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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

TIMOTHY MCCOY, an individual; KENNETH KENNEDY, an individual; ALISSA KING, an individual; Plaintiffs, v. CITY OF LAS VEGAS, a political entity; Officer JORGE CALOCA, an individual; Officer MAURICE FRAZIER an individual; Officer DAGMAWE WOLDEHAWARIAT, an individual; Officer ALBERT PALTAO, an individual; Officer JONATHAN GALLEGOS, an individual; Officer SERGIO GUZMAN, an individual, Defendants.	Case No.: 2:25-cv-361 **FIRST AMENDED COMPLAINT**

COMES NOW Plaintiffs, TIMOTHY MCCOY, KENNETH KENNEDY, and ALISSA KING, by and through their attorney, George E. Robinson of Kerr Simpson Attorneys at Law, and for his cause of action against each of the Defendants, alleges as follows:

PARTIES

1. At all relevant times mentioned herein, Plaintiff TIMOTHY MCCOY, was and is a resident of the state of Nevada.

2. At all relevant times mentioned herein, Plaintiff KENNETH KENNEDY, was and is a resident of the state of Nevada.

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3. At all relevant times mentioned herein, Plaintiff ALISSA KING, was and is a resident of the state of Nevada

4. Defendant, CITY OF LAS VEGAS is a political entity formed and operated pursuant to the Nevada Revised Statutes and at all times relevant herein.

5. Defendant CITY OF LAS VEGAS through its Division of Public Safety ("DPS") employed Defendant Officers listed below at the time of the events and, therefore, is vicariously liability for their actions

6. Defendant, Officer JORGE CALOCA, is and was at all times relevant to this Complaint, a citizen of the United States of America, and a resident of the State of Nevada.

7. Defendant, Officer MAURICE FRAZIER, is and was at all times relevant to this Complaint, a citizen of the United States of America, and a resident of the State of Nevada.

8. Defendant, Officer DAGMAWE WOLDEHAWARIAT, is and was at all times relevant to this Complaint, a citizen of the United States of America, and a resident of the State of Nevada.

9. Defendant, Officer ALBERT PALTAO, is and was at all times relevant to this Complaint, a citizen of the United States of America, and a resident of the State of Nevada.

10. Defendant, Officer JONATHAN GALLEGOS, (hereinafter referred to as "Defendant Green"), is and was at all times relevant to this Complaint, a citizen of the United States of America, and a resident of the State of Nevada.

11. Defendant, Officer SERGIO GUZMAN, (hereinafter referred to as "Defendant Green"), is and was at all times relevant to this Complaint, a citizen of the United States of America, and a resident of the State of Nevada. (Individuals named in paragraphs 6-11 known as collectively as "The Officer Defendants")

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12. Unknown Officers are unknown to Plaintiffs, who, therefore, sue said Defendants by such fictitious names. Plaintiffs allege that each named Defendant and each Defendant herein designated as a Named Unknown Officer is negligent, willfully, maliciously, contractually, vicariously or otherwise legally responsible for the events and happening herein referred to and proximately caused injury and damages to Plaintiffs herein alleged. Plaintiffs will ask leave of this court to insert the true names and capacities of such Defendants when the same have been ascertained, and will further ask leave to join said Defendants in these proceedings.

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

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

15. The acts and omissions of The Officer Defendants as set forth herein were at all material times pursuant to the actual customs, policies, practices and procedures of CITY OF LAS VEGAS.

16. At all material times, each of The Officer Defendant acted under color of the laws, statutes, ordinances, and regulations of the State of Nevada

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17. On information and belief, all The Officer Defendants are members of the CITY OF LAS VEGAS' city marshal's office. As such, they are "peace officers" of limited jurisdiction as defined by NRS § 289.150(2) and other state and local law.

FACTS COMMON TO ALL CAUSES OF ACTION

18. All of the Plaintiffs are African American, and moved from the state of Ohio to Las Vegas, Nevada.

19. MCCOY and KING are siblings.

20. KING and KENNEDY were dating at that time.

21. The Plaintiffs have family in law enforcement and the military including MCCOY and KING's aunt who was the chief of police in Cleveland, and they have always respected law enforcement.

22. The officer parties in this case are all employed by the City of Las Vegas, Department of Public Safety ("DPS") as law enforcement officers.

23. Upon information and belief, Officer Caloca, Guzman and other officers involved in this matter have had a number of complaints filed against them for excessive force and/or other misconduct in their discharge of their duties as law enforcement officers.

24. On November 11, 2023, at around 9 p.m., Plaintiffs decided to drive to the Fremont Street Experience to have dinner at a restaurant and walk around.

25. Pursuant to the report he prepared regarding this incident, at this same time, Caloca was operating as a marked patrol unit around the Fremont Street Experience at 4th St. and Fremont.

