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13 UNITED STATES DISTRICT COURT
14 EASTERN DISTRICT OF CALIFORNIA – FRESNO

15 RAMIRO HUERTA,
16 Plaintiff,

17 vs.

18 COUNTY OF TULARE, a governmental
19 entity; TULARE COUNTY SHERIFF, a
20 governmental entity, Unknown TULARE
21 COUNTY SHERIFF’S DEPUTIES named
22 herein, as Does 1-50; and ROES 1-50,
23 inclusive,

24 Defendants.

Case Number: 1:17-cv-01446-DAD-EPG

**ANSWER OF DEFENDANTS
COUNTY OF TULARE AND
TULARE COUNTY SHERIFF’S
DEPARTMENT**

DEMAND FOR JURY TRIAL

*Exempt from Filing Fees Pursuant
to Government Code § 6103*

25 Defendants COUNTY OF TULARE (“County”), and TULARE COUNTY SHERIFF
26 (“TCSO”), (“Defendants”), answering the Unverified Complaint alleging Assault; Battery;
27 False Imprisonment; Violation of Civil Rights Under Color of Law (42 U.S.C. § 1983); and
28 Intentional Infliction of Emotional Distress.

DEMAND FOR JURY TRIAL

Defendants hereby demand a trial by jury on all issues triable by a jury.

ANSWER

1. Defendants admit that Plaintiff was a resident of the County of Tulare at all times relevant as set forth in paragraph 1 of the Complaint.

2. Defendants admit the County of Tulare is a governmental entity located in the County of Tulare, State of California as stated in paragraph 2 of the Complaint.

3. Defendants deny that the Tulare County Sheriff (the Sheriff) is a governmental entity as alleged in paragraph 3 of the Complaint; Tulare County Sheriff is a department contained within the entity of the County of Tulare.

4. Defendants admit the acts forming the basis of the Complaint took place within Tulare County and that the identities of the deputies responding to Plaintiff's home on the night in question are known to the Sheriff and County and said deputies responded to Plaintiff's location within the scope and course of their employment. Except as specifically admitted, the County and Sheriff deny each and every allegation contained in paragraph 4 of the Complaint.

5. Defendants deny the allegations contained in paragraph 5 of the Complaint.

6. Defendants admit the allegations in paragraph 6 of the Complaint.

7. Defendants admit the allegations in paragraph 7 of the Complaint.

8. Defendants admit Plaintiff phoned the Porterville Police Department several times on the night of the incident and lack sufficient information to admit or deny the remaining allegations in paragraph 8, therefore Defendants deny.

1 9. Defendants admit that on April 25, 2017 Tulare County Sheriff's Deputies were
2 dispatched to a residence located in the City of Strathmore at approximately 10:30 p.m. and
3 that Plaintiff was located at that residence. Defendants further admit the deputies were
4 wearing their department issued uniforms and standing outside the door to the residence.
5 Defendants deny the remaining allegations contained in paragraph 9 of the Complaint.
6

7 10. Defendants admit that Plaintiff was taken to the ground by a Sheriff's Deputy once he
8 exited the residence and deny the remaining allegations contained in paragraph 10 of the
9 Complaint.
10

11 11. Defendants admit that Plaintiff was placed in handcuffs and deny the remaining
12 allegations set forth in paragraph 11 of the Complaint.
13

14 12. Defendants specifically deny that a "beating" took place. Defendants lack sufficient
15 information to admit or deny the remaining allegations contained in paragraph 12 of the
16 Complaint, therefore Defendants deny.
17

18 13. Defendants admit that Plaintiff was transported to Sierra View District Hospital in
19 Porterville where he was examined and medically cleared. Defendants deny the remaining
20 allegations contained in paragraph 13 of the Complaint.
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22 14. Defendants admit that after Plaintiff was medically cleared he was transported from
23 the Sierra View District Hospital to a Tulare County Detention Center where he was booked
24 into custody and released on April 26, 2017. Defendants further admit that at the time the
25 Complaint in this matter was filed criminal charges had not been filed against Plaintiff.
26 Defendants lack sufficient information to admit or deny the allegations concerning Plaintiff's
27 conduct after his release, and therefore deny those allegations. Except as specifically
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1 admitted or denied as previously stated, Defendants deny each and every allegation
2 contained in paragraph 14 of the Complaint.

