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10 **PAUL KAVIN NUTALL**
11 **TIFFANY NUTALL**

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

14 PAUL KAVIN NUTALL, an)
15 individual; TIFFANY NUTALL, an)
16 individual)

17 *Plaintiff,*

18 vs.)

19 CITY OF ONTARIO, a municipal)
20 entity; ONTARIO POLICE)
21 DEPARTMENT, a municipal entity;)
22 OFFICER LILLIE (Badge #21100),)
23 an individual; OFFICER DERISIO)
24 (Badge #20686), and individual;)
25 TURO INC.; HAN ZHANG, an)
26 individual; and DOES 1 to 100,)
27 Inclusive,)

28 *Defendants.*

Case No. _____

COMPLAINT FOR DAMAGES

- 1. **EXCESSIVE FORCE (42 U.S.C. § 1983)**
- 2. **FALSE ARREST/ FALSE IMPRISONMENT (Penal Code Section 236)**
- 3. **UNLAWFUL/UNREASONABLE SEIZURE-DETENTION-ARREST (42 U.S.C. § 1983)**
- 4. **VIOLATION OF RIGHT TO EQUAL PROTECTION- 14th AMENDMENT/42 U.S.C. § 1983**
- 5. **MONELL LIABILITY – RATIFICATION, INADEQUATE TRAINING, UNCONSTITUTIONAL CUSTOM, PRACTICE, POLICY (42 U.S.C. § 1983)**
- 6. **BATTERY/ASSAULT- (Cal. Government Code §§ 815.2(a), 820(a); Cal. Civil Code § 43)**
- 7. **VIOLATION OF THE BANE**

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- ACT (CAL. CIV. § 52. 1)
- 8. VIOLATION OF THE RALPH ACT (CAL. CIV. § 51. 7)
- 9. NEGLIGENCE- NEGLIGENT ENTRUSTMENT, HIRING, SUPERVISION, AND/OR RETENTION (Cal. Government Code §§ 815.2(a), 820(a); Cal. Civil Code § 43)
- 10.DEFAMATION/ LIBEL PER SE
- 11.INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
- 12.NEGLIGENCE
- 13.NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS
- 14.UNFAIR BUSINESS PRACTICES
- 15.NEGLIGENT MISREPRESENTATION
- 16.TORTIOUS INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE

DEMAND FOR JURY TRIAL

COMES NOW PLAINTIFFS PAUL KAVIN NUTALL and TIFFANY

NUTALL (“Plaintiffs,” collectively) who allege as follows:

INTRODUCTION

1. This civil rights action seeks compensatory and punitive damages against Defendants CITY OF ONTARIO (“CITY”), ONTARIO POLICE DEPARTMENT (“OPD”), OFFICER LILLIE (Badge #21100) (“LILLIE”)

1 OFFICER DERISIO (Badge #20686) (“DERISIO”), TURO INC. (“TURO”)
2 HAN ZHANG and DOES 1-100, Inclusive, (“Defendants,” collectively) for
3 violating various rights under the United States Constitution and state law in
4 connection with Defendants’ conduct on February 17, 2024, resulting in
5 Plaintiffs’ serious, ongoing mental, physical, and emotional damages, pain and
6 suffering in an amount to be determined at trial.
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9 **JURISDICTION AND VENUE**

10 2. Venue and jurisdiction are proper in this Court because the parties
11 reside in and all incidents, events, and occurrences giving rise to this action
12 occurred in the City of Ontario, California.
13

14 3. This Court has original jurisdiction pursuant to 28 U.S.C. §§ 1331
15 and 1343(a) (3)-(4) because this civil action is brought for the redress of alleged
16 deprivations of constitutional rights as protected by 42 U.S.C. §§ 1983, 1985,
17 1986, and 1988, and the First, Fourth and Fourteenth Amendments of the United
18 States Constitutions. Jurisdiction is founded on 28 U.S.C. §§ 1331, 1343, and
19 1367.
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22 4. Venue is proper in this Court under 28 U.S.C. § 1391(b) because
23 Defendants are believed to reside in this district and all incidents, events, and
24 occurrences giving rise to this action occurred in this district.
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28 **PARTIES**

1 5. At all relevant times herein, Plaintiff PAUL KAVIN NUTALL
2 (“Plaintiff”), an individual, is African American man who resides in McAllen,
3 Texas and was visiting Ontario, California, for purposes of conducting business.
4

5 6. At all relevant times herein, Plaintiff TIFFANY NUTALL, an
6 individual, is the wife of Plaintiff PAUL KAVIN NUTALL, and perceived the
7 events at issue on or about February 17, 2024.
8

9 7. At all relevant times herein, Defendant CITY OF ONTARIO
10 (“CITY”) was an incorporated public entity duly authorized and existing as such
11 in and under the laws of the State of California; and at all times herein mentioned,
12 Defendant CITY had possessed the power and authority to adopt policies and
13 prescribe rules, regulations, and practices affecting the operation of the Ontario
14 Police Department, and its tactics, methods, practices, customs and usage. At all
15 relevant times, Defendant CITY OF ONTARIO was the employer of Defendants
16 LILLE, DERISIO, and Defendants DOES 1-100 who were CITY OF ONTARIO,
17 police officers, managerial, supervisory, and policymaking employees of the
18 Ontario Police Department.
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23 8. At all relevant times herein, Defendant ONTARIO POLICE
24 DEPARTMENT (“OPD”) was an incorporated public entity duly authorized and
25 existing as such in and under the laws of the State of California; and at all times
26 herein mentioned, Defendant OPD had possessed the power and authority to
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1 adopt policies and prescribe rules, regulations, and practices affecting the
2 operation of the Ontario Police Department, and its tactics, methods, practices,
3 customs and usage. At all relevant times, Defendant ONTARIO POLICE
4 DEPARTMENT was the employer of Defendants LILLE, DERISIO, and
5 Defendants DOES 1-100 who were Defendant ONTARIO POLICE
6 DEPARTMENT police officers, managerial, supervisory, and policymaking
7 employees of the Ontario Police Department
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11 9. At all times mentioned herein and material to, Defendant LILLIE
12 was engaged in law enforcement as a police officer, deputy sergeant, captain, and
13 lieutenant, and/or civilian employee, agent and representative of Defendant CITY
14 and/or OPD, duly employed as police officer by the ONTARIO POLICE
15 DEPARTMENT and/or CITY OF ONTARIO, who was acting in the course and
16 scope of his employment at all times relevant to the acts and omissions herein
17 alleged.
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21 10. At all times mentioned herein and material to, Defendant DERISIO
22 was engaged in law enforcement as a police officer, deputy, sergeant, captain, and
23 lieutenant, and/or civilian employee, agent and representative of Defendant CITY
24 and/or OPD, duly employed as police officer by the ONTARIO POLICE
25 DEPARTMENT and/or CITY OF ONTARIO, who was acting in the course and
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1 scope of her employment all times relevant to the acts and omissions herein
2 alleged.

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4 11. At all times mentioned herein and material hereto, Defendants CITY
5 and OPD will be referred to, collectively as “City Defendants.”

6
7 12. Plaintiffs are informed and believe and thereupon allege herein,
8 Defendant TURO INC., an incorporated corporation, and DOES 1 through 25, at
9 all times relevant hereto, were and are the owners and operators of the car rental
10 company, Turo.

11
12 13. Plaintiffs are informed and believe and thereupon allege herein,
13 Defendant HAN ZHANG, an individual, and DOES 26 through 50 inclusive, at
14 all times relevant hereto, were and are the owners of the 2015 Maserati Ghibli,
15 Plaintiff PAUL KAVIN NUTALL rented from Defendant TURO INC.

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18 14. Each of the individual Defendants sued herein is sued both in his or
19 her individual and personal capacity, as well as in his or her official capacity.

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21 15. On information and belief, at all relevant times, Defendants LILLIE,
22 DERISIO, and Defendant DOES were residents of the City of Ontario.

23
24 16. At all relevant times, Defendants LILLIE, DERISIO, and Defendant
25 DOES were duly authorized employees and agents of CITY and/or OPD, who
26 were acting under color of law within the course and scope of their respective
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1 duties as police officers and within the complete authority and ratification of their
2 principal, Defendant CITY and/or OPD.

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4 17. At all relevant times, Defendants LILLIE, DERISIO, and Defendant
5 DOES were duly appointed deputies/officers and/or employees or agents of
6 Defendant CITY and/or OPD, subject to oversight and supervision by Defendant
7
8 CITY and/or OPD's elected and non-elected officials.

9
10 18. In doing the acts and failing and omitting to act as hereinafter
11 described, Defendants DOES 1-10 were acting on the implied and actual
12 permission and consent of Defendant CITY and/or OPD.

13
14 19. At all times mentioned herein, each and every CITY and/or OPD
15 defendant was the agent of each and every other CITY and/or OPD defendant and
16 had the legal duty to oversee and supervise the hiring, conduct and employment
17
18 of each and every CITY and/or OPD defendant.

