

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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SARAH KUNSTLER; ELIZABETH ANDREWS;  
MARION BANZHAF; TIMOTHY Aribert  
BECKER; BERNARD BLYTHE; ALEXANDER  
“SASCHA” BOLLAG; GEORGE BOLLAG;  
JESSICA VAN VAERENEWYCK BREWER;  
ELIZA BROWN; CLAUDIA CALHOON; NOAM  
DAVID DOLGIN; STEPHEN DUNCOMBE;  
MEGAN FARRINGTON; WILLIAM FISHER;  
CRISTIAN FLEMING; MATTHEW FLOWER;  
THOMAS GALLAGHER; DANIEL KAHN  
GILLMOR; KYLE GOEN; DONNA GOULD;  
ANDREW WARREN GREENBERG; LOUIS  
GUIDA; EVA HAGEMAN; JENNY HEINZ;  
KATHI-JANE (K.J.) HOLMES; KEVIN HSI;  
GITELLE KAPLAN; LESLIE KIELSON; TRACY  
MALIKOWSKI; BENNET MAURER; ERIK  
MERCER; KIMBERLIE MUENCH; CHRIS  
POSTERARO; DAWN REEL; NICOLAS  
RUDIKOFF; MINA SAMUELS; MICHAEL  
SCHUVAL; DANZY SENNA; LOUISA SHAFIA;  
MICHAEL SHENKER; BEN SHEPARD; AHMAD  
SHIRAZI; ANN SHIRAZI; LESLIE SIMPSON;  
REBECCA VAUGHAN; LAURIE WEN; LEE  
WHITING; BRENNA BELL; SHAWN EWALD;  
ERIC LAURSEN; DANIEL VEA; and CRAIG  
WEBSTER,

04 Civ. 1145 (RWS)

**FIRST AMENDED  
COMPLAINT AND  
JURY DEMAND**

Plaintiffs,

-against -

THE CITY OF NEW YORK; RAYMOND KELLY;  
Commissioner of the New York City Police Department  
(NYPD); JOSEPH J. ESPOSITO, Chief of Department  
of the NYPD; MICHAEL ESPOSITO, Assistant Chief  
of the NYPD; BRUCE H. SMOLKA, Deputy Chief of  
the NYPD; THOMAS GRAHAM, Deputy Inspector of  
the NYPD; MICHAEL J. MCENROY, Deputy Inspector  
of the NYPD; ROBERT BONIFATI, Captain of the  
NYPD; ROBERT SUNG, Sergeant of the NYPD (Shield  
No. 5333); SANDRA SCHALLER, Sergeant of the  
NYPD (Shield No. 4364); POLICE OFFICERS  
ATKINSON (Shield No. 12890), NELLIE CABASA,

CARO, CARSON (Shield No. 27173), CHRISTIANSON,  
CONNOLLY, ANTHONY CUOCO (Shield No. 5214),  
DE LOS SANTOS, DEMARZO, DISTASI, DI-VIRGILIO  
(Shield No. 31911), GARCIA, LOUIS GUARDINO  
(Shield No. 27088), JOSEPH HAYWORD (Shield No.  
13021, QNTF), JASINSKY (Shield No. 18714), FRANCIS  
KNOWLES (Shield No. 1542), KRAUBS, KENNETH  
LARSON, MAGUIRE, MORAN, NAPOLITANO  
(Shield No. 928849), RIGOBERTO PEREZ (Shield No.  
28928), RODRIGUEZ, TAUBER (Shield No. 13066),  
JOHN TAVERAS (Shield No. 23049), UNIDEN and  
VANBUREN; POLICE OFFICERS JOHN/JANE  
DOES Nos. 1-24, (Shield Nos. 1299, 1470, 1549, 2371,  
3093, 3178, 3470, 4001, 4475, 4898, 5145, 10350, 10912,  
11727, 12773, 17322, 18438, 19239, 25996, 26248, 27403,  
30003, 31536 and 52149); and POLICE OFFICERS  
JOHN/JANE DOES Nos. 25-100; in their individual and  
official capacities,

Defendants.

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Plaintiffs, by their attorneys, for their First Amended Complaint allege as follows:

### **INTRODUCTION**

1. This civil rights action, brought pursuant to the United States Constitution and 42 U.S.C. § 1983, seeks redress for defendants' bogus arrest of scores of peaceful protesters. Defendants, members of the New York City Police Department ("NYPD"), inexcusably abused their power and authority, thus depriving plaintiffs of the rights, privileges, and immunities secured by the Constitution and laws of the United States and the State of New York.

2. On April 7, 2003, defendants wrongfully, maliciously and without probable cause, arrested more than 70 people, including the 52 plaintiffs in this case, whose only "crime" was exercising their constitutionally protected right to engage in peaceful protest against the war in Iraq and those profiting from the war, specifically the Carlyle Group.

3. By itself, defendants' arrest and prosecution of plaintiffs without any basis whatsoever, much less the probable cause required by law, is unacceptable. When paired, however, with defendants' obvious distaste for plaintiffs' political message, their attempt to squelch plaintiffs' speech and discourage future dissent is reprehensible.

4. Instead of treating plaintiffs with the respect due all citizens exercising their core First Amendment rights, defendants chose to punish plaintiffs for having the temerity to question and criticize our government.

5. Defendants' actions speak for themselves. Defendants chastised and accused lawful and peaceful protesters of being un-American.<sup>1</sup> Defendants took instant Polaroid pictures of plaintiffs and video footage of plaintiffs multiple times at the scene of the protest and while in custody and interrogated plaintiffs, improperly asking them about their political affiliations, beliefs and activities with the patent intent of compiling the information for future "monitoring." Defendants threatened plaintiffs with prolonged detention if they did not cooperate and answer *all* questions. All this was done without even the patina of an excuse for making the arrests challenged in this action.

6. Defendants' misconduct has had its desired effect. Plaintiffs are now fearful of participating in lawful protests. Many are now hesitant to attend, and some have chosen not to attend anti-war and/or anti-Bush Administration protests for fear of being unlawfully arrested, detained, and questioned again by the NYPD.

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<sup>1</sup> This charge echoed United States Attorney General John Ashcroft's testimony before a Senate committee on December 6, 2001 (claiming that critics of the Bush Administration "only aid terrorists" and "give ammunition to America's enemies"). See Jess Bravin and Gary Fields, *Ashcroft Scraps with Senators Over Tribunals*, WALL ST. J., Dec. 7, 2001, at A3.

7. Plaintiffs seek a judgment: (i) declaring that defendants violated their constitutional rights by subjecting them to utterly baseless arrests, political interrogations, unnecessarily prolonged detentions and unwarranted prosecutions; (ii) directing defendants to return (and cease all activities utilizing) (a) the multiple photographs taken of each plaintiff for what appear to be improper intelligence purposes, and (b) notes or other records of plaintiffs' answers to defendants' improper custodial political interrogations; (iii) awarding compensatory damages for the injuries caused by defendants' unlawful conduct; and (iv) awarding punitive damages assessed against the individual defendants to deter future intentional, and/or reckless deviations from well-settled constitutional law.

### **THE PARTIES**

8. At the time the events giving rise to this complaint occurred, plaintiffs resided in the United States, primarily in New York City.

9. Defendant City of New York ("City") is a municipality organized and existing under the laws of the State of New York. At all times relevant hereto, defendant City, acting through the New York City Police Department ("NYPD"), was responsible for the policy, practice, supervision, implementation, and conduct of all NYPD matters and was responsible for the appointment, training, supervision, and conduct of all NYPD personnel, including the defendants referenced herein. In addition, at all relevant times, defendant City was responsible for enforcing the rules of the NYPD, and for ensuring that the NYPD personnel obey the laws of the United States and of the State of New York.

10. At all times relevant hereto, defendant Raymond Kelly was the Commissioner of the NYPD, acting in his official capacity as an employee, agent, and servant of

the City, and within the scope of his employment, and was also a City policy-maker with respect to NYPD matters. Defendant Kelly is sued in his official and individual capacities.

11. At all times relevant hereto, defendant, Joseph J. Esposito, was the Chief of Department of the NYPD and thus the highest ranking uniformed officer in the NYPD, acting in his official capacity as an employee, agent, and servant of the City, and within the scope of his employment, and was also a City policy-maker with respect to NYPD matters. Defendant Joseph J. Esposito is sued in his official and individual capacities.

12. At all times relevant hereto, defendant Michael Esposito was an Assistant Chief in the NYPD and the Commanding Officer and/or Borough Commander of Patrol Borough Manhattan South (“PBMS”), acting in his official capacity as an employee, agent, and servant of the City, and within the scope of his employment, and was also a City policy-maker with respect to NYPD matters. Defendant Michael Esposito is sued in his official and individual capacities.

13. At all times relevant hereto, defendant Bruce Smolka was a Deputy Chief in the NYPD and the Executive Officer of PBMS acting in his official capacity as an employee, agent, and servant of the City, and within the scope of his employment, and was also a City policy-maker with respect to NYPD matters. Defendant Smolka is sued in his official and individual capacities.

14. At all times relevant hereto, defendant Thomas Graham was a Deputy Inspector in the NYPD and the Commanding Officer of the Disorder Control Unit, acting in his official capacity as an employee, agent, and servant of the City, and within the scope of his employment, and was also a City policy-maker with respect to NYPD matters. Defendant Graham is sued in his official and individual capacities.

15. At all times relevant hereto, defendant Michael J. McEnroy was a Deputy Inspector in the NYPD and the Commanding Officer of the 17<sup>th</sup> Precinct, acting in his official capacity as an employee, agent, and servant of the City, and within the scope of his employment, and was also a City policy-maker with respect to NYPD matters. Defendant McEnroy is sued in his official and individual capacities.

16. At all times relevant hereto, defendant Robert Bonifati, was a Captain in the NYPD and the Commanding Officer of the Queens North Task Force, acting in his official capacity as an employee, agent, and servant of the City, and within the scope of his employment, and was also a City policy-maker with respect to NYPD matters. Defendant Bonifati is sued in his official and individual capacities.

17. At all times relevant hereto, defendants Robert Sung and Sandra Schaller were Sergeants in the NYPD assigned to the Queens North Task Force, acting in their official capacities as employees, agents, and servants of the City, and within the scope of their employment, and were also City policy-maker's with respect to NYPD matters. Defendants Sung and Schaller are sued in their official and individual capacities.

18. At all times relevant hereto, defendants Atkinson, Nellie Cabasa, Caro, Carson, Christianson, Connolly, Anthony Cuoco, De Los Santos, Demarzo, Distasi, Di-Virgilio, Garcia, Louis Guardino, Joseph Hayword, Jasinsky, Francis Knowles, Kraubs, Kenneth Larson, MaGuire, Moran, Napolitano, Rigoberto Perez, Rodriguez, Tauber, John Taveras, Uniden, and Van Buren were police officers of the NYPD, and acted in the capacity of agents, servants, and employees of defendant City, and within the scope of their employment as such. Each of these officers is sued in his or her individual and official capacities.

19. At all times relevant hereto, defendants John and Jane Does Nos. 1-24 (Shield Nos. 1299, 1470, 1549, 2371, 3093, 3178, 3470, 4001, 4475, 4898, 5145, 10350, 10912, 11727, 12773, 17322, 18438, 19239, 25996, 26248, 27403, 30003, 31536 and 52149) and Nos. 25-100 150 (the “Doe defendants”), whose actual names plaintiff has been unable to ascertain notwithstanding reasonable efforts to do so, but who are sued herein by shield numbers and/or the fictitious designation “John Doe” and “Jane Doe,” were police officers of the NYPD, acting in the capacity of agents, servants, and employees of defendant City, and within the scope of their employment as such. Each of these officers is sued in his or her individual and official capacities.

20. All defendants except the City of New York, including the Doe defendants, will be referred to collectively as the “individual defendants.”

#### **JURISDICTION AND VENUE**

21. This action arises under the First, Fourth, and Fourteenth Amendments to the United States Constitution and under 42 U.S.C. §§ 1983 and 1988 and the laws of the State of New York.

22. The jurisdiction of this Court is predicated upon 28 U.S.C. §§ 1331, 1333(a)(3) and (4), 1337(a), and the doctrine of supplemental jurisdiction.

23. The acts complained of occurred in the Southern District of New York and venue is lodged in this Court pursuant to 28 U.S.C. § 1331(b).

#### **JURY DEMAND**

24. Plaintiffs demand trial by jury in this action.

## **FACTS**

### **A. Facts Applicable to All Plaintiffs**

25. On the morning of April 7, 2003, a group of anti-war demonstrators, including many of the plaintiffs in this action, staged a protest outside the office building of an affiliate of The Carlyle Group, a multi-national conglomerate corporation with deep ties to the past and present Bush Administrations. With a roster of associates that includes George Bush, Sr. and former Defense Secretary Frank Carlucci, The Carlyle Group, on information and belief, has access to the innermost circles of power.

26. On information and belief, The Carlyle Group gains information from this privileged access, and uses its influence to manipulate United States foreign policy and short-circuit democratic institutions, in order to profit from war. Sometimes called the “Ex-Presidents” Club, The Carlyle Group’s employees include George Bush, Sr., former Secretary of State (under Bush, Sr.) James Baker, former Secretary of Defense and Deputy Director of the CIA, Frank Carlucci, former White House budget chief Richard Darman, and former SEC chairman Arthur Levitt. Former British Prime Minister John Major leads The Carlyle Groups European operations. Current President George W. Bush served on the board of a Carlyle Group company from 1990-1992.

27. On information and belief, the Carlyle Group is one of the largest defense contractors in the United States. Among many other holdings, The Carlyle Group owns United Defense, a maker of missile launchers, armored vehicles, and the Crusader Howitzer. Despite widespread criticism from the Army asserting that the Crusader’s technology was clumsy and

outdated, Defense Secretary Donald Rumsfeld convinced the Pentagon to keep buying Crusaders at a cost of \$11 billion.

28. A few weeks after the U.S. began bombing Afghanistan, The Carlyle Group took United Defense public in a move that earned it approximately \$240 million. Months later the Crusader program was scrapped and United Defense was awarded a contract to build a lighter gun.

29. In New York City, an affiliate of The Carlyle Group (“The Carlyle Group”) has an office located at 712 Fifth Avenue (“The Carlyle Group building” or “the building”). The building has its entrance on the south side of West 56<sup>th</sup> Street.

30. The April 7 protest was part of a National Day of Direct Action against the Iraq war. New York City activists chose to target The Carlyle Group in order to highlight the corrupting influence of powerful profit-seeking corporations on decision-making in Washington.

31. As plaintiffs knew, two conceptually distinct actions were planned.

32. One action contemplated protestors picketing directly in front of the entrance to The Carlyle Group building on the south side of 56<sup>th</sup> Street where those protestors who were willing to be arrested would sit down in front of the entrance to the building in an act of civil disobedience.

33. The second action was carefully planned for individuals who were committed to protesting The Carlyle Group’s activities but wanted to do so without breaking any laws. This was accomplished by planning a separate demonstration on the sidewalk across the street (on the north side of 56<sup>th</sup> Street) where protestors could also demonstrate their support for

the people committing civil disobedience. These demonstrators were joined by a smaller group of lawful protestors who did not want to break any laws that formed on the south side of 56<sup>th</sup> Street, many yards to the west of, and well clear of, the entrance to The Carlyle Group affiliate.

34. Every plaintiff made the affirmative decision *not* to participate in the planned action of civil disobedience. Not a single plaintiff deviated from his or her original plans.

35. The April 7 action was openly planned and promoted. Thus, not surprisingly, protestors were met by dozens and dozens of NYPD officers when they arrived for the action.

36. As planned, a little after 8:00 a.m. protestors began picketing in front of the entrance to the building. Thereafter, at about 8:30 a.m., approximately ten activists blocked the entrance to the building, and were arrested for doing so.

37. During the same period a much larger group of approximately 100 activists formed on the sidewalk of the north side of the street. This group was careful at all times to stay close to the curb at the southern edge of the sidewalk, thus maintaining plenty of room for pedestrians walking along the sidewalk between the protestors and the building behind them. A smaller group of activists formed on the sidewalk of the south side of the street, well clear of the entrance to the Carlyle Group affiliate.

38. Many protestors carried signs. Among other messages, some of the signs read “Bombs Drop – Bush Profits”, “Make History Not War”, “Real Profits From Peace”, and “Preemptive War Is Terrorism.” Protestors also carried large signs depicting The Carlyle

Group's profits from war and the longstanding mutually profitable relationship between the Bush and Bin Laden families.

39. During the protest, a double row of police in riot gear quickly surrounded the group of approximately 100 protestors standing on the north side of the sidewalk and arrested them. This action was taken without warning. No order to disperse was given.

40. On information and belief, throughout the protests and arrests, defendant NYPD officers communicated with private security personnel working in The Carlyle Group building.

41. By encircling the protestors, defendants blocked all pedestrian traffic on the north side of 56<sup>th</sup> Street for approximately thirty minutes.

42. That day, unless noted otherwise, without reason, probable cause, or any basis whatsoever, defendants falsely, intentionally, and maliciously charged each plaintiff with two counts of disorderly conduct (violations of Penal Law 240.20(5) and 240.20(6)).

43. New York Penal Law 240.20(5) prohibits the obstruction of vehicular or pedestrian traffic with the intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof.

44. New York Penal law 240.20(6) prohibits people from congregating in a public place and refusing to comply with a lawful order of the police to disperse with the intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof.

45. Plaintiffs did not commit disorderly conduct at any time on April 7, 2003.

46. At no time did plaintiffs prevent or block the flow of pedestrian traffic on the sidewalks on either the north or south side of 56<sup>th</sup> Street or vehicular traffic on 56<sup>th</sup> Street.

