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9  
10 **UNITED STATES DISTRICT COURT**  
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 **MALIEK ROSIER,**  
13 **individually,**

14 **Plaintiff,**

15 **v.**

16 **CITY OF HUNTINGTON**  
17 **BEACH, a governmental entity;**  
18 **MATTHEW REZA,**  
19 **individually; SANDRA VIDANA,**  
20 **individually; and DOES 1**  
21 **through 10,**

22 **Defendants.**

Case No.:

**COMPLAINT FOR DAMAGES**

1. **Unreasonable Search and Seizure – Excessive Force - (42 U.S.C. § 1983)**
2. **Failure to Train-Municipal Liability (42 U.S.C. § 1983)**
3. **Municipal Liability for Custom, Policy etc.- *Monell* (42 U.S.C. § 1983)**
4. **Negligence (State)**
5. **Battery (State)**
6. **Intentional Infliction of Emotional Distress (State)**
7. **False Arrest/False Imprisonment (State)**
8. **Violation of the Bane Act (Cal. Civil Code §52.1)**

**DEMAND FOR JURY TRIAL**

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26 Plaintiff, Maliek Rosier (hereinafter referred to as "Plaintiff" or "Mr.  
27 Rosier") upon information and belief, alleges the following:

28 **INTRODUCTION**

1           1.       This civil rights action challenges the unjustified seizure and use of  
2 excessive force on Mr. Rosier at the hands of Huntington Beach Police  
3 Department ("HBPD") officers which resulted in a dangerous asphyxiation,  
4 which rendered Mr. Rosier unconsciousness. In addition, this action challenges  
5 the unlawful detainment, false imprisonment, booking, and subsequent arrest of  
6 Mr. Rosier by HBPD. This action is brought against Officer Matthew Reza  
7 ("REZA") who physically battered Mr. Rosier, Sandra Vidana ("VIDANA"),  
8 who failed to intervene, DOES ONE (1) through DOES TEN (10) and The City  
9 of Huntington Beach ("CITY") which is complicit based on vicarious liability  
10 and because the CITY failed to properly train their officers and allowed for a  
11 custom and policy of excessive force and illegal behaviors by HBPD.

12           2.       The use of force against Mr. Rosier to seize his person was  
13 unconstitutional and violated clearly established federal and state laws that would  
14 have been known to any reasonable law enforcement agent.

15           3.       As such, this action is brought against REZA, VIDANA, DOES  
16 ONE (1) through DOES TEN (10) and CITY, collectively ("Defendants").

17   **JURISDICTION AND VENUE**

18           3.       This case arises under 42 U.S.C. §1983. This Court has subject  
19 matter jurisdiction over this action pursuant to 28 U.S.C. §1331.

20           4.       Mr. Rosier's claims brought under California state law arise out of  
21 the same transactions and occurrences, and out of a common nucleus of operative  
22 facts as Mr. Rosier's federal questions claims, thus this Court has subject matter  
23 jurisdiction over Mr. Rosier's pendent state law claims pursuant to 28 U.S.C.  
24 §1367.

25           5.       Venue is proper in this District pursuant to 28 U.S.C. §1391 (b) and  
26 (e) in that (1) the unlawful actions challenged herein occurred in the Central  
27 District; and (2) all of the parties reside in the Central District.

28           6.       On August 31, 2018, Plaintiff through his attorney of record

1 forwarded a Government Claim notification to City in accordance with California  
2 Government Code § 910 et seq.

3 7. Defendant CITY has failed to notify Plaintiff of their decision  
4 regarding the Government Claim notification. Since it has been more than forty-  
5 five (45) since Plaintiff presented Defendant CITY with the Government Claim,  
6 the claim is deemed a rejection by the CITY pursuant to Government Code §  
7 912.4(c). Accordingly, Plaintiff filed the present lawsuit.

8 **PLAINTIFF**

9 8. Maliek Rosier, at all relevant times was a resident of the County of  
10 Riverside, State of California.

