



# Virginia Lawsuit

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF CHESAPEAKE

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USA NATIONAL KARATE-DO FEDERATION OF VIRGINIA, INC.,

[Virginia  
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CLARENCE W. FOWLKES,

SAM D. JUSTICE, and

[California  
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MARCUS DEL RIO,

[Past](#)

Plaintiffs,

[Complaints](#)

v.

AT LAW NUMBER: \_\_\_\_\_

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BUDOKA ENTERPRISES, INC.,

[Contribute](#)

**SERVE: Darren M. Myers, R.A.**

[Email](#)

**3325 Taylor Rd., Suite 102**

**Chesapeake, VA 23321**

DARREN M. MYERS, individually\_

**SERVE: 3325 Taylor Rd., Suite 102**

**Chesapeake, VA 23321**

JULIUS THIRY, individually

**SERVE: 8351 15<sup>th</sup> Ave. NW**

**Seattle, WA 98177-7083**

USA NATIONAL KARATE-DO FEDERATION,

**SERVE: c/o Secretary of the Commonwealth of Virginia**

**THOMAS G. BURKE, registered agent**

**15525 1<sup>ST</sup> Avenue South, Suite 6**

**Seattle, WA 98148**

Defendants.

## MOTION FOR JUDGMENT

COMES NOW the plaintiffs, USA National Karate-do Federation of Virginia, Inc. (AUSA-NKF of Virginia@), Clarence W. Fowlkes (AFowlkes@), Sam D. Justice (AJustice@), and Marcus Del Rio (ADel Rio@), by counsel, and move for judgment against the defendants, Budoka Enterprises, Inc. (ABudoka@), Darren M. Myers (AMyers@), Julius Thiry (AThiry@), and USA National Karate-do Federation (AUSA-NKF@), on the grounds and in the amount as hereinafter set forth:

1. USA-NKF of Virginia is a non-stock corporation authorized to do business in the Commonwealth of Virginia.
  2. USA-NKF of Virginia does business in the Commonwealth of Virginia.
  3. Fowlkes is a citizen of the Commonwealth of Virginia.
  4. Justice is a citizen of the Commonwealth of Virginia.
  5. Del Rio is a citizen of the Commonwealth of Virginia.
6. Budoka is a corporation authorized to do business in the Commonwealth of Virginia.
  7. Budoka does business in the Commonwealth of Virginia, specifically the city of Chesapeake.
  8. Myers is a citizen of the Commonwealth of Virginia.
  9. USA-NKF is a Washington State Corporation with its principle place of business in Washington State.
  10. Upon information and belief, Thiry is a resident of Washington State.
    11. USA-NKF does business in the Commonwealth of Virginia.
  12. USA-NKF is the National Governing Body for traditional Karate as designated by the United States Olympic Committee (AUSOC@) pursuant to the authority granted by the Ted Stevens Olympic and Amateur Sports Act (Athe Act@).
  13. Fowlkes is an official with the USA-NKF and runs a dojo, Henricho Dai-Ichi Shotonkan Karate, which is a club registered with the USA-NKF.
  14. Justice is an official registered with the USA-NKF.
  15. Thiry is the Executive Director of the USA-NKF.
  16. Myers is the former president of the USA-NKF of Virginia.
  17. USA-NKF of Virginia and one of its directors, Ronald B. Smith (ASmith@), previously filed a federal action against the USA-NKF and Thiry for violating its bylaws and the Act.
  18. Smith has also filed a grievance with the USOC and internal grievances with USA-NKF for violations

of its bylaws and the Act.

19. Animosity exists against USA-NKF of Virginia and Smith by USA-NKF and Thiry.
20. Fowlkes, Justice, and Del Rio are frequent volunteers for USA-NKF of Virginia events and are friends of Smith, which the defendants know.
21. Under the bylaws of USA-NKF, an amateur sports organization or individual who is sponsoring a domestic amateur athletic competition shall be entitled to a sanction from USA-NKF and is entitled to such, subject to coordination of scheduling events through the Board of Directors and unless USA-NKF determined that the competition would be detrimental to the best interests of the sport.
22. In late 2004, the plaintiffs had began organizing and funding a tournament to be held in Richmond, Virginia in May, 2005 (Athe Tournament@).
23. On or about January 11, 2005, Justice e-mailed Roger Jarrett (AJarrett@), Secretary General of USA-NKF, notifying him of the Tournament and informed him that the plaintiffs wanted a sanction from USA-NKF.
24. On February 12, 2005 Justice attended a tournament run by Jarrett in West Virginia.
25. During the February 12, 2005 tournament, information was distributed by the plaintiffs' representatives about the Tournament.
26. Directly after the February 12, 2005 tournament, Fowlkes requested information from the USA-NKF which was necessary in order to formally request a sanction and qualification to be a state-qualifier for the Tournament and followed up at least twice, without receiving a response.
27. On or about March 7, 2005, Justice e-mailed Jarrett and Thiry about Fowlkes' requests, reminding them that he was part of the Tournament, and asked they give Fowlkes the information requested.
28. Eventually Fowlkes received the information he needed to apply for the Tournament and sent in his application for a sanction for the Tournament with the necessary fee on March 22, 2005.
29. Upon information and belief, Thiry contacted Myers after the February 12, 2005 tournament where information was distributed about the Tournament, which both he and USA-NKF were aware, and requested that Myers and Budoka run a tournament in Virginia in May, 2005 and that tournament would not only be sanctioned, but also be a state-qualifier.
30. In response to Thiry's request and knowing that the plaintiffs were holding their tournament on May 22, 2005 in Richmond, Myers and Budoka organized a tournament to be held in Suffolk on May 7, 2005.
31. Myers and Budoka has advertised the Suffolk tournament as a state-qualifier and one that was sanctioned by USA-NKF.
32. The plaintiffs learned of Myers' tournament on or about April 3, 2005.
  33. Sometime between April 3, 2005 and April 11, 2005, Jarrett told Smith in a telephone call that the plaintiffs' tournament could not be a state-qualifier because none of the plaintiffs were a Regional State Organization (ARSO@) as defined by USA-NKF.
  34. USA-NKF of Virginia had its counsel send a letter to Myers on April 11, 2005, conveying its concern with the situation and requesting that Myers call Smith.
35. Despite having submitted his application for a sanction in March, 2005, Fowlkes did not receive a response in any

