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

JAMES PIETRONICO,

Plaintiff,

v.

CITY OF BEAUMONT; and DOES
1-10, inclusive,

Defendants.

Case No.: 5:23-cv-2431

COMPLAINT FOR DAMAGES

1. 42 U.S.C. § 1983 (Fourth Amendment – Detention and Arrest)
2. 42 U.S.C. § 1983 (Fourth Amendment – Excessive Force)
3. 42 U.S.C. § 1983 (Fourth Amendment – Denial of Medical Care)
4. False Arrest/False Imprisonment
5. Battery
6. Negligence
7. Violation of Cal. Civil Code § 52.1

DEMAND FOR JURY TRIAL

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COMPLAINT FOR DAMAGES

JAMES PIETRONICO, individually, for his Complaint against Defendants CITY OF BEAUMONT and DOES 1-10, inclusive hereby alleges as follows:

JURISDICTION AND VENUE

1. This Court has original jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343(a)(3)-(4) because Plaintiff asserts claims arising under the laws of the United States, including 42 U.S.C. § 1983 and the Fourth and Fourteenth Amendments of the United States Constitution. This Court has supplemental jurisdiction over Plaintiff’s claims arising under state law pursuant to 28 U.S.C. § 1367(a), because those claims are so related to the federal claims that they form part of the same case or controversy under Article III of the United States Constitution.

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

INTRODUCTION

3. This civil rights and state tort action seeks compensatory and punitive damages from Defendants for violating various rights under the United States Constitution and state law in connection with Defendants DOES 1-10’s unlawful shooting of Plaintiff JAMES PIETRONICO on January 14, 2023, causing him serious physical injury. Defendants are liable under state law pursuant to Gov’t Code §§ 815.2(a) and 820(a), and Cal. Civil Code § 52.1. Defendants are liable under the Fourth Amendment to the Constitution of the United States, as applied to state actors under the Fourteenth Amendment, pursuant to 42 U.S.C. § 1983.

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1 4. Plaintiff alleges that the injuries he suffered were the result of the
2 excessive use of force by officers of the Beaumont Police Department, including
3 DOES 1-10, and were also a result of these officers' failure to provide reasonable
4 medical care to Plaintiff despite Plaintiff's serious medical condition after being
5 shot repeatedly by these officers.

6 5. Plaintiff herein seeks by means of this action to hold accountable
7 those responsible for Plaintiff's injuries and to obtain due compensation.

8 **PARTIES**

9 6. At all relevant times, Plaintiff JAMES PIETRONICO ("Plaintiff")
10 was an individual residing in Cherry Valley, California, located in the County of
11 Riverside. Plaintiff sues in his individual capacity and seeks compensatory and
12 punitive damages under federal and state law.

13 7. At all relevant times, Defendant CITY OF BEAUMONT ("CITY") is
14 and was a municipal corporation existing under the laws of the State of California.
15 CITY is a chartered political subdivision of the State of California with the
16 capacity to be sued. CITY is responsible for the actions, omissions, policies,
17 procedures, practices, and customs of its various agents and agencies, including
18 the Beaumont Police Department ("BPD") and its agents and employees. At all
19 relevant times, CITY was the employer of DOES 1-10, inclusive.

20 8. At all relevant times, Defendant Officers DOES 1-10 ("DOE
21 OFFICERS"), inclusive, were officers working for the BPD. DOE OFFICERS
22 were acting under color of law and within the course and scope of their duties as
23 officers for the BPD. DOE OFFICERS were acting with the complete authority
24 and ratification of their principal, Defendant CITY.

25 9. On information and belief, DOES 1-10 were residents of the County
26 of Riverside at all relevant times.

27 10. Defendants DOES 1-10 are sued in their individual capacities.

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1 11. In doing the acts and failing and omitting to act as hereinafter
2 described, Defendants DOE OFFICERS were acting on the implied and actual
3 permission and consent of Defendant CITY.

4 12. The true names and capacities of DOES 1-10 are unknown to
5 Plaintiff, who otherwise sues these Defendants by such fictitious names. Plaintiff
6 will seek leave to amend this complaint to show the true names and capacity of
7 these Defendants when they have been ascertained. Each of the fictitiously named
8 Defendants is responsible in some manner for the conduct or liabilities alleged
9 herein.

