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6 XENETHON EDWARD SANDERS

7 SUPERIOR COURT OF CALIFORNIA

8 COUNTY OF LOS ANGELES

<p>9 XENETHON EDWARD SANDERS</p> <p>10 Plaintiff</p> <p>11 VS.</p> <p>12</p> <p>13 COUNTY OF LOS ANGELES, LOS ANGELES COUNTY SHERIFF'S DEPT. DEPUTY OFFICER KONRAD THIEME BADGE # 606771, DEPUTY OFFICER SAMUEL HOLLINGER BADGE # 606086, DEPUTY OFFICER JEFFRY MINER BADGE # 507732, DEPUTY OFFICER EDWARD "ERIC" JOHNSON BADGE # 514004, DEPUTY OFFICER MATTHEW DOWD BADGE #528104, DEPUTY HECTOR SAUCEDA BADGE # 520781, DEPUTY SGT BRANDON PATIN BADGE # 487902 AND LT GREGORY MINSTER BADGE # 277205 and DOES 1 to 100 Inclusive,</p> <p>20 Defendants.</p>	<p>CASE NUMBER: 18STCVO6003</p> <p>UNLIMITED JURISDICTION</p> <p>SECOND AMENDED COMPLAINT FOR DAMAGES</p> <p>1. VIOLATION OF CIVIL RIGHTS; 2. VIOLATION OF CONSTITUTIONAL RIGHT TO BE FREE FROM UNREASONABLE AND EXCESSIVE FORCE; 3. NEGLIGENCE; 4. NEGLIGENT EMPLOYMENT/RETENTION/ SUPERVISION; 5. MONELL CLAIM UNDER 42 U.S.C. SECTION 1983; 6. VIOLATION OF CIVIL CODE § 52.1 (BANE ACT) AND OTHER CIVIL RIGHTS VIOLATIONS.</p>

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24
25 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

26 Plaintiff alleges, allegations to all causes of actions:

- 27 1. Plaintiff, XENETHON EDWARD SANDERS (Plaintiff) an Individual, is now, and at all

1 times herein mentioned was, a resident of the City of Los Angeles, County of Los
2 Angeles, State of California.

3 2. Plaintiff is informed and believes and thereon alleges that Defendants, COUNTY OF
4 LOS ANGELES, LOS ANGELES COUNTY SHERIFF'S DEPARTMENT (hereinafter
5 referred to as "LASD:) DEPUTY OFFICER KONRAD THIEME BADGE # 606771,
6 DEPUTY OFFICER SAMUEL HOLLINGER BADGE # 606086, DEPUTY OFFICER
7 JEFFRY MINER BADGE # 507732, DEPUTY OFFICER EDWARD "ERIC"
8 JOHNSON BADGE # 514004, DEPUTY OFFICER MATTHEW DOWD BADGE
9 #528104, DEPUTY HECTOR SAUCEDA BADGE # 520781, DEPUTY SGT
10 BRANDON PATIN BADGE # 487902 AND LT GREGORY MINSTER BADGE #
11 277205. DOES 1 to 100, inclusive, collectively referred to as "Deputy Defendants", were
12 and are authorized to do business in City of Los Angeles, County of Los Angeles, State of
13 California, hereinafter jointly referred to "Defendants".

14 3. DEPUTY OFFICER KONRAD THIEME BADGE # 606771, DEPUTY OFFICER
15 SAMUEL HOLLINGER BADGE # 606086, DEPUTY OFFICER JEFFRY MINER
16 BADGE # 507732, DEPUTY OFFICER EDWARD "ERIC" JOHNSON BADGE #
17 514004, DEPUTY OFFICER MATTHEW DOWD BADGE #528104, DEPUTY
18 HECTOR SAUCEDA BADGE # 520781, DEPUTY SGT BRANDON PATIN BADGE
19 # 487902 AND LT GREGORY MINSTER BADGE # 277205. AND DOES 1 to 100,
20 was working within the scope of their employment as Authorized deputies in Los Angeles
21 County Sheriff's Department and all are collectively referred to as Defendants.

22 4. All deputy OFFICER DEFENDANTS, DEPUTY OFFICER KONRAD THIEME
23 BADGE # 606771, DEPUTY OFFICER SAMUEL HOLLINGER BADGE # 606086,
24 DEPUTY OFFICER JEFFRY MINER BADGE # 507732, DEPUTY OFFICER
25 EDWARD "ERIC" JOHNSON BADGE # 514004, DEPUTY OFFICER MATTHEW
26 DOWD BADGE #528104, DEPUTY HECTOR SAUCEDA BADGE # 520781,
27 DEPUTY SGT BRANDON PATIN BADGE # 487902 AND LT GREGORY MINSTER
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1 BADGE # 277205 AND DOES 1 to 100, and was and is acting in his capacity as a
2 Sheriff's Officer employed by the LASD and the County of Los Angeles, a department
3 and subdivision of defendant County of Los Angeles and acting under the color of state
4 law.

5 5. Plaintiff is ignorant of the true names and capacities of Defendants 1-100, Inclusive,
6 whether individual, corporate, associate or otherwise, and Plaintiff therefore sues said
7 Defendants by such fictitious names. Plaintiffs will amend this complaint to allege their
8 true names and capacities when ascertained. Plaintiff is informed and believes, and based
9 upon such information and belief alleges, that each of the fictitiously named Defendants
10 are responsible in some manner for the events and happenings alleged in this complaint
11 and that Plaintiff's injuries as alleged in this complaint were proximately caused by that
12 conduct.

13 6. Plaintiff is informed and believes, and thereon alleges, that at all times herein, Defendants
14 designated herein as Does 1-100, Inclusive, are now, and all times herein were, citizens
15 and/or residents of the State of California and/or were licensed to do business in the State
16 of California.

17 7. That at all times herein mentioned, DEFENDANTS, and each of them, were the agents
18 and/or servants and/or employees of each of the remaining DEFENDANTS and were at
19 all times acting within the purpose and scope of said agency and/or service and/or
20 employment, and each DEFENDANT have ratified and approved the acts of his/her agent
21 and/or servant and/or employee.

22 8. Plaintiff is informed and believes, and based upon such information and belief alleges,
23 that at all times herein mentioned, Defendants, and each of them, were the agents,
24 servants, employees, joint-ventures, and copartners of their said co-defendants and as
25 such, were acting with the course and scope of such agency, service, partnership, joint
26 venture and employment at all times herein mentioned.

27 9. At all times relevant hereto, Defendant SHERIFF DEPUTY OFFICER DEFENDANTS
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1 employed organized, unlawful and illegal customs and practices of excessive force,
2 making false arrests, and intentionally causing emotional distress upon innocent victims.
3 Said misconduct was known by, encouraged, tolerated and/or condoned by Defendant
4 City.

5 10. At all times relevant hereto, Defendant SHERIFF DEPUTY OFFICER DEFENDANTS
6 were acting within the course and scope of their employment as peace SHERIFF
7 DEPUTY OFFICER DEFENDANTS and employees of the City, which is liable under
8 the principles of respondent superior for said employees' tortuous conduct pursuant to
9 section 815.2 of the California Government Code.

10 11. At all applicable times, Defendant SHERIFF DEPUTY OFFICER DEFENDANTS were
11 acting in the course and scope of their employment as peace SHERIFF DEPUTY
12 OFFICER DEFENDANTS with the LASD. The acts, omissions and conduct of
13 Defendants were authorized, ratified and/or approved of by each of the other Defendants
14 herein.

15 12. Defendant SHERIFF DEPUTY OFFICER DEFENDANTS, LASD, COUNTY, and Does
16 1-100 (hereinafter collectively "Defendants"), and each of them, were employees,
17 employers, supervisors, managers, agents, joint ventures, directors, principals, or persons
18 who were otherwise employed by or working with each of the other Defendants.

19 13. Plaintiff is informed and believes and thereon alleges that each of these Defendants
20 engaged in intentional, reckless, or grossly negligent conduct, and are responsible in some
21 manner for the occurrences herein alleged, and that Plaintiffs' damages as herein alleged
22 were directly and legally caused by the wrongful conduct of Defendants and each of them.

23 14. The Defendants, in carrying out the acts complained of herein, were acting in the course
24 and scope of their employment with the COUNTY, or as the employer, employee,
25 principal, co-conspirator, and/or the agent of each of the other Defendants, and/or in
26 concert with the other defendants, and/or in partnership with the other Defendants, and/or
27 as a joint venturer with the other Defendants.

