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15 MARIAH HEREFORD, MONETT HEREFORD, RYAN  
16 GADISON

17 **UNITED STATES DISTRICT COURT**  
18 **CENTRAL DISTRICT OF CALIFORNIA - EASTERN DIVISION**

19 MARIAH HEREFORD, an  
20 individual; MONETT  
21 HEREFORD, an individual; and  
22 RYAN GADISON, an individual

23 Plaintiffs,

24 v.

25 CITY OF HEMET, a municipal  
26 entity; and DOES 1 through 25,  
27 inclusive,

28 Defendants.

Case No.:

**COMPLAINT FOR:**

1. Violation of Bane Civil Rights Act (Cal. Civil Code § 52.1)
2. Violation of Ralph Civil Rights Act (Cal. Civil Code § 52.7)
3. Assault and Battery
4. Intentional Infliction of Emotional Distress
5. False Arrest and Imprisonment
6. Trespass to Chattels
7. Negligence

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- 8. Deprivation of Civil Rights Based on Excessive and Unreasonable Use of Force, 42 U.S.C. § 1983
- 9. Deprivation of Civil Rights, *Monell* Claim for Municipal Liability, 42 U.S.C. § 1983
- 10. Deprivation of Civil Rights and Equal Protection – Unlawful Detention, Seizure, and Arrest, 42 U.S.C. § 1983
- 11. Deprivation of Civil Rights Based on Violation of the First Amendment (Freedom of Speech), 42 U.S.C. § 1983

**DEMAND FOR JURY TRIAL**

1 Plaintiffs MARIAH HEREFORD, MONETT HEREFORD, and RYAN  
2 GADISON, by and through their attorneys of record, complain and allege as  
3 follows:

4 **INTRODUCTION**

5 1. This is a civil rights and state tort action that seeks general damages  
6 from the City of Hemet (“CITY”) and general and punitive damages from several  
7 individuals, for engaging in the senseless beating of two unarmed women, a man  
8 and their pets.

9 2. Hemet Police Gang Officers (“Officers”) observed an African  
10 American man, Plaintiff GADISON, driving a newer model 2020 Dodge  
11 Challenger in the opposite direction. Plaintiff GADISON was just blocks from the  
12 home of his fiancé, MARIAH HEREFORD, and her mother, MONETT  
13 HEREFORD, when Hemet Officers made a U-turn behind him. Upon Plaintiff  
14 GADISON’s arrival in the driveway, Officers immediately pulled in behind him  
15 and initiated a traffic stop and questioned him as though he was guilty of some  
16 crime. With no reasonable suspicion or probable cause, the Hemet Officers asked  
17 Plaintiff for permission to search his vehicle. When Plaintiff GADISON refused,  
18 Officers forcibly removed him from his vehicle and began to aggressively handcuff  
19 and detain him.

20 3. Plaintiff GADISON’s fiancé MARIAH HEREFORD and her mother  
21 MONETT HEREFORD exited their home and began questioning the officers about  
22 their rough and unreasonable treatment of Plaintiff GADISON, and simultaneously  
23 began filming the officers’ conduct, to which the Officers took offense. In  
24 complete disregard for the rights of Plaintiffs, and in response to the Plaintiffs’  
25 efforts to create a video record of the Officers’ misconduct, Plaintiffs’ phones were  
26 struck from their hands and both MARIAH and MONETT HEREFORD were  
27 physically struck and beaten by male Hemet Officers who physically towered over  
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1 them. Adding insult to injury, the Officers then beat the Plaintiffs’ pet dogs, despite  
2 the dogs being restrained by chains that prevented them from having the ability to  
3 reach the Officers. Plaintiffs seek substantial damages for the harm caused by  
4 Defendants’ illegal, unconstitutional, senseless, unprovoked acts of detention,  
5 seizure, assault, battery, excessive force, false imprisonment and arrest of Plaintiffs.

6 **JURISDICTION AND VENUE**

7 4. This Court has original jurisdiction pursuant to 28 U.S.C §§ 1331 and  
8 1343(a)(3)-(4) because Plaintiffs assert claims under the laws of the United States,  
9 including 42 U.S.C. § 1983, 1985, 1986, and 1988, and the First, Fourth, and  
10 Fourteenth Amendments of the United States Constitution. This Court has  
11 supplemental jurisdiction over Plaintiffs’ claims arising under state law pursuant to  
12 28 U.S.C §§1331,1343, and 1367(a), because those claims are so related to the  
13 federal claims that they form part of the same case or controversy under Article III  
14 of the United States Constitution.

15 5. Venue is proper in this Court under 28 U.S.C. § 1391(b) because  
16 Defendants reside in this district and all incidents, events, and occurrences giving  
17 rise to this action occurred in this district.

18 **PARTIES**

19 6. Plaintiff MARIAH HEREFORD (“MARIAH”) is a 29-year-old  
20 African American woman who, at all relevant times mentioned herein, resided and  
21 continues to reside in the City of Hemet, County of Riverside, State of California.

22 7. Plaintiff MONETT HEREFORD (“MONETT”) is a 54-year-old  
23 African American woman who, at all relevant times mentioned herein, resided and  
24 continues to reside in the City of Hemet, County of Riverside, State of California.  
25 MONETT is MARIAH’s mother.

26 8. Plaintiff RYAN GADISON (“GADISON”) is a 33-year-old African  
27 American male who, at all relevant times mentioned herein, resided and continues  
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1 to reside in the City of Hemet, County of Riverside, State of California. GADISON  
2 is MARIAH's fiancé.

3 9. Plaintiffs MARIAH, MONETT, and GADISON are collectively  
4 referred to in this Complaint as "PLAINTIFFS."

5 10. Defendant CITY OF HEMET ("CITY") is a California municipal  
6 corporation existing under the Constitution and laws of the State of California.  
7 CITY is a governmental subdivision of the State of California with the capacity to  
8 be sued. The Hemet Police Department ("HPD") is a local government entity and  
9 an agency of the CITY, and all actions of the HPD are the legal responsibility of the  
10 CITY. The CITY is responsible for the actions, omissions, policies, procedures,  
11 practices, and customs of its various agents and employees. At all relevant times  
12 mentioned herein, the CITY was responsible for assuring that the actions, policies,  
13 procedures, practices, and customs of its employees and agents, including the HPD  
14 and DOES 1 through 25, inclusive, complied with the laws of the United States and  
15 the State of California.

16 11. PLAINTIFFS are informed and believe, and based thereon allege, that  
17 each of DOES 1 through 25, inclusive, were engaged in law enforcement as  
18 officers, chiefs, deputies, deputy sergeants, captains, lieutenants, and/or civilian  
19 employees, agents, and representatives of the CITY, and were acting in the course  
20 and scope of their employment at all times relevant to the acts and omissions herein  
21 alleged.

22 12. PLAINTIFFS are unaware of the true names and capacities of  
23 Defendants sued herein as DOES 1 through 25, inclusive, and therefore sues these  
24 Defendants by such fictitious names. PLAINTIFFS will amend this Complaint to  
25 allege their true names and capacities when ascertained. As such, the DOE  
26 Defendants are sued in both their individual, personal, and official capacities.

27 13. All of the acts complained of herein by PLAINTIFFS were performed  
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1 by Defendants by and through their authorized agents and employees, namely  
2 DOES 1 through 25, inclusive, whom at all relevant times mentioned herein, were  
3 acting within the course, purpose, and scope of said service and/or employment  
4 with the CITY. Moreover, the CITY ratified the conduct of DOES 1 through 25,  
5 inclusive, and all of the acts complained of herein. The CITY is liable for  
6 PLAINTIFFS' injuries under California law and under the doctrine of *respondeat*  
7 *superior*. Liability under California law for public entities and public employees is  
8 based upon California Government Code §§ 815.2 and 820.

