

1 JAMES S. TERRELL, (SBN 170409)  
Law Office of James S. Terrell  
2 15411 Anacapa Road  
Victorville, CA 92392  
3 Tel.760-951-5850Fax.760-952-1085  
E-mail: [jim@talktoterrell.com](mailto:jim@talktoterrell.com)  
4

5 SHARON J. BRUNNER, (SBN: 229931)  
Law Office of Sharon J. Brunner  
14393 Park Avenue, Suite 100  
6 Victorville, CA 92392  
E-mail: [sharonjbrunner@yahoo.com](mailto:sharonjbrunner@yahoo.com)  
7

8 **Attorneys for Plaintiff**

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

10 MATTHEW JOHN POLSON

11 Plaintiff,

12 vs.

13 COUNTY OF SAN BERNARDINO,  
14 DEPUTY J. ATTLESEY, and DOES 1-  
15 10, INCLUSIVE

16 Defendants.  
17

**Case No. 5:24-cv-00161**

**COMPLAINT FOR DAMAGES**

- 1. Excessive Force-  
Fourth Amendment(42 USC §1983)
- 2. Failure to Intervene (42 USC §1983)
- 3. Battery
- 4. Violation of Bane Act (Cal. Govt.  
Code 52.1)
- 5. Intentional Infliction Of Emotional  
Distress
- 6. Negligence

**DEMAND FOR JURY TRIAL**

18  
19  
20  
21 Plaintiff, by and through his attorneys, the LAW OFFICE OF JAMES S.  
22 TERRELL, the LAW OFFICE OF SHARON J. BRUNNER, for his Complaint  
23 against Defendants, County of San Bernardino, Deputy J. Attlesey, and DOES 1-10,  
24 states the following:  
25

26 **JURISDICTION & VENUE**

1 1. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331,  
2 1341, and 1343 because it is being brought to obtain compensatory and punitive  
3 damages for the deprivation, under color of state law, of the rights of citizens of the  
4 United States that are secured by the United States Constitution, pursuant to 42 U.S.C.  
5 §§ 1983 and 1988. This action is brought pursuant to the Fourth and Fourteenth  
6 Amendments to the United States Constitution and the laws and Constitution of the  
7 State of California.  
8

9  
10 2. Plaintiff further invokes this Court’s supplemental jurisdiction, pursuant to 28  
11 U.S.C. § 1367(a), to hear and decide claims arising under state law.  
12

13 3. Venue is proper, pursuant to 28 U.S.C. § 1391(e)(2), because the events giving  
14 rise to Plaintiff’s claims occurred in this judicial district and divisional venue lies in  
15 the Eastern District of the U.S. District Court for the Central District of California  
16 because the events giving rise to Plaintiff’s claims occurred in San Bernardino,  
17 California.  
18

19  
20 4. Plaintiff filed a timely claim under Governmental Code Section 911.2 et al and  
21 brings pendant actions under state law.  
22

### INTRODUCTION

23  
24 5. This civil rights action seeks compensatory and punitive damages from  
25 Defendants for violating various rights under the United States Constitution in  
26  
27

1 connection with the excessive force on Plaintiff's Polson on August 28, 2022. The  
2 Plaintiff seeks no punitive damages from the County of San Bernardino.  
3

4 **PARTIES**

5 6. Plaintiff Matthew John Polson, (hereinafter referred to as POLSON) was,  
6 at all times herein mentioned a citizen of the United States of America and a resident  
7 of San Bernardino County over the age of 18.  
8

9 7. Defendant Deputy J. Attlesey (hereinafter referred to as ATTLESEY)  
10 was, at all times herein mentioned, employed by the San Bernardino Sheriff's  
11 department employed as a sworn officer and is at all times acting under color of  
12 authority, for the County of San Bernardino Sheriff's Department as that term is  
13 understood in 42 U.S.C. Section 1983 litigation. Defendant Deputy J. ATTLESEY is  
14 being sued in his individual capacity.  
15  
16

17 8. Defendant County of San Bernardino (hereinafter COUNTY) was, at all  
18 times mentioned herein, a political subdivision for the State of California.  
19

20 9. The individual defendants were and are employed by the County of San  
21 Bernardino as deputy sheriffs, or supervisors and assigned to the San Bernardino  
22 Sheriff's department.  
23

24 10. Each of the acts or omissions alleged herein was under color of state law.

