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7
8 IN THE UNITED STATES DISTRICT COURT
9
10 NORTHERN DISTRICT OF CALIFORNIA

11 SHAWN SUNSHINE STRICKLAND,

12 Plaintiff,

13 vs.

14 CITY AND COUNTY OF SAN FRANCISCO;

15 BARRY J. BLOOM, individually and in his
16 capacity as a Deputy Sheriff for each of the City and
County of San Francisco and the San Francisco
17 Sheriff's Department;

18 MS. HUMPHREY, individually and in her capacity
as a Deputy Sheriff for each of the City and County
19 of San Francisco and the San Francisco Sheriff's
Department;

20 JUAN C. GARRIDO, individually and in her
21 capacity as a Deputy Sheriff for each of the City and
County of San Francisco and the San Francisco
22 Sheriff's Department;

23 and

24 DOES 1-200, jointly and severally,

25 Defendants.

Case No. _____

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF FOR VIOLATION OF
CIVIL RIGHTS**

DEMAND FOR JURY TRIAL

1. Injunctive and Declaratory Relief –
Facial Invalidity of Permitting Policies
2. Violations of First Amendment Rights –
April Incident
(42 U.S.C. § 1983)
3. Violations of First Amendment Rights –
December Incident
(42 U.S.C. § 1983)
4. Violations of Fourteenth Amendment
Rights – December Incident
(42 U.S.C. § 1983)
5. Violations of Civil Rights – *Monell*
(42 U.S.C. § 1983)
6. Violations of Rights Under California
Constitution – April Incident
7. Reckless Infliction of Emotional Distress –
April Incident

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1 Plaintiff Shawn Sunshine Strickland (“Ms. Strickland” or “Plaintiff”) brings this civil rights
2 action seeking injunctive relief and damages under the laws of the United States and the State of
3 California and alleges on knowledge as to herself and her own acts, and on information and belief as to
4 all other matters, as follows:

5 **INTRODUCTION**

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7 1. “[H]ere we are in front of City Hall. I don’t have much of anything left now, but I’m
8 here, and I’m protesting.” This was the lone cry of Plaintiff, from the steps of San Francisco City Hall
9 (the “Steps of City Hall” or “Steps”) on the evening of April 23, 2017. Plaintiff had appeared with the
10 intent to freely exercise her rights to free speech and religious expression, and to petition City officials to
11 redress the failure of the San Francisco Police Department to deliver justice in connection with a brutal
12 hate crime that had been committed against her. Homeless and transgender, but still believing in the U.S.
13 Constitution’s promises of American liberty, she never thought to obtain a permit. She discovered -- the
14 hard way -- that regardless of the time, place or manner of her protest upon the Steps of City Hall, San
15 Francisco’s policies regarding use of the Steps required her to obtain a permit in advance. As such, on
16 their face, these policies violate the First Amendment.
17

18 2. The Steps Use Policy, form of Steps Use Permit, and memorandum from San Francisco
19 City Hall Media/Security Systems regarding San Francisco City Hall Steps use permits, last revised on
20 December 12, 2016 (collectively, the “Permitting Policies”), in effect at the time of Ms. Strickland’s
21 protest, are attached hereto as Exhibit A.¹ The Permitting Policies are so facially overbroad that not even
22 a lone protester -- on the Steps in the dark of night -- could avoid their prior restraint. The City has
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27 ¹ The Permitting Policies are incorporated by reference for the fact of their contents and not for the truth
28 of any matters asserted therein (except to any extent any portion thereof is relied upon herein for the
truth, in which case such portion is incorporated for the truth).

1 issued no guidance limiting the scope of their enforcement.² For those speakers who comply and obtain
2 a permit, the Permitting Policies explicitly give unbridled discretion to City Hall Building Management
3 to “pre-empt and/or cancel any approved permit at any time.”
4

5 3. In enforcing the unconstitutional Permitting Policies against Plaintiff on two separate
6 occasions, certain Deputy Sheriffs of the San Francisco Sheriff’s Department employed outrageous,
7 inhumane and unconstitutional means. Plaintiff seeks damages for these and other violations of rights,
8 and an injunction prohibiting further enforcement of the Permitting Policies, all as set forth herein.
9

10 **JURISDICTION**

11 4. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1341, and 1343
12 because it is being brought to obtain compensatory and punitive damages for the deprivation, under color
13 of state law, of rights of citizens of the United States that are secured by the United States Constitution,
14 pursuant to 42 U.S.C. §§ 1983 and 1988. This action is brought pursuant to the First and Fourteenth
15 Amendments to the United States Constitution, and the Constitution and laws of the State of California.

16 5. Plaintiff invokes this Court’s supplemental jurisdiction, pursuant to 28 U.S.C. § 1367, to
17 hear and decide claims arising under state law.

18 6. Plaintiff’s claims for declaratory and injunctive relief are authorized by 28 U.S.C. §§ 2201
19 and 2202.

20 7. Plaintiff has complied with Cal. Gov’t Code § 910 *et seq.* (“California Government
21 Claims Act” or the “Act”) with respect to the causes of action asserted herein, and this action is timely
22 filed within all applicable statutes of limitation. In this Complaint, Plaintiff asserts California causes of
23 action for damages only in connection with acts and omissions of Defendants relating to the April
24 Incident (as defined *infra*). Plaintiff reserves any right (if any) to assert at a future date additional
25 California causes of action with respect to the December Incident, following any future satisfaction of the
26 requirements of the Act with respect to such prospective claims, in any court of competent jurisdiction
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28 ² City Hall’s Media/Security Systems Manager, David Kim, has confirmed on a phone call with Ms. Strickland and her legal counsel that the permitting requirement is enforced even against single-person protests.

1 over any such additional claims.

