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FILED
TULARE COUNTY SUPERIOR COURT
VISALIA DIVISION
NOV 17 2021
STEPHANIE CAMERON, CLERK
BY: Jessica Ochoa

Attorneys for Plaintiffs Brian Perez and Alba Dominguez

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF TULARE**

10	BRIAN PEREZ AND ALBA)	Case No. 285108
11	DOMINGUEZ,)	
12	Plaintiffs,)	
13	vs.)	COMPLAINT FOR DAMAGES
14	COUNTY OF TULARE, and DOES 1-20,)	JURY TRIAL DEMANDED
15	Defendants.)	<u>CLASS MANAGEMENT CONFERENCE</u>
16)	Hearing Date: <u>4-6-2021</u>
17)	Time: <u>8:30AM</u>
18)	Department: <u>TWO</u>

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20 **COMES NOW PLAINTIFFS, BRIAN PEREZ AND ALBA DOMINGUEZ,** an
21 individuals, and hereinafter referred to as Plaintiffs, and allege on information and belief this
22 complaint for damages against the above named Defendants, for violations of the Tom Bane
23 Civil Rights Act, Civil Code § 52.1, False Imprisonment/False Arrest, Assault/Battery and
24 Infliction of Emotional Distress as follows:
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PARTIES

1. Plaintiffs are residents of the State of California, over the age of 18, and residents of the County of Tulare. At all times relevant herein they were/are co-habitants with each other and in a romantic/dating relationship.

2. Defendant County of Tulare is a governmental organization, created, authorized and operating under the laws of the State of California. Its principal places of business is located in Tulare County, California. The County of Tulare is composed of several departments headed by either elected or appointed officials. The Sheriff's Office is one such subordinate department.

3. Plaintiff is ignorant of the true names and capacities of Defendants sued herein as DOES 1-20 and therefore sues those Defendants by such fictitious names. Plaintiff will amend this complaint to allege their true names and capacities when the same as been ascertained. Each DOE defendant is responsible in some manner for the acts complained of herein. Plaintiffs believe but are not certain at this point that three (3) of the Doe defendants may be Tulare County employees Sanchez, Kalender and Lowry.

JURISDICTION AND VENUE

4. The events that give rise to this Complaint for Damages arose and occurred within the geographic boundaries and jurisdiction of the County of Tulare, State of California, unless otherwise noted. Therefore, both jurisdiction and venue lie with this Court.

EXHAUSTION OF REMEDIES/ADMINISTRATIVE CLAIM

5. Plaintiffs submitted a claim under Government Code § 910 on/about April 22, 2020. That claim was rejected by Defendants on May 18, 2020. (See Exhibit A attached hereto).

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FACTS COMMON TO ALL CAUSES OF ACTION

6. On Monday, December 16, 2019, Mr. Perez and Ms. Dominguez were at their home, located at 2091 N. Matthew Ct., Farmersville CA 93223. Only Mr. Perez and Ms. Dominguez resided at the home.

7. As they were getting ready to start their work day (they were both gainfully employed) and depart, at approximately 7:00 am Ms. Dominguez heard a loud police siren type noise immediately followed by a loud voice. Upon hearing the noise, she looked out her front window. She saw some police lights and heard someone say something to the effect, "2-0-9-1 come out with your hands up." As Ms. Dominguez looked through the window, she noticed a large number of officers or deputies in front of her residence pointing firearms at she and her home. In addition to officers/deputies (the terms will be used interchangeably) she also noticed two large armored police/sheriff vehicles.

8. When she saw all of the activity in front of the home, Ms. Dominguez immediately called out to Mr. Perez, advising him that law enforcement personnel were outside the home, or words to that effect.

9. She then existed the house as ordered. She would not have done so but for the order of the law enforcement personnel/deputies. She was unarmed and made no threatening, furtive, or violent motions or gestures.

