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9 UNITED STATES DISTRICT COURT
10
11 NORTHERN DISTRICT OF CALIFORNIA

<p>12 PEDRO CIRIA; and YOJANA PAIZ,</p> <p>13 Plaintiffs,</p> <p>14 vs.</p> <p>15 CITY AND COUNTY OF SAN 16 FRANCISCO, SAN FRANCISCO 17 POLICE DEPARTMENT; ARTHUR 18 GERRANS; JAMES CROWLEY; 19 NICOLAS J. RUBINO; and DOES 1-50.</p> <p>20 Defendants.</p>	<p>21 Case No.:</p> <p>22 COMPLAINT FOR DAMAGES</p> <p>23</p> <p>24 1. Loss of Familial Associations 25 2. Intentional Infliction of Emotional 26 Distress 27 3. Negligent Infliction of Emotional 28 Distress</p>
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COME NOW, Plaintiffs PEDRO CIRIA and YOJANA PAIZ, and hereby allege and
aver the following based upon personal knowledge as to facts known to them and upon
information and belief as to all other matters against Defendants CITY AND COUNTY OF
SAN FRANCISCO, SAN FRANCISCO POLICE DEPARTMENT; ARTHUR GERRANS;
JAMES CROWLEY; NICOLAS J. RUBINO; and DOES 1-50 as follows:

1 **I. JURISDICTION AND VENUE**

2 1. This action is brought pursuant to 42 U.S.C. §§ 1983 and 1988, and the United
3 States Constitution, made applicable to Defendants through the Fourteenth Amendment to the
4 United States Constitution. This Court has jurisdiction over plaintiff’s claims under 28 U.S.C.
5 § 1331 and 28 U.S.C. § 1343(a).

6 2. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because the events
7 giving rise to this action, occurred in San Francisco County, which is located in this district.

8 3. On October 17, 2022, Plaintiffs timely presented tort claim forms to the City in
9 compliance with Cal. Gov’t Code § 900 et seq. The City denied liability for Plaintiffs’ claims
10 in letters dated December 7, 2022.

11 **II. PARTIES**

12 4. At all times material to this Complaint, Plaintiff PEDRO CIRIA, was an individual
13 and is a resident of either San Francisco County or San Mateo County in the State of
14 California. Plaintiff CIRIA is the son of Mr. Joaquin Ciria.

15 5. At all times material to this Complaint, Plaintiff YOJANA PAIZ was an individual
16 and is a resident of either San Francisco County or San Mateo County in the State of
17 California. Plaintiff PAIZ is Plaintiff CIRIA’s mother and was Mr. Ciria’s partner at the time
18 of his incarceration.

19 6. Defendant CITY AND COUNTY OF SAN FRANCISCO (hereinafter “CCSF”) is
20 an incorporated public entity duly authorized and existing as such in and under the laws of the
21 State of California; at all times herein mentioned, Defendant CCSF has possessed the power
22 and authority to adopt policies and prescribe rules, regulations and practices affecting the
23 operation of the San Francisco Police Department and its tactics, methods, practices, customs
24 and usage.

25 7. Defendant SAN FRANCISCO POLICE DEPARTMENT (“SFPD”) is a department
26 of CCSF and possessed the power and authority to adopt policies and prescribe rules,
27 regulations and practices affecting the operation of the San Francisco Police Department and
28 its tactics, methods, practices, customs and usage.

1 8. Defendant ARTHUR GERRANS was employed by and working on behalf of the
2 SFPD and was a resident of the state of California. Gerrans was a homicide inspector for the
3 SFPD and played an active role in the investigation resulting in Ciria's prosecution and
4 conviction. Gerrans is sued in his individual capacity and, upon information and belief, is
5 indemnified by the City.

6 9. Defendant JAMES CROWLEY was employed by and working on behalf of the
7 SFPD and was a resident of the state of California. Crowley was a homicide inspector for the
8 SFPD and played an active role in the investigation resulting in Ciria's prosecution and
9 conviction. Crowley is sued in his individual capacity and, upon information and belief, is
10 indemnified by the City.

11 10. Defendant NICOLAS J. RUBINO was employed by and working on behalf of the
12 SFPD and was a resident of the state of California. Rubino was a police officer for the SFPD
13 and played an active role in the investigation resulting in Ciria's prosecution and conviction.
14 Rubino is sued in his individual capacity and, upon information and belief, is indemnified by
15 the City.

16 11. PLAINTIFFS are ignorant of the true names and capacities of Defendants DOES 1
17 through 50, inclusive, and therefore sues these Defendants by such fictitious names.
18 PLAINTIFFS are informed and believe and thereon allege that each defendant so named is
19 responsible in some manner for the injuries and damages sustained by PLAINTIFFS as set
20 forth herein. PLAINTIFFS will amend this complaint to state the names and capacities of
21 DOES 1-50, inclusive, when they have been ascertained.

22 12. All defendants acted under the color of law as it pertains to this complaint.

23 **III. FACTS**

24 **A. The Murder of Felix "Carlos" Bastarrica and Initial Investigation**

25 13. On March 25, 1991, Felix "Carlos" Bastarrica, a childhood friend of Ciria, was shot and
26 killed in Clara Alley, in San Francisco. According to eyewitnesses and the San Francisco
27 District Attorney's Innocence commission's investigation, it is likely that an individual named
28 Candido Diaz killed Bastarrica.

1 14. Soon after learning of the murder, Ciria heard rumors that the police considered him a
2 suspect and voluntarily went to answer questions from two SFPD inspectors, defendants
3 Gerrans and Crowley. He told them that Bastarrica was his friend and that he was at home
4 when Bastarrica was killed.

5 15. Ciria explained to the inspectors that earlier in the evening he had been at an arcade
6 with a man named George Varela. Ciria told the inspectors that Varela had been driving them
7 in his white Monte Carlo that night. He also explained that, after leaving the arcade, he and
8 Varela went to an
9 establishment called Galan's Bar for approximately ten minutes but left shortly after Ciria got
10 into an altercation with an individual named Roberto Hernandez. He told the inspectors that
11 Varela dropped him off at his home at around 8:25 p.m., prior to the time Bastarrica was
12 murdered, and that he remained home for the rest of the evening.

