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CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
LOS ANGELES
BY: _____

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Attorneys for Plaintiff ANDREW TREVOR CLARKE

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

SACV12 - 373 JST (JPRx)

ANDREW TREVOR CLARKE,

Plaintiff,

vs.

CITY OF FULLERTON; MICHAEL
SELLERS, Chief of Police individually and
as a peace officer; CARY TONG #1341,
individually and as a peace officer; SAM
CONTINO # 774, individually and as a
peace officer; KENTON HAMPTON #
1337, individually and as a peace officer;
DOE BOLDEN # UNKNOWN,
individually and as a peace officer; DOE
SALAZAR # UNKNOWN, individually
and as a peace officer; DOE WORLEY #
UNKNOWN, individually and as a peace
officer; and DOES 1-10, inclusive,

Defendants.

Case No.:

COMPLAINT FOR DAMAGES

1. Violation of Civil Rights
(42 U.S.C. § 1983)
2. *Monell* Claim
(42 U.S.C. § 1983)

DEMAND FOR JURY TRIAL

1 4. Defendant CITY OF FULLERTON (hereinafter referred to as "CITY") is
2 and at all times herein mentioned has been a public entity and an incorporated county
3 duly authorized and existing as such in and under the laws of the State of California; and
4 at all times herein mentioned, Defendant CITY has possessed the power and authority to
5 adopt policies and prescribe rules, regulations and practices affecting the operation of the
6 Fullerton Police Department, and particularly said Department's Patrol, Internal
7 Investigations and Training and Personnel Divisions and other operations and
8 subdivisions presently unidentified to Plaintiff, and their tactics, methods, practices,
9 customs and usages related to internal investigations, personnel supervision and records
10 maintenance, the use and deployment of dangerous weapons, the use of force, and powers
11 of arrest by its rank and file.

12 5. Plaintiff is informed and believes and thereon alleges that each of the
13 Defendants designated as a DOE is intentionally and negligently responsible in some
14 manner for the events and happenings herein referred to, and thereby proximately caused
15 injuries and damages as herein alleged. The true names and capacities of DOES 1
16 through 10, inclusive, and each of them, are not now known to Plaintiff who therefore
17 sues said Defendants by such fictitious names, and Plaintiff will seek leave to amend this
18 complaint to show their true names and capacities when the same have been ascertained.

19 6. Defendants, and each of them, did the acts and omissions hereinafter alleged
20 in bad faith and with knowledge that their conduct violated well established and settled
21 law.

22 7. The incidents complained of occurred outside Heroes Bar & Grill, at or near
23 the vicinity of 125 W. Santa Fe Ave., in the City of Fullerton. On March 17, 2010, at
24 approximately 10:00 p.m., Plaintiff CLARKE was outside Heroes Bar & Grill smoking a
25 cigarette when some individuals started harassing him and tried to pick a fight. All of a
26 sudden, several police officers including Defendants CONTINO, HAMPTON, BOLDEN
27 and TONG converged on Plaintiff, took him face down to the ground onto his stomach,
28 beat him with blunt objects and punched him several times while accusing him of

1 “resisting arrest.” Plaintiff CLARKE, however, was not resisting. While taking Plaintiff
2 into custody, DEFENDANT TONG crushed and twisted Plaintiff’s fingers, to the point
3 of fracturing the pinky finger in Plaintiff’s left hand. One of the officers used his boot to
4 step on Plaintiff’s face. Plaintiff was not informed why he was being accosted and was
5 not told he was being arrested. DEFENDANT TONG or HAMPTON slammed
6 Plaintiff’s head onto the side of the police vehicle while telling him to “watch his head.”
7 Thereafter, Defendant TONG transported Plaintiff to the jail and during the ride,
8 Defendant TONG repeatedly drove the police vehicle at high speeds and then maliciously
9 subjected plaintiff to “screen tests” by braking suddenly and unnecessarily causing the
10 unbelted Plaintiff to fly forward and slam his face against the grate separating the rear
11 and front of the patrol car. Upon arrival at the jail, Plaintiff overheard an officer say to a
12 jailer, "take special care of this one, he thinks he's smart."

