

1 Pedram Esfandiary (SBN: 312569)  
2 [pesfandiary@baumhedlundlaw.com](mailto:pesfandiary@baumhedlundlaw.com)  
3 Monique Alarcon, Esq. (SBN: 311650)  
4 [malarcon@baumhedlundlaw.com](mailto:malarcon@baumhedlundlaw.com)  
5 Timothy A. Loranger, Esq. (225422)  
6 [tloranger@baumhedlundlaw.com](mailto:tloranger@baumhedlundlaw.com)  
7 Ronald M. Goldman, Esq. (SBN: 33422)  
8 [rgoldman@baumhedlundlaw.com](mailto:rgoldman@baumhedlundlaw.com)

**BAUM HEDLUND, ARISTEI, &  
GOLDMAN, P.C.**

9 10940 Wilshire Blvd., Suite 1600  
10 Los Angeles, CA 90024  
11 Telephone: (310) 207-3233  
12 Facsimile: (310) 820-7444

*Attorneys for Plaintiff*

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

16 ISAAC CASTELLANOS,

17 Plaintiff

18 v.

19 CITY OF LOS ANGELES; CHIEF  
20 MICHEL MOORE; and DOES 1-10  
21 inclusive,

22 Defendants.

**CASE NO. 22-CV-1165**

**CIVIL RIGHTS COMPLAINT**

42 U.S.C. § 1983: FIRST, FOURTH, &  
FOURTEENTH AMENDMENTS;  
CAL. CONST. ARTICLE I, §§ 2, 3, 13;  
CAL. CIV. CODE §§ 52.1;  
COMMON LAW TORT CLAIMS

**JURY TRIAL DEMANDED**

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1 **INTRODUCTION**

2 1. This action arises out of the Los Angeles Police Department’s (LAPD)  
3 unlawful use of force against plaintiff, Isaac Castellanos, during an impromptu  
4 celebration of the Los Angeles Dodgers’ 2020 World Series Championship celebration  
5 in Downtown Los Angeles.

6 2. Plaintiff, his friends, and hundreds of other Angelenos and Dodger fans  
7 gathered near the Crypto.com arena (formerly known as the Staples Center) to gather  
8 and celebrate the Los Angeles Dodgers’ clinching the 2020 World Series  
9 Championship title. Plaintiff’s participation in the peaceful exercise of freedom of  
10 speech and assembly on the night of October 27, 2020 and into the early morning  
11 hours of October 28, 2020, turned into a violent nightmare due to the escalatory and  
12 dangerous crowd control tactics employed by the City of Los Angeles—through the  
13 LAPD and under the direction of Chief Michel Moore—resulting in plaintiff suffering  
14 severe permanent injury to his right eye following the LAPD’s unprovoked use of so-  
15 called “less lethal” projectiles.<sup>1</sup>

16 3. Defendants’ improper and unlawful crowd control tactics violated  
17 plaintiff’s rights under the U.S. and California Constitutions, as well as plaintiff’s  
18 statutory and common law rights. Accordingly, this lawsuit seeks to hold defendants,  
19 and each of them, accountable for plaintiff’s life-altering injuries and to put an end to  
20 each defendants’ unconstitutional conduct.

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<sup>1</sup> A 2017 review published by the British Medical Journal (“BMJ”) examined 26 papers on rubber bullet injuries, covering a total of 1,984 injuries. *See* Haar, R., et al., *Death, Injury and Disability From Kinetic Impact Projectiles in Crowd-Control Settings: A Systematic Review* 7 BMJ OPEN 1-9 (2017), available at: <https://bmjopen.bmj.com/content/bmjopen/7/12/e018154.full.pdf>. The review found that 300 of those injuries resulted in permanent disabilities, especially if the bullet struck the head or neck. *Id.* at 1. Within this group, 53 people (3%) died from rubber-bullet related injuries. *Id.*

1 **JURISDICTION AND VENUE**

2 4. This case is brought pursuant to 42 U.S.C. §§ 1983. Jurisdiction is  
3 conferred on this Court based upon 28 U.S.C. §§ 1331 and 1343. This Court also has  
4 supplemental jurisdiction over plaintiff’s state law claims and over defendants  
5 pursuant to 42 U.S.C. § 1367.

6 5. This Court has the authority to grant the requested declaratory and  
7 injunctive relief pursuant to 28 U.S.C. §§ 2201 and 2202, as well as Federal Rules of  
8 Civil Procedure 57 and 65, including pursuant to the Court’s inherent equitable  
9 powers.

10 6. Venue is proper within the Central District of California pursuant to 28  
11 U.S.C. § 1391(b)(1) and (2) because all defendants reside within this district and the  
12 events and omissions giving rise to plaintiff’s claims occurred within this district.

13 **PARTIES**

14 **I. Plaintiff**

15 7. Plaintiff **Isaac Castellanos** (“plaintiff”), at the time of the incident, was a  
16 22-year-old college student and professional esports athlete and streamer. Plaintiff is,  
17 and at all times material hereto was, a resident of Los Angeles County.

18 **II. Defendants**

19 8. Defendant **City of Los Angeles** (“City”) is a municipal corporation duly  
20 organized and existing under the Constitution and laws of the State of California. The  
21 Los Angeles Police Department (“LAPD”) is a local government entity and an agency  
22 of the City, and all actions of the LAPD are the legal responsibility of the City. The  
23 City is charged by law with the administration and operation of the LAPD, including  
24 the employment, control, supervision, discipline, training, and practices of LAPD’s  
25 personnel and employees, and with the formulation of its policies, practices, and  
26 customs of LAPD’s personnel and employees. The City is sued in its own right on the  
27 basis of its policies, customs, and practices which gave rise to plaintiff’s federal rights  
28

1 claims, as well as on the basis of *respondent superior*, under California Government  
2 Code § 815.2, for plaintiff's state law claims.

3 9. Defendant **Chief Michel Moore** ("Chief Moore") is, and at all times  
4 material hereto was, the LAPD police chief and a policymaker for his department.  
5 Chief Moore had notice of the LAPD's inadequate policies concerning use of less lethal  
6 projectiles in crowd control settings, and the LAPD's failure to adequately train each  
7 of its sworn personnel who was equipped with a less lethal weapon when responding  
8 to the incident where plaintiff was injured. Despite having notice of the City's  
9 inadequate policies, and its failure to train its employees, Chief Moore allowed the  
10 LAPD command staff, for which he is responsible, to respond with escalatory crowd  
11 control tactics and indiscriminate use of LLMs to a crowd of largely peaceful  
12 demonstrators. Chief Moore is sued in both his individual and official capacities.

