

1 BARRETT S. LITT, SBN 45527
blitt@mblllegal.com
2 McLANE, BEDNARSKI & LITT, LLP
3 975 E. Green Street
Pasadena, California 91106
4 Telephone: (626) 844-7660
Facsimile: (626) 844-7670
5

6 SCOTT B. RAPKIN, SBN 261867
scottrapkin@rapkinesq.com
7 MICHAEL S. RAPKIN, SBN 67220
msrapkin@gmail.com
8 RAPKIN & ASSOCIATES, LLP
9 475 Washington Blvd.
Marina del Rey, California 90292
10 Telephone: (310) 319-5465
Facsimile: (310) 319-5355
11

12 Attorneys for Plaintiffs

13 SUPERIOR COURT OF CALIFORNIA
14 COUNTY OF LOS ANGELES
15

16 GREGORY JOHNSON and JACQUELINE
MURILLO CASTRO, on behalf of themselves
17 and all others similarly situated,

18 Plaintiffs,

19 vs.

20 COUNTY OF LOS ANGELES AND DOES 1-
21 50, INCLUSIVE,

22 Defendants.
23
24

CASE NO:

CLASS ACTION COMPLAINT FOR:

1. VIOLATION OF CALIFORNIA
CONSTITUTION § 13C
2. VIOLATION OF CALIFORNIA
GOVERNMENT CODE § 50030

JURY TRIAL DEMANDED

1 **I. INTRODUCTION**

2 1. This lawsuit challenges Los Angeles County’s policy and practice of entering into
3 commission-based contracts with companies to provide goods and services to the County jails.
4 The millions of dollars in commissions that the companies agree to pay the County annually in
5 exchange for these exclusive contracts are completely passed through to inmates, their families,
6 friends, and attorneys, in the form of extortionate and outrageous prices, which are then used by
7 the County to fund its jails. As used in this complaint, the term “commissions” refers to any
8 monies or payments made to the County by third party vendors in exchange for the right to sell
9 their products or service to prisoners housed in the County Jail (or to those who support or
10 interact with them, including families and friends who pay for the cost of telephone calls,
11 commissary items and the like). These “commissions,” though denominated as such, are actually
12 unlawful taxes under Proposition 26.

13 2. Because inmates are literally a captive market with no ability to choose another
14 company to provide goods or services, the County uses these improper contracts for everything
15 from telephone service to commissary items to vending products and gift packages. The charges
16 at issue work a terrible hardship, and unlawfully put the burden on inmates’ families, friends and
17 associates of paying for County services and costs that are rightfully the responsibility of the
18 taxpayers and society at large. Most inmates of Los Angeles County jails are relatively poor and
19 lack significant financial resources; they are disproportionately people of color, especially
20 African-American and Latino; and many suffer from serious mental illness. Their families,
21 friends and associates similarly are relatively poor, people of color and lack significant financial
22 resources.

23 3. For example, in 2020, Los Angeles County received at least \$15 million from its
24 contract with Global Tel*Link Corporation, the vendor that provides telephone service for the
25 jails. Because this entire \$15 million is passed through by GTL, the customers – primarily
26 family members trying to desperately maintain contact with their inmate spouses, children, and
27 parents - must pay grossly unfair and excessive phone charges. Many people are forced to limit
28 their contact with inmates far more than they would wish because of the cost, resulting in greater
isolation for inmates and reduced support, and undermining the objective of returning inmates to
the community with greater and stronger ties. Former Federal Communications Commissioner
Mignon Clyburn has said, this system “is inequitable, it has preyed on our most vulnerable for
too long, families are being further torn apart, and the cycle of poverty is being perpetuated.” She
further added that the prison phone industry was “the most egregious case of market failure” she

1 has seen in her career. This problem has only been exacerbated by the restrictions on in-person
2 visits due to COVID-19.

3 4. That these counties fully understand the injustice they are inflicting, even while
4 they continue it, is captured by the statement of former Los Angeles County Supervisor, Zev
5 Yaroslavsky, “Everyone’s making a lot of money at the expense of inmates’ families. They’re in
6 jail. They’re paying their debt to society. *That doesn’t give us the right to fleece them.*”
(emphasis added).¹

7 5. Los Angeles County’s commission-based contracts stand in stark contrast to the
8 State of California, which, in 2010, eliminated commission-based contracts for phone calls in its
9 prisons. And effective January 1, 2023, with the enactment of SB 1008, calls from California’s
10 prisons are now free.

11 6. Multiple cities and counties have also eliminated commission-based telephone
12 contracts and made phone calls free from their jails, including New York City, San Francisco
13 County, and San Diego County.

14 7. Another excessive cost of incarceration is the high prices on commissary items,
15 such as coffee, soup, beans and rice, stationery, and hygiene products. In 2020, Los Angeles
16 County received more than \$29 million from Keefe Commissary (Keefe), the vendor that
17 provides commissary items. This entire amount is passed through from Keefe to the customers
18 by significantly marking up all of the items sold in the commissary. The way this works is that
19 Keefe Commissary sets its product prices and then adds a markup above that to get the price
20 charged an inmate pursuant to the contractual agreement between Keefe and the County. The
21 difference between the two is the County’s commission. The commission far exceeds the
22 reasonable cost to the Jail or the County of providing the Commissary items, Alternatively, the
23 commission far exceeds the reasonable value of the goods, service or activities provided by the
24 Jail.