11 **DEFENDANTS**

12 9. REZA, VIDANA, and DOES ONE (1) through DOES TEN (10)  
13 are CITY police officers, that were duly authorized employees and agents of the  
14 CITY, and were acting under color of law within the course and scope of his or  
15 her perspective duties as a police officer and with the complete authority and  
16 ratification of his principal, CITY and subject to oversight and supervision by  
17 CITY's elected and non-elected officials. REZA, VIDANA, and DOES ONE (1)  
18 through DOES TEN (10) are being sued in their individual capacity.

19 10. Each named Defendant is a natural person except for Defendant  
20 CITY. CITY is, and at all times herein mentioned was, a political subdivision of  
21 the State of California, duly organized and existing under the laws of the State of  
22 California.

23 11. Mr. Rosier is unaware of the true identities and capacities of DOES  
24 ONE (1) through DOES TEN (10), inclusive. Each of the fictitiously named  
25 Defendants is in some manner and to some extent liable for the injuries alleged in  
26 this Complaint as officers and/or managerial, supervisory, and policymaking  
27 employees of HBPD. Mr. Rosier will seek leave to amend this Complaint to  
28 allege the true identities and capacities of those fictitiously named defendants

1 when they are determined.

2 12. At all relevant times, DOES ONE (1) through DOES TEN (10)  
3 were police officers and employees of the CITY. Liability under California law  
4 for Defendant CITY and its employees, including DOES ONE (1) through  
5 DOES TEN (10) Defendants, is based upon California Government Code § 815.2  
6 and § 820 and/or Civil Code § 43. DOES ONE (1) through DOES TEN (10) were  
7 acting on the implied and actual permission and consent of CITY in doing the  
8 acts and failing and omitting to act. Mr. Rosier complied with the requirements  
9 of the California Tort Claims Act and timely filed a tort claim with Defendant  
10 CITY on October 31, 2018 and since CITY did not provide a response within  
11 forty-five (45) days the claim is deemed denied.

12 13. Each Defendant is, and at all times mentioned was, the agent,  
13 employee, representative, successor and/or assignee of each other Defendant. At  
14 all times herein mentioned, each and every Defendant herein had the legal duty to  
15 oversee and supervise the hiring, conduct, employment and discipline of each and  
16 every other defendant herein. Each Defendant, in doing the acts, or in omitting to  
17 act as alleged in this Complaint, was acting within the scope of his or her actual  
18 or apparent authority, or the alleged acts and omission of each Defendant as agent  
19 subsequently were ratified and adopted by each other Defendant as principal.

20 14. At all times relevant to this Complaint, Defendants REZA,  
21 VIDANA and DOES ONE (1) through DOES TEN (10) acted under the color of  
22 state law.

23 15. Each of the individual Defendants REZA, VIDANA and DOES  
24 ONE (1) through DOES TEN (10) were in some way responsible for the  
25 constitutional violations alleged in this Complaint.

26 16. In committing the acts alleged in this complaint Defendants acted  
27 knowingly, maliciously and with reckless or callous disregard for the rights of  
28 Mr. Rosier, justifying an award of punitive damages, under federal and California

1 law against each individual Defendant.

2 **FACTUAL ALLEGATIONS**

3 17. On Sunday, June 24, 2018, at approximately 10:00 P.M., Officers  
4 REZA and DOE ONE (1) from HBPD stopped a group of approximately six  
5 individuals who were on the beach near the pier of Huntington State Beach. The  
6 officers advised the group that it was time to leave because the beach was closed.

7 18. The group immediately began to exit, however after a couple  
8 hundred yards, one of the female group members realized she had left her shoes.  
9 Mr. Rosier chivalrously offered to retrieve her shoes, thinking he would be there  
10 and back in less than a minute. As soon as Mr. Rosier walked further into the  
11 beach area, he was confronted by Officers REZA and DOE ONE (1). They  
12 immediately began yelling at him including the phrase, "stop resisting" which  
13 was odd because the officers and Mr. Rosier were not physically together at this  
14 point.

15 19. Mr. Rosier was not given a chance to explain why he returned to  
16 the beach nor did the officers ask. REZA and DOE ONE (1) just rushed towards  
17 him in an aggressive and hostile manner and violently grabbed his hands and  
18 turned him around to put cuffs on him.

19 20. At this point, Mr. Rosier was compliant, passive, and not resisting  
20 as his arms were behind him and his wrists were handcuffed behind his back.  
21 While restrained in handcuffs and despite Mr. Rosier's compliance, REZA took  
22 his arm, put it around Mr. Rosier's neck, and began tightening his grip.

