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11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA

13 JENNIFER FINK-CARVER and JASON
14 FINK,

15 Plaintiffs,

16 vs.

17 CITY OF PLEASANT HILL POLICE
18 OFFICER KUHN, CITY OF PLEASANT
19 HILL, and DOES 1 through 20,

20 Defendants.

Case No.

COMPLAINT
42 U.S.C. § 1983

DEMAND FOR JURY TRIAL

21 **INTRODUCTION**

22 1. This complaint alleges violations of the constitutional rights of plaintiffs
23 JENNIFER FINK-CARVER (“FINK-CARVER”) and JASON FINK (“FINK”) by defendant
24 CITY OF PLEASANT HILL POLICE OFFICER KUHN (“KUHN”), CITY OF PLEASANT
25 HILL, and DOES 1 through 20. The actions giving rise to defendants’ liability, as alleged in
26 this complaint, occurred in the City of Pleasant Hill, Contra Costa County, State of California,
27 on May 9, 2020.

28 2. The complaint seeks remedies pursuant to Title 42, United States Code, sections
1983 and 1988, as well as violations of the laws of the State of California. Jurisdiction is
conferred upon the United States District Court by Title 28, United States Code, sections 1331,
1343 and 1367(a).

1 occurred in the CITY OF PLEASANT HILL, Contra Costa County, State of California. Venue
2 is therefore proper in the United States District Court for the Northern District of California
3 pursuant to Title 28, United States Code, section 1391(b).

4 11. Pursuant to Title 28, United States Code, section 1367(a), this Court has
5 supplemental jurisdiction over the State of California claims brought in this action, which arise
6 from a common nucleus of operative facts and from the same transactions and occurrences
7 raised in plaintiffs' federal causes of action.

8 **INTRADISTRICT ASSIGNMENT**

9 12. The claims alleged herein arose in the County of Contra Costa. This action is
10 properly assigned to the Oakland or San Francisco Division of the United States District Court
11 for the Northern District of California pursuant to Civil Local Rule, 3-2(d).

12 **IDENTIFICATION OF PARTIES**

13 13. At all times material to this complaint, plaintiff FINK-CARVER was a resident
14 of Contra Costa County, California.

15 14. At all times material to this complaint, plaintiff CARVER was a resident of
16 Contra Costa County, California.

17 15. At all times material to this complaint, defendant KUHN was a CITY OF
18 PLEASANT HILL police officer. In committing the acts and omissions alleged in this
19 complaint, defendant KUHN was acting under color of law and within the course and scope of
20 his employment as an officer of the CITY OF PLEASANT HILL police department.
21 Defendant KUHN is sued in his individual capacity. Plaintiffs are ignorant of the first name of
22 defendant KUHN.

23 16. On information and belief, defendant CITY OF PLEASANT HILL is a
24 municipal corporation that owns, operates, and governs the CITY OF PLEASANT HILL police
25 department and its employees pursuant to the laws of the State of California.

26 17. At all times material to this complaint defendant CITY OF PLEASANT HILL
27 and the CITY OF PLEASANT HILL Police Department were responsible for the employment,
28 training, supervision and discipline of defendant KUHN.

1 18. Plaintiffs are ignorant of the true names and capacities of defendants DOES 1
2 through 20, and therefore sues these defendants by such fictitious names. Plaintiffs are
3 informed and believe and thereon allege that each defendant so named is responsible in some
4 manner for the injuries and damages suffered by plaintiffs as described in this complaint.
5 Plaintiffs will amend his complaint to state the true names and capacities of defendants DOES
6 1 through 20 when they have been ascertained. Any reference in this complaint to
7 “defendants” also refers to defendants DOES 1 through 20.

8 19. Each defendant sued in this complaint acted as the agent or employee of every
9 other defendant, and in perpetrating the wrongful conduct detailed in this complaint, acted
10 within the scope of such agency and employment, or ratified the acts of the others.

11 **FACTS GIVING RISE TO THE COMPLAINT**

12 20. On May 9, 2020, plaintiff JENNIFER FINK-CARVER was in her home in
13 Pleasant Hill. Defendant KUHN and other CITY OF PLEASANT HILL police officers were
14 called out to FINK-CARVER’s house on reports of a 415. Police officers, including defendant
15 KUHN, arrived at the house. FINK-CARVER remained in the house.

