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16 Attorneys for Plaintiff SHELDON LOCKETT; MICHELLE DAVIS;
17 and CLYDE DAVIS

18 **UNITED STATES DISTRICT COURT**
19 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

20 SHELDON LOCKETT; MICHELLE
21 DAVIS; and CLYDE DAVIS,

22 Plaintiffs,

23 v.

24 COUNTY OF LOS ANGELES, a
25 public entity; LOS ANGELES
26 COUNTY SHERIFF'S
27 DEPARTMENT, a law enforcement
28 agency; SHERIFF JIM McDONNELL;
MIZRAIN ORREGO, a Deputy Los
Angeles County Sheriff; SAMUEL
ALDAMA, a Deputy Los Angeles
County Sheriff; and DOES 1 through
100, inclusive,

Defendants.

Case No.: 2:18-cv-5838-PJW
Assigned to Hon. Patrick J. Walsh,
Magistrate Judge

**SECOND AMENDED COMPLAINT
FOR DAMAGES**

- 1. **Excessive Force (42 USC § 1983)**
- 2. **Failure to Properly Screen, Hire, Train, Supervise, and Discipline (Monell Violation) (42 USC § 1983)**
- 3. **Unreasonable Search and Seizure (42 USC § 1983)**

DEMAND FOR JURY TRIAL

1 The following is a complaint for damages brought by Plaintiffs SHELDON
2 LOCKETT (hereinafter “LOCKETT”), MICHELLE DAVIS, and CLYDE DAVIS
3 (hereinafter, collectively, “Plaintiffs”), by and through their attorneys, who allege on
4 information and belief as follows:

5 1. This is a civil rights action seeking monetary damages from Defendants
6 for use of excessive force and the violation of various civil rights, resulting in
7 injuries and damages to Plaintiff LOCKETT in the city of Compton, California on
8 January 15, 2016, and to Plaintiffs MICHELLE DAVIS and CLYDE DAVIS in
9 Harbor City, California in or around February 2016.

10 2. This action is brought pursuant to 42 U.S.C. §§ 1983 and 1988, and the
11 Fourth and Fourteenth Amendments of the United States Constitution as well as the
12 Constitution and laws of the State of California.

13 **JURISDICTION AND VENUE**

14 3. Jurisdiction is founded upon 28 U.S.C. §§ 1331 and 1343(a)(3)-(4), and
15 the aforementioned statutory and constitutional provisions. Plaintiffs further invoke
16 the supplemental jurisdiction of this Court pursuant to 28 U.S.C. § 1367 to hear and
17 decide claims arising under state law.

18 4. The events, acts, and/or omissions complained of herein occurred in the
19 cities of Compton and Harbor City, Los Angeles County, California. This action is
20 properly assigned to the Western Division of the United States District Court for the
21 Central District of California.

22 **PARTIES TO THE ACTION**

23 5. Plaintiffs LOCKETT, MICHELLE DAVIS, and CLYDE DAVIS were
24 individuals residing in the County of Los Angeles, California.

25 6. Defendant COUNTY OF LOS ANGELES (hereinafter “COUNTY”) is
26 now, and all times mentioned in this complaint was, a municipal corporation and
27 political subdivision organized and existing under the laws of the State of California.
28 The COUNTY owns, operates, manages, directs, and controls Defendant LOS

1 ANGELES COUNTY SHERIFF’S DEPARTMENT (hereinafter
2 “DEPARTMENT”), an operating department of the COUNTY.

3 7. Defendant SHERIFF JIM McDONNELL (hereinafter “SHERIFF”) at
4 all material times was employed as Sheriff for the Defendant DEPARTMENT by
5 Defendant COUNTY.

6 8. Defendant Deputy MIZRAIN ORREGO (hereinafter “ORREGO”) at
7 all material times was employed as a deputy sheriff of the Defendant
8 DEPARTMENT by Defendant COUNTY.

9 9. Defendant Deputy SAMUEL ALDAMA (hereinafter “ALDAMA”) at
10 all material times was employed as a deputy sheriff of the Defendant
11 DEPARTMENT by Defendant COUNTY.

12 10. In doing the acts alleged in this complaint, Defendants SHERIFF,
13 ORREGO, and ALDAMA were acting under color of statutes, ordinances,
14 regulations, customs, laws, and usages of Defendant COUNTY, Defendant
15 DEPARTMENT, and the State of California under their respective offices.

