

CIVIL COVER SHEET

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

Carolyn Martin

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

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

Sean Riordan, ACLU of San Diego & Imperial County
P.O. Box 87131, San Diego, CA 92138 (619) 232-2121

DEFENDANTS

ACEP - 9 1111: L2
Naval Criminal Investigative Service (NCIS); Mark D. Clookie,
NCIS Director; Wade Jacobson, NCIS Acting Special Agent I
County of Residence of First Listed Defendant District of Columbia Court
(IN U.S. PLAINTIFF CASES ONLY)

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

10 CV 1879 WQH AJB

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 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 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 <input type="checkbox"/> 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	<input type="checkbox"/> 700 Labor Standards Act <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	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 (1395f) <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))
			IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	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):
U.S. Constitution Amendments 1, 4 and 5

Brief description of cause:
1st Amendment violations, Unreasonable search & seizure and violation of due process

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 9/8/2010 SIGNATURE OF ATTORNEY OF RECORD _____

FOR OFFICE USE ONLY

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

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6 Attorneys for Plaintiff

7 UNITED STATES DISTRICT COURT
8 SOUTHERN DISTRICT OF CALIFORNIA

9
10 CAROLYN MARTIN,

11 Plaintiff,

12 v.

13 NAVAL CRIMINAL INVESTIGATIVE
14 SERVICE ("NCIS"); MARK D. CLOOKIE,
15 NCIS DIRECTOR; WADE JACOBSON,
16 NCIS ACTING SPECIAL AGENT IN
17 CHARGE, MARINE CORPS WEST FIELD
18 OFFICE; SEAN SULLIVAN, STAFF
JUDGE ADVOCATE, MARINE CORPS
RECRUIT DEPOT SAN DIEGO; GERALD
"JERRY" MARTIN, NCIS SPECIAL
AGENT; RAY MABUS, SECRETARY OF
THE NAVY; JOHN DOES 1-7,

19 Defendants.
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Case No.

10 CV 1879 WQH

AJB

COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF AND
DAMAGES AND DEMAND FOR
JURY TRIAL FOR:

1. Retaliation for First Amendment-Protected Speech
2. Unreasonable Search and Seizure
3. Unreasonable Interference with Employment in Violation of Due Process
4. Violation of First Amendment Right of Access to Court

1 Plaintiff Carolyn Martin ("Ms. Martin" or "Plaintiff") brings this action against the
2 Secretary of the Navy, the Naval Criminal Investigative Service ("NCIS"), NCIS supervisory
3 officers, NCIS Special Agent Gerald "Jerry" Martin ("Special Agent Martin"), Staff Judge
4 Advocate Sean Sullivan ("SJA Sullivan"), and John Does 1-7 (collectively "Defendants"), and
5 alleges as follows:

6 **INTRODUCTION AND NATURE OF THE ACTION**

7 1. Ms. Martin previously served in the U.S. Marine Corps and now works as a
8 contract investigator. In particular, she investigates criminal charges against Marines and sailors
9 in courts-martial and other proceedings. As in civilian criminal proceedings, justice is served in
10 military criminal proceedings when there is a strong defense based on independent investigation.

11 2. Defendant NCIS is the prosecution's principal investigative agency in the Navy
12 and Marine Corps criminal justice system. NCIS retaliated against Ms. Martin because she is a
13 zealous, effective defense investigator. Special Agent Martin and his colleagues seized Ms.
14 Martin for hours without justification, pounded on her front door near dawn one morning to
15 falsely "charge" her with a federal felony on a district court violation notice, spied on her at her
16 home, and traumatized her in other ways. SJA Sullivan barred Ms. Martin from a military
17 courtroom without sufficient justification. This conduct jeopardizes Ms. Martin's ability to work
18 and earn a living as a contract investigator.

