

**SUMMONS
(CITACION JUDICIAL)**

SUM-100

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

CHA HOLLYWOOD MEDICAL CENTER, a California limited partnership; CHA HEALTH SYSTEMS, INC., a California corporation; EMPIRE ENTERPRISES, a California corporation; FINECE MATHIS and DOES 1 through 20, inclusive

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

GABINO OLVERA

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**CONFORMED COPY
OF ORIGINAL FILED**
Los Angeles Superior Court

JAN 17 2008

John A. Clarke, Executive Officer/Clerk
M. Garcia
BY MARY GARCIA, Deputy

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:
(El nombre y dirección de la corte es):
Los Angeles Superior Court
111 N. Hill Street
111 N. Hill Street
Los Angeles, CA 90012-3117
Central District

CASE NUMBER:
(Número del Caso):

BC383940

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

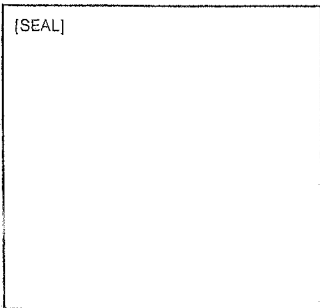
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
STEVEN D. ARCHER, ESQ. (SB#63834) (310) 552-0130 (310) 229-5800
ROBINS, KAPLAN, MILLER & CIRESI L.L.P.
2049 Century Park East
Los Angeles, CA 90067-3208

DATE: JAN 17 2008
(Fecha) _____ Clerk, by _____ M. GARCIA, Deputy
(Secretario) _____ (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

- as an individual defendant.
- as the person sued under the fictitious name of (specify):
- on behalf of (specify):
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):
- by personal delivery on (date):



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ATTORNEYS FOR PLAINTIFF
GABINO OLVERA

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

BC383940

GABINO OLVERA

Plaintiff,

vs.

CASE NO.

**COMPLAINT FOR PERSONAL INJURIES,
PROPERTY DAMAGES AND INJUNCTIVE
RELIEF**

**CHA HOLLYWOOD MEDICAL
CENTER, a California limited
partnership; CHA HEALTH
SYSTEMS, INC., a California
corporation; EMPIRE
TRANSPORTATION, INC., a
California corporation; FINECE
MATHIS and DOES 1 through 20,
inclusive,**

1. Elder Abuse & Neglect (Cal. Welf. & Inst. Code §§15600 et. seq.)
2. Breach of Fiduciary Duty
3. Intentional Infliction of Emotional Distress
4. Negligence Per Se
5. Professional Negligence
6. Hospital Negligence
7. Negligence

Defendants.

DEMAND FOR JURY TRIAL

**CONFORMED COPY
OF ORIGINAL FILED
Los Angeles Superior Court**

JAN 17 2008

John A. Clarke, Executive Officer/Clerk
[Signature]
BY MARY GARCIA, Deputy

1 COMES NOW the Plaintiff, **GABINO OLVERA**, and hereby alleges upon personal
2 knowledge with respect to his own acts, and upon information and belief as to all other matters, as
3 follows:
4

5 **GENERAL ALLEGATIONS**

6 **INTRODUCTION**

7 1. On February 8, 2007, Defendants **CHA HOLLYWOOD MEDICAL CENTER**,
8 **a California limited partnership** and **CHA HEALTH SYSTEMS, INC.**, a California
9 **corporation** dba Hollywood Presbyterian Hospital and their physicians, nurses, staff members,
10 employees and agents (hereafter collectively referred to as the "**HOSPITAL DEFENDANTS**"),
11 **EMPIRE TRANSPORTATION, INC.**, a California corporation dba Empire Enterprises
12 (hereafter referred to as "**EMPIRE**"), **EMPIRE's** employee **FINECE MATHIS** (hereafter
13 referred to as the "**VAN DRIVER**") and DOES 1 through 20, inclusive, abandoned a helpless
14 mentally ill, paraplegic and homeless man in the gutter of the street in "Skid Row." After treating
15 him the previous day, and forcing him to spend the night in the Hollywood Presbyterian Hospital
16 waiting room, the **HOSPITAL DEFENDANTS** discharged **GABINO OLVERA** (hereafter
17 alternatively referred to as "**GABINO OLVERA**", "**MR. OLVERA**" or "Plaintiff"). Thereafter,
18 the **HOSPITAL DEFENDANTS** and **EMPIRE** by and through the actions of its employee
19 **VAN DRIVER** transported him across town in an **EMPIRE** van, forced him to get out and
20 abandoned him in the gutter of the street without a wheelchair or other means of transportation or
21 movement. Still wearing a soiled hospital gown, with an in-dwelling Foley catheter and catheter
22 bag, and with still-untreated acute medical conditions, **MR. OLVERA** had no choice but to
23 physically drag himself along the gutter of the street with his belongings in a bag clenched in his
24 teeth. According to horrified witnesses at the scene, while **MR. OLVERA** was dragging himself
25 along the gutter of the street the **VAN DRIVER** stopped to check her makeup in a mirror,
26 sprayed herself with perfume and then sped off, coming dangerously close to running over him
27 with the **EMPIRE** van.

28 2. The **HOSPITAL DEFENDANTS**, **EMPIRE** and **VAN DRIVERS'** gross neglect

1 of **MR. OLVERA** was not confined to the illegal and inhumane dumping described above. The
2 **HOSPITAL DEFENDANTS** failed to diagnose or treat **MR. OLVERA**'s urinary tract infection
3 – a condition easily diagnosed by the physicians, nurses and staff at the medical facility to which
4 he was taken immediately after being rescued from his dumping and abandonment in the gutter of
5 the street in “Skid Row”. Moreover, the **HOSPITAL DEFENDANTS** made no attempt to
6 investigate or treat **MR. OLVERA**'s acute mental illness, despite clear signs at the Hollywood
7 Presbyterian Hospital that he was experiencing significant psychological symptoms and had not
8 taken his necessary psychotropic medication.

9 3. The **HOSPITAL DEFENDANTS**' actions – and those of its van company,
10 **EMPIRE** and **EMPIRE**'s employee, **VAN DRIVER** – violate every standard of professional
11 conduct. By releasing a mentally ill, paraplegic and homeless man and abandoning him in the
12 gutter of the street in “Skid Row” without a wheelchair or other means of navigating the world,
13 Defendants, and each of them, have willfully engaged in the “abuse of a dependent adult” in
14 violation of California's Elder Abuse and Civil Protection Act, *Welfare & Institutions Code* §
15 15600 *et seq.* In addition, the **HOSPITAL DEFENDANTS** violated California *Health & Safety*
16 *Code* § 1262.5 by failing to implement a discharge plan addressing the specific needs of the
17 highly vulnerable homeless population in Los Angeles.

18 4. Defendants' treatment of **MR. OLVERA** is perhaps the most obscene and callous
19 example of the practice commonly referred to as “homeless dumping.” All too often, homeless
20 patients in emergency rooms are given cursory examinations and dumped miles away on the
21 streets of “Skid Row” without any means of accessing follow up care. Plaintiff is informed and
22 believes and, based upon such information and belief, alleges that his victimization at the hands
23 of the **HOSPITAL DEFENDANTS, EMPIRE, VAN DRIVER** and DOES 1 through 20, and
24 each of them, was by no means an isolated occurrence at Hollywood Presbyterian Hospital. This
25 lawsuit seeks to end this practice, and to require appropriate court oversight to ensure that the
26 owners, administrators, medical professionals and staff at Hollywood Presbyterian Hospital
27 comply with California law.
28

1 **DEFENDANTS**, demanding that they stop this practice. Los Angeles Times, *Homeless Patient*
2 *Policy May Shift*, March 25, 2006.

3 8. Estela Lopez, the Executive Director of Central City East Association, a business
4 advocacy group, has summarized hospital dumping by stating: "How can you take a person who
5 cannot fend for themselves and drop them anywhere, but much less the most dangerous few
6 blocks in Los Angeles? Skid Row is where people are sent to die or live the rest of their lives in a
7 deathlike trance" (Los Angeles Times, *Los Angeles Targets Patient Dumping*, December 27,
8 2005.)

9
10 **PARTIES**

11 9. Plaintiff **GABINO OLVERA** is an uninsured, indigent, paraplegic resident of Los
12 Angeles County, California. At the time of the incident in question, **MR. OLVERA** was forty-
13 one years old, homeless and acutely ill.

14 10. Defendant **CHA HOLLYWOOD MEDICAL CENTER, a California limited**
15 **partnership** owns and operates Hollywood Presbyterian Hospital, a participant in the federal
16 Medicare program. The managing partner of Defendant **CHA HOLLYWOOD MEDICAL**
17 **CENTER, a California limited partnership** is Defendant **CHA HEALTH SYSTEMS, INC., a**
18 **California corporation**. These Defendants, their physicians, nurses, staff members, employees
19 and agents together with Defendants DOES 1 through 10, are hereafter collectively referred to
20 herein as the "**HOSPITAL DEFENDANTS**".

21 11. Defendant **EMPIRE TRANSPORTATION, INC., a California corporation**
22 dba Empire Enterprises provides van services for the **HOSPITAL DEFENDANTS** using
23 vehicles owned by the **HOSPITAL DEFENDANTS**. Defendant **EMPIRE**
24 **TRANSPORTATION, INC. a California corporation** dba Empire Enterprises, together with
25 Defendants DOES 11 through 20, is referred to herein as "**EMPIRE**". **EMPIRE** and its
26 employees work under the supervision, direction and control of the **HOSPITAL**
27 **DEFENDANTS**. **EMPIRE** transports patients to locations designated by and pursuant to
28 instructions from the **HOSPITAL DEFENDANTS**.

DEFENDANTS' UNLAWFUL "DUMPING" OF GABINO OLVERA

1
2 17. **GABINO OLVERA** was transported by paramedic ambulance to Hollywood
3 Presbyterian Hospital on the evening of February 7, 2007 as the result of having suffered personal
4 injuries in an auto accident which also resulted in significant damage to his vehicle. This accident
5 was doubly tragic for Mr. Olvera because since he was homeless he relied on his vehicle for both
6 transportation and shelter.

7 18. Upon arrival at Hollywood Presbyterian Hospital, **MR. OLVERA** already had an
8 in-dwelling Foley catheter which was necessary due to his pre-existing paraplegia. He was
9 examined for internal injuries and left unattended for many hours by the **HOSPITAL**
10 **DEFENDANTS**. During this time, **MR. OLVERA's** acute mental illness was apparent to the
11 hospital staff. **MR. OLVERA** made paranoid and delusional statements to the effect that the
12 hospital staff intended to harm him and refused to be tested by electrocardiogram for that reason.
13 The **HOSPITAL DEFENDANTS** heard these paranoid and delusional statements and observed
14 and remarked upon his psychiatric condition, however, none of them noted **MR. OLVERA's**
15 mental instability in the hospital's records of his evaluation and treatment as contained in his
16 hospital chart. There was no attempt by the **HOSPITAL DEFENDANTS** to diagnose the extent
17 of, or treat, **MR. OLVERA's** acute mental illness.

18 19. Had the **HOSPITAL DEFENDANTS** exercised appropriate care, they would
19 have diagnosed his mental condition and recognized that at that time and without proper
20 medication **MR. OLVERA** lacked the necessary capacity to make decisions concerning his basic
21 medical and living needs, including whether or not to be discharged from the hospital. Moreover,
22 had the **HOSPITAL DEFENDANTS** exercised appropriate diligence, they would have delayed
23 **MR. OLVERA's** discharge until his acute medical and psychiatric conditions had been properly
24 diagnosed, treated, stabilized and could be addressed post-discharge through a proper discharge
25 plan.

26 20. The **HOSPITAL DEFENDANTS'** haste in expediting **MR. OLVERA's**
27 discharge while he was still suffering from acute medical and psychiatric conditions and in a
28 compromised physical and psychiatric condition not only placed **MR. OLVERA** at risk of great

1 physical injury, it also subjected **MR. OLVERA** to excruciating and unnecessary physical and
2 mental suffering as he was forced to navigate the world outside of the hospital while experiencing
3 a heightened level of psychiatric duress.

4 21. The **HOSPITAL DEFENDANTS'** rush to discharge **MR. OLVERA** from
5 Hollywood Presbyterian Hospital and dump and abandon him onto the streets of "Skid Row" is
6 further evidenced by their failure to diagnose or treat an acute urinary tract infection that was
7 easily diagnosed by the physicians, nurses and staff at the medical facility to which he was taken
8 immediately after the incident and that may have been precipitated by or, at a minimum, related
9 to **MR. OLVERA's** persistent use of catheters. Had the **HOSPITAL DEFENDANTS** exercised
10 appropriate care, they would have made an appropriate diagnosis of **MR. OLVERA's** acute
11 urinary tract infection and begun the necessary treatment therefore.

12 22. At 12:30 a.m. on February 8, 2007, after treating his chest pains, the **HOSPITAL**
13 **DEFENDANTS** decided to send **MR. OLVERA** to The Midnight Mission, a shelter on "Skid
14 Row", via ambulance. Despite the fact that **MR. OLVERA** was suffering from acute medical
15 and psychiatric conditions, was delusional, lacked a wheelchair and was neither physically nor
16 mentally able to care for himself, the **HOSPITAL DEFENDANTS** failed to notify the Midnight
17 Mission of his impending arrival, nor did they attempt to check to see whether or not that shelter
18 was equipped to handle a patient with **MR. OLVERA's** acute medical and psychiatric needs.
19 Not surprisingly, the Midnight Mission was concerned that the **HOSPITAL DEFENDANTS** and
20 **EMPIRE** had released a patient in **MR. OLVERA's** dire condition in the middle of the night and
21 they made it clear to the **EMPIRE** ambulance staff that they could not care for him. The
22 **EMPIRE** ambulance staff agreed that the release was problematic and drove **MR. OLVERA**
23 back to Hollywood Presbyterian Hospital.

24 23. When **MR. OLVERA** arrived back at Hollywood Presbyterian Hospital the
25 **HOSPITAL DEFENDANTS** abandoned him on a hospital wheelchair in a corner of the lobby
26 for the remainder of the night. He sat on the chair for over eight hours during which the
27 **HOSPITAL DEFENDANTS** never offered him food or water. During this time, the
28 **HOSPITAL DEFENDANTS** again noticed that **MR. OLVERA's** behavior was indicative of an

1 acute mental illness but they made no further inquiries into his mental state, provided no
2 treatment therefore nor did they reevaluate his fitness for discharge to "Skid Row".

3 24. The next morning the **HOSPITAL DEFENDANTS** again discharged him, via an
4 **EMPIRE** van driven by **VAN DRIVER**, back to the same shelter that had refused to accept him
5 the night before. The **HOSPITAL DEFENDANTS** again failed to fulfill their duty to create a
6 discharge plan for him and kept the wheelchair that he had been sitting on thus removing **MR.**
7 **OLVERA's** means of self-transportation.

8 25. The **EMPIRE** van driven by the **VAN DRIVER** never arrived at the Midnight
9 Mission that morning. On the way to the Mission, **MR. OLVERA** accidentally soiled himself
10 and the **VAN DRIVER** ordered him to get out of the **EMPIRE** van and left him lying in the
11 gutter in the street near a park in "Skid Row". Without providing **MR. OLVERA** the the means
12 by which he could clean himself and without providing him with any further care, assistance,
13 supervision or any means of self-transportation, the **VAN DRIVER** abandoned him blocks from
14 the nearest shelter leaving him lying in the gutter clothed only in a soiled hospital gown, with an
15 in-dwelling Foley catheter, and without his wheelchair. The **VAN DRIVER** made no attempt to
16 help **MR. OLVERA** and, instead, took time to check her makeup and apply perfume and then
17 carelessly sped away coming dangerously close to striking him with the **EMPIRE** van. Once the
18 **EMPIRE** van was gone, witnesses and Good Samaritans helped **MR. OLVERA** out of the gutter
19 and onto a nearby park bench.

20 26. Bystanders called the Los Angeles Police Department and the City Attorney's
21 Office for assistance, and **MR. OLVERA** was examined by Los Angeles City Fire Department
22 Paramedics who determined that he was suffering from acute medical and psychiatric conditions
23 which required further medical and psychiatric care and treatment. He was subsequently taken to
24 the Los Angeles County/USC Medical Center where he was examined by the appropriate medical
25 specialists who confirmed that he was suffering from acute medical and psychiatric conditions,
26 was gravely mentally disabled and admitted him into the hospital and placed him on a 72 hour
27 psychiatric "hold" pursuant to California *Welfare & Institutions Code* § 5150.
28

1 **THE STATUTORY MANDATE FOR POST-DISCHARGE PLANNING AND CARE**

2 27. The California Legislature has recognized the importance of post-discharge care
3 and planning for the effective recovery and maintenance of patient health and has imposed certain
4 obligations on hospitals in this state, including the **HOSPITAL DEFENDANTS**, to develop,
5 implement and follow policies that address the post-discharge needs of patients likely to
6 experience adverse health consequences following their discharge.

7 28. Specifically, the Legislature has enacted *California Health and Safety Code* §
8 1262.5. That statutory provision provides, in pertinent part:

9 (a) Each hospital shall have a written discharge planning policy and process.

10 (b) The policy required by subdivision (a) shall require that appropriate
11 arrangements for post hospital care, including, but not limited to, care at home, in
12 a skilled nursing or intermediate care facility, or from a hospice, are made prior to
13 discharge for those patients who are likely to suffer adverse health consequences
14 upon discharge if there is no adequate discharge planning. If the hospital
15 determines that the patient and family members or interested persons need to be
16 counseled to prepare them for post hospital care, the hospital shall provide for that
17 counseling.

18 (c) The process required by subdivision (a) shall require that the patient be
19 informed, orally or in writing, of the continuing health care requirements following
20 discharge from the hospital. The right to information regarding continuing health
21 care requirements following discharge shall apply to the person who has legal
22 responsibility to make decisions regarding medical care on behalf of the patient, if
23 the patient is unable to make those decisions for himself or herself. In addition, a
24 patient may request that friends or family members be given this information, even
25 if the patient is able to make his or her own decisions regarding medical care.

26 29. No discharge policy or process, such as that engaged in by the **HOSPITAL**
27 **DEFENDANTS**, that includes “dumping” on Skid Row, or that otherwise fails to accommodate
28 the unique post-discharge health risks of homeless patients, can comply with the requirements of
California *Health and Safety Code* § 1262.5.

///

FIRST CAUSE OF ACTION

(Brought Against Defendants **CHA HOLLYWOOD MEDICAL CENTER**, a California limited partnership, **CHA HEALTH SYSTEMS, INC.**, a California corporation, **EMPIRE TRANSPORTATION, INC.** a California corporation, **FINECE MATHIS**, and **DOES 1 through 20**, and each of them, for Abuse and Neglect of a Dependant Adult – California *Welfare & Institutions Code* §§ 15600 et. seq.)

30. Plaintiff incorporates paragraphs 1 through 29 of the General Allegations as if fully re-alleged herein.

31. At all times relevant to this action, **GABINO OLVERA** was a “dependent adult” within the meaning of California *Welfare and Institutions Code* §15610.23 because: (a) he has physical or mental limitations that restrict his ability to carry out normal activities or to protect his rights.

32. Defendants are “care custodians” within the meaning of California *Welfare and Institutions Code* §15610.17 because Hollywood Presbyterian Hospital is a 24-hour health facility pursuant to the provisions of the Elder Abuse and Dependent Protection Act, and because **EMPIRE, VAN DRIVER** and **DOES 1 through 20**, and each of them, were acting as the **HOSPITAL DEFENDANTS’** agents, servants, employees, co-conspirators, co-schemers, or joint venturers when they transported **MR. OLVERA**.

33. Defendants’ conduct described above constitutes actionable “neglect” within the meaning of California *Welfare and Institutions Code* §15610.57. Specifically, by discharging, dumping and abandoning **MR. OLVERA** in the gutter in the street in “Skid Row” - one of the most dangerous parts of the City – in a soiled hospital gown, in a compromised psychiatric condition, with an in-dwelling Foley catheter while suffering from an acute urinary tract infection, without supervision, without his wheelchair, and without any other means of

1 transportation Defendants, and each of them, recklessly subjected **MR. OLVERA** to a
2 significantly increased likelihood of harm, and failed to fulfill their duties as care custodians to
3 protect him against known risks to his health and safety.

4 34. As a sole, direct and proximate result of the above-described conduct of the
5 Defendants, and each of them, **GABINO OLVERA** was injured and hurt in his health, strength
6 and activity, sustaining serious personal injuries to his body and suffered extreme humiliation and
7 emotional distress all of which have required medical care and treatment. In addition to the
8 foregoing, Plaintiff is informed and believes and, upon such information and belief, alleges that
9 he has suffered other, as yet undiagnosed injuries as well as shock and injury to his nervous
10 system and person, all of which injuries have caused and continue to cause him great physical,
11 mental and nervous pain and suffering. Plaintiff is informed and believes and, upon such
12 information and belief, alleges that said injuries will result in permanent disability to him, all to
13 his general and non-economic damages in an amount which is in excess of this Court's minimum
14 jurisdictional amount and which will be stated according to proof, pursuant to California *Code of*
15 *Civil Procedure* § 425.10.

16
17
18 35. As a further, direct and proximate result of the injuries sustained as a sole, direct
19 and proximate result of the above-described conduct of the Defendants, and each of them,
20 **GABINO OLVERA** was required to submit to, undergo and endure medical and psychiatric care
21 and treatment and has also sustained other injuries for which he has and will suffer severe pain,
22 suffering, fear, worry and anguish in connection therewith, all to his further general and
23 non-economic damages. Plaintiff is informed and believes, and thereon alleges, that some of
24 these injuries will be permanent, all to his general damages in an amount which is in excess of
25 this Court's minimum jurisdictional amount and which will be stated according to proof, pursuant
26 to California *Code of Civil Procedure* § 425.10.
27
28

1 gown, in a compromised psychiatric condition, with an in-dwelling Foley catheter while suffering
2 from an acute urinary tract infection, without supervision, without his wheelchair, and without
3 any other means of transportation and without a plan for follow up care. These actions were in
4 violation of their fiduciary duties as care custodians to protect him against known risks to his
5 health and safety.

6
7 41. The **HOSPITAL DEFENDANTS'** conduct was outrageous, intentional and
8 malicious, and was done with reckless disregard of the probability of causing **MR. OLVERA** to
9 suffer physical harm, humiliation, mental anguish, and emotional distress.

10 42. As a sole, direct and proximate result of the above-described conduct of the
11 Defendants, and each of them, **GABINO OLVERA** was injured and hurt in his health, strength
12 and activity, sustaining serious personal injuries to his body and suffered extreme humiliation and
13 emotional distress all of which have required medical care and treatment. In addition to the
14 foregoing, Plaintiff is informed and believes and, upon such information and belief, alleges that
15 he has suffered other, as yet undiagnosed injuries as well as shock and injury to his nervous
16 system and person, all of which injuries have caused and continue to cause him great physical,
17 mental and nervous pain and suffering. Plaintiff is informed and believes and, upon such
18 information and belief, alleges that said injuries will result in permanent disability to him, all to
19 his general and non-economic damages in an amount which is in excess of this Court's minimum
20 jurisdictional amount and which will be stated according to proof, pursuant to California *Code of*
21 *Civil Procedure* § 425.10.

22
23
24 43. As a further, direct and proximate result of the injuries sustained as a sole, direct
25 and proximate result of the above-described conduct of the Defendants, and each of them,
26 **GABINO OLVERA** was required to submit to, undergo and endure medical and psychiatric care
27 and treatment and has also sustained other injuries for which he has and will suffer severe pain,
28

1 suffering, fear, worry and anguish in connection therewith, all to his further general and
2 non-economic damages. Plaintiff is informed and believes, and thereon alleges, that some of
3 these injuries will be permanent, all to his general damages in an amount which is in excess of
4 this Court's minimum jurisdictional amount and which will be stated according to proof, pursuant
5 to California *Code of Civil Procedure* § 425.10.
6

7 44. The actions of the **HOSPITAL DEFENDANTS** constitute reprehensible and
8 despicable conduct that subjected **MR. OLVERA** to cruel and unjust hardship in conscious
9 disregard of his rights, so as to justify an award of punitive damages from the **HOSPITAL**
10 **DEFENDANTS** in an amount to be proven at trial.

11 45. Plaintiff alleges that he is entitled to prejudgment interest pursuant to California
12 *Civil Code* § 3288 from the date of the above-described conduct on February 8, 2007 up to and
13 including the date of judgment, according to proof.
14

15
16 **THIRD CAUSE OF ACTION**

17 **(Brought Against Defendants CHA HOLLYWOOD MEDICAL CENTER, a California**
18 **limited partnership, CHA HEALTH SYSTEMS, INC., a California corporation,**
19 **EMPIRE TRANSPORTATION, INC. a California corporation, FINECE MATHIS, and**
20 **DOES 1 through 20, and each of them, for Intentional Infliction of Emotional Distress)**

21 46. Plaintiff incorporates paragraphs 1 through 29 of the General Allegations,
22 paragraphs 31 through 33 of the First Cause of Action and paragraphs 38 through 41 of the
23 Second Cause of Action above as if fully re-alleged herein.
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25 47. The above-described conduct by Defendants, and each of them, was outrageous,
26 intentional and malicious, and was done with reckless disregard of the probability of causing **MR.**
27 **OLVERA** to suffer humiliation, mental anguish, and emotional distress.
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1 48. As a sole, direct and proximate result of the above-described conduct of the
2 Defendants, and each of them, **GABINO OLVERA** was injured and hurt in his health, strength
3 and activity, sustaining serious personal injuries to his body and suffered extreme humiliation and
4 emotional distress all of which have required medical care and treatment. In addition to the
5 foregoing, Plaintiff is informed and believes and, upon such information and belief, alleges that
6 he has suffered other, as yet undiagnosed injuries as well as shock and injury to his nervous
7 system and person, all of which injuries have caused and continue to cause him great physical,
8 mental and nervous pain and suffering. Plaintiff is informed and believes and, upon such
9 information and belief, alleges that said injuries will result in permanent disability to him, all to
10 his general and non-economic damages in an amount which is in excess of this Court's minimum
11 jurisdictional amount and which will be stated according to proof, pursuant to California *Code of*
12 *Civil Procedure* § 425.10.

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15 49. As a further, direct and proximate result of the injuries sustained as a sole, direct
16 and proximate result of the above-described conduct of the Defendants, and each of them,
17 **GABINO OLVERA** was required to submit to, undergo and endure medical and psychiatric care
18 and treatment and has also sustained other injuries for which he has and will suffer severe pain,
19 suffering, fear, worry and anguish in connection therewith, all to his further general and
20 non-economic damages. Plaintiff is informed and believes, and thereon alleges, that some of
21 these injuries will be permanent, all to his general damages in an amount which is in excess of
22 this Court's minimum jurisdictional amount and which will be stated according to proof, pursuant
23 to California *Code of Civil Procedure* § 425.10.

24
25 50. The actions of the **HOSPITAL DEFENDANTS, EMPIRE** and **VAN DRIVER,**
26 and each of them, constitute reprehensible and despicable conduct that subjected **MR. OLVERA**
27 to cruel and unjust hardship in conscious disregard of his rights, so as to justify an award of
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punitive damages from the **HOSPITAL DEFENDANTS, EMPIRE and VAN DRIVER**, and each of them, in amounts to be proven at trial.

51. Plaintiff alleges that he is entitled to prejudgment interest pursuant to California *Civil Code* § 3288 from the date of the above-described conduct on February 8, 2007 up to and including the date of judgment, according to proof.

FOURTH CAUSE OF ACTION

(Brought Against Defendants CHA HOLLYWOOD MEDICAL CENTER, a California limited partnership, CHA HEALTH SYSTEMS, INC., a California corporation, and DOES 1 through 20, and each of them, for Negligence Per Se)

52. Plaintiff incorporates paragraphs 1 through 29 of the General Allegations, paragraphs 31 through 33 of the First Cause of Action and paragraphs 38 through 41 of the Second Cause of Action above as if fully re-alleged herein.

53. The **HOSPITAL DEFENDANTS**, and each of them, had and have a duty under California *Health and Safety Code* §1262.5 to draft and implement an appropriate discharge planning policy. Specifically, this mandated policy must “require that appropriate arrangements for post-hospital care, including, but not limited to, care at home, in a skilled nursing or intermediate care facility, or from a hospice, are made prior to discharge for those patients who are likely to suffer adverse health consequences upon discharge if there is no adequate discharge planning.”

54. Because of his health, paraplegia, mental condition, medical condition and homelessness, **GABINO OLVERA** is an individual who was, and continues to be, likely to suffer adverse health consequences upon discharge as a result of inadequate discharge planning, and is within the class of persons whom California *Health and Safety Code* § 1262.5 was

1 designed to protect.

2 55. The **HOSPITAL DEFENDANTS**, and each of them, breached their duty to
3 **GABINO OLVERA** and to the public by failing to draft and implement a discharge planning
4 policy that makes arrangements for the post-hospitalization care of vulnerable homeless patients
5 like **MR. OLVERA**.

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7 56. As a direct, proximate, and foreseeable result of the **HOSPITAL**
8 **DEFENDANTS'**, and each of them, breach of their obligations under California *Health and*
9 *Safety Code* §1262.5, **GABINO OLVERA** was injured and hurt in his health, strength and
10 activity, sustaining serious personal injuries to his body and suffered extreme humiliation and
11 emotional distress all of which have required medical care and treatment. In addition to the
12 foregoing, Plaintiff is informed and believes and, upon such information and belief, alleges that
13 he has suffered other, as yet undiagnosed injuries as well as shock and injury to his nervous
14 system and person, all of which injuries have caused and continue to cause him great physical,
15 mental and nervous pain and suffering. Plaintiff is informed and believes and, upon such
16 information and belief, alleges that said injuries will result in permanent disability to him, all to
17 his general and non-economic damages in an amount which is in excess of this Court's minimum
18 jurisdictional amount and which will be stated according to proof, pursuant to California *Code of*
19 *Civil Procedure* § 425.10.

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22 57. As a further, direct and proximate result of the **HOSPITAL DEFENDANTS'**,
23 and each of them, breach of their obligations under Health and Safety Code §1262.5, **GABINO**
24 **OLVERA** was required to submit to, undergo and endure medical and psychiatric care and
25 treatment and has also sustained other injuries for which he has and will suffer severe pain,
26 suffering, fear, worry and anguish in connection therewith, all to his further general and
27 non-economic damages. Plaintiff is informed and believes, and thereon alleges, that some of
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1 these injuries will be permanent, all to his general damages in an amount which is in excess of
2 this Court's minimum jurisdictional amount and which will be stated according to proof, pursuant
3 to California *Code of Civil Procedure* § 425.10.

4 58. Plaintiff alleges that he is entitled to prejudgment interest pursuant to California
5 *Civil Code* § 3288 from the date of the above-described conduct on February 8, 2007 up to and
6 including the date of judgment, according to proof.
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9 **FIFTH CAUSE OF ACTION**

10 (Brought Against Defendants **CHA HOLLYWOOD MEDICAL CENTER,**
11 **a California limited partnership, CHA HEALTH SYSTEMS, INC., a California**
12 **corporation, and DOES 1 through 20, and each of them, for Professional Negligence)**

13 59. Plaintiff incorporates paragraphs 1 through 29 of the General Allegations,
14 paragraphs 31 through 33 of the First Cause of Action, paragraphs 38 through 41 of the Second
15 Cause of Action, paragraph 47 of the Third Cause of Action and paragraphs 53 through 55 of the
16 Fourth Cause of Action above as if fully re-alleged herein.
17

18 60. Between February 7 and 8, 2007, the **HOSPITAL DEFENDANTS** undertook the
19 management, care, treatment, and all other things necessary to preserve the health and well-being
20 of **GABINO OLVERA**, including, but not limited to, the management, care, and treatment of
21 accident-related injuries, and his general medical and psychiatric condition.
22

23 61. The **HOSPITAL DEFENDANTS** negligently managed, cared for, and treated
24 **MR. OLVERA** during the relevant period, causing him to suffer injuries. Specifically, the
25 **HOSPITAL DEFENDANTS** negligently failed to provide reasonable diagnosis and treatment of
26 his psychiatric condition, medical condition and urinary tract infection. In doing so, the
27 **HOSPITAL DEFENDANTS** negligently and recklessly failed to provide the level and standard
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1 of care that is expected of professionals in their field.

2 62. In addition, the **HOSPITAL DEFENDANTS'** discharging, dumping and
3 abandoning of **MR. OLVERA** in the gutter in the street in "Skid Row" - one of the most
4 dangerous parts of the City - in a soiled hospital gown, in a compromised psychiatric condition,
5 with an in-dwelling Foley catheter while suffering from an acute urinary tract infection, without
6 supervision, without his wheelchair, and without any other means of transportation and without a
7 plan for follow up care constituted medical negligence in that, among other things, the
8 **HOSPITAL DEFENDANTS** did not properly stabilize **MR. OLVERA** first so that he could
9 understand and consent to an appropriate discharge plan, did not make appropriate arrangements
10 for post-hospital care, did not provide appropriate counseling, did not properly inform him of
11 continuing health care requirements or provide and explain a transfer summary relative to
12 diagnosis, hospital course, pain and psychiatric treatment and management, medication, and other
13 essential information.
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16 63. As a direct, proximate, and foreseeable result of the **HOSPITAL**
17 **DEFENDANTS'** negligent medical care, **GABINO OLVERA** was injured and hurt in his
18 health, strength and activity, sustaining serious personal injuries to his body and suffered extreme
19 humiliation and emotional distress all of which have required medical care and treatment. In
20 addition to the foregoing, Plaintiff is informed and believes and, upon such information and
21 belief, alleges that he has suffered other, as yet undiagnosed injuries as well as shock and injury
22 to his nervous system and person, all of which injuries have caused and continue to cause him
23 great physical, mental and nervous pain and suffering. Plaintiff is informed and believes and,
24 upon such information and belief, alleges that said injuries will result in permanent disability to
25 him, all to his general and non-economic damages in an amount which is in excess of this Court's
26 minimum jurisdictional amount and which will be stated according to proof, pursuant to
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1 California *Code of Civil Procedure* § 425.10.

2 64. As a further, direct and proximate result of the **HOSPITAL DEFENDANTS'**
3 negligent medical care, **GABINO OLVERA** was required to submit to, undergo and endure
4 medical and psychiatric care and treatment and has also sustained other injuries for which he has
5 and will suffer severe pain, suffering, fear, worry and anguish in connection therewith, all to his
6 further general and non-economic damages. Plaintiff is informed and believes, and thereon
7 alleges, that some of these injuries will be permanent, all to his general damages in an amount
8 which is in excess of this Court's minimum jurisdictional amount and which will be stated
9 according to proof, pursuant to California *Code of Civil Procedure* § 425.10.

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11 65. Plaintiff alleges that he is entitled to prejudgment interest pursuant to California
12 *Civil Code* § 3288 from the date of the above-described conduct on February 8, 2007 up to and
13 including the date of judgment, according to proof.
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16 **SIXTH CAUSE OF ACTION**

17 **(Brought Against Defendants CHA HOLLYWOOD MEDICAL CENTER, a California**
18 **limited partnership, CHA HEALTH SYSTEMS, INC., a California corporation,**
19 **and DOES 1 through 20, and each of them, for Hospital Negligence)**

20 66. Plaintiff incorporates paragraphs 1 through 29 of the General Allegations,
21 paragraphs 31 through 33 of the First Cause of Action, paragraphs 38 through 41 of the Second
22 Cause of Action, paragraph 47 of the Third Cause of Action, paragraphs 53 through 55 of the
23 Fourth Cause of Action and paragraphs 60 through 62 of the Fifth Cause of Action above as if
24 fully re-alleged herein.
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26 67. Between February 7 and 8, 2007, the **HOSPITAL DEFENDANTS** undertook the
27 management, care, treatment, and all other things necessary to preserve the health and well-being
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1 of **GABINO OLVERA**.

2 68. As and through Hollywood Presbyterian Hospital, the **HOSPITAL**
3 **DEFENDANTS'** duties extended to both the diagnosis, care and treatment of patients such as
4 **MR. OLVERA**. Specifically, the **HOSPITAL DEFENDANTS** had and have a common law
5 duty to use reasonable diligence in safeguarding a patient committed to their charge – a duty that
6 is measured by the patient's capacity to care for himself.

7
8 69. As described above, the **HOSPITAL DEFENDANTS** breached their fiduciary
9 duties by discharging, dumping and abandoning of **MR. OLVERA** in the gutter in the street in
10 "Skid Row" - one of the most dangerous parts of the City – in a soiled hospital gown, in a
11 compromised psychiatric condition, with an in-dwelling Foley catheter while suffering from an
12 acute urinary tract infection, without supervision, without his wheelchair, and without any other
13 means of transportation and without a plan for follow up care at a time when he was incapable of
14 managing himself or his own care.

15
16 70. The **HOSPITAL DEFENDANTS'** conduct was outrageous, intentional and
17 malicious, and was done with reckless disregard of the probability of causing **MR. OLVERA** to
18 suffer physical harm, humiliation, mental anguish, and emotional distress.

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20 71. As a direct, proximate, and foreseeable result of the **HOSPITAL**
21 **DEFENDANTS'**, and each of them, negligence **GABINO OLVERA** was injured and hurt in his
22 health, strength and activity, sustaining serious personal injuries to his body and suffered extreme
23 humiliation and emotional distress all of which have required medical care and treatment. In
24 addition to the foregoing, Plaintiff is informed and believes and, upon such information and
25 belief, alleges that he has suffered other, as yet undiagnosed injuries as well as shock and injury
26 to his nervous system and person, all of which injuries have caused and continue to cause him
27 great physical, mental and nervous pain and suffering. Plaintiff is informed and believes and,
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1 upon such information and belief, alleges that said injuries will result in permanent disability to
2 him, all to his general and non-economic damages in an amount which is in excess of this Court's
3 minimum jurisdictional amount and which will be stated according to proof, pursuant to
4 California *Code of Civil Procedure* § 425.10.

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6 72. As a further, direct and proximate result of the HOSPITAL DEFENDANTS', and
7 each of them, negligence **GABINO OLVERA** was required to submit to, undergo and endure
8 medical and psychiatric care and treatment and has also sustained other injuries for which he has
9 and will suffer severe pain, suffering, fear, worry and anguish in connection therewith, all to his
10 further general and non-economic damages. Plaintiff is informed and believes, and thereon
11 alleges, that some of these injuries will be permanent, all to his general damages in an amount
12 which is in excess of this Court's minimum jurisdictional amount and which will be stated
13 according to proof, pursuant to California *Code of Civil Procedure* § 425.10.

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15 73. Plaintiff alleges that he is entitled to prejudgment interest pursuant to California
16 *Civil Code* § 3288 from the date of the above-described conduct on February 8, 2007 up to and
17 including the date of judgment, according to proof.

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19 **SEVENTH CAUSE OF ACTION**

20 **(Brought Against Defendants EMPIRE TRANSPORTATION, INC. a California**
21 **corporation, FINECE MATHIS, and DOES 1 through 20, and each of them, for Negligence)**

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23 74. Plaintiff incorporates paragraphs 1 through 29 of the General Allegations,
24 paragraphs 31 through 33 of the First Cause of Action, paragraphs 38 through 41 of the Second
25 Cause of Action, paragraph 47 of the Third Cause of Action and paragraphs 53 through 55 of the
26 Fourth Cause of Action above as if fully re-alleged herein.

27 75. Defendants **EMPIRE** and **VAN DRIVER** owed **GABINO OLVERA** a duty of
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1 care arising out of their relationship to him as agents, servants, employees, co-conspirators, co-
2 schemers, joint venturers and transporters for the **HOSPITAL DEFENDANTS**.

3 76. Defendants **EMPIRE** and **VAN DRIVER** breached their duty by discharging,
4 dumping and abandoning of **MR. OLVERA** in the gutter in the street in "Skid Row" - one of the
5 most dangerous parts of the City - in a soiled hospital gown, in a compromised psychiatric
6 condition, with an in-dwelling Foley catheter while suffering from an acute urinary tract
7 infection, without supervision, without his wheelchair, and without any other means of
8 transportation and without a plan for follow up care at a time when he was incapable of managing
9 himself or his own care. Defendants **EMPIRE** and **VAN DRIVERS'** conduct was outrageous,
10 intentional and malicious, and was done with reckless disregard of the probability of causing
11 **GABINO OLVERA** to suffer physical harm, humiliation, mental anguish, and emotional
12 distress.
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14 77. As a direct, proximate, and foreseeable result of Defendants **EMPIRE** and **VAN**
15 **DRIVERS'**, and each of them, negligence **GABINO OLVERA** was injured and hurt in his
16 health, strength and activity, sustaining serious personal injuries to his body and suffered extreme
17 humiliation and emotional distress all of which have required medical care and treatment. In
18 addition to the foregoing, Plaintiff is informed and believes and, upon such information and
19 belief, alleges that he has suffered other, as yet undiagnosed injuries as well as shock and injury
20 to his nervous system and person, all of which injuries have caused and continue to cause him
21 great physical, mental and nervous pain and suffering. Plaintiff is informed and believes and,
22 upon such information and belief, alleges that said injuries will result in permanent disability to
23 him, all to his general and non-economic damages in an amount which is in excess of this Court's
24 minimum jurisdictional amount and which will be stated according to proof, pursuant to
25 California *Code of Civil Procedure* § 425.10.
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1 78. As a further, direct and proximate result of Defendants **EMPIRE** and **VAN**
2 **DRIVERS'**, and each of them, negligence **GABINO OLVERA** was required to submit to,
3 undergo and endure medical and psychiatric care and treatment and has also sustained other
4 injuries for which he has and will suffer severe pain, suffering, fear, worry and anguish in
5 connection therewith, all to his further general and non-economic damages. Plaintiff is informed
6 and believes, and thereon alleges, that some of these injuries will be permanent, all to his general
7 damages in an amount which is in excess of this Court's minimum jurisdictional amount and
8 which will be stated according to proof, pursuant to California *Code of Civil Procedure* § 425.10.

9
10 79. The actions of Defendants **EMPIRE** and **VAN DRIVERS'**, and each of them,
11 constitute reprehensible and despicable conduct that subjected **MR. OLVERA** to cruel and unjust
12 hardship in conscious disregard of his rights, so as to justify an award of punitive damages from
13 Defendants **EMPIRE** and **VAN DRIVER**, and each of them, in amounts to be proven at trial.

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15 80. Plaintiff alleges that he is entitled to prejudgment interest pursuant to California
16 *Civil Code* § 3288 from the date of the above-described conduct on February 8, 2007 up to and
17 including the date of judgment, according to proof.

18
19 **WHEREFORE, PLAINTIFF GABINO OLVERA PRAYS FOR JUDGMENT AND**
20 **RELIEF AS AGAINST DEFENDANTS, AND EACH OF THEM, FOLLOWS:**

- 21 1. That the Court enjoin Defendants, and their agents, servants, employees, partners,
22 associates, officers, representatives and all persons acting under or in concert with
23 or for them, from committing the unlawful or unfair business acts or practices
24 alleged above and order them to comply with all laws and regulations regarding
25 the discharge of homeless patients;
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27 2. For general, special, and compensatory damages in amounts to be proven at trial;
28 3. For punitive damages in an amount to be proven at trial on the Second, Third and

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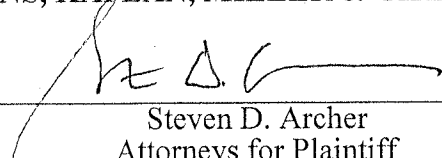
Seventh Causes of Action;

- 4. For costs and reasonable attorneys' fees; and
- 5. For such other relief as is just and equitable.

Dated: January 16, 2008

**PUBLIC COUNSEL
ACLU FOUNDATION OF SOUTHERN CALIFORNIA
ROBINS, KAPLAN, MILLER & CIRESI L.L.P.**

By: _____



Steven D. Archer
Attorneys for Plaintiff
GABINO OLVERA

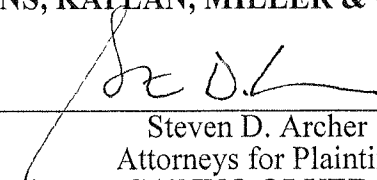
DEMAND FOR TRIAL BY JURY

Plaintiff **GABINO OLVERA** hereby demands a trial by jury of all causes of action.

Dated: January 16, 2008

**PUBLIC COUNSEL
ACLU FOUNDATION OF SOUTHERN CALIFORNIA
ROBINS, KAPLAN, MILLER & CIRESI L.L.P.**

By: _____



Steven D. Archer
Attorneys for Plaintiff
GABINO OLVERA