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9 Attorneys for Plaintiff,
10 AERIN ROBINSON

11 **IN THE UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 AERIN ROBINSON,

14 Plaintiff,

15 vs.

16 CITY OF BURBANK; OFFICER
17 ULRICH (#14417); OFFICER
18 MORENO (#14768); OFFICER
19 EKIMYAN (#14339); OFFICER N.
20 MUNN (#15509); OFFICER D.
21 LINDQUIST (#14349); SGT. FEKETY
22 (#12179); SGT. VIRZI (#13176);
23 OFFICER DEBELIUS (#13850);
24 OFFICER HOSEPIAN (#14849);
25 OFFICER SCHWARTZ (#15035);
26 OFFICER CHOI (#15407); OFFICER
27 HOBSON (#15485); and Does 1-50,
28 inclusive,

Defendants.

Case No. 2:23-cv-01711-JAK-AS

**FIRST AMENDED COMPLAINT
FOR DAMAGES FOR CIVIL
RIGHTS VIOLATIONS UNDER
COLOR OF STATE LAW**

- 1) DEPRIVATION OF CIVIL RIGHTS – UNLAWFUL ARREST (42 U.S.C. § 1983)
- 2) UNREASONABLE SEARCH AND SEIZURE – EXCESSIVE FORCE (42 U.S.C. § 1983)
- 3) MALICIOUS PROSECUTION (42 U.S.C. § 1983)
- 4) MUNICIPAL LIABILITY – UNCONSTITUTIONAL CUSTOM OR POLICY (42. U.S.C. § 1983)
- 5) MUNICIPAL LIABILITY – FAILURE TO TRAIN (42. U.S.C. § 1983)
- 6) MUNICIPAL LIABILITY – SUPERVISORY LIABILITY (42. U.S.C. § 1983)
- 7) DEPRIVATION OF CIVIL RIGHTS – FABRICATION OF EVIDENCE (42 U.S.C. § 1983)

DEMAND FOR JURY TRIAL

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1 Plaintiff Aerin Robinson, complains against **Defendants, CITY OF**
2 **BURBANK**; OFFICER ULRICH (#14417); OFFICER MORENO (#14768);
3 OFFICER EKIMYAN (#14339); OFFICER N. MUNN (#15509); OFFICER D.
4 LINDQUIST (#14349); SGT. FEKETY (#12179); SGT. VIRZI (#13176); OFFICER
5 DEBELIUS (#13850); OFFICER HOSEPIAN (#14849); OFFICER SCHWARTZ
6 (#15035); OFFICER CHOI (#15407); OFFICER HOBSON (#15485) **And Does 1-**
7 **50** as follows:

8 **JURISDICTION AND VENUE**

9 1. This Court has original jurisdiction pursuant to 28 U.S.C. §§ 1331 and
10 1343(a)(3)-(4), because Plaintiff asserts claims arising under the laws of the United
11 States including 42 U.S.C. § 1983 and the Fourth Amendments of the United States
12 Constitution.

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

16 **INTRODUCTION**

17 3. This is a civil rights action seeking compensatory and punitive damages
18 from Defendants for violating various rights under the United States Constitution and
19 state law in connection with the false arrest and malicious prosecution of Plaintiff,
20 Aerin Robinson.

21 4. At all relevant times, Plaintiff, Aerin Robinson ("Plaintiff") was an
22 individual residing in the City of Burbank, California.

23 5. At all relevant times, Defendant **City of Burbank** ("COB") is and was a
24 municipal corporation existing under the laws of the State of California. At all
25 relevant times, COB was the employer of Defendants; OFFICER ULRICH (#14417);
26 OFFICER MORENO (#14768); OFFICER EKIMYAN (#14339); OFFICER N.

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1 MUNN (#15509); OFFICER D. LINDQUIST (#14349); SGT. FEKETY (#12179);
2 SGT. VIRZI (#13176); OFFICER DEBELIUS (#13850); OFFICER HOSEPIAN
3 (#14849); OFFICER SCHWARTZ (#15035); OFFICER CHOI (#15407); OFFICER
4 HOBSON (#15485); **And Does 1-50**, inclusive, were are believed to be residents of
5 the **City of Burbank, California. Does 1-50** are sued in their individual capacity.

6 6. At all relevant times, the named officers and **Does 1-50** were duly
7 authorized employees and agents of COB, who were acting under color of law within
8 the course and scope of their respective duties as police officers and with the complete
9 authority and ratification of their principal, Defendant COB. At all relevant times,
10 **Does 1-50** were duly appointed officers and/or employees or agents of COB, subject
11 to oversight and supervision by COB elected and non-elected officials.

12 7. In doing the acts and failing and omitting to act as hereinafter described,
13 **Does 1-50** were acting on the implied and actual permission and consent of COB.

14 8. The true names of Defendants **DOES 1-50**, inclusive, are unknown to
15 Plaintiff, who otherwise sue these defendants by such fictitious names. Plaintiff will
16 seek leave to amend this complaint to show the true names and capacity of these
17 defendants when they have been ascertained. Each of the fictitiously named
18 defendants is responsible in some manner for the conduct or liabilities alleged herein.

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

22 **FACTS COMMON TO ALL CLAIMS FOR RELIEF**

23 10. On September 2, 2021, Mr. Aerin Robinson was a lawful patron at the
24 United States Postal Service (“Subject Location”) located at 135 Olive Avenue in
25 Burbank, California. Mr. Robinson was at the Postal Office paying his personal bills.

1 11. At the time of the incident, Mr. Robinson had \$4,200 cash in an envelope
2 on his person for the purpose of paying his bills. While Mr. Robinson was waiting in
3 line to be serviced, Mr. Robinson placed his envelope on one of the tables provided
4 by the Postal Office while he organized his belongings for processing.

5 12. At the same time, a transient woman was seated on the ground
6 underneath that same table where Plaintiff was standing. The woman was later
7 identified as Aisha Eastling. Ms. Eastling was a transient person who had no lawful
8 business purpose to be at the Subject Location, and who remained on premises
9 without the permission of the United States Postal Service.

10 13. While organizing his belongings, the envelope containing the cash fell
11 from the table and onto the floor. Before Mr. Robinson could retrieve his envelope
12 from the floor, Ms. Eastling grabbed the envelope and quickly removed the cash.

13 14. Realizing his belongings had fallen to the ground, Mr. Robinson reached
14 for the envelope. After reaching for the ground, Mr. Robinson observed Ms. Eastling
15 grabbing the envelope. Mr. Robinson managed to remove the envelope from her
16 grasp, but learned she had stolen the \$4,200 in cash.

