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6 Attorneys for Defendant
7 RYAN REZENTES

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

11 TALMIKA BATES, an individual,
12 Plaintiff,

13 vs.

14 RYAN REZENTES, in his individual
15 capacity as a police officer for the CITY
OF BRENTWOOD; and DOES 1-50,
16 inclusive,
17 Defendant.

Case No. C22-01097 JST

**ANSWER TO COMPLAINT FOR
DAMAGES**

18 DEFENDANT RYAN REZENTES (Defendant) responds as follows to the Complaint for
19 Damages (Complaint) filed by Plaintiff TALMIKA BATES (Plaintiff). Defendant demands a jury
20 trial in this action.

21 **INTRODUCTION**

22 1. Defendant neither admits nor denies the allegations in Paragraphs 1 through 5, the
23 “INTRODUCTION” of Plaintiff’s Complaint, because it includes contentions and legal matters not
24 proper for admission or denial.

25 **JURISDICTION**

26 2. Defendant admits that the venue is proper as the alleged incident occurred in the City of
27 Brentwood, within the Northern District of California, as alleged in Paragraph 6. Defendant denies
28 the remaining allegations in Paragraph 6.

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PARTIES

3. Defendant neither admits nor denies the allegations in Paragraph 7 of Plaintiff’s Complaint because it includes contentions and legal matters not proper for admission or denial.

4. Defendant admits RYAN REZENTES is/was a police officer for the Brentwood Police Department, as alleged in Paragraph 8. Defendant denies the remaining allegations in Paragraph 8.

5. Defendant neither admits nor denies the allegations in paragraph 9 of Plaintiff’s Complaint because it includes contentions and legal matters not proper for admission or denial.

STATEMENT OF FACTS

6. In answering the allegations in Paragraphs 10 through 17, Defendant responds as follows: On February 10, 2020, Brentwood Police Officers were dispatched to 2465 Sand Creek Road (Ultra Beauty) for a report of grand theft. Three black female adults had stolen approximately \$10,000 in merchandise and fled the scene in a white Nissan Murano. An officer located the white Nissan Murano occupied by the three suspects and attempted to conduct a lawful traffic stop. However, the suspect vehicle failed to comply and immediately accelerated to evade apprehension. As the suspect vehicle accelerated, the suspect vehicle then intentionally rammed the officer’s marked Brentwood Police vehicle and continued to flee from the officer at a high speed of 80 mph. The suspect vehicle then proceeded to elude the officer due to his patrol vehicle suffering damage from the suspects’ intentional ramming of the patrol vehicle.

7. Officers later located the suspect vehicle in an open field near the commercial area. The suspect vehicle was unoccupied and contained three large bags containing the stolen merchandise. As a result, canine Officer Ryan Rezentos deployed the canine, utilizing a long line leash to maintain control, initiating a suspect track and search of the area. During the search, the canine, still on leash, located a person who was hiding in the bush in the field, approximately 50 feet from the beginning point of the suspect search. For officer safety purposes, Officer Rezentos issued verbal commands requesting the person exit the bush because the person had not been searched for weapons. However, as Officer Rezentos heard the person (female) requesting to remove the canine, Officer Rezentos entered the bush and removed the canine from the contact bite with the person. The person turned out to be Plaintiff Bates, who was determined to be involved in the grand theft

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1 and flight from the fleeing vehicle. Officer Rezendes immediately requested emergency medical
2 services respond and Plaintiff was subsequently transported to John Muir Hospital for further
3 medical care. Plaintiff was later convicted of several crimes arising out of this theft and incident,
4 including misdemeanor theft, as well as a misdemeanor violation of Penal Code § 148(a)(1),
5 resisting, obstructing and/or delaying a peace officer and was sentenced to custody and probation.
6 In light of these convictions, there are legal issues in this case that are potentially limited and/or
7 barred by *Heck v. Humphrey* and its progeny.

8 8. Defendant neither admits nor denies the remaining allegations in Paragraphs 10 through 17
9 of Plaintiff’s Complaint because it includes contentions and legal matters not proper for admission
10 or denial.

11 **DAMAGES**

12 9. In answering Plaintiff’s “DAMAGES” portion of the Complaint, including Paragraph 18
13 through 19, Defendant denies that Plaintiff is entitled to any damages in this matter and denies these
14 allegations because it includes contentions and legal matters not proper for admission or denial.

15 **CAUSES OF ACTION**

16 **FIRST CAUSE OF ACTION**

17 **(Fourth Amendment – Excessive Force under 42 U.S.C § 1983)**

18 **[Against Defendants Rezendes and DOES 1-50]**

19 10. In answering the allegations in Paragraphs 20 through 22, Defendant incorporates by
20 reference its responses to Paragraphs 1 through 19 of Plaintiff’s Complaint.

