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Attorneys for Plaintiff

10 **UNITED STATES DISTRICT COURT**
 11 **CENTRAL DISTRICT OF CALIFORNIA**

13 SCOTT STONER, an individual,
 14
 Plaintiff,

15 v.

16
 17 COUNTY OF RIVERSIDE, a municipal
 18 entity, and DOES 1 through 10,
 inclusive,
 19
 Defendants.

CASE NO.: 5:16-CV-01045

COMPLAINT FOR DAMAGES

1. **Violations of Civil Rights (42 U.S.C. § 1983) (Based on Unreasonable Use of Force)**
2. **Violations of Civil Rights (42 U.S.C. § 1983) (Based on Unconstitutional Policy, Practice, or Custom)**
3. **Battery (Cal. Government Code §§ 815.2(a), 820(a); Cal. Civil Code § 43)**
4. **Negligence (Cal. Government Code §§ 815.2(a), 820(a))**

DEMAND FOR JURY TRIAL

JURISDICTION AND VENUE

1
2 1. Jurisdiction is vested in this court under 28 U.S.C. § 1343(a)(3)-(4) for
3 violations of the 1871 Civil Rights Enforcement Act, as amended, including 42 U.S.C.
4 § 1983 and 28 U.S.C. § 1331.

5 2. Venue is proper in the Central District of California under 28 U.S.C.
6 § 1391(a)-(b).

PARTIES

7
8 3. Plaintiff SCOTT STONER (hereinafter “Plaintiff”) is, and at all relevant
9 times mentioned herein was, residing in the County of Riverside, State of California.

10 4. Defendant COUNTY OF RIVERSIDE (hereinafter “COUNTY”) is, and
11 at all relevant times mentioned herein was, a municipal entity or political subdivision of
12 the United States, organized and existing under the laws of the State of California.

13 5. Plaintiff is informed and believes, and thereon alleges, that the heretofore
14 unknown Defendant DOE Deputies are, and at all relevant times mentioned herein were,
15 residents of the County of Riverside and State of California. Further, at all times relevant
16 to the acts and omissions herein alleged, said DOE Deputies were sheriff’s deputies
17 employed by the Defendant COUNTY and the Riverside County Sheriff’s Department,
18 and were acting under color of law and in the course and scope of their employment with
19 the Defendant COUNTY and the Riverside County Sheriff’s Department.

20 6. On or around December 2, 2015, a timely Claim for Damages was submitted
21 to the County of Riverside in substantial compliance with California Government Code
22 § 910, et seq. As of the date of the filing of this Complaint, said Claim has been denied.

23 7. Plaintiff is unaware of the true names and capacities of those Defendants
24 named herein as DOE Defendants. Plaintiff will amend this Complaint to allege said
25 Defendants’ true names and capacities when that information becomes known to him.
26 Plaintiff is informed, believes, and thereon alleges that these DOE Defendants are legally
27 responsible and liable for the incident, injuries, and damages hereinafter set forth, and
28 that each of said Defendants proximately caused the injuries and damages by reason of

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1 negligent, careless, deliberately indifferent, intentional, willful, or wanton misconduct,
2 including the negligent, careless, deliberately indifferent, intentional, willful, or wanton
3 misconduct in creating and otherwise causing the incidents, conditions, and
4 circumstances hereinafter set forth, or by reason of direct or imputed negligence or
5 vicarious fault or breach of duty arising out of the matters herein alleged. Plaintiff will
6 seek leave to amend this Complaint to set forth said true names and identities of the
7 unknown named DOE Defendants when they are ascertained.

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8 8. Each of the individual DOE Defendants sued herein is sued both in his or
9 her individual and personal capacity, as well as in his or her official capacity.

10 9. Plaintiff is informed, believes, and thereon alleges that at all times herein
11 mentioned, each of the Defendants was the agent and/or employee and/or co-conspirator
12 of each of the remaining Defendants, and in doing the things hereinafter alleged, was
13 acting within the scope of such agency, employment, and/or conspiracy and with the
14 permission and consent of other co-Defendants.

15 **FACTS COMMON TO ALL COUNTS**

16 10. This Complaint arises out of an incident that occurred during the early
17 morning hours of Saturday, June 6, 2015, at or around the intersection of Hansen Avenue
18 and Countour Avenue in the City of Nuevo, County of Riverside, and State of California.
19 During the early morning hours of June 6, 2015, Plaintiff was at or around the
20 intersection of Hansen Avenue and Countour Avenue and in an area adjacent to his
21 motor vehicle when several heretofore unknown Defendant DOE Deputies, while acting
22 under color of law and in the course and scope of their employment with the Defendant
23 COUNTY and the Riverside County Sheriff's Department, detained Plaintiff following a
24 vehicle pursuit.