16 21. Without cause or justification, police officers, including defendant KUHN,
17 entered FINK-CARVER’s house. Officers slammed FINK-CARVER to the couch and
18 defendant KUHN released a police canine on her, which bit into her legs. While officers were
19 on top of FINK-CARVER, the police canine bit into her leg several times, causing serious
20 injury.

21 22. Plaintiff FINK arrived on the scene to find out what was happening. FINK
22 approached the scene, outside of the house, and asked what was going on to those present,
23 including officers.

24 23. Without cause or justification officers took FINK to the ground and while
25 officers were on top of him defendant KUHN released the police canine, which bit FINK’s low
26 back, hip and leg. FINK was thereafter handcuffed without cause or justification.

27 24. Plaintiff FINK-CARVER was taken by ambulance to the closest trauma center,
28 John Muir Walnut Creek, where she was treated for dog bite lacerations. Sutures were placed to

1 address the wounds. In addition, she underwent complex repair of the lacerations to the thigh,
2 including thorough irrigation and debridement of the areas as well as repair of the laceration
3 sites. The wounds have not completely healed, and it appears as though the injuries to Plaintiff
4 FINK-CARVER are permanent.

5 25. Plaintiff CARVER was seen at John Muir Walnut Creek for treatment of his
6 injuries, including being prescribed pain medication.

7 **STATEMENT OF DAMAGES**

8 26. As a direct and proximate result of defendants' acts, plaintiffs were unlawfully
9 seized and subject to unreasonable force without probable cause or reasonable suspicion.

10 27. As a direct and proximate result of defendants' acts, plaintiffs underwent care at
11 the closest trauma center for treatment of dog bite wounds.

12 28. Plaintiffs incurred medical expenses for incident related medical treatment.

13 29. Plaintiffs' claim for general damages include claims for pain, suffering,
14 humiliation, and emotional distress in amounts to be determined according to proof.

15 30. Plaintiffs have and may continue to have in the future, damages for permanent
16 injuries, permanent scarring and/or other physical disfigurement and/or disability in an amount
17 to be determined according to proof.

18 31. Defendants and each of them are liable for plaintiffs' injuries and damages
19 pursuant to Title 42 U.S.C Section 1983; California Government Code sections 815.2, 815.6,
20 820, 820.8; and California Civil Code sections 52.1, as set forth below.

21 32. Defendant KUHN's acts were intentional, willful, malicious, reckless and in
22 conscious disregard of plaintiffs' protected rights. As such and to deter future similar conduct
23 by defendant, plaintiffs are entitled to an award of punitive damages against him.

24 **JURY TRIAL DEMAND**

25 33. Plaintiffs hereby demands a jury trial in this action.

26 **COMPLIANCE WITH CALIFORNIA TORT CLAIMS ACT**

27 34. With respect to the causes of action for violations of the laws of the State of
28 California, Plaintiff timely filed a claim notice with the CITY OF PLEASANT HILL pursuant

1 to the California Tort Claims Act on August 20, 2020.

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3 **FIRST CLAIM FOR RELIEF**
4 **BY PLAINTIFF JENNIFER FINK-CARVER**
5 **42 U.S.C. § 1983**
6 **Fourth Amendment Violations: Unreasonable force,**
7 **Unlawful Seizure, and Unlawful Arrest**
8 **(Against Defendant KUHN)**

9 35. Plaintiff realleges and incorporates by reference paragraphs 1 through 34 as
10 though fully set forth in this claim for relief.

11 36. Defendant KUHN acted under color of law in violating plaintiff FINK-
12 CARVER's rights protected by the Fourth Amendment to the United States Constitution.
13 These actions included the unreasonable and excessive use of force against plaintiff FINK-
14 CARVER, unlawful seizure of plaintiff FINK-CARVER's person and unlawful arrest lacking
15 probable cause, each violation independently and all violations jointly causing plaintiff FINK-
16 CARVER injury.

17 37. As a direct and proximate result of defendant KUHN's actions and omissions,
18 plaintiff FINK-CARVER was deprived of her rights and privileges under the Fourth
19 Amendment to the United States Constitution.

20 38. Defendant KUHN acted with malice and oppression by intentionally releasing
21 the police canine to bite plaintiff FINK-CARVER without justification, seriously injuring her.
22 Defendant's conduct was intended to harm plaintiff FINK-CARVER and/or was despicable and
23 carried out with a conscious disregard of plaintiff FINK-CARVER's rights or safety. Plaintiff
24 FINK-CARVER therefore is entitled to recover exemplary damages from this defendant.

