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13 Attorneys for Plaintiff,
14 KARL BRACY

15 **UNITED STATES DISTRICT COURT**
16 **NORTHERN DISTRICT OF CALIFORNIA**

17 KARL BRACY, an individual)

18 Plaintiff,)

19 vs.)

20 OFFICER JOSEPH JORDAN, individually in)
21 his capacity as Police Officer for the City of)
22 San Rafael ; CORPORAL DOOLEY,)
23 individually in his capacity as Police Officer)
24 for the City of San Rafael; OFFICER)
25 BROOKS, individually in his capacity as)
26 Police Officer for the City of San Rafael;)
27 CORPORAL FULLER, individually in his)
28 capacity as Police Officer for the City of San)
Rafael; and DOES 1-50, inclusive,)
individually, jointly and severally)

Defendants.)

Case No.:

COMPLAINT FOR DAMAGES
(42 U.S.C §§ 1983; AND PENDENT TORT
CLAIMS)

JURY TRIAL DEMANDED

INTRODUCTION

1. This is an action for damages brought pursuant to Title 42 U.S.C. §§ 1983 and 1988, and the Fourth and Fourteenth Amendment to the United States Constitution, under California Civil Code Section § 52.1, and under the common law of California. This action is

1 against CITY OF SAN RAFAEL OFFICERS JORDAN, DOOLEY, BROOKS, FULLER and
2 DOES 1-50.

3 **JURISDICTION AND VENUE**

4 2. This action arises under Title 42 of the United States Code, § 1983. Title 28 of the
5 United States Code, §§ 1331 and 1343 confers jurisdiction upon this Court. The unlawful acts
6 and practices alleged herein occurred in California, which is within the judicial district of this
7 Court. This Court also has supplemental jurisdiction over Plaintiff's state law causes of action
8 under 28 U.S.C. § 1367. Supplemental Jurisdiction of this court is invoked pursuant to 28
9 U.S.C. § 1367 over the State law claims which are so related to federal claims in the action that
10 they form part of the same case or controversy under Article III of the Constitution of the United
11 States of America. Venue is proper in this Court under 28 U.S.C. § 1391(b) because Defendants
12 are believed to reside in this district and all incidents, events, and occurrences giving rise to this
13 action occurred in this district.
14
15

16 **PARTIES**

17 3. Plaintiff KARL BRACY (hereinafter "PLAINTIFF" or "BRACY") has been and
18 is a resident of California and a United States Citizen.

19 4. Defendant JOSEPH JORDAN (hereinafter "JORDAN") was a police officer for
20 the CITY OF SAN RAFAEL and is sued individually.

21 5. Defendant DOOLEY (hereinafter "DOOLEY") was a police officer for the CITY
22 OF SAN RAFAEL and is sued individually.

23 6. Defendant BROOKS (hereinafter "BROOKS") was a police officer for the CITY
24 OF SAN RAFAEL and is sued individually.

25 7. Defendant FULLER (hereinafter "FULLER") was a police officer for the CITY
26 OF SAN RAFAEL and is sued individually.
27
28

1 8. Plaintiff is ignorant of the true names and capacities of Defendants DOES 1
2 through 50 inclusive, and therefore sues these defendants by such fictitious names. Plaintiff is
3 informed and believes and thereon alleges that each defendant so named is responsible in some
4 manner for the injuries and damages sustained by Plaintiff as set forth herein. Plaintiff will
5 amend this Complaint to state the names and capacities of DOES 1-50, inclusive, when they
6 have been ascertained.
7

8 **ADMINISTRATIVE PREREQUISITES**

9 9. Plaintiff is required to comply with an administrative tort claim requirement under
10 California Government Code § 910, *et seq.* Plaintiff timely and properly submitted a claim under
11 the CA Tort Claims Act on September 11, 2020 and this action is timely filed within all
12 applicable statutes of limitation.
13

14 **FACTUAL ALLEGATIONS**

15 10. The incident took place on August 7, 2020. The time of the incident was
16 approximately 6:25 P.M. The location of the incident was on Highway 101 southbound after the
17 Second Street on-ramp, in San Rafael, CA 94901.
18

