

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ALLAN LANG, On behalf of himself and all others
similarly situated,

Plaintiff

- against -

TASER INTERNATIONAL, INC., DR. PHILLIPS W.
SMITH, PATRICK W. SMITH, THOMAS P. SMITH
and DANIEL BEHRENDT,

Defendants.
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Civil Action No.: 05 CV 0749 (LIS)

ECF CASE

CLASS ACTION COMPLAINT

Jury Trial Demanded

Plaintiff, individually and on behalf of all other persons similarly situated, by his undersigned attorneys, alleges the following upon personal knowledge as to himself and his own acts and upon information and belief as to all other matters based upon the investigation made by and through his attorneys, which investigation included, among other things, a review of the public documents and news releases of Taser International, Inc., including its press releases and public filings with the U.S. securities and Exchange Commissions (the "SEC").

1. Plaintiff brings this action as a class action on behalf of himself and all other persons who purchased the common stock of Taser International, Inc. ("Taser") during the period January 7, 2005 through and including January 14, 2005 (the "Class Period"), to recover damages caused by defendants' violation of the federal securities laws.

2. Taser develops, assembles, and markets less-lethal weapons for use in law enforcement, private security, and personal defense markets.

3. Throughout the period of October 18, 2004 through January 6, 2005, defendants claimed increasing demand for its products and touted the safety and effectiveness of Taser's products. Taser

repeatedly stated that its products were not the primary cause of deaths of people captured by the use of its products. It continually referred to a study conducted by the Department of Defense through the Human Effects Center of Excellence ("HECOE"), which Taser claimed concluded that its products were generally effective without significant risk of intended results.

4. In reality, however, defendants knew at the time those statements were made that the studies conducted on Taser's products had in fact raised reservations as to the products' safety. Defendants knew that the study was not conclusory and that further research needed to be done to determine the safety of the company's products. Defendants further knew that sales of its products were slowing as a result of questions about Tasers' product safety. Defendants further knew that certain of its sales were due to Taser's grant of stock options to those who could influence the purchase of Taser products.

5. On January 6, 2005, after the market closed, Taser stunned the public when it announced that it had received an informal inquiry letter from the SEC regarding Taser's statements concerning the safety of its products and a \$1.5 million order of its devices from one of the company's distributors, which was booked in late December 2004.

6. As a result of the January 6th announcement, shares of the company's common stock fell \$4.90, or 18%, to close at \$22.72 per share.

7. On January 7, 2005, Taser further shocked investors when it announced that orders for the first half of 2005 may be delayed, while law enforcement agencies test competitors' products. On January 8, 2005, a prominent newspaper published an article reflecting the fact that one of Taser's distributors had purchased \$700,000 worth of Taser's products and accessories on December 30, 2004, the last business day of the Fourth Quarter, or about 3% of the sales that Taser had expected for the

quarter. The article noted that the distributor hoped this order would help Taser out. Thereafter, shares of Taser's common stock fell an additional \$5.95, or 30%, to close at \$14.10 per share.

8. Subsequently, defendants further shocked investors by disclosing, on January 8, 2005, that Taser had granted options to acquire its stock to certain police officials in departments that were considering, and then purchased, Taser products in the prior year.

JURISDICTION AND VENUE

9. The claims alleged herein arise under §§ 10(b) and 20(a) of the Securities Exchange Act of 1934 (the "Exchange Act"), 15 U.S.C. § 78j(b) and 78t, and rule 10b-5, 17 C.F.R. § 240.10b-5 promulgated thereunder.

10. The jurisdiction of this Court is based on § 27 of the Exchange Act, 15 U.S.C. § 78aa and 28 U.S.C. §§ 1331 and 1337.

11. Venue is proper in this District pursuant to § 27 of the Exchange Act and 28 U.S.C. § 1391(b). Many of the acts alleged herein, including the dissemination to the investing public of the misleading statements and omissions at issue, occurred in substantial part in this District.

12. In connection with the acts, transactions and conduct alleged herein, defendants used the means and instrumentalities of interstate commerce, including the United States mails, interstate telephone communications and the facilities of national securities exchanges and markets.

THE PARTIES

13. Plaintiff, Allan Lang, purchased Taser common stock on January 7, 2005 as set forth in the attached certification and was damaged thereby.

14. Defendant Taser develops, assembles, and markets less-lethal weapons for use in law enforcement, private security, and personal defense markets. From its inception until the introduction

of its first product in 1994, the Company was in the development stage and focused its efforts on product development, raising capital, hiring key employees, and developing marketing materials to promote its products. The Company's primary product lines include the Advanced Taser and the Taser X26. Taser maintains its principal executive offices at 7860 E. McClain Drive, Suite 2, Scottsdale, AZ 85260.

15. Defendant Dr. Phillips W. Smith ("Phillips Smith") served as Taser Chairman at all relevant times. He approved Taser's materially false and misleading press releases.

16. Defendant Patrick (Rick) W. Smith ("Rick Smith") served as Taser's Chief Executive Officer and Director at all relevant times. Rick Smith made statements to investors in and approved Taser's materially false and misleading press releases.

17. Defendant Thomas P. Smith ("T.P. Smith") served as Taser's President and Director at all relevant times. T.P. Smith made statements to investors and approved Taser's materially false and misleading press releases.

18. Defendant Daniel Behrendt ("Behrendt") served as Taser's Chief Financial Officer at all relevant times. He approved Taser's materially false and misleading press releases.

19. Defendants Phillips Smith Patrick Smith, T.P. Smith, and Behrendt are sometimes referred to herein as the "Individual Defendants".

20. By reason of their positions with the Company, the Individual Defendants had access to internal documents, reports and other information, including adverse non-public information concerning the Company's business and financial condition, and attended management and/or board of director meetings. As a result of the foregoing, they were responsible for the truthfulness and accuracy of the Company's public reports and releases described herein.

21. Taser and the Individual Defendants, as officers and directors of a publicly held company, had a duty to promptly disseminate truthful and accurate information with respect to the

Company, and to promptly correct any public statements issued by or on behalf of the Company that had become false and misleading.

