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19 **UNITED STATES DISTRICT COURT**
20 **CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION**

21 **BLACK LIVES MATTER LOS**
22 **ANGELES, CANGRESS (DBA LOS**
23 **ANGELES COMMUNITY ACTION**
24 **NETWORK), LINUS SHENTU,**
25 **WESTON ROWLAND, individually**
26 **and on behalf of a class of similarly**
27 **situated persons,**

28 **PLAINTIFFS,**

vs.
29 **CITY OF LOS ANGELES, a**
30 **municipal entity, CHIEF MICHEL**
31 **MOORE, and DOES 1-10 inclusive,**

DEFENDANTS.

Case No.:

**COMPLAINT: CLASS ACTION
INJUNCTIVE RELIEF AND
DAMAGES**

**42 U.S.C. § 1983: FIRST, FOURTH
AND FOURTEENTH
AMENDMENTS**

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1 1. This action arises out of the protests across the nation following the
2 murder of George Floyd by officers with the Minneapolis Police Department. The
3 events in Minneapolis, in a very short time frame after the deaths of Breonna Taylor
4 and Ahmaud Arbery, brought out hundreds of thousands of people around the
5 country simultaneously to condemn the deaths of black and brown men and women
6 at the hands of law enforcement and vigilantes condoned by local law enforcement.
7 Some of the larger demonstrations in the country occurred in the Los Angeles area.
8 Over the course of approximately a week, the Los Angeles Police Department
9 arrested more than 2600 individuals engaged in peaceful protest.

10 2. This was not the first time that the LAPD has engaged in these tactics.
11 Over the course of the last several decades, the Defendant City has been sued
12 repeatedly for many of the same tactics on display the past week, including kettling
13 protestors before declaring an unlawful assembly, excessive force with batons and
14 rubber bullets, and prolonged handcuffing and improper conditions of confinement
15 for arrestees, only recently settling a lawsuit raising many of the same challenges in
16 the protests that followed the decision of the Ferguson Grand Jury not to indict the
17 officer who shot and killed Michael Brown. *See Chua v. City of Los Angeles*, 16-
18 cv-00237-JAK-GJS (C.D. Ca.). By kettling the demonstrators, detaining, keeping
19 them tightly handcuffed on buses for hours, without access to bathroom facilities,
20 water or food, Defendants violated Plaintiffs' rights under the U.S. and California
21 constitution.

22 3. This Court has subject matter jurisdiction over the Plaintiffs' claims
23 pursuant to 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1343 (civil rights
24 jurisdiction). This Court has jurisdiction to issue declaratory or injunctive relief
25 pursuant to 28 U.S.C. §§ 2201 and 2202 and Federal Rule of Civil Procedure 57.

26 4. Venue is proper in the Central District of California pursuant to 28
27 U.S.C. § 1391, as all Defendants and events giving rise to the claims herein occurred
28 in the Central District of California.

PARTIES

1
2 5. Plaintiff BLACK LIVES MATTER LOS ANGELES (“BLMLA”) is
3 part of a nationwide organization with chapters in many major cities, including Los
4 Angeles. The organization originated in Los Angeles with demonstrations on July
5 13, 2013, the date George Zimmerman was acquitted of killing teen-ager Trayvon
6 Martin in Florida.

7 6. BLMLA is one of the largest and most active chapters of the
8 organization, with nearly 500 active members and organized ally groups, including
9 White People for Black Lives. On average, BLM sponsors four actions a week.
10 Defendants’ actions interfered with BLMLA’s right to assembly and speech. The
11 BLMLA plans to assist, plan, participate in, hold similar events in the future, on its
12 own or in conjunction with others, and is fearful that the police actions in response
13 to these and similar protests of sanctioned executions will be repeated absent
14 injunctive relief to prohibit the practices, policies, and customs of the LAPD that
15 resulted in the unlawful action in response to the recent protests throughout the City.

16 7. In response to the murder of George Floyd, BLM organized protests in
17 Los Angeles. One such action was held at Pan Pacific Park in Los Angeles on
18 Saturday, May 30, 2020. During the course of this protest and others over the past
19 week, while BLMLA and its members were engaged in lawful First Amendment
20 activity, the LAPD used force to terminate the protests, including the indiscriminate
21 use of so-called “less lethal” weapons that caused injury to its members and instilled
22 fear in them that, if they chose to assemble in public spaces to express their
23 opposition to police violence across the nation against black men and women, they
24 would be the subject of such violence and arrest.

25 8. Plaintiff CANGRESS, dba Los Angeles Community Action Network
26 (LA CAN), is a grassroots non-profit organization operating in Skid Row for
27 approximately two decades. More than 800 low-income residents of Skid Row are
28 involved with LA CAN, many of whom are unsheltered each night. In addition,

1 individuals such as Plaintiff SHENTU are members and supporters of the
2 organization. The primary purpose of the organization is to organize and empower
3 community residents to work collectively to address systemic poverty and
4 oppression in the community. Since its founding in 1999, LACAN has been the only
5 member-driven organization in Skid Row whose goal is to protect the rights and
6 prevent the further disenfranchisement of homeless and poor people in Los Angeles.
7 LA CAN brings this action on behalf of its members and associates who have been
8 arrested, subjected to the use of less-lethal weapons and other tactics aimed at
9 shutting down public spaces over the past 10 days by employees and agents of the
10 City pursuant to the enforcement policies, practices and customs of the City. As a
11 result of Defendants' unlawful actions, LA CAN has expended personnel resources
12 to try and prevent at-risk individuals from being subjected to these unlawful policies
13 and assist their members and associates to be safe from police actions.