23 21. As Mr. Rosier is losing oxygen and gasping for air, his knees begin  
24 to buckle and he falls into the sand. Instead of loosening the chokehold around  
25 Mr. Rosier's neck, REZA squeezes harder and uses his body to push Mr. Rosier's  
26 face and body into the sand. Mr. Rosier was extremely scared at this point as he  
27 could no longer breathe and suffers from asthma.

28 22. Mr. Rosier's airways are now completely restricted and as a result

1 of the sustained strangulation, he loses consciousness.

2 23. Mr. Rosier awoke as he was being lifted off the ground and noticed  
3 that around five (5) additional officers had arrived on scene. EMS from the CITY  
4 Fire Department treated him on scene for a traumatic injury, but due to the  
5 danger of brain damage, death, and other serious life threatening medical  
6 conditions, Mr. Rosier was transported by ambulance to Huntington Beach  
7 Hospital Emergency Department ("ER").

8 24. At the ER, Mr. Rosier was given an IV and placed on cardiac  
9 monitor and continuous pulse oximetry which measures oxygen concentration in  
10 the blood. Physicians noted that his blood pressure was elevated and both eyes  
11 were filled with blood. Instead of white, his eyes were a deep red color. The  
12 tissue around his eyes was also bruised giving him two "black eyes." Mr. Rosier  
13 was diagnosed with severe subconjunctival hemorrhaging as the blood vessels in  
14 his eyes had burst due to the strangulation. The physician also recommended that  
15 Mr. Rosier follow up with his Primary Care Physician within two (2) to three (3)  
16 days or return to emergency if symptoms worsen. It was around midnight on June  
17 25, 2018, when Mr. Rosier was discharged from Huntington Beach Hospital and  
18 admitted to the County Jail.

19 25. Later that evening on June 25, 2018, after release from jail, Mr.  
20 Rosier was admitted to the Riverside University Health System Emergency  
21 Department. His eyes were still blood red and his neck was swollen. CT  
22 Imaging Tests such as a Neck Angiography and Maxillofacial were done to see  
23 blood flow and any conditions affecting the head, neck, face and jaw. The  
24 physician also performed a visual acuity screening to test Mr. Rosier's vision.  
25 Before discharge he was prescribed Ibuprofen for pain, an Epinephrine shot to  
26 prevent anaphylaxis, an inhaler assist device, and a peak flow meter to measure  
27 the flow rate speed of Mr. Rosier's expiration as the strangulation exacerbated his  
28 asthma. The physician also recommended that Mr. Rosier see a Primary Health

1 Physician the following day, June 26, 2018.

2 26. At his appointment on June 26, 2018, Mr. Rosier was suffering  
3 additional symptoms of Hives and Angioedema around his neck and eye pain  
4 with extraocular eye movements. The physician referred him to an  
5 Ophthalmology Specialist and provided that he take Tylenol and or Ibuprofen for  
6 pain, prescribed an Albuterol inhaler to open up airways in the lungs, another  
7 Epinephrine for anaphylaxis, an inhaler assist device, and peak flow meter to  
8 assist with his aggravated asthma.

9 27. Mr. Rosier still experiences difficulty in everyday life and is  
10 believed to be suffering from Post Traumatic Stress Disorder as a result of this  
11 incident.

12 28. Mr. Rosier was deprived of his interests protected by the  
13 Constitution or laws of the United States, and Defendants caused all such  
14 deprivations while acting under color of state law.

15 29. All acts or omissions alleged to have been engaged in by any  
16 individual Defendants were committed with evil motive and intent, and in  
17 callous, reckless, and wanton disregard to the individual rights of Mr. Rosier.

18 **FIRST CLAIM FOR RELIEF**  
19 **UNREASONABLE SEARCH AND SEIZURE &**  
20 **EXCESSIVE FORCE (42 U.S.C. § 1983)**  
21 **(Against REZA, VIDANA, and DOES 1-10)**

22 30. The allegations set forth in paragraphs 1 through 3, and 17 through  
23 29 are incorporated herein by reference.

