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**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION**

HOLLYWOOD CHARACTERS,) CASE NO. CV 10-5848 DDP (CWx)
et al.,)

Plaintiffs,

vs.

CITY OF LOS ANGELES, et al.,)

Defendants.)

) MEMORANDUM OF POINTS AND
) AUTHORITIES IN SUPPORT OF EX
) PARTE APPLICATION FOR A
) TEMPORARY RESTRAINING
) ORDER

) DATE: TBD
) TIME: TBD
) Ctrm: 3

Hon. Dean D. Pregerson

Action Filed: August 6, 2010

Trial Date: None

1 **I. INTRODUCTION**

2 Plaintiffs are an unincorporated association of individuals who adopt the persona
3 of, and dress as comic book movie characters, including among others, Wolverine,
4 Batman, Superman, Catwoman, Iron Man, the Joker, and Transformer. They perform
5 on Hollywood Boulevard. They challenge two recently implemented enforcement
6 policies directed at them by defendants. The first is a restriction to “passive”
7 solicitation for tips from individuals who stop to take their photograph with plaintiffs.
8 The second is the threat of arrest and their arrest based on claims that they are in
9 violation of Los Angeles Municipal Code (“LAMC”) §41.18(a) for allegedly
10 “obstructing” pedestrian traffic and “loitering” on the sidewalk when tourists stop to
11 take plaintiffs’ pictures.
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14 **II. STATEMENT OF FACTS**

15 Over the course of the past two months, the Los Angeles Police Department
16 (“LAPD”) has enforced a deliberate policy to arrest plaintiffs for violating Los Angeles
17 Municipal Code §41.18(a) for “obstructing” or “loitering” on a sidewalk. The arrests
18 occurred along the Hollywood Walk of Fame on Hollywood Boulevard, a must-see
19 location for tourists visiting Los Angeles. Plaintiffs perform as various movie
20 characters on the Walk of Fame on the sidewalk in front of the Hollywood and
21 Highland shopping center and Grauman’s Chinese Theater. They stand on the sidewalk
22 and entertain by impersonating famous actors and characters.
23

24 At approximately 7:30 p.m. on June 4, 2010, Plaintiffs Balke, Beithan and Harrell
25 were standing on the curb, facing away from the street. Dec. of Balke ¶3 Beithan ¶3,
26 Harrell ¶2. There was light pedestrian traffic, with no pedestrians at all some of the
27 time. Plaintiffs observed that all pedestrians could freely walk and move about on the
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1 sidewalk. At no point were they obstructing the sidewalk in any way. Defendants
2 Chacon, Gonzalez, and Machado ordered plaintiffs to leave and, when they did not,
3 arrested them. *Id.* Just a few days earlier, defendants Jordon and Rutkowski made a
4 custodial arrest of Plaintiff Tomey, holding him for a day and then releasing him
5 without charges. Dec. of Tomey at ¶¶3-5. Plaintiff Dennis was on the sidewalk in
6 costume as Superman, passing out flyers for two stores on Hollywood Boulevard, when
7 he was arrested for loitering. Dec. of Dennis at ¶2. Plaintiff Junt was arrested on June
8 4, 2010 and initial told he was arrested for loitering, then told he was arrested for
9 soliciting donations. Dec. of Junt at ¶3. None of the defendants was convicted of any
10 criminal acts and none have pending criminal charges. Balke ¶9, Beithan ¶6, Dennis
11 ¶3, Harrell ¶4, Junt ¶4, Tomey ¶5.

14 **III. PLAINTIFFS' ARRESTS VIOLATE THE FIRST AMENDMENT**

15 **A. Plaintiffs Were Engaged in Fully Protected First Amendment Activity**

16 As the Ninth Circuit recently held, street performances are protected expressive
17 activity under the First Amendment. *Berger v. City of Seattle*, 569 F.3d 1029, 1037 n.4
18 (9th Cir. 2009) (“Music and performance art are forms of expressive activity protected
19 by the First Amendment.”) (citations omitted). Like the balloon artist in *Berger*, the
20 Hollywood Characters are performers who engage in constitutionally protected activity.

21 First Amendment protections are not diminished if donations are solicited. *ACLU*
22 *v. City of Las Vegas*, 466 F.3d 784, 792 (9th Cir. 2006). “It is beyond dispute that
23 solicitation is a form of expression entitled to the same constitutional protections as
24 traditional speech.” *Id.* (citations omitted). As *Perry v. Los Angeles Police Dep't*, 121
25 F.3d 1365, 1368 (9th Cir. 1997), held about performers on Venice Boardwalk, speech
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1 “do[es] not lose [its] constitutional protection simply because [it is] sold rather than
2 given away.” 121 F.3d 1365, 1368 (citations omitted) (bracketed edits supplied).

3
4 **B. Unwritten Time, Place and Manner Restrictions on First Amendment
5 Activities in Public Fora Impermissibly Create Unbridled Discretion**

6 Defendants have no written regulations governing performers on Hollywood
7 Boulevard. The government’s ability to restrict the First Amendment in traditional
8 public fora such as streets, sidewalks, and parks is very limited. *United States v. Grace*,
9 461 U.S. 171, 177 (1983). In such areas, speech may only be constrained by the
10 enactment of reasonable time, place or manner regulations. *Id.* To be valid, such rules
11 must be “content-neutral, [] narrowly tailored to serve a significant government interest,
12 and leave open ample alternative channels of communication.” *Id.*

14 A regulation is not reasonable if it grants unbridled discretion to an enforcement
15 agency. *See e.g. Forsyth County v. Nationalist Movement*, 505 U.S. 123, 133 (1992);
16 *Seattle Affiliate of the October 22nd Coalition to Stop Police Brutality, Repression and*
17 *the Criminalization of a Generation v. City of Seattle*, 550 F.3d 788, 793 (9th Cir.
18 2008); *Gaudiya Vaishnava Soc. v. San Francisco*, 952 F.2d 1059, 1065-1066 (9th Cir.
19 1991). Unbridled discretion impermissibly “grants officials the power to discriminate
20 and raises the spectre of selective enforcement on the basis of the content of speech.”
21 *Id.* at 1066 (citation omitted). The First Amendment prohibits such laws. *Forsyth*
22 *County*, 505 U.S. at 133.

25 To pass constitutional muster, a restraint on expression must “contain adequate
26 standards to guide the official's decision and render it subject to effective judicial
27 review.” *Thomas v. Chicago Park District*, 534 U.S. 316, 323 (2002). There must be
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1 “narrowly drawn, reasonable and definite standards” to provide guidance. *Forsyth*
2 *County*, 505 U.S. at 133 (citation omitted). Unwritten restrictions necessarily lack
3 standards and leave room for differential application, inevitably vesting unbridled
4 discretion in officials. *See Sentinel Communications Co. v. Watts*, 936 F.2d 1189, 1198-
5 1199 (11th Cir. 1991) (unwritten news rack regulations gives unfettered discretion).

7 Under threat of arrest, Plaintiff Junt was told he may not only accept unsolicited
8 donations for performing. Junt ¶3. There is no authority for this policy. LAMC §
9 41.59 prohibits only aggressive solicitation, but this is different from active solicitation.
10 “Aggressive solicitation” is the conduct or manner in which people solicit while active
11 solicitation refers to what people can say.¹ Without written rules, the police have
12 unlimited authority to decide when a street performer has violated their rules. Such an
13 informal, standardless scheme is an unreasonable time, place, and manner restriction.
14

16 C. The Restriction on Active Solicitation Violates the First Amendment

17 1. The restriction is an unreasonable as a content-based time, 18 place, and manner regulation.

19 The restriction on active solicitation limits speech based on its content. *Grace*,
20 461 U.S. at 177. A regulation is content-neutral if it is “justified without reference to
21 the content of the regulated speech.” *Clark v. Community for Creative Non-Violence*,
22 468 U.S. 288, 292 (1984). “A regulation is content-based if either the underlying
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24
25 ¹ Defendants will likely argue that restrictions their actions are needed to address complaints
26 about the conduct of some street performers. As *Berger* instructed, broad prophylactic measures
27 may not be used when “most street performers are not problematic.” 569 F.3d at 1045. The
28 restrictions and enforcement efforts here would “burden[] all performers to root out the
occasional bad apple” and, “[b]y doing so, ... fails to ‘target [] and eliminate [] no more than the
exact source of the ‘evil’ it seeks to remedy.” *Id.* at 1045-1046 (citation omitted).