13 16. Attempting to further assist Gerrans and Crowley, Ciria offered additional information,
14 including a description of Varela and the Monte Carlo as well as Varela's address and personal
15 information. Gerrans and Crowley had learned that the shooter had arrived at and fled the
16 crime scene in a white Monte Carlo prior to speaking with Ciria, and as a result of the
17 information offered by Ciria, the inspectors soon found and interviewed Varela.

18 **B. Gerrans and Crowley Fabricate a Case Against Ciria and Coerce False Statements**
19 **from Varela**

20 17. Ciria's attempts to assist the inspectors were met with unjustified, malicious reprisal
21 that would rob Ciria of more than half of his life to date. Early in the investigation – and with
22 no physical or other evidence linking Ciria to the crime – Gerrans and Crowley decided to pin
23 the murder on Ciria. Gerrans and Crowley concocted their plan, in part, from unsubstantiated
24 rumors spread by the real killer, Candido Diaz, who they failed to meaningfully investigate for
25 the Bastarrica murder.

26 18. To accomplish their objective, Gerrans and Crowley targeted the then 18-year-old and
27 drug-addicted George Varela as their star witness. During his very first interview with the
28 inspectors, Gerrans and Crowley repeatedly threatened and pressured Varela into implicating

1 Ciria, despite the fact that Varela initially corroborated Ciria's statement that he was at home at
2 the time of the killing.

3 19. During this April 17 police interview, Varela initially lied to the inspectors stating that
4 he was not present for the murder (he was) but confirmed the truthful statements Ciria had
5 given the inspectors about his own whereabouts on the night of the murder. Varela told them
6 that he had been driving his white Monte Carlo with Ciria earlier in the evening. He repeatedly
7 offered to explain to the inspectors how long he was with Ciria, reiterating that he knew the
8 "length of time" he was with Ciria and recalled the time they had "split up." He explained that,
9 earlier in the evening, he and Ciria were at an arcade, and that afterwards he drove Ciria home.
10 Varela initially claimed he went home and stayed there after dropping off Ciria, but then he
11 admitted that he "probably went somewhere" that evening.

12 20. Rather than following up on where Varela went after he dropped off Ciria, or who he
13 was with, Gerrans and Crowley instead began pressing their unsupported version of the murder
14 – with Ciria as the killer – on Varela. The inspectors threatened Varela with a murder charge if
15 he did not fall into line. During the audio-recorded interview, the inspectors ignored the
16 consistent, exonerating information about Ciria on the night in question and instead coerced
17 Varela into adopting their baseless narrative.

18 21. It was only after the inspectors began making these threats to Varela that he implicated
19 Ciria in the murder. In fact, prior to these threats, Varela had not identified any individual as
20 the shooter. Once the inspectors began pressing their fabricated story that Ciria was the
21 murderer, Varela responded only with phrases like "Hey, whatever you said" and "Okay, just
22 like you said" in affirming their story. As the interview progressed, Varela offered a generic
23 description of the shooting without using any names, then, after further pressure from the
24 inspectors, agreed that Ciria was the shooter. The inspectors also suggested to Varela that he
25 say he did not know the shooting was going to occur, which Varela adopted as true.

26 22. The improper, coercive conduct of Gerrans and Crowley is the only reason Varela
27 implicated Ciria, and the inspectors had good reason to know Ciria was innocent. Indeed, prior
28 to the inspectors' pressure and threats of murder charges, Varela repeatedly offered

1 information about Ciria’s whereabouts that was consistent with Ciria’s innocence and Ciria’s
2 own account of the evening. Nevertheless, Gerrans and Crowley fabricated, coerced, and
3 documented false evidence, submitting the same for review and representing their file as
4 truthful to prosecutors.

5 23. Largely based on Varela’s coerced statements and other fabricated evidence offered by
6 inspectors Gerrans and Crowley, Ciria was arrested less than a month later on April 19, 1990,
7 and charged with first degree murder. Ciria was 29 years old at the time of his arrest. Ciria pled
8 not guilty and maintained his innocence as he had from the start.

9 **C. Gerrans and Crowley Influence and Facilitate Suggestive, Unreliable Witness**
10 **Identifications**

11 24. Gerrans and Crowley did not limit their coercion and fabrication to Varela’s statements.
12 Rather, to bolster their case and frame Ciria, the inspectors repeatedly facilitated and
13 influenced unreliable witness identifications to further implicate Ciria. In doing so, Gerrans
14 and Crowley ignored obvious discrepancies between eyewitness descriptions of the shooter and
15 consistent testimony from multiple witnesses about Ciria’s appearance on the night of the
16 murder.

17 25. First, Kenneth Duff, who witnessed the shooting from a car in the alley where it
18 occurred, reported that he only saw the killer’s face for “a split second” from approximately
19 60-100 feet away in a dark alley. He initially described the suspect as “Hindu,” only changing
20 his mind after Gerrans and Crowley showed him photographs and suggested that the real killer
21 could have been Black.

22 26. Duff reported that he had never seen the shooter before and that he did not think he
23 would be able to identify the shooter from a photo. Nevertheless, on April 5, 1990, the
24 inspectors gave Duff a photo lineup that included a picture of Ciria. Duff did not identify
25 anyone in the photo lineup as the shooter.

26 27. Undeterred, Gerrans and Crowley then provided Duff another photograph – this time of
27 a live lineup that Duff had not attended – that again included Ciria. Duff did not identify Ciria
28 as the shooter, but suggested that he was someone who “looks like” the shooter. Though this

1 interview was recorded, Gerrans and Crowley did not turn on the recording device until after
2 Duff had apparently suggested Ciria looked like the shooter, potentially as the result of
3 additional coaching and suggestion from the inspectors.

4 28. Duff did not positively identify Ciria as the shooter at any time prior to trial, at which
5 time Ciria was at the defense table in a red corrections jumpsuit, and after the inspectors had
6 repeatedly shown Duff his photograph and made suggestions as to the killer's appearance.