14 9. Plaintiff LINUS SHENTU is a long-time member of CANGRESS. On
15 June 2, 2020, he was participating in a peaceful protest in Hollywood, near Sunset
16 and Vine. When the march was on Van Ness between Melrose and Santa Monica
17 Boulevard, SHENTU observed police started blocking streets and kitting the
18 protestors. The march was accompanied by a car caravan. From a half a block away,
19 SHENTU observed the police dragging people out of cars. All around him, the
20 marchers started running. SHENTU and his partner were able to locate the sister of
21 his partner and jumped in her car. Because the police had blocked off all of the
22 streets, they could not leave the area. To avoid arrest and be safe, they followed
23 other cars to a parking lot of a nearby apartment building.

24 10. As they remained in their car, they observed a few officers enter the
25 back yard and begin to pull people out of their vehicles. The officers ordered
26 SHENTU, his partner and her sister out of their cars, opened the rear passenger door
27 where his partner was seated and began to yank her harshly by her arm. SHENTU
28 voluntarily exited the rear passenger seat. They were lined up on the side of the

1 building with their hands zip tied behind their backs. In all, approximately 30
2 individuals were arrested and held at Elmwood and Van Ness for approximately one
3 hour while officers filled out Field Interview cards with their personal identifiers.

4 11. After approximately one hour, Sheriff's buses arrived to transport the
5 arrestees. They were driven to a makeshift processing center in Van Nuys. In all,
6 SHENTU estimates that he was detained, handcuffed tightly behind his back, for
7 about four hours. SHENTU, his partner and his partner's sister experienced
8 numbness, bruising and soreness from the handcuffing and the forced removal from
9 their vehicle.

10 12. The injuries and violations of rights experienced by Plaintiff SHENTU
11 are typical of, and consistent with, the violations of rights and injuries suffered by
12 the arrestee class. `

13 13. In addition to the experience of Plaintiff SHENTU, other members of
14 organizational plaintiff CANGRESS were subjected to excessive force. Most, if not
15 all of these individuals, are unhoused and had no place they could go to avoid
16 violating the curfew. Some were arrested and taken to Jackie Robinson stadium on
17 the VA property in West Los Angeles. They were all tightly handcuffed from the
18 time they were arrested, transported across town to Brentwood, held for processing
19 and then released, homeless on the streets of Los Angeles during a city-wide curfew.

20 14. Still other low-income residents of Skid Row were subjected to
21 excessive force through the indiscriminate use of "rubber bullets" by the LAPD. For
22 example, a participant in LA CAN, "Cincinatti," was struck in the face by so-called
23 less lethal weapons. Cincinatti is disabled and in a wheelchair. He pleaded with
24 police not to use force on him before being shot in the face. But he was not the only
25 disabled person in a wheelchair to be struck in the face by a rubber bullet as the
26 LAPD enforced curfew laws and other misdemeanors in the last week.



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14 15. Plaintiff Weston Rowland is a resident of Los Angeles County. After
15 going to the BLMLA rally in Pan Pacific Park on Saturday, Rowland marched with
16 the protestors to the Fairfax area. As he left the Park, the police was struck with a
17 baton in the ribs and his friend was repeatedly struck with a baton. The police had
18 formed a line blocking the march. Rowland heard no orders from the officers other
19 than “back up.” In a very short time, the officers opened fire with less lethal weapons,
20 aiming directly at the demonstrators and striking many in the upper body. As
21 Weston tried to help a woman on the ground, without notice or warning, he was
22 struck with a rubber bullet in his shoulder and sustained extensive bruising and pain.
23 He sues as an individual and on behalf of a class of similarly situated individuals.

24 16. Defendants’ actions interfered with BLMLA’s right to assembly and
25 speech. BLMLA plans to assist, plan, participate in, hold similar events in the future,
26 on its own or in conjunction with others, and is fearful that the police actions in
27 response to these and similar protests of sanctioned executions will be repeated
28 absent injunctive relief to prohibit the practices, policies, and customs of the LAPD

1 that resulted in the unlawful action in response to the recent protests throughout the
2 City.

3 17. Defendants' actions also interfered with the work of Plaintiff
4 CANGRESS to advocate for racial and economic justice for the residents of Skid
5 Row, both housed and unhoused. Because Defendants indiscriminately arrested
6 individuals on Skid Row for violations of the curfew and assaulted them with less
7 lethal weapons, Plaintiff CANGRESS has had to shift its resources to protecting its
8 members and other residents of Skid Row from the unlawful conduct of the LAPD.
9 Plaintiff CANGRESS' time in recent months was heavily focused on advocating for
10 and protecting a highly-vulnerable population for COVID-19 from the greater
11 likelihood of contracting and dying from the virus based on their poverty, underlying
12 medical conditions and race.

