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10 ERIN MARIE COWSER

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 FOR THE COUNTY OF SAN BERNARDINO, UNLIMITED JURISDICTION

13 ERIN MARIE COWSER, an individual,
14
15 Plaintiff,

16 vs.

17 CITY OF SAN BERNARDINO, a municipal
18 entity; OFFICER JACKSON TUBBS, an
19 individual; OFFICER CYNTHIA GUILLEN,
20 an individual; and DOES 1 to 25, inclusive,
21
22 Defendants.

CASE NO.

**COMPLAINT FOR DAMAGES AND
OTHER RELIEF:**

1. **Violation of Bane Civil Rights Act (Cal. Civil Code § 52.1);**
2. **Violation of Ralph Civil Rights Act (Cal. Civil Code § 51.7);**
3. **Assault and Battery;**
4. **Negligence**

DEMAND FOR JURY TRIAL

23
24 **INTRODUCTION**

25 1. This is a civil rights and state tort action that seeks compensatory damages from
26 DEFENDANT CITY OF SAN BERNARDINO ("CITY") generally and punitive damages from
27 DEFENDANT OFFICERS JACKSON TUBBS, CYNTHIA GUILLEN, and DOES 1-25,
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1 inclusive, ("DEFENDANTS," collectively) for engaging in a brutal, unprovoked assault and
2 false arrest of PLAINTIFF ERIN MARIE COWSER, a 110-lb, seventeen-year-old juvenile.

3 2. Plaintiff was a victim of an assault by other juveniles who attacked her inside a Food 4
4 Less store. Those juveniles were finally ejected from the store by the security guards. Plaintiff
5 went outside and was speaking to her friend when Defendant Officer Tubbs, without warning,
6 came up behind her and violently snatched her up by her Sponge Bob Square Pants backpack
7 pinning her arms behind her back. Tubbs proceeded to roughly dragged her across the parking
8 lot and pushed her against the closed patrol car door. He gave Plaintiff, the victim of the assault
9 inside the Food 4 Less, no explanation as to why he was detaining her. Plaintiff was unarmed,
10 posed no threat, committed no crime, kept her hands behind her back the entire time and did not
11 resist arrest. Nevertheless, Officer Tubbs, while holding Plaintiff's arms behind her back and
12 without warning, violently body-slammed her face-first onto the asphalt pavement. While
13 Plaintiff was handcuffed and unconscious, Officer Tubbs then lifted her limp body up from
14 behind and dropped her face-first onto the metal floor sill of his patrol car as Officer Guillen
15 looked on.

16 3. Defendants' conduct resulted in Plaintiff suffering a traumatic brain injury with loss of
17 consciousness and memory, a facial laceration requiring sutures and permanent scarring and
18 discoloration, a wrist injury requiring splinting, a back strain, and numerous abrasions and
19 bruises all over her body. Officers arrested Plaintiff without probable cause and charged her
20 with misdemeanor offenses that were later dismissed. The entire incident was captured on body-
21 worn camera and a cell phone video, which went viral on news broadcasts across the country and
22 social media.

23 4. Officers were caught on body-worn videos covering up their misconduct by repeatedly
24 lying to several people including Plaintiff's mother, grandmother, and aunt by stating she was
25 injured by juveniles who attacked her at the Food 4 Less. The San Bernardino Police
26 Department put out a press release denying the cover-up. However, during their use of force
27 investigation, Officer Tubbs admitted lying about how Plaintiff was injured, yet the police
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1 department, never corrected the press release that contained the false narrative to the public.

2 5. Defendants' conduct violated Plaintiff's rights under the California Constitution and
3 statutory law, constitutes assault, battery, negligence, and statutory civil rights violations under
4 California Civil Code sections 52.1 (Bane Civil Rights Act) and 51.7 (Ralph Civil Rights Act).

5
6 **JURISDICTION AND VENUE**

7 5. This Court has general jurisdiction to hear Plaintiff's state-law claims.

8 6. Venue is proper in this Court pursuant to section 395(a) of the California Code of
9 Civil Procedure because the alleged unlawful acts and omissions occurred in San Bernardino
10 County, California.

11
12 **PARTIES**

13 7. **Plaintiff** ERIN MARIE COWSER is a female Black/African American individual and
14 a resident of San Bernardino County, California. At all relevant times, Plaintiff at the time was a
15 seventeen-year-old juvenile who had recently graduated from high school on May 29, 2025.

16 8. **Public Entity Defendant** CITY OF SAN BERNARDINO ("CITY") is a municipal
17 corporation organized and existing under the laws of the State of California and is responsible
18 for the policies, customs, practices, training, supervision, and conduct of the San Bernardino
19 Police Department ("SBPD") and its officers. SBPD is a department of the CITY and at all
20 relevant times employed the individual officer defendants. The CITY is vicariously liable under
21 California Government Code § 815.2 for the tortious conduct of its employees acting within the
22 scope of their employment.