7 29. Second, Kathleen Guevara witnessed the shooting from a second-story window
8 overlooking the alley. Guevara told investigators that she only saw the shooter as a "silhouette"
9 and that she recalled seeing a silhouette of the left side of the shooter's head. She made clear
10 that she never saw the shooter's face, instead giving vague descriptions of the shooter's
11 "hairline" and general build.

12 30. The night of the shooting, she told inspectors that she would "maybe" be able to
13 identify the shooter. The inspectors presented her with a photographic line-up three days later
14 and instructed her "to see which one looked closest to the murderer," but did not record the
15 identification procedure. Guevara did not positively identify Ciria, instead suggesting that Ciria
16 looked "most like" the suspect, stating she was 80% sure and writing "possibly" under Ciria in
17 the photo line-up.

18 31. Like Duff, Guevara never provided a positive identification of Ciria until trial, when
19 Ciria was sitting at the defense table in a red corrections jumpsuit.

20 **D. Gerrans and Crowley Ignored Obvious Discrepancies Between Ciria and Witness**
21 **Descriptions of the Killer**

22 32. Beyond improperly instructing eyewitnesses during line-ups and priming witnesses to
23 identify Ciria at trial, Gerrans and Crowley ignored obvious evidence distinguishing Ciria's
24 appearance from that of the murderer on the night in question.

25 33. For example, both Duff and Guevara reported that the shooter was wearing a long
26 trench coat and was wearing his hair in an afro. Guevara testified that the shooter's most
27 distinguishing feature was his hairline, which she recalled to be an afro-style haircut, which she
28 observed only in silhouette. In contrast, multiple witnesses, including Varela (the prosecution's

1 star trial witness), testified at trial that Ciria had his hair in a brushed-down, greasy, Jeri curl,
2 and that Ciria typically wore his hair in this fashion around the time of the murder. Roberto
3 Hernandez, who got into an altercation with Ciria at Galan's Bar on the night of the murder
4 (and had no reason to lie for Ciria) specifically described Ciria's greasy hairstyle on the night
5 of their altercation, which looked markedly different from the afro-style hair Duff and Guevara
6 described in relation to the killer.

7 34. Other witnesses testified (or would have testified, if called) that Ciria was wearing a
8 short black and red jacket with prominent white lettering on that night, not a long dark trench
9 coat.

10 35. Through these identifications, Gerrans and Crowley, and despite obvious discrepancies
11 between Ciria's appearance and that of the murderer, continued to pressure and manipulate
12 witnesses into implicating Ciria. As the San Francisco District Attorney's Innocence
13 Commission later found, a review of the evidence collected makes clear that the descriptions of
14 the killer provided by eyewitnesses simply did not match Ciria based on the information
15 available to Gerrans and Crowy.

16 36. Inspectors Gerrans and Crowley did not just fabricate a story designed to pin the
17 Bastarrica murder on Ciria. They ignored reliable, consistent evidence demonstrating Ciria's
18 innocence throughout their investigation in favor of their false, planted narrative.

19 37. As stated above, both Varela and Ciria told the inspectors that Ciria returned home
20 around 8:25 p.m. on March 25, which was before the time of the murder. While those
21 statements alone tend to demonstrate Ciria's innocence, Gerrans and Crowley collected
22 undisputed evidence that further confirmed Ciria's alibi.

23 38. The inspectors interviewed Yojana Paiz and Marina Flores, who were at home with
24 Ciria that night and willingly spoke with the inspectors. Gerrans and Crowley conducted these
25 interviews in English, despite repeated indications from both women that they only spoke
26 Spanish and did not understand the questions being asked in English.

27 39. Nevertheless, Paiz and Flores confirmed the timing of Ciria's arrival at home on March
28 25, as reported by Ciria and Varela. Specifically, Paiz and Flores each confirmed that Ciria had

1 gone out with Varela around 7:00 p.m. and returned home around 8:00 or 8:30 p.m. For three
2 decades, these women have maintained that Ciria was at home with them and his newborn son
3 at the time of the murder. Gerrans and Crowley ignored this evidence, instead continuing their
4 pursuit of Ciria based on coerced, false testimony and manufactured witness identifications.
5 Neither witness was called at trial.

6 40. In addition to the statements of Ciria, Varela, Paiz, and Flores, on information and
7 belief, the SFPD (including Gerrans, Crowley, and defendant Rubino) possessed surveillance
8 information at the time of the investigation confirming that Ciria did not kill Bastarrica.

9 41. As early as 1989, Ciria was being surveilled by SFPD officers. In December of that
10 year, Ciria was arrested by undercover police officers and questioned about drugs and
11 contraband discovered in a hotel, which Ciria knew nothing about. Nevertheless, Rubino told
12 Ciria before releasing him that they would “get him sooner or later.”

13 42. When Ciria returned to his car after being released from a holding cell, he
14 discovered several items were missing from his vehicle – including a collection of personal
15 photographs, a phonebook, and Ciria’s beeper. Following that baseless arrest, Ciria repeatedly
16 noticed undercover officers, including Rubino, following him and surveilling his house at 159
17 Sickles Street in San Francisco from vehicles parked across the street. The surveillance became
18 so frequent and harassing that Ciria traded in his beloved red firebird for a Mitsubishi truck in
19 hopes that the surveillance would end.

20 43. It did not. And in fact, on the evening of March 25, 1990, after being dropped at
21 home by Varela, Ciria observed a surveillance vehicle parked kitty-corner from his home. The
22 officers observing Ciria that night had indisputable evidence of Ciria’s innocence as they
23 observed him at home while Bastarrica was murdered miles away.

24 44. Despite this surveillance information, Rubino himself arrested Ciria for the murder
25 of Bastarrica on April 19, 1990, using an undercover vehicle. After Officer Rubino arrested
26 Ciria, Ciria pleaded with Rubino that he must have known he did not kill Bastarrica because
27 Rubino had been surveilling him and knew he was at home on the night of the murder. Rubino
28

1 affirmed Ciria's statement and confirmed that he had been surveilling Ciria, including on the
2 day after the shooting.

