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 KARL AUGUSTUS

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 11 **UNITED STATES DISTRICT COURT**
 12 **CENTRAL DISTRICT OF CALIFORNIA**

13 KARL AUGUSTUS,

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 15 Plaintiff,

16 v.

17 CITY OF LOS ANGELES; CHIEF
 MICHEL MOORE; and DOES 1- 10.

18 Defendants.
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Case No.:

COMPLAINT FOR DAMAGES:

1. 42 U.S.C. § 1983, 4th and 14th Amendments: Unreasonable Seizure
2. 42 U.S.C. § 1983, 4th and 14th Amendments: Unreasonable Search
3. 42 U.S.C. § 1983, 4th and 14th Amendments: Excessive Force
4. 42 U.S.C. § 1983, 4th and 14th Amendments: Failure to Intervene
5. Bane Act, Civil Code § 52.1
6. Assault
7. Battery By Peace Officer
8. Intentional Infliction of Emotional Distress
9. Negligence

[DEMAND FOR JURY TRIAL]

1 **I. INTRODUCTION AND VENUE**

2 1. On June 11, 2021, officers with the Los Angeles Police Department
3 (“LAPD”) pulled over Karl Augustus—a Black 41-year-old military veteran with a
4 history of PTSD—in the erroneous belief that Mr. Augustus’ car might be stolen. Even
5 though Mr. Augustus was driving his own car, never presented any threat, complied
6 with all police orders, and had committed no crime, he was surrounded by
7 approximately ten officers, held at gunpoint, forced to lie face down in the middle of the
8 street, handcuffed, and detained.

9 2. The Officers acted pursuant to LAPD’s written policy of using so-called
10 “high risk” traffic stops—the same tactics LAPD uses to detain armed robbery and
11 murder suspects—to detain motorists suspected only of stealing a vehicle, a property
12 crime that is not high risk. LAPD’s policy is contrary to the standards and training of
13 the Commission on Police Officer Standards and Training, which sets standards and
14 training for California law enforcement, and is unconstitutional under Ninth Circuit law.

15 3. Only after detaining Mr. Augustus for a significant period of time did the
16 officers finally tell him that they had pulled him over believing that his vehicle was
17 stolen but confirmed that it was not. Another officer told Mr. Augustus that they had
18 pulled him over because the license plate tags on his car were expired.

19 **II. JURISDICTION AND VENUE**

20 4. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343(a)
21 because Plaintiff asserts claims arising under the laws of the United States including 42
22 U.S.C. § 1983 and the Fourth and Fourteenth Amendments of the United States
23 Constitution. Plaintiff’s state-law claims form part of the same case and controversy
24 and are within the supplemental jurisdiction of the Court pursuant to 28 U.S.C. § 1367.

25 5. Venue is proper in the United States District Court of the Central District
26 of California pursuant to 28 U.S.C. § 1391(b)(1) as the Central District is “a judicial
27 district in which any defendant resides” and “all defendants are residents of the State in
28 which the district is located.” Venue is also proper pursuant to 28 U.S.C. § 1391(b)(2),

1 as the Central District is “a judicial district in which a substantial part of the events or
2 omissions giving rise to the claim occurred[.]”

3 **III. PARTIES**

4 6. Plaintiff Karl Augustus resides in Los Angeles, California. Mr. Augustus
5 was making his early morning commute in his 2017 BMW 740 from his apartment on
6 Olympic Boulevard and Olive Street to his gym in Hawthorne when LAPD officers
7 pulled him over and conducted a “high risk” stop in which they drew their weapons,
8 held him at gunpoint, forced him to lie on the street, violently handcuffed him, and held
9 him in a lengthy detention in a police car while they searched his vehicle without his
10 consent.

11 7. Defendant Los Angeles (“the City”) was and is a legal political entity
12 established under the laws of the State of California, with all the powers specified and
13 necessarily implied by the Constitution and laws of the State of California and exercised
14 by a duly elected City Council and/or their agents and officers. The City is responsible
15 for the actions, inactions, policies, procedures, practices, and customs of the LAPD and
16 its agents and employees. At all relevant times, the City was and continues to be
17 responsible for assuring that the actions of the LAPD and its agents and employees
18 comply with the Constitutions of the State of California and of the United States and
19 any other applicable laws and regulations.

20 8. Defendant Michel Moore is the duly appointed Chief of Police for the
21 LAPD, and an employee of the City. Defendant Moore holds the highest position in the
22 LAPD and is and was responsible for the hiring, screening, training, retention,
23 supervision, discipline, counseling, and control of all LAPD employees and/or agents.
24 At all relevant times herein, Defendant Moore was responsible for the promulgation of
25 the policies and procedures and allowances of the practices and customs pursuant to
26 which the acts of the Defendant Officers alleged herein were committed. Defendant
27 Moore is being sued in his individual capacity only. On information and belief,
28 Defendant Moore established and/or permitted the LAPD’s policy, practice, custom,

1 and failure to train, and/or ratified the acts alleged herein.

2 9. At least ten officers were involved in the incident. Claimant is currently
3 unaware of their identities because the LAPD has refused all requests to provide
4 information concerning the incident. Defendant Officers DOES 1-10 are employees of
5 the LAPD who were present for and participated in the incident. Among other things,
6 Defendant Officer DOES participated in the high risk stop of Mr. Augustus and his *de*
7 *facto* arrest without probable cause, held Mr. Augustus at gunpoint, ordered him onto
8 his knees, ordered him to lie on the ground and prone out, violently handcuffed him,
9 detained him, searched his car without consent, and/or stood guard with the other
10 Officer Defendants while they committed these acts.

11 10. Defendant Officers DOES 1-10 (collectively the “Officer Defendants”)
12 engaged in the acts or omissions alleged herein under color of state law and within the
13 course and scope of their duties as Officers of the LAPD. The Officer Defendants were
14 acting with the complete authority and ratification of their principal, Defendants City of
15 Los Angeles and Defendant Chief Michel Moore.

16 11. Plaintiff is informed and believes and thereon alleges that at all times
17 relevant herein, Defendants and each of them were the agents, employees, servants,
18 joint venturers, partners, and/or co-conspirators of the other Defendants named in this
19 Complaint and that at all times, each of the Defendants was acting within the course and
20 scope of said relationship with Defendants.

