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7 **SUPERIOR COURT OF ARIZONA**

8 **MARICOPA COUNTY**

9 MICHAEL LACEY; JIM LARKIN; and
10 PHOENIX NEW TIMES, LLC,

11 Plaintiffs,

12 v.

13 SHERIFF JOSEPH ARPAIO and AVA
14 ARPAIO, husband and wife;
15 MARICOPA COUNTY SHERIFF'S
16 OFFICE; DENNIS WILENCHIK and
17 BECKY BARTNESS, husband and wife;
18 ANDREW THOMAS and ANN
19 THOMAS, husband and wife; and
20 MARICOPA COUNTY ATTORNEY'S
21 OFFICE; JOHN DOES I-X; JANE DOES
22 I-X; BLACK CORPORATIONS I-V; and
23 WHITE PARTNERSHIPS, I-V,

19 Defendants.

No. CV2008-009808

COMPLAINT

(Jury Trial Demanded)

21 **COMPLAINT**

22 Plaintiffs Phoenix New Times, LLC, Michael Lacey, and Jim Larkin, for their
23 Complaint against Defendants, hereby allege as follows:
24

1 wrongful conduct of its divisions, agents, officers, and employees, including (*inter alia*) the
2 individual members of the Maricopa County Board of Supervisors, the officers and employees
3 of its divisions, Sheriff Joseph Arpaio and the Maricopa County Sheriff's Office ("MCSO"),
4 County Attorney Andrew Thomas and the Maricopa County Attorney's Office, and Special
5 Prosecutor Dennis Wilenchik. Plaintiffs have not named Maricopa County, the entity, as a
6 Defendant in this lawsuit, based on representations by the named Defendants that they are
7 independent jural entities. In the event Defendants attempt to argue otherwise, Plaintiffs
8 reserve the right to amend this Complaint to name Maricopa County as the proper party.

8 8. At all times material herein, Defendant Joseph Arpaio ("Arpaio" or "Sheriff
9 Arpaio") was the duly-elected Sheriff of Maricopa County and the head of the Maricopa
10 County Sheriff's Office, with ultimate authority and responsibility for the MCSO and the
11 actions of its officers and agents, and with the authority and responsibility to establish policy,
12 practices, customs, procedures, protocols, and training for the MCSO. His actions and/or
13 inactions constitute actions of the MCSO and the MCSO is vicariously and directly liable for
14 his wrongful conduct, as alleged herein. Sheriff Arpaio is named herein in both his official and
15 individual capacities. As the elected Sheriff, Sheriff Arpaio has official, vicarious, direct,
16 individual, and/or supervisory liability for the MCSO and its officers, agents, and employees.

17 9. At all times material herein, Defendant Andrew Thomas ("Thomas" or "County
18 Attorney") was the duly-elected Maricopa County Attorney and the head of the Maricopa
19 County Attorney's Office ("MCAO"), with ultimate authority and responsibility for the
20 MCAO and the actions of its officers and agents, and with the authority and responsibility to
21 establish policy, practices, customs, procedures, protocols, and training for the MCAO. His
22 actions and/or inactions constitute actions of the MCAO and the MCAO is vicariously and
23 directly liable for his wrongful conduct, as alleged herein. Thomas is named herein in both his
24 official and individual capacities. As the elected County Attorney, Thomas has official,
25

1 vicarious, direct, individual, and/or supervisory liability for the MCAO and its officers, agents,
2 and employees.

3 10. At all times material herein, Defendant Dennis Wilenchik (“Wilenchik”) was an
4 agent and employee of the Sheriff, MCSO, Thomas, and/or MCAO, who, at the time of the
5 events complained of herein, was acting within the course and scope of his employment by the
6 Sheriff, MCSO, Thomas, and/or MCAO, and under color of law. Wilenchik engaged in
7 wrongful conduct that allowed, caused, and/or contributed to cause the violations of Plaintiffs’
8 rights. His actions and/or inactions constitute actions of Sheriff Arpaio, MCSO, Thomas,
9 and/or MCAO. The Sheriff, MCSO, Thomas, and/or MCAO are vicariously and directly liable
10 for his wrongful conduct, as alleged herein.

11 11. The Defendants designated herein as Ava Arpaio, Ann Thomas, and Becky
12 Bartness, are the spouses of the respective Defendants and are so designated because the
13 wrongful conduct of the Defendants was engaged in for the benefit of their marital
14 communities, thereby rendering the spouses and marital communities of Defendants liable for
15 such conduct.

16 12. At all times material herein, Defendants John Does I-X and Jane Does I-X
17 (collectively “John Does”) were officers, agents, and employees of Sheriff Arpaio, MCSO,
18 Thomas, and/or MCAO, acting within the scope of their employment and under color of law.
19 These Defendants engaged in wrongful conduct that allowed, caused, and/or contributed to
20 cause the violations of Plaintiffs’ rights. Their actions and/or inactions constitute actions of
21 Sheriff Arpaio, MCSO, Thomas, and/or MCAO. Sheriff Arpaio, MCSO, Thomas, and/or the
22 MCAO are vicariously and directly liable for their wrongful conduct.

23 13. The true names, capacities, and relationships, whether individual, corporate,
24 partnership, or otherwise, of all John and Jane Doe Defendants, Black Corporations, and White
25 Partnerships, are unknown at the time of the filing of this Complaint, and are being designated

1 pursuant to Ariz. R. Civ. P. § 10(f) and applicable federal and state law. Plaintiffs further
2 allege that all of the fictitiously named Defendants were jointly responsible for the actions,
3 events, and circumstances underlying this lawsuit, and that they proximately caused the
4 damages stated in this Complaint. Plaintiffs will amend the Complaint to name the
5 unidentified individuals once they have learned, through discovery, the identities and acts,
6 omissions, roles, and/or responsibilities of such Defendants sufficient for Plaintiffs to discover
7 the claims against them.

8 **FACTUAL BASIS FOR CLAIMS FOR RELIEF**

9 **Introduction**

10 14. Plaintiffs reallege and incorporate by reference the allegations set forth in each of
11 the preceding paragraphs of this Complaint.

12 15. On the night of October 18, 2007, unmarked, dark vehicles (at least one with
13 Mexico license plates) arrived at the homes of Plaintiffs Michael Lacey and Jim Larkin,
14 Executive Editor and Chief Executive Officer, respectively, of Village Voice Media, LLC,
15 owners of *The Phoenix New Times*.

16 16. Both men were handcuffed and taken to jail by members of Sheriff Arpaio's elite
17 "Selective Enforcement Unit"—based on a minor misdemeanor charge—for publishing a
18 column in their newspaper earlier in the day, entitled "Breathtaking Abuse of the
19 Constitution." The article revealed Defendants' subversion of the grand jury process and the
20 unprecedented attempt to subpoena reporters' notes and the identity and reading habits of any
21 citizen who looked at *The New Times*.

