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# SUPERIOR COURT

COUNTY OF LOS ANGELES, STATE OF CALIFORNIA

**WARNING! — READ THIS! -- YOU COULD BE SENT TO PRISON!**

DO NOT REMOVE, DAMAGE OR CONCEAL THIS FILE, OR CHANGE OR TAKE ANYTHING OUT OF IT, OR TAKE IT APART FOR ANY REASON. IF YOU DO, YOU ARE GUILTY OF A SERIOUS CRIME, AND COULD BE SENT TO STATE PRISON. (SECTION 6200 AND 6201 OF THE CALIFORNIA GOVERNMENT CODE)

*Tremain*

*City of vs. Long Beach*

5/22/02



MICHAEL P. JUDGE  
PUBLIC DEFENDER

**LAW OFFICES  
LOS ANGELES COUNTY PUBLIC DEFENDER**

**PUBLIC INTEGRITY ASSURANCE SECTION**

207 South Broadway  
Suite 400  
Los Angeles, CA 90012  
Phone (213) 893-2398  
FAX (213) 621-0991

April 10, 2002

Civil Court Clerk  
Long Beach Courthouse  
415 West Ocean Boulevard  
Long Beach, CA 90802

**Re: Record Request**

**Case: NC016622: Tremain v. Long Beach Police**

Dear Sir or Madam,

I am requesting a copy of the civil complaint or intial petition in the above entitled case. Please forward a copy to the above address. If you have any questions, I can be reached directly at (213)893-2554. You can also email me at [rlquinta@co.la.ca.us](mailto:rlquinta@co.la.ca.us).

I appreciate your cooperation in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "RQ".

Ramon Quintana  
Attorney at Law

**RECEIVED**  
**APR 11 2002**

JAN 22 1999

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): <b>ROBERT E. SHANNON, City Attorney (562)570-2200</b> <b>WILLIAM A. REIDDER, SR. Deputy</b> <b>333 West Ocean Boulevard, 11th Floor</b> <b>Long Beach, California 90802-4664</b> ATTORNEY FOR (Name): <b>Defendant, CITY OF LONG BEACH</b>	TELEPHONE NO.: FOR COURT USE ONLY <b>LOS ANGELES SUPERIOR COURT</b>  <b>JAN 22 1999</b> <b>JOHN A. CLARKE, CLERK</b> <i>E. Alvarez</i> <b>BY E. ALVAREZ, DEPUTY</b>
Insert name of court and name of judicial district and branch court, if any: <b>LOS ANGELES SUPERIOR COURT -- SOUTH DISTRICT</b>	
PLAINTIFF/PETITIONER: <b>KRONE TREMAIN</b>  DEFENDANT/RESPONDENT: <b>CITY OF LONG BEACH, et al.</b>	
<b>REQUEST FOR DISMISSAL</b> <input checked="" type="checkbox"/> Personal Injury, Property Damage, or Wrongful Death <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other <input type="checkbox"/> Family Law <input type="checkbox"/> Eminent Domain <input checked="" type="checkbox"/> Other (specify): <b>Alleged police misconduct</b>	CASE NUMBER: <b>NC 016622</b>

— A conformed copy will not be returned by the clerk unless a method of return is provided with the document. —

1. TO THE CLERK: Please dismiss this action as follows:
- a. (1)  With prejudice      (2)  Without prejudice
- b. (1)  Complaint      (2)  Petition  
 (3)  Cross-complaint filed by (name):  
 (4)  Cross-complaint filed by (name):  
 (5)  Entire action of all parties and all causes of action  
 (6)  Other (specify):\*

on (date):  
on (date):

Date: January 12, 1999

DEAN MASSERMAN

(TYPE OR PRINT NAME OF  ATTORNEY  PARTY WITHOUT ATTORNEY)  
 \* If dismissal requested is of specified parties only, of specified causes of action only, or of specified cross-complaints only, so state and identify the parties, causes of action, or cross-complaints to be dismissed.

*[Signature]*  
 (SIGNATURE)  
 Attorney or party without attorney for:  
 Plaintiff/Petitioner       Defendant/Respondent  
 Cross-complainant

2. TO THE CLERK: Consent to the above dismissal is hereby given.  
 Date:

(TYPE OR PRINT NAME OF  ATTORNEY  PARTY WITHOUT ATTORNEY)  
 \*\* If a cross-complaint or Response (Family Law) seeking affirmative relief is on file, the attorney for cross-complainant (respondent) must sign this consent if required by Code of Civil Procedure section 581(i) or (j).

*[Signature]*  
 (SIGNATURE)  
 Attorney or party without attorney for:  
 Plaintiff/Petitioner       Defendant/Respondent  
 Cross-complainant

(To be completed by clerk)

3.  Dismissal entered as requested on (date): **1-22-99**
4.  Dismissal entered on (date):      as to only (name):
5.  Dismissal not entered as requested for the following reasons (specify):
6.  a. Attorney or party without attorney notified on (date):  
 b. Attorney or party without attorney not notified. Filing party failed to provide  
 a copy to conform       means to return conformed copy

Date:

**1-22-99**

Clerk, by

**JOHN A. CLARKE, CLERK**

Deputy

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 01/07/99

DEPT. H

HONORABLE JOSEPH E. DiLORETO

JUDGE K KELLY

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

K COLLINS

Deputy Sheriff

KELLY WINTERS #11561

Reporter

1:30 pm

NC016622

Plaintiff DEAN MASSERMAN (x)  
Counsel

KRONE TREMAIN  
VS  
CITY OF LONG BEACH, ET AL

Defendant WILLIAM REIDDER (x)  
Counsel

NATURE OF PROCEEDINGS:

JURY TRIAL

COURT AND COUNSEL CONFER IN CHAMBERS.  
CASE SETTLES FOR EACH SIDE BEARING THEIR OWN COSTS AS  
REFLECTED IN THE NOTES OF THE COURT REPORTER.

PURSUANT TO THE REQUEST OF COUNSEL THE COURT ORDERS  
THE REFUND OF JURY FEES ON DEPOSIT.

CASE IS DISMISSED.  
NOTICE WAIVED.

MINUTES ENTERED  
01/07/99  
COUNTY CLERK

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

DATE: 01/06/99

DEPT. H

HONORABLE JOSEPH E. DiLORETO

JUDGE K KELLY

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

K COLLINS

Deputy Sheriff

C ROSALES #5410

Reporter

1:30 pm

NC016622

Plaintiff DEAN MASSERMAN (x)  
Counsel

KRONE TREMAIN  
VS  
CITY OF LONG BEACH, ET AL

Defendant WILLIAM REIDDER (x)  
Counsel

**NATURE OF PROCEEDINGS:**

JURY TRIAL- PRE TRIAL CONFERENCE

COURT AND COUNSEL CONFER IN CHAMBERS.

COUNSEL STIPULATE TO BIFURCATION OF TRIAL ON ISSUES  
OF LIABILITY AND MONEL CLAIM.

TRIAL IS ADVANCED TO 1/7/99 AT 1:30 P.M. FOR  
COMMENCEMENT OF JURY SELECTION.

DEFENSE WAIVES JURY.

SIDES TO SPLIT REPORTER FEES 50/50.

MINUTES ENTERED  
01/06/99  
COUNTY CLERK

1 ROBERT E. SHANNON, City Attorney  
 2 WILLIAM A. REIDDER, Sr. Deputy City Attorney  
 3 State Bar No. 44617  
 333 West Ocean Boulevard, 11th Floor  
 Long Beach, California 90802-4664  
 4 Telephone (562)570-2200

**FILED**  
 LOS ANGELES COUNTY SUPERIOR COURT  
 JAN 06 1999  
 JOHN A. CLARK, CLERK  
*K Kelly*  
 BY K. KELLY, DEPUTY

5 Attorneys for Defendants, CITY OF LONG BEACH  
 6 WILLIAM ELLIS, DAVID WILLIAMS AND CINDY ALLEN

7  
 8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES  
 9

11	KRONE TREMAINE,	)	CASE NO.: NC 016622
12		)	
13	Plaintiff,	)	NOTICE OF MOTION AND MOTION
14	vs.	)	TO BIFURCATE ISSUES;
15		)	MEMORANDUM OF POINTS AND
16	CITY OF LONG BEACH; a political	)	AUTHORITIES IN SUPPORT
17	subdivision and City of the State)	)	THEREOF
18	of California; LONG BEACH POLICE	)	DATE: January 6, 1999
19	DEPARTMENT, a political	)	TIME: 1:30 p.m.
20	subdivision of the City of Long	)	DEPT: B
21	Beach; DAVID WILLIAMS,	)	
22	individually and as a Long Beach	)	
23	Police Officer; CINDY ALLEN,	)	
24	individually and as a Long Beach	)	
25	Police Officer; CHIEF WILLIAM	)	
26	ELLIS; individually and as Chief	)	
27	of the Long Beach Police	)	
28	Department; and DOES 1 through	)	
	100, inclusive.	)	
		)	
	Defendants.	)	

24 NOTICE IS HEREBY GIVEN that on the above date and time, before  
 25 the Honorable Joseph Di Loreto, defendants will ask leave of Court  
 26 to bifurcate issues and to order separate trials, first as to  
 27 defendants Allen and Williams, and thereafter, if necessary, as to  
 28 defendant, City of Long Beach and retired Chief Ellis. Said motion

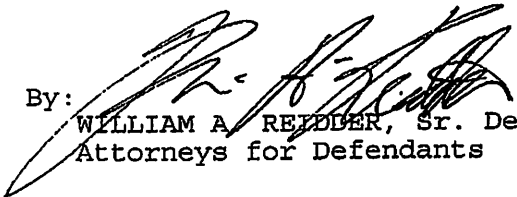
Deft's Motion to Bifurcate Issues

1 will be based upon the grounds that the proposed court order will  
2 [1] avoid confusion of issues; [2] expedite the course of the  
3 litigation; and [3] avoid prejudice to the individual defendants.

4 Said motion will be based upon this Notice of this Motion to  
5 Bifurcate Issues and Memorandum of Points and Authorities.

6 Dated: January 6, 1999

7 ROBERT E. SHANNON, City Attorney

8  
9 By:   
10 WILLIAM A. REPPER, Sr. Deputy  
11 Attorneys for Defendants  
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Deft's Motion to Bifurcate Issue2

MEMORANDUM OF POINTS AND AUTHORITIES

1  
2 1. PRELIMINARY STATEMENT.

3 The plaintiffs' complaint purports primarily to set forth a  
4 claim for relief under 42. U.S.C. Section 1983 arising from the  
5 shooting of plaintiff. The plaintiff further asserts pendent state  
6 claims. In essence it is alleged that plaintiff was subjected to  
7 unjustified deadly force. The plaintiff alleges that the acting  
8 defendant in this action were Long Beach Police Officers, Allen and  
9 Williams who were alleged to have acted in violation of plaintiff's  
10 civil rights. In addition to the individual defendants, the  
11 employer, City of Long Beach, is a named defendant as is its former  
12 Chief of Police.

13 Initially, it should be noted that the City is not and cannot  
14 be sued under a theory of respondeat superior under Section 1983 for  
15 the acts or omissions of its employees. The City may only be found  
16 liable if it can be demonstrated that it maintained a custom or  
17 practice of violating or encouraging the violation of the civil  
18 rights of individuals which custom or practice in fact resulted in  
19 the violation of plaintiffs' civil rights. Monell v. New York City  
20 Department of Social Services (1978) 436 U.S. 658, 56 L.Ed 2d 611,  
21 98 S.Ct. 2018; Owen v. City of Independence, (1980) 445 U.S. 622,  
22 63 L.ed 2d 673, 100 S.Ct. 1938).

23 It is clear that the thrust of the plaintiff's case under  
24 Section 1983, as to the City of Long Beach is the allegation that  
25 the City maintained an unconstitutional policy and practice of  
26 failing to adequately train, supervise and assign its police  
27 officers.

28 ///

Deft's Motion to Bifurcate Issues



1 2. UNDER THE CIRCUMSTANCES, THE COURT SHOULD EXERCISE  
2 THE DISCRETION CONFERRED UPON IT BY SECTION  
3 1048 OF CODE OF CIVIL PROCEDURE AND EVIDENCE  
4 CODE SECTION 352, AND ORDER THAT SEPARATE  
5 TRIALS PROCEED IN THE MANNER HEREAFTER SET FORTH.

6 The decision as to whether to separate issues in a litigation  
7 must be made on an individual case basis. Pertinent to this  
8 decision are the questions of whether the issues are intertwined or  
9 are distinct. If distinct, the Court should weigh the interests of  
10 judicial economy, fairness to the parties and clarity of the issues.  
11 Martin v. Bell Helicopter Company (1980) 85 F.R.D. 654, 659-660.  
12 Other factors to be considered include the risk of jury confusion  
13 and whether the advanced disposition of the issues in the first  
14 trial will dispose of or simplify the issues to be raised in the  
15 second trial. Payne v. A.O. Smith Corporation (1983) 99 F.R.D. 534;  
16 Barnell v. Paine, Weber, Jackson and Curtis, Inc. (D.C.N.Y. 1984)  
17 577 F.Supp 976.

18 The decision to sever issues is left to the sound discretion  
19 of the trial court and its determination should only be reversed for  
20 an abuse of that discretion. Parmer v. National Cash Register  
21 Company, (6th Cir., 1974) 503 F.2d 275.

22  
23 A. Judicial Economy.

24 For the purposes of this motion, this litigation may be pared  
25 to two basic liability issues:

- 26 1. Did defendant Officers Allen or Williams, by his or  
27 her actions, violate the civil rights of the plaintiff?

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Deft's Motion to Bifurcate Issues

1           2. Did the defendant City of Long Beach maintain  
2 an unconstitutional policy and practice, through the Long  
3 Beach Police Department of failing to adequately train,  
4 supervise, and assign its police officers which in turn  
5 caused the individual officers to violate the plaintiff's  
6 civil rights?

7           In order to establish the liability of the City (issue no.  
8 two), the plaintiff will be required to produce evidence of other  
9 incidents of the use of deadly force involving other police  
10 officers. The City will respond by calling witnesses to rebut the  
11 allegation of unjustified deadly force on other occasions. In  
12 essence then, there will be numerous mini-trials relating to the  
13 validity of charges arising out of other incidents. Additionally,  
14 the plaintiff will be required to present evidence as to the nature  
15 of the training, supervision and assignment of the City's police  
16 officers, and will further need to establish that in some manner  
17 that training, supervision and assignment failed to adhere to  
18 certain standards. This in turn will require expert testimony. The  
19 City will, of course, respond by introducing testimony that in fact  
20 its training, supervision and assignment relative to the use of  
21 deadly force was appropriate. Obviously, the consumption of  
22 judicial time will be enormous.

23           If, however, the case against the defendant City of Long Beach  
24 and Chief Ellis is set for trial after that of defendants Allen and  
25 Williams, one of the following will occur:

26           1. Defendants Allen and/or Williams will be found not to have  
27 violated the civil rights of the plaintiff and a defense judgment

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Deft's Motion to Bifurcate Issues

1 rendered as to that defendant. If this occurs, there will be no  
2 need for any further proceedings as against the City.

3 2. Defendant Allen and/or Williams will be found to have  
4 violated plaintiff's civil rights and damages will be assessed.  
5 (Although the City may not be found directly liable under the  
6 doctrine of respondeat superior, it will be responsible for the  
7 payment of any compensatory damages levied against its employees  
8 under the Civil Rights Act. Williams v. Horvath (1976) 16 Cal.3d  
9 834; 129 Cal.Rptr. 453, 548 P.2d 1125). (As well as under the State  
10 causes of action).

11 With regard to the first alternative, a judgment in favor of  
12 defendants Allen and Williams would preclude a trial as to the City,  
13 since there would be no basis for its liability. There can be no  
14 award of damages against a municipal corporation if the jury  
15 concludes that the officer did not inflict constitutional harm  
16 regardless of the policy and practice of the City relative to the  
17 use of deadly force. City of Los Angeles v. Heller (1986) 475 U.S.  
18 --, 89 L.Ed. 2d 806, 106 S.Ct. --. With regard to the second  
19 alternative, there would be no need for a second trial as to the  
20 City, since the plaintiff would be fully compensated for all  
21 damages.

22 Depending upon the facts produced at the first trial, it is  
23 conceivable, although very unlikely, that a general verdict in favor  
24 of the officers would not be preclude a trial as against the City.  
25 The details as to that possibility will be omitted here. This  
26 alternative can be avoided by carefully drawing a special verdict  
27 form. In any event, the likelihood of there ever having to be a  
28 second trial is remote. Separation of the individual officer from

Deft's Motion to Bifurcate Issues

1 the City, will result in a substantial saving of judicial time.

2 B. Confusion of the Issues.

3 As previously set forth, the legal basis for establishing  
4 liability as against the individual officers is different from that  
5 of the defendant City. In view of this fact, it is foreseeable, if  
6 both defendants are tried together, that the jury might well confuse  
7 the legal issues as applied to the issues regarding the officers on  
8 the one hand, and to the City on the other hand. Further, in  
9 deliberating the validity of charges of unjustified force against  
10 other officers in other instances, the jury is likely to be diverted  
11 from the core issue, i.e. whether Officers Allen or Williams  
12 violated plaintiff's civil rights.

13

14 C. Prejudice to the Defendants.

15 The possibility of confusion of the issues, as previously  
16 explained, leads to the substantial probability that the rights of  
17 defendants Allen and Williams would be prejudiced if they are tried  
18 with the defendant, City of Long Beach and Chief Ellis. Thus, the  
19 jury might well be lead to conclude that because other officers were  
20 guilty of unjustified force on other occasions, Officers Allen and  
21 Williams used unjustified deadly force on the plaintiff. The  
22 potential for prejudice as to the individual defendant is real and  
23 substantial.

24

25 3. CONCLUSION.

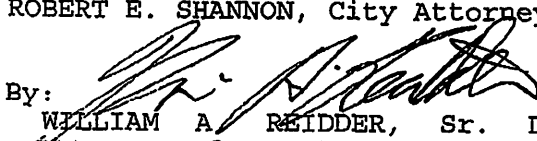
26 Based upon all of the foregoing, the defendants urge, pursuant  
27 to Section 1048 of the Code of Civil Procedure, and Section 352 of  
28 the Evidence Code, that this Honorable Court bifurcate the issues

Deft's Motion to Bifurcate Issues/

1 in the instant litigation and order that the litigation proceed to  
2 trial first against defendants Allen and Williams, only.

3 DATED: January 6, 1999

4 ROBERT E. SHANNON, City Attorney

5 By:   
6 WILLIAM A. REIDDER, Sr. Deputy  
7 Attorneys for Defendants  
8 CITY OF LONG BEACH, DAVID  
9 WILLIAMS, CINDY ALLEN AND WILLIAM  
10 ELLIS

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Deft's Motion to Bifurcate Issues

21 Executed on January 6, 1999, at Long Beach, California.

22  
23 XX (State) I declare under penalty of perjury under the laws of  
24 the State of California that the above is true and correct.  
25 (Federal) I declare that I am employed in the office of a  
26 member of the bar of this court at whose direction the service was  
27 made.

28  
  
WILLIAM A. REIDDER

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Deft's Motion to Bifurcate Issues

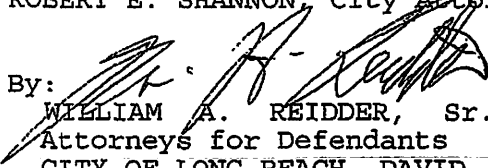
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- 3. Gun shot residue test kit.
- 4. Results of gun shot residue test.
- 5. Tape recording of incoming 911 calls and police dispatch calls.
- 6. Diagram of scene.
- 7. Three aerial photos of location.
- 8. Medical records of plaintiff.
- 9. Videotape of deposition of Cecilia Anderson.
- 10. Videtoape of deposition of Linda Galvan.
- 11. Deposition transcript of Cecilia Anderson.
- 12. Deposition transcript of Linda Galvan.
- 13. Deposition transcript of Krone Tremain.

Defendants reserve the right to amend this exhibit list.

DATED: January 5, 1999

ROBERT E. SHANNON, City Attorney

By:   
WILLIAM A. REIDDER, Sr. Deputy  
Attorneys for Defendants  
CITY OF LONG BEACH, DAVID  
WILLIAMS, CINDY ALLEN AND WILLIAM  
ELLIS

# Case Access Information

## Case Information

<b>Case Number</b>	<b>Case Title</b>
NC016622	KRONE TREMAIN VS. CITY OF LONG BEACH, ET AL

<b>Filing Date</b>	<b>Filing Courthouse</b>
May 04, 1995	Governor George Deukmejian Courthouse

**Status**  
Dismissed - Other on 01/07/1999

**Case Type**  
Other Compl-not Tort or Complex (General Jurisdiction)

**Judicial Officer**  
JOSEPH E. DiLORETO

## Party Information

<b>Party Name</b>	<b>Party Type</b>
ALLEN CINDY	Defendant
CALHOUN JOHN R. CITY ATTORNEY	Attorney for Defendant
DOES 1 THROUGH 100	Defendant
ELLIS WILLIAM CHIEF	Defendant
LONG BEACH CITY OF	Defendant
LONG BEACH POLICE DEPARTMENT	Defendant
MASSERMAN DEAN E.	Attorney for Plaintiff
TREMAIN KRONE	Plaintiff
WILLIAMS DAVID	Defendant



## Past Proceedings Information

Date	Time	Department	Judicial Officer	Proceeding Type	Proceeding Result
January 7, 1999	01:30 pm	H	JOSEPH E. DILORETO	Jury Trial	Case Deemed Settled
January 6, 1999	01:30 pm	H	JOSEPH E. DILORETO	Pretrial Conference	Completed
July 28, 1998	08:30 am	D	JOSEPH E. DILORETO	Exparte proceeding	Trial continued
April 17, 1998	08:30 am	J	GARY J. FERRARI	Jury Trial (CONT 8-5-98 830 SOD J10; XPARTEMOT)	Trial continued
March 16, 1998	08:30 am	Y	VICTOR T. BARRERA	Mandatory Settlement Conference	MSC held/Not settled. Trial stands
November 14, 1996	01:00 pm	J	ARTHUR JEAN	Trial Setting Conference (MSC 3-16-98 830 SOL; TD 4-17-98J10)	Trial and MSC Set
August 27, 1996	am	S	Shapiro, do not use	Motion to Compel	Matter Placed Off Calendar
March 14, 1996	08:30 am	J	ARTHUR JEAN	Status Conference (ARB W/IN 120 DAYS; TSC 8-15-96 1PMSOJ)	Assigned to Arb BEFORE 3/1/00

## Documents Scanned Information

<b>Date Filed</b>	<b>Document Title</b>	<b>Description</b>	<b>Page Count</b>
October 19, 2015	Register of Action - Public		2
May 13, 2011	Case File		157
May 13, 2011	Missing at time of scanning		1

## Documents Filed Information

Document Date	Document Description	Memo	Filed by
April 8, 1998	Ex-Parte Application	FOR CONTINUANCE OF TRIAL; DECLARATION; ORDER	Attorney for Plaintiff
March 10, 1998	Miscellaneous-Other	JURY FEES DEPOSITED BY CITY OF LONG BEACH IN THE SUM OF \$137.00	Attorney for Defendant
March 10, 1998	Miscellaneous-Other	JURY FEES RECEIVED FROM CITY OF LONG BEACH	Attorney for Defendant
November 14, 1996	Request-Trial de Novo		Attorney for Defendant
July 25, 1995	Answer to Complaint Filed		Attorney for Defendant
June 19, 1995	Proof of Service	PERSON SERVED: BLOND FEMALE IN COURT AFFAIRS OFFICE MID 30'S TO 40'S	Attorney for Plaintiff
June 19, 1995	Proof of Service	PERSON SERVED: BLOND FEMALE IN COURT AFFAIRS OFFICE MID 30'S TO 40'S	Attorney for Plaintiff
June 19, 1995	Proof of Service	PERSON SERVED: BLOND FEMALE IN COURT AFFAIRS OFFICE MID 30'S TO 40'S	Attorney for Plaintiff
June 19, 1995	Proof of Service	PERSON SERVED: BLONDE FEMALE IN COURT AFFAIRS OFFICE MID 30'S TO 40'S	Attorney for Plaintiff
May 4, 1995	Complaint Filed		

## Register of Actions Information

Date	Description	Additional Information
January 07, 1999 01:30 PM	Jury Trial	(H)
January 06, 1999 01:30 PM	Pretrial Conference	(H)
July 28, 1998 08:30 AM	Exparte proceeding	(D)
April 17, 1998 08:30 AM	Jury Trial	(J)CONT 8-5-98 830 SOD J10; XPARTEMOT
April 08, 1998	Ex-Parte Application	FOR CONTINUANCE OF TRIAL; DECLARA- TION; ORDER
March 16, 1998 08:30 AM	Mandatory Settlement Conference	(Y)
March 10, 1998	Miscellaneous-Other	JURY FEES DEPOSITED BY CITY OF LONG BEACH IN THE SUM OF \$137.00
March 10, 1998	Miscellaneous-Other	JURY FEES RECEIVED FROM CITY OF LONG BEACH
November 14, 1996 01:00 PM	Trial Setting Conference	(J)MSC 3-16-98 830 SOL; TD 4-17- 98J10
November 14, 1996	Request-Trial de Novo	
August 27, 1996 AM	Motion to Compel	(S)
March 14, 1996 08:30 AM	Status Conference	(J)ARB W/IN 120 DAYS; TSC 8-15-96 1PMSOJ
July 25, 1995	Answer to Complaint Filed	
June 19, 1995	Proof of Service	PERSON SERVED: BLOND FEMALE IN COURT AFFAIRS OFFICE MID 30'S TO 40'S
June 19, 1995	Proof of Service	PERSON SERVED: BLOND FEMALE IN COURT AFFAIRS OFFICE MID 30'S TO 40'S

Date	Description	Additional Information
June 19, 1995	Proof of Service	PERSON SERVED: BLOND FEMALE IN COURT AFFAIRS OFFICE MID 30'S TO 40'S
June 19, 1995	Proof of Service	PERSON SERVED: BLONDE FEMALE IN COURT AFFAIRS OFFICE MID 30'S TO 40'S
May 04, 1995	Complaint Filed	

SUPERIOR COURT LOS ANGELES COUNTY

NC 16622

TREMAIN KRONE	VORZIMER-GARBER-MASSERMAN	Attorney
LONG BEACH CITY	ET AL	Attorney

NATURE OF ACTION: PERS TN.I-PROPERTY DAMAGE-MISCELLANEOUS CODE 0220

REPORTER / ERM

REPORTER / ERM Trial Judge:

YEAR	MONTH	DAY	PROCEEDINGS	FILED DOC	FEES
1995	MAY	04	COMPLAINT FILED AND NO SUMMONS ISSUED		182.00
1995	MAY	04	CERTIFICATE OF ASSIGNMENT FILED		
95	6	19	PLS (A)		
95	7	25	Ans to complt - City of LB		
95	7	12	using phone summons to compel ans to amend pl in respect of note set 2 about pl's terms! See pl summons 7-27-95 880/3		

ARBITRATION CONFERENCE SET	DATE	TIME	DEPT	REFERRED TO ARBITRATION	TSO SET	DATE	TIME	DEPT
					7-2-96	11-14-96	1	J

AT - ISSUE FILED	AT - ISSUE VACATED	MSO DATE	TIME	DEPT	TRIAL DATE	TIME	DEPT

JUDGMENT ENTERED	JUDGMENT VACATED	APPEAL FILED	REMITTITUR FILED		SUMMONS ORG FILED
			AFFIRMED	AFFIRMED	
			MODIFIED	MODIFIED	
			REVERSED	REVERSED	
			DISMISSED	DISMISSED	

SUBSTITUTION OF ATTORNEY	FOR	NEW ATTORNEY	DEFAULT ENTERED	FOR	DISMISSAL ENTERED	ENTIRE ACTION FOR:

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(PROOF OF SERVICE - 1013a, 2015.5 C.C.P.)

STATE OF CALIFORNIA )  
 ) SS.  
COUNTY OF LOS ANGELES )

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within entitled action; my business address is 333 West Ocean Boulevard, Long Beach, California 90802.

On January 6, 1999, I served the following:

MOTION IN LIMINE RE: CRIMINAL PROSECUTION

on all interested parties in said action, by depositing the original and/or a true copy thereof, enclosed in a sealed envelope addressed as follows:

Dean E. Masserman, Esq.  
Vorzimmer, Masserman & Ecoff  
8383 Wilshire Boulevard, Suite 750  
Beverly Hills, California 90211

I deposited such envelope in the mail at Long Beach, California. The envelope was mailed with postage thereon fully prepaid.

I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Long Beach, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

XX By personal service I caused to be delivered such envelope by hand to the offices of the addressee.

Executed on January 6, 1999, at Long Beach, California.

