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9 **UNITED STATES DISTRICT COURT**

10 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

11 LAMONT TARKINGTON;

12 Plaintiff,

13 vs.

14 COUNTY OF LOS ANGELES; LOS ANGELES  
15 COUNTY SHERIFF'S DEPARTMENT; LOS  
16 ANGELES COUNTY SHERIFF JIM  
17 MCDONNELL; LAUREN BROWN; JAMES  
18 MURREN; DONALD YOUNG; LAWRENCE  
19 BEACH ALLEN CHOI PC; and DOES 1-10  
20 INCLUSIVE;

21 Defendants.

) CASE NO.:

) **COMPLAINT FOR DAMAGES:**

) **(1) DEPRIVATION OF CIVIL RIGHTS, 42**  
) **U.S.C. §1983, FABRICATION OF EVIDENCE**

) **(2) JOINT ACTION/CONSPIRACY TO**  
) **INTERFERE WITH CIVIL RIGHTS, 42**  
) **U.S.C. §1983, FABRICATION OF EVIDENCE**

) **(3) VIOLATION OF CIVIL RIGHTS, 42**  
) **U.S.C. §1983, SUPERVISORIAL LIABILITY**

) **(4) DEPRIVATION OF CIVIL RIGHTS, 42**  
) **U.S.C. §1983, MALICIOUS PROSECUTION**

) **(5) DEPRIVATION OF CIVIL RIGHTS, 42**  
) **U.S.C. §1983, BRADY VIOLATIONS**

) **(6) JOINT ACTION/CONSPIRACY TO**  
) **INTERFERE WITH CIVIL RIGHTS, 42**  
) **U.S.C. §1983, BRADY VIOLATIONS**

) **(7) DEPRIVATION OF CIVIL RIGHTS, 42**  
) **U.S.C. §1983, MONELL VIOLATIONS**

) **(8) VIOLATION OF CAL CIVIL CODE §§ 51**  
) **et. seq. AND 52.1**

) **(9) VIOLATION OF STATE DUE PROCESS,**  
) **CAL CONST. ART. I § 7(a)**

) **(10) FALSE IMPRISONMENT**

) **(11) NEGLIGENT HIRING, SUPERVISION,**  
) **DISCIPLINING AND RETAINING DEPUTY**  
) **SHERIFFS**

) **DEMAND FOR JURY TRIAL**

22 **COMPLAINT FOR DAMAGES**

1 **I.**

2 **JURISDICTION AND VENUE**

3 1. This action is brought by Plaintiff LaMont Tarkington (hereinafter “Plaintiff”) pursuant to  
4 42 U.S.C. § 1983, California Constitution Art. I §7(a), and California Civil Code §§ 51 *et. seq.*, and 52.1.

5 2. This Court has jurisdiction under 28 U.S.C. § 1343(4) for violations of the 1871 Civil  
6 Rights Enforcement Act, as amended, including 42 U.S.C. § 1983 and under 28 U.S.C. § 1331.

7 3. The acts and omissions complained of commenced on December 14, 2005 and continued  
8 until June 4, 2018 within the Central District of California. Therefore, venue lies in the Central District of  
9 California pursuant to 28 U.S.C. § 1391.

10 **II.**

11 **PARTIES**

12 4. At all times relevant herein, Plaintiff is a resident of the State of California and resided  
13 within the jurisdiction of the State of California.

14 5. At all times relevant herein, Defendant Los Angeles County Deputy Sheriff Detective  
15 Lauren Brown (hereinafter “Brown”) was employed by and working on behalf of the Los Angeles County  
16 Sheriff’s Department, and resided within the jurisdiction of the State of California. In his capacity as a  
17 detective for the Los Angeles County Sheriff’s Department, he actively participated in the investigation  
18 resulting in the prosecution and wrongful conviction of Plaintiff. Defendant Brown is sued in his  
19 individual capacity.

20 6. At all times relevant herein, Defendant Los Angeles County Deputy Sheriff Detective  
21 James Murren (hereinafter “Murren”) was employed by and working on behalf of the Los Angeles County  
22 Sheriff’s Department, and resided within the jurisdiction of the State of California. In his capacity as a  
23 detective for the Los Angeles County Sheriff’s Department, he actively participated in the investigation  
24 resulting in the prosecution and wrongful conviction of Plaintiff. Defendant James Murren is sued in his  
25 individual capacity.

26 7. At all times relevant herein, Defendant Los Angeles County Deputy Sheriff Sergeant  
27 Donald Young (hereinafter “Young”) was employed by and working on behalf of the Los Angeles County  
28 Sheriff’s Department, and resided within the jurisdiction of the State of California. In his capacity as a

1 sergeant for the Los Angeles County Sheriff's Department, he actively participated in the investigation  
2 resulting in the prosecution and wrongful conviction of Plaintiff. Defendant Donald Young is sued in his  
3 individual capacity.

4 8. At all times relevant herein, Defendant Los Angeles County Sheriff, presently Jim  
5 McDonnell (hereinafter "McDonnell"), was employed by and working on behalf of the Los Angeles  
6 County Sheriff's Department, and resided within the jurisdiction of the State of California. In his capacity  
7 as Sheriff for the Los Angeles County Sheriff's Department, he participated and ratified the policies,  
8 customs and/or practices resulting in the investigation, prosecution and wrongful conviction of Plaintiff  
9 and other similarly situated criminal defendants. Defendant McDonnell is sued in his individual and  
10 official capacity.

11 9. At all times relevant herein, Defendant County of Los Angeles was a public entity,  
12 organized and existing under the laws of the State of California. The Los Angeles Sheriff's Department  
13 is, and at all times alleged herein, was an agency of Defendant County of Los Angeles.

14 10. At all times relevant herein, Defendant Lawrence Beach Allen and Choi PC is a California  
15 corporation, and resided within the jurisdiction of the State of California.

16 11. Plaintiff is informed and believes and thereon alleges that Defendants sued herein as Does  
17 1 through 10, inclusive, were employees of the Los Angeles County Sheriff's Department, and were at all  
18 times relevant times acting in the course and scope of their employment and agency. Each Defendant is  
19 the agent of the other. Plaintiff alleges that each of the Defendants named as a "Doe" was in some manner  
20 responsible for the acts and omissions alleged herein, and Plaintiff will seek leave of this Court to amend  
21 the Complaint to allege such names and responsibility when that information is ascertained.

22 **III.**

23 **GENERAL ALLEGATIONS**

24 12. Plaintiff is informed and believes, and thereon alleges, that, at all times herein mentioned,  
25 each of the Defendant was the agent and/or employee and/or co-conspirator of each of the remaining  
26 Defendants, and in doing the things hereinafter alleged, was acting within the scope of such agency,  
27 employment and/or conspiracy, and with the permission and consent of other co-defendants.



1           19.     At trial, bank teller Brandi Bateman testified that she saw three or four mask men come out  
2 of the Albertsons' supermarket, get into a white SUV, and drive off. (**Exhibit B**, Reporters' Transcript  
3 on Appeal (hereinafter "RT") at 508 ln. 2-8.) The witness gave the sheriff the license plate number.  
4 (**Exhibit B**, RT at 504 ln. 10-27.)

5           20.     Bank teller Yesenia Bahena worked at the Bank of America located at 37<sup>th</sup> Street East and  
6 Avenue S on December 14, 2005 when it was robbed by three men. (**Exhibit B**, RT at 525 ln. 15-20, 27-  
7 28; 526 ln. 1-13; 528 ln. 6-7.) At trial, Yesenia Bahena testified that she told the deputies that she would  
8 not be able to identify any suspects. (**Exhibit B**, RT at 532 ln. 18-20.)

9           21.     Bank teller Yolanda Moore worked for Bank of America in Palmdale on December 14,  
10 2005 when it was robbed. (**Exhibit B**, RT at 541 ln. 1-25; 542 ln. 1-15.) At trial, Yolanda Moore testified  
11 that three individuals were part of the robbery, two jumped over the counter, and one stood on the other  
12 side. (**Exhibit B**, RT at 545 ln. 7-9.) Yolanda Moore would not be able to identify these individuals  
13 because they were masked and completely covered. (**Exhibit B**, RT at 545 ln. 19-26.)

14           22.     Bank teller Claudia Rissling worked at the Bank of America located at 4644 East Avenue  
15 S, Palmdale, CA on December 14, 2005 when three males came in and yelled "get the fuck down."  
16 (**Exhibit A**, Preliminary Hearing Transcript at 25 ln. 4-27.) Claudia Rissling testified that all three had a  
17 mask around their nose and bottom of their face. (**Exhibit A**, Preliminary Hearing Transcript at 29 ln. 24-  
18 28; 30 ln. 1-8.)

19           23.     Assistant Manager Amori Carias worked at the [Bank of America] that was robbed on  
20 December 14, 2005. (**Exhibit B**, RT at 564 ln. 12-20.) At trial, Amori Carias testified that she saw two  
21 boys jumping over the counter getting money out of the tellers and one standing next to the gate in the  
22 lobby saying, "hurry up. Hurry up. We need to go. We need to go." (**Exhibit B**, RT at 566 ln. 6-24.)  
23 Amori Carias testified that the two individuals who jumped over the counter was like her height, that she  
24 was 5'6" tall, and that she could not recall the height of the individual in the lobby. (**Exhibit B**, RT at  
25 569 ln. 25-28; 570 ln. 1-27.) Amori Carias testified that [the robbers] were wearing dark clothes and loose  
26 jackets, and that she could not tell their build. (**Exhibit B**, RT at 577 ln. 23-28; 578 ln. 1.)

27           24.     At trial, Los Angeles County Deputy Sheriff Steven Crosby testified that at 6:44 p.m. the  
28 same day, he received a dispatch call regarding a white Ford Explorer less than one mile from the

1 Albertsons. (**Exhibit B**, RT at 655 ln. 3-16; 659 ln. 1-6.) Deputy Steven Crosby found \$124 in the vehicle.  
2 (**Exhibit B**, RT at 657 ln. 18-25.)

3 25. At about 9:00 p.m. the same day, a Dodge Magnum was stopped by Los Angeles County  
4 Sheriff Deputies Giovanni, Moreno, and Garcia for a traffic violation east of Normandie and Century  
5 Blvd., which was about an hour or 60 to 70 miles from the location of the bank. (**Exhibit B**, RT at 707  
6 ln. 17-27; 714 ln. 25-28; 715 ln. 1-16.) Plaintiff was in the front passenger seat and Darris Allen was in  
7 the driver's seat. (**Exhibit B**, RT at 708 ln. 20-28; 709 ln. 1-20.)

8 26. During a search of the vehicle, the deputies found a black plastic bag wedged between the  
9 driver's seat and center console with about \$3,000.00 in currency and a jacket on the rear back seat  
10 containing currency. (**Exhibit B**, RT at 709 ln. 25-28; 710 ln. 1-8; 711 ln. 3-6; 721 ln. 22-28; 722 ln. 10-  
11 23; 794 ln. 11-21.)

12 27. At trial, Deputy Diane Moreno Garcia testified that when she searched Plaintiff's person  
13 at the station, she found \$201 in currency in his pants pocket. (**Exhibit B**, RT at 796 ln. 1-28.)

14 28. The money that Deputy Diane Moreno Garcia came into contact with that night did not  
15 have the smell of pepper spray. (**Exhibit B**, RT at 806 ln. 19-25.)