2 8. Venue is proper, pursuant to 28 U.S.C. §§ 1391(b)(1) and (b)(2), because the events
3 giving rise to Plaintiff’s claims occurred in this judicial district, all Defendants are residents of the State
4 of California and at least one Defendant is a resident of this judicial district.

5 **PARTIES**

6 9. Plaintiff is, and at all times herein mentioned was, a citizen of the United States and a
7 homeless resident of the City and County of San Francisco.

8 10. Defendant City and County of San Francisco (“City”) is a political subdivision of the
9 State of California, duly organized and existing under the laws of the State of California.

10 11. At all times mentioned herein, each of Defendants Barry J. Bloom, Star Number 1231
11 (“Deputy Bloom”), Ms. Humphrey, Star Number 1115 (“Deputy Humphrey”), Juan C. Garrido (“Deputy
12 Garrido”) and Does 1 to 200 was employed as a Deputy Sheriff or other law enforcement officer of City.
13 Deputy Bloom, Deputy Humphrey, Deputy Garrido and Does 1 to 200 are sued individually, and in their
14 capacities as Deputy Sheriffs or other law enforcement officers for Defendant City. By engaging in the
15 conduct described herein, Defendants Deputy Bloom, Deputy Humphrey, Deputy Garrido and Does 1 to
16 200 acted under color of law and in the course and scope of their employment for Defendants City. By
17 engaging in the conduct described herein, Defendants Deputy Bloom, Deputy Humphrey, Deputy
18 Garrido and Does 1 to 200 exceeded the authority vested in them as law enforcement officers under the
19 United States Constitution and as law enforcement employees of City.

20 12. City has declined to provide Deputy Humphrey’s first name to Plaintiff.

21 13. Plaintiff is ignorant of the true names and capacities of Defendants Does 1 to 200,
22 inclusive, and therefore sues those Defendants by such fictitious names. Plaintiff is informed and
23 believes and thereon alleges that each Doe Defendant so named is responsible in some manner for the
24 injuries and damages suffered by Plaintiff as set forth herein. Plaintiff will amend this Complaint to state
25 the true names and capacities of Defendants Does 1 through 200, inclusive, when they have been
26 ascertained.

27 14. At all times herein mentioned, each Doe Defendant was the agent or employee of
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1 Defendants City, and in doing the things alleged, was acting within the course and scope of such agency
2 or employment, as an integral participant in the subject incidents, and with the actual or implied
3 permission, consent, authorization, and approval of Defendant City.

4 15. The acts and omissions of all Defendants, as set forth herein, were at all material times
5 pursuant to the actual customs, policies, practices, and/or procedures of the City or, alternatively, such
6 acts and omissions were pursuant to the lack thereof and, thus, in lieu of polices, practices, and
7 procedures that should have been in place.

8 16. This Complaint may be pled in the alternative, pursuant to Rule 8(d)(2) of the Federal
9 Rules of Civil Procedure.

10 **FACTUAL ALLEGATIONS**

11 17. Shawn Strickland is a disabled, homeless, two-spirit intersex transgender woman, hate
12 crime victim and suicide attempt survivor whose Christian spirituality is supplemented by Pagan rituals
13 and beliefs. Originally from a small town in rural Texas, she is now known as the “Supergirl of San
14 Francisco.” Long ago, she attended Texas A&M University. She came to San Francisco seeking
15 ideological shelter from the pervasive transphobia of her home state. She has found a city so expensive
16 that, despite her monthly disability income, she cannot afford housing. Adding insult to injury, her rights
17 and dignity have continued to be violated right here in her city of refuge, San Francisco, including in two
18 incidents that are the subject of this Complaint.
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21 **The December 2017 Incident**

22 18. The later of the two incidents (the “December Incident”) occurred on or about December
23 12, 2017. In the December Incident, Ms. Strickland became aware of the death of San Francisco Mayor
24 Ed Lee and went to the Steps of City Hall to hold a brief prayer vigil and pay her respects. When she
25 arrived, she found a large portion of the Steps covered with many dozens of bouquets of flowers that had
26 been placed on the Steps by the public in honor of the late Mayor. A few cones had been placed around
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1 the perimeter of this vigil area, but the area had not been cordoned off to the public by any signage,
2 barriers, tape or other physical means.

3 19. Ms. Strickland, who was (and is) patently female-identified in appearance, wore her usual
4 daily dress, a superhero-style costume including a cape.

5 20. Ms. Strickland sat upon the Steps, within and toward the top of the vigil area. In honor of
6 the late Mayor Ed Lee, she placed upon the Steps a small piece of Peacock Ore (a spiritual crystal), a
7 Christmas ornament and several other small offerings among the flowers and gifts left by other members
8 of the public who had paid their respects without official interference.

9 21. Deputy Bloom approached Ms. Strickland from behind, tapped her on the shoulder,
10 misgendered her (calling her “sir”), and demanded that she leave the Steps. Ms. Strickland refused to
11 leave the Steps. After a brief argument, Deputy Bloom retreated to the interior of City Hall and
12 continued to watch Ms. Strickland through the glass doors thereof.

13 22. Ms. Strickland began broadcasting and remotely recording her one-person vigil with her
14 smartphone, via a software application known as “Periscope.” The broadcasts and recordings were
15 watched by multiple remotely-located viewers.

16 23. Deputy Garrido emerged from City Hall, approached Ms. Strickland and asserted that the
17 “proper procedure” for demonstrating on the Steps was to “go through the building management.” Ms.
18 Strickland replied, “no, that’s not how it works.” Ms. Strickland cited the First Amendment’s guarantees
19 of freedom of speech and freedom of religion in the context of a lone speaker.

20 24. Having been given an explanation by Ms. Strickland, Deputy Garrido nevertheless
21 persisted in demanding that Ms. Strickland “go through the proper channels,” and asserted that “in order
22 to use the stairs here, you have to get a permit.”

