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11 UNITED STATES DISTRICT COURT
12 SOUTHERN DISTRICT OF CALIFORNIA

13 NATHANIEL MOORE, Individually,
14 Plaintiff,

15 v.

16 JESSE RODRIGUEZ, an individual;
17 ELIZABETH RODRIGUEZ, an
18 individual, COUNTY OF SAN
19 DIEGO; and DOES 1-10, inclusive,
20 Defendants.

Case No. '20CV1481 DMS BGS

COMPLAINT FOR:

- 21 **1. 14th AMENDMENT –**
- 22 **SUBSTANTIVE DUE PROCESS**
- 23 **2. BANE ACT**
- 24 **3. RIGHT TO PRIVACY**
- 25 **4. CIVIL CODE SECTION 1798.53**
- 26 **5. NEGLIGENCE**

I.

INTRODUCTION

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3 1. “In our justice system, the prosecuting attorney occupies a special
4 position of public trust. Courts, citizens, and even criminal defendants must rely on
5 these public servants to be honorable advocates both for the community on whose
6 behalf they litigate and for the justice system of which they are an integral part.
7 When prosecutors betray their solemn obligations and abuse the immense power
8 they hold, the fairness of our entire system of justice is called into doubt and public
9 confidence in it is undermined.” *Silva v. Brown*, 416 F.3rd 980, 991 (9th Cir. 2005).

10 2. In this case, one of San Diego’s longtime power brokers, former
11 Superior Court Judge and former Assistant District Attorney Jesse Rodriguez
12 (“Rodriguez”), brandished, abused, and misused his immense power and influence
13 for personal gain.

14 3. Motivated by personal animus, and blinded by his love for his
15 daughter and grandson, Rodriguez exerted his immense power and influence in an
16 all-out assault against Nathaniel Moore (“Moore”) the father of his grandchild,
17 G.M. In a concerted and multi-dimensional attempt to forcibly remove Moore’s
18 parental rights, Rodriguez 1) used his official position to illegally obtain Moore’s
19 personal and confidential psychiatric records from Richard J. Donovan State Prison,
20 records which were then used by his daughter Liz Rodriguez (also a San Diego
21 County District Attorney) during court mandated custody proceedings in a failed
22 attempt to prove that Moore was an unfit parent; 2) used District Attorney
23 Investigator Tony Gialarmo (“Gialarmo”) to obtain copies of Moore’s application
24 and testimony from Moore’s claim for unemployment benefits in a failed attempt to
25 have Moore charged with perjury; and 3) used his contacts at the Chula Vista
26 Department and the California State Attorney’s General’s Office in a failed attempt
27 to have Moore charged with domestic violence.

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1 the men approached Moore, he grabbed a knife as a show of force, hoping that the
2 young men would leave him alone. Undaunted, the men continued approaching
3 and tackled Moore. In the ensuing melee, Moore stabbed one of his assailants,
4 killing him.

5 9. Moore's case was highly publicized; Moore was dubbed the "Road
6 Rage Killer of West Hollywood." The Los Angeles District Attorney charged
7 Moore with first degree murder. After languishing for three years in the Los
8 Angeles County Jail, Moore accepted a plea to voluntary manslaughter and was
9 sentenced to twelve years in prison.

10 10. During his incarceration, Moore regularly attended therapy sessions.
11 The fight, the killing, and the plea had left Moore with significant psychological
12 trauma. Moore developed an earnest relationship with his prison therapist. During
13 these sessions, Moore disclosed the most intimate of details about his life, his
14 upbringing, his triggers, and his hopes and fears. Moore trusted that these sessions
15 would remain confidential. Never could he have imagined that these details would
16 be surreptitiously and illegally obtained by law enforcement officials with a
17 personal vendetta and used against him to keep him from seeing his son; but that is
18 exactly what happened.

19 11. Moore was released from prison on August 18, 2009, and was
20 discharged from parole on August 18, 2012. Following his release from prison,
21 Moore got a job bartending at the Abbey, one of Los Angeles's premier night spots.
22 One night in April of 2013, while Moore was tending bar, he met Liz Rodriguez
23 ("Liz") who was having drinks with friends. As is sometimes the case with
24 "opposites," there was an immediate and mutual attraction.

25 12. Liz Rodriguez was a San Diego County District Attorney and the
26 daughter of former Superior Court Judge and the then Assistant District Attorney,
27 Jesse Rodriguez ("Rodriguez"). Moore, on the other hand, was a convicted felon.
28 Despite these differences, and despite the vehement protestations of her father, Liz

1 Rodriguez and Moore forged ahead; embarking on what would become a torrid and
2 tumultuous relationship.

3 13. After dating for over a year, the couple's long distance relationship
4 turned ostensibly exclusive in May of 2014. In May of 2015, the couple visited a
5 fertility clinic with an eye towards starting a family. As these efforts persisted, the
6 two purchased a home together in Carlsbad California in March of 2016. But the
7 cracks were beginning to show and by September of 2016, Moore and Liz
8 Rodriguez were attending couple's counseling. That same month, the couple found
9 out that their efforts to start a family had been successful and that Liz Rodriguez
10 was pregnant.

11 14. In March of 2017, six months into the pregnancy, Moore lost his job at
12 the Abbey. His employer claimed that he was violating the free drinks policy, a
13 claim that Moore vehemently denied. While Moore freely admitted that he gave
14 away drinks to VIP's, and the investors and owners of the establishment, he
15 claimed that this practice had been ongoing for years with the approval of
16 management. Moore immediately filed for unemployment. On the application
17 form Moore identified both the reason for leaving and the reason for the termination
18 as "termination."

19 15. In April of 2017, with the impending birth of their child near, the
20 couple began living together in their Carlsbad home. Later that month, the EDD
21 denied benefits claiming he had been terminated for cause. Moore immediately
22 appealed and lost. In its decision, the EDD stated that Moore's claim that the
23 practice had been condoned by management was not supported.