13 18. The Plaintiff classes consist of: 1) approximately 2600 individuals who
14 were subjected to excessively tight and prolonged handcuffing, held on buses and in
15 garages for extended periods of time, without access to bathrooms or water when
16 they engaged in the spontaneous protests against a number of recent widely
17 publicized police killings of civilians, the most recent spark being the murder of
18 George Floyd in Minneapolis, Minnesota; and 2) approximately 10,000 individuals,
19 if not more, who were struck by so-called "rubber bullets" and/or baton strikes
20 administered without lawful justification and in a manner contrary that was contrary
21 to proper use and inflicted maximum injury.

22 19. Defendant City of Los Angeles is a municipal corporation duly
23 organized and existing under the Constitution and laws of the State of California.
24 The Los Angeles Police Department ("LAPD") is a local government entity and an
25 agency of Defendant City of Los Angeles, and all actions of the LAPD are the legal
26 responsibility of the City of Los Angeles. The City of Los Angeles is sued in its own
27 right on the basis of its policies, customs, and practices which gave rise to Plaintiffs'
28 federal rights claims.

1 20. Defendant Chief Michel Moore, is and was, at all times relevant to this
2 action, the LAPD police chief and a policymaker for his department. He is sued in
3 both his individual and official capacities. .

4 21. Plaintiffs are informed, believe, and thereupon allege that Does 1
5 through 10 were the agents, servants, and employees of Defendants City of Los
6 Angeles and/or the LAPD. Plaintiffs are ignorant of the true names and capacities of
7 Defendants sued herein as Does 1 through 10, inclusive, and therefore sue these
8 Defendant by such fictitious names. Plaintiffs will amend this Complaint to allege
9 their true names and capacities when ascertained. The individual Doe Defendants
10 are sued in both their individual and official capacities.

11 22. Plaintiffs are informed, believe, and thereupon allege that at all times
12 relevant hereto Does 1 through 10, in addition to the named Defendants, are
13 responsible in some manner for the damages and injuries alleged herein.

14 23. Plaintiffs are informed, believe, and thereupon allege that at all times
15 relevant hereto Defendants, and each of them, were the agents, servants and
16 employees of the other Defendants and were acting at all times within the scope of
17 their agency and employment and with the knowledge and consent of their principal
18 and employer. At all times Defendants were acting under color of state law.

19 24. Plaintiffs are informed, believe, and thereupon allege that the practices,
20 policies, and customs of the City of Los Angeles and/or the LAPD caused the
21 unlawful action taken against Plaintiffs.

22 **FACTS**

23
24 25. On May 25, 2020, Minneapolis Police Officer Derek Chauvin
25 murdered George Floyd, suspected of forgery for attempting to use a purported
26 counterfeit \$20 bill. Officer Chauvin, along with two other officers, held Mr. Floyd
27 on the ground, handcuffed behind his back, and ignored pleas to get off his neck,
28 back and legs and let him breathe. Mr. Floyd died on the street in Minneapolis.

1 26. Because of extensive video by onlookers, security cameras and,
2 ultimately police body cameras, both the Minneapolis law enforcement and
3 prosecutors, as well as the public, concluded that George Floyd was just the latest
4 person to die at the hands of police because of deliberate and unlawful tactics of law
5 enforcement.

6 27. The death of George Floyd sparked an extraordinary reaction of
7 protests across the country and the world. In Los Angeles, tens of thousands of
8 people participated in lawful and peaceful protests. While some individuals applied
9 different tactics, the Defendants treated all those who came out to express their
10 opposition to a police state to an unlawful police state with expansive curfews and
11 arrests for failing to comply with the curfews, failing to disperse, unlawful assembly,
12 failure to follow a “lawful” order of an officer and similar misdemeanors
13 undercutting the right to engage in protected expressive activity in public spaces.

14 28. California Penal Code § 409, defining an unlawful assembly, has
15 repeatedly been construed to require a showing of imminent violence that so
16 permeates a lawful expressive activity that law enforcement may curtail the rights
17 of all. Those facts did not exist in this instance. Instead, the LAPD and Mayor
18 Garcetti applied a ham-handed approach, silencing everyone. Nearly 3,000 people
19 were arrested as a result.

20 29. The arrest class of Plaintiffs were transported to LAPD jails around the
21 City. All were held on buses or off-loaded into garages and similar facilities, where
22 they were held handcuffed behind their backs. All members of the arrest class were
23 held in this manner for a minimum of several hours, with some held more than 12
24 hours in these excruciatingly painful conditions. The class members experienced
25 numbness in their hands and requests to loosen the zip ties or remove them went
26 unanswered. Without access to bathrooms, arrestees were compelled to urinate on
27 themselves.

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1 30. The arrest class was held under these unlawful conditions of
2 confinement despite the fact that, to address the COVID-19 pandemic, California
3 currently has a \$0 bail for any misdemeanor where the bail would be less than
4 \$50,000. The prolonged detention of the arrest class is even more unjustified in light
5 of the mandatory instruction of California California Penal Code § 853.6, requiring
6 that individuals suspected of a misdemeanor violation be cited and released in the
7 field unless one of a limited number of restrictions apply.

