

FILED
LOS ANGELES SUPERIOR COURT

FEB 17 2008

JOHN CLARKE, CLERK
BY MARY GARCIA, DEPUTY

1 DANIEL I. WAGNER; SBN 195610
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Los Angeles, California 90071
3 Tel (213) 489-6860; Fax 213-489-6861

4 Attorney for Plaintiff(s)
5 JOSE ALARCON

6 SUPERIOR COURT OF THE STATE OF CALIFORNIA

7 COUNTY OF LOS ANGELES

8 CASE NO. BC407830

9 JOSE ALARCON, an individual
10 Plaintiffs,
11 vs.

12 JASON DANIEL WAHLER, an individual;
AND DOES 1 THROUGH 10, inclusive

13 Defendants.

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COMPLAINT FOR DAMAGES
(TOM BANE CIVIL RIGHTS ACT)

15 Plaintiff alleges:

- 16 1. Defendant Jason D. Wahler (hereafter "WAHLER"), is an individual, and at all
- 17 times herein mentioned is and was a resident of Los Angeles County, State of California.
- 18 2. Defendants Doe 1 through Does 10, Inclusive, are sued herein under fictitious
- 19 names. Their true names and capacities are unknown to plaintiff. When their true names and
- 20 capacities are ascertained, plaintiff will amend this complaint by inserting their true names and
- 21 capacities herein. Plaintiff is informed and believes and thereon alleges that each of the
- 22 fictitiously named defendants is responsible in some manner for the occurrences herein alleged,
- 23 and that plaintiff's damages as herein alleged were proximately caused by those defendants.
- 24 Each reference in this complaint to "defendant," "defendants," or a specifically defendant,
- 25 also to all defendants sued under fictitious names.

26 3. Plaintiff is informed and believes and thereon alleges that at all times herein

29 C17/CASE: BC407830 LEA/DEF#:
30 RECEIPT # 02170701
31 DATE PAID: 02/17/08 02:14:32 PM
32 PAYMENT \$ 350.00
33 RECEIVED:
34 CLERK:
35 ASST:
36 JUDGE:
37 AND:
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1 mentioned each of the defendants, including all defendants, and in doing the things hereinafter
2 alleged, where acting within the course and scope of this agency or employment.

3 4. On September 22, 2006 defendant WAHLER committed acts of violence,
4 threats of violence, and made racial epithets towards the plaintiff in intentionally interfering with
5 the plaintiff's right to work as a tow truck driver which is guaranteed under the Constitution.

6 5. Under Civil Code § 51.7(a), plaintiff has the right to be free from any violence, or
7 intimidation by threat of violence, committed against their person on an account of a persons
8 race.

9 6. Under Civil Code § 52.1(b), the plaintiffs exercise or enjoyment of rights secured
10 by the Constitution, or laws of the United States, or of rights secured by the Constitution of the
11 laws of the state, has been interfered with, or attempted to be interfered with.

12 7. The reasons for the WAHLER's actions were due to plaintiffs race, national
13 origin, ancestry and color.

14 8. As a proximate result of the interfering with the plaintiffs right to work and to be
15 free from violence in performing his job duties by defendant WAHLER, plaintiff has suffered
16 damages in the amount of \$100,000.

17 9. As a proximate result of the wrongful acts of defendant WAHLER, plaintiff is in
18 addition entitled to recover statutory civil penalty of \$25,000, as provided in Civil Code § 52(b).

19 10. The above-recited actions of defendant WAHLER were done with malice, fraud,
20 or oppression, and in reckless disregard of the plaintiff's rights. Specifically, defendant
21 WAHLER attacked plaintiff while performing his job duties because of the plaintiff's race, color,
22 ancestry and national origin without provocation.

23 11. Plaintiff has incurred attorney's fees in the amount of \$750.00 for the preparation
24 of this complaint. Plaintiff expects to incur additional attorneys fees in the amount in the amount
25 of \$50,000.00 by the conclusion of this action for discovery including multiple depositions,
26 pretrial work and work in anticipation of trial. This amount also includes portions of trial, if

1 necessary.

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3 **WHEREFORE**, plaintiff prays judgment against defendants, and each of them, as follows:

- 4 1. For actual damages of \$100,000.00;
- 5 2. For a statutory civil penalty in the sum of \$25,000.00, pursuant to Civ. Code §
- 6 52(b);
- 7 3. For exemplary and punitive damages;
- 8 3. For attorneys fees according to proof; and
- 9 4. For costs of suit incurred herein;
- 10 5. For such other and further relief as the court may deem proper.

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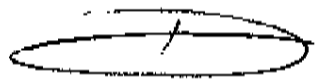
12 Dated: February 2, 2009

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LAW OFFICES OF DANIEL I. WAGNER

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By: _____
DANIEL I. WAGNER
Attorney for Plaintiff
JOSE ALARCON

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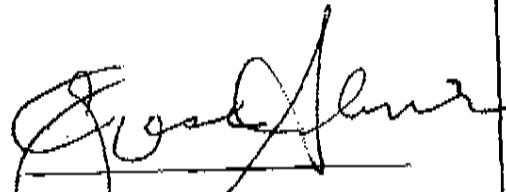
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3 VERIFICATION
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5 I, Jose Alarcon, am the plaintiff in the above-entitled action. I have read the foregoing complaint
6 and know the contents thereof. The same is true of my own knowledge, except as to those
7 matters which are therein alleged on information and belief, and to those matters, I believe it to
8 be true.

9 I declare under the penalty of perjury under the laws of the State of California that the
10 foregoing are true and correct.

11 Dated: 2/9/09

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14 Jose Alarcon
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