22. Each Defendant knew or recklessly disregarded that the misleading statements and omissions complained of herein would adversely affect the integrity of the market for the Company's common stock and would cause the price of the company's common stock to become artificially inflated. Each of the Defendants acted knowingly or in such a reckless manner as to constitute a fraud and deceit upon plaintiff and the other of the Class.

23. Defendants are liable, jointly and severally, as direct participants in and co-conspirators of the wrongs complained of herein.

CLASS ACTION ALLEGATIONS

24. Plaintiff brings this action as a class action pursuant to Federal rules of Civil Procedure 23(a) and (b)(3) on behalf of a class consisting of all persons who purchased the common stock of Taser during the period January 7, 2005 through and including January 14, 2005, and who suffered damages thereby. Excluded are the Defendants, members of the Defendants' families, any entity in which any Defendant has a controlling interest or is a parent or subsidiary of or is controlled by the Company, and the officers, directors, employees, affiliates, legal representatives, heirs, predecessors, successors and assigns of any of the Defendants (the "Class").

25. The members of the Class are so numerous that joinder of all members is impracticable. While the exact number of Class members is unknown to the plaintiff at this time and can only be ascertained through appropriate discovery, the plaintiff believes there are, at a minimum, hundreds of members of the Class who traded during the Class Period. Taser had 59,296 million shares of its stock outstanding as of December 1, 2004. Throughout the Class Period, Taser's stock actively traded on the NASDAQ under the ticker symbol "TASR".

26. Common questions of law and fact exist as to all members of the Class and predominate over any questions affecting solely individual members of the Class. Among the questions of law and fact common to the Class are:

- (a) whether the federal securities laws were violated by Defendants' acts as alleged herein;
- (b) whether the company issued false and misleading statements during the Class Period;
- (c) whether the Individual Defendants caused the Company to issue false and misleading statements during the Class Periods;
- (d) whether Defendants acted knowingly or recklessly in issuing false and misleading statements;
- (e) whether the market price of Taser's common stock during the Class Period was artificially inflated because of Defendants' conduct complained of herein; and
- (f) Whether the members of the Class have sustained damages and, if so, what is the proper measure of damages.

27. Plaintiff's claims are typical of the claims of the members of the Class, as plaintiff and members of the Class sustained damages arising out of Defendants' wrongful conduct in violation of federal law, as complained of herein.

28. Plaintiff will fairly and adequately protect the interests of the members of the Class and has retained counsel competent and experienced in class actions and securities litigation. Plaintiff has no interest antagonistic to or in conflict with those of the Class.

29. A class action is superior to other available methods for the fair and efficient adjudication of the controversy since joinder of all members of the Class is impracticable. Furthermore, because the

damages suffered by the individual Class members may be relatively small, the expense and burden of individual litigation make it impossible for the Class members individually to redress the wrongs done to them. There will be no difficulty in the management of this action as a class action.

SUBSTANTIVE ALLEGATIONS

A. Introduction

30. Taser develops, assembles, and markets less-lethal self-defense devices for use in law enforcement, private security, and personal defense markets.

31. From the Company's inception until the introduction of its first product in 1994, Taser was in the development stage and focused on product development, raising capital, hiring key employees and development marketing materials to promote its product line. Taser's primary product lines include the Advanced Taser and the Taser X26.

32. At the close of 2003, Taser purported to have more than 4,300 United States law enforcement agencies deploying one of its brand weapon platforms, with 506 agencies either completed or in the process of implementing a full deployment of one weapon for each patrol or line officer.

B. Materially False And Misleading Statements Disseminated During The Class Period

33. On October 18, 2004, Taser issued a press release announcing that a Defense Department study conducted by the HECOE found that TASER technology was generally effective without significant risk of unintended results. The October 18th press release quoted defendant Rick Smith as stating:

The HECOE study is the latest chapter in a series of comprehensive medical and scientific studies which conclude that TASER technology is safe and effective. This study re-affirms the life saving value of TASER technology and is consistent with the recent independent findings of researchers in the united Kingdom and Canada.

This comprehensive independent study further supports the safety of TASER conducted energy devices. The HECO report adds to the growing number of government and medical studies that have validated the safety and effectiveness of this impressive new technology.

The press release further stated, in relevant part, as follows:

The HECO report summary concludes that TSAR technology is not likely the primary factor in the cause of in-custody fatalities. "Based on the documentation and research review, this report concludes that EMI is likely not the primary causative factor in reported fatalities." Comparison of instances where TASER devices were not used versus those involving TASER device usage shows no significant relationship between the use of TASER technology and death. Furthermore, ventricular fibrillation (VF) is not expected to occur in otherwise healthy adult populations, although data are too limited to evaluate probabilities for potentially sensitive populations or for alternative patterns of exposure. However, the report states no cases of VF have been reported in thousands training or field exposure conditions.

Additionally, the study indicates that increased use of TASER devices has decreased the overall injury rate of both police officers and suspects in conflict situations when compared to alternative uses of force.

The research was the culmination of a multi-faceted scientific approach, consistent with the National Academy of Sciences and the Society for Risk Analysis recommendations and standards.

Three workshops were conducted as part of the risk characterization. The first, a data-sharing workshop, identified possible sources of relevant data and determined any insufficiencies in effectively evaluating TASER devices. The second, a peer consultation workshop, outlined potential data gaps, identified additional sources of data, and provided feedback on preliminary strategies for completing dose-response and exposure assessments. At the third workshop, an Independent External Review panel submitted comments and recommendations that were incorporated into the formal HECO document.

According to the report summary, "Overall, the results indicate that the use of the TASERM26 and X26, as intended, will generally be effective in inducing the desired temporarily incapacitating effect without presenting a significant risk of unintended severe effects."

In discussing in-custody fatalities, the report also states:

The occurrence of in-custody deaths has been reported in conjunction with use of TASER devices. However, there are several arguments against any predominant role of EMI in arrest-related deaths. In previous epidemiological reports, deaths were often attributed to illicit drug intoxication in suspects. Although these reports address incidents involving EMI waveforms different from those of the M26 and X26, drug intoxication has been associated with in-custody deaths under a number of circumstances, regardless of how the subjects were subdued.