8 31. Penal Code § 853.6 imposes a mandatory requirement to release
9 misdemeanor violators on their own recognizance in the field or immediately after
10 booking unless individualized probable cause exists to believe that one or more
11 exceptions to the statute exists as a basis to deny OR release. In this instance, there
12 was no reason why Defendants could not process individuals in the field and release
13 them without the prolonged handcuffing. Both § 853.6 by statute and the First
14 Amendment by constitutional principle require individualized suspicion before
15 fundamental rights may be denied. All but approximately three percent of the nearly
16 2700 individuals arrested by the LAPD over the course of the Floyd protests were
17 charged with misdemeanors for curfew violations, failure to disperse and failure to
18 file a “lawful” order of a law enforcement officer. There was no reasonable basis to
19 believe that each and every one of the arrestee Plaintiffs, or even any of the Plaintiffs,
20 would engage in a similar purported misdemeanor violation if they had been cited
21 and released in the field. The Defendant LAPD had the capacity to process arrestees
22 in the field. On a daily basis, LAPD officers run individuals they stop on suspected
23 misdemeanor violations for wants and warrants before writing a misdemeanor
24 citation with a notice to appear. The entire Plaintiff class was denied the
25 individualized assessment of criminal liability that is the hallmark of due process
26 and each had their liberty unlawfully restricted as a result of a deliberate decision by
27 Defendant City to ignore the explicit command of Penal Code § 853.6.

28

1 32. This action was in keeping with the City’s unlawful policy, beginning
2 on or around November 17, 2011, of denying OR release to individuals arrested for
3 engaging in civil disobedience. According to former LAPD Deputy Chief Perez,
4 who first announced this policy during the Occupy protests in Los Angeles in 2011,
5 the decision was made to deny OR release to those engaged in First Amendment
6 activity to “teach people a lesson.” Subsequently, small groups of individuals
7 involved in acts of civil disobedience at the Bank of America headquarters on
8 November 17, 2011, were arrested on non-violent misdemeanor offenses arising
9 from protest activity and denied OR release. Again, on November 30, 2011, the City
10 denied OR release to the nearly 300 people arrested in connection with the mass
11 arrests at City Hall made in connection with the Occupy L.A. demonstration.

12 33. The same unlawful action occurred in the November 2014 mass arrest
13 of persons protesting the decision of the grand jury in Ferguson Missouri not to indict
14 the police officer who shot and killed Michael Brown. In public statements, then-
15 Chief Beck and other command staff in the LAPD stated that protestors would be
16 held and not released OR for retaliatory reasons and without the requisite
17 individualized suspicion. In this instance, while the Defendants did not deny OR
18 release for arrestees for minor misdemeanors, they nonetheless detained them for up
19 to 14 hours in some instances rather than cite and release them in the field as directed
20 by California Penal Code 853.6.

21 34. Both the Occupy arrests in 2011 and the Ferguson arrests in 2014
22 evince the obvious need for the Defendants to plan to respond to similar protests
23 with the technology the LAPD regularly uses on a daily basis to run warrants and
24 warrants in the field, without seizing, handcuffing and detaining individuals for
25 prolonged periods of time. The failure to develop and implement such a plan reflects
26 a gross deficiency in law enforcement operations and/or a deliberate decision to
27 inflict punitive measures against individuals coming together to exercise their First
28

1 Amendment rights and express their collective outrage and opposition to police
2 abuse.

3 35. Such a basis for a blanket decision to deny Plaintiffs' liberty and detain
4 them without justification for prolonged times violates the First, Fourth, and
5 Fourteenth Amendment rights of Plaintiffs and the class members, and was done
6 with the specific and deliberate intent to interfere with the exercise of Plaintiffs'
7 rights to assembly and due process.

8 36. Defendants had ready alternatives to the prolonged detention of the
9 arrest class in tight handcuffs, without access to bathrooms, food or water. In the
10 Ferguson protests in 2014, the LAPD detained a group of approximately 40-50
11 protestors at Beverly and Alvarado, kettled them, handcuffed them with twist-ties,
12 brought in computers and video recording equipment, collected the same
13 information as would be done in an a booking, then released them with orders to
14 disperse and advised the detainees that they would be taken to jail and held if they
15 were found again that night in violation of the dispersal order. In all, people were
16 handcuffed no longer than approximately one hour. No one suffered injury as a
17 result of the prolonged tight handcuffing and, significantly, no one was a repeat
18 offender that night or any other night as the demonstrations protesting the death of
19 Michael Brown continued. The officers patted down the demonstrators' clothing
20 and searched their personal belongings, including backpacks, as they would do if
21 they were taking them into custody for booking. LAPD officers ran wants and
22 warrants on each detainee in the field, as they do for any traffic stop and as they do
23 with unhoused individuals in the city routinely.

24 37. Indeed, the Ninth Circuit held that a detention of a motorist in
25 handcuffs for more than 20 minutes to issue a citation and release the person was a
26 violation of the driver's constitutional rights and raised issues of retaliation for
27 "contempt of cop." This is significant because the length of time held excessive by
28 the Ninth Circuit is similarly to the results of a study conducted by the Los Angeles

1 Board of Police Commissioners in or about 2013, showing the time required to cite
2 and release in the field compared to the time to book and release at the station.