23 25. On information and belief, based upon the short period of time between the announcement
24 of Mayor Lee’s death and the formation of the vigil area, other members of the public had freely paid
25

1 their respects within the vigil area without obtaining a permit (and were allowed to continue participating
2 through the residual presence of their gifts on the Steps).

3 26. Ms. Strickland told Deputy Garrido that she was in already the process of filing a federal
4 lawsuit against Deputy Bloom. Two weeks prior, on November 28, 2017, the City had issued a Notice of
5 Action Upon Claim rejecting a claim that Ms. Strickland had filed on October 23, 2017 pursuant to the
6 California Government Claims Act in connection with the April Incident (as defined below).
7

8 27. Deputy Garrido demanded that Ms. Strickland leave the public vigil area and take her
9 vigil to an inferior location, saying “[w]e’re just asking you to go down to the sidewalk and that’s it.”

10 28. Ms. Strickland replied, “I came here to pray and that’s all I came here to do. And we’re
11 gonna have to file another lawsuit against this now. All I wanted to do was pray, and you wouldn’t let me
12 finish my prayer. You don’t get to interrupt my conversation with God. That is not within your purview
13 of authority.”
14

15 29. Ms. Strickland continued, “I came here to pray. You knew I came here to do a vigil. You
16 shouldn’t have interrupted the vigil. You shouldn’t have interrupted my prayers. That’s wrong of you to
17 do that. You are in the wrong, Deputy Garrido. No, We’re done. We’re done. I’m filing a lawsuit
18 against the Sheriff. We are done.”

19 30. Deputy Garrido voiced his opinion that the mere presence of Ms. Strickland in the vigil
20 area was somehow disrespectful to the deceased she had come to mourn, saying “...**it’s just for the**
21 **Mayor, the respect** and I’m not saying you, but people have come here and vandalized the vigil here. So
22 that’s the concern.”\

24 31. Ms. Strickland committed no crime in connection with the December Incident, nor did
25 there exist any probable cause to believe she had done so. She was neither cited nor arrested for any
26 violation of law in connection with the December Incident.
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1 San Francisco #SUPERGIRLSFORJUSTICE.” She placed several of her belongings on top of the
2 Protest Banner to weigh it down against the cold wind.

3 38. Ms. Strickland explained to her live online audience, “[w]ell, here we are in front of City
4 Hall. I don’t have much of anything left now, but I’m here, and I’m protesting, even with all the wind
5 and stuff, in my Supergirl cape, of course ... and I want to stay here all night, all through the night. I got
6 harassed by ... the sheriff ... but I’m here, and I’m staying here until someone comes.”

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8 39. Ms. Strickland continued, “[t]he most important thing you need to know right now is that
9 I have no officer working for justice for me. No one is even caring that employees from St. Mary’s
10 Hospital in San Francisco ... assaulted a woman who was already injured, for nothing. A victim of a
11 hate crime ... the two-spirit transgender woman that I am ... And I haven’t received any justice ... Three
12 months now ... and right now I’m the one who needs help. I’m asking the city and I’m asking the world
13 to come to my aid ... I’m here all alone, fighting this fight, not just for my myself but for other women as
14 well. And there’s no one here to fight with me by my side. I get harassed, I get beaten, I get beers
15 thrown at me, I get everything except for a life worth living. And that’s not right. And instead of getting
16 the care that I needed, I got hell. I got hell. And now, I have no lawyer. No ACLU contact. No police.
17 No nothing. And I’ve done my work to make it happen. I’ve done everything I can as one person to
18 make it happen. But I need you the people ... now I am waiting for hope, because I have none ... I can’t
19 tell you how many times I’ve cried since that event, and I still cry every now and then. But I’m tired of
20 crying. Right now, I want justice ... discrimination, hatred, this stuff is not right. And here I am, with a
21 destiny to fulfill. I’m standing up for other women. And I’m standing up for myself as well ... It’s very
22 cold, it’s very windy ... and then, when finally when someone from the government gets here about
23 9:00... then I’m going to be definitely demanding to see the mayor. I’m not kidding ... this is a City
24 Hall issue right now. The police aren’t helping ... I really need someone from the American Civil
25 Liberties Union. ACLU, please! This is that kind of thing ... and plus, just a whole slew of mistreatment
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1 and shuffling around of my life by the police department ... and then trying to go and get help otherwise
 2 ... and the SF Bar, that was fine except some of the people there didn't really help me, and then I tried to
 3 go to the ACLU in person, and of course, that was a mistake [to appear in person instead of making
 4 telephone or Internet contact per the ACLU's usual intake procedures.]”

5
 6 40. Later that evening, at approximately 11:59 PM on April 23, Ms. Strickland announced her
 7 intention to make her protest communication “bolder.” In order to accentuate and amplify her Protest
 8 Banner's message, she proceeded to encircle the banner with a narrow band of olive oil and salt
 9 ritualistically poured directly on the Steps to form a circle (the “Spiritual Circle”). According to Ms.
 10 Strickland's sincerely-held Pagan beliefs, such a circle also contains metaphysical energy and forms a
 11 sacred space, providing a form of protection against negativity. While she was forming the circle, music
 12 played on her smartphone — specifically, a gender-inclusive version of “Concrete Jungle” (a derivative
 13 work of an original song by Bob Marley) expressing the following message (in relevant part):
 14

15 No sun will shine in my day today
 16 The high yellow moon won't come out to play
 17 I said darkness has covered my light
 18 And has changed my day into night
 19 Where is the love to be found?
 20 Won't somebody help me?
 'Cause my sweet life must be somewhere to be found
 Instead of concrete jungle
 Where the living is harder
 Concrete jungle
 Man and woman have to do their best

21 No chains around my feet,
 22 But still I'm not free
 I know I am bound here in captivity;
 I've never known what happiness is;
 I've never known what sweet caress is
 I'll be always laughing like a clown;
 24 Won't somebody help me?
 'Cause my sweet life must be somewhere out there to be found
 25 Instead of a concrete jungle where the living is harder
 Concrete jungle, a woman has to do her best
 26 ...
 Concrete jungle, man has to do his or her best
 27 ...

