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By: DM
DEPUTY
LISA HART COLE

CASE MANAGEMENT CONFERENCE

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Date

DM
8/30/11

1 CAROL A. SOBEL, State Bar No. 84483
LAW OFFICE OF CAROL A. SOBEL
2 429 Santa Monica Boulevard, Suite 550
Santa Monica, California 90401
3 T. (310) 393-3055; F. (310) 393-3605
E. carolsobel@aol.com

4 REBECCA F. THORNTON, State Bar No. 231128
5 LAW OFFICE OF REBECCA F. THORNTON
429 Santa Monica Boulevard, Suite 550
6 Santa Monica, California 90401
T. (310) 393-3055 F. (310) 393-3605
7 E. rebecca@humanrightsesq.com

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9 **THE SUPERIOR COURT OF CALIFORNIA**
10 **IN AND FOR THE COUNTY OF LOS ANGELES - SANTA MONICA**

11
12 DAMIEN DAVIS, an individual,

13 Plaintiff,

14 v.

15 CITY OF CULVER CITY, a municipal
entity, DOES 1-10, all in their individual
16 capacities,

17 Defendants.

CASE NO: **SC110955**

COMPLAINT

CALIFORNIA CONSTITUTION:
ART. 1, SEC 13

CALIFORNIA CIVIL CODE §51.7, 52
AND 52.1

FALSE IMPRISONMENT

ASSAULT

BATTERY

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21 **JURISDICTION AND VENUE**

22 1. This action seeks damages for THE violation of plaintiff's right to be free from
23 unlawful seizure and excessive force pursuant to California Civil Code §§51.7 and 52.1,
24 California Constitution Article I, sec. 13, and the torts of assault and battery by defendants.

25 2. Venue is proper in the Santa Monica division as this case involves allegations of
26 civil rights violations, which occurred in Culver City, which is within the geographic jurisdiction
27 of the Los Angeles County Superior Court - Santa Monica.

INTRODUCTION

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2 3. This case arises from an incident in the early morning hours of December 17,
3 2009, in the City of Culver City and involving officers with the Culver City Police Department.
4 On that night, plaintiff was accosted by Culver City police officers when he pulled into a Carl's
5 Junior restaurant at approximately 2:00 a.m. The restaurant is located near the intersection of
6 Sepulveda and Venice Boulevards. Plaintiff was ordered out of his car by two officers, who had
7 pulled into the restaurant parking lot behind him. The officers had their guns drawn and pointed
8 at plaintiff, who made certain to have his hands visible on the steering wheel so the officers
9 could clearly see them.

10 4. One of the officers who approached plaintiff's vehicle told him that he was "going
11 to fucking kill you," even though plaintiff had not done or said anything to provoke the officers.
12 Plaintiff was then pulled out of the vehicle by an officer, who had plaintiff facing the car. He
13 was then ordered to drop his hands and the officer then grabbed his hands. Plaintiff explained
14 to the officer that he was having an anxiety attack and asked permission to breath when the two
15 officers had him bent over the trunk of the vehicle and each began repeatedly punching him in
16 the sides of his body. As the officers assaulted plaintiff, they threw him to the ground, causing
17 him to crack a front tooth. After plaintiff was handcuffed and on the ground, he was sprayed
18 with a chemical and subjected to two taser charges at close range with prongs that penetrated
19 his back. Plaintiff had done nothing wrong and was not resisting the officers, making the use
20 of any force was clearly both unnecessary and patently unlawful. At the end of this unlawful
21 assault, Mr. Davis was bleeding profusely from his the areas around his eyes and suffered
22 abrasions to his face from having been dragged across the parking lot paving.

23 5. After a while, other officers showed up at the scene, including a supervisor
24 believed to be a Captain with the Culver City Police Department, as well as firemen. The group
25 formed a semi-circle around plaintiff, who was still on the ground. One or more of the officers
26 told the others to drag Davis away from the drive-thru window. Up to this point, the incident
27 had taken place near the drive-thru and was captured by a security camera on restaurant.

1 which is a City department, and the officers and employees of the CCPD. The CITY is sued in
2 its own right and on the basis of the acts of its officers, employees, and agents, which were taken
3 pursuant to the policy, practice and customs of the CITY.

4 10. Defendant DOES 1-10 are all officers and/or supervisors with the Defendant
5 CITY. Plaintiff is presently unaware of the true names and capacities of the defendants sued
6 as DOES 1 through 10, inclusive, and therefore sues these defendants by such fictitious names.
7 Plaintiff will seek leave to amend the complaint and allege the true names and capacities of the
8 DOE defendants once their true identifies are known. Plaintiff alleges that each of the
9 defendants named as a DOE was in some manner responsible for the alleged unlawful acts and
10 omissions. Each of the defendants, including each of the DOE defendants, was acting in concert
11 with the other defendants and was acting under color of state law. None of the defendants,
12 including the DOE defendants, took steps to prevent the violation of plaintiff's civil rights in
13 this instance. Each of the defendants, including each of the DOE defendants, was acting
14 pursuant to the policy, practice, or custom of the CITY.

15 STATEMENT OF FACTS

16 11. Plaintiff DAMIEN DAVIS is a black male. At the time of the events of December
17 17, 2009, plaintiff was stopping at a fast-food restaurant on his way home from an evening with
18 a friend.

19 12. Plaintiff was followed into the restaurant parking lot by officers, who turned on
20 the emergency lights on their vehicle as they did so. He was quickly approached by the two
21 officers who had been in the patrol car and ordered out of his vehicle. Plaintiff was immediately
22 subjected to a brutal attack by the officers, which was captured on a security camera for the
23 restaurant and observed by restaurant employees.