21 12. All of the acts and omissions complained of herein by Plaintiff against
22 Defendants were done and performed by said Defendants by and through their
23 authorized agents, servants and/or employees, all of whom at all relevant times herein
24 were acting within the course, purpose, and scope of said agency, service, and/or
25 employment capacity. Plaintiff alleges that to the extent certain acts and omissions
26 were perpetrated by certain Defendants, the remaining Defendant or Defendants
27 confirmed and ratified said acts and omissions.

28 13. Plaintiff is informed and believes and thereupon alleges, that at all times

1 material herein, each Defendant was dominated and controlled by his/her co-Defendant
2 and each was the alter-ego of the other.

3 14. Whenever and wherever reference is made in this complaint to any act or
4 failure to act by a Defendant or Defendants, such allegations and references shall also
5 be deemed to mean the acts and failures to act of each Defendant acting individually,
6 jointly and severally.

7 **IV. ADMINISTRATIVE PERQUISITES**

8 15. Plaintiff Karl Augustus exhausted his administrative remedies by filing a
9 governmental tort claim with the City of Los Angeles on December 6, 2021. By
10 correspondence dated December 22, 2021, the City rejected Plaintiff's governmental
11 tort claim.

12 **V. FACTUAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

13 16. On June 11, 2021, around 2:30 a.m., Mr. Augustus was making his early
14 morning commute in his 2017 BMW 740 from his apartment on Olympic Boulevard
15 and Olive Street to his gym in Hawthorne. Shortly after leaving his home, Mr.
16 Augustus saw that a police vehicle was following him. The police officer turned on his
17 vehicle's red and blue lights and Mr. Augustus quickly pulled over at the intersection of
18 Pico Boulevard and Grand Avenue.

19 17. Mr. Augustus rolled down his window in anticipation of an officer walking
20 up to his car. Instead, an officer commanded Mr. Augustus over a loudspeaker to turn
21 off his car, throw his keys out the window, place both hands out of his window, open
22 the door slowly with his left hand, and exit the vehicle, facing away from the officer.
23 Mr. Augustus glanced back and saw more police cars pulling up and officers
24 dismounting from their cars with their firearms drawn.

25 18. Mr. Augustus threw his keys out the driver's side window, keeping both
26 his hands outside the window so that both hands would be visible to the officers. He
27 then told the officers that he needed to reach back into the car to unbuckle his seatbelt.
28 The officers screamed loudly at Mr. Augustus, commanding him to exit the car. Mr.

1 Augustus reached back to unbuckle his seatbelt with his right hand and kept his left
2 hand outside the window so that the officers would see that his left hand was outside the
3 vehicle. Mr. Augustus feared that he would be shot.

4 19. After unbuckling his seatbelt, Mr. Augustus put his right hand back outside
5 the window so both hands were visible to the officers, slowly used his left hand to open
6 the door from the outside, and exited the vehicle as he had been ordered to do. Mr.
7 Augustus tried to move as slowly and as fluidly as possible because he thought the
8 officers might shoot him if they thought he was making any fast or sudden movements.

9 20. After Mr. Augustus opened the door and exited his vehicle, an officer
10 directed him to sidestep into the middle of the street while facing away from the officers
11 with his hands above his head and commanded him to drop to his knees then lie down
12 on the ground on his stomach. The officer then commanded Mr. Augustus to prone out
13 by extending his arms to the side, spread his legs, and turn his head away from the
14 vehicle. Mr. Augustus followed all the officer's directions.

15 21. While lying on the ground, Mr. Augustus heard a helicopter circling
16 overhead. Mr. Augustus is a military veteran, and the sound of the helicopter reminded
17 him of his experiences in combat loading wounded and dead soldiers onto Blackhawk
18 helicopters that were deployed to medically evacuate soldiers on the battlefield. This
19 memory triggered his combat-related post-traumatic stress disorder ("PTSD").

20 22. Mr. Augustus heard several officers repeatedly yell at the car, "Passenger,
21 exit the vehicle!" However, Mr. Augustus had no passengers with him. His wife, who
22 was then seven-months pregnant with their first child, was back in their apartment. He
23 wondered whether he would ever see her again and whether he would live to see the
24 birth of his child.

25 23. Mr. Augustus felt an officer grab his arms and place his wrists in cold and
26 extremely tight handcuffs. Two officers pulled Mr. Augustus up to his feet, turned him
27 around, and took him towards the swarm of LAPD vehicles and officers standing
28 nearby with their firearms drawn. Mr. Augustus saw at least one officer pointing a gun

1 at him. Mr. Augustus told the officers that he had a pregnant wife at home, that he was
2 a military veteran, and that he had done nothing wrong. Mr. Augustus asked the
3 officers what they thought he had done. The officers refused to answer his question.

4 24. The officers took Mr. Augustus to a patrol car, made him face the hood of
5 the car on the driver's side of the car, and handcuffed his hands behind his back. He
6 saw officers searching his vehicle. Mr. Augustus again asked the officers what was
7 going on, but no officer would answer him.

8 25. The handcuffs were so tight that Mr. Augustus lost sensation in his fingers.
9 He told the officers that the handcuffs were too small for his body size and asked them
10 to loosen the handcuffs. Eventually an officer used a second set of handcuffs to extend
11 and put distance between Mr. Augustus's wrists but did not loosen the handcuffs which
12 were still very tight. Mr. Augustus's fingers were still numb, even after the application
13 of the second set of handcuffs.

14 26. Mr. Augustus asked an officer once again why he had been pulled over.
15 An officer finally told him that he had been pulled over for driving a stolen car. The
16 officers asked Mr. Augustus where he got the car from and how long he had had it. Mr.
17 Augustus said that the car was not stolen and that he bought it in 2020 in Atlanta,
18 Georgia.