10. Despite being being obviously unarmed, law enforcement personnel at the scene continued to point loaded firearms at her. She was placed in handcuffs and seated on a curb. It was approximately 34 degrees out that morning. She was not offered any blankets or other items to keep her warm. While she was seated on the curb, she observed Brian Perez exiting the house

1 and being taken into custody/handcuffed. She observed Brian Perez being placed into the back
2 of a patrol car. Ms. Dominguez then saw deputies/officers enter her home, presumably to
3 conduct a search. Just like in her case, Mr. Dominguez saw deputies/officers pointing firearms at
4 Mr. Perez.

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6 11. After about ten minutes, Ms. Dominguez was taken back inside her home and seated on a
7 couch in a front room. When she was taken into the house, she saw Mr. Perez (who had been
8 separately taken inside). A deputy/officer who Ms. Dominguez believed was named "Sanchez"
9 told them both (Dominguez and Perez) that they were not allowed to speak with each other or
10 look at each other.
11

12 12. While inside on the couch, Mr. Perez asked the deputies present for permission to call
13 their employers to advise them that they (Mr. Perez and Ms. Dominguez) would be late to work.
14 The deputies present laughed at the request, but did allow the call to be made. Mr. Perez and Ms.
15 Dominguez work for the same employer.
16

17 13. While seated, deputies/officers asked Ms. Dominguez and Mr. Perez if they had either
18 any (illegal) drugs or firearms in the house. The answer was "no." In fact, there were no
19 firearms or illegal drugs in their home.
20

21 14. The law enforcement officers present kept interrogating Ms. Dominguez and Mr. Perez,
22 demanding to know who lived in the residence, and threatening to arrest them for narcotics sales,
23 or words to that effect.
24

25 15. Ms. Dominguez was then un-handcuffed and taken to a spare bedroom where she was
26 interrogated by deputy Lowry and detective Sanchez. On information and belief, they are both
27 employees of the County of Tulare Sheriff's Department/County of Tulare, and were the two
28 persons most responsible for the actions at 2091 N. Matthew Court that day.

1 16. During the interrogation, Lowry and Sanchez told Ms. Dominguez that someone, or
2 “people” were selling drugs out of her home. That statement was false. Ms. Dominguez told
3 them that was not correct. Detective Sanchez then told Ms. Dominguez, words to the effect that
4 someone had come inside her home and sold drugs, to include heroin. Detective Sanchez and
5 Lowry then said the sales had occurred last week.
6

7 17. However, Ms. Dominguez was able to show both of them that she and Mr. Perez were in
8 Las Vegas the preceding week, and that the ADT alarm system for the home showed that in fact,
9 no one had entered it, contrary to what Detective Sanchez had falsely asserted. She was also
10 able to produce photographs from her smart phone putting her and Mr. Perez in Las Vegas at the
11 time Lowry and Sanchez falsely asserted that “someone” had been selling drugs in their home.
12

13 18. Lowry and Sanchez returned her to the couch where she had initially been seated. Ms.
14 Dominguez then saw Mr. Perez being taken into a room to be interrogated. After a period of
15 time, she saw Mr. Perez returned to the couch. After Mr. Perez had been returned, another
16 detective, name unknown, very politely asked the two of them about the neighbors who were
17 known/rumored to be drug dealers.
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19 19. The large assortment of Sheriff’s deputies and other law enforcement personnel then left,
20 but not before they left the premises in disarray.
21

22 20. While Mr. Perez and Ms. Dominguez were being handcuffed and held by law
23 enforcement personnel, many of their neighbors came outside to watch the events unfold. This
24 caused extreme shock and humiliation to both Plaintiffs as they were falsely portrayed as
25 dangerous criminals.
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1 21. Personnel present left a copy of a search warrant for the premises that was authored by
2 Detective Kyle Kalender. On information a belief, Detective Kalender is an employee of the
3 County of Tulare.

