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9 Attorney for Plaintiff MANUEL ZAMUDIO, JR.

10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA

12 MANUEL ZAMUDIO, JR.

13 Plaintiff,

14 vs.

15 DANIEL HAN; CITY OF SAN
16 BERNARDINO; SAN BERNARDINO
17 POLICE DEPARTMENT; DENNIS
18 HAN; and DOES 1 to 20, Inclusive,

19 Defendants.

Case No.:

COMPLAINT FOR DAMAGES

1. Fourteenth Amendment (42 U.S.C. § 1983)
2. Fourth Amendment (42 U.S.C. § 1983)
3. Conspiracy (42 U.S.C. § 1983, 1988)
4. Municipal Liability— *Monell* (42 U.S.C. § 1983)
5. Municipal and Supervisory Liability— *Larez*; Failure to Train and Supervise— *Canton* (42 U.S.C. § 1983)
6. Negligence; and
7. Intentional Infliction of Emotional Distress

DEMAND FOR JURY TRIAL

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COMPLAINT FOR DAMAGES

Plaintiff MANUEL ZAMUDIO, JR, for his Complaint against Defendants DANIEL HAN; DENNIS HAN; CITY OF SAN BERNARDINO; SAN BERNARDINO POLICE DEPARTMENT; and DOES 1 to 20, inclusive, alleges as follows:

PARTIES

1. At all relevant times, Plaintiff MANUEL ZAMUDIO, JR. (“Plaintiff” or “Mr. Zamudio”) is and was an individual residing in the City of Victorville, County of San Bernardino, State of California.

2. Plaintiff is informed, believes, and thereupon alleges that at all relevant times, Defendant DANIEL HAN (“Officer HAN”) is and was an individual residing in the County of San Bernardino, State of California.

3. At all relevant times, Defendant CITY OF SAN BERNARDINO (“CITY”) is and was a municipal corporation existing by virtue of the laws of California. Plaintiff is informed, believes, and thereupon alleges that at all relevant times, CITY was and is responsible for the actions, omissions, policies, procedures, practices, and customs of its various agents and agencies, including the SAN BERNARDINO POLICE DEPARTMENT (“SBPD”) and its agents and employees. CITY was and is responsible for ensuring that the actions, omissions, policies, procedures, practices, and customs of its employees and agents comply with the laws of the United States and the State of California.

4. At all relevant times, Officer HAN and Officer DOE 1 were duly authorized employees of CITY and/or SBPD acting as police officers within the course and scope of their employment CITY and/or SBPD. Officer HAN and Officer DOE 1 are being sued individually and in *their* representative capacities as police officers employed by, and acting on behalf of, CITY and/or SBPD.

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1 5. DENNIS HAN is the brother of Defendant Officer HAN. DENNIS
2 HAN phoned Officer HAN to illegally enlist his help to stop, harass, and assault and
3 batter Plaintiff.

4 6. Plaintiff is informed, believes, and thereupon alleges that CITY is, or
5 was, the employer of all individually named Defendant SBPD Police Officers
6 including, but not limited to, those who are sued in their individual and official
7 capacities, as well as one, or all, of Defendant DOES 1 through 10 (“DOE
8 OFFICERS”).

9 7. The identities, capacities, and/or or nature of involvement of Defendant
10 DOES 1 through 20 (“DOE DEFENDANTS”) are presently unknown to Plaintiff.
11 Plaintiff therefore sues such persons using “Does” as fictitiously-named defendants.
12 Plaintiff is informed, believes, and thereupon alleges that there is likely to be
13 evidentiary support to prove that each Doe Defendant was involved in some manner
14 and legally responsible for the acts, omissions, and/or breaches of duty alleged below.
15 Plaintiff will amend the Complaint to name the Doe Defendants upon learning their
16 true identities and roles in the actions complained of herein.

