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CHRISTIAN PINEDA
8

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

11
12 CHRISTIAN PINEDA,
13 Plaintiff,
14 v.
15 CITY OF LOS ANGELES; CHIEF
MICHEL MOORE; and DOES 1-10,
16 Defendants.
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Case No.:

**COMPLAINT FOR DAMAGES AND
DECLARATORY RELIEF:**

1. Excessive Force (42 U.S.C. § 1983 4th and 14th Amendments)
2. Failure to Intervene (42 U.S.C. § 1983 4th and 14th Amendments)
3. Freedom of Speech and Association (42 U.S.C. § 1983 1st and 14th Amendments)
4. Municipal Liability—Unconstitutional Policy, Practice, or Custom (42 U.S.C. § 1983)
5. Municipal Liability—Ratification (42 U.S.C. § 1983)
6. Municipal Liability—Failure to Train, Supervise, Discipline, or Correct (42 U.S.C. § 1983)
7. Declaratory Relief (28 U.S.C. § 2201)

DEMAND FOR JURY TRIAL

I. INTRODUCTION

1
2 1. This case is a horrific example of the unjustified police abuse and First
3 Amendment retaliation meted out violently against peaceful protestors. It arises out of
4 the 2020 national protests sparked by the May 2020 police killing of George Floyd. In
5 May and June 2020, over 25 million people across the nation gathered to demand police
6 accountability and protest police brutality and racism. These protests were the largest
7 demonstrations in American history.

8 2. On May 29, 2020, 30-year-old Los Angeles native Christian Pineda
9 attended one such a protest in Downtown Los Angeles. He protested peacefully,
10 violating no laws. As he marched, he chanted “Hands up! Don’t shoot!”

11 3. Mr. Pineda arrived downtown at around 5:00 p.m., where he and a few
12 hundred others marched peacefully for three-and-a-half hours in support of police
13 reform and justice for George Floyd.

14 4. At around 8:30 p.m., when Mr. Pineda peacefully marching alongside a
15 small group of protesters between Seventh and Eighth Streets on South Grand Avenue,
16 dozens of Los Angeles Police Department officers outfitted in riot gear descended upon
17 him, rapidly forming a skirmish line. Another unit of dozens more officers formed a
18 phalanx behind the skirmish line, with a second phalanx joining nearby. Without
19 warning, the officers on the skirmish line began beating protesters from behind with
20 their batons. On information and belief, the skirmish line and its rear phalanx
21 outnumbered the small group of protesters in the area. The officers stopped advancing
22 and held their position, and the protesters continued to walk away. Nevertheless, and
23 without warning, several officers fired so-called “less lethal” projectiles at the group.

24 5. Mr. Pineda was walking backward with his empty hands in the air, away
25 from the officers when a Los Angeles Police Department officer shot him in the
26 abdomen with a 40mm “less lethal” kinetic impact projectile. Without provocation,
27 announcement or warning, Los Angeles Police Department officers targeted and
28 attacked Mr. Pineda because, though walking away backward, he chanted “Hands up!

1 Don't shoot!" while facing them, and with his open-palmed, empty hands in the air.

2 6. Upon being shot, Mr. Pineda buckled over in pain and hobbled away from
3 the officers as fast as he could, only to collapse on the ground, screaming and writhing in
4 pain. As a result of the severe injury he sustained, Mr. Pineda was bedridden for a week
5 and now has a permanent scar the size of a billiard ball.

6 7. The Los Angeles Police Department did not declare the downtown protest
7 an unlawful assembly prior to the shooting. The declaration was not issued until around
8 9:30 p.m., 45 minutes after Mr. Pineda had fled the protest after being shot.

9 II. JURISDICTION AND VENUE

10 8. This Court has original jurisdiction pursuant to 28 U.S.C. §§ 1331 and
11 1343(a) because Plaintiff asserts claims arising under the laws of the United States
12 including 42 U.S.C. § 1983 and the First, Fourth, and Fourteenth Amendments of the
13 United States Constitution.

14 9. Venue is proper in this Court because all incidents, events, and occurrences
15 giving rise to this action occurred in the County of Los Angeles, California.

16 III. PARTIES

17 10. Plaintiff Christian Pineda is a 30-year-old man who resides in Los Angeles,
18 California. Mr. Pineda was attacked and shot by Defendants and/or their agents with a
19 40mm impact projectile, subjecting him to injuries and damages as described herein. Mr.
20 Pineda sues Defendants for the violation of his rights under federal laws.

21 11. Defendant City of Los Angeles ("the City") is a duly organized public
22 entity existing under the laws of the State of California. The Los Angeles Police
23 Department ("LAPD") is the law enforcement agency for Defendant City. The City is
24 responsible for the actions, omissions, policies, procedures, practices, and customs of its
25 various agents and agencies, including LAPD and its agents and employees. At all
26 relevant times, Defendant City was responsible for ensuring that the actions, omissions,
27 policies, procedures, practices, and customs of the City and its agencies, employees, and
28 agents complied with the laws of the United States and the State of California.

1 12. Defendant Michel Moore is the duly appointed Chief of Police for the
2 LAPD, and an employee of the City. Defendant Moore holds the highest position in the
3 LAPD and is/was responsible for the hiring, screening, training, retention, supervision,
4 discipline, counseling, and control of all LAPD employees and/or agents. At all relevant
5 times herein, Defendant Moore was responsible for the promulgation of the policies and
6 procedures and allowances of the practices/customs pursuant to which the acts of the
7 Doe Defendant Officers alleged herein were committed. Defendant Moore is being sued
8 in both his individual and official capacities for the purpose of ensuring Plaintiff may
9 obtain complete and effective relief as against LAPD, whose actions and conduct are
10 under the control of the current Chief of Police.

11 13. On information and belief, Defendants Does 1-8 are LAPD officers who
12 needlessly accosted, assaulted, and, without any justification, injured Mr. Pineda
13 (collectively, "Officer Defendants").

14 14. At all relevant times, the City was the employer of Defendants Does 1-8. At
15 the time of the incident, Does 1-8 were acting under color of law within the course and
16 scope of their duties as Officers for the LAPD. Does 1-8 were acting with the complete
17 authority and ratification of their principal, Defendant City.

18 15. At all relevant times, Does 9 and 10 were managerial, supervisory,
19 training, and/or policymaking employees of Defendant City. At the time of the incident,
20 Does 9 and 10 were acting under color of law within the course and scope of their duties
21 as employees for the LAPD and/or the City. They had supervisory authority over Does
22 1-10, and the Officers and employees of the LAPD. Does 9 and 10 were acting with the
23 complete authority and ratification of their principal, Defendant City.

24 16. Does 1-10 are sued in both their individual and official capacities.

25 17. On information and belief, Does 1-10 were and still are residents of the
26 County of Los Angeles, California.

27 18. In doing the acts and failing to act as hereinafter described, Defendants
28 Does 1-10 were acting on the implied and actual permission and consent of the City.

1 19. The true names and capacities of Does 1-10 are unknown to Plaintiff, who
2 otherwise sues these Defendants by such fictitious names. Plaintiff will amend this
3 Complaint or seek leave to do so, when the true names and capacities of these
4 Defendants have been ascertained. Each of the fictitiously named Defendants is
5 responsible in some manner for the acts, omissions, injuries and damages alleged herein.