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20 20. At all relevant times, Defendants LILLIE, DERISIO, and Defendant
21 DOES were working for Defendants CITY and/or OPD as police officers.

22 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

23
24 21. Pursuant to California Government Code § 910, Plaintiff PAUL
25 KAVIN NUTALL filed a Claim for Damages ("Claim") with Defendant CITY
26 OF ONTARIO, in compliance with applicable sections of the California
27
28 Government Code and California Civil Code, on or about August 1, 2024.

1 Defendant CITY OF ONTARIO failed to respond and address Plaintiff's Claim,
2 and therefore Plaintiff's Claim is deemed rejected. On October 15, 2024, Plaintiff
3 received a letter from Ontario Police Department, Chief of Police, Michael
4 Lorenz, dated August 27, 2024, stating that Plaintiff's complaint against a
5 member of the Ontario Police Department was investigated and determined to be
6 unfounded.
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9 **FACTS COMMON TO ALL CAUSES OF ACTION**

10 22. Plaintiffs repeat and reallege each and every allegation in paragraphs
11 1 through 21 of this Complaint with the same force and effect as if fully set forth
12 herein.
13

14 23. On February 16, 2024, Plaintiff PAUL KAVIN NUTALL arrived at
15 the Ontario International Airport from Texas, at approximately 11:53pm. Plaintiff
16 intended to attend business meetings scheduled for that weekend, regarding
17 Plaintiffs' production company, 2ndChance TV Shows & Production.
18

19 24. Upon deplaning and retrieving his luggage from baggage claim,
20 Plaintiff proceeded to the airport's parking structure to locate the rental vehicle he
21 rented from Defendant TURO. Defendant TURO's host, Defendant HAN
22 ZHANG, is the owner of the 2015 Maserati Ghibli Plaintiff rented, and arranged
23 for the pickup of the rental vehicle.
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27 25. Once in the vehicle Plaintiff connected his phone call with his wife,
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1 Plaintiff TIFFANY NUTALL and proceeded to Jack in the Box to retrieve an
2 online order placed by his wife, Plaintiff TIFFANY NUTALL.

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4 26. Upon retrieving his order, Plaintiff PAUL KAVIN NUTALL exited
5 the Jack in the Box parking lot and attempted to drive towards his Airbnb rental,
6 located approximately 10 minutes away.

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8 27. While at a red-light intersection, poised to make a left turn, Plaintiff
9 noticed Defendant OFFICER LILLIE’S police vehicle cross the intersection,
10 indicating intent to proceed straight. Seconds after Defendant OFFICER
11 LILLIE’S police vehicle passed Plaintiff’s vehicle, Defendant made a U-turn in
12 pursuit of Plaintiff’s vehicle, accelerated, activated his emergency lights, and
13 commanded Plaintiff PAUL KAVIN NUTALL to pull over.
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16 28. In efforts to identify a safe and appropriate spot to pull over, due to
17 multiple cars parked along the side of the road and oncoming traffic, Plaintiff
18 PAUL KAVIN NUTALL drove less than a block at a very slow speed and swiftly
19 complied with Defendant’s command.
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21
22 29. Once Plaintiff pulled over, stopped, and turned off the vehicle,
23 Plaintiff noticed five police officer vehicles behind him. Defendant OFFICER
24 LILLIE then approached Plaintiff’s vehicle in a very hostile, agitated,
25 confrontational, and unprofessional manner, swearing at Plaintiff and stating he
26 needed to “fucking stop.”
27
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1 30. Defendant ordered Plaintiff to roll down all of his windows, to
2 which Plaintiff complied.

3 31. Plaintiff then inquired as to why he was being stopped, and
4 Defendant LILLIE asserted that the rental vehicle Plaintiff was driving, “has
5 expired tags.”
6

7 32. In order to protect the safety of the officer as well as himself,
8 Plaintiff announced to Defendant LILLIE that he was employing “constitutional
9 safeguards” by having someone experienced in law enforcement procedures, on
10 the phone to assist to which the officer ordered him to get off the phone.
11

12 33. The expiration of the vehicle’s tags was unbeknownst to Plaintiff as
13 he had just picked up the rental vehicle minutes earlier and the vehicle was owned
14 by Defendant HAN ZHANG and required to be “in full compliance
15 with...registration requirements,” at all times, in order to be listed as a rental, as
16 stated in Defendant TURO’s Terms of Service. Plaintiffs entrusted that
17 Defendants TURO and HAN ZHANG would provide a rental vehicle that was
18 compliant with all applicable vehicle code and regulations, given Defendant
19 TURO’s promise of compliance advertised to its consumers.
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22 34. Plaintiff PAUL KAVIN NUTALL immediately communicated to
23 Defendant LILLIE that the vehicle was not owned by Plaintiff but was a rental
24 from Defendant TURO. Plaintiff also assured Defendant LILLIE he was not
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1 affiliated with any criminal or illegal activity. Defendant LILLIE was
2 uninterested in Plaintiff's truth and explanation.

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4 35. Given Defendant LILLIE's apparent disinterest, Plaintiff PAUL
5 KAVIN NUTALL called his colleague, John Fitzgerald, an experienced law
6 enforcement professional, in hopes that Defendant LILLIE may respond more
7 favorably to Mr. Fitzgerald and assist in minimizing Defendant's unnecessary
8 suspicion and hostility towards Plaintiff.
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11 36. Defendant LILLIE demanded Plaintiff's "full attention" and
12 persisted that Plaintiff hang up the phone. Plaintiff responded that he did not want
13 to end the call with his wife, Plaintiff TIFFANY NUTALL, and Mr. Fitzgerald.
14 However, once Mr. Fitzgerald professionally and calmly explained to Defendant
15 LILLIE that Plaintiff was his colleague, lives in Texas, and desires to keep all
16 parties safe, Plaintiff PAUL KAVIN NUTALL agreed to end the call with
17 Plaintiff TIFFANY NUTALL and Mr. Fitzgerald.
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21 37. Despite Defendant LILLIE's assertion that the reason for the stop
22 was due to expired registration tags, Defendant LILLIE did not request to inspect
23 the vehicle's registration or insurance documentation, and only attempted to
24 verify Plaintiff PAUL KAVIN NUTALL's driver's license.
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26 38. Still concerned about his safety and the lawfulness of Defendants'
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1 stop of Plaintiff, once the three-way call ended and prior to being asked to exit the
2 vehicle, Plaintiff PAUL KAVIN NUTALL placed his cell phone on recording.

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4 39. Once Defendant LILLIE returned after incorrectly verifying
5 Plaintiff's driver's license, Defendant LILLIE instructed Plaintiff to exit the
6 vehicle, stating that he was going to step out of the vehicle so they could "have a
7 little chat." Plaintiff asked, "am I being detained," to which Defendant LILLE
8 replied "yes." At that time, Defendant LILLE did not identify the reason for
9 Plaintiff's detainment.
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12 40. Once Plaintiff was out of the vehicle, Defendant LILLIE proceeded
13 to question Plaintiff PAUL KAVIN NUTALL about how much Plaintiff paid for
14 his shoes and stated that Plaintiff "had some fancy shoes on." Defendant LILLIE
15 also questioned Plaintiff about the car he was driving and his propensity to buy
16 "exotic cars." Defendant LILLIE continued to ask how much Plaintiff paid for the
17 vehicle, after Plaintiff had already communicated that the vehicle was a rental.
18 Finally, Defendant LILLIE repeatedly asked Plaintiff about his Louis Vuitton
19 satchel, located in the passenger seat of the vehicle. Officer LILLIE took the
20 satchel and never returned it to Plaintiff PAUL KAVIN NUTALL. In this line of
21 unnecessary questioning, Defendant LILLIE demonstrated clear bias and
22 suspicion of Plaintiff, an African American man with expensive items.
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41. One of the officers involved in the stop, signaled to another officer

1 that Plaintiff's phone was still recording, leading to that officer terminating the
2 video recording.

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4 42. Once Plaintiff was placed in handcuffs, he repeatedly asked the
5 officers to loosen the cuffs, however Defendant OFFICER DERISIO proceeded
6 to tighten the cuffs, which caused Plaintiff excruciating pain.

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8 43. Defendant LILLIE inquired as to whether Plaintiff would consent to
9 a search of the vehicle, to which Plaintiff initially did not agree but eventually
10 under emotional and physical duress consented, in hopes of expediting the stop,
11 to alleviate the offices' unfounded suspicions, and removal of the painfully tight
12 handcuffs. Defendant LILLIE did not find anything illegal or suspicious of a
13 crime. Defendant LILLIE did not find anything illegal or suspicious of a
14 crime.