19 3. Through this action, Ms. Martin seeks money damages pursuant to *Bivens v. Six*
20 *Unknown Named Agents of the Fed. Bureau of Narcotics*, 403 U.S. 388 (1971), for violation of
21 her rights under the First and Fourth Amendments to the U.S. Constitution; and declaratory and
22 injunctive relief for violation of her rights under the First Amendment and the Due Process
23 Clause of the Fifth Amendment to the U.S. Constitution.

24 **JURISDICTION AND VENUE**

25 4. The Court has jurisdiction over this action under 28 U.S.C. § 1331.

26 5. The Court has the power to award money damages for constitutional violations
27 pursuant to *Bivens, supra*, and to grant declaratory and injunctive relief pursuant to 5 U.S.C. §
28 702, Federal Rule of Civil Procedure 65 and 28 U.S.C. § 2201.

1 Marine Corps Base Camp Pendleton. Plaintiff will amend this complaint to show said
2 Defendants' true names and capacities when the same have been ascertained. Plaintiff believes,
3 and based thereon alleges, that Defendants sued herein as Does 1-7 are in some manner
4 responsible for the acts and injuries alleged herein.

5 16. The acts or omissions of all Defendants, and each of them, were done under the
6 color of the statutes, ordinances, regulations, customs and usages of the Government of the
7 United States, the U.S. Navy and/or the USMC. All Defendants are sued in their official capacity
8 for declaratory and injunctive relief. Defendants Special Agent Martin and Does 1-7 are sued in
9 their individual capacity for damages.

10 FACTUAL ALLEGATIONS

11 17. Carolyn Martin ("Ms. Martin") served for fourteen years in the United States
12 Marine Corps in intelligence and administration capacities. She has worked as a federal contract
13 investigator for approximately the past ten years. Historically, the bulk of Ms. Martin's federal
14 contracts involved personnel security investigations ("PSIs") for federal agencies. For
15 approximately the past four years she has also conducted military criminal defense investigations.
16 Defendants' actions have so disrupted her ability to conduct PSIs that her only current contracts
17 are military criminal defense investigations.

18 18. Ms. Martin is not a private investigator. Private investigators are licensed by a
19 state to conduct investigations in that state under its statutes. In contrast, Ms. Martin contracts
20 with federal agencies and private individuals to conduct investigations under authority of federal
21 laws, regulations and guidelines.

22 19. Ms. Martin has held a "Top Secret" security clearance with multiple federal
23 agencies since approximately 1984. A Top Secret security clearance is granted only after
24 completion and adjudication of an extensive PSI. All Ms. Martin's PSI contracts require a Top
25 Secret security clearance. Military criminal defense investigations in certain sensitive areas also
26 require a security clearance.

27 20. Since 2006, Ms. Martin has conducted approximately 40 criminal defense
28 investigations in the military justice system. Ms. Martin enters into a contractual agreement

1 directly with the defendant but works at the direction of defense counsel. Ms. Martin's contracts
2 typically require the accused to pay her an initial retainer fee and an hourly rate for subsequent
3 services rendered. Because service members often cannot afford to pay for her full investigative
4 services, defense counsel normally requests that the court-martial convening authority or the
5 military judge authorize government payment for her investigative work. The convening
6 authority and the court deny those requests in the vast majority of cases. As a result, much of Ms.
7 Martin's investigative work on behalf of accused service members is uncompensated. Beyond a
8 certain point in an investigation, her typical client is no longer capable of paying her, even though
9 further investigation is required for an adequate defense.

10 21. As a criminal defense investigator, Ms. Martin assists the defense by conducting
11 an independent investigation of the evidence. This includes interviewing the accused and the
12 witnesses, conducting an investigation of the scene of the alleged crime, engaging in other
13 background investigation, communicating with defense counsel about her findings, and writing
14 reports for defense counsel. Where Ms. Martin uncovers relevant evidence, she often testifies to
15 bring evidence before the court. Ms. Martin also sometimes assists the defense in post-trial
16 matters before military appellate courts and in administrative separation hearings. While the
17 courts have widely recognized the necessity of defense investigation in criminal cases, *see, e.g.*,
18 *Williams v. Stewart*, 441 F.3d 1030, 1053 (9th Cir. 2006), Ms. Martin is aware of only one other
19 contract investigator in the United States whose work is dedicated to military criminal defense.

