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Attorneys for Defendant
City of San Diego

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

RAY LUTZ,)	Case No. '12CV2625 JM DHB
)	
Plaintiff,)	NOTICE OF REMOVAL OF CIVIL
)	ACTION
v.)	
)	[28 U.S.C. § 1446]
CBRE Group, Inc., a Delaware corporation,)	
Officer Tony Lessa, City of San Diego, and)	(San Diego Superior Court Case No:
DOES 1-25, inclusive,)	37-2012-00103865-CU-CR-CTL)
)	
Defendants.)	

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that Defendant, City of San Diego, in the above-entitled action, has removed the action to the United States District Court for the Southern District of California.

STATEMENT OF GROUNDS FOR REMOVAL

Plaintiff alleges that a police officer of Defendant City of San Diego violated his civil rights under state and federal law.

The Seventh Cause of Actions, Counts One, Two and Three, allege that the actions of the City and its police officer deprived Plaintiff of his federal constitutional rights and that his action is brought under 42 U.S.C. section 1983.

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1 This Court has original jurisdiction of the action pursuant to the provisions of 28 U.S.C.
2 section 1331, and the action may therefore be removed to this Court by Defendant City of San
3 Diego pursuant to the provisions of 28 U.S.C. sections 1441(b) and (c).

4 Copies of all process and pleadings served on Defendant City of San Diego in the above-
5 entitled action are attached hereto. This Notice of Removal is filed with this Court within thirty
6 days after Defendant City of San Diego was served with the Complaint filed in San Diego
7 Superior Court.

8
9 Dated: October 29, 2012

JAN I. GOLDSMITH, City Attorney

10
11 By /s/ John E. Riley

12 John E. Riley
Deputy City Attorney

13 Attorneys for Defendant
14 City of San Diego
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2012-11340

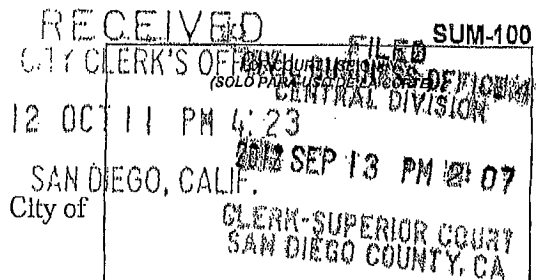
SUMMONS
(CITACION JUDICIAL)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

CBRE Group, Inc., a Delaware corporation, Officer Tony Lessa, City of San Diego, and DOES 1-25, inclusive,

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

RAY LUTZ



NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

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. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

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.sucorte.ca.gov), 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.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es): San Diego Superior Court

330 W. Broadway St.
San Diego, CA 92101

CASE NUMBER:
(Número del Caso):
37-2012-00103865-CU-CR-CTL

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):

Bryan Pease, 1901 First Ave., Suite 219, San Diego, CA 92101 (619) 723-0369

COPY TO: CITY ATTORNEY ☒

DATE:
(Fecha)

SEP 13 2012

Clerk, by
(Secretario)

M. Smith

RISK MANAGEMENT
(Adjunto) ☒

DATE: (Adjunto)

10/11/12

(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)).

DCC NAME

KN

[SEAL]

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ 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):

4. ☐ by personal delivery on (date):

RECEIVED BY: MAIL

OTC ☒

70

WFT NAME



Superior Court of California
County of San Diego

NOTICE OF ASSIGNMENT
TO IMAGING DEPARTMENT

This case has been assigned to an Imaging Department and original documents attached to pleadings filed with the court will be imaged and destroyed. Original documents should not be filed with pleadings. If necessary, they should be lodged with the court under California Rules of Court, rule 3.1302(b).

On August 1, 2011 the San Diego Superior Court began the Electronic Filing and Imaging Pilot Program ("Program"). As of August 1, 2011 in all new cases assigned to an Imaging Department all filings will be imaged electronically and the electronic version of the document will be the official court file. The official court file will be electronic and accessible at one of the kiosks located in the Civil Business Office and on the Internet through the court's website. This Program will be expanding to other civil courtrooms over time.

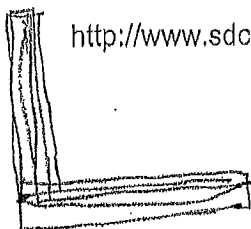
You should be aware that the electronic copy of the filed document(s) will be the official court record pursuant to Government Code section 68150. The paper filing will be imaged and held for 90 days. After that time it will be destroyed and recycled. **Thus, you should not attach any original documents to pleadings filed with the San Diego Superior Court. Original documents filed with the court will be imaged and destroyed except those documents specified in California Rules of Court, rule 3.1806.** Any original documents necessary for a motion hearing or trial shall be lodged in advance of the hearing pursuant to California Rules of Court, rule 3.1302(b).

