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9 Eddie Thomas, Jr. and Dejanae Malone McFarland

10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**

12 EDDIE THOMAS, JR. & DEJANAE MARSHAY
13 MALONE-MCFARLAND, individually,

14 Plaintiffs,

15 vs.

16 CONTRA COSTA COUNTY, a public entity;
17 CONTRA COSTA COUNTY SHERIFF'S OFFICE
18 DEPUTIES MATTHEW A. BUCKLEY; THOMAS C.
19 SHIELDS; and DOES 1-10, Jointly and Severally

20 Defendants.

) No.

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

1 Plaintiffs, by and through their attorney HELM LAW OFFICE, PC, for their complaint
2 against Defendants, state as follows:

3 **JURISDICTION AND INTRADISTRICT ASSIGNMENT**

4 1. This is a civil-rights action arising from Defendants' unreasonable search and seizure, use of
5 excessive force, and retaliation for exercise of rights and protected speech against plaintiffs Eddie
6 Thomas, Jr., and Dejanae Marshal Malone-McFarland, on or about October 28, 2018, in Bay Point,
7 unincorporated Contra Costa County, California. This action is brought pursuant to 42 U.S.C. §§
8 1983 and 1988 and the First and Fourth Amendments to the United States Constitution, as well as
9 the laws and Constitution of the State of California. Jurisdiction is founded upon 28 U.S.C. §§ 1331
10 and 1343(a)(3) and (4), and the aforementioned statutory and constitutional provisions. Plaintiffs
11 further invoke the supplemental jurisdiction of this Court pursuant to 28 U.S.C. § 1367 to hear and
12 decide claims arising under state law.

13 2. A substantial part of the events and/or omissions complained of herein occurred in Bay
14 Point, in unincorporated Contra Costa County, California, and under Civil Local Rule 3-2(e), this
15 action is properly assigned to the San Francisco/Oakland Division.

16 **PARTIES AND PROCEDURE**

17 3. Plaintiff Eddie Thomas, Jr. is a resident of the State of California.

18 4. Plaintiff Dejanae Marshay Malone-McFarland is a resident of the State of California.

19 5. Defendant Contra Costa County is a public entity established by the laws and Constitution
20 of the State of California, and owns, operates, manages, directs, and controls the Contra Costa
21 County Sheriff's Office (CCCSO) which employs other defendants in this action.

22 6. Defendant Deputy Matthew A. Buckley at all material times was employed as a law-
23 enforcement officer by Contra Costa County and was acting within the course and scope of that
24 employment.

25 7. Defendant Deputy Thomas C. Shields at all material times was employed as a law-
26 enforcement officer by Contra Costa County and was acting within the course and scope of that
27 employment.
28

1 8. The true names and capacities of other defendants sued as Does 1–10 are unknown to
2 Plaintiffs, who therefore sue these defendants by such fictitious names, and Plaintiffs will seek
3 leave to amend this complaint to show their true names and capacities when the same are
4 ascertained. Each Doe Defendant was an employee and/or agent of Contra Costa County, and at all
5 material times acted within the course and scope of that relationship.

6 9. Defendant Contra Costa County has refused to produce, without a subpoena, records,
7 reports, and video/audio, including any 911 calls, in response to Plaintiffs' lawful pre-suit requests
8 for complete records and information. Plaintiffs reserve the right to amend this complaint with
9 further facts and to substitute individuals for Doe Defendants after receiving Contra Costa County's
10 reports, records, and audio/video recordings in this matter.

11 10. Plaintiffs are informed and believe and thereon allege that each of the Defendants sued
12 herein was negligently, wrongfully, and otherwise responsible in some manner for the events and
13 happenings as hereinafter described, and proximately caused injuries and damages to Plaintiffs.
14 Further, one or more Doe Defendants was at all material times responsible for the hiring, training,
15 supervision, and discipline of other defendants, including Doe Defendants.

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

23 12. At all material times, each Defendant was jointly engaged in tortious activity, and an
24 integral participant in the conduct described herein including the wrongful search, seizure, and use
25 of excessive force against Plaintiffs, resulting in the deprivation of Plaintiffs' constitutional rights
26 and other harm.

