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9 *Attorneys for Plaintiff*
10 HUI JIE JIN

11
12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**
14 **SAN FRANCISCO DIVISION**

15
16 HUI JIE JIN, individually,

17 Plaintiff,

18 v.

19 ALAMEDA COUNTY, a public entity;
CITY OF DUBLIN, a public entity; SHERIFF
20 GREGORY J. AHERN; ACSO
LIEUTENANT ROBERT MCGRORY;
21 ACSO COMMANDER DENNIS
HOUGHTELLING; ACSO OFFICER
22 PHILLIP CORVELLO; and DOES 1-10,
Jointly and Severally,

23
24 Defendants.

Case No.:

Hon.:

**COMPLAINT FOR COMPENSATORY
AND PUNITIVE DAMAGES,
DECLARATORY JUDGEMENT,
INJUNCTIVE RELIEF, AND DEMAND
FOR JURY TRIAL**

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1 Plaintiff HUI JIE JIN, by and through her attorneys, for her Complaint against
2 Defendants Alameda County, Sherriff Gregory J. Ahern, ACSO Lieutenant Robert McGrory, the
3 City of Dublin, Dublin Police Chief Dennis Houghtelling, ACSO Officer Phillip Corvello, and
4 DOES 1-10 (collectively, “Defendants”), states as follows:

5 **PRELIMINARY STATEMENT**

6 1. This action arises from the unlawful arrest and brutal assault of Plaintiff HUI JIE
7 JIN (“Plaintiff” or “Mrs. Jin”), a 76-year old legally deaf and disabled grandmother, by Alameda
8 County and City of Dublin police officers, namely, but not limited to, Traffic Officer Phillip
9 Corvello (Badge No. 1720).

10 2. As described in detail herein, on the morning of July 21, 2017, Officer Corvello
11 detained Mrs. Jin for allegedly jaywalking in the City of Dublin. Mrs. Jin is profoundly deaf and
12 could not hear nor understand Officer Corvello. Officer Corvello recognized this fact, but at no
13 point did he make any attempt to effectively communicate with Mrs. Jin. Instead, Officer
14 Corvello decided to unlawfully arrest Mrs. Jin after becoming frustrated with her repeated
15 attempts to communicate using hand gestures.

16 3. Mrs. Jin did not pose a danger to anyone, and at no point did she attempt to flee or
17 resist arrest—nor could she flee or resist due to her age, physical ailments, and disabilities.
18 Despite these facts, Officer Corvello, a man 2-3 times Mrs. Jin’s size and half her age, violently
19 threw Mrs. Jin to the ground, placed his foot or knee on her back, and cuffed her hands behind
20 her back so tightly that she passed out from the pain. In addition, Officer Corvello unnecessarily
21 re-cuffed Mrs. Jin to the ambulance while she was unconscious, and for no apparent reason,
22 sadistically crushed Mrs. Jin’s left wrist to the bone. The level of force used by Officer Corvello
23 was completely unreasonable under the circumstances and only begs the question, *what kind of*
24 *man beats up a disable 76-year old grandmother?*

25 4. As described in detail below and as evidenced by the photos attached as
26 **Exhibit A**, Defendants caused severe injuries to Mrs. Jin, many of which have been progressing
27 in severity and require long-term care. Police officers are supposed to help disabled elderly
28 women cross streets—not beat them senseless and to the point of hospitalization.

1 properly assigned to the San Francisco or Oakland Divisions of the United States District Court
2 for the Northern District of California.

3 **PARTIES AND PROCEDURE**

4 9. Plaintiff HUI JIE JIN (“Plaintiff” or “Mrs. Jin”) is a 76-year old senior citizen
5 who resides with her family in San Ramon, California. Mrs. Jin is, and at all times relevant
6 herein, legally deaf and a qualified person with a “disability” as the term is defined under the
7 ADA and its implementing regulations (42 U.S.C. § 12102; 28 C.F.R. § 36.104), the
8 Rehabilitation Act and its implementing regulations (29 U.S.C. § 705(20)(A); 28 C.F.R.
9 41.32(b)), and California law pursuant to Cal. Gov’t Code § 12926.

10 10. Defendant ALAMEDA COUNTY (“Alameda County”) is a public entity
11 established by the laws and Constitution of the State of California, a local government entity
12 within the meaning of Title II of the ADA, and receives federal funding within the meaning of
13 the Rehabilitation Act. Alameda County owns, operates, manages, directs, and controls the
14 Alameda County Sheriff’s Office (“ACSO”). ACSO provides law enforcement services for
15 Alameda County, including the City of Dublin via contract, and employs one or more of the
16 police officers named as Defendants in this action.

17 11. Defendant CITY OF DUBLIN (the “City of Dublin”) is a public entity established
18 by the laws and Constitution of the State of California, a local government entity within the
19 meaning of Title II of the ADA, and receives federal funding within the meaning of the
20 Rehabilitation Act. The City of Dublin is responsible for providing law enforcement services in
21 the City of Dublin, which includes managing, directing, and controlling ACSO police officers
22 provided to the City of Dublin under the contract with ACSO, including Defendants ACSO
23 Commander Dennis Houghtelling and ACSO Officer Phillip Corvello.

24 12. Defendant SHERIFF GREGORY J. AHERN (“Sheriff Ahern”) is the elected
25 Sheriff of Alameda County, the highest supervisor at ACSO, the principal policy making officer
26 for Alameda County with respect to law enforcement services provided by ACSO, and was
27 acting within the course and scope of employment/agency for Alameda County at all times
28 material to this action. Sheriff Ahern is sued in his individual and official capacity.

