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(ENDORSED)
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MAY 1 2019

Clerk of the Court
Superior Court of CA County of Santa Clara
BY Y. Lai DEPUTY

7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF SANTA CLARA**

10 **FREDERICK LEO WEAVER,**
11 **Plaintiff,**

12 vs.

13 **SAN FRANCISCO FORTY NINERS,**
14 **LIMITED; SAN FRANCISCO FORTY**
15 **NINERS II, LLC; FORTY NINERS**
16 **FOOTBALL COMPANY, LLC; SAN**
17 **FRANCISCO FORTY NINERS**
18 **FOUNDATION; FORTY NINERS STADIUM,**
19 **LLC; FORTY NINERS STADIUM**
20 **MANAGEMENT COMPANY, LLC; FORTY**
21 **NINERS HOLDINGS LP; FORTY NINERS**
22 **HOLDINGS LLC; FORTY NINERS SC**
23 **STADIUM COMPANY, LLC;**
24 **CITY OF SANTA CLARA; SANTA CLARA**
25 **STADIUM AUTHORITY; CITY OF SANTA**
26 **CLARA CITY MANAGER DEANNA**
27 **SANTANA; CITY OF SANTA CLARA**
28 **POLICE DEPARTMENT; CITY OF SANTA**
CLARA POLICE CHIEF MICHAEL
SELLERS; NATIONAL FOOTBALL
LEAGUE; NATIONAL FOOTBALL LEAGUE
COMMISSIONER ROGER GOODELL;
NATIONAL FOOTBALL LEAGUE SENIOR
VICE PRESIDENT OF SECURITY CATHY
LANIER; NATIONAL FOOTBALL LEAGUE
DIRECTOR INVESTIGATIONS &
SECURITY SERVICES BILLY

Case No.: **19CV346749**

PLAINTIFF'S COMPLAINT FOR
DAMAGES

COUNTS:

1. **NEGLIGENCE;**
2. **PREMISES LIABILITY – FAILURE**
TO PROVIDE SAFE PREMISE –
DANGEROUS CONDITION OF PUBLIC
PROPERTY;
3. **NEGLIGENT STADIUM SECURITY –**
NEGLIGENT HIRING, RETENTION,
AND SUPERVISION;
4. **GROSS NEGLECT OF DUTY –**
GROSS MISCONDUCT;
5. **DISCRIMINATION;**
6. **CONSPIRACY**

DEMAND FOR JURY TRIAL

UNLIMITED CIVIL CASE

LANGENSTEIN; LANDMARK EVENT
STAFFING SERVICES, INC; and DOES 1
through 100,
INCLUSIVE,

Defendants.

Plaintiff FREDERICK LEO WEAVER, (hereinafter referred to as "PLAINTIFF", "FRED WEAVER" or "WEAVER") complains and alleges as follows:

THE PARTIES

The PLAINTIFF

Plaintiff FREDERICK LEO WEAVER is and was at all times relevant herein an individual and a citizen of California who resides in Santa Clara County, California.

The DEFENDANTS

1. Plaintiff is informed and believes and thereon alleges that FORTY NINERS, LIMITED, is a Delaware limited liability company with offices located in Santa Clara County, California;

2. Plaintiff is informed and believes and thereon alleges that SAN FRANCISCO FORTY NINERS II, LLC, is a Delaware limited liability company with offices located in Santa Clara County, California;

3. Plaintiff is informed and believes and thereon alleges that FORTY NINERS FOOTBALL COMPANY, LLC, is a Delaware limited liability company with offices located in Santa Clara County, California;

4. Plaintiff is informed and believes and thereon alleges that FORTY NINERS HOLDINGS LP, is a Delaware limited liability company with offices located in Santa Clara County, California;

5. Plaintiff is informed and believes and thereon alleges that FORTY NINERS HOLDINGS LLC, is a Delaware limited liability company with offices located in Santa Clara County, California;

1 6. Plaintiff is informed and believes and thereon alleges that SAN FRANCISCO
2 FORTY NINERS FOUNDATION, is a Delaware limited liability company with offices located
3 in Santa Clara County, California;

4 7. Plaintiff is informed and believes and thereon alleges that FORTY NINERS
5 STADIUM MANAGEMENT COMPANY, LLC, is a Delaware limited liability company with
6 offices located in Santa Clara County, California;

7 8. Plaintiff is informed and believes and thereon alleges that FORTY NINERS SC
8 STADIUM COMPANY, LLC, is a Delaware limited liability company with offices located in
9 Santa Clara County, California;

10 9. The entities referenced in paragraphs 1-8 are herein collectively referred to as the
11 "**FORTY NINER DEFENDANTS**". Plaintiff is informed and believes and thereon alleges that
12 the FORTY NINERS DEFENDANTS and DOES 1 through 20, inclusive, were doing business
13 in the County of Santa Clara, which included owning, operating, controlling and managing a
14 professional football team within the National Football League known as the "San Francisco
15 49ers" that now, and at all times herein mentioned did play its home games at Levi's Stadium,
16 located at 4900 Marie P. DeBartolo Way, Santa Clara, California.

17 10. Plaintiff is informed and believes and thereon alleges that, at all times herein
18 mentioned, and prior thereto, Defendants **CITY OF SANTA CLARA, SANTA CLARA**
19 **STADIUM AUTHORITY** and DOES 21 through 40, inclusive were public entities, that
20 Defendant CITY OF SANTA CLARA is a public entity established under the laws and
21 Constitution of the State of California, and that it owns, operates, manages, directs, and controls
22 the **SANTA CLARA POLICE DEPARTMENT** which employs other DOE Defendants in this
23 action. Plaintiff is informed and believes and thereon alleges that the elected members of the
24 Santa Clara City Council serve as the governing board for the **SANTA CLARA STADIUM**
25 **AUTHORITY**.

26 11. Plaintiff is informed and believes and thereon alleges that Defendant **DEANNA**
27 **SANTANA** (hereinafter referred to as either "DEANNA SANTANA", or "SANTANA") is, and
28 at all times herein mentioned was, a resident of Santa Clara County, California and the City
29 Manager of the CITY OF SANTA CLARA, and that, in her capacity as City Manager, she serves
30 as Executive Director of the SANTA CLARA STADIUM AUTHORITY.

1 12. Plaintiff is informed and believes and thereon alleges that Defendant **BRIAN**
2 **DOYLE** is, and at all times herein mentioned was, a resident of Santa Clara County, California
3 and the City Attorney of the CITY OF SANTA CLARA, and that, in his capacity as City
4 Attorney, he serves as General Counsel of the SANTA CLARA STADIUM AUTHORITY.

5 13. Plaintiff is informed and believes and thereon alleges that Defendant **CITY OF**
6 **SANTA CLARA POLICE DEPARTMENT** (hereinafter referred to as either “SANTA
7 CLARA POLICE DEPARTMENT”, or “SCPD”) is, and at all times herein mentioned was a
8 separate public entity or a department of the City of Santa Clara.

9 14. Plaintiff is informed and believes and thereon alleges that Defendant **MICHAEL**
10 **SELLERS** (hereinafter “SELLERS”) is, and at all times herein mentioned was, a resident of
11 Santa Clara County, California and the Chief of Police of the Santa Clara Police Department and
12 was acting within the course and scope of that employment. Plaintiff is informed and believes
13 and thereon alleges that, in that capacity, Defendant SELLERS is and was a policy making
14 officer for the CITY OF SANTA CLARA POLICE DEPARTMENT. Plaintiff is informed and
15 believes and thereon alleges that DOES 41 through 60, inclusive, were and are employees of the
16 **SANTA CLARA POLICE DEPARTMENT**, CITY OF SANTA CLARA, and at the time of
17 these events were acting as agents of Defendant CITY OF SANTA CLARA, SANTA CLARA
18 STADIUM AUTHORITY, FORTY NINER DEFENDANTS, and the NATIONAL FOOTBALL
19 LEAGUE, acting within the course and scope of that relationship.

20 15. Plaintiff is informed and believes and thereon alleges that Defendants **NATIONAL**
21 **FOOTBALL LEAGUE**, (hereinafter referred to as either "NATIONAL FOOTBALL
22 LEAGUE", or “NFL”, is, and at all times herein mentioned was, an unincorporated association
23 consisting of separately owned and independently-operated professional football teams which
24 operate out of many different cities and states within this country, including the State of
25 California (and, more specifically, Levi’s Stadium in Santa Clara), with its headquarters located
26 in New York. The NFL is engaged in interstate commerce in the business of, among other things,
27 promoting, operating, organizing, and regulating the major professional football league in the
28 United States. The United States Supreme Court held in American Needle, Inc. v NFL, 130 S.
Ct. 14 2201, 2212-13, (2010) that each team that is a member of the NFL is a legally distinct and
separate entity from both the other teams and the NFL itself.

1 16. Plaintiff is informed and believes and thereon alleges that Defendant **ROGER**
2 **GOODELL**, an individual whose residence is unknown, is and, at all material times was NFL
3 Football Commissioner and was acting within the course and scope of that employment.

4 17. Plaintiff is informed and believes and thereon alleges that Defendant **CATHY**
5 **LANIER**, an individual whose residence is unknown, is and, at all material times was NFL
6 Senior Vice President of Security and was acting within the course and scope of that
7 employment.

8 18. Plaintiff is informed and believes and thereon alleges that Defendant **BILLY**
9 **LANGENSTEIN**, an individual whose residence is unknown, is and, at all material times was
10 Director, Investigations & Security Services – National Football League and was acting within
11 the course and scope of that employment.

12 19. Plaintiff is informed and believes and thereon alleges that DOES 61-70 are
13 individuals or business entities that are part of NATIONAL FOOTBALL LEAGUE.

14 20. Plaintiff is informed and believes and thereon alleges that Defendants **LANDMARK**
15 **EVENT STAFFING SERVICES, INC.**, (hereinafter referred to as either "LANDMARK
16 **EVENT STAFFING SERVICES, INC**", "LANDMARK DEFENDANTS" or "LANDMARK"),
17 is a Delaware corporation doing business in Santa Clara County, California, and that it and
18 DOES 71 through 80, inclusive, are and were, at all times herein mentioned, doing business in
19 the State of California, which included providing security services to Levi's Stadium, located in
20 the City and County of Santa Clara, before, during and after NFL games.

21 21. In accordance with California Government Code sections 900 eq. seq., on December
22 17, 2018, Plaintiff filed government claims against Defendants **CITY OF SANTA CLARA**,
23 **SANTA CLARA STADIUM AUTHORITY**, and **CITY OF SANTA CLARA POLICE**
24 **DEPARTMENT**. On March 1, 2019, Plaintiffs' claims were rejected.

25 22. Plaintiff is informed and believes, and thereon alleges, that at all times herein
26 mentioned, and prior thereto, the **FORTY NINER DEFENDANTS**, **CITY OF SANTA CLARA**,
27 **SANTA CLARA STADIUM AUTHORITY**, **CITY OF SANTA CLARA POLICE**
28 **DEPARTMENT**, **NATIONAL FOOTBALL LEAGUE**, **LANDMARK EVENT STAFFING**
SERVICES, INC., and DOES 1 through 100, inclusive, owned, leased, operated, managed,
controlled, maintained, inspected and/or surveilled the San Francisco 49ers' home stadium,

1 known as "Levi's Stadium," located in Santa Clara, California, and/or provided security services
2 to said stadium on National Football League ("NFL") game days. In that capacity, at all times
3 herein mentioned, and prior thereto, the FORTY NINER DEFENDANTS, CITY OF SANTA
4 CLARA, SANTA CLARA STADIUM AUTHORITY, CITY OF SANTA CLARA POLICE
5 DEPARTMENT, NATIONAL FOOTBALL LEAGUE, LANDMARK EVENT STAFFING
6 SERVICES, INC., and/or DOES 1 through 100, inclusive, were responsible for selecting, hiring,
7 supervising, evaluating, and retaining security personnel for Levi's Stadium on NFL game days.

8 23. Defendants DOES 1 through 100, inclusive, are sued herein by fictitious names
9 because Plaintiff is ignorant of the true names or capacities of these defendants but will insert the
10 same herein when ascertained. Plaintiff is informed and believes and thereon alleges that each of
11 the defendants designated herein as a DOE legally and proximately caused injury and damage to
12 Plaintiff and the general public as herein alleged and is therefore responsible to Plaintiff for the
13 damages and attorney's fees herein requested.

