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9 Association

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF RIVERSIDE

SEP 03 2010

**Y. Saldana**

10 SUPERIOR COURT OF CALIFORNIA  
11 COUNTY OF RIVERSIDE -- BLYTHE BRANCH

12 WEST BANK HOMEOWNERS  
13 ASSOCIATION, a California corporation,

14 Plaintiff,

15 v.

16 COUNTY OF RIVERSIDE, RIVERSIDE  
17 COUNTY SHERIFF'S DEPARTMENT,  
18 SHERIFF STANLEY SNIFF, in his official  
19 capacity and Does 1 through 100, Inclusive.

20 Defendants

Case No. BLC10000270

VERIFIED CIVIL RIGHTS COMPLAINT FOR  
INJUNCTIVE AND DECLARATORY RELIEF  
[42 U.S.C. 1983]

[Assigned to Dept. \_\_\_\_\_, the  
Honorable \_\_\_\_\_, presiding.]

21 For its complaint for injunctive and declaratory relief, West Bank Homeowners  
22 Association alleges the following:

23 **INTRODUCTION**

24 1. Plaintiff, West Bank Homeowners Association ("Plaintiff") brings this civil  
25 rights action as a representative of its approximately six hundred (600) members who are all  
26 United States citizens, most residents of California, and who occupy, both full and part time,  
27 residences located on land in Riverside County, California generally located ten (10) miles  
28 north of Blythe, California, extending approximately seventeen (17) miles with its western  
boundary being Highway 95 and its eastern boundary being the west bank of the Colorado

1 River. (Hereinafter the land in question shall be referred to as the "West Bank Land," and the  
2 lots occupied by Plaintiff's members shall be referred to as "HOA Lots.") Most of the  
3 residences consist of mobile homes, many of which have been there for decades, with a small  
4 percentage of the residences consisting of traditional construction commonly referred to as  
5 "stick built" homes (referring to the traditional methods of use of cement foundations, wood  
6 framed structures, with stucco exteriors).

7  
8 2. Plaintiff files this Complaint against the County of Riverside and the Sheriff of  
9 Riverside County under the Civil Rights Act of 1871. The Civil Rights Act of 1871 is  
10 commonly known as "Ku Klux Klan Act" as one of its fundamental purposes was to provide a  
11 civil remedy against police and other state officials to prevent abuses that were being committed  
12 in states as persons charged with the enforcement of laws were unwilling to do so. This Act is  
13 found codified at 42 U.S.C. § 1983. This Act was necessitated following the passage of the  
14 *Thirteenth, Fourteenth and Fifteenth Amendments* to the United States Constitution following  
15 prohibition of slavery and confirming to all U.S. citizens the right to equal protection and due  
16 process of law, as well as the right to vote. The Act was in reaction to the Ku Klux Klan and  
17 other groups waging self-help, including raids on homes and terror campaigns, so as to prevent  
18 African Americans from exercising their rights granted to them through the *Thirteenth,*  
19 *Fourteenth and Fifteenth Amendments*, all the while state officials stood by and "participated"  
20 by their active failure to perform their duties to protect citizens and otherwise assist violations  
21 often under the auspices of "keeping the peace." The United States Supreme Court has made it  
22 resoundingly clear that states, counties and police officers acting under color of state law are  
23 subject to the remedies provided under § 1983. (See *Monroe v. Pape*, 365 U.S. 167 (1961).)

24 3. 42 U.S.C. § 1983 provides as follows:

25 "Every person who, under color of any statute, ordinance, regulation, custom, or  
26 usage, of any State or Territory, subjects, or causes to be subjected, any citizen of  
27 the United States or other person within the jurisdiction thereof to the deprivation  
28 of any rights, privileges, or immunities secured by the Constitution and laws,  
shall be liable to the party injured in an action at law, suit in equity, or other  
proper proceeding for redress."