25 8. In 2019, the Los Angeles County Office of Inspector General presented a report,
26 which provided various examples of the enhanced costs of commissary items at that time: The
27 sale price of an eight-ounce bag of “Flamin’ Hot Cheetos” is \$5.33, but the actual cost to the
28 Sheriff’s Department is \$2.51, which is a 47% mark up; the sale price of four-ounce bag of

¹ See David Lazarus, *Gouging L.A. County Inmates With High Phone Fees*, The Los Angeles Times, September 8, 2014.

1 “Keefe Instant Coffee” is \$7.47, but the cost to the Sheriff’s Department is \$3.51, which is a
2 47% mark-up; the sale price of a packet of “Beef Ramen” is \$1.15, but the cost to the Sheriff’s
3 Department is \$0.55, which is a 48% mark-up.² And these prices have only increased since
4 2019.

5 9. The Inspector General also found significant mark-ups on hygiene items, which
6 are necessary for those in custody who have skin allergies, sensitivities, and other needs. For
7 example, the sale price of a 3.2 ounce bar of “Irish Spring Soap” is \$1.45, but the cost to the
8 Sheriff’s Department is \$0.68, which is a 47% mark-up; and the sale price of a 2.75-ounce
9 “Freshmint” toothpaste is \$2.16, but the cost to the Sheriff’s Department is \$1.02, which is also a
10 47% mark-up.³

11 10. The items in the vending machines are also marked up. As of 2019, the sale price
12 of a “Snickers” candy bar is \$1.35, but the cost to the Sheriff’s Department is \$0.83, which is a
13 61% mark-up; the sale price of a 20-ounce bottle of “Diet Coke” is \$2.15, but the cost to the
14 Sheriff’s Department is \$1.32, which is a 61% mark up.⁴

15 11. Class Counsel previously filed a lawsuit on behalf of different class
16 representatives and different classes against Los Angeles County challenging the commissions
17 that it receives from its telephone contract. That lawsuit was coordinated with similar lawsuits
18 against Orange County, Ventura County, Riverside County, San Bernardino County, Santa Clara
19 County, Contra Costa County, and Alameda County. All those cases were coordinated under the
20 name *County Inmate Telephone Cases*, Case No. JCCP 4897 in the Los Angeles Superior Court
21 and assigned for all purposes to the Hon. Carolyn B. Kuhl. The trial court granted the
22 defendants’ demurrer, holding that plaintiffs did not have standing because they did not pay the
23 charges directly to the counties, but instead paid the money to the telephone companies which, in
24 turn, paid the money to the counties. This decision was affirmed on appeal. *County Inmate Tel.*
25 *Serv. Cases* (2020) 48 Cal.App.5th 354 (County Inmate).

26 12. However, subsequent to the decision in *County Inmate*, the California Supreme
27 Court issued its decision in *Zolly v. City of Oakland* (2022) 13 Cal.5th 780, which expressly

28 ² <https://file.lacounty.gov/SDSInter/bos/supdocs/InmateWelfareFundPresentation-OIG-9-17-2019.pdf>

³ Ibid.

⁴ Ibid.

1 rejected the standing ruling in *County Inmate* and held that a plaintiff does not need to be
2 “directly obligated” to pay the fees in order to challenge them under Proposition 26. *Id.* at 789-
3 90. A plaintiff has standing as long as they allege, as Plaintiffs do here, “an economic injury
4 caused by the challenged fees,” such as higher prices due to the commissions being passed-
5 through. *Id.*

6 13. Specifically, with regards to *County Inmate*, the Supreme Court in *Zolly* stated:
7 In *County Inmate*, inmates in nine counties challenged the allegedly inflated commissions
8 paid by telecommunications companies to the counties under contracts giving them the
9 exclusive right to provide telephone services. The inmates alleged that the companies
10 passed on the cost of the commissions to the inmates and their families. But the Court of
11 Appeal held that because the inmates had “no legal responsibility to pay anything to the
12 counties,” they lacked standing to “contend the commissions are an unconstitutional tax”
13 under Proposition 26 and to seek a refund of those taxes. As support for a “general rule ...
14 that a person may not sue to recover excess taxes paid by someone else,” the court cited
15 *Grotenhuis v. County of Santa Barbara* (2010) 182 Cal.App.4th 1158. **But that decision**
16 **does not claim to pronounce any general limitation on standing.**

17 Instead, *Grotenhuis* involved the statutory requirements for a “tax refund action” under
18 Revenue and Taxation Code section 5140, which expressly limits such an action to a
19 ““person who paid the tax.”” ... **Accordingly, County Inmate’s reliance on Revenue**
20 **and Taxation Code section 5140 as support for a general limitation on standing in**
21 **all cases where plaintiffs seek a tax refund, without regard to the specific form of**
22 **tax at issue, is misplaced.**

23 *Id.* at 790 (internal citations omitted) (emphasis added).