13 10. The identities, capacities, and/or nature of involvement of the defendants  
14 sued as **DOES 1 through 10** are presently unknown to plaintiff who therefore sues  
15 these defendants by fictitious names. Plaintiff is informed, believes, and thereupon  
16 alleges that DOES 1 through 10 include individual LAPD personnel that were involved  
17 in some manner and are legally responsible for the wrongful acts and conduct alleged  
18 herein, including by authorizing and/or deploying the LLMs that injured plaintiff.  
19 Plaintiff will amend this complaint to substitute the Doe defendants' true names and  
20 capacities when they have been ascertained. Plaintiff is informed, believes, and  
21 thereupon alleges that each Doe defendant is a resident of California.

22 11. Each of the defendants, including the Doe defendants, caused, and is  
23 responsible for, the unlawful conduct and resulting injuries suffered by plaintiff by,  
24 among other things, personally participating in the unlawful conduct, acting jointly, or  
25 conspiring with others who did so; by ordering, authorizing, acquiescing in, or setting  
26 in motion policies, plans, or actions that led to the unlawful conduct, by failing to take  
27 action to prevent the unlawful conduct; by failing and refusing to initiate and maintain  
28 adequate training and supervision; by failing to enact policies to address the

1 constitutional rights of individuals peacefully assembled, despite the obvious need for  
2 such a policy; and by ratifying the unlawful conduct that occurred by agents and  
3 officers under their direction and control, including failing to take remedial or  
4 disciplinary action.

5 12. Plaintiff is informed, believes, and thereupon alleges that, at all times  
6 relevant hereto, defendants, and each of them, acted as the agents, servants, and  
7 employees of each of the other defendants.

8 13. In doing each of the acts and/or omissions alleged herein, defendants, and  
9 each of them, acted within the course and scope of their employment.

10 14. In doing each of the acts and/or omissions alleged herein, defendants, and  
11 each of them, acted under color of authority and/or under the color of law.

## 12 **FACTS**

### 13 **I. The LAPD's History of Violently Responding to Large Demonstrations**

14 15. The LAPD has a solemn history of violently responding to large  
15 demonstrations within the City. Whether individuals gather to protest police violence,  
16 to engage in political speech, or to celebrate a Los Angeles sports team's victory, the  
17 LAPD's inadequate policies on the use of so-called "less lethal munitions" (LLMs)  
18 and crowd control tactics have directly contributed to disastrous and tragic injuries of  
19 individuals who are peacefully assembled at large demonstrations.

20 16. "Less lethal" weapons are a deceptively monikered group of arms utilized  
21 by law enforcement for crowd control, ostensibly without the intention to cause death.  
22 Although such weapons are *less* likely to kill their target than are conventional  
23 weapons such as firearms shooting live ammunition, their use and misuse can result in  
24 serious and permanent bodily harm and have also caused death.<sup>2</sup>

25  
26 <sup>2</sup> See United Nations Public Order Management, *Less Than Lethal Weapons* (UN Peacekeeping PDT  
27 Standards for Formed Police Units, 1<sup>st</sup> Edn. 2015), available at:  
28 <http://repository.un.org/bitstream/handle/11176/387390/Less%20Than%20Lethal%20Weapons.pdf#page=7>. LLMs include rubber bullets; rubber buckshot; soft polymer rounds; wax bullets; plastic bullets; beanbag rounds; sponge grenades; ring airfoil projectiles (both kinetic and tear gas projectiles); and rubber bullets with electroshock effect (e.g. Taser XREP rounds).

1           17.     The City has a long, troubled history of employing unlawful crowd  
2 control tactics in response to protests.<sup>3</sup> Over the course of the last several decades, the  
3 City has been sued repeatedly for much of the same conduct challenged herein,  
4 including excessive force with LLMs. These lawsuits have involved the Democratic  
5 National Convention (2000), MacArthur Park (2007), and Occupy LA (2011).

6           18.     Following the in-custody death of George Floyd in Minneapolis,  
7 Minnesota, protests began in the City of Los Angeles on May 27, 2020 and continued  
8 for several weeks thereafter. While many protests were peaceful, some erupted in  
9 violence which was caused by small groups of individuals. In response to these largely  
10 peaceful demonstrations, however, the LAPD responded by indiscriminately firing less  
11 lethal munitions into large crowds of mostly peaceful protesters. Many LAPD officers  
12 who were permitted to fire less lethal weapon systems such as the 40mm, 37mm, and  
13 beanbag shotguns had received insufficient training on these weapons and received no  
14 specific training on the use of the 40mm and beanbag shotguns during crowd control  
15 settings. As a result, many peaceful demonstrators were severely injured by these  
16 weapon systems that the LAPD during the George Floyd protests.

17           19.     This excessive and unlawful use of force against individuals gathered at  
18 mass gatherings is a deliberate, first-line tactic which is embedded in the institutional  
19 culture of the LAPD.

20 **II.     Plaintiff Is Severely Injured By LLMs While Celebrating the Dodgers’**  
21 **World Serious Championship Victory**

22           20.     On the night of October 27, 2020, the Los Angeles Dodgers won the  
23 World Series Championship, bringing Dodger fans of all ages to celebrate in the streets  
24 of the City of Los Angeles. Plaintiff, Isaac Castellanos, and his friends joined other  
25 fans, including families with young children, in an impromptu celebration near the  
26 Crypto.com arena (formerly known as the Staples Center) in Downtown Los Angeles.

27  
28 <sup>3</sup> See *LAPD Violence Against George Floyd Protests Erodes A Decade of Reforms* (LA TIMES, June  
14, 2020), available at: <https://www.latimes.com/california/story/2020-06-14/lapd-protest-history-criticism-heavy-tactics>



1           21. Just past midnight on October 28, 2020, at approximately 1:00 a.m., Mr.  
2 Castellanos and his friends were peacefully standing near the intersection of W. 11th  
3 Street and Hope Street, approximately two blocks east of Crypto.com arena. The  
4 majority of those in attendance were peacefully celebrating, like plaintiff and his  
5 friends.