13 While Plaintiff was detained in violation of California Penal Code section 853.6 at
14 the Fullerton jail, Defendants SALAZAR and WORLEY and each of them, ordered
15 Plaintiff to strip to his underwear for photographs; kept Plaintiff wet and cold inside his
16 jail cell and repeatedly taunted Plaintiff when Plaintiff complained that he was shivering
17 and cold and when he asked for a blanket or a hot beverage; inflicted unnecessary pain by
18 beating Plaintiff about the head “where no marks would show”; and intentionally twisted
19 Plaintiff’s already broken pinky finger, while Plaintiff screamed in pain. Defendants
20 SALAZAR and WORLEY repeatedly refused to respond to Plaintiff’s repeated demands
21 to tell him why he was arrested, and repeatedly denied Plaintiff’s requests for a phone
22 call. Defendants detained Plaintiff in the jail for approximately 8 hours, who was
23 released when the shift changed. Upon his release, Plaintiff discovered that \$140.56 of
24 his money was missing and unaccounted for, as only \$34.00 was returned to him.
25 Plaintiff had \$174.56 in his possession at the time Defendants arrested him. Plaintiff is
26 informed and believes that Defendants wrongfully took \$140.56 of Plaintiff’s money.

27 \\\

28 \\\

FIRST CAUSE OF ACTION

(VIOLATION OF CIVIL RIGHTS - 42 U.S.C. § 1983)

(By Plaintiff Against Defendants TONG, CONTINO, HAMPTON, BOLDEN,
SALAZAR, WORLEY and DOES 1-5, inclusive.)

8. Plaintiff refers to and re-pleads each and every allegation contained in paragraphs 1 through 7 of this complaint, and by this reference incorporates the same herein and makes each a part hereof.

9. This action at law for money damages arises under 42 U.S.C. § 1983 and the United States Constitution, the laws of the State of California and common law principles to redress a deprivation under color of state law of rights, privileges and immunities secured to Plaintiff CLARKE by said statutes, and by the First, Fourth, and Fourteenth Amendments of the United States Constitution.

10. Commencing at or about the aforementioned date and place, without cause or justification, and acting under color of law, Defendants TONG, CONTINO, HAMPTON, BOLDEN, and DOES 1-5 and each of them, intentionally and maliciously deprived Plaintiff CLARKE of rights secured to him by the First, Fourth, and Fourteenth Amendments to the United States Constitution in that Defendants and each of them, subjected Plaintiff to unreasonable, unnecessary and excessive force during his arrest, and engaged in a conspiracy to cover up the excessive use of force. Defendants, and each of them intentionally and maliciously deprived Plaintiff of rights secured to him by the Fourteenth Amendment to the United States Constitution in that these Defendants, and each of them, intentionally violated California Penal Code sections 841, 851.5 and 853.6 thereby depriving Plaintiff of due process rights guaranteed to him by the Fourteenth Amendment.

11. While Plaintiff CLARKE was in their custody, Defendants, and each of them, intentionally and maliciously deprived Plaintiff of rights secured to him by the Fourteenth Amendment to the United States Constitution in that these Defendants, and each of them, used unreasonable, unnecessary and excessive force, in a manner that was

1 wanton and sadistic and not in a good faith effort to restore discipline, and was done
2 solely for the purpose of inflicting unnecessary pain and suffering, and to harm and
3 embarrass Plaintiff.

4 12. Defendants SALAZAR and WORLEY intentionally and maliciously
5 deprived Plaintiff CLARKE of rights secured to him by the Fourteenth Amendment to
6 the United States Constitution in that these Defendants, and each of them, removed
7 Plaintiff's clothing without legal justification, and for several hours subjected Plaintiff to
8 freezing conditions in his cell, refusing his requests for a blanket or a hot beverage, and
9 instead taunting him as Plaintiff shivered in the cold, in a manner that was wanton and
10 sadistic and was done solely for the purpose of inflicting unnecessary pain and suffering,
11 and to harm and embarrass Plaintiff.

12 13. Defendants SALAZAR and WORLEY intentionally and maliciously
13 deprived Plaintiff of rights secured to him by the First and Fourteenth Amendments to the
14 United States Constitution in that these Defendants, and each of them, refused Plaintiff's
15 repeated requests for a phone call, in violation of California Penal Code section 851.5 (a),
16 and in violation of his right to communicate and his right to procedural due process.

17 14. As a proximate result of the aforesaid acts and omissions of Defendants, and
18 each of them, Plaintiff sustained great physical and mental pain and shock to his nervous
19 system, fear, anxiety, torment, degradation and emotional distress.

20 15. As a proximate result of the aforesaid acts and omissions of Defendants,
21 and each of them, Plaintiff was deprived of his liberty, without warrant or justification.