16 29. At trial, Darris Allen testified that the money in the black bag, the jacket, that the money  
17 in the jacket, and that the money that was found on Plaintiff at the station were all his. (**Exhibit B**, RT at  
18 1188 ln. 16-28.)

19 30. On March 13, 2007 at trial, Defendant Los Angeles County Sheriff's Department Deputy  
20 Sheriff Detective Lauren Brown testified that he was assigned to the Palmdale Station Detective Bureau.  
21 (**Exhibit B**, RT at 742 ln. 6-10.) Defendant Detective Brown testified that he was assigned to investigate  
22 the [robbery] and searched the Dodge Magnum. (**Exhibit B**, RT at 742 ln. 14-16.) Defendant Detective  
23 Brown testified that all the clothing was found in the rear hatch area of the Dodge. (**Exhibit B**, RT at 752  
24 ln. 7-8.) Defendant Detective Brown testified that he booked into evidence a short nylon stocking, which  
25 was tied at the top and contained \$59 in coins. (**Exhibit B**, RT at 753 ln. 17-24.) Defendant Detective  
26 Brown testified that the change had red dye and inside the red dye they used some type of pepper spray  
27 because you would smell both; that the dye manufacturer generally places a contaminant in the dye so that  
28 when it explodes it would incapacitate the individual carrying it; and that there was the smell of that and

1 red dye on the change. (**Exhibit B**, RT at 754 ln. 10-27.) When the prosecution asked Defendant Detective  
2 Brown whether there were any other items in the car with a color similar to the color of the coins, Defense  
3 counsel objected when Defendant Detective Brown began to answer that there was a t-shirt that looked as  
4 though it had the same red color. (**Exhibit B**, RT at 756 ln. 1-5.) The objection was overruled by the  
5 Court. (**Exhibit B**, RT at 756 ln. 8-10.) During the trial, Defendant Detective Brown opened up a bag  
6 containing the tank top and towel, and Defendant Detective Brown testified, “I can smell that.” (**Exhibit**  
7 **B**, RT at 756 ln. 15-28; 757 ln. 1-17.) When asked what was in the bag, Defendant Detective Brown  
8 testified, “a white ribbed tank top. It has what appear to be red dye stain, the same coloring as the change.  
9 And when I opened it, I could still smell the pepper spray that they used to put in it.” (**Exhibit B**, RT at  
10 757 ln. 19-28; 758 ln. 1-2.) Defendant Detective Brown testified that the shirt was found in the rear hatch  
11 area of the car, as was a towel, which had a few spots that has the same red dye coloring. (**Exhibit B**, RT  
12 at 758 ln. 3-18.) When the prosecution asked if Defendant Defective Brown wanted the [towel and tank  
13 top] taken away, he testified, “I know it’s kind of a pain, but I can already feel it in my eyes.” (**Exhibit**  
14 **B**, RT at 759 ln. 25-27.) The prosecution then asked the Judge for permission to take two minutes while  
15 Detective Brown goes and washes his hands. (**Exhibit B**, RT at 759 ln. 28; 760 ln. 1-11.) Defendant  
16 Detective Brown explained that he needed to take a break because he could feel his eyes start to burn  
17 already and could feel in his nose; and that he did not feel that before handling the towel and tank top.  
18 (**Exhibit B**, RT at 760 ln. 13-25.) Defendant Detective Brown testified that when he searched the Dodge  
19 Magnum, he did not smell pepper spray much in the front but when he started to move some of the clothing  
20 in and stuff in the back, he could smell the pepper spray. (**Exhibit B**, RT at 771 ln. 20-25.)

21 31. During the trial on March 20, 2007, Defendant Los Angeles County Deputy Sheriff  
22 Sergeant Donald Young testified that he was the supervisor of Defendants Detective James Murren and  
23 Detective Brown, that he assigned the [Tarkington] case to Defendant Detective Brown, that he facilitated  
24 the search of the Dodge Magnum, and that he supervised the search of the Dodge Magnum. (**Exhibit B**,  
25 RT at 1427 ln. 9-28; 1428 ln. 1-11.) Defendant Sergeant Young testified that he went with Defendants  
26 Detective Murren and Detective Brown to the tow yard to search [Plaintiff’s] Dodge Magnum. (**Exhibit**  
27 **B**, RT at 1423 ln. 13-28; 1424 ln. 1-3; 1427 ln. 4-8.) Defendant Sergeant Young testified that he would  
28 read and review the reports his detectives write. (**Exhibit B**, RT at 1433 ln. 11-14.) On March 20, 2007,

1 Defendant Sergeant Young testified that he spoke to the District Attorney and Defendant Detective Brown  
2 prior to testifying. (**Exhibit B**, RT at 1434 ln. 28; 1435 ln. 1-2; 1444 ln. 12-17.) On March 20, 2007,  
3 Defendant Sergeant Young testified at trial that there was red stain on the towel and t-shirt found in  
4 hatchback area. (**Exhibit B**, RT at 1432 ln. 7-28; 1433 ln. 1-6.)

5 32. On March 20, 2007, Defendant Detective Murren testified at trial that there was red stain  
6 on the towel and t-shirt. (**Exhibit B**, RT at 1452 ln. 2-20.)

7 33. Defendants Detective Brown, Sergeant Young, and Detective Murren testified falsely at  
8 trial that there was bank dye and pepper spray on the towel and t-shirt. The false testimony allowed the  
9 People to argue that when the bank dye pack exploded and sprayed dye, it engulfed and covered the person  
10 wearing the t-shirt. Since the t-shirt and towel were found in the back of Plaintiff's Dodge Magnum, it  
11 allowed the People to argue to the jury that Plaintiff was present when the bank dye pack exploded.

12 34. The Los Angeles County Sheriff's Department Scientific Services Bureau tested the DNA  
13 on the black pantyhose believed to be used as a mask to cover the face. The partial DNA profile obtained  
14 from the pantyhose is a mixture consistent with two sources of DNA; and both Darris Allen and LaMont  
15 Tarkington were excluded as possible contributors to the mixture. (**Exhibit C**, October 6, 2006 DNA  
16 Laboratory Report.)

17 35. Latent finger prints were lifted off the 2005 Ford Explorer believed to be used as the  
18 getaway vehicle. The Los Angeles County Sheriff's Department Scientific Services Bureau Latent Prints  
19 Section – Comparison Unit confirmed that Plaintiff's finger prints did not match the latent prints lifted off  
20 the 2005 Ford Explorer. (**Exhibit D**, January 19, 2006 Latent Print Examination Report.)

21 36. Phillip Wiley testified that on December 14, 2005, he saw Plaintiff at the recreational center  
22 at 10:30, 10:45 in the morning off of Manchester and St. Andrew's located at 8701 South St. Andrews,  
23 County of Los Angeles. (**Exhibit B**, RT at 1075 ln. 22-28; 1076 ln. 1-18; 1077 ln. 10-11.) Philip Wiley  
24 has worked at the recreation center for 11-years, which is a City of Los Angeles program. (**Exhibit B**,  
25 RT at 1078 ln. 27-28; 1079 ln. 1-18.)

26 37. On March 27, 2007, a jury convicted Plaintiff of five counts of second-degree robbery,  
27 Penal Code sec. 211, one count of second-degree commercial burglary, Penal Code sec. 459, that Plaintiff  
28 robbed the bank for the benefit of a criminal street gang, Penal Code sec. 186.22(b)(1), and that a principal



1 used a firearm in the commission of that crime, Penal Code sec. 12022.53(b)(e)(1). (**Exhibit B**, RT at  
2 1789 – 1800.) The Judge sentenced Plaintiff to 39-years and 4-months in state prison. (**Exhibit B**, RT at  
3 1874 – 1876.)

4 38. Subsequent to the conviction, Plaintiff submitted a Freedom of Information Act and  
5 discovered that the FBI had participated in the investigation and/or prosecution of the robbery occurring  
6 on December 14, 2005. The FBI case file/reports contain statements that were made by bank tellers  
7 Claudia Rissling, Archana Roma Rekhi, Yesenia Bahena, Amori Carias, and Yolanda Moore describing  
8 the physical attributes of the robbery suspects.

9 39. The Defendants were in possession of the FBI case file/reports and did not produce it to  
10 Plaintiff prior to his conviction in 2007.

11 **C. POST-CONVICTION APPEAL, STRIKE OF GANG ENHANCEMENT, STRIKE OF**  
12 **GUN ENHANCEMENT, AND ABUSE OF DISCRETION FOR ADMITTING PRIOR**  
13 **ROBBERY CONVICTIONS**

14 40. On June 15, 2007, Plaintiff appealed his convictions and the Court of Appeals affirmed the  
15 convictions but struck Plaintiff’s 10-year enhancement for gun use and gang enhancement because there  
16 was insufficient evidence to support the findings that Plaintiff robbed the bank for the benefit of a gang.  
17 (**Exhibit E**, *People v. LaMont T. Tarkington*, Court of Appeal Second Appellate District Division One,  
18 B199860, 12/9/2008, Not to be Published in the Official Reports, at 15.)

19 41. The Court of Appeals held, “[t]he trial court abused its discretion in admitting evidence of  
20 Tarkington’s 1997 bank robbery. The two robberies did not contain any one feature so unusual and  
21 distinctive as to be ‘like a signature.’ (*People v. Carter* (2005) 36 Cal. 4th 1114, 1148.) Nor can we say  
22 that the features of the two robberies considered together ‘virtually eliminated the possibility that anyone  
23 other than the defendant committed the charged offense.’ (*People v. Balcom* (1994) 7 Cal.4th 414, 425.)”  
24 (**Exhibit E**, *People v. LaMont T. Tarkington*, Court of Appeal Second Appellate District Division One,  
25 B199860, 12/9/2008, Not to be Published in the Official Reports, at 7.)

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1 **D. COURT OF APPEALS REVERSED PLAINTIFF’S CONVICTIONS, FOUND THAT**  
2 **DEFENDANT BROWN “GREATLY EXAGGERATED” TESTIMONY OF BANK DYE**  
3 **ON THE TOWEL AND T-SHIRT, AND DIRECTED THE PEOPLE TO RELEASE**  
4 **PLAINTIFF OR RETRY HIM**

5 42. On October 14, 2011, Plaintiff filed a petition for writ of habeas corpus contending, inter  
6 alia, that he was deprived of inadequate assistance of counsel because trial counsel failed to obtain certain  
7 cell phone information to support testimony of a defense witness that he was in a different location when  
8 the robberies were committed and failed to test certain items found in Plaintiff’s vehicle that did not  
9 contain red dye from the banks’ dye pack, which was cited by the prosecution. (**Exhibit F**, *In re Lamont*  
10 *T. Tarkington on habeas corpus*, Court of Appeal Second Appellate District Division One, 11/6/2017,  
11 B270141, Not to be Published in the Official Reports, at 34-36)

12 43. During writ of habeas corpus proceedings, Plaintiff testified that he kept a sleeveless white  
13 shirt and towel in the rear cargo area of his vehicle to clean the chrome on his rim; and that the items had  
14 red coloring because a week prior to being arrested, he had spilled vodka and ruby red cranberry juice and  
15 used the shirt and towel to clean up the spill. (**Exhibit G**, October 18, 2012 Reporter’s Transcript of  
16 Proceedings at 53 ln. 1-28; 54 ln. 6-28; 55 ln. 17-28; 56 ln. 1; 57 ln. 7-18.)

