

1 JAMES B. CHANIN, SBN 76043
2 Law Offices of James B. Chanin
3 3050 Shattuck Avenue
4 Berkeley, CA 94705
5 Telephone: (510) 848-4752, Ex. 2
6 Facsimile: (510) 848-5819
7 Email: jbcofc@aol.com

8 RACHEL LEDERMAN, SBN 130192
9 NATIONAL LAWYERS GUILD, San Francisco Bay Area Chapter,
10 and RACHEL LEDERMAN & ALEXSIS C. BEACH, Attorneys at Law
11 558 Capp Street
12 San Francisco, CA 94110
13 Telephone: 415-282-9300
14 Fax: 510-590-9296
15 Email: rachel@bllaw.info

16 Attorneys for plaintiffs CURTIS JOHNSON ET AL.

17 UNITED STATES DISTRICT COURT
18
19 NORTHERN DISTRICT OF CALIFORNIA

20 CURTIS JOHNSON; MONI LAW; JOSEPH
21 CUFF; SAM WOLSON; NISA DANG;
22 CINDY PINCUS; EMILY POWER;
23 REGINALD LEE JAMES aka RASHEED
24 SHABAZZ; JOSEPH WATKINS; TODD
ZIMMER; and ALLIE LOUX,

Plaintiffs,

v.

CITY OF BERKELEY; CITY OF
HAYWARD; MICHAEL MEEHAN; ERIK
UPSON; ANDREW RATEAVER; RICO
ROLLERI; SCOTT SALAS; SAMANTHA
SPEELMAN; JOSHUA SMITH;
JUMAANE JONES; STEVEN FLEMING;
JITENDRA SINGH; BRYAN
WAGGONER; BRIAN HARTLEY;

No. 3:15-cv-5343 JSC
**SECOND AMENDED
CIVIL RIGHTS COMPLAINT
FOR DAMAGES AND
INJUNCTIVE RELIEF**

**42 U.S.C. § 1983
Jury Trial Demanded**

1 BRYAN MATTHEWS; and DOES 1-100,
2 inclusive;
3 Defendants.

4 **INTRODUCTION**

- 5 1. This is a civil rights action for damages and injunctive relief arising from
6 unconstitutional police attacks on peaceful protesters and journalists in Berkeley,
7 California, on December 6, 2014. On that date, as part of the growing nationwide
8 movement for racial justice, a March Against State Violence was held in Berkeley.
9 This was in response to the December 3, 2014, grand jury decision not to indict the
10 officer responsible for the chokehold death of Eric Garner in New York; the failure of
11 authorities to hold accountable the officer who shot Michael Brown to death in
12 Ferguson, Missouri; and countless other killings of unarmed Black people by white
13 police officers.
- 14 2. The plaintiffs are demonstrators and journalists who attended the December 6, 2014,
15 March Against State Violence in Berkeley.
- 16 3. Berkeley officials, including Berkeley Police Chief defendant MICHAEL MEEHAN
17 and Berkeley Police Captain defendant ERIK UPSON, the Incident Commander,
18 decided beforehand to take an aggressive crowd control approach to the planned
19 demonstration. The Berkeley Police Review Commission, in its investigation and
20 review of the police response to the December 6, 2014, protest, found that “BPD's
21 planning unreasonably focused on potential agitators and vandals rather than
22 facilitating a peaceful protest”, assuming that protesters would be violent when in fact
23 “the vast majority of protesters conducted themselves in a peaceful manner”. This led
24 to a police response that the Police Review Commission found “deeply troubling.”
4. Thus, the first page of the pre-event briefing given by Captain UPSON, on
information and belief approved by Chief MEEHAN, states: “Get ‘um running!
Stretch the crowd out so they are not a mass, but individuals”, effectively directing the

1 officers to break up the demonstration from the outset. MEEHAN; UPSON; and other
2 Berkeley Police commanders including Lieutenant ANDREW RATEAVER, the
3 Operations Chief, and Lieutenant RICO ROLLERI, the liaison with the mutual aid
4 officers, gave orders which caused Berkeley police officers to respond to the
5 demonstration brutally, clubbing peaceful protesters and journalists, often from
6 behind, some in the head, and using profligate amounts of teargas on them, all without
lawful justification and based simply on their association with the protest.

7 5. The City of Berkeley called in mutual aid to assist them in handling the
8 demonstration, but defendants MEEHAN, UPSON, RATEAVER, and ROLLERI
9 failed to supervise or control the mutual aid agencies, inventory their munitions,
10 instruct them to comply with Berkeley policies restricting the use of “less lethal”
11 munitions, or require them to report their uses of force. This violated California Govt.
12 Code § 8618 and the Mutual Aid Agreement, as well as a Berkeley City Council
13 resolution in effect since 1992 which requires BPD to take direct
14 supervisory responsibility for all mutual aid units, and instruct them to comply with
15 BPD’s crowd management regulations and policies prior to deployment in the field.
16 As a result, the Hayward Police, acting as mutual aid to Berkeley, shot highly
dangerous Specialty Impact Munitions at nonviolent demonstrators, and used other
unlawful excessive force.

17 6. Defendants’ actions deprived plaintiffs of their rights to freedom of speech, freedom
18 of association, and freedom of the press; to be free from unreasonable searches and
19 seizures; to be free from the use of excessive and/or arbitrary force; and to be free
20 from unreasonable, summary punishment, all guaranteed by the United States and
California Constitutions.

21 7. Defendants CITY OF BERKELEY, MICHAEL MEEHAN and DOE Berkeley City
22 officials violated the plaintiffs’ constitutional rights by maintaining customs, policies
23 and/or practices which foreseeably would result in constitutional violations such as
24 those suffered by the plaintiffs, and/or by their deliberate indifference in the hiring,
training, supervision and discipline of City of Berkeley police officers involved in the

1 December 6, 2014, operation. Plaintiffs are informed and believe and thereon allege
2 that said customs, policies and/or practices encouraged, tacitly authorized and/or
3 condoned: the use of excessive force; the failure to report the use of excessive force;
4 the failure to hold officers and supervisors accountable for the use of excessive force;
5 the failure to enforce policies which were intended to prevent the use of excessive
6 force on civilians and the violation of their rights to free speech, freedom of
7 association and freedom of the press by City of Berkeley and by mutual aid police
8 officers during demonstrations; the use of chemical agents and Specialty Impact
9 Munitions against non-violent persons; racial profiling of people of color by City of
10 Berkeley police officers; the failure to hold officers and supervisors accountable for
11 racial profiling; and/or other customs, policies and/or practices.

- 12 8. Said policies include, but are not limited to, a “safety zone” policy, admitted by BPD
13 in its own report on its response to the demonstration, which consists of using batons
14 to hit or shove persons who come within a certain distance of a police skirmish line
15 during a crowd event, regardless of whether the individual poses a threat to the
16 officers, and without marking the line or announcing where it is; and a policy of not
17 requiring either Berkeley or mutual aid officers to report their uses of force.