22 17. *The New Times* was targeted because, as MCSO documents now reveal, it was
23 labeled an "Anti-Arpaio newspaper" by Arpaio and his staff.

24 18. When Plaintiffs' criticism of these Defendants became too much for Defendants
25 to tolerate, Defendants flexed their political muscle in the form of a conspiracy. They abused

1 their governmental authority by attacking the press, punishing free speech, demeaning the role
2 and function of an impartial prosecutor and an independent judiciary, perverting the grand jury
3 process, and serving notice to citizens who read news online that neither their identities nor
4 their reading habits are safe from the reach of vindictive government officials and their
5 confederates.

6 19. Citizens have a right to read online newspapers in privacy. Those readers place
7 their trust in newspaper reporters and editors to protect their privacy and speak the truth. But
8 Defendants perverted the law and abused their public positions to attack this newspaper, its
9 reporters, and the privacy rights of thousands of its readers.

10 20. Defendants' acts and omissions, individually and in concert, leading up to and
11 culminating in Plaintiffs' arrest and jailing, violated Plaintiffs' constitutional and Arizona law
12 rights, threatened the privacy and trust of those who read the news online, and trampled upon
13 two of the most fundamental freedoms in this Country: Free Speech and a Free Press.

14 **Summary of Facts**

15 21. Plaintiffs reallege and incorporate by reference the allegations set forth in each of
16 the preceding paragraphs of this Complaint.

17 22. Sheriff Arpaio is not tolerant of criticism or questioning. The few that dare to
18 criticize him become targets for retribution by Arpaio and his agents.

19 23. The history of this dispute (and Defendants' animus toward Plaintiffs) began in
20 the early 1990s, when *The New Times* published its first article critical of Sheriff Arpaio. *The*
21 *New Times*, thus, became a target for attack by Arpaio.

22 24. The issue came to a head in July 2004, when *The New Times* investigated the
23 personal, irregular, and questionable commercial land transactions of Sheriff Arpaio,¹ and

24 ¹ See "Sheriff Joe's Real Estate Game," July 1, 2004 and "Stick it to "Em!," July 8,
25 2004.

1 asked how Sheriff Arpaio could afford to invest more than \$690,000 cash in commercial real
2 estate, based on an annual salary of \$72,000 and a small federal pension.

3 25. The newspaper's investigation revealed that Sheriff Arpaio had redacted
4 information from the County Recorder's public records about his commercial landholdings
5 (but not his home address), by using a little-known Arizona statute to remove pertinent
6 information about his deeds, mortgages, affidavits of value, and conveyances of title.

7 26. Arpaio said the need to hide the truth about his commercial real estate
8 investments arose from his concern about purported "death threats." The Sheriff used this
9 feign to hide his commercial investments from public scrutiny. But, tellingly, he left his home
10 address available in the public domain, published on numerous public internet websites.

11 27. *The New Times'* investigation of the Sheriff's commercial holdings culminated in
12 a July 8, 2004 article written by the paper's widely-respected investigative reporter, John
13 Dougherty. The article questioned the Sheriff's motives for hiding his commercial investments
14 from inspection and pointed out the obvious—it made no sense to remove information about
15 his personal commercial holdings from public records because of "death threats," but not his
16 home address, which was included in the final paragraph of the article based upon data
17 obtained from public websites.

18 28. Sheriff Arpaio was hiding his significant commercial real estate holdings because
19 he could not or would not explain how he could legitimately afford those investments.

20 29. No law prohibited the publication of the Sheriff's home address in print or
21 broadcast material. But, a never-before used Arizona statute made it illegal to publish the
22 Sheriff's address on the "world wide web," if, and only if, such publication "posed an
23 imminent and serious threat" to the Sheriff or his immediate family, *and* if it was "reasonably
24 apparent" to Dougherty and *The New Times* that "making the information available on the
25
26

1 web” created a “serious and imminent” threat to the safety of the Sheriff or his immediate
2 family.

3 30. So, while there was nothing even arguably wrong with the article in its print
4 form, Arpaio alleged that the newspaper violated the statute when the article was automatically
5 uploaded to its electronic form on the internet.

6 31. There was no evidence that Arpaio was then, or ever, under any credible threat of
7 “imminent harm,” as a result of the publication of his home address on *The New Times* web
8 site. But, the publication of his home address on the internet provided the Sheriff a means for
9 retribution against these critics.

10 32. While the Sheriff’s vengeance toward *The New Times* could no longer be
11 restrained or contained, he needed a prosecutorial ally that would help him punish this
12 newspaper for daring to scrutinize his questionable real estate holdings.

13 33. In 2004, Andrew Thomas was elected and took office in 2005 as the new
14 Maricopa County Attorney. He quickly became a political ally of Arpaio. Using the full force
15 of his—and his new ally’s—governmental muscle, Arpaio recruited his new and compliant
16 County Attorney to initiate the prosecution, persecution, and intimidation of *The New Times*,
17 its reporters, its editors, and publishers.

18 34. It was and should have been obvious to Thomas that there was no “case” to
19 “investigate” here. The newspaper had simply reported “truthful, lawfully obtained, publicly
20 available personal identifying information [and this is] precisely the kind of speech the First
21 Amendment protects.” *Bartnicki v. Vopper*, 532 U.S. 514, 527 (2001). The Sheriff’s home
22 address was available on government web sites and “once the government places personal
23 identifying information in the public domain, reliance must rest on the judgment of those who
24 decide what to publish or broadcast.” *The Florida Star v. B.J.F.*, 491 U.S. 524, 535 (1989).

1 35. And, even a cursory investigation would have revealed that the only “death
2 threats” to Arpaio were “made-for-TV” contrivances by the Sheriff’s public relations officers.²

3 36. In fact, Arpaio has continued, to this day, to publicize and publish his home
4 address to citizens and the public at large. For example, just last month, Arpaio mailed out
5 Partisan Nomination Petitions, asking citizens to re-elect him for Sheriff and publicizing his
6 home address on the Petition.

7 37. Arpaio had his first meeting with Thomas in January 2005, immediately after
8 Thomas took office. And at that first meeting, Arpaio discussed his opposition to *The New*
9 *Times* and his desire to punish this newspaper. Thomas’ staff investigated the case at the time,
10 but had concerns, which they memorialized in internal documents. For one, they were
11 concerned that there was no evidence of an “imminent and serious threat” to Arpaio.