26. While conducting a person stop, Caloca noticed a black Dodge Durango ("the Durango") traveling northbound on 4th Street, and the driver "used his right hand to make gestures as if he was holding a firearm in a threatening manner" and simulated shooting Caloca with his hand.

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27. The black Dodge Durango entered the Neonopolis parking garage.

28. Close behind the Durango, the Plaintiffs were driving in a gray Hyundai and entered the same parking garage.

29. Pursuant to surveillance video, the occupants of the Durango are seen going up the elevator to the ground floor, including a black male adult with a bright colored sweater that Caloca had seen making the gun hand gesture.

30. Plaintiffs got in the same elevator shortly after and went up to the ground level from the parking structure.

31. When Plaintiffs exited the elevator on the ground floor, there was a group of The Officer Defendants waiting for them.

32. The Officer Defendants did not stop the black male adult in the colorful sweater who had actually made the hand gesture, but they stopped Plaintiffs.

33. Mistakenly, The Officer Defendants began aggressively questioning Plaintiffs about the hand gestures that they didn't make as the black male adult that made the hand gestures had come out of the elevator shortly before.

34. Plaintiffs told the officers that they did not make any hand gestures and didn't know anything about it.

35. Plaintiffs repeatedly asked what kind of car the people doing the hand gestures were in, in trying to assist the officers to identify the culprits.

36. The Officer Defendants continued to aggressively question Plaintiffs about the hand gestures that they were clueless about.

37. After speaking with The Officer Defendants, MCCOY walked away as he was watching a football game on his phone thinking that the interaction was over.

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38. As he walked away, numerous The Officer Defendants tackled MCCOY from behind, violently slammed him on the concrete, ripped out his hair, drew their firearms and tasers on him, put a knee in his back, and cuffed him.

39. KING was walking in the same group and inches away when her brother, McCOY, was violently attacked from behind by The Officer Defendants.

40. KING and KENNEDY were shocked and extremely upset that MCCOY was getting arrested as they had done nothing wrong.

41. After this excessive use of force on an innocent man, The Officer Defendants paraded MCCOY in handcuffs by hundreds of onlookers on Fremont Street.

42. KING and KENNEDY followed, understandably very upset at the situation, yelling at officers because they had wrongly battered and detained MCCOY.

43. KING recorded the incident on her phone.

44. The Officer Defendants brought MCCOY to Las Vegas Blvd. where the police car was parked and made MCCOY stand in front of the car as hundreds of onlookers watched.

45. KING and KENNEDY attempted to approach MCCOY as he stood by the police car to ask him about his condition after being battered and wrongly detained by the officers.

46. The Officer Defendants would not allow KING and KENNEDY to get close to MCCOY.

47. Another friend of theirs, a white female, who was supposed to meet with KING, KENNEDY, and MCCOY at the Fremont Street Experience, was allowed to walk right up to MCCOY and speak with him.

48. KING and KENNEDY stayed outside the "perimeter" guarded by the The Officer Defendants while the improper arrest and detention of MCCOY was taking place.

49. While outside the perimeter, KENNEDY was filming the situation.

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50. For no reason, Guzman and numerous The Officer Defendants tackled KENNEDY, violently slammed him on the concrete, ripped out his hair, put a knee in his back and cuffed him.

51. KING was close to her boyfriend, KENNEDY, when he was violently attacked by The Officer Defendants while questioning The Officer Defendants about the arrest of McCOY.

52. KENNEDY was arrested and taken to the Clark County Detention Center and imprisoned based on the false allegations of the The Officer Defendants.

53. In his Police Report, Officer JORGE CALOCA makes a number of false statements about the Plaintiffs in order to justify the The Officer Defendants' illegal behavior.

54. Upon information and belief, these false statements were made in order to convince the Las Vegas City Attorney's Office and the Clark County District Attorney's Office to file charges against the Plaintiffs.

55. On November 11, 2023, a Criminal Citation was improperly filed against MCCOY in the City of Las Vegas Municipal Court for Obstructing/False Info to Police Officer.

56. On December 8, 2023, a Criminal Complaint was improperly filed in the Las Vegas Justice Court against KENNETH KENNEDY for Battery on a Police Officer.

57. Plaintiffs had to retain counsel to defend against the charges.

58. The Complaint in the Las Vegas Justice Court against KENNEDY was dismissed on or about July 17, 2024, after prosecutors properly realized that the charge was bogus.

59. The Complaint in the Las Vegas Municipal Court was dismissed on or about September 12, 2024, after prosecutors properly realized that the charge was bogus.

FIRST CLAIM FOR RELIEF
(Violation of Constitutional Rights 42 U.S.C. §1983)

60. Plaintiffs incorporate herein by reference the allegations contained above as though fully set forth herein. The Officer Defendants at all times herein were action under the color of law because each was action as a uniformed police officer and acting pursuant to that authority.