25 11. Without warning, the Defendant DOE Deputies proceeded to subject
26 Plaintiff to unreasonable and excessive force, inflicted through unreasonable, unlawful,
27 and repeated applications of blunt force trauma, through acts which included, but were
28 not limited to, excessive baton strikes to Plaintiff's person, forceful kicks to Plaintiff's

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1 person, and repeated punches to Plaintiff's person, as well as other unreasonable and
2 unlawful applications of force, resulting in severe injuries to Plaintiff's person. The DOE
3 Deputies further subjected Plaintiff to extensive bite injuries resulting from an
4 unreasonable and excessive deployment of a K-9 officer, which caused Plaintiff to suffer
5 severe, permanent, and debilitating injuries to his legs. Following the use of force
6 incident, the involved deputies denied medical care to Plaintiff in a manner that
7 demonstrated deliberate indifference to his constitutional rights. Throughout the time in
8 which the DOE Deputies assaulted, battered, and subjected Plaintiff to unreasonable and
9 excessive force and to the unreasonable and excessive deployment of the K-9 officer,
10 Plaintiff was not resisting the involved deputies, did not undertake any actions which
11 would have led a reasonable sheriff's deputy to believe that he posed the risk of violence
12 to any person, and did nothing to justify the force used against him, and the same was
13 excessive, unnecessary, and unlawful.

14 12. Both prior to and during the time in which the Defendant DOE Deputies
15 assaulted, battered, and subjected Plaintiff to unreasonable and excessive force and to the
16 unreasonable and excessive deployment of the K-9 officer, Plaintiff was not armed with
17 any kind of weapon, and posed no reasonable or credible threat of violence to the DOE
18 Deputies, nor to any other individual. Both prior to and during the time in which the
19 DOE Deputies assaulted, battered, and subjected Plaintiff to unreasonable and excessive
20 force and to the unreasonable and excessive deployment of the K-9 officer, Plaintiff was
21 not resisting arrest or obstructing the DOE Deputies in the performance of their duties,
22 and made no aggressive movements, no furtive gestures, and no physical movements
23 which would suggest to a reasonable sheriff's deputy that he was armed with any kind of
24 weapon, or had the will, or the ability to inflict bodily harm against any individual. Both
25 prior to and during the time in which the DOE Deputies assaulted, battered, and
26 subjected Plaintiff to unreasonable and excessive force and to the unreasonable and
27 excessive deployment of the K-9 officer, the DOE Deputies were not faced with any
28 circumstances which would have led a reasonable sheriff's deputy to believe that

1 Plaintiff posed a risk of injury to any person.

2 **FOR THE FIRST CAUSE OF ACTION**

3 **(By Plaintiff SCOTT STONER Against the Heretofore Unknown Defendant DOE**

4 **Deputies for Violations of Civil Rights [42 U.S.C. § 1983])**

5 **(Based on Unreasonable Use of Force)**

6 13. Plaintiff restates and incorporates by reference the foregoing paragraphs of
7 this Complaint as if set forth in full at this point.

8 14. This cause of action is set forth herein to redress the deprivation, under
9 color of statute, ordinance, regulation, policy, custom, practice, and/or usage, of rights,
10 privileges, and/or immunities secured to Plaintiff by the Fourth Amendment to the
11 Constitution of the United States, including, but not limited to, the right to be free from
12 unreasonable governmental seizures of his person.

13 15. Plaintiff is informed, believes, and thereupon alleges that at all times
14 mentioned herein, the Defendant COUNTY employed the individual Defendants named
15 herein, including the Defendant DOE Deputies. The COUNTY provided its individual
16 Defendant employees and agents, including the DOE Deputies, with official badges and
17 identification cards which designated and described the bearers as employees of the
18 COUNTY and the Riverside County Sheriff's Department.

19 16. Plaintiff is informed, believes, and thereon alleges that at all times relevant
20 to the acts and omissions herein alleged, the Defendant DOE Deputies were employed by
21 the Defendant COUNTY and the Riverside County Sheriff's Department and were acting
22 under color of law and in the course and scope of their employment with the COUNTY
23 and the Riverside County Sheriff's Department.

24 17. During the early morning hours of Saturday, June 6, 2015, Plaintiff was at
25 or around the intersection of Hansen Avenue and Countour Avenue in the City of Nuevo
26 and County of Riverside and in an area adjacent to his motor vehicle when several
27 heretofore unknown Defendant DOE Deputies, while acting under color of law and in
28 the course and scope of their employment with the Defendant COUNTY and the

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1 Riverside County Sheriff's Department, detained Plaintiff following a vehicle pursuit.

