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17 and Donald Besch

18 **UNITED STATES DISTRICT COURT**  
19 **CENTRAL DISTRICT OF CALIFORNIA**  
20 **WESTERN DIVISION**

21 SUSAN MELLEN, JULIE CARROLL, )	CASE NO.
22 JESSICA CURCIO AND DONALD )	
23 BESCH )	COMPLAINT FOR DAMAGES:
24 Plaintiffs, )	(1) DEPRIVATION OF CIVIL
25 vs. )	RIGHTS, 42 U.S.C., § 1983, <i>BRADY</i>
26 )	VIOLATIONS;
27 CITY OF LOS ANGELES; )	(2) JOINT ACTION/CONSPIRACY
28 MARCELLA WINN; RICHARD )	TO VIOLATE CIVIL RIGHTS, 42
INCLUSIVE, )	U.S.C., § 1983 <i>BRADY</i> VIOLATIONS;
Defendants. )	(3) DEPRIVATION OF CIVIL
)	RIGHTS, 42 U.S.C., § 1983,
)	DELIBERATE INDIFFERENCE TO
)	CONSTITUTIONAL RIGHT IN
)	REFUSAL TO INVESTIGATE
)	EVIDENCE DEMONSTRATING MS.
)	MELLEN'S INNOCENCE;
)	(4) DEPRIVATION OF CIVIL
)	RIGHTS, 42 U.S.C., § 1983, FALSE
)	EVIDENCE VIOLATIONS;
)	

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) (5) JOINT ACTION/CONSPIRACY  
) TO VIOLATE CIVIL RIGHTS, 42  
) U.S.C., § 1983, FALSE EVIDENCE  
) VIOLATION;  
)  
) (6) DEPRIVATION OF CIVIL  
) RIGHTS, 42 U.S.C., § 1983,  
) SUPERVISORIAL LIABILITY;  
)  
) (7) DEPRIVATION OF CIVIL  
) RIGHTS, 42 U.S.C., § 1983,  
) VIOLATION OF FOURTEENTH  
) AMENDMENT RIGHTS;  
)  
) (8) DEPRIVATION OF CIVIL  
) RIGHTS, 42 U.S.C., § 1983, MONELL  
) VIOLATIONS.

1 Plaintiffs Susan Mellen, Julie Carroll, Jessica Curcio and Donald Besch  
2 allege as follows:

3 **INTRODUCTION**

4 1. This case arises from the wrongful imprisonment and victimization of  
5 Susan Mellen and her children by Los Angeles Police Department (“LAPD”)  
6 detective Marcella Winn and other LAPD officers. Mellen and her three children  
7 bring this civil action for damages to hold Winn accountable for her violations of  
8 their constitutional rights and to obtain compensation for 17 years of their lives  
9 lost because of Defendants’ actions and omissions. Others may be responsible for  
10 Susan Mellen’s wrongful conviction and imprisonment and if discovery reveals  
11 such other persons, Plaintiffs will amend their complaint to add them as  
12 defendants.  
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14 2. In 1998 Susan Mellen was wrongfully convicted of the July 21, 1997,  
15 murder of Richard Daly based on the false testimony of a single witness, June  
16 Patti, a witness Winn knew was unreliable. As ultimately acknowledged by the  
17 court in 2014, Susan Mellen is factually innocent of this crime. Mellen spent 17  
18 years incarcerated for a crime she did not commit and had absolutely nothing to do  
19 with.

20 3. The architect of this injustice is LAPD detective Winn. Winn  
21 intentionally turned her back on investigating one of the men actually involved in  
22 the murder, a gang member with the moniker Payaso, in order to convict Mellen  
23 based solely on the word of a manipulative drug addict, June Patti, a witness Winn  
24 knew lacked all credibility. Defendant Winn knew that no jury would have  
25 believed Ms. Patti’s testimony if the jury knew about even some of the evidence  
26 demonstrating Patti’s lack of credibility and for that reason suppressed impeaching  
27 evidence of Patti so that her testimony would be believed by an unsuspecting jury.  
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1           4 Indeed, even Patti's own sister, a Torrance police officer, knew June Patti  
2 was a pathological liar and informed Winn of this long before the Mellen trial, and  
3 perhaps even before Mellen was arrested. All of the information Winn and other  
4 LAPD detectives possessed showing Patti to be unworthy of belief was suppressed  
5 and not provided to Mellen's lawyers in violation of Winn's fundamental  
6 constitutional obligations. Instead of revealing this information, Winn convinced  
7 prosecutors to build their entire case against Ms. Mellen on June Patti's false  
8 testimony that Susan Mellen had confessed to Patti to playing a role in the murder.  
9 She did this even though there was no physical or other evidence connecting Ms.  
10 Mellen to this crime whatsoever.

11           5. Winn was also wilfully blind to all the evidence, readily available to her  
12 as a law enforcement officer, demonstrating that Patti was a pathological liar and a  
13 person who repeatedly made false allegations to law enforcement authorities.  
14 Had Winn conducted any minimally competent, honest investigation into Patti's  
15 background she would have discovered, if she did not in fact know already, that  
16 no reasonable detective would rely on Patti's testimony in any criminal case, much  
17 less a capital case.

18           6. On August 25, 1997, Defendant Winn arrested Susan Mellen for the  
19 Daly murder based entirely on Patti's false statements. Despite Ms. Mellen's  
20 unequivocal and prompt response to Winn's request for a meeting, Winn planned a  
21 public "take down" of Ms. Mellen at a McDonald's restaurant in front of Mellen's  
22 then 9-year-old daughter Jessica Curcio in order to inflict the maximum  
23 humiliation and emotional distress she could on Ms. Mellen and her children.  
24 Detective Winn orchestrated Ms. Mellen's 1998 wrongful conviction for the Daly  
25 murder by using the testimony of June Patti, a well-known pathological liar she  
26 knew could not be trusted to give truthful testimony. In doing so, Defendant Winn  
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1 and as yet unknown LAPD officers acted with deliberate indifference to Plaintiffs'  
2 constitutional rights. Ms. Mellen was sent to prison for life without the  
3 possibility of parole based on the now discredited testimony of this one false  
4 witness, who by 1997 already had a long history of providing false testimony to  
5 law enforcement officers in Southern California and the State of Washington.  
6 There was never any other evidence connecting her to this crime. For all of this  
7 Defendant Winn should be punished with an award of punitive damages  
8 commensurate with the outrageous and ongoing violation of Susan's Mellen's life  
9 for 17 years.

10  
11 7. During her seventeen years' incarceration, Ms. Mellen adamantly  
12 maintained her innocence and did all she could to challenge her wrongful  
13 conviction. During this time, Winn, and others in the LAPD, continued to suppress  
14 evidence that would have enabled Ms. Mellen to win her freedom and failed to  
15 provide any such evidence to Ms. Mellen or her lawyers or representatives.  
16 Finally, in November 2013 Innocence Matters, a non-profit organization  
17 committed to protecting the innocent, investigated Ms. Mellen's case and  
18 discovered the perjured testimony and suppression of material evidence that led to  
19 this miscarriage of justice.