XX (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

(Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

  
WILLIAM A. REIDDER

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Motion in Limine Re: Criminal Prosectuion

WILLIAMS & REIDDER  
LOS ANGELES SUPERIOR COURT

JAN 08 1999

JOHN A. L  
BY K. KELLY, DEPUTY

1 ROBERT E. SHANNON, City Attorney  
2 WILLIAM A. REIDDER, Sr. Deputy City Attorney  
3 State Bar No. 44617  
333 West Ocean Boulevard, 11th Floor  
Long Beach, California 90802-4664  
4 Telephone (562)570-2200

5 Attorneys for Defendants, CITY OF LONG BEACH  
6 WILLIAM ELLIS, DAVID WILLIAMS AND CINDY ALLEN

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9 SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

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KRONE TREMAINE, )  
Plaintiff, )  
vs. )  
CITY OF LONG BEACH; a political )  
subdivision and City of the State )  
of California; LONG BEACH POLICE )  
DEPARTMENT, a political )  
subdivision of the City of Long )  
Beach; DAVID WILLIAMS, )  
individually and as a Long Beach )  
Police Officer; CINDY ALLEN, )  
individually and as a Long Beach )  
Police Officer; CHIEF WILLIAM )  
ELLIS; individually and as Chief )  
of the Long Beach Police )  
Department; and DOES 1 through )  
100, inclusive. )  
Defendants. )

CASE NO.: NC 016622  
DEFENDANTS' EXHIBIT LIST

24 Defendants intend to call the use the following exhibits at  
25 trial:

- 26 1. 24 scene photographs.  
27 2. Print-out of call history, 911 calls, and police  
28 dispatches regarding incident.



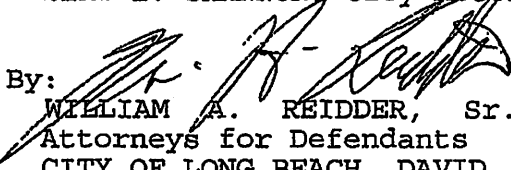
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- 3. Gun shot residue test kit.
- 4. Results of gun shot residue test.
- 5. Tape recording of incoming 911 calls and police dispatch calls.
- 6. Diagram of scene.
- 7. Three aerial photos of location.
- 8. Medical records of plaintiff.
- 9. Videotape of deposition of Cecilia Anderson.
- 10. Videtoape of deposition of Linda Galvan.
- 11. Deposition transcript of Cecilia Anderson.
- 12. Deposition transcript of Linda Galvan.
- 13. Deposition transcript of Krone Tremain.

Defendants reserve the right to amend this exhibit list.

DATED: January 5, 1999

ROBERT E. SHANNON, City Attorney

By:   
 WILLIAM A. REIDDER, Sr. Deputy  
 Attorneys for Defendants  
 CITY OF LONG BEACH, DAVID  
 WILLIAMS, CINDY ALLEN AND WILLIAM  
 ELLIS

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(PROOF OF SERVICE - 1013a, 2015.5 C.C.P.)

STATE OF CALIFORNIA )  
 ) SS.  
COUNTY OF LOS ANGELES )

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within entitled action; my business address is 333 West Ocean Boulevard, Long Beach, California 90802.

On January 6, 1999, I served the following:

DEFENDANTS' EXHIBIT LIST

on all interested parties in said action, by depositing the original and/or a true copy thereof, enclosed in a sealed envelope addressed as follows:

Dean E. Masserman, Esq.  
Vorzimmer, Masserman & Ecoff  
8383 Wilshire Boulevard, Suite 750  
Beverly Hills, California 90211

I deposited such envelope in the mail at Long Beach, California. The envelope was mailed with postage thereon fully prepaid.

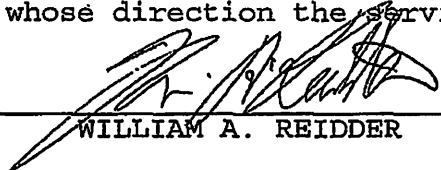
I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Long Beach, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

XX By personal service I caused to be delivered such envelope by hand to the offices of the addressee.

Executed on January 6, 1999, at Long Beach, California.

XX (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

(Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

  
WILLIAM A. REIDDER

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Defendants' Exhibit List

1 ROBERT E. SHANNON, City Attorney  
 2 WILLIAM A. REIDDER, Sr. Deputy City Attorney  
 3 State Bar No. 44617  
 4 333 West Ocean Boulevard, 11th Floor  
 5 Long Beach, California 90802-4664  
 6 Telephone (562)570-2200  
 7 Attorneys for Defendants, CITY OF LONG BEACH  
 8 WILLIAM ELLIS, DAVID WILLIAMS AND CINDY ALLEN

LOS ANGELES COURT  
 JAN 08 1999  
 JOHN A. ...  
 BY K. ... DEPUTY

9 SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

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 12 KRONE TREMAINE, ) CASE NO.: NC 016622  
 13 Plaintiff, ) DEFENDANTS' WITNESS LIST  
 14 vs. )  
 15 CITY OF LONG BEACH; a political )  
 16 subdivision and City of the State )  
 17 of California; LONG BEACH POLICE )  
 18 DEPARTMENT, a political )  
 19 subdivision of the City of Long )  
 20 Beach; DAVID WILLIAMS, )  
 21 individually and as a Long Beach )  
 22 Police Officer; CINDY ALLEN, )  
 23 individually and as a Long Beach )  
 24 Police Officer; CHIEF WILLIAM )  
 25 ELLIS; individually and as Chief )  
 26 of the Long Beach Police )  
 27 Department; and DOES 1 through )  
 28 100, inclusive. )  
 Defendants. )

Defendants intend to call the following witnesses at trial:

1. Cindy Allen, L.B.P.D. Officer. - *Retired.*
2. David Williams, L.B.P.D. Officer.
3. Jennifer Maitlen, L.B.P.D. Officer.
4. William Blair, Lt. L.B.P.D..

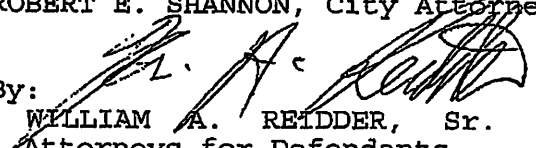
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- 5. Joseph Callanan, expert witness. *Forin later*
- 6. Myron Koch, M.D. - *orthoped*
- 7. Lawrence Baggett, expert witness. - *Bullter*
- 8. Cecilia Anderson. } *Civilian*
- 9. Linda Galvan. }
- 10. Investigator Johnson. -
- 11. Investigator Moss. -
- 12. Robert L. Dutro, City Attorney Investigator.
- 13. Stan Nelson, City Attorney Investigator.
- 14. Cynthia Escobar. - *Civilian*
- 15. Catherine M. Wojcik, San Bernardino County Sheriff's  
12 Department. - *Criminalist*
- 13 16. Florence Butler. *Civilian*
- 14 17. Venus Lynn King. *Civilian*
- 15 18. Krone William Tremain. -
- 16 19. Lt. J. Johnson, L.B.P.D. - *Witness*
- 17 20. Diane Maus, L.B.P.D. Communications.
- 18 21. William Ellis, Chief of Police (Retired).
- 19 22. Det. C. Rémine, L.B.P.D., Homicide.
- 20 23. Det. W. MacLyman L.B.P.D., Homicide.
- 21 24. Officer H.L. Martin. - *L.B.P.D.*

Defendants reserve the right to amend this witness list.

DATED: January 5, 1999

ROBERT E. SHANNON, City Attorney

By: 

WILLIAM A. REIDDER, Sr. Deputy  
Attorneys for Defendants  
CITY OF LONG BEACH, DAVID  
WILLIAMS, CINDY ALLEN AND WILLIAM  
ELLIS

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(PROOF OF SERVICE - 1013a, 2015.5 C.C.P.)

STATE OF CALIFORNIA )  
 ) SS.  
COUNTY OF LOS ANGELES )

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within entitled action; my business address is 333 West Ocean Boulevard, Long Beach, California 90802.

On January 6, 1999, I served the following:

DEFENDANTS' WITNESS LIST

on all interested parties in said action, by depositing the original and/or a true copy thereof, enclosed in a sealed envelope addressed as follows:

Dean E. Masserman, Esq.  
Vorzimer, Masserman & Ecoff  
8383 Wilshire Boulevard, Suite 750  
Beverly Hills, California 90211

I deposited such envelope in the mail at Long Beach, California. The envelope was mailed with postage thereon fully prepaid.

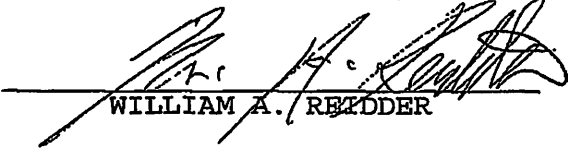
I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Long Beach, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

By personal service I caused to be delivered such envelope by hand to the offices of the addressee.

Executed on January 6, 1999, at Long Beach, California.

XX (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

(Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

  
WILLIAM A. REEDER

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Defendants' Witness List

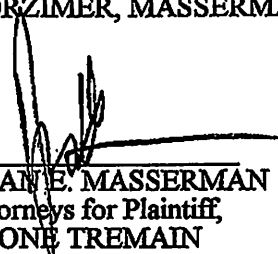
1 shown by the declaration of Dean E. Masserman attached hereto and filed herewith.

2 DATED: April 1, 1998

VORZIMER, MASSERMAN & ECOFF

3

4

By   
DEAN E. MASSERMAN  
Attorneys for Plaintiff,  
KRONE TREMAIN

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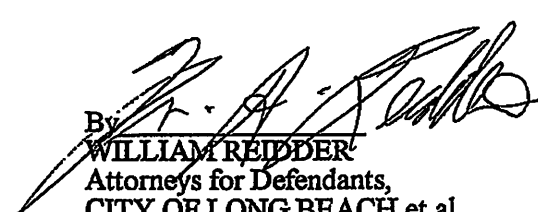
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8 DATED: April 1, 1998

LONG BEACH CITY ATTORNEYS OFFICE

9

10

By   
WILLIAM REIDER  
Attorneys for Defendants,  
CITY OF LONG BEACH et al.

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DECLARATION OF DEAN E. MASSERMAN

I, Dean E. Masserman, declare as follows:

1. I am an attorney licensed to practice in the State of California and am a Partner with the law firm Vorzimer, Masserman and Ecoff a professional corporation, attorneys of record for Plaintiff, Krone Tremain. I have personal knowledge of the facts set forth in this declaration, and if called as a witness, I could and would competently testify, under oath, to the facts contained herein.

2. This Declaration is being made in support of the Stipulation for Continuance of Trial. Good cause exists to continue trial in this matter for the following reasons.


3. Counsel for Plaintiff is required to attend depositions in Japan commencing on April 8, 1998 and continuing through April 14, 1998 which renders it impossible to prepare for trial in this matter. In addition, Plaintiff, Krone Tremain, who resides in Arizone, is undergoing surgery to repair a sinus condition on April 2, 1998 and his physicians estimate a three to four week recovery period before he can travel to Los Angeles

4. Counsel for Defendant City of Long Beach has also indicated a need to continue trial in that Defendant Cyndy Allen is currently out on disability due to a back injury and needs to have the matter postponed and he therefore stipulates to the continuance

5. Accordingly, the parties to the Stipulation for Continuance of Trial respectfully request that this Court continue trial in this matter and set a new date as convenient for the Court and all parties involved, preferably at least 90 days from the date of this stipulation so as to allow Defendant Allen sufficient recovery time.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on April 1, 1998 at Los Angeles, California.

  
\_\_\_\_\_  
DEAN E. MASSERMAN,  
Attorney For Plaintiff,  
KRONE TREMAIN

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**PROOF OF SERVICE**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I, Kelli Batiste, am employed in the aforesaid County, State of California; I am over the age of 18 years and not a party to the within action; my business address is 8383 Wilshire Boulevard, Suite 750, Beverly Hills, California 90211.

On April 2<sup>3</sup>, 1998 I served the foregoing STIPULATION FOR CONTINUANCE OF TRIAL; DECLARATION OF DEAN MASSERMAN IN SUPPORT THEREOF on the interested parties in this action by placing a true copy thereof, enclosed in a sealed envelope, addressed as follows:

Via Mail

William A. Reidder, Esq.  
Long Beach City Attorney's Office  
333 W. Ocean Blvd.  
Long Beach, CA 90802-4664

BY FACSIMILE

BY MAIL

— I placed such envelope for deposit in the U.S. Mail for service by the United States Postal Service, with postage thereon fully prepaid.

As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

— (BY PERSONAL SERVICE) I caused such envelope to be delivered by hand to the offices of the addressee. **PROOF OF SERVICE TO BE FILED.**

(State) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on April 2<sup>3</sup>, 1998, at Beverly Hills, California.

  
Signature of Declarant



1 JOHN R. CALHOUN, City Attorney  
 2 WILLIAM A. REIDDER, Sr. Deputy City Attorney  
 3 State Bar No. 44617  
 333 West Ocean Boulevard, 11th Floor  
 Long Beach, California 90802-4664  
 4 Telephone (562)570-2200

FILED  
 LOS ANGELES  
 APR 08 1998  
 BY JO BOLDING, DEPUTY

5 Attorneys for Defendants, CITY OF LONG BEACH  
 6 WILLIAM ELLIS, DAVID WILLIAMS AND CINDY ALLEN

7  
 8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES  
 9

John R. Calhoun  
 City Attorney of Long Beach  
 333 West Ocean Boulevard  
 Long Beach, California 90802-4664  
 (562) 570-2200

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 11 KRONE TREMAINE, )  
 12 )  
 13 Plaintiff, )  
 14 vs. )  
 15 CITY OF LONG BEACH; a political )  
 16 subdivision and City of the State )  
 17 of California; LONG BEACH POLICE )  
 18 Beach; DAVID WILLIAMS, )  
 19 individually and as a Long Beach )  
 20 Police Officer; CINDY ALLEN, )  
 21 individually and as a Long Beach )  
 22 Police Officer; CHIEF WILLIAM )  
 23 ELLIS; individually and as Chief )  
 24 of the Long Beach Police )  
 25 Department; and DOES 1 through )  
 26 100, inclusive. )  
 27 )  
 28 Defendants. )

CASE NO.: NC 016622  
 DECLARATION OF MAUREEN  
 A. GRAINGER IN SUPPORT OF  
 EX PARTE APPLICATION  
 AND STIPULATION OF  
 CONTINUANCE OF TRIAL

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DECLARATION OF MAUREEN A. GRAINGER

I, MAUREEN A. GRAINGER, do hereby declare that if called as a witness and sworn, I could and would competently testify as follows:

1. That I am a secretary in the Long Beach City Attorney's office;

2. That at the request and direction of William A. Reidder, Sr. Deputy City Attorney, I gave telephonic notice to the law offices of Vorzimer, Garber & Masserman on Tuesday, April 7, 1998 at 11:45 a.m, that pursuant to the Stipulation between counsel, William A. Reidder would appear ex parte on Wednesday, April 8, 1998 at 1:30 p.m. in Department "J" for purposes of presenting the Stipulation and seeking the court's Order continuing the trial of the case of Tremain v. City of Long Beach.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 7th day of April, 1998 at Long Beach, California.

  
MAUREEN A. GRAINGER

John R. Calhoun  
City Attorney of Long Beach  
333 West Ocean Boulevard  
Long Beach, California 90802-4664  
(562) 570-2200

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES, LONG BEACH JUDICIAL DISTRICT

KRONE TREMAIN

Plaintiff,

vs.

CITY OF LONG BEACH, a political subdivision and city of the State of California; LONG BEACH POLICE DEPARTMENT, a political subdivision of the City of Long Beach; DAVID WILLIAMS, individually and as a Long Beach Police Officer; CINDY ALLEN, individually and as a Long Beach Police Officer; CHIEF WILLIAM ELLIS; individually and as Chief of the Long Beach Police Department; and DOES 1 through 100 inclusive,

Defendants.

Case No. *16622* NC-016662

ORDER ~~Proposed~~

FILED  
LOS ANGELES SUPERIOR COURT

APR 08 1998

EDWARD M. KHITZIVIAN, CLERK

*Jo Bolding*  
BY JO BOLDING, DEPUTY

Good Cause appearing therefor, the Stipulation to Continue Trial is GRANTED and the trial date of April 17, 1998 is hereby vacated. The new trial date in this matter shall be *August 5* ~~July~~ 5, 1998 at 8:30 a.m. in Department D of the above-entitled court.

Dated: APR 08 1998

*Larry S. Ferrasi*  
\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

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**PROOF OF SERVICE**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I, Kellie Batiste, am employed in the aforesaid County, State of California; I am over the age of 18 years and not a party to the within action; my business address is 8383 Wilshire Boulevard, Suite 750, Beverly Hills, California 90211.

On April 3, 1998 I served the foregoing ORDER(Proposed) THEREOF on the interested parties in this action by placing a true copy thereof, enclosed in a sealed envelope, addressed as follows:

Via Mail  
William A. Reidder, Esq.  
Long Beach City Attorney's Office  
333 W. Ocean Blvd.  
Long Beach, CA 90802-4664

BY FACSIMILE

BY MAIL

I placed such envelope for deposit in the U.S. Mail for service by the United States Postal Service, with postage thereon fully prepaid.

As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

(BY PERSONAL SERVICE) I caused such envelope to be delivered by hand to the offices of the addressee. **PROOF OF SERVICE TO BE FILED.**

(State) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on April 3, 1998, at Beverly Hills, California.

  
\_\_\_\_\_  
Signature of Declarant

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 07/28/98

DEPT. D

HONORABLE JOSEPH E. DiLORETO

JUDGE K KELLY

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

T HORAN

Deputy Sheriff

NONE

Reporter

8:30 am

NC016622

Plaintiff  
Counsel

DEAN MASSERMAN (x)

KRONE TREMAIN  
VS  
CITY OF LONG BEACH, ET AL

Defendant  
Counsel

WILLIAM RIEDDER (x)

NATURE OF PROCEEDINGS:

EXPARTE STIPULATION TO CONTINUE TRIAL

MOTION TO CONTINUE TRIAL IS GRANTED.  
TRIAL DATE OF 8/5/98 IS ADVANCED AND RESET TO  
1/11/99 AT 8:30 A.M.

MINUTES ENTERED  
07/28/98  
COUNTY CLERK

1 DEAN E. MASSERMAN, STATE BAR NO. 137438  
 2 VORZIMER, MASSERMAN & ECOFF  
 3 A PROFESSIONAL CORPORATION  
 8383 WILSHIRE BOULEVARD, SUITE 750  
 4 BEVERLY HILLS, CALIFORNIA 90211  
 (213) 782-1400

5 Attorneys for Plaintiff,  
 6 KRONE TREMAIN

**FILED**  
 LOS ANGELES SUPERIOR COURT

JUL 28 1998

JOHN A. CLARKE, CLERK  
*K. Kelly*  
 BY K. KELLY, DEPUTY

7  
 8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
 9 **COUNTY OF LOS ANGELES, LONG BEACH JUDICIAL DISTRICT**

10  
 11 KRONE TREMAIN

12 Plaintiff,

13 vs.

14 CITY OF LONG BEACH, a political  
 subdivision and city of the State of California;  
 15 LONG BEACH POLICE DEPARTMENT, a  
 political subdivision of the City of Long Beach;  
 16 DAVID WILLIAMS, individually and as a Long  
 Beach Police Officer; CINDY ALLEN,  
 17 individually and as a Long Beach Police Officer;  
 CHIEF WILLIAM ELLIS; individually and as  
 18 Chief of the Long Beach Police Department; and  
 DOBS 1 through 100 inclusive,

19 Defendants.  
 20

Case No. NC 016682

**STIPULATION FOR  
 CONTINUANCE OF TRIAL**

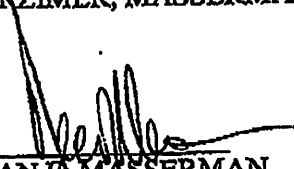
Trial Date: August 5, 1998 (Vacated)  
 Disc. Cut-Off: Past  
 Motion Cut-Off: Past

21  
 22 IT IS HEREBY STIPULATED AND AGREED by and between all of the attorneys of  
 23 record of the parties who have appeared and are remaining in this action that trial in the above-  
 24 entitled matter, set for August 5, 1998, be postponed and continued to January 11, 1999.  
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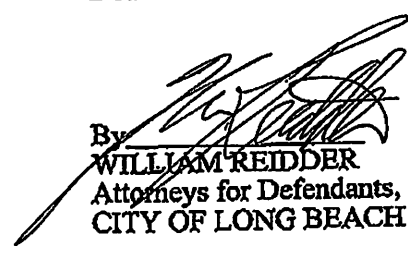
DATED: July 28, 1998

VORZIMER, MASSERMAN & ECOFF

By   
DEAN E. MASSERMAN  
Attorneys for Plaintiff,  
KRONE TREMAIN

DATED: July 28, 1998

LONG BEACH CITY ATTORNEYS OFFICE

By   
WILLIAM REIDDER  
Attorneys for Defendants,  
CITY OF LONG BEACH et al.

**PROOF OF SERVICE**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I, Kelli Batiste, am employed in the aforesaid County, State of California; I am over the age of 18 years and not a party to the within action; my business address is 8383 Wilshire Boulevard, Suite 750, Beverly Hills, California 90211.

On July 28, 1998 I served the foregoing **STIPULATION FOR CONTINUANCE OF TRIAL** on the interested parties in this action by placing a true copy thereof, enclosed in a sealed envelope, addressed as follows:

Via Facsimile

William A. Rejdder, Esq.  
Long Beach City Attorney's Office  
333 W. Ocean Blvd.  
Long Beach, CA 90802-4664

BY FACSIMILE

BY MAIL

I placed such envelope for deposit in the U.S. Mail for service by the United States Postal Service, with postage thereon fully prepaid.

As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

(BY PERSONAL SERVICE) I caused such envelope to be delivered by hand to the offices of the addressee. **PROOF OF SERVICE TO BE FILED.**

(State) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on July 28, 1998, at Beverly Hills, California.

  
Signature of Declarant



FILE

Administratively Unified Courts of Los Angeles County

Miscellaneous Receipt

AUC 199125

CASE NUMBER: NCO1K022 PLTF  DEFT  DATE: 3 10 1998  
CASE TITLE: Treman vs. City of L.P.  
RECEIVED FROM: City of L.P.  
ADDRESS: 333 W. Ocean Blvd. L.P. CA 90802 \$ 137.00  
AMOUNT: One Hundred Thirty Seven and 00/100 DOLLARS

FINES ONLY	
IF PARTIAL PAYMENT(S):	_____
TOTAL AMOUNT OWED: \$	_____
TOTAL PAID TO DATE: \$	_____
BALANCE DUE: \$	_____

VIOLATION/CHARGE: \_\_\_\_\_  
ISSUING AGENCY: \_\_\_\_\_  
 BAIL     FEE  
 FINE  
PAID:  CASH  
 CHECK #: 103111  
 OTHER: \_\_\_\_\_

FEE/ACCT. CODE	AMOUNT
<u>July Fees</u>	\$ <u>137</u>
	\$
	\$
	\$
	\$
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	\$
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	\$
	\$
TOTAL	\$ <u>137</u>

**ANY ALTERATION OR ERASURE RENDERS RECEIPT VOID**

APPEARANCE DATE: \_\_\_\_\_ a.m./p.m., DEPT./DIV.: \_\_\_\_\_  
(Where applicable, bail will be forfeited if appearance is not made at the time specified above.)

JOHN A. CLARKE, Executive Officer/Clerk.  
By: Amundock, Deputy      District/Branch/Division: South

G 113/R5-95      DISTRIBUTION:    WHITE — DEPOSITOR        PINK — ACCOUNTING        BLUE — FILE        CANARY — ANCHOR

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 04/17/98

DEPT. SO-J

HONORABLE GARY J. FERRARI

JUDGE

JO BOLDING

DEPUTY CLERK

HONORABLE  
25

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

Deputy Sheriff

NONE

Reporter

8:30 am

NC016622

Plaintiff  
Counsel

KRONE TREMAIN

Defendant  
Counsel

VS

CITY OF LONG BEACH, ET AL

NATURE OF PROCEEDINGS:

AO 10-DAY TRIAL  Jury  Non-Jury

Cause ordered transferred to Department

Cause ordered continued to 08-05-98, 8:30 AM,  
DEPT. SO-D BY EX PARTE MOTION.

JURY FEES ARE POSTED.

Case set for non-appearance review  
re dismissal on

Case dismissed pursuant to sections(s)

JUDGE OF THE SUPERIOR COURT

Following witness(es) instructed to return on  
above date:

Jury fees on deposit, if any, are ordered  
 refunded  to stand.

All jury fees on deposit are ordered forfeited.  
Plaintiff/Defendant is ordered to reimburse the  
Court the sum of \$ for jury fees  
and average mileage for jurors, less  
deposits forfeited.

Counsel for to give notice.

Notice is waived.

MINUTES ENTERED  
04/17/98  
COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 03/16/98

DEPT. Y

HONORABLE VICTOR T. BARRERA

JUDGE

R. ALVA

DEPUTY CLERK

HONORABLE  
01.

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

J. KRINO

Deputy Sheriff

NONE

Reporter

8:30 am

NC016622

Plaintiff D. MASSERMAN (X)  
Counsel

KRONE TREMAIN

VS

Defendant W. REIDDER (X)  
Counsel

CITY OF LONG BEACH, ET AL

NATURE OF PROCEEDINGS:

MANDATORY SETTLEMENT CONFERENCE

- Counsel for \_\_\_\_\_ fails to appear. Case is set for an Order to Show Cause re Sanctions/Dismissal on \_\_\_\_\_ in this Department.
- Held, no previous conference of same type.
- Settled  with  without Judge's participation
  - Trial date of \_\_\_\_\_ vacated.
  - FSC date of \_\_\_\_\_ vacated.
  - Jury Fees on deposit, if any, are ordered  refunded  forfeited.
  - Dismissal to be filed no later than \_\_\_\_\_ pursuant to 225 C.R.C.
  - Structured settlement
  - Case is set for non-appearance review re dismissal on \_\_\_\_\_
- Not settled, trial date to stand.
- Mandatory Settlement Conference continued/transferred to \_\_\_\_\_ at \_\_\_\_\_ in this Department  forthwith.
- Counsel for \_\_\_\_\_ is sanctioned \$ \_\_\_\_\_ payable within \_\_\_\_\_ days to the County of Los Angeles through this Department for failure to file MSC statement.
- Counsel for \_\_\_\_\_ to give notice.
- Notice waived.

MINUTES ENTERED
03/16/98
COUNTY CLERK

1 DEAN E. MASSERMAN, STATE BAR NO. 137438  
2 VORZIMER, MASSERMAN & ECOFF  
3 A PROFESSIONAL CORPORATION  
4 8383 WILSHIRE BOULEVARD, SUITE 750  
5 BEVERLY HILLS, CALIFORNIA 90211  
6 (213) 782-1400

7 Attorneys for Plaintiff,  
8 KRONE TREMAIN

**FILED**  
LOS ANGELES SUPERIOR COURT

MAR 09 1998

JOHN A. CLARKE, CLERK  
*Quatro*  
BY O. BROUSSARD, DEPUTY

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
10 **COUNTY OF LOS ANGELES, LONG BEACH JUDICIAL DISTRICT**

11 KRONE TREMAIN )

Case No. NC 016662

12 Plaintiff, )

**PLAINTIFFS' MANDATORY  
SETTLEMENT CONFERENCE  
STATEMENT**

13 vs. )

14 CITY OF LONG BEACH, a political subdivision  
15 and city of the State of California; LONG  
16 BEACH POLICE DEPARTMENT, a political  
17 subdivision of the City of Long Beach; DAVID  
18 WILLIAMS, individually and as a Long Beach  
19 Police Officer; CINDY ALLEN, individually  
20 and as a Long Beach Police Officer; CHIEF  
21 WILLIAM ELLIS; individually and as Chief of  
22 the Long Beach Police Department; and DOES 1  
23 through 100 inclusive,

DATE: March 16, 1998  
TIME: 8:30 a.m.

*Dept. V.*

24 Defendants.

25 In accordance with the Los Angeles County Superior Court Civil Trials Manual,  
26 Plaintiff, KRONE TREMAIN hereby submits the following Mandatory Settlement Conference  
27 Statement.

28 PARTIES:

COUNSEL OF RECORD

Plaintiff,

VORZIMER, MASSERMAN & ECOFF

KRONE TREMAIN

Dean Masserman, Esq.

1 Defendants,  
2 CITY OF LONG BEACH; LONG BEACH  
3 POLICE DEPARTMENT; DAVID  
4 WILLIAMS; CINDY ALLEN; CHIEF  
5 WILLIAM ELLIS;  
6

LONG BEACH CITY ATTORNEY'S  
OFFICE - Bill Reidder, Esq.

7 **1. STATEMENT OF MATERIAL FACTS:**

8 At the time this incident occurred, and for the 27 years preceding, Plaintiff,  
9 Krone Tremain (TREMAIN) was a long shore foreman employed at the Long Beach Naval  
10 Shipyard by Pacific Maritime. On May 4, 1995 at approximately 6:30 p.m. TREMAIN arrived  
11 at the home of his brother-in-law so the two could attend their monthly union meeting at the  
12 Union Hall. After the meeting TREMAIN returned to the home of his brother-in-law and  
13 remained there until approximately 12:30 a.m.

