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12 and HAZAKAT IKRAM

13 **UNITED STATES DISTRICT COURT**
14 **NORTHERN DISTRICT OF CALIFORNIA**

15 MOHAMMAD MONEEB; MOHAMMAD IKRAM;
16 HAZAKAT IKRAM, individually,

17 Plaintiffs,

18 vs.

19 CITY OF SANTA CLARA, a public entity; CITY OF
20 SANTA CLARA POLICE CHIEF MICHAEL
21 SELLERS; CITY OF SANTA CLARA POLICE
22 DETECTIVE SERGEANTS RAY CARREIRA and
23 CLOUSE; CITY OF SANTA CLARA POLICE
24 SERGEANTS EARL AMOS, N. HENRY, HILL,
25 HOSMAN, LUIS MARTIN, and RUSH; CITY OF
26 SANTA CLARA POLICE DETECTIVES JUSTIN
27 MEAD and JAKE THOMPSON; CITY OF SANTA
28 CLARA POLICE OFFICERS PETER STEPHENS, C.
BELL, D. BELL, STEWART, TRAVIS NIESEN,
DOUGLAS GERBRANDT, CARDIN, and G. DEGER;
and DOES 4–50, Jointly and Severally

Defendants.

) Case No: 5:15-cv-01987-NC

) Hon. Nathanael M. Cousins

) **FIRST AMENDED**
) **COMPLAINT FOR**
) **DAMAGES, DECLARATORY,**
) **AND INJUNCTIVE RELIEF,**
) **AND DEMAND FOR JURY**
) **TRIAL**

1 Plaintiffs, by and through their attorneys, HADDAD & SHERWIN LLP, for their Complaint
2 against Defendants, state as follows:

3 **JURISDICTION AND INTRADISTRICT ASSIGNMENT TO SAN JOSE DIVISION**

4 1. This is a civil rights action arising from Defendants’ unreasonable search and
5 seizure, and use of excessive force, against Plaintiffs MOHAMMAD MONEEB, MOHAMMAD
6 IKRAM, and HAZAKAT IKRAM (“PLAINTIFFS”), on or about February 10, 2014 and on or
7 about March 27, 2014, in the City of Santa Clara, Santa Clara County, California. This action is
8 brought pursuant to 42 U.S.C. §§ 1983 and 1988 and the First, Fourth and Fourteenth Amendments
9 to the United States Constitution, as well as the laws and Constitution of the State of California.
10 Jurisdiction is founded upon 28 U.S.C. §§ 1331 and 1343(a)(3) and (4), and the aforementioned
11 statutory and constitutional provisions. Plaintiffs further invoke the supplemental jurisdiction of
12 this Court pursuant to 28 U.S.C. §1367 to hear and decide claims arising under state law.
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15 2. A substantial part of the events and/or omissions complained of herein occurred in
16 the City of Santa Clara, Santa Clara County, California, and this action is properly assigned to the
17 San Jose Division of the United States District Court for the Northern District of California,
18 pursuant to Civil Local Rule 3-2(e).

19 **PARTIES AND PROCEDURE**

- 20 3. Plaintiff MOHAMMAD MONEEB is a resident of the State of California.
21
22 4. Plaintiff MOHAMMAD IKRAM is a resident of the State of California.
23
24 5. Plaintiff HAZAKAT IKRAM is a resident of the State of California.
25
26 6. Defendant CITY OF SANTA CLARA is a public entity established by the laws and
27 Constitution of the State of California, and owns, operates, manages, directs, and controls the
28 SANTA CLARA Police Department (“SCPD”) which employs other defendants in this action.

1 7. Defendant CITY OF SANTA CLARA CHIEF OF POLICE MICHAEL SELLERS at
2 all material times was the Chief of Police for the Santa Clara Police Department, and was acting
3 within the course and scope of that employment. In that capacity, Defendant SELLERS was a
4 policy making official for the CITY OF SANTA CLARA. He is sued in his individual and official
5 capacities.
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7 8. Defendant DETECTIVE SERGEANT RAY CARREIRA (“CARREIRA”) at all
8 material times was employed as a law enforcement officer by SCPD, was a member of the SCPD
9 command staff, and was acting within the course and scope of that employment. Defendant
10 CARREIRA is being sued in his individual capacity.

11 9. Defendant SERGEANT N. HENRY (“HENRY”) at all material times was employed
12 as a law enforcement officer by SCPD, was a member of the SCPD command staff, and was acting
13 within the course and scope of that employment. Defendant HENRY is being sued in his individual
14 capacity.
15

16 10. Defendant SERGEANT EARL AMOS (“AMOS”) at all material times was
17 employed as a law enforcement officer by SCPD, was a member of the SCPD command staff, and
18 was acting within the course and scope of that employment. Defendant AMOS is being sued in his
19 individual capacity.
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21 11. Defendant SERGEANT LUIS MARTIN (“MARTIN”) at all material times was
22 employed as a law enforcement officer by SCPD, was a member of the SCPD command staff, and
23 was acting within the course and scope of that employment. Defendant MARTIN is being sued in
24 his individual capacity

25 12. Defendant OFFICER PETER STEPHENS (“STEPHENS”) at all material times was
26 employed as a law enforcement officer by SCPD, and was acting within the course and scope of
27 that employment. Defendant STEPHENS is being sued in his individual capacity.
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1 13. Defendant OFFICER C. BELL (“BELL”) at all material times was employed as a
2 law enforcement officer by SCPD, and was acting within the course and scope of that employment.
3 Defendant C. BELL is being sued in his individual capacity.