21 11. Except to the matters previously admitted, Defendant denies the remaining allegations in
22 Paragraphs 20 through 22 of Plaintiff’s Complaint.

23 **JURY DEMAND**

24 12. In Paragraph 23, Plaintiff demands trial by jury in this matter. Defendant demands trial by
25 jury in this matter.

26 **PRAYER**

27 13. Defendant neither admits nor denies the allegations in the “PRAYER” portion of Plaintiff’s
28 Complaint, which includes six subparts, as they include contentions and legal matters not proper

1 for admission or denial.

2 **AFFIRMATIVE DEFENSES**

3 1. AS FOR A FIRST, SEPARATE AND AFFIRMATIVE DEFENSE, Defendant alleges that
4 Plaintiff’s Complaint fails to state cognizable legal theories and/or facts sufficient to constitute
5 cognizable legal theories against Defendant.

6 2. AS FOR A SECOND, SEPARATE AND AFFIRMATIVE DEFENSE, Defendant alleges
7 that Plaintiff’s Complaint fails to state facts sufficient to support a prayer for punitive damages
8 and/or exemplary damages against any Defendant.

9 3. AS FOR A THIRD, SEPARATE AND AFFIRMATIVE DEFENSE, Defendant alleges that
10 Plaintiff had full knowledge of all the risks, dangers, and hazards, if any there were, and
11 nevertheless voluntarily and with full appreciation of the amount of danger involved in her actions
12 and the magnitude of the risk involved, assumed the risk of injuries and damages to herself.

13 4. AS FOR A FOURTH, SEPARATE AND AFFIRMATIVE DEFENSE, Defendant alleges
14 that at all times and places mentioned in Plaintiff’s Complaint, Plaintiff failed to mitigate the
15 amount of her damages, if any. The damages claimed by Plaintiff could have been mitigated by due
16 diligence on her part or by one acting under similar circumstances. Plaintiff’s failure to mitigate is
17 a bar or limit to recovery under the Complaint.

18 5. AS FOR A FIFTH, SEPARATE AND AFFIRMATIVE DEFENSE, Defendant alleges that
19 the sole proximate cause of the injuries and damages, if any, allegedly suffered by Plaintiff was the
20 negligence and fault of the Plaintiff and/or others, or on the part of any person or entity for whose
21 acts or omissions Defendant is not legally or otherwise responsible, or, in the alternative, that the
22 negligence and fault of the Plaintiff and/or others in and about the matters alleged in the Complaint
23 herein proximately contributed to the happening of the incident and to the injuries, loss and
24 damages complained of, if any there were, and said negligence on the part of Plaintiff or others
25 requires that any damages awarded to Plaintiff shall be diminished in proportion to the amount of
26 fault attached to the Plaintiff and/or others.

27 6. AS FOR A SIXTH, SEPARATE AND AFFIRMATIVE DEFENSE, Defendant alleges that
28 Plaintiff, by virtue of her own conduct and omissions, has enhanced and materially contributed to

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1 the damages, if any there may be, allegedly sustained by Plaintiff as a result of the acts or omissions
2 complained of herein.

3 7. AS FOR A SEVENTH, SEPARATE AND AFFIRMATIVE DEFENSE, Defendant alleges
4 that at all times herein mentioned, the acts complained of, if any there were, were privileged under
5 applicable federal and state statutes and/or case law.

6 8. AS FOR AN EIGHTH, SEPARATE AND AFFIRMATIVE DEFENSE, Defendant alleges
7 that at all times herein mentioned pursuant to the provisions of California Government Code
8 Sections 810 through 996.6.

9 9. AS FOR A NINTH, SEPARATE AND AFFIRMATIVE DEFENSE, Defendant alleges that
10 at all times herein mentioned, all actions taken by the Defendant (and/or any other officers named
11 herein at any time) was reasonable under the circumstances and taken under a good faith belief that
12 the actions were not unlawful and the Defendant is therefore immune under the “good faith
13 immunity” and/or qualified immunity doctrine.

14 10. AS FOR A TENTH, SEPARATE AND AFFIRMATIVE DEFENSE, Defendant alleges
15 that the Defendant shall only be responsible for damages, if any, in an amount determined pursuant
16 to and in accordance with Proposition 51 (Civil Code § 1431.2).

17 11. AS FOR AN ELEVENTH, SEPARATE AND AFFIRMATIVE DEFENSE, Defendant
18 alleges that the alleged acts or omissions of the Defendant (and/or any other officers named herein
19 at any time) was based upon the officer’s reasonable cause to believe that he had reasonable
20 suspicion to detain and/or probable cause to arrest the Plaintiff, and the Defendant used reasonable
21 force to effect the detention and/or arrest, to prevent the escape and/or overcome the resistance of
22 the Plaintiff, and for the safety of the lives of himself and others; and the Defendant is there immune
23 by virtue of the provisions of Section 836.5(a) and 836.5(b) of the Penal Code.