14 TREMAIN was on his way home to Cerritos when he stopped to pick up a woman who  
15 was flagging down his vehicle. At her direction TREMAIN proceeded to drive to the State  
16 Motel located 550 W. Pacific Coast Highway in the City of Long Beach. TREMAIN parked  
17 his truck facing south and began walking across the parking lot with the woman while a second  
18 person entered TREMAIN's truck and began vandalizing it. TREMAIN confronted the person  
19 and a physical altercation ensued. Moments later a third person, a male black, joined in the  
20 assault. TREMAIN was subsequently wounded, beaten and robbed by the two assailants.

21 At some point during the altercation the female assailant removed a gun that had been  
22 stored in the back of TREMAIN's truck and pointed it at TREMAIN. During the struggle to  
23 obtain control of the weapon it discharged one round. No one was injured by that discharge.

24 Contemporaneous with the onset of the attack on TREMAIN, the night manager of the  
25 Motel phoned 911 emergency and reported a disturbance involving 2-3 people. During this  
26 phone call the gunshot was overheard by the 911 operator, who then relayed that information to  
27 the responding units.

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**3. FACTUAL CONTENTIONS IN DISPUTE:**

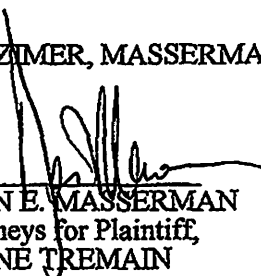
- a. Whether or not plaintiff was falsely arrested and imprisoned;
- b. Whether or not plaintiff was subjected to excessive force, assault & battery;
- c. Whether or not the force used was reasonable and necessary under the circumstances;
- d. Whether or not the deputies, in good faith, believed that the force was reasonable and necessary under circumstances;
- e. Whether or not the plaintiff resisted arrest;
- f. Whether or not the application of force applied by deputies was in self defense;
- g. Whether or not plaintiff's civil rights were violated; and
- h. Whether or not the defendant officers negligently discharged their weapons;
- i. Whether or not the defendant officers were inadequately or improperly trained with regard to the use of force, particularly deadly force;
- j. Whether or not the officers negligently or intentionally inflicted emotional distress upon Plaintiff.

**4. SETTLEMENT NEGOTIATIONS:**

The case was referred to non-binding arbitration which resulted in an award for plaintiff in the amount of \$50,000.00. No subsequent negotiations have occurred..

DATED: March 6, 1998

VORZIMER, MASSERMAN & ECOFF

By   
 DEAN E. MASSERMAN  
 Attorneys for Plaintiff,  
 KRONE TREMAIN

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**PROOF OF SERVICE**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I, Kelli Batiste, am employed in the aforesaid County, State of California; I am over the age of 18 years and not a party to the within action; my business address is 8383 Wilshire Blvd., Suite 750, Beverly Hills, California 90211.

On March 9, 1998, I served the foregoing **PLAINTIFF'S MANDATORY SETTLEMENT CONFERENCE STATEMENT** on the interested parties in this action by placing a true copy thereof, enclosed in a sealed envelope, addressed as follows:

William A. Reidder, Esq.  
Long Beach City Attorneys Office  
333 W. Ocean Boulevard  
Long Beach, CA 90802-4664

BY MAIL

BY FACSIMILE


— I placed such envelope for deposit in the U.S. Mail for service by the United States Postal Service, with postage thereon fully prepaid.

As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

— (BY PERSONAL SERVICE) I caused such envelope to be delivered by hand to the offices of the addressee. **PROOF OF SERVICE TO BE FILED.**

(State) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on March 9, 1998, at Los Angeles, California.

  
\_\_\_\_\_  
Signature of Declarant

1 JOHN R. CALHOUN, City Attorney  
2 WILLIAM A. REIDDER, Sr. Deputy City Attorney  
3 State Bar No. 44617  
4 333 West Ocean Boulevard, 11th Floor  
5 Long Beach, California 90802-4664  
6 Telephone (562) 570-2200

**FILED**  
LOS ANGELES SUPERIOR COURT  
MAR 11 1998

7 Attorneys for Defendants, CITY OF LONG BEACH, JOHN A. CLARKE, Clerk  
8 WILLIAM ELLIS, DAVID WILLIAMS AND CINDY ALLEN

BY R. ALVA, DEPUTY

9 SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

10

11

KRONE TREMAINE, )  
Plaintiff, )

CASE NO.: NC 016622

12

13

vs. )

MANDATORY SETTLEMENT  
CONFERENCE STATEMENT

14

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CITY OF LONG BEACH; a political )

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subdivision and City of the State )

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of, California; LONG BEACH POLICE )

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DEPARTMENT, a political )

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subdivision of the City of Long )

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Beach; DAVID WILLIAMS, )

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individually and as a Long Beach )

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Police Officer; CINDY ALLEN, )

23

individually and as a Long Beach )

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Police Officer; CHIEF WILLIAM )

25

ELLIS; individually and as Chief )

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of the Long Beach Police )

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Department; and DOES 1 through )

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100, inclusive. )

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Defendants. )

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1. FACTS.

This matter arises out of an encounter between the plaintiff Mr. Krone Tremain and Long Beach police officers after Tremain was involved in a shots fired incident in the parking lot of the State Motel, located on Pacific Coast Highway. This motel was known as

DATE: 3-16-98  
Time: 8:30a.m.  
Dept: "y"



1 a habitual problem location for prostitution and narcotics activity.

2 Mr. Tremain, a gentleman who had paid some \$15.00 for a badge  
3 identifying himself as a Long Beach Police Officer Association  
4 "Honorary" was intoxicated on the date of this occurrence, May 4,  
5 1995 when he and his brother-in-law went to a longshoreman's union  
6 meeting. Apparently, they were ejected from that meeting and  
7 shortly before 1:00 a.m., Mr. Tremain alleges that he was on his way  
8 home, driving down Pacific Coast Highway when he missed the on-ramp  
9 to the northbound 710 freeway.

10 Inside Mr. Tremain's vehicle were numerous and sundry firearms,  
11 including a pump shotgun hidden under the tonneau cover of the  
12 pickup truck bed and numerous handguns in the cab of his truck. The  
13 front license plate read "Forget 911, I dial .357."


14 Mr. Tremain testifies that he was confronted by a "damsel in  
15 distress" at 1:00 a.m., who was pounding on the door of his pickup  
16 truck pleading with him to take her to the State Motel. Being the  
17 consummate gentleman, Mr. Tremain opened the locked door to his  
18 pickup truck and took her on board and transported her to the  
19 safe harbor, the State Motel. At that location, Mr. Tremain was not  
20 satisfied with just dropping the lady off; he elected to escort her  
21 to her motel room. Shortly thereafter, according to Mr. Tremain,  
22 miscreants unknown, attacked his unlocked truck and began  
23 vandalizing it. He responded and an altercation ensued in which a  
24 shot or shots were fired from Mr. Tremain's gun. After the  
25 incident, a GSR test was performed on the hands of Mr. Tremain which  
26 came back positive, an indication that his hands were in close  
27 proximity to a firearm when it was discharged. Long Beach police  
28 responded and observed Tremain sitting in the truck. Numerous

1 commands were made to Tremain to exit the truck but all were  
 2 ignored. Finally, Tremain exited, refused to follow the office's  
 3 commands that he get down on the ground, reached into the small of  
 4 his back, at which point he was shot. Clearly, the officers  
 5 believed he was armed and reaching for a weapon.

6 This case is viewed as a no liability case in that the officers  
 7 were acting upon their reasonable belief that plaintiff was armed,  
 8 had been involved in a shooting, was not responsive to their  
 9 directions and posed an immediate and direct threat to the officers  
 10 and others in the location. When the officers fired, they fired in  
 11 self-defense and the defense of others.

12 Dated: March 11, 1998

13 JOHN R. CALHOUN, City Attorney

14 By:   
 15 WILLIAM A. REIDDER, Sr. Deputy  
 16 Attorneys for Defendants

John R. Calhoun  
 City Attorney of Long Beach  
 333 West Ocean Boulevard  
 Long Beach, California 90802-4664  
 (562) 570-2200

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(PROOF OF SERVICE - 1013a, 2015.5 C.C.P.)

STATE OF CALIFORNIA )  
 ) SS.  
COUNTY OF LOS ANGELES )

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within entitled action; my business address is 333 West Ocean Boulevard, Long Beach, California 90802.

On March 11, 1998, I served the within

MANDATORY SETTLEMENT CONFERENCE STATEMENT

on all interested parties in said action, by depositing the original and/or a true copy thereof, enclosed in a sealed envelope addressed as follows:

Dean Masserman, Esq.  
Vorzimmer, Masserman & Ecoff  
8383 Wilshire Boulevard, Suite 750  
Beverly Hills, California 90211

I deposited such envelope in the mail at Long Beach, California. The envelope was mailed with postage thereon fully prepaid.

I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Long Beach, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

By personal service I caused to be delivered such envelope by hand to the offices of the addressee.

Executed on March 11, 1998, at Long Beach, California.

XX (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

(Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

*Maureen A. Grainger*  
MAUREEN A. GRAINGER

John R. Cathoun  
City Attorney of Long Beach  
333 West Ocean Boulevard  
Long Beach, California 90802-4664  
(562) 570-2200

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 11/14/96

DEPT. SO-J

HONORABLE ARTHUR JEAN

JUDGE

JO BOLDING

DEPUTY CLERK

HONORABLE  
4

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

NO LEGAL FILE

Deputy Sheriff

NONE

Reporter

1:00 pm

NC016622

Plaintiff  
Counsel

KRONE TREMAIN

Defendant  
Counsel

VS  
CITY OF LONG BEACH, ET AL

W. REIDDER (X)

NATURE OF PROCEEDINGS:

AO

STATUS CONFERENCE

[X] Case is set for 10 day trial on 04-17-98, 8:30 AM, DEPT. SO-J. [X] jury [ ] non-jury

[ ] Final Status Conference is set on at in Department

[X] Mandatory Settlement Conference is set on 03-16-98 8:30 AM; DEPT. SO-L.

[X] DEFENDANT'S REQUEST FOR TRIAL DENOVO IS FILED THIS DATE.

[ ] Counsel are ordered to comply with Sections 1307.5 and 1307.5.1 of the Local Rules and Sections 6, 7, 8, and 11 of the Civil Trials Manual.

[X] Counsel for DEFENDANT to give notice.

[ ] Notice is waived.

PAGE 1 OF DEPT. SO-J

MINUTES ENTERED  
11/14/96  
COUNTY CLERK

FILE NO.

STATUS CONFERENCE ORDER RE: TRIAL

THESE ARE COURT ORDERS FOR VIOLATION OF WHICH SANCTIONS MAY BE IMPOSED BY WAY OF CONTEMPT, PAYMENT OF MONEY, INCLUDING ATTORNEY'S FEES AND COSTS INCURRED BY OTHER PARTIES, AND/OR REMOVAL OF THE CASE FROM THE CIVIL ACTIVE LIST.

The following orders are made:

- 1. Not later than 14 days before the first trial date set by the court all counsel and parties in pro per shall meet and confer with a view to reaching agreement on all issues in the case, including stipulation/waiving foundations and other objections regarding exhibits, tests and all other evidence.
- 2. With respect to expert witness designation and discovery, absent a court order to the contrary, the parties shall comply with the provisions of CCP Section 2034.
- 3. Not later than 30 days after this Status Conference Order, plaintiff(s) (and any cross-complainant) shall serve in writing damages and good faith demand for settlement. Within 10 days after such service, defendant(s) (and any cross-defendant) shall serve a written good faith response on the demanding party(ies). DO NOT FILE DEMAND OR RESPONSE WITH THE COURT.
- 4. All discovery, excluding depositions of all experts designated pursuant to CCP Section 2034, shall be concluded not later than 30 days prior to the first trial date set by the court unless specifically ordered otherwise by the court. Expert discovery shall be concluded not later than 5 days prior to the initially set trial date.
- 5. Not later than 5 days prior to the Final Status Conference, all counsel and parties in pro per shall exchange with each other (DO NOT FILE with court) the following in writing:
  - (a) A brief statement of the case suitable to be read to prospective jurors by the judge before voir dire, if a jury case. (All parties are encouraged to reach an agreed statement outlining the case for the information of the trial judge and jury panel.)
  - (b) Written statements for all settlement conferences must be submitted and served not later than five court days before the settlement conference. See Chapter 7.9(6) Local Rules, LOS ANGELES SUPERIOR COURT.

- (b) Lists of names of all witnesses to be called at trial. (Except for good cause shown, failure to so disclose shall preclude admission of undisclosed exhibits.)
- (c) Lists of exhibits as described in Los Angeles Superior Court Local Rules Chapters 7.9(d) and 8.61-8.63 (Except for good cause shown, failure to so disclose shall preclude admission of undisclosed exhibits.)
- (d) All motions in limine with proposed order. (Except for good cause shown, motions in limine not reduced to writing and timely served upon other parties shall not be considered by the trial court.)
- (e) Proposed jury instructions (including special forms and starred Ball instructions), if a jury is demanded. (The form of such instructions shall comply with Los Angeles Superior Court Local Rules Chapter 7.9(d), Special and starred instructions shall be prepared on blank letter-off forms with only the text of the instructions appearing on the portion of the form intended to go to jury.)

- 6. Before the Final Status Conference, all counsel and parties in pro per shall:
  - (a) Premark their proposed exhibits (informally, in contemplation of subsequent formal marking by the clerk of the trial court.)
  - (b) Cause any depositions expected to be used to have been corrected and signed or made subject to a stipulation for use without signature.
- 7. All counsel are required to be familiar and comply with the Los Angeles Superior Court Local Rules Chapter 7 Settlement Conferences and Trial of Cases.

WRITTEN STATEMENTS FOR ALL SETTLEMENT CONFERENCES MUST BE SUBMITTED AND SERVED NOT LATER THAN FIVE COURT DAYS BEFORE THE SETTLEMENT CONFERENCE. SEE CHAPTER 7.9(6) LOCAL RULES, LOS ANGELES SUPERIOR COURT.

- 8. As to any parties not served, the case is dismissed.
- 9. Jury is waived.
- 10. A jury had been demanded by Both Sides.
- 11. That briefs are required and shall be filed and served not later than the date set for trial.
- 12. Appearing counsel personally served copy of above order.
- 13. Notice is waived.
- 14. Counsel for Defendant is to give notice and serve non-appearing parties with a copy of this Order and Settlement Conference Order and Statement within 5 days.

JUDGE OF THE SUPERIOR COURT

*[Signature]*

11-14-56

DATED:

CALENDAR # 4

TRIAL SETTING CONFERENCE STATEMENT

CASE # NC 0166 22.

KRONE TREMAIN.  
PLAINTIFF(S)  
VS.  
CITY of Long Beach et al.  
DEFENDANT(S))

FILED  
LOS ANGELES SUPERIOR COURT

NOV 14 1996

EDWARD M. KHITZLER, CLERK  
Jo Bolding  
BY JO BOLDING DEPUTY

1. Name of counsel appearing and for whom: Wm. A. Reider  
REIDER FOR W.

2. Have all essential parties been served or appeared and is the case at issue as to such parties?  
yes.

3. Is jury demanded? yes.

4. Name of counsel assigned to try case Wm. Reider for  
a) Back-up attorney (in event that trial attorney is engaged on the trial date): N/A.

5. Estimated time of trial (court days): 10-12 DAYS

6. Has this case been previously arbitrated? [  ] Yes No [  ]

If so, was arbitration pursuant to Court order? yes.

Dated: 11-14-96  
(Conference Date)

By: Wm. A. Reider  
(Signature of counsel or pro per)

Phone: (714) 510-2200

*Reed*

1 JOHN R. CALHOUN, City Attorney  
2 WILLIAM A. REIDDER, Sr. Deputy City Attorney  
3 State Bar No. 44617  
4 333 West Ocean Boulevard, 11th Floor  
5 Long Beach, California 90802-4664  
6 Telephone (310)570-2200

**FILED**

NOV 14 1996

JAMES H. DEMPSEY, COUNTY CLERK

*S. Mitchell*  
BY S. MITCHELL, DEPUTY

7 Attorneys for Defendants, CITY OF LONG BEACH  
8 WILLIAM ELLIS, DAVID WILLIAMS AND CINDY ALLEN

*BU 11-14-96*

9 SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

10  
11 John R. Calhoun  
12 City Attorney of Long Beach  
13 333 West Ocean Boulevard  
14 Long Beach, California 90802-4664  
15 (310) 570-2200

11 KRONE TREMAIN, ) CASE NO.: NC 016622  
12 )  
13 Plaintiff, ) REQUEST FOR TRIAL AFTER  
14 vs. ) ARBITRATION  
15 )  
16 CITY OF LONG BEACH; a political )  
17 subdivision and City of the State )  
18 of California; LONG BEACH POLICE )  
19 DEPARTMENT, a political )  
20 subdivision of the City of Long )  
21 Beach; DAVID WILLIAMS, )  
22 individually and as a Long Beach )  
23 Police Officer; CINDY ALLEN, )  
24 individually and as a Long Beach )  
25 Police Officer; CHIEF WILLIAM )  
26 ELLIS; individually and as Chief )  
27 of the Long Beach Police )  
28 Department; and DOES 1 through )  
100, inclusive. )  
Defendants. )

23 Defendant, CITY OF LONG BEACH, hereby requests trial after  
24 arbitration and requests that this matter be restored to the civil  
25 active list.

26 ///  
27 ///  
28 ///

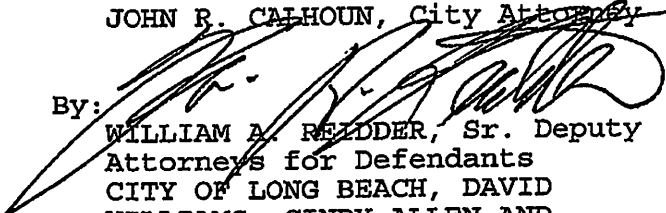
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Defendant, CITY OF LONG BEACH, further requests that trial de novo be by jury.

DATED: November 14, 1996

JOHN R. CALHOUN, City Attorney

By:



WILLIAM A. REJDDER, Sr. Deputy  
Attorneys for Defendants  
CITY OF LONG BEACH, DAVID  
WILLIAMS, CINDY ALLEN AND  
WILLIAM ELLIS

John R. Calhoun  
City Attorney of Long Beach  
333 West Ocean Boulevard  
Long Beach, California 90802-4664  
(310) 570-2200



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PROOF OF SERVICE BY MAIL-1013A

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 333 West Ocean Boulevard, Long Beach, California 90802.

On November 14, 1996, I served the foregoing document described as

REQUEST FOR TRIAL AFTER ARBITRATION

in this action by placing

\_\_\_\_\_ the original   X   a true copy

thereof enclosed in sealed envelopes addressed as follows:

Dean E. Masserman, Esq.  
Vorzimmer, Garber & Masserman  
8383 Wilshire Boulevard, Suite 750  
Beverly Hills, California 90211

By mail as follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. Postal Service on that same day with postage thereon fully prepaid at Long Beach, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on November 14, 1996, at Long Beach, California.

  X   (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

\_\_\_\_\_ (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Maureen A. Grainger  
MAUREEN A. GRAINGER

TREMAINE.TDN

John R. Calhoun  
City Attorney of Long Beach  
333 West Ocean Boulevard  
Long Beach, California 90802-4664  
(310) 570-2200

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 08/27/96

DEPT. SOS

HONORABLE

JUDGE D. KEAN

DEPUTY CLERK

HONORABLE ANITA R. SHAPIRO  
7

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

R.J. SAAVEDRA

Deputy Sheriff

V. FRASER 6737

Reporter

NC016622

Plaintiff D E MASSERMAN

KRONE TREMAIN

Counsel

VS

Defendant

CITY OF LONG BEACH, ET AL

Counsel

NATURE OF PROCEEDINGS:

1. MOITON BY PLAINTIFF KRONE TREMAIN TO COMPEL  
RESPONSES TO DEMAND FOR INSPECTION OF DOCUMENTS  
SET NO. TWO, WITHOUT OBJECTIONS  
AND  
REQUEST FOR SANCTIONS

It is stipulated that Commissioner Anita Rae  
Shapiro may hear this matter as Judge Pro Tem.

THE MATTER IS PLACED OFF CALENDAR

MINUTES ENTERED  
08/27/96  
COUNTY CLERK

1 DEAN E. MASSERMAN, STATE BAR NO. 137438  
2 VORZIMER, GARBER & MASSERMAN  
3 A PROFESSIONAL CORPORATION  
4 8383 WILSHIRE BOULEVARD, SUITE 750  
5 BEVERLY HILLS, CALIFORNIA 90211  
6 (213) 782-1400

7 Attorneys for Plaintiff,  
8 KRONE TREMAIN

**FILED**  
LOS ANGELES SUPERIOR COURT  
JUL 12 1996  
WARD M. KRITZMAN, CLERK  
Carolyn Hingo  
CAROLYN HINZO, DEPUTY

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 COUNTY OF LOS ANGELES, LONG BEACH JUDICIAL DISTRICT

11 KRONE TREMAIN )

12 Plaintiff, )

13 vs. )

14 CITY OF LONG BEACH, a political )  
15 subdivision and city of the )  
16 State of California; LONG BEACH )  
17 POLICE DEPARTMENT, a political )  
18 subdivision of the City of Long )  
19 Beach; DAVID WILLIAMS, )  
20 individually and as a Long Beach )  
21 Police Officer; CINDY ALLEN, )  
22 individually and as a Long Beach )  
23 Police Officer; CHIEF WILLIAM )  
24 ELLIS; individually and as Chief )  
25 of the Long Beach Police )  
26 Department; and DOES 1 through )  
27 100 inclusive, )

28 Defendants. )

Case No. NC 0166<sup>2</sup>/<sub>92</sub>

NOTICE OF MOTION AND MOTION  
TO COMPEL RESPONSES TO  
DEMAND FOR INSPECTION OF  
DOCUMENTS, SET NO. TWO,  
WITHOUT OBJECTIONS; REQUEST  
FOR SANCTIONS; MEMORANDUM  
OF POINTS AND AUTHORITIES;  
DECLARATION OF DEAN E.  
MASSERMAN IN SUPPORT  
THEREOF; [PROPOSED] ORDER

(C.C.P. Sections 2023,  
2031(k))

Date: August 27, 1996  
Time: 8:30 a.m.  
Dept: "S"

**"REQ. REC'D"**

29 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

30 PLEASE TAKE NOTICE that on August 27, 1996 at 8:30 a.m. in  
31 Department "S", the above-named court, located at 415 West  
32 Ocean Boulevard, Long Beach, California, Plaintiff, KRONE  
33 TREMAIN ("TREMAIN"), will move the Court for an order compelling

SUPERIOR COURT  
JUL 05 11 52 AM '96  
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14.00

1 Defendant, CITY OF LONG BEACH, to respond to TREMAIN'S Demand  
 2 for Inspection of Documents, Set No. Two, and to Produce  
 3 Documents Responsive thereto without objection, and for an Order  
 4 imposing monetary sanctions against CITY OF LONG BEACH and/or  
 5 it's attorney of record, Bill Reidder, Long Beach City Attorney,  
 6 in favor of Plaintiff in the amount of \$1574.00. This Motion to  
 7 Compel is brought on the grounds that Defendant CITY OF LONG  
 8 BEACH has failed to respond to TREMAIN'S discovery request.

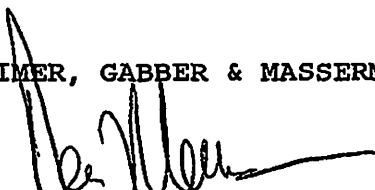
9 The request for imposition of monetary sanctions against  
 10 CITY OF LONG BEACH and it's counsel of record is made on the  
 11 grounds that Plaintiff has incurred reasonable and necessary  
 12 expenses in the amount specified above as a direct result of  
 13 CITY OF LONG BEACH'S, and it's attorney's, unjustified refusal  
 14 to comply with TREMAIN'S discovery request.

15 This Motion is based on California Code of Civil Procedure  
 16 Sections 2023 and 2031(k), this Notice of Motion, the attached  
 17 Memorandum of Points and Authorities and Declaration of Dean E.  
 18 Masserman, the pleadings, papers, and records in this action,  
 19 and upon such other and further oral and documentary evidence as  
 20 may be presented at or before the time of hearing.

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DATED: July 11, 1996

VORZIMER, GABBER & MASSERMAN

By   
 DEAN E. MASSERMAN  
 Attorneys for Plaintiff,  
 KRONE TREMAIN

MEMORANDUM OF POINTS AND AUTHORITIES

I.

INTRODUCTION

1 On or about May 5, 1994, at approximately 1:00 a.m., at or  
2 near 550 West Pacific Coast Highway, in the City of Long Beach,  
3 Plaintiff, KRONE TREMAIN (hereinafter "TREMAIN"), was shot by  
4 Long Beach Police Officers, while he was unarmed and posed no  
5 threat of harm or death to the Defendant officers,  
6

7 Among other things, Plaintiff alleges that the officers  
8 used excessive and unreasonable force under the circumstances,  
9 that the Defendant officers violated his Civil Rights in  
10 accordance with a policy, pattern and/or practice maintained,  
11 promulgated or condoned by the CITY OF LONG BEACH, and that  
12 Defendant, CITY OF LONG BEACH, negligently hired, trained and  
13 retained the involved Defendant officers.  
14

15 As a result thereof Plaintiff sustained gunshot wounds to  
16 the right shoulder and left knee, resulting in serious physical  
17 injury. Plaintiff filed this action alleging Monell, Federal  
18 Causes of Action alleging violations of his Civil Rights and  
19 various state tort claims.  
20

21 This Motion is fairly straightforward. On April 29, 1996,  
22 TREMAIN personally served upon CITY OF LONG BEACH a Demand for  
23 Inspection of Documents. (A true and correct copy of TREMAIN's  
24 Second Demand for Inspection of Documents is attached hereto,  
25 and incorporated herein by reference, as Exhibit "A.")

26 Written responses were due per C.C.P. §2031 within twenty  
27 days of service, i.e. April 19th. Defendant, City of Long Beach  
28 failed to provide any written responses thereto. Actual

1 responses to the inspection demand were due on or before May 29,  
2 1996 by calculating thirty days from the date of service,  
3 without the additional five days for mail because the Demand for  
4 Inspection was personally served. (See Declaration of Dean E.  
5 Masserman.)

6 Counsel for TREMAIN telephoned defense counsel on at least  
7 two separate occasions to request that responses to said  
8 discovery be provided. (See Declaration of Dean E. Masserman.)  
9 In addition, on June 28, 1996, counsel for Plaintiff sent a  
10 letter to the Long Beach City Attorney's office, to the  
11 attention of Mr. Bill Reidder, counsel of Record in this case,  
12 in a good faith attempt to resolve this discovery dispute.  
13 Defendant, CITY OF LONG BEACH, was advised that unless responses  
14 to the Demand for Inspection of Documents were provided to  
15 Plaintiff's counsel by 5:00 p.m. on July 8, 1996 that this  
16 Motion to Compel and Request for Sanctions would be filed. (A  
17 true and correct copy of the June 28, 1996 letter is attached  
18 hereto, and incorporated herein by reference, as Exhibit "B").  
19 Again, Defendant, CITY OF LONG BEACH has ignored Plaintiff's  
20 demands. Given CITY OF LONG BEACH's complete lack of response  
21 to the inspection demand of TREMAIN, as well as CITY OF LONG  
22 BEACH's, and it's counsel's, unwillingness to respond in a  
23 timely fashion to this discovery request, or the offer of good  
24 faith resolution, it is apparent that CITY OF LONG BEACH and  
25 it's counsel have knowingly repudiated the directives of the  
26 Code of Civil Procedure and taunted the authority of this court.  
27 Furthermore, and in light of an arbitration completion date of  
28 September 28, 1996, CITY OF LONG BEACH and it's counsel have

1 flagrantly chosen to impede the legitimate discovery requests of  
2 TREMAIN.

3  
4 II.

5 CITY OF LONG BEACH HAS WAIVED ITS RIGHT TO OBJECT  
6 AND TO ASSERT ANY PRIVILEGE BY ITS FAILURE  
7 TO SERVE A TIMELY RESPONSE

8 Under California Code of Civil Procedure Section 2031(k),  
9 it is provided in pertinent part:

10 "If a party to whom an inspection demand has  
11 been directed fails to serve a timely  
12 response to it, that party waives any  
13 objection to the demand, including one based  
14 on privilege or on the protection for work  
15 product under section 2018 . . . .  
16 The party making the demand may move for an  
17 order compelling response to the inspection  
18 demand."

19 As stated above, and as further explained in the  
20 accompanying declaration of Dean E. Masserman, TREMAIN  
21 personally served the subject demand for inspection on Bill  
22 Reider, counsel for all Defendants, during a deposition on  
23 April 29, 1996. The written responses to this inspection demand  
24 were therefore due no later than May 19, 1996 with the actual  
25 responses due no later that May 29, 1996. However, CITY OF LONG  
26 BEACH and it's counsel have completely failed to respond to  
27 TREMAIN's outstanding discovery. Therefore, pursuant to  
28 California Code of Civil Procedure Section 2031(k), TREMAIN is

1 entitled to an order compelling CITY OF LONG BEACH to respond to  
2 the inspection demand without assertion of objection or  
3 privilege.