24 16. In May of 2017 Liz Rodriguez gave birth to their son, "G.M." In July
25 of 2017 Moore acquiesced to Liz's desire to move in with her parents and the
26 couple moved into the Chula Vista home with Liz's parents, Jesse Rodriguez and
27 Teresa Rodriguez. Almost from the outset, the pressure of living with Liz's parents
28 began to expose the fissures in their relationship. During arguments, Liz Rodriguez

1 would routinely threaten Moore that she and her father “would send Moore back to
2 prison” if he sought custody of their son. She threatened that she would have him
3 charged with perjury for his “false” claim and “false” testimony in front of the
4 EDD. She repeatedly stated that it would be a “shame for their son to grow up with
5 a father in prison.” She consistently reminded Moore that while he was a convicted
6 murderer she was a district attorney and the daughter of the Assistant District
7 Attorney and that “no one would believe him.”

8 17. After a tumultuous fall and winter, Moore decided to move out of the
9 Rodriguez’s home in February of 2018. Moore moved out in April of that year and
10 filed for joint custody of their son on May 4, 2018. Liz Rodriguez initially agreed
11 to joint custody and the court set custody mediation dates for August of 2018 in
12 front of Family Court Mediator Patty Chavez Fallon.

13 18. During a mediation in front of Ms. Fallon on August 15, 2018, Moore
14 was shocked when Liz Rodriguez produced for the mediator a copy of Moore’s
15 prison psychiatric records and began claiming that the records demonstrated that
16 Moore was an unfit parent. Moore was given the opportunity to look at the records
17 and recognized them immediately as the psychiatric placement documents from his
18 CDCR “C” file. This file contained the intimate details of his counseling sessions
19 with his prison psychiatric therapist.

20 19. As of August 15, 2018, neither had a subpoena nor had a PRA request
21 been issued for these records. Nevertheless, during the mediation sessions on
22 August 15, 2018 and again of October 17, 2018, Liz Rodriguez claimed that she
23 had gotten the records from a public records request. This claim was false and
24 untrue. No PRA request had ever been issued; and even if one had these private
25 and confidential records would not have been subject to production. During sworn
26 testimony on July 14, 2020, Liz Rodriguez was forced to admit that she lied to the
27 mediator when she claimed that the records were obtained via a public records
28 request.

1 20. Upon information and belief, and based upon information obtained
2 through subsequent confidential investigations, these records were accessed in early
3 August of 2018, just before the custody mediation was set to begin. The records
4 were accessed by Prison Employee #1¹, at the behest of both Liz Rodriguez and
5 Jesse Rodriguez, the Assistant San Diego County District Attorney. These records
6 were accessed without the knowledge or consent of District Attorney Summer
7 Stephan. These confidential records were obtained by Liz and Jesse Rodriguez in
8 order to further their own personal agenda. They were then used in an attempt to
9 influence the mediator and the court in making custody decisions about G.M. The
10 surreptitious access and illegal copying constitute an abuse of the power of the San
11 Diego District Attorney's Office and these acts violated the rights of Moore
12 guaranteed by the United States Constitution and the California State Constitution.

13 21. Unfortunately for Moore, this abuse of power was only the beginning.
14 On September 13, 2018, the Family Court awarded overnight visits to Moore. Liz
15 Rodriguez immediately filed an ex-parte asking the court to reconsider its award
16 based on her concerns that Moore "had a mental disorder." The ex-parte request
17 was denied. At the hearing on September 25, 2018, the judge denied her request
18 citing the lack of any evidence of violence in the home.

19 22. Seizing on that reasoning, that very afternoon Liz Rodriguez went to
20 the Chula Vista Police Department and "reported" a long history of heretofore
21 unreported complaints of abuse. And even though many of the incidents allegedly
22 occurred in Carlsbad, West Hollywood, and Los Angeles, friendly domestic
23 violence investigators within the Chula Vista Police Department "investigated" the
24 allegations.

25 23. On October 4, 2018, Liz Rodriguez sought a restraining order based on
26 these "fresh" allegations of domestic violence. At the hearing, which took place in

27 ¹ As of this writing, it is unknown whether Prison Employee #1 had knowledge of
28 the illegal scheme and therefore, Prison Employee #1 is not named a Doe
Defendant herein. Investigation is currently continuing.

1 front of a judge sitting on assignment unfamiliar with the facts of the case, Liz
2 Rodriguez presented these police reports. Based solely on these new reports, the
3 restraining order was granted. Moore was prevented from seeing his son until
4 October 24, 2018. On that date, Moore's son G.M. was removed from the order by
5 the regularly assigned judge. That judge stated that "the father had never posed a
6 risk to the child" and that there was no evidence that indicated any risk to Moore's
7 son.

8 24. The domestic violence allegations were forwarded to Chief Deputy
9 District Attorney Tracy Prior on November 20, 2018. Ms. Prior immediately
10 recognized the conflict and notified her boss, Rodriguez, that the case would be sent
11 to the conflict division of the California Attorney General. In a text message, dated
12 November 20, 2018, Ms. Prior notified Rodriguez that the case will be headed to
13 the AG's office. Rodriguez responded by stating, "Once you get the case call me so
14 I can facilitate it before you talk to her." (A true and correct copy of this text
15 message is attached hereto as Exhibit 1.)

16 25. Rodriguez retired from the San Diego County District Attorney's
17 Office on December 17, 2018. On January 23, 2019, Laura Bagget, from the
18 California Attorney General's office, sent an email to Ms. Prior explaining that
19 after a "thorough investigation" her office was declining to issue any charges
20 against Moore. (A true and correct copy of this email is attached hereto as Exhibit
21 2.)

22 26. Simultaneous with this attempt to have Moore charged with domestic
23 violence, Jesse and Liz Rodriguez were also actively pursuing perjury charges
24 against Moore for statements he allegedly made during his unsuccessful attempt to
25 obtain unemployment benefits. Internal records and emails obtained from the
26 District Attorney's office via a public records request reveal that on November 8,

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1 2018, District Attorney Investigator Tony Giralamo (“Giralamo²”), an investigator
2 in the Economic Crimes Division headed up by Senior District Attorney Daman
3 Mosler (“Mosler”), was requested by Chief Deputy District Attorney Dominic
4 Dugo (“Dugo³”) to obtain Moore’s EDD application. The internal records indicate
5 that this investigation was initiated just two weeks after G.M. was removed by the
6 family court restraining order on October 24, 2018.