25 11. At all times alleged herein Defendant County of San Bernardino had duty  
26 to control the manner in which the deputy defendants carried their duties and to ensure  
27

1 that their treatment of the Plaintiff and others similarly situated were done in  
2 conformity with the United States Constitution, the California Constitution, the laws  
3 of the United States, the laws of the State of California.  
4

5 12. The unknown named defendants, identified herein as DOES 1 through  
6 10, defendants herein, resulting in the deprivation of Plaintiff's civil rights and  
7 injuries to their person, as is described below.  
8

9 13. Said DOE Defendants additionally include unknown employees of the  
10 County of San Bernardino and the San Bernardino Sheriff Department who were  
11 supervisors who created, fostered, acquiesced, ratified and/or maintained the policies,  
12 customs and/or practices that caused the deprivation of Plaintiff's Constitutional rights  
13 and his injuries.  
14

15 14. It is believed Does 1-10 at all relevant times, lived in San Bernardino  
16 County.  
17

18 15. Plaintiff is ignorant of the true names and capacities of these DOE  
19 Defendants, though all are believed to have been employed by Defendant County of  
20 San Bernardino, or Defendant San Bernardino Sheriff Department or acting in concert  
21 with Defendants and in the capacity of state actors, but allege that each such  
22 Defendant was in some manner responsible for their injuries due to their own conduct  
23 which were either intentional done or done with reckless indifference to the rights of  
24 the Plaintiff.  
25  
26  
27

1 16. Plaintiff is informed and believes and thereon alleges that each of the  
2 Defendants designated as a DOE is intentionally responsible in some manner for the  
3 events and happenings herein referred to, and thereby caused injuries and damages as  
4 herein alleged. The true names and capacities of DOES 1 through 10, inclusive, and  
5 each of them, are not now known to Plaintiff who therefore sues said Defendants by  
6 such fictitious names and will be added to this action when discovered.  
7  
8

9 17. Defendants, and each of them, did the acts and omissions hereinafter  
10 alleged in bad faith and with knowledge that their conduct violated well established  
11 and settled law.  
12

13 18. Defendants, and each of them, did the acts and omissions alleged herein  
14 in done intentionally or with reckless indifference to the rights of the Plaintiff and in  
15 violation of clearly established law.  
16

17 19. Each of the individual Defendants are being sued in their individual  
18 capacity as well as their official capacity.  
19

20 20. This Court has jurisdiction over this action by virtue of 28 U.S.C. Section  
21 1331, e.g. “federal question.”  
22

### GENERAL ALLEGATIONS

23  
24 21. On August 28, 2022, PLAINTIFF POLSON was operating a motor  
25 vehicle in the County of San Bernardino, California. Deputy Sheriff J. ATTLESEY  
26 attempted a traffic stop on POLSON who failed to yield.  
27

1 22. POLSON did not pull over and collided with a parked vehicle. POLSON  
2 evaded the police and ran away on foot. A foot pursuit followed, and POLSON  
3 surrendered and was laying down in a prone position with several Deputies directly  
4 behind him.  
5

6 23. Several Deputies successfully gave chase and captured POLSON who was on  
7 the ground in a prone position. Rather than applying handcuffs and arresting the  
8 Plaintiff, the unknown officers (DOES 1-10) and J. ATTLESEY beat him severely. At  
9 no time did any Deputy Intervene and protect POLSON who was being intentionally  
10 being beat and injured by the San Bernardino Deputies who were in uniform and  
11 acting under color of state law.  
12  
13

14 24. Deputy J.ATTLESEY and DOES 1-10, struck the helpless and prone suspect  
15 with flashlights, taser guns, fists, and knees, acting savagely. The event was captured  
16 by a door camera.  
17

18 25. The excessive and unnecessary brutal beating has caused psychological and  
19 physical injuries to the Plaintiff POLSON. The injuries are serious and lifelong.  
20