3 45. After this discussion, an officer in a marked car transported Ciria to be interviewed
4 by Gerrans and Crowley. Rubino filed an unremarkable police report, describing an arrest
5 without incident and without noting surveillance of Ciria.

6 46. On this basis, and on information and belief, the SFPD, including Officers
7 Gerrans, Crowley, and Rubino, ignored, suppressed, and concealed indisputable evidence that
8 Ciria was at home on the evening of March 25, 1990 and had nothing to do with the murder of
9 Bastarrica. The SFPD was aware of this evidence but intentionally and willfully failed to
10 disclose it to Ciria and/or the District Attorney's office during or prior to Ciria's trial.

11 **F. Ciria Is Convicted Because of Evidence Fabricated By Gerrans and Crowley.**

12 47. At trial, Ciria was convicted based on the fabricated, coerced, and incentivized
13 testimony of Varela and the two eyewitnesses. SFPD employees, including inspectors Gerrans
14 and Crowley, caused this prosecution, knowingly presenting a case built on lies and
15 manipulation to the District Attorney's office. Elements of the testimony presented at trial – as
16 measured against facts known by Gerrans and Crowley – further underscore the extent of their
17 malicious fabrication of evidence against Ciria.

18 **1. Varela Offered False, Coerced, and Incentivized Testimony at Trial.**

19 48. Varela, having been coerced by Gerrans and Crowley to falsely implicate Ciria in the
20 murder, served as the prosecution's star witness at trial. At trial, he offered self-serving, false
21 testimony to protect himself from the inspectors' improper threats. He recited a narrative
22 imposed on him by police, which the state bolstered with unreliable, unduly influenced witness
23 identifications from Duff and Guevara, but which at times directly contradicted the testimony
24 of the eyewitnesses to the murder.

25 49. At trial, Varela offered a false narrative of the timeline of the evening of the murder
26 that contradicted his initial statements to police made before he was threatened with murder
27 charges against him.

1 50. For example, Varela testified that he had initially lied to inspectors about the events of
2 the murder, but had changed his story when he was informed that there were eyewitnesses to
3 the crime. He testified that on the day of the murder he drove Ciria to Galen’s bar, but that they
4 left a few minutes later, at which time Ciria gave Varela directions about where to go. Varela
5 further testified that Ciria eventually pointed out a man carrying a white plastic bag and
6 instructed Varela to pull into an alley. Varela described an argument between Ciria and the
7 individual in the alley, adding that the victim seemed to be pleading with Ciria, calling out
8 “Joaquin, Joaquin, Joaquin” multiple times. According to Varela, Ciria eventually pulled a gun
9 out of his pocket and shot the victim three times, firing one initial shot and two more after the
10 victim attempted to flee.

11 51. Varela has since admitted that he gave false testimony implicating Ciria as the result of
12 extreme police pressure. Even setting aside those admissions, critical elements of Varela’s
13 story – the story concocted by Gerrans and Crowley – were plainly contradicted by the
14 testimony and observations of Duff and Guevara, facts known to Gerrans and Crowley during
15 the investigation.

16 52. For example, Varela testified that the victim had shouted Ciria's name repeatedly –
17 “Joaquin, Joaquin, Joaquin” – loudly at least five times. Yet both independent witnesses who
18 saw and heard the men yelling testified that they did not hear the victim yell “Joaquin” at all.
19 Varela – who was well aware that Candido Diaz, not Ciria, committed the murder – fabricated
20 this testimony as the result of immense pressure from Gerrans and Crowley to pin the crime on
21 Ciria.

22 53. As a result, Ciria was convicted based on a false, fabricated narrative developed
23 by Gerrans and Crowley despite reliable information collected during their investigation
24 tending to prove Ciria’s innocence.

25 **2. The SFPD and District Attorney Incentivized Trial Witnesses to Provide**
26 **Inaccurate Testimony Against Ciria.**

1 54. The SFPD, including Gerrans and Crowley, provided at least Varela and Guevara with
2 overt and improper benefits for their false and unduly influenced testimony against Ciria at
3 trial.

4 55. First, Varela received multiple benefits, including repeated leniency from the District
5 Attorney's office, in exchange for his testimony against Ciria. For example, on at least three
6 occasions between August and November of 1990, Varela signed promises to appear relating
7 to court dates and probation requirements, punishable by imprisonment or fines as high as
8 \$10,000. Varela failed to appear for any of these related obligations but did not face
9 imprisonment or fines or any consequence.

10 56. Similarly, Varela was cited or arrested at least six times between June of 1990 and
11 November of 1990 for violations ranging from public intoxication to felony drug possession
12 and possession of a stolen vehicle. Several of the related charges were simply dismissed, while
13 an arrest relating to multiple firearms was resolved with a guilty plea to only misdemeanor
14 charges, resulting in probation and a suspended sentence.

15 57. Finally, the SFPD provided Varela with cost-free housing in a beach-side hotel and in
16 Daly City for his testimony against Ciria.

17 58. Guevara received a more straight-forward incentive that was never disclosed to the
18 defense at trial. The San Francisco District Attorney's Innocence Commission determined that
19 Guevara received a payment of \$10,000 for her testimony after the conclusion of the trial. The
20 fact of this payment (or any agreement to testify with an understanding of payment) was not
21 disclosed to the defense, or potentially to the prosecution, at any time.

22 59. Each of these benefits – intended to secure testimony against Ciria – was improper
23 and further underscores the depths of the SFPD's efforts to secure a conviction against Ciria,
24 regardless of the facts collected during the investigation that strongly suggested Ciria's
25 innocence.

26 **G. The San Francisco District Attorney's Office Has Admitted Ciria's Innocence and**
27 **that the SFPD Used Threats and Rewards to Manufacture Evidence Against Him.**
28

1 60. In light of the egregious police misconduct responsible for Ciria’s conviction, and the
2 habeas corpus efforts of Ciria and his attorneys at the Northern California Innocence Project,
3 the San Francisco District Attorney’s Innocence Commission first considered Ciria’s case in
4 October of 2020.