7 27. In an email dated November 8, 2018, Giralamo wrote to the EDD
8 asking for a copy of Moore’s application stating that “Our office is considering
9 filing charges for false application of benefits.” (A true and correct copy of this
10 email is attached hereto as Exhibit 3.) Quoc Phan, a criminal investigator with
11 EDD reviewed the application and found no misstatements or falsehoods and so
12 informed Giralamo.

13 28. Undaunted, Giralamo persisted and again reached out to Mr. Phan on
14 November 29, 2018. In a particularly telling opening line, Giralamo wrote, “Please
15 don’t shoot the messenger on this one but I’m gathering additional info for one of
16 our Chiefs looking into the case.” (A true and correct copy of this email is attached
17 hereto as Exhibit 4.) Giralamo went on to request the audio tapes of the actual
18 hearing. In an email dated December 6, 2018, Giralamo wrote to Dugo stating that
19 the tapes should be ready soon and that when they came in he would burn him a
20 copy and keep a copy for his review. (A true and correct copy of this email is
21 attached hereto as Exhibit 5.)

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26 ² As of this writing, it is unknown whether Tony Giralamo had knowledge of the
illegal scheme and therefore, he is not named as a Doe Defendant herein.
Investigation is currently continuing.

27 ³ As of this writing, it is unknown whether Dominic Dugo had knowledge of the
28 illegal scheme and therefore, he is not named as a Doe Defendant herein.
Investigation is currently continuing.

1 29. On December 17, 2018, Giralamo again wrote to Dugo this time
2 informing him that the tapes had come in. Dugo responded, telling Giralamo to run
3 the tape up tomorrow because “*We* need to listen to it.” (A true and correct copy of
4 this email is attached hereto as Exhibit 6.)

5 30. The trumped up perjury charges unraveled when Giralamo’s actual
6 supervisor, Mosler, caught wind of the scheme. In a particularly candid and
7 courageous email dated January 24, 2018, Mosler wrote to his supervisor Assistant
8 District Attorney David Greenberg, informing him of the improprieties surrounding
9 the “perjury” case against Moore. Mosler wrote that Giralamo first informed him
10 of the investigation in late November and expressed concern over the “extreme
11 interest” in this case given the district attorney “almost never” received cases from
12 the EDD for prosecution. Mosler was informed that Dugo had initially reached out
13 to Giralamo, bypassing Mosler, and told Giralamo that “his bosses” wanted the
14 matter looked into. Mosler expressed his opinion that this was false and
15 misleading; that it was not Dugo’s bosses who were requesting the investigation,
16 but Rodriguez, who was doing so without the consent or approval of Summer
17 Stephan, the District Attorney.

18 31. Mosler stated that he initially thought it was just some sort of special
19 favor to Rodriguez until he learned that the subject of the perjury investigation was
20 Nathaniel Moore, the father of Rodriguez’s grandchild. Mosler expressed his
21 concern that 1) Dugo had given Giralamo the false impression that the request was
22 coming from DA Stephan when in reality it was a personal errand for Rodriguez, 2)
23 that Giralamo was “kept in the dark” as to the true motivation behind the
24 “investigation,” 3) Giralamo was instructed to keep this from his chain of
25 command, and 4) that the San Diego County District Attorney has a clear conflict
26 of interest in this case. (A true and correct copy of this email is attached hereto as
27 Exhibit 7.)

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1 32. Despite the fact that their scheme had been uncovered, Dugo continued
2 to do Rodriguez's bidding. In a text message to both Assistant DA Greenberg and
3 DA Stephan, Mosler wrote:

4 Dom called today and asked for a copy of the audio file of the secret
5 investigation he unknowingly did into Lis Rodriguez's ex-boyfriend.
6 He said Jesse wanted the audio file. Tony could not comply as I have
7 it in an off-site secure location. Tony did not know that I secured the
8 evidence and told Dom he would look for it. I accept that Dom is
9 chief deputy over my division but his continued actions require me to
10 resign as Chief. I cannot accept this level of unethical conduct by my
11 immediate supervisor.

12 33. The actions outlined herein reveal both the best and the worst of San
13 Diego's public servants. For years, Rodriguez was a San Diego power broker.
14 Unfortunately, in this case, Rodriguez wielded that power for his own personal
15 motivations. On the other hand, District Attorney Mosler, Chief Assistant District
16 Attorney Prior, and the conflict attorneys at the Attorney General's Office had the
17 courage to stand up to this illegal and unethical pressures being put upon them by
18 Jesse and Liz Rodriguez.

19 34. The surreptitious accessing and copying of Moore's prison psychiatric
20 records, the trumped up domestic violence charges, and the ill-fated perjury case all
21 show a woman hell-bent on revenge and a man blinded by indignation; both would
22 stop at nothing in pursuit of their personal vendettas against Moore.

23 35. But the trust the public places in our public servants, especially those
24 who are imbued with the power to effectuate justice, cannot be abused. Our
25 criminal justice is built upon trust and without trust, the system collapses. Actions
26 such as those outlined above undermine that trust and, in turn, undermine our
27 system of criminal justice.

28 36. This abuse of power has caused Moore extreme anguish. Simply
knowing that people with considerable power were willing to abuse that power to
harm him was troubling enough; but given his past prison stint, the threats to his
personal freedoms and what that would mean to his relationship with his son were

1 crippling and debilitating. Not only did this abuse of power cause him hours of
2 both physical and mental anguish, the attempt to use the fruit of this illegal
3 endeavor to keep Moore from seeing his son, actually worked for twenty days. It
4 has also cost Moore tens of thousands of dollars in attorney’s fees to fight for his
5 parental rights. Moore brings this action not only to hold these public actors
6 accountable, but to shine a light on this misconduct so that it will not happen to the
7 next unsuspecting person to have the misfortune of having a personal fallout with
8 the next Jesse or Liz Rodriguez.

