

JOHN F. MARTIN (SBN 52618)
MARTA R. VANEGAS (SBN 278328)
JULIA A. LUM (SBN 310291)
LAW OFFICES OF JOHN F. MARTIN

A Professional Corporation
3100 Oak Road, Suite 230
Post Office Box 5331
Walnut Creek, CA 94596
Telephone: (925) 937-5433
Facsimile: (925) 938-5567

Attorneys for Plaintiff
SHELLEY WATKINS

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

SHELLEY WATKINS

Plaintiff,

v.

CITY OF OAKLAND; Oakland Police
Department Chief **SABRINA
LANDRETH**, in her Individual and
Official Capacities; Oakland Police
Officer **WILLIAM BERGER** in his
individual capacity; Oakland Police
Officer **BRANDON HRAIZ** in his
individual capacity; Oakland Police
Officer **BRENTON LOWE** in his
individual capacity; Oakland Police
Officer **CEDRIC REMO**, in his
individual capacity; Oakland Police
Sergeant **RICHARD VIERRA**, in his
individual capacity; Oakland Police
Officer **NATHANIEL WALKER** in his
individual capacity; and DOES 1-30,

Defendants.

CASE NO.

**COMPLAINT FOR DAMAGES AND
DEMAND FOR JURY TRIAL**

- 1) **42 U.S.C. § 1983 – Civil Rights Violations**
- 2) **42 U.S.C. § 1983 – *Monell* Municipal and Supervisory Liability**
- 3) **California Civil Code § 52.1(b) – State Civil Rights Violations**
- 4) **False Arrest**
- 5) **False Imprisonment**
- 6) **Intentional Infliction of Emotional Distress**
- 7) **Assault & Battery**
- 8) **Negligence**

COMPLAINT

Plaintiff SHELLEY WATKINS, by and through his attorneys, the LAW OFFICES OF JOHN F. MARTIN, sue Defendants CITY OF OAKLAND, OFFICERS LANDRETH,

1 BERGER, HRAIZ, LOWE, REMO, VIERRA, WALKER, and DOES 1-30 (collectively,
2 “Defendants”), for damages, and demands a jury trial pursuant to Rule 38 of the Federal Rules
3 of Civil Procedure based on the following allegations:

4 **PARTIES AND PROCEDURE**

5 1. As alleged more fully below, this civil rights action arises from the unlawful arrest
6 of Plaintiff SHELLEY WATKINS (“Mr. Watkins” or “Plaintiff”), a sixty five year old
7 gentleman. Defendants WILLIAM BERGER and BRANDON HRAIZ arrested Plaintiff at the
8 direction of Defendant CEDRIC REMO for lawfully sitting in his legally parked car and
9 engaging in a conversation with another individual. Defendant Officers CEDRIC REMO,
10 NATHANIEL WALKER and BRENTON LOWE falsely claimed to observe Plaintiff engage in
11 a narcotics sale, leading to Plaintiff’s unlawful arrest, strip search, and continued detention.

12 2. Mr. Watkins, also known as JESSE POWELL, is a citizen of the United States, a
13 competent adult, and a resident of the City of Sacramento.

14 3. Defendant CITY OF OAKLAND (“CITY”) is a municipal corporation, duly
15 incorporated under the laws of the State of California. The CITY operates the Oakland Police
16 Department (“OPD”) and is the employer of the individual OPD defendants named above, as
17 well as certain DOE Defendants.

18 4. At all times mentioned herein, Defendant Officers WILLIAM BERGER
19 (“BERGER”), BRANDON HRAIZ (“HRAIZ”), BRENTON LOWE (“LOWE”), CEDRIC
20 REMO (“REMO”), NATHANIEL WALKER (“WALKER”), and DOES 1 through 19, were
21 adult citizens who were acting within the course and scope of their employment with Defendant
22 CITY and in doing all of the things hereinafter mentioned acted under color of its authority as
23 such, under color of the statutes, ordinances, regulations, policies, customs, practices, and
24 usages of the State of California. These Defendants and DOES 1 through 19 are sued in their
25 individual capacities.