25 WHEREFORE, plaintiff seeks relief as set forth below.

26 **SECOND CLAIM FOR RELIEF**
27 **BY PLAINTIFF JENNIFER FINK-CARVER**
28 **42 U.S.C. § 1983**
Supervisory Liability, Monell
(Against CITY OF PLEASANT HILL,
and DOES 1 through 20)

39. Plaintiff realleges and incorporates by reference paragraphs 1 through 38 of this
complaint as though fully set forth in this claim for relief.

1 40. At all times relevant to this complaint, it was the policy, practice and custom of
2 CITY OF PLEASANT HILL, acting through their policymakers and agents, to violate the
3 Fourth Amendment to the Constitution as described in this complaint.

4 41. Those violations which constituted the policy of CITY OF PLEASANT HILL,
5 and DOES 1 through 20, included, but were not limited to, the use of unreasonable, unjustified,
6 and/or excessive force and engage in unlawful seizures based upon unlawful policies.

7 42. The failure of CITY OF PLEASANT HILL, and to those delegated to make and
8 enforce policy, to discipline defendant KUHN, who violated plaintiff's Fourth Amendment
9 rights ratified that unconstitutional conduct and further confirmed that the violation of
10 plaintiff's rights represented CITY OF PLEASANT HILL's policy.

11 43. The policies, practices and customs of CITY OF PLEASANT HILL, and DOES
12 1 through 20 were the moving forces behind the violation of plaintiff's rights protected by the
13 Fourth Amendment to the United States Constitution.

14 44. At all times relevant to this complaint, the policies, practices and customs
15 developed and maintained by CITY OF PLEASANT HILL, and DOES 1 through 20, reflected
16 a deliberate indifference to the protection of the rights guaranteed by the Fourth Amendment to
17 the United States Constitution.

18 WHEREFORE, plaintiff seeks relief as set forth below.

19 **THIRD CLAIM FOR RELIEF**
20 **BY PLAINTIFF JENNIFER FINK-CARVER**
21 **Negligence**
22 **(Against All Defendants)**

23 45. Plaintiff realleges and incorporates by reference paragraphs 1 through 44 of this
24 complaint as though fully set forth in this claim for relief.

25 46. Defendant was negligent in doing the acts alleged in this complaint.

26 47. Plaintiff was injured as a result of that negligence.

27 48. As a proximate result of that negligence, plaintiff suffered damages, physical
28 injuries and emotional distress.

49. CITY OF PLEASANT HILL employee defendant KUHN committed his alleged

1 actions and negligent conduct in the course and scope of his employment. Defendant KUHN is
2 liable pursuant to California Government Code § 820.1(a), which renders a public employee
3 liable for injury caused by his or her act or omission to the same extent as a private person.
4 CITY OF PLEASANT HILL is liable pursuant to Government Code § 815.2, which renders a
5 public entity liable for injury proximately caused by an act or omission of an employee of a
6 public entity within the scope of his or her employment if the act or omission would give rise to
7 a cause of action against the public employee, commonly referred to as respondeat superior
8 liability.

9 50. Each of defendants' conduct was a substantial factor in causing the alleged
10 damages including severe emotional distress.

11 **FOURTH CLAIM FOR RELIEF**
12 **BY PLAINTIFF JENNIFER FINK-CARVER**
13 **Assault**
14 **(Against All Defendants)**

15 51. Plaintiff realleges and incorporates by reference paragraphs 1 through 50 of this
16 complaint as though fully set forth in this claim for relief.

17 52. Defendant KUHN intended to harm or come into offensive contact with
18 Plaintiff.

19 53. Plaintiff reasonably apprehended that defendant was about to touch him in a
20 harmful or offensive manner.

21 54. Defendant KUHN also threatened to touch plaintiff in a harmful or offensive
22 manner and plaintiff reasonably apprehended that defendant KUHN was about to carry out that
23 threat.

24 55. Plaintiff did not consent to the conduct of defendant KUHN and was harmed
25 thereby.