It is the duty of each plaintiff, cross-complainant or petitioner to serve a copy of this notice with the complaint, cross-complaint or petition on all parties in the action.

On all pleadings filed after the initial case originating filing, all parties must, to the extent it is feasible to do so, place the words **"IMAGED FILE"** in all caps immediately under the title of the pleading on all subsequent pleadings filed in the action.

Please refer to the General Order - Imaging located on the San Diego Superior Court website at:

<http://www.sdcourt.ca.gov/CivilImagingGeneralOrder>



SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO	
STREET ADDRESS: 330 West Broadway	
MAILING ADDRESS: 330 West Broadway	
CITY AND ZIP CODE: San Diego, CA 92101	
BRANCH NAME: Central	
TELEPHONE NUMBER: (619) 460-7073	
PLAINTIFF(S) / PETITIONER(S): Ray Lutz	
DEFENDANT(S) / RESPONDENT(S): CBRE Group Inc et.al.	
LUTZ VS. CBRE GROUP INC	
NOTICE OF CASE ASSIGNMENT	CASE NUMBER: 37-2012-00103865-CU-CR-CTL

Judge: Steven R. Denton

Department: C-73

COMPLAINT/PETITION FILED: 09/13/2012

**ALL CASES MUST COMPLY WITH THE CIVIL REQUIREMENTS LISTED BELOW,
EXCEPT FOR PARKING CITATION APPEALS**

IT IS THE DUTY OF EACH PLAINTIFF (AND CROSS-COMPLAINANT) TO SERVE A COPY OF THIS NOTICE WITH THE COMPLAINT (AND CROSS-COMPLAINT), THE ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION FORM (SDSC FORM #CIV-730), A STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (ADR) (SDSC FORM #CIV-359), AND OTHER DOCUMENTS AS SET OUT IN SDSC LOCAL RULE 2.1.5.

ALL COUNSEL WILL BE EXPECTED TO BE FAMILIAR WITH SUPERIOR COURT RULES WHICH HAVE BEEN PUBLISHED AS DIVISION II, AND WILL BE STRICTLY ENFORCED.

TIME STANDARDS: The following timeframes apply to general civil cases and must be adhered to unless you have requested and been granted an extension of time. General civil cases consist of all civil cases except: small claims proceedings, civil petitions, unlawful detainer proceedings, probate, guardianship, conservatorship, juvenile, and family law proceedings.

COMPLAINTS: Complaints and all other documents listed in SDSC Local Rule 2.1.5 must be served on all named defendants, and a Certificate of Service (SDSC form #CIV-345) filed within 60 days of filing.

DEFENDANT'S APPEARANCE: Defendant must generally appear within 30 days of service of the complaint. (Plaintiff may stipulate to no more than 15 day extension which must be in writing and filed with the Court.) (SDSC Local Rule 2.1.6)

DEFAULT: If the defendant has not generally appeared and no extension has been granted, the plaintiff must request default within 45 days of the filing of the Certificate of Service. (SDSC Local Rule 2.1.7)

CASE MANAGEMENT CONFERENCE: A Case Management Conference will be set within 150 days of filing the complaint.

ALTERNATIVE DISPUTE RESOLUTION (ADR): THE COURT ENCOURAGES YOU TO CONSIDER UTILIZING VARIOUS ALTERNATIVES TO TRIAL, INCLUDING MEDIATION AND ARBITRATION, PRIOR TO THE CASE MANAGEMENT CONFERENCE. PARTIES MAY FILE THE ATTACHED STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (SDSC FORM #CIV-359).

YOU MAY ALSO BE ORDERED TO PARTICIPATE IN ARBITRATION. IF THE CASE IS ORDERED TO ARBITRATION PURSUANT TO CODE CIV. PROC. 1411.11, THE COSTS OF ARBITRATION WILL BE PAID BY THE COURT PURSUANT TO CODE CIV. PROC. 1141.28.