18 **II. JURISDICTION AND VENUE**

- 19 9. This action seeks damages and injunctive relief under 42 U.S.C. § 1983. This Court
20 has jurisdiction over the action under 28 U.S.C. §§ 1331 and 1343. It has
21 supplemental jurisdiction over the state law claims under 28 U.S.C. § 1367.
- 22 10. Venue properly lies within this District under 28 U.S.C. § 1391(b). The named
23 defendants perform their official duties in this District, and the events and omissions
24 giving rise to plaintiffs’ claims occurred in this District.
11. Plaintiffs CURTIS JOHNSON; MONI LAW; JOSEPH CUFF; SAM WOLSON;
NISA DANG; CINDY PINCUS; EMILY POWER; REGINALD LEE JAMES aka
RASHEED SHABAZZ; JOSEPH WATKINS; TODD ZIMMER; and ALLIE LOUX,

1 have each filed administrative claims with the City of Berkeley, in compliance with
2 California Government Code § 910 et seq. Plaintiffs CURTIS JOHNSON and CINDY
3 PINCUS have additionally filed claims with the City of Hayward. All of the claims
4 have been denied.

5 **III. INTRADISTRICT ASSIGNMENT**

6 12. Pursuant to Local Rule 3-2, this action is properly assigned to the San Francisco or
7 Oakland divisions of this Court.

8 **IV. THE PARTIES**

9 **Plaintiffs**

10 13. Plaintiff CURTIS JOHNSON, age 30, is a resident of Los Angeles, a marketing
11 associate with the Walt Disney Company and former NAACP staff person. Mr.
12 JOHNSON was visiting the Bay Area on December 6, 2014, when he encountered the
13 demonstration by chance. Moved by the Eric Garner grand jury decision, he decided
14 to participate in the demonstration to express his views and to support the Movement
15 for Black Lives. Mr. JOHNSON had only been with the march for about a short
16 period of time when he was shot in the knee with a Specialty Impact Munition,
without justification.

17 14. Plaintiff MONI LAW, age 55, is a resident of Berkeley, a UC Berkeley alumna and
18 city employee. Ms. LAW participated in the protest because, as the Black mother of a
19 Black son, she wanted to march to show support for other mothers whose Black sons
20 and daughters have been wrongfully killed by the police and urge reforms to stop the
21 killing of unarmed Black people. Ms. LAW was urging other demonstrators to step
22 further back from the police line, when she was clubbed in the back from behind by a
Berkeley officer, and had a burning smoke grenade thrown at her, without
justification.

23 15. Plaintiff JOSEPH CUFF, age 62, is a resident of Berkeley. He participated in the
24 protest to call attention to the disparate treatment of Black people by the police and

1 support the movement for Black Lives. Ms. CUFF was struck by a Berkeley officer
2 and knocked to the ground, for no legitimate reason.

3 16. Plaintiff SAM WOLSON, age 25, is a professional photographer. Mr. WOLSON was
4 on assignment for the San Francisco Chronicle newspaper photographing the
5 December 6, 2014, demonstration, when he was clubbed in the head from behind by a
6 Berkeley officer, for no legitimate reason.

7 17. Plaintiff NISA DANG, age 21, is a resident of Berkeley and a UC Berkeley student.
8 Ms. DANG participated in the demonstration to protest anti-Black racism, which she
9 herself experienced, and which resulted in the deaths of Michael Brown, Eric Garner
10 and many others. Ms. DANG was urging other demonstrators to be peaceful, when
11 she was clubbed from behind by a Berkeley officer. Another officer threw a burning
12 smoke grenade at her. Later that night she was subjected to teargas, pushed and
13 jabbed with batons multiple times, and forced to walk from Berkeley to Oakland. All
14 of this was without justification.

15 18. Plaintiff CINDY PINCUS, age 30, is a resident of San Francisco, an intern minister
16 and seminary student at the time of this incident. Ms. PINCUS participated in the
17 demonstration along with other ministers and seminary students to express her views
18 on police violence and racism, carrying a sign reading, "Jesus Can't Breathe". When
19 the police used teargas on the crowd and began shoving and jabbing demonstrators
20 with batons, Ms. PINCUS started to run in an attempt to leave the area. But when
21 Ms. PINCUS bent down to help another woman who had fallen, an officer clubbed
22 her in the back of the head.

23 19. Plaintiff EMILY POWER, age 20, is a resident of Berkeley and was a Peets Coffee
24 barrista at the time of the March Against State Violence. She heard about the march at
work. Since it appeared to Ms. Power that the gathering was peaceful, she decided to
participate and express her views on police violence and racism. But before the night
was over, officers clubbed her repeatedly, took her to the ground, and arrested her, all
without justification.

1 20. Plaintiff REGINALD LEE JAMES aka RASHEED SHABAZZ (hereinafter referred
2 to as RASHEED SHABAZZ), is a resident of Alameda, age 32. He was a multimedia
3 journalist and a fellow at UC Berkeley at the time, who was covering the
4 demonstration as a photojournalist. Berkeley officers clubbed Mr. SHABAZZ
repeatedly for no legitimate reason.

5 21. Plaintiff JOSEPH WATKINS, age 22, is a resident of Berkeley, and a UC Berkeley
6 student. Mr. WATKINS attended the March Against State Violence, but was on his
7 way home when he encountered officers hitting and shoving people. When Mr.
8 WATKINS questioned this verbally, Berkeley officers pulled him to the ground and
9 an officer covered his face and mouth to prevent him from giving a Legal Observer
10 his name. Mr. WATKINS was arrested without probable cause to believe that he
committed a crime.

11 22. Plaintiff TODD ZIMMER, age 27, is a human rights activist and works for a
12 nonprofit racial justice organization. Mr. ZIMMER happened on the demonstration
13 while on his way home late on December 6, and stood with the demonstrators to
14 express his views against police and systemic racism. Mr. ZIMMER was videotaping
15 the police conduct when he was hit multiple times by police officers who appeared to
be trying to break his camera.

16 23. Plaintiff ALLIE LOUX, age 21, is a resident of Berkeley and a UC Berkeley student.
17 She had not previously been involved in demonstrations, but was deeply affected by
18 the killing of Eric Garner and the grand jury decision in his case. She decided to
19 attend the March Against State Violence to show her support. She was intending to go
20 home when her egress was blocked by police lines. Ms. LOUX was forced to walk
21 south on Telegraph Avenue toward Oakland. Ms. LOUX was overcome by teargas
when a teargas canister landed nearby her and caused her to fall and hit her head.