26 5. At all times mentioned herein, Defendant SABRINA LANDRETH
27 (“LANDRETH”), was an adult citizen who was acting within the course and scope of her
28

1 employment with Defendant CITY as the Chief of Police for OPD and in doing all of the things
2 hereinafter mentioned acted under color of its authority as such, under color of the statutes,
3 ordinances, regulations, policies, customs, practices, and usages of the State of California. She
4 is sued both individually and in her official capacity as the Chief of Police for the OPD. At all
5 material times, Chief LANDRETH was the final policy making official for the CITY OF
6 OAKLAND, ultimately responsible for all policies, procedures, and training with the OPD.

7 6. At all times mentioned herein, Defendant Sergeant RICHARD VIERRA
8 (“VIERRA”) and certain DOE Defendants, were employees and agents of Defendant CITY,
9 responsible for supervising the individually named Defendants above. In failing to properly
10 supervise the individually named Defendants, such DOE Defendants acted within the course
11 and scope of their employment with Defendant CITY and acted under color of state law.

12 7. Plaintiffs are unaware of the true names and capacities whether individual,
13 corporate, associate, or otherwise, of Defendants sued herein as DOES 1 through 30, inclusive,
14 and therefore sues said Defendants by such fictitious names. Plaintiffs will amend their
15 complaint to allege DOES’ true names and capacities when ascertained. Plaintiffs are informed
16 and believe and thereon allege that each of the fictitiously named Defendants is responsible in
17 some manner for the occurrences herein. Wherever appearing in this Complaint, each and every
18 reference to Defendants, or any of them, is intended to include, and shall be deemed to include,
19 all fictitiously named Defendants.

20 8. Plaintiff alleges, on information and belief, that each of the Defendants sued
21 herein was wrongfully, deliberately indifferently, negligently, and/or otherwise responsible in
22 some manner for the events and happenings hereinafter described, and proximately caused
23 injuries and damages to Plaintiff. Further, one or more DOE Defendants was at all material
24 times responsible for the hiring, training, supervision, and discipline of other defendants,
25 including DOE Defendants.

26 9. Plaintiff is informed and believes that at all times mentioned herein each of the
27 Defendants was agent, servant, employee, partner, joint venture, co-conspirator, and/or alter ego
28

1 of the remaining Defendants. At all material times, each of the Defendants was acting within
2 the course and scope of that relationship. Plaintiff is further informed and believes that each of
3 the Defendants herein gave consent, aid, and assistance to each of the remaining Defendants,
4 and ratified and/or authorized the acts or omissions of each Defendant as alleged herein, except
5 as may hereinafter be otherwise, specifically alleged. At all material times, each Defendant was
6 an integral participant, jointly and fundamentally engaged in unlawful and/or tortious activity,
7 resulting in the deprivation of Plaintiff's constitutional rights and other actionable harm.

8 10. The acts and omissions of all OPD Defendants, as set forth herein, were at all
9 material times pursuant to the actual customs, policies, practices, and/or procedures of the CITY
10 OF OAKLAND Police Department, or alternatively, such acts and omissions were pursuant to
11 or were the proximate result of the lack thereof, and thus, in lieu of policies, practices, and
12 procedures that should have been in place.

13 11. At all material times, each OPD Defendant acted under color of the laws, statutes,
14 ordinances, and regulations of the State of California.

15 12. At all material times, Defendants' alleged actions against Plaintiffs occurred in the
16 City of Oakland, located in Alameda County, California.

17 13. PLAINTIFF has complied with the requirements of the California Government
18 Tort Claims Act. On April 11, 2017, PLAINTIFF filed a claim against the City of Oakland
19 pursuant to California Government Code § 905, et seq. The claim was denied on April 20,
20 2017.

21 14. This complaint may be pleaded in the alternative, pursuant to Rule 8 (d)(2) of the
22 Federal Rules of Civil Procedure.

