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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF MARIN

BRUCE FRANKEL

Plaintiff,

vs.

CENTRAL MARIN POLICE
AUTHORITY, CAPTAIN HAMID
KHALILI, LIEUTENANT MICHAEL
LEGAN; SERGEANT VERA HICKS;
CORPORAL KEVIN SINNOTT,
CORPORAL JOEL HEAPS, and DOES 1-
20,

Defendants.

Case No. **CV 0002419**

COMPLAINT FOR DAMAGES:

- (1) COMMON LAW BATTERY
- (2) COMMON LAW FALSE ARREST
- (3) COMMON LAW NEGLIGENCE
- (4) COMMON LAW INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
- (5) COMMON LAW DEFAMATION
- (6) COMMON LAW ABUSE OF PROCESS
- (7) CALIFORNIA CIVIL CODE §52.1 - EXCESSIVE FORCE
- (8) CALIFORNIA CIVIL CODE §52.1 - FALSE ARREST
- (9) CALIFORNIA CIVIL CODE § 51.7 - VIOLENT ACTS
- (10) CALIFORNIA CIVIL CODE § 51.7 - FALSE POLICE REPORT

DEMAND FOR JURY TRIAL

Plaintiff BRUCE FRANKEL alleges as follows:

I. INTRODUCTION

1. As he slept in his San Anselmo home early on August 29, 2022, plaintiff BRUCE FRANKEL ("PLAINTIFF"), a 61 year old financial planner, suffered a *grand mal* brain seizure. Alice, his fiance at the time and now his wife, woke to gasping sounds, feared he was having trouble

1 breathing, and called 911 to ask for *medical* assistance. Unfortunately, as PLAINTIFF recovered from
2 the seizure but remained incoherent in what is called the "postictal" seizure phase, the first responder
3 was defendant KEVIN SINNOTT ("SINNOTT"), who at the time was a patrol officer with defendant
4 CENTRAL MARIN POLICE AUTHORITY ("CMPA"). What followed was a series of events that
5 began with SINNOTT's senseless and illegal battering of PLAINTIFF, progressed to a cynical but
6 successful effort by defendant JOEL HEAPS ("HEAPS") to prod SINNOTT to cover up his
7 misconduct by charging PLAINTIFF with resisting arrest and battery, and culminated with the
8 inexplicable addition, after PLAINTIFF was booked and released, of a third recommended charge in
9 the CMPA's report to the Marin County DA, for an act of domestic violence that never occurred.

10 2. Defendant SINNOTT knew he was responding to a request for medical assistance.
11 Dispatchers told him PLAINTIFF was in an altered mental state, and he saw that PLAINTIFF was not
12 a threat to anyone's safety - he could barely stand. Yet, within *4 seconds* of his entering PLAINTIFF'S
13 bedroom, SINNOTT ignored his basic training and his department's written policies, grabbed
14 PLAINTIFF, and for no apparent reason attempted to restrain him. When PLAINTIFF sought to
15 escape SINNOTT's grip, instead of pulling back and reassessing the situation, SINNOTT grew angry
16 and redoubled his effort to restrain PLAINTIFF, rejecting Alice's repeated warnings that PLAINTIFF
17 could not understand him. The result was a violent struggle in which SINNOTT used his taser on an
18 unarmed man, and which left PLAINTIFF with damaged shoulders, a battered right elbow, nerve
19 damage, scars, and emotional trauma.

20 3. SINNOTT and CMPA Corporal Sean Fahy, who arrived soon after the struggle began,
21 realized that PLAINTIFF lacked capacity to commit a crime and that criminal charges would be
22 improper. Then defendant JOEL HEAPS arrived, and under the guise of conducting a "use of force"
23 investigation, through suggestive questioning, he made clear to SINNOTT that he wanted PLAINTIFF
24 charged with resisting arrest and battery.

25 4. Before PLAINTIFF was taken to the hospital for evaluation, HEAPS informed
26 PLAINTIFF'S family that he would be criminally charged. Although the department could have waited
27 weeks or even months for toxicological and medical reports before deciding whether PLAINTIFF had
28 committed a crime, none of that information mattered to HEAPS.

1 5. As he slowly regained consciousness at Marin General Hospital, medical staff told
2 PLAINTIFF that he likely suffered a seizure, and that his behavior was typical of people in the
3 postictal stage of a seizure. HEAPS heard this, but still directed a junior officer to place PLAINTIFF
4 under arrest and handcuff him to his bed. Plaintiff was later brought to the Marin County Jail and
5 booked on the two charges.

6 6. Then it got even worse. As Alice drove PLAINTIFF to a medical appointment, the
7 Marin County District Attorney's office called to offer her support as a victim of domestic violence.
8 The CMPA's report to the District Attorney contained a *third* charge for battery on a domestic partner.

9 7. The reason for that new charge is plain. After SINNOTT and his supervisors viewed the
10 video from his body-worn camera (BWC), they realized there was no credible claim that PLAINTIFF
11 attacked or fought him; PLAINTIFF only sought to escape his grasp. They also saw it was not
12 necessary for SINNOTT to restrain PLAINTIFF for safety reasons. Thus, SINNOTT had no legal
13 basis to detain PLAINTIFF, unless they could find something in the first few seconds of the video to
14 justify the force that followed.

15 8. There *was* nothing in the video to justify SINNOTT's actions, so they made something
16 up. They arranged for SINNOTT to include in his incident report a claim that: (1) he saw PLAINTIFF
17 "push [Alice] into the bed," and (2) he immediately recognized that to be a "possible domestic battery."

18 9. SINNOTT'S BWC video proves there was no "push" of Alice by PLAINTIFF.

19 10. Moreover, SINNOTT's claim that he recognized a "possible domestic battery" prior to
20 attacking PLAINTIFF is demonstrably untrue. Every conversation SINNOTT had at the scene was
21 captured by his BWC, and he never even suggested that he witnessed a "possible domestic battery" or
22 sought to detain PLAINTIFF on that basis.

23 11. The Marin County DA refused to pursue any of the charges recommended by the
24 CMPA, but the physical and emotional damage was done. By this action plaintiff BRUCE FRANKEL
25 seeks compensation and punishment sufficient to ensure that no other person lives the nightmare that
26 the CMPA and its officers put him through.

1 **II. FACTS COMMON TO ALL CAUSES OF ACTION**

2 **A. PARTIES**

3 12. Plaintiff BRUCE FRANKEL is and at all relevant times was a resident of the County of
4 Marin, State of California. At the time of the subject incident he was 61 years old.

5 13. Defendant CENTRAL MARIN POLICE AUTHORITY was at all relevant times a joint
6 powers authority created by the Town of Corte Madera, the City of Larkspur, and the Town of San
7 Anselmo to provide police services to their residents. At all relevant times, Defendant CMPA was
8 responsible for assuring that the actions, omissions, policies, procedures, practices, and customs of the
9 CMPA and its employees and agents complied with the laws of the State of California and the United
10 States. At all relevant times, defendant CMPA was the employer of each named and DOE defendant.

11 14. Defendant SINNOTT was at all relevant times employed by defendant CENTRAL
12 MARIN POLICE AUTHORITY to work as a uniformed police officer with a rank of patrol officer,
13 subject to oversight and supervision by CMPA elected and non-elected officials, and acted under the
14 color of the laws, statutes, ordinances, regulations, policies, and customs of the State of California.

15 15. Defendant JOEL HEAPS was at all relevant times employed by defendant CENTRAL
16 MARIN POLICE AUTHORITY to work as a uniformed police officer, with a rank of Corporal, subject
17 to oversight and supervision by CMPA elected and non-elected officials, and acted under the color of
18 the laws, statutes, ordinances, regulations, policies, and customs of the State of California.

19 16. Defendant VERA HICKS was at all relevant times employed by defendant CENTRAL
20 MARIN POLICE AUTHORITY to work as a uniformed police officer, with a rank of acting Sergeant,
21 subject to oversight and supervision by CMPA elected and non-elected officials, and acted under the
22 color of the laws, statutes, ordinances, regulations, policies, and customs of the State of California.

