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15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17 SAN FRANCISCO DIVISION

18 VERNELL LUNDBERG, et al.,

19 Plaintiffs,

20 v.

21 COUNTY OF HUMBOLDT, et al.,

22 Defendants.
23

) Case No. C-97-3989-SI

) **DECLARATION OF PLAINTIFF**
) **VERNELL LUNDBERG IN SUPPORT**
) **OF PLAINTIFFS' MOTION FOR**
) **ENTITLEMENT TO ATTORNEY'S**
) **FEES**

) [42 U.S.C. § 1988(b)]

24) Date: July 29, 2005

25) Time: 9:00 a.m.

26) Courtroom: 10

27) Judge: Hon. Susan Illston

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2 I, VERNELL LUNDBERG, declare as follows:

3 1. I am one of the eight Plaintiffs in the above entitled action. I am 25 years old. I
4 currently live in Humboldt County, California, and have lived there for most of the past 14 years.
5 My nickname is “Spring.”

6 2. I passionately believe in preserving old-growth redwood trees in Northern California
7 and have remained part of this movement since this case was initially filed on October 30, 1997. As
8 a member of the environmental activism community in Humboldt County, and having been exposed
9 to pepper spray myself, I have made it a point to monitor what has been going on with respect to
10 demonstrators and law enforcement. I estimate that there have been approximately 100 instances
11 of passive resistance (for example, a sit-in) by logging protestors, some of who used metal sleeves
12 or “lock down” devices known as “Black Bears.” It is my understanding that pepper spray was used
13 twice, on October 7 and 8, 1998, against logging protestors who were using such “lock down”
14 devices. It is also my understanding that the Eureka Police Department and the Humboldt County
15 Sheriff’s Department have not used pepper spray against passive or “locked-down” protestors since
16 then.

17 3. I and the other Plaintiffs have always focused on the principle of this case. From the
18 time the three incidents first occurred, we strongly believed that the Defendants had exceeded their
19 authority and violated our constitutional rights by using pepper spray against us even though we
20 engaged in peaceful, nonviolent logging demonstrations and exhibited nothing more than passive
21 resistance to arrest. We knew it was important to take a stand against this abuse of governmental
22 power and to affirm ours and everyone else’s rights under the Constitution. Money was never our
23 primary concern. In the fall of 1997, shortly after the complaint was first filed, we immediately
24 petitioned the court for a preliminary injunction, but it was unfortunately denied. We also repeatedly
25 tried to settle with the Defendants. On May 7, 1998, our attorneys wrote a letter to the Defendants’
26 attorneys offering to settle the case for no money for us as the Plaintiffs (though we did ask for
27 money to cover costs and fees for our attorneys) if the Defendants would agree to never again use
28 pepper spray against peaceful protestors. Attached as **Exhibit A** is a true and correct copy of this

1 May 7, 1998, letter. Around the same time, I and the other Plaintiffs sent a personal letter to the
2 Humboldt County Board of Supervisors offering the same settlement terms. We also made a
3 presentation at a Board of Supervisors meeting, which was attended by many members of the public
4 who made comments in support of us and encouraged the Board to settle the case. On January 31,
5 2003, our attorneys sent another settlement letter to the Defendants' attorneys. Attached as **Exhibit**
6 **A** to the **Declaration of Sophia S. Cope** is a true and correct copy of this letter. In 2003, we again
7 made a presentation at a Humboldt County Board of Supervisors meeting. We also made
8 presentations at Eureka City Council and Arcata City Council meetings. The Arcata City Council
9 passed two resolutions, one early in the case and one in 2003, supporting our position and
10 condemning the use of pepper spray against peaceful protestors.

11 4. I and the other Plaintiffs strongly believe that this case was instrumental in educating
12 the public and raising awareness about abusive law enforcement practices. Because of this lawsuit,
13 the videotapes of the incidents became public, and they were aired on television and sparked a flood
14 of national and international media coverage. I know that this case has received international
15 attention because people in Ireland and Canada emailed us via our website
16 (www.nopepperspray.org) and friends of my family informed me that they saw me on the television
17 news in Greece. Overall, we have received a lot of positive feedback from members of the public
18 who have thanked us for fighting for everyone's constitutional rights and bringing to light the issue
19 of police use of pepper spray against peaceful demonstrators.

20 5. I and the other Plaintiffs are people of modest means. We could not afford to pay for
21 private attorneys to represent us during the first trial, much less through all three trials and the
22 appellate process. We therefore entered into representation agreements with the different teams of
23 attorneys in which they agreed to work on a contingency basis or seek attorney's fees under 42
24 U.S.C. §1988. One attorney, Tony Serra, took this case *pro bono*, working entirely for free. In order
25 to cover basic costs, I and the other Plaintiffs conducted various fundraising activities, such as a
26 letter writing campaign and fundraising dinner, which provided us with a little money to take us
27 through the many years of litigation.

1 I declare under penalty of perjury that the foregoing is true and correct to the best of my
2 knowledge.

3 Executed this 30th day of June, 2005, in Garberville, California.
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6 VERNELL LUNDBERG
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