5 61. The Innocence Commission was formed in 2020 and “exists to further the DA’s
6 Mission to be a ‘minister of justice,’” ensuring that ““special precautions are taken to prevent
7 and rectify the conviction of innocent persons”” in San Francisco. After accepting Ciria’s case
8 for review, the Innocence Commission began a four-month investigation into his case starting
9 in November of 2020, including witness interviews, document review, and analysis of Ciria’s
10 draft habeas corpus petition provided to the Commission in the fall of 2020.

11 62. In March of 2021, the Commission determined that Ciria was entitled to relief and that
12 his conviction was “not credible.”

13 63. Ciria filed his habeas corpus petition on January 19, 2021. In response, the San
14 Francisco County Superior Court issued an Order to Show Cause on April 11, 2021, stating,
15 “the Court issues the Order to Show Cause as to why Petitioner should not have his judgment
16 of conviction vacated and be unconditionally released pursuant to the actual innocence claim
17 based on false testimony presented at trial.” In April of 2021, the Innocence Commission
18 submitted its Findings of Fact and Conclusions of Law Memorandum to the District Attorney,
19 copying the Managing District Attorney and Innocence Commission Member Arcelia Hurtado.

20 64. The District Attorney’s office, led by Arcelia Hurtado, reviewed the findings of fact
21 and conclusions of law and submitted a “Return to Petition for Writ of Habeas Corpus” on
22 June 9, 2021. That filing acknowledged the findings of the Innocence Commission and
23 requested that the Court “set aside Joaquin Ciria’s February 20, 1991 conviction, order his
24 immediate release from custody, and find him factually innocent.”

25 65. On October 1, 2021, at the Court’s direction, the District Attorney filed a
26 Supplemental Return in the same Court, addressing Ciria’s factual allegations relating to the
27 false testimony given at trial and evidence discovered following the trial. In the two returns, the
28 District Attorney’s office admitted the following facts, which demonstrate that the

1 investigation of Ciria involved witness intimidation, unreliable investigation tactics, and a
2 failure of the justice system:

3 a) Ciria is innocent and spent over 30 years incarcerated for a crime he did not commit;

4 b) The State's primary witness provided material, false testimony;

5 c) There was no physical evidence linking Ciria to the murder;

6 d) It is undisputed that Varela implicated Ciria only after he was threatened with murder
7 charges if he continued to "lie and cover up for" Ciria;

8 e) It is undisputed that Varela's testimony against Ciria was self-serving, incentivized, and
9 rewarded;

10 f) Varela has admitted to two different individuals since trial that Ciria was not the
11 shooter and that he implicated Ciria as the result of pressure from the police and their focus on
12 Ciria as the prime suspect;

13 g) Varela's admissions to perjuring himself are contrary to his interest and credible;

14 h) The justice system failed Ciria in various ways, all of which contributed to his 23
15 wrongful conviction;

16 i) Ciria's conviction was the product of false, incentivized testimony and unreliable,
17 cross-racial eyewitness identifications made by strangers who saw the shooting in a dark alley,
18 from a distance;

19 j) Neither Duff nor Guevara made a positive identification of Ciria until they testified in
20 court, pointing to Ciria at the defense table in a prison jumpsuit;

21 k) The homicide inspectors in Ciria's case focused exclusively on Ciria as their sole
22 suspect based on rumors spread by the actual killer, Candido Diaz;

23 l) Diaz, the real killer, more closely matched the description of the killer provided by
24 eyewitnesses, including because Ciria was wearing a Jeri curl and a short black and red jacket
25 while eyewitnesses described a man with an afro and a trench coat, known characteristics of
26 Diaz around the time of the killing;

27 m) That inspectors Gerrans and Crowley should have retained a translator to interview
28 Yojana Paiz and Marina Flores, Spanish-speaking alibi witnesses for Ciria who were

1 interviewed in English, despite indications that the women struggled to understand the
2 inspectors during the interview;

3 n) Following the trial, another eyewitness, Roberto Soccorro, has told multiple attorneys,
4 investigators, and members of the San Francisco District Attorney's Innocence Commission,
5 and sworn under penalty of perjury, that he witnessed Bastarrica's murder and that the real
6 killer is Candido Diaz.

7 66. The City's own admission of these facts confirms what Ciria spent decades trying to
8 prove while incarcerated – his conviction was a sham, supported only by the fabricated and
9 false evidence developed and presented to prosecutors by Gerrans and Crowley, and in spite of
10 reliable, exculpatory evidence concealed, withheld, and destroyed by Gerrans, Crowley, and
11 Rubino.

12 **H. During the Period of the SFPD's Investigation of Ciria, the SFPD Maintained**
13 **Unconstitutional Patterns and Practices of Fabricating Evidence and Witness**
14 **Identifications and Withholding Exculpatory Evidence.**

15 67. Ciria's conviction was the direct result of the City and the SFPD's unconstitutional
16 investigative policies, practices, and customs, as well as the SFPD's failure to train or intervene
17 to prevent constitutional violations flowing from these policies, practices, and fundamental
18 omissions. To the extent the SFPD failed to maintain policies encompassing constitutional
19 violations alleged herein, the City and the SFPD failed to implement remedial measures
20 sufficient to address or curb likely constitutional violations that would stem from tainted,
21 reckless, and unconstitutional investigation and interrogation techniques.

22 68. For example, there is substantial evidence that around the time of the investigation
23 into Ciria, the SFPD, including but not limited to inspectors Gerrans and Crowley, repeatedly
24 used improper, overly-suggestive identification techniques and fabricated witness testimony
25 through threats and coercion to cause the wrongful prosecution of Black men in San Francisco.
26 For example, at least five Black men (including Ciria) were falsely convicted of murders that
27 occurred between 1990 and 1991 in San Francisco based on fabricated evidence,
28 unconstitutionally influenced witness identification, and/or improperly incentivized evidence

1 offered by San Francisco Police Department officers and inspectors.1 Including Ciria's
2 conviction, these policies and practices resulted in nearly 100 years of collective wrongful
3 imprisonment stemming from convictions in those two years alone.