21 **FIRST CAUSE OF ACTION**  
22 **(Fourth Amendment – Excessive Force under 42 USC § 1983)**  
23 **(By Plaintiff Defendant J. ATTLESEY and DOES 1-10)**

24 26. Plaintiff refers to and re-pleads each and every allegation contained in  
25 paragraphs 1 through 25 of this complaint, and by this reference incorporates the same  
26 herein and make each a part hereof.  
27

1 27. When Plaintiff POLSON was on the ground and attempting to comply  
2 with DOES 1-10, the DOE officers did not behave like reasonable police officers,  
3 instead the DOE officers beat, struck tased and delivered harmful strikes to the head,  
4 neck and body of the Plaintiff. One DOE Deputy struck the Plaintiff in his head with a  
5 knee approximately twenty times.  
6

7  
8 28. Defendant DOES 1-10, issued no lawful warnings and/or instructions. In  
9 addition the attempts to issue orders were incoherent. At no time did any supervisor  
10 or senior deputy take control, top or attempt to deescalate or intervene in stopping this  
11 unlawful conduct.  
12

13 29. DOES 1-10, were creating false evidence by chanting, “STOP RESISTING!”  
14 This creation of false evidence is the trademark of the San Bernardino Sheriff  
15 Department that has not had body cams for several years.  
16

17 30. The force that was used was excessive and not necessary. Many of the blows,  
18 strikes and harmful tactics were directed at areas of the body to be avoided as they  
19 cause severe injury. A reasonable police officer would not strike or hit a subject who  
20 was prone on the ground and surrendering. DOES 1-5, struck Plaintiff PARSON in  
21 the head with a taser gun, flashlight, fist and knees, all directed at the head and neck of  
22 the prone Plaintiff.  
23  
24

25 31. Furthermore, Plaintiff had surrendered and was attempting to be compliant.  
26 Therefore, Defendants’ DOES 1-10, touching and use of any force, even control holds  
27

1 were excessive force that violated both his training and Plaintiff’s constitutional rights  
2 under the Fourth Amendment.

3  
4 32. As a result of their misconduct, Defendants are liable for Plaintiff’s injuries.

5 33. WHEREFORE, Plaintiff pray for relief as hereinafter set forth.

6  
7 **SECOND CAUSE OF ACTION**

8 **(FAILURE TO INTERVENE – 42 USC 1983**

9 **(By Plaintiff Against Defendant J. ATTLESEY AND DOES 1-10)**

10 34. Plaintiff refers to and re-pleads each and every allegation contained in  
11 paragraphs 1 through 33 of this complaint, and by this reference incorporates the same  
12 herein and make each a part hereof.

13 35. Defendants J ATTLESEY, and DOES 1-10 while working as employees  
14 for the Defendant County of San Bernardino, and acting within the course and scope  
15 of their duties, intentionally **used excessive force** repeatedly on Plaintiff without a  
16 lawful basis by threatening force, striking the head and neck area with impact  
17 weapons, and then continually striking Plaintiff with hard impact weapons.  
18  
19

20 36. The unlawful conduct was under color of state law and the conduct deprived the  
21 Plaintiff of a constitutional right prohibiting citizens to be beaten under the Fourth  
22 Amendment.  
23

24 37. DOES 1-10, including supervisors and senior law enforcement officials who  
25 were present at the scene at the time of the beating and who witnessed the beatings  
26 and took no action to stop the constitutional violations.  
27



1 38. As a result of the actions, of the Defendants, Plaintiff suffered injury. Defendant  
2 and Does did not have legal justification or using force against Plaintiff, and  
3  
4 Defendants' use of force while carrying out his duties was an unreasonable use of  
5 force.

6 39. As a direct and proximate result of Defendants' violations including excessive  
7 force and Failure to Intervene, Plaintiff sustained injury and damages, and are entitled  
8 to relief as set forth above.

9  
10 40. As a direct result of the foregoing, Plaintiff have been damaged as recited  
11 above and demands and is entitled to the damages recited in First Cause of Action,  
12 including, but limited to, general and punitive damages (except to as to County of San  
13 Bernardino), and attorney's fees.  
14

15  
16 **THIRD CAUSE OF ACTION**

17 **(Battery)**

18 **(By Plaintiff Against Defendants COUNTY, J. ATTLESEY, and DOES 1-10)**

19 41. Plaintiff hereby re-allege and incorporates by reference each and every  
20 paragraph of this Complaint.