form until April 19, 2005, when he had a conversation with Thiry, wherein Thiry told Fowlkes that the Tournament could not receive a sanction or be a state qualifier without a member of the referee council running same.

36. No requirement exists under USA-NKF's bylaws requiring a member of the referee council run a tournament to be a state qualifier or to be sanctioned and it would financially burden the plaintiffs and, more importantly, upon information and belief, all the members of the referee council are scheduled to fly to Argentina for the Senior Championships on the day of USA-NKF of Virginia's tournament, which Thiry and USA-NKF know. In addition, the bylaws of USA-NKF do not mention anything regarding a state-qualifier.

37. The plaintiffs have held tournaments in the past and make a profit from running same.

38. At all times referenced herein, Julius Thiry was acting individually and as an authorized agent of USA-NKF, acting within the scope of his authority/employment.

39. At all times referenced herein, Darren Myers was acting individually and as an authorized agent of Budoka, acting within the scope of his authority/employment.

**COUNT I B WRONGFUL OR TORTIOUS INTERFERENCE WITH PROSPECTIVE BUSINESS AND ECONOMIC ADVANTAGE**

-

40. Paragraphs 1 through 38 are realleged and incorporated herein by reference.

41. The plaintiffs have prospective business and economic advantage in running the Tournament.

42. There was a reasonable probability of future economic benefit to the plaintiffs from the prospective business and economic advantage of the Tournament.

43. The defendants knew of the prospective business and economic advantage.

44. The defendants used improper methods to interfere with the prospective business and economic advantage by, though not limited to: arranging the USA-NKF-sanctioned Suffolk tournament the same month as the Tournament, by failing to respond to Fowlkes' sanction application until the Suffolk tournament was set-up, and when it did respond to the application, by adding the requirement a referee committee member to run the Tournament, and by also preventing the Tournament from being a state-qualifier because none of the plaintiffs are a RSO, however instigating, encouraging, and sanctioning Myers and Budoka's tournament as a state-qualifier even though neither of them is a RSO.

45. The defendants intended to interfere with the plaintiffs' prospective business and economic advantage.

46. It was reasonably certain that the prospective business and economic advantage would have been realized in the absence of the defendants' conduct.

47. The defendants' actions were done with malice and/or wantonness.

48. The plaintiffs were damaged by the disruption of the prospective business and economic advantage.

**COUNT II - STATUTORY CONSPIRACY TO HARM IN BUSINESS**

49. Paragraphs 1 through 38 are realleged and incorporated herein by reference.

50. The defendants acted in concert, agreed, associated, mutually undertook and/or combined together in organizing the Suffolk Karate tournament, taking steps to delay, hinder, and thwart the Tournament's success, and harming the plaintiffs' business interests.

51. The defendants injured the plaintiffs' businesses intentionally, purposefully, and without lawful justification.

52. The plaintiffs have suffered damages as a result of the defendants' acts.

WHEREFORE, the plaintiffs, USA National Karate-do Federation of Virginia, Inc., Clarence W. Fowlkes, Sam D. Justice, and Marcus Del Rio move for judgment against the defendants, Budoka Enterprises, Inc., Darren M. Myers, Julius Thiry, and USA National Karate-do Federation, as follows:

1. Pursuant to Count I, for judgment against the defendants, jointly and severally, in the amount of \$5,000 in compensatory damages; \$50,000 in punitive damages, together with pre- and post-judgment interest and costs expended in their behalf herein.

2. Pursuant to Count II, for judgment against the defendants, jointly and severally, in the amount of \$15,000 in compensatory damages (\$5,000 trebled under Code' 18.2-500), together with pre- and post-judgment interest, costs expended in their behalf herein, and plaintiffs' attorney's fees.