10 13. At all times mentioned herein, each and every Defendant was the
11 agent of each and every other Defendant and had the legal duty to oversee and
12 supervise the hiring, conduct, and employment of each and every Defendant.

13 14. All of the acts complained of herein by Plaintiff against Defendants
14 were done and performed by said Defendants by and through their authorized
15 agents, servants, and/or employees, all of whom at all relevant times herein were
16 acting within the course, purpose, and scope of said agency, service, and/or
17 employment capacity. Moreover, Defendants and their agents ratified all of the
18 acts complained of herein.

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

20 15. Plaintiff repeats and re-alleges each and every allegation in the
21 foregoing paragraphs of this Complaint as if fully set forth herein.

22 16. On January 14, 2023, Plaintiff and two friends, Garrett Blackwell
23 (“Blackwell”) and Braiden Goedhart (“Goedhart”), went off-roading on public
24 land near Beaumont, California. The three had done so numerous times before and
25 did not trespass in doing so or commit any other crimes. Blackwell was driving,
26 Plaintiff was seated in the front passenger seat, and Goedhart was seated in the
27 back seat.

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1 17. While the three friends were driving home, a BPD vehicle began
2 pursuing their vehicle. On information and belief, none of the three had committed
3 any crimes.

4 18. Shortly thereafter, the vehicle in which Plaintiff was a passenger
5 pulled into a cul-de-sac.

6 19. On information and belief, while the vehicle in which Plaintiff was a
7 passenger was in the cul-de-sac, the vehicle was struck by a BPD vehicle.

8 20. On information and belief, immediately after a BPD vehicle struck
9 the vehicle in which Plaintiff was a passenger, DOE OFFICERS exited from one
10 or more BPD vehicles and aimed their weapons at Blackwell and Plaintiff.

11 21. The front windshield, the driver's side window, and the front
12 passenger side window of the vehicle in which Plaintiff was a passenger were not
13 tinted, affording DOE OFFICERS a clear view into the vehicle.

14 22. On information and belief, neither Plaintiff, Blackwell, or Goedhart
15 was armed with a weapon, and DOE OFFICERS never observed a weapon in the
16 vehicle in which Plaintiff was a passenger, including on Plaintiff's person or in his
17 hands.

18 23. On information and belief, the vehicle in which Plaintiff was a
19 passenger was not moving rapidly toward any other vehicle or officer, and no
20 officer was in the vehicle's direct path or about to be struck by the vehicle.
21 Nevertheless, on information and belief, without issuing any clear commands,
22 providing time to comply with commands, or issuing any verbal warning that
23 force or deadly force would be used, DOE OFFICERS began firing less-lethal and
24 lethal weapons at Blackwell, Plaintiff, and the vehicle they occupied from
25 multiple sides of the vehicle.

26 24. On information and belief, when DOE OFFICERS fired their
27 weapons, they did so intending to strike Plaintiff and Blackwell, and further did so
28 intending to prevent the vehicle in which Plaintiff was a passenger from moving.

1 25. Plaintiff was struck by several of the bullets DOE OFFICERS fired,
2 including on the wrist, shoulder, and head, and was also cut and injured by glass
3 from the vehicle's windows that broke as a result of DOE OFFICERS firing into
4 the vehicle.

5 26. Blackwell was also struck by several of the bullets DOE OFFICERS
6 fired, causing him to slump over, which in turn caused the vehicle to accelerate
7 into one of DOE OFFICERS' vehicles, which, on information and belief, was not
8 occupied by anyone at the time.

9 27. As Plaintiff began to bleed profusely from his gunshot wounds, DOE
10 OFFICERS continued to point their firearms at Plaintiff before removing him
11 from the vehicle and taking him some distance away from the vehicle.

12 28. DOE OFFICERS did not tell Plaintiff why he was being detained.

13 29. DOE OFFICERS then placed Plaintiff in handcuffs and tightened
14 them substantially, causing Plaintiff further injury to his wrists, one of which
15 already had a bullet wound.

16 30. On information and belief, several minutes passed before DOE
17 OFFICERS summoned medical assistance, despite Plaintiff's and Blackwell's
18 obvious bullet wounds and urgent medical needs, and despite there being no
19 ongoing emergency besides these injuries. This delay further contributed to the
20 severity of Plaintiff's injuries.