23 9. **Individual Defendants:** At all relevant times, Officer Jackson Tubbs (Badge
24 #51366), Officer Cynthia Guillen (Badge #51604), and DOES 1-25 were law enforcement
25 officers employed by the CITY and the SBPD, acting under the color of law within the course
26 and scope of their duties. Defendants Tubbs, Guillen, and DOES 1-25 were acting with the
27 complete authority and ratification of their principal, Defendant CITY.
28



1 10. Plaintiff is presently unaware of the true names and capacities of DOES 1-25 and
2 will amend this Complaint when their identities are ascertained.

3 11. At all times mentioned herein, Defendant CITY had a legal duty to oversee and
4 supervise the hiring, conduct, and employment of Defendants DOES 1-25.

5 12. All of the acts complained of herein by Plaintiff were performed by Defendants by
6 and through their authorized agents and employees, namely Defendants Tubbs, Guillen, and
7 DOES 1-25, who at all relevant times herein were acting within the course, purpose, and scope
8 of said service and/or employment. Moreover, Defendant CITY ratified the conduct of
9 Defendants Tubbs, Guillen, and DOES 1-25, and all of the acts complained of herein.

10 13. Defendants Officers Tubbs and Guillen are sued in their individual and official
11 capacities under California law.

12 14. Plaintiff is informed and believes, and based thereon alleges, that each of the
13 Defendants Officer Tubbs, Officer Guillen, and DOES 1-25, were engaged in law enforcement
14 as officers, sergeants, and/or civilian employees, agents and representatives of Defendant CITY,
15 duly employed by the San Bernardino Police Department, who were acting in the course and
16 scope of their employment at all times relevant to the acts and omissions herein alleged. Each
17 Defendant acted in all respects pertinent to this action as the agent of the other Defendants,
18 carried out a joint scheme or policy in all respects pertinent hereto, and the act of each Defendant
19 is legally attributable to the other Defendants. Each defendant, including DOES 1-25 inclusive,
20 are collectively referred to as "DEFENDANTS."

21 15. Plaintiff is ignorant of the true names and capacities of DEFENDANTS sued herein
22 as DOES 1-25, inclusive, and therefore sues these DEFENDANTS by such fictitious names.
23 Plaintiff will amend this Complaint to allege their true names and capacities when ascertained.
24 As such, the individual DOE DEFENDANTS are sued in both their individual and official
25 capacities under California law.

26 16. In doing the acts and failing and omitting to act as hereinafter described,
27 DEFENDANTS DOE 1-25 were acting on the implied and actual permission and consent of the
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1 San Bernardino Police Department.

2 17. All DEFENDANTS who are natural persons, including Defendants Officer Tubbs,
3 Officer Guillen, and DOES 1-25 are sued individually and/or in their official capacity as officers,
4 sergeants, supervisors, and/or civilian employees, agents, and representatives for the CITY.

5 18. DEFENDANTS are liable for Plaintiff's injuries under California law and under the
6 doctrine of *respondeat superior*. Liability under California law for public entities and public
7 employees is based upon California Government Code §§ 815.2 and 820.

8 19. At all times mentioned herein, each and every DEFENDANT was the agent of each
9 and every other DEFENDANT and had the legal duty to oversee and supervise the hiring,
10 conduct, and employment of each and every DEFENDANT herein.

11
12 **EXHAUSTION OF ADMINISTRATIVE REMEDIES AND TIMELINESS OF**
13 **PLAINTIFF'S COMPLAINT**

14 20. On November 5, 2025, Plaintiff filed a timely claim for damages with the CITY in
15 substantial compliance with Cal. Gov. Code § 910.

16 21. The CITY did not respond to the claim after 45 days, so the claim is considered
17 deemed denied by operation of law pursuant to Cal. Gov. Code § 945.6, permitting Plaintiff to
18 proceed with this civil action.

19 **FACTUAL ALLEGATIONS**

20 22. On May 21, 2025, at approximately 2:30 p.m., Plaintiff, a female, 5'2, 110 lbs.,
21 seventeen-year-old child, was lawfully inside the Food 4 Less grocery store located at 555 W.
22 2nd Street, San Bernardino, California.

23 23. A group of rogue teenagers entered and starting beating up other teenagers inside the
24 store. Security guard Gilberto Rodriguez witnessed approximately twelve teenagers assaulting
25 one Polynesian teenager and he deployed pepper spray to stop the attack.

26 24. Plaintiff was also assaulted by the group. The security guard deployed pepper spray
27 on the assailant but some of it also got into Plaintiff's eyes. The SBPD were called and security
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1 was finally able to eject the troublemakers who fled before the police arrived. However, store
2 surveillance cameras captured one of the juveniles punching Plaintiff in the face just before
3 leaving the store and fleeing.