1 41. At approximately 12:02 AM on April 24, 2017, after the Spiritual Circle had been
 2 completely formed and as the next song — “Love is My Religion (Acoustic Version),” by Ziggy Marley
 3 — began playing on Ms. Strickland’s smartphone, Deputy Bloom and Deputy Humphrey approached
 4 Ms. Strickland and disrupted her protest demonstration and spiritual ceremony. Ms. Strickland was not
 5 cited or arrested for any alleged violation of law in connection with the April Incident, nor was there any
 6 probable cause to believe she violated any law without legal justification.
 7

8 42. During a very brief initial conversation with Ms. Strickland, Deputy Bloom violently
 9 grabbed her by the wrist and otherwise attempted to intimidate her into ending her demonstration and
 10 leaving the scene immediately, saying “time for you to go.”

11 43. Deputy Bloom placed one foot inside the Spiritual Circle and, with his other foot, literally
 12 trampled upon it — each step “breaking the circle” and introducing negative metaphysical energy into it
 13 (per Ms. Strickland’s sincerely-held Pagan beliefs). Incredulous in the face of Deputy Bloom’s conduct,
 14 Ms. Strickland expressed her strong objection to it, stating clearly, unequivocally — and indignantly —
 15 that “this is a spiritual ceremony.” She then asked him, “why do I gotta go?” Deputy Bloom did not
 16 have an immediate answer.
 17

18 44. “Love is My Religion” continued to play on Ms. Strickland’s smartphone. The song’s
 19 lyrical message, emphasizing love and nonviolence, was poignantly incongruous with the simultaneous
 20 mistreatment of Ms. Strickland by Deputy Bloom and Deputy Humphrey:
 21

22 I don't condemn, I don't convert
 23 This is a calling, have you heard?
 24 Bring all the lovers to the fold
 No one is gonna lose their soul

25 All my days, I've been searching
 26 To find out what this life is worth
 Through the books, I've looked
 Through time, I've searched

27 Love is my religion
 28 Love is my religion
 Love is my religion

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All we need is love
So don't let nobody stop us
Free spirits have to soar
With you, I share the gift
The gift that we now know
I don't want to fight
Hey, let's go fly a kite
There's nothing we can't cure
I keep you in my arms for sure
Love is my religion
Love is my religion
Love is my religion
All we need is love
All we need is love
All we need is love
All we need is love
(Love is my religion)

45. As this pacifistic music played, Deputy Bloom bent down and violently seized Ms. Strickland’s Protest Banner (without a warrant or other legally sufficient justification). He crumpled it up and held it in his left hand. Ms. Strickland said, “Hey, what do you think you’re doing?! I just told you [that this is a spiritual ceremony.]” She then verbally criticized Deputy Bloom in harsh terms.

46. Deputy Bloom then stated that Ms. Strickland needed a “licensed permit” for her one-person demonstration. Ms. Strickland replied, “no, you don’t need a license.”

47. Ms. Strickland walked down several of the Steps and stood in front of Deputy Bloom (four steps down from him). Deputy Bloom advanced one Step down toward Ms. Strickland.

48. Ms. Strickland reiterated to Deputy Bloom that her Spiritual Circle was partly for ceremonial religious purposes, and attempted to explain the religious significance of it.

49. Deputy Bloom advanced another Step down toward Ms. Strickland, verbally accused her of having assaulted him, and said to her that she is on camera. Ms. Strickland verbally denied any purported assault and said to Deputy Bloom, “you’re on camera too, officer.” Ms. Strickland never assaulted Deputy Bloom, nor did he ever have any reasonable cause to accuse her of assault.

1 50. Deputy Bloom advanced yet another Step down toward Ms. Strickland, invading her
2 personal space and attempting to intimidate her. He stood directly in front of her, two steps up from her,
3 and commanded, “You are on camera. And you are also leaving, right now!”

4 51. Deputy Bloom then ascended the Steps, seizing Ms. Strickland’s backpack (without a
5 warrant or other legally sufficient justification) on his way up.

6 52. Without a warrant or other legally sufficient justification, Deputy Bloom seized complete
7 dominion and control over Ms. Strickland’s small noncommercial pushcart (including Ms. Strickland’s
8 smartphone within), rotating it to point her smartphone’s camera away from the ongoing encounter, in
9 order to avoid further video capture of the encounter. Ms. Strickland’s smartphone continued to capture
10 audio of the encounter.
11

12 53. Deputy Bloom then told Ms. Strickland that her Protest Banner was “now my property—
13 I’m taking it.” At no time was Ms. Strickland afforded due process or compensation in connection with
14 the seizure, taking, conversion and/or trespass of her Protest Banner, backpack, pushcart and/or
15 smartphone.
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17 54. Ms. Strickland verbally expressed her objection to the ongoing deprivation of her property
18 rights, specifically regarding her Protest Banner.

19 55. Deputy Bloom said to Ms. Strickland that her Protest Banner was “contraband.” Her
20 Protest Banner was not contraband, nor did Deputy Bloom have any reasonable cause to believe that it
21 was contraband. (Officer Bloom eventually returned possession of the Protest Banner to Ms. Strickland
22 upon her egress.)
23

24 56. Ms. Strickland’s pushcart was rotated again, returning the ongoing encounter into the field
25 of view of her smartphone’s camera.

