

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LA'MARCUS MCDONALD,

Plaintiff,

v.

COUNTY OF SONOMA, TOWN OF WINDSOR,
MARK ESSICK, TRAVIS PERKINS, BRENT
KIDDER, and GREGORY CLEGG,

Defendants.

No.

COMPLAINT FOR THE VIOLATION OF
CIVIL RIGHTS; 42 U.S.C. § 1983, THE
FOURTH AND FOURTEENTH
AMENDMENTS TO THE UNITED
STATES CONSTITUTION AND PENDENT
STATE CLAIMS

DEMAND FOR JURY TRIAL

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La'Marcus McDonald (hereinafter "Plaintiff") alleges against Defendants (1) the County of Sonoma ("Sonoma County" or the "County"); (2) the Town of Windsor ("Windsor" or the "Town") (together with the County of Sonoma, the "Public Entity Defendants"); (3) Sheriff Mark Essick ("Sheriff Essick"), individually, and in his capacity as the Sheriff of the Sonoma County Sheriff's Office; (4) Deputy Sheriff Travis Perkins ("Deputy Sheriff Perkins"), individually, and in his capacity as a Police Officer with the Windsor Police Department; (5) Administrative Sergeant Brent Kidder ("Admin. Sgt. Kidder"), individually, and in his capacity as a Police Officer with the Windsor Police Department; and (6) Deputy Gregory Clegg ("Deputy Clegg"), individually, and in his capacity as a Police Officer for the City of Windsor Police Department; and Does 1 through 50, inclusive (collectively, "Defendants"), as follows:

I. NATURE OF THIS ACTION

1. This is an action for deprivation of civil rights in which Plaintiff seeks relief for the violation of his rights secured by the Civil Rights Act of 1964, 42 U.S.C. § 1983 (civil action for deprivation of rights), § 1988, the Fourth and Fourteenth Amendments to the United States Constitution, and pendent state law claims.

2. The claims arise from a July 9, 2019 incident in which officers of the Windsor Police Department, acting under color of state law responded to a welfare check of Plaintiff who was sleeping in a legally parked car with the door open. During the encounter, Deputy Sheriff Perkins intentionally and willfully subjected Plaintiff to, *inter alia*, the use of excessive and deadly force by slamming Plaintiff head first into the ground while holding his right arm, breaking off Plaintiff's two front teeth, knocking out a third, causing bleeding from the mouth, facial and arm lacerations, and rendering him unconscious.

3. To cover up the misdeed, Deputy Sheriff Perkins falsely arrested Plaintiff for "resisting arrest," and had him falsely imprisoned. Admin. Sgt. Kidder signed off on the false arrest charges of "resisting arrest," which the Sonoma County District Attorney refused to prosecute after receipt of the body camera footage.

4. Defendants then wrongfully had the car towed and impounded, where it remains today, as a result of the unaffordable and excessive storage charges.

1 5. Plaintiff was initially transported to the hospital, handcuffed and denied water, by
2 Deputy Clegg. Subsequently, Plaintiff was transported to the county jail, and held involuntarily, until
3 he could make bail. Plaintiff was never informed that the charges against him had been dropped
4 within days, as the District Attorney refused to prosecute the case, and was required to attend a court
5 hearing a month later to learn that he was not being prosecuted.

6 6. Plaintiff was further denied access to the body camera video. Only after several
7 written and oral requests, and denials, was Plaintiff allowed to view the video in the presence of a
8 Sonoma County Police officer. Still, Sonoma County withheld the copies of the body camera video.
9 The County of Sonoma continues to withhold the video footage despite repeated requests, as
10 required under Govt. Code 6254(f)(4), which states:

11 (4) Notwithstanding any other provision of this subdivision,
12 commencing July 1, 2019, **a video or audio recording that relates to**
13 **a critical incident**, as defined in subparagraph (C), *may be withheld only*
14 as follows: (A) (i) During an active criminal or administrative
15 investigation, disclosure of a recording related to a critical incident may
16 be delayed **for no longer than 45 calendar days after the date the**
 agency knew or reasonably should have known about the incident,
 if, based on the facts and circumstances depicted in the recording,
 disclosure would substantially interfere with the investigation, such as
 by endangering the safety of a witness or a confidential source.

17 A critical incident under this statute includes, “[a]n incident in which the use of force by a peace
18 officer or custodial officer against a person resulted in death or in great bodily injury.” Sonoma
19 County and the Sheriff’s Office claim that the loss of three front teeth and being rendered
20 unconscious is “not great bodily harm,” and further argue that the California penal statutes and case
21 law, which are contrary to their position, have no bearing on the Government Code statutes.

22 7. Sonoma County and the Sheriff’s Office further claim that the loss of three front teeth
23 and being rendered unconscious is also not “serious bodily injury” for purposes of Govt. Code §
24 12525.2 – a law passed in 2015 that went into force on January 1, 2017 – to require each sheriff and
25 police chief to annually furnish to the Department of Justice a report of specified incidents when a
26 police officer is involved in the use of force. “Serious bodily injury” under that statute is defined as
27 “a bodily injury that involves a substantial risk of death, unconsciousness, protracted and obvious
28

1 disfigurement, or protracted loss or impairment of the function of a bodily member or organ.”¹ As a
 2 result, it appears evident that Sonoma County, fails to report this and other similar incidents of “great
 3 bodily harm “or serious bodily injury” to the California Department of Justice as required by Govt.
 4 Code § 12525.2.

5 8. Defendants’ actions amount to a denial of Plaintiff’s constitutional and state law
 6 rights, and are designed to hide a systemic denial of the rights of persons living in or traveling
 7 through Sonoma County and the Town of Windsor. The actions are also designed to hide police
 8 misconduct and brutality and racism from the citizens of Sonoma County, the State and the United
 9 States of America. As shown below, Defendants conduct is not isolated. It is a pattern and practice
 10 that has long frustrated and infuriated the local community. This pattern and practice must not be
 11 allowed to continue.

12 9. As a result, Plaintiff seeks monetary damages (special, compensatory, and punitive)
 13 against Defendants, declaratory and injunctive relief, as well as an award of costs and attorneys’ fees,
 14 and such other further relief as the Court deems just and proper.

15 II. JURISDICTION AND VENUE

16 10. This action is brought pursuant to 42 U.S.C. § 1983, and the Fourth and Fourteenth
 17 Amendments to the United States Constitution. Title 28 of the United States Code, Sections 1331
 18 and 1343 confers jurisdiction upon this Court. Jurisdiction is also vested in this Court under 28
 19 U.S.C. § 1343(a)(3)-(4) for violations of the 1871 Civil Rights Enforcement Act, as amended,
 20 including 42 U.S.C. § 1983. Supplemental jurisdiction for pendent state claims is provided pursuant
 21 to 28 U.S.C. § 1367(a).

23 ¹ See also, Information Bulletin No. 16-12-CJIS, *Use of Force Incident Reporting*, Attorney
 24 General (Dec. 21, 2016), [https://oag.ca.gov/sites/all/files/agweb/pdfs/law_enforcement/16-12-cjis-](https://oag.ca.gov/sites/all/files/agweb/pdfs/law_enforcement/16-12-cjis-use-force-incident-reporting-ursus.pdf)
 25 [use-force-incident-reporting-ursus.pdf](https://oag.ca.gov/sites/all/files/agweb/pdfs/law_enforcement/16-12-cjis-use-force-incident-reporting-ursus.pdf). [In this bulletin sent to the Sonoma County Sheriff, the
 26 Attorney General made clear, four years ago, that serious bodily injury was a low threshold that does
 27 not even require a trip to the hospital: “Serious bodily injury should not, however, mean that one
 28 must seek or require medical treatment at a hospital (e.g., a person experiences a loss of
 consciousness or because the injury is such that it is not immediately apparent that hospital care is
 necessary). Under those or similar circumstances, agencies must still report the use of force incident
 upon discovering that it resulted in serious bodily injury.” Regardless, Plaintiff’s injuries were of
 such a nature that Plaintiff was sent to the hospital by the Defendants.

