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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

JANE SMITH NO. 1;)	CASE NO. C06-07171 MJJ
JANE SMITH NO. 2;)	
JANE SMITH NO. 3;)	
JANE SMITH NO. 4;)	SECOND AMENDED
JANE SMITH NO. 5,)	COMPLAINT FOR DAMAGES,
JANE SMITH NO. 6,)	DECLARATORY AND INJUNCTIVE
JANE SMITH NO. 7,)	RELIEF
JANE SMITH NO. 8,)	(42 U.S.C. Section 1983)
JANE SMITH NO. 9,)	
JANE SMITH NO. 10,)	CIVIL RIGHTS CLASS ACTION
JANE SMITH NO. 11,)	
JANE SMITH NO. 12,)	JURY TRIAL DEMANDED
JANE SMITH NO. 13,)	
JANE SMITH NO. 14,)	
JANE SMITH NO. 15,)	
JANE SMITH NO. 16,)	

Plaintiffs,

vs.

CITY OF OAKLAND;
 RICHARD VALERGA, DOES 1-100,
 inclusive,

Defendants.

18. Plaintiff, JANE SMITH NO. 16, is an Asian female.

19. Defendant CITY OF OAKLAND is, and at all times herein mentioned was, a municipal corporation duly organized and existing under the laws of the State of California.

20. Defendant RICHARD VALERGA (hereinafter Defendant VALERGA) was at all times herein mentioned, a Police Officer for Defendant CITY OF OAKLAND and is sued herein in his individual and official capacities.

21. Plaintiffs are ignorant of the true names and/or capacities of defendants sued herein as DOES 1 through 100, inclusive, and therefore sues said defendants by such fictitious names. Plaintiffs will amend this complaint to allege their true names and capacities when ascertained. Plaintiffs are informed and believe, and upon such information and belief allege that each of the Doe defendants is legally responsible and liable for the incident, injuries and damages hereinafter set forth, and that each of said defendants proximately caused said incidents, injuries and damages by reason of their negligence, breach of duty, negligent supervision, management or control, battery, violation of constitutional rights, violation of public policy, false arrests, or by reason of other personal, vicarious or imputed negligence, fault, or breach of duty, whether severally or jointly, or whether based upon agency, employment, ownership, entrustment, custody, care or control or upon any other act or omission. Plaintiffs will ask leave to amend this complaint to

1 insert further charging allegations when such facts are
2 ascertained.

3 22. In doing the acts alleged herein, Defendants, and
4 each of them, acted within the course and scope of their
5 employment for the CITY OF OAKLAND.

6 23. In doing the acts and/or omissions alleged herein,
7 Defendants, and each of them, acted under color of authority
8 and/or under color of law.

9 24. In doing the acts and/or omissions alleged herein,
10 Defendants, and each of them, acted as the agent, servant,
11 employee and/or in concert with each of said other Defendants
12 herein.

13 STATEMENT OF FACTS

14 25. Plaintiffs are informed and believe and thereon
15 allege that defendants VALERGA and/or DOE 1-50, while acting in
16 his capacity as an on duty, sworn member of the CITY OF OAKLAND
17 Police Department, engaged in a repeated custom, policy, pattern
18 or practice of singling out women of Asian descent for traffic
19 stops and subjecting them to sexual harassment and/or other
20 disparate and discriminatory treatment based on their gender,
21 race and/or ethnicity, including, but not limited to,
22 inappropriate and unwanted physical contact.

24 26. The plaintiffs and class members are women of
25 Asian descent that were subjected to the violation of their civil
26 rights by defendants VALERGA, the CITY OF OAKLAND and/or DOES 1-
27

100 and/or each of them.

PLAINTIFF JANE SMITH NO. 1

27. In or about late January or early February 2005, plaintiff, JANE SMITH NO. 1, was driving in the vicinity of East 14th Street in Oakland, California, when she was pulled over and directed to stop her vehicle by defendant VALERGA or DOE 1 without reasonable or probable cause to believe that the plaintiff had committed any traffic violation or crime.

28. When the plaintiff asked defendant VALERGA or DOE 1 why he had stopped her, defendant VALERGA or DOE 1 told the plaintiff he wanted to speak with her.

29. Defendant VALERGA or DOE 1 then ordered plaintiff JANE SMITH NO. 1 to get out of her car and accompany him to his police vehicle. Defendant VALERGA or DOE 1 directed the plaintiff to sit in the front seat of his car.

30. Reasonably believing that she was not free to leave and was required to follow defendant VALERGA's or DOE 1's orders, plaintiff sat in the front seat of the police vehicle.

31. Once plaintiff was seated in the patrol vehicle, defendant VALERGA or DOE 1 asked the plaintiff for her telephone number and ordered the plaintiff to call his cell phone number from her phone so that he could save her telephone number to his cell phone.

32. Defendant VALERGA or DOE 1 told the plaintiff that he wanted to take her picture and told her words to the effect

1 that she was pretty. Defendant VALERGA or DOE 1 then proceeded
2 to take the plaintiff's photograph with his cell phone.

3 33. Defendant VALERGA or DOE 1 told the plaintiff that
4 she needed to smile and took more photographs of the plaintiff.
5 Defendant VALERGA or DOE 1 also attempted to touch the plaintiff,
6 but she pulled away from him and told him not to touch her.

7 34. The plaintiff repeatedly asked defendant VALERGA
8 or DOE 1 if she could go and he told the plaintiff that she could
9 not.

10 35. Defendant VALERGA or DOE 1 told the plaintiff that
11 he wanted to take a photograph of the plaintiff with her sweater
12 opened. Reasonably believing that she could not refuse and that
13 defendant VALERGA or DOE 1 would not allow her to leave the car,
14 plaintiff opened the front of her sweater and defendant VALERGA
15 or DOE 1 took another photograph.

16 36. The plaintiff continued to ask defendant VALERGA
17 or DOE if she could go and defendant VALERGA or DOE 1 refused to
18 allow the plaintiff to leave his vehicle.

19 37. Instead, defendant VALERGA or DOE 1 asked the
20 plaintiff a series of personal questions having nothing to do
21 with any legitimate law enforcement purpose. This included
22 asking the plaintiff where she worked and telling her that he
23 wanted to visit her at work.

24 38. During this entire time, the plaintiff reasonably
25 believed that she was not free to leave and was extremely
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1 frightened and upset about defendant VALERGA's or DOE 1's
2 conduct.

3 39. While the plaintiff was sitting on the front seat
4 of defendant VALERGA's or DOE 1's police vehicle, another City of
5 Oakland Police Officer (DOES 2-50 and/or each of them) pulled up
6 and observed the plaintiff in the car. Thereafter, defendant
7 VALERGA or DOE 1 allowed the plaintiff to leave the vehicle and
8 did not issue any citation to the plaintiff for any alleged
9 traffic violation or crime.

10 40. Plaintiff is informed and believes and thereon
11 alleges that defendants DOES 2-50 and/or each of them, although
12 aware that defendant VALERGA or DOE 1 had civilians sitting in
13 the front seat of his vehicle and/or had other knowledge of
14 defendant VALERGA or DOE's misconduct, failed to document, report
15 or otherwise take any or appropriate action to ensure that
16 defendant VALERGA and/or DOES 1-50 did not violate the rights of
17 citizens, such as the plaintiffs.

18 41. Plaintiff JANE SMITH NO. 1 is informed and
19 believes and thereon alleges that after she related what occurred
20 to her sister, plaintiff's sister reported the incident to
21 defendant CITY OF OAKLAND's Police Department shortly thereafter.