1 15. Plaintiffs' claims are authorized by Government Code section 815.2 which provides in
2 pertinent part: "A public entity is liable for injury proximately caused by an act or
3 omission of an employee of the public entity within the scope of his employment if the
4 act or omission would, apart from this section, have given rise to a cause of action against
5 that employee or his personal representative."

6 16. The actions of Defendants were carried out under color of authority and the County's
7 SHERIFF DEPUTY OFFICER DEFENDANTS were acting within the course of their
8 employment at the time of the events described herein.

9 17. Reference to actions or conduct of "Defendants" shall include the singular and plural, and
10 shall include all defendants in this action, whether named or designated as a Doe.
11 Reference to any singular defendant shall include all Doe defendants to which the facts
12 are later shown to apply.

13 18. Each principal Defendant and/or Defendant employer herein had advance knowledge,
14 warning of unfitness of each Defendant agent, and/or employee, and employed or
15 continued to employ each such agent and/or employee with a conscious disregard for the
16 rights or safety of Plaintiff and others and/or otherwise authorized and ratified the
17 wrongful conduct of each such agent and/or employee.

18 19. JURISDICTION

19 20. This action at law for money damages arises under the United States Constitution, the
20 California State Constitution, the Ralph and Bane Acts, Title 42 U.S.C. Section 1983 and
21 all other laws of the State of California and common law principles to redress a
22 deprivation under color of state law of rights privileges and immunities secured to
23 Plaintiffs by said statutes, and by the First, Fourth, and Fourteenth Amendments of the
24 United States Constitution and relevant portions of the California State Constitution.

25 21. VENUE

26 22. The incident giving rise to this litigation occurred in Topanga Canyon within Los Angeles
27 COUNTY. Venue is therefore proper in the Los Angeles County Superior Court, Central
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District (Stanley Mosk Courthouse).

23. FACTS APPLICABLE TO ALL CAUSES OF ACTION

24. This is a civil rights lawsuit brought by Plaintiff, a victim of police brutality, false arrest, malicious prosecution, and inadequate training, hiring, retention, and discipline of the subject police SHERIFF DEPUTY OFFICER DEFENDANTS as part of a custom and practice and a lack of reporting of such due to a "code of silence" practiced by the Defendants, and each of them. Compensatory and punitive damages are sought against the individual law enforcement SHERIFF DEPUTY OFFICER DEFENDANTS involved in the deprivation of Plaintiffs civil rights as guaranteed by the laws of both the United States and the State of California, as well as against the individually named Defendants herein and each of them.

25. As a consequence of the unlawful actions of the SHERIFF DEPUTY OFFICER DEFENDANTS as described herein, Plaintiff, suffered severe physical and emotional injuries due to the unnecessary, unreasonable, excessive use of force and abuse of power exerted upon him by Defendants he was brutally and savagely beaten, unlawfully arrested and jailed. Further, Plaintiff continues to suffer from the harm caused to Plaintiff by the SHERIFF DEPUTY OFFICER DEFENDANTS' intentional and/or negligent and unnecessary, unreasonable, and excessive use of force.

26. On 11-20-17, Leading to the false arrest of the Plaintiff. Plaintiff's friend, Gerry Greenberg, hereinafter referred to as "Gerry", asked Plaintiff to repair his closet doors as his last step in moving out of the house at 21065 Hillside Drive in Topanga. (Collectively referred to herein as the "November 20, 2017 Incident.").

27. Plaintiff arrived at 21065 Hillside Drive together at approximately 5:15 pm.

28. Eduardo became enraged and spit in the Plaintiff's face! Eduardo then moved around the counter and attacked the Plaintiff, tearing his shirt.

29. Plaintiff tried to get Eduardo to stop. Plaintiff told him to stop punching. He continued. He began yelling, "Police, Help, Police, he is trying to kill me". After a few minutes, he

1 stopped punching at Plaintiff and got quiet. Plaintiff said, "OK, I "Plaintiff" will let you
2 up under 3 conditions: you will apologize to everyone involved, pay Plaintiff \$20 for
3 Plaintiff's shirt you tore and go to your room, just let Plaintiff finish this job and we will
4 leave".

5 30. He agreed. Plaintiff stood him up and let go. Eduardo ran downstairs. Plaintiff returned to
6 Gerry's bedroom and Gerry said he could not find the part and he wanted to leave.
7 Plaintiff was upset and replied, "sure, let's go eat dinner". We carried the tools down to
8 Plaintiff's van and left the house together.

9 31. Gerry and Plaintiff drove down Hillside and made the hairpin turn at the bottom going
10 toward Topanga Canyon Blvd. When Plaintiff had completed the turn, spotlights blinded
11 Plaintiff for a minute and then Plaintiff saw at least 4 Sheriff's cars blocking to road about
12 20 feet in front of Plaintiff's van. Plaintiff stopped and turned off the motor. Plaintiff
13 heard the loudspeaker say, "put your hands up where we can see them". Plaintiff and
14 Gerry both followed the instructions. Plaintiff said to Gerry, "this is no joke, these guys
15 are serious". Loudspeaker said, "now put your hands behind your head". Plaintiff and
16 Gerry did while still in the van. Loudspeaker ordered, "driver, with your right hand open
17 the door from the outside, step out, put your hands behind your head with you back
18 towards us". Plaintiff fully complied with all instructions.

19 32. As Plaintiff stood next to the van with his back to the cars as instructed. Plaintiff was very
20 concerned and glanced over to see what the deputies were doing. Plaintiff expected them
21 to be in an offensive position, with their guns out. Plaintiff could see at least 4 deputies
22 standing to Plaintiff's left beside a 10-foot fence and to Plaintiff's surprise, they were just
23 standing there, like they were waiting for a show to begin. Two of them had their arms
24 crossed on their chests and in no way acted like there was any concern. No officer had his
25 gun out or were in an offensive position. They all were all relaxed and at ease because
26 there were 8 of them and one of Plaintiff. Plaintiff was on a street with a 10-foot wall on
27 one side and a 20-foot cliff on the other. Deputies and cars blocking front and back. There
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1 was no place for Plaintiff to go, even if Plaintiff wanted to. Plaintiff had done nothing
2 wrong and nothing to hide. It was obvious that Eduardo had called 911 and Plaintiff's
3 desire was to return to the house with the deputies. They would interview everyone and
4 learn the truth of what really happened.

5 33. Loudspeaker then ordered, "walk backwards towards us". Plaintiff walked about 10 feet
6 and loudspeaker said, "stop". Plaintiff stopped about 10 feet from their cars and stood
7 still. Plaintiff noticed the lights go on inside and saw a deputy opening the passenger
8 door, grab Gerry by the arm, pull him out, put handcuffs on him and lock him in another
9 patrol car behind the van. Plaintiff's heart was pounding, and Plaintiff was afraid of what
10 they would do to Plaintiff next. Loudspeaker said, "get down on your knees with your
11 hands on your head". Plaintiff turned slightly so they could hear Plaintiff and said, "I'M
12 "Plaintiff" 61 years old and need to use Plaintiff's hands to get down on Plaintiff's knees".
13 Plaintiff heard loud screaming over the loudspeaker and a split second later, Plaintiff was
14 tackled by a guy the size of an NFL player. Plaintiff's feet were off the ground and face
15 was driven into the street. Plaintiff's head hit first, then Plaintiff's elbows and knee.
16 Plaintiff's head hit so hard the first time that it bounced off the street and Plaintiff saw
17 stars. The officer Thieme pinned Plaintiff's right arm under Plaintiff's body as he held
18 Plaintiff down with his knee in Plaintiff's back on the street, bruising 3 of Plaintiff's ribs
19 on the right side. He fell with all his weight on top of Plaintiff, driving Plaintiff's head
20 and body into the street with all his strength.

21 34. Once on the ground, with Plaintiff's right arm pinned underneath Plaintiff's body, the
22 officer, on top with his knee in the back grabbed Plaintiff by the hair and smashed
23 Plaintiff's face into the street 3 more times. Plaintiff bleeding and screaming in pain, said,
24 "get off of me, I'm cooperating". A second deputy ran over and cuffed Plaintiff's left
25 hand. Plaintiff could feel the cuffs cutting deep to the bone. It was extremely painful.
26 Plaintiff's arm started bleeding.