## 20 21 **JURISDICTION AND VENUE**

22 8. This action is brought by Plaintiffs pursuant to 42 U.S.C. § 1983 for  
23 violations of their constitutional rights arising out of Susan Mellen's wrongful  
24 conviction and incarceration for more than 17 years.

25 9. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331  
26 and 1343(4) as this cases arises under the Constitution and laws of the United  
27 States.  
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1 Winn is the detective primarily responsible for orchestrating the wrongful  
2 conviction of Susan Mellen by knowingly using the perjured testimony of June  
3 Patti to convict Mellen and by suppressing essential information impeaching  
4 Patti's credibility and failing to investigate obvious and available information that  
5 would have further undermined Patti's credibility beyond question. She actively  
6 suppressed evidence of the involvement of a third party, Payaso, in the Daly  
7 murder so that Payaso could be used as a witness in another case. Defendant  
8 Winn is sued in her individual capacity.

9  
10 15. At all times relevant herein, Defendant Richard Hoffman was  
11 employed by and working on behalf of the LAPD. Defendant Hoffman was  
12 Defendant's Winn's supervisor at the LAPD and in that capacity he actively  
13 participated in the investigation resulting in the prosecution and wrongful  
14 conviction of Ms. Mellen. On information and belief, Defendant Hoffman was  
15 actively involved in the suppression of *Brady* material and in the use of false  
16 evidence to convict Susan Mellen. Defendant Hoffman is sued in his individual  
17 capacity.

18 16. Defendant City of Los Angeles is a public entity, organized and  
19 existing under the laws of the State of California. The Los Angeles Police  
20 Department is an agency of the City of Los Angeles. The City of Los Angeles is  
21 sued because its policies or customs were responsible in whole or in part for the  
22 constitutional violations suffered by plaintiffs as alleged herein.

23 17. Plaintiffs are informed and believe and thereon alleges that  
24 Defendants sued herein Does 1 through 10, inclusive, were employees of the Los  
25 Angeles Police Department, and were at all times relevant times acting in the  
26 course and scope of their employment and agency. Each of the Defendants was  
27 involved in a conspiracy to wrongfully convict Susan Mellen for the Daly murder.  
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1 Each Defendant is the agent of the other. Plaintiffs allege that each of the  
2 Defendants names as a “Doe” was in some manner responsible for the acts and  
3 omission alleged herein, and Plaintiffs will seek leave of this Court to amend the  
4 Complaint to allege such names and responsibilities when that information is  
5 ascertained. In particular, Plaintiff lacks information on the role of County  
6 employees or officers who may have conspired with Defendant Winn to secure  
7 Mellen’s wrongful conviction.

8  
9 18. Plaintiff is informed and believes, and thereon alleges, that, at all  
10 times herein mentioned, each of the Defendants was the agent and/or employee  
11 and/or co-conspirator of each of the remaining Defendants, and in doing the things  
12 hereinafter alleged, was acting within the scope of such agency, employment  
13 and/or conspiracy, and with the permission and consent of the other co-defendants.

14 19. Each paragraph of this Complaint is expressly incorporated into each  
15 cause of action which is a part of this Complaint.

16 20. The acts and omission of all Defendants were engaged in maliciously,  
17 callously, oppressively, wantonly, recklessly, and with deliberate indifference to  
18 the rights of Plaintiffs.

## 19 **FACTUAL ALLEGATIONS**

### 20 **A. BACKGROUND**

21 21. This claim arises from the investigation, prosecution, conviction, and  
22 incarceration of Susan Mellen, for a crime that she did not commit. She was only  
23 forty-two years old when she was arrested. She was the mother of three children,  
24 aged 22, 9 and 7, when she was arrested. Ms. Mellen was in custody for over  
25 seventeen years, from her arrest on August 25, 1997, to her release on October 10,  
26 2014. Ms. Mellen served all of these seventeen years in custody in maximum  
27 security prisons and was therefore subject to the severe limitations and indignities  
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1 inherent in such settings. Further, because of her sentence of life without the  
2 possibility of parole, Ms. Mellen was subject to even more restrictions and fewer  
3 opportunities while in prison. Ms. Mellen experienced the fear and anxiety of  
4 being imprisoned with the State's most serious and violent offenders. Her  
5 conditions of confinement made it impossible to continue normal communications  
6 with her children and other family members. With the exception of one prison  
7 visit in 2004 and another in 2005, she had no physical contact with any of her  
8 children during the first fourteen years of imprisonment.

9  
10 22. Most fundamentally, Mellen lost crucial years away from her normal  
11 life and family, in particular, raising her children. She was prevented from  
12 sharing the daily pleasures of everyday life with them and they were denied those  
13 pleasures as well. She attended no children's sporting events or school activities.  
14 She could not go to church with her children or assist in their education and  
15 religious life. She could not attend weddings or any other special occasions. She  
16 cried herself to sleep each night begging God to reunite her with her children.

17 23. In addition, Ms. Mellen had the most productive years of her life  
18 wrongfully taken from her and now finds herself searching for a way to support  
19 herself at a time when most members of the community are contemplating  
20 retirement. Because of Defendants' actions and omissions Ms. Mellen has no  
21 ability to retire and no recent history of work experience to enable her to perform  
22 in a greatly altered work environment. Indeed, she has had to get used to a world  
23 in which knowledge of computers and cell phones, inventions not ubiquitous in  
24 1997, is essential.

25 24. Ms. Mellen's resilience and knowledge that she was innocent and her  
26 faith in God allowed her to survive while in prison, but the best years of her life  
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1 were taken from her based on the unconstitutional acts of officers of the Los  
2 Angeles Police Department.

3 **B. THE CRIME**

4 25. On July 21, 1997, Richard Daly was brutally murdered, without  
5 provocation or the chance to defend himself, in Lawndale by three gang members:  
6 Ghost, Wicked and Payaso. Daly's head was split open with a hammer in an  
7 attack reportedly initiated by Ghost. Wicked and Payaso assisted Ghost in  
8 committing the murder. After killing Daly, the murderers packed Daly's body in  
9 the trunk of another gang members' car and brought his body to San Pedro where  
10 they burned the body to avoid detection. Defendant Winn was assigned to this  
11 case from the beginning as the lead detective.