22 42. Nevertheless, plaintiff is informed and believes
23 and thereon alleges that defendant CITY OF OAKLAND and/or DOES
24 51-100 and/or each of them, failed to take appropriate remedial
25 action and, as a result thereof, defendant VALERGA or DOE 1 was
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1 allowed to continue to engage in his pattern and practice of
2 violating the rights of Asian females while he was working as a
3 police officer for the CITY OF OAKLAND.

4 PLAINTIFF JANE SMITH NO. 2

5 43. Plaintiff, JANE SMITH NO. 2, was also subjected to
6 a traffic stop by defendant VALERGA or DOE 1 on or about February
7 5, 2005 while defendant VALERGA or DOE 1 was acting in his
8 capacity as a member of the CITY OF OAKLAND Police Department.

9 44. At that time, plaintiff JANE SMITH NO. 2 was
10 driving her automobile in the vicinity of 23rd Avenue and 15th
11 Street in Oakland, California. Plaintiff JANE SMITH NO. 2 had
12 her two minor children sitting in the back seat of her vehicle.

13 45. After making a turn onto 15th Street, defendant
14 VALERGA or DOE 1 pulled up behind her, put on his siren and
15 directed plaintiff to pull her car over without reasonable or
16 probable cause to believe that the plaintiff committed any
17 traffic violation or crime.

18 46. The plaintiff pulled her vehicle over and stopped.
19 Defendant VALERGA or DOE 1 asked the plaintiff for her driver's
20 license and ordered her to accompany him to his police vehicle,
21 leaving the plaintiff's two minor children alone in the
22 plaintiff's car.

23 47. Defendant VALERGA or DOE 1 asked the plaintiff a
24 series of questions unrelated to any legitimate law enforcement
25 purposes, including whether she was married and where she worked.
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1 48. Defendant VALERGA or DOE 1 touched the plaintiff's
2 hands, commented that her hands were soft and asked plaintiff for
3 her phone number.

4 49. During this entire time, plaintiff was frightened
5 and reasonably believed that she could not leave the police
6 vehicle.

7 50. Eventually, defendant VALERGA or DOE 1 returned
8 the plaintiff's driver's license to her, allowed her to leave the
9 car and did not issue any citation to the plaintiff for any
10 alleged traffic violation or other crime.

11 PLAINTIFF JANE SMITH NO. 3

12 51. In or about approximately late February 2005,
13 plaintiff JANE SMITH NO. 3 was driving her vehicle on 14th
14 Avenue in Oakland California near Highland Hospital when she
15 was directed by defendant VALERGA or DOE 1 to pull over.

16 52. After directing the plaintiff to give him her
17 driver's license, defendant VALERGA or DOE 1 ordered the
18 plaintiff to sit on the front seat of his CITY OF OAKLAND
19 Police Vehicle. Once in the police car, Defendant VALERGA or
20 DOE 1 asked the plaintiff for her home telephone and cell phone
21 number.
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23 53. While seated in the police vehicle, defendant
24 VALERGA or DOE 1 grabbed the plaintiff's hand and told her that
25 her hands were soft. Plaintiff told defendant VALERGA or DOE 1
26 that she did not want him to touch her, but he persisted.
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1 54. Defendant VALERGA or DOE 1 also asked plaintiff
2 a series of personal questions unrelated to any legitimate law
3 enforcement purpose. This included asking where she worked and
4 telling the plaintiff that he wanted to visit her at work.

5 55. Defendant VALERGA or DOE 1 told the plaintiff to
6 kiss him. When she did not, he kissed the plaintiff on her
7 lips. Shocked, the plaintiff told defendant VALERGA or DOE 1
8 not to kiss her. Defendant VALERGA or DOE 1 asked the
9 plaintiff whether she liked being kissed by him and she told
10 him no.

11 56. Despite being told by plaintiff that she did not
12 want him to kiss her, defendant VALERGA or DOE 1 kissed the
13 plaintiff again on the lips.

14 57. During this entire time, the plaintiff was
15 frightened and reasonably believed that she could not leave the
16 police vehicle.

17 58. Eventually, defendant VALERGA or DOE 1 allowed
18 the plaintiff to leave the car and did not issue the plaintiff
19 a citation for any traffic violation or other crime.

20 59. The following day, defendant VALERGA or DOE 1
21 called the plaintiff on the telephone and said that he wanted
22 to take her out for lunch. The plaintiff declined.

23 PLAINTIFF JANE SMITH NO. 4

24 60. In or about late 2004 or the first half of 2005,
25 plaintiff JANE SMITH NO. 4 was driving her car westbound on
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1 McArthur Boulevard in the vicinity of 38th Avenue in Oakland,
2 California. The plaintiff had her two minor children in the
3 vehicle with her.

4 61. At approximately 35th Avenue, the plaintiff
5 noticed that there was a CITY OF OAKLAND Police car following
6 her vehicle.

7 62. After the plaintiff turned onto 35th Avenue, she
8 continued to Kansas Street, where she made another turn onto
9 Kansas Street. The plaintiff noticed that the police vehicle
10 was continuing to follow her.

11 63. Eventually, the plaintiff parked her car across
12 the street from her home on Kansas Street. Defendant VALERGA
13 or DOE 1, who had been driving the CITY OF OAKLAND Police car
14 which had been following her, parked the police vehicle on
15 Kansas Street.

16 64. Defendant VALERGA or DOE 1 ordered the plaintiff
17 to get out of her car and to go to his police vehicle without
18 any reasonable or probable cause to believe that the plaintiff
19 had committed any vehicle code violation or other crime.

20 65. The plaintiff told her children to get out of
21 the car and go to their home.

22 66. Reasonably believing she was not free to leave,
23 the plaintiff went to defendant VALERA'S or DOE 1'S police
24 vehicle where he directed her to sit on the front passenger
25 seat.
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1 67. Defendant VALERGA or DOE 1 directed the
2 plaintiff to produce her driver's license and asked for her
3 telephone number. Defendant VALERGA or DOE 1 repeatedly
4 attempted to touch the plaintiff's hand, but she pulled away
5 from him and told him not to touch her.

6 68. Defendant VALERGA or DOE 1 persisted in his
7 attempts to touch the plaintiff's hands and remarked to the
8 plaintiff that her hands were cold. Defendant VALERGA or DOE 1
9 asked the plaintiff if he could call her for a date and she
10 told him no.

11 69. During this entire time, the plaintiff was
12 frightened and reasonably believed that she was not allowed to
13 leave the police car.

14 70. Eventually, defendant VALERGA or DOE 1 allowed
15 the plaintiff to leave his police vehicle and did not issue the
16 plaintiff a citation for any alleged traffic violation or other
17 crime.

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19 PLAINTIFF JANE SMITH NO. 5

20 71. In or about approximately 2004 or 2005,
21 plaintiff JANE SMITH NO. 5 was driving in the vicinity of
22 Fruitvale and International Boulevard in Oakland, California,
23 when she was directed to pull her vehicle over by defendant
24 VALERGA or DOE 1.

25 72. After taking the plaintiff's driver's license,
26 defendant VALERGA or DOE 1 ordered the plaintiff to sit in the
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front seat of his police vehicle.

73. Defendant VALERGA or DOE 1 asked the plaintiff a series of personal questions unrelated to any legitimate law enforcement purpose, including where she went to school and whether she had a boyfriend.

