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12 *Attorneys for Plaintiff*

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14
15 **UNITED STATES DISTRICT COURT FOR THE**
16 **EASTERN DISTRICT OF CALIFORNIA**

17
18 ROBERT MITCHELL, an individual,

19 *Plaintiff,*

20 v.

21 RONNIE JEFFRIES, in his individual
22 capacity; JOHN BISHOP, in his
23 individual capacity; FNU SHERMAN,
24 in his individual capacity; and CITY of
BAKERSFIELD;

25 *Defendants.*

CASE NO: 1:18-at-00069

COMPLAINT FOR DAMAGES

JURY TRIAL REQUESTED

1 Mitchell's claims made pursuant to the California Tort Claims Act, Cal. Gov't
2 Code §§ 810-996. The City was at all relevant times the employer of Defendants
3 Jeffries, Bishop, and Sherman. It is liable for the tortious actions and omissions
4 of its employees. The Bakersfield Police Department is a department of the City.
5 On information and belief, the City, through the Bakersfield Police Department,
6 maintains an unlawful policy, custom, or practice of requiring individuals
7 detained by police to identify themselves and arresting individuals who decline to
8 answer questions about their identity. This unlawful policy, custom, or practice is
9 reinforced by the Bakersfield Police Department's supervision and, on
10 information and belief, its training.

11 **JURISDICTION AND VENUE**

12 7. The Court has subject matter jurisdiction over Mr. Mitchell's claims
13 under the U.S. Constitution, 42 U.S.C. § 1983, 28 U.S.C. § 1331 (federal
14 question), and 28 U.S.C. § 1343 (civil rights). The Court has supplemental
15 jurisdiction over Plaintiff's state law claims under 28 U.S.C. § 1367.

16 8. Venue is proper in this District under 28 U.S.C. §§ 1391(b)(2)
17 because the acts and omissions at issue in this lawsuit occurred within the
18 District.

19 9. Intradistrict venue is proper because this action arises out of Kern
20 County. E.D. Cal. R. 120(d).

21 10. On July 20, 2017, Mr. Mitchell timely filed an administrative tort
22 claim with the City of Bakersfield. The City issued a notice rejecting his claims
23 on July 28, 2017. Mr. Mitchell has exhausted all available administrative
24 remedies. Cal. Gov't. Code §§ 913, 945.6(a)(1).

25 **STATEMENT OF FACTS**

26 11. On March 17, 2017, Bakersfield Police Department Officers Ronnie
27 Jeffries and John Bishop stopped a car for the purported purpose of enforcing the
28 Vehicle Code, for the stated reasons that they saw air fresheners hanging from the

1 car's rearview mirror, the tires were bald, and the car came to a rest in the turn
2 lane with its wheels touching the dividing line. Plaintiff Robert Mitchell was a
3 passenger in that car.

4 12. The trivial reasons cited by the officers were not real or valid reasons
5 to stop the vehicle. For example, California law does not prohibit air fresheners
6 hanging from a car's rearview mirror, Cal. Vehicle Code § 26708(b)(1); *People*
7 *v. White*, 107 Cal.App.4th 636 (2003) (stop based on air freshener hanging from
8 rearview mirror was not supported by reasonable suspicion), and the car's tire
9 tread was neither inadequate nor, on information and belief, visible to the officers
10 from their patrol car.

11 13. On information and belief, the officers actually stopped the car with
12 the intention of detaining the car's occupants—all of whom were Black—to
13 investigate them without reasonable suspicion or probable cause. In other words,
14 the stop was a racially discriminatory pretextual stop.

15 14. Upon approaching the stopped car, the officers asked all of its
16 occupants to identify themselves. The officers began questioning not only the
17 driver, but also the three passengers. Their questions were not related to a
18 hanging air freshener or any of the other trivial traffic violations they could have
19 observed from outside the car. For example, they interrogated one passenger
20 about whether he had ever been arrested, and about his family relations.

21 15. When the officers began to question Mr. Mitchell about his identity,
22 he asserted that he was invoking his Fourth and Fifth Amendment rights and
23 would not answer their questions.