19 27. Mr. Augustus urged the officers to check his car's Vehicle Identification
20 Number to verify that it matched his Progressive Insurance Card on the application on
21 his smart phone. Mr. Augustus' car has out-of-state license plate tags from Georgia.
22 After confirming that the car did in fact belong to Mr. Augustus, the officers changed
23 their story and said that they had pulled him over because the license plate tags on his
24 car were expired and when they ran his tags through the system, the tags were
25 associated with a Blue Dodge Challenger. Mr. Augustus said he had traded in a Blue
26 Dodge Challenger in order to purchase his BMW and asked the officer if his name was
27 listed for the Blue Dodge Challenger. The officer did not respond.

28 28. Throughout the entire incident, none of the officers wore face masks. Mr.

1 Augustus had a face mask in his vehicle but the officers did not give him an opportunity
2 to put it on.

3 29. After a lengthy period of time, the officers finally released Mr. Augustus
4 from the handcuffs. Mr. Augustus's wrists swelled up from the tightness of the
5 handcuffs. An officer told Mr. Augustus to use the temporary paper license tags from
6 the dealership. Mr. Augustus stated that the dealership tags were expired.

7 30. The officer told Mr. Augustus that the officers had acted pursuant to LAPD
8 procedure and that he should get his license plates fixed. The officers did not provide
9 Mr. Augustus any written citation or other documentation for the incident.

10 31. The California Law Enforcement Telecommunications System ("CLETS")
11 is a statewide computer network used by law enforcement to search vehicle records,
12 among other databases. On information and belief, the Defendant Officers conducted
13 the high risk traffic stop based on information they received from CLETS indicating
14 that Mr. Augustus's license plates did not match his vehicle, which the officers then
15 assumed meant the vehicle might be stolen. Without any further reasonable suspicion
16 beyond this information from CLETS, and without any probable cause to believe that
17 Mr. Augustus was involved in any criminal activity, let alone criminal activity posing
18 any high risk of danger, Defendant Officers conducted a highly aggressive and
19 terrifying "high risk" traffic stop.

20 32. The Fourth Amendment to the United States Constitution prohibits
21 unreasonable seizures. U.S. Const. amend. IV; *Washington v. Lambert*, 98 F.3d 1181,
22 1186 (9th Cir. 1996). Article I, § 13 of the California Constitution provides a similar
23 prohibition. Cal. Const. Art. I, § 13; see *People v. Perry*, 36 Cal. App. 5th 444, 466
24 (2019).

25 33. "Under settled Fourth Amendment law, a traffic stop constitutes a seizure,
26 and an officer must have reasonable suspicion before detaining a motorist." *Bingham v.*
27 *City of Manhattan Beach*, 341 F.3d 939, 946 (9th Cir. 2003). To lawfully arrest a
28 motorist, however, an officer must have probable cause. *Green v. City & County of San*

1 *Francisco*, 751 F.3d 1039, 1049 (9th Cir. 2014).

2 34. Under Ninth Circuit law, “high risk” vehicle stops in which multiple
3 officers hold a person at gunpoint, force the person down onto their knees, and handcuff
4 the person constitute a *de facto* arrest requiring probable cause. *See id.* at 1047.

5 35. Ninth Circuit law thus limits the use of such “high risk” detentions only to
6 “special circumstances” “1) where the suspect is uncooperative or takes action at the
7 scene that raises a reasonable possibility of danger or flight; 2) where the police have
8 information that the suspect is currently armed; 3) where the stop closely follows a
9 violent crime; and 4) where the police have information that a crime that may involve
10 violence is about to occur.” *Id.* None of these special circumstances was present here.

11 36. Police officers in California use CLETS to determine whether a particular
12 vehicle may be stolen. Police officers in Los Angeles and throughout California have
13 been expressly warned that information in CLETS identifying a vehicle as potentially
14 stolen is not sufficient to establish probable cause:

15 Information obtained from CLETS can be used by peace officers to establish or
16 reinforce the *reasonable suspicion* necessary to *lawfully detain a suspect*.
17 Because the information may be unreliable or unsubstantiated, however, *it is not*
18 *sufficient alone* for establishing the probable cause necessary for law
enforcement actions such as conducting a search, seizing property, or placing an
individual under arrest.

19 California Commission on Peace Officer Standards and Training (POST), Learning
20 Domain 36 (Information Systems), Version 3.6, at 1-9 (emphasis in original). For this
21 reason, California Department of Justice regulations *require* that officers “obtain
22 confirmation before an arrest or the confiscation of the property in response to the
23 computer match.” *Id.* Officers are also trained that “[t]he use of unreliable or
24 unsubstantiated information by an officer when establishing probable cause could lead
25 to unlawful searches or seizures as well as incidents of false arrest.” *Id.*

26 37. The involved Officers’ highly aggressive tactics were pursuant to the
27 LAPD’s written policy and training to use such so-called “high risk” or “felony” traffic
28 stop procedures based only upon suspicion of any felony, including a suspected a stolen

1 vehicle.

2 38. The LAPD's high risk traffic stop policy violates the Fourth Amendment
3 and Article I, § 13 of the California Constitution. The involved officers, acting pursuant
4 to Departmental policy and training, performed a high risk stop on Mr. Augustus based
5 only on information in CLETS indicating that Mr. Augustus' vehicle did not match his
6 license plates, which the officers assumed meant the vehicle might be stolen. Without
7 verifying whether this report was correct, at least ten officers surrounded Mr. Augustus
8 and used the "especially intrusive" tactics of drawing and pointing firearms, forcing Mr.
9 Augustus to lie down on his stomach in the middle of the street, aggressively
10 handcuffing him, and detaining him in the back of a police car even though none of the
11 "special circumstances" required to justify such aggressive tactics were present.
12 Significantly, the LAPD's written policy on high risk stops states that such stops are
13 "utilized when officers have the reasonable belief that the occupants in the vehicle may
14 be armed and may represent a serious threat to the officer, or have committed a felony."
15 Whether the LAPD's policy requires or even simply permits the use of such tactics
16 based only upon suspicion of a stolen vehicle, the policy is unconstitutional.

17 39. The egregious nature of LAPD's high risk stop policy is further
18 underscored by the fact that among the 3,524 traffic stops performed by the LAPD
19 based on suspicion of a stolen vehicle between 2018 and 2021, the vehicle was not
20 actually stolen in 74 percent of the stops.