Contemporary medical opinion supports the view that the drug intoxication itself may cause or predispose one to underlying vulnerability. Based on the documentation and research reviewed, this report concludes that EMI is likely not the primary causative factor in reported fatalities. It does recommend further research on EMI exposure in sensitive populations and EMI-drug interactions."

34. On November 4, 2004, the company announced a 2-for-1 stock split. The Company also issued a press release announcing that the Houston City Council voted to approve and authorize a contract between the City of Houston and TASER for the Houston Police Department and a second order by the Louisville Metro Police Department in Louisville, Kentucky. When speaking of the contracts, defendant T.P. Smith stated, in relevant part, as follows:

This is a tremendous accomplishment to receive the fourth largest American city's approval for TASER technology for all of its patrol officers. This funding creates the largest single order in our company's history. This vote also further affirms that TASER technology has shown as an invaluable tool in saving lives every day as well as greatly reducing injuries to officers and suspects throughout the world and now in the Houston community. With the addition of the Houston Police Department, the fourth and sixth (Phoenix, Arizona) largest cities in the United States now deploy TASER technology to all of their patrol officers. The Louisville Metro Police Department follow-on order creates one of the larger full deployments of TASER devices in the U.S. and confirms that TASER technology is continuing to protect citizens on the American streets every day.

35. On November 26, 2004, an article entitled, "*Claims Over Taser's Safety Are Challenged*," appeared in *The New York Times*. The article revealed, in relevant part, as follows:

Taser International, whose electrical guns are used by thousands of police departments nationwide, says that a federal study endorses the safety of its guns, but the laboratory that conducted the search disagrees.

Taser said last month that the government study, whose full results have not yet been released, found that its guns were safe. Since that statement, the company's stock has soared and its executives and directors have sold \$68 million in shares, about 5 percent of Taser's stock and nearly half their holdings.

But the Air Force laboratory that conducted the study now says that it actually found that the guns could be dangerous and that more data was needed to evaluate their risks. The guns "may cause several unintended effects, albeit with low probabilities of occurrence," the laboratory said last week in a statement released after a symposium of Tasers, as the company's guns are known, and other weapons intended to incapacitate people without killing them.

Taser said Wednesday that it stood behind its October statement.

Other data presented at the symposium raised questions about one of Taser's key claims about the effectiveness of its newest and most expensive weapon.

"The evidence suggests that far from being used to avoid lethal force, many police forces are using Tasers as a routine force option," said Curt Goering, senior deputy executive director of Amnesty international. "The way these weapons are being used in some circumstances could constitute torture or ill treatment." Amnesty has called for police departments to stop using the guns pending an independent inquiry into their safety. The group will release a report next week documenting police abuse of Taser, Mr. Goering said.

The growing use of Tasers is disconcerting because their risks have not been properly studied, biomedical engineers say. More than 70 people have died since 2001 after being shocked with Tasers, mainly from heart or respiratory failure.

Taser International says the deaths resulted from drug overdoses or other factors and would have occurred anyway. But coroners have linked several deaths to the weapons, and independent scientists who are authorities on electricity and the heart say that the company may be significantly underestimating the weapon's risks, especially in people who have used drugs or have heart disease.

Taser has performed only minimal research on the health effects of its weapons. Its primary studies on the M26, its most powerful gun, consist of tests on a single pig in 1996 and on five dogs in 1999. The company has resisted calls for more tests, saying that it is comfortable with the research it has conducted.

Tasers are largely unregulated and have never been studied for their safety or effectiveness by the Consumer Product Safety Commission or the Bureau of Alcohol, Tobacco, Firearms and Explosives. But for two years the Defense Department has studied Tasers as part of military research into weapons designed to be effective without being deadly.

In a press release on Oct. 18, Taser said that the military study had found its guns "generally effective without significant risk of unintended consequences."

Rick Smith, the chief executive of Taser, called the study "the latest chapter in a series of comprehensive medical and scientific studies which conclude that Taser technology is safe and effective."

Taser's stock, which closed at \$37.47 on Oct. 15, the last trading day before the study was released, rose 60 percent over the next month and peaked at \$60.85 on Nov. 15. During the week ended Nov. 12, Taser executives and directors sold 1.28 million shares for \$68 million. The company's stock closed Wednesday at \$50.51, down 89 cents.

But neither Taser nor the military released the full study, only an excerpt. The full study remains confidential, military officials say. But last week, after the symposium on less-deadly weapons in Winston-Salem, N.C., the Air Force laboratory that conducted the study said that it had not found Tasers were safe.

The guns "may cause several unintended effects, albeit with estimated low probabilities of occurrence," the laboratory said. "Available laboratory data are too limited to adequately quantify possible risks of ventricular fibrillation or seizures, particularly in susceptible populations."

Ventricular fibrillation is a disturbance of the electrical circuitry of the heart that causes cardiac arrest in seconds and death in minutes. Taser says that its weapons do not produce enough current to cause ventricular fibrillation, but scientists who are authoritative on fibrillation say that the company has not done enough research to know whether that contention is accurate.

Taser said Wednesday that the military had reviewed and approved its October statement before the company released it.

An Air Force scientist presented data at the symposium last week showing that repeated Taser shocks caused pigs to become acidotic – a dangerous condition in which the pH of the blood drops. A 1999 study by the Justice Department suggested that "deaths following Tasers' use may be due to acidosis."

People who have been hit repeatedly by Tasers should receive medical monitoring, said Dr. James Jauchem, the Air Force scientist.

A spokeswoman for the air Force said Wednesday that Dr. Jauchem was on vacation for Thanksgiving and not available for additional comments.

Dr. Jauchem also presented data calling into question the company's assertion that the Taser X26, its newest gun, is especially effective even though it fires a smaller charge than the company's older weapon, the M26. Taser has said that the X26 fires a special kind of electric pulse that works better than traditional stun guns.