24 16. Both officers argued with Mr. Mitchell about his legal rights, asserting
25 that he was required to answer their questions about his identity. One officer
26 stated that because Mr. Mitchell was a passenger in a stopped vehicle, he was
27 detained and therefore required to identify himself. On information and belief,
28 the two officers' consistent statements described and enforced the policy, custom,

1 or practice of the Bakersfield Police Department.

2 17. Mr. Mitchell expressed his disagreement, noting that he was not
3 suspected of a crime. In response the officers did not articulate any basis for
4 suspecting him of a crime; they did not indicate that they suspected him of a
5 crime at all.

6 18. Mr. Mitchell filmed the interaction with the police during the stop on
7 his cell phone. On information and belief, the officers prolonged and intensified
8 their detention of Mr. Mitchell both because he was filming, and because he
9 invoked his right to decline to answer their questions.

10 19. Under pressure, Mr. Mitchell provided his first name in response to
11 the officers' demand that he state his name. But the officers were not satisfied
12 with this response and pressed further.

13 20. Meanwhile, the officers discovered that the driver of the car did not
14 have a license. He had taken over driving for the owner of the car, who did have
15 a license, because she was pregnant and had been feeling ill.

16 21. At that moment, the officers could have issued the driver a citation
17 and allowed the licensed owner of the car to drive her car home. (Indeed, that is
18 what the officers ultimately did.) But instead, the officers prolonged the traffic
19 stop in order to pursue their suspicionless investigation of the car's other
20 passengers—specifically, Mr. Mitchell.

21 22. To coerce Mr. Mitchell into answering their questions to their
22 satisfaction, the officers threatened to impound the car. When the driver and the
23 owner of the car offered to switch seats instead, one of the officers stated: "We
24 would appreciate it if everyone in the car would cooperate."

25 23. The car's passengers understood what the officer intended to
26 communicate: that the police would impound the car unless Mr. Mitchell
27 answered the officers' questions. Accordingly, the pregnant owner of the car
28 began to plead with Mr. Mitchell to answer the officers. Faced with the officers'

1 threat, Mr. Mitchell told them his full name.

2 24. Mr. Mitchell asked to speak with a supervising officer. One of the
3 officers agreed to call one. That supervising officer was Sergeant Sherman.

4 25. When Sergeant Sherman arrived, he told Mr. Mitchell that he had two
5 choices: give the officers the information they requested, or go to jail. Sergeant
6 Sherman thus set forth the Bakersfield Police Department's policy, custom, or
7 practice of arresting people who decline to answer their questions during an
8 investigatory stop. Mr. Mitchell responded that he had already told the officers
9 his full name. In response, Sergeant Sherman said, "Well then why do you need
10 me?"

11 26. Nevertheless, the officers ordered Mr. Mitchell to exit the car. Mr.
12 Mitchell peacefully complied. Immediately, one of the officers grabbed Mr.
13 Mitchell by the wrist, twisted his arm behind his back, grabbed the phone out of
14 his hand, and handcuffed him. With the authorization and approval of Sergeant
15 Sherman, Officers Jeffries and Bishop placed Mr. Mitchell under arrest. Based
16 on the officers' sudden use of physical force, their prior threats, and the fact that
17 they carried sidearms, Mr. Mitchell reasonably believed that they would subject
18 him to violence unless he submitted to the arrest. One of the officers informed
19 Mr. Mitchell that he was under arrest for "hindering an investigation."

20 27. The officers transported Mr. Mitchell to the Kern County Central
21 Receiving Facility, where he was jailed overnight for approximately twelve hours
22 before he was released.

23 28. Mr. Mitchell was given a Notice to Appear, which charged him with
24 obstructing or resisting an officer in violation of California Penal Code
25 § 148(a)(1). In the end, however, no criminal charges were filed in court against
26 him.

27 29. Mr. Mitchell's phone was not returned to him upon his release.
28 Instead, he had to go to the Bakersfield Police Department to demand its return.

1 As a result, he lost the use of his phone for several days.

2 30. Defendants thus harmed Mr. Mitchell: they violated and chilled his
3 exercise and enjoyment of core constitutional rights; humiliated him; deprived
4 him of the use of property he used to exercise his First Amendment rights; and
5 caused the loss of his liberty, stealing from him valuable time he could have
6 spent with his family.