26 57. Ms. Strickland again asserted the spiritual significance of the Spiritual Circle, and
27 reiterated that she was conducting a spiritual and religious ceremony.
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1 58. Deputy Bloom threatened to send Ms. Strickland to jail.

2 59. Ms. Strickland discussed, in part, the content of (and reason for) her protest demonstration
3 — specifically, that she had been a victim of a hate crime and assault. She refused to leave the scene,
4 and told Deputy Humphrey and Deputy Bloom, “you can call the cops” (meaning the San Francisco
5 Police Department). In response, Deputy Humphrey threatened that “they’ll take you to jail.”
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7 60. Deputy Bloom glared directly at Ms. Strickland’s smartphone, grimaced out of displeasure
8 that he was being recorded, and immediately placed her Protest Banner over it, covering its camera
9 aperture and microphone in order to obstruct the smartphone’s video and audio capture of his
10 performance of his public duties. The video capture was completely obstructed, and the audio capture
11 was partially obstructed (silenced and/or muffled at various moments), by Deputy Bloom’s conduct.
12 (The smartphone’s camera and microphone were later de-obstructed by Ms. Strickland after she
13 eventually regained possession of her property, as discussed *infra*.)
14

15 61. Ms. Strickland said to Deputy Bloom and Deputy Humphrey, “you are intolerant.”

16 62. Deputy Bloom verbally (and falsely) accused Ms. Strickland of “vandalism.”

17 63. Deputy Bloom verbally threatened to obtain a personal tort judgment against Ms.
18 Strickland and taunted her for being indigent, saying “if I slip I’m going to sue you, but you don’t have
19 any money.” Deputy Bloom had no apparent basis — other than Ms. Strickland’s personal appearance
20 — to assume anything about her financial condition or ability to satisfy a hypothetical judgment ordering
21 her to pay him money damages.
22

23 64. Referring to the Spiritual Circle, Ms. Strickland insisted to Deputy Bloom that she had
24 planned to “clean it up.” Ms. Strickland had intended to remediate any residue of the Spiritual Circle
25 prior to the completion of her demonstration.
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27 65. The following conversation ensued:

28 Ms. Strickland: It’s a spiritual circle. It’s a victim’s circle.

1 Deputy Humphrey: Not here. Do it somewhere else. This is [the Mayor's]³ property.

2 Ms. Strickland: No, it's not his property.

3 Deputy Humphrey: Yes, it is.

4 Ms. Strickland: This belongs to the city!

5 Deputy Humphrey: Ma'am, I'm going to ask you to come in.

6 Ms. Strickland: No, I asked you nothing!

7 Deputy Humphrey: Take your stuff, and leave. Is this yours too? [unintelligible]

8 Ms. Strickland: This belongs to the City of San Francisco. It's not his property. [The
9 Mayor's] property, my ass. He works for us! You work for me -- for the
10 people!

11 66. Soon thereafter, Ms. Strickland became extremely emotionally distressed and began
12 sobbing. She discussed the content and motivation behind her protest. Blaming law enforcement, she
13 said, "I haven't gotten justice for the hate crime." She lamented that the Mayor "only works for the
14 people who have homes." Exasperated, she ultimately exclaimed, "Do you understand why I protest at
15 all? Do you?!"

16 67. Extremely emotionally distressed, Ms. Strickland finally succumbed to the coercive
17 pressure placed upon her by Deputy Bloom and Deputy Humphrey, and left the scene. She egressed
18 along the sidewalk in front of City Hall (abutting Polk Street), then crossed over McAllister Street to the
19 next block. She eventually reversed course and returned to a position on the sidewalk in front of the
20 Steps of City Hall. After being questioned again about her identity (this time, at shouting distance and by
21 Deputy Humphrey), Ms. Strickland crossed Polk Street into Civic Center Plaza, thus concluding her
22 encounters with Deputy Humphrey and Deputy Bloom.

23 68. At no time did Deputy Bloom, Deputy Humphrey and/or Deputy Garrido have any lawful
24 basis or authority to require Ms. Strickland to leave the Steps of City Hall.
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28 _____
³ Out of respect for the deceased, the Mayor's name is omitted from this portion of the Complaint.

1 69. None of Deputy Bloom, Deputy Humphrey and Deputy Garrido ever intervened to
2 prevent any of the deprivations of Ms. Strickland's rights by any other of them, despite having a
3 reasonable opportunity to do so in each instance (as applicable).

4 70. Ms. Strickland remained in Civic Center Plaza with her Protest Banner displayed into the
5 daylight hours of April 24, 2017. At approximately 11:51 AM, from her exiled position there, Ms.
6 Strickland witnessed a political protest on the Steps of City Hall and the sidewalk in front of the Steps.
7 The protest included loud drums and a dance performance. The Steps Use Policy explicitly prohibits
8 drums on the Steps of City Hall and use of the Steps as a "performance space." The Permitting Policies
9 do not apply to the sidewalk. No enforcement action was taken against these other demonstrators.

10 71. On August 16, 2017, between the April Incident and the December Incident, Ms.
11 Strickland had suicidal ideations. She posted on Facebook: "I can't fight for anyone anymore...i love you
12 but you didnt love me...goodbye." She persists today in her quest for justice.
13
14

15
16 **Defendants' Violations Caused Plaintiff to Suffer Injuries and Damages**

- 17 73. As a result of the acts and/or omissions of Defendants, Plaintiff suffered:
- 18 a. Legal and other expenses, in amounts to be determined according to proof;
 - 19 c. Emotional distress including suffering, anguish, fright, horror, nervousness, grief,
20 anxiety, worry, shock, humiliation and shame, in amounts to be determined
21 according to proof;
 - 22 d. Pain and suffering;
 - 23 e. Loss of employment/business opportunity;
 - 24 g. Injury to liberty;
 - 25 h. Reasonable attorney's fees in connection with this Action;
 - 26 i. Punitive damages according to proof; and
 - 27 j. Statutory damages (if applicable).
- 28

FIRST CLAIM

1 **(Injunctive Relief and Declaratory Relief - Facial Invalidity of Permitting Policies)**
2 **(Against Defendants City, Deputy Bloom, Deputy Humphrey, Deputy Garrido and Does 1-200)**

3 74. The First Amendment to the United States Constitution reads in part, “Congress shall make
4 no law. . . prohibiting the free exercise [of religion]; or abridging the freedom of speech, or of the press; or
5 the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

6 75. The Fourteenth Amendment to the United States Constitution makes the First Amendment
7 to the United States Constitution applicable to the Defendants.