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61. The acts by The Officer Defendants, violated the Plaintiffs' right to be free from unreasonable force and unlawful arrest, in violation of the Fourth Amendment, because each Defendants used excessive force upon Plaintiffs by punching them, striking them, throwing them to the ground, pulling out their hair, etc. Additionally, Defendants lacked probable cause to arrest Plaintiffs.

62. Defendant CITY OF LAS VEGAS was the principal or employer of The Officer Defendants at the time of the events and, therefore, is vicariously liability for their actions.

63. As a direct and proximate result of the acts of The Officer Defendants, Plaintiffs endured pain and further mental suffering, and he was deprived of his constitutional rights all in excess of SEVENTY-FIVE THOUSAND DOLLARS ($75,000.00).

64. Plaintiffs are entitled to compensatory and exemplary damages resulting from the violation of the aforementioned rights under 42 U.S.C. § 1983 all in excess of SEVENTY-FIVE THOUSAND DOLLARS ($75,000.00), because the acts of The Officer Defendants, were done maliciously and with conscious and reckless disregard for whether the rights and safety of the Plaintiffs and others would be violated by their acts and/or omissions.

65. Plaintiffs have been forced to pursue this action in search of justice and to enforce the provisions of 42 U.S.C. § 1983 and is therefore entitled to be awarded reasonable attorney's fees pursuant to 41 U.S.C. § 1988 in excess of SEVENTY-FIVE THOUSAND DOLLARS ($75,000.00).

SECOND CLAIM FOR RELIEF

(Monell Claim/Violation of Constitutional Rights against CITY OF LAS VEGAS)

66. Plaintiffs incorporate herein by reference the allegations contained above as though fully set forth herein.

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67. CITY OF LAS VEGAS is liable under *Monell v. Department of Social Services*, 436 U.S. 658 (1978), for its policies, customs, and failure to train or supervise the City Marshals, which have directly caused and perpetuated these violations.

68. The unconstitutional actions of the individual Defendants, as described above, were approved, tolerated, and/or ratified by policy-making officials of CITY OF LAS VEGAS. Plaintiffs are informed and believe, and thereupon alleges, the details of this incident have been revealed to the authorized policy makers within CITY OF LAS VEGAS, and that such policy makers have direct knowledge of the fact that the punching and beating of the Plaintiffs was not justified but rather represented an unconstitutional display of unreasonable and excessive force. Notwithstanding this knowledge, the authorized policy makers within CITY OF LAS VEGAS have approved of The Officer Defendants' beating, false declaration, and arrest of Plaintiffs. By so doing, the authorized policy makers within CITY OF LAS VEGAS have shown affirmative agreement with the individual Defendant officers' actions, and have ratified the unconstitutional acts of the individual Defendants.

69. Defendant CITY OF LAS VEGAS's aforementioned customs, policies, practices, and procedures, as well as Defendant CITY OF LAS VEGAS's unconstitutional approval, ratification and toleration of the wrongful conduct of the individual Defendants, were a moving force and/or proximate cause of the deprivations of Plaintiffs' clearly established and well-settled constitutional rights in violation of 42 U.S.C. § 1983, as set forth above.

70. Defendant CITY OF LAS VEGAS was the principal or employer of The Officer Defendants at the time of the events and, therefore, is vicariously liability for their actions.

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

72. As a direct and proximate result of the unconstitutional actions, omissions, customs, policies, practices, and procedures of Defendants CITY OF LAS VEGAS and The Officer Defendants, Plaintiffs sustained serious and permanent injuries and are entitled to damages, penalties, costs and attorney fees as set forth herein, and punitive damages against The Officer Defendants in their individual capacities in a sum in excess of SEVENTY-FIVE THOUSAND DOLLARS ($75,000.00).

THIRD CLAIM FOR RELIEF
(Assault and Battery)

73. Plaintiffs incorporate herein by reference the allegations contained above as though fully set forth herein.

74. That The Officer Defendants made intentional, unlawful, and harmful contact when each punched, tackled, ripped out the hair of, threw to the ground and choked Plaintiffs MCCOY and KENNEDY.

75. That Plaintiffs MCCOY and KENNEDY apprehended each of The Officer Defendants' harmful contact immediately prior to each time such unlawful contact was made with the body of Plaintiffs MCCOY and KENNEDY.

76. Defendant CITY OF LAS VEGAS was the principal or employer of The Officer Defendants at the time of the events and, therefore, is vicariously liability for their actions.

77. That as a direct and proximate cause of the assault and battery described above, Plaintiffs MCCOY and KENNEDY have suffered physical and emotional injuries, pain and suffering, all to his damage and each of them in an amount in excess of SEVENTY-FIVE

THOUSAND DOLLARS ($75,000.00) and has also incurred medical treatment all to his damage in an amount in excess of SEVENTY-FIVE THOUSAND DOLLARS ($75,000.00).