74. Defendant VALERGA or DOE 1 took the plaintiff's hand and held it for a long time and asked her for her cell phone number. Defendant VALERGA or DOE 1 entered the plaintiff's cell phone number into his cell phone.

75. During this entire time, the plaintiff was frightened and reasonably believed that she was not allowed to leave defendant VALERGA's or DOE 1's vehicle.

76. Eventually, defendant VALERGA or DOE 1 told the plaintiff that she could leave, but retained her driver's license, telling the plaintiff words to the effect that he wished to keep it for the memories. Defendant VALERGA or DOE 1 did not issue the plaintiff a citation for any alleged traffic violation or other crime.

PLAINTIFF JANE SMITH NO. 6

77. On or about March 17, 2005, plaintiff JANE SMITH NO. 6 was driving in the vicinity of East 10th and 7th Street in Oakland, California, when she was directed to pull her vehicle over by defendant VALERGA or DOE 1.

78. After taking the plaintiff's driver's license, defendant VALERGA or DOE 1 ordered the plaintiff to sit in the

front seat of his police vehicle.

79. Defendant VALERGA or DOE 1 asked the plaintiff a series of personal questions unrelated to any legitimate law enforcement purpose, including whether she was married.

80. Defendant VALERGA or DOE 1 asked the plaintiff for her cell phone number. Defendant VALERGA or DOE 1 entered the plaintiff's cell phone number into his cell phone and called the plaintiff's cell phone.

81. Defendant VALERGA or DOE 1 put his hand in the area of the plaintiff's crotch. Although the plaintiff attempted to move his hand away, defendant VALERGA or DOE 1 refused to move his hand and kept it there while he continued to detain the plaintiff in his police vehicle.

82. During this entire time, the plaintiff was frightened and reasonably believed that she was not allowed to leave defendant VALERGA's or DOE 1's vehicle.

83. After the plaintiff received a cell phone call from her daughter, she pleaded with defendant VALERGA or DOE 1 for him to release her so that she could pick up her daughter. Eventually, defendant VALERGA or DOE 1 agreed to allow the plaintiff to leave his vehicle.

84. When the plaintiff asked defendant VALERGA or DOE 1 whether she would be receiving a ticket, defendant VALERGA or DOE 1 told the plaintiff not to worry and instructed the plaintiff to call him the following day at lunchtime.

1 85. The plaintiff left defendant VALERGA'S or DOE
2 1's vehicle and did not call him the following day.

3 PLAINTIFF JANE SMITH NO. 7

4 86. On or about December 19, 2004, plaintiff JANE
5 SMITH NO. 7 was driving her car in the vicinity of the Lake
6 Merritt area in Oakland, California when she noticed that an
7 Oakland Police vehicle was following her.

8 87. After following the plaintiff for some time, the
9 officer activated his lights and signaled for the plaintiff to
10 pull over. The plaintiff complied, pulled her car to the curb
11 and stopped her vehicle.

12 88. Prior to this time, plaintiff did not commit any
13 traffic violations and there was no reasonable or probable
14 cause to stop, detain or arrest the plaintiff.

15 89. Defendant VALERGA or DOE 1 exited the police
16 vehicle, approached the plaintiff's car, demanded that she
17 produced her identification and ordered her to get out. He
18 then directed the plaintiff to sit in the front seat of his
19 patrol vehicle.

20 90. After the plaintiff was seated in the front seat
21 of the patrol vehicle, Defendant VALERGA or DOE 1 examined her
22 driver's license. Defendant VALERGA or DOE 1 asked the for her
23 telephone number and told her that he wanted to call her at a
24 later time.

25 91. Defendant VALERGA or DOE 1 also touched and held
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1 the plaintiff's hand for no legitimate law enforcement purpose
2 and without the consent of the plaintiff.

3 92. After approximately five to ten minutes,
4 defendant VALERGA or DOE 1 allowed the plaintiff to leave his
5 patrol car and did not issue the plaintiff any citation and
6 provided no explanation to the plaintiff why he did not do so.
7 The plaintiff was never prosecuted for any Vehicle Code or
8 other alleged violations as a result of this incident.

9 PLAINTIFF JANE SMITH NO. 8

10 93. On or about March 24, 2005, plaintiff JANE SMITH
11 NO. 8 was driving her vehicle in the vicinity of East 15th near
12 International Boulevard in Oakland, California.

13 94. The plaintiff noticed that there was an Oakland
14 Police vehicle behind her and that she was being directed to
15 pull over. The plaintiff pulled over to the curb and stopped
16 her vehicle. Prior to this time, plaintiff had not committed
17 any Vehicle Code violations and there was no reasonable or
18 probable cause to stop, detain or arrest the plaintiff.
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20 95. Defendant VALERGA or DOE 1 approached the
21 plaintiff's vehicle and demanded that the plaintiff produce her
22 driver's license. The plaintiff told him that her license was
23 in the trunk of her car and got out of her vehicle to retrieve
24 it.

25 96. After providing defendant VALERGA or DOE 1 with
26 her driver's license, he directed the plaintiff to sit in the
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1 front seat of his patrol vehicle. The plaintiff complied with
2 the officer's order.

3 97. While the plaintiff was seated in the front seat
4 of the patrol vehicle, defendant VALERGA or DOE 1 looked at
5 information displayed on a computer.

6 98. Defendant VALERGA or DOE 1 also asked the
7 plaintiff questions of a personal nature unrelated to any
8 legitimate law enforcement purpose. This included, but was not
9 limited to, asking the plaintiff if she was married, whether
10 she had children, where she worked, her telephone number at
11 work and what she did for a living.

12 99. After the plaintiff told defendant VALERGA or
13 DOE 1 that her employment involved giving manicures, he asked
14 the plaintiff to describe how she would give him a manicure and
15 told the plaintiff to massage his hand.

16 100. Afraid that she could not refuse the order of
17 defendant VALERGA or DOE 1, plaintiff quickly massaged his
18 hand. Defendant VALERGA or DOE 1 touched the plaintiff's body
19 without her permission or consent, including her shoulder,
20 knees and thighs.

21 101. As the plaintiff became increasingly upset and
22 concerned about the inappropriate and unwelcome behavior of
23 defendant VALERGA or DOE 1, she asked him to issue her a ticket
24 if he planned to so that she could leave the patrol car and be
25 on her way.
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102. After approximately thirty minutes in the patrol vehicle, defendant VALERGA or DOE 1 allowed the plaintiff to leave and did not issue the plaintiff a citation. The plaintiff was never charged with any Vehicle Code or other violations in connection with this incident.

PLAINTIFF JANE SMITH NO. 9

103. On or about the evening of February 19, 2005, plaintiff JANE SMITH NO. 9 was driving her vehicle on or about Harrison Street in Oakland.

104. While the plaintiff was stopped at a red light or about the intersection of Harrison and 11th Streets, she noticed that a City of Oakland police officer was parked on the opposite side of the street, facing her.

105. After turning onto 11th Street, the plaintiff was pulled over by defendant VALERGA or DOE 1, who was the same officer who was in the police car that had been facing her at the intersection of Harrison and 11th Streets.

106. Prior to this time, plaintiff did not commit any Vehicle Code violations and there was no reasonable or probable cause to stop, detain or arrest the plaintiff.

107. Defendant VALERGA or DOE 1 got out of his patrol vehicle and walked to the plaintiff's car. Defendant VALERGA or DOE 1 ordered the plaintiff to get out of her vehicle and directed her to sit in the front seat of his patrol vehicle. The plaintiff complied with his order.

