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9 Attorneys for Plaintiff Deandre Bolden

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA

<p>12 DEANDRE BOLDEN;</p> <p>13</p> <p>14 Plaintiff,</p> <p>15</p> <p>16 v.</p> <p>17 CONTRA COSTA COUNTY; SHERIFF DAVID LIVINGSTON, SHERIFF'S 18 DEPUTIES ALFONSO ACOSTA, NATHANIEL COPE, D. GONZALEZ; 19 SHERIFF'S DEPUTIES DOES 1-25.</p> <p>20 Defendants.</p>	<p>CASE NO.:</p> <p>COMPLAINT FOR DAMAGES</p> <p>1. Violation of Plaintiff's Fourteenth Amendment Rights 42 U.S.C §1983 (Excessive Force and <i>Monell</i>); 2. Violation of Plaintiff's Fourteenth Amendment Rights 42 U.S.C §1983 (<i>Deliberate Indifference</i> and <i>Monell</i>) 3. Battery 4. Bane Act Violation 5. Negligence</p> <p><u>DEMAND FOR JURY TRIAL</u></p>
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1 Plaintiff, demanding a jury trial, brings this action against Defendants CONTRA COSTA
2 COUNTY; SHERIFF DAVID LIVINGSTON, SHERIFF'S DEPUTIES ALFONSO ACOSTA,
3 NATHANIEL COPE, D. GONZALEZ; SHERIFF'S DEPUTIES DOES 1-25, inclusive, for
4 general, consequential, compensatory, punitive and statutory damages, costs and attorneys' fees
5 resulting from defendants' unconstitutional and tortious conduct, and as grounds therefore allege
6 as follows:

7 **I. PARTIES**

8 1. Plaintiff Deandre Bolden, was at all times relevant to this complaint, living in the City of
9 Richmond, which is located within the Northern District of California.

10 2. Defendant CONTRA COSTA COUNTY is a legal entity established under the laws of
11 the state of California with all the powers specified and necessarily implied by the Constitution
12 and laws of the State of California, and is a municipality located within the Northern District of
13 California.

14 3. Defendant David O. Livingston is the Sheriff of Contra Costa County and
15 was employed by Contra Costa County at the time of the incident in question. This Defendant is
16 being sued in his individual capacity.

17 4. Defendant Alfonso Acosta, is a Sheriff's Deputy employed by Contra Costa County and
18 was employed as a Sheriff's Deputy for Contra Costa County at the time of the incident in
19 question. This Defendant is being sued in his individual capacity.

20 5. Defendant Nathaniel Cope, is a Sheriff's Deputy employed by Contra Costa County and
21 was employed as a Sheriff's Deputy for Contra Costa County at the time of the incident in
22 question. This Defendant is being sued in his individual capacity.

23 6. Defendant D. Gonzalez, is a Sheriff's Deputy employed by Contra Costa County and was
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1 employed as a Sheriff's Deputy for Contra Costa County at the time of the incident in question.
2 This Defendant is being sued in his individual capacity.

3 7. Defendants DOES 1-25 were employed by Contra Costa County at the time of the
4 incident, whose identities and capacities are unknown at this time to the Plaintiff. These Doe
5 Defendants are being sued in their individual capacities.

6 8. All Defendants acted under the color of law as it pertains to this complaint.

7 **II. JURISDICTION AND VENUE**

8 9. This action is brought pursuant to 42 U.S.C. §§ 1983, 1988 and 12132 and the Fourth and
9 Fourteenth Amendments to the United States Constitution, made applicable to Defendants
10 through the Fourteenth Amendment to the United States Constitution. This Court has jurisdiction
11 over Plaintiff's claims under 28 U.S.C. § 1331 and 28 U.S.C. § 1343(a). This Court has further
12 jurisdiction over Plaintiff's state law claims under 28 U.S.C. § 1367 as those claims form part of
13 the same case and controversy under Article III of the United States Constitution.

14 10. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because the events giving rise
15 to this action occurred in the Contra Costa County, which is located in this district.

16 **III. STATEMENT OF FACTS**

17 11. On or about 17 November 2019, Plaintiff, DEANDRE BOLDEN, was an inmate at the
18 Martinez Detention Center, Contra Costa County Detention Facilities. At approximately 8:30
19 a.m., during "free time," Plaintiff, DEANDRE BOLDEN, was heating up his breakfast in the
20 microwave.