9 14. The CITY and DOES 1 through 25, inclusive, each of whom was  
10 acting as the agent of the other, are collectively referred to in this Complaint as  
11 "DEFENDANTS."

### 12 FACTUAL ALLEGATIONS

13 15. On the evening of March 31, 2021, GADISON, an African American  
14 male, was lawfully driving his 2020 Dodge Challenger vehicle down Oakland  
15 Avenue in the City of Hemet. Two Caucasian officers, members of the HPD "Gang  
16 Task Force,"<sup>1</sup> spotted GADISON driving his vehicle in the opposite direction, made  
17 a U-turn, and pulled in behind GADISON as he parked in the driveway of  
18 MARIAH and MONETT's home located on Oakland Avenue. GADISON and  
19 MARIAH are engaged to be married, with four minor children, ages three, five,  
20 eight, and nine.

21 16. GADISON is not and was not ever a member of any criminal gang or  
22 organization. There were no indicators of GADISON having any gang affiliation,  
23 either on his person or based on indicia present on, around or in his vehicle.  
24 GADISON was simply driving home after a long, full day of work. The HPD  
25 officers had no reasonable suspicion or probable cause to initiate a traffic stop of  
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27 <sup>1</sup> The City states on its website that the purpose of the task force is to "comb[at] criminal  
28 street gangs." See <https://www.hemetca.gov/278/Gang-Task-Force>.



1 GADISON. Based on the actions of the officers, the absence of reasonable  
2 suspicion or probable cause, GADISON was targeted because of the color of his  
3 skin and the fact that he was an African American male driving a “nice” car.<sup>2</sup>

4 17. With squad car lights flashing, one HPD officer approached  
5 GADISON’s vehicle and used a flashlight to peer inside, before initiating any  
6 verbal contact. One HPD officer initially claimed that GADISON had been stopped  
7 for not having a front license plate. One of the HPD officers then asked for  
8 permission to search GADISON’s vehicle. GADISON refused.

9 18. HPD officers then aggressively began to remove GADISON from his  
10 vehicle and arrest him, supposedly for having a suspended driver’s license. By this  
11 artifice, HPD officers used GADISON’s unlawful arrest as justification to  
12 confiscate and then search his vehicle. GADISON’s vehicle was ransacked and  
13 impounded, but no charges were filed against GADISON based on the search  
14 because nothing illegal was found:



25 <sup>2</sup> “Race-based traffic stops turn one of the most ordinary and quintessentially American  
26 activities into an experience fraught with danger and risk for people of color.” See e.g., David A.  
27 Harris, *Driving While Black: Racial Profiling on our Nation’s Highways*, ACLU Special Report  
28 (June 1999), available at <https://www.aclu.org/report/driving-while-black-racial-profiling-our-nations-highways>.

1           19. Prior to and during the unlawful detention and arrest of GADISON  
2 inside the driveway, MARIAH and MONETT began exercising their First  
3 Amendment rights by filming the HPD officers. As HPD officers aggressively  
4 removed GADISON from his vehicle, in an attempt to moderate the officers' use of  
5 excessive force, MARIAH and MONETT repeatedly told the HPD officers that  
6 they were being filmed. GADISON was physically pinned and handcuffed against  
7 his car, with his car door open. MARIAH and MONETT continued to remind the  
8 HPD officers that they were being filmed and that GADISON's minor children  
9 were present, panicked, crying and watching the treatment of their father.

10           20. GADISON and the two HPD officers were separated by the open  
11 driver's side door, with MARIAH and MONETT filming from the opposite side of  
12 the door. After GADISON was handcuffed, an HPD officer moved around the open  
13 door to where MARIAH stood and aggressively threatened to arrest MARIAH and  
14 her mother MONETT for "obstructing justice," stating "I will take you to jail if you  
15 don't back up!" This threat was made even though MARIAH and MONETT were  
16 separated by the driver's side door and the two officers and were not in the  
17 immediate vicinity of the arrest. Rather, both MARIAH and MONETT were on  
18 their private property, lawfully exercising their First Amendment right to film HPD  
19 officers' actions.

20           21. Then, as one HPD officers physically pushed GADISON towards a  
21 squad car, a second HPD officer knocked MONETT's phone to the ground,  
22 invoking the excuse that she had somehow interfered with GADISON's arrest  
23 despite being on the opposite side of the driver's door. In fact, the HPD officer  
24 knocked MONETT's phone to the ground in retaliation for her persistent actions in  
25 continuing to film the HPD's acts of excessive force and to verbally protest the  
26 actions as unconstitutional.

27           22. After MONETT, a 54-year-old woman, had her phone knocked to the  
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1 ground, she was man-handled, thrown up against GADISON’s vehicle, and placed  
2 in severely tightened handcuffs. MONETT’s hands were needlessly and forcefully  
3 shoved up against her back with the objective of causing pain and serious bodily  
4 injury. Over MONETT’s objection, male HPD officers engaged in an invasive full  
5 body “search and frisk,” grabbing and probing MONETT between her legs and  
6 groin area, despite the presence of female officers fully capable of conducting a less  
7 offensive or invasive search of MONETT. MONETT was ultimately arrested and  
8 placed inside a patrol car.

9 *Photo Depicting MONETT’s Unlawful Arrest*



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17 23. MARIAH stood in front of her home filming the HPD officers’ acts of  
18 excessive force, and repeatedly asking whether the HPD officers had a search  
19 warrant, as HPD officers searched GADISON’s vehicle without his permission.  
20 Observing this, a Caucasian HPD officer swiftly approached MARIAH, pushed her  
21 backward, swatted at her and struck her phone out of her hand and physically  
22 knocked her to the ground.

23 24. The HPD officer roughly grab MARIAH by her hair, yanked her head  
24 back and slammed her face against the ground, multiple times. When MARIAH  
25 pleaded for the HPD officer to let her go, his response was: “Shut your fucking  
26 mouth!” The HPD officer then hooked his fingers into the underside of MARIAH’s  
27 jaw, as if she were a fish, and yanked her upward from the ground, both choking  
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1 and restricting her airway. MARIAH wailed in agony, causing her to lose  
2 consciousness several times. While she was on the ground motionless, MARIAH  
3 was handcuffed with her hands behind her, and due to her injuries, had to be  
4 assisted to the squad car. MARIAH was hospitalized on the night of the incident  
5 and later treated and diagnosed with “closed head injury; left shoulder pain; low  
6 back pain; neck pain; [and] whiplash.”

7 25. Manhandling women was apparently not an aberration with HPD  
8 officers. A fifty-four (54) year old grandmother, a twenty-nine (29) year old  
9 mother, neither of whom posed any threat. It made no difference. All the while the  
10 children screamed and cried as they watched their mother and grandmother being  
11 beaten. The children repeatedly begged HPD officers to please stop. These  
12 heartless HPD officers were intent on treating these African American citizens as  
13 less than human. Their pleas for mercy had no effect, made no difference.



22  
23 26. MARIAH and MONETT had three beloved pets who were each  
24 attached to 4-foot chains that were tethered to their individual dog houses. The dogs  
25 barked feverishly at watching their owners being beaten, but they could not get  
26 loose from their dog houses and were outside the range of the HPD officers, who  
27 had every ability to simply avoid them. Hatefully, HPD officers approached “Blue”  
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1 and lifted him up by the collar and violently threw him to the ground. A second  
2 HPD officer used a baton to brutally beat their second dog, “Rocky,” who required  
3 veterinary treatment.