6           22. Suddenly, plaintiff saw LAPD officers approach the crowd in the  
7 distance. As LAPD officers advanced toward the crowd, plaintiff heard weapons  
8 being fired and hundreds of people began screaming while running away from the  
9 LAPD officers. As the crowd ran away, plaintiff turned back to account for his  
10 friends, when he noticed some of them were already running with the crowd and away  
11 from officers.

12           23. When plaintiff briefly turned in the direction of the officers to grab one of  
13 his other friends and leave, he was struck in his right eye by a “less lethal” munition  
14 fired by an unidentified LAPD officer who was approximately 60-90 feet away from  
15 plaintiff. Immediately after being shot in the eye, plaintiff felt excruciating pain and  
16 experienced a loss of vision.

17           24. Plaintiff and his friend immediately left the area, fearing that they would  
18 be hit by additional LLMs that the LAPD officers were indiscriminately shooting  
19 towards the crowd.

20           25. At no time did plaintiff present a threat of danger, violence, or self-harm.  
21 And at no time did plaintiff hear the LAPD issue an order to disperse or leave the area.

22           26. Plaintiff’s father transported him to the emergency room at approximately  
23 3:00 a.m. on October 28, 2020. He was treated for a traumatic injury to his eye with  
24 central loss of vision and persistent mydriasis (dilated pupils).

25           27. After numerous follow up visits with various specialists, in January 2021,  
26 plaintiff was informed that his central loss of vision and persistent mydriasis were  
27 permanent due to the trauma from being struck in the eye with an LLM.  
28



1 spaces, and the LAPD officers' actions were the result of the City's custom, policy, or  
2 practice of failing to train its employees. The City has failed to inadequately  
3 supervise, instruct, and discipline its officers for their response to peaceful  
4 demonstrations and mass gatherings. The City has condoned the constitutional  
5 violations and abuses that are the subject of this action and has thereby encouraged and  
6 ratified such conduct.

7 34. The LAPD engaged in violations of law, as outlined above, by interfering  
8 with the exercise of protected speech through the use of indiscriminate and excessive  
9 and unreasonable force against plaintiff. The excessive and unreasonable force  
10 inflicted upon plaintiff by the LAPD occurred through the use of LLMs while plaintiff  
11 was peacefully assembled on October 28, 2020.

12 35. Specifically, the Doe officers fired LLMs at plaintiff, thereby causing  
13 severe and permanent physical injuries. Plaintiff alleges, on information and belief,  
14 that the use of LLMs by the LAPD Doe officers was authorized by LAPD Doe incident  
15 commanders and ratified by Chief Moore.

16 36. In conjunction with the City's long history of mass demonstration-related  
17 constitutional violations as alleged in this Complaint, each of the defendants' repeated  
18 unlawful acts on October 28, 2020, constitute a *de facto* policy, practice, and/or custom  
19 of violating constitutional rights of individuals gathered at peaceful demonstrations,  
20 including the constitutional rights of plaintiff. Such policy, practice, and/or custom  
21 was the direct and proximate cause of plaintiff's injuries.

22 37. As Chief of the LAPD, Defendant Chief Moore was fully knowledgeable  
23 and apprised of these actions and, upon information and belief, had notice of the  
24 LAPD's inadequate policies concerning use of less lethal projectiles in crowd control  
25 settings, and the LAPD's failure to adequately train each of its sworn personnel who  
26 was equipped with a less lethal weapon when responding to the incident where  
27 plaintiff was injured. Despite having notice of the City's inadequate policies, and its  
28 failure to train its employees, Chief Moore allowed the LAPD command staff, for

1 which he is responsible, to respond with escalatory crowd control tactics and  
2 indiscriminate use of LLMs to a crowd of largely peaceful celebrants.

3 38. To the extent he did not make the decision and approve the plan himself,  
4 Chief Moore delegated responsibility and authority to persons within his command  
5 staff to act as the final policy maker in determining the response to the October 28,  
6 2020, assembly in the downtown area.

7 39. The City has failed to train its officers in the appropriate constitutional  
8 responses to peaceful demonstrations. Specifically, the City failed to provide adequate  
9 training for: 1) proper crowd control and dispersal methods; and 2) proper use of  
10 LLMs in crowd control tactics.

11 40. Upon information and belief, the City maintains policies, including the  
12 routine use of tactics, that are escalatory by nature, including the use of rubber bullets,  
13 riot gear, and other LLMs at demonstrations and protests for crowd control purposes,  
14 thereby placing individuals such as plaintiff at risk of serious injury.

15 41. The rights of plaintiff that were violated in the instant matter were clearly  
16 established long before the incident on October 28, 2020.

17 42. Upon information and belief, the City participates in the California  
18 Commission on Peace Officer Standards and Training (“POST”). As participating  
19 agencies, the City agrees to abide by the standards established by POST. The LAPD’s  
20 conduct, as alleged herein, failed to comply with POST guidelines on crowd  
21 management, intervention, and control.

22 43. The need for training and discipline to enforce constitutional guarantees in  
23 peaceful mass gatherings is obvious, yet the City has failed to promulgate adequate  
24 policies in accordance with federal law and/or to train its command staff and officers  
25 on appropriate policies.

26 44. The City is well aware of its constitutional duties in these circumstances  
27 in light of the settlement agreements and consent judgments discussed below in  
28 *National Lawyers Guild v. City of Los Angeles* and *Multi-Ethnic Worker Organizing*

1 *Network v. City of Los Angeles. City of Los Angeles*, as well as other settlements  
2 entered into specifying these constitutional duties over the years. Indeed, in May  
3 2020, a federal district court judge entered a final judgment against the City of Los  
4 Angeles in a class action settlement involving the City’s unconstitutional crowd  
5 control tactics during protests following the Ferguson Grand Jury decision not to indict  
6 the officer who shot and killed Michael Brown. *See Charmaine Chua, et al. v. City of*  
7 *Los Angeles, et al.*, 2:16-CV-00237 (C.D. Cal. 2020).

8 45. The City has known of the deficiencies in the training of its officers in  
9 such circumstances since at least 2000 and entered into a settlement agreement in June  
10 2005 and June 2009, each time agreeing to revise its policies and training, yet the City  
11 has failed to promulgate adequate policies effectuating the terms of the settlement  
12 agreement and/or to train its command staff and officers on the revised policies, if any  
13 exist.