9 **III.**

10 **JURISDICTION AND VENUE**

11 37. This action arises under the Constitution and laws, including Article
12 III, Section 1 of the United States Constitution and is brought pursuant to 42 U.S.C.
13 section 1983. The Jurisdiction of this court is invoked pursuant to 28 U.S.C.
14 section 1331. State law claims are alleged as well, over which Plaintiff invokes the
15 Court’s supplemental jurisdiction.

16 38. This case is instituted in the United States District Court for the
17 Southern District of California pursuant to 28 U.S.C. section 1391, as the judicial
18 district in which all relevant events and omissions occurred and in which
19 Defendants maintain offices, work, and/or reside.

20 39. Plaintiff became aware of the alleged conduct on June 10, 2019.
21 Pursuant to the California Government Code, Plaintiff filed his claim with the
22 County of San Diego based on the foregoing incident on November 13, 2019. The
23 claim was rejected on March 4, 2020. Thus, the present complaint is timely,
24 pursuant to California Government Code section 945.6.

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1 IV.

2 **THE PARTIES**

3 40. Plaintiff Nathaniel Moore was a resident of San Diego County in the
4 State of California and a citizen of the United States at all times relevant to this
5 complaint.

6 41. Defendant Jesse Rodriguez lives in the County of San Diego at all
7 times mentioned herein, and committed the culpable acts against Plaintiff in the
8 same county.

9 42. Defendant Elizabeth (“Liz”) Rodriguez lives in the County of San
10 Diego at all times mentioned herein, and committed the culpable acts against
11 Plaintiff in the same county.

12 43. Defendant County of San Diego (“county”) is, and at all times
13 mentioned herein was, a public entity authorized by law to establish certain
14 departments responsible for enforcing the laws and protecting the welfare of San
15 Diego County citizens. At all times mentioned herein, Defendant county was
16 responsible for overseeing and managing the conduct of Defendants whose acts and
17 omissions outlined herein were done in the course and scope of their respective
18 county employments.

19 44. The names of the other individual county employees and staff
20 members of Defendant San Diego County and/or the California Department of
21 Corrections and Rehabilitation who are responsible for Plaintiff’s injuries are
22 currently unknown to Plaintiff. As such, these individuals are sued herein as DOES
23 1-10, and referred to herein as “DOES.”

24 45. The true names and capacities whether individual, corporate, associate
25 or otherwise, of defendants named herein as DOES 1-10 are unknown to Plaintiff,
26 who therefore sue said defendants by said fictitious names. Plaintiff will amend
27 this complaint to show said defendants true names and capacities when the same
28 have been ascertained. Plaintiff is informed and believes and thereon alleges that

1 all defendants sued herein as DOES are in some manner responsible for the acts and
2 injuries alleged herein.

3 46. At all times mentioned herein Defendants named herein as DOES 1-10
4 were employees and/or independent contractors of Defendant San Diego County
5 and/or the California Department of Corrections and Rehabilitation and in doing
6 the acts hereinafter described acted within the course and scope of their
7 employment. The acts of all defendants and each of them were also done under the
8 color and pretense of the statutes, ordinances, and regulations of the County of San
9 Diego and the State of California. In committing the acts and/or omissions alleged
10 herein, all defendants acted under color of authority and/or under color of law.
11 Plaintiff sues all public employees named as Defendants in their individual
12 capacities.

13 V.

14 **FIRST CAUSE OF ACTION**

15 **SUBSTANTIVE DUE PROCESS**

16 (Brought By Moore Against Jesse Rodriguez, Liz Rodriguez, and DOES 1-10)

17 47. Plaintiff realleges and incorporates by reference all paragraphs stated
18 above, as though fully set forth herein.

19 48. A violation of the substantive rights guaranteed by Fourth and
20 Fourteenth Amendments occurs when “there is an abuse of power by an official
21 acting under color of law that shocks the conscience.” *County of Sacramento v.*
22 *Lewis*, 523 U.S. 833, 846 (1998).

23 49. As outlined above, Defendants Liz and Jesse Rodriguez, in concert
24 with DOE Defendants, illegally and surreptitiously removed Plaintiff’s confidential
25 and privacy protected prison psychiatric records without his consent. Defendants
26 then produced the records during a court ordered custody mediation on August 15,
27 2018, in an attempt to convince the mediator that Plaintiff Moore should not have
28 overnight visits and that he was an unfit parent.

1 50. Then, when that was unsuccessful, Defendants used the power and
2 authority of the San Diego County District Attorney's Office to obtain Moore's
3 application for unemployment benefits and Moore's testimony before that tribunal
4 in an attempt to have the San Diego County District Attorney's Office falsely
5 charge Moore with perjury. This was done in an attempt to have Moore sent back
6 to prison (making good on Liz Rodriguez's ongoing threats to do so) which, in turn,
7 would have put his custodial rights in jeopardy. This was done via District
8 Attorney Investigator Giallarmo who was falsely informed that District Attorney
9 Stephan was desirous of the prosecution. Gialarmo was not informed that the target
10 of the illegal investigation was none other than Moore, the father of Rodriguez's
11 grandchild and the person with whom Defendants were then engaged in a heated
12 custody battle.

13 51. And when that was unsuccessful, Defendants, in concert with members
14 of the Chula Vista Police Department, trumped up false domestic violence charges
15 against Moore by making false reports to the Chula Vista Police Department. But
16 when these charges were forwarded to the District Attorney's Office, diligent
17 attorneys within the office recognized the conflict and forwarded the reports to the
18 Office of the California Attorney General who, in turn, declined to prosecute. The
19 declination to prosecute was done in spite of Rodriguez's attempt to "facilitate" the
20 transfer and exert his influence over those prosecutors.

21 52. These despicable acts were done under the color of law. These acts
22 constitute an abuse of power as they were done with ill will in conscious disregard
23 of Defendants' obligation to meet out justice in a fair and impartial manner. These
24 acts "shock the conscience" of all right thinking citizens. These concerted and
25 repeated efforts to misuse public power "violates the decencies of civilized
26 conduct" as no citizen would expect their public officials to vindicate personal
27 vendettas against unsuspecting family members. It is important to note that the
28 interests Defendants attempted to interfere with are the most fundamental and basic

1 rights guaranteed to us by the Constitution: to right to freedom and familial
2 relationships.