17 15. Mr. Robinson asked Ms. Eastling to return the money but she refused.

18 16. A store clerk called 911 at or around 3:13 p.m., relaying there was an
19 alleged “domestic dispute” involving a man and woman in front of the Post Office
20 lobby.

21 17. The clerk described the woman as transient, homeless and that she had
22 remained on the premises without a business purpose.

23 18. The clerk informed the dispatcher that the man, Mr. Robinson, had
24 accused the woman of stealing his money and that Mr. Robinson was unarmed.

25 19. The clerk requested both Mr. Robinson and the transient woman to leave
26 the building and handle the “dispute” outside.

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1 20. Ms. Eastling exited the Post Office Lobby with \$4,200 in cash in her
2 hand. Mr. Robinson then followed her out and repeatedly, but politely requested she
3 return the money to him.

4 **Detention and Assault of Mr. Robinson**

5 21. At or around 3:16 p.m. on September 2, 2021 Defendant Officers Munn
6 and Lindquist arrived to the SUBJECT LOCATION. Defendant, Sgt. Fekety, Sgt.
7 Virzi, Officer Debelius, Officer Ekiyman, Officer Hosepian, Officer Moreno, Officer
8 Schwartz, Officer Choi and Officer Hobson responded to assist. Upon arrival,
9 Burbank Police Officers did not observe any ongoing altercation between Mr.
10 Robinson and Ms. Eastling.

11 22. Upon arrival, the officers did not observe Mr. Robinson screaming or
12 yelling at Ms. Eastling.

13 23. Upon arrival, the officers did not observe Mr. Robinson assaulting Ms.
14 Eastling.

15 24. Upon arrival, the officers did not observe Mr. Robinson make any threats
16 or advancements towards Ms. Eastling.

17 25. In addition, Burbank Police Officers did not see any evidence of an
18 assault with Ms. Eastling when they arrived on scene. Eastling did not have any cuts,
19 bruises or report that she was involved in a domestic dispute with Mr. Robinson.

20 26. On arrival, officers observed Mr. Robinson outside the post office,
21 kneeling down on the sidewalk gathering his belongings from the floor placing and
22 them into a small box. Officers also observed Ms. Eastling standing over Mr.
23 Robinson as he collected his personal property.

24 27. At all relevant times, Mr. Robinson was respectful and compliant. In
25 fact, Mr. Robinson advised both officers that the woman had stolen his money and
26 requested their assistance.

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1 28. After Mr. Robinson gathered his belongings, Plaintiff is informed BPD
2 officers formed a plan to separate him and Ms. Eastling. During the detention,
3 Eastling yelled over Mr. Robinson about unintelligible matters.

4 29. During the detention, Defendant Officers Munn and Lindquist instructed
5 Mr. Robinson to follow Officer Lindquist and move away from Eastling. Mr.
6 Robinson complied without protest, carrying his personal belongings in his hand.

7 30. While separated, Mr. Robinson spoke with Officer Munn and calmly
8 explained Eastling had stolen his money despite her denials. Body Worn Camera
9 depicts Plaintiff demeanor as concerned and complaint:



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23 31. Next, Officer Munn instructed Plaintiff to sit on a narrow ledge
24 connected to the fence in front of the Postal Office. Without protest, Mr. Robinson
25 complied by releasing the items in his left hand. At all relevant times, Plaintiff posed
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1 no threat to himself, officers or members of the general public and did not make any
2 aggressive gestures towards law enforcement.

3 32. Less than two seconds after placing his personal belongings onto the
4 ledge, as commanded to do so, Officer Hobson forcibly removed Plaintiffs remaining
5 property from his person and used unreasonable and excessive force on him. Officer
6 Hobson knocked Mr. Robinson’s belongings from his hands and pushed him, causing
7 Mr. Robinson to fall into a seated position.

8 33. There was no need to use any force on Mr. Robinson during the
9 detention. Mr. Robinson was fully compliant throughout this incident and relayed, on
10 multiple occasions, that he was the victim of a theft by Eastling.

11 34. After officers pushed Mr. Robinson down, Plaintiff is informed Officers
12 Debellius, Hobson, Munn, Lindquist, Ekimyan and Choi, joined in the attack to
13 assault him. Officer Lindquist abandoned his detention of Eastling to participate in
14 the assault on him. At all relevant times Plaintiff was not a threat to himself, others or
15 the officers.

16 35. Officers Debelius and Munn forcibly grabbed Plaintiff’s left arm while
17 Choi and Hobson forcibly grabbed Plaintiff’s right arm. The officers acted in concert
18 and twisted Plaintiff’s arms behind his back. Immediately after securing Plaintiff’s
19 hands behind his back, Officers Debelius and Munn Lindquist and Ekimyan
20 participated in the takedown.

21 36. Officers Ekimyan and Choi pinned Plaintiff’s legs into the ground while
22 Officer Munn unnecessarily placed a leg restraint device around Mr. Robinson’s
23 ankles. At no point did the officers attempt to deescalate the situation or engage in a
24 less violent approach to investigate.

25 37. At the time the officers attempt to place Plaintiff in handcuffs, none of
26 the officers had witnessed Plaintiff commit a crime nor have they observed any
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1 behavior that would lead a reasonable officer to believe Plaintiff was about to commit
2 a crime. Similarly, Plaintiff did not pose a threat to himself, other or law enforcement,
3 and COB Officers were informed Mr. Robinson was unarmed.

4 38. The officers held Mr. Robinson’s hands behind his back and yelled
5 profanities at Plaintiff ordering him to put his hands behind his back, despite Plaintiffs
6 hands already positioned as so.