11. Venue is laid within the United States District Court for the Northern District of California in that Defendants County of Sonoma and Windsor Police Department are located within, and the events giving rise to the claim occurred within the boundaries of the Northern District of California. Venue is proper in the Northern District of California under 28 U.S.C. § 1391(a)-(b).

III. PARTIES

12. Plaintiff, La'Marcus McDonald ("Plaintiff" or "Mr. McDonald") is a legal resident of the United States and at all times here relevant resided in Sonoma County in the State of California. He is African-American and over the age of 21.

13. Defendant, the County of Sonoma ("Sonoma County" or the "County") is, as all times mentioned in this Complaint, a political subdivision of the State of California, duly authorized and existing under the laws of, and by virtue of, the Constitution and laws of the State of California. Under its supervision, Sonoma County operates the Sonoma County Sheriff's Department (the "Sheriff's Department") which staffs the Windsor Police Department through a contract negotiated between the Town of Windsor and Sonoma County. The Sheriff's Department employed, trained and supervised the individual defendants and, as part of Sonoma County, set the policies, procedures and customs complained of herein.

14. Defendant, the Town of Windsor ("Windsor" or "Town") is a political subdivision of the State of California, and is incorporated town under California general law in the County of Sonoma, California. Windsor contracts with the County of Sonoma to provide police services through the Sheriff's Department. Windsor is responsible for the conduct herein as it has delegated the policies, procedures and customs complained of herein to the County of Sonoma.

15. Defendant, Sheriff Mark Essick ("Essick" or "Sheriff Essick") has been a member of the Sonoma County Sheriff's Office since 1994, holding many positions including Sergeant, Lieutenant and Captain, manager of the Sheriff's Office Personnel and Internal Affairs units, managed the police service contract with Windsor, and commanded Professional Standards, Investigations/Coroner Bureaus, Personnel, and Community Outreach. Essick was elected Sheriff/Coroner in June of 2018 and was sworn in as Sonoma County's Sheriff on January 7, 2019. In his current position, Essick sets or is responsible for the customs, policies and practices

1 complained of herein. At all times relevant to the acts and omissions herein alleged, Defendant
2 Essick was Sheriff/Coroner, and was acting in the course and scope of his employment with the
3 County of Sonoma, and the Sonoma County Sheriff's Office.

4 16. Plaintiff is informed and believes and thereupon alleges that Defendant, Deputy
5 Sheriff Travis Perkins ("Deputy Sheriff Perkins") is and at all relevant times mentioned herein is a
6 resident of the State of California and County of Sonoma. At all relevant times stated herein, Deputy
7 Sheriff Perkins was a police officer and was acting in the course and scope of his employment with
8 the County of Sonoma and the Sheriff's Department, and is sued in his individual and official
9 capacities.

10 17. Plaintiff is informed and believes and thereupon alleges that Defendant, Deputy
11 Gregory Clegg ("Deputy Clegg") is and at all relevant times mentioned herein is a resident of the
12 State of California and County of Sonoma. At all times stated herein, Deputy Clegg was a police
13 officer and was acting in the course and scope of his employment with the County of Sonoma and for
14 the Sheriff's Department, and is sued in his individual and official capacities.

15 18. Plaintiff is informed and believes and thereupon alleges that Defendant,
16 Administrative Sergeant Brent Kidder ("Admin. Sgt. Kidder") is and at all relevant times mentioned
17 herein is a resident of the State of California and County of Sonoma. Plaintiff is informed and
18 believes and thereupon alleges that Admin. Sgt. Kidder supervised both Deputy Sheriff Perkins and
19 Deputy Clegg, and signed the false arrest report. At all times stated herein, Admin. Sgt. Kidder was a
20 supervising police officer and was acting in the course and scope of his employment with the County
21 of Sonoma and for the Sheriff's Department, and is sued in his individual and official capacities.

22 19. Defendants Deputy Sheriff Perkins, Admin. Sgt. Kidder and Deputy Clegg are
23 collectively referred to herein as the "Individual Officer Defendants."

24 20. Plaintiff is unaware of the true names and capacities of those Defendants sued herein
25 as DOE Defendants. Plaintiff will amend this complaint to allege said Defendants' true names and
26 capacities when that information becomes known to him. Plaintiff is informed, believe, and thereon
27 alleges that these DOE Defendants are legally responsible and liable for the incident, injuries and
28 damages hereinafter set forth, and that each of said Defendants proximately caused the injuries and

1 damages by reason of negligent, careless, deliberately indifferent, intentional, willful or wanton
2 misconduct, in creating and otherwise causing the incidents, conditions and circumstances
3 hereinafter set forth, or by reason of direct or imputed negligence or vicarious fault or breach of duty
4 arising out of the matters herein alleged. Plaintiff will seek leave to amend this complaint to set forth
5 said true names and identities of the unknown named DOE Defendants when they are ascertained.

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

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

10 23. Plaintiff is informed, believe, and therefore alleges that, at all times herein mentioned,
11 each of the Defendants was the agent and/or employee and/or co-conspirator of each of the
12 remaining Defendants, and in doing the things hereinafter alleged, was acting within the scope of
13 such agency, employment and/or conspiracy and with the permission and consent of other co-
14 Defendants.

15 IV. NOTICE OF TIMELY CLAIM

16 24. Within six months of this the incident, Plaintiff filed a written Claim with the County
17 of Sonoma in substantial compliance with California Government Code section 910, *et seq.* On
18 December 27, 2019, the County mailed a Notice of Rejection of the Claim. This action was filed
19 within 6 months of the mailing of that Notice. Accordingly, as of the date of the filing of the
20 Complaint, said claim had been denied, and the state law claims alleged herein against the County of
21 Sonoma are timely.

22 V. FACTUAL ALLEGATIONS

23 25. On July 9, 2019, Plaintiff resided with his mother at 712 Sequoia St., Windsor, CA
24 95492 who was in the process of being evicted. Together they were waiting to find a new place to
25 live and were in the process of packing up her belongings. Plaintiff was younger than the age
26 allowed in the development and had been asked to sleep elsewhere by the property owner. Without a
27 place to stay, Plaintiff was allowed to sleep in his friend's car parked just outside the development
28

1 home park located at 7890 Bell Road. On July 9, 2019, Plaintiff was asleep in the car. At some point,
2 the driver's side door was opened.

3 26. Suspecting a drug overdose, Mr. Andrew Chambers, an individual who drove past
4 Plaintiff sleeping in the car, called 9-1-1 to have someone check on Plaintiff's well-being. Deputy
5 Sheriff Perkins was dispatched, along with an ambulance and one or more patrol officers.

6 27. Deputy Sheriff Perkins did not wait for the ambulance pulling up behind him. Deputy
7 Sheriff Perkins approached the vehicle that Plaintiff, who is African-American, was in and observed
8 him curled up in the front driver's seat, facing the open door and street, and sound asleep. Plaintiff
9 was completely inside the car, though the door was open.

10 28. Deputy Sheriff Perkins attempted to arouse Plaintiff by speaking to him. Plaintiff
11 soon responded to Deputy Sheriff Perkins's verbal and/or physical prodding. Plaintiff was confused
12 and disoriented. Plaintiff slowly looked at Deputy Sheriff Perkins and attempted to respond to
13 Deputy Sheriff Perkins's questions, while trying to comprehend the scene as other police and
14 paramedic vehicles approached.