19 11. Mr. Karl Bracy is a 55-year-old slender African American male and a 21-year
20 employee of the United States Postal Service in San Rafael. Mr. Bracy started to drive home
21 after his 10 hr shift. He stopped at a 7-Eleven convenience store to purchase water. Upon leaving
22 the store, Mr. Bracy saw multiple police officers in the parking lot next to the 7-Eleven who
23 watched him get into his car. Mr. Bracy then resumed driving home. San Rafael Police officer
24 Joseph Jordan followed him for over five minutes. Jordan pulled him over and multiple other
25 officers immediately joined the stop. At no point did the officers attempt to approach the car.
26 Instead, Officer Jordan and four other officers pointed their guns at Bracy. They shouted “Driver,
27 stick your hands out the window.” Mr. Bracy who was extremely fearful by the officers’ actions
28 fully complied with every instruction given by the officers. Bracy also told the officers that he

1 is a postman and that he was just leaving work. Bracy was dressed in his postal carrier uniform.
2 The Officers ignored his statements and shouted at Bracy to walk backwards towards them. The
3 officers then detained him for no reason. They handcuffed him and put him in a squad car
4 without explanation. The officers also searched Mr. Bracy's car without permission. Upon
5 following and stopping Mr. Bracy, the officers did not have detailed information about the car
6 thieves, such as race, age, physical description, or clothing. Nor did the officers make any effort
7 to get this information before stopping Mr. Bracy. "Driving While Black" seemed to be the
8 officers' only basis for stopping Mr. Bracy.

9
10 12. The officers' detention of Mr. Bracy was unreasonable because the officers were
11 responding to a report of a stolen vehicle and the vehicle reported stolen was a white 2011 Chevy
12 Impala. Karl Bracy drives a 2007 white Chevy Malibu with clearly displayed "Malibu" lettering
13 on the back of the car. Officer Jordan had sufficient time to check the car license registration and
14 observe the clearly displayed "Malibu" lettering on the back of the car that showed Mr. Bracy's
15 vehicle did not match the description of the vehicle reported stolen. The report indicated that
16 three people were in the stolen vehicle; the officers observed Mr. Bracy get in his car after
17 leaving the 7-Eleven convenience store and thus knew that Mr. Bracy was by himself. Moreover,
18 as they were in the process of detaining Mr. Bracy at gunpoint, at least one officer suggested that
19 Mr. Bracy's vehicle did not match the description of the stolen vehicle.

20
21 13. As a result of this incident, Mr. Bracy suffers from anxiety and trauma. He had to
22 take a leave of absence from his employment because he is unable to work due to the significant
23 psychological injuries he suffered in this incident. His primary care physician has referred Mr.
24 Bracy to a psychiatrist.

25 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

26 **FIRST CAUSE OF ACTION**
27 **(Violation of the Fourth and Fourteenth Amendments of the United States Constitution-**
28 **Excessive Force and due process)**
(42 U.S.C. § 1983)
(Plaintiff against Defendants JORDAN, DOOLEY, BROOKS, FULLER and DOES 1-50)

1 14. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 13 of this
2 Complaint.

3 15. Defendants' above-described conduct constituted violations of BRACY'S rights
4 as provided for under the Fourth and Fourteenth Amendments to the United States Constitution.
5 These rights include but are not limited to the right to be free from excessive force and/or the
6 arbitrary and/or unreasonable use of force against him without due process. Defendant officers
7 and officers knew, or should have known, how to use proper force. The state of California
8 requires officers and officers to learn about excessive force. POST Learning Domain 20 states
9 "in all cases the use of force must be reasonable compared to the threat."
10

11 16. Defendant officers used excessive force on BRACY while arresting him.
12 OFFICERS did not have reasonable suspicion that BRACY committed a crime. BRACY
13 merely drove his personal vehicle. However, in response, Defendant officers detained BRACY.
14 Defendant officers' actions were unreasonable.
15

16 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

17
18 **SECOND CAUSE OF ACTION**
19 **(Violation of Bane Act CALIFORNIA CIVIL CODE §52.1)**
20 **(Plaintiff against Defendants JORDAN, DOOLEY, BROOKS, FULLER and DOES 1-50)**

21 17. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 16 of this
22 Complaint.

23 18. Civil Code Section 52.1 authorizes suit against anyone who by threats,
24 intimidation, or coercion interferes with the exercise or enjoyment of rights secured by the state
25 or federal Constitutions or laws without regard to whether the victim is a member of a protected
26 class. Civil Code section 52(a) provides for damages up to three times actual damages but a
27 minimum of \$4,000 for each violation.
28

1 19. Here, JORDAN threatened plaintiff’s right to be free and secure from
2 unreasonable searches and seizures by physically surrounding Plaintiff as soon as they
3 contacted him. JORDAN, DOOLEY, BROOKS, FULLER and DOES 1-50 physically
4 intimidated BRACY by shouting “Driver, stick your hands out the window.” OFFICERS then
5 detained BRACY, which interfered with plaintiff’s rights to be free and secure from
6 unreasonable searches and seizures.
7

8 20. As a result, JORDAN, DOOLEY, BROOKS, FULLER and DOES 1-50 are liable
9 for BANE ACT violations.

