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14 **UNITED STATES DISTRICT COURT**
15 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

16 R.P., a minor, by and through his guardian)
17 ad litem THIDA PERNIA,)
18)
19 Plaintiff,)
20 v.)
21)
22 CITY AND COUNTY OF SAN)
23 FRANCISCO, a municipal corporation; and)
24 DOES 1-50, inclusive.)
25 Defendants.)

Case No.:
COMPLAINT FOR DAMAGES
(42 U.S.C. § 1983)
JURY TRIAL DEMANDED

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INTRODUCTION

1. At approximately 8 p.m. on July 8, 2023, Plaintiff, R.P., a minor who was 15 years old at the time of the incident, was on his way home from a birthday party in San Francisco. Plaintiff decided to stop by the famous and beloved “Dolores Hill Bomb”, which he had heard so much about growing up in the Bay Area. Plaintiff had no way to know that this simple decision, one that involved no criminal activity and simply watching people skate, would lead to him being detained for seven (7) hours on a cold San Francisco street—where the temperatures were in the low 50 degrees and a serious wind chill factor—being denied the opportunity to use the bathroom, contact his parents, have water or food, or any shelter from the cold temperatures. The officers even removed R.P.’s beanie as he stood outside for hours.

2. When Plaintiff arrived at Dolores Park to view the event, he saw that it was already over. As he left to continue his journey home, he was instructed by San Francisco Police Department (“SFPD”) officers to take a specific route to leave the area. Plaintiff did not realize that this was actually a trap set by the officers. As he attempted to comply with the officer’s orders on how to leave the area, Plaintiff and everyone else on the street were subjected to the controversial police tactic of kettling—the mass, indiscriminate arrests of a large group, often without any individualized justification for the arrests.

3. Plaintiff was then forced to remain in the street, surrounded by police officers, until approximately 2 a.m. on July 9, 2023. During this seven-hour detention in the street, the yet-to-be-identified Defendant SFPD Officers applied excessively tight zip tie handcuffs on Plaintiff and ignored his pleas to loosen them. They also refused his requests to be permitted to contact his parents so that they would know where he was.

1 misconduct, including the negligent, careless, deliberately indifferent, intentional, willful
2 misconduct in creating and otherwise causing the incidents, conditions, and circumstances
3 hereinafter set forth, or by reason of direct or imputed negligence or vicarious fault or breach of
4 duty arising out of the matters herein alleged. Plaintiff will seek to amend this Complaint to set
5 forth said true names and identities of DOES 1-50, inclusive, when they have been ascertained.

6 9. In doing the acts alleged herein, Defendants DOES 1-50, and each of them, acted
7 within the course and scope of their employment for Defendant CCSF.

8 10. Due to the acts and/or omissions alleged herein, Defendants DOES 1-50, and
9 each of them, acted under color of authority and/or under color of law.

10 11. In engaging in the conduct described herein, Defendant DOES 1-50, who are law
11 enforcement officers, exceeded and/or failed to reasonably exercise the authority vested in them
12 as law enforcement officers under the United States and California Constitutions, and as
13 employees of Defendant CCSF and the San Francisco Police Department.

14 12. Due to the acts and/or omissions alleged herein, Defendants DOES 1-50, and
15 each of them, acted as the agent, servant, and employee and/or in concert with each of said other
16 Defendants herein.

17 13. For state law causes of action related to federal claims, Plaintiff is required to
18 comply with Administrative claim filing requirements under California law. Plaintiff filed a
19 timely government claim with Defendant CCSF, which was rejected on November 29, 2023.

20 **FACTUAL ALLEGATIONS**

21 14. On or about July 8, 2023, beginning at or about 8 p.m. and continuing into the
22 early morning hours of July 9, 2023, Plaintiff R.P., a minor who was 15 years old at the time of
23 the incident, was on his way home from a birthday party when he stopped by Dolores Park in

1 San Francisco to view the annual ‘Dolores Hill Bomb’. When Plaintiff stopped by, the event
2 had already concluded.

3 15. Seeing that the event was over, Plaintiff then attempted to leave the event to
4 continue his trip home. He was then directed by San Francisco Police Department (“SFPD”)
5 officers to take a specific route to leave the event, which he followed.

6 16. As Plaintiff took the route to leave the event as instructed, he was then turned
7 around by other yet-to-be-identified SFPD officers—named in this lawsuit as Defendant DOES
8 1-50—who were engaged in a police practice known as kettling.¹ Kettling is the act of
9 corralling and the mass indiscriminate arrest of everyone in a certain area. As Plaintiff walked
10 on the street to leave the event, he and everyone else on the street were indiscriminately
11 detained by a hoard of Defendant Doe Officers.

12 17. Plaintiff was detained outside on this street for upwards of seven (7) hours. He
13 was denied the opportunity to speak with his parents while the Defendant Doe Officers refused
14 to offer any particularized basis for detaining Plaintiff. Plaintiff was also denied the opportunity
15 to drink water, use the bathroom, or even wear his beanie during this seven (7) hour unlawful
16 detention. Temperatures that night were in the low 50s and with wind chill, the true temperature
17 was likely closer to the low 40s. Hypothermia can occur at temperatures above 40 degrees.²

18 18. As part of the detention, Plaintiff was handcuffed for hours by Defendants DOES
19 1-50 using zip ties, which were placed on too tightly and resulted in significant pain and
20 discomfort. Despite Plaintiff asking at least three (3) Defendant Doe Officer to loosen the
21 restraints, none of Defendants DOES 1-50 ever loosened them.