Defendants

22 24. Defendant CITY OF BERKELEY is, and at all times herein mentioned was, a
23 municipal corporation duly organized and existing under the laws of the State of
24 California.

1 25. Defendant CITY OF HAYWARD is, and at all times herein mentioned was, a
2 municipal corporation duly organized and existing under the laws of the State of
3 California.

4 26. Defendant MICHAEL MEEHAN is, and at all times herein mentioned was, the Chief
5 of Police of the City of Berkeley and an authorized policymaker of the City of
6 Berkeley. MEEHAN set in motion, supervised, directed, approved, and acquiesced in
7 police officers' constitutional violations at the December 6, 2014, demonstration,
8 including but not limited to the use of excessive force and deprivation of the
9 plaintiffs' First Amendment rights by Berkeley and mutual aid officers. MEEHAN
10 caused these violations by maintaining the unconstitutional policy that officers would
11 use batons against people who came within a certain distance of a skirmish line
12 regardless of whether the individual posed a threat; approving or acquiescing in the
13 directive given at the pre-incident briefing that officers would "get 'um running!" and
14 seek to break up the crowd, rather than facilitating peaceful protest; by approving the
15 use of chemical agents and batons to herd the crowd from Berkeley to Oakland; by
16 failing to properly train the officers to avoid clubbing people in potentially lethal
17 "non-target areas" such as the head; and, on information and belief, approving the use
18 of Specialty Impact Munitions at the demonstration, and monitoring the police
19 response throughout the night without intervening in the unconstitutional police use of
20 force.

21 27. Defendant ERIK UPSON was at all times herein mentioned a City of Berkeley Police
22 Captain, and was the Incident Commander in charge of the Berkeley and mutual aid
23 police response to the December 6, 2014, demonstration and who directly gave
24 commands to the Hayward commander. UPSON was on scene, and supervised,
directed, approved, acquiesced, and failed to intervene in officers' constitutional
violations, including but not limited to the use of excessive force and deprivation of
the plaintiffs' First Amendment rights by Berkeley and mutual aid officers. UPSON
caused these violations by, at the pre-event briefing, directing the officers to take an
aggressive crowd control approach and to break up the crowd and "Get 'um

1 running!"; by, during the event, directing or approving the use of batons against
2 people who came within a certain distance of the skirmish lines; directing the officers
3 to use chemical agents and batons to herd the crowd from Berkeley to Oakland; and
4 directing, approving and/or acquiescing in the use of Specialty Impact Munitions on
the crowd.

5 28. Defendant ANDREW RATEAVER is, and at all times herein mentioned was, a City
6 of Berkeley Police Lieutenant, and was the Operations Chief for the December 6,
7 2014, demonstration. LT. RATEAVER was on scene, and supervised, directed,
8 approved, acquiesced and failed to intervene in officers' constitutional violations,
9 including but not limited to the use of excessive force and deprivation of the
10 plaintiffs' First Amendment rights by Berkeley and mutual aid officers. RATEAVER
11 caused these violations by directing or approving the use of batons against people
12 who came within a certain distance of the skirmish lines; directing the officers to use
13 chemical agents and batons to herd the crowd from Berkeley to Oakland; and
directing, approving and/or acquiescing and failing to intervene in the use of Specialty
Impact Munitions on the crowd.

14 29. Defendant RICO ROLLERI is, and at all times herein mentioned was, a City of
15 Berkeley Police Lieutenant, and was the Liaison Officer directly in charge of the
16 Mutual Aid officers for the December 6, 2014, demonstration. LT. ROLLERI was on
17 scene and supervised, directed, approved, acquiesced, and failed to intervene in
18 officers' constitutional violations, including but not limited to the use of excessive
19 force and deprivation of the plaintiffs' First Amendment rights by Berkeley and
20 mutual aid officers. ROLLERI caused these violations by allowing the Hayward
21 officers to bring Specialty Impact Munitions to the event; failing to instruct the
22 mutual aid officers, including the Hayward officers who shot plaintiff CURTIS
23 JOHNSON, in limits on the use of Specialty Impact Munitions, chemical agents,
24 batons and other force; directing, approving, and/or acquiescing, and failing to
intervene in these officers' use of Specialty Impact Munitions on the crowd; and by
directing or approving and/or failing to intervene in the use of batons against people

1 who came within a certain distance of the skirmish lines, and the use of chemical
2 agents and batons to herd the crowd from Berkeley to Oakland.

3 30. Defendant SCOTT SALAS is, and at all times herein mentioned was, a City of
4 Berkeley Police Detective, who participated in the police conduct complained of, as
5 further set forth below.

6 31. Defendants SAMANTHA SPEELMAN, JOSHUA SMITH, JUMAANE JONES,
7 STEVEN FLEMING, JITENDRA SINGH, BRYAN WAGGONNER, and BRIAN
8 HARTLEY were City of Berkeley Police Officers at the time of the subject incident,
9 who participated in the police conduct complained of, as further set forth below.

10 32. Defendant BRYAN MATTHEWS is, and at all times mentioned was, a City of
11 Hayward Police Lieutenant, and the Commander of the Hayward police officers who
12 participated in providing mutual aid to the City of Berkeley at the December 6, 2014,
13 demonstration and was on scene supervising the Hayward officers. On information
14 and belief, LT. MATTHEWS directed the Hayward officers to bring Specialty Impact
15 Munitions to the demonstration and authorized the officers to use them, without
16 properly instructing the officers on the constitutional limits on the use of Specialty
17 Impact Munitions. On information and belief, LT. MATTHEWS was personally
18 present in the area where his subordinates shot plaintiff CURTIS JOHNSON without
19 justification, and failed to intervene as well as directing or acquiesced in the Hayward
20 officers shooting Mr. JOHNSON.

21 33. The individual defendants are sued in their individual capacities.

22 34. Plaintiffs are ignorant of the true names and/or capacities of defendants sued herein
23 as DOES 1 through 100, inclusive, and therefore sue said defendants by such
24 fictitious names. Plaintiffs will amend this complaint to allege their true names and
capacities when ascertained. The DOE defendants include other individuals who
supervised and/or participated in the conduct complained of herein. Plaintiffs are
informed and believe and therefore allege that each of the DOE defendants is legally
responsible and liable for the incident, injuries and damages hereinafter set forth, and
that each of said defendants proximately caused said incidents, injuries and damages

1 by reason of their negligence, breach of duty, negligent supervision, management or
2 control, violation of constitutional and legal rights, or by reason of other personal,
3 vicarious or imputed negligence, fault, or breach of duty, whether severally or jointly,
4 or whether based upon agency, employment, or control or upon any other act or
5 omission. Plaintiffs will ask leave to amend this complaint to insert further charging
allegations when such facts are ascertained.

6 35. In doing the acts alleged herein, defendants, and each of them, acted within the
7 course and scope of their employment.