FOR MORE INFORMATION, SEE THE ATTACHED ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION FORM (SDSC FORM #CIV-730)



SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION

CASE NUMBER: 37-2012-00103865-CU-CR-CTL

CASE TITLE: Lutz vs. CBRE Group Inc

NOTICE: All plaintiffs/cross-complainants in a general civil case are required to serve a copy of the following three forms on each defendant/cross-defendant, together with the complaint/cross-complaint:

- (1) this Alternative Dispute Resolution (ADR) Information form (SDSC form #CIV-730),
- (2) the Stipulation to Use Alternative Dispute Resolution (ADR) form (SDSC form #CIV-359), and
- (3) the Notice of Case Assignment form (SDSC form #CIV-721).

Most civil disputes are resolved without filing a lawsuit, and most civil lawsuits are resolved without a trial. The courts, community organizations, and private providers offer a variety of Alternative Dispute Resolution (ADR) processes to help people resolve disputes without a trial. The San Diego Superior Court expects that litigants will utilize some form of ADR as a mechanism for case settlement before trial, and it may be beneficial to do this early in the case.

Below is some information about the potential advantages and disadvantages of ADR, the most common types of ADR, and how to find a local ADR program or neutral. A form for agreeing to use ADR is attached (SDSC form #CIV-359).

Potential Advantages and Disadvantages of ADR

ADR may have a variety of advantages or disadvantages over a trial, depending on the type of ADR process used and the particular case:

Potential Advantages

- Saves time
- Saves money
- Gives parties more control over the dispute resolution process and outcome
- Preserves or improves relationships

Potential Disadvantages

- May take more time and money if ADR does not resolve the dispute
- Procedures to learn about the other side's case (discovery), jury trial, appeal, and other court protections may be limited or unavailable

Most Common Types of ADR

You can read more information about these ADR processes and watch videos that demonstrate them on the court's ADR webpage at <http://www.sdcourt.ca.gov/adr>.

Mediation: A neutral person called a "mediator" helps the parties communicate in an effective and constructive manner so they can try to settle their dispute. The mediator does not decide the outcome, but helps the parties to do so. Mediation is usually confidential, and may be particularly useful when parties want or need to have an ongoing relationship, such as in disputes between family members, neighbors, co-workers, or business partners, or when parties want to discuss non-legal concerns or creative resolutions that could not be ordered at a trial.

Settlement Conference: A judge or another neutral person called a "settlement officer" helps the parties to understand the strengths and weaknesses of their case and to discuss settlement. The judge or settlement officer does not make a decision in the case but helps the parties to negotiate a settlement. Settlement conferences may be particularly helpful when the parties have very different ideas about the likely outcome of a trial and would like an experienced neutral to help guide them toward a resolution.

Arbitration: A neutral person called an "arbitrator" considers arguments and evidence presented by each side and then decides the outcome of the dispute. Arbitration is less formal than a trial, and the rules of evidence are usually relaxed. If the parties agree to binding arbitration, they waive their right to a trial and agree to accept the arbitrator's decision as final. With nonbinding arbitration, any party may reject the arbitrator's decision and request a trial. Arbitration may be appropriate when the parties want another person to decide the outcome of their dispute but would like to avoid the formality, time, and expense of a trial.

Other ADR Processes: There are several other types of ADR which are not offered through the court but which may be obtained privately, including neutral evaluation, conciliation, fact finding, mini-trials, and summary jury trials. Sometimes parties will try a combination of ADR processes. The important thing is to try to find the type or types of ADR that are most likely to resolve your dispute. Be sure to learn about the rules of any ADR program and the qualifications of any neutral you are considering, and about their fees.

Local ADR Programs for Civil Cases

Mediation: The San Diego Superior Court maintains a Civil Mediation Panel of approved mediators who have met certain minimum qualifications and have agreed to charge \$150 per hour for each of the first two (2) hours of mediation and their regular hourly rate thereafter in court-referred mediations.

On-line mediator search and selection: Go to the court's ADR webpage at www.sdcourt.ca.gov/adr and click on the "Mediator Search" to review individual mediator profiles containing detailed information about each mediator including their dispute resolution training, relevant experience, ADR specialty, education and employment history, mediation style, and fees and to submit an on-line Mediator Selection Form (SDSC form #CIV-005). The Civil Mediation Panel List, the Available Mediator List, Individual Mediator Profiles, and Mediator Selection Form (CIV-005) can also be printed from the court's ADR webpage and are available at the Mediation Program Office or Civil Business Office at each court location.