2 18. Without warning, the Defendant DOE Deputies proceeded to subject
3 Plaintiff to unreasonable and excessive force, inflicted through unreasonable, unlawful,
4 and repeated applications of blunt force trauma, through acts which included, but were
5 not limited to, excessive baton strikes to Plaintiff's person, forceful kicks to Plaintiff's
6 person, and repeated punches to Plaintiff's person, as well as other unreasonable and
7 unlawful applications of force, resulting in severe injuries to Plaintiff's person. The DOE
8 Deputies further subjected Plaintiff to extensive bite injuries resulting from an
9 unreasonable and excessive deployment of a K-9 officer, which caused Plaintiff to suffer
10 severe, permanent, and debilitating injuries to his legs. Following the use of force
11 incident, the involved deputies denied medical care to Plaintiff in a manner that
12 demonstrated deliberate indifference to his constitutional rights. Throughout the time in
13 which the DOE Deputies assaulted, battered, and subjected Plaintiff to unreasonable and
14 excessive force and to the unreasonable and excessive deployment of the K-9 officer,
15 Plaintiff was not resisting the involved deputies, did not undertake any actions which
16 would have led a reasonable sheriff's deputy to believe that he posed the risk of violence
17 to any person, and did nothing to justify the force used against him, and the same was
18 excessive, unnecessary, and unlawful.

19 19. Both prior to and during the time in which the Defendant DOE Deputies
20 assaulted, battered, and subjected Plaintiff to unreasonable and excessive force and to the
21 unreasonable and excessive deployment of the K-9 officer, Plaintiff was not armed with
22 any kind of weapon, and posed no reasonable or credible threat of violence to the DOE
23 Deputies, nor to any other individual. Both prior to and during the time in which the
24 DOE Deputies assaulted, battered, and subjected Plaintiff to unreasonable and excessive
25 force and to the unreasonable and excessive deployment of the K-9 officer, Plaintiff was
26 not resisting arrest or obstructing the DOE Deputies in the performance of their duties,
27 and made no aggressive movements, no furtive gestures, and no physical movements
28 which would suggest to a reasonable sheriff's deputy that he was armed with any kind of

1 weapon, or had the will, or the ability to inflict bodily harm against any individual. Both
2 prior to and during the time in which the DOE Deputies assaulted, battered, and
3 subjected Plaintiff to unreasonable and excessive force and to the unreasonable and
4 excessive deployment of the K-9 officer, the DOE Deputies were not faced with any
5 circumstances which would have led a reasonable sheriff's deputy to believe that
6 Plaintiff posed a risk of injury to any person.

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7 20. At all times mentioned herein, the Defendant DOE Deputies acted under
8 color and pretense of law, and under color of the statutes, ordinances, regulations,
9 policies, practices, customs, and/or usages of the State of California and the Defendant
10 COUNTY. The DOE Deputies deprived Plaintiff of the rights, privileges, and/or
11 immunities secured to him by the Fourth Amendment to the Constitution of the United
12 States and the laws of the United States, including, but not limited to, the right to be free
13 from unreasonable governmental seizures of his person.

14 21. Plaintiff had the right to be free from unreasonable governmental seizures of
15 his person, a right which was secured to Plaintiff by the provisions of the Fourth
16 Amendment to the United States Constitution, and by 42 U.S.C. § 1983. All of these
17 interests were implicated by the wrongful conduct of the Defendant DOE Deputies,
18 which proximately caused severe injuries to Plaintiff which include, but are not limited
19 to, severe, permanent, and debilitating injuries to Plaintiff's legs.

20 22. Plaintiff is informed and believes, and thereupon alleges, that in
21 unreasonably seizing his person, as described in the foregoing paragraphs of this
22 Complaint, the Defendant DOE Deputies acted outside the scope of their jurisdiction and
23 without authorization of law, and acted willfully, maliciously, knowingly, with reckless
24 disregard and callous indifference to the known consequences of their acts and
25 omissions, and purposefully with the intent to deprive Plaintiff of his federally protected
26 rights and privileges, and did in fact violate the aforementioned rights and privileges,
27 thereby warranting punitive and exemplary damages against the DOE Deputies in an
28 amount to be proven at the trial of this matter.

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1 23. As a direct and proximate result of the wrongful, intentional, and malicious
2 acts and omissions of the Defendant DOE Deputies, Plaintiff was placed in great fear for
3 his life and physical well being, and has suffered and continues to suffer extreme and
4 severe mental anguish, as well as great mental and physical pain and injury, all to his
5 damage in a sum to be determined at trial. As a further direct and proximate result of the
6 wrongful, intentional, and malicious acts and omissions of the DOE Deputies, Plaintiff
7 was assaulted and battered and subjected to unreasonable and excessive force and to the
8 unreasonable and excessive deployment of a K-9 officer on June 6, 2015, and suffered
9 severe injuries which include, but are not limited to, severe, permanent, and debilitating
10 injuries to his legs.