22 16. As a proximate result of the acts of Defendants, and each of them, Plaintiff
23 was compelled to expend money all to his damage according to proof.

24 17. As a proximate result of the acts of Defendants, and each of them, Plaintiff
25 has suffered damage to his reputation and embarrassment in the community.

26 18. By reason of the aforementioned acts and omissions of Defendants, and each
27 of them, Plaintiff incurred medical and therapeutic expenses in an amount as proved.
28

1 19. In addition, by reason of the aforementioned acts and omissions of
2 Defendants, and each of them, Plaintiff was kept from attending to his usual occupations,
3 and has suffered loss and impairment of earnings and employment opportunities all to his
4 damage in an amount as proved.

5 20. By reason of the aforementioned acts of Defendants, and each of them,
6 Plaintiff was compelled to secure the services of an attorney at law to redress the wrongs
7 hereinbefore mentioned and by virtue thereof, Plaintiff is indebted and liable for
8 attorney's fees.

9 21. The aforementioned acts and omissions of Defendants were committed by
10 each of them knowingly, willfully and maliciously, with the intent to harm, injure, vex,
11 harass and oppress Plaintiff with a conscious disregard of Plaintiff's constitutional rights
12 and by reason thereof, Plaintiff seeks punitive and exemplary damages from Defendants,
13 and each of them, (except Defendant CITY) in an amount as proved.

14 **SECOND CAUSE OF ACTION**

15 **(UNLAWFUL CUSTOM AND PRACTICE UNDER 42 U.S.C § 1983)**

16 (By Plaintiff Against Defendants CITY, SELLERS and DOES 6-10, inclusive.)

17 22. Plaintiff refers to and re-pleads each and every allegation contained in
18 paragraphs 1 through 21 of this complaint, and by this reference incorporates the same
19 herein and makes each a part hereof.

20 23. Defendant CITY is and at all times herein mentioned, has been a public
21 entity and an incorporated municipality duly authorized and existing as such in and under
22 the laws of the State of California; and at all times herein mentioned, Defendant CITY
23 possessed the power and authority to adopt policies and prescribe rules, regulations and
24 practices affecting the operation of the Fullerton Police Department and its tactics,
25 methods, practices, customs and usages related to internal investigations, personnel
26 supervision and records maintenance, and the proper uses of force by its rank and file,
27 generally.
28

1 24. Plaintiff is informed and believes, and thereon alleges, that on March 17,
2 2010, and for some time prior thereto, Defendants CITY, SELLERS and DOES 6-10
3 inclusive, had in place, and had ratified policies, procedures, customs and practices which
4 permitted and encouraged their police officers to unjustifiably, unreasonably and in
5 violation of the First, Fourth and Fourteenth Amendments, unlawfully use excessive and
6 unreasonable force on persons they detain and arrest.

7 25. At all times herein mentioned, Defendants SELLERS and Does 6-10, and
8 each of them, were employees acting under the CITY's direction and control, who
9 knowingly and intentionally promulgated, maintained, applied, enforced and suffered the
10 continuation of policies, customs, practices and usages in violation of the First, Fourth
11 and Fourteenth Amendments respectively to the United States Constitution, which
12 customs, policies, practices and usages at all times herein mentioned required and
13 encouraged the employment, deployment and retention of persons as peace officers who
14 have demonstrated their brutality, dishonesty, and numerous other serious abuses of their
15 powers as peace officers in the employment of the CITY.

16 26. Defendant CITY knowingly maintains and permits official *sub-rosa* policies
17 or customs of permitting the occurrence of the kinds of wrongs set forth above, by
18 deliberate indifference to widespread police abuses, failing and refusing to impartially
19 investigate personnel complaints, failing to discipline or prosecute peace officers who
20 commit acts of felonious dishonesty and crimes of violence, each ratified and approved
21 by CITY, SELLERS and DOES 6-10, inclusive.