21 40. Mr. Augustus has been seriously traumatized by LAPD's aggressive and
22 life-threatening high risk traffic stop policy and tactics. Mr. Augustus sought
23 counseling following the incident to cope with the resulting anxiety, nightmares,
24 insomnia, and depression. He has been unable to concentrate at work. The incident
25 undid years of progress Mr. Augustus had made treating his PTSD. He no longer trusts
26 the police and fears they pose a threat to his life.

27 41. Plaintiff brings this action for damages against Defendants for general,
28 compensatory, and statutory damages, costs and attorneys' fees based on Defendants'

1 unlawful and egregious conduct, as alleged herein. Plaintiff also seek declaratory and
2 injunctive relief enjoining the LAPD’s policy requiring, or in the alternative
3 authorizing, “high risk” stops prohibited by Ninth Circuit law. Additionally, Plaintiff
4 seeks punitive damages against the individual Defendants.

5 **CAUSES OF ACTION**

6 **FIRST CLAIM FOR RELIEF**

7 **42 U.S.C. § 1983**

8 **Fourth and Fourteenth Amendments: Unreasonable Seizure**

9 **(By Plaintiff Against All Defendants)**

10 42. Plaintiff alleges and incorporates by reference each and every allegation
11 contained in the foregoing paragraphs as though fully set forth herein.

12 43. All of the acts of Defendant Officers DOES 1-10 were done under color of
13 state law.

14 44. The acts of the Officer Defendants deprived Plaintiff of rights, privileges,
15 and immunities secured by the Constitution of the United States, including but not
16 limited to his rights under the Fourth Amendment of the United States Constitution,
17 incorporated and made applicable to the states and their local governments by the
18 Fourteenth Amendment by, among other things, unlawfully seizing Plaintiff by
19 conducting a high risk traffic stop and a *de facto* arrest of Plaintiff without any lawful
20 basis, probable cause, warrant, or any exception thereto, and unreasonably prolonging
21 Plaintiff’s detention even after the officers knew or reasonably should have known that
22 Plaintiff had not stolen his vehicle.

23 45. Each of the Officer Defendants was both personally involved and an
24 integral participant in the violation of Plaintiff’s constitutional rights. Each Officer was
25 aware of the unlawful actions of the other Officers as they planned to and did conduct a
26 “high risk” stop of Plaintiff without any further reasonable suspicion beyond unverified
27 information from CLETS indicating that Plaintiff’s vehicle did not match its license
28 plates, and without any probable cause to believe that Mr. Augustus was involved in

1 any criminal activity, let alone criminal activity posing any high risk of danger, and
2 performed a *de facto* arrest of Mr. Augustus without probable cause, held him at
3 gunpoint, ordered him to lie prone out in the middle of the street, violently handcuffed
4 him, detained him, and/or stood guard while the other Officer Defendants committed
5 these acts. None of the involved Officers objected to these violations of Plaintiff's
6 rights, and each Officer participated in the violation by performing police functions,
7 including meaningful participation in the unlawful seizure and *de facto* arrest of
8 Plaintiff and the use of unreasonable force against him.

9 46. As a direct and proximate result of the aforementioned acts of the Officer
10 Defendants, Plaintiff sustained and incurred damages including pain, suffering, and
11 emotional injury.

12 47. In doing the foregoing wrongful acts, Defendants, and each of them, acted
13 in reckless and callous disregard for Plaintiff's constitutional rights. The wrongful acts,
14 and each of them, were willful, oppressive, fraudulent, and malicious, thus warranting
15 the award of punitive damages against each individual Officer Defendant in their
16 individual capacities (but not against the entity Defendant) in an amount adequate to
17 punish the wrongdoers and deter future misconduct.

18 48. The Officer Defendants and any other involved officers acted pursuant to
19 expressly adopted official policies or longstanding practices or customs of the City of
20 Los Angeles. These include policies and longstanding practices and/or customs
21 requiring and/or permitting officers to carry out "high risk" stops, including but not
22 limited to utilizing large numbers of police cars and officers; drawing their weapons and
23 pointing firearms at people; forcing people onto their knees and/or proning them out;
24 handcuffing them; and detaining them at length, all in situations that are not high risk
25 and based only upon reasonable suspicion of property crimes such as suspected stolen
26 vehicles and without regard to Ninth Circuit law.

27 49. The training policies of the City of Los Angeles were not adequate to train,
28 supervise, and control its Officers to handle the usual and recurring situations with

1 which they must deal, including but not limited to performing (1) high risk traffic stops
2 of vehicles suspected of being stolen based only upon unconfirmed CLETS data and (2)
3 *de facto* arrests of motorists based only upon same. The City of Los Angeles knew that
4 its failure to adequately train its Officers for such situations made it highly predictable
5 that its Officers would engage in conduct that would deprive persons such as Mr.
6 Augustus of his rights. The City of Los Angeles was thus deliberately indifferent to the
7 obvious consequences of its failure to train its Officers adequately.

8 50. Defendant City of Los Angeles's official policies and/or longstanding
9 practices or customs, including but not limited to its training policies, caused the
10 deprivation of the constitutional rights of Mr. Augustus by Defendant Officers DOES 1-
11 10, and the other involved Officers; that is, the City of Los Angeles's official policies
12 and/or longstanding practices or customs are so closely related to the deprivation of
13 Plaintiff's rights as to be the moving force that caused his injuries. These policies,
14 longstanding practices, and/or customs include performing high risk traffic stops of
15 vehicles suspected of being stolen.

16 51. LAPD Chief Michel Moore, a final policymaker for the City of Los
17 Angeles, ratified the actions and omissions of the Defendant Officers and the other
18 involved officers in that he had knowledge of and made a deliberate choice to approve
19 their unlawful acts and omissions. Upon information and belief, the City took no action
20 in response to Plaintiff's allegations and none of the involved Officers have been
21 disciplined.

22 **SECOND CLAIM FOR RELIEF**

23 **42 U.S.C. § 1983**

24 **Fourth and Fourteenth Amendments: Unreasonable Search**

25 **(By Plaintiff Against All Defendants)**

26 52. Mr. Augustus realleges and incorporates by reference each and every
27 allegation contained in the foregoing paragraphs as though fully set forth herein.