1 13. At all material times, each Defendant acted under color of the laws, statutes, ordinances, and
2 regulations of the State of California.

3 14. Plaintiffs bring these claims as Private Attorneys General, to vindicate not only their own
4 rights, but others' civil rights of great importance.

5 15. This complaint may be pled in the alternative pursuant to Federal Rule of Civil Procedure
6 8(d)(2).

7 **GENERAL ALLEGATIONS**

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

9 17. At about 12:30 p.m. on October 28, 2018, Ms. Malone-McFarland heard what sounded like
10 her neighbor in some kind of physical fight and called 911 to report it.

11 18. Ms. Malone-McFarland lived at 1 [REDACTED] Bay Point, CA 94565 with her boyfriend,
12 Mr. Thomas, and their fourteen-month-old daughter.

13 19. Ms. Malone-McFarland told the 911 dispatcher her address, [REDACTED] Bay Point, CA
14 94565.

15 20. The apartments at [REDACTED] are a series of cottage-style apartments facing a
16 common concrete patio-parking lot area.

17 21. Ms. Malone-McFarland also told the 911 dispatcher that the disturbance was occurring at a
18 neighboring unit, either [REDACTED]

19 22. The home shared by Ms. Malone-McFarland and Mr. Thomas was clearly marked with an
20 "18."

21 23. After making the 911 call, Ms. Malone-McFarland and her daughter bathed in the shower.

22 24. Minutes later, Mr. Thomas arrived home to 18 Sapone Lane after finishing some automotive
23 work.

24 25. Mr. Thomas went into the bedroom, where he found Ms. Malone-McFarland and their
25 daughter getting dressed.

26 26. Mr. Thomas asked Ms. Malone-McFarland what they would do for the rest of the day,
27 because it was Ms. Malone-McFarland's day off.

1 27. Then, Mr. Thomas and Ms. Malone-McFarland heard a pounding on the exterior door,
2 accompanied by someone yelling “Sheriff’s Office!”

3 28. Ms. Malone-McFarland asked Mr. Thomas to answer the door to see who, in fact, was at the
4 door.

5 29. The exterior door of 18 Sapone Lane consists of an inner wooden door, and an outer, grated-
6 metal security door.

7 30. Mr. Thomas opened the wooden door—but Mr. Thomas did not open the grated-metal
8 security door shut.

9 31. Through the grated-metal security door, Mr. Thomas could see defendants Deputy Buckley
10 and Deputy Shields.

11 32. On information and belief, Deputy Shields at the time was Deputy Buckley’s field training
12 officer.

13 33. Through the closed grated-metal security door, either Deputy Buckley or Shields stated
14 something like they had received a domestic call to come there.

15 34. Mr. Thomas told Deputies Buckley and Shields something to the effect of: he did not know
16 what was going on; his girlfriend was getting dressed, and that he would go get her.

17 35. Mr. Thomas asked Deputies Buckley and Shields to wait.

18 36. Mr. Thomas did not give consent to either Deputy Buckley or Deputy Shields to enter his
19 home.

20 37. Mr. Thomas left the wooden door open, but the grated-metal security door closed, and he
21 walked back towards the bedroom.

22 38. From the bedroom, Ms. Malone-McFarland was yelling something like “Hold on, I’m
23 coming.”

24 39. Mr. Thomas walked back to the bedroom, and Ms. Malone-McFarland explained to him that
25 she had called 911 because of the neighbors’ fighting.

26 40. Meanwhile, Deputies Buckley and Shields had forced open the closed grated-metal security
27 door.

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1 41. Deputies Buckley and Shields had no warrant to enter or search the home of Mr. Thomas
2 and Ms. Malone-McFarland at 1 [REDACTED]

3 42. Deputies Buckley and Shields had no arrest warrant for either Mr. Thomas or Ms. Malone
4 McFarland.