21 12. Plaintiff, DEANDRE BOLDEN, has been diagnosed with mental challenges including
22 but not limited to schizophrenia, delusional disorder, psychosis.

23 13. Upon information and belief, on or about 17 November 2019, at approximately 8:30 a.m.

1 Defendant NATHANIEL COPE informed the inmates that free time was over, that lockdown
2 was imposed, and that inmates must return to their cells.

3 14. Plaintiff, DEANDRE BOLDEN, was concentrating on the food he had in the microwave
4 and did not move towards his cell.

5 15. Upon information and belief, Defendant ELVIS ALFONSO ACOSTA ordered Plaintiff,
6 DEANDRE BOLDEN, to return to his cell. Plaintiff, DEANDRE BOLDEN, informed
7 Defendant ELVIS ALFONSO ACOSTA that he was making breakfast in the microwave.

8 16. Defendant ELVIS ALFONSO ACOSTA then grabbed Plaintiff's arm to make Plaintiff
9 return to his cell. Defendants ELVIS ALFONSO ACOSTA, NATHANIAL COPE AND D.
10 GONZALEZ and DOE 1 then proceeded to pummel, knee, kick and beat Plaintiff, DEANDRE
11 BOLDEN, despite Plaintiff posing no immediate threat of violence or serious bodily injury to the
12 deputy sheriffs. Defendants kicked Plaintiff in the face and in the back of his skull.

13 17. On information and belief, Defendant ELVIS ALFONSO ACOSTA is a trained mental
14 health deputy sheriff, and Defendants ELVIS ALFONSO ACOSTA, NATHANIEL COPE, D.
15 GONZALEZ, and DOE 1 knew that Plaintiff, DEANDRE BOLDEN, suffered from mental
16 illnesses and addressed him with derogatory slang terms used against people suffering from
17 mental illnesses.

18 18. After Defendants savagely beat up Plaintiff, they transported him to the Contra Costa
19 Regional Medical Center.

20 19. As a result of the Defendants' conduct, the Plaintiff suffered swollen black eyes, bruises
21 on his face and suffered a displaced nasal bone fracture, as well as emotional distress.

22 20. Plaintiff filed a timely government claim against Contra Costa County pursuant to
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1 California Government Code §910, et seq. On April 13, 2020. Plaintiff's claims were
2 subsequently rejected by Defendant County on May 13, 2020.

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4 **IV. CAUSES OF ACTION**

5 **FIRST CLAIM**

6 **(Violation of Plaintiff's Fourteenth Amendment Rights 42 U.S.C §1983 (Excessive Force
7 and *Monell*) – As to Defendants and DOES 1-25)**

8 21. Plaintiff incorporates herein by reference the preceding paragraphs of this complaint as
9 though fully set forth herein.

10 22. That Defendants, acting under color of law, used unreasonable and excessive force
11 amounting to extrajudicial punishment of the Plaintiff, by deliberately and intentionally engaging
12 in conduct that resulted in the Plaintiff suffering swollen black eyes, bruises on his face and a
13 displaced nasal bone fracture, as well as emotional distress.

14 (i) Plaintiff had not committed any crime; (ii) Plaintiff was unarmed; (iii) Plaintiff did not
15 pose any threat to any of the defendants or bystanders; (iv) Defendants knew or should have
16 known of the Plaintiff's documented mental illness; (v) the Defendants conduct was not
17 reasonably related to legitimate penalogical goals; (vi) other alternative methods were available
18 to effectuate a seizure.

19 23. Such actions were in conscious and reckless disregard of the risk of injury and under the
20 circumstances, there was no objectively reasonable basis for the Defendants' actions.

21 **SECOND CLAIM**

22 **(Violation of Plaintiff's Fourteenth Amendment Rights 42 U.S.C §1983 (*Deliberate
23 Indifference and Monell*) – As to Defendants and DOES 1-25)**

24 24. Plaintiff incorporates herein by reference the preceding paragraphs of this complaint as
though fully set forth herein.