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4 15. Defendants admit that Plaintiff submitted a claim to Tulare County, that the claim was
5 denied, and that the instant lawsuit followed. Defendants deny the remaining allegations
6 contained in paragraph 15 of the Complaint.

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8 **FIRST CAUSE OF ACTION**
(ASSAULT AGAINST ALL DEFENDANTS)

9 16. The allegations contained in paragraph 16 of the Complaint are admitted or denied as
10 set out above in response to the individual incorporated paragraphs.

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12 17. Defendants lack sufficient information to admit or deny the allegations contained in
13 paragraph 17 of the Complaint, therefore they are denied.

14 18. Defendants deny the allegations contained in paragraph 18 of the Complaint.

15 19. Defendants deny the allegations contained in paragraph 19 of the Complaint.

16 20. Defendants deny the allegations contained in paragraph 20 of the Complaint.

17 21. Defendants deny the allegations contained in paragraph 21 of the Complaint.

18 22. Defendants deny the allegations contained in paragraph 22 of the Complaint.

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21 **SECOND CAUSE OF ACTION**
(BATTERY AGAINST ALL DEFENDANTS)

22 23. The allegations contained in paragraph 23 of the Complaint are admitted or denied as
23 set out above in response to the individual incorporated paragraphs.

24 24. Defendants lack sufficient information to admit or deny the allegations contained in
25 paragraph 24 of the Complaint, therefore they are denied.

26 25. Defendants deny the allegations contained in paragraph 25 of the Complaint.
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1 26. Defendants deny the allegations contained in paragraph 26 of the Complaint.

2 27. Defendants deny the allegations contained in paragraph 27 of the Complaint.

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4 **THIRD CAUSE OF ACTION**
5 **(FALSE IMPRISONMENT AGAINST ALL DEFENDANTS)**

6 28. The allegations contained in paragraph 28 of the Complaint are admitted or denied as
7 set out above in response to the individual incorporated paragraphs.

8 29. Defendants lack sufficient information to admit or deny the allegations contained in
9 paragraph 29 of the Complaint and therefore deny.

10 30. Defendants deny the allegations contained in paragraph 30 of the Complaint.

11 31. Defendants deny the allegations contained in paragraph 31 of the Complaint.

12 32. Defendants deny the allegations contained in paragraph 32 of the Complaint.

13
14 **FOURTH CAUSE OF ACTION**
15 **(Intentional Infliction of Emotional Distress)**

16 33. The allegations contained in paragraph 33 of the Complaint are admitted or denied as
17 set out above in response to the individual incorporated paragraphs.

18 34. Defendants deny that Plaintiff's constitutional rights were violated and lack sufficient
19 information to admit or deny the remaining allegations contained in paragraph 34 of the
20 Complaint, therefore they are denied.

21 35. Defendants lack sufficient information to admit or deny the allegations contained in
22 paragraph 35 of the Complaint, therefore they are denied.

23 36. Defendants admit that Plaintiff has the enumerated constitutional rights to the extent
24 established by applicable law. Defendants deny each and every remaining allegation
25 contained in paragraph 36 of the Complaint.
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1 37. Defendants deny the allegations contained in paragraph 37 of the Complaint.

2 38. Defendants deny the allegations contained in paragraph 38 of the Complaint.

3
4 **FIFTH CAUSE OF ACTION**
5 **(INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS)**

6 39. The allegations contained in paragraph 39 of the Complaint are admitted or denied as
7 set out above in response to the individual incorporated paragraphs.