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16 44. Defendant LILLIE later questioned Plaintiff PAUL KAVIN
17 NUTALL about a two-decade-old arrest in Michigan, to which Plaintiff
18 responded that he did not commit that crime, and two alleged warrants for his
19 arrest in California, to which Plaintiff denied having and asserted that he does not
20 have any warrants out for his arrest in California.
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22
23 45. Defendant LILLIE informed Plaintiff that he was being arrested for
24 the two alleged felony warrants, unreasonably and falsely detained Plaintiff
25 PAUL KAVIN NUTALL, and placed him in the police vehicle.
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28 46. City Defendants wrongfully and unlawfully arrested Plaintiff PAUL

1 KAVIN NUTALL without confirming his identity.

2 47. Plaintiffs were informed, believe and hereby allege that City
3 Defendants intentionally mistook him for another man with a different middle
4 name and birth date, who has warrants for his arrest in California.
5

6 48. Plaintiff immediately began experiencing difficulty breathing
7 attributed to a potential anxiety attack, to which Defendant LILLIE responded by
8 violently pulling Plaintiff out of the police vehicle and aggressively placed him
9 on the curb, causing Plaintiff to fall over in the grass and further injuring his
10 hands and wrists exacerbate his difficulty to breath and other conditions.
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13 49. Once emergency services arrived, a firefighter instructed Defendant
14 LILLIE and/or DERISIO to remove Plaintiff's hand cuffs, stating that Plaintiff
15 should not be in hand cuffs if he is struggling to breath. Defendant LILLIE and/or
16 DERISIO began to vigorously remove the cuffs, causing Plaintiff to yell out in
17 pain. Plaintiff heard a pop just before the handcuffs were removed, which was
18 later revealed to be a fracture in Plaintiff's wrist.
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22 50. Plaintiff was placed on a stretcher and put into an ambulance at the
23 scene. Once in the ambulance Emergency Medical Services personnel
24 administered a medication, Nitroglycerine, to which Plaintiff had an adverse and
25 distressing reaction resulting in intense cold chills, Plaintiff began struggling to
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1 breath, profusely sweating, shaking, and experienced a temporary loss of
2 consciousness, and vomiting upon Plaintiff's abrupt regain of consciousness.

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4 51. Once at San Antonio Regional Hospital, Plaintiff continued to be
5 questioned, accused and abused by Defendant LILLIE resulting in him not
6 receiving adequate emergency and medical services from the hospital staff.
7
8 Defendant LILLIE questioned the seriousness of Plaintiff's condition, stating that
9 "he was faking it" to medical personnel and Defendant's fellow officers.

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11 52. While Plaintiff was awaiting medical care, an officer informed
12 Plaintiff that they made a mistake in identifying Plaintiff, and the individual with
13 the warrants had a middle name spelled differently than Plaintiff's.

14
15 53. Despite Plaintiff PAUL KAVIN NUTALL's eventual release from
16 police custody and the officer's acknowledgement of the mistaken identity, the
17 citation issued to Plaintiff states four violations including grand theft, and forgery.
18 Plaintiff never committed these crimes, however, the citation was never corrected.
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21 54. Despite Plaintiff PAUL KAVIN NUTALL's eventual discharge and
22 the acknowledgement of the mistaken identity, the Vehicle Report states that the
23 driver, Plaintiff PAUL KAVIN NUTALL, was found to have "two active
24 warrants for his arrest, driver was arrested, and vehicle was towed for UC
25 22651(h)(1)." This incorrect and false statement was never corrected by City
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27 Defendants.
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1 55. City Defendants did not and could not have relied on legitimate
2 information to arrest Plaintiff. Upon information and belief, said Defendants
3 acting under color of law intentionally and/or recklessly arrested Plaintiff without
4 confirming his identity, birth date, social security number, age, or any other
5 information that would prove that Plaintiff did not have any such warrants for his
6 arrest.
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9 56. Plaintiff experienced serious physical repercussions of the encounter,
10 including a fractured wrist, excruciating pain, swelling, bruises, necessitating
11 additional medical evaluation and treatment at Urgent Care, revealing a fracture
12 above his right hand. Plaintiff also experienced increasing pain in his neck area,
13 heart palpitations, lower and upper back pain. As a result of this incident, Plaintiff
14 was forced to seek professional help from a psychiatrist to deal with his now
15 increased anxiety level causing him to take medicine, as well as experiencing
16 paranoia when seeing police vehicles nearby while driving.
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20 57. At no time during the course of these events did Plaintiff pose any
21 reasonable or credible threat of death or serious bodily injury to Defendants
22 LILLIE, DERISIO, or Defendant DOES, nor did he do anything to justify the
23 force used against him, and the same was deadly, excessive, unnecessary, and
24 unlawful. Plaintiff made no aggressive movements, no furtive gestures, and no
25 physical movements which would suggest to a reasonable police officer that
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1 Plaintiff had the will, desire, or the ability to inflict substantial bodily harm
2 against any individual.

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4 58. Despite the aforementioned conduct, Defendant CITY and/or OPD
5 ratified, acquiesced, or otherwise turned a blind eye to Defendants and DOES 1-
6 100 misconduct, and allowed Defendants LILLIE, DERISIO, and Defendant
7
8 DOES 1- 100 to remain a police officer with Defendant CITY or OPD, which was
9 a substantial and proximate cause of this incident and Plaintiff's damages. Upon
10 information and belief, Defendants LILLIE, DERISIO, and Defendant DOES 1-
11 100 displayed and acted with racial animus against Plaintiff in retaliation for
12 and/or to prevent Plaintiff from exercising his rights to be free from excessive
13 force and/or verbally protest police misconduct in violation of Plaintiff's First
14 Amendment rights.

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18 59. As a result of Defendants LILLIE, DERISIO, and Defendant DOES'
19 aforementioned misconduct, Plaintiff claims and is entitled to damages for past,
20 current and ongoing economic and noneconomic damages including, but not
21 limited to extreme and severe emotional distress, mental, physical, and emotional
22 pain and suffering/damages, anguish, pain, humiliation, anxiety, etc. all in a sum
23
24 to be determined at trial

25
26 **FIRST CAUSE OF ACTION**

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28 **EXCESSIVE FORCE 42 U.S.C. § 1983**

1 **(Plaintiff PAUL KAVIN NUTALL against Defendants CITY OF ONTARIO,**
2 **ONTARIO POLICE DEPARTMENT, OFFICER LILLIE, OFFICER**
3 **DERISIO, Inclusive)**
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5 60. Plaintiffs repeat and reallege each and every allegation in paragraphs
6 1 through 59 of this Complaint with the same force and effect as if fully set forth
7
8 herein.

9 61. At all times relevant to the acts and omissions herein alleged,
10 Defendants LILLIE, DERISIO, and Defendant DOES were employed by
11 Defendants CITY OF ONTARIO as law enforcement officers and were acting
12 under color of law and in the course and scope of their employment with
13 Defendants CITY OF ONTARIO and ONTARIO POLICE DEPARTMENT.
14
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16 62. Despite not physically or actively resisting City Defendants or
17 engaging in any criminal misconduct and without any reasonable suspicion or
18 probable cause to believe that Plaintiff was armed or posed an objectively
19 reasonable threat of death or serious bodily harm to the City Defendants, City
20 Defendants used excessive force against Plaintiff by detaining Plaintiff in an
21 unreasonable manner and for an unreasonable time which was unnecessarily
22 painful, degrading, harmful, intrusive, or prolonged, causing pain, terror,
23 humiliation, grief, anxiety, and distress.
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27 63. As result of the excessive force, Plaintiff sustained serious past and
28

1 ongoing physical, mental and emotional injuries.

2 64. Upon information and belief, the City Defendants have had several
3 prior complaints of excessive force brought against them by citizens of the CITY
4 indicative of the defendant officers' propensity to use excessive force that went
5 uninvestigated and/or for which the officers were subjected to no discipline nor
6 remedial training or repercussions indicative of an unconstitutional custom and
7 policy of inaction, inadequate training, and/or ratification of unconstitutional uses
8 of force.
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12 65. The excessive use of force deprived Plaintiff of her right to be secure
13 in her person against excessive force and unreasonable searches and seizures as
14 guaranteed to Plaintiff under the Fourth Amendment to the United States
15 Constitution and applied to state actors by the Fourteenth Amendment.
16

17
18 66. The conduct of Defendants was excessive, objectively unreasonable,
19 willful, wanton, malicious, and in reckless disregard for the rights and safety of
20 Plaintiff, especially because Plaintiff was unarmed, did not physically or verbally
21 threaten the officers with any physical harm, did not commit any crime, was not
22 fleeing or attempting to flee, and was not physically or actively resisting the City
23 Defendants' efforts to arrest/detain him. The aforementioned conduct warrants
24 the imposition of exemplary and punitive damages against City Defendants.
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28 67. Upon information and belief, City Defendants' conduct also violated

1 their standard police training.