14 24. Plaintiff is informed, believes, and thereon alleges, that, at all times herein
15 mentioned, each Defendant was acting as an agent, servant, employee, special employee, alter
16 ego, successor in interest, partner, joint venturer, lessee, and licensee of each of the other
17 defendants, and was acting within the course and scope of said relationship. In addition, Plaintiff
18 is informed, believes and thereon alleges, that each Defendant has ratified and approved the acts
19 of each of the other Defendants.

20 25. Plaintiff is informed and believes and thereon alleges that each of the Defendants
21 sued herein was negligently, wrongfully, and otherwise responsible in some manner for the
22 events and happenings as hereinafter described, and proximately caused injuries and damages to
23 Plaintiff and the general public.

24 JURISDICTION AND VENUE

25 26. This Court has jurisdiction over this matter because all DEFENDANTS conduct
26 business in, and have substantial contacts, within the State of California.

27 27. Venue is proper in the County of Santa Clara because Defendants SAN
28 FRANCISCO FORTY NINERS, LIMITED; SAN FRANCISCO FORTY NINERS II, LLC;
FORTY NINERS FOOTBALL COMPANY, LLC; SAN FRANCISCO FORTY NINERS
FOUNDATION; FORTY NINERS STADIUM, LLC; FORTY NINERS STADIUM

1 MANAGEMENT COMPANY, LLC; FORTY NINERS HOLDINGS, LP; FORTY NINERS
2 HOLDINGS LLC; FORTY NINERS SC STADIUM COMPANY, LLC, CITY OF SANTA
3 CLARA, SANTA CLARA STADIUM AUTHORITY, and CITY OF SANTA CLARA POLICE
4 DEPARTMENT are headquartered in Santa Clara County, State of California, and the acts and
5 omissions alleged herein occurred in Santa Clara County, California.

6
7 **SUMMARY OF ALLEGATIONS**

8 28. The rivalry between the San Francisco 49ers and the Oakland Raiders has existed for
9 years with both teams based in the San Francisco Bay Area. The rivalry known as the "Battle of
10 the Bay" intensified since both teams met during a preseason game in August 20, 2011.

11 29. In previous litigation, after the infamous August 20, 2011 49ers-Raiders game,
12 according to two lawsuits filed in San Francisco Superior Court, the San Francisco 49ers failed
13 to "proactively create an environment that was free from fighting...and gang activity."
14 Statements were taken from San Francisco 49er Hall of Fame quarterback Joe Montana
15 mentioning the team advising 49ers players to keep their families at home during Raiders games
16 because of safety concerns. "Tell your families to sit this one out and watch it on TV," Montana
17 recalled Coach Bill Walsh saying in an interview, "It just wasn't that safe to be around."

18 30. Beginning with the 2014 season, the DEFENDANTS sold alcohol for all San
19 Francisco 49ers games at Levi's Stadium. Plaintiff is informed and believes and thereon alleges
20 that the FORTY NINER DEFENDANTS, Defendant CITY OF SANTA CLARA, Defendant
21 SANTA CLARA STADIUM AUTHORITY, and the NATIONAL FOOTBALL LEAGUE
22 created an alcohol-induced atmosphere of violence at Levi's Stadium, based on the on and off
23 field violence of the San Francisco 49ers and other NFL football players and the enabling of
24 excessive alcohol consumption by the fans. The FORTY NINER DEFENDANTS, Defendant
25 CITY OF SANTA CLARA, Defendant SANTA CLARA STADIUM AUTHORITY, and the
26 NATIONAL FOOTBALL LEAGUE enabled excessive alcohol consumption despite knowledge
27 of criminal activity at Levi's Stadium and knowledge of the criminal elements who congregate at
28 Levi's Stadium.

31. Under the special relationship doctrine, the DEFENDANTS, and each of them, by
serving intoxicating drinks to patrons for consumption on its premises, must exercise reasonable

1 care to protect patrons from injury at the hands of fellow guests. “Businesses, such as shopping
2 centers, restaurants and bars, and stadiums serving alcohol have an affirmative duty to take
3 reasonable steps to secure their premises, as well as adjacent common areas within their control,
4 against reasonably foreseeable criminal acts of third parties” [Delgado v. Trax Bar & Grill
5 (2005) 36 Cal.4th 224; Morris IV v. De La Torre (2005) California Supreme Court No. S119750;
6 Ann M. v. Pacific Plaza Shopping Ctr. (1993) 6 Cal.4th 666].

7 32. The DEFENDANTS and each of them had notice that the serving of alcohol at a
8 sporting event could incite violent, criminal behavior.

9 33. The 49ers-Raiders game on November 1, 2018 was a nationally televised, high
10 profile game for many reasons; it was a Thursday Night Football game for the San Francisco
11 49ers, and the game being played would be the last “Battle of the Bay” game played against
12 rivals Oakland Raiders, who recently decided to move their team to Las Vegas, NV.

13 34. San Francisco 49ers and the Oakland Raiders games are notoriously sold out events
14 with the stands filled to capacity. Levi’s Stadium has capacity for 68,500 spectators. According
15 to Pro Football Reference, there were 69,592 in total attendance on November 1, 2018. Levi’s
16 Stadium has the 16th largest of 31 total NFL stadiums seating capacity in the National Football
17 League.

18 35. In the weeks prior to San Francisco 49ers and the Oakland Raiders November 1,
19 2018 game, there were published print and news media reports by FORTY NINER
20 DEFENDANTS, and DEFENDANT CITY OF SANTA CLARA POLICE DEPARTMENT of
21 stepped up security during the game at Levi’s Stadium.

22 36. On typical game days, according to an October 26, 2017 ESPN video interview with
23 Defendant NFL Chief of Security CATHY LANIER, “Local police are the lead agency for every
24 game throughout the season. A typical game requires at least 10 different agencies, from the FBI
25 to private security.”

26 37. Defendant SANTA CLARA POLICE DEPARTMENT has stated recently in news
27 media accounts, for a typical NFL game at Levi’s Stadium, eighty officers are assigned to work
28 at the stadium.

38. Defendant SANTA CLARA POLICE DEPARTMENT Captain Tony Parker
confirmed during a November 10, 2018 phone conversation with Plaintiff, “there were well in

1 excess of 400 (four hundred) Law Enforcement Officers working the game,” the night of
2 November 1, 2018.

3 39. Levi’s Stadium is the third newest stadium in football. As a result, the fixtures, and
4 security monitoring equipment of the stadium would be expected to be ‘high tech’ and ‘state of
5 the art’.

6 40. Plaintiff is informed and believes, and thereon alleges, that one or more of the
7 Defendants installed a high-capacity, “high reliability, sequential video surveillance and storage
8 security system.” Defendant CITY OF SANTA CLARA POLICE DEPARTMENT officers told
9 Plaintiff in face to face conversation on November 1, 2018, and phone conversation on
10 November 10, 2018, that Levi’s Stadium has over 800 network security cameras and that, from
11 the event control room, a dedicated operator works at the direction of law enforcement to
12 monitor all threats. Yet according to Defendant SANTA CLARA POLICE DEPARTMENT
13 during a 2017 Deposition in the Kirin Patel beating case, (*Kirin Patel and Amish Patel v. San*
14 *Francisco Forty Niners, et al.*, Santa Clara County Superior Case no. 115CV286138, (2015),
15 Defendant SANTA CLARA POLICE DEPARTMENT admitted to analyzing social media posts
16 instead of utilizing Levi’s Stadium’s high technology cameras and security system. And in the
17 police report filed November 1, 2018 by Defendant SANTA CLARA POLICE DEPARTMENT
18 Staff Sergeant Alex Torke, he reports he was working detail at Levi’s Stadium as an investigator
19 and relied on a video posted to Instagram involving Victim Crain being severely beaten by
20 Assailant Guardado. The Defendant CITY OF SANTA CLARA POLICE DEPARTMENT admit
21 in multiple court filed depositions and their own police reports of relying on social media rather
22 than the security system or their own eyesight. Defendants’ failure to take preventative security
23 measures at Levi’s Stadium is alarming. It is even more disturbing that the Defendants do not
24 implement, know how to use or are trained on, or benefit from the installed high technology ‘real
25 time’ cameras and security system, and the Defendant SANTA CLARA POLICE
26 DEPARTMENT defaults to relying on ‘unreliable’ delayed social media uploads and posts.

27 41. On November 1, 2018, Plaintiff FRED WEAVER, a 61-year-old real estate
28 developer and general contractor from Mountain View, California, attended the San Francisco
49ers nationally televised Thursday Night Football game at Levi’s Stadium against longtime
rivals Oakland Raiders along with his daughter.

1 42. Plaintiff is a season ticket holding Oakland Raiders fan who travelled to Levi's
2 Stadium for the game. Plaintiff and his daughter were dressed in black and silver Raiders gear
3 for the November 1, 2018 game.

4 43. The game began at 5:20 p.m. Plaintiff purchased tickets for the San Francisco 49ers
5 game for a considerable amount and was an invitee on the Levi's Stadium premises on the day of
6 the incident. Plaintiff was lawfully seated in upper middle Section 221 on the visitor's side of
7 Levi's Stadium.

8 44. Before the halftime break, the San Francisco 49ers score was a lead of 17 to 3 over
9 the Oakland Raiders, yet San Francisco 49ers fans were viciously attacking other San Francisco
10 49ers fans.

11 45. At approximately two minutes into the start of the third quarter of the game, Plaintiff
12 and his daughter, after returning from the main concourse food court, while seated in upper
13 middle Section 221, noticed a savage and brutal fight starting between two San Francisco 49ers
14 fans in Lower Field Section 119. San Francisco 49ers fan Victim Vincent Crain (hereinafter
15 referred to as either "VICTIM", "Vincent Crain" or "Crain") was brutally attacked by another
16 San Francisco 49ers fan, Assailant Steve Gonzales Guardado (hereinafter referred to as either
17 "ASSAILANT", "Steve Gonzales Guardado " or "Guardado"). During this attack, Plaintiff sitting
18 immediately above in upper middle Section 221, witnessed Assailant Guardado punching Victim
19 Crain with repeated strikes to the head that caused Victim Crain to fall over backwards helpless
20 with both of his feet caught between the seat uprights. Victim Crain struck his head on the
21 ground and the Assailant Guardado continued the brutal attack by punching Victim Crain several
22 more times in the head.

23 46. Alarming, dozens of fans and on-field Defendant NFL security watched this savage
24 attack between two San Francisco 49ers fans for almost two minutes without anyone taking any
25 action against the ASSAILANT or to assist VICTIM. NFL Field Security and Defendant
26 SANTA CLARA POLICE DEPARTMENT and all other law enforcement officers, and security
27 staff failed to respond and or intervene to aid Victim Crain or apprehend Assailant Guardado.

28 47. Since no law enforcement or security staff were visible in any of the stadium seating
area or attempting to diffuse the situation or step in to ensure the safety of other fans attending
the game, Plaintiff decided to intervene and rushed down the steps from upper middle Section

1 221 to intercept the Assailant Guardado as he slowly left the scene of the attack, and ascended
2 the Lower Level seat stairs upwards toward the shared main concourse mezzanine, apparently in
3 an attempt to escape.

4 48. Despite being only the third quarter of the game, and with such an intense historical
5 rivalry between the San Francisco 49ers and the Oakland Raiders, no law enforcement officers or
6 security were present anywhere near lower Section 119, the main concourse or the outer
7 perimeter deck of the entire East side of Levi’s Stadium during the brutal attack on Victim Crain.
8 None of those responsible and sworn to ‘Protect and Serve’ as law enforcement and security
9 were anywhere in the vicinity of where Crain was attacked. In fact, no FORTY NINER
10 DEFENDANTS, Defendants CITY OF SANTA CLARA POLICE DEPARTMENT or any law
11 enforcement officers were present anywhere on the Eastern side of Levi’s Stadium to observe or
12 to diffuse the situation or step in for the aggressive behavior towards Crain, and they failed to
13 take any preventative measures to ensure the safety of other fans attending the game. The lack of
14 security presented a perfect opportunity to commit a variety of crimes. Unfortunately, for Victim
15 Crain, this is exactly what happened.