24 31. Defendant officers REZA, VIDANA and DOES ONE (1) through  
25 DOES (10) participated in the use of unreasonable force and failed to protect Mr.  
26 Rosier's constitutional rights while working as agents for the CITY, and acting  
27 within the course and scope of their duty when Mr. Rosier was attacked by  
28 REZA, without warning, with the intent to inflict serious injury. As a result, Mr.

1 Rosier was unjustifiably battered and put at substantial risk of death, brain  
2 damage, and other severe life threatening medical conditions even though he was  
3 not a threat to Defendant officers or the public.

4 32. Defendant officers REZA, VIDANA and DOES ONE (1) through  
5 DOES (10)'s conduct was objectively unreasonable as Mr. Rosier was being  
6 asphyxiated for a prolonged period of time, and even before that, Mr. Rosier was  
7 already subdued once he was handcuffed. There were various moments where  
8 REZA should have released the chokehold and where VIDANA and DOES ONE  
9 (1) through DOES TEN (10) could have intervened to abate the risk of serious  
10 harm to Mr. Rosier. Those moments include when Mr. Rosier was subdued in  
11 handcuffs, once his knees buckled and Mr. Rosier fell to the ground, or before  
12 Mr. Rosier lost consciousness while his face and body were concurrently being  
13 pushed into the sand while he was being choked. A reasonable officer in the  
14 circumstances would have appreciated the high risk of severe and lethal harm to  
15 Mr. Rosier and known that continuing the chokehold or failing to intervene  
16 would cause such harm to take place.

17 33. Defendant officers contributed to the infliction of devastating  
18 injuries with no justification nor probable cause.

19 34. All aforementioned acts were in violation of Mr. Rosier's right to be  
20 secure in his person against unreasonable seizure guaranteed by the Fourth  
21 Amendment and deprived him of his right to protection under the Fourteenth  
22 Amendment to the United States Constitution.

23 35. The unreasonable seizure of Mr. Rosier constituted a reckless and  
24 intentional escalation of the situation that directly led to Mr. Rosier's  
25 asphyxiation, therefore rendering the aforementioned defendants liable under  
26 excessive escalation theory.

27 36. REZA, VIDANA, and DOES ONE (1) through DOES TEN (10)  
28 are liable because they were integral participants in these violations, or failed to



1 intervene to prevent the violations.

2 37. Mr. Rosier is informed and believes and hereon alleges that the acts  
3 of the individual Defendants was willful, malicious, intentional, oppressive,  
4 reckless and/or were done in willful and conscious disregard of Mr. Rosier's  
5 rights, welfare and safety, thereby justifying the awarding of punitive and  
6 exemplary damages in an amount to be determined at time of trial.

7 38. As a direct and legal result of the Defendant officers acts and  
8 omissions, and the ensuing physical and emotional injuries to Mr. Rosier, Mr.  
9 Rosier has suffered damages, including, without limitation, medical expenses, the  
10 past and future pain and suffering, and loss of enjoyment of life, all to his general  
11 and special damages according to proof, including attorneys' fees, costs of suit,  
12 and other pecuniary losses not yet ascertained.

13 **SECOND CLAIM FOR RELIEF**  
14 **FAILURE TO TRAIN-MUNICIPAL LIABILITY**  
15 **(42 U.S.C. § 1983)**  
16 **(Against CITY and DOES 1-10)**

17 39. The allegations set forth in paragraphs 1 through 3, and 17 through  
18 29 are incorporated herein by reference.

19 40. Defendant CITY possessed the power and authority to hire and fire  
20 employees of HBPD, based upon information and belief, and negligently hired  
21 REZA, VIDANA, and DOES ONE (1) through DOES TEN (10), entrusted them  
22 with the following duties: protect citizens, conduct reasonable investigations  
23 based upon reasonable beliefs that persons have been harmed, or property has  
24 been stolen or destroyed, and cause persons who commit crimes on property to  
25 be arrested.