47. Defendants had absolutely no basis to believe that plaintiffs had committed any disorderly conduct at any time on April 7, 2003.

48. On information and belief, defendants' only reason for arresting, imprisoning and prosecuting plaintiffs was to retaliate against them for their involvement in the rally and protest outside of The Carlyle Group building.

49. Defendants handcuffed and arrested everyone they trapped when they encircled the protestors on the sidewalk on the north side of 56<sup>th</sup> Street. Defendants handcuffed and arrested protestors on the south side of the street as well.

50. After being handcuffed, defendants took Polaroid photographs of plaintiffs and placed them in police wagons with between ten and twenty other arrestees. For the most part, arrestees were then transported to an outdoor police holding area near the Jacob Javits Center.

51. April 7 was an unseasonably cold day. The temperature was below freezing and snow began to fall on the protestors as they were held outdoors near the Javits Center. Some plaintiffs were forced to stand outside in the snow for much more than an hour.

52. Thereafter, the arrestees were transported to One Police Plaza.

53. While at One Police Plaza, the arrestees were photographed at least one additional time and sometimes two to three more times. They were fingerprinted, in many cases more than once. They were placed in large uncomfortable and inadequate group holding cells.

54. Many of the arrestees were also interrogated about their political activities and affiliations outside the presence of counsel. None were informed of their rights under *Miranda*. Upon information and belief, many of these interrogations involved use of an interrogation form prepared in preparation for a February 15, 2003 antiwar demonstration by Inspector John W. Cutter, Commanding Officer of the Criminal Intelligence Section of the NYPD. This form was titled "Demonstration Debriefing Form" and was broken into several smaller section, including a section titled "subject information" which contained lines for pedigree information, and also a line for "organization name," "organization position," "school name," and "prior demonstration history." The form also included a section entitled "additional information" with seven blank lines for comments. The form bears two official seals at the top of the page. The seal on the upper left corner reads "New York, New Jersey High Intensity Drug Trafficking Area, Executive Office of the President of the United States." The seal at the upper right corner of the page reads "Intelligence Division."

55. Throughout the rest of the day, primarily in the evening hours between 7 p.m. and 11:00 p.m., arrestees were given Desk Appearance Tickets unjustifiably charging them, unless noted otherwise, with two counts of disorderly conduct (violations of Penal Law 240.20(5) and 240.20(6)) and were then released.

56. Notwithstanding their obvious lack of probable cause, defendants chose to pursue and prosecute these baseless charges against plaintiffs.

57. Plaintiffs were thus forced to retain counsel and make court appearances to defend themselves against the trumped up charges.

58. As of February 11, 2004, the charges against all plaintiffs, except when noted, have been dismissed.

59. Defendants' unwarranted, unlawful and malicious arrests and prosecutions have inhibited plaintiffs from continuing to engage in expressive and associational activities protected by the First Amendment. Afraid of being put through another senseless ordeal, some plaintiffs will no longer attend anti-war demonstrations, some are less inclined to participate in anti-war protests, and those who continue to participate do so with a heightened sense of fear and apprehension.

60. As a direct and proximate result of their unlawful arrest, assault, confinement, and prosecution, plaintiffs have suffered and/or continue to suffer physical pain and suffering, reputational injury, humiliation, psychological pain, suffering, and mental anguish, legal defense costs, lost wages, and other losses.

61. Within ninety days after the claims alleged in this Complaint arose, plaintiffs Marion Banzhaf, Tim Becker, Alexander Bollag, Jessica Brewer, Eliza Brown, Noam Dolgin, Shawn Ewald, Cristian Fleming, Thomas Gallagher, Daniel Gillmor, Kyle Goen, Donna Gould, Louis Guida, Eva Hageman, Jenny Heinz, Kevin Hsi, Gitelle Kaplan, Sarah Kunstler, Eric Laursen, Bennet Maurer, Louisa Shafia, Ann Shirazi, Ahmad Shirazi, Rebecca Vaughan, and Lee Whiting (the "Notice Plaintiffs") served written notices of claim upon the City of New York.

62. At least thirty days have elapsed since the service of the notices of claim, and adjustment or payment of those claims has been neglected or refused.

## **B. Individual Plaintiff Facts**

### **Sarah Kunstler**

63. Plaintiff Sarah Kunstler is a 26 year-old woman who resides in Manhattan. She is law student at Columbia University.

64. On April 7, 2003, Ms. Kunstler attended the demonstration outside the offices of The Carlyle Group. Ms. Kunstler was scheduled to work and attend classes that day. Ms. Kunstler decided to attend the demonstration so she could investigate it as a possible subject for a documentary video project.

65. When she arrived, Ms. Kunstler went to the sidewalk on the north side of 56<sup>th</sup> Street. She walked back and forth in the group observing the protest. A large number of police officers surrounded the protestors. Ms. Kunstler then heard defendant Chief Smolka say, "Nobody gets in and nobody gets out." Then a non-uniformed police officer pointed to Ms. Kunstler and said, "Get that one." Defendant Officer Tauber then grabbed Ms. Kunstler.

66. At about 8:45 a.m., Ms. Kunstler was handcuffed, photographed and loaded into a police wagon. It took about thirty to forty-five minutes for the vehicle to be filled with about fifteen arrestees.

67. Defendant Tauber tightened Ms. Kunstler's handcuffs excessively. When Ms. Kunstler asked a police officer to loosen them, she was ignored. Her hands were swollen, and in pain for the rest of the day. At one point she started to lose feeling in both arms. Her backpack was filled with heavy law school textbooks and a computer. A police officer hung her

backpack around her neck, by one strap, on her front side. It was very heavy, and painful to carry in that manner.

68. In the police wagon, a female police officer expressed her displeasure with “anti-American” sentiments and told the protestors that they should support the troops.

69. When the police wagon arrived at the Javits Center, Ms. Kunstler and the others, were taken out and searched. Later, they were put back into the police wagon and transported to One Police Plaza. At One Police Plaza, Ms. Kunstler was photographed again, fingerprinted, and placed in a cell with three other women. The cells were not made for that many people: two women could sit on the bed while another two stood beside the toilet. Ms. Kunstler was uncomfortable using the toilet in full view of her cell mates and anyone passing the front of the cell.

70. Ms. Kunstler was questioned by police officers at One Police Plaza. She was told that if she cooperated they would release her early; otherwise they would keep her overnight.

71. At one point, Ms. Kunstler was called out of her cell by defendant Tauber who told her that she could get out early if they filled out a form together. “This means that I trust you,” he explained. He began asking questions about her employer, her school, her marital status, and who she lived with. Ms. Kunstler told defendant Tauber that she was uncomfortable answering the questions. Tauber became angry. He told Ms. Kunstler that now, because she had “messed up,” she would have to go through “the system” and be held in her cell overnight.

72. When Ms. Kunstler was placed back in her cell, she asked a police officer if she was really going to be incarcerated all night because she had not answered Tauber's questions. Ms. Kunstler's best recollection is that the officer responded by teasing her and saying: "Oh, so now you want to play the game. Now you're scared, but it's too late. You people listen to your jailhouse lawyers and they tell you you don't have to talk to us. But you messed up and now you are going to have to spend the night here" or words to that effect.

73. Notwithstanding the officer's intimidating and coercive threats, Ms. Kunstler was released at around 8:30 that evening, approximately twelve hours after her arrest.

74. As a result of the arrest, Ms. Kunstler missed important work and school activities. She was unable to attend her work-study job. She missed two law school classes.

75. Like most (if not all) of the other arrestees, she was offered an Adjournment in Contemplation of Dismissal ("ACD") at her arraignment on May 5, 2003. She refused. She was tried with another arrestee on June 9, 2003. She was found not guilty. She was forced to miss a day of work at her summer job on the day of trial. In addition to missing the day of work, she also had to explain to her co-workers and supervisors that she had been arrested and was going to the trial.

### **Elizabeth Andrews**

76. Plaintiff Elizabeth Andrews is a 40 year-old woman who resides in Brooklyn. Ms. Andrews works full-time at Zagat Survey.

77. Ms. Andrews arrived at The Carlyle Group building around 8:30 a.m. and stood on the sidewalk on the north side of 56<sup>th</sup> street. A little before 9 a.m. Ms. Andrews saw

that police officers had surrounded the demonstrators. She heard one protestor ask if they could leave, and the officer replied that the protestors would be released "in drips and drabs." Instead, defendants arrested the entire group of lawful protestors, including Ms. Andrews.

78. At approximately 9 a.m., Ms. Andrews was handcuffed with her arms behind her back by Police Officer Felice Demarzo. While Ms. Andrews was waiting to be placed in the police wagon, another officer walked behind, said that the cuffs were too loose, and tightened her cuffs. Two more officers walked behind her, and tightened her cuffs even more. This occurred in front of Officer Demarzo, and resulted in Ms. Andrews' cuffs being painfully tight. Ms. Andrews was then placed in a police wagon with about thirteen other protestors. Ms. Andrews asked one of the officers, an Asian man, to cut off or loosen her cuffs. He told her there was nothing he could do about it.

79. Ms. Andrews was transported to an outdoor police holding area near the Jacob Javits Convention Center. Ms. Andrews was detained at the outdoor holding area for approximately half an hour. She was frisked and photographed. She was then transported to One Police Plaza, arriving at approximately 11 a.m. During this two hour period, she had no access to food, water, or bathrooms.

80. At One Police Plaza, Ms. Andrew's handcuffs were removed, and she was photographed and placed in a holding cell with three other protestors. Ms. Andrews' wrists were swollen from the cuffs and she was in serious pain.

81. Approximately forty-five minutes after she arrived at One Police Plaza, Ms. Andrews was called out of her cell by a plain clothes officer, wearing a shirt with an insignia on it. The officer asked Ms. Andrews her name, address, date of birth and Social Security

number. He then asked her if she was a member of any political or activist groups, and if she had been to any other protests. She answered these questions and the officer recorded her answers on a form.

82. A little bit later, Ms. Andrews was fingerprinted and returned to her cell. A few hours after that, she was interviewed by an EMT. She told him about the wrist pain she was experiencing, and he told her to "rub it."

83. Ms. Andrews was not released until approximately 8:30 p.m. Her detention lasted approximately eleven and a half hours. Due to her arrest and detention, Ms. Andrews missed a full day of work, including a meeting she had scheduled with Tim Zagat, the owner of the company. She used her last two personal days of the year for April 7, and for her first court date. Ms. Andrews' managing editor was angry about her absence, yelled at her, and told her that she could not do such a thing again.

84. Unable to miss any additional days of work, Ms. Andrews accepted an ACD on June 9, 2003.

85. Ms. Andrews' neck, shoulder, and left arm ached days after the arrest. She experienced numbness and tingling in her left hand and the thumb of her right hand for four months after her arrest. She was forced to take additional time off from work to seek treatment. She was told by her doctor her median nerve was injured, and was prescribed anti-inflammatory pills.

**Marion Banzhaf**

86. Plaintiff Marion Banzhaf is a 50 year-old woman who resides in Manhattan. She is the administrator of a charitable foundation.

87. Ms. Banzhaf arrived The Carlyle Group Office Building at around 8:00 a.m. and stood on the north sidewalk. Ms. Banzhaf decided to participate only in the lawful protest, in part, because she was menstruating and did not want to go through the discomfort and inconvenience of the arrest process. She and another protestor stood near the curb facing the street, holding a banner that was a parody of a dollar bill. Written on the banner was, "United In Corporate Trust" and "United Slaves of America."

88. After the protestors who were engaged in civil disobedience on the south side of the street had been arrested, the police surrounded the protestors on the north sidewalk and proceeded to grab and handcuff the individuals who had been surrounded. She heard an officer say: "Everyone on this side is under arrest."

89. At approximately 8:45 a.m., defendant McEnroy pointed to Ms. Banzhaf and told Police Officer Taveras to arrest her. Ms. Banzhaf said to these defendants that she had not broken any laws. Defendant McEnroy replied, "I know" and handed her over to defendant Taveras, who handcuffed her. When Ms. Banzhaf complained to Taveras that her handcuffs were painfully tight and asked that they be loosened, Taveras replied that he did not have the tool needed to do so. Ms. Banzhaf pleaded for Taveras to at least wedge something between the handcuffs and her skin to loosen them, but Taveras simply walked away.

90. Ms. Banzhaf was taken to a police wagon, photographed, and put inside with about fourteen other arrestees. While in the police wagon, Ms. Banzhaf told the officer

driver that she was in extreme pain from the handcuffs. The driver told her that she should have thought about that before participating in the demonstration and accused her of helping terrorists.

91. After driving for some time, the vehicle arrived at the Javits Center. Once there, the protestors were unloaded and forced to stand in the falling snow for about fifteen minutes while they were searched. They were then loaded back into the police wagon and taken to One Police Plaza.

92. At One Police Plaza, Banzhaf and her fellow protestors stood in a line and another Polaroid photo was taken of each of them. The protestors were finally allowed to use the restrooms for the first time since their arrest. Ms. Banzhaf was given one sanitary pad.

93. Defendant Taveras placed Ms. Banzhaf and about 20 other women in a cell near the front of the building. They stayed there for approximately 20 to 30 minutes, until they were transferred to a different cell. At around 5:00 p.m., Ms. Banzhaf was fingerprinted and photographed again. While in the cell, Ms. Banzhaf asked for a sanitary napkin and she was told that there were none. When the arrestees in Ms. Banzhaf's cell asked for water they were told that the police had run out.

94. Ms. Banzhaf was not released until approximately 9:30 p.m. She was detained for nearly thirteen hours. As a result of the handcuffing, Ms. Banzhaf experienced severe pain and discomfort while the handcuffs were on and for days afterwards. Her left hand was swollen and she continued to experience numbness and severely limited movement of her thumb and index finger for days after her arrest.

95. Ms. Banzhaf's first court date was on May 5, 2003. She appeared for court a number of times thereafter. On September 29, 2003 the charges against her were dismissed.

**Timothy Aribert Becker**

96. Plaintiff Timothy Aribert Becker is a 45 year-old man who resides in Manhattan. At the time of his unlawful arrest, he worked as a registered nurse and as an artist and painter.

97. Mr. Becker arrived at approximately 8:00 a.m. and joined a moving demonstration on the south side of West 56<sup>th</sup> Street in front of The Carlyle Group building. He marched holding a banner depicting a Carlyle dollar bill.

98. Mr. Becker marched for about 20 minutes until the civil disobedience action began. Mr. Becker did not participate in the civil disobedience action. The police officers told Mr. Becker to move away from the area directly in front of the doorway to The Carlyle Group and move to the other side of the street. Mr. Becker fully complied.

99. Mr. Becker was standing on the north sidewalk holding his banner when without warning, the police officers surrounded the demonstrators on the north sidewalk. No one was allowed to leave. The police officers proceeded to grab and arrest the protestors. Mr. Becker was grabbed and rear handcuffed at approximately 8:45 a.m. along with two fellow protestors by defendant Officer Joseph Hayword. Once he was handcuffed, a NYPD supervisor (on information and belief an Assistant or Deputy Chief) pointed to Mr. Becker and one other protestor and ordered their removal to an awaiting police van.

100. Defendant Hayword escorted Mr. Becker to a police wagon, took his photograph and loaded him in. About 15 other arrestees were in the vehicle with Mr. Becker. One was a young man who was bleeding heavily. His face was covered with blood. The bloody young man was later removed from the police wagon while they were still at 56<sup>th</sup> Street.

101. At approximately 10:00 a.m., they arrived at the Javits Center. Everyone was unloaded and forced to stand outside in the snow for about an hour. Then Mr. Becker and the others were loaded back into the police wagon and taken to One Police Plaza.

102. They arrived at around 11:30 a.m. and Mr. Becker was placed in a cell. During the day, Mr. Becker was fingerprinted and photographed. Mr. Becker was not released until approximately 9:30 p.m. Mr. Becker's detention lasted approximately twelve hours.

103. Mr. Becker was compelled to appear in court on May 5, June 10, July 31, September 11, and October 27, 2003. Finally, on October 27, Mr. Becker's case was dismissed.

104. Mr. Becker's detention and court appearances forced him to miss work.

### **Bernard Blythe**

105. Plaintiff Bernard Blythe is a 38 year-old man who resides in Brooklyn. He is an interior designer.

106. Mr. Blythe arrived at The Carlyle Group Office Building at approximately 8:00 a.m. with a group of fellow "Glameericans." His group had met earlier that morning to assemble their posters and costumes. Their posters had slogans such as "More Blood for Oil." They were dressed in business attire and several of them had stuffed fake dollar bills in their cuffs and collars to appear as if they were dripping with money.

107. On their way to the Carlyle Group building, Mr. Blythe and his fellow protestors had been told to be sure to stay on the north side of 56<sup>th</sup> Street, and to stay lined up at the edge of the sidewalk, near the curb, so as not to block any traffic. Mr. Blythe and others in his group took care to follow these instructions because they had to get to work that morning and had no intention of being arrested.

108. While standing on the north side of the street, Mr. Blythe chanted in support of the protestors on the south side. Consistent with the Glamericans' satirical approach, he shouted "Down With Free Speech" and other "pro-gluttony" chants.

109. Mr. Blythe then noticed that police officers began to surround the entire group of protestors on the north side of the street, and saw some arrests taking place on the left side of the group. Mr. Blythe tried to leave, and asked a police officer whether he and another protestor could get by in order to go to work. The officer would not let him leave.

110. A plainclothes officer grabbed Mr. Blythe. Another plainclothes officer then handcuffed Mr Blythe, with his arms underneath his full backpack in a very uncomfortable position.

111. A uniformed police officer -- Police Officer Larson, shield number 27173 -- then brought Mr. Blythe over to a wagon. A Polaroid was taken of Mr. Blythe with P.O. Larson and Mr. Blythe was then loaded into the wagon, where he waited for about an hour while it filled with about twelve to fifteen other protestors. While he waited, he heard several others in the van complain about the tightness of their handcuffs. He heard a police officer respond, "that's what you get for protesting."