16 11. Plaintiffs are ignorant of the true names and/or capacities of Defendants
17 sued herein as DOE defendants 1 through 100, inclusive, and therefore sues these
18 Defendants by such fictitious names. Plaintiffs will amend this complaint to allege
19 their true names and capacities when ascertained. Plaintiffs are informed and believe
20 and thereon allege that each of the fictitiously named Defendants is responsible in
21 some manner for the occurrences herein alleged, and that the Plaintiffs’ injuries as
22 herein alleged were proximately caused by the acts and/or omissions of said
23 fictitiously named Defendants.

24 12. DOE Defendants 1 through 20, and each of them, are and were at all
25 times relevant hereto, employees, deputy sheriffs, police officers, sergeants,
26 investigators, and other supervisor police and civilian employees of COUNTY,
27 acting within their capacity as employees, agents, and servants of the Defendant
28 COUNTY. These Defendants were at all times herein alleged acting within the

1 course and scope of that employment and agency. DOES 1 through 20 are sued
2 individually and in their capacity as deputies, officers, sergeants, captains,
3 detectives, and other police officers for Defendant COUNTY.

4 13. Plaintiffs are informed and believe and thereon allege that each of the
5 Defendants sued herein was negligently, wrongfully, and otherwise responsible in
6 some manner for the events and happenings as hereinafter described, and
7 proximately caused injuries and damages to Plaintiffs. Further, one or more DOE
8 defendants was at all material times responsible for the hiring, training, supervision,
9 and discipline of the Defendants, including DOE Defendants.

10 14. Plaintiffs are informed and believe, and thereon allege, that each of the
11 Defendants was at all material times an agent, servant, employee, partner, joint
12 venture, co-conspirator, and/or alter ego of the remaining Defendants, and in doing
13 the things herein alleged, was acting within the course and scope of that relationship.

14 15. Plaintiffs are further informed and believe, and thereon allege, that each
15 Defendant herein gave consent, aid, and assistance to each of the remaining
16 Defendants, and ratified and/or authorized the acts or omissions of each Defendant
17 as alleged herein, except as may be hereinafter otherwise specifically alleged. At all
18 material times, each Defendant was jointly engaged in tortious activity resulting in
19 the deprivation of Plaintiffs' constitutional rights and other harm.

20 16. The acts and omissions of all Defendants as set forth herein were at all
21 material times pursuant to the actual custom, policies, practices, and procedures of
22 the DEPARTMENT.

23 17. At all material times, each Defendant acted under color of the laws,
24 statutes, ordinances, and regulations of the State of California.

25 18. This complaint may be pled in the alternative pursuant to Federal Rules
26 of Civil Procedure, Rule 8(d)(2).

27 **FACTS COMMON TO ALL CAUSES OF ACTION**

28 19. Plaintiffs reallege each and every paragraph in this complaint as if it is

1 fully set forth here.

2 20. This complaint concerns an incident that took place on January 15,
3 2016 in the City of Compton, California near 910 North Oleander Avenue.

4 21. On said date and at said location, in the early afternoon hours and in
5 broad daylight, Defendants ORREGO and ALDAMA drove in a Sheriff's radio car
6 in a rapid and aggressive manner toward Plaintiff LOCKETT, who was simply
7 standing near the front of his Godmother's home with a friend.

8 22. Defendants ORREGO and ALDAMA exited the radio car with their
9 guns drawn and trained on Plaintiff LOCKETT and his friend, shouting commands
10 in loud voices.

11 23. Plaintiff LOCKETT and his friend had not committed any crime and
12 were not in possession of any weapon whatsoever.

13 24. Because of the aggressive, unreasonable, and illegal actions of
14 Defendants ORREGO and ALDAMA, Plaintiff LOCKETT became frightened for
15 his life and ran.

16 25. At that point, Defendants ORREGO and ALDAMA transmitted a false
17 Sheriff's Department radio broadcast that stated that Plaintiff LOCKETT produced a
18 gun from his waist area and was fleeing.

19 26. Said false radio broadcast precipitated the response of several other
20 deputies.