7 39. Debellius, Hobson, Munn and Choi continued to aggressively restrain
8 Plaintiff, culminating with taking him to the concrete. Lindquist and Ekimyan joined

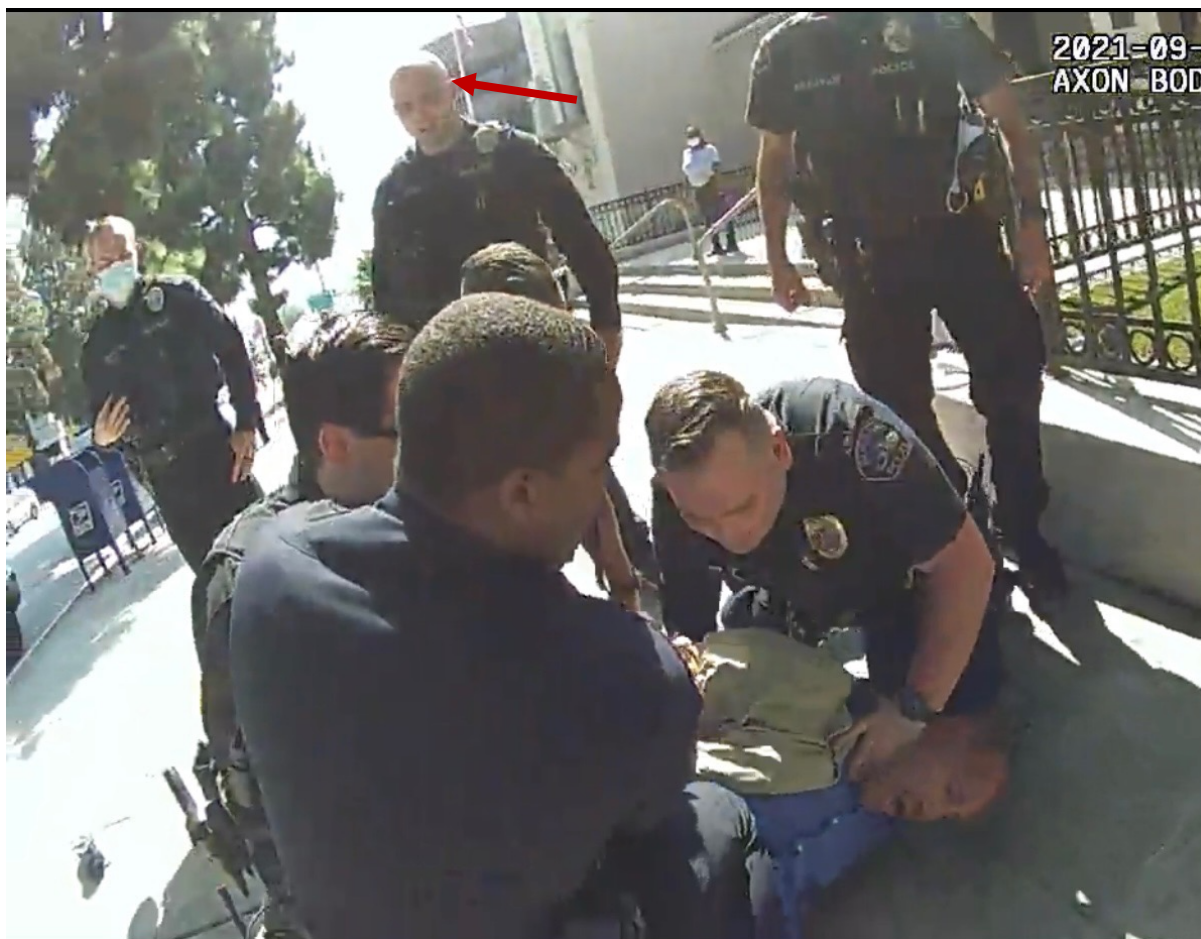


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21 in and participated in the takedown. During this time Mr. Robinson pled with the
22 officers, reminding them that Plaintiff has no record and that Eastling had stolen from
23 him. The officers successfully tackled Plaintiff to the ground, face down, and position
24 themselves so that Mr. Robinson feels the weight of at least five officers.

25 40. With the weight of at least 5 officers on him for one minute Plaintiff
26 gasped for air, telling officers at least 15 times that he could not breathe.

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1 41. The officers eventually turn Plaintiff over on his side and asks him what
2 his name is. While Plaintiff is on his side, body worn camera depicts one officer with
3 his hands directly pressing down on Plaintiffs neck. Again, Plaintiff reminds officers
4 that he cannot breathe. During the takedown, one officer is heard telling Plaintiff,
5 “Okay, stop breathing.” Plaintiff pleas with the officers telling them that he “does not
6 want to be another George Floyd.” One officer, depicted below, can be seen smiling
7 during the illegal detention.



23 42. Officers continue to ignore Plaintiff’s inability to breathe while they
24 apply leg restraints. Officers Ekimyan and Choi pinned Plaintiff’s legs into the
25 ground while Officer Munn unnecessarily placed a leg restraint device around Mr.
26 Robinson’s ankles.

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1 BPD that Eastling woman got up off the ground, and punched Robinson with her right
2 hand.

3 48. Eastling did not report any injuries from the incident and declined
4 medical attention when offered. BPD then initiated a citizen’s arrest, whereby they
5 presented the citizen’s arrest form to Eastling. The woman signed the form and BPD
6 placed Mr. Robinson under arrest for battery in violation of California *Penal Code* §
7 242

8 49. Mr. Robinson was not resisting and did not physically threaten the lives
9 of the officers, himself or the public. Despite this, the officers exerted unnecessary
10 force, leaving Mr. Robinson with the following injuries:



22 50. Defendant Officers Moreno, Ekiyman and Schwartz then transported
23 Mr. Robinson to the hospital where he received treatment for his injuries. In addition
24 to the abrasions on his face and back, Mr. Robinson suffered from a bruised rib. While
25 at the hospital, Mr. Robinson requested an attorney. Mr. Robinson’s request was
26 denied. After the hospital, Mr. Robinson was transported to the Burbank Police
27 Station where he was booked.

1 as mental and physical pain and injury. For such injury, Plaintiff will incur significant
2 damages based on psychological and medical care.

3 60. As a further result of the conduct of each of these defendants, Plaintiff
4 has lost past and future earnings in an amount to be determined according to proof at
5 trial.

6 **FIRST CLAIM FOR RELIEF**

7 **Deprivation of Civil Rights – Arrest Without Probable Cause (42 U.S.C. §**
8 **1983)**

9 **(By Robinson Against Defendants City of Burbank, Burbank Police**
10 **Department; Officers Ulrich; Moreno; Ekimyan; Munn; Lindquist; Schwartz**
11 **And Does 1-50)**

12 61. Mr. Robinson repeats and realleges each and every allegation in the
13 preceding paragraphs of this Complaint with the same force and effect as if fully set
14 forth herein.

15 62. The Fourth Amendment of the United States Constitution guarantees all
16 persons the right to be free from unreasonable searches and seizures, including the
17 right to be free from arrest without probable cause. 42 U.S.C. § 1983 provides a
18 private right of action for conduct which violates this right.

