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6 DE ANZA COVE HOMEOWNERS
ASSOCIATION, INC
7

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **COUNTY OF SAN DIEGO**

10 DE ANZA COVE HOMEOWNERS
ASSOCIATION, INC., a California non-profit
11 corporation,

12 Plaintiff,

13 v.

14 CITY OF SAN DIEGO, a California
municipality; and DOES 1-100, inclusive,

15 Defendants.
16

Case No. GIC 821191

DECLARATION OF DION DYER

17
18 **AND RELATED CROSS ACTION**

19 I, Dion Dyer, declare as follows:

20 1. I am 61 years of age and I make this declaration based upon personal knowledge and would
21 and could competently testify hereto in court if so requested.

22 2. I am an attorney admitted to practice law in the state of California. I am counsel for James
23 and Judy Asbury, residents of De Anza Cove mobilehome park, and have met with them there
24 many times in the last few years. During my prior visits there, I was rarely, if ever, stopped at the
25 gate.

26 3. On the morning of July 20, 2004, I went to meet Mr. and Ms. Asbury at their home to
27 prepare for a meeting later that day. I was representing them on a real estate matter unrelated to the
28

1 De Anza Cove litigation.

2 4. I drove up to the guard gate in my van, wearing business attire. The gate arm was up, but
3 the armed guard made me stop. He asked me, "Where are you going?" I explained that I was
4 going to the Asbury's house on the bay front for a business meeting. He responded by asking, "Do
5 you mean Shore Dr.?" and demanded the exact address. I explained that I did not know the exact
6 address. When I explained that I was an attorney visiting on business, he demanded to know the
7 nature of the business. I responded that the subject was a matter of attorney-client privilege, but
8 that it had nothing to do with De Anza Cove. I suggested that he look up their name in his
9 directory which would tell him the exact space number.

10 5. The guard then said he needed my license number so that he could give me a pass. I said,
11 "Ok, take down my license plate number and give me a pass," so that I could get to the meeting
12 with my clients. He said, "No, I need your driver's license number to give you a pass." At this
13 point, I felt his demand was unwarranted and so, I told him that there was no conceivable reason
14 why he needed my driver's license information. When I asked why he needed this information, the
15 guard would not tell me what he was going to do with it, other than that he needed it to give me a
16 pass. So I again explained my purpose for coming, who I was meeting with, and where I was
17 going. I stated that I was not inclined to give him my driver's license. Again, the guard refused to
18 give me a pass, so I explained that I was going in anyway and slowly pulled forward and proceeded
19 to my clients' house.

20 6. I parked in an available space next to the Asbury's home, well off the street, and then went
21 inside to meet with them. After a few minutes, I heard a loud truck rumbling outside and came out
22 to find a couple of armed guards motioning to a tow truck driver that was backing up towards my
23 car. I asked what was going on.

24 7. The guards explained that they were towing my car because I had not shown them my
25 driver's license at the gate and I did not have a pass. They threatened to call the police if I objected
26 further. I said, "Please call the San Diego Police Department," hoping to resolve the issue prior to
27 them taking my car away. The guards agreed, but I did not see them call anyone.

28 8. In the meantime, the driver started to hook my car up to the tow truck. The guard and the

1 tow truck driver kept elbowing me away from my car. I protested and, after this went on for
 2 awhile, Mr. Campbell—the large, portly guard—grabbed me, threw me against the neighbor's
 3 car, and wrestled me to the ground. I landed face first into the asphalt, breaking a pen in my
 4 shirt pocket and bending my eye-glass frame. Campbell had his knee in my back and continued
 5 to try to wrestle my arms behind me to handcuff me, stating that he was making a citizen's arrest.

6 9. Trapped on the ground, I was having difficulty breathing and I repeatedly asked the guard to
 7 get off me. I am 61-years-old and have a bad back. I was in pain and could not believe this was
 8 happening, particularly since there was no reason for it. I had offered and continued to ask that
 9 everyone just wait for the police to arrive. I believe they finally called the police while holding me
 10 on the ground.

11 10. Throughout this time, and particularly when Campbell and the two truck driver kept
 12 pushing me away from my car, the other guard—whose name I believe was Higley—was ridiculing
 13 me and insulting the legal profession and my legal ability to do anything about the situation.

14 11. Finally, after being held on the ground for about 20 minutes, two police officers arrived and
 15 instructed Campbell to get off me. I was very shaken. My clothes were filthy, my glasses were
 16 broken, my back was aching, and my knees and arms were sore. The police did not reprimand the
 17 guards at all.

18 12. During the next hour or so, as I rested and collected myself, a sharp pain began to develop
 19 in my chest. I thought I was having a heart attack. So I went to the Emergency Room at Scripps
 20 Mercy Hospital where I was diagnosed with two broken ribs. This injury took several months to
 21 heal and was very painful.

22 13. Since that incident, I have not returned to De Anza and I never received so much as an
 23 acknowledgment that the event occurred, let alone an apology from the City of San Diego.

24 I declare under penalty of perjury under the laws of California that the above is true and
 25 correct.

26 March 31, 2005

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 Dion Dyer