23 17. Defendant MICHAEL LEGAN was at all relevant times employed by defendant
24 CENTRAL MARIN POLICE AUTHORITY to work as a uniformed police officer, with a rank of
25 Lieutenant, subject to oversight and supervision by CMPA elected and non-elected officials, and acted
26 under the color of the laws, statutes, ordinances, regulations, policies, and customs of the State of
27 California.

28 18. Defendant HAMID KHALILI was at all relevant times employed by defendant

1 CENTRAL MARIN POLICE AUTHORITY to work as a uniformed police officer, with a rank of
2 Captain, subject to oversight and supervision by CMPA elected and non-elected officials, and acted
3 under the color of the laws, statutes, ordinances, regulations, policies, and customs of the State of
4 California. Defendant was the sole Captain employed by the CMPA and sole second in command, and
5 exercised policy-making powers for the CMPA, below only the Chief of Police.

6 19. At all times mentioned herein, the defendants, DOES 1 through 20, inclusive, and each
7 of them, were the supervisors and/or fellow servants of the named defendants, and/or policy-making
8 officials of the CENTRAL MARIN POLICE AUTHORITY who are legally responsible in some
9 manner for the events and happenings referred to here, and proximately and legally caused injury and
10 damage to PLAINTIFF as alleged here. The true names and capacities, whether individual or otherwise
11 of Defendants DOES 1 through 20 inclusive, are unknown to PLAINTIFF, who therefore sues
12 Defendants by such fictitious names; and leave of court will be requested to amend this complaint to
13 show their true names and capacities when the same have become ascertained.

14 20. Venue in this action is proper in Marin County based upon the fact that this action arose
15 in Marin County.

16 21. On February 27, 2023, PLAINTIFF filed a timely claim for damages with the CMPA in
17 compliance with the California Government Code § 900 et seq. On March 30, 2023, the CMPA
18 denied said claim. PLAINTIFF and the CMPA entered into a tolling agreement effective August 30,
19 2023, that provided in part, "Any and all defenses or avoidance based on the running of the statute of
20 limitations, statute of repose, laches, or other similar principle concerning the timeliness of
21 commencing a civil action, including the ... September 30, 2023 deadline to commence a lawsuit
22 against the Authority for the CLAIMS and any other state law claims that a Court may allow to be filed
23 in accordance with applicable law including the California Government Code, are hereby tolled until
24 May 29, 2024, unless extended further by written agreement of the parties."

25 **B. OPERATIVE FACTS**

26 **STANDARDS**

27 22. The California Commission on Police Officer Standards and Training (POST) expects
28 police officers in the state to recognize that citizens they encounter may be suffering the effects of a

1 brain seizure. POST publishes workbooks that outline the curriculum for the basic training that every
2 police officer receives before he or she can work in the State. The 2017 POST Learning Domain
3 volume 34, Ver. 6.1, at page 5-12, contains a section on seizures which states in part:

4 A seizure is the result of a surge of energy through the brain. Instead of discharging
5 electrical energy in a controlled manner, the brain cells continue firing, causing massive
6 involuntary contractions of muscles and possible unconsciousness. If only part of the
7 brain is affected, it may cloud awareness, block normal communication, and produce a
8 variety of undirected, unorganized movements.

9 23. The same section states that the "indicators" of a seizure may include disorientation,
10 slurred speech, staggering or an impaired gait, purposeless sounds and body movements, lack of
11 response, eyes rolling upward, and a partial or complete loss of consciousness.

12 24. In accord with the guidance of medical authorities, the POST workbook also commands
13 officers who encounter seizure victims: "**Do not restrain them.**"

14 25. Finally, the POST workbook warns officers that "**agitated behavior during an episode
15 should not be perceived as deliberate hostility or resistance to the officer.**"

16 26. Similarly, the CMPA's Policy 419 provides:

17 a) *Mental illness is not a crime.*

18 (b) Most people with mental illnesses are fully functioning community members.

19 (c) There is no correlation between mental illness and a person's participation in crime.

20 (d) Involvement in infractions (traffic violations. Loitering. Disorderly Conduct) may be
21 a manifestation of a person's mental illness or failure to receive treatment for the illness,
22 rather than a result of intentional wrongdoing.

23 *It is the policy of the Central Marin Police Authority that no individual should be
24 arrested for behavioral manifestations of mental illness that are not criminal in
25 nature.*

26 *Obtaining relevant information from family members, friends, or others at the scene
27 who know the individual and his or her history, or are seeking advice from mental
28 health professionals, can also assist officers in taking the appropriate action.*

A family member, friend. or concerned party calling about someone who needs help in
accessing mental health or other services may volunteer additional information such as:
Past occurrences of this or other atypical behaviors;

When responding to a call that involves a person who has, or exhibits symptoms of,
mental illness. *officers should obtain as much information as possible to assess and
stabilize the situation. In particular, officers should gather information regarding the
nature of the atypical or problem behavior, events that may have precipitated the
person's behavior, the person's history relating to possible mental illness,*

1 (a) Officers should:

2 1. Remain calm and avoid overreacting; ...

3 **7. Remove distractions, upsetting influences and disruptive people from the**
4 **scene;...**

5 14. Gather information from family or bystanders...

6 (b) Officers should avoid:

7 ...
8 **4. Touching the person (unless essential to safety); ...**

8 (Emphasis added).

9 27. Defendant SINNOTT ignored and violated virtually everything his training and
10 departmental procedures required of him during the early morning of August 29, 2022. He made no
11 effort to gather facts from PLAINTIFF's family. He made *himself* the "upsetting influence" that
12 policy required him to remove from the scene. Although it was clearly not "essential to safety,"
13 SINNOTT not only touched PLAINTIFF - he tackled him and refused to let go until other officers
14 helped him handcuff and bind a man who had done nothing wrong.

15 28. Likewise, HEAPS, in an unconscionable effort to cover up SINNOTT's misconduct by
16 charging the victim with a crime, blatantly ignored every officer's obligation to gather information and
17 consider a suspect's mental capacity to commit a crime. HEAPS operated not only in willful ignorance
18 of the facts, but in deliberate disregard for the facts offered to him by PLAINTIFF's family and medical
19 staff at Marin General Hospital, all of whom made clear PLAINTIFF could not commit a crime.

20 **PRIOR SIMILAR INCIDENTS INVOLVING CMPA OFFICERS**

21 29. On September 1, 2016, a 28 year old school teacher with a seizure disorder who lived
22 with his mother due to his medical needs was battered inside their home by CMPA officer David Woo
23 and defendant HICKS, after they treated his seizure as threatening behavior. The mother called for
24 medical assistance, and medics were present, but the officers insisted on subduing the teacher, tasing
25 him twice and bloodying his face in the process. Then, despite knowing he was an epileptic, they
26 arrested him for resisting arrest and battery on a peace officer. The Marin County District Attorney
27 refused to prosecute. Upon information and belief, since that 2016 incident the CMPA did nothing to
28 change its polices or enhance its officer training to prevent repetition of those two officers' misconduct,

1 and defendant HICKS later was rewarded with a promotion to Sergeant. In that capacity, almost
2 exactly 6 years later, she played a role in the mistreatment of PLAINTIFF.

3 30. In 2019, a 60 year old pizza deliveryman with cerebral palsy was making a delivery in
4 Greenbrae. When no one answered his knocks on the door he walked around the side of the house to
5 get the resident's attention and succeeded in delivering the pizza. The man began limping to his car
6 with his empty delivery bag. As he did so, defendant SINNOTT and his partner arrived in response to
7 a misguided call about a burglar. They saw the unarmed deliveryman and detained him at gunpoint,
8 and although the deliveryman did his best to comply with their directions while advising the officers of
9 his disability, SINNOTT performed a leg sweep that sent him face-first into the concrete sidewalk.
10 Upon information and belief, defendant CMPA took no action to reprimand or even counsel SINNOTT
11 in an effort to prevent him from using excessive and unlawful force on citizens in future encounters.
12 SINNOTT later was rewarded with a promotion.