1 purpose of the regulation is to suppress particular ideas, or if the regulation, by its very
2 terms, singles out particular content for differential treatment.” *Berger*, 569 F.3d at 1051
3 (citations omitted). In *Berger*, the court held that the ordinance banning active
4 solicitation was a content-based restriction because “[i]t specifically restricts street
5 performers from communicating a particular set of messages -- requests for donations,
6 such as ‘I’d like you to give me some money if you enjoyed my performance.’” *Id.*

8 The active solicitation restriction on Hollywood Boulevard is indistinguishable
9 from the ban struck down in *Berger*. Here, as in *Berger*, defendants single out for
10 differential treatment speech that expressly requests tips and restricts performers from
11 communicating certain messages. Because it is not content neutral, this unwritten rule
12 fails to meet the first requirement of a reasonable time, place, and manner restriction.

14 2. The Active Solicitation Ban Fails Strict Scrutiny.

15 Just as the content-based ban in *Berger* limiting street performers to “passive”
16 solicitation failed to meet strict scrutiny, defendants’ arbitrary ban also fails in this
17 instance. “As a content-based regulation, the ban on active solicitation is valid only if
18 it serves a compelling government interest in the least restrictive manner possible.”
19 *Berger*, 569 F.3d at 1052. “Although the government ‘may have a substantial interest
20 in preventing solicitors from harassing pedestrians on public streets and sidewalks[,] ...
21 these substantial interests ... may not be compelling’” *Id.* (quoting *S.O.C., Inc. v. County
22 of Clark*, 152 F.3d 1136, 1146 (9th Cir. 1998)). See also, *Perry Educ. Ass’n v. Perry
23 Local Educators’ Ass’n*, 460 U.S. 37, 45 (content-based restrictions are valid only if they
24 can show “regulation is necessary to serve a compelling state interest and that it is
25 narrowly drawn to achieve that end”) (citation omitted).

1 No compelling interest exists to meet strict scrutiny. The only justification that
2 could possibly exist for the active solicitation ban is to prevent the street performers
3 from harassing pedestrians. Preventing harassment of pedestrians is a significant
4 government interest but not a compelling one, so the restriction on active solicitation
5 is unconstitutional. *Berger*, 569 F.3d at 1052.
6

7 **D. The arrest of Plaintiffs for “obstruction” pursuant to L.A.M.C.
8 §41.18(a) violated their First and Fourth Amendment rights**

9 Plaintiffs were wrongfully arrested for “obstructing the sidewalk” under Los
10 Angeles Municipal Code §41.18(a) when they refused orders to leave the area. These
11 arrests were unconstitutional for two reasons. First, plaintiffs did not bar the free flow
12 of pedestrian traffic while on this very wide sidewalk. Second, if anyone blocked the
13 sidewalks, it was the tourists who stopped to look not only at plaintiffs, but at the “stars”
14 in Hollywood Boulevard. Yet, they were not threatened with or arrested.
15

16 LAMC §41.18(a), captioned “Sidewalks, Pedestrian Subways – Loitering,” was
17 last amended in 1968. It states:

18 “No person shall stand in or upon any street, sidewalk or
19 other public way open for pedestrian travel or otherwise
20 occupy any portion thereof in such a manner as to annoy or
21 molest any pedestrian thereon or so as to obstruct or
22 unreasonably interfere with the free passage of pedestrians.”
23

24 The decisions in *Shuttlesworth v. City of Birmingham*, 382 U.S. 87 (1965) and
25 *Foti v. City of Menlo Park*, 146 F.3d 629 (9th Cir. 1998), compel the conclusion that
26 defendants’ enforcement of §41.18(a) is unconstitutional. *Shuttlesworth* invalidated
27 a conviction under a similar sidewalk obstruction statute and held that a person’s “mere
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1 refusal to move on after a police officer's requesting that a person standing or loitering
2 should do so is not enough to support the offense ... [T]here must also be a showing of
3 the accused's blocking free passage." *Id.* at 91. Shuttlesworth had been standing with
4 a group of approximately a dozen people on the sidewalk. *Id.* at 89. They were ordered
5 to disperse three times for allegedly blocking pedestrians, *id.* at 89, even though they
6 occupied only half of the sidewalk. *Id.* at 100. Only Shuttlesworth refused to leave and
7 was arrested. *Id.* at 89. Even if the larger group had obstructed passage, a single
8 individual (Shuttlesworth) could not physically do so. *Id.* at 101 (Fortas, J. concurring).
9 Here, as In *Shuttlesworth*, pedestrians could easily pass the group on the sidewalk
10 without having to step into the street, *id.* at 97, particularly because plaintiffs were small
11 in number and standing at the curb. Dec.

14 *Foti* invalidated a portion of municipal ordinance enacted to force anti-abortion
15 protestors off of a public sidewalk in front of a women's health care provider. The
16 ordinance singled out for regulation picketers with signs, while pedestrians, other
17 protestors and leafletters were unrestricted. *Id.* at 640-43. In addition to limits on the
18 size of signs, the law required picketers carrying signs to keep moving on the sidewalk
19 so as not to impede the "free flow of pedestrian traffic on public sidewalks." *Id.* at 642.
20 *Foti* recognized a valid government interest in regulating use of the sidewalks, but held
21 that this provision was not narrowly tailored since pedestrians could easily "negotiate
22 around a stationary picketer" as "[a] peaceful picketer carrying a sign creates no more
23 of an obstacle than a picketer carrying a cross or a pedestrian waiting for a bus." *Id.*

26 The same is true here. Only those in costume are alleged to be "obstructing" on
27 Hollywood Boulevard while tourists and other pedestrians walking, standing, and
28 milling about on the sidewalk are not threatened with arrest. Tourists stand still, alone

1 and in groups, all along the sidewalk to take photos of themselves on the Walk of Fame,
2 the foot and hand prints in front of Grauman's Chinese Theater, and the Hollywood
3 Characters. Here, as in *Foti*, there is no lawful basis to apply LAMC §41.18(a) to the
4 Hollywood Characters for allegedly obstructing the sidewalk when tourists, shoppers
5 and those leaving the Metro station are not subject to the regulation.
6

7 **E. The "Loitering" Arrests Also Violate the First Amendment**

8 Plaintiff Dennis was charged with a violation of LAMC §41.18(a) based on an
9 allegation of "loitering." Plaintiffs have an absolute right to stand in public fora,
10 including the sidewalk on Hollywood Boulevard, dressed in costumes without risking
11 arrest for "loitering." A conviction for "loitering" requires proof that the individual was
12 present for an unlawful purpose. *See e.g., Papachristou v. City of Jacksonville*, 405
13 U.S. 156 (1972); *Coates v. Cincinnati*, 402 U.S. 661 (1971); *City of Chicago v. Morales*,
14 527 U.S. 41 (1999). As set forth above, there is no unlawful purpose here. In fact,
15 Dennis was engaged in the very conduct validated by the Ninth Circuit in *S.O.C. v.*
16 *County of Clark*, 152 F.3d 1136, 1148 (9th Cir. 1998) (off-premise commercial
17 leafletting on Vegas strip was protected).
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19 **IV. A TEMPORARY RESTRAINING ORDER SHOULD ISSUE**

20 A temporary restraining order is appropriate because (1) plaintiffs have shown
21 a likelihood of success on the merits; (2) they will suffer irreparable injury and have no
22 adequate remedy at law if injunctive relief is not granted; (3) the balance of hardships
23 tips in plaintiffs' favor; and (4) granting the injunction is in the public interest.
24 *Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1127 (9th Cir. 2009).
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26 Evidence that "police misconduct flow[s] from a policy [or] plan" supports
27 injunctive relief. *Easyriders Freedom F.I.G.H.T. v. Hannigan*, 92 F.3d 1486, 1500 (9th
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1 Cir. 1996). Injunctive relief is necessary in this instance to protect plaintiffs from the
2 ongoing threat of unreasonable search and seizure. The individual plaintiffs have all
3 been arrested once. Plaintiffs should not have to endure the indignities of arrest,
4 property confiscation and legal defense costs every time the LAPD falsely arrests them
5 in a concerted effort to drive them away from Hollywood Boulevard. “[T]he wrong that
6 the Fourth Amendment is designed to prevent is completed when a[n individual] is cited
7 without probable cause.” *Id.*, at 1501. Neither defense to criminal prosecution nor
8 monetary recompense remedies this injury to a fundamental constitutional right.