27 35. The lead officer was still on Plaintiff's back, pinning Plaintiff's right arm. He was pulling
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1 on Plaintiff's right shoulder as if to tear it off and saying, "give Plaintiff your right hand".
2 Plaintiff said, " I'm cooperating, get off me and I will". He continued to tear Plaintiff's
3 shoulder several times, then got off Plaintiff's back to free Plaintiff's right arm. He
4 grabbed Plaintiff's hand and cuffed Plaintiff's right wrist. Again, putting them on so tight
5 they cut to the bone and Plaintiff's right arm started bleeding. He then stood up and pulled
6 Plaintiff to Plaintiff's feet by the handcuffs from the back. It was extremely painful, and
7 Plaintiff was bleeding a lot. Plaintiff's heart was pounding.

8 36. The lead officer walked Plaintiff over to the car where at least 6 deputies were standing
9 and the EMT with the ambulance driver. The EMT said, "this guy looks bad, he should
10 go to the hospital". Deputy said "no". EMT asked Plaintiff if Plaintiff had any medical
11 conditions, Plaintiff said "yes, Plaintiff's heart. Plaintiff's dad died of a heart attack at 46".
12 EMT left and quickly returned with a blood pressure cuff and said to deputy, "can you
13 remove the cuffs, so I can at least get Plaintiff's blood pressure?" Lead officer said, "no".
14 EMT took Plaintiff's Blood pressure with the cuffs still on and it was sky high, over 200!
15 EMT said, "this guy must go to the hospital". Lead officer again said "no" and threw
16 Plaintiff in the back of a patrol car, still in cuffs cutting to the bone.

17 37. Plaintiff sat in the car for some time bleeding and in extreme pain. Lead officer then
18 pulled Plaintiff out of the car and stood Plaintiff in front of the assembled group. He was
19 talking on the radio, getting the reports from other deputies at the house after interviewing
20 Eduardo and witnesses. The expression on his face changed as he heard what happened at
21 the house. Plaintiff could see him thinking of what to do next. Deputy Thieme then
22 ordered deputies to search Plaintiff's van. He threw Plaintiff back in the car, still in cuffs,
23 while they did.

24 38. After, the officer pulled Plaintiff out of the car and stood Plaintiff up. The search of
25 Plaintiff's van did not find anything. Once he got the search report, Deputy Thieme finally
26 asked Plaintiff what happened and for Plaintiff's social security number. The lead officer
27 took a few notes. This is the first question they asked Plaintiff since being stopped and
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1 this situation began. They did not ask Plaintiff's name, read Plaintiff Plaintiff's rights or
2 anything.

3 39. Plaintiff explained to Deputy Thieme that Eduardo had attacked Plaintiff while Plaintiff
4 was working for Gerry at the house. He asked if Plaintiff wanted to press a battery charge
5 against Eduardo. Plaintiff said "yes". Lead officer then said, "you are under arrest".
6 Plaintiff asked, "what for?". He replied, "resisting arrest". Plaintiff asked "are you
7 kidding? why would Plaintiff resist arrest? I didn't do anything, except defend myself
8 from Eduardo's attack, you know what happened". Deputy Thieme got very angry when
9 Plaintiff questioned his decision to arrest the Plaintiff.

10 40. Then officer Thieme said in the most threatening way possible, "I'm writing up the arrest
11 reports myself and you're going to jail, buddy boy". He quickly got in his car and left the
12 scene. Plaintiff was then handcuffed to a gurney and taken to the hospital in the
13 ambulance escorted by 2 cars and 4 deputies. Plaintiff was taken into emergency room
14 handcuffed to the gurney. Deputies had him in the lobby. A nurse saw Plaintiff and
15 immediately put Plaintiff in a room and requested the handcuffs be removed. A deputy
16 reluctantly removed the cuffs. The OFFICER DEFENDANTS stayed in the room as the
17 doctor worked on Plaintiff. Plaintiff asked for food. A deputy said "no". The treatment
18 continued, and the OFFICER DEFENDANTS were restless. Then one officer said, "let's
19 go". Another officer said, "they haven't released him yet". The first officer replied, "who
20 cares, take him".

21 41. They handcuffed and removed Plaintiff in from the hospital before the doctor released
22 Plaintiff. Plaintiff waited with a deputy, handcuffed and in great pain in the back seat of
23 the car for 15 minutes until a second officer got in the car. The first officer asked, "what
24 took so long?". The second officer replied, "the doctor didn't want to sign the release
25 form, but finally did". The first officer said, "that bitch". The doctor, NOOSHA
26 AMIRI-DAVANI, was a woman.

27 42. Plaintiff was then taken to jail to be processed. The handcuffs finally came off and
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1 reveled the serious damage they had done. In the middle of the night, the watch
2 commander with a deputy came into Plaintiff's cell and interrogated Plaintiff on video.
3 They did not advise Plaintiff of Plaintiff's rights or offer an attorney. No Miranda
4 Warning. They completed the interrogation and left. Plaintiff was finally given some
5 food at 1 am. Plaintiff spent the rest of the night in jail. Plaintiff was allowed a phone to
6 call around 4am. Gerry picked Plaintiff up the next morning in Plaintiff's van. Plaintiff
7 was so upset and hurting, Plaintiff could not drive, so Gerry drove.

8 43. While Plaintiff was on the ground Plaintiff was subjected to beating and other instances
9 of excessive force by the involved SHERIFF DEPUTY OFFICER DEFENDANTS.
10 Specifically, Deputy smashed his face into the street four (4) times; Deputy tried to crush
11 Plaintiff's back with his knee, and tear off Plaintiff's arm, notwithstanding the fact that
12 Plaintiff was not resisting, face down on the ground and underneath the LASD SHERIFF
13 DEPUTY OFFICER who had complete control over Plaintiff. The SHERIFF DEPUTY
14 OFFICER applied so much pressure to Plaintiffs back that Plaintiff is informed and
15 suffered from 3 cracked ribs.

16 44. Plaintiff was then restrained with and metal handcuffs that cut to the bone on both wrists
17 and eventually taken to the hospital. While restrained by handcuffs the entire time until
18 reaching the jail.

19 45. Plaintiff did not resist, threaten, spit on, touch or provoke the SHERIFF DEPUTY
20 OFFICER DEFENDANTS in any way.

21 46. ALL THE REPORTS WRITTEN WERE FALSE.

22 47. All the Deputies in their statements and Follow up Investigation Report, intentionally and
23 knowingly lied about what occurred prior to his throwing Plaintiff down which resulted in
24 Plaintiff being charged with a count of RESISTING ARREST.

25 48. Deputy Thieme was lead and he did the beating with such force and strength that Plaintiff
26 believed he was trying to kill the Plaintiff by smashing his face into the street several
27 times and trying to tear Plaintiff's right arm off. all the time Plaintiff was yelling I'm
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1 cooperating and get off me! Deputy Thieme got the report from the house, and ordered
2 the van search and after finding nothing, arrested Plaintiff for resisting.

3 49. Deputy Thieme's report, dated 11-21, made all the following statements that were false.
4 Report started with Plaintiff responded to assault with a deadly weapon, which is false,
5 Thieme's report stated when he arrived Plaintiff and Gerry were being detained at
6 gunpoint, false, Deputy Thieme wrote there was a lethal stun bag gun on Plaintiff and
7 Gerry too, false. Deputy Thieme wrote, upon exit of van suspect became uncooperative,
8 false. he writes that Plaintiff attempted to pull away from his grip and fell on the street,
9 false, he picked Plaintiff off the ground and drove Plaintiff's face into the street and
10 landed on top of Plaintiff! Gerry was ordered out of the van, false. Gerry was pulled out
11 of the van and handcuffed, no words. Deputy Thieme states that the house was owned by
12 Signore, false. That Signore came home to find Plaintiff there working, false. Signore was
13 there and greeted Plaintiff and Gerry at the door with yelling about being late. Thieme
14 wrote that Plaintiff was doing this work for Signore and he was dissatisfied, and I argued
15 with him, false. Deputy Thieme wrote that Signore had a bruised upper lip, false.
16 Signore received no medical treatment. Deputy Thieme stated Gerry did not witness the
17 police attack, false.

18 50. Deputy Doud stated that he responded to assault call with a deadly weapon, false. Deputy
19 Doud stated when he arrived Plaintiff & Gerry were being detained at gunpoint, false. he
20 pulled his gun, false. said Plaintiff was uncooperative and saying this is bullshit, false.