4 14. Defendant OFFICER D. BELL (“BELL”) at all material times was employed as a
5 law enforcement officer by SCPD, and was acting within the course and scope of that employment.
6 Defendant D. BELL is being sued in his individual capacity
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8 15. Defendant DETECTIVE SERGEANT CLOUSE (“CLOUSE”), at all material times
9 was employed as a law enforcement officer by SCPD, was a member of the SCPD command staff,
10 and was acting within the course and scope of that employment. Defendant CLOUSE is being sued
11 in his individual capacity.

12 16. Defendant SERGEANT HILL (“HILL”), at all material times was employed as a law
13 enforcement officer by SCPD, was a member of the SCPD command staff, and was acting within
14 the course and scope of that employment. Defendant HILL is being sued in his individual capacity.
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16 17. Defendant DETECTIVE JUSTIN MEAD (“MEAD”), at all material times was
17 employed as a law enforcement officer by SCPD, and was acting within the course and scope of
18 that employment. Defendant MEAD is being sued in his individual capacity.

19 18. Defendant OFFICER STEWART (“STEWART”), at all material times was
20 employed as a law enforcement officer by SCPD, and was acting within the course and scope of
21 that employment. Defendant STEWART is being sued in his individual capacity.
22

23 19. Defendant OFFICER TRAVIS NIESEN (“NIESEN”), at all material times was
24 employed as a law enforcement officer by SCPD, and was acting within the course and scope of
25 that employment. Defendant NIESEN is being sued in his individual capacity.
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1 20. Defendant DETECTIVE JAKE THOMPSON (“THOMPSON”), at all material times
2 was employed as a law enforcement officer by SCPD, and was acting within the course and scope
3 of that employment. Defendant THOMPSON is being sued in his individual capacity.

4 21. Defendant OFFICER DOUGLAS GERBRANDT (“GERBRANDT”), at all material
5 times was employed as a law enforcement officer by SCPD, and was acting within the course and
6 scope of that employment. Defendant GERBRANDT is being sued in his individual capacity.

7 22. Defendant OFFICER CARDIN (“CARDIN”), at all material times was employed as
8 a law enforcement officer by SCPD, and was acting within the course and scope of that
9 employment. Defendant CARDIN is being sued in his individual capacity.

10 23. Defendant SERGEANT HOSMAN (“HOSMAN”), at all material times was
11 employed as a law enforcement officer by SCPD, was a member of the SCPD command staff, and
12 was acting within the course and scope of that employment. Defendant HOSMAN is being sued in
13 his individual capacity.

14 24. Defendant SERGEANT RUSH (“RUSH”), at all material times was employed as a
15 law enforcement officer by SCPD, was a member of the SCPD command staff, and was acting
16 within the course and scope of that employment. Defendant RUSH is being sued in his individual
17 capacity.

18 25. Defendant OFFICER G. DEGER (“DEGER”), at all material times was employed as
19 a law enforcement officer by SCPD, and was acting within the course and scope of that
20 employment. Defendant DEGER is being sued in his individual capacity.

21 26. Defendant City of Santa Clara has refused to produce records and police reports in
22 response to Plaintiff’s lawful requests for complete records and information. Plaintiff reserves the
23 right to amend this complaint with further facts and substituting individuals for Doe Defendants
24 after receiving Defendants’ reports and records in this matter.

1 27. The true names and capacities of other Defendants sued as DOES 4–50 (“DOE
2 DEFENDANTS”) are unknown to Plaintiffs, who therefore sue these Defendants by such fictitious
3 names, and Plaintiffs will seek leave to amend this complaint to show their true names and
4 capacities when the same are ascertained. Each DOE DEFENDANT was an employee/agent of
5 either the CITY OF SANTA CLARA, and at all material times acted within the course and scope of
6 that relationship. Plaintiffs are informed and believe and thereon allege that each of the Defendants
7 sued herein was negligently, wrongfully, and otherwise responsible in some manner for the events
8 and happenings as hereinafter described, and proximately caused injuries and damages to Plaintiffs.
9 Further, one or more DOE DEFENDANTS was at all material times responsible for the hiring,
10 training, supervision, and discipline of other defendants, including DOE DEFENDANTS.
11

12 28. Plaintiffs are informed and believe, and thereon allege, that each of the Defendants
13 was at all material times an agent, servant, employee, partner, joint venturer, co-conspirator, and/or
14 alter ego of the remaining Defendants, and in doing the things herein alleged, was acting within the
15 course and scope of that relationship. Plaintiffs are further informed and believe, and thereon
16 allege, that each of the Defendants herein gave consent, aid, and assistance to each of the remaining
17 Defendants, and ratified and/or authorized the acts or omissions of each Defendant as alleged
18 herein, except as may be hereinafter otherwise specifically alleged.
19

20 29. At all material times, each Defendant was jointly engaged in tortious activity, and an
21 integral participant in the conduct described herein including the wrongful search, seizure, and use
22 of excessive force against the Plaintiffs, resulting in the deprivation of Plaintiffs’ constitutional
23 rights and other harm.
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25 30. At all material times, each Defendant acted under color of the laws, statutes,
26 ordinances, and regulations of the State of California and the CITY OF SANTA CLARA.
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1 had last been in the possession of Plaintiff MONEEB'S uncle Aftab Choudry. Defendants claimed
2 that its owner believed that it was inside Plaintiffs' home.