15 29. Plaintiff was wearing a red plastic comb in his hair. Deputy Sheriff Perkins reached
16 for the red comb and removed the comb from Plaintiff's head, for no apparent reason.

17 30. Deputy Sheriff Perkins asked Plaintiff if he had been taking any drugs. Plaintiff stated
18 he had not.

19 31. Plaintiff pleaded with Deputy Sheriff Perkins that he had not done anything wrong
20 and was not causing any trouble.

21 32. When asked if he had been drinking, Plaintiff truthfully responded that he had been
22 drinking earlier.

23 33. Deputy Sheriff Perkins then asked Plaintiff to exit the vehicle. Disoriented, Plaintiff
24 complied, slowly putting his feet on the ground and slowly standing up. As he exited the vehicle,
25 Deputy Sheriff Perkins spun him around and grabbed his right hand. Deputy Sheriff Perkins did not
26 tell Plaintiff that he was under arrest or tell him to turn around so that he could hand-cuff him.
27 Instead, Deputy Sheriff Perkins began to try to hand-cuff Plaintiff immediately and forcefully.
28

1 34. In his disoriented and confused condition, Plaintiff did not understand or comprehend
2 what Deputy Sheriff Perkins was trying to do. The next thing Plaintiff remembers is waking up face
3 first on the ground with pain in his head and mouth. According to the false incident report, Deputy
4 Sheriff Perkins claims Plaintiff tensed up, after which, according to body camera footage viewed by
5 Plaintiff, Deputy Sheriff Perkins shouted, “Don’t f*****g do that again,” and then, using deadly
6 force, slammed Plaintiff head first into the ground while holding Plaintiff’s right hand. At no time
7 did Plaintiff pose any significant threat to Deputy Sheriff Perkins and at no time did Deputy Sheriff
8 Perkins consider his or anyone else’s life in danger. Hence, the force used by Deputy Sheriff Perkins
9 against Plaintiff was neither reasonable nor necessary.

10 35. As a result, Plaintiff landed head first on the pavement knocking him unconscious,
11 breaking two front teeth, knocking out a third, causing facial and arm lacerations and bleeding.

12 36. Plaintiff was then hand-cuffed by Deputy Sheriff Perkins, unconscious, as the
13 paramedics and Deputy Clegg, arrived. Plaintiff was then transported to the hospital where he was
14 forced to lay in bed handcuffed for hours and denied water by Deputy Clegg.

15 37. Still handcuffed, Plaintiff was illegally transported to Sonoma County Jail without
16 being told why he was under arrest or the charges against him. Plaintiff was held in detention until
17 relatives could post bail. The District Attorney refused to prosecute the charges on or about July 12,
18 2019, after receipt of the false arrest report and body camera footage.

19 38. Plaintiff could not afford to get the car out of impoundment, where the car remains
20 today and is incurring ever-increasing, unreasonable and unconstitutional charges.

21 39. Plaintiff was further denied access to the body camera video. Eventually, after much
22 negotiation with Sonoma County, Plaintiff was allowed to view it in the presence of a Sonoma
23 County Police officer, but was denied a copy of the video. The Sheriff’s Department refuses to this
24 day to release the video footage, despite demands as required under Govt. Code 6254(f)(4), which
25 went into effect on July 1, 2019, just preceding this incident. Sonoma County and the Sheriff’s
26 Department claim that having three front teeth knocked out and being rendered unconscious is “not
27 great bodily harm” and claim that California Penal Statutes and case law to the contrary have no
28 bearing on the Government Code statutes. As a result, Sonoma County undoubtedly, has failed to

1 report the incident to the California Department of Justice as required by Govt. Code § 12525.2(d) –
 2 a law passed in 2015 that went into force on January 1, 2017 to require each sheriff and police chief
 3 to annually furnish to the Department of Justice a report of specified incidents when a police officer
 4 is involved in the use of force.

5 40. Plaintiff is informed and believes that evidence will show after discovery, and thereon
 6 alleges that Sonoma County and Windsor breached their duty of care to the public in that they have
 7 failed to discipline the Individual Officer Defendants for their respective misconduct and
 8 involvement in the incident described herein. Defendants Sonoma County's and Windsor's failure to
 9 discipline the Individual Officer Defendants demonstrates the existence of an entrenched culture,
 10 policy or practice of promoting, tolerating and/or ratifying with deliberate indifference the use of
 11 excessive and/or deadly force and the fabrication of official reports to cover up misconduct.

12 41. For example, in the 1990's, police misconduct was so prevalent in Sonoma County
 13 that the California Advisory Committee to the United States Commission on Civil Rights convened
 14 hearings and approved by a vote of 13-0 a five page report making recommendations for the County
 15 and its towns to adopt.² Police and elected officials rejected such proposals, however, calling current
 16 review procedures adequate.

17 42. Again in 2007, the ACLU facilitated a citizen forum to air frustration over police
 18 practices said to include racial profiling, abuse of authority and brutality. The citizen forum again
 19 called for the creation of a civilian review board with greater access to investigative reports and
 20 improved police training. These recommendations were never adopted by Sonoma County.³

21 43. Again, in the wake of raucous protests 6 1/2 years ago after a sheriff's deputy shot
 22 and killed thirteen-year-old Andy Lopez, a Sonoma County task force was formed in order to address
 23 the use of excessive force by its police officers. The task force recommended an independent
 24

25 ² California Advisory Committee, *Community Concerns About Law Enforcement in Sonoma*
 26 *County*, U.S. Commission on Civil Rights (May 2000),
<https://www.usccr.gov/pubs/sac/ca0500/ch5.htm> (last visited June 23, 2020).

27 ³ Mary Callahan, *ACLU forum airs allegations of brutality, racial profiling, abuse of authority*,
 28 *The Press Democrat* (Oct. 28, 2007), [https://legacy.pressdemocrat.com/news/2152609-181/aclu-](https://legacy.pressdemocrat.com/news/2152609-181/aclu-forum-airs-allegations-of)
[forum-airs-allegations-of](https://legacy.pressdemocrat.com/news/2152609-181/aclu-forum-airs-allegations-of).

1 watchdog agency to review the Sheriff's Office investigations of critical incidents, including officer-
 2 involved shootings. Sonoma County created the Independent Office of Law Enforcement Review
 3 and Outreach ("IOLERO") to be the watchdog. However, the press reported that relations between
 4 the Sheriff's Office and Jerry Threet, the first director of IOLERO were "decidedly frosty."
 5 IOLERO's recommendations went nowhere, and county supervisors complained that its efforts to
 6 shape law enforcement policy were misplaced. Even worse, Sonoma County set up IOLERO in a
 7 manner so that it could not effectively do its job. It lacks independence, had and continues to have
 8 insufficient resources, it does not have clear authority and it does not have unfettered access to the
 9 information and staff of the Sheriff's Office, where currently such access depends on the discretion
 10 of the Sheriff and his staff.⁴

11 44. More recently, news reports reveal Sonoma County continues to tolerate its police
 12 officers using excessive and deadly force and lying about it in court.⁵

13 45. Plaintiff is informed and believes that evidence will show after discovery, and thereon
 14 alleges that members of the Sonoma County and Windsor Police Department, including, but not
 15 limited to, the Individual Officer Defendants and/or each of them, have individually and/or while
 16 acting in concert with one another, engaged in a repeated pattern and practice of using excessive,
 17 arbitrary and/or unreasonable force against individuals, including, but not limited to Plaintiff.

