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County of Monterey
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13 E.C., a minor

14 **SUPERIOR COURT OF CALIFORNIA**
15 **COUNTY OF MONTEREY**

16 E.C., a minor,

17 Plaintiff,

18 v.

19 CITY OF SEASIDE; SEASIDE POLICE
20 DEPARTMENT; JOHN CRIVELLO; and
21 DOES 1 through 50, inclusive,

22 Defendants.

Case No.: 24CV003698

INDIVIDUAL ACTION

COMPLAINT FOR DAMAGES

DEMAND FOR JURY TRIAL

1 Plaintiff E.C., by and through his *Guardian ad Litem*, ESTELA CASAS, hereby
2 complains and alleges as follows:

3 1. Plaintiff E.C. ("Plaintiff") is, and at all times mentioned in this complaint was, a
4 minor and a resident of Monterey County, California. Estela Casas, Plaintiff's mother has
5 requested to be appointed as *Guardian ad Litem*.

6 2. Defendant City of Seaside ("CITY") is, and at all relevant times was, a
7 governmental entity organized and existing under the laws of the State of California in the
8 County of Monterey, California. The CITY is responsible for the actions, omissions, policies,
9 procedures, practices, and customs of its various agents and agencies, including the Seaside
10 Police Department. At all relevant times, the CITY was responsible for assuring that the
11 actions, omissions, policies, procedures, practices, and customs of its employees and agents
12 complied with the laws of the United States and of the State of California. At all relevant
13 times, CITY was the employer of Seaside Police Department employees.

14 3. At all relevant times, the Seaside Police Department ("SPD") was a law
15 enforcement agency for the CITY, responsible for training and supervising its police officers,
16 including Officer John Crivello.

17 4. Defendant Officer John Crivello ("CRIVELLO"), is, and at all times mentioned
18 in this complaint was, an individual and a resident of Monterey County, California. At all
19 relevant times, CRIVELLO acted in the course and scope of his employment with the CITY
20 and under the color of state law.

21 5. Plaintiff is ignorant of the true names, identities, capacities and relationships of
22 the Defendants sued herein as DOES 1 through 50, inclusive, and therefore sues these
23 Defendants by such fictitious names. Plaintiff is informed and believes, and thereon alleges,
24 that each of these fictitiously named Defendants are responsible in some manner for the
25 occurrences herein alleged, and that Plaintiff's damages as herein alleged were proximately
26 caused by DOES 1 through 50. Plaintiff will amend this Complaint to allege the true names
27 and capacities of said DOE Defendants when such information is ascertained. Each reference
28 to "Defendants," and each reference to any particular Defendant herein, shall be construed to

1 refer to all Defendants, including, but not limited to, all of those fictitiously named herein as a
2 “DOE” Defendant, and each of them.

3 6. Plaintiff is informed and believes, and thereon alleges, that each of the
4 Defendants herein was, at all times relevant to this action, the agent, employee, representative,
5 and/or partner, of the remaining Defendants, and each of them, and that each of the Defendants
6 herein was at all times acting within the course and scope of that relationship. Plaintiff is
7 further informed and believes, and thereon alleges, that each of the Defendants are
8 contractually, strictly, vicariously liable and/or otherwise legally responsible in some manner
9 for each and every act, omission, obligation, event or happening set forth in this Complaint.

10 JURISDICTION AND VENUE

11 7. This Court has jurisdiction over this action pursuant to Article VI, section 10 of
12 the California Constitution. Plaintiff brings this Complaint for violations of California law
13 occurring in the County of Monterey.

14 8. Pursuant to Code of Civil Procedure § 395(a), venue is proper in this judicial
15 district because Defendants, at all times relevant herein, transacted business in the County of
16 Monterey and because Defendants’ obligations and liabilities arise therein. Furthermore, the
17 conduct alleged herein against Plaintiff and the damages resulting therefrom occurred in the
18 County of Monterey.

19 GENERAL ALLEGATIONS

20 9. Plaintiff hereby brings this Complaint against the CITY, SPD, and CRIVELLO
21 for intentional, reckless, and unreasonable use of excessive force by CRIVELLO when
22 forcibly detaining Plaintiff on December 12, 2023.