20 22. Ms. Martin's investigations have enabled her clients' attorneys to undermine
21 prosecution testimony in courts-martial in a number of cases.

22 a. *U.S. v. Potts*: Ms. Martin uncovered information leading to the recall of a
23 key prosecution witness, who admitted that his prior testimony included misrepresentations. She
24 also discovered multiple defense witnesses. Her client was subsequently found not guilty of
25 multiple counts of fraud.

26 b. *U.S. v. Daapah*: Ms. Martin discovered that the alleged victim of assault
27 had lied about his past military service and decorations, undermining his credibility. Her client
28 was subsequently found not guilty of assault.

1 c. *U.S. v. Blundell*: Ms. Martin discovered that the alleged incident of child
2 molestation occurred in an open area and that an adult male residing with the alleged victim at the
3 time of the alleged incident had never been interviewed by NCIS. Her client was subsequently
4 found not guilty of the molestation charge.

5 d. *U.S. v. Skinner*: Ms. Martin identified several witnesses who provided
6 testimony helpful to the defense. Her client was found not guilty of sexual harassment.

7 23. Ms. Martin's direct testimony in military justice proceedings have also effectively
8 assisted the defense in a number of cases, including the following:

9 a. *U.S. v. Beene*: At a motions hearing, Ms. Martin testified that NCIS agents'
10 interrogation violated an NCIS policy and regulation. NCIS agents had asked her client to take a
11 polygraph examination. Her client agreed, but the agents never administered the polygraph
12 examination. However, the agents obtained a signed "confession" from her client in which he
13 admitted to having non-consensual sex with the victim. The interrogation was not video
14 recorded, although video capability was available and there were no other witnesses to the
15 "confession."

16 b. *U.S. v. Potts*: At trial, Ms. Martin testified that other individuals had the
17 opportunity and capability to create the fraudulent entries her client was accused of creating.

18 c. *U.S. v. Maziarz*: At a motions hearing in a security breach case, Ms. Martin
19 testified on security regulations and mandates within the Department of Defense, explaining the
20 differences between a security breach, violation, and compromise.

21 d. *U.S. v. Root*: In a proceeding resulting in her client being released from
22 pre-trial custody, Ms. Martin testified as to the reasons that her client was not a risk to flee to his
23 family in Japan.

24 24. Ms. Martin has written investigative reports that assisted the defense. For
25 example, in *U.S. v. Wood*, defense counsel relied upon her post-trial investigative report in an
26 appeal that successfully set aside her client's rape conviction based on insufficient evidence.

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28

1 25. In the Department of the Navy, which includes both the U.S. Navy and the U.S.
2 Marine Corps, defendant Naval Criminal Investigation Service (“NCIS”) is responsible for
3 investigating felonies punishable under the Uniform Code of Military Justice.

4 26. Since around June 2009, military law enforcement personnel, including NCIS
5 Special Agent Martin, an unknown agent here referred to as John Doe 1, and various Military
6 Police (“MP”) here referred to as John Does 2-7, have harassed and intimidated Ms. Martin on
7 account of her defense investigations.

8 27. On June 29, 2009, four MPs pulled Ms. Martin over as she left the parking lot of
9 the defense sector of Camp Pendleton, Legal Services Support Section-Echo (“LSSS-E”). She
10 was traveling with the civilian criminal defense attorney of one of her clients at the time. One of
11 the MPs told Ms. Martin she had been pulled over for not displaying a California vehicle
12 registration sticker, though he acknowledged that her vehicle displayed a valid sticker. The MP
13 demanded Ms. Martin’s identification and credentials and eventually issued a warning citation.

