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11
UNITED STATES DISTRICT COURT
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 MIRANDA SKOMMESA, an
individual,

14
Plaintiff,

15 v.

16 CITY OF MURRIETA;
17 CHRISTOPHER CUMMINGS;
BLAKE WILLIAMS; and DOES 1-10,

18 Defendants.
19

Case No.:

**COMPLAINT FOR DAMAGES AND
DEMAND FOR JURY TRIAL FOR
VIOLATIONS OF:**

1. 42 U.S.C. § 1983--Civil Rights Violations
2. 42 U.S.C. § 1983--Unlawful Policies, Customs or Habits
3. Negligence
4. Battery
5. Civil Code § 52.1 Civil Rights Violations

1 **JURISDICTION**

2 1. This is a lawsuit for money damages and is brought pursuant to 42 U.S.C.
3 § 1983, et seq., and the Fourth Amendment to the United States Constitution, for
4 personal injuries and violation of constitutional rights by Defendants City of Murrieta
5 and its Detectives Christopher Cummings (#893) and Blake Williams (#928).
6 Jurisdiction is founded on 28 U.S.C. Section 1331 and 1343 and the aforementioned
7 statutory and constitutional provisions. State law claims of negligence, battery, and
8 Civil Code section 52.1 civil rights violations are alleged as well. Plaintiff invokes the
9 Court's supplemental jurisdiction to consider these state law claims.

10 **GENERAL ALLEGATIONS**

11 2. Plaintiff was at all material times mentioned herein a legal resident of the
12 County of Riverside, State of California.

13 3. At all times mentioned herein Defendants Williams and Cummings were
14 employees of Defendant City of Murrieta, and in doing the acts hereinafter described
15 acted within the course and scope of their employment. The acts of all Defendants, and
16 each of them, were also done under the color and pretense of the statutes, ordinances,
17 regulations, customs and usages of the State of California. The individual Defendants
18 named above are sued individually and in their capacities as employees of the City of
19 Murrieta.

1 4. Defendant City of Murrieta is a public entity existing under the laws of the
2 State of California and is the employer of the individual defendants named above.

3 5. The true names or capacities whether individual, corporate, associate or
4 otherwise, of Defendants named herein as DOES 1 through 10 are unknown to Plaintiff,
5 who therefore sues said Defendants by said fictitious names.

6 6. If additional individuals are identified, Plaintiff reserves the right to amend
7 this Complaint to show said Defendants' true names and capacities when the same have
8 been ascertained.

9 7. Plaintiff is informed and believes, and therefore alleges, that at all times
10 mentioned herein, each of the Defendants was the agent, servant and/or employee of
11 each of the remaining Defendants and were, in doing the acts herein alleged, acting
12 within the course and scope of this agency and/or employment and with the permission,
13 consent and authority of their co-defendants and each of them, and each is responsible
14 in some manner for the occurrences hereinafter alleged; and that Plaintiff's injuries
15 were proximately caused by the actions of each.

16 8. On or about July 19, 2019, Plaintiff filed a claim with the City of Murrieta
17 for the injuries alleged herein. On or about August 13, 2019, the claim was denied by
18 the City of Murrieta.

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FACTUAL ALLEGATIONS

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2 9. Plaintiff is a 27-year old young woman, and a resident of the City of
3 Murrieta, County of Riverside.

4 10. On or about February 7, 2019, at approximately 11:40 a.m., Plaintiff was
5 in her home when Defendants Williams and Cummings arrived to execute a search
6 warrant related to an investigation into suspected criminal activity by a third-party.

7 11. Defendants Williams and Cummings forced entry into the residence to
8 execute the search warrant, screamed profanities at Plaintiff, and commanded Plaintiff
9 to come downstairs in response to her verbal protestations of their forced entry without
10 having first produced to her a copy of the search warrant.

11 12. Plaintiff posed no threat of physical violence whatsoever to Defendants
12 Williams and Cummings.

13 13. At no time did Plaintiff engage in any physically threatening behavior and
14 did not utter any verbal threats.

15 14. Despite Plaintiff's lack of threats of violence or harm to Defendants
16 Williams and Cummings, however, the Defendants (who are much larger in stature and
17 stronger than Plaintiff) body slammed her face first onto the floor.

1 15. Plaintiff's right arm was stuck between her body and the floor while
2 Defendants forced their knees and body weight into her back so that they could use
3 their body weight to hold her in place while holding her left arm behind her back.

4 16. Due to this, Plaintiff was unable to free her right arm from underneath her
5 body.

6 17. Defendants Williams and Cummings then proceeded to use excessive force
7 in pulling Plaintiff's right arm out from under her body and handcuffing her.
8 Defendants twisted and pulled Plaintiff's right arm with such excessive force that it
9 fractured Plaintiff's upper right humerus. A loud pop could be heard when Plaintiff's
10 humerus fractured. This caused Plaintiff to suffer excruciating pain. Despite Plaintiff's
11 obvious injury, Defendants handcuffed Plaintiff behind her back for an extended period
12 of time, causing additional pain and injury.