21 31. At some point thereafter, paramedics arrived and began preparing to
22 transport Plaintiff to the hospital. When paramedics advised DOE OFFICERS that
23 the handcuffs on Plaintiff were unnecessary and should be removed due to the
24 bullet wound on Plaintiff's wrist, DOE OFFICERS refused to remove them, and
25 only allowed them to be removed after Plaintiff was at the hospital.

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1 32. On information and belief, in arguing with paramedics about the
2 propriety of removing Plaintiff’s handcuffs, DOE OFFICERS needlessly and
3 further delayed critical medical treatment for Plaintiff, further contributing to the
4 severity of Plaintiff’s injuries.

5 33. In the hospital, on the day following the shooting, one or more of
6 DOE OFFICERS occupied Plaintiff’s hospital room, questioned him about the
7 incident, and would not allow Plaintiff to make any phone calls to advise his loved
8 ones what had occurred, on the basis that had been “detained” since the shooting
9 and was still being “detained” at that time.

10 34. At no point prior to, during, or after the shooting did Plaintiff flee
11 from, attempt to flee from, or physically resist officers.

12 35. At no point prior to or during the shooting did Plaintiff, Blackwell, or
13 Goedhart verbally threaten to harm anyone or attempt to harm anyone.

14 36. At all times in the leadup to and during the shooting, neither Plaintiff,
15 Blackwell, nor Goedhart posed a threat of death or serious bodily harm to DOE
16 OFFICERS or anyone else, and DOE OFFICERS had other reasonable options
17 available to them besides opening fire on the vehicle.

18 37. On information and belief, at all times in the leadup to and during the
19 shooting, DOE OFFICERS did not have reasonable suspicion to detain Plaintiff.

20 38. At all relevant times, DOE OFFICERS acted within the course and
21 scope of their employment with CITY and the BPD and acted under color of
22 California law.

23 39. As a result of the shooting and other undiscovered uses of force,
24 Plaintiff endured severe pain and suffering and lost wages and earning capacity.

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1 40. As a result of the gunshot wounds Plaintiff sustained, Plaintiff
2 continues to suffer from nerve damage in his arm, decreased mobility and motor
3 functioning, and pain. He is no longer physically able to engage in the work he did
4 for a living prior to the shooting and his capacity to perform many day-to-day
5 tasks he routinely performed prior to the shooting has been diminished.

6 41. On July 7, 2023, Plaintiff timely served claims for damages with the
7 CITY pursuant to applicable sections of the California Government Code.

8 42. On August 24, 2023, Plaintiff’s claims were denied by CITY by
9 operation of law. As of the date of the filing of this Complaint, Plaintiff has not
10 received any notice rejecting his claims.

11 **FIRST CLAIM FOR RELIEF**

12 **Fourth Amendment – Detention and Arrest (42 U.S.C. § 1983)**

13 (By Plaintiff against Defendants DOE OFFICERS)

14 43. Plaintiff repeats and re-alleges each and every allegation in the
15 foregoing paragraphs of this Complaint as if fully set forth herein.

16 44. At all relevant times, Plaintiff had the right to be free from
17 unreasonable searches and seizures, which was guaranteed to him by the Fourth
18 Amendment to the United States Constitution and applied to state actors by the
19 Fourteenth Amendment.

20 45. When DOE OFFICERS struck the vehicle in which Plaintiff was a
21 passenger, aimed and fired their weapons at Plaintiff, and handcuffed Plaintiff
22 after shooting him, DOE OFFICERS detained Plaintiff without reasonable
23 suspicion that Plaintiff or anyone else in the vehicle had committed or was about
24 to commit a crime.

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1 46. In addition to the detention itself being unreasonable, the scope and
2 manner of the detention was unreasonable. It was not necessary to use force
3 against Plaintiff in order to take him into custody, let alone deadly force.
4 Moreover, it was not necessary to place and insist on keeping Plaintiff in
5 handcuffs following the shooting when Plaintiff made no attempt to flee or resist
6 officers, nor was it necessary to continue the detention after Plaintiff had been
7 taken to the hospital.

8 47. Further, in purporting to continue to “detain” Plaintiff well into the
9 next day following the shooting, including by expressly disallowing him from
10 making any phone calls and limiting his freedom of contact, DOE OFFICERS in
11 fact arrested Plaintiff.