14 28. On June 30, 2009, as Ms. Martin entered Camp Pendleton, she was told by an MP
15 to pull over. After she pulled over, another MP approached her and asked for identification.
16 After she produced her driver’s license from inside her Defense Intelligence Agency (“DIA”)
17 credential holder she was allowed to leave. Ms. Martin had entered Camp Pendleton hundreds of
18 times previously and had never previously been pulled over at the entrance gate.

19 29. On July 23, 2009, an MP vehicle – this time accompanied by an unmarked car –
20 again pulled Ms. Martin over as she left LSSS-E after conducting defense investigation business.
21 The MP officer who pulled her over, referred to here as Doe 2, initially said that he had clocked
22 her speeding, although he later said someone had called to tell him that she was speeding. Ms.
23 Martin was not speeding and was not issued a citation for speeding.

24 30. It quickly became clear to Ms. Martin that the allegation of speeding was a pretext
25 for interrogating her about her credentials. When Doe 2 questioned Ms. Martin about her
26 credentials, she responded that she had DIA contractor credentials. A male voice from the
27 unmarked car shouted “Get her credentials!” and the MP demanded Ms. Martin’s DIA
28 credentials. This confused Ms. Martin. She had not presented her DIA credentials to anyone that

1 day. She used her DIA credentials to fulfill PSI contracts with DIA, not to engage in military
2 criminal defense investigations.

3 31. With Ms. Martin's DIA credentials in hand, Doe 2 walked back to the unmarked
4 car before returning and telling Ms. Martin to step out of her vehicle. Ms. Martin then
5 encountered a man in civilian clothes, here referred to as Doe 1, standing next to the unmarked
6 car. She realized that he was the man who shouted for the MP to seize her credentials. He did
7 not show any identification, saying only that he was a Special Agent with the Office of the
8 Inspector General, though he did not say in what agency.

9 32. By this point, two other MP vehicles had arrived. Doe 1 asked Ms. Martin
10 whether she used NCIS credentials or posed as an NCIS officer. She told him that she does not
11 have NCIS credentials, has never displayed NCIS credentials, and has never identified herself as
12 an NCIS agent. Doe 1 asked Ms. Martin for permission to question her further and to search her
13 person and vehicle. Ms. Martin denied consent to search and requested an attorney. Doe 1
14 responded that she was not under arrest, but he told her that she was not free to leave and that he
15 would not allow her to call an attorney.

16 33. Later, Ms. Martin told Doe 1 that she needed to call her son, who was expecting
17 her at home. He said that she could call her son, but that she had to place the call from his phone,
18 and could not use her own phone. He dialed her son's number and handed her the phone.

19 34. Doe 1 continued questioning Ms. Martin about her credentials and about the
20 contractors she worked for. Ms. Martin answered his questions. Doe 1 then returned to the
21 unmarked vehicle and spoke on the phone. At that point, five armed MP officers, here referred to
22 as Does 3-7, approached Ms. Martin and surrounded her on all sides. Doe 1 returned and
23 repeated his questions about credentials to Ms. Martin. Ms. Martin said that she would no longer
24 speak to Doe 1 and wished to return home. Doe 1 told Ms. Martin that she was not allowed to
25 leave and that a search warrant for her vehicle and person was on its way.

26 35. At this point, Ms. Martin had been detained on the roadside for approximately one-
27 and-one-half hours. Numerous cars passed during that period. Ms. Martin was embarrassed and
28 humiliated by the scene, as it made her appear to be some sort of criminal who required the

1 attention of multiple MP vehicles and an unmarked car. Being surrounded by Does 3-7 and
2 relentlessly questioned by Doe 1 caused her to feel helpless and to fear what would happen next.
3 Ms. Martin was also very frustrated because she had many things to do to prepare for the next
4 day's out-of-town case.

5 36. Doe 1 continued asking Ms. Martin the same questions concerning her credentials.
6 He would go away for a few minutes, speak on the phone, return, and ask her the same questions
7 again. Finally, desperate to get home after being detained on the roadside for one-hour-and-forty-
8 five minutes, Ms. Martin told Doe 1 they could search her car. Doe 1 and one individual among
9 Does 3-7 went through everything. They went through her glove compartment and console
10 compartment. They searched under her seats, pulled out the floor mats, took mats out of trunk,
11 and went through everything in the trunk, including privileged and confidential files of one of her
12 clients. Doe 1 took her purse outside and put its contents on the ground.