3 36. Aftab Choudry leased a vehicle in order to drive for Uber. He was responsible for
4 the car, as well as the dashboard camera inside the car. Prior to the illegal entry and search
5 described in the preceding paragraph, on or around February 8, 2014, Mr. Choudry was in a car
6 accident while driving this leased vehicle. As part of the lease, on information and belief, Mr.
7 Choudry was also responsible for everything inside the car, including a dashboard camera. Mr.
8 Choudry had the vehicle towed to Plaintiffs' driveway because he thought it would be safe there.
9 Before the vehicle was towed to Plaintiffs' driveway, Mr. Choudry removed everything inside,
10 including the dashboard camera. At some point following this, the dashboard camera was lost.

11
12 37. Plaintiffs were unaware of any information relating to this dashboard camera.
13 Plaintiff MONEEB told Defendants HENRY, STEPHENS and C. BELL that the camera was not
14 inside the house and that he was unaware of the camera. Plaintiff MONEEB then attempted to end
15 the interrogation due to the early hour before Plaintiff MONEEB's workday. Plaintiff MONEEB
16 repeatedly asked Defendants to leave his home; Defendants would not leave immediately, but
17 eventually they left.

18
19 38. During this incident, Plaintiffs and other family members protested Defendants
20 HENRY, STEPHENS and C. BELL'S wrongful conduct and recorded Defendants' conduct during
21 the wrongful entry and unreasonable search of their residence. PLAINTIFF MONEEB
22 subsequently visited the SCPD station to request a police report regarding the February 10, 2014
23 incident, and complained regarding the wrongful conduct of Defendants HENRY, STEPHENS and
24 C. BELL.

25
26 39. On information and belief, officers from the Santa Clara Police Department, who
27 include Defendants Detective Sergeant CARREIRA, Sergeant HENRY, Officers C. BELL and
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1 STEPHENS, and Defendant DOE Officers whose identities are currently unknown, then wrongfully
2 procured an arrest warrant for PLAINTIFF MONEEB and a warrant to search PLAINTIFFS'
3 residence located at 1146 Lincoln Street in Santa Clara, California for the missing dashboard
4 camera, which had a value of approximately \$300.00. On information and belief, the arrest warrant
5 and search warrant were unlawful and lacked probable cause on their faces, and on information and
6 belief they were based on deliberate and/or reckless false statements and/or misleading omissions of
7 known, material exculpatory facts made by Defendant CARREIRA to the judicial officer who
8 issued the warrant. The deliberate and/or reckless false statements made by Defendant CARREIRA
9 were material to the finding of probable cause supporting the arrest warrant for Plaintiff MONEEB
10 and the search warrant for stolen property because Defendant CARREIRA alleged that such stolen
11 property would be found on Plaintiffs' property. Specifically, Defendant CARREIRA's statements
12 alleged that Aftab Choudhry had delivered a dashboard camera belonging to his employer to
13 Plaintiffs' home, and that Plaintiff MONEEB had refused to return the camera to its owner. On
14 information and belief, those material statements were false, and Defendant CARREIRA knew or
15 should have known they were false.

18 40. The arrest warrant and search warrant were procured, and subsequently executed, in
19 part, in retaliation against PLAINTIFFS for exercising their rights under the United States and/or
20 California Constitutions to freedom of speech and/or expression, freedom from unlawful entry and
21 search of their home, and freedom from invasion of privacy, and so as to interfere with
22 PLAINTIFFS' exercise of these rights, including due to PLAINTIFFS' efforts to record and report
23 Defendants STEPHENS and C. BELL'S wrongful conduct of February 10, 2014.

25 41. On or about March 27, 2014, at approximately 5:00 p.m., at 1146 Lincoln Street,
26 Santa Clara, California, Defendant SCPD Officers MEAD, CARREIRA, AMOS, MARTIN,
27 STEPHENS, CLOUSE, HILL, STEWART, NIESEN, THOMPSON, DEGER, D. BELL,
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1 GERBRANDT, CARDIN, HOSMAN, RUSH and DOES 4-50 (the "Raid Defendants"), acting as
2 integral participants, wrongfully entered and unreasonably searched the home of PLAINTIFFS.
3 The Raid Defendants, acting as integral participants, also wrongfully arrested and detained,
4 assaulted and battered, and/or used excessive and unjustified force against PLAINTIFFS.
5

6 42. Defendants MEAD, CARREIRA, AMOS, MARTIN, STEPHENS, CLOUSE, HILL,
7 STEWART, NIESEN, THOMPSON, DEGER, D. BELL, GERBRANDT, CARDIN, HOSMAN,
8 RUSH and DOES 4-50 arrived at PLAINTIFFS' residence as PLAINTIFFS MONEEB and his
9 mother PLAINTIFF HAZAKAT IKRAM were pulling into their residence in their vehicle. At the
10 same time, PLAINTIFF MOHAMMAD IKRAM was taking the garbage outside and was in the
11 front yard of his residence. At all material times, Plaintiffs HAZAKAT IKRAM and
12 MOHAMMAD IKRAM were wearing traditional Pakistani Muslim garments. The Raid
13 Defendants had no objectively reasonable information that Plaintiffs posed any danger or threat
14 whatsoever. The Raid Defendants arrived in a convoy comprised of unmarked police vehicles,
15 marked police vehicles, motorcycles, a helicopter and other vehicles. Certain of the Raid
16 Defendants wore battle dress uniforms, and carried assault rifles and other long guns, as well as
17 police dogs.
18

19 43. Certain of the Raid Defendants struck PLAINTIFFS MONEEB and HAZAKAT
20 IKRAM'S vehicle with a police vehicle as they arrived, and then removed Mr. Moneeb and Ms.
21 Ikram from the car. Plaintiffs are informed and believe and thereon allege that this police vehicle
22 that struck Plaintiffs' vehicle was driven by DEFENDANT NIESEN. Although PLAINTIFF
23 MONEEB posed no threat to anyone, obeyed Respondents' orders and was totally compliant the
24 entire time, the Raid Defendants held him at gunpoint and took him forcefully to the pavement,
25 proned him out on his stomach, where three to four of them, including on information and belief,
26 DEFENDANTS CARREIRA, NIESEN, and GERBRANDT roughly restrained him using a
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1 "figure-4" control hold on his legs, as well as a control hold on his arms and shoulders, which
2 caused him excruciating pain. One of these Defendants also forcefully and unnecessarily pressed
3 his knees on PLAINTIFF MONEEB's head. At no time did PLAINTIFF MONEEB resist.
4 Defendants then handcuffed PLAINTIFF MONEEB and placed him in a police vehicle.