1 13. Defendant ACSO COMMANDER DENNIS HOUGHTELLING (“Commander
2 Houghtelling”) is an ACSO officer who serves as the Chief of Police for the City of Dublin.
3 Commander Houghtelling is the highest supervisor for the City of Dublin with respect to police
4 services, reports to the City of Dublin and Alameda County, and was acting within the course
5 and scope of employment/agency for Alameda County and the City of Dublin at all times
6 material to this action. Commander Houghtelling is sued in his individual and official capacity.

7 14. Defendant ACSO LIEUTENANT ROBERT MCGRORY (“Lt. McGrory”) is an
8 ACSO officer who serves as the Administrative Lieutenant of ACSO’s internal affairs unit.
9 Lt. McGrory is responsible for overseeing complaints against ACSO officers, and was acting
10 within the course and scope of employment/agency for Alameda County at all times material to
11 this action. Lt. McGrory is sued in his individual and official capacity.

12 15. Defendant ACSO OFFICER PHILLIP CORVELLO (“Officer Corvello”), badge
13 No. 1720, is an ACSO deputy who serves as a traffic officer assigned to the City of Dublin.
14 Officer Corvello was acting within the course and scope of employment/agency for ACSO and
15 the City of Dublin at all times material to this action. Officer Corvello is sued in his individual
16 and official capacity.

17 16. The true names and capacities of the individuals sued as Defendants DOES 1-10
18 are currently unknown to Plaintiff. On information and belief, DOES 1-10 are ACSO officers
19 who participated in the unlawful acts alleged by this Complaint. Further, at all times material to
20 this action, one or more DOES 1-10 were responsible for the hiring, training, supervision, and
21 discipline of the officers who arrested and injured Mrs. Jin. On information and belief, DOES 1-
22 10 are each, individually or in concert with other Defendants, responsible for Mrs. Jin’s injuries,
23 whether through intentional acts, omissions, negligence, or otherwise. At all times material to
24 this action, DOES 1-10 were employed by Alameda County and/or the City of Dublin and was
25 acting as an agent of Alameda County and/or the City of Dublin within the course and scope of
26 that relationship. DOES 1-10 are sued in their individual and official capacities. Plaintiff
27 reserves the right to seek leave to amend this Complaint after Defendants provide the true names
28 and capacities of DOES 1-10.

1 17. Plaintiff is informed and believes, and thereon alleges, that each of the Defendants
2 was at all material times an agent, servant, employee, partner, co-conspirator, and/or alter ego of
3 the remaining Defendants, and in doing the things herein alleged, was acting within the course
4 and scope of that relationship. Plaintiff is further informed and believes, and thereon alleges,
5 that each of the Defendants herein gave consent, aid, and assistance to each of the remaining
6 Defendants, and ratified and/or authorized the acts or omissions of each Defendant as alleged
7 herein, except as may be hereinafter otherwise specifically alleged. At all material times, each
8 Defendant was jointly engaged in the improper conduct, and an integral participant with
9 fundamental involvement in the improper conduct described herein, including the unlawful
10 arrest, use of excessive force, and further obstruction of justice against Mrs. Jin. Defendants'
11 individual and joint conduct set in motion and resulted in the deprivation of Plaintiff's
12 constitutional rights and other harms.

13 18. At all material times, each Defendant acted under color of the laws, statutes,
14 ordinances, and regulations of Alameda County and/or the City of Dublin. The acts and
15 omissions of all Defendants as set forth herein were at all material times pursuant to the actual
16 customs, policies, practices and procedures of Alameda County and the City of Dublin. Under
17 California Government Code § 815(a), Defendants Alameda County and the City of Dublin are
18 liable for any and all wrongful acts in violation of state law hereinafter complained of committed
19 by any of these Defendants' employees acting within the course and scope of their employment.

20 19. Plaintiff brings these claims as a Private Attorney General, to vindicate and
21 enforce not only her own rights but others' civil rights of great importance.

22 20. This action is timely filed within all applicable statutes of limitation. Plaintiff
23 timely noticed Defendants Alameda County or the City of Dublin of the tort claims in this Action
24 pursuant to Cal. Gov. Code § 910 *et seq.* on or around July 22, 2017, and Defendants Alameda
25 County or the City of Dublin failed to take action or provide notice prior to the end of the period
26 on which they can act.

27 21. This complaint may be pled in the alternative pursuant to Federal Rule of Civil
28 Procedure 8(d).

GENERAL ALLEGATIONS APPLICABLE TO ALL CLAIMS

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2 22. Mrs. Jin is a 76-year old grandmother who lives with her family in San Ramon,
3 California. Mrs. Jin stands 5’5” and weighs less than 130lbs. Like many senior citizens, Mrs.
4 Jin has physical disabilities common with old age. In particular, she has trouble walking due to
5 arthritis and, after undergoing surgery to remove a brain tumor in 2009, Mrs. Jin lost hearing in
6 her left ear completely and only has 10% hearing in her right ear. As such, Mrs. Jin is, and at all
7 times relevant herein, legally deaf and primarily communicates through American and Chinese
8 sign language. Mrs. Jin also utilizes various generally recognizable hand and arm gestures,
9 especially when trying to communicate with people who are not familiar with sign language.
10 Mrs. Jin has never been arrested until the incident described herein.

11 23. On the morning of July 21, 2017, Mrs. Jin went shopping for groceries. On her
12 way home, Mrs. Jin was stopped and detained by Defendant Officer Corvello simply because
13 Officer Corvello allegedly saw her jaywalking while crossing a street in the City of Dublin.