13 37. NCIS Special Agent Martin arrived soon after the search with another marked MP
14 vehicle. Agent Martin told Ms. Martin that he had received a call from an MP reporting that Ms.
15 Martin had presented NCIS credentials at the Camp Pendleton gate. Ms. Martin denied this false
16 allegation. She also pointed out how absurd the allegation appeared in light of the search that had
17 just taken place which failed to turn up any false documents or false identification. None of the
18 Defendants ever had reasonable suspicion or probable cause to believe that Ms. Martin had
19 presented NCIS credentials or otherwise impersonated an NCIS officer.

20 38. Doe 1 then informed Ms. Martin that he had called DIA and that DIA directed him
21 to confiscate Ms. Martin's DIA credentials. Ms. Martin replied that any problems with the DIA
22 credentials should be handled by the sponsoring agent for those credentials, ADC, Ltd. ("ADC"),
23 and that Doe 1 lacked authority to confiscate them. Despite Ms. Martin's protests, Doe 1 turned
24 the credentials over to Agent Martin. Agent Martin denied Ms. Martin's request to call ADC.
25 MPs then escorted Ms. Martin off the base.

26 39. Doe 1, Agent Martin, and Does 2-7 detained Ms. Martin on the roadside that day
27 for approximately two hours, during which time they intimidated and publicly humiliated her.
28

1 40. On July 27, 2009, Computer Science Corporation (“CSC”) – the sponsoring agent
2 for Ms. Martin’s Customs and Border Patrol (“CBP”) credentials – informed Ms. Martin that
3 CBP recalled her credentials. Ms. Martin had never previously had any problems with her CBP
4 credentials. While CSC advised Ms. Martin that CBP had offered no reason for the recall, that
5 action followed a mere four days after Defendants’ unjustified confiscation of Ms. Martin’s DIA
6 credentials.

7 41. Defendants’ actions against Ms. Martin produced nearly immediate negative
8 financial consequences that remain today. Prior to the recall of her CBP credentials on account of
9 Defendants’ actions, CBP contracts constituted the vast majority of Ms. Martin’s PSI work. Out
10 of 32 PSIs Ms. Martin performed in 2009, 22 were on CBP contracts. Out of 57 PSIs Ms. Martin
11 performed in 2008, 34 were on CBP contracts. Ms. Martin supports herself through her contract
12 investigation work and a major source of her income was suddenly cut off with the recall of her
13 CBP credentials. As a result of the loss of her CBP contracts, Ms. Martin now must rely for
14 income on military criminal defense investigations. Defense investigations typically provide less
15 regular and constant work than do PSIs.

16 42. On August 4, 2009, Ms. Martin encountered Doe 1 in the parking lot of the
17 Bellefleur Restaurant in Carlsbad, California. When Ms. Martin walked out of the restaurant she
18 saw Doe 1 walking toward her. He stopped mid-stride when he saw her. As Ms. Martin pulled
19 out of the restaurant parking lot in her car, Doe 1 proceeded to follow her, onto Interstate 5, and
20 off at an exit. Frightened at being followed and not wanting to be tailed to her home, Ms. Martin
21 made some unexpected turns, entered an alley and parked behind a building, at which point Doe 1
22 apparently lost sight of her.

23 43. On August 13, 2009, Ms. Martin entered LSSS-D, the law center and courtroom at
24 Camp Pendleton, to attend a client’s hearing. A military prosecutor asked her for identification.
25 When Ms. Martin produced her driver’s license, the prosecutor handed her a folded sheet of paper
26 and told her an investigator was looking for her. The paper had “OPM,” the initials of the Office
27 of Personnel Management, the federal government’s human resources agency, handwritten above
28 the typewritten name “Scot Rezendes” and two telephone numbers.