4 **MONELL ALLEGATIONS**

5 38. The City, through Chief Moore and the LAPD, has failed to train its
6 officers in the constitutional responses to peaceful demonstrations as revealed by the
7 above allegations. The City has a custom and police of using excessive force against
8 peaceful protestors, kettling lawful assemblies and arresting the participants, and
9 applying policies that result in prolonged detentions in restraints, causing injury and
10 denying liberty based on some unfounded group “suspicion.” The City is well aware
11 of its constitutional duties in light of the settlement agreements and consent
12 judgments discussed below in *National Lawyers Guild v. City of Los Angeles* and
13 *MIWON v. City of Los Angeles*, as well as other agreements entered into on these
14 issues over the years. The need for training and discipline to enforce constitutional
15 guarantees in such circumstances is obvious and necessary. The City has known of
16 the deficiencies in its training since at least 2000 and entered into settlement
17 agreements in June 2005 and June 2009, each time agreeing to revised policies and
18 training, yet failing to promulgate policies effectuating the settlement agreements
19 and/or to train its command staff and officers on revised policies, if any exist. The
20 current unlawful crowd control and use-of-force policies and the long-standing
21 customs and practices of the Defendants do not meet constitutional requirements.

23 **THE SETTLEMENT IN NATIONAL LAWYERS GUILD V. CITY OF LOS** 24 **ANGELES:**

25 39. In June, 2005, the City of Los Angeles entered into a settlement
26 agreement in *National Lawyers Guild, et al. v. City of Los Angeles, et al.*, CV 01-
27 6877 FMC (CWx), an action arising from the disruption of lawful assemblies and
28 use of unlawful force during the Democratic National Convention (“DNC”) in Los

1 Angeles in 2000 and a subsequent demonstration on October 22, 2000. The
2 settlement provided for important changes in the policy and practices of the LAPD
3 as applied to demonstrations.

4 40. Significantly, the settlement provided that, prior to declaring an
5 unlawful assembly, the LAPD Incident Commander should evaluate the feasibility
6 of isolating and arresting those responsible for any unlawful conduct, and if feasible,
7 take action only against those individuals. The settlement also addressed the use of
8 less-lethal weapons and chemical irritants to disperse peaceful protestors.

9
10 **THE SETTLEMENT IN *MULTI-ETHNIC WORKER ORGANIZING***
11 ***NETWORK V. CITY OF LOS ANGELES:***

12 41. On May 1, 2007, the LAPD assaulted a peaceful, permitted
13 immigration march in MacArthur Park. The attack on the demonstrators was
14 without warning. No dispersal order was given until more than three minutes into
15 the police action and, even then, the dispersal order was grossly inadequate, given
16 from helicopters in English to a largely Spanish-speaking assembly. During the
17 course of litigating the *MIWON* action, the LAPD conceded that it had not fully
18 implemented training and policy orders regarding the *NLG* settlement two years
19 earlier. In fact, no policy changes were ever finalized.

20 42. On June 24, 2009, the federal district court approved and entered a
21 Structural Relief Order as part of the settlement of a class action lawsuit brought on
22 behalf of all those subjected to the LAPD's May Day action. Through this settlement,
23 the LAPD agreed that it would facilitate demonstrations that may temporarily block
24 traffic. This latter provision is consistent with established law in the Ninth Circuit,
25 recognizing the need for local agencies to accommodate "spontaneous" protests in
26 the streets, particularly in response to allegations of police misconduct.

27 43. The *MIWON* order also set out requirements to declare an unlawful
28 assembly: an amplified loudspeaker system with an officer at the far side of the

1 crowd to record the officer; if there is no serious violence occurring, the order shall
2 be made repeatedly over a period of time, including an “objectively reasonable”
3 period of time to disperse and identification of “a clear and safe route” to follow to
4 disperse. The order should be given so that it is heard by the entire crowd. These
5 requirements were not met in this instance in most locations.

6 44. The terms of the *MIWON* structural relief agreement were to be
7 included in the LAPD’s Crowd Control and Use of Force Manuals and every officer
8 at the rank of Sergeant I and above, as well as the entire Metropolitan Division, were
9 to undergo training every two years. Chief Moore, as well as those members of his
10 command staff officers to whom he has delegated his responsibility to enact and
11 implement lawful policies for responding to demonstrations are aware of the
12 unlawful policies, practices, and customs of the City and the LAPD which resulted
13 in the settlement in *National Lawyers Guild v. City of Los Angeles* in June, 2005.
14 Moreover, Chief Moore and his delegated command staff are aware that the use of
15 unlawful dispersal orders, baton strikes and “less-lethal” weapons to break up lawful
16 protests, in particular, is a custom so ingrained in the marrow of the LAPD that it
17 was critical to take all steps necessary to ensure that official policy was implemented
18 in a manner sufficient to address the deeply rooted custom to violate First
19 Amendment rights in the specific ways identified in the *National Lawyers Guild*
20 settlement agreement. The failure to take such steps directly lead to the injuries
21 suffered by the Plaintiffs.