5 43. Deputies Buckley and Shields lacked probable cause to believe that any crime was being
6 committed at 1 [REDACTED]

7 44. While Mr. Thomas walked from the bedroom into the kitchen, with Ms. Malone-McFarland
8 and their daughter following behind, he encountered Deputies Buckley and Shields.

9 45. Deputies Buckley and Shields pointed their handguns at Mr. Thomas' mid-section, while
10 yelling at him to get on the ground.

11 46. Mr. Thomas was terrified and angry that Deputies Buckley and Shields were in his home
12 pointing guns at him.

13 47. Mr. Thomas immediately put his hands in the air and dropped his cell phone and shouted
14 something like: "what did I do? I didn't do anything!"

15 48. Working as a team, Deputies Buckley and Shields then grabbed Mr. Thomas and forced him
16 prone onto his kitchen floor.

17 49. Meanwhile, Ms. Malone-McFarland had picked up Mr. Thomas' cell phone and began video
18 recording Deputies Buckley and Shields.

19 50. Deputies Buckley and Shields used various painful control holds, such as a "wrist-lock,"
20 while they handcuffed Mr. Thomas, despite Mr. Thomas not doing anything to resist their
21 handcuffing of him.

22 51. At one point, Deputy Shields put his placed his knee on Mr. Thomas' neck while Deputy
23 Buckley handcuffed Mr. Thomas behind his back.

24 52. During the handcuffing, Mr. Thomas did not threaten to harm Deputies Buckley and
25 Shields; but, out of anger and pain, he did call them various names (such as "bitch" and "nigga").

26 53. At no time did Mr. Thomas ever threaten to harm Deputies Buckley, Shields, or anyone else.
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1 54. Deputies Buckley and Shields then stood Mr. Thomas up, having handcuffed him behind his
2 back.

3 55. Deputy Buckley held Mr. Thomas with a two-handed grip, by his right shoulder and left
4 arm, while escorting him out of [REDACTED] and down a flight of steps onto the common
5 concrete patio-parking lot area.

6 56. Mr. Thomas continued to call Deputies Buckley and Shields various names, but Mr. Thomas
7 still did not threaten them with any harm, and Mr. Thomas, handcuffed behind his back did not try
8 to escape Deputy Buckley's two-handed grasp of him.

9 57. Then, warning that he would use force, and while Mr. Thomas continued to call Deputies
10 Buckley and Shields various names, Deputy Buckley performed a "leg-sweep" takedown maneuver
11 on Mr. Thomas, forcing him prone onto the concrete patio-parking lot.

12 58. Mr. Thomas struck the concrete chin-first—because he was handcuffed behind his back, he
13 could not protect his face or otherwise brace himself.

14 59. Deputy Buckley's takedown of Mr. Thomas caused one or more lacerations to his chin that
15 began bleeding profusely, and which would later require emergency-room medical care.

16 60. Deputy Buckley had gone to the ground as well, and he was lying on top of Mr. Thomas
17 while telling him things like: are you going to calm down now?

18 61. Meanwhile, Ms. Malone-McFarland, standing at a distance, continued to try to video record
19 with the cellphone what Deputy Buckley was doing to Mr. Thomas.

20 62. Deputy Shields began commanding Ms. Malone-McFarland to "please stand back," and he
21 put his hands on her and otherwise obstructed her view.

22 63. Ms. Malone-McFarland asked him to not touch her several times.

23 64. Deputy Shields said "I want you to back up" and "[g]o up the stairs" back into 1 [REDACTED]
24 Lane.

25 65. Deputy Shields also repeatedly asked her to "stop."
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1 66. Deputy Shields stood in front of Ms. Malone-McFarland, intentionally obstructing her view
2 with his body, preventing her from video recording Deputy Buckley's actions while on the ground
3 on top of Mr. Thomas.

4 67. Deputy Shields even put his finger over the lens of the cell phone to prevent Ms. Malone
5 McFarland from recording what Deputy Buckley was doing to Mr. Thomas.

6 68. At the same time, Deputy Shields was pushing Ms. Malone-McFarland back near the door
7 of 18 Sapone Lane.

8 69. Contra Costa County Sheriff Sergeant Dickerson arrived on the scene.