PLAINTIFFS REQUEST TRIAL BY JURY.

USA NATIONAL KARATE-DO FEDERATION OF VIRGINIA, INC.

CLARENCE W. FOWLKES

SAM D. JUSTICE

MARCUS DEL RIO

By: \_\_\_\_\_

Of Counsel

Kellam T. Parks, Esq.

Kalfus and Nachman, P.C.

870 N. Military Highway

Suite 300

Norfolk, VA 23541-0889

(757) 461-4900

(757) 461-1518 facsimile

NMAU, Inc is a 501(c)(3) non-profit and all contributions are tax deductible.



# National Martial Arts Union, Inc.

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The USA-NKF of VA, Inc., a Virginia charity formed to support the development of Olympic style karate in the Commonwealth, has filed suit against the USA-NKF for tortuous interference. Read the documents [here](#).

Juan Larios and Yolanda Larios of Los Angeles have filed suit against the Federation alleging racial discrimination. Changes are obviously happening. Read the documents [here](#).

As many of you know, there is a high level of dissatisfaction and concern over many dealings involving the affairs of the USA National Karate-do Federation, Inc. For years, athletes, judges, coaches and others have complained over what has been shabby and shameful treatment by those who maintain a stranglehold on the organization. **The time has come to create a change!** Last year's sham elections have created a set of circumstances where the abuse of power has reached fraudulent proportions, shamelessly denying members the right to vote while pushing through their own rigged slate of "candidates" so that those in power might maintain their positions. Of course, this is the end of a long list of abuses members have suffered for many years.

The purpose of this letter is to solicit your support.

There has been established a non-profit organization - the *National Martial Arts Union, Inc.*, created to "Save the NKF". The intent of the organizers is to raise tax deductible money to take back the organization and to push for the rights of athletes and other members and have their grievances aggressively addressed in all of the proper circles.

We are asking for your help. By making a tax deductible contribution, you can help us clean up the mess. Alone, little can be done. But through the efforts of those who are dedicated to assuring that the rights of the members be protected, much good can be done. Please look into your heart and make the tax deductible contribution. There are those who have taken the first step in resolving some of the issues; but, in order for this to continue, we need your help.

Please make out your checks to the *National Martial Arts Union, Inc.* and help us to help each other. When the NKF was founded, the founding members kept saying "Remember, it's all about the athletes, stupid!" It seems as if they have forgotten that simple fact.

We promise to keep each of you posted via our web site, presently in the process of being established. We will send each of you email updates and will accept emails, notices, news and updates and establish a non-libelous chat group where each one can share the troubles they have had with the NKF in the past. It's time for a change. It's time to make a difference! Make your tax deductible contributions today.



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# California Lawsuit

PATRICIA J. BARRY SBN 59116  
634 S. Spring St., Ste 823  
Los Angeles, Ca 90014  
Tele. (213) 995-0734  
Fax (213) 995-0735  
Attorney for all Plaintiffs

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SUPERIOR COURT OF STATE OF CALIFORNIA  
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MARIO FLORES, on his own behalf and as Guardian ad Litem on behalf of ADRIAN ERIC FLORES; FRANCISCA URBIETA, VICTOR GONZALEZ, on his own behalf and as Guardian ad Litem on behalf of DANIEL GONZALEZ; JUAN LORIOS, YOLANDA LORIOS, MARISSA LORIOS; MARIA MURO, on her own behalf and as Guardian ad Litem on behalf of FRANCISCO MURO; RODRIGO MURO on his own behalf and as Guardian ad Litem on behalf of ROGELIO MURO; MARIA PONCE, ISMAEL PONCE on his own behalf and as Guardian ad Litem on behalf of EDGAR PONCE; JUVENAL RAMIREZ, JOANN RAMIREZ on her own behalf and as Guardian ad Litem on behalf of CANDICE SUBIA; CATALINA SANDOVAL, RAUL SANDOVAL on his own behalf and as Guardian ad Litem on behalf of ALEJANDRO SANDOVAL; CARMEN VASQUEZ, AURELIO VASQUEZ on his own behalf and as Guardian ad Litem on behalf of ANDREA VASQUEZ, a minor child.

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Plaintiffs,  
vs.

UNITED STATES OF AMERICA NATIONAL KARATE-DO FEDERATION, JULIUS THIRY, EUGENE TIBON, HIROSHI ALLEN, DOES 1-20, Defendants.

CASE NO.

COMPLAINT FOR DAMAGES, DECLARATORY AND INJUNCTIVE RELIEF, ATTORNEY FEES AND COSTS, CIV. C. SECS. 51, 51.5, 52, 52.1

DEMAND FOR JURY TRIAL

Plaintiffs allege for their complaint as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this action pursuant to Civ. C. Secs. 52.1(c) and 52.2 in that the acts complained of occurred in Los Angeles County, Sacramento County, and Las Vegas, Nevada. Venue lies in this court since the claims arose here. Further, Defendants regularly conduct business in Los Angeles County, including national competitions. PARTIES

2. MARIO FLORES ("M. Flores") is a resident of Los Angeles County and the parent of ADRIAN ERIC FLORES ("Adrian"). M. Flores is suing on his own behalf and as Guardian ad Litem on behalf of Adrian, a minor child.