22 45. Chief Moore, as well as those members of his command staff officers
23 to whom he has delegated his responsibility to enact and implement lawful policies
24 on the declaration of an unlawful assembly, are aware of the unlawful policies,
25 practices, and customs of the City and the LAPD which resulted in the settlements
26 in *NLG* and *MIWON*. Moreover, Chief Moore and his delegated command staff are
27 aware that the use of unlawful dispersal orders to break up lawful protests and the
28 use of excessive force is a custom so ingrained in the marrow of the LAPD that it

1 was critical to take all steps necessary to ensure that official policy was implemented
2 in a manner sufficient to address the deeply rooted custom to violate First
3 Amendment rights in the specific ways identified in the settlement agreements. The
4 failure to take such steps directly lead to the injuries suffered by the Plaintiffs. This
5 failure amounted to an “acquiescence in the constitutional deprivations of which
6 [the] complaint is made” and deliberate indifference to the rights of persons with
7 whom the police come into contact, and constituted a conscious choice by the City
8 not to properly train its law enforcement personnel on these issues.

9 46. The City, through Chief Moore and his command staff to whom he
10 delegated decision-making, also knew from the recent litigation involving the
11 Occupy-protest arrests, *Aichele v. City of Los Angeles*, and *Chua v. City of Los*
12 *Angeles* that it violated Plaintiffs’ right to due process and deprived them of their
13 liberty interest in violation of Penal Code § 853.6 based on their perceived
14 association with the protest.

15 47. On information and belief, Chief Moore delegated responsibility and
16 authority to persons within his command staff to act as the final policy maker in
17 determining the response to assemblies at various locations where protests of the
18 death of George Floyd occurred. The persons who made these decisions, acted as
19 the delegated policy maker for the City of Los Angeles on these issues. There was
20 no time, opportunity, or procedure for anyone to review or revise the decisions made
21 by these delegated policy makers prior to their final implementation.

22 **CLASS ACTION ALLEGATIONS**

23 48. The named Plaintiffs bring this action individually and on behalf of a
24 proposed class of all other persons similarly situated pursuant to FRCP Rule
25 23(b)(1), (b)(2) and (b)(3). The damages classes are defined as:
26

- 27 1. all persons who were arrested by the LAPD on misdemeanor charges of
28 failure to obey a curfew, failure to disperse, failure to follow a lawful order

1 of a police officer and/or unlawful assembly, all in association with the
2 protests against the killing of George Floyd in Minneapolis, Minnesota and
3 who were subjected to prolonged tight hand-cuffing, denied access to
4 bathrooms, water and food;

5 2. all persons who were shot with so-called “less-lethal weapons” and/or
6 struck with batons.

7 49. Each class is inclusive of people present to protest and those otherwise
8 present in the vicinity as bystanders. The first class consists of approximately 2600
9 individuals and the second class consists of a presently unknown number but is
10 estimated as in excess of 1,000 individuals.

11 50. The injunctive relief class is defined as all persons who have in the past,
12 or may in the future, participate in, or be present at, demonstrations within the City
13 of Los Angeles in the exercise of their rights of free speech and petition. Without
14 intervention by this Court, those class members are at risk of having their rights
15 violated in the future due to the City's past and threatened future actions. The
16 injunctive relief Plaintiffs have no adequate remedy at law to protect the future
17 lawful exercise of their constitutional rights, and, without action by this court, will
18 suffer irreparable injury, thereby entitling them to injunctive and declaratory relief.
19 The injunctive relief class is represented by the National Lawyers Guild, as well as
20 the individual class representatives.

21 51. Because the issues in the two classes are substantially the same and
22 arise from the same events, the Rule 23 criteria for the classes are discussed jointly
23 without differentiating between the different classes.

24 52. Questions of law or fact common to putative class members
25 predominate over any questions affecting only individual members and a class action
26 is superior to other available methods for fairly and efficiently adjudicating this
27 lawsuit. Alternatively, Defendants have acted on grounds generally applicable to the
28 class, thereby making class-wide declaratory and injunctive relief appropriate.

1 53. The claims of the putative class satisfy the requirements of Federal Rule
2 of Civil Procedure 23(b)(3) and, alternatively, Rule 23(b)(2).

3 54. The putative class consists of approximately 170 individuals – 130
4 individuals in the 6th and Hope Sub-Class and 40 in the Beverly and Alvarado Sub-
5 Class -- and is so numerous as to render joinder impractical.

6 55. Defendants detained and/or arrested the putative class and sub-classes
7 as a group and treated all similarly, acting on ground applicable to the putative class.
8 The named Plaintiffs' claims that the First, Fourth, and Fourteenth Amendment
9 rights—and their analogous state Constitution, statutory, and common law rights—
10 were violated raise common question of law and fact. the Defendants have acted,
11 threaten to act, and will continue to act, on grounds generally applicable to the class,
12 thereby making appropriate final injunctive relief or declaratory relief with respect
13 to the class as a whole.

14 56. Questions of law and fact are common to the class and sub-classes,
15 including whether the putative class and sub-classes were detained and/or arrested
16 without probable cause and based on unlawful or non-existent dispersal orders and
17 whether the 6th and Hope sub-class members were denied the liberty interest in OR
18 release as codified in California Penal Code § 853.6.

19 57. The legal theories and factual predicates upon which the damages
20 classes and sub-classes seek relief predominate over any questions affecting only
21 individual members. The legal harms suffered by the named Plaintiffs and the class
22 Plaintiffs are identical.