4 25. San Bernardino Police Department officers, including Defendants Tubbs and
5 Guillen, arrived at the Food 4 Less response to 911 calls reporting the assault. When they
6 arrived in the lot, Plaintiff was walking out of the store with her friends. She was still wearing
7 her school SpongeBob SquarePants backpack and was unarmed.

8 26. Plaintiff walked across the parking lot to speak to her friend. She did not display any
9 threatening behavior, did not challenge anyone to fight, and posed no threat to anyone.

10 27. Without warning, probable cause, or lawful justification, Officer Tubbs rushed up
11 behind Plaintiff and without explanation, violently grabbed her by her backpack, yanking her
12 backwards and pinning both of her arms behind her back.

13 30. Officer Tubbs forcefully dragged Plaintiff across the parking lot and shoved her
14 body against his patrol vehicle. She never removed her arms from behind her back and did not
15 resist at any time.

16 31. Plaintiff was never told she was being detained or arrested, nor was she given any
17 commands about how to comply with handcuffing. Officer Tubbs simply said "relax" as he
18 struggled to coordinate removing her backpack while holding both her wrists, retrieving his
19 handcuffs from his utility belt and attempting to place them on her. He never asked for
20 assistance from any other officers standing nearby.

21 32. Several juveniles present in the parking lot yelled at the officers in protest to Officer
22 Tubbs' rough treatment of Plaintiff and informing them that she had done nothing wrong and was
23 actually a victim who had been jumped by other juveniles inside the Food 4 Less. One of them
24 recorded the incident on his cell phone and the video went viral.

25 33. As Plaintiff turned her body to hear what her friend was saying, Officer Tubbs,
26 without warning, performed a forceful hip toss, launching Plaintiff airborne and slamming her
27 face-first onto the asphalt pavement with such force that her feet flung above her head like a rag
28



1 doll.

2 34. Because Officer Tubbs still had Plaintiff's arms pinned behind her back, she was
3 completely unable to brace herself for the fall. Her head and face violently struck the asphalt
4 pavement.

5 35. The impact knocked Plaintiff unconscious. She sustained a concussion with loss of
6 consciousness and memory, a deep open gash under her chin, a large abrasion on the left side of
7 her face, and blood poured from the wound onto the pavement and her clothing.

8 36. While Plaintiff was unconscious and handcuffed, Officer Tubbs patted down her
9 pockets. Her moans of agony were audible as she regained consciousness causing Officer
10 Guillen to finally come over to assist by opening the patrol car door.

11 37. Officer Tubbs never asked Officer Guillen for assistance and Officer Guillen never
12 stepped up to assist in lifting Plaintiff into the patrol car. Guillen just stood by and passively
13 watched as Officer Tubbs struggled to lift Plaintiff's limp body from behind by her arms. He
14 ended up dropping her face first onto the metal floor sill of their patrol vehicle.

15 38. Despite Plaintiff's visible bloody injuries and unconscious state, officers did not
16 immediately request medical aid. Only after Officer Trejo observed Plaintiff bleeding from the
17 facial area and notified dispatch did medical personnel respond to the location.

18 39. When Officer Tubbs and Guillen's sergeant arrived to speak to them about what
19 happened. Officer Tubbs muted his body-worn camera right before he began to explain
20 however, the sergeant and Officer Guillen did not mute theirs. The sergeant asked Officer Tubbs
21 how did she receive the laceration to her chin. Instead of stating the truth, that he took her to the
22 ground causing her to cut her chin, he responded that it was "uh possible" she got cut from
23 fighting with juveniles. Officer Guillen, who was standing right there, never corrected Officer
24 Tubbs to tell their Sargeant the truth. This lie was captured on body-worn video.

25 38. Plaintiff was transported to Arrowhead Regional Medical Center by Officer Guillen,
26 driver, and Officer Tubbs, the passenger. On their way to the hospital, Officer Tubbs called
27 Plaintiff's mother, Tanya Brownridge, and told her that they were transporting her daughter to
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1 the hospital due to her fighting with other juveniles and receiving a “little cut from fight on
2 face.” Officer Guillen never spoke up to correct him. This lie was captured on body-worn
3 video.

4 39. When they arrived at the hospital parking lot, due to Plaintiff’s head trauma she lost
5 her memory about what happened to her so she asked Officer Tubbs how did she get injured. He
6 told her, she was fighting with other juveniles and “I think you may have hit the ground.” This
7 lie was captured on body-worn video.

8 40. While sitting on the hospital bed all bloodied up, Plaintiff again asked Officer Tubbs
9 why did they let the girl beat her up so badly. He replied, “she took off.” This lie was captured
10 on body-worn video.

