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Exempt from fees per Gov't code 6103
To the benefit of the City of San Diego

6 Attorneys for Plaintiff, City of San Diego
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8 **SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO**
9 **CENTRAL DIVISION**

10 CITY OF SAN DIEGO, a Municipal) Case No.
11 Corporation,)
12 Plaintiff,) **COMPLAINT FOR DAMAGES**
13 v.) *Unlimited jurisdiction case*
14 PAUL HUBKA, and DOES 1 to 10, inclusive,) I/C Judge:
15 Defendant.) Dept.:
16) Complaint filed:
17) Trial: Not Set

18 Comes now plaintiff CITY OF SAN DIEGO [CITY] and files this complaint against
19 defendant PAUL HUBKA [Hubka], and DOE defendants 1 thru 10, inclusive, alleging as
20 follows:

21 **GENERAL ALLEGATIONS**

- 22 1. CITY asserts that jurisdiction and venue are proper before this Court as the events
23 which underlie this complaint occurred within the County of San Diego.
24 2. CITY is a California Charter City duly organized and existing by virtue of the
25 laws of the State of California.
26 3. On information and belief, this is a matter of unlimited jurisdiction insofar as it
27 involves a claim for money damages exceeding \$25,000.

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1 21. As the party responsible for the care, custody and control of Forrest Hubka had a
2 duty to comply with the provisions of Penal Code § 597.7(a). In reckless and/or negligent
3 disregard of said duty, Hubka left Forrest confined and unattended in his police patrol vehicle
4 under conditions that endangered Forrest's health and well-being in that Forrest was left exposed
5 for a minimum of several hours to extreme heat in excess of 100° Fahrenheit.

6 22. In acting, or failing to act, in a manner consistent with the provisions of Penal
7 Code § 597.7(a) Hubka failed to comply with California state law applicable to the proper care
8 of an animal, all in a manner to be proved at trial, and was therefore negligent *per se*.

9 23. Based on the reckless and/or negligent acts or omissions of Hubka and his failure
10 to comply with the California Penal Code CITY thereby sustained damages in an amount to be
11 proved at trial, including, but not limited to, the cost to replace Forrest and the cost of training a
12 replacement for Forrest.

13 WHEREFORE, CITY prays judgment against defendants, including, but not limited to
14 defendant PAUL HUBKA, as follows:

15 AS TO COUNT I:

16 1. For damages in a sum to be proved at trial.

17 AS TO COUNT II:

18 2. For damages in a sum to be proved at trial.

19 AS TO ALL COUNTS:

20 3. For costs of suit herein, and for such other and further relief as the Court may
21 deem proper.

22 Dated: August 8th, 2008

MICHAEL J. AGUIRRE, City Attorney

23
24 By 

25 Donald McGrath II
26 Executive Assistant City Attorney
27 R. Clayton Welch
28 Deputy City Attorney
Attorneys for Plaintiff
CITY OF SAN DIEGO