3. FRANCISCA URBIETA ("Urbietta") and VICTOR GONZALEZ ("Gonzalez") are residents of Los Angeles County and the parents of DANIEL GONZALEZ ("Daniel"), a minor child. Gonzalez sues on his own behalf and as Guardian ad Litem on behalf of Daniel, a minor child.

4. JUAN LORIOS ("J. Lorios"), YOLANDA LORIOS ("Y. Lorios"), and MARISSA LORIOS ("M. Lorios") are residents of Los Angeles County and karate coaches for the children. J. And Y. Lorios are husband and wife, and M. Lorios is their daughter who is over the age of 18 years.

5. MARIA MURO ("M. Muro") and RODRIGO MURO ("R. Muro") are residents of Los Angeles County and the parents of FRANCISCO MURO ("Francisco") and ROGELIO MURO ("Rogelio"), both minor children. Maria sues

on her own behalf and as Guardian ad Litem on behalf of Francisco, and Rodrigo sues on his own behalf and as Guardian ad Litem on behalf of Rogelio.

6. MARIA PONCE ("M. Ponce") and ISMAEL PONCE ("I. Ponce") are residents of Los Angeles County and the parents of EDGAR PONCE ("Edgar"). Ismael sues on his own behalf and as Guardian ad Litem on behalf of Edgar, a minor child.

7. JUVENAL RAMIREZ ("J. Ramirez") and JOANN RAMIREZ ("Jo Ramirez") are residents of Los Angeles County and the stepparent and parent respectively of CANDICE SUBIA ("Candice"). Jo. Ramirez sues on her own behalf and as Guardian ad Litem on behalf of Candice, a minor child.

8. CATALINA SANDOVAL ("C. Sandoval") and RAUL SANDOVAL ("R. Sandoval") are residents of Los Angeles County and the parents of ALEJANDRO SANDOVAL ("Alejandro"), a minor child. R. Sandoval sues on his own behalf and as Guardian ad Litem on behalf of Alejandro.

9. CARMEN VASQUEZ ("C. Vasquez") and AURELIO VASQUEZ ("A. Vasquez") are residents of Los Angeles County and the parents of ANDREA VASQUEZ ("Andrea"). A. Vasquez sues on his own behalf and as Guardian ad Litem on behalf of Andrea, a minor child.

10. The Guardians ad Litem named above are aware of their responsibilities to oversee Ms. Barry's representation of their respective minor children's litigation-related interests and are aware that they may make tactical and even fundamental decisions affecting the litigation, but always with the interest of their respective minor children in mind.

11. All the plaintiffs designated as parents of the minor children are collectively referred to at times in this complaint as "the Parents". All the minor children who are plaintiffs are collectively referred to at times in this complaint as "the Children."

12. Defendant UNITED STATES OF AMERICA NATIONAL KARATE-DO FEDERATION ("USA-NKF") is a charitable, non-profit organization chartered and licensed in accordance with the laws of the State of Washington without capital stock. It is chartered pursuant to the Amateur Sports Act of 1978, 36 U.S.C.A. § 220522 (1994). The USA-NKF enjoys a tax-exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code. USA-NKF receives substantial federal funds from the United States Olympic Committee ("USOC"). It regularly conducts business in the County of Los Angeles.

13. The USOC recognizes the United States of America National Karate Do Federation ("Karate Federation") as the national governing body for the sport of karate.

14. JULIUS THIRY ("Thiry") is the Emeritus President of USA-NKF and is directly responsible for the acts of discrimination committed against the Children and for aiding, abetting, and inciting violations of California law as described in detail in this complaint. He is a resident of Seattle, Washington. He committed the acts of discrimination or approved, aided, abetted, and incited violations of California in Seattle, Washington, in Las Vegas, Nevada, and in Los Angeles County, California.

15. EUGENE TIBON ("Tibon") is the Executive Vice-President of USA-NKF directly responsible for the acts of discrimination committed against the Children and for aiding, abetting, and inciting violations of California law as described in detail in this complaint. He is a resident of Stockton, California. He committed the acts of discrimination or approved, aided, abetted, and incited violations of California law in Las Vegas, Nevada, and in Los Angeles County, California.

16. HIROSHI ALLEN ("Allen") is a team member of USA-NKF, and had ostensible authority to invite students of karate to perform in exhibitions in USA-NKF tournaments and opens. He is responsible for inducing the Lorios as coaches and the Parents as parents to bring the Children and other students of the Lorios who are not parties to this action to Las Vegas to perform an exhibition at the USA-NKF USA Open in January 2004. He is a resident of Las Vegas, Nevada. He committed the acts of discrimination or approved, aided, abetted, and incited violations of California law in Los Angeles County, California.