16 49. Plaintiff worked his way down from his seat in upper Section 221 and intercepted the
17 ASSAILANT at the top of the Section 119 stairs connected to the main concourse. There was a
18 woman on the main concourse, in black ‘security’ attire, and Plaintiff was yelling very loudly at
19 the top of his lungs for the female security member to call police and or backup. The female
20 security member was trying to work some sort of clicking device, as Plaintiff continued
21 screaming for her to get backup or help. As Assailant Guardado in a red shirt and his smaller
22 companion wearing a dark #80 San Francisco 49ers jersey started walking across the main
23 concourse, Plaintiff intercepted and confronted Assailant Guardado and told him to stop. The
24 ASSAILANT continued to walk toward the outer perimeter of the main concourse,
25 counterclockwise Northward toward the stairs leading to Levi’s Stadium Northeast Exit Gate ‘F’.
26 Plaintiff and his daughter continued to closely follow ASSAILANT, and when Plaintiff and
27 ASSAILANT reached the Northeast stairway the smaller companion to the ASSAILANT
28 wearing a dark #80 San Francisco 49ers jersey, grabbed Plaintiff and tried to keep him from
following Assailant Guardado. Plaintiff continued following Guardado and his companion down
the stairs, while yelling loudly for help, and Plaintiff was finally recognized by a ‘visiting’ (the

1 officer's words) uniformed California Highway Patrol (CHP) officer, who was just outside the
2 Exit Gate 'F' close to the light rail train tracks. The CHP officer grabbed the Assailant Guardado,
3 and a couple of Defendant CITY OF SANTA CLARA POLICE DEPARTMENT officers finally
4 surrounded the ASSAILANT and his companion. Plaintiff first, and then Plaintiff's daughter
5 second, gave individual accounts to one of the arresting Defendant CITY OF SANTA CLARA
6 POLICE DEPARTMENT officers.

7 50. On or about November 1, 2018, Defendant CITY OF SANTA CLARA POLICE
8 DEPARTMENT violated Plaintiff's Constitutional and 14th Amendment Equal Protection
9 Rights protection of the law for Age, Disability, and Color Discrimination.

10 51. As Plaintiff was closely following Assailant Guardado, on the outer mezzanine and
11 just before descending the Levi's Stadium Northeast Exit Gate 'F' stairs, Plaintiff finally
12 encountered a Defendant CITY OF SANTA CLARA POLICE officer, positioned counter
13 clockwise to the stairs less than 20 yards away. Plaintiff yelled at the top of his lungs, "Give me
14 some help and arrest this guy, he just beat up and severely hurt another 49ers fan!" The
15 Defendant CITY OF SANTA CLARA POLICE officer looked directly at Plaintiff, noticed
16 Plaintiff was limping, and the Defendant CITY OF SANTA CLARA POLICE officer also
17 acknowledged Plaintiff wearing a black Oakland Raiders jersey. The Defendant Santa Clara
18 Police officer literally, and physically turned his back on Plaintiff. Plaintiff was limping due to
19 excruciating pain having to chase the Assailant Guardado three quarters of the length of Levi's
20 Stadium in attempt to keep the Assailant from hurting any other Levi's Stadium patrons. Plaintiff
21 underwent surgery exactly fifteen days later for a right hip replacement.

22 52. It took over five minutes from Plaintiff WEAVER'S initial observation of Assailant
23 Guardado's start of attack on VICTIM until Assailant Guardado escaped the area reaching the
24 main concourse.

25 53. It took approximately another ten to fifteen minutes while Plaintiff took the actions
26 discussed above that finally led to the arrest of Guardado by Defendant CITY OF SANTA
27 CLARA POLICE DEPARTMENT.

28 54. In total there was a fifteen to twenty-minute period of time when no law enforcement
officers or backup security were visible, posted, operating, managing, controlling, maintaining,

1 inspecting or surveilling the East side of the San Francisco 49ers' home stadium, known as
2 "Levi's Stadium."

3 55. However, as documented in a local KNBR news report and video, on-field Defendant
4 NFL field security watched this savage attack between two San Francisco 49ers fans for almost
5 two minutes without anyone from Defendant NFL field security taking any action in any way, or
6 to call ahead for law enforcement or other security backup against the ASSAILANT or to assist
7 VICTIM. "Fights break out in stands during 49ers-Raiders game." KNBR 680 - 1050 AM
8 November 1, 2018 <http://www.knbr.com/2018/11/01/fights-break-out-in-stands-during-49ers-raiders-game/>

9 56. As a result of the lack of security and law enforcement, Plaintiff intervened, acted
10 alone, and restrained, contained and brought Assailant Guardado to custody and arrest by
11 Defendant CITY OF SANTA CLARA POLICE DEPARTMENT.

12 57. On the morning of November 2, 2018, Plaintiff travelled to Defendant CITY OF
13 SANTA CLARA POLICE DEPARTMENT with additional information and backup to assist
14 Defendant CITY OF SANTA CLARA POLICE DEPARTMENT with the previous evening's
15 arrest of Assailant Steve Guardado. Plaintiff was met by Defendant CITY OF SANTA CLARA
16 POLICE DEPARTMENT officers and WEAVER spoke to DEFENDANTS through the glass
17 while standing in the lobby side. Plaintiff provided copies of Plaintiff's and Plaintiff's daughter's
18 seating tickets and marked up Levi's Stadium overall seating diagram from the November 1,
19 2018 game, detailing area of observation by Plaintiff during Assailant Guardado's vicious attack
20 on Victim Crain.

21 58. On the morning of November 2, 2018, Plaintiff also travelled to Defendant CITY OF
22 SANTA CLARA's administrative offices with additional information and backup to assist and
23 discuss with Defendant CITY OF SANTA CLARA and Defendant CITY OF SANTA CLARA
24 Attorney BRIAN DOYLE, the events of the previous evening detailed above. Plaintiff was met
25 by Defendant CITY OF SANTA CLARA administrative clerks, and WEAVER spoke to
26 DEFENDANT administrative clerks over the counter. Plaintiff requested meeting with
27 DEFENDANT CITY OF SANTA CLARA Mayor and City Attorney regarding the incident at
28 the November 1, 2018 game. Plaintiff was told by Defendant CITY OF SANTA CLARA's
clerks that the Mayor and City Attorney were not available.

1 59. Plaintiff is informed and believes and thereon alleges that on or about November 2,
2 2018, Defendant CITY OF SANTA CLARA POLICE DEPARTMENT violated California Penal
3 Code 118.1 when their officers intentionally filed false police reports regarding the November 1,
4 2018 incident at Levi's Stadium.

5 60. On or about November 5, 2018 Plaintiff initiated email correspondence with
6 DEFENDANTS including Defendant CITY OF SANTA CLARA POLICE DEPARTMENT
7 officers and Defendant Chief of Police MICHAEL SELLERS and Defendant CITY OF SANTA
8 CLARA City Attorney BRIAN DOYLE.

9 61. On or about November 8, 2018 Plaintiff WEAVER received a phone call from ex-
10 Oakland Chief of Police Howard Jordan, who informed him that he was calling on behalf of
11 Defendant CITY OF SANTA CLARA City Attorney BRIAN DOYLE. Howard Jordan
12 explained he was a security consultant to the Defendant CITY OF SANTA CLARA.

13 62. On or about November 10, 2018, Plaintiff received a phone call from Defendant
14 CITY OF SANTA CLARA POLICE DEPARTMENT Captain Tony Parker. During that phone
15 call, Captain Parker confirmed to Plaintiff that, after reviewing the Levi's Stadium security tapes,
16 WEAVER was positively identified in the tapes and WEAVER was wearing a number 75
17 Oakland Raider Black Jersey. Captain Parker also informed Plaintiff during that phone
18 conversation that, "there were well in excess of 400 (four hundred) law enforcement officers
19 working the game," the night of November 1, 2018.

20 63. On or about November 10, 2018, Defendants CITY OF SANTA CLARA POLICE
21 DEPARTMENT ceased all further communication with Plaintiff.

22 64. On or about November 10, 2018, Defendant CITY OF SANTA CLARA City
23 Attorney BRIAN DOYLE ceased all further communication with Plaintiff.

24 65. On the morning of November 15, 2018, Plaintiff travelled again to Defendant CITY
25 OF SANTA CLARA's administrative offices with additional information and requested a
26 meeting with its Mayor and City Attorney regarding the incident at the November 1, 2018 game.
27 Plaintiff was told by Defendant CITY OF SANTA CLARA administrative clerks that the Mayor
28 and City Attorney were not available. Plaintiff WEAVER left his business card stapled to hand
written note for Defendant CITY OF SANTA CLARA Attorney BRIAN DOYLE.

1 66. On November 26, 2018, Plaintiff sent individual letters via UPS Overnight to
2 Defendant CITY OF SANTA CLARA Mayor Gillmor and copying all Defendant CITY OF
3 SANTA CLARA Councilmembers with extensive narrative and backup including all email
4 correspondence previously sent and received between Plaintiff and the Defendant CITY OF
5 SANTA CLARA City Attorney and Defendant CITY OF SANTA CLARA POLICE
6 DEPARTMENT.

7 67. On or about November 28, 2018, Plaintiff received a letter from Defendant CITY OF
8 SANTA CLARA Mayor and Council Officers acknowledging receipt of Plaintiff’s November
9 26, 2018 letter stating, “Your letter will be distributed to the Mayor and Councilmembers, as
10 well as the City Manager’s Office, for their review.”

11 68. On or about November 28, 2018, Defendant CITY OF SANTA CLARA Mayor Lisa
12 Gillmor and Councilmembers ceased all communication with Plaintiff.

13 69. On December 16, 2018, Plaintiff returned to Levi’s Stadium for the sole purpose of
14 inspecting and reviewing security coverage. That San Francisco 49ers home game at Levi’s
15 Stadium was against the Seattle Seahawks. Rather than sit in his assigned seat, Plaintiff walked
16 the entire Levi’s Stadium during the first half of the football game and took 630 separate
17 photographs of Defendant CITY OF SANTA CLARA POLICE DEPARTMENT officers, other
18 law enforcement officers and other security personnel mostly standing around, bunched up in
19 groups, tucked away in warm areas, not providing any strategic placement or zone coverage, not
20 observing the crowd fan base. He also saw no law enforcement or security personnel patrolling
21 any of Levi’s Stadium fan seating sections or any of Levi’s Stadium main entry and exit gates.

22 70. On or about January 7, 2019, Plaintiff called Defendant NATIONAL FOOTBALL
23 LEAGUE and left a voicemail for Defendant CATHY LANIER, NFL Senior Vice President of
24 Security.

25 71. On January 8, 2019, Plaintiff received phone call from Defendant BILLY
26 LANGENSTEIN, – Director, Investigations & Security Services – National Football League.
27 During that call Plaintiff discussed with BILLY LANGENSTEIN multiple Levi’s Stadium
28 security concerns and other related issues pertaining to Defendant CITY OF SANTA CLARA
POLICE DEPARTMENT. Mr. LANGENSTEIN informed Plaintiff both orally and in an email

1 later that evening that, “I will follow up with the 49ers on the active investigation that you
2 referenced.”

3 72. On or about January 8, 2018, Defendant NATIONAL FOOTBALL LEAGUE and
4 Defendant NFL Security Representative BILLY LANGENSTEIN ceased all communication
5 with Plaintiff.

6 73. Plaintiff is informed and believes and thereon alleges that, starting on or about
7 November 1, 2018 through and continuing after January 8, 2019, DEFENDANTS conspired to
8 conceal information, falsify reports, hide, bury, and make any incriminating records disappear.

9 74. Without the implementation of any adequate security measures, inside Levi’s
10 Stadium, Plaintiff and the other patrons were inappropriately exposed to the aggressive acts of
11 third parties the night of November 1, 2018. The bottom line is that “with well in excess of 400
12 law enforcement officers working the game that night”, the DEFENDANTS failed to provide
13 any security for the entire Eastern side of Levi’s Stadium. DEFENDANTS did not have in place
14 or take any reasonable steps to prevent the attack on Victim Crain or any other crimes that might
15 have taken place.