19 63. Defendant **Officers Ulrich; Moreno; Ekimyan; Munn; Lindquist;**
20 **Schwartz and Does 1-50** acted under color of state law.

21 64. Defendants **Officers Ulrich; Moreno; Ekimyan; Munn; Lindquist;**
22 **Schwartz and Does 1-50** detained Plaintiff without reasonable articulable suspicion
23 or probable cause to believe he had committed a crime and without a warrant, without
24 consent and in the absence of exigent circumstances. At all relevant times, Defendants
25 **Officers Ulrich; Moreno; Ekimyan; Munn; Lindquist; Schwartz and Does 1-50**

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1 knew or should have known Mr. Robinson was innocent, and continued to detain him
2 without a lawful justification.

3 65. Defendants named herein, and each of them, were motivated by bad faith
4 in that Defendants had a preference toward finding Plaintiff guilty and their conduct
5 was done with deliberate indifference to and/or reckless disregard of Mr. Robinson's
6 rights or for the truth.

7 66. When Defendants caused Plaintiff to be arrested without probable cause,
8 they violated Plaintiff's right to be secure in his person against unreasonable searches
9 and seizures as guaranteed to Plaintiff under the Fourth Amendment to the United
10 States Constitution and applied to state actors by the Fourteenth Amendment.

11 67. As a result of the conduct of **Officers Ulrich; Moreno; Ekimyan;**
12 **Munn; Lindquist; Schwartz and Does 1-50** they are liable for Plaintiff's injuries
13 because they were direct or integral participants in the unreasonable detention and
14 arrest, or because they failed to intervene to prevent these violations.

15 68. The conduct of **Officers Ulrich; Moreno; Ekimyan; Munn;**
16 **Lindquist; Schwartz and Does 1-50** was willful, wanton, malicious, and done with
17 reckless disregard for Mr. Robinson's rights and safety, and therefore warrants the
18 imposition of exemplary and punitive damages.

19 69. Mr. Robinson brings this claim individually and seeks general and
20 special damages, in an amount to be determined at trial. Plaintiff also seeks reasonable
21 costs and attorney's fees under 42 U.S.C. §1988.

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SECOND CLAIM FOR RELIEF

Deprivation of Civil Rights – Excessive Force – (42 U.S.C. § 1983)

(By Robinson Against Officer Choi; Hobson; Debellus; Lindquist; Munn; Hosepian; Ekimyan and Does 1-50)

70. Mr. Robinson repeats and realleges each and every allegation in the preceding paragraphs of this Complaint with the same force and effect as if fully set forth herein.

71. The Fourth Amendment of the United States Constitution guarantees all persons the right to be free from unreasonable or excessive force. 42 U.S.C. § 1983 provides a private right of action for conduct which violates this right.

72. At the time of the incident, Mr. Robinson was a 5’9”, 56-year-old man who weighed 170 pounds. Defendants **Officers Choi; Hobson; Debellus; Lindquist; Munn; Hosepian; Ekimyan and Does 1-50** while acting under color of law, used excessive force against Mr. Robinson when they forcibly removed Mr. Robinsons personal property from his hands, used force to push Mr. Robinson down while he was already complying, aggressively twisted Mr. Robinsons arms behind his back and slammed him to the ground, and when Defendants laid on top of Mr. Robinson, constricting his airways when he was not a threat to others or officers. The unjustified use of force by Defendant **Officers Choi; Hobson; Debellus; Lindquist; Munn; Hosepian; Ekimyan and Does 1-50** deprived Mr. Robinson of his right to be secure in his person against unreasonable searches and seizures as guaranteed to him under the 4th amendment of the United States Constitution and applied to state actors by the Fourteenth Amendment.

73. As a result of the foregoing, Mr. Robinson suffered physical pain and emotional distress, loss of enjoyment of his life, and loss of earning capacity.

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1 Robinson with malice and/or with the purpose of depriving him of his constitutional
2 rights.

3 80. Defendants did not have probable cause to arrest or prosecute Plaintiff,
4 and initiated prosecution for the purpose of evading civil liability and to justify the
5 illegal detention. Defendants knew the series of events described above. Yet,
6 Defendants submitted blatantly false and misleading police reports that did not report
7 the full context of the alleged incident between Ms. Eastling. Mr. Robinson did not
8 display any behaviors that would warrant a reasonable officer to charge him with
9 resisting arrest, and the officers also did not have the authority to substantiate a
10 citizen's arrest of Mr. Robinson.

11 81. Furthermore, Plaintiff is informed and believes that despite Officer
12 Ulrich not being physically present at the scene, Officer Ulrich signed Mr. Robinson's
13 arrest citation. Her signature attested, under penalty of perjury, that Mr. Robinson had
14 committed the offenses of Resisting Arrest, in violation of *Penal Code* §148 and
15 Battery, in violation of *Penal Code* § 242. As such, Officer Ulrich was an integral
16 participant in the unconstitutional conduct exhibited by BPD Officers.

17 82. Officer Ulrich did not observe any altercation with Plaintiff and Ms.
18 Eastling, which includes any verbal or physical advancements towards Ms. Eastling.
19 Officer Ulrich also did not observe Mr. Robinson resist arrest at any time. Nor did
20 Officer Ulrich observe Plaintiff obstructing Burbank Police Department. Despite this,
21 Officer Ulrich declared under penalty of perjury that the foregoing charges, PC §
22 148(a) and PC § 242, were true. Ulrich knew, or should have known that the arrest
23 was made without probable cause.

24 83. The prosecution ultimately terminated in Mr. Robinson's favor, with a
25 dismissal of charges on or around March 2022. Defendants knew or should have
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1 known the initial arrest of Mr. Robinson lacked probable cause, and that Mr. Robinson
2 was innocent.

3 84. Plaintiff brings this action under federal law. The constitutional source
4 against malicious prosecution is primarily the due process clause of the Fourth and
5 Fourteenth Amendments, and Plaintiff’s due process rights were violated by the
6 conduct alleged herein. Plaintiff brings this claim as both a procedural and substantive
7 due process violation. To the extent that any court were to conclude that the source of
8 Plaintiff’s right to be free from malicious prosecution is any constitutional source
9 other than due process (such as the Fourth Amendment or Sixth Amendment right to
10 a fair trial), this claim is brought on those bases as well.