12 48. DOE OFFICERS’ *de facto* arrest of Plaintiff was done without
13 probable cause that Plaintiff had committed, or was about to commit, any crime.

14 49. The conduct of DOE OFFICERS was willful, wanton, malicious, and
15 done with an evil motive and intent and a reckless disregard for the rights and
16 safety of Plaintiff and therefore warrants the imposition of exemplary and punitive
17 damages as to DOE OFFICERS. As a direct result of the unreasonable detention
18 and arrest, Plaintiff experienced severe pain and suffering for which he is entitled
19 to recover damages.

20 50. As a result of their misconduct, DOE OFFICERS are liable for
21 Plaintiff’s injuries, either because they were integral participants in the wrongful
22 detention, or because they failed to intervene to prevent these violations.

23 51. Plaintiff seeks damages on this claim, including for Plaintiff’s
24 injuries, pain and suffering, emotional distress from his physical injuries,
25 humiliation, disfigurement, financial loss, and reduced earning capacity.

26 52. Plaintiff also seeks attorney’s fees and costs for this claim pursuant to
27 42 U.S.C. § 1988.

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SECOND CLAIM FOR RELIEF

Fourth Amendment – Excessive Force (42 U.S.C. § 1983)

(By Plaintiff Against Defendants DOE OFFICERS)

53. Plaintiff repeats and re-alleges each and every allegation in the foregoing paragraphs of this Complaint with the same force and effect as if fully set forth herein.

54. The Fourth Amendment of the United States Constitution, as applied to state actors by the Fourteenth Amendment, provides the right of every person to be free from the use of excessive force by law enforcement officials.

55. Defendants DOE OFFICERS’ uses of less-lethal and lethal force against Plaintiff were excessive and unreasonable under the circumstances. Neither Plaintiff nor the vehicle in which he was a passenger posed an imminent threat of death or serious bodily injury to any officer or anyone else at the time DOE OFFICERS fired any of their shots.

56. DOE OFFICERS’ uses of force were further excessive in that, on information and belief, neither Plaintiff nor the vehicle in which he was a passenger had physically injured anyone, neither Plaintiff nor any of the vehicle’s other occupants had verbally threatened to harm anyone, and neither Plaintiff nor any of the vehicle’s other occupants were brandishing a weapon.

57. DOE OFFICERS’ uses of force were further excessive in that prior to using less-lethal and lethal force, on information and belief, DOE OFFICERS did not issue appropriate commands, did not provide adequate time to comply with any commands given, and did not issue any warning that such force would be used.

58. On information and belief, the shooting violated DOE OFFICERS’ training and standard police officer training.

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1 59. As a result, Plaintiff suffered severe pain and suffering, permanent
2 injuries, loss of earnings, and lost earning capacity. DOE OFFICERS are
3 therefore liable to Plaintiff for compensatory damages under 42 U.S.C. § 1983.

4 60. As a result of Defendants DOE OFFICERS' conduct, they are liable
5 for Plaintiff's injuries, either because they were integral participants in the use of
6 excessive force, or because they failed to intervene to prevent these violations.

7 61. The conduct of Defendants DOE OFFICERS was willful, wanton,
8 malicious, and done with reckless disregard for the rights and safety of Plaintiff,
9 and therefore warrants the imposition of exemplary and punitive damages as to
10 Defendants DOE OFFICERS.

11 62. Plaintiff brings this claim and seeks damages on this claim, including
12 for Plaintiff's injuries, pain and suffering, emotional distress from his physical
13 injuries, humiliation, disfigurement, financial loss, and reduced earning capacity.

14 63. Plaintiff also seeks attorney's fees and costs for this claim pursuant to
15 42 U.S.C. § 1988.

16 **THIRD CLAIM FOR RELIEF**

17 **Fourth Amendment – Denial of Medical Care (42 U.S.C. § 1983)**

18 (By Plaintiff against Defendants DOE OFFICERS)

19 64. Plaintiff repeats and re-alleges each and every allegation in the
20 foregoing paragraphs of this Complaint with the same force and effect as if fully
21 set forth herein.

22 65. After being shot multiple times, Plaintiff was bleeding profusely and
23 in obvious and critical need of emergency medical care and treatment. However,
24 on information and belief, DOE OFFICERS did not timely summon or provide
25 medical care to Plaintiff.