4 California Civil Procedure Code § 2030(k) does provides  
5 that if the responding party's failure to serve a timely  
6 response to the interrogatories was the result of mistake,  
7 inadvertence or excusable neglect, the court may negate the  
8 waiver of objection. However, in this instance, Defendant's  
9 failure to timely respond could not have been the result of a  
10 mistake, inadvertence, or excusable neglect in that this office  
11 reminded Defendants, through it's attorney of record, on three  
12 separate occasions, twice by phone and once by letter, that  
13 answers were due. (See Declaration of Dean E. Masserman.)  
14 Defendant's attorney neither provided answers nor bothered to  
15 even contact this office by letter or telephone requesting  
16 further extensions of time.

17  
18 III.

19 THE COURT SHOULD IMPOSE MONETARY SANCTIONS  
20 AGAINST CITY OF LONG BEACH AND IT'S COUNSEL,  
21 BILL REIDDER, ESO., FOR REFUSING, WITHOUT  
22 JUSTIFICATION, TO RESPOND TO TREMAIN'S  
23 DISCOVERY REQUEST

24 Under California Code of Civil Procedure Sections 2031(k)  
25 and 2030, the Court shall impose a monetary sanction against any  
26 party or attorney who unsuccessfully opposes a motion to compel  
27 if that party acted without substantial justification or for  
28 abusing the discovery process.



1 California Civil Procedure Code § 2023(a) defines abuses  
2 as:

3 4. Failing to respond or submit to an  
4 authorized method of discovery.

5 [and]

6 7. Failing to confer in person, by  
7 telephone or by letter with an opposing party or  
8 attorney in a reasonable and good faith attempt to  
9 resolve informally any dispute concerning discovery,  
10 if the section governing a particular method of  
11 discovery requires any informal conference as a  
12 prerequisite for making or opposing a motion to compel  
13 discovery . . ."

14 Here, it is indisputable that CITY OF LONG BEACH has failed  
15 to meet the legal time limit to respond to TREMAIN's Demand for  
16 Inspection of Documents and has no substantial justification for  
17 doing so. Said failure is especially disturbing in light of the  
18 impending September 28, 1996 arbitration deadline, which has  
19 already been extended once by the court. Clearly, CITY OF LONG  
20 BEACH, and it's counsel, are completely refusing to comply with  
21 TREMAIN's discovery requests and are ignoring the directives of  
22 the legislature and the judiciary, thereby abusing the discovery  
23 process.

24 Accordingly, pursuant to California Code of Civil Procedure  
25 Sections 2023(b), under which this Court may impose a monetary  
26 sanction against an attorney, party, or both for engaging in the  
27 misuse of the discovery process, TREMAIN requests sanctions in  
28 the amount of \$1574.00 against CITY OF LONG BEACH and/or it's

1 counsel of record, Bill Reidder, Esq., for their unjustified  
2 refusal to respond to the inspection demand and for the burden  
3 imposed upon TREMAIN in bringing this motion.

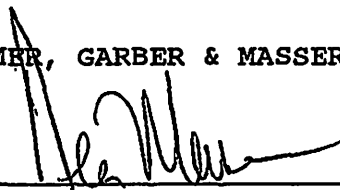
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5 IV.

6 CONCLUSION

7 Based upon the foregoing, TREMAIN respectfully requests  
8 this Court to order CITY OF LONG BEACH to respond to TREMAIN's  
9 Second Demand for Inspection of Documents, without objection or  
10 assertion of privilege, within ten days from the hearing of this  
11 Motion, and also order CITY OF LONG BEACH and/or it's counsel of  
12 record to pay the sum of \$1574.00 to TREMAIN as costs and  
13 expenses, including attorneys' fees, for bringing and appearing  
14 on this Motion to Compel responses to the Demand for Inspection  
15 of Documents.

16  
17 DATED: July 11, 1996

VORZIMER, GARBER & MASSERMAN

18  
19 By   
20 DEAN E. MASSERMAN  
21 Attorneys for Plaintiff,  
22 KRONE TREMAIN  
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DECLARATION OF DEAN E. MASSERMAN

I, Dean E. Masserman, declare that:

1. I am an attorney at law duly licensed to practice before all of the courts of the State of California, and am a shareholder in the law firm of Vorzimer, Garber & Masserman, attorneys of record for the Plaintiff, Krone Tremain.

2. On April 29, 1996, Defendant's Second Demand for Inspection (Exhibit "B"), was personally served on Bill Reidder, Esq., during the deposition of Plaintiff, Krone Tremain.

3. No written or actual responses to said discovery were ever received by Plaintiff.

4. Having failed to receive timely responses to discovery, I contacted Defendants counsel by telephone on two separate occasions and spoke with Mr. Reidder's secretary Maureen and advised her of the outstanding discovery. Maureen indicated that she would forward my message to Mr. Reidder and that my call would be returned. No call was ever received.

5. On June 28, 1996 a letter was sent to Defendant's attorney requesting that this discovery dispute be resolved informally and that responses be forwarded to our office by July 8, 1996. Again, defense counsel failed to contact this office and no responses were ever received.

5. As of the date of signing this Declaration, Plaintiffs have failed to provide responses to Plaintiff's Demand for Inspection of Documents or even contact this office by telephone requesting a further extension even though it has

1 been over two months since they were propounded.

2           5. Krone Tremain has retained Vorzimer, Garber &

3 Masserman, a professional corporation, pursuant to a written fee

4 agreement. My hourly rate in this matter is \$195.00. I have

5 expended four hours preparing this motion, accompanying

6 exhibits, and declarations, and estimate that I will expend

7 approximately two hours in preparing a response to any

8 opposition filed by CITY OF LONG BEACH and an additional two

9 hours to appear for the hearing on this motion. This amounts to

10 a total of 8 hours, plus a \$14.00 filing fee, for a total fee of

11 \$1,574.00 in preparation for and attendance at Plaintiff's

12 Motion to Compel.

13           I declare under penalty of perjury that the foregoing

14 is true and correct and based on information within my own

15 personal knowledge, except as to those things stated on

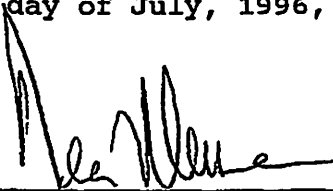
16 information and belief, and as to them I believe them to be

17 true. If called and sworn to testify, I would do so in

18 accordance with the foregoing.

19           Executed this 12th day of July, 1996, at Beverly

20 Hills, California.

21 

22 \_\_\_\_\_

23 Dean E. Masserman

24 Declarant

1 DEAN E. MASSERMAN, STATE BAR NO. 137438  
 2 VORZIMER, GARBER & MASSERMAN  
 3 A PROFESSIONAL CORPORATION  
 8383 WILSHIRE BOULEVARD, SUITE 750  
 4 BEVERLY HILLS, CALIFORNIA 90211  
 (213) 782-1400

5 Attorneys for Plaintiff,  
 6 KRONE TREMAIN

7  
 8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 9 COUNTY OF LOS ANGELES, LONG BEACH JUDICIAL DISTRICT

10

11	KRONE TREMAIN	)	Case No. NC 016662
12	Plaintiff,	)	
13	vs.	)	REQUEST FOR PRODUCTION OF DOCUMENT
14	CITY OF LONG BEACH, a political	)	
15	subdivision and city of the	)	
16	State of California; LONG BEACH	)	
17	POLICE DEPARTMENT, a political	)	
18	subdivision of the City of Long	)	
19	Beach; DAVID WILLIAMS,	)	
20	individually and as a Long Beach	)	Disc. Cutoff: None
21	Police Officer; CINDY ALLEN,	)	Motion Cutoff: None
22	individually and as a Long Beach	)	Trial Date: None
23	Police Officer; CHIEF WILLIAM	)	
24	ELLIS; individually and as Chief	)	
25	of the Long Beach Police	)	
26	Department; and DOES 1 through	)	
27	100 inclusive,	)	
28	Defendants.	)	

23  
 24 PROPOUNDING PARTY: PLAINTIFF, KRONE TREMAIN  
 25 RESPONDING PARTY: DEFENDANT, CITY OF LONG BEACH  
 26 SET NO.: Two (2)

27 Pursuant to C.C.P. § 2031 plaintiff, KRONE TREMAIN,  
 28 requests that defendant, CITY OF LONG BEACH, produce for

1 inspection and copying at the offices of Vorzimer, Garber &  
2 Masserman, 8383 Wilshire Boulevard, Suite 750, Beverly Hills,  
3 California 90211 on May 29, 1996 at 10:00 a.m., the items listed  
4 below.

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REQUEST FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 1:

The complete investigation file pertinent to the investigation conducted by the Long Beach Police Department into the Plaintiff's allegations of excessive force and/or misconduct, by Officers Cindy Allen and David Williams.

REQUEST FOR PRODUCTION NO. 2:

The conclusions and/or findings of investigators and/or supervisors of the Long Beach Police Department concerning the investigation into allegations of excessive force and/or misconduct referred to in request number 1 above.

REQUEST FOR PRODUCTION NO. 3:

All photographs of the scene of the incident where the Plaintiff was shot on or about May 5, 1994.

REQUEST FOR PRODUCTION NO. 4:

Copies of all Long Beach Police Officer daily logs, daily field activity reports, or MDT printouts, submitted or generated by officers, assigned to the Long Beach Police Department, on May 4, 1994 and May 5, 1994, for all officers who were on duty between the hours of 8:00 p.m. on May 4, 1994 to 4:30 p.m. on May 5, 1994.

REQUEST FOR PRODUCTION NO. 5:

The "In-service" sheets for the Long Beach Police Department "p.m. shift" of May 4, 1994 and "a.m. shift" of May 5, 1994.

REQUEST FOR PRODUCTION NO. 6:

Copies of any and all audio tape recordings of

1 telephone calls requesting law enforcement action, including 911  
2 tapes, and all radio calls concerning the dispatch(es) of Long  
3 Beach Police officers to the vicinity of 550 West Pacific Coast  
4 Highway in the City of Long Beach, on May 5, 1994. [Plaintiff's  
5 attorney will prepare such tapes from the master tapes of the  
6 Long Beach Police Department at a time and on a date convenient  
7 to Defendants and their counsel].

8 REQUEST FOR PRODUCTION NO. 7:

9           A legible copy of the dispatch printout showing  
10 requests for service(s) received by the Long Beach Police  
11 Department relating to the State Motel located at 550 West  
12 Pacific Coast Highway in the City of Long Beach, on May 5, 1994,  
13 between 12:01 a.m. and 8:00 a.m.

14 REQUEST FOR PRODUCTION NO. 8:

15           Copies of any and all audio tape recordings of radio  
16 calls, made from the original communication tapes, concerning the  
17 dispatch(es) of Long Beach Police officers to the vicinity of  
18 550 West Pacific Coast Highway in the City of Long Beach, on  
19 May 5, 1994. [Plaintiff's attorney will prepare such tapes from  
20 the master tapes of the Long Beach Police Department at a time  
21 and on a date convenient to Defendants and their counsel].

22 REQUEST FOR PRODUCTION NO. 9:

23           Copies of any and all CADS (Computer Assisted Dispatch  
24 System) tapes, pertaining to the detention and/or shooting of  
25 Plaintiff, by Long Beach Police officers, at or near the  
26 vicinity of 550 West Pacific Coast Highway in the City of Long  
27 Beach, on or about May 5, 1994. [Plaintiff's attorney will  
28 prepare such tapes from the master tapes of the Long Beach



1 Police Department at a time and on a date convenient to  
2 Defendants and their counsel].

3 REQUEST FOR PRODUCTION NO. 10:

4 Any and all photographs which pertain to the shooting  
5 of Plaintiff at or near the State Motel located at 550 West  
6 Pacific Coast Highway in the City of Long Beach, on May 5, 1994,  
7 including but not limited to Plaintiff, Plaintiff's injuries,  
8 the scene of the incident, and the Plaintiff's automobile

9 REQUEST FOR PRODUCTION NO. 11:

10 Copies of the Long Beach Police Department's written  
11 policy in effect at the time of this incident concerning the use  
12 of force and the discharge of firearms by sworn officers,  
13 including procedures for investigating officer involved  
14 shootings.

15 REQUEST FOR PRODUCTION NO. 12:

16 Copies of all audiotaped interviews of witnesses to  
17 the shooting of Plaintiff on or about May 5, 1994, irrespective  
18 of when the interviews were conducted.

19 REQUEST FOR PRODUCTION NO. 13:

20 Copies of all audiotaped interviews of Long Beach  
21 Police Department employees concerning the shooting of plaintiff  
22 by Long Beach Police Officers on May 5, 1994, irrespective of  
23 when the interviews were conducted.

24 REQUEST FOR PRODUCTION NO. 14:

25 Complete copy of the internal affairs investigation  
26 conducted by the Long Beach Police Department pertinent to the  
27 officer involved shooting of plaintiff on or about May 5, 1994

28 ///

1 REQUEST FOR PRODUCTION NO. 15:

2 Complete copies of all internal affairs investigations  
3 conducted by the Long Beach Police Department into allegations  
4 of civil rights violations, use of unnecessary force, false  
5 arrest, false imprisonment and/or battery by personnel of the  
6 Long Beach Police Department during the time frame of May 1,  
7 1990 through May 1, 1995.

8 REQUEST FOR PRODUCTION NO. 16:

9 Copies of any and all management memoranda generated  
10 within the Long Beach Police Department during the period May 1,  
11 1990 through May 1, 1995, on the subject of excessive force by  
12 officers and actions Long Beach Police Department supervisors or  
13 managers could take to address same.

14 REQUEST FOR PRODUCTION NO. 17:

15 Copies of the calendar years 1985 through 1995, yearly  
16 summaries of 832.5 P.C. investigations conducted by the Long  
17 Beach Police Department, which must be submitted to the State  
18 Attorney General yearly.

19 REQUEST FOR PRODUCTION NO. 18:

20 Copies of the Long Beach Police Department's  
21 Statistical Summaries for the years 1985 through 1995,  
22 concerning internal investigations of alleged misconduct by  
23 sworn officers.

24 REQUEST FOR PRODUCTION NO. 19:

25 The complete internal affairs files of Defendant  
26 Officer David Williams and Defendant Officer Cindy Allen five  
27 years preceding the shooting of Plaintiff.

28 ///

1 REQUEST FOR PRODUCTION NO. 20:

2           The complete list of every sustained internal affairs  
3 investigation where civil rights violations, use of unnecessary  
4 force, false arrest, false imprisonment and/or battery was a  
5 sustained charge, together with the description of discipline  
6 imposed for each sustained allegation.

7 REQUEST FOR PRODUCTION NO. 21:

8           The lesson plan(s) used at the Long Beach Police  
9 Department's Academy or Training Bureau relating to the use of  
10 force and firearms by Long Beach Police Officers.

11 REQUEST FOR PRODUCTION NO. 22:

12           A copy of the Long Beach Police Department's Daily Log  
13 code book or sheet.

14 REQUEST FOR PRODUCTION NO. 23:

15           A copy of the Long Beach Police Department's communications  
16 code book, "10 code" etc.

17 REQUEST FOR PRODUCTION NO. 24:

18           Internal Affairs Investigative manual or policy  
19 statement concerning the steps for conducting internal affairs  
20 investigations from beginning to end. [This seeks the manual in  
21 effect in 1994].

22 REQUEST FOR PRODUCTION NO. 25:

23           Any fingerprint cards made of Plaintiff on or about  
24 May 5, 1994.

25 REQUEST FOR PRODUCTION NO. 26:

26           The Plaintiff's booking slip, front and back.

27 REQUEST FOR PRODUCTION NO. 27:

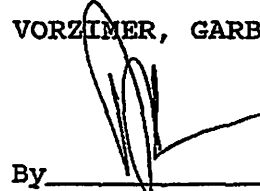
28           All written reports, memorandum, statements,

1 narratives, summaries and the like, including but not limited  
2 to, arrest reports, incident reports, accident reports, injury  
3 reports, 832.5 (Assault on Officer) reports, supplemental  
4 reports, follow up reports, OIS (Officer Involved Shooting)  
5 reports, Internal Affairs reports, which pertain to the shooting  
6 incident involving Plaintiff at 550 West Pacific Coast Highway  
7 in the City of Long Beach, on or about May 5, 1994.

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DATED: April 29, 1996

VORZIMER, GARBER & MASSERMAN



By \_\_\_\_\_  
DEAN E. MASSERMAN  
Attorneys for Plaintiff,  
KRONE TREMAIN

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I, Dean Masserman, am employed in the aforesaid County, State of California; I am over the age of 18 years and not a party to the within action; my business address is 8383 Wilshire Boulevard, Suite 750, Beverly Hills, California 90211.

On April 29, 1996 I served the foregoing REQUEST FOR PRODUCTION OF DOCUMENTS on the interested parties in this action by personal service on the following individual:

William A. Reidder, Esq.  
Long Beach City Attorney's Office  
333 W. Ocean Blvd.  
Long Beach, CA 90802-4664

BY MAIL

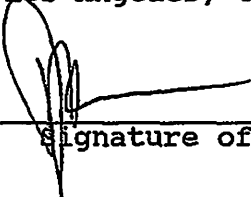
I placed such envelope for deposit in the U.S. Mail for service by the United States Postal Service, with postage thereon fully prepaid.

As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

(BY PERSONAL SERVICE) I caused such document to be delivered by hand to the above-named individual. PROOF OF SERVICE TO BE FILED.

(State) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on April 29, 1996, at Los Angeles, California.

  
\_\_\_\_\_  
Signature of Declarant

**VORZIMER, GARBER & MASSERMAN**

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

8383 WILSHIRE BOULEVARD

SUITE 750

BEVERLY HILLS, CALIFORNIA 90211

(213)782-1400

FAX (213)782-1850

DEAN H. MASSERMAN  
STEVEN M. GARBER  
ANDREW W. VORZIMER  
LAWRENCE C. ECOFF  
DAVID K. SHENIAN

OF COUNSEL

WILLIAM W. HANDEL  
JOHN K. CICCARELLI  
THOMAS J. RYU

WRITER'S DIRECT DIAL NUMBER

June 28, 1996

William A. Reidder, Esq.  
Long Beach City Attorney's Office  
333 W. Ocean Blvd.  
Long Beach, CA 90802-4664

Re: Tremain v. City of Long Beach, et al.

Dear Mr. Reidder:

This letter will serve as a good faith attempt to resolve what appears to be a discovery dispute in this case. As I am sure you recall I personally served you with a Request for Production of Documents on behalf of your client City of Long Beach. I have never received any written or actual response to same. As such your right to object has been waived.

I understand that you are perhaps the busiest and most important man in the City of Long Beach. Nevertheless, I must insist that you comply with the Rules of Civil Procedure. I am therefore requesting that you produce all items requested in said Request for Production, without objection, at this office no later than the close of business on July 8, 1996. If we are unable to resolve this dispute you will force me to seek a Motion to Compel; an action I am loathe to take.

By the way, my Ex Parte Application to extend the arbitration completion date was granted. The arbitration must now be completed by September 18, 1996. If you have any

**Tremain Letter**  
**Page 2**

other problems or questions please feel free to contact me at this office. Thank you for your cooperation in this matter.

Respectfully,

**VORZIMER, GARBER, & MASSERMAN**

  
**DEAN D. MASSERMAN**

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I, Lorraine Corrales, am employed in the aforesaid County, State of California; I am over the age of 18 years and not a party to the within action; my business address is 8383 Wilshire Boulevard, Suite 750, Beverly Hills, California 90211.

On MARCH 20, 1996 I served the foregoing NOTICE OF MOTION AND MOTION TO COMPEL RESPONSES TO DEMAND FOR INSPECTION OF DOCUMENTS, SET NO. TWO, WITHOUT OBJECTIONS; REQUEST FOR SANCTIONS; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF DEAN E. MASSERMAN IN SUPPORT THEREOF; on the interested parties in this action by placing a true copy thereof, enclosed in a sealed envelope, addressed as follows:

Via Mail

William A. Reidder, Esq.  
Long Beach City Attorney's Office  
333 W. Ocean Blvd.  
Long Beach, CA 90802-4664

X BY MAIL

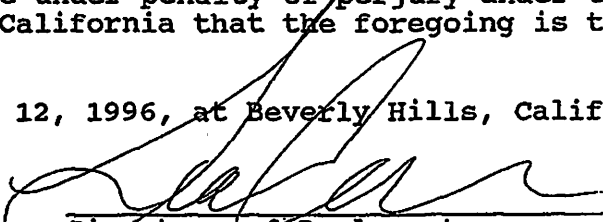
I placed such envelope for deposit in the U.S. Mail for service by the United States Postal Service, with postage thereon fully prepaid.

X As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

(BY PERSONAL SERVICE) I caused such envelope to be delivered by hand to the offices of the addressee. PROOF OF SERVICE TO BE FILED.

X (State) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on July 12, 1996, at Beverly Hills, California.

  
Signature of Declarant



(SPACE BELOW FOR FILING STAMP ONLY)

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LAW OFFICES OF  
DONALD J. TOWNLEY  
A PROFESSIONAL CORPORATION  
320 NORTH WILSHIRE AVENUE  
ANAHEIM, CALIFORNIA 92801  
714 502-9095

State Bar No. 33049

Attorneys for \_\_\_\_\_

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

KRONE TREMAIN,	)	CASE NO.: NC 016 622
	)	
Plaintiff,	)	NOTICE OF CONTINUANCE
	)	OF ARBITRATION HEARING
-vs-	)	
	)	Date: September 19, 1996
CITY OF LONG BEACH, et al.,	)	Time: 10:00 A.M.
	)	
Defendants.	)	

TO ALL INTERESTED PARTIES AND TO THEIR ATTORNEY(S) OF RECORD:  
PLEASE TAKE NOTICE that pursuant to the Court's Order  
Granting Plaintiff's Motion to Extend Arbitration Completion  
Date, the Arbitration Hearing of the above-entitled matter,  
previously set for June 28, 1996, has been continued to  
September 19, 1996 at 10:00 A.M., at the Law Offices of  
Donald J. Townley, located at 320 North Wilshire Avenue,  
Anaheim, California.

DATED: July 25, 1996

LAW OFFICES OF DONALD J. TOWNLEY

BY:   
DONALD J. TOWNLEY, Arbitrator.

PROOF OF SERVICE  
(C.C.P. §1013a(1))

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STATE OF CALIFORNIA, COUNTY OF ORANGE

I, the undersigned, declare:

I am employed in the City of Anaheim, County of Orange, State of California. I am over the age of 18 years and not a party to the within action; my business address is 320 North Wilshire Avenue, Anaheim, California 92801. On July 26, 1996 I served the following documents:

NOTICE OF CONTINUANCE OF ARBITRATION HEARING

by placing a true copy thereof enclosed in a sealed envelope and served in the manner and/or manners described below to each of the parties herein and addressed as below or as stated on the attached list.

Dean E. Masserman, Esq.  
Vorzimer, Garber & Masserman  
8383 Wilshire Blvd., Suite 750  
Beverly Hills, CA 90211

William A. Reidder, Sr. Deputy  
333 West Ocean Blvd., 11th Floor  
Long Beach, CA 90802-4664

x BY MAIL: I caused such envelope to be deposited in the mail at my business address, addressed to the addressee(s) designated. I am readily familiar with the Law Office of Donald J. Townley's practice for collection and processing of correspondence and pleadings for mailing. It is deposited with the United States Postal Service on that same day in the ordinary course of business.

x STATE: I declare under penalty of perjury that the foregoing is true and correct.

FEDERAL: I declare that I am employed in the office of a member of the bar of this court at whose direction this service was made.

Executed this 26th day of July, 1996, at Anaheim, California.

*Diane M. Sandoval*  
Diane M. Sandoval, Declarant.

NOTICE SENT TO:

MASSERMAN, DEAN E.  
8383 WILSHIRE BLVD.  
SUITE 750  
BEVERLY HILLS CA 90211

FILE STAMP

**FILED**  
JUL 2 1996  
JOHN A. CLARKE

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

KRONE TREMAIN

Plaintiff(s),

CASE NUMBER

NC016622

VS.

CITY OF LONG BEACH, ET AL

Defendant(s).

**NOTICE TO ATTORNEYS RE:  
CONTINUANCE OF HEARING**

**TO COUNSEL FOR THE MOVING PARTY:**

You are hereby notified that the matter set for hearing on 8-15-96  
Dept. SO J has been reset for hearing in Dept. SO J on November 14, 1996  
at 1:00 pm.

**CERTIFICATE OF MAILING**

I am over the age of 18 years and not a party to the within action. I am familiar with the Los Angeles Superior Court practice for collection and processing of correspondence and know that such correspondence is deposited with postage prepaid with the United States Postal Service the same day it is delivered to the mail room in the Los Angeles Superior Court. I declare under penalty of perjury under the laws of the State of California that I delivered a true copy of the above notice to the plaintiff/cross complainant or his attorney of record addressed as listed by placing the copy in a sealed envelope to the mail room of this court.

Dated: JUL - 2 1996

JOHN A. CLARKE, Executive Officer/Clerk of the Superior Court of California, County of Los Angeles

By [Signature], Deputy

NOTICE SENT TO:

CALHOUN, JOHN R.  
333 W. OCEAN BL  
11TH FLOOR  
LONG BEACH

CA 90802

FILE STAMP

**FILED**  
JUL - 2 1996  
JOHN A. CLARKE  
BY S. [Signature]

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

KRONE TREMAIN

Plaintiff(s),

CASE NUMBER

NC016622

VS.

CITY OF LONG BEACH, ET AL

Defendant(s).

**NOTICE TO ATTORNEYS RE:  
CONTINUANCE OF HEARING**

**TO COUNSEL FOR THE MOVING PARTY:**

You are hereby notified that the matter set for hearing on 8-15-96  
Dept. SO J has been reset for hearing in Dept. SO J on November 14, 1996  
at 1:00 pm.

**CERTIFICATE OF MAILING**

I am over the age of 18 years and not a party to the within action. I am familiar with the Los Angeles Superior Court practice for collection and processing of correspondence and know that such correspondence is deposited with postage prepaid with the United States Postal Service the same day it is delivered to the mail room in the Los Angeles Superior Court. I declare under penalty of perjury under the laws of the State of California that I delivered a true copy of the above notice to the plaintiff/cross complainant or his attorney of record addressed as listed by placing the copy in a sealed envelope to the mail room of this court.

Dated: JUL - 2 1996

JOHN A. CLARKE, Executive Officer/Clerk of the  
Superior Court of California, County of Los Angeles

By [Signature], Deputy

1 DEAN E. MASSERMAN, ESQ.  
2 VORZIMER, GARBER & MASSERMAN  
3 A PROFESSIONAL CORPORATION  
4 8383 Wilshire Blvd., Suite 750  
5 Beverly Hills, CA 90211  
6 (213) 782-1400

7 Attorneys for Plaintiff,  
8 KRONE TREMAIN

**FILED**  
LOS ANGELES SUPERIOR COURT

JUN 28 1996

EDWARD W. KATZMAN, CLERK  
*J. Bolding*  
BY JO BOLDING, CLERK

9 SUPERIOR COURT FOR THE STATE OF CALIFORNIA  
10 FOR THE COUNTY OF LOS ANGELES, CITY OF LONG BEACH

11	KRONE TREMAIN,	)	Case No. NC 016 622
12	Plaintiff,	)	
13	vs.	)	<b>PROPOSED ORDER GRANTING</b>
14	CITY OF LONG BEACH,	)	<b>PLAINTIFF'S MOTION TO EXTEND</b>
15	et al.,	)	<b>ARBITRATION COMPLETION DATE</b>
16	Defendants.	)	Date: June 28, 1996
17		)	Time: 1:30 p.m.
		)	Courtroom: Dept. J
		)	Disc. Cutoff: None
		)	Motion Cutoff: None
		)	Trial Date: None

*mass 8/1/96*  
*11-14-96*

18 GOOD CAUSE APPEARING THEREFORE, IT IS HEREBY ORDERED

19 THAT:

20 Plaintiff's Motion to Extend Arbitration completion date is  
21 granted. The arbitration in this matter must be completed no  
22 later than (90 days) Sept. 28, 1996.

*(185)*

23 Dated: JUN 28 1996

*[Signature]*  
Honorable Arthur Jean

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I, Lorraine Corrales, am employed in the aforesaid County, State of California; I am over the age of 18 years and not a party to the within action; my business address is 8383 Wilshire Blvd., Suite 750, Beverly Hills 90211.

On June 28, 1996, I served the foregoing PROPOSED ORDER GRANTING PLAINTIFF'S MOTION TO EXTEND ARBITRATION COMPLETION DATE on interested parties in this action by placing a true copy thereof, enclosed in a sealed envelope, addressed as follows:

Via Mail  
William A. Reidder, Esq.  
Long Beach City Attorney's Office  
333 W. Ocean Blvd.  
Long Beach, CA 90802-4664

     BY Mail

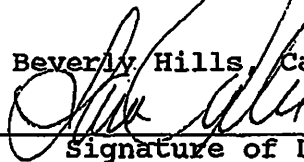
  X   I placed such envelope for deposit in the U.S. Mail for service by the United States Postal Service, with postage thereon fully prepaid.

     As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

     (BY PERSONAL SERVICE) I caused such envelope to be delivered by hand to the offices of the addressee.