14 24. Officer Corvello, a man two-to-three times Mrs. Jin’s size, began shouting at Mrs.
15 Jin. Because Mrs. Jin is profoundly deaf, Mrs. Jin could not hear Officer Corvello nor
16 understand what Officer Corvello wanted. As Officer Corvello moved towards her, Mrs. Jin
17 pointed to her ear with one hand and waved her other hand back and forth in order to signal that
18 she was deaf and could not hear Officer Corvello.

19 25. Officer Corvello clearly understood the meaning of Mrs. Jin’s gestures, as he
20 moved in closer to Mrs. Jin’s face and began yelling even louder. Despite recognizing that Mrs.
21 Jin could not hear or understand him, Officer Corvello made no attempts to effectively
22 communicate with Mrs. Jin at any point before or during her arrest.

23 26. After a few minutes—perhaps realizing the futility of yelling at a deaf woman—
24 Officer Corvello pulled out his handcuffs and began waving them back-and-forth in front of Mrs.
25 Jin’s face. At the time, Mrs. Jin had no idea why Officer Corvello had stopped her or why he
26 was screaming at her and waving handcuffs in her face. In the video footage from his body
27 camera, however, Officer Corvello can be seen demanding to see Mrs. Jin’s identification and
28 repeatedly threatening to take Mrs. Jin to jail if she failed to produce it. Apparently, Officer

1 Corvello thought he would be able to convey his message simply by waving handcuffs in Mrs.
2 Jin's face.

3 27. After a while, other ACSO and/or City of Dublin police officers (DOES 1-10)
4 arrived on the scene, and Officer Corvello and DOES 1-10 conducted a search of Mrs. Jin's
5 person and grocery bag. Officer Corvello and DOES 1-10 conducted the search without
6 explaining what they were doing, why they were doing so, and without her consent. During the
7 search, Mrs. Jin emptied her pockets and handed Officer Corvello her California-issued
8 identification card, disable senior citizen bus pass, and a handwritten card with the name and
9 phone number of Mrs. Jin's daughter—which Mrs. Jin carried with her specifically in case of
10 emergencies such as this one. Video from Officer Corvello's body camera shows that Officer
11 Corvello receiving, verbally acknowledging the receipt, and inspecting Mrs. Jin's ID card.

12 28. Mrs. Jin was terrified, but at no point did she resist arrest or attempt to flee, nor
13 could she due to her age and disabilities. After giving Officer Corvello her ID card, however,
14 Mrs. Jin did attempt to communicate with Officer Corvello and DOES 1-10 through certain
15 gestures. Specifically, Mrs. Jin clasped her hands together in prayer and repeatedly bowed
16 deeply in front of Officer Corvello in order to beg Officer Corvello for mercy and not to hurt her.

17 29. Mrs. Jin's gestures, on information and belief, appeared to only agitate Officer
18 Corvello. In response to her begs for mercy, Officer Corvello violently twisted Mrs. Jin's arms
19 behind her back and viciously slammed her to the ground. Mrs. Jin had no idea what was
20 happening. She did not know she was being arrested, let alone why. And despite recognizing
21 that Mrs. Jin could not hear or understand them, Officer Corvello and DOES 1-10 epically failed
22 to ensure communication with Mrs. Jin was as effective as communications with others who are
23 not deaf or hard of hearing.

24 30. This incident is especially outrageous because only years prior, Alameda County
25 and ACSO had been sued by the Department of Justice ("DOJ") for precisely the same failure.¹

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28 ¹ See, e.g., DOJ Press Release, "Justice Department Enters Agreement with Alameda County,
California, Sheriff to Guarantee Effective Communication for Persons Who Are Deaf, Hard of

1 Moreover, in order to settle the case with the DOJ, Alameda County and ACSO agreed to, *inter*
2 *alia*, provide sign language interpreters, auxiliary aids and services to deaf individuals, and to
3 establish nondiscriminatory policies.² Based on the unlawful conduct described herein, Alameda
4 County and ACSO clearly failed to comply with, ignored, and/or forgot about their agreement
5 with the DOJ regarding discrimination against deaf individuals.³

6 31. The actions of Officer Corvello and DOES 1-10 show that Defendants Alameda
7 County and the City of Dublin: (i) failed to provide ACSO officers with appropriate training
8 regarding the rights of individuals who are deaf or hard of hearing under the ADA and Section
9 504 and California state disability rights laws; (ii) failed to provide or do not enforce policies and
10 procedures to ensure ACSO officers' communication with individuals who are deaf or hard of
11 hearing is as effective as communications with others; and (iii) failed to provide appropriate
12 auxiliary aids and services for individuals who are deaf or hard of hearing.

13 32. As Mrs. Jin lay on the ground, on information and belief, Officer Corvello and
14 DOES 1-10 needlessly placed a foot or knee on Mrs. Jin's neck and/or back. Officer Corvello
15 and DOES 1-10 then handcuffed Mrs. Jin's hands painfully behind her back. The pain in her
16 neck, back, shoulders, and elbows was so severe that Mrs. Jin passed out not soon after. Mrs.
17 Jin's last thought before she lost consciousness was: "***Dear God, please take my life so I don't***
18 ***have to suffer anymore.***"

19 33. After Mrs. Jin lost consciousness, Officer Corvello and DOES 1-10 called an
20 ambulance. However, they did not stop brutalizing Mrs. Jin. Upon arrival of the ambulance,
21 Officer Corvello and DOES 1-10 decided to re-cuff Mrs. Jin to the ambulance despite the fact
22 Mrs. Jin was unconscious. Not only was this completely unnecessary, but when re-cuffing her,
23 Officer Corvello and DOES 1-10 sadistically crushed Mrs. Jin's left wrist to the bone, causing
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26 Hearing or Deaf-Blind," 2010 (available at <https://www.justice.gov/opa/pr/justice-department-enters-agreement-alameda-county-california-sheriff-guarantee-effective>).