17 44. During an evidentiary hearing on writ of habeas corpus, Joseph J. Cavaleri, Senior  
18 Criminalist, from the Los Angeles County Sheriff’s Department Scientific Services Bureau tested the  
19 towel and t-shirt, and issued a report confirming that there was no bank dye on the towel and t-shirt.  
20 (**Exhibit H**, April 24, 2015 laboratory examination report of Joseph Cavaleri.)

21 45. During an evidentiary hearing on writ of habeas corpus, Criminologist Peter D. Barnett  
22 tested the towel and t-shirt, and issued a report confirming that there was no bank dye on the towel and t-  
23 shirt. (**Exhibit I**, October 9, 2012 supplemental report of Peter Barnett.)

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1 46. In reversing the Plaintiff's conviction on writ of habeas corpus, the Court of Appeals held:

2 **“the only item found on Tarkington that tied him to the robbery was the \$200**  
3 **in cash, which Allen said he gave to Tarkington as payment for the ride. The**  
4 **shirt and towel found in the back of the vehicle were thus used by the**  
5 **prosecution to help directly connect Tarkington to the robbery... Thus, the**  
6 **shirt and towel were not merely cumulative pieces of evidence that tied**  
7 **Tarkington to the robbery without a viable explanation as to how they came**  
8 **into his possession; they were the only items to do so.... Indeed, the case**  
9 **against Tarkington has been reduced to the false name he gave to law**  
10 **enforcement when pulled over— unsurprising given he was still on federal**  
11 **supervised release—and the alleged similarities between Tarkington's height,**  
12 **build, and skin color to one of the robbers. Even if we apply the trial court's**  
13 **incorrect sufficiency of the evidence standard of review, the case against**  
14 **Tarkington is simply not strong enough to uphold.”**

15 (Exhibit F, *In re Lamont T. Tarkington on habeas corpus*, Court of Appeal Second Appellate District  
16 Division One, 11/6/2017, B270141, Not to be Published in the Official Reports, at 34-36.)

17 47. The Court of Appeals observed that Defendant Detective Brown had “greatly exaggerated”  
18 testimony on the bank dye and pepper spray. (*Ibid* at 36.)

19 48. The Court of Appeal granted the petition for writ of habeas corpus, reversed Plaintiff's  
20 convictions, and instructed the People to either release Plaintiff from custody or retry him. (*Ibid* at 38.)

21 49. On January 31, 2018, the California Supreme Court denied the Petition for Review seeking  
22 to challenge the Court of Appeals' reversal of Plaintiff's convictions. (Exhibit J, Docket Sheet, California  
23 Supreme Court case no. S245667.)

24 **E. THE RE-TRIAL, DETECTIVE BROWN PLACED ON ORWITS LIST OF**  
25 **IMPEACHABLE WITNESSES, YOUNGBLOOD VIOLATION BY THE PEOPLE,**  
26 **VIOLATION OF COURT ORDER TO PRESERVE EVIDENCE BY THE PEOPLE, AND**  
27 **DISMISSAL OF CHARGES**

28 50. On March 16, 2018, the People elected to retry Plaintiff and filed an Amended Information  
charging Plaintiff with five counts of robbery and one count of burglary. (Exhibit K, Amended  
Information.)

51. The Defendants' decision to re-try Plaintiff for the criminal charges was brought without  
probable cause because the Defendants admitted that it had no new evidence during the retrial, the Court

1 of Appeals had already held that the evidence against Plaintiff was simply not strong enough to uphold,  
2 and Defendant Brown's false testimony was fatal to the Defendants' case. The Defendants' decision to  
3 retry Plaintiff was not done to bring Plaintiff to justice but was instead brought for the ulterior purpose of  
4 extorting Plaintiff to accept a plea deal so as to shield the Defendants from this civil action for  
5 constitutional violations.

6 52. On February 7, 2017, District Attorney Jackie Lacey issued Special Directive 17-03 setting  
7 forth the Los Angeles County District Attorney's revised policy regarding disclosure of exculpatory and  
8 impeachment information pursuant to *Brady v. Maryland* (1963) 373 U.S. 83 (hereinafter *Brady*  
9 information) and its progeny and Penal Code section 1054.1(3). Therein, it stated the following:

10 "Special Directive also announces the creation of the Officer and Recurrent Witness  
11 Information Tracking System (ORWITS). The ORWITS tracks potential impeachment  
12 information, as well as information likely to lead to potential impeachment information,  
13 involving "recurrent People's witnesses," defined to include, but not limited to, peace  
14 officers and experts. The ORWITS is intended to assist deputy district attorneys (DDA)  
15 in complying with their disclosure obligations in criminal proceedings. It is also  
16 intended to serve as a tool for assessing witnesses, determining the viability of criminal  
17 charges, avoiding surprise, and minimizing trial delays. Information formerly included  
18 in the *Brady* Alert System remains available through the ORWITS."

19 (Exhibit L, excerpt of Special Directive 17-03 dated February 7, 2017.)

20 53. On April 23, 2018, the District Attorney Shannon Sexton produced the ORWITS on  
21 Defendant Detective Brown, which stated the following:

22 "Detective Lauren Brown was the investigator in MA034011 where defendant  
23 Lamont Tarkington was convicted of robbery of a bank. This case was subsequently  
24 reversed for ineffective assistance of counsel. During his testimony, Detective  
25 Lauren stated that deputies found, and he booked, a short nylon stocking, tied at the  
26 top, that contained \$59 in coins. He testified that "inside the red dye they use some  
27 type of pepper spray because you would smell both." He testified that the dye  
28 manufacturer generally places a contaminant in the dye so that, when it explodes,  
it would incapacitate the individual who is carrying it. He stated, "And you can  
smell that along, you can see the red dye on—on the change. If you look at the bag,  
you can see some of the residue that's actually on the bag."

"Detective Brown next opened a brown paper bag from the evidence box. The  
detective said there was a tank top and a towel in the bag. He said, can smell that."  
When asked what was in the bag, he responded that there was a "white ribbed tank  
top. It has what appear to be red dye stain, the same coloring as the change. And

1 when I opened it, I could still smell the pepper spray that they used to put in it."  
2 Detective Brown may have gestured with the bag in his hand, because Deputy  
3 District Attorney Mesropi asked if he wanted it taken away. The Detective replied,  
4 "I know it's kind of a pain, but I can already feel it in my eyes." After the break, he  
5 testified that he needed a break because he had felt a burning sensation in his eyes  
6 and nose. All parties including Tarkington's attorney agreed that the shirt and towel  
7 can be placed in a sealed plastic bag.

8 "The next day, Tarkington's attorney asked to examine the shirt and towel. She  
9 argued that she should be able to open the bag to show the jury whether the shirt  
10 and towel had any color. Pointing out that Deputies Wheeler and Giovanni, who  
11 conducted the in-field search of the car Tarkington was in, did not mention any  
12 odor. She wanted to demonstrate to the jury that items did not have any odor.

13 "The court intervened and said, "I can tell you that the odor was not good yesterday,  
14 and the court was affected by it. I don't think it should be open again."

15 "In reversing the case on IAC ground, the appellate noted that Detective Brown  
16 greatly exaggerated his testimony, and Tarkington's lawyer attempt to show the  
17 items to the jury could have blunted Detective Brown's exaggerated testimony. The  
18 court overturned the case because it held the defense should have the items tested  
19 before trial. Failure to do was IAC."

20 (Exhibit M, ORWITS on Detective Brown produced by District Attorney Shannon Sexton  
21 April 23, 2018.)

22 54. After the Defendants were put on notice in 2015 that Defendant Brown fabricated evidence,  
23 it took no actions to discipline, punish, and/or prosecute Defendant Brown. Instead, the Defendants  
24 continued to condone, ratify and endorse Defendant Brown's wrongful conduct with inaction.

25 55. The Defendants continued its ongoing violation of *Brady* by not voluntarily turning over  
26 to Plaintiff material, exculpatory and impeachment information regarding Defendant Brown during the  
27 retrial.

28 56. On May 24, 2018, a hearing was held on Plaintiff's Motion to Dismiss because of lost  
and/or destroyed evidence (*Trombetta/Youngblood* motion). The Los Angeles County Sheriff's  
Department had lost/destroyed evidence in violation of a 2007 Court Order, which included three cell  
phones, the entire case file, and 911 calls, radio transmissions, and Mobile Digital Transmissions  
describing the suspects. For the three cell phones, the People contended that it was delivered to the  
Superior Court. Judge Tavelman found that in 2007 the trial judge had issued an Order for the Los Angeles

1 County Sheriff's Department to maintain the evidence but failed to do so. Judge Tavelman granted  
2 Plaintiff's *Youngblood* motion by finding that the lost and/or destroyed three cell phones could have been  
3 useful in Plaintiff's defense. The remedy granted by Judge Tavelman for the violations was that Plaintiff  
4 may submit jury instructions stating that the Los Angeles County Sheriff's Department violated a Court  
5 Order to preserve the evidence and that the lost cell phones may be useful to Plaintiff's defense. Judge  
6 Tavelman also issued an Order that the People may not call Defendant Detective Brown as a witness until  
7 the Los Angeles County Sheriff's Department produce records to support the contention that the three cell  
8 phones were delivered to the Superior Court. (**Exhibit N**, May 24, 2018 Reporter's Transcript of  
9 Proceedings.)

10 57. On May 24, 2018, a hearing on Motions *in limine* was held and Judge Tavelman issued the  
11 following Orders: (1) the People may not introduce evidence at trial regarding Plaintiff's affiliation with  
12 gangs, including photographs of Plaintiff displaying gang signs; and (2) the People may not introduce  
13 evidence at trial regarding Plaintiff's prior robbery convictions or bad acts. The People agreed that they  
14 did not have shoe prints or forensic evidence (i.e. DNA, fingerprints, or hair fibers) that Plaintiff was at  
15 the scene of the robbery.

16 58. On May 24, 2018, a hearing was held on Plaintiff's Motion to Dismiss Charges pursuant  
17 to Penal Code section 1385. In support of the Motion, Plaintiff cited the Court of Appeals finding that,  
18 "the only item found on Tarkington that tied him to the robbery was the \$200 in cash, which Allen said  
19 he gave to Tarkington as payment for the ride. The shirt and towel found in the back of the vehicle were  
20 thus used by the prosecution to help directly connect Tarkington to the robbery... Thus, the shirt and towel  
21 were not merely cumulative pieces of evidence that tied Tarkington to the robbery without a viable  
22 explanation as to how they came into his possession; they were the only items to do so... Indeed, the case  
23 against Tarkington has been reduced to the false name he gave to law enforcement when pulled over—  
24 unsurprising given he was still on federal supervised release—and the alleged similarities between  
25 Tarkington's height, build, and skin color to one of the robbers. Even if we apply the trial court's incorrect  
26 sufficiency of the evidence standard of review, the case against Tarkington is simply not strong enough to  
27 uphold." Plaintiff argued that the jury was impaneled on May 17, 2018 and the People have not produce  
28 any new evidence, significant or otherwise, to reasonably challenge the Court of Appeals' finding that the

1 evidence against the Plaintiff is simply not strong enough to uphold. The Judge deferred ruling on the  
2 Motion and invited Plaintiff to renew the Motion after the People completed presenting its evidence at  
3 trial.

4 59. On June 1, 2018, a twelve-person jury and two alternates were sworn in, and the first day  
5 of trial commenced.