1 44. On August 17, 2009, the California Bureau of Security and Investigative Services
2 (“BSIS”) sent Ms. Martin a “Cease and Desist” letter, ordering her to stop operating as a private
3 investigator without a state license. This seemed strange to Ms. Martin since BSIS had
4 determined in 2007 that she was not subject to state licensing requirements. Ms. Martin
5 responded with a written declaration indicating that her work concerned federal matters and
6 therefore no state license was required.

7 45. Steve Cline, the civilian attorney for one of Ms. Martin’s clients, Staff Sergeant
8 Jeremy Nash, subsequently subpoenaed BSIS for all records relating to Sergeant Nash. The
9 subpoenaed documents revealed that a prosecutor in the Nash case, USMC Captain Brandon W.
10 Barnett, had previously subpoenaed BSIS for all documents related to Ms. Martin. Captain
11 Barnett also contacted BSIS with questions about alleged unlicensed activity by Ms. Martin. The
12 records also indicated that Special Agent Martin informed BSIS that NCIS was investigating Ms.
13 Martin for impersonating a federal officer.

14 46. On October 27, 2009, a man who identified himself as NCIS Agent Gonzales
15 followed Ms. Martin from LSSS-E to the brig at Camp Pendleton. Agent Gonzales questioned
16 Ms. Martin about her credentials and her employers.

17 47. NCIS agents have engaged in surveillance of Ms. Martin and her home. Ms.
18 Martin’s son and neighbor, on separate occasions, each saw an individual in a black vehicle
19 taking surveillance photos of their house. Jay Sullivan, a civilian attorney and Navy commander
20 reservist, informed Ms. Martin that photos of her face and her car parked in front of a house were
21 posted on a “be on the lookout” board at the NCIS Field Office at Marine Corps Air Station
22 Miramar earlier this year. Ms. Martin has regularly seen, and continues to see, dark vehicles
23 parked near her house, apparently for surveillance purposes. She became constantly fearful of
24 what NCIS, and particularly Agent Martin, might do next.

25 48. On May 3, 2010 at approximately 6:55 a.m., Special Agent Martin and Doe 1
26 appeared at Ms. Martin’s home, ringing her doorbell and banging on her front door. Ms. Martin,
27 who was preparing to shower, did not answer for some time, believing it was her son who was
28 knocking and that he would soon enter through the back door. After the clatter persisted for some

1 time, Ms. Martin slipped on a shirt and answered the door. She was startled to find the same
2 agents who had detained her for two hours on July 23, 2009 standing on her doorstep at that hour.

3 49. Agent Martin addressed Ms. Martin when she opened the door, saying, "Carolyn,
4 you need to take this," while holding up a document. When Ms. Martin refused to take the
5 document, Agent Martin threw the document at her, striking her in the face. As the two men
6 walked away, Agent Martin muttered "You've been served."

7 50. The document was a District Court Violation Notice apparently filled out by Agent
8 Martin. The citation purported to charge Ms. Martin with impersonating a federal officer on July
9 23, 2009 at Camp Pendleton, in violation of 18 U.S.C. § 912 ("Section 912"). See Ex. A
10 (Violation Notice). Because violation of section 912 is punishable by up to three years
11 imprisonment, section 912 cannot be properly charged by a Violation Notice. See U.S. Const.
12 amend. V; Fed. R. Crim. P. 7(a)(1) (offense punishable by a year or more may only be prosecuted
13 by information or indictment); 58(b)(1) ("a petty offense may ... proceed on a citation or
14 violation notice"). The citation that Agent Martin struck Ms. Martin with contained no violation
15 number, location code, or court date, though it did contain a checked box indicating Ms. Martin
16 must appear in court. Ms. Martin has never received a court date or other further notice regarding
17 this purported charge.