9 70. After some time, Deputy Buckley drove Mr. Thomas to the Contra Costa
10 Regional Medical Center, where he received emergency medical care, including but not limited to,
11 sutures to his chin.

12 71. Defendant Buckley then booked Mr. Thomas into the Martinez Detention Facility for
13 allegedly having violated California Penal Code § 273A(b) (Willful harm or injury to child;
14 endangering person or health, a misdemeanor).

15 72. Either Deputy Buckley, Shields, or a Doe Defendant sent a "Suspected Child Abuse Report"
16 form to the Contra Costa County Department of Children and Family Services.

17 73. Mr. Thomas attended his court appearance on December 21, 2018 for the § 273(A)
18 misdemeanor, but the Contra Costa County District Attorney's Office had not yet filed charges.

19 74. On or about January 16, 2019, the Contra Costa County District Attorney's Office decided
20 not to file any charges against Mr. Thomas.

21 75. Acting as integral participants, each with fundamental involvement in the violations of Ms.
22 Malone-McFarland's and Mr. Thomas' rights described herein, Deputies Buckley and Shields
23 unlawfully entered Plaintiffs' home.

24 76. Deputies Buckley and Shields also subjected Ms. Malone-McFarland and Mr. Thomas to
25 wrongful seizure and arrest without reasonable suspicion or probable cause.

26 77. Defendants Buckley and Shields subjected Mr. Thomas to the use of excessive force,
27 including but not limited to: pointing handguns at him; taking him forcefully to the floor in his own
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1 kitchen; applying painful control holds, such as wrist-locks and a knee to the back of the neck, all
2 culminating in a leg-sweep takedown while handcuffed.

3 78. At all pertinent times, Deputies Buckley and Shields used excessive force against Mr.
4 Thomas in the absence of any unlawful resistance by him; in the absence of any immediate threat
5 posed by him; and in the absence of any objectively reasonable information that Mr. Thomas had
6 committed any crime.

7 79. There was no need to use any force against Mr. Thomas under these circumstances.

8 80. Further, on information and belief, Deputies Buckley and Shields subjected Mr. Thomas to
9 prolonged, painful, and unnecessary control holds, handcuffing, and a leg-sweep takedown in
10 retaliation for Mr. Thomas' exercise of protected speech and exercise of his rights under the First
11 and Fourth Amendments.

12 81. At all times during Plaintiffs' contact with Defendants Buckley and Shields, they behaved
13 peacefully and lawfully.

14 82. Plaintiffs never threatened anyone in any way, never possessed or displayed any weapon,
15 never engaged in any violence or threat of violence, nor committed any criminal or non-peaceful
16 actions.

17 83. Plaintiffs never resisted a lawful order and never attempted to escape.

18 84. Plaintiffs had committed no crime, were unarmed, did not pose any threat to Deputies
19 Buckley or Shields or others at any time, behaved peacefully and lawfully throughout this incident,
20 and obeyed Defendants' orders.

21 85. At all material times, Deputies Buckley and Shields unreasonably seized Plaintiffs without
22 reasonable suspicion or probable cause, or other legal right, for an excessive amount of time.

23 86. Alternatively, or concurrently, the conduct of Deputies Buckley and Shields was excessive
24 and objectively unreasonable, and such conduct created the situation in which Deputies Buckley
25 and Shields decided to unlawfully seize and use force against Mr. Thomas, thereby causing an
26 escalation of events leading to the unlawful seizure and use of force against, and injury to, Mr.
27 Thomas.

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

88. As a direct and proximate result of each Defendant's acts and/or omissions as set forth above, Ms. Malone-McFarland and Mr. Thomas sustained the following injuries and damages, past and future, among others:

- a. Wrongful searches and seizures;
- b. Wrongful seizure and imprisonment;
- c. Unlawful invasion of home and privacy;
- d. Violation of constitutional rights;
- e. Pain and suffering and emotional distress;
- f. Medical expenses;
- g. Criminal-defense-related costs;
- h. All damages, costs, and attorneys' fees and penalties recoverable under 42 U.S.C. §§ 1983, 1988, California Civil Code §§ 52 and 52.1, California Code of Civil Procedure § 1021.5, and as otherwise allowed under California and United States statutes, codes, and common law.