12 38. Only then did Arpaio request an investigation, in April 2005— *nearly 10 months*
13 *after Dougherty’s article was published.*

14 39. Thomas’ office conducted another formal evaluation of the case in May 2005,
15 this time preparing an Incident Review Memo summarizing the weaknesses of the case,
16 including that there was a significant delay in Arpaio reporting the incident, nothing but
17 conjured evidence to show that Sheriff Arpaio ever really feared for his safety, and that the
18 Sheriff’s personal information was widely available to the public on the internet and in public
19 records.

22 ² Recently, for example, Arpaio widely publicized that he was under threat from
23 Mexican nationals, members of Los Zetas, a smuggling gang, and Elias Bermudez, an
24 immigration activist and political rival of Arpaio. Over the course of a six-month period,
25 Arpaio spent an estimated \$500,000 to “protect him” from such “threats.” But, it turns out,
26 there were never any real or credible threats, at all. The sole informant was discredited and
vanished; yet, the case remains open and Arpaio continues to investigate. The story was
chronicled in an April 25, 2008 article on *azcentral.com*.

1 40. But, the Memo also noted that it was a “high-profile” case, that Sheriff Arpaio
2 was demanding that the case be charged, and that there would be “problems” between the
3 MCSO and MCAO if Thomas did not do what Arpaio told him to do.

4 41. The MCAO Incident Review Board declined prosecution in an August 9, 2005
5 meeting.

6 42. Ignoring the opinion of his professional advisors, Thomas wanted to help Arpaio
7 attack *The New Times* because the newspaper had now begun criticizing Thomas’ own ethical
8 and office irregularities. But, Thomas also knew that his office could not ethically pursue this
9 case due to a “conflict of interest.” That conflict was *The New Times*’ increasingly inquisitive
10 and critical articles about Thomas.³ And Thomas also knew that his MCAO Incident Review
11 Board had declined prosecution.

12 43. So, Thomas sent the case to the Carter Olson at the Pinal County Attorney’s
13 Office, for further investigation and prosecution, citing an unspecified “conflict of interest.”

14 44. Immediately, Arpaio and his MCSO put pressure on the Pinal County Attorney’s
15 Office to prosecute the case against the newspaper and its reporters. Carter Olson was
16 reluctant to do so, questioning the constitutionality of the statute at issue and noting the
17 obvious issues that undermined the case, including (*inter alia*) the lack of evidence of
18 “imminent threat” to Arpaio and the concerns with the First Amendment rights of the
19 newspaper and its reporters. Olson’s professional reluctance involved the same problems as
20 those documented by the MCAO Incident Review committee.

21 45. But Arpaio does not like being told “No,” and he is never one to permit Arizona
22 laws or the Constitution to intrude on his vengeance. So, he used his considerable political
23 power to push for prosecution, despite its obvious lack of merit. Arpaio and his MCSO staff
24

25 ³ Thomas has stated: “I still did not feel that it was appropriate for our office to directly
26 prosecute the matter, because of the appearance of the conflict of interest.”

1 engaged in a heavy-handed letter and memoranda writing campaign to attempt to “convince”
2 the Pinal County Attorney to prosecute the case, and made repeated attempts to meet and
3 conference with the Pinal County Attorney by phone and in person to persuade him to begin a
4 formal investigation and prosecution against this irritating “Anti-Arpaio” newspaper and its
5 inquisitive reporters.

6 46. Of course, unlike Thomas, the Pinal County Attorney’s Office did not share the
7 Defendants’ passion for political revenge, nor a fear of Arpaio’s political power; the Office
8 refused to be used in the persecution. Over the course of two years, Pinal County did not issue
9 a single investigative subpoena or empanel a grand jury.

10 47. Arpaio openly expressed his frustration and anger with the Pinal County
11 Attorney’s lack of investigation and prosecution of the newspaper and its reporters.

12 48. In 2007, Pinal County Attorney, Carter Olson, was appointed to the judicial
13 bench. He was replaced by James Walsh, who shortly thereafter announced a conflict with
14 MCAO. In light of that announced conflict, *The New Times* matter was returned to Thomas
15 and his MCAO.

16 49. Caught between Thomas’ already announced and quite obvious “conflict,” and
17 Arpaio’s insistence upon punishing this newspaper and its reporters for its criticism, Thomas
18 and Arpaio decided to retain Thomas’ friend, former employer, financial benefactor, campaign
19 finance manager, and a civil attorney, Dennis Wilenchik, to investigate and pursue a criminal
20 case against *The New Times* and its reporters.

21 50. Wilenchik was hired by Thomas and Arpaio. They now owned their own
22 “Independent” Special Deputy Maricopa County Attorney.

23 51. Prosecutors have inherent legal and ethical duties to be independent; Wilenchik
24 was not, and both Thomas and Arpaio knew that.

1 52. Because *The New Times* had published a myriad of articles critical of
2 Wilenchik,⁴ Thomas and Arpaio knew that Wilenchik suffered from the very same “conflict of
3 interest” that he did when he actively sought appointment of Wilenchik as Special Prosecutor
4 in this matter.⁵ Thomas and Arpaio knew they were hiring an attack ally—not an
5 “Independent” prosecutor untainted by benefactors to please and grudges to settle.

6 53. In addition, the ties among the three—Arpaio, Thomas, and Wilenchik—wove a
7 tangled web of financial, personal, and political connivances. For example, and as *The New*
8 *Times* published, Wilenchik once hired County Attorney candidate Thomas as an “associate”
9 in his law firm, although, upon information and belief, Thomas was not actually hired to
10 perform legal work for Wilenchik or his firm’s clients. Thomas took his salary from
11 Wilenchik, but spent his days campaigning for County Attorney.

12 54. The arrangement was merely a disguised campaign contribution that paid the
13 designed dividends for Thomas, Wilenchik, and Arpaio: Thomas won his Maricopa County
14 Attorney election, Wilenchik was paid off with an enormous attorneys’ fee annuity from
15

16 ⁴ For example, in “Doubting Thomas,” June 15, 2006, John Dougherty questioned the
17 ethical conduct of both Thomas and Wilenchik. He questioned hundreds of thousands of
18 dollars in fees paid to Wilenchik’s law firm by Maricopa County, a “firm that employed
19 Andrew Thomas immediately before his election as county attorney.” Dougherty opined that it
20 appeared Thomas was using his office to “steer public contracts to his previous employer” and
21 questioned what work, if any, Thomas had performed for Wilenchik’s firm while running for
22 County Attorney. In “Bully Pulpit,” June 29, 2006, Dougherty pointed out how Thomas had
23 “not only steered a lot of business to his old firm, he has hired his old boss (Wilenchik) to
24 harass Sheriff Joe Arpaio’s chief political rival.” He also stated a strong suspicion that
25 Wilenchik had paid Thomas “a fat salary in exchange for little work during the months leading
26 up to his election which, if true, would constitute an unlawful campaign contribution.”