26 56. CITY OF PLEASANT HILL employee defendant KUHN committed his alleged
27 actions in the course and scope of his employment. Defendant KUHN is liable pursuant to
28 California Government Code § 820.1(a), which renders a public employee liable for injury
caused by his or her act or omission to the same extent as a private person. CITY OF

1 PLEASANT HILL is liable pursuant to Government Code § 815.2, which renders a public
2 entity liable for injury proximately caused by an act or omission of an employee of a public
3 entity within the scope of his or her employment if the act or omission would give rise to a
4 cause of action against the public employee, commonly referred to as respondeat superior
5 liability.

6 57. Each defendants' conduct was a substantial factor in causing the alleged harm.

7 WHEREFORE, plaintiff seeks relief as set forth below.

8 **FIFTH CLAIM FOR RELIEF**
9 **BY PLAINTIFF JENNIFER FINK-CARVER**
10 **Battery**
11 **(Against All Defendants)**

12 58. Plaintiff realleges and incorporates by reference paragraphs 1 through 57 of this
13 complaint as though fully set forth in this claim for relief.

14 59. Defendant KUHN touched plaintiff, or caused plaintiff to be touched with the
15 intent of harming or offending plaintiff.

16 60. Plaintiff did not consent to the conduct of defendant KUHN.

17 61. Plaintiff was harmed by defendant's conduct.

18 62. A reasonable person in plaintiff's situation would have been offended by the
19 conduct of defendant KUHN.

20 63. CITY OF PLEASANT HILL employee defendant KUHN committed his alleged
21 actions in the course and scope of his employment. Defendant KUHN is liable pursuant to
22 California Government Code § 820.1(a), which renders a public employee liable for injury
23 caused by his or her act or omission to the same extent as a private person. CITY OF
24 PLEASANT HILL is liable pursuant to Government Code § 815.2, which renders a public
25 entity liable for injury proximately caused by an act or omission of an employee of a public
26 entity within the scope of his or her employment if the act or omission would give rise to a
27 cause of action against the public employee, commonly referred to as respondeat superior
28 liability.

64. Each defendants' conduct was a substantial factor in causing the alleged harm.

1 WHEREFORE, plaintiff seeks relief as set forth below.

2 **SIXTH CLAIM FOR RELIEF**
3 **BY PLAINTIFF JENNIFER FINK-CARVER**
4 **CALIFORNIA CIVIL CODE §§ 52, 52.1**
5 **Bane Act Violation**
6 **(Against All Defendants)**

7 65. Plaintiff realleges and incorporates by reference paragraphs 1 through 64 of this
8 complaint as though fully set forth in this claim for relief.

9 66. Defendant KUHN, using threats, coercion and intimidation, interfered with and
10 threatened to interfere with plaintiff's rights guaranteed by the Fourth Amendment to the
11 United States Constitution, and Art. 1, § 13 of the California Constitution.

12 67. CITY OF PLEASANT HILL employee defendant KUHN committed his alleged
13 actions and negligent conduct in the course and scope of his employment. Defendant KUHN is
14 liable pursuant to California Government Code § 820.1(a), which renders a public employee
15 liable for injury caused by his or her act or omission to the same extent as a private person.
16 CITY OF PLEASANT HILL is liable pursuant to Government Code § 815.2, which renders a
17 public entity liable for injury proximately caused by an act or omission of an employee of a
18 public entity within the scope of his or her employment if the act or omission would give rise to
19 a cause of action against the public employee, commonly referred to as respondeat superior
20 liability.

21 68. The actions of each defendant were a substantial factor in causing plaintiff to
22 sustain harm and the special and general damages which plaintiff will establish at trial.

23 69. Defendant KUHN acted with malice and oppression. His conduct was intended
24 to harm plaintiff or was despicable, carried out with a conscious disregard of plaintiff's rights
25 or safety. Defendants' conduct also subjected plaintiff to cruel and unjust hardship in
26 conscious disregard of plaintiff's rights.

27 70. Plaintiff seeks statutory damages and attorney fees allowed by California Civil
28 Code §§ 52, and 52.1(b).

WHEREFORE, plaintiff seeks additional relief as set forth below.

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**SEVENTH CLAIM FOR RELIEF
BY PLAINTIFF JASON FINK
42 U.S.C. § 1983
Fourth Amendment Violations: Unreasonable force,
Unlawful Seizure, and Unlawful Arrest
(Against Defendant KUHN)**

71. Plaintiff realleges and incorporates by reference paragraphs 1 through 70 as though fully set forth in this claim for relief.

