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Attorneys for Claimants

CURTIS JOHNSON, JOSEPH CUFF,
NISA DANG, MONI LAW, EMILY
POWER, CLAIRE SANDBERG,
REGINALD LEE JAMES aka RASHEED
SHABAZZ, HUDSON SOULES,
SHANNON MARIE STRAZDAS,
JOSEPH WATKINS, and TODD
ZIMMER,

Claimants,

v.

CITY OF BERKELEY.

GOVERNMENT TORT CLAIM
(Govt. Code, § 910, et seq.)

CLAIMANTS' NAMES: CURTIS JOHNSON, JOSEPH CUFF, NISA DANG, MONI LAW, EMILY POWER, CLAIRE SANDBERG, REGINALD LEE JAMES aka RASHEED SHABAZZ, HUDSON SOULES, SHANNON MARIE STRAZDAS, JOSEPH WATKINS, and TODD ZIMMER.

CLAIMANTS' ADDRESS: c/o Rachel Lederman, Attorney at Law, 558 Capp Street, San Francisco, CA 94110.

CLAIMANTS' TELEPHONE NUMBER: c/o Rachel Lederman, Attorney at Law, 415-282-9300.

ADDRESS TO WHICH NOTICES ARE TO BE SENT: Rachel Lederman, Attorney at Law, 558 Capp Street, San Francisco, CA 94110.

DATE OF THE INCIDENT: Dec. 6-8, 2014.

LOCATION OF INCIDENT: Berkeley, CA.

BASIS OF CLAIM:

On December 6, 2014, a March Against State Violence was held in Berkeley in response to the grand jury decisions not to indict the police officers who killed Michael Brown and Eric Garner and the issue of racist police violence and impunity. Demonstrators initially gathered at Telegraph and Bancroft at 5pm. A peaceful march ensued, and at approximately 6:10pm, demonstrators and journalists arrived in the vicinity of Berkeley Police headquarters at 2100 Martin Luther King, Jr. Way. There, the march was blocked by a line of police officers.

At about 6:30pm, the police opened the way for people to move north on Martin Luther King Jr. Way toward Addison St. At the same time, without warning, Berkeley Police Officers struck a number of people with clubs. Berkeley Police DETECTIVE SCOTT SALAS #141 and/or unidentified officers DOES 1-50 hit JOSEPH CUFF with a two handed shove with his club, slamming him to the ground. Mr. CUFF, a man in his 60s, was simply walking with his dog on a leash and his hands up. Shortly after CUFF was struck, MONI LAW was standing in front of the crowd, her back to the police, urging the demonstrators to step further back from the police line, when Berkeley Police OFFICER JOSHUA SMITH #60, and/or unidentified Berkeley Police Officers DOES 1-50 clubbed her from behind. NISA DANG, a UC Berkeley student, was peacefully participating in the demonstration around the same time and location, when unidentified Berkeley Police Officers DOES 1-50 clubbed her. This was also the approximate time and location when Berkeley Police Officer Samantha Speelman hit Chronicle photographer SAM WOLSON on the head, while WOLSON was visibly engaged in photojournalism. (Mr. Wolson's claim has been filed previously.)

Ms. LAW and Ms. DANG were then trying to leave, when unidentified Berkeley Police Officers DOES 1-50 threw flash grenades at them. BPD also proceeded to deploy chemical agents, although they had up to that point given the crowd no orders, announcements or warnings. The police use of force pushed the

crowd north to University Avenue, where police formations split the crowd, sending one portion toward San Pablo but blocking their way there so that demonstrators were forced to walk through residential areas, to the area of Berkeley Way and Acton Street.