⁵ See Minutes of the Maricopa County Board of Supervisors, Special Session, July 11,
2007. After being told by the Board’s Chief Counsel that “the County Attorney’s Office is
unable to advise the Sheriff’s Office related to the [*New Times*] matter as the County Attorney
has a conflict...,” Supervisor Stapley advised his colleagues that, “he had personally spoken to
Maricopa County Attorney Andrew Thomas [and been told by Thomas that] “this is an unusual
case and situation that warrants the appointments of [Wilenchik and his law firm].”

1 Thomas' new Maricopa County Attorney's Office, and Arpaio gained an important political
2 ally in Thomas and a zealous advocate in Wilenchik.

3 55. Soon after taking office, Thomas and Arpaio began funneling civil work to
4 Wilenchik. To date, Wilenchik has been paid more than \$2,350,000 in attorneys' fees
5 representing Arpaio and the County. And, Thomas and Arpaio have even used Wilenchik to
6 serve as their own, personal counsel on a number of occasions (though Arpaio and Thomas
7 were never charged for the work Wilenchik did as their personal counsel). Fees for
8 Wilenchik's work on behalf of Thomas and Arpaio personally were built-in to his bills for
9 County work.

10 56. For example, Wilenchik was not representing any public body when, prior to
11 becoming their "Independent" Special Prosecutor, he demanded a retraction from *The New*
12 *Times*, and threatened to sue the newspaper on behalf of his personal client Thomas, after the
13 newspaper published a parody piece critical of Thomas in *The New Times*. And Wilenchik was
14 obviously not defending the people of Maricopa County when, prior to becoming
15 "Independent" Special Prosecutor, he threatened to sue *The West Valley View* and *Phoenix*
16 *Magazine* for personal defamation claims based on stories critical of his personal client,
17 Arpaio.⁶

18 57. By the time Thomas secured Wilenchik's appointment as his "Independent"
19 Deputy Maricopa County Attorney, his friend and financial benefactor was already cashing in
20 on their relationship.⁷

21 ⁶ See "Sheriff demands View retract headline," *West Valley View*, October 31, 2006;
22 "First Things First," *Phoenix Magazine*, December 2007.

23 ⁷ When asked on October 20, 2007 how he could select his former boss, Wilenchik, as a
24 Special Prosecutor in a case against *The New Times*, Thomas stated, "I think given the
25 circumstances it was appropriate for him to so serve and that he had the confidence of the
26 Sheriff who was the victim in this case." This, despite *The New Times* having been critical of
both Thomas and Wilenchik, creating a "conflict" for both Wilenchik and Thomas, and
Wilenchik's prior role as the alleged victim, Arpaio's, personal attorney. As Thomas put it,

1 58. Wilenchik's pre-existing malignant mindset against the newspaper and its
2 reporters was made clear in an email Wilenchik authored *less than a week* before being named
3 a Special Deputy Maricopa County Attorney. In the email, Wilenchik angrily railed against
4 the newspaper and its reporter for having questioned, in print, his lucrative relationship with
5 his former employee, Thomas:

6 [W]henever they have no point they revert to this tired shit again. Like
7 Napolitano never hired Lewis and Roca? Or her (sic) and Goddard never used
8 me after I represented the former ag (sic)? Or Romley fired me from the cty (sic)
9 list for doing so? They (*New Times*) are so full of it. I refused to speak with him
(Dougherty).

10 59. Later, in the same email, Wilenchik summarized his feelings. "Birdcrap is what
11 (*The New Times*) article should be called. But really noone (sic) reads his crap and he has no
12 credibility."

13 60. Less than a week after authoring this angry email, Dennis Wilenchik would
14 undertake his duties as an "Independent" Special Deputy Maricopa County Attorney, tasked by
15 Arpaio and Thomas to investigate *The New Times* and its reporters.

16 61. Well before his "investigation," however, Wilenchik already had the result of his
17 "Independent" investigation in sharp focus.

18 The Abusive Wilenchik Investigation

19 62. Wilenchik took on his new role as a criminal prosecutor with all the zeal and
20 ruthlessness that Arpaio and Thomas required, expected, and had paid for. Armed with
21 daunting prosecutorial power and the approval and support of Arpaio and Thomas, Wilenchik
22 engaged in a series of inappropriate, unethical, and unlawful acts that violated the
23 Constitutional and Arizona law rights of the newspaper, its reporters, and those that read *The*
24 *New Times*.

25 "*The New Times* has not been, let's say, a fan of mine." Nor, again, had the newspaper been a
26 "fan" of Wilenchik's or Arpaio's either.

1 reference—none—to any grand jury investigation, nor did it contain the Sheriff’s home
2 address.

3 70. Yet, less than 24 hours after Rubin’s story appeared in *The New Times*,
4 Wilenchik issued a grand jury subpoena to Rubin, seeking “all documents, records, and files”
5 associated with the writing and editing of the Saban story, as well as “conversations and
6 meetings relating to its publication.”

7 71. Again, Rubin’s only “misstep” was in criticizing Arpaio and Wilenchik. His
8 story was not even remotely relevant to the matter Wilenchik had been hired to pursue (a 2004
9 story by a different reporter). Lacey and Larkin, in the column disclosing the corruption of the
10 investigation that led to their arrest, succinctly summarized what was all too clear: “It is
11 impossible to view Rubin’s subpoena as anything other than what it was: an act of vengeance
12 by Wilenchik.” Wilenchik’s subpoena was, once again, issued without notice to or the
13 involvement of the Court or grand jury, without indictments or charges pending, and as part of
14 Wilenchik’s investigation of *The New Times*.

15 72. And it did not stop there. Wilenchik then made a crude, *ex parte* attempt on
16 October 10, 2007, to influence or compromise Judge Anna Baca, who was presiding over the
17 sitting County grand jury. He did so by recruiting a political intermediary, Carol Turoff, a
18 former lay member of the committee charged with appointing Appellate Judges *and the wife of*
19 *a member of Thomas’ senior management team*, Larry Turoff. Ms. Turoff was instructed by
20 Wilenchik to call Judge Baca at home to attempt to arrange a private meeting with Wilenchik.

21 73. In an emergency closed hearing called October 11, 2007, Judge Baca called
22 Wilenchik’s attempt at initiating the *ex parte* communication “absolutely inappropriate.”
23 Specifically, Judge Baca’s recital of the ethical infractions was that she had been (a) called at
24 home, (b) late at night, (c) by a third party Wilenchik had engaged to make the call, (d) at the
25 instigation of a “prosecutor” (Wilenchik) the Judge did not even know, (e) for the purpose of

1 soliciting *ex parte* communications between the Judge and Wilenchik, and (f) whilst Wilenchik
2 had motions in *The New Times* matter and a judicial disqualification matter against Judge
3 Timothy J. Ryan, pending before Judge Baca.