14 **I. The Settlement in *National Lawyers Guild v. City of Los Angeles***

15 46. In June 2005, the City of Los Angeles entered into a settlement agreement  
16 in *National Lawyers Guild, et al. v. City of Los Angeles, et al.*, CV 01-6877 FMC  
17 (CWx), an action arising from the disruption of lawful assemblies and use of unlawful  
18 force during the Democratic National Convention (“DNC”) in Los Angeles in 2000  
19 and a subsequent demonstration on October 22, 2000. The settlement provided for  
20 important changes in the policy and practices of the LAPD as applied to  
21 demonstrations.

22 47. Significantly, the settlement addressed the use of LLMs and chemical  
23 irritants to disperse peaceful protesters. Also, the settlement provided that, prior to  
24 declaring an unlawful assembly, the LAPD Incident Commander should evaluate the  
25 feasibility of isolating and arresting those responsible for any unlawful conduct, and if  
26 feasible, take action only against those individuals.

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28 //

1 **II. The Settlement in *Multi-Ethnic Worker Organizing Network v. City of Los***  
2 ***Angeles* (“MIWON”)**

3 48. On May 1, 2007 (“May Day”), the LAPD assaulted a peaceful, permitted  
4 immigration march in the MacArthur Park area of Los Angeles. Like here, the attack  
5 on demonstrators was without warning. No dispersal order was given until more than  
6 three minutes into the police action and, even then, the dispersal order was grossly  
7 inadequate, given from helicopters in English to a largely Spanish-speaking assembly.  
8 During the course of litigating the *MIWON* action, the LAPD conceded that it had not  
9 fully implemented training and policy orders regarding the *NLG* settlement two years  
10 earlier. In fact, no policy changes were ever finalized.

11 49. On June 24, 2009, the federal district court approved and entered a  
12 Structural Relief Order as part of the settlement of the class action lawsuit brought on  
13 behalf of all those subjected to the LAPD’s May Day action.

14 50. In a section titled “Use of Less Lethal Weapons”, the Order states:

- 15 a. Less-lethal munitions may be deployed on ***aggressive and/or combative***  
16 ***suspects*** in a crowd control situation, on suspects who are a ***potential***  
17 ***physical threat*** to themselves or others, or suspects displaying  
18 ‘aggressive’ and/or ‘combative’ actions.
- 19 b. For the purpose of deployment of less-lethal munitions, ‘aggressive’  
20 and/or ‘combative’ actions include ongoing destruction of property that  
21 presents a threat to the personal safety of officers or others.
- 22 c. Less lethal weapons should not be used on a lawfully dispersing crowd or  
23 individual.
- 24 d. Less lethal weapons should not be used against a person or a crowd that is  
25 retreating unless the person or crowd continues to engage in unlawful  
26 activity that is aggressive and/or combative.
- 27  
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- 1 e. Where feasible, *notice should be given to the crowd before less lethal*  
2 *weapons are deployed* in a crowd control or dispersal situation, and where  
3 feasible, it should be given in the language(s) spoken by those assembled.  
4 f. If the LAPD resumes the use of stinger rounds, the LAPD will publish a  
5 notice that will require that less-lethal stinger weapons can be used only  
6 with the approval of a staff officer (i.e., commander or above) and only in  
7 a riotous situation where the use of lethal force would not be reasonable.

8 (emphasis added).

9 51. As demonstrated by the LAPD's widespread conduct on the date of this  
10 incident, the conditions authorizing the use of LLMs were not adhered to on October  
11 28, 2020 and plaintiff, who was peacefully assembled to celebrate the Dodgers' World  
12 Series victory, was subjected to unreasonable and excessive force.

13 52. Moreover, the Order set out specific requirements to declare an unlawful  
14 assembly: an amplified loudspeaker system with an officer at the far side of the crowd  
15 to record the officer; if there is no serious violence occurring, the order shall be made  
16 repeatedly over a period of time, including an "objectively reasonable period of time to  
17 disperse and identification of "a clear and safe route" to follow to disperse. The order  
18 should be given so that it is heard by the entire crowd. These requirements were not  
19 met in this instance at the location where plaintiff was present and where he was  
20 injured. At no time did plaintiff receive a dispersal order or warning prior to being  
21 shot and injured.

22 53. The terms of the *MIWON* structural relief agreement were to be included  
23 in the LAPD's Crowd Control and Use of Force Manuals and every officer at the rank  
24 of Sergeant I and above, as well as the entire Metropolitan Division, were to undergo  
25 training every two years. On information and belief, Chief Moore, as well as those  
26 members of his command staff to whom he has delegated his responsibility to enact  
27 and implement lawful policies for responding to demonstrations, are aware of the  
28

1 unlawful policies, practices, and customs of the City and the LAPD which resulted in  
2 the settlement in *National Lawyers Guild v. City of Los Angeles* in June 2005.

3 54. Moreover, Chief Moore and his delegated command staff were at all  
4 relevant times aware that the use of unlawful or inadequate dispersal orders and LLMs  
5 to respond to large demonstrations, made up of non-violent demonstrators, is a routine  
6 practice of the LAPD, and thus, it was critical for leadership to ensure that official  
7 policy was implemented in a manner sufficient to protect the rights of those peacefully  
8 assembled in public streets. The City and Chief Moore's failure to take these  
9 necessary steps directly and proximately led to the injuries suffered by plaintiff in the  
10 instant matter. This failure amounted to an acquiescence in the constitutional  
11 deprivations alleged herein and deliberate indifference to plaintiff's constitutional  
12 rights.

### 13 **III. The Summer of Protests Following George Floyd's Death**

14 55. Following the in-custody death of George Floyd in Minneapolis,  
15 Minnesota, protests began in the City of Los Angeles on May 27, 2020 and continued  
16 for several weeks thereafter. In response to these largely peaceful demonstrations,  
17 however, the LAPD responded by indiscriminately firing less lethal munitions into  
18 large crowds of mostly peaceful protesters.

19 56. Dozens of individuals suffered serious injuries (many resulting in  
20 hospitalization) due to the LAPD's use of LLMs at mass demonstrations.<sup>4</sup>

21 57. On June 5, 2020, a class action lawsuit was filed against the City for its  
22 unconstitutional response to the George Floyd protests, including, *inter alia*, the  
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27 <sup>4</sup> See *LAPD's use of batons, other weapons violates rules, significantly injuring protesters, Times*  
28 *review finds* (LA TIMES, June 11, 2020), available at:  
<https://www.latimes.com/california/story/2020-06-11/lapd-violated-protocols-for-batons-and-less-lethal-bullets-injuring-many-protesters>



1 indiscriminate use of LLMs on large demonstrations by LAPD officers who received  
2 inadequate training.<sup>5</sup>

3 58. An independent examination of the LAPD's response to the George Floyd  
4 protests, which was commissioned by the City Council, revealed serious longstanding  
5 problems with the LAPD's response to large demonstrations, including its failure to  
6 provide officers recurring certification and training on the use of 40mm less lethal  
7 weapons and failure to provide training on how to use 40mm weapons during crowd  
8 control situations.