8 36. In doing the acts and/or omissions alleged herein, defendants, and each of them,
acted under color of authority and/or under color of law.

9 37. In doing the acts and/or omissions alleged herein, defendants, and each of them,
10 acted as the agent, servant, employee and/or in concert with each of said other
11 defendants.

12 **V. FACTUAL ALLEGATIONS**

13 38. On December 1, 2014, the Berkeley Police learned that a March Against State
14 Violence was planned for December 6. The City of Berkeley requested mutual aid
15 from nearby agencies. The Hayward Police Department and several other law
16 enforcement agencies responded and assisted Berkeley in policing the demonstration.
17 The Hayward Police brought “less lethal” Specialty Impact Munitions, including high
18 speed “eXact iMPact 40 mm Sponge Rounds;” shotgun fired, lead-filled “bean bag”
19 rounds; and chemical agents, to the event. Despite state and local law which required
20 Berkeley to remain in charge and take direct supervisory responsibility for all mutual
21 aid units, Berkeley failed to supervise the mutual aid officers or instruct them on
22 Berkeley’s use of force policies or on constitutional limits on the use of force, and did
23 not control, inventory or in any way track their use of batons, Specialty Impact
Munitions, or chemical agents on Berkeley demonstrators and journalists, or require
24 use of force reports, causing some of the injuries described below.

1 39. The December 6 demonstration began at about 5 p.m. on the UC Berkeley campus,
2 and then marched peacefully down Telegraph Avenue to the Public Safety Building at
3 2100 Martin Luther King, Jr., Way. There, defendants UPSON, RATEAVER and/or
4 ROLLERI stopped the march by directing officers to set up a skirmish line blocking
5 the march from continuing on Martin Luther King Way and to use batons to hit and
6 push any demonstrators who entered an unmarked, unannounced “safety zone”
7 around the skirmish line. As a result of these orders a number of plaintiffs were
8 clubbed, as described below.

9 40. At about 6:30 p.m., when plaintiff MONI LAW turned her back to the police line to
10 tell a demonstrator who was yelling at the police not to antagonize the officers, and to
11 urge the crowd to step further back from the police line, a Berkeley Police Officer,
12 defendant JOSHUA SMITH and/or a DOE, whom plaintiff is informed and believes
13 was a Berkeley Police Officer, clubbed her from behind, without warning, striking her
14 lower back with great force. When she turned around, defendant JOSHUA SMITH
15 was standing immediately behind her, out of formation. She scolded him and told him
16 that she was reporting him for excessive force.

17 41. Plaintiffs are informed and believe that defendant SMITH and/or DOE hit Ms. LAW
18 in order to retaliate against her for her First Amendment activity and association with
19 the demonstration, and because superiors, including defendants UPSON,
20 RATEAVER, ROLLERI and/or DOE Berkeley commanders directed them to break
21 up the march and to hit persons who came within a certain distance of the police line.

22 42. Shortly after Ms. LAW was clubbed, defendant SCOTT SALAS and/or a DOE
23 whom plaintiff is informed and believes was a Berkeley Police Officer, slammed
24 plaintiff JOSEPH CUFF with his baton, knocking Mr. CUFF to the ground. Said
defendant gave Mr. CUFF no warning before clubbing him. At the same moment that
he hit Mr. CUFF, defendant SALAS and/or DOE said, “Get back!” Said defendant
gave Mr. CUFF no opportunity to move before striking him.

43. Plaintiffs are informed and believe that defendant SALAS and/or DOE hit Mr. CUFF
in order to retaliate against him for his First Amendment activity and association with

1 the demonstration, and because superiors, including defendants UPSON,
2 RATEAVER, ROLLERI and/or DOE Berkeley commanders directed them to break
3 up the march and to hit persons who came within a certain distance of the police line.

4 44. Plaintiff SAM WOLSON, a professional photographer, was on assignment for the
5 San Francisco Chronicle to cover the demonstration. Mr. WOLSON moved between
6 the police and protesters taking photos, clearly visible as a journalist on the job with
7 his professional camera. As Mr. WOLSON walked parallel to the police line,
8 defendant SAMANTHA SPEELMAN and/or a DOE whom plaintiff is informed and
9 believes was a Berkeley Police Officer, pushed him with a baton. Mr. WOLSON
10 continued moving in the only direction he was able to go due to the police lines.
11 However, when Mr. WOLSON knelt to take a photo with his back slightly to the
12 police, SPEELMAN and/or a DOE, whom plaintiff is informed and believes was a
13 Berkeley Police Officer, hit him again harder, from behind, on the back of his head
14 and upper neck, without warning. This occurred at about 6:30pm, shortly after
15 JOSEPH CUFF was struck by a baton and knocked to the ground.

16 45. Plaintiffs are informed and believe that defendant SPEELMAN and/or DOE hit Mr.
17 WOLSON in order to retaliate against him for his First Amendment activity,
18 documentation of and association with the demonstration, and because superiors,
19 including defendants UPSON, RATEAVER, ROLLERI and/or DOE Berkeley
20 commanders directed them to break up the march and to hit persons who came within
21 a certain distance of the police line.

22 46. At about this same time, defendants UPSON, RATEAVER, ROLLERI and/or DOE
23 Berkeley commanders ordered the officers to open the way for people to move north
24 on Martin Luther King Jr. Way toward Addison Street, but simultaneously narrowed
the space through which the large crowd had to pass with what the police have termed
a “protective bubble” of officers. Without broadcasting any directions to the crowd,
and pursuant to defendants CITY of BERKELEY and MEEHAN’s policy, officers
struck and pushed other protesters, ostensibly for entering an undefined, unannounced

1 “safety zone” around the officers. This was almost unavoidable due to the large crowd
2 and the narrow space which was the only means of egress north.

3 47. Ms. LAW continued to try to make sure that demonstrators did not go too close to the
4 police as they passed through the small opening that the police had made for them to
5 continue north. She spoke to the officers, telling them that the crowd was simply
6 trying to leave the area.

7 48. Like Ms. LAW, plaintiff NISA DANG was urging other demonstrators to be
8 peaceful, with her back turned to the police line, when a DOE, whom plaintiff is
9 informed and believes was a Berkeley Police Officer, clubbed her with a baton from
10 behind in the head and ribs, without warning. This occurred within minutes of Ms.
11 LAW, Mr. CUFF, Mr. WOLSON, and other crowd members being hit.

12 49. Plaintiffs are informed and believe that defendant DOE hit Ms. DANG in order to
13 retaliate against her for her First Amendment activity and association with the
14 demonstration, and because superiors, including defendants UPSON, RATEAVER,
15 ROLLERI and/or DOE Berkeley commanders directed them to break up the march
16 and to hit persons who came within a certain distance of the police line.