26 41. By virtue of the foregoing, these Defendants owed Mr. Rosier a  
27 duty of due care, and that duty was breached by Defendants' negligent and  
28 careless manner in hiring, training, supervising and retaining by, among other  
things:

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- a) Failing to adequately train its officers in the use of force, as well as constitutional limitations in the use of force;
- b) Failing to adequately train its officers in identifying a person that presents a threat of force or violence, as opposed to one that does not;
- c) Failing to adequately train its officers in identifying a person that poses an immediate risk of escape, as opposed to one that does not;
- d) Failing to adequately investigate background, training and experience of an officer and his or her propensity for violence;
- e) Failing to provide adequate supervisory control over the actions of its officers in regard to adequate training, supervision, equipment, planning, oversight, and administration;
- f) Failing to control the conduct of its officers who have a known propensity for violence and failing to discipline officers;
- g) Failing to investigate in good faith, allegations of excessive and unreasonable use of force by its officers;
- h) Failing to discipline its officers who use excessive and unreasonable force; and
- i) Sanctioning, condoning and approving a law enforcement-wide custom and practice of a code of silence, cover-up and dishonesty.

42. As a direct and proximate cause of the aforementioned acts of these Defendants, Mr. Rosier was injured as set forth above and is entitled to compensatory damages according to proof at the time of trial.

43. By reason of the aforementioned policies and practices of Defendants REZA, VIDANA, and DOES ONE (1) through DOES TEN (10) inclusive, Mr. Rosier was injured in his health, strength and activity, and sustained great injuries and damage as described elsewhere herein.

**THIRD CLAIM FOR RELIEF**

1                                   **MUNICIPAL LIABILITY FOR POLICY, CUSTOM, ETC.-**  
2   **MONELL (42 U.S.C. § 1983)**  
3   **(Against CITY and DOES 1-10)**

4           44.       The allegations set forth in paragraphs 1 through 3, and 17 through  
5 29 are incorporated herein by reference.

6           45.       At all times herein mentioned the unknown named employees of  
7 the CITY were employees acting under the direction and control of Defendant  
8 CITY. Defendant CITY and the unknown named employees of the CITY  
9 knowingly and intentionally promulgated, maintained, applied, enforced and  
10 suffered the continuation of policies, customs, practices and usages in violation  
11 of the Fourth and Fourteenth Amendments to the United States Constitution.  
12 These customs, policies, practices and usages required and encouraged the  
13 employment, deployment and retention of persons, as peace officers, who have a  
14 propensity for violence, excessive force, dishonesty, and additional abuses of  
15 their duties as peace officers in the employment of Defendant City.

16           46.       Defendant CITY, knowingly maintained or permitted an official  
17 policy or custom of permitting the occurrences of the types of wrongs alleged  
18 herein by, among other things, failing and refusing to meaningfully investigate or  
19 discipline police officers known to have repeatedly violated the constitutional  
20 rights of the public.

21           47.       Additionally, Defendants CITY, REZA, VIDANA, and DOES  
22 ONE (1) through DOES TEN (10) have displayed a deliberate indifference to the  
23 rights of citizens and, based upon the principles set forth in *Monell v. New York*  
24 *City Department of Social Services*, 436 U.S. 658 (1978), the CITY is liable for  
25 all injuries sustained by Mr. Rosier as set forth herein.

26           48.       Defendant CITY bears liability because their policies, practices  
27 and/or customs were a cause of Plaintiff's injuries. Defendant CITY, and its  
28 officials maintained or permitted a policy, practice and custom of permitting,  
encouraging and ratifying the use of unnecessary and unreasonable force, false

1 arrest, and acting with reckless indifference to the constitutional rights of  
2 members of the public by its police officers by, among other things:

- 3 a) Failing to adequately train and supervise police officers with  
4 respect to constitutional limits on use of force, arrest, and  
5 detention;
- 6 b) Failing to discipline officers known to have a propensity for  
7 violence, the use of unnecessary and unreasonable force, false  
8 arrest and/or dishonesty;
- 9 c) Continuing to assign such officers to duties where they are likely  
10 to, and indeed do, injure members of the public;
- 11 d) Writing false reports and giving false testimony to cover up acts  
12 of misconduct, including, but not limited to, the use of  
13 unnecessary force, false arrest and/or dishonesty by its officers  
14 and thereby conveying to them its approval and/or lack of  
15 concern about police misconduct;
- 16 e) Refusing to discipline adequately individual officers and  
17 employees found to have committed similar acts of abuse and  
18 misconduct;
- 19 f) Refusing to investigate competently and impartially allegations  
20 of abuse and misconduct alleged to have been committed by  
21 officers of the CITY, including the allegations made by Plaintiff  
22 in this case;
- 23 g) Planting evidence or withholding evidence in favor of the  
24 participant officers to favor the same officers' version of the  
25 police misconduct;
- 26 h) Reprimanding, threatening, intimidating, demoting firing and  
27 otherwise retaliating against officers who reported acts of abuse  
28 by other officers;