21 51. Johnson wrote that he responded to assault call with a deadly weapon, false. said when he
22 arrived Plaintiff & Gerry were being detained at gunpoint, false. Thieme has his gun
23 drawn, false. his report contradicts others that Plaintiff fully cooperated with commands.
24 Thieme pulled him to the ground in a controlled take down, false. he held his pistol on
25 Gerry entire time, false.

26 52. Miner wrote that assault with a deadly weapon had occurred, false. he had a stun bag gun
27 out, false. Plaintiff put Plaintiff's hands down and began walking toward car, false. wrote
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of Plaintiff's use of profanity, false. he did not witness any use of force by cops, false.

53. Hollinger wrote that assault with a deadly weapon had occurred, false. he stopped us and then others showed up, false. when Plaintiff & Gerry turned the corner, there were 6 cars in position of roadblock. Plaintiff lowered Plaintiff's hands multiple times and walked towards them, false. Plaintiff was yelling profanities, false. saw Thieme grab his shoulders and trip him, false. Plaintiff had both of Plaintiff's hands free when Plaintiff hit the street, false. Plaintiff rolled over onto Plaintiff's stomach, false. Plaintiff was not complying with orders, false.

54. Deputy Saveda false report is by omission of facts in Use of Force arrest. he was there and witnessed the arrest. he is required to provide details, which he intentionally did not. wrote a very short statement about driving Plaintiff to emergency. note this is the guy who called the doctor a bitch because she did not want to release Plaintiff. Plaintiff sat handcuffed in a car while they argued over getting the release signed.

55. Patin, Supervisor and Minster, Watch Commander, wrote Use of Force Report for LASD. wrote assault with a deadly weapon had occurred, false. Plaintiff & Gerry were being detained at gunpoint, false. Plaintiff was yelling profanities, false. was walking and waving Plaintiff's hands at officers, false. Thieme thought Plaintiff was going to attack, so he grabbed Plaintiff prevent an attack???, but lost his hold and Plaintiff fell to the street, false. Sanders was on his back but rolled onto his stomach to resist, false. Gerry was extracted from van and detained, false. handcuffed and locked in a car! he writes all the deputies agreed to his report, false. he writes that Gerry heard Plaintiff yelling at deputies, what he left out is Plaintiff was saying "Plaintiff is complying and get off of Plaintiff". no profane words, so this is misleading with intention, false. In the interrogation report, they state that "contacted Plaintiff". false, Plaintiff was in jail and it was 1am! They came into Plaintiff's cell and started grilling Plaintiff. Sanders stated that he slid on the street 10 inches, false. Plaintiff told them he was on top of Plaintiff, smashing Plaintiff's face into the street and trying to tear off Plaintiff's right arm. he wrote that the abrasion to

1 Plaintiff's left wrist was clearly a previous injury, false. Sanders was treated on the scene
2 and then transported to emergency. false. EMT took Plaintiff's blood pressure. Plaintiff
3 received no treatment and was denied medical assistance, even water, several times
4 during the long aftermath despite the EMT pleading to let them get Plaintiff to a doctor
5 for extreme high blood pressure and injuries.

6 56. All deputies clearly lied for the express purpose of covering up his own criminal conduct
7 and intimidating Plaintiff into not asserting his rights. All deputies intentionally and
8 knowingly lied about what occurred in their Report Narratives and Statements.

9 57. Deputy's narrative of what happened is an obvious fabrication designed to cover up
10 Deputy's own criminal behavior of Battering Plaintiff without any justification
11 whatsoever.

12 58. Plaintiffs physical injuries from the November 20, 2017, Incident included, but were not
13 limited to head injury and trauma, back injury, wrist injury, pain and suffering,
14 lacerations, abrasions, and to various areas of Plaintiffs body.

15 59. Plaintiffs other injuries flowing from the November 20, 2017, Incident included, but were
16 not limited to, psychological injuries, emotional distress, and humiliation; economic
17 losses including, but not limited to loss of earnings opportunities, medical expenses,
18 hospital and surgical bills, costs of counseling and loss of earnings and loss of earning
19 potential; attorneys' fees, costs of litigation and other losses according to proof at the time
20 of trial.

21 60. After November 20, 2017, Defendants began an effort to intimidate Plaintiff and to cover
22 up the November 20, 2017, Incident. Defendants wrongfully imprisoned and wrongfully
23 prosecuted Plaintiff on trumped-up criminal charges of resisting arrest upon a LASD
24 Deputy. Said criminal charges were identified in Case No. 8VW0106 as Count 1: Penal
25 Code § 148 (a)(1) - resisting arrest.

26 61. Defendants Falsified police reports, intentionally did not collect evidence, suppressed
27 evidence, destroyed evidence, lied under oath in order to falsely hold Plaintiff for
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1 prosecution of unfounded criminal charges. The Defendants further knowingly and
2 intentionally provided false testimony at trial DID NOT GO TO TRIAL. DA DROPPED
3 CHARGE THE DAY JUDGE WAS GOING TO SET TRIAL DATE. DA SAID BASED
4 ON THE EVIDENCE THEY WOULD NOT PROCEED. and in the use of force
5 interviews to cover up their unjustified beating of Plaintiff during the November 20,
6 2017, Incident.

7 62. Plaintiff suffered further damages as a result of Defendants' subsequent patently false
8 criminal charges and cover-up, in that Plaintiff incurred substantial additional legal bills
9 for his criminal defense, the cost of bail, suffering and humiliation and the deprivation of
10 personal freedoms as a result of having been under criminal charges for the
11 approximately twelve-month duration of the case.

12 63. The actions of the Defendants give rise to claims, including, but not limited to, false
13 arrest, false imprisonment, assault and battery by police SHERIFF DEPUTY OFFICER
14 DEFENDANTS, violation of the Plaintiffs 1st, 4th, 5th, 8th and 14th Amendment rights,
15 violation of the California constitution, a violation of Plaintiffs civil rights including,
16 without, limitation, violation of 42 U.S.C. § 1983, violation of the Ralph and Bane Acts,
17 unlawful use of force, coercion, intimidation, intentional infliction of emotional distress,
18 and malicious prosecution.

19 64. Commencing at or about the aforementioned dates and places, without cause or
20 justification, and acting under color of law, Defendants and each of them, intentionally
21 and maliciously deprived Plaintiff of rights secured to him by the First, Fourth, and
22 Fourteenth Amendments to the United States Constitution. Defendants subjected Plaintiff
23 to excessive and unreasonable force, a brutal beating, and an unlawful arrest, thereby
24 deprive Plaintiff of rights secured to him by the federal constitution.

25 65. COMPLIANCE WITH CALIFORNIA TORT CLAIMS ACT

26 66. Plaintiff complied with all applicable claims statutes or are excused from complying
27 therewith.

1 67. Claims against public entities in California are governed by, inter alia, the California Tort
2 Claims Act, Gov't. C. §§ 810-996.6.

3 68. Plaintiff was wrongfully charged with criminal violations between the incident date
4 described herein, November 20, 2017 and his release date of November 21, 2017 and
5 dismissal of the case on July 11, 2018.

6 69. On or about November 20, 2017, COUNTY wrongfully filed criminal charges against
7 Plaintiff in Case No. 8VW0106 as Count 1: Penal Code § 148 (a)(1) - resisting arrest,
8 which consisted of trumped-up charge of resisting OFFICER DEFENDANTS, in its
9 effort to conceal County's, LASD's and Defendant SHERIFF DEPUTY OFFICER
10 DEFENDANTS' wrongdoing.

11 70. Thus, at all times between November 20, 2017 and approximately July 11, 2018, date of
12 dismissal, the wrongful criminal charges against Plaintiff were in effect.

13 71. Accordingly, Plaintiff complied with the six-month statute of limitations on the
14 California Tort Claims Act.

15 72. Plaintiff's claim, presented to COUNTY on May 17, 2018, is timely because it was filed
16 within six months of the date of the incident, November 20, 2017.

17 73. On May 17, 2018, Plaintiff timely filed a governmental claim with regard to the causes of
18 action alleged herein. A true and correct copy of the Claim is attached hereto as exhibit
19 "1" and incorporated by this reference.

20 74. On or about May 20, 2018, Plaintiff received correspondence that the claim is being
21 investigated.

22 75. Plaintiff was assaulted and battered by Defendants IN VIOLATION OF HIS
23 CONSTITUTIONAL CIVIL RIGHTS, as stated below.

