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9 Attorneys for Plaintiffs, Antonio Martinez, Jessica Martinez & Karina Martinez, a minor

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF SAN DIEGO, NORTH COUNTY DIVISION**
12

13 ANTONIO MARTINEZ, by and through his
Guardian Ad Litem, FRANCISCO
14 MARTINEZ, JESSICA MARTINEZ, and
KARINA MARTINEZ, a minor, by and
15 through her Guardian Ad Litem,
FRANCISCO MARTINEZ,

16 Plaintiffs.

17 v.

18 COUNTY OF SAN DIEGO, JEFFREY
19 GUY, and DOES 1 through 20, inclusive,

20 Defendants.
21

Case No.
37-2014-00013656-CU-CR-NC

COMPLAINT FOR DAMAGES

[Unlimited Civil]

22
23 Plaintiffs allege:

24 **GENERAL ALLEGATIONS**

- 25 1. Plaintiffs are and were at all material times mentioned herein residents of the
26 City of Vista, County of San Diego, State of California.
27 2. At all times mentioned herein defendant Jeffrey Guy and DOES 1 through 18
28 were employees of defendant County of San Diego and its Sheriff Department and in

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1 doing the acts hereinafter described acted within the course and scope of their
2 employment. The acts of all defendants and each of them, were also done under the
3 color and pretense of the statutes, ordinances, regulations, customs and usages of the
4 State of California. The individual defendants named above and DOES 1 through 18
5 are sued individually and in their capacities as employees of the County of San Diego.

6 3. Defendant County of San Diego is a public entity existing under the laws of
7 the State of California and is the employer of the individual defendants named above
8 and DOES 1 through 18.

9 4. The true names or capacities whether individual, corporate, associate or
10 otherwise, of defendants named herein as DOES 1 through 20 are unknown to
11 Plaintiffs, who therefore sue said defendants by said fictitious names. Plaintiffs will
12 amend this complaint to show said defendants' true names and capacities when the
13 same have been ascertained. Plaintiffs are informed and believe and thereon allege
14 that all defendants sued herein as DOES are in some manner responsible for the acts
15 and injuries alleged herein.

16 5. Plaintiffs are informed and believe and therefore allege that at all times
17 mentioned herein each of the defendants was the agent, servant and/or employee of
18 each of the remaining defendants and were, in doing the acts herein alleged, acting
19 within the course and scope of this agency and/or employment and with the permission,
20 consent and authority of their co-defendants and each of them, and each is responsible
21 in some manner for the occurrences hereinafter alleged; and that Plaintiffs' injuries
22 were proximately caused by the actions of each.

23 6. On or about April 5, 2013, Plaintiff Anthony Martinez filed a claim with the
24 County of San Diego for the injuries alleged herein. On or about April 8, 2013,
25 Plaintiffs, Jessica Martinez and Karina Martinez, a minor, each filed claims with the
26 County of San Diego for their injuries alleged herein.

27 7. Defendant County of San Diego failed to act on said plaintiffs claims within 45
28 days after presentation, and all three claims are thus deemed rejected under the

1 provisions of the California Government Code at the expiration of the 45 day period on
2 May 20, 2013, for Anthony Martinez, and on May 23, 2013, for Jessica Martinez and
3 Karina Martinez.

4 FACTUAL ALLEGATIONS

5 8. At about 6:25 pm, December 18, 2012, Deputy Sheriff Jeffrey Guy accepted a
6 radio dispatched call to go to 977 Postal Way, Apartment 40, for an alleged domestic
7 violence call by a female complaining that a male had laid hands on her. The caller
8 hung up before any other description or information was conveyed.

9 9. At about 6:55 pm, Deputy Guy was seated in the driver's seat of his patrol car
10 in an alley at 967 Postal Way. At that time a 4'11" male pedestrian in a black sweatshirt
11 and sweat pants carrying packages of fast food walked west bound on the sidewalk of
12 Postal Way in front of Deputy Guy's patrol car. Deputy Guy was non-reactive. The
13 pedestrian was plaintiff, Antonio "Tony" Martinez [hereinafter "Tony"].