9
10 Plaintiffs will suffer irreparable harm unless Defendants are enjoined from
11 enforcing the unwritten “solicitation” ban and arresting them without probable cause.
12 They want to continue to perform on Hollywood Boulevard, a right protected by the
13 First Amendment in public fora, but they are afraid to do so for fear of arrest again.
14 They were threatened and intimidated with arrest if they return to the area to perform.
15 *Balke* ¶11; *Biethan* ¶8; *Dennis* ¶¶4,6; *Harrell* ¶6, *Junt* ¶5; *Tomey* ¶¶6,7.

16
17 A temporary restraining order should issue to protect Plaintiffs’ lawful rights to
18 be in this archetypal forum and communicate with the public unencumbered by
19 unfounded and unreasonable arrests on allegations of “obstructing the sidewalk.”
20 Plaintiffs have shown a strong probability of success on the merits, and they have
21 demonstrated that the City is presently enforcing LAMC 41.18(a) in a manner that
22 violates their constitutional rights. They have suffered and will continue to suffer
23 irreparable injury from the loss of these rights. Each individual plaintiff has been
24 arrested and or cited under the challenged plan. *See Foti*, 146 F.3d at 643. It is black
25 letter law that “the loss of First Amendment freedoms, for even minimal periods of time
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1 unquestionably constitutes irreparable injury.” *Elrod v. Burns*, 427 U.S. 347, 373
2 (1976), *Foti*, 146 F.3d at 643.

3 The balance of hardships tips sharply to Plaintiffs. While they will suffer
4 irreparable harm to their First and Fourth Amendment rights if an injunction is not
5 granted, the City will not suffer at all if it is ordered to follow the law. Moreover, the
6 public interest also favors an injunction, as “it is always in the public interest to prevent
7 the violation of a party’s constitutional rights.” *G&V Lounge v. Michigan Liquor*
8 *Control Commission*, 23 F.3d 1071, 1079 (6th Cir. 1994). Accord, *Iowa Right to Life*
9 *Committee v. Williams*, 187 F.3d 963, 969 (8th Cir. 1999).

11 **V. The Requirement of a Bond Should Be Waived**

12 When there is no likelihood of harm to the party enjoined, bond may be dispensed
13 with entirely. *Barahona-Gomez v. Reno*, 167 F.3d 1228, 1237 (9th Cir. 1999).

15 **VI. CONCLUSION**

16 For the foregoing reasons, Plaintiffs request that the Court grant the temporary
17 restraining order enjoining defendants from interfering with Plaintiffs’ constitutionally
18 protected rights under the First and Fourth Amendments.

20 Dated: August 31, 2010 Respectfully submitted,

21 LAW OFFICE OF CAROL A. SOBEL
22 LAW OFFICE OF REBECCA F. THORNTON
23 _____
24 /s/
25 BY: CAROL A. SOBEL
26 Attorneys for Plaintiffs
27 CERTIFICATION OF SERVICE

28 The undersigned hereby certifies that the City of Attorney has been served this
date by facsimile service upon the following individual:

DEBORAH GONZALES
POLICE LIABILITY

1 200 N. Main Street
2 City Hall East, 6th fl.
3 Los Angeles, CA 90012

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

5 Executed this 31st day of August, 2010 at Santos Monica, California.

6 _____
7 /s/
8 CAROL A. SOBEL
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DECLARATION OF BALKE

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DECLARATION OF MATTHIAS BALKE

I, MATTHIAS BALKE, declare as follows:

1. I am a plaintiff in this action. The Hollywood Characters is an unincorporated association of costumed street performers on Hollywood Boulevard. I am one of them, as are the other plaintiffs in this action. The group formed this summer to represent the interests of and advocate against recent arrests of performers on Hollywood Boulevard. I have personal knowledge of the facts set forth below.

2. On June 4, 2010, at approximately 7:30 p.m., I was arrested outside the Fashion 21 store in the 6800 block of Hollywood Boulevard, at the Hollywood and Highland complex. I was dressed as the character Wolverine from the movie "X-Men." Approximately one week earlier, on or around May 28, 2010, I had been informed that a number of the characters on the Hollywood Boulevard were arrested, including an individual who wears a Bumblebee "Transformer" costume.

3. I was on Hollywood Boulevard with two friends who also are street performers in costume in this location. The area where we were standing is a very wide sidewalk. The three of us were standing on the public sidewalk, on the curb edge, facing away from the street. I could see that the public was freely able to walk up and down the sidewalk in front of us. At 7:30 p.m. that night, there was only light pedestrian traffic for most of the time that we were there and at some points there were no pedestrians in the area. Occasionally, a few people would stop and take photographs of us. Based on the arrests that had occurred a few days earlier, we did not engage the public taking our photos except to tell them it was fine to do so. We did not solicit any tip, donation or other form of monetary or non-monetary payment.

4. The reason we did not solicit any tips or donations was our understanding that Zach Junt, another Hollywood Performer who was performing as Spiderman, was arrested a few hours earlier for solicitation of money. I believed that if I did not seek money, and simply performed on the sidewalk, I would not be arrested. When I was

1 arrested and taken to Hollywood Station, I was put in the same cell with Zach Junt and
2 learned directly from him that he had been arrested for solicitation.

3 5. After approximately 10 minutes, we were approached by three individuals
4 wearing Los Angeles Police Department uniforms, badges and insignias. When we first
5 saw the officers, they appeared to be arresting an individual they had brought out of
6 the Hollywood and Highland complex. I observed that the individual was in handcuffs
7 and saw him being seated in the back of a patrol car. At about the same time, at least
8 one additional patrol car arrived. My best recollection is that there were four or five
9 officers by the time the incident involving me ended in my arrest.

10 6. The officers approached us. I believe that it was Officer Chacon who first
11 approached us. I observed Officer Chacon pointed his finger at one of my friends,
12 Paul Harrell, who was dressed as "The Joker" from the Batman films. I was standing
13 directly next to Paul at the time and close enough to observe and hear everything the
14 officers said. As I observed Officer Chacon point to Paul, I heard him say "You are
15 coming with us." Officer Chacon then pointed at me and said "You need to leave."
16 When Officer Chacon told me to leave, I asked what law I was breaking at the time.
17 Officer Chacon did not respond to me verbally. Instead, he motioned with his hand
18 and said "come on," which I understood based on his words and his hand motion, as
19 well, as his prior interaction with Paul, that I was being taken into custody by the
20 officers and was no longer free to leave.

21 7. Immediately after indicating to me that I was in custody, I observed the
22 officer point to Melissa Beithan, who had been standing with us, and ask her if she was
23 going to leave. I observed Melissa say "no." After that, I observed Officer Chacon
24 grab Paul Harrell by the arm, Officer Gonazalez grab Melissa Beithan by the arm, and
25 a third officer grabbed me by the arm and walk us down the street to the west where
26 two patrol cars were located near the Grauman Theater box office.

27 8. When we arrived at this location in front of the Grauman, I was
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1 handcuffed. Within about 5 minutes, a third patrol car arrived. I observed that each
2 of us was then placed in the back of a separate patrol car and driven to Wilcox station.
3 There were three officers in the patrol car transporting me to the police station. Once
4 we got to the police station, I was handcuffed to a wooden bench until I was put
5 through the booking process. I was held at this location for approximately 30 minutes,
6 after which I was taken in to be photographed and fingerprinted. I was held at the
7 station for four hours and released around midnight after posting cash bail of \$250.

8 9. Because of my arrest, I had to obtain a criminal defense lawyer. On July
9 2, 2010, I appeared with my attorney at the Hollywood Criminal Court on a
10 misdemeanor charge of violating Los Angeles Municipal Code §41.18(A), "blocking
11 a sidewalk." All charges against me were rejected for filing.

12 10. Over the past four years, I have frequently been present in this area
13 wearing the same costume as Wolverine. I work 50 hours a week at a full-time job.
14 My costume is black leather. There are limited times when I go out in the costume
15 because it is so hot and because I work full-time during the week. I was not out at all
16 last summer. For me, being out on Hollywood Boulevard is an exercise in expressive
17 activity for me. I identify with the character and enjoy being a street performer dressed
18 up as a superhero and acting as the character. I am trained as an actor and view my
19 interaction with the public on Hollywood Boulevard as a performance.