108. After the plaintiff was seated in the front seat of the patrol vehicle, defendant VALERGA or DOE 1 asked the plaintiff for her name and cell phone number which he wrote down.

109. While detained in the police vehicle, Defendant VALERGA or DOE 1 put his hand on plaintiff's upper thigh without her consent or permission. Plaintiff attempted to scoot away from defendant VALERGA or DOE 1 and he stared at the plaintiff.

110. Defendant VALERGA or DOE 1 told the plaintiff that her mouth, eyes, and nose were pretty.

111. Upset and concerned about the unwelcome behavior of defendant VALERGA or DOE 1, plaintiff attempted to get out of the patrol car.

112. Defendant VALERGA or DOE 1 grabbed the plaintiff's forearm to stop her from getting out of the car.

113. The plaintiff told defendant VALERGA or DOE 1 that she wanted to leave. Defendant VALERGA or DOE 1 responded by telling the plaintiff to kiss him and gestured to his lips.

114. Shocked and upset, the plaintiff continued to try and get out of the car, but defendant VALERGA or DOE 1 grabbed her again and told the plaintiff that he wanted her to kiss him.

115. Afraid of what the officer might do to her, the plaintiff kissed him quickly on the cheek. Defendant VALERGA

1 or DOE 1, however, insisted the plaintiff kiss him on the lips.
2 Feeling she had no other choice, plaintiff quickly kissed him
3 on the lips and again tried to get out of the car.

4 116. The plaintiff pulled away from defendant VALERGA
5 or DOE 1 who was continuing to try and stop the plaintiff from
6 leaving his car. The plaintiff was able to get away from the
7 grasp of defendant VALERGA or DOE 1, got into her own vehicle
8 and was finally able to leave the area.

9 117. The plaintiff never received any citation and
10 was never prosecuted for any Vehicle Code or other violations
11 as a result of this incident.

12 PLAINTIFF JANE SMITH NO. 10

13 118. In or about 2004, the plaintiff was driving in
14 the vicinity of Coolidge Avenue in Oakland, California.

15 119. The plaintiff was stopped at a stop sign and
16 noticed that there was an Oakland police officer driving in the
17 opposite direction toward her on Coolidge who was stopped at
18 the opposite stop sign.

19 120. As the plaintiff drove her vehicle past the
20 Oakland police officer she noticed that the officer was staring
21 at her.

22 121. After passing the patrol car, the plaintiff
23 noticed that the officer made a u-turn and was following her.

24 122. When she reached the intersection of Coolidge
25 and Foothill Boulevard, the plaintiff turned right onto
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1 Foothill. The plaintiff noticed that the Oakland police
2 vehicle was still following her. Eventually, at or about
3 Foothill and 23rd, the plaintiff noticed that the officer had
4 activated the lights on his car and was directing the plaintiff
5 to pull over.

6 123. Prior to this time, the plaintiff had not
7 committed any Vehicle Code violations and there was no
8 reasonable or probable cause to stop, detain or arrest the
9 plaintiff.

10 124. Defendant VALERGA or DOE 1 got out of his
11 patrol car and approached the plaintiff's vehicle. He demanded
12 the plaintiff's driver's license and took it back to his
13 vehicle.

14 125. Defendant VALERGA or DOE 1 returned to the
15 plaintiff's vehicle and demanded that the plaintiff exit her
16 vehicle and sit in the front seat of his patrol vehicle. The
17 plaintiff complied with this order.

18 126. While the plaintiff was seated in the patrol
19 vehicle, defendant VALERGA or DOE 1 made comments to the
20 plaintiff which were unwelcome and which had no legitimate law
21 enforcement purpose. This included, but was not limited to,
22 telling the plaintiff that she was pretty and that he liked to
23 look at her.

24 127. Defendant VALERGA or DOE 1 also held the
25 plaintiff's hand without her consent and told her that he liked
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1 her. The plaintiff was frightened and pulled her hand away
2 from defendant VALERGA or DOE 1.

3 128. Defendant VALERGA told the plaintiff not to be
4 afraid and put his arm around her shoulder, while continuing to
5 tell the plaintiff that he liked her.

6 129. Shocked and afraid, the plaintiff attempted to
7 push defendant VALERGA or DOE 1 away from her, telling him,
8 "no."

9 130. Nevertheless, defendant VALERGA or DOE 1
10 continued to tell the plaintiff that he liked her, refused to
11 remove his arm from plaintiff's shoulders and pulled the
12 plaintiff toward him.

13 131. While the plaintiff was in the patrol car, a
14 City of Oakland motorcycle officer drove up. The motorcycle
15 officer and defendant VALERGA or DOE 1 nodded at each other and
16 said something to each other that the plaintiff did not
17 understand. The motorcycle officer drove away.

18 132. Thereafter, defendant VALERGA or DOE 1 asked
19 the plaintiff if she would have lunch with him at some later
20 date. The plaintiff declined and defendant VALERGA or DOE 1
21 finally released the plaintiff and allowed her to leave his
22 patrol car.

23 133. The plaintiff was never prosecuted for any
24 Vehicle Code or other violation as a result of this incident.

25 134. Thereafter, on or about February 11, 2005, the
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1 plaintiff was driving on International Boulevard in Oakland,
2 California on her way to pick up food for her children.

3 135. The plaintiff noticed a City of Oakland police
4 vehicle driving near 7th and International Boulevard.
5 Defendant VALERGA or DOE 1, who was driving the vehicle,
6 activated the lights on the patrol car and directed the
7 plaintiff to pull over.

8 136. Prior to this time, the plaintiff had not
9 committed any Vehicle Code violations and there was no
10 reasonable or probable cause to stop, detain or arrest the
11 plaintiff.

12 137. Defendant VALERGA or DOE 1 approached the
13 plaintiff's vehicle and demanded that she produce her driver's
14 license. After he took the license back to his vehicle,
15 defendant VALERGA or DOE 1 approached the plaintiff's vehicle
16 again and directed the plaintiff to sit in his patrol vehicle.
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18 138. The plaintiff believed that she had no choice
19 but to comply with defendant's order and sat in defendant
20 VALERGA'S or DOE 1's patrol car.

21 139. While seated in the patrol vehicle, defendant
22 VALERGA or DOE 1 told the plaintiff that she was pretty and
23 grabbed her hand without the plaintiff's permission or consent.

24 140. The plaintiff told defendant VALERGA or DOE 1
25 that she recognized him from the previous incident and
26 defendant VALERGA or DOE 1 acknowledged that he remembered the
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1 plaintiff from the earlier encounter.

2 141. Defendant VALERGA or DOE 1 told the plaintiff
3 not to be afraid and that he would not be giving her a ticket.
4 Defendant VALERGA or DOE 1 continued to tell the plaintiff that
5 she was pretty and told the plaintiff that he wanted to take
6 her photographed because he had missed seeing her.

7 142. The plaintiff told defendant VALERGA or DOE 1
8 that she did not want him to take her picture and attempted to
9 turn away and conceal her face from him.

10 143. Defendant VALERGA or DOE 1 forcibly pulled the
11 plaintiff near him by putting his arm around her shoulders
12 and/or waist. The plaintiff attempted to pull away from him,
13 but she was unable to do so. Defendant VALERGA or DOE 1 told
14 the plaintiff that he wanted a kiss while he continued to hug
15 her very tightly and refused to release her despite the fact
16 the plaintiff was struggling to get away from him.