13 **PLAINTIFF'S FIRST BRAIN SEIZURE**

14 31. Approximately one year before the subject incident, PLAINTIFF's son Ethan was
15 roused by loud sounds and found his father stumbling around the house and mumbling incoherently.
16 Ethan called his mother (and PLAINTIFF's ex-wife) Claudia, who lived 10 minutes away, and she
17 rushed over. When she arrived PLAINTIFF was still confused and incoherent. Claudia and Ethan
18 watched PLAINTIFF from a distance as he sat on a couch briefly and then returned to the bedroom,
19 apparently to go back to sleep. At no time was PLAINTIFF violent or threatening.

20 32. The next day, PLAINTIFF had no memory of the event. Because no one saw how it
21 began, there was no basis to conclude he had a seizure; PLAINTIFF believed he was sleepwalking.

22 **THE SUBJECT INCIDENT**

23 33. On August 28, 2022, PLAINTIFF felt ill, suffering hot flashes and mental confusion.
24 He and Alice went to bed early.

25 34. On August 29, 2022, at about 2:51 a.m., Alice was awakened by PLAINTIFF's loud
26 moans and snorting. She turned on a light and saw his arms stiffly extended and his legs shaking. His
27 eyes were turned up into his head, saliva and foam flowed from his mouth, and he did not respond
28 when Alice called his name. This was the initial phase of a *grand mal* seizure, but Alice was

1 unfamiliar with the condition and thought Bruce might be having a stroke.

2 35. Alice called 911. Because her greatest fear was that PLAINTIFF's breathing was
3 impaired, she conveyed that concern to the operator. However, she also made clear that PLAINTIFF
4 was not responding to her, and this information was entered into the Computer Aided Dispatch (CAD)
5 record that was relayed in real time to local emergency responders. By 2:54 a.m., two minutes before
6 defendant SINNOTT arrived at the house, these messages were sent to his vehicle's CAD display:
7 "Code 06D01 (Not alert)," and "He is not completely alert (not responding appropriately)."

8 36. The 911 operator worked with Alice to determine whether PLAINTIFF'S breathing
9 problem was serious, and the results were reassuring; PLAINTIFF was not suffocating. This too was
10 reported through the CAD to first responders.

11 37. As Alice waited for *medical* help to arrive, PLAINTIFF's shaking stopped and he sat
12 up. She put her hands on either side of his head and tried to get him to focus on her, but could not.
13 PLAINTIFF was entering the postictal stage of the seizure, when the brain is recovering, but the victim
14 remains unaware of his surroundings and unable to understand directions. People in the postictal stage
15 often react instinctively to attempts to restrain them - by trying to escape.

16 38. As he recovered, PLAINTIFF was able to get up from the bed and stumbled into the
17 bathroom located about ten feet away, where he fell. His eyes were wandering and he remained
18 unresponsive to Alice. Alice followed him into the bathroom while calling for help from Ethan, who
19 was sleeping downstairs. As Alice attempted to guide PLAINTIFF out of the bathroom, at about 2:57
20 am, Ethan came to the bedroom. Since Alice was still on the phone with 911, the recording captured
21 Ethan's comment as he saw his father: "Oh sh--, not again." He recognized his father was suffering
22 from the same condition he witnessed about a year before.

23 39. Eventually Alice was able to guide PLAINTIFF back toward their bed, and she loosely
24 held his arm to prevent him from returning to the bathroom. PLAINTIFF was not talking, making
25 sounds, or doing anything to threaten or harm Alice.

26 40. At the same time that Ethan first saw his father and recognized he was witnessing a
27 recurrence of the previous incident, defendant KEVIN SINNOTT arrived at the front door. Ethan
28 opened the door for SINNOTT, but SINNOTT rushed past Ethan without asking what was happening.

1 41. As he entered the bedroom where Alice and PLAINTIFF were standing, SINNOTT
2 posed no questions to Alice either, other than asking whether she was doing CPR.

3 42. Nevertheless, several things were apparent from the moment SINNOTT walked into the
4 room. First, it was clear CPR was not necessary; PLAINTIFF was standing (albeit unsteadily) and
5 obviously not deprived of oxygen.

6 43. Second, it was clear PLAINTIFF was physically unstable: in a handful of seconds he
7 bounced off the wall and fell onto the bed. He was in no condition to chase or attack anyone.

8 44. Third, it was clear PLAINTIFF was suffering from some form of altered mental status:
9 his eyes were blank and did not fix on anything or anyone. Sinnott recognized this: he reported to the
10 dispatcher: "He's conscious but **something is wrong with him.**"

11 45. Fourth, and finally, PLAINTIFF gave no sign he wished to harm anyone.

12 46. When SINNOTT walked into the room, Alice still was holding PLAINTIFF's arm to
13 prevent him from moving out of the bedroom, but as Sinnott approached she released her grip and
14 backed away, telling Sinnott, "he's not himself."

15 47. Then, less than four seconds after he walked into the room, as Alice backed away from
16 PLAINTIFF, SINNOTT grabbed and attempted to restrain a man who had committed no crime and
17 threatened no one. This was, as noted, precisely the *wrong* thing to do with a seizure victim.

18 48. PLAINTIFF broke SINNOTT's grip initially, but SINNOTT persisted. PLAINTIFF
19 then mumbled a phrase that he repeated in the ensuing minutes, along with a number of
20 incomprehensible grunts and phrases: "please leave me alone." SINNOTT refused to honor that
21 request, wrestled PLAINTIFF onto the bed, and attempted to handcuff him.

22 49. By 2:58 am, just 25 seconds after his arrival, SINNOTT's voice became angry, and he
23 shouted to PLAINTIFF, "Stop. Stop fighting with me." Alice responded loudly and emphatically:
24 "He's unconscious." SINNOTT argued with her: "He's not unconscious. He's fighting." Alice later
25 warned, "You're going to break his neck," and emphatically repeated, "he's unconscious."

26 50. SINNOTT ignored Alice's statements and further escalated his attempt to subdue
27 PLAINTIFF. They both fell off the bed to the floor. SINNOTT then tased PLAINTIFF, causing him
28 to strike his head on furniture and suffer a wound on the top of his nose.

1 year before, and that it ended without anyone being harmed. She told HEAPS that as she and Ethan
2 watched, PLAINTIFF "kind of calm down [and] lay[] on the couch." She added that in the first
3 episode, **"He wasn't violent toward us He never came close to being violent."** Alice then added,
4 **"Even today he wasn't violent."**

5 60. At 3:20:25, while still inside the house speaking with an EMT, SINNOTT and Fahy
6 agreed that PLAINTIFF was suffering from a medical condition that prevented him from knowing what
7 he was doing. Fahy stated, "Oh yeah, he's got something going on with his brain." SINNOTT added
8 that PLAINTIFF was "acting crazy," while mimicking him with arms flailing. SINNOTT referred to
9 the situation as a "medical thing."

10 61. As his adrenaline waned, SINNOTT realized his use of force would be questioned and
11 began to think of ways to cover up his misconduct. Although he knew PLAINTIFF was being taken to
12 the hospital for medical evaluation, SINNOTT asked Fahy whether they should "tag" PLAINTIFF with
13 a "hold" (presumably, a three day hold under Health and Welfare Code Section 5150), "because I
14 fought with him." In other words, SINNOTT was proposing to subject PLAINTIFF to up to three days
15 of involuntary psychiatric evaluation, not because he needed to be forced to see doctors, but to provide
16 a cover story for the use of force.

17 62. Fahy rejected SINNOTT's proposal, answering, "I think it's maybe more of a medical
18 issue you know." He later added, "Now I'm thinking ...bleed in the head.... Something is messing with
19 the wires in his head." He was not far from the truth.