21 27. Plaintiff LOCKETT was found by Defendants, and each of them,
22 hiding and frightened in back of a nearby home where he attempted to surrender to
23 deputies. Nevertheless, Defendants ALDAMA and ORREGO severely battered
24 Plaintiff LOCKETT with their fists, feet, batons, and Taser electronic weapons about
25 Plaintiff LOCKETT'S head, arms, torso and legs.

26 28. Simultaneous to said battering of Plaintiff LOCKETT, who is African
27 American, Defendants ORREGO and ALDAMA, who are Latino, were yelling at
28 him using the vile racial epithet "Nigger" repeatedly.

1 29. After Defendants and each of them had Plaintiff LOCKETT under
2 arrest, one of the Defendant deputies purposefully and violently rammed the end of a
3 police baton in the eye socket of Plaintiff LOCKETT which caused him permanent
4 damage.

5 30. At no time prior to said severe beating of Plaintiff LOCKETT did he
6 pose any threat, in any manner, to Defendants ORREGO and ALDAMA and DOES
7 1 through 100.

8 31. Although Defendants ORREGO and ALDAMA knew that Plaintiff
9 LOCKETT had not committed any crime, they arrested him, filed a false police
10 report, and caused the very serious charge of attempted murder to be filed against
11 him.

12 32. Plaintiff LOCKETT was jailed, with a bail that he could not afford to
13 post for eight (8) months, until the case against him was dismissed for lack of
14 evidence and in the interest of justice.

15 33. On January 22, 2016, shortly after the arrest of Plaintiff LOCKETT, his
16 mother, Plaintiff MICHELLE DAVIS filed a citizen complaint against Defendants
17 ORREGO and ALDAMA for their illegal actions as described above, including
18 using unconstitutional and excessive force against Plaintiff LOCKETT.

19 34. Although a citizen's complaint was filed regarding Defendants
20 ORREGO and ALDAMA, Defendants COUNTY, DEPARTMENT, and SHERIFF
21 failed to investigate or initiate any disciplinary action against Defendants ORREGO
22 and ALDAMA.

23 35. Instead, within approximately one (1) month after Plaintiff MICHELLE
24 DAVIS filed her citizen's complaint as described herein, and in an apparent
25 retaliation for filing the complaint, deputies of Defendant DEPARTMENT searched
26 the residence of Plaintiffs MICHELL DAVIS and CLYDE DAVIS.

27 36. Plaintiffs MICHELLE DAVIS and CLYDE DAVIS were not home at
28 the time of the search. They were alerted by a neighbor that the police were

1 searching their home. Plaintiff CLYDE DAVIS returned before the police left and
2 was told they were searching for a gun.

3 37. During the service of the search warrant, the front door was breached
4 such that it was knocked off of its hinges and destroyed. The remainder of Plaintiffs
5 MICHELLE DAVIS and CLYDE DAVIS' home was purposefully damaged. The
6 police did not serve a Statement of Probable Cause on MICHELLE DAVIS and
7 CLYDE DAVIS, and thus they were not aware of the factual basis for the search.

8 38. Plaintiffs did not learn until August 2016, when all criminal charges
9 against Plaintiff LOCKETT were dropped and he was released from jail, that the
10 search was unreasonable, unconstitutional, and based upon false statements by
11 Defendants ALDAMA and ORREGO.

12 39. On May 16, 2018, Defendant ALDAMA'S deposition was taken in an
13 unrelated Los Angeles Superior Court Case No. TC028803, *Taylor v. County of Los*
14 *Angeles, et al.* During that deposition, Defendant ALDAMA admitted to "ill
15 feelings" toward African Americans in general. He also testified that he and as many
16 as 20 other deputies share a common tattoo of a skeleton wearing a military-style
17 helmet, carrying a rifle and surrounded by flames. The rifle and helmet are linked to
18 the Compton substation of the Los Angeles Sheriff's Department by the letters
19 "CPT" (shorthand for Compton) on the helmet and the number "XXVIII" on the
20 rifle (for 28th substation). Until these revelations, Plaintiffs did not know the full
21 extent of arresting officers' (Defendants ALDAMA and ORREGO) bias against him
22 due to his race.

23 **FIRST CAUSE OF ACTION**

24 **42 U.S.C. § 1983 – EXCESSIVE FORCE**

25 ***BY PLAINTIFF SHELDON LOCKETT AGAINST DEFENDANTS ORREGO,***
26 ***ALDAMA, and DOES 1-20***

27 40. Plaintiffs reallege each and every paragraph in this complaint as if fully
28 set forth herein.