5 44. Without a warrant or probable cause, the Raid Defendants, acting as integral
6 participants, arrested and took PLAINTIFF MONEEB to Santa Clara County jail where he was
7 booked and held in custody until the next day.

8 45. Additionally, although PLAINTIFF MOHAMMAD IKRAM posed no threat to
9 anyone, obeyed Respondents' orders and was totally compliant the entire time, the Raid Defendants
10 held him at gunpoint and ordered him to sit on the pavement in front of his driveway. At no time
11 did PLAINTIFF MOHAMMAD IKRAM resist. After seizing him, certain of the Raid Defendants
12 then handcuffed PLAINTIFF MOHAMMAD IKRAM very tightly, photographed him and placed
13 him in the back of a police vehicle for approximately 20 minutes. Certain of the Raid Defendants
14 then removed PLAINTIFF MOHAMMAD IKRAM from the police vehicle and forced him to sit on
15 hard ground for approximately 3.5 hours while the Raid Defendants ransacked their home. During
16 this time Defendant STEPHENS interrogated PLAINTIFF MOHAMMAD IKRAM, which he
17 recorded without PLAINTIFF's knowledge.

18 46. While he was sitting next to her in her vehicle, the Raid Defendants, acting as
19 integral participants, pointed guns at PLAINTIFF HAZAKAT IKRAM'S son, PLAINTIFF
20 MONEEB, and in PLAINTIFF HAZAKAT IKRAM'S direction. Even though she posed no threat
21 to anyone, obeyed Respondents' orders and was totally compliant the entire time, the Raid
22 Defendants also ordered PLAINTIFF HAZAKAT IKRAM out of her vehicle. The Raid Defendants
23 seized her and escorted her away from her house where they forced her to sit on hard ground in their
24 custody for approximately 3.5 hours.

1 47. Defendants subjected PLAINTIFFS to this wrongful seizure and arrest without
2 reasonable suspicion or probable cause. Acting as integral participants, the Raid Defendants
3 subjected PLAINTIFFS to the use of excessive force in the absence of any immediate threat, the
4 absence of any objectively reasonable information that PLAINTIFFS had committed any serious
5 crime, and in the absence of any resistance by PLAINTIFFS. There was no need to use any force
6 against PLAINTIFFS under these circumstances.
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8 48. The Raid Defendants, acting as integral participants, unlawfully raided and
9 ransacked PLAINTIFFS' residence, damaged and/or destroyed PLAINTIFFS' personal property,
10 and unlawfully seized PLAINTIFFS' property, including property that was outside the scope of the
11 warrant. Defendants also interrogated PLAINTIFFS, and used profanity and other unprofessional
12 language throughout this incident, exhibiting hostile animus toward PLAINTIFFS.
13

14 49. Defendants' raid, entry, search of PLAINTIFFS' home, and seizure of
15 PLAINTIFFS' persons and property were unlawful in their inception and as unreasonably executed.
16 The Raid Defendants used a battering ram to break down the front door of PLAINTIFFS' house,
17 despite the fact that PLAINTIFFS were being held in their front yard and were available to provide
18 a key. The Raid Defendants unreasonably destroyed various items during the raid. This included
19 squeezing out and emptying entire tubes of toothpaste and deodorant and even ransacking
20 PLAINTIFFS' laundry room and photographing household items like their laundry detergent.
21

22 50. The Raid Defendants threw PLAINTIFFS' copy of the Koran and other religious
23 writings on the floor, leaving them strewn about for PLAINTIFFS to find when they were
24 eventually able to re-enter their home. Despite the fact that the Raid Defendants were searching for
25 items related to a dashboard camera, these Defendants also went out of their way to specifically
26 photograph each of the framed religious calligraphy scrolls that decorate PLAINTIFFS' walls.
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1 51. The Raid Defendants remained at PLAINTIFFS' home and held PLAINTIFFS
2 MOHAMMAD IKRAM AND HAZAKAT IKRAM in custody outside of their home for
3 approximately 3.5 hours. After taking PLAINTIFF MONEEB to jail, the Raid Defendants seized
4 PLAINTIFF MOHAMMAD IKRAM and forced him to remain in handcuffs for 20 minutes. These
5 Defendants then continued this seizure of PLAINTIFF MOHAMMAD IKRAM, forcing him to sit
6 on hard ground for approximately 3.5 hours. The Raid Defendants additionally seized PLAINTIFF
7 HAZAKAT IKRAM, during which time she was not free to leave and was forced to sit outside on
8 hard ground for approximately 3.5 hours. The Raid Defendants wrongfully seized, detained and/or
9 arrested PLAINTIFFS without legal right, reasonable suspicion, or probable cause.
10