12 **C. INVESTIGATION**

13 26. In early August 1997 Winn received information from credible  
14 informants that the above-mentioned Lawndale 13 gang members, Ghost (Chad  
15 Landrum), Wicked (Lester Monllor) and Payaso (Santo Alvarez) were responsible  
16 for the Daly murder. She was also told that the murder had taken place at a  
17 Lawndale house on the corner of Firmona and 165<sup>th</sup> Street owned by the Susan  
18 Mellen's mother. There were two houses at this location, one facing 165<sup>th</sup> was  
19 referred to as the front house and one facing Firmona known as the back house.  
20 The two properties were sometimes collectively referred to as the "Mellen Patch."  
21 The murder took place in the back house, which in July 1997 was unoccupied.  
22 Susan Mellen and her two young children and mother lived in the back house until  
23 February 1997. They were not living at the Mellen Patch at the time of the Daly  
24 murder. The front house was occupied by Susan Mellen's brother Robert, his wife  
25 Wende, and their adult children. Wicked, his mother and sister were also living in  
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1 the front house at this time. Payaso was also known to sleep in the back house  
2 when he had no other place to go.

3 27. On August 12, 1997, Winn obtained a search warrant to search the two  
4 houses. The search warrants were based explicitly on Winn's opinion, based on  
5 credible, independently corroborated evidence that Ghost, Wicked and Payaso  
6 were responsible for Daly's murder at that location on July 21, 1997. The  
7 searches occurred early on the morning of August 13, 1997, and turned up nothing  
8 whatsoever to tie Susan Mellen to the murders. Winn conducted extensive  
9 interviews of all the occupants at the houses though no record or transcripts of  
10 these interviews were ever made.

11 28. On the afternoon of August 13, 1997, hours before the time Patti  
12 would later claim to have spoken with Susan Mellen, Patti called the police station  
13 and asked to speak to Defendant Winn. Patti had visited the Mellen Patch on  
14 several occasions between the time of the murder and August 13 and had met  
15 Wicked's mother at the Torrance courthouse on August 14, 1997, where Wicked  
16 was being arraigned for the Daly murder. It is unknown what they spoke about, or  
17 what Patti received to testify falsely against Mellen, but Patti's alleged information  
18 about the murder was designed to exonerate Wicked and implicate Mellen.

19 29. Allegedly, there was a three way telephone conversation between  
20 Patti, Winn and Winn's supervisor Defendant Hoffman on the afternoon of August  
21 14, 1997, after Patti allegedly had met with Susan Mellen and heard her  
22 confession to the murder. Defendant Winn took no notes of this critical encounter  
23 apart from a cryptic note stating: "Rec'd call from June Patti. States she works at  
24 the Torrance Courthouse as a Paralegal. States that Susie Mellen told her about the  
25 murder." June Patti did not work at the courthouse as a paralegal and was, in fact,  
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1 in Los Angeles only for a visit from the State of Washington where she was living.  
2 These facts were readily available to Defendant Winn.

3 30. The next morning Defendant Winn met with Patti and recorded a  
4 short interview in which Patti first made her claim that Mellen sought her out to  
5 confess to the murder. Patti supplied Winn with alleged details about the murder,  
6 which were materially different from her later trial testimony and were  
7 contradicted by other evidence in the case, but which allegedly convinced Winn  
8 that Patti was telling the truth. No reasonable police detective would have reached  
9 that conclusion based on the information Defendant Winn possessed.

10 31. Once she heard these details Defendant Winn decided to disregard  
11 any evidence which undermined the credibility of her star (and only) witness  
12 against Mellen and to avoid conducting any investigation that might lead to  
13 evidence casting any doubt on Patti's credibility. In particular, Winn had a  
14 conversation with June Patti's sister, Torrance police officer Laura Patti ("Officer  
15 Patti"). Officer Patti informed Winn that her sister June Patti was a pathological  
16 liar whose testimony could not be trusted for any purpose.

17 32. Though all of the contents of this conversation are not known because  
18 Winn intentionally failed to record them in her investigation, it is virtually certain  
19 that Officer Patti informed Winn that June Patti had been found incredible by the  
20 Torrance Police Department several years previously when she made false  
21 accusations against several people. Officer Patti no doubt informed Winn that  
22 June Patti had made recent false allegations and threats against Officer Patti which  
23 had led to June Patti pleading guilty to criminal charges on August 13, 1997, in  
24 Torrance and to be bound by a restraining order prohibiting her from having any  
25 contact with Officer Patti. She certainly told Defendant Winn that June Patti had  
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1 made false accusations against Officer Patti and against many other people and  
2 could not be trusted.

3 33. Indeed, there was a wealth of impeaching evidence available with  
4 minimal effort to Defendant Winn and her LAPD colleagues that would have led  
5 any reasonable officer to reject June Patti's testimony in its entirety but Winn  
6 intentionally and with reckless disregard for Mellen's constitutional rights  
7 conducted her investigation for the purpose of convicting Susan Mellen regardless  
8 of any doubts about June Patti's non-existent credibility.

9 34. In addition to conducting her investigation with the sole purpose of  
10 convicting Susan Mellen by hiding and/or acting with wilful blindness toward any  
11 impeaching evidence that might undermine June Patti, Defendant Winn also failed  
12 to investigate Payaso's involvement in the murder even though she had credible  
13 informants tell her from the beginning that the murder was committed by Ghost,  
14 Wicked and Payaso and **not** Susan Mellen. So sure of these suspects before she  
15 spoke with June Patti, Defendant Winn sought and received a search warrant  
16 based on sworn statements that she believed that these three gang members, not  
17 Mellen, were responsible for the Daly murder.

18 35. Defendant Winn and others presently unknown in the LAPD conspired  
19 with Los Angeles Sheriff's Department investigators and prosecutors to hide  
20 Payaso's involvement in the Daly murder because they were relying on Payaso to  
21 testify for the government in another case against John Klene. Thus, Winn  
22 intentionally failed to interview Payaso about the Daly murder even though she  
23 had ready access to him. Defendant Winn took these actions to convict an  
24 innocent woman while shielding a gang member actually responsible for the Daly  
25 murder from justice.  
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1 **D. SUPERIOR COURT PROCEEDINGS**

2 36. In presenting the case to the District Attorney, for filing, and at all  
3 other times, Defendant Winn did not provide any information about the  
4 unreliability of June Patti as a witness to the prosecution or the defense. Instead,  
5 Winn insisted on Patti's credibility and on her certainty that Susan Mellen had  
6 committed this crime with Ghost and Wicked.

7 37. Ms. Mellen's trial proceeded in May 1998 for the Daly murder. June  
8 Patti was the sole witness against Susan Mellen. Moreover, Patti's version of  
9 Mellen's fabricated confession was even more elaborate and explosive than her  
10 initial statements to Defendant Winn in August 1997. She now testified that Daly  
11 had been burned alive and that Ms. Mellen kicked Daly repeatedly for admitting to  
12 having had oral sex with Mellen, a claim not previously made by Patti. Her new  
13 testimony was expanded up to convey the maximum impact for the prosecution  
14 untethered to any actual facts. In fact, it was entirely false testimony, as  
15 Defendants knew or should have known.