Settlement Conference: The judge may order your case to a mandatory settlement conference, or voluntary settlement conferences may be requested from the court if the parties certify that: (1) settlement negotiations between the parties have been pursued, demands and offers have been tendered in good faith, and resolution has failed; (2) a judicially supervised settlement conference presents a substantial opportunity for settlement; and (3) the case has developed to a point where all parties are legally and factually prepared to present the issues for settlement consideration and further discovery for settlement purposes is not required. Refer to SDSC Local Rule 2.2.1 for more information. To schedule a settlement conference, contact the department to which your case is assigned.

Arbitration: The San Diego Superior Court maintains a panel of approved judicial arbitrators who have practiced law for a minimum of five years and who have a certain amount of trial and/or arbitration experience. Refer to SDSC Local Rules Division II, Chapter III and Code Civ. Proc. § 1141.10 et seq or contact the Arbitration Program Office at (619) 450-7300 for more information.

More information about court-connected ADR: Visit the court's ADR webpage at www.sdcourt.ca.gov/adr or contact the court's Mediation/Arbitration Office at (619) 450-7300.

Dispute Resolution Programs Act (DRPA) funded ADR Programs: The following community dispute resolution programs are funded under DRPA (Bus. and Prof. Code §§ 465 et seq.):

- In Central, East, and South San Diego County, contact the National Conflict Resolution Center (NCRC) at www.ncrconline.com or (619) 238-2400.
- In North San Diego County, contact North County Lifeline, Inc. at www.ncllifeline.org or (760) 726-4900.

Private ADR: To find a private ADR program or neutral, search the Internet, your local telephone or business directory, or legal newspaper for dispute resolution, mediation, settlement, or arbitration services.

Legal Representation and Advice

To participate effectively in ADR, it is generally important to understand your legal rights and responsibilities and the likely outcomes if you went to trial. ADR neutrals are not allowed to represent or to give legal advice to the participants in the ADR process. If you do not already have an attorney, the California State Bar or your local County Bar Association can assist you in finding an attorney. Information about obtaining free and low cost legal assistance is also available on the California courts website at www.courtinfo.ca.gov/selfhelp/lowcost.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO STREET ADDRESS: 330 West Broadway MAILING ADDRESS: 330 West Broadway CITY, STATE, & ZIP CODE: San Diego, CA 92101-3827 BRANCH NAME: Central		FOR COURT USE ONLY
PLAINTIFF(S): Ray Lutz		
DEFENDANT(S): CBRE Group Inc et.al.		
SHORT TITLE: LUTZ VS. CBRE GROUP INC		
STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (ADR)		CASE NUMBER: 37-2012-00103865-CU-CR-CTL

Judge: Steven R. Denton

Department: C-73

The parties and their attorneys stipulate that the matter is at issue and the claims in this action shall be submitted to the following alternative dispute resolution (ADR) process. Selection of any of these options will not delay any case management timelines.

- | | |
|-----------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> Mediation (court-connected) | <input type="checkbox"/> Non-binding private arbitration |
| <input type="checkbox"/> Mediation (private) | <input type="checkbox"/> Binding private arbitration |
| <input type="checkbox"/> Voluntary settlement conference (private) | <input type="checkbox"/> Non-binding judicial arbitration (discovery until 15 days before trial) |
| <input type="checkbox"/> Neutral evaluation (private) | <input type="checkbox"/> Non-binding judicial arbitration (discovery until 30 days before trial) |
| <input type="checkbox"/> Other (specify e.g., private mini-trial, private judge, etc.): _____ | |

It is also stipulated that the following shall serve as arbitrator, mediator or other neutral: (Name) _____

Alternate neutral (for court Civil Mediation Program and arbitration only): _____

Date: _____

Date: _____

Name of Plaintiff

Name of Defendant

Signature

Signature

Name of Plaintiff's Attorney

Name of Defendant's Attorney

Signature

Signature

If there are more parties and/or attorneys, please attach additional completed and fully executed sheets.

It is the duty of the parties to notify the court of any settlement pursuant to Cal. Rules of Court, rule 3.1385. Upon notification of the settlement, the court will place this matter on a 45-day dismissal calendar.

No new parties may be added without leave of court.

IT IS SO ORDERED.

Dated: 09/13/2012

JUDGE OF THE SUPERIOR COURT

FILED
CIVIL BUSINESS OFFICE 4
CENTRAL DIVISION
2012 SEP 13 PM 2:07
CLENN-SUPERIOR COURT
SAN DIEGO COUNTY, CA

Bryan W. Pease (SBN 239139)
LAW OFFICES OF BRYAN W. PEASE
1901 First Ave., Suite 219
San Diego, CA 92101
Tel.: 619-723-0369
Fax: 619-923-1001
E-mail: bryanpease@gmail.com

Attorney for Plaintiff
RAY LUTZ

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN DIEGO

RAY LUTZ,
Plaintiff,

vs.