24 12. AS FOR A TWELFTH, SEPARATE AND AFFIRMATIVE DEFENSE, Defendant alleges
25 that only such reasonable force as was necessary and lawful under the circumstances was used by
26 the Defendant.

27 13. AS FOR A THIRTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE, Defendant
28 alleges that to the extent Plaintiff alleges or asserts matters not contained in a legally sufficient

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1 claim filed by her, this action is barred by the claims requirement set forth in California Government
2 Code § 905 et seq.

3 14. AS FOR A FOURTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE, Defendant
4 alleges that the matters complained of by Plaintiff, if committed by the Defendant, were consented
5 to by Plaintiff.

6 15. AS FOR A FIFTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE, Defendant
7 alleges that at or about the time of the alleged event, the Defendant was presented with and had in
8 their possession sufficient facts to constitution reasonable suspicion for a detention and/or probable
9 cause for the arrest of Plaintiff.

10 16. AS FOR A SIXTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE, Defendant
11 alleges that Plaintiff had failed to state a cause of action in that each cause of action as alleged
12 herein is barred by provisions of Section 312 through 362 of the California Code of Civil Procedure.

13 17. AS FOR A SEVENTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE, Defendant
14 alleges that Plaintiff has no standing to bring this civil action and/or some of the claims alleged in
15 this action.

16 18. AS FOR AN EIGHTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE, Defendant
17 alleges that there is no statutory or other basis for the attorney’s fees sought by Plaintiff.

18 19. AS FOR A NINETEENTH, SEPARATE AND AFFIRMATIVE DEFENSE, Defendant
19 alleges that the Defendant and/or its employees were acting in good faith in respect to the acts
20 and/or omissions alleged in the Complaint.

21 20. AS FOR A TWENTIETH, SEPARATE AND AFFIRMATIVE DEFENSE, Defendant
22 alleges that Plaintiff, herself, was resistive, potentially violent and/or threatening, towards the
23 Defendant peace officer(s), and the Defendant peace officer(s) acted in self-defense and/or per their
24 sworn duty, in relation to any claimed improper use of force.

25 21. AS FOR AN TWENTY-FIRST, SEPARATE AND AFFIRMATIVE DEFENSE, the
26 answering Defendant alleges that he is immune from liability herein pursuant to the absolute
27 privilege of Civil Code § 47(b).

28 22. AS FOR A TWENTY-SECOND, SEPARATE AND AFFIRMATIVE DEFENSE,

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1 Defendant alleges that the Defendant and/or its employees are immune from liability per California
2 Civil Code § 3342 as the officers and/or canine involved in this incident were searching for felony
3 grand theft and assault with a deadly weapon on a peace officer suspect(s) at the time of the
4 detention/arrest of Plaintiff, among other grounds per the statute.

5 23. AS FOR A TWENTY-THIRD, SEPARATE AND AFFIRMATIVE DEFENSE, Defendant
6 alleges that because Plaintiff was later convicted of several crimes arising out of this theft and
7 incident, including misdemeanor theft, as well as a misdemeanor violation of Penal Code §
8 148(a)(1), resisting, obstructing and/or delaying a peace officer and was sentenced to custody and
9 probation, that in light of these convictions, there are legal issues in this case that are potentially
10 limited and/or barred by *Heck v. Humphrey* and its progeny.

11 24. AS FOR A TWENTY-FOURTH, SEPARATE AND AFFIRMATIVE DEFENSE,
12 Defendant alleges that because the Complaint is couched in conclusory terms, Defendant cannot
13 fully anticipate all affirmative defenses that may be applicable to this matter. Accordingly, the right
14 to assert separate affirmative defenses, if and to the extent such affirmative defenses are applicable,
15 is hereby reserved.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Defendant prays for the following relief:

- 18 1. The Plaintiff takes nothing by way of her Complaint herein;
- 19 2. For costs of suit;
- 20 3. For attorney’s fees;
- 21 4. For such further relief as this court may deem just and proper.

22 The undersigned attests that permission in the filing of this document(s) has been obtained
23 from the signatory below which shall serve in lieu of the actual signatures on the document(s).

24 Dated: May 19, 2022

McNAMARA, AMBACHER, WHEELER,
HIRSIG & GRAY LLP

25
26 By: /s/ Noah G. Blechman
27 Noah G. Blechman
28 John J. Swafford
Attorneys for Defendant
RYAN REZENTES