28 53. All of the acts of Defendant Officers DOES 1-10 were done under color of

1 state law.

2 54. The acts of the Officer Defendants deprived Mr. Augustus of rights,
3 privileges, and immunities secured by the Constitution and laws of the United States,
4 including but not limited to his rights under the Fourth Amendment of the United States
5 Constitution, incorporated and made applicable to the states and their local governments
6 by the Fourteenth Amendment, by, among other things, searching Mr. Augustus'
7 vehicle without a warrant, exigency, emergency, probable cause, or Plaintiff's consent.

8 55. Each of the Officer Defendants was both personally involved and an
9 integral participant in the violation of Mr. Augustus' constitutional rights. Each Officer
10 was aware of the unlawful actions of the other Officers as they planned to search and
11 did search Mr. Augustus' vehicle; did not object to this violation of Mr. Augustus'
12 rights; and participated in the violation by performing police functions, including
13 meaningful participation in the unlawful traffic stop, *de facto* arrest, search, and use of
14 unreasonable force against Plaintiff.

15 56. As a direct and proximate result of the aforementioned acts of the Officer
16 Defendants, Plaintiff sustained and incurred damages including emotional injury.

17 57. In doing the foregoing wrongful acts, Defendants, and each of them, acted
18 in reckless and callous disregard for Plaintiff's constitutional rights. The wrongful acts,
19 and each of them, were willful, oppressive, fraudulent, and malicious, thus warranting
20 the award of punitive damages against each individual Officer Defendant in their
21 individual capacities (but not against the entity Defendant) in an amount adequate to
22 punish the wrongdoers and deter future misconduct.

23 58. The Officer Defendants and any other involved officers acted pursuant to
24 expressly adopted official policies or longstanding practices or customs of the City of
25 Los Angeles. These include policies and longstanding practices and/or customs
26 requiring and/or permitting officers to carry out "high risk" stops, including but not
27 limited to utilizing large numbers of police cars and officers, drawing their weapons and
28 pointing firearms at people, forcing people onto their knees, handcuffing them,

1 detaining them at length, and searching their vehicles, all in situations that are not high
2 risk and based only upon reasonable suspicion of property crimes such as suspected
3 stolen vehicles and without regard to Ninth Circuit law.

4 59. The training policies of the City of Los Angeles were not adequate to train,
5 supervise, and control its Officers to handle the usual and recurring situations with
6 which they must deal, including but not limited to performing high risk traffic stops of
7 vehicles suspected of being stolen based only upon unconfirmed CLETS data and
8 searching the vehicle based only upon same. The City of Los Angeles knew that its
9 failure to adequately train its Officers for such situations made it highly predictable that
10 its Officers would engage in conduct that would deprive persons such as Plaintiff of his
11 rights. The City of Los Angeles was thus deliberately indifferent to the obvious
12 consequences of its failure to train its Officers adequately.

13 60. Defendant City of Los Angeles's official policies and/or longstanding
14 practices or customs, including but not limited to its training policies, caused the
15 deprivation of the constitutional rights of Plaintiff by the Officer Defendants and the
16 other involved Officers; that is, the City of Los Angeles's official policies and/or
17 longstanding practices or customs are so closely related to the deprivation of Plaintiff's
18 rights as to be the moving force that caused his injuries.

19 61. LAPD Chief Michel Moore, a final policymaker for the City of Los
20 Angeles, ratified the actions and omissions of the Officer Defendants and the other
21 involved Officers in that he had knowledge of and made a deliberate choice to approve
22 their unlawful acts and omissions. Upon information and belief, the City took no action
23 in response to Plaintiff's allegations and none of the involved Officers have been
24 disciplined.

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1 **THIRD CLAIM FOR RELIEF**

2 **42 U.S.C. § 1983**

3 **Fourth and Fourteenth Amendments: Excessive Force**

4 **(By Plaintiff Against All Defendants)**

5 62. Mr. Augustus realleges and incorporates by reference each and every
6 allegation contained in the foregoing paragraphs as though fully set forth herein.

7 63. All of the acts of Defendant Officers DOES 1-10 were done under color of
8 state law.

9 64. The acts of the Officer Defendants deprived Plaintiff of rights, privileges,
10 and immunities secured by the Constitution of the United States, including but not
11 limited to his rights under the Fourth Amendment of the United States Constitution,
12 incorporated and made applicable to the states and their local governments by the
13 Fourteenth Amendment by, among other things, using excessive force against Plaintiff.
14 Specifically, Defendants pointed their guns at Plaintiff, which under established Ninth
15 Circuit law is a use of force. Defendants also forced Plaintiff to prone out in the middle
16 of the street, and applied handcuffs so tightly that Plaintiff's fingers became numb.

17 65. Each of the Officer Defendants was both personally involved and an
18 integral participant in the violation of Plaintiff's constitutional rights. Each Officer was
19 aware of the unlawful actions of the other Officers as they planned to and did point their
20 firearms at Plaintiff, forced Plaintiff to kneel and prone out in the middle of the street,
21 and forcefully handcuffed Plaintiff. None of the Officers objected to these violations of
22 Plaintiff's rights, and each Officer participated in the violation by performing police
23 functions, including meaningful participation in the unlawful traffic stop, *de facto*
24 arrest, and use of unreasonable force against Plaintiff.

25 66. As a direct and proximate result of the aforementioned acts of the Officer
26 Defendants, Plaintiff sustained and incurred damages including pain, suffering, and
27 emotional injury.

28 67. In doing the foregoing wrongful acts, Defendants, and each of them, acted

1 in reckless and callous disregard for Plaintiff's constitutional rights. The wrongful acts,
2 and each of them, were willful, oppressive, fraudulent, and malicious, thus warranting
3 the award of punitive damages against each individual Officer Defendant in their
4 individual capacities (but not against the entity Defendant) in an amount adequate to
5 punish the wrongdoers and deter future misconduct.