23 **JURISDICTION AND VENUE**

24 15. This suit is brought to obtain compensatory and punitive damages for a citizen of
25 the United States for the deprivation, under color of state law, of rights secured by the United
26 States Constitution, pursuant to 42 U.S.C. §§ 1983 and 1988. This action is brought pursuant to
27 the Fourth and Fourteenth Amendments to the United States Constitution, Article I, § 13 of the
28

1 California Constitution, and the laws of the state of California. Therefore, this Court has
2 jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1343(a)(3)-(4).

3 16. Pursuant to 28 U.S.C. § 1367(a), Plaintiff invokes this Court’s supplemental
4 jurisdiction to hear and decide claims arising under state law.

5 17. Pursuant to 28 U.S.C. § 1391(b)(2), venue is proper because the events giving rise
6 to Plaintiff’s claims occurred in this judicial district.

7 **GENERAL ALLEGATIONS**

8 18. PLAINTIFF re-alleges each and every paragraph in this complaint, as though fully
9 set forth therein.

10 19. On October 25, 2016, Mr. Watkins was driving with Donna Reed (“Ms. Reed”)
11 from their home Sacramento, California, to Oakland, California, to participate in a bible study
12 group.

13 20. The couple arrived in Oakland early for bible study. Ms. Reed wished to purchase
14 an item at a store. Mr. Watkins legally parked his car in a parking lot at the intersection of
15 Center Street and Seventh Street in Oakland. He waited inside the car while Ms. Reed shopped
16 at “99 Cent Only Store,” located at 1440 Seventh Street, Oakland, California.

17 21. Mr. Watkins waited in his vehicle while Ms. Reed shopped. A male individual
18 passed Mr. Watkins’s car. Mr. Watkins asked the person if he had a light for a cigarette; the
19 person indicated he did. Mr. Watkins stepped out of the car, took a book of matches from the
20 person, struck a match, and lit his cigarette. The person then asked if Mr. Watkins had another
21 cigarette; Mr. Watkins said he did not, but that he had some change. Mr. Watkins gave the
22 individual some spare change.

23 22. Mr. Watkins was neither in possession of any narcotics nor sold any narcotics. Mr.
24 Watkins was not engaged in any unlawful activity or planning to engage in any unlawful
25 activity, nor to his knowledge was any unlawful activity occurring in his presence.
26
27
28

1 23. Mr. Watkins got back inside his car and waited for Ms. Reed. Several minutes
2 later, Ms. Reed entered the car. Mr. Watkins drove the vehicle out of the parking lot and
3 towards the bible study group.

4 24. Upon information and belief, Officer REMO informed Officers HRAIZ and
5 BERGER that REMO had observed Plaintiff engage in the sale of a controlled substance.

6 25. After driving approximately three blocks, Mr. Watkins noticed a police car with
7 its sirens on behind him for no apparent reason. Mr. Watkins pulled over his vehicle. The
8 officer ordered Mr. Watkins to turn off the car and put the keys onto the dashboard. Mr.
9 Watkins complied with the request.

10 26. Defendant Officer HRAIZ instructed Mr. Watkins to step out of the car and place
11 his hands behind his back. Mr. Watkins complied. Defendant Officer HRAIZ placed handcuffs
12 on Mr. Watkins.

13 27. Defendant Officer HRAIZ commanded Mr. Watkins walk to the officer's vehicle
14 and to stand against his police vehicle. Mr. Watkins complied. Officer HRAIZ conducted a pat
15 down search of Mr. Watkins while Mr. Watkins was handcuffed. The officer recovered no
16 contraband from his search of Mr. Watkins. Officer HRAIZ then forced Mr. Watkins to sit,
17 handcuffed, in the back of a patrol vehicle.

18 28. Mr. Watkins repeatedly asked why he was being detained and told the officer he
19 was on his way to bible study. He expressed concern and frustration as to why he was being
20 detained for no reason.