20 63. At 3:26:30, Fahy and SINNOTT continued discussing next steps as they stood in the
21 street. SINNOTT asked, "Yeah I mean what do you think....just medical only and we do a report?"
22 Fahy agreed: "yeah, yeah ... **I mean there's nothing criminal here, right.**" SINNOTT tossed up for
23 consideration a "148" (charge of resisting arrest), but Fahy responded **no**. SINNOTT obsequiously
24 agreed: **"I don't think he's competent to commit a crime."**

25 64. Then defendant HEAPS joined SINNOTT and Fahy, and falsely declared he was doing
26 the "use of force aspect" of the case while proceeding to talk *not* about the use of force, but about what
27 to charge PLAINTIFF with.

28 65. Initially, SINNOTT told HEAPS that PLAINTIFF was "not making sense," and when

1 HEAPS asked if there was a 243(b) (battery on a police officer), SINNOTT responded: "**No it was all**
2 **just like resisting ... like trying to get away from me,**" just as Alice told HEAPS moments before.

3 66. Thus, by 3:30 a.m., HEAPS had been told twice, by the two people who witnessed the
4 start of the incident, that PLAINTIFF did not attack anyone, and simply wanted to be left alone.

5 67. But HEAPS refused to take no for an answer. Although Fahy continued to state that
6 PLAINTIFF appeared to have a brain disorder, and SINNOTT noted that PLAINTIFF did not appear to
7 understand the commands he was given, by 3:31 a.m. HEAPS, through persistent, suggestive
8 questioning, undermined Fahy's authority and encouraged SINNOTT to execute a 180 degree turn in
9 his thinking. HEAPS said he "understands it's a medical," but claimed that due to the struggle there
10 *had* to be a charge. Grinning, SINNOTT readily agreed to charge PLAINTIFF with violations of Penal
11 Code Sections 148 and 243(b).

12 68. Minutes later, at 3:36, showing no interest in learning what diagnosis might be made by
13 the doctors who would soon see PLAINTIFF, HEAPS announced to Claudia and Alice that
14 PLAINTIFF would be cited for battery on a police officer. They both questioned why PLAINTIFF
15 was being issued a citation when he was not "conscious." HEAPS feigned misunderstanding the
16 question; then responded by claiming, falsely, that he had no choice because an officer had suffered
17 "some minor injuries."

18 69. Shortly after, HEAPS left the scene, and in violation of CMPA's written policy
19 governing activation of BWCs, (Section 451.7), he deactivated his BWC so there would be no record
20 of any communications he had with others during his drive to Marin General Hospital. He reactivated
21 the BWC once he arrived in PLAINTIFF'S hospital room.

22 70. At 3:53, through the BWC of Officer Anderson, PLAINTIFF was seen being carried
23 from the ambulance to a hospital room. He was relatively quiet, but still moaning, not speaking.

24 71. At 3:57:20, PLAINTIFF was talking to an EMT and had no idea why he was there.

25 72. At 4:04, HEAPS appeared in the hospital room and, having made no effort to determine
26 what the doctors thought, told Officer Anderson to prepare a citation charging PLAINTIFF with the
27 two crimes he previously discussed. He noted that defendants HICKS and LEGAN were directing
28 their decision-making.

1 73. HEAPS asked Anderson if PLAINTIFF was given a Miranda warning: she replied *no*.
2 Minutes later, HEAPS began questioning PLAINTIFF, but never gave him a Miranda warning.

3 74. HEAPS' questioning of PLAINTIFF was not only constitutionally improper; it was
4 abusive and dishonest. As he slowly recovered from his seizure, PLAINTIFF was barely coherent, yet
5 HEAPS insisted on questioning him, waking PLAINTIFF repeatedly in the course of the questioning.

6 75. HEAPS employed on PLAINTIFF the same sleight of hand he used earlier; he told
7 PLAINTIFF his questioning was "Standard part of use of force policy," and that he was trying to
8 understand PLAINTIFF's "perspective," but his questions were designed to obtain incriminating
9 admissions. For example, he asked PLAINTIFF, "Was there a reason that you fought [and] physically
10 resisted the officer?" That leading question had nothing to do with the propriety of SINNOTT's use of
11 force, and was an deceitful attempt to trick PLAINTIFF into conceding that he "fought" and
12 "physically resisted" a police officer."

13 76. At 4:36, HEAPS blatantly lied to PLAINTIFF in a final attempt to trick him into making
14 an incriminating statement. HEAPS told PLAINTIFF "when the officer got there you started attacking
15 him." HEAPS *knew* that was not true; both Alice and SINNOTT told him PLAINTIFF was simply
16 trying to avoid restraint. HEAPS made that false statement in the hope it would prod PLAINTIFF to
17 deny it, and in the process admit he did recall the altercation. The ploy failed; PLAINTIFF believed
18 what he was told, and repeatedly and tearfully apologized for something he did not do.

19 77. Careful review of HEAPS' BWC video yields no evidence he sought to discuss with
20 PLAINTIFF'S doctors' what they thought PLAINTIFF suffered from.

21 78. To make matters worse, the CMPA officers who had custody of PLAINTIFF during his
22 time at the hospital affirmatively interfered with his medical care by refusing to permit Alice into the
23 room with PLAINTIFF and his doctors. On at least two occasions, physicians questioned PLAINTIFF
24 about what led up to the incident with police, but he had no memory to provide to them. Dr. Emily
25 Neill expressly asked PLAINTIFF if he experienced shaking limbs, but he did not recall. Alice,
26 however, did know that PLAINTIFF had experienced shaking limbs and other telltale symptoms of a
27 brain seizure, and could have provided that information to PLAINTIFF's doctors if she had been
28 allowed to do so. However, she spent most of the over five hours that PLAINTIFF was in the hospital

1 waiting in a nearby lobby to see him; she was never allowed to do so because PLAINTIFF had been
2 placed under arrest and was formally in police custody.

3 79. The CMPA officers not only deprived PLAINTIFF's doctors of relevant information;
4 they filled the vacuum with false information. PLAINTIFF's first ED doctor, Dr. Yuan, made clear she
5 suspected that PLAINTIFF had suffered a brain seizure, but Officer Anderson, presumably based on
6 false information being spread by defendant HEAPS, told Dr. Yuan that when defendant SINNOTT
7 arrived, PLAINTIFF was "squaring up" to fight with him, suggesting a greater level of awareness than
8 PLAINTIFF actually had. That false information confused Dr. Yuan and prevented her and her shift
9 change replacement, Dr. Neill, from confirming that PLAINTIFF suffered a brain seizure.

10 80. Nevertheless, the doctors and staff made clear to Bruce and the officers that he probably
11 had a seizure. At approximately 4:30 a.m. HEAPS and Officer Anderson stood outside PLAINTIFF's
12 room and listened as a medical assistant spoke to PLAINTIFF and tried to reassure him:

13 **[Y]ou probably had a seizure....[and] after the seizure you are completely out of it.**
14 **You don't know what is going on.... [It] takes a while to come to, so it might have**
15 **been what actually happened [is you had a] seizure while you were asleep and woke**
16 **up and your body just didn't know what is going on. It's not your fault.**

17 81. Minutes later, ignoring what he just heard, HEAPS directed Officer Anderson to
18 handcuff PLAINTIFF and inform him of the charges against him. HEAPS then left the hospital.

19 82. At 5:06, a nurse asked Officer Anderson to remove the handcuffs so that they could
20 insert "seizure pads" between PLAINTIFF and his bed's side rails. With Officer Anderson listening,
21 the nurse explained to PLAINTIFF:

22 **We think you had a seizure. We think what happened is you had a seizure you**
23 **woke up you were in a phase called postictal. Which ... makes people sometimes**
24 **very combative and they don't remember what happened and so that is what we**
25 **are concluding as of right now. We don't have any evidence of that but that's just**
26 **what we are thinking happened. And so we have to put these pads on here so in**
27 **case you have a seizure you don't hurt yourself.**

28 83. Anderson later conveyed this information to CMPA Officers Boss and Peterson when
they relieved her on a shift change. PLAINTIFF also directly conveyed that information to the two
relief officers, who discussed the seizure diagnosis and, upon information and belief, relayed it to
HICKS and LEGAN.