1 41. By the actions and omissions described above, Defendants ORREGO,
2 ALDAMA, and DOES 1-20 violated 42 U.S.C. § 1983, depriving Plaintiffs of the
3 following clearly-established and well-settled constitutional rights protected by the
4 Fourth and Fourteenth Amendments to the United States Constitution:

- 5 a. The right to be free from excessive and unreasonable force in the course
6 of arrest or detention as secured by the Fourth and Fourteenth
7 Amendments;
8 b. The right to be free from unreasonable searches and seizures as secured
9 by the Fourth and Fourteenth Amendments;
10 c. The right to be free from the unlawful use of a Taser as secured by the
11 Fourth and Fourteenth Amendments; and
12 d. The right to be free of unlawful, reckless, deliberately indifferent, and
13 conscience-shocking excessive force as secured by the Fourteenth
14 Amendment.

15 42. Defendants subjected Plaintiffs to their wrongful conduct, depriving
16 Plaintiffs of rights described herein, knowingly, maliciously, and with conscious and
17 reckless disregard for whether the rights and safety of Plaintiffs and others would be
18 violated by their acts and/or omissions.

19 43. As a direct and proximate result of Defendants' acts and/or omissions
20 as set forth above, Plaintiffs sustained injuries and damages as set forth in this
21 complaint.

22 44. The conduct of Defendants entitles Plaintiffs to punitive damages and
23 penalties allowable under 42 U.S.C. § 1983 and California Code of Civil Procedure
24 § 3294.

25 45. Plaintiffs are entitled to reasonable costs and attorneys' fees under 42
26 U.S.C. § 1983 and California Civil Code § 1021.5.

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SECOND CAUSE OF ACTION

**42 U.S.C. § 1983 – FAILURE TO PROPERLY SCREEN, HIRE, TRAIN,
SUPERVISE, OR DISCIPLINE (MONELL VIOLATION)
BY PLAINTIFF SHELDON LOCKETT AGAINST DEFENDANTS COUNTY,
DEPARTMENT, SHERIFF, and DOES 1-100**

46. Plaintiffs reallege each and every paragraph in this complaint as if fully set forth herein.

47. The unconstitutional actions and omissions of Defendants COUNTY, DEPARTMENT, and DOES 1-100 as well as others employed by or acting on behalf of Defendant COUNTY, on information and belief, were carried out pursuant to the following customs, policies, practices, and/or procedures of the DEPARTMENT, stated in the alternative, which were directed, encouraged, allowed, and/or ratified by policy making officers/deputies for Defendants COUNTY and DEPARTMENT:

- a. To use or tolerate the use of excessive and/or unjustified force;
- b. To use or tolerate the use of unlawful tasing of arrestees/detainees;
- c. To use or tolerate racial animus by Defendant DEPARTMENT’S employees, including the use of racial slurs and epithets during detentions and arrests;
- d. To fail to use appropriate and generally accepted law enforcement procedures for detentions and arrests;
- e. To cover up violations of constitutional rights by all of the following:
 - i. By failing to properly investigate and/or evaluate complaints or incidents of excessive and unreasonable force, and/or unlawful seizures;
 - ii. By ignoring and/or failing to properly and adequately investigate and discipline unconstitutional or unlawful police activity, including the proliferation of “cliques” or “gangs” within the Defendant

1 DEPARTMENT, which has a long history of such cliques/gangs
2 dating back to the early 1970's. Such cliques/gangs include the Little
3 Devils, Cavemen, Vikings, Regulators, 3000 Boys, Jump Out Boys,
4 and now a heretofore unknown clique/gang within the Compton
5 Sheriff's station, whose ranks include approximately 20 deputies,
6 including Defendant ALDAMA.

7 iii. Said cliques/gangs are responsible for violent illegal acts and are
8 rewarded for those acts. Plaintiffs are informed and thereupon allege
9 that some senior commanders within the Defendant DEPARTMENT
10 are clique/gang members and have tattoos tying them to their gangs.

11 iv. Plaintiffs are informed and believe and thereupon allege that said
12 senior commanders know of the proliferation of clique/gangs within
13 Defendant DEPARTMENT and that they condone and ratify their
14 violent, illegal conduct. Defendant DEPARTMENT and its
15 employees, including the aforementioned senior commanders, had a
16 policy, practice and/or custom of condoning and allowing said
17 cliques/gangs to exist, associate, operate, recruit, and act with
18 impunity within the ranks of the DEPARTMENT and a policy,
19 practice and/or custom of failing to investigate said cliques/gangs.