4 27. HPD officers summoned paramedics to the scene to provide  
5 emergency medical attention. MONETT and MARIAH were neither offered nor  
6 did they receive any medical attention at the scene. In contrast, one of the HPD  
7 officers claimed to have suffered a “deep tissue wound” from his attack of one of  
8 the three dogs. That officer is the only person who received medical attention after  
9 this parade of excessive force on innocent African American citizens. GADISON  
10 and MARIAH were taken to jail. MONETT was issued a citation. All this arising  
11 from HPD officers’ insistence and machinations to justify performing an otherwise  
12 illegal search of an African American man’s car, simply because he was African  
13 American.

14 28. The physical and psychological terror inflicted upon PLAINTIFFS by  
15 the HPD has and continues to cause severe, irreparable emotional distress,  
16 rendering Plaintiffs unable and/or limited in their ability to function fully and  
17 normally in their daily lives.

18 **ADMINISTRATIVE EXHAUSTION**

19 29. Prior to initiating this lawsuit, on or about September 7, 2021,  
20 MONETT and MARIAH exhausted all administrative remedies by serving notices  
21 of claims for damages to the CITY in compliance with California Government  
22 Code section 910, both of which were rejected by a matter of law.

23 30. Prior to initiating this lawsuit, on or about September 30, 2021,  
24 GADISON exhausted all administrative remedies by serving a notice of claim for  
25 damages to the CITY in compliance with California Government Code section 910,  
26 which was rejected by a matter of law.

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**FIRST CAUSE OF ACTION**

Violation of Bane Civil Rights Act

(Cal. Civil Code § 52.1)

(PLAINTIFFS Against the CITY and DOES 1 through 25, inclusive)

31. PLAINTIFFS re-allege and incorporate by reference the allegations contained in all previous paragraphs, as though fully set forth at length herein.

32. The Tom Bane Civil Rights Act protects individuals from violence or threats of violence, coercion, or intimidation by any individual, corporation, or government entity against their body or property in the exercise or enjoyment of their civil rights, including rights secured by the U.S. Constitution, the California Constitution, and state or federal laws.

33. At the time of this incident, PLAINTIFFS were engaging in their Fifth Amendment right to travel, First Amendment rights to free speech and assembly and petition, and Fourth Amendment right to be free from unlawful searches and seizures, detention, arrest, and unreasonable and excessive use of force by the HPD.

34. The CITY, through the conduct of its employees and agents, including the HPD and DOES 1 through 25, inclusive, threatened and engaged in acts of violence against PLAINTIFFS and prevented PLAINTIFFS from exercising their civil rights, including but not limited to: (a) GADISON’s Fifth Amendment right to travel; (b) racial profiling of GADISON for a pretextual traffic stop, and unlawfully searching his vehicle based on his race being African American; and (c) MARIAH and MONETT’s First Amendment right to film HPD acts of excessive force and violence and other illegal conduct occurring on MARIAH and MONETT’s property; (d) and falsely imprisoning and arresting all PLAINTIFFS, causing PLAINTIFFS to be unlawfully detained, beaten, and arrested, without reasonable suspicion or probable cause.

35. The CITY, through the conduct of its employees and agents, including

1 the HPD and DOES 1 through 25, inclusive, and with threats, intimidation, and/or  
2 coercion, caused PLAINTIFFS to reasonably believe that by exercising their civil  
3 rights, that the CITY, through its employees and agents, including the HPD and  
4 DOES 1 through 25, inclusive, would commit violence against PLAINTIFFS,  
5 including inflicting physical injury to the point of death.

6 36. The CITY, through the conduct of its employees and agents, including  
7 the HPD and DOES 1 through 25, inclusive, through its employees and agents,  
8 intended to deprive PLAINTIFFS of enjoyment of their right to travel, freely  
9 associate, and be free from unlawful searches, seizures, detention, arrest, and  
10 unreasonable and excessive use of force by the HPD.

11 37. As a direct and proximate result of the unlawful conduct of the CITY  
12 and DOES 1 through 25, inclusive, PLAINTIFFS have and will continue to suffer  
13 economic, physical, and emotional pain. PLAINTIFFS are therefore entitled to  
14 general and compensatory damages according to proof at the time of trial.

15 38. PLAINTIFFS are informed and believe and based thereon allege that  
16 the CITY and DOES 1 through 25, inclusive, and each of them by engaging in the  
17 aforementioned acts and/or in authorizing and/or ratifying such acts, engaged in  
18 willful, malicious, intentional, oppressive and despicable conduct, and acted with a  
19 conscious disregard for the rights of PLAINTIFFS, entitling PLAINTIFFS to an  
20 award of exemplary and punitive damages against all non-government entity  
21 defendants, including Defendants DOES 1 through 25, inclusive, in an amount to be  
22 determined at the time of trial.

23 39. DEFENDANTS, and each of them, are liable to PLAINTIFFS for  
24 reasonable attorneys' fees and costs of suit pursuant to California Civil Code  
25 section 52.1(i) and California Code of Civil section 1021.5.

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**SECOND CAUSE OF ACTION**

Violation of Ralph Civil Rights Act

(Cal. Civil Code § 51.7)

(PLAINTIFFS Against the CITY and DOES 1 through 25, inclusive)

40. PLAINTIFFS re-allege and incorporate by reference the allegations contained in all previous paragraphs, as though fully set forth at length herein.

41. The Ralph Civil Rights Act makes it unlawful to subject individuals to violence or intimidation by threat of violence based on race.

42. PLAINTIFFS are African American. The CITY, through the conduct of its employees and agents, including the HPD and DOES 1 through 25, inclusive, subjected PLAINTIFFS to violent conduct by, including but not limited to:

- (a) forcibly removing GADISON from his vehicle, detaining and placing him in handcuffs, and roughly pinning him against his vehicle;
- (b) swatting at MONETT, striking her phone from her hand; violently throwing her up against GADISON’s vehicle; placing her in severely tightened handcuffs; painfully shoving her hands unnaturally upward against her back with the objective of causing physical pain; having male officers needlessly and forcibly grab and probe MONETT’s vaginal area, rather than allowing a search to be performed by female officers; and roughly shoving MONETT into a squad car; and
- (c) striking MARIAH’s phone out of her hand; knocking her to the ground; roughly grabbing her hair, yanking her head back and repeatedly slamming her face against the ground while yelling “shut the fuck up!”; having an officer hook his fingers under MARIAH’s jaw to yank her up from the ground, restricting her airway, causing her to choke and lose consciousness several times; then detaining and



1           arresting MARIAH by placing her in severely tightened handcuffs,  
2           aggressively shoving her into a squad car and taking her to jail.

3           43.   The violent and intimidating conduct of the CITY and DOES 1  
4 through 25, inclusive, was substantially motivated by PLAINTIFFS’ race, as  
5 evidenced, in part, by the HPD’s racial profiling of GADISON, including  
6 pretextually stopping him for a purported traffic violation, and the HPD’s use of  
7 unreasonable and excessive force against each of the PLAINTIFFS.

8           44.   PLAINTIFFS were harmed by DEFENDANTS’ conduct, and  
9 DEFENDANTS’ conduct was a substantial factor in causing PLAINTIFFS’ harm.