6 68. The Officer Defendants and any other involved officers acted pursuant to
7 expressly adopted official policies or longstanding practices or customs of the City of
8 Los Angeles. These include policies and longstanding practices and/or customs
9 requiring and/or permitting officers to carry out "high risk" stops involving excessive
10 force, including but not limited to utilizing large numbers of police cars and officers,
11 drawing their weapons and pointing firearms at people, forcing people onto their knees,
12 tightly handcuffing them, and detaining them at length, all in situations that are not high
13 risk and based only upon reasonable suspicion of property crimes such as suspected
14 stolen vehicles and without regard to Ninth Circuit law.

15 69. The training policies of the City of Los Angeles were not adequate to train,
16 supervise, and control its Officers to handle the usual and recurring situations with
17 which they must deal, including but not limited to performing high risk traffic stops of
18 vehicles suspected of being stolen based only upon unconfirmed CLETS data and using
19 excessive force based only upon same. The City of Los Angeles knew that its failure to
20 adequately train its Officers for such situations made it highly predictable that its
21 Officers would engage in conduct that would deprive persons such as Plaintiff of his
22 rights. The City of Los Angeles was thus deliberately indifferent to the obvious
23 consequences of its failure to train its Officers adequately.

24 70. Defendant City of Los Angeles's official policies and/or longstanding
25 practices or customs, including but not limited to its training policies, caused the
26 deprivation of the constitutional rights of Plaintiff by Defendant Officers DOES 1-10,
27 and the other involved Officers; that is, the City of Los Angeles's official policies
28 and/or longstanding practices or customs are so closely related to the deprivation of

1 Plaintiff's rights as to be the moving force that caused his injuries.

2 71. LAPD Chief Michel Moore, a final policymaker for the City of Los
3 Angeles, ratified the actions and omissions of the Defendant Officers and the other
4 involved officers in that he had knowledge of and made a deliberate choice to approve
5 their unlawful acts and omissions. Upon information and belief, the City took no action
6 in response to Plaintiff's allegations and none of the involved Officers have been
7 disciplined.

8 **FOURTH CLAIM FOR RELIEF**

9 **42 U.S.C. § 1983**

10 **Fourth and Fourteenth Amendments: Failure to Intervene**

11 **(By Plaintiff Against All Defendants)**

12 72. Mr. Augustus realleges and incorporates by reference each and every
13 allegation contained in the foregoing paragraphs as though fully set forth herein.

14 73. All of the acts of Defendant Officers DOES 1-10 were done under color of
15 state law.

16 74. The acts of the Officer Defendants deprived Plaintiff of rights, privileges,
17 and immunities secured by the Constitution of the United States, including but not
18 limited to their rights under the Fourth Amendment of the United States Constitution,
19 incorporated and made applicable to the states and their local governments by the
20 Fourteenth Amendment by, among other things, failing to intervene in the unlawful
21 actions of other Officers. These unlawful actions include the unreasonable traffic stop
22 of Plaintiff, the unlawful *de facto* arrest of Plaintiff, the unlawful search of Mr.
23 Augustus' vehicle, and the use of excessive force against Plaintiff, including
24 Defendants drawing their guns and with at least one officer pointing his gun at Plaintiff,
25 forcing Plaintiff to lie down on his stomach and prone out in the middle of the street,
26 applying handcuffs so tightly that Plaintiff's fingers started to go numb, and detaining
27 Plaintiff for an extended period of time.

28 75. At all relevant times, the Officer Defendants were present and had a

1 realistic opportunity to intervene and prevent the unlawful traffic stop, *de facto* arrest,
2 search, and excessive force by their fellow Officers against Plaintiff, but neglected to do
3 so.

4 76. As a direct and proximate result of the aforementioned acts and omissions
5 of the Officer Defendants, Plaintiff sustained and incurred damages including pain,
6 suffering, and emotional injury.

7 77. In doing the foregoing wrongful acts, Defendants, and each of them, acted
8 in reckless and callous disregard for Plaintiff's constitutional rights. The wrongful acts,
9 and each of them, were willful, oppressive, fraudulent, and malicious, thus warranting
10 the award of punitive damages against each individual Officer Defendant in their
11 individual capacities (but not against the entity Defendant) in an amount adequate to
12 punish the wrongdoers and deter future misconduct.

13 78. The Officer Defendants and any other involved officers acted pursuant to
14 expressly adopted official policies or longstanding practices or customs of the City of
15 Los Angeles. These include policies and longstanding practices and/or customs
16 requiring and/or permitting officers to carry out "high risk" stops, including but not
17 limited to utilizing large numbers of police cars and officers, drawing their weapons and
18 pointing firearms at people, forcing people to lie on their stomachs and prone out in the
19 middle of the street, handcuffing them, detaining them at length, and searching their
20 vehicles, all in situations that are not high risk and based only upon reasonable
21 suspicion of property crimes such as suspected stolen vehicles and without regard to
22 Ninth Circuit law. These official policies and longstanding practices and/or customs
23 also include failure to intervene in said activities.

24 79. The training policies of the City of Los Angeles were not adequate to train,
25 supervise, and control its Officers to handle the usual and recurring situations with
26 which they must deal, including but not limited to failing to intervene to stop unlawful
27 seizures, unlawful searches, and the use of excessive force, including carrying out "high
28 risk" stops utilizing large numbers of police cars and officers, drawing and pointing

1 firearms at people, forcing people to lie on their stomachs and prone out in the middle
2 of the street, detaining them at length, and searching their vehicles, all in situations that
3 are not high risk and based only upon reasonable suspicion of property crimes such as
4 suspected stolen vehicles and without regard to the Ninth Circuit law. The City of Los
5 Angeles knew that its failure to adequately train its Officers for such situations made it
6 highly predictable that its Officers would fail to intervene to stop constitutional
7 violations by their fellow Officers that deprive persons such as Plaintiff of their rights.
8 The City of Los Angeles was thus deliberately indifferent to the obvious consequences
9 of its failure to train its Officers adequately.

10 80. Defendant City of Los Angeles's official policies and/or longstanding
11 practices or customs, including but not limited to its training policies, caused the
12 deprivation of the constitutional rights of Plaintiff by Defendant Officers DOES 1-10,
13 and the other involved Officers; that is, the City of Los Angeles's official policies
14 and/or longstanding practices or customs are so closely related to the deprivation of
15 Plaintiff's rights as to be the moving force that caused their injuries.