21 29. Officer HRAIZ informed Mr. Watkins that other officers had observed him selling
22 "dope." Mr. Watkins repeatedly denied selling dope and told Officer HRAIZ and Officer
23 BERGER that he was on his way to bible study. Mr. Watkins repeatedly explained to both
24 Defendant Officers that he stopped at the 99-cent store, received a light for his cigarette from
25 another individual, and gave that individual 51 cents in change. Officer HRAIZ and Officer
26 BERGER ignored Plaintiff's protestations, did not release Plaintiff, and upon information and
27
28

1 belief conducted no additional investigation as to the circumstances of the alleged narcotics
2 sale.

3 30. While Mr. Watkins was detained, Officer HRAIZ, Officer BERGER, and other
4 DOE Defendants thoroughly searched his vehicle. Officers recovered thirteen (\$13.00) dollars
5 from Mr. Watkins' vehicle. They recovered no contraband from Mr. Watkins' vehicle. Despite
6 recovering no contraband, these Defendant Officers did not release Mr. Watkins or conduct
7 further investigation as to the veracity of Mr. Watkins' statements.

8 31. In a police report, Defendant REMO stated that he had "a clear and unobstructed
9 view of WATKINS from approximately 20 feet away" and that the "surveillance was conducted
10 during daylight hours, so there was plenty of sunlight." Defendant REMO claimed that he
11 observed a black male, Keith Williams, approach Plaintiff, and that Plaintiff exited his vehicle.
12 Defendant REMO fabricated that he observed the two engage in a brief conversation and that
13 Williams had currency in his right hand. Defendant REMO falsely stated that he observed
14 Plaintiff reach into his right front jean pocket and pull a small folded piece of paper and give it
15 to Williams in exchange for U.S. Currency. Defendants ROWE, WALKER and LOWE all
16 falsely claimed they observed Plaintiff and Williams engage in a narcotics sale.

17 32. Defendants HRAIZ and BERGER arrested Mr. Watkins. Defendants HRAIZ and
18 BERGER drove Plaintiff in-custody to the Alameda County Jail. There, DOE Defendants
19 conducted a strip search of Mr. Watkins. DOE Defendants forced Mr. Watkins to remove all his
20 clothing and, while naked, to squat and cough. DOE Defendants looked in Plaintiff's mouth,
21 between his legs, and under his testicles. Defendants HRAIZ and BERGER observed the strip-
22 search.

23 33. Upon information and belief, REMO, WALKER, and LOWE knowingly,
24 intentionally, and maliciously communicated false and fabricated claims to the Alameda County
25 District Attorney's Office that they observed Plaintiff engage in a narcotics sale when in fact
26 they observed only lawful behavior by Plaintiff.

1 34. Plaintiff was required to post a \$30,000 bond, on which he paid a non-refundable
2 deposit of \$3,000.

3 35. Upon information and belief, on the basis of REMO, WALKER, and LOWE'S
4 false and fabricated claims, the District Attorney's office charged Plaintiff with Sale of a
5 Controlled Substance, a violation of California Health and Safety Code §11379(a).

6 36. Mr. Watkins was required to appear in court on four separate occasions. All
7 charges were dismissed by the Alameda County District Attorney's Office on April 3, 2017.

8 37. At all material times and, alternatively, the actions and omissions of each
9 Defendant were intentional, reckless, wanton, willful, malicious, deliberately indifferent, and/or
10 negligent.

11 38. As a direct and proximate cause of each Defendant's acts and/or omissions as set
12 forth above, Plaintiff suffered the following injuries and damages, past and future, including,
13 but not limited to:

- 14 a. Economic damages, including, but not limited to, out of pocket expenses, such as
15 bail bond charges, interest, and medical expenses, *inter alia*;
- 16 b. Severe emotional distress, fear, pain and suffering, anxiety, humiliation,
17 indignity, loss of liberty, loss of enjoyment of life, anxiety attacks, insomnia,
18 stress, increased blood pressure, stress related pain, post-traumatic stress
19 disorder, and apprehension about being falsely arrested or imprisoned again;
- 20 c. All other legally cognizable special and general damages;
- 21 d. Violations of state and federal constitutional rights; and,
- 22 e. All damages and penalties recoverable under 42 U.S.C. §§ 1983 and 1988,
23 California Civil Code §§ 52 and 52.1, and as otherwise allowed under California
24 and United States statutes, codes, and common law.