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

11 21. All of the acts and omissions complained of herein by Plaintiff against
12 Defendants were done and performed by said Defendants by and through their
13 authorized agents, servants and/or employees, all of whom at all relevant times herein
14 were acting within the course, purpose, and scope of said agency, service, and/or
15 employment capacity. Moreover, Defendants and their agents ratified all of the acts and
16 omissions complained of herein. Whenever and wherever reference is made in this
17 Complaint for Damages to any act or failure to act by a Defendant or Defendants, such
18 allegations and references shall also be deemed to mean the acts and failures to act of
19 each Defendant acting individually, jointly, and severally.

20 **IV. FACTUAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

21 **Nationwide Protests in Response to the Police Killing of George Floyd**

22 22. The May 25, 2020 murder of George Floyd by Minneapolis police officers,
23 which occurred not long after the unjustified killings of Breonna Taylor and Ahmaud
24 Arbery, sparked a series of protests across the nation demanding justice and calling for
25 police accountability and reform. Protests began in the Los Angeles area on May 27,
26 2020 and continued for weeks. These nationwide protests were the largest in the history
27 of the country, eclipsing in size even the protests of the Civil Rights Movement.

28 23. On the morning of May 29, President Trump posted a Tweet calling

1 protesters “thugs” and said, “When the looting starts, the shooting starts.”¹ Hours later,
2 after millions of Americans had read his words, Twitter restricted the Tweet for
3 “glorifying violence.”²

4 24. President Trump was directly quoting Miami Chief of Police Walter
5 Headley, who told reporters on December 26, 1967, of protesters during the Civil Rights
6 Movement, “of our Negro population ... 10 per cent are violent hoodlums” and warned,
7 “when the looting starts, the shooting starts.”³ Chief Headley also told reporters, “We
8 don’t mind being accused of police brutality. They haven’t seen anything yet.” These
9 words were reported in a Hazleton Standard-Speaker article entitled *Words Fail; Miami*
10 *Cops Get Tough with Negro Thugs*.

11 25. Defendants took President Trump’s dog whistles to heart and engaged in a
12 campaign of targeted violence toward peaceful protesters throughout Los Angeles during
13 the historic 2020 protests in Los Angeles. Defendants’ indiscriminate and horrific
14 violence has resulted in a slew of lawsuits.

15 **Mr. Pineda Attends the May 29, 2020 Downtown Protest**

16 26. At around 4:00 p.m. on May 29, organizers and protesters arrived at City
17 Hall on the third day of protests in Los Angeles. There was no curfew in effect in Los
18 Angeles on that day. During the evening, protesters marched across downtown Los
19 Angeles in support of police reform and justice for George Floyd.

20 27. Even though the prior two days of “[p]rotests in Los Angeles ha[d] been
21 largely peaceful,” Defendant Chief Moore nevertheless placed LAPD on “tactical alert”
22 at 2:20 p.m. (before the May 29 protests began), which “requires all on-duty personnel
23 to remain on duty.”⁴ According to LAPD spokesperson Tony Im, this meant that many

24 ¹ <https://www.nytimes.com/article/george-floyd-protests-timeline.html>

25 ² <https://time.com/5844530/trump-tweet-minneapolis-violence/>

26 ³ https://www.newspapers.com/image/?clipping_id=52372056 (*Words Fail; Miami*
27 *Cops Get Tough With Negro Thugs*, HAZLETON STANDARD-SPEAKER, December 27,
1967, front page).

28 ⁴ <https://kfiam640.iheart.com/content/2020-05-29-protests-against-police-brutality-continue-for-third-night-in-downtown-la/>

1 police officers were forced to work double shifts.⁵

2 28. Though there were a few ephemeral confrontations between protesters and
3 police in the early evening, LAPD's own After Action Report admits that none of these
4 confrontations occurred on Grand Avenue between Seventh and Eighth Streets, where
5 Mr. Pineda was shot. Indeed, LAPD did not even declare an unlawful assembly until
6 9:30 p.m., approximately an hour *after* Mr. Pineda was shot and 45 minutes after he
7 went home.

8 29. Mr. Pineda and a friend arrived downtown shortly before 5:00 p.m., parking
9 near the LAPD Headquarters. They walked directly to Pershing Square, arriving at
10 approximately 5:00 p.m. Mr. Pineda attended the protest to publicly denounce George
11 Floyd's killing and to protest police violence and racism. This was Mr. Pineda's first
12 protest in over ten years. He had last protested for immigrants' rights when he was in
13 high school.

14 30. Upon his arrival at Pershing Square, Mr. Pineda observed a large number of
15 armed LAPD officers wearing riot gear and monitoring the peaceful crowd.

16 31. Mr. Pineda protested peacefully at Pershing Square for approximately 20-
17 30 minutes, chanting "Justice for Breonna Taylor," "Justice for George Floyd," and
18 "Hands up! Don't shoot!" Upon noticing an increase in the police presence and tensions
19 rising at Pershing Square, Mr. Pineda decided to head to the Staples Center and continue
20 to protest in that area.

21 32. During the half-hour march from Pershing Square to the Staples Center, Mr.
22 Pineda peacefully chanted and did not observe any violent or unlawful conduct. The
23 crowd included people of all ages and races making their voices heard and exercising
24 their First Amendment rights.

25 33. After protesting for an hour in front of the Staples Center, Mr. Pineda and
26 his friend decided to walk two blocks to other side of the J.W. Marriott and continue his
27 protest there. He and the protesters around him remained peaceful.

28 _____
⁵ *Id.*

1 34. After a short period of time in front of the J.W. Marriott, Mr. Pineda walked
2 among a small group to the intersection of Seventh Street and Grand Avenue, where he
3 continued to protest peacefully.

4 **A Throng of LAPD Officers in Riot Gear Violently Attacks the Small Group of**
5 **Peaceful Protesters on Seventh and Grand**

6 35. At approximately 8:25 p.m., Mr. Pineda observed more than 50 police
7 officers in riot gear descend upon Seventh Avenue. At this time, approximately 50
8 protesters, including people of all races and ages (including an elderly gentleman on
9 roller blades and several individuals wearing MEDIA-emblazoned vests), were chanting
10 the names of innocent African Americans killed by police. The LAPD officers formed a
11 skirmish line crossing Seventh Street east of Grand Avenue, with one phalanx of officers
12 huddled behind them and another huddled at the northeast corner of the intersection.
13 Several officers in the skirmish line pointed high-powered, large projectile launchers at
14 the protesters.

15 36. Moments later, the skirmish line moved westbound (toward the protestors at
16 the intersection of Seventh Street and Grand Avenue) and LAPD officers shouting
17 “move back” began hitting protesters with their batons for no apparent reason. Several
18 of the officers continued pointing their “less lethal” weapons at the peaceful protesters.

19 37. One officer used his baton to hit a visibly unarmed middle aged Black
20 gentleman wearing a blue polo shirt and black-rimmed glasses while the officer to his
21 right aimed his “less lethal” 40mm kinetic projectile launcher at the man. After being
22 struck with the baton, the gentleman asked the officers, “Why are you killing people,
23 man?”

24 38. Within minutes, the LAPD skirmish line formed a stationary north-south
25 line crossing the entirety of Seventh Street on the east side of the intersection with Grand
26 Avenue with one phalanx of officers remaining huddled behind it to the east, and
27 another to the immediate north. The officers continued to point projectile launchers at
28 the protesters.