11 52. Defendants, acting as integral participants, subjected PLAINTIFFS to an
12 unreasonable search and excessive and unnecessary force and tactics, including but not limited to an
13 excessive, unreasonable, and unnecessary raid, the drawing and exhibiting of Defendants' firearms,
14 multiple gun points, handcuffing, controls holds and other restraints, ransacking PLAINTIFFS'
15 home, and repeatedly shouting at PLAINTIFFS, who had committed no crime, were unarmed, and
16 did not pose any threat to Defendants or others at any time. No force was justified under the
17 circumstances.
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19 53. Additionally, Defendants subjected PLAINTIFFS to an unreasonable and unlawful
20 raid and search of their home, excessive force, false arrest and imprisonment, interference with their
21 rights by threats, intimidation, and/or coercion, and subjection to violence, or threat of violence, due
22 to PLAINTIFFS' protected status, including their race, ethnicity, national origin (Pakistan), religion
23 (Muslim), and exercise of First and Fourth Amendment protected rights.
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25 54. Defendants MEAD, CARREIRA, AMOS, MARTIN, HENRY, STEPHENS,
26 CLOUSE, HILL, STEWART, NIESEN, THOMPSON, DEGER, D. BELL, C. BELL,
27 GERBRANDT, CARDIN, HOSMAN, RUSH and/or DOES 4-50 whose identities are currently
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1 unknown, caused PLAINTIFF MOHAMMAD MONEEB to be maliciously prosecuted, including
2 by providing false information to prosecutors and by withholding or concealing exculpatory
3 information. Despite Defendants' lack of probable cause to do so, Defendants MEAD, CARREIRA,
4 AMOS, MARTIN, HENRY, STEPHENS, CLOUSE, HILL, STEWART, NIESEN, THOMPSON,
5 DEGER, D. BELL, C. BELL, GERBRANDT, CARDIN, HOSMAN, RUSH and/or DOES 4-50
6 maliciously caused Plaintiff MONEEB to be prosecuted for violation of PC § 496(a) (Receiving
7 Stolen Property). Plaintiff MONEEB did not qualify for a public defender and was forced to hire a
8 criminal defense attorney at a significant cost to him and his family. These criminal charges were
9 resolved in Plaintiff MONEEB's favor on or around December 18, 2014, when the case was
10 dismissed.
11

12 55. Defendants MEAD, CARREIRA, AMOS, MARTIN, HENRY, STEPHENS,
13 CLOUSE, HILL, STEWART, NIESEN, THOMPSON, DEGER, D. BELL, C. BELL,
14 GERBRANDT, CARDIN, HOSMAN, RUSH and/or DOES 4-50 wrongfully caused charges to be
15 filed against Plaintiff MONEEB, and the charges were based on false information, Defendants'
16 failure to disclose exculpatory evidence, and/or other bad faith and malicious conduct by
17 Defendants. On information and belief, Defendants acted with malice in initiating and pursuing the
18 criminal action, which was induced by Defendants' fraud, corruption, perjury, fabricated evidence,
19 and/or other wrongful conduct undertaken in bad faith. On information and belief, Defendants
20 knowingly provided misinformation to the prosecutor, concealed exculpatory evidence, and/or
21 otherwise engaged in wrongful or bad faith conduct that was actively instrumental in causing the
22 initiation and continuation of the legal proceedings against Plaintiff MONEEB. On information and
23 belief Defendants MEAD, CARREIRA, AMOS, MARTIN, HENRY, STEPHENS, CLOUSE,
24 HILL, STEWART, NIESEN, THOMPSON, DEGER, D. BELL, C. BELL, GERBRANDT,
25 CARDIN, HOSMAN, RUSH and/or DOES 4-50 fabricated and/or mischaracterized Plaintiff
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1 MONEEB'S conduct before and during his arrest both in police reports and in information provided
2 to prosecutors, serving a material role in Plaintiff's otherwise baseless prosecution.

3 56. No reasonable person having the facts and information available to Defendants
4 would have believed the criminal charge against Plaintiff MONEEB was legally tenable.
5 Defendants continued their investigation of Plaintiff, and caused the criminal charge to be pursued
6 against Plaintiff, even though they knew or should have known that Plaintiff MONEEB was
7 innocent. Criminal proceedings were initiated against Plaintiff MONEEB on the basis of
8 Defendants' intentional and knowingly false accusations and other malicious conduct as described
9 herein.
10

11 57. Defendants either knew they were violating or were deliberately indifferent to the
12 violation of Plaintiff's rights.

13 58. The charges against Plaintiff MONEEB were ultimately resolved in Plaintiff's favor
14 when the Superior Court of the State of California for the County of Santa Clara dismissed all
15 charges against Plaintiff in the interests of justice.
16

17 59. Additionally, on information and belief, Defendant officers from the SCPD, who
18 include Defendants Detective Sergeant CARREIRA and other DOE Defendant officers whose
19 identities are currently unknown, made knowingly false statements regarding PLAINTIFF
20 MONEEB'S conduct and character to his employer, the Department of Homeland Security. At
21 various times, Defendants have also contacted PLAINTIFF MONEEB'S employer and provided
22 that employer with confidential, false, and defamatory information concerning PLAINTIFF
23 MONEEB, with the intent and effect to interfere with PLAINTIFF MONEEB'S business,
24 contractual, and/or employment relationships, to his detriment. As a result of the incidents and
25 criminal charges described herein, PLAINTIFF MONEEB, who is a United States Customs and
26 Border Patrol Officer, was subjected to adverse employment actions, including but not limited to
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1 being placed on light duty, denied overtime opportunities, subjected to an extensive internal affairs
2 investigation, and having his service weapon revoked. As a result, PLAINTIFF MONEEB suffered
3 a reduction in his work hours and pay, among other detriment.