112. Mr. Blythe and the others in the van were then driven to the Jacob Javits Convention Center, where the wagon sat waiting for about an hour and a half. Eventually protestors were taken out of the van one by one; Mr. Blythe had to wait in the cold for about fifteen minutes while he and others were searched.

113. Thereafter, at approximately 11:00 a.m., Mr. Blythe was transported to One Police Plaza where his handcuffs were removed and he was brought to a holding cell.

114. After at least five hours -- at approximately 4:30 or 5:00 p.m. -- Mr. Blythe was taken out of his cell to be fingerprinted and then photographed a second time. He was then brought to a smaller room where he was asked several questions, including what town he was born in.

115. Mr. Blythe was finally released at about 8:50 p.m. Due to his arrest, Mr. Blythe was unable to attend work that day.

116. On September 8, 2003 at his fourth court appearance for the charges, the charges against Mr. Blythe were dismissed. Each time he was forced to appear in court, Mr. Blythe missed work.

117. The handcuffs caused Mr. Blythe severe discomfort. He suffered soreness in his shoulders for several days after the arrest.

#### **Alexander "Sascha" Bollag**

118. Plaintiff Alexander "Sascha" Bollag is a 19 year-old man who resides in Concord, North Carolina. He is a college student.

119. Mr. Bollag and his grandfather, George Bollag, arrived at The Carlyle Group Office Building at approximately 8:30 a.m. Shortly after their arrival, Mr. Bollag and his grandfather walked to the sidewalk on the north side of 56<sup>th</sup> Street.

120. Shortly before he was arrested, Mr. Bollag heard a police officer announcing to the protestors in his vicinity that they could not leave and were under arrest, and telling the other officers not to allow any one to leave.

121. At approximately 8:50 a.m., Mr. Bollag was arrested and handcuffed with his arms behind his back. As the handcuffs were very tightly placed on his wrists, he experienced considerable pain and discomfort. After being handcuffed, Mr. Bollag was photographed and placed in a police wagon with approximately 17 other protestors including his grandfather. While in the police wagon, he repeatedly asked the police to loosen his tight handcuffs. The police ignored his requests.

122. The protestors were then transported to an outdoor police holding area near the Jacob Javits Convention Center. At the Javits Center Mr. Bollag's handcuffs were finally removed and a new pair were put on which did not cause him as much pain.

123. At approximately 12:00 p.m. Mr. Bollag was transported to One Police Plaza.

124. At approximately 1:00 p.m. Mr. Bollag was again photographed at One Police Plaza. He was photographed for the third time at 3:00 p.m. and also fingerprinted. He was then returned to a cell on the men's block.

125. Mr. Bollag was not released until 7:00 p.m. Upon his release, his license which had been taken by the police was not returned to him and despite numerous requests for the return of his license, it has not been sent back to him.

126. Mr. Bollag's detention lasted more than ten hours. Due to his arrest and detention he was unable to depart New York as scheduled that afternoon for North Carolina where he studies at the Chapel Hill campus of the University of North Carolina.

127. On June 11, 2003, defendants' baseless charges against Mr. Bollag were dismissed.

### **George Bollag**

128. Plaintiff George Bollag is an 81 year-old man who resides in Queens. Mr. Bollag is self-employed.

129. Mr. Bollag and his grandson, Alexander Bollag, arrived at The Carlyle Group Office Building at around 8:30 a.m. Thereafter, when Mr. Bollag was standing on the sidewalk on the north side of the street, he heard a police officer announce that everyone was under arrest. Various protestors asked what the grounds for the arrests were, including Mr. Bollag's grandson, Alexander. No one responded.

130. At approximately 8:50 a.m., Mr. Bollag was arrested and handcuffed with his arms behind his back, placed in a police van with approximately seventeen other protestors, including his grandson Alexander, and taken to the Javits Center, where he was photographed for the first time. At approximately noon, Mr. Bollag was taken to One Police Plaza and photographed again.

131. At One Police Plaza, Mr. Bollag was placed in a cell with a filthy toilet, without toilet paper or paper towels.

132. At approximately 1:30 p.m., Mr. Bollag was released.

133. On June 5, 2003 the charges against Mr. Bollag were dismissed.

**Jessica Van Vaerenwyck Brewer**

134. Plaintiff Jessica Van Vaerenwyck Brewer is a 27 year-old woman who resides in Worcester, Massachusetts. At the time of her arrest she was a graduate student.

135. Ms. Brewer had to be at work on April 7 by 9:15 a.m. Accordingly, she arrived at The Carlyle Group Office Building before 8 a.m. She took a position on the sidewalk on the north side of the street. She wore a button on her bag which said "Anyone but Bush 2004". Ms. Brewer also distributed fliers about the action to the crowd.

136. At approximately 8:45 a.m., without warning, police officers in riot gear encircled the group of protestors. Shortly after, the police officers stepped forward and began grabbing and handcuffing protestors, including Ms. Brewer.

137. Ms. Brewer was photographed and handcuffed by defendant Jasinsky. Due to the tightness of the handcuffs, Ms. Brewer's hands were partially numb for at least a week.

138. Ms. Brewer was placed in a police wagon with sixteen other protestors and transported to an outdoor pen at the Javits Center where they were searched.

139. Later, at around noon, Ms. Brewer and her fellow protestors were placed back in the police wagon and transported to One Police Plaza.

140. At One Police Plaza, Ms. Brewer was placed in a mass holding cell where she was photographed for the second time and her ID was taken. Then she was taken to a cell that contained three other arrestees. At approximately 4:00 p.m., she was fingerprinted and photographed yet again. She was then returned to the holding cell.

141. Ms. Brewer was not released until 8:15 p.m. Her detention lasted approximately eleven and half hours. Due to her arrest, detention and prosecution, Ms. Brewer missed three days of work.

142. On July 21, 2003, defendants' baseless charges against Ms. Brewer were dismissed.

### **Eliza Brown**

143. Plaintiff Eliza Brown is a 28 year-old woman who resides in New York. She works as a freelancer.

144. Ms. Brown arrived at the protest around 8:00 a.m. with a friend, met up with another friend and went to the north side of the street. She held a sign that read, "Profit From Peace." She stood near the curb on the sidewalk.

145. When the police surrounded the protestors, Ms. Brown felt frightened and trapped. Nevertheless, she continued chanting, believing that the police would not arrest her and the other protestors because there obviously was no basis to do so.

146. A woman walked by holding a picture of a bloody child, and a police officer grabbed the woman and said, "You are under arrest."

147. Ms. Brown decided she wanted to leave, telling her friend it was time to go. She went to the west side of the group and asked a police officer if she could leave to go to work. He told her she could not, that no one was allowed to leave. She and her friend then walked to the east side of the group and asked another police officer if they could leave to go to work. Again the police officer told her they could not. The police officer then asked her friend for identification. Her friend asked why they needed his identification, and in response the officer arrested him.

148. Thereafter, Ms. Brown felt hands on her shoulders and arms and was told "you are under arrest" by defendant Napolitano. Ms. Brown was handcuffed and led toward a van. Before she was placed in a police van with about 16 others, most of them women, a police officer took a Polaroid picture of her.

149. The van stopped at the Javits Center, where the arrestees were taken out of the van and searched. The group was then herded back onto the van, still handcuffed, and taken to Central Booking. They arrived at Central Booking around 11:00 a.m.

150. Ms. Brown was processed and placed in a cell. The cell already had two women in it. Shortly after, a fourth woman was brought into the cell. The cell was about five-by-eight feet. Inside the cell was a long slab of metal attached to the wall, a porcelain sink and a toilet. Three of the women, including Ms. Brown, sat on the "bed". The fourth had no room on the bed, so she sat on the toilet. Ms. Brown needed to use the bathroom for a long time before she finally did so because urinating in front of the other women was very embarrassing and she was concerned that someone would walk down the corridor and observe her going to the bathroom.

151. Ms. Brown was released at about 7:30 p.m. Ms. Brown missed an entire day of work. She had to go another day to replace lost time and she had to explain to her boss, who was counting on her being there that day, why she missed the day of work. She also had to explain to a colleague why she missed a meeting that morning.

152. Ms. Brown was very scared about her criminal case. She had a court appearance on May 5 where she was offered an ACD. She refused. Ms. Brown went back to court on June 11. She was again offered an ACD. She again refused. Ms. Brown returned to court on July 24, and the case against her was dismissed. Ms. Brown missed nearly three days of work to go to court.

153. Throughout her detention, Ms. Brown experienced great pain from her handcuffs. Ms. Brown wore a wrist brace for weeks thereafter and her wrists and hands felt numb for at least a month. For some time she had tendinitis in both wrists as a result of the handcuffs.

### **Claudia Calhoon**

154. Plaintiff Claudia Calhoon is a 31 year-old woman and resides in Manhattan. She is a program manager for the Open Society Institute at the Soros Foundation.

155. Ms. Calhoon arrived at the protest wearing an anti-war button. She knew that there was going to be a direct action but purposefully decided not to participate because she did not want to get arrested.

156. Shortly before she was grabbed by an officer, she heard someone asking a police officer for permission to leave the protest and the officer refused. When Ms. Calhoon was

arrested she was not told her charge or read her *Miranda* rights. She was handcuffed and a Polaroid photograph was taken of her. Her cuffs were put on extremely tightly, causing numbness in her hands and wrists.

157. Ms. Calhoon was placed in an overcrowded police van where there was standing-room only. She waited in the van for about 45 minutes before they were taken to the Javits Center. At the Javits Center, she was placed in an outdoor holding pen for about 15 to 20 minutes. Her bag was searched and her button was taken.

158. Ms. Calhoon arrived at Central Booking around 12:00. She was forced to wait outside in the snow for another ten minutes before being taken inside, where another Polaroid photograph was taken. About two hours later, she was printed and a digital photograph was taken of her.

159. At a certain point, she was taken from the cell and questioned by her arresting officer, Officer Jasinski (Tax No. 926491; Shield No. 18714). She was asked where she worked. She responded that she did not want to talk to him without a lawyer. He did not ask any further questions and returned her to the cell.

160. Ms. Calhoon was eventually released at around 7:00 or 8:00 p.m. and charged with disorderly conduct. She missed a full day of work because of her detention.

161. At her first court conference, on May 5, 2003, she accepted an ACD because she was scheduled to be out of the country and wanted to resolve the criminal charge immediately.

### **Noam David Dolgin**

162. Plaintiff Noam David Dolgin is a 27 year-old man who resides in Manhattan. He is an environmental educator.

163. Mr. Dolgin arrived at about 7:30 a.m. and stood on the north side of 56<sup>th</sup> Street. Mr. Dolgin needed to be at work by 10:00 a.m. to attend an important meeting. Mr. Dolgin stood peacefully on the north sidewalk for approximately one hour alongside Marion Banzhaf, with whom he carried a fake dollar bill sign. He was also wearing five buttons that said "Peace Shalom," "prepare the general strike," "save social programs," "peace back by popular demand" and "stop the war."

164. Without warning, defendant police officers encircled the protestors and began to grab and handcuff individuals in the crowd, including Mr. Dolgin. At approximately 8:50 a.m. Mr. Dolgin was rear handcuffed by defendant Officer Napolitano. Within an hour the tightness of the handcuffs caused Mr. Dolgin's hands to become increasingly numb; eventually he lost all feeling. The handcuffs left visible marks on his wrists for two weeks.

165. Mr. Dolgin was photographed and placed in a police wagon (#4411) with 16 other arrestees including plaintiffs Marion Banzhaf, Sascha and George Bollag and Sarah Kunstler. By around 10:00 a.m. they were transported to the Javits Center. Mr. Dolgin was detained in an outdoor pen area for approximately five to ten minutes. Here Mr. Dolgin asked Officer Napolitano to loosen his handcuffs, to no avail. At around 11:00 a.m. Mr. Dolgin and other protestors were transported to One Police Plaza. When they arrived, everyone was left in the police wagon for more than thirty minutes before they were taken inside. Once inside, Mr.

Dolgin's handcuffs were removed and he was photographed for a second time and placed in a cell.

166. At approximately 5:00 p.m. Mr. Dolgin was fingerprinted, photographed and returned to the cell that held approximately fifty other men.

167. Dolgin was not released until after 9:00 p.m. He was detained for approximately twelve hours. Due to his arrest and detention, Dolgin missed an entire day's work including scheduled meetings, interviewing a prospective employee and project deadlines.

168. On August 14, 2003, defendants' groundless charges were dismissed.

### **Stephen Duncombe**

169. Plaintiff Stephen Duncombe is a 38 year-old man who resides in Manhattan. He works as a professor at New York University.

170. When Mr. Duncombe arrived at The Carlyle Group Office Building he joined the protest on the north sidewalk. Mr. Duncombe observed the police arresting protestors committing civil disobedience across the street, in front of the entrance to The Carlyle Group. All of a sudden, police officers lined up in front of Mr. Duncombe and the other protestors on the north side. The police officers then spread out to the east and west. The police then moved in and started violently grabbing people out of the crowd. When Mr. Duncombe told an officer that he wanted to leave so he could go to work, the officer said that Mr. Duncombe should not expect to go to work that day.

171. At approximately 8:40 a.m. an officer rear handcuffed Mr. Duncombe and led him to a police wagon. As he approached the vehicle, Mr. Duncombe saw blood near the entrance.

172. After the police wagon was filled to capacity with about fifteen arrestees, they were taken to the Javits Center. At the Javits Center, Mr. Duncombe and the others from his police wagon stood in the parking lot for an hour. They were searched, photographed, and loaded back into the wagon.

173. The group was then taken to One Police Plaza where they were loaded off the van, and put in a line to be searched again. Mr. Duncombe was later taken from the cell and fingerprinted. Mr. Duncombe was released at about 6:30 p.m.

174. Due to his arrest, Mr. Duncombe missed three colloquia and faculty meetings. The colloquia were final examinations for his students, which had to be rescheduled. Mr. Duncombe also missed his scheduled office hours, to the irritation of his students and the university.

175. The discomfort of the handcuffs caused Mr. Duncombe's left thumb to go numb and his wrists to hurt for the next three weeks.

176. Mr. Duncombe went to court three times. He was forced to miss a class, cancel office hours, reschedule a colloquium and lose a day of reviewing and grading student's papers. Mr. Duncombe's charges were eventually dismissed.

**Megan Farrington**

177. Plaintiff Megan Farrington is a 24 year-old woman who resides in Silver Springs, Maryland. Ms. Farrington is a consultant on non-profit technology.

178. Ms. Farrington arrived at The Carlyle Group Office Building around 7:30 a.m. to meet with reporters and fellow members of the press team. When people started to gather, she stood on the sidewalk of the north side of the street. She was positioned near the curb and toward the east end of the group of protestors.

179. A little before 9 a.m. Ms. Farrington was talking about the protest to the press on her cell phone. Suddenly, she realized that she was completely surrounded by police officers. She was told to hang up her phone, because she was being arrested. She, of course, complied immediately. Ms. Farrington was rear cuffed, possibly by defendant Officer Larson. Ms. Farrington's cuffs were too tight, causing her pain and ultimately leaving bruises.

180. Ms. Farrington and about fifteen others were placed in a vehicle with two benches. There was insufficient room for everyone to sit, so some people stood. After waiting in the truck for about fifteen minutes, they were transported to the Javits Center, where they were kept inside the vehicle for about an hour.

181. Eventually they were taken out of the truck and searched. They were then returned to the vehicle and taken to One Police Plaza. They arrived around 11:00 a.m. From approximately 9:00 a.m. to noon, Ms. Farrington was deprived of water and any opportunity to use a bathroom.

182. At One Police Plaza, Ms. Farrington was photographed and placed in a holding cell with several other protestors. At approximately three or four in the afternoon she

was taken from her cell, searched, and then returned to a different holding cell. Before she was taken from the first holding cell she was questioned by defendant Officer Larson. When she refused to answer his questions without a lawyer, he said, "That's all you're giving me?" rolled his eyes, and left. At approximately 5 p.m. she was again taken out of her cell, fingerprinted and photographed.

183. Ms. Farrington was not released until approximately 9:30 p.m. Her detention lasted approximately twelve and a half hours. Ms. Farrington missed a full day of work on April 7.

184. Ms. Farrington missed a second day of work when she appeared in court on May 5, 2003. On May 5, 2003, she was offered an ACD. She turned it down. She missed a half day of work when she appeared for court on June 11, 2003. On that day, her case was dismissed. Before June 11, Ms. Farrington spent several hours meeting with her lawyer preparing her defense.

185. Due to the long period she spent tightly handcuffed, Ms. Farrington experienced pain and bruising of her left wrist for some time after her arrest.

### **William Fisher**

186. Plaintiff William Fisher is a 26 year-old man who resides in Manhattan. Mr. Fisher works as a fashion sales associate and for a non-profit.

187. Mr. Fisher arrived at the protest at approximately 8:30 a.m. and joined the protest on the north sidewalk. Mr. Fisher stood peacefully near the west side of the crowd, and participated in the demonstration.

188. At approximately 8:40 a.m., the police surrounded the protestors and began grabbing and handcuffing everyone.

189. Someone near Mr. Fisher's group asked what the protestors were being charged with. A defendant officer responded, "We'll think of something."

190. Mr. Fisher was handcuffed with his arms behind his back by defendant Officer Distasi. Defendant Distasi physically escorted Mr. Fisher to a police wagon and placed him inside with approximately twelve others.