17 8. All the facts, acts, omissions, events, and circumstances herein
18 mentioned and described occurred in the County of San Bernardino, State of
19 California, and the corporate and/or entity Defendants, and each of them, are
20 residents of the County of San Bernardino, State of California, and/or have their
21 principal place of business in said County and State, and/or are doing business in said
22 County and State.

23 9. Plaintiff is informed, believes, and thereupon alleges that all Defendants
24 employed by CITY and/or SBPD were, at all times relevant and material to this
25 Complaint, acting within the course and scope of their employment duties for CITY
26 and/or SBPD, and under color of law. Plaintiff is informed, believes, and thereupon
27 alleges that each of the individual Defendants’ acts were known to, discovered by,
28 approved by, and/or ratified by CITY and/or SBPD, by and through their

1 policymakers, decision-makers, officials, officers, and/or supervisors, including
2 named Defendants, and applicable Doe Defendants.

3 10. Plaintiff is informed, believes, and thereupon alleges that all Defendants
4 employed by DOES 15-20 (“DOE EMPLOYERS”), at all times relevant and material
5 to this Complaint, were acting within the course and scope of their employment
6 duties for DOE EMPLOYERS, under color of law. Plaintiff is informed, believes,
7 and thereupon alleges that each of the individual Defendants’ acts were known to,
8 discovered by, approved by, and/or ratified by DOE EMPLOYERS by and through
9 policy makers, decision makers, and/or supervisors, including named Defendants, and
10 applicable Doe Defendants.

11 11. Plaintiff is informed, believes, and thereupon alleges that officials,
12 supervisors, policymakers, and other individuals with the authority to set or modify
13 municipal and/or departmental policy, *de jure* or *de facto*, of CITY, SBPD, and/or
14 Doe Defendants, participated in, approved of, ratified, and/or failed to prevent the
15 acts by all Defendants and Doe Defendants of which Plaintiff complains herein.

16 12. Plaintiff is informed, believes, and thereupon alleges that at all times
17 herein mentioned, each of the Defendants—including officials, supervisors, watch
18 commanders, and other policymakers from CITY, SBPD, and/or Doe Defendants and
19 their agents—was the agent, employee, or co-conspirator of one other, some, or all of
20 their Co-Defendants. Plaintiff is informed, believes, and thereupon alleges that each
21 of the Defendant SBPD Police Officers, acting individually and/or in concert with
22 each other, engaged in a common plan to wrongfully deprive Plaintiff of his
23 respective rights to privacy, freedom of expression, security in person and effects,
24 freedom from excessive force, freedom from unreasonable searches and seizures, and
25 due process of law, among others described herein. Each and all of the things done
26 by each Defendant against Plaintiff, as mentioned in this entire Complaint, were
27 done, partially if not entirely, because of Plaintiff’s expression. In doing each and all
28 of the things herein mentioned, or neglecting or intentionally failing to rectify said

1 misconduct, each and all Defendant SBPD Police Officers were acting pursuant to a
2 *de facto* policy and within the scope of such agency, employment, and conspiracy and
3 with full permission, knowledge, approval, ratification, and support of each other.

4 **JURISDICTION**

5 13. Plaintiff brings this case pursuant to 42 U.S.C. §§ 1983, 1988 and
6 California state law. Jurisdiction is based upon 28 U.S.C. §§ 1331, 1343 (1–4).
7 Supplemental jurisdiction exists over the state claims and Defendants pursuant to 28
8 U.S.C. § 1367.

9 **VENUE**

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

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

14 15. Plaintiff repeats and re-alleges each and every allegation in paragraphs 1
15 through 14 of this Complaint.

16 16. In December of 2023, Plaintiff was working at a construction site,
17 specifically a home located on East Miranda Road in the City of San Bernardino.

18 17. On or around December of 2023, DENNIS HAN who live(d) next-door
19 to the construction site complained about the construction work and aggressively
20 confronted Plaintiff and other construction workers on several occasions.