1  
2 4. The United States Supreme Court in *Soldal v. Cook County*, 506 U.S. 56 (1992),  
3 in an opinion by Justice White expressing the *unanimous* view of the Court, held that an action  
4 under 42 U.S.C. § 1983 against Cook County and its Sheriff, properly existed due to the  
5 participation by the Sheriff's Department, pursuant to County policy, whereby the County and  
6 the Sheriff had assisted a landlord in the seizure of the *Soldal's* trailer or mobile home and  
7 through its actions of allowing same to occur in their presence without the landlord having an  
8 eviction order to authorize such action. Based on this and many other precedents consistent  
9 with the Supreme Court's holding in *Soldal*, Plaintiff brings this action against the County of  
10 Riverside, the Riverside County Sheriff's Department and Sheriff Stanley Sniff, acting in his  
11 official capacity, due to their active participation and policies which state they will allow third  
12 parties to come on to the HOA lots of Plaintiff's members and remove persons, residences, and  
13 property contained therein without being provided any lawful court order authorizing same.  
14 Such policy and actions are contrary to all California public policy, California's Penal Code §  
15 418 which prohibits self help as occurring and all constitutional restrictions on such actions.  
16 Defendants' only excuse in allowing same to occur is that those who are terrorizing Plaintiff's  
17 members and engaging in such conduct happen to be agents and/or members of a Native  
18 American Tribe which claims, without benefit of any final court order, the right to evict  
19 Plaintiff's members and remove property without any due process of law. Defendants have  
20 failed in their duties and unconstitutionally participated and allowed such acts, thereby  
21 subjecting themselves to this civil rights lawsuit.

22 5. There is no dispute that the acts are occurring in California. Nor is there a  
23 legitimate dispute that the criminal jurisdiction over the West Bank land solely lies with the  
24 State of California and its representatives, including Sheriff Sniff.

25  
26 6. Finally, the United States Supreme Court has made it clear that it matters not  
27 who is engaging in self help and a removal campaign of homes and property without due  
28

1 process of law and that it is the duty of the County of Riverside and its Sheriff's Department to  
2 protect U.S. citizens and occupants of the West Bank Land and to prevent such acts, rather than  
3 participate and establish policies and practices that promote and allow the illegal and  
4 unconstitutional conduct as is now threatened and has occurred.

5  
6 7. Accordingly, Plaintiff brings this 42 U.S.C. § 1983 civil rights lawsuit seeking  
7 injunctive relief and declaratory relief which claims arise under the Fourth, Fifth, Ninth and  
8 *Fourteenth Amendments* to the United States Constitution, as well as pursuant to the California  
9 Constitution Article 1, Sections 1 and 7 which guarantee to California citizens due process of  
10 law, the right to be secure in their homes, and equal protection under the law.

#### 11 PARTIES

12 8. At all times herein mentioned, Plaintiff was and remains a duly organized  
13 California corporation whose approximate 600 members consist of United States citizens who  
14 are occupants of residences located on lots within the West Bank Land. The purpose of  
15 Plaintiff, in part, is to represent the interests of all of its members, protect their property and  
16 constitutional rights and to otherwise address any and all related matters arising out of their  
17 occupancy on lots on the West Bank Land. Plaintiff's members would have standing to bring  
18 this action in their own right. The interests which are sought to be protected by filing this action  
19 are fundamental and germane to the Plaintiff's purpose and neither the claim asserted nor the  
20 relief requested requires the participation of its individual members in this lawsuit. Based on  
21 the facts herein alleged, Plaintiff's members are now subject to deprivation of their rights,  
22 privileges, and immunities secured by the United States Constitution and the laws and  
23 fundamental policies of the State of California.

24 9. Plaintiff is informed and believes and thereon alleges that Defendant County of  
25 Riverside ("County") is a local government agency and subdivision of the State of California  
26 and is subject at all times to the obligations and limitations of all applicable state, federal and  
27 other laws including but not limited to 42 U.S.C. § 1983.

1  
2 10. Plaintiff is informed and believes and thereon alleges that Defendant Riverside  
3 County Sheriff's Department ("RCSD") is a public entity organized and existing under the laws  
4 of the State of California and at all relevant times has been an agency of the County and is  
5 vested and charged with the legal authority and duty to enforce all laws of the State of  
6 California, including but not limited to Penal Code § 418 prohibiting forcible entry and detainer  
7 within the County, including the West Bank Land, and at all times is subject to the obligations  
8 of all applicable state, federal and other laws and is otherwise subject to claims pursuant to 42  
9 U.S.C. 1983 as alleged herein.

10 11. Plaintiff is informed and believes and thereon alleges that Stanley Sniff is named  
11 in his official capacity as the elected Sheriff of the County. (Hereinafter Defendant Stanley Sniff  
12 shall be referred to as "Sheriff Sniff".) In that capacity, Sheriff Sniff has been delegated certain  
13 responsibilities and at all times is vested with the legal authority and obligations to enforce all  
14 applicable state, federal and other laws and is otherwise subject to claims pursuant to 42 U.S.C.  
15 1983 as alleged herein. (Hereinafter Riverside County, Riverside Sheriff's Department and  
16 Sheriff Sniff and Does 1 through 50 shall be referred to as "Defendants.")