13 18. Paramedics were called and Plaintiff was transported to a hospital for
14 treatment of her injuries. Plaintiff underwent extensive medical evaluation and
15 treatment over the next several months. Plaintiff still suffers pain and limited mobility
16 to her right arm, and has received the prognosis that her humerus will never heal to the
17 point where it was before the fracture.

18 19. Plaintiff still to this day suffers pain and limited mobility to her right arm,
19 and she still has to seek physical therapy and rehabilitation on a regular basis.

1 20. As a result of the above, Plaintiff has also suffered significant emotional
2 distress by way of embarrassment, humiliation, sadness, feelings of loss of self-worth
3 and loss of self-esteem, loss of trust of law enforcement, fear of law enforcement, lack
4 of sleep, anxiety, and nervousness, among others.

5 21. Plaintiff has also suffered out of pocket loss for medical expenses as a
6 result of having to seek on-going treatment for the injuries inflicted upon her by the
7 Defendants in addition to on-going psychiatric treatment for her mental health injuries
8 directly resulting from the physical injuries inflicted upon her by Defendants.

9 22. Plaintiff is informed and believes that both Defendants Williams and
10 Cummings have a history of complaints by other citizens regarding excessive force,
11 false arrest, and dishonesty, and both have been named as defendants in previous
12 lawsuits related to such allegations.

13 23. Upon information and belief, Defendant City of Murrieta has knowledge of
14 the history of complaints and lawsuits against Defendants Williams and Cummings, yet
15 has failed to implement proper training, policies and procedures, and oversight to
16 ensure that Defendants Williams and Cummings do not engage in such unlawful
17 behavior.

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FIRST CAUSE OF ACTION
42 U.S.C. § 1983 Violations-
Excessive Force, Against
Defendants Williams and Cummings

24. Plaintiff re-alleges and incorporates by reference each and every allegation contained in Paragraphs 1-23, above as though fully set forth herein.

25. As a result of the acts alleged above, particularly the unjustified and unnecessary use of force on Plaintiff, Defendants Williams and Cummings used unreasonable, unjustified and excessive force upon Plaintiff. This unreasonable and excessive force constituted an unlawful seizure of Plaintiff, in violation of Plaintiff's constitutional rights as guaranteed by the Fourth Amendment to the United States Constitution. As a result, Plaintiff is entitled to damages pursuant to Title 42 U.S.C. § 1983 in an amount to be proven at trial.

26. Defendants Williams and Cummings are liable for the constitutional violations alleged above, either directly and/or as a result of their failure to intervene and prevent or stop the constitutional violations of other Defendants.

27. As a proximate result of the acts and constitutional violations alleged above, Plaintiff was injured in mind and body. Plaintiff suffered the physical injuries to her arm and body, as described above. Plaintiff also suffered severe emotional distress and economic losses as a result of Defendants' wrongful acts, as explained above.

1 entitled to damages pursuant to Title 42 U.S.C. § 1983, in an amount to be proven at
2 trial.

3 32. Further, on information and belief, Plaintiff alleges that Defendant City of
4 Murrieta, through its police department, has an unlawful policy, custom or habit of
5 permitting or condoning the unnecessary and excessive use of force by its officers and
6 detectives, including Defendants Williams and Cummings, and of permitting,
7 condoning and failing to take action against officers who commit acts of excessive
8 force.

9 33. Defendant City of Murrieta has a further unlawful policy, custom and habit
10 of inadequate hiring, training, supervision and disciplining of errant officers, including
11 the detectives involved in this incident. The inadequate hiring, training, inadequate
12 supervision and improper policies includes training and policies relating to: 1) hiring
13 officers without sufficient investigation into their prior employment and background,
14 including hiring officers who have a history of improper acts while employed with
15 other agencies, 2) use of excessive force by officers/detectives against a citizen who
16 poses no threat or assaultive behavior, and 3) writing false police reports as a method of
17 covering up acts of excessive force and other improprieties by officers/detectives.

18 34. Plaintiff is informed and believes that Defendants Williams and Cummings
19 have received grossly inadequate training regarding a citizen's constitutional right to
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1 question or protest the acts of deputies without thereby risking arrest or assaults as a
2 result of doing so.

3 35. Defendant City of Murrieta has a further unlawful policy, custom and habit
4 of discouraging citizen complaints against errant officers/detectives and failing to
5 properly investigate citizen complaints against such officers/detectives, including
6 complaints of excessive force.

7 36. Plaintiff is informed and believes that Defendant City of Murrieta and its
8 police department have refused to investigate, or have inadequately investigated,
9 numerous complaints of excessive force made by citizens against its officers/detectives
10 over many years.