17 144. During this time, the plaintiff began to cry and
18 shake because she was afraid of defendant VALERGA or DOE 1 and
19 his unwelcome behavior. Nevertheless, defendant VALERGA or DOE
20 1 continued to tell the plaintiff that he liked her and told
21 the plaintiff that he wanted to sit there "all night" with her.

22 145. The plaintiff pleaded with defendant VALERGA or
23 DOE 1 to let her go, telling him that she had to get food for
24 her children. Defendant VALERGA or DOE 1 told the plaintiff
25 that he knew where she worked and that he wanted to take her
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1 out on a date. The plaintiff declined and defendant VALERGA or
2 DOE 1 eventually allowed the plaintiff to leave his patrol car.

3 146. The plaintiff was never prosecuted for any
4 Vehicle Code or other violations as a result of this incident.

5 PLAINTIFF JANE SMITH NO. 11

6 147. In or about late 2004 or early 2005, plaintiff
7 JANE SMITH NO. 11 was driving in the vicinity of 35th Avenue
8 between California and Kansas in Oakland, California. The
9 plaintiff's sister was in the car with the plaintiff at the
10 time.

11 148. The plaintiff noticed an Oakland Police vehicle
12 driving past her in the opposite direction. The plaintiff then
13 noticed that the police car made a u-turn and was driving
14 behind her vehicle.

15 149. The officer activated the lights on the patrol
16 vehicle and directed the plaintiff to pull over at or near the
17 intersection of California and 35th Avenue in Oakland and the
18 police officer stopped his vehicle in front of the plaintiff's
19 car.
20

21 150. Prior to this time, the plaintiff had committed
22 no Vehicle Code violations and there was no reasonable or
23 probable cause to stop, detain or arrest the plaintiff.

24 151. Defendant VALERGA or DOE 1 exited the police
25 vehicle and approached the plaintiff's car. Defendant VALERGA
26 or DOE 1 ordered the plaintiff to get out of her vehicle and
27

1 directed the plaintiff to sit in the front seat of his police
2 car.

3 152. The plaintiff's sister also got out of the car
4 and sat in the back seat of the patrol vehicle. Defendant
5 VALERGA or DOE 1 told the plaintiff's sister to get out of the
6 patrol vehicle and to sit in the plaintiff's vehicle. The
7 plaintiff's sister complied with this order.

8 153. After the plaintiff's sister left the patrol
9 car, defendant VALERGA or DOE 1 asked plaintiff questions of a
10 personal nature entirely unrelated to any legitimate law
11 enforcement purpose.

12 154. While the plaintiff was seated in the patrol
13 car, defendant VALERGA or DOE 1 grabbed the plaintiff's hand
14 and began squeezing and massaging her. Defendant VALERGA or
15 DOE 1 also told the plaintiff that he wanted to go out to eat
16 with her and that he wanted the plaintiff to be his friend.

17 155. The plaintiff was shocked and frightened by this
18 unwelcome behavior of defendant VALERGA or DOE 1. At one
19 point, the plaintiff told defendant VALERGA or DOE 1 that she
20 could not go out with him because she had three children at
21 home. Defendant VALERGA or DOE 1 told the plaintiff that he
22 would hire a babysitter for her if she could not afford one so
23 that she could go out with him.

24 156. Defendant VALERGA or DOE 1 continued to plead
25 with the plaintiff to go out with him, telling the plaintiff
26
27

1 that he could issue her a ticket. The plaintiff continued to
2 decline and told defendant VALERGA or DOE 1 repeatedly that she
3 wanted to leave the patrol car. Eventually, defendant VALERGA
4 or DOE 1 finally allowed the plaintiff to exit the patrol
5 vehicle.

6 157. The plaintiff was never prosecuted for any
7 Vehicle Code or any other violation as a result of this
8 incident.

9 PLAINTIFF JANE SMITH NO. 12

10 158. On or about March 2, 2005, plaintiff JANE SMITH
11 NO. 12 was driving alone in her car on East 12th Street in the
12 vicinity of 22nd and 23rd in Oakland, California.

13 159. A City of Oakland police officer signaled for
14 the plaintiff to pull over. The plaintiff complied.

15 160. Defendant VALERGA or DOE 1 exited the police
16 vehicle and approached the plaintiff's vehicle. The plaintiff
17 rolled down her window and defendant VALERGA or DOE 1 ordered
18 the plaintiff to sit in the front seat of his patrol car.

19 161. The plaintiff complied with the officer's order
20 and she sat in the front passenger seat of the patrol vehicle.

21 162. Prior to this time, the plaintiff had not
22 committed any Vehicle Code violations and there was no
23 reasonable or probable cause to stop, detain or arrest the
24 plaintiff.
25

26 163. After the plaintiff was seated in the police
27

1 vehicle, defendant VALERGA or DOE 1 asked the plaintiff
2 questions of a personal nature which had no legitimate law
3 enforcement purpose, such as whether the plaintiff was married,
4 whether she had children and where she worked.

5 164. After approximately ten minutes, defendant
6 VALERGA or DOE 1 told the plaintiff that she could go and she
7 exited the police vehicle.

8 165. The plaintiff was never prosecuted for any
9 Vehicle Code or other violations as a result of this incident.

10 166. Thereafter, on or about April 21, 2005,
11 plaintiff JANE SMITH NO. 12 was driving her vehicle in the
12 vicinity of east 14th Street in Oakland, California, when she
13 was pulled over again without reasonable or probable cause by
14 defendant RICHARD VALERGA or DOE 1 while he was acting in his
15 capacity as a City of Oakland police officer.

16 167. Once again, defendant VALERGA or DOE 1 ordered
17 the plaintiff to sit in his police vehicle and she complied
18 with this order. Defendant VALERGA or DOE 1 asked the
19 plaintiff to produce her driver's license and he took it from
20 her.
21

22 168. While seated in the police vehicle, defendant
23 VALERGA or DOE 1 asked the plaintiff a series of personal
24 questions entirely unrelated to any legitimate law enforcement
25 purpose, including, but not limited to, whether she had a
26 family and where she worked.
27

169. After approximately ten minutes, defendant VALERGA or DOE 1 told the plaintiff she could leave his car and did not issue the plaintiff any citation. The plaintiff was never charged with any crime or Vehicle Code violation as a result of this incident.

PLAINTIFF JANE SMITH NO. 13

170. On or about May 5, 2005, plaintiff JANE SMITH NO. 13 was driving her car in the vicinity of Foothill Boulevard and 23rd Avenue in Oakland, California when she was pulled over by defendant VALERGA or DOE 1.

171. Prior to being stopped by defendant VALERGA or DOE 1, the plaintiff had not committed any Vehicle Code violations and there was no reasonable or probable cause to stop, detain or arrest the plaintiff.

172. Defendant VALERGA or DOE 1 approached the plaintiff's vehicle and ordered the plaintiff to get out and sit in the front seat of his patrol vehicle. The plaintiff complied with this order.

173. After the plaintiff was seated in the patrol vehicle, defendant VALERGA or DOE 1 began asking the plaintiff questions and making comments of a personal nature entirely unrelated to any legitimate law enforcement purpose. Some of the questions and comments by defendant VALERGA or DOE 1 were not understood entirely by the plaintiff because she is not fluent in English.

174. Defendant VALERGA or DOE 1 also put his hand next to her thigh while she was seated in the front seat of the police vehicle which made the plaintiff very upset and concerned.