24 76. As alleged in detail herein, on or about November 20, 2017, Defendant DEPUTY
25 THIEME physically attacked Plaintiff, smashed his face into street, cracked his ribs,
26 dislocated his shoulder, restrained and handcuffed cutting his wrists to the bone and then
27 pulled him to his feet by the handcuffs and denied him water or medical attention. These
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1 intentional acts were harmful, offensive and life threatening to Plaintiff who did not
2 consent to them.

3 77. The conduct of Defendants directly and legally caused Plaintiff severe injuries and
4 required that Plaintiff be brought to a hospital for medical attention and treatment.

5 78. Plaintiff was injured in his health, strength, vitality and activity, and sustained injuries to
6 his body and mind by Defendants' assault and battery upon him. Plaintiff suffered further
7 non-economic damages to be proven at time of trial.

8 79. As a further proximate result of the acts or omissions of the aforesaid Defendants as
9 herein alleged, Plaintiff has sustained pecuniary damages in the form of medical, hospital
10 and therapist's expenses incurred. The compensatory damages sought are in an amount in
11 excess of the minimum jurisdiction of the Court and subject to proof at trial.

12 80. As a still further legal result of the conduct, acts, or omissions on the part of the
13 Defendants, Plaintiff has sustained pecuniary damages resulting from loss of income,
14 employment and employment opportunities Plaintiff could have reasonably been
15 expected to receive had he not been assaulted and battered and loss of future income as
16 well as attorney's fees, litigation costs, bail costs and such other economic damages as
17 proven at trial.

18 81. Because the acts and omissions of Defendants as described herein this complaint were
19 carried out in a deliberate, cold, callous, intentional and/or despicable manner, causing
20 injury and damage to Plaintiff as set forth above, and done with a conscious disregard of
21 Plaintiffs rights and safety, Plaintiff request the assessment of punitive damages against
22 all Defendants except the COUNTY in an amount appropriate to punish or set an
23 example of these Defendants. Due to applicable law, no punitive damages are sought
24 against Defendant COUNTY.

25 82. Defendant COUNTY is vicariously responsible for the acts of its employees, the
26 individually named and Doe defendants herein who were acting in the course and scope
27 of their employment when they caused the injury and damages to Plaintiff.
28

1 83. Defendants acted and purposely inflicted INTENTIONAL INFLICTION OF
2 EMOTIONAL DISTRESS IN VIOLATION OF PLAINTIFF'S CONSTITUTIONAL
3 CIVIL RIGHTS, as stated below.

4 84. Defendants acted and purposely FALSELY ARRESTED AND FALSE
5 IMPRISONMENT OF THE PLAINTIFF IN VIOLATION OF PLAINTIFF'S
6 CONSTITUTIONAL CIVIL RIGHTS, as stated below.

7 85. On or about November 20, 2017, Defendants, in addition to beating Plaintiff, caused the
8 unlawful detention, false arrest and false imprisonment of Plaintiff without probable
9 cause, without reasonable suspicion, without a warrant and on trumped up charges
10 manufactured to cover the beating given to Plaintiff by these deputies.

11 86. Defendants and each of them, knew that Plaintiff had not engaged in any criminal
12 wrongdoing. As a direct and proximate result of this despicable conduct exhibited by
13 Defendants in the course and scope of their employment as Police SHERIFF DEPUTY
14 OFFICER DEFENDANTS for the COUNTY, was incarcerated, kept in jail, and caused
15 to endure pain and discomfort, embarrassment and humiliation, emotional distress,
16 monetary damages, present and future. Similarly, as a direct and proximate result of this
17 despicable conduct exhibited by Defendants in the course and scope of their employment
18 as Police SHERIFF DEPUTY OFFICER DEFENDANTS for the COUNTY, Plaintiff was
19 wrongfully arrested and caused discomfort, embarrassment and humiliation, emotional
20 distress, monetary damages, present and future. The Plaintiffs civil rights under State and
21 Federal Law were violated.

22 87. As a further proximate result of the acts or omissions of the aforesaid Defendants as
23 herein alleged, Plaintiff has sustained pecuniary damages resulting from the need to
24 procure payment of bail, and to secure legal representation to clear their names. Plaintiff
25 has suffered further general and special damages according to proof at trial.

26 88. Because the acts and omissions of Defendants as described above were carried out in a
27 deliberate, cold, callous, intentional and/or unreasonable manner, causing injury and
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1 damage to Plaintiffs as set forth above, and done with a conscious disregard of Plaintiffs'
2 rights and safety, Plaintiffs request the assessment of punitive damages against these
3 Defendants in an amount appropriate to punish or set an example of these Defendants.

4 89. Defendants acted and purposely falsified documents and Defendants caused criminal
5 proceedings to be instituted against Plaintiff by falsely alleging that Plaintiffs interfered,
6 obstructed, resisted, and/or harmed peace SHERIFF DEPUTY OFFICER
7 DEFENDANTS in the lawful exercise of their duties.

8 90. Without probable cause and with malice, Defendants procured arrest warrants against
9 Plaintiff by providing knowingly false information in arrest warrant affidavits. As a
10 result, Plaintiff was arrested, and criminal charges filed. The Los Angeles COUNTY
11 Attorney's Office did not exercise independent judgment when filing criminal charges
12 against Plaintiff. Defendants made material omissions and provided false information to
13 the COUNTY Attorney.

14 91. No reasonable person under the circumstances would have believed that there were
15 grounds for causing Plaintiff to be arrested or prosecuted. Thus, defendants' malicious
16 prosecution was in violation of state and federal laws, including without limitation, the
17 Ralph Banes Acts and 42 U.S.C. § 1983.

18 92. Defendants' conduct was motivated by a malicious desire to deny Plaintiffs equal
19 protection under the law and deny him specific constitutional rights, including but not
20 limited to those under the First, Fourth, Fifth, Eighth, Thirteenth and Fourteenth
21 Amendments.

22 93. The Plaintiff was harmed. Plaintiff incurred attorney's fees and costs, lost employment
23 and/or employment opportunities, suffered emotional distress and had other general and
24 special damages according to proof at time of trial.

25 94. Defendants' conduct was a substantial factor in causing Plaintiffs harm.

26 95. The actions of Defendants were malicious, oppressive and fraudulent, carried out with a
27 conscious disregard for the rights, health and safety of the plaintiffs. Consequently,
28

1 Defendants, in their individual capacities only, are subject to punitive damages in a sum
2 according to proof at time of trial and sufficient to deter such actions in the future.

3 96. Defendants maliciously used a "legal process" to accomplish some ulterior purpose for
4 which that process was not designed or intended, or which was not the legitimate purpose
5 of the particular process employed.

6 97. Defendants knew or should have known that the complaint initiated was groundless.

7 98. Defendants used the legal process with the ulterior purpose.

8 **FIRST CAUSE OF ACTION VIOLATION OF CIVIL RIGHTS AGAINST ALL**
9 **DEFENDANTS**

10 99. Plaintiff repeats and realleges each and every allegation of paragraphs 1 through 98 above
11 as though fully set forth herein.

12 100. By reason of the aforementioned acts of Defendants, and each of them, Plaintiff was
13 compelled to secure the services of an attorney at law to redress the wrongs hereinbefore
14 mentioned and by virtue thereof Plaintiff is indebted and liable for attorneys' fees.

15 101. The aforementioned acts and omissions of Defendants were committed by each of them
16 knowingly, willfully and maliciously, with the intent to harm, injure, vex, harass and
17 oppress Plaintiff with a conscious disregard of Plaintiffs constitutional rights and by
18 reason thereof, Plaintiff seeks punitive and exemplary damages from Defendants, and
19 each of them, in an amount as proved. The facts alleged herein subject the COUNTY,
20 Police SHERIFF DEPUTY OFFICER DEFENDANTS, and the individually named
21 Defendants to civil damages for the following non-exhaustive list of civil and criminal
22 crimes: assault, battery, abuse of process, and violations of due process. In addition, the
23 facts alleged herein subject the COUNTY, and Police SHERIFF DEPUTY OFFICER
24 DEFENDANTS, and the individual SHERIFF DEPUTY OFFICER DEFENDANTS
25 involved to Civil Damages for violation of Plaintiffs state and federal Constitutional
26 Rights. The COUNTY and Police SHERIFF DEPUTY OFFICER DEFENDANTS are
27 also liable for ratifying and/or otherwise sanctioning and/or supporting the conduct of the
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1 SHERIFF DEPUTY OFFICER DEFENDANTS described herein, and/or failing to
2 implement, maintain and/or enforce the appropriate policies and procedures to prevent
3 such conduct or to remedy or rectify such conduct once it has occurred, and for allowing,
4 maintaining, and/or encouraging the Code of Silence throughout the Police SHERIFF
5 DEPUTY OFFICER DEFENDANTS' Department.

