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**UNITED STATES DISTRICT COURT  
IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA**  
(The Honorable Anthony J. Battaglia)

SHANNON ROBINSON and DANTE  
HARRELL

Plaintiffs,

v.

CITY OF SAN DIEGO, WILLIAM  
LANSDOWNE, ARIEL SAVAGE, an  
individual, DANIEL MCLAIN,  
an individual, DANIEL SACCO, an  
individual, CARLOS HERNANDEZ, an  
individual, MATTHEW DOBBS, an  
individual, DORINDA DODD, an individual,  
and DOES 1-50, inclusive.

Defendants.

Case No: Case No. 11CV0876 AJB (WVG)

SECOND AMENDED COMPLAINT

- (1) UNLAWFUL DETENTION (42 U.S.C. § 1983)
- (2) RETALIATION (42 U.S.C. § 1983)
- (3) EXCESSIVE FORCE (42 U.S.C. § 1983)
- (4) ARREST WITHOUT PROBABLE CAUSE (42 U.S.C. § 1983)
- (5) FALSE IMPRISONMENT (42 U.S.C. §1983)
- (6) MALICIOUS PROSECUTION (42 U.S.C. § 1983)
- (7) ASSAULT
- (8) BATTERY
- (9) INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
- (10) NEGLIGENCE
- (11) FAILURE TO PROPERLY SCREEN AND HIRE
- (12) FAILURE TO PROPERLY TRAIN
- (13) FAILURE TO SUPERVISE AND DISCIPLINE
- (14) MONELL LIABILITY FOR A PATTERN OF BRUTALITY
- (15) VIOLATION OF CALIFORNIA CIVIL CODE § 52.1
- (16) PERMANENT INJUNCTION AND OTHER EQUITABLE RELIEF

JURY TRIAL IS HEREBY  
DEMANDED

1 Plaintiffs SHANNON ROBINSON and DANTE HARRELL, by and through their  
2 attorneys of record, Iredale and Yoo, APC, allege and complain as follows:

3 **INTRODUCTION**

4 On March 30, 2010, Shannon Robinson, who had returned from her third tour of duty in  
5 Iraq, and her boyfriend, Dante Harrell, were terrorized by San Diego police officers. The  
6 incident began when Defendant McClain called in the wrong licence plate number to dispatch. It  
7 ended when Shannon called 911 to ask for a supervisor and the defendants pepper sprayed the  
8 plaintiffs in the face, dragged them out of the car, then beat and Tasered Dante repeatedly.

9 **GENERAL ALLEGATIONS**

10 1. Jurisdiction is proper in the United States District Court for the Southern District  
11 of California pursuant to 28 U.S.C. §1331 and 28 U.S.C. §1343(3) and (4), *et. seq.*

12 2. This Court has supplemental jurisdiction over the pendent state law claims under  
13 28 U.S.C. § 1367(a).

14 3. Venue is proper in the Southern District of California because the acts or  
15 omissions which form the basis of the Plaintiff's claims occurred in San Diego, California,  
16 within the Southern District.

17 4. Plaintiffs have complied with Government Code §§ 800 *et seq.*

18 **PARTIES**

19 5. At all times relevant to this complaint, Plaintiffs were individuals residing in San  
20 Diego County, California.

21 6. At all times relevant to this complaint, Defendant ARIEL SAVAGE was an  
22 individual believed to reside in San Diego County, California.

23 7. At all times relevant to this complaint, Defendant DANIEL MCLAIN was an  
24 individual believed to reside in San Diego County, California.

25 8. At all times relevant to this complaint, Defendant DANIEL SACCO was an  
26 individual believed to reside in San Diego County, California.

27 9. At all times relevant to this complaint, Defendant CARLOS HERNANDEZ was  
28 an individual believed to reside in San Diego County, California.



1           23.    McClain and Savage followed Shannon and Dante into the parking lot.

2           24.    McClain radioed the license plate number to dispatch to alert them that they had  
3 stopped the Sunfire. Dispatch radioed back that the plate belonged to a Sunfire, not a Honda.