17 50. The attack on Mr. CUFF, a white haired, older person, and the other unprovoked
18 baton strikes to crowd members who were simply trying to pass through the narrow
19 area that the police had opened, dramatically escalated tension between the police and
20 demonstrators. Still, the vast majority of the demonstrators remained peaceful.

21 51. As the crowd by the Public Safety Building was dissipating, Ms. LAW was in pain
22 and planned to walk home, but ran into Cal students she knew, including NISA
23 DANG. Ms. DANG was crying and told Ms. LAW she too had just been clubbed. At
24 that point, DOE(S), whom plaintiffs are informed and believe were Berkeley Police
Officer(s), acting on orders from defendants UPSON, RATEAVER, ROLLERI and/or
DOE Berkeley commanders, hurled burning smoke grenades directly at Ms. LAW
and Ms. DANG, nearly hitting them. In addition to the smoke grenades, the Berkeley
Police fired Specialty Impact Munitions at this time, about 6:34 p.m., even though the

1 demonstrators were already moving northbound, which appeared to be the direction
2 the police wanted them to go.

3 52. Plaintiff CURTIS JOHNSON was visiting the Bay Area from his home in Los
4 Angeles on December 6, 2014, and was driving on I-80 when he was re-routed onto
5 University Avenue, where police redirected him onto Sixth Street. When Mr.
6 JOHNSON stopped at Sixth and Delaware, he encountered people who were looking
7 for the demonstration. Mr. JOHNSON was moved by the failure of the grand jury to
8 indict the officer who killed Eric Garner and other national events, and decided to
9 participate. He found the demonstration near Delaware and San Pablo, where he
10 parked and joined the march. Mr. JOHNSON had only been with the marchers for a
11 short time when, as the demonstrators walked east on Berkeley Way at approximately
12 8 p.m., a line of officers blocked their path. Other officers suddenly appeared behind
13 them. Mr. JOHNSON heard no orders, announcements or directions of any kind by
14 the police. The only way to disperse appeared to be through parking lots which led
15 back to University Avenue from Berkeley Way.

16 53. Mr. JOHNSON was following the crowd through the parking lot, the only way open
17 for him to leave the area, when Hayward Police Officers, acting as mutual aid to and
18 in concert with the Berkeley Police, opened fire with Specialty Impact Munitions
19 including “sponge rounds” and “beanbags”. A DOE Hayward Police Officer, under
20 the command of defendants MATTHEWS, DOE Hayward commanders, UPSON,
21 ROLLERI, DOE Berkeley commanders, and/or their superiors, shot Mr. JOHNSON
22 in the right knee, without warning and without justification.

23 54. Plaintiffs are informed and believe that the DOE Hayward officer shot Mr.
24 JOHNSON in order to retaliate against him for his First Amendment activity and
association with the demonstration, and because defendants MATTHEWS, DOE
Hayward commanders, UPSON and ROLLERI failed to adequately train and
supervise the Hayward Officers who were armed with Specialty Impact Munitions in
the constitutional restrictions on use of these highly dangerous weapons.

1 55. Around the time and location that they shot plaintiff JOHNSON, the DOE Hayward
2 Officers who were so armed made remarks indicating their lack of training in
3 constitutional standards for use of force and their bias against the protesters,
4 including, “They are fucking animals”; “Alright we’re going to start fucking blasting
5 them”; “I got it up right now ready to go motherfuckers”; “You touch that thing,
6 you’re fucking gone”; and “get a shot in his fucking ass”.

7 56. No officers provided Mr. JOHNSON any first aid. Other demonstrators and a Legal
8 Observer helped him and called an ambulance. Mr. JOHNSON was forced to lie on
9 the ground, unable to walk and in extreme pain, aided only by civilian Good
10 Samaritans, for a significant period of time before the police let the ambulance
11 through. The “less lethal” munition impact caused Mr. JOHNSON a bone injury,
12 severe sprain and cartilage damage to his knee.

13 57. Plaintiff CINDY PINCUS also arrived at the demonstration around 8 p.m., and was
14 in the vicinity of Telegraph and Durant at approximately 10 p.m. when, on orders by
15 defendants UPSON, RATEAVER, ROLLERI, approved by defendant MEEHAN, the
16 Berkeley Police and mutual aid officers began using batons and teargas to drive the
17 crowd south on Telegraph into Oakland. The excessive use of force and heavy-handed
18 tactics were entirely unjustified at that time because the demonstration was peaceful
19 and much of the crowd consisted of UC Berkeley students who had gathered in
20 response to the police activity.

21 58. At approximately 10:15 p.m., Ms. PINCUS was near the front of the crowd with
22 other ministers and seminary students, carrying a sign reading, “Jesus Can’t Breathe”.
23 The Berkeley Police and assisting mutual aid agencies, acting in concert with one
24 another, advanced on the crowd using their batons in a shoving motion, yelling
“Move!”, and deployed teargas. Ms. PINCUS tried to run south on Telegraph, the
direction the police seemed to want the crowd to go, but bent down to help another
woman up who had fallen to the ground. When she looked back over her shoulder, a
DOE police officer struck her with a baton on the back of the head. Dazed and
bleeding from the head, Ms. PINCUS ran. It was difficult to see due to the teargas but

1 Ms. PINCUS was finally able to find friends who drove her to the hospital. There, her
2 head wound was closed with staples. She sustained a concussion and permanent scar.

3 59. Plaintiffs are informed and believe that defendant DOE hit Ms. PINCUS in order to
4 retaliate against her for her First Amendment activity and association with the
5 demonstration, and because because superiors, including defendants MEEHAN,
6 UPSON, RATEAVER, ROLLERI and/or DOE Berkeley commanders directed them
7 to use force to herd the crowd to Oakland.

8 60. Plaintiff EMILY POWER went to the demonstration after hearing about it at work.
9 When she went to check out the gathering at Sproul Plaza near her home, she saw a
10 peaceful group, playing music, singing and expressing concern about racism, and
11 decided to go along on the march. She decided to join the march. Ms. POWER
12 marched for a while, and then went home.

13 61. Later that night, Ms. POWER heard people outside her window and went outside.
14 There were many students and other people in the area near the university campus,
15 and a small crowd had gathered, not necessarily as part of the demonstration, but
16 because people were curious why the police had blocked Bancroft Way. Ms. POWER
17 was there to express her views on racism and police brutality, and when she saw
18 officers being rough to people, she yelled out to "Leave them alone!"

19 62. At about 9:40 p.m., the Berkeley Police and mutual aid officers began jabbing and
20 hitting peaceful crowd members with clubs, ordering them to move and physically
21 pushing them south on Telegraph, even though another line of officers to the south
22 was blocking their egress. It was during this confusing and chaotic scene that
23 defendant JUMAANE JONES and/or a DOE, whom plaintiffs are informed and
24 believe was a Berkeley Police officer, jabbed Ms. POWER, hit her repeatedly causing
multiple bruises, and took her to the ground. OFFICER JONES and/or DOE officers
arrested Ms. POWER, even though she had done nothing wrong. She was detained in
jail overnight, before being cited to appear in court. Ms. POWER was never charged
with any crime as a result of this incident.