#### 9 **IV. LAPD's Use of LLMs at Large Gatherings After the George Floyd Protests**

10 59. Following the weeks of protests related to the murder of George Floyd,  
11 the LAPD continued to improperly use LLMs on individuals gathered at mass  
12 demonstrations.

13 60. In August 2020, the LAPD responded to an anti-Trump protest in the  
14 Tujunga neighborhood of the City. While standing approximately three feet away  
15 from protesters, an LAPD officer fired an LLM at a woman, striking her on her chest  
16 at close range, and leaving her with a severe injury to her breast that requires  
17 reconstructive surgery.

18 61. On August 26, 2020, at the 3rd Street tunnel in Downtown Los Angeles,  
19 the LAPD fired LLMs at persons protesting the police shooting of Jacob Blake in  
20 Kenosha, Wisconsin, injuring several protesters.

21 62. On October 11, 2020, the Los Angeles Lakers secured the NBA  
22 Championship title, causing Angelenos to gather in an impromptu celebration outside  
23 of the formerly known Staples Center. While most individuals who gathered were  
24 peacefully celebrating in the public street and sidewalks, some individuals were  
25 disruptive. Once again, the LAPD responded by indiscriminately firing LLMs into the  
26 largely peaceful crowd of individuals assembled to celebrate the Lakers' win.

27  
28 <sup>5</sup> See, e.g., *LAPD Sued by Black Lives Matter-LA in Federal Court Over Mass Detention* (LA DAILY NEWS, June 5, 2020), available at: <https://www.dailynews.com/2020/06/05/lapd-sued-by-black-lives-matter-la-in-federal-court-over-mass-detention/>

1           63. During the Lakers celebration, one man was struck in the eye with an  
2 LLM, shattering his eye socket and causing his eye to “explode.”<sup>6</sup> A part-time  
3 photographer lost eight teeth and part of his lip when a projectile struck him in the  
4 mouth. A third man who was standing away from the larger crowd was also struck in  
5 the face and suffered a fractured facial bone.

6           64. On October 28, 2020, the LAPD similarly responded to the Dodgers’  
7 World Series celebration by indiscriminately firing LLMs at individuals within the  
8 crowd who were peacefully assembled, this time severely injuring plaintiff as  
9 described herein.

10           65. The LAPD’s unreasonable and excessive force towards individuals  
11 peacefully assembled in City streets during large gatherings is endemic and  
12 perpetuated by the policies, practices, and customs of the LAPD.

13           **PUNITIVE/EXEMPLARY DAMAGES ALLEGATIONS**

14           **(Against individual Defendants Chief Moore and Does 1-10)**

15           66. Each defendant’s conduct as alleged herein was done with reckless  
16 disregard for human life, oppression, and malice. Defendants, and each of them, were  
17 fully aware of the serious and demonstrable risk of serious bodily injury and death  
18 associated with deploying LLMs against peaceful celebrants such as plaintiff, and that  
19 such risks are compounded when used to strike vulnerable and sensitive parts of  
20 plaintiff’s person with rubber bullets—such as his head and stomach. With full  
21 knowledge of such risks, and that the use of LLMs in such circumstances is unlawful,  
22 defendants proceeded to unlawfully fire LLMs at plaintiff and/or recommend,  
23 authorize, and ratify the use of LLMs against plaintiff, all of which resulted in plaintiff  
24 sustaining severe physical, mental and emotional harm.

25  
26  
27 <sup>6</sup> See *One man’s eye ‘exploded,’ another lost eight teeth from LAPD projectiles fired at Lakers*  
28 *revelers* (LA TIMES, Oct. 15, 2020), available at: <https://www.latimes.com/california/story/2020-10-15/lapd-projectiles-gruesome-injuries-lakers-celebration>

1           67. Defendants authorized and executed the unlawful deployment of LLMs  
2 with malice and with the specific intent to injure, debilitate, and incapacitate plaintiff  
3 physically and to deny, impede and constrain plaintiff’s Constitutional rights and  
4 dissuade plaintiff from participating in future mass events.

5           68. The defendant officers and deputies, and each of them, acted with malice  
6 and oppression and with a conscious disregard for plaintiff’s rights, making the  
7 individual defendants, including Does 1-10, liable for punitive damages under  
8 California Civil Code § 3294.

9                           **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

10           69. On June 11, 2020, Plaintiff filed a claim with the City pursuant to Cal.  
11 Gov’t Code § 910 *et seq.* Plaintiff’s government claim was timely, pursuant to  
12 Governor Newsom’s Executive Order N-08-21, which provides that “[c]laims accruing  
13 before June 30, 2021, will remain subject to the 120-day extension granted in the  
14 aforementioned orders.” Executive Order N-08-21 ¶ 7(e). While, under ordinary  
15 circumstances, plaintiff would have only had until April 28, 2021, to present his  
16 government claim to the City, Executive Order N-08-21 granted plaintiff an additional  
17 120 days to file his claim. Thus, plaintiff’s actual deadline to present his claim was  
18 August 26, 2021.

19           70. On September 1, 2021, the City notified plaintiff that his claim was  
20 denied, thereby permitting the filing of this complaint.

21                           **FIRST CAUSE OF ACTION**

22                           **Free Speech and Assembly**

23                           **First & Fourteenth Amendments (42 U.S.C. § 1983);**

24                           **California Constitution, Article I, §§ 2 & 3**

25                           **(Against all Defendants)**

26           71. Plaintiff realleges and incorporates herein by reference each of the  
27 preceding paragraphs of this complaint, and all subsequent paragraphs.  
28

1           72. Upon information and belief, defendants were acting jointly and in  
2 concert in taking the actions alleged.

3           73. Defendants' above-described conduct violated plaintiff's rights to  
4 freedom of speech and assembly under the First Amendment to the United States  
5 Constitution and the analogous provisions of the California Constitution.