  X   (State) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 28, 1996, at Beverly Hills, California.

  
\_\_\_\_\_  
Signature of Declarant

1 DEAN E. MASSERMAN, ESQ.  
2 VORZIMER, GARBER & MASSERMAN  
3 A PROFESSIONAL CORPORATION  
4 8383 Wilshire Blvd., Suite 750  
5 Beverly Hills, CA 90211  
6 (213) 782-1400

7 Attorneys for Plaintiff,  
8 KRONE TREMAIN

FILED  
LOS ANGELES SUPERIOR COURT

JUN 28 1996

EDWARD M. ...  
*J. Bolding*  
BY JO BOLDING DEPUTY

9 SUPERIOR COURT FOR THE STATE OF CALIFORNIA  
10 FOR THE COUNTY OF LOS ANGELES, CITY OF LONG BEACH

11	KRONE TREMAIN,	)	Case No. NC 016 622
12	Plaintiff,	)	NOTICE OF MOTION AND MOTION TO
13	vs.	)	EXTEND ARBITRATION COMPLETION
14	CITY OF LONG BEACH,	)	DATE; MEMORANDUM OF POINTS AND
15	et al.,	)	AUTHORITIES; DECLARATION OF DEAN
16	Defendants.	)	E. MASSERMAN IN SUPPORT THEREOF
17		)	Date: June 28, 1996
18		)	Time: 1:30 p.m.
19		)	Courtroom: Dept. J
20		)	Disc. Cutoff: None
21		)	Motion Cutoff: None
22		)	Trial Date: None

23 Please take notice that on June 28, 1996 at 1:30 p.m.,  
24 or as soon thereafter as the matter may be heard in the above-  
25 entitled Court, located at 415 W. Ocean Boulevard, Long Beach,  
26 California, Plaintiff, Krone Tremain, will move this Court for  
27 an order extending the arbitration completion date for 120 days  
28 on the basis that such motion is unopposed and stipulated to by  
defense counsel, and that good cause exists for an extension of  
the arbitration completion by virtue of the complexity of the

1 case, the severity of plaintiff's injuries, the extensive  
2 discovery, and the potential for informal resolution.

3       The parties agree that to arbitrate the case without the  
4 opportunity to complete the discovery, examinations,  
5 evaluations, tests and diagnoses would be a waste of the parties  
6 time and money, would frustrate any meaningful settlement  
7 negotiations and would severely prejudice both parties at  
8 arbitration and trial. Therefore, it is in the best interest of  
9 both the parties and the Court to extend the arbitration  
10 completion date in this matter for 120 days.

11       Plaintiff's Complaint was filed on or about May 4, 1995.  
12 In addition, both parties have worked diligently toward the  
13 completion of discovery in this matter with an eye towards  
14 settlement and/or trial. No prior continuances have been sought  
15 or granted and no prejudice will be incurred by either party.  
16 Lastly, this Motion is not brought for purposes of delay.

17       Based on the foregoing, good cause exists for an extension  
18 of the arbitration completion date in this matter. This Motion  
19 is being made at the earliest possible time. Furthermore, the  
20 parties will not be forced to expend time, effort and expense to  
21 schedule witnesses and prepare for an arbitration that is not  
22 ready to be litigated and cannot realistically be completed by  
23 the scheduled date. An extension at this juncture, rather than  
24 on the eve of the arbitration cutoff date, will conserve the

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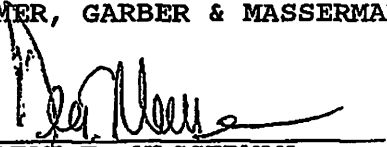
1 resources of the Court, the arbitrator, the parties, and the  
2 witnesses, many of whom are Long Beach Police Officers.

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DATED: June 26, 1996

VORZIMER, GARBER & MASSERMAN

BY



DEAN E. MASSERMAN  
Attorney for Plaintiff,  
KRONE TREMAIN

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**MEMORANDUM OF POINTS AND AUTHORITIES**

I.

**INTRODUCTION**

On or about May 5, 1994, at approximately 1:00 a.m., at or near 550 West Pacific Coast Highway, in the City of Long Beach, California, Plaintiff, Krone Tremain, was shot by Long Beach Police Officers, while Plaintiff was unarmed and allegedly posed no threat of harm or death to the Defendants. Plaintiff sustained gunshot wounds to the right shoulder and left knee, resulting in serious physical injury. Plaintiff alleges in his suit causes of action under Monell, 42 U.S.C. §1983 and various state tort claims, based on theories of excessive force, false arrest and false imprisonment, to name a few. Defendants, City of Long Beach, Officer David Williams, Officer Cindy Allen and Chief William Ellis, have filed answers to the complaint denying liability for same.

II.

**THIS COURT HAS DISCRETION TO GRANT AN  
EXTENSION OF THE ARBITRATION COMPLETION DATE  
UPON A SHOWING OF GOOD CAUSE.**

Los Angeles Superior Court Rule 1306.2 of the Trial Delay Reduction Act gives the Court discretion to extend or continue any arbitration or trial date based upon a showing of good cause. The extension request by Plaintiff, Krone Tremain, is not only unopposed, but it is stipulated to by defense counsel. and in fact stipulated to by defense counsel. (See Declaration

1 of Dean E. Masserman) Moreover, the continuance will not  
2 frustrate the intent of the Trial Delay Reduction Act and in  
3 fact will further the interests of the Court. There is little  
4 doubt that discovery will be completed, the case will be  
5 arbitrated and that the matter will be resolved, either  
6 informally or by way of trial, within two years of the filing of  
7 the complaint on May 4, 1995. More importantly, completion of  
8 the necessary discovery and resolution of these medical issues  
9 could substantially increase the likelihood that the parties  
10 will reach an out of court settlement in the matter.

11 While the Court has the power to issue an extension order,  
12 even without a showing of good cause, as discussed herein, there  
13 is good cause to continue the trial in the instant action. As  
14 stated above, the plaintiff sustained profound physical and  
15 psychological injuries as a result of the gunshot wounds.  
16 Plaintiff's treating physicians have declared him permanently,  
17 partially disabled, the corollary effect of which is he will be  
18 forced to retire prematurely, and will need future surgical  
19 intervention to correct bone degeneration around the injured  
20 knee joint. Without further discovery, medical testing, a  
21 Magnetic Resonance Imaging (MRI) of plaintiff's knee and  
22 independent medical examinations, both Plaintiff and Defendants  
23 will be precluded from accurately assessing the damages in this  
24 case.

25 Expedition of these efforts has been somewhat hindered by  
26 the fact that Plaintiff now resides in Lake Havasu, Arizona and  
27 that the Defendants, as well as various other non-party  
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1 witnesses, are members of the Long Beach Police Department,  
2 whose schedules are difficult to coordinate.

3 Based on the foregoing, good cause exists for a continuance  
4 of the arbitration completion date in this matter. The parties  
5 request at least a 120 day continuance due to the amount of pre-  
6 trial discovery and medical evaluation that is yet to be  
7 conducted by both parties, and the conflicting calendars of the  
8 parties and non-party witnesses.

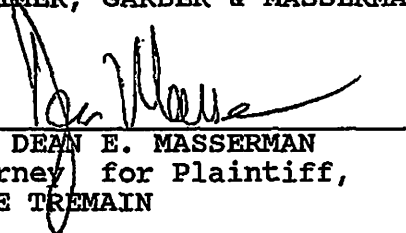
9 II.

10 CONCLUSION

11 Based upon the foregoing, the Court is respectfully  
12 requested to extend the arbitration completion date for a period  
13 of at 120 days.

14 DATED: June 26, 1996

VORZIMER, GARBER & MASSERMAN

15  
16 By   
17 DEAN E. MASSERMAN  
18 Attorney for Plaintiff,  
19 KRONE TREMAIN  
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DECLARATION OF DEAN E. MASSERMAN

I, Dean E. Masserman, state and declare as follows:

1. I am a shareholder in the law firm of Vorzimer, Garber & Masserman, counsel for Plaintiff, Krone Tremain, in the above-entitled action and am admitted to practice before all the courts of this state. The following facts are within my personal knowledge and if called upon to do so, I could and would competently testify thereto.

2. Plaintiff, Krone Tremain, was shot by Long Beach Police Officers and sustained serious bodily injury. Plaintiff's treating physicians have rated him permanently, partially disabled and indicated that he will require surgery to correct degenerative bone disease precipitated by those gunshot wounds.

3. Both the Plaintiff and Defendant have engaged in good faith, meaningful discovery. As of this date the deposition of the Plaintiff and Officer Williams has been taken. The deposition of Officer Cindy Allen was delayed due to maternity leave and must now be scheduled at a time convenient to not only her work schedule, but her child care responsibilities as well. The deposition of Chief William Ellis was likewise scheduled but postponed due to calendar conflicts between the parties. In addition, both parties have propounded Form Interrogatories, Special Interrogatories and Requests for Production of Documents. Plaintiff has provided responses to all discovery propounded. However, Defendant, City of Long Beach failed to file timely responses to a Request for Production of Documents propounded by Plaintiff and it is anticipated that a Motion to

1 Compel may have to be filed. Lastly, there are numerous  
2 civilian witnesses who have yet to be located so that their  
3 depositions may be taken. Plaintiff also anticipates bringing a  
4 pitchess motion and that said motion will be vigorously opposed  
5 by defense counsel.

6 4. Defendants have indicated that they intend to retain  
7 the services of an Independent Medical Examiner (IME) to  
8 evaluate the injuries to Plaintiff, the permanent, partial  
9 disability rating and the need for future surgical intervention  
10 for bone degeneration, as part of their preparation for  
11 arbitration and trial, as well as to accurately assess damages  
12 in the event of an informal settlement.

13 5. Defense counsel for all Defendants, Mr. Bill Reidder of  
14 the Long Beach City Attorney's Office, has been consulted  
15 regarding the above issues and has no objection, and in fact  
16 stipulates to the extension of the arbitration completion date  
17 in this matter. The parties therefore jointly request that the  
18 matter be put over for at least a period of 120 days.  
19 Furthermore, the parties agree that without further discovery  
20 and medical evaluation both parties will be substantially  
21 prejudiced at both arbitration and trial. Additionally, the  
22 parties agree that there is an increased likelihood of an  
23 informal resolution by way of settlement if the extension is  
24 granted by the court and that it would be in the best interest  
25 of both the parties and the Court to extend the arbitration  
26 completion date in this case.

27 6. Defense counsel was advised on Wednesday, June 26, 1996  
28

1 of this Ex Parte application and of the Motion to Extend  
2 Arbitration Completion Date and has no objection and stipulates  
3 to same. In light of said stipulation, counsel will not be  
4 making an appearance in opposition to the Ex Parte Application  
5 or the Motion to Extend the Arbitration Completion Date.

6 I declare under penalty of perjury that the foregoing is  
7 true and correct.

8 Executed this 27th day of June, 1996, at Los Angeles,  
9 California.

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12 DEAN E. MASSERMAN  
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**PROOF OF SERVICE**

**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

I, Lorraine Corrales, am employed in the aforesaid County, State of California; I am over the age of 18 years and not a party to the within action; my business address is 8383 Wilshire Blvd., Suite 750, Beverly Hills 90211.

On June 28, 1996, I served the foregoing NOTICE OF MOTION AND MOTION TO EXTEND ARBITRATION COMPLETION DATE; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF DEAN E. MASSERMAN IN SUPPORT THEREOF on interested parties in this action by placing a true copy thereof, enclosed in a sealed envelope, addressed as follows:

Via Mail  
William A. Reidder, Esq.  
Long Beach City Attorney's Office  
333 W. Ocean Blvd.  
Long Beach, CA 90802-4664

     BY Mail


  X   I placed such envelope for deposit in the U.S. Mail for service by the United States Postal Service, with postage thereon fully prepaid.

     As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

     (BY PERSONAL SERVICE) I caused such envelope to be delivered by hand to the offices of the addressee.

  X   (State) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 28, 1996, at Beverly Hills, California.

  
\_\_\_\_\_  
Signature of Declarant



1 DEAN E. MASSERMAN, ESQ.  
2 VORZIMER, GARBER & MASSERMAN  
3 A PROFESSIONAL CORPORATION  
4 8383 Wilshire Blvd., Suite 750  
5 Beverly Hills, CA 90211  
6 (213) 782-1400

7 Attorneys for Plaintiff,  
8 KRONE TREMAIN

**FILED**  
LOS ANGELES SUPERIOR COURT  
JUN 28 1996  
WARD M. KRITZMAN, CLERK  
Carolyn Hino  
CAROLYN HINO, DEPUTY

9 SUPERIOR COURT FOR THE STATE OF CALIFORNIA  
10 FOR THE COUNTY OF LOS ANGELES, CITY OF LONG BEACH

11	KRONE TREMAIN,	)	Case No. NC 016 622
12	Plaintiff,	)	
13	vs.	)	<del>EX PARTE APPLICATION FOR ORDER</del>
14	CITY OF LONG BEACH,	)	<del>SHORTENING TIME TO HEAR</del>
15	et al.,	)	PLAINTIFF'S MOTION TO EXTEND
16	Defendants.	)	ARBITRATION COMPLETION DATE;
17		)	MEMORANDUM OF POINTS AND
18		)	AUTHORITIES; DECLARATION OF DEAN
19		)	E. MASSERMAN IN SUPPORT THEREOF
20		)	Date: June 28, 1996
21		)	Time: 1:30 p.m.
22		)	Courtroom: Dept. J
23		)	
24		)	Disc. Cutoff: None
25		)	Motion Cutoff: None
26		)	Trial Date: None

27 APPLICATION

28 I, Dean E. Masserman, hereby apply on behalf of Plaintiff,  
29 Krone Tremain, in the within action for an order shortening time  
30 to hear Plaintiff's Motion to Extend Arbitration Completion Date  
31 in this matter.

32 This motion is based upon this application, the accompanying  
33 Declaration of Dean E. Masserman, the Court file in this action

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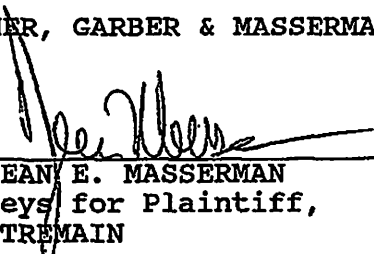
SOUTH DISTRICT  
DP 05 JUN 28 08:28/96 13:44  
REG OF -FET  
14.00

1 and upon the fact that time is of the essence in that the  
2 arbitration completion date is currently July 14, 1996.

3 This motion is unopposed and stipulated to by defense  
4 counsel. Due cause exists for the extension of the arbitration  
5 completion date in that the parties have been unable to complete  
6 discovery despite the good faith and diligence of both parties.  
7 Moreover, the severity of Plaintiff's injuries require  
8 additional medical evaluations by an independent medical  
9 examiner and potential settlement negotiations mandate that  
10 these further examinations, evaluations, medical tests and  
11 diagnoses take place. Furthermore, granting of the motion could  
12 substantially increase the likelihood of an informal resolution  
13 in this matter and would assure that both parties are adequately  
14 prepared for arbitration and trial. It is therefore in the best  
15 interests of both the parties and the Court to have this ex  
16 parte application granted and the arbitration completion date in  
17 this matter extended for 120 days.

18 DATED: June 28, 1996

VORZIMER, GARBER & MASSERMAN

19  
20  
21 By   
22 DEAN E. MASSERMAN  
23 Attorneys for Plaintiff,  
24 KRONE TREMAIN  
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MEMORANDUM OF POINTS AND AUTHORITIES

I.

GOOD CAUSE EXISTS FOR EX PARTE RELIEF IN THIS CASE.

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3  
4 Plaintiff's treating physicians have rated Plaintiff as  
5 permanently, partially disabled, necessitating a premature  
6 retirement. Additionally, Plaintiff is diagnosed as suffering  
7 bone degeneration around the knee that was shot. Defense  
8 counsel has indicated that they must be allowed the time to  
9 obtain an independent medical examination and possibly a  
10 Magnetic Resonance Imaging (MRI) of plaintiff's knee and  
11 shoulder and to perform other examinations and tests.  
12 Furthermore, the parties must complete discovery which is  
13 critical to issues of liability and damages in order to properly  
14 prepare their respective cases for arbitration and trial, and  
15 accurately assess the case for purposes of settlement. Both  
16 parties would be severely prejudiced should they be precluded  
17 from completing the discovery and obtaining said medical  
18 evaluations, examinations and tests.

19 Expedition of these efforts have been hindered by the fact  
20 that Plaintiff currently resides in Lake Havasu, Arizona and  
21 that many of the witnesses are Long Beach Police Officers. In  
22 addition, Officer Cindy Allen was on an extended maternity leave  
23 and many non-party witnesses are prostitutes and vagrants who  
24 have yet to be located.

25 Based on the foregoing, good cause exists for an extension  
26 of the arbitration completion date in this matter. The parties  
27 request a 120 day extension due to the amount of medical  
28

1 discovery that is yet to be conducted and the conflicting  
 2 calendars of the parties. No extensions or continuances have  
 3 previously been sought by either party. This request is not  
 4 intended as a delay tactic, but to avoid wasting the time and  
 5 money of the Court, the arbitrator, the parties and their  
 6 witnesses, and to protect the interests of the parties herein.

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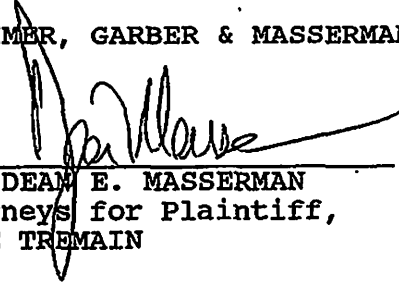
II.

CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests  
 that this Court enter an order shortening time to hear  
 Plaintiff's Motion to Extend Arbitration Completion Date.

DATED: June 28, 1996

VORZIMER, GARBER & MASSERMAN

By   
 DEAN E. MASSERMAN  
 Attorneys for Plaintiff,  
 KRONE TREMAIN

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I, Lorraine Corrales, am employed in the aforesaid County, State of California; I am over the age of 18 years and not a party to the within action; my business address is 8383 Wilshire Blvd., Suite 750, Beverly Hills 90211.

On June 28, 1996, I served the foregoing EX PARTE APPLICATION FOR ORDER SHORTENING TIME TO HEAR PLAINTIFF'S MOTION TO EXTEND ARBITRATION COMPLETION DATE; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF DEAN E. MASSERMAN IN SUPPORT THEREOF on interested parties in this action by placing a true copy thereof, enclosed in a sealed envelope, addressed as follows:

Via Mail

William A. Reidder, Esq.  
Long Beach City Attorney's Office  
333 W. Ocean Blvd.  
Long Beach, CA 90802-4664

     BY Mail

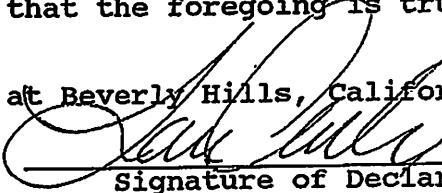
  X   I placed such envelope for deposit in the U.S. Mail for service by the United States Postal Service, with postage thereon fully prepaid.

     As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

     (BY PERSONAL SERVICE) I caused such envelope to be delivered by hand to the offices of the addressee.

  X   (State) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 28, 1996, at Beverly Hills, California.

  
\_\_\_\_\_  
Signature of Declarant

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 03/14/96

DEPT. J

HONORABLE ARTHUR JEAN

JUDGE JO BOLDING

DEPUTY CLERK

HONORABLE  
13

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

NO LEGAL FILE

Deputy Sheriff

NONE

Reporter

8:30 am

NC016622

Plaintiff D. MASSERMAN (X)  
Counsel

KRONE TREMAIN

Defendant  
Counsel

VS

CITY OF LONG BEACH, ET AL

NATURE OF PROCEEDINGS:

AO

STATUS CONFERENCE

[X] The Court finds that this case is amenable to arbitration and orders this case transferred to Superior Court Arbitration pursuant to 1601-1617 California Rules of Court.

[ ] Plaintiff elects [ ] Counsel stipulate to [ ] binding arbitration pursuant to 1601-1617 California Rules of Court.

[ ] Arbitrator:

[X] Arbitration is ordered completed WITHIN 120 DAYS.

[X] Further Status Conference is set on 08-15-96, 1 PM Should a judgment or dismissal be filed prior to next hearing date, matter will be vacated.

[X] Counsel for PLAINTIFF to give notice.

[ ] Notice is waived.

MINUTES ENTERED  
03/14/96  
COUNTY CLERK

B

CASE HISTORY REPORT

South District Superior Court  
Civil Division

*Handwritten:* 2-15-96  
100  
111

Case Number: NC016622	KRONE TREMAIN VS. CITY OF LONG BEACH, ET AL
Filing Type: New Filing	Class Code ::
Case Type : Civil Complaint	Filed : 05/04/95
Judge : MASTER CALENDAR	Age : 293
Disp Type :	Disposed : 00/00/00
Disp Manr :	

Plaintiff(s)	Defendant(s)
Attorneys of Record:	Attorneys of Record:

V S

*win 120 days*

CASE HISTORY

Date	Activity
05/04/95	Case Filed New Filing Civil Complaint  MEMO  KRONE TREMAIN VS CITY OF LONG BEACH, ET AL
05/04/95	Journal Entry Received - Civil Filing Fee \$182.00  Other Pmnt
05/04/95	Document Filed Complaint Filed
05/04/95	Scheduled Event Status Conference ARTHUR JEAN 01/19/95 at 8:30 am
06/19/95	Document Filed Proof of Service  MEMO

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C A S E H I S T O R Y R E P O R T

South District Superior Court  
Civil Division

Case Number: NC016622

KRONE TREMAIN VS. CITY OF LONG BEACH, ET AL

C A S E H I S T O R Y

Date

Activity

Attorney for Plaintiff

PERSON SERVED:  
BLOND FEMALE  
IN COURT AFFAIRS  
OFFICE  
MID 30'S TO 40'S

Filed By MASSERMAN, DEAN E.  
On Behalf of TREMAIN, KRONE  
Party Served ALLEN, CINDY

Attorney for Plaintiff  
Plaintiff  
Defendant

06/19/95 Document Filed  
Proof of Service  
Attorney for Plaintiff

MEMO

PERSON SERVED:  
BLOND FEMALE IN COURT AFFAIRS  
OFFICE MID 30'S TO 40'S

Filed By MASSERMAN, DEAN E.  
On Behalf of TREMAIN, KRONE  
Party Served LONG BEACH POLICE DEPARTMENT

Attorney for Plaintiff  
Plaintiff  
Defendant

06/19/95 Document Filed  
Proof of Service  
Attorney for Plaintiff

MEMO

PERSON SERVED:  
BLOND FEMALE IN COURT AFFAIRS  
OFFICE MID 30'S TO 40'S

Filed By MASSERMAN, DEAN E.  
On Behalf of TREMAIN, KRONE  
Party Served ELLIS, WILLIAM CHIEF

Attorney for Plaintiff  
Plaintiff  
Defendant

06/19/95 Document Filed  
Proof of Service  
Attorney for Plaintiff

MEMO

PERSON SERVED:

PAGE: 2

02/21/96 13:56:18



C A S E H I S T O R Y R E P O R T

South District Superior Court  
Civil Division

Case Number: NC016622      KRONE TREMAIN VS. CITY OF LONG BEACH, ET AL

C A S E H I S T O R Y

Date

Activity

BLONDE FEMALE IN COURT AFFAIRS  
OFFICE MID 30'S TO 40'S

Filed By      MASSERMAN, DEAN E.      Attorney for Plaintiff  
On Behalf of    TREMAIN, KRONE      Plaintiff  
Party Served    WILLIAMS, DAVID      Defendant

07/25/95    Document Filed  
              Answer to Complaint Filed  
              Attorney for Defendant

On Behalf of    CITY OF LONG BEACH      Defendant  
On Behalf of    WILLIAMS, DAVID      Defendant  
On Behalf of    ALLEN, CINDY      Defendant  
On Behalf of    ELLIS, WILLIAM CHIEF      Defendant  
Filed By      CALHOUN, JOHN R.      Attorney for Defendant

02/08/96    Scheduled Event  
              Status Conference  
              ARTHUR JEAN  
              03/14/96 at 8:30 am

03/14/96    Event  
              Status Conference  
              ARTHUR JEAN  
              8:30 am

**FILED**  
LOS ANGELES SUPERIOR COURT  
FILE STAMP

NOTICE SENT TO:

MASSERMAN, DEAN E.  
8383 WILSHIRE BLVD.  
SUITE 750  
BEVERLY HILLS CA 90211

FEB 08 1996

JOHN A. CLARKE  
*B. Haun*  
BY B HAUN, DEPUTY

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

KRONE TREMAIN

Plaintiff(s),

VS.

CITY OF LONG BEACH, ET AL

Defendant(s).

CASE NUMBER

NC016622

**NOTICE OF STATUS  
CONFERENCE**

**STATUS CONFERENCE**

TO THE PLAINTIFF(S) AND THE ATTORNEY OF RECORD:

YOU ARE HEREBY NOTIFIED THAT THE ABOVE MATTER HAS BEEN SET FOR STATUS CONFERENCE ON March 14, 1996 AT 8:30 am IN DEPARTMENT Dept. SO J OF THE SOUTH DISTRICT, 415 WEST OCEAN BLVD., LONG BEACH, CALIFORNIA 90802.

COUNSEL SHOULD BE FAMILIAR WITH LOS ANGELES SUPERIOR COURT LOCAL RULES CH.7 ET SEQ.

In accordance with the LASC Rules Ch.7 et seq, a status conference has been set at the date, time and place set forth above. At this conference the court may 1) order the case to arbitration; 2) the case transferred to municipal court, 3) dismiss unserved named parties, and/or 4) set the matter for trial-setting. If the arbitrator and two alternates will be selected by all counsel at this hearing. FAILURE TO GIVE PROOF OF SANCTIONS.

YOU ARE ORDERED:

1. To give notice of this hearing and serve a copy of the same on all plaintiffs, cross-complainants, and intervenor parties, and/or 4) set the matter for trial-setting. If the arbitrator and two alternates will be selected by all counsel at this hearing. FAILURE TO GIVE PROOF OF SANCTIONS.
2. To bring to the hearing the original proof of service.

*2/8/96*  
*This is a note due to clerical error*

PLAINTIFFS, INTERVENORS AND CROSS COMPLAINANTS to complete and return the Status Conference Questionnaire at the time of the hearing and have a true copy of the same filed with the court.

Dated: FEB 08 1996

*1-19-95 STCF*

a Status Conference

*[Signature]*

BY \_\_\_\_\_  
THE SUPERIOR COURT

I am over the age of 18 years and not a party to the within action. I have read this notice and understand its contents. I have provided for the collection and processing of correspondence and know that such correspondence is deposited in a sealed envelope in the mail room of the Los Angeles Superior Court. I declare under penalty of perjury under the laws of the State of California that I delivered a true copy of the above notice to the plaintiff/cross complainant or his attorney of record addressed as listed by placing the copy in a sealed envelope to the mail room of this court.

Dated: FEB 08 1996

JOHN A. CLARKE, Executive Officer/Clerk of the Superior Court of California, County of Los Angeles

By *B. Haun*, Deputy

13

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

Krone Tremain

Plaintiff(s),

VS.

City of Long Beach, et al.

Defendant(s).

CASE NUMBER

NC 016622

**STATUS CONFERENCE QUESTIONNAIRE  
SOUTH DISTRICT**

**STATUS CONFERENCE**

Date: March 14, 1996 Time: 8:30 A.M.

Place: Department SO J

**NOTICE to all counsel of record and parties in propria persona: All parties of record must complete a Status Conference Questionnaire in its entirety and serve and file it directly in Department SOJ at least five court days prior to the date set for the status conference.**

*If the space provided for any answer is insufficient, attach additional pages as needed.*

Party (i.e. Plaintiff/Defendant/Cross-Complainant) answering this questionnaire:  
Plaintiff

Counsel for such party: Dean E. Masserman  
Vorzimer, Garber, & Masserman  
8383 Wilshire Boulevard...  
Suite 750  
Beverly Hills, CA 90211  
(213)782-1400

Date on which the  
Complaint was filed:

June 9, 1995

Date on which the Cross-Complaint  
was filed:

N/A

If the date by which the case must be tried under CCP 583.310 has been tolled or extended for any reason, set forth the extended date and state, in detail, how that extended date was computed. N/A

Nature of the case (Check the appropriate box)		[ ] BAD FAITH	[X] ASSAULT AND BATTERY
[ ] VEHICLE ACCIDENT	[ ] MEDICAL MALPRACTICE	[ ] WRONGFUL TERMINATION	[X] POLICE MISCONDUCT
[ ] SLIP AND FALL	[ ] LEGAL MALPRACTICE	[ ] BUSINESS LITIGATION	[X] OTHER
[ ] PREMISES LIABILITY	[ ] REAL PROPERTY	[ ] BREACH OF CONTRACT	<u>Sec. 1983 Civil Rights</u>
[ ] WRONGFUL DEATH	[ ] PRODUCT LIABILITY	[ ] COLLECTION	

**PARTIES - LIST THE NAME OF EACH PARTY IN THE FOLLOWING CATEGORIES**

1. Plaintiff Cross-Complainant:  
Krone Tremain

2. Defendant/Cross-Defendant who has answered or whose default has been entered: Officer Cindy Allen; Police Chief  
City of Long Beach, Long Beach Police Department; Officer Williams; William Ellis

3. Defendant/Cross-Defendant who has been served and has not yet filed a responsive pleading and whose default has not been entered:  
N/A

4. Defendant/Cross-Defendant who has not been served:  
N/A

**RELATED CASES - SEE LASC LOCAL RULE 7.3(f)**

Are there any other cases that have been designated as "Related Cases" by the Court? [ ] YES [X] NO

If your answer is "YES", set forth the case number(s) of such case(s).