17. Defendants DOE 1 through DOE 20, inclusive, are sued herein under fictitious names. Their true names and capacities are unknown to Plaintiffs. When their true names and capacities are ascertained, Plaintiff will amend this complaint by inserting their true names and capacities herein. Plaintiffs are informed and believe and thereupon allege that each of the fictitiously-named defendants is responsible in some manner for the occurrences herein alleged, and that plaintiffs' damages as herein alleged were proximately caused by those defendants.

18. Plaintiffs are informed and believe and thereupon allege that at all times herein mentioned each of the defendants, including all defendants sued under fictitious names, was the agent and employee of each of the remaining defendants, and in doing the things herein alleged, was acting within the scope of his/her agency and employment with the USA-NKF.

#### STATEMENT OF FACTS

19. Y. Lorios and J. Lorios are business partners as well as husband and wife. They have owned International Karate-Do Shito-Ryu, Federation studio 4650 Florence Ave., Bell, CA. 90291 for 27 years where both Y. and J.

Lorios teach karate to students. Their daughter, M. Lorios, is also a coach. J. Lorios also founded the International Karate-Do and Shito-Ryu Federation (“IKS”) approximately twenty years ago. It is a non-profit organization organized under the laws of the state of California and regularly holds competition in Los Angeles County.

20. Y. And J. Lorios are members of the USA-NKF. Further, until Thiry removed J. Lorios as an official coach of the USA-NKF in retaliation for Y. Lorios protesting discriminatory acts of officials of the USA-NKF as alleged in this complaint, J. Lorios was also a member of the USA-NKF’s Coach Committee.

21. Y. Lorios was employed as a Karate instructor by Salvation Army in July 2002. Y. Lorios voluntarily requested that Salvation Army change her employment status to that of a contractor. Salvation Army agreed and in February 2005, entered into a contract with J. Lorios - International Karate Federation for him to provide karate instructors to Salvation Army as needed.

22. In 2001, the Salvation Army contacted J. Lorios to teach at the Salvation Army Red Shield location at 1532 W. 11th St., L.A. 90015. J. Lorios asked Y. Lorios to do the teaching, and after Salvation Army resolved problems concerning the Army’s current instructor, the Salvation Army hired Y. Lorios as a parttime employee in July 2002.

23. Y. Lorios began teaching karate to young people who signed up for her classes through the Salvation Army. J. and Y. Lorios also continued with karate instruction and had many students at their studio in Bell.

24. Many of the parents of the students, both at the Salvation Army and at the studio, were recent immigrants, mostly from Latin America, although all the minor-plaintiffs are United States citizens. The parents all work very hard, often at two jobs, but still are low-income earners. Success at the sport of Karate gave the Children, who are the plaintiffs in this law suit, increased self-esteem and a sense of achievement they otherwise did not enjoy because they are of a minority background.

25. The sport of Karate also taught them discipline and self control, and gave them physical coordination and strength. The Children and other Latino students were taught, and practiced, great respect for their elders, teachers, and instructors. The Parents made many financial and time sacrifices to insure that the Children would excel in the sport and compete in world championships.

26. J. Lorios sponsored an international karate championship competition at California State University in Long Beach, California in September 2003. At the competition, the students of J. And Y. Lorios performed. Allen also brought students to compete. Allen saw the students of the Lorios perform and approached M. Lorios and Y. Lorios, and said that he was going to be hosting a USA-Open in Las Vegas, Nevada on January 4, 2004, and he wanted the Lorios students to give a demonstration at that competition. Allen stated that he really liked the presentation of the students. He said, in effect, that since the students were kids, their exhibition at Caesar’s Palace in Las Vegas would encourage other young people to take up the sport of karate and also be all the more inspiring since most of the time adults performed exhibitions at USA-NKF-sponsored tournaments. Allen encouraged the Parents and the Lorios to bring the Children and other students not parties to this action to Las Vegas, although he was aware of the pattern of discrimination against minorities and women by the other defendants.

27. M. and L. Lorios specifically asked him if he was sure that they could perform the exhibition, and he assured them that if they came, they would perform. Y. Lorios was thrilled to have her students, inner-city kids, which include the Children herein, perform at Caesar’s Palace in front of many international competitions and spectators. She knew that performing in the exhibition at such a huge hotel-entertainment complex in front of so many individuals, including professionals and fellow amateurs in the sport, would build their self esteem and self confidence.

28. One month prior to the USA-Open, Allen came to Los Angeles to observe a workout session of the demonstration team. He assisted in making a few changes and gave the team, made up in large part of the Children, an inspiring speech which motivated them for their performance in Las Vegas.

29. The families involved in this lawsuit worked very hard in preparation for the exhibition. All the Parents took extra time to drive the Children to additional rehearsals. They also purchased costumes and exhibition equipment specifically for the exhibition. The Children rehearsed many hours in preparation for the exhibition, and M. Lorios paid for consultations on the creation of the choreography. She and her parents gave up many hours in order to train and rehearse the students so that they would be at their very best.