1 39. Seconds later, the rear phalanx of officers rushed through the skirmish line
2 and formed an east-west line crossing the entirety of Grand Avenue on the south side of
3 the intersection with Seventh Street. The officers apparently intended to push the small
4 group of protestors south on Grand Avenue. The protestors remained peaceful and began
5 chanting “No justice! No peace!”

6 40. Moments later, the north-south skirmish line rushed in a southwesterly
7 direction into the intersection of Seventh Street and Grand Avenue, moving behind the
8 east-west skirmish line and forming a large unified phalanx with the phalanx that was
9 previously located at the northeast corner of the intersection.

10 41. By this point, the small group of protestors had mostly stopped chanting.
11 Instead, most of the protestors ambled about lackadaisically, filming the massive police
12 presence with their phones. Others walked off, further reducing the already-small size
13 of the group.

14 42. Moments after one protester began yelling “No justice! No peace!” the
15 skirmish line began advancing southward along Grand Avenue, again striking protestors
16 with their batons, completely unprovoked. Due to the rapidly changing positions of the
17 police, Mr. Pineda found himself on Grand Avenue, directly south of (and
18 uncomfortably close to) the advancing skirmish line. As the skirmish line continued to
19 advance on him and the other protestors, Mr. Pineda walked backward and kept a
20 distance of at least 5-10 feet between himself and the officers. He could see the officers
21 pointing their projectile launchers at the protestors.

22 43. Several protestors in front of Mr. Pineda began yelling: “A badge does not
23 mean morality.” The skirmish line immediately picked up its pace. The officers in the
24 skirmish line proceeded to shove and beat more protestors, with one officer lunging
25 forward in an attempt to strike Mr. Pineda and a woman next to him with the officer’s
26 baton, and another two officers striking, once again, the gentleman in the blue polo shirt.

27 44. The skirmish line stopped again, this time just south of Le Grand Restaurant
28 and Wine Market on Grand Avenue. Several officers continued to point projectile

1 launchers at the protesters. The few protesters that remained moved back further away
2 from the officers, creating at least 15 feet of distance between themselves and the
3 officers. The protesters began chanting again, “No justice! No peace!” and “Hands up!
4 Don’t shoot!” Mr. Pineda chanted the latter phrase with his empty hands raised above
5 his head.

6 **Without Warning, LAPD Officers Begin Firing Dangerous Kinetic Impact**
7 **Projectiles and Shoot Mr. Pineda in the Abdomen**

8 45. Suddenly and without provocation or warning, the officers, who had been
9 intermittently pointing their projectile launchers at the protesters, began indiscriminately
10 firing 40mm projectiles into the group. By this point, not a single protester was within
11 20 feet of the stationary skirmish line, let alone attempting to cross it.

12 46. Defendant Officer Doe 1 fired the third projectile in the barrage, which
13 struck Mr. Pineda in the abdomen, while Defendant Doe Officers Nos. 2-10 provided
14 tactical support and fired at other protesters. Over the course of 30 seconds, the officers,
15 still numbering over 50, fired at least ten dangerous kinetic impact projectiles at what
16 was now a group of approximately 20 peaceful protesters.

17 47. When Defendant Officer Doe 1 fired his weapon at Mr. Pineda, Mr. Pineda
18 had his empty, open-palmed hands raised above his head, was at least 25 feet away from
19 the nearest officer, and was walking backwards. When the projectile struck him, Mr.
20 Pineda buckled over from the pain, turned around and staggered away as fast as he could
21 despite the blinding pain, fearful that another shot might hit him and kill him.

22 48. Mr. Pineda somehow made his way back to the friend who had
23 accompanied him to the protest. Upon seeing his friend, he exclaimed “I’ve been shot!
24 I’ve been shot!” and collapsed on the ground, writhing in pain. The friend, fearful that
25 the police would advance again and harm Mr. Pineda, pleaded “Get up bro!” Mr. Pineda
26 responded, still writhing in agony on the ground, “Nah, let them take me.” Others
27 approached and tried to help Mr. Pineda by giving him water and attempting to get him
28 up off the ground before the police advanced again.

1 49. They succeeded in getting Mr. Pineda up off the ground. He continued
2 screaming in agony, and yelled, “You fucking shot me! Unarmed!” He lifted his shirt to
3 show his approximately four inch inflamed, ruptured and bleeding wound as he yelled in
4 pain and indignation. Media photographers approached to take pictures of his wound.

5 50. As the photographers were taking pictures, the skirmish line started to
6 advance again while pointing their projectile launchers at the protesters. Upon seeing
7 the advancing officers, Mr. Pineda immediately walked backward, away from the
8 officers. They observed the officers once again beat other peaceful protesters who were
9 also walking away.

10 51. Moments later, the officers again lifted their weapons and began firing
11 projectiles at the few remaining protesters, again without any warning or announcement.
12 Mr. Pineda hobbled southward as fast as he could. With a rapidly growing wound on his
13 abdomen, Mr. Pineda continuing to yell out and grimace in pain.

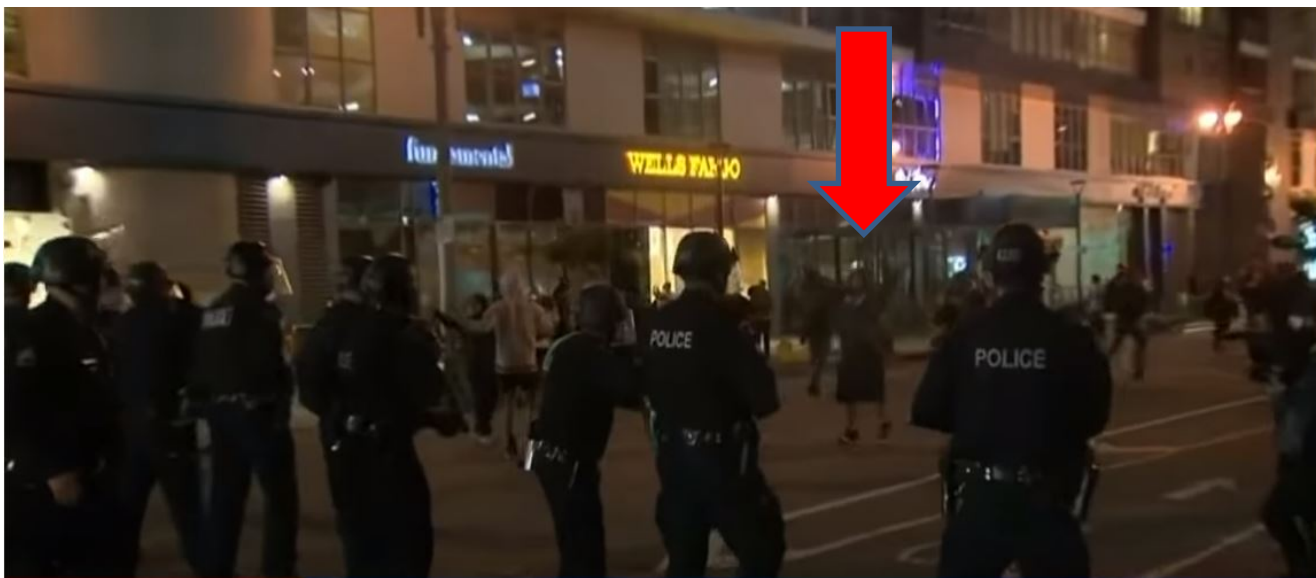
14 52. Upon reaching the first point of egress from the block, which was the
15 intersection of Eighth Street and Grand Avenue, Mr. Pineda and his friend fled eastward
16 on Eighth Street. Thusly they began the excruciating 1.25 mile walk back to the car.
17 Mr. Pineda’s friend had to provide his shoulder to Mr. Pineda as a crutch, because Mr.
18 Pineda was unable to ambulate unassisted due to the pain emanating from his swelling
19 and broken wound.