24 **II. JURISDICTION AND VENUE**

25 14. This Court has jurisdiction, and venue is proper, because Plaintiffs’ claims arise
26 out of acts of the Defendants in Los Angeles County.

27 **III. PARTIES**

28 **A. PLAINTIFFS**

15. Plaintiff Gregory Johnson was a male inmate at Men’s Central Jail (MCJ) in Los
Angeles, California from in or about October 2020 until on or about October 15, 2021. Mr.
Johnson directly bore the cost to speak on the telephone and purchase items from the
commissary and vending machines. He, therefore, qualifies at the payor of said fees.

16. Mr. Johnson filed his original class Cal. Govt. Code class § 910 claim on October
11, 2022. At the request of the County, Mr. Johnson submitted an amended claim on November
2, 2022. It was rejected on November 8, 2022.

1 17. Plaintiff Jacqueline Murillo Castro has paid money to GTL so that her family,
2 friends, partner, and mentees could speak on the telephone, including with her. Ms. Murillo
3 Castro also deposited her money into the accounts of family members, friends, her partner, and
4 mentees so that they could purchase items from the commissary. Ms. Murillo Castro also
5 purchased gift items for her family members, friends, her partner, and mentees. Because Ms.
6 Murillo Castro directly bore these costs she qualifies as the payor of said fees.

7 18. While Ms. Murillo Castro did not submit a Cal. Govt. Code § 910 for herself prior
8 to filing this lawsuit, she was included as a Claimant within the class claim filed by Mr. Johnson.
9 That claim was submitted on behalf of Mr. Johnson “and the class of claimants similarly
10 situated,” which was defined as “anyone who has paid for telephone, commissary, vending or
11 gift package charges for the benefit of persons confined in any Los Angeles County Jail.” *See*
12 *The Kind and Compassionate v. City of Long Beach*, 2 Cal.App.5th 116, 125 n.1 (stating that
13 named plaintiffs could sue even though they were not specifically named in Gov’t Code § 910
14 claim letter because the letter stated the intention to sue as a class, and included among those
15 who would be suing all who were similarly situated to the named claimant as defined in the
16 letter); *Dhuyvetter v. City of Fresno*, 110 Cal.App.3d 659 (1980) (children could be named
17 plaintiffs even though they were not included on claim letter, because claim letter stated the
18 intention to sue as a class and the children were similarly situated to their parents with regard to
19 the claims at issue).

20 **B. DEFENDANTS**

21 19. Defendant Los Angeles County (hereafter “County”) is a public entity organized
22 and existing under the laws of the State of California. The Los Angeles County Sheriff’s
23 Department (hereafter “LACSD”) is a public entity within the meaning of California law and is
24 an agency of Los Angeles County (Defendants Los Angeles County and the Los Angeles County
25 Sheriff’s Department are hereinafter collectively referred to as “County Defendants”). The
26 County is sued in its own right for a County and/or LACSD policy, practice or custom which
27 caused Plaintiffs’ injuries in violation of California state law for violation of California
28 constitutional guarantees.

 20. Although the Complaint identifies Defendant County of Los Angeles, the
Sheriff’s Department of Los Angeles County is a part of that County and, as the term “County”
or “County Defendants” is used in this Complaint, it encompasses the Sheriff’s Department of
Los Angeles County as well as the County at large.

1 21. Plaintiffs are ignorant of the true names and capacities of Defendants sued herein
2 as DOES 1 through 50, inclusive, and therefore sue these Defendants by such fictitious names.
3 Plaintiffs will give notice of this complaint, and of one of more DOES' true names and
4 capacities, when ascertained. Plaintiffs are informed and believe, and based thereon allege that
5 Defendants DOES 1 through 50 are responsible in some manner for the damages and injuries
hereinafter complained of.

6 22. Individual Defendants from Los Angeles County (although not currently named,
7 but who may be named in the future) may at times be referred to herein collectively as the
8 "Individual Defendants."

9 23. Upon information and belief, Plaintiffs further allege that, at all times relevant
10 herein, the Individual Defendants participated in, implemented, supervised, approved, and/or
11 ratified the unconstitutional or illegal acts undertaken on behalf of the County Defendants with
regard to which they are named as Individual Defendants.

12 24. Plaintiffs are informed and believe, and thereupon allege that, at all times relevant
13 herein, the Individual Defendants, and each of them, were the agents, servants and employees of
14 the County Defendants with regard to which they are named as Individual Defendants and were
15 acting at all times within the scope of their agency and employment with the knowledge and
16 consent of their principals and employers. At all times herein, Defendants, and each of them,
were acting under the color of state law.

17 25. County Defendants are named not only under a theory of direct liability, but also
18 as an entity responsible in respondeat superior for the actions undertaken by its agents, servants,
19 and employees. Said respondeat superior liability extends to and encompasses, but is not limited
20 to, the ministerial acts of implementing the contracts and charges challenged in this Complaint.

21 26. When the phrase "Los Angeles County Defendants" is used in this Complaint, it
22 refers not only to the County Defendants, but to the Doe Defendants and to any Individual
Defendants who may be named with regard to that County.