25 //
26 //
27 //
28 //

FIRST CAUSE OF ACTION

**42 U.S.C. § 1983 *et seq.* – CIVIL RIGHTS VIOLATIONS
Against Defendants LANDRETH, BERGER, HRAIZ, LOWE,
REMO, VIERRA, WALKER, and DOES 1-19**

1
2
3 39. Plaintiff incorporates by reference all of the preceding paragraphs as if each were
4 fully alleged herein.

5 40. By the actions and omissions described above, Defendants LANDRETH,
6 BERGER, HRAIZ, LOWE, REMO, VIERRA, WALKER, and DOES 1-19 are liable through
7 42 U.S.C. § 1983 for depriving Plaintiff of the constitutional right to be free from unreasonable
8 search and seizure, as secured by the Fourth and Fourteenth Amendments, and the
9 constitutional right to be free from unlawful and/or unreasonable use of force, as secured by the
10 Fourth and Fourteenth Amendments.

11 41. By reason of the Defendants' conduct, Plaintiff was deprived of rights, privileges
12 and immunities secured by the Constitution of the United States and laws enacted thereunder in
13 that the searches and seizures amounted to an arbitrary intrusion by the Defendants into the
14 security of Plaintiff's privacy, property, and person, and were not authorized by law, and in that
15 the contacts on Plaintiff's person and restrictions of his movements deprived Plaintiff of liberty,
16 property, and privacy without due process of law.

17 42. Defendants' conduct was unreasonable under the circumstances and violated
18 Plaintiff's Fourth Amendment rights.

19 43. Plaintiff did not consent to Defendants' seizure of his person, nor to the physical
20 force used upon him.

21 44. The individually named defendant officers, DOE defendants, and/or supervisors
22 that were in a position of being able to intervene, stop, or prevent the Fourth Amendment
23 violations and failed to do so renders such Defendant(s) liable for any such violations.

24 45. Any supervisors who failed to prevent the unconstitutional acts of any individually
25 named or DOE Defendants and, thus failed to properly supervise them, are liable directly and in
26 their capacity as a supervisor.

1 46. The foregoing wrongful acts were a proximate cause of Plaintiff's injuries and
2 damages, as set forth in ¶ 38. Plaintiff is therefore entitled to general and compensatory
3 damages in an amount to be proven at trial.

4 47. The Defendants, and each of them, acted with reckless disregard of the rights of
5 Plaintiffs and their actions were willful, wanton, malicious, and oppressive, such that they
6 justify an award of exemplary and punitive damages against these individual Defendants.
7 Punitive damages are not sought directly against the CITY OF OAKLAND.

8 **SECOND CAUSE OF ACTION**
9 **42 U.S.C. § 1983 *et seq.* - MONELL**
10 **MUNICIPAL AND SUPERVISORY LIABILITY**
11 **Against Defendants CITY OF OAKLAND,**
SABRINA LADRETH, and DOES 20-30

12 48. Plaintiff incorporates by reference all of the preceding paragraphs as if each were
13 fully alleged herein. Upon information and belief, Plaintiff alleges that the unconstitutional
14 actions and/or omissions of the individually named OPD Defendants herein were pursuant to
15 the following customs, policies, practices, and/or procedures of the OPD, stated in the
16 alternative, which were allowed, directed, encouraged and/or ratified by policy making officials
17 for the CITY OF OAKLAND and/or SABRINA LANDRETH, and/or the OPD:

- 18 a. Failing to institute, maintain, or administer sufficient training on subjects such as
19 seizures of citizens or warrantless searches of persons and automobiles; and/or
20 b. Failing to supervise or discipline officers for misconduct that results in the
21 violation of citizens' civil rights; and/or
22 c. The policy, habit, custom, or practice of fabricating evidence to justify an arrest;
23 and/or,
24 d. Failing to have or enforce appropriate policies, procedures, and training to
25 prevent, stop, or correct unconstitutional conduct, customs, and procedures, when
26 the need to do so was obvious; and/or,
27 e. The policy, habit, custom, or practice of covering-up violations of constitutional
28 rights by, for example, tolerating and/or encouraging OPD personnel to file false
or fabricated reports, and/or give false or fabricated statements.

49. In the alternative, upon information and belief, Defendants City of Oakland and
Sabrina Landreth instituted policies or training addressing some or all of the topics listed above,

1 but through negligence or deliberate indifference to citizens' rights have failed to properly
2 oversee, enforce, and/or properly carry out such policies and/or training.

3 50. The above described customs, policies, practices and/or procedures of the OPD
4 were a moving force and/or a proximate cause of the deprivations of Plaintiff's constitutional
5 rights, in violation of 42 U.S.C. § 1983, as more fully set forth above in the First Cause of
6 Action.

7 51. Defendants CITY OF OAKLAND and/or SABRINA LANDRETH and/or DOES
8 20-30 failed to properly hire, train, instruct, monitor, supervise, evaluate, investigate, and
9 discipline the individually named Defendants, DOES 1-19, and any other personnel under each
10 supervisor Defendant's supervision, including DOE Supervisors, with deliberate indifference to
11 Plaintiff's constitutional rights, which were thereby violated as described above.

12 52. The aforementioned customs, policies, practices, and procedures; the failure to
13 properly and adequately hire, train, instruct, monitor, supervise, evaluate, investigate, and
14 discipline; and the unconstitutional orders, approvals, ratification, and toleration of wrongful
15 conduct of Defendants CITY OF OAKLAND, SABRINA LANDRETH, and DOES 1-19 were
16 a moving force and/or a proximate cause of the deprivations of Plaintiff's clearly established
17 and well-settled constitutional rights, in violation of 42 U.S.C. § 1983, as more fully set forth in
18 the First Cause of Action.

19 As a direct and proximate result of the foregoing unconstitutional actions, omissions, policies,
20 customs, practices, and/or procedures of Defendants CITY OF OAKLAND, SABRINA
21 LANDRETH, and DOES 1-19, or the lack or inadequacy thereof, Plaintiff sustained serious and
22 permanent injuries and damages and is entitled to damages, penalties, costs, and attorneys' fees,
23 as set forth above in ¶ 38, and punitive damages against Defendants LANDRETH and DOES 1-
24 19 in their individual capacities. Plaintiff's only means of securing complete and adequate relief
25 is to also seek declaratory and injunctive relief against Defendants' unlawful policies and
26 practices. Plaintiff therefore seeks both legal damages and equitable remedies in the form of
27 injunctive relief against Defendant CITY OF OAKLAND.

THIRD CAUSE OF ACTION
VIOLATION OF CIVIL CODE § 52.1(b)

**Against Defendants CITY OF OAKLAND, LANDRETH, BERGER, HRAIZ, LOWE,
REMO, VIERRA, WALKER and DOES 1 through 19**

1
2
3 53. Plaintiff incorporates by reference all of the preceding paragraphs as if each were
4 fully alleged herein.

5 54. By the actions and omissions described above, Defendants CITY OF OAKLAND,
6 LANDRETH, BERGER, HRAIZ, LOWE, REMO, VIERRA, WALKER and DOES 1 through
7 19 violated and/or interfered with Plaintiff's state and/or federal rights through threats, and/or
8 intimidation, and/or coercion, thereby entitling Plaintiff to sue for damages under California
9 Civil Code § 52.1, subdivision (b).