3 53. This callous and calculated attack, done with the sole intent to hurt and
4 harm Moore, succeeded in October 2018. Moore's parental rights were removed
5 and he was forced to battle yet again for his son. In doing so, Defendants' conduct
6 caused extreme fear, anguish, and emotional turmoil as Defendants were stopping
7 at nothing, and expending any effort at their disposal, to have his parental rights
8 taken away.

9 54. As a result of the acts alleged herein, Moore suffered emotional trauma
10 as he was forced to confront the real possibility that Defendants would successfully
11 thwart his desire to co-parent his son G.M., and send him back to prison. In
12 addition, Moore was forced to expend tens of thousands of dollars on family
13 lawyers who worked diligently to expose this scheme and demonstrate to the family
14 court that one of San Diego's most respected families in law enforcement was
15 engaged in the illegal conspiracy alleged herein.

16 55. As such, Moore is entitled to money damages pursuant to 42 U.S.C.
17 section 1983 to compensate him for her injuries and for the violation of his
18 constitutional and civil rights. He is also entitled to his reasonable attorney fees
19 expended in seeking the vindication of his rights.

20 56. In addition to compensatory, economic, consequential, and special
21 damages, Plaintiff is entitled to punitive damages against each Defendant under 42
22 U.S.C. section 1983, in that the actions of each were done intentionally and with the
23 intent to violate Plaintiff's right, or was done with a reckless disregard or wanton
24 disregard for Moore's constitutional rights.

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VI.
SECOND CAUSE OF ACTION
BANE ACT VIOLATION

(Brought By Moore Against Jesse Rodriguez, Liz Rodriguez, and DOES 1-10)

57. The Bane Act provides a civil cause of action against anyone who “interferes by threat, intimidation, or coercion ... with the exercise or enjoyment ... of rights secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of this state.” (§ 52.1, subd. (a); see id., subd. (b).) “The essence of a Bane Act claim is that the defendant, by the specified improper means (i.e., ‘threats, intimidation or coercion’), tried to or did prevent the plaintiff from doing something he or she had the right to do under the law or to force the plaintiff to do something that he or she was not required to do under the law.” *Austin B. v. Escondido Union School Dist.*, 149 Cal.App.4th 860, 883 (2007).

58. In this case, Defendant Liz Rodriguez threatened to use her power as a San Diego County District Attorney, but to unleash the awesome power of her father, Defendant Jesse Rodriguez, to send Moore “back to prison.” This threat was made at the behest of, and with the assent of Defendant Jesse Rodriguez. This threat to abuse their power was done in order to coerce Moore to abandon his parental rights to his son G.M.

59. Defendants went to great lengths to effectuate their threats and intimidation by way of 1) using their official position to illegally obtain Moore’s personal and confidential psychiatric records from Richard J. Donovan State Prison, records which were then used by his daughter Liz Rodriguez (also a San Diego County District Attorney) during court mandated custody proceedings in a failed attempt to prove that Moore was an unfit parent; 2) using District Attorney Investigator Gialarmo to obtain copies of Moore’s application and testimony from Moore’s claim for unemployment benefits in a failed attempt to have Moore charged with perjury; and 3) using their contacts at the Chula Vista Department and

1 the California State Attorney's General's Office in a failed attempt to have Moore
2 charged with domestic violence.

3 60. These despicable acts were done under the color of law. These acts
4 constitute an abuse of power as they were done with ill will in conscious disregard
5 of Defendants' obligation to meet out justice in a fair and impartial manner. These
6 acts caused extreme fear, anguish, and emotional turmoil to Moore, who was locked
7 in a battle for his son against Defendants. Unbeknownst to Moore, Defendants
8 were stopping at nothing, and expending any effort at their disposal, to have his
9 parental rights taken away.

10 61. As a result of the acts alleged herein, Moore suffered emotional trauma
11 as he was forced to confront the real possibility that Defendants would successfully
12 thwart his desire to co-parent his son G.M. In addition, Moore was forced to
13 expend tens of thousands of dollars on family lawyers who worked diligently to
14 expose this scheme and demonstrate to the family court that one of San Diego's
15 most respected families was engaged in the illegal conspiracy alleged herein.

16 62. As such Moore is entitled to money damages pursuant to the dictates
17 of the California Constitution and Plaintiff is also entitled to his reasonable
18 attorneys' fees incurred in seeking recompense for the violation of his rights.

19 63. In addition to compensatory, economic, consequential, and special
20 damages, Plaintiff is entitled to punitive damages against each Defendant in that the
21 actions of each were done intentionally and with the intent to violate Plaintiff's
22 right, or was done with a reckless disregard or wanton disregard for Moore's
23 constitutional rights.

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VII.

THIRD CAUSE OF ACTION

VIOLATION OF RIGHT TO PRIVACY

(Brought By Moore Against Jesse Rodriguez, Liz Rodriguez, and DOES 1-10)

64. Plaintiff realleges and incorporates by reference all paragraphs stated above, as though fully set forth herein.

65. The elements of a cause of action for violation of the California Constitution's guaranteed right to privacy are (1) a legally protected privacy interest, (2) a reasonable expectation of privacy under the circumstances, and (3) conduct by defendant constituting a serious invasion of privacy. Actionable invasions of privacy must be sufficiently serious in their nature, scope, and actual or potential impact to constitute an egregious breach of the social norms underlying the privacy right.

66. As outlined above, Defendants Liz and Jesse Rodriguez, in concert with Doe Defendant(s) employed by the California Department of Corrections and Rehabilitation illegally and surreptitiously removed Plaintiff's confidential and privacy protected prison psychiatric records without his consent. Defendants then produced the records during a court ordered custody mediation on August 15, 2018, in an attempt to convince the mediator that Plaintiff Moore was an unfit parent. This was done in order to convince the family court judge that Moore's parental rights should be taken from him.