84. At 6:31, Officer Peterson advised defendant HICKS by phone that PLAINTIFF had a

1 “calm,” “somber” and “apologetic” demeanor and that they planned to issue him a citation and leave,
2 as they anticipated he would give them no problem signing the citation. HICKS rejected that plan,
3 instructing them to remain in the hospital longer in the hope they could take him to the jail rather than
4 simply cite him. Ultimately, PLAINTIFF remained at the hospital under police guard for almost three
5 more hours.

6 85. At 9:18 am, a nurse gave PLAINTIFF disposable hospital clothing and slippers (he was
7 brought there wearing only briefs). Soon after, choking back tears, PLAINTIFF was led out of the
8 hospital in handcuffs by Officer Boss.

9 86. The hospital discharge papers referred PLAINTIFF for further evaluation by a
10 neurologist and offered three possible diagnoses, in this order: (1) seizure/post-ictal, (2) psychiatric,
11 and (3) "tox." However, had CMPA officers not prevented Alice from talking with PLAINTIFF's
12 doctors, and had CMPA officers not provided those doctors with misinformation, the diagnosis would
13 have been clear: PLAINTIFF had suffered a seizure. There was and is no evidence that PLAINTIFF
14 suffered from a psychiatric or toxicological event.

15 87. At 9:56 a.m., PLAINTIFF was escorted into the Marin County Jail, photographed and
16 booked on two charges: resisting arrest (Penal Code 148(a)(1)) and battery on a peace officer (Penal
17 Code 243(b). He was processed at the jail for about a half-hour and released, still wearing nothing
18 but his underwear and a disposable hospital outfit; he had no wallet, phone or money. He did not
19 remember Alice's phone number in the jail and they would not help him contact her, so he walked in
20 his hospital slippers about a half mile to a gas station at the corner of N. San Pedro Road and Civic
21 Center Drive, where they helped him call for a taxi. None of that would have been necessary if the
22 officers at the hospital had been allowed by supervisors to issue Mr. Frankel a citation, after which
23 Alice could give him the clothing she brought and drive him home.

24 88. The neurologist that PLAINTIFF was referred to, Dr. Ilkcan Cokgor, confirmed the
25 hospital staff's impression that PLAINTIFF had suffered from a grand mal seizure.

26 **EVEN MORE CYNICAL FALSEHOODS AND FABRICATED CHARGES**

27 89. Some time after PLAINTIFF was booked and released, the CMPA submitted to the
28 Marin District Attorney's office a Misdemeanor Report and charging recommendations.

1 90. The report contained a surprise: a recommendation that PLAINTIFF be prosecuted for a
2 new charge that was never mentioned before plaintiff was booked: battery on a spouse or cohabitant,
3 Penal Code 243(e). This led victim advocates in the DA's office to contact Alice and offer her
4 assistance.

5 91. The new domestic violence charge, and associated false statements in narrative reports
6 from defendants SINNOTT and HEAPS, were added in an effort by the CMPA to reinforce the cover-
7 up of defendant SINNOTT's misconduct.

8 92. Upon information and belief, when SINNOTT returned to the CMPA station after the
9 incident, his BWC video was viewed by multiple officers and supervisors, including, upon information
10 and belief, several named and DOE defendants. It became clear to them that SINNOTT's use of force
11 on PLAINTIFF was unnecessary, improper and a violation of PLAINTIFF's constitutional rights, as
12 PLAINTIFF had committed no crime and did not pose a serious threat of harm to anyone except
13 perhaps himself, which could have been addressed by simply limiting his movements as Alice had been
14 doing.

15 93. Because SINNOTT had no justification for using force on PLAINTIFF, the original two
16 charges for resisting arrest and battery on a police officer were questionable, but rather than drop the
17 charges and admit that SINNOTT's use of force was improper, the defendants sought to create a new
18 justification. They settled upon an event that occurred at precisely 2:57:50 a.m.

19 94. At that moment, Alice, who had been holding PLAINTIFF by the arm, released her grip,
20 backed away and crawled over the bed. However, SINNOTT, who upon information and belief acted
21 under orders of other named and DOE defendants, falsely stated in the narrative he submitted to the
22 DA that as he entered the room, PLAINTIFF "pushed" Alice to the bed, "causing her to fall
23 backwards." SINNOTT also claimed that he instantly recognized that "push" to be a "possible
24 domestic battery," and sought to detain PLAINTIFF for that reason.

25 95. Both claims are false. No "push" can be seen in the four seconds of BWC video before
26 SINNOTT began grabbing PLAINTIFF, because none occurred.

27 96. In the many hours of BWC video covering the incident and its aftermath, neither
28 SINNOTT nor anyone else even *hinted* that he saw anything that would support a charge of domestic

1 violence. Similarly, under California law and CMPA's policies and procedures, including the 2012
2 Marin County "Domestic Violence" protocol, officers who respond to an incident of possible domestic
3 violence are required to take steps to ensure the safety of the alleged victims and inform them of their
4 rights, to conduct their investigations in a specified manner, to include specific information in their
5 reports, and perform many additional steps not typically required in other cases. None of the CMPA
6 officers involved in the incident complied with those obligations.

7 97. In short, SINNOTT submitted a false statement to the Marin County District Attorney in
8 the hope PLAINTIFF would be charged with a serious crime he did not commit.

9 98. SINNOTT's narrative and those of other defendants contained other false statements and
10 calculated omissions designed to mislead prosecutors. SINNOTT stated without qualification that
11 PLAINTIFF was reported by dispatch to be "conscious," but failed to mention that dispatch also
12 indicated that he was not completely alert and not responding appropriately, and failed to mention his
13 own report to dispatchers that "something was wrong with" PLAINTIFF.

14 99. SINNOTT falsely claimed in his report that he believed PLAINTIFF was under the
15 influence of alcohol or a controlled substance, but never expressed that belief at the scene and, as
16 previously noted, he agreed with Cpl. Fahy that PLAINTIFF was suffering from a medical issue.

17 100. SINNOTT failed to mention in his report that PLAINTIFF had been evaluated at Marin
18 General Hospital and that doctors suspected he had a seizure.

19 101. Defendant HEAPS' narrative omitted all exculpatory information that a prosecutor
20 would want to consider in evaluating the case. He repeatedly stated that PLAINTIFF's family could
21 provide no medical explanation for PLAINTIFF's conduct, but failed to mention that he accompanied
22 PLAINTIFF to the hospital and heard medical staff advise PLAINTIFF that he had probably suffered a
23 seizure. Indeed, like SINNOTT, HEAPS did not even acknowledge that PLAINTIFF was brought to
24 the hospital for medical evaluation prior to his being booked.

25 102. Similarly, the narratives of both defendant Fahy and Officer Anderson were scrubbed of
26 exculpatory information they gleaned from EMTs and the medical staff. Fahy's report failed to recount
27 his own contemporaneous, stated impressions that PLAINTIFF appeared to be suffering from a brain
28 disorder and that there was no crime to be charged.

1 103. While Anderson's statement recounted that PLAINTIFF was evaluated in hospital, and
2 reported that once he regained lucidity he had no memory of the accident and was profusely apologetic,
3 she too failed to mention that the medical staff believed PLAINTIFF suffered a brain seizure. She only
4 alluded to that fact when noting that she she removed PLAINTIFF's handcuffs so a nurse could install
5 seizure pads on his bed.

6 104. A CMPA Use Of Force Report was purportedly prepared on August 30, 2022, a full day
7 after the incident. Even at that point, only the two original charges that PLAINTIFF was booked for
8 on August 29 were listed; not domestic battery. The name of defendant HEAPS, who told PLAINTIFF
9 and his family that he was conducting the "use of force" investigation, does not appear in the Use Of
10 Force Report.

11 105. PLAINTIFF was forced to retain, at a cost of \$10,275, a criminal defense attorney to
12 address the CMPA's effort to have him prosecuted.

13 106. That attorney met with defendant KHALILI, who, although he had access to
14 SINNOTT's BWC video, refused to withdraw the charging recommendation.

15 107. The Marin County District Attorney's office refused to file charges against PLAINTIFF.
16 While the DA sometimes reserves the right to bring charges later if the suspect commits additional
17 offenses, in this case the DA indicated its decision was final.