4 60. At all material times, and alternatively, the actions and omissions of each Defendant
5 were intentional, wanton and/or willful, conscience shocking, reckless, malicious, deliberately
6 indifferent to Plaintiffs' rights, done with actual malice, grossly negligent, negligent, and
7 objectively unreasonable.

8 61. As a direct and proximate result of each Defendant's acts and/or omissions as set
9 forth above, Plaintiffs sustained the following injuries and damages, past and future, among others:
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- 11 a. Wrongful searches and seizures with guns displayed or pointed;
- 12 b. Unlawful invasions of their home and privacy;
- 13 c. MOHAMMAD MONEEB'S malicious prosecution including economic
14 losses and costs of criminal defense;
- 15 d. MOHAMMAD MONEEB'S lost earnings and business opportunities;
- 16 e. Pain and suffering and emotional distress;
- 17 f. Property damage;
- 18 g. Violation of constitutional rights;
- 19 h. All damages and penalties recoverable under 42 U.S.C. §§ 1983, 1988,
20 California Civil Code §§ 51.7, 52 and 52.1, California Code of Civil
21 Procedure § 1021.5, and as otherwise allowed under California and United
22 States statutes, codes, and common law.

23 62. Each Plaintiff herein timely and properly filed tort claims pursuant to Cal. Gov. Code
24 § 910 et seq., and this action is timely filed within all applicable statutes of limitation.
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COUNT ONE
-- 42 U.S.C. §1983 --

ALL PLAINTIFFS AGAINST DEFENDANTS MEAD, AMOS, MARTIN, CARREIRA, HENRY, CLOUSE, HILL, STEWART, NIESEN, THOMPSON, DEGER, C. BELL, D. BELL, STEPHENS, GERBRANDT, CARDIN, HOSMAN, RUSH and DOES 4-50

63. Plaintiffs reallege each and every paragraph in this complaint as if fully set forth here.

64. By the actions and omissions described above, Defendants violated 42 U.S.C. §1983, depriving Plaintiffs of the following clearly established and well-settled constitutional rights protected by the First, Fourth and Fourteenth Amendments to U.S. Constitution:

- a. The right to be free from unreasonable searches and seizures as secured by the Fourth Amendment to the U.S. Constitution;
- b. The right to be free from excessive and unreasonable force in the course of arrest or detention as secured by the Fourth Amendment to the U.S. Constitution;
- c. The rights to be free from malicious prosecution as secured by the Fourth Amendment, and to petition the government through the courts for redress of civil rights violations and to exercise rights, including to speech and expression, without retaliation, malicious prosecution, or denial of equal protection of law as secured by the First and Fourteenth Amendments to the U.S. Constitution; and
- d. The right to Equal Protection of the Laws as secured by the Fourteenth Amendment to the U.S. Constitution.

65. Defendants subjected Plaintiffs to their wrongful conduct, depriving Plaintiffs of rights described herein, knowingly, maliciously, and with conscious and reckless disregard for whether the rights and safety of Plaintiffs would be violated by their acts and/or omissions.

66. As a direct and proximate result of Defendants' acts and/or omissions as set forth above, Plaintiffs sustained injuries and damages as set forth at ¶61, above.

67. The conduct of Defendants entitles Plaintiffs to punitive damages and penalties allowable under 42 U.S.C. §1983 and California law.

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iii. by allowing, tolerating, and/or encouraging police officers to: fail to file complete and accurate police reports; file false police reports; make false statements; intimidate, bias and/or “coach” witnesses to give false information and/or to attempt to bolster officers’ stories; and/or obstruct or interfere with investigations of unconstitutional or unlawful police conduct, by withholding and/or concealing material information;

- f. To allow, tolerate, and/or encourage bias-based policing;
- g. To allow, tolerate, and/or encourage a “code of silence” among law enforcement officers and police department personnel, whereby an officer or member of the department does not provide adverse information against a fellow officer or member of the department; and,
- h. To fail to institute, require, and enforce necessary, appropriate and lawful policies, procedures, and training programs to prevent or correct the unconstitutional conduct, customs, and practices and procedures described in this Complaint and in paragraphs (a) through (g), with deliberate indifference to the rights and safety of Plaintiffs and the public, and in the face of an obvious need for such policies, procedures, and training programs; and
- i. To use or tolerate inadequate, deficient, and improper procedures for handling, investigating, and reviewing complaints of officer misconduct made under California Government Code § 910 et seq.

71. Defendants CITY OF SANTA CLARA, SELLERS, and DOES 4-50, failed to properly hire, train, instruct, monitor, supervise, evaluate, investigate, and discipline Defendants, with deliberate indifference to Plaintiffs’ constitutional rights, which were thereby violated as described above.

72. The unconstitutional actions and/or omissions of Defendants, as described above, were approved, tolerated and/or ratified by DEFENDANT SELLERS and other policy-making officers for the SCPD. Plaintiffs are informed and believe, and thereupon allege, that the details of this incident have been revealed to the authorized policy makers within the CITY OF SANTA CLARA, and Plaintiffs are further informed and believe, and thereupon allege, that such policy makers have direct knowledge of the facts of this incident. Notwithstanding this knowledge, the authorized policy makers within the CITY OF SANTA CLARA, have approved of the conduct of

1 Defendants, and have made a deliberate choice to endorse the decisions of those defendant officers
2 and the basis for those decisions. By doing so, the authorized policy makers of the CITY OF
3 SANTA CLARA, have shown affirmative agreement with each individual Defendant officer's
4 actions, and have ratified the unconstitutional acts of the individual Defendant officers.