20 11. I want to be able to go back to Hollywood Boulevard in or out of costume
21 without the risk of being arrested. I also want to be able to solicit donations from
22 individuals who want to have their photographs taken with me. About a month after
23 I was arrested, Christopher Dennis, who performs as Superman and has done so for
24 about 20 years to my knowledge, was arrested for loitering. I reviewed his official bail
25 receipt, which listed the charge as a violation of §41.18(a) ("loitering"). This is part
26 of the same ordinance under which I was arrested: LAMC §41.18(d) ("blocking the
27 sidewalk"). About a week after my arrest, James Carax was issued a citation for
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1 "loitering." I learned of his arrest by speaking to James and viewing a videotape of his
2 arrest. My understanding is that he was on the south side of Hollywood Boulevard and
3 not wearing a costume at the time that he was arrested, although the police recognized
4 him. James Carax is also one of the characters on Hollywood Boulevard, where he
5 performs as Captain Jack Sparrow. After my arrest, and especially after James' arrest,
6 I have avoided walking on the north side of Hollywood Boulevard because I am
7 concerned that the police will arrest me again. For my performance as Wolverine, I
8 had grown facial hair to look like Wolverine. After my arrest, I shaved them off and
9 cut my hair to avoid recognition by the police.

10 12. Attached to my declaration at Exhibit A is a true and correct copy of the
11 "Bail Receipt &/or Notice of Appear" issued to me when I was released from the police
12 station. When I appeared on July 2, 2010 at the Hollywood Courthouse, my case was
13 not on calendar. I went to the City Attorney's office on the second floor of the
14 courthouse, where the information in red was stamped and completed.

15 I declare under penalty of perjury that the foregoing is true and correct.
16 Executed this 27th day of August, 2010 at Santa Monica, California.

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19 MATTHIAS BALKE
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EXHIBIT A

BAIL RECEIPT &/or NOTICE TO APPEAR

COURT JURISDICTION CHECK ONE: <input checked="" type="checkbox"/> LOCAL <input type="checkbox"/> FOREIGN	CHECK ONE: <input type="checkbox"/> BOND <input type="checkbox"/> WRIT <input checked="" type="checkbox"/> CASH	DATE & TIME RECEIVED 06/04/2010 2346
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BOOKING NUMBER 2357585	ARRESTEE'S NAME (Last, First Middle) BALKE, MATTHIAS	LOC. CONFINED 4206	LOC. BAIL POST 4206	TOTAL CASH REC. \$250.00
WARRANT NUMBER &/OR CHARGE LAMC 41.18(A) BLOCKING SIDEWALK		BAIL \$250.00	P. A.	TOTAL \$250.00
CASE REJECTED BY: <i>By CA. Webster</i>				
LOS ANGELES CITY ATTORNEY'S OFFICE				
DATE: <i>6/14/10 R01401452</i>				

DEPOSITOR/ BONDING AGENCY/ATTORNEY (if writ) JERZY ZINIEWICZ	OFFICER RECEIVING (Signature & Serial No.) <i>[Signature]</i> N2379
ADDRESS 13 SILVERBERRY BUENA PARK CA 90620	BOND OR WRIT NO. SUPERVISOR APPROVING (Verify above total) <i>[Signature]</i> 2321

ARREST MADE: L.A. <input checked="" type="checkbox"/> CITY L.A. <input type="checkbox"/> COUNTY OTHER <input type="checkbox"/> (Specify) _____	ARRESTING OFFICER (Agency, Division /Station, Unit, Name & Serial No.) LAPD 4206 FB HOLLYWOOD OFCR CHACON 36926
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DEPOSITOR'S WAIVER: I AGREE THAT ANY OR ALL OF THE \$ _____ BAIL DEPOSITED HERE IN BY ME MAY BE USED IN THE PAYMENT OF ANY FINE IMPOSED ON THE DEFENDANT AND THE BALANCE, IF ANY, RETURNED TO ME. DATE _____ SIGNATURE _____

<p>NOTICE TO ARRESTEE: YOU ARE DIRECTED TO APPEAR AS INDICATED. FAILURE TO APPEAR MAY RESULT IN FORFEITURE OF BAIL AND ISSUANCE OF A WARRANT FOR YOUR ARREST.</p> <p>NOTIFICACION AL ARRESTADO: SE LE EXIGE QUE COMPAREZCA SEGUN INDICADO AL NO COMPARECER PUEDE PERDER SU FIANZA Y UNA ORDEN DE ARRESTO SERA HECHA EN CONTRA DE USTED.</p>	<p>COURT & LOCATION - CORTE LOCALIDAD HOLLYWOOD COURT RM 102 5925 HOLLYWOOD BLVD HOLLYWOOD, CA 90028</p> <p>DATE & TIME OF APPEARANCE -- LA FECHA Y EL TIEMPO JULY 02, 2010 @8:30A.M.</p>
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DECLARATION OF BIETHAN

DECLARATION OF MELISSA BIETHAN

I, MELISSA BIETHAN, declare as follows:

1. I am a plaintiff in this action. I have personal knowledge of the facts set forth below and, if I were called to testify to those facts, I could and would do so competently.

2. On June 4, 2010, at approximately 7:30 p.m., I was arrested outside of the Forever 21 store in the 6800 block of Hollywood Boulevard, at the Hollywood and Highland complex. I was dressed as the character Catwoman from the movie "Batman Returns." Approximately one week earlier, on or around May 28, 2010, I had been informed that a number of the characters on the Hollywood Boulevard were arrested.

3. I was on Hollywood Boulevard with two friends who are also street performers in costume at this location. The area where we were standing is a very wide sidewalk. The three of us were standing on the public sidewalk, on the curb edge, facing away from the street. I could observe that members of the public were freely able to walk up and down the sidewalk in front of us. At 7:30 p.m. that night, there was only light pedestrian traffic for most of the time that we were there and at some points there were no pedestrians in the area. Occasionally, a few people would stop and take photographs of us. After a few minutes, a Marilyn Monroe character approached us to tell us that it was not safe to be out there because police officers were there arresting characters. Immediately after that, three officers of the Los Angeles Police Department approached us and told us to go home. I informed the police officer that I would not leave and asked the police officers why we should go home. The officers responded that we were going to be arrested. The police officers handcuffed us and walked us to the squad cars that were near the Grauman's Chinese Theater box office about a block away to the West. As we walked to the squad cars, people on the block who were observing yelled at the officers, "Why are you doing this?" and "What did they do?"

1 4. When we were standing outside the squad cars facing the street, the police
2 officer who arrested me yanked my Catwoman mask from behind without even
3 telling me he was going to yank it. My head flew back because the mask does not
4 easily come off. The three of us were placed in separate patrol cars and were
5 transported to the Wilcox station.

6 5. At the Wilcox station, I was placed in a holding cell for approximately one
7 hour. After that, I was informed that I had been arrested for blocking the sidewalk
8 and was told that I could call someone for bail but I had no one to call. The police
9 officers told me I would have to wait for the judge on Monday if I could not post
10 bail. I was then fingerprinted and put back into a holding cell for approximately
11 30-45 minutes.

12 6. I was then transported to the Van Nuys station by two officers because there
13 is no women's jail at the Wilcox station. After waiting in two different holding
14 cells for over an hour, a female police officer told me I was being released. They
15 fingerprinted me again and released me late at night with three bus tokens to get
16 home.

17 7. I started performing as a Hollywood Boulevard character in October 2009.
18 After going out as a character a couple of times, I found I really enjoyed it and
19 wanted to go out more often. I was a lifeguard at the time, but I went on reserve for
20 this summer in order to be a Hollywood Boulevard character full time. Dressing
21 like Catwoman is an expressive activity for me that requires me to know the
22 character, know how to pose for pictures, and interact with the public. I enjoy
23 performing on Hollywood Boulevard because I like talking to people and the look
24 in children's eyes when they see their favorite movie characters means a lot to me.
25 I identify with the Catwoman character because many people tell me I look like
26 Michelle Pfeiffer.

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8. I want to be able to go back to Hollywood Boulevard in or our out of costume without the risk of being arrested. Since the incident, I avoid the north side of Hollywood Boulevard even though I live nearby and often walk the area out of costume. Avoiding the area makes it inconvenient to go the grocery store, to the local stores, and to run errands because I am afraid that the police will arrest me again.

