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8 **COPY**

9 UNITED STATES DISTRICT COURT,
10 CENTRAL DISTRICT OF CALIFORNIA

11 HAROLD WALSH,
12 Plaintiff,

13 vs.

14 COUNTY OF SAN LUIS OBISPO, SAN
15 LUIS OBISPO COUNTY SHERIFF'S
16 DEPARTMENT, ANIMAL SERVICES,
17 ERIC ANDERSON, DIRECTOR OF
18 SAN LUIS OBISPO COUNTY
19 ANIMAL SERVICES, PAT HEDGES,
20 SHERIFF, STEVE BOLTS, UNDER
21 SHERIFF

22 Defendants,

23 Does 1 to 50.

Civil Action No. _____

COMPLAINT FOR
DAMAGES
(42 U.S.C. § 1983)

CV07-07133 RGK (AGRx)

24 INTRODUCTORY STATEMENT

- 25 1. This is an action for damages sustained by a citizen of the United States
26 against police officers of the County Sheriff's Department, who unlawfully
27 searched and seized and then refused to returned the property of this
28 plaintiff.
2. The action is against ERIC ANDERSON, DIRECTOR OF SAN LUIS
OBISPO COUNTY ANIMAL SERVICES, PAT HEDGES, SHERIFF,
STEVE BOLTS, UNDER SHERIFF as the supervisory officers responsible

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CLERK OF DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
LOS ANGELES

for the conduct of the defendants and for their failure to take corrective action with respect to police personnel whose unlawful acts were notorious, to assure proper training and supervision of the personnel, or to implement meaningful procedures to discourage lawless official conduct, and against the County of San Luis Obispo as the employer and supervising officer of the Sheriffs' personnel which is sued as a person under 42 U.S.C. § 1983.

JURISDICTION

3. This action is brought pursuant to 42 U.S.C. §~ 1983, 19\$8 and the First, Fourth, Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States.
4. This Court has subject matter jurisdiction of the action under 28 U.S.C. §§ 1331, 1343(a)(3), (4).
5. This Court may also exercise supplemental jurisdiction pursuant to 28 U.S.C. § 1367 over the plaintiff's state law claims that arise from the same facts and circumstances.

PARTIES

6. The plaintiff is a resident of an unincorporated area of San Luis Obispo, and at all times relevant to the allegations of this complaint was a citizen of the United States, and a resident of San Luis Obispo County.
7. At all times relevant to this action, defendant ERIC ANDERSON was the employee of San Luis Obispo County Animal Services Department, assigned to duties within the County of San Luis Obispo concerning animal welfare.
8. At all relevant times, this defendant was acting as the agent, servant, and employee of defendant County of San Luis Obispo.
9. This defendant is sued individually and in his official capacity.

1 10. At all times relevant to this action, defendant's "John Doe, one to 50 " our
2 sheriffs officers who conducted the search and seizure at the residence of
3 the plaintiff. employed by the Department, whose badge number is unknown
4 at this current time. These defendant's names are currently unknown and
5 undiscoverable to the plaintiff. The plaintiff will amend this complaint to
6 state the true name of "John Doe, one to 50 " as soon as possible. "John
7 Doe" was assigned to the San Luis Obispo County.

8 11. At all relevant times these defendants were acting as the agents, servants,
9 and employees of defendant County of San Luis Obispo.

10 12. This defendant is sued individually and in their official capacity.

11 13. At all times relevant to this action, defendant Pat Hedges was the duly
12 elected sheriff of the County of San Luis Obispo. At all times relevant to
13 this action, defendant Steve Bolts was the duly appointed under sheriff of
14 the County of San Luis Obispo. In this capacity, the Sheriff and under
15 sheriff was:

16 a. The commanding officer of defendants Eric Anderson and "John
17 Does, one to 50" and was responsible for their training, supervision,
18 and conduct.

19 b. Responsible by law for enforcing the regulations of the San Luis
20 Obispo County Sheriff's Department, and for ensuring that San Luis
21 Obispo County Sheriff's personnel obey the laws of the State
22 of California and of the United States.

23 c. Acting as the agent, servant, and employee of the defendant County
24 of San Luis Obispo County, this defendant is sued individually and in
25 his official capacity.

26 14. The defendant County of San Luis Obispo ("County") is a municipal
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28

corporation within the State of and, at all relevant times, it employed the other defendants in this action.

15. At all relevant times and in all their actions, the defendants were acting under color of law and pursuant to their authority as police personnel.