2 68. The aforementioned acts and omissions of City Defendants, and each
3 of them, were a direct and proximate cause of Plaintiff's physical, mental, and
4 emotional injuries, which warrant the awarding of compensatory and special
5 damages in a sum according to proof.
6

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8 69. Plaintiff seeks past, present and future general, special,
9 compensatory and consequential damages for the violation of Plaintiff's rights.
10 Plaintiff also seeks costs and reasonable attorney's fees as provided under 42
11 U.S.C. § 1988.
12

13 **SECOND CAUSE OF ACTION**

14 **FALSE ARREST/ FALSE IMPRISONMENT Penal Code Section 236**
15 **(Plaintiff PAUL KAVIN NUTALL against Defendants CITY OF ONTARIO,**
16 **ONTARIO POLICE DEPARTMENT, OFFICER LILLIE, OFFICER**
17 **DERISIO, Inclusive)**
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21 70. Plaintiffs repeat and reallege each and every allegation in paragraphs
22 1 through 69 of this Complaint with the same force and effect as if fully set forth
23

24 71. On or about February 17, 2024, City Defendants, and DOE Officers,
25 acting in the course and scope of their employment with City Defendants, falsely
26 arrested Plaintiff PAUL KAVIN NUTALL, for two allegedly active felony
27 warrants for his arrest, as he was traveling to his Airbnb after arriving in Ontario,
28

1 California, from Texas.

2 72. The warrants identified by said City Defendants was illegitimate
3 because the warrants were not for Plaintiff. Defendants failed to confirm any
4 information about Plaintiff which would have established that he did not commit
5 the alleged crimes. The City Defendants and each of them knew or should have
6 known that the warrant was not for Plaintiff.
7
8

9 73. As a result of the incorrect and improper identification of the
10 alleged warrants for Plaintiff's arrest, Plaintiff was wrongfully arrested in
11 violation of his civil rights. Due to the actions of City Defendants and each of
12 them in violating Plaintiff's civil rights, Plaintiff has suffered physical and
13 emotional injury and mental anguish in a sum according to proof at trial.
14
15

16 74. At all times herein alleged Plaintiff PAUL KAVIN NUTALL has
17 not committed the alleged crimes. Defendant, and each of them, had no probable
18 cause to believe that Plaintiff had committed a crime.
19

20 75. On information and belief, Defendant DOE Officers, and each of
21 them, acted with malice and with the intent to cause injury to Plaintiff, or acted
22 with a willful and conscious disregard of the rights of Plaintiff in a despicable,
23 vile, and contemptible manner. Therefore, Plaintiff is entitled to an award of
24 punitive damages in a sum according to proof for the purpose of deterring City
25 Defendants and others from such conduct in the future.
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THIRD CAUSE OF ACTION

UNLAWFUL/UNREASONABLE SEIZURE-DETENTION-ARREST 42

U.S.C. § 1983

**(Plaintiff PAUL KAVIN NUTALL against Defendants CITY OF ONTARIO,
ONTARIO POLICE DEPARTMENT, OFFICER LILLIE, OFFICER
DERISIO, Inclusive)**

76. Plaintiffs repeats and re-alleges each and every allegation in paragraphs 1 through 75 of this Complaint with the same force and effect as if fully set forth herein.

77. At all times relevant herein, Plaintiff PAUL KAVIN NUTALL had a constitutionally afforded right against unlawful detentions which are unreasonable due to no reasonable suspicion that Plaintiff committed any crime and/or unreasonable in time and/or manner which are unnecessarily painful, degrading, harmful, intrusive, or prolonged.

78. Upon information and belief in the instant case, Plaintiff's detention was unlawful because Defendants knew or should have known after obtaining Plaintiff's driver's license and searching for his identity, that Plaintiff committed no crime and City Defendants had no objectively reasonable suspicion that Plaintiff committed any crime.

79. Upon information and belief in the instant case, Plaintiff's detention

1 was unlawful because it was unreasonable in time and/or manner unnecessarily
2 painful, degrading, harmful, intrusive, humiliating, prolonged, and not justified
3 under the circumstances, especially when such detention was continued despite
4 Defendants proper confirmation of Plaintiff's identity and Plaintiff's protests.
5

6 80. Upon information and belief, the Defendants unreasonably detained
7 Plaintiff in a fearsome, degrading, prolonged, intimidating, intrusive, and
8 embarrassing manner despite no reasonable belief that Plaintiff was armed,
9 verbally or physically resisting them, attempting to flee or a threat of death or
10 serious bodily harm to Defendants by violently and aggressively placing
11 handcuffs on Plaintiff. This use of force and authority made it clear that Plaintiff
12 was not free to go and was instead being detained as a criminal when Plaintiff
13 committed no crime.
14
15
16

17 81. Upon information and belief, the Defendants further unreasonably,
18 painfully, unjustifiably, degradingly, and harmfully handcuffed Plaintiff and kept
19 him in handcuffs whereby he was harmed mentally, physically and/or emotionally
20 and detained for an unreasonable amount of time and/or manner because Plaintiff
21 was never lawfully arrested.
22
23
24

25 82. Upon information and belief, and despite not being under any lawful
26
27
28

1 arrest, Plaintiff's person, effects and/or vehicle was searched in humiliating view
2 of other civilians in violation of his rights against unreasonable
3 detention/seizure/arrest.
4

5 83. The aforementioned facts of Plaintiff's unreasonable detention
6 directly and proximately caused Plaintiff general and special damages in an
7 amount to be determined.
8

9 84. Accordingly, City Defendants each are liable to Plaintiff for
10 compensatory damages, costs and attorney's fees under 42 U.S.C. § 1983.
11

12 **FOURTH CAUSE OF ACTION**

13 **VIOLATION OF RIGHT TO EQUAL PROTECTION- 14th**

14 **AMENDMENT/42 U.S.C. § 1983**

15 **(Plaintiff PAUL KAVIN NUTALL against Defendants CITY OF ONTARIO,**

16 **ONTARIO POLICE DEPARTMENT, OFFICER LILLIE, OFFICER**

17 **DERISIO, Inclusive)**
18

19 85. Plaintiff repeats and re-alleges each and every allegation in
20 paragraphs 1 through 84 of this Complaint with the same force and effect as if
21 fully set forth herein.
22

23 86. At all times relevant herein, Plaintiff PAUL KAVIN NUTALL had a
24 right to equal protection under the law as afforded and provided by the Fourteenth
25 Amendment and protected by the same and 42 U.S.C. § 1983.
26
27
28

1 87. Upon information and belief, Defendants LILLIE and DERISIO
2 chose to use and/or used excessive force against and/or otherwise violated
3 Plaintiff's rights and treated Plaintiff differently due to Plaintiff being an African-
4 American man.
5

6 88. Upon information and belief, a substantial and motivating reason for
7 Defendants' use of excessive force, unlawful detention was due to their being
8 emboldened to commit misconduct to misuse and abusing their authority or
9 power by taking advantage of and operation upon some bias because of Plaintiff's
10 race, gender, national origin, clear and apparent vulnerability in reckless disregard
11 of Plaintiff's rights, accompanied by ill will or spite, and was executed with
12 unnecessary harshness or severity warranting punitive damages.
13
14
15

16 89. Plaintiff's race and gender as an African-American man was a
17 motivating factor for Defendant LILLIE, Defendant DERISIO, and Defendant
18 DOES discriminatory and negligent behavior toward Plaintiff. Plaintiff asserts
19 that Defendants unreasonably seized, detained, and arrested him because he is
20 African-American, and those of a different racial or ethnic creed would not have
21 been treated the same way as Plaintiff under these circumstances.
22
23
24

25 90. The conduct of Defendants was willful, wanton, malicious, and with
26 reckless disregard for the rights and safety of Plaintiff and therefore warrants the
27 imposition of exemplary and punitive damages as to Defendants.
28

1 91. As a result of their misconduct, Defendants are liable for Plaintiff's
2 physical, mental, and emotional injuries, pain and suffering either because they
3 were integral participants in the excessive force and equal protection deprivation,
4 or because they failed to intervene to prevent these violations. As a further
5 proximate result of the above-described conduct of the Defendants, and each of
6 them in an amount according to proof at trial.
7

9 92. The aforementioned acts and omissions of Defendants, and each of
10 them, were a direct and proximate cause of which warrant the awarding of
11 compensatory and special damages in a sum according to proof. Plaintiff also
12 seeks costs and attorney's fees as provided by 42 U.S.C. § 1988.
13

14
15 **FIFTH CAUSE OF ACTION**

16 **MUNICIPAL LIABILITY-42 U.S.C. § 1983- RATIFICATION-**
17 **INADEQUATE TRAINING, UNCONSTITUTIONAL CUSTOM,**
18 **PRACTICE, POLICY**

19
20 **(By Plaintiff PAUL KAVIN NUTALL against Defendants CITY OF**
21 **ONTARIO and ONTARIO POLICE DEPARTMENT)**
22

23 93. Plaintiff repeats and re-alleges each and every allegation in
24 paragraphs 1 through 92 of this Complaint with the same force and effect as if
25 fully set forth herein.
26

27 94. Defendants LILLIE, DERISIO, and Defendant DOES acted under
28

1 color of law with authority as law enforcement officers from Defendant CITY
2 and/or OPD.