1 25. That Defendants, acting under color of law, were deliberately indifferent to Plaintiff's
2 mental health needs, amounting to extrajudicial punishment of the Plaintiff, by deliberately and
3 intentionally engaging in conduct that escalated the Plaintiff's psychosis that resulted in the
4 Plaintiff suffering swollen black eyes, bruises on his face and a displaced nasal bone fracture, as
5 well as emotional distress. Further, Defendants engaged in conduct that was intended to
6 humiliate the Plaintiff based on his mental health status in violation of his constitutional rights.

7 (i) Plaintiff had not committed any crime; (ii) Plaintiff was unarmed; (iii) Plaintiff did not
8 pose any threat to any of the Defendants or bystanders; (iv) Defendants knew or should have
9 known of the Plaintiff's documented mental illness; (v) the Defendants conduct was not
10 reasonably related to legitimate penological goals; (vi) other alternative methods were available
11 to effectuate a seizure.

12 26. Such actions were in conscious and reckless disregard of the risk of injury and under the
13 circumstances, there was no objectively reasonable basis for the Defendants' actions.

14 27. The conduct of Defendants as alleged, was intended to cause injury to Plaintiff and was
15 done in conscious disregard of Plaintiff's rights and safety and thus constitutes malice.

16 28. Because the above acts were performed in a malicious, and/or oppressive manner, Plaintiff
17 is entitled to recover punitive damages from Defendants in an amount according to proof.

18 ***Supervisor Liability Against Sheriff David O. Livingston***

19 29. That Sheriff David O. Livingston failed to train, supervise and or control Defendants.

20 30. That Sheriff David O. Livingston's policy regarding the training and supervision of his
21 subordinate staff was so deficient that the policy itself was a repudiation of the Plaintiff's
22 constitutional rights and was therefore the moving force of the constitutional violations suffered
23 by the Plaintiff.

1 31. That pursuant to Cal. Gov. Code § 26605, Sheriff David O. Livingston was required to
2 take charge of and be the sole and exclusive authority of the Contra Costa County jail and the
3 Plaintiff's health and safety while he was incarcerated in the Contra Costa County jail.

4 32. That Sheriff David O. Livingston knew or reasonably should have known that the Plaintiff
5 was being beaten or going to be beaten by Defendants and have his mental illness treated with
6 deliberate indifference by Defendants.

7 33. That Sheriff David O. Livingston acquiesced to this conduct by Defendants by not
8 properly controlling, and or supervising the Defendants' conduct, and therefore Sheriff David O.
9 Livingston conduct was a moving force behind the Plaintiff's constitutional violation.

10 34. That Sheriff David O. Livingston's knowledge of the unconstitutional conditions that the
11 Plaintiff was being forced to suffer, including his knowledge of Defendants' actions, coupled
12 with Sheriff David O. Livingston's inaction, amounted to acquiescence in the unconstitutional
13 conduct of Defendants.

14 ***Monell Claim Against Contra Costa County***

15 35. Defendant Contra Costa County, who deprived Plaintiff of his rights, privileges, and
16 immunities secured by the United States Constitution, does not train, or inadequately trains its
17 Sheriff Deputies, regarding the use of force of its pre-trial detainees, as well as the handling of its
18 inmate population who suffer from mental illness, so as not to cause these individuals to suffer
19 harm.

20 36. Furthermore, Contra Costa County's widespread or longstanding custom and practice of
21 using excessive force on its pre-trial detainees and being deliberately indifferent to its inmate
22 population who suffer mental illness for at least the last ten years, together with its lack of or
23 inadequate training, amounts to deliberate indifference towards the constitutional rights of

1 individuals.

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3 **THIRD CLAIM**
4 **(Battery – As to Defendants and DOES 1-25)**

5 37. Plaintiff incorporates herein by reference the preceding paragraphs of this complaint as
6 fully set forth herein.

7 38. That Defendants, acting under color of law, used unreasonable and excessive force
8 amounting to extrajudicial punishment of the Plaintiff, by deliberately and intentionally engaging
9 in conduct that resulted in the Plaintiff suffering swollen black eyes, bruises on his face and a
10 displaced nasal bone fracture, as well as emotional distress.

11 (i) Plaintiff had not committed any crime; (ii) Plaintiff was unarmed; (iii) Plaintiff did not
12 pose any threat to any of the defendants or bystanders; (iv) Defendants knew or should have
13 known of the Plaintiff's documented mental illness; (v) the Defendants conduct was not
14 reasonably related to legitimate penalogical goals; (vi) other alternative methods were available
15 to effectuate a seizure.