10 55. These Defendants deprived Plaintiff of the right to be free from unreasonable
11 searches and seizures, as secured by the Fourth and Fourteenth Amendments of the United
12 States Constitution; the right to be free from unreasonable searches and seizures as secured by
13 Article I, § 13 of the California Constitution; the right to be free from unlawful and/or
14 unreasonable use of force, as secured by the Fourth and Fourteenth Amendments; and the right
15 to protection from bodily restraint, harm, or personal insult, as secured by California Civil Code
16 § 43.

17 56. The foregoing wrongful acts were a proximate cause of Plaintiff's injuries and
18 damages, as set forth in ¶ 38. Plaintiff is therefore entitled to general and compensatory
19 damages in an amount to be proven at trial.

20 57. Pursuant to California Government Code § 518.2, Defendant CITY OF
21 OAKLAND is liable for these violations which were committed within the course and scope of
22 the named Defendants' employment.

23 58. In committing the acts alleged above, Defendants, including, but not limited to
24 Defendants LANDRETH, BERGER, HRAIZ, LOWE, REMO, VIERRA, WALKER and DOES
25 1 through 19 acted maliciously and/or were guilty of a wanton and reckless disregard for the
26 rights, safety, and emotional well being of Plaintiff, and by reason thereof, Plaintiff is entitled to
27

1 exemplary and punitive damages in an amount to be proven at trial against these individual
2 Defendants. Punitive damages are not sought directly against the CITY OF OAKLAND.

3 **FOURTH CAUSE OF ACTION**
4 **FALSE ARREST**

5 **Against DEFENDANTS CITY OF OAKLAND, LANDRETH, BERGER, HRAIZ,**
6 **LOWE, REMO, VIERRA, WALKER and DOES 1 through 19**

7 59. Plaintiff incorporates by reference all of the preceding paragraphs as if each were
8 fully alleged herein.

9 60. By the acts of LANDRETH, BERGER, HRAIZ, LOWE, REMO, VIERRA,
10 WALKER, and DOES 1-19, alleged herein, Plaintiff was falsely arrested, thereby entitling
11 Plaintiff to damages pursuant to California law.

12 61. The aiding and abetting, failure to intervene, and/or failure to prevent Plaintiff's
13 arrest gives rise to liability on the part of the other individually named and/or DOE Defendants.

14 62. Defendant CITY OF OAKLAND is liable under Cal. Gov. Code § 815.2 for the
15 false arrest, committed within the course and scope of the named Defendants' employment.

16 63. The foregoing wrongful acts were a proximate cause of Plaintiff's injuries and
17 damages, as set forth in ¶ 38. Plaintiff is therefore entitled to general and compensatory
18 damages in an amount to be proven at trial, as well as punitive damages against Defendants in
19 their individual capacities. Punitive damages are not sought directly against the CITY OF
20 OAKLAND.

21 **FIFTH CAUSE OF ACTION**
22 **FALSE IMPRISONMENT**

23 **Against Defendants CITY OF OAKLAND, LANDRETH, BERGER, HRAIZ, LOWE,**
24 **REMO, VIERRA, WALKER and DOES 1 through 19**

25 64. Plaintiff incorporates by reference all of the preceding paragraphs as if each were
26 fully alleged herein.

27 65. By the acts of CITY OF OAKLAND, LANDRETH, BERGER, HRAIZ, LOWE,
28 REMO, VIERRA, WALKER and DOES 1 through 19 alleged herein, Plaintiff was falsely
imprisoned, thereby entitling Plaintiff to damages pursuant to California law.

1 74. Defendants committed the acts alleged herein maliciously, fraudulently, and
2 oppressively, in bad faith, with the wrongful intent of injuring Plaintiffs and in conscious
3 disregard of Plaintiffs' rights. Plaintiff is therefore entitled to punitive damages against
4 Defendants in their individual capacities. Punitive damages are not sought directly against the
5 City.