FACTUAL ALLEGATIONS

16. On December 14th 2005, at approximately 8:30 a.m., the plaintiff was at work and when a large number of Sheriff's deputies executed a search warrant at his and his wife's personal residence in San Luis Obispo, located at 304 Greengate Road, San Luis Obispo, CA 93401.

17. During the search the deputies under the direction of the Eric Anderson the most senior person in charge of Animal Services of San Luis Obispo County, seized approximately 83 purebred Pekinese, Poodle and Shit-tsu dogs, 26 birds that were contained within cages, 7 cats, 4 goats and a duck. However the deputies ignored the other livestock present on the property and did not seize it.

18. The Sheriff search the entire day at the residence of the plaintiff, while Harold Walsh continued to work at his job. His wife, Cynthia Walsh was arrested, handcuffed and placed in a Sheriff's automobile where she sat for a period of time while the sheriff's deputies continued to search the house.

19. The search warrant stated that they were looking for one standard poodles that were alleged to have been stolen by Mrs. Cindy Walsh. No such poodle was ever found. The only poodles that were recovered were properly certified by title documents to be the property of HAROLD and Cynthia WALSH.

20. A number of the purebred dogs, whose fair market value was approximately \$1000, each, were registered by their license with the Department of Animal

Services under the name of "Harold /Cindy Walsh." All of the animals that were seized where the community property of HAROLD and Cynthia WALSH, as were the cages for the birds. Said seized property was taken, it is believed, to the animal shelter owned by the San Luis Obispo County. The birdcages remain there to today's date unreturned to Mr. HAROLD WALSH.

21. In addition to with the animals and the cages that were seized by Sheriff's deputies, under the direction of Eric Anderson, when Mr. WALSH arrived home at approximately 4 p.m. Mr. WALSH found Sheriff's deputies inside the house still searching it.

22. Mr. WALSH is a collector of many fine fire arms and many sporting fire arms and several tactical firearms all which are legal for possession in the State of California. When Harold Walsh came home from work, Sheriff's deputies in rank violation of the search warrant demand it that Mr. Walsh open the second of two large gun safes that manifestly did not have live animals stored within them. By the time Mr. WALSH had arrived home in the sheriffs deputies had removed all of his lawfully owned firearms from the safe and laid them about the house. Sheriff's Deputies then demanded that Mr. WALSH open the second safe.

23. Mr. WALSH at first refused to open the second safe, however upon his refusal to, the Sheriff's deputies threatened that they would have a locksmith drill open the safe so that they could get inside the second safe.

24. Threaten with the destruction of eight hundred dollars of property, Mr. WALSH consented and opened the second safe.

25. After Mr. WALSH opened the second safe the deputies then started picking through what was manifestly fire arms and was not contained within the

parameters of the search warrant. While the deputies were ransacking the second safe day forced Mr. WALSH to stand outside the residence so that he was unable to observe any of the activities of the sheriffs while they were going through the safe. At no time was Mr. Walsh ever arrested, or advised of his rights concerning the property that had already been seized from the residence by the time Mr. Walsh had arrived home from work.

26. None of the property seized from either of the safes was contained within the search warrant. Areas searched by the deputies was completely irrelevant to the matter at hand.

27. All of the fire arms were removed from the safe and laid out all over the home while the sheriffs deputies went through the safes. The deputies then seized a series of property that was community property. Readily identified as a series of high capacity magazines, and not a standard poodle or a collar from a standard poodle, the sheriffs deputy seized 1 AR-15 40 round magazine, and 25 30 round AK-47 high capacity magazines. All of the aforementioned property seized by sheriffs deputies was lawfully owned by HAROLD WALSH, and was the community proper day of HAROLD and Cynthia WALSH.

28. Plaintiff HAROLD WALSH and believes that the or deputies and were shopping for items they wanted to collect from Mr. Walsh's safe. The single AR-15 40 round magazine the sheriffs deputies seized, and have refused to return, was manufactured by Colt and is under the laws of the State of California irreplaceable for HAROLD WALSH. Sheriff's deputies left 20 round magazines, 25 round magazines and 30 round magazines all for the AR-15 none of which are rare. In addition to the AR-15 magazines, the AK-47 magazines are now also illegal to purchase or sell in the state of

California. Mr. WALSH had, up to that time there were seized, possessed the magazines for a period of approximately 20 years. Mr. Walsh believes that these items were seized at the particular whim of a sheriff's deputy John Doe for his own personal use, and/or for the use of the Sheriff's SWAT team.

29. Mr. WALSH'S collection was mostly high quality hunting rifles are based upon the Winchester Model 70 Action, and or Winchester shotguns.