11 85. Defendants **Ulrich; Moreno; Ekimyan; Munn; Lindquist; Sgt. Virzi;**
12 **Sgt. Fekety And Does 1-50** were each jointly and severally responsible not to bring
13 a malicious prosecution against Mr. Robinson. Each engaged in, knew or should have
14 known of the unconstitutional conduct alleged herein and failed to prevent it, which
15 each had a responsibility to do, and each ratified, approved or acquiesced in it.

16 86. The conduct of Defendants **Ulrich; Moreno; Ekimyan; Munn;**
17 **Lindquist; Sgt. Virzi; Sgt. Fekety And Does 1-50** was willful, wanton, malicious,
18 and done with an evil motive and intent and a reckless disregard for the rights and
19 safety of Mr. Robinson and therefore warrants the imposition of exemplary and
20 punitive damages.

21 87. Mr. Robinson brings this claim individually and seeks general and
22 special damages, in an amount to be determined at trial. Plaintiff also seeks reasonable
23 costs and attorney’s fees under 42 U.S.C. § 1988.

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FOURTH CLAIM FOR RELIEF

Municipal Liability – Unconstitutional Custom, Policy and/or Practice

(42 U.S.C. §1983) (By Mr. Robinson Against City of Burbank And Does 1-50)

88. Mr. Robinson repeats and realleges each and every allegation in the preceding paragraphs of this Complaint with the same force and effect as if fully set forth herein.

89. At all times herein alleged, Defendants **Ulrich; Moreno; Ekimyan; Munn; Lindquist; Sgt. Virzi; Sgt. Fekety and Does 1-50** were acting pursuant to City of Burbank municipal policy when they detained and arrested Plaintiff on September 2, 2021.

90. Mr. Robinson is informed and believes, and on that basis alleges Defendants **Ulrich; Moreno; Ekimyan; Munn; Lindquist; Sgt. Virzi; Sgt. Fekety and Does 1-50** were not disciplined for the forced used, arrest and prosecution of Mr. Robinson.

Theory No. 1 - Pattern and Practice of Citizens Arrest and Superficial Investigations

91. For years, Defendants COB and BPD have had a pattern and practice of arresting persons without probable cause and failing to use appropriate and generally accepted law enforcement procedures in investigating allegations relating to calls for domestic violence.

92. Defendants COB have had a pattern and practice of relying solely on the claim of a citizen witness and conducting citizen’s arrests without independent probable cause in violation of the United States Constitution. When a private person requests to make an arrest under California *Penal Code* § 837, COB and BPD routinely fail to independently investigate the claim of that citizen witness, which includes but is not limited to investigating the basis of the witness’ knowledge and interviewing other witnesses. COB and BPD routinely fail to investigate that the facts

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1 provided by the citizen wishing to make an arrest are sufficiently detailed to cause a
2 reasonable officer to believe a crime had been committed and the named suspect was
3 the perpetrator. As a result, COB and BPD routinely conduct citizen’s arrest without
4 the requisite probable cause in order to reasonably believe that a crime has occurred.

5 93. This pattern, practice and custom of misconduct violates the Constitution
6 and federal law through:

- 7 A. unlawfully arresting and/or booking individuals pursuant to California
8 *Penal Code* § 837;
- 9 B. failing to investigate claims of crimes;
- 10 C. solely relying on the claim of a complaining witness to conduct an arrest;
- 11 D. not independently investigating the claim of a citizen witness before
12 conducting an arrest;
- 13 E. arresting citizens without probable cause;
- 14 F. encouraging private persons to sign a citizens arrest despite knowing
15 there is no independent probable cause;
- 16 G. arresting individuals despite explicitly confirming they were not engaged
17 in criminal activity;
- 18 H. arresting individuals solely based on another’s desire to engage in a
19 “citizen’s arrest” without any independent investigation;
- 20 I. Unlawfully arresting and/or booking individuals being investigated for
21 domestic violence regardless of the existence of probable cause that the
22 alleged domestic violence actually occurred or any justification for the
23 arrest;
- 24 J. arresting and/or booking male domestic violence suspects without
25 justification or probable cause that the domestic violence actually
26 occurred or any justification for the arrest;

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- 1 K. failing to use appropriate and generally accepted law enforcement
- 2 procedures in investigating allegations of domestic violence to cover up
- 3 violations of constitutional rights by failing to properly investigate
- 4 and/or evaluate complaints or incidents of domestic violence;
- 5 L. failing to use or tolerate inadequate, deficient, and improper procedures
- 6 for handling, investigating, and reviewing complaints of police
- 7 misconduct related to domestic violence investigations, in violation of
- 8 the Fourteenth Amendment and federal statutory law;
- 9 M. the use of unreasonable force in violation of the Fourth Amendment; and
- 10 N. discrimination against African-American residents on the basis of race
- 11 without probable cause.

12 94. Officers instead encourage other citizens to conduct citizens arrest in lieu
13 of arrests based on probable cause.

14 Theory No. 2 – Pattern of Using Force & Penal Code §148

15 95. COB and BPD also continues a pattern and practice of using force and
16 arresting someone only for obstruction of justice, thus raising the question of what
17 legitimate law enforcement objective was being obstructed.

18 96. Plaintiff is informed, and believes, and on that basis alleges that the City
19 of Burbank has a *de facto* pattern and practice of stopping and arresting people, such
20 as Plaintiff, under pretextual violations of law, such as purported violations of *Penal*
21 *Code* § 148, notwithstanding the lack of probable cause. Moreover, the City has a *de*
22 *facto* pattern and practice of using unreasonable force to apprehend non-threatening,
23 complying individuals when arresting them on pretextual grounds, such as the
24 ostensible *Penal Code* § 148 violation in Plaintiff’s case. This policy allows and
25 encourages BPD Officers to routinely omit facts sufficient to support the predicate of
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1 reasonable suspicion required for a detention consistent with the Fourth Amendment
2 under *Terry v. Ohio*, 392 U.S. 1, 21 (1986).

3 97. BPD has been on notice of the need to focus on this issue since at least
4 2009, when a complaint filed by former Burbank Police Department Officers
5 prompted the FBI conducted an investigation into Burbank Police Department. The
6 Complaint. filed by Omar Rodriguez, Cindy Guillen-Gomes, Steve Karagiosian,
7 Elfego Rodriguez, and Jamal Childs, alleges widespread discrimination and
8 harassment inflicted upon citizens through the Burbank Police Department. The
9 Complaint further alleged that the close alliance between Burbank Police Department
10 and the Burbank Police Officers Association (“BPOA”), i.e., the union. The union
11 leadership consisted, in part, of the same individuals who were responsible for this
12 rampant discrimination and harassment.