10          45.   As a direct and proximate result of the unlawful conduct of  
11 DEFENDANTS, PLAINTIFFS have and will continue to suffer economic,  
12 physical, and emotional injuries. PLAINTIFFS are thus entitled to general and  
13 compensatory damages according to proof at the time of trial.

14          46.   PLAINTIFFS are informed and believe and based thereon allege that  
15 the CITY and DOES 1 through 25, inclusive, and each of them by engaging in the  
16 aforementioned acts and/or in authorizing and/or ratifying such acts, engaged in  
17 willful, malicious, intentional, oppressive and despicable conduct, and acted with a  
18 conscious disregard for the rights of PLAINTIFFS, entitling PLAINTIFFS to an  
19 award of exemplary and punitive damages against all non-government entity  
20 defendants, including Defendants DOES 1 through 25, inclusive, in an amount to be  
21 determined at the time of trial.

22          47.   DEFENDANTS, and each of them, are liable to PLAINTIFFS for  
23 reasonable attorneys’ fees and costs of suit pursuant to California Civil Code  
24 section 52.1(i) and California Code of Civil section 1021.5.

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**THIRD CAUSE OF ACTION**

Assault and Battery

(Cal. Govt. Code §§ 815.2(a), 820(a))

(PLAINTIFFS Against the CITY and DOES 1 through 25, inclusive)

48. PLAINTIFFS re-allege and incorporate by reference the allegations contained in all previous paragraphs, as though fully set forth at length herein.

49. Defendants DOES 1 through 25, inclusive, while working as police officers for the CITY and acting within the course and scope of their duties, not only intentionally physically attacked, detained, and arrested PLAINTIFFS, but also subjected PLAINTIFFS to unreasonable and excessive force despite PLAINTIFFS having no weapons and being of no threat to DEFENDANTS, or anyone else.

50. As a direct and legal result of the acts and omissions of DEFENDANTS, PLAINTIFFS suffered physical pain. PLAINTIFFS have and continue to suffer from life changing mental injuries including, but not limited to, emotional and psychological distress, and future earnings and earning capacity, the exact nature and extent of which are presently unknown to PLAINTIFFS but will be proven at the time of trial.

51. The CITY is vicariously liable for the wrongful acts of Defendants DOES 1 through 25, inclusive, under the doctrine of *respondent superior* and pursuant to California Government Code §815.2(a), which provides that a public entity is liable for the injuries caused by its employees within the scope of the employment where the employee’s act would subject him or her to liability.

52. PLAINTIFFS are informed and believe and based thereon allege that the CITY and DOES 1 through 25, inclusive, and each of them by engaging in the aforementioned acts and/or in authorizing and/or ratifying such acts, engaged in willful, malicious, intentional, oppressive and despicable conduct, and acted with a conscious disregard for the rights of PLAINTIFFS, entitling PLAINTIFFS to an

1 award of exemplary and punitive damages against all non-government entity  
2 defendants, including Defendants DOES 1 through 25, inclusive, in an amount to be  
3 determined at the time of trial.

4 **FOURTH CAUSE OF ACTION**

5 Intentional Infliction of Emotional Distress

6 (Cal. Govt. Code §§ 815.2(a), 820(a))

7 (PLAINTIFFS Against the CITY and DOES 1 through 25, inclusive)

8 53. PLAINTIFFS re-allege and incorporate by reference the allegations  
9 contained in all previous paragraphs, as though fully set forth at length herein.

10 54. The CITY is vicariously liable for the wrongful acts of Defendants  
11 DOES 1 through 25, inclusive, under the doctrine of *respondent superior* and  
12 pursuant to California Government Code §815.2(a), which provides that a public  
13 entity is liable for the injuries caused by its employees within the scope of the  
14 employment where the employee's act would subject him or her to liability.

15 55. DEFENDANTS engaged in outrageous conduct towards PLAINTIFFS  
16 so extreme that it went beyond all possible bounds of decency and that a reasonable  
17 person would regard as intolerable in a civilized community. DEFENDANTS  
18 engaged in such outrageous conduct towards PLAINTIFFS with the intention to  
19 cause, or with reckless disregard for the probability of causing, PLAINTIFFS to  
20 suffer severe emotional distress.

21 56. DEFENDANTS' outrageous conduct towards PLAINTIFFS included,  
22 among other things:

23 (a) forcibly removing GADISON from his vehicle, detaining and placing him  
24 in handcuffs, and roughly pinning him against his vehicle;

25 (b) swatting at MONETT, striking her phone from her hand; violently  
26 throwing her up against GADISON's vehicle; placing her in severely  
27 tightened handcuffs; painfully shoving her hands unnaturally upward against  
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1 her back with the objective of causing physical pain; having male officers  
2 needlessly and forcibly grab and probe MONETT’s vaginal area, rather than  
3 allowing a search to be performed by female officers; and roughly shoving  
4 MONETT into a squad car; and

5 (c) striking MARIAH’s phone out of her hand; knocking her to the ground;  
6 roughly grabbing her hair, yanking her head back and repeatedly slamming  
7 her face against the ground while yelling “shut the fuck up!”; having an  
8 officer hook his fingers under MARIAH’s jaw to yank her up from the  
9 ground, restricting her airway, causing her to choke and lose consciousness  
10 several times; then detaining and arresting MARIAH by placing her in  
11 severely tightened handcuffs, aggressively shoving her into a squad car and  
12 taking her to jail.

13 57. All of this HPD conduct occurred while four young children cried and  
14 screamed in agony, helplessly watching their mother, father and grandmother  
15 beaten and treated like animals, and their dogs beaten like their parents and  
16 grandmother. As PLAINTIFFS experienced the harm inflicted on them, they also  
17 felt helpless in protecting their children from the fear, harm and insecurity created  
18 by the spectacle of HPD officer engaging in unfettered acts of violence and  
19 excessive force.

20 58. To the extent that such outrageous conduct was perpetrated by certain  
21 DEFENDANTS, the remaining DEFENDANTS adopted and ratified the conduct  
22 with a wanton and reckless disregard of the deleterious consequences to  
23 PLAINTIFFS.

24 59. As a direct and proximate result of the unlawful conduct of  
25 DEFENDANTS, and each of them, PLAINTIFFS have and will continue to suffer  
26 special damages, including but not limited to, past and future loss of income,  
27 benefits, medical expenses, and other damages to be proven at the time of trial.

28

1           60. As a direct and proximate result of the unlawful conduct of  
2 DEFENDANTS, and each of them, PLAINTIFFS have and will continue to suffer  
3 general damages including but not limited to shock, embarrassment, physical  
4 distress and injury, humiliation, emotional distress, stress and other damages to be  
5 proven at the time of trial.

6           61. PLAINTIFFS are informed and believe and based thereon allege that  
7 the CITY and DOES 1 through 25, inclusive, and each of them by engaging in the  
8 aforementioned acts and/or in authorizing and/or ratifying such acts, engaged in  
9 willful, malicious, intentional, oppressive and despicable conduct, and acted with a  
10 conscious disregard for the rights of PLAINTIFFS, entitling PLAINTIFFS to an  
11 award of exemplary and punitive damages against all non-government entity  
12 defendants, including Defendants DOES 1 through 25, inclusive, in an amount to be  
13 determined at the time of trial.

14   **FIFTH CAUSE OF ACTION**

15   False Arrest and Imprisonment

16   (Cal. Govt. Code §§ 815.2(a), 820(a))

17           (PLAINTIFFS Against the CITY and DOES 1 through 25, inclusive)

18           62. PLAINTIFFS re-allege and incorporate by reference the allegations  
19 contained in all previous paragraphs, as though fully set forth at length herein.