18 46. Plaintiff is informed and believes that evidence will show after discovery, and therein
 19 alleges that as a matter of official policy – rooted in an entrenched posture of deliberate indifference

20
 21 ⁴ Nashelly Chavez, *Retired Sonoma County Sheriff's Office watchdog seeks ballot measure to*
 22 *expand former agency*, The Press Democrat (Oct. 19, 2019),
 23 [https://www.pressdemocrat.com/article/news/retired-sonoma-county-sheriffs-office-watchdog-seeks-](https://www.pressdemocrat.com/article/news/retired-sonoma-county-sheriffs-office-watchdog-seeks-ballot-measure-to-exp/)
 24 *ballot-measure-to-exp/*; *County Sheriff's watchdog urges Sonoma County supervisors to bolster*
 25 *independence of his office*, Argus Courier (Dec. 4, 2018),
 26 <https://legacy.petaluma360.com/news/9031923-180/county-sheriffs-watchdog-urges-sonoma>; Jerry
 27 Threet, *Evelyn Cheatham Effective IOLERO Ordinance Brief Summary*, Sonoma County Gazette
 28 (Mar. 16, 2020), [https://www.sonomacountygazette.com/sonoma-county-news/evelyn-cheatham-](https://www.sonomacountygazette.com/sonoma-county-news/evelyn-cheatham-effective-iolero-ordinance-brief-summary-by-jerry-threet)
effective-iolero-ordinance-brief-summary-by-jerry-threet; The Editorial Board, *PD Editorial: The*
road from demonstrations to police reforms, Press Democrat (June 14, 2020),
[https://www.pressdemocrat.com/article/opinion/pd-editorial-the-road-from-demonstrations-to-police-](https://www.pressdemocrat.com/article/opinion/pd-editorial-the-road-from-demonstrations-to-police-reforms/)
reforms/.

⁵ Sukey Lewis, *In-Custody Death: Sonoma County Deputy Lied in Court About Past Carotid Hold*, KQED (Dec. 5, 2019), [https://www.kqed.org/news/11789667/in-custody-death-sonoma-](https://www.kqed.org/news/11789667/in-custody-death-sonoma-county-deputy-lied-in-court-about-past-carotid-hold)
county-deputy-lied-in-court-about-past-carotid-hold.

1 to the constitutional rights of citizens who live in the Sonoma County and Windsor – Defendant
 2 Sonoma County, Windsor and Sheriff Essick have long allowed its citizens, such as Plaintiff, to be
 3 abused by its police officers, including by the Individual Officer Defendants and/or each of them,
 4 individually and/or while acting in concert with one another.

5 47. Plaintiff is informed and believes that evidence will show after discovery, and therein
 6 alleges that Sonoma County and Windsor police officers have a history of using excessive force to
 7 carry out corrupt schemes and motives. Sonoma County, Windsor and Sheriff Essick have failed to
 8 discipline or retrain any of the officers who used excessive force for corrupt purposes. Sonoma
 9 County and Windsor’s failure to discipline or retrain any of the involved officers is evidence of an
 10 official policy, entrenched culture and posture of deliberate indifference toward protecting citizen’s
 11 rights and the resulting police brutality and injuries is a proximate result of the Sonoma County and
 12 Windsor’s failure to properly supervise its police officers.

13 48. Plaintiff is informed and believes that believes that evidence will show after discovery
 14 and therein alleges that Sonoma County, Windsor and Sheriff Essick are acutely aware of racism
 15 within the Sonoma County Sheriff’s office, but knowingly turn a blind eye towards that racism, and
 16 in fact, aid and conspire to cover up that racism and the subsequent violation of the civil rights of
 17 residents of Sonoma County and those passing through.

18 49. Plaintiff is further informed and believes that evidence will show after discovery, and
 19 therein alleges that Sonoma County and Windsor knew, had reason to know by way of actual or
 20 constructive notice of the aforementioned policy, culture, pattern and/or practice and the complained
 21 of conduct and resultant injuries/violations.

22 VI. DAMAGES, DECLARATORY AND INJUNCTIVE RELIEF

23 50. As a direct and proximate result of the acts of Defendants, Plaintiff suffered the
 24 following injuries and damages, and/or is entitled to declaratory and/or injunctive relief:

- 25 a. Violation of his civil rights and Due Process of Law under 42 U.S.C. § 1983
- 26 and the Fourteenth Amendment to the United States Constitution to be free from an
- 27 unreasonable search and seizure of their person and property;
- 28

- b. Violation of his California Constitutional rights under Article 1, Section 13 to be free from an unreasonable search and seizure;
- c. Violation of his California Constitution rights under Article 1, Section 7 to due process;
- d. Violation of the Tom Bane Civil Rights Act Cal. Civ. Code § 52.1;
- e. Violation of the Ralph Civil Rights Act of 1976 Cal. Civ. Code § 51.7;
- f. Physical pain and suffering;
- g. Emotional trauma and suffering, including fear, embarrassment, humiliation, emotional distress, frustration, extreme inconvenience, anxiety;
- h. Loss of liberty; and
- i. Punitive and Statutory Damages.

51. The conduct of the Individual Officer Defendants was malicious, wanton and oppressive. Plaintiff is therefore entitled to an award of punitive damages against these Defendants.

52. Plaintiff found it necessary to engage the services of private counsel to vindicate his rights under the law. Plaintiff is therefore entitled to an award of attorneys' fees and/or costs pursuant to statute(s) in the event that they are the prevailing parties in this action under 42 U.S.C. §§ 1983, 1985-86 and 1988.

FIRST CAUSE OF ACTION
(Violation of Plaintiff's Civil Rights, 42 U.S.C. § 1983
Against Individual Officer Defendants and Does 1-50)

53. Plaintiff restates and incorporates by reference the foregoing paragraphs of this complaint as if set forth in full at this point.

54. This Count is alleged against the Individual Officer Defendants and Does 1-50 and brought to redress the deprivation, under color of statute, ordinance, regulation, policy, custom, practice or usage of a right, privilege and immunity secured to the Individual Officer Defendants, by the Fourth and Fourteenth Amendments to the United States Constitution. The Count is based on unreasonable use of deadly force, unreasonable search and seizure, unlawful and false arrest, and unconstitutional detention.

1 55. During all times mentioned herein, the Public Entity Defendants employed the
2 Individual Officer Defendants herein. Said Public Entity Defendants provided the Individual Officer
3 Defendants and other of their agents with official badges and identification cards which designated
4 and described the bearers as employees of the Public Entity Defendants.

5 56. During all times mentioned herein, the Individual Officer Defendants, and each of
6 them, separately and in concert, acted under color and pretense of law under color of the statutes,
7 ordinances, regulations, polices, practices, customs and usages of the County of Sonoma.

8 57. Each of the Individual Officer Defendants here, separately and in concert, have
9 deprived Plaintiff of his civil, constitutional and statutory rights, privileges and immunities secured
10 to him by the Fourth and Fourteenth Amendments to the United States Constitution and by the laws
11 of the United States and are liable to Plaintiff under 42 U.S.C. § 1983.

12 58. The foregoing claim for relief arose when, as described above, Defendant Deputy
13 Sheriff Perkins, on July 9, 2019, assaulted, battered and seriously injured Plaintiff by throwing a
14 cooperative, confused and fearful Plaintiff to the ground, headfirst, with one hand held behind his
15 back, and then unlawfully arrested Plaintiff, filed a false police report and falsely imprisoned
16 Plaintiff, with the assistance and cooperation and/or supervision of Defendants Deputy Clegg and
17 Admin. Sgt. Kidder. Each and every Individual Officer Defendant failed to intervene in each other's
18 obviously illegal actions. This alleged conduct constituted excessive, unjustifiable, and unreasonable
19 force in violation of and with deliberate indifference to Plaintiff's constitutional right to be free from
20 unreasonable searches and seizures. By causing the alleged injuries to Mr. McDonald, these actions
21 additionally violated Plaintiff's Fourteenth Amendment rights to substantive due process, privacy
22 and his right to be free from arbitrary and unreasonable government intrusions, as Defendants and
23 each of them intruded upon with deliberate indifference to the maintenance, training and control of
24 the Windsor Police Department, and the injuries and constitutional violations set forth herein were
25 proximately caused by the customs, practices, policies and decisions of the Defendant Sonoma
26 County and the Sheriff's Department, including but not limited to, inadequately training and
27 supervising police officers, including Deputy Sheriff Perkins, with respect to the reasonable and
28

proper use of deadly force against civilians generally, and specifically, persons operating motor vehicles and persons present in vehicles.