16 81. LAPD Chief Michel Moore, a final policymaker for the City of Los
17 Angeles, ratified the actions and omissions of the Defendant Officers and the other
18 involved officers in that he had knowledge of and made a deliberate choice to approve
19 their unlawful acts and omissions, including their failure to intervene to stop the
20 unlawful acts of their fellow officers. Upon information and belief, the City took no
21 action in response to Plaintiff's allegations and none of the involved Officers have been
22 disciplined.

23 **FIFTH CLAIM FOR RELIEF**

24 **BANE ACT, CIVIL CODE § 52.1**

25 **(By Plaintiff Against All Defendants)**

26 82. Plaintiff realleges and incorporates by reference each and every allegation
27 contained above as though fully set forth herein.

28 83. Article I, § 13 of the California Constitution and the Fourth Amendment to

1 the United States Constitution, incorporated and made applicable to the states and their
2 local governments by the Fourteenth Amendment, guarantee the right of persons to be
3 free from unlawful false arrests, unlawful searches, and excessive force on the part of
4 law enforcement officers. The Officer Defendants and the other involved Officers, by
5 engaging in the wrongful acts and failures to act alleged herein, intentionally and
6 deliberately denied each of these rights to Plaintiff by threats, intimidation, or coercion,
7 to prevent Plaintiff from exercising his rights to be free of false arrest, unlawful
8 searches, and excessive force, thus giving Plaintiff claims for damages pursuant to
9 California Civil Code § 52.1. Specifically, the Officer Defendants and other involved
10 Officers unlawfully (1) stopped Plaintiff based only upon unverified information from
11 CLETS indicating that Plaintiff's vehicle might be stolen, (2) performed a *de facto*
12 arrest of Plaintiff, (3) searched Plaintiff's vehicle without Plaintiff's consent, (4) used
13 excessive force against Plaintiff, including pointing their guns at Plaintiff, forcing
14 Plaintiff to lie on his stomach and prone out in the middle of the street, and (5) applying
15 handcuffs so tightly that they made Plaintiff's fingers go numb. The Officer
16 Defendants intended by their actions to deprive Plaintiff of his enjoyment of the
17 interests protected by the right to be free of such conduct.

18 84. As a direct and proximate result of the aforementioned acts and omissions
19 of the Officer Defendants, Plaintiff sustained and incurred damages including pain,
20 suffering, and emotional injury.

21 85. Each of the Officer Defendants was both personally involved and aided
22 and abetted in the violation of Plaintiff's constitutional rights. Each Officer knew that
23 the other Officers were committing unlawful actions against Plaintiff as they planned to
24 and did unlawfully arrest Plaintiff, search Plaintiff's vehicle, use excessive force against
25 Plaintiff, and detain Plaintiff. Each Officer gave substantial assistance or
26 encouragement to the other Officers and each Officer's conduct was a substantial fact in
27 causing harm to Plaintiff.

28 86. LAPD Chief Michel Moore, a final policymaker for the City of Los

1 Angeles, approved and/or ratified the unconstitutional policy guiding the Officer
2 Defendants' unlawful acts, and approved and/or ratified the actions and omissions of
3 the Defendant Officers and the other involved officers in that he had knowledge of and
4 made a deliberate choice to approve their unlawful acts and omissions. Upon
5 information and belief, the City took no action in response to Plaintiff's allegations and
6 none of the involved Officers have been disciplined. The City of Los Angeles is
7 vicariously liable for its Officers' misconduct.

8 87. In doing the foregoing wrongful acts, Defendants, and each of them, acted
9 with conscious disregard of Plaintiff's rights. Said Defendants' conduct was willful,
10 wanton, malicious, and oppressive, thereby justifying an award of exemplary and
11 punitive damages against each individual Officer Defendant in their individual
12 capacities (but not against the entity Defendant) to punish the wrongful conduct alleged
13 herein and to deter such conduct in the future.

14 88. As the direct and legal result of Defendants' conduct, Plaintiff suffered and
15 will continue to suffer damages, including but not limited to those set forth above, and
16 is entitled to statutory damages under Cal. Civ. Code § 52, including damages up to
17 three times Plaintiff's actual damages but no less than \$4,000 for every offense of
18 California Civil Code § 51 *et seq.*, as well as compensatory and punitive damages and
19 attorneys' fees.

20 **SIXTH CLAIM FOR RELIEF**

21 **ASSAULT**

22 **(By Plaintiff Against All Defendants)**

23 89. Plaintiff realleges and incorporates by reference each and every allegation
24 contained above as though fully set forth herein.

25 90. Officer Defendants drew their weapons and aimed them at Plaintiff's
26 person in a threatening manner.

27 91. Plaintiff reasonably believed that Officer Defendants would shoot him.

28 92. Plaintiff did not consent to Officer Defendants' conduct.

1 99. Defendant Officers intentionally touched Plaintiff including forcefully
2 handcuffing him, forcing him to prone out in the middle of the street, and putting the
3 handcuffs on so tightly that Plaintiff's hands went numb.

4 100. Defendants Officers used unreasonable force while intentionally touching
5 Plaintiff.

6 101. Plaintiff did not consent to the Officers' uses of force.

7 102. Plaintiff was harmed by the Officers' uses of force, which has caused him
8 to suffer injuries including pain, suffering, and emotional injuries.

9 103. Each of the Officer Defendants was either personally involved and/or aided
10 and abetted in the violation of Plaintiff's constitutional rights. Each Officer knew that
11 the other Officers were committing unlawful actions against Plaintiff as they planned to
12 and did use excessive force against Plaintiff. Each Officer gave substantial assistance
13 or encouragement to the other Officers and each Officer's conduct was a substantial fact
14 in causing harm to Plaintiff.

15 104. As a direct and proximate result of the aforementioned acts and/or
16 omissions of Defendants, Plaintiff sustained pain, suffering, and emotional injury.