6           74. Defendants' actions violated plaintiff's clearly established rights to  
7 freedom of expression and assembly under the First Amendment to the United State  
8 Constitution by prohibiting plaintiff from exercising his constitutional rights to free  
9 speech and expression in a public forum.

10           75. Specifically, defendants inhibited and chilled plaintiff's First Amendment  
11 activity by injuring him with LLMs when plaintiff was engaged in a peaceful mass  
12 gathering at a public forum, celebrating the Los Angeles' Dodgers' World Series  
13 Championship victory. Plaintiff's protected First Amendment activity was a  
14 substantial or motivating factor in defendants' use of force intended to chill plaintiff's  
15 speech.

16           76. As a direct and proximate result of defendants' unlawful conduct, plaintiff  
17 suffered severe and lasting physical injury, mental and emotional distress, and  
18 humiliation, some of which may be permanent, and is entitled to monetary damages for  
19 each of said losses and damages.

20           77. As a further direct and proximate result of the acts and conduct of  
21 defendants, and each of them, as herein alleged, plaintiff has incurred, and on  
22 information and belief, will incur for an indefinite time in the future, medical, hospital  
23 and related expenses, all in a sum presently unascertained, but according to proof at the  
24 time of trial.

25           78. As a further direct and proximate result of the acts and conduct of  
26 defendants, and each of them, as herein alleged, plaintiff has suffered loss of income  
27 and loss of earning capacity, all in a sum presently ascertained, but according to proof  
28 at the time of trial.

1 79. Defendants knew or should have known that prohibiting plaintiff from  
2 exercising his constitutional rights to free speech and expression in a public forum  
3 were clearly established violations of the First Amendment at the time of the incident.

4 80. The defendant officers acted with malice and oppression and with a  
5 conscious disregard for plaintiff's rights, making the individual defendants, including  
6 Does 1-10, liable for punitive damages under California Civil Code § 3294.

7 **SECOND CAUSE OF ACTION**

8 **Unlawful Seizure & Excessive Force**

9 **Fourth & Fourteenth Amendments (42 U.S.C. § 1983);**

10 **California Constitution, Article I, § 13**

11 **(Against all Defendants)**

12 81. Plaintiff realleges and incorporates herein by reference each of the  
13 preceding paragraphs, and all subsequent paragraphs of this Complaint.

14 82. Defendants' above-described conduct violated plaintiff's rights to be free  
15 from unreasonable seizures and excessive force, in violation of the Fourth Amendment  
16 to the United States Constitution and the analogous provisions of the California  
17 Constitution.

18 83. With no lawful basis, reasonable suspicion, probable cause, or warrant,  
19 defendants intentionally and unlawfully seized plaintiff's person by physically  
20 shooting LLMs at plaintiff from a distance of approximately 60-90 feet and striking  
21 plaintiff in the eye. Defendants could not have reasonably believed that plaintiff had  
22 committed or was about to commit any crime or public offense, particularly since  
23 plaintiff was unarmed, non-violent, and simply minding his own business when he was  
24 shot in the eye with LLMs.

25 84. With no lawful basis, reasonable suspicion, probable cause, or warrant,  
26 defendants used excessive a force on plaintiff by unjustifiably firing LLMs at plaintiff  
27 from a distance of approximately 60-90 feet and striking plaintiff in the eye, causing  
28

1 severe physical injury when there was no reason to so restrain a peaceful and law-  
2 abiding individual such as plaintiff.

3 85. Defendants knew or should have known that using excessive force against  
4 plaintiff in this manner and detaining plaintiff without reasonable suspicion or  
5 probable cause was a clearly established violation of the Fourth Amendment at the  
6 time of the incident.

7 86. As a direct and proximate result of defendants' unlawful conduct, plaintiff  
8 suffered severe physical injury, emotional distress, humiliation and is entitled to  
9 monetary damages.

10 87. Plaintiff intends to continue attending and participating in mass public  
11 gatherings and the like in the future but fears further assault and other retaliation by  
12 law enforcement. That fear inhibits plaintiff from participating in these types of mass  
13 gatherings.

14 88. The defendant officers acted with malice and oppression and with a  
15 conscious disregard for plaintiff's rights, making the individual defendants, including  
16 Does 1-10, liable for punitive damages under California Civil Code § 3294.

17 **THIRD CAUSE OF ACTION**

18 **Substantive Due Process**

19 **Fourteenth Amendment (42 U.S.C. § 1983);**

20 **California Constitution, Article I, § 13**

21 **(Against all Defendants)**

22 89. Plaintiff realleges and incorporates herein by reference each of the  
23 preceding paragraphs of this complaint, and any subsequent paragraphs.

24 90. Defendants' above-described conduct violated plaintiff's right to  
25 substantive due process of law, in violation of the Fourteenth Amendment to the  
26 United States Constitution and the analogous provisions of the California Constitution.

27 91. Specifically, defendants' conduct in unjustifiably firing LLMs at plaintiff  
28 and striking plaintiff in the eye, causing severe physical injury, while plaintiff was

1 peacefully celebrating the Los Angeles' Dodgers' World Series Championship victory  
2 was shocking to the conscious, beyond the bounds of acts tolerable in a civilized  
3 society, and so egregious and outrageous that may fairly be said to shock the  
4 contemporary conscience.

5 92. Defendants' conduct in unjustifiably firing LLMs at plaintiff and striking  
6 plaintiff in the eye, causing severe physical injury, while plaintiff was peacefully  
7 attending a sports celebration was maliciously and sadistically done for the very  
8 purpose of causing harm to plaintiff.

9 93. Defendants knew or should have known that using excessive force against  
10 plaintiff in this manner was a clearly established violation of the Fourteenth  
11 Amendment at the time of the incident.

12 94. As a direct and proximate result of defendants' unlawful conduct, plaintiff  
13 suffered severe and permanent physical injury, emotional distress, and humiliation, and  
14 is entitled to monetary damages.

15 95. Plaintiff intends to continue attending and participating in mass public  
16 gatherings and the like in the future but fears further assault and other retaliation by  
17 law enforcement. That fear inhibits plaintiff from participating in these types of mass  
18 gatherings.

19 96. The defendant officers acted with malice and oppression and with a  
20 conscious disregard for plaintiff's rights, making the individual defendants, including  
21 Does 1-10, liable for punitive damages under California Civil Code § 3294.