16 75. These reasonable steps that should have been taken included and should in the future
17 include, but are not limited to:

- 18 a. The presence of uniformed security (or for any security for that matter) operating,
19 managing, controlling, maintaining, inspecting and surveilling the Eastern side of the
20 San Francisco 49ers' home stadium, known as "Levi's Stadium;
- 21 b. Presence of law enforcement officers or security at or near patron seating and main
22 concourse areas;
- 23 c. Better communication between all law enforcement officers and security staff during
24 games;
- 25 d. Refusing to grant access to the premises (both inside the stadium and in the parking
26 lot) to known criminals or gang members;
- 27 e. Promoting responsible consumption of alcohol; and
- 28 f. Ejection from both the stadium and parking lot of those persons exhibiting drunk or
disorderly conduct, or those persons exhibiting violent conduct.

1 76. It is also unfortunate that such a storied and well-respected football team such as the
2 San Francisco 49ers has been made to suffer due to recent turmoil and publicly aired and
3 documented political infighting between the Defendants CITY OF SANTA CLARA POLICE
4 DEPARTMENT, CITY OF SANTA CLARA and CITY OF SANTA CLARA STADIUM
5 AUTHORITY, and FORTY NINER DEFENDANTS. Moreover, Plaintiff is informed and
6 believes and thereon alleges that the toxic environment and relationship between all of the
7 DEFENDANTS has resulted in the deteriorated morale of Defendants CITY OF SANTA
8 CLARA POLICE DEPARTMENT directly leading to chaos in DEFENDANTS’ security
9 management exposing sports fans and other patrons of Levi’s Stadium to extreme danger and
10 recent near-death experiences by San Francisco season ticket holders. Plaintiff is informed and
11 believes and thereon alleges that, mismanagement by FORTY NINER DEFENDANTS in failing
12 to provide timely security budgets over multiple years to adequately manage security leaves
13 management of adequate security staffing needs only to be guessed at by Defendants CITY OF
14 SANTA CLARA, CITY OF SANTA CLARA STADIUM AUTHORITY and CITY OF SANTA
15 CLARA POLICE DEPARTMENT.

16 a. *An August 24, 2017, City of Santa Clara Agenda Report included a Comprehensive Audit*
17 *of Stadium Authority Finances, prepared by Harvey M. Rose Associates, LLC. Included*
18 *in the August 21, 2017 audit Conclusions and Findings, finding 1.D, “The Stadium Lease*
19 *requires that the Operation and Maintenance Plan Prepared by ManCo (Forty Niners*
20 *Stadium Management Company) and submitted to the Stadium Authority include an*
21 *annual Public Safety Budget. At approximately \$5.7 million in FY 2015-16, public safety*
22 *costs are one of the Stadium’s largest expenses, but a budget for these costs were not*
23 *submitted to the Stadium Authority in total or approved by the Board for the two years*
24 *within the scope of this audit.”*

25 77. Plaintiff is informed and believes and thereon alleges that an outside audit found that
26 due to the unwillingness of the FORTY NINER DEFENDANTS to provide security budgets for
27 two years, law enforcement officers and security forces headcount at Levi’s Stadium were
28 ineffectively managed, endangering the safety of fans attending San Francisco 49ers home
games. Plaintiff is informed and believes and thereon alleges that, during this non-budgeted
security period on October 4, 2014, due to a lack of security, San Francisco 49ers season ticket

holder Kirin Patel was viciously attacked by a drunken gang member, and Kirin Patel suffered a coma, brain damage, and partial paralysis.

78. Plaintiff is informed and believes and thereon alleges that, as the final decision maker for the Defendant SANTA CLARA POLICE DEPARTMENT and DEFENDANTS, and each of them, Defendant Police Chief MICHAEL SELLERS held the ultimate responsibility for preparation and final review of security budgets, approval of police reports and implementation of security procedures and implementation.

79. Plaintiff is informed and believes, and thereon alleges, that these and other issues made public as documented in the recent Grand Jury Investigation and City of Santa Clara Meeting Agendas are a direct link to the major deterioration of cooperation affecting morale of all DEFENDANTS. Further, that DEFENDANTS publicly aired political infighting and finger pointing about security budget responsibilities has led to the turmoil and chaos affecting security at Levi’s Stadium.

80. On typical game days, according to an October 26, 2017 ESPN video interview with Defendant NFL Chief of Security CATHY LANIER, “Local police are the lead agency for every game throughout the season. A typical game requires at least 10 different agencies, from the FBI to private security.”

81. As the lead agency for security at Levi’s Stadium, the SANTA CLARA POLICE DEPARTMENT itself has been involved in two recent well documented Court Cases involving unconstitutional and illegal activity violating the security and safety of not only Santa Clara residents but also a San Jose resident. (*Moneeb, Ikram and Ikram v City of Santa Clara, Mike Sellers, et al.*, United States District Court (ND CA 2015), Case no. 5:15-cv-01987-NC), (*Danielle Harmon v. City of Santa Clara, City of Santa Clara Police Chief Mike Sellers, et al.*, United States District Court (ND CA 2016) Case no. 5:16-cv-04228-EJD).

82. Plaintiff is informed and believes and thereon alleges that this finding is also directly related to the disturbing, chaotic, and dysfunctional management causing a lack of security and safety at Levi’s Stadium.

83. Plaintiff is also informed and believes, and hereon alleges, that there were various other incidents (including two recent near-death beatings) arising as a result of lack of security since at least 2014 that put the DEFENDANTS and each of them on notice of such a dangerous

1 and unsafe condition both inside the stadium and in the parking lot. Plaintiff is informed and
2 believes and thereon alleges that the DEFENDANTS also had prior knowledge that known
3 members of gangs and other criminals actively used the occasion of San Francisco 49ers games
4 to meet, plan and carry out criminal activity, and that these security and safety issue concerns
5 have been accelerating both prior to and after the 2014 opening of Levi's Stadium.

- 6 a. On October 4, 2014, due to a lack of security, San Francisco 49ers season ticket holder
7 Kirin Patel was viciously attacked by a drunken gang member, and Kirin Patel suffered
8 a coma, brain damage, and partial paralysis. (*Kirin Patel and Amish Patel v. San*
9 *Francisco Forty Niners, et al.*, Santa Clara County Superior Court Case no.
10 115CV286138, (2015).
- 11 b. In September 2015, after a Monday night game, a group of San Francisco 49ers fans
12 punched and kicked a man wearing a Minnesota Vikings jersey.
- 13 c. On October 7, 2018 following a San Francisco 49ers vs Arizona Cardinals game, a man
14 punched another fan causing great bodily harm including brain damage and the victim
15 becoming comatose. (*The State of California v Gonzales, David Aguilera*, Santa Clara
16 County Superior Court Case No. C1802883, (2018).
- 17 d. Prior to the October 4, 2014 Kirin Patel beating, but later revealed in his subsequent
18 Personal Injury Lawsuit, Court Documents show all of the FORTY NINER
19 DEFENDANT'S, Defendant CITY OF SANTA CLARA and the Defendant CITY OF
20 SANTA CLARA STADIUM AUTHORITY had specific knowledge of reports of more
21 than 500 recent prior assaults and fights at San Francisco 49ers home games. (*Kirin*
22 *Patel and Amish Patel v. San Francisco Forty Niners, et al.*, Santa Clara County
23 Superior Court Case no. 115CV286138, (2015).
- 24 e. During the Personal Injury Trial for the vicious attack and beating of Kirin Patel,
25 FORTY NINER DEFENDANTS, Defendant CITY OF SANTA CLARA and
26 Defendant CITY OF SANTA CLARA STADIUM AUTHORITY defense and
27 contention in court documents was, "*Notifying the public about the lack of security*
28 *would discourage use of the property and would also serve to invite violent attacks.*"

84. Consequently, Plaintiff is informed and believes and thereon alleges that all the
DEFENDANTS had prior notice that Levi's Stadium was unsafe for patrons such as Plaintiff and

1 Victim Crain and could have prevented or at least reduced the severity of the attack on Crain by
2 and through reasonable measures including, but not limited to adequate security.

3 85. During Plaintiff's January 8, 2019 phone discussion with Defendant NFL Director,
4 Investigations & Security, BILLY LANGENSTEIN, Defendant LANGENSTEIN confirmed the
5 National Football League's knowledge of the Kirin Patel near death beating case at Levi's
6 Stadium. Plaintiff is informed and believes and thereon alleges that this supports the conclusion
7 that the NFL also had specific knowledge of reports of more than 500 recent prior assaults and
8 fights at San Francisco 49ers home games.

9 86. The FORTY NINER DEFENDANTS, Defendants CITY OF SANTA CLARA
10 POLICE DEPARTMENT, and NATIONAL FOOTBALL LEAGUE personnel did nothing to
11 observe, operate, manage, control, maintain, inspect surveil or stop Crain from being attacked
12 during the game.

13 87. Plaintiff believed, prior to attending the November 1, 2018 game, that the FORTY
14 NINER DEFENDANTS, Defendant CITY OF SANTA CLARA POLICE DEPARTMENT, and
15 the NATIONAL FOOTBALL LEAGUE personnel were apprised of heightened security needs
16 and the intimidating situation in the stadium and were keeping watch for any signs of violence or
17 retaliation. However, the FORTY NINER DEFENDANTS, Defendant CITY OF SANTA
18 CLARA POLICE DEPARTMENT, and the NATIONAL FOOTBALL LEAGUE were not
19 performing their duty to keep spectators in the stands, and on their property, safe from aggressive
20 acts of third parties.

21 88. The failure of the DEFENDANTS, and each of them, to provide adequate security
22 allowed Assailant Guardado to brutally attack Crain in a highly visible seating area lower to the
23 field, Levi's Stadium Seating Section 119. Moreover, the failure of the DEFENDANTS, and
24 each of them, to protect Crain, allowed the aggressive act to be perpetrated in the stadium
25 endangering the safety of other fans attending the game seated in the vicinity near to Crain.

26 89. Plaintiff is informed and believes and thereon alleges that while in or around the
27 Levi's Stadium Seating Section 119 which is owned, operated and controlled by the
28 DEFENDANTS, Victim Crain was brutally attacked by Assailant Guardado punching Victim
Crain with repeated strikes to the head.

1 90. Levi’s Stadium Seating Section 119 is located on the DEFENDANTS property and
2 within the control of the DEFENDANTS, and each of them.

3 91. Despite the fact that the brutal and vicious attack took place over a prolonged period
4 of time and drew the attention of various other patrons, no law enforcement or security was
5 present or intervened. Moreover, as documented in Defendant SANTA CLARA POLICE
6 DEPARTMENT reports obtained by Plaintiff, it took approximately ten to fifteen minutes for
7 DEFENDANTS SCPD personnel to respond to the scene where Crain was injured. This was ten
8 to fifteen minutes after ASSAILANT Guardado was able to flee the scene of the beating he
9 inflicted.

10 92. Furthermore, Plaintiff is informed and believes and thereon alleges that use of non-
11 sworn, non-law enforcement security personnel is not as effective as utilizing law enforcement
12 officers, as non-law enforcement personnel are not as imposing as uniformed officers. The
13 DEFENDANTS’ apparent decision to not strategically place uniformed law enforcement officers
14 created a relaxed, unintimidating atmosphere at Levi’s Stadium. Plaintiff is informed and
15 believes and thereon alleges that this atmosphere fostered the acts of Assailant Guardado.
16 Plaintiff is informed and believes, and thereon alleges, that FORTY NINER DEFENDANTS,
17 Defendants SANTA CLARA POLICE DEPARTMENT, and Defendant NFL failed to provide
18 adequate security for Levi’s Stadium, despite knowledge of gang presence and previous criminal
19 activity on Levi’s Stadium property.

20 93. Without the Defendants understanding of use and implementation of adequate
21 security measures by the DEFENDANTS, and each of them, along with DEFENDANTS not
22 implementing, not knowing how to use or being trained on, or benefitting from the high
23 technology ‘real time’ cameras and security system that have been in existence since the opening
24 of Levi’s Stadium in 2014, and the Defendant SANTA CLARA POLICE DEPARTMENT
25 default use and relying on ‘unreliable’ delayed social media uploads and posts, VICTIM,
26 Plaintiff (and his child) and the general public were inappropriately exposed to the aggressive
27 acts of third parties, all to their damage subject to proof at trial.