3
4 95. The acts of Defendants LILLIE, DERISIO, and Defendant DOES
5 deprived Plaintiff of her particular rights under the United States Constitution and
6 aforementioned statutes.

7
8 96. Upon information and belief, a final policymaker, acting under color
9 of law, who had final policymaking authority concerning the acts of Defendants
10 LILLIE, DERISIO, and Defendant DOES ratified (or will ratify) Defendants' acts
11 and the bases for them. Upon information and belief, the final policymaker knew
12 of and specifically approved of (or will specifically approve of) the acts of these
13 Defendants. Plaintiff is ignorant of the specific policymaker that knew and/or
14 specifically approved of Defendants LILLIE, DERISIO, and Defendant DOES
15 conduct, and discovery must be conducted to ascertain the final policymaker's
16 identity.
17
18
19

20
21 97. Upon information and belief, a final policy maker determined
22 Defendants' unconstitutional actions were "within policy" and ratified their acts
23 alleged herein.
24

25 98. By reason of the aforementioned acts and omissions, Plaintiff has
26 suffered and hereby claims loss of wages, past and ongoing economic and
27 noneconomic mental, physical, and emotional pain and suffering/damages, and
28

1 loss of earning capacity.

2 99. The training policies of Defendant CITY and OPD were not
3 adequate to train its officers to handle the usual and recurring situations with
4 which they must deal.
5

6 100. Defendant CITY and OPD were deliberately indifferent to the
7 obvious consequences of its failure to train its officers adequately.
8

9 101. The failure of Defendant CITY and OPD to provide adequate
10 training caused the deprivation of the Plaintiff's rights by Defendants; that is, the
11 CITY and OPD's failure to train is so closely related to the deprivation of the
12 Plaintiff's rights as to be the moving force that caused the ultimate injury.
13 Specifically, Defendant CITY and OPD failed to train or ensure that Defendants
14 remained compliant with Defendant CITY and OPD training to not use excessive
15 force and not detain persons once it is clear that Defendants have no reasonable
16 suspicion or probable cause to seize/detain/arrest persons.
17
18
19

20 102. By reason of the aforementioned acts and omissions, Plaintiff has
21 suffered loss of wages and loss of earning capacity. The aforementioned acts and
22 omissions also caused Plaintiff's past and ongoing physical, mental, and
23 emotional pain and suffering.
24
25

26 103. Defendants LILLIE, DERISIO, and Defendant DOES acted pursuant
27
28

1 to an expressly adopted official policy or a longstanding practice or custom of
2 Defendant CITY and OPD.

3 104. On information and belief, Defendants were not disciplined,
4 reprimanded, retrained, suspended, or otherwise penalized in connection with
5 Plaintiff's injuries.
6

7 105. Defendants, together with other CITY and OPD policymakers and
8 supervisors, maintained, inter alia, the following unconstitutional customs,
9 practices, and policies:
10

- 11
- 12 (a) Using excessive force;
 - 13 (b) Providing inadequate training regarding the use of force;
 - 14 (c) Employing and retaining as police officers individuals such as
15 Defendants, who Defendant CITY and/or OPD at all times material
16 herein knew or reasonably should have known had dangerous
17 propensities for abusing their authority and for using excessive force;
 - 18 (d) Inadequately supervising, training, controlling, assigning, and
19 disciplining CITY and/or OPD officers, and other personnel,
20 including Defendants, who Defendant CITY and/or OPD knew or in
21 the exercise of reasonable care should have known had the
22 aforementioned propensities and character traits;
 - 23 (e) Maintaining grossly inadequate procedures for reporting,
24
25
26
27
28

1 supervising, investigating, reviewing, disciplining and controlling
2 misconduct by CITY and/or OPD officers/deputies and Defendants
3 LILLIE, DERISIO, and Defendant DOES;
4

5 (f) Failing to adequately discipline CITY and/or OPD police officers,
6 including Defendants, for the above-referenced categories of
7 misconduct, including “slaps on the wrist,” discipline that is so slight
8 as to be out of proportion to the magnitude of the misconduct, and
9 other inadequate discipline that is tantamount to encouraging
10 misconduct;
11

12 (g) Announcing that unjustified uses of excessive force are “within
13 policy,” including incidents that were later determined in court to be
14 unconstitutional;
15

16 (h) Even where unlawful seizures/detentions/arrests are determined in
17 court to be unconstitutional, refusing to discipline, terminate, or
18 retrain the officers involved;
19

20 (i) Encouraging, accommodating, or facilitating a “blue code of
21 silence,” “blue shield,” “blue wall,” “blue curtain,” “blue veil,” or
22 simply “code of silence,” pursuant to which police officers do not
23 report other officers’ errors, misconduct, or crimes. Pursuant to this
24 code of silence, if questioned about an incident of misconduct
25
26
27
28

1 involving another officer, while following the code, the officer being
2 questioned will claim ignorance of the other officers' wrongdoing;
3 and
4

5 (j) Maintaining a policy of inaction and an attitude of indifference
6 towards soaring numbers of police excessive force incidents,
7 including by failing to discipline, retrain, investigate, terminate, and
8 recommend officers for criminal prosecution who participate in
9 unlawful and unreasonable seizures/detentions/arrests of those who
10 officers know or have reason to know have not committed any
11 crime; and
12
13
14

15 (k) Detaining citizens without reasonable suspicion or in an
16 unreasonable manner or for an unreasonable amount of time.
17

18 106. The aforementioned unconstitutional customs, practices, and policies,
19 in addition to the ratification of the deficient customs, practices, and policies, are
20 further evidenced by the number of unlawful and unreasonable
21 seizures/detentions/arrests, which constituted excessive force, involving police
22 officers working for the City of Ontario and/or Ontario Police Department. The
23 following cases, without limitation, are examples of continued misconduct by
24 police officers working for the City of Ontario and/or Ontario Police Department:
25
26

27 (a) Moreover, on information and belief, this is not Defendants' first
28

1 complaint or lawsuit alleging excessive force. Following these
2 previous incidents, Defendant CITY and/or OPD failed to terminate
3 Defendant, adequately discipline or retrain Defendants, or otherwise
4 protect the public from Defendants. As a result of these actions and
5 omissions, Plaintiff was injured and sustained mental, physical, and
6 emotional injuries.
7
8

9 107. By reason of the aforementioned acts and omissions, Plaintiff
10 suffered past, present and ongoing economic and non-economic damages
11 including medical expenses, mental, physical and emotional damages.
12

13 108. Defendants CITY and OPD and Defendants LILLIE, DERISIO, and
14 Defendant DOES, together with various other officials, whether named or
15 unnamed, had either actual or constructive knowledge of the deficient policies,
16 practices and customs alleged in the paragraphs above. Despite having knowledge
17 as stated above, these Defendants condoned, tolerated and through actions and
18 inactions thereby ratified such policies. Said Defendants also acted with
19 deliberate indifference to the foreseeable effects and consequences of these
20 policies with respect to the constitutional rights of Plaintiff, and other individuals
21 similarly situated.
22
23
24
25

26 109. By perpetrating, sanctioning, tolerating, and ratifying the outrageous
27 conduct and other wrongful acts, Defendants acted with intentional, reckless, and
28

1 callous disregard for Plaintiff's constitutional rights. Furthermore, the policies,
2 practices, and customs implemented, maintained, and still tolerated by
3 Defendants CITY, OPD, and Defendants LILLIE, DERISIO, and Defendant
4 DOES were affirmatively linked to and were a significantly influential force
5 behind the injuries of Plaintiff.
6

7
8 110. On information and belief, there knowingly exists a secret group,
9 society, fraternity, clique, and/or gang of police officers in the City of Ontario
10 and/or Ontario Police Department that encourages, condones, ratifies, and/or
11 otherwise turns a blind eye to acts of violence and other police misconduct
12 against citizens, especially citizens of color as demonstrated in the subject
13 incident.
14
15

16 111. On information and belief, Defendants, and each of them, are a
17 member of a secret group, society, fraternity, clique, and/or gang of police
18 officers in the City of Ontario and/or Ontario Police Department that encourages,
19 condones, ratifies, and/or otherwise turns a blind eye to acts of violence and other
20 police misconduct against citizens, especially citizens of color as demonstrated in
21 the subject incident.
22
23
24

25 112. Accordingly, Defendants and each of them are liable to Plaintiff for
26 compensatory damages under 42 U.S.C. § 1983.
27

28 113. Plaintiff also seeks attorney fees under 42 U.S.C. § 1988 for this

1 claim.