23 **IV. CLAIMS OF CLASS REPRESENTATIVES**

24 27. Gregory Johnson was a male inmate at MCJ from in or about October 2020 to on
25 or about October 15, 2021. While incarcerated, he made use of telephone accounts through GTL
26 to speak with his family and friends. In some instances, he provided his own funds to pay for
27 this telephone access. Similarly, while incarcerated, Mr. Johnson used his own funds to make
28 purchases at the commissary and vending machines. Mr. Johnson brings this suit on his own
behalf and on behalf of a class of similarly situated persons, defined elsewhere in this Complaint.

1 28. Ms. Murillo Castro has paid money to GTL so that her friends, family, partner,
2 and mentees could make phone calls, including to her. Ms. Murillo Castro has also deposited her
3 money to these people's accounts so that they are able to purchase items from the commissary
4 and vending machines. Ms. Murillo Castro has also purchased gift packages for her friends,
5 family, partner, and mentees. She brings this suit on her own behalf and on behalf of a class of
6 similarly situated persons, defined elsewhere in this Complaint.

6 **V. FACTUAL ALLEGATIONS**

7 29. On or about November 1, 2011, Los Angeles County entered into a written
8 agreement with Public Communications Services, Inc., (PCS), to provide telephone services for
9 inmates within the County's jails and probation facilities. PCS is a wholly owned subsidiary of
10 GTL. This agreement has been continuously renewed, and the terms of the agreement are still in
11 effect, although there have been amendments to the agreement.

12 30. Pursuant to said agreement, GTL agreed to pay, and did pay, the County the
13 greater of \$15,000,000 annually (the Minimum Annual Guaranty) or 67.5% of the revenues
14 received for specified charges described within the contract. Under this agreement, the County
15 received more than \$20 million in commissions in 2020.

16 31. Upon information and belief, in 2021 the parties amended their agreement such
17 that GTL pays a lower Minimum Annual Guaranty, which is still at least \$6 million per year.

18 32. In or about 2007, Los Angeles County entered into a written agreement with
19 Keefe Commissary Network, LLC (Keefe) to provide commissary services and products for
20 inmates within the County's jails. Pursuant to said agreement, which has been renewed
21 numerous times, Keefe has agreed to pay, and does pay, the County 53% of all gross revenue
22 received from the sale of commissary items. Upon information and belief, the County receives
23 more than \$20 million in commissions from this agreement, including more than \$29 million in
24 2020 alone. On information and belief, Keefe sets the prices it charges for commissary items
25 sold in the Jail by adding the commissions it is obligated to pay Los Angeles County under the
26 contract to the normal retail price. Because Keefe purchases the items wholesale, it makes its
27 own profit from the difference between the wholesale and retail price of the item, as well as
28 additional fees and surcharges.

29 33. In or about 2010, Los Angeles County entered into a written agreement with First
30 Class Vending, Inc. (First Class) to provide vending machine services for inmates. Upon
31 information and belief, pursuant to said agreement, which has been renewed numerous times,
32 First Class has agreed to pay, and does pay, the County 38.6% of all gross revenue received from

1 the sale of vending items. Upon information and belief, the County receives at least hundreds of
2 thousands of dollars in annual commissions under this agreement. On information and belief,
3 First Class's pricing structure is similar to that described for Keefe in the immediately preceding
4 paragraph. The vast majority of the revenues that the County receives from the foregoing
5 arrangements and commissions exceed the reasonable cost of providing said goods, services or
6 activities (or their reasonable value).

6 34. Upon information and belief, Los Angeles County has entered into additional
7 agreements with companies to provide goods or services to inmates in the County's jails. These
8 contracts also include annual commissions that provide significant revenue to the County. Upon
9 learning of all of the County's commission-based contracts, Plaintiffs will seek to amend this
10 Complaint to add allegations concerning those additional contracts.

11 35. Upon information and belief, the County of Los Angeles selected these companies
12 to provide goods and services because they agreed to pay the highest amount in annual
13 commissions.

13 36. However, since County Defendants' contracts provide a substantial commission
14 after which the third-party vendors still make a substantial profit, it is obvious that, without the
15 commissions, the charges would be substantially lower, and they bear no reasonable relationship
16 to the actual cost of providing the goods or services. On information and belief, the cost to the
17 County is a small fraction (likely under 5%) of the cost charged to the inmates or those who
18 provide the funds for them.

18 37. For example, based on information provided by the National Sheriff's
19 Association, the FCC has determined that, for jails with an average daily population above 2,500,
20 the facility cost of supporting ICS is only \$0.01-\$0.02 per minute.⁵

21 38. County Defendants use their annual commissions as provided by Penal Code
22 §4025(c-d), which states that any money or commission collected by a jail for the use of pay
23 phones primarily used by incarcerated inmates shall be deposited in the Inmate Welfare Fund
24 and used first for the benefit, education and welfare of inmates and, to the extent not needed for
25 that purpose, may be used for the maintenance of county jail facilities. Nonetheless, rather than

26
27
28 ⁵ See *Rates for Interstate Inmate Calling Services*, WC Docket No. 12-375, Order on
Reconsideration, 31 FCC Rcd 9300, 9314, para. 26 (Aug. 9, 2016).