I declare under penalty of perjury that the foregoing is true and correct under the laws of the State of California. Executed on this 20th day of August, 2010.


MELISSA BITHAN

EXHIBIT B

O.R. ELIGIBLE BY: 0:00

Los Angeles Police Department MISDEMEANOR NONTRAFFIC
CITY OF LOS ANGELES

NOTICE TO APPEAR

87235

Date of Violation	Time <input type="checkbox"/> AM <input checked="" type="checkbox"/> PM	Day of Week	Arrest DR No.	Evidence DR No.
6/4/2010	7:30 PM	FRIDAY		

Name (First, Middle, Last)
MELISSA ANN BIETHAN

Address
7259 WILLOUBY AVENUE #20

City State Zip Code
LOS ANGELES CA

Driver Lic. No. State Class Age Birth Date
B9241387 CA 27 1/18/1983

Sex Hair Eyes Height Weight Race Other Description
F BLN GRY 509 127 W

Code Ordinance Description Misdemeanor or Infraction (Circle)

41.18(A) LAMC

OR PER PDO CRUZ E9030

Location of Violation(s) City and County of Los Angeles

6801 HOLLYWOOD BLVD

Comments (Including RD number) Booking Required (see reverse)

BKG 2357607 RD 0645

Violations not committed in my presence, declared on information and belief.

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

DELEON TE CI PT **N1941** to
Arresting or Citing Officer DIV **JAIL** Serial No. Dates Off

6/4/2010 **MACHADO (4206)** **37048** to
Date Name of Arresting Officer, if different from Citing Officer Serial No. Dates Off

WITHOUT ADMITTING GUILT, I PROMISE TO APPEAR AT THE TIME AND PLACE INDICATED BELOW.
 Signature *Melissa Ann Biethan*

WHEN: ON THIS DATE: **7 / 2 / 2010** TIME: **0830** AM PM

WHAT TO DO: FOLLOW THE INSTRUCTIONS ON THE REVERSE.

- WHERE:
- Metropolitan, 1945 South Hill Street, Los Angeles, 90007, (213) 744-4022
 - Central Arraignment Court, 429 Bauchet Street, Los Angeles, 90012, (213) 974-6075
 - South, 415 West Ocean Boulevard, Long Beach, 90802, (562) 491-6226
 - West Los Angeles, 1633 Purdue Avenue, West Los Angeles, 90025, (310) 312-6547
 - Van Nuys, 14400 Erwin Street Mall, Van Nuys, 91401, (818) 374-2903
 - North Valley, 900 Third Street, San Fernando, 91340, (818) 898-2407
 - West Valley, 9425 Penfield Avenue, Chatsworth, 91311, (818) 576-8555
 - Hollywood, 5925 Hollywood Boulevard, Hollywood, 90028, (323) 856-5747
 - Airport, 11701 South La Cienega Boulevard, Los Angeles, 90045, (310) 727-6020

HOLLYWOOD COURT **DEPT 102**
 TO BE NOTIFIED AT **5925 HOLLYWOOD BL, HOLLYWOOD**

DEFENDANT COPY
SEE REVERSE
TR-120
05.02.02 (01/06)

DECLARATION OF DENNIS

DECLARATION OF CHRISTOPHER DENNIS

1
2 I, Christopher Dennis, declare and state as follows:

3 1. I have personal knowledge of the facts set forth below. If I were called to
4 testify to those facts, I could and would do so competently.

5 2. I have been performing on Hollywood Boulevard as the character of Superman
6 for the past 19 years. On July 8, 2010, I was on Hollywood Boulevard passing out
7 flyers advertising two stores: Star World and The Hollywood Show Gallery. The
8 stores hired me to do so in costume. Tourists would occasionally stop and ask me to
9 take photos with them. At approximately 3:25p.m., LAPD officers surrounded me,
10 handcuffed me, and transported me to the police station. They said I was being
11 arrested for loitering. My costume was taken and I was given some scrubs to wear.
12 After I was processed, I called my wife to bail me out. The bail was \$250. I was
13 released at approximately 10 p.m. that evening.

14 3. As a result of the citation, I had to hire a criminal defense attorney. On July
15 29, 2010, I had a court date for the citation. I was represented by my attorney,
16 Daniel Hustwit. He gave me a number to call which I believe was for the County
17 Prosecutor's office. When I called, they informed me that the case was rejected for
18 filing because the prosecutor didn't want to pursue the case. I went to the courthouse
19 and got the ticket stamped with the rejection number. A true and correct copy of the
20 Notice to Appear with the "Case Rejected" stamp is attached hereto as Exhibit A
21 This document also shows the \$250 bail that was paid.

22 4. On August 11, 2010, I went out to Hollywood Boulevard with a film crew. I
23 was there for about an hour and a half. Some people approached me to ask for
24 photos. At one point, I heard a siren and it scared me to death. A police car was
25 pulling someone over, but they didn't get out right away. They just sat there. The
26 officers were watching me. It looked like the same officer that had arrested me. I felt
27 that they were trying to intimidate me. I believe they could tell that I was wired for
28 sound, which was to assist the film crew. I decided to leave the area because I feared

1 I might be arrested again. While I was out on Hollywood Boulevard, I saw
2 breakdancers, people with amplified sound, drummers with buckets, and other non-
3 costumed performers on the street who were not being threatened with arrest. I feel
4 that I and the characters who perform in costume on Hollywood Boulevard are being
5 singled out and treated unfairly.

6 5. I enjoy performing as Superman because of the love I have for the character. I
7 like to put smiles on people's faces. When I'm out on Hollywood Boulevard in my
8 costume, I feel like an ambassador for Hollywood and I'm bringing a Superhero
9 character to life for everyone to enjoy. I especially enjoy making children smile.
10 They enjoy taking pictures with me and the other costumed characters.

11 6. Since being arrested, I have only gone back to Hollywood Boulevard in
12 costume the one time on August 11, 2010, accompanied by a film crew. Besides that
13 one time, I have not gone back out as Superman on Hollywood Boulevard based on
14 what happened that day with the police watching me and because I am afraid I will
15 be arrested. On that day, when I saw the officers watching me, I was terrified. I live
16 right around the corner from the Kodak theater and even when I am not in costume, I
17 am always looking over my shoulder and jump anytime I hear a siren. It makes my
18 heart pound.

19 I declare under the penalty of perjury that the foregoing is true and correct
20 under the laws of the State of California. Executed this 27th day of August, 2010.

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25 CHRISTOPHER DENNIS
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EXHIBIT 12

DANIEL THORR HUSTWIT (310) 788-2677
ATTORNEY

BAIL RECEIPT &/or NOTICE TO APPEAR

COURT JURISDICTION CHECK ONE: <input checked="" type="checkbox"/> LOCAL <input type="checkbox"/> FOREIGN		CHECK ONE: SURETY <input type="checkbox"/> BOND <input type="checkbox"/> WRIT <input checked="" type="checkbox"/> CASH		DATE & TIME RECEIVED 07/08/10 2148
BOOKING NUMBER 2396131	ARRESTEE'S NAME (Last, First Middle) DENNIS, CHRISTOPHER LLOYD		LOC. CONFINED 4206	LOC. BAIL POST 4206
WARRANT NUMBER &/OR CHARGE LAMC 41.18(A) LOITERING		BAIL \$250.00	P. A.	TOTAL CASH REC. \$250.00
DEPOSITOR/ BONDING AGENCY/ATTORNEY (if writ) BONNIE NANCY FINKENTHAL		OFFICER RECEIVING (Signature & Serial No.) CUEVAS N2379		
ADDRESS 6755 YUCCA STREET #10 HOLLYWOOD CA 90028		BOND OR WRIT NO. CASH	SUPERVISOR APPROVING (Verify above total) <i>[Signature]</i> 3090	
ARREST MADE: <input checked="" type="checkbox"/> L.A. CITY <input type="checkbox"/> L.A. COUNTY <input type="checkbox"/> OTHER (Specify)		ARRESTING OFFICER (Agency, Division / Station, Unit, Name & Serial No.) LAPD 4206 FB HOLLYWOOD DIVISION OFCR AVAREIMO 38667		
DEPOSITOR'S WAIVER:	I AGREE THAT ANY OR ALL OF THE \$ _____ BAIL DEPOSITED HERE IN BY ME MAY BE USED IN THE PAYMENT OF ANY FINE IMPOSED ON THE DEFENDANT AND THE BALANCE, IF ANY, RETURNED TO ME. DATE _____ SIGNATURE _____			
<p><u>NOTICE TO ARRESTEE:</u> YOU ARE DIRECTED TO APPEAR AS INDICATED. FAILURE TO APPEAR MAY RESULT IN FORFEITURE OF BAIL AND ISSUANCE OF A WARRANT FOR YOUR ARREST.</p> <p><u>NOTIFICACION AL ARRESTADO:</u> SE LE EXIGE QUE COMPAREZCA SEGUN INDICADO AL NO COMPARECER PUEDE PERDER SU FIANZA Y UNA ORDEN DE ARRESTO SERA HECHA EN CONTRA DE USTED.</p>		<p><u>COURT & LOCATION - CORTE LOCALIDAD</u> HOLLYWOOD COURT RM 102 5925 HOLLYWOOD BLVD HOLLYWOOD CA 90028</p> <p>DATE & TIME OF APPEARANCE -- LA FECHA Y EL TIEMPO JULY 29, 2010 @ 8:30AM</p>		