4           25.    McClain determined that he had initially provided the wrong license plate number  
5 to dispatch.

6           26.    By the time McClain and Savage pulled up on the Sunfire, Shannon and Dante  
7 had already pulled into the parking of the building where they had planned to have lunch.

8           27.    As Savage was walking up to the driver's side of the car, McClain told Savage  
9 that the stop was a mistake.

10          28.    As they were approaching the car, McClain said "My bad, I put in the wrong  
11 information."

12          29.    Despite this, Savage went to the driver's side anyway and told Plaintiffs to roll  
13 down their windows.

14          30.    Savage asked Dante to produce his driver's license and registration.

15          31.    Dante asked Savage why he had been stopped. Savage did not respond.

16          32.    Dante complied and gave Defendant Savage his identification.

17          33.    Savage asked the other occupants of the car for identification and whether they  
18 were on probation or parole.

19          34.    Savage told defendant McClain to get identification from Shannon, who was a  
20 passenger. Shannon did not have her driver's license with her but told McClain her license  
21 number from memory.

22          35.    Ben, who was sitting in the backseat gave Savage and McClain his identification.

23          36.    Shannon grew fearful because she knew that they had done nothing wrong and  
24 that the initial stop was due to McClain's error in calling in the wrong license plate number.

25          37.    After time passed and they had complied with all of the Defendants' demands for  
26 nearly twenty minutes, Dante grew concerned.

27          38.    Dante started to record the interaction with the officers on his cell phone.  
28

1 39. McClain saw that Dante was recording and told Dante to stop.

2 40. McClain threatened to take away Dante's telephone unless Dante stopped  
3 recording.

4 41. During this time, Shannon was calling 911 to ask that a supervisor come to the  
5 scene.

6 42. Defendant Savage told McClain "Hey, she's calling the sup[sic]."

7 43. McClain demanded that Shannon hang up the phone.

8 44. McClain reached into the passenger side window and tried to grab the cell phone  
9 from Shannon's hand.

10 45. McClain told Shannon to get out of the car.

11 46. The 911 operator told Shannon to stay in the car and not to get out.

12 47. McClain repeated his orders that Shannon stop speaking to 911 and get out of the  
13 car.

14 48. McClain reached into the open window and grabbed Shannon and told Shannon  
15 that she was under arrest.

16 49. Dante grew fearful; he reached over Shannon and locked the passenger side door.

17 50. McClain ripped Dante's hand off the lock.

18 51. Dante instinctively grabbed Shannon to protect her.

19 52. McClain called for backup.

20 53. McClain sprayed OC spray into the Pontiac, spraying Dante in the face.

21 54. Savage and McClain pepper sprayed Shannon in the passenger seat and Ben in  
22 the backseat of the car.

23 55. McClain radioed for "urgent cover."

24 56. Defendant Sacco arrived.

25 57. Sacco and Savage grabbed and tried to pull Dante out of his car.

26 58. Dante was attempting to stop McClain from dragging Shannon out of the car.

27 59. Defendant Hernandez arrived and went to the passenger side.

28 60. Hernandez and McClain yelled for Shannon to get out of the car.



1 74. Plaintiffs had committed no criminal offense or a traffic offense when McClain  
2 and Savage initiated the stop.

3 75. McClain gave the dispatch the wrong plate number; by the time Savage and  
4 McClain stopped the Plaintiffs, they had information from dispatch that McClain had made an  
5 error.

6 76. Defendants knew that there was no basis for a stop.

7 77. Defendants acted unreasonably in stopping the plaintiffs' car and subjecting  
8 Shannon and Dante to a prolonged investigatory detention when they had confirmation from  
9 dispatch that the license plate number belonged to a Pontiac.

10 78. As a result of Defendants' actions, Plaintiff suffered damages in the amount to be  
11 proven at trial.

12  
13 **SECOND CAUSE OF ACTION**  
**(Violation of 42 U.S.C. § 1983 RETALIATION against Defendants Savage, McClain,**  
**Sacco, Hernandez, Dobbs, Dodd and Does 1-50)**

14 79. Plaintiffs reallege all prior paragraphs of this complaint and incorporates the same  
15 herein by this reference.