7 **CLAIMS FOR RELIEF**

8 **FIRST CLAIM FOR RELIEF**

9 **Fourth Amendment (42 U.S.C. § 1983)**

10 (Against Defendants Jeffries, Bishop, Sherman, and City of Bakersfield)

11 31. The foregoing allegations are realleged and incorporated herein.

12 32. Defendants Jeffries and Bishop violated Mr. Mitchell's Fourth
13 Amendment rights by subjecting him to an unreasonable seizure in the car. They
14 unreasonably seized and detained Mr. Mitchell without reason to suspect he was
15 involved in a crime and escalated his detention beyond the permissible scope of
16 an investigatory stop without probable cause.

17 33. Defendants Jeffries and Bishop also violated Mr. Mitchell's Fourth
18 Amendment rights by arresting him and causing him to be jailed without a
19 warrant or probable cause to support his arrest. They relied on an invalid basis—
20 Mr. Mitchell's initial refusal to answer questions about his identity—to arrest him
21 for violation of California Penal Code § 148(a)(1).

22 34. Defendant Sherman directed, approved, and authorized Mr. Mitchell's
23 unconstitutional arrest; he knowingly failed to prevent Defendant Jeffries and
24 Bishop from violating Mr. Mitchell's Fourth Amendment rights; his audible
25 admonition to Mr. Mitchell to "give his information to the officers or go to jail"
26 and his directions to Defendants Jeffries and Bishop caused Mr. Mitchell's
27 unlawful arrest; and he knowingly disregarded the fact that Mr. Mitchell's arrest
28 and subsequent incarceration would be the obvious consequences of his actions

1 and omissions.

2 35. Defendant City, through the Bakersfield Police Department, maintains
3 a policy, custom, or practice of requiring individuals they detain to answer
4 questions about their identity, even when they are detained absent reasonable
5 suspicion, and of arresting such individuals for violation of California Penal Code
6 § 148(a)(1) when they decline to identify themselves to the satisfaction of police
7 officers. Defendants Jeffries, Bishop, and Sherman acted pursuant to the
8 Bakersfield Police Department's unlawful policy, custom, or practice when they
9 unreasonably detained Mr. Mitchell and arrested him for violation of California
10 Penal Code § 148(a)(1).

11 **SECOND CLAIM FOR RELIEF**

12 **First Amendment (42 U.S.C. § 1983)**

13 (Against Defendants Jeffries, Bishop, and Sherman)

14 36. The foregoing allegations are realleged and incorporated herein.

15 37. Defendants Jeffries and Bishop unlawfully retaliated against Mr.
16 Mitchell for exercising his First Amendment right to speak. Defendants Jeffries
17 and Bishop unreasonably prolonged and intensified Mr. Mitchell's detention,
18 arrested him, and caused him to be jailed to retaliate against him for verbally
19 expressing disagreement with them about their interpretations of the law and
20 facts, including whether he had a right to remain silent in the face of their
21 questions about his identity.

22 38. Under the First Amendment, Mr. Mitchell had a right to film the
23 officers in the course of their official duties. Defendants Jeffries and Bishop
24 unreasonably prolonged and intensified Mr. Mitchell's detention, arrested him,
25 and caused him to be jailed to interfere with and retaliate against his exercise of
26 his right to film their conduct during the vehicle stop.

27 **THIRD CLAIM FOR RELIEF**

28 **False Arrest / False Imprisonment / Violation of Cal. Const. Art I, section 13**

1 **(California Tort Claims Act, Cal. Gov't Code §§ 815.2, 820)**

2 **(Cal. Const. Art. I, section 13)**

3 (Against All Defendants)

4 39. The foregoing allegations are realleged and incorporated herein.

5 40. Defendant City, through Defendants Jeffries, Bishop, and Sherman,
6 inflicted personal injury on Mr. Mitchell by subjecting him to false arrest and
7 imprisonment and unreasonable seizure.

8 41. Defendants arrested Mr. Mitchell for violating California Penal
9 Code § 148(a)(1), based on his initial refusal to provide his full name.