4 69. Just three months after inspectors Gerrans and Crowley began targeting Ciria,
5 they participated in the fabrication of a murder case against Maurice Caldwell, a Black man
6 from San Francisco, by (as alleged by Caldwell) assisting in the manipulation of witness
7 identifications and pressuring witnesses into providing false testimony, despite reliable
8 evidence of innocence. (See *Caldwell v. City and County of San Francisco*, et al., N.D. Cal.
9 No. 12-cv-1892-EDL). The star witness in that case, like Varela, received various rewards for
10 her testimony, including cash, employment, and a vacation. Like Ciria, Caldwell's sentence
11 was vacated and he was released from prison on a successful habeas petition.

12 70. Other cases contemporaneous to Ciria's, like those of John Tennison, Antoine Goff,
13 and Caramad Conley, involved similar, unconstitutional police tactics, including undisclosed
14 incentives provided to witnesses for testimony, the coercion of young, impressionable
15 witnesses, manufactured/fabricated evidence (including manufactured witness identifications,
16 and the withholding of exculpatory and witness impeachment material. The other exonerees
17 include John Tennison, Antoine Goff, Caramad Conley, and Marurice Caldwell.

18 71. On information and belief, the policies and practices employed to secure
19 wrongful convictions through fabricated evidence and identifications by SFPD officers, beyond
20 those cases referenced herein, also mirror those used against Ciria: the use of threats and
21 coercion against witnesses, repeated, suggestive assertions of a suspect's guilt, the leveraging
22 of vulnerabilities or weaknesses of individual witnesses, the threat of criminal penalties for
23 failure to comply, aggressive badgering of witnesses to elicit agreement or acceptance of
24 suggested narratives, and the use of false statements in reports and investigation materials.

25 72. To the extent the SFPD did not maintain explicit policies encompassing
26 these unconstitutional tactics, these tactics presented an obvious risk of constitutional
27 violations in response to which the City and the SFPD failed to take any remedial measures or
28 institute any policy sufficient to address the risk of repeated constitutional violations. The

1 SFPD and City repeatedly caused the wrongful convictions of Black men – for murder – using
2 unsound, unconstitutional, and coercive investigatory tactics and techniques over the course of
3 just two years in 1990 and 1991. Upon information and belief, and subject to further
4 investigation and discovery, there are additional instances of similar tactics either embraced or
5 deliberately ignored by the SFPD and the City during at least the 1980s and 1990s that led to
6 unjustified convictions of racial minorities in San Francisco.

7 73. Further, the City and the SFPD systematically failed to supervise, train, or
8 otherwise intervene to discipline officers engaging in this conduct or to otherwise address
9 constitutional violations stemming from these practices and policies. On information and
10 belief, the City had notice of these unconstitutional patterns and practices through the open and
11 notorious nature of the conduct among officers within the SFPD, citizen complaints, judicial
12 decisions, and the willful acquiescence of SFPD supervisors. The City and the SFPD were
13 aware that their tactics had led to multiple wrongful convictions, especially because of obvious,
14 reliable exculpatory evidence collected in cases like Ciria’s. Despite such evidence, and
15 obvious red flags in officer conduct (like that of Gerrans, Crowley, and Rubino), the City and
16 the SFPD failed to implement sufficient policies, remedial measures, trainings, or disciplinary
17 proceedings sufficient to curb the threat of serious, repeated due process violations
18 against citizens of San Francisco.

19 74. The SFPD also maintained a practice of manufacturing unreliable suspect
20 identifications, similar to those obtained against Ciria, including by repeatedly suggesting that
21 witness make less-than-certain identifications (i.e., requesting witnesses identify a suspect who
22 looks “most like” the suspect they witnessed), selectively recording only portions of interviews
23 or line-up sessions to highlight unduly influenced (and unreliable) witness identifications,
24 falsely reporting or documenting witness identifications that did not meet minimum
25 constitutional standards, and priming witnesses to identify specific suspects through repeated
26 photographic or live exposures to the suspect.

27 75. Worse yet, the SFPD maintained a “Secret Witness Program” during the time in
28 which Ciria was under investigation for murder, which provided undisclosed cash and other

1 incentives for witness testimony and identifications. On information and belief, at least Varela
2 and Guevara received compensation through the Secret Witness Program that was never
3 disclosed to the prosecuting attorney or the defense in Ciria's case. To be sure, the fact of the
4 SFPD's use of the Secret Witness Program, which was designed to keep information about
5 witness compensation from prosecuting attorneys and criminal defendants alike, has been
6 established in connection with at least two other § 1983 claims for wrongful convictions in this
7 District. (See generally *Tennison v. City and County of San Francisco*, N.D. Cal. No. C 04-
8 0574-CW (Consolidated cases of John Tennison and Antoine Goff).)

9 76. This policy and program for covert witness payments virtually ensured a
10 constitutional violation, and the SFPD had a policy of withholding information about witness
11 incentives even from prosecutors, ensuring that the information never reached criminal
12 defendants. At the very least, these policies and practices disregarded the substantial risk that
13 prosecuting attorneys would never learn of witness protection payments made in their cases
14 and would therefore fail to disclose those payments to criminal defendants. By 1990 and 1991,
15 it was obvious to the SFPD and City that failing to disclose witness protection payments to
16 criminal defendants violated prosecutors' obligations under *Brady v. Maryland*, 373 U.S. 83
17 (1963), *Giglio v. United States*, 405 U.S. 150 (1972), and their progeny. The SFPD and City
18 therefore had a constitutional responsibility to ensure that it had adequate policies
19 and procedures to ensure that such payments were disclosed in every case and that officers
20 were trained on their obligations. Instead, the SFPD developed and maintained a program
21 specifically designed to provide clandestine, undisclosed rewards and incentives to witnesses,
22 virtually ensuring a pattern and practice of *Brady* and *Giglio* violations in criminal
23 investigations.