14 10. At the time of this incident Tony Martinez was a 21 year old young adult with
15 Down syndrome. Down syndrome is a congenital disorder arising from an extra copy of
16 chromosome 21 which usually causes intellectual impairment and physical
17 abnormalities including short stature and a broad facial profile. Tony, himself, has a
18 severe intellectual disability and functions at about a seven year old's intellectual level.
19 He stands 4'11", weighs about 150 pounds, and presents a classic Down syndrome
20 facial appearance.

21 11. Tony lives with his parents and younger sisters on Postal Way in Vista, and
22 helps out around the family bakery. Tony is able to walk on the sidewalk of Postal Way
23 unaccompanied the 325 yards between the family bakery and the family's apartment
24 home without having to cross any major street, and does so several times a day.

25 12. On December 18, 2012, at about 6:55 pm, Tony did walk from the family
26 bakery at 995 Postal Way, west bound on the sidewalk to his family apartment at 943
27 Postal Way to take his parents their evening meal. His parents open their bakery at
28 about 3:30 am seven days a week to begin baking bread and had already retired for the

1 evening. His sisters, Jessica, then age 20, and Karina, then age 13, were attending to
2 the bakery. After dropping off his parents' food at home, Tony promptly began walking
3 east bound back down the sidewalk on Postal Way to the bakery to help his sisters
4 clean and close up the bakery for the night as was his custom. He thus walked past
5 Deputy Guy a second time.

6 13. As Tony approached the parking lot of the small shopping center where the
7 bakery is located, all of a sudden the patrol car now driven by Deputy Guy pulled out of
8 the alley behind Tony onto the street and stopped abruptly beside him. Deputy Guy, a
9 stranger to Tony, began yelling at him. With the bakery in plain view in front of him Tony
10 just kept walking. Jeffrey Guy then jumped back into the car, sped past Tony, and this
11 time pulled his car across the sidewalk in front of Tony right at 993 Postal Way, the
12 entrance to the parking lot for the bakery. Tony continued his walk toward the bakery
13 and into the entrance of the bakery parking lot. This time Deputy Jeffrey Guy jumped
14 out of his car, ran around the front of his car into Tony's path, looked into Tony's face
15 and sprayed a canister of pepper spray into Tony's face and eyes.

16 14. Pepper spray contains as its active inflammatory ingredient "capsaicin,"
17 which is derived from chilis. It is also referred to as OC spray ("oleoresin capsicum").
18 The pepper spray immediately caused a completely involuntary closing of his eyes,
19 creating a boiling sensation of his eyelids, as well as intense searing pain on his face,
20 nose, and throat. His panicked breaths caused him to ingest the chemical through his
21 nose and mouth which in turn created the sensation of choking which caused upper
22 body spasms, coughing, and diminished his breathing. His burning pain lasted over 45
23 minutes with diminished effects from the pepper spray lasting for hours.

24 15. As Tony frantically and helplessly rubbed his eyes with his hands, coughed
25 and screamed in terror, Jeffrey Guy, now began yelling at him to get on the ground, and
26 began beating him with his collapsible baton which contains a weighted tip. The
27 weighted tip creates a whip-like effect which magnifies the force of impact of the
28 weapon. Jeffrey Guy admits beating Tony on his arms, back and legs with this weapon.

1 He also struck Tony on his head and repeatedly kicked him after he fell to the
2 pavement. As Tony tried to get back up Jeffrey Guy inflicted additional blows onto
3 Tony's body. Then he slammed Tony's face and body into the pavement.

4 16. The deputy's patrol car blocking the sidewalk along Postal Way also blocked
5 the drive way to 993 Postal Way. About this time two vans, traveling down the drive
6 stopped because their exit was blocked by the patrol car. Several people got out.