Are there any other cases that you consider to be "Related Cases"? [ ] YES [X] NO

If your answer is "YES", set forth the case number(s) of such case(s).

**AT ISSUE**

Is this case in fact At Issue—that is, have all defendants answered the complaint and have all cross-defendants answered any cross-complaint and have defaults been entered on all served parties who failed to file responsive pleadings?  YES  NO

If your answer is "NO", set forth, in detail, specific facts as to why the case is not At Issue.

**TRANSFER TO DISTRICT**

Is it mandatory under LASC Rules Chapter 2, that this case be transferred to another District of this Court?  YES  NO

If your answer is "YES", what is the proper District?

**AMENDMENT OF PLEADINGS/CONSOLIDATION MOTIONS**

Do you intend to make any motion to add a party or cause of action to a complaint or cross-complaint or to consolidate this case with any other case?  YES  NO Not at this time

If your answer is "YES", set forth, in detail, specific facts as to why such a motion is necessary, including the name and case number of any case to be consolidated.

**DAMAGES**

Set forth, in detail, the specific dollar amounts of damages you contend have been incurred to date, for which there is evidentiary support (e.g. medical expenses, loss of earnings, balance owing on contract, etc.) AS of this date Plaintiff's medical bills exceed \$20,000 and still accruing. Plaintiff also sustained lost wages but the exact amount has not yet been ascertained

Set forth the amounts of any damages expected to be incurred in the future, and state, in detail, specific facts which support such damage claim. Plaintiff anticipates future medical treatment; surgical procedure to repair damaged tissue & joints from gunshot wounds. Plaintiff's physicians also contend that knee surgery will soon be necessary

**MUNICIPAL COURT**

Should this case be transferred to Municipal Court?  YES  NO

If your answer is "YES", set forth the proper Judicial District.

If your answer is "NO", set forth, in detail, specific facts as to why this case should not be transferred to Municipal Court. The monetary damages far exceed the jurisdictional limit of the Municipal Court

**ARBITRATION**

Has an election to arbitrate been filed by the Plaintiff?  YES  NO

If no election to arbitrate has been filed, should this case be submitted to arbitration pursuant to C.C.P. 1141.10 st seq?  YES  NO

If your answer is "NO", set forth, in detail, specific facts as to why this case should not be submitted to arbitration.

The monetary damages far exceed \$50,000.

Are you willing to stipulate to binding arbitration?  YES  NO

**JURY WAIVER/DEMAND -- TRIAL ESTIMATE**

Jury Trial is  Waived  Demanded

Trial time estimate is 8 days.

THE INFORMATION CONTAINED IN THIS QUESTIONNAIRE IS COMPLETE AND ACCURATE AND HAS BEEN PREPARED BY AN ATTORNEY/PARTY IN PROPRIA PERSONA FAMILIAR WITH THE CASE.

Dean E. Masserman

Name

Plaintiff, Krone Tremain

Attorney For:

1 JOHN R. CALHOUN, City Attorney  
 2 WILLIAM A. REIDDER, Sr. Deputy City Attorney  
 3 State Bar No. 44617  
 333 West Ocean Boulevard, 11th Floor  
 Long Beach, California 90802-4664  
 4 Telephone (310)570-2200  
 5 Attorneys for Defendants, CITY OF LONG BEACH  
 WILLIAM ELLIS, DAVID WILLIAMS AND CINDY ALLEN

**FILED**  
 LOS ANGELES SUPERIOR COURT  
 JUL 25 1995  
 EDWARD M. KRITZMAN, CLERK  
 CAROLYN BENZO, DEPUTY

8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

John R. Calhoun  
 City Attorney of Long Beach  
 333 West Ocean Boulevard  
 Long Beach, California 90802-4664  
 (310) 570-2200

11	KRONE TREMAINE,	)	CASE NO.: NC 016622
12		)	
12	Plaintiff,	)	ANSWER TO PLAINTIFF'S
13		)	COMPLAINT
14	vs.	)	
14		)	
15	CITY OF LONG BEACH; a political	)	
15	subdivision and City of the State)	)	
16	of California; LONG BEACH POLICE	)	
16	DEPARTMENT, a political	)	
17	subdivision of the City of Long	)	
17	Beach; DAVID WILLIAMS,	)	
18	individually and as a Long Beach	)	
18	Police Officer; CINDY ALLEN,	)	
19	individually and as a Long Beach	)	
19	Police Officer; CHIEF WILLIAM	)	
20	ELLIS; individually and as Chief	)	
20	of the Long Beach Police	)	
21	Department; and DOES 1 through	)	
21	100, inclusive.	)	
22		)	
22	Defendants.	)	

*W. Bee*

24 COME NOW, the City of Long Beach, a municipal corporation,  
 25 David Williams, Cindy Allen and William Ellis, sued herein as Chief  
 26 William Ellis, public employees of the City of Long Beach,  
 27 defendants herein, and answering the complaint in the above-entitled  
 28

///

1 action, for themselves alone and for no other defendant admit, deny,  
2 and allege as follows:

3 Pursuant to the provisions of California Code of Civil  
4 Procedure Section 431.30(d), these answering defendants deny  
5 generally and specifically each, every and all of the allegations  
6 of the said unverified complaint, and the whole thereof, and further  
7 deny that the plaintiff was damaged or injured in any sum or sums,  
8 or at all;

9 SECOND AFFIRMATIVE DEFENSE

10 1. That all times pertinent herein the individual defendants,  
11 David Williams, Cindy Allen and William Ellis and each of them, were  
12 and are now duly qualified and acting police officers of the City  
13 of Long Beach and peace officers of the State of California.

14 2. That in this regard, the individual defendants were at all  
15 times mentioned herein, engaged in the performance of their  
16 regularly assigned duties in the employment of the City of Long  
17 Beach.

18 3. That further in this regard, the individual defendants,  
19 and each of them, at all times pertinent herein, acted in good faith  
20 and without malice.

21 THIRD AFFIRMATIVE DEFENSE

22 1. That at all times pertinent herein, there existed probable  
23 cause to arrest and detain plaintiff for violation of California  
24 Penal Code Sections 240, 417 664/187.

25 FOURTH AFFIRMATIVE DEFENSE

26 1. That if any force was used upon plaintiff by the  
27 defendants, or any of them, it was caused solely by plaintiff in his  
28 pointing a loaded firearm at several of the police officers and

John R. Calhoun  
City Attorney of Long Beach  
333 West Ocean Boulevard  
Long Beach, California 90802-4664  
(310) 570-2200

John R. Calhoun  
City Attorney of Long Beach  
333 West Ocean Boulevard  
Long Beach, California 90802-4664  
(310) 570-2200

1 refusing to lower said weapon. These defendants, and each of them,  
2 used no more force than was reasonably necessary under the  
3 circumstances in resisting an assault upon their persons or the  
4 persons of others and defending against an attempt on the part of  
5 plaintiff to murder them by shooting them to death.

6 FIFTH AFFIRMATIVE DEFENSE

7 1. That if any force was used upon the plaintiff, by the  
8 defendants, or any of them, it was caused solely by the plaintiff  
9 and that defendants used no more force other than was reasonably  
10 necessary under the circumstances in overcoming the resistance and  
11 interference of the plaintiff in completing their investigation.

12 SIXTH AFFIRMATIVE DEFENSE

13 1. That the plaintiff was himself negligent, and that  
14 negligence contributed as a proximate cause to the claimed injuries  
15 and damages to plaintiff. Recovery herein is therefore diminished  
16 and barred to the degree of that negligence.

17 SEVENTH AFFIRMATIVE DEFENSE

18 1. That the City of Long Beach, as a public entity, is immune  
19 from liability for punitive damages.

20 EIGHTH AFFIRMATIVE DEFENSE

21 1. That all causes of action, including but not limited to  
22 negligence, false arrest, false imprisonment, assault and battery,  
23 negligent supervision, negligent employment, intentional infliction  
24 of emotional distress and negligent infliction of emotional  
25 distress, are barred by virtue of the failure of plaintiff to timely  
26 file a claim with the City of Long Beach, pursuant to the provisions  
27 of the California Government Code, and in particular, Section 911.2  
28 thereof.

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NINTH AFFIRMATIVE DEFENSE

1. That those portions of the complaint that purport to allege a cause of action for simple negligence are barred under 42 USC 1983, 1985, 1986 and all other purported federal law causes of action.

TENTH AFFIRMATIVE DEFENSE

1. That the complaint of the plaintiff fails to state a cause of action against these defendants.

WHEREFORE, these defendants pray that plaintiff take nothing by his action, that these defendants recover costs of suit incurred herein, and that these defendants have such other and further relief as to the court may seem proper.

Dated: July 24, 1995

JOHN R. CALHOUN, City Attorney

By: *Thomas M. Reidder*  
WILLIAM A. REIDDER, Sr. Deputy  
Attorneys for Defendants

John R. Calhoun  
City Attorney of Long Beach  
333 West Ocean Boulevard  
Long Beach, California 90802-4664  
(310) 570-2200



PROOF OF SERVICE BY MAIL-1013A

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 333 West Ocean Boulevard, Long Beach, California 90802.

On July 24, 1995, I served the foregoing document described as

ANSWER TO PLAINTIFF'S COMPLAINT

in this action by placing

\_\_\_\_\_ the original   X   a true copy

thereof enclosed in sealed envelopes addressed as follows:

Dean E. Masserman, Esq.  
Vorzimmer, Garber & Masserman  
8383 Wilshire Boulevard, Suite 90211  
Beverly Hills, California 90211

By mail as follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. Postal Service on that same day with postage thereon fully prepaid at Long Beach, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on July 24, 1995, at Long Beach, California.

  X   (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

\_\_\_\_\_ (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Maureen A. Grainger  
MAUREEN A. GRAINGER

TREMAINE.ANS

John R. Calhoun  
City Attorney of Long Beach  
333 West Ocean Boulevard  
Long Beach, California 90802-4664  
(310) 570-2200

1 DEAN E. MASSERMAN, STATE BAR NO. 137438  
2 VORZIMER, GARBER & MASSERMAN  
3 A PROFESSIONAL CORPORATION  
4 8383 WILSHIRE BOULEVARD, SUITE 750  
5 BEVERLY HILLS, CALIFORNIA 90211  
6 (213) 782-1400

7 Attorneys for Plaintiff,  
8 KRONE TREMAIN

**FILED**  
LOS ANGELES SUPERIOR COURT  
JUN 19 1995  
JAN... CLERK  
BY S. COBB, DEPUTY

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 COUNTY OF LOS ANGELES, LONG BEACH JUDICIAL DISTRICT

11 KRONE TREMAIN )  
12 Plaintiff, )  
13 vs. )  
14 CITY OF LONG BEACH, a political )  
15 subdivision and city of the )  
16 State of California; LONG BEACH )  
17 POLICE DEPARTMENT, a political )  
18 subdivision of the City of Long )  
19 Beach; DAVID WILLIAMS, )  
20 individually and as a Long Beach )  
21 Police Officer; CINDY ALLEN, )  
22 individually and as a Long Beach )  
23 Police Officer; CHIEF WILLIAM )  
24 ELLIS; individually and as Chief )  
25 of the Long Beach Police )  
26 Department; and DOES 1 through )  
27 100 inclusive, )  
28 Defendants. )

Case No. NC 016622  
PROOF OF SERVICE OF  
CINDY ALLEN

1-12

NOTICE OF SERVICE - SUMMONS

(Use separate proof of service for each person served)

1. I served the

- a.  summons  complaint  amended summons  amended complaint
- completed and blank Case Questionnaires  Other (specify):

b. on defendant (name):

c. by serving  defendant  other (name and title or relationship to person served):

d.  by delivery  at home  at business

(1) date: 6/7/95  
(2) time:  
(3) address:

BLOND FEMALE IN COURT AFFAIRS  
OFFICE MID 30'S TO 40'S.

400 W. BROADWAY  
LONG BEACH, CA 90802

e.  by mailing  
(1) date:  
(2) place:

2. Manner of service (check proper box):

- a.  Personal service. By personally delivering copies. (CCP 415.10)
- b.  Substituted service on corporation, unincorporated association (including partnership), or public entity. By leaving, during usual office hours, copies in the office of the person served with the person who apparently was in charge and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left. (CCP 415.20(a))
- c.  Substituted service on natural person, minor, conservatee, or candidate. By leaving copies at the dwelling house, usual place of abode, or usual place of business of the person served in the presence of a competent member of the household or a person apparently in charge of the office or place of business, at least 18 years of age, who was informed of the general nature of the papers, and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left. (CCP 415.20(b)) (Attach separate declaration or affidavit stating acts relied on to establish reasonable diligence in first attempting personal service.)
- d.  Mail and acknowledgment service. By mailing (by first-class mail or airmail, postage prepaid) copies to the person served, together with two copies of the form of notice and acknowledgment and a return envelope, postage prepaid, addressed to the sender. (CCP 415.30) (Attach completed acknowledgment of receipt.)
- e.  Certified or registered mail service. By mailing to an address outside California (by first-class mail, postage prepaid, requiring a return receipt) copies to the person served. (CCP 415.40) (Attach signed return receipt or other evidence of actual delivery to the person served.)
- f.  Other (specify code section):  
 additional page is attached.

3. The "Notice to the Person Served" (on the summons) was completed as follows (CCP 412.30, 415.10, and 474):

- a.  as an individual defendant.
- b.  as the person sued under the fictitious name of (specify):
- c.  on behalf of (specify):  
under:  CCP 416.10 (corporation)  CCP 416.60 (minor)  other:  
 CCP 416.20 (defunct corporation)  CCP 416.70 (conservatee)  
 CCP 416.40 (association or partnership)  CCP 416.90 (individual)

d.  by personal delivery on (date):

4. At the time of service I was at least 18 years of age and not a party to this action.

5. Fee for service: \$

6. Person serving:

- a.  California sheriff, marshal, or constable.
- b.  Registered California process server.
- c.  Employee or independent contractor of a registered California process server.
- d.  Not a registered California process server.
- e.  Exempt from registration under Bus. & Prof. Code 22350(b).

f. Name, address and telephone number and, if applicable, county of registration and number:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

(For California sheriff, marshal, or constable use only)  
I certify that the foregoing is true and correct.

Date: 6/7/95

Date:

(SIGNATURE)

(SIGNATURE)

ROLAND BROWN

# SUMMONS (CITACION JUDICIAL)

1-41

**NOTICE TO DEFENDANT: (Aviso a Acusado)**  
City of Long Beach; Long Beach Police Dept; David Williams, individually and as a Long Beach Police Officer; Cindy Allen, individually and as a Long Beach Police Officer; Chief William Ellis, individually and Chief of the Long Beach Police Department; and DOES .00, inclusive,

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**YOU ARE BEING SUED BY PLAINTIFF:**  
(A Ud. le está demandando)

Krone Tremaine

You have **30 CALENDAR DAYS** after this summons is served on you to file a typewritten response at this court.

A letter or phone call will not protect you; your typewritten response must be in proper legal form if you want the court to hear your case.

If you do not file your response on time, you may lose the case, and your wages, money and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book).

Después de que le entreguen esta citación judicial usted tiene un plazo de **30 DIAS CALENDARIOS** para presentar una respuesta escrita a máquina en esta corte.

Una carta o una llamada telefónica no le ofrecerá protección; su respuesta escrita a máquina tiene que cumplir con las formalidades legales apropiadas si usted quiere que la corte escuche su caso.

Si usted no presenta su respuesta a tiempo, puede perder el caso, y le pueden quitar su salario, su dinero y otras cosas de su propiedad sin aviso adicional por parte de la corte.

Existen otros requisitos legales. Puede que usted quiera llamar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de referencia de abogados o a una oficina de ayuda legal (vea el directorio telefónico).

The name and address of the court is: (El nombre y dirección de la corte es)  
Long Beach Superior Court - South District  
415 W. Ocean Boulevard  
Long Beach, California 90802-4591

CASE NUMBER (Numero del Caso)  
NC016622

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es)  
Dean E. Masserman, Esq.  
VORZIMER, GARBER & MASSERMAN  
8383 Wilshire Boulevard, Suite 750  
Beverly Hills, California 90211  
(213) 782-1400

**MAY 23 1995**

DATE: (Fecha)  
John A. Clark, Clerk, by Carolyn Hinzo, Deputy (Actuario) (Delegado)



**NOTICE TO THE PERSON SERVED:** You are served

- as an individual defendant.
- as the person sued under the fictitious name of (specify):  
**CAROLYN HINZO**
- on behalf of (specify):

under:

<input type="checkbox"/> CCP 416.10 (corporation)	<input type="checkbox"/> CCP 416.60 (minor)
<input type="checkbox"/> CCP 416.20 (defunct corporation)	<input type="checkbox"/> CCP 416.70 (conservatee)
<input type="checkbox"/> CCP 416.40 (association or partnership)	<input type="checkbox"/> CCP 416.90 (individual)
<input type="checkbox"/> other:	

- by personal delivery on (date):

1 DEAN E. MASSERMAN, STATE BAR NO. 137438  
 2 VORZIMER, GARBER & MASSERMAN  
 3 A PROFESSIONAL CORPORATION  
 4 8383 WILSHIRE BOULEVARD, SUITE 750  
 5 BEVERLY HILLS, CALIFORNIA 90211  
 6 (213) 782-1400  
 7 Attorneys for Plaintiff,  
 8 KRONE TREMAIN

**FILED**  
 LOS ANGELES SUPERIOR COURT  
 JUN 19 1995  
 CLERK  
 BY S. COBB, DEPUTY

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF LOS ANGELES, LONG BEACH JUDICIAL DISTRICT

11 KRONE TREMAIN  
 12 Plaintiff,  
 13 vs.

) Case No. NC 016622  
 )  
 ) PROOF OF SERVICE OF  
 ) Long BEACH POLICE DEPT.

14 CITY OF LONG BEACH, a political )  
 15 subdivision and city of the )  
 16 State of California; LONG BEACH )  
 17 POLICE DEPARTMENT, a political )  
 18 subdivision of the City of Long )  
 19 Beach; DAVID WILLIAMS, )  
 20 individually and as a Long Beach )  
 21 Police Officer; CINDY ALLEN, )  
 22 individually and as a Long Beach )  
 23 Police Officer; CHIEF WILLIAM )  
 24 ELLIS; individually and as Chief )  
 25 of the Long Beach Police )  
 26 Department; and DOES 1 through )  
 27 100 inclusive, )  
 28 Defendants.

1-12

NOTICE OF SERVICE - SUMMONS  
(Use separate proof of service for each person served)

1. I served the

- a.  summons  complaint  amended summons  amended complaint
- completed and blank Case Questionnaires  Other (specify):

b. on defendant (name):

c. by serving  defendant  other (name and title or relationship to person served):

d.  by delivery  at home  at business

(1) date: 6/7/95  
(2) time:  
(3) address:

BECAUSE FEMALE IN COURT AFFAIRS  
OFFICE MID BOSTON 0415

400 W. BROADWAY  
LONG BEACH, CA 90802

e.  by mailing

(1) date:  
(2) place:

2. Manner of service (check proper box):

- a.  Personal service. By personally delivering copies. (CCP 415.10)
- b.  Substituted service on corporation, unincorporated association (including partnership), or public entity. By leaving, during usual office hours, copies in the office of the person served with the person who apparently was in charge and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left. (CCP 415.20(a))
- c.  Substituted service on natural person, minor, conservatee, or candidate. By leaving copies at the dwelling house, usual place of abode, or usual place of business of the person served in the presence of a competent member of the household or a person apparently in charge of the office or place of business, at least 18 years of age, who was informed of the general nature of the papers, and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left. (CCP 415.20(b)) (Attach separate declaration or affidavit stating acts relied on to establish reasonable diligence in first attempting personal service.)
- d.  Mail and acknowledgment service. By mailing (by first-class mail or airmail, postage prepaid) copies to the person served, together with two copies of the form of notice and acknowledgment and a return envelope, postage prepaid, addressed to the sender. (CCP 415.30) (Attach completed acknowledgment of receipt.)
- e.  Certified or registered mail service. By mailing to an address outside California (by first-class mail, postage prepaid, requiring a return receipt) copies to the person served. (CCP 415.40) (Attach signed return receipt or other evidence of actual delivery to the person served.)
- f.  Other (specify code section):  
 additional page is attached.

3. The "Notice to the Person Served" (on the summons) was completed as follows (CCP 412.30, 415.10, and 474):

- a.  as an individual defendant.
- b.  as the person sued under the fictitious name of (specify):
- c.  on behalf of (specify):  
under:  CCP 416.10 (corporation)  CCP 416.60 (minor)  other:  
 CCP 416.20 (defunct corporation)  CCP 416.70 (conservatee)  
 CCP 416.40 (association or partnership)  CCP 416.90 (individual)

d.  by personal delivery on (date):

4. At the time of service I was at least 18 years of age and not a party to this action.

5. Fee for service: \$

6. Person serving:

- a.  California sheriff, marshal, or constable.
- b.  Registered California process server.
- c.  Employee or independent contractor of a registered California process server.
- d.  Not a registered California process server.
- e.  Exempt from registration under Bus. & Prof. Code 22350(b).

f. Name, address and telephone number and, if applicable, county of registration and number:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

(For California sheriff, marshal, or constable use only)  
I certify that the foregoing is true and correct.

Date: 6/7/95

Date:

(SIGNATURE)  
ROLAND BROWN

(SIGNATURE)

# SUMMONS (CITACIÓN JUDICIAL)

1-11

**NOTICE TO DEFENDANT: (Aviso a Acusado)**  
City of Long Beach; Long Beach Police Dept.; David Williams, individually and as a Long Beach Police Officer; Cindy Allen, individually and as a Long Beach Police Officer; Chief William Ellis, individually and as Chief of the Long Beach Police Department; and DOES et al, inclusive,

FOR COURT USE ONLY  
SOLO PARA USO DE LA CORTE

**YOU ARE BEING SUED BY PLAINTIFF:**  
(A Ud. le está demandando)

Krone Tremaine

You have **30 CALENDAR DAYS** after this summons is served on you to file a typewritten response at this court.

A letter or phone call will not protect you; your typewritten response must be in proper legal form if you want the court to hear your case.

If you do not file your response on time, you may lose the case, and your wages, money and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book).

Después de que le entreguen esta citación judicial usted tiene un plazo de **30 DIAS CALENDARIOS** para presentar una respuesta escrita a máquina en esta corte.

Una carta o una llamada telefónica no le ofrecerá protección; su respuesta escrita a máquina tiene que cumplir con las formalidades legales apropiadas si usted quiere que la corte escuche su caso.

Si usted no presenta su respuesta a tiempo, puede perder el caso, y le pueden quitar su salario, su dinero y otras cosas de su propiedad sin aviso adicional por parte de la corte.

Existen otros requisitos legales. Puede que usted quiera llamar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de referencia de abogados o a una oficina de ayuda legal (vea el directorio telefónico).

The name and address of the court is: (El nombre y dirección de la corte es)  
Long Beach Superior Court - South District  
415 W. Ocean Boulevard  
Long Beach, California 90802-4591

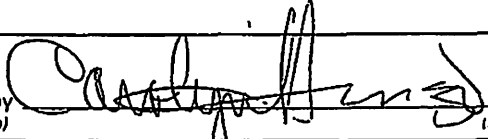
CASE NUMBER (Número del Caso)

NC016622

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es)  
Dean E. Masserman, Esq.  
VORZIMER, GARBER & MASSERMAN  
8383 Wilshire Boulevard, Suite 750  
Beverly Hills, California 90211  
(213) 782-1400

**MAY 23 1995**

DATE:  
(Fecha)

John A. Clark, Clerk, by  Carolyn Pinzo, Deputy (Actuario) (Delegado)



**NOTICE TO THE PERSON SERVED:** You are served

- 1.  as an individual defendant.
- 2.  as the person sued under the fictitious name of (specify):
- 3.  on behalf of (specify):

- under:  CCP 416.10 (corporation)  CCP 416.60 (minor)
- CCP 416.20 (defunct corporation)  CCP 416.70 (conservatee)
- CCP 416.40 (association or partnership)  CCP 416.90 (individual)
- other:

- 4.  by personal delivery on (date):

1 DEAN E. MASSERMAN, STATE BAR NO. 137438  
2 VORZIMER, GARBER & MASSERMAN  
3 A PROFESSIONAL CORPORATION  
4 8383 WILSHIRE BOULEVARD, SUITE 750  
5 BEVERLY HILLS, CALIFORNIA 90211  
6 (213) 782-1400

7 Attorneys for Plaintiff,  
8 KRONE TREMAIN

**FILED**  
LOS ANGELES SUPERIOR COURT

JUN 19 1995

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES, LONG BEACH JUDICIAL DISTRICT

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KRONE TREMAIN )  
Plaintiff, )  
vs. )  
CITY OF LONG BEACH, a political )  
subdivision and city of the )  
State of California; LONG BEACH )  
POLICE DEPARTMENT, a political )  
subdivision of the City of Long )  
Beach; DAVID WILLIAMS, )  
individually and as a Long Beach )  
Police Officer; CINDY ALLEN, )  
individually and as a Long Beach )  
Police Officer; CHIEF WILLIAM )  
ELLIS; individually and as Chief )  
of the Long Beach Police )  
Department; and DOES 1 through )  
100 inclusive, )  
Defendants. )

Case No. NC 016622  
PROOF OF SERVICE OF  
CHIEF WILLIAM ELLIS



1-12

JOF OF SERVICE - SUMMONS

(Use separate proof of service for each person served)

1. I served the

- a.  summons  complaint  amended summons  amended complaint
- completed and blank Case Questionnaires  Other (specify):

b. on defendant (name):

c. by serving  defendant  other (name and title or relationship to person served):

d.  by delivery  at home  at business  
 (1) date: 6/7/95  
 (2) time:  
 (3) address: 400 W. BROADWAY  
 LONG BEACH, CA 90802

BLOOD FEMALE IN COURT AFFAIRS  
OFFICE MID 30'S TO 40'S

e.  by mailing  
 (1) date:  
 (2) place:

2. Manner of service (check proper box):

- a.  Personal service. By personally delivering copies. (CCP 415.10)
- b.  Substituted service on corporation, unincorporated association (including partnership), or public entity. By leaving, during usual office hours, copies in the office of the person served with the person who apparently was in charge and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left. (CCP 415.20(a))
- c.  Substituted service on natural person, minor, conservatee, or candidate. By leaving copies at the dwelling house, usual place of abode, or usual place of business of the person served in the presence of a competent member of the household or a person apparently in charge of the office or place of business, at least 18 years of age, who was informed of the general nature of the papers, and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left. (CCP 415.20(b)) (Attach separate declaration or affidavit stating acts relied on to establish reasonable diligence in first attempting personal service.)
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- f.  Other (specify code section):  
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- a.  as an individual defendant.
- b.  as the person sued under the fictitious name of (specify):
- c.  on behalf of (specify):  
 under:  CCP 416.10 (corporation)  CCP 416.60 (minor)  other:  
 CCP 416.20 (defunct corporation)  CCP 416.70 (conservatee)  
 CCP 416.40 (association or partnership)  CCP 416.90 (individual)
- d.  by personal delivery on (date):

4. At the time of service I was at least 18 years of age and not a party to this action.

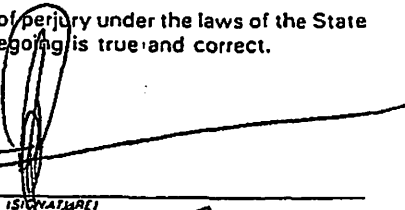
5. Fee for service: \$

6. Person serving:

- a.  California sheriff, marshal, or constable.
- b.  Registered California process server.
- c.  Employee or independent contractor of a registered California process server.
- d.  Not a registered California process server.
- e.  Exempt from registration under Bus. & Prof. Code 22350(b).
- f. Name, address and telephone number and, if applicable, county of registration and number:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 6/7/95



(SIGNATURE)

KOLTAN BROWN

(For California sheriff, marshal, or constable use only) I certify that the foregoing is true and correct.