16 80. Plaintiff Dante Harrell had a First Amendment right to record the police for  
17 engaging in what he perceived to be a violation of his rights.

18 81. Defendants McClain and Savage did not want a citizen recording or making  
19 public their unconstitutional acts.

20 82. Plaintiff Shannon Robinson had a Constitutional right as a citizen to petition the  
21 government for a redress of grievances.

22 83. Shannon Robinson exercised her right under the First Amendment to ask for a  
23 supervisor of the San Diego Police Department to come to the scene after she was held for  
24 twenty minutes after she had done nothing wrong.

25 84. Shannon was on the telephone with 911 operator requesting assistance from a  
26 supervisor.

27 85. Defendant McClain saw that Shannon was attempting to speak to his supervisor.  
28

1 86. McClain yelled at her to hang up.

2 87. Defendants used force on the Plaintiffs and arrested them as retaliation because  
3 Dante recorded Savage and McClain.

4 88. Defendants used force on the Plaintiffs and arrested them as retaliation because  
5 Shannon refused to hang up the phone with 911.

6 89. Defendants arrested Shanon and Dante based in part upon the exercise of  
7 Shannon's free expression of concern that they were being investigated and interrogated when  
8 they had done nothing wrong.

9 90. As a result of Defendants' actions, Plaintiffs suffered damages in the amount to be  
10 proven at trial.

11 **THIRD CAUSE OF ACTION**  
12 **[Civil Rights Action (42 U.S.C. § 1983) Excessive Force against Defendants Savage,**  
13 **McClain, Sacco, Hernandez, Dobbs, Dodd and Does 1-50)**

14 91. Plaintiffs reallege all prior paragraphs of this complaint and incorporates the same  
15 herein by this reference.

16 92. Plaintiffs had a firmly established right under the Fourth Amendment to be free  
17 from official infliction of physical abuse, assault, battery, and intentional infliction of emotional  
18 distress.

19 93. Plaintiffs had a firmly established right to be free from excessive force being used  
20 against them.

21 94. On March 30, 2010, Plaintiffs Shannon Robinson and Dante Harrell posed no  
22 threat to Defendants when they used excessive force.

23 95. There was no basis for the initial traffic stop or the interrogation that followed.

24 96. There was no need for use of any force in this situation because there was no  
25 probable cause for an arrest.

26 97. The use of force in deploying an OC spray in the faces of occupants of a car was  
27 unnecessary and excessive.

28 98. The use of force in grabbing and dragging Plaintiffs out of the car was



1 unnecessary and excessive.

2 99. The use of force in shooting Dante Harrell multiple times with a Taser until he  
3 lost consciousness was unnecessary and excessive.

4 100. Defendants acted under color of state law in violating Plaintiffs' rights.

5 101. Defendants were acting in purported compliance with a policy promulgated by the  
6 San Diego Police Department, in using force against citizens who had broken no law.

7 102. During the relevant period, defendants were acting under color and pretense of  
8 law, to wit: under color of the statutes, ordinances, regulations, customs and usages of the State  
9 of California and the City of San Diego.

10 103. Defendants, acting under the color of statute, ordinances, regulations, customs and  
11 usages of the State, knew that use of force in these circumstances was illegal under clearly  
12 established law.

13 104. The conduct alleged herein caused Plaintiffs to be deprived of their civil rights  
14 that are protected under the United States Constitution which has also legally, proximately,  
15 foreseeably and actually caused Plaintiffs to suffer physical injury, emotional distress, pain and  
16 suffering, and further damages according to proof at the time of trial.

17 105. The conduct alleged herein was done in deliberate or reckless disregard of and  
18 plaintiff's constitutionally protected rights; justifying the award of exemplary damages against  
19 defendant officers in an amount according to proof at the time of trial in order to deter the  
20 defendant from engaging in similar conduct and to make an example by way of monetary  
21 punishment.

22 106. Plaintiffs are also entitled to attorney fees and costs of suit herein.