11 37. In the present case, Plaintiff is informed and believes that the City of
12 Murrieta and its police department knew that the defendant officers improperly
13 fractured Plaintiff's humerus, but took no remedial or disciplinary action, thus ratifying
14 the acts of excessive force and injuries to Plaintiff described herein.

15 38. These policies and failures constituted ratification of, and acquiescence in,
16 acts of excessive force, unlawful search and seizure and other improprieties by
17 officers/detectives, such as those which are alleged in the First Cause of Action. These
18 policies, acts and omissions have encouraged officers and detectives to continue to use
19 excessive force and commit additional improprieties, then attempt to get away with it

1 by writing false reports and charging the victims with false crimes, which lead the
2 police department's internal affairs division to refuse to investigate the victims'
3 legitimate complaints. These policies and failures were the moving force behind the
4 injuries suffered by Plaintiff, constituted ratification by the City of Murrieta and its
5 police department, and also constituted deliberate indifference to the rights and safety
6 of Plaintiff and other members of the public.

7 39. As a proximate result of the unlawful policies, customs and habits alleged
8 above, Plaintiff suffered the constitutional violations, injuries and damages alleged in
9 the First Cause of Action, and thus Plaintiff is entitled to general and compensatory
10 damages against Defendant City of Murrieta in an amount to be proven at trial.

11 **STATE LAW CLAIMS**

12 The following causes of action are brought pursuant to California law.

13 **THIRD CAUSE OF ACTION**
14 Negligence, Against All Defendants

15 40. Plaintiff re-alleges and incorporates by reference the allegations contained
16 in paragraphs 1 through 38 above as though fully set forth herein.

17 41. By the acts alleged above, Defendants Williams and Cummings were
18 negligent and breached their duty of due care owed to Plaintiff, thereby causing the
19 injuries and severe emotional distress as described Factual Allegations and the First
20 Cause of Action above.

1 47. As a result of these acts, Plaintiff suffered the injuries and damages
2 described in the Factual Allegations and the First Cause of Action above and severe
3 pain, suffering and emotional distress, entitling her to damages in an amount to be
4 proven at trial.

5 48. In committing the acts alleged above, Defendants Williams and
6 Cummings acted maliciously and/or oppressively and were guilty of a wanton and
7 reckless disregard for the rights, feelings and safety of Plaintiff, and by reason thereof,
8 Plaintiff is entitled to exemplary and punitive damages in an amount to be proven at
9 trial.

10 **FIFTH CAUSE OF ACTION**

11 Civil Code § 52.1 Civil Rights Violations, Against All Defendants

12 49. Plaintiff re-alleges and incorporates by reference the allegations contained
13 in paragraphs 1 through 47 above as though fully set forth herein.

14 50. The acts alleged above, particularly Defendants Williams' and Cummings'
15 acts of excessive force and retaliation, constituted violation of Plaintiff's rights
16 guaranteed by the California Constitution (Article I, Section 13) and the United States
17 Constitution, particularly the Fourth Amendment thereto.

18 51. These acts were committed by threats, intimidation and/or coercion by said
19 Defendants, and with the specific intent to deprive Plaintiff of her Fourth Amendment
20 Right to be free from unreasonable searches and seizures via the use of excessive force.

1 Therefore, Plaintiff is entitled to damages pursuant to California Civil Code section
2 52.1(b).

3 52. Defendant City of Murrieta is vicariously liable for these violations and
4 Plaintiff's injuries under the doctrine of *respondeat superior* and pursuant to the
5 California Government Code, including, but not limited to, sections 815.2 and 820(a) of
6 the Government Code.

7 53. As a result of these acts, Plaintiff suffered the injuries and damages
8 described in the Factual Allegations and First Cause of Action above and severe pain,
9 suffering and emotional distress, entitling her to damages in an amount to be proven at
10 trial.

11 54. In committing the acts alleged above, Defendants Williams and Cummings
12 acted maliciously and/or oppressively and were guilty of a wanton and reckless
13 disregard for the rights, feelings and safety of Plaintiff and by reason thereof Plaintiff is
14 entitled to exemplary and punitive damages in an amount to be proven at trial.

15 **PRAYER FOR RELIEF**

16 WHEREFORE, Plaintiff prays for judgment against Defendants and each of them
17 as follows:

- 18 1. For general and compensatory damages against Defendants and each of them
19 in an amount to be proven at trial;

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- 2. For exemplary and punitive damages against Defendants Williams and Cummings only, in an amount to be proven at trial;
- 3. For costs of suit herein, including reasonable attorneys' fees; and
- 4. For such other relief as the Court deems proper.

Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

SEMNR & HARTMAN, LLP

Dated: 01/31/2020

By: /s/ Jared M. Hartman
Jared M. Hartman, Esq.
Attorneys for Plaintiff