- 1 i) Rewarding police officers who displayed aggressive and abusive  
2 behavior toward detainees, arrestees, and members of the  
3 public;
- 4 j) Condoning and participating in the practice of reducing or  
5 dismissing criminal charges against individuals in return for  
6 releasing the CITY and employees of HBPD from civil liability;
- 7 k) Condoning and encouraging officers' beliefs that they can  
8 violate the rights of persons, such as the Plaintiff, with impunity  
9 and such conduct will not adversely affect their opportunities for  
10 promotion and other employment benefits;
- 11 l) Promoting and/or acquiescing in the policy of stopping,  
12 detaining, questioning, arresting and shooting members of the  
13 public without probable cause or reasonable suspicion;
- 14 m) Sanctioning, condoning and approving a department wide code  
15 of silence, a euphemism for perjury and dishonesty by peace  
16 officers; and
- 17 n) Ratification by the highest levels of authority the specific  
18 unconstitutional acts alleged in this Complaint.

19 49. On or about June 24, 2018, and for some time prior thereto,  
20 Defendant CITY knew or should have known, that the Defendant officers REZA,  
21 VIDANA, and DOES ONE (1) through DOES TEN (10) had propensities for  
22 violence, dishonesty, and for abusing their authority but failed to discipline, and  
23 ratified, acquiesced in, authorized or directed the violent acts and abuses of  
24 power committed by these officers.

25 50. As a direct and legal result of the aforementioned wrongful acts of  
26 the individual officer Defendants, and the aforementioned policy, pattern,  
27 practice or custom of the CITY, Defendants violated the rights of Mr. Rosier as  
28 guaranteed by the Fourth and Fourteenth Amendments to the United States

1 Constitution.

2 51. Defendants' acts and omissions as herein alleged proximately  
3 caused Mr. Rosier's injuries.

4 52. As a direct and legal result of these Defendants' acts and omissions,  
5 and the ensuing physical and emotional injuries to Mr. Rosier, Mr. Rosier has  
6 suffered damages, including, without limitation, medical expenses, the past and  
7 future pain and suffering, and loss of enjoyment of life, all to his general and  
8 special damages according to proof, including Attorney's fees, costs of suit, and  
9 other pecuniary losses not yet ascertained.

10 53. By reason of the aforementioned acts and omissions of Defendant  
11 CITY's individual officers, Mr. Rosier was compelled to secure the services of an  
12 attorney at law to redress the wrongs described herein. As a result, Mr. Rosier is  
13 indebted and liable for legal costs, including attorneys' fees.

14 **FOURTH CLAIM FOR RELIEF**  
15 **NEGLIGENCE**  
16 **(Against All Defendants)**

17 54. The allegations set forth in paragraphs 1 through 3, and 17 through  
18 29 are incorporated herein by reference.

19 55. Defendants owed a duty of care toward Mr. Rosier and were  
20 required to use reasonable diligence to ensure that Mr. Rosier was not harmed by  
21 Defendants' acts or omissions. Defendants' actions and omissions were negligent  
22 and reckless, including but not limited to:

- 23 a) The failure to properly and adequately assess the need to  
24 detain, arrest, and use force against Mr. Rosier;  
25 b) The failure to monitor and record any use of force by CITY  
26 Police Officers, including REZA, VIDANA, and DOES  
27 ONE (1) through DOES TEN (10);  
28 c) The failure to monitor and record any injuries specifically  
caused by the use of force by HBPD officers, including

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REZA, VIDANA, and DOES ONE (1) through DOES TEN (10);