24 77. As with other police tactics alleged, the SFPD and City routinely failed to discipline
25 or train officers to prevent the constitutional violations associated with the improper
26 incentivization of testimony. These tactics were routine within the SFPD, including as
27 evidenced by and alleged in civil rights cases of men from San Francisco wrongly pursued and
28 convicted in this same period – including John Tennison, Antoine Goff, Carmad Conley, and

1 Maurice Caldwell. In the face of these obvious, repeated constitutional violations and policies
2 and practices which facilitated these violations, the failure of the SFPD and City to properly
3 train, supervise, or discipline officers amounted to a deliberate indifference to the rights of
4 those who came into contact with the SFPD.

5 78. These policies and practices of the SFPD and the City, and the failure to supervise,
6 train, or otherwise intervene, permitted the tactics described above to be used in the
7 investigation and conviction of Ciria. In this way, the unconstitutional policies and practices of
8 the SFPD and the City were a moving force behind Ciria's wrongful imprisonment.

9 79. As a direct result of defendants' actions and omissions, which were willful,
10 wanton, reckless, and/or performed with deliberate indifference to Ciria's rights, Ciria
11 sustained injuries and damages, which are ongoing and will continue into the future, including:
12 the loss of more than 30 years of freedom; physical pain and suffering; severe emotional and
13 mental anguish and distress; loss of property; loss of family relationships; loss of income and
14 career opportunities; legal expenses; humiliation; severe reputational damage; and the loss of
15 enjoyment of life, including personal fulfillment, romantic relationships, career opportunities,
16 and personal growth and development. The SFPD and City robbed Ciria of his fundamental
17 rights to life, liberty, and the pursuit of happiness for more than half of his life.

18 **I. Pedro Ciria and Yojana Paiz's Loss of Familial Relations**

19 80. Plaintiff PAIZ and Joaquin Ciria entered into a romantic relationship in or about May
20 1989. The young couple fell head over heels for one another and moved in together soon after,
21 living in San Francisco's Mission District. Within months, Plaintiff PAIZ became pregnant.
22 She and Joaquin talked about marriage; about working to save money; about the kind of life
23 they wanted to give their baby. Joaquin would accompany PAIZ to her doctor's appointments
24 at St. Luke's Hospital on Valencia Street. Despite not being the custom in Latin-America,
25 when the baby came due, Joaquin was in the delivery room with PAIZ. PAIZ and Ciria were
26 each other's significant other.

27 81. In February 1990, Joaquin and PAIZ's son was born. Joaquin named him PEDRO
28 CIRIA, after his best friend back in Cuba. Joaquin and PAIZ showered their young son with

1 love. They went crazy buying baby clothes, toys, and the necessities, such as a stroller and car
2 seat.

3 82. Life for the young family was short-lived. Ciria was arrested on April 19, 1990 for the
4 false charges described above. The young family's life was immediately turned upside down.
5 From April on, PAIZ and PEDRO would have to go to County Jail #4 at 850 Bryant Street to
6 visit their partner/father.

7 83. Despite the indignity of having to visit Ciria in jail, PAIZ would visit Ciria in jail with
8 their son, PEDRO, regularly. Because PEDRO was a baby, Ciria could only see him from
9 behind prison glass.

10 84. Ciria was found guilty of murder based on fabricated evidence in 1991. Thereafter, for
11 the next three months, PEDRO and PAIZ had to travel to Marin County to visit their
12 father/partner at San Quentin Prison. PAIZ would take a bus or get rides from friends to visit
13 Ciria at San Quentin with PEDRO.

14 85. Without explanation, sometime in 1991, Ciria was transferred to Pelican Bay Prison in
15 Crescent City, California, by the Oregon State Border. Still PAIZ, knowing that Ciria was
16 innocent, did her best to make sure that the young family spent time together. At great expense
17 to her, PAIZ would load up PEDRO into a Greyhound bus and travel for nine hours each way
18 to visit Ciria in Pelican Bay on an almost weekly basis. Sometimes, PAIZ and PEDRO would
19 arrive and the prison was in lockdown, meaning that no visits could happen despite the 18 hour
20 trip. PAIZ and PEDRO, nonetheless, continued to sacrifice to visit Ciria, whom they knew was
21 innocent. This pattern continued for 8 years.

22 86. In 1999, Ciria was transferred to Solano Prison. PAIZ and PEDRO continued to visit
23 Ciria regularly.

24 87. However, the strain took a toll. PEDRO began to suffer psychologically from not
25 having his father, who was innocent of the crime he was charged with, and, ultimately, PAIZ
26 and Ciria's romantic relationship ended.

1 89. PEDRO's entire relationship with his father consisted of prison visits for 32 years.
2 PEDRO never had a dad with him at any of his life's milestones – his baptism, his first
3 communion, his first day of school, his first football game, high school graduation, etc.

4 90. PAIZ's relationship with her partner also ended in 1996. She didn't have her partner to
5 see their son take their first steps; to be there when he first ate solid food; to comfort her when
6 being a single mother took a toll. Eventually, the distance was too much.

7 91. Both PAIZ and PEDRO wrongfully were deprived of their familial relationship to Ciria
8 on account of Defendants' actions.

9 **IV. CAUSES OF ACTION**

10 **FIRST CAUSE OF ACTION**

11 **Loss of Familial Relations under 42 U.S.C. § 1983**

12 **(Against all Defendants)**

13 92. Plaintiffs realleges all preceding paragraphs as though set out in full herein.

14 93. At all times relevant to this case, defendants violated Joaquin Ciria's civil rights by
15 engaging in malicious prosecution; conspiracy to violate his civil rights; withholding
16 exculpatory evidence; fabricating evidence; and engaging in *Monell* violations, all in violation
17 of the Fourth Amendment, Fifth Amendment, and Fourteenth Amendments.