1 using the money primarily for vocational and educational programs, or other programs designed
2 for the rehabilitation of inmates, much, if not most, of the money deposited in the Inmate
3 Welfare fund is spent on general jails issues, including maintenance, equipment, office furniture,
4 salaries and, in some instances, food.

5 39. The demographics of the jail population of County Defendants' jails are highly
6 disproportionate to the demographics of Los Angeles County as a whole. On information and
7 belief, the racial breakdown of the Los Angeles County Jail is 54% Latino, 30% African-
8 American and 13% White.⁶ On further information and belief, the population of Los Angeles
9 County is 49.7% Latino, 26.3% White, 8.1% African-American, 13.5% Asian, and 2.5% other.⁷
10 Thus, the African-American community in particular is incarcerated at a rate of nearly eight
11 times the rate of the white population, and the Latino community at over twice the rate of the
12 White population.

13 40. This mirrors incarceration rates throughout California. While approximately 29%
14 of the California male prison population is African-American, less than 7% of the California
15 population is African American. In 2013, 4.367 % of all African-American males (4,367 out of
16 every 100,000) in California were imprisoned, compared to .922 % (922 out of every hundred
17 thousand) for Latinos, and .488% (488 out of every hundred thousand) for whites. Said another
18 way, African-Americans are imprisoned at almost 10 times the rate of whites, and Latinos are
19 imprisoned at almost twice the rate of whites in California.

20 41. The jail population is similarly disproportionately composed of persons with
21 mental illnesses or drug addiction, both of which qualify as disabilities. A 2006 study by the U.S.
22 Department of Justice found that more than half of all prison and jail inmates have a mental
23 health problem compared with 11 percent of the general population, yet only one in three prison
24 inmates and one in six jail inmates receive any form of mental health treatment. Other data
25 indicate that approximately 20% of incarcerated inmates have a serious mental illness, and 30 to
26 60% have substance abuse problems. The percentages increase significantly when including
27 broad-based mental illnesses. For example, 50 percent of males and 75 percent of female inmates

28 ⁶ <https://www.laalmanac.com/crime/cr25b.php> (Los Angeles Almanac)

⁷ https://www.bscc.ca.gov/wp-content/uploads/Los-Angeles-County-Demographic-Reference-Data_Feb2022.pdf (Publicly Accessible Data Sets, Los Angeles, pg. 3, February 2022).

1 in state prisons, and 75 percent of females and 63 percent of male inmates in jails, will
2 experience a mental health problem requiring mental health services in any given year.

3 **VI. CLASS DEFINITIONS**

4 **A. GENERAL CLASS**

5 42. The General Class is defined as follows:

6 Those individuals or entities, for the period beginning one year before the filing of
7 Plaintiff Gregory Johnson’s class Cal. Govt. Code § 910 claim on October 11, 2022,
8 through the earlier of the complete cessation of the challenged conduct or the final
9 resolution of this case, who paid money to a telephone account, commissary account,
10 vending account, or other third-party account through which money is passed through to
11 the County, for the benefit of a past, present or future Los Angeles County Jail inmate.

12 **B. Subclasses**

13 43. While the contracts between Los Angeles County and the third-party vendors are
14 similar, Plaintiffs define subclasses to capture potential differences in the agreements:

15 **Telephone Subclass, Commissary Subclass, and Vending Subclass.** The subclasses are
16 defined identically to the main class except that they are limited to individuals or entities that
17 paid money to an account established for that specific purpose only. Thus, for example, the
18 Commissary Subclass would be defined as “Those individuals or entities, for the period
19 beginning one year before the filing of Plaintiff Gregory Johnson’s class Cal. Govt. Code § 910
20 claim on October 11, 2022, through the earlier of the complete cessation of the challenged
21 conduct or the final resolution of this case, who paid money to a commissary account for the
22 benefit of a past, present or future Los Angeles County Jail inmate.”

23 44. Most putative class members will belong to more than one subclass. Plaintiffs
24 may refine their proposed class definitions based on information that comes to light during the
25 discovery process.

26 **VII. COMPLIANCE WITH CODE OF CIVIL PROCEDURE § 382**

27 **A. NUMEROSITY**

28 45. Because California is such a large state, many of its jail systems are large
compared to the average jail system in the United States.

1 46. Los Angeles County has the largest jail population in the United States.
2 Historically, it has had an average daily population of over 17,000 prisoners. As a result of
3 Covid, its population dropped at one point below 13,000, and, on information and belief,
4 currently amounts to or exceeds approximately 15,000 and rising.⁸

5 47. Average jail turnover rate in US jails is 15 times per year.⁹

6 48. While the turnover rate is smaller in large jails, the jail population turns over
7 several times per year.

8 49. Even assuming that only a small fraction of inmates and their families avail
9 themselves of these different third-party accounts, on information and belief, the class and
10 subclasses for Los Angeles County each number in the thousands, and likely in the tens of
11 thousands.

12 **B. COMMON ISSUES OF FACT OR LAW**

13 50. The County of Los Angeles has contracts with third party vendors, the terms of
14 which provide a minimum annual guaranteed payment against a percentage that goes to the
15 County Jail for the exclusive right to provide these services or items within the County jails.