7 17. The yelling of the deputy and Tony's screaming had also attracted other
8 pedestrians and shop owners from the strip mall so that a crowd started to form. People
9 in the crowd quickly recognized that the pedestrian with the blood streaked face being
10 struck with a baton while lying on the ground was Tony Martinez, the young man with
11 Down syndrome, who worked in his family's bakery in the strip mall. They yelled to the
12 Deputy that Tony had Down syndrome. Deputy Guy responded by radioing for "code
13 cover," which requests an emergency response from other deputies.

14 18. Within seconds, Deputy Sheriff Marco Weston, arrived in his patrol car. He
15 saw Jeffrey Guy holding his baton yelling at Tony then lying on the pavement. Marco
16 Weston immediately began kneeing Tony in the back and grabbing his wrists to pull his
17 hands from his eyes to behind his back to handcuff him. Tony's hands were so wet from
18 trying to wipe the pepper spray from his eyes that his wrists kept slipping from the
19 deputy's grasp. Both deputies began pounding their knees into Tony's back while
20 yelling at him to put his hands behind his back.

21 19. Tony Martinezes' younger sisters, Plaintiffs Jessica Martinez and Karina
22 Martinez, ran from the bakery to the gathering crowd of onlookers where the deputies
23 were pinning Tony to the pavement. Jessica and Karina saw Tony's bleeding face,
24 heard him screaming for help, heard him calling their names, and saw the deputies
25 kneeing him in the back. Jessica immediately began yelling to the deputies that Tony
26 was her brother and that he had Down syndrome. She also heard others in the crowd
27 yell to the deputies that Tony had Down syndrome. She begged the deputies to let
28 Tony go and in response they ordered her to stay back.

1 20. Now with actual knowledge that Tony Martinez had Down syndrome and had,
2 in fact, broken no laws, the deputies handcuffed Tony's hands behind his back,
3 wrongfully arrested him, and forcibly separated him from his family by dragging him
4 over to Deputy Guy's patrol car and locking him into its caged back seat. They drove
5 Tony straight to the Vista jail where they booked him and issued him a citation for a
6 bogus violation of Penal Code 148, interfering with a peace officer.

7 21. Plaintiffs are informed and believe and thereon allege that at the time of the
8 above-described events, and at all pertinent times, defendants had no warrant for the
9 arrest of plaintiff Tony Martinez or other facts or information that constituted probable
10 cause that plaintiff has ever committed or was about to commit a crime, so as to
11 provide grounds for a lawful arrest; nor did defendants have any facts or information
12 that constituted a reasonable suspicion that plaintiff was involved in any unlawful
13 activity so as to provide grounds for any detention or restraint whatsoever on plaintiff's
14 freedom of movement, and that the plaintiff's detention and arrest was, therefore,
15 unlawful.

16 22. After spending about an hour at Vista jail, sheriffs deputies decided to take
17 Tony to Tri City Hospital for x-rays and an emergency medical examination to
18 determine the extent of the physical injuries they had earlier inflicted on Tony during
19 their false arrest and excess violent force upon his body. They kept Tony in handcuffs
20 and isolated from his family, who had been called by the hospital, during his hospital
21 stay. The physical injuries identified by the hospital at that time included, facial
22 abrasions to his nose and over his eye, and leg, arm, and back pain with contusions.
23 After his examination, the deputies transported Tony back to the Vista jail. After taking a
24 series of photographs of Tony in various stages of dress, interrogating him, issuing him
25 a citation, drafting a formal arrest report, and setting a Court date, Tony's father was
26 called to come pick him up at the jail.