26 66. Further, once paramedics arrived at the scene, DOE OFFICERS
27 delayed their treatment of Plaintiff and departure to the hospital for reasons
28 unrelated to Plaintiff's medical care.

1 67. The denial of medical care by DOE OFFICERS deprived Plaintiff of
2 his right to be secure in his person against unreasonable searches and seizures as
3 guaranteed to him under the Fourth Amendment to the United States Constitution
4 and applied to state actors by the Fourteenth Amendment.

5 68. As a result, Plaintiff suffered severe physical pain suffering and
6 emotional distress, permanent injuries, loss of earnings, and loss of earning
7 capacity. Defendants are therefore liable to Plaintiff for compensatory damages
8 under 42 U.S.C. § 1983.

9 69. DOE OFFICERS knew that failure to provide timely medical
10 treatment to Plaintiff could result in further significant injury or the unnecessary
11 and wanton infliction of pain, but disregarded Plaintiff’s serious medical needs,
12 exacerbating his pain and suffering.

13 70. DOE OFFICERS’ conduct was willful, wanton, malicious, and done
14 with reckless disregard for the rights and safety of Plaintiff, and therefore warrants
15 the imposition of exemplary and punitive damages as to DOE OFFICERS.

16 71. Plaintiff seeks damages on this claim, including for Plaintiff’s
17 injuries, pain and suffering, emotional distress from his physical injuries,
18 humiliation, disfigurement, financial loss, and reduced earning capacity.

19 72. Plaintiff also seeks attorney’s fees under this claim pursuant to 42
20 U.S.C. § 1988.

21 **FOURTH CLAIM FOR RELIEF**

22 **False Arrest/False Imprisonment**

23 **(Cal. Govt. Code § 820 and California Common Law)**

24 **(By Plaintiff against All Defendants)**

25 73. Plaintiff repeats and re-alleges each and every allegation in the
26 foregoing paragraphs of this Complaint with the same force and effect as if fully
27 set forth herein.

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1 74. Defendants DOE OFFICERS, while working as officers for the BPD
2 and acting within the course and scope of their duties, intentionally deprived
3 Plaintiff of his freedom of movement by use of force, threats of force, violence,
4 menace, fraud, deceit, and unreasonable duress. Defendants DOE OFFICERS
5 detained Plaintiff without reasonable suspicion and arrested Plaintiff without
6 probable cause.

7 75. Plaintiff did not knowingly or voluntarily consent.

8 76. Defendants DOE OFFICERS detained Plaintiff for an appreciable
9 amount of time by handcuffing Plaintiff and making Plaintiff feel he was not free
10 to leave.

11 77. Defendants DOE OFFICERS further arrested Plaintiff by handcuffing
12 Plaintiff, detaining him for more than a day, and preventing him from contacting
13 anyone who was not in his hospital room.

14 78. The conduct of DOE OFFICERS was a substantial factor in causing
15 the harm to Plaintiff.

16 79. CITY is vicariously liable for the wrongful acts of Defendants DOE
17 OFFICERS pursuant to Section 815.2(a) of the California Government Code,
18 which provides that a public entity is liable for the injuries caused by its
19 employees within the cope of the employment if the employee's act would subject
20 him or her to liability, under California law, and under the doctrine of *respondeat*
21 *superior*.

22 80. The conduct of DOE OFFICERS was malicious, wanton, oppressive,
23 and accomplished with a conscious disregard for Plaintiff's rights, entitling
24 Plaintiff to an award of exemplary and punitive damages.

25 81. As a result of their misconduct, Defendants DOE OFFICERS are
26 liable for Plaintiff's injuries, either because they were integral participants in the
27 wrongful detention and arrest, and/or because they failed to intervene to prevent
28 these violations.

1 82. Plaintiff seeks damages on this claim, including for Plaintiff's
2 injuries, pain and suffering, emotional distress from his physical injuries,
3 humiliation, disfigurement, financial loss, and reduced earning capacity.

4 **FIFTH CLAIM FOR RELIEF**

5 **Battery (Cal. Govt. Code § 820 and California Common Law)**

6 (By Plaintiff against All Defendants)

7 83. Plaintiff repeats and re-alleges each and every allegation of the
8 foregoing paragraphs as if fully set forth herein.