6 60. On June 4, 2018, Judge Tavelman provided the People with Special Jury Instructions to  
7 remedy the Los Angeles County Sheriff's Department's violation of a Court Order to preserve evidence,  
8 violation of *Youngblood*, and failure to produce supporting documentation that the lost and/or destroyed  
9 three cellular phones were delivered to the Court:

10 **Special Instruction #1 (Violation of Court Order – Cell Phones)**

11 In 2007, a Superior Court judge issued an order that all evidence in the custody of  
12 the Los Angeles County Sheriff's Department be preserved. This Court has  
13 determined that the Sheriff's Department violated the court order without good  
14 cause by failing to preserve the following evidence:

- 15 1. Three cellular telephone seized and booked into evidence;
- 16 2. 9-1-1 call(s) related to the crimes alleged in this case;
- 17 3. Sheriff Mobile Digital Transmissions related to the crimes alleged in this case;
- 18 4. Sheriff radio transmission related to the crimes alleged in this case;
- 19 5. Three disposable cameras seized and booked into evidence;
- 20 6. The "case file" created by the investigating detectives;

21 You may presume that the lost or destroyed evidence would have favored the  
22 defendant, Mr. Tarkington, but you are not obligated to do so. You should consider  
23 all the evidence presented in the trial in determining what presumptions, if any, to  
24 make regarding the violation of the court's order and the missing or destroyed  
25 evidence.

26 It is up to you to determine what if any presumptions to make concerning the  
27 violation of the court order and the missing evidence.

28 **Special Instruction #2 (Failure to Produce Supporting Documentation)**

Prior to trial, this court ordered the District Attorney's Office to coordinate with the  
Sheriff's Department to produce any and all documentation supporting a claim that  
lost evidence was released to the Superior Court at a prior hearing. The Sheriff's  
Department willfully failed to do so without good cause. The jury must  
conclusively presume that no such documentation exists, and reject any claim that  
lost or destroyed evidence was released to the Superior Court. Furthermore, unless

1 otherwise expressly advised to the contrary by the Court, the jury shall conclusively  
2 presume that the Superior Court has no documentation supporting a claim that  
evidence was previously released to the court.

3 In evaluation Det. Loren Brown's testimony, the Jury should consider this fact,  
4 along with the Instruction concerning witness credibility in general, in evaluating  
5 Det. Brown's testimony.

6 (**Exhibit O**, Special Jury Instructions re: *Youngblood* violation, failure to comply with Court Order to  
7 preserve evidence, and failure to produce supporting documentation that three cell phones were delivered  
8 to the Court.)

9  
10 61. Upon receipt of the aforementioned Special Jury Instructions, the People informed the Court that  
11 the Special Jury Instructions was fatal to its case. The People stated that Defendant Detective Brown was  
12 having difficulty traveling to the Court to testify as a witness. Thus, the People stated that it intended to  
13 dismiss the case. The Judge proposed that the People may seek a continuance so as to give Defendant  
14 Detective Brown more time to travel to Court to testify as a witness. The People did not request a  
15 continuance. The Judge informed the People that jeopardy has attached. Per the request of the People,  
16 the Judge dismissed the case on June 4, 2018. (**Exhibit P**, June 4, 2018 Minute Order.)

17 62. On June 14, 2018, Plaintiff filed a Claim for Damages to Person or Property with the County of  
18 Los Angeles for the wrongful acts and injuries occurring from 2005 to 2018. (**Exhibit Q**, Claim For  
19 Damages.)

20 63. On June 18, 2018, the Defendant County of Los Angeles issued a letter denying and investigating  
21 the Claim for Damages. (**Exhibit R**, June 18, 2018 letter from the Defendant County of Los Angeles.)

## 22 **G. PARTICIPATION, STATE OF MIND, AND DAMAGES**

23 64. All Defendants acted without authorization of law.

24 65. Each Defendant participated in the violations alleged herein, or directed the violations alleged  
25 herein, or knew of the violations alleged herein and failed to act to prevent them. Each Defendant ratified,  
26 approved and acquiesced in the violations alleged herein.

27 66. As joint actors with joint obligations, each Defendant was and is responsible for the failures and  
28 omissions of the other.



1 67. Each Defendant acted individually and in concern with the other Defendants and others not named  
2 in violating Plaintiff's rights.

3 68. Each Defendant acted with deliberate indifference to or reckless disregard for an accused's rights  
4 for the truth in withholding evidence from prosecutors and fabricating evidence to prosecutors, for an  
5 investigation free of active concealment of material facts, and/or for Plaintiff's right to due process of law.

6 69. As a direct and proximate results of the aforesaid acts, omissions, customs, practices, policies and  
7 decisions of the Defendants, Plaintiff has suffered great mental and physical pain, suffering, anguish,  
8 fright, nervousness, anxiety, shock, humiliation, indignity, embarrassment, harm to reputation, and  
9 apprehension, which have caused Plaintiff to sustain damages in a sum to be determined at trial.

10 70. Due to the acts of the Defendants, Plaintiff has suffered, and continues to suffer, and is likely to  
11 suffer in the future, extreme and severe mental anguish as well as mental and physical pain and injury.  
12 For such injury, Plaintiff will incur significant damages based on psychological and medical care.

13 71. As a further result of the conduct of each of these Defendants, Plaintiff has lost past and future  
14 earnings in an amount to be determined according to proof at trial.

15 72. As a further result of the conduct of each of these Defendants, Plaintiff has been deprived of  
16 familial relationships, including not being able to raise a family.

17 73. The aforementioned acts of the Defendants, and each of them, was willful, wanton, malicious,  
18 oppressive, in bad faith and done with reckless disregard or with deliberate indifference to the  
19 constitutional rights of Plaintiff, entitling Plaintiff to exemplary and punitive damages from the individual  
20 defendants, other than the County of Los Angeles, in an amount to be proven at the trial of this matter.

21 74. By reason of the above described acts and omissions of Defendants, Plaintiff was required to retain  
22 an attorney to defend against the criminal charges and institute and prosecute the within action, and to  
23 render legal assistance to Plaintiff that he might vindicate the loss and impairment of his rights, and by  
24 reason thereof, Plaintiff requests payment by Defendants of a reasonable sum for attorney's fees pursuant  
25 to 42 U.S.C. § 1988 and California Civ. Code §52.1 plus a multiplier of four (4).

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**FIRST CLAIM FOR RELIEF**

**DEPRIVATION OF CIVIL RIGHTS**

**42 U.S.C. § 1983, FABRICATION OF EVIDENCE**

**(Against All Defendants)**

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5 75. Plaintiff hereby realleges and incorporates by reference all previous paragraphs, inclusive, as well  
6 as any subsequent paragraphs contained in the Complaint, as if fully set forth herein.

7 76. Defendants Brown, Murren, Young, and Does 1-10, while acting under color of law, deprived  
8 Plaintiff of his civil rights, more particularly, his right to due process of law, by providing false evidence  
9 in reports and testimony, improperly influencing witnesses and fabricating and concealing evidence, that  
10 resulted in depriving Plaintiff liberty because they set in motion a reasonably foreseeable chain of events  
11 that led to the presentation of false evidence at Plaintiff's 2007 criminal trial, his conviction and  
12 incarceration for at least twelve-years in jail and prison.

13 77. Each defendant knew or should have known the evidence was false, and each defendant's conduct  
14 was done with deliberate indifference to and/or reckless disregard of Plaintiff's rights or for the truth.

15 78. Each defendant deliberately mischaracterized the bank dye and pepper spray on the towel and t-  
16 shirt, and drafted reports, used investigation techniques, and testified falsely before the jury in a manner  
17 so abusive that they knew or should have known that they would, and are known to, yield false evidence.  
18 Defendants Brown, Murren, Young, and Does 1-10 concealed and fabricated evidence that led to a false  
19 and wrongful conviction.

20 79. Defendants Brown, Murren, Young, and Does 1-10 knew or should have known that evidence set  
21 forth above was false, and that the witnesses were providing false evidence.

22 80. The constitutional source against using false evidence is primarily the due process clause of the  
23 Fifth and Fourteenth Amendments, and Plaintiff's due process rights were violated by the conduct alleged  
24 herein. Plaintiff brings this claim as both a procedural and a substantive due process violation. To the  
25 extent that any court were to conclude that the source of Plaintiff's right to be free from concealed and  
26 fabricated evidence that led to a false and wrongful conviction, is any constitutional source other than due  
27 process (such as the Fourth Amendment or Sixth Amendment right to a fair trial), this claim is brought on  
28 those bases as well.

**COMPLAINT FOR DAMAGES**

1 81. Where fabrication of evidence has a meaningful connection to a prosecution, conviction and  
2 incarceration, an independent cause of action exists under § 1983 for deprivation of substantive due  
3 process under the Fourteenth Amendment, despite the existence of probable cause. (*Halsey v. Pfeiffer*,  
4 750 F.3d 273, 292-93 (3<sup>rd</sup> Cir. 2014); see also *Spencer v. Peters*, 857 F.3d 789, 801 (9<sup>th</sup> Cir. 2017)  
5 (rejecting the contention that a plaintiff must “prove that, setting aside the fabricated evidence, probable  
6 cause was lacking”).)

7 82. Defendants Brown, Murren, Young, and Does 1-10 were each jointly and severally responsible to  
8 not use false evidence against Plaintiff. Each engaged in, knew or should have known of the  
9 unconstitutional conduct alleged herein and failed to prevent it, which each had a responsibility to do, and  
10 each ratified, approved or acquiesced in it.

11 83. As a result of the defendants’, and each of their, violations of Plaintiff’s constitutional right to not  
12 have false evidence turned over to the prosecutors handling this case and ultimately to the defense,  
13 Plaintiff was damaged as alleged above.

14 84. Due to the conduct of Defendants, and each of them, Plaintiff has been required to incur attorneys’  
15 fees, and will continue to incur attorneys’ fees, all to Plaintiff’s damage in a sum to be proven at trial and  
16 recoverable pursuant to 42 U.S.C. §1988.

17 85. In acting as alleged herein, Defendants, and each of them, caused Plaintiff severe physical and  
18 emotional injuries, and caused Plaintiff other damages, all in an amount to be determined at the time of  
19 trial.

20 86. The individual Defendants named herein acted with a conscious disregard of Plaintiff’s rights,  
21 conferred upon him by Section 1983, Title 42 of the United States Code, the Fourth and Fourteenth  
22 Amendments to the United States Constitution and California Civil Code Section 3333, by virtue of  
23 ensuring Plaintiff was arrested, subject to improper police investigation, and subject to prosecution for  
24 crimes he did not commit. Defendants had an interest in seeing to it that Plaintiff was prosecuted for  
25 crimes he did not commit for purposes of punishing and harming Plaintiff and for purposes of asserting  
26 that the Defendants had apprehended the robbery suspect. Such conduct constitutes malice, oppression  
27 and/or fraud under 42 U.S.C. § 1983 and California Civil Code Section 3294, entitling Plaintiff to punitive  
28 damages against the individual Defendants in an amount suitable to punish and set an example of.

**SECOND CLAIM FOR RELIEF**

**JOINT ACTION/CONSPIRACY TO VIOLATE CIVIL RIGHTS**

**42 U.S.C. § 1983, FABRICATION OF EVIDENCE**

**(Against All Defendants)**

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5 87. Plaintiff hereby realleges and incorporates by reference all previous paragraphs, inclusive, as well  
6 as any subsequent paragraphs contained in the Complaint, as if fully set forth herein.