23 10. Specifically, CRIVELLO stopped and seized without probable or reasonable
24 cause Plaintiff with his knee to Plaintiff’s head and neck after Plaintiff had been fully
25 incapacitated and compliant. Even as Plaintiff cried for help and for CRIVELLO to stop,
26 CRIVELLO continued even as Plaintiff had submitted and cooperated. CRIVELLO's
27 continuous excessive force ultimately caused injuries to Plaintiff.

28 11. The above conduct amounts to tortious conduct under common law and the laws

1 of the State of California, as well as a violation of the Plaintiff's Civil Rights pursuant to 42
2 U.S.C. § 1983.

3 **FIRST CAUSE OF ACTION**
4 **EXCESSIVE FORCE**
5 **(42 U.S.C. § 1983)**
6 **(Plaintiff against Defendants)**

7 12. Plaintiff realleges and incorporates by reference the paragraphs and allegations
8 contained in all preceding paragraphs of this complaint, as though fully set forth herein.

9 13. CRIVELLO used excessive force against Plaintiff when CRIVELLO detained
10 Plaintiff. CRIVELLO's unjustified excessive use of force deprived Plaintiff of his right to be
11 secure in his person against unreasonable searches and seizures as guaranteed under the Fourth
12 and Fourteenth Amendment.

13 14. Based on the facts readily available and known to CRIVELLO, no reasonable
14 conclusion could be drawn that the force used was reasonable, as Plaintiff was complaint,
15 crying for help, and posed no immediate threat of death or serious bodily injury at the time.
16 All objective facts readily available and known to CRIVELLO could have reasonably led to
17 the conclusion that Plaintiff was not a threat requiring the use of such harmful and excessive
18 force. As a result of the foregoing, Plaintiff suffered physical injuries and emotional distress.
19 Further, CRIVELLO's actions and use of force violated his training and standard police officer
20 training.

21 15. CRIVELLO, under color of law, intentionally, recklessly, negligently,
22 unlawfully, with malice, fraud, and oppression violated Plaintiff's Civil Rights and his right to
23 be secure in his person against unreasonable searches and seizures as guaranteed under the
24 Fourth and Fourteenth Amendment.

25 16. Plaintiff further alleges that Defendants, with deliberate indifference to and
26 reckless disregard for the safety and well-being of Plaintiff, and in violation of the Fourth and
27 Fourteenth Amendments to the Constitution, committed or allowed to be committed, acts
28 which deprived Plaintiff of his Constitutional rights.

17 17. CRIVELLO directly participated and/or aided and abetted in wrongful conduct
18 against Plaintiff and engaged in efforts to cover up said conduct by preparing or authorizing or

1 approving false police reports, and/or aiding and abetting the preparation, authorization or
2 approval of false police reports to cover up said wrongful conduct, use of excessive force, and
3 violation of Plaintiff's rights.

4 18. Due to the conduct of Defendants, and each of them, Plaintiff has suffered
5 general damages and special damages, all in sum to be proved at trial. Due to the conduct of
6 Defendants, and each of them, Plaintiff has been required to incur attorneys' fees and will
7 continue to incur attorneys' fees, all to Plaintiff's damage in a sum to be proved at trial and
8 recoverable pursuant to 42 U.S.C. §1988.

9 19. CRIVELLO acted with a conscious disregard of Plaintiff's rights conferred upon
10 him by 42 U.S. Code § 1983, the Fourth Amendment to the United States Constitution, and
11 California Civil Code § 3333, by intentionally and unnecessarily causing Plaintiff great bodily
12 injury.

13 20. Said conduct of Defendants constitutes malice, oppression and/or fraud under
14 California Civil Code § 3294, entitling Plaintiff to punitive damages against CRIVELLO in an
15 amount suitable to punish and set an example.

16 **SECOND CAUSE OF ACTION**
17 **DEVEREAUX CLAIM**
(42 U.S.C. § 1983)
(Plaintiff against Defendants)

18 21. Plaintiff realleges and incorporates by reference the paragraphs and allegations
19 contained in all the preceding paragraphs of this complaint, as though fully set forth herein.

20 22. At all times material to this Complaint, CRIVELLO was acting under color of
21 the law in violating Plaintiff's constitutional rights as herein under the Fourth and Fourteenth
22 Amendments to the Constitution of the United States.

23 23. Defendants directly participated and/or aided and abetted in the wrongful use of
24 excessive force against Plaintiff and engaged in efforts to cover up said conduct by providing
25 false testimony, preparing or authorizing or approving false police reports, and/or aiding and
26 abetting the preparation, authorization, or approval of false police reports to maliciously
27 prosecute Plaintiff.