11 41. Once Plaintiff’s grandmother and aunt arrived at the hospital waiting room, Officer
12 Tubbs went out and told them that she was fighting with juveniles at the Food 4 Less and “fell
13 and cut her chin.” This lie was caught on his body-worn video.

14 42. Medical personnel documented the following injuries: concussion, closed head
15 injury, blunt head trauma, blunt trauma of face, facial laceration to left chin requiring sutures,
16 right wrist pain requiring thumb splint, bilateral wrist pain, lumbar strain, multiple abrasions and
17 bruising to her face, arms, and body.

18 43. CT scans of Plaintiff’s head, neck, and face, and X-rays of her bilateral wrists, right
19 forearm, right hand, and lumbar spine were performed. Plaintiff received intramuscular
20 injections of Ketorolac (Toradol) on three separate emergency room visits to manage her severe
21 pain, which was documented as 10/10 (“worst possible pain”).

22 44. SBPD dispatched a forensic photographer to the hospital who took photographs of
23 all of Plaintiff’s numerous injuries all over her body.

24 45. Plaintiff’s mother, Tanya Brownridge, arrived at the hospital still relying on Officer
25 Tubbs’ explanation that her daughter was injured while fighting with juveniles at the Food 4
26 Less. Further continuing the excessive force cover-up, Officer Guillen and Tubbs wrote a bogus
27 citation alleging the misdemeanor offenses: Disturbing the Peace by Fighting, Resisting arrest,
28



1 and Trespassing. After giving the citation to Tanya Brownridge at the hospital, the officers left,
2 never once explaining that it was Officer Tubbs who violently roughed up the Plaintiff and body
3 slammed her head onto the asphalt.

4 46. There are numerous body-worn videos proving that Officer Tubbs repeatedly lied
5 about how Plaintiff was injured, claiming she fell while fighting with juveniles. Yet, the SBPD
6 put out a press release stating, "There have been statements made on social media alleging that
7 . . . an officer claimed she "fell" suggesting an attempt to deny the use of force. We would like
8 to clarify that these claims are inaccurate." Further, Officer Tubbs subsequently admitted during
9 the SBPD use of force investigation that he in fact did lie. Yet, the SBPD never released a public
10 retraction despite their claim that they remain "committed to transparency, accountability, and
11 maintaining the public's trust."

12 47. Out of approximately twenty juveniles reported to be involved in the fight at Food 4
13 Less, Plaintiff was the only person detained and arrested by officers that day, despite being a
14 victim of the assault inside the store.

15 48. The entire incident was captured on body-worn camera footage from Officers Tubbs,
16 Guillen, Trejo, and other responding officers, on Food 4 Less surveillance video, and on cell
17 phone video recorded by Plaintiff's friend. The cell phone video went viral on social media and
18 was broadcast on nationwide television news.

19 49. The body-worn camera footage conclusively shows that Plaintiff never removed her
20 arms from behind her back during the entire encounter and never resisted Officer Tubbs. The
21 footage also shows Officer Tubbs body-slammng Plaintiff's head to the ground, Plaintiff's
22 unconscious state, and Officer Tubbs dropping her onto the patrol car's metal floor sill.

23 50. As a direct and legal result of the acts and omissions of Defendants, Plaintiff
24 sustained severe physical injuries including a traumatic brain injury with loss of consciousness,
25 permanent facial scarring from the chin laceration, wrist and back injuries, and extensive
26 bruising and abrasions.

27 45. Plaintiff has suffered and continues to suffer severe emotional distress, anxiety,
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1 humiliation, loss of enjoyment of life, and interference with the major life milestone of her high
2 school graduation, which occurred just eight days after the incident with her right wrist and arm
3 still bandaged up.

4 46. The incident occurred in a public setting in front of a crowd and was captured on
5 video that was widely disseminated, causing Plaintiff significant public humiliation and loss of
6 reputation.

7 47. Plaintiff's arrest was unlawful, and the charges filed against her were without
8 probable cause. Plaintiff was a victim, not a perpetrator, of the assault inside Food 4 Less.

9 48. Defendants' use of force against Plaintiff violated her rights under the California
10 Constitution and was unlawful under California law. Plaintiff was unarmed, compliant, posed no
11 threat, and did not resist at any time.

12 49. Plaintiff is informed and believes that Defendants violated San Bernardino Police
13 Department's Use of Force policies, which require that a supervisor promptly investigate the use
14 of force, obtain the basic facts from all officers involved, interview all civilian witnesses at the
15 scene and document their contact information, photograph and document all injuries in the police
16 report, and ensure prompt medical evaluation for injured subjects.

17 50. The actions of Defendants continue a history of similar illegal and unconstitutional
18 conduct, derived from inadequate training, supervision, management and oversight, issues which
19 have failed to be corrected to this date.