18 108. It took approximately a month more for the CMPA to reclassify its report to the DA as
19 "information only" and reclassify PLAINTIFF's period in custody as a detention only, as required by
20 California Penal Code Section 949(b).

21 109. In December 2023, the CMPA promoted defendant SINNOTT to the rank of Corporal,
22 and promoted defendant HICKS to the rank of Sergeant.

23 **FIRST CAUSE OF ACTION FOR COMMON LAW BATTERY**
24 **(CAL. GOVT. CODE §§ 815.2, 820) AGAINST DEFENDANTS SINNOTT AND CMPA**

25 110. PLAINTIFF realleges and incorporates herein by reference the previous allegations as if
26 fully set forth herein.

27 111. On or about August 29, 2033, defendant SINNOTT intentionally and recklessly did acts
28 which resulted in harmful and offensive contact with the Plaintiff's person, including but not limited to:

1 grabbing, pushing, and tackling PLAINTIFF; punching and slapping PLAINTIFF; knocking
2 PLAINTIFF to the floor, twisting PLAINTIFF's arms, applying a TASER to PLAINTIFF; and
3 handcuffing PLAINTIFF.

4 112. PLAINTIFF was not capable of providing SINNOTT, and did not provide SINNOTT,
5 with consent to the aforementioned harmful and offensive contacts.

6 113. Defendant SINNOTT did the aforementioned acts with the intent to cause harmful and
7 offensive contact with the body of PLAINTIFF.

8 114. As a direct, legal and proximate result of the actions of defendant SINNOTT,
9 PLAINTIFF sustained serious and permanent injuries to his person, all to his damage in an amount to
10 be shown according to proof and within the jurisdiction of the Superior Court.

11 115. PLAINTIFF is informed and believes that the aforesaid acts directed towards the
12 PLAINTIFF were carried out with a conscious disregard of PLAINTIFF's right to be free from such
13 tortious and criminal behavior, such as to constitute oppression, fraud or malice pursuant to California
14 Civil Code Section 3294, entitling PLAINTIFF to punitive damages from SINNOTT in an amount
15 appropriate to punish and set an example of defendant SINNOTT.

16 116. Pursuant to California Government Code Section 815.2, defendant CMPA is legally
17 liable for all compensatory damages proximately caused by the aforesaid tortious actions of defendant
18 SINNOTT.

19 **SECOND CAUSE OF ACTION FOR COMMON LAW FALSE**
20 **ARREST (CAL. GOVT. CODE §§ 815.2, 820) AGAINST DEFENDANTS**
21 **SINNOTT, HEAPS, HICKS, LEGAN, KHALILI, CMPA AND DOES 1-20**

22 117. PLAINTIFF realleges and incorporates herein by reference the previous allegations as if
23 fully set forth herein.

24 118. Defendants HEAPS, SINNOTT, HICKS, LEGAN, KHALILI and DOES 1-20, and each
25 of them, wrongfully and illegally arrested PLAINTIFF and/or caused PLAINTIFF to be wrongfully
26 and illegally arrested in violation of Penal Code Section 236, and physically restrained him without his
27 consent by means of the use of restraints (handcuffs), confinement in a locked patrol vehicle, and
28 implied threats of force.

119. The aforementioned defendants, and each of them, did not possess a valid warrant for

1 PLAINTIFF's arrest, nor did any of them possess facts supporting probable cause to arrest
2 PLAINTIFF.

3 120. As a direct and proximate result of this conduct, PLAINTIFF was harmed and has
4 sustained damages, including severe humiliation, embarrassment, shame and emotional distress.

5 121. PLAINTIFF is informed and believes that the aforesaid acts were carried out with a
6 conscious disregard of PLAINTIFF's right to be free from such tortious and criminal behavior, such as
7 to constitute oppression, fraud or malice pursuant to California Civil Code Section 3294, entitling
8 PLAINTIFF to punitive damages from each of the individual defendants in an amount appropriate to
9 punish and set an example of them.

10 122. Pursuant to California Government Code Section 815.2, defendant CMPA is legally
11 liable for all compensatory damages suffered as a result of the aforesaid tortious actions of the
12 individual named and DOE defendants.

13 **THIRD CAUSE OF ACTION FOR**
14 **COMMON LAW NEGLIGENCE (CAL. GOVT. CODE**
15 **§§ 815.2, 820) AGAINST DEFENDANTS SINNOTT, CMPA AND DOES 1-20**

16 123. PLAINTIFF realleges and incorporates herein by reference the previous allegations as if
17 fully set forth herein.

18 124. Defendant SINNOTT negligently, carelessly, recklessly, and wantonly caused injury to
19 PLAINTIFF in that among other things: he failed to follow his training and departmental procedures by
20 evaluating the situation he encountered in PLAINTIFF's home, failed to competently assess the facts he
21 possessed and the facts that were readily available to him, disregarded the information being provided
22 to him at the scene by PLAINTIFF's fiance, failed to implement his training in de-escalation
23 procedures, failed to wait for medical professionals to arrive to perform a competent assessment of
24 PLAINTIFF's medical condition, failed to wait for backup from other officers that would have enabled
25 him to restrain PLAINTIFF with a minimal risk of injury, and otherwise failed to act as a reasonable
26 police officer would have acted under the circumstances he faced.

27 125. Defendants DOES 1-20 contributed to PLAINTIFF's injuries by negligently failing to
28 train, instruct, supervise, and control SINNOTT, including by not reprimanding and retraining him
after previous instances in which he used inappropriate and excessive force on a citizen.

1 126. As a direct, legal and proximate result of the aforementioned actions of defendants,
2 PLAINTIFF sustained serious and permanent injuries to his person, all to his damage in an amount to
3 be shown according to proof and within the jurisdiction of the Superior Court.

4 127. PLAINTIFF is informed and believes that the aforesaid acts were carried out with a
5 conscious disregard of PLAINTIFF's right to be free from such tortious and criminal behavior, such as
6 to constitute oppression, fraud or malice pursuant to California Civil Code Section 3294, entitling
7 PLAINTIFF to punitive damages from defendants in an amount appropriate to punish and set an
8 example of defendants.

9 128. Pursuant to California Government Code Section 815.2, defendant CMPA is legally
10 liable for all compensatory damages proximately caused by the aforesaid tortious actions of defendant
11 SINNOTT.

12
13 **FOURTH CAUSE OF ACTION FOR COMMON LAW**
14 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS (CAL. GOVT.**
15 **CODE §§ 815.2, 820) AGAINST DEFENDANTS SINNOTT, HEAPS, HICKS, LEGAN,**
16 **KHALILI, CMPA AND DOES 1-20**

17 129. PLAINTIFF realleges and incorporates herein by reference the previous allegations as if
18 fully set forth herein.

19 130. The actions of defendants SINNOTT, HEAPS, HICKS, LEGAN, KHALILI, and DOES
20 1-20, in arresting and charging PLAINTIFF with crimes they knew he did not commit, falsely telling
21 him he attacked a police officer, and in taking him to the Marin County Jail to be booked instead of
22 issuing him a citation when he had no clothing to wear aside from briefs, were intentional, extreme,
23 outrageous and despicable. Defendants abused their positions of authority as members of a public law
24 enforcement agency, which provided them power to affect PLAINTIFFS' interests and well-being.

25 131. The above mentioned defendants knew that PLAINTIFF, having just suffered from a
26 serious medical event, was particularly vulnerable to emotional distress, and that their conduct in
27 falsely and publicly arresting him and charging him with crimes would likely result in PLAINTIFF
28 suffering severe mental and emotional distress. Their actions were done with the intent to cause him
serious emotional distress, or with reckless disregard of the probability of causing him serious
emotional distress.

1 132. As a direct, legal and proximate result of the actions of the aforementioned named and
2 DOE defendants, PLAINTIFF did suffer and continues to suffer severe emotional distress, all to his
3 damage in a sum to be shown according to proof and within the jurisdiction of the Superior Court.

