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9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**

11 ERIK ELZY,) **CASE NO. 2:15-cv-9559**
12)
13 Plaintiffs,) **COMPLAINT FOR:**
14)
15 vs.) 1. **FOURTH AMENDMENT**
16) **VIOLATION- 42 U.S.C. § 1983**
17) 2. **BATTERY**
18) 3. **FALSE IMPRISONMENT**
19) **JURY TRIAL DEMANDED**
20) **ATTORNEY FEES REQUESTED 42**
21) **U.S.C. § 1988**
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COMES NOW Plaintiff, Erik Elzy, pursuant to 42 U.S.C. § 1983. Plaintiff alleges violations of his Fourth Amendment Rights by Defendants and State Law Claims for Intentional Torts.

INTRODUCTION

1. On March 27th, 2015 Defendant initiating Officer (#18848) was in the left turn lane when Plaintiff passed him in the number 1 line.
2. Several blocks later Defendant initiating Officer began following the Plaintiff, proceeding on to private property.
3. The Torrance Police Department has previously been advised that the subject premises was Private Party and absent exigent circumstances, all officers are required to stop and check in.
4. The initiating Officer ignored these instructions, and or was not properly trained by the Department and followed Plaintiff for about a mile on private property as Plaintiff approached his parking space.
5. The initiating officer maintained his distance, never activating his lights or sirens.
6. Plaintiff exited his vehicle and proceeded towards his work building.
7. When Plaintiff has crossed about half the distance from his vehicle to his office, the initiating Officer ordered him to stop.
8. The initiating Officer had no good faith belief that Plaintiff had engaged in any criminal activity at the time he initiated the detention.
9. After initiating the detention, Plaintiff asked why he was being detained and initiating Officer explained it was because his vehicle did not have a license plate.
10. Plaintiff advised the initiating officer that his license plate had been stolen and he was instructed to carry a copy of the police report with him until the new plates arrived.
11. Plaintiff attempted to provide this paperwork to initiating Officer who refused to allow him to retrieve it saying he had requested backup because Plaintiff had a “threatening physique”.
12. Plaintiff had not presented any threat, was a pedestrian and was complaint with all orders.
13. Initiating Officer refused to allow Plaintiff to present his paperwork and instead impermissibly expanded the scope of his detention.

- 1 14. Initiating Officer was improperly trained by his Department to believe he
2 could indefinitely detain a citizen for an infraction, and refuse to release or
3 verify information provided by a citizen because he lacks the adequate
4 resources or legal authority to initiate the stop in the first instance.
- 5 15. Thereafter the backup Officer (#18061) arrived and both Officers battered the
6 Plaintiff by impermissibly touching him in performing a physical pat down
7 search and physically forcing him to the ground.
- 8 16. Plaintiff, a law abiding citizen became concerned about the violation of his
9 rights, the length of the detention and the fact that it was occurring on the
10 premises of his long time place of employment and so requested a supervisor.
- 11 17. The Supervisor (#16459) still refused to release Plaintiff from his unlawful
12 detention, but did attempt to expedite the process.
- 13 18. During the 45 minute detention security for Plaintiff's employer repeatedly
14 requested that the Officers leave because they were trespassing, but the
15 initiation Officer responded "we are the police and we can do whatever we
16 want"
- 17 19. Without speaking with Plaintiff, initiating Officer wrote him ticket for not
18 displaying a license plate and failing to have insurance.
- 19 20. Plaintiff advised the Supervisor that he had proof of insurance which he was
20 ultimately allowed to present and initiating Officer struck that item from the
21 ticket.
- 22 21. Following the incident Plaintiff made a complaint to the Department and was
23 advised that the Department would investigate but to date the Department has
24 not conducted a single interview of any witness to the incident.

25 JURISDICTION & VENUE

- 26 22. This Court has subject matter jurisdiction over this action pursuant to 42
27 U.S.C. § 1983.
- 28 23. Venue lies in this Court pursuant to 28 U.S.C. § 1391.

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FIRST CAUSE OF ACTION- ALL DEFENDANTS

FOURTH AMENDMENT VIOLATION OF 42 U.S.C. § 1983

24. Investigative stops based upon suspicion short of probable cause are . . .
 constitutionally permissible only where the means utilized are the least
 intrusive reasonably available. “[A]n investigative detention must be
 temporary and last no longer than is necessary to effectuate the purpose of
 the stop. Similarly, the investigative methods employed should be the
 least intrusive means reasonably available to verify or dispel the officer’s
 suspicion in a short period of time.”

Kraus v. Pierce County, 793 F. 2d 1105, 1108 (9th Cir. 1986) (quoting Florida
 v. Royer, 460 U.S. 491, 103 S. Ct. 1319, 1325-26, 75 L. Ed. 2d 229 (1983)).

25. The Officers violated clearly these clearly recognized standards, obvious to
 any reasonable person, when they unnecessarily prolonged the detention
 without reasonable suspicion, conducted a warrantless search without consent,
 and detained Plaintiff unnecessarily

26. The Torrance Police Department improperly trains their officers that they can
 violate a Citizen’s 4th Amendment Rights and batter them because they have a
 “threatening physique”.

SECOND CAUSE OF ACTION- OFFICER # 18848 AND OFFICER #18061

Battery

27. Defendants, by engaging in the conduct herein alleged engaged in unlawful
 touching of Plaintiff, thereby constituting Battery under California Law.

THIRD CAUSE OF ACTION- OFFICER # 18848 AND OFFICER #18061

False Imprisonment

28. Defendants, by engaging in the conduct herein alleged falsely imprisoned
 Plaintiff, thereby constituting Battery under California Law.

PRAYER FOR RELIEF

29. For general damages according to proof.

30. Punitive Damages against Officer # 18848 & Officer #18061

31. Costs and Attorneys' fees pursuant to 42 U.S.C. § 1988.

32. For costs, fees and any such other relief the Court deems just and proper.

December 8, 2015

Jonathan W. Birdt