16 38. Defendant Winn participated in the criminal proceedings leading up  
17 to and including the trial. Defendant Winn knew that Patti was testifying falsely  
18 given the stark contrast between her original statements and her trial testimony and  
19 the discrepancies between her testimony and other evidence in the case.

20 For example, Winn knew the following testimony was false:

- 21
- 22 a. That tape was used to gag Daly. [No tape was used to gag Daly.]
  - 23 b. That Daly's mouth was glued shut with Super Glue. [There is no  
24 evidence of this and it is contradicted by the physical evidence.]
  - 25 c. That Daly was set on fire when he was still alive. [The Coroner  
26 found that all burns on Daly were post-mortem.]
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1 d. That Mellen confessed that Daly was the father of her youngest  
2 son then seven. [Mellen met Daly only two years previously and there has never  
3 been any controversy relating to the fact that Douglas Besch was Donald's father.]

4 e. That Mellen contacted June Patti because she wanted to get access  
5 to Officer Patti's expertise. [Officer Patti was estranged from June Patti and had  
6 just brought criminal charges against her.]

7 f. That Patti was forced to leave Los Angeles because of threats  
8 against her. [June Patti was living in the State of Washington as of 1996 and  
9 returned to Los Angeles for a visit in the summer of 1997.]

10 g. That she and Mellen were friends. [Mellen had not seen June Patti  
11 for years and the last time she did Patti had stabbed Douglas Besch, the father of  
12 her two youngest children.]

13  
14 39. No reasonably competent detective would have allowed Ms. Mellen to  
15 be convicted on the testimony of a witness like June Patti, particularly after  
16 receiving credible information that a different person was actually involved in the  
17 murder. Defendant Winn knew that June Patti was giving false testimony at trial,  
18 yet she said and did nothing to prevent Susan Mellen's wrongful conviction.  
19 Instead, at every step Defendant Winn ignored her constitutional responsibilities  
20 and trampled on Susan Mellen's right to a fair trial. Susan Mellen languished in  
21 prison and her children lived without their mother for 17 years because of  
22 Defendant Winn's actions and omissions.

23 **E. THE HABEAS PROCEEDINGS**

24 40. On October 10, 2014, Judge Mark Arnold of the Los Angeles County  
25 Superior Court reversed Ms. Mellen's conviction, based on Ms. Mellen's petition  
26 and the District Attorney's concession that June Patti's testimony was false. A  
27 copy of the transcript of the October 10, 2014, hearing is attached as "Exhibit 1."  
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1 All charges against Ms. Mellen were dropped and the District Attorney’s office  
2 stated its intention not to file any new charges.

3 41. In overturning the conviction, the court found that Ms. Mellen’s  
4 conviction was based, *inter alia*, on materially false evidence and suppression of  
5 material evidence favorable of innocence, and that the combination of all errors  
6 clearly established a reasonable probability of a different outcome. On November  
7 21, 2014, Judge Arnold granted Plaintiff Mellen’s unopposed motion for a finding  
8 of factual innocence. The court’s Order is attached as “Exhibit 2.”

9 42. The court also found that the additional misconduct from Defendants  
10 further prejudiced Ms. Mellen and resulted in her wrongful conviction. Based on  
11 accumulated errors at trial, the Court concluded that Ms. Mellen was denied due  
12 process and a fair trial, and that she was innocent. Exhibit “1,” at 3.

13  
14 **E. MONELL ALLEGATIONS**

15 43. The actions and inactions of the LAPD, set forth above, were known,  
16 or should have been known, to LAPD policy makers and occurred with deliberate  
17 indifference to either the recurring constitutional violations elaborated above, and  
18 or to the strong likelihood that constitutional rights would be violated as a result of  
19 failing to train, supervise or discipline LAPD officers in areas, including the  
20 suppression of Brady material and the avoidance of using false testimony to  
21 convict criminal defendants, where the need for such training was obvious.

22 44. The LAPD’s actions and omission as set forth above were a  
23 motivating force behind the violations of Plaintiffs’ constitutional rights as set  
24 forth in this complaint.

25 45. In 1989-1990, the Los Angeles County Grand Jury reviewed evidence  
26 that the Los Angeles County District Attorney’s Office and law enforcement  
27 throughout Southern California, including the LAPD, were in the practice of using  
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1 informants to obtain false and fabricated confessions of criminal defendants. The  
2 pervasive use of these informants put in doubt many of the convictions obtained  
3 by the Los Angeles County District Attorney's Office. The period of inquiry by  
4 the Grand Jury spans from approximately 1979 to 1990, although there are  
5 references to convictions as early as 1976. These practices continued through the  
6 time period material to this case. The use of false informants, presented without  
7 adequate vetting or investigation, by the LAPD was a long-standing widely known  
8 custom and practice that was a cause of the constitutional rights alleged in this  
9 case.

10  
11 46. Defendant City of Los Angeles and the LAPD had a duty to create a  
12 system in which information pertaining to informants, including information  
13 bearing on the credibility of such informants, would be disseminated to deputy  
14 district attorneys prosecuting cases in which the informant was to testify. The City  
15 of Los Angeles' failure to do so resulted in the Mellen case prosecutors, and in  
16 turn the Mellen defense, having no access to essential impeachment information  
17 undermining June Patti's credibility prior to Ms. Mellen's conviction or for years  
18 after the conviction as Ms. Mellen attempted to have her wrongful conviction  
19 overturned.

20 47. Plaintiff is informed and believes that based on the City's failure to  
21 create a system in which information pertaining to informants would be shared  
22 among personnel, would be able to be accessed by personnel, and would be shared  
23 with Deputy District Attorneys prosecuting the case in which the informant was to  
24 testify, and the failure to train police personnel to disseminate information  
25 pertaining to informants, the City of Los Angeles had a pattern and practice of  
26 permitting informants to testify falsely at trial without producing critical  
27 exculpatory and impeachment evidence.  
28

1           48. Plaintiff is informed and believes that based on the City's failure to  
2 create a system in which information pertaining to informants would be provided  
3 to Deputy District Attorneys prosecuting the case in which the informant was to  
4 testify, and their failure to train and supervise police personnel to disseminate  
5 information, including impeachment evidence, pertaining to informants to Deputy  
6 District Attorneys prosecuting the case in which the informant was to testify, the  
7 City of Los Angeles has a pattern and practice of using unreliable testimony of  
8 informants to secure criminal convictions, knowing that such testimony was false,  
9 or made in reckless disregard to the falsity of the informant's testimony. In  
10 addition, the LAPD has no system for informing prosecutors or the defense when  
11 it subsequently discovers information about the falsity of the evidence used to  
12 convict a criminal defendant, thus allowing innocent persons to languish in prison  
13 for years or decades.

14  
15 **F. PARTICIPATION, STATE OF MIND AND DAMAGES**

16           49. All Defendants acted under the color of law.