13 98. The FBI investigated allegations of excessive force by Burbank Police
14 Officers. Federal investigators ordered Burbank officials to submit reports and
15 information related to their use of force, defensive tactics, tasers, pepper spray and/or
16 the rules and ramifications pertaining to the use of excessive force or a violation of
17 civil/constitutional rights.

18 Theory No. 3 – Custom of Lack of Meaningful Oversight

19 99. The COB currently possesses an obstructive custom and practice
20 designed to discourage meaningful oversight over rogue employees.

21 100. At all times herein mentioned, there was a custom and practice of
22 practice of allowing the Officers to regularly deploy excessive force or harass citizens
23 with impunity. In particular, Officers employed by Defendants COB and BPD
24 harassed citizens without probable cause, caused criminal charges to be filed against
25 citizens to avoid civil liability and used excessive force on persons who were unarmed
26 and/or did not represent a threat to life or of serious bodily injury as identified below.
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1 These Officers encouraged, and in some cases directly participated, in the filing of
2 criminal charges in similar cases where citizens exercised their rights under the United
3 States Constitution.

4 101. The City of Burbank knew or reasonably should have known their
5 officers had dangerous propensities for abusing their authority and for mistreating
6 citizens by failing to follow written BPD policies, including detainment, arrests and
7 probable cause. These incidents did not result in discipline and this culture of a lack
8 of accountability were a moving force in **Ulrich; Moreno; Ekimyan; Munn;**
9 **Lindquist; Sgt. Virzi; Sgt. Fekety and Does 1-50** and was a moving force in the
10 detention, investigation and prosecution of Aerin Robinson.

11 102. The following are a list of incidents exemplifying the aforementioned
12 policies, customs, practices and usages of Defendant COLA:

13 a. Leonardo Lazzeretti. On or about October 13, 2017, Mr. Lazzeretti
14 began arguing with his wife at an Olive Garden in Burbank, California.
15 Although the couple resolved their argument while waiting for their
16 food, two officers from the City of Burbank Police Department and
17 asked Plaintiff and his wife to follow them outside. The officers
18 interviewed the couple separately. During his interview, Lazzeretti
19 denied that a physical fight had occurred and explained that it was only
20 a verbal argument. The officers took Lazzeretti to the Burbank Police
21 station and booked him for physically assaulting his wife without
22 probable cause.

23 b. Susan Charalambous. On or about June 10, 2015, Ms. Charalambous was
24 speaking on her cell phone in her front yard after 10:00 p.m. BPD
25 received a call from Ms. Charalambous's neighbor, claiming that Ms.
26 Charalambous was disturbing the peace because she was speaking too
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loudly on her phone in her yard. Ms. Charalambous informed officers she could not talk inside her home because of bad service but that she had the right to be in her yard. In response, BPD Sergeant Canales encouraged the neighbor to sign a citizens arrest, which the neighbor did. In accordance with his order, the responding BPD officers proceeded to handcuff and arrest Ms. Charalambous for disturbing the peace. BPD released her the next morning.

- c. Taylor. Employment action brought by BPD’s former deputy chief of police where the jury found the deputy chief was demoted and terminated in retaliation for reporting incidents of excessive force by BPD officers. August of 2017 and paid \$205,239 in annual salary, including overtime, other earnings and benefits as of 2018.
- d. Willian McCall. On or about December 3, 2020, William McCall was walking home in Burbank, when a BPD Officer approached him and began to interrogate him. At the time of his detention, BPD had no observed any behavior that would lead a reasonable officer to believe that McCall had committed, was committing or was about to commit a crime. When McCall reminded Officer Robles that his was not the first time McCall was stopped without cause and harassed by this Officer. As a result, without warning, consent, or cause, BPD Officer Robles proceeded to grab and twist McCall’s arm behind his back. At no point did McCall resist or obstruct BPD. The BPD Officers proceeded to handcuff McCall and tackled him to the ground face-first, causing abrasions to McCall’s face. BPD officers were on top of McCall’s person. McCall was ultimately booked and held in custody for an alleged

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1 violation of California *Penal Code* § 148(a)(1) (resisting or obstructing
2 an officer).

3 103. Plaintiff is informed, believes, and thereupon alleges that these policies,
4 practices, customs, and procedures are intentional and/or the result deliberate
5 indifference on the part of the City, by and through its decision makers.

6 104. **Ulrich; Moreno; Ekimyan; Munn; Lindquist; Sgt. Virzi; Sgt.**
7 **Fekety and Does 1-50** encouraged, and in some cases directly participated, in the
8 filing of criminal charges in similar cases where citizens were complying and non-
9 threatening. These incidents did not result in discipline and this culture of a lack of
10 accountability were a moving force in the detention, investigation and prosecution
11 of Mr. Robinson.

12 Theory No. 4 – Pattern & Practice of Recommending Prosecutions Without Personal
13 Knowledge or Probable Cause

14 105. The City Of Burbank also utilizes a custom, pattern and practice
15 designed to encourage the filing of charges against innocent citizens based on arrests
16 not based on probable cause, or those investigations which yield incomplete
17 information. This practice includes, among other things, allowing Burbank Police
18 Officers to recommend prosecution and declare under penalty of perjury that acts
19 committed in violation of California law, which are not based on personal
20 knowledge.

21 106. This practice is troublesome, in that it has historically been used to
22 support the self-serving statements of officers without any objective evidence.
23 Officers employed by Defendants COB and BPD harassed citizens without probable
24 cause, caused criminal charges to be filed against citizens to avoid civil liability and
25 used excessive force on persons who were unarmed and/or did not represent a threat
26 to life or of serious bodily injury as identified above.

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1 114. Based upon the principles set forth in Monell v. New York City
2 Department of Social Services, 436 U.S. 658 (1978), Defendant City of Burbank is
3 liable for all injuries sustained by Plaintiffs set forth herein. Defendant City of
4 Burbank bears liability because its failure to train Officers was a cause of Plaintiff’s
5 injuries. The training policies of Defendant City of Burbank were not adequate to train
6 its Officers to handle the usual and recurring situations with which they must deal.

7 115. Specifically, the City has failed to train officers on preventing positional
8 asphyxia – which happens when a person, such as Plaintiff, is lying on his stomach
9 and has trouble breathing because pressure is applied to his back. Officers repeatedly
10 fail to explicitly articulate any rationale for keeping citizens in prone position in their
11 Incident Reports including expressly addressing their considerations of positional
12 asphyxia.