22 27. The unconstitutional policies, practices or customs promulgated, sanctioned
23 or tolerated by Defendants CITY, SELLERS and DOES 6-10 include, but are not limited
24 to:

25 (a) Defendants CITY, SELLERS and DOES 6-10 had knowledge, prior
26 to and since this incident, of repeated allegations of abuse and assaultive misconduct
27 toward detainees and arrestees. Specifically, CITY, SELLERS and DOES 6-10 knew
28 Defendants had in the past committed acts of police abuse, dishonesty and prevarication;

1 (b) Defendants CITY, SELLERS and DOES 6-10 had knowledge, prior
2 to and since this incident, of similar allegations of abuse and dishonesty by Defendants,
3 and refused to enforce established administrative procedures to ensure the safety of
4 detainees and arrestees;

5 (c) Defendants CITY, SELLERS and DOES 6-10 refused to adequately
6 discipline individual officers and employees found to have committed similar acts of
7 abuse and misconduct;

8 (d) Defendants CITY, SELLERS and DOES 6-10 refused to competently
9 and impartially investigate allegations of abuse and misconduct alleged to have been
10 committed by Fullerton Police Department officers;

11 (e) Defendants CITY and SELLERS reprimanded, threatened,
12 intimidated, demoted and fired officers who reported acts of abuse by other officers;

13 (f) Defendants CITY and SELLERS covered up acts of misconduct and
14 abuse by Fullerton Police Department officers and thereby sanctioned a code of silence
15 by and among officers;

16 (g) Defendants CITY and SELLERS rewarded officers who displayed
17 aggressive and abusive behavior towards detainees and arrestees;

18 (h) Defendants CITY and SELLERS failed to adequately train and
19 educate officers in the use of reasonable and proper force and failed to enforce the
20 department's written regulations with respect to uses of force;

21 (i) Defendant CITY and SELLERS failed to adequately supervise the
22 actions of officers under their control and guidance;

23 (j) Defendants CITY and SELLERS condoned and encouraged a
24 conspiracy of silence among their employees for the purpose of concealing and furthering
25 wrongful and illegal conduct by their employees;

26 (k) Defendants CITY and SELLERS fostered and encouraged an
27 atmosphere of lawlessness, abuse and unconstitutional misconduct, as to encourage their
28 police officers to believe that improper arrest of residents of the City of Fullerton or

1 persons present therein, the excessive and improper use of force, the submission of false
2 police reports, and the commission of perjury was permissible and to believe that
3 unlawful acts of falsification of evidence and perjury would be overlooked without
4 discipline or other official ramifications. By March 2010 and thereafter, these represented
5 the unconstitutional policies, practices and customs of the CITY.

6 28. Said policies, procedures, customs and practices also called for the CITY
7 and its Police Department not to discipline, prosecute, or objectively and/or
8 independently investigate or in any way deal with or respond to known incidents and
9 complaints of excessive and improper use of force, falsification of evidence, the
10 preparation of false police reports to justify wrongful conduct and to cover-up and
11 conceal such wrongful conduct by officers of the Fullerton Police Department. Said
12 policies, procedures, customs and practices also called for the CITY to fail to objectively
13 and/or independently investigate or in any way deal with or respond to the related claims
14 and lawsuits made as a result of excessive force and related misconduct.

15 29. Said policies, procedures, customs and practices called for and led to the
16 refusal by Defendants, and each of them, to investigate complaints of previous incidents
17 of excessive and improper use of force, the filing of false police reports to conceal such
18 misconduct, the falsification of evidence and perjury and instead, officially claim that
19 such incidents were justified and proper.

20 30. Said policies, procedures, customs and practices of Defendants, and each of
21 them, evidenced a deliberate indifference to the violations of the constitutional rights of
22 Plaintiff. This indifference was manifested by the failure to change, correct, revoke or
23 rescind said policies, procedures, customs and practices in light of prior knowledge by
24 Defendants, and each of them, and their subordinate policymakers, of indistinguishably
25 similar incidents of excessive and improper use of force, falsification of evidence,
26 submission of false police reports and perjury.

27 31. Defendants, and each of them, demonstrated their deliberate indifference to
28 the civil rights of minority groups and other victims of the Fullerton Police Department's

1 unlawful arrests, falsified evidence, false and misleading police reports and false and
2 perjurious testimony by ignoring the history and pattern of prior civil lawsuits alleging
3 civil rights violations arising from such misconduct and the related payment of damages
4 to such individuals.

5 32. Defendants, and each of them, demonstrated their deliberate indifference by
6 an absence of or by maintenance of an inadequate system of tort claims tracking, use-of-
7 force tracking, and maintenance of an inadequate system of officer discipline and
8 independent and objective investigation by the CITY and its Police Department which
9 failed to identify and investigate instances of false and unlawful arrests, falsification of
10 evidence, submission of false police reports and perjury.