18 94. Defendants, all of them, and DOES 1-50, while acting in concert and under the color of
19 law, deprived Joaquin Ciria of his civil rights, particularly his right to due process of law, by
20 fabricating, manipulating, coercing, concealing, and misrepresenting evidence during the
21 investigation and prosecution of Mr. Ciria.

22 95. The conduct of these defendants was intended to cause harm to Mr. Ciria, and further,
23 was intended to deprive him of his constitutional rights. The acts and omissions taken by these
24 defendants and each of them in fabricating evidence, and maliciously prosecuting, against Mr.
25 Ciria were a cause of Mr. Ciria's incarceration.

26 96. Plaintiffs PAIZ and CIRIA had a constitutional interest to the companionship of their
27 partner and father, respectively, which is protected from unwarranted state interference under
28 the substantive due process clause of the Fourteenth amendment. Defendants acted both

1 intentionally and with deliberate indifference to the rights of Plaintiffs by engaging in the
2 actions/inactions described above which violated Mr. Ciria’s civil rights. Defendants’
3 actions/inactions were undertaken with a conscious or reckless disregard of the consequences of
4 one’s acts or omissions despite having ample time to deliberate about Mr. Ciria’s constitutional
5 violations and its effects on Plaintiffs.

6 97. In this manner, each of these defendants committed overt acts and were willful
7 participants in concerted action to cause the deprivation of Plaintiffs’ constitutional rights –
8 loss of familial association – to accomplish a lawful or unlawful purpose by unlawful means in
9 violation of 42 U.S.C. § 1983.

10 98. As a result of Defendants’ actions, Plaintiffs suffered severe mental anguish, pain, and
11 injury for which they incurred and will continue to incur significant damages. Plaintiffs were
12 also deprived of familial relationships and companionship and lost past and future earnings in
13 an amount to be determined at trial.

14 99. The misconduct of the individual Defendants described in this claim was objectively
15 unreasonable, wanton, reckless, malicious, and undertaken with deliberate indifference to
16 Plaintiffs’ constitutional rights, and Plaintiffs seek punitive damages against the individual
17 defendants.

18 100. Plaintiffs further seeks costs and reasonable attorneys’ fees against defendants, and
19 each of them, pursuant to 42 U.S.C. § 1988 and as otherwise authorized by statute or law.

20 **SECOND CAUSE OF ACTION**

21 **Intentional Infliction of Emotional Distress**

22 **(Against All Defendants)**

23 101. Plaintiffs realleges all preceding paragraphs as though set out in full herein.

24 102. Defendants, and each of them, engaged in conduct relating to the investigation and
25 prosecution of Ciria that was so outrageous and extreme that it exceeded all bounds of conduct
26 typically tolerated in a civilized community and, further, exceeded all possible bounds of decency
27 such that a reasonable person would not find this conduct tolerable.
28

1 103. Defendants, and each of them, intended to cause Plaintiffs emotional distress and/or acted
2 with reckless disregard of the probability that Plaintiffs would suffer emotional distress.

3 104. As a direct and proximate result of defendants' conduct, Ciria spent more than 30 years in
4 prison for a crime he did not commit, and Plaintiffs were thus deprived of his companionship.
5 Plaintiffs endured physical and mental suffering, anguish, fear, horror, anxiety, worry, and shock as a
6 result of Defendants' actions.

7 105. The actions of defendants, and of each of them, were a substantial factor in causing
8 Plaintiffs' emotional distress.

9 106. The actions of defendants, and of each of them, were done with deliberate indifference to
10 Plaintiffs' physical and emotional safety, or were done recklessly, intentionally, maliciously, and/or
11 outrageously and with disregard and deliberate indifference to Plaintiffs' basic constitutional rights.
12 This conduct is so outrageous and despicable as to entitle Plaintiffs to recover punitive damages from
13 the individual defendants in this action.
14

15 **THIRD CAUSE OF ACTION**

16 **Negligent Infliction of Emotional Distress**

17 **(Against All Defendants)**

18 107. Plaintiffs realleges all preceding paragraphs as though set out in full herein.

19 108. Defendants, and each of them, engaged in conduct relating to the investigation and
20 prosecution of Ciria that was negligent.

21 109. Defendants, and each of them, intended to cause Plaintiffs emotional distress and/or acted
22 with reckless disregard of the probability that Plaintiffs would suffer emotional distress.

23 110. As a direct and proximate result of defendants' negligent conduct, Ciria spent more than 30
24 years in prison for a crime he did not commit, and Plaintiffs were thus deprived of his
25 companionship. Plaintiffs endured physical and mental suffering, anguish, fear, horror, anxiety,
26 worry, and shock as a result of Defendants' actions.

27 111. The actions of defendants, and of each of them, were a substantial factor in causing
28 Plaintiffs' emotional distress.

1 112. The actions of defendants, and of each of them, were done with deliberate indifference to
2 Plaintiffs' physical and emotional safety, or were done recklessly, intentionally, maliciously, and/or
3 outrageously and with disregard and deliberate indifference to Plaintiffs' basic constitutional rights.
4 This conduct is so outrageous and despicable as to entitle Plaintiffs to recover punitive damages from
5 the individual defendants in this action.

6
7 **V. PRAYER FOR RELIEF**

8 Plaintiffs pray for judgment against defendants as follows:

- 9 1. For compensatory damages and other special damages according to proof;
10 2. For general damages according to proof;
11 3. For punitive damages against all individual defendants according to proof;
12 4. The prejudgment interest at the legal rate according to proof;
13 5. For costs and reasonable attorneys' fees as provided by law; and
14 6. For such other relief as the Court may deem fit and proper.

15
16 Dated: June 6, 2023

LAW OFFICE OF FULVIO F. CAJINA

17
18 By: /s/
19 FULVIO F. CAJINA
20 Attorney for Plaintiff

21 **VI. JURY TRIAL DEMANDED**

22 Plaintiff hereby demands a jury trial on all causes of action and claims to which she has
23 a right to jury trial.

24
25 Dated: June 6, 2023

LAW OFFICE OF FULVIO F. CAJINA

26
27 By: /s/
28 FULVIO F. CAJINA
Attorney for Plaintiff