ROHYO1716

CASE REJECTED BY:
SORIANO 7/16/10

LAPD 06.15.0 (12-76)

LAW OFFICES OF
HUSTWIT & ASSOCIATES

DANIEL THORR HUSTWIT
ATTORNEY AT LAW

601 WEST FIFTH STREET
SUITE 333
LOS ANGELES, CA 90071

TEL (310) 788-2677
FAX (310) 203-2287
SBN 161749

DECLARATION OF HARRELL

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DECLARATION OF PAUL LOUIS HARRELL

I, PAUL LOUIS HARRELL, declare as follows:

1. I am a plaintiff in this action. I have personal knowledge of the facts set forth below and, if I were called to testify as a witness to those facts, I could and would do so competently.

2. On June 4, 2010 at approximately 7:30 p.m., I was arrested outside the Forever 21 store on the 6800 block of Hollywood Boulevard, at the Hollywood and Highland complex. I was dressed as the character The Joker from the movie "The Dark Knight." Approximately one week earlier, on or around May 28, 2010, I had been informed that a number of the characters on the Hollywood Boulevard were arrested, including an individual who wears a Bumblebee "Transformer" costume. I was on Hollywood Boulevard with two friends Matthias Balke and Melissa Biethan who are also street performers in costume at this location. The area where we were standing is a very wide sidewalk. The three of us were standing on the public sidewalk, on the curb edge, facing away from the street. We were doing what we normally do: performing, taking photos and greeting tourists. We could observe that members of the public were freely able to walk up and down the sidewalk in front of us. At 7:30 pm that night, there was light pedestrian traffic for most of the time we were there and at some points there were no pedestrians in the area. Occasionally, a few people would stop and take photographs of us. After approximately 10 minutes, we were approached by three officers of the Los Angeles Police Department. Officer Chacon approached me and immediately arrested me and my two friends. The officers did not give any reason for the arrest, nor did they give us a warning or tell us which law we were breaking. I was immediately handcuffed and transported to the Wilcox police station in a patrol car. My two friends were also handcuffed and they were transported in separate patrol cars.

1 3. At the Wilcox station I was put through the booking process and questioned.
2 While I was at the station, an officer asked me if I knew why I was at the station,
3 and I responded "No." Nothing was said to me at any point by any of the officers
4 about why I was arrested. While I was at the station, I observed the officers
5 debating in front of me what to charge my friend and me with. Only at the end of
6 booking was I given a pink slip which stated the reason for arrest. The charge was
7 for a misdemeanor under Los Angeles Municipal Code §41.18(A), "blocking
8 sidewalk." After a few hours I was released from the station after I posted a cash
9 bail of \$250.

10 4. Because of my arrest, I had to obtain a criminal defense lawyer. On July 2,
11 2010 my attorney appeared at the Hollywood Criminal Court to defend the charge
12 against me. I did not attend this hearing. All charges against me were rejected for
13 filing.

14 5. I have been performing on Hollywood Boulevard since Jan 5, 2009. I
15 perform on Hollywood Boulevard as much as I can between auditions for acting
16 jobs. I have been doing well with my acting career. Matthias Balke, other
17 performers, and I were featured on the cover of a high end German travel magazine.
18 The magazine featured the Hollywood performers as the reason to come to
19 Hollywood, which I really believe is true. We draw people from inside and outside
20 of Los Angeles to Hollywood. I pride myself on my work because it is very
21 authentic. I put a lot of effort into my costumes and my performance because I
22 really enjoy this work. The public and the tourists really respect and appreciate my
23 efforts, and I love bringing this unique experience to people.

24 6. Since this incident, I have not gone back out on Hollywood Boulevard
25 because I am afraid of being unjustly arrested. I fear that I will be harassed or
26 detained if I am seen with or without a costume due to my experience of being
27 arrested with my friends and also because of the experience of my friend James
28

1 Hill. James performs as Captain Jack Sparrow from the movie "Pirates of the
2 Caribbean." From what I understand, James was cited for "loitering" on the south
3 side of Hollywood Boulevard. The police recognized him as a Hollywood
4 performer even though he was not in costume. I saw a video of his encounter with
5 the police and I also learned of James' encounter through other street performers.
6 Because of James' experience, I fear that if I or anyone else shows up in a costume
7 and remains on Hollywood Boulevard for even a short amount of time that they
8 will be arrested for any reason. I also reside in the neighborhood of Hollywood and
9 Highland and since the incident, I am afraid to walk through the neighborhood for
10 fear of being arrested. I go out of my way to avoid the area which is very
11 inconvenient for me on a daily basis.

12 7. Characters and impersonators in general have not been out on Hollywood
13 Boulevard since these recent arrests because they think they will be targeted for
14 arrest.

15 8. Attached to my declaration at Exhibit__ is a true and correct copy of the
16 "Bail Receipt &/or Notice to Appear" issued to me when I was released from the
17 police station.

18 I declare under penalty of perjury that the foregoing is true and correct under
19 the laws of the State of California. Executed this 20 day of August, 2010.

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22 PAUL LOUIS HARRELL

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EXHIBIT D

BAIL RECEIPT &/or NOTICE TO APPEAR		COURT JURISDICTION CHECK ONE: <input checked="" type="checkbox"/> LOCAL <input type="checkbox"/> FOREIGN	CHECK ONE: SURETY <input type="checkbox"/> BOND <input type="checkbox"/> WRIT <input checked="" type="checkbox"/> CASH	DATE & TIME RECEIVED 06/05/2010 0005
BOOKING NUMBER 2357600	ARRESTEE'S NAME (Last, First Middle) HARRELL, PAUL LOUIS	LOC. CONFINED 4206	LOC. BAIL POST 4206	TOTAL CASH REC. \$250.00
WARRANT NUMBER &/OR CHARGE LAMC 41.18(A) BLOCKING SIDEWALK		BAIL \$250.00	P. A.	TOTAL \$250.00
DEPOSITOR/ BONDING AGENCY/ATTORNEY (if writ) IERZY ZINIEWICZ		OFFICER RECEIVING (Signature) & (Serial No.) CUEVAS N2379		
ADDRESS 13 SILVERBERRY BUENA PARK CA 90620		BOND OR WRIT NO. CASH	SUPERVISOR APPROVING (Verify above total) <i>[Signature]</i>	
ARREST MADE: L. A. <input checked="" type="checkbox"/> CITY.. <input type="checkbox"/> L. A <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER <input type="checkbox"/> (Specify) _____		ARRESTING OFFICER (Agency, Division / Station, Unit, Name & Serial No.) LAPD 4206 FB HOLLYWOOD OFCR CHACON 36926		
DEPOSITOR'S WAIVER:	I AGREE THAT ANY OR ALL OF THE \$ _____ BAIL DEPOSITED HERE IN BY ME MAY BE USED IN THE PAYMENT OF ANY FINE IMPOSED ON THE DEFENDANT AND THE BALANCE, IF ANY, RETURNED TO ME.			
<p><u>NOTICE TO ARRESTEE:</u> YOU ARE DIRECTED TO APPEAR AS INDICATED FAILURE TO APPEAR MAY RESULT IN FORFEITURE OF BAIL AND ISSUANCE OF A WARRANT FOR YOUR ARREST.</p> <p><u>NOTIFICACION AL ARRESTADO:</u> SE LE EXIGE QUE COMPAREZCA SEGUN INDICADO AL NO COMPARECER PUEDE PERDER SU FIANZA Y UNA ORDEN DE ARRESTO SERA HECHA EN CONTRA DE USTED.</p>		<p><u>COURT&LOCATION--CORTE LOCALIDAD</u> HOLLYWOOD COURT RM 102 5925 HOLLYWOOD BLVD HOLLYWOOD, CA 90028</p> <p>DATE & TIME OF APPEARANCE -- LA FECHA Y EL TIEMPO JUNE 30, 2010 @8:30A.M.</p>		

DECLARATION OF JUNT

DECLARATION OF ZACHARY JUNT

I, ZACHARY JUNT, declare as follows:

1. I am a plaintiff in this action. I have personal knowledge of the facts set forth below and, if I were called to testify as a witness to those facts, I could and would do so competently.