67. As a result of the acts alleged herein, Moore suffered emotional trauma as he was forced to confront the real possibility that Defendants would successfully thwart his desire to co-parent his son G.M. In addition, Moore was forced to expend tens of thousands of dollars on family lawyers who worked diligently to expose this scheme and to demonstrate to the family court that one of San Diego's most respected families was engaged in the illegal conspiracy alleged herein.

///

1 Moore’s parental rights should be taken from him. This conduct was done with the
2 intent to harm Moore and interfere with his right to familial association.

3 73. As a result of the acts alleged herein, Moore suffered emotional trauma
4 as he was forced to confront the real possibility that Defendants would successfully
5 thwart his desire to co-parent his son G.M., and interfere with his right to be free.
6 In addition, Moore was forced to expend tens of thousands of dollars on family
7 lawyers who worked diligently to expose this scheme and to demonstrate to the
8 family court that one of San Diego’s most respected families was engaged in the
9 illegal conspiracy alleged herein.

10 74. As such Moore is entitled to money damages pursuant to the dictates
11 of the California Constitution and Plaintiff is also entitled to his reasonable
12 attorneys’ fees incurred in seeking recompense for the violation of his rights.

13 75. In addition to compensatory, economic, consequential, and special
14 damages, Plaintiff is entitled to punitive damages against each Defendant in that the
15 actions of each were done intentionally and with the intent to violate Plaintiff’s
16 right, or was done with a reckless disregard or wanton disregard for Moore’s
17 constitutional rights.

18 **IX.**

19 **FIFTH CAUSE OF ACTION**

20 **NEGLIGENCE**

21 (Brought By Moore Against San Diego County, Jesse Rodriguez, Liz Rodriguez,
22 and DOES 1-10)

23 76. Plaintiff realleges and incorporates by reference all paragraphs stated
24 above, as though fully set forth herein.

25 77. Defendants were charged with the duty to act in accordance with the
26 laws of state and the Constitution. They are precluded from accessing personal
27 information and trumping up criminal investigations for personal gain.

28 ///

1 78. Defendants breached their duties and obligations by 1) using their
2 official position to illegally obtain Moore’s personal and confidential psychiatric
3 records from Richard J. Donovan State Prison, records which were then used by his
4 daughter Liz Rodriguez (also a San Diego County District Attorney) during court
5 mandated custody proceedings in a failed attempt to prove that Moore was an unfit
6 parent; 2) using District Attorney Investigator Gialarmo to obtain copies of
7 Moore’s application and testimony from Moore’s claim for unemployment benefits
8 in a failed attempt to have Moore charged with perjury; and 3) using their contacts
9 at the Chula Vista Department and the California State Attorney’s General’s Office
10 in a failed attempt to have Moore charged with domestic violence.

11 79. These despicable acts were done under the color of law. These acts
12 constitute an abuse of power as they were done with ill will in conscious disregard
13 of Defendants’ obligation to meet out justice in a fair and impartial manner. These
14 acts caused extreme fear, anguish, and emotional turmoil to Moore, who was locked
15 in a battle for his son against Defendants. Unbeknownst to Moore, Defendants
16 were stopping at nothing, and expending any effort at their disposal, to have his
17 parental rights taken away.

18 80. Additionally, pursuant to California Government Code Section 845.6,
19 public employees, and the public entity itself, are liable for Moore’s injuries
20 because Defendants knew they were abusing their power by misusing county
21 resources, personnel, and authority in order to deprive Moore of his right to be
22 G.M.’s father, and be free of wrongful imprisonment.

23 81. According to California Government Code Section 845.6, and the
24 theory of *respondeat superior*, the county is liable for its employees’ malicious
25 actions.

26 82. As a result of the acts alleged herein, Moore suffered emotional trauma
27 as he was forced to confront the real possibility that Defendants would successfully
28 thwart his desire to co-parent his son G.M. In addition, Moore was forced to

1 expend tens of thousands of dollars on family lawyers who worked diligently to
2 expose this scheme and top demonstrate to the family court that one of San Diego’s
3 most respected families was engaged in the illegal conspiracy alleged herein.

4 83. As such Moore is entitled to money damages pursuant to the dictates
5 of the California Constitution and Plaintiff is also entitled to his reasonable
6 attorneys’ fees incurred in seeking recompense for the violation of his rights.

7 84. In addition to compensatory, economic, consequential, and special
8 damages, Plaintiff is entitled to punitive damages against each Defendant in that the
9 actions of each were done intentionally and with the intent to violate Plaintiff’s
10 right, or was done with a reckless disregard or wanton disregard for Moore’s
11 constitutional rights.

12 **X.**

13 **PRAYER FOR RELIEF**

14 85. WHEREFORE, Plaintiff prays for judgement against Defendants, for
15 each and every cause of action, as follows:

- 16 1. For compensatory, general, and special damages against each
- 17 defendant, jointly and severally, in an amount according to proof;
- 18 2. For punitive and exemplary damages against each individually named
- 19 defendant in their individual capacity in an amount appropriate to
- 20 punish defendants and deter others from engaging in similar
- 21 misconduct;
- 22 3. For costs and reasonable attorney's fees pursuant to 42 U.S.C. section
- 23 1988, Civil Code section 52.1, Civil Code section 1798.53, and as
- 24 otherwise authorized by statute or law;
- 25 4. For any further relief that the Court may deem appropriate.

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XI.

DEMAND FOR JURY TRIAL

86. Demand is hereby made by for a jury trial.

Respectfully submitted,

MORRIS LAW FIRM, APC

Dated: July 31, 2020

by: s/ Christopher S. Morris
Christopher S. Morris
cmorris@morrislawfirmapc.com
Danielle R. Pena, Esq.
dpena@morrislawfirmapc.com
Attorneys for Plaintiff

EXHIBIT 1

VZW Wi-Fi

10:10 AM

70%



Jesse Rodriguez >

iMessage
Tue, Nov 20, 12:13 PM

This is Tracy prior I anticipate a case will come from CVPD tomorrow that I believe we will need to conflict off. Julie Garland is out of the office but Melissa Mandel is supervising trial attorney in charge of conflict cases. As per protocol I am seeking your permission to call Ms. Mandel to facilitate logistics of getting the case transferred to AG.