30. M. J. and Y. Lorios all drove to Las Vegas on January 1, and the Parents with their respective Children, on January 2. The Lorios family paid for four days of lodging and food, and the Parents, for three days. The Parents had to take time off from work, which for most of them, meant lost wages.

31. M. And J. Lorios told the Parents and the Children that since they have been invited to perform in the exhibition, they should compete in the tournament as a courtesy to Allen who was hosting the event on behalf of USA-NKF.

32. Thus, the Parents expended further money so that the Children could compete. In addition, the Lorios

family paid for the competition fees, lodging, and food of four students whose Parents did not accompany them. When the Children won in their division, the USA-NKF gave them medals left over from the year before, stating "USA-Open Championships 2003" which was very insulting to all the participants.

33. Neither the Lorios nor the Children had any intention of competing that year in the USA-Open and thus would not have spent the money on the competition fees, the food, the gas, and the lodging had Allen not literally beg them to give an exhibition.

34. The Children rehearsed and were ready to give their exhibition on January 4, 2004. Tibon informed Allen that at the request of Thiry, he needed to see the exhibition before the children went on stage. Allen informed M. Lorios about Tibon's request. M. Lorios said that Tibon could see the exhibition on January 4 just before the Children were to perform.

35. The Children began their performance while Tibon observed. Within seconds, Tibon became very insulting and said loudly to the students so that others could hear that the team did not have the image or dynamics or focus to perform at an event of this caliber. Halfway through the performance, Tibon walked away, leaving the children and their coach embarrassed and ashamed. Defendants did not permit the Children to perform and instead substituted a Japanese man who performed very poorly.

36. On January 30, 2004, with the permission of her supervisor at Salvation Army, Y. Lorios sent a letter to William Martin, Director of Athletics, United States Olympic Committee, protesting the discriminatory treatment of Defendants.

37. Tibon retained an attorney who wrote a letter to Salvation Army threatening a lawsuit that in California would be described as a SLAPP lawsuit. If Tibon had made good on his word to sue, he would have been subject to the SLAPP motion and would have had to pay the attorney fees of Salvation Army and Y. Lorios if he had sued them as defendants. Y. Lorios was clearly engaged in First Amendment activity in that the issues she raised in the letter to Mr. Martin about the discrimination against the Children involved an issue of public interest or a public issue and was also petitioning activity since it was a preliminary step to the grievance Y. Lorios eventually filed on behalf of the Children with USA-NKF and to this lawsuit.

38. Thiry routinely engages in sex discrimination and retaliation for free speech activities. He believes that women "should be controlled by their husbands" and has said so publicly.

39. Before this incident involving the Children, Y. Lorios had already had a run-in with Thiry in July 1998. M. Lorios was supposed to compete in karate at the University Games in Paris, France. M. Lorios had already paid for her flight, arranged her lodging, and there had been newspaper publicity about her attending the games. Thiry told M. Lorios she could not go. Y. Lorios stepped in and told Thiry that she had already spent money for her flight and lodging, and if he would not allow her to go, she would retain an attorney. Thiry told her that if she thought she could do something about it, to do so.

40. Y. Lorios contacted the USOC and spoke with Anita Franks who advised her how to proceed, which included obtaining a court order restraining the entire American team from attending. The USOC also contacted Thiry. Thiry had his wife, Katherine Jones-Thiry ("Jones-Thiry"), Chair of Public Relations of USA-NKF and a member of its Technical Committee, contact M. Lorios who informed her she could attend the games. Thiry became, and remained, extremely upset with Y. Lorios.

41. Thiry began a pattern of retaliation against J. Lorios because of his stated belief that women should be controlled by their husbands, and it was apparent to him that J. Lorios could not control his wife. In the early part of 2001, at the annual meeting of the USA-NKF in Seattle, Washington, Thiry said in the presence of other USA-NKF coaches, including J. Lorios, that some of the coaches hide under the skirts of their wives. J. Lorios asked if he was referring to him, and Thiry said, "There are a lot of problems going on, you need to talk to me, not your wife." J. Lorios replied that his wife's problems are hers, and his problems were his, but if he [Thiry] believed that J. Lorios was hiding under his wife's skirts, let's go outside and settle this now. Jimmy Blann, Chair of the Coaches Committee, calmed J. Lorios down. Thiry removed Blann as Chair of the Coaches Committee in December 2004.

42. In April 1999, Ilyse Gellar Sternberg ("I. Sternberg") sued the USA-NKF for sexual discrimination in the Eastern District of New York, Sternberg v. United States of America National Karate-Do Federation, Case No. CV-99-2843. Eventually, USA-NKF settled with Sternberg. Sternberg alleged that she became a member of the United States Karate team in May 1995, won many medals and became a champion, underwent training for the 1998 WKF World Championships in Brazil, took vacation from her job to train, and paid her own way to Brazil to perform in the competition. She further alleged that the USA-NKF withdrew the women's team without justification and in violation of the women athletes' right to be free from sexual discrimination since the USA-NKF permitted the males to compete.