27 ² See Settlement Agreement Between United States Of America and Alameda County Sheriff's
28 Office, Department of Justice Complaint # 204-11-290 (available at https://www.ada.gov/alameda_county_sa.html).

³ The U.S. Justice Department, Civil Rights Division has been made aware of this Complaint.

1 severe injuries, described herein and shown in **Exhibit A**. On information and belief, Officer
2 Corvello and DOES 1-10 intentionally crushed Mrs. Jin’s wrist to check whether she had
3 regained consciousness.

4 34. Mrs. Jin was taken from the scene by ambulance to ValleyCare Emergency
5 Medical Center, where she was treated for the injuries caused by Officer Corvello and DOES 1-
6 10, including, but not limited to: blunt force injuries (contusions, abrasions, avulsions)
7 throughout her body; crushing fractures of her hands and fingers; and head trauma.

8 35. No person, let alone a disabled 76-year old grandmother, should be subjected to
9 the abuse and torture that Mrs. Jin suffered at the hands of Officer Corvello and DOES 1-10.
10 Officer Corvello and DOES 1-10 were all were integral participants in this unlawful use of force,
11 either directly and/or each were present, observed, assisted and permitted violations of Mrs. Jin’s
12 rights, and each Defendant failed to intervene, protect Mrs. Jin, or report the violations of Mrs.
13 Jin’s rights by other Defendants.

14 36. As discussed herein and in more detail below, Mrs. Jin was unlawfully arrested.
15 But even pretending for a moment that there was a legitimate reason for arresting Mrs. Jin, the
16 level of force used by Officer Corvello and DOES 1-10 during the arrest was completely
17 unreasonable under the circumstances. At no point did Mrs. Jin attempt to flee or resist arrest,
18 nor could she flee or resist due to her age, physical ailments, and disabilities. Mrs. Jin was not
19 suspected of a serious crime and—as an unarmed disabled elderly woman—she could not have
20 possibly posed a threat to the public or Officer Corvello and DOES 1-10. Put simply, Officer
21 Corvello and DOES 1-10 brutally assaulted Mrs. Jin using lethal force without any justification.

22 37. Officer Corvello issued Mrs. Jin a [City of Dublin] Citation, No. D190771.
23 According to the Citation, Mrs. Jin had been arrested for allegedly: (i) failing to complete
24 [a street] crossing prior to the display of the steady “DON’T WALK” or “WAIT” signal under
25 California Vehicle Code 21456 Section (b); and resisting arrest under California Penal Code
26 Section 148(a). Police officers are supposed to help elderly women across the street, not beat
27 them to the point of hospitalization.

28

1 38. On information and belief, neither Officer Corvello nor DOES 1-10 wrote or filed
2 reports regarding the arrest of Mrs. Jin and Citation No. D190771, including use-of-force reports
3 that are required under ACSO internal policies. Alternatively, on information and belief,
4 Defendants destroyed all documentation corresponding to the arrest of Mrs. Jin and Citation
5 No. D190771, including, but not limited to use-of-force reports. Specifically, ACSO failed to
6 produce any reports regarding the arrest in response to requests from Plaintiff’s counsel.
7 Furthermore, Superior Court in Alameda County does not have any record of Mrs. Jin’s arrest or
8 even a copy of the Citation. Oddly, despite the complete lack of paperwork, the Alameda
9 County District Attorney’s office informed Plaintiff’s counsel that Mrs. Jin would not be
10 prosecuted for any crime in connection with Citation No. D190771.

11 39. After Plaintiff’s counsel filed a complaint against Officer Corvello with ACSO
12 and notified Defendants of this legal action, ACSO launched an internal affairs investigation on
13 or around July 27, 2017. On August 10, 2017, Plaintiff’s counsel met with ACSO internal
14 affairs officer Lt. McGrory to view the video footage from Officer Corvello’s body camera.
15 During the meeting, Lt. McGrory admitted that a violation of California Vehicle Code 21456(b),
16 *i.e.*, jaywalking, was not an “arrestable” crime and thus could not justify Mrs. Jin’s arrest on its
17 own. Lt. McGrory stated that Mrs. Jin was not arrested for jaywalking, but because Mrs. Jin
18 failed to produce identification in violation of California Penal Code Section 148(a). However,
19 the video from Officer Corvello’s body camera not only shows Officer Corvello looking at Mrs.
20 Jin’s California-issued identification card, but also includes a verbal acknowledgment from
21 Officer Corvello that he had received Mrs. Jin’s ID. When confronted with this video evidence,
22 Lt. McGrory refused to acknowledge it without any explanation whatsoever.

23 40. On September 19, 2017, Sheriff Ahern notified Plaintiff that the ACSO internal
24 affairs investigation had concluded. Despite clear video evidence to the contrary, ACSO had
25 determined that Plaintiff’s allegations of unlawful arrest and unnecessary force were both
26 “unfounded.” The letter from Sheriff Ahern did not address the violations of Mrs. Jin’s rights
27 under the ADA, Section 504, or state disability laws.