20           63. The CITY is vicariously liable for the wrongful acts of Defendants  
21 DOES 1 through 25, inclusive, under the doctrine of *respondent superior* and  
22 pursuant to California Government Code §815.2(a), which provides that a public  
23 entity is liable for the injuries caused by its employees within the scope of the  
24 employment where the employee's act would subject him or her to liability.

25           64. The CITY, through the conduct of its employees and agents, including  
26 the HPD and DOES 1 through 25, inclusive, intentionally deprived PLAINTIFFS'  
27 freedom of movement by use of physical force, threats of force, and violence.  
28

1 65. The restraint, confinement, and detention of PLAINTIFFS by  
2 DEFENDANTS, and each of them, was performed without reasonable suspicion or  
3 probable cause and for an unreasonable length of time. During the unreasonable  
4 detention of PLAINTIFFS, they were prevented from leaving the location of the  
5 incident, the HPD squad vehicles, or the jail.

6 66. PLAINTIFFS were harmed by DEFENDANTS’ conduct, and  
7 DEFENDANTS’ conduct was a substantial factor in causing PLAINTIFFS’ harm.

8 67. As a direct and proximate result of the unlawful conduct of  
9 DEFENDANTS, PLAINTIFFS have and will continue to suffer economic,  
10 physical, and emotional injuries. PLAINTIFFS are thus entitled to general and  
11 compensatory damages according to proof at the time of trial.

12 68. PLAINTIFFS are informed and believe and based thereon allege that  
13 the CITY and DOES 1 through 25, inclusive, and each of them by engaging in the  
14 aforementioned acts and/or in authorizing and/or ratifying such acts, engaged in  
15 willful, malicious, intentional, oppressive and despicable conduct, and acted with a  
16 conscious disregard for the rights of PLAINTIFFS, entitling PLAINTIFFS to an  
17 award of exemplary and punitive damages against all non-government entity  
18 defendants, including Defendants DOES 1 through 25, inclusive, in an amount to be  
19 determined at the time of trial.

20 **SIXTH CAUSE OF ACTION**

21 **Trespass to Chattels**

22 **(MARIAH and MONETT Against the**  
23 **CITY and DOES 1 through 25, inclusive)**

24 69. MARIAH and MONETT re-allege and incorporate by reference the  
25 allegations contained in all previous paragraphs, as though fully set forth at length  
26 herein.

27 70. The CITY is vicariously liable for the wrongful acts of Defendants  
28



1 DOES 1 through 25, inclusive, under the doctrine of *respondent superior* and  
2 pursuant to California Government Code §815.2(a), which provides that a public  
3 entity is liable for the injuries caused by its employees within the scope of the  
4 employment where the employee’s act would subject him or her to liability.

5 71. All of the CITY’s police officers, including DOES 1 through 25,  
6 inclusive, have a duty to use reasonable care to prevent harm or injury to others and  
7 to their property. This duty includes using appropriate tactics, giving appropriate  
8 commands, giving warnings, and generally avoiding use of any force unless  
9 necessary and appropriate to the circumstances, and providing timely and  
10 reasonable medical care.

11 72. The CITY has a duty to enforce adequate training, procedure, policy,  
12 and/or discipline in regard to approaching, detaining, and interacting with suspects,  
13 civilians, and other lay persons without exercising unreasonable and excessive use  
14 of force.

15 73. MARIAH and MONETT were the lawful owners and/or guardians of  
16 two dogs named “Blue” and “Rocky.”

17 74. DEFENDANTS intentionally and recklessly interfered with MARIAH  
18 and MONETT’s use and possession of Blue and Rocky by lifting Blue up by the  
19 collar and violently throwing him to the ground and using a baton to brutally beat  
20 Rocky, to the point of requiring veterinary treatment.

21 75. MARIAH and MONETT kept and maintained their dogs physical  
22 restrained on PLAINTIFFS’ private property and at no time consented to  
23 DEFENDANTS’ interference with PLAINTIFFS’ use and possession of their dogs  
24 in the hateful acts of aggression committed by DEFENDANTS.

25 76. MARIAH and MONETT were harmed, and DEFENDANTS’ conduct  
26 was a substantial factor in causing their harm.

27 77. As a direct and proximate result of the unlawful conduct of  
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1 DEFENDANTS, PLAINTIFFS have and will continue to suffer economic and  
2 emotional injuries. PLAINTIFFS are thus entitled to general and compensatory  
3 damages according to proof at the time of trial. “[W]e uphold both the economic  
4 and emotional distress damages plaintiffs recovered for trespass to personal  
5 property arising from [defendant]’s act of intentionally striking [plaintiff’s dog]  
6 with a bat.” *Plotnik v. Meihaus*, 208 Cal. App. 4th 1590, 1608 (2012).

7 **SEVENTH CAUSE OF ACTION**

8 Negligence

9 (Cal. Govt. Code §§ 815.2(a), 820(a) and California Common Law)  
10 (PLAINTIFFS Against the CITY and DOES 1 through 25, inclusive)

11 78. PLAINTIFFS re-allege and incorporate by reference the allegations  
12 contained in all previous paragraphs, as though fully set forth at length herein.

13 79. The CITY is vicariously liable for the wrongful acts of Defendants  
14 DOES 1 through 25, inclusive, under the doctrine of *respondent superior* and  
15 pursuant to California Government Code §815.2(a), which provides that a public  
16 entity is liable for the injuries caused by its employees within the scope of the  
17 employment where the employee’s act would subject him or her to liability.

18 80. All of the CITY’s police officers, including DOES 1 through 25,  
19 inclusive, have a duty to use reasonable care to prevent harm or injury to others.  
20 This duty includes using appropriate tactics, giving appropriate commands, giving  
21 warnings, avoiding use of any force unless necessary, and providing timely and  
22 reasonable medical care.

23 81. The CITY has a duty to enforce adequate training, procedure, policy,  
24 and/or discipline in regard to approaching, detaining, and interacting with suspects,  
25 civilians, and other lay persons without exercising unreasonable and excessive use  
26 of force.

27 82. DEFENDANTS breached this duty of care and their actions and  
28

1 inactions were negligent and reckless, as evidenced, in part, by their:

- 2 a. Failure to properly and adequately assess the need to use excessive
- 3 force against PLAINTIFFS;
- 4 b. failure to monitor and record any use of force by Defendants DOES 1
- 5 through 25, inclusive;
- 6 c. failure to monitor and record any injuries specifically caused by the
- 7 use of excessive force by Defendants DOES 1 through 25, inclusive;
- 8 d. negligent use of unreasonable and excessive force against
- 9 PLAINTIFFS;
- 10 e. failure to provide prompt, timely, and reasonable medical care to
- 11 PLAINTIFFS;
- 12 f. failure to properly train and supervise employees, both professional
- 13 and non-professional, including Defendants DOES 1 through 25,
- 14 inclusive; and
- 15 g. negligent handling of evidence and witnesses.

16 83. DEFENDANTS engaged in negligent and reckless conduct, as

17 described in detail above.

18 84. PLAINTIFFS were harmed by DEFENDANTS' conduct, and

19 DEFENDANTS' conduct was a substantial factor in causing PLAINTIFFS' harm.

20 85. As a direct and proximate result of the unlawful conduct of

21 DEFENDANTS, PLAINTIFFS have and will continue to suffer economic,

22 physical, and emotional injuries. PLAINTIFFS are thus entitled to general and

23 compensatory damages according to proof at the time of trial.