191. Mr. Fisher and other protestors were then taken to an outdoor holding pen near the Javits Center. They arrived there at approximately 10:00 a.m. Once there, Mr. Fisher and others were forced to wait outside in the snow. Eventually, Mr. Fisher and his fellow protestors were placed back in the police wagon. As defendant Distasi closed the door he said "Support our troops." Fisher and his fellow protestors were then transported to One Police Plaza, where they arrived at about 11:00 a.m.

192. When Mr. Fisher and the others arrived at One Police Plaza, they were forced to stand outside in the cold again for approximately fifteen minutes. Once inside, Mr. Fisher was placed in a large holding cell with many other men who had also attended the demonstration. At around 5:30 p.m. Mr. Fisher was removed from the cell, fingerprinted and photographed.

193. Mr. Fisher was not released until approximately 8:00 p.m. Mr. Fisher's detention lasted approximately eleven and a half hours. Mr. Fisher missed a day of work, causing him to lose a day's pay.

194. Mr. Fisher attended court on May 5, 2003 and again on a later date. On May 5, 2003, Mr. Fisher was offered an ACD. He rejected this offer. The utterly baseless charges against Mr. Fisher were dismissed at his second court appearance.

### **Cristian Fleming**

195. Plaintiff Cristian Fleming is a 28 year-old man who resides in Brooklyn. He is a graphic designer.

196. On the morning of April 7, 2003, Mr. Fleming participated in the protest on the sidewalk on the north side of 56<sup>th</sup> Street. Mr. Fleming wore an armband with the message "No War."

197. After a time, defendants encircled the protestors, including Mr. Fleming. Mr. Fleming then approached an officer and explained that he wished to leave in order to go to work. The officer responded by saying, "You can't leave. You are under arrest." As Mr. Fleming was being arrested he asked the officers, "What are the charges?" They did not respond.

198. Mr. Fleming was handcuffed and placed in a police van between 8:30 and 9:00 a.m. Fifteen other protestors were also placed in the same van. The protestors were packed tightly in the van as it had been filled beyond capacity. Some of the protestors had to stand throughout the ride to the outdoor police holding area near the Jacob Javits Convention Center.

199. After being removed from the van, Mr. Fleming was asked pedigree questions, frisked and photographed. Mr. Fleming was later transported to One Police Plaza, arriving between 1:30 and 2:00 p.m.

200. Upon arriving at One Police Plaza and learning that he would be fingerprinted, Mr. Fleming spoke to an officer and explained that he understood that a disorderly conduct charge was a non-printable offense. He was told that he would be released sooner if he complied, and for that reason he allowed the police to fingerprint him.

201. Mr. Fleming was released at approximately 10:00 p.m. As a result of his illegal arrest Mr. Fleming missed an entire day of work.

202. Mr. Fleming appeared three times in court in relation to his arrest on April 7th, appearing on June 11th, July 24th, and September 8th. On September 8, 2003 the charges against him were dismissed.

#### **Matthew Flower**

203. Plaintiff Matthew Flower is a 31 year-old man who resides in Manhattan. He is a jewelry and costume designer.

204. Mr. Flower arrived at about 8:00 a.m. at the Carlyle Group Office building, along with several other Glameericans. He carried a large sign with a number of slogans on it, including "I am a War Whore;" "Give it Good to Me Baby;" "I Come Fully Loaded;" and "Heavy Artillery." He was wearing a cowboy hat, golden high heels, a fake mink stole, lipstick and earrings.

205. Upon his arrival, Mr. Flower immediately joined others on the north side of the street, since he and the others he was with had no intention of engaging in civil disobedience or doing anything unlawful that day. Mr. Flower was due at work later that morning.

206. Mr. Flower stood with other protestors on the edge of the sidewalk and watched those engaged in civil disobedience across the street get arrested. At no time did Mr. Flower see any pedestrian or other traffic being blocked by the protestors on the north side.

207. Mr. Flower then saw the police surround his group of protestors. He was arrested at about 9:00 a.m. by Police Officer DiStasi, who placed handcuffs on him which were quite tight.

208. A Polaroid was taken of Mr. Flower and Officer DiStasi before he was loaded into a van. As he was being brought into the van, a female police officer derogatorily asked Mr. Flower if he had a penis. Mr. Flower then waited in the wagon for at least an hour while it was filled with other protestors.

209. After the wagon was filled, they were driven to the Jacob Javits Convention Center, where Mr. Flower was made to stand outside in the snow while everyone was searched.

210. Mr. Flower was brought to One Police Plaza at about 11:00 a.m. and placed in a large cell. He was later taken from that cell and photographed two more times, and asked his name and social security number. He was then brought back to a different cell. At some point, Officer DiStasi came to Mr. Flower's cell and asked him several questions, including his name and date of birth.

211. Several hours later, at about 2:00 or 3:00 p.m., Mr. Flower was taken to be fingerprinted and had a fourth picture taken. He was then asked several medical and other questions.

212. Mr. Flower was released at approximately 7:00 p.m.

213. All the charges against Mr. Flower were dismissed, but only after he was forced to appear in court three times.

214. As a result of the illegal arrest Mr. Flower missed an entire day of work on April 7, and then missed portions of his workday each time he had to attend court.

### **Thomas Gallagher**

215. Plaintiff Thomas Gallagher is a 35 year-old freelance graphic designer who resides in Brooklyn, New York.

216. Mr. Gallagher arrived at the protest around 8:00 a.m. and stood on the north side of the street. He was carrying a sign that read “Make History, Not War” on one side and “Real Profits from Peace” on the other.

217. Mr. Gallagher never heard an order to disperse. He did hear one of the commanding officers direct the other officers that “No one is to leave the area,” and “Everyone is going to get arrested.” Mr. Gallagher was then arrested and handcuffed extremely tightly. He complained to Officer Christianson that his cuffs were causing pain, and the officer responded that “they aren’t supposed to be comfortable.” Because of the manner in which he was handcuffed, Mr. Gallagher experienced significant pain in his wrists and they remained sore and swollen in the following days.

218. Before being placed in an enclosed area in the back of a small police van, an officer took a Polaroid photograph of Mr. Gallagher. The officers then drove the van at what felt like very high speeds with the sirens on.

219. Eventually he was taken to the Javits Center, where he disembarked and was put in outdoor pens, searched and patted down. He waited outside in the snow for about 20 to 30 minutes.

220. Mr. Gallagher was then taken to One Police Plaza in a police wagon that was so overcrowded that some of the arrestees were forced to sit on other people's laps and stand in the aisle.

221. While at One Police Plaza, Mr. Gallagher was asked by a police officer whether he was an American citizen, where he was born, his age and his marital status. He answered these questions only because he believed that if he did not, he might not be released for several days.

222. He was eventually released around 8:30 p.m. and charged with disorderly conduct. His detention lasted approximately 12 hours.

223. Because of a court error, Mr. Gallagher was not called during his first appearance at court. As a result, a bench warrant was issued against him. He had to return to court on two separate occasions to clear the warrant. Eventually, the complaint against him was dismissed for insufficiency on August 1, 2003.

### **Daniel Kahn Gillmor**

224. Plaintiff Daniel Kahn Gillmor is a 27 year-old man who resides in Brooklyn. Mr. Gillmor is a technical consultant.

225. Mr. Gillmor arrived at The Carlyle Group Office Building shortly before 8 a.m. Mr. Gillmor had to work on April 7. Accordingly, he decided to only take part in the

lawful protest. Mr. Gillmor carried his laptop computer and work equipment with him to the protest. He walked to the sidewalk on the north side of 56<sup>th</sup> Street, and joined the protest. He held a banner with two other protestors that said "Meet The Carlyle Group: Making Billions from Mass Destruction." Mr. Gillmor also distributed literature to the crowd.

226. At approximately 8:30 or 8:45 a.m., without warning, and without issuing any order to disperse, police officers encircled the group of protestors and began to arrest them all. Mr. Gillmor did not wish to be arrested, so he and several of his friends tried to walk east to get away from the officers. Officers had also formed a wall to the east, and they told Mr. Gillmor's friend that he could exit to the west. Mr. Gillmor walked back toward the west, and was again stopped by another wall of police officers. Mr. Gillmor watched in shock as the police began to make arrests.

227. During his arrest, Mr. Gillmor dropped his banner, and watched a police officer step on it and kick it away. At approximately 9:00 a.m., Mr. Gillmor was handcuffed with his arms behind his back by defendant Taveras.

228. Mr. Gillmor was placed in a police wagon with approximately fifteen other protestors. There were not enough seats on the wagon, so several protestors had to stand, and others had to sit on other protestor's laps. They were driven around for a period of time, and made several stops. It began to snow. Mr. Gillmor and the other protestors were then taken to an outdoor police holding area near the Jacob Javits Convention Center. At the Javits Center, they stood outside for approximately ten to fifteen minutes in the snow while they were searched. Mr. Gillmor and his fellow protestors were then placed back in the police wagon and transported to One Police Plaza, at around 11:00 a.m.

229. At One Police Plaza, Mr. Gillmor was photographed and placed in a holding cell. At approximately 2:00 p.m. he was fingerprinted and photographed again.

230. Mr. Gillmor was not released until 10:30 p.m. His detention lasted approximately thirteen hours. Due to his arrest and detention, Mr. Gillmor missed a day of work, causing him to lose billable hours, and jeopardizing his relationship with his clients.

231. Mr. Gillmor was forced to take a number of full days off from work to go to court and defend against the baseless charges. He missed work to attend court on May 5 and June 9. On June 9, 2003, he was offered an ACD, which he turned down. His case was set for trial at the end of July. On July 23 he appeared in court prepared for trial (a process that took substantial time, including a trip to the scene of the mass arrests, several meetings, and significant email communication with his criminal defense attorney), but his case was dismissed.

### **Kyle Goen**

232. Plaintiff Kyle Goen is a 36 year-old man who resides in Brooklyn. He is an artist.

233. Mr. Goen arrived at the protest around 8:00 a.m. and stood on the curb on the north side of street. For about twenty minutes, Mr. Goen protested peacefully and held one end of a banner.

234. After defendants surrounded the protestors, Mr. Goen was grabbed, tightly handcuffed with his arms behind his back, and photographed by defendant Officer Tauber. Mr. Goen experienced substantial pain and discomfort as a result of the extremely tight handcuffs. Mr. Goen's repeated requests that his handcuffs be loosened were uniformly ignored.

235. Mr. Goen was placed in a police van with approximately fifteen other arrestees and transported to an outdoor pen at the Javits Center. While at the Javits Center, Mr. Goen finally persuaded an officer to loosen his handcuffs. Then Mr. Goen was photographed again and placed back in the police van for the trip to One Police Plaza.

236. At approximately 2:00 p.m. Mr. Goen was fingerprinted and photographed for a third time and then returned to a cell with about fifty other men.

237. Mr. Goen was not released until approximately 6:00 p.m. His detention lasted approximately nine hours. Due to his arrest and detention, Mr. Goen missed one day of work.

238. On August 14, 2003, the charges against Mr. Goen were dismissed.

### **Donna Gould**

239. Plaintiff Donna Gould is a 71 year-old woman who resides in Manhattan. Ms. Gould is a psychotherapist who retired from private practice about three years ago.

240. Ms. Gould arrived at The Carlyle Group Office Building around 8:30 or 8:45 a.m. She stood on the sidewalk of the north side of 56<sup>th</sup> street, near the curb, while chanting and holding a placard.

241. A little before 9 a.m. Ms. Gould noticed the police begin to surround the protestors. She heard some protestors state that they wanted to leave to attend work, to which officers responded that they could not leave, and were under arrest.

242. At approximately 9 a.m. Ms. Gould was handcuffed with her arms behind her back. Ms. Gould's cuffs were tight, causing her serious pain. Her wrists remained sore until the next day.

243. Ms. Gould was placed in a police vehicle with about fifteen other protestors, some of whom had to stand. After waiting in the truck for about fifteen minutes, they were transported to the Javits Center, where they sat inside the truck for about an hour. Eventually they were taken out of the truck and searched. Thereafter, at approximately 11:00 a.m., they were transported to One Police Plaza. Between 9:00 a.m. and 11:00 a.m., Ms. Gould was not provided with heat, food, water, or bathrooms. At some point, Ms. Gould told an officer that her cuffs were too tight and he just tightened them more.

244. Upon arrival at One Police Plaza, Ms. Gould's handcuffs were removed, and she was photographed again and placed in a holding cell with several other protestors.

245. Ms. Gould was released around 2 p.m. She was not fingerprinted. Her detention lasted approximately five hours. Ms. Gould asked if the other protestors would also be released, and was assured that they were all going to be released soon. Ms. Gould waited outside in the snow for about an hour; no other protestors came out. Finally she gave up and went home. Ms. Gould is in art school, and due to her detention, she missed a painting class she had already paid for.

246. Ms. Gould went to court the morning of May 5, 2003 and was told that the charges against her were being dropped.

**Andrew Warren Greenberg**

247. Plaintiff Andrew Warren Greenberg is a 28 year-old man who resides in Brooklyn. He has worked as a labor organizer and is presently a graduate student, studying sociology at Graduate Center-City University of New York.

248. On the morning of the protest, Mr. Greenberg arrived with three friends on the north side of 56<sup>th</sup> Street.

249. Mr. Greenberg and his fellow protestors stood on the edge of the sidewalk on the north side of the street.

250. A short time later the police surrounded Mr. Greenberg and other protestors. Mr. Greenberg tried to explain to an officer, Officer Christiansen, that he was only there to support those participating in civil disobedience and that he intended to go to work.

251. As Mr. Greenberg was arrested an officer asked him "What do you think would happen if you were doing this in China?" The same officer accused Mr. Greenberg and the other protestors of aiding terrorists by taking resources away from fighting terrorism.

252. After his arrest, between 8:45 and 9:00 a.m., Mr. Greenberg was put into a police van. There were fourteen to fifteen others in the van. Mr. Greenberg and his fellow protestors were then transferred to a police holding area near the Jacob Javits Convention. They remained in the van while the police counted the people inside it. Mr. Greenberg was then removed from the van, frisked and searched.

253. Mr. Greenberg arrived at One Police Plaza at approximately 12:00 p.m. He was photographed and fingerprinted and placed in a holding cell until his release at approximately 9:00 p.m.

254. As a result of the illegal arrest Mr. Greenberg missed an entire day of work. On August 1, 2003, the charges against Mr. Greenberg were dismissed. Between April 7 and August 1, 2003, Mr. Greenberg was forced to appear in court between five and six times on the charges, thus missing portions of his workday to attend.

**Louis Guida**

255. Plaintiff Louis Guida is a 28 year-old man who resides in Manhattan. Mr. Guida is a full-time student at City College.

256. Mr. Guida arrived at the protest at about 8:30 a.m. Mr. Guida was working as a union organizer at the time and needed to go to work after the protest. He walked to the corner of West 56<sup>th</sup> street and 5<sup>th</sup> Avenue, and asked a group of police officers who were standing on the corner which side of the street he should stand on, and where to tell the other protestors to go to avoid being arrested. One police officer stated that Mr. Guida and the others should stay on the north side of the street if they didn't want to get arrested. Accordingly, Mr. Guida took a position on the sidewalk about six inches from the curb on the north side of the street.

257. A little before 9 a.m., police officers surrounded the protestors on the north sidewalk and started grabbing and handcuffing them. Mr. Guida asked one of the officers what was going on, and was ignored. Mr. Guida observed a supervising officer in a white shirt approach and order the other officers to clear all the protestors out. Mr. Guida heard a police officer ask the supervisor what they were supposed to do with the protestors. The supervisor stated that they should put the protestors in the wagon. The officer asked what to charge the protestors with, and the supervisor responded: "I don't care, get them out of here and charge them with disorderly conduct," or words to that effect.

258. Mr. Guida was then tightly rear handcuffed by defendant Officer Moran. The excessively tight cuffing caused him great pain. As he was being arrested, he heard an officer tell the protestors that they were taking resources away from preventing terrorist attacks.

259. Mr. Guida was placed in a police wagon with fifteen other protestors. There were only eight seats, so many people had to stand or sit on others' laps. Mr. Guida and the other protestors were taken to the Javits Center, where they were made to stand outside in the snow while they were searched. They were put back in the overcrowded police wagon and taken to One Police Plaza at around noon.

260. Upon arrival at One Police Plaza, Mr. Guida's handcuffs were removed, he was photographed and placed in a crowded holding cell. At approximately three in the afternoon he was taken from his cell, fingerprinted and photographed again.

261. Mr. Guida was not released until approximately 7:30 p.m. His detention lasted approximately ten and a half hours. He missed a day of work and had to use one of his personal days. His boss was upset that he didn't call in and missed a meeting. It was Mr. Guida's two year anniversary with his girlfriend, and they had dinner plans which he also missed.

262. In order to defend against the baseless charges, Mr. Guida was forced to take days off from work on May 5, June 9, July 2, and August 1, 2003. On June 9, he was offered an ACD. He turned it down. He was offered an ACD again on July 2, and he again turned it down. Mr. Guida had prepared for trial on July 2, but was forced to wait because the Assistant District Attorney ("ADA") was not ready. Mr. Guida prepared for and appeared again for trial on August 1. Again the ADA was not ready and the Court dismissed the charges.

**Eva Hageman**

263. Plaintiff Eva Hageman is a 32 year-old woman who resides in Brooklyn. At the time of her unlawful arrest, she was a self-employed costume designer for theater productions. She is now a college student.

264. On April 7, 2003, Ms. Hageman planned to go to work after participating in the lawful protest at The Carlyle Group. She had scheduled production meetings for later that morning, as well as a costume fitting and a rehearsal for a show she was designing. She was also supposed to meet with three directors that day to discuss a theatrical play, attend a class as part of her preparation for the show, and go shopping for items she needed for making the costumes.