23 58. The named Plaintiffs' claims are typical of those of the putative class
24 and sub-class each represents, as each was engaged in or associated with peaceable
25 and lawful free speech and assembly activity when each was subjected to excessive
26 force and/or arrested

27 59. The named Plaintiffs will fairly and adequately represent the common
28 class interest. The named Plaintiffs have a strong interest in achieving the relief

1 requested in this Complaint, they have no conflicts with members of the Plaintiff
2 class, and they will fairly and adequately protect the interests of the class.

3 60. The named Plaintiffs are represented by counsel who are well-
4 experienced in civil rights and class action litigation and are familiar with the issues
5 in this case. Attorneys Paul Hoffman, Barry Litt, and Carol Sobel have successfully
6 litigated a number of class action cases on behalf of protesters in Los Angeles. Most
7 recently, they were appointed by the court as class counsel in *Aichele, et al. v. City*
8 *of Los Angeles, et al.*, No. 2:12-CV-10863-DMG (C.D. Cal. August 26, 2012),
9 challenging, *inter alia*, the LAPD's denial of OR release to those arrested during the
10 Occupy action at Los Angeles City Hall. They were also appointed as class counsel
11 in *Multi-Ethnic Immigrant Worker Network v. City of Los Angeles*, 24 F.R.D. 631
12 (C.D. Cal. 2007), challenging the LAPD's assault on a lawful immigrant-rights rally
13 in MacArthur Park on May 1, 2007. That case resulted in a settle of \$12,850,000 --
14 the largest amount ever paid nationally in a protest case in which there were no
15 arrests of the Plaintiffs. In addition to class action protest litigation, attorneys
16 Hoffman, Litt, and Sobel have served as class counsel in a number of other class
17 actions redressing civil rights violations, including most recently *Chua v. City of Los*
18 *Angeles*, arising from the Ferguson protests in 2014.

19 61. Counsel for the named Plaintiffs know of no conflicts among or
20 between members of the class, the named Plaintiffs, or the attorneys in this action.

21 62. The Defendants have acted and refused to act on grounds generally
22 applicable to the putative class. Injunctive and declaratory relief for the putative
23 class as a whole is appropriate.

24 63. The prosecution of separate actions by individual members of the class
25 would create a risk of inconsistent standards of conduct for the Defendants, thereby
26 making a class action a superior method of adjudicating this lawsuit.

27 64. Plaintiffs do not know the identities of all of the class members.
28 Plaintiffs are informed and believe and thereon allege that the identities of class

1 members in the arrestee class may be obtained from the personal information
2 compelled by Defendants through arrest records.

3 65. Plaintiffs are informed and believe and thereon allege that the LAPD
4 officers acted in accordance with orders given by supervisors from the highest
5 command positions, in accordance with policies and procedures instituted by the
6 LAPD and the City of Los Angeles.

7 66. As a direct and proximate cause of the conduct described herein, the
8 named individual Plaintiffs have been denied their constitutional statutory, and legal
9 rights as stated herein, and have suffered general and special damages, including but
10 not limited to, mental and emotional distress, physical injuries and bodily harm, pain,
11 fear, humiliation, embarrassment, discomfort, and anxiety and other damages in an
12 amount according to proof.

13 67. Defendants' acts were willful, wanton, malicious, and oppressive, and
14 done with conscious or reckless disregard for, and deliberate indifference to,
15 Plaintiffs' rights.

16 68. Defendants' polices practices, customs, conduct and acts alleged herein
17 resulted in, and will continue to result in, irreparable injury the Plaintiffs, including
18 but not limited to violation of their constitutional and statutory rights. Plaintiffs have
19 no plain, adequate, or complete remedy at law to address the wrong described herein.
20 The Plaintiffs and class members intend in the future to exercise their constitutional
21 rights of freedom of speech and association by engaging in expressive activities in
22 the City of Los Angeles. Defendants' conduct described herein has created
23 uncertainty among Plaintiffs with respect to their exercise now and in the future of
24 these constitutional rights. Specifically, Plaintiffs are concerned that, if arrested,
25 whether lawfully or unlawfully, they will again be denied the liberty interest codified
26 at California Penal Code § 853.6 Plaintiffs therefore seek injunctive relief from this
27 court to ensure that Plaintiffs and persons similarly situated will not suffer violations
28

1 of their rights from Defendants' illegal and unconstitutional policies, customs, and
2 practices described herein.

3 69. Plaintiffs also seek injunctive relief in the form of an order requiring
4 that Defendants seal and destroy and records derived from Plaintiffs' arrests,
5 including fingerprints, photographs, and other identification and descriptive
6 information, and all information, and biological samples and information obtained
7 from such biological samples collected from the Plaintiff class, and identify to the
8 Plaintiff class all entities and agencies to which such information has been
9 disseminated; and that all such disseminated records be collected and destroyed.

10 70. An actual controversy exists between Plaintiffs and Defendants in that
11 Plaintiffs contend that the policies, practices, and conduct of Defendants alleged
12 herein are unlawful and unconstitutional, whereas Plaintiffs are informed and
13 believe that Defendants contend that said policies, practices, and conduct are lawful
14 and constitution. Plaintiffs seek a declaration of rights with respect to this
15 controversy.