17  
18 12. Plaintiff seeks no monetary relief as such, exclusive of attorneys' fees and costs.  
19 Nothing by the claims of Plaintiff, directly or indirectly, seek to or does adjudicate or affect title  
20 to the West Bank Land nor is relief sought as against any third parties not named herein.  
21 Rather, Plaintiff's claims are directed solely to Defendants whose policies, actions, and  
22 affirmative failures to act are alleged to be wrongful and to violate the rights of Plaintiff's  
23 members as alleged herein. Accordingly, Plaintiff has standing to bring the claims set forth  
24 herein.

25  
26 **VENUE**

27 13. Plaintiff is informed and believes and thereon alleges that the wrongful and  
28 unlawful actions for which Plaintiff seeks redress are occurring within the Desert Judicial

1 District of the Riverside County Superior Court and that the proper venue for this action is the  
2 Blythe Branch of the Riverside County Superior Court.

3  
4 **JURISDICTION**

5 14. Jurisdiction of the subject matter of this action is established by the Supremacy  
6 Clause of the United States Constitution which prohibits by state law the right to alter or restrict  
7 federally created rights. Plaintiff is entitled to file then its complaint under 42 U.S.C. § 1983 as  
8 occurring herein. (See *Gatto v. County of Sonoma* 98 Cal. App. 4<sup>th</sup> 744, 764 and *Williams v.*  
9 *Horvath* 16 Cal. 3d 834, 842 (1976).

10 **GENERAL ALLEGATIONS**

11 15. Public Law 280, codified at 18 U.S.C. 1162, gave criminal jurisdiction to  
12 California over any and all reservation land in California. From inception, California was  
13 designated as a "mandatory state" whereby its criminal jurisdiction over offenses by or against  
14 Indians immediately supplanted American Indian Country jurisdiction. It provides California's  
15 criminal laws "shall have the same force and effect within such Indian Country as they have  
16 elsewhere within the State or territory." In fact, Public Law 280, as originally introduced, was  
17 only concerned with law enforcement problems in the State of California. [See RESP NO.  
18 83699, at 1-6 as originally presented as H.R. 1063) which provides for "California alone to  
19 extend its criminal laws over Indian Country and have jurisdiction over civil disputes in Indian  
20 Country." Later, other states were added.] The term "Indian Country" is a defined term as  
21 codified by U.S.C. 1151 and includes all land within the limits of Indian reservations under the  
22 jurisdiction of the United States Government, as well as all other dependent Indian communities  
23 within the borders of the United States whether within the original or subsequently acquired  
24 territory thereof, as well as all Indian allotments. By such statute, criminal law jurisdiction over  
25 the matters at issue vests exclusively with the State of California and its enforcement vests  
26 exclusively with California officials and those empowered to enforce its criminal statutes.  
27 Whether or not the West Bank Land is or is not reservation land, California criminal statutes  
28 apply and all persons located or occupying such land, including Plaintiff's members, are entitled

1 to protection under California's criminal statutes. This action need not and does not seek to  
2 adjudicate the issue of whether the West Bank Land is reservation land. It matters not, one way  
3 or the other.

4  
5 16. Defendants have admitted and affirmed that "The Sheriff has the responsibility  
6 of enforcing state criminal prohibitory statutes on tribal lands in the State of California." This  
7 statement of position which is accurate as a matter of law is set forth in a July 28, 2010, letter of  
8 Chief Deputy Rodney Vigue sent to Attorney Thomas S. Slovak, in response to a request for  
9 assistance from the Sheriff's Department to prevent crimes and to cause the Sheriff's  
10 Department to prevent the taking of private property contrary to California criminal law. A copy  
11 this letter is attached as Exhibit "D" to the Declaration of Thomas S. Slovak which is attached  
12 to this Complaint and incorporated herein by this reference.

13 17. *California Penal Code* § 418 provides as follows:

14 "Every person using or procuring, encouraging or assisting  
15 another to use, any force or violence in entering upon or detaining  
16 any lands or other possessions of another, except in the cases and in the manner  
17 allowed by law, is guilty of a misdemeanor."