CBRE Group, Inc., a Delaware corporation,
Officer Tony Lessa, City of San Diego, and
DOES 1-25, inclusive,
Defendants

) Case No.:

) 37-2012-00103865-CU-CR-CTL

) COMPLAINT FOR BATTERY,
) NEGLIGENCE, INTENTIONAL
) INFLECTION OF EMOTIONAL
) DISTRESS, NEGLIGENT INFLECTION
) OF EMOTIONAL DISTRESS,
) VIOLATIONS OF 42 U.S.C SECTION
) 1983, NEGLIGENT TRAINING;
) VIOLATION OF TOM BANE CIVIL
) RIGHTS ACT [CIVIL CODE SECTION
) 52.1]

Plaintiff alleges:

PARTIES

1. Plaintiff RAY LUTZ is a resident of San Diego, California.
2. Defendant CITY OF SAN DIEGO is a municipality. Said Defendant is responsible for the hiring, training and supervision of its police officers. Said Defendant is sued herein either as the employer of the remaining defendants, under a Respondeat Superior theory, or, relative to claims brought under 42 U.S.C. Section 1983, because the conduct alleged herein arose under color of law and/or as an official policy, practice and procedure of Defendant CITY OF SAN DIEGO (hereafter CITY).

1 3. Defendants LESSA is, and at all times relevant hereto, was, a police officer for
2 the City of San Diego, and was acting within the course and scope of his agency and
3 employment.

4 4. Plaintiff is unaware of the true names and capacities of the Defendants sued
5 herein as DOES 1-25 inclusive, and therefore, sues these Defendants under such fictitious names.
6 Plaintiff is informed and believes and thereon alleges that each of said fictitiously named
7 Defendants is responsible in some manner for the actions and damages alleged herein. Plaintiff
8 is furthermore informed and believes and thereon alleges that each of said fictitiously named
9 Defendants was the agent, servant and employee of each and every other Defendant acting
10 within the course and scope of his or her agency and employment and with the knowledge,
11 ratification and consent of each respective principal. Plaintiff will seek leave to amend this
12 Complaint when their true names and capacities have been ascertained.

13 **COMPLIANCE WITH CLAIMS STATUTE**

14 5. Plaintiff is required to comply with a claims statute and Plaintiff has complied
15 with that statute. The City denied Plaintiff's claim on March 15, 2012.
16

17 **VENUE AND JURISDICTION**

18 6. This district is the proper venue and jurisdiction due to the location of some or all
19 of the Defendants, and the location where the injury occurred.

20 **STATEMENT OF FACTS**

21 7. On or about November 29, 2011, Plaintiff set up a small, unobtrusive table in
22 Civic Center Plaza for registering voters. Plaintiff registered five voters and had three people
23 waiting to be registered when Defendants arrested Plaintiff.

24 8. The day before conducting these voter registration activities, Plaintiff hand
25 delivered a letter to Cyndi Poes, employed by CBRE as Real Estate Manager of the Civic Center
26 Plaza office building, citing relevant caselaw outlining his right to peacefully and unobtrusively
27 register voters in areas that are open to the public.
28

1 9. The arrest was a citizen's arrest by private security that was then accepted by
2 Officer Lessa. Plaintiff was charged with violating San Diego Municipal Code Section
3 52.80.01(A). However, Section 52.80.01(C) has a clear exception for the peaceful political
4 activity Plaintiff was engaged in when he was arrested for registering voters on property that is
5 open to the public.

6
7 **FIRST CAUSE OF ACTION**
8 **(BATTERY)**

9 10. The foregoing paragraphs are realleged and incorporated by reference.

10 11. The conduct of Defendants, which involved non-consensual contact, and injury to
11 Plaintiff, constitutes a battery.

12 12. After Plaintiff's arrest, he was left in the back of a police car for over an hour
13 while handcuffed.

14 13. LESSA was acting within the course and scope of his duties as a police officer
15 and in a manner consistent with CITY policy and practice, making said Defendant vicariously
16 liable for his torts.

17 14. As a consequence of said conduct, Plaintiff suffered injury to his person and
18 shock and injury to his psyche, entitling him to special damages for the care and treatment
19 thereof.

20 15. Furthermore, Plaintiff is entitled to general damages for his physical and
21 emotional pain and suffering.