17           50. Each Defendant participated in the violations alleged herein, or  
18 directed the violations alleged herein, or knew of the violations alleged herein and  
19 failed to act to prevent them. East Defendant ratified, approved and acquiesced in  
20 the violations alleged herein.

21           51. As joint actors with joint obligations, each defendant was and is  
22 responsible for the failures and omission of the other.

23           52. Each Defendant acted individually and in concert with the other  
24 Defendants and others not named in violating Plaintiffs' rights.

25           53. Each Defendant acted with a deliberate indifference to or reckless  
26 disregard for an accused's rights for the truth in withholding evidence from  
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1 prosecutors, for an investigation free of active concealment of material facts,  
2 and/or for the Plaintiffs' right to due process of law.

3 54. As a direct and proximate result of the these acts, omissions, customs,  
4 practices, policies and decisions of the Defendants, Plaintiffs have suffered great  
5 mental and physical pain, suffering, anguish, fright, nervousness, anxiety, shock,  
6 humiliation, indignity, embarrassment, harm to reputation, and apprehension,  
7 which have caused Plaintiffs to sustain damages in a sum to be determined at trial.

8 55. Due to the acts of the Defendants, Plaintiffs have suffered, continue  
9 to suffer, and are likely to suffer extreme and severe mental anguish, as well as  
10 mental and physical pain and injury, in the future. For such injuries, Plaintiffs will  
11 incur significant damages bases on psychological and medical care.

12 56. As a further result of the conduct of each of these Defendants,  
13 Plaintiffs have lost past and future earnings in an amount to be determined  
14 according to proof at trial.

15 57. As a further result of the conduct of each of these Defendants,  
16 Plaintiffs have been deprived of familial relationships, including not being able to  
17 raise her family and her children have been deprived of their mother.

18 58. Defendants' acts and omissions, and each of them, was willful,  
19 wanton, malicious, oppressive, in bad faith and done with reckless disregard or  
20 with deliberate indifference to the constitutional rights of the Plaintiff entitling  
21 Plaintiff to exemplary and punitive damages from each defendant other than  
22 Defendant City of Los Angeles in an amount to be proven at trial of this matter.

23 59. By reason of the above described acts and omission of Defendants,  
24 Plaintiff was required to retain an attorney to institute and prosecute the within  
25 action, and to render legal assistance to Plaintiffs that she might vindicate the loss  
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1 and impairment of her rights, and by reason thereof, Plaintiffs request payment by  
2 Defendants of a reasonable sum for attorney's fees pursuant to 42 U.S.C. § 1988.

3 **FIRST CLAIM FOR RELIEF**  
4 **DEPRIVATION OF CIVIL RIGHTS –**  
5 **42 U.S.C. § 1983 – *BRADY* VIOLATIONS**  
6 **(Plaintff Mellen against Defendants Winn, Hoffman and Does 1-10)**

7 60. Plaintiff realleges paragraphs 1-59, as well as any subsequent  
8 paragraphs in the Complaint, as if fully set forth herein.

9 61. Defendants Winn and Hoffman and Does 1-10, while acting under  
10 color of law, deprived Plaintiff of her civil rights, by violating her right to have  
11 material exculpatory evidence and information as require by *Brady v. Maryland*,  
12 373 U.S. 83 (1963) ("*Brady* information") turned over to the prosecutors handling  
13 the prosecution of Ms. Mellen so that it could in turn be provided to the Mellen  
14 defense.

15 62. The actions of each defendant in withholding evidence from  
16 prosecutors were done with deliberate indifference to or reckless disregard for  
17 Plaintiff's rights or for the truth.

18 63. The *Brady* violations asserted herein encompass, but are not limited  
19 to:

20 a. The fact that June Patti's sister informed Defendant Winn that June  
21 Patti was a pathological liar and was a completely unreliable witness.

22 b. The fact that June Patti lied when she said she was working as a  
23 paralegal at the Torrance Courthouse.

24 c. The fact that June Patti had been determined to be an unreliable  
25 witness by the Torrance Police Department in a series of prior incidents.  
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1           d. The fact that June Patti had a reputation for making false  
2 accusations and statements to law enforcement authorities in California and the  
3 State of Washington.

4           e. The fact that June Patti was estranged from her law enforcement  
5 sister and had been prosecuted for making threats against her.

6           f. The fact that June Patti had repeatedly changed her story from the  
7 first time she met Defendant Winn to her testimony at trial.

8           64. The constitutional source of the obligation to provide *Brady*  
9 information is primarily the due process clause of the Fifth and Fourteenth  
10 Amendments, and Plaintiff's due process rights were violated by the conduct  
11 alleged herein. Plaintiff brings this claim as both a procedural and a substantive  
12 due process violation. To the extent that any court were to conclude that the  
13 source of Plaintiff's right to *Brady* information is a constitutional source other  
14 than due process (such as the Fourth Amendment or Sixth Amendment right to a  
15 fair trial), this claim is brought on those bases as well.

16           65. Defendants Winn and Hoffman and the other Doe defendants were  
17 each jointly and severally responsible to provide *Brady* information to the  
18 prosecutors handling the Mellen case so that it could in turn be provided to the  
19 Mellen defense. Each engaged in, knew or should have known of the  
20 unconstitutional conduct alleged herein and failed to prevent it, which each had a  
21 responsibility to do, and each ratified, approved, or acquiesced in it.

22           66. As a result of the defendants', and each of their, violations of Ms.  
23 Mellen's constitutional rights to have *Brady* information turned over to the  
24 prosecutors handling his case, Ms. Mellen was damaged as alleged above.  
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**SECOND CLAIM FOR RELIEF**  
**JOINT ACTION/CONSPIRACY TO VIOLATE CIVIL RIGHTS –**  
**42. U.S.C. § 1983 – *BRADY* VIOLATIONS**  
**(Plaintiff Mellen against Defendants Winn, Hoffman, and Does 1-10)**

67. Plaintiff realleges paragraphs 1-66, as well as any subsequent paragraphs contained in the Complaint, as if fully set forth herein.

68. Defendants Winn, Hoffman and Does 1-10 were jointly and severally responsible as investigators assigned to the Mellen case to share material information with each other, and to ensure that *Brady* information was turned over to the prosecutors handling the Mellen case.

69. Defendants Winn, Hoffman, and Does 1-10, acting under color of state law, acted in concert, conspired and agreed to deprive Plaintiff of rights, privileges, or immunities secured by the Constitution and laws of the United States, in particular the right to have *Brady* information of which they were aware provided to the prosecutors prosecuting the Mellen case, as elaborated above. Each failure to provide *Brady* information, as well as other actions related to them, constitutes an overt act in furtherance of said conspiracy.

70. Alternatively, as joint actors with joint obligations, each of them was and is responsible for the failures and omissions of each other.

71. As a result of defendants', and each of their, violations of Ms. Mellen's constitutional right to have *Brady* information turned over to the prosecutors handling this case, Ms. Mellen was damaged as alleged above.