CURTIS JOHNSON, a marketing associate with the Walt Disney Company and former NAACP employee who was visiting the Bay Area from his home in Los Angeles, was driving on I-80 when he was diverted onto University Avenue. Hearing the protest, he parked his car and joined the march. He had been participating in the demonstration for approximately ten minutes when, as the demonstrators walked east on Berkeley Way at approximately 10pm, a line of officers blocked their path and other officers suddenly appeared behind them. The police gave no orders or announcements. The only way to disperse appeared to be through parking lots which led back to University Ave. from Berkeley Way. Mr. JOHNSON was following the crowd that way, when unidentified officers DOES 1-50 opened fire into the parking lot with “sponge rounds”, a high velocity so-called “less lethal” munition. JOHNSON was shot on the inside of his right knee. The Berkeley Police Department prevented an ambulance from reaching JOHNSON for at least twenty minutes as he lay on the ground unable to walk and in extreme pain.

EMILY POWER had left the demonstration around 7:45pm and gone home, but heard people outside her house and re-joined the protest near Telegraph and Bancroft at approximately 9:40pm. Although the demonstrators were peaceful, the Berkeley Police began jabbing people with clubs, pushing them south on Telegraph, even though another line of officers to the south was blocking the crowd’s way. Berkeley Police Officers including OFFICER J. JONES #160 and unidentified officers DOES 1-50 jabbed Ms. POWER, hit her repeatedly and took her to the ground. Ms. POWER was then arrested.

Around the same time and location, REGINALD LEE JAMES aka RASHEED SHABAZZ, a multimedia journalist, was visibly engaged in photojournalism, when Berkeley Police OFFICER STEVEN FLEMING and/or DOES 1-50 struck his camera and Mr. SHABAZZ’s chest and sternum with his club, at least twice. A short time later, around Telegraph and Durant, FLEMING and/or DOES 1-50 clubbed Mr. SHABAZZ again, from behind, with an overhand blow to the side of his knee.

At approximately 10pm, JOSEPH WATKINS was on his way home when he encountered the crowd of demonstrators on Telegraph near Channing and saw officers using force. When Mr. WATKINS questioned this verbally, unidentified Berkeley Police Officers DOES 1-50 grabbed and arrested

WATKINS. A National Lawyers Guild Legal Observer called out to ask WATKINS' name, and Berkeley Police OFFICER SINGH covered WATKINS' face and mouth to prevent him from communicating his identity to the Legal Observer.

TODD ZIMMER and CLAIRE SANDBERG were also with the crowd at Telegraph and Channing when the police began jabbing and clubbing people and pushing them south on Telegraph. Mr. ZIMMER and Ms. SANDBERG videotaped the police conduct. Ms. SANDBERG fell down, and when Mr. ZIMMER helped her up, unidentified Berkeley Police Officers DOES 1-50 hit her in the face with a club. Berkeley Police OFFICER WAGGONNER #122, B. HARTLEY #22, and DOES 1-50 struck ZIMMER's hand, camera and shoulder multiple times. As with Mr. SHABAZZ, they appeared to be targeting his camera.

BPD used chemical agents and baton jabs to continue pushing the crowd south down Telegraph Avenue to the Oakland border. In the course of this, NISA DANG was pushed and jabbed multiple times by unidentified officers DOES 1-50 as she was forced to continue walking toward Oakland, causing her further injury.

Another demonstration occurred the following night in response to the BPD violence on December 6. Around 1am on December 8, HUDSON SOULES and SHANNON MARIE STRAZDAS were walking on Telegraph Avenue to their home on Prince Street, when their way was blocked by a line of officers at Prince. When Mr. SOULES asked if he and Ms. STRAZDAS could pass to get to their nearby residence, unidentified officers DOES 1-50 pulled SOULES through the line and beat him, hitting him in the head and face and causing his pants to be pulled down. The officers then left his pants down as he stood handcuffed, under arrest, and refused to pull them up. When Ms. STRAZDAS verbally questioned why Mr. SOULES was being arrested, unidentified officers DOES 1-50 proceeded to arrest Ms. STRAZDAS.

None of the Claimants presented a threat or engaged in any conduct justifying any use of force by the police at any time. Most appear to have been targeted simply because they were toward the front of the crowd, in some cases because they were trying to act as peacekeepers. Others such as WOLSON, SHABAZZ and ZIMMER appear to have been targeted for taking photos or video.