5 Furthermore, Plaintiffs are informed and believe, and thereupon allege, that DEFENDANT
6 SELLERS and other policy-making officers for the SCPD were and are aware of a pattern of
7 conduct and injury caused by SCPD law enforcement officers similar to the conduct of Defendants
8 described herein, but failed to discipline culpable law enforcement officers and failed to institute
9 new police procedures and policy within the SCPD.

11 73. The aforementioned customs, policies, practices, and procedures, the failures to
12 properly and adequately hire, train, instruct, monitor, supervise, evaluate, investigate, and
13 discipline, as well as the unconstitutional orders, approvals, ratification and toleration of wrongful
14 conduct of Defendants the CITY OF SANTA CLARA and SELLERS, were a moving force and/or
15 a proximate cause of the deprivations of Plaintiffs' clearly established and well-settled
16 constitutional rights in violation of 42 U.S.C. §1983, as more fully set forth in ¶ 64, above.

18 74. Defendants subjected Plaintiffs to their wrongful conduct, depriving Plaintiffs of
19 rights described herein, knowingly, maliciously, and with conscious and reckless disregard for
20 whether the rights and safety of Plaintiffs and others would be violated by their acts and/or
21 omissions.

23 75. As a direct and proximate result of the unconstitutional actions, omissions, customs,
24 policies, practices and procedures of Defendants as described above, Plaintiffs sustained serious
25 injuries and are entitled to damages, penalties, costs and attorney fees as set forth in ¶¶ 65–68,
26 above, and punitive damages against DEFENDANTS SELLERS and DOES 4–50, in their
27 individual capacities.

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COUNT THREE
-- VIOLATION OF CIVIL CODE §52.1 --
ALL PLAINTIFFS AGAINST DEFENDANTS MEAD, AMOS, MARTIN, CARREIRA,
HENRY, CLOUSE, HILL, STEWART, NIESEN, THOMPSON, DEGER, C. BELL, D.
BELL, STEPHENS, GERBRANDT, CARDIN, HOSMAN, RUSH, DOES 4-50, AND CITY
OF SANTA CLARA

76. Plaintiffs reallege each and every paragraph in this complaint as if fully set forth here.

77. By their acts, omissions, customs, and policies, each Defendant, acting in concert/conspiracy, as described above, violated Plaintiffs' rights under California Civil Code §52.1, and the following clearly-established rights under the United States Constitution and the California Constitution:

- a. The right to be free from unreasonable searches and seizures as secured by the Fourth Amendment to the U.S. Constitution;
- b. The right to be free from excessive and unreasonable force in the course of arrest or detention as secured by the Fourth Amendment to the U.S. Constitution;
- c. The right to be free from retaliation and denial of equal protection for exercise of rights, speech and expression, and to petition the government through the courts for redress of civil rights violations as secured by the First and Fourteenth Amendments to the U.S. Constitution;
- d. The right to be free from malicious prosecution as secured by the First, Fourth, and Fourteenth Amendments to the U.S. Constitution;
- e. The right to enjoy and defend life and liberty, acquire, possess and protect property, and pursue and obtain safety, happiness and privacy, as secured by the California Constitution, Article 1, Section 1;
- f. The right to be free from unreasonable searches and seizures, including the right to be free from unreasonable or excessive force, as secured by the California Constitution, Article 1, Section 13;
- g. The right to protection from bodily restraint, harm, or personal insult, as secured by Cal. Civil Code § 43.

1 78. Separate from, and above and beyond, Defendants’ attempted interference,
2 interference with, and violation of Plaintiffs’ rights, Defendants violated Plaintiffs’ rights by the
3 following conduct constituting threats, intimidation, or coercion:

- 4 a. Unlawfully searching and seizing Plaintiffs and their residence;
- 5 b. Providing materially false information to a judicial officer about Plaintiff
6 MONEEB's conduct and Defendants' conduct in this matter, in order to wrongfully
7 procure an arrest warrant for Plaintiff MONEEB and search warrant for Plaintiff's
8 residence, which was done at least in part in retaliation for Plaintiffs’ exercise of
9 protected rights, and because of Plaintiffs' race and/or ethnicity and/or national
10 origin;
- 11 c. Causing multiple officers to point their guns at Plaintiffs, threatening the use of
12 deadly force, in the absence of any threat or justification whatsoever;
- 13 d. Striking the vehicle in which Plaintiffs MONEEB and HAZAKAT IKRAM were
14 riding with a police vehicle in the absence of any threat or justification whatsoever;
- 15 e. Threatening violence against Plaintiffs, with the apparent ability to carry out such
16 threats, in violation of Cal. Civ. Code § 52.1(j);
- 17 f. Arresting Plaintiffs without probable cause, including handcuffing Plaintiffs;
- 18 g. Continuing Plaintiffs’ arrest and custody long after the lack of probable cause was or
19 should have been obvious to Defendants, such that the officers’ conduct became
20 intentionally coercive and wrongful;
- 21 h. Providing false information to the SCPD and prosecutors about Plaintiff MONEEB's
22 conduct and Defendants' conduct in this matter, to falsely inculcate Plaintiff and
23 cover up Defendants' misconduct, and in retaliation for Plaintiffs’ exercise of
24 protected rights;
- 25 i. Wrongfully causing charges to be filed against Plaintiff MONEEB, where the
26 charges were based on false information, Defendants’ failure to disclose exculpatory
27 evidence, and/or other bad faith conduct by Defendants;
- 28 j. Causing Plaintiff MONEEB to be maliciously prosecuted for the additional purpose
of chilling and/or preventing Plaintiff’s exercise of rights to petition the government
concerning his violation of rights, to freedom of speech and freedom of conscience;
and
- k. Violating Plaintiffs’ rights to be free from unlawful seizures under Cal. Const. Art. 1,
Sec. 13, by both wrongful arrest and excessive force. *See Bender v. Cnty. of Los
Angeles*, 217 Cal. App. 4th 968 (2013).