9 84. Defendants DOE OFFICERS, while working as officers for the BPD
10 and acting within the course and scope of their duties, intentionally shot Plaintiff
11 multiple times. As a result of the actions of Defendants DOE OFFICERS,
12 Plaintiff was seriously injured. Defendants DOE OFFICERS had no legal
13 justification for using force, including deadly force, against Plaintiff, and DOE
14 OFFICERS' uses of force were unreasonable under the circumstances.

15 85. At all relevant times, Plaintiff did not pose an immediate threat of
16 death or serious bodily injury to anyone, including Defendants DOE OFFICERS.
17 No warning was given that deadly force was going to be used prior to the use of
18 deadly force, and less intrusive alternatives were available to Defendants DOE
19 OFFICERS.

20 86. Defendant CITY is vicariously liable for the wrongful acts of
21 Defendants DOE OFFICERS pursuant to section 815.2 of the California
22 Government Code, which provides that a public entity is liable for injuries caused
23 by its employees within the scope of the employment if the employees' acts would
24 subject them to liability.

25 87. The conduct of Defendants DOE OFFICERS was malicious, wanton,
26 oppressive, and accomplished with a conscious disregard for the rights of Plaintiff,
27 entitling Plaintiff to an award of exemplary and punitive damages.

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1 88. Plaintiff seeks damages on this claim, including for Plaintiff's
2 injuries, pain and suffering, emotional distress from his physical injuries,
3 humiliation, disfigurement, financial loss, and reduced earning capacity.

4 **SIXTH CLAIM FOR RELIEF**

5 **Negligence (Cal. Govt. Code § 820 and California Common Law)**

6 (By Plaintiff against All Defendants)

7 89. Plaintiff repeats and re-alleges each and every allegation of the
8 foregoing paragraphs as if fully set forth herein.

9 90. Peace officers, including Defendants DOE OFFICERS, have a duty
10 to use reasonable care to prevent harm and injury to others. This duty includes
11 using appropriate tactics, giving appropriate commands, giving appropriate
12 warnings, use of de-escalation techniques, not using any force unless necessary,
13 using the least amount of force necessary, only using deadly force as a last resort,
14 and providing timely medical care for individuals they intentionally harm. These
15 duties also include following their training and policies, ensuring they are properly
16 trained and equipped to perform their duties in accordance with department
17 policies, and properly investigating and reporting on their use of force incidents.

18 91. Defendants DOE OFFICERS breached their duty of care toward
19 Plaintiff. The actions and inactions of Defendants DOE OFFICERS were
20 negligent and reckless, including but not limited to:

21 (a) The failure to properly and adequately assess the need to use
22 force against Plaintiff;

23 (b) The negligent tactics and handling of the situation with
24 Plaintiff, including pre-shooting negligence and failure to utilize de-
25 escalation techniques;

26 (c) The failure to intervene to stop or prevent other officers' use of
27 excessive and unreasonable force.

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1 92. As a direct and proximate result of Defendants DOE OFFICERS’
2 conduct as alleged above, and other undiscovered negligent conduct, Plaintiff was
3 caused to suffer severe past and future mental and physical pain and suffering.

4 93. At all relevant times, Plaintiff was not an immediate threat of death or
5 serious bodily injury to anyone, no warning was given that deadly force was going
6 to be used prior to the use of deadly force, and less intrusive alternatives were
7 available to Defendants DOE OFFICERS.

8 94. Defendant CITY is vicariously liable for the wrongful acts of
9 Defendants DOE OFFICERS pursuant to section 815.2(a) of the California
10 Government Code, which provides that a public entity is liable for the injuries
11 caused by its employees within the scope of the employment if the employees’ act
12 would subject him or her to liability.

13 95. Plaintiff seeks damages on this claim, including for Plaintiff’s
14 injuries, pain and suffering, emotional distress from his physical injuries,
15 humiliation, disfigurement, financial loss, and reduced earning capacity.

16 **SEVENTH CLAIM FOR RELIEF**

17 **Violation of Cal. Civ. Code § 52.1 and California Common Law)**

18 (By Plaintiff against All Defendants)

19 96. Plaintiff repeats and re-alleges each and every allegation in the
20 foregoing paragraphs of this Complaint with the same force and effect as if fully
21 set forth herein.