28

1 41. On information and belief, Defendants, including but not limited to Officer
2 Corvello, Lt. McGrory, Chief Houghtelling, Sheriff Ahern, and DOES 1-10 conspired to cover
3 up their misconduct and unlawful arrest of Mrs. Jin—primarily by, but not limited to, falsely
4 claiming that the arrest was justified because Mrs. Jin failed to produce identification despite
5 clear video evidence to the contrary.

6 42. On information and belief, Defendants, including but not limited to Officer
7 Corvello, Lt. McGrory, Chief Houghtelling, Sheriff Ahern, and DOES 1-10 participated in a
8 code of silence concerning the unlawful conduct of fellow law enforcement officers.

9 43. On information and belief, Defendants, including but not limited to Officer
10 Corvello, Lt. McGrory, Chief Houghtelling, Sheriff Ahern, and other DOES 1-10 obstructed
11 justice, interfered with Plaintiff's right to petition the government through the courts for redress
12 of civil rights violations, and attempted to cover up violations of Plaintiff's rights by: (i) failing
13 to file arrest or use-of-force reports; (ii) improperly conducting an internal affairs investigation
14 that ignored video footage from Officer Corvello's body camera; and (iii) utilizing the code of
15 silence to improperly shield fellow law enforcement officers.

16 44. Acting as integral participants, each with fundamental involvement in the
17 violations of Plaintiff's rights described herein, Defendants unlawfully permitted the use of an
18 extremely high level of force against Plaintiff without any justification. Officer Corvello and
19 DOES 1-10 also used deadly force against Mrs. Jin when they violently twisted Mrs. Jin's arms
20 behind her back, threw her to the ground causing very severe and permanent injuries, stepped on
21 her back and/or neck, and crushed her hands with cuffs. Defendants subjected Plaintiff to the use
22 of excessive force in the absence of any immediate threat, in the absence of any objectively
23 reasonable information that Plaintiff had committed a serious crime, and in the absence of any
24 unlawful resistance by Plaintiff. Plaintiff never possessed or displayed any weapon. There was
25 no need to use any more than the most minimal force against Plaintiff under these circumstances
26 and the totality of force used by Defendants against Plaintiff was unlawful, unnecessary,
27 unjustified and objectively unreasonable under the circumstances. Alternatively, Defendants
28 own excessive and unreasonable actions created the situation in which Defendants decided to

1 unlawfully seize and use force against Plaintiff, and caused an escalation of events leading to the
2 unlawful seizure and use of force against, and injury to, Plaintiff.

3 45. At all material times, and alternatively, the actions and omissions of each
4 Defendant were intentional, wanton and/or willful, conscience shocking, reckless, malicious,
5 deliberately indifferent to Plaintiff's rights, done with actual malice, grossly negligent, negligent,
6 and objectively unreasonable.

7 46. Mrs. Jin required medical treatment for the injuries Defendants caused, including
8 inpatient hospitalization incurred significant medical bills as a result.

9 47. As a direct and proximate result of each Defendant's acts and/or omissions as set
10 forth above, Mrs. Jin sustained the following injuries and damages, past and future, among
11 others:

- 12 a. Blunt force injuries, including but not limited to contusions, abrasions,
13 avulsions to her body, multiple crushing fractures of her hands and
14 fingers, and head trauma that required immediate hospitalization,
15 continuing medical treatment and long-term care;
- 16 b. Permanent brain damage,⁴ symptoms of which only appeared after the
17 brutal and unlawful assault by Officer Corvello and DOES 1-10, many of
18 which have been progressing in severity and require long-term care,
19 including, but not limited to: confusion, dementia, short-term memory
20 loss, various sleep disorders, loss of appetite, depression (including
21 suicidal thoughts), chronic pain, and stress-related issues leaving Mrs. Jin
22 unable to move;
- 23 c. Medical expenses, past and future;
- 24 d. Pain and suffering and emotional distress;

25
26 ⁴ See, e.g., "Traumatic Brain Injury in Older Adults: Epidemiology, Outcomes, and Future
27 Implications," J Am Geriatr Soc. 2006 October; 54(10): 1590–1595 (noting that seniors are most
28 likely to experience a traumatic brain injury from falls, increased probability of severe injuries as
well as variety of injuries, and the high percentage of seniors who never recover) (*available at*
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2367127/pdf/nihms-44753.pdf>).

- 1 e. Violations of Mrs. Jin’s Constitutional rights, including subjecting her to
2 unlawful arrest, unreasonable excessive force, and obstruction of justice;
3 f. All damages, costs, and attorney’s fees and penalties recoverable under 42
4 U.S.C. §§ 1983, 1988, California Civil Code §§ 52 and 52.1, California
5 Code of Civil Procedure § 1021.5, and as otherwise allowed under
6 California and United States statutes, codes, and common law.

7 48. Furthermore, as a direct and proximate result of each Defendant’s acts and/or
8 omissions as set forth herein, Mrs. Jin has suffered discrimination, extreme physical pain and
9 suffering, humiliation, hardship, anxiety, and indignity, and severe mental and emotional anguish
10 pain. Mrs. Jin was, and will continue to be denied full and equal access to the programs, services
11 and activities offered to members of the public by Alameda County/ACSO and the City of
12 Dublin, such that an actual and substantial controversy currently exists between Plaintiff and
13 Defendants and declaratory relief pursuant to 28 U.S.C. § 2201 is appropriate.