24 86. PLAINTIFFS are informed and believe and based thereon allege that

25 the CITY and DOES 1 through 25, inclusive, and each of them by engaging in the

26 aforementioned acts and/or in authorizing and/or ratifying such acts, engaged in

27 willful, malicious, intentional, oppressive and despicable conduct, and acted with a

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1 conscious disregard for the rights of PLAINTIFFS, entitling PLAINTIFFS to an  
2 award of exemplary and punitive damages against all non-government entity  
3 defendants, including Defendants DOES 1 through 25, inclusive, in an amount to be  
4 determined at the time of trial.

5 **EIGHTH CAUSE OF ACTION**

6 Deprivation of Civil Rights Based on  
7 Excessive and Unreasonable Use of Force

8 (42 U.S.C. § 1983)

9 (PLAINTIFFS Against the CITY and DOES 1 through 25, inclusive)

10 87. PLAINTIFFS re-allege and incorporate by reference the allegations  
11 contained in all previous paragraphs, as though fully set forth at length herein.

12 88. PLAINTIFFS bring this claim under 42 U.S.C. § 1983 for violation of  
13 the Fourth Amendment of the U.S. Constitution, which precludes Defendants the  
14 CITY and DOES 1 through 25, inclusive, from using unreasonable and excessive  
15 force.

16 89. “The right to be free from excessive force in the context of an arrest is  
17 clearly established under the Fourth Amendment.” *Small v. McCrystal*, 708 F.3d  
18 997, 1005 (8th Cir. 2013) (citation omitted). “We analyze the excessive force  
19 claims of pretrial detainees under an objective reasonableness standard.” *Ryan v.*  
20 *Armstrong*, 850 F.3d 419, 427 (8th Cir. 2017). “Circumstances relevant to the  
21 reasonableness of the officer’s conduct include ‘the severity of the crime at issue,  
22 whether the suspect poses an immediate threat to the safety of the officers or others,  
23 and whether he is actively resisting arrest or attempting to evade arrest by flight.’”  
24 *Brown v. City of Golden Valley*, 574 F.3d 491, 496 (8th Cir. 2009) (citation  
25 omitted).

26 90. The use of force against PLAINTIFFS by DEFENDANTS was  
27 unreasonable in light of the totality of the circumstances, including but not limited  
28

1 to:

- 2 a. PLAINTIFFS were targeted, physically restrained, detained, and  
3 subjected to physical violence solely because of their race;
- 4 b. PLAINTIFFS were engaging in lawful conduct at all times relevant  
5 and were not armed with any kind of weapon, and posed no reasonable  
6 or credible threat of violence or injury to any HPD officer, nor to any  
7 other individual;
- 8 c. PLAINTIFFS were assaulted and battered by DEFENDANTS on  
9 private property;
- 10 d. DEFENDANTS forcibly removed GADISON from his vehicle, placed  
11 him in severely tightened handcuffs, and roughly pinned the front of  
12 his body against his vehicle without reasonable suspicion and/or  
13 probable cause;
- 14 e. The length of time of the physical restraint, detention, and handcuffing.

15 91. Both prior to and during PLAINTIFFS being subjected to assault and  
16 battery by DEFENDANTS, PLAINTIFFS made no aggressive movements, furtive  
17 gestures, or physical movements which would suggest to a reasonable peace officer  
18 that any of the PLAINTIFFS were armed with any kind of weapon or had the will  
19 or the ability to inflict bodily harm against any individual.

20 92. Both prior to and during PLAINTIFFS being subjected to assault and  
21 battery by DEFENDANTS, PLAINTIFFS were not actively resisting or obstructing  
22 any of the HPD officers in the performance of their duties, were not fleeing or  
23 attempting to flee from the involved HPD officers and were not undertaking any  
24 actions which would have led a reasonable peace officer to believe that  
25 PLAINTIFFS posed a risk of violence or injury to any person.

26 93. As a direct and legal result of the acts and omissions of  
27 DEFENDANTS, PLAINTIFFS have and will continue to suffer from pain and  
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1 physical injury and life changing mental injuries including, but not limited to,  
2 emotional and psychological distress, and future earnings and earning capacity, the  
3 exact nature and extent of which are presently unknown to the PLAINTIFFS but  
4 will be proven at the time of trial.

5 94. PLAINTIFFS are informed and believe and based thereon allege that  
6 the CITY and DOES 1 through 25, inclusive, and each of them by engaging in the  
7 aforementioned acts and/or in authorizing and/or ratifying such acts, engaged in  
8 willful, malicious, intentional, oppressive and despicable conduct, and acted with a  
9 conscious disregard for the rights of PLAINTIFFS, entitling PLAINTIFFS to an  
10 award of exemplary and punitive damages against all non-government entity  
11 defendants, including Defendants DOES 1 through 25, inclusive, in an amount to be  
12 determined at the time of trial.

13 95. PLAINTIFFS are entitled to and will seek reasonable attorneys' fees  
14 and costs of suit, pursuant to 42 U.S.C. § 1988.

15 **NINTH CAUSE OF ACTION**

16 Deprivation of Civil Rights Based on

17 *Monell* Claim for Municipal Liability

18 (42 U.S.C. § 1983)

19 (PLAINTIFFS Against the CITY)

20 96. PLAINTIFFS re-allege and incorporate by reference the allegations  
21 contained in all previous paragraphs, as though fully set forth at length herein.

22 97. Municipal bodies are liable for constitutional violations under 42  
23 U.S.C. § 1983 when execution of its official policy or custom deprives an  
24 individual of its rights protected under the Constitution. *See Monell v. Department*  
25 *of Social Services*, 436 U.S. 658, 694-95 (1978). Such municipal liability exists  
26 where a city fails to properly train, supervise, and discipline its employees  
27 amounting in a deliberate indifference to one's constitutional rights. *See City of*  
28



1 *Canton, Ohio v. Harris*, 489 U.S. 378 (1989); *Patzner v. Burkett*, 779 F.2d 1363,  
2 1367 (8th Cir. 1985); *Wellington v. Daniels*, 717 F.2d 932, 936 (4th Cir. 1983).

3 98. At all times relevant, Defendant the CITY had a duty to properly train,  
4 supervise, and discipline its HPD officers, including DOES 1 through 25, inclusive.  
5 The CITY failed to adequately and properly train its law enforcement officers to  
6 handle the usual and recurring situations with which they must deal, or how, when  
7 and under what circumstances lethal and nonlethal use of force is warranted, or the  
8 threat of such lethal force, and not to use excessive force. The CITY was  
9 deliberately indifferent to the obvious consequences of its failure to adequately train  
10 HPD officers.

11 99. Failure of the CITY to provide adequate training, including with regard  
12 to use of force, and threats of use of force, caused the deprivation of PLAINTIFFS'  
13 rights by the CITY. The CITY's failure to train is so closely related to the  
14 unconstitutional use of excessive force and unlawful seizure, detention, and arrest  
15 against PLAINTIFFS as to be the moving force underlying same against  
16 PLAINTIFFS.

17 100. With respect to Defendants DOES 1 through 25, inclusive, the CITY  
18 failed to properly and adequately discipline, reprimand, retrain, suspend, or  
19 otherwise penalize conduct and actions in connection with the unprovoked used of  
20 excessive force and unlawful seizure, detention, and arrest of PLAINTIFFS.