16 71. All of the following claims for relief are asserted against all Defendants
17

18 **FIRST CLAIM FOR RELIEF**

19 **First Amendment to the U.S. Constitution (42 U.S.C. § 1983)**

20 72. Plaintiffs reallege and incorporate herein by reference the preceding
21 and any subsequent paragraphs of this Complaint.

22 73. Defendants' above-described conduct violated Plaintiffs' rights to
23 freedom of speech, assembly, and association under the First Amendment to the
24 United States Constitution. Lawful protests that posed no threat were interrupted by
25 police declaring unlawful assemblies without justification. For example, when
26 plaintiff BLMLA sponsored a large and peaceful protest in Pan Pacific Park, LAPD
27 officers ordered Plaintiffs' supporters to disband and then used widespread force
28 against BLMLA.

1 74. These tactics were repeated throughout the City based on nothing more
2 than baseless speculation of some potential unlawful activity by some unknown
3 individual(s).

4 75. Plaintiffs suffered harm as a direct and proximate result of Defendants'
5 actions, including but not limited to physical injury and pain and suffering.

6
7 **SECOND CLAIM FOR RELIEF**

8 **Fourth Amendment to the U.S. Constitution (42 U.S.C. § 1983)**

9 76. Plaintiffs reallege and incorporate herein by reference the preceding
10 and any subsequent paragraphs of this Complaint.

11 77. Defendants' above-described conduct violated Plaintiffs' rights to be
12 free from unreasonable seizures, excessive or arbitrary force, and arrest or detention
13 without reasonable or probable cause under the Fourth Amendment to the United
14 States Constitution. Defendants detained, seized, handcuffed, searched their persons
15 and their personnel property.

16 78. Defendants used excessive force against peaceful protestors. In
17 particular, Defendants engaged in the indiscriminate use of less lethal weapons and
18 baton strikes contrary to law. Members of the Plaintiff class who were shot with
19 "rubber bullets" and struck with batons were injured in a manner that evinced that
20 Defendants applied force unlawfully. Many individuals were struck with rubber
21 bullets in the face, head, shoulder and neck areas. Video footage of various incidents
22 shows officers shooting straight at peaceful protestors who posed no threat to the
23 police or the public. *See* the Instagram video May 30, 2020 at Fairfax at
24 <https://www.instagram.com/p/CA3GPPYB7dz/> Similarly, individuals suffered
25 baton strikes meant not to compel people to retreat, but to injure and punish them on
26 site. *See* In the case of Plaintiff Rowland, he was shot in the shoulder with sufficient
27 force to cause bruising down his entire upper arm and struck with a baton when he
28

1 attempted to help a woman who had been hit with a baton with sufficient force to
2 knock her down.

3 79. Defendants detained the arrest class of Plaintiffs for prolonged periods
4 of time, handcuffed tightly behind their back and held on buses and in garages
5 without access to bathrooms, water or food.

6
7 **THIRD CLAIM FOR RELIEF**

8 **Fourteenth Amendment to the U.S. Constitution (42 U.S.C. § 1983);**

9 80. Plaintiffs reallege and incorporate herein by reference the preceding
10 and any subsequent paragraphs of this Complaint.

11 81. Plaintiffs had a liberty interest created by California Penal Code § 853.6
12 to be cited and released for a misdemeanor absent specific information and
13 individualized suspicion that they would immediately repeat the allegedly unlawful
14 conduct if promptly released and not subjected to a prolonged detention.
15 Defendants' conduct deprived Plaintiffs of liberty without due process of law under
16 the Fourteenth Amendment to the United States Constitution. Based on their
17 perceived association with the protests against the continued government-sanctioned
18 killings of Black and Brown men and women at the hands of law enforcement,
19 Plaintiffs were uniformly denied the mandatory "liberty" interest codified at
20 California Penal Code § 853.6 when they were denied individualized assessment and
21 held in custody for approximately fourteen hours.

22 **REQUEST FOR RELIEF**

23
24 Wherefore, Plaintiffs seek judgment as follows:

- 25 1. An order certifying the class and each sub-class defined herein pursuant
26 to Federal Rules of Civil Procedure Rule 23(b)(2) and (3);
27 2. A preliminary and permanent injunction restraining Defendants from
28 engaging in the unlawful and unconstitutional actions detailed above;

1 3. A declaratory judgment that Defendants' conduct detailed herein was a
2 violation of the rights under the Constitution and laws of the United States and of
3 Plaintiffs and the class members;

4 4. General and compensatory damages for Plaintiffs and the class they
5 represent for the violations of their federal constitutional and statutory rights, pain
6 and suffering, all to be determined according to proof;

7 5. An award of attorneys' fees pursuant to 42 U.S.C. § 1988;

8 6. Costs of suit;

9 7. Pre- and post-judgment interest as permitted by law;

10 8. Such other and further relief as the Court may deem just and proper.

11
12 Dated: June 5, 2020 Respectfully submitted,

13
14
15 Schonbrun, Seplow, Harris & Hoffman

16
17 /s/ Paul L. Hoffman

18 By: PAUL L. HOFFMAN

19 Attorneys for Plaintiffs