72. Defendant KUHN acted under color of law in violating plaintiff FINK's rights protected by the Fourth Amendment to the United States Constitution. These actions included the unreasonable and excessive use of force against plaintiff FINK, unlawful seizure of plaintiff FINK's person and unlawful arrest lacking probable cause, each violation independently and all violations jointly causing plaintiff FINK injury.

73. As a direct and proximate result of defendant KUHN's actions and omissions, plaintiff FINK was deprived of his rights and privileges under the Fourth Amendment to the United States Constitution.

74. Defendant KUHN acted with malice and oppression by intentionally releasing the police canine to bite plaintiff FINK without justification, seriously injuring her. Defendant's conduct was intended to harm plaintiff FINK and/or was despicable and carried out with a conscious disregard of plaintiff FINK's rights or safety. Plaintiff FINK therefore is entitled to recover exemplary damages from this defendant.

WHEREFORE, plaintiff seeks relief as set forth below.

**EIGHTH CLAIM FOR RELIEF
BY PLAINTIFF JASON FINK
42 U.S.C. § 1983
Supervisory Liability, Monell
(Against CITY OF PLEASANT HILL,
and DOES 1 through 20)**

75. Plaintiff realleges and incorporates by reference paragraphs 1 through 74 of this complaint as though fully set forth in this claim for relief.

76. At all times relevant to this complaint, it was the policy, practice and custom of CITY OF PLEASANT HILL, acting through their policymakers and agents, to violate the

1 Fourth Amendment to the Constitution as described in this complaint.

2 77. Those violations which constituted the policy of CITY OF PLEASANT HILL,
3 and DOES 1 through 20, included, but were not limited to, the use of unreasonable, unjustified,
4 and/or excessive force and engage in unlawful seizures based upon unlawful policies.

5 78. The failure of CITY OF PLEASANT HILL, and to those delegated to make and
6 enforce policy, to discipline defendant KUHN, who violated plaintiff's Fourth Amendment
7 rights ratified that unconstitutional conduct and further confirmed that the violation of
8 plaintiff's rights represented CITY OF PLEASANT HILL's policy.

9 79. The policies, practices and customs of CITY OF PLEASANT HILL, and DOES
10 1 through 20 were the moving forces behind the violation of plaintiff's rights protected by the
11 Fourth Amendment to the United States Constitution.

12 80. At all times relevant to this complaint, the policies, practices and customs
13 developed and maintained by CITY OF PLEASANT HILL, and DOES 1 through 20, reflected
14 a deliberate indifference to the protection of the rights guaranteed by the Fourth Amendment to
15 the United States Constitution.

16 WHEREFORE, plaintiff seeks relief as set forth below.

17 **NINTH CLAIM FOR RELIEF**
18 **BY PLAINTIFF JASON FINK**
19 **Negligence**
20 **(Against All Defendants)**

21 81. Plaintiff realleges and incorporates by reference paragraphs 1 through 80 of this
22 complaint as though fully set forth in this claim for relief.

23 82. Defendant was negligent in doing the acts alleged in this complaint.

24 83. Plaintiff was injured as a result of that negligence.

25 84. As a proximate result of that negligence, plaintiff suffered damages, physical
26 injuries and emotional distress.

27 85. CITY OF PLEASANT HILL employee defendant KUHN committed his alleged
28 actions and negligent conduct in the course and scope of his employment. Defendant KUHN is
liable pursuant to California Government Code § 820.1(a), which renders a public employee

1 liable for injury caused by his or her act or omission to the same extent as a private person.
2 CITY OF PLEASANT HILL is liable pursuant to Government Code § 815.2, which renders a
3 public entity liable for injury proximately caused by an act or omission of an employee of a
4 public entity within the scope of his or her employment if the act or omission would give rise to
5 a cause of action against the public employee, commonly referred to as respondeat superior
6 liability.

7 86. Each of defendants' conduct was a substantial factor in causing the alleged
8 damages including severe emotional distress.

9 **TENTH CLAIM FOR RELIEF**
10 **BY PLAINTIFF JASON FINK**
11 **Assault**
12 **(Against All Defendants)**

13 87. Plaintiff realleges and incorporates by reference paragraphs 1 through 86 of this
14 complaint as though fully set forth in this claim for relief.

15 88. Defendant KUHN intended to harm or come into offensive contact with
16 Plaintiff.

17 89. Plaintiff reasonably apprehended that defendant was about to touch him in a
18 harmful or offensive manner.