24 13. Among other use of force, plaintiff was grabbed, slammed on the trunk of his
25 vehicle, repeatedly punched in the sides of his body, sprayed with some chemical substance,
26 tightly handcuffed, dragged across the parking lot pavement, and shot twice with a taser
27 deployed with full darts to penetrate his back. He was also subjected to a variety of derogatory
28

1 remarks based on his perceived sexual orientation, race and perceived religion. At no time did
2 he resist the officers or say anything to them to cause their actions.

3 14. Plaintiff was taken by ambulance to Brotman Memorial Hospital, where he was
4 treated for his injuries and released after several hours. He was never charged with any criminal
5 violations.

6 15. Plaintiff has exhausted all administrative prerequisites to the filing of an action
7 based on violations of his state law rights. He timely filed a claim pursuant to Government Code
8 §910 et seq. Defendant CITY denied the claim on July 8, 2010.

9 **FIRST CAUSE OF ACTION**
10 **California Constitution, Article I, Sec. 13**
11 **Unlawful Search and Seizure**
12 **(Against All Defendants)**

13 16. Plaintiff incorporates and realleges, as though fully set forth hereat, the allegations
14 of paragraphs 1 through 18.

15 17. The acts by Defendants constitute an unreasonable seizure and violate the
16 constitutional right of plaintiff, as guaranteed by Article I, sec. 13 of the California Constitution,
17 to be free from seizure without probable cause and/or with excessive force. The acts of
18 Defendants complained of herein were directed toward depriving the plaintiff his right to be
19 secure in his person.

20 18. Defendants' unlawful actions were done willfully, maliciously, and with the
21 specific intent to deprive Plaintiff of his constitutional right to be secure in his person.

22 19. As a direct and proximate consequence of Defendants' actions, Plaintiff has
23 suffered, and continues to suffer, a loss of his constitutional rights, physical injury and pain and
24 suffering, and is entitled to compensatory damages for injury to his person and, as to the
25 individual defendants, punitive damages.

26 **SECOND CAUSE OF ACTION**
27 **CALIFORNIA CIVIL CODE § 52.1**
28 **THREATS, INTIMIDATION OR COERCION TO DENY CORE RIGHTS**
(Against All Individual Defendants)

20. Plaintiff realleges and incorporates herein by reference the allegations contained

1 in Paragraphs 1 through 18, inclusive.

2 21. The acts by Defendants constitute unreasonable seizures and violate the
3 constitutional rights of plaintiff, as guaranteed by the Fourth Amendment and made applicable
4 to the states and local government by 42 U.S.C. §1983, California Constitution Article I, sec.
5 13, California Civil Code §52.1, as well as plaintiff's analogous tort claims set forth herein.
6 Defendants used force, intimidation, coercion and/or the threat of force, intimidation and
7 coercion, which was directed toward depriving the plaintiff of his constitutional and statutory
8 right to be secure in his person.

9 22. Defendants' unlawful actions were done willfully, maliciously, and with the
10 specific intent to deprive Plaintiff of his constitutional and statutory rights to be secure in his
11 person.

12 23. As a direct and proximate consequence of Defendants' actions, Plaintiff has
13 suffered, and continues to suffer, a loss of his constitutional rights, physical injury and pain and
14 suffering, and is entitled to compensatory damages for injury to his person and, as to the
15 individual defendants, all damages authorized by Civil Code §52, including punitive damages
16 as permitted by law.

17 **THIRD CAUSE OF ACTION**
18 **CALIFORNIA CIVIL CODE §51.7**
19 **Freedom From Violence or Intimidation**
20 **(Against All Individual Defendants)**

21 24. Plaintiff realleges and incorporates herein by reference the allegations
22 contained in Paragraphs 1 through 22, inclusive.

23 25. The acts by Defendants constitute the use of violence and/or intimidation in the
24 course of executing an unreasonable seizure and violate the constitutional rights of Plaintiff,
25 as guaranteed by Article I, sec. 13 of the California Constitution and Civil Code §52.1. The
26 acts of Defendants complained of herein were directed toward depriving the plaintiff of his
27 right to be secure in his person because of his race, perceived sexual orientation and/or
28 perceived religion, or a combination of these protected factors.

1 authority, arrested and jailed him.

2 34. Defendants' unlawful actions were done willfully, maliciously, and with the
3 specific intent to touch plaintiff without his consent and cause him harm.

4 35. As a direct and proximate consequence of Defendants' actions, Plaintiff has
5 suffered, and continues to suffer, physical injury and pain and suffering, and is entitled to
6 compensatory damages for injury to his person as well as punitive damages as permitted by law.

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9 WHEREFORE, Plaintiff prays for relief as follows:

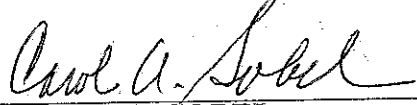
- 10 1. For damages for Plaintiff, including punitive damages as permitted by law;
11 2. For costs of suit pursuant to Calif. Code of Civil Procedure §1021.5 and California
12 Civil Code §52.1;
13 3. For attorney's fees pursuant to Calif. Code of Civil Procedure §1021.5, Calif Civil
14 Code §52.1, and any other applicable fee provisions;
15 4. For such other relief as this Court deems just and proper.

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DATED: January 3, 2011

Respectfully submitted,

LAW OFFICE OF CAROL A. SOBEL
LAW OFFICE OF REBECCA F. THORNTON



By: CAROL A. SOBEL
Attorney for Plaintiffs

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