6 102. The Defendants' actions as set forth herein occurred during the course and scope of their
7 employment for the COUNTY, through the LASD, and were both intentional and
8 malicious that have been described in this complaint and incorporated herein to this claim
9 for punitive damages. . The conduct of Defendants, and each of them was willful, wanton,
10 oppressive, fraudulent, despicable, threatening, evil, intimidating and beyond that which
11 should be tolerated by a civilized society. The acts of these Defendants were carried out
12 with a conscious disregard of the likelihood of causing injury, suffering, or distress to
13 Plaintiffs, and involved reckless and callous indifference to the state and federally
14 protected rights of others. Therefore, punitive damages in a sum according to proof,
15 consistent with the net worth of these Defendants and in a sum sufficient to deter similar
16 such conduct in the future is also sought against all individual and non-municipal
17 defendants.

18 103. As a legal result of such intentional misconduct, exhibited by Defendants, Plaintiff
19 sustained injuries and damages in a sum to be ascertained according to proof. As a further
20 legal result of Defendants' intentional misconduct, Plaintiff suffered and continues to
21 suffer severe anxiety, worry, emotional distress, and mental anguish, all resulting in
22 damages in a sum to be ascertained according to proof.

23 104. As a further legal result of such misconduct, Plaintiff incurred expenses for medicines,
24 medical treatment, therapy, and/or other related expenses, attorneys' fees, litigation costs
25 and other general and special damages in a sum to be ascertained according to proof.

26 105. As a further legal result of Defendants' intentional misconduct, Plaintiff suffered
27 incidental and consequential damages in an amount according to proof.

1 106. Because the acts and omissions of Defendants were carried out in a deliberate, cold,
2 callous, intentional and/or unreasonable manner, causing injury and damage to Plaintiff as
3 set forth above, and done with a conscious disregard of Plaintiffs rights and safety,
4 Plaintiff requests the assessment of punitive damages against said Defendants, in an
5 amount appropriate to punish or set an example of said Defendants.

6 **SECOND CAUSE OF ACTION VIOLATION OF CONSTITUTIONAL RIGHT TO BE FREE**
7 **FROM UNREASONABLE AND EXCESSIVE FORCE AGAINST ALL DEFENDANTS**

8 107. Plaintiff repeats and realleges each and every allegation of paragraphs 1 through 106
9 above as though fully set forth herein.

10 108. On and before November 20, 2017, Plaintiff possessed the right, guaranteed by the Fourth
11 and Fourteenth Amendments of the United States Constitution, to be free from
12 unreasonable seizures in the form of excessive force by police SHERIFF DEPUTY
13 OFFICER DEFENDANTS acting under the color of law.

14 109. At the time Defendants assaulted and battered Plaintiff as described, Plaintiff had not
15 assaulted Defendants nor any other person, was unarmed, compliant, and helpless, and
16 the attack upon Plaintiff was unjustified and unreasonable under the circumstances and
17 constituted an excessive use of force, and a violation of his first amendment rights, as he
18 was filming the SHERIFF DEPUTY OFFICER DEFENDANTS and expressing verbal
19 disapproval of their unwarranted assault and detention upon a minor. The attack violated
20 Plaintiffs rights under the laws and Constitution of the United States, in particular the
21 First, Fourth and Fourteenth Amendment of the United States Constitution.

22 110. Defendants subjected Plaintiff to the aforementioned deprivations by either actual malice,
23 deliberate indifference or a reckless disregard of her rights under the U.S. Constitution.

24 111. Defendants acted at all times herein knowing full well that the established practices,
25 customs, procedures, and policies of the COUNTY and its LASD, would allow a
26 cover-up and allow the continued use of illegal force in violation of the Fourth
27 Amendment of the Constitution of the United States and would permit said SHERIFF
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1 DEPUTY OFFICER DEFENDANTS to justify the assault on Plaintiff by falsely
2 reporting that any injuries to Plaintiff were caused by Plaintiff resisting arrest, interfering
3 with a police investigation, or by Plaintiffs own misconduct. Said false reporting and
4 ratification of said Defendants' conduct was made with the intent to assure that people
5 like Plaintiff would be dissuaded from petitioning their grievances against the COUNTY
6 and its LASD for such misconduct so that such misconduct could instead, prevail and
7 subjugate its citizens.

8 112. As a direct and proximate result of the aforementioned acts of Defendants Plaintiff
9 suffered serious physical, psychological and emotional injuries, as well as property
10 damage and loss of his liberty and freedom, in an amount to be proven at the time of trial,
11 and that exceeds the jurisdictional amount of this Court. As a further direct and proximate
12 result of said injuries, Plaintiff suffered loss of earnings and loss of earning capacity in
13 amounts to be proven at trial.

14 113. The acts of Defendants were willful, wanton, malicious, and oppressive thereby justifying
15 the awarding of exemplary and punitive damages as to said individual defendants.

16 **THIRD CAUSE OF ACTION NEGLIGENCE AGAINST ALL DEFENDANTS**

17 114. Plaintiff repeats and realleges each and every allegation of paragraphs 1 through 113
18 above as though fully set forth herein.

19 115. On or about November 20, 2017 on the night of the subject incident (and thereafter),
20 Plaintiff was entitled to the duty of due care by Defendants and each of them.

21 116. On or about said date, Defendants, and each of them, breached the duty of due care owed
22 to Plaintiff in that defendants negligently subjected Plaintiff to injury, harm and damage.

23 117. In doing the aforementioned acts, defendants' breach of duty was negligent, and caused
24 Plaintiff to suffer emotional and mental distress, fear, anxiety, and mental anguish.

25 118. As a direct and proximate result of the foregoing, Plaintiff has suffered, and continues to
26 suffer, mental and emotional distress and is entitled to and demands damages against
27 defendants jointly and severally, including, but not limited to, general and punitive
28

1 damages, in amounts to be proven at trial.

2 **FOURTH CAUSE OF ACTION NEGLIGENT**
3 **EMPLOYMENT/RETENTION/SUPERVISION**
4 **AGAINST DEFENDANTS COUNTY AND LASD**

5 119. Plaintiff repeats and realleges each and every allegation of paragraphs 1 through 113
6 above as though fully set forth herein.

7 120. On or about November 20, 2017, the Defendants named above, as supervisors of the
8 Defendant SHERIFF DEPUTY OFFICER DEFENDANTS, knew or in the exercise of
9 due care should have known, that the individually named Defendants herein, and each of
10 them, had a propensity, character trait, and practice, while purporting to act under color of
11 law, for bigotry and/or violence, and/or dishonesty and/or prevarication.

12 121. At all times mentioned herein, Defendants, knew or in the exercise of due care should
13 have known, that the afore described traits of character, practices and propensities of
14 Defendants, and each of them, made them unfit to serve as peace SHERIFF DEPUTY
15 OFFICER DEFENDANTS and were likely to cause harm and injury to members of the
16 public, including Plaintiff.

17 122. Notwithstanding such knowledge, Defendants negligently, carelessly and recklessly,
18 hired, employed, retained and failed to properly supervise, train and control the Defendant
19 SHERIFF DEPUTY OFFICER DEFENDANTS, and each of them, inclusive, as peace
20 SHERIFF DEPUTY OFFICER DEFENDANTS and assigned said Defendants to duties
21 which enabled each of them to violate the law and LASD' written policies, including but
22 not limited to, committing police brutality, making illegal arrests, fabricating probable
23 cause and crimes, maliciously prosecuting innocent persons, using excessive force and
24 covering up repeated acts of police misconduct and crimes, all while purporting to act
25 under the color of law.

26 123. As a direct and proximate result of the foregoing, Plaintiff has been damaged as recited
27 above and demands and is entitled to the damages recited herein, including, but not
28

1 limited to, general and punitive damages, in amounts to be proven at trial.

2 124. As a further violation of Plaintiff's civil rights the Defendant SHERIFF DEPUTY
3 OFFICER DEFENDANTS, at all times relevant herein, were employed by COUNTY and
4 LASD and, in doing the acts described herein, were acting under the color and/or
5 authority of Defendants COUNTY and LASD and in the furtherance and within the scope
6 of their duties as employees and/or agents of the COUNTY and LASD.