2 **SIXTH CAUSE OF ACTION**

3 **BATTERY BY A POLICE OFFICER AND ASSAULT**

4 **(By Plaintiff PAUL KAVIN NUTALL against Defendants LILLIE,**
5 **DERISIO, and Defendant DOES 1-10, Inclusive)**

6
7
8 114. Plaintiff refers to and re-alleges each and every allegation contained
9 in paragraphs 1 through 113 of this Complaint, and by reference incorporates the
10 same herein and makes each a part herein.
11

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

18 116. At the aforementioned date, time and place, Defendants, and each of
19 them, assaulted and battered Plaintiff by subjecting him to unreasonable force.
20 Defendants assaulted and battered Plaintiff by aggressively and violently placing
21 him in handcuffs and tightening cuffs despite Plaintiff's pleas of pain, and
22 causing Plaintiff to fall face down in the grass while in handcuffs. Plaintiff did not
23 consent to Defendants' wrongful, harmful, and offensive force and neither was
24 Defendants' force privileged.
25
26

27 117. By reason of the aforementioned Defendants' actions, Plaintiff was
28

1 placed in great fear for her safety and physical and emotional wellbeing and had a
2 reasonable belief that Defendants could carry out harm to Plaintiff.

3
4 118. The aforementioned acts of Defendants, and all of them, were
5 willful, malicious and oppressive, without legal justification or legal authority and
6 thereby justify the awarding of punitive damages in a sum according to proof.
7

8 **SEVENTH CAUSE OF ACTION**

9 **VIOLATION OF THE BANE ACT (CAL. CIV. § 52. 1)**

10 **(By Plaintiff PAUL KAVIN NUTALL against Defendants LILLIE,**
11 **DERISIO, and Defendant DOES 1-10, inclusive)**

12
13 119. Plaintiff refers to and re-alleges each and every allegation contained
14 in paragraphs 1 through 118 of this complaint, and by this reference incorporates
15 the same herein and makes each part hereof.
16

17
18 120. On or about the above stated dates, and sometime prior thereto,
19 Defendants and each of them violated Plaintiff's civil rights guaranteed by the
20 United States Constitution, federal law, the California Constitution and the laws
21 of the State of California through the aforementioned conduct, thereby providing
22 a civil cause of action against defendants under California Civil Code Section
23 52.1.
24

25
26 121. Defendants, while working as officers for the CITY and/or
27
28

1 OPD, and acting within the course and scope of their official duties, interfered
2 with or specifically intended and attempted to interfere with the rights of Plaintiff
3 to be free from unreasonable seizures/detentions/arrests and unreasonable
4 excessive force by threatening or committing acts involving violence, coercion or
5 intimidation.
6

7
8 122. On information and belief, Defendants seized, detained, arrested,
9 used force against and/or injured Plaintiff to prevent Plaintiff from exercising her
10 rights or to retaliate against Plaintiff for having exercised her rights.
11

12 123. As a proximate result of the aforementioned acts of Defendants,
13 and each of them, Plaintiff suffered damage in a sum according to proof, and is
14 entitled to the general, special and exemplary damages, statutory damages, and
15 attorney's fees and costs provided by Civil Code section 52.1(h).
16

17
18 124. Defendants CITY and OPD are vicariously liable for the wrongful
19 acts of Defendants pursuant to section 815.2 of the California Government Code,
20 which provides that a public entity is liable for the injuries caused by its
21 employees within the scope of the employment if the employee's act would
22 subject him or her to liability
23
24

25 **EIGHTH CASUE OF ACTION**

26 **VIOLATION OF RALPH CAL. CIV. CODE 51.7**

27 **(By Plaintiff PAUL KAVIN NUTALL against Defendants LILLIE,**
28

DERISIO, and Defendant DOES 1-10, inclusive)

1
2 125. Plaintiff refers to and realleges each and every allegation contained
3
4 in paragraphs 1 through 124 of this Complaint, and by this reference incorporates
5 the same herein and makes each part hereof.

6 126. On or about the above stated dates, and sometime prior thereto,
7
8 Defendants and each of them violated Plaintiff's civil rights guaranteed by the
9 United States Constitution, federal law, the California Constitution and the laws
10 of the State of California thereby providing a civil cause of action against
11 defendants under California Civil Code Section 51.7.
12

13 127. Defendants, while working as officers for the CITY and/or OPD, and
14
15 acting within the course and scope of their official duties, interfered with or
16 attempted to interfere with the rights of Plaintiff to be free from unreasonable
17 seizures/detentions/arrests and unreasonable excessive force by threatening or
18 committing acts involving violence, coercion or intimidation.
19

20 128. On information and belief, Plaintiff reasonably believed that if he
21
22 exercised her constitutional rights to be free from unreasonable seizures, arrests,
23 searches, and/or excessive force Defendants would commit acts involving
24 violence, threats, coercion or intimidation against his person.
25

26 129. On information and belief, Defendants seized, detained, arrested, and
27
28

1 used force against and/or injured Plaintiff to prevent Plaintiff from exercising his
2 rights or to retaliate against Plaintiff for having exercised her rights.

3
4 130. Upon information and belief, a substantial and motivating reason for
5 the Defendants' use of excessive force, unlawful detention, search and arrest was
6 due to their being emboldened to commit misconduct to misuse and abusing their
7 authority or power by taking advantage of some and operation upon some bias
8 because of Plaintiff's race, gender, national origin, clear and apparent
9 vulnerability in reckless disregard of Plaintiff's rights, accompanied by ill will or
10 spite, and was executed with unnecessary harshness or severity warranting
11 punitive damages, accompanied by ill will or spite, and was executed with
12 unnecessary harshness or severity warranting punitive damages.
13
14
15

16 131. After Defendants' preliminary detention and search of Plaintiff,
17 Defendants knew that Plaintiff did not commit any crime, did not intend to
18 commit a crime, and was not armed or dangerous.
19

20 132. Defendants acted with racial animus and took advantage of
21 Plaintiff's race and national origin by treating him in a manner otherwise
22 unpermitted when dealing with non-African American persons.
23
24

25 133. As a proximate result of the aforementioned acts of Defendants, and
26
27
28

1 each of them, Plaintiff suffered damage in a sum according to proof, and is
2 entitled to the general, special and exemplary damages, statutory damages, and
3 attorney's fees and costs provided by Civil Code section 52.1(h).
4

5 134. Defendants CITY and/or OPD are vicariously liable for the wrongful
6 acts of Defendants pursuant to section 815.2 of the California Government Code,
7 which provides that a public entity is liable for the injuries caused by its
8 employees within the scope of the employment if the employee's act would
9 subject him or her to liability.
10
11

12 **NINTH CASUE OF ACTION**

13 **NEGLIGENCE/NEGLIGENT**

14 **EMPLOYMENT/RETENTION/TRAINING/SUPERVISION**

15 **(By Plaintiff PAUL KAVIN NUTALL against Defendants CITY OF**
16 **ONTARIO and ONTARIO POLICE DEPARTMENT)**
17
18

19 135. Plaintiff refers to and re-alleges each and every allegation contained
20 in paragraphs 1 through 134 of this Complaint, and by reference incorporates the
21 same herein and makes each a part hereof.
22

23 136. On information and belief sometime prior to this incident,
24 Defendants CITY and/or OPD knew, or in the exercise of due care, should have
25 known that Defendants LILLIE, DERISIO, and Defendant DOES, and each of
26 them, had a propensity, character trait, and practice, while purporting to act under
27
28

1 color of law, for violence, dishonesty and prevarication, especially against
2 persons of color.

3
4 137. At all times mentioned herein, Defendants CITY and/or OPD knew,
5 or in the exercise of due care, should have known that the afore described traits of
6 character, practices and propensities of Defendants, and each of them, made them
7
8 unfit to serve as peace officers and would cause harm and injury to members of
9 the public, including persons in the custody of said Defendants.

10
11 138. At all times mentioned herein, Defendants had a duty under the law
12 to not unlawfully detain, unlawfully arrest, unlawfully search and/or use
13 excessive force under the United States Constitution, all State and Federal laws.

14
15 139. Notwithstanding such knowledge, Defendants CITY and/or OPD
16 negligently, carelessly and recklessly, employed, retained and failed to properly
17 supervise, train and control Defendants, and each of them, inclusive, as peace
18 officers and assigned said Defendants to duties which enabled each of them to
19 make illegal arrests, fabricate probable cause and crimes, and use excessive force
20 while purporting to act under the color of law.