8 40. Defendants lack sufficient information to admit or deny the allegations contained in
9 paragraph 40 of the Complaint and on that basis deny.

10 41. Defendants deny the allegations contained in paragraph 41 of the Complaint.

11 42. Defendants deny the allegations contained in paragraph 42 of the Complaint.

12 43. Defendants deny the allegations contained in paragraph 43 (mistakenly numbered by
13 Plaintiff as 32) of the Complaint.

14
15 **FIRST AFFIRMATIVE DEFENSE**

16 44. Defendants allege that the Complaint fails to state facts sufficient to constitute a cause
17 of action against these answering Defendants.

18
19 **SECOND AFFIRMATIVE DEFENSE**

20 45. Defendants allege that at the time of the incidents referred to in the Complaint,
21 Plaintiff was negligent or at fault and failed to use that degree of care and caution which a
22 reasonably prudent person would have used under the same or similar circumstances; that
23 Plaintiff's negligence or fault must be compared with the negligence or fault of the
24 Defendants, as well as that of any other persons or parties, and that any award to Plaintiff
25 must be reduced by the amount that the Plaintiff's negligence or fault contributed to
26 Plaintiff's injuries and damages if any there were.
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THIRD AFFIRMATIVE DEFENSE

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2 46. Defendants allege that all events in connection with the incidents alleged in Plaintiff's
3
4 Complaint and any resulting injuries or damages therefrom were contributed to and
5 proximately caused by the negligence of the Plaintiff in that the Plaintiff failed to exercise
6 ordinary care for his own safety under the circumstances, thereby barring the Plaintiff from
7 any recovery.

FOURTH AFFIRMATIVE DEFENSE

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10 47. Defendants allege that they acted in good faith and did not directly or indirectly
11 perform any acts whatsoever which would constitute a breach of any duty owed to the
12 Plaintiff.

FIFTH AFFIRMATIVE DEFENSE

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15 48. Defendants allege that they acted in good faith and did not directly or indirectly
16 perform any acts whatsoever which would constitute a violation of any state or federal
17 constitutional right possessed by Plaintiff.

SIXTH AFFIRMATIVE DEFENSE

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20 49. Defendants allege that each of the Plaintiff's claims are barred by California
21 Government Code sections 815, 815.2, 815.3, 818, 818.2, 820, 820.2, 820.4, 820.6, 820.8,
22 821, 845.6, 845.8, and 846.

SEVENTH AFFIRMATIVE DEFENSE

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25 50. Defendants allege that they are entitled to recover reasonable expenses, including
26 attorney's fees, from the Plaintiff and his counsel in that the Plaintiff's Complaint is
27 frivolous and was brought and maintained in bad-faith and without reasonable cause, is
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1 totally and completely without merit as to these Defendants, and was brought for the sole
2 purpose of harassing these Defendants. Cal. Code of Civil Procedure sections 128.5 and
3 1021.7.
4

5 **EIGHTH AFFIRMATIVE DEFENSE**

6 51. Defendants allege that they are entitled to recover reasonable expenses, including
7 attorney's fees, from the Plaintiff and his counsel in that they, at the time the Complaint was
8 filed and during its maintenance and to the extent that it includes causes of action filed under
9 the California Tort Claims Act, did not have a good faith belief that there was a justifiable
10 controversy under the facts and law which warranted the filing of the Complaint against
11 these Defendants, and therefore the Complaint was filed and maintained in bad-faith and
12 without reasonable cause. Cal. Code of Civil Procedure section 1038.
13
14

15 **NINTH AFFIRMATIVE DEFENSE**

16 52. Defendants allege that at all times relevant to this litigation, the Plaintiff consented,
17 either expressly or impliedly, to any such acts or conduct as may be shown on the part of
18 these Defendants.
19

20 **TENTH AFFIRMATIVE DEFENSE**

21 53. Defendants allege that at all times relevant to this litigation, the Plaintiff engaged in
22 provocative acts, conduct and/or words such that the conduct of Defendants relating to the
23 Plaintiff was reasonable, necessary and of a consequential nature.
24

25 **ELEVENTH AFFIRMATIVE DEFENSE**

26 54. Defendants allege that at no time relevant to this litigation did the Plaintiff sustain any
27 violation of his civil rights, pursuant to a governmental habit or custom thereby precluding
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1 the Plaintiff from maintaining his causes of action for violation of his civil rights.