20 53. At every moment that the squadron of officers decided to advance toward
21 him, Mr. Pineda complied with what appeared to be the officers’ intention: to move the
22 protesters southward along Grand Avenue (though this was never announced by the
23 officers). At no point did Mr. Pineda attempt to approach or cross the skirmish line,
24 rather, he moved away from it, even when the skirmish line was stationary.

25 54. At every moment of the encounter, it was obvious to the officers and
26 everyone observing that Mr. Pineda was not a threat, was unarmed, empty-handed, and
27 fully compliant. Indeed, at the moment Mr. Pineda was shot, his open hands were in the
28 air, and he was walking backward, away from the skirmish line.

1 55. Local news station CBS2 captured the moment Mr. Pineda was shot, clearly
2 showing that he was not a threat, had his hands up in the air, and was walking backward.

3
4 [Defendant Officer Doe 1 fires at Mr. Pineda, who is walking backward with his hands
5 up]



15 [Mr. Pineda buckles over in agony from the projectile strike]



26 56. Defendant Officer Doe 1 never spoke a single word to Mr. Pineda or gave
27 any kind of warning to Mr. Pineda or others before shooting him, nor did Officer
28 Defendants Does 2-10. Moreover, when Defendants began firing their weapons at the

1 protesters, they were not even advancing, rather, the skirmish line and phalanx were
2 stationary, at least 20 feet from the closest protester.

3 57. At the time the Officer Defendants attacked Mr. Pineda, he was not
4 resisting arrest and posted no immediate threat of violence or physical harm to the
5 officers or others present.

6 58. At no point before being shot did Mr. Pineda hear LAPD officers declare an
7 unlawful assembly or give a dispersal order.

8 LAPD's 40mm Weapon

9 59. The 40mm weapon, what LAPD calls a “40 mm less lethal launcher,”
10 deploys kinetic energy impact munitions. It is a so-called pain compliance tool that can
11 result in serious bodily injury or death.

12 60. LAPD officers fire eXact iMpacT ammunition from their 40mm weapons.
13 EXact iMpacT rounds are high-speed projectiles with plastic and hard foam components.
14 Each round is 1.60 inches in diameter and 4.14 inches in length.

15 **Image depicts approximate size**



26 61. Defense Technology, the eXact iMpacT manufacturer, describes the
27 ammunition as a “‘point-of-aim, point-of-impact’ direct fire round that is most
28 commonly used by tactical teams in situations where maximum deliverable energy is

1 desired for the incapacitation of an aggressive, non-compliant subject.” The optimal
2 range “most successful for incapacitation” is 5-40 meters. Targeting “the large muscle
3 groups of the buttocks, thigh, and even the knees . . . provides sufficient pain stimulus,
4 while greatly reducing serious or life-threatening injuries.”

5 **Mr. Pineda Endures Months of Excruciating Pain and, Eventually, a Nerve-Dead**
6 **Imperishable Scar**

7 62. Mr. Pineda suffered from such excruciating pain from the projectile wound
8 that he could not sleep for two nights, and he remained bedridden for a week. During
9 this time, Mr. Pineda felt a constant fiery burning sensation emanating from his wound,
10 as though he was continuously being stabbed in his stomach with a piece of hot iron.

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1 63. The wound, which had grown to 5-6 inches in diameter, remained broken,
2 scabbed, and swollen for two weeks, and the heavy black-and-blue bruising around it
3 remained for a month.

4 64. For two months, Mr. Pineda felt like his insides had been rearranged by the
5 projectile, and he suffered from tingling extremities, shortness of breath, and chest pain.

6 65. The impact of the projectile left a billiard ball sized, raised scar on Mr.
7 Pineda's abdomen. He has lost most sensation in the area, and can only describe the
8 area as a piece of numb, lifeless rubber that doesn't feel like it is a part of his body. The
9 raised scarring and lack of sensation at the wound site results in a feeling that can only
10 be described as a rubbery and dead piece of flesh affixed to his body.

11 66. Since the incident, Mr. Pineda has suffered emotional harm, including but
12 not limited to, severe emotional distress, loss of sleep, loss of enjoyment of life, anxiety,
13 fear, and anger. Due to the incident, Mr. Pineda is now extremely fearful of police
14 officers and, upon seeing them, he often has uncontrollable flashbacks of the attack and
15 experiences the trauma all over again.

16 67. Mr. Pineda intends in the future to exercise his constitutional right to
17 freedom of speech and association by engaging in expressive activities in the City of Los
18 Angeles. Defendants' conduct described herein has created uncertainty with respect to
19 Mr. Pineda's exercise now and in the future of his constitutional rights and has chilled
20 his exercise of these rights.

21 68. Though Mr. Pineda attended two peaceful protests in the subsequent weeks,
22 on both occasions he felt extreme fear and re-traumatization upon seeing large units of
23 police, and on both occasions he left the protests when upon seeing such units approach.
24 Were it not for the fear and uncertainty that resulted from his shooting, Mr. Pineda
25 would have continued to attend protests to peacefully exercise his constitutional right to
26 freedom of speech and association.

27 69. Mr. Pineda was unjustifiably punished for exercising his First Amendment
28 rights and peacefully expressing his frustration and sadness over the police killings of

1 George Floyd and Breonna Taylor. Instead of protecting citizens, Defendants acted
2 recklessly when they targeted the unarmed Mr. Pineda and shot him with a high-speed
3 projectile without warning or justification.

4 **VI. FACTUAL ALLEGATIONS COMMON TO *MONELL***
5 **CAUSES OF ACTION**

6 70. On June 30, 2020, the Los Angeles City Council (“City Council”) approved
7 a motion directing the LAPD to prepare an After-Action Report reviewing the LAPD’s
8 actions during the May-June 2020 protests. The City Council requested that Gerald
9 Chaleff, the author of LAPD’s review of the 2007 May Day protests, lead the review.
10 The LAPD ultimately decided to conduct its own after-action review.

11 71. In July 2020, the Los Angeles Board of Police Commissioners asked the
12 National Police Foundation (“NPF”) to conduct an after-action review assessment, and
13 analysis of the LAPD’s actions during the May-June 2020 protests. The Los Angeles
14 Police Foundation funded the National Police Foundation’s after-action review.

15 72. Mr. Chaleff and his review team⁶ prepared “An Independent Examination
16 of the Los Angeles Police Department 2020 Protest Response,” (“Chaleff’s After-Action
17 Report”), which was transmitted to the City Council on March 10, 2021.

18 73. LAPD’s after-action report, “SAFE LA Civil Unrest 2020 After Action
19 Report,” (“LAPD Internal After-Action Report”) was released on April 9, 2021.

20 74. The National Police Foundation’s Report, “A Crisis of Trust: A National
21 Police Foundation Report to the Los Angeles Board of Police Commissioners on the Los
22 Angeles Police Department Response to First Amendment Assemblies and Protests
23 Occurring May 27 – June 7, 2020” (“NPF After-Action Report) was released on April 9,
24 2021.