7 125. By failing to protect or intervene in the aforementioned violations, Defendants COUNTY
8 and LASD violated Plaintiffs state and federal constitutional rights, namely the right
9 under the Fourteenth Amendment to be free from state deprivation of liberty without due
10 process of law. By failing to protect the Plaintiff from the excessive force leading to his
11 unlawful arrest and detention, Defendants, working under the color of state law, violated
12 his Fourth Amendment right to be secure in his person from unreasonable searches and
13 seizures, which is incorporated into the Fourteenth Amendment at issue here. By
14 violating Plaintiffs federal right under the Fourth Amendment, Defendants thereby
15 violated his right under the Fourteenth Amendment, applicable to states via incorporation.

16 126. The individually named Defendants all were present at the scene and being physically or
17 otherwise unrestrained, had the opportunity and duty to intervene in the constitutional
18 abuses being inflicted upon Plaintiff. By failing to intervene, the unreasonable search and
19 seizure that resulted violated the Plaintiffs Fourth Amendment rights as incorporated by
20 the Due Process Clause of the Fourteenth Amendment.

21 127. Defendants, and each of them, were deliberately indifferent to the harm that Plaintiff
22 suffered and continued to suffer as a result of the aforementioned constitutional
23 violations.

24 128. Defendants' deliberate indifference put Plaintiff in danger by causing and/or contributing
25 to the following acts or omissions:

26 129. a. Defendants placed Plaintiff in positions of danger, to wit, being brutally beaten,
27 subjecting him to excessive force, and falsely arresting him;

- 1 130. b. Defendants had the ability to prevent Responding SHERIFF DEPUTY OFFICER
2 DEFENDANTS from physically abusing Plaintiff, but recklessly and with gross
3 negligence failed to do so;
- 4 131. c. Defendants had the ability to prevent Responding SHERIFF DEPUTY OFFICER
5 DEFENDANTS from wrongfully subjecting Plaintiff to excessive force and other civil
6 rights violations and/or illegal acts, but recklessly and with gross negligence failed to do
7 so;
- 8 132. d. Defendants had the ability to prevent Responding SHERIFF DEPUTY OFFICER
9 DEFENDANTS from wrongfully subjecting Plaintiff to excessive force by battering him,
10 but recklessly and with gross negligence failed to do so;
- 11 133. e. Defendants had the ability to intervene when Responding SHERIFF DEPUTY
12 OFFICER DEFENDANTS brutally assaulted and harassed Plaintiff, but recklessly and
13 with gross negligence failed to do so:
- 14 134. f. Defendants had the ability to prevent Responding SHERIFF DEPUTY OFFICER
15 DEFENDANTS from unlawfully arresting and detaining Plaintiff, but recklessly and with
16 gross negligence failed to do so;
- 17 135. g. Defendants had the ability to prevent Responding SHERIFF DEPUTY OFFICER
18 DEFENDANTS from making incomplete and false reports and accounts of the encounter
19 with Plaintiff, but recklessly and with gross negligence failed to do so;
- 20 136. h. Defendants had the ability to provide Plaintiff and the criminal prosecutor with true
21 and complete reports and accounts of the encounter, with Plaintiff, but recklessly and
22 with gross negligence failed to do so;
- 23 137. Defendants' deliberate indifference directly and proximately caused Plaintiffs injuries as
24 alleged herein. Moreover, by failing to intervene the Department further ratified the
25 conduct of Defendant SHERIFF DEPUTY OFFICER DEFENDANTS.
- 26 138. As a direct and proximate result of the foregoing, Plaintiff was hurt and injured in his
27 health, strength, and activity, sustaining injury to his body and shock and injury to his
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1 head and person, which have caused, and will continue to cause, Plaintiff great physical,
2 mental, and emotional pain and suffering, all to his general damage in a sum which will
3 be proven at trial.

4 139. The actions of Defendants were motivated by evil motive and intent and involved
5 reckless, callous, and deliberate indifference to the federally protected rights of Plaintiff
6 entitling him to punitive damages and prejudgment interest on all sums awarded at trial.

7 FIFTH CAUSE OF ACTION MONELL CLAIM UNDER 42 U.S.C. SECTION 1983 AGAINST
8 DEFENDANTS, COUNTY, LASD AND IN CONTROL

9 140. Except as to the punitive damages' allegations, Plaintiff repeats and realleges each and
10 every allegation contained in Paragraphs 1 through 113, as if fully set forth here.

11 141. At all times relevant herein, COUNTY, LASD and IN CONTROL, inclusive were
12 supervisors and/or policy makers for the LASD, which employed organized, unlawful and
13 illegal customs and practices of excessive force and illegal searches and seizures, false
14 arrests which lacked probable cause, falsification of evidence, filing of false police
15 reports in violation of P.C. § 118.1, and the commission of perjury in carrying out their
16 mandate. Said misconduct was encouraged, tolerated and condoned by said defendants.

17 142. On the date of Plaintiffs arrest indicated above, Defendant SHERIFF DEPUTY OFFICER
18 DEFENDANTS, acting within the course and scope of their duties as peace SHERIFF
19 DEPUTY OFFICER DEFENDANTS of the LASD, deprived Plaintiff of his rights to be
20 free from unreasonable seizures and unlawful arrests as delineated herein above, and
21 thereafter in violation of Plaintiffs due process rights proceeded to falsify evidence,
22 submit a false police reports and offered perjurious testimony to Internal Affairs
23 investigators in an attempt to ensure that Plaintiffs citizen complaints would be dismissed
24 as unfounded, untrue or unworthy of a proper departmental investigation and so that
25 Plaintiff would be found guilty of battery on an OFFICER DEFENDANTS and resisting
26 arrest.

27 143. At the time of these constitutional violations by Defendant SHERIFF DEPUTY
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1 OFFICER DEFENDANTS, the COUNTY and LASD had in place, and had ratified,
2 policies, procedures, customs and practices which permitted and encouraged their
3 deputies and peace SHERIFF DEPUTY OFFICER DEFENDANTS to unjustifiably,
4 unreasonably and in violation of the Fourth and Fourteenth Amendments, to unlawfully
5 arrest persons without probable cause, and to harass and target Occupy Los Angeles
6 protestors and photographers regardless of affiliation and to allow these Defendant
7 SHERIFF DEPUTY OFFICER DEFENDANTS to engage in excessive force when
8 detaining said members of the public.

9 144. Said policies, procedures, customs and practices also called for the COUNTY and its
10 LASD not to discipline, prosecute, or objectively and/or independently investigate or in
11 any other way, deal with or respond to known incidents and complaints of excessive
12 force, false arrests, falsification of evidence, the preparation of false police reports to
13 justify such wrongful conduct, to cover-up and conceal such wrongful conduct by
14 SHERIFF DEPUTY OFFICER DEFENDANTS and/or deputies of the LASD, and for the
15 COUNTY to fail to objectively and/or independently investigate or in any other way, deal
16 with or respond to or the related claims and lawsuits made as a result of such false arrests
17 and related misconduct.

18 145. Defendant COUNTY was aware of and was deliberately indifferent to a pervasive and
19 widespread pattern and practice with the LASD of concealing known instances of
20 evidence planting, evidence tampering, perjury, falsified police reports, witness coercion,
21 excessive force, on-duty criminal acts and on-duty acts of moral turpitude. Despite said
22 knowledge, Said Defendant failed to take any reasonable measures to correct this pattern
23 and practice and as a result said COUNTY Defendant has been deliberately indifferent to
24 the civil rights violations which resulted, including those which are described in the
25 present claim.

26 146. Said policies, procedures, customs and practices called for and led to the refusal of said
27 Defendant to investigate complaints of previous incidents of false and unlawful arrests,
28

1 excessive force, the filing of false police reports to conceal such misconduct, the
2 falsification evidence and perjury and, instead, officially claim that such incidents were
3 justified and proper.

4 147. Said policies, procedures, customs and practices called for said Defendants, by means of
5 inaction and cover up, to encourage an atmosphere of lawlessness within the police
6 department and to encourage their deputies and/or police SHERIFF DEPUTY OFFICER
7 DEFENDANTS to believe that improper arrest of residents of the COUNTY of Los
8 Angeles or persons present therein, including members of minority groups, the use of
9 excessive force, the planting of evidence, the submission of false police reports, and the
10 commission of perjury was permissible and to believe that unlawful acts of falsification
11 of evidence and perjury would be overlooked without discipline or other official
12 ramifications.