1 63. Plaintiffs are informed and believe that defendant JONES and/or DOES hit and
2 arrested Ms. POWER in order to retaliate against her for her First Amendment
3 activity and association with the demonstration, and as a result of MEEHAN,
4 UPSON, RATEAVER and ROLLERI's orders to forcefully push the crowd to
Oakland.

5 64. Plaintiff RASHEED SHABAZZ went to the demonstration to cover the event as a
6 journalist, arriving shortly after 9 p.m. at Telegraph and Bancroft. Mr. SHABAZZ
7 was visibly engaged in photojournalism, filming and photographing the
8 demonstration, when the police began pushing the crowd south on Telegraph, hitting
9 many people with batons. The police made announcements, but there was no way for
10 people to disperse because, as Ms. POWER also experienced, the police had
11 surrounded them. While Mr. SHABAZZ was taking video, defendant STEVEN
12 FLEMING and/or a DOE whom plaintiffs are informed and believe was a Berkeley
13 Police officer, clubbed Mr. SHABAZZ in the sternum and struck his camera. The
14 officer appeared to be aiming for the camera. Mr. SHABAZZ tried to leave the area,
15 but as he looked for a way to leave, OFFICER FLEMING and/or a DOE, whom
plaintiffs are informed and believe was a Berkeley Police officer, clubbed him again
from behind with a sharp overhand blow to the side of Mr. SHABAZZ' knee.

16 65. Plaintiffs are informed and believe that defendant FLEMING and/or DOES hit Mr.
17 Shabazz and his camera in order to retaliate against him for and stop his First
18 Amendment activity, documentation and association with the demonstration, and as a
19 result of MEEHAN, UPSON, RATEAVER and ROLLERI's orders to forcefully push
the crowd to Oakland.

20 66. Plaintiff NISA DANG had left the demonstration, but was present in the campus area
21 when the police began pushing the crowd south on Telegraph Avenue at about 9:40
p.m.

22 67. Ms. DANG was caught in what became a forced march to Oakland. During this time,
23 DOES, whom plaintiffs are informed and believe were Berkeley Police officers or
24 mutual aid officers acting under Berkeley's direction, repeatedly doused her and many

1 others in the crowd with teargas. Ms. DANG was pushed and jabbed multiple times
2 with batons by DOE officers, whom plaintiffs are informed and believe were
3 Berkeley Police officers or mutual aid officers acting under Berkeley's direction.
4 There was no way out of the long, forced march, even though the demonstrators were
5 peaceful and trying to comply with the police. The Berkeley Police and mutual aid
6 officers continued to force the crowd, including Ms. DANG, to walk south until they
7 reached Oakland.

7 68. Plaintiffs are informed and believe that defendant DOES hit and teargassed Ms.
8 DANG in order to retaliate against her for her First Amendment activity and
9 association with the demonstration, and as a result of MEEHAN, UPSON,
10 RATEAVER and ROLLERI's orders to forcefully push the crowd to Oakland.

10 69. Plaintiff JOSEPH WATKINS had attended the march earlier in the evening, but left
11 to eat dinner and was on his way home, when he encountered the crowd of
12 demonstrators on Telegraph near Channing. At that time, he saw officers hitting and
13 shoving people. When, like Ms. POWER, Mr. WATKINS questioned this verbally,
14 multiple DOES, whom plaintiffs are informed and believe were Berkeley Police
15 Officers, grabbed him, pulled him to the ground and arrested him without
16 justification. When a National Lawyers Guild Legal Observer called out to ask his
17 name, defendant JITENDRA SINGH and/or a DOE officer, whom plaintiffs are
18 informed and believe was a Berkeley Police officer, covered Mr. WATKINS' face
19 and mouth, apparently to prevent him from being identified or giving the Legal
20 Observer his name.

19 70. Mr. WATKINS was arrested without probable cause to believe he committed a
20 crime, and spent the night in jail before being released with a citation to appear in
21 court. However, he was never charged with any crime.

21 71. Plaintiffs are informed and believe that defendant SINGH and/or DOES used
22 excessive force on and arrested Mr. WATKINS in order to retaliate against him for
23 his First Amendment activity, including his criticism of the police, and his association
24

1 with the demonstration, and as a result of MEEHAN, UPSON, RATEAVER and
2 ROLLERI's orders to forcefully push the crowd to Oakland.

3 72. Plaintiff TODD ZIMMER was walking home around 11 p.m. when he came upon the
4 demonstration. Mr. ZIMMER stood with the peaceful crowd at Telegraph and
5 Channing for some time before the Berkeley Police again began using indiscriminate
6 force to push the crowd south on Telegraph toward Oakland for the second time,
7 beginning around midnight and continuing until marchers were pushed across the city
8 border at approximately 1:30 a.m. Mr. ZIMMER and others could not leave, because
9 as they were being pushed south by Berkeley officers, a line of Alameda officers was
10 pushing them north. Mr. ZIMMER, in the middle of the dense crowd, did not hear any
11 police announcements. Mr. ZIMMER tried to videotape the police and was hit
12 multiple times by Berkeley Police Officers without justification, including by
13 defendants BRYAN WAGGONNER and BRIAN HARTLEY and/or DOE officers,
14 whom plaintiffs are informed and believe were Berkeley Police officers. The officers
15 appeared to be targeting Mr. ZIMMER's camera and trying to break it to stop him
16 from videotaping. They hit his hand and shoulder several times.

17 73. Plaintiffs are informed and believe that defendants WAGGONNER, HARTLEY,
18 and/or DOES hit and arrested Mr. ZIMMER in order to retaliate against him for his
19 First Amendment activity, documentation of and association with the demonstration,
20 and as a result of MEEHAN, UPSON, RATEAVER and ROLLERI's orders to
21 forcefully push the crowd to Oakland.

22 74. Plaintiff ALLIE LOUX participated in the march and then tried to go home, only to
23 find her egress was blocked by the police formations. She was pushed south on
24 Telegraph as part of the second, late night forced march. The Berkeley Police used
teargas multiple times during this more than an hour long process of forcing the
crowd to walk to Oakland, even though the crowd was peaceful and complying. A
canister thrown by DOE officers landed close to Ms. LOUX, and she was engulfed in
gas. Her eyes were burning, and then she lost control of her limbs and fell, hitting her
head. Other demonstrators picked Ms. LOUX up and friends helped her get to the

1 emergency room. Ms. LOUX sustained a concussion and was forced to withdraw
2 from her university classes for the semester due to her injuries.