But Dr. Jauchem said the shape of the X26's electric pulse had only a minor effect on the amount of muscle contraction it produced.

36. On November 26, 2004, defendant Rick Smith responded to *The New York Times* article, and growing public concern, by stating that: "Our press release on October 18, 2004 regarding the results of the Human Effects Center of Excellence (HECOE) Taser safety evaluation was reviewed and approved by representatives of the Joint Non-Lethal Weapons Program, Brooks Air Force Base and the HECOE. Taser International unequivocally stands behind our HECOE release of October 18, 2004."

37. On November 30, 2004, Taser issued a press release in response to a report issued by Amnesty International USA,¹ which found the use of Taser products in connection with more than 80 deaths since 1999. Specifically, Taser announced:

TASER(R) International, Inc. (Nasdaq: TASR), a market leader in advanced non-lethal devices, stands behind the safety of its TASER technology and is dismayed that Amnesty international's TASER report

issued today refuses to accept independent and comprehensive reports concerning the safety and effectiveness of the TASER system.

"Amnesty international's report fails to adequately describe the overwhelming body of evidence supported by independent scientific and medical experts (see compilation below) that have studied current TASER technology and its use," said Rick Smith, CEO of TASER International, Inc. "Amnesty has repeatedly called for independent testing while ignoring the mounting independent comprehensive reports showing TASER technology is safe and effective. Anyone living in the real world in which law enforcement officers worldwide have to make split-second life or death decisions knows that Amnesty International's report and position is out of step with the needs of law enforcement concerning our proven life-saving technology," said Mr. Smith.

"Independent reviews of TASER technology were recently completed by the United States Department of Defense Human Effects Center of Excellence, the United Kingdom's Defence Scientific Advisory Council, an Independent TASER Medical Task Force in Orange County, Florida, and by a host of governments from Australia to Canada," continued Mr. Smith. "These reports clearly indicate that the TASER technology, while not risk-free, is among the safest use-of-force options our law enforcement officers have."

A compendium of medical evidence is on our web site for review, at: www.TASER.com/SavingLives.

"This compilation, based on independent police, medical and scientific studies clearly supports that TASER non-lethal systems are reducing injuries and saving lives every day," said Mr. Smith. "We are disappointed that Amnesty International refuses to accept the conclusions of independent medical reviewers and police experts. For years, Amnesty International has called for the ban or suspension of virtually every police tool, from pepper spray, batons, handcuffs to TASER devices. Unsuccessful in their calls to ban police technology, Amnesty International has repeatedly called for independent studies into the effects of these devices and a so-called 'suspension' of their use until such studies are completed."

"Furthermore, we are particularly disappointed by Amnesty International's complete disregard for the health and safety of the men and women of law enforcement who put their lives on the line every day to protect our society. Last year in the United States alone, over 57,000 police officers were assaulted with almost 14,000 suffering personal

injuries. That is in addition to the 150 officers that were killed in the line of duty.

Amnesty International's report implies unarmed assailants do not represent a potential threat to the personal safety of law enforcement officers. Yet, over 81% of the time, police officers are assaulted with "personal weapons" – the hands, fists, or feet of the assailants. Amnesty International's assertion that officers should place themselves in jeopardy of injury by resorting to more dangerous hand-to-hand combat techniques rather than using non-lethal, low injury TASER devices to subdue physically resistant subjects is irresponsible, dangerous, and would clearly yield more officer and subject injuries if implemented," continued Mr. Smith. "Amnesty International should support a life-saving technology used by law enforcement to reduce suspect and officer injuries and one that has saved thousands of suspect lives," said Mr. Smith.

"TASER technology is significantly and incontestably providing law enforcement an invaluable life-saving tool and is helping protect the human rights of suspects and officers alike. We have always supported and continue to support testing that reaffirms the safety of TASER technology. We also reiterate our willingness to work together with Amnesty International. We invite all persons who read the Amnesty International report to download our compilation entitled, 'TASERs: Saving Lives and Reducing Injuries', at www.TASER.com/savingLives, and form their own conclusions" concluded Mr. Smith,

38. In response to further criticism of Taser's products, on December 4, 2004, the Company issued a press release in anticipation of an article scheduled for publication in the *Miami Herald*, released on December 5, 2004. The article in the *Miami Herald* criticized Taser for the use and safety of its products on children, among others. Specifically, Taser reported:

TASER(R) International, Inc. (Nasdaq: TASR), a market leader in advanced non-lethal weapons, would like to clarify issues that reportedly will be raised by the Miami Herald regarding the safety of TASER devices.

The Miami Herald is poised to release a story calling into question the validity of research that demonstrates TASER devices are generally safe. TASER International is concerned that the basis for its safety record will be mischaracterized in the story.

"Our confidence in TASER technology is based on a body of overwhelming evidence that TASERs are generally safe and effective – not on any one guideline or standard," said Steve Tuttle, Vice President of Communications at TASER international. "It is important to realize that Underwriter's Laboratories' guidelines were not the end result of TASER safety testing, but were the beginning. Since that time, TASER has garnered additional research from both the medical and scientific communities specifically addressing TASER type pulses," said Tuttle.

TASER international has published safety charts comparing output to standards published by underwriter's Laboratories and similar agencies. The chart in question was developed by a government research contractor, Jaycor Inc. (now a subsidiary of the Titan Corporation) under funding by the Defense Advance Research Projects Agency (DARPA) and the National Institute of Justice. The study evaluated stun device outputs against published standards indicating a significant safety margin for various devices, including TASER devices.

Medical experts and recent independent reports from the Canadian Government, the U.S. Department of Defense and the United Kingdom support that TASER devices are among the lowest-risk alternatives available to law enforcement to subdue violent individuals who could harm law enforcement officers, innocent citizens or themselves.