59. Individual Officer Defendants' conduct deprived Plaintiff of his right to be free of searches and seizures, pursuant to the Fourth and Fourteenth Amendments to the United States Constitution. Individual Officer Defendants' conduct also deprived plaintiffs of his right to due process of law, pursuant to the Fourteenth Amendment of the United States Constitution.

60. Individual Officer Defendants acted under color of law by unreasonably using excessive force, subjecting Plaintiff to infringement of certain constitutionally protected rights as are substantively guaranteed by the Fourth and Fourteenth Amendments to the United States Constitution.

61. Plaintiff has been damaged as a result of Defendants' wrongful acts.

SECOND CAUSE OF ACTION
(Violation of Plaintiff's Civil Rights, 42 U.S.C. § 1983 — *Monell* Action
Against the Public Entity Defendants and Admin. Sgt. Kidder)

62. Plaintiff realleges all prior paragraphs of this complaint and incorporates the same herein by this reference as if those paragraphs were set forth in full herein.

63. This Count is alleged against Defendants Sonoma County, Windsor, the Sheriff's Department, Sheriff Essick and Admin. Sgt. Kidder. These claims are based on unconstitutional policy, practice or custom.

64. Defendants Sonoma County, Windsor, the Sheriff's Department, Sheriff Essick, and Admin. Sgt. Kidder, and/or each of them, individually and/or in their capacities as official policy-maker(s) for Sonoma County, maintained a custom, policy or practice, within the meaning of *Monell*, of using excessive force, falsely arresting, making false reports, providing false and/or misleading information in causing detentions, arrests, imprisonments and/or malicious prosecutions based on fabricated and/or misleading statements and/or engaging in similar acts of misconduct on a repeated basis and failure to institute and enforce a consistent disciplinary policy and/or early warning system. Plaintiff further alleges that the acts and/or omissions alleged in the Complaint herein are indicative and representative of a repeated course of conduct by members of Defendant Sonoma County,

1 Windsor, the Sheriff's Department, Sheriff Essick and Admin. Sgt. Kidder, tantamount to a custom,
2 policy or repeated practice of condoning and tacitly encouraging the abuse of police authority, and
3 disregard for the constitutional rights of citizens, such as Plaintiff's.

4 65. Plaintiff is informed and believes and thereon alleges that the acts and/or omissions
5 alleged herein are the legal, proximate, foreseeable and actual result of a custom, policy, pattern or
6 practice of deliberate indifference by Defendants Sonoma County, Windsor, the Sheriff's
7 Department, Sheriff Essick, and Admin. Sgt. Kidder, and/or each of them, to the repeated violations
8 of the constitutional rights of citizens by Sonoma County and Windsor, which have included, but are
9 not limited to, repeated acts of: making false reports, providing false and/or misleading information
10 in causing detentions, arrests, imprisonments and/or malicious prosecutions based on fabricated
11 and/or misleading statements and/or engaging in similar acts of misconduct on a repeated basis and
12 failure to institute and enforce a consistent disciplinary policy and/or early warning system.

13 66. Plaintiff is further informed and believes and thereon alleges that the acts and/or
14 omissions alleged herein are the proximate result of a custom, policy, pattern or practice of deliberate
15 indifference by Defendants Sonoma County, Windsor, the Sheriff's Department, Sheriff Essick, and
16 Admin. Sgt. Kidder, and/or each of them, to the repeated violations of the constitutional rights of
17 citizens by Sonoma County and Windsor, which have included, but are not limited to, using
18 excessive and/or deadly force on a repeated basis.

19 67. The County, Windsor and the Sheriff's Department are liable for the damages
20 suffered by Plaintiff as a result of the conduct of their employees, agents, and servants, in that, after
21 learning of their employees' violation of Plaintiff's constitutional rights, they failed to remedy the
22 wrong; they have created a policy or custom under which unconstitutional practices occurred and
23 allowed such policies or customs to continue, and they have been grossly negligent in managing
24 subordinates who caused the unlawful condition or event.

25 68. The County, Windsor and the Sheriff's Department have been alerted to the regular
26 use of excessive force and false arrests by its police officers, but have nevertheless exhibited
27 deliberate indifference to such excessive force and false arrests; that deliberate indifference legally,
28

1 proximately, foreseeably and actually caused the violation of Plaintiff's constitutional rights in this
2 case.

3 69. The County, Windsor and the Sheriff's Department have purposefully hid their
4 misconduct by failing to reveal body camera footage and reporting the use of force causing great
5 bodily injury to the Department of Justice as required by statute.

6 70. The aforesaid event was not an isolated incident. Upon information and belief the
7 County has been aware that their police officers use excessive force, unlawfully search and seize
8 citizens, bring charges against citizens with no legal basis, perjure themselves in charging
9 instruments and testimony, and fail to intervene in and report the obviously illegal actions of their
10 fellow officers. Nevertheless, the County has allowed policies and practices that allow the
11 aforementioned to persist.

12 71. The County, Windsor and the Sheriff's Department have no procedure to notify
13 individual officers or their supervisors of unfavorable judicial review of their conduct. Without this
14 notification, improper search and seizure practices and inaccurate testimony go uncorrected. The
15 County, Windsor and the Sheriff's Department have procedurally and policy-wise isolated their law
16 department from the discipline of police officers, so that civil suits against police officers for actions
17 taken in their capacity as police officers have no impact on the officers' careers, regardless of the
18 outcome of the civil actions. The process to file complaints with Sonoma County or Windsor is not
19 provided to those who are detained or arrested.

20 72. The County, Windsor and the Sheriff's Department have also purposefully created a
21 fictitious audit function of police behavior to isolate itself from liability or the rage of its citizens.

22 73. The County, Windsor and the Sheriff's Department are aware that all of the
23 aforementioned has resulted in violations of citizens' constitutional rights. Despite such notice, the
24 County has failed to take corrective action. This failure and these policies caused the officers in the
25 present case to violate Plaintiff's civil rights, without fear of reprisal.

26 74. Plaintiff has been damaged as a result of the deliberate indifference of the County to
27 the constitutional rights of the County's inhabitants.
28

75. The County, Windsor and the Sheriff's Department are liable for the damages suffered by Plaintiff as a result of the conduct of their employees, agents, and servants, in that, after learning of their employees' violation of Plaintiff's constitutional rights, they failed to remedy the wrong; they have created a policy or custom under which unconstitutional practices occurred and allowed such policies or customs to continue, and they have been grossly negligent in managing subordinates who caused the unlawful condition or event. The County, Windsor and the Sheriff's Department have been alerted to the regular use of excessive force and false arrests by its police officers, but has nevertheless exhibited deliberate indifference to such excessive force and false arrests; that deliberate indifference caused the violation of Plaintiff's constitutional rights in this case.

76. The Court should enter an order awarding damages, declaring the Sonoma County's, Windsor's, the Sheriff's Department's, Sheriff Essick's and Admin. Sgt. Kidder's conducts to be illegal and enter injunctive relief to be determined to remedy such illegality going forward.

THIRD CAUSE OF ACTION
**(Violation of Plaintiff's Civil Rights, 42 U.S.C. § 1983, Substantive Due Process
 Against All Defendants)**

77. Plaintiff realleges all prior paragraphs of this complaint and incorporates the same herein by this reference as if those paragraphs were set forth in full herein.