10 Defendants Jeffries and Bishop deprived Mr. Mitchell of his freedom by
11 subjecting him to an unreasonable detention, and by arresting him without a
12 warrant and without reasonable or probable cause, all without his consent.

13 Defendant Sherman directed, approved, and authorized Defendants Jeffries and
14 Bishop's actions causing Mr. Mitchell's false arrest and imprisonment and
15 unreasonable seizure.

16 **FOURTH CLAIM FOR RELIEF**

17 **Bane Act (Cal Civ. Code § 52.1)**

18 **(California Tort Claims Act, Cal. Gov't Code §§ 815.2, 820)**

19 (Against All Defendants)

20 42. The foregoing allegations are realleged and incorporated herein.

21 43. Defendant City, through Defendants Jeffries, Bishop, and Sherman,
22 interfered with Mr. Mitchell's exercise and enjoyment of his rights under the
23 United States and California Constitutions.

24 44. Defendants intentionally interfered with Mr. Mitchell's rights under
25 the Fourth Amendment and Article I, Sections 10 and 13 of the California
26 Constitution to be free from unreasonably invasive or prolonged investigatory
27 detention in the absence of reasonable cause. Defendants used threats and
28 coercion to prevent Mr. Mitchell from insisting on his rights, and they ultimately

1 did arrest him and caused him to be jailed to retaliate against him for invoking his
2 rights.

3 45. Defendants intentionally interfered with Mr. Mitchell's right to
4 remain silent under the Fifth Amendment and Article I, Section 15 of the
5 California Constitution. Defendants made threats to prevent Mr. Mitchell from
6 exercising that right, and they subjected him to an unreasonably invasive and
7 prolonged investigatory detention, arrest, and jail to retaliate against him for
8 invoking that right.

9 46. Defendants intentionally interfered with Mr. Mitchell's right under the
10 First Amendment and Article I, Section 2 of the California Constitution to
11 verbally assert his constitutional rights. Defendants used threats and coercion to
12 prevent Mr. Mitchell from insisting on that right, and ultimately did arrest him
13 and cause him to be jailed to retaliate against him for expressing verbal
14 disagreement with their interpretations of the law and facts and for verbally
15 asserting his rights.

16 47. Defendants intentionally interfered with Mr. Mitchell's rights under
17 the First Amendment and Article I, Section 2 of the California Constitution to
18 video record police officers engaged in their official duties. Defendants
19 subjected Mr. Mitchell to an unreasonably invasive and prolonged investigatory
20 detention, arrest, and jail to retaliate against him for exercising that right.
21 Defendants arrested Mr. Mitchell, forcefully confiscated his cell phone, and
22 failed to return the phone to him upon his release from jail to prevent him from
23 exercising that right and to retaliate against him for exercising that right.

24 48. Defendants intentionally interfered with Mr. Mitchell's right under the
25 Fourth Amendment and Article I, Section 13 of the California Constitution to be
26 free from warrantless arrest without probable cause. Defendants used threats and
27 force to effect Mr. Mitchell's unlawful arrest, and Mr. Mitchell reasonably
28 believed that they would commit violence against him if he did not physically

1 submit to the unlawful arrest.

2 **PRAYER FOR RELIEF**

3 Wherefore, Plaintiff requests relief as follows:

4 1. Award compensatory and punitive damages against all Defendants for
5 the above violations of federal and state law;

6 2. Award compensatory damages against the City of Bakersfield under
7 the California Tort Claims Act;

8 3. Award prejudgment interest on any award of damages to the extent
9 permitted by law;

10 4. Issue declaratory and injunctive relief against the City of Bakersfield
11 for the above violations of federal and state law;

12 5. Award reasonable attorneys' fees and costs, pursuant to 42 U.S.C.
13 § 1988, Cal. Gov't Code § 52.1(h), Cal. Code of Civ. Proc. § 1021.5, and any
14 other applicable law; and

15 6. Grant such other relief as the Court may deem appropriate.

16
17 Respectfully submitted,

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19 ACLU FOUNDATION OF SOUTHERN
20 CALIFORNIA

21 DATED: January 26, 2017

22 By: s/ Adrienna Wong
ADRIENNA WONG

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24 Counsel for Plaintiff
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