21 18. On or around December 13, 2023, a verbal confrontation occurred
22 between Plaintiff and Defendant DENNIS HAN. Upon information and belief,
23 DENNIS HAN then contacted his brother, Officer HAN, and informed him of the
24 altercation(s) and requested that he illegally stop Plaintiff and use his authority to
25 harass and batter him.

26 19. On December 13, 2023, as Plaintiff was leaving the construction site, he
27 noticed a SBPD vehicle parked at the end of the street, which almost immediately
28 began to follow Plaintiff's vehicle down the road. At approximately 4:00 p.m., after

1 being followed by the SBPD vehicle for a short period of time, Plaintiff was forced to
2 stop by Officer HAN and Officer DOE 1. Officer HAN and Officer DOE 1 thereafter
3 searched Plaintiff's vehicle, without probable cause.

4 20. After conducting an illegal stop, Officer HAN shockingly and
5 aggressively pulled Plaintiff's arm, attempted to pull him out of his vehicle and
6 threatened him with unwarranted arrest.

7 21. Upon information and belief, Officer HAN, brother of Defendant
8 DENNIS HAN, arrived nearby the construction site after DENNIS HAN contacted
9 him and complained about Plaintiff. Officer HAN then waited for an opportunity to
10 harass and/or intimidate, and assault and battery Plaintiff under the guise of a simple
11 traffic violation and engage in deplorable conduct (*i.e.*, illegal stop and search; assault
12 and battery) which was a clear abuse of his authority as a police officer.

13 22. Officer HAN and DOE 1 acted jointly and in concert with each other to
14 assault, batter and detained Plaintiff by threatening him with physical harm and/or
15 causing him physical harm by pushing him and placing him in pain compliance holds
16 and causing other painful physical contact, *inter alia*. Officer HAN and DOE 1
17 thereafter placed Plaintiff in handcuffs and locked him in their patrol vehicle.
18 Subsequently, they illegally searched Plaintiff's vehicle and detained him for far
19 longer than the period of time necessary to determine that he was not in violation of
20 any law and/or reasonably suspected of violating any law and then issued a false
21 traffic citation to justify the illegal pretextual stop.

22 23. At all relevant times, Plaintiff was unarmed and did not pose a threat to
23 anyone including OFFICER HAN and DOE 1.

24 24. At all relevant times, none of the DEFENDANTS intervened or
25 attempted to stop the other from violating Plaintiff's legal rights.

26 25. As a result of the actions and/or inactions of Officer HAN and DOE 1,
27 Plaintiff sustained physical injuries including but not limited to injury to his back,
28 neck, and shoulder in addition to severe and debilitating emotional distress.

1 26. At all relevant times, DEFENDANTS acted maliciously and
2 oppressively in violating Plaintiff's clearly established rights under United States and
3 California law by way of threats, intimidation and/or coercion.

4 27. As a result of DEFENDANTS' unlawful conduct alleged herein,
5 Plaintiff has suffered, and will continue to suffer damages in an amount according to
6 proof, including attorney fees and costs, to remedy the unlawful conduct.

7 28. Each of the aforementioned acts by each Defendant directly and
8 proximately caused Mr. Zamudio to suffer the following: violation of civil rights,
9 loss of freedom of expression, loss of enjoyment of freedom of expression, loss of
10 privacy, loss of enjoyment of privacy, loss of personal liberty and freedom to
11 physically move about, loss of enjoyment of personal liberty and freedom to
12 physically move about, humiliation, emotional and physical injury, pain and
13 suffering, great and extreme mental anguish. Mr. Zamudio endured, and continues to
14 endure, substantial pain and suffering due to each and every act and omission of all
15 DEFENDANTS, and each of them.