There was no probable cause to support the arrests of EMILY POWER, JOSEPH WATKINS, HUDSON SOULES, or SHANNON STRAZDAS. None of the

Claimants engaged in any unlawful conduct at any time. None of them were ever charged with any crime in connection with their arrests.

Claimants are informed and believes and thereon alleges that the CITY OF BERKELEY; BERKELEY CITY MANAGER CHRISTINE DANIEL, BERKELEY POLICE CHIEF MICHAEL MEEHAN, CAPTAIN ERIK UPSON, LIEUTENANT ANDREW RATEAVER, LIEUTENANT RICO ROLLERI, DETECTIVE SCOTT SALAS, and OFFICERS JOSHUA SMITH, J. JONES, STEVEN FLEMING, SINGH, WAGGONNER, and B. HARTLEY, individually and in their official capacities; and DOES 1-50, and/or each of them, individually and/or while acting in concert with one another, violated Claimants' constitutional rights. Said constitutional violations included, but were not limited to, the violation of Claimants' rights under the California and United States Constitutions to be free from the use of excessive and/or arbitrary force; to freedom of the press, freedom of speech and freedom of association; to be free from arbitrary, capricious or excessive governmental action; and the right to equal protection of the laws.

Claimants are further informed and believe and thereon allege that said constitutional violations were authorized, condoned, encouraged and/or ratified by the CITY OF BERKELEY including, but not limited to, CITY MANAGER CHRISTINE DANIEL, POLICE CHIEF MICHAEL MEEHAN and other high ranking members, supervisors and/or command staff of the Berkeley Police Department.

Claimants are further informed and believe and thereon allege that the violations of Claimants' constitutional rights and damages as alleged herein were caused by customs, policies and/or practices of the City of Berkeley, including, but not limited to, CITY MANAGER CHRISTINE DANIEL, POLICE CHIEF MICHAEL MEEHAN and/or other high ranking policy makers, and/or each of them, which encouraged, authorized, condoned and/or ratified the violations and other misconduct as alleged herein.

Claimants are further informed and believes and thereon allege that the CITY OF BERKELEY, including, but not limited to, CITY MANAGER CHRISTINE DANIEL, POLICE CHIEF MICHAEL MEEHAN, CAPTAIN ERIK UPSON, LIEUTENANT ANDREW RATEAVER, LIEUTENANT RICO ROLLERI, and/or other high ranking officials, policy makers, police department command staff and/or supervisors, were on actual notice at the time of this incident that there was a custom, policy, pattern and/or practice of excessive force, inadequate supervision, training, control and/or discipline of members of the Berkeley Police, a Code of Silence within that agency, and/or other customs,

policies and/or practices which the Berkeley Police, and/or its high ranking officials knew and/or reasonably should have known were likely to cause violations of the rights of, injury and/or damages to citizens having contact with members of those agencies, including, but not limited to, Claimants. Claimants are further informed and believes that CAPTAIN UPSON, LIEUTENANT RATEAVER and LIEUTENANT ROLLERI were directly supervising the police actions complained of, including the actions of officers of agencies providing mutual aid to BPD, and caused Claimants' injuries through their supervisory malfeasance.

Claimants are further informed and believe and thereon allege that the conduct of individual employees, agents and/or servants of the CITY OF BERKELEY, and/or each of them was intentional, malicious, oppressive and/or done with a conscious or reckless disregard for Claimants' rights.

Claimants are informed and believes and thereon allege that they have claims for damages arising from the acts and/or omissions of the employees, agents and/or servants of the CITY OF BERKELEY, and DOES 1-50, and each of them, individually and/or while acting in concert with one another, as alleged herein based on theories of liability which include, but may not be limited to, assault, battery, false arrest, false imprisonment, negligence, intentional infliction of emotional distress, negligence per se, violation of civil rights, including, but not limited to, violation of constitutional and/or statutory rights under California and Federal law, negligent hiring, supervision, control and/or discipline, respondeat superior liability of the CITY OF BERKELEY and/or omissions committed within the course of scope of employment by its employees and/or other agents, and/or other causes of action subject to continuing discovery.