175. After the plaintiff informed defendant VALERGA or DOE 1 that she forgot her driver's license at home, defendant VALERGA or DOE 1 asked the plaintiff whether anyone was at her home. After the plaintiff replied in the negative, defendant VALERGA or DOE 1 instructed the plaintiff to drive to her home and told the plaintiff that he would follow her in his vehicle.

176. When the plaintiff got to her home, she went into her home and defendant VALERGA or DOE 1 followed her inside. The plaintiff went to her bedroom to retrieve her license and then gave it to defendant VALERGA or DOE 1 in the kitchen of her home.

177. Defendant VALERGA or DOE 1 took photographs of the plaintiff while she was in her home with his cell phone. He demanded that the plaintiff give him her telephone number and she did so, believing she had no other option.

178. Defendant VALERGA or DOE 1 made some comments to the plaintiff which she did not understand because she is not fluent in English.

179. Eventually, defendant VALERGA or DOE 1 left the plaintiff's home and did not issue her a citation. The

1 plaintiff was never prosecuted for any Vehicle Code or other
2 violations as a result of this incident.

3 PLAINTIFF JANE SMITH NO. 14

4 180. On or about the evening of March 24, 2005,
5 plaintiff JANE SMITH NO. 14 was driving her car after leaving
6 work at the U.S. Park Service offices in Oakland, California,
7 on her way to her parent's home.

8 181. The plaintiff pulled her car over in the
9 vicinity of East 12th Street near 9th Avenue in Oakland to pick
10 up a cup that she had dropped in the car.

11 182. While the plaintiff was parked at the curb
12 retrieving the cup from the passenger side of her car, an
13 Oakland Police vehicle pulled up next to her car.

14 183. Defendant VALERGA or DOE 1 falsely claimed
15 that the plaintiff made an illegal lane change and then parked
16 behind the plaintiff's vehicle and got out of his car. After
17 asking the plaintiff to produce her driver's license, defendant
18 VALERGA or DOE 1 ordered the plaintiff to sit in the front seat
19 of his patrol vehicle. The plaintiff complied with this order.

20 184. After the plaintiff was seated in the patrol
21 vehicle, defendant VALERGA or DOE 1 asked the plaintiff
22 questions and made comments of a personal nature, entirely
23 unrelated to any legitimate law enforcement purpose, including,
24 but not limited to, whether she had a boyfriend and where she
25 worked. The plaintiff told defendant VALERGA or DOE 1 that she
26 worked. The plaintiff told defendant VALERGA or DOE 1 that she
27

1 worked for the U.S. Park Service and where her office was
2 located on Jackson Street in Oakland.

3 185. After approximately ten or fifteen minutes,
4 defendant VALERGA or DOE 1 eventually allowed the plaintiff to
5 leave his vehicle and did not issue the plaintiff any citation.

6 186. The plaintiff was not prosecuted for any Vehicle
7 Code or other violations as a result of this incident.

8 PLAINTIFF JANE SMITH NO. 15

9 187. On or about April 20, 2005, plaintiff JANE SMITH
10 NO. 15 was driving in the vicinity of Lakeshore and 14th St in
11 Oakland when she noticed that there was an Oakland Police
12 vehicle behind her.

13 188. The officer activated the lights on his patrol
14 vehicle and directed the plaintiff to pull over. The plaintiff
15 complied with the officer's direction, pulled over and stopped
16 her car.

17 189. Prior to this time, the plaintiff had not
18 committed any Vehicle Code violations and there was no
19 reasonable or probable cause to stop, detain or arrest the
20 plaintiff.
21

22 190. Defendant VALERGA or DOE 1 exited the police
23 vehicle and approached the plaintiff's car. Defendant VALERGA
24 or DOE 1 asked for the plaintiff's driver's license and took it
25 back to his vehicle.

26 191. Shortly thereafter, defendant VALERGA or DOE 1
27

1 ordered the plaintiff to get out of her car and to sit in the
2 front seat of his police car. The plaintiff complied with this
3 order.

4 192. After the plaintiff was seated in the police
5 car, defendant VALERGA or DOE 1 began asking plaintiff
6 questions and making comments of a personal nature that had no
7 legitimate law enforcement purpose. This included asking the
8 plaintiff about her employment, education and her career as an
9 insurance claims examiner. During this time, defendant VALERGA
10 or DOE 1 lightly touched the plaintiff's hand.

11 193. Defendant VALERGA or DOE 1 informed plaintiff
12 that the computer in his vehicle was not operating and that he
13 needed to take a photograph of the plaintiff with his cell
14 phone and that he needed to write down her name, address and
15 cell phone number on a pad of paper. Plaintiff is informed and
16 believes and thereon alleges that defendant VALERGA or DOE 1
17 did not do this for any legitimate law enforcement purpose, but
18 to satisfy his own interests.

19 194. Defendant VALERGA or DOE 1 told the plaintiff
20 that she would not get a ticket because she was a nice girl and
21 allowed the plaintiff to leave his patrol vehicle after
22 approximately ten minutes.

23 195. The plaintiff was never prosecuted for any
24 Vehicle Code or other violations as a result of this incident.
25
26
27

PLAINTIFF JANE SMITH NO. 16

196. On or about March 10, 2005, plaintiff JANE SMITH NO. 16 was driving in the vicinity of 12th Street, near 21st Avenue in Oakland when she noticed that there was an Oakland Police vehicle behind her.

197. The officer activated the lights on his patrol vehicle and directed the plaintiff to pull over. The plaintiff complied with the officer's direction, pulled over and stopped her car.

198. Defendant VALERGA or DOE 1 exited the police vehicle and approached the plaintiff's car. Defendant VALERGA or DOE 1 asked for the plaintiff's driver's license and took it back to his vehicle.

199. Shortly thereafter, defendant VALERGA or DOE 1 ordered the plaintiff to get out of her car and to sit in the front seat of his police car. The plaintiff complied with this order.

200. After the plaintiff was seated in the police car, defendant VALERGA or DOE 1 began asking plaintiff questions and making comments of a personal nature that had no legitimate law enforcement purpose. This included asking the plaintiff about her employment, her family and where she was going. During this time, defendant VALERGA or DOE 1 rubbed the plaintiff's lap with his hand.

1 201. After approximately thirty minutes, defendant
2 Valerga or Doe 1 allowed the plaintiff to leave the patrol
3 vehicle.

4 202. The following day, plaintiff JANE SMITH NO. 16
5 was driving to work she saw defendant Valerga or Doe 1 at
6 approximately East 12th between 8th and 9th Avenues. Plaintiff
7 noticed that defendant Valerga or Doe 1 was apparently engaged
8 in a traffic stop and had an Asian woman seated in the front
9 seat of his patrol vehicle.

10 203. Subsequently, plaintiffs are informed and
11 believe and thereon allege that defendant VALERGA or DOE 1 was
12 charged by the Alameda County District Attorney's Office with
13 violations of the California Penal Code in connection with some
14 of his traffic stops of Asian females. Plaintiffs are informed
15 and believe and thereon allege that defendant VALERGA or DOE 1
16 pleaded no contest to some of those charges.