8 76. The Permitting Policies’ regulations impermissibly burden speech.

9 77. The Permitting Policies’ regulations are content-based, because the Steps Use Policy treats
10 speech differently depending on the content of speech.

11 78. For instance, the Steps Use Policy provides that “The City Hall Steps are not booked as a
12 performance space” (emphasis in original). In contrast, the Permitting Policies contain few such
13 restrictions for other categories of First Amendment content.

14 79. The Permitting Policies’ regulations do not directly or materially advance any compelling
15 governmental interest.

16 80. The Permitting Policies’ regulations are not narrowly tailored to serve any substantial,
17 significant, or compelling governmental interest.

18 81. The Permitting Policies’ regulations are grossly overbroad, prohibiting far more speech than
19 is necessary to advance any purported governmental interest. Indeed, the regulations, as interpreted by the
20 City, prohibit any use of the Steps of City Hall for expressive activity without a permit, regardless of time,
21 place, manner or number of demonstrator(s).

22 82. As such, the Permitting Policies’ regulations also represent an unjustified prior restraint on
23 speech.

24 83. Deepening the constitutional infirmity of the Permitting Policies’ prior restraint scheme, the
25 Steps Use Policy provides that “City Hall Building Management will respond to permit applications within
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1 2 business days after a completed form is submitted.” As with many other public demonstrations that occur
2 from time to time, the subject matter of Plaintiff’s funeral prayer vigil came into existence less than two
3 business days before the vigil.

4 84. The Permitting Policies, specifically the Steps Use Policy and the form of Steps Use Permit,
5 vest unbridled discretion in City Hall Building Management “the right to pre-empt and/or cancel any
6 approved permit at any time” (emphasis in original).

7 85. The Permitting Policies are unconstitutionally vague, including by providing no guidance
8 regarding what form of expressive content constitutes a “performance.”

9 86. By enacting the Permitting Policies and continuing to maintain existence and enforcement
10 thereof, the City has violated, and continues to violate, the First Amendment by chilling First Amendment
11 activity.

12 87. By enforcing and continuing to threaten enforcement of the Permitting Policies, the
13 individual Defendants named herein have violated, and continues to violate, the First Amendment by
14 chilling First Amendment activity.

15 88. By wholly prohibiting Plaintiff’s use of the City Hall Steps for expressive activities without
16 a permit and/or by implementing and enforcing said prohibition, Defendants, acting under color of state
17 law, violate Plaintiff’s First Amendment rights to free speech, free exercise of religion, peaceful assembly
18 and petition, each guaranteed by the First Amendment to the United States Constitution.

19 89. Unless Defendants are permanently enjoined from committing the above-described
20 constitutional violations, Plaintiff will continue to suffer great and irreparable harm.

21 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

22 **SECOND CLAIM**

23 **(Violations of First Amendment Rights – April Incident – 42 U.S.C. § 1983)**
24 **(Against Defendants Deputy Bloom, Does 1-200)**

25 90. Plaintiff realleges and incorporates by reference Paragraphs 1 through 89 of this

1 Complaint.

2 91. The First Amendment to the United States Constitution reads in part, “Congress shall
3 make no law respecting . . . prohibiting the free exercise [of religion]; or abridging the freedom of
4 speech, or of the press; or the right of the people . . . to petition the Government for a redress of
5 grievances.”
6

7 92. The Fourteenth Amendment to the United States Constitution makes the First Amendment
8 to the United States Constitution applicable to the Defendants.

9 93. Defendant Deputy Bloom acted under color of law to deprive Plaintiff of her First
10 Amendment rights to record matters of public interest and to gather news, by doing the acts complained of
11 herein in connection with the April Incident, including, without limitation:

12
13 a. seizing Ms. Strickland’s pushcart and smartphone, and rotating them to avoid
14 further video capture of the encounter; and

15 b. placing Ms. Strickland’s Protest Banner over her smartphone, thus obstructing its
16 camera aperture and microphone, in order to interfere with its video and audio capture of his
17 performance of his public duties.
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19 94. Defendant Deputy Bloom acted maliciously, intentionally, oppressively, willfully, and in
20 conscious disregard of Plaintiff’s rights. Plaintiff is entitled to exemplary or punitive damages according
21 to proof.

22 95. As a proximate result of Defendant Deputy Bloom’s conduct, Plaintiff suffered injuries
23 and damages as herein set forth.
24

25 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

26 **THIRD CLAIM**

27 **(Violation of First Amendment Rights – December Incident – 42 U.S.C. § 1983)**
28 **(Against Defendants Deputy Bloom and Deputy Garrido, Does 1 to 200)**

1 96. Plaintiff realleges and incorporates by reference Paragraphs 1 through 89 of this
2 Complaint.