78. This Count is alleged against all Defendants. Defendants, acting under the color of law, violated Plaintiff's procedural due process rights by detaining him, falsely arresting him and failing to inform him of the reason he was being detained. Even after the District Attorney determined that they refused to prosecute the action, Plaintiff was not informed and Plaintiff was still required to attend a Court hearing to learn that the charges had been dismissed at the cost of time and expense to Plaintiff.

79. Based on information and belief, it is the custom or policy of Defendants to not inform detainees or those who are arrested of the reasons they have been detained or arrested until such time as they appear in court, even if they are required to post bail.

80. The aforementioned conduct is ongoing and poses and immediate irreparable threat to the civil rights of every citizen who travels in or through Sonoma County.

81. The Individual Officer Defendants' conduct deprived Plaintiff of his right to substantive due process, and were in violation of the Fourth and Fourteenth Amendments to the United States Constitution.

82. The Court should enter an order awarding damages, declaring Defendants' conduct to be illegal and enter injunctive relief to be determined to remedy such illegality.

FOURTH CAUSE OF ACTION
(Violation of Plaintiff's Civil Rights under California Constitution
Against All Defendants)

83. Plaintiff realleges all prior paragraphs of this complaint and incorporates the same herein by this reference as if those paragraphs were set forth in full herein.

84. This Count is alleged against all Defendants. These claims are based on unreasonable and/or unnecessary use of deadly force, unreasonable search and seizure, unlawful and false arrest, and unconstitutional detention, as well as failure to inform of charges.

85. Defendants, acting under color of law, violated Plaintiff's rights pursuant to § 7 (the right not be deprived of life, liberty, or property without due process of law or denied equal protection of the laws) and § 13 (the right to be secure against unreasonable seizures and searches) of the California State Constitution.

86. The detention of Plaintiff and requirement that Plaintiff post bail without being notified of the charges against Plaintiff, and the month-long delay in being brought before a magistrate or judge, is unconstitutional and violates Penal Code Section 849. The process is also a denial of equal protection as it impacts the poor and minorities disproportionately.

87. The unconstitutional conduct alleged herein violated Plaintiff's rights has legally, proximately, foreseeably and actually caused Plaintiff to suffer damages according to proof at the time of trial.

1 88. An award of damages, declaratory and injunctive remedy here is necessary to
2 effectuate the purposes of § 7 and § 13 of the California State Constitution, and appropriate to ensure
3 full realization of Plaintiff's rights under those sections.

4 **FIFTH CAUSE OF ACTION**
5 **(Negligent Hiring & Retention**
6 **Against Public Entity Defendants)**

7 89. Plaintiff realleges all prior paragraphs of this complaint and incorporates the same
8 herein by this reference as if those paragraphs were set forth in full herein.

9 90. This count is alleged against Defendants Sonoma County, Windsor and the Sheriff's
10 Department. Defendants Sonoma County, Windsor and the Sheriff's Department owed a duty of care
11 to Plaintiff to prevent the loss of liberty and mental abuse sustained by Plaintiff.

12 91. Defendant Sonoma County, Windsor and the Sheriff's Department owed a duty of
13 care to Plaintiff because under the same or similar circumstances a reasonable, prudent and careful
14 person should have anticipated an injury to Plaintiff or those in a position similar to Plaintiff's as a
15 result of this conduct.

16 92. Upon information and belief, Individual Officer Defendants were incompetent and
17 unfit for their positions.

18 93. Upon information and belief, Defendants County, Windsor and the Sheriff's
19 Department knew or should have known through exercise of reasonable diligence that the Individual
20 Officer Defendants were potentially dangerous and had previously falsely arrested civilians without
21 probable cause.

22 94. Defendant Sonoma County's, Windsor's, and the Sheriff's Department's negligence
23 in hiring and retaining the Individual Officer Defendants proximately caused Plaintiff's injuries.

24 95. Because of the Defendant Sonoma County's, Windsor's, and the Sheriff's
25 Department's negligent hiring and retention of Individual Officer Defendants, Plaintiff incurred
26 damages described above.
27
28

SIXTH CAUSE OF ACTION

(Negligence

Against Defendants Deputy Sheriff Perkins and Deputy Clegg)

96. Plaintiff realleges all prior paragraphs of this complaint and incorporates the same herein by this reference as if those paragraphs were set forth in full herein.

97. This Count is alleged against Defendants Deputy Sheriff Perkins and Deputy Clegg. Defendant Deputy Sheriff Perkins and Deputy Clegg owed Plaintiff a duty of care in carrying out their officer responsibilities in a reasonable manner.

98. Defendants Deputy Sheriff Perkins and Deputy Clegg breached the duty of care required of law enforcement officers when performing wellness checks on persons who are sleeping, potentially intoxicated and confused, including Plaintiff, by detaining Plaintiff without regard for his health and safety. This is especially true as the ambulance and paramedics were literally seconds away.

99. As a direct and proximate result of Defendants' actions and orders, Plaintiff suffered the injuries described herein.

SEVENTH CAUSE OF ACTION

(Intentional Infliction of Emotional Distress

Against Defendants Deputy Sheriff Perkins and Does 1-50)

100. Plaintiff re-alleges all prior paragraphs of this complaint and incorporates the same herein by this reference as if those paragraphs were set forth in full herein.

101. This Count is alleged against Defendant Deputy Sheriff Perkins. It is also alleged against all other Defendants to the extent to which is a known custom, practice or policy, as it is well known that the results of the above actions causes emotional harm.

102. Defendants' above-described conduct was illegal, extreme, unreasonable or outrageous. Plaintiff did not consent to the conduct.

103. In engaging in the above-described conduct, Defendants intentionally ignored or recklessly disregarded the probable or foreseeable risk that Plaintiff would suffer extreme emotional distress as a result.

1 104. As a direct and proximate result of the above described conduct, Plaintiff suffered
2 severe emotional distress and was harmed.

3 **EIGHTH CAUSE OF ACTION**
4 **(Battery**
5 **Against Defendant Deputy Sheriff Perkins)**

6 105. Plaintiff re-alleges all prior paragraphs of this complaint and incorporates the same
7 herein by this reference as if those paragraphs were set forth in full herein.

8 106. This Count is alleged against Defendant Deputy Sheriff Perkins. Defendant Deputy
9 Sheriff Perkins touched Plaintiff, as described above with the intent to harm or offend Plaintiff.
10 Alternatively, Defendant Deputy Sheriff Perkins used unreasonable force in touching Plaintiff.

11 107. Plaintiff did not consent to the alleged touching.

12 108. Plaintiff was harmed or offended by Defendant Deputy Sheriff Perkins's conduct.

13 109. The above-described conduct and/or the unreasonable force was a substantial factor in
14 causing Plaintiff's harm.

15 110. As a direct and proximate result of Defendant Deputy Sheriff Perkins's actions,
16 Plaintiff suffered damages in the amount to be proven at trial.

17 **NINTH CAUSE OF ACTION**
18 **(False Arrest and Imprisonment**
19 **Against the Individual Officer Defendants)**

20 111. Plaintiff re-alleges all prior paragraphs of this complaint and incorporates the same
21 herein by this reference as if those paragraphs were set forth in full herein.

22 112. This Count is alleged against the Individual Officer Defendants. These claims are
23 based on unlawful and false arrest, and unconstitutional detention.

24 113. Plaintiff was falsely and/or fraudulently arrested by Defendants, without a warrant
25 and probable cause. Alternatively, Deputy Sheriff Perkins intentionally deprived Plaintiff of his
26 freedom of movement by use of force.

27 114. The arrest and/or confinement described above compelled Plaintiff to stay and go at
28 Defendants' direction for some appreciable time.