22 97. The Bane Act, the California Constitution and California common
23 law prohibit the use of excessive force by law enforcement. California Civil
24 Code, Section 52.1(b) authorizes a private right of action for such claims.

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1 98. The Bane Act prohibits law enforcement officers from interfering by
2 threat, intimidation, or coercion, or attempts to interfere by threats, intimidation,
3 or coercion, the exercise or enjoyment by any individual or individuals of rights
4 secured by the Constitution or laws of the United States, or of the rights secured
5 by the Constitution or the laws of the State of California.

6 99. On information and belief, Defendants DOE OFFICERS, while
7 working for the CITY and acting within the course and scope of their duties,
8 intentionally committed and attempted to commit acts of violence against
9 Plaintiff, including by using excessive force against him without justification or
10 excuse, by integrally participating and failing to intervene in the above violence,
11 and by denying him necessary medical care.

12 100. When Defendants DOE OFFICERS unnecessarily shot Plaintiff with
13 less-lethal and lethal rounds, they interfered with his right to be free from
14 excessive force.

15 101. Further, when Defendants DOE OFFICERS handcuffed and
16 questioned Plaintiff they detained him without reasonable suspicion that he had
17 committed a crime, and when DOE OFFICERS continued to detain him for over a
18 day they arrested him without probable cause to believe that he had committed a
19 crime, thus interfering with Plaintiff's rights to be free from wrongful detention
20 and arrest.

21 102. Defendants DOE OFFICERS intentionally interfered with Plaintiff's
22 rights to be free from excessive force, to medical care, and to be free from
23 wrongful detention and arrest, by demonstrating a reckless disregard for these
24 rights that Plaintiff possessed.

25 103. Plaintiff was caused to suffer severe pain and suffering. The conduct
26 of Defendants DOE OFFICERS was a substantial factor in causing the harm,
27 losses, injuries, and damages to Plaintiff.

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1 104. CITY is vicariously liable for the wrongful acts of Defendants DOE
2 OFFICERS pursuant to section 815.2(a) of the California Government Code,
3 which provides that a public entity is liable for the injuries caused by its
4 employees within the scope of the employment if the employee’s acts would
5 subject him or her to liability.

6 105. The conduct of the individual Defendants DOE OFFICERS was
7 malicious, wanton, oppressive, and accomplished with a conscious disregard for
8 the rights of Plaintiff in that Plaintiff’s constitutional rights were intentionally
9 deprived and violated, as demonstrated by DOE OFFICERS’ reckless disregard
10 for the constitutional rights of Plaintiff. As such, the aforementioned conduct
11 entitles Plaintiff to an award of exemplary and punitive damages.

12 106. Plaintiff seeks damages on this claim, including for Plaintiff’s
13 injuries, pain and suffering, emotional distress from his physical injuries,
14 humiliation, disfigurement, financial loss, and reduced earning capacity.

15 107. Plaintiff also seeks costs and attorneys’ fees under this claim.

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1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff JAMES PIETRONICO requests entry of judgment
3 in his favor against Defendants CITY OF BEAUMONT and DOES 1-10,
4 inclusive, as follows:

- 5 A. For compensatory damages in whatever other amount may be proven
- 6 at trial, including for Plaintiff’s injuries, pain and suffering, emotional
- 7 distress from his physical injuries, humiliation, disfigurement,
- 8 financial loss, and reduced earning capacity;
- 9 C. For punitive damages against the individual defendants in an amount
- 10 to be proven at trial;
- 11 D. For statutory damages;
- 12 E. For interest;
- 13 F. For reasonable attorneys’ fees, including litigation expenses;
- 14 G. For costs of suit; and
- 15 H. For such further other relief as the Court may deem just, proper, and
- 16 appropriate.

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18 DATED: November 29, 2023

LAW OFFICES OF DALE K. GALIPO

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20 By: /s/ Dale K. Galipo

21 Dale K. Galipo

22 Benjamin S. Levine

23 Attorneys for Plaintiff

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DEMAND FOR JURY TRIAL

Plaintiff hereby submits this demand that this action be tried in front of a jury.

DATED: November 29, 2023

LAW OFFICES OF DALE K. GALIPO

By: /s/ Dale K. Galipo
Dale K. Galipo
Benjamin S. Levine
Attorneys for Plaintiff