265. Ms. Hageman arrived at the protest site and stood on the sidewalk on the north side of the street near the curb. No one stood behind or in front of her. Ms. Hageman carried a three-by-seven-foot sign reading "Meet the Carlyle Group: Making Billions from WMD."

266. After standing on the street holding her banner and chanting for some time, police officers surrounded the protestors, including Ms. Hageman, and penned them in. Ms. Hageman told an officer that she had to go to work, and he said she could not leave. She was grabbed and handcuffed very tightly by defendant Officer Taveras. Prior to boarding the police wagon, another officer pulled the plastic handcuff chords as tightly as possible as she prepared to board the bus, causing Ms. Hageman significant pain. Her hands were tingling and becoming numb. Ms. Hageman complained. A legal observer interceded on her behalf, and the handcuffs were replaced.

267. Along with a group of about sixteen other protestors, Ms. Hageman was transported to the Javits Center where she was photographed with a Polaroid camera. She and the others were then transported to One Police Plaza. Once there, her handcuffs were removed and she was searched and placed in a cell with three women she did not know. She had no choice but to use the toilet in front of the strangers.

268. Ms. Hageman was interrogated by police officers who told her that she would be released sooner if she answered all of the questions.

269. Ms. Hageman was not released until 10:30 that evening. Her detention lasted approximately fourteen hours. Due to her arrest and detention, Ms. Hageman missed appointments on that day which were crucial to her work and career.

270. Ms. Hageman appeared for court three times. Each time she went to court, she missed half a day of work, which she had to make up on the weekend.

271. Ms. Hageman was tried and found not guilty of both charges on June 9, 2003. **Jenny Heinz**

272. Plaintiff Jenny Heinz, is a 58 year-old woman who resides in Manhattan. Ms. Heinz is a psychotherapist.

273. Ms. Heinz had several patient appointments scheduled for the afternoon and evening of April 7. At approximately 8:30 a.m., Ms. Heinz arrived at the protest and went to stand on the sidewalk on the north side of the street, opposite the Carlyle Group building. Ms. Heinz was wearing buttons that read "I Love the Bill of Rights", "Support the Soldiers/Hate the War", "Books not Bombs", "Healthcare not Warfare", and "Peace, not War."

274. After Ms. Heinz had been protesting for a period of time, defendant police officers surrounded her and other protestors. Ms. Heinz spoke to a defendant officer and asked that she be allowed to leave to go to work. The officer told her that was not possible. Ms. Heinz explained that she was a psychotherapist and had patients with important appointments later in the day; the officer said, "You should have thought of that before you came down here" or words to that effect.

275. A few moments later a higher ranking defendant police officer (possibly a captain) approached the officers standing directly in front of Ms. Heinz and ordered them to arrest the protestors. After the higher ranking defendant officer walked away, Ms. Heinz heard one of the remaining defendant officers ask others what the charge for arrest was going to be. Ms. Heinz heard another defendant officer respond: "He said make it a disorderly."

276. Ms. Heinz was grabbed, rear handcuffed and placed in a police van at about 9:30 a.m. As she was walking in handcuffs toward the van she asked defendant Officer Cuoco the basis for the arrest. She was told that it was "preventive."

277. Ms. Heinz and other protestors were taken to the outdoor holding pen near the Javits Center. Ms. Heinz was ordered out of the van. Her political buttons were removed. She was frisked, made to empty her pockets and her bag was searched. At about 10:30 a.m. Ms. Heinz was transferred to the second wagon with six to seven additional protestors and taken to One Police Plaza.

278. Ms. Heinz remained in police custody for approximately twelve hours. As a result of Heinz's illegal arrest, she missed six appointments with patients that were scheduled between the hours of 1:30 p.m. and 7:30 p.m. on April 7.

279. At 9:30 p.m. on the evening of April 7, Ms. Heinz was released.

280. Ms. Heinz appeared in court to defend against the bogus charges on May 5, July 2, August 13 and October 14, 2003 (on which date the charges against her were finally dismissed). She twice rejected offers for an ACD.

**Kathi-Jane (K.J.) Holmes**

281. Plaintiff Kathi-Jane (K.J.) Holmes is a 48 year-old woman who resides in Brooklyn. She is a dancer, choreographer and teacher.

282. Ms. Holmes arrived at the protest on 56<sup>th</sup> Street at approximately 8:00 a.m. She made her way to the north sidewalk where she held a sign, and chanted and sang about the Carlyle Group's complicity in the war in Iraq.

283. At approximately 8:40 a.m., Ms. Holmes noticed that she and the other protestors had been completely surrounded by the police. She tried to leave and was told by a police officer that she was being arrested. Ms. Holmes then used her cell phone to call the university where she was working to inform them that she would not be able to come to work to teach the first class for the term, which was scheduled that day.

284. Defendant officers proceeded to grab and rear handcuff everyone, including Ms. Holmes. Holmes was handcuffed by defendant Officer Jasinski. Defendant Jasinski then physically escorted Ms. Holmes to a police van.

285. Ms. Holmes was placed in a police van with other protestors. Ms. Holmes and other protestors were then driven very recklessly to an outdoor holding pen near the Javits Center. At the Javits Center, Holmes and other protestors were forced to wait outside in the

cold. During this time, Officer Jasinski asked Holmes for her birth date and social security number. Later, Ms. Holmes and approximately fifteen other protestors were placed in a police van and transported to One Police Plaza. They arrived at about 12 noon.

286. When Ms. Holmes arrived at One Police Plaza, she waited on line with other arrestees until she was photographed and placed in a cell with three other women. Two defendant officers asked Ms. Holmes to identify her employer and where she attended school. Over the course of her detention, Ms. Holmes was fingerprinted four times.

287. Ms. Holmes was finally released at approximately 11:30 p.m. Her detention lasted for approximately fifteen hours. As a result of her illegal arrest and detention, she missed a day of work and was unable to teach class on what was the first day of the school term. She also missed a professional class that she had been scheduled to attend that evening.

288. On May 12, 2003, Ms. Holmes appeared in court and was offered an ACD. She refused this offer. On June 26, 2003, she appeared in court again and the charges against her were dismissed.

### **Kevin Hsi**

289. Plaintiff Kevin Hsi is a 30 year-old man who resides in New York City. Mr. Hsi is a practicing attorney.

290. Mr. Hsi arrived at 56<sup>th</sup> Street as people were being arrested on the south side of street. He crossed the street and joined the lawful protest on the sidewalk of the north side of the street.

291. At approximately 8:40 a.m. Mr. Hsi noticed the police closing in and surrounding the protestors on the sidewalk on the north side of 56<sup>th</sup> Street. Without warning, and without issuing any order to disperse, police officers encircled the group of protestors and began to arrest individuals in the crowd.

292. Mr. Hsi approached defendant Bruce Smolka and asked him why people were being arrested and who had ordered their arrest. Smolka replied that the protestors were being arrested for disorderly conduct and that he had given the order to arrest. Smolka then told Mr. Hsi that he was under arrest and ordered Officer Tauber to take Mr. Hsi away.

293. Officer Tauber handcuffed Mr. Hsi's hands behind his back. Mr. Hsi was then placed in a police van with about fourteen or fifteen other protestors. The van was so crowded that a third of the protestors, including Mr. Hsi, had to stand at all times while rear cuffed. Mr. Hsi and other protestors were then taken to an outdoor police holding area near the Jacob Javits Convention Center.

294. At the Javits Center, Mr. Hsi and other protestors were forced to stand outside in the cold for approximately one and a half hours. Mr. Hsi asked a police officer to loosen his handcuffs because they were uncomfortable. The officer looked at the handcuffs, said they were not tight, and made them tighter, causing discomfort and discoloration of Mr. Hsi's wrists for days thereafter.

295. Mr. Hsi's group was put back in the van and taken to One Police Plaza at around 11:30 a.m. At One Police Plaza, Mr. Hsi's handcuffs were removed and he was placed in a holding cell with the other male protestors. He spent about thirty minutes in this cell. He was then taken out for fingerprinting and photographs. He was then put in a larger cell holding with

approximately forty-five men. Mr. Hsi was not released until approximately 4:30 p.m. Mr. Hsi's detention lasted approximately eight hours.

296. Mr. Hsi attended court on May 5, 2003 and again on June 11, 2003. He had to take time off from his volunteer work at several community-based organizations to attend court. On both occasions, he was offered an ACD, and refused it. At his third court appearance, on July 24, 2003, all charges against him were dismissed.

### **Gitelle Kaplan**

297. Plaintiff Gitelle Kaplan is a 73 year-old woman who resides in Queens. She is a retired social studies teacher.

298. On the morning of the protest, she arrived and stood on the sidewalk on the north side of the street holding up sign so that it could be viewed by passing automobile traffic on 56th Street.

299. A short time later, Ms. Kaplan noticed that the traffic had stopped on the street. Moments afterward, she saw several police officers enter the group of protestors on the north sidewalk, pushing a man down to the ground and kicking or stomping him with their feet.

300. Police then surrounded the protestors on three sides (from the street and the east and west ends of the protest group), penning them in. A police officer announced to the protestors in Ms. Kaplan's vicinity that they were under arrest. Ms. Kaplan heard various protestors ask what the grounds for the arrest were. There was no response.

301. Ms. Kaplan was handcuffed and placed in a police van at approximately 8:45 a.m. In the van a number of the protestors again asked what the charge was against them.

An officer indicated that he did not know. Another officer stated that they would find something to charge the protestors with.

302. Ms. Kaplan was then taken to the Javits Center and detained in an outdoor pen. Sometime after it began to snow, Ms. Kaplan was taken to One Police Plaza.

303. At One Police Plaza, Ms. Kaplan was removed from the cell by a police investigation officer wearing a white shirt and a police cap. He had papers in front of him and told her that she needed to answer some questions. Ms. Kaplan asked the officer if she would need a lawyer. The officer responded that he would ask the questions and she could then decide for herself if she needed a lawyer. He then asked how Kaplan had come to hear of the demonstration. She answered that she had heard about it on the internet. He responded with a series of questions asking if Kaplan had ever been in a demonstration before, what her political affiliations were, and what political organizations she was involved with or a member of. She did not answer any of the questions.

304. At approximately 1:00 p.m. Ms. Kaplan was released.

305. On April 15, 2003, the court dismissed defendants' charges against Kaplan for failing "to file a legally acceptable accusatory instrument."

### **Leslie Kielson**

306. Plaintiff Leslie Kielson is a 40 year-old woman and the Dean of Admissions at the Swedish Institute. She resides in Manhattan.

307. Ms. Kielson arrived early at the protest to help organize the event. She was wearing a shirt with a photo of an Iraqi child, an arm band that said "No War" and a pin that

said "Dissent is Patriotic."

308. Throughout the protest, she was on the north side of the street. At a certain point - approximately 30 minutes into the protest - she noticed officers lining up on the street facing the protestors. Realizing that the cops were preparing to arrest everyone, and not wanting to get arrested, Ms. Kielson attempted to leave. Just then, she was grabbed by an officer and pushed to the floor. She was among the first lawful protestors to be arrested.

309. She was placed in metal handcuffs and put in a police van where she waited until it was filled beyond capacity. She recalls that some of the people arrested were forced to stand while the police van was in motion. She was taken to the Javits Center and then to One Police Plaza. Ms. Kielson was not fingerprinted until around 9:00 p.m. and was not released until 12:00 midnight. She was charged with disorderly conduct. Her detention lasted approximately fifteen hours.

310. Ms. Kielson had to go to court four times, each time missing at least a portion of her work day. Eventually, her charges were dismissed.

### **Tracy Malikowski**

311. Plaintiff Tracy Malikowski is a 33 year-old woman who resides in Brooklyn. She works full-time at New York University's Bobst Library.

312. Ms. Malikowski arrived for the demonstration at around 8:15 a.m. and stood on the north sidewalk chanting and holding a sign. A little before 9:00 a.m. police officers moved in and surrounded the demonstrators. She heard one officer state that the protestors would be released "in drips and drabs."

313. Around 9:00 a.m. Ms. Malikowski was rear handcuffed very tightly, causing her considerable pain.

314. Ms. Malikowski was put in a police wagon, later transferred to another vehicle, and then taken to the Javits Center. At the Javits Center, she was frisked, photographed and then put back in the police wagon with other protestors and transported to One Police Plaza. They arrived at around 11:30 a.m.

315. At One Police Plaza, Ms. Malikowski's handcuffs were removed, and she was placed in a cell. Later she was fingerprinted and photographed again, and then returned to her cell. Ms. Malikowski was not released until approximately 7:15 p.m. Her detention lasted around ten hours.

316. Ms. Malikowski took time from work and appeared for court on May 5, 2003. She was offered time served. She rejected it. She again took time from work and appeared in court on June 10, 2003, ready for trial. Prior to June 10, Ms. Malikowski took time to meet with her lawyer and prepare for trial. Because the prosecutor was not prepared for trial, the judge set a new trial date for July 21.

317. On July 21, 2003, Ms. Malikowski took another day off from work. She appeared expecting and prepared to go to trial. This time, the charges were dismissed for lack of evidence.

### **Bennet Maurer**

318. Plaintiff Bennet Maurer is a 35 year-old man who resides in Brooklyn. He is a comedian and also works for Gallup Poll.

319. Mr. Maurer arrived at about 8:00 a.m. to the site of the protest. Mr. Maurer had no intention of getting arrested that day, as he had to go to work. He was wearing a number of pins that had slogans like: "Code Pink for Peace;" "Stop the War in Iraq;" "No Blood for Oil;" and "Drop Bush not Bombs." He was also carrying an enlarged photograph of Donald Rumsfeld shaking hands with Saddam Hussein.

320. Upon arriving, Mr. Maurer handed out circulars on the north side of the street for about ten minutes. The circulars described the links between the Carlyle Group, the war and the bin Laden family.

321. Mr. Maurer then briefly joined supporters on the south side of the street, chanting slogans such as "Hey, hey, what do you say; how much money will you make off killing today?" and "Carlyle Group, you can't hide, you make money off of genocide." Prior to the civil disobedience, Mr. Maurer crossed back over to the north side of the street, where he stood at the edge of the sidewalk next to other protestors, not blocking traffic in any way.

322. Mr. Maurer watched the group he was with become surrounded by police officers. He was arrested at about 9:15 a.m. On information and belief, his arresting officer was Police Officer Tauber. The arresting officer placed plastic handcuffs very tightly on Mr. Maurer, then shoved him into a wagon.

323. Mr. Maurer waited for about thirty minutes while the wagon filled up with about sixteen others.

324. The wagon was then driven around for quite a long time before it arrived at the Jacob Javits Convention Center, where Mr. Maurer was forced to stand for at least thirty

minutes outside in the snow while he and others were frisked. Mr. Maurer's buttons were taken away from him.

325. Mr. Maurer arrived at One Police Plaza at about 12:00 p.m. where he was photographed and then placed in a large holding cell.

326. At about 4:00 p.m., Mr. Maurer was fingerprinted and photographed a second time. He was then brought into a smaller room where two officers asked him a number of questions, including: "Why were you attending the protest that day?" "How had you heard about it?" "Why were you protesting the Carlyle Group?" and "How do you know information about the Carlyle Group?" Mr. Maurer asked the police officers if they were aware of the connections between the Carlyle Group and the war in Iraq. He was then returned to the cell.

327. At about 7:00 p.m., Mr. Maurer had a second set of fingerprints taken. He was then returned once again to the holding cell.

328. At 8:45 p.m., yet a third set of fingerprints were taken from Mr. Maurer. He was then shackled to two other men and put in a van to be brought to the detention center right next to the courthouse. He was told by one of the officers that he should expect to be in custody all night.

329. He was placed in a cell with about nine others. The cell stank of urine and was extremely dirty everywhere. Mr. Maurer was tremendously frightened and did not sleep the entire night.

330. At about 9:00 a.m. the next morning, Mr. Maurer was brought before a judge. He took an ACD and was at last released, nearly twenty-four hours after he was first

detained.

331. Mr. Maurer suffered physical injuries from the tightness of his handcuffs on April 7, which caused him severe pain. He had numbness in his hands for about two days after April 7.

**Erik Mercer**

332. Plaintiff Erik Mercer is a 34 year-old man who resides in Brooklyn. Mr. Mercer is a psychotherapist.

333. Early in the morning of April 7, 2003, Mr. Mercer arrived and joined the protest on the sidewalk on the north side of the street. Mr. Mercer had to go to work that day at The Center for Community Alternatives, where he is employed part-time as a criminal justice social worker. He also had a psychotherapy group session scheduled for that evening. Mr. Mercer was wearing a business suit and holding a sign that said "Invest in Invasion." Mr. Mercer stood peacefully near the west side of the crowd, and chanted along with the crowd.

Thereafter, police officers encircled the group of protestors and began to arrest individuals in the crowd. No one was allowed to leave. Mr. Mercer stopped chanting as he witnessed individuals being arrested around him. The officers arrested the entire crowd of lawful protestors, including Mr. Mercer.

334. Mr. Mercer was placed in a police wagon with many other protestors. As Officer Distasi closed the door to the police wagon he said "support our troops." They were taken to the Javits Center. While there, Mr. Mercer and other protestors waited outside in the cold and snow. While waiting, the coat fell off one of the arrestees. None of the demonstrators

could pick it up because of their handcuffs and when Mr. Mercer asked Officer Distasi for assistance he responded "I don't feel like it." Later, the group was transported to One Police Plaza.

335. At One Police Plaza, Mr. Mercer was placed in a large holding cell with approximately fifty to sixty other men who had also attended the demonstration. At approximately 5:00 p.m. Mr. Mercer was taken out of the holding cell, fingerprinted and photographed.

336. Later, Distasi motioned for Mr. Mercer to come to the front of the holding cell. Mr. Mercer complied. Defendant Distasi proceeded to interrogate Mr. Mercer. Among other things, Distasi asked Mr. Mercer where he worked and whether he was a member of any political organizations. When Mr. Mercer refused to answer the questions, Distasi told him that he would be detained for a longer period of time unless he complied.