Claimants have and may continue to have in the future, claims for general damages, including, but not limited to, claims for pain, suffering, humiliation and emotional distress in amounts to be determined according to proof.

Claimants have and may continue to have in the future, claims for special damages, including, but not limited to, claims for medical and related expenses, lost income, and/or other special damages in amounts to be determined according to proof.

In the event that any of the Claimants are the prevailing party in any litigation stemming from the incidents alleged herein, Claimants may be entitled to recover attorneys' fees and costs based on state and/or federal statutes.

Claimants are informed and believe and thereon allege that the acts and/or omissions of the CITY OF BERKELEY and/or its employees, agents and/or servants as described herein included, but were not limited to, interference by threats, intimidation or coercion with Claimant's exercise and enjoyment of the rights secured by the Constitution and laws of the United States and of California. Claimants are also informed and believe and thereon allege that the acts and/or omissions of the City of Berkeley and/or its employees, agents and/or servants as described herein included, but were not limited to, violence or intimidation by threats of violence on the basis of Claimants' perceived political affiliation, journalism, race, color, and/or ancestry. Claimants may also have claims for statutory damages in amounts to be determined according to proof under California law, including, but not limited to, claims for statutory damages and penalties under California Civil Code sections 51.7, 52 and 52.1.

INJURY OR DAMAGE: Claimants' injuries and damages include, or may include past, present and/or future damages for pain, suffering, disability, emotional distress, humiliation, violation of civil rights, medical special damages, lost wages and/or damage to career, property damage and property loss, statutory damages and/or other general and/or special damages in amounts to be determined according to proof. Claimants may also be entitled to recover their attorneys' fees and costs pursuant to statutes in the event that any of the Claimants are the prevailing party. Claimants may also be entitled to recover punitive damages against the individual CITY OF BERKELEY officers, employees, agents and/or servants and/or each of them who are liable for the injuries and/or damages alleged herein. Discovery is continuing and Claimants reserve the right to supplement and/or amend this claim.

PUBLIC EMPLOYEES ALLEGED TO HAVE CAUSED INJURY OR DAMAGE: BERKELEY CITY MANAGER CHRISTINE DANIEL, BERKELEY POLICE CHIEF MICHAEL MEEHAN, CAPTAIN ERIK UPSON, LIEUTENANT ANDREW RATEAVER, LIEUTENANT RICO ROLLERI, DETECTIVE SCOTT SALAS, and OFFICERS JOSHUA SMITH, J. JONES, STEVEN FLEMING, SINGH, WAGGONNER, and B. HARTLEY, individually and in their official capacities; and DOES 1-50 inclusive, and/or each of them. Discovery is continuing and Claimants reserve the right to supplement and/or amend this claim.

DEMAND FOR PRESERVATION OF EVIDENCE: Claimants hereby demand that the CITY OF BERKELEY, including but not limited to the Berkeley Police Department, Fire Department, Office of Emergency Services, Police Review Commission, all other City departments,

and their employees, agents, servants and/or attorneys, maintain and preserve all evidence, documents and tangible materials which relates in any manner whatsoever to the subject matter of this claim during the pendency of this matter, including until the completion of any and all civil and/or criminal litigation arising from the events which are the subject matter of this claim. This demand for preservation of evidence includes, but is not limited to, a demand that all communications tapes, logs, computer records, photographs, video, and/or other tangible materials of any kind be preserved until the completion of any and all civil and criminal litigation arising from the subject matter of the events which are the subject matter of this claim.

AMOUNT OF CLAIM: The claims are each in excess of \$10,000.00. Jurisdiction is designated as “unlimited” and jurisdiction would be in the Superior Court of the State of California for Alameda County, and/or the United States District Court for the Northern District of California.

DATED: May 1, 2015

Signed on behalf of Claimants:

By _____
RACHEL LEDERMAN, Attorney at Law