18 18. California Penal Code § 418 merely represents the most current manifestation,  
19 through criminal law statutes, of the most fundamental policy of protection of individual rights  
20 in the United States of America; that is, persons are to be free of governmental intrusion and  
21 otherwise be secure in their homes. Such protections are the most basic of freedoms upon which  
22 the United States was founded. Such principles are the basis then for requirements that they  
23 may not be taken through governmental action as alleged herein. Such principles are central to  
24 the public policies of not only the United States, but the State of California. Such restrictions  
25 are further grounded in the United States Constitution whereby all citizens are entitled to equal  
26 protection under the law. With the adoption of the *Fourteenth Amendment*, Defendants in their  
27 capacities as representatives of the State cannot, may not, and shall not institute such policies  
28 and practices and otherwise allow and participate in the violation of Plaintiff's constitutional  
rights as alleged herein. Defendants cannot stand aside and assist, as is occurring, and

1 otherwise allow others to so deprive Plaintiff's members of such liberties and rights, on any  
2 ground, much less the pretext now occurring. Nothing in common law, federal law, state law,  
3 or under any standard of equity or justice exists to condone what Defendants are now doing.  
4

5 19. Article 1, Section 1 of the California Constitution confirms that all people have  
6 inalienable rights including "enjoying and defending life and liberty, acquiring, possessing, and  
7 protecting, property, and pursuing and obtaining safety, happiness, and privacy." Article 1  
8 Section 7(a) of the California Constitution provides that, "A person may not be deprived of life,  
9 liberty, or property without due process of law or denied equal protection of the laws. . . ."

10 These provisions of California's Constitution, as well as others, confirm then that restrictions  
11 against self help, thereby denying due process of law, reflect the most fundamental of  
12 California's public policy. These fundamental public policies are reflected in Penal Code §  
13 418. Accordingly, the criminal prohibitions in California against self help and prohibition  
14 against evictions of residences without due process of law and court order are prohibitory and  
15 enforceable everywhere in California, including the West Bank Land and regardless of whether  
16 it is or is not reservation property.

17 20. The sworn declarations of Roger French, Ronald Jones, Rudy Alfonso Lopez,  
18 James M. Foley, Wendell E. ("Sonny) Schubert, Thomas S. Slovak, and Robert Sheets and  
19 Statement of Michelle Murray filed currently with this complaint in support of its application  
20 for a preliminary injunction are also attached hereto as **Exhibits "1," "2," "3," "4," "5," "6,"**  
21 **"7," and "8"** respectively, to fully apprise and plead all the facts necessary to obtain the relief  
22 sought. Their allegations are incorporated herein by this reference. In summary, Plaintiff is  
23 informed and believes and further alleges as follows:

24 A. Until on or about December, 2009, the policies of Defendants since at least 2003,  
25 were consistent with California Penal Code § 418 and all constitutional law upon  
26 which it is founded, that no third persons would be allowed to exercise self help  
27 on the West Bank Land and that the Sheriff's Department would arrest anyone  
28 harassing residents or disturbing property under the auspices of self help. The



1 policy provided that anyone who attempted evictions without due process of law  
2 and court orders would be arrested. Defendants confirmed publicly and  
3 otherwise that the Sheriff of Riverside County had jurisdiction over enforcement  
4 of California's criminal statutes on the West Bank Land and it would not  
5 otherwise assist anyone who sought to break the law. By such policies and  
6 practices, Plaintiff's members as California citizens were thus receiving equal  
7 protection under the law similar to that received by all other California residents  
8 and United States Citizens residing or otherwise located in the State of  
9 California.

10 B. For reasons unknown, but contrary to law, Defendants have recently and  
11 expressly rejected its prior policies and practices and instead have now adopted  
12 policies and practices directly contrary to all constitutional requirements.  
13 Defendants now claim that Penal Code § 418 is not a California criminal  
14 prohibitory statute that Defendants have the responsibility of enforcing on the  
15 West Bank Land. Defendants refuse to provide plaintiff's members with  
16 protection from known criminal acts including self help, removal of homes,  
17 personal property on residential lots and within homes, and even allowed bodily  
18 removal of individuals, all without due process of law and any court order  
19 authorizing same. Moreover, Defendants have further actively planned with third  
20 parties who have engaged in such illegal acts and with notice given to  
21 Defendants of the intentions to engage in such conduct, not only have ignored  
22 pleas for help from Plaintiff's members, but have joined with and participated in  
23 the self help actions including arrival in caravans with third parties who intend to  
24 take such actions and then, as armed officers of the law, assist through their very  
25 presence and threat of force saying to all who inquire and object that such  
26 objections will not be heard and that these objectors should stand aside. The  
27 intent and effect of such actions has been to allow unlawful acts to occur which  
28 otherwise are prohibited. But for Defendants approval, acceptance, adoption,  
participation, and protection, these acts would not and could not otherwise take

1 place. Defendants have made clear they intend to pursue such practices and  
2 policies until ordered to cease and desist by an order of a court of law.