11 24. As a further proximate result of the wrongful, intentional, and malicious
12 acts and omissions of the Defendant DOE Deputies, Plaintiff has been required to
13 employ, and did in fact employ, physicians and surgeons to examine, treat, and care for
14 him, and has incurred and continues to incur expenses for emergent medical services,
15 treatment, and care and other medical services, treatment, and care in an amount
16 according to proof at trial.

17 25. As a further proximate result of the wrongful, intentional, and malicious
18 acts and omissions of the Defendant DOE Deputies, Plaintiff has lost wages and/or
19 earnings and/or earning capacity in an amount according to proof at trial, and will lose
20 additional wages and earnings in the future in an amount according to proof at trial.

21 26. Plaintiff is entitled to and hereby demands costs, attorneys' fees, and
22 expenses pursuant to 42 U.S.C. § 1988.

23 **FOR THE SECOND CAUSE OF ACTION**

24 **(By Plaintiff SCOTT STONER Against Defendant COUNTY OF RIVERSIDE for**
25 **Violations of Civil Rights [42 U.S.C. § 1983])**

26 **(Based on an Unconstitutional Policy, Practice, or Custom)**

27 27. Plaintiff restates and incorporates by reference the foregoing paragraphs of
28 this Complaint as if set forth in full at this point.

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1 28. This cause of action is set forth herein to redress the deprivation, under
2 color of statute, ordinance, regulation, policy, custom, practice, and/or usage, of rights,
3 privileges, and/or immunities secured to Plaintiff by the Fourth Amendment to the
4 Constitution of the United States, including, but not limited to, the right to be free from
5 unreasonable governmental seizures of his person.

6 29. Plaintiff is informed, believes, and thereupon alleges that at all times
7 mentioned herein, the Defendant COUNTY employed the individual Defendants named
8 herein, including the Defendant DOE Deputies. The COUNTY provided its individual
9 Defendant employees and agents, including the DOE Deputies, with official badges and
10 identification cards which designated and described the bearers as employees of the
11 COUNTY and the Riverside County Sheriff's Department.

12 30. As set forth in the foregoing paragraphs of this Complaint, the Defendant
13 DOE Deputies, while acting under color of law and in the course and scope of their
14 employment with the Defendant COUNTY and the Riverside County Sheriff's
15 Department, violated the Fourth Amendment rights of Plaintiff by acts which included,
16 but were not limited to, assaulting and battering Plaintiff, subjecting Plaintiff to
17 unreasonable and excessive force, and subjecting Plaintiff to the unreasonable and
18 excessive deployment of a K-9 officer. As set forth in the foregoing paragraphs of this
19 Complaint, the DOE Deputies' use of unreasonable and excessive physical force against
20 Plaintiff, and the conduct of the DOE Deputies in subjecting Plaintiff to the unreasonable
21 and excessive deployment of the K-9 officer, was an unconstitutional display of an
22 unreasonable seizure, and of the excessive use of force, which violated Plaintiff's Fourth
23 Amendment right to be free from unreasonable governmental seizures of his person.

24 31. Plaintiff is informed and believes, and thereupon alleges, that at all times
25 relevant to the acts and omissions alleged in the foregoing paragraphs of this Complaint,
26 the Defendant DOE Deputies acted pursuant to a longstanding official practice or custom
27 of the Defendant COUNTY and the Riverside County Sheriff's Department, through
28 which, prior to June 6, 2015, Riverside County Sheriff's Department deputies employed

1 unreasonable and excessive force in a manner that violates civilians' Fourth Amendment
2 rights to be free from the unreasonable use of force with such frequency and regularity
3 that, prior to June 6, 2015, Riverside County Sheriff's Department deputies'
4 unreasonable uses of force had become a widespread and well settled practice or custom
5 within the Riverside County Sheriff's Department.

6 32. Plaintiff is further informed and believes, and thereupon alleges, that at all
7 times relevant to the acts and omissions alleged in the foregoing paragraphs of this
8 Complaint, the Defendant DOE Deputies acted pursuant to a longstanding official
9 practice or custom of the Defendant COUNTY and the Riverside County Sheriff's
10 Department, through which, prior to June 6, 2015, Riverside County Sheriff's
11 Department deputies deployed K-9 officers in an unreasonable and excessive manner,
12 and in a manner that violates civilians' Fourth Amendment rights to be free from the
13 unreasonable use of force, with such frequency and regularity that, prior to June 6, 2015,
14 the deployment of K-9 officers in an unreasonable and excessive manner by Riverside
15 County Sheriff's Department deputies had become a widespread and well settled practice
16 or custom within the Riverside County Sheriff's Department.