4 74. Greatly concerned about the abusive and intrusive subpoenas, the clandestine
5 attempt to compromise the presiding Judge, and the patently inappropriate abuse of
6 governmental power, Plaintiffs made a conscious decision to assert their First Amendment
7 rights and responsibilities to *The New Times*' readers.

8 75. In its October 18, 2007, edition, the newspaper printed the demands of the grand
9 jury subpoenas, revealing the unprecedented attempt to obtain the identity and reading habits
10 of its readers.

11 76. The publication of those rogue subpoenas was a selfless exercise of free press
12 and the freedom to express political speech in opposition to facially improper government
13 oppression.

14 77. The newspaper's concerns were justified. Wilenchik's subpoenas were
15 obviously unreasonable, facially unconstitutional affronts to freedom of speech and freedom of
16 the press, and improper under both Arizona law and our Constitution.

17 78. For example, in her final Order of November 28, 2007, Judge Anna Baca found a
18 compelling case of grand jury abuse at the hands of Wilenchik. No grand jury had approved
19 the Wilenchik subpoenas—Wilenchik had acted as a one-man grand jury. County prosecutors,
20 the Judge ruled, have no common law powers to subpoena witnesses or documents in Arizona
21 (citing *Gershon v. Broomfield*, 131 Ariz. 507, 642 P.2d 852 (1982)). A prosecutor seeking
22 grand jury evidence by subpoena must either secure the prior permission of the grand jury or
23 must notify the grand jury foreperson and the presiding criminal judge within 10 days of
24 issuing a subpoena unilaterally. Wilenchik did neither. The grand jury was nothing more than
25 an empty prop to Dennis Wilenchik and his "investigation."

1 79. Publishing the terms of a grand jury subpoena is a misdemeanor charge. The
2 statute was designed primarily to “[protect] witnesses, targets of investigation and others from
3 negative publicity.”⁸ It was not designed to insulate, from public disclosure by a newspaper,
4 the unethical and unlawful behavior of a prosecutor who is misusing his authority to attack the
5 newspaper, its reporters, its readers’ right to privacy, and Constitutional freedoms. And it was
6 certainly not designed to shield a prosecutor or detective from conducting an unconstitutional
7 investigation without the involvement of the grand jury process or the Court. Wilenchik’s
8 investigatory subpoenas were not grand jury subpoenas at all; they were issued improperly and
9 illegally without notice to, the approval of, or involvement by the grand jury or Court.

10 80. Nevertheless, and realizing the risks, *The New Times* published the demands of
11 the Wilenchik subpoenas, and questioned the motives and actions of Arpaio, Thomas, and
12 Wilenchik in pursuing its harassing investigation of the newspaper, despite the concerns of
13 attorneys like Carter Olson and those on the MCAO’s Incident Review Committee, the obvious
14 lack of merit to the claims, and the impact on Plaintiffs’ constitutional and Arizona law rights.

15 **The Conspiracy Culminated: Late-Night Raids and Arrests**
16 **by Arpaio’s “Selective Enforcement Unit”**

17 81. On October 18, 2007—the same date Plaintiffs published the article revealing the
18 subpoenas—Wilenchik filed a Motion in the Court for an Order to Show Cause.

19 82. The Motion demanded that Judge Baca hold *The New Times* in contempt, issue
20 arrest warrants for Mr. Lacey, Mr. Larkin, and three of their lawyers, and fine the newspaper
21 what could amount to a bankrupting \$90 million.

22 83. The requested fine was a blatant attempt to use prosecutorial power to target and
23 ruin the business enterprises of *The New Times*, a newspaper that had been labeled an “Anti-
24 Arpaio” paper for publishing articles critical of Arpaio, Thomas, and Wilenchik.

25 ⁸ See *Samaritan Health System v. Sup. Ct.*, 182 Ariz. 219 (Ct. App. 1994).

1 84. But, the ire of these public officials, whose feelings were too wounded by this
2 “misbehaving” newspaper, could not await the Court’s ruling on Wilenchik’s Motion.

3 85. That same night, October 18, 2007, Defendants dispatched Arpaio’s aptly named
4 “Selective Enforcement Unit” in unmarked, black vehicles to arrest Plaintiffs and take them to
5 jail.

6 86. There was no probable cause for the arrests and, certainly, no justification for
7 them.

8 87. Misdemeanor violations that do not threaten lives are usually handled by the
9 issuance of citations, not by commando raids, arrests, handcuffs, and jail cells in the dead of
10 night.

11 88. Responsible prosecutors know these circumstances would never—never—justify
12 such conduct.⁹ Yet, that is exactly how Defendants chose to proceed. They threw their free
13 press opposition into jail in an attempt to silence Plaintiffs’ criticism of their abusive public
14 practices, criticism that is both fundamental to, and fundamentally protected by, the
15 Constitution.

16 89. The public outcry after the arrests quickly forced Thomas to “fire” Wilenchik
17 from further County criminal cases (but not civil cases, where he continues to collect tax
18 dollars representing the County and Sheriff through the good offices of his former employee,
19 Thomas).

22 ⁹ Thomas referred to the jailing of Mr. Larkin and Mr. Lacey as “very disturbing”—
23 noting that there had been “serious missteps taken” in the matter. He expressed no contrition
24 for having actively facilitated the appointment of an ethically and legally conflicted Dennis
25 Wilenchik to act as Arpaio’s personal prosecutor. Nor did he admit the slightest understanding
26 of a sentiment expressed nearly a century ago that encapsulates the corrupt moorings of his
conduct in this case, to the letter. “A county attorney has no right to turn a defendant over to
his enemies, after first having armed them with the entire power of the state to be used as they
see fit in his prosecution.” *Hartgraves v. State*, 114 P. 343, 346 (Okla. 1911).

1 provide him with training and supervision necessary to ensure that the criminal investigation
2 was conducted constitutionally and in conformance with Arizona and federal law.

3 99. Thus, all of these Defendants share responsibility for the violations of Arizona
4 and federal law in this case, and for the assault on the constitutional rights of Plaintiffs and on
5 the rights of *The New Times*' officers, reporters, and readers.

6
7 **Defendants' Pattern and Practice of Misusing Their Power**
8 **to Punish & Suppress Political Opposition**

9 100. This is not the first time these Defendants have abused their authority to obtain
10 financial, political, and other benefits and retaliate against their political opponents. In fact,
11 they have a custom, pattern, and practice of doing so.