43. In a declaration filed in court, Sternberg alleged that she filed a grievance with USA-NKF concerning the denial by USA-NKF of her opportunity to compete in Brazil. Thiry attempted to prejudice her witnesses, in fact, writing to one of her teammates stating that Sternberg was misrepresenting her interests and damaging

her reputation by Sternberg filing the grievance.

44. Sternberg also alleged that Thiry repeatedly pressured Sternberg's husband, Dr. Alex Sternberg, to influence her to drop her grievance, just as Thiry instructed J. Lorios to control his wife. On June 23, 2000, fifteen days after the USA-NKF was served with Sternberg's lawsuit, the USA-NKF removed Sternberg's husband as Chair of the USA-NKF Referee Council.

45. Likewise, after Y. Lorios filed the grievance with USA-NKF in the summer of 2004, Thiry had J. Lorios removed as a USA-NKF coach which he had been for the past ten years in retaliation for the free speech activity of his wife who protested the discriminatory treatment of the defendants against the Children, just as Thiry had Dr. Sternberg removed as Chair of the USA-NKF Referee Council because of the free speech activity of Dr. Sternberg's wife. EXHAUSTION OF ADMINISTRATIVE REMEDY

46. Although Y. Lorios filed a grievance with USA-NKF, pursuant to the Amateur Sports Act, it is utterly futile to continue with it. As Sternberg established in her lawsuit, Thiry controls those on the Board who make the decision on the grievance, because they are almost all former students of his. In addition, it is clear because of his stated view about women's roles, his wife Katherine Jones-Thiry, who serves on the Board and in other roles will do exactly what her husband demands, and influence the others already under his control to rule against the Children. Finally, the Board is not equipped to hear claims of discrimination nor does its members have authority under the Act to award damages for discrimination caused by USA-NKF.

47. The statutes under which Plaintiffs sue do not require exhaustion of any administrative remedy before filing in court.

#### FIRST CAUSE OF ACTION

CIV. C. SECS. 51, 52 - APPLIES TO ALL THE PLAINTIFFS AND TO ALL DEFENDANTS)

48. Plaintiffs reallege paragraphs 1- 47 as if fully set forth herein

49. The above acts constitute national origin and racial discrimination by USA-NKF against the Children, in violation of California Civ. C. 51 which prohibits such discrimination in all forms of public accommodations and in every kind of business establishment whatsoever in California.

50. As a proximate result of the violation of the Children's rights to be free from race and national origin discrimination in sports competition, the Children, the Parents, and the Lorios have suffered humiliation, mental anguish, and severe emotional and physical distress, and have been injured in mind, body, and spirit. The Parents also incurred costs and lost time from work. The Lorios spent money on choreography as well as travel, lodging, and food expenses. The Children, the Parents, and the three Lorios Plaintiffs have had to retain an attorney and pay fees to prosecute this lawsuit.

51. Pursuant to Civ. C. Sec.52(a), each of the defendants (USA-NKF, Thiry, Allen, and Tibon) is liable for each offense up to a maximum amount of three times the actual damages suffered, including compensatory and special damages, in no case less than \$4,000.00, and attorney fees.

#### SECOND CAUSE OF ACTION

(CIV. C. SECS. 51.5, 52 - APPLIES TO PLAINTIFF JUAN LORIOS AND TO DEFENDANTS USA-NKF AND THIRY)

52. Plaintiffs reallege paragraphs 1- 47 as if fully set forth herein

53. Civ. C. Sec. 51.5 prohibits all business establishments of any kind to engage in blacklisting, boycotting, refusal to contract, and discrimination against an individual because of the sex of the person's partners.

54. When Defendant Thiry blacklisted and discriminated against J. Lorios and refused to let him serve any longer as a USA-NKF coach because of his business partner's/wife's free speech activity protesting discriminatory practices of USA-NKF, Thiry and USA-NKF violated Civ. C. Sec.51.5. Y. Lorios' sex played a substantial role in the decision of Thiry not to allow J. Lorios to continue as USA-NKF coach because of Thiry's stated beliefs about women's role based on false stereotypes about women.

55. As a proximate result of the violation of J. Lorios's right to be free from discrimination, blacklisting, boycotting, and denial of right to contract because of his business partner's/wife's sex, J. Lorios has suffered humiliation, mental anguish, and severe emotional and physical distress, and have been injured in mind, body, and spirit. He has suffered a loss of reputation as well. He has had to retain an attorney and pay fees to prosecute this action.

56. Pursuant to Civ. C. Sec.52(a), each of the defendants (USA-NKF and Thiry) is liable for each offense up to a maximum amount of three times the actual damages suffered, including compensatory and special damages, in no case less than \$4,000.00, and attorney fees.