17 33. Plaintiff is further informed and believes, and thereupon alleges, that the
18 conduct of the Defendant DOE Deputies in assaulting, battering, and subjecting Plaintiff
19 to unreasonable and excessive force, and in subjecting Plaintiff to the unreasonable and
20 excessive deployment of a K-9 officer, at a time when Plaintiff was unarmed and posed
21 no threat of violence or risk of injury to the DOE Deputies or any other person,
22 demonstrated that the DOE Deputies' training was inadequate to allow them to handle
23 the usual and recurring situations faced by Riverside County Sheriff's deputies, as
24 evidenced by the following specific actions and omissions of the DOE Deputies in their
25 response to the subject incident:

- 26 a. The tactical standard of care for law enforcement agencies similarly situated
27 to the Riverside County Sheriff's Department is for law enforcement
28 officers employed by such agencies to utilize additional officers,

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1 departmental personnel, and/or departmental resources to assist them when
2 approaching and/or attempting to arrest and/or detain suspects and/or
3 potential arrestees whom the officers believe may possibly pose a threat to
4 the safety of the officers or third parties. Both prior to and during the time in
5 which the Defendant DOE Deputies assaulted and battered Plaintiff and
6 subjected Plaintiff to unreasonable and excessive force and to the
7 unreasonable and excessive deployment of the K-9 officer, they acted in
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- b. The tactical standard of care for law enforcement agencies similarly situated to the Riverside County Sheriff's Department is for law enforcement officers employed by such agencies, whenever possible, to issue commands and warnings that are clear and intelligible to suspects and/or potential arrestees prior to employing force. Both prior to and during the time in which the Defendant DOE Deputies assaulted and battered Plaintiff and subjected Plaintiff to unreasonable and excessive force and to the unreasonable and excessive deployment of the K-9 officer, they acted in flagrant contravention of this well-established standard of care.
- c. The tactical standard of care for law enforcement agencies similarly situated to the Riverside County Sheriff's Department is for law enforcement officers employed by such agencies to use cover, concealment, distance, additional departmental personnel, available illumination, and available communication to accurately assess the level of the threat posed by a suspect and/or potential arrestee prior to using force. Both prior to and during the time in which the Defendant DOE Deputies assaulted and battered Plaintiff and subjected Plaintiff to unreasonable and excessive force and to the unreasonable and excessive deployment of the K-9 officer, they acted in flagrant contravention of this well-established standard of care.

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1 34. Plaintiff is informed and believes, and thereupon alleges, that prior to
2 June 6, 2015, the Defendant DOE Deputies received training and instruction in police
3 tactics and police procedures from the Riverside County Sheriff's Department in ways
4 which included, but were not limited to, their attendance at a police academy, their
5 attendance at departmental briefings, their attendance at mandatory and voluntary
6 training seminars, their attendance at "roll call" at their respective station(s) prior to their
7 assigned shift(s), their receipt of departmental training manuals, their receipt of
8 departmental training bulletins, and their receipt of additional departmental
9 correspondence and electronic mails.

10 35. Both prior to and on June 6, 2015, encounters with suspects and civilians,
11 such as Plaintiff, were common among Riverside County Sheriff's Department deputies
12 similarly situated to the Defendant DOE Deputies, and such encounters were a recurring
13 situation faced by Riverside County Sheriff's Department deputies similarly situated to
14 the DOE Deputies.

15 36. Plaintiff is informed, believes, and thereupon alleges that those individuals
16 responsible for training the Defendant DOE Deputies, including, but not limited to, their
17 respective field training deputies, watch commanders, shift commanders, training
18 deputies, firearms instructors, defensive tactics instructors, sergeants, captains,
19 lieutenants, higher-ranking deputies, and authorized policy makers and decisions makers
20 within the Riverside County Sheriff's Department, the identities of whom are presently
21 unknown to Plaintiff, knew, or in the exercise of reasonable diligence should have
22 known, that the obvious consequence of the failure to implement, institute, enact,
23 communicate, teach, and/or cause to be taught the above-referenced tactical training to
24 sheriff's deputies similarly situated to the DOE Deputies would be that unarmed and
25 nondangerous persons, such as Plaintiff, would suffer constitutional deprivations from
26 the unreasonable and excessive use of force.

27 37. Plaintiff is further informed and believes, and thereupon alleges, that
28 notwithstanding the fact that the training personnel responsible for training the

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1 Defendant DOE Deputies, including, but not limited to, their respective field training
2 deputies, watch commanders, shift commanders, training deputies, firearms instructors,
3 defensive tactics instructors, sergeants, captains, lieutenants, higher-ranking deputies,
4 and authorized policy makers and decisions makers within the Riverside County
5 Sheriff's Department, knew, or in the exercise of reasonable diligence should have
6 known, that the obvious consequence of the failure to implement, institute, enact,
7 communicate, teach, and/or cause to be taught the above-referenced tactical training to
8 sheriff's deputies similarly situated to the DOE Deputies would be that unarmed and
9 nondangerous persons, such as Plaintiff, would suffer constitutional deprivations from
10 the unreasonable and excessive use of deadly force, said training personnel, and each of
11 them, deliberately and consciously failed to provide adequate tactical training in the
12 above-enumerated areas.