12 101. For example, the Sheriff once authorized deputies to conduct surveillance on two
13 men, Tom Bearup and Ernest Hancock, who expressed interest in running against him,
14 including tapping their phones, tailing them, and searching their trash. The Sheriff's Office
15 labeled them a "threat" to the Sheriff—even tapping the phones of a campaign aide to Bearup,
16 Jim Cozzolino. Eventually, Mr. Cozzolino was arrested and served time in jail under highly-
17 suspect circumstances. When he was released, he sued the Sheriff's Office for violating his
18 constitutional rights, a lawsuit the Sheriff's Office quickly settled.

19 102. Arpaio has also targeted others in the press who criticize or oppose him. For
20 example, the same night that Plaintiffs were arrested and jailed, Arpaio dispatched his
21 "Selective Enforcement Unit" to issue *The New Times* reporter Ray Stern—in the middle of the
22 night—a citation for disorderly conduct, simply for arguing with MCSO's lawyer, Michele
23 Iafrate, earlier in the day about whether or not he was permitted *to photograph public records*.
24 The MCAO initially denied knowing about the citation or the matter. But, the charges have
25 not been dropped and the case against Mr. Stern continues to date. And Mr. Stern is not alone.

1 Other reporters and newspapers, including (among others and without limitation) the *The West*
2 *Valley View*, *The Arizona Republic*, and Channel 12 have been targeted or stonewalled by
3 Arpaio for seeking public records and publishing stories that were critical of him.

4 103. Christy Fritz, too, was a target of Defendants' political retaliation. Two weeks
5 before the November 2006 election, Sheriff's deputies arrived at her home and confiscated her
6 computers, utility bills, emails, and financial records. But Fritz was neither a drug dealer nor a
7 criminal; she was simply a graphic designer. Her problem: She worked for a Democrat, Jackie
8 Thrasher. Ms. Thrasher was running against Jim Weiers, the father of a Maricopa County
9 Sheriff's Deputy and an Arpaio ally. Ms. Thrasher had been endorsed by the Arizona
10 Conference of Police and Sheriffs, but not Sheriff Arpaio. When one of her campaign mailers
11 showed a corrections officer talking with her in front of an MCSO car, Mr. Weiers complained.
12 So, Arpaio launched an investigation that included hours of interviews and resulted in three
13 raids on the homes of the corrections officer in the picture, the corrections officer's mother,
14 and Christy Fritz. Despite the issuance of three search warrants and the seizure of four
15 computers, no charges were ever filed.

16 104. Indeed, for these Defendants, no political opponent is beyond the reach of their
17 power. Their targets have ranged from the ACLU to members of the judiciary. In October
18 2007, they used Wilenchik to attack a Superior Court Judge, the Honorable Timothy Ryan.
19 Judge Ryan, the County's Associate Presiding Criminal Judge, and other members of the
20 bench had been attempting to instill standards that would require law enforcement to prove that
21 aliens are, in fact, illegal, before they are denied bail under new laws. But, that constitutional
22 protection is contrary to Arpaio's and Thomas' popular political stance on immigration issues.
23 As a result, Thomas and Wilenchik unleashed an outrageous political attack on Judge Ryan
24 and attempted to disqualify not only him, but every single judge in the Maricopa County
25 Superior Court.

1 establish and implement proper policies, procedures, and protocols governing the investigation,
2 processing, handling, and management of criminal investigations and prosecutions in their
3 control; and failing to properly screen, hire, train, retain, and supervise employees and agents
4 who have responsibility for the investigation, processing, handling, and management of
5 criminal investigations and prosecutions in their control.

6 111. Defendants' breaches of their duties owed to Plaintiffs caused Plaintiffs to suffer
7 harm in an amount to be proven at trial.

8 **COUNT II**

9 **(Gross-Negligence—All Defendants)**

10 112. Plaintiffs reallege and incorporate by reference the allegations set forth in each of
11 the preceding paragraphs of this Complaint.

12 113. Defendants have statutory and common law duties of care to Plaintiffs and all
13 citizens when performing the functions of their positions. Defendants also owe a duty of care
14 to Plaintiffs with respect to conducting criminal investigations.

15 114. Defendants are also legally responsible for the management of the criminal
16 investigation system in Maricopa County, and the establishment and implementation of
17 policies, procedures, and protocols that govern the investigation, processing, handling, and
18 management of criminal investigations and prosecutions in their control. Their responsibilities
19 include making certain that such policies, procedures, and protocols satisfy all federal and state
20 standards.

21 115. Defendants Arpaio, MCSO, Thomas, and/or MCAO are legally responsible for
22 the screening, hiring, training, retaining, and supervision of all employees and agents who have
23 responsibility for the investigation, processing, handling, and management of criminal
24 investigations and prosecutions in their control. This responsibility includes making certain
25 that such screening, hiring, training, retaining, and supervision of such employees and agents
26 satisfy all federal and state standards.

116. Defendants were grossly negligent in breaching their duties owed to Plaintiffs, as

1 alleged in this Complaint, by (*inter alia*), failing to conduct the duties of their positions with
2 reasonable care; failing to establish and implement proper policies, procedures, and protocols
3 governing the investigation, processing, handling, and management of criminal investigations
4 and prosecutions in their control; and failing to properly screen, hire, train, retain, and
5 supervise employees and agents who have responsibility for the investigation, processing,
6 handling, and management of criminal investigations and prosecutions in their control.

7 117. Defendants breached their duties with actual or constructive knowledge that their
8 acts and/or omissions would result in harm to Plaintiffs.

9 118. Defendants' gross negligence caused Plaintiffs to suffer harm in an amount to be
10 proven at trial.

11 COUNT III

12 **(Violations of 42 U.S.C. § 1983: Unconstitutional Policies, Customs, and Failure to 13 Train—Arpaio, MCSO, Thomas, and/or MCAO)**

14 119. Plaintiffs reallege and incorporate by reference the allegations set forth in each of
15 the preceding paragraphs of this Complaint.

16 120. Sheriff Arpaio is a policy maker for the MCSO. Sheriff Arpaio has the authority
17 and responsibility to establish policy for the MCSO, and to properly supervise and train the
18 officers, agents, and employees of the MCSO. His actions are the actions of the MCSO.

19 121. Andrew Thomas is a policy maker for the MCAO. He has the authority and
20 responsibility to establish policy for the MCAO, and to properly supervise and train the
21 officers, agents, and employees of the MCAO. His actions are the actions of the MCAO.

22 122. Sheriff Arpaio and Andrew Thomas were acting under color of law at all times
23 material hereto.

24 123. Sheriff Arpaio and Andrew Thomas are each named in their official capacity, as
25 well as their individual capacity, pursuant to 42 U.S.C. § 1983 supervisory and direct liability,
26 for their conduct as alleged herein.