- d) The negligent tactics and handling of the physical assault against Mr. Rosier;
- e) The negligent detention, arrest, and use of force against Mr. Rosier;
- f) The failure to ensure that adequate numbers of employees with appropriate education and training were available to meet the needs of and protect Mr. Rosier's rights;
- g) The failure to properly train, supervise, and discipline employees, including the individual officer Defendants;
- h) The negligent treatment of Mr. Rosier after he received serious injuries; and
- i) The negligent hiring, retention and assignment of its employees, including the officer Defendants;

56. As a direct and legal result of Defendants' acts and omissions, and the ensuing physical and emotional injuries to Mr. Rosier, Mr. Rosier has suffered damages, including, without limitation, medical expenses, loss of earnings, the past and future pain and suffering, and loss of enjoyment of life, all to his general and special damages according to proof, including Attorney's fees, costs of suit, and other pecuniary losses not yet ascertained.

57. As a direct and legal result of their conduct and breach of their duty of car, Defendants are liable for Mr. Rosier's damages, either because they were integral participants in the negligence, or because they failed to intervene to prevent these violations.

**FIVE CLAIM FOR RELIEF**  
**BATTERY (State)**  
**(Against All Defendants)**

58. The allegations set forth in paragraphs 1 through 3 and 17 through

1 29 are incorporated herein by reference.

2 59. Defendants REZA and VIDANA, and DOES ONE (1) through  
3 DOES TEN (10) while working as officers for the HBPD, and acting within the  
4 course and scope of their duties, intentionally used force against Mr. Rosier.  
5 Also, Mr. Rosier was calm, compliant, and did not pose a threat to the officers or  
6 those around him to justify the excessive force. Mr. Rosier suffered a dangerous  
7 asphyxiation that resulted in loss of consciousness that could have killed him or  
8 resulted in substantial brain damage or other serious medical conditions. The  
9 trauma from the incident still has an effect on Mr. Rosier's daily life. REZA,  
10 VIDANA, and DOES ONE (1) through DOES TEN (10), had no legal  
11 justification for using force against Mr. Rosier while carrying out their police  
12 officers duties and thus acted unreasonably.

13 60. Mr. Rosier suffered harm, as a direct and proximate result of the  
14 conduct, both acts and omissions, of REZA, VIDANA, and DOES ONE (1)  
15 through DOES TEN (10) as alleged above.

16 61. CITY is vicariously liable for the wrongful acts of REZA,  
17 VIDANA, and DOES ONE (1) through DOES TEN (10), pursuant to § 815.2 of  
18 the California Government Code, which provides that a public entity is liable for  
19 the injuries caused by its employees within the scope of the employment if the  
20 employee's act(s) would subject him or her to liability.

21 62. The conduct, both acts and omissions, of REZA, VIDANA, and  
22 DOES ONE (1) through DOES TEN (10), was malicious, wanton, oppressive,  
23 and accomplished with a conscious disregard for Mr. Rosier's rights, entitling Mr.  
24 Rosier to an award of exemplary and punitive damages.

25 63. Mr. Rosier also seeks general and special damages under this claim.

26 **SIXTH CLAIM FOR RELIEF**  
27 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS (State)**  
28 **(Against All Defendants)**

64. The allegations set forth in paragraphs 1 through 3, and 17 through



1 29 are incorporated herein by reference.

2 65. The conduct of Defendants REZA, VIDANA, and DOES ONE (1)  
3 through DOES TEN (10) as set forth above, was outrageous, malicious, and  
4 reckless.

5 66. Defendants intended to cause Plaintiff physical injury and  
6 emotional distress by the use of excessive force against him and Defendants  
7 REZA, VIDANA, and DOES ONE (1) through DOES TEN (10)'s conduct  
8 caused Plaintiff severe emotional distress.

9 **SEVENTH CLAIM FOR RELIEF**  
10 **FALSE ARREST/ FALSE IMPRISONMENT (State)**  
11 **(Against All Defendants)**

12 67. The allegations set forth in paragraphs 1 through 3 and 17 through  
13 29 are incorporated herein by reference.

14 68. REZA, VIDANA, and DOES ONE (1) through DOES TEN (10),  
15 while working as CITY Police Officers and acting within the course and scope of  
16 their duties, intentionally deprived Mr. Rosier of his freedom of movement by the  
17 use of force, threats of force, menace, fraud, deceit, and unreasonable duress.  
18 REZA, VIDANA, and DOES ONE (1) through DOES TEN (10), detained and  
19 arrested Plaintiff without reasonable suspicion or probable cause.