3 C. Defendants wrongfully characterize their conduct as “keeping the peace,” when  
4 it is the peace that Defendants allow to be disturbed in the most fundamental  
5 manner as U.S. Citizens and California residents are evicted without due process  
6 of law and their homes and property seized under the plain view and assistance  
7 of Defendants.

8 D. Despite repeated demands for help and protests of Defendants’ practices,  
9 Defendants refuse to act on same and instead have responded with statements  
10 demonstrating violations as alleged by Plaintiff herein. In response to inquiries  
11 why the Sheriff no longer requires due process of law to be followed,  
12 Defendants’ often answer with a non-answer, which is the present policy “to  
13 keep the peace.” When complaining to Defendants that Plaintiff’s members are  
14 being deprived of due process of law, Defendants through their representatives  
15 have stated that if Plaintiff’s members want due process, “the residents need to  
16 take that up with the court system.” Defendants have admitted their active  
17 participation in these events and the complete deference to those third parties  
18 engaging in the activities alleged herein by reiterating and confirming that these  
19 parties are not necessarily required to notify the Sheriff’s Department of their  
20 future intended actions. Defendants take the position that their “hands are tied”  
21 and state that their position at the present time on this issue is “essentially none.”

22 21. Plaintiff is informed and believes and thereon alleges that Defendants, and each  
23 of them, have purposely and wantonly and with callous disregard for the law failed to properly  
24 train and supervise their employees including Deputy Sheriffs and any and all other persons in  
25 the Sheriff’s Department as to the requirements of California and Federal Law that prohibit, on  
26 both statutory and constitutional law grounds, the forcible entry and detainer of residences and  
27 property contained therein without due process of law.

1  
2  
3 **FIRST CAUSE OF ACTION**

4 **(Injunctive Relief)**

5 22. Plaintiff re-pleads and incorporates herein by this reference Paragraphs 1 through  
6 20 above.

7 23. Plaintiff is informed and believes and thereon alleges that Defendants, and each  
8 of them, are all "persons" subject to liability under 42 U.S.C. § 1983 and thus are not immune  
9 from the claims and relief sought by Plaintiff herein. (See *Monell v. Department of Social*  
10 *Services of the City of New York*, 436 U.S. 658 (1978))

11  
12 24. Plaintiff is informed and believes and thereon alleges that the Defendants'  
13 actions and threatened actions were and are taken under the color of law.

14  
15 25. Plaintiff is informed and believes and thereon alleges that 42 U.S.C. § 1983  
16 specifically authorizes and has been interpreted to authorize actions against Defendants, as  
17 alleged herein, for declaratory and injunctive relief, as the actions are alleged to be  
18 unconstitutional executory policies, regulations, customs, practices, and decisions (hereinafter  
19 "Policies") adopted and promulgated by the Defendants and those in control of Defendants.  
20 These actions and Policies have been given approval and effect such as to constitute a  
21 governmental custom, even though such custom may or may not have received formal approval  
22 through the Defendants' official decision making channels. Regardless, they are now in effect  
23 and are being followed by direction of Defendants.

24 26. Plaintiff is informed and believes and thereon alleges that the Policies at issue  
25 herein are persistent and represent wide spread, unlawful, discriminatory practices so as to  
26 violate the constitutional rights of Plaintiff's members and each of them.

1           27.     Plaintiff is informed and believes and thereon alleges that there can be no  
2 glossing over the actual unlawful practices and Policies of Defendants which are so antithetical  
3 to common law, common decency, and common sense as to make an express ordinance in  
4 writing impracticable. Such is the case particularly where the long established, fundamental  
5 public policy of the State of California prohibits forcible entry and detainer and the removal of  
6 persons and property from their residences without due process of law and otherwise violates  
7 the constitutional rights of Plaintiff's members.

8  
9           28.     Plaintiff is informed and believes and thereon alleges that Defendants' practices  
10 constitute an abrogation of duty and Defendants' exclusive jurisdiction and obligation to apply  
11 uniformly California's criminal law statutes within the State of California including the West  
12 Bank Land, assuming for the sake of argument that the West Bank Land is, or is considered to  
13 be, or possibly may be, in the minds of Defendants, reservation land.