#### THIRD CAUSE OF ACTION

(CIV. C. SEC.52.1 - APPLIES TO PLAINTIFF YOLANDA LORIOS AND TO DEFENDANTS USA-NKF, TIBON, THIRY)

57. Plaintiffs reallege paragraphs 1 through 47, above, as if fully set forth herein.

58. Civ. C. Sec.52.1prohibits all individuals from attempts to interfere or interfering by threats, intimidation, or coercion with the exercise or enjoyment by any individual or individuals of rights secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of this state,

59. When Tibon threatened a SLAPP action against Y. Lorios' employer, Salvation Army, he interfered with Y. Lorios' relationship with her employer in an effort to coerce Y. Lorios to back down from protesting discriminatory actions on his part and on the part of the other defendants. This is a right protected by, for example, the First Amendment of the U. S. Constitution, by California's Fair Employment and Housing Act, and by the California Unruh Act, Civ. C. Sec.51.

60. Tibon caused a rift in the employment relationship between Salvation Army and Y. Lorios which has caused her great distress and which remains unresolved to the present time.

61. When Thiry removed Y. Lorios' husband as coach he directly interfered with, and attempted to coerce, Y. Lorios to back down from continuing with the grievance she had filed against USA-NKF because of the discrimination to which USA-NKF and the other defendants subjected the Children and Parents.

62. As a proximate result of the violation of Y. Lorios' rights as listed above by Defendants, Y. Lorios has suffered humiliation, mental anguish, and severe emotional and physical distress, and have been injured in mind, body, and spirit. She has had to retain an attorney and pay fees to prosecute this action.

63. The acts of Defendants were willful, wanton, malicious, and oppressive, thus justifying an award of exemplary and punitive damages against them in an amount to be determined at trial.

64. In addition to compensatory, special, and punitive damages, pursuant to Civ. C. Sec.52(a), each of the defendants (USA-NKF, Tibon, and Thiry) is liable for each offense up to a maximum amount of three times the actual damages suffered, including compensatory and special damages, in no case less than \$4,000.00, and attorney fees.

#### DECLARATORY RELIEF

65. There is a dispute between Plaintiffs and Defendants in that Plaintiffs allege that the acts complained of herein constitute a violation of their civil rights under Civ. C. Secs. 51, 51.5, 52, 52.1.

66. Defendants deny they have violated Plaintiffs' statutory rights. Plaintiffs request that the Court adjudicate this controversy and enter a declaratory judgment for determination of Plaintiffs' rights and privileges.

#### EQUITY

67. Plaintiffs have no plain, adequate, or complete remedy at law to redress the wrongs described herein. Plaintiffs have been, and will continue to be, irreparably injured by the conduct of the defendants unless the court grants them the declaratory and injunctive relief which they seek.

#### PRAYER

WHEREFORE, Plaintiffs pray for damages as to each cause of action against each defendant as permitted by law, as follows:

1. A declaratory judgment that Defendants' actions violate Plaintiffs' rights under Civ. C. Secs. 51, 51.5, 52, 52.1.
2. A permanent injunction ordering Defendants
  - \* to apologize in writing to the Children and the Parents for the discrimination they engaged in against the Children-Plaintiffs,
  - \* to reinstate Juan Lorios as a USA-NKF coach,
  - \* to send a letter to Salvation Army withdrawing threats of litigation and apologizing for what Tibon said about Yolanda Lorios,
  - \* to post notices in conspicuous places at all competitions that USA-NKF does not discriminate in exhibitions, competitions, and education of athletes,
  - \* to participate in training in equal opportunity education/athletic competition.
3. General compensatory damages against each and every defendant for each Minor Child-Plaintiff according to proof as to Civ. C. Secs.51, 52 (First Cause of Action);
4. General compensatory damages against each and every defendant for each individual Parent-Plaintiff and for the three Lorios plaintiffs according to proof as to Civ. C. Secs.51, 52 (First Cause of Action);
5. Special damages against each and every defendant to the Parents and the Lorios plaintiffs according to proof as to Civ. C. Secs.51, 52 (First Cause of Action);
6. General, compensatory damages against Defendants NKF-USA and Thiry to Juan Lorios (Civ. C. Secs.51.5, 52 - Second Cause of Action) according to proof;
7. General, compensatory damages against Defendants NKF-USA, Thiry, and Tibon to Yolanda Lorios (Civ. C. Sec.52.1 - Third Cause of Action) according to proof;
8. Punitive or exemplary damages against Defendants NKF-USA, Thiry, and Tibon in favor of Plaintiff Yolanda

Lorios (Civ. C. Sec.52.1 -Third Cause of Action);

9. Treble damages against all Defendants on all three causes of actions in favor of all Plaintiffs.

10. Reasonable costs and attorney's fees against all Defendants on all three causes of actions in favor of all Plaintiffs.

11. For such other relief as may be just and proper.

DATED: March 17, 2005

Respectfully submitted,

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PATRICIA J. BARRY

DEMAND FOR JURY TRIAL

TO THE HONORABLE COURT:

Plaintiffs request a trial by jury.

DATE: January 13, 2005 \_\_\_\_\_

PATRICIA J. BARRY

Pat Barry

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