Additional testing on TASER devices, including a ground breaking TASER X26 study that will be published in a leading medical journal in January 2005 and a more recent unpublished study using ADVANCED TASER M26 type pulses performed at the Department of Defense's Human Effects Center of Excellence, have affirmed these findings as well. These studies support the same conclusion as the comparison of TASER output to published standards – that there is a significant margin of safety for the TASER. Most importantly, TASER devices have been deployed on more than 100,000 human subjects, demonstrating that TASER offers one of the lowest injury rates of available force options. "TASERs save lives every day," continued Tuttle. "Safety is foremost in our minds and we are committed to further expanding the research in the field of TASER device safety."

"Much of the early development of TASER devices utilized electrical safety standards published by underwriter Laboratories and other agencies," said Tuttle, "TASER International has never claimed that UL has tested or approved TASER devices, although we invite and welcome them to test our products."

39. On December 13, 2004, Taser issued a press release announcing that an independent report issued by Florida Gulf Coast University titled, "TASER Deployments and Injuries: Analysis of Current and Emerging Trends" found that TASER technology decreased deadly force litigation at the Orange County Sheriff's Office (OCSO) in Florida and caused fewer injuries versus traditional use of force equipment. Specifically, the December 13th press release stated:

The independent report was written by Dr. Charlie Mesloh, Ph.D., Director of the Institute for Technological Innovation and Research at Florida Gulf Coast University and co-authored by OCSO Captain Steve Hougland, Ph.D. The co-authors reviewed every incident in OCSO from 2000-2003 involving TASER devices. The study confirmed that suspect lives were actually saved.

In one year, 18 suspects were subdued with a TASER device where the use of deadly force would have had deadly force used against them," said Mesloh. The report states that the "cost of deadly force litigation is identified at \$100,000. This does not include damages. Based on the OCSO study for a single year, TASER as an intervention in deadly force encounters reduced legal costs by \$1.8 million."

Mesloh's study also compared TASER technology to the use of defensive tactics, batons canine, impact weapons, chemical agents and pepper sprays and found that there were fewer injuries related to TASER technology.

According to Mesloh's research, suspects surrendered 9 out of 10 times when a deputy drew the TASER device. "Within a short period of time what happened was when an officer drew the TASER, 90 percent of the time the suspects surrendered at that point," said Mesloh. Subsequently, fewer fights occurred between suspects and deputies resulting in fewer injuries to both parties. As a result, workman's compensation claims involving arrests dropped by 50 percent.

Mesloh's report further stated, "If the weapon chosen was not effective in neutralizing suspect resistance, the suspect was likely to use a greater amount of force against the office. TASER had the lowest escalation rate of all less lethals. Baton use had the highest rate 50%."

"The Mesloh report is highly encouraging and supports the growing body of independent and scientific evidence confirming TASER technology safety and effectiveness," said Rick Smith, CEO of TASER

International. "This report further confirms the experiences shared by thousands of law enforcement agencies, that deploying TASER technology reduces injuries, litigation costs and save lives every day."

40. On December 15, 2004, Taser issued a press release, which announced that an independent report issued by force Science Research Center (FSRC) in its force Science News, issue #8, on December 12, 2004, supported the continued use of Taser technology at law enforcement agencies and expressed disagreement with Amnesty International's recent use of force recommendations. Specifically, Taser reported:

The Force Science Research Center, a non-profit institution based at Minnesota State University, Mankato provides the Force Science news. The FSRC report addresses Amnesty international's call for a TASER technology moratorium by all law enforcement agencies. Dr. Bill Lewinski, Ph.D., executive director of the FSRC at Minnesota State University-Mankato said that a temporary ban on the use of TASER technology "would literally create a catastrophe for peace officers. Lawsuits would increase, officer injuries would increase, subject injuries would increase-all guaranteed. We need additional research, but we don't need to stop using a unique tool that experience has proven is effective and overwhelmingly safe while more investigation is underway," continued Lewinski. The report also cites an attorney who assesses risk-management issues facing law enforcement agencies. Bill Everett, a litigation management attorney for the league of Minnesota Cities, an organization that provides lawsuit defense, policy guidance and liability insurance coverage to 800 municipalities, said, "A moratorium on the TASER would have a consequence." He stated that there would be "a more robust and frequent use of deadly force" and that the moratorium would result in "taking people's lives rather than subjecting them to a transitory experience" of physical immobilization.

Moreover, Everett said that Amnesty international's recommendation for use of force changes "is insane," based on the current experience with and knowledge about TASER technology. In addition, Everett said, "If we restrict the TASER to a very limited subclass of cases, then the consequence of this is going to be officers hitting uncontrolled people more with batons, breaking more bones and tearing more flesh. You'll have a whole bunch of cops and arrestees hurt very, very badly who don't need to be." "In a confrontation, you don't look at age, sex, height, weight – you need to look at behavior, the violence and potential

violence you're encountering. But in many confrontations the TASER remains the most humane and effective way of establishing control without serious injury to anyone," concluded Everett.

"The Force Science report further expands the growing abundance of research that TASER technology is reducing injuries to suspects and officers and ultimately saving lives every day," said Rick Smith, CEO of TASER International. "This report confirms what risk management experts already know: that deploying TASER technology is one of the safest means available to subdue violent individuals who could harm law enforcement officers, innocent citizens or themselves."

41. On December 20, 2004, TASER announced that it entered into an exclusive distribution agreement with Davidson's one of the largest firearm and accessory distributors in the United States. Concurrent with the agreement, Davidson's placed an initial order for \$12.5 million in product, including 1,000 TASER X26C Citizen Defense Systems together with an assortment of law enforcement products and accessories.

42. Since it was clear that the foregoing Davidson order was insufficient to enable Taser to meet its publicly announced sales projections, Davidson placed an additional order on December 30, 2004, for an additional \$700,000 of Taser products, with a notation that he hoped this would help.

43. During the Class Period, defendants misled the investing public and artificially inflated the price of Taser securities by publicly issuing materially false and misleading statements and omitting to disclose material facts necessary to make defendants' statements, as set forth herein, not false and misleading. The statements identified in ¶¶32, 33; 35-39 above were each materially false and misleading when made because they failed to disclose or indicate the following: (i) the studies conducted on Taser's technology were inconclusive as to the safety of the products; (ii) Taser's revenues and earnings would be negatively impacted once the results of these studies became public; and (iii) the order of equipment received from one of Taser's distributors on the last business day of the fourth quarter

for 2004 was implemented to assist Taser in meeting its sales goals for the quarter and was not indicative of the true demand for the company's products.