14           29.     Plaintiff is informed and believes and thereon alleges that it matters not whether  
15 the Plaintiff's members are or are not on reservation land. Regardless, Defendants, and each of  
16 them, may not institute and implement the Policies and practices at issue in this action and may  
17 not participate in and assist, directly or indirectly, by action or inaction, the deprivation of the  
18 constitutional rights of Plaintiff's members as is alleged herein.

19  
20           30.     Plaintiff is informed and believes and thereon alleges that Defendants have  
21 instituted Policies that have directed their officers and employees under their control to act in  
22 the manner occurring to date and as stated they are to act in the future which has and will cause  
23 a deprivation of constitutional rights of Plaintiff's members. Such Policies are evidenced by  
24 Defendants having failed to properly train and supervise their employees regarding the legal  
25 requirements to enforce the laws of the State of California and specifically to require law  
26 enforcement officials, under their control and direction, to actually protect Plaintiff's members  
27 and prohibit any and all persons from exercising self help remedies and seeking to forcibly  
28 remove persons, homes, and their property contained within their homes and on HOA Lots on

1 the West Bank Land without due process of law including a requirement that a court order  
2 authorize same.

3  
4 31. Plaintiff is informed and believes and thereon alleges that rather than prevent  
5 such acts and protect Plaintiff's members from same, Defendants have actually conspired and  
6 participated with third parties who are engaging in such unlawful acts. Such unlawful Policies  
7 take the form of accompanying third parties who trespass and otherwise break barriers and locks  
8 to HOA lots and break into residences of Plaintiff's members and to otherwise, by Defendants'  
9 own armed presence, allow other parties, to engage in such acts. Such conduct allows these  
10 activities to occur under the threat of use of deadly force. In response to complaints,  
11 Defendants then assert such unlawful actions as merely a "civil dispute," thereby refusing to  
12 protect Plaintiff's members and otherwise allow third parties to carry out such unlawful  
13 activities. But for the Policies and participation by Defendants, and those acting under their  
14 control and direction, such unlawful acts and deprivation of constitutional rights could not in  
15 fact occur and by such announced policies, practices and customs now in force, Defendants are  
16 now, in fact, the moving force behind such constitutional deprivations. The acts complained of  
17 by Plaintiff in this action are exactly the type of state action that caused the Ku Klux Klan Act  
18 to be passed by Congress in 1871.

19 32. Plaintiff is informed and believes and thereon alleges that Defendants, and each  
20 of them, have acknowledged and indeed asserted that, without question, there exists exclusive  
21 criminal jurisdiction of California laws over all actions occurring on the West Bank Land and  
22 that no other entity, other than perhaps federal law enforcement officials, have any jurisdiction  
23 whatsoever regarding same. Further, it is black letter, long established law, as evidenced in  
24 California Penal Code § 418, that forcible entry and detainer is a crime in the State of  
25 California, as it is in all other states of the United States, and represents a fundamental public  
26 policy of the State of California, inasmuch as its enactment is grounded upon the Bill of Rights  
27 and consequently sections of the California Constitution. Accordingly, the stated policy and  
28 custom of Defendants to allow third parties who claim to be and are agents of the Colorado

1 River Indian Tribes ("CRIT"), to engage in such acts constitutes nothing more and nothing less  
2 than the most egregious of acts. No law exists anywhere in the United States, federal or state,  
3 that authorizes Defendants to take such position and to actively participate in the deprivation of  
4 constitutional rights as alleged herein. Defendants, for whatever reason, have then made a  
5 conscious policy choice and in so doing have knowingly and willfully chosen to engage in the  
6 unconstitutional customs and practices as alleged herein. Indeed, the very practices instituted  
7 violate the very core and lawful purpose of the Sheriff's Department and its officers whose  
8 primary purpose is to keep the peace, which necessarily has, since the founding of the United  
9 States of America, meant that citizens such as Plaintiff's members are free from warrantless  
10 searches and seizures of their property, in the manner occurring in this instance. Only through  
11 the strongest of Policies could any sworn officer of the law allow such activities to occur. It has  
12 been admitted that the Policies at issue are being directed "from above" referring to these  
13 Defendants who have instituted the policies at issue.