17 204. Plaintiffs are informed and believe and thereon
18 allege that defendant VALERGA or DOE 1 was able to engage in a
19 custom, policy, pattern and/or practice of inappropriate
20 conduct and civil rights violations against Asian female
21 motorists as a result of longstanding customs, policies and/or
22 practices of the CITY OF OAKLAND which encouraged, authorized,
23 condoned and/or acquiesced in sexual harassment and other
24 unlawful conduct by members of the CITY OF OAKLAND Police
25 Department.
26
27

1 205. Plaintiffs are informed and believe and thereon
2 allege that said abuses of power by CITY OF OAKLAND Police
3 Officers in past years have included, but are not limited to:

4 a. Rape, sexual harassment (Officer Bernard Riley);

5 b. Visiting a brothel while on duty (Officers Eric
6 Riccholt and Mark Neely, Jr.);

7 c. Stalking, sexual harassment and retaliation
8 against a subordinate (Lt. Antonio Romero);

9 d. Quid pro quo sexual harassment (Officer Kent
10 McNabb);

11 e. Sexual harassment (Officer John Mendez);

12 f. Kidnapping, assault and battery, drug planting,
13 fabricating evidence and reports, false arrests and false
14 imprisonment, conspiracy (See, e.g., Delphine Allen v. City of
15 Oakland, et al., Master File No. C00-4599 TEH);

16 g. Violation of civil rights resulting in a jury
17 award totaling more than \$2 million dollars in damages to
18 plaintiffs against OPD officers Clyde Sims, Robert Chenault,
19 Michael Sitterud (Bari/Cherny v. FBI, et al.);

20 h. Stewart v. City of Oakland, et al. (Sexual
21 harassment and sexual assault of a civilian by Oakland Police
22 officer);

23 i. Keller-Dean v. City of Oakland, Gary Romero, et
24 al., USDC Case No. C00-01930 MHP (sexual assault/sexual
25 harassment of a civilian by an Oakland Police Officer).
26

1 206. Plaintiff is further informed and believes and
2 thereon alleges that the repeated abuse of authority by CITY OF
3 OAKLAND Police Officers is the product of a culture of
4 tolerance within the CITY OF OAKLAND Police Department. This
5 culture is rooted in the deliberate indifference of high
6 ranking Defendant CITY OF OAKLAND officials, including, but not
7 limited to Defendants DOES 51-100, and/or other high ranking
8 officials and/or supervisors, and each of them, individually
9 and/or acting in concert with one another, who have routinely
10 acquiesced in misconduct of members of the CITY OF OAKLAND
11 Police Department, ratified such misconduct and/or who have
12 otherwise failed to take the measures necessary to prevent and
13 curtail such misconduct.

14 207. Plaintiffs are further informed and believe and
15 thereon allege that they suffered the violation of their
16 constitutional rights and otherwise incurred damages as alleged
17 herein as a result of customs, policies, patterns and/or
18 practices of Defendants CITY OF OAKLAND and DOES 51-100, and
19 each of them, which have encouraged, authorized, condoned,
20 ratified and otherwise permitted such misconduct to continue
21 and flourish within the CITY OF OAKLAND Police Department.

22 208. Plaintiffs are further informed and believe and
23 thereon allege that said customs, policies, patterns and
24 practices have included the repeated failure by Defendant CITY
25 OF OAKLAND and its high ranking officials to fully implement
26
27

1 remedial action intended to prevent such misconduct from
2 continuing to occur within the CITY OF OAKLAND Police
3 Department.

4 209. Plaintiffs are informed and believe and thereon
5 allege that they suffered the violation of their constitutional
6 rights as a result of deliberate indifference of Defendants
7 CITY OF OAKLAND, DOES 51-100, and/or other high ranking Police
8 Department officials and/or supervisors, with regard to the
9 need for more or different policies, training, supervision
10 and/or discipline of its police officers, including, but not
11 limited to, Defendant VALERGA and/or DOES 1-50, and/or each of
12 them.

13 210. Plaintiffs are informed and believe and thereon
14 allege that the subject incidents were caused as a result of
15 the aforesaid customs, policies, patterns, practices and/or
16 deliberate indifference by Defendants CITY OF OAKLAND, DOES 20-
17 10 and/or each of them.

18
19 CLASS ACTION ALLEGATIONS

20 211. Plaintiffs seek class certification pursuant to
21 Fed.R.Civ.P. 23(a) and (b)(2) to allege claims for damages,
22 injunctive and declaratory relief on behalf of themselves and
23 all persons similarly situated. The proposed class consists of
24 all females of Asian descent who were subjected to traffic
25 stops by defendants Richard Valerga and/or DOES 1-50 while they
26 were working as members of the CITY OF OAKLAND Police
27

1 Department that were not supported by probable cause; all
2 females of Asian descent who were subjected to discriminatory
3 or disparate treatment during traffic stops by defendants
4 Valerga and/or DOES 1-50 while they were working as members of
5 the CITY OF OAKLAND Police Department because of their
6 ethnicity, race and/or gender; and all females of Asian descent
7 who were subjected to sexual harassment by defendants Richard
8 Valerga and/or DOES 1-50 while they were working as members of
9 the CITY OF OAKLAND Police Department.

10 212. This case satisfies the prerequisites of a Rule
11 23(b)(2) class action.

12 213. The class is so numerous that joinder of all
13 members is impracticable. Plaintiffs do not know the identities
14 or exact number of all class members. Based on newspaper
15 accounts, it appears that defendant Valerga began his employment
16 with the City of Oakland Police Department in approximately 1999
17 and, based on his tenure with the Oakland Police Department and
18 defendant Valerga's repeated pattern and practice of misconduct,
19 the membership of the class is likely to be numerous.

20 214. There are questions of law and fact common to all
21 members of the class, because all class members have been
22 adversely affected by the challenged actions of the defendants.
23 Common questions of law and fact include, but are not limited to:
24 whether defendant Richard Valerga and/or DOES 1-50 and/or each of
25 them engaged in a practice of making traffic stops of Asian
26
27

1 females without probable cause; whether defendants Richard
2 Valerga and/or Does 1-50 and/or each of them engaged in a
3 practice of using traffic stops as a pretext to sexually harass
4 Asian females; whether defendants Richard Valerga and/or Does 1-
5 50 and/or each of them engaged in a practice of singling out
6 Asian females for discriminatory and disparate treatment because
7 of their race, ethnicity and/or gender while they were working as
8 members of the CITY OF OAKLAND Police Department; whether the
9 CITY OF OAKLAND maintained customs, policies, patterns and
10 practices which caused and/or contributed to the violation of the
11 plaintiffs' rights; and whether the CITY OF OAKLAND, its police
12 department and/or city officials and/or supervisors failed to
13 properly train and supervise members of the CITY OF OAKLAND
14 Police Department which caused and/or contributed to the
15 violation of the plaintiffs' rights.
16

17 215. The claims of the named plaintiffs are typical of
18 the claims of the class. The claims of the class members arise
19 from the same type of conduct, customs, policies or practices
20 that have resulted in damages to the class representatives and
21 are based on the same legal theories.

22 216. The representative plaintiffs will fairly and
23 adequately protect the interests of the class because they are,
24 and were, subject to the policies, customs, patterns and
25 practices complained of herein, and have no interests
26 antagonistic to other members of the class. In addition,
27

1 plaintiffs' counsel are experienced in litigating federal civil
2 rights cases and class actions, including federal civil rights
3 actions against the CITY OF OAKLAND and the CITY OF OAKLAND
4 Police Department.

5 217. The defendants have acted and/or have failed to
6 act on grounds generally applicable to the class, and an award of
7 damages, injunctive and declaratory relief for the class as a
8 whole is appropriate.