3 97. In connection with the December Incident, Deputy Bloom acted under color of law to
4 deprive Plaintiff of her First Amendment rights (made applicable to Defendants through the Fourteenth
5 Amendment) to freedom of speech, to free exercise of religion, to petition the Government for a redress
6 of grievances, and to be free of police action motivated by retaliatory animus, by demanding that she
7 remove herself from the Steps of City Hall and enforcing (and threatening to enforce) the Permitting
8 Policies against her, motivated by a desire to retaliate against Plaintiff for filing a claim against him
9 under the Government Claims Act in anticipation of this Action, and for exercising her Fourteenth
10 Amendment right to decide to remain in a public place of her choice. Such conduct would chill a person
11 of ordinary firmness from exercising First Amendment and Fourteenth Amendment rights.
12

13 98. In connection with the December Incident, Deputy Garrido acted under color of law to
14 deprive Plaintiff of her First Amendment rights (made applicable to Defendants through the Fourteenth
15 Amendment) to freedom of speech, to free exercise of religion, to petition the Government for a redress
16 of grievances, and to be free of police action motivated by retaliatory animus, by demanding that she
17 remove herself from the Steps of City Hall and enforcing (and threatening to enforce) the Permitting
18 Policies against her, motivated by a desire to chill her First Amendment activity caused by his opinion
19 that the content of her speech showed inadequate “respect” for a former government official, and by a
20 desire to retaliate against Plaintiff for exercising her Fourteenth Amendment right to decide to remain in
21 a public place of her choice. Such conduct would chill a person of ordinary firmness from exercising
22 First Amendment and Fourteenth Amendment rights.
23

24 99. Defendants Deputy Garrido and Deputy Bloom, acting under color of law and in concert
25 with one another, and by way of a conspiracy among them, have caused Plaintiffs to be denied her First
26 Amendment rights to freedom of speech, to free exercise of religion, to petition the Government for a
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1 redress of grievances, and to be free of police action motivated by retaliatory animus. Deputy Bloom and
2 Deputy Garrido had knowledge of the conspiracy to violate plaintiffs' civil rights and of the violations
3 committed, and had power to prevent these wrongs, but neglected or refused to do so in violation of 42
4 U.S.C. § 1986.

5
6 100. Defendants acted maliciously, intentionally, oppressively, willfully, and in conscious
7 disregard of Plaintiff's rights. Plaintiff is entitled to exemplary or punitive damages according to proof.

8 101. As a proximate result of Defendants' conduct, Plaintiff suffered injuries and damages as
9 herein set forth.

10 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

11
12 **FOURTH CLAIM**

13 **(Violation of 14th Amendment Rights – December Incident – 42 U.S.C. § 1983)**

14 **(Against Defendants Deputy Bloom and Deputy Garrido, Does 1 to 200)**

15 102. Plaintiff realleges and incorporates by reference Paragraphs 1 through 89 of this
16 Complaint,

17 103. The 14th Amendment to the U.S. Constitution states, in relevant part: “No State shall
18 make or enforce any law which shall abridge the privileges or immunities of citizens of the United States;
19 nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny
20 to any person within its jurisdiction the equal protection of the laws.” U.S. Const. Amend. XIV.

21 104. The 14th Amendment to the U.S. Constitution guarantees Plaintiff's right to equal dignity
22 in the eyes of the law. *Obergefell v. Hodges*, 576 U.S. ____ (2015).

23 105. In the December Incident, Deputy Bloom and Deputy Garrido acted under color of law to
24 deprive Plaintiff of her liberty, under the 14th Amendment, to remain in a public place of her choice,
25 including by disrupting and involuntarily terminating, without lawful cause, Plaintiff's funereal prayer
26 vigil on the Steps of City Hall and demanding that she remove herself from the Steps.

27 106. By demanding that Plaintiff move her funereal prayer service away from the vigil area (on
28 the Steps of City Hall) and down to the sidewalk below, Deputy Garrido, motivated by his own

1 articulated belief that the content of Plaintiff’s vigil did not exhibit sufficient “respect,” violated
2 Plaintiff’s right to equal dignity in the eyes of the law. No interest of the government justified, or could
3 justify, such a denial of equal dignity.

4 107. Defendants Deputy Garrido and Deputy Bloom, acting under color of law and in concert
5 with one another, and by way of a conspiracy among them, have caused Plaintiff to be denied her 14th
6 Amendment right to equal dignity in the eyes of the law. Deputy Bloom and Deputy Garrido had
7 knowledge of the conspiracy to violate plaintiffs’ civil rights and of the violations committed, and had
8 power to prevent these wrongs, but neglected or refused to do so, in violation of 42 U.S.C. § 1986.

9 108. Defendants acted maliciously, intentionally, oppressively, willfully, and in conscious
10 disregard of Plaintiff’s rights. Plaintiff is entitled to exemplary or punitive damages according to proof.

11 109. As a proximate result of Defendants' conduct, Plaintiff suffered injuries and damages as
12 herein set forth.

13 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

14 **FIFTH CLAIM**

15 **(Violation of Civil Rights – 42 U.S.C. § 1983 – *Monell*)**

16 **(Against Defendants City, Does 101 to 200)**

17 110. Plaintiff realleges and incorporates by reference Paragraphs 1 through 109 of this
18 Complaint.

19 111. Each of the enactment and existence of the Permitting Policies, and the implementation
20 and execution thereof, was a moving force behind certain of the deprivations of rights possessed by
21 Plaintiff complained of herein, including her First Amendment rights and her Fourteenth Amendment
22 rights.

23 112. The Permitting Policies amount to deliberate indifference of Plaintiff’s constitutional
24 rights.

25 113. As a proximate result of City’s conduct, Plaintiff suffered injuries and damages as herein
26 set forth.

27 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

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SIXTH CLAIM

**(Violation of Rights Under California Constitution – April Incident)
(Against Defendants Deputy Bloom and City)**

114. Plaintiff realleges and incorporates by reference Paragraphs 1 through 89 of this Complaint.

115. The conduct of Defendant Bloom, as described herein in connection with the December Arrest, violated Plaintiff’s exercise and enjoyment of her rights under the Constitution of the State of California, including, without limitation, her right to speak, write and publish her sentiments on all subjects freely, and to be free of restraint and/or abridgement of her liberty of speech or press, specifically her right to record and broadcast video and audio of law enforcement officers engaged in the performance of their official duties in public places, all secured by Article 1, Section 2 of the California Constitution.