14  
15 33. Plaintiff is informed and believes and thereon alleges that as late as December,  
16 2009, the policy of Defendants was exactly opposite of that now existing and that Defendants  
17 had directed all police officers to enforce all criminal laws of California on the West Bank  
18 Land, including Penal Code 418, and that no forcible entry and detainer and seizure of  
19 occupants residences and property would be allowed to occur by any third persons without a  
20 lawful court order. At a time uncertain, this policy changed as now alleged herein, even though  
21 Defendants, as policy makers, were aware of the pattern of constitutional violations that would  
22 occur with the change in stated policies. Accordingly, Defendants and each of them were on  
23 notice that constitutional violations could and would thereafter exist on a regular basis and that  
24 by such policies those under them, including deputies of Riverside County, would then be  
25 required to act and react in a manner contrary to all constitutional requirements. Despite  
26 repeated demands and requests of Plaintiff on behalf of its members and numerous members  
27 themselves, Defendants have refused and continue to refuse to correct their polices and  
28 practices despite the obvious need to do so and have purposely then failed to train their deputies

1 to act other than as now directed. The fact is, Defendants, and each of them, are effectively  
2 ordering violations of the constitutional rights of Plaintiff's members. Such acts and Policies  
3 constitute the official government policies of Defendants in a context where Defendants, who  
4 are charged with enforcing the law and protecting Plaintiff's members, have purposely,  
5 deliberately, and recklessly ignored the law and the resulting violations of the constitutional  
6 rights of Plaintiff's members.

7  
8 34. Plaintiff is informed and believes and thereon alleges that the acts of Defendants,  
9 and each of them, are reckless, intentional, and constitutes gross negligence such as to constitute  
10 deliberate and callous indifference to the rights of Plaintiff's members.

11  
12 35. Plaintiff is informed and believes and thereon alleges that by the acts, failures to  
13 act, and by the Polices and practices alleged herein, Defendants have selectively denied  
14 protective services to members of Plaintiff so as to deny Plaintiff's members equal protection  
15 under the law in violation of the *Fourteenth Amendment*. The net result of this practice also is  
16 to effectively create a dangerous condition on the West Bank Land.

17  
18 36. Plaintiff is further informed and believes and thereon alleges that such actions  
19 and failures to act are pursuant to a pattern or practice of providing lesser or no protection to  
20 Plaintiff's members entitled to due process of law and safety from constitutional violations,  
21 occurring contrary to California Penal Code § 418, simply because Plaintiff's members and  
22 their residences are on California land, claimed by a third party to be part of a reservation, even  
23 though Defendants have long admitted the undisputable fact that California has exclusive  
24 criminal jurisdiction over the subject area in any event.

25 37. As a direct and proximate result of the acts and failure to act as alleged herein,  
26 Defendants, and each of them, have violated 42 U.S.C. § 1983 by violating the constitutional  
27 rights of Plaintiff's members including those rights guaranteed under the *Fourth Amendment*

1 prohibiting unreasonable searches and seizures; the *Fifth Amendment* prohibiting deprivation of  
2 life, liberty, or property without due process of law; the *Ninth Amendment* which provides  
3 protections of citizens' rights to privacy and to be otherwise secure from governmental abuses  
4 of power; and the *Fourteenth Amendment* which was directed to and prohibits state government  
5 and those acting under color of law from violating the rights of Plaintiff's members to life,  
6 liberty, and property without due process of law and to otherwise provide equal protection under  
7 the law.

8  
9 38. Pursuant to 42 U.S.C. § 1983 Plaintiff alleges that it has the right to obtain all  
10 types of injunctive relief (temporary and/or preliminary and permanent orders) to necessarily  
11 restrain and otherwise address the wrongful conduct of Defendants as alleged herein. Plaintiff  
12 alleges it has no adequate remedy at law and that great and irreparable injury has and will result  
13 if injunctive relief is not forthcoming. Plaintiff alleges that the conduct at issue and the  
14 threatened injuries are both real and immediate and are neither conjectural or hypothetical, as  
15 alleged in detail in the Declarations incorporated into this Complaint, including and in  
16 particular that of Roger A. French, (Exhibit "1"). Unless the Defendants' conduct at issue is  
17 restrained and orders are issued compelling Defendants to protect Plaintiff's members and to  
18 otherwise provide Plaintiff's members equal protection under the law Plaintiff's members will  
19 suffer immediate and irreparable injury. Further, Plaintiff alleges that unless otherwise  
20 restrained, Defendants will continue to act unlawfully as alleged herein and thereby cause and  
21 assist in the removal of persons, residences, and property of Plaintiff's members without due  
22 process of law and without third parties obtaining any final court orders authorizing same.  
23 Defendants have made it perfectly clear by written statements and public announcements of its  
24 position that it will not enforce in the future California Penal Code § 418 due, in part, to  
25 Defendants' incorrect conclusion that it is not a criminal/prohibitory statute entitled and  
26 required to be enforced by Defendants on the West Bank Land. Accordingly, Plaintiff requests  
27 orders of this court be issued to address the Policies and practices at issue herein and to require  
28 Defendants to reinstitute its earlier lawful policies and practices which enforced California law



1 and otherwise prohibited third parties from self help remedies, including forcible entry and  
2 removal of persons, homes and property of Plaintiff's members and to otherwise direct  
3 Defendants to require that any such persons seeking to do so submit to them lawful court orders  
4 before allowing same to occur.