C. The Emerging Truth

44. On January 6, 2005, after the close of the market, defendants shocked investors by announcing that Taser had received an informal inquiry letter from the SEC regarding Taser's statements about the safety of its technology and equipment and the recent order from Davidson's. Specifically, Taser announced:

We are compiling information to assist the SEC in two areas: Company Statements regarding the safety of TASER(R) products and a recent order received from Davidson's, Inc.

"We are confident our statements are supported by the safety studies of our products," said Rick Smith, CEO of TASER International, Inc. "We are in the process of compiling the information requested by the SEC and look forward to working with them as we have with other independent entities interested in the safety of TASER devices such as the United States Department of Defense, the Home Office of the United Kingdom and other governmental agencies in the United States and abroad. Our public statements about the safety of TASER devices are consistent with those of medical experts that we have consulted, or in the case of the Department of Defense, were reviewed and approved prior to release by the very agencies that have commissioned the research."

"Davidson's Inc. has been a distributor for TASER International since 1999. Davidson's most recent order was received and shipped in the normal course of business in the fourth quarter of 2004. It followed a 60-day test market for our new X26C Citizens' Defense System that included two of Davidson's firearms dealers. As a result, we were pleased to secure Davidson's as the exclusive distributor for this market segment with an agreement providing Davidson's the exclusive distribution rights to Federal Firearms License (FFL) dealers. Davidson's ordered an initial 1,000 TASER X26C systems, costing less than one million dollars, for distribution to their dealers with no right to return the product. This order was announced together with an order for other law enforcement products which brought the total order to \$1.5 million," continued Smith.

The conclusion of the informal inquiry letter from the SEC to TASER International specifies, "This inquiry is non-public and should not be construed as an indication by the Commission or its staff that any violation of law has occurred, nor should it be considered a reflection upon any person, entity or security."

45. In response to the January 6 announcement, Taser's stock plunged \$4.90 per share, or 18%, to close at \$22.72 per share on January 7, 2005.

46. However, the foregoing was insufficient disclosure.

47. On January 8, 2005, *The New York Times* published an article, entitled S.E.C. Looking

At Safety Data And Big Order For Taser Guns. Specifically, the article reported:

Taser International said yesterday that the Securities and Exchange Commission and begun an informal inquiry into the company's statements about the safety of its electric stun guns and a \$1.5 million sales order that it announced last month.

Shares of Taser plunged \$4.90, nearly 18 percent, to \$22.72, on the announcement. After quadrupling last year, the company's stock has fallen 28.2 percent so far this year.

The Arizona attorney general's office said yesterday that its lawyers met on Monday with Taser executives to discuss concerns about the safety of Taser's stun guns and the company's plans to sell them to civilians. The attorney general's office is not formally investigating Taser, which is based in Scottsdale Ariz., said Steve Wilson, a spokesman for the attorney general.

An internal company document suggests, meanwhile, that Taser was struggling to meet its sales goals at the end of 2004. The document shows that in another sale, a distributor bought \$700,00 in Tasers and accessories on Dec. 30, the last business day of the fourth quarter, about 3 percent of the sales that Taser expected for the quarter.

"Hope this will help out!!!!" the distributor noted in the purchase order, which was provided by a person who will profit if Taser's shares fall.

Taser did not respond to a question about whether it had made any unannounced large sales at the end of the year.

In a statement released early yesterday, Taser said it was cooperating with the S.E.C. inquiry. Steve Tuttle, a spokesman for Taser, said yesterday that Taser was working to address the concerns of the Arizona attorney general.

Taser makes pistol-shaped weapons that fire electrified barbs up to 21 feet, immobilizing their targets with a powerful electric shock that lasts at least five seconds. More than 100,000 police officers across the country now carry Taser, as the device are known, and the company began marketing the weapons to civilians last fall. But Taser sales appear to have slowed recently in the face of questions about the safety of the guns, especially when they are used on people who have used cocaine or who have heart ailments. More than 80 people nationwide have died after being shocked.

Taser says the deaths would have occurred anyway, mainly because of drug overdoses. But the company has performed little research into the safety of its guns. Its primary safety studies on its most power weapon consist of tests on one pig in 1996 and five dogs in 1999. Some biomedical engineers have said that Tasers may cause lethal disturbances of the hear's rhythm, and in November, a research laboratory for the Air Force said more research was needed to determine how the guns affected the heart.

The company's sales rose to \$19 million in the third quarter of 2004 from \$13 million in the first, an increase of about 50 percent. But they are expected to rise only about 6 percent, to \$20.3 million, in the fourth quarter, according to analysts' estimates.

"Questions from regulators about the safety of the product have put them under pressure," said Rob Miceli, an analyst at Gradient Analytics, a research firm based in Arizona that has criticized Taser's accounting practices. Mr. Miceli said he was especially concerned about the \$1.5 million sale that Taser announced last month and that the S.E.C. was now examining.

In a news release on Dec. 20, the company said that it had sold 1,000 consumer Taser to Davidson's a distributor based in Arizona, for resale to federally licensed gun shops. The civilian guns are almost identical to those sold to police, though they are supposed to have a maximum range of 15 feet instead of 21 feet. But Mr. Miceli said he did not understand why Davidson's would buy 1,000 Taser, because sales of the gun to civilians had been extremely slow. At a conference in November, Rick, Smith, Taser's chief executive, said that the company had sold only a handful of Tasers to civilians.

The civilian sales have annoyed some police departments because the bulletproof vests worn by officers do not always top a Taser shock, making the weapon dangerous to police. The Arizona attorney general's office questioned Taser's plans to sell its weapons to civilians at this week's meetings, said Mr. Wilson, the spokesman for the office.