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**FOURTH CLAIM FOR RELIEF**  
**DEPRIVATION OF CIVIL RIGHTS –**  
**42 U.S.C. § 1983 – FALSE EVIDENCE VIOLATIONS**  
**(Plaintiff Mellen against Defendants Winn, Hoffman and Does 1-10)**

77. Plaintiff realleges paragraphs 1-76, as well as any subsequent paragraphs contained in the Complaint, as if furry set forth herein.

78. Defendants Winn, Hoffman and Does 1-10, while acting under color of law, deprived Plaintiff of her civil rights, more particularly, her right to due process of law, by providing false evidence in reports and statements outside of live testimony, improperly influencing witnesses and fabricating and concealing evidence, that resulted in depriving Ms. Mellen of liberty because they set in motion a reasonable foreseeable chain of events that led to the presentation of false evidence at Plaintiff’s 1997 criminal trial, her conviction and incarceration.

79. Each defendant knew or should have known the evidence was false, and the defendant’s conduct was done with deliberate indifference to and/or reckless disregard of Plaintiff’s rights or for the truth.

80. In particular, Defendants knew that another person, Payaso, was the most likely other participant in the Daly murder and they suppressed this information and directed their investigation away from Payaso’s complicity and at the same time suppressed essential information undermining the credibility of June Patti. Defendants knew that by orchestrating their investigation in this way they were convicting an innocent person, Susan Mellen, for a murder she had nothing to do with.





1           92. During the entirety of the investigation of this case, Defendant  
2 Hoffman, was Defendant Winn’s supervisor, partner and trainer. Upon  
3 information and belief, Defendant Hoffman and Doe supervisors within the Los  
4 Angeles Police Department who were responsible for monitoring Defendant  
5 Winn’s performance and conduct as a Detective in this investigation, were on  
6 notice of her lack of experience and training as a homicide Detective and failed to  
7 take adequate steps to correct it through training or supervision.

8           93. Upon information and belief, Defendant Winn received minimal  
9 discipline, training, and supervision, which level was grossly insufficient to  
10 address the inept, inadequate and deceitful investigation conducted in the Mellen  
11 case.

12           94. The inept inadequate and deceitful investigation was a highly  
13 predictable or plainly obvious consequence of the inadequate training and lack of  
14 meaningful control or supervision of Defendant Winn.

15           95. Defendant Hoffman and Doe supervisors 6-10, acting within the  
16 course and scope of their employment, had a duty to assure the competence of  
17 their employee/agents, including Defendant Winn and Does 6-10, but breached  
18 their duty and were deliberately indifferent to the constitutional rights of persons  
19 in Plaintiffs’ position in the performance of their duties by selecting, training,  
20 reviewing, supervising, failing to supervise, failing to control, evaluating the  
21 competency and retaining Defendant Winn and other employee/agents. This  
22 breach of duty of careful selection, training, review, supervision, periodic  
23 evaluation of the competency, and retention of such law enforcement officers  
24 and/or employees and/or agents created an unreasonable risk of harm to persons  
25 such as Plaintiff.  
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1 evidence demonstrating that the prosecution's only witness against Mellen, June  
2 Patti, was unworthy of belief on any issue.

3       101. In committing these actions and omissions Defendants acted, at a  
4 minimum, with deliberate indifference to the constitutional rights of these  
5 Plaintiffs to continue to have a family relationship with their mother. Indeed,  
6 Defendant Winn and others in the LAPD knew that Susan Mellen was the mother  
7 of three children and acted with the purpose to harm Susan Mellen and her  
8 children in undertaking to frame Susan Mellen for a murder she had nothing to do  
9 with while protecting Payaso, a gang member Defendant Winn and others knew to  
10 be involved in the Daly murder but chose to shield from justice for their own  
11 purposes.  
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13       102. As a direct and legal result of the above-described actions taken by  
14 Defendant Winn and other defendants Plaintiffs Julie Carroll, Jessica Curcio and  
15 Donald Besch were damaged by losing their parent-child relationship with their  
16 mother for more than 17 years.

17                                   **EIGHTH CAUSE OF ACTION**

18                                   **DEPRIVATION OF CIVIL RIGHTS –**

19                                   **42 U.S.C. § 1983 – MONELL VIOLATIONS**

20                                   **(All Plaintiffs against Defendant City of Los Angeles)**

21       103. Plaintiff realleges paragraphs 1-102, as well as any subsequent  
22 paragraphs contained in the Complaint, as if fully set forth herein.

23       104. Plaintiff is informed and believes and thereon alleges that, at all times  
24 herein mentioned, Defendant City of Los Angeles, and Does 1-10, with deliberate  
25 indifference, and conscious and reckless disregard to the safety, security and  
26 constitutional and statutory rights of Plaintiff, engage in the unconstitutional  
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1 conduct and omission as set forth in this complaint, which consist of the following  
2 customs and/or policies:

3 A. The knowing presentation of false evidence by officers;

4 B. The deliberately indifferent presentation of false evidence by officers;

5 C. The presentation of false evidence by deputies in reckless disregard  
6 for the truth or the rights of the accused;

7 D. Officers' failure to provide exculpatory evidence to prosecutors trying  
8 the case involving the criminal defendant;

9 E. Failing to adequately train, supervise and control its officers to  
10 disclose to the deputy district attorney prosecuting a defendant all exculpatory and  
11 impeachment information, including *Giglio v. United States*, 405 U.S. 150 (1972)  
12 and *Brady* information, which would include deals informants received for  
13 testifying in a case; alternative theories which would support the defense; the  
14 disclosure of witnesses who could not identify the defendants; and impeachment  
15 information concerning the witnesses;

16 F. Failing to adequately discipline officers involved in dishonesty or  
17 otherwise abusing their authority;

18 G. Condoning and encouraging officers in the belief that they can violate  
19 the rights of person such as Ms. Mellen with impunity, and that such conduct will  
20 not adversely affect their opportunities for promotion and employment benefits;  
21 and;

22 H. Condoning and encouraging the fabrication of evidence including but  
23 not limited to the filing of materially false police reports, concealing material  
24 evidence and improperly influencing witnesses, the use of techniques to influence  
25 eyewitness identifications, and/or making false statements to the prosecutor to  
26 obtain the filing of false charges and obtaining false convictions.  
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1           105. The actions and inactions of the Los Angeles Police Department set  
2 forth in this complaint, were known or should have been known to the policy  
3 makers responsible for the LAPD and occurred with deliberate indifference to  
4 either the recurring constitutional violations elaborated above, and or the  
5 substantial likelihood that constitutional rights would be violated as a result of  
6 failing to train, supervise or discipline in areas where the need for such training  
7 and supervision was obvious.

8           106. Defendant City of Los Angeles' actions as set forth above were a  
9 motivating force behind the violations of Plaintiffs' rights as set forth in this  
10 Complaint.

