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

PATRICIA BEERS,
Plaintiff,

v.

CITY OF LOS ANGELES, a
municipal entity; LOS ANGELES
CHIEF OF POLICE CHARLIE
BECK, COMMANDER ANDREW
SMITH, CAPTAIN JEFF BERT,
OFFICER GARCIA (#33024), and
DOES 1-20, inclusive,
Defendants.

) Case No.: 2:16-cv-8781

) **SECOND AMENDED
COMPLAINT FOR**

) **1. RETALIATION FOR FIRST
AMENDMENT ACTIVITY**

) **2. RETALIATORY
PROSECUTION**

) **3. UNREASONABLE SEARCH
AND SEIZURE**

) **4. MALICIOUS PROSECUTION
5. SELECTIVE PROSECUTION**

) **6. BRADY VIOLATION**

) **DEMAND FOR JURY TRIAL**

)

)

1 **I. JURISDICTION**

2 1. This Court has jurisdiction under 28 U.S.C. § 1331. Federal question
3 jurisdiction arises pursuant to 42 U.S.C. § 1983.
4

5 **II. VENUE**

6 2. Venue is proper pursuant to 28 U.S.C. § 1391 because the events giving
7 rise to this Complaint happened in the Central District.
8

9 **III. PARTIES**

10 3. Plaintiff Patricia Beers (“Plaintiff” or “Beers”) is, and at all times relevant
11 to this Complaint was, a resident of the City of Los Angeles. She is a member of the
12 class in related case 2:16-cv-00237-
13

14 4. On information and belief, Defendant City of Los Angeles (“the City”)
15 at all times material herein was a public entity duly organized and chartered under the
16 laws of the State of California, and was responsible for the hiring, training, and
17 supervising of the conduct of their employees and agents, including the City
18 Attorney’s Office (“CAO”) and all of the CAO’s employees. The City is a “person”
19 subject to suit within the meaning of Title 42, U.S.C. § 1983 under *Monell v. New York*
20 *Dept. of Social Serv.*, 436 U.S. 658, 691 (1978).
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24 5. At all times material herein, the City was responsible for the
25 employment, training, and supervision of the actions, conduct, policies, practices, and
26 customs of its employees and agents, including the CAO and all of the CAO’s
27 employees. At all times material herein, the City was responsible for assuring that the
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1 actions, conduct, policies, procedures, and customs of their employees complied with
2 the laws and Constitutions of the United States and of the State of California.

3
4 6. On information and belief, the City is responsible for implementing,
5 maintaining, sanctