

1 NORMAN J. WATKINS – SBN 87327  
nwatkins@lynberg.com  
2 PANCY LIN – SBN 239684  
plin@lynberg.com  
3 **LYNBERG & WATKINS**  
A Professional Corporation  
4 1100 Town & Country Road, Suite 1450  
Orange, California 92868  
5 (714) 937-1010 Telephone  
(714) 937-1003 Facsimile  
6

7 Attorneys for Defendant, COUNTY OF ORANGE and Defendant/Counterclaimant  
DILLON P. ALLEY  
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10 **UNITED STATES DISTRICT COURT**  
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 JAMES MICHAEL CRAWFORD,  
13

14 Plaintiff,  
15

16 vs.

17 COUNTY OF ORANGE, DILLON P.  
18 ALLEY and DOES 1 through 10,  
inclusive,  
19

20 Defendant.

CASE NO. 8:16-cv-01503-DOC (DFM)

*Assigned for All Purposes to:  
Hon. David O. Carter – Crtrm. 9C*

**DEFENDANTS COUNTY OF  
ORANGE’S AND DILLON P.  
ALLEY’S ANSWER TO  
PLAINTIFF’S FIRST AMENDED  
COMPLAINT AND  
COUNTERCLAIM BY  
DEFENDANT DILLON P. ALLEY;  
JURY DEMAND**

*Trial Date: Not Set*

21 DILLON P. ALLEY,  
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23 Counterclaimant,  
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25 vs.

26 JAMES MICHAEL CRAWFORD,  
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28 Counterdefendant.

*Complaint filed: August 15, 2016*

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**ANSWER**

**COMES NOW**, Defendants **COUNTY OF ORANGE** and **DILLON P. ALLEY** (“Defendants”) and in answering Plaintiff’s First Amended Complaint (hereinafter “FAC”) on file therein, for themselves alone, and for no other defendant admits, denies and alleges as follows:

1. In answering paragraphs 1, footnote (“fn.”) 1, fn. 2, 2, 3, 4, 5, 14, 28, 29, fn. 18, 30, 31, fn. 19, 32, 33, 34, 35, 36, fn. 20, 37, 38, 39, fn. 21, 40, 41, fn. 22, fn. 23, fn. 24, 42, fn. 25, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, fn. 26, fn. 27, 56, 57, fn. 28, 58, 59, 60, 61, 62, fn. 29, 63, 64, 65, 66, 67, 68, 69, 70, fn. 30, 71, 72, 73, 74, 75, 76, 77, fn. 31, 78, 79, 80, 81, fn. 32, 82, fn. 33, fn. 34, 83, 84, 86, 87, 88, 89, 90, 91, 92, fn. 35, fn. 36, 93, 94, 96, fn. 37, 97, 98, 99, 100, 101, 102, 103, 104, 105, fn. 38, fn. 39, 106, 107, 110, 112, fn. 40, fn. 41, fn. 42, 113, 114, fn. 43, 115, 116, 119, 120, 121, 123, 124, 125, 126, 127, 128, 130, 131, 132, 133, 134, 136, 137, 138, 139, 141, 142, 143, and 144 of the FAC, Defendants deny generally and specifically each and every allegation contain therein. Furthermore, Defendants deny Plaintiff was injured or damaged in any amount or sum, or at all, by reason of any wrongful act or omission of Defendants.

2. In answering paragraphs 6 and 7 of the FAC, Defendants deny generally and specifically each and every allegation contained therein except that Defendant Dillon Alley is an Investigator with the Orange County District Attorney’s Office.

3. In answering paragraph 8 of the FAC, Defendants denies generally and specifically each and every allegation contained therein, except that Defendant County of Orange is a governmental entity organized and existing under the laws of the State of California.

4. In answering paragraph 111 of the FAC, Defendants denies generally and specifically each and every allegation contained therein, except that Tony Rackauckas is the elected District Attorney of Orange County, California.

1           5.       In answering paragraphs 9, 10, 11, fn. 3, fn. 4, fn. 5, 12, 13, fn. 6, fn. 7,  
2 fn. 8, fn. 9, 15, 16, 17, 18, fn. 10, fn. 11, fn. 12, fn. 13, 19, 20, 21, fn. 14, fn. 15, fn.  
3 16, 22, 23, 24, 25, and 26 of the FAC, Defendants do not have sufficient information  
4 or belief to enable it to answer said paragraphs at this time as such paragraphs are  
5 pleaded against unidentified and unserved Does, and on that basis, denies each and  
6 every allegation contained therein. Furthermore, Defendants deny Plaintiff was  
7 injured or damaged in any amount or sum, or at all, by reason of any wrongful act or  
8 omission of Defendants.

9           6.       In answering paragraphs 27, 85, 95, 109, 118, 122, 129, 135, and 140  
10 of the FAC, Defendants reiterates and incorporates by reference its answers to those  
11 paragraphs previously contained in this answer.

12                                   **AFFIRMATIVE DEFENSES**

13                                   **FIRST AFFIRMATIVE DEFENSE**

14           7.       All County of Orange employees mentioned in Plaintiff’s Second  
15 Amended Complaint acted in good faith, without malice, and within the scope of  
16 their duties as peace officers of the State of California. At all times pertinent to this  
17 action, the actions of the County of Orange and the Orange County District  
18 Attorney’s office and their employees were reasonable, proper, and legal in all  
19 respects, and not committed for any improper or unconstitutional purpose.

20                                   **SECOND AFFIRMATIVE DEFENSE**

21           8.       Any injury or damages suffered by Plaintiff was caused solely by  
22 reason of his own wrongful acts and conduct and not by reason of any unlawful act  
23 or omission of these Defendants. Moreover, Plaintiff failed to act in compliance  
24 with the mandates of the California Penal Code, as well as other laws, and this  
25 failure proximately caused and/or contributed to the injuries and damages claimed  
26 by Plaintiff, in any capacity, in Plaintiff’s First Amended Complaint.

27                                   **THIRD AFFIRMATIVE DEFENSE**

28           9.       Plaintiff’s civil damages claims are barred by the Qualified Immunity

1 Doctrine.

2 **FOURTH AFFIRMATIVE DEFENSE**

3 10. Plaintiff willingly, voluntarily, and knowingly assumed each, every,  
4 and all the risks and hazards involved in the activities referred to in the First  
5 Amended Complaint. These Answering Defendants are not liable for injury or  
6 damages, if any there were, because Plaintiff was aware of the dangers and risks  
7 with respect to the alleged actions, and did knowingly, and voluntarily, and freely  
8 assume and expose himself to said known risks, which assumption of the risk caused  
9 and/or contributed to the alleged damages sought by Plaintiff herein, therefore  
10 barring Plaintiff from recovering, in any capacity, any relief from these Answering  
11 Defendants.

12 **FIFTH AFFIRMATIVE DEFENSE**

13 11. By the exercise of reasonable effort, Plaintiff could have mitigated the  
14 amount of damages, if any there were, but Plaintiff failed and refused, and continued  
15 to fail and refuse, to exercise a reasonable effort to mitigate damages, and therefore  
16 Plaintiff is barred from seeking recovery of those damages.

17 **SIXTH AFFIRMATIVE DEFENSE**

18 12. The present action is not brought or maintained in good faith, and these  
19 Answering Defendants consequently pray for an award of all reasonable defense  
20 costs, including attorneys' fees, pursuant to Fed. Rule Civ. Proc. 11 and/or 42  
21 U.S.C. § 1988.

22 **SEVENTH AFFIRMATIVE DEFENSE**

23 13. Neither a public entity nor a public employee is liable for his or her act  
24 or omission, exercising due care, in the execution or enforcement of any law.

25 **EIGHTH AFFIRMATIVE DEFENSE**

26 14. Defendants' actions herein were all pursuant to legitimate penal  
27 interests.

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**NINTH AFFIRMATIVE DEFENSE**

15. The requisite policy, practice, custom, or usage to establish governmental liability under 42 U.S.C. § 1983 may not be proven through reference to a single unconstitutional incident unless proof of that incident includes proof that it was caused by an existing unconstitutional policy.

**TENTH AFFIRMATIVE DEFENSE**

16. The doctrine of *respondeat superior* is not available for actions brought under 42 U.S.C. § 1983.

**ELEVENTH AFFIRMATIVE DEFENSE**

17. The force used on Plaintiff, if any, was objectively reasonable under the circumstances and did not constitute excessive force.

**TWELFTH AFFIRMATIVE DEFENSE**

18. The force used on Plaintiff and/or Plaintiff’s decedent, if any, was privileged in that it was used to effect a detention and/or arrest, to prevent escape, to overcome resistance, and/or in self-defense or the defense of others. Peace officers need not retreat nor desist their law enforcement efforts by reason of Plaintiff’s and/or Plaintiff’s decedent’s resistance or threatened resistance. Furthermore, peace officers are not to be deemed the aggressor nor do they lose their right to self-defense by the use of reasonable force to effect Plaintiff’s and/or Plaintiff’s decedent’s detention and/or arrest, or to prevent Plaintiff’s and/or Plaintiff’s decedent’s escape or to overcome their resistance.

**THIRTEENTH AFFIRMATIVE DEFENSE**

19. Defendants alleges that Plaintiff received “collateral source payments” as set forth in California Government Code § 985 and that the verdict, if any, must be reduced accordingly.

**FOURTEENTH AFFIRMATIVE DEFENSE**

20. Defendants alleges that Plaintiff’s claims are barred by the provisions of California Government Code §§ 815, 815.2, 815.6, 818, 818.2, 818.6, 818.8, 820,

1 820.2, 820.4, 820.6, 820.8, 821, 821.4, 821.6, 821.8, 822.2, 844.6, 845, 845.2,  
2 845.4, 845.6, 845.8, 846, 850, 850.2, 850.4, 850.6, 850.8, 855.6, 855.8, 910, 910.2,  
3 910.4, 910.6, 910.8, 911.2, 911.3, 911.4, 913, 913.2, 945.4, and/or 945.6.

4 **FIFTEENTH AFFIRMATIVE DEFENSE**

5 21. The force, if any, used on Plaintiff was only that amount of force  
6 justified pursuant to California Civil Code § 50 and/or California Penal Code §  
7 835a.

8 **SIXTEENTH AFFIRMATIVE DEFENSE**

9 22. This action is barred by the pertinent statute of limitations, including  
10 but not limited to, that expressed in California Code of Civil Procedure §§ 335.1,  
11 338, 338.1, 340, 342, and/or California Government Code §§ 910, 910.2, 910.4,  
12 910.6, 910.8, 911.2, 911.3, 911.4, 913, 913.2, 945.4, and/or 945.6.

13 **SEVENTEENTH AFFIRMATIVE DEFENSE**

14 23. Defendants alleges that Plaintiff's claims are barred by the provisions  
15 of California Government Code §§ 910 et seq. Plaintiff has failed to properly  
16 comply with pertinent claim procedures. Moreover, Plaintiff's operative First  
17 Amended Complaint improperly varies from the contents of his governmental  
18 claims, if any.

19 **EIGHTEENTH AFFIRMATIVE DEFENSE**

20 24. Plaintiff's claims are barred by California Penal Code §§ 458, 459, 460,  
21 461, 602.5, 830.5, 834, 834a, 834b, 835, 835a, 836, 836.5, 837, 839, 840, 844,  
22 849.5, 847, and 848.

23 **NINTEENTH AFFIRMATIVE DEFENSE**

24 25. Plaintiff's claims are barred by California Civil Code §43.55.

25 **TWENTIETH AFFIRMATIVE DEFENSE**

26 26. Plaintiff's claims are barred by the principles expressed in Heck v.  
27 Humphrey, 512 U.S. 477 (1994); Susag v. City of Lake Forest, 94 Cal.App.4th 1401  
28 (2002); Edson v. City of Anaheim, 63 Cal.App. 4th 1269, 1274 (1998) and Monell

1 v. Dept. of Social Services, 436 U.S. 658, 690-694 (1978).

2 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

3 27. Plaintiff's claims are barred by the provisions of California Code Civil  
4 Procedure §§ 377 et seq., including but not limited to, 377.10, 377.11, 377.30,  
5 377.31, 377.32, 377.33, 377.34, 377.35, 377.60, 377.61, and 377.62.

6 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

7 28. Defendants allege that none of the claims or causes of action of  
8 Plaintiff's First Amended Complaint state facts sufficient to constitute a claim  
9 against said Defendants for punitive or exemplary damages.

10 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

11 29. Defendants alleges that Plaintiff's action is barred by the provisions of  
12 California Civil Code § 3333 and 3333.3.

13 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

14 30. Plaintiff's claims are barred by sovereign immunity and/or the federal  
15 Eleventh Amendment.

16 **TWENTY-FIFTH AFFIRMATIVE DEFENSE**

17 31. Plaintiff's claims are barred by res judicata and/or collateral estoppel  
18 principles.

19 **TWENTY-SIXTH AFFIRMATIVE DEFENSE**

20 32. Plaintiff's suit is barred by the doctrine of unclean hands.

21 **TWENTY-SEVENTH AFFIRMATIVE DEFENSE**

22 33. Defendants alleges that Plaintiff's claims fail to allege a constitutional  
23 or statutory violation.

24 **TWENTY-EIGHTH AFFIRMATIVE DEFENSE**

25 34. Pursuant to Rutledge v. Arizona Board of Regents, 660 F.2d. 1345 (9th  
26 Cir. 1981) and Parratt v. Taylor, 451 U.S. 527 (1981), Plaintiff's claim(s) under the  
27 Federal Civil Rights Act is/are barred due to the Plaintiff's adequate state remedies.

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**TWENTY-NINTH AFFIRMATIVE DEFENSE**

35. A peace officer is not liable for punitive damages when an officer’s acts are not willful, malicious, or in bad faith. Gill v. Manuel, 488 F.2d 799 (9th Cir. 1973).

**THIRTIETH AFFIRMATIVE DEFENSE**

36. Pursuant to Harlow v. Fitzgerald, 457 U.S. 800 (1982), Defendant is immune from liability pursuant to the Federal Civil Rights Act where said Defendant acted in good faith and entertained an honest and reasonable belief that Defendant’s actions were necessary.

**THIRTY-FIRST AFFIRMATIVE DEFENSE**

37. Plaintiff did not sustain an injury, if at all, sufficient to give rise to a violation of Plaintiff Federal Civil Rights.

**THIRTY-SECOND AFFIRMATIVE DEFENSE**

38. Any injury to Plaintiff and/or Plaintiff’s decedent was due to and caused by Plaintiff’s and/or Plaintiff’s decedent’s own negligence and failure to act with reasonable care, which carelessness and negligence and omissions were the proximate cause of the damage, if any, to Plaintiff and/or Plaintiff’s decedent. Any damages awarded in this action should therefore be in direct proportion to the fault of this Defendants, if any, as provided by California Civil Code §§ 1430, 1431, 1431.1, 1431.2, 1431.3, 1431.4, 1431.5, and 1432.

**THIRTY-THIRD AFFIRMATIVE DEFENSE**

39. The damages allegedly sustained by Plaintiff and/or Plaintiff’s decedent, which such damages are generally and specifically denied to exist, were the result of the active and affirmative negligent acts or omissions to act of independent third parties and/or entities whose active and affirmative negligence and/or omissions to act resulted in superseding and intervening causes of Plaintiff’s and/or Plaintiff’s decedent’s alleged damages which thereby relieves this responding Defendants from liability. Any damages awarded in this action should therefore be



1 in direct proportion to the fault of this Defendants, if any, as provided by California  
2 Civil Code §§ 1430, 1431, 1431.1, 1431.2, 1431.3, 1431.4, 1431.5, and 1432.

3 **THIRTY-FOURTH AFFIRMATIVE DEFENSE**

4 40. Plaintiff's First Amended Complaint fails to allege facts sufficient to  
5 constitute a viable claim(s) for relief.

6 **THIRTY-FIFTH AFFIRMATIVE DEFENSE**

7 41. Plaintiff's suit is barred by the doctrine of waiver and/or consent.

8 **THIRTY-SIXTH AFFIRMATIVE DEFENSE**

9 42. Reasonable suspicion and/or probable cause existed for the seizure,  
10 detention, and/or arrest of Plaintiff at all times pertinent to this action.

11 **THIRTY-SEVENTH AFFIRMATIVE DEFENSE**

12 43. Plaintiff's suit is barred by the doctrine of estoppel.

13 **THIRTY-EIGHTH AFFIRMATIVE DEFENSE**

14 44. This action was filed against a peace officer and/or a public entity  
15 employing peace officers for performance of the peace officer's duty. As this action  
16 was not filed or maintained in good faith, this Defendants claims attorneys' fees  
17 pursuant to Code of Civil Procedure § 1021.7.

18 **THIRTY-NINTH AFFIRMATIVE DEFENSE**

19 45. Plaintiff fails to state a cause of action against Defendant for punitive  
20 damages in that punitive damages violate this Defendant's due process of law rights.

21 **FORTIETH AFFIRMATIVE DEFENSE**

22 46. Because Plaintiff's Second Amended Complaint is couched in  
23 conclusory terms, this Answering Defendants cannot fully anticipate all the  
24 affirmative defenses that may be applicable to the within action. Accordingly, the  
25 right to assert additional affirmative defenses, if and to the extent that such  
26 affirmative defenses are applicable, is hereby reserved.


27 WHEREFORE, Defendants COUNTY OF ORANGE and DILLON P.  
28 ALLEY pray that Plaintiff takes nothing by way of his operative Complaint and that

1 Defendants herein recovers their attorneys' fees, costs, and such other and further  
2 relief as the Court may deem just and proper.

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DATED: October 21, 2016

**LYNBERG & WATKINS**  
A Professional Corporation

By:   
**NORMAN J. WATKINS**  
**PANCY LIN**  
Attorneys for Defendants COUNTY OF  
ORANGE and DILLON P. ALLEY

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**COUNTERCLAIMS BY DEFENDANT DILLON P. ALLEY**

For his counterclaims against Plaintiff and Counterdefendant James Michael Crawford (“Crawford” or “Counterdefendant”), Defendant and Counterclaimant Dillon P. Alley (“Alley” or “Counterclaimant”) alleges as follows:

**THE PARTIES**

1. Counterclaimant Dillon P. Alley is, and at all times relevant herein was, an Investigator with the Orange County District Attorney’s Office.
2. Counterclaimant is informed and believes and based thereon alleges that Counterdefendant James Michael Crawford is, and at all times relevant herein was, an individual licensed to practice law in the State of California.

**JURISDICTION AND VENUE**

3. Counterclaimants’ claims are compulsory in that they arise of the same transaction and occurrence that is the subject matter of Plaintiff/Counterdefendant Crawford’s lawsuit, and do not require adding another party over whom the court cannot acquire jurisdiction. Accordingly, this court has supplemental jurisdiction over these compulsory counterclaims pursuant to 28 U.S.C. § 1367.
4. Venue is proper in the Central District because Counterdefendant brought his lawsuit against Counterclaimant in the Central District, and because Counterdefendant and/or his agents do business in and/or may be found in the Central District.

**FACTUAL BACKGROUND**

5. On or about March 9, 2016, Alley reported to work as an Investigator for the Orange County District Attorney’s office. Alley was advised that morning that his assistance was needed with a witness in an attempted murder trial because she might the victim of witness intimidation. This witness, Berenice Gonzalez (aka Berenice Muniz), also needed a Spanish interpreter so Alley was accompanied by interpreter Sylvia Mendez, also an employee with the Orange County District Attorney’s office, when he went to meet with Ms. Gonzalez.



1 Alley to defend himself, while Crawford pulled so hard on Alley's tie that it  
2 eventually had to be cut off him. Even after Alley immediately raised his hands to  
3 identify himself to law enforcement, Crawford continued to hit Alley until law  
4 enforcement pulled Crawford away. Crawford physically engaged Alley with the  
5 intent to harm or offend Alley, and without Alley's consent.

6 12. As a direct and proximate result of Crawford's actions, Alley was  
7 substantially physically, mentally, and emotionally injured, and suffered great  
8 physical, mental, and emotional injury, distress, pain, and suffering, incurring  
9 medical and healthcare bills, costs, and expenses, damage to his personal,  
10 professional, and business reputation, and other special and general damages and  
11 expenses, in an amount to be proven at trial.

12 13. Any reasonable person in Alley's position would have been offended  
13 by Crawford's intentional harmful and offensive physical contact.

14 14. Crawford's actions were malicious and oppressive in that Crawford  
15 acted despicably with a willful and knowing disregard of the rights or safety of  
16 Alley and others, subjecting Alley and others to conduct so vile, base, or  
17 contemptible that it would be looked down on and despised any reasonable person.  
18 For such conduct, Alley is entitled to exemplary and punitive damages against  
19 Crawford in an amount to be proven at trial.

20 **SECOND COUNTERCLAIM FOR RELIEF**

21 **(Assault Against Counterdefendant)**

22 15. Alley repeats, re-alleges and incorporates by reference each and every  
23 allegation set forth in all preceding paragraphs as though fully set forth herein.

24 16. The actions committed by Crawford as described above unlawfully  
25 placed Alley in reasonable fear of receiving an imminent violent injury by  
26 Crawford.

27 17. As a direct and proximate result of Crawford's actions, Alley was  
28 substantially physically, mentally, and emotionally injured, and suffered great

1 physical, mental, and emotional injury, distress, pain, and suffering, incurring  
2 medical and healthcare bills, costs, and expenses, damage to his personal,  
3 professional, and business reputation, and other special and general damages and  
4 expenses, in an amount to be proven at trial.

5 18. Crawford’s actions were malicious and oppressive in that Crawford  
6 acted despicably with a willful and knowing disregard of the rights or safety of  
7 Alley and others, subjecting Alley and others to conduct so vile, base, or  
8 contemptible that it would be looked down on and despised any reasonable person.  
9 For such conduct, Alley is entitled to exemplary and punitive damages against  
10 Crawford in an amount to be proven at trial.

11 **PRAYER**

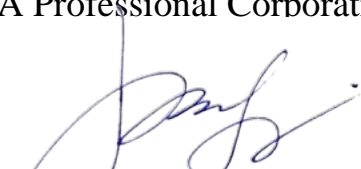
12 **WHEREFORE**, Counterclaimant Dillon P. Alley prays for judgment as  
13 follows:

- 14 1. For an award of general damages in favor of Counterclaimant and
- 15 against Counterdefendant in an amount according to proof at trial;
- 16 2. For an award of special damages in favor of Counterclaimant and
- 17 against Counterdefendant in an amount according to proof at trial;
- 18 3. For an award of exemplary and punitive damages in favor of
- 19 Counterclaimant and against Counterdefendant;
- 20 4. For reasonable attorney’s fees and other costs of suit herein;
- 21 5. For such other and further relief as the court deems just and proper.

22 DATED: October 21, 2016

**LYNBERG & WATKINS**  
A Professional Corporation

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25 Bv: \_\_\_\_\_

  
**NORMAN J. WATKINS**  
**PANCY LIN**  
Attorneys for Defendant/Counterclaimant  
DILLON P. ALLEY


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**DEMAND FOR JURY TRIAL**

**PLEASE TAKE NOTICE** that Defendant COUNTY OF ORANGE and Defendant/Counterclaimant DILLON P. ALLEY hereby demand a trial by jury on all issues pursuant to the Seventh Amendment and Fed.R.Civ.P. 38.

DATED: October 21, 2016

**LYNBERG & WATKINS**  
A Professional Corporation

By:  \_\_\_\_\_

**NORMAN J. WATKINS**  
**PANCY LIN**  
Attorneys for Defendant COUNTY OF ORANGE and Defendant/Counterclaimant DILLON P. ALLEY