28 94. Moreover, Plaintiff is informed and believes, and thereon alleges, that there should
have been heightened security for San Francisco 49ers and the Oakland Raiders game on

1 November 1, 2018. The DEFENDANTS, and each of them, failed to provide heightened security
2 at Levi’s Stadium on November 1, 2018.

3 95. Plaintiff is informed and believes, and thereon alleges, that there are more instances
4 of criminal activity in Levi’s Stadium than in any other National Football League stadium,
5 making Levi’s Stadium the most dangerous public venue in North America.

6 96. Plaintiff is informed and believes and thereon alleges that the DEFENDANTS, and
7 each of them, with full knowledge of these dangerous conditions carelessly mismanage security
8 forces at Levi’s Stadium. This lack of proper security, inability and unwillingness to utilize
9 Levi’s Stadium’s high technology cameras and security system while relying on social media,
10 knowledge of criminal elements, and the promotion of alcohol in the stadium and surrounding
11 parking lot was the substantial factor that caused injury to Victim Crain and exposed Plaintiff,
12 his child and other fans who attend games to the danger of being victims of crimes. Plaintiff
13 suffered financially because Plaintiff paid a considerable amount for seats and was unable to
14 enjoy the second half of the game. Plaintiff was injured and limping due to excruciating pain
15 having to chase the Assailant Guardado three quarters of the length of Levi’s Stadium. Plaintiff
16 was doing the job of law enforcement in attempt to keep the Assailant from hurting any other
17 Levi’s Stadium patrons. Plaintiff underwent surgery exactly fifteen days later for a right hip
18 replacement.

19 97. The DEFENDANTS were aware that other assaults of a similar nature to the subject
20 incident had occurred on its premises and thus it had reasonable cause to anticipate the
21 misconduct of third persons. Despite their knowledge about numerous prior assaults and fights at
22 its football games, the FORTY NINER DEFENDANTS, the NATIONAL FOOTBALL
23 LEAGUE, the CITY OF SANTA CLARA and the SANTA CLARA STADIUM AUTHORITY
24 failed to provide any warnings whatsoever to its fans about the prior criminal incidents. The
25 FORTY NINER DEFENDANTS, the CITY OF SANTA CLARA, the SANTA CLARA
26 STADIUM AUTHORITY, and the NATIONAL FOOTBALL LEAGUE should have given
27 written notice of the history of violent attacks to its season ticket holders and other paying
28 patrons, so they could make an informed decision about whether to attend games with such an
increased risk of harm. The FORTY NINER DEFENDANTS, the CITY OF SANTA CLARA,
the SANTA CLARA STADIUM AUTHORITY, and the NATIONAL FOOTBALL LEAGUE

1 did not publicize the prior criminal incidents or in any way warn the general public. In fact, the
2 FORTY NINER DEFENDANTS and Defendant NFL actively concealed and have continued to
3 actively conceal the risk of harm to its fan base and have misled its fans into believing that it
4 promotes a safe environment free from intoxication, gang violence and fights or assaults with its
5 highly touted ‘Fan Code of Conduct’. The ‘Fan Code of Conduct’ was a misrepresentation that
6 the environment at Levi’s Stadium would be safe.

7 98. Plaintiff is informed and believes, and thereon alleges, that Levi’s Stadium has the
8 most instances of criminal activity of all stadiums in the National Football League network.
9 Moreover, Levi’s Stadium has the 16th largest seating capacity of all stadiums in the National
10 Football League network. Based on the aforesaid, the DEFENDANTS, and each of them, have a
11 duty to protect spectators of known dangers on their property.

12 99. The DEFENDANT’S actions and knowing omissions constituted malice, oppression,
13 and/or a willful and conscious disregard of the rights and safety of Plaintiff and the general
14 public pursuant to California Code of Civil Procedure § 3294 entitling Plaintiff to punitive
15 damages. These punitive damages should serve to punish DEFENDANTS for their conscious
16 disregard of safety and to discourage similar conduct in the future.

17 **FIRST CAUSE OF ACTION**

18 **NEGLIGENCE**

19 **(Against all DEFENDANTS)**

20 100. Plaintiff hereby realleges and incorporates by reference each and every allegation
21 herein above as if fully set forth in detail therein.

22 101. The DEFENDANTS, and each of them, breached their duty of care to Plaintiff,
23 Victim Crain and the general public by failing to take reasonable steps to ensure the safety of the
24 general public, Victim Crain and Plaintiff and prevent them from being exposed to a dangerous
25 condition while they attended a football game at Levi’s Stadium on November 1, 2018.

26 102. The DEFENDANTS, and each of them, breached their duty of care owed to the
27 Plaintiff because the DEFENDANTS had reason to know of gang and other criminal activity on
28 its premises. As a result of such knowledge, the DEFENDANTS, and each of them, had a duty to
take reasonable security precautions for the benefit of the spectators at Levi’s Stadium.

1 103. Plaintiff is informed and believes, and thereon alleges, that the DEFENDANTS, and
2 each of them, had reasonable cause to anticipate criminal acts of third parties and the probability
3 of injury arising from them. DEFENDANTS, and each of them, failed to take affirmative steps to
4 control the wrongful conduct.

5 104. Plaintiff is informed and believes, and thereon alleges, as described more fully above,
6 the DEFENDANTS, and each of them, had knowledge of prior similar incidents in and around
7 the stadium. However, the DEFENDANTS failed to take appropriate measures to protect patrons
8 on its property and failed to provide proper law enforcement presence on its property exposing at
9 least the entire Eastern (visitor) side to absence of any security whatsoever, all to Plaintiff's
10 damages as described more fully herein.

11 105. On December 16, 2018, Plaintiff returned to Levi's Stadium for the sole reason to
12 inspect and review security coverage. That San Francisco 49ers home game at Levi's Stadium
13 was against the Seattle Seahawks. Rather than sit in his assigned seat, Plaintiff walked the entire
14 Levi's Stadium during the first half of the football game and took 630 separate photographs of
15 Defendant CITY OF SANTA CLARA POLICE DEPARTMENT law enforcement officers and
16 other security personnel mostly standing around, bunched up in groups, tucked away in warm
17 areas, not providing any strategic placement or zone coverage, not observing the crowd fan base.
18 He also saw no law enforcement or security patrolling any of Levi's Stadium fan seating sections
19 or any of Levi's Stadium main entry and exit gates.

20 106. Plaintiff is informed and believes, and thereon alleges, that after learning of more
21 than 500 recent prior assaults, fights, and criminal attacks at San Francisco 49ers home games,
22 the DEFENDANTS' installed a "high-technology security and camera system" throughout the
23 new Levi's Stadium.

24 107. Plaintiff is informed and believes, and thereon alleges, that the DEFENDANTS, and
25 each of them, had actual knowledge of the presence of notorious gangs and affiliated individuals
26 congregating in Levi's Stadium during and after San Francisco 49ers home games.

27 108. Plaintiff is informed and believes, and thereon alleges, that the DEFENDANTS
28 breached their duty of care to Plaintiff by failing to utilize the alleged installed "high-technology
security and camera system" installed in Levi's Stadium. Levi's Stadium is the third newest
stadium in the National Football League. Therefore, the newly installed "high-technology

1 security and camera system” should have been a security asset to assist with overall security at
2 Levi’s Stadium. Instead, Plaintiff is informed and believes, and thereon alleges, that the non-use
3 by DEFENDANTS and misuse and misunderstanding by DEFENDANTS of the installed
4 security systems features and functionality allowed for known gang and criminal activity to go
5 unnoticed and undetected. Adding “high-technology security and camera system” is a
6 supplemental means of effecting security measures on the premises of Levi’s Stadium while the
7 in-person security means by Defendants and visible actively patrolling law enforcement, should
8 have taken first priority.

8 109. Plaintiff is informed and believes, and thereon alleges, that the installation of the
9 “high-technology security and camera system” in Levi’s Stadium shows the feasibility of the
10 safety measure.

11 110. Moreover, the installation of “high-technology security and camera system” in Levi’s
12 Stadium shows that the DEFENDANTS, and each of them, held ownership and control over the
13 security system at Levi’s Stadium.

14 111. Plaintiff is informed and believes, and thereon alleges, at all times the NFL’s unique
15 historical vantage point at the apex of the sport of football, paired with its unmatched resources
16 as the most well-funded organization devoted to the business of the game, has afforded it
17 unparalleled access to data relating to trouble at all NFL team stadiums including dangerous and
18 unsafe conditions and prior assaults and fights and made it an institutional repository of
19 accumulated knowledge about security issues at individual stadiums.

20 112. Plaintiff is informed and believes, and thereon alleges, that in spite of this
21 knowledge, the DEFENDANTS and each of them decided to underutilize the physically installed
22 “high-technology security and camera system” security resources in the stadium, in addition to
23 utilizing unmanaged law enforcement officers as security personnel.

24 113. This decision was a breach of duty owed to spectators and guests at Levi’s Stadium.

25 114. Plaintiff is informed and believes, and thereon alleges, that despite knowledge of the
26 criminal activity at Levi’s Stadium, the DEFENDANTS and each of them initiated alcohol
27 promotion for all games at Levi’s Stadium beginning with the 2014 season. Said promotion was
28 initiated despite knowledge of criminal activity at Levi’s Stadium and knowledge of the criminal
elements who congregate at Levi’s Stadium.

1 115. The DEFENDANTS had and have notice that the serving of alcohol at a sporting
2 event could and did incite violent, criminal behavior.

3 116. Plaintiff is informed and believes, and thereon alleges, that subsequent to the 2014
4 opening of Levi’s Stadium, the DEFENDANTS, and their promotion of alcohol has enhanced
5 criminal activity at Levi’s Stadium directly related to a pair of recent violent and severe beatings
6 of Levi’s Stadium fans resulting in comas, brain damage, and in one of the cases partial
7 paralysis, (*Kirin Patel and Amish Patel v. San Francisco Forty Niners, et al.*, Santa Clara County
8 Superior Court Case no. 115CV286138, (2015), (*The State of California v Gonzales, David*
Aguilera, Santa Clara County Superior Court Case No. C1802883, (2018).

9 117. The DEFENDANTS, and each of them, have a duty to protect spectators and those
10 lawfully on their premises. The DEFENDANTS, and each of them, breached this duty by acting
11 below the industry-wide standard in security and below their own standards to guard and protect
12 their guests.

13 118. The failure of the DEFENDANTS, and each of them, to act according to the standard
14 of care, as explained more fully above, was the proximate and actual cause of Plaintiff’s injuries,
15 as well as those that have already been suffered and will be suffered in the future by other
16 members of the general public unless corrective action is taken.

17 119. Plaintiff is informed and believes, and thereon alleges, that had the DEFENDANTS
18 provided adequate security, adequate use of the installed “high-technology security and camera
19 system,” and adequate supervision, as more fully described above, all of which were reasonable
20 measures on the part of the DEFENDANTS, Plaintiff and all other Levi’s Stadium patrons would
21 have been adequately protected from third party criminal conduct (or, at least that likelihood and
22 seriousness of incidents would have been substantially reduced).

23 120. Plaintiff is informed and believes, and thereon alleges, that the DEFENDANTS, and
24 each of them, had law enforcement and security technology available to counter specific conduct
25 of third parties sufficiently in advance of the injury to Plaintiff and injures to other members of
26 the public, giving the DEFENDANTS an opportunity to act to prevent the injury. Based on the
27 foregoing, the causal connection between failure to act and the injury is patent.

28 121. As explained more fully above, during the first part of the third quarter of the game, a
vicious and savage beating of a fan took place with the ASSAILANT able to walk away from the

1 injury inflicted upon the other fan, yet the DEFENDANTS and/or security did not take steps to
2 curtail or stop the activity.

3 122. As explained more fully above, the DEFENDANTS, and each of them, failed to have
4 a security presence in the stadium, despite knowledge that the rowdy behavior was anticipated
5 inside the stadium. In addition to knowledge of the dangerous scene inside the stadium,
6 knowledge that fans were imbibing alcohol for the pendency of the game, and knowledge of the
7 rivalry between the two teams, the DEFENDANTS, and each of them, failed to take any
8 reasonable measures to protect patrons on their property.