4 133. The aforesaid were carried out with a conscious disregard of PLAINTIFF's right to be
5 free from such tortious and criminal behavior, such as to constitute oppression, fraud or malice
6 pursuant to California Civil Code Section 3294, entitling PLAINTIFF to punitive damages in an
7 amount appropriate to punish and set an example of said individual named and DOE defendants.

8 134. Pursuant to California Government Code Section 815.2, defendant CMPA is legally
9 liable for all compensatory damages suffered as a result of the aforesaid tortious actions of the
10 individual named and DOE defendants.

11 **FIFTH CAUSE OF ACTION FOR COMMON LAW**
12 **DEFAMATION (CIVIL CODE § 43; GOVT. CODE §§ 815.2, 820) AGAINST**
13 **DEFENDANTS SINNOTT, HEAPS, HICKS, LEGAN, KHALILI AND DOES 1-20**

14 135. PLAINTIFF realleges and incorporates herein by reference the previous allegations as if
15 fully set forth herein.

16 136. Pursuant to Civil Code Section 43, PLAINTIFF had the "right of protection from ...
17 personal insult, from defamation, and from injury to his personal relations."

18 137. Defendants SINNOTT, HEAPS, HICKS, LEGAN, KHALILI AND DOES 1 -20
19 violated PLAINTIFFS' aforementioned rights by intentionally and knowingly publishing to other
20 officers and the Marin County District Attorney's office false information about PLAINTIFF,
21 dishonestly, corruptly and maliciously accusing PLAINTIFF of serious crimes of moral turpitude in an
22 effort to cover up their misconduct, discredit him, intimidate him, impair his ability to make claims
23 against them for their violations of his rights, and discourage him from even attempting to make such
24 claims.

25 138. DEFENDANTS' false publications were *per se* defamatory.

26 139. SINNOTT, HEAPS and the other named and DOE defendants made the aforementioned
27 false and defamatory reports to other officers and to the District Attorney's office knowing that the
28 reports were false, or with reckless disregard for the truth or falsity of the reports, and thus those
defamatory reports were not privileged communications, pursuant to Civil Code Section 47(b)(5).

1 140. As a direct and proximate result of DEFENDANTS' wrongful conduct, PLAINTIFF has
2 suffered damages including, but not limited to, delayed diagnosis and treatment of his medical
3 condition, legal expenses, economic losses, loss of reputation, emotional distress, humiliation, shame,
4 and other damages.

5 141. In doing the things alleged herein, DEFENDANTS' conduct was despicable.
6 DEFENDANTS acted toward PLAINTIFF with malice, oppression, fraud, and with willful and
7 conscious disregard for PLAINTIFF'S rights, entitling PLAINTIFF to recover punitive damages from
8 the individual defendants.

9 142. Pursuant to California Government Code Section 815.2, defendant CMPA is legally
10 liable for all compensatory damages suffered as a result of the aforesaid tortious actions of the
11 individual named and DOE defendants.

12 **SIXTH CAUSE OF ACTION FOR COMMON LAW**
13 **ABUSE OF PROCESS (CAL. GOVT. CODE §§ 815.2, 820) AGAINST**
14 **DEFENDANTS SINNOTT, HEAPS, HICK, LEGAN, KHALILI AND DOES 1-20**

15 143. PLAINTIFF realleges and incorporates herein by reference the previous allegations as if
16 fully set forth herein.

17 144. Defendants SINNOTT, HEAPS, HICK, LEGAN, KHALILI AND DOES 1-20 misused
18 legal process by submitting, or causing to be submitted, to the Marin County District Attorney reports
19 requesting that PLAINTIFF be charged with three crimes, knowing that the factual statements within
20 those reports were false, incomplete and misleading, and that PLAINTIFF had committed no crimes.

21 145. The aforementioned defendants submitted the false reports or caused them to be
22 submitted in an effort to smear PLAINTIFF'S reputation, preoccupy him with a criminal case,
23 intimidate him, and prevent him from pursuing claims against them for improper and excessive use of
24 force.

25 146. At all times mentioned herein, the aforementioned defendants acted willfully with the
26 wrongful intention of injuring PLAINTIFF and for an improper and evil motive amounting to malice in
27 that the above referenced tortuous and criminal conduct was intentionally committed by Defendants
28 with the intended purpose to cause harm to PLAINTIFF. PLAINTIFF is thus entitled to recover
punitive damages from the above referenced individual named and DOE defendants.

1 147. SINNOTT and the other named and DOE defendants made the aforementioned false
2 reports to the District Attorney's office knowing that the reports were false, or with reckless disregard
3 for the truth or falsity of the reports, and thus the reports were not privileged communications pursuant
4 to California Civil Code Section 47(b)(5).

5 148. Pursuant to California Government Code Section 815.2, defendant CMPA is legally
6 liable for all compensatory damages suffered as a result of the aforesaid tortious actions of the
7 individual named and DOE defendants.

8 **SEVENTH CAUSE OF ACTION FOR VIOLATION OF THE**
9 **BANE ACT, CIVIL CODE SECTION 52.1 - EXCESSIVE FORCE -**
10 **AGAINST DEFENDANTS SINNOTT, KHALILI, CMPA AND DOES 1-20.**

11 149. PLAINTIFF realleges and incorporates herein by reference the previous allegations as if
12 fully set forth herein.

13 150. At the time SINNOTT arrived at PLAINTIFF's home and entered his bedroom, no
14 warrant for PLAINTIFF's arrest had been issued, and PLAINTIFF posed no threat to his fiance,
15 SINNOTT, himself or any other person. PLAINTIFF was barely able to stand, and was clearly
16 suffering from a medical condition that SINNOTT had no ability to diagnose or treat. Nonetheless,
17 SINNOTT attempted to and did, apply entirely unnecessary and hence excessive force on PLAINTIFF,
18 including by grabbing his arms, pushing him down onto a bed, pushing him to the floor, pinning him to
19 the floor, tasing him and causing him to strike his head on a hard surface, twisting his arms behind his
20 back, handcuffing him, and binding his ankles.

21 151. Through the conduct alleged herein, Defendants, and each of them, interfered or
22 attempted to interfere, through threats, intimidation, and/or coercion, with PLAINTIFF's rights
23 secured under Article I, Section 13 of the California Constitution and the Fourth Amendment of the
24 United States Constitution to be secure in his person against unreasonable use of force. As a direct and
25 proximate result of this conduct, PLAINTIFF was harmed and sustained physical and other injuries.

26 152. The conduct alleged herein entitles PLAINTIFF to recover his actual damages, treble
27 damages, attorney's fees, exemplary damages, costs, and other allowable damages pursuant to the
28 provisions of the Bane Act and California Civil Code Section 52, paragraphs (a) and (b).

 153. The conduct herein alleged was malicious and oppressive, entitling PLAINTIFF to an

1 award of exemplary damages against defendant SINNOTT under California Civil Code Section 3294.

2 154. Pursuant to California Government Code Section 815.2, defendant CMPA is legally
3 liable for all compensatory damages suffered as a result of the aforesaid actions of the individual
4 named defendants.

5 155. The violent use of unnecessary and excessive force on PLAINTIFF was the result of the
6 unconstitutional policies, practices, procedures and unwritten customs in place in the CMPA regarding
7 the use of force. Furthermore, the CMPA, by its policy-making officials, defendant KHALILI, and
8 DOES 1-20, approved, ratified, condoned, and acquiesced in the excessive use of force by SINNOTT,
9 including by taking no disciplinary action and promoting SINNOTT to the rank of Corporal.

10
11 **EIGHTH CAUSE OF ACTION FOR VIOLATION OF THE**
12 **BANE ACT, CIVIL CODE SECTION 52.1 - FALSE DETENTION AND**
13 **ARREST- AGAINST DEFENDANTS SINNOTT, HEAPS, HICKS, LEGAN,**
14 **KHALILI, CMPA AND DOES 1-20**

15 156. PLAINTIFF realleges and incorporates herein by reference the previous allegations as if
16 fully set forth herein.

