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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

CHRISTOPHER GARZA,

Plaintiff,

vs.

CITY OF SALEM, an Oregon municipal
corporation; and OFFICER DAVID
BAKER, an individual,

Defendants.

Case No. 3:22-cv-00721

COMPLAINT

VIOLATION OF RIGHTS TO PERSON
UNDER 42 USC §1983

DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial and alleges:

INTRODUCTION

1.

Plaintiff Christopher Garza is a citizen of the United States of America.

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2.

Defendant City of Salem is and at all times mentioned herein has been a municipal corporation in the State of Oregon.

3.

David Baker is and at all times mentioned herein has been a police officer with the Salem Police Department, acting under color of law and within the course and scope of his employment.

4.

A Tort Claim Notice under the law of Oregon was filed within 180 days after the events described herein.

5.

On September 17, 2021, plaintiff Christopher Garza, a Hispanic man, was working on a car at OK Tire of Salem adjacent to his home in Salem, Oregon, with two other Hispanic men when Officer Baker pulled into the parking lot of the tire shop, accused plaintiff of stealing the car, grabbed him by the neck and shoulder, shoved him onto the hood of the police car, handcuffed him very tightly, and roughly threw him into the police car.

6.

The above stop, detention, and use of excessive force were intentional and were done without probable cause or lawful basis, in violation of plaintiff's Constitutional rights. As a result of the above-described battery, plaintiff suffered injuries to his neck; shoulders, one of which required surgery; chest; wrists; and left hand; and suffered, continues to suffer, and will in the future

suffer from pain, discomfort, disability, interference with ordinary activities, embarrassment, frustration, anger, humiliation, a sense of personal violation, racial stigmatization, and increased vulnerability, all to his noneconomic damages in an amount to be determined by a jury. Plaintiff has incurred medical expenses in the current amount of approximately \$20,000. Plaintiff continues to treat for his injuries and agrees to amend for additional medical expenses and future medical expenses when or if he becomes medically stationary.

7.

The jury should be allowed to consider punitive damages in order to deter defendant Baker from this conduct and similar conduct by defendant Baker and others similarly situated in the future.

8.

Plaintiff is entitled to costs and attorney fees pursuant to 42 USC §1988.

FIRST CLAIM FOR RELIEF

(Fourth and Fourteenth Amendment (False Arrest and Excessive Force)

- Defendant Baker)

9.

Plaintiff realleges and incorporates by reference paragraphs 1–8 above.

10.

The above-described stop, detention, and excessive force were intentional, were done without probable cause and were in violation of plaintiff's Constitutional rights and the Fourth Amendment and Fourteenth

Amendment, and such claims are made under 42 USC §1983 against Officer David Baker.

SECOND CLAIM FOR RELIEF

(False Arrest – Defendant City of Salem)

11.

Plaintiff realleges and incorporates by reference paragraphs 1–6 above.

12.

The above-described stop and detention was intentional, plaintiff was aware of his detention, and the detention was unlawful. A claim for false arrest under the common law is made under the Court’s pendant jurisdiction, against the City of Salem.

THIRD CLAIM FOR RELIEF

(Battery – Defendant City of Salem)

13.

Plaintiff realleges and incorporates by reference paragraphs 1–6 above.

14.

As a result of being grabbed and held by defendant Baker, plaintiff suffered anger, frustration, indignity, and humiliation, all to his noneconomic damages in an amount to be determined at trial.

PRAYER

WHEREFORE, plaintiff prays for judgment against defendant Officer David Baker and defendant City of Salem for economic and noneconomic damages in amounts to be determined by the jury, for punitive damages in an

amount to be determined by the jury against defendant Baker, and for his costs, expenses, and reasonable attorney fees incurred herein.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial on all questions so triable.

DATED this 17th day of May, 2022.

KAFOURY & MCDUGAL

/s/ Jason Kafoury

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