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7 Attorneys for Defendants, CITY OF VALLEJO and BRIAN MURPHY

8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**

10 SHERRY GRAFF, an individual

11 Plaintiff,

12 vs.

13 CITY OF VALLEJO, a municipal
14 corporation; BRIAM MURPHY as an
15 individual and in his official capacity as a
16 police officer for the VALLEJO POLICE
DEPARTMENT; and DOES 1-50, inclusive,

17 Defendant.

Case No. 2:18-cv-02848-KJM-CKD

**DECLARATION OF KATELYN M.
KNIGHT IN SUPPORT OF MOTION TO
STAY CASE PENDING RESOLUTION
OF CRIMINAL ACTION, OR IN THE
ALTERNATIVE TO DISMISS STATE
CLAIMS**

Date: September 20, 2019

Time: 10:00 a.m.

Ctrlm: 3

18 I, Katelyn M. Knight, declare and state:

19 1. I am an attorney-at-law licensed to practice in the State of California and I am a
20 Deputy City Attorney in the Vallejo City Attorney’s Office. I am the attorney responsible for
21 handling the defense of this matter on behalf of the City of Vallejo and Officer Murphy. I have
22 personal knowledge of the matters set forth in this Declaration, except where stated on
23 information and belief, and could and would competently testify to them under oath if called as a
24 witness.

25 2. I have reviewed the audio recordings from the 911 calls in this case, body-worn
26 camera footage of the entire incident, and the police report pertaining to this matter. This case
27 arises from the arrest of Sherry Graff on April 24, 2018. Officer Murphy responded to a 911 call
28 reporting a disturbance. After speaking with an individual at Ms. Graff’s house and with Ms.

1 Graff, Officer Murphy observed that she had difficulty keeping track of her thoughts and was
2 speaking incoherently. Officer Murphy administered a 7-step DAR test (drug abuse
3 recognition). Based on Ms. Graff's performance, and Officer Murphy's experience and training,
4 Officer Murphy developed probable cause to believe that she was under the influence of a
5 controlled substance.

6 3. Officer Murphy advised Ms. Graff that she was being placed under arrest and
7 asked her to place her hands behind her back. Ms. Graff became upset and would not cooperate.
8 Officer Murphy spoke calmly and gave multiple warnings and commands over the course of
9 almost two minutes before taking hold of Ms. Graff's wrist to place her in handcuffs. At that
10 point, Ms. Graff began to violently struggle. Officer Murphy continued to give commands and
11 Ms. Graff continued to struggle, resulting in injury. Officer Murphy transported Ms. Graff to
12 Kaiser where the treating doctor elected to keep her overnight, and Officer Murphy released Ms.
13 Graff to the hospital's care with a promise to appear in Court.

14 4. On October 24, 2018, Ms. Graff filed the present civil rights action against the
15 City of Vallejo and Officer Murphy. The Complaint asserts causes of under the Fourth
16 Amendment on theories of excessive force and unlawful detention and arrest, as well as for
17 violation of the Bane Act, assault and battery, negligence, and false imprisonment against Officer
18 Murphy. The Complaint also asserts a *Monell* claim against the City of Vallejo and a cause of
19 action for violation of the Americans with Disabilities Act against both defendants. Among
20 other things, the Complaint alleges that "the District Attorney refused to prosecute Ms. Graff on
21 the bogus criminal charges." alleging that her arrest was unlawful and that Officer Murphy used
22 excessive force in effecting the arrest.

23 5. At the end of June 2019, I learned that a criminal complaint was filed against Ms.
24 Graff on September 6, 2018. I obtained a copy of the criminal case file, reviewed the criminal
25 complaint, and confirmed that the criminal complaint arises from Ms. Graff's arrest on April 24,
26 2018 and charges Ms. Graff with one count of resisting arrest in violation of Penal Code §
27 148(a)(1) and one count of being under the influence of a controlled substance in violation of
28 Health & Safety Code § 11550(a). A true and correct copy of the criminal complaint filed

1 against Sherry Graff is attached hereto as Exhibit A. I also reviewed the docket for the criminal
2 case and printed a copy. The docket shows that Ms. Graff failed to appear and the Court issued a
3 bench warrant for her arrest. A true and correct copy of the online docket for the criminal case is
4 attached hereto as Exhibit B.

5 6. After producing the criminal file in discovery, I reached out to Plaintiff's counsel
6 Patrick Buelna to meet and confer regarding a stay of the present action pending resolution of the
7 criminal case. Mr. Buelna advised that Plaintiff would not stipulate to a stay at this time as he
8 did not believe it was necessary.

9 Executed on this 8th day of August, 2019, at Vallejo, California.

10 I declare under penalty of perjury under the laws of the State of California and the United
11 States that the foregoing is true and correct.

12 /s/ Katelyn M. Knight
13 Katelyn M. Knight

EXHIBIT A

FILED
SOLANO COUNTY SUPERIOR COURT
2018 SEP -6 AM 10:15
R. J. [Signature]
CLERK

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SOLANO

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff

vs.