7 88. Defendants Brown, Murren, Young, and Does 1-10, were jointly and severally responsible as  
8 investigators assigned to the Tarkington case to share material information with each other, and to ensure  
9 that any evidence was not fabricated.

10 89. Defendants Brown, Murren, Young, and Does 1-10, acting under color of state law, acted in  
11 concert, conspired and agreed to deprive Plaintiff of rights, privileges, or immunities secured by the  
12 Constitution and laws of the United States, in particular the right to not have false evidence used in the  
13 underlying criminal case, as elaborated above. The use of false evidence, as well as other actions related  
14 to the use of such evidences, constitutes an overt act in furtherance of said conspiracy.

15 90. Alternatively, as joint actors with joint obligations, each of them was and is responsible for the  
16 failures and omissions of each other.

17 91. As a result of Defendants', and each of their, violations of Plaintiff's constitutional rights to not  
18 have false evidence used against him, Plaintiff was damaged as alleged above.

19 92. In acting as alleged herein, Defendants, and each of them, caused Plaintiff severe physical and  
20 emotional injuries, and caused Plaintiff other damages, all in an amount to be determined at the time of  
21 trial.

22 93. Due to the conduct of Defendants, and each of them, Plaintiff has been required to incur attorneys'  
23 fees, and will continue to incur attorneys' fees, all to Plaintiff's damage in a sum to be proven at trial and  
24 recoverable pursuant to 42 U.S.C. §1988.

25 94. The individual Defendants named herein acted with a conscious disregard of Plaintiff's rights,  
26 conferred upon him by Section 1983, Title 42 of the United States Code, the Fourth and Fourteenth  
27 Amendments to the United States Constitution and California Civil Code Section 3333, by virtue of  
28 ensuring Plaintiff was arrested, subject to improper police investigation, and subject to prosecution for

**COMPLAINT FOR DAMAGES**

1 crimes he did not commit. Defendants, and each of them, had an interest in seeing to it that Plaintiff was  
2 prosecuted for crimes he did not commit for purposes of punishing and harming Plaintiff and for purposes  
3 of asserting that the Sheriff's Department had caught the suspect of a robbery. Such conduct constitutes  
4 malice, oppression and/or fraud under California Civil Code Section 3294, entitling Plaintiff to punitive  
5 damages against the individual Defendants in an amount suitable to punish and set an example of.

6 **THIRD CLAIM FOR RELIEF**

7 **DEPRIVATION OF CIVIL RIGHTS**

8 **42 U.S.C. § 1983, SUPERVISORIAL LIABILITY**

9 **(Against Defendants Donald Young, County of Los Angeles, and Does 1-10)**

10 95. Plaintiff hereby realleges and incorporates by reference all previous paragraphs, inclusive, as well  
11 as any subsequent paragraphs contained in the Complaint, as if fully set forth herein.

12 96. During the course and scope of the Tarkington investigation, Defendants Brown and Murren were  
13 supervised by Defendant Young. Defendant Young was an experienced Sergeant, and was obligated to  
14 ensure that Defendants Brown and Murren performed their duties as detectives, which would also include  
15 ensure that Plaintiff's constitutional rights were protected.

16 97. On December 14, 2005, the night of the day of the robbery, upon information and belief, Defendant  
17 Young was training and supervising Defendants Brown and Murren on the robbery case. During the  
18 entirety of the investigation, Defendant Young was Defendants Brown and Murren's supervisor and  
19 trainer. Upon information and belief, Defendant Young and Doe supervisors within the Los Angeles  
20 County Sheriff's Department who were responsible for monitoring Defendants Brown and Murren's  
21 performance and conduct as detectives in this investigation, were on notice of his lack of experience and  
22 conduct as a robbery detective and failed to take adequate steps to correct it through training or  
23 supervision.

24 98. Upon information and belief, Defendants Brown and Murren received minimal discipline, training,  
25 and supervision, which level was grossly insufficient to address the inept, inadequate and deceitful  
26 investigation and fabrication of evidence in the Tarkington case.

27  
28 **COMPLAINT FOR DAMAGES**

1 99. The inept, inadequate, and deceitful investigation and fabrication of evidence was a highly  
2 predictable or plainly obvious consequence of the inadequate training and lack of meaningful control or  
3 supervision of Defendants Brown and Murren.

4 100. Defendant Young, and Doe supervisors 1-10, acting within the course and scope of their  
5 employment had a duty to assure the competence of their employee/agents, including Defendants Brown,  
6 Murren and Does 1-10, but breached their duty and were negligent in the performance of their duties by  
7 selecting, training, reviewing, supervising, failing to supervise, failing to control, evaluating the  
8 competency and retaining Defendants Brown and Murren and other employees/agents. This breach of the  
9 duty of careful selection, training, review, supervision, periodic evaluation of the competency, and  
10 retention of such law enforcement officers and/or employees and/or agents created an unreasonable risk  
11 of harm to persons such as Plaintiff.

12 101. Defendant Young and Doe supervisors 1-10 knew or should have known that Defendants  
13 Brown and Murren were unfit and/or incompetent to investigate the robbery due to his lack of experience,  
14 unfitness and/or incompetence created a particular risk to others. The negligence of Defendant Young  
15 and Doe supervisors 1-10 in the supervision and training of Defendants Brown and Murren was a  
16 substantial factor in the harm caused to Plaintiff by Defendant Young.

17 102. Defendant Young and Doe supervisors 1-10 breached their duty of care to observe, report,  
18 monitor and control the investigation by Defendants Brown and Murren and other employees/agents.

19 103. As a direct and legal result of the aforesaid negligence, carelessness and unskillfulness of  
20 Defendant Young and Doe supervisors 1-10, and each of them, and as a result of their breach of duty of  
21 care to Plaintiff, Plaintiff suffered the damages alleged herein.

22 104. In acting as alleged herein, Defendants, and each of them, caused Plaintiff severe physical  
23 and emotional injuries, and caused Plaintiff other damages, all in an amount to be determined at the time  
24 of trial.

25 105. Due to the conduct of Defendants, and each of them, Plaintiff has been required to incur  
26 attorneys' fees, and will continue to incur attorneys' fees, all to Plaintiff's damage in a sum to be proven at  
27 trial and recoverable pursuant to 42 U.S.C. §1988.  
28

1 **FOURTH CLAIM FOR RELIEF**

2 **DEPRIVATION OF CIVIL RIGHTS**

3 **42 U.S.C. § 1983, MALICIOUS PROSECUTION**

4 **(Against All Defendants)**

5 106. Plaintiff hereby realleges and incorporates by reference all previous paragraphs, inclusive,  
6 as well as any subsequent paragraphs contained in the Complaint, as if fully set forth herein.

7 107. The Fourth Amendment's protection against unreasonable seizures encompasses the right  
8 to be free from malicious prosecution, which is also prohibited by the Fourteenth Amendment's guarantee  
9 against the deprivation of liberty without due process of law.

10 108. Defendants County of Los Angeles, Young, Murren, Brown, and Does 1-10, while acting  
11 under color of state law, violated Plaintiff's clearly established right under the Fourth and Fourteenth  
12 Amendments by unlawfully and maliciously causing a criminal prosecution to be instituted against him.

13 109. On November 6, 2017, the Court of Appeals reversed Plaintiff's convictions and held:

14 **“the only item found on Tarkington that tied him to the robbery was the \$200 in**  
15 **cash, which Allen said he gave to Tarkington as payment for the ride. The shirt**  
16 **and towel found in the back of the vehicle were thus used by the prosecution to**  
17 **help directly connect Tarkington to the robbery... Thus, the shirt and towel were**  
18 **not merely cumulative pieces of evidence that tied Tarkington to the robbery**  
19 **without a viable explanation as to how they came into his possession; they were**  
20 **the only items to do so... Indeed, the case against Tarkington has been reduced**  
21 **to the false name he gave to law enforcement when pulled over— unsurprising**  
22 **given he was still on federal supervised release—and the alleged similarities**  
23 **between Tarkington's height, build, and skin color to one of the robbers. Even**  
24 **if we apply the trial court's incorrect sufficiency of the evidence standard of**  
25 **review, the case against Tarkington is simply not strong enough to uphold.”**

26 **(Exhibit F, *In re Lamont T. Tarkington on habeas corpus*, Court of Appeal Second Appellate District**  
27 **Division One, 11/6/2017, B270141, Not to be Published in the Official Reports, at 34-36.)**

28 110. The opinion of the Court of Appeal coupled with forensic testing revealed to the  
Defendants that Defendant Brown fabricated evidence, fatally tainted all the evidence, and that there was  
no probable cause.

111. The Defendants disregarded the opinion of the Court of Appeals and the forensic testing  
showing that Defendant Brown fabricated evidence by continuing its ongoing prosecution of Plaintiff for

1 the robbery on March 16, 2018 by filing the Amended Information, (see **Exhibit K**), thereby forcing  
2 Plaintiff to incur unnecessary litigation costs to defend against criminal charges at a second trial.

3 112. The Defendants presented no new evidence prior to or during the retrial to support probable  
4 cause and warrant retrying Plaintiff for robbery.

5 113. A reasonable person in Defendants' position would have known that the facts and  
6 circumstances were insufficient to justify a reasonable belief that Plaintiff committed the robbery offense.

7 114. On June 4, 2018, the Defendants dismissed all charges against Plaintiff after jeopardy had  
8 attached. (**Exhibit P.**)

9 115. Defendants acted maliciously, with reckless disregard of the law and of the legal rights of  
10 Plaintiff in causing a criminal proceeding to begin and to continue for a purpose other than bringing  
11 Plaintiff to justice.

12 116. The Defendants continued its prosecution of Plaintiff for the ulterior purpose of extorting  
13 an indigent Plaintiff to make a plea deal so as to shield the Defendants from this civil action.

14 117. As a consequence, Plaintiff was subjected to deprivation of liberty during the re-trial,  
15 humiliation, fear, pain and suffering by the illegal acts of Defendants and suffered injuries as a result of  
16 the Defendants' actions.

17 118. Plaintiff is entitled to compensatory damages, punitive damages, attorney's fees under 42  
18 U.S.C. §1988, and all applicable law in a sum to be proven at trial, and such additional relief as the Court  
19 deems just and proper.

20 **FIFTH CLAIM FOR RELIEF**

21 **DEPRIVATION OF CIVIL RIGHTS**

22 **42 U.S.C. § 1983, *BRADY* VIOLATIONS**

23 **(Against All Defendants)**

24 119. Plaintiff hereby realleges and incorporates by reference all previous paragraphs, inclusive,  
25 as well as any subsequent paragraphs contained in the Complaint, as if fully set forth herein.

26 120. Defendants County of Los Angeles, Brown, Young, Murren and Does 1 – 10, while acting  
27 under color of law, deprived Plaintiff of his civil rights by violating his right to have material, exculpatory  
28 and impeachment information as required by *Brady* turned over to Plaintiff.

**COMPLAINT FOR DAMAGES**



1 121. The actions of each defendant in withholding evidence were done with deliberate  
2 indifference to or reckless disregard for Plaintiff's rights or for the truth.