124. Sheriff Arpaio, the MCSO, Andrew Thomas, and/or MCAO have oversight and

1 supervisory responsibility over their jails and the investigation, processing, handling, and
2 management of criminal investigations and prosecutions in their control, and the proper
3 screening, hiring, training, retaining, and supervision of the officers, employees, and agents
4 investigating, processing, handling, and managing such criminal investigations and
5 prosecutions.

6 125. Sheriff Arpaio, the MCSO, Andrew Thomas, and/or MCAO were deliberately
7 and callously indifferent to Plaintiffs and the readers of *The New Times* in training (or failing to
8 train) their officers, agents, and employees in, among other things and without limitation, the
9 appropriate, lawful and constitutional policies, procedures, and protocols for investigating,
10 processing, handling, and managing of criminal investigations and prosecutions in their
11 control.

12 126. Sheriff Arpaio, the MCSO, Andrew Thomas, and/or MCAO were deliberately
13 and callously indifferent to Plaintiffs and readers of *The New Times* through fostering,
14 encouraging and knowingly accepting formal and informal policies, procedures, practices, or
15 customs condoning indifference to the rights of the subjects of criminal investigations and
16 prosecutions under their control.

17 127. Sheriff Arpaio, the MCSO, Andrew Thomas, and/or MCAO knew and should
18 have known that unconstitutional policies, practices, customs, and training existed, yet failed to
19 properly address them and/or failed to establish and implement appropriate policies,
20 procedures, protocols, and training governing the investigation, processing, handling, and
21 management of criminal investigations and prosecutions in their control.

22 128. Sheriff Arpaio, the MCSO, Andrew Thomas, and/or MCAO knew and should
23 have known that unconstitutional policies, practices, customs, and training existed with respect
24 to the screening, hiring, training, retaining, and supervision officers, employees, and agents
25 who have responsibility for the investigation, processing, handling, and management of
26 criminal investigations and prosecutions in their control, yet failed to properly address them
and/or failed to establish and implement appropriate policies, procedures, protocols, and

1 training to remedy them.

2 129. Sheriff Arpaio, the MCSO, Andrew Thomas, and/or MCAO permitted the
3 implementation of inappropriate, unconstitutional, *de facto* policies which: authorized,
4 approved, condoned, and/or ratified unconstitutional criminal investigation and prosecution
5 practices, and failed to adequately train and supervise their personnel in this and other areas.

6 130. This deliberate, reckless and callously indifferent failure to train in these (and
7 others without limitation) areas, and the condoning of such policies or customs as described
8 herein, caused, substantially contributed to, and/or was the moving force behind the violations
9 of Plaintiffs' rights.

10 131. The wrongful conduct of Defendants alleged herein constitutes violations of 42
11 U.S.C. § 1983, in that with deliberate and callous indifference, Defendants deprived Plaintiffs
12 of the rights, privileges, and immunities secured to them by the Constitution and laws of the
13 United States.

14 132. The wrongful conduct of Defendants alleged herein constitutes violations of the
15 United States Constitution, Art. IV, § 2, in that Plaintiffs were denied privileges and
16 immunities granted to all citizens of the United States.

17 133. The wrongful conduct of Defendants alleged herein constitutes violations of the
18 United States Constitution, Amendment I, in that Plaintiffs were deprived of their right to free
19 speech and free press.

20 134. The wrongful conduct of Defendants alleged herein constitutes violations of the
21 United States Constitution, Amendment IV, in that Plaintiffs were subjected to false
22 imprisonment and arrest, malicious prosecution, and retaliatory conduct from law enforcement,
23 and were arrested and jailed without proper cause and in an attempt to chill Plaintiffs' free
24 speech and criticism of public officials and intrude upon the privacy rights of all private
25 citizens who read *The New Times*.

26 135. The acts and omissions of Sheriff Arpaio and Andrew Thomas, acting in their
individual capacities, were malicious or reckless in disregard of the rights of Plaintiffs.

1 136. Punitive damages in an amount to be determined by a jury should be awarded
2 against Defendants to punish them for wrongdoing and to prevent them and others from acting
3 in a similar manner in the future.

4 **COUNT IV**

5 **(Violations of 42 U.S.C. § 1983: Free Speech and Free Press, Law Enforcement**
6 **Retaliatory Conduct, False Arrest and Imprisonment, Malicious Prosecution, and Abuse**
7 **of Process – All Defendants)**

8 137. Plaintiffs reallege and incorporate by reference the allegations set forth in each of
9 the preceding paragraphs of this Complaint.

10 138. At all times material hereto, Defendants Sheriff Arpaio, Andrew Thomas, and
11 Dennis Wilenchik were acting under color of law.

12 139. The wrongful conduct of these Defendants alleged herein constitutes violations
13 of 42 U.S.C. § 1983, in that with deliberate and callous indifference, they deprived Plaintiffs of
14 the rights, privileges, and immunities secured to them by the Constitution and laws of the
15 United States.

16 140. The wrongful conduct of these Defendants alleged herein constitutes violations
17 of the United States Constitution, Art. IV, § 2, in that Plaintiffs were denied privileges and
18 immunities granted to all citizens of the United States.

19 141. The wrongful conduct of these Defendants alleged herein was undertaken with
20 malice, in an attempt to deter conduct protected by the Constitution, and/or in order to silence
21 and chill speech and invade the privacy of Plaintiffs and their readers, and, therefore,
22 constitutes violations of the United States Constitution, Amendment I, in that Plaintiffs were
23 deprived of privileges and immunities guaranteed to all citizens of the United States. Plaintiffs
24 were criminally investigated, prosecuted, jailed, arrested, and/or persecuted by Defendants for
25 exercising their rights to free speech and free press.

26 142. The wrongful conduct of these Defendants alleged herein was undertaken with
malice and/or in an attempt to deter conduct protected by the Constitution and, therefore,

1 constitutes violations of the United States Constitution, Amendments I, IV, and/or XIV, in that
2 Plaintiffs were deprived of privileges and immunities guaranteed to all citizens of the United
3 States. Plaintiffs were subjected to false imprisonment and arrest, malicious prosecution,
4 and/or retaliatory conduct from law enforcement for exercising their right to free speech and
5 free press. Plaintiffs were investigated, prosecuted, arrested, and/or jailed without proper or
6 probable cause.

7 143. The wrongful conduct of these Defendants alleged herein was undertaken with
8 malice and/or in an attempt to deter conduct protected by the Constitution and, therefore,
9 constitutes violations of the United States Constitution, in that Plaintiffs were deprived of
10 privileges and immunities guaranteed to all citizens of the United States. Plaintiffs were
11 subjected to Defendants' abuse of process in a particularly egregious, conscience-shocking
12 manner.