337. Mr. Mercer was not released until about 8:00 p.m. Mr. Mercer's detention lasted approximately eleven and a half hours.

### **Kimberlie Muench**

338. Plaintiff Kimberlie Muench is a 33-year-old woman who resides in Brooklyn. Ms. Muench works at an architectural metal work firm.

339. Ms. Muench arrived at the Carlyle Group Office Building at approximately 8:35 a.m. She proceeded to take a position on the north sidewalk.

340. A little before 9 a.m., Ms. Muench observed that police officers had surrounded the demonstrators. She asked one officer if she could leave, and he said "no." She

overheard other defendant officers making comments about how the protestors were being unpatriotic. Ms. Muench asked an officer to tell her who was in charge of the operation, and the officer pointed out Deputy Inspector McEnroy. Ms. Muench asked defendant McEnroy for his name and badge. He told her his name, but stated that he did not have a badge. Ms. Muench asked him repeatedly why they were being arrested and whether they were free to leave. He refused to answer her questions, and told her to get in line. Ms. Muench heard a female protestor in front of her tell defendant McEnroy that the arrest was illegal and he replied, "I know and I don't care."

341. At approximately 9 a.m., Ms. Muench was handcuffed with her arms behind her back by defendant Officer Nellie Cabasa. Ms. Muench's cuffs were very tight, causing her considerable pain. She complained about it to several officers. Much later, when Ms. Muench was at the Javits Center, an officer finally changed her cuffs. The new cuffs were even tighter than the first.

342. Ms. Muench was placed in a police van, and then transferred to another vehicle that was so overcrowded with sixteen to eighteen protestors that many had to sit on others' laps. She was taken to the outdoor pen near the Javits Center. While there, Ms. Muench stood in the snow while she was frisked, photographed and then put back in the wagon with the other protestors. At around 12:30 p.m., she was transported to One Police Plaza. During this three and a half hour period, she had no access to food, water, or bathrooms.

343. Upon arrival at One Police Plaza, Ms. Muench's handcuffs were removed, she was photographed again, and placed in a holding cell with three other protestors. Around 3:00 or 4:00 p.m. she was taken out of her cell, fingerprinted and photographed again, and then

returned to her cell. Ms. Muench asked to make a phone call, and was not allowed to. She managed to borrow someone's cell phone to call into work, and to get someone to take care of her dog.

344. Ms. Muench was not released until approximately 6:30 p.m. Her detention lasted approximately nine and a half hours. She missed a day of work without notice, a fact that was not appreciated by her employer.

345. Later, Ms. Muench missed four to five days of work attending court to defend against the bogus charges. At her first two court appearances, the prosecutor encouraged Ms. Muench to plead guilty and accept a sentence of time served. She rejected both offers. Finally, the charges against her were dismissed.

346. Ms. Muench's wrist continued to hurt from the tight handcuffs after she was released from jail. Her left thumb remained partially numb for months afterwards.

### **Chris Posteraro**

347. Plaintiff Chris Posteraro is a 32 year-old musician. He resides in Brooklyn, New York. At the time of his arrest, he was a staff member of United for Peace & Justice.

348. Mr. Posteraro arrived at the protest site about half an hour before his arrest. He stayed on the north side of the street the entire time. He was wearing an anti-war button.

349. At a certain point, Mr. Posteraro noticed police officers lining up facing the north side. He thought it odd that they were giving so much attention to the lawful

protestors. Then, he noticed the officers start to block the street side exits.

350. Concerned that the officers were preparing to begin mass arrests he asked at least a dozen officers – one by one – if he was being detained or arrested and, if not, whether he could leave. Not a single officer responded. He then heard a commanding officer shout something to the effect of “Bring ‘em in.” Mr. Posteraro called out to this officer and asked if everyone was being arrested. The officer indicated that they were. So Mr. Posteraro asked what the charges were. The officer’s response was: “Don’t worry, we’ll think of something.”

351. Mr. Posteraro was arrested, cuffed and had a Polaroid photo taken. He was then placed in an overcrowded police van where he waited for about twenty to thirty minutes. Eventually he was taken to the Javits Center and held in the outdoor pens where he was searched and patted-down. While at the Javits Center, he overheard several officers mocking the protestors saying things like “they should go to Iraq.”

352. At One Police Plaza he again had a Polaroid photograph taken and later he was fingerprinted and photographed again. He was eventually released around midnight and charged with two counts of disorderly conduct.

353. Mr. Posteraro went to court only once – on May 5, 2003 – and took an ACD because he was not going to be in the country and was concerned about not being able to attend his next court appearance.

### **Dawn Reel**

354. Plaintiff Dawn Reel is a 39 year-old woman who works at Community Resource Exchange, a non-profit organization that provides resources to HIV/AIDS groups. She

resides in Manhattan.

355. Ms. Reel was one of the organizers for the April 7 protest. She arrived early and handed out flyers to protestors and pedestrians. The entire time she remained on the north side of the street. In addition to uniformed police officers, Ms. Reel also noticed plainclothes individuals inside the Carlyle building surveying the protest.

356. The officers assembled in an arc around the protestors on the north side of street. Ms. Reel went to the north east corner of the street to try and exit but was denied access to leave. Then, when the police officers started arresting people on the north side of the street, Ms. Reel approached defendant Smolka and asked permission to leave so that she could go to work. He refused and grabbed her. There was never an order to disperse.

357. Ms. Reel was placed in handcuffs, a Polaroid photo was taken, and she was then loaded in to a police van. She waited about ten to fifteen minutes in the van and then was taken to the Javits Center, where she waited outside for about half an hour.

358. She was then taken to One Police Plaza, where she had to line up outside to be processed. She was charged with disorderly conduct and released between 8:00 and 9:00 p.m.

359. Ms. Reel had approximately three court appearances, each time missing a full day of work.

#### **Nicolas Rudikoff**

360. Plaintiff Nicholas Rudikoff is a part-time research analyst for the Service Employees International Union and is a full-time New York University student, studying for his

Master's in Public Administration. He is 27-years old and resides in Manhattan.

361. Mr. Rudikoff arrived at the protest shortly after it began, wearing an anti-war button. At all times he remained on the sidewalk.

362. In addition to a substantial uniformed police presence, Mr. Rudikoff witnessed men dressed in suits talking with the commanding police officers outside the Carlyle Building. These men were surveying the scene with the uniformed officers and pointing to the protestors.

363. At a certain point he noticed that the cops were congregating in front of the lawful protestors. Mr. Rudikoff has been to fifteen or twenty actions and knew, based on those experiences, that officers always give an order to disperse before arresting people. There was no order to disperse on April 7 and no instructions given to the lawful protestors. It was very unsettling to have the officers vary from their usual police practice.

364. Mr. Rudikoff was grabbed by a female officer and placed in metal handcuffs. He had a Polaroid photograph taken and then was placed in a small police van that was so overcrowded that some people had to stand. He was detained for thirty to forty-five minutes in the van and then was driven to the Javits Center, where he was searched and held in an outdoor pen.

365. At One Police Plaza, he was photographed twice and was fingerprinted. He was released around 9:30 p.m. and charged with disorderly conduct. His detention lasted over twelve hours.

366. Mr. Rudikoff went to court on three or four occasions, causing him to miss

work or take personal days. He accepted an ACD on July 21, 2003.

**Mina Samuels**

367. Plaintiff Mina Samuels is a 37 year-old woman who resides in New York. She is a self-employed, freelance writer-editor.

368. On the morning of April 7, Ms. Samuels had a work conference call for a book she was ghostwriting. That evening she was supposed to attend a benefit dinner.

369. Ms. Samuels and a friend arrived at the protest around 7:55 a.m. She walked to the north side of 56th Street, just west of the corner of 5<sup>th</sup> Avenue. She and her friend got a banner to hold, which had a picture of a giant dollar bill. A while later, Ms. Samuels crossed to the sidewalk on the south side of 56<sup>th</sup> Street. On the south side of 56<sup>th</sup> Street, Ms. Samuels marched with her banner in a circle in front of the entrance to the Carlyle Group's office. After an unknown signal some of the protesters began to commit civil disobedience. Ms. Samuels had no intention to take part in the civil disobedience and distanced herself from the group. She remained on the south side of 56<sup>th</sup> Street to observe the civil disobedience action.

370. Ms. Samuels proceeded to watch as people committed civil disobedience by sitting down and blocking the entrance to the building. When Ms. Samuels started backing up to keep her distance from the arrests, she was grabbed by the scruff of her neck by a police officer. The police officer said, "you are under arrest."

371. Ms. Samuels thought the arrest was a mistake. The officer handcuffed her and ordered her to sit down. She observed two women who were protesting loudly, but were also not part of the group engaging in civil disobedience. The two women were also detained

and handcuffed. The three of them were then photographed and loaded into a police vehicle. After the vehicle was filled with about sixteen arrestees, the doors were shut.

372. They were transported to a parking lot across from the Javits Center and unloaded into a corral surrounded on all sides by uniformed police. The police recorded their names on the backs of their photos. They were then loaded back onto the police wagon. Some of the arrestees complained that their handcuffs were excruciatingly tight. The van was driven around the block and then stopped. The police officers in the cab all left the vehicle and did not return for about twenty minutes. The van was then driven about another block, stopped, the police left and returned again. This was repeated several times.

373. When Ms. Samuels and the others in her vehicle finally arrived at One Police Plaza, Ms. Samuels's handcuffs were removed, her picture was taken, and she was put into a cell with three other women.

374. Several times during the day her name was called and she, along with one or two others, would be taken for interrogation. Ms. Samuels consistently refused to answer anything more than pedigree information questions. She refused to answer questions about her marital status, place of employment, political and group affiliations, and the number and types of past protests. When she refused to answer, the police officer told her that it would be her own fault that the process took longer.

375. At about 4:30 p.m., Ms. Samuels was released. At her second court appearance, on June 17, 2003, Ms. Samuels accepted an ACD because she could not miss any more work.

**Michael Schuval**

376. Plaintiff Michael Schuval is a 36year-old man who resides in Astoria, Queens. Mr. Schuval works at a commercial kitchen equipment company.

377. Mr. Schuval arrived at the protest a little before 8:00 a.m., wearing an anti-war button. At a certain point, Mr. Schuval noticed a wall of police officers surrounding the lawful protestors on the north side of the street. Mr. Schuval witnessed several people ask if they could leave and the officers responded that they could not.

378. The police officers began physically restraining and handcuffing individuals. Mr. Schuval asked what he was being arrested for and the officer refused to answer. He was handcuffed extremely tightly, causing him great pain. He asked the officer to loosen the cuffs, but was ignored.

379. Mr. Schuval had a Polaroid photograph taken of him at the site of the arrest and then he was placed in a van where he waited for about a half an hour. Eventually, he was taken to the Javits Center and detained in an outdoor holding pen for approximately forty-five minutes. At some time during his police transport, one officer told him "you shouldn't be protesting," another said that Mr. Schuval should "support the troops," and a third said that it was "un-American" to protest the war in Iraq.

380. At One Police Plaza, he had a second Polaroid photograph taken and then was placed in a cell. His fingerprints and a third photograph were taken some time later.

381. At some point, he was taken to a hallway and asked questions by an officer, including his social security number, how he heard about the protest, who he was with,

and what group organized the protest. He refused to answer the questions.

382. Mr. Schuval was released at approximately 9:00 p.m. His detention lasted twelve and a half hours.

383. Mr. Schuval went to court twice to defend against the charges. The charges were ultimately dismissed by the prosecutor on July 24, 2003.

#### **Danzy Senna**

384. Danzy Senna is 33 year-old woman who resides in Manhattan. She is a novelist and teaches creative writing and literature at the College of the Holy Cross in Worcester, Massachusetts.

385. Ms. Senna went to the protest to express her opposition to the war in Iraq and war profiteers like the Carlyle Group, and to show support for the direct action. After the protest, she intended to go to the New York Public Library to work on her novel.

386. Within ten minutes of her arrival, the police started arresting lawful protestors on the north side of 56<sup>th</sup> Street. She never heard an order to disperse.

387. Ms. Senna was arrested by Officer Demarzo, Shield No. 11775, Tax. No. 897326. He applied the cuffs so loosely that she was able to slip out of them. When an officer saw that she was no longer handcuffed he put new cuffs on very tightly as punishment for slipping out of her first ones. These cuffs were extremely tight and caused her significant pain. She felt like her blood had stopped. She also experienced a sense of panic and mild claustrophobia because her circulation had stopped and she was unable to move.

388. Before being placed in the police van, a Polaroid was taken of Ms. Senna.

She then waited for about twenty minutes in the van before being taken to the Javits Center. At the Javits Center, she was placed in an outdoor holding pen and searched. She waited outside for about fifteen to twenty minutes. One officer asked her why she was protesting the war and not supporting the troops.

389. At One Police Plaza, a second Polaroid photo was taken of her, and then, much later, she was fingerprinted and photographed again. At a certain point an officer took her out of the cell and brought her to a private room. He asked her if she belonged to any political organizations, whether she had been arrested before, who she met with to organize the April 7 protest, what group was responsible for it, and whether she was an American citizen. She refused to answer all questions. She was also told that they were trying to get information from Albany (with respect to past arrests), suggesting that her cooperation with their questioning would facilitate that process and expedite her release.

390. Ms. Senna was charged with disorderly conduct and released in the late evening, sometime between 9:00 and 11:00 p.m. Her detention lasted more than twelve hours.

391. Ms. Senna had to make three appearances at court to resolve her criminal charges. During this period she was in Martha's Vineyard, Massachusetts, on a writers' retreat, working under a tight deadline to finish the final draft of her novel. For each court appearance, she had to take a ferry off the island and then drive to NYC. Each trip took about 3 days, causing her to lose 9 days of writing time. Her charges were ultimately dismissed on July 24, 2003.

392. Because of the excessive tightness of the handcuffs, Ms. Senna had marks on her wrists for about four days and soreness on her wrists and shoulders for several weeks.

She also felt very weak and disoriented for several days after the arrest due to her dehydration and lack of food.

**Louisa Shafia**

393. Plaintiff Louisa Shafia is a 34 year-old woman who resides in Brooklyn. She is a chef.

394. Ms. Shafia arrived at the Carlyle Group Office Building at approximately 7:00 a.m. where she positioned herself on the north side of the street. She was wearing a button on her bag which said "Code Pink: Women for Peace."

395. Around 8:30 a.m., defendant police officers in riot gear encircled the protestors on the north side of the street. Shortly after, the police officers stepped forward and began grabbing and handcuffing individuals in the crowd. A defendant police officer grabbed Ms. Shafia and handcuffed her with her arms behind her back

396. Ms. Shafia was placed in a police van with numerous other protestors and transported to an outdoor holding pen near the Javits Center where they were searched and photographed. Ms. Shafia was detained outdoors in unseasonably cold weather. It was snowing. Ms. Shafia and her fellow protestors were then placed back in the police van and transported to One Police Plaza.

397. At One Police Plaza, Ms. Shafia was initially placed in a mass holding cell where she was photographed again and her identification was taken. Then she was placed in a cell with two other arrestees including plaintiff Sarah Kunstler. Later, Ms. Shafia was fingerprinted and photographed yet again and then returned to the holding cell.

398. Ms. Shafia was not released until 8:00 p.m. Her detention lasted approximately twelve hours. Due to her arrest, detention and prosecution, Shafia missed two days of work. The baseless charges against Ms. Shafia were dismissed on July 21, 2003.

**Michael Shenker**

399. Plaintiff Michael Shenker is a 48 year-old man who resides in Manhattan. He is an electrician.

400. Mr. Shenker arrived at about 8:00 a.m. at the protest, first joining some protestors on the south side for a brief period and then making his way to the north side of the street prior to the start of the civil disobedience.

401. Mr. Shenker stood with fellow protestors on the edge of the sidewalk on the north side of the street and watched those engaged in civil disobedience across the street.

402. Mr. Shenker then watched as the police surrounded him and other protestors. There was no order to disperse or instruction from the police. Nevertheless, Mr. Shenker was arrested and handcuffed. The handcuffs were extremely tight and hurt his wrists.

403. Mr. Shenker was then placed in a van, where he waited for about forty-five minutes, while about another dozen protestors joined him.

404. Mr. Shenker and his fellow protestors were then transported to a police holding area near the Jacob Javits Convention where they filed through a series of pens outside in the snow. As he walked through the pens, Mr. Shenker asked one police officer if his handcuffs could be loosened; when the officer refused to do anything, Mr. Shenker asked him "How far would you go?" The officer menacingly replied "All the way."

405. Thereafter, Mr. Shenker was transferred in the van to One Police Plaza, and then brought to a large holding cell. After about three or four hours, he was fingerprinted and had his picture taken.

406. Afterwards, he was brought into a small room and asked if he was a member of any organizations. He refused to answer the question.

407. Mr. Shenker was released at approximately 8:00 p.m.

408. As a result of the illegal arrest Mr. Shenker missed an entire day of work. The charges against Mr. Shenker were eventually dismissed, but between April 7 and the dismissal, Mr. Shenker was forced to appeared in court between six and seven times. Each time he had to attend court he missed portions of his workday.

409. Mr. Shenker felt extreme discomfort from the handcuffs, which were never loosened despite his repeated requests. He had red marks around his wrists and experienced numbness for some time after April 7.

### **Ben Shepard**

410. Plaintiff Ben Shepard is a 33 year-old man who resides in Brooklyn, New York. Mr. Shepard is a full-time licensed social worker.

411. Ben Shepard arrived at the protest at approximately 8:35 a.m., and walked down the sidewalk on the north side of 56<sup>th</sup> Street. The protest had already begun. Mr. Shepard met up with a group of friends and joined them in the demonstration.