21  
22 42. Defendants, while working as employees for Defendant County of San  
23 Bernardino Sheriff's Department and acting within the course and scope of their  
24 duties, intentionally hit and struck Plaintiff without lawful basis by beating, striking  
25  
26  
27

1 the head, neck with impact weapons and then continually seizing, touching, and  
2 pulling on Plaintiff. Defendants offensively touched Plaintiff without consent.

3  
4 43. As a result of the actions of the Defendants, Plaintiff suffered injury. Defendant  
5 J. ATTLESEY and DOES 1-10 did not have a legal justification for using force  
6 against Plaintiff and Defendants' use of force while carrying out his duties was an  
7 unreasonable use of force.  
8

9 44. Defendant COUNTY is vicarious liable, pursuant to California Government  
10 Code § 815.2(a), for the violation of rights by its employees and agents.

11  
12 45. As a direct and proximate result of Defendants' battery of Plaintiff, Plaintiff  
13 sustained injury and damages, and is entitled to relief as set forth above.

14 46. WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

15  
16 **FOURTH CAUSE OF ACTION**  
17 **BANE ACT**  
18 **VIOLATION OF CIVIL CODE §52.1(b)**  
**(By Plaintiff Against J. ATTLESEY and DOES 1-10)**

19 47. Plaintiff re-allege and incorporates by reference the allegations contained in  
20 paragraphs 1 through 46 above, as though fully set forth herein.

21  
22 48. By the actions and omissions described above Defendants, DOES 1-10 and  
23 Defendant J. ATTLESEY violated and/or interfered with Plaintiff's state and/or  
24 federal rights through threats, and/or intimidation, and/or coercion, thereby entitling  
25 Plaintiff to sue for damages under California Civil Code § 52.1, subdivision (b).  
26  
27

1 49. The violations included depriving Plaintiff of the following well-settled  
2 constitutional rights that are secured by the U.S. Constitution, the California  
3 Constitution, and California law: The right to protection from bodily restraint, harm,  
4 or personal insult, as secured by California Civil Code § 43.

6 50. Defendant COUNTY is liable under California Government Code § 815.2(a)  
7 for the Civil Code § 52.1(b) violations, committed within the course and scope of the  
8 named Defendants' employment.

10 51. As a proximate result of the foregoing wrongful acts, Plaintiff sustained  
11 injuries and damages, as set forth above. Plaintiff is, therefore, entitled to general and  
12 compensatory damages in an amount to be proven at trial.

14 52. In committing the acts alleged above, Defendants acted maliciously and/or  
15 were guilty of a wanton and reckless disregard for the rights, safety, and emotional  
16 well-being of Plaintiff, and by reason thereof, Plaintiff is entitled to exemplary and  
17 punitive damages (not County) in an amount to be determined.

19  
20 **FIFTH CAUSE OF ACTION**  
21 **INTENTION INFLICTION OF EMOTIONAL DISTRESS**  
22 **(By Plaintiff Against COUNTY, J. ATTLESEY and DOES 1-10)**

23 53. Plaintiff re-alleges and incorporates by reference the allegations contained in  
24 paragraphs 1 through 52 above, as though fully set forth herein.

25 54. Defendants intentionally performed acts that resulted in the infliction of  
26 emotional distress upon Plaintiff. The Defendants' malicious intentional acts and  
27

1 tortious conduct resulted in Plaintiff suffering severe emotional distress with physical  
2 manifestations, thereby entitling Plaintiff to damages pursuant to California law.

3  
4 55. Defendant COUNTY is liable under California Government Code § 815.2(a)  
5 for the intentional infliction of emotional distress, committed within the course and  
6 scope of the named Defendants’ employment.

7  
8 56. As a proximate result of the foregoing wrongful acts, Plaintiff sustained  
9 injuries and damages, as set forth above.