14 49. The violations of the ADA and Section 504 and related state statutes set forth
15 herein, if not enjoined by this Court, will continue to afflict Plaintiff and similarly situated
16 persons and cause them to suffer irreparable physical and emotional harm unnecessarily.
17 Plaintiff has no plain, speedy, and adequate remedy at law for such injuries. Accordingly,
18 injunctive relief pursuant to 42 U.S.C. § 12133, 29 U.S.C. § 794(a), and applicable California
19 state law is appropriate.

20 **COUNT ONE**

21 **Violation of Title II of the Americans with Disabilities Act**
22 **(42 U.S.C. § 12131 *et seq.*)**
23 **Against Defendants Alameda County and the City of Dublin**

24 50. Plaintiff incorporates by reference each and every allegation contained in the
25 foregoing paragraphs.

26 51. Plaintiff is, and at all times relevant to this action, a qualified individual with a
27 disability within the meaning of Title II of the ADA and meets the essential eligibility
28 requirements for the receipt of the services, programs, or activities of Defendants Alameda
County and the City of Dublin.

1 52. Defendants Alameda County and the City of Dublin are, and at all times relevant
2 to this action, public entities within the meaning of Title II of the ADA and provided a program,
3 service, or activity to the general public.

4 53. Through the acts and omissions of Defendants Alameda County, the City of
5 Dublin, and their agents and employees described herein, said Defendants discriminated and
6 subjected Plaintiff to discrimination on the basis of her disability in violation of Title II of the
7 ADA, 42 U.S.C. § 12132 *et seq.*, by failing to provide Plaintiff with communication that is as
8 effective as communication provided to the general public during the course of law enforcement
9 interactions including, but not limited to: investigation, questioning and interrogation, arrest,
10 transportation, and/or otherwise interacting with Plaintiff during the events set forth herein.

11 54. Defendants Alameda County, the City of Dublin, and their agents and employees
12 could have reasonably provided a means to effectively communicate with Plaintiff, including but
13 not limited to: a qualified sign language interpreter at the scene of the investigation, during
14 questioning and arrest of Plaintiff, including informing Plaintiff of the reason for her arrest and
15 her Miranda rights; and/or a Telecommunication Device for the Deaf (TDD), Video Relay
16 Service or equally effective telecommunication system.

17 55. Defendants Alameda County, the City of Dublin, and their agents and employees
18 failed to provide, or even attempt to provide any means to effectively communicate with Plaintiff
19 at any point during the during the events set forth herein.

20 56. Defendants Alameda County, the City of Dublin, and their agents and employees
21 have failed and continue to fail to:

- 22 a. Adopt and enforce additional policies and procedures for communicating
23 effectively with individuals who are deaf or hard of hearing;
- 24 b. Train and supervise ACSO police officers and employees to communicate
25 effectively with individuals who are deaf or hard of hearing; and
- 26 c. Train and supervise ACSO police officers and employees regarding the
27 culture and behavior of individual who are deaf or hard of hearing.

28

1 57. Declaratory and injunctive relief are appropriate remedies in this case because the
2 discriminatory conduct of Defendants Alameda County and the City of Dublin is ongoing.

3 58. Pursuant to 42 U.S.C. §§ 12133 and 12205, Plaintiffs pray for judgment as set
4 forth below.

5 **COUNT TWO**

6 **Violation of Section 504 of the Rehabilitation Act of 1973**

7 **(29 U.S.C. § 794 *et seq.*)**

8 **Against Defendants Alameda County and the City of Dublin**

9 59. Plaintiff incorporates by reference each and every allegation contained in the
10 foregoing paragraphs.

11 60. Plaintiff is, and at all times relevant to this action, a qualified individual with
12 disabilities within the meaning of the Rehabilitation Act because she has physical impairments
13 that substantially limits one or more of her major life activities. *See* 29 U.S.C. § 705(20)(B).

14 61. Defendants Alameda County and the City of Dublin are, and at all times relevant
15 to this action, recipients of federal funding within the meaning of the Rehabilitation Act.

16 62. Through their acts and omissions described herein, Defendants Alameda County,
17 the City of Dublin, and their agents and employees excluded Plaintiff from participation in,
18 denied the benefits of, and subjected Plaintiff to discrimination in participating and benefiting
19 from services that Defendants provide to the general public solely by reason of Plaintiff's
20 disability in violation of the Rehabilitation Act pursuant to 29 U.S.C. § 794.

21 63. Pursuant to the remedies, procedures, and rights set forth in 29 U.S.C. § 794(a),
22 Plaintiff prays for judgment as set forth below.

23 **COUNT THREE**

24 **Violation of Cal. Gov't Code § 11135**

25 **Against Defendants Alameda County and the City of Dublin**

26 64. Plaintiff incorporates by reference each and every allegation contained in the
27 foregoing paragraphs.

28 65. Defendants Alameda County and the City of Dublin are, and at all times relevant
to this action, either directly funded and/or recipients of financial assistance from the state of
California within the meaning of Section 11135(a) of the California Government Code.

1 indifference of, and with the intent to deprive Plaintiff of her constitutional rights and privileges,
2 and did in fact violate the aforementioned rights and privileges, entitling Plaintiff to exemplary
3 and punitive damages under 42 U.S.C. § 1983 and California law.

4 72. Plaintiff is also entitled to her costs and attorneys' fees under 42 U.S.C. § 1988
5 and applicable California law.