9 123. The DEFENDANTS owe a duty to warn patrons of known dangers and a duty to take
10 other reasonable and appropriate measures to protect patrons from imminent or "ongoing"
11 aggressive conduct. Such measures include protecting patrons or invitees from an imminent and
12 known peril lurking in the stadium by providing trained security personnel.

13 124. At all times herein mentioned, and prior thereto, DEFENDANTS and each of them
14 had a special relationship with the patrons and invitees present at Levi's Stadium on NFL game
15 days, an environment where guests should be allowed to enjoy their gameday experience in a
16 safe and enjoyable atmosphere free from fighting, overly intoxicated patrons and gang activity;
17 and, thus, had a legal duty to exercise ordinary care to ensure the safety of all persons who were
18 lawfully on the premises of Levi's Stadium

19 125. Under the special relationship doctrine, the DEFENDANTS, and each of them, by
20 serving intoxicating drinks to patrons for consumption on its premises, must exercise reasonable
21 care to protect patrons from injury at the hands of fellow guests. The law does impose a legal
22 duty to affirmatively act to protect someone else from danger or to control the conduct of a third
23 person if there is a "special relationship" between the defendant and the person in danger or the
24 third person creating the danger. "Businesses, such as shopping centers, restaurants and bars, and
25 stadiums serving alcohol have an affirmative duty to take reasonable steps to secure their
26 premises, as well as adjacent common areas within their control, against reasonably foreseeable
27 criminal acts of third parties" [Delgado v. Trax Bar & Grill (2005) 36 Cal.4th 224; Morris IV v.
28 De La Torre (2005) California Supreme Court No. S119750; Ann M. v. Pacific Plaza Shopping
Ctr. (1993) 6 Cal.4th 666]. The DEFENDANTS, and each of them, failed to protect patrons on its
property as more fully explained above. Moreover, the DEFENDANTS were warned of potential

1 aggressive conduct inside the stadium. However, the DEFENDANTS failed to take suitable
2 measures for the protection of Victim Crain, Plaintiff and his daughter, and all other Levi's
3 stadium patrons including removing dangerous, intoxicated individuals from the property.

4 126. Moreover, the DEFENDANTS, and each of them, failed to stop the November 1,
5 2018 fight in the seating area as soon as possible, allowing it to escalate to the point that Victim
6 Crain was exposed to a prolonged attack by another San Francisco 49er fan.

7 127. As a result of the negligence of the DEFENDANTS, and each of them, Plaintiff has
8 been damaged in an amount to be proven at trial. Further, Plaintiff is informed and believes and
9 thereon alleges that the conditions alleged herein still exist, exposing the general public to likely
10 future injuries unless they are corrected.

11 128. As a direct and proximate result of the conduct of the DEFENDANTS, and each of
12 them, Plaintiff has experienced damages in an amount to be shown according to proof at trial.

13 **SECOND CAUSE OF ACTION**

14 **PREMISES LIABILITY – FAILURE TO PROVIDE SAFE PREMISE – DANGEROUS**
15 **CONDITION OF PUBLIC PROPERTY**

16 **(Against all DEFENDANTS)**

17 129. Plaintiff hereby realleges and incorporates by reference each and every allegation
18 above as if fully set forth in detail herein.

19 130. The "SUBJECT PROPERTY" refers to Levi's Stadium located in Santa Clara,
20 California, where this incident occurred.

21 131. At all times herein mentioned the DEFENDANTS, and each of them, and DOES 1
22 through 40, were the owners and/or operators of the SUBJECT PROPERTY.

23 132. The DEFENDANTS, and each of them, and DOES 1 through 40, as the owners
24 and/or occupiers of land owe a general duty to exercise ordinary care for the safety of persons
25 who come upon the property.

26 133. Plaintiff is informed and believes, and thereon alleges, that at all times herein
27 mentioned, the persons acting as the managers, security personnel, and maintainers of Levi's
28 Stadium located in Santa Clara, California, were acting with the knowledge, permission and
consent of all the DEFENDANTS, and each of them.

1 134. Plaintiff is informed and believes, and thereon alleges, that at all times herein
2 mentioned, the persons acting as the managers, security personnel, maintainers, and/or lessors of
3 Levi’s Stadium located in Santa Clara, California, were the agents, servants and/or employees of
4 and acting within the course and scope of said agency and employed by the DEFENDANTS.

5 135. Plaintiff is informed and believes, and thereon alleges, that the DEFENDANTS, and
6 each of them, had reasonable cause to anticipate criminal acts of third parties and the probability
7 of injury arising from them. The DEFENDANTS, and each of them, failed to take affirmative
8 steps to control the wrongful conduct on the SUBJECT PROPERTY.

9 136. Beginning with the 2014 season, the DEFENDANTS initiated alcohol promotion for
10 all football games at Levi’s Stadium. Said promotion was initiated despite knowledge of criminal
11 activity at Levi’s Stadium and knowledge of the criminal elements who congregate at the
12 Stadium.

13 137. The DEFENDANTS have and had notice prior to the 2014 opening of Levi’s
14 Stadium that the serving of alcohol at a sporting event could and did incite violent, criminal
15 behavior.

16 138. Plaintiff is informed and believes, and thereon alleges that the DEFENDANTS, and
17 their promotion of alcohol has enhanced criminal activity at Levi’s Stadium directly related to a
18 pair of recent violent and severe beatings of Levi’s Stadium fans resulting in comas, brain
19 damage, and in one of the cases partial paralysis.

20 139. Plaintiff is further informed and believes that the precautionary measures that should
21 have been taken by the DEFENDANTS, and each of them, imposed a small burden in relation to
22 the magnitude of harm.

23 140. Plaintiff is informed and believes, and thereon alleges, that on November 1, 2018 the
24 DEFENDANTS, and each of them, proximately caused damages to said Plaintiff and have
25 endangered the general public since the stadium opened, by negligently, wantonly, recklessly,
26 tortiously and unlawfully:

- 27 a. Entrusting, permitting, managing, patrolling, maintaining, controlling and operating
28 Levi’s Stadium;
- b. Instructing others regarding patrolling, security, supervision, and operation of the
Levi’s Stadium;

- c. Failing to warn, instruct, advise, protect and guard patrons regarding the Levi's Stadium; and
- d. Conducting themselves with reference to the Levi's Stadium and to Plaintiff, so as to cause the Levi's Stadium to be in a dangerous, and unsafe condition to proximately cause damages to the Plaintiff.

141. Plaintiff is informed and believes, and thereon alleges, that had the DEFENDANTS provided adequate security, adequate use of the installed "high-technology security and camera system", and adequate supervision, as more fully described above, all of which were reasonable measures on the part of the DEFENDANTS, Plaintiff and all other Levi's Stadium patrons would have been adequately protected from third party criminal conduct.

142. As a proximate result thereof, Plaintiff incurred injury, and damages in such amount as will be proven at trial.

143. Furthermore, Plaintiff is informed and believes, and thereon alleges, that the DEFENDANTS, and each of them, acted in conscious disregard of the safety of others, were aware of the probable dangerous consequences of their conduct and misfeasance, and willfully and deliberately failed to avoid those consequences specifically that the DEFENDANTS and each of them were aware of prior incidents where spectators would inflict criminal harm on other spectators.

144. Additionally, Plaintiff is informed and believes, and thereon alleges, that the DEFENDANTS, and each of them, knew that their failure to provide adequate security at the Levi's Stadium would lead to criminal acts on spectators as described more fully above. Therefore, a demand for punitive damages is warranted.

THIRD CAUSE OF ACTION
NEGLIGENT STADIUM SECURITY - NEGLIGENT HIRING,
RETENTION, AND SUPERVISION
(Against all DEFENDANTS)

145. Plaintiff hereby realleges and incorporates by reference each and every allegation above as if fully set forth in detail herein.

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146. The DEFENDANTS, and each of them, had a duty to Plaintiff to hire police, other law enforcement, and other security personnel who were well-trained, restrained in their use of force, and otherwise competent to prevent any injury to spectators and guests on the Levi’s Stadium.

147. Plaintiff is informed and believes, and thereon alleges, that the DEFENDANTS, and each of them, failed or refused to properly hire, screen, train, and/or supervise those members of their security team to carry out their duties in a manner that was well-trained, restrained, orderly, and/or competent.

148. Plaintiff is informed and believes, and thereon alleges, that the DEFENDANTS, and each of them, failed to train and/or supervise the security personnel at Levi’s Stadium, in proper crowd control procedures. For example, on November 1, 2018, the security personnel at Levi’s Stadium did not adequately respond to threats of criminal activity from spectators, nor did they adequately supervise spectators in the stands to provide a safe and enjoyable experience for all guests on the Levi’s Stadium.

149. It is common knowledge that violence is deterred by presence of uniformed police officers and security guards. Perpetrators of violent crime thrive in public places where there is no such physical deterrence and the DEFENDANTS and each of them failed to provide such deterrence on November 1, 2018 and December 16, 2018. Plaintiff is informed and believes, and thereon alleges, that this lack of deterrence is common practice at Levi’s Stadium.

150. On November 1, 2018, Plaintiff observed that the police officers and security guards at Levi’s Stadium did not patrol, manage, control, inspect, surveil, or provide any type of security for the entire East side of Levi’s Stadium.

151. On December 16, 2018, Plaintiff returned to Levi’s Stadium for the sole reason to inspect and review security coverage. That San Francisco 49ers home game at Levi’s Stadium was against the Seattle Seahawks. Rather than sit in his assigned seat, Plaintiff WEAVER walked the entire Levi’s Stadium during the first half of the football game and took 630 separate photographs of Defendant CITY OF SANTA CLARA POLICE DEPARTMENT law enforcement officers and other security personnel mostly standing around, bunched up in groups, tucked away in warm areas, not providing any strategic placement or zone coverage, not

Fred Weaver – Plaintiff in Pro Per – www.UnsafeInAnySeat.com

1 observing the crowd fan base. He also saw no law enforcement or security patrolling any of
2 Levi’s Stadium fan seating sections or any of Levi’s Stadium main entry and exit gates.

3 152. As a direct and proximate result of the DEFENDANTS', and each of them, failure to
4 properly hire, screen, train and/or supervise those members of their security team, Plaintiff is
5 injured as explained more fully above.

6 153. Furthermore, Plaintiff is informed and believes, and thereon alleges, that the
7 DEFENDANTS, and each of them, acted in conscious disregard of the safety of others, were
8 aware of the probable dangerous consequences of their conduct and misfeasance, and willfully
9 and deliberately failed to avoid those consequences. Specifically, Plaintiff is informed and
10 believes, and thereon alleges, that the DEFENDANTS knew of the consequences of failing to
11 staff, train, and hire qualified security personnel.

12 154. As a direct and proximate result of the conduct of the DEFENDANTS, and each of
13 them, Plaintiff has suffered injury and damage in an amount to be shown according to proof at
14 trial.

15 **FOURTH CAUSE OF ACTION**
16 **GROSS NEGLIGENCE OF DUTY – GROSS MISCONDUCT**
17 **(Against all DEFENDANTS)**

18 155. Plaintiff refers to, repeats, and re-alleges each and every allegation in the preceding
19 paragraphs of this Complaint and incorporates said allegations into this cause of action as though
20 fully set forth herein.

21 156. Plaintiff is informed and believes, and thereon alleges, that on or about November 2,
22 2018 Defendant CITY OF SANTA CLARA POLICE DEPARTMENT violated California Penal
23 Code 118.1 when their officers intentionally filed false police reports regarding the November 1,
24 2018 incident at Levi’s Stadium.