20
21 **FIRST CAUSE OF ACTION**

22 **Violation of the Bane Civil Rights Act**

23 **California Civil Code § 52.1**

24 **(Against All Defendants)**

25 51. Plaintiff repeats, realleges, and incorporates by reference the allegations contained in
26 all previous paragraphs as though fully set forth at length herein.

27 52. California Civil Code § 52.1 (the "Bane Act") prohibits any person, including peace
28



1 officers, from interfering by threats, intimidation, or coercion, or by attempts to do so, with the
2 exercise or enjoyment of rights secured by the Constitution or laws of the United States or the
3 State of California.

4 53. At all relevant times, Defendants OFFICER JACKSON TUBBS, OFFICER
5 CYNTHIA GUILLEN, and DOES 1-25 were acting under color of law, within the course and
6 scope of their employment with the San Bernardino Police Department, and Defendant CITY OF
7 SAN BERNARDINO is vicariously liable for their conduct pursuant to Government Code §
8 815.2.

9 54. Plaintiff was exercising and enjoying constitutional and statutory rights, including
10 but not limited to:

- 11 a. the right to be free from unreasonable seizure and excessive force under the
12 California Constitution;
- 13 b. the right to be free from unlawful detention and arrest under the California
14 Constitution and California law;
- 15 c. the right to bodily integrity and due process of law under the California
16 Constitution; and
- 17 d. the right to liberty and personal security under the California Constitution.

18 55. Defendants acted with the specific intent to interfere with Plaintiff's constitutional
19 and statutory rights, including her right to be free from unreasonable seizure and excessive force,
20 or acted with reckless disregard that such interference was substantially certain to occur.

21 56. Defendants intentionally interfered with Plaintiff's constitutional rights through
22 threats, intimidation, coercion, and violent acts, including violently grabbing Plaintiff from
23 behind without warning, pinning her arms behind her back, dragging her across the parking lot,
24 shoving her against a patrol vehicle, body-slammng her face-first onto the asphalt pavement
25 with such force that she lost consciousness, handcuffing her while she was unconscious and
26 bleeding, and dropping her limp body face-first onto the metal floor sill of the patrol vehicle.

27 57. Defendants' conduct was inherently coercive and intimidating and was undertaken
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1 with the specific intent to violate Plaintiff's constitutional and statutory rights, or with reckless
2 disregard of those rights, knowing that Plaintiff was a seventeen-year-old juvenile who was
3 unarmed, compliant, posed no threat, had committed no crime, and was in fact a victim of an
4 assault by other juveniles. Plaintiff never removed her arms from behind her back and never
5 resisted at any time. Defendants' seizure of Plaintiff, use of force, and arrest were therefore
6 undertaken without any lawful basis and in direct violation of Plaintiff's rights under the
7 California Constitution.

8 58. Despite Plaintiff's visible injuries, loss of consciousness, and severe bleeding from a
9 facial laceration, Defendants did not immediately request medical aid or transport Plaintiff to a
10 medical facility for evaluation and treatment. Body-worn camera footage shows Plaintiff
11 moaning in agony as she regained consciousness, yet Defendants continued to treat her as a
12 criminal suspect rather than a victim in need of medical attention.

13 59. The coercive conduct alleged herein was separate and independent from any lawful
14 arrest or detention and was carried out to punish Plaintiff, who had been mistakenly identified as
15 a participant in the fight rather than a victim, and to establish dominance and control over the
16 crowd of juveniles present in the parking lot.

17 60. Defendants falsely arrested Plaintiff and charged her with three misdemeanor
18 offenses—Disturbing the Peace, Resisting Arrest, and Trespassing—despite having no probable
19 cause to believe she had committed any crime. Plaintiff was the only person arrested out of
20 approximately twenty juveniles involved in the incident, despite being a victim of the assault
21 inside the store. The arrest and prosecution of Plaintiff as a criminal, when she was in fact a
22 victim, constituted further coercion and intimidation in violation of her constitutional rights.

23 61. As a direct and proximate result of Defendants' violations of Civil Code § 52.1,
24 Plaintiff suffered severe physical injuries including a traumatic brain injury with loss of
25 consciousness, permanent facial scarring from a laceration requiring sutures, wrist and back
26 injuries, extensive bruising and abrasions, as well as severe emotional distress, fear, humiliation,
27 anxiety, loss of liberty, and interference with the major life milestone of her high school
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1 graduation, according to proof.

2 62. Defendants' conduct was willful, malicious, oppressive, and despicable, entitling
3 Plaintiff to recover statutory damages, compensatory damages, punitive damages against the
4 individual Defendants, and reasonable attorneys' fees and costs as provided by Civil Code §§ 52
5 and 52.1.

6
7 **SECOND CAUSE OF ACTION**

8 **VIOLATION OF THE RALPH CIVIL RIGHTS ACT**

9 **California Civil Code § 51.7**

10 **(Against All Defendants)**

11 63. Plaintiff repeats, realleges, and incorporates by reference the allegations contained in
12 all previous paragraphs as though fully set forth at length herein.