22 16. The conduct of LESSA was intentional, malicious and/or in reckless disregard of
23 the rights and safety of the Plaintiff, entitling him to punitive damages *against the individual*
24 *defendants named herein* in an amount according to proof.

25
26 **SECOND CAUSE OF ACTION**
27 **(FALSE ARREST AND IMPRISONMENT)**

28 17. The foregoing paragraphs are realleged and incorporated by reference. Defendants
were aware that there was no reason to cause Plaintiff to be arrested, but did so anyway.

1 18. As a consequence of said conduct, Plaintiff suffered injury to his person and
2 shock and injury to his psyche, entitling him to special damages for the care and treatment
3 thereof.

4 19. Furthermore, Plaintiff is entitled to general damages for his physical and
5 emotional pain and suffering.

6 20. The conduct of said Defendants was intentional, malicious and/or in reckless
7 disregard of the rights and safety of the Plaintiff, entitling him to punitive damages in an amount
8 according to proof *against the individual defendants named herein*.

9
10
11 **THIRD CAUSE OF ACTION**
 (INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS)

12 21. The foregoing paragraphs are realleged and incorporated by reference.

13 22. At all times relevant hereto, the conduct of Defendants was outrageous and not of
14 the kind and quality to be tolerated in a civilized society, much less by law enforcement officials.

15 23. Said conduct did, in fact, cause Plaintiff emotional distress.

16 24. As a consequence of said conduct, Plaintiff suffered injury to his person and
17 shock and injury to his psyche, entitling him to special damages for the care and treatment
18 thereof.

19 25. Furthermore, Plaintiff is entitled to general damages for his physical and
20 emotional pain and suffering.

21 26. The conduct of said Defendants was intentional, malicious and/or in reckless
22 disregard of the rights and safety of the Plaintiff, entitling him to punitive damages in an amount
23 according to proof.

24
25 **FOURTH CAUSE OF ACTION**
 (NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS)

26 27. The foregoing paragraphs are realleged and incorporated by reference.

27 28. At all times relevant hereto, Defendants, and each of them, owed a duty to
28 Plaintiff to refrain from conduct which would foreseeably cause him emotional distress. By the

1 conduct alleged herein, said Defendants breached this duty and negligently caused Plaintiff
2 emotional distress.

3 29. As a consequence of said conduct, Plaintiff suffered injury to his person and
4 shock and injury to his psyche, entitling him to special damages for the care and treatment
5 thereof.

6 30. Furthermore, Plaintiff is entitled to general damages for his physical and
7 emotional pain and suffering.

8 **FIFTH CAUSE OF ACTION**
9 **(NEGLIGENCE AGAINST ALL DEFENDANTS)**

10 31. The foregoing paragraphs are realleged and incorporated by reference.

11 32. At all times relevant hereto, Defendants, and each of them, had a duty to use
12 reasonable care in their conduct and in the discharge of their duties.

13 33. In the actions described above, said Defendants negligently breached said duties.

14 34. As a consequence of said conduct, Plaintiff suffered injury to his person and
15 shock and injury to his psyche, entitling him to special damages for the care and treatment
16 thereof.

17 35. Furthermore, Plaintiff is entitled to general damages for his physical and
18 emotional pain and suffering.

19 **SIXTH CAUSE OF ACTION**
20 **(NEGLIGENT TRAINING AGAINST DEFENDANT CITY OF SAN DIEGO)**

21 36. The foregoing paragraphs are realleged and incorporated by reference.

22 37. At all times relevant hereto, Defendant CITY had a duty to train its police officers
23 in, inter alia, use of force, excessive force, probable cause for arrest, proper crowd control
24 techniques, proper identification prior to engaging a suspect, investigations, and elements of
25 resisting arrest.

26 38. Defendant CITY negligently failed to train the individuals named herein in these
27 aspects of their duties, resulting in the harm and damages described in this complaint.
28

1 39. As a consequence of said negligent training, Plaintiff suffered injury to his person
2 and shock and injury to his psyche, entitling him to special damages for the care and treatment
3 thereof.

4 40. Furthermore, Plaintiff is entitled to general damages for his physical and
5 emotional pain and suffering.

6
7 **SEVENTH CAUSE OF ACTION**
8 **(VIOLATION OF 42 U.S.C. SECTION 1983)**

9 **COUNT 1**

10 **UNCONSTITUTIONAL RETALIATION AND CHILLING OF PLAINTIFF'S**
11 **RIGHTS OF FREE SPEECH AND ASSEMBLY IN VIOLATION OF 1st**
12 **AMENDMENT**

13 41. The foregoing paragraphs are realleged and incorporated by reference.