3 122. The *Brady* violations asserted herein encompass, but are not limited to:

4 A. Failure to disclose Defendants Brown, Young, and/or Murren's false testimony that there was  
5 bank dye and pepper spray on the towel and t-shirt found in the hatchback area of Plaintiff's  
6 Dodge Magnum. Defendants Young and Murren knew or should have known that there was  
7 no bank dye and/or pepper spray on the towel and t-shirt, and failed to correct Defendant  
8 Brown's false in-court testimony that there was bank dye and pepper spray on the towel and t-  
9 shirt. Each Defendant conspired and acted in concert to fabricate the existence of bank dye  
10 and pepper spray on the towel and t-shirt so as to physically place Plaintiff at the scene of the  
11 robbery.

12 B. Failure to maintain evidence in violation of a Court Order. On May 24, 2018, Judge Tavelman  
13 issued a Court Order that the Los Angeles Sheriff's Department violated a 2007 Court Order  
14 to maintain the evidence by losing and/or destroying three (3) cameras seized and booked into  
15 evidence, the entire case file created by the investigating detectives, three (3) cellular phones  
16 seized and booked into evidence, Sheriff Mobile Digital Transmissions related to the crimes  
17 alleged in this case; Sheriff radio transmission related to the crimes alleged in this case, and 9-  
18 1-1 call(s) related to the crimes alleged in this case. (**Exhibit N.**) Judge Tavelman granted  
19 Plaintiff's *Youngblood* motion and held that the lost and/or destroyed three cellular phones  
20 could be useful to Plaintiff's defense. (**Exhibit N.**) Each Defendant acted in concert and  
21 conspired to lose and/or destroy evidence that was useful to Plaintiff's defense.

22 C. Failure to turn over the FBI case file/reports describing the robbery suspects and cell phone  
23 records. Subsequent to Plaintiff's convictions in 2007, Plaintiff made a Freedom of  
24 Information Act request and discovered that the FBI had participated in the investigation and/or  
25 prosecution of the robbery occurring on December 14, 2005. The FBI case file/reports contain  
26 statements that were made by bank tellers Claudia Rissling, Archana Roma Rekhi, Yesenia  
27 Bahena, Amori Carias, and Yolanda Moore describing the physical attributes of the robbery  
28 suspects. The FBI reports were material to impeach and/or discredit each bank tellers'

1 description of the robbery suspects. The Defendants withheld this evidence to Plaintiff's  
2 detriment and in violation of *Brady*.

3 D. Failure to disclose material, exculpatory and impeachment information regarding prior acts of  
4 racial or ethnic prejudice, dishonesty, false arrest, planting of evidence, fabrication of charges  
5 and/or evidence by any and all peace officers who participated in investigating the underlying  
6 criminal charges, including but not limited to investigations and disciplinary actions initiated  
7 against Defendants Brown, Murren, and Brown for the fabrication of evidence in the  
8 underlying criminal case as well as any and all other criminal cases they had participated in.

9 123. The constitutional source of the obligation to provide *Brady* information is primarily the  
10 due process clause of the Fifth and Fourteenth Amendments, and Plaintiff's due process rights were  
11 violated by the conduct alleged herein. Plaintiff brings this claim as both a procedural and a substantive  
12 due process violation. To the extent that any court were to conclude that the source of Plaintiff's right to  
13 *Brady* information is a constitutional source other than due process (such as the Fourth Amendment or  
14 Sixth Amendment right to a fair trial), this claim is brought on those bases as well.

15 124. Defendants County of Los Angeles, Brown, Young, Murren, and Does 1-10 were each  
16 jointly and severally responsible to produce *Brady* information to Plaintiff. Each engaged in, knew or  
17 should have known of the unconstitutional conduct alleged herein and failed to prevent it, which each had  
18 a responsibility to do, and each ratified, approved, or acquiesced in it.

19 125. In acting as alleged herein, Defendants, and each of them, caused Plaintiff severe physical  
20 and emotional injuries, and caused Plaintiff other damages, all in an amount to be determined at the time  
21 of trial.

22 126. As a result of each Defendants', and each of their, violations of Plaintiff's constitutional  
23 right to have *Brady* information turned over to Plaintiff, Plaintiff was deprived of his above described civil  
24 rights, and is entitled to damages including, but not limited to general and punitive damages and attorney's  
25 fees under 42 U.S.C. §1988.

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**SIXTH CLAIM FOR RELIEF**

**JOINT ACTION/CONSPIRACY TO VIOLATE CIVIL RIGHTS**

**42 U.S.C. § 1983, *BRADY* VIOLATIONS**

**(Against all Defendants)**

127. Plaintiff hereby realleges and incorporates by reference all previous paragraphs, inclusive, as well as any subsequent paragraphs contained in the Complaint, as if fully set forth herein.

128. Defendants County of Los Angeles, Brown, Young, Murren, and Does 1-10 were jointly and severally responsible as investigators assigned to the Tarkington case to share material information with each other, and to ensure that *Brady* information was turned over to Plaintiff.

129. Each Defendant and Does 1-10, acting under color of state law, acted in concert, conspired and agreed to deprive Plaintiff of rights, privileges, or immunities secured by the Constitution and laws of the United States, in particular the right to have *Brady* information as set forth above. Each failure to provide *Brady* information, as well as other actions related to them, constitutes an overt act in furtherance of said conspiracy.

130. Alternatively, as joint actors with joint obligations, each of them was and is responsible for the failures and omissions of each other.

131. In acting as alleged herein, Defendants, and each of them, caused Plaintiff severe physical and emotional injuries, and caused Plaintiff other damages, all in an amount to be determined at the time of trial.

132. As a result of each Defendants', and each of their, violations of Plaintiff's constitutional right to have *Brady* information turned over to Plaintiff, Plaintiff was deprived of his above described civil rights, and is entitled to damages including, but not limited to general and punitive damages and attorney's fees under 42 U.S.C. §1988.

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1 **SEVENTH CLAIM FOR RELIEF**

2 **DEPRIVATION OF CIVIL RIGHTS**

3 **42 U.S.C. § 1983, *MONELL* VIOLATIONS**

4 **(Against Defendants County of Los Angeles, McDonnell and Lawrence Beach Allen and Choi PC)**

5 133. Plaintiff hereby realleges and incorporates by reference all previous paragraphs, inclusive,  
6 as well as any subsequent paragraphs contained in the Complaint, as if fully set forth herein.

7 134. Plaintiff is informed and believes and thereon alleges that, at all times herein mentioned,  
8 Defendants County of Los Angeles, McDonnell, Lawrence Beach Allen and Choi, and Does 1 – 10, with  
9 deliberate indifference, and conscious and reckless disregard to the safety, security and constitutional and  
10 statutory rights of Plaintiff and others similarly situated, engaged in the unconstitutional conduct and  
11 omissions as set forth above, which consist of the following customs and/or policies:

- 12 a. The knowing presentation of false evidence by officers;
- 13 b. The deliberately indifferent presentation of false evidence by officers;
- 14 c. The presentation of false evidence by deputies in reckless disregard for the truth or the  
15 rights of the accused;
- 16 d. The destruction of evidence that is material and exculpatory;
- 17 e. Officers' failure to provide material, exculpatory, and impeachment information to  
18 prosecutors trying the case involving the criminal defendant;
- 19 f. Failing to adequately train, supervise and control its officers in the investigation and use of  
20 evidence, including the prevention of unconstitutional use of fabricated evidence;
- 21 g. Failing to adequately train, supervise and control its officers to disclose to the deputy  
22 district attorney prosecuting a defendant all exculpatory and impeachment information,  
23 including *Giglio v. United States*, 405 U.S. 150 (1972) and *Brady* information, which  
24 would include alternative theories which would support the defense; the disclosure of  
25 witness statements who could not identify the criminal defendant; impeachment  
26 information concerning the witnesses and officers;
- 27 h. Failing to adequately discipline officers involved in dishonesty, fabrication of evidence, or  
28 otherwise abusing their authority;

**COMPLAINT FOR DAMAGES**

- 1 i. Condoning and encouraging officers in the belief that they can violate the rights of persons  
2 such as Plaintiff with impunity, and that such conduct will not adversely affect their  
3 opportunities for promotion and employment benefits;
- 4 j. Condoning and encouraging the withholding and fabrication of evidence including but not  
5 limited to the filing of materially false police reports, concealing material evidence,  
6 concealing exculpatory evidence, concealing impeachment information, and/or making  
7 false statements to prosecutors to obtain the filing of false charges and obtaining false  
8 convictions.

9 135. The Defendants County of Los Angeles and McDonnell knew or should have known of its  
10 peace officers' unconstitutional fabrication of evidence and withholding of material, exculpatory and  
11 impeachment information and have a policy, practice and/or custom of not disciplining said peace officers  
12 for the unconstitutional conduct, which includes but is not limited to Defendants Brown's, Murren's, and  
13 Young's fabrication of bank dye and pepper spray on the towel and t-shirt.

14 136. *Brady* requires the disclosure to a criminal defendant "evidence favorable to the accused"  
15 that is "material either to guilt or to punishment." (*U.S. v. Bagley* (1985) 473 US 667, 676; *Brady v.*  
16 *Maryland* (1963) 373 US 83, 87.) The prosecutor's duty to disclose material evidence that is favorable to  
17 the accused includes the duty to disclose evidence that would impeach the testimony of material witnesses.  
18 (*U.S. v. Bagley*, supra; see also *Milke v. Ryan* (9th Cir 2013) 711 F.3d 998, 1012 (prosecution had  
19 inescapable duty under *Brady* and *Giglio* to disclose court records of police officer's false statements  
20 under oath, *Miranda* and other constitutional violations committed during interrogations, and  
21 impeachment information contained in officer's personnel file).)

22 137. "Exculpatory evidence cannot be kept out of the hands of the defense just because the  
23 prosecutor does not have it, where an investigating agency does. That would undermine *Brady* by allowing  
24 the investigating agency to prevent production by keeping a report out of the prosecutor's hands until the  
25 agency decided the prosecutor ought to have it, and by allowing the prosecutor to tell the investigators not  
26 to give him certain materials unless he asked for them." (*United States v. Blanco*, 392 F.3d 382, 388 (9<sup>th</sup>  
27 Cir. 2004).) "*Brady* suppression occurs when the government fails to turn over even evidence that is  
28

1 'known only to police investigators and not to the prosecutor.'" (*Youngblood v. West Virginia*, 547 U.S.  
2 867, 869-70 (2006) (per curium) (quoting *Kyles v. Whitley*, 514 U.S. 419, 438 (1995).)

3 138. Plaintiff is informed and believes and based thereon alleges that the Defendants County of  
4 Los Angeles and McDonnell adopted policies, customs and/or practices to place an undue burden on  
5 criminal defendants to obtain material, exculpatory, and impeachment information from a peace officer's  
6 personnel file in violation of *Brady*, such as requiring a criminal defendant to file a *Pitchess* motion.