3 75. Plaintiffs are informed and believe that defendants teargassed Ms. in order to retaliate
4 against her for her First Amendment activity and association with the demonstration,
5 and as a result of MEEHAN, UPSON, RATEAVER and ROLLERI's orders to use
6 chemical agents to forcefully push the crowd to Oakland.

7 76. At no time did any of the plaintiffs present a threat or do anything to justify the force
8 that defendants used on them, including the chemical agents, baton strikes and shoves,
9 and shooting of Specialty Impact Munitions.

10 77. There was no probable cause to believe that any of the plaintiffs had committed any
11 crimes.

12 78. As a result of defendants' acts and omissions as alleged herein, the plaintiffs
13 sustained, and may sustain in the future, physical and emotional injuries, pain and
14 suffering, fear, and trauma.

15 79. As a result of defendants' acts and omissions as alleged herein, certain of the
16 plaintiffs sustained, and may sustain in the future, medical and related expenses, lost
17 wages, and/or other special damages in amounts to be determined according to proof.

18 80. As a result of defendants' acts and omissions as alleged herein, the plaintiffs
19 sustained, and may sustain in the future, violation of and chilling of their
20 constitutional rights to freedom of speech, expression and association and freedom of
21 the press. All of the plaintiffs want to engage in, and associate with, similar peaceable
22 expressive activity in the future in the City of Berkeley, including political protest,
23 journalism and documentation of police activity, but are concerned that should they
24 do so they may again be subjected to unlawful force, chemical agents, and arrest
without probable cause.

VI. REQUISITES FOR RELIEF

81. As against defendant CITY OF BERKELEY, plaintiffs allege that the constitutional
violations alleged herein were the proximate result of decisions, orders, acts and

1 omissions of the CITY OF BERKELEY's authorized policymakers including but not
2 limited to defendant Police Chief MICHAEL MEEHAN, including that the police
3 would take an aggressive crowd control approach to the December 6 demonstration
4 and seek to break up the crowd rather than to facilitate the First Amendment activity;
5 that mutual aid officers would not be instructed on City of Berkeley policies
6 concerning use of force and use of munitions; that munitions and chemical agents
7 would not be inventoried; that batons, chemical agents and impact munitions would
8 be used in an unconstitutional, indiscriminate, unnecessary and excessive manner; that
9 individual use of force reports would not be required; that the Berkeley Police would
10 not supervise or control use of force by the mutual aid officers or require use of force
11 reports by officers who used force; that high level commanders would not be at the
12 scene; and that the police would forcibly move the demonstrators over the city border
13 into Oakland.

12 82. As against defendant CITY OF BERKELEY, plaintiffs allege that the constitutional
13 violations alleged herein were the proximate result of a repeated course of conduct by
14 members of the Police Departments tantamount to a custom, policy, pattern or
15 repeated practice of condoning, ratifying and/or tacitly encouraging the abuse of
16 police authority, and disregard for the constitutional rights of citizens, including the
17 rights of the plaintiffs.

18 83. Plaintiff is further informed and believes and thereon alleges that the constitutional
19 violations alleged herein were the proximate result of a custom, policy, pattern or
20 practice of deliberate indifference by defendant CITY OF BERKELEY to the
21 repeated violations of the constitutional rights of citizens by defendant CITY OF
22 BERKELEY's police officers, which have included, but are not limited to, the
23 repeated use of excessive force, racial profiling, and the repeated failure to properly
24 and/or adequately train, supervise and/or discipline officers with respect to the use of
excessive force, constitutional limitations on the use of force, City policies on use of
weapons and force, and racial profiling; the repeated failure by CITY OF
BERKELEY high ranking officials, police department managers and/or supervisors to

1 hold officers accountable for violating the rights of citizens; and/or other customs,
2 policies and/or practices subject to continuing discovery.

3 84. Plaintiff is informed and believe that defendants MICHAEL MEEHAN; ERIK
4 UPSON; ANDREW RATEAVER; RICO ROLLERI; BRYAN MATTHEWS; and
5 DOE defendants, and/or each of them, caused the violation of the plaintiffs'
6 constitutional rights as a result of their supervisory malfeasance and/or deliberate
7 indifference to the need for more or different training, supervision and/or discipline of
8 the BERKELEY and HAYWARD personnel assigned to the subject incident,
9 including, but not limited to, defendants SCOTT SALAS, SAMANTHA
10 SPEELMAN, JOSHUA SMITH, JUMAANE JONES, STEVEN FLEMING,
11 JITENDRA SINGH, BRYAN WAGGONNER, BRIAN HARTLEY, and the DOE
12 defendants, and each of them, to prevent the foreseeable violation of plaintiffs'
13 constitutional rights.

14 85. As a direct and proximate result of the conduct of defendants described herein,
15 plaintiffs have been denied their constitutional, statutory and legal rights as stated
16 below, and the individual plaintiffs have suffered general and special damages,
17 including but not limited to, pain, suffering, humiliation, emotional distress, fear,
18 anxiety, disabilities, medical and related expenses, lost wages, and other damages in
19 amounts according to proof.

20 86. The individual defendants' acts were willful, wanton, malicious and oppressive and
21 done with conscious disregard and deliberate indifference for plaintiff's rights and
22 safety, justifying an award of punitive damages.

23 87. Defendants' policies, practices, customs, conduct and acts alleged herein have
24 resulted and will continue to result in irreparable injury to the plaintiffs, including but
not limited to violations of their constitutional and statutory rights. Plaintiffs have no
plain, adequate or complete remedy at law to address the wrongs described herein.
Plaintiffs intend in the future to exercise their constitutional rights of freedom of
speech and association by engaging in demonstrations, journalism, documentation of
police actions, and other expressive activities in the City of Berkeley. Defendants'

1 conduct described herein has created fear, anxiety and uncertainty among plaintiffs
2 with respect to their exercise now and in the future of these constitutional rights.

3 88. Plaintiffs therefore seek injunctive relief from this court including but not limited to
4 police policies, training, and accountability measures, to ensure that they and persons
5 similarly situated will not suffer violations of their rights from defendants' illegal and
unconstitutional policies, customs and practices as described herein.

6 89. An actual controversy exists between plaintiffs and defendants in that plaintiffs
7 contend that the policies, practices and conduct of defendants alleged herein are
8 unlawful and unconstitutional, whereas plaintiffs are informed and believe that
9 defendants contend that said policies, practices and conduct are lawful and
constitutional. Plaintiffs seek a declaration of rights with respect to this controversy.

10 90. Plaintiffs have incurred, and will continue to incur, attorneys' fees and costs in
11 amounts to be determined according to proof.

12 **VII. CLAIMS FOR RELIEF**

13 **ONE - VIOLATION OF FOURTH AMENDMENT (42 U.S.C. § 1983)**

14 91. Plaintiffs re-allege and incorporate by reference the preceding paragraphs of this
15 Complaint.