89. Plaintiffs timely and properly filed a tort claim pursuant to Cal. Gov. Code § 910 et seq., and the Board of Supervisors of Contra Costa County served its rejected of the claim on June 11, 2019. This action is timely filed within all applicable statutes of limitation.

COUNT ONE
—42 U.S.C. § 1983—
PLAINTIFFS AGAINST DEFENDANTS BUCKLEY AND SHIELDS

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

91. By the actions and omissions described above, Deputies Buckley and Shields deprived Ms.

1 Malone-McFarland and Mr. Thomas of the following clearly established and well-settled
2 constitutional right protected by the First and Fourth Amendments:

- 3 a. The right to be free from government entry of the home and real property without
4 probable cause and a warrant;
- 5 b. The right to be secure in one's person, house, papers, and effects against
6 unreasonable searches and seizures;
- 7 c. The right to be free from an unreasonable seizure;
- 8 d. The right to free exercise of the right to freedom from unreasonable entry of home
9 and to freedom from unreasonable search and seizure.
- 10 e. The right to free exercise of the rights to freedom of speech and expression,
11 including the right to verbally criticize and to video record law-enforcement officers
12 in public during the course of their duties, free from retaliation;

13 92. By the actions and omissions described above, Deputies Buckley and Shields deprived Mr.
14 Thomas of the following clearly established and well-settled constitutional rights protected by the
15 Fourth Amendment to the U.S. Constitution:

- 16 a. The right to be free from excessive and unreasonable force in the course of a seizure.

17 93. Defendants Buckley and Shields subjected Ms. Malone-McFarland and Mr. Thomas to their
18 wrongful conduct, depriving them of rights described herein, knowingly, maliciously, and with
19 conscious and reckless disregard for whether the rights and safety of Plaintiffs would be violated by
20 their acts and/or omissions.

21 94. Defendants' acts and/or omissions as set forth herein were the moving force behind, and
22 proximately caused injuries and damages to Plaintiffs, as set forth at ¶ 88.

23 95. Defendants' conduct entitles Plaintiffs to punitive damages and penalties against the
24 individual defendants as allowable under 42 U.S.C. § 1983 and California law.

25 96. Plaintiffs are also entitled to reasonable costs and attorneys' fees under 42 U.S.C. § 1988 and
26 applicable California codes and laws.

COUNT TWO

—42 U.S.C. § 1983 (*Monell* and Supervisory Liability—

PLAINTIFFS AGAINST DEFENDANTS CONTRA COSTA COUNTY AND DOES 1–10

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

98. On information and belief, the unconstitutional actions and/or omissions of Deputies Buckley and Shields, were pursuant to the following customs, policies, practices, and/or procedures of the CCCSO and/or the County of Contra Costa, which were directed, encouraged, allowed, and/or ratified by Doe Defendants 1–10 and other policy-making officers for the County of Contra Costa and the CCCSO:

- a. To unlawfully enter private property and homes without a warrant and without other legal basis, including training and permitting officers to do so based on non-existent “exceptions” to the Fourth Amendment;
- b. To tolerate the use of excessive and/or unjustified force;
- c. To permit or tolerate law-enforcement actions—including uses of force, seizures, searches, issuance of criminal citations or use of unnecessarily harsh and aggressive tactics—in retaliation for individuals’ exercise of protected rights;
- d. To cover-up violations of constitutional rights by any or all of the following:
 - i. by failing to properly investigate and/or evaluate complaints or incidents of excessive and unreasonable force, and unlawful seizures;
 - ii. by ignoring and/or failing to properly and adequately investigate and discipline unconstitutional law-enforcement activity; and
 - iii. by allowing, creating, tolerating, and/or encouraging law-enforcement officers to: fail to file complete and accurate police reports; file false police reports; substantively copy other officers’ 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;

- e. to allow, tolerate, and/or encourage a “code of silence” among law-enforcement officers and CCCSO’s personnel, whereby an officer or member of the department does not provide adverse information against a fellow officer or member of the department;
- f. 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 subparagraphs (a) through (e), 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
- g. 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.