16
17 **FIRST CAUSE OF ACTION**
18 **VIOLATION OF CIVIL RIGHTS (42 U.S.C. § 1983)**
19 **Fourteenth Amendment (Due Process)**
20 **(Against all DEFENDANTS)**

21 29. Plaintiff re-alleges and incorporates by reference the allegations set forth
22 in the preceding paragraphs.

23 30. This cause of action arises under 42 U.S.C. § 1983, wherein Plaintiff
24 seeks to redress a deprivation under color of law of a right, privilege, or immunity
25 secured to him by the Fourteenth Amendment to the United States Constitution.

26 31. On December 13, 2023, Plaintiff was greatly inconvenienced; subjected
27 to stop and search without probable cause; detained from his route of travel and
28 otherwise intimidated and humiliated and assaulted and battered by Officer HAN

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1 and/or DOES 1-10, while working in the scope of their employment as police officers
2 for DEFENDANT CITY.

3 32. To justify the traffic stop, Officer HAN and/or DOES 1-10 allegedly
4 reasoned that Plaintiff's license plate was obstructed; a very minor issue, if it were
5 true.

6 33. Plaintiff denies any moving violation, apparent criminal behavior or
7 activity, or infractions.

8 34. Plaintiff was stopped, detained, searched, and treated in an overtly
9 discourteous manner, assaulted and battered, despite not having violated any traffic
10 laws or having otherwise operated his vehicle or conducted himself in a manner that
11 would justify such action on defendants' part.

12 35. Plaintiff was not stopped because of any justified suspicion that he was
13 involved in criminal activity or any violation of traffic laws; rather he was stopped by
14 members of CITY's Police Department, including Officer HAN and/or DOES 1-10,
15 because he was involved in a verbal altercation with Officer HAN's brother.

16 36. The practices described herein violate Plaintiff's right to the equal
17 protection of the laws as guaranteed by the Constitution because defendants'
18 practices constitute differential treatment without probable cause observed and
19 determined on an individual, case-by-case basis.

20 37. CITY and Defendant Chief, DOE 11, have failed to properly train and
21 supervise Officer HAN and DOES 1-10 and upon information and belief have
22 knowingly allowed Officer HAN and DOES 1-10 to ignore due process and equal
23 protection for persons, knowingly allowing Officer HAN and DOES 1-10 to target
24 motorists for pre-textual stops and searches to personally benefit themselves, all
25 under the color of law.

26 38. The complained of acts of defendants were shocking to the conscience,
27 beyond the bounds of acts tolerable in a civilized society, and so egregious and
28 outrageous that they may fairly be said to shock the contemporary conscience.

1 39. The acts of defendants were deliberate, and in contemplation of
2 intimidating plaintiff. The officers, and each of them, acted with malice and
3 oppression.

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5 **SECOND CAUSE OF ACTION**
6 **VIOLATION OF CIVIL RIGHTS (42 U.S.C. § 1983)**
7 **Fourth Amendment— Unlawful Seizure / Search / Excessive Force**
8 **(Against Defendant DANIEL HAN and DOES 1-10)**

9 40. Plaintiff re-alleges and incorporates by reference the allegations set forth
10 in the preceding paragraphs.

11 41. Defendants Officer HAN and DOES 1 through 10, inclusive, used
12 excessive and unreasonable force against Plaintiff, violating his rights under the
13 Fourth Amendment of the United States Constitution. Defendants Officer HAN and
14 DOES 1 through 10, inclusive, further violated Plaintiff's Fourth Amendment rights
15 by initiating, participating in, and/or failing to prevent the unlawful search, seizure,
16 and prolonged detention of Plaintiff and also conducting unlawful and unwarranted
17 harmful touching constituting a battery and excessive force without lawful basis,
18 reasonable suspicion, probable cause, or warrant, or any recognized exceptions
19 thereto, or justification or excuse.

20 42. Plaintiff was harmed.

21 43. Defendants Officer HAN and DOES 1 through 10, inclusive, are liable
22 for Plaintiff's injuries because they used excessive force, and/or were integral
23 participants in the excessive force, and/or failed to intervene to prevent the excessive
24 force.