25 **Chaleff After-Action Report**

26 75. The Chaleff After-Action Report found the LAPD’s response to the May-
27

28 ⁶ Mr. Chaleff led a review team consisting of other retired LAPD officers and a law
enforcement consultant.

1 June 2020 protests deficient in the following areas: (1) planning, (2) command and
2 control, (3) public order policing, (4) less lethal tools, (5) mass arrests, (6) preparedness
3 and training, and (7) wellness. The Report lists 67 findings across these six areas.

4 76. The “Planning Findings” include the following:

- 5 a. “There was a lack of a unified message from City leaders to de-
6 escalate the violence so that peaceful protestors could exercise their
7 First Amendment rights.”
8 b. “There was a lack of firm executive-level direction to the Department
9 command officers to prepare and plan for potential widespread civil
10 unrest and demonstrations which contributed to the problems cited
11 throughout this report.”

12 77. The “Public Order Policing Findings” include the following:

- 13 a. “There was a lack of training to properly prepare command officers
14 for managing large crowds with the possibility of civil unrest and
15 many command officers stated they did not feel confident in handling
16 these incidents.”

17 78. The “Less Lethal Tools Findings” include the following:

- 18 a. “The deployment of less lethal munitions was not always done at the
19 direction of a supervisor or officer. In some instances, officers were
20 directed to be in front of a skirmish line and left to deploy less lethal
21 tools, including the 40 mm, with no direction or coordination.”
22 b. “The Department’s Use of Force Tactics directive authorizing the use
23 of 40mm has no detailed guidance on use in public order policing
24 situations.”
25 c. “[T]he Review Team did not find the two hours of training to be
26 sufficient given the skill level needed to deploy the 40mm in a
27 chaotic public order policing environment.”
28 d. “Officers are required to be trained one time on the 40mm system.

1 Deploying the 40mm in public order policing situations requires
2 recurring certification and training.”

3 e. “The last training for the 40mm for officers, other than those going
4 through recruit training, was in 2018.”

5 79. The “Preparedness and Training Findings” include the following:

6 a. “Annual, hands on training on public order policing for command
7 staff diminished over time resulting in many command staff in 2020
8 not being prepared for the civil unrest.”

9 b. “[A]dditional training and mentoring in crowd control tactics and
10 specific incident command system positions, such as incident
11 commander, operations chief, logistics, etc. are needed and should be
12 conducted on an annual basis.”

13 c. “Training on the 40mm system use during crowd control situations
14 was insufficient.”

15 80. The Chaleff After-Action Report issued 22 recommendations, which
16 include:

17 a. “Undertake an extensive study of all less lethal munitions, including
18 the 40 mm round, to examine performance, consistent velocity,
19 potential for ricochets, influence of the plastic wrapping or banding
20 around the sponge projectile and other aspects of the round. Included
21 in that study should be any potential new technology for use in public
22 order policing operations.”

23 b. “Design and implement an inventory system to audit and track the
24 amount of less lethal munitions, including the 37mm and 40mm
25 rounds, expended during any public order policing incidents.”

26 c. “Update the use of force tactical directives to include more detailed
27 instruction regarding the use of less lethal tools in crowds and the
28 approval level required for the deployment of each the less lethal

1 tools.”

- 2 d. “Establish protocols that: (a) Only trained (certified) members of
3 Metropolitan Division or officers who receive consistent and periodic
4 instruction and certification in the 40mm system should be allowed to
5 deploy the 40mm during crowd control situations, (b) Retain the use
6 of the 40mm system for all other officers during patrol duties and
7 ensure annual retraining of weapon manipulations during shotgun
8 qualification, and (c) Mandate the use of body worn video (when
9 feasible) to record problem behavior of individuals in the crowd
10 when officers decide to use the target specific 40mm in a crowd
11 control situation.”

12 **NPF After-Action Report**

- 13 81. The NPF After-Action Report lists 22 findings, which include:
- 14 a. LAPD’s policies and practices “were inadequate to handle the
15 disparate groups, or to identify leaders amongst the protesters and
16 address the level of violence.”
- 17 b. “Some LAPD personnel had not been provided contemporary
18 training on crowd management, mobile field force, supervision, de-
19 escalation, or the use of less-lethal instruments prior to the First
20 Amendment assemblies and demonstrations from May 27 through
21 June 7, 2020. Many of the LAPD training bulletins, courses, and
22 directives related to crowd management and control were outdated.”
- 23 c. LAPD “do[es] not have one policy directing response specifically to
24 large scale, fluid, city-wide civil unrest that turns violent or contains
25 violence.”
- 26 d. Communication “between the Chief, his command staff, bureau
27 commanders and field supervisors, and line officers” was
28 inconsistent and “created significant challenges regarding: (a)

1 identifying a cogent operating philosophy; (b) determining operations
2 during individual shifts, including when shifts started and ended; and,
3 (c) establishing coordination and consistency between shifts.” This
4 “impacted every component of the LAPD response” to the protests.

- 5 82. The NPF’s recommendations include:
- 6 a. “LAPD should synthesize the relevant provisions spread throughout
7 the current Department and clearly establish guidelines for the
8 coordination, facilitation, and management of First Amendment
9 assemblies and protests.”
 - 10 b. “LAPD should review national and international best practices
11 regarding the impact of police actions on First Amendment assembly
12 and protest participants.”
 - 13 c. LAPD should “develop[] strategies, tactics, and Mobile Field Force
14 teams to more effectively respond to these types of First Amendment
15 assemblies and protests, which are becoming more frequent in the
16 City and nationwide.”
 - 17 d. “LAPD should consider developing an overarching ‘response to fluid
18 dynamic protests and civil unrest’ policy that provides for the
19 nuances of this type of event, incorporates critical thinking skills and
20 offers decision making models to guide at what points uses of force
21 and relevant tools are permitted to be used by LAPD officers.”

22 **LAPD Internal After-Action Report**

- 23 83. According to the LAPD, officers deployed 11,305 rounds of “less-lethal
24 munitions” during the May-June protests, comprised of:
- 25 a. 4,377 37mm projectile rounds
 - 26 b. 2,621 40mm projectile rounds
 - 27 c. 4,307 beanbag shotgun rounds
- 28 84. The LAPD’s Internal After-Action Report list recommendations in twenty-

1 six areas of improvement. Some of these recommendations highlighted the LAPD's
2 inadequate command and control training and deficiencies regarding communications
3 and unity of command.

4 85. One specific recommendation is: "The Department used a significant
5 amount of less-lethal munitions to protect the City and restore order. The Department
6 should continue to research and seek best practices related to the deployment of less-
7 lethal munitions. This should include an examination of the Department's current less-
8 lethal capabilities and new available technologies. A clear understanding regarding when
9 to deploy less-lethal and the level of approval necessary should be reiterated and
10 clarified to avoid confusion. When less-lethal is deployed, when available it should be
11 used in conjunction with BWV to capture the activity leading up to the decision to use
12 less-lethal. Officers trained in less-lethal should attend annual weapons manipulation
13 training."

14 86. The LAPD Internal After-Action Report does not address the thousands of
15 citizen complaints arising from these protests.

16 87. Despite all evidence to contrary, Chief Moore stated that the "vast majority
17 of [LAPD] personnel performed admirably" during the protests in his letter to the Police
18 Commission accompanying the LAPD Internal After-Action Report.