16 51. The County of Los Angeles has acted with respect to the Class in a manner
17 generally applicable to each member of the Class. There is a well-defined community of interest
18 in the questions of law and fact involved in the action. The questions of law and fact
19 predominate over any questions affecting only individual members, including, but not limited to
20 the following:

- 21 a. Does the money received by the County Defendants in exchange for their grant
22 of exclusive rights to establish an inmate call system in their jails, and sell
23 products in the commissaries, although denominated as commissions, exceed
24 the reasonable cost to the County of any such goods and services and, to the
25 extent it does, in fact constitute taxes under Article 13 C of the California
26 Constitution?

27 ⁸ <https://witnessla.com/after-months-of-uncertainty-and-rising-jail-numbers-las-office-of-diversion-and-reentry-gets-funding-for-750-more-beds/>

28 ⁹<http://apps.fcc.gov/ecfs/document/view;NEWECFSSSESSION=KnsqVy1h8yKTrl2gyF3g621nyZnJN2nJpXX6DFxznyXyXnh8LJhT!1736751079!-973180750?id=60001115155>

- 1 b. Alternatively, does the money received by the County Defendants in exchange
2 for their grant of exclusive rights to establish an inmate call system in their
3 jails, and sell products in the commissaries, although denominated as
4 commissions, exceed the reasonable value of any such goods, services or
5 activities provided by the Jail, and, to the extent it does, in fact constitute taxes
6 under Article 13 C of the California Constitution?
7 c. Does the fee that GTL pays to the County Defendants in exchange for their
8 grant of exclusive rights to install telecommunications facilities within the
9 County's jails exceed the reasonable cost to the County to provide inmate
10 telephone service and, thus, violate Cal. Gov't Code § 50330?

11 52. While there are additional common issues, these issues alone more than establish
12 that there are common issues applicable to all class members because the answer to these
13 dispositive questions will apply to all class members.

14 **C. TYPICALITY**

15 53. The claims of the Plaintiffs are typical of the class, and subclasses, or which they
16 are named as a class representative. All Plaintiffs established accounts for telephone,
17 commissary, vending, and gift packages with a third-party vendor, and were accordingly
18 subjected to the unlawful conduct alleged in the Complaint, which unlawful conduct applied and
19 applies to all class members.

20 54. Thus, the Plaintiffs have the same interests, and have suffered the same type of
21 damages, as the class members. Plaintiffs' claims are based upon the same or similar legal
22 theories as the claims of the class members. Each class member suffered actual damages as a
23 result of the actions of each Defendant. The actual damages suffered by Plaintiffs are similar in
24 type and amount to the actual damages suffered by each class member.

25 55. The economic losses suffered by each class member (whether General or as a
26 member of a sub-class) are commonly determined by the amount paid by that class member to
27 the different third party-vendors, plus interest to be determined.

28 **D. ASCERTAINABILITY**

 56. While Plaintiffs do not know the identities of the class members, the identities of
the class members are ascertainable from the records of Los Angeles County Jail and the third-
party vendors. Plaintiffs are informed and believe, and thereon allege, that the foregoing
computer records reflect the identities, including addresses and telephone numbers, and other
contact and identifying information, of the persons who qualify as class members, and the

1 charges incurred, and that it is possible to ascertain from those records who qualifies as a class
2 member of the class and each sub-class.

3 **E. ADEQUACY OF REPRESENTATION**

4 57. The Plaintiffs will fairly and adequately protect the interests of the class. The
5 interests of the Plaintiffs are consistent with and not antagonistic to the interests of each class.

6 58. Similarly, class counsel are experienced class action litigators who will fairly and
7 adequately protect the interests of each class.

8 **F. PREDOMINANCE AND SUPERIORITY**

9 59. Prosecutions of separate actions by individual members of the class would create
10 a risk that inconsistent or varying adjudications with respect to individual members of the class
11 would establish incompatible standards of conduct for the parties opposing the class.

12 60. Prosecutions of separate actions by individual members of the class would create
13 a risk of adjudications with respect to individual members of the class that would, as a practical
14 matter, substantially impair or impede the interests of the other members of the class to protect
15 their interests.

16 61. Plaintiffs are informed and believe, and thereon allege that Defendants have acted
17 on grounds generally applicable to the class.

18 62. The interests of class members in individually controlling the prosecution of a
19 separate action is low in that most class members would be unable to individually prosecute any
20 action at all. The amounts at stake for individuals are such that separate suits would be
21 impracticable in that most members of the class will not be able to find counsel to represent them
22 on an individual basis. It is desirable to concentrate all litigation in one forum because all of the
23 claims arise out of the same basic pattern of conduct, the legality of which is subject to class
24 wide determination. It will promote judicial efficiency to resolve the common questions of law
25 and fact in one forum rather than in multiple courts. Because the unlawful conduct alleged herein
26 is systemic, it is particularly well suited to resolution on a class basis, as the critical question in
27 the case may be answered on a class wide basis. Indeed, in this case, there are no individualized
28 issues at all regarding liability. Either the charges are lawful under the legal theories implicated
by this Complaint or they are not.

63. The claims raised herein are susceptible to common proof. Defendant County of
Los Angeles has certain contracts under which it receives a minimum fee against a percentage of
certain proceeds in exchange for its grant of exclusive rights to provide services or items within

1 the County Jail. The charges and related fees that class members pay are uniform across class
2 members and are discoverable from the contracted companies' computerized records.

