINTIFF.

4 24. PLAINTIFF was unarmed and posed no imminent threat of death
5 or serious physical injury to either BROWN or any other person if he was not
6 immediately apprehended.

7 25. BROWN violated the County sheriff's department's policy
8 regarding shooting at moving vehicles.

9 26. On information and belief, the premises of Southside Tow and
10 Recovery contains a sophisticated surveillance system that recorded part or all
11 of this shooting. Further, on information and belief, a copy of this surveillance
12 recording has already been provided to investigators from the COUNTY
13 sheriff's department investigating the shooting.

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FIRST CLAIM FOR RELIEF
Unreasonable Search and Seizure—
Excessive Force (42 U.S.C. § 1983)

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(Against Defendants JAY BROWN and DOES 1-4)

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27. PLAINTIFF repeats and realleges each and every allegation in paragraphs 1 through 26 of this Complaint with the same force and effect as if fully set forth herein.

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28. The excessive and unreasonable force used against PLAINTIFF by Defendants JAY BROWN and DOES 1-4, which included, but is not limited to unjustifiably shooting of PLAINTIFF multiple times and then dragging him out of the car and punching and kicking him, deprived PLAINTIFF of his right to be secure in his person against unreasonable searches and seizures as guaranteed to PLAINTIFF under the Fourth Amendment to the United States Constitution and applied to state actors by the Fourteenth Amendment.

1 29. As a result of the excessive and unreasonable force used against
2 PLAINTIFF, he suffered serious physical and emotional injuries, including, but
3 not limited to, sustaining multiple gunshot wounds and a broken rib.

4 30. PLAINTIFF was not armed and at no time during the incident did
5 he verbally threaten or attempt to punch, kick, or grab Defendants JAY
6 BROWN, DOES 1-4 or any other person. Further, PLAINTIFF never attempted
7 to strike anyone with the car he was driving.

8 31. Deputy JAY BROWN violated the County sheriff's department's
9 policy regarding shooting at moving vehicles.

10 32. As a result of the conduct of JAY BROWN and DOES 1-4, they
11 are liable for PLAINTIFF's injuries, either because they were integral
12 participants in the excessive force, or because they failed to intervene to prevent
13 these violations.

14 33. The conduct of Defendants JAY BROWN and DOES 1-4 was
15 willful, wanton, malicious and done with a reckless disregard for the rights and
16 safety of JAY BROWN and therefore warrants the imposition of exemplary and
17 punitive damages against them.

18 34. Accordingly, Defendants JAY BROWN and DOES 1-4 each are
19 liable to PLAINTIFF for compensatory and punitive damages under 42 U.S.C. §
20 1983.

21 35. Plaintiff also seeks attorney fees under this claim.

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23 **SECOND CLAIM FOR RELIEF**
24 **Denial of Medical Care in Violation of the Fourth and Fourteenth Amendments**
 (42 U.S.C. § 1983)
25 **(Against Defendants JAY BROWN and DOES 1-4)**
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1 36. Plaintiff repeats and realleges each and every allegation in
2 paragraphs 1 through 35 of this Complaint with the same force and effect as if
3 fully set forth herein.

4 37. The Fourth Amendment to the U.S. Constitution, which is applied
5 to state actors by the Fourteenth Amendment, guarantees all individuals the right
6 to be free from unreasonable searches and seizure and from excessive force by
7 law enforcement. The Fourth Amendment also requires the provision of
8 medical care to persons who have been injured while being apprehended by law
9 enforcement. The due process clause of the Fourteenth Amendment also
10 guarantees pretrial detainees protection from deliberate indifference to their
11 serious medical needs. A private right of action is afforded to individuals
12 seeking redress for denial of medical care in violation of the Fourth and
13 Fourteenth Amendment by 42 U.S.C. § 1983.

14 38. Defendants JAY BROWN and DOES 1-4 used excessive force
15 against PLAINTIFF in the course of unlawfully detaining him, including but not
16 limited to, shooting him multiple times then punching and kicking him.