20 v. Said policies, customs and/or practices were the moving force
21 behind Plaintiffs' injuries because Plaintiffs are informed and
22 believe that Defendants ALDAMA and DOES 1-20 were members
23 of the heretofore unknown gang/cliue, and that they were
24 positioned to commit acts of violence against Plaintiffs in
25 association with that membership.

26 vi. By allowing, tolerating, and/or encouraging police officers who:
27 1. Fail to file complete and accurate police reports;
28 2. File false police reports;

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- 3. Make false statements;
- 4. Intimidate, bias, and/or coach witnesses to give false information and/or to bolster officers' stories; and/or
- 5. Obstruct or interfere with investigations of unconstitutional or unlawful police conduct by withholding and/or concealing material information;

- f. To allow, tolerate, and/or encourage a "code of silence" among law enforcement officers and DEPARTMENT personnel, whereby an officer/deputy or member of the DEPARTMENT does not provide adverse information against a fellow officer/deputy or member of the DEPARTMENT; and
- g. To use or tolerate inadequate, deficient, and improper procedures for handling, investigating, and reviewing complaints of officer misconduct made under California Government Code § 910.

48. Defendants subjected Plaintiff LOCKETT to their wrongful conduct, depriving Plaintiff LOCKETT of rights described herein, knowingly, maliciously, and with conscious and reckless disregard for whether the rights and safety of Plaintiff LOCKETT and others would be violated by their acts and/or omissions.

49. As a direct and proximate result of Defendants' acts and/or omissions as set forth above, Plaintiff LOCKETT sustained injuries and damages as set forth in this complaint.

50. The conduct of Defendants entitles Plaintiff LOCKETT to punitive damages and penalties allowable under 42 U.S.C. § 1983 and California Code of Civil Procedure § 377.20, et seq.

51. Plaintiff LOCKETT is entitled to reasonable costs and attorneys' fees under 42 U.S.C. § 1983 and California Code of Civil Procedure § 377.20, et seq.

52. Defendants COUNTY, DEPARTMENT, SHERIFF, and DOES 1 through 20 failed to properly hire, train, instruct, monitor, supervise, evaluate,

1 investigate, and discipline Defendants ALDAMA, ORREGO, and DOES 1 through
2 20, as well as other DEPARTMENT personnel, with deliberate indifference to
3 Plaintiff LOCKETT'S constitutional rights, which were thereby violated as
4 described above.

5 53. The unconstitutional actions and/or omissions of Defendants and other
6 DEPARTMENT personnel, as described above, were approved, tolerated, and/or
7 ratified by policy-making officers for the DEPARTMENT.

8 54. Plaintiff LOCKETT is informed and believes and thereon alleges that
9 the details of the subject incident were revealed to the authorized policymakers
10 within the COUNTY and DEPARTMENT, including SHERIFF, and that such
11 policymakers have direct knowledge of the fact that Plaintiff's beating, tasing,
12 detention, and arrest were not justified, but rather represented an unconstitutional
13 display of unreasonable and excessive force.

14 55. Notwithstanding this knowledge, the authorized policymakers within
15 the COUNTY and DEPARTMENT, including SHERIFF, have approved of
16 Defendants ALDAMA, ORREGO, and DOES 1-20, and have made a deliberate
17 choice to endorse these Defendants' use of force against, and detention and arrest of,
18 Plaintiff LOCKETT. By doing so, the authorized policymakers within the COUNTY
19 and DEPARTMENT have shown affirmative agreement with the individual
20 Defendant deputies' actions and have ratified the unconstitutional acts of the
21 individual Defendants.

22 56. The aforementioned customs, policies, and procedures; the failure to
23 properly and adequately hire, train, instruct, monitor, supervise, evaluate,
24 investigate, and discipline; as well as the unconstitutional orders, approvals,
25 ratification, and toleration of wrongful conduct by DEPARTMENT personnel of
26 Defendants COUNTY, DEPARTMENT, SHERIFF, and DOES 1 through 20 were a
27 moving force and a proximate cause of deprivations of Plaintiff LOCKETT's
28 clearly-established and well-settled constitutional rights, in violation of 42 U.S.C. §

1 1983.