2. On June 4, 2010 at approximately 1:30 p.m., I was in front of the Kodak Theater on Hollywood Boulevard. I had been taking photos with people if they approached me. I usually stand in one place or roam up and down the street. I do not approach people for photos, call them over or ask for money. I simply say that tips are appreciated and I accept money if it is offered to me. Without warning, two officers approached me, ordered me to step towards them and put me in handcuffs. They told me I was being arrested for loitering, and after asking me a few questions about my costume, they transported me to the police station.

3. At the station, officers took my suit and gave me some scrubs to wear. I was held in a cell for about 45 minutes alone. Then an officer came in and told me that he was the officer who ordered the arrest. He stated that I was arrested for open solicitation because I was working on public property without a permit and demanding money. He said he had 45 minutes of surveillance footage of me demanding money which is not possible. I only say that tips are appreciated after someone approaches me. He said that if I ever went back to Hollywood Boulevard in costume, I would be arrested.

4. I was transferred to a couple of different holding cells, fingerprinted and booked. I spent the night in jail until bail was arraigned. I was released at approximately 11:30 a.m. the following morning. I paid bail of \$250.00. I had to hire a criminal defense attorney to represent me on the charges. The case was rejected for filing and all charges were dropped.

5. Since the incident, I have not been back to Hollywood Boulevard in costume. I also live in the neighborhood, but since the incident, I avoid the Hollywood &

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Highland area altogether because I am afraid that the police might recognize me even out of costume and I could be arrested.

I declare under penalty of perjury that the foregoing is true and correct under the laws of the State of California. Executed this 22nd day of August, 2010.

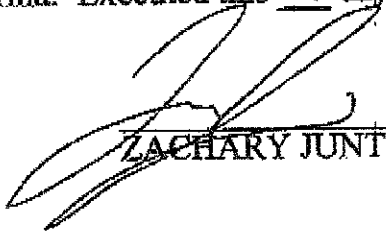
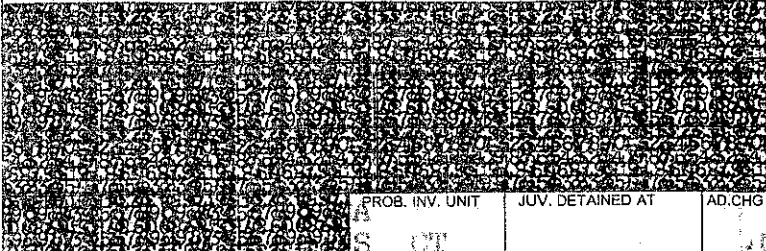



ZACHARY JUNT

EXHIBIT E

PRISONER'S RECEIPT

BOOKING NO.	U.O.	LOC. BKD.	DR. LIC. NO.	STATE	MT			
ARRESTEE'S LAST NAME	FIRST	MIDDLE	SUF.					
								
DIVISION	DETAIL ARRESTING	DATE ARRESTED	TIME ARR.	TIME BKD.				
4206	FB	080410	1320	1504				
LOCATION OF ARREST	BAIL	TOTAL BAIL						
HIGHLAND	250	250						
HOLLYWOOD								
TYP.	CHARGE & CODE	DEFINITION	WARRANT NO. ☆					
M	LAMC	42.00(B) OPEN SOLICITION						
ADDITIONAL CHARGES (ON ADDL. WARRS. LIST NO., COURT, AND BAIL, INCL. P.A.)								
								
ARRAIGN. DATE	TIME	COURT						
								
EXACT LOCATION / DISPOSITION ARRESTEE'S VEHICLE								
PRD								
HAS HEPATITIS	HAS V.D.	HAS OR EVER HAD T.B.	OTHER	SPECIAL MEDICAL PROBLEMS				
N	N	N	N	NONE				
ARRESTING OFFICER	SERIAL NO.	SERIAL # OF CR. CHECKING CWWS	BOOKING EMPLOYEE	SERIAL NO.	PROP. BAG #	RETAINED	CASH	DEPOSITED
FRANCO	38890	39060	MOLINARI	N3083	0252734	\$ NONE	\$	NONE
SEARCHING OFFICER	SERIAL NO.	2ND ARRESTING OFFICER	TRANSPORTING OFFICER	SERIAL NO.	EC/IR READING	SUPV. APPROVING BKG SER#		
FRANCO	38890	39060	ORTIZ	39060		SGT SLATER		
PROPERTY CELL PHONE, KEYS, BLK CASE, BLUE BAG, CA LISC								

THIS IS YOUR PROPERTY RECEIPT AND IDENTIFICATION. KEEP IT WITH YOU AT ALL TIMES.

1. BAIL:

- A. On a MISDEMEANOR CHARGE OR A BAILABLE FELONY CHARGE, you may be released on bail.
- B. On a WARRANT ISSUED IN ANOTHER COUNTY, you have the right, upon demand, to be taken before a magistrate in this county for the purpose of being admitted to bail. If you wish to go to court for this purpose, or do not know if you are arrested on an out-of-county warrant, contact your jailer.

2. RELEASE FROM CUSTODY: You will only be released from custody (bail, bond, own recognizance, etc.) after positive identification has been established. Positive identification has to be based on fingerprints. Refusal to submit to fingerprints will delay a person's release from custody.

3. COURT APPEARANCE: You may ask the jailer when you are scheduled for court appearance.

4. TELEPHONE CALLS: Within 3 hours from the time of your arrest, you may make the following telephone calls:

- A. At City expense within the local dialing area, or at your own expense to other locations, to THREE of the following:
 - (1) An attorney of your choice, the Public Defender, or any attorney assigned by the court.
 - (2) A bail bondsman.
 - (3) A relative or other person.
- B. For information regarding additional telephone calls, you may ask the jailer.

5. ATTORNEYS AND BAIL BONDSMEN: You may be visited by an attorney or bondsman upon your request or the request of a relative or friend. Beware of any person interested in procuring a lawyer or bondsman for you.

6. VISITORS: Inmates are permitted a maximum of one visitor each day. **Exception:** One minor child may accompany each responsible adult visitor. Visitation rules do not apply to visits by attorneys, bail bondsmen, personal physicians, or members of the clergy, who may visit at any time. Hours may vary and are subject to cancellation.

7. FOREIGN NATIONALS: You may contact your Consular Office at any time. If you need assistance in contacting your Consular Office, notify the jailer. Visits from the Consular Officers are permitted at any time.

8. YOUR PROPERTY: Your property will be returned to you immediately upon your release from LAPD custody.

9. ILLNESS: If you need medical attention, or are aware of another prisoner in need of it, notify the jailer at once.

10. READING AND RECREATION: A general circulation daily newspaper and a non-English language publication are available during the hours set by the jail supervisor. Hours may vary and are subject to cancellation.

11. VOTING: Notify the jailer of any request to vote in a local, state, or federal election.

12. RELIGIOUS OBSERVANCE: Notify the jailer of any request for religious material. Visits from members of the clergy or other bona fide religious advisors are permitted at any time.

13. INMATE GRIEVANCE PROCEDURE: Any complaint or grievance must be reported to a jail supervisor without delay.

14. MAIL: Mail to and from an inmate may be opened and inspected for contraband.

15. INMATES WITH DISABILITIES: Should you require any special assistance, notify the jailer.

16. JAIL RULES: Any obstruction, willful resistance, destruction of jail property, or other unlawful conduct towards custody staff may result in additional criminal charges being filed against you. Prosecution will be pursued regardless of the disposition of your original charges.