9 218. The prosecution of separate actions by individual
10 members of the class would create a risk of inconsistent or
11 incompatible standards of conduct for the defendants, thereby
12 making a class action the superior method of adjudicating the
13 controversy.

14 STATEMENT OF DAMAGES AND RELIEF SOUGHT

15 219. As a result of the acts and/or omissions of
16 defendants as alleged in this Complaint, plaintiffs, and each
17 of them, suffered damages and/or injuries, including, but not
18 limited to, pain, suffering and emotional distress.

19 220. Plaintiffs will also be entitled to an award of
20 special damages, including for medical treatment and/or any
21 other out of pocket losses, if any were incurred.

22 221. Plaintiffs will also be entitled to recover
23 their reasonable attorneys' fees and costs in addition to their
24 general and compensatory damages pursuant to statute.

25 222. The conduct of defendant VALERGA and/or DOES 1-
26
27

1 100 and/or each of them, was intentional, oppressive,
2 malicious, fraudulent and/or done with a conscious and/or
3 reckless disregard for the rights of the plaintiffs.

4 Therefore, plaintiffs will be entitled to recover punitive
5 damages in amounts to be determined according to proof.

6 223. Defendants' policies, practices, customs, conduct
7 and acts alleged herein have resulted and will continue to result
8 in irreparable injury to plaintiffs, including but not limited to
9 violations of their constitutional and statutory rights.

10 Plaintiffs have no plain, adequate or complete remedy at law to
11 address the wrongs described herein. The plaintiffs and class
12 members intend in the future to exercise their constitutional
13 rights in the vicinity of the City of Oakland and in other public
14 places in the City of Oakland. Defendants' conduct described
15 herein has created fear, anxiety and uncertainty among plaintiffs
16 with respect to their ability to exercise their constitutional
17 rights in the present and future, and with respect to their
18 physical security and safety. Defendants' conduct described
19 herein has also created fear, anxiety and uncertainty among
20 plaintiffs and class members with respect to their exercise of
21 their right to move freely about the public streets, without
22 being subjected to unreasonable searches and seizures and/or
23 discriminatory and disparate treatment due to their ethnicity,
24 race and/or gender.

26 224. Plaintiffs therefore seek injunctive relief from
27

1 this court, to ensure that plaintiffs and persons similarly
2 situated will not suffer violations of their rights from
3 defendants' illegal and unconstitutional policies, customs and
4 practices as described herein.

5 225. An actual controversy exists between plaintiffs
6 and defendants in that plaintiffs contend that the policies,
7 practices and conduct of defendants alleged herein are unlawful
8 and unconstitutional, whereas plaintiffs are informed and believe
9 that defendants contend that said policies, practices and conduct
10 are lawful and constitutional. Plaintiffs seek a declaration of
11 rights with respect to this controversy.

12 CLAIMS FOR RELIEF

13 FIRST CLAIM FOR RELIEF

14 (42 U.S.C. SECTION 1983)
15 (AGAINST DEFENDANTS RICHARD VALERGA, DOES 1-50)

16 226. Plaintiffs incorporate by reference and re-
17 alleges herein Paragraphs 1 through 225.

18 227. In doing the acts complained of herein,
19 defendants VALERGA and/or DOES 1-19 and/or each of them, did
20 act under color of state law to deprive plaintiffs, the class
21 members and/or each of them as alleged heretofore of certain
22 constitutionally protected rights, including, but not limited
23 to:

24 (a) the right to be free from unreasonable searches or
25 seizures;

26 (b) the right to equal protection of the law; and/or
27

1 (c) the right not to be deprived of liberty without due
2 process of law.

3 228. Said rights are substantive guarantees under
4 the Fourth and/or Fourteenth Amendments to the United States
5 Constitution.

6 229. As a result of the violation of their
7 constitutional rights by defendants VALERGA and/or DOES 1-50
8 and/or each of them, plaintiffs, the class members and/or each
9 of them sustained the injuries and/or damages as alleged
10 heretofore in this Complaint.

11 WHEREFORE, Plaintiffs pray for relief as hereinafter set
12 forth.

13 SECOND CLAIM FOR RELIEF
14 (42 U.S.C. SECTION 1983)
15 (AGAINST DEFENDANTS CITY OF OAKLAND, DOES 51-100)

16 230. Plaintiffs incorporate by reference and re-
17 allege herein Paragraphs 1 through 229.

18 231. As against Defendants CITY OF OAKLAND and/or
19 DOES 51-100 and/or each of them, individually and/or in their
20 capacities as official policy-maker(s) for the CITY OF
21 OAKLAND, the plaintiffs further allege that the acts and/or
22 omissions alleged in the Complaint herein are indicative and
23 representative of a repeated course of conduct by members of
24 the CITY OF OAKLAND Police Department tantamount to a custom,
25 policy or repeated practice of condoning and tacitly
26 encouraging the abuse of police authority, and disregard for
27

the constitutional rights of citizens, such as plaintiffs.

232. Plaintiffs are further informed and believe and thereon allege that the acts and/or omissions alleged herein are the proximate result of a custom, policy, pattern or practice of deliberate indifference by Defendants CITY OF OAKLAND, DOES 51-100 and/or each of them, to the repeated violations of the constitutional rights of citizens by CITY OF OAKLAND police officers, which have included, but are not limited to, repeated acts of sexual misconduct while on duty, unreasonable searches and seizures, false arrests, false imprisonments, the repeated denial of equal protection of the law based on race and/or gender and other repeated violations of the constitutional rights of citizens in Oakland.

233. Plaintiffs are further informed and believe and thereon allege that the damages sustained as alleged herein were the proximate result customs, policies and/or practices which included, but were not limited to, the failure to adequately or appropriately hold officers accountable for their misconduct, the failure to properly and fairly investigate complaints about officers' misconduct, the failure to enact or adopt policies to ensure adequate and/or appropriate oversight of officers to prevent continuing violations of the rights of citizens, the failure to properly train and/or discipline officers, the failure to adequately or properly supervise officers, the failure to adopt and fully

1 implement an appropriate early warning system, policies and
2 customs which encouraged officers to target certain groups of
3 citizens for unreasonable search and seizure and/or other
4 customs, and/or policies which caused and/or contributed to,
5 the violation of the rights of citizens by members of the CITY
6 OF OAKLAND Police Department.

7 234. The aforementioned deliberate indifference,
8 customs, policies or practices of Defendants CITY OF OAKLAND,
9 DOES 51-100, and/or each of them, resulted in the deprivation
10 of the constitutional rights of the plaintiffs and class
11 members, including, but not limited to, the following:

12 (a) the right not to be deprived of liberty or property
13 without Due Process of Law;

14 (b) the right to be free from unreasonable searches
15 and/or seizures; and/or,

16 (c) the right to equal protection of the law.
17

18 235. Said rights are substantive guarantees under
19 the Fourth and/or Fourteenth Amendments to the United States
20 Constitution.

21 236. As a result of the violation of their
22 constitutional rights by defendants CITY OF OAKLAND and/or
23 DOES 51-100 and/or each of them, plaintiffs and the class
24 members and/or each of them, sustained the injuries and/or
25 damages as alleged heretofore in this Complaint.

26 WHEREFORE, plaintiffs pray for relief as hereinafter set
27

1 deem just and proper.

2
3 Dated: September 10, 2007
4 JOHN
Attorney

_____/S/_____
L. BURRIS
for Plaintiffs

5 DATED: September 10, 2007
6 JAMES
7 Attorney

_____/S/_____
B. CHANIN
for Plaintiffs