11 33. Defendants, and each of them, demonstrated their deliberate indifference to
12 the civil rights of minority groups and other victims of the Fullerton Police Department's
13 unlawful arrests, improper uses of force, and falsified evidence, by their failure to
14 adequately train and more closely supervise or re-train officers and/or discipline or
15 recommend prosecution of those officers who in fact improperly used such force,
16 falsified evidence, submitted false and misleading police reports, and/or committed
17 perjury.

18 34. Other systemic deficiencies which indicated and continue to indicate, a
19 deliberate indifference to civil rights violations by officers of the Fullerton Police
20 Department include:

21 a. preparation of investigative reports designed to vindicate and/or
22 justify excessive and improper use of force;

23 b. preparation of investigative reports which uncritically rely solely on
24 the word of Fullerton police officers involved in unlawful arrests or improper use of force
25 and which systematically fail to credit testimony by non-officer witnesses;

26 c. preparation of investigative reports which omit factual information
27 and physical evidence which contradicts the accounts of the officers involved;
28

1 d. failure to maintain centralized department-wide systems for the
2 tracking and monitoring of tort claims and lawsuits alleging false arrests, excessive and
3 improper use of force, planting of evidence, perjury, abuse of authority, and other similar
4 misconduct by individual officers so as to identify those officers who engage in a pattern
5 of abuse of police authority and police misconduct.

6 35. Defendants, and each of them, also maintained a system of grossly
7 inadequate training pertaining to lawful arrests, reasonable use of force, police ethics, the
8 law pertaining to searches and seizures, testifying in trial and perjury, the collection of
9 evidence, and the preparation of police reports.

10 36. Defendants, and each of them, demonstrated their deliberate indifference the
11 victims of its Police Department's unlawful arrests, excessive and improper uses of force,
12 and perjury by failing to implement an officer discipline system which would conduct
13 meaningful and independent investigations of citizen complaints of excessive and
14 improper use of force, falsified evidence, evidence tampering, authoring and filing of
15 false and misleading police reports, and the presentation of false testimony at trial.

16 37. Defendants, and each of them, demonstrated their deliberate indifference to
17 the victims of its Police Department's excessive and improper uses of force, falsified
18 evidence, false and misleading police reports and false and perjurious testimony by their
19 implementation of a practice and custom within the Fullerton Police Department of
20 permitting their officers to engage in unlawful activities while on duty such as assaults,
21 batteries, and other crimes of moral turpitude.

22 38. The foregoing acts, omissions, and systemic deficiencies are policies and
23 customs of Defendants, and each of them, which caused, permitted and/or allowed under
24 official sanction Defendant Defendants TONG, CONTINO, HAMPTON, BOLDEN,
25 SALAZAR, WORLEY and DOES 1 through 10, inclusive to believe that excessive and
26 improper uses of force, evidence falsification, filing of false and misleading police
27 reports, and the commission of perjury would not be objectively, thoroughly and/or
28 properly investigated, all with the foreseeable result that defendants' officers would

1 improperly use force, falsify evidence, abuse and improperly punish post-arrest detainees,
2 submit false and misleading police reports, and commit perjury, and thereby violate the
3 civil rights of the citizens of this State with whom said officers would come into contact.

4 39. By reason of the aforesaid policies, customs, practices and usages, Plaintiff
5 was deprived of his rights under the First, Fourth, and Fourteenth Amendments to the
6 United States Constitution.

7 40. By reason of the aforementioned acts and omissions of Defendants, and each
8 of them, Plaintiff suffered severe mental anguish, emotional distress, and financial losses
9 as alleged in the First Cause of Action, all to Plaintiff's damage in a sum according to
10 proof.

11 **PRAYER**

12 WHEREFORE, Plaintiff prays judgment against Defendants and each of them, as
13 follows:

14 **AS TO EACH CAUSE OF ACTION AS APPLICABLE**

- 15 1. For General damages according to proof;
16 2. For Special damages according to proof;
17 3. For Punitive damages as provided by law, in an amount to be proved against
18 each individual Defendant;
19 4. For attorney's fees pursuant to 42 U.S.C § 1988;
20 5. For Costs of suit;
21 6. For such other and further relief as the Court may deem proper.

22
23 Dated: March 12, 2012

MARDIROSSIAN & ASSOCIATES, INC.

24
25 By: 

Garo Mardirossian, Esq.

Rowena J. Dizon, Esq.