17 157. At the time SINNOTT arrived at PLAINTIFF's home and entered his bedroom, no
18 warrant for PLAINTIFF's arrest had been issued, and PLAINTIFF posed no threat to his fiance,
19 SINNOTT, himself, or any other person. PLAINTIFF was barely able to stand, and was clearly
20 suffering from a medical condition that SINNOTT had no ability to diagnose or treat. Nevertheless,
21 SINNOTT attempt to and did arrest PLAINTIFF without a warrant and without probable cause.

22 158. Thereafter, defendants HEAPS, HICKS, LEGAN, KHALILI and DOES 1-20, conspired
23 and cooperated to place PLAINTIFF under arrest and charge him with crimes they knew he did not
24 commit, in an effort to insulate SINNOTT and the CMPA from liability for violations of PLAINTIFF's
25 civil rights.

26 159. Through the above-referenced conduct, defendants interfered or attempted to interfere,
27 through threats, intimidation, and/or coercion, with Plaintiff's rights under Article I, Section 13 of the
28 California Constitution and the Fourth Amendment of the United States Constitution to be secure in his
person against unreasonable searches and seizures. As a direct and proximate result of this conduct,
PLAINTIFF was harmed and sustained physical and other injuries and damages.

1 160. The conduct alleged herein entitles PLAINTIFF to recover his actual damages, treble
2 damages, attorney's fees, exemplary damages, costs, and other allowable damages pursuant to the
3 provisions of the Bane Act and California Civil Code Section 52, paragraphs (a) and (b).

4 161. The conduct herein alleged was malicious and oppressive, entitling PLAINTIFF to an
5 award of exemplary damages against all defendants except the CMPA under California Civil Code
6 Section 3294.

7 162. Pursuant to California Government Code Section 815.2, defendant CMPA is legally
8 liable for all compensatory damages suffered as a result of the aforesaid actions of the individual
9 named and DOE defendants.

10 163. The false arrest of PLAINTIFF was the result of the unconstitutional policies, practices,
11 procedures and unwritten customs in place in the CMPA. Furthermore, the CMPA, by its policy-
12 making officials, defendant KHALILI, and DOES 1-20, approved, ratified, condoned, and acquiesced
13 in false arrest of PLAINTIFF by SINNOTT, HEAPS, and the other named and DOE defendants,
14 including by taking no disciplinary action and promoting SINNOTT to the rank of Corporal.

15 **NINTH CAUSE OF ACTION FOR VIOLATION OF THE RALPH ACT,
16 CIVIL CODE SECTION 51.7 - VIOLENT ACTS - AGAINST DEFENDANTS
17 SINNOTT, HEAPS, HICKS, LEGAN, KHALILI, CMPA AND DOES 1-20**

18 164. PLAINTIFF realleges and incorporates herein by reference the previous allegations as if
19 fully set forth herein.

20 165. Pursuant to California Civil Code Section 51.7 (the Ralph Act), all persons within the
21 jurisdiction of this state have the right to be free from any violence, or intimidation by threat of
22 violence, "on account of" any disability or medical condition, including epilepsy and seizure disorders.

23 166. Defendant SINNOTT violated the Ralph Act when, "on account of " PLAINTIFF's
24 seizure disorder and consequent inability to comply with SINNOTT's attempts to communicate with
25 him, SINNOTT grew angry with PLAINTIFF and subjected PLAINTIFF to a violent battery.

26 167. Pursuant to California Government Code Section 815.2, defendant CMPA is legally
27 liable for all compensatory damages suffered as a result of the aforesaid actions of the individual
28 named and DOE defendants.

 168. The violent use of unnecessary and excessive force on PLAINTIFF by SINNOTT was

1 the result of the unconstitutional policies, practices, procedures and unwritten customs in place in the
2 CMPA regarding the use of force and responses thereto. Furthermore, the CMPA, by its policy-making
3 officials, defendant KHALILI, and DOES 1-20, approved, ratified, condoned, and acquiesced in the
4 excessive use of force by SINNOTT by taking no disciplinary action and promoting SINNOTT to the
5 rank of Corporal and promoting HICKS to the rank of Sergeant.

6 **TENTH CAUSE OF ACTION FOR VIOLATION OF THE RALPH ACT, CIVIL**
7 **CODE SECTION 51.7 - FALSE POLICE REPORT - AGAINST DEFENDANTS**
8 **SINNOTT, HEAPS, HICKS, LEGAN, KHALILI, CMPA AND DOES 1-20**

9 169. PLAINTIFF realleges and incorporates herein by reference the previous allegations as if
10 fully set forth herein.

11 170. Pursuant to California Civil Code Section 51.7 (the Ralph Act), all persons within the
12 jurisdiction of this state have the right to be free from any violence, or intimidation by threat of
13 violence, "on account of" any disability or medical condition, including epilepsy and seizure disorders.

14 171. The right to be free from violence or intimidation under the Ralph Act includes the right
15 to be free from being the subject of a claim or report to a law enforcement agency that falsely alleges
16 that the person has engaged in unlawful activity or in an activity that requires law enforcement
17 intervention, when the person making the report knows that the claim or report is false, or makes the
18 report with reckless disregard for the truth or falsity of the claim or report.

19 172. The Marin County District Attorney's office is a "law enforcement agency" under
20 California law, including for the purposes of the Ralph Act.

21 173. Defendants SINNOTT, HEAPS, HICKS, LEGAN, KHALILI, CMPA AND DOES 1-
22 20 violated PLAINTIFF's rights under the Ralph Act when, "on account of " PLAINTIFF's seizure
23 disorder and consequent reaction to SINNOTT's attempts to restrain him, they submitted a report to the
24 Marin County District Attorney's office which falsely, dishonestly, corruptly and maliciously accused
25 PLAINTIFF of serious crimes of moral turpitude in an effort to cover up their misconduct.

26 174. Pursuant to California Government Code Section 815. , defendant CMPA is legally
27 liable for all compensatory damages suffered as a result of the aforesaid actions of the individual
28 named and DOE defendants.

175. The submission of knowingly false statements by multiple defendants was the result of

1 the unconstitutional policies, practices, procedures and unwritten customs in place in the CMPA
2 regarding the use of force and responses thereto. Furthermore, the CMPA, by its policy-making
3 officials, defendant KHALILI, and DOES 1-20, approved, ratified, condoned, and acquiesced in the
4 making of false statements by SINNOTT, HEAPS, and the other named and DOE defendants,
5 including by taking no disciplinary action and promoting SINNOTT to the rank of Corporal and
6 HICKS to the rank of Sergeant.

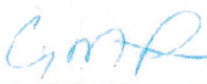
7 **III. PRAYER FOR RELIEF**

8 WHEREFORE, PLAINTIFF prays for a judgment against defendants, and each of them, as
9 follows:

- 10 1. For economic damages including but not limited to past and future medical expenses, past
11 and future lost earnings, loss of future earning capacity;
- 12 2. For noneconomic damages to compensate for his physical and emotional pain and suffering
13 and other general damages;
- 14 3. For punitive and exemplary damages against individual defendants, according to proof;
- 15 4. For treble damages, exemplary damages, attorneys' fees and expenses pursuant to California
16 Civil Code Section 52; and
- 17 5. For any other order and relief the court deems reasonable and just.

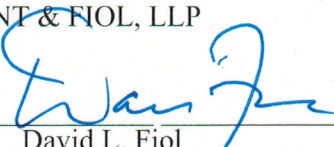
18 DATED: April 1, 2024

ALTAIR LAW

19 By: 
20 Craig M. Peters

21 DATED: April 1, 2024

BRENT & FIOLO, LLP

22 By: 
23 David L. Fiol
24 Attorneys For Plaintiff Bruce Frankel

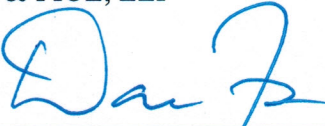
DEMAND FOR JURY TRIAL

1 PLAINTIFF demands a jury trial on each and all of the causes of action set forth in this
2
3 Complaint.

4 DATED: April 1, 2024

BRENT & FIOL, LLP

5
6 By: _____


David L. Fiol
Attorneys for PLAINTIFF

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