116. As a direct and proximate result of said Defendants’ violations of the California Constitution, Plaintiff suffered violations of her rights, and suffered damages as set forth herein.

117. Defendant City is liable under California Government Code §815.2 for the Violations of the California Constitution committed within the course and scope of these individual Defendants’ employment for the damages and injuries set forth herein.

118. In committing the acts alleged above, Defendants acted maliciously and/or were guilty of a wanton and reckless disregard for the rights, safety, and emotional wellbeing of Plaintiff, and by reason thereof, Plaintiff is entitled to exemplary and punitive damages in an amount to be proven at trial against these individual Defendants. No punitive damages are sought against the City.

119. Plaintiffs are entitled to injunctive relief and to an award of reasonable attorneys’ fees pursuant to Cal. Civil Code §52.1(h).

WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

SEVENTH CLAIM

**(Reckless Infliction of Emotional Distress - April Incident)
(Against Defendants City, Deputy Bloom, Deputy Humphrey and Does 1-200)**

1 120. Plaintiff realleges and incorporates by reference Paragraphs 1 through 89 of this
2 Complaint.

3 121. The conduct of Defendant Bloom and Deputy Humphrey, as described herein in
4 connection with the December Arrest, violated Plaintiff's right, secured under California law, to be free
5 of reckless infliction of emotional distress.

6 122. Defendant Bloom acted in Plaintiff's known presence with reckless disregard of the
7 probability that she would suffer emotional distress, including by:

- 8 a. disrupting Ms. Strickland's religious ceremony;
- 9 b. grabbing Ms. Strickland by the wrist;
- 10 c. violently seizing and crumpling up Ms. Strickland's banner, which contained a
11 patently obvious message lamenting a hate crime that had been committed against her;
- 12 d. describing Ms. Strickland's banner as "contraband," without any cause to believe
13 it was contraband;
- 14 e. seizing Ms. Strickland's personal property and saying that it was his own property
15 and that he was taking it;
- 16 f. trampling upon Ms. Strickland's Spiritual Circle;
- 17 g. invading Ms. Strickland's personal space;
- 18 h. verbally (and falsely) accusing Ms. Strickland of assault;
- 19 i. threatening to file a bodily injury lawsuit against Ms. Strickland as a hypothetical
20 consequence of her First Amendment activity;
- 21 j. threatening to send Ms. Strickland to jail; and
- 22 k. demanding that Ms. Strickland leave the Steps of City Hall.

23 123. Defendant Humphrey acted in Plaintiff's known presence with reckless disregard of the
24 probability that she would suffer emotional distress, including by:

- 25 a. threatening to arrest Ms. Strickland (*i.e.*, to "take [her] in");
- 26 b. falsely ascribing ownership of City Hall (including the Steps) to the Mayor
27 personally in fee simple absolute, where Plaintiff, being homeless, has no interest in real property;
- 28

1 and

2 b. demanding that Ms. Strickland to leave the Steps of City Hall.

3 124. Plaintiff suffered severe emotional distress.

4 125. Each of Deputy Bloom's and Deputy Humphrey's conduct was a substantial factor in
5 causing Plaintiff's severe emotional distress.

6 126. As a direct and proximate result of said Defendants' violations of the California
7 Constitution, Plaintiff suffered violations of her rights, and suffered damages as set forth herein.

8 127. Defendant City is liable under California Government Code §815.2 for the
9 Violations of the California Constitution committed within the course and scope of these individual
10 Defendants' employment for the damages and injuries set forth herein.

11 128. In committing the acts alleged above, the individual Defendants acted maliciously and/or
12 were guilty of a wanton and reckless disregard for the rights, safety, and emotional wellbeing of Plaintiff,
13 and by reason thereof, Plaintiff is entitled to exemplary and punitive damages in an amount to be proven
14 at trial against these individual Defendants. No punitive damages are sought against the City.

15 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

16 **INTRADISTRICT ASSIGNMENT**

17 129. This action arose in the City and County of San Francisco, State of California, and should
18 be assigned to the San Francisco or Oakland Division. Civil L.R. 3-2(d).

19 **PRAYER**

20 WHEREFORE, Plaintiff prays for relief as follows:

- 21 1. General damages in the amount \$1,000,000;
- 22 2. Special damages according to proof at trial;
- 23 3. Punitive damages against Defendants Deputy Bloom, Deputy Humphrey and
24 Deputy Garrido, and Does 1 to 200 in the amount of \$1,000,000 each;
- 25 4. Reasonable attorney's fees pursuant to 42 U.S.C. § 1988 and California law
26 including, but not limited to, Civil Code §52.1(h);
- 27 5. Costs of suit incurred herein;
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6. A declaration, pursuant to 28 U.S.C. § 2201, that each of the Permitting Policies is facially unconstitutional under the First Amendment to the United States Constitution;

7. An injunction prohibiting Defendants City, Deputy Bloom, Deputy Humphrey Deputy Garrido, Does 1-200 and any of their respective officers, employees, supervisees and agents from enforcing or threatening to enforce any of the Permitting Policies;

8. Other declaratory and injunctive relief as requested herein;

9. Such other and further relief as the Court may deem just and proper.

Dated: May 28, 2018

/s/ Donald Cloyce Wagda
Donald Cloyce Wagda
Attorney to Plaintiff

JURY DEMAND

Plaintiff respectfully requests a jury trial in this action.

Dated: May 28, 2018

/s/ Donald Cloyce Wagda
Donald Cloyce Wagda
Attorney to Plaintiff