25 44. The conduct of Defendants Officer HAN and DOES 1 through 10,
26 inclusive, was willful, wanton, malicious, and done with reckless disregard and safety
27 of Plaintiff and therefore warrants the imposition of exemplary and punitive damages
28 as to each of them.

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1 45. Plaintiff seeks compensatory damages, punitive damages, and attorney
2 fees under this claim.

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4 **THIRD CAUSE OF ACTION**
5 **VIOLATION OF CIVIL RIGHTS (42 U.S.C. §§ 1983, 1988)**
6 **Conspiracy to Violate Civil Rights**
7 **(Against all Defendants)**

8 46. Plaintiff re-alleges and incorporates by reference the allegations set forth
9 in the preceding paragraphs.

10 47. This cause of action arises under 42 U.S.C. §§ 1983 and 1988, wherein
11 Plaintiff seeks to redress a deprivation under color of law of a right, privilege or
12 immunity secured to him by the First, Fourth, and Fourteenth Amendments to the
13 United States Constitution.

14 ***Conspiracy at the Scene***
15 **(Against all Defendants at the scene, Officer Daniel Han and DOES 1-10)**

16 48. Defendants at the scene, and each of them, acted as described herein
17 above, in conspiracy with, and with the agreement, permission, ratification, and
18 approval of each other to violate Plaintiff's civil rights afforded under the United
19 States Constitution.

20 49. Among other things, defendants acted in conspiracy and with agreement,
21 permission, ratification, and approval of their joint conduct to (1) unlawfully detain
22 Plaintiff without probable cause or reasonable suspicion; (2) unlawfully conduct a
23 prolonged detention of Plaintiff without probable cause or reasonable suspicion; and
24 (3) unlawfully search Plaintiff without probable cause or reasonable suspicion.

25 50. During the entirety of the detention, and while each officer saw
26 Plaintiff's rights being violated, all defendants acted in concert to detain and search
27 Plaintiff and never once intervened to stop each other from violating Plaintiff's legal
28 rights.

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

4 56. The foregoing unconstitutional customs and practices were a direct and
5 legal cause of harm to Mr. Zamudio.

6 57. CITY’S policy, custom, and/or practices, as described herein, were
7 within the control of CITY and within the feasibility of CITY, to alter, adjust, and/or
8 correct so as to prevent some or all of the unlawful acts and injury complained of
9 herein by Plaintiff.

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11 **FIFTH CAUSE OF ACTION**
12 **VIOLATION OF CIVIL RIGHTS (42 U.S.C. § 1983)**
13 **Failure to Train, Supervise, Discipline, or Correct (*City of Canton & Larez*)**
14 **(Against Defendants CITY OF SAN BERNARDINO and DOES 11-20)**

15 58. Plaintiff re-alleges and incorporates by reference the allegations set forth
16 in the preceding paragraphs.

17 59. This cause of action arises under 42 U.S.C. § 1983, wherein Plaintiff
18 seeks to redress a deprivation under color of law of a right, privilege, or immunity
19 secured to him by the First, Fourth, and Fourteenth Amendments to the United States
20 Constitution.

21 60. Mr. Zamudio is informed, believes, and thereupon alleges that CITY and
22 DOES 11 through 20, inclusive, violated his constitutional rights, as alleged *supra*, by
23 creating and maintaining the following unconstitutional customs and practices, *inter*
24 *alia*:

- 25 i. DEFENDANTS have ample reason to know, based upon arrest
26 reports, claims for damages, *inter alia*, that SBSB officers and/or
27 employees regularly engage in the misdeeds set forth in this entire
28 complaint;

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- 1 ii. CITY and DOES 11-20, inclusive have failed to properly train,
2 supervise, and/or discipline employees, officers, managers, and
3 supervisors within the SBSB as to the legal requirements and
4 protections applicable to persons as set forth in the United States and
5 California Constitutions, and other laws; and
- 6 iii. The above-mentioned failures amount to a *de facto* policy and are
7 intentional and/or the result of deliberate indifference on the part of
8 CITY and DOES 11-20, inclusive, by and through its decision
9 makers. These include, but are not limited to, CITY and DOES 11-
10 20, inclusive, and their subordinates, as necessary to further these
11 improper policies, practices, customs, and procedures.