21
22
23 140. As a proximate result of the negligence and carelessness of
24 Defendants, and each of them, Plaintiff suffered mental anguish, physical pain
25 and suffering, emotional distress and financial losses, all to the Plaintiff's damage
26 in a sum according to proof.
27
28

1 141. Further, Defendant CITY and/or OPD are responsible for the actions,
2 inactions and damages caused by Defendants under *respondeat superior*
3 including, but not limited to under California Govt. Code § 815.2, 820, and 825.
4

5 142. Police officers, including Defendants LILLIE, DERISIO, and
6 Defendant DOES, have a duty to use reasonable care to prevent harm and injury
7 to others. This duty includes using appropriate tactics, giving appropriate
8 commands, giving appropriate warnings, and not using any force unless
9 necessary, using the least amount of force necessary, and only using deadly force
10 as a last resort. These duties also include providing proper training and equipment
11 to officers so that they may perform their duties in accordance with the
12 department policies, properly investigate use of force incidents, and punish, re-
13 train, terminate, and/or prosecute violators of those policies and the law.
14
15
16
17

18 143. The Defendants breached their duty of care to Plaintiff and every
19 citizen by engaging in the conduct alleged herein. Upon information and belief,
20 the actions and inactions of Defendants were negligent and reckless, including but
21 not limited to:
22

- 23 (a) the failure to properly identify Plaintiff;
24
25 (b) the failure to properly and adequately assess the need to use force
26 against Plaintiff
27
28 (c) the negligent tactics and handling of the situation with Plaintiff,

1 including pre-seizure/detention/arrest negligence;

2 (d) the negligent scope and manner of the seizure and use of force, against
3 Plaintiff;

4
5 (e) the failure to properly train and supervise employees, both professional
6 and non-professional, including Defendants LILLIE, DERISIO, and
7 Defendant DOES, inclusive;

8
9 (f) the failure to ensure that adequate numbers of employees with
10 appropriate education and training were available to meet the needs and
11 protect the rights of Plaintiff;

12
13 (g) the negligent handling of evidence, witnesses, and the negligent
14 investigation of the unlawful and unreasonable seizure/detention/arrest of
15 Plaintiff; and

16
17 (h) the failure to punish, re-train, terminate, and/or prosecute violators of
18 Department policies and the law.

19
20 144. As a direct and proximate result of Defendants' conduct as alleged
21 above, and other undiscovered negligent conduct, Plaintiff was caused to suffer
22 severe past and future mental and physical pain and suffering. Plaintiff was also
23 caused to suffer substantial harm including but not limited to past and future pain
24 and suffering. In other words, the Defendants' negligence was a substantial factor
25 in causing Plaintiff's harm.
26
27
28

1 145. The harm caused by Defendants was caused by something that only
2 the Defendants controlled. The Defendants had control over the tactical decisions
3 made during the interaction.
4

5 146. Defendants' aforementioned violations of the law as stated was a
6 substantial factor in bringing about Plaintiff's harm.
7

8 147. The CITY and OPD are vicariously liable for the wrongful acts of
9 Defendants pursuant to section 815.2(a) of the California Government Code,
10 which provides that a public entity is liable for the injuries caused by its
11 employees within the scope of the employment if the employees' act would
12 subject him or her to liability. Plaintiff also seeks attorney fees under this claim
13 pursuant to California Code of Civil Procedure § 1021.5.
14
15

16 **TENTH CAUSE OF ACTION**

17 **DEFAMATION/ LIBEL PER SE**

18
19 **(By Plaintiff PAUL KAVIN NUTALL against Defendants LILLIE,**
20 **DERISIO, CITY OF ONTARIO, ONTARIO POLICE DEPARTMENT, and**
21 **DOES 1-100, Inclusive)**
22

23 148. Plaintiff refers to and re-alleges each and every allegation contained
24 in paragraphs 1 through 147 of this Complaint, and by reference incorporates the
25 same herein and makes each a part hereto.
26

27 149. Plaintiff PAUL KAVIN NUTALL's eventual release from
28

1 police custody and the officer's acknowledgement of the mistaken identity, the
2 citation issued to Plaintiff by Defendants LILLIE, DERISIO, CITY OF
3 ONTARIO, and/or ONTARIO POLICE DEPARTMENT, states four violations
4 including grand theft and forgery. Plaintiff never committed these crimes, was
5 falsely accused of committing these crimes, and the citation was never corrected.
6

7
8 150. Despite Plaintiff PAUL KAVIN NUTALL's eventual discharge and
9 the officer's acknowledgement of the mistaken identity, the Vehicle Report
10 prepared by Defendants LILLIE, DERISIO, CITY OF ONTARIO, and/or
11 ONTARIO POLICE DEPARTMENT for the impounding of the vehicle Plaintiff
12 was driving prior to the false arrest, states that the driver, Plaintiff PAUL KAVIN
13 NUTALL, was found to have "two active warrants for his arrest, driver was
14 arrested, and vehicle was towed for UC 22651(h)(1)." This incorrect and false
15 statement and allegation was never corrected by Defendants.
16
17

18
19 151. On its face, the defamatory meaning of Defendants' false accusations
20 and statements, is apparent without the need for extrinsic facts.
21

22 152. Defendants' defamatory statements, falsely charge and accuse
23 Plaintiff of committing crimes of moral turpitude, including forgery and grand
24 theft.
25

26 153. Each of Defendants' statements on the Vehicle Report and citation,
27 were published to at least one other person.
28

1 154. Due to Defendants' false accusations, charges, and apparent reckless
2 disregard for the truth, Plaintiff suffered significant damages.

3
4 **ELEVENTH CAUSE OF ACTION**

5 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

6 **(By Plaintiff PAUL KAVIN NUTALL against ALL Defendants)**

7
8 155. Plaintiffs hereby refer to and re-allege each and every allegation
9 contained in paragraphs 1 through 154 of this Complaint, and by reference
10 incorporates the same herein and makes each a part hereto.
11

12 156. The above acts and omissions of Defendants were done with
13 knowledge that Plaintiffs were particularly susceptible to mental and emotional
14 distress by virtue of Plaintiffs' race, gender, and vulnerability as consumers.
15

16 157. Defendants were officers who were acting in the course and scope of
17 their employment and on behalf of Defendant CITY and/or OPD with all requisite
18 authority conferred upon them by Defendant CITY and/or OPD.
19

20 158. City Defendants knew or had reason to know that their
21 aforementioned unprivileged acts and omissions would cause Plaintiff severe and
22 ongoing mental and emotional distress. The above-mentioned acts were
23 committed by Defendants were extreme and outrageous with willful intention
24 and/or reckless disregard that Plaintiffs or the probability that Plaintiffs would
25
26
27
28

1 suffer severe emotional and mental distress as a result knowing that Plaintiffs
2 were present when the conduct occurred.

3
4 159. Falsely accusing and charging Plaintiff PAUL KAVIN NUTALL of
5 felony crimes, and crimes of moral turpitude, and continuing down a line of
6 seizure/detention arrest when it is clear that Plaintiff was not involved in any
7
8 crime was extreme and outrageous.

9
10 160. Defendants' use of excessive and unnecessary force so that Plaintiff
11 PAUL KAVIN NUTALL needed immediate medical attention was extreme and
12 outrageous.

13
14 161. By virtue of Defendants' positions and employment, Defendants
15 CITY and/or OPD knew of or reasonably should have known of, authorized,
16 adopted, approved and/or ratified Defendants' wrongful, unlawful and
17 unconstitutional conduct before, during and/or after it occurred. Plaintiff is
18 informed and believes and thereon alleges that the aforementioned acts and
19 omissions of Defendants was willful, malicious, intentional, oppressive,
20 knowingly false and were done in willful and conscious disregard of Plaintiff's
21 rights thereby justifying the award of punitive damages against Defendants and
22 each of them.
23
24
25

26 162. Defendants knew or should have known that severe emotional
27
28

1 distress would result from their conduct; or Defendants gave little or no thought
2 to the probable effects of their conduct.

3
4 163. As police officers, Defendants abused a position of authority or a
5 relationship that gave Defendants real or apparent power to affect Plaintiff's
6 interests.

7
8 164. As a direct and proximate result of the Defendants' actions, Plaintiff
9 sustained severe mental and emotional distress, so much so that he has suffered
10 from serious emotional illness presenting physical manifestations, thereby
11 justifying an award of compensatory, special and punitive damages in an amount
12 to be proven at trial.
13

14
15 165. Defendants HAN ZHANG and TURO INC. knew or should have
16 known that Defendant HAN ZHANG's vehicle was out of compliance with
17 applicable vehicle registration regulations, and therefore knew or should have
18 known that severe emotional distress would result from Defendants' conduct of
19 allowing Plaintiff to rent a vehicle with expired vehicle registration.
20
21

22 166. Defendants aforementioned conduct as a substantial factor in causing
23 Plaintiff's severe emotional distress.
24

25 **TWELTH CAUSE OF ACTION**

26 **NEGLIGENCE**

27 **(By Plaintiffs against Defendants TURO INC. and HAN ZHANG)**
28

1 167. Plaintiffs hereby refer to and re-allege each and every allegation
2 contained in paragraphs 1 through 1666 of this Complaint, and by reference
3 incorporates the same herein and makes each part hereto.
4

5 168. Plaintiffs are informed and believe Defendants TURO INC. and
6 HAN ZHANG owed Plaintiffs a duty of professional care as the owners and
7 operators of the vehicle Plaintiffs rented from Defendants, and the Turo website
8 and/or company Plaintiffs utilized and relied on to rent the vehicle.
9

10 169. Defendants breached this duty of care by its negligent ownership,
11 operation, renting, entrustment, management, maintenance, inspection, regulation,
12 and control of the rental vehicle, therefore causing Plaintiff to be stopped by City
13 Defendants, for expired vehicle registration.
14