12:13 PM

Once you get the case call me so I can facilitate it before you talk to her.

12:17 PM

Will do.

12:18 PM

Wed, Nov 21, 9:06 PM



EXHIBIT 2

Prior, Tracy

From: Greenberg, David
Sent: Wednesday, January 23, 2019 4:59 PM
To: Prior, Tracy
Cc: Stephan, Summer
Subject: Re: Elizabeth Rodriguez / Conflict Case

Did Laura explain in detail why the case was rejected?

Dave

On Jan 23, 2019, at 4:11 PM, Prior, Tracy [REDACTED] wrote:

FYI

From: Laura Baggett [REDACTED]
Sent: Wednesday, January 23, 2019 1:31 PM
To: Prior, Tracy
Subject: Elizabeth Rodriguez / Conflict Case

Hi Tracy,

I was assigned the investigation concerning Nathaniel Moore, regarding Elizabeth Rodriguez. As you know, our office took the case in November as a clear conflict from the DA's Office. After a thorough investigation, our office is declining to file any charges. I just spoke to Ms. Rodriguez and she is aware of our decision.

Let me know if you have any questions.

Best,

Laura Baggett
Deputy Attorney General
California Attorney General's Office
600 West Broadway
Suite 1800
San Diego, CA 92101

[REDACTED]

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EXHIBIT 3

STATE OF CALIFORNIA
EMPLOYMENT DEVELOPMENT DEPARTMENT
WWW.EDD.CA.GOV

From: Giralamo, Anthony [REDACTED]
Sent: Thursday, November 08, 2018 5:31 PM
To: Phan, Quoc [REDACTED]
Subject: Document request

Quoc,

I received your contact info from DAI Lynn Rydalch. I'm in need of a document filed with your agency by our target who applied for benefits but was denied. He later appealed his request and was denied based on the employers investigation and allegations of employee theft. Our office is considering filing charges for false application of benefits. Can you obtain a copy of his original application he filed back in Feb-March 2017. I've attached a copy of the Appeals Board decision letter which references a case number. If you have any questions, call me on my cell listed below. Thank you.

Anthony Giralamo
Supervising Investigator, Economic Crimes Division
San Diego County District Attorney's Office
330 W. Broadway St. #750
San Diego, CA. 92101



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EXHIBIT 4

Giralamo, Anthony

From: Giralamo, Anthony
Sent: Friday, November 30, 2018 4:22 PM
To: Phan, Quoc [REDACTED]
Subject: Re: Document request

Thanks for the info Quoc. I was out of office today and missed the call on my cell.

Sent from my iPhone

On Nov 30, 2018, at 4:08 PM, Phan, Quoc [REDACTED] wrote:

Hey Tony,

I called you on your cellphone but did not leave a message.

For the initial application, Moores explanation was "terminated". For an unemployment claim, they would have to select an option: laid off, quit, or terminated. Then provide an explanation. Moore selected "terminated" then put down for his explanation as "terminated".

For admin hearings, it is audio recorded. I believe you can stop by the EDD appeals office and request for a copy. If they do not release that to you. The employer who's a party in the case should be able to obtain a copy.

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: "Giralamo, Anthony" [REDACTED]
Date: 11/29/18 5:59 PM (GMT-08:00)
To: "Phan, Quoc" [REDACTED]
Subject: RE: Document request

Quoc,

Please don't shoot the messenger on this one but I'm gathering additional info for one of our Chiefs looking into this case. Based on the Administrative Law Judge hearing report, it stated Mr Moore under "sworn direct testimony" denied his involvement in the employee theft. I need to know if this contradicts his initial application. According to what you found, he listed himself as terminated. Is he required to explain the termination on the application? If so we are looking to see if his initial application and his sworn testimony contradict.

I was asked to find out what method of reporting is used at the admin hearing. Court reporter or audio taping? Depending on what the initial application indicates and his sworn testimony at the appeal, our office is considering perjury charges. Can you make a determination if the initial application conflicts with his testimony based on the attached hearing report. Also who or how would we obtain transcripts of the hearing. Any help appreciated. You can call me anytime on my cell listed below to get additional info. Thanks, Tony

Tony Giralamo
Supervising Investigator, Economic Crimes Division

San Diego County District Attorney's Office
330 W. Broadway St. #750
San Diego, CA. 92101

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From: Phan, Quoc [REDACTED]
Sent: Friday, November 9, 2018 2:32 PM
To: Giralamo, Anthony [REDACTED]
Subject: RE: Document request

I'm going to look into that to see if it would be a good PC to add to EDD's reports.

Thank you for that.

QUOC PHAN
CRIMINAL INVESTIGATOR
INVESTIGATION DIVISION

STATE OF CALIFORNIA
EMPLOYMENT DEVELOPMENT DEPARTMENT
WWW.EDD.CA.GOV

From: Giralamo, Anthony [REDACTED]
Sent: Friday, November 09, 2018 2:30 PM
To: Phan, Quoc [REDACTED]
Subject: RE: Document request

Quac,
No I don't need the application based on your assessment. If he truthfully applied indicating he was terminated then there is no basis for charging. Thanks for your help. The charging statute I was talking about is PC 115. Basically says anyone filing a form, application or other document to any State agency knowing it to contain false info is a felony. Good charge for agencies looking for a crime based on a false application. Thanks again, Tony

Tony Giralamo
Supervising Investigator, Economic Crimes Division
San Diego County District Attorney's Office
330 W. Broadway St. #750
San Diego, CA. 92101

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From: Phan, Quoc ██████████
Sent: Friday, November 9, 2018 2:22 PM
To: Giralamo, Anthony ██████████
Subject: RE: Document request

Hello Tony,

I reviewed the unemployment claim of Nathaniel Moore and everything appears to have been filed correctly. Moore filed a claim reporting that he was terminated from Abbey Restaurants and Bar. An eligibility determination was conducted by EDD and it was determined that Moore was disqualified from receiving Unemployment Insurance Benefits. Once a disqualifying letter is issued, Claimants have the rights to file an appeal to have an administrative hearing if they disagree with EDD's decision. In this case, the Administrative Law Judge also made the determination that EDD's decision was correct and affirmed the disqualification. No benefits was ever paid on the claim.