16 92. The acts and/or omissions of the defendants, and each of them, individually and/or
17 while acting in concert with one another, violated plaintiffs' rights to be free from
18 excessive force and from arrest without probable cause, under the Fourth Amendment
to the United States Constitution.

19 93. Wherefore, the plaintiffs pray for relief as hereinafter set forth.

20 **TWO - VIOLATION OF FIRST AMENDMENT (42 U.S.C. § 1983)**

21 94. Plaintiffs re-allege and incorporate by reference the preceding paragraphs of this
22 Complaint.

23 95. Plaintiffs' association with the anti-police violence demonstration, and with regard to
24 POWER and WATKINS, their verbal questioning and criticism of the police, and
with regard to WOLSON, SHABAZZ, and ZIMMER, their photographing and/or

1 videotaping of the police response, were substantial and motivating factors for the
2 defendants use force on, and in the case of POWER and WATKINS arrest them. The
3 acts and/or omissions of the defendants, and each of them, individually and/or while
4 acting in concert with one another, chilled the plaintiffs' rights to freedom of speech,
5 expression and association and freedom of the press, under the First Amendment to
6 the United States Constitution.

6 96. Wherefore, the plaintiffs pray for relief as hereinafter set forth.

7 **THREE – FALSE ARREST AND FALSE IMPRISONMENT**

8 97. Plaintiffs re-allege and incorporate by reference the preceding paragraphs of this
9 Complaint.

10 98. Plaintiff EMILY POWER AND JOSEPH WATKINS were arrested and jailed without
11 reasonable suspicion and without probable cause to believe that they had committed
12 any crime.

13 99. Said plaintiffs were also jailed on purported suspicion of misdemeanors, in violation
14 of Cal. Penal Code Section 853.6, which mandates citation and release for
15 misdemeanor arrests.

16 100. Wherefore, the plaintiffs pray for relief as hereinafter set forth.

17 **FOUR - ASSAULT AND BATTERY (all plaintiffs except ALLIE LOUX)**

18 101. Plaintiffs re-allege and incorporate by reference the preceding paragraphs of this
19 Complaint.

20 102. Defendants committed assault and battery on each of the plaintiffs, with the
21 exception of ALLIE LOUX, by hitting, pushing, grabbing, and/or shooting and using
22 other force on them.

23 103. Said acts by defendants and/or each of them were unreasonable and excessive uses
24 of force.

104. Plaintiffs did not consent to the use of force against them and were injured
thereby.

105. Wherefore, the plaintiffs pray for relief as hereinafter set forth.

FIVE - VIOLATION OF CALIFORNIA CIVIL CODE § 51.7

1 106. Plaintiffs re-allege and incorporate by reference the preceding paragraphs of this
2 Complaint.

3 107. Plaintiffs are informed and believe that bias against plaintiffs' perceived political
4 affiliation with the December 6, 2014, demonstration, which defendants perceived to
5 be anti-police, was a motivating reason for the defendants' above-described
6 misconduct toward them.

7 108. Defendants' above-described conduct violated plaintiffs' rights to be free from
8 violence and intimidation by threat of violence because of their actual or perceived
9 political affiliation and/or viewpoint, in violation of California Civil Code § 51.7.

10 109. Wherefore, the plaintiffs pray for relief as hereinafter set forth.

11 **SIX - VIOLATION OF CALIFORNIA CIVIL CODE § 52.1**

12 110. Plaintiffs re-allege and incorporate by reference the preceding paragraphs of this
13 Complaint.

14 111. The acts and/or omissions of the defendants, and each of them, individually
15 and/or while acting in concert with one another, constituted interference, and
16 attempted interference, by threats, intimidation and coercion, with plaintiffs'
17 peaceable exercise and enjoyment of rights secured by the Constitution and laws of
18 the United States and the State of California, in violation of California Civil Code §
19 52.1.

20 112. Wherefore, the plaintiffs pray for relief as hereinafter set forth.

21 **SEVEN – NEGLIGENCE**

22 113. Plaintiffs re-allege and incorporate by reference the preceding paragraphs of this
23 Complaint.

24 114. Defendants, and/or each of them, individually and/or while acting in concert with
one another, owed plaintiffs the duty to use reasonable care to avoid causing
foreseeable injury and damage to plaintiffs during the events described in this
Complaint. The above-described acts and omissions of defendants breached the duty
of care defendants owed to plaintiffs.

1 115. In doing the acts and/or omissions as alleged herein, Defendants and/or each of
2 them, breached said duty to use reasonable care and said breach of duty caused,
3 and/or contributed to the cause, of plaintiffs injuries and damages as alleged in this
4 Complaint.

5 116. Wherefore, the plaintiffs pray for relief as hereinafter set forth.

6 **VIII. JURY TRIAL DEMAND**

7 Plaintiffs hereby demand a jury trial.

8 **IX. PRAYER FOR RELIEF**

9 WHEREFORE, plaintiffs pray for judgment against defendants as follows:

10 1. For preliminary and permanent injunctive relief restraining defendants from
11 engaging in the unlawful and unconstitutional actions complained of above;

12 2. For a declaratory judgment that defendants' conduct complained of herein
13 violated plaintiffs' rights under the Constitution and laws of the United States and
14 California;

15 3. For past, present and future general damages, including but not limited to, pain,
16 suffering, permanent disfigurement and/or emotional distress to be determined according
17 to proof;

18 4. For past, present and future special damages, including, but not limited to,
19 medical expenses, lost wages, damage to career and/or other out of pocket losses to be
20 determined according to proof;

21 5. For punitive damages against the individual defendants, and/or each of them, to
22 be determined according to proof;

23 6. For statutory damages and exemplary damages pursuant to Cal. Civil Code §§
24 52 and 52.1, to be determined according to proof, and for a \$25,000 civil penalty per
violation pursuant to Cal. Civil Code § 52;

7. For pre- and post-judgment interest as permitted by law;

1 8. For attorneys' fees pursuant to 42 U.S.C. § 1988 and Cal. Civil Code §§ 52 and
2 52.1, and/or other authorities, to be determined according to proof;

3 9. For costs of suit;

4 10. For such other and further relief as the Court may deem just and proper.

5 **X. CERTIFICATION OF INTERESTED ENTITIES OR PERSONS**

6 Pursuant to Civil L.R. 3-16, the undersigned certifies that as of this date, other
7 than the named parties, there is no such interest to report.

8 Dated: March 25, 2016

9 Law Offices of James B. Chanin
10 Rachel Lederman & Alexis C. Beach,
11 Attorneys at Law
12 National Lawyers Guild,
13 San Francisco Bay Area Chapter

14 _____/S/_____
15 By: RACHEL LEDERMAN
16 Attorneys for plaintiffs
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