13 38. Plaintiff is informed, believes, and thereupon alleges that the failure of
14 the Riverside County Sheriff's Department to provide adequate training to the Defendant
15 DOE Deputies, as described in the foregoing paragraphs of this Complaint, caused
16 Plaintiff to suffer Fourth Amendment violations resulting from the unreasonable and
17 excessive use of force and the unreasonable and excessive deployment of a K-9 officer,
18 as previously described.

19 39. As a direct and proximate result of the wrongful, intentional, and malicious
20 acts and omissions of the Defendant DOE Deputies, Plaintiff was placed in great fear for
21 his life and physical well being, and has suffered and continues to suffer extreme and
22 severe mental anguish, as well as great mental and physical pain and injury, all to his
23 damage in a sum to be determined at trial. As a further direct and proximate result of the
24 wrongful, intentional, and malicious acts and omissions of the DOE Deputies, Plaintiff
25 was assaulted and battered and subjected to unreasonable and excessive force and to the
26 unreasonable and excessive deployment of a K-9 officer on June 6, 2015, and suffered
27 severe injuries which include, but are not limited to, severe, permanent, and debilitating
28 injuries to his legs.

1 40. As a further proximate result of the wrongful, intentional, and malicious
2 acts and omissions of the Defendant DOE Deputies, Plaintiff has been required to
3 employ, and did in fact employ, physicians and surgeons to examine, treat, and care for
4 him, and has incurred and continues to incur expenses for emergent medical services,
5 treatment, and care and other medical services, treatment, and care in an amount
6 according to proof at trial.

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7 41. As a further proximate result of the wrongful, intentional, and malicious
8 acts and omissions of the Defendant DOE Deputies, Plaintiff has lost wages and/or
9 earnings and/or earning capacity in an amount according to proof at trial, and will lose
10 additional wages and earnings in the future in an amount according to proof at trial.

11 42. Plaintiff is entitled to and hereby demands costs, attorneys' fees, and
12 expenses pursuant to 42 U.S.C. § 1988.

13 **FOR THE THIRD CAUSE OF ACTION**

14 **(By Plaintiff SCOTT STONER Against All Defendants for Battery**
15 **[Cal. Gov't Code §§ 815.2(a), 820(a); Cal. Civ. Code § 43])**

16 43. Plaintiff restates and incorporates by reference the foregoing paragraphs of
17 this Complaint as if set forth in full at this point.

18 44. All claims asserted herein against the Defendant COUNTY are presented
19 pursuant to the COUNTY's vicarious liability for acts and omissions of municipal
20 employees undertaken in the course and scope of their employment pursuant to
21 California Government Code §§ 815.2(a) and 820(a).

22 45. This cause of action is set forth herein to redress the deprivation, under
23 color of statute, ordinance, regulation, policy, practice, custom, and/or usage, of rights,
24 privileges, and immunities secured to Plaintiff by the laws of the State of California and
25 the California Constitution.

26 46. During the early morning hours of Saturday, June 6, 2015, Plaintiff was at
27 or around the intersection of Hansen Avenue and Countour Avenue in the City of Nuevo
28 and County of Riverside and in an area adjacent to his motor vehicle when several

1 heretofore unknown Defendant DOE Deputies, while acting under color of law and in
 2 the course and scope of their employment with the Defendant COUNTY and the
 3 Riverside County Sheriff's Department, detained Plaintiff following a vehicle pursuit.

4 47. Without warning, the Defendant DOE Deputies proceeded to subject
 5 Plaintiff to unreasonable and excessive force, inflicted through unreasonable, unlawful,
 6 and repeated applications of blunt force trauma, through acts which included, but were
 7 not limited to, excessive baton strikes to Plaintiff's person, forceful kicks to Plaintiff's
 8 person, and repeated punches to Plaintiff's person, as well as other unreasonable and
 9 unlawful applications of force, resulting in severe injuries to Plaintiff's person. The DOE
 10 Deputies further subjected Plaintiff to extensive bite injuries resulting from an
 11 unreasonable and excessive deployment of a K-9 officer, which caused Plaintiff to suffer
 12 severe, permanent, and debilitating injuries to his legs. Throughout the time in which the
 13 DOE Deputies assaulted, battered, and subjected Plaintiff to unreasonable and excessive
 14 force and to the unreasonable and excessive deployment of the K-9 officer, Plaintiff was
 15 not resisting the involved deputies, did not undertake any actions which would have led
 16 a reasonable sheriff's deputy to believe that he posed the risk of violence to any person,
 17 and did nothing to justify the force used against him, and the same was excessive,
 18 unnecessary, and unlawful.