7 139. Plaintiff is informed and believes and based thereon alleges that the Defendant County of  
8 Los Angeles and McDonnell have maintained and carried out an unconstitutional policy, practice and/or  
9 custom of violating the constitutional rights of criminal defendants under *Brady* by refusing to voluntarily  
10 produce material exculpatory, and impeachment information under the guise of *Pitchess*, and making the  
11 self-serving argument that the privacy rights of its peace officers override that of the criminal defendant  
12 thereby unconstitutionally shifting to indigent criminal defendants the initial burden of overcoming the  
13 unconstitutional procedures in *Pitchess*, which is illustrated as follows:

- 14 a. *Brady* list – the Los Angeles County Sheriff's Department created a "*Brady*" list of 300-  
15 plus deputies whose personnel files contain sustained allegations of misconduct allegedly  
16 involving moral turpitude, tampering with evidence, or other similar bad acts relevant to  
17 impeachment, and have refused to disclose it to criminal defendants pursuant to *Brady* by  
18 invoking the unconstitutional procedures of *Pitchess*.
- 19 b. Los Angeles County Deputy Sheriff James Peterson (hereinafter "Deputy Peterson") (see  
20 **Exhibit S**, District Attorney's Charge Evaluation Worksheet) – Deputy Peterson regularly  
21 invoked *Pitchess* in State Court to prevent criminal defendants from obtaining information  
22 bearing on his truthfulness and credibility. In cases where Deputy Peterson was a potential  
23 witness, only 2 of 170 criminal defendants facing felony charges tried to obtain information  
24 about past complaints against Deputy Peterson, and in those 2 cases the defense was  
25 provided little information on Deputy Peterson. Most of the criminal defendants accepted  
26 plea deals offered by prosecutors before Deputy Peterson was called to testify. These  
27 criminal defendants were summarily denied access to Deputy Peterson's personal file  
28 under *Pitchess* putting them at a clear disadvantage in defending against the criminal

1 charges and plea bargaining. Had the Defendants County of Los Angeles and Jim  
2 McDonnell complied with their obligations under *Brady*, the same criminal defendants  
3 would not have been disadvantaged. In a Federal criminal matter involving Cesar Castillo  
4 Flores and Manuel Moreno whom Deputy Peterson arrested with nearly 9-pounds of  
5 methamphetamine and a gun, defense attorneys argued that the drugs and weapon should  
6 be thrown out as evidence because Deputy Peterson had violated the men’s constitutional  
7 rights by stopping and searching their car without justification. U.S. District Judge Snyder  
8 reviewed Deputy Peterson’s personnel file and discovered that he was involved in two  
9 incidents that resulted in punishment, one from 1998 and another in 2012. In one of the  
10 incidents, Judge Snyder noted that Peterson had been suspended for breaking a department  
11 rule and being “less than truthful” in some way. Judge Snyder did not describe other  
12 instance of misconduct, but defense attorneys claimed in court filings that Peterson had  
13 been found “lying to his supervisors regarding the ... misconduct” in both episodes. The  
14 government also disclosed documents from an investigation into whether Deputy Peterson  
15 had lied about a 2014 traffic stop. After the personnel reports about Deputy Peterson were  
16 disclosed, federal prosecutors in the case against Flores and Moreno opted not to call  
17 Deputy Peterson to testify about the traffic stop and instead relied on footage from the  
18 camera in Deputy Peterson’s car allegedly showing he had been justified in stopping and  
19 searching the men’s vehicle. Judge Snyder disagreed, saying the video was inclusive,  
20 tossed out the drugs and gun as evidence, and federal prosecutors dismissed the case. The  
21 government dismissed 7 out of 10 federal cases based on Deputy Peterson’s arrests. The  
22 Defendants regularly denied criminal defendants access to material, exculpatory, and  
23 impeachment information regarding Deputy Peterson under *Brady* by invoking the  
24 unconstitutional procedures set forth in *Pitchess*.

- 25 c. Los Angeles County Deputy Christina Chamness (“Deputy Chamness”) (see **Exhibit T**,  
26 Incident Report, Corrective Action Report, and Settlement civil action) – Deputy  
27 Chamness was suspended 25-days for writing a false report and use of unreasonable force.  
28 In 2007, Deputy Chamness pepper-sprayed an elderly Army veteran in the face and

1 arrested him claiming that the man blocked the path of deputies and then advanced on  
2 Deputy Chamness. However, security recording showed that the 73-year-old man never  
3 blocked the deputies or advanced on Chamness. The Defendants regularly denied criminal  
4 defendants access to material, exculpatory, and impeachment information regarding  
5 Deputy Chamness under *Brady* by invoking the unconstitutional procedures set forth in  
6 *Pitchess*.

7 d. Los Angeles County Deputy William Cordero (“Deputy Cordero”) (see **Exhibit U**,  
8 Discipline Letter) – According to a Times article, Deputy Cordero wrote a false report that  
9 failed to mention a civilian who was riding in his patrol vehicle and witnessed a crime. He  
10 was subjected to discipline and suspension of 15-days. As of December 2017, Deputy  
11 Cordero was working at the Avalon Station. The Defendants regularly denied criminal  
12 defendants access to material, exculpatory, and impeachment information regarding  
13 Deputy Cordero under *Brady* by invoking the unconstitutional procedures set forth in  
14 *Pitchess*.

15 e. Los Angeles County Deputy David Anthony Hernandez (“Deputy Hernandez”) (see  
16 **Exhibit V**, Excerpt of Transcript) – In the matter of *People v. Frisco Carntez*, Case No.  
17 VA101800, Deputy Hernandez testified at a preliminary hearing that he ran the license  
18 plate of Carntez and discovered arrest warrants associated with the vehicle’s registered  
19 address. Deputy Hernandez approached Carntez, detained him, and found a baggie of  
20 cocaine in his wallet. Carntez’s defense attorney obtained sheriff’s records proving that  
21 the deputy had ran the license plate after the arrest, not before. When confronted, Deputy  
22 Hernandez said he may have made a mistake. The case was dismissed and Deputy  
23 Hernandez was charged with perjury and filing a false report. Deputy Hernandez pleaded  
24 no contest to a misdemeanor charge of filing a false report, ordered to perform 250-hours  
25 of community service, and placed on probation for 2-years. As of August 2017, Deputy  
26 Hernandez was assigned to the Industry station. The Defendants regularly denied criminal  
27 defendants access to material, exculpatory, and impeachment information regarding  
28



1 Deputy Hernandez under *Brady* by invoking the unconstitutional procedures set forth in  
2 *Pitchess*.

3 f. Los Angeles County Deputy Jose Ovalle (“Deputy Ovalle”) (see **Exhibit W**, Charge  
4 Evaluation Worksheet, Letters re: Disciplinary Action) – In 2003, an inmate’s shirt was  
5 bloodied from a jailhouse brawl and lost. Deputy Ovalle grabbed a shirt out of the jail  
6 laundry, doused it with taco sauce and snapped a photo of faked blood before booking it  
7 into evidence. He was suspended for 30-days. In 2009, a prosecutor learned of the taco  
8 sauce incident and the District Attorney’s Office declined to prosecute Deputy Ovalle  
9 because the legal deadline for charging someone with manufacturing evidence had passed.  
10 The Defendants regularly denied criminal defendants access to material, exculpatory, and  
11 impeachment information regarding Deputy Ovalle under *Brady* by invoking the  
12 unconstitutional procedures set forth in *Pitchess*.

13 g. Los Angeles County Sheriff Deputy John Sanchez (“Deputy Sanchez”) (see **Exhibit X**,  
14 Charge Evaluation Worksheet) - Deputy Sanchez had obtained a Judge’s signature on a  
15 search warrant. Deputy Sanchez used an outdated form and doctored the document  
16 because he did not want to wait for the Judge to fix the error. Deputy Sanchez was  
17 suspended for false statements and putting false information in records. As of August  
18 2017, Deputy Sanchez was still with the Lennox station. The Defendants regularly denied  
19 criminal defendants access to material, exculpatory, and impeachment information  
20 regarding Deputy Sanchez under *Brady* by invoking the unconstitutional procedures set  
21 forth in *Pitchess*.

22 140. Plaintiff is informed and believes and based thereon alleges that the Defendants County of  
23 Los Angeles and McDonnell adopted policies, customs and/or practices to place undue burdens on  
24 criminal defendants to obtain material, exculpatory, and impeachment information from a peace officer’s  
25 personnel file in violation of *Brady*, such as requiring a criminal defendant to file a *Pitchess* motion.

26 141. Plaintiff is informed and believes and base thereon alleges that the Defendant Lawrence  
27 Beach Allen and Choi acted in concert, conspired and agreed with the Defendants County of Los Angeles  
28 and McDonnell to deprive Plaintiff as well as other similarly situated criminal defendants of the rights,

1 privileges, and/or immunities secured by the Constitution and laws of the United States, in particular the  
2 right to have *Brady* information as set forth above. The Defendant Lawrence Beach Allen and Choi have  
3 represented and continues to represent the Los Angeles County Sheriff's Department in cases regarding  
4 misconduct by Deputy Sheriffs and withholding of *Brady* information under the guise of *Pitchess*. In the  
5 matter of *Jacqueline Medina v. County of Los Angeles*, Los Angeles Superior Court Case no. BC460572,  
6 the Defendant Lawrence Beach Allen and Choi were aware of Deputy Jose Ovalle intimidating witnesses,  
7 falsifying police reports, committing crimes, falsifying evidence, and planting evidence in or about 2011.  
8 Deputy Jacqueline Medina witnessed Deputy Jose Ovalle stealing about \$10,000.00 from a suspect named  
9 Ysaguire Edelberto's safety deposit box, searching the suspect's home without consent, and falsifying  
10 reports about the money and search. Deputy Jacqueline Medina witnessed Deputy Jose Ovalle move a  
11 vehicle from a suspect's apartment into the middle of the street, have the vehicle impounded, and falsified  
12 police reports. The Defendants County of Los Angeles and Lawrence Beach Allen and Choi were made  
13 aware of the illegal activities of Deputy Sheriffs, such as Deputy Jose Ovalle, and took no action to remedy  
14 or address the misconduct and illegal activities of Deputy Sheriffs such as Deputy Jose Ovalle. The  
15 Defendant Lawrence Beach Allen and Choi acted in concert, conspired and agreed with the Defendants  
16 County of Los Angeles and McDonnell to suppress *Brady* information regarding Deputy Sheriffs, such as  
17 Deputy Jose Ovalle, from similarly situated criminal defendants under the guise of *Pitchess*. Each failure  
18 to provide *Brady* information, as well as other actions related to them, constitutes an overt act in  
19 furtherance of said conspiracy.

20 142. The actions, or lack thereof, of the Defendants County of Los Angeles, McDonnell and  
21 Lawrence Beach Allen and Choi set forth in this complaint were known or should have been known to the  
22 policy makers responsible for the Defendants and occurred with deliberate indifference to either the  
23 recurring constitutional violations elaborated above, and/or the substantial likelihood that constitutional  
24 rights would be violated as a result of failing to train, supervisor or discipline in areas where the need for  
25 such training and supervision was obvious.

26 143. Defendants County of Los Angeles, McDonnell, and Lawrence Beach Allen and Choi's  
27 actions as set forth above were a motivating force behind the violations of Plaintiff's rights as well as  
28 other similarly situated criminal defendants as set forth in this complaint.

## COMPLAINT FOR DAMAGES

1 144. As a direct and proximate result of the Defendants' acts and omissions, condoning,  
2 encouraging, ratifying and deliberately ignoring the pattern and practice of Defendants Brown, Young,  
3 Murren and other peace officers Plaintiff has yet to identify, Plaintiff and other similarly situated criminal  
4 defendants sustained injury and damage.

5 145. As a result of each of Defendants violations of Plaintiffs' constitutional rights, as set forth  
6 herein, Plaintiffs sustained injury and damage.

7 146. As a result of this unconstitutional policy, practices and/or customs, criminal defendants,  
8 such as Plaintiff, have been denied material, exculpatory and impeachment information to defend against  
9 criminal charges arising from the investigation of the aforementioned peace officers

10 147. In acting as alleged herein, Defendants, and each of them, caused Plaintiff severe physical  
11 and emotional injuries, and caused Plaintiff other damages, all in an amount to be determined at the time  
12 of trial.