10 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

11 **THIRD CAUSE OF ACTION**

12 **(Negligence)**

13 **(Plaintiff against Defendants JORDAN, DOOLEY, BROOKS, FULLER and DOES 1-50)**

14 21. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 20 of this
15 Complaint.

16 22. An individual is liable for injuries caused by failure to exercise reasonable care in
17 the circumstances. A cause of action for negligence arises when there is a legal duty to use due
18 care. There is a breach of the legal duty and the breach is the proximate or legal cause of the
19 resulting injury.

20 23. Plaintiff did not break any laws. Nonetheless, JORDAN pursued Plaintiff.
21 JORDAN, DOOLEY, BROOKS, FULLER and DOES 1-50 detained Plaintiff without the use
22 of due care. JORDAN, DOOLEY, BROOKS, FULLER and DOES 1-50 had a duty as a police
23 officer to use reasonable care. JORDAN, DOOLEY, BROOKS, FULLER and DOES 1-50
24 breached that duty by detaining BRACY without due cause. BRACY was injured as a
25 proximate and direct cause of the Defendants’ negligent conduct.
26

27 24. As a result, Defendants are liable for negligence.
28

1 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

2 **FOURTH CAUSE OF ACTION**

3 **(Assault/Battery)**

4 **(Plaintiff against Defendants JORDAN, DOOLEY, BROOKS, FULLER and DOES 1-50)**

5 25. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 24 of this
6 Complaint.

7 26. Defendants acted with intent to cause harmful or offensive contact or threatened
8 to touch plaintiff in a harmful or offensive manner. The plaintiff reasonably believed he was
9 about to be touched in a harmful or offensive manner. Moreover, it reasonably appeared to
10 plaintiff that defendants were about to carry out the threat. Plaintiff did not consent to
11 defendants' harmful contact. Battery occurred when defendants actually made contact with and
12 harmed the plaintiff. Defendants' conduct was a substantial factor in causing plaintiff's harm.

13 27. Defendant officers engaged in acts of unwanted touching without BRACY'S
14 consent, which ultimately led to his injuries. Defendants' actions were excessive and
15 unreasonable.
16

17 28. As a result, defendants are liable for assault and battery violations.

18 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

19 **FIFTH CAUSE OF ACTION**

20 **(Intentional Infliction of Emotional Distress)**

21 **(Plaintiff against Defendants JORDAN, DOOLEY, BROOKS, FULLER and DOES 1-50)**

22 29. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 28 of this
23 Complaint.

24 30. Defendants' conduct constituted reckless disregard of the probability of causing
25 emotional distress. Plaintiff suffered severe or extreme emotional distress. Defendants'
26 conduct was the actual and proximate cause of the emotional distress suffered by plaintiff. A
27 defendant's conduct is 'outrageous' when it is so extreme as to exceed all bounds of that usually
28 tolerated in a civilized community.

31. In engaging in the above-described conduct, BRACY suffered severe or extreme emotional distress. Defendants' conduct was the actual and proximate cause of the emotional distress suffered by plaintiff.

32. As a result, defendants are liable for intentional infliction of emotional distress violations.

WHEREFORE, Plaintiff prays for relief as hereinafter set forth

JURY DEMAND

Plaintiff hereby demands a jury trial in this action.

PRAYER

WHEREFORE, Plaintiff prays for relief, as follows:

1. For general damages according to proof;
2. For special damages, including but not limited to, past, present and/or future wage loss, income and support, medical expenses, and other special damages in a sum to be determined according to proof;
3. For punitive damages and exemplary damages in amounts to be determined according to proof as to defendants JORDAN, DOOLEY, BROOKS, FULLER, and DOES 1 through 50 and/or each of them;
4. Any and all permissible statutory damages;
5. For reasonable attorney's fees pursuant to 42 U.S.C. §1988;
6. For cost of suit herein incurred; and

7. For such other and further relief as the Court deems just and proper.

Dated: October 28, 2020

LAW OFFICES OF JOHN L. BURRIS

/s/ John L. Burris _____

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KARL BRACY