22 ¹ <https://www.gq.com/story/what-is-kettling>

23 ² <https://www.fs.usda.gov/visit/know-before-you-go/hypothermia>

1 Civil Procedure § 1021.5, and as otherwise allowed under California and United
2 States statutes, codes, and common law.

3 23. The conduct of Defendants DOES 1-50 was malicious, wanton, oppressive, and
4 in reckless disregard of the right and safety of Plaintiff and the public. Plaintiff is therefore
5 entitled to an award of punitive damages against Defendants DOES 1-50.

6 **CAUSES OF ACTION**

7 **FIRST CAUSE OF ACTION**

8 **(Fourth Amendment—Excessive Force under 42 U.S.C. Section 1983)**
9 *(PLAINTIFF against Defendants DOES 1-50)*

10 24. Plaintiff hereby re-alleges and incorporates each and every paragraph in this
11 Complaint as fully set forth here.

12 25. Defendant DOES 1-50 placed excessively tight zip tie handcuffs on Plaintiff for
13 hours on end and ignored Plaintiff's pleas to loosen them, despite the fact that Plaintiff had not
14 committed any crime, did not resist officers, and was compliant.

15 26. As a result of this misconduct, Defendants DOES 1-50 are liable for Plaintiff's
16 injuries and/or damages.

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

18 **SECOND CAUSE OF ACTION**

19 **(Fourth Amendment—False Detention/Arrest)**
20 *(Plaintiff against Defendants DOES 1-50)*

21 27. Plaintiff hereby re-alleges and incorporates each and every paragraph in the
22 Complaint as fully set forth here.

23 28. Defendant DOES 1-50 detained Plaintiff without any basis to believe he was
24 engaged in criminal activity as part of an unlawful indiscriminate mass arrest. Defendant DOES
25 1-50 had no reasonable suspicion and/or probable cause to detain and/or arrest Plaintiff.

1 36. By their conduct described herein, Defendants DOES 1-50, acting in
2 concert/conspiracy, as described above, violated Plaintiff's rights under California Civil Code
3 § 52.1, and the following clearly established rights under the United States Constitution and the
4 California Constitution:

5 a. Plaintiff's right to be free from excessive and unreasonable force, as secured by
6 the Fourth Amendment to the United States Constitution and by Article 1, § 13
7 of the California Constitution.

8 b. Plaintiff's right to be free from unlawful detention and arrest, as secured by the
9 Fourth Amendment to the United States Constitution and by Article 1, § 13 of
10 the California Constitution.

11 37. Excessive force, which violates the Fourth Amendment, also violates the Bane
12 Act. Defendants' use of unlawful force against Plaintiff, in and of itself, satisfies the "by
13 threat, intimidation, or coercion" requirement of the Bane Act.

14 38. Further, any volitional violation of rights done with reckless disregard for those
15 rights also satisfies the "by threat, intimidation, or coercion" requirement of the Bane Act. All
16 of Defendants' violations of duties and rights were volitional, intentional acts, done with
17 reckless disregard for Plaintiff's rights; none was accidental or merely negligent.

18 39. Alternatively, Defendants violated Plaintiff's rights by the following conduct
19 constituting threat, intimidation, or coercion that was above and beyond any lawful seizure or
20 use of force:

- 21 a) Indiscriminately arresting a minor and then refusing him the opportunity to speak
22 with his parents for more than seven (7) hours;
- 23 b) Using excessive force against Plaintiff, who was fully compliant with officers;

- c) Violating multiple rights of Plaintiff;
- d) Arresting Plaintiff for no reason;
- e) Using force to intimidate, silence and/or punish Plaintiff as retaliation for Plaintiff exercising his First Amendment Rights.

40. Defendant CCSF is vicariously liable, pursuant to California Government Code § 815.2, for the violation of rights by its employees and agents.

41. As a direct and proximate result of Defendants' violation of California Civil Code § 52.1 and of Plaintiff's rights under the United States and California Constitutions, Plaintiff sustained injuries and damages, and against all Defendants is entitled to relief as set forth above, including punitive damages against Defendants DOES 1-50, and including all damages allowed by California Civil Code §§ 52, 52.1, and California law, not limited to costs, attorneys' fees, treble damages, and civil penalties.

WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

FIFTH CAUSE OF ACTION
(Battery—Violation of CALIFORNIA PENAL CODE § 242)
(PLAINTIFF against Defendants CCSF and DOES 1-50)

42. Plaintiff hereby re-alleges and incorporates each and every paragraph in the Complaint as fully set forth here.

43. Defendants DOES 1-50, while working for the SFPD, and acting within the course and scope of their duties, intentionally battered and/or injured Plaintiff by placing excessively tight zip tie handcuffs on him for hours on end and ignoring his pleas to loosen them.