2 57. Defendants subjected Plaintiff LOCKETT to their wrongful conduct,
3 depriving Plaintiff of rights described herein knowingly, maliciously, and with
4 conscious and reckless disregard for whether the rights and safety of Plaintiff
5 LOCKETT and others would be violated by their acts and/or omissions.

6 58. As a direct and proximate result of the unconstitutional actions,
7 omissions, customs, policies, practices, and procedures of Defendants as described
8 above, Plaintiff LOCKETT sustained serious and permanent injuries and is entitled
9 to damages and penalties, costs, and attorneys' fees as set forth above, and punitive
10 damages against Defendants ORREGO, ALDAMA, SHERIFF, and DOES 1-100 in
11 their individual capacities.

12 **THIRD CAUSE OF ACTION**

13 **42 U.S.C. § 1983 – UNREASONABLE SEARCH AND SEIZURE**

14 ***BY PLAINTIFFS MICHELLE DAVIS AND CLYDE DAVIS***

15 ***AGAINST ALL DEFENDANTS***

16 59. Plaintiffs reallege each and every paragraph in this complaint as if fully
17 set forth herein.

18 60. By the actions and omissions described above, Defendants ORREGO,
19 ALDAMA, COUNTY, DEPARTMENT, SHERIFF, and DOES 1-100 violated 42
20 U.S.C. § 1983, depriving Plaintiffs MICHELLE DAVIS and CLYDE DAVIS of the
21 clearly-established and well-settled constitutional right to be free from unreasonable
22 searches and seizures as protected by the Fourth and Fourteenth Amendments to the
23 United States Constitution.

24 61. Defendants subjected Plaintiffs MICHELLE DAVIS and CLYDE
25 DAVIS to their wrongful conduct, depriving Plaintiffs MICHELLE DAVIS and
26 CLYDE DAVIS of rights described herein, knowingly, maliciously, and with
27 conscious and reckless disregard for whether the rights and safety of Plaintiffs
28 MICHELLE DAVIS and CLYDE DAVIS and others would be violated by their acts

1 and/or omissions.

2 62. As a direct and proximate result of Defendants' acts and/or omissions
3 as set forth above, Plaintiffs MICHELLE DAVIS and CLYDE DAVIS sustained
4 injuries and damages as set forth in this complaint.

5 63. The conduct of Defendants entitles Plaintiffs MICHELLE DAVIS and
6 CLYDE DAVIS to punitive damages and penalties allowable under 42 U.S.C. §
7 1983 and California Code of Civil Procedure § 3294.

8 64. Plaintiffs MICHELLE DAVIS and CLYDE DAVIS are entitled to
9 reasonable costs and attorneys' fees under 42 U.S.C. § 1983 and California Civil
10 Code § 1021.5.

11 **TOLLING UNDER GOVERNMENT CODE § 945.3**

12 65. Plaintiffs reallege each and every paragraph in this complaint as if it is
13 fully set forth here.

14 66. Plaintiff LOCKETT is entitled to the tolling provisions of California
15 Government Code § 945.3, which provides for tolling in any civil action for
16 damages against a police officer or police department based upon conduct relating to
17 the offense for which the accused is charged, including an act or omission in
18 arresting or detaining the accused, while the charges against the accused are pending
19 before a justice, or municipal or superior court.

20 67. Plaintiff LOCKETT was accused of and charged with attempted murder
21 following his arrest by Defendants ORREGO and ALDAMA and held in jail while
22 the charge(s) were pending against him in superior court.

23 68. All of Plaintiff LOCKETT'S claims brought in this case, including
24 those pursuant to 42 U.S.C. § 1983, arise out of the January 15, 2016 arrest by
25 Defendants. The attempted murder charge cannot be separated from the civil rights
26 violations alleged in this complaint and the claims are therefore related to the
27 attempted murder charge.

28 69. Defendants ORREGO and ALDAMA used excessive force against
Plaintiff LOCKETT in the course of his arrest and made false statements about him,

1 including falsely communicating over police radio that Plaintiff LOCKETT had a
2 gun even though Plaintiff LOCKETT was not armed at the time of the incident, and
3 writing a false police report. These actions led to Plaintiff LOCKETT being charged
4 with attempted murder.