20 69. Mr. Rosier did not knowingly or voluntarily consent.

21 70. The conduct of REZA, VIDANA, and DOES ONE (1) through  
22 DOES TEN (10) was a substantial factor in causing Mr. Rosier's harm.

23 71. CITY is vicariously liable for the wrongful acts of REZA,  
24 VIDANA, and DOES ONE (1) through DOES TEN (10) pursuant to § 815.2 of  
25 the California Government Code, which provides that a public entity is liable for  
26 the injuries caused by its employees within the scope of the employment if the  
27 employee's act would subject him or her to liability.

28 72. The conduct of REZA, VIDANA, and DOES ONE (1) through  
DOES TEN (10), was malicious, wanton, oppressive, and accomplished with a

1 conscious disregard for Mr. Rosier' rights, entitling him to an award of exemplary  
2 and punitive damages.

3 **EIGHTH CLAIM FOR RELIEF**  
4 **VIOLATION OF THE BANE ACT (State)**  
5 **(Against All Defendants - Cal. Civ. Code § 52.1)**

6 73. The allegations set forth in paragraphs 1 through 3, and 17 through  
7 29 are incorporated herein by reference.

8 74. REZA, VIDANA, and DOES ONE (1) through DOES TEN (10)  
9 attempted to interfere with and did interfere with the rights of Mr. Rosier's  
10 freedom of speech, free expression, free assembly, due process, and to be free  
11 from unreasonable search and seizure by threatening and committing violent acts  
12 against Plaintiff.

13 75. Plaintiff reasonably believed that if he exercised his rights of free  
14 speech, free expression, free assembly, due process, and to be free from  
15 unreasonable search and seizure, REZA, VIDANA, and DOES ONE (1) through  
16 DOES TEN (10) would commit violent acts against him.

17 76. REZA, VIDANA, and DOES ONE (1) through DOES TEN (10)  
18 injured Mr. Rosier in order to prevent him from exercising his free speech, free  
19 expression, free assembly, due process, and to be free from unreasonable search  
20 and seizure and retaliated against him for having exercised such.

21 77. The conduct of REZA, VIDANA, and DOES ONE (1) through  
22 DOES TEN (10) was a substantial factor in causing harm to Mr. Rosier.

23 78. CITY is vicariously liable for the wrongful acts of REZA,  
24 VIDANA, and DOES ONE (1) through DOES TEN (10), pursuant to § 815.2 of  
25 the California Government Code, which provides that a public entity is liable for  
26 the injuries cause by its employees within the scope of their employment if the  
27 employee's act(s) would subject him or her to liability.

28 79. The conduct of REZA, VIDANA, and DOES ONE (1) through

1 DOES TEN (10) was malicious, wanton, oppressive, and carried out with a  
2 conscious disregard for the rights of Plaintiff, entitling him to an award of  
3 exemplary and punitive damages.

4 80. Mr. Rosier seeks economic damages, general and punitive damages,  
5 along with reasonable attorney's fees.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiff's request entry of judgment in his favor and  
8 against Defendants as follows:

- 9 a. For general and compensatory damages, including loss of  
10 earnings, medical costs under federal and state law, and  
11 interest, in an amount to be proven at trial;
- 12 b. For punitive damages against individual defendants in an  
13 amount to be proven at trial;
- 14 c. For reasonable costs of this suit and attorney's fees pursuant  
15 42 U.S.C. §1988 and California Civil Code § 52.1; and
- 16 d. For such further relief as the Court may deem just, proper,  
17 and appropriate.
- 18

19 Dated: December 7, 2018

THE SEHAT LAW FIRM, PLC

20 By: /s/ Cameron Sehat  
21 Attorney for Plaintiff,  
22 Maliek Rosier

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**DEMAND FOR JURY TRIAL**

Plaintiff hereby respectfully demands a trial by jury.

Dated: December 7, 2018

THE SEHAT LAW FIRM, PLC

By: /s/ Cameron Sehat  
Attorney for Plaintiff,  
Maliek Rosier