19 **SAFE LA Task Force**

20 88. The SAFE LA Task Force was established to handle personnel complaints
21 arising out of the May-June 2020 protests.

22 89. On April 9, 2021, the Board of Police Commissioners received the "SAFE
23 LA Task Force Update Report" from Chief Moore.

24 90. According to the Report, the Office of the Inspector General received 2,850
25 personnel complaints related to the protests. The SAFE LA Task Force initiated 210
26 complaint investigations, of which 73 were related to excessive use of force. As of April
27 9, 2021, 33 of these investigations were reviewed and no allegations for unauthorized
28 force were sustained.

1 **LAPD’s History of Lawsuits Resulting from Excessive Force at Protests**

2 91. In the years preceding the May-June 2020 protests, the City has settled the
3 following class action lawsuits alleging that LAPD officers used unreasonable and
4 excessive force against peaceful protestors in violation of their First and Fourth
5 Amendment rights:

- 6 a. *National Lawyers Guild, et al. v. City of Los Angeles, et al.*, No. CV
7 01- 6877 FMC(CWx): class action arising out of LAPD’s use of
8 unlawful force and disruption of lawful assemblies during the 2000
9 Democratic National Convention. The \$5 million settlement
10 addressed the use of “less-lethal” weapons and chemical munitions to
11 disperse peaceful protestors.
- 12 b. *Multi-Ethnic Worker Organizing Network v. City of Los Angeles*, No.
13 2:07-cv-03072-AHM(FFM) (C.D. Cal.): class action for LAPD’s
14 excessive use of force and related conduct at 2007 May Day protests.
15 The case settled for \$12.8 million and resulted in a Structural Relief
16 Order which included that less lethal weapons may not be used on
17 lawfully dispersing or retreating persons or crowds, and when
18 feasible, notice should be given before deploying less lethal weapons
19 in a crowd control incident or for dispersal. The Order also stated
20 that unlawful assembly orders must use an amplified loudspeaker,
21 and if there is no serious violence occurring, the order shall be made
22 repeatedly over a period of time, including an “objectively
23 reasonable” period of time to disperse and identification of “a clear
24 and safe route” to follow to disperse.
- 25 c. *Aichele v. City of Los Angeles*, No. CV 12-10863-DMG (FFMx)
26 (C.D. Cal.): class action for injunctive relief and damages for arrests
27 and related actions regarding the shutdown of Occupy LA’s use of
28 the City Hall lawn in 2011. The \$2.45 million settlement included

1 that LAPD officers should not “kettle” protestors attempting to
2 comply with a dispersal order.

3 d. *Chua v. City of Los Angeles*, No. 2:16-cv-00237-JAK(GJSx) (C.D.
4 Cal.): class action for LAPD violence during the 2014 Ferguson
5 protests, which settled for \$750,000. The settlement stated that
6 demonstrators shall not be “kettled” after being given a dispersal
7 order.

8 92. Chief Moore, as well as members of his command staff, officers to whom
9 he has delegated his responsibility to enact and implement lawful policies on use of
10 force (including the 40mm launcher), public order policing, dispersal orders, and
11 declaration of an unlawful assembly, are aware of the ongoing unlawful policies,
12 practices, and customs of the City and the LAPD which resulted in the above
13 settlements. Despite the above settlements, these unlawful policies, practices, and
14 customs continue under the City and Chief Moore’s command.

15 **FIRST CLAIM FOR RELIEF**

16 **Excessive Force (4th and 14th Amendments; 42 U.S.C. § 1983)**

17 **(Plaintiff Against All Doe Defendants)**

18 93. Plaintiff re-alleges and incorporates by reference all preceding paragraphs
19 as though fully set forth herein.

20 94. All of the acts of Defendants and the persons involved were done under
21 color of state law.

22 95. The acts of the Officer Defendants deprived Mr. Pineda of rights,
23 privileges, and immunities secured by the Constitution and laws of the United States,
24 including but not limited to his rights under the Fourth Amendment of the United States
25 Constitution, incorporated and made applicable to the states by the Fourteenth
26 Amendment, by, among other things, subjecting him to unreasonable and excessive
27 force. Specifically, the Officer Defendants and the involved officers unreasonably
28 attacked and shot Christian Pineda with a dangerous kinetic projectile without

1 justification, resulting in grievous bodily injury to Mr. Pineda's person.

2 96. Each of the Officer Defendants was both personally involved and an
3 integral participant in the violation of Mr. Pineda's constitutional rights because each
4 officer was aware of the unlawful actions of the other Officers, did not object to these
5 violations of Mr. Pineda's rights, and participated in the violations by performing police
6 functions, including meaningful participation in the needless and unnecessary operation
7 to escalate the encounter with Mr. Pineda and use unjustified less-than-lethal force.

8 97. As a direct and proximate result of the aforementioned acts or omissions of
9 Defendants, Mr. Pineda sustained and incurred damages including pain, suffering, and
10 emotional injury.

11 98. The conduct of Defendants Does 1-10 was willful, wanton, malicious, and
12 done with an evil motive and intent and a reckless disregard for the rights of the Plaintiff
13 and therefore warrants the imposition of exemplary and punitive damages against each
14 individual Defendant (but not the entity Defendant) in an amount adequate to punish the
15 wrongdoers and deter future misconduct.

16 **SECOND CLAIM FOR RELIEF**

17 **Failure to Intervene (4th and 14th Amendments; 42 U.S.C. § 1983)**

18 **(Plaintiff Against All Doe Defendants)**

19 99. Plaintiff re-alleges and incorporates by reference all preceding paragraphs
20 as though fully set forth herein.

21 100. All of the acts of Defendants and the persons involved were done under
22 color of state law.

23 101. The acts of the Officer Defendants deprived Mr. Pineda of rights,
24 privileges, and immunities secured by the Constitution and laws of the United States,
25 including but not limited to his rights under the Fourth Amendment of the United States
26 Constitution, incorporated and made applicable to the states by the Fourteenth
27 Amendment, by, among other things, failing to intervene in the unlawful actions of other
28 officers, including pointing their weapons at Mr. Pineda and shooting him with a

1 dangerous kinetic projectile without justification.

2 102. Each of the Officer Defendants was both personally involved and an
3 integral participant in the violation of Mr. Pineda's constitutional rights because each
4 officer was aware of the unlawful actions of the other Officers, did not object to these
5 violations of Mr. Pineda's rights, and participated in the violations by performing police
6 functions, including meaningful participation in the needless and unnecessary operation
7 to escalate the encounter with Mr. Pineda and use unjustified less-than-lethal force.

8 103. As a direct and proximate result of the aforementioned acts or omissions of
9 Defendants, Mr. Pineda sustained and incurred damages including pain, suffering, and
10 emotional injury.

11 104. The conduct of Defendants Does 1-8 was willful, wanton, malicious, and
12 done with an evil motive and intent and a reckless disregard for the rights of the Plaintiff
13 and therefore warrants the imposition of exemplary and punitive damages against each
14 individual Defendant (but not the entity Defendant) in an amount adequate to punish the
15 wrongdoers and deter future misconduct.

16 **THIRD CLAIM FOR RELIEF**

17 **Freedom of Speech (1st and 14th Amendments; 42 U.S.C. § 1983)**

18 **(Plaintiff Against All Doe Defendants)**

19 105. Plaintiff re-alleges and incorporates by reference all preceding paragraphs
20 as though fully set forth herein.