12 61. The foregoing unconstitutional customs and practices were a direct and
13 legal cause of harm to Mr. Zamudio.

14 62. CITY and DOES 11-20 acted in a supervisory capacity with respect to
15 the incidents involving Mr. Zamudio. In that capacity, they acted intentionally,
16 maliciously, in conscious disregard, and/or with deliberate indifference to the rights
17 of Mr. Zamudio. Mr. Zamudio is informed, believes, and thereupon alleges that
18 CITY and DOES 11-20 acted in this manner, at least in part, to avoid liability and
19 financial exposure for the SBPD and to maintain their reputation and the reputation of
20 the SBPD.

21 63. These supervisory failures of CITY and DOES 11-20 directly caused
22 and contributed to Plaintiff's damages.

23 64. Plaintiff specifically alleges that CITY and/or DOES 11-20's policy,
24 custom, and practice, as described *supra*, was within each of their control, and within
25 the feasibility of each of them, to alter, adjust, and/or correct so as to prevent some or
26 all of the unlawful acts and injury complained of herein by Plaintiff.

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SIXTH CAUSE OF ACTION
Negligence
(Against Defendant DENNIS HAN)

65. Plaintiff re-alleges and incorporates by reference the allegations set forth in the preceding paragraphs.

66. In performing all of the complained of acts and omissions throughout this Complaint by way of his conduct, Defendant DENNIS HAN and DOES 2 through 10, inclusive have breached their duty to act reasonably under the circumstances described.

67. As a direct and proximate result of the aforementioned conduct, Plaintiff has suffered and continues to suffer great physical emotional pain and injury, all in an amount to be determined according to proof at trial.

SEVENTH CAUSE OF ACTION
Intentional Infliction of Emotional Distress
(Against Defendant DENNIS HAN)

68. Plaintiff incorporates all paragraphs, as though fully set forth herein.

69. Defendant DENNIS HAN’S acts as described herein were intentional, malicious and were done with the specific intent to harass and assault and batter Mr. Zamudio.

70. Plaintiff seeks compensatory and punitive damages under this cause of action.

PRAAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the following relief from DEFENDANTS, and each of them, for each of the above causes of action:

- i. For compensatory damages, including general and special damages, according to proof;

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- 1 ii. For punitive damages pursuant to 42 U.S.C. §1983 and any other
- 2 applicable laws or statutes, in an amount sufficient to deter and make an
- 3 example of each non-governmental entity Defendant;
- 4 iii. For statutory damages, according to proof;
- 5 iv. For prejudgment interest according to proof;
- 6 v. For reasonable attorney fees pursuant to 42 U.S.C. §§ 1983, and any
- 7 other applicable provisions;
- 8 vi. For punitive damages under California Law against Defendant DENNIS
- 9 HAN;
- 10 vii. For costs of suit; and
- 11 viii. For such further relief which is just and proper.

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13 Dated: August 15, 2024

Respectfully submitted,

14
15 By: /s/ John E. Sweeney

16 John E. Sweeney
17 Attorney for Plaintiff MANUEL
18 ZAMUDIO, JR.

19 **DEMAND FOR JURY TRIAL**

20 Plaintiff hereby demands a trial by jury.

21 Dated: August 15, 2024

Respectfully submitted,

22
23 By: /s/ John E. Sweeney

24 John E. Sweeney
25 Attorney for Plaintiff MANUEL
26 ZAMUDIO, JR.