18 51. Approximately thirty minutes after this confrontation, Agent Martin and Doe 1
19 returned, again ringing the doorbell and knocking on the door. Ms. Martin did not answer the
20 door this time, because she was home alone and afraid for her safety. Ms. Martin subsequently
21 noticed that the glass window in her front door had been broken by the pounding of either or both
22 Agent Martin or Doe 1. The defendants' visits to her home that morning terrified Ms. Martin.

23 52. Defendants' surveillance of Ms. Martin continues. For example, on June 28, 2010,
24 she left her house and noticed individuals parked in a black SUV in the street near her house.
25 When they saw her looking at them, they started the vehicle and drove off. She feels like she has
26 no privacy left even in her own home because of the surveillance and threat of another intrusion
27 like the one on the morning of May 3, 2010.

28

1 57. The retaliatory acts alleged in paragraph 55 deprived Plaintiff of her right to
2 engage in her First Amendment-protected speech and activities free of governmental retaliation,
3 in violation of the First Amendment to the U.S. Constitution, and actionable under *Bivens* against
4 Agent Martin and Doe 1.

5 58. The relevant law was clearly established at the time of Agent Martin's and Doe 1's
6 interference with Plaintiff's rights.

7 59. As a proximate result of the retaliatory acts alleged above, Plaintiff suffered actual
8 harm, entitling her to damages in an amount to be proven at trial.

9 60. The ongoing retaliatory acts alleged in paragraph 55 have deprived, are depriving,
10 or will imminently deprive, Plaintiff of her right to engage in her First Amendment-protected
11 speech and activities free of governmental retaliation, in violation of the First Amendment to the
12 U.S. Constitution.

13 61. Plaintiff is entitled to declaratory and injunctive relief against further or imminent
14 violations of her First Amendment rights, and damages against Agent Martin and Doe 1.

15 **SECOND CAUSE OF ACTION**

16 **VIOLATION OF FOURTH AMENDMENT – Unreasonable Search and Seizure**
17 **(Against Agent Martin and Does 1-7 for damages)**

18 62. Plaintiff incorporates by reference the allegations of paragraphs 1 to 53, above, as
19 though set forth herein.

20 63. Through actions described in paragraphs 29-39, above, on July 23, 2009, Agent
21 Martin and Does 1-7 stopped and detained Plaintiff for an unreasonably long period of time and
22 searched her car and person in an unreasonable manner.

23 64. Agent Martin and Does 1-7, individually and/or in concert with others, deprived
24 Plaintiff of her rights secured by the Fourth Amendment to the U.S. Constitution, actionable
25 under *Bivens*, including her right to be free from unreasonable searches and seizures.

26 65. The relevant law was clearly established at the time of Agent Martin's and Does 1-
27 7's violation of Plaintiff's Fourth Amendment rights.

28

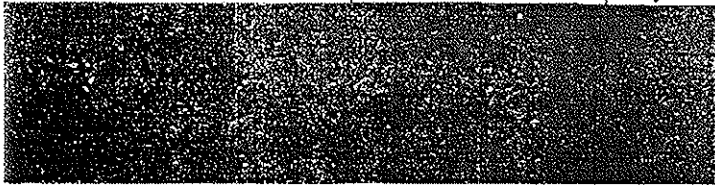
EXHIBIT A

Loc. Code	United States District Court Violation Notice	
Violation No.	Print Officer Name MARTIN	Officer No. NCIS

YOU ARE CHARGED WITH THE FOLLOWING VIOLATION

Date and Time of Offense 7/23/2009	Offense Charged 18 USC 912
Place of Offense MARINE CORPS BASE, CAMP PENDLETON, CA	
Offense Description ALSO PERSONATION OF OFFICER OR EMPLOYEE OF THE UNITED STATES	

Defendant's Last Name MARTIN	First Name CAROLYN	M.I. E.
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VEHICLE DESCRIPTION

Vehicle Tag No.	Vehicle Tag State	Year	Vehicle Make	Vehicle Color
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A YOU MUST APPEAR IN COURT. SEE INSTRUCTIONS.