21 106. All of the acts of Defendants and the persons involved were done under
22 color of state law.

23 107. The acts of the Officer Defendants deprived Mr. Pineda of rights,
24 privileges, and immunities secured by the Constitution and laws of the United States,
25 including but not limited to his rights under the First Amendment of the United States
26 Constitution, incorporated and made applicable to the states by the Fourteenth
27 Amendment, by, among other things, retaliating against Mr. Pineda for engaging in
28 constitutionally protected activity.

1 108. Mr. Pineda engaged in constitutionally protected acts of observing,
2 recording, and participating in an event of public interest, specifically a public
3 demonstration, and in expressing his political views.

4 109. Defendants targeted and/or retaliated against Mr. Pineda for engaging in
5 constitutionally protected activity and for the content and viewpoint of his expressions.

6 110. Defendants' acts would chill a reasonable person from continuing to engage
7 in a constitutionally protected activity. These acts did, in fact, chill Mr. Pineda from
8 continuing to observe, record, and participate in the May 29 protest and to participate in
9 other peaceful protests.

10 111. As a direct and proximate result of the aforementioned acts or omissions of
11 Defendants, Mr. Pineda sustained and incurred damages including pain, suffering, and
12 emotional injury.

13 112. The conduct of Defendants Does 1-8 was willful, wanton, malicious, and
14 done with an evil motive and intent and a reckless disregard for the rights of the Plaintiff
15 and therefore warrants the imposition of exemplary and punitive damages against each
16 individual Defendant (but not the entity Defendant) in an amount adequate to punish the
17 wrongdoers and deter future misconduct.

18 **FOURTH CLAIM FOR RELIEF**

19 **Municipal Liability—Unconstitutional Policy, Practice, Custom (42 U.S.C. § 1983)** 20 **(Plaintiff Against Defendants City, Moore, and Does 9 and 10)**

21 113. Plaintiff re-alleges and incorporates by reference all preceding paragraphs
22 as though fully set forth herein.

23 114. As described above, the acts of Defendants Does 1-8 deprived Mr. Pineda
24 of his rights under the United States Constitution.

25 115. Defendants Does 1-8 acted under the color of law.

26 116. The individual Defendants acted pursuant to expressly adopted official
27 policies or longstanding practices or customs of Defendants City, Chief Moore, and
28 Does 9 and 10.

1 117. Based on the aforementioned facts, Defendants City, Chief Moore, and
2 Does 9 and 10 as policymakers and supervisors maintained the following
3 unconstitutional customs, practices, and policies:

- 4 a. Using excessive force, including excessive “less lethal” force in
5 crowd control situations including but not limited to engaging with
6 peacefully protesting individuals;
- 7 b. Providing inadequate training regarding the use of “less lethal” force
8 in crowd control situations, including during encounters with
9 individuals who are peacefully protesting;
- 10 c. Employing and retaining as Officers and other personnel, including
11 Defendants Does 1-8, who Defendants City, Chief Moore, and Does
12 9 and 10 at all times material herein, knew or reasonably should have
13 known had dangerous propensities for abusing their authority and for
14 mistreating citizens by failing to follow written LAPD policies and
15 for using excessive force;
- 16 d. Inadequately supervising, training, controlling, assigning, and
17 disciplining LAPD officers including Defendants Does 1-8, who
18 Defendants City, Chief Moore, and Does 9 and 10 each knew, or in
19 the exercise of reasonable care, should have known had the
20 aforementioned propensities and character traits;
- 21 e. Maintaining grossly inadequate procedures for reporting, supervising,
22 investigating, reviewing, and disciplining and controlling the
23 intentional misconduct by LAPD Officers including Defendants Does
24 1-8;
- 25 f. Failing to adequately discipline LAPD Officers, including
26 Defendants Does 1-8, for the above-referenced categories of
27 misconduct, including “slaps on the wrist,” discipline that is so slight
28 as to be out of proportion to the magnitude of the misconduct, and

1 other inadequate discipline that is tantamount to encouraging
2 misconduct;

3 g. Announcing that unjustified uses of force are “within policy,”
4 including uses of force later determined in court to be
5 unconstitutional;

6 h. Refusing to discipline, terminate, or retrain the Officers involved,
7 even where uses of force were determined in court to be
8 unconstitutional and where Officers commit repeated constitutional
9 violations;

10 i. Encouraging, accommodating, or facilitating a “blue code of silence,”
11 “blue shield,” “blue wall,” “blue curtain,” “blue veil,” or simple
12 “code of silence,” pursuant to which Officers do not report other
13 Officers’ errors, misconduct or crimes. Pursuant to this code of
14 silence, if questioned about an incident of misconduct involving
15 another deputy, while following the code, the deputy being
16 questioned will claim ignorance of the other Officers’ wrongdoing;

17 j. Maintaining a policy of inaction and an attitude of indifference
18 towards soaring numbers of police uses of force, including by failing
19 to discipline, retrain, investigate, terminate, and recommend Officers
20 for criminal prosecution who participate in using excessive force
21 against unarmed people;

22 k. Covering up police misconduct and refusing to release information
23 about police misconduct to the public even when required to do so by
24 law. These customs and practices by Defendants City, Chief Moore,
25 and Does 9 and 10 were condoned by said Defendants in deliberate
26 indifference to the safety and rights of its civilians, including
27 Plaintiff.

28 l. Failing to follow or enforce compliance by Officers with the LAPD’s

1 own policies.

2 m. Failing to follow or enforce compliance by Officers with national law
3 enforcement training and standards.

4 118. Defendants City, Chief Moore, and Does 9 and 10 together with various
5 other officials, whether named or unnamed, had either actual or constructive knowledge
6 of the different policies, practices, and customs alleged in the paragraphs above. Despite
7 having knowledge as stated above, these Defendants condoned, tolerated and through
8 actions and inactions ratified such policies. Said Defendants also acted with deliberate
9 indifference to both the foreseeable effects and consequences of these policies and to the
10 constitutional rights of Plaintiff, and other individuals similarly situated.

11 119. By perpetuating, sanctioning, tolerating, and ratifying the outrageous
12 conduct and other wrongful acts, Defendants City, Chief Moore, and Does 9 and 10
13 acted with an intentional, reckless, callous disregard for the well-being of Mr. Pineda
14 and his constitutional as well as human rights. Furthermore, the policies, practices, and
15 customs implemented, maintained, and still tolerated by Defendants City, Chief Moore,
16 and Does 6-10 were affirmatively linked to and were a significantly influential and
17 moving force behind the injuries of Mr. Pineda.

18 120. As a direct and proximate result of the aforementioned acts or omissions of
19 Defendants, Mr. Pineda sustained and incurred damages including pain, suffering, and
20 emotional injury.

21 121. The conduct of Defendants City, Moore, and Does 6-10 was willful,
22 wanton, malicious, and done with an evil motive and intent and a reckless disregard for
23 the rights of the Plaintiff and therefore warrants the imposition of exemplary and
24 punitive damages against each individual Defendant (but not the entity Defendant) in an
25 amount adequate to punish the wrongdoers and deter future misconduct.