FOURTH CLAIM FOR RELIEF
(Intentional Infliction of Emotional Distress)

78. Plaintiffs incorporate herein by reference the allegations contained above as though fully set forth herein.

79. Plaintiffs were legally and lawfully upon The Fremont Street Experience premises.

80. That Plaintiffs MCCOY and KENNEDY were assaulted without provocation or reasonable basis when they were punched, tackled, ripped out the hair of, threw to the ground and choked by The Officer Defendants.

81. KING was walking in the same group and inches away when her brother, McCOY, was violently attacked from behind by The Officer Defendants.

82. KING was close to her boyfriend, KENNEDY, when he was violently attacked by The Officer Defendants while questioning The Officer Defendants about the arrest of McCOY.

83. KING directly witnessed this violent attacks of her brother and boyfriend by officers.

84. The Officer Defendants' use of force was extreme and outrageous.

85. This use of force caused Plaintiffs to suffer emotional distress and was done intentionally and maliciously.

86. Defendant CITY OF LAS VEGAS was the principal or employer of The Officer Defendants at the time of the events and, therefore, is vicariously liability for their actions.

87. As a direct and proximate result of The Officer Defendants' intentional infliction of emotional distress upon Plaintiffs, they have incurred special and general damages in an amount in excess of SEVENTY-FIVE THOUSAND DOLLARS ($75,000.00) and is further entitled to punitive damages.

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88. That as a direct result of the acts and omissions of the Defendants, and each of them, Plaintiffs were caused to suffer physical and mental injury, pain and suffering, and severe emotional distress and other related costs, medical, and lost wages, including but not limited to attorney fees in excess of SEVENTY-FIVE THOUSAND DOLLARS ($75,000.00).

89. That as a result of these injuries, Plaintiffs have been required to engage in medical treatment and other persons to care and treat him, all to his damage in excess of SEVENTY-FIVE THOUSAND DOLLARS ($75,000.00) and will continue to incur future medical expenses in excess of SEVENTY-FIVE THOUSAND DOLLARS ($75,000.00).

90. The acts, conduct and behavior of The Officer Defendants, and each of them, were performed knowingly and intentionally, oppressively and maliciously, by reason of which Plaintiffs are entitled to punitive damages against The Officer Defendants in a sum in an amount in excess of SEVENTY-FIVE THOUSAND DOLLARS ($75,000.00).

FIFTH CAUSE OF ACTION
(False Imprisonment/False Arrest)

91. Plaintiffs reallege and incorporate by reference each and every allegation contained above as if fully set forth herein.

92. Plaintiffs McCOY and KENNEDY were detained, arrested and had their personal liberty and freedom taken by The Officer Defendants.

93. The Officer Defendants intended to detain, arrest, confine or restrict the movements of the Plaintiffs McCOY and KENNEDY.

94. Said actions by The Officer Defendants were taken under the under the probable imminence of force, which can include physical force, threats, or other coercive means.

95. The Officer Defendants' acts constituted an unlawful violation of the personal liberty of another, and consisted in confinement or detention without sufficient legal authority.

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96. This action for false imprisonment is based on the common law tort and statutory violation of NRS § 200.460.

97. Defendant CITY OF LAS VEGAS was the principal or employer of The Officer Defendants at the time of the events and, therefore, is vicariously liability for their actions.

98. As a result of The Officer Defendants acts, Plaintiffs McCOY and KENNEDY sustained physical injury, emotional distress and incurred nominal damages for the violations of his civil rights in an amount to be proven at trial but exceeding an aggregate of $1,000,000.

99. The acts of The Officer Defendants were taken with oppression, fraud or malice and/or their conduct was motivated by evil motive or intent, or involved reckless or callous indifference to the federally protected rights of others, therefore Plaintiffs MCCOY and KENNEDY seek punitive damages against The Officer Defendants.

100. Plaintiff is entitled to attorney's fees, costs of suit, expert fees and interest.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of them, as follows as to the Causes of Action where applicable as follows:

1. for compensatory damages, in an amount in excess of SEVENTY-FIVE THOUSAND DOLLARS ($75,000.00);
2. for special damages for medical expenses in an amount in excess of SEVENTY-FIVE THOUSAND DOLLARS ($75,000.00);
3. for punitive damages where applicable against The Officer Defendants (Not the CITY OF LAS VEGAS) in an amount in excess of SEVENTY-FIVE THOUSAND DOLLARS ($75,000.00);
4. for costs of suit incurred herein;

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5. for reasonable attorney fees and costs of suit, including interest at the highest allowable rate, pursuant to 41 U.S.C. § 1988;

6. and for such other and further relief as this Court deems just and proper.

Dated this 21st day of April, 2025.

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/s/ George E. Robinson

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