2 **TWELFTH AFFIRMATIVE DEFENSE**

3 55. Defendants allege that at all times relevant to this litigation, these Defendants acted in
4 good faith and with probable cause and entertained an honest, reasonable belief that these
5 Defendants' actions were reasonable and necessary thereby precluding the Plaintiff from
6 maintaining any causes of action for violation of his civil rights.
7

8 **THIRTEENTH AFFIRMATIVE DEFENSE**

9 56. Defendants allege that at all times relevant to this litigation, the injuries and damages
10 of which the Plaintiff complains amounted to nothing more than a tort which the State of
11 California protects against by virtue of its tort laws thereby precluding the Plaintiff from
12 maintaining any causes of action for violations of his civil rights.
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15 **FOURTEENTH AFFIRMATIVE DEFENSE**

16 57. Defendants allege that at all times relevant to this litigation, these Defendants were
17 performing discretionary functions, and their conduct did not violate any established
18 statutory or constitutional rights of which a reasonable person would have an expectation of
19 civil rights.
20

21 **FIFTEENTH AFFIRMATIVE DEFENSE**

22 58. Defendants allege that at all times relevant to this litigation, these Defendants acted in
23 good faith and with probable cause and at no time did Defendants know or should have
24 known that the action taken within the sphere of these Defendants' official responsibility
25 would violate the constitutional rights of the Plaintiff, and the Plaintiff is thereby precluded
26 from maintaining these causes of action for violations of his civil rights.
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SIXTEENTH AFFIRMATIVE DEFENSE

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2 59. Defendants allege that to the extent that Plaintiff's Complaint and causes of action for
3 violations of his civil rights are based upon a theory of respondeat superior against these
4 Defendants, Defendants are immune from liability.
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SEVENTEENTH AFFIRMATIVE DEFENSE

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7 60. Defendants allege that the Plaintiff's claim for damages is barred in that Plaintiff
8 could have avoided such damages, if any there were, with reasonable effort and failed to do
9 so.
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EIGHTEENTH AFFIRMATIVE DEFENSE

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12 61. Defendants allege that at the time and place of the incidents alleged in Plaintiff's
13 Complaint, the Plaintiff knew of the danger and risk incident to his activity, but nevertheless
14 freely and voluntarily exposed himself to all risks of harm and therefore assumed all risk of
15 harm incidental thereto.
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NINETEENTH AFFIRMATIVE DEFENSE

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18 62. Defendants allege that Plaintiff is estopped by his own conduct from asserting the
19 allegations in the Complaint.
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TWENTIETH AFFIRMATIVE DEFENSE

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22 63. Defendants allege that if the conduct of these Defendants is found to have been
23 wrongful, which Defendants have denied and continue to deny, then Plaintiff's claim is
24 barred by the doctrine of unclean hands.
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1 **WHEREFORE, THESE ANSWERING DEFENDANTS PRAY** that Plaintiff take
2 nothing by way of his Complaint, and that the Defendants go hence with Defendants' costs
3 of suit and attorney's fees incurred.
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5 Dated: November 15, 2017

DEANNE H. PETERSON
Tulare County Counsel

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8
9 By /s/ Amy Terrible Myers
10 AMY TERRIBLE MYERS
11 Deputy County Counsel
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17 KAM/11/6/2017/20171605
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