5 70. Pursuant to Government Code § 945.3, Plaintiff Lockett is entitled to
6 tolling during the time the attempted murder charge was pending against him.

7 **EQUITABLE TOLLING**

8 71. Plaintiffs reallege each and every paragraph in this complaint as if it is
9 fully set forth here.

10 72. The statute of limitations on Plaintiffs' claims was equitably tolled.
11 Defendants had timely notice of Plaintiffs' claims, Defendants were not prejudiced
12 by the delay in filing Plaintiffs' initial complaint in July 2018, and Plaintiffs'
13 conduct was reasonable and in good faith.

14 73. There was timely notice of the civil rights claims against Defendants.
15 Defendants were on notice, via the citizen complaint made against them by Plaintiff
16 MICHELLE DAVIS on or about January 22, 2016, that Defendants had used
17 excessive force against Plaintiff LOCKETT during his arrest on January 15, 2016, in
18 violation of Plaintiff LOCKETT'S civil rights. As of August 2016, Defendants were
19 aware that the arrest and subsequent imprisonment were based on false statements
20 and unjustified because all criminal charges were dropped against Plaintiff
21 LOCKETT for lack of evidence. At that time, Plaintiffs MICHELLE DAVIS and
22 CLYDE DAVIS also became aware that the alleged search for a gun at their home
23 was unreasonable and unjustified, as the search warrant was based upon false
24 statements by Defendants.

25 74. Defendants are not prejudiced by any delay in bringing this case. There
26 are no defenses, information, or witnesses unavailable now, but that would have
27 been available in January 2018.

28 75. Plaintiff LOCKETT asserted the claims set forth in this complaint
within the two-year limitations period plus the eight (8) months' tolling while he

1 was in jail from January through August 2016.

2 76. At all times, Plaintiffs acted reasonably and in good faith.

3 **DELAYED DISCOVERY EXCEPTION TO THE STATUTE OF**
4 **LIMITATIONS**

5 77. Plaintiffs reallege each and every paragraph in this complaint as if it is
6 fully set forth here.

7 78. Plaintiffs MICHELLE DAVIS and CLYDE DAVIS are entitled to the
8 delayed discovery exception to the statute of limitations because they did not know
9 that the search of their home was based upon false statements until after the criminal
10 charges against Plaintiff LOCKETT were dismissed and he was released from jail
11 custody in August 2016. Plaintiffs were not served with a Statement of Probable
12 Cause explaining the basis for the search at any time.

13 79. Because Plaintiffs MICHELLE DAVIS and CLYDE DAVIS did not
14 discover that the search of their home was unreasonable and unconstitutional until
15 August of 2016, the two-year statute of limitations on their claims should extend to
16 August of 2018, making their complaint timely filed.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of
19 them, as follows:

- 20 1. Compensatory and exemplary damages in an amount according to proof
21 and which is fair, just, and reasonable;
- 22 2. Punitive damages under 42 U.S.C. § 1032 and California law in an amount
23 according to proof and which is fair, just, and reasonable (as to the
24 individual Defendants only);
- 25 3. All other damages, penalties, costs, interest, and attorneys' fees as allowed
26 by 42 U.S.C. §§ 1983 and 1988; and 1021.5; California Civil Code §§ 52,
27 et seq., 52.1, and 51.7, and as otherwise may be allowed by California
28 and/or Federal law.

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4. Injunctive relief as follows:

- a. An order prohibiting Defendants and their deputies from unlawfully interfering with the rights of Plaintiff and others to be free from unreasonable searches and seizures and excessive and unreasonable force;
- b. An order prohibiting Defendants and their deputies from engaging in a code of silence as may be supported by the evidence in this case;
- c. An order requiring Defendants to train all DEPARTMENT law enforcement officers concerning generally accepted and proper tactics and procedures for the use of force; and
- d. An order requiring Defendants to be retrained in non-deadly force such as tasing.

DATED: November 16, 2018

Respectfully submitted,

THE SWEENEY FIRM

and

GLICKMAN & GLICKMAN,
A LAW CORPORATION

By /s/ Nicole E. Hoikka
 John E. Sweeney
 Steven C. Glickman
 Nicole E. Hoikka
 Attorneys for Plaintiffs SHELDON
 LOCKETT, MICHELLE DAVIS, and
 CLYDE DAVIS

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