16 39. Such actions were in conscious and reckless disregard of the risk of injury and under the
17 circumstances, there was no objectively reasonable basis for the Defendants' actions.

18 40. Defendants are liable for all injuries caused by their acts, to the same extent as a private
19 person pursuant to California Government Code Section 820(a).

20 41. Defendants, as public employees, are not exonerated or immune from liability for Battery
21 for causing the Plaintiff to suffer harm pursuant to California Government Code Section 820.8.

1 42. Because Defendants were acting as employees of Contra Costa County at the time of the
2 incident, and because they were acting within the scope and course of their employment and
3 under the direct control and supervision of Contra Costa County at the time of the incidents in
4 question, Contra Costa County is liable to the Plaintiff for battery pursuant to California
5 Government Code § 815.2.

6 **FOURTH CLAIM**
7 **(BANE ACT VIOLATION – As to Defendants and DOES 1-25)**

8 43. Plaintiffs incorporate herein by reference the preceding paragraphs of this complaint as
9 fully set forth herein.

10 44. Defendants interfered with Plaintiff's Fourth Amendment right to be free from the
11 unlawful seizure of his person through the exercise of excessive force by deliberately and
12 intentionally engaging in conduct that resulted in the Plaintiff suffering swollen black eyes,
13 bruises on his face and a displaced nasal bone fracture, as well as emotional distress.

14 45. That upon observing Defendants using excessive force upon his person, the Plaintiff
15 reasonably believed that if he exercised his right to be free from the unlawful use of excessive
16 force upon his person, that Defendants would commit violence against him.

17 46. That Defendants injured the Plaintiff to prevent him from exercising these
18 rights.

19 47. That Plaintiff was harmed because he suffered physical injuries, as well as severe
20 emotional stress as a result of the violent acts imposed on him by Defendants, and;

21 48. Defendants' use of excessive force to prevent the Plaintiff from exercising his rights was a
22 substantial factor in causing his harm.

1 49. Because Defendants were acting as employees of Contra Costa County at the time of the
2 incident, and because they were acting within the scope and course of their employment and
3 under the direct control and supervision of Contra Costa County at the time of the incidents in
4 question, Contra Costa County is liable to the Plaintiff for BANE ACT Violation pursuant to
5 California Government Code § 815.2.

6 **FIFTH CLAIM**
(Negligence – As to Defendants and DOES 1-25)

7 50. By virtue of the foregoing, Defendants owed Plaintiff a duty of due care and that this
8 duty was breached by the Defendants' failure to exercise due care in their handling of the
9 Plaintiff regarding his mental illness.

10 51. As a direct and proximate cause of the aforementioned acts of Defendants, Plaintiff was
11 injured as set forth above and is entitled to compensatory damages according to proof at the time
12 of trial.

13 52. Defendants are liable for all injuries caused by their acts, to the same extent as a private
14 person pursuant to California Government Code Section 820(a).

15 53. Defendants as public employees are not exonerated or immune from liability for
16 negligence for causing the Plaintiff to suffer harm pursuant to California Government Code §
17 820.8.

18 54. Because Defendants were acting as employees of Contra Costa County at the time of the
19 incident, and because they were acting within the scope and course of their employment and
20 under the direct control and supervision of Contra Costa County at the time of the incidents in
21 question, Contra Costa County is liable to the Plaintiff for negligence pursuant to California
22 Government Code § 815.2.
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V. PRAYER FOR RELIEF

Plaintiffs pray for judgment against Defendants as follows:

1. For compensatory damages and other special damages according to proof;
2. For general damages according to proof;
3. For punitive damages against all individual defendants according to proof;
4. The prejudgment interest at the legal rate according to proof;
5. For costs and reasonable attorneys' fees as provided by law; and
6. For such other relief as the Court may deem fit and proper.

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VI. JURY DEMAND

Plaintiff demands a jury trial in this action.

LAW OFFICE OF STANLEY GOFF

Dated: June 23, 2020

/s/ Stanley Goff

STANLEY GOFF

Attorney for Plaintiff

LAW OFFICE OF EVA GUO

Dated: June 23, 2020

/s/ Eva Guo

EVA GUO

Attorney for Plaintiff