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Superior Court of California,
County of Monterey
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By: Graviela Martines, Deputy

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONTEREY

JOSE CASAS,

Plaintiff,

v.

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

Defendants.

Case No.: 24CV003696
INDIVIDUAL ACTION
COMPLAINT FOR DAMAGES
DEMAND FOR JURY TRIAL

1 Plaintiff JOSE CASAS, hereby complains and alleges as follows:

2 1. Plaintiff Jose Casas ("Plaintiff") is, and at all times mentioned in this complaint
3 was, a resident of Monterey County, California..

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

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

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

19 5. Plaintiff is ignorant of the true names, identities, capacities and relationships of
20 the Defendants sued herein as DOES 1 through 50, inclusive, and therefore sues these
21 Defendants by such fictitious names. Plaintiff is informed and believes, and thereon alleges,
22 that each of these fictitiously named Defendants are responsible in some manner for the
23 occurrences herein alleged, and that Plaintiff's damages as herein alleged were proximately
24 caused by DOES 1 through 50. Plaintiff will amend this Complaint to allege the true names
25 and capacities of said DOE Defendants when such information is ascertained. Each reference
26 to "Defendants," and each reference to any particular Defendant herein, shall be construed to
27 refer to all Defendants, including, but not limited to, all of those fictitiously named herein as a
28 "DOE" Defendant, and each of them.

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

8 **JURISDICTION AND VENUE**

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

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

17 **GENERAL ALLEGATIONS**

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

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

26 11. The above conduct amounts to tortious conduct under common law and the laws
27 of the State of California, as well as a violation of the Plaintiff's Civil Rights pursuant to 42
28 U.S.C. § 1983.

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FIRST CAUSE OF ACTION
EXCESSIVE FORCE
(42 U.S.C. § 1983)
(Plaintiff against Defendants)

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

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

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

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

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

17. CRIVELLO directly participated and/or aided and abetted in wrongful conduct against Plaintiff and engaged in efforts to cover up said conduct by preparing or authorizing or approving false police reports, and/or aiding and abetting the preparation, authorization or

1 approval of false police reports to cover up said wrongful conduct, use of excessive force, and
2 violation of Plaintiff's rights.

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

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

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

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

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

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

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

27 24. Due to the conduct of Defendants, and each of them, Plaintiff has suffered
28 general damages and special damages, all in sum to be proved at trial. Due to the conduct of

1 Defendants, and each of them, Plaintiff has been required to incur attorneys' fees and will
2 continue to incur attorneys' fees, all to Plaintiff's damage in a sum to be proved at trial and
3 recoverable pursuant to 42 U.S.C. §1988.

4 25. Defendants acted with a conscious disregard of Plaintiff's rights conferred upon
5 him by 42 U.S. Code § 1983, the Fourth Amendment to the United States Constitution, and
6 California Civil Code § 3333, by intentionally causing him injury and using excessive force.
7 Defendants, and each of them, had an interest in seeing Plaintiff charged with criminal conduct
8 to detract from Defendants unlawful arrest of Plaintiff and use of excessive force.

9 26. Said conduct of Defendants constitutes malice, oppression and/or fraud, entitling
10 Plaintiff to punitive damages against individual Defendants in an amount suitable to punish
11 and set an example.

THIRD CAUSE OF ACTION
MONNEL CLAIM
(42 U.S.C. § 1983)
(Plaintiff against CITY)

14 27. 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 28. At all relevant times, CRIVELLO acted under color of law. The acts of
17 CRIVELLO violated Plaintiff's rights under the United States Constitution.

18 29. Based on information and belief, the CITY has determined that the acts of
19 CRIVELLO were "within policy." The training policies of the CITY were not adequate to
20 train its officers to handle the usual and recurring situations with which they must deal. The
21 CITY was deliberately indifferent to the obvious consequences of its failure to train its officers
22 adequately. The failure of the CITY to provide adequate training caused the deprivation of
23 Plaintiff's rights by CRIVELLO; that is, the CITY's failure to train is so closely related to the
24 deprivation of Plaintiff's rights as to be the moving force that caused the ultimate injury.

25 30. Furthermore, based on information and belief, the CITY failed to train
26 CRIVELLO properly and adequately. Because of CRIVELLO's use of excessive force,
27 Plaintiff has been injured. CRIVELLO acted pursuant to an expressly adopted official policy
28 or a longstanding practice or custom of the CITY.

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

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

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

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

26 35. By perpetrating, sanctioning, tolerating, and ratifying the outrageous conduct
27 and other wrongful acts, CRIVELLO acted with intentional, reckless, and callous disregard for
28 Plaintiff's constitutional rights. Furthermore, the policies, practices, and customs implemented,

1 maintained, and still tolerated by the CITY were affirmatively linked to and significantly
2 influential in the plaintiff's injuries.

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

5 **FOURTH CAUSE OF ACTION**
6 **FALSE ARREST**
7 **(42 U.S.C. § 1983)**
8 **Plaintiff against CRIVELLO**

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

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

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

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

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

27 42. CRIVELLO, separately and in concert, engaged in the illegal conduct to the
28 injury of the Plaintiff, and deprived Plaintiff of the rights, privileges and immunities secured to
him by the Fourth Amendment to the Constitution of the United States and the laws of the
United States.

1 43. CRIVELLO acted with callous disregard for the constitutionally protected rights
2 of Plaintiff.

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

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

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

11 46. 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 47. False imprisonment is the nonconsensual, intentional confinement of a person,
14 without lawful privilege, for an appreciable length of time, however short.

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

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

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

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

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

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

28 53. Plaintiff had a firmly established right to be free from excessive force under the
Fourth Amendment and Fourteenth Amendment to the United States Constitution and the

1 equivalent provisions of the California Constitution.

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

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

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

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

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

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

23 60. Plaintiff is entitled to the statutory civil penalties set forth in Civil Code § 52.1,
24 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:

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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,
Jose Casas