412. Almost immediately after Mr. Shepard arrived defendant police officers surrounded the protestors and began grabbing and handcuffing them. Within minutes, Mr.

Shepard was grabbed and rear handcuffed by defendant Officer Di-Virgilio. He was then photographed and placed in a police vehicle with 14 other arrestees. At around 9:00 a.m., the group, including Mr. Shepard, was transported to an outdoor holding pen at the Javits Center. While waiting outside in the snow, Mr. Shepard was photographed again by police. By about 11:00 a.m., Mr. Shepard and the others were transported to One Police Plaza.

413. When Mr. Shepard arrived, his handcuffs were removed and he was placed in a large holding cell. About four hours later, Mr. Shepard was fingerprinted and photographed again.

414. Mr. Shepard was not released until 6:30. His detention lasted approximately ten hours. Due to his bogus arrest and detention, Mr. Shepard was unable to attend a class for his graduate program.

415. Thereafter, Mr. Shepard made three court appearances on the trumped up charges, forcing him to take time away from school and caring for his son. The charges were dismissed.

#### **Ahmad Shirazi**

416. Ahmad Shirazi is a 65 year-old man who resides in Manhattan. He is a freelance sound editor.

417. Mr. Shirazi arrived at approximately 8 a.m. and stood on the sidewalk immediately adjacent to the curb at the north side of 56<sup>th</sup> Street. Mr. Shirazi stood peacefully on the north sidewalk for about 20 minutes alongside his wife Ann Shirazi and other activists. He wore a "not in our name" button and his wife, Ann Shirazi, wore an armband of fake dollar bills.

Mr. Shirazi did not block pedestrian traffic nor observe anyone blocking pedestrian traffic.

418. Police officers encircled the group of protestors and began to arrest individuals in the crowd, including Mr. and Mrs. Shirazi. When he asked why he was being arrested, defendant Cuoco (Tax I.D. No. 5214) said "you know why." Another police officer said "you should support our troops" to which Mr. Shirazi responded "I do. We don't want them to be killed." He also overheard one of the arrestees asking what it was they were charged with. A police officer responded "we will think of something."

419. At approximately 9:00 a.m., Mr. Shirazi was handcuffed with his arms behind his back by Police Officer Cuoco. During the arrest, he told Officer Cuoco that the handcuffs were much too tight on his left hand. Officer Cuoco told him that "you should have thought about that before you came here." He was in considerable pain so he asked a number of times for his handcuffs to be loosened in vain. The handcuffs were not removed until approximately four hours later at One Police Plaza.

420. At approximately 9:30 a.m., Mr. Shirazi was photographed and placed in a police van with approximately 12 other arrestees, including his wife. He was transported to an outdoor police holding area near the Jacob Javits Convention Center at approximately 11:15 a.m. Mr. Shirazi and his fellow protestors were transported to One Police Plaza at around 1:00 p.m., where his handcuffs were removed and he was photographed again.

421. At approximately 4:00 p.m. Mr. Shirazi was fingerprinted and photographed again at One Police Plaza. Mr. Shirazi was not released until approximately 7:35 p.m. His detention lasted approximately ten and half hours.

422. Due to his arrest and detention, Mr. Shirazi was not able to fulfill various obligations on that day.

423. On October 14, 2003 the charges against Mr. Shirazi were dismissed by the D.A.

424. Because of the excessive tightness of the handcuffs, Mr. Shirazi's left wrist became swollen, bruised and extremely tender. He was seen by a doctor who prescribed a pain killer. When the pain continued, he was referred to a surgeon. X-rays of his wrist confirmed that tendinitis like symptoms had developed. Since the arrest, his left wrist has been in constant pain, he has had to wear a splint and regularly take pain killers. Moreover, he has not been able to sleep uninterrupted because any rotation of his shoulder amplifies the pain.

### **Ann Shirazi**

425. Plaintiff Ann Shirazi is a 58 year-old woman who resides in Manhattan. She is a social worker and a freelance media appraiser.

426. Mrs. Shirazi arrived at The Carlyle Group Office Building at approximately 8:00 a.m. and stood on the curb at the north side of 56<sup>th</sup> Street. She and other protestors then engaged in a lawful protest on the sidewalk on the north side of 56<sup>th</sup> Street.

427. Mrs. Shirazi stood peacefully on the north sidewalk for approximately 30 minutes before she was arrested. She wore an armband of fake dollar bills and her husband wore a "not in our name" button.

428. Mrs. Shirazi observed a high ranking police officer order other police officers to move into formation, standing shoulder to shoulder, with their batons held out in

front. Without warning, and without issuing any order to disperse, defendant police officers encircled the group of protestors and began to arrest individuals in the crowd, including Mrs. Shirazi.

429. At approximately 9:00 a.m., Mrs. Shirazi was handcuffed with her arms behind her back by defendant Cuoco.

430. At approximately 9:30 a.m., Mrs. Shirazi was photographed and placed in a police wagon with twelve other arrestees including her husband. She was transported to an outdoor police holding area near the Jacob Javits Convention Center at approximately 11:15 a.m. Thereafter, at approximately 1:00 p.m., Mrs. Shirazi was transported to One Police Plaza where her handcuffs were removed and she was photographed again.

431. At approximately 4:00 p.m., Mrs. Shirazi was fingerprinted and photographed yet again at One Police Plaza. She asked to be taken to a bathroom but her request was ignored. Eventually she was taken to an empty cell where she had to use a toilet in front of an officer. She was then placed in a cell with three other women. The cell was filthy; its ceiling contained mold and there appeared to be dried feces on the toilet. The cell had only a toilet with no seat, a sink and a metal bench.

432. Mrs. Shirazi was not released until after 8:15 p.m. Her detention lasted approximately twelve hours. Due to her arrest and detention, Ann Shirazi was not able to fulfill her freelance work obligations on that day.

433. After being forced to appear in court on a number of occasions, the charges against Mrs. Shirazi were dismissed on October 14, 2003.

### **Leslie Simpson**

434. Plaintiff Leslie Simpson is a 45 year-old freelance writer. He resides in Manhattan.

435. Mr. Simpson gathered with other "Glameericans" dressed as a war profiteer. He was carrying a sign that read "Invest in Invasion." Mr. Simpson did not plan on getting arrested that day; in fact, he was going to leave in time to get to work that morning at Time Out New York magazine.

436. Mr. Simpson remained the entire time on the north side sidewalk, chanting and dancing. There was always plenty of room on the sidewalk for pedestrians to pass.

437. About fifteen to twenty minutes after his arrival, people started to get arrested. Mr. Simpson never heard an order to disperse.

438. Mr. Simpson was one of the last people to be arrested and was never told the basis for the arrest. He was placed in tight handcuffs and a Polaroid of him was taken. He was then held in the police van for about fifteen minutes. Eventually, he was taken to the Javits Center and held outside for about thirty minutes in the snow.

439. As he was being loaded back onto the bus, one officer shouted out "Support the Troops." At One Police Plaza, he was forced to wait outside for a little while, again in the snow, before being booked.

440. He remained in custody until approximately 10:15 p.m., when he was released.

441. All together, Mr. Simpson had three court appearances - May 5, June 6

and July 21, 2003, when the case was dismissed.

442. Mr. Simpson experienced pain in his wrists for three to four days after his arrest because the handcuffs were applied so tightly.

**Rebecca Vaughan**

443. Plaintiff Rebecca Vaughan is a 46 year-old woman who resides in Manhattan. She is an adjunct university professor.

444. When Ms. Vaughan arrived at the protest site, she took a position on the north sidewalk. Ms. Vaughan held a sign depicting a father who had lost his entire family to a missile attack, captioned "Q: They lose – who wins? A: The Defense Industry."

445. Without warning, police officers encircled the group of protestors and began grabbing and handcuffing demonstrators. After witnessing one of her fellow protesters being arrested, an officer told her "You're under arrest too." Ms. Vaughan was grabbed and rear handcuffed with metal handcuffs. After she was grabbed and handcuffed, Ms. Vaughan's sign fell on the sidewalk.

446. Ms. Vaughan was taken to a police wagon and put inside. The police officer driving the vehicle told the arrestees that they were aiding terrorists. They were taken to a lot near the Javits Center, where they were taken out of the police wagon and searched. Ms. Vaughan's bag was searched and her anti-war pins were removed. Ms. Vaughan also observed police officers taking pins from other demonstrators. While Ms. Vaughan was being held in one of the two outdoor pens, it began to snow. Later, Ms. Vaughan was taken to One Police Plaza.

447. While Ms. Vaughan was in a holding cell waiting for her arrest to be

processed, Defendant Officer Kenneth Larson interviewed Ms. Vaughan. When Ms. Vaughan refused to answer anything more than basic pedigree questions, defendant Larson said "You'll see" and walked away.

448. After Ms. Vaughan had been fingerprinted and photographed she was placed in a small, dirty and cold cell with three other women. There was only room for three people to sit on a bench in the cell. There was a seatless toilet in the cell which Ms. Vaughan refused to use throughout her incarceration out of disgust and embarrassment. The cell was so cold that at one point Ms. Vaughan's lips turned blue and she began to shiver uncontrollably.

449. Ms. Vaughan had a class scheduled to begin at 2 p.m. that afternoon. She was unable to reach the school by phone to notify the students until after 2:00 p.m.

450. Ms. Vaughan was not released until 8:30 p.m. Her detention lasted approximately eleven and a half hours. Due to her arrest and detention, Ms. Vaughan missed a meeting she planned to attend. She also was prevented from correcting student papers and teaching her 2:00 p.m. class.

451. Ms. Vaughan met with her lawyer in preparation for trial on four occasions: May 9, July 3, October 6, and October 13, 2003. Ms. Vaughan went to court on May 5, July 1, August 13, and October 14, 2003. The charges were finally dismissed on October 14. Ms. Vaughan was forced to miss work to make each court appearances. She was even forced to change her previously arranged vacation plans so she could appear in court on August 13. **Laurie Wen**

452. Plaintiff Laurie Wen is a 32 year-old woman who resides in Manhattan. She is a freelance court interpreter and film maker.

453. Ms. Wen arrived at The Carlyle Group Office Building around 7:30 a.m. and stood on the sidewalk on the north side of the street for approximately half an hour. Shortly before the planned civil disobedience, Ms. Wen walked to the sidewalk on the south side of 56<sup>th</sup> street, to observe the protestors who had formed a picket in front of The Carlyle Group Offices. She did not take part in the picket or the civil disobedience that followed.

454. When Ms. Wen observed the police begin to arrest the protestors engaging in civil disobedience, she crossed the street and again joined the protest on the sidewalk on the north side. Ms. Wen had a sticker pinned to her shirt depicting a snake with a bomb through it in the shape of a dollar sign, with the words "Carlyle Group" beneath it.

455. Shortly thereafter, the protestors, including Ms. Wen, were surrounded. At approximately 9:00 a.m., defendant Officer Knowles grabbed Ms. Wen and began handcuffing her, right hand first. Defendant Knowles tightened the cuff on her right wrist with great force. Ms. Wen immediately experienced excruciating pain and asked defendant Knowles to please loosen the right cuff before attaching the left cuff. He ignored her request, and put on the left handcuff. The tightness of the handcuffs caused Ms. Wen to cry in pain. She pleaded with Knowles to help her. Knowles told her that he would fix the cuffs later, and walked her over to a police wagon.

456. Other protestors who observed Ms. Wen's extreme distress asked Knowles to loosen her cuffs. Wen also again asked Knowles to fix her cuffs. Knowles' response was the same. Wen stood outside the police wagon in serious pain for about ten

minutes before defendant Knowles finally relented, cut off her cuffs and replaced them with a new pair that he made secure, but did not tighten sadistically.

457. Ms. Wen and five other protestors were transported and placed in an outdoor pen at the Javits Center. Ms. Wen was detained in the outdoor pen for a considerable period. Finally, Ms. Wen and about fourteen other protestors were packed into a police wagon. There were not enough seats on the wagon, so several protestors had to sit on other protestor's laps. They were then taken to One Police Plaza.

458. At approximately 5:30 p.m., Ms. Wen was fingerprinted and photographed and returned to a cell. The fingerprinting process alone took over an hour despite her complete cooperation.

459. Ms. Wen was not released until 8:30 p.m. Her detention lasted approximately eleven and a half hours. Due to her arrest and detention, Wen missed the meeting of a political group she belongs to, that she had planned to attend that day.

460. Thereafter, Ms. Wen was forced to miss work for court appearances on May 5, June 4, June 9, and July 31. Due to a clerical error, she was mistakenly called by the warrant squad in the middle of the night on June 3, 2003 and told that she had missed her court date, that there was a warrant for her arrest, and that she could be arrested in her home that night. Ms. Wen went to court the next day, on June 4, to clear up the situation, and was so anxious and upset that she fainted in the courthouse lobby. EMS was called.

461. On July 21, 2003 the charges against Ms. Wen were dismissed.

462. Ms. Wen also missed work because she had to spend time preparing for

her defense with her lawyer.

### **Lee Whiting**

463. Plaintiff Lee Whiting is a 45 year-old woman who resides in Astoria, Queens. She is an adjunct professor at the Fashion Institute of Technology in New York, where she teaches English as a Second Language.

464. Ms. Whiting arrived at the protest around 8:00 a.m., intending to protest the Carlyle Group's involvement in the war and support those people engaging in direct action. She carried a sign that read "Carlyle Group: War Profiteers," which hung around her neck.

465. There came a time when Ms. Whiting noticed that the officers were surrounding her and the other protestors on the north side of 56<sup>th</sup> Street.

466. Thereafter, Ms. Whiting was forcibly grabbed by Officer Van Buren. She told the arresting officer that she intended to cooperate and that there was no reason to be so aggressive. Before being loaded onto the police van, she was photographed with a Polaroid camera and her bag was searched. She remained in the van for a while – at least an hour – and then was transported to the Javits Center. At the Javits Center, she was held outdoors where she was patted-down and her bag and pockets were searched a second time. Her work identification card was taken from her then and has not yet been returned. She was left outdoors in front of the Javits Center for thirty minutes to an hour.

467. At One Police Plaza, she was asked for basic biographical information and told that if she did not provide it to the officers she would have to go through the system.

468. Ms. Whiting was released in between 7:00 and 7:30 p.m. Her detention

lasted approximately ten and a half hours.

469. Ms. Whiting had to attend three court appearances before her criminal charges were resolved. At the third appearance, the prosecutor said that the City could not prove its case beyond a reasonable doubt. The charges against her were eventually dismissed.

470. As a result of her lengthy detention, Ms. Whiting suffered knee pain for about a month. She also felt depressed for about six weeks.

### **Brenna Bell**

471. Plaintiff Brenna Bell is a 29 year-old environmental rights attorney, who works for Klamath Siskiyou Wildlands Center, in Portland, Oregon. On April 7, 2003, she and her boyfriend, Craig Webster, were in New York City visiting friends.

472. Ms. Bell arrived late to the protest with Mr. Webster. By the time she arrived, there were mass arrests occurring on the north side of 56<sup>th</sup> Street, so she assumed that the south side was where the “supporters” were gathering and that the north side was where the direct action would be.

473. While on the south side of the street, Mr. Webster started handing out “Deception Dollars” to people passing by on the street. About ten minutes after he began doing this, Ms. Bell noticed one of the commanding officers indicate to another officer to “silence” Mr. Webster. Seeing this, Ms. Bell put her arm around her boyfriend, Mr. Webster, saying “Let’s go.” Before they could leave, five or six officers rushed Mr. Webster and Ms. Bell, who at the time still had her arm around her boyfriend.

474. Ms. Bell asked the officers why Mr. Webster was being arrested but was

given no response. The officers then asked her to let go of Mr. Webster, which she immediately did. They then proceeded to arrest her as well. She was ultimately charged with interfering with a government agent. On information and belief, her arresting officer was Police Officer MacGuire.

475. Ms. Bell was placed in handcuffs and a Polaroid photograph was taken of her before she was placed in the police van. She waited in the van for about one hour and then was taken to the Javits Center. At the Javits Center she disembarked, was searched and left in an outdoor pen in the snow. She waited there for about forty-five minutes and then waited another hour and a half or so in the wagon.

476. She was taken to One Police Plaza, and eventually released around 7:30 or 8:00 p.m. Her detention lasted nearly eleven hours.

477. Because of the criminal charges, Ms. Bell had to fly to New York from San Francisco, California for her arraignment, causing her to miss three days of work. At the arraignment, which was held on July 1, 2003, the prosecutor offered a plea to a violation rather than a misdemeanor and she rejected the offer. One week before trial, the prosecutor offered an ACD, which she accepted to avoid returning to New York.

### **Shawn Ewald**

478. Plaintiff Shawn Ewald is a 34 year-old man who resides in Manhattan. He is a freelance computer programmer.

479. Mr. Ewald arrived at the demonstration at approximately 8:30 a.m. About five minutes after arriving, Mr. Ewald was standing on the sidewalk on the south side of the

street and west of the entrance to the building holding one side of a banner depicting a Carlyle Dollar Bill when he witnessed the arrests of the demonstrators on the north sidewalk. When he saw the police handcuff and arrest the protestors, he and others near him began to chant, "Let them go," "Shame, Shame, Shame," and "The whole world is watching."

480. Thereafter, defendant police officers approached the group and said, "Leave now or you will be arrested." Immediately after issuing the order, the police officers moved in and grabbed the protestors. Only seconds passed between the order and the arrests. There was absolutely no opportunity for the protestors to leave.