13 116. COB’s accountability systems do not effectively detect or prevent these
14 patterns of unlawful conduct in the City of Burbank – which was a moving cause for
15 Mr. Robinson’s constitutional injury.

16 117. The City of Burbank utilizes an internal Early Intervention System to
17 manage and assess the performance of its officers and train them on routine concerns
18 pertaining to the laws of arrest. This program is inadequate because COB reported
19 having “habitual offenders” who were known within the organization to repeatedly
20 engage in abusive police tactics. According to COB’s Office of Independent Review
21 (OIR) Group 2020 report, COB reported these individuals were getting “better” but
22 had not eliminated the widespread behavior within the Department.

23 118. The OIR First Report Regarding the Monitoring of Burbank Police
24 Department in 2012, documented the Department’s lack of thoroughness in gathering
25 evidence. Specifically, OIR found that officers routinely failed to interview relevant
26 witnesses when conducting investigations. For example, after a call for service
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1 regarding a man creating a disturbance, officers responded and used force to take the
2 man into custody. No third-party witnesses were identified or interviewed prior to the
3 use of force and arrest.

4 119. COB's also fails to train its officers regarding the use de-escalation
5 tactics. In 2018, the OIR determined that the Department needed to closely examine
6 each encounter preceding a use of force and determine whether there were times
7 during the conversation where disengagement would have been the preferred option.
8 The Critical Incident Review Board (CIRB) serves as an executive-level check and
9 balance on COB's protocol for every use of force. The board is comprised of the
10 Deputy Chief and three Captains. In 2018, COB responded that during the CIRB
11 sessions, CIRB would conduct a review to determine if would have been more
12 appropriate to disengage before a use of force incident occurs but did not provide
13 specific action steps as to how they would address the issue.

14 120. In 2020, OIR recommended that COB needed to amend their policy to
15 require officers detail in writing the circumstances surrounding their use(s) of force
16 to include any efforts to de-escalate prior to the use of force; and if no de-escalation
17 techniques were deployed, an explanation for why none were deployed. In response,
18 COB rejected this amendment to their policy, first stating that detailing de-escalation
19 techniques in use of force incidents is unnecessary. COB further rejected this de-
20 escalation policy amendment because if Officers did not engage in de-escalation
21 tactics before using force, failed to document those efforts in a subsequent report or
22 failed to articulate why they did not use de-escalation techniques before using force,
23 Officers would be subject to discipline. COB instead took the position that the officers
24 and supervisors would be held accountable through the Critical Incident Review
25 Board (CIRB) process rather than any disciplinary process.

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1 121. In OIR’s 2020 report, COB was put on notice once again regarding their
2 CIRB force review process, and advised COB to be honest in its use of force review,
3 disciplining officers when their tactics and actions violate policy. OIR specifically
4 reported that to hold officers accountable, COB needed to revise its CIRB force
5 review policy to consider whether de-escalation techniques were deployed prior to
6 moving to force options and if not, whether it would have been appropriate to consider
7 them. COB refused to include de-escalation techniques in any aspect of their policy
8 because policy violations are considered misconduct and COB reported it unnecessary
9 to discipline officers for failure to de-escalate before using force. The OIR further
10 determined that when restraints are deployed during an arrest, the City’s force review
11 needed to include an assessment of that maneuver as well as an assessment of tactics
12 and circumstances that lead up to the force itself. COB’s unwillingness to amend any
13 aspect of their use of force policy reflects a larger custom and practice of COB’s
14 refusal to hold officers accountable and discipline them for excessive use of force and
15 failure to deploy de-escalation tactics.

16 122. OIR examined the process by which COB determined whether an officer
17 should be subject to discipline for misconduct. OIR found that COB officers were
18 excessively categorized as “exonerated.” OIR explained that a finding of
19 “exonerated” is limited to situations in which a) the factual evidence is not in dispute,
20 b) the allegation as made does not constitute a violation of policy and c) there are no
21 concerns, in any respect, as to how the officer handled that situation. COB’s
22 disproportionate use of finding officers “exonerated” reflects a larger custom, pattern
23 and practice of lack of meaningful accountability and oversight. COB unjustifiably
24 exonerates officers despite their policy violations, which further highlights COB’s
25 refusal to discipline officers despite the discipline being warranted because of
26 misconduct.

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1 123. In cases where COB did substantiate allegations of officer misconduct,
2 the OIR found that the Department failed to respond with the appropriate
3 consequences consistently and sufficiently. COB reported having a layered review
4 process but lacks a formalized after-action review report that documents the CIRB
5 analysis and ensures memorialization of decisions.

6 124. COB failed to properly monitor, evaluate, investigate, and discipline its
7 police officers, with deliberate indifference to the constitutional rights of persons
8 being investigated for domestic violence. The city exhibited deliberate indifference to
9 the constitutional rights of persons being investigated for domestic violence, by
10 failing to adequately train its police officers to conduct proper investigations of
11 domestic violence reports and to make arrests only in the presence of probable cause.

12 125. COB, the named officers and Individual Doe defendants failed to act as
13 a reasonable law enforcement official would in similar circumstances by using
14 excessive force against Plaintiff, a complying, non-threatening individual, and
15 arresting Plaintiff without probable cause. COB, the named officers and Individual
16 doe defendants failed to act as a reasonable law enforcement official would in a
17 similar circumstance by recommending, authorizing and ratifying the use of excessive
18 force against Plaintiff and/or recommending, authorizing, and ratifying the arrest of
19 Plaintiff without probable cause.

20 126. Defendant COB was deliberately indifferent to the obvious
21 consequences of its failure to train its sheriff's Officers adequately. In 2020, the
22 Department reported 84 uses of force similar to Mr. Robinson. Specifically, the City
23 of Burbank failed to adequately train its Officers with regard to deciding when it is
24 appropriate to detain an individual, the investigation and reporting of detentions, the
25 use of unreasonable and excessive force, particularly deadly force, the immediate
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1 need to use deadly force, the use of proper police tactics and with respect to accurate
2 reporting writing and recommending prosecution to deter crime.

3 127. The failure of Defendant City of Burbank to provide adequate training
4 caused the deprivation of the Plaintiffs’ rights by **Officers; And Does 1-5**; that is, the
5 Defendant City of Burbank’ failure to train is so closely related to the deprivation of
6 Plaintiffs’ rights as to be the moving force that caused the ultimate injury.