 115. Plaintiff was actually harmed by the arrest and/or confinement described above.

116. Individual Officer Defendants' conduct was a substantial factor in causing Plaintiff's harm.

117. As a direct and proximate result of Individual Officer Defendants' actions, Plaintiff suffered damages in the amount to be proven at trial.

TENTH CAUSE OF ACTION
(Unreasonable Seizure
Against Defendant Deputy Sheriff Perkins and Does 1-50)

118. Plaintiff re-alleges all prior paragraphs of this complaint and incorporates the same herein by this reference as if those paragraphs were set forth in full herein.

119. This Count is alleged against Defendant Deputy Sheriff Perkins and Does 1-50. These claims are based on the unreasonable search and seizure of Plaintiff's automobile and possessions.

120. Deputy Sheriff Perkins and other unnamed officers of the Sonoma County Sheriff's Office searched Plaintiff's automobile without a warrant or probable cause. Even if Defendants did have probable cause, they found no contraband or illegal substance. Subsequent to this finding, Defendant directed and were responsible for Plaintiff's vehicle being towed and put into storage.

121. Plaintiff requested the return of the car, but was denied being informed that Plaintiff had to pay more than the car was worth. Plaintiff's car remains in Defendants' possession and therefore Plaintiff was harmed by the seizure.

122. As a direct and proximate result of Defendants' actions, Plaintiff suffered damages in the amount to be proven at trial.

ELEVENTH CAUSE OF ACTION
(Violation of Cal. Civ. Code § 52.1, *Bane* Civil Rights Act Claim
Against Defendant Deputy Sheriff Perkins)

123. Plaintiff re-alleges all prior paragraphs of this complaint and incorporates the same herein by this reference as if those paragraphs were set forth in full herein.

124. This Count is alleged against Defendant Deputy Sheriff Perkins. These claims are based on Defendant Deputy Sheriff Perkins's interference with Plaintiff's legal rights by threats, intimidation and/or coercion of Plaintiff.

125. Defendant Deputy Sheriff Perkins interfered with Plaintiff's legal rights when he forcefully attempted to handcuff Plaintiff, threatened violence against Plaintiff when he yelled, "Don't F*****g do that again," pulled on Plaintiff's arm, and threw Plaintiff face first into the ground, holding one hand behind his back.

126. Defendant Deputy Sheriff Perkins acted violently against Plaintiff. Alternatively, Defendant Deputy Sheriff Perkins had no probable cause to arrest Plaintiff. Plaintiff also had no legal obligation to allow himself to be handcuffed.

127. Defendant Deputy Sheriff Perkins's threats caused Plaintiff to reasonably believe that if he exercised his right defend himself against such violence, Defendant Deputy Sheriff Perkins would commit violence against him and his property and that Defendant Deputy Sheriff Perkins had the ability to carry out the threat.

128. Defendant Deputy Sheriff Perkins did commit the above-mentioned act to prevent Plaintiff from protecting himself and/or to retaliate against Plaintiff for having exercised his right to defend himself from Defendant Deputy Sheriff Perkins.

129. Defendant Deputy Sheriff Perkins conduct directly and proximately caused the above-mentioned harm to Plaintiff.

130. As a direct and proximate result of Defendant Deputy Sheriff Perkins's actions, Plaintiff suffered damages in the amount to be proven at trial.

TWELFTH CAUSE OF ACTION
(Violation of Cal. Civ. Code § 52.1, *Bane* Civil Rights Act Claim
Against the Public Entity Defendants and Sheriff Essick)

131. Plaintiff re-alleges all prior paragraphs of this complaint and incorporates the same herein by this reference as if those paragraphs were set forth in full herein.

132. This Count is alleged against Defendants Sonoma County, Windsor and, the Sheriff's Department, and Sheriff Essick.

133. Defendants Sonoma County, Windsor, the Sheriff's Department, and Sheriff Essick aided, incited and conspired Defendant Deputy Sheriff Perkins to use violence, intimidation or coercion against residents of the County of Sonoma or persons passing through, even where no

1 probable cause for arrest exists. Alternatively, Sonoma County, Windsor, the Sheriff's Department,
 2 and Sheriff Essick condone through policy, practice or custom, the use of threats, intimidation, or
 3 coercion, or attempts to interfere by threat, intimidation, or coercion, with the exercise or enjoyment
 4 by any individual or individuals of rights secured by the Constitution or laws of the United States, or
 5 of the rights secured by the Constitution or laws of this state.

6 134. Defendants' conduct caused the above pled harm to Plaintiff, and is a pattern or
 7 practice of conduct that continues.

8 135. As a direct and proximate result of Defendants' actions, Plaintiff suffered damages in
 9 the amount to be proven at trial.

10 **THIRTEENTH CAUSE OF ACTION**
 11 **(Violation of Cal. Civ. Code § 51.7, 52(b), *Ralph Civil Rights Act Claim***
Against Defendant Deputy Sheriff Perkins)

12 136. Plaintiff re-alleges all prior paragraphs of this complaint and incorporates the same
 13 herein by this reference as if those paragraphs were set forth in full herein.

14 137. This Count is alleged against Defendant Deputy Sheriff Perkins. These claims are
 15 based on Defendant Deputy Sheriff Perkins's acts of threats of violence and violence against Plaintiff
 16 because of race.

17 138. Defendant Deputy Sheriff Perkins threatened violence and committed a violent act
 18 against Plaintiff when he forcefully attempted to handcuff Plaintiff, yelled, "Don't F*****g do that
 19 again," pulled on Plaintiff's arm, and threw Plaintiff face first into the ground, holding one hand
 20 behind his back. Defendant Deputy Sheriff Perkins then unlawfully restrained and imprisoned
 21 Plaintiff.

22 139. Defendant Deputy Sheriff Perkins acted violently against Plaintiff. Alternatively,
 23 Defendant Deputy Sheriff Perkins had no probable cause to arrest Plaintiff. Plaintiff also had no legal
 24 obligation to allow himself to be handcuffed.

25 140. A substantially motivating reason for Defendant Deputy Sheriff Perkins conduct was
 26 his perception of Plaintiff's race.

1 141. A reasonable person in Plaintiff's position would have believed that Defendant
2 Deputy Sheriff Perkins would carry out his threat.

3 142. A reasonable person in Plaintiff's position would have been intimidated by Defendant
4 Deputy Sheriff Perkins conduct.

5 143. Plaintiff was harmed.

6 144. Defendant Deputy Sheriff Perkins conduct was a substantial factor in causing the
7 above-mentioned harm to Plaintiff.

8 **FOURTEENTH CAUSE OF ACTION**
9 **(Violation of Cal. Civ. Code § 51.7, 52(b), *Ralph* Civil Rights Act Claim**
 Against the Public Entity Defendants and Sheriff Essick)

10 145. Plaintiff re-alleges all prior paragraphs of this complaint and incorporates the same
11 herein by this reference as if those paragraphs were set forth in full herein.

12 146. This Count is alleged against Defendants Sonoma County, Windsor and, the Sheriff's
13 Department, and Sheriff Essick.

14 147. Defendants Sonoma County, Windsor, the Sheriff's Department, and Sheriff Essick
15 aided, incited and conspired Defendant Deputy Sheriff Perkins to use violence, intimidation or
16 coercion against African-American and other minority residents of the County of Sonoma or persons
17 passing through, and Plaintiff in particular.

18 148. Defendants' conduct caused the above pled harm to Plaintiff, and is a pattern or
19 practice of conduct that continues.

20 149. As a direct and proximate result of Defendants' actions, Plaintiff suffered damages in
21 the amount to be proven at trial.

22 **FIFTEENTH CAUSE OF ACTION**
23 **(*Respondeat Superior* State Law Claims**
 Against Public Entity Defendants)

24 150. Plaintiff re-alleges all prior paragraphs of this complaint and incorporates the same
25 herein by this reference as if those paragraphs were set forth in full herein.