13 148. Due to the conduct of Defendants, and each of them, Plaintiff has been required to incur  
14 attorneys' fees, and will continue to incur attorneys' fees, all to Plaintiff's damage in a sum to be proven at  
15 trial and recoverable pursuant to 42 U.S.C. §1988.

16 **EIGHTH CLAIM FOR RELIEF**

17 **VIOLATION OF CIVIL CODE §§ 51 *ET. SEQ.* AND 52**

18 **(Against All Defendants)**

19 149. Plaintiff hereby realleges and incorporates by reference all previous paragraphs, inclusive,  
20 as well as any subsequent paragraphs contained in the Complaint, as if fully set forth herein.

21 150. Defendants acting within the scope of their duties as County of Los Angeles police officers  
22 wrongfully caused Plaintiff to be arrested, put in jail, and subjected to criminal felony charges based upon  
23 his race and due to coercion, intimidation and threats, in violation of Civil Code §§ 51 *et. seq.* and 52.1.

24 151. Pursuant to Cal. Govt. Code §815.2, Defendant County of Los Angeles is hereby liable for  
25 the acts, omissions and conduct of its employees Defendants Brown, Murren, Young, and Does 1-10  
26 whose tortious conduct was a cause in the damages and injuries to Plaintiff.

27 152. Plaintiff timely filed a Claim for Damages pursuant to Cal. Govt. Code §910 *et. seq.* This  
28 action is therefore timely.

**COMPLAINT FOR DAMAGES**

1 153. The conduct of the Defendants constituted interference by threats, intimidation, or  
2 coercion, or attempted interference, with the exercise of enjoyment by Plaintiff of rights secured by the  
3 Constitution or laws of the United States, or secured by the Constitution or laws of the State of California,  
4 including interference with Plaintiff's rights to be secure in his person and free from unlawful arrest under  
5 the Fourth Amendment and Cal. Const. Art. 1 sec. 13 as well as Cal Civ. Code § 43.

6 154. As a direct cause of Defendants' conduct, Plaintiff's rights pursuant to California Civil  
7 Code §52.1 were violated, causing injuries and damages in an amount to be proved at the time of trial.

8 155. In acting as alleged herein, Defendants, and each of them, caused Plaintiff severe physical  
9 and emotional injuries, and caused Plaintiff other damages, all in an amount to be determined at the time  
10 of trial.

11 156. Due to the conduct of Defendants, and each of them, Plaintiff has been required to incur  
12 attorney's fees and will continue to incur attorney's fees, and pursuant to California Cal. Civ. Code § 52.1,  
13 Plaintiff is entitled to reasonable attorney's fees.

14 157. The conduct of the Defendants also amounts to oppression, fraud or malice within the  
15 meaning of Civil Code Section 3294 et. seq. and punitive damages should be assessed against each  
16 individual Defendant, other than the County of Los Angeles, for the purpose of punishment and for the  
17 sake of example. Defendant County of Los Angeles is liable for the acts of its employees as they have  
18 agreed with and/or ratified the acts of the individual defendants.

19 **NINTH CLAIM FOR RELIEF**

20 **VIOLATION OF STATE DUE PROCESS, CAL CONST. ART. I § 7(a)**

21 **(Against All Defendants)**

22 158. Plaintiff hereby realleges and incorporates by reference all previous paragraphs, inclusive,  
23 as well as any subsequent paragraphs contained in the Complaint, as if fully set forth herein.

24 159. This is a state law claim for damages in excess of the jurisdictional amount.

25 160. At all times material times mentioned herein, the actions of Defendants Brown, Young,  
26 Murren, County of Los Angeles, and Does 1-10 were done in an intentional or negligent manner and,  
27 specifically, Defendants Brown, Young, Murren acted in an intentional, negligent or careless manner and  
28 was reckless, grossly negligent or negligent in failing to abide or refusing to abide by Plaintiff's right to

**COMPLAINT FOR DAMAGES**

1 be free from deprivation of liberty without due process. In addition, these defendants failed to provide  
2 adequate remedial measures upon discovery that evidence was falsified, contaminated, or an investigation  
3 was corrupted by impermissible activities.

4 161. Prior to the institution of this action, Plaintiff gave notice of this claim to the Defendant  
5 County of Los Angeles and the Los Angeles County Sheriff's Department and performed all conditions  
6 precedent to this action including compliance with California Government Code Section 911.2.

7 162. Plaintiff has been greatly humiliated and held up to public scorn and derision as a result  
8 of the foregoing acts of all Defendants. Additionally, Plaintiff has been forced to incur substantial amounts  
9 for attorneys' fees, investigation expenses, and other expenses in the vindication of his constitutional  
10 rights.

11 163. In acting as alleged herein, Defendants, and each of them, caused Plaintiff severe physical  
12 and emotional injuries, and caused Plaintiff other damages, all in an amount to be determined at the time  
13 of trial.

14 164. As a direct, proximate and foreseeable result of Defendants County of Los Angeles, Brown,  
15 Young, and Murren's acts and omissions, Plaintiff suffered loss of life, liberty and freedom, and other  
16 privileges of free society resulting in mental anguish, loss of enjoyment of life, loss of reputation,  
17 discomfort, inconvenience, loss of time, loss of wages and other monetary losses; the injuries are  
18 permanent or continuing and Plaintiff will suffer such losses in the future.

19 **TENTH CLAIM FOR RELIEF**

20 **FALSE IMPRISONMENT**

21 **(Against All Defendants)**

22 165. Plaintiff hereby realleges and incorporates by reference all previous paragraphs, inclusive,  
23 as well as any subsequent paragraphs contained in the Complaint, as if fully set forth herein.

24 166. As fully described above, Defendants Brown, Murren, and Young falsified evidence, which  
25 resulted in the criminal conviction and incarceration of Plaintiff for at least twelve years until the District  
26 Attorney dismissed the charges against Plaintiff on June 4, 2018 due to, inter alia, lack of evidence against  
27 Plaintiff. **(Exhibit P.)**

1 167. Defendants Brown, Murren, and Young intentionally made misrepresentations of fact and  
2 falsified evidence which was presented in criminal court hearings against Plaintiff. At the time of these  
3 misrepresentations and accusations, Defendants Brown, Murren, and Young were aware of their falsity  
4 and inaccuracy. As a result of these false allegations, Plaintiff was denied bail and unlawfully tried and  
5 imprisoned.

6 168. Plaintiff has been greatly humiliated and held up to public scorn and derision as a result of  
7 the foregoing acts of all Defendants. Additionally, Plaintiff has been forced to incur substantial amounts  
8 for attorneys' fees, investigation expenses, and other expenses in the vindication of his constitutional  
9 rights.

10 169. As a direct, proximate and foreseeable result of all the Defendants' acts and omissions,  
11 Plaintiff suffered loss of life, liberty and freedom, and other privileges of free society resulting in mental  
12 anguish, loss of enjoyment of life, loss of reputation, discomfort, inconvenience, loss of time, loss of  
13 wages and other monetary losses; the injuries are permanent or continuing and Plaintiff will suffer such  
14 losses in the future.

15 170. The acts of Defendants Brown, Murren, and Young as herein alleged, were willful, wanton,  
16 malicious, and oppressive, and justify the awarding of punitive damages in an amount subject to proof at  
17 trial.

18 **ELEVENTH CLAIM FOR RELIEF**

19 **NEGLIGENT HIRING, SUPERVISION, DISCIPLINING AND**

20 **RETAINING DEPUTY SHERIFFS**

21 **(Against Defendant County of Los Angeles, and Does 1-10)**

22 171. Plaintiff hereby realleges and incorporates by reference all previous paragraphs, inclusive,  
23 as well as any subsequent paragraphs contained in the Complaint, as if fully set forth herein.

24 172. Plaintiff is informed and believes, and thereon alleges that Defendants Brown, Murren,  
25 Young, and Does 1-10 each had a history and propensity for acts of the nature complained of herein and  
26 manifested such propensity prior to their employment as County of Los Angeles Deputy Sheriffs by the  
27 Defendant County of Los Angeles. Plaintiff is further informed and believes and thereon alleges that  
28 Defendant County of Los Angeles knew, or in the exercise of reasonable care should have known of such

1 prior acts at the time such individual defendants were hired by the Defendant County of Los Angeles and  
2 Los Angeles County Sheriff's Department. Defendant County of Los Angeles and Los Angeles County  
3 Sheriff's Department's disregard of this knowledge or failure to adequately investigate and discover the  
4 facts constitutes negligent hiring.

5 173. Plaintiff is informed and believes and thereon alleges that after being employed and  
6 appointed as County of Los Angeles Deputy Sheriffs for and by the Defendant County of Los Angeles  
7 and Los Angeles County Sheriff's Department, and prior to the commission of the acts complained of  
8 herein, Defendants Brown, Murren, Young, and Does 1-10, acting under the color of their authority as  
9 Los Angeles County Deputy Sheriffs, and in the course and scope of their employment as such, committed  
10 similar acts and inflicted similar injuries and damages upon other persons without reasonable cause or  
11 justification. Plaintiff is further informed and believe and thereon allege that Defendant County of Los  
12 Angeles and McDonnell knew, or in the exercise of reasonable care, should have known of these prior  
13 acts and that such Deputy Sheriffs were unfit and prone to commit them but negligently failed to take  
14 steps to properly train, supervise, discipline and/or terminate the officer's employment.

15 174. As a proximate result of the negligence of Defendant County of Los Angeles and Los  
16 Angeles County Sheriff's Department, Plaintiff was damaged and injured as alleged in the preceding  
17 paragraphs.

18 175. The aforesaid neglect, failure and refusal to instruct and train constituted execution of the  
19 policies, customs, and practices of the Defendant County of Los Angeles and Los Angeles County Sheriff's  
20 Department.

21 176. The aforesaid neglect, failure and refusal to instruct and train, and promulgation and  
22 enforcement of policies, practices and customs constituted an execution of the policies, practices and  
23 customs of the Defendant County of Los Angeles and McDonnell.

24 177. As a direct and proximate result of the foregoing, Plaintiff was deprived of his above  
25 described civil rights and is entitled to damages including, but not limited to general and punitive damages  
26 and attorney's fees.

27 WHEREFORE, Plaintiff, LaMont Tarkington, requests relief on his own behalf as follows, and  
28 according to proof, against each Defendant:

- 1 1. General and compensability damages in any amount according to proof;
- 2 2. Special damages in any amount according to proof;
- 3 3. Exemplary and punitive damages against each Defendant in their individual capacities, other than
- 4 the County of Los Angeles, in an amount according to proof;
- 5 4. Cost of suit, including attorney's fees, under 42 U.S.C. 1988 and California Civ. Code §52.1 plus
- 6 a multiplier of four (4);
- 7 5. Interest as allowed by law;
- 8 6. Injunctive relief barring Defendants from falsifying evidence and ongoing violation of *Brady*; and
- 9 7. Such other relief as may be warranted or as is just and proper.

10 Respectfully submitted,

11  
12 DATED: August 30, 2018

13 By:  \_\_\_\_\_

14 Leo James Terrell, Esq.



**JURY DEMAND**

Trial by jury on all issues is demanded.

Respectfully submitted,

By:  \_\_\_\_\_

Leo James Terrell, Esq.

DATED: August 30, 2018

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