6 **COUNT FIVE**
7 **Deprivation of Civil Rights**
8 **(42 U.S.C. § 1983 – *Monell* and Supervisory Liability)**
9 **Against Defendants Alameda County, the City of Dublin, Sheriff Ahern, Commander**
10 **Houghtelling, Lieutenant Robert McGrory, and DOES 1-10**

11 73. Plaintiff incorporates by reference each and every allegation contained in the
12 foregoing paragraphs.

13 74. The unconstitutional and unlawful actions and/or omissions of Defendants
14 discussed herein were pursuant to the following customs, policies, practices, and/or procedures
15 of Defendants Alameda County (including through its law enforcement agency, ACSO) and the
16 City of Dublin, and were directed, encouraged, allowed, and/or ratified by Sheriff Ahern,
17 Commander Houghtelling, Lieutenant Robert McGrory, as well as other policy-making officers
18 for Alameda County/ACSO and the City of Dublin identified as DOES 1-10:

- 19 a. To ignore, tolerate, or encourage violations of individual's right to be free
20 from unreasonable searches and seizures and false arrest and
21 imprisonment as secured by the Fourth and Fourteenth Amendments;
- 22 b. To ignore, tolerate, or encourage discrimination on the basis of disabilities
23 (such as deafness) in violation of Title II of the ADA, including failures to
24 provide deaf and disabled individuals with equal services and
25 communication that is as effective as communication provided to the
26 general public during the course of law enforcement activities;
- 27 c. To use or tolerate the use of excessive and/or unjustified force, including
28 permitting and training officers: (i) to use deadly force when faced with
less than an immediate threat of death or serious bodily injury, (ii) to use
substantial or deadly force prematurely, (iii) to use substantial or deadly

1 force without giving a proper warning when one would be feasible, and
2 (iv) to permit and encourage a culture where ACSO officers inflict
3 unnecessary pain and degradation upon their victims;

4 d. To cover-up violations of constitutional rights by: (i) failing to properly
5 investigate and/or evaluate complaints or incidents of unlawful arrest,
6 excessive and unreasonable force, (ii) ignoring and/or failing to investigate
7 and discipline unconstitutional or unlawful police activity, and (iii)
8 allowing, tolerating, and/or encouraging ACSO officers to not file reports,
9 destroy records, evidence, and reports, make false statements, cover up
10 violations of rights and/or to attempt to bolster officers' stories, and/or
11 obstruct or interfere with investigations of unconstitutional or unlawful
12 police conduct by withholding and/or concealing material information;

13 e. To allow, tolerate, and/or encourage a "code of silence" among law
14 enforcement officers and police department personnel, whereby an officer
15 or member of ACSO does not take any action that may adversely affect a
16 fellow officer or member of the department;

17 f. To fail to institute, require, and enforce necessary, appropriate and lawful
18 policies, procedures, and training programs to prevent or correct the
19 unconstitutional conduct, customs, and practices and procedures described
20 in this Complaint and in sub-paragraphs (a) through (e), with deliberate
21 indifference to the rights and safety of Plaintiff and the public, and in the
22 face of an obvious need for such policies, procedures, and training
23 programs; and

24 g. To use and/or tolerate inadequate, deficient, and improper procedures for
25 handling, investigating, and reviewing complaints of officer misconduct
26 submitted to ACSO internal affairs and/or under California Government
27 Code § 910 *et seq.*

28

1 75. Defendants Alameda County/ACSO, the City of Dublin, Sheriff Ahern, Lt.
2 McGrory, and Commander Houghtelling failed to properly hire, train, instruct, monitor,
3 supervise, evaluate, investigate, and discipline ACSO officers named as Defendants, with
4 deliberate indifference to Plaintiff's constitutional rights and, as described above, the violation of
5 such rights.

6 76. The unconstitutional actions and/or omissions of Defendants, as described above,
7 were approved, tolerated and/or ratified by Sheriff Ahern, Commander Houghtelling, Lt.
8 McGrory, and other policy-making officers for Alameda County/ACSO and the City of Dublin.
9 The applicable policy-makers for Alameda County/ACSO and the City of Dublin have direct
10 knowledge of the facts of the incident described herein. Notwithstanding this knowledge, these
11 policy-makers approved of the conduct of Defendants, and have made a deliberate choice to
12 endorse and ratify the unlawful actions of Defendant ACSO officers.

13 77. The aforementioned customs, policies, practices, and procedures, the failures to
14 properly and adequately hire, train, instruct, monitor, supervise, evaluate, investigate, and
15 discipline, as well as the unconstitutional orders, approvals, ratification and toleration of
16 wrongful conduct of Defendants Alameda County/ACSO, the City of Dublin, Sheriff Ahern,
17 Lt. Robert McGrory, Commander Houghtelling, and other policy-making officers for Alameda
18 County and the City of Dublin were a moving force and proximate cause of the deprivations of
19 Plaintiff's constitutional rights in violation of 42 U.S.C. § 1983, as set forth herein.

20 78. The aforementioned unlawful conduct of Defendants Alameda County/ACSO, the
21 City of Dublin, Sheriff Ahern, Lt. McGrory, Commander Houghtelling, and other policy-making
22 officers for Alameda County/ACSO and the City of Dublin was willful, wanton, malicious and
23 oppressive, with reckless disregard or with deliberate indifference, and with the intent to deprive
24 Plaintiff of her constitutional rights and privileges, and did in fact violate the aforementioned
25 rights and privileges, entitling Plaintiff to exemplary and punitive damages under 42 U.S.C. §
26 1983 and California law.