13 148. Said policies, procedures, customs and practices of said Defendant COUNTY has
14 evidenced a deliberate indifference to the violations of the constitutional rights of
15 Plaintiff. This indifference was manifested by the failure to change, correct, revoke, or
16 rescind said policies, procedures, customs and practices in light of prior knowledge by
17 said Defendants and their subordinate policymakers of indistinguishably similar incidents
18 of unjustified and unreasonable unlawful arrests, use of excessive force, falsification of
19 evidence, evidence tampering, submission of false police reports and perjury.

20 149. Deliberate indifference to the civil rights of minority groups and other victims of the
21 LAPD's unlawful arrests, use of excessive force, falsified evidence, false and misleading
22 police reports and false and perjurious testimony was also evidenced by said Defendants
23 by their ignoring of the history and pattern of prior civil lawsuits alleging civil rights
24 violations, similar to those alleged herein, arising from such misconduct and the related
25 payment of judgments to such individuals.

26 150. Deliberate indifference is also evidenced by an absence of or by maintenance of an
27 inadequate system of tort claims tracking, firearms discharges tracking, use-of-force
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1 tracking, and by maintaining an inadequate system of OFFICER DEFENDANTS
2 discipline and independent and objective investigation by the COUNTY and its LASD
3 which failed to identify and investigate instances of false and unlawful arrests, excessive
4 force, falsification of evidence, submission of false police reports and perjury.

5 151. Other systemic deficiencies of said Defendants which indicated, and continue to indicate,
6 a deliberate indifference to the violations of the civil rights by the deputies and/or
7 SHERIFF DEPUTY OFFICER DEFENDANTS of the LASD include:

8 152. a. Preparation of investigative reports designed to vindicate and/or justify false and
9 unlawful arrests and excessive force;

10 153. b. Preparation of investigative reports which uncritically rely solely on the word of LASD
11 deputies and/or police SHERIFF DEPUTY OFFICER DEFENDANTS involved in
12 unlawful arrests or in the planting of evidence, and or with respect to excessive force, and
13 which systematically fail to credit testimony by non-officer witnesses;

14 154. c. Preparation of investigative reports which omit factual information and physical
15 evidence which contradicts the accounts of the SHERIFF DEPUTY OFFICER
16 DEFENDANTS involved;

17 155. d. Issuance of public statements exonerating SHERIFF DEPUTY OFFICER
18 DEFENDANTS involved in such incidents prior to the completion of investigations of
19 wrongful arrests;

20 156. e. Failure to maintain centralized department-wide system for the tracking and monitoring
21 tort claims and lawsuits alleging false arrests, excessive force, planting of evidence,
22 perjury, abuse of authority, and race-based misconduct by individual SHERIFF DEPUTY
23 OFFICER DEFENDANTS so as to identify those SHERIFF DEPUTY OFFICER
24 DEFENDANTS who engage in a pattern of abuse of police authority and police
25 misconduct.

26 157. The foregoing acts, omissions, and systemic deficiencies are policies and customs of said
27 Defendant COUNTY and such caused, permitted and/or allowed under official sanction,
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1 Defendant SHERIFF DEPUTY OFFICER DEFENDANTS, to be unaware of, or to
2 intentionally overlook and ignore, the rules and laws governing the probable cause
3 requirements for arrests, the use of excessive force, the falsification of evidence or the
4 tampering with evidence, the submission of false police reports and the commission of
5 perjury in internal Affairs investigations. The foregoing acts, omissions, and systemic
6 deficiencies are policies and customs of said Defendant and such caused, permitted and/or
7 allowed under official sanction said Defendant SHERIFF DEPUTY OFFICER
8 DEFENDANTS, to believe that arrests are entirely within the discretion of the OFFICER
9 DEFENDANTS and that improper and unlawful arrests, the use of excessive force,
10 evidence falsification, filing of false and misleading police reports, would not be
11 objectively, thoroughly and/or properly investigated, all with the foreseeable result that
12 Defendant SHERIFF DEPUTY OFFICER DEFENDANTS, would make false and
13 unlawful arrests, and falsify evidence, use excessive force, submit false and misleading
14 police reports, and commit perjury, and thereby violate the civil rights of the citizens of
15 this state with whom said SHERIFF DEPUTY OFFICER DEFENDANTS would come
16 into contact with.

17 158. As a result of the aforementioned acts, omissions, systematic deficiencies, policies,
18 procedures, customs and practices, Defendant SHERIFF DEPUTY OFFICER
19 DEFENDANTS, as specifically alleged above, unlawfully used excessive force against
20 Plaintiff, unlawfully arrested Plaintiff; assaulted and battered him, attempted to destroy
21 his property and developed and implemented a plan to falsely accuse him of resisting
22 arrest and battery upon an OFFICER DEFENDANTS in an attempt to secure his
23 prosecution, thereof.

24 159. As a direct and proximate result of the aforementioned acts of COUNTY and LASD and
25 the practices, policies, customs and procedures alleged, Plaintiff suffered damages as
26 alleged previously herein.

27 **FIFTH CAUSE OF ACTION FOR VIOLATION OF CALIFORNIA CIVIL CODE**

1 165. During all times mentioned herein, Defendants and each of them, acted separately and in
2 concert, under color and pretense of law, under color of statute, ordinance, regulations,
3 LASD practices, customs and usages of Defendants, and each of them, to engage in the
4 conduct herein mentioned and deprived Plaintiff of his rights and privileges secured to
5 him by the First, Fourth, Eighth and Fourteenth Amendments of the Constitution of the
6 United States and laws of the United States.

7 166. Defendants' conduct in violation of Plaintiffs rights under Civil Code Sections 51 and
8 52.1, and other laws of the State of California and the United States, proximately and
9 legally caused damages to Plaintiff, including, but not limited to: pain, suffering, scarring,
10 emotional distress, anger, fear, trepidation and chagrin, loss of earnings, loss of earnings
11 opportunities, loss of future earnings, loss of employment benefits, loss of wages, loss of
12 opportunities to find other employment, past, present and/or future medical,
13 psychological, psychiatric and/or hospital bills and expenses for treatment and other
14 economic and non-economic damages according to proof.

15 167. Plaintiff requests that the statutorily prescribed civil penalty of Twenty-Five Thousand
16 Dollars (\$ 25,000) per violation, per plaintiff, against each defendant pursuant to Civil
17 Code § 52.1 (a) and other applicable civil rights laws, be imposed on each Defendant
18 herein.

19 168. Plaintiffs are also entitled to attorney's fees pursuant to State and Federal civil rights
20 statutes that apply to this case, including without limitation § 52.1 (h) ("In addition to any
21 damages, injunction, or other equitable relief awarded in an action brought pursuant to
22 subdivision (b), the court may award the petitioner or plaintiff reasonable attorney's
23 fees.")

24 WHEREFORE, Plaintiff prays for the following against all Defendants:

25 1. Compensation for both economic and non-economic damages suffered and to be
26 suffered;

27 2. Medical, legal and other expenses incurred by Plaintiff;

- 1 3. Compensatory damages caused by deprivation of Plaintiff's constitutional rights;
2 4. Litigation costs;
3 5. Attorneys' fees, as allowed by statute;
4 6. Interest;
5 7. Civil Penalties as allowed by law.
6 8. Punitive damages (against the non-municipal Defendants only);
7 9. Any other relief or damages allowed by law, or statutes not set out above, and such
8 further relief as this Court deems just and proper at conclusion of trial.

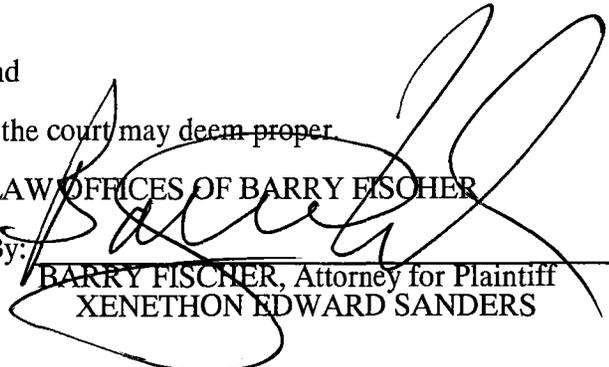
9 FOR ALL CAUSES OF ACTION

10 10. For costs of suit herein incurred; and

11 11. For such other and further relief as the court may deem proper.

12 Dated: ~~March~~ ^{April} 27, 2019

LAW OFFICES OF BARRY FISCHER

13 By: 
14 BARRY FISCHER, Attorney for Plaintiff
15 XENETHON EDWARD SANDERS