17 39. Defendants JAY BROWN and DOES 1-4 knew that failure to
18 provide timely medical treatment to PLAINTIFF could result in further
19 significant injury or the unnecessary and wanton infliction of pain, but
20 disregarded that serious medical need by delaying in getting PLAINTIFF
21 medical attention. Despite observing PLAINTIFF bleeding profusely from his
22 gunshot wounds, JAY BROWN and DOES 1-4 did not timely summons medical
23 attention for PLAINTIFF.

24 40. PLAINTIFF was not armed and at no time during the incident did
25 he verbally threaten or attempt to punch, kick, or grab Defendants JAY
26 BROWN, DOES 1-4 or any other person. Further, PLAINTIFF never attempted
27 to strike anyone with the car he was driving.
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1 41. The denial of medical care by Defendants JAY BROWN and
2 DOES 1-4 deprived PLAINTIFF of his right to be secure in his person against
3 unreasonable searches and seizures as guaranteed to PLAINTIFF under the
4 Fourth Amendment to the United States Constitution and applied to state actors
5 by the Fourteenth Amendment.

6 42. As a result, PLAINTIFF suffered extreme pain and suffering.

7 43. The conduct of Defendants JAY BROWN and DOES 1-4 was
8 willful, wanton, malicious, and done with reckless disregard for the rights and
9 safety of PLAINTIFF and therefore warrants the imposition of exemplary and
10 punitive damages as to Defendants JAY BROWN and DOES 1-4.

11 44. PLAINTIFF also seeks attorney's fees under this claim.

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13 **THIRD CLAIM FOR RELIEF**
14 **Municipal Liability for Unconstitutional Custom or Policy (42 U.S.C. § 1983)**
 (Against Defendants DOES 5-10 and COUNTY)

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16 45. Plaintiff repeats and realleges each and every allegation in
17 paragraphs 1 through 44 of this Complaint with the same force and effect as if
18 fully set forth herein.

19 46. On information and belief Defendants JAY BROWN and DOES 1-
20 4's shooting of PLAINTIFF and subsequent punching and kicking of
21 PLAINTIFF, who was unarmed the time of the shooting and who never
22 attempted to strike anyone with his car, was found to be within COUNTY
23 Sheriff's Department policy.

24 47. On information and belief Defendants JAY BROWN and DOES 1-
25 4's use of force against PLAINTIFF, who was unarmed the time of the shooting
26 and who never attempted to strike anyone with his car, was ratified by
27 COUNTY Sheriff's Department supervisory officers.
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1 48. On information and belief Defendants JAY BROWN and DOES 1-
2 4 were not disciplined for the use of force used against PLAINTIFF, who was
3 unarmed the time of the shooting and who never attempted to strike anyone with
4 his car.

5 49. On and for some time prior to April 10, 2015 (and continuing to the
6 present date) Defendants DOES 5-10, deprived PLAINTIFF of the rights and
7 liberties secured to him by the Fourth and Fourteenth Amendments to the United
8 States Constitution, in that said defendants and their supervising and managerial
9 employees, agents, and representatives, acting with gross negligence and with
10 reckless and deliberate indifference to the rights and liberties of the public in
11 general, and of PLAINTIFF, and of persons in his class, situation and
12 comparable position in particular, knowingly maintained, enforced and applied
13 an official recognized custom, policy, and practice of:

- 14 (a) Employing and retaining as sheriff's deputies and other
15 personnel, including JAY BROWN, who Defendants DOES 5-
16 10, at all times material herein knew or reasonably should have
17 known had dangerous propensities for abusing their authority
18 and for mistreating citizens by failing to follow written
19 COUNTY Sheriff's Department's policies;
- 20 (b) Of inadequately supervising, training, controlling, assigning, and
21 disciplining COUNTY Sheriff's Deputies, and other personnel,
22 including JAY BROWN, who Defendants COUNTY knew or in
23 the exercise of reasonable care should have known had the
24 aforementioned propensities and character traits;
- 25 (c) By failing to adequately train deputies, including Defendant JAY
26 BROWN, and failing to institute appropriate policies, regarding
27 constitutional procedures and practices for shooting at occupied
28 vehicles and moving vehicles;

- 1 (e) By having and maintaining an unconstitutional policy, custom,
2 and practice of using excessive force, including deadly force,
3 which also is demonstrated by inadequate training regarding
4 these subjects. The policies, customs, and practices of DOES 5-
5 10 and COUNTY, were done with a deliberate indifference to
6 individuals' safety and rights; and
- 7 (f) Of totally inadequately training COUNTY Sheriff's Deputies,
8 including Defendant JAY BROWN, with respect to shooting at
9 occupied vehicles and moving vehicles and with respect to the
10 use of deadly force.