21 101. The CITY, together with policy makers and supervisors, maintained  
22 and engaged in the following unconstitutional customs, practices, and policies:

- 23 a. Use and threats of use of excessive force;
- 24 b. Providing inadequate training regarding the use of excessive force;
- 25 c. Employing and retaining peace officer individuals, such as Defendants  
26 DOES 1 through 25, inclusive, who the CITY, including the HPD, at  
27 all times material herein knew or reasonably should have known had  
28

1 dangerous propensities for abusing their authority and for using  
2 excessive force;

3 d. Inadequately supervising, training, controlling, assigning, and  
4 disciplining HPD officers, and other personnel, including Defendants  
5 DOES 1 through 25, inclusive, who the CITY, including the HPD,  
6 knew or in the exercise of reasonable care should have known had the  
7 aforementioned propensities and character traits;

8 e. Maintaining grossly inadequate procedures for reporting, supervising,  
9 investigating, reviewing, disciplining, and controlling misconduct by  
10 HPD officer, namely Defendants DOES 1 through 25, inclusive;

11 f. Failure to adequately discipline Defendants DOES 1 through 25,  
12 inclusive, regarding the magnitude of the misconduct, and other  
13 inadequate discipline that is tantamount to encouraging misconduct;  
14 and

15 g. Failure to professionally train peace officers on the proper use of  
16 nonlethal force.

17 102. By reason of the aforementioned acts and omissions, PLAINTIFFS  
18 have and will continue to suffer from pain, physical and life changing mental  
19 injuries including, but not limited to, emotional and psychological distress, and loss  
20 of future earnings and earning capacity, the exact nature and extent of which are  
21 presently unknown to the PLAINTIFFS but will be proven at the time of trial.

22 103. The CITY, together with various officials whether named or unnamed,  
23 had either actual or constructive knowledge of the deficient policies, practices and  
24 customs alleged in the paragraphs above. By perpetrating, sanctioning, tolerating,  
25 and ratifying the outrageous conduct and other wrongful acts, Defendants the CITY  
26 acted with intentional, reckless, and callous disregard for the PLAINTIFFS'  
27 constitutional rights. Furthermore, the policies, practices, and customs  
28

1 implemented, maintained, and still tolerated by the CITY were affirmatively linked  
2 to and were a significantly influential force behind the deprivation of  
3 PLAINTIFFS' civil rights, including the right to be free from excessive force and  
4 unlawful seizure, detention, and arrest.

5 104. PLAINTIFFS are entitled to and will seek reasonable attorneys' fees  
6 and costs of suit, pursuant to 42 U.S.C. § 1988.

7 **TENTH CAUSE OF ACTION**

8 Deprivation of Civil Rights and Equal Protection –

9 Unlawful Detention, Seizure, and Arrest

10 (42 U.S.C. § 1983)

11 (PLAINTIFFS Against the CITY and DOES 1 through 25, inclusive)

12 105. PLAINTIFFS re-allege and incorporate by reference the allegations  
13 contained in all previous paragraphs, as though fully set forth at length herein.

14 106. At all times relevant to the acts and omissions herein alleged,  
15 Defendants DOES 1 through 25, inclusive, were employed by the CITY as law  
16 enforcement officers and were acting under color of law and in the course and  
17 scope of their employment.

18 107. At all times relevant herein, PLAINTIFFS had a constitutionally  
19 afforded right to equal protection under the law as afforded by the Fourteenth  
20 Amendment and protected by the same and 42 U.S.C. §1983. PLAINTIFFS allege  
21 that the substantial and motivating reason for the use of excessive force and their  
22 unlawful seizure, detention, and arrest, by the CITY and DOES 1 through 25,  
23 inclusive, was because of PLAINTIFFS' race and was without any reasonable  
24 suspicion and/or probable cause that PLAINTIFFS engaged in unlawful conduct.

25 108. At all times relevant herein, PLAINTIFFS had a constitutionally  
26 afforded right against unlawful arrests not based on any reasonable suspicion and/or  
27 objective probable cause that PLAINTIFFS had committed any crime.

28

1 PLAINTIFFS allege that Defendants the CITY and DOES 1 through 25, inclusive,  
2 had no information that PLAINTIFFS had threatened or were a threat to anyone or  
3 had committed any crime. Further, DEFENDANTS had no information sufficient to  
4 establish reasonable suspicion to seize/detain PLAINTIFFS and/or probable cause  
5 to suspect that PLAINTIFFS had engaged, were engaging, or were about to engage  
6 in any crime.

7 109. PLAINTIFFS' detention, seizure, and arrest was unlawful because it  
8 was unreasonable in time and/or manner unnecessarily painful, degrading, harmful,  
9 intrusive, humiliating, prolonged, and not justified under the circumstances.  
10 DEFENDANTS unreasonably seized, detained, and arrested PLAINTIFFS in a  
11 fearsome, degrading, prolonged, intimidating, intrusive, and embarrassing manner  
12 despite no reasonable belief that PLAINTIFFS were armed, or verbally or  
13 physically resisting them, or attempting to flee or a threat of death or serious bodily  
14 harm to anyone, including Defendants DOES 1 through 25, inclusive.

15 110. As a direct and legal result of the acts and omissions of  
16 DEFENDANTS, PLAINTIFFS have and will continue to suffer from pain,  
17 physical and life changing mental injuries including, but not limited to, emotional  
18 and psychological distress, and loss of future earnings and earning capacity, the  
19 exact nature and extent of which are presently unknown to the PLAINTIFFS but  
20 will be proven at the time of trial.

21 111. PLAINTIFFS are informed and believe and based thereon allege that  
22 the CITY and DOES 1 through 25, inclusive, and each of them by engaging in the  
23 aforementioned acts and/or in authorizing and/or ratifying such acts, engaged in  
24 willful, malicious, intentional, oppressive and despicable conduct, and acted with a  
25 conscious disregard for the rights of PLAINTIFFS, entitling PLAINTIFFS to an  
26 award of exemplary and punitive damages against all non-government entity  
27 defendants, including Defendants DOES 1 through 25, inclusive, in an amount to be  
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1 determined at the time of trial.

2 112. PLAINTIFFS are entitled to and will seek reasonable attorneys’ fees  
3 and costs of suit, pursuant to 42 U.S.C. § 1988.

4 **ELEVENTH CAUSE OF ACTION**

5 Deprivation of Civil Rights Based on Violation  
6 of the First Amendment (Freedom of Speech)

7 (42 U.S.C. § 1983)

8 (MARIAH and MONETT Against the CITY  
9 and DOES 1 through 25, inclusive)

10 113. MARIAH and MONETT re-allege and incorporate by reference the  
11 allegations contained in all previous paragraphs, as though fully set forth at length  
12 herein.

13 114. At all times relevant to the acts and omissions herein alleged,  
14 Defendants DOES 1 through 25, inclusive, were employed by the CITY as law  
15 enforcement officers and were acting under color of law and in the course and  
16 scope of their employment.

17 115. At all times relevant herein, MARIAH and MONETT held and  
18 engaged in constitutionally protected freedom of speech by (a) filming the conduct  
19 of HPD officers while on PLAINTIFFS’ private property, and (b) voicing verbal  
20 objections of excessive force and officer misconduct by HPD officers. Recording  
21 governmental officers engaged in public duties is a form of speech through which  
22 private individuals may gather and disseminate information of public concern,  
23 including the conduct of law enforcement officers. *See, e.g., Glik v. Cunniffe*, 655  
24 F. 3d 78, 82 (1st Cir. 2011) (“[b]asic First Amendment principles” and federal case  
25 law “unambiguously” establish that private individuals possess “a constitutionally  
26 protected right to videotape police carrying out their duties.”); *Smith v. Cumming*,  
27 212 F. 3d. 1332, 1333 (11th Cir. 2000) (recognizing the “First Amendment right . . .