99. Defendants County of Contra Costa and Doe Defendants 1–10 failed to properly hire, train, instruct, monitor, supervise, evaluate, investigate, and discipline Deputies Buckley and Shields, with deliberate indifference to Plaintiffs’ constitutional rights, which were thereby violated as described above.

100. The unconstitutional actions and/or omissions of Defendants, as described above, were approved, tolerated and/or ratified by Doe Defendants 1–10 and other policy-making officers for the CCCSO. Plaintiffs are informed and believe, and thereupon allege, that the details of this incident have been revealed to the authorized policy makers within the County of Contra Costa, and Plaintiffs are further informed and believe, and thereupon allege, that such policymakers have direct knowledge of the facts of this incident. Notwithstanding this knowledge, the authorized policy makers within the County of Contra Costa have approved of the conduct of Defendants, and they have made a deliberate choice to endorse the decisions of those Defendants and the basis for those

1 decisions. By doing so, the authorized policy makers of the County of Contra Costa have shown
 2 affirmative agreement with each individual Defendant officer's actions and have ratified the
 3 unconstitutional acts of the individual Defendant officers.

4 101. The aforementioned customs, policies, practices, and procedures; the failures to
 5 properly and adequately hire, train, instruct, monitor, supervise, evaluate, investigate, and
 6 discipline; as well as the unconstitutional orders, approvals, ratification and toleration of wrongful
 7 conduct of defendants County of Contra Costa and Doe Defendants 1-10 were a moving force
 8 and/or a proximate cause of the deprivations of Plaintiffs' clearly established and well-settled
 9 constitutional rights in violation of 42 U.S.C. §1983, as more fully set forth in ¶¶ 91–95, above, and
 10 punitive damages against DOES 1–10 in their individual capacities. Plaintiffs do not seek punitive
 11 damages against Contra Costa County.

12
 13 **COUNT THREE**
 14 **—VIOLATION OF CIVIL CODE § 52.1—**
 15 **PLAINTIFFS AGAINST DEFENDANTS BUCKLEY AND SHIELDS**

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

18 103. By their acts, omissions, customs, and policies, Deputies Buckley and Shields, acting
 19 in concert/conspiracy, as described above, violated Plaintiffs' rights under California Civil Code §
 20 52.1, and the following clearly established rights under the United States Constitution and the
 21 California Constitution:

- 22 a. The right to be free from government entry of home without probable cause and a
 23 warrant as secured by the Fourth Amendment to the U.S. Constitution;
- 24 b. The right to be secure in one's person, house, papers, and effects against
 25 unreasonable searches and seizures as secured by the Fourth Amendment to the U.S.
 26 Constitution;
- 27 c. The right to be free from an unreasonable seizure, as secured by the Fourth
 28 Amendment to the U.S. Constitution;

- d. The right to be free from excessive and unreasonable force in the course of a seizure as secured by the Fourth Amendment to the U.S. Constitution;
- e. The right to be free from government retaliation for protected speech in exercise of Constitutional rights, as secured by the First Amendment of the U.S. Constitution;
- f. 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, § 1;
- g. The right to protection from bodily restraint, harm, or personal insult, as secured by California Civil Code § 43.

104. Separate from, and above and beyond, Defendants' attempted interference, interference with, and violation of Plaintiffs' rights, Defendants violated Plaintiffs' rights by the following conduct constituting threats, intimidation, or coercion:

- a. Interfering with Plaintiffs' right to be free of government entry of their home without a warrant or other legal right, in violation of the Fourth Amendment, by forcibly opening the closed, grated-metal security door to 18 Sapone Lane;
- b. Unlawfully entering Plaintiffs' home without a warrant or legal right;
- c. Pointing guns at Mr. Thomas, and forcing him onto his own kitchen floor;
- d. Applying painful control holds, including wrist locks; placement of body-weight via a knee on the back of Mr. Thomas' neck; and a leg-sweep takedown while he was already handcuffed, the latter a level of force sufficient to cause serious injuries, and which caused injuries, in the absence of any threat posed by Mr. Thomas, or other substantial governmental need for such force;
- e. Continuing Mr. Thomas' detention, arrest, and custody long after the lack of legal basis to do so was or should have been obvious to defendants, such that their conduct became intentionally coercive and wrongful;
- f. Subjecting Mr. Thomas to retaliation, including a leg-sweep takedown while he was handcuffed, for his protected activity of criticizing the police;
- g. Subjecting Ms. Malone-McFarland to retaliation, including forcibly moving her, grabbing the cell phone she was holding, and blocking her view, for attempting to video-record the incident, a protected activity;
- h. Violating Mr. Thomas' rights to be free from multiple unlawful searches and seizures, including by wrongful entry to his home, wrongful arrest, and excessive force. *See Bender v. Cnty. of Los Angeles*, 217 Cal. App. 4th 968 (2013).

105. As a direct and proximate result of Defendants' violation of California Civil Code

§52.1 and of Plaintiffs' rights under the United States and California Constitutions and law, Plaintiffs sustained injuries and damages, and against each and every Defendant are entitled to relief as set forth above at ¶ 88, and punitive damages against Defendant law-enforcement officers in their individual capacities, and all damages allowed by California Civil Code §§ 52, 52.1, and California law, not limited to three times actual damages, costs, attorneys' fees, and civil penalties.

COUNT FOUR
—NEGLIGENCE; PERSONAL INJURIES—
PLAINTIFFS AGAINST ALL DEFENDANTS

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

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

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

109. 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 Mr. Thomas;
- b. to refrain from causing Mr. Thomas to be wrongfully arrested and/or detained;
- c. to refrain from unlawfully entering and searching Plaintiffs' home;
- 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 violating Plaintiffs' rights guaranteed by the United States and California Constitutions, as set forth above, and as otherwise protected by law.

110. Additionally, these general duties of reasonable care and due care owed to Plaintiffs by the County of Contra Costa and DOE Defendants 1–10 include, but are not limited to, the following specific obligations:

- a. to properly and adequately hire, investigate, train, supervise, monitor, evaluate, and discipline CCCSO 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;
- b. to make, enforce, and at all times act in conformance with policies and customs on behalf of the CCCSO 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 ¶ 98, above.

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

112. 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 ¶ 88, and punitive damages against all defendant law-enforcement officers under California law. For this claim, the County of Contra Costa is vicariously liable for the conduct of its employees and agents pursuant to Cal. Gov. Code § 815.2.

COUNT FIVE
—ASSAULT AND BATTERY—
PLAINTIFFS AGAINST DEFENDANTS BUCKLEY AND SHIELDS, AND COUNTY

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

114. Deputies Buckley and Shields offensively touched Mr. Thomas, including subjecting him to painful control holds, while he was behaving lawfully.

115. Deputy Shields offensively touched Ms. Malone-McFarland while she was lawfully trying to video record Deputy Buckley’s actions towards Mr. Thomas.

116. This conduct as described herein constitutes assault and battery.

117. 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.

118. As a direct and proximate result of these Defendants' assault and battery, Plaintiffs sustained injuries and damages and are entitled to relief as set forth above at ¶ 88, and punitive damages against Deputies Buckley, Shields, and Doe Defendants 1–10 under California law. For this claim, the County of Contra Costa is vicariously liable for the conduct of its employees and agents pursuant to Cal. Gov. Code § 815.2.

COUNT SIX
—FALSE ARREST OR IMPRISONMENT—
PLAINTIFFS AGAINST DEFENDANTS BUCKLEY AND SHIELDS, AND COUNTY

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

120. At no time during the events described above, or at all other pertinent times, did Defendants have a warrant for Mr. Thomas' arrest, nor did Defendants have any facts or information that constituted reasonable suspicion or probable cause that Mr. Thomas had committed or was about to commit a crime.

121. At no time during the events described above, or at all other pertinent times, did Defendants have reasonable suspicion or probable cause to detain or to arrest Ms. Malone-McFarland.