23 **FOURTH CAUSE OF ACTION**  
24 **(Civil Rights Action (42 U.S.C. § 1983) False Arrest against Defendants Savage, McClain,**  
25 **Sacco, Hernandez, Dobbs, Dodd and Does 1-50]**

26 107. Plaintiffs reallege all prior paragraphs of this complaint and incorporates the same  
27 herein by this reference.

28 108. Plaintiffs had a firmly established right under the Fourth Amendment to be free

1 from arrest without probable cause. Defendants arrested Shannon Robinson and Dante Harrell  
2 without a warrant despite the fact that they had committed no crime.

3 109. Defendants arrested Shannon Robinson and Dante Harrell without probable cause.

4 110. Defendants were at this time performing their duties as officers for the defendant,  
5 City of San Diego.

6 111. During the relevant period, Defendants were acting under color and pretense of  
7 law, to wit: under color of the statutes, ordinances, regulations, customs and usages of the State  
8 of California and the City of San Diego.

9 112. The Defendants, separately and in concert, engaged in the illegal conduct to the  
10 injury of the Plaintiffs, and deprived Plaintiff s of the rights, privileges and immunities secured to  
11 them by the Fourth Amendment to the Constitution of the United States and the laws of the  
12 United States. Defendants acted with callous disregard for the constitutionally protected rights of  
13 Plaintiffs

14 113. Plaintiffs were subjected to humiliation, fear, and pain and suffering by the illegal  
15 acts of Defendants and suffered injuries as a result of the Defendants' actions.

16 114. Plaintiffs are entitled to compensatory damages, punitive damages, attorney's fees  
17 under 42 U.S.C. § 1988, and all applicable law, and such additional relief as the Court deems  
18 just.

19 **FIFTH CAUSE OF ACTION**  
20 **[Civil Rights Action (42 U.S.C. § 1983 False Imprisonment against Defendants Savage,**  
**McClain, Sacco, Hernandez, Dobbs, Dodd and Does 1-50)**

21 115. Plaintiffs reallege all prior paragraphs of this complaint and incorporates the same  
22 herein by this reference.

23 116. Defendants unlawfully detained Plaintiffs for an unreasonable period of time  
24 after they knew or should have known that they had committed no crimes.

25 117. False imprisonment is the nonconsensual, intentional confinement of a person,  
26 without lawful privilege, for an appreciable length of time, however short.

27 118. The conduct of Defendants also amounts to oppression, fraud or malice within the  
28 meaning of California Civil Code § 3294 *et seq.* and punitive damages should be assessed against

1 each defendant for the purpose of punishment and for the sake of example.

2 119. As a result of Defendants' actions, Plaintiff suffered damages in the amount to be  
3 proven at trial.

4  
5 **SIXTH CAUSE OF ACTION**  
6 **[ Civil Rights Action (42 U.S.C. § 1983) Malicious Prosecution against Defendants Savage,**  
7 **McClain, Sacco, Hernandez, Dobbs, Dodd and Does 1-50)**

8 120. Plaintiffs reallege all prior paragraphs of this complaint and incorporates the same  
9 herein by this reference.

10 121. Defendants Savage, McClain, Sacco, Hernandez, Dobbs, Dodd intentionally and  
11 maliciously instituted a legal action against Plaintiffs without probable cause.

12 122. The criminal case against Plaintiffs was dismissed, resulting in the  
13 termination of the charges in their favor.

14 123. Defendants acted with reckless disregard of the law and of the legal rights of  
15 Plaintiffs in causing a criminal proceeding to begin.

16 124. Plaintiffs were subjected to humiliation, fear, and pain and suffering by the illegal  
17 acts of Defendants and suffered injuries as a result of the Defendants' actions.

18 125. Plaintiffs are entitled to compensatory damages, punitive damages, attorney's fees  
19 under 42 U.S.C. § 1988, and all applicable law, and such additional relief as the Court deems  
20 just.

21 **SEVENTH CAUSE OF ACTION**  
22 **Assault against Defendants Savage, McClain, Sacco, Hernandez, Dobbs, Dodd and Does 1-**  
23 **50**

24 126. Plaintiffs reallege all prior paragraphs of this complaint and incorporate the same  
25 herein by this reference.