Do you still think you want the application?

QUOC PHAN
CRIMINAL INVESTIGATOR
INVESTIGATION DIVISION
██████████

STATE OF CALIFORNIA
EMPLOYMENT DEVELOPMENT DEPARTMENT
WWW.EDD.CA.GOV

From: Giralamo, Anthony ██████████
Sent: Thursday, November 08, 2018 5:31 PM
To: Phan, Quoc ██████████
Subject: Document request

Quoc,
I received your contact info from DAI Lynn Rydalch. I'm in need of a document filed with your agency by our target who applied for benefits but was denied. He later appealed his request and was denied based on the employers investigation and allegations of employee theft. Our office is considering filing charges for false application of benefits. Can you obtain a copy of his original application he filed back in Feb-March 2017. I've attached a copy of the Appeals Board decision letter which references a case number. If you have any questions, call me on my cell listed below. Thank you.

Anthony Giralamo
Supervising Investigator, Economic Crimes Division
San Diego County District Attorney's Office

330 W. Broadway St. #750
San Diego, CA. 92101



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EXHIBIT 5

Giralamo, Anthony

From: Dugo, Dominic
Sent: Thursday, December 6, 2018 3:26 PM
To: Giralamo, Anthony
Subject: RE: EDD investigation: MOORE

Thank you for the update.

Dominic Dugo
Chief Deputy District Attorney

From: Giralamo, Anthony
Sent: Thursday, December 06, 2018 1:31 PM
To: Dugo, Dominic
Subject: EDD investigation: MOORE

Dom,

Just an update that I made another inquiry into when the to expect the EDD appeals hearing audio tape. Per approval by Presiding Admin Law Judge Cutrie, we should expect to receive those audio discs by late next week. I'll email you when I have them in my possession. I can burn you a copy and keep the originals to review. Thanks, Tony

Anthony Giralamo
Supervising Investigator, Economic Crimes Division
San Diego County District Attorney's Office
330 W. Broadway St. #750
San Diego, CA. 92101

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EXHIBIT 6

Giralamo, Anthony

From: Dugo, Dominic
Sent: Monday, December 17, 2018 11:09 AM
To: Giralamo, Anthony
Subject: RE: Any word yet?

Pls run it up tomorrow. We need to listen to it . Quick service! thx

Dominic Dugo
Chief Deputy District Attorney
[REDACTED]

From: Giralamo, Anthony
Sent: Monday, December 17, 2018 10:27 AM
To: Dugo, Dominic
Subject: Re: Any word yet?

I'm out today in Scottsdale. Back tomorrow. I received the CD. If you need it, it's on my desk. You'll see it in an envelope on top. Otherwise I can run it up tomorrow.

Sent from my iPhone

On Dec 17, 2018, at 10:42 AM, Dugo, Dominic [REDACTED] wrote:

Dominic Dugo
Chief Deputy District Attorney
[REDACTED]

EXHIBIT 7

Mosler, Damon

From: Mosler, Damon
Sent: Thursday, January 24, 2019 8:56 AM
To: Greenberg, David
Subject: Investigation- target identified

In early November Dominic Dugo called Econ/Environmental DAI Tony Giralamo and asked him to look into an EDD claim (request for unemployment benefits) by Nathaniel Moore. Dom told Tony that *his bosses* wanted this matter looked into. And told Tony that he would report to him only and not to let others know he was working on this. EDD investigators researched the EDD claim and notified Tony that it was denied. Which was reported back to Dom. Who in turn asked for Tony to get the filings and any tapes of the administrative hearing. This time telling Tony that time was of the essence and that *his bosses* really wanted this. (Inferring that both Summer and Jesse were the requestors). Tony was instructed by Dom to see if the EDD claimant- Nathaniel Moore had lied on the forms or at the hearing. EDD investigators referred Tony to the administrative court for these claims. Tony then made a request for the transcripts and asked that they expedite. The presiding official called Tony and said he would personally handle and get the District Attorney's Office the tapes. When the tapes were acquired in early December Tony reported this to Dom. Dom then had Tony sit with him that evening and listen to the tapes and review the reports. At the end he thanked Tony and said that *the bosses* would view his assistance favorably.

Tony alerted me to this in late November as he was concerned as to why the extreme interest in this person for a matter we do not handle investigations thereof and almost never have referred to us for prosecution (in fact the EDD investigator expressed surprise at our extreme interest in a possible EDD case). I figured it was one last help Jesse out matter before Jesse left—as we had several of those pop up and a case dispo'd thru Dom at Jesse's request. I talked to Joe Cargel and let him know what one of his investigators was assigned to do- I did this for Tony's protection. Joe too agreed to let it go for now but that we would monitor the matter to ensure Tony was not put at ethical risk. Tony and I had no idea who this person was. This past week it occurred to me to ask another DDA if they knew that name. I learned last night that this Nathaniel Moore is Liz Rodriguez's ex-boyfriend. And it appears there have been safety and threatening issues related to him.

My concerns are:

that Dom used the impression that Summer was asking for this investigation when in all likelihood it was at Jesse's direction or his desire to help out his friend Jesse;
that my DAI was left in the dark as to what he was doing;
that he was directed to keep this from his chain of command; and,
that it appears like the Office had a conflict of interest in such investigative actions.

At the very least if the Office went forward (and I did a few times as Chief of Special Operations) it should be run out of Special Operations and walled off from those who have a familial relationship to the outcome. CDAA Professionalism Manual outlines the Duty to Avoid Conflicts of Interest. When I did these we walled the executive off and once evidence was gathered I consulted with the AG to assess the conflict and avoid the appearance of impropriety.

I sense this investigation was done thru Tony to avoid Special Operations and Summer. That even if Dom was directed by Jesse he should know better and see the ethical issue and make sure it was done correctly- (by a walled off Special Investigations DDA/DAI and not an Econ DAI he had Chicago ties with)- if at all and with Summer's direct knowledge to protect the Office and himself.

Damon Mosler
Chief, Economic Crimes Division