30. After all of the safe contents were laid out over the whole house, the Sheriff's deputies without lawful authority told that Mr. WALSH that they were going to seize all of the fire arms. The firearms value was well in excess of \$100,000 and represented a collection that Mr. WALSH had been working on for a period of over 30 years of his life. Several of the firearms were custom made by gunsmiths and irreplaceable heirlooms. Others were irreplaceable as they were unique in their manufacture. Harold Walsh strenuously objected to the deputies stating that they were going to seize all of the weapons, at which point the deputies told Mr. WALSH that he must remove all of the weapons from the house, even down to the smallest utilitarian ranch 22 caliber rifle that was used to shoot squirrels and other pests which proliferate within the rural areas of San Luis Obispo County. They demanded the all of the firearms to an area other than Mr. WALSH'S residence. All of the weapons and magazines of Mr. WALSH are community property.

31. At that point in time Mr. WALSH stated that he would remove the firearms though he disagreed with their demand to do so and he would involuntarily transport the fire arms under the threat of the color of authority of the San Luis Obispo County Sheriff's Depardment to seize them.

32. At that time, Mr. WALSH then loaded his entire collection of fire arms including any ancillary utilitarian ranch rifles and transported them to his father's gun safe which was also located within San Luis Obispo County. The sheriffs deputies had no lawful orders to seize or cause to be removed from the house any of the weapons of HAROLD WALSH . The deputies made an attempt to seize the weapons of HAROLD WALSH and caused him involuntarily to remove all of the firearms from his house and abrogated unlawfully HAROLD WALSH 's second amendment rights. All of these acts were done under the color of authority of the Sheriff's Deputies under the direct supervision of Eric Anderson.

33. To today's date, County of San Luis Obispo still possesses and refuses to return to Mr. HAROLD WALSH all of the high-capacity magazines that were seized at of the execution of the search warrant.

34. At the end of the search and seizure, although all of the property is presumed legally to be community property, Mr. WALSH was given no notice of any kind concerning what was seized and/or that there would be any hearings of any kind held concerning the property that was seized from his residence.

35. County of San Luis Obispo has refused and continues to refuse to acknowledge Mr. HAROLD WALSH 's community interest in the property that was seized. The County of San Luis Obispo has and continues to act as if HAROLD WALSH has no property interest in any of the tens of thousands of dollars of property that was seized.

36. County of San Luis Obispo also refused to allow HAROLD WALSH to take possession of any of the animals at all, and kept the animals for a number of months running up a preposterously large bill of approximately

one quarter of \$1 million dollars, prior to the Animal Services Department literally giving away the 83 purebred dogs seized for zero money. All of the animals were given away and as if they had no value and no notice was ever given to HAROLD WALSH in any shape or form, thus depriving him of his property without proper notice in violation of both the laws of the State of California and the laws of the United States.

37. HAROLD WALSH was never charged with any crimes. Cynthia Walsh pled guilty to for misdemeanor charges. San Luis Obispo County animal services has acknowledged in writing that there were no conditions of emergency that demanded the immediate seizure of the animals. Even though fare was in no condition of emergency that allowed for the seizure of the animals under the laws of the State of California (specifically the "Hayden Laws"), and the County of San Luis Obispo retain possession of the animals, and ran up a bill that is currently \$261,475.58 as of July 24, 2007.

38. Because the animals were seized in a condition other than an emergency, legally the animals were to be returned to either HAROLD or Cynthia WALSH . Instead the County of San Luis Obispo kept all of the animals and refused to release them under any conditions after which time they simply gave all of the animals away, and did not sell any of them and a commercially reasonable fashion, in an attempt to offset any of the monies they claimed were owed by the WALSH s to the County of San Luis Obispo.

39. As a result of the misconduct described above, the plaintiff experienced humiliation, emotional distress, pain and suffering, incurred expenses, including legal fees, and was otherwise damaged.