25 157. Plaintiff is informed and believes, and thereon alleges, that the unconstitutional
26 actions and/or omissions of Defendants, were pursuant to the following customs, policies,
27 practices, and/or procedures of the SANTA CLARA POLICE DEPARTMENT and/or CITY OF
28 SANTA CLARA, which were directed, encouraged, allowed, and/or ratified by DEFENDANT
MICHAEL SELLERS and other policy making officers for the CITY OF SANTA CLARA,

1 CITY OF SANTA CLARA STADIUM AUTHORITY, and the CITY OF SANTA CLARA
2 POLICE DEPARTMENT:

- 3 a. To cover-up violations of constitutional rights by any or all of the following:
 - 4 i. by failing to properly investigate and/or evaluate complaints or
 - 5 incidents;
 - 6 ii. by ignoring and/or failing to properly and adequately investigate
 - 7 and discipline unconstitutional or unlawful police activity; and
 - 8 iii. by allowing, tolerating, and/or encouraging police officers to: fail
 - 9 to file complete and accurate police reports; file false police
 - 10 reports; make false statements; to give false information and/or to
 - 11 attempt to bolster officers' stories; and/or obstruct or interfere with
 - 12 investigations of unconstitutional or unlawful police conduct, by
 - 13 withholding and/or concealing material information;
- 14 b. To allow, tolerate, and/or encourage a "code of silence" among law enforcement
- 15 officers and police department personnel, whereby an officer or member of the
- 16 department does not provide adverse information against a fellow officer or
- 17 member of the department;
- 18 c. To fail to institute, require, and enforce necessary, appropriate and lawful
- 19 policies, procedures, and training programs to prevent or correct the
- 20 unconstitutional conduct, customs, and practices and procedures described in this
- 21 Complaint and in sub-paragraphs (a) through (b), with deliberate indifference to
- 22 the rights and safety of Plaintiff and the public, and in the face of an obvious need
- 23 for such policies, procedures, and training programs; and
- 24 d. To use or tolerate inadequate, deficient, and improper procedures for handling,
- 25 investigating, and reviewing complaints of officer misconduct made under
- 26 California Government Code § 910 et seq.

25 158. Plaintiff is also informed and believes, and hereon alleges, that there were various
26 other similar recent incidents of Gross Neglect of Duty and Gross Misconduct by the Defendant
27 SANTA CLARA POLICE DEPARTMENT including since at least 2016 that put the
28 DEFENDANTS and each of them on notice of such extreme and outrageous behavior

1 159. Plaintiff is informed and believes, and thereon alleges, that the DEFENDANTS and
2 each of them, including CITY OF SANTA CLARA, CITY OF SANTA CLARA STADIUM
3 AUTHORITY, FORTY NINER DEFENDANTS and the NATIONAL FOOTBALL LEAGUE
4 had prior knowledge that Defendants CITY OF SANTA CLARA POLICE DEPARTMENT
5 have carried out their own recent criminal activity.

- 6 a. In April 2016, without a warrant, the City of Santa Clara Police kicked down a door of
7 a San Jose resident injuring and breaking the resident’s ankle, who was later paid a
8 \$6.7 million-dollar Federal Lawsuit settlement. City of Santa Clara Police Chief Mike
9 Sellers insisted his cops acted responsibly. (*Danielle Harmon v. City of Santa Clara,*
10 *City of Santa Clara Police Chief Mike Sellers, et al.*, United States District Court (ND
11 CA 2016) Case no. 5:16-cv-04228-EJD)
- 12 b. Also, in 2016, the City of Santa Clara paid out a \$500,000 settlement to a family for
13 multiple illegal searches of their home by the City of Santa Clara Police. (*Moneeb,*
14 *Ikram and Ikram v City of Santa Clara, Mike Sellers, et al.*, United States District Court
15 (ND CA 2015), Case no. 5:15-cv-01987-NC)

16 160. Plaintiff is informed and believes, and thereon alleges that not a single Defendant
17 CITY OF SANTA CLARA POLICE DEPARTMENT officer was terminated or disciplined for
18 any of these illegal actions. Further, that there is not one documented resignation, condemnation
19 or taking a stand against these illegal police activities from the Santa Clara Police Officers
20 Association or any of its members.

21 161. Plaintiff is informed and believes, and thereon alleges, that the lack of consequences
22 for violating policy, or even engaging in criminal misconduct, has fostered a culture of impunity
23 to such behavior. Defendant CITY OF SANTA CLARA POLICE DEPARTMENT officers
24 observe tacit approval of misconduct by supervisors, commanders, and Defendant City of Santa
25 Clara Police Chief MICHAEL SELLERS, so the behavior continues.

26 162. Plaintiff is informed and believes, and thereon alleges, that policy and practice
27 deficiencies surrounding leadership, accountability, communication and collaboration, technical
28 expertise were not unique to the events set forth in this complaint and are systemic within the
29 Defendant CITY OF SANTA CLARA POLICE DEPARTMENT and are historically and legacy
30 influenced.

1 163. These systematic patterns of violations and practices suggest gross mismanagement,
2 a gross waste of funds, an abuse of authority, and a substantial and specific danger to public
3 health and safety.

4 164. The willful gross neglect and intentional official wrongdoing by these public officers
5 is a dereliction which, endangers and threatens the public welfare.

6 165. As per Defendant NFL Chief of Security CATHY LANIER, “Local police are the
7 lead agency for every game throughout the season. A typical game requires at least 10 different
8 agencies, from the FBI to private security.” Plaintiff is informed and believes, and thereon
9 alleges, that at all times herein mentioned, the persons acting as the managers, law enforcement
10 or security personnel of Levi’s Stadium located in Santa Clara, California, were the agents,
11 servants and/or employees of Defendant SANTA CLARA POLICE DEPARTMENT. As such,
12 the FBI and other law enforcement agencies and private security, accepted and ratified the illegal
13 actions of Defendant SANTA CLARA POLICE DEPARTMENT and Defendant City of Santa
14 Clara Police Chief MICHAEL SELLERS.

15 166. Plaintiff is informed and believes, and thereon alleges, that the unconstitutional
16 actions and/or omissions of Defendants, as described above, were approved, tolerated and/or
17 ratified by DEFENDANT SELLERS and other policy-making officers for the SCPD. Plaintiff is
18 informed and believes, and thereupon alleges, that the details of these incidents have been
19 revealed to the authorized policy makers within the CITY OF SANTA CLARA, FORTY NINER
20 DEFENDANTS and the NATIONAL FOOTBALL LEAGUE, and Plaintiff is further informed
21 and believes, and thereupon alleges, that such policy makers have direct knowledge of the facts
22 of these illegal incidents. Plaintiff is informed and believes, and thereon alleges, that
23 notwithstanding this knowledge, the authorized policy makers within the CITY OF SANTA
24 CLARA, CITY OF SANTA CLARA STADIUM AUTHORITY, FORTY NINER
25 DEFENDANTS and the NATIONAL FOOTBALL LEAGUE, have approved of the conduct of
26 Defendant CITY OF SANTA CLARA POLICE DEPARTMENT, and have made a deliberate
27 choice to endorse the decisions of those Defendant officers and the basis of those decisions. By
28 doing so, the authorized policy makers of the CITY OF SANTA CLARA, CITY OF SANTA
CLARA STADIUM AUTHORITY, FORTY NINER DEFENDANTS and the NATIONAL
FOOTBALL LEAGUE, have shown affirmative agreement with each individual Defendant

1 police officer's actions, and have ratified the unconstitutional acts of the individual Defendant
2 police officers. Furthermore, Plaintiff is informed and believes, and thereupon alleges, that
3 DEFENDANT SELLERS and other policy-making officers for the SCPD were and are aware of
4 a pattern of conduct and injury caused by SCPD law enforcement officers similar to the conduct
5 of Defendants described herein but failed to discipline culpable law enforcement officers and
6 failed to institute new police procedures and policy within the Defendant SANTA CLARA
POLICE DEPARTMENT.

7 167. Plaintiff is informed and believes, and thereon alleges, that alarmingly, the FORTY
8 NINER DEFENDANTS, and Defendant NATIONAL FOOTBALL LEAGUE continue to allow
9 Defendant SANTA CLARA POLICE DEPARTMENT to be the lead agency for security at
10 Levi's Stadium.

11 168. Defendant CITY OF SANTA CLARA POLICE DEPARTMENT has refused to
12 produce records and police reports in response to Plaintiff's lawful requests for complete records
13 and information. Plaintiff reserves the right to amend this complaint with further facts and
14 substituting individuals for Doe Defendants after receiving DEFENDANT'S reports and records
15 in this matter.

16 169. DEFENDANTS, and each of them, owed Plaintiff and the general public a duty to
17 conduct their business activities, including monitoring, supervising, managing and controlling
18 the property, in a reasonably safe manner so as not to cause injury to others. Further,
19 DEFENDANTS, and each of them, owed Plaintiff and the general public a duty to train and
20 supervise their employees to conduct themselves in a reasonably safe manner so as not to injure
21 others.

22 170. As a direct and proximate result of the negligence of DEFENDANTS, and each of
23 them, as hereinabove alleged, DEFENDANTS created a foreseeable risk of physical injury to
24 Plaintiff and as a result, Plaintiff has suffered injury, in an amount to be determined at trial.

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FIFTH CAUSE OF ACTION

DISCRIMINATION

(Against DEFENDANTS and DOES 41 through 60)

171. Plaintiff refers to, repeats, and re-alleges each and every allegation in the preceding paragraphs of this Complaint and incorporates said allegations into this cause of action as though fully set forth herein.

172. Plaintiff is informed and believes, and thereon alleges, that on or about November 1, 2018, Defendant CITY OF SANTA CLARA POLICE DEPARTMENT violated Plaintiff's Constitutional and 14th Amendment Equal Protection Rights protection of the law for Age, Disability, and Color Discrimination.

173. As Plaintiff was closely following Assailant Guardado, on the outer mezzanine and just before descending the Levi's Stadium Northeast Exit Gate 'F' stairs, Plaintiff finally encountered a Defendant CITY OF SANTA CLARA POLICE officer, positioned counter clockwise to the stairs less than 20 yards away. Plaintiff yelled at the top of his lungs, "Give me some help and arrest this guy, he just beat up and severely hurt another 49ers fan!" The Defendant Santa Clara Police Officer looked directly at Plaintiff, noticed Plaintiff was limping, and the Defendant CITY OF SANTA CLARA POLICE officer also acknowledged Plaintiff wearing a black Oakland Raiders jersey. The Defendant Santa Clara Police officer literally, and physically turned his back on Plaintiff avoiding any assistance with apprehension of the ASSAILANT and denying protection and security to the Plaintiff who was trying to keep ASSAILANT from harming any other Levi's Stadium patrons.

174. Defendant SANTA CLARA POLICE DEPARTMENT'S unlawful discrimination, unfair and unequal treatment of Plaintiff is based on each characteristic of Age, Disability, and Color. This claim of Discrimination satisfies the three preliminary requirements that apply throughout constitutional law; Court has Jurisdiction, Claim is Justiciable, and Harm was Caused by Government Action of DEFENDANTS.

175. By the actions and omissions described above, Defendants violated 42 U.S.C. §1983, depriving Plaintiff of the following clearly established and well-settled constitutional rights protected by the Fourteenth Amendment to U.S. Constitution.

1 176. Plaintiff is informed and believes, and thereon alleges, that at all material times, each
2 Defendant was jointly engaged in tortious activity, and an integral participant in the conduct
3 described herein including the deprivation of Plaintiff’s constitutional rights and other harm.

4 177. Plaintiff is informed and believes, and thereon alleges, that at all material times, and
5 alternatively, the actions and omissions of each defendant were intentional, wanton and/or
6 willful, conscience shocking, reckless, malicious, deliberately indifferent to Plaintiff’s rights,
7 done with actual malice, grossly negligent, negligent, and objectively unreasonable.

8 178. As a direct and proximate result of the conduct of the DEFENDANTS and each of
9 them, DEFENDANTS have caused damage in an amount to be shown according to proof at trial.

10 179. The conduct of Defendants entitles Plaintiff to punitive damages and penalties
11 allowable under 42 U.S.C. §1983 and California law.

12 180. Plaintiff is also entitled to reasonable costs and attorneys' fees under 42 U.S.C. §1988
13 and applicable California codes and laws.

14 **SIXTH CAUSE OF ACTION**

15 **CONSPIRACY**

16 **(Against all DEFENDANTS)**

17 181. Plaintiff refers to, repeats, and re-alleges each and every allegation in the preceding
18 paragraphs of this Complaint and incorporates said allegations into this cause of action as though
19 fully set forth herein.

20 182. Plaintiff is informed and believes and thereon alleges that on or about November 1,
21 2018 through and after January 8, 2019, DEFENDANTS conspired to conceal information,
22 falsify reports, hide, and cover up any incriminating records.