B YOU MUST MARK ONE OF THE TWO CHOICES BELOW AND MAIL THIS FORM WITHIN 21 DAYS. SEE INSTRUCTIONS.

_____ I wish to terminate this matter by paying the collateral shown below, enclosed.

_____ I plead not guilty and promise to appear as required.

YOUR COURT DATE

Court Address	Date
	Time

Collateral (fine)	For payment by credit card, SEE INSTRUCTIONS.
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DD FORM 1805, SEP 1998

Previous edition is obsolete.

(Accountable upon issuance to the offender and until passed to the Appropriate Central Violations Bureau (Magistrate Court).)

INSTRUCTIONS

A. If BOX A is checked on the face of this citation, YOU MUST APPEAR IN COURT at the date and time and place shown. If no date and time and place are shown then you will be notified by mail of when and where to appear.

B. If BOX B is checked on the face of this citation, YOU MUST DO ONE OF THE FOLLOWING:

1. PAY THE COLLATERAL AMOUNT SPECIFIED. If you wish to terminate your case WITHOUT HAVING TO APPEAR IN COURT, mail your personal check, money order, or credit card information (see reverse side of this flap) in this envelope to the address printed on the front within 21 days for the full amount of the collateral specified. DO NOT MAIL CASH. Write the citation number and location from the top front portion of the violation notice on your check or money order and make payable to CENTRAL VIOLATIONS BUREAU. If you are charged with a motor vehicle violation, a record of your payment of collateral may be reported to the Department of Motor Vehicles of your state.

OR

2. PLEAD NOT GUILTY AND PROMISE TO APPEAR AS REQUIRED. If the officer has written on the face of this form a date, time, and place for a court hearing, you must appear before a federal magistrate judge at that time. If no court date, time, and place is shown, this information will be provided to you by mail. If you have not received a "Notice to Appear" within 45 days, call the Central Violations Bureau at 1-800-827-2982. You must notify CVB at the above number of any change of address.

NOTICE

If you do not pay the collateral amount, and if you fail to appear in court at the date and time scheduled for you, THE UNITED STATES DISTRICT COURT MAY ISSUE A SUMMONS ORDERING YOUR APPEARANCE OR ISSUE A WARRANT FOR YOUR ARREST. If you are charged with a motor vehicle violation, THE COURT MAY ALSO REPORT YOUR NON-COMPLIANCE TO THE DEPARTMENT OF MOTOR VEHICLES OF YOUR STATE, which may affect your driving and/or registration privileges. Furthermore, THE COURT MAY INCREASE YOUR FINE OR IMPOSE ADDITIONAL PENALTIES. Any fine or collateral assessed is paid directly into the U.S. Treasury.

INSTRUCTIONS FOR PAYMENT BY CREDIT CARD

Complete the following information, detach flap, and mail to Central Violations Bureau in this envelope. Only Visa and MasterCard will be accepted.

Payment by: Visa MasterCard

Card Number: _____

Expiration Date: _____

Payment Amount: _____

Violation Number: _____

CVB Location Code: _____

Social Security Number: _____

Print Name of Violator: _____

Print Name of Cardholder: _____

Cardholder's Telephone: _____

Signature of Cardholder: _____

Privacy Act Disclosure Statement

This Violation Notice Form is an official court document required by the Federal Judiciary and utilized by the Central Violations Bureau. Information is being solicited by authorized Federal law enforcement officials who are acting on behalf of the courts of the United States. Furnishing your social security number (SSN) on this notice is mandatory under the Debt Collection Improvement Act of 1996, 31 U.S.C. § 7701(c). Your SSN may be used to facilitate collection of forfeited collateral or any adjudicated fines and penalties, and may be disclosed to the U.S. Department of Justice, Department of Treasury, and the Internal Revenue Service for this purpose. Your SSN may also be disclosed to other federal, state, or local law enforcement agencies in connection with other possible violations of law.

PLACE
STAMP
HERE

CENTRAL VIOLATIONS BUREAU
P.O. BOX 740026
ATLANTA, GA 30374-0026