22 **FOURTH CAUSE OF ACTION**

23 **Violation of Bane Act (California Civil Code § 52.1)**

24 **(Against all Defendants)**

25 97. Plaintiff realleges and incorporates herein by reference each of the  
26 preceding paragraphs of this complaint, and all subsequent paragraphs.  
27  
28

1 98. Plaintiff brings this cause of action against all defendants by operation of  
2 state law. Plaintiff has complied with the California Tort Claims Act requirements as  
3 fully set forth above.

4 99. All defendants, and each of them, by doing and/or causing the acts  
5 complained of in this entire Complaint, interfered by threats, intimidation, or coercion,  
6 with the exercise and enjoyment of plaintiff's rights as secured by the First, Fourth,  
7 and Fourteenth Amendments to the United States Constitution and laws of the United  
8 States, and the rights secured by the Constitution and laws of the State of California.

9 100. Defendants engaged in threatening, intimidating, and coercive tactics by  
10 using excessive force against plaintiff with LLMs while plaintiff was lawfully present  
11 at a peaceful gathering, and thereby chilling his First Amendment activity. There was  
12 no lawful justification for defendants to threaten, intimidate, or coerce plaintiff or to  
13 attempt to use threats, intimidation, or coercion to interfere with plaintiff's rights to  
14 lawfully participate in a peaceful gathering.

15 101. Defendant City of Los Angeles is liable to plaintiff for the acts of its  
16 public employees, the individual defendants named herein, including the Doe  
17 defendants, for the conduct and/or omissions alleged herein, pursuant to the doctrine of  
18 *respondent superior*, codified at California Government Code § 815.2.

19 102. As a direct and proximate result of defendants' unlawful conduct, plaintiff  
20 suffered severe physical injury, emotional distress, humiliation and is entitled to  
21 monetary damages, including statutory damages, and attorneys' fees.

22 103. Plaintiff intends to continue attending and participating in mass public  
23 gatherings and the like in the future but fears further assault and other retaliation by  
24 law enforcement. That fear inhibits plaintiff from participating in these types of mass  
25 gatherings.

26 104. The defendant officers acted with malice and oppression and with a  
27 conscious disregard for plaintiff's rights, making the individual defendants, including  
28 Does 1-10, liable for punitive damages under California Civil Code § 3294.



1 **FIFTH CAUSE OF ACTION**

2 **Assault**

3 **(Against all Defendants)**

4 105. Plaintiff realleges and incorporates herein by reference each of the  
5 preceding paragraphs of this complaint, and all subsequent paragraphs.

6 106. This cause of action arises under the general laws and Constitution of the  
7 State of California. Plaintiff has complied with the California Tort Claims Act  
8 requirements.

9 107. As described in detail herein above, each individual Doe defendant  
10 assaulted plaintiff by acting intentionally to place plaintiff in reasonable apprehension  
11 of immediate harmful or offensive contact by, *inter alia*, aiming LLMs at plaintiff,  
12 firing LLMs at plaintiff, striking plaintiff with an LLM in his eye, and using force  
13 upon plaintiff, and had the present ability to cause such contact.

14 108. As a direct and proximate result of the acts and conduct of defendants,  
15 and each of them, at the time and place herein alleged, plaintiff suffered fear of  
16 immediate harmful or offensive touching by LLMs wielded by defendants, and each of  
17 them.

18 109. Plaintiff intends to continue attending and participating in mass public  
19 gatherings and the like in the future but fears further assault and other retaliation by  
20 law enforcement. That fear inhibits plaintiff from participating in these types of  
21 events.

22 110. The defendant officers acted with malice and oppression and with a  
23 conscious disregard for plaintiff's rights, making the individual defendants, including  
24 Does 1-10, liable for punitive damages under California Civil Code § 3294.

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1 **SIXTH CAUSE OF ACTION**

2 **Battery**

3 **(Against all Defendants)**

4 111. Plaintiff realleges and incorporates herein by reference each of the  
5 preceding paragraphs of this complaint, and all subsequent paragraphs.

6 112. This cause of action arises under the general laws and Constitution of the  
7 State of California. Plaintiff has complied with the California Tort Claims Act  
8 requirements.

9 113. As described in detail herein above, each individual Doe defendant  
10 battered plaintiff when said defendants acted intentionally to cause, and did cause, said  
11 non-consensual, unprivileged, unjustified, excessive, harmful, or offensive contact to  
12 plaintiff's person by shooting plaintiff with an LLM, striking his eye, and causing  
13 plaintiff the injuries and damages as herein alleged.

14 114. As a direct and proximate result of defendants' unlawful conduct, plaintiff  
15 suffered the injuries and damages as herein alleged.

16 115. Plaintiff intends to continue attending and participating in mass public  
17 gatherings and the like in the future but fears further assault and other retaliation by  
18 law enforcement. That fear inhibits plaintiff from participating in these types of mass  
19 gatherings.

20 116. The defendant officers acted with malice and oppression and with a  
21 conscious disregard for plaintiff's rights, making the individual defendants, including  
22 Does 1-10, liable for punitive damages under California Civil Code § 3294.

23 **SEVENTH CAUSE OF ACTION**

24 **Negligence**

25 **(Against all Defendants)**

26 117. Plaintiff realleges and incorporates herein by reference each of the  
27 preceding paragraphs of this complaint, and all subsequent paragraphs.

28

1           118. This cause of action arises under the general laws and Constitution of the  
2 State of California. Plaintiff has complied with the California Tort Claims Act  
3 requirements.

4           119. For purposes of this cause of action only, allegations are deemed to sound  
5 in negligence, and set forth pursuant to California Civil Code Section §1714 and  
6 California common law.

7           120. At all times material herein, defendants—as a law enforcement agency  
8 and personnel charged with executing their duties without the threat of unreasonable  
9 risk to plaintiff—and each of them, had a duty to act reasonably to avoid, or foresee,  
10 the risk that said defendants themselves, or their colleagues or subordinates, would  
11 commit the acts complained of herein, including but not limited to: (a) encountering  
12 and physically harming a person such as plaintiff participating in a peaceful  
13 demonstration and (b) authorizing and using LLMs inappropriately as crowd control  
14 devices.

15           121. Defendant City of Los Angeles had a duty to act reasonably to foresee and  
16 avoid the risk that itself, or its sworn law enforcement personnel, would commit the  
17 acts complained of herein.