26 151. This Count is alleged against Defendants Sonoma County, Windsor and the Sheriff's
27 Department.
28

152. Defendants' intentional tortious acts were undertaken within the scope of their employment by Defendant Sonoma County, Windsor and the Sheriff's Department, and in furtherance of the Defendant County of Sonoma's interest.

153. As a result of Defendants' tortious conduct in the course of their employment and in furtherance of the business of Defendant Sonoma County, Windsor and the Sheriff's Department, Plaintiff suffered damages in the amount to be proven at trial.

VII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against the Defendants, jointly and severally, as follows:

- A. General damages in a sum to be determined by proof;
- B. Special damages, including but not limited to, past, present and/or future wage loss, income and support, medical expenses, physical pain and mental suffering and other special damages in a sum to be determined according to proof;
- C. Punitive damages and exemplary damages in amounts to be determined according to proof.
- D. Reasonable attorneys' fees, costs and disbursements of this action, including pursuant to 42 U.S.C. § 1988;
- E. Statutory damages and reasonable attorney's fees for violation of Cal. Civ. Code §§ 52 and 52.1;
- F. Punitive damages up to three times actual damages (\$4,000 minimum) against Defendant agents and/or officers, \$25,000.00 for each offense and reasonable attorney's fees, for violation of Cal. Civ. Code § 52(b);
- G. Cost of suit herein incurred;
- H. Prejudgment interest;
- I. Declaratory and injunctive relief; and
- J. Such other and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiff demands a trial by jury.

DATED: June 25, 2020

Respectfully submitted,

HAGENS BERMAN SOBOL SHAPIRO LLP

By /s/ Reed. R. Kathrein

Reed R. Kathrein (139304)
715 Hearst Avenue, Suite 202
Berkeley, CA 94710
Telephone: (510) 725-3000
Facsimile: (510) 725-3001
reed@hbsslaw.com

Steve W. Berman
HAGENS BERMAN SOBOL SHAPIRO LLP
1301 Second Avenue, Suite 2000
Seattle, WA 98101
Telephone: (206) 623-7292
Facsimile: (206) 623-0594
steve@hbsslaw.com

Counsel for Plaintiff La'Marcus McDonald

CIVIL COVER SHEET

The JS-CAND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
LA'MARCUS MCDONALD

(b) County of Residence of First Listed Plaintiff Sonoma
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
HAGENS BERMAN SOBOL SHAPIRO LLP
715 Hearst Avenue, Suite 202, Berkeley, CA 94710
(510) 725-3000

DEFENDANTS
COUNTY OF SONOMA, TOWN OF WINDSOR, MARK ESSICK, TRAVIS PERKINS, BRENT KIDDER, and GREGORY CLEGG

County of Residence of First Listed Defendant Sonoma
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

☐ 1 U.S. Government Plaintiff

☒ 3 Federal Question (U.S. Government Not a Party)

☐ 2 U.S. Government Defendant

☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF
Citizen of This State	☐ 1	☐ 1
Citizen of Another State	☐ 2	☐ 2
Citizen or Subject of a Foreign Country	☐ 3	☐ 3

	PTF	DEF
Incorporated or Principal Place of Business In This State	☐ 4	☐ 4
Incorporated and Principal Place of Business In Another State	☐ 5	☐ 5
Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
☐ 110 Insurance	PERSONAL INJURY	☐ 625 Drug Related Seizure of Property 21 USC § 881	☐ 422 Appeal 28 USC § 158	☐ 375 False Claims Act
☐ 120 Marine	☐ 310 Airplane	☐ 690 Other	☐ 423 Withdrawal 28 USC § 157	☐ 376 Qui Tam (31 USC § 3729(a))
☐ 130 Miller Act	☐ 315 Airplane Product Liability	LABOR	PROPERTY RIGHTS	☐ 400 State Reapportionment
☐ 140 Negotiable Instrument	☐ 320 Assault, Libel & Slander	☐ 710 Fair Labor Standards Act	☐ 820 Copyrights	☐ 410 Antitrust
☐ 150 Recovery of Overpayment of Veteran's Benefits	☐ 330 Federal Employers' Liability	☐ 720 Labor/Management Relations	☐ 830 Patent	☐ 430 Banks and Banking
☐ 151 Medicare Act	☐ 340 Marine	☐ 740 Railway Labor Act	☐ 835 Patent—Abbreviated New Drug Application	☐ 450 Commerce
☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)	☐ 345 Marine Product Liability	☐ 751 Family and Medical Leave Act	☐ 840 Trademark	☐ 460 Deportation
☐ 153 Recovery of Overpayment of Veteran's Benefits	☐ 350 Motor Vehicle	☐ 790 Other Labor Litigation	SOCIAL SECURITY	☐ 470 Racketeer Influenced & Corrupt Organizations
☐ 160 Stockholders' Suits	☐ 355 Motor Vehicle Product Liability	☐ 791 Employee Retirement Income Security Act	☐ 861 HIA (1395ff)	☐ 480 Consumer Credit
☐ 190 Other Contract	☐ 360 Other Personal Injury	IMMIGRATION	☐ 862 Black Lung (923)	☐ 485 Telephone Consumer Protection Act
☐ 195 Contract Product Liability	☐ 362 Personal Injury -Medical Malpractice	☐ 462 Naturalization Application	☐ 863 DIWC/DIWW (405(g))	☐ 490 Cable/Sat TV
☐ 196 Franchise	CIVIL RIGHTS	☐ 465 Other Immigration Actions	☐ 864 SSID Title XVI	☐ 850 Securities/Commodities/Exchange
REAL PROPERTY	☒ 440 Other Civil Rights		☐ 865 RSI (405(g))	☐ 890 Other Statutory Actions
☐ 210 Land Condemnation	☐ 441 Voting	HABEAS CORPUS	FEDERAL TAX SUITS	☐ 891 Agricultural Acts
☐ 220 Foreclosure	☐ 442 Employment	☐ 463 Alien Detainee	☐ 870 Taxes (U.S. Plaintiff or Defendant)	☐ 893 Environmental Matters
☐ 230 Rent Lease & Ejectment	☐ 443 Housing/Accommodations	☐ 510 Motions to Vacate Sentence	☐ 871 IRS—Third Party 26 USC § 7609	☐ 895 Freedom of Information Act
☐ 240 Torts to Land	☐ 445 Amer. w/Disabilities—Employment	☐ 530 General		☐ 896 Arbitration
☐ 245 Tort Product Liability	☐ 446 Amer. w/Disabilities—Other	OTHER		☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
☐ 290 All Other Real Property	☐ 448 Education	☐ 535 Death Penalty		☐ 950 Constitutionality of State Statutes
		☐ 540 Mandamus & Other		
		☐ 550 Civil Rights		
		☐ 555 Prison Condition		
		☐ 560 Civil Detainee—Conditions of Confinement		

V. ORIGIN (Place an "X" in One Box Only)

☒ 1 Original Proceeding

☐ 2 Removed from State Court

☐ 3 Remanded from Appellate Court

☐ 4 Reinstated or Reopened

☐ 5 Transferred from Another District (specify)

☐ 6 Multidistrict Litigation—Transfer

☐ 8 Multidistrict Litigation—Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. § 1983
Brief description of cause:
Deprivation of Civil Rights.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P.

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S), IF ANY (See instructions):

JUDGE

DOCKET NUMBER

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)
(Place an "X" in One Box Only)

☐ SAN FRANCISCO/OAKLAND

☐ SAN JOSE

☐ EUREKA-MCKINLEYVILLE

DATE 06/25/2020

SIGNATURE OF ATTORNEY OF RECORD /s/ Reed R. Kathrein