13 64. California Civil Code § 51.7 (the "Ralph Civil Rights Act") guarantees all persons
14 within the jurisdiction of the State of California the right to be free from violence, or intimidation
15 by threat of violence, committed against their persons or property because of race, color,
16 religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, disability, or
17 position in a labor dispute, or because the person or group of persons is perceived to have one or
18 more of those characteristics.

19 65. At all relevant times, Defendants OFFICER JACKSON TUBBS, OFFICER
20 CYNTHIA GUILLEN, and DOES 1-25 were acting under color of law and within the course and
21 scope of their employment with the San Bernardino Police Department, and Defendant CITY OF
22 SAN BERNARDINO is vicariously liable for their conduct pursuant to Government Code §
23 815.2.

24 66. Plaintiff is a Black/African American female and was a seventeen-year-old juvenile
25 at the time of the incident on May 21, 2025.

26 67. Defendants committed violence and/or intimidation by threat of violence against
27 Plaintiff, including violently grabbing her from behind without warning, pinning her arms behind
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1 her back, dragging her across the parking lot, forcefully shoving her against a patrol vehicle,
2 body-slammng her face-first onto the asphalt pavement with such force that she lost
3 consciousness and suffered a traumatic brain injury, handcuffing her while she was unconscious
4 and bleeding, and dropping her limp body face-first onto the metal floor sill of the patrol vehicle.

5 68. Plaintiff is informed and believes, and thereon alleges, that a substantial motivating
6 reason for Defendants' violent and threatening conduct was Plaintiff's race as a Black/African
7 American individual and her status as a juvenile, and that Defendants' use of extreme and
8 gratuitous force reflected bias and discriminatory animus protected under California law and
9 public policy.

10 69. Plaintiff is informed and believes that similarly situated non-Black juveniles and/or
11 adult individuals who were present at the scene were not subjected to comparable force,
12 detention, or arrest. Out of approximately twenty juveniles reported to be involved in the
13 incident, Plaintiff was the only person detained and arrested that day, despite being a victim of
14 the assault inside the store.

15 70. As a direct and proximate result of Defendants' violations of Civil Code § 51.7,
16 Plaintiff suffered severe physical injuries including a traumatic brain injury with loss of
17 consciousness, permanent facial scarring, wrist and back injuries, extensive bruising and
18 abrasions, as well as severe emotional distress, fear, humiliation, anxiety, loss of liberty, and
19 other pecuniary and nonpecuniary damages according to proof at trial.

20 71. Defendants' conduct was willful, malicious, and oppressive, entitling Plaintiff to
21 recover compensatory damages, statutory damages, and punitive damages against the individual
22 Defendants, as well as reasonable attorneys' fees and costs as provided by Civil Code § 52(b).

23
24 **THIRD CAUSE OF ACTION**

25 **ASSAULT AND BATTERY**

26 **(Against All Defendants)**

27 72. Plaintiff repeats, realleges, and incorporates by reference the allegations contained in
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1 all previous paragraphs as though fully set forth at length herein.

2 73. At all relevant times, Defendants OFFICER JACKSON TUBBS, OFFICER
3 CYNTHIA GUILLEN, and DOES 1-25 were sworn peace officers employed by Defendant
4 CITY OF SAN BERNARDINO, acting within the course and scope of their employment with
5 the San Bernardino Police Department.

6 74. Defendant OFFICER TUBBS intentionally and unlawfully used force and violence
7 against Plaintiff without lawful justification, including but not limited to violently grabbing
8 Plaintiff from behind by her backpack without warning, pinning both of her arms behind her
9 back, forcefully dragging her across the parking lot, shoving her against a patrol vehicle, body-
10 slamming her face-first onto the asphalt pavement with such force that she was launched through
11 the air and lost consciousness, and dropping her limp, handcuffed body face-first onto the metal
12 floor sill of the patrol vehicle.

13 75. Defendants' acts constituted an assault, in that Defendants intentionally placed
14 Plaintiff in reasonable apprehension of imminent harmful and offensive contact.

15 76. Defendants' acts constituted a battery, in that Defendants intentionally and
16 unlawfully touched Plaintiff in a harmful and offensive manner without consent and without
17 legal justification.

18 77. At all times, Plaintiff did not commit any crime or resist, was unarmed, posed no
19 threat, and did not consent to Defendants' use of force. Plaintiff was a seventeen-year-old
20 juvenile who is 5'2" tall and weighs 110 pounds, and she was a victim of an assault by other
21 juveniles inside the Food 4 Less store. Plaintiff never removed her arms from behind her back
22 throughout the encounter. The force used was unreasonable, excessive, and unnecessary under
23 the circumstances.