27 79. As a direct and proximate result of the aforementioned unconstitutional actions,
28 omissions, customs, policies, practices and procedures of Defendants Alameda County/ACSO,

1 the City of Dublin, Sheriff Ahern, Lt. Robert McGrory, Commander Houghtelling, and other
2 policy-making officers for Alameda County/ACSO, Plaintiff sustained serious injuries and is
3 entitled to damages, penalties, costs and attorney fees as set forth in ¶¶ 70-72 above, including
4 punitive damages against Sheriff Ahern, Commander Houghtelling, and other policy-making
5 officers identified as DOES 1-10 in their individual capacities.

6
7 **COUNT SIX**
8 **Violation of Unruh Civil Rights Act**
9 **(Cal. Civil Code § 51 *et seq.*)**
10 **Against All Defendants**

11 80. Plaintiff incorporates by reference each and every allegation contained in the
12 foregoing paragraphs.

13 81. By their acts, omissions, customs, and policies described herein, and acting in
14 concert and as integral participants, Defendants discriminated and denied equal access to
15 Plaintiff, interfered with and violated Plaintiff's rights under California Civil Code § 52.1, the
16 rights under the U.S. Constitution, the Constitution and laws of the State of California as follows:

- 17 a. The right to be free from false arrest and imprisonment and excessive and
18 unreasonable force as secured by the Fourth Amendment to the U.S.
19 Constitution and associated "right to be free from any violence, or
20 intimidation by threat of violence . . . [due to her] disability in violation of
21 Cal. Civ. Code § 51.7;
- 22 b. The right to petition the government for redress of civil rights violations
23 through the courts and otherwise, and the right to be free from unlawful
24 government obstruction of justice, as secured by the First and Fourteenth
25 Amendments to the U.S. Constitution, and as secured by Cal. Const.
26 Art. 1, Sections 3, 7, and 28;
- 27 c. The right to enjoy and defend life and liberty, acquire, possess and protect
28 property, and pursue and obtain safety, happiness and privacy, as secured
by the California Constitution, Article 1, Section 1;

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d. The right to protection from bodily restraint, harm, or personal insult, as secured by Cal. Civil Code § 43.

82. Separate from, and above and beyond Defendants’ attempted interference and interference with, Defendants further violated Plaintiff’s rights by the following conduct constituting threats, intimidation, or coercion:

- a. Threatening Plaintiff with violence, including conduct specifically defined as coercive in California Civil Code § 52.1(j), speech that “threatens violence against a specific person . . . and the person . . . against whom the threat is directed reasonably fears that, because of the speech, violence will be committed against them or their property and that the person threatening violence had the apparent ability to carry out the threat;
- b. Using excessive force against Plaintiff (*see Chaudhry v. City of Los Angeles*, 751 F.3d 1096, 1105-06 (9th Cir. 2014));
- c. Using a very high level of force against Plaintiff sufficient to cause, and that did cause, severe and permanent injuries in the absence of any threat posed by Plaintiff or other substantial lawful need for such force;
- d. Using multiple instances of such force such that each use of force was a separate intimidating, threatening, and coercive use of force;
- e. Re-cuffing and crushing Plaintiff’s hands in an unnecessarily painful and purely punishing manner after she had already lost consciousness due to Defendants’ prior use of severely injurious force;
- f. Suppressing or destroying reports and other evidence, falsifying internal affairs conclusions based on clearly erroneous facts, and otherwise conspiring and acting to interfere with Plaintiff’s right to petition the government and redress Defendants’ civil rights violations.
- g. Subjecting Plaintiff to multiple violations of her civil rights (*see Bender v. Cnty. of Los Angeles*, 217 Cal. App. 4th 968 (2013)).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the following relief against each and every Defendant herein, jointly and severally:

- a. Injunctive relief, including but not limited to the following:
 - i. An order requiring Defendants Alameda County/ACSO and the City of Dublin to fund, with no monetary restrictions, an independent agency to oversee compliance with all injunctive relief ordered, and with complete authority to remove any and all officers of Alameda County/ACSO and the City of Dublin for noncompliance, including Sheriff Ahern, Lt. McGrory, and Commander Houghtelling;
 - ii. An order prohibiting Defendants Alameda County/ACSO, the City of Dublin, Sheriff Ahern, Lt. McGrory, Commander Houghtelling, and employees or agents of said Defendants from engaging in the unconstitutional customs, policies, practices, and procedures described herein;
 - iii. An order requiring Defendants Alameda County/ACSO and the City of Dublin to implement policies and procedures that ensure that ACSO personnel have access to qualified sign language interpreters and auxiliary aids and services at all times;
 - iv. An order requiring Defendants Alameda County/ACSO and the City of Dublin to revise and/or update its training and supervision programs to educate its officers and employees about providing effective communication and auxiliary aids to persons who are deaf or hard of hearing consistent with ADA and California law to ensure equal access to programs and services;
- b. Compensatory and exemplary damages in an amount according to proof and which is fair, just, and reasonable;
- c. Punitive damages under 42 U.S.C. §1983 and California law in an amount according to proof and which is fair, just, and reasonable;
- d. All other damages, penalties, costs, interest, and attorneys' fees as allowed by 42 U.S.C. §§ 1983, and 1988; Cal. Code Civ. Proc. § 1021.5, Cal. Civil Code §§ 52 *et seq.*, 52.1, and as otherwise allowed under California and/or federal law; and
- e. Any other relief that this Court may deem appropriate.

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DEMAND FOR JURY TRIAL

Plaintiff hereby requests a trial by jury on all issues so triable.

Dated: August 11, 2018

By: /s/ Mark S. Zhai
Mark S. Zhai
Attorney for Plaintiff