27 23. Defendant San Diego County's Sheriff's Department requires all its deputies
28 to comply with the basic rule of policing that a law enforcement officer may not forcibly

1 stop or detain a person unless he has either a "reasonable suspicion" or "probable
2 cause" that the person has committed or is about to commit a crime. And, it instructs its
3 deputies that the United States Supreme Court requires that "reasonable suspicion"
4 must be more than a mere guess or hunch. The Sheriff's Department also further
5 instructs its deputies that if an officer asks someone to stop without then having
6 reasonable suspicion, and if that person fails or refuses to stop, the officer may not use
7 any force to stop or detain the person. Deputy Sheriff Jeffrey Guy had no reasonable
8 suspicion or probable cause that Tony had committed or was about to commit a crime
9 when he pepper sprayed, beat, kicked, kidnaped, and falsely imprisoned Tony
10 Martinez.

11 24. As a result of defendants' conduct Tony Martinez has suffered past and
12 future economic damages including but not limited to healthcare and medical expenses,
13 and other damages. As a result of defendants' conduct Tony Martinez has also
14 suffered past and future non-economic damages, including but not limited to physical
15 pain, mental suffering, loss of enjoyment of life, physical and mental impairment, fright,
16 nervousness, grief, anxiety, worry, mortification, shock, humiliation, indignity,
17 inconvenience, emotional distress, loss and impaired use of his central nervous system,
18 and other damages.

19 25. Plaintiff Jessica Martinez is Tony's then 20 year old sister. She was in the
20 family bakery about 75 yards away at the time Tony was initially attacked and was
21 called to the scene by a business neighbor. She immediately observed the occurrences
22 across the parking lot as she ran toward her brother. She witnessed Tony screaming
23 and bleeding while being manhandled by the deputy and the other unknown deputies
24 that were arriving at the scene. She pleaded with the officers to stop, telling them of
25 Tony's down syndrome. She also witnessed Tony being falsely imprisoned by being
26 locked in the back of a patrol car while handcuffed and driven away by sheriff deputies.
27 She has suffered severe emotional distress negligently inflicted by the sheriff deputies
28 through their negligent actions against her innocent brother with down syndrome.

1 26. Plaintiff Karina Martinez is Tony's then 13 year old sister. She was also in the
2 family bakery about 75 yards away at the time Tony was attacked and was called to the
3 scene by a business neighbor. She immediately observed Tony screaming and
4 bleeding while being manhandled by the deputy as she ran across the parking lot with
5 her older sister, Jessica, toward her brother. She also witnessed Tony being falsely
6 imprisoned by being locked in the back of a patrol car while handcuffed and driven
7 away by sheriff deputies. She has suffered severe emotional distress intentionally
8 and/or negligently inflicted by the sheriff deputies through their intentional and/or
9 negligent actions against her innocent brother with Down syndrome.

10 27. The County of San Diego Sheriff's Department participates in and has
11 agreed to abide by the California Commission on Peace Officer Standards and Training
12 (POST) established by the California Legislature in 1959. POST requires every peace
13 officer, during basic training, or at the time of appointment, to be administered the Law
14 Enforcement Code of Ethics as prescribed in California Code of Regulations §1013.
15 The Code of Ethics requires the officer to affirm:

16 "[M]y fundamental duty is to serve mankind; to safeguard lives and property; to
17 protect the innocent against deception, the weak against oppression or
18 intimidation, and the peaceful against violence or disorder; and to respect the
19 Constitutional rights of all men to liberty, equality, and justice. . . . With no
20 compromise for crime . . . I will enforce the law courteously and appropriately
21 without fear or favor, malice or ill will, never employing unnecessary force or
22 violence. . . I recognize the badge of my office as a symbol of public faith, and
23 accept it as a public trust to be held so long as I am true to the ethics of the
24 police service. . . ."

25 28. Plaintiffs are informed and believe that at the time of his conduct as
26 described above, Deputy Sheriff Guy was a probationary employee of the San Diego
27 County Sheriff's Department. He had previously worked for the San Jose Police
28 Department for about 8 years and at the time of his conduct herein had been with the

1 San Diego County Sheriff's Department for only about 4 months. In spite of Deputy
2 Guy's actions described herein the San Diego County Sheriff's Department took no
3 disciplinary action, and Deputy Guy remains a deputy of the San Diego County Sheriff's
4 department.