23 183. Plaintiff is also informed and believes, and hereon alleges that Defendant City of
24 Santa Clara City Manager DEANNA SANTANA was one of the central figures in orchestrating
25 the laundering and filtering of Plaintiff’s documented concerns with other Defendants about the
26 lack of security at Levi’s Stadium. Plaintiff is informed and believes, and thereon alleges, that
27 the following recent history from media and court documented sources, show a clear pattern of
28 questionable illegal actions taken during Defendant DEANNA SANTANA’s career to suppress
evidence and reports of Police Misconduct:

City of San Jose - Deputy City Manager - May 1999 - August 2011

1. In 2006, as Deputy City Manager for the City of San Jose, Deanna Santana attempted to launder reports about police misconduct including illegal searches and excessive force. According to an East Bay Express news article entitled, “*Deanna Santana Tried to Alter Damning Report*,” dated September 19, 2012. “There is also evidence that this is not the first time that Santana appears to have attempted to dilute critical analysis of police actions. Deanna Santana was instructed by the San Jose City Council to analyze a report by Independent Police Auditor, Barbara Attard, highlighting San Jose PD’s practice of downgrading Internal Affairs complaints against officers. Instead, Santana hired Macias Consulting Group, claiming auditor Attard had used “incorrect units.” In response, Attard submitted a sharp rebuttal to the San Jose City Council that all but accused Santana and Macias of going out of the way to deflect attention away from the problem at hand.”
2. Subsequently, “None of the twelve cases cited by the police auditor were ever investigated.”

City of Oakland - City Administrator - August 2011 - March 2014

1. As the second most powerful city official in Oakland at the time, Deanna Santana as City Administrator of City of Oakland, attempted to launder the ‘Frazier Report’ about police misconduct and falsifying reports. The Frazier Report was commissioned in response to the aftermath of an October 25, 2011 City of Oakland Police response to Occupy Oakland, the response to which Deanna Santana herself authorized in her capacity as City Administrator. The Frazier Report stated, “In the wake of these events serious concerns were raised by both City Officials and the community at large concerning use of unreasonable force, overall police performance, and OPD’s ability to manage future events in an acceptable manner.” (Independent Investigation Occupy Oakland Response October 25, 2011 (Frazier Report), Frazier Group LLC - June 14, 2012). In the same East Bay article mentioned above, civil rights attorney Jim Chanin, who helped prepare the Frazier Report, battled with Santana and refused to send a Word copy of the unissued Frazier Report to Santana for her own editing. “A May 11 email from Frazier to Santana’s email account at City Hall offered a glimpse into their argument about how much of the Frazier report’s damning findings would become public.”

- 1 2. Deanna Santana was also the central figure named in a whistleblower lawsuit after
2 Santana fired Oakland’s Director of Employee Relations, Daryelle Preston. The lawsuit
3 stated Deanna Santana pressured Preston to lie on multiple occasions and falsify reports.
4 Plaintiff Preston reported that Fire Chief Teresa Deloach Reed engaged in a violation of
5 Oakland City Ordinance when Reed repeatedly directly negotiated and signed tentative
6 agreements (“TAs”) with Firefighters Local 55 without Ms. Preston present as Employee
7 Relations Director or City Council authorization. By law, Ms. Preston must have
8 obtained approval from the City Council for Reed to sign the contract. Santana assisted
9 Reed in attempting to conceal Reed’s unlawful negotiation and signature of TAs, and
10 Santana retaliated against Ms. Preston when she reported Reed’s acts to Santana and the
11 City Attorney of Oakland. Defendant Santana responded to plaintiff Preston’s reports to
12 her regarding these violations of law, and to plaintiff’s refusal to obey illegal orders, by
13 (Santana) carrying out a series of adverse actions culminating in plaintiff Preston’s
14 termination. A jury agreed with Preston, awarding her \$613,302 in damages. (*Daryelle
15 Lawanna Preston v. City of Oakland; Deanna Santana, et al.*, Alameda County Superior
16 Case no. RG14-717585, (2014)
- 17 3. It should also be noted, that during Deanna Santana’s tenure at the City of Oakland, she
18 had administrative oversight and was the ‘boss’ of the Building, Police, Fire and Planning
19 Departments. On December 2, 2016, in Oakland, California, a fire broke out in an ‘artist
20 collective’ warehouse, known as Ghost Ship. A total of 36 people were killed in the fire,
21 the deadliest in the history of Oakland. Multiple factors contributed to these completely
22 preventable deaths, including negligence by the City of Oakland’s own Building
23 Inspectors, Police, Fire, and Planning Departments. Police and Fire officials warned that
24 the warehouse was a fire hazard but did not follow through on enforcing the codes
25 already in place. The City of Oakland's Planning Director revealed that the building had
26 not been inspected for three decades. (*IN RE Ghost Ship Fire Litigation*, Alameda County
27 Superior Case no. RG16843631 (2017)
- 28 4. Deanna Santana was City Administrator during this period of negligence when Building,
Police, Fire and Planning Departments, under Santana’s management, were not enforcing

1 the codes which, if enforced under Santana's watch, would ultimately have saved 36
2 innocent lives.

3 City of Santa Clara - City Manager - October 2017 to Present

- 4 1. Defendant DEANNA SANTANA in her current position as City Manager at Santa Clara
5 is again in charge of the Police Department in addition to being Executive Director of the
6 City of Santa Clara Stadium Authority, which involves Santana overseeing contracts
7 related to Levi's Stadium and the San Francisco 49ers.
8 2. Additionally, in a recent article from The Silicon Valley Voice, "Santa Clara Subject of
9 State Pension Investigation," dated October 12, 2018, Deanna Santana's actions were the
10 reason the City of Santa Clara was the subject of a State Pension Fraud investigation by
11 CalPERS. A letter signed by Deanna Santana was revised and backdated for employment
12 of an Assistant City Manager to Santana.

13 184. Furthermore, Plaintiff believes Defendant DEANNA SANTANA, based on her career
14 conduct documented above, conspired with Defendant's CITY OF SANTA CLARA POLICE
15 DEPARTMENT, CITY OF SANTA CLARA STADIUM AUTHORITY, FORTY NINER
16 DEFENDANTS, and NATIONAL FOOTBALL LEAGUE Defendant CATHY LANIER and
17 Defendant BILLY LANGENSTEIN to ensure Plaintiff's damning findings about the complete
18 lack of security at Levi's Stadium would not become public.

19 185. Plaintiff is concerned about the risk of injury to any patron of any future event at
20 Levi's Stadium and all other public venues and Plaintiff has communicated this on multiple
21 occasions both orally and in writing, including certified communication to all DEFENDANTS.

22 186. Plaintiff acted in good faith as a Good Samaritan, to contain and restrain until his
23 arrest and custody, the ASSAILANT, to keep the ASSAILANT from injuring any additional
24 Levi's Stadium fans, due to the total lack of security on the part of the DEFENDANTS and each
25 of them.

26 187. Plaintiff is informed and believes and thereon alleges as a drastic and preventative
27 public relations measure starting on or about November 1, 2018, to avoid embarrassment and
28 save face, the DEFENDANTS conspired and assisted Defendant SANTA CLARA POLICE
DEPARTMENT Officers in the filing of false police reports regarding the previous day's savage
assault at Levi's Stadium and subsequent arrest of the Assailant.

1 188. Plaintiff is informed and believes, and thereon alleges, that on or about November 1,
2 2018, said DEFENDANTS, intentionally, willfully, wantonly, and maliciously conspired against
3 Plaintiff against Plaintiff's actions taken to prevent any further acts of violence against other
4 patrons at Levi's Stadium. The actions taken by Plaintiff were those that any reasonable person
5 in Plaintiff's situation would have undertaken and were necessitated by DEFENDANTS' failure
6 to perform the duties to the patrons of Levi's Stadium that they were obligated to provide.

7 189. Plaintiff is informed and believes and thereon alleges, that DOES 1 through 70,
8 inclusive, ceased all communications with Plaintiff in furtherance of conspiring to conceal
9 information, falsify reports, hide, bury, and make any incriminating records disappear, of which
10 information may have posed a detrimental effect to the DEFENDANTS and especially a
11 detrimental effect to the NATIONAL FOOTBALL LEAGUE in its efforts to protect the NFL
12 'Shield'.

13 190. The NFL is America's most successful sports organization, generating multi-billion-
14 dollar profits and legions of devoted fans. On average, the NFL generates approximately
15 \$9,300,000,000.00 per year. As the organizer, marketer and face of professional football, the
16 NFL zealously protects these profits and the game that produces them.

17 191. According to a February 1, 2017 Washington Post article, "Former police chief's
18 (Defendant NFL Chief of Security CATHY LANIER) focus in new NFL gig is protecting the
19 league's image," the article states "But there is a fundamental difference between protecting the
20 public and protecting a corporate brand - the NFL or, to insiders, "the Shield." In this context,
21 Lanier's charge isn't simply to keep fans safe. It's also to protect the league's image. For all its
22 popularity, the NFL has an image problem that some believe is cutting into unrivaled hold on
23 U.S. sports fans. The roots of that image problem are complex and lie, in large part, in the
24 league's delayed response to the dangers."

25 192. Unfortunately, for patrons of Levi's Stadium, and all NFL Stadiums, after Plaintiff
26 communicated the above safety and security concerns with Defendant NATIONAL FOOTBALL
27 LEAGUE NFL Security Representative BILLY LANGENSTEIN on January 8, 2018, the
28 Defendant NATIONAL FOOTBALL LEAGUE ceased all communication with Plaintiff, further
evidencing the NFL "delayed response to dangers."

1 193. DOES 1 through 100's extreme and outrageous behavior proximately caused and was
2 a substantial factor in the injury and damages Plaintiff sustained as alleged more fully above.

3 194. Plaintiff is informed and believes and thereon alleges, that DOES 1 through 100 are
4 those individuals, whose identities are not yet completely known, whose intentional conduct
5 caused the aforesaid injury and damages of Plaintiff in Levi's Stadium on November 1, 2018.

6 195. As a direct and proximate result of the conduct of the DEFENDANTS, and each of
7 them, and have caused the damages to Plaintiff in an amount to be shown according to proof at
8 trial.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiff respectfully requests the following relief against each and
11 every Defendant herein, jointly and severally:

- 12 a. compensatory and exemplary damages in an amount according to proof and which is
13 fair, just and reasonable;
- 14 b. punitive damages under 42 U.S.C. §1983 and California law in an amount according to
15 proof and which is fair, just, and reasonable;
- 16 c. all other damages, penalties, costs, interest, and attorneys' fees as allowed by 42 U.S.C.
17 §§ 1983, and 1988; Cal. Code Civ. Proc. § 1021.5, Cal. Civil Code § 52 et seq., 52.1,
18 and as otherwise may be allowed by California and/or federal law;
- 19 d. Injunctive relief, including but not limited to the following:
 - 20 1. An order prohibiting DEFENDANT CITY OF SANTA CLARA POLICE
21 DEPARTMENT and its Chief of Police from engaging in the unconstitutional
22 customs, policies, practices, procedures, training and supervision as may be
23 determined and/or adjudged by this case;
 - 24 2. An order prohibiting DEFENDANT CITY OF SANTA CLARA POLICE
25 DEPARTMENT and their law enforcement officers from engaging in the "code
26 of silence" as may be supported by the evidence in this case;
 - 27 3. An order of Federal Oversight of DEFENDANT CITY OF SANTA CLARA
28 POLICE DEPARTMENT, similar to recent Federal oversight of Chicago,
Oakland, New York, Detroit, and Cincinnati Police Departments.

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- 4. An order of Federal Oversight of DEFENDANT NATIONAL FOOTBALL LEAGUE to ensure all North American NFL Stadiums and Venues benefit from shared and uniform safety and security measures.
- 5. An order compelling DEFENDANTS to correct the deficiencies in security and failures to protect the public detailed in this complaint.
- e. Attorney’s fees in accordance with California Code of Civil Procedure Section 1021.5
- f. Such other and further relief as this Court may deem appropriate.

DATED: May 1, 2019

Fred L. Weaver

Frederick Leo Weaver
Plaintiff In pro per

DEMAND FOR JURY TRIAL

PLAINTIFF hereby requests a jury trial upon the claims so triable.

DATED: May 1, 2019

Fred L. Weaver

Frederick Leo Weaver
Plaintiff In pro per