11 50. By reason of the aforementioned policies and practices of
12 Defendants DOES 5-10, PLAINTIFF was severely injured and subjected to pain
13 and suffering.

14 51. Defendants DOES 5-10, together with various other officials,
15 whether named or unnamed, had either actual or constructive knowledge of the
16 deficient policies, practices and customs alleged in the paragraphs above.
17 Despite having knowledge as stated above these defendants condoned, tolerated
18 and through actions and inactions thereby ratified such policies. Said
19 defendants also acted with deliberate indifference to the foreseeable effects and
20 consequences of these policies with respect to the constitutional rights of
21 PLAINTIFF, and other individuals similarly situated.

22 52. By perpetrating, sanctioning, tolerating and ratifying the outrageous
23 conduct and other wrongful acts, Defendants DOES 5-10, acted with an
24 intentional, reckless, and callous disregard for the well-being of PLAINTIFF,
25 and his constitutional rights. Defendants DOES 5-10, each of their actions were
26 willful, wanton, oppressive, malicious, fraudulent, and extremely offensive and
27 unconscionable to any person of normal sensibilities.

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1 53. Furthermore, the policies, practices, and customs implemented and
2 maintained and still tolerated by Defendants DOES 5-10, were affirmatively
3 linked to and were a significantly influential force behind the injuries of
4 PLAINTIFF.

5 54. Accordingly, Defendants DOES 5-10, each are liable to
6 PLAINTIFF for compensatory damages under 42 U.S.C. § 1983.

7 55. Plaintiff also seeks attorney's fees under this claim.
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13 **FOURTH CLAIM FOR RELIEF**

14 **Battery (Cal. Govt. Code § 820)**

15 (Against Defendants JAY BROWN, DOES 1-4 and COUNTY)

16 56. Plaintiff repeats and realleges each and every allegation in
17 paragraphs 1 through 55 of this Complaint with the same force and effect as if
18 fully set forth herein.

19 57. Defendants JAY BROWN and DOES 1-4, while working as a
20 Sheriff's Deputies for the COUNTY Sheriff's Department, and acting within the
21 course and scope of their duties, intentionally shot PLAINTIFF multiple times,
22 then pulled PLAINTIFF out from the car he was in and proceeded to punch and
23 kick him. As a result, PLAINTIFF suffered serious injuries. Defendants JAY
24 BROWN and DOES 1-4 had no legal justification for using force, including
25 deadly force, against PLAINTIFF and said Defendant's use of force, while
26 carrying out their deputy duties, was an unreasonable use of force.

27 58. Deputy JAY BROWN violated the County sheriff's department's
28 policy regarding shooting at moving vehicles.

1 59. As a direct and proximate result of Defendants’ conduct as alleged
2 above, PLAINTIFF was caused to suffer severe pain and suffering.
3 PLAINTIFF suffered a numerous gunshot wounds, including a gunshot to the
4 back, and a broken rib. PLAINTIFF is claiming compensation for medical
5 expenses, past and future pain, suffering, and emotional distress.

6 60. COUNTY is vicariously liable for the wrongful acts of Defendants
7 JAY BROWN and DOES 1-4 pursuant to section 815.2(a) of the California
8 Government Code, which provides that a public entity is liable for the injuries
9 caused by its employees within the scope of the employment if the employee’s
10 act would subject him or her to liability.

11 61. The conduct of Defendants JAY BROWN and DOES 1-4 was
12 malicious, wanton, oppressive, and accomplished with a conscious disregard for
13 the rights of PLAINTIFF, entitling him to an award of exemplary and punitive
14 damages.

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16 **FIFTH CLAIM FOR RELIEF**
17 **Negligence (Cal. Govt. Code § 820)**
18 **(Against All Defendants)**

19 62. PLAINTIFF repeats and realleges each and every allegation in
20 paragraphs 1 through 61 of this Complaint with the same force and effect as if
21 fully set forth herein.