SHERRY LYNNE GRAFF (01/25/1966)

Defendant

Case No. VCR232945

MISDEMEANOR COMPLAINT

01101375

The undersigned is informed and believes that:

COUNT 1

On or about April 24, 2018, defendant SHERRY LYNNE GRAFF did commit a misdemeanor namely: RESIST, OBSTRUCT, DELAY OF PEACE OFFICER OR EMT, a violation of Section 148(a)(1) of the Penal Code of the State of California, County of Solano, in that said defendant did willfully and unlawfully resist, delay and obstruct OFFICER MURPHY who was then and there a peace officer attempting to and discharging the duty of his/her office and employment.

COUNT 2

On or about April 24, 2018, defendant SHERRY LYNNE GRAFF did commit a misdemeanor namely: UNDER INFLUENCE OF A CONTROLLED SUBSTANCE, a violation of Section 11550(a) of the Health & Safety Code of the State of California, County of Solano, in that said defendant did unlawfully use and be under the influence of a controlled substance, to wit, METHAMPHETAMINE. "NOTICE: Conviction of this offense will require you to register pursuant to Health and Safety Code section 11590. Failure to do so is a crime pursuant to Health and Safety Code section 11594."


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DISCOVERY REQUEST PURSUANT TO PENAL CODE SECTION 1054/1054.7:

Pursuant to Penal Code sections 1054 through 1054.7, the People request that, within fifteen (15) days, the defendant and/or his/her attorney disclose: (a) The names and addresses of persons, other than the defendant, he/she intends to call as witnesses at trial, together with any relevant written or recorded statements of experts made in connection with the case, and including the results of physical or mental examinations, scientific tests, experiments, or comparisons which the defendant intends to offer in evidence at the trial. This request is a continuing request, to cover not only all such material currently in existence, but also all material which comes into existence to the conclusion of this case.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT AND THAT THIS COMPLAINT CONSISTS OF 2 COUNTS.

Executed at Vallejo, California, on September 4, 2018.



CAITLIN S. KEANE
DECLARANT AND COMPLAINANT

AGENCY: VALLEJO POLICE
DEPARTMENT

D.A. NO.: V181236

Arresting Officer: Murphy, Badge #667

DEFENDANT	CII NO	DOB	BOOKING NO	CUSTODY R'TN DATE
Sherry Lynne Graff		01/25/1966	***	

EXHIBIT B

Report Selection Criteria

Case ID: VCR232945
Docket Start Date:
Docket Ending Date:

Case Description

Case ID: VCR232945 - People vs. SHERRY LYNNE GRAFF - DMS
Filing Date: Thursday , September 06th, 2018
Type: M5 - Vallejo Misdemeanor - Group A
Status: BWI - BENCH WARRANT ISSUED

Related Cases

No related cases were found.

Case Event Schedule

No case events were found.

Case Parties

Seq #	Assoc	Party End Date	Type	Name
2			JUDGE	WIESER, JR., RAYMOND C.
Address: unavailable		Aliases: none		
3			DEFENDANT	GRAFF, SHERRY LYNNE
Address: unavailable		Aliases: none		

Docket Entries

Filing Date	Description	Name	Monetary
06-SEP-2018 09:08 AM	COMPLAINT FILED BY DA		
Entry:	none.		
16-OCT-2018 09:09 AM	DA NUMBER		
Entry:	V181236		

16-OCT-2018 09:09 AM	AGENCY		
Entry:	VJPD		
16-OCT-2018 09:09 AM	CITATION		
Entry:	A347255		
16-OCT-2018 09:09 AM	POLICE REPORT NUMBER		
Entry:	18-4827		
16-OCT-2018 09:09 AM	DMV TELETYPE		
Entry:	<i>none.</i>		
16-OCT-2018 09:09 AM	COURT INFO SHEET FROM DA		
Entry:	<i>none.</i>		
22-OCT-2018 02:31 PM	CALENDAR NOTES		
Entry:	ARR SET FOR 11/30/2018 D24 830 *CGUT		
22-OCT-2018 02:41 PM	NOTICE SENT		
Entry:	<i>none.</i>		
30-NOV-2018 02:58 PM	BENCH WARRANT ORDERED		
Entry:	<i>none.</i>		
03-DEC-2018 03:53 PM	FAILURE TO APPEAR		
Entry:	<i>none.</i>		

04-DEC-2018 10:33 AM	BENCH WARRANT ISSUED		
Entry:	SIGNED BY COMM. HOUGHTON FOR DEPT. 24/ycd		
27-MAR-2019 04:37 PM	BENCH WARRANT RECALLED		
Entry:	PTA-ARR 4/26/19 0830 D24. LLEW		
03-APR-2019 02:38 PM	WARRANT RETURNED TO FILE		
Entry:	12-04-18 RWIL		
26-APR-2019 02:41 PM	BENCH WARRANT ORDERED		
Entry:	<i>none.</i>		
26-APR-2019 02:50 PM	FAILURE TO APPEAR		
Entry:	<i>none.</i>		
29-APR-2019 10:31 AM	BENCH WARRANT ISSUED		
Entry:	SIGNED BY COMM. WIESER, RETURNED W/M.O. TO RECORDS/ycd		