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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

JAN 13 2012

ALAN CARLSON, Clerk of the Court

R. Lucey
BY R. LUCEY

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4 NEIL C. EVANS (#105669)
5 LAW OFFICES OF NEIL C. EVANS
6 13351 D Riverside Drive, Ste. 612
7 Sherman Oaks, California 91423
8 (818) 802-8333

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10 Attorney for Plaintiff
11 SAFEWAY TOWING SERVICES, INC. dba
12 BOB'S TOWING

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 FOR THE COUNTY OF ORANGE

30-2012

15 SAFEWAY TOWING SERVICES,)
16 INC. dba BOB'S TOWING,)

CASE NO.: 00537303

COMPLAINT FOR INJUNCTION
AND WRIT OF MANDATE

17 Plaintiff,)

JUDGE JOHN C. GASTELUM

18 vs.)

19)
20 CITY OF FULLERTON;)
21 FULLERTON POLICE DEPARTMENT;)
22 AND DOES 1 through 100,)
23 inclusive,)

Defendants.)

PLAINTIFF ALLEGES:

24 1. Plaintiff SAFEWAY TOWING SERVICES, INC.
25 dba BOB'S TOWING ("Plaintiff" or "BOB'S") is, and at all times
26 herein mentioned was, a California corporation authorized to
27 do and doing business in the County of Los Angeles, State of
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3 California.

4 2. Defendant CITY OF FULLERTON ("FULLERTON"),
5 is a municipal corporation and/or a Charter City, in the
6 County of Orange, State of California. Defendant FULLERTON
7 POLICE DEPARTMENT ("FULLERTON PD") is an agency of
8 FULLERTON.

9 3. The true identities and capacities of
10 Defendants DOES 1 through 100, inclusive, are unknown
11 to Plaintiff at this time. Accordingly, Plaintiff is
12 informed and believes and thereon alleges that such DOE
13 Defendants are in some manner responsible for some or all
14 of the acts and omissions alleged herein. Plaintiff will
15 seek leave to amend this Complaint to state the true
16 identity and capacity of such DOE Defendants when such
17 facts become known to Plaintiff.

18 4. At all times material herein, each
19 Defendant was the principal, agent, servant, representative
20 or employee of each of the remaining Defendants, and in
21 doing the things hereinafter alleged, was acting within
22 the course and scope of such employment, agency, or
23 relationship.
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1 of a "Truck Route" ticket. Tow Trucks along with Trash Trucks and Emergency Vehicles
2 are exempt from "Truck Route" requirements (which bar large trucks from taking short
3 cuts through residential neighborhoods) if they are in route to perform a service.
4 There were multiple instances of such frivolous tickets issued to Plaintiff's Tow
5 Truck Drivers/Trucks in 2010 on this improper ground. When Plaintiff's Tow Trucks
6 were "stopped" for this frivolous reason, the Fullerton Police Department Officers
7 would inspect and search the entire truck in a way which was harassing and
8 embarrassing to Plaintiff and its drivers, portraying Plaintiff as the subject of
9 quasi-criminal inspections on the public streets in plain view. Some of these
10 stops occurred while Plaintiff's Tow Truck was in tow of a customer's vehicle, with
11 the customer effectively being detained while this improper and unnecessary inspection
12 occurred. Some of these stops lasted over an hour at a time, which undermined
13 Plaintiff's response and performance times on private towing assignments. These
14 stops harmed Plaintiff's performance statistics for private tows. Furthermore,
15 Plaintiff lost several of its Tow Truck Drivers who received so many of these
16 frivolous tickets that they were unable to maintain good driving records. Other
17 drivers quit because of the constant harassment by the Fullerton Police Department.
18 Other frivolous tickets which were issued to Plaintiff's vehicles by the Fullerton
19 Police Department, as harassment and not for legitimate purposes, were for driving too
20 slow, parking outside Plaintiff's facility, size of lettering on the Tow Trucks,
21 having GPS devices on the windshields, and other tickets even without any citation to
22 a California Vehicle Code. Plaintiff's President, Mr. Badawi, attempted to resolve
23 this harassment by meeting with Captain Hughes and Lieutenant Brower of the Fullerton
24 Police Department, without success.

25 9. Prior to April, 2011, Plaintiff submitted a written proposal in
26 response to the Fullerton Towing Contract Request for Proposal, and the City of
27 Fullerton and Fullerton Police Department have deliberately, maliciously, and without
28 any legitimate basis, provided short shrift and inadequate consideration of

1 Plaintiff's proposal. By way of example, Plaintiff has learned that the Fullerton
2 Police Department spent 14 hours to inspect 12 trucks at a competing applicant,
3 Anaheim/Fullerton Towing, but refused to spend an equal or equivalent amount of time
4 inspecting Plaintiff's trucks, only inspecting 6 of Plaintiff's trucks when many more
5 were available for inspection and listed in Plaintiff's response to the RFP, and
6 frivolously failing said 6 trucks which had passed an identical format California
7 Highway Patrol inspection just one week before.

8 10. Several Fullerton Police Department Officers, including Officers
9 Hagen and Ledbetter, have personally harassed Plaintiff's employees, using recording
10 devices during their contacts but turning the recording devices on and off so what
11 they say to Plaintiff's employees is "off the record." Plaintiff has learned that
12 these same Fullerton Police Department Officers have, without provocation or
13 justification, contacted other police agencies which Plaintiff works with in the
14 Towing Industry, to "bad mouth" Plaintiff to these other agencies. These same officers
15 will follow Plaintiff's Tow Trucks to intimidate the drivers even when tickets are not
16 issued.

17 11. The foregoing actions, individually or collectively, are a violation
18 of Plaintiff's rights to equal protection under the laws of the State of California
19 and United States of America, and a violation of other Federally and State Protected
20 Constitutional Rights.

21 12. There are no administrative remedies available to Plaintiff to
22 challenge these harassing and improper actions by the City of Fullerton and Fullerton
23 Police Department.

24 13. Plaintiff has suffered, and will continue to suffer, irreparable
25 harm from the foregoing harassment and misconduct by the Defendants, and each of them.
26 Plaintiff has suffered, and will continue to suffer, irreparable harm to its business
27 operations, loss of employees, loss of reputation and good will, loss of income
28 necessary to maintain its business operations.

1 and properly consider Plaintiff's response to the Request for Proposal for the Towing
2 Services Contract;

3 2. On the Second Cause of Action, for peremptory writ of mandate,
4 directing and ordering the City of Fullerton and Fullerton Police Department to
5 adequately and properly consider Plaintiff's response to the Request for Proposal for
6 the Towing Services Contract and to cease and desist from harassing, intimidating, and
7 otherwise mistreating Plaintiff and its employees;

8 3. For Plaintiff's attorneys' fees and costs of suit as allowed
9 by law, under the Private Attorney General Statute or otherwise; and

10 4. For such other and further relief as is consistent with the case
11 made by the foregoing Complaint and embraced within the issues.

12 Dated: 1/13/12

13 LAW OFFICES OF NEIL C. EVANS

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