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1 **FIFTH CLAIM FOR RELIEF**

2 **Municipal Liability—Ratification (42 U.S.C. § 1983)**

3 **(Plaintiff Against Defendants City, Moore, and Does 9 and 10)**

4 122. Plaintiff re-alleges and incorporates by reference all preceding paragraphs
5 as though fully set forth herein.

6 123. As described above, the acts of Defendants Does 1-8 deprived Mr. Pineda
7 of his rights under the United States Constitution.

8 124. Upon information and belief, the City, Chief of Police Moore, and Does 9
9 and 10, as final policymakers, acting under color of law, who had final policymaking
10 authority concerning the acts of Defendants Does 1-8 ratified the individual Defendants’
11 acts and the bases for them. Upon information and belief, the final policymakers knew of
12 and specifically approved of the individual Defendants’ acts and found them to be
13 justified and within policy.

14 125. Upon information and belief, the City, Chief of Police Moore, and Does 9
15 and 10 as final policymakers, acting under color of law, have a history of ratifying
16 unreasonable uses of force, including unreasonable less than lethal force.

17 126. As a direct and proximate result of the aforementioned acts or omissions of
18 Defendants, Mr. Pineda sustained and incurred damages including pain, suffering, and
19 emotional injury.

20 127. The conduct of Defendants City, Moore, and Does 9 and 10 was willful,
21 wanton, malicious, and done with an evil motive and intent and a reckless disregard for
22 the rights of the Plaintiff and therefore warrants the imposition of exemplary and
23 punitive damages against each individual Defendant (but not the entity Defendant) in an
24 amount adequate to punish the wrongdoers and deter future misconduct.

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1 **SIXTH CLAIM FOR RELIEF**

2 **Municipal Liability—Failure to Train, Supervise, Discipline, or Correct**
3 **(42 U.S.C. § 1983)**

4 **(Plaintiff Against Defendants City, Moore, and Does 9 and 10)**

5 128. Plaintiff re-alleges and incorporates by reference all preceding paragraphs
6 as though fully set forth herein.

7 129. As described above, the acts of Defendants Does 1-8 deprived Mr. Pineda
8 of his rights under the United States Constitution.

9 130. Defendants Does 1-8 acted under the color of law.

10 131. The individual Defendants acted pursuant to expressly adopted official
11 policies or longstanding practices or customs of Defendants City, Chief Moore, and
12 Does 9 and 10.

13 132. On information and belief, Defendants City, Chief Moore, and Does 9 and
14 10, acting under color of law, failed to properly and adequately train Does 1-8, including
15 but not limited to, with regard to the use of physical force and less than lethal force.

16 133. In addition, the training policies of the City of Los Angeles were not
17 adequate to train its officers to handle the usual and recurring situations with which they
18 must deal, including but not limited to encounters with individuals who are peacefully
19 exercising their First Amendment rights. The City of Los Angeles failed to adequately
20 train its officers on public order policing, using the 40mm in crowd control situations,
21 and isolating and removing small groups of violent or criminal individuals within a
22 larger group of peaceful protestors, and failed to adequately supervise, direct, and/or
23 coordinate its officers' deployment of the 40mm munitions during the protests.

24 134. The City of Los Angeles knew that its failure to adequately train its officers
25 on public order policing, using the 40mm in crowd control situations, and isolating and
26 removing small groups of violent or criminal individuals within a larger group of
27 peaceful protestors made it highly predictable that its officers would engage in conduct
28 that would deprive persons such as Mr. Pineda of their rights. The City of Los Angeles

1 knew that its failure to adequately supervise, direct, and/or coordinate its officers'
2 deployment of 40mm munitions made it highly predictable that its officers would engage
3 in conduct that would deprive persons such as Mr. Pineda of their rights. The City of Los
4 Angeles was thus deliberately indifferent to the obvious consequences of its failure to
5 train its officers adequately.

6 135. Properly trained officers are trained to facilitate peaceful protestors'
7 exercise of their First Amendment rights.

8 136. Properly trained officers are trained to use less than lethal force only in
9 response to someone violently resisting arrest or who poses an immediate threat of
10 violence or physical harm. Defendant Does 1-8 used such force against Mr. Pineda even
11 though he was not violently resisting arrest and posed no immediate threat of violence or
12 physical harm to the Officers or anyone else.

13 137. Defendants City, Chief Moore, and Does 9 and 10 furthermore failed to
14 enforce compliance by LAPD Officers with national law enforcement training and
15 standards.

16 138. Defendants City, Chief Moore, and Does 9 and 10 were deliberately
17 indifferent to the obvious consequences of its failure to train their Officers adequately.
18 They knew that the failure to adequately train their Officers made it highly predictable
19 that their Officers would engage in conduct that would deprive persons of their
20 constitutional rights.

21 139. The failure of Defendants' City, Chief Moore, and Does 9 and 10 to provide
22 adequate training regarding, *inter alia*, the use of 40mm in crowd control situations,
23 resulted in the wrongful uses of force against Mr. Pineda. The failure of Defendants
24 City, Chief Moore, and Does 9 and 10 to provide adequate training caused the
25 deprivation of Mr. Pineda's rights by Defendants Does 1-8; that is, Defendants' failure
26 to train is so closely related to the deprivation of Mr. Pineda's rights as to be moving
27 force that caused the ultimate injury.

28 140. As a direct and proximate result of the aforementioned acts or omissions of

1 Defendants, Mr. Pineda sustained and incurred damages including pain, suffering, and
2 emotional injury.

3 141. The conduct of Defendants City, Moore, and Does 9 and 10 was willful,
4 wanton, malicious, and done with an evil motive and intent and a reckless disregard for
5 the rights of Mr. Pineda and therefore warrants the imposition of exemplary and punitive
6 damages against each individual Defendant (but not the entity Defendant) in an amount
7 adequate to punish the wrongdoers and deter future misconduct.

8 **SEVENTH CLAIM FOR RELIEF**

9 **Declaratory Relief (28 U.S.C § 2201)**

10 **(Plaintiff Against All Defendants)**

11 142. Plaintiff re-alleges and incorporates by reference all preceding paragraphs
12 as though fully set forth herein.

13 143. There is an actual controversy between Plaintiff and Defendants concerning
14 their respective rights and duties in that Plaintiff contends that the acts of Defendants, as
15 described herein, are in violation of federal law, and Defendants contend in all aspects to
16 the contrary.

17 144. Plaintiff is entitled to a legal declaration of his rights and Defendants'
18 obligations under the applicable laws as alleged in this Complaint.

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 defendants, Defendant Moore and Defendants Does 1-10 in an amount appropriate to
25 punish Defendant(s) and deter others from engaging in similar misconduct;

26 3. For prejudgment interest;

27 4. For costs of suit and reasonable attorneys' fees and costs as authorized by
28 statute or law;

1 5. For restitution as the Court deems just and proper;

2 6. For a declaratory judgment that Defendants violated Plaintiff's rights under
3 the Fourth, Fourteenth, and First Amendments to the United States Constitution; and

4 7. For such other relief, including injunctive relief, as the Court may deem
5 proper.
6

7 **DEMAND FOR JURY TRIAL**

8 Plaintiff hereby demands trial by jury on all issues so triable.
9

10 Dated: August 11, 2021

Respectfully Submitted,

11 HADSELL STORMER RENICK & DAI LLP
12

13 By: /s/ David Clay Washington

Dan Stormer

Shaleen Shanbhag

David Clay Washington

Attorneys for Plaintiff

CHRISTIAN PINEDA
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