18           122. Defendants, and each of them, breached their duty of care by not acting  
19 reasonably under the circumstances of such risk, as described herein above, and/or by  
20 impeding or otherwise curtailing the civil rights of, or endangering, without lawful  
21 basis, plaintiff.

22           123. Specifically, the Doe defendants, and each of them, breached their duty of  
23 care and failed to act toward plaintiff as a reasonable law enforcement officer would in  
24 similar circumstances by firing LLMs at plaintiff—who was peacefully standing in a  
25 public forum—and/or failing to take proper precautions when using such unwarranted  
26 crowd control tactics by, *inter alia*, aiming and firing plaintiff's face, which should not  
27 be targeted by LLMs. At all times herein relevant, other less dangerous and intrusive  
28 crowd control tactics were available to each defendant.

1           124. Defendant Chief Moore breached his duty of care and failed to act as a  
2 reasonable Chief of Police and official policymaker for the LAPD would in similar  
3 circumstances by allowing his subordinates to continuously engage in unlawful crowd  
4 control tactics and ratifying the use of LLMs against plaintiff when other less  
5 dangerous and intrusive crowd control tactics were available.

6           125. At all times herein relevant, defendants, and each of them, failed to follow  
7 established guidelines, rules and procedures—including their own—for the use of  
8 LLMs and crowd control tactics, and the City specifically breached its court-ordered  
9 mandate issued in *MIWON* related to the use of force at demonstrations.

10           126. At all times herein relevant, defendant City of Los Angeles and individual  
11 defendants Chief Moore and Does 1-10 breached their duty of care by not acting  
12 reasonably under the circumstances of such risk, as described herein above, and/or by  
13 failing to discharge their respective duties to appropriately screen and train their  
14 employees, investigate and discipline their employees for misconduct, and acting  
15 negligently by authorizing and ratifying the use of LLMs, and providing improper  
16 training that condoned the escalatory and dangerous tactics employed by LAPD  
17 officers which resulted in harm to plaintiff.

18           127. Each defendant’s aforesaid breaches of duty were each a direct and  
19 proximate cause of the injuries and damages suffered by plaintiff, as alleged in this  
20 complaint.

21           128. Defendant City of Los Angeles is liable to plaintiff for the acts of its  
22 public employees, the individual defendants herein, for conduct and/or omissions  
23 herein alleged, pursuant to the doctrine of *respondent superior*, codified at California  
24 Government Code § 815.2.

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28 //

1 **REQUEST FOR RELIEF**

2 Wherefore, plaintiff respectfully requests that the Court enter a judgment as  
3 follows:

- 4 i. A declaratory judgment that defendants’ conduct detailed herein was a  
5 violation of plaintiff’s rights under the Constitutions and laws of the  
6 United States and California;
- 7 ii. To the extent that the Court finds that defendants’ conduct was authorized  
8 by custom, policy, or practice, and/or the inadequate training, supervision,  
9 instruction and discipline, a declaratory judgment that those customs,  
10 policies, or practices, and/or the inadequate trainings, supervisions,  
11 instructions and disciplines are unconstitutional under the First, Fourth,  
12 and Fourteenth Amendments to the United States Constitution, and the  
13 analogous provisions of the California Constitution;
- 14 iii. Permanent injunctive relief to preclude similar acts by defendants at  
15 future gatherings.
- 16 iv. An award of past and future economic damages against all defendants for  
17 the harms sustained by plaintiff in an amount to be determined according  
18 to proof at the time of trial;
- 19 v. An award of general damages against defendants, and each of them, for  
20 the physical, mental and emotional damages, past and future, according to  
21 proof at the time of trial;
- 22 vi. An award of punitive and exemplary damages against the individual  
23 defendants in an amount to be determined according to proof at the time  
24 of trial;
- 25 vii. An award of attorneys’ fees pursuant to 42 U.S.C. §§ 1983, 2986, 1988,  
26 12205 and Cal. Civil Code §§ 52.1, 52(b)(3) & 52.1(h) and Cal. Code of  
27 Civ. Proc. § 1021.5, and any other applicable provisions, and  
28 viii. Costs of suit and pre- and post-judgment interest as permitted by law;

ix. Any such other relief as the Court may deem just and proper.

Respectfully submitted,

Dated: February 21, 2022

**BAUM HEDLUND ARISTEI & GOLDMAN,  
P.C.**

By: /s/ Monique Alarcon

Monique Alarcon, Esq.

[malarcon@baumhedlundlaw.com](mailto:malarcon@baumhedlundlaw.com)

Pedram Esfandiary, Esq.

[pesfandiary@baumhedlundlaw.com](mailto:pesfandiary@baumhedlundlaw.com)

Timothy A. Loranger, Esq.

[tloranger@baumhedlundlaw.com](mailto:tloranger@baumhedlundlaw.com)

Ronald M. Goldman, Esq. (SBN: 33422)

[rgoldman@baumhedlundlaw.com](mailto:rgoldman@baumhedlundlaw.com)

**BAUM, HEDLUND, ARISTEI, & GOLDMAN,  
P.C.**

10940 Wilshire Boulevard, Suite 1600

Los Angeles, CA 90024

Telephone: (310) 207-3233

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*Attorneys for Plaintiff*

1 **DEMAND FOR JURY TRIAL**

2 Plaintiff hereby respectfully demands that a jury trial be conducted with respect to  
3 all issues and claims.

4  
5 Respectfully submitted,  
6 Dated: February 21, 2022 **BAUM HEDLUND ARISTEI & GOLDMAN,**  
7 **P.C.**

8  
9 By: /s/ Monique Alarcon

10 Monique Alarcon, Esq.  
[malarcon@baumhedlundlaw.com](mailto:malarcon@baumhedlundlaw.com)

11 Pedram Esfandiary, Esq.  
[pesfandiary@baumhedlundlaw.com](mailto:pesfandiary@baumhedlundlaw.com)

12 Timothy A. Loranger, Esq.

13 [tloranger@baumhedlundlaw.com](mailto:tloranger@baumhedlundlaw.com)

14 Ronald M. Goldman, Esq. (SBN: 33422)

15 [rgoldman@baumhedlundlaw.com](mailto:rgoldman@baumhedlundlaw.com)

16 **BAUM, HEDLUND, ARISTEI, & GOLDMAN,**  
17 **P.C.**

18 10940 Wilshire Boulevard, Suite 1600

19 Los Angeles, CA 90024

20 Telephone: (310) 207-3233

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26  
27  
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*Attorneys for Plaintiff*