19 90. Defendant KUHN also threatened to touch plaintiff in a harmful or offensive
20 manner and plaintiff reasonably apprehended that defendant KUHN was about to carry out that
21 threat.

22 91. Plaintiff did not consent to the conduct of defendant KUHN and was harmed
23 thereby.

24 92. CITY OF PLEASANT HILL employee defendant KUHN committed his alleged
25 actions in the course and scope of his employment. Defendant KUHN is liable pursuant to
26 California Government Code § 820.1(a), which renders a public employee liable for injury
27 caused by his or her act or omission to the same extent as a private person. CITY OF
28 PLEASANT HILL is liable pursuant to Government Code § 815.2, which renders a public
entity liable for injury proximately caused by an act or omission of an employee of a public

1 entity within the scope of his or her employment if the act or omission would give rise to a
2 cause of action against the public employee, commonly referred to as respondeat superior
3 liability.

4 93. Each defendants' conduct was a substantial factor in causing the alleged harm.

5 WHEREFORE, plaintiff seeks relief as set forth below.

6 **ELEVENTH CLAIM FOR RELIEF**
7 **BY PLAINTIFF JASON FINK**
8 **Battery**
9 **(Against All Defendants)**

10 94. Plaintiff realleges and incorporates by reference paragraphs 1 through 93 of this
11 complaint as though fully set forth in this claim for relief.

12 95. Defendant KUHN touched plaintiff, or caused plaintiff to be touched with the
13 intent of harming or offending plaintiff.

14 96. Plaintiff did not consent to the conduct of defendant KUHN.

15 97. Plaintiff was harmed by defendant's conduct.

16 98. A reasonable person in plaintiff's situation would have been offended by the
17 conduct of defendant KUHN.

18 99. CITY OF PLEASANT HILL employee defendant KUHN committed his alleged
19 actions in the course and scope of his employment. Defendant KUHN is liable pursuant to
20 California Government Code § 820.1(a), which renders a public employee liable for injury
21 caused by his or her act or omission to the same extent as a private person. CITY OF
22 PLEASANT HILL is liable pursuant to Government Code § 815.2, which renders a public
23 entity liable for injury proximately caused by an act or omission of an employee of a public
24 entity within the scope of his or her employment if the act or omission would give rise to a
25 cause of action against the public employee, commonly referred to as respondeat superior
26 liability.

27 100. Each defendants' conduct was a substantial factor in causing the alleged harm.

28 WHEREFORE, plaintiff seeks relief as set forth below.

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1 **TWELFTH CLAIM FOR RELIEF**
2 **BY PLAINTIFF JASON FINK**
3 **CALIFORNIA CIVIL CODE §§ 52, 52.1**
4 **Bane Act Violation**
5 **(Against All Defendants)**

6 101. Plaintiff realleges and incorporates by reference paragraphs 1 through 100 of
7 this complaint as though fully set forth in this claim for relief.

8 102. Defendant KUHN, using threats, coercion and intimidation, interfered with and
9 threatened to interfere with plaintiff's rights guaranteed by the Fourth Amendment to the
10 United States Constitution, and Art. 1, § 13 of the California Constitution.

11 103. CITY OF PLEASANT HILL employee defendant KUHN committed his alleged
12 actions and negligent conduct in the course and scope of his employment. Defendant KUHN is
13 liable pursuant to California Government Code § 820.1(a), which renders a public employee
14 liable for injury caused by his or her act or omission to the same extent as a private person.
15 CITY OF PLEASANT HILL is liable pursuant to Government Code § 815.2, which renders a
16 public entity liable for injury proximately caused by an act or omission of an employee of a
17 public entity within the scope of his or her employment if the act or omission would give rise to
18 a cause of action against the public employee, commonly referred to as respondeat superior
19 liability.

20 104. The actions of each defendant were a substantial factor in causing plaintiff to
21 sustain harm and the special and general damages which plaintiff will establish at trial.

22 105. Defendant KUHN acted with malice and oppression. His conduct was intended
23 to harm plaintiff or was despicable, carried out with a conscious disregard of plaintiff's rights
24 or safety. Defendants' conduct also subjected plaintiff to cruel and unjust hardship in
25 conscious disregard of plaintiff's rights.

26 106. Plaintiff seeks statutory damages and attorney fees allowed by California Civil
27 Code §§ 52, and 52.1(b).

28 WHEREFORE, plaintiff seeks additional relief as set forth below.

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