Attorneys for Plaintiff ANDREW TREVOR
26
27 CLARKE
28

DEMAND FOR JURY TRIAL

Plaintiff ANDREW TREVOR CLARKE hereby demands a trial by jury.

Dated: March 12, 2012

MARDIROSSIAN & ASSOCIATES, INC.

By: 

Garo Mardirossian, Esq.

Rowena J. Dizon, Esq.

Attorneys for Plaintiff ANDREW TREVOR
CLARKE

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Josephine Tucker and the assigned discovery Magistrate Judge is Jean P. Rosenbluth.

The case number on all documents filed with the Court should read as follows:

SACV12- 373 JST (JPRx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☐ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☒ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☐ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Central District of California

ANDREW TREVOR CLARKE

Plaintiff

v.

CITY OF FULLERTON (See Attachment)

Defendant

SACV12

373 JST(JPRK)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* CITY OF FULLERTON, 303 West Commonwealth, Fullerton, CA 92832

MICHAEL SELLERS, CARY TONG #1341, SAM CONTINO #774, KENTON HAMPTON #1337, DOE BOLDEN #UNKNOWN, DOE SALAZAR #UNKNOWN, DOE WORLEY #UNKNOWN, 237 West Commonwealth, Fullerton, CA 92832

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Garo Mardirossian, Esq., MARDIROSSIAN & ASSOCIATES, INC.
6311 Wilshire Boulevard, Los Angeles, CA 90048-5001

Thomas E. Beck, Esq., THE BECK LAW FIRM
10377 Los Alamitos Boulevard, Los Alamitos, CA 90720

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

MAR 12 2012

Date: _____

CLERK OF COURT

JULIE PRADO



Signature of Clerk or Deputy Clerk

AO 440 (Rev. 12/09) Summons in a Civil Action (Page 2)

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

ATTACHMENT TO SUMMONS IN A CIVIL ACTION

MICHAEL SELLERS, Chief of Police individually and as a peace officer; CARY TONG #1341, individually and as a peace officer; SAM CONTINO #774, individually and as a peace officer; KENTON HAMPTON #1337, individually and as a peace officer; DOE BOLDEN #UNKNOWN, individually and as a peace officer; DOE SALAZAR #UNKNOWN, individually and as a peace officer; DOE WORLEY #UNKNOWN, individually and as a peace officer; and DOES 1-10, inclusive,

Defendants.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) ANDREW TREVOR CLARKE	DEFENDANTS CITY OF FULLERTON (See Attachment)
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Garo Mardirossian, Esq., MARDIROSSIAN & ASSOCIATES, INC., 6311 Wilshire Boulevard, Los Angeles, CA 90048-5001, (323) 653-6311 Thomas E. Beck, Esq., THE BECK LAW FIRM, 10377 Los Alamitos Boulevard Los Alamitos, CA 90720, (562) 795-5835	Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border: none;"> <tr> <td style="width:30%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:40%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4																				
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5																				
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. ORIGIN (Place an X in one box only.)

☒ 1 Original Proceeding
 ☐ 2 Removed from State Court
 ☐ 3 Remanded from Appellate Court
 ☐ 4 Reinstated or Reopened
 ☐ 5 Transferred from another district (specify):
 ☐ 6 Multi-District Litigation
 ☐ 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: **JURY DEMAND:** ☒ Yes ☐ No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: ☐ Yes ☒ No **MONEY DEMANDED IN COMPLAINT:** \$ According to proof

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

42 U.S.C. §1986 police misconduct and Monell claim.

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	TORTS PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE / PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input type="checkbox"/> 690 Other	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
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SACV12 373

FOR OFFICE USE ONLY: Case Number: _____

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEETVIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
- ☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
- ☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
- ☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Orange County	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Orange County	

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.**Note: In land condemnation cases, use the location of the tract of land involved.**

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Orange County	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):

Date March 9, 2012

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))

ATTACHMENT TO CIVIL COVER SHEET

MICHAEL SELLERS, Chief of Police individually and as a peace officer; CARY TONG #1341, individually and as a peace officer; SAM CONTINO #774, individually and as a peace officer; KENTON HAMPTON #1337, individually and as a peace officer; DOE BOLDEN #UNKNOWN, individually and as a peace officer; DOE SALAZAR #UNKNOWN, individually and as a peace officer; DOE WORLEY #UNKNOWN, individually and as a peace officer; and DOES 1-10, inclusive,

Defendants.