22 63. The actions and inactions of the Defendants were negligent and
23 reckless, including but not limited to:

- 24 (a) the failure to properly and adequately assess the need to use
25 force or deadly force against PLAINTIFF;
26 (b) the negligent tactics and handling of the situation with
27 PLAINTIFF, including pre-shooting negligence;
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- 1 (c) the negligent detention, arrest and use of force, including deadly
- 2 force, against PLAINTIFF;
- 3 (d) the failure to provide prompt medical care to PLAINTIFF;
- 4 (e) the negligent handling of evidence and witnesses; and
- 5 (f) violating County sheriff's department's policy regarding
- 6 shooting at moving vehicles.

7 64. As a direct and proximate result of Defendants' conduct as alleged
8 above, and other undiscovered negligent conduct, PLAINTIFF was caused to
9 suffer severe pain and suffering.

10 65. COUNTY is vicariously liable for the wrongful acts of JAY
11 BROWN and DOE OFFICERS pursuant to section 815.2 (a) of the California
12 Government Code, which provides that a public entity is liable for the injuries
13 caused by its employees within the scope of the employment if the employee's
14 act would subject him or her to liability.

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16 **SIXTH CLAIM FOR RELIEF**
17 **Violation of Bane Act (Cal. Civil Code § 52.1)**
18 **(Against All Defendants)**

19 66. Plaintiff repeats and realleges each and every allegation in
20 paragraphs 1 through 65 of this Complaint with the same force and effect as if
21 fully set forth herein.

22 67. California Civil Code, Section 52.1 (the Bane Act), prohibits any
23 person from interfering with another person's exercise or enjoyment of his
24 constitutional rights by threats, intimidation, or coercion.

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1 68. Conduct that violates the Fourth Amendment violates the
2 California Bane Act.¹

3 69. Defendants JAY BROWN and DOES 1-4's use of force, including
4 deadly force, was excessive and unreasonable under the circumstances,
5 especially since PLAINTIFF was unarmed, he never attempted to strike anyone
6 with the car he was driving, and he never cause serious bodily injury to anyone
7 at the time of the shooting. Defendants' actions thus deprived PLAINTIFF of
8 his right to be free from unreasonable searches and seizures under the Fourth
9 Amendment and applied to state actors by the Fourteenth Amendment.

10 70. JAY BROWN and DOES 1-4, while working as Sheriff's Deputies
11 for the COUNTY sheriff's department, and acting within the course and scope
12 of their duties, interfered with or attempted to interfere with the rights of
13 PLAINTIFF to be free from unreasonable searches and seizures, to equal
14 protection of the laws, to access to the courts, and to be free from state actions
15 that shock the conscience, by threatening or committing acts involving violence,
16 threats, coercion, or intimidation.

17 71. PLAINTIFF reasonably believed that if he exercised his rights,
18 including his civil rights, JAY BROWN and DOES 1-4 would commit acts
19 involving violence, threats, coercion, or intimidation against him.

20 72. On information and belief Defendants JAY BROWN and DOES 1-
21 4 injured PLAINTIFF to prevent him from exercising his rights or retaliated
22 against PLAINTIFF for having exercised his rights.

23 73. PLAINTIFF was caused to suffer severe pain and suffering and has
24 been injured in mind and body. PLAINTIFF also incurred medical expenses.

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27 ¹ See *Chaudhry v. City of Los Angeles*, 2014 WL 2030195, at * 6 (9th Cir. May
28 19, 2014) (citing *Cameron v. Craig*, 713 F.3d 1012, 1022 (9th Cir. 2013).

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DATED: December 1, 2015

LAW OFFICES OF DALE K. GALIPO

By _____ /s/ Dale K. Galipo
Dale K. Galipo
Eric Valenzuela
Attorneys for Plaintiff

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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury.

DATED: December 1, 2015 LAW OFFICES OF DALE K. GALIPO

By _____ /s/ Dale K. Galipo
Dale K. Galipo
Eric Valenzuela
Attorneys for Plaintiff