28

1 Plaintiff has been injured. CRIVELLO acted pursuant to an expressly adopted official policy
2 or a longstanding practice or custom of the CITY.

3 31. The CITY failed to discipline, reprimand, retrain, suspend, or otherwise penalize
4 CRIVELLO in connection with Plaintiff's injuries.

5 32. The CITY maintained, inter alia, the following unconstitutional customs,
6 practices, and policies: (a) using excessive force; (b) providing inadequate training regarding
7 the use of force; (c) employing and retaining as police officers individuals such as
8 CRIVELLO, who the CITY at all times material herein knew or reasonably should have
9 known had dangerous propensities for abusing his authority and for using excessive force; (d)
10 inadequately supervising, training, controlling, assigning, and disciplining city officers, and
11 other personnel, including CRIVELLO, who the CITY knew or in the exercise of reasonable
12 care should have known had the aforementioned propensities and character traits; (e)
13 maintaining grossly inadequate procedures for reporting, supervising, investigating, reviewing,
14 disciplining and controlling misconduct by CRIVELLO; (f) failing to adequately discipline
15 city police officers, including CRIVELLO, for the above-referenced categories of misconduct,
16 including "slaps on the wrist," discipline that is so slight as to be out of proportion to the
17 magnitude of the misconduct, and other inadequate discipline that is tantamount to
18 encouraging misconduct; (g) announcing that the use of unreasonable, unjustified, and
19 excessive are "within policy," including conduct that was later determined to be
20 unconstitutional; and (h) even where the use of force is determined in court to be
21 unconstitutional, refusing to discipline, terminate, or retrain the officers involved;

22 33. By reason of the aforementioned acts and omissions, Plaintiff has suffered
23 physical and emotional injuries in an amount to be proven at trial.

24 34. Despite having knowledge as stated above, the CITY condoned, tolerated, and
25 through actions and inactions, thereby ratified such policies. The CITY also acted with
26 deliberate indifference to the foreseeable effects and consequences of these policies with
27 respect to the constitutional rights of Plaintiff.

28

1 35. By perpetrating, sanctioning, tolerating, and ratifying the outrageous conduct
2 and other wrongful acts, CRIVELLO acted with intentional, reckless, and callous disregard for
3 Plaintiff's constitutional rights. Furthermore, the policies, practices, and customs implemented,
4 maintained, and still tolerated by the CITY were affirmatively linked to and significantly
5 influential in the plaintiff's injuries.

6 36. Accordingly, the CITY is liable to Plaintiff for compensatory damages under 42
7 U.S.C. § 1983.

8 **FOURTH CAUSE OF ACTION**
9 **FALSE ARREST**
 (42 U.S.C. § 1983)
10 **Plaintiff against CRIVELLO**

11 37. Plaintiff realleges and incorporates by reference the paragraphs and allegations
12 contained in all the preceding paragraphs of this complaint, as though fully set forth herein.

13 38. Plaintiff had a firmly established right under the Fourth Amendment to be free
14 from investigatory search without reasonable suspicion and arrest without probable cause.

15 39. CRIVELLO's investigatory stop of Plaintiff lacked reasonable suspicion and the
16 arrest was without a warrant despite the fact that Plaintiff had committed no crime nor was
17 there probable cause to suspect a crime. The initial stop of Plaintiff lacked reasonable
18 suspicion. It was arbitrary, capricious, and harassing. The stop and frisk and arrest were done
19 only to harass Plaintiff. "[A]n investigative stop or detention predicated on mere curiosity,
20 rumor, or hunch is unlawful, even though the officer may be acting in complete good faith."
(*In re Tony C.*, 21 Cal.3d 888, 893 [148 Cal.Rptr. 366, 582 P.2d 957] (1978).)

21 40. Here, CRIVELLO arrested Plaintiff without probable cause. Plaintiff was
22 arrested because CRIVELLO was offended by Plaintiff's exercising his civil rights.
23 CRIVELLO then filed retaliatory criminal charges against Plaintiff.

24 41. CRIVELLO was at the time performing his duties as an officer for the CITY.
25 CRIVELLO was acting under color and pretense of law, to wit: under color of the statutes,
26 ordinances, regulations, customs and usages of the State of California and the CITY. In
27 addition, CRIVELLO also acted on his own personal feelings.