19 48. Both prior to and during the time in which the Defendant DOE Deputies
 20 assaulted, battered, and subjected Plaintiff to unreasonable and excessive force and to the
 21 unreasonable and excessive deployment of the K-9 officer, Plaintiff was not armed with
 22 any kind of weapon, and posed no reasonable or credible threat of violence to the DOE
 23 Deputies, nor to any other individual. Both prior to and during the time in which the
 24 DOE Deputies assaulted, battered, and subjected Plaintiff to unreasonable and excessive
 25 force and to the unreasonable and excessive deployment of the K-9 officer, Plaintiff was
 26 not resisting arrest or obstructing the DOE Deputies in the performance of their duties,
 27 and made no aggressive movements, no furtive gestures, and no physical movements
 28 which would suggest to a reasonable sheriff's deputy that he was armed with any kind of

1 weapon, or had the will, or the ability to inflict bodily harm against any individual. Both
2 prior to and during the time in which the DOE Deputies assaulted, battered, and
3 subjected Plaintiff to unreasonable and excessive force and to the unreasonable and
4 excessive deployment of the K-9 officer, the DOE Deputies were not faced with any
5 circumstances which would have led a reasonable sheriff's deputy to believe that
6 Plaintiff posed a risk of injury to any person.

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7 49. Plaintiff is informed and believes, and thereupon alleges, that in assaulting
8 and battering him and subjecting him to unreasonable and excessive force and to the
9 unreasonable and excessive deployment of the K-9 officer, as described in the foregoing
10 paragraphs of this Complaint, the Defendant DOE Deputies acted outside the scope of
11 their jurisdiction and without authorization of law, and acted willfully, maliciously,
12 knowingly, with reckless disregard and callous indifference to the known consequences
13 of their acts and omissions, and purposefully with the intent to deprive Plaintiff of his
14 protected rights and privileges, and did in fact violate the aforementioned rights and
15 privileges, thereby warranting punitive and exemplary damages against the DOE
16 Deputies in an amount to be proven at the trial of this matter.

17 50. As a direct and proximate result of the wrongful, intentional, and malicious
18 acts and omissions of the Defendant DOE Deputies, Plaintiff was placed in great fear for
19 his life and physical well being, and has suffered and continues to suffer extreme and
20 severe mental anguish, as well as great mental and physical pain and injury, all to his
21 damage in a sum to be determined at trial. As a further direct and proximate result of the
22 wrongful, intentional, and malicious acts and omissions of the DOE Deputies, Plaintiff
23 was assaulted and battered and subjected to unreasonable and excessive force and to the
24 unreasonable and excessive deployment of a K-9 officer on June 6, 2015, and suffered
25 severe injuries which include, but are not limited to, severe, permanent, and debilitating
26 injuries to his legs.

27 51. As a further proximate result of the wrongful, intentional, and malicious
28 acts and omissions of the Defendant DOE Deputies, Plaintiff has been required to

1 employ, and did in fact employ, physicians and surgeons to examine, treat, and care for
2 him, and has incurred and continues to incur expenses for emergent medical services,
3 treatment, and care and other medical services, treatment, and care in an amount
4 according to proof at trial.

5 52. As a further proximate result of the wrongful, intentional, and malicious
6 acts and omissions of the Defendant DOE Deputies, Plaintiff has lost wages and/or
7 earnings and/or earning capacity in an amount according to proof at trial, and will lose
8 additional wages and earnings in the future in an amount according to proof at trial.

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9 **FOR THE FOURTH CAUSE OF ACTION**

10 **(By Plaintiff SCOTT STONER Against All Defendants for Negligence**
11 **[Cal. Gov't Code §§ 815.2(a), 820(a)])**

12 53. Plaintiff restates and incorporates by reference the foregoing paragraphs of
13 this Complaint as if set forth in full at this point.

14 54. All claims asserted herein against the Defendant COUNTY are presented
15 pursuant to the Defendant COUNTY's vicarious liability for acts and omissions of
16 municipal employees undertaken in the course and scope of their employment pursuant
17 to California Government Code §§ 815.2(a) and 820(a).

18 55. During the early morning hours of Saturday, June 6, 2015, Plaintiff was at
19 or around the intersection of Hansen Avenue and Countour Avenue in the City of Nuevo
20 and County of Riverside and in an area adjacent to his motor vehicle when several
21 heretofore unknown Defendant DOE Deputies, while acting under color of law and in
22 the course and scope of their employment with the Defendant COUNTY and the
23 Riverside County Sheriff's Department, detained Plaintiff following a vehicle pursuit.