24 78. As a direct and proximate result of Defendants' assault and battery, Plaintiff suffered
25 severe physical injuries including a traumatic brain injury with loss of consciousness, permanent
26 facial scarring from a laceration requiring sutures, right wrist injury requiring splinting, back
27 strain, extensive bruising and abrasions, severe pain and suffering, emotional distress,
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1 humiliation, and other damages according to proof at trial.

2 79. Defendant CITY is vicariously liable for the tortious conduct of its employees
3 pursuant to Government Code § 815.2, as the acts complained of were committed within the
4 course and scope of their employment.

5 80. Defendants acted maliciously, oppressively, and with conscious disregard for
6 Plaintiff's rights and safety, entitling Plaintiff to an award of punitive damages against the
7 individual Defendants.

8
9 **FOURTH CAUSE OF ACTION**

10 **NEGLIGENCE**

11 **(Against All Defendants)**

12 81. Plaintiff repeats, realleges, and incorporates by reference the allegations contained in
13 all previous paragraphs as though fully set forth at length herein.

14 82. At all relevant times, Defendants OFFICER JACKSON TUBBS, OFFICER
15 CYNTHIA GUILLEN, and DOES 1-25 were sworn peace officers employed by Defendant
16 CITY OF SAN BERNARDINO, acting within the course and scope of their employment with
17 the San Bernardino Police Department.

18 83. Duty of Care. At all relevant times, Defendants OFFICER TUBBS, OFFICER
19 CYNTHIA GUILLEN, and DOES 1-25 owed Plaintiff a duty to exercise reasonable care in the
20 investigation, detention, arrest, use of force, post-force monitoring, provision of medical care,
21 preservation of evidence, and handling of Plaintiff's personal property; to employ reasonable
22 police tactics, including de-escalation and reassessment; and to act in conformity with generally
23 accepted standards of police practice and applicable policies and law.

24 84. Breach—Negligent Detention/Stop and Decision-Making. The Officer Defendants
25 breached their duty of care by negligently initiating, ordering, or participating in the detention
26 and/or arrest of Plaintiff without reasonable suspicion or probable cause, misperceiving a victim
27 of assault as a perpetrator of a crime, and failing to conduct a reasonable investigation or
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1 assessment before initiating physical contact with Plaintiff. They further breached their duty by
2 negligently rushing up behind Plaintiff and grabbing her without warning or verbal commands,
3 rather than employing safer, less intrusive alternatives such as verbal communication, separation
4 of juveniles, or non-contact investigation, which were available and appropriate under the
5 circumstances where Plaintiff was walking calmly and posed no threat.

6 85. Breach—Negligent Tactics, Force Selection, and Escalation. The Officer Defendants
7 negligently selected and employed unsafe tactics—including violently grabbing a seventeen-
8 year-old juvenile from behind by her backpack without warning, pinning both arms behind her
9 back while she was compliant, and body-slammng her face-first onto asphalt pavement with
10 such force that her feet went over her head—without adequate threat assessment, without proper
11 de-escalation, and without reassessing once Plaintiff's arms were secured and she was against the
12 patrol vehicle. Defendant OFFICER TUBBS negligently performed a forceful takedown
13 maneuver on a small, unarmed, compliant juvenile who had her arms pinned behind her back and
14 was therefore unable to brace for impact, thereby needlessly and foreseeably increasing the risk
15 and severity of injury. The negligent tactical decisions and failures to reassess and de-escalate
16 were below the standard of care for reasonable officers in similar circumstances and violated San
17 Bernardino Police Department policies requiring the use of objectively reasonable force.

18 86. Breach—Negligent Post-Force Care and Monitoring. After force was used and
19 Plaintiff lost consciousness, the Officer Defendants negligently failed to immediately request
20 medical aid or provide prompt medical evaluation despite Plaintiff's visible injuries including
21 facial bleeding, loss of consciousness, moaning in agony, and obvious signs of head trauma. The
22 Officer Defendants negligently continued to handle Plaintiff roughly by lifting her limp body and
23 dropping her face-first onto the metal floor sill of the patrol vehicle, further delaying necessary
24 medical care and increasing the risk of complications from the concussion and other injuries.

25 87. Breach—Negligent Handling and Preservation of Evidence/Property. The Officer
26 Defendants and/or supervisory Defendants negligently failed to properly document, photograph,
27 and preserve material evidence, including negligently failing to identify and interview civilian
28

1 witnesses present at the scene who observed the use of force, negligently failing to secure all
2 body-worn camera footage from officers who witnessed the incident, and negligently failing to
3 obtain statements from all officers involved or who witnessed the force, thereby causing loss
4 and/or spoliation of relevant evidence that was foreseeable and preventable through reasonable
5 care and adherence to evidence-preservation protocols required by San Bernardino Police
6 Department policy.