28 42. CRIVELLO, separately and in concert, engaged in the illegal conduct to the

1 injury of the Plaintiff, and deprived Plaintiff of the rights, privileges and immunities secured to
2 him by the Fourth Amendment to the Constitution of the United States and the laws of the
3 United States.

4 43. CRIVELLO acted with callous disregard for the constitutionally protected rights
5 of Plaintiff.

6 44. Plaintiff was subjected to humiliation, fear, pain, and suffering by the illegal acts
7 of CRIVELLO and suffered injuries as a result of the CRIVELLO's actions.

8 45. Plaintiff is entitled to compensatory damages, punitive damages, attorney's fees
9 under 42 U.S.C. § 1988, and all applicable law, and such additional relief as the Court deems
10 just.

11 **FIFTH CAUSE OF ACTION**
12 **FALSE IMPRISONMENT**
(42 U.S.C. § 1983)
13 **Plaintiff against CRIVELLO**

14 46. Plaintiff realleges and incorporates by reference the paragraphs and allegations
15 contained in all the preceding paragraphs of this complaint, as though fully set forth herein.

16 47. False imprisonment is the nonconsensual, intentional confinement of a person,
17 without lawful privilege, for an appreciable length of time, however short.

18 48. CRIVELLO unlawfully detained Plaintiff for an unreasonable period of time
19 after he knew or should have known that Plaintiff had committed no crimes.

20 49. CRIVELLO's conduct also amounts to oppression, fraud, or malice within the
21 meaning of California Civil Code § 3294 et seq.

22 50. As a result of CRIVELLO's actions, Plaintiff suffered damages in the amount to
23 be proven at trial.

24 51. Plaintiff is entitled to compensatory damages, punitive damages, attorney's fees
25 under 42 U.S.C. § 1988, and all applicable law, and such additional relief as the Court deems
26 just.

27 **SIXTH CAUSE OF ACTION**
California Civil Rights Violation
(Civil Code § 52.1)
28 **Plaintiff against Defendants**

52. Plaintiff realleges and incorporates by reference the paragraphs and allegations

1 contained in all the preceding paragraphs of this complaint, as though fully set forth herein.

2 53. Plaintiff had a firmly established right to be free from excessive force under the
3 Fourth Amendment and Fourteenth Amendment to the United States Constitution and the
4 equivalent provisions of the California Constitution.

5 54. The California Legislature has declared that it violates our state civil rights act
6 for any person to interfere with the exercise or enjoyment by any individual of his rights
7 secured by the United States Constitution or state or federal law. This includes any
8 interference of these rights by threats, intimidation, coercion or attempted threats, intimidation
9 or coercion.

10 55. The Defendants used the force alleged above to interfere with Plaintiff's rights
11 under the Fourth Amendment of the United States Constitution and the equivalent provisions
12 of the state Constitution.

13 56. This interference with Plaintiff's rights was perpetrated by Defendants in
14 violation of California Civil Code § 52.1 and Plaintiff's rights to be free from excessive force
15 under the Fourth Amendment and Fourteenth Amendment to the United States Constitution
16 and the California Constitution.

17 57. Defendant CITY is liable for the acts of its officers because it gave its implied
18 consent and agreed with and or ratified such unlawful acts.

19 58. Due to the violation of Plaintiff's rights by Defendants, Plaintiff suffered
20 economic damages and non-economic damages, including, but not limited to, emotional
21 distress, pain and suffering, medical expenses and fear caused by the acts complained of herein
22 according to proof at the time of trial.

23 59. The conduct of Defendants also amounts to oppression, fraud, or malice within
24 the meaning of Civil Code § 3294 et seq., and punitive damages should be assessed against
25 Defendants for the purpose of punishment and for the sake of example.

26 60. Plaintiff is entitled to the statutory civil penalties set forth in Civil Code § 52.1,
27 attorneys' fees and costs, and such additional relief as the Court deems just.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays as follows:

- 61. As to the All Causes of Action, for special and general damages, compensatory, exemplary and punitive damages;
- 62. As to All Causes of Action, for attorneys' fees and costs; and
- 63. For such other and further relief as the Court may deem equitable and appropriate.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial.

Dated: September 4, 2024 FITZPATRICK & SWANSTON

By: /s/ B. James Fitzpatrick
B. James Fitzpatrick
Attorneys for Plaintiff,
E.C., a minor, by and through his
Guardian ad Litem, Estela Casas