24 56. Without warning, the Defendant DOE Deputies negligently assessed the
25 circumstances presented to them, and then proceeded to negligently and unjustifiably
26 inflict physical injury upon Plaintiff through acts which included, but were not limited
27 to, excessive baton strikes to Plaintiff's person, forceful kicks to Plaintiff's person,
28 repeated punches to Plaintiff's person, the negligent deployment of a K-9 officer, and

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1 other negligent applications of force, which resulted in severe injuries to Plaintiff's
2 person which include, but are not limited to, severe, permanent, and debilitating injuries
3 to Plaintiff's legs. Throughout the time in which Plaintiff was negligently physically
4 injured by the DOE Deputies, Plaintiff was not resisting the involved deputies, did not
5 undertake any actions which would have led a reasonable sheriff's deputy to believe that
6 he posed the risk of violence or injury to any person, and did nothing to justify the force
7 used against him, and the same was excessive, unnecessary, and unlawful.

8 57. Both prior to and during the time in which Plaintiff was physically injured
9 by the negligent conduct of the Defendant DOE Deputies, Plaintiff was not armed with
10 any kind of weapon, and posed no reasonable or credible threat of violence to the DOE
11 Deputies, nor to any other individual. Both prior to and during the time in which Plaintiff
12 was physically injured by the negligent conduct of the DOE Deputies, Plaintiff was not
13 resisting arrest or obstructing the DOE Deputies in the performance of their duties, and
14 made no aggressive movements, no furtive gestures, and no physical movements which
15 would suggest to a reasonable sheriff's deputy that he was armed with any kind of
16 weapon, or had the will, or the ability to inflict bodily harm against any individual. Both
17 prior to and during the time in which Plaintiff was physically injured by the negligent
18 conduct of the DOE Deputies, the DOE Deputies were not faced with any circumstances
19 which would have led a reasonable sheriff's deputy to believe that Plaintiff posed a risk
20 of injury to any person.

21 58. Plaintiff is informed and believes, and thereupon alleges, that on and before
22 June 6, 2015, the Defendant DOE Deputies had a duty to exercise the reasonable and
23 ordinary care which would be expected of similarly situated peace officers in the use of
24 force and in the deployment of K-9 officers, and had a duty to exercise the reasonable
25 and ordinary care which would be expected of similarly situated peace officers in the
26 execution of police tactics and police procedures in approaching and/or attempting to
27 detain unarmed, non-dangerous civilians and/or suspects. Notwithstanding each of these
28 duties, the DOE Deputies failed to exercise reasonable and ordinary care in committing

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1 the acts alleged herein, by actions and inactions which include, but are not limited to,
2 negligently failing to determine the fact that Plaintiff posed no threat of physical harm to
3 any person prior to and during the course of the events alleged herein, negligently
4 inflicting physical injury upon Plaintiff, as described herein, negligently employing
5 physical force against Plaintiff when the same was unnecessary and unlawful, and
6 negligently deploying a K-9 officer when the same was unnecessary and unlawful. All of
7 these negligent acts proximately caused Plaintiff's injuries, which include, but are not
8 limited to, severe, permanent, and debilitating injuries to Plaintiff's legs and other severe
9 injuries to Plaintiff's person.

10 59. As a direct and proximate result of the negligent acts and omissions
11 of the Defendants, and each of them, Plaintiff suffered severe and permanent injuries
12 which include, but are not limited to, severe, permanent, and debilitating injuries to his
13 legs and other injuries to his person.

14 60. As a further direct and proximate result of the negligent acts and omissions
15 of the Defendants, and each of them, Plaintiff was placed in great fear for his life and
16 physical well being, and has suffered and continues to suffer extreme and severe mental
17 anguish, as well as great mental and physical pain and injury, all to his damage in a sum
18 to be determined at trial.

19 61. As a further proximate result of the negligent acts and omissions of the
20 Defendants, and each of them, Plaintiff has been required to employ, and did in fact
21 employ, physicians and surgeons to examine, treat, and care for him, and has incurred
22 and continues to incur expenses for emergent medical services, treatment, and care and
23 other medical services, treatment, and care in an amount according to proof at trial.

24 62. As a further proximate result of the negligent acts and omissions of the
25 Defendants, and each of them, Plaintiff has lost wages and/or earnings and/or earning
26 capacity in an amount according to proof at trial, and will lose additional wages and
27 earnings in the future in an amount according to proof at trial.

28 ///

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

1. For general and special damages in an amount according to proof at trial;
2. For medical and related expenses according to proof at trial;
3. For costs of suit incurred herein;
4. For attorneys’ fees incurred herein, as provided by law;
5. For punitive damages against the individual Defendants in their individual capacities in an amount according to proof at trial; and
6. For such other and further relief as the Court deems just and proper.

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JURY DEMAND

Plaintiff hereby demands that a jury be empaneled for the trial of this matter.

DATED: May 20, 2016

Respectfully submitted,

THE COCHRAN FIRM CALIFORNIA

By: /s/ Brian T. Dunn

BRIAN T. DUNN
 MEGAN R. GYONGYOS
 Attorneys for Plaintiff, SCOTT STONER