4 22. A professional and minimally competent investigation in support of the search warrant
5 would have revealed that Mr. Perez and Ms. Dominguez had little or no criminal history, and
6 certainly no history of narcotics sales. It would also have revealed that at the time of the alleged
7 sales they (Perez and Dominguez) were in fact in Las Vegas, Nevada. A minimally competent
8 investigation would also have revealed the presence of an ADT alarm system at the home and
9 that it had been active at all times the alleged sales had supposedly occurred inside the home. It
10 would have shown that at the time of the alleged sales, that no one had entered or exited the
11 home, much less sold drugs inside the home.

12 23. A minimally competent investigation would have advised the Magistrate who signed the
13 warrant for the premises that the alleged sales in fact did not occur inside the home, but rather, at
14 some place outside, open to the public at large, and not necessarily connected to the residence
15 whatsoever, and certainly not to Perez and Dominguez in particular.

16 24. A minimally competent search warrant operation would not have needlessly endangered
17 Perez and Dominguez, two factually innocent citizens, by pointing firearms at them for no
18 legitimate reason, and keeping them physically restrained

19 25. County of Tulare and the Sheriff's Office was negligent by failing to adequately train its
20 personnel in competent law enforcement/narcotics investigations techniques, uses of force, and
21 preparation of search warrant affidavits.
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FIRST CAUSE OF ACTION

Tom Bane Civil Rights Act, Civil Code § 52.1 et seq
(By all Plaintiffs against all Defendants)

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3 26. All of the above Paragraphs are incorporated by reference in this paragraph as if fully set
4 forth herein.

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6 27. The Tom Bane Civil Rights Act, Civil Code § 52.1 et seq., prohibits any person or
7 persons, whether or not acting under color of law, from interfering by threat, intimidation, or
8 coercion, or attempting to interfere by threat, intimidation, or coercion, with the exercise or
9 enjoyment by any individual or individuals of rights secured by the Constitution or laws of the
10 United States, or of the rights secured by the Constitution or laws of this state.

11
12 28. Defendants and each of them did recklessly and intentionally interfere with Plaintiffs'
13 rights under the US and state Constitutions, and laws, as described above, and that as a
14 proximate result of said actions and omissions, Plaintiffs were harmed and suffered and will
15 continue to suffer damages according to proof. Plaintiffs have also suffered and will continue to
16 suffer physical and emotion injuries, including nervousness, humiliation, depression, anguish,
17 and embarrassment. The amount of Plaintiffs' damages will be ascertained at trial.

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20 **SECOND CAUSE OF ACTION**

False Imprisonment/False Arrest
(By all Plaintiffs against all Defendants)

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22 29. All of the above Paragraphs are incorporated by reference in this paragraph as if fully set
23 forth herein.

24 30. Plaintiffs and each of them were wrongly arrested by Defendants and each of them;

25 31. Plaintiffs and each of them were harmed;

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27 32. And each individual Defendants' actions and omissions were a substantial factor in
28 causing Plaintiffs' harm.

1 33. Plaintiffs have also suffered and will continue to suffer physical and emotion injuries,
2 including nervousness, humiliation, depression, anguish, and embarrassment. The amount of
3 damages will be ascertained at trial.

4 **THIRD CAUSE OF ACTION**

5 Assault/Battery

6 (By all Plaintiffs against all Defendants)

7 34. All of the above Paragraphs are incorporated by reference in this paragraph as if fully set
8 forth herein.

9 35. Plaintiffs and each of them were wrongly subjected to the use of physical force,
10 restrained, and taken into physical custody, to include having loaded firearms pointed at them
11 without reasonable or just cause, by Defendants;

12 36. Plaintiffs and each of them were harmed;

13 37. And each individual Defendants' actions and omissions were a substantial factor in
14 causing Plaintiffs' harm.

15 38. Plaintiffs have also suffered and will continue to suffer physical and emotion injuries,
16 including nervousness, humiliation, depression, anguish, and embarrassment. The amount of
17 damages will be ascertained at trial.