7 88. Breach—Negligent Supervision/Direction by On-Scene Supervisory DOES. To the
8 extent supervisory DOE Defendants, including Sergeant Servando Saenz and other supervisors,
9 were present or responsible for scene management and post-force investigation, they negligently
10 planned, supervised, directed, and controlled the Officer Defendants' response, failed to
11 intervene to prevent the negligent tactics and escalation, failed to ensure prompt medical
12 evaluation of Plaintiff's injuries, failed to properly investigate the use of force by interviewing all
13 involved officers and civilian witnesses, failed to secure and preserve evidence including body-
14 worn camera footage and witness statements, and negligently rushed the completion of the
15 administrative investigation contrary to policy, all of which fell below the standard of care
16 expected of on-scene supervisors and investigating supervisors. CITY OF SAN BERNARDINO
17 is vicariously liable for these supervisory negligent acts under Government Code § 815.2 to the
18 extent such supervisors were employees acting within the course and scope of employment.

19 89. Causation. The foregoing negligent acts and omissions were a substantial factor in
20 causing Plaintiff to suffer severe physical injuries including traumatic brain injury with loss of
21 consciousness, permanent facial scarring from a 3-4 centimeter laceration requiring sutures, right
22 wrist injury requiring splinting, lumbar strain, extensive bruising and abrasions to her face and
23 body, severe pain and suffering (documented at 10/10 "worst possible pain"), emotional distress,
24 humiliation, loss of liberty through false arrest, interference with the major life milestone of her
25 high school graduation, and economic harm including medical expenses, as well as the
26 aggravation and prolongation of those harms due to the negligent delay of medical care.

27 90. Vicarious Liability of the City. At all relevant times, the Officer Defendants and
28



1 supervisory DOE Defendants were employees and agents of Defendant CITY OF SAN
2 BERNARDINO acting within the course and scope of their employment. CITY OF SAN
3 BERNARDINO is vicariously liable for the negligence of its employees under California
4 Government Code § 815.2. Plaintiff does not allege direct negligence claims against the City that
5 are barred by Government Code § 815; rather, the City's liability sounds in respondeat superior
6 for the negligent acts and omissions of its employees as alleged herein.

7 91. Damages. As a direct and proximate result of Defendants' acts and omissions,
8 Plaintiff suffered physical injuries including traumatic brain injury with loss of consciousness,
9 permanent facial scarring, wrist and back injuries, extensive bruising and abrasions; severe pain
10 and suffering; emotional distress; fear; humiliation; anxiety; loss of liberty; interference with her
11 high school graduation; medical expenses; and other general and special damages according to
12 proof at trial.

13
14 **PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiff requests entry of judgment in their favor and against the
16 Defendants CITY OF SAN BERNARDINO, OFFICER JACKSON TUBBS, OFFICER
17 CYNTHIA GUILLEN, and DOES 1-25, as follows:

18 1. For general and compensatory damages according to proof, including damages for
19 physical injury, pain and suffering, emotional distress, humiliation, anxiety, loss of liberty, and
20 loss of enjoyment of life;

21 2. For special and economic damages according to proof, including but not limited to
22 medical expenses (past and future), and any other economic losses;

23 3. For punitive and exemplary damages against the individual Defendants, including
24 OFFICER TUBBS, OFFICER CYNTHIA GUILLEN, and DOES 1-25, for their malicious,
25 oppressive, and reckless conduct, to the extent permitted by law. Punitive damages are sought
26 only against the individual defendants, and not against Defendant CITY OF SAN
27 BERNARDINO;

1 4. For statutory damages and civil penalties pursuant to the Bane Civil Rights Act (Civ.
2 Code §§ 52 and 52.1) and the Ralph Civil Rights Act (Civ. Code §§ 51.7 and 52);

3 5. For declaratory relief declaring that Defendants' acts and omissions violated Plaintiff's
4 rights under the California Constitution and California statutory law;

5 6. For injunctive relief, as appropriate, requiring Defendant CITY OF SAN
6 BERNARDINO to implement and enforce lawful policies, training, supervision, and discipline
7 sufficient to prevent future violations of constitutional and statutory rights, including rights
8 relating to use of force, unlawful detention and arrest, evidence preservation, and provision of
9 medical care;

10 7. For attorneys' fees and litigation costs pursuant to California Civil Code §§ 52 and
11 52.1, Code of Civil Procedure § 1021.5, and all other applicable provisions of law;

12 8. For pre-judgment and post-judgment interest as allowed by law; and

13 9. For such other and further relief as the Court deems just and proper.

14
15 Dated: April 1, 2026

TONI JARAMILLA, A PROFESSIONAL LAW CORP.

16
17 By: /s/ Dat Tommy Phan

Toni J. Jaramilla

Dat Tommy Phan

Aaron Jansen

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20 Attorneys for Plaintiff Erin Marie Cowser
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