3 64. There are no difficulties that will be encountered in the management of this
4 litigation that would preclude its maintenance as a class action. The class action is superior to
5 any other available means to resolve the issues raised on behalf of the classes. The class action
6 will be manageable because computerized records systems exist from which to ascertain the
7 members of the class and to ascertain some of the proof relevant to Plaintiffs' claims. Liability
8 can be determined on a class-wide basis based on class wide evidence because the Plaintiffs
9 complain of systemic and widespread policies and practices that are uniform for Defendant
10 County of Los Angeles, based on their particular contracts with the relevant third-party vendors.
11 Plaintiffs and the class members are entitled to economic damages under state law, and to such
12 other damages as may be determined by the Court or the trier of facts; and, in any event,
13 individualization or variability in damages is not a bar to a liability certification based on
14 common liability issues.

13 **VIII. DAMAGES**

14 65. As a result of Los Angeles County Defendants' unlawful conduct, Plaintiffs and
15 class members have suffered, and will continue to suffer, compensable damages in amounts to be
16 determined at trial. The economic damages and/or refund/restitution/disgorgement are
17 susceptible to class wide proof based on the computerized records of the applicable third-party
18 vendors, the Los Angeles County Jail, and the applicable documents and records memorializing
19 and documenting the charges complained of herein.

19 **IX. CLAIMS**

20 **A. VIOLATION OF CALIFORNIA CONSTITUTION ARTICLE 13C [BY ALL PLAINTIFFS 21 AGAINST LOS ANGELES COUNTY DEFENDANTS].**

22 66. Plaintiffs incorporate all previous and subsequent paragraphs of this Complaint
23 into this claim.

24 67. The money received by the Los Angeles County Defendants in exchange for their
25 grant of exclusive rights to establish an inmate call system in their jails, and sell products in the
26 commissaries and vending machines, although denominated as commissions, in fact constitute
27 taxes under California law, and, as such, were not approved by the voters of the respective
28 counties in which the tax was established, as required by Articles 13C of the California
Constitution.

1 68. As evidenced by the fact that the commissions are required by California Penal
2 Code §4025 to be used in the first instance for a jail's inmate welfare fund, the primary purpose
3 of the commissions is to raise revenue for governmental services.

4 69. The commissions far exceed the reasonable cost to the County of providing
5 services necessary to the activity for which the fee is charged, here the provision of a calling
6 service for inmate calls or commissary and vending products for inmates, and similarly exceed
7 the reasonable value of the activity.

8 70. At no time did the County's residents vote to approve the foregoing commissions
9 paid to the County or the rates and prices charged to inmates, their family, friends, and associates
10 pursuant to the County's agreements.

11 71. Pursuant to Article 13C §1 of the California Constitution, a tax "means any levy,
12 charge, or exaction of any kind imposed by a local government" with certain specified
13 exemptions.

14 72. None of the exemptions under Article 13C §1 of the California Constitution apply
15 to the commissions at issue.

16 73. The first two relevant exemptions are charges "imposed for a specific benefit
17 conferred or privilege granted" or for "a specific government service or product provided" in
18 each of which situations the charge may "not exceed the reasonable costs to the local
19 government" of "conferring the benefit or granting the privilege" or "providing the service or
20 product." Because the charges here exceed the reasonable cost of the benefit, privilege, service
21 or product, these exemptions are inapplicable.

22 74. Exemption 4, which exempts a "charge imposed for entrance to or use of local
23 government property, or the purchase, rental, or lease of local government property," is also
24 inapplicable. These commissions have never been characterized as, and are not, a charge for the
25 limited use of government property. The commissions are in fact a fee unrelated to the use of
26 government property, and they bear no rational relationship to the cost or value of whatever
27 limited governmental access is involved in the transaction. The purpose of this exemption is to
28 allow government owned property that is leased or bought to do so at a reasonable market value,
which is inapplicable here.

 75. Regardless of whether any of the exemptions under Article 13C §1 apply, the
commissions nonetheless constitute an unlawful tax. Under Article 13C, the local government in
all situations bears the burden of proving by a preponderance of the evidence that "a levy,
charge, or other exaction is not a tax, that the amount is not more than necessary to cover the

1 reasonable costs of the government activity, and that the manner in which costs are allocated to a
2 payor bear a fair or reasonable relationship to the payor’s burden on, or benefits received from,
3 the governmental activity.” This applies to all governmental levies, charges or exactions. It was
4 added by Proposition 26, enacted in 2010, and applies to all of the enumerated exceptions under
5 Article 13C §1. Thus, even if the commission constitutes a charge for the use of government
6 property, it still must be reasonably related to the benefit conferred or benefit received, and, for
7 the reasons previously stated, it does not.

7 76. Accordingly, the commissions are a tax for which Plaintiffs and Class Members
8 are entitled to a refund, measured from one year prior to the date of the first filing of a Govt.
9 Code §910 claim applicable to that class until such time as the tax ceases to operate.