5  
6 39. Plaintiff has retained the services of one or more attorneys in this action and if  
7 Plaintiff prevails is entitled to its reasonable attorneys' fees and costs including expert fees  
8 pursuant to 42 U.S.C. § 1988.

9  
10 **SECOND CAUSE OF ACTION**

11 **(Declaratory Relief)**

12 40. Plaintiff re-pleads and incorporates herein by this reference Paragraphs 1 through  
13 36 and Paragraph 38 above.

14  
15 41. An actual controversy has arisen and now exists between Plaintiff and  
16 Defendants in that Plaintiff contends that Defendants' actions and Policies, as alleged herein,  
17 are violative of 42 U.S.C. 1983, and that by same Defendants have violated the constitutional  
18 rights of Plaintiff's members. Accordingly this action for declaratory relief is thereby  
19 authorized.

20 42. Plaintiff desires a determination as to the validity of Defendants' actions and  
21 Policies. A judicial declaration is necessary and appropriate at this time so that Plaintiff may  
22 ascertain and confirm its rights, as well ascertaining and confirming the obligations and duties  
23 of Defendants to meet all constitutional standards applicable to them.

24  
25 43. Defendants now contend that their practices and Policies are constitutional and  
26 that they are free to engage in the acts and follow their present Policies now in effect.



1 D. Refraining from not enforcing Penal Code §418 on the West Bank Land or  
2 otherwise treating Plaintiff's members different than it treats all other Riverside  
3 County residents and US citizens; and

4 E. For any other orders necessary and appropriate to protect the constitutional rights  
5 of Plaintiff's members.

6 2. For a judicial declaration of the respective rights, duties, and responsibilities of Plaintiff  
7 and Defendants under the statutes in question and that by its declaration and judgment  
8 the court declare as follows:

9 A. That Defendants' actions and policies, as alleged herein, violate 42 U.S.C. §  
10 1983 and are otherwise invalid and unconstitutional;

11 B. That Penal Code §418 is a state criminal prohibitory statute; and

12 C. That Defendants are responsible for enforcing Penal Code §418 on the West  
13 Bank Land;

14 3. For attorneys' fees and expenses;

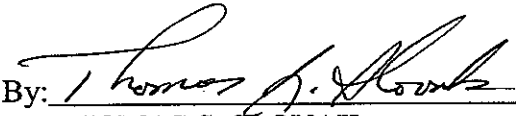
15 4. For costs of suit incurred herein; and

16 5. For such other and further relief and declarations as the nature of Plaintiff's claims may  
17 warrant and the court deems proper.

18  
19 Dated: AUG. 30, 2010

20 Respectfully submitted

21 SLOVAK BARON & EMPEY LLP

22  
23 By:   
24 THOMAS S. SLOVAK  
25 Attorney for Plaintiff  
26 West Bank Homeowners Association  
27  
28

VERIFICATION

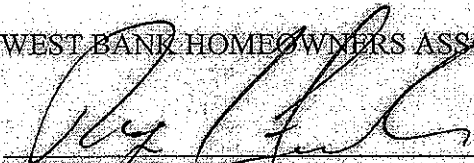
STATE OF CALIFORNIA                    )  
  )ss.  
COUNTY OF RIVERSIDE                )

I, ROGER FRENCH, declare that I am the President, an officer of a corporation known as the WEST BANK HOMEOWNERS ASSOCIATION, a California corporation, Plaintiff in the afore-captioned action and am authorized to make this verification for and on its behalf, and I make this verification for that reason. I am informed and believe and on that ground allege that the facts alleged in the foregoing document entitled **VERIFIED COMPLAINT FOR VIOLATION OF CIVIL RIGHTS; INJUNCTIVE AND DECLARATORY RELIEF**, are true.

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

Executed this 30<sup>TH</sup> day of AUGUST 2010, at IRVINE, California

WEST BANK HOMEOWNERS ASSOCIATION

By   
\_\_\_\_\_  
ROGER FRENCH  
PRESIDENT