10 Plaintiff is, therefore, entitled to general and compensatory damages in an amount to  
11 be proven at trial, as well as punitive damages against Defendants in their individual  
12 capacities. No punitive damages are sought against the COUNTY.  
13

14 **SIXTH CAUSE OF ACTION**  
15 **NEGLIGENCE**

16 **(By Plaintiff Against COUNTY and All Individual Defendants)**

17 57. Plaintiff re-alleges and incorporates by reference the allegations contained in  
18 paragraphs 1 through 56 above, as though fully set forth herein.

19 58. At all times, each Defendant owed Plaintiff the duty to act with due care in the  
20 execution and enforcement of any right, law, or legal obligation and each Defendant  
21 owed Plaintiff the duty to act with reasonable care.

22  
23 59. These general duties of reasonable care and due care owed to Plaintiff by all  
24 Defendants included, but were not limited to, the following specific obligations:

25 a. To refrain from using excessive force;  
26  
27

- 1 b. To refrain from using force that causes severe injury;
- 2 c. To refrain from intentionally striking a suspects head, neck and vital areas;
- 3
- 4 Plaintiff's rights under Article I, § 13 of the California Constitution;
- 5 d. To refrain from wrongfully seizing Plaintiff;
- 6
- 7 e. To refrain from abusing the authority granted to Defendants by law;
- 8
- 9 f. To refrain from violating Plaintiff's rights, which are guaranteed by the United
- 10 States and California Constitutions, as set forth above, and as otherwise protected by
- 11 law.

12 60. Defendants acted negligently and breached their duty of due care owed to  
13 Plaintiff, which foreseeably resulted in the suffering of damages by Plaintiff.

14 61. Defendant COUNTY liable under California Government Code § 815.2(a) for  
15 the negligence, committed within the course and scope of the named Defendants'  
16 employment.

17 62. As a proximate result of Defendants' negligence, Plaintiff sustained injuries  
18 and damages, as set forth below.

19 Plaintiff is, therefore, entitled to general and compensatory damages in an amount to  
20 be proven at trial.

### 21 DAMAGES

22 63. As a consequence of Defendants' violations of Plaintiff's federal civil rights  
23 under 42 USC § 1983 and the Fourth Amendment, Plaintiff is physically, mentally,  
24

1 emotionally, and financially injured and damaged as a proximate result of Defendants’  
2 wrongful conduct.

3  
4 64. Plaintiff found it necessary to engage the services of private counsel to  
5 vindicate their rights under the law. Plaintiff is entitled to an award of attorneys’ fees  
6 and/or costs pursuant to statute(s) in the event that they are prevailing parties in the  
7 action under 42 USC § 1983 and 1988. Plaintiff is entitled to punitive damages under  
8 42 USC § 1983 and 1988.

9  
10 65. The tortious and constitutionally violative conduct of Defendants proximately  
11 caused Plaintiff to suffer severe physical and emotional distress. Defendants’ conduct  
12 was so outrageous and frightening to Plaintiff as the above-described violations and  
13 was overcome with fear and anxiety for several days; Plaintiff were unable to eat and  
14 was extremely upset. For a significant period of time, Plaintiff were unable to sleep.

15  
16  
17 **PRAYER**

18 WHEREFORE, Plaintiff prays judgment against Defendants and each of them,  
19 as follows:

20 **AS TO EACH CAUSE OF ACTION AS APPLICABLE**

- 21 1. For General damages; according to proof;  
22 2. For Special damages according to proof;  
23 3. For Punitive damages as provided by law, in an amount to be provided  
24 against each individual Defendant;  
25 4. For attorney’s fees; pursuant to 42 USC 1988;  
26 5. For Costs of suit;

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

6. For such other and further relief as the Court may deem proper.

Dated: 1/24/2024

/s/James Terrell  
James S. Terrell  
Attorney for Plaintiff

Dated: 1/24/2024

/s/Sharon J. Brunner  
Sharon J. Brunner  
Attorney for Plaintiff

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

**JURY DEMAND**

PLAINTIFF hereby demands a trial by jury.

Dated: 1/24/2024

/s/James Terrell  
James S. Terrell  
Attorney for Plaintiff

Dated: 1/24/2024

/s/Sharon J. Brunner  
Sharon J. Brunner  
Attorney for Plaintiff