1 to photograph or videotape police conduct.”); *Fordyce v. City of Seattle*, 55 F. 3d  
2 436, 439 (9th Cir. 1995) (recognizing the “First Amendment right to film matters of  
3 public interest.”) The right to “[g]ather[] information about government officials in  
4 a form that can be readily disseminated to others serves as a cardinal First  
5 Amendment interest in protecting and promoting ‘the free discussion of  
6 governmental affairs.’” *Glik*, 655 F. 3d at 82 (citing *Mills v. Alabama*, 384 U.S.  
7 214, 218 (1966)).

8 116. The application of this right to the conduct of law enforcement officers  
9 is critically important because officers are “granted substantial discretion that may  
10 be used to deprive individuals of their liberties.” *Id.*; *Gentile v. State Bar of Nev.*,  
11 501 U.S. 1030, 1035-36 (1991) (“Public awareness and criticism have even greater  
12 importance where, as here, they concern allegations of police corruption.”). The  
13 “extensive public scrutiny and criticism” of police and other criminal justice system  
14 officials serves to “guard[] against the miscarriage of justice,” *Nebraska Press*  
15 *Association v. Stuart*, 427 U.S. 539, 560 (1976) (citing *Sheppard v. Maxwell*, 384  
16 U.S. 333, 350 (1966)), a harm that undermines public confidence in the  
17 administration of government. When police departments take affirmative steps to  
18 protect individuals’ First Amendment rights, departments “not only aid[] in the  
19 uncovering of abuses . . . but also may have a salutary effect on the functioning of  
20 government more generally.” *Glik*, 655 F.3d at 82-83. Courts have also extended  
21 First Amendment protection to recordings taken on private property, including an  
22 individual filming police activity from his or her home or other private property  
23 where an individual has a right to be present. *See Jean v. Massachusetts State*  
24 *Police*, 492 F. 3d 24 (1st Cir. 2007) (activist’s posting of a video of “a warrantless  
25 and potentially unlawful search of a private residence” on her website was entitled  
26 to First Amendment protection); *Pomykacz v. Borough of West Wildwood*, 438 F.  
27 Supp. 2d 504, 513 (D. N.J. 2006) (individual was engaging in political activism  
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1 protected by the First Amendment when she photographed police officer while  
2 officer was in police headquarters and in municipal building); *Robinson v.*  
3 *Fetterman*, 378 F. Supp. 2d 534, 541 (E.D. Pa. 2005) (individual who videotaped  
4 state troopers from private property with the owner’s permission was engaged in  
5 constitutionally protected speech). An individual’s conduct does not constitute  
6 interference if he or she expresses criticism of the police, or police activity being  
7 observed. *See City of Houston, Tex. v. Hill*, 482 U.S. 451, 461 (1987) (“[T]he First  
8 Amendment protects a significant amount of verbal criticism and challenge directed  
9 at police officers.”); *Norwell v. City of Cincinnati, Ohio*, 414 U.S. 14, 16 (1973)  
10 (“Surely, one is not to be punished for non-provocatively voicing his objection to  
11 what he obviously felt was a highly questionable detention by a police officer.”)  
12 Even foul expressions of disapproval towards police officers are protected under the  
13 First Amendment. *See, e.g., Duran v. City of Douglas, Arizona*, 904 F. 2d 1372,  
14 1377-78 (9th Cir. 1990) (individual who was “making obscene gestures” and  
15 “yell[ed] profanities” at an officer engaged in conduct that “fell squarely within the  
16 protective umbrella of the First Amendment and any action to punish or deter such  
17 speech—such as stopping or hassling the speaker—is categorically prohibited by  
18 the Constitution.”).

19 117. In response to MARIAH and MONETT engaging in protected First  
20 Amendment conduct, HPD officers brutally attacked PLAINTIFFS by:

- 21 (a) swatting at MONETT, striking her phone from her hand; violently  
22 throwing her up against GADISON’s vehicle; placing her in severely  
23 tightened handcuffs; painfully shoving her hands unnaturally upward  
24 against her back with the objective of causing physical pain; having  
25 male officers needlessly and forcibly grab and probe MONETT’s  
26 vaginal area, rather than allowing a search to be performed by female  
27 offices; and roughly shoving MONETT into a squad car; and  
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1 (b) striking MARIAH’s phone out of her hand; knocking her to the  
2 ground; roughly grabbing her hair, yanking her head back and  
3 repeatedly slamming her face against the ground while yelling “shut  
4 the fuck up!”; having an officer hook his fingers under MARIAH’s jaw  
5 to yank her up from the ground, restricting her airway, causing her to  
6 choke and lose consciousness several times; then detaining and  
7 arresting MARIAH by placing her in severely tightened handcuffs,  
8 aggressively shoving her into a squad car and taking her to jail.

9 118. DEFENDANTS engaged in the aforementioned conduct with the  
10 intent to deprive MARIAH and MONETT from exercising their First Amendment  
11 rights. As a direct and legal result of the acts and omissions of DEFENDANTS,  
12 PLAINTIFFS have and will continue to suffer from pain, physical and life changing  
13 mental injuries including, but not limited to, emotional and psychological distress,  
14 and loss of future earnings and earning capacity, the exact nature and extent of  
15 which are presently unknown to the PLAINTIFFS but will be proven at the time  
16 of trial.

17 119. PLAINTIFFS are informed and believe and based thereon allege that  
18 the CITY and DOES 1 through 25, inclusive, and each of them by engaging in the  
19 aforementioned acts and/or in authorizing and/or ratifying such acts, engaged in  
20 willful, malicious, intentional, oppressive and despicable conduct, and acted with a  
21 conscious disregard for the rights of PLAINTIFFS, entitling PLAINTIFFS to an  
22 award of exemplary and punitive damages against all non-government entity  
23 defendants, including Defendants DOES 1 through 25, inclusive, in an amount to be  
24 determined at the time of trial.

25 120. PLAINTIFFS are entitled to and will seek reasonable attorneys’ fees  
26 and costs of suit, pursuant to 42 U.S.C. § 1988.

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**PRAYER FOR RELIEF**

**WHEREFORE**, PLAINTIFFS request entry of judgement in their favor and against Defendants the CITY and DOES 1 through 25, inclusive, as follows:

1. For general and special damages according to proof;
2. For pre-judgment and post-judgment interest;
3. For punitive damages against DOES 1 through 25, inclusive;
4. For attorneys’ fees and costs as allowed by law;
5. For civil penalties as allowed by law;
6. For such other relief as the Court may deem just and proper.

DATED: March 3, 2022      Respectfully Submitted,

TONI J. JARAMILLA, A Professional Law Corp.  
ALEXANDER MORRISON + FEHR LLP

By:           /s/ Toni J. Jaramilla            
Toni J. Jaramilla  
J. Bernard Alexander, III  
John L. Schwab  
Attorneys for PLAINTIFFS

**DEMAND FOR JURY TRIAL**

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PLAINTIFFS hereby request trial by jury on all claims and issues that are so triable.

DATED: March 3, 2022      Respectfully Submitted,

TONI J. JARAMILLA, A Professional Law Corp.  
ALEXANDER MORRISON + FEHR LLP

By:           /s/ Toni J. Jaramilla            
Toni J. Jaramilla  
J. Bernard Alexander, III  
John L. Schwab  
Attorneys for PLAINTIFFS