15 170. Defendants' failure to disclose and omission of of the rental
16 vehicle's registration was the actual and proximate cause of City Defendants' stop
17 which led to Plaintiffs suffering significant emotional distress.
18
19

20 **THIRTEENTH CAUSE OF ACTION**

21 **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

22 **(By Plaintiffs against Defendants TURO INC. and HAN ZHANG)**

23 171. Plaintiffs hereby refer to and re-allege each and every allegation
24 contained in paragraphs 1 through 170 of this Complaint, and by reference
25 incorporates the same herein and makes each a part hereto.
26
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1 172. Defendants TURO INC. and HAN ZHANG owed Plaintiffs a duty of
2 professional care as the owners and operators of the vehicle Plaintiff rented from
3 Defendants and the Turo website and/or company, Plaintiff used to rent the
4 vehicle.
5

6 173. Defendants breached this duty of care by its negligent ownership,
7 operation, renting, entrustment, management, maintenance, inspection, regulation,
8 and control of the rental vehicle, therefore causing Plaintiff PAUL KAVIN
9 NUTALL to be stopped by City Defendants, for expired vehicle registration.
10
11

12 174. Defendants' breach of care was the actual and proximate cause of
13 Plaintiffs' severe emotional distress which has resulted in actual damages, as each
14 Plaintiff endured a traumatic event themselves or with a close family member
15 which has caused lasting physical injury, emotional distress, fear, and trauma.
16
17

18 175. Plaintiff TIFFANY NUTALL suffered severe emotional distress of
19 perceiving her husband, Plaintiff PAUL KAVIN NUTALL be profoundly injured
20 and distressed due to Defendants' negligent conduct.
21

22 **FOURTEENTH CAUSE OF ACTION FOR UNFAIR BUSINESS**

23 **PRACTICES**

24 **(By Plaintiffs against Defendants TURO INC., and HAN ZHANG)**

25 176. Plaintiffs refer to and re-allege each and every allegation contained
26
27
28

1 in paragraphs 1 through 175 of this Complaint, and by reference incorporates the
2 same herein and makes each a part herein.

3
4 177. Defendant HAN ZHANG, as the entrusted owner of the 2015
5 Maserati Ghibli, listed on Defendant TURO INC.'s website as an available
6 vehicle to rent, and was ultimately rented by Plaintiffs, has engaged in unfair
7 business practices, in his failure to properly own, rent, maintain, inspect, manage,
8 regulate, control, and ensure compliance of all applicable vehicle codes and
9 regulations, including failing to maintain accurate and current vehicle registration,
10 in a reasonable manner, in violation of Cal. Bus. & Prof. Code § 17200 and
11 Section 5 of the Federal Trade Act of 1974, 15 U.S.C. § 45.
12
13

14
15 178. Defendant TURO INC., as the entrusted owner and operator of the
16 car rental company Turo, has engaged in unfair business practices, in its failure to
17 properly rent, maintain, inspect, manage, regulate, control, and ensure compliance
18 of all applicable vehicle codes and regulations, including allowing a rental car
19 with outdated and uncompliant vehicle registration, in a reasonable manner, in
20 violation of Cal. Bus. & Prof. Code § 17200 and Section 5 of the Federal Trade
21 Act of 1974, 15 U.S.C. § 45.
22
23

24
25 179. Defendant TURO's Terms of Service specifically state that car rental
26 hosts, "are required to regularly check your vehicle for any defects in its
27 operations or safety. You promise that, at all times, your vehicle will be in safe
28

1 and roadworthy condition, in good mechanical condition, and in full compliance
2 with all applicable inspection and registration requirements, including any
3 required safety inspections.”
4

5 180. Plaintiffs sustained damages in an amount to be proven at trial as a
6 result of Defendants’ unfair business practices
7

8 181. Plaintiffs have suffered physical and emotional damages by
9 Defendants’ actions and inaction, in that Plaintiffs experiences or perceived a
10 loved one experience a distressing and avoidable encounter with Defendant CITY
11 and OPD. This experience ultimately has caused Plaintiffs severe emotional
12 distress including sleeplessness, anxiety, mental anguish, terror, financial
13 hardship, loss of transportation, and severe physical injuries requiring medical
14 care.
15
16
17

18 182. Plaintiffs have been required to retain the services of an attorney to
19 commence this action and are entitled to attorney’s fees and the costs to bring this
20 action.
21

22 **FIFTEENTH CAUSE OF ACTION FOR NEGLIGENT**

23 **MISREPRESENTATION**

24 **(By Plaintiffs against Defendants TURO INC. and HAN ZHANG)**

25 183. Plaintiffs refer to and re-allege each and every allegation contained
26
27
28

1 in paragraphs I through 182 of this Complaint, and by reference incorporates the
2 same herein and makes each a part hereto.

3 184. Defendants failed to inform Plaintiffs that Defendants vehicle and
4

5 185. Due to the relationship between Plaintiffs and Defendants, as
6 consumers of the merchants products and services, Defendants had a duty to
7
8 disclose all pertinent information regarding the vehicles' safety and operation.

9 186. Plaintiffs justifiably relied on Defendants' failure to disclose such a
10 fact, and believed Plaintiff PAUL KAVIN NUTALL was operating and driving a
11
12 vehicle that was compliant with all applicable vehicle codes and regulations.

13 187. As a result of Defendants' negligent omission and failure to disclose,
14
15 Plaintiffs experienced significant and severe physical injuries and emotional as a
16
17 result of the police stop by City Defendants and subsequent events.

18 188. But for Defendants' negligent omission and failure to disclose,
19
20 Plaintiff would not have endured the events following the police stop by City
21
22 Defendants for expired vehicle registration. Plaintiffs would not have rented a
23
24 vehicle from Defendants that was illegal to operate and not in compliance.

25 **SIXTEENTH CAUSE OF ACTION FOR TORTIOUS INTERFERENCE**

26 **WITH PROSPECTIVE ECONOMIC ADVANTAGE**

27 **(By Plaintiffs against Defendant HAN ZHANG)**

28 189. Plaintiffs refer to and re-allege each and every allegation contained in

1 paragraphs 1 through 188 of this Complaint, and by reference incorporates the
2 same herein and makes each a part hereto.

3
4 190. An economic relationship existed between Plaintiffs and Defendant
5 TURO, with the probability of future economic benefit to Plaintiffs, given
6 Plaintiffs' exemplary use of Defendant TURO's services for years resulting in
7 Plaintiffs' 5.5 star rating as renters of Defendant TURO.
8

9 191. Defendant HAN ZHANG knew or should have known of this
10 business relationship, as Defendant was a host of Defendant TURO and arranged
11 for the services Plaintiffs contracted and paid for through Defendant TURO.
12

13 192. Defendant HAN ZHANG intentionally and unlawfully failed to
14 disclose pertinent information regarding his vehicle's outdated registration and
15 illegal operation, to Plaintiffs upon the purchasing of the rental vehicle or pick up
16 of the vehicle.
17
18

19 193. As a result of Defendant HAN ZHANG's failure to disclose and
20 omission of the rental vehicle's outdated registration, Plaintiffs endured
21 extremely distressing events with City Defendants that ultimately led to
22 Defendant TURO's premature restriction of Plaintiffs' Turo Account, and
23 termination of the business relationship with Plaintiffs due to misinformation.
24
25

26 194. Plaintiffs have and continue to experience significant economic harm
27 as Plaintiffs can no longer utilize Turo's services.
28

1
2
3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiffs requests entry of judgment in their favor and
5 against Defendants, inclusive, as follows and/or a jury trial:

6 A. For compensatory and special damages in an amount to be proven at
7 trial;
8

9 B. For loss of wages and earning capacity;

10 C. For punitive damages against the individual defendants in an amount
11 to be proven at trial;
12

13 D. For statutory damages;

14 E. For interest;

15 F. For reasonable attorneys' fees, including litigation expenses and
16 costs pursuant to 42 U.S.C. § 1988;
17

18 G. For costs of suit;


19 H. For mental, emotional, physical past, present and future pain and
20 suffering and reasonable costs of medical care; and
21

22 I. For such further other relief as the Court may deem just, proper, and
23 appropriate.
24

25
26
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1 Dated: February 27, 2025

**IVIE McNEILL WYATT
PURCELL & DIGGS**

2
3 By: 
4 **BYRON MICHAEL PURCELL, ESQ.**
5 **TIANA D. LOVING, ESQ.**
6 Attorneys for Plaintiff,
7 **PAUL KAVIN NUTALL**
8 **TIFFANY NUTALL**

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15
16 **DEMAND FOR JURY TRIAL**

17 Plaintiffs hereby demand a trial by jury.

18
19
20 Dated: February 27, 2025

**IVIE McNEILL WYATT
PURCELL & DIGGS**

21
22 By: 
23 **BYRON MICHAEL PURCELL, ESQ.**
24 Attorneys for Plaintiff,
25 **PAUL KAVIN NUTALL**
26 **TIFFANY NUTALL**