Date:



(SIGNATURE)

# SUMMONS (CITACION JUDICIAL)

7-11

**NOTICE TO DEFENDANT: (Aviso a Acusado)**  
City of Long Beach; Long Beach Police Dept; David Williams, individually and as a Long Beach Police Officer; Cindy Allen, individually and as a Long Beach Police Officer; Chief William Ellis, individually and as Chief of the Long Beach Police Department; and DOES 100, inclusive,

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**YOU ARE BEING SUED BY PLAINTIFF:  
(A Ud. le está demandando)**

Krone Tremaine

<p>You have 30 CALENDAR DAYS after this summons is served on you to file a typewritten response at this court.</p>	<p>Después de que le entreguen esta citación judicial usted tiene un plazo de 30 DIAS CALENDARIOS para presentar una respuesta escrita a máquina en esta corte.</p>
<p>A letter or phone call will not protect you; your typewritten response must be in proper legal form if you want the court to hear your case.</p>	<p>Una carta o una llamada telefónica no le ofrecerá protección; su respuesta escrita a máquina tiene que cumplir con las formalidades legales apropiadas si usted quiere que la corte escuche su caso.</p>
<p>If you do not file your response on time, you may lose the case, and your wages, money and property may be taken without further warning from the court.</p>	<p>Si usted no presenta su respuesta a tiempo, puede perder el caso, y le pueden quitar su salario, su dinero y otras cosas de su propiedad sin aviso adicional por parte de la corte.</p>
<p>There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book).</p>	<p>Existen otros requisitos legales. Puede que usted quiera llamar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de referencia de abogados o a una oficina de ayuda legal (vea el directorio telefónico).</p>

The name and address of the court is: (El nombre y dirección de la corte es)  
Long Beach Superior Court - South District  
415 W. Ocean Boulevard  
Long Beach, California 90802-4591

CASE NUMBER (Número del Caso)  
NC016622

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es)  
Dean E. Masserman, Esq.  
VORZIMER, GARBER & MASSERMAN  
8383 Wilshire Boulevard, Suite 750  
Beverly Hills, California 90211  
(213) 782-1400

**MAY 23 1995**

DATE: (Fecha) John A. Clark, Clerk, by Carolyn Hinzo, Deputy (Actuario) (Delegado)



**NOTICE TO THE PERSON SERVED: You are served**

1.  as an individual defendant.

2.  as the person sued under the fictitious name of (specify):

3.  on behalf of (specify):

under:  CCP 416.10 (corporation)  CCP 416.60 (minor)  
 CCP 416.20 (defunct corporation)  CCP 416.70 (conservatee)  
 CCP 416.40 (association or partnership)  CCP 416.90 (individual)  
 other:

4.  by personal delivery on (date):

CAROLYN HINZO

1 DEAN E. MASSERMAN, STATE BAR NO. 137438  
2 VORZIMER, GARBER & MASSERMAN  
3 A PROFESSIONAL CORPORATION  
4 8383 WILSHIRE BOULEVARD, SUITE 750  
5 BEVERLY HILLS, CALIFORNIA 90211  
6 (213) 782-1400

7 Attorneys for Plaintiff,  
8 KRONE TREMAIN

**FILED**  
LOS ANGELES SUPERIOR COURT

JUN 19 1995

JAMES W. BRADLEY CLERK

BY S. COBB, DEPUTY

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF LOS ANGELES, LONG BEACH JUDICIAL DISTRICT

11

KRONE TREMAIN )

Case No. NC 016622

12

Plaintiff, )

PROOF OF SERVICE OF

13

vs. )

DAVID WILLIAMS

14

CITY OF LONG BEACH, a political )  
subdivision and city of the )  
15 State of California; LONG BEACH )  
POLICE DEPARTMENT, a political )  
16 subdivision of the City of Long )  
Beach; DAVID WILLIAMS, )  
17 individually and as a Long Beach )  
Police Officer; CINDY ALLEN, )  
18 individually and as a Long Beach )  
Police Officer; CHIEF WILLIAM )  
19 ELLIS; individually and as Chief )  
of the Long Beach Police )  
20 Department; and DOES 1 through )  
100 inclusive, )

21

Defendants. )

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1-12

FORM OF SERVICE - SUMMONS  
(Use separate proof of service for each person served)

1. I served the

- a.  summons  complaint  amended summons  amended complaint
- completed and blank Case Questionnaires  Other (specify):

JUN 15

b. on defendant (name):

c. by serving  defendant  other (name and title or relationship to person served):

d.  by delivery  at home  at business  
 (1) date: 6/7/95  
 (2) time:  
 (3) address:

BLOWN FEMALE IN COURT AFFAIRS  
OFFICE MID 30'S TO 40'S

e.  by mailing  
 (1) date:  
 (2) place:  
 400 W. BROADWAY  
 LONG BEACH, CA 90802

2. Manner of service (check proper box):

- a.  Personal service. By personally delivering copies. (CCP 415.10)
- b.  Substituted service on corporation, unincorporated association (including partnership), or public entity. By leaving, during usual office hours, copies in the office of the person served with the person who apparently was in charge and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left. (CCP 415.20(a))
- c.  Substituted service on natural person, minor, conservatee, or candidate. By leaving copies at the dwelling house, usual place of abode, or usual place of business of the person served in the presence of a competent member of the household or a person apparently in charge of the office or place of business, at least 18 years of age, who was informed of the general nature of the papers, and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left. (CCP 415.20(b)) (Attach separate declaration or affidavit stating acts relied on to establish reasonable diligence in first attempting personal service.)
- d.  Mail and acknowledgment service. By mailing (by first-class mail or airmail, postage prepaid) copies to the person served, together with two copies of the form of notice and acknowledgment and a return envelope, postage prepaid, addressed to the sender. (CCP 415.30) (Attach completed acknowledgment of receipt.)
- e.  Certified or registered mail service. By mailing to an address outside California (by first-class mail, postage prepaid, requiring a return receipt) copies to the person served. (CCP 415.40) (Attach signed return receipt or other evidence of actual delivery to the person served.)
- f.  Other (specify code section):  
 additional page is attached.

3. The "Notice to the Person Served" (on the summons) was completed as follows (CCP 412.30, 415.10, and 474):

- a.  as an individual defendant.
- b.  as the person sued under the fictitious name of (specify):
- c.  on behalf of (specify):  
 under:  CCP 416.10 (corporation)  CCP 416.60 (minor)  other:  
 CCP 416.20 (defunct corporation)  CCP 416.70 (conservatee)  
 CCP 416.40 (association or partnership)  CCP 416.90 (individual)

d.  by personal delivery on (date):

4. At the time of service I was at least 18 years of age and not a party to this action.

5. Fee for service: \$

6. Person serving:

- a.  California sheriff, marshal, or constable.
- b.  Registered California process server.
- c.  Employee or independent contractor of a registered California process server.
- d.  Not a registered California process server.
- e.  Exempt from registration under Bus. & Prof. Code 22350(b).

f. Name, address and telephone number and, if applicable, county of registration and number:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

(For California sheriff, marshal, or constable use only)  
I certify that the foregoing is true and correct.

Date: 6/7/95

Date:

(SIGNATURE)

(SIGNATURE)

ROLAND BROWN

# SUMMONS (CITACION JUDICIAL)

1-11

### NOTICE TO DEFENDANT: (Aviso a Acusado)

City of Long Beach; Long Beach Police Dept; David Williams, individually and as a Long Beach Police Officer; Cindy Allen, individually and as a Long Beach Police Officer; Chief William Ellis, individually and as Chief of the Long Beach Police Department; and DOES et al, inclusive,

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

*gl*

### YOU ARE BEING SUED BY PLAINTIFF: (A Ud. le está demandando)

Krone Tremaine

You have 30 CALENDAR DAYS after this summons is served on you to file a typewritten response at this court.

A letter or phone call will not protect you; your typewritten response must be in proper legal form if you want the court to hear your case.

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There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book).

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Una carta o una llamada telefónica no le ofrecerá protección; su respuesta escrita a máquina tiene que cumplir con las formalidades legales apropiadas si usted quiere que la corte escuche su caso.

Si usted no presenta su respuesta a tiempo, puede perder el caso, y le pueden quitar su salario, su dinero y otras cosas de su propiedad sin aviso adicional por parte de la corte.

Existen otros requisitos legales. Puede que usted quiera llamar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de referencia de abogados o a una oficina de ayuda legal (vea el directorio telefónico).

The name and address of the court is: (El nombre y dirección de la corte es)  
Long Beach Superior Court - South District  
415 W. Ocean Boulevard  
Long Beach, California 90802-4591

CASE NUMBER (Número del Caso)

NC016622

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: (El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es)

Dean E. Masserman, Esq.  
VORZIMER, GARBER & MASSERMAN  
8383 Wilshire Boulevard, Suite 750  
Beverly Hills, California 90211  
(213) 782-1400

MAY 23 1995

DATE:  
(Fecha)

*John A. Clark* Clerk, by *Carolyn Kinzo* Deputy  
(Actuario) (Delegado)



NOTICE TO THE PERSON SERVED: You are served

- as an individual defendant.
- as the person sued under the fictitious name of (specify):
- on behalf of (specify):

CAROLYN KINZO

- under:
- |  |   |
|--|---|
| <input type="checkbox"/> CCP 416.10 (corporation)                | <input type="checkbox"/> CCP 416.60 (minor)       |
| <input type="checkbox"/> CCP 416.20 (defunct corporation)        | <input type="checkbox"/> CCP 416.70 (conservatee) |
| <input type="checkbox"/> CCP 416.40 (association or partnership) | <input type="checkbox"/> CCP 416.90 (individual)  |
| <input type="checkbox"/> other:                                  |   |

- by personal delivery on (date):

*Not Summons  
Deed of*

1 DEAN E. MASSERMAN, STATE BAR NO. 137438  
2 VORZIMER, GARBER & MASSERMAN  
3 A PROFESSIONAL CORPORATION  
4 8383 WILSHIRE BOULEVARD, SUITE 750  
5 BEVERLY HILLS, CALIFORNIA 90211  
6 (213) 782-1400

**FILED**  
LOS ANGELES SUPERIOR COURT

MAY 04 1995

EDWARD M. KRITZMAN, CLERK  
County Clerk  
CAROLYN HINZO, DEPUTY

7 Attorneys for Plaintiff,  
8 KRONE TREMAIN

**STATUS CONFERENCE**  
IS SET 8:30 A.M.  
1-19-96  
IN DEPT. *[Signature]*

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES, LONG BEACH JUDICIAL DISTRICT

**NC016622**

11 KRONE TREMAIN )  
12 Plaintiff, )  
13 vs. )  
14 CITY OF LONG BEACH, a political )  
15 subdivision and city of the )  
16 State of California; LONG BEACH )  
17 POLICE DEPARTMENT, a political )  
18 subdivision of the City of Long )  
19 Beach; DAVID WILLIAMS, )  
20 individually and as a Long Beach )  
21 Police Officer; CINDY ALLEN, )  
22 individually and as a Long Beach )  
23 Police Officer; CHIEF WILLIAM )  
24 ELLIS; individually and as Chief )  
25 of the Long Beach Police )  
26 Department; and DOES 1 through )  
27 100 inclusive, )  
28 Defendants. )

Case No. **NC016622**  
COMPLAINT FOR DAMAGES:  
1) VIOLATION OF CIVIL RIGHTS 42 U.S.C. §1983  
2) VIOLATION OF CIVIL RIGHTS 42 U.S.C. §1983 (MONELL)  
3) VIOLATION OF STATE CONSTITUTIONAL RIGHTS ARTICLE 1, §§ 1,3,7 & 13  
4) CALIFORNIA CIVIL RIGHTS VIOLATION CIVIL CODE § 52.1(a)&(b)  
5) BATTERY  
6) FALSE ARREST/FALSE IMPRISONMENT  
7) INTENTIONAL INFLICTION OF SEVERE EMOTIONAL DISTRESS  
8) NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS  
9) NEGLIGENCE  
DEMAND FOR JURY TRIAL

SOUTH DISTRICT  
DP 05 H 52 05/04/95 13:39  
TR 032436 72011  
REG OF ACT A  
182.00

Plaintiff, KRONE TREMAIN, complains and alleges as follows:

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GENERAL ALLEGATIONS

Compliance With Torts Claims Act

1. On October 5, 1994, Plaintiff timely presented and caused to be presented a Claim for Damages to the Board of Supervisors of the City of Long Beach and to the Clerk thereof, pursuant to, and in substantial compliance with, the California Tort Claims Act, Government Code § 910 et seq., based on the same incident, acts, omissions, injuries and damages herein complained of.

2. On October 17, 1994, Plaintiff timely presented and caused to be presented an Amended Claim for Damages to the Board of Supervisors of the City of Long Beach and to the Clerk thereof, pursuant to, and in substantial compliance with, the California Tort Claims Act, Government Code § 910 et seq., based on the same incident, acts, omissions, injuries and damages herein complained of.

Said claims were expressly denied by defendant City of Long Beach on November 21, 1994.

PARTIES

3. The true names and capacities of DOES 1 through 50, inclusive, and each of them, are now unknown to Plaintiff who therefore sues each said defendant by such fictitious name, but upon ascertaining the true identity of a DOE defendant, Plaintiff will amend his complaint, or seek leave to do so, by inserting the true name in lieu of such fictitious name.

///

///

1           4.    Plaintiff, KRONE TREMAIN, is and was at all  
2 relevant times mentioned herein, an individual residing in the  
3 County of Los Angeles, State of California.

4           5.    At all times herein mentioned defendant CITY OF  
5 LONG BEACH was and is now a City and political subdivision of  
6 the State of California, duly organized and existing as such  
7 under the laws of and within the State of California.

8           6.    At all times mentioned herein defendant LONG  
9 BEACH POLICE DEPARTMENT (hereinafter referred to as "LBPD") was  
10 and is a political subdivision of the City of Long Beach and the  
11 State of California, duly organized and existing as such under  
12 the laws of and within the State of California.

13           7.    Plaintiff is informed and believes that  
14 defendants DAVID WILLIAMS, CINDY ALLEN and DOES 1 through 50,  
15 inclusive, were at all times herein mentioned each duly  
16 appointed, qualified and acting as Police Officers and employed  
17 as such by defendants CITY OF LONG BEACH and the LBPD; and at  
18 all times herein mentioned each said defendant was the agent  
19 and/or employee of every other defendant and was acting in the  
20 course and scope of such employment and under color of state  
21 law, with the knowledge and consent of said co-defendants.

22           8.    At all times herein mentioned defendant WILLIAM  
23 ELLIS was and is the duly elected, appointed, qualified and  
24 acting Chief of Police for the City of Long Beach and the LBPD,  
25 and in such capacity said defendant at all times herein  
26 mentioned was and now is the manager and chief administrator of  
27 the LBPD, responsible for, among other things, the training,  
28 supervision, control, assignment and discipline of all sworn



1 personnel of the LBPDP; and for the formulation, promulgation,  
 2 adoption, application, administration and enforcement of all  
 3 policies, rules, guidelines, practices, customs and usages of  
 4 LBPDP, and at all times herein mention said defendant was the  
 5 agent and/or employee of every other defendant and was acting in  
 6 the course and scope of such employment and under color of state  
 7 law, with the knowledge and consent of said co-defendants.

8           9. At all times mentioned herein DOES 51 through  
 9 100, inclusive, were duly appointed, qualified and acting as  
 10 Police Officers and employed as such by defendants CITY OF LONG  
 11 BEACH and the LBPDP; and at all times herein mentioned each said  
 12 defendant was the agent and/or employee of every other defendant  
 13 and was acting in the course and scope of such employment and  
 14 under color of state law, with the knowledge and consent of said  
 15 co-defendants; further, that at all times herein mentioned each  
 16 said defendant was a supervisor, or acted in a supervisory  
 17 capacity, and assisted and aided the Chief of Police in the  
 18 performance of his duties, in particular, they, together were,  
 19 and/or still are, responsible for the administration of  
 20 discipline and for the administration, application and  
 21 enforcement of disciplinary policies, practices and procedures,  
 22 the training, supervision, control and assignment of all sworn  
 23 personnel of the LBPDP; and for the application, administration  
 24 and enforcement of all policies, rules, guidelines, practices,  
 25 customs and usages of LBPDP, subject to the Chief's overall  
 26 responsibility therefor.

27 ///

28 ///

First Cause of Action

(Violation of Federal Civil Rights 42 U.S.C. §1983 Against  
Defendants David Williams, Cindy Allen and DOES 1-50)

10. Plaintiff re-alleges and incorporates by reference each and every fact and allegation contained in Paragraphs 1 through 9, as if fully set forth herein.

11. On or about May 5, 1994, at approximately 1:00 a.m., at or near 550 West Pacific Coast Highway, in the City of Long Beach, California, defendants DAVID WILLIAMS, CINDY ALLEN and DOES 1-50, inclusive, while acting under color of state law, and in the course and scope of their employment, knowingly and intentionally deprived Plaintiff of rights secured to him by the First, Fourth and Fourteenth Amendments to the United States Constitution when, without warrant, lawful process, probable cause, necessity or lawful authority, said defendants used excessive and unreasonable force and violence upon Plaintiff when they shot Plaintiff with their departmentally approved and/or issued firearms, while Plaintiff was unarmed and posed no threat of harm or death to the defendants. Further, said defendants, while acting under color of state law, and without a warrant or lawful process or probable cause, did each arrest and imprison Plaintiff; and while acting under color of state law, did knowingly and wilfully apply and maintain handcuffs on the Plaintiff with excessive tightness, while the Plaintiff lay critically injured, bleeding profusely and experiencing extreme and severe pain from his gunshot wounds; and did each cause and permit the application and maintenance of handcuffs on Plaintiff with excessive tightness while the Plaintiff lay critically

1 injured, bleeding profusely and experiencing extreme and severe  
2 pain from his gunshot wounds, all of which were sustained by  
3 Plaintiff while he was unarmed and posed no threat of harm or  
4 death to the defendants.

5           12. By reason of the aforementioned acts and  
6 omissions of defendants and each of them, Plaintiff sustained  
7 great physical and mental injury, pain, suffering, shock to his  
8 nervous system, headaches, gunshot wounds, scars, keloids,  
9 permanent disfigurement, bone degeneration, muscular and  
10 vascular atrophy, muscle paralysis, nerve damage, permanent  
11 disability, bruises, abrasions, lacerations, severe mental,  
12 emotional, and physical pain, humiliation, shock, indignity,  
13 fright, nervousness, grief, worry, upset, distress, torment,  
14 anguish, anxiety, disturbed sleep patterns, insomnia,  
15 nightmares, depression, loss of appetite and severe emotional  
16 distress, all to the damage of Plaintiff, in the amount of  
17 \$2,000,000.00.

18           13. By reason of the aforescribed acts and  
19 omissions of defendants and each of them, Plaintiff did and will  
20 in the future require hospital, surgical, doctor, nursing, x-  
21 ray, psychological and psychiatric therapy and counseling,  
22 laboratory testing, medical and pharmaceutical care and  
23 treatment, and by reason thereof, Plaintiff did and will in the  
24 future incur expenses therefor in an amount as proved at trial.

25           14. By reason of the aforementioned acts and  
26 omissions of each defendant herein, Plaintiff lost and will in  
27 the future lose earnings and earning capacity in an amount as  
28 proved at trial.

1           15. The aforementioned acts of each of the defendants  
 2 named in this complaint, were each done knowingly,  
 3 intentionally, maliciously and for the purpose of oppressing,  
 4 injuring and harassing Plaintiff, with reckless disregard of the  
 5 safety, security, civil rights and liberties of Plaintiff, and  
 6 by reason thereof, Plaintiff prays that punitive and exemplary  
 7 damages be awarded in his favor against, and to be paid by, said  
 8 defendants in an amount according to proof sufficient to punish  
 9 the defendants for the severity of their conduct.

10           16. By reason of the aforementioned acts of  
 11 defendants and each of them, Plaintiff was required to and did  
 12 retain counsel to prosecute the within federal civil rights  
 13 claims, and to render assistance to Plaintiff so that he can  
 14 vindicate the loss and impairment of his constitutional and  
 15 civil rights and liberties, and by reason thereof, Plaintiff  
 16 seeks reasonable attorney's fees and compensation for their  
 17 legal services pursuant to and under 42 U.S.C. § 1988.

18  
 19   SECOND CAUSE OF ACTION

20           (Violation of Federal Civil Rights 42 U.S.C. §1983 - Monell  
 21 Against Defendants Chief William Ellis, City of Long Beach, Long  
 22 Beach Police Department and DOES 51-100)

23           17. Plaintiff re-alleges and incorporates by  
 24 reference each and every fact and allegation contained in  
 25 Paragraphs 1 through 16, as if fully set forth herein.

26           18. On or about May 5, 1994, at approximately 1:00  
 27 a.m., and for some time prior thereto, defendants CHIEF WILLIAM  
 28 ELLIS, CITY OF LONG BEACH, LBPD, and DOES 51 through 100,

1 inclusive, while acting under color of state law and in the  
2 course and scope of their employment, did each deprive Plaintiff  
3 of rights, privileges, immunities and liberties secured to him  
4 by the First, Fourth and Fourteenth Amendments to the United  
5 States Constitution, in that said defendants did each, with  
6 reckless indifference and conscious disregard for the security,  
7 safety, privacy, liberties and civil rights of Plaintiff,  
8 knowingly and wilfully adopt, maintain, enforce and apply a  
9 policy, custom, practice, usage and rule which tended and still  
10 tends to encourage, permit, authorize, support and ratify the  
11 use of unreasonable, unnecessary and excessive force by Long  
12 Beach Police officers by:

13           a) knowingly, and wilfully hiring, retaining,  
14 employing, and failing to train, supervise, control, assign or  
15 discipline, Long Beach Police officers, including the defendants  
16 named in this complaint, while knowing, or in the exercise of  
17 reasonable care each defendant should have known, that such  
18 defendants have, and then had, a disposition and propensity for  
19 violence and the use of excessive force upon suspects, and  
20 others, with whom said defendants come in contact;

21           b) knowingly, and in conscious disregard and in  
22 reckless indifference to the safety, security and civil rights  
23 and liberties of civilian persons, including Plaintiff,  
24 maintaining and utilizing grossly inadequate procedures within  
25 the LBPD for reporting, supervising, investigating, controlling  
26 and reviewing the use of force by sworn officers, including the  
27 defendants named in this complaint, especially involving the  
28 unholstering and discharge of firearms, and for disciplining

1 officers for excessive and unreasonable force;

2 c) knowingly, and in conscious disregard and in  
3 reckless indifference to the safety, security and civil  
4 liberties and rights of civilian persons, including this  
5 Plaintiff, inadequately training sworn officers, including the  
6 defendants named in this complaint, in the proper and improper  
7 use of firearms, and inadequate control and discipline of  
8 officers who use excessive force and improperly unholster and  
9 discharge their firearms;

10 d) knowingly, and intentionally ratifying the  
11 violent, brutal and lawless acts and omissions of the defendants  
12 named in this complaint, herein described and complained of.

13 19. By reason of each of the defendants enforcement  
14 and application of the aforescribed policies, practices,  
15 usages, customs and rules, Plaintiff sustained great physical  
16 and mental injury, pain, suffering, shock to his nervous system,  
17 headaches, gunshot wounds, scars, keloids, permanent  
18 disfigurement, bone degeneration, muscular and vascular atrophy,  
19 muscle paralysis, nerve damage, permanent disability, bruises,  
20 abrasions, lacerations, severe mental, emotional, and physical  
21 pain, humiliation, shock, indignity, fright, nervousness, grief,  
22 worry, upset, distress, torment, anguish, anxiety, disturbed  
23 sleep patterns, insomnia, nightmares, depression, loss of  
24 appetite and severe emotional distress, all to the damage of  
25 Plaintiff, in the amount of \$2,000,000.00.

26 20. By reason of the aforescribed acts and  
27 omissions of defendants and each of them, Plaintiff did and will  
28 in the future require hospital, surgical, doctor, nursing, x-

1 ray, psychological and psychiatric therapy and counseling,  
2 laboratory testing, medical and pharmaceutical care and  
3 treatment, and by reason thereof, Plaintiff did and will in the  
4 future incur expenses therefor in an amount as proved at trial.

5 21. By reason of the aforementioned acts and  
6 omissions of each defendant herein, Plaintiff lost and will in  
7 the future lose earnings and earning capacity in an amount as  
8 proved at trial.

9 22. The aforementioned acts of each of the defendants  
10 named herein, were each done knowingly, intentionally,  
11 maliciously and for the purpose of oppressing, injuring and  
12 harassing Plaintiff, with reckless disregard of the safety,  
13 security, civil rights and liberties of Plaintiff, and by reason  
14 thereof, Plaintiff prays that punitive and exemplary damages be  
15 awarded in his favor against, and to be paid by, said defendants  
16 in an amount according to proof sufficient to punish the  
17 defendants for the severity of their conduct.

18 23. By reason of the aforementioned acts of  
19 defendants and each of them, Plaintiff was required to and did  
20 retain counsel to prosecute the within federal civil rights  
21 claims, and to render assistance to Plaintiff so that he can  
22 vindicate the loss and impairment of his constitutional and  
23 civil rights and liberties, and by reason thereof, Plaintiff  
24 seeks reasonable attorney's fees and compensation for their  
25 legal services pursuant to and under 42 U.S.C. § 1988.

26 ///

27 ///

28 ///

THIRD CAUSE OF ACTION

(Violation of State Constitutional Rights

Article 1, §§ 1,3,7 & 13 Against All Defendants)

24. Plaintiff re-alleges and incorporates by reference each and every fact and allegation contained in Paragraphs 1 through 23, as if fully set forth herein.

25. On or about May 5, 1994, at approximately 1:00 a.m., at or near 550 West Pacific Coast Highway in the City of Long Beach, California, each of the defendants named in this complaint, while acting under color of state law and in the course and scope of their employment, knowingly and intentionally deprived the Plaintiff of his rights to liberty, personal safety, privacy, and to the pursuit of happiness; to security of his person; and his right to Due Process of law, all as guaranteed by Article 1, §§ 1,3,7 & 13 of the California Constitution; and pursuant thereto, each said defendant did knowingly and deliberately, and without a warrant or lawful process, probable cause, provocation, necessity or lawful authority, use excessive and unreasonable force and violence upon Plaintiff when they shot Plaintiff with their departmentally approved and/or issued firearms, while Plaintiff was unarmed and posed no threat of harm or death to the defendants. Further, said defendants, while acting under color of state law, and without a warrant or lawful process or probable cause, did each arrest and imprison Plaintiff, and did each knowingly and wilfully cause and permit his arrest and imprisonment; and while acting under color of state law, did knowingly and wilfully apply and maintain handcuffs on the



1 Plaintiff with excessive tightness, while the Plaintiff lay  
2 critically injured, bleeding profusely and experiencing extreme  
3 and severe pain from his gunshot wounds; and did each cause and  
4 permit the application and maintenance of handcuffs on Plaintiff  
5 with excessive tightness while the Plaintiff lay critically  
6 injured, bleeding profusely and experiencing extreme and severe  
7 pain from his gunshot wounds, all of which were sustained by  
8 Plaintiff while he was unarmed and posed no threat of harm or  
9 death to the defendants.

10           26. By reason of the aforementioned acts and  
11 omissions of defendants and each of them, this plaintiff  
12 sustained great physical and mental injury, pain, suffering,  
13 shock to his nervous system, headaches, gunshot wounds, scars,  
14 keloids, permanent disfigurement, bone degeneration, muscular  
15 and vascular atrophy, muscle paralysis, nerve damage, permanent  
16 disability, bruises, abrasions, lacerations, severe mental,  
17 emotional, and physical pain, humiliation, shock, indignity,  
18 fright, nervousness, grief, worry, upset, distress, torment,  
19 anguish, anxiety, disturbed sleep patterns, insomnia,  
20 nightmares, depression, loss of appetite and severe emotional  
21 distress, all to the damage of Plaintiff, in the amount of  
22 \$2,000,000.00.

23           27. By reason of the aforescribed acts and  
24 omissions of defendants and each of them, Plaintiff did and will  
25 in the future require hospital, surgical, doctor, nursing, x-  
26 ray, psychological and psychiatric therapy and counseling,  
27 laboratory testing, medical and pharmaceutical care and  
28 treatment, and by reason thereof, Plaintiff did and will in the

1 future incur expenses therefor in an amount as proved at trial.

2 28. By reason of the aforementioned acts and  
3 omissions of each defendant herein, Plaintiff lost and will in  
4 the future lose earnings and earning capacity in an amount as  
5 proved at trial.

6 29. The aforementioned acts of each of the defendants  
7 named herein, were each done knowingly, intentionally,  
8 maliciously and for the purpose of oppressing, injuring and  
9 harassing Plaintiff, with reckless disregard of the safety,  
10 security, civil rights and liberties of Plaintiff, and by reason  
11 thereof, Plaintiff prays that punitive and exemplary damages be  
12 awarded in his favor against, and to be paid by, said defendants  
13 in an amount according to proof sufficient to punish the  
14 defendants for the severity of their conduct.

15  
16 FOURTH CAUSE OF ACTION

17 (California Civil Rights Violation)

18 Civil Code § 52.1(a) & (b) Against All Defendants

19 30. Plaintiff re-alleges and incorporates by  
20 reference each and every fact and allegation contained in  
21 Paragraphs 1 through 29, as if fully set forth herein.