6 **SEVENTH CAUSE OF ACTION**
7 **ASSAULT AND BATTERY**

8 **Against Defendants CITY OF OAKLAND, LANDRETH, BERGER, HRAIZ, LOWE,**
9 **REMO, VIERRA, WALKER and DOES 1 through 19**

10 75. Plaintiff incorporates by reference all of the preceding paragraphs as if each were
11 fully alleged herein.

12 76. The acts of the individually named Defendants and DOES 1-19, as described
13 above, constitute assault and battery, entitling Plaintiff to damages pursuant to California law.

14 77. Defendant CITY OF OAKLAND is liable under Cal. Gov. Code § 815.2 for this
15 tortious conduct, committed within the course and scope of the named Defendant's
16 employment.

17 78. The foregoing wrongful acts were a proximate cause of Plaintiff's injuries and
18 damages, as set forth in ¶ 38. Plaintiff is therefore entitled to general and compensatory
19 damages in an amount to be proven at trial.

20 79. Defendants committed the acts alleged herein maliciously, fraudulently, and
21 oppressively, in bad faith, with the wrongful intent of injuring Plaintiffs and in conscious
22 disregard of Plaintiff's rights. Plaintiff is therefore entitled to punitive damages against
23 Defendants in their individual capacities. Punitive damages are not sought directly against the
24 City.

25 //

26 //

27 //

28 //

EIGHTH CAUSE OF ACTION
NEGLIGENCE

**Against Defendants CITY OF OAKLAND, LANDRETH, BERGER, HRAIZ, LOWE,
REMO, VIERRA, WALKER and DOES 1 through 19**

1
2
3 80. Plaintiff incorporates by reference all of the preceding paragraphs as if each were
4 fully alleged herein.

5 81. At all times, each Defendant owed Plaintiff the duty to act with due care in the
6 execution and enforcement of any right, law, or legal obligation and each Defendant owed the
7 Plaintiff the duty to act with reasonable care.

8 82. This general duty of reasonable care owed to Plaintiff by all Defendants included,
9 but was not limited to, refraining from violating the right to be free from unreasonable searches
10 and/or seizures, as secured by the Fourth and Fourteenth Amendments; and refraining from
11 violating the right to be free from unreasonable searches and seizures, as secured by the
12 California Constitution, Article I, § 13.

13 83. By the acts and omissions set forth more fully in the paragraphs above,
14 Defendants acted negligently and breached their duty of due care owed to Plaintiff, which
15 foreseeably resulted in the suffering of damages by Plaintiff.

16 84. The foregoing wrongful acts were a proximate cause of Plaintiff's injuries and
17 damages, as set forth in ¶ 38. Plaintiff is therefore entitled to general and compensatory
18 damages in an amount to be proven at trial.

JURY DEMAND

19
20 85. Plaintiff hereby demands a trial by jury for this action.

PRAAYER FOR RELIEF

21
22 WHEREFORE, Plaintiffs expressly reserve their rights to amend the complaint up to and
23 including the time of trial to include all theories of recovery and items of damages not yet
24 ascertained, and demand judgments against Defendants, and each of them, acting on their own
25 and through agents and employees, as follows:

- 26 1. For general damages in an amount according to proof;
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- 2. Exemplary and punitive damages against the individual Defendants under 42 U.S.C. § 1983 and California law, in an amount according to proof;
- 3. For attorneys’ fees and costs of suit under 42 U.S.C. § 1988;
- 4. For attorneys’ fees and costs of suit under California Civil Code §§ 52(b)(3), 52.1(h), and under California Code of Civil Procedure § 1021.5;
- 5. For all other damages, penalties, costs, interest, and attorney’s fees as otherwise may be allowed by California and/or federal law;
- 6. For declaratory and injunctive relief against the CITY OF OAKLAND and Chief LANDRETH;
- 7. For such other and further relief as the Court deems just and proper.

Dated: October 19, 2017

Respectfully submitted,

LAW OFFICES OF JOHN F. MARTIN
A Professional Corporation

By: /s/ Julia Lum

Julia Lum, Esq.
Attorneys for Plaintiff SHELLEY
WATKINS