26 127. Defendants assaulted Shannon Robinson and Dante Harrell by  
27 intentionally placing them in imminent apprehension of physical violence. Defendants  
28 threatened to use OC spray and the Taser.

128. Defendants acted with an intent to cause harmful or offensive contact with the  
Plaintiffs and the intended harmful or offensive contact did in fact occur.





1 servants and employees failed to adequately and properly screen and hire the defendant  
2 employees.

3 148. The failure of these defendants to properly screen and hire the defendant police  
4 officers as a matter of policy, custom and practice, in the exercise of their functions, was  
5 deliberately indifferent to the constitutional rights of plaintiffs and done with conscious disregard  
6 for the dangers of harm and injury to the plaintiff and others similarly situated.

7 149. Due to the acts of the defendants, the failure to properly screen and hire police  
8 officers and the continued employment of the defendant police officers present a clear and  
9 present danger to the residents of the County of San Diego.

10 150. The lack of adequate screening and hiring practices by the defendants evince  
11 deliberate indifference to the rights of plaintiffs and others in their position.

12 151. These hiring practices led to the employment of defendants Savage, McClain,  
13 Sacco, Hernandez, Dobbs, and Dodd and caused the harms suffered by the plaintiffs in this case.

14 152. As a result of Defendants' actions, Plaintiffs suffered physical and psychological  
15 injuries.

16 **TWELFTH CAUSE OF ACTION**  
17 **[Civil Rights Action (42 U.S.C. § 1983)**  
18 **For Failure to Properly Train Against Defendants**  
19 **LANSDOWNE, CITY OF SAN DIEGO and Does 1-20]**

20 153. Plaintiffs reallege all prior paragraphs of this complaint and incorporate the same  
21 herein by this reference.

22 154. The defendants City of San Diego and Chief William Lansdowne, as a matter of  
23 custom, practice and policy, failed to maintain adequate and proper training as to the  
24 constitutional rights of citizens and arrestees; to prevent the consistent and systematic use of  
25 excessive force; and to prevent extra judicial punishment by officers.

26 155. Defendants failed to provide adequate training to police officers on the proper  
27 protocol and procedure on detention and arrest of citizens; the use of force in effectuating arrests;  
28 and the use the Taser.

Therefore, these defendants, with deliberate indifference, disregarded a duty to  
protect the public from official misconduct.



1 168. As a result of Defendants' actions, Plaintiffs suffered physical and psychological  
2 injuries.

3  
4 **FOURTEENTH CAUSE OF ACTION**  
5 **(*Monell* Municipal Liability Civil Rights Action (42 U.S.C. § 1983)**  
6 **Against Defendant CITY OF SAN DIEGO)**  
7 **Policy of Use of Excessive Force**

8 169. Plaintiffs reallege all prior paragraphs of this complaint and incorporate the same  
9 herein by this reference.

10 170. Defendant San Diego promulgated and maintained an unconstitutional policy,  
11 ordinance or regulation which allowed its police officers to use the Taser in violation of the  
12 rights of citizens.

13 171. Defendant was deliberately indifferent to the widespread misconduct on the part  
14 of San Diego police officers in detaining citizens who had committed no crimes.

15 172. Defendant was deliberately indifferent to the widespread misconduct on the part  
16 of San Diego police officers in the application of unnecessary and excessive use of force.

17 173. Defendant was deliberately indifferent to the widespread use of Tasers by its  
18 officers and failed to set forth appropriate policy regarding the use of the Taser as required by  
19 *Bryan v. MacPherson*, 590 F.3d 767 (9<sup>th</sup> Cir. 2009).

20 174. During the relevant period, defendant police officers, Savage, McClain, Sacco,  
21 Hernandez, Dobbs, Dodd and Doe 1 through 20, were acting pursuant the policy of defendant  
22 San Diego.

23 175. Defendant knew or should have known of the risks posed by the Department's  
24 policies regarding the improper and excessive use of force and the use of the Taser.