22 31. On or about May 5, 1994, at approximately 1:00  
23 a.m., at or near 550 West Pacific Coast Highway in the City of  
24 Long Beach, California, each of the defendants named in this  
25 complaint, while acting under color of state law and in the  
26 course and scope of their employment, knowingly and  
27 intentionally interfered, or attempted to interfere, intimidate,  
28 coerce and deprive the Plaintiff of his rights to liberty,

1 personal safety, privacy, and to the pursuit of happiness; to  
2 security of his person; and his right to Due Process of law, all  
3 as guaranteed by the First, Fourth and Fourteenth Amendments to  
4 the United States Constitution, and Article 1, §§ 1,3,7 & 13 of  
5 the California Constitution, all in violation of California  
6 Civil Code § 52.1 (a) & (b); and pursuant thereto, each said  
7 defendant did knowingly and deliberately, and without a warrant  
8 or lawful process, probable cause, provocation, necessity or  
9 lawful authority, use excessive and unreasonable force and  
10 violence upon Plaintiff when they shot Plaintiff with their  
11 departmentally approved and/or issued firearms, while Plaintiff  
12 was unarmed and posed no threat of harm or death to the  
13 defendants. Further, said defendants, while acting under color  
14 of state law, and without a warrant or lawful process or  
15 probable cause, did each arrest and imprison Plaintiff, and did  
16 each knowingly and wilfully cause and permit his arrest and  
17 imprisonment; and while acting under color of state law, did  
18 knowingly and wilfully apply and maintain handcuffs on the  
19 Plaintiff with excessive tightness, while the Plaintiff lay  
20 critically injured, bleeding profusely and experiencing extreme  
21 and severe pain from his gunshot wounds; and did each cause and  
22 permit the application and maintenance of handcuffs on Plaintiff  
23 with excessive tightness while the Plaintiff lay critically  
24 injured, bleeding profusely and experiencing extreme and severe  
25 pain from his gunshot wounds, all of which were sustained by  
26 Plaintiff while he was unarmed and posed no threat of harm or  
27 death to the defendants.

28 ///

1           32. By reason of the aforementioned acts and omissions of  
2 defendants and each of them, Plaintiff sustained great physical  
3 and mental injury, pain, suffering, shock to his nervous system,  
4 headaches, gunshot wounds, scars, keloids, permanent  
5 disfigurement, bone degeneration, muscular and vascular atrophy,  
6 muscle paralysis, nerve damage, permanent disability, bruises,  
7 abrasions, lacerations, severe mental, emotional, and physical  
8 pain, humiliation, shock, indignity, fright, nervousness, grief,  
9 worry, upset, distress, torment, anguish, anxiety, disturbed  
10 sleep patterns, insomnia, nightmares, depression, loss of  
11 appetite and severe emotional distress, all to the damage of  
12 Plaintiff, in the amount of \$2,000,000.00.

13           33. By reason of the aforescribed acts and  
14 omissions of defendants and each of them, Plaintiff did and will  
15 in the future require hospital, surgical, doctor, nursing, x-  
16 ray, psychological and psychiatric therapy and counseling,  
17 laboratory testing, medical and pharmaceutical care and  
18 treatment, and by reason thereof, Plaintiff did and will in the  
19 future incur expenses therefor in an amount as proved at trial.

20           34. By reason of the aforementioned acts and  
21 omissions of each defendant herein, Plaintiff lost and will in  
22 the future lose earnings and earning capacity in an amount as  
23 proved at trial.

24           35. The aforementioned acts of each of the defendants  
25 named herein, were each done knowingly, intentionally,  
26 maliciously and for the purpose of oppressing, injuring and  
27 harassing Plaintiff, with reckless disregard of the safety,  
28 security, civil rights and liberties of Plaintiff, and by reason

1 thereof, Plaintiff prays that punitive and exemplary damages be  
2 awarded in his favor against, and to be paid by, said defendants  
3 in an amount according to proof sufficient to punish the  
4 defendants for the severity of their conduct.

5  
6 FIFTH CAUSE OF ACTION

7 (Battery Against Defendants David Williams,  
8 Cindy Allen and DOES 1-50)

9 36. Plaintiff re-alleges and incorporates by  
10 reference each and every fact and allegation contained in  
11 Paragraphs 1 through 35, as if fully set forth herein.

12 37. On or about May 5, 1994, at approximately 1:00  
13 a.m., at or near 550 West Pacific Coast Highway in the City of  
14 Long Beach, California, defendants DAVID WILLIAMS, CINDY ALLEN  
15 and DOES 1-50, inclusive, while acting under color of state law  
16 and in the course and scope of their employment, knowingly and  
17 intentionally, without warrant, lawful process, probable cause,  
18 provocation, necessity, lawful authority or consent, used  
19 excessive and unreasonable force and violence upon Plaintiff  
20 when they shot Plaintiff with their departmentally approved  
21 and/or issued firearms, while Plaintiff was unarmed and posed no  
22 threat of harm or death to the defendants. Further, said  
23 defendants, while acting under color of state law, and without a  
24 warrant or lawful process or probable cause, did each arrest and  
25 imprison Plaintiff; and while acting under color of state law,  
26 did knowingly and wilfully apply and maintain handcuffs on the  
27 Plaintiff with excessive tightness, while the Plaintiff lay  
28 critically injured, bleeding profusely and experiencing extreme

1 and severe pain from his gunshot wounds; and did each cause and  
2 permit the application and maintenance of handcuffs on Plaintiff  
3 with excessive tightness while the Plaintiff lay critically  
4 injured, bleeding profusely and experiencing extreme and severe  
5 pain from his gunshot wounds, all of which were sustained by  
6 Plaintiff while he was unarmed and posed no threat of harm or  
7 death to the defendants.

8           38. By reason of the aforementioned acts and  
9 omissions of defendants and each of them, Plaintiff sustained  
10 great physical and mental injury, pain, suffering, shock to his  
11 nervous system, headaches, gunshot wounds, scars, keloids,  
12 permanent disfigurement, bone degeneration, muscular and  
13 vascular atrophy, muscle paralysis, nerve damage, permanent  
14 disability, bruises, abrasions, lacerations, severe mental,  
15 emotional, and physical pain, humiliation, shock, indignity,  
16 fright, nervousness, grief, worry, upset, distress, torment,  
17 anguish, anxiety, disturbed sleep patterns, insomnia,  
18 nightmares, depression, loss of appetite and severe emotional  
19 distress, all to the damage of Plaintiff, in the amount of  
20 \$2,000,000.00.

21           39. By reason of the aforescribed acts and  
22 omissions of defendants and each of them, Plaintiff did and will  
23 in the future require hospital, surgical, doctor, nursing, x-  
24 ray, psychological and psychiatric therapy and counseling,  
25 laboratory testing, medical and pharmaceutical care and  
26 treatment, and by reason thereof, Plaintiff did and will in the  
27 future incur expenses therefor in an amount as proved at trial.

28 ///

1                   40. By reason of the aforementioned acts and  
 2 omissions of each defendant herein, Plaintiff lost and will in  
 3 the future lose earnings and earning capacity in an amount as  
 4 proved at trial.

5                   41. The aforementioned acts of each of the defendants  
 6 herein, were each done knowingly, intentionally, maliciously and  
 7 for the purpose of oppressing, injuring and harassing Plaintiff,  
 8 with reckless disregard of the safety, security, civil rights  
 9 and liberties of Plaintiff, and by reason thereof, Plaintiff  
 10 prays that punitive and exemplary damages be awarded in his  
 11 favor against, and to be paid by, said defendants in an amount  
 12 according to proof sufficient to punish the defendants for the  
 13 severity of their conduct.

14  
 15                   SIXTH CAUSE OF ACTION

16                   (False Arrest/False Imprisonment Against All Defendants)

17                   42. Plaintiff re-alleges and incorporates by  
 18 reference each and every fact and allegation contained in  
 19 Paragraphs 1 through 41, as if fully set forth herein.

20                   43. On or about May 5, 1994, at approximately 1:00  
 21 a.m., at or near 550 West Pacific Coast Highway in the City of  
 22 Long Beach, California, each of the defendants named in this  
 23 complaint, while acting under color of state law and in the  
 24 course and scope of their employment, knowingly and  
 25 intentionally, without warrant, lawful process, probable cause,  
 26 lawful authority or consent, restrained, detained, confined,  
 27 arrested and imprisoned Plaintiff, in the custodial medical  
 28 facility located within the Long Beach Memorial Hospital, where

1 Plaintiff was compelled to stay, and was not free to leave.

2           44. By reason of the aforementioned acts and  
3 omissions of defendants and each of them, Plaintiff sustained  
4 great physical and mental injury, pain, suffering, shock to his  
5 nervous system, headaches, gunshot wounds, scars, keloids,  
6 permanent disfigurement, bone degeneration, muscular and  
7 vascular atrophy, muscle paralysis, nerve damage, permanent  
8 disability, bruises, abrasions, lacerations, severe mental,  
9 emotional, and physical pain, humiliation, shock, indignity,  
10 fright, nervousness, grief, worry, upset, distress, torment,  
11 anguish, anxiety, disturbed sleep patterns, insomnia,  
12 nightmares, depression, loss of appetite and severe emotional  
13 distress, all to the damage of Plaintiff, in the amount of  
14 \$2,000,000.00.

15           45. By reason of the aforescribed acts and  
16 omissions of defendants and each of them, Plaintiff did and will  
17 in the future require hospital, surgical, doctor, nursing, x-  
18 ray, psychological and psychiatric therapy and counseling,  
19 laboratory testing, medical and pharmaceutical care and  
20 treatment, and by reason thereof; Plaintiff did and will in the  
21 future incur expenses therefor in an amount as proved at trial.

22           46. By reason of the aforementioned acts and  
23 omissions of each defendant herein, Plaintiff lost and will in  
24 the future lose earnings and earning capacity in an amount as  
25 proved at trial.

26           47. The aforementioned acts of each of the defendants  
27 named herein, were each done knowingly, intentionally,  
28 maliciously and for the purpose of oppressing, injuring and



1 harassing Plaintiff, with reckless disregard of the safety,  
 2 security, civil rights and liberties of Plaintiff, and by reason  
 3 thereof, Plaintiff prays that punitive and exemplary damages be  
 4 awarded in his favor against, and to be paid by, said defendants  
 5 in an amount according to proof sufficient to punish the  
 6 defendants for the severity of their conduct.

7  
 8 SEVENTH CAUSE OF ACTION

9 (Intentional Infliction of Emotional Distress  
 10 Against All Defendants)

11 48. Plaintiff re-alleges and incorporates by  
 12 reference each and every fact and allegation contained in  
 13 Paragraphs 1 through 47 as if fully set forth herein.

14 49. On or about May 5, 1994, at approximately 1:00  
 15 a.m., at or near 550 West Pacific Coast Highway in the City of  
 16 Long Beach, California, each of the defendants named in this  
 17 complaint, while acting under color of state law and in the  
 18 course and scope of their employment, knowingly, intentionally,  
 19 wilfully, negligently and carelessly, and in reckless disregard  
 20 of the impact upon, and consequences to, the Plaintiff and the  
 21 probability of causing Plaintiff to suffer emotional distress,  
 22 without lawful authority, privilege or consent, engaged in the  
 23 acts and omissions described and alleged in paragraphs 3 through  
 24 48, inclusive, said acts being outrageous, brutal and  
 25 humiliating, and by reason thereof, Plaintiff suffered, and  
 26 continues to suffer severe mental, emotional, and physical pain,  
 27 humiliation, shock, indignity, fright, nervousness, grief,  
 28 worry, upset, distress, torment, anguish, anxiety, disturbed

1 sleep patterns, insomnia, nightmares and depression, and by  
2 reason thereof,

3           50. By reason of the aforementioned acts and  
4 omissions of defendants and each of them, Plaintiff sustained  
5 great mental injury, pain, suffering, shock to his nervous  
6 system, headaches, severe mental and emotional pain,  
7 humiliation, shock, indignity, fright, nervousness, grief,  
8 worry, upset, distress, torment, anguish, anxiety, disturbed  
9 sleep patterns, insomnia, nightmares, depression, loss of  
10 appetite and severe emotional distress, all to the damage of  
11 Plaintiff, in the amount of \$2,000,000.00.

12           51. By reason of the aforescribed acts and  
13 omissions of defendants and each of them, Plaintiff did and will  
14 in the future require hospital, surgical, doctor, nursing, x-  
15 ray, psychological and psychiatric therapy and counseling,  
16 laboratory testing, medical and pharmaceutical care and  
17 treatment, and by reason thereof, Plaintiff did and will in the  
18 future incur expenses therefor in an amount as proved at trial.

19           52. By reason of the aforementioned acts and  
20 omissions of each defendant herein, Plaintiff lost and will in  
21 the future lose earnings and earning capacity in an amount as  
22 proved at trial.

23           53. The aforementioned acts of each of the defendants  
24 named herein, were each done knowingly, intentionally,  
25 maliciously and for the purpose of oppressing, injuring and  
26 harassing Plaintiff, with reckless disregard of the safety,  
27 security, civil rights and liberties of Plaintiff, and by reason  
28 thereof, Plaintiff prays that punitive and exemplary damages be

1 awarded in his favor against, and to be paid by, said defendants  
2 in an amount according to proof sufficient to punish the  
3 defendants for the severity of their conduct.

4  
5 EIGHTH CAUSE OF ACTION

6 (Negligent Infliction of Emotional Distress  
7 Against All Defendants)

8 54. Plaintiff re-alleges and incorporates by  
9 reference each and every fact and allegation contained in  
10 Paragraphs 1 through 53 as if fully set forth herein.

11 55. On or about May 5, 1994, at approximately 1:00  
12 a.m., at or near 550 West Pacific Coast Highway in the City of  
13 Long Beach, California, each of the defendants named in this  
14 complaint, while acting under color of state law and in the  
15 course and scope of their employment, knowingly, intentionally,  
16 wilfully, negligently and carelessly, and in reckless disregard  
17 of the impact upon, and consequences to, the Plaintiff and the  
18 probability of causing Plaintiff to suffer emotional distress,  
19 without lawful authority, privilege or consent, engaged in the  
20 acts and omissions described and alleged in paragraphs 3 through  
21 54, inclusive, said acts being outrageous, brutal and  
22 humiliating, and by reason thereof, Plaintiff suffered, and  
23 continues to suffer severe mental, emotional, and physical pain,  
24 humiliation, shock, indignity, fright, nervousness, grief,  
25 worry, upset, distress, torment, anguish, anxiety, disturbed  
26 sleep patterns, insomnia, nightmares and depression.

27 56. By reason of the aforementioned acts and  
28 omissions of defendants and each of them, Plaintiff sustained

1 great mental injury, pain, suffering, shock to his nervous  
2 system, headaches, severe mental and emotional pain,  
3 humiliation, shock, indignity, fright, nervousness, grief,  
4 worry, upset, distress, torment, anguish, anxiety, disturbed  
5 sleep patterns, insomnia, nightmares, depression, loss of  
6 appetite and severe emotional distress, all to the damage of  
7 Plaintiff, in the amount of \$2,000,000.00.

8           57. By reason of the aforescribed acts and  
9 omissions of defendants and each of them, Plaintiff did and will  
10 in the future require hospital, surgical, doctor, nursing, x-  
11 ray, psychological and psychiatric therapy and counseling,  
12 laboratory testing, medical and pharmaceutical care and  
13 treatment, and by reason thereof, Plaintiff did and will in the  
14 future incur expenses therefor in an amount as proved at trial.

15           58. By reason of the aforementioned acts and  
16 omissions of each defendant herein, Plaintiff lost and will in  
17 the future lose earnings and earning capacity in an amount as  
18 proved at trial.

19           59. The aforementioned acts of each of the defendants  
20 named herein, were each done knowingly, intentionally,  
21 maliciously and for the purpose of oppressing, injuring and  
22 harassing Plaintiff, with reckless disregard of the safety,  
23 security, civil rights and liberties of Plaintiff, and by reason  
24 thereof, Plaintiff prays that punitive and exemplary damages be  
25 awarded in his favor against, and to be paid by, said defendants  
26 in an amount according to proof sufficient to punish the  
27 defendants for the severity of their conduct.

28 ///

NINTH CAUSE OF ACTION

(General Negligence Against All Defendants)

60. Plaintiff re-alleges and incorporates by reference each and every fact and allegation contained in Paragraphs 1 through 59 as if fully set forth herein.

61. On or about May 5, 1994, at approximately 1:00 a.m., at or near 550 West Pacific Coast Highway in the City of Long Beach, California, each of the defendants named in this complaint, while acting under color of state law and in the course and scope of their employment, knowingly, intentionally, negligently, unreasonably and imprudently, without warrant, lawful process, probable cause or lawful authority, used excessive and unreasonable force and violence upon Plaintiff when they shot Plaintiff with their departmentally approved firearms, while Plaintiff was unarmed and posed no threat of harm or death to the defendants. Further, said defendants, while acting under color of state law, and without a warrant or lawful process or probable cause, did each arrest and imprison Plaintiff; and while acting under color of state law, did knowingly, intentionally, wilfully, negligently, unreasonably and imprudently apply and maintain handcuffs on the Plaintiff with excessive tightness, while the Plaintiff lay critically injured, bleeding profusely and experiencing extreme and severe pain from his gunshot wounds; and did each cause and permit the application and maintenance of handcuffs on Plaintiff with excessive tightness while the Plaintiff lay critically injured, bleeding profusely and experiencing extreme and severe pain from his gunshot wounds, all of which were sustained by Plaintiff

1 while he was unarmed and posed no threat of harm or death to the  
2 defendants, and by reason thereof, this plaintiff was injured  
3 and damaged as hereinafter described.

4           61. By reason of the aforementioned acts and  
5 omissions of defendants and each of them, Plaintiff sustained  
6 great physical and mental injury, pain, suffering, shock to his  
7 nervous system, headaches, gunshot wounds, scars, keloids,  
8 permanent disfigurement, bone degeneration, muscular and  
9 vascular atrophy, muscle paralysis, nerve damage, permanent  
10 disability, bruises, abrasions, lacerations, severe mental,  
11 emotional, and physical pain, humiliation, shock, indignity,  
12 fright, nervousness, grief, worry, upset, distress, torment,  
13 anguish, anxiety, disturbed sleep patterns, insomnia,  
14 nightmares, depression, loss of appetite and severe emotional  
15 distress, all to the damage of Plaintiff, in the amount of  
16 \$2,000,000.00.

17           62. By reason of the aforescribed acts and  
18 omissions of defendants and each of them, Plaintiff did and will  
19 in the future require hospital, surgical, doctor, nursing, x-  
20 ray, psychological and psychiatric therapy and counseling,  
21 laboratory testing, medical and pharmaceutical care and  
22 treatment, and by reason thereof, Plaintiff did and will in the  
23 future incur expenses therefor in an amount as proved at trial.

24           63. By reason of the aforementioned acts and  
25 omissions of each defendant herein, Plaintiff lost and will in  
26 the future lose earnings and earning capacity in an amount as  
27 proved at trial.

28 ///

1           64. The aforementioned acts of each of the defendants  
 2 named herein, were each done knowingly, intentionally,  
 3 maliciously and for the purpose of oppressing, injuring and  
 4 harassing Plaintiff, with reckless disregard of the safety,  
 5 security, civil rights and liberties of Plaintiff, and by reason  
 6 thereof, Plaintiff prays that punitive and exemplary damages be  
 7 awarded in his favor against, and to be paid by, said defendants  
 8 in an amount according to proof sufficient to punish the  
 9 defendants for the severity of their conduct.

10

PRAYER FOR RELIEF

11

12           WHEREFORE, Plaintiff prays for judgment against each  
 13 Defendant as follows:

14

FIRST CAUSE OF ACTION

15           1. General and special damages in the amount of  
 16 \$2,000,000.00.

17           2. Medical, surgical, hospital, doctor, nursing, x-  
 18 ray, laboratory testing, psychological and psychiatric  
 19 counseling and therapy, pharmaceutical and incidental expense in  
 20 an amount according to proof.

21           3. Loss of earnings and earning capacity in favor of  
 22 Plaintiff in an amount according to proof.

23           4. Exemplary and punitive damages, in favor of  
 24 Plaintiff and against each defendant named in paragraphs 7, 8 &  
 25 9, in an amount according to proof sufficient to punish  
 26 defendants for the severity of their conduct.

27           5. Costs and expenses of this litigation and incurred  
 28 to the benefit of this litigation, including reasonable

1 attorney's fees, as provided under and pursuant to 42 U.S.C. §  
2 1988.

3 6. Such other and further relief as the court may  
4 deem just and appropriate.

5  
6 SECOND CAUSE OF ACTION

7 7. General and special damages in the amount of  
8 \$2,000,000.00.

9 8. Medical, surgical, hospital, doctor, nursing, x-  
10 ray, laboratory testing, psychological and psychiatric  
11 counseling and therapy, pharmaceutical and incidental expense in  
12 an amount according to proof.

13 9. Loss of earnings and earning capacity in favor of  
14 Plaintiff in an amount according to proof.

15 10. Exemplary and punitive damages, in favor of  
16 Plaintiff and against each defendant named in paragraphs 8 & 9  
17 of this complaint, in an amount according to proof sufficient to  
18 punish defendants for the severity of their conduct.

19 11. Costs and expenses of this litigation and  
20 incurred to the benefit of this litigation, including reasonable  
21 attorney's fees, as provided under and pursuant to  
22 42 U.S.C. § 1988.

23 12. Such other and further relief as the court may  
24 deem just and appropriate.

25  
26 THIRD CAUSE OF ACTION

27 13. General and special damages in the amount of  
28 \$2,000,000.00.



1 14. Medical, surgical, hospital, doctor, nursing, x-  
2 ray, laboratory testing, psychological and psychiatric  
3 counseling and therapy, pharmaceutical and incidental expense in  
4 an amount according to proof.

5 15. Loss of earnings and earning capacity in favor of  
6 Plaintiff in an amount according to proof.

7 16. Exemplary and punitive damages, in favor of  
8 Plaintiff and against each defendant named in paragraphs 7, 8 &  
9 9, in an amount according to proof sufficient to punish  
10 defendants for the severity of their conduct.

11 17. Such other and further relief as the court may  
12 deem just and appropriate.

13

14

FOURTH CAUSE OF ACTION

15 18. General and special damages in the amount of  
16 \$2,000,000.00.

17 19. Medical, surgical, hospital, doctor, nursing, x-  
18 ray, laboratory testing, psychological and psychiatric  
19 counseling and therapy, pharmaceutical and incidental expense in  
20 an amount according to proof.

21 20. Loss of earnings and earning capacity in favor of  
22 Plaintiff in an amount according to proof.

23 21. Exemplary and punitive damages, in favor of  
24 Plaintiff and against each defendant named in paragraphs 7, 8 &  
25 9, in an amount according to proof sufficient to punish  
26 defendants for the severity of their conduct.

27 22. Such other and further relief as the court may  
28 deem just and appropriate.

FIFTH CAUSE OF ACTION

23. General and special damages in the amount of \$2,000,000.00.

24. Medical, surgical, hospital, doctor, nursing, x-ray, laboratory testing, psychological and psychiatric counseling and therapy, pharmaceutical and incidental expense in an amount according to proof.

25. Loss of earnings and earning capacity in favor of Plaintiff in an amount according to proof.

26. Exemplary and punitive damages, in favor of Plaintiff and against each defendant named in paragraphs 7, 8 & 9, in an amount according to proof sufficient to punish defendants for the severity of their conduct.

27. Such other and further relief as the court may deem just and appropriate.

SIXTH CAUSE OF ACTION

28. General and special damages in the amount of \$2,000,000.00.

29. Medical, surgical, hospital, doctor, nursing, x-ray, laboratory testing, psychological and psychiatric counseling and therapy, pharmaceutical and incidental expense in an amount according to proof.

30. Loss of earnings and earning capacity in favor of Plaintiff in an amount according to proof.

31. Exemplary and punitive damages, in favor of Plaintiff and against each defendant named in paragraphs 7, 8 & 9, in an amount according to proof sufficient to punish

1 defendants for the severity of their conduct.

2 32. Such other and further relief as the court may  
3 deem just and appropriate.

4  
5 SEVENTH CAUSE OF ACTION

6 33. General and special damages in the amount of  
7 \$2,000,000.00.

8 34. Medical, surgical, hospital, doctor, nursing, x-  
9 ray, laboratory testing, psychological and psychiatric  
10 counseling and therapy, pharmaceutical and incidental expense in  
11 an amount according to proof.

12 35. Loss of earnings and earning capacity in favor of  
13 Plaintiff in an amount according to proof.

14 36. Exemplary and punitive damages, in favor of  
15 Plaintiff and against each defendant named in paragraphs 7, 8 &  
16 9, in an amount according to proof sufficient to punish  
17 defendants for the severity of their conduct.

18 37. Such other and further relief as the court may  
19 deem just and appropriate.

20  
21 EIGHTH CAUSE OF ACTION

22 38. General and special damages in the amount of  
23 \$2,000,000.00.

24 39. Medical, surgical, hospital, doctor, nursing, x-  
25 ray, laboratory testing, psychological and psychiatric  
26 counseling and therapy, pharmaceutical and incidental expense in  
27 an amount according to proof.

28 ///

1 40. Loss of earnings and earning capacity in favor of  
2 Plaintiff in an amount according to proof.

3 41. Exemplary and punitive damages, in favor of  
4 Plaintiff and against each defendant named in paragraphs 7, 8 &  
5 9, in an amount according to proof sufficient to punish  
6 defendants for the severity of their conduct.

7 42. Such other and further relief as the court may  
8 deem just and appropriate.

9

10

NINTH CAUSE OF ACTION

11

12

43. General and special damages in the amount of  
\$2,000,000.00.

13

14

15

16

44. Medical, surgical, hospital, doctor, nursing, x-  
ray, laboratory testing, psychological and psychiatric  
counseling and therapy, pharmaceutical and incidental expense in  
an amount according to proof.

17

18

45. Loss of earnings and earning capacity in favor of  
Plaintiff in an amount according to proof.

19

20

21

22

46. Exemplary and punitive damages, in favor of  
Plaintiff and against each defendant named in paragraphs 7, 8 &  
9, in an amount according to proof sufficient to punish  
defendants for the severity of their conduct.

23

24

47. Such other and further relief as the court may  
deem just and appropriate.

25

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1 DATED: May 3, 1995

VORZIMER, GARBER & MASSERMAN

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By 

DEAN E. MASSERMAN

Attorneys for Plaintiff,  
KRONE TREMAIN

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**PLAINTIFF'S DEMAND FOR JURY TRIAL**

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Plaintiff hereby demands a trial by jury.

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10 DATED: May 3, 1995

VORZIMER, GARBER & MASSERMAN

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By 

DEAN E. MASSERMAN

Attorneys for Plaintiff,  
KRONE TREMAIN

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

SHORT CASE TITLE KRONE TREMAINE v. CITY OF LONG BEACH, et al.

CASE NUMBER

CERTIFICATE OF ASSIGNMENT

File this certificate with all cases presented for filing in all districts of the Los Angeles Superior Court.

The undersigned declares that the above entitled matter is filed for proceedings in the SOUTH District of the Los Angeles Superior Court under Section 392 et seq., Code of Civil Procedure and Rule 300, Sections 3 and 4 of this court for the reasons checked below. The address of the accident, performance, party, detention, place of business, or other factor which qualifies this case for filing in the above designated district is (not required for non-tort cases filed in Central District):

NAME: (INDICATE TITLE OR OTHER QUALIFYING FACTOR) Attorney for Plaintiff; ADDRESS: Dean E. Masserman, Esq., 550 W. PCH; (CITY) Long Beach (STATE) CA (ZIP CODE) 90241-9085

JURY TRIAL [X] NON-JURY TRIAL [ ] TIME ESTIMATED FOR TRIAL 20 HOURS [ ] DAYS [X]

CHECK ONLY ONE NATURE OF ACTION

Table with 4 columns: NATURE OF ACTION, GROUND, NATURE OF ACTION, GROUND. Includes checkboxes for various legal actions like Vehicle Accident, Medical Malpractice, Contract, etc.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and this declaration was executed on May 3, 1995 at Beverly Hills, California.

(SIGNATURE OF ATTORNEY/FILING PARTY) Dean E. Masserman, Esq.

Perogative writs concerning a court of inferior jurisdiction shall be filed in Central District. Dean E. Masserman, Esq.

THE COURT MAY IMPOSE SANCTIONS OR OTHER PENALTIES FOR FAILURE TO FILE IN THE PROPER DISTRICT

## New Civil Case Filing Instructions

Effective January 1, 1993, all persons filing new civil actions with the Los Angeles County Superior Court will be required to comply with the following procedures.

Pursuant to Superior Court Local Rules, Rule 300, Section 4 (revised effective January 1, 1993) this "**Certificate of Assignment**" (revised 12/92), **must be completed and filed** with the Court along with the original Complaint or Petition in ALL cases filed in any district (including the Central District) of the Los Angeles County Superior Court.

**PLEASE HAVE THE FOLLOWING DOCUMENTS COMPLETED AND READY TO BE FILED ALONG WITH YOUR ORIGINAL CIVIL COMPLAINT OR PETITION:**

1. Original Complaint or Petition.
2. One copy of the **caption or front page (or as many pages as necessary) of the Complaint or Petition** to show the names of ALL the parties involved in the case.
3. This "**Certificate of Assignment**" form, completely filled out. (Superior Court Form Number 4, revised 12/92)
4. Payment in full of the filing fee or an Order of the Court waiving payment of filing fees.
5. Additional copies of documents presented for endorsement.