14 42. The actions of Defendants constituted an unconstitutional and unreasonable
15 deprivation of Plaintiff's rights of free speech and assembly, and were intended to retaliate
16 against him for the exercise thereof, and were calculated to chill the exercise of the same. The
17 same is actionable pursuant to 42 U.S.C. Section 1983. Said actions on the part of the
18 Defendants were done under color of law.

19 43. As a consequence of said conduct, Plaintiff suffered injury to his person and
20 shock and injury to his psyche, entitling him to special damages for the care and treatment
21 thereof.

22 44. Furthermore, Plaintiff is entitled to general damages for his physical and
23 emotional pain and suffering.

24 45. The conduct of said Defendants was intentional, malicious and/or in reckless
25 disregard of the rights and safety of the Plaintiff, entitling him to punitive damages in an amount
26 according to proof.

27 46. Furthermore, pursuant to 42 U.S.C. Section 1988, Plaintiffs are entitled to
28 attorney's fees expended in this action.

COUNT 2

**UNCONSTITUTIONAL SEIZURE OF PLAINTIFF'S PERSON, IN VIOLATION OF
4TH AMENDMENT AND 14TH AMENDMENT, AGAINST**

47. The actions of Defendants constituted an unconstitutional and unreasonable seizure of Plaintiff's person in violation of Amendment IV to the U.S. Constitution, and is actionable pursuant to 42 U.S.C. Section 1983. Said actions were taken by Defendants acting under color of law.

48. As a consequence of said conduct, Plaintiff suffered injury to his person and shock and injury to his psyche, entitling him to special damages for the care and treatment thereof.

49. Furthermore, Plaintiff is entitled to general damages for his physical and emotional pain and suffering.

50. The conduct of Defendants was intentional, malicious and/or in reckless disregard of the rights and safety of the Plaintiff, entitling him to punitive damages in an amount according to proof.

51. Furthermore, pursuant to 42 U.S.C. Section 1988, Plaintiff is entitled to attorney's fees expended in this action.

52. Plaintiff is entitled to and hereby request a declaratory confirming the violation of his civil rights.

COUNT 3

**UNCONSTITUTIONAL DEPRIVATION OF LIBERTY INTERESTS WITHOUT
DUE PROCESS OF LAW, IN VIOLATION OF 5TH AMENDMENT AND 14TH
AMENDMENT**

53. The actions of Defendants constituted an unconstitutional deprivation of Plaintiff's liberty interests in violation of the 5th and 14th Amendments and is actionable pursuant to 42 U.S.C. Section 1983. Said actions were taken by Defendants acting under color of law.

1 54. As a consequence of said conduct, Plaintiff suffered injury to his person and
2 shock and injury to his psyche, entitling him to special damages for the care and treatment
3 thereof.

4 55. Furthermore, Plaintiff is entitled to general damages for his physical and
5 emotional pain and suffering.

6 56. The conduct of said Defendants was intentional, malicious and/or in reckless
7 disregard of the rights and safety of the Plaintiff, entitling him to punitive damages in an amount
8 according to proof.

9 57. Furthermore, pursuant to 42 U.S.C. Section 1988, Plaintiff is entitled to attorney's
10 fees expended in this action.

11 58. Plaintiff is entitled to and hereby request a declaratory confirming the violation of
12 his civil rights.

13
14 **EIGHTH CAUSE OF ACTION**
 (VIOLATION OF CAL. CIVIL CODE SECTION 52.1)

15 1. The foregoing paragraphs are realleged and incorporated by reference.

16 2. The conduct of Defendants constituted threats, intimidation and coercion that
17 interfered with Plaintiff's rights of free speech and assembly. The same is actionable pursuant
18 to California Civil Code section 52.1.

19 3. As a consequence of said conduct, Plaintiff suffered injury to his person and
20 shock and injury to his psyche, entitling him to special damages for the care and treatment
21 thereof.

22 4. Furthermore, Plaintiff is entitled to general damages for his physical and
23 emotional pain and suffering.