Mr. Miceli said that when he called Davidson's in late December to see whether he could buy a consumer Taser, the company told him that it had no way of selling him the gun.

A spokesman for Taser said he did not know how many guns the company had sold to civilians and that Davidson had never planned to start selling the guns immediately.

Mr. Miceli, the analyst, wondered about the timing of the sale. "When a deal like this comes along, it's pretty disconcerting," he said.

In its release Friday morning, Taser said Davidson's had been a distributor for Taser since 1999 and that the order from Davidson's "had been ordered and received in the normal course of business."

48. Thereafter, on January 7, 2005, believing that Taser had fully told the truth, plaintiff and other members of the class purchased Taser shares.

49. When, in response to claims that a substantial member of Taser options had been exercised and the stock immediately sold defendants issued a further statement on January 10, 2005, informing shareholders that the options had been issued only to employees and officers of Taser.

50. Thereafter, on January 11, 2005, defendants disclosed that in fact options to acquire Taser stock had been given to police officials of several departments which were considering the purchase of, and then purchased, Taser products. Thereafter, defendants issued no further statements. A letter to shareholders issued by defendants further disclosed a delay in issuing Taser financials and a re-examination of the sales for Taser with possible reductions therein.

51. Thereafter, the Taser shares continued to plunge and has closed at \$19.64 per share. Plaintiff and other members of the class sold or have held their shares at a substantial loss.

SCIENTER ALLEGATIONS

52. As alleged herein, defendants acted with scienter in that they knew that the statements issued or disseminated in the name of Taser were materially false and misleading; knew that such statements or documents would be issued or disseminated to the investing public; and knowingly and substantially participated in or acquiesced to the issuance or dissemination of such statements or documents as primary violations of the federal securities laws. As set forth herein in detail, defendants, by virtue of their receipt of information reflecting the true facts regarding Taser, their control over and/or their associations with the company, which made them privy to confidential information concerning Taser, participated in the fraudulent scheme alleged herein.

53. Defendants were further motivated to inflate artificially Taser's stock in order to allow certain insiders to sell a significant amount of stock during the Class Period, which they owned.

54. Specifically, certain insiders reaped proceeds of more than \$92 million from the sale of more than 1.8 million shares of their own personal stock, as illustrated below:

<u>Name</u>	<u>Position</u>	<u>Shares Sold</u>	<u>Proceeds</u>
Phillips Smith	Chairman	706,440	\$37,525,940
Patrick Smith	CEO, Director	350,000	17,619,000
Thomas Smith	President, Director	350,000	17,619,000
Daniel Behrendt	CFO	10,000	540,600
Matthew McBrady	Director	29,998	1,229,618
Bruce Culver	Director	90,000	4,431,600
Mark Kroll	Director	16,667	901,018
Kathleen Hanrahan	COO	160,000	7,106,400
Bernard Kerik	Director	102,166	5,856,155
Total		1,815,271	\$92,829,331

FRAUD-ON-THE MARKET PRESUMPTION

55. Plaintiff will rely, in part, upon the presumption of reliance established by the fraud-on-the-market doctrine, in that:

- (a) Defendants made public misrepresentations or failed to disclose material facts regarding Taser's business and financial condition during the Class Period;
- (b) The omissions and misrepresentations were material;
- (c) Taser's stock traded on the NASDAQ, an efficient and open market;
- (d) The misrepresentations and omissions alleged would tend to induce a reasonable investor to misjudge the value of Taser's common stock;
- (e) Plaintiff and members of the class purchased Taser's common stock between the time the defendants failed to make further and true disclosures, and as they continued to misrepresent material facts and at the time the true facts were disclosed without knowledge of the misrepresented facts; and
- (f) Taser is followed by various analysts and news media. At all relevant times, the price of Taser's common stock reflected the effect of news disseminated in the market.

56. Based on the foregoing, plaintiff and the members of the class are entitled to the presumption of reliance upon the integrity of the market.

THE SAFE HARBOR PROVISION IS INAPPLICABLE

57. The statutory safe harbor under the Private Securities Law Reform Act of 1995, which applies to forward looking statements under certain circumstances, does not apply to any of the allegedly false statements pleaded in this Complaint. The statements alleged to be false and misleading herein all relate to then-existing facts and conditions. In addition, to the extent certain of the statements alleged

to be false may be characterized as forward-looking, they were not adequately identified as "forward-looking statements" when made and there were no meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those in the purportedly forward-looking statements. Alternatively, to the extent that the statutory safe harbor is intended to apply to any forward-looking statements pleaded herein, defendants are liable for those false forward-looking statements because, at the time each of those forward-looking statements was made, the particular speaker had actual knowledge that the particular forward-looking statement was materially false or misleading, and/or the forward-looking statement was authorized and/or approved by an executive officers of Taser who knew that those statements were false when they were made.

AS AND FOR A FIRST CAUSE OF ACTION

**Violation of Section 10(b) Of The Exchange Act and
Rule 10b-5 Promulgated Thereunder**

58. Plaintiff repeats and realleges each and every allegation contained in the foregoing paragraphs as if more fully set forth herein.

59. This cause of action is asserted against all defendants and is based upon Section 10(b) of the 1934 Act, 15 U.S.C. §78j(b), and Rule 10b-5 promulgated thereunder.

60. During the class period, defendants singly and in concert, directly engaged in a common plan, scheme, and unlawful course of conduct, pursuant to which they knowingly or recklessly engaged in acts, transactions, practices, and courses of business which operated as a fraud and deceit upon plaintiff and the other members of the class, and failed to disclose material information in order to make the statements made, in light of the circumstances under which they were made, not misleading to plaintiff and the other member of the class. The purpose and effect of said scheme, plan, and unlawful

course of conduct was, among other things, to induce plaintiff and the other members of the class to purchase Taser's common stock during the class period at artificially inflated prices.

61. Throughout the class period, Taser acted through the Individual Defendants, whom it portrayed and represented to the financial press and public as its valid representatives. The willfulness, motive, knowledge, and recklessness of the Individual Defendants is therefore imputed to Taser which is primarily liable for the securities law violations of the Individual Defendants.