11           107. As a direct and proximate result of Defendant City of Los Angeles'  
12 acts and omissions, condoning, encouraging, ratifying and deliberately ignoring  
13 the pattern and practice of Defendants Winn and Hoffman and other LAPD  
14 officers Plaintiff has yet to identify, Plaintiffs sustained injury and damage.

15           108. As a result of each of Defendants violations of Plaintiffs'  
16 constitutional rights, as set forth herein, Plaintiffs sustained injury and damage.

17           WHEREFORE, Plaintiffs request relief as follows, according to proof,  
18 against each Defendant:  
19

20           1. General and compensatory damages in an amount according to proof;  
21           2. Special damages in an amount according to proof;  
22           3. Exemplary and punitive damages against each Defendant, except the City  
23 of Los Angeles, in an amount according to proof.

24           4. Costs of suit, including attorneys' fees, under 28 U.S.C. §1988; and  
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5. Such other and further relief as may be just and proper.

Respectfully submitted,

SCHONBRUN DESIMONE SEPLOW  
HARRIS & HOFFMAN, LLP

DATED: April 22, 2015

s/Paul L. Hoffman

By:

\_\_\_\_\_  
PAUL L. HOFFMAN  
CATHERINE SWEETSER

LAW OFFICE OF DEIRDRE O'CONNOR

DATED: April 22, 2015

s/Deirdre O'Connor

By:

\_\_\_\_\_  
DEIRDRE O'CONNOR

Attorneys for Plaintiffs  
SUSAN MELLEN, JULIE CARROLL,  
JESSICA CURCIO AND DONALD BESCH

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**JURY DEMAND**

A trial by jury of all issues triable to a jury is hereby demanded.

Respectfully submitted,

SCHONBRUN, DESIMONE, SEPLOW  
HARRIS & HOFFMAN, LLP

DATED: April 22, 2015

By: s/Paul L. Hoffman  
\_\_\_\_\_  
PAUL L. HOFFMAN  
CATHERINE SWEETSER

LAW OFFICE OF DEIRDRE O'CONNOR

DATED: April 22, 2015

By: s/Deirdre O'Connor  
\_\_\_\_\_  
DEIRDRE O'CONNOR

Attorneys for Plaintiffs  
SUSAN MELLEN, JULIE CARROLL,  
JESSICA CURCIO AND DONALD BESCH

# **EXHIBIT 1**

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPT. SOUTHWEST "G"

HON. MARK S. ARNOLD, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA, )

PLAINTIFF, )

-VS-

NO. YA033982

SUSAN MELLEN, )

DEFENDANT. )

**COPY**

TRANSCRIPT OF PROCEEDINGS

FRIDAY OCTOBER 10, 2014

APPEARANCES:

FOR THE PEOPLE:

JACKIE LACEY  
DISTRICT ATTORNEY  
BY: LOREN NAIMAN, DEPUTY

FOR THE DEFENDANT:

*Deirdre*  
~~DEIDRE~~ O'CONNOR  
ATTORNEY AT LAW

LUCY I. MILIVOJEVIC, CSR #11496  
OFFICIAL REPORTER

1 CASE NUMBER: YA033982  
2 CASE NAME: PEOPLE VS. MELLEN  
3 TORRANCE, CALIFORNIA FRIDAY, OCTOBER 10, 2014  
4 DEPT. SOUTHWEST "G" HON. MARK S. ARNOLD  
5 COURT REPORTER: LUCY I. MILIVOJEVIC, CSR #11496  
6 TIME: A.M. SESSION  
7

8 APPEARANCES:

9 DEFENDANT SUSAN MELLEN, PRESENT WITH COUNSEL,  
10 DEIDRE O'CONNOR, ATTORNEY AT LAW; LOREN NAIMAN,  
11 DEPUTY DISTRICT ATTORNEY, REPRESENTING THE  
12 PEOPLE OF THE STATE OF CALIFORNIA.  
13

14 THE COURT: ON THE RECORD IN THE WRIT OF HABEAS CORPUS  
15 FOR MS. SUSAN MARIE MELLEN, YA033982. SHE IS REPRESENTED BY  
16 MS. O'CONNER. MR. NAIMAN FOR THE PEOPLE.

17 I'VE READ THE PETITION THAT MS. O'CONNER  
18 SUBMITTED AND I UNDERSTAND THAT MS. JENNIFER BERRY,  
19 KATHERINE BEKKEN AND YESENIA CARDOZA ASSISTED?

20 MS. O'CONNER: YES. AND DAVID WINKER ASSISTED WITH  
21 THE INVESTIGATION THAT ALLOWED US TO GET HERE NOW.

22 THE COURT: ARE THE INTERNS HERE?

23 MS. O'CONNER: THEY ARE IN THE FRONT ROW.

24 THE COURT: YOU LADIES? GOOD JOB. GOOD JOB ON THE  
25 PETITION.

26 DID YOU WISH TO BE HEARD FURTHER BESIDES WHAT  
27 YOU PUT IN YOUR MOTION?

28 MS. O'CONNER: NO, YOUR HONOR. SUBMIT.

1 THE COURT: MR. NAIMAN, I READ YOUR LETTER THAT YOU  
2 FILED TODAY.

3 DO YOU WISH TO BE HEARD FURTHER?

4 MR. NAIMAN: SUBMIT, YOUR HONOR.

5 THE COURT: ALL RIGHT. THE EVIDENCE THAT CONNECTED  
6 MS. MELLEN TO THE MURDER OF RICHARD DALY WAS EXCLUSIVELY HER  
7 CONFESSION TO A WOMAN NAMED JUNE PATTI. AS IT TURNED OUT,  
8 JUNE PATTI WAS A HABITUAL LIAR. HER OWN SISTER WHO WAS A  
9 TORRANCE POLICE OFFICER, WHO WAS THEN NAMED LAURA MEHEGAN,  
10 TOLD THE ORIGINAL INVESTIGATING DETECTIVE THAT JUNE PATTI  
11 WAS A LIAR. HOWEVER, THIS WAS NEVER GOTTEN TO THE ATTENTION  
12 OF MS. MELLEN'S ATTORNEY.

13 SINCE THE ONLY EVIDENCE OF MS. MELLEN'S  
14 INVOLVEMENT IN THIS CRIME WAS THIS PURPORTED CONFESSION TO  
15 JUNE PATTI, A COMPETENT DEFENSE COUNSEL WOULD HAVE CONDUCTED  
16 A THOROUGH INVESTIGATION OF HER CREDIBILITY AND  
17 TRUSTWORTHINESS OR LACK THEREOF. THIS WAS NOT DONE IN THIS  
18 CASE. HAD IT BEEN DONE, AND HAD THE EVIDENCE BEEN PRESENTED  
19 TO THE JURY ABOUT JUNE PATTI'S LACK OF CREDIBILITY, I  
20 BELIEVE THAT THE JURY WOULD NOT HAVE FOUND MS. MELLEN  
21 GUILTY.