7 128. By reason of the aforementioned acts and omissions described in the
8 preceding paragraphs, Plaintiff Mr. Robinson suffered serious bodily injury,
9 emotional and mental distress and financial loss. Accordingly, Defendants City of
10 Burbank and DOES 6-10 each are liable to Plaintiffs for compensatory damages under
11 42 U.S.C. § 1983.

12 129. Plaintiff bring this claim in their individual capacities and in each case
13 seek compensatory damages, including loss of consortium, past and future financial
14 loss, physical injuries, and emotional and mental distress for the isolation of
15 Plaintiffs’ rights. Plaintiffs also seek punitive damages and attorney’s fees under
16 this claim.

17 **SIXTH CLAIM FOR RELIEF**

18 **Municipal Liability – Supervisor Liability (42 U.S.C. §1983)**

19 **Mr. Robinson v. Sgt. Vrzi and Does 6-10**

20 130. Mr. Robinson repeats and realleges each and every allegation in the
21 preceding paragraphs of this Complaint with the same force and effect as if fully set
22 forth herein.

23 131. Defendants **Sgt. Vrzi And Does 1-5** while acting under color of law,
24 deprived Plaintiff of his civil rights, more particularly, his right to be free from
25 unreasonable searches and seizures when he approved and participated in the unless
26 arrest of Mr. Robinson.

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1 132. Sgt. Virzu and Does 1-50 knew that his subordinates were arresting Mr.
2 Robinson without probable cause and knew or reasonably should have known that the
3 subordinates' conduct would deprive the plaintiff of these rights and

4 133. **Sgt. Virzu** failed to act to prevent his subordinates from engaging in
5 such conduct.

6 134. As a direct and proximate result of the aforementioned conduct, Plaintiff
7 suffered a loss of liberty, past and future earnings, physical injuries and emotional
8 distress.

9 135. Plaintiff brings this claim individually and seeks general and special
10 damages, in an amount to be determined at trial. Plaintiff also seeks reasonable costs
11 and attorney's fees under 42 U.S.C. § 1988.

12 **SEVENTH CLAIM FOR RELIEF**

13 **Deprivation of Civil Rights – Fabrication of Violations – (42 U.S.C. § 1983)**

14 **(By Robinson Against Officers Munn, Choi, Ekimyan; Moreno; Lindquist;**

15 **Hobson; Sgt. Virzi; And Does 1-5)**

16 136. Mr. Robinson repeats and realleges each and every allegation in the
17 preceding paragraphs of this Complaint with the same force and effect as if fully set
18 forth herein.

19 137. Defendants **Officers Munn, Choi, Ekimyan; Moreno; Lindquist;**
20 **Hobson Sgt. Virzi; And Does 1-5** while acting under color of law, deprived Plaintiff
21 of his civil rights, more particularly, his right to due process of law, by deliberately
22 drafting a false report and concealing evidence that resulted in prolonging Mr.
23 Robinson's underlying prosecution for a crime he did not commit. BPD Officer's
24 actions deprived Mr. Robinson of his liberty because the very next day, the District
25 Attorney filed a Criminal Complaint based entirely on his false police report, which
26 was used in Mr. Robinson's underlying criminal proceedings.

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1 138. The use of false evidence asserted herein, encompasses the conduct as
2 alleged herein and undiscovered conduct. Defendants further failed to correct false
3 testimony and evidence contained within their individual reports regarding the
4 conduct of Mr. Robinson, as alleged above. Defendants knew or should have known
5 the evidence was false. At all relevant times, BPD Officers **And Does 1-50** knew or
6 should have known Mr. Robinson was innocent. In addition, after charges were filed
7 against Mr. Robinson, Defendants **BPD Officers And Does 1-50** failed to take action
8 to secure Mr. Robinson’s freedom from wrongful prosecution.

9 139. Defendants’ conduct was done with deliberate indifference to and/or
10 reckless disregard of Plaintiff’s rights or for the truth. The false and misleading
11 statements of Defendants and the arrest team were all used to try and obtain a baseless
12 conviction of Plaintiff.

13 140. Defendants **BPD Officers And Does 1-50** knew or should have known
14 that evidence set forth above was false, and that the witnesses were providing false
15 evidence. As noted above, independent third-party witnesses voluntarily contacted
16 BPD Officers to report Mr. Robinson had not committed any crime.

17 141. The constitutional source against using false evidence is primarily the
18 due process clause of the Fourteenth Amendment, and Plaintiff’s due process rights
19 were violated by the conduct alleged herein. Plaintiff brings this claim as both a
20 procedural and substantive due process violation. To the extent that any court were to
21 conclude that the source of Plaintiff’s right to be free from false evidence being used
22 against him that led to a false and wrongful prosecution, is any constitutional source
23 other than due process (such as the Fourth Amendment or Sixth Amendment right to
24 a fair trial), this claim is brought on those bases as well.

25 142. Defendants **BPD Officers And Does 1-5** were each jointly and severally
26 responsible to not use false evidence against Mr. Robinson. Each engaged in, knew
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1 or should have known of the unconstitutional conduct alleged herein and failed to
2 prevent it, which each had a responsibility to do, and each ratified, approved or
3 acquiesced in it.

4 143. As a direct and proximate result of the aforementioned conduct, Plaintiff
5 suffered a loss of liberty, past and future earnings, physical injuries and emotional
6 distress.

7 144. The conduct of **BPD Officers. And Does 1-5** was willful, wanton,
8 malicious, and done with an evil motive and intent and a reckless disregard for the
9 rights and safety of Plaintiff and therefore warrants the imposition of exemplary and
10 punitive damages.

11 145. Plaintiff brings this claim individually and seeks general and special
12 damages, in an amount to be determined at trial. Plaintiff also seeks
13 reasonable costs and attorney’s fees under 42 U.S.C. § 1988.

14 **PRAYER**

15 WHEREFORE, Plaintiffs pray judgment against Defendants and each of
16 them, as to each claim for relief as applicable, as follows:

- 17 1. For General and Special Damages according to proof;
- 18 2. For Exemplary Damages as provided by law; in an amount to be proved
19 against each individual Defendant;
- 20 3. For Attorney’s Fees pursuant to 42 U.S.C. 1985 and 1988;
- 21 4. For Costs of Suit;
- 22 5. For such other and further relief as the Court may deem proper.

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Dated: June 5, 2023

Respectfully Submitted,

FILER | PALMER, LLP

By: 

Justin A. Palmer
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JURY DEMAND

Plaintiff hereby demands a trial by jury on all issues.

Dated: June 5, 2023

Respectfully Submitted,

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By: 

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