DECLARATION OF TOMEY

DECLARATION OF TERRELL ANTHONY TOMEY

1
2 I, Terrell Anthony Tomey, declare and state as follows:

3
4 1. I have personal knowledge of the facts set forth below. If I were called to
5 testify to those facts, I could and would do so competently.

6
7 2. I am a performer on Hollywood Boulevard as the character of Batman. I
8 have been performing as that character for the past 3 years. Prior to that, I have
9 performed as many other characters in that location during the last 7 years. I enjoy
10 performing on Hollywood Boulevard because I like to entertain people. People
11 from all over the world and all ages smile and enjoy the performance. Prior to this
12 incident, I would perform on Hollywood Boulevard approximately 5 days a week.

13
14 3. On June 2, 2010, at approximately 2:30 p.m., I arrived on Hollywood
15 Boulevard between Orange and Highland, in front of Madame Tussaud's. I was
16 wearing my Batman costume. Upon my arrival, I was approached by a Channel 4
17 news reporter and cameraman. The reporter interviewed me about what had been
18 happening lately to the Hollywood Boulevard characters. Some bystanders were
19 stopping and asking to take photographs with me. No more than about 15 minutes
20 went by when I noticed an LAPD police vehicle stop in the middle of the street and
21 two officers got out. The two officers immediately approached me and told me to
22 come to their vehicle and lead me by the arm to the car. The officers instructed me
23 to interlace my fingers and put my hands on my head, and proceeded to handcuff
24 me. The officers asked for my ID and I told them it was in my pouch. They
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1 retrieved it. They put me in the vehicle and transported me to the Hollywood
2 police station. I asked what I was being arrested for and they did not respond. I
3 never received any citation or other information about what the basis was for my
4 arrest. The officers repeatedly asked me questions about how long I had been
5 performing on the boulevard, how much money I make and what my biggest tip
6 was for my performances on the boulevard. I told them that I wished to remain
7 silent and that I wanted a lawyer. The arresting officers were Officer Jordan
8 (Serial No. 32285) and Officer Rutkowski (Serial No. 40290).
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12 4. While I was in custody at the Hollywood station, one of the officers who
13 arrested me asked me “do you know why you’re here?” I said no. After waiting a
14 while, one of the officers came back and informed me that the charge would be
15 “blocking the sidewalk.”
16
17

18 5. I informed the officers at the station that I have a medical problem that
19 requires blood thinning medication. I was transported to a medical facility for that
20 treatment and remained there until the next morning. The next day, I was
21 transported to another facility. Towards the end of the day on June 3, 2010, an
22 officer informed me that I was released and let me out. I was never given any
23 citation or any date on which to appear in court.
24
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26 6. Since this incident, I have not been back to Hollywood Boulevard to perform
27 because I am afraid that I might get arrested.
28

1 7. I reside in the neighborhood of Hollywood and Highland and prior to this
2 incident would often go to restaurants and shops on Hollywood Boulevard because
3 they are close to home. Since this incident, I am too afraid to go to Hollywood
4 Boulevard because I do not want to be arrested.
5

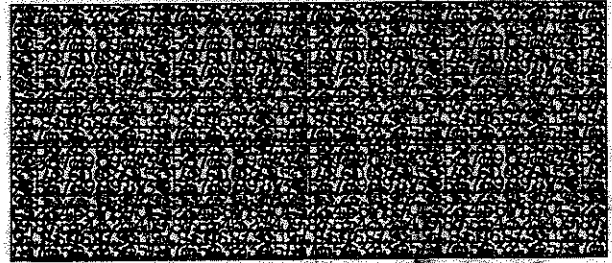
6
7 I declare under the penalty of perjury that the foregoing is true and correct
8 under the laws of the State of California. Executed this 16th day of August, 2010.
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12 TERRELL ANTHONY TOMEY

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EXHIBIT F

BOOKING NO. 2354574	LOG NO. 4206	PROC NO. B7168659	STATE CA
ARRESTEE'S LAST NAME TOMEY	FIRST TERRELL	MIDDLE ANTHONY	SUF.
PROB. INV. UNIT S CT			
JUV. DETAINED AT			
AD. CHG.			
DIVISION 4206	DETAIL ARRESTING F	DATE ARRESTED 060210	TIME ARR. TIME BKD. 1440 1540
LOCATION OF ARREST HIGHLAND HOLLYWOOD		BAIL 100	TOTAL BAIL 100
TYP. M	CHARGE & CODE LAMC	DEFINITION 41.18 BLOCK/PUBL/SIDEW	WARRANT NO. ☆
ADDITIONAL CHARGES (ON ADDL. WARRS. LIST NO., COURT, AND BAIL, INCL. P.A.)			
ARRAIGN. DATE	TIME	COURT	
EXACT LOCATION (DISPOSITION ARRESTEE'S VEHICLE PED			
HAS HEPATITIS N	HAS V.D. N	HAS OR EVER HAD TB N	OTHER SPECIAL MEDICAL PROBLEMS Y SEE MT
ARRESTING OFFICER JORDAN	SERIAL NO. 32285	SERIAL # OF CR. CHECKING CWWS 32285	BOOKING EMPLOYEE RESENITZ
SEARCHING OFFICER KUTKOWSKI	SERIAL NO. 40190	2ND NAME OF CR. TRANSPORTING OFFICER JORDAN	SERIAL NO. 32285
PROP. BAG # 02527428	RETAINED NONE	CASH 12.00	DEPOSITED
EC/IR READING	SUPV. APPROVING BKG SER# SGT COHAN	3491	
PROPERTY	COLLETS, FOR ONE		



3 new

THIS IS YOUR PROPERTY RECEIPT AND IDENTIFICATION. KEEP IT WITH YOU AT ALL TIMES.

1. **BAIL:**
 - A. On a MISDEMEANOR CHARGE OR A BAILABLE FELONY CHARGE, you may be released on bail.
 - B. On a WARRANT ISSUED IN ANOTHER COUNTY, you have the right, upon demand, to be taken before a magistrate in this county for the purpose of being admitted to bail. If you wish to go to court for this purpose, or do not know if you are arrested on an out-of-county warrant, contact your jailer.
2. **RELEASE FROM CUSTODY:** You will only be released from custody (bail, bond, own recognizance, etc.) after positive identification has been established. Positive identification has to be based on fingerprints. Refusal to submit to fingerprints will delay a person's release from custody.
3. **COURT APPEARANCE:** You may ask the jailer when you are scheduled for court appearance.
4. **TELEPHONE CALLS:** Within 3 hours from the time of your arrest, you may make the following telephone calls:
 - A. At City expense within the local dialing area, or at your own expense to other locations, to THREE of the following:
 - (1) An attorney of your choice, the Public Defender, or any attorney assigned by the court.
 - (2) A bail bondsman.
 - (3) A relative or other person.
 - B. For information regarding additional telephone calls, you may ask the jailer.
5. **ATTORNEYS AND BAIL BONDSMEN:** You may be visited by an attorney or bondsman upon your request or the request of a relative or friend. Beware of any person interested in procuring a lawyer or bondsman for you.
6. **VISITORS:** Inmates are permitted a maximum of one visitor each day. **Exception:** One minor child may accompany each responsible adult visitor. Visitation rules do not apply to visits by attorneys, bail bondsmen, personal physicians, or members of the clergy, who may visit at any time. Hours may vary and are subject to cancellation.
7. **FOREIGN NATIONALS:** You may contact your Consular Office at any time. If you need assistance in contacting your Consular Office, notify the jailer. Visits from the Consular Officers are permitted at any time.
8. **YOUR PROPERTY:** Your property will be returned to you immediately upon your release from LAPD custody.
9. **ILLNESS:** If you need medical attention, or are aware of another prisoner in need of it, notify the jailer at once.
10. **READING AND RECREATION:** A general circulation daily newspaper and a non-English language publication are available during the hours set by the jail supervisor. Hours may vary and are subject to cancellation.
11. **VOTING:** Notify the jailer of any request to vote in a local, state, or federal election.
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the City of Attorney has been served this date by facsimile service upon the following individual:

DEBORAH GONZALES
POLICE LIABILITY
200 N. Main Street
City Hall East, 6th fl.
Los Angeles, CA 90012
213 978-8787

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

Executed this 31st day of August, 2010 at Santas Monica, California.

/s/
CAROL A. SOBEL