5 29. The plaintiffs are informed and believe that the San Diego County Sheriff's
6 Department has NO policies or procedures for contacts with mentally disabled people,
7 including those with Down syndrome. 1 in every 691 American babies is born with
8 Down syndrome.

9 **FIRST CAUSE OF ACTION**
10 (All Plaintiffs against all Defendants)
11 **[Negligence]**

12 30. Plaintiffs reallege and incorporate by reference the allegations contained in
13 paragraphs 1 through 29, above, as though fully set forth herein.

14 31. By the acts alleged above, defendants were negligent and breached their
15 duty of due care owed to plaintiffs, thereby causing the physical injuries and severe
16 emotional distress described above and the damages described in paragraphs 24, 25,
17 and 26, above.

18 32. Further, defendant County of San Diego and its supervisory employees were
19 negligent in the hiring, training, retention, discipline and supervision of its Deputy
20 Sheriffs, including Deputy Jeffrey Guy, thereby causing the physical and emotional
21 injuries described above and the damages described in paragraphs 24, 25, and 26
22 above. Plaintiffs are therefore entitled to general and compensatory damages in an
23 amount to be proven at trial.

24 **SECOND CAUSE OF ACTION**
25 (Plaintiff Antonio Martinez against all Defendants)
26 **[Battery]**

27 33. Plaintiff realleges and incorporates by reference the allegations contained in
28 paragraphs 1 through 32 above as though fully set forth herein.

34. By the acts alleged herein, particularly the acts of excessive force and
violence used on Plaintiff Tony Martinez by defendant Jeffrey Guy, defendants

1 committed a battery upon Plaintiff Tony Martinez, entitling Plaintiff Tony Martinez to
2 damages pursuant to California law.

3 35. As a result of these acts plaintiff suffered the physical injuries and severe
4 emotional distress and pain described above and the damages described in paragraph
5 25 above, entitling him to damages in an amount to be proven at trial.

6 36. In committing the acts alleged above, defendant Jeffrey Guy and Does 1
7 through 5 acted willfully, maliciously, and oppressively and/or with reckless disregard for
8 the rights, feelings, and safety of Plaintiff and by reason thereof justifies awarding
9 exemplary and punitive damages in an amount to be proven at trial.

10 **THIRD CAUSE OF ACTION**
11 (Plaintiff Antonio Martinez against all Defendants)
12 **[False Arrest]**

13 37. Plaintiff Tony Martinez realleges and incorporates by reference the
14 allegations contained in paragraphs 1 through 36 above as though fully set forth herein.

15 38. By the acts alleged herein, particularly the act of arresting Plaintiff without a
16 warrant or probable cause, Plaintiff was falsely arrested, entitling him to damages
17 pursuant to California law.

18 39. As a result of these acts, Plaintiff suffered the injuries and damages
19 described in the Factual Allegations and paragraphs 25 above and severe pain,
20 suffering and severe emotional distress, entitling him to damages in an amount to be
21 proven at trial.

22 40. In committing the acts alleged above, defendant Jeffrey Guy and Does 1
23 through 5 acted willfully, maliciously and/or oppressively and/or with reckless disregard
24 for the rights, feelings, and safety of Plaintiff and by reason thereof justifies awarding
25 exemplary and punitive damages in an amount to be proven at trial.

26 **FOURTH CAUSE OF ACTION**
27 (Plaintiff Antonio Martinez against all Defendants)
28 **[Civil Code § 52.1 Civil Rights Violations]**

41. Plaintiff Tony Martinez realleges and incorporates by reference the allegations
contained in paragraphs 1 through 40 above as though fully set forth herein.