13 144. The acts and omissions of these Defendants, acting in their individual capacities
14 and under color of law, were malicious, punitive, in reckless disregard of Plaintiffs' rights and
15 the rights of all those private citizens who read speech and criticism and intrude upon the
16 privacy rights of all private citizens who read *The New Times*, and/or in an effort to
17 intentionally deter conduct that was protected by the Constitution.

18 145. As a result, punitive damages in an amount to be determined by a jury should be
19 awarded against Defendants to punish them for wrongdoing and to prevent them and others
20 from acting in a similar manner in the future.

21 COUNT V

22 (Conspiracy to Commit Violations of 42 U.S.C. § 1983-All Defendants)

23 146. Plaintiffs reallege and incorporate by reference the allegations set forth in each of
24 the preceding paragraphs of this Complaint.

25 147. The wrongful conduct of Defendants as alleged herein were undertaken pursuant
26 to an agreement or meeting of the minds among Defendants to act in concert to violate
Plaintiffs' constitutional rights, silence Plaintiffs' criticism of them, chill free speech, invade

1 the privacy of those private citizens who read *The New Times*, and interfere with and
2 financially ruin Plaintiffs' business.

3 148. Defendants' acts and/or omissions as alleged herein to pursue and conduct a
4 criminal investigation and prosecution of *The New Times*, including (without limitation) the
5 arrests and jailings, were undertaken pursuant to a conspiracy among Defendants to violate
6 Plaintiffs' constitutional rights.

7 149. As a direct and proximate cause of Defendants' conspiracy, Plaintiffs'
8 constitutional rights were violated.

9 150. The acts and omissions of Arpaio, Thomas, and Wilenchik in furtherance of their
10 conspiracy, acting in their individual capacities and under color of law, were malicious and/or
11 in reckless disregard of Plaintiffs' rights and the rights of private citizens and intruded upon the
12 privacy rights of all citizens who read *The New Times*.

13 151. As a result, punitive damages in an amount to be determined by a jury should be
14 awarded against Defendants to punish them for wrongdoing and to prevent them and others
15 from acting in a similar manner in the future.

16 COUNT VI

17 **(Violations of Arizona Law: False Arrest and Imprisonment, Malicious Prosecution, and 18 Abuse of Process-All Defendants)**

19 152. Plaintiffs reallege and incorporate by reference the allegations set forth in each of
20 the preceding paragraphs of this Complaint.

21 153. The wrongful conduct of these Defendants alleged herein constitutes violations
22 of Arizona law, in that Defendants unlawfully detained Plaintiffs without consent, without
23 lawful authority, without valid legal process, and without probable or proper cause; unlawfully
24 and maliciously initiated criminal proceedings against Plaintiffs without probable cause that
25 terminated in Plaintiffs' favor and harmed Plaintiffs; and willfully used the judicial process
26 and/or criminal proceedings against Plaintiffs for a punitive, improper, and ulterior purpose not
proper in the regular conduct of such process and proceedings.

1 154. As a direct and proximate result of Defendants' acts and omissions alleged
2 herein, Plaintiffs have been damaged in an amount to be proven at trial.

3 155. Defendants' acts and omissions herein were undertaken with malice, in bad faith,
4 and with the requisite evil mind sufficient to warrant the imposition of punitive damage to
5 deter their conduct and that of others in the future.

6 **COUNT VII**

7 **(Racketeering Violations under 18 U.S.C. §§ 1961, *et seq.* & A.R.S. §§ 13- 2301, *et seq.* –
8 All Defendants)**

9 156. Plaintiffs reallege and incorporate by reference the allegations set forth in each of
10 the preceding paragraphs of this Complaint.

11 157. As set forth in detail in this Complaint, Defendants have engaged in a pattern of
12 unlawful activity in order to obtain financial, political, and/or other gains that have resulted in
13 harm and injury to Plaintiffs.

14 158. Such a pattern of unlawful activity includes, but is not limited to, a series of
15 repeated disguised campaign contributions, malicious prosecutions and abuses of process, false
16 imprisonments and arrests, asserting false claims, fraudulent schemes, practices, and artifices,
17 and extortions under color of official right, which have occurred over at least the last several
18 years, are ongoing, and will likely continue in the future.

19 159. Defendants undertook such unlawful activity as an association-in-fact and/or an
20 enterprise with a common purpose. Each of the Defendants conducted or participated, directly
21 and/or indirectly, in the conduct of the association-in-fact and/or enterprise.

22 160. As a direct and proximate result of Defendants' pattern of unlawful activity as
23 alleged herein, Plaintiffs have been injured and sustained monetary damages in an amount to
24 be proven at trial.

1 161. Defendants' acts and omissions as alleged herein constitute violations of 18
2 U.S.C. §§ 1861, *et seq.* and A.R.S. §§ 12-2301, *et seq.*

3 162. Pursuant to 18 U.S.C. § 1964(c) and A.R.S. § 12-2314.01, Plaintiffs are entitled
4 to an award of treble damages.

5 163. Pursuant to 18 U.S.C. § 1964(c) and A.R.S. § 13-2314.01, Plaintiffs are entitled
6 to an award of their reasonable attorneys' fees and costs.

7 **Jury Trial**

8 164. Plaintiffs hereby request a trial by jury.

9 **Prayer for Relief**

10 WHEREFORE, Plaintiffs pray for damages for judgment against Defendants as follows:

11 A. General damages in an amount to be proven at trial;

12 B. Punitive damages in an amount deemed just and reasonable against the
13 individual Defendants as to the causes of action alleged herein;

14 C. Costs and attorneys' fees against all Defendants as to the causes of action alleged
15 under the Constitution and laws of the United States, pursuant to 42 U.S.C. § 1988;

16 D. Treble damages and attorneys' fees against all Defendants as to the causes of
17 action alleged under 18 U.S.C. § 1961, *et seq.* and A.R.S. § 13-2301, *et seq.*

18 E. The costs of litigation;

19 F. All remedies provided by 42 U.S.C. §§ 1983, 18 U.S.C. §§ 1961, *et seq.*, and
20 A.R.S. § 13-2301, *et seq.*; and

21 G. Such other and further relief which may seem just and reasonable under the
22 circumstances.

23 ...

24 ...

1 RESPECTFULLY SUBMITTED this 29th day of April, 2008.

2 STINSON MORRISON HECKER LLP

3
4 By: 

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11 ORIGINAL filed this 29th day of April,
12 2008:

13 Clerk of the Court
14 Maricopa County Superior Court
15 101/201 West Jefferson
16 Phoenix, Arizona 85003

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