122. Defendants, and each of them, intentionally and unlawfully exercised force to restrain, detain, and confine Plaintiffs, putting restraint on Plaintiffs' freedom of movement, and compelled Plaintiffs to remain and/or move against their will. Defendants authorized, directed, and assisted in procuring, without process, Ms. Malone-McFarland's and Mr. Thomas' false arrests.

123. As a direct and proximate result of Defendants' acts and/or omissions as set forth

above, Plaintiffs sustained injuries and damages and are entitled to relief as set forth at ¶ 88, including punitive damages against all individual defendant law-enforcement officers under California law.

WHEREFORE, Plaintiffs respectfully request the following relief against each and every Defendant herein, jointly and severally:

- a. compensatory and exemplary damages in an amount according to proof and which is fair, just, and reasonable;
- b. punitive damages under 42 U.S.C. § 1983 and California law in an amount according to proof and which is fair, just, and reasonable (against all defendants except County of Contra Costa);
- c. All other damages, penalties, costs, interest, and attorneys' fees as allowed by 42 U.S.C. §§ 1983, and 1988; Cal. Code Civ. Proc. § 1021.5; Cal. Civil Code § 52 et seq., 52.1, and as otherwise may be allowed by California and/or federal law;
- d. Injunctive relief, including but not limited to the following:
 - i. An order prohibiting Defendant County of Contra Costa from engaging in the unconstitutional customs, policies, practices, procedures, training and supervision as may be determined and/or adjudged by this case;
 - ii. An order prohibiting Defendants and their law-enforcement officers from engaging in the "code of silence" as may be supported by the evidence in this case;
- e. Such other and further relief as presented by the evidence in this case and as this Court may deem appropriate.

DATED: December 10, 2019

HELM LAW OFFICE, PC

/s/ T. Kennedy Helm, IV

T. KENNEDY HELM, IV
Attorney for Plaintiffs

JURY DEMAND

1 Plaintiffs hereby request a trial by jury.

2 DATED: December 10, 2019

HELM LAW OFFICE, PC

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4 /s/ T. Kennedy Helm, IV

5 T. KENNEDY HELM, IV
6 Attorney for Plaintiffs
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CIVIL COVER SHEET

The JS-CAND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
Eddie Thomas and Dejanae Marshay Malone-McFarland

(b) County of Residence of First Listed Plaintiff Contra Costa County
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
T. Kennedy Helm, IV; Helm Law Office, PC; 644 40th Street;
Suite 305; Oakland, CA 94609; (510) 350-7517

DEFENDANTS
Contra Costa County, a public entity; Contra Costa County Sheriff's Deputies
Matthew A. Buckley, Thomas C. Shields; and Does 1-10, Jointly and Severally

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
 THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)

☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

| | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

| CONTRACT | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES | |
|---|---|---|---|---|--|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment Of Veteran's Benefits <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury -Medical Malpractice CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities-- Employment <input type="checkbox"/> 446 Amer. w/Disabilities--Other <input type="checkbox"/> 448 Education | PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury -- Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability PRISONER PETITIONS HABEAS CORPUS <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty OTHER <input checked="" type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee-- Conditions of Confinement | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC § 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 422 Appeal 28 USC § 158 <input type="checkbox"/> 423 Withdrawal 28 USC § 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent--Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS--Third Party 26 USC § 7609 | <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC § 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/ Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes |

V. ORIGIN (Place an "X" in One Box Only)
☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation--Transfer ☐ 8 Multidistrict Litigation--Direct File

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. Sections 1983 and 1988.
Brief description of cause:
Violation of First and Fourth Amendment Rights by unreasonable seizure after warrantless entry of home.

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S), IF ANY (See instructions): JUDGE DOCKET NUMBER

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)
(Place an "X" in One Box Only) ☒ SAN FRANCISCO/OAKLAND ☐ SAN JOSE ☐ EUREKA-MCKINLEYVILLE

DATE 12/10/2019 SIGNATURE OF ATTORNEY OF RECORD /s/ T. Kennedy Helm, IV