1 done with knowledge and for the purpose of causing Tony to suffer humiliation, mental
2 anguish, and severe emotional and physical distress. Defendants conduct was done
3 with a wanton and reckless disregard of the consequences to Tony.

4 47. As a result of these acts plaintiff suffered the physical injuries and severe
5 emotional distress and pain described above and the damages described in paragraph
6 25 above, entitling him to damages in an amount to be proven at trial.

7 48. In committing the acts alleged above, defendant Jeffrey Guy and Does 1
8 through 5 acted willfully, maliciously and oppressively and/or with reckless disregard for
9 the rights, feelings, and safety of Plaintiff and by reason thereof justifies awarding
10 exemplary and punitive damages in an amount to be proven at trial.

11 **SIXTH CAUSE OF ACTION**
12 (Plaintiff Antonio Martinez against all Defendants)
13 **[False Imprisonment]**

14 49. Plaintiff realleges and incorporates by reference the allegations contained in
15 paragraphs 1 through 48 above as though fully set forth herein.

16 50. Deputy Sheriff Jeffrey Guy forcibly stopped and detained Plaintiff Tony
17 Martinez while having no "reasonable suspicion" that Tony had committed or was about
18 to commit a crime. Deputy Guy knew and had been specifically told at the scene that
19 Tony had Down syndrome. In spite of that knowledge Jeffrey Guy then seized and
20 arrested Tony, handcuffed him behind his back, placed him in the cage in the back of
21 his patrol car, and delivered him to the Vista Jail, where Tony was wrongfully
22 imprisoned for 5 hours.

23 51. As a result of these acts plaintiff suffered the physical injuries and severe
24 emotional distress and pain described above and the damages described in paragraph
25 25 above, entitling him to damages in an amount to be proven at trial.

26 52. In committing the acts alleged above, defendant Jeffrey Guy and Does 1
27 through 5 acted willfully, wantonly, maliciously and/or oppressively and/or with reckless
28 disregard for the rights, feelings, and safety of Plaintiff and by reason thereof justifies
awarding exemplary and punitive damages in an amount to be proven at trial.

1 **SEVENTH CAUSE OF ACTION**

2 (Plaintiffs Jessica Martinez and Karina Martinez, a minor, against all Defendants)
3 **[Negligent Infliction of Emotional Distress - Bystander]**

4 53. Plaintiffs reallege and incorporate by reference the allegations contained in
5 paragraphs 1 through 50 above as though fully set forth herein.

6 54. Plaintiffs, Jessica and Karina Martinez, younger sisters of plaintiff, Tony
7 Martinez, were at all relevant times in close proximity to the battery, unlawful arrest, and
8 false imprisonment of their brother with Down syndrome, and personally witnesses the
9 negligent and intentional acts of Deputy Sheriff Jeffrey Guy and other deputies toward
10 Tony.

11 55. Because of the negligence or intentional acts of defendants, and as a
12 proximate result thereof, Plaintiffs Jessica and Karina Martinez, sustained severe
13 emotional distress and mental suffering, all of which caused, and continues to cause,
14 and will continue to cause them great physical and mental pain and suffering, all to their
15 damage entitling them to damages in an amount to be proven at trial.

16 56. In committing the acts alleged above, defendant Jeffrey Guy and Does 1
17 through 5 acted willfully, wantonly, maliciously and/or oppressively and/or with reckless
18 disregard for the rights, feelings, and safety of Plaintiffs and by reason thereof justifies
19 awarding exemplary and punitive damages in an amount to be proven at trial.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, Plaintiffs pray for judgment against defendants and each of them
22 as follows:

23 1. For general and compensatory damages against defendants and each of
24 them in an amount to be proven at trial;

25 2. For exemplary and punitive damages against defendant Jeffery Guy only, in
26 an amount to be proven at trial;

27 3. For attorney fees;

28 4. For costs of suit herein; and