25 176. The defendant was deliberately indifferent to the right of Shannon Robinson and  
26 Dante Harrell to be free from, and protected from, harm by the brutality of police officers and to  
27 be secure in their bodily integrity.

28 177. As a direct result, plaintiffs were battered, intentionally and negligently inflicted  
with emotional distress and their Constitutional rights were violated.



1 178. The unlawful and illegal conduct of the defendant deprived plaintiffs of the rights,  
2 privileges and immunities secured to themm by the Constitutions of the United States and of the  
3 State of California.

4 179. As a direct, proximate and foreseeable result, Plaintiffs suffered damages in an  
5 amount according to proof at the time of trial.

6  
7 **FIFTEENTH CAUSE OF ACTION**  
8 **[California Civil Rights Violation (Section 52.1) against all defendants]**

9 180. Plaintiffs reallege all prior paragraphs of this complaint and incorporate the same  
10 herein by this reference.

11 181. Plaintiffs had a firmly established right to be free from excessive force under the  
12 Fourth Amendment through the Fourteenth Amendment to the United States Constitution and the  
13 equivalent provisions of the California Constitution.

14 182. The California Legislature has declared that it violates our state civil rights act for  
15 any person to interfere with the exercise or enjoyment by any individual of his rights secured by  
16 the United States Constitution or state or federal law. This includes any interference of these  
17 rights by threats, intimidation, coercion or attempted threats, intimidation or coercion.

18 183. The Defendants interfered with Plaintiffs' rights under the Fourth Amendment of  
19 the United States Constitution and the equivalent provisions of the state Constitution by the use  
20 of force alleged above.

21 184. This interference with Plaintiffs' rights was perpetrated by the Defendants in  
22 violation of California Civil Code§ 52.1 and their right under the Fourth and Fourteenth  
23 Amendments to be free from excessive force under the Fourth Amendment and the Fourteenth  
24 Amendment to the United States Constitution and the California Constitution.

25 185. Due to the violation of Plaintiffs' rights by all Defendants, Plaintiffs suffered  
26 economic damages and non-economic damages, including, but not limited to, emotional distress,  
27 pain and suffering, medical expenses and fear caused by the acts complained of herein according  
28 to proof at the time of trial.

1 186. Plaintiffs are also entitled to the statutory civil penalties set forth in Civil Code §  
2 52.1, attorneys' fees and costs of suit incurred herein.

3 187. The conduct of Defendants also amounts to oppression, fraud or malice within the  
4 meaning of Civil Code Section 3294 et seq. and punitive damages should be assessed against  
5 each non-municipal defendant for the purpose of punishment and for the sake of example.  
6 Defendant City of San Diego is liable for the acts of its officers as they have agreed with and or  
7 ratified the acts.

8 **SIXTEENTH CAUSE OF ACTION**  
9 **[INJUNCTIVE RELIEF]**

10 188. Plaintiffs realleges all prior paragraphs of this complaint and incorporate the same  
11 herein by this reference.

12 189. Plaintiffs are informed and believe and thereon allege that, unless enjoined,  
13 defendants will continue to engage in the unlawful acts and in the policies and practices  
14 described above, in violation of the legal and constitutional rights of the plaintiffs and others who  
15 are similarly situated.

16 190. Plaintiffs face the real and immediate threat of repeated and irreparable injury and  
17 continuing, present adverse effects as a result of the unlawful misconduct, policies and practices  
18 of the defendants. Plaintiffs have no adequate and complete remedy at law.

19  
20 **PRAYER FOR RELIEF**

21 WHEREFORE, Plaintiffs pray for a judgment as follows:

22 1. Directing Defendants to set forth policies and procedures as may be necessary and  
23 proper with respect to the use of force and the use of the Taser.

24 2. Entering judgment for compensatory general and special damages in an amount in  
25 accordance with proof.

26 3. Entering judgment for exemplary damages against each of the individual  
27 defendants in an amount sufficient to punish and to make an example of said defendants, and to  
28 deter said defendants and others from engaging in similar conduct.