10 77. As a direct and proximate result of Los Angeles County Defendants’ violations,
11 Plaintiffs and the Class Members are entitled to injunctive relief, including restitution in amounts
12 to be determined at trial based on the unlawful payments plus interest.

12 **B. VIOLATION OF GOVERNMENT CODE SECTION 50030 [BY ALL PLAINTIFFS**
13 **AGAINST LOS ANGELES COUNTY DEFENDANTS].**

14 78. Plaintiffs incorporate all previous and subsequent paragraphs of this Complaint
15 into this claim.

16 79. Gov’t Code Section 50030 provides that any “permit fee...for the placement,
17 installation...of telecommunications facilities such as lines, poles, or antennas by a telephone
18 corporation” with “all required authorizations to provides telecommunications services from the
19 Public Utilities Commission and the Federal Communications Commission...shall not exceed
20 the reasonable costs of providing the service for which the fee is charged and shall not be levied
21 for general revenue purposes.”

22 80. GTL is registered as a telephone corporation that has obtained all required
23 authorizations to provide telecommunications services from the Public Utilities Commission and
24 the Federal Communications Commission.

25 81. GTL pays a fee to the County – called a “commission” – for the right to install
26 telecommunications facilities, including telephone lines and equipment, within the County’s
27 jails.

28 82. The commission that GTL pays to the County is entirely passed through to
Plaintiffs and Class Members, resulting in Plaintiffs and Class Members paying higher telephone
rates. Thus, Plaintiff and the Class Members have suffered “an economic injury caused by the
challenged fees.”

1 83. The commission far exceeds the reasonable cost to the County of providing the
2 service for which the fee is charged, here the provision of a calling service for inmate calls, and
3 exceed their reasonable value.

4 84. Furthermore, as evidenced by the fact that the commission is deposited into the
5 County's jail inmate welfare fund, the commission is being levied for general revenue purposes.

6 85. Accordingly, the commission is an illegal fee for which Plaintiffs and Class
7 Members are entitled to a refund, measured from one year prior to the date of the first filing of a
8 Govt. Code § 910 claim applicable to that class until such time as the fee ceases to operate.

9 86. As a direct and proximate result of Los Angeles County Defendants' violations,
10 Plaintiffs and the Class Members are entitled to injunctive relief, including restitution in amounts
11 to be determined at trial based on the unlawful payments plus interest.

12 **X. PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiffs, on behalf of themselves and the Class Members they seek to
14 represent, request monetary and injunctive relief against each defendant as follows:

- 15 1. General and special damages according to proof;
- 16 2. A refund/disgorgement/restitution of the monies paid by Class Members to third-
17 party vendors that, in turn, were used to pay the contracted commissions to County Defendants,
18 and that constitute taxes as defined by Article XIII, Section C, of the California Constitution ;
- 19 3. Economic damages (in addition to the damages sought in the preceding
20 paragraph, or to the extent not covered or awarded pursuant to that paragraph) according to
21 proof.
- 22 4. Prejudgment interest;
- 23 5. Injunctive relief prohibiting Defendant County of Los Angeles from continuing to
24 engage in the unlawful practices complained of herein as follows:

- 25 a. Prohibiting the Defendants from renewing, or entering into new contracts
26 under which it receives commissions or fees that exceeds the Defendants'
27 reasonable cost of providing the activities, service or items at issue after
28 determination of such amounts by the court (or, as a lesser alternative
depending on certain legal determinations, the reasonable value of the
activities, service or items); and
- b. Prohibiting the Defendants, while the current challenged contracts remain in
effect, from using the commissions it receives under the contracts for any
purpose other than placement in a court supervised fund for any purpose

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other than ultimately restoring such funds back to the class members who paid charges from which said commissions were taken to the extent of said commissions.

6. Injunctive relief requiring Defendant County of Los Angeles to provide refunds/disgorgement/restitution of the monies paid or to be paid by Class Members as a form of equitable relief.

7. Attorneys' fees and costs under California Code of Civil Procedure §1021.5 and whatever other statute or law may be applicable; and

8. Any other relief that this Court may deem fit and proper.

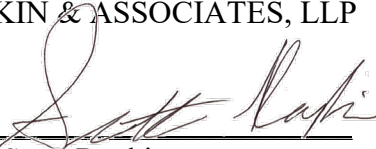
DATED: April 4, 2023

Respectfully Submitted,

MCLANE, BEDNARSKI & LITT, LLP

By: 
Barrett S. Litt
Attorneys for Plaintiffs

RAPKIN & ASSOCIATES, LLP

By: 
Scott Rapkin
Attorneys for Plaintiffs

DEMAND FOR JURY TRIAL

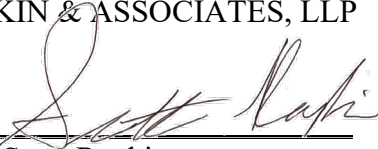
Plaintiffs, on behalf of themselves individually and on behalf of the Class, demand a jury trial to the extent available under applicable law.

DATED: April 4, 2023

MCLANE, BEDNARSKI & LITT, LLP

By: 
Barrett S. Litt
Attorneys for Plaintiffs

RAPKIN & ASSOCIATES, LLP

By: 
Scott Rapkin
Attorneys for Plaintiffs