62. As a result of the failure to disclose material facts, the information the defendants disseminated to the investing public was materially false and misleading as set forth above, and the market price of Taser's common stock was artificially inflated during the class period. In ignorance of the duty to disclose the false and misleading nature of the statements described above and the deceptive and manipulative devices and contrivances employed by said defendants, plaintiff and the other members of the class relied, to their detriment, on the integrity of the market price of the securities in purchasing Taser's common stock. Had plaintiff and the other members of the class known the truth, they would not have purchased said shares or would not have purchased them at the inflated prices that were paid.

63. Plaintiff and the other members of the class have suffered substantial damages as a result of the wrongs herein alleged in an amount to be proved at trial.

64. By reason of the foregoing, defendants directly violated Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder in that they: (a) employed devices, schemes, and artifices to defraud; (b) failed to disclose material information; or (c) engaged in acts, practices and a course of business which operated as a fraud and deceit upon plaintiff and the other members of the class in connection with their purchases of Taser's common stock during the class period.

AS AND FOR A SECOND CAUSE OF ACTION
Violation of Section 20(a) Of The Exchange Act

65. Plaintiff repeats and realleges each and every allegation contained in each of the foregoing paragraphs as if more fully set forth herein.

66. The Individual Defendants, by virtue of their positions, stock ownership and/or specific acts described above, were, at the time of the wrongs alleged herein, controlling persons within the meaning of Section 20(a) of the 1934 Act.

67. The Individual Defendants had the power and influence and exercised the same to cause Taser to engage in the illegal conduct and practices complained of herein.

68. By reason of the conduct alleged in the First Cause of Action of this Complaint, the Individual Defendants are liable jointly and severally and to the same extent as Taser International, Inc. for the aforesaid wrongful conduct, and are liable to plaintiff and to the other members of the class for the substantial damages which they suffered in connection with their purchases of Taser's common stock during the class period.

WHEREFORE, plaintiff, on his own behalf and on behalf of the class, prays for judgment as follows:

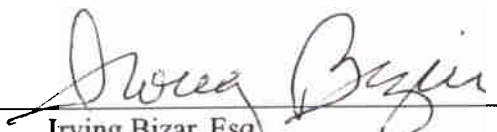
- A. Declaring this action to be a proper class action and certifying plaintiff as class representative under rule 23 of the Federal Rules of Civil Procedure;
- B. Awarding compensatory damages in favor of plaintiff and the other members of the class against all defendants, jointly and severally, for the damages sustained as a result of the wrongdoings of defendants, together with interest thereon;
- C. Awarding plaintiff the fees and expenses incurred in this action, including reasonable allowance of fees for plaintiff's attorneys and experts;

- D. Granting extraordinary equitable and/or injunctive relief as permitted by law, equity and federal and state statutory provisions sued on hereunder; and
- E. Granting such other and further relief as the Court may deem just and proper.

JURY TRIAL DEMANDED

Plaintiff demands a jury trial of all issues so triable.

BALLON STOLL BADER & NADLER, P.C.
Attorneys for Plaintiff

By 

Irving Bizar, Esq.
1450 Broadway - 14th Floor
New York, New York
T: (212) 575-7900
F: (212) 764-5060

Dated: January 19, 2005

Ballou Stoll Bader & Nadler, P.C.
1450 Broadway – 14th Floor
New York, New York
T: (212) 575-7900
F: (212) 764-5060

**CERTIFICATION OF NAMED PLAINTIFF
PURSUANT TO FEDERAL SECURITIES LAWS**

I, **Allan Lang** ("Plaintiff") declare, as to the claims asserted, or to be asserted, under the Federal Securities laws, that:

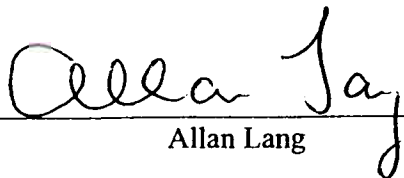
1. Plaintiff has reviewed the Complaint and authorized its filing.
2. Plaintiff did not purchase any common stock/securities that are the subject of this action at the direction of Plaintiff's counsel in order to participate in any private action under the federal securities laws.
3. Plaintiff is willing to share as a representative party on behalf of the class, including providing testimony at deposition and trial, if necessary. I understand that this is not a claim form, and that my ability to share in any recovery as a member of the class is not dependent upon execution of this Plaintiff Certification.
4. the following includes of Plaintiff's transactions during the Class Period specified in the complaint for the common stock/securities that are the subject of this action:

<u>SECURITY</u> (Common Stock, Call, Put, Bonds)	<u>TRANSACTION</u> (Purchase, Sale)	<u>QUANTITY</u>	<u>TRADE</u> <u>DATE</u>	<u>PRICE PER</u> <u>SHARE/SECURITY</u>
Taser International, Inc.	Purchased	1000	1/07/05	\$23.337
Taser International, Inc.	Sold	1000	1/12/05	\$16.72

5. Plaintiff has not sought to serve or served as a representative party for a class in an action filed under the federal securities laws within the past three years, unless otherwise stated in the space below:

6. Plaintiff will not accept any payment for serving as a representative party on behalf of the class beyond Plaintiff's pro rate share of any recovery, except such reasonable costs and expenses (including lost wages) directly relating to the representation of the class as ordered or approved by the court.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 19 day of January 2005.



Allan Lang

Ballou Stoll Bader & Nadler, P.C.
1450 Broadway – 14th Floor
New York, New York
T: (212) 575-7900
F: (212) 764-5060

**CERTIFICATION OF NAMED PLAINTIFF
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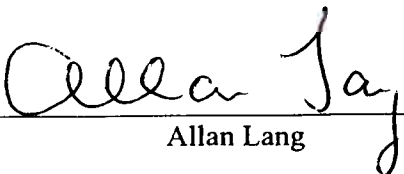
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I declare under penalty of perjury that the foregoing is true and correct. Executed this 19 day of January 2005.



Allan Lang