17 105. LAPD Chief Michel Moore, a final policymaker for the City of Los
18 Angeles, approved and/or ratified the unconstitutional policy guiding the Officer
19 Defendants' unlawful acts, and approved and/or ratified the actions and omissions of
20 the Defendant Officers and the other involved officers in that he had knowledge of and
21 made a deliberate choice to approve their unlawful acts and omissions. Upon
22 information and belief, the City took no action in response to Plaintiff's allegations and
23 none of the involved Officers have been disciplined.

24 106. The City of Los Angeles is vicariously liable for the actions of the Officer
25 Defendants.

26 107. In doing the foregoing wrongful acts, Defendants, and each of them, acted
27 with conscious disregard of Plaintiff's rights. Said Defendants' conduct was willful,
28 wanton, malicious, and oppressive, thereby justifying an award of exemplary and

1 punitive damages against each individual Officer Defendant in their individual
2 capacities (but not against the entity Defendant) to punish the wrongful conduct alleged
3 herein and to deter such conduct in the future.

4 **EIGHTH CLAIM FOR RELIEF**
5 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**
6 **(By Plaintiff Against All Defendants)**

7 108. Plaintiff realleges and incorporates by reference each and every allegation
8 contained above as though fully set forth herein.

9 109. Officer Defendants' actions performing a "high risk" stop of Plaintiff,
10 drawing their guns, pointing their weapons at Plaintiff, forcing Plaintiff to lie prone
11 out in the street, violently handcuffing Plaintiff, detaining Plaintiff, and searching
12 vehicle, was outrageous. This conduct was performed with reckless disregard to the
13 effect that these actions and omissions would have upon Plaintiff, including emotional
14 distress.

15 110. As a direct and proximate result of the aforementioned acts or omissions of
16 Officer Defendants, Plaintiff suffered injuries including pain, suffering, and severe
17 emotional injury.

18 111. LAPD Chief Michel Moore, a final policymaker for the City of Los
19 Angeles, approved and/or ratified the unconstitutional policy guiding the Officer
20 Defendants' unlawful acts, and approved and/or ratified the actions and omissions of
21 the Defendant Officers and the other involved officers in that he had knowledge of and
22 made a deliberate choice to approve their unlawful acts and omissions. Upon
23 information and belief, the City took no action in response to Plaintiff's allegations and
24 none of the involved Officers have been disciplined.

25 112. The City of Los Angeles is vicariously liable for the actions of the Officer
26 Defendants.

27 113. In doing the foregoing wrongful acts, Defendants, and each of them, acted
28 with conscious disregard of Plaintiff's rights. Said Defendants' conduct was willful,

1 wanton, malicious, and oppressive, thereby justifying an award of exemplary and
2 punitive damages against each individual Officer Defendant in their individual
3 capacities (but not against the entity Defendant) to punish the wrongful conduct alleged
4 herein and to deter such conduct in the future.

5 **NINTH CLAIM FOR RELIEF**

6 **NEGLIGENCE**

7 **(By Plaintiff Against All Defendants)**

8 114. Plaintiff realleges and incorporates by reference each and every allegation
9 contained above as though fully set forth herein.

10 115. The conduct of the Officer Defendants as set forth herein, was tortious in
11 that Defendants breached their duty of care to Plaintiff, an unarmed man besieged by at
12 least seven police officers, when the Officer Defendants performed a “high risk” stop,
13 searched Plaintiff’s vehicle, used excessive force against Plaintiff including by proning
14 him out in the middle of the street, pointing guns at him, violently handcuffing him, and
15 detaining him in a police car for a lengthy period of time.

16 116. The City failed to appropriately hire, supervise, train, review, and ensure
17 that their Officers abided by the standard of care, failed to enact appropriate standards
18 and procedures that would have prevented such harms to Plaintiff, including failing to
19 train LAPD Officers (1) not to use high risk traffic stops based only on suspicion of a
20 stolen vehicle arising from unverified CLETS data, and (2) not to use excessive force or
21 perform *de facto arrests* or vehicular searches in situations where such actions are not
22 justified.

23 117. Each of the Officer Defendants was either personally involved and/or aided
24 and abetted in the breach of a duty to care toward Plaintiff. Each Officer knew that the
25 other Officers were committing unlawful actions against Plaintiff as they planned to and
26 did unlawfully arrest Plaintiff, search Plaintiff’s vehicle, use excessive force against
27 Plaintiff, and detain Plaintiff in a police car. Each Officer gave substantial assistance or
28 encouragement to the other Officers and each Officer’s conduct was a substantial fact in

1 causing harm to Plaintiff.

2 118. As a direct and proximate result of Defendants' conduct as alleged herein,
3 Plaintiff sustained and incurred physical and emotional damages.

4 119. LAPD Chief Michel Moore, a final policymaker for the City of Los
5 Angeles, approved and/or ratified the unconstitutional policy guiding the Officer
6 Defendants' unlawful acts, and approved and/or ratified the actions and omissions of
7 the Defendant Officers and the other involved officers in that he had knowledge of and
8 made a deliberate choice to approve their unlawful acts and omissions. Upon
9 information and belief, the City took no action in response to Plaintiff's allegations and
10 none of the involved Officers have been disciplined.

11 120. The City of Los Angeles is vicariously liable for the actions of the Officer
12 Defendants.

13 121. In doing the foregoing wrongful acts, the Officer Defendants, and each of
14 them, acted with conscious disregard of Plaintiff's rights. Said Defendants' conduct
15 was willful, wanton, malicious, and oppressive, thereby justifying an award of
16 exemplary and punitive damages against each individual Officer Defendant in their
17 individual capacities (but not against the entity Defendant) to punish the wrongful
18 conduct alleged herein and to deter such conduct in the future.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff prays for the following relief:

21 1. For compensatory, general and special damages against each Defendant,
22 jointly and severally, amounts to be proven at trial;

23 2. For punitive and exemplary damages against individually named
24 Defendant Chief of Police Michel Moore and Defendant Officers DOES 1-10 in their
25 individual capacities and in an amount appropriate to punish Defendants and deter
26 others from engaging in similar misconduct;

27 3. Prejudgment and post-judgment interest;

28 4. For costs and suits and reasonable attorneys' fees and costs as authorized