- 1 40. The abuse to which the plaintiff was subjected was consistent with an
2 institutionalized practice of the County Police Department, which was
3 known to and ratified by defendants Sheriff and County.
- 4 41. Despite knowledge of these institutionalized practices, the defendants
5 Sheriff and County have at no time taken any effective action to prevent
6 County police personnel from continuing to engage in this type of
7 misconduct.
- 8 42. Defendants Sheriff and County had prior notice of the illegal seizure
9 propensities of defendants but took no steps to train them, correct their
10 abuse of authority, or to discourage their unlawful use of authority.
- 11 43. The failure of defendants Sheriff and County to properly train defendants,
12 includes the failure to instruct them in applicable provisions of the State
13 Penal Law of the State of California and the proper and prudent use of
14 search warrants.
- 15 44. Defendants Sheriff and County authorized, tolerated as institutionalized
16 practices, and ratified the misconduct detailed above by:
- 17 a. Failing to properly discipline, restrict, and control employees,
18 including defendants known to be irresponsible in their dealings with
19 citizens of the community;
 - 20 b. Failing to take adequate precautions in the hiring, promotion, and
21 retention of police personnel, including the "John Doe, one to 50";
 - 22 c. Failing to forward to the office of the District Attorney of San Luis
23 Obispo County evidence of criminal acts committed by police
24 personnel;
 - 25 d. Failing to establish or assure the functioning of a bona fide and
26 meaningful departmental system for dealing with complaints of police
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misconduct, but instead responding to these types of complaints with bureaucratic power and official denials calculated to mislead the public.

45. The conduct of defendants Sheriff and County also constitutes gross negligence or intentional conversion of chattels under California state law.

46. As a consequence of the abuse of authority detailed above, the plaintiff sustained the damages alleged above.

FEDERAL THEORIES OF RECOVERY

47. The actions and omissions described above, engaged in under color of state authority by the defendants (including defendant County, sued as a person and responsible because of its authorization, condonation, and ratification of the acts of its agents), deprived the plaintiff of rights secured to him by the Constitution of the United States, including, but not limited to, the plaintiff's:

- a. First Amendment right to freedom of expression;
- b. Fourth Amendment right to be free from unlawful seizure of his property;
- c. Fifth and Fourteenth Amendment rights to due process of law, including the right to be free from unjustified search and seizure by police.

STATE LAW THEORIES OF RECOVERY

48. On July 31, 2007, the plaintiff caused a written verified Notice of Claim to be filed with and served on the proper officers, agents, and employees of the defendant County of pursuant to the claims statutes governing these cases. A true and correct copy of the Notice is attached to this complaint and incorporated by reference.

1 49. The plaintiff's claim has been denied by operation of law because more than
2 30 days have elapsed since the service of the Notice of Claim, and
3 adjustment or payment of the Claim has been neglected or refused.

4 50. The acts and conduct alleged above constitute actionable torts under the
5 laws of the State of , including the tort of:

- 6 a. Conversion;
- 7 b. Invasion of Privacy
- 8 c. Abuse of process,
- 9 d. Negligence, and
- 10 e. Gross negligence.

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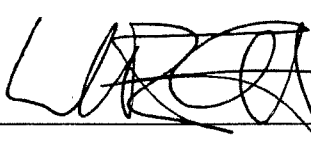
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1 PRAYER

2 Plaintiff demands the following relief:

- 3 1. Compensatory damages in the amount of \$95,000.00
- 4 2. Punitive damages in the amount of \$950,000.00
- 5 3. Attorney's fees pursuant to 42 U.S.C. § 1988.
- 6 4. An award of plaintiff's costs of suit.
- 7 5. All other relief that is appropriate under the circumstances.

8 Dated: September 24, 2007

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12 Adam R. Fairbairn,
13 Attorneys for Plaintiff

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I declare under penalty of perjury under the laws of the State of California
that the foregoing is true and correct. September 24, 2007

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

HAROLD WALSH

PLAINTIFF(S)

v.

[See ATTACHED FACE SHEET]

DEFENDANT(S).

CASE NUMBER

CV07-07133 RGR (AGR_x)

SUMMONS

TO: THE ABOVE-NAMED DEFENDANT(S):

YOU ARE HEREBY SUMMONED and required to file with this court and serve upon plaintiff's attorney
Adam Ranald Fairbairn, whose address is:

819 - 12th Street, Ste 211
Paso Robles, CA 93446

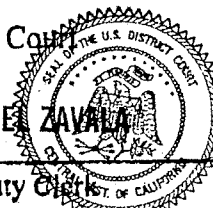
an answer to the ☒ complaint ☐ _____ amended complaint ☐ counterclaim ☐ cross-claim
which is herewith served upon you within 20 days after service of this Summons upon you, exclusive
of the day of service. If you fail to do so, judgement by default will be taken against you for the relief
demanded in the complaint.

Dated: OCT 31 2007

Clerk, U.S. District Court

By: _____

Deputy Clerk



(Seal of the Court) 1171

1 Adam R. Fairbairn SBN 168204
2 Attorney at Law
3 819 - 12th Street, Suite 212
4 Paso Robles, CA 93446

5 Tel: 805-238-7688
6 Fax: 805-238-7497

7 Attorney For Plaintiff, Harold Walsh

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ATTACHMENT TO SUMMONS

[CV-01A]