COUNT FIVE
-- NEGLIGENCE; PERSONAL INJURIES --
ALL PLAINTIFFS AGAINST ALL DEFENDANTS

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83. Plaintiffs reallege each and every paragraph in this complaint as if fully set forth here.

84. At all times, each Defendant owed Plaintiff the duty to act with due care in the execution and enforcement of any right, law, or legal obligation.

85. At all times, each Defendant owed Plaintiffs the duty to act with reasonable care.

86. These general duties of reasonable care and due care owed to Plaintiffs by all Defendants include but are not limited to the following specific obligations:

- a. to refrain from using excessive and/or unreasonable force against Plaintiffs;
- b. to refrain from causing Plaintiffs to be wrongfully arrested and/or detained;
- c. to refrain from unlawfully searching Plaintiffs' home and damaging Plaintiffs' property;
- d. to refrain from abusing their authority granted them by law;
- e. to use generally accepted police procedures and tactics that are reasonable and necessary under the circumstances;
- f. to refrain from pointing guns at unarmed, nonthreatening, completely innocent Plaintiffs;
- g. to refrain from violating Plaintiffs' rights guaranteed by the United States and California Constitutions, as set forth above, and as otherwise protected by law.

87. Additionally, these general duties of reasonable care and due care owed to Plaintiffs by Defendants include but are not limited to the following specific obligations:

- a. to properly and adequately hire, investigate, train, supervise, monitor, evaluate, and discipline their employees, agents, and/or law enforcement officers to ensure that those employees/agents/officers act at all times in the public interest and in conformance with law;

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- b. to make, enforce, and at all times act in conformance with policies and customs that are lawful and protective of individual rights, including Plaintiffs’;
- c. to refrain from making, enforcing, and/or tolerating the wrongful policies and customs set forth at ¶ 70, above.

88. Defendants, through their acts and omissions, breached each and every one of the aforementioned duties owed to Plaintiffs.

89. As a direct and proximate result of Defendants’ negligence, Plaintiffs sustained injuries and damages, and against each and every Defendant are entitled to relief as set forth above at ¶¶ 65–68 and punitive damages against all Defendant law enforcement officers under California law. For this claim, the Defendant City of Santa Clara is vicariously liable for the conduct of its employees and agents pursuant to Cal. Gov. Code § 815.2.

COUNT SIX
-- ASSAULT AND BATTERY --
ALL PLAINTIFFS AGAING DEFENDANTS MEAD, AMOS, MARTIN, CARREIRA, HENRY, CLOUSE, HILL, STEWART, NIESEN, THOMPSON, DEGER, C. BELL, D. BELL, STEPHENS, GERBRANDT, CARDIN, HOSMAN, RUSH , DOES 4-50 AND CITY OF SANTA CLARA

90. Plaintiffs reallege each and every paragraph in this complaint as if fully set forth here.

91. Defendants offensively touched Plaintiffs, including hitting Plaintiffs' car with a police car while Plaintiffs were inside their vehicle, and handcuffing them. The conduct of Defendants as described herein constitutes assault and battery. Defendants also were integral participants in the pointing of guns at Plaintiffs as described herein, which constitutes assault.

92. The actions and omissions, customs, and policies of Defendants, as described above, were intentional and reckless, harmful, threatening, and/or offensive, and a proximate cause of Plaintiffs’ damages.

1 California law. For this claim, the Defendant City of Santa Clara is vicariously liable for the
2 conduct of its employees and agents pursuant to Cal. Gov. Code § 815.2.

3 **COUNT EIGHT**
4 **TORTIOUS INTERFERENCE WITH CONTRACT AND/OR ECONOMIC ADVANTAGE**
5 **PLAINTIFF MONEEB AGAINST MEAD, AMOS, MARTIN, CARREIRA, HENRY,**
6 **CLOUSE, HILL, STEWART, NIESEN, THOMPSON, DEGER, C. BELL, D. BELL,**
7 **STEPHENS, GERBRANDT, CARDIN, HOSMAN, RUSH DOES 4-50 AND CITY OF**
8 **SANTA CLARA**

9 99. Plaintiff MONEEB realleges each and every paragraph in this complaint as if fully
10 set forth here.

11 100. At all material times, Plaintiff had a contractual employment relationship as a federal
12 agent with the United States Department of Homeland Security that held the probability of
13 economic advantage for Plaintiff, including but not limited to wages and benefits, including pension
14 benefits.

15 101. At all material times, each Defendant knew of Plaintiff's employment contract and
16 relationship with the United States Department of Homeland Security.

17 102. Defendants intentionally provided Plaintiff Moneeb's employer with materially false
18 information and/or intentionally pursued meritless criminal charges against Plaintiff while knowing
19 that such conduct would likely cause Plaintiff's employment as a law enforcement officer to be
20 terminated and/or adversely affected, and/or with the intent to cause Plaintiff's employment to be
21 terminated and/or adversely affected.

22 103. Defendants' intentional conduct caused Plaintiff's employment to be adversely
23 affected as described herein.

24 104. As a direct and proximate result of Defendants' acts and/or omissions as set forth
25 above, Plaintiff sustained injuries and damages and is entitled to relief as set forth at ¶¶ 65-68,
26 above.
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JURY DEMAND

Plaintiffs hereby request a trial by jury.

DATED: October 19, 2015

HADDAD & SHERWIN LLP

/s/ Michael J. Haddad _____
Michael J. Haddad
Attorneys for Plaintiffs