22 SINCE IT APPEARS THAT MS. MELLEN RECEIVED SUB  
23 PAR REPRESENTATION BY HER TRIAL ATTORNEY AND SINCE IT ALSO  
24 APPEARS THAT HER CONVICTION WAS BASED ON FALSE TESTIMONY OF  
25 JUNE PATTI, THE DEFENSE HAS MET THEIR BURDEN UNDER PENAL  
26 CODE SECTION 1473, SUBDIVISION (B), SUBDIVISION (1). THE  
27 PETITION IS GRANTED. THE JUDGMENT IS VACATED. THE  
28 CONVICTION IS OVERTURNED. AND AS TO MS. MELLEN, THE CASE IS

1 DISMISSED.

2 IN THIS RARE INSTANCE -- IN THIS RARE INSTANCE  
3 OF THE CRIMINAL JUSTICE SYSTEM, IT FAILED. I BELIEVE NOT  
4 ONLY IS MS. MELLEN NOT GUILTY, I BELIEVE BASED ON WHAT I  
5 HAVE READ, THAT SHE'S INNOCENT. FOR THAT REASON I THINK THE  
6 CRIMINAL JUSTICE SYSTEM FAILED. I DO NOT WANT HER SPENDING  
7 ANYMORE TIME IN CUSTODY ON THIS CASE. SHE IS TO BE RELEASED  
8 AS SOON AS POSSIBLE, PREFERABLY FROM THIS COURTHOUSE TODAY.

9 DOES ANYBODY HAVE ANYTHING TO ADD?

10 MS. O'CONNER: NO. THANK YOU, YOUR HONOR.

11 THE COURT: ANYTHING?

12 MR. NAIMAN: NO.

13 THE DEFENDANT: THANK YOU, YOUR HONOR. THANK YOU SO  
14 MUCH.

15 THE COURT: GOOD LUCK. GOOD LUCK TO YOU.

16 THE DEFENDANT: IT'S A NEW BEGINNING. IT'S GOING TO  
17 BE A GREAT DAY FOR ME AND A NEW LIFE. THANK YOU SO MUCH.  
18 GOD BLESS YOU ALL.

19 THE COURT: CONGRATULATIONS.

20 MR. NAIMAN: I WOULD ASK THE COURT TO HAVE A COPY OF  
21 THE TRANSCRIPT OF THE PROCEEDINGS TRANSCRIBED AS SOON AS  
22 POSSIBLE, SO THEY CAN BE TRANSMITTED TO THE DEPARTMENT OF  
23 CORRECTIONS AND WE CAN TRY TO GET MS. MELLEN RELEASED AS  
24 SOON AS POSSIBLE.

25 THE COURT: DO YOU NEED A TRANSCRIPT TO BE FAXED TO  
26 THE DEPARTMENT OF CORRECTIONS TO FACILITATE HER RELEASE?

27 MR. NAIMAN: I DON'T BELIEVE SO, BUT JUST IN CASE, I'M  
28 ASKING THE COURT TO ORDER A TRANSCRIPT AS SOON AS POSSIBLE.

1 THE COURT: DO YOU NEED IT NOW?

2 MR. NAIMAN: WE'LL PROCEED WITH THE COURT'S ORDER. I  
3 BELIEVE THAT WILL BE SUFFICIENT. WE'LL DO EVERYTHING IN OUR  
4 POWER TO MAKE SURE THAT SHE IS RELEASED FROM CUSTODY IN THE  
5 LEAST AMOUNT OF TIME.

6 THE COURT: MARCIA IS GOING TO GENERATE AN ORDER TO  
7 THE DEPARTMENT CORRECTIONS TO HAVE HER RELEASED NOW.

8 FOR WHATEVER REASON IF THAT IS NOT SUFFICIENT  
9 AND THEY WANT THE TRANSCRIPT, THEN LUCY WILL PREPARE THE  
10 TRANSCRIPTS.

11 MR. NAIMAN: THANK YOU VERY MUCH, YOUR HONOR.

12 THE COURT: THAT'S ALL FOR THIS CASE.

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14 (END OF PROCEEDINGS FOR THIS DATE.)

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPT. SOUTHWEST "G"

HON. MARK S. ARNOLD, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA, )  
 )  
 PLAINTIFF, )  
 )  
 -VS- )  
 )  
 SUSAN MELLEN, )  
 )  
 DEFENDANT. )  
 )

NO. YA033982

I, LUCY I. MILIVOJEVIC, CSR #11496, OFFICIAL  
COURT REPORTER OF THE SUPERIOR COURT OF THE STATE OF  
CALIFORNIA, FOR THE COUNTY OF LOS ANGELES, DO HEREBY CERTIFY  
THAT THE FOREGOING PAGES 1 THROUGH 4 COMPRISE A FULL, TRUE,  
AND CORRECT TRANSCRIPT OF THE PROCEEDINGS HELD ON OCTOBER  
10, 2014, IN THE ABOVE-ENTITLED CAUSE.

DATED THIS 10TH DAY OF OCTOBER, 2014.

*Lucy I. Milivojevic*  
\_\_\_\_\_  
LUCY I. MILIVOJEVIC, CSR #11496  
OFFICIAL COURT REPORTER

# **EXHIBIT 2**

DEIRDRE O'CONNOR, #169422  
INNOCENCE MATTERS  
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Torrance, CA 90505  
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Facsimile: (310) 755-2581  
E-mail: deirdre@innocencematters.org

Attorney for SUSAN MELLEEN

CONFORMED COPY  
ORIGINAL FILED  
Superior Court of California  
County of Los Angeles

NOV 21 2014

Sherri R. Carter, Executive Officer/Clerk  
By M. Bouchelion, Deputy

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

In re

SUSAN MELLEEN,

On Habeas Corpus.

Case No. YA033982-02

~~PROPOSED~~ ORDER GRANTING  
MOTION FOR FINDING OF  
INNOCENCE BY A  
PREPONDERANCE OF THE  
EVIDENCE PURSUANT TO  
PENAL CODE SECTION 1485.55,  
SUBDIVISION (b)

Honorable Mark Arnold

Department: G

[Pursuant to Penal Code 1485.55 to be  
heard by Judge Arnold.]

Hearing Date: To be set by Court

GOOD CAUSE APPEARING THEREFORE, based on the entire habeas record in this case, the motion for innocence, all exhibits filed with the motion, the argument and evidence presented by counsel, it is hereby ordered, that Susan Mellen's motion for a finding of innocence by a preponderance of the evidence pursuant to Penal Code, Section 1485.55, Subdivision (b), is GRANTED.

IT IS SO ORDERED.

Dated: 11/21/14



*Mark Arnold*

HONORABLE MARK ARNOLD  
Los Angeles County Superior Court Judge