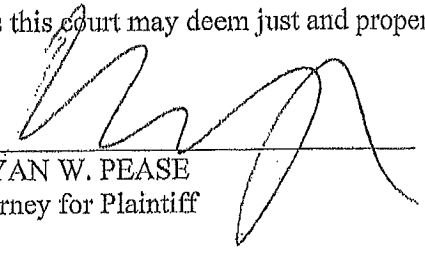
24 5. The conduct of said Defendants was intentional, malicious and/or in reckless
25 disregard of the rights and safety of the Plaintiff, entitling him to punitive damages in an amount
26 according to proof.
27
28

1 6. Furthermore, pursuant to Civil Code section 52.1, Plaintiff is entitled to attorney's
2 fees expended in this action and a statutory penalty of \$25,000.

3
4 **WHEREFORE**, Plaintiff prays for judgment against Defendants and each of them as
5 follows:

- 6 1. For special damages for the care and treatment of physical injuries and emotional
7 distress;
8 2. For general damages in a sum to be determined according to proof;
9 3. For punitive damages against individual defendants under applicable causes of
10 action;
11 4. For Declaratory relief under 42 U.S.C. Section 1983;
12 5. For attorneys' fees under 42 U.S.C. Section 1988 and Cal. Civ. Code § 52.1;
13 6. For costs of suit; and
14 7. For such other and further relief as this court may deem just and proper.

15
16
17 DATED: September 13, 2012



BRYAN W. PEASE
Attorney for Plaintiff

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State bar number, and address): Bryan Pease (239139) 1901 First Ave., Suite 219 San Diego, CA 92101 TELEPHONE NO.: 619-723-0369 FAX NO.: 619-923-1001 ATTORNEY FOR (Name): Ray Lutz		FOR COURT USE ONLY: FILED CIVIL BUSINESS OFFICE-4 CENTRAL DIVISION 2012 SEP 13 PM 2:07 CLERK-SUPERIOR COURT SAN DIEGO COUNTY, CA
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Diego STREET ADDRESS: 330 W. Broadway St. MAILING ADDRESS: CITY AND ZIP CODE: San Diego 92101 BRANCH NAME: Central Division		
CASE NAME: Ray Lutz v. CBRE, Inc.		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less) Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)		
		CASE NUMBER: 37-2012-00103865-CU-CR-CTL JUDGE: DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input checked="" type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

- | | |
|--------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |

3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☒ punitive

4. Number of causes of action (specify): 8

5. This case ☐ is ☒ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: Sept. 13, 2012

Bryan Pease

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Ray Lutz

DEFENDANTS

CBRE Group, Inc. a Delaware corporation, Officer Tony Lessa, City of San Diego

(b) County of Residence of First Listed Plaintiff San Diego
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed San Diego
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Bryan W. Pease
Law Offices of Bryan W. Pease
1901 First Ave., Ste. 219
San Diego, CA 92101
(619) 723-0369

Attorneys (If Known)

John E. Riley, Deputy City Attorney
Office of the City Attorney
1200 Third Avenue, Suite 1100
San Diego, CA 92101
(619) 533-5800

'12CV2625 JM DHB**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|-----------------------------------------|----------------------------|----------------------------|---------------------------------------------------------------|----------------------------|---------------------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities—Employment <input type="checkbox"/> 446 Amer. w/Disabilities—Other <input checked="" type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 USC section 1983

Brief description of cause:

Plaintiff alleges civil rights violations.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$**

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

October 29, 2012

SIGNATURE OF ATTORNEY OF RECORD

/s/ John E. Riley

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b.) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS-44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a) Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553

Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS-44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

RAY LUTZ

Plaintiff,

v.

CITY OF SAN DIEGO, et al,

Defendants.

Case No.: **'12CV2625 JM DHB**

DECLARATION OF SERVICE

I, the undersigned, declare under penalty of perjury that I am over the age of eighteen years and not a party to this action; and that I served the individuals on the service list attached hereto the following documents: CIVIL CASE COVER SHEET AND NOTICE OF REMOVAL OF CIVIL ACTION, in the following manner: (Check one)

1)___ By personally serving the individual named by personally delivering the copies to the offices of the addressee.


Time of delivery: _____ a.m./p.m.

2)_ By electronic filing, I served each of the above referenced documents by E filing, in accordance with the rules governing the electronic filing of documents in the United States District Court for the Southern District of California, as to the following parties:

3) XX By placing a copy in a sealed envelope and placing it for collection and mailing with the United States Postal Service this same day, at my address shown above, following ordinary business practices.

Bryan W. Pease
Law Offices of Bryan W. Pease
1901 First Avenue, Suite 219
San Diego, CA 92101
(619) 723-0369

Executed: October 30, 2012, at San Diego, California.


ANNA LONERGAN