18 39. That as a proximate result of said actions and omissions, Plaintiff was harmed and
19 suffered and will continue to suffer damages in terms of lost wages, lost benefits, and other
20 pecuniary loss according to proof. Plaintiff has also suffered and will continue to suffer physical
21 and emotion injuries, including nervousness, humiliation, depression, anguish, and
22 embarrassment. The amount of Plaintiff's damages will be ascertained at trial.
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FOURTH CAUSE OF ACTION

Infliction of Emotion Distress
(By all Plaintiffs against all Defendants)

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3 40. All of the above Paragraphs are incorporated by reference in this paragraph as if fully set
4 forth herein.

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6 41. Defendants and each of them intentionally and negligently inflicted emotional distress
7 upon Plaintiffs in a manner described above;

8 42. Plaintiffs and each of them were harmed;

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10 43. And each individual Defendants' actions and omissions were a substantial factor in
11 causing Plaintiffs' harm.

12 44. That as a proximate result of said actions and omissions, Plaintiffs were harmed and
13 suffered and will continue to suffer damages according to proof.

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15 **REQUEST FOR RELIEF**

16 45. WHEREFORE, Plaintiffs request judgment against Defendants and each of them as
17 follows:

18 46. Compensatory damages according to proof for each cause of action for which such
19 damages are available.

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21 47. General damages according to proof on each cause of action for which such damages are
22 available.

23 48. Special damages according to proof on each cause of action for which such damages are
24 available.

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26 49. Punitive damages against any individually named defendants (excluding County of
27 Tulare) according to proof on each cause of action for which such damages are available.

28 50. For prejudgment interest and post-judgment interest according to law.

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51. For reasonable attorneys' fees incurred in this action pursuant to law.

52. For costs of suit incurred herein.

53. For such other and further relief the Court deems just and proper.

Dated: 11/17/2020

LAW OFFICES OF MELO AND SARSFIELD LLP

Marguerite Melo
Marguerite Melo, Esq.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demands a trial by jury on all causes of action alleged herein in the
Complaint.

Dated: 11/17/2020

LAW OFFICES OF MELO AND SARSFIELD LLP

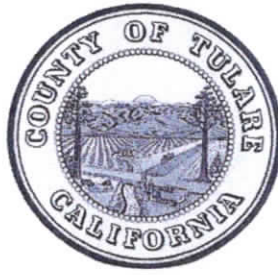
John Sarsfield
John Sarsfield, Esq.

Exhibit "A"

TULARE COUNTY COUNSEL

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May 18, 2020

John Sarsfield, Esq.
Laws Offices of Melo & Sarsfield, LLP
4216 S. Mooney Blvd., PMB 136
Visalia, CA 93277

RE: Brian Perez & Alba Dominguez claim against the County received by the Clerk of the Board on April 23, 2020.

Dear Mr. Sarsfield:

Please be advised that your claim has been formally rejected. Enclosed you will find the Notice of Rejection of Claim. Should you have any questions or wish to correspond, please contact me directly.

Respectfully,

A handwritten signature in blue ink, which appears to read "Elisa Alanis", is written over a horizontal line.

Elisa Alanis
Risk Management Analyst

Enclosure: Notice of Rejection of Claim

EA/5/18/2020/RISK-2020266/1469257

**COUNTY OF TULARE
NOTICE OF REJECTION OF CLAIM**

Notice is hereby given that the Claim which you presented to Tulare County Board of Supervisors on April 23, 2020 was rejected on May 18, 2020.

WARNING

Subject to certain exceptions, you have six (6) months from the date of this notice of rejection or partial rejection was personally delivered or deposited in the mail to file a court action on this Claim. (See Government Code, section 945.6).

You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.

This Notice of Rejection of Claim applies only to claims under state law and shall not extend any time limits as may be imposed upon the claimant(s) for pursuit of the claimant(s)' rights under federal laws, statutes, or other sources of rights of recovery in favor of claimant(s).

Please also be advised that pursuant to Section 128.5 et seq. and 1038 of the California Code of Civil Procedure, the County of Tulare will seek to recover all costs of defense in the event a legal action is filed on the matter and it is determined that the action was not filed in good faith and with reasonable cause.