481. After being grabbed by a police officer, Mr. Ewald was taken to the middle of the street and handcuffed. At about 9:00 a.m., Mr. Ewald was photographed and placed in a police wagon with about fifteen others. The vehicle could only seat about ten people. Five were forced to stand. By around 10:00 a.m., they arrived at the Javits Center, were taken out of the vehicle, searched and then reloaded into the police wagon.

482. At approximately 11:15 a.m., Mr. Ewald arrived at One Police Plaza, where he was initially placed in a large holding cell for around thirty minutes and then transferred to an all male cell. During the transfer, Mr. Ewald's handcuffs were finally removed. At around 1:30, Mr. Ewald was photographed and fingerprinted. Mr. Ewald was released at around 9:00 p.m. His detention lasted approximately twelve hours.

483. Mr. Ewald's first court appearance was on May 5, 2003. He also appeared in court on June 12 and July 29, 2003. Mr. Ewald was twice offered an ACD, but he refused both times.

484. On October 22, the case was dismissed for lack of evidence.

### **Eric Laursen**

485. Plaintiff Eric Laursen is a 43 year-old man who resides in Manhattan. Mr. Laursen is a freelance writer and editor.

486. Mr. Laursen arrived at The Carlyle Group Office Building around 7:30 a.m. to meet with the other members of the demonstration press team, and to begin speaking with reporters. As people gathered, he stood on the sidewalk on the south side of 56<sup>th</sup> street, east of the doorway to The Carlyle building and spoke with several reporters about the action.

487. Later, Mr. Laursen observed several protestors move in front of the door to The Carlyle Group building and lie down. Officers closed in and arrested those protestors immediately. After witnessing the civil disobedience action, Mr. Laursen walked to the north side of 56<sup>th</sup> street to speak with several people on that side, and then returned to the south side, this time west of The Carlyle Group building. He stood on the sidewalk, chanting and holding a banner that showed pictures of George W. Bush and Osama Bin Ladin on dollar bills.

488. Around 8:30 a.m. Mr. Laursen watched the police begin to encircle protestors on the north side of 56<sup>th</sup> street. He watched police officers strike a young man on the north side of the street on the head with a nightstick. The young man, who appeared to be about 17 years old, was bleeding from his face and was taken away. Mr. Laursen later saw the boy at One Police Plaza. His head was bandaged and blood and fluid were leaking through. He looked like he was in shock.

489. Mr. Laursen and other protestors on the south side lined up on the curb,

and began chanting for the police to let the north side protestors go. One officer with a bullhorn walked over and asked south side protestors to disperse. Immediately after the officer said this and without affording any time to disperse, the officers began to arrest all the protestors on the south sidewalk. Mr. Laursen tried to comply with the order by immediately folding up his banner and beginning to walk west on the sidewalk. He saw a police officer in front of him, and felt someone shove him from his left side, so he started trying to walk faster away from the group. Someone else grabbed his right arm from behind with considerable force and said "Oh no, you don't." The force of the grab caused Mr. Laursen to stumble and almost fall and caused his bag to fall from his shoulder, thus spilling its contents onto the ground.

490. A little after 9 a.m. Mr. Laursen was handcuffed very tightly with his arms behind his back by defendant Police Officer Guardino. The tight cuffs caused him significant pain.

491. Mr. Laursen was placed in a van with about ten other protestors, and then taken to an outdoor police holding area near the Jacob Javits Convention Center where he was frisked and photographed. They stood outside at the Javits Center for about fifteen minutes before Mr. Laursen and the other protestors were put back on the van and transferred to One Police Plaza, at around 11 a.m.

492. At One Police Plaza, Mr. Laursen's handcuffs were removed, but his wrists continued to hurt through the next day. He was photographed again, and placed in a holding cell with many other male protestors, and then moved to a big cell with about fifty people.

493. Mr. Laursen and the other protestors repeatedly asked for lawyers, some

by name, while in the cell. The Officers responded that they would be out soon, so they shouldn't worry. None of the protestors were allowed to see a lawyer.

494. At approximately 6 p.m. Mr. Laursen was fingerprinted and photographed twice more, and then returned to his cell.

495. Mr. Laursen was not released until after 10:00 p.m. His detention lasted approximately thirteen hours. He missed a scheduled doctor's appointment, and because he was unable to contact his doctor, he had to pay for his appointment anyway. He also missed a full day of work, which made it extremely difficult for him to meet several important deadlines.

496. Mr. Laursen appeared for court on May 5, June 11, July 25 and one date in late August. Each time, he was forced to miss a half day of work. He also missed several hours of work to meet with his attorney to prepare his defense. At the August court date the charges were dismissed.

### **Daniel Vea**

497. Daniel Vea is a 35 year-old man. Mr. Vea is currently a volunteer at Bluestockings Bookstore and Café and a political activist.

498. Mr. Vea arrived at The Carlyle Group Office Building around 8:30 a.m. and stood on the south side of 56<sup>th</sup> street. Shortly after arriving, Mr. Vea witnessed police encircle protestors on the north side of 56<sup>th</sup> street and begin arresting protestors.

499. Mr. Vea was standing with a small group of protestors on the south side of 56<sup>th</sup> street, observing the arrests taking place on the north side of the street. At no point in time was Mr. Vea obstructing pedestrian traffic. After the arrests on the north side had all been made,

an officer ordered the group on the south side of the street to disperse. Mr. Vea attempted to comply, however as he started to walk away from the crowd his elbow was grabbed from behind by an officer. The officer told him that he could not leave.

500. Shortly after 9:00 a.m. Mr. Vea was tightly handcuffed behind his back by defendant Police Officer Garcia. Before being placed in a police van, Mr. Vea's picture was taken by another officer.

501. Mr. Vea was placed in a van with approximately fifteen other protestors. There was only room for ten of the protestors to sit, leaving five to stand. The individuals standing had a difficult time keeping their balance in the moving van with their hands cuffed behind their backs. Mr. Vea was then taken to an outdoor police holding area near the Javits Center where his bag was searched and he was frisked and photographed. The group stood outside the Javits Center for about fifteen minutes before they were put back in the van and transferred to One Police Plaza, at around 11 a.m.

502. At One Police Plaza, Mr. Vea's handcuffs were removed. He was placed in a holding cell with many other male protestors, and then moved to a big cell with about fifty male protestors.

503. At one point Mr. Vea was removed from the cell. He was photographed once again and fingerprinted, after which he was returned to the large holding cell.

504. Mr. Vea was not released until about 9:00 p.m. His detention lasted approximately twelve hours.

505. Mr. Vea appeared for court four times before his case was finally

dismissed.

**Craig Webster**

506. Craig Webster is a 27 year-old man who works as a freelance writer and social service worker, currently in Oregon.

507. Mr. Webster arrived at approximately 8:45 a.m. to the protest with his girlfriend, Brenna Bell, who also lives in Oregon. Both Mr. Webster and Ms. Bell had been told by other protestors that there would be civil disobedience on one side of the street and lawful, supporting protest activity on the opposite side. Mr. Webster had no intention to engage in civil disobedience or to be arrested on April 7, since he and Ms. Bell were on a short visit to New York to see friends.

508. Because there were mass arrests occurring on the north sidewalk when they arrived, Mr. Webster and Ms. Bell assumed that the civil disobedience had taken place on the north sidewalk. Accordingly, they stayed on the south side, watching the arrests and chanting their support. At no time did they block the sidewalk.

509. After about ten minutes of watching the arrests, Mr. Webster started handing out "Deception Dollars" that he had with him. These were fake dollar bills with President Bush's face on the front. Mr. Webster began to shout "Blood money! Get your blood money!" and handed the Deception Dollars to passers-by who would take them. He did this for about ten minutes. At no time did he throw any of the Deception Dollars on the ground.

510. Suddenly, both Mr. Webster and Ms. Bell saw what appeared to be a commanding officer in a white shirt point at Craig and shout to other police officers to "get that

big mouth" and to "arrest him for littering." Ms. Bell came over and hugged Mr. Webster; a moment later, five or six police officers rushed at Mr. Webster and Ms. Bell, instructed Ms. Bell to stop hugging Mr. Webster, which she did immediately, and arrested Mr. Webster.

511. At approximately 9:00 a.m., Mr. Webster was arrested for littering, a violation of the City health code, by Police Officer MacGuire, who handcuffed him. A Polaroid was then taken of Mr. Webster and Officer MacGuire together before Mr. Webster was placed in an empty wagon.

512. Mr. Webster waited in the wagon for about an hour while it filled up with about fifteen or sixteen other arrestees.

513. Mr. Webster was then transported to an outdoor police holding area near the Jacob Javits Convention Center, where he was searched outside in the snow and forced to wait outside for approximately forty-five minutes and an additional hour and a half or so in the wagon.

514. During this long wait, Mr. Webster spoke with Officer MacGuire, who indicated to Mr. Webster that the arrest was "no big deal." Mr. Webster asked the officer why they had arrested so many people if it wasn't a big deal; Officer MacGuire responded that he just followed orders. Mr. Webster then asked the officer why the commanding officer at the scene had ordered his arrest; Officer MacGuire replied that he had done that because "he doesn't like protestors." At another point Officer MacGuire commented that he would not have arrested Mr. Webster at all, but the commanding officers "really wanted to bust your chops."

515. At last, Mr. Webster and his fellow protestors were transported to One

Police Plaza, in the early afternoon. He was put in a medium-sized cell with about ten other protestors and later moved to a larger cell.

516. At approximately 5:00 p.m. Mr. Webster was fingerprinted and photographed again. Mr. Webster was not released until approximately 10:00 p.m. His detention lasted approximately thirteen hours.

**FIRST CLAIM FOR RELIEF**

(42 U.S.C. § 1983; United States Constitution)

517. Plaintiffs repeat and reallege the foregoing paragraphs as if the same were fully set forth at length herein.

518. By arresting and imprisoning plaintiffs without probable cause, assaulting them, searching them, maliciously prosecuting them, depriving them of their right to speech and peaceful assembly on a public street, and retaliating against them because they participated in an anti-war rally, defendants deprived plaintiffs of (or failed to prevent the deprivation of) rights, remedies, privileges, and immunities guaranteed to every citizen of the United States, in violation of rights enforceable under 42 U.S.C. § 1983, including, without limitation, rights guaranteed by the First, Fourth and Fourteenth Amendments of the United States Constitution.

519. In addition, defendants conspired among themselves to deprive plaintiffs of their constitutional rights secured by 42 U.S.C. § 1983, and by the First, Fourth and Fourteenth Amendments to the United States Constitution, and took numerous overt steps in furtherance of such conspiracy, as set forth above.

520. Defendants acted under pretense and color of state law and in their

individual and official capacities and within the scope of their respective employment as NYPD officers. Notwithstanding that, defendants' acts were beyond the scope of their jurisdiction, without authority of law, and in abuse of their powers. Defendants acted willfully, knowingly, and with the specific intent to deprive plaintiffs of their constitutional rights secured by 42 U.S.C. § 1983, and by the First, Fourth and Fourteenth Amendments to the United States Constitution.

521. As a direct and proximate result of the misconduct and abuse of authority detailed above, plaintiffs sustained the damages hereinbefore alleged.

**SECOND CLAIM FOR RELIEF**

(False Arrest and False Imprisonment)

522. Plaintiffs repeat and reallege the foregoing paragraphs as if the same were fully set forth at length herein.

523. The individual defendants wrongfully and illegally arrested, detained, and imprisoned plaintiffs.

524. The wrongful, unjustifiable, and unlawful apprehension, arrest, detention, and imprisonment of plaintiffs was carried out without a valid warrant, without plaintiff's consent, and without probable cause or reasonable suspicion.

525. At all relevant times, defendants acted forcibly in apprehending, arresting, and imprisoning plaintiffs.

526. Throughout this period, plaintiffs were unlawfully, wrongfully, and unjustifiably held under arrest, deprived of their liberty, imprisoned, and falsely charged.

527. At all times, the unlawful, wrongful, and false arrest and imprisonment of plaintiffs was without basis and without probable or reasonable cause.

528. All this occurred without any fault or provocation on the part of plaintiffs.

529. Defendants, their officers, agents, servants, and employees were responsible for plaintiffs' arrest, detention, and imprisonment during this period of time. Defendant City, as employer of the individual defendants, is responsible for their wrongdoing under the doctrine of *respondeat superior*.

530. Defendants acted with a knowing, willful, wanton, grossly reckless, unlawful, unreasonable, unconscionable, and flagrant disregard of plaintiff's rights, privileges, welfare, and well-being and are guilty of egregious and gross misconduct towards plaintiffs.

531. As a direct and proximate result of the misconduct and abuse of authority detailed above, plaintiffs sustained the damages hereinbefore alleged.

### **THIRD CLAIM FOR RELIEF**

(Assault and Battery)

532. Plaintiffs repeat and reallege the foregoing paragraphs as if the same were fully set forth at length herein.

533. In intimidating, handcuffing, searching, and physically assaulting plaintiffs, the individual defendants, acting in their capacities as NYPD officers, and within the scope of their employment, each committed a willful, unlawful, unwarranted, and intentional assault and battery upon plaintiffs.

534. The assault and battery by these defendants was unnecessary and

unwarranted in the performance of their duties as NYPD officers and constituted an unreasonable and excessive use of force.

535. Defendants, their officers, agents, servants, and employees were responsible for plaintiffs assault and battery. Defendant City, as employer of each of the individual defendants, is responsible for their wrongdoing under the doctrine of *respondeat superior*.

536. As a direct and proximate result of the misconduct and abuse of authority detailed above, plaintiffs sustained the damages hereinbefore alleged.

**FOURTH CLAIM FOR RELIEF**  
(Malicious Prosecution)

537. Plaintiffs repeat and reallege the foregoing paragraphs as if the same were fully set forth at length herein.

538. Defendants maliciously commenced criminal proceedings against plaintiffs, charging every plaintiff with two counts of disorderly conduct. Defendants falsely and without probable cause charged plaintiffs with violations of the laws of the State of New York.

539. The commencement and continuation of the criminal proceeding against plaintiffs was malicious and without probable cause.

540. All charges were terminated in plaintiffs' favor.

541. Defendants, their officers, agents, servants, and employees were responsible for the malicious prosecution of plaintiffs. Defendant City, as employer of the individual defendants, is responsible for their wrongdoing under the doctrine of *respondeat superior*.

*superior.*

542. As a direct and proximate result of the misconduct and abuse of authority detailed above, plaintiff sustained the damages hereinbefore alleged.

**FIFTH CLAIM FOR RELIEF**

(Negligent Hiring and Retention of Employment Services)  
(Against Defendant City)

543. Plaintiffs repeat and reallege the foregoing paragraphs as if the same were fully set forth at length herein.

544. Upon information and belief, defendant City, through the NYPD, owed a duty of care to plaintiffs to prevent the unlawful police conduct described above and the physical and mental abuse sustained by plaintiffs.

545. Upon information and belief, defendant City, through the NYPD, owed a duty of care to plaintiffs because under the same or similar circumstances a reasonable, prudent and careful person should have anticipated that injury to plaintiffs or to those in a like situation would probably result from this conduct.

546. Upon information and belief, all of the individual defendants were unfit and incompetent for their positions.

547. Upon information and belief, defendant City knew or should have known through the exercise of reasonable diligence that the individual defendants were potentially dangerous.

548. Upon information and belief, defendant City's negligence in hiring and retaining these defendants proximately caused plaintiffs' injuries.

549. Upon information and belief, because of defendant City's negligent hiring and retention of these defendants, plaintiffs incurred significant physical and mental injury.

**SIXTH CLAIM FOR RELIEF**

(New York State Constitution, Art. I, § 12)

550. Plaintiff repeat and reallege the foregoing paragraphs as if the same were fully set forth at length herein.

551. By reason of the foregoing, and by arresting, detaining and imprisoning plaintiff without probable cause or reasonable suspicion, and assaulting them, defendants deprived plaintiffs of rights, remedies, privileges, and immunities guaranteed to every New Yorker by Article I, § 12 of the New York Constitution (prohibiting unreasonable searches and seizures).

552. In addition, defendants conspired among themselves to deprive plaintiffs of their constitutional rights secured by Article I, § 12 of the New York Constitution, and took numerous overt steps in furtherance of such conspiracy, as set forth above.

553. Defendants acted under pretense and color of state law and in their individual and official capacities and within the scope of their respective employments as City and/or NYPD officers, agents, or employees. Defendants' acts were beyond the scope of their jurisdiction, without authority of law, and in abuse of their powers. Defendants acted willfully, knowingly, and with the specific intent to deprive plaintiff of her constitutional rights secured by Article I, § 12 of the New York Constitution.

554. Defendants, their officers, agents, servants, and employees were responsible for the deprivation of plaintiffs' state constitutional rights. Defendant City, as

employer of each of the individual defendants, is responsible for their wrongdoing under the doctrine of *respondeat superior*.

555. As a direct and proximate result of the misconduct and abuse of authority detailed above, plaintiff sustained the damages hereinbefore alleged.

WHEREFORE, plaintiffs respectfully request judgment against defendants as follows:

- (A) an order declaring that defendants' conduct violated plaintiffs' rights as guaranteed by the First, Fourth and Fourteenth Amendments to the United States Constitution;
- (B) an order directing defendants to return all paper copies and destroy all electronic copies of (i) photographs taken of the plaintiffs, including originals, (ii) fingerprints, (iii) documents or notes containing answers to interrogation questions; and (iv) any audio or visual recordings of plaintiffs;
- (C) an order awarding compensatory damages in an amount to be determined at trial;
- (D) an order awarding punitive damages against the individual defendants in an amount to be determined at trial;
- (E) an order awarding reasonable attorneys' fees and costs under 42 U.S.C. § 1988; and
- (F) an order directing such other and further relief as the Court may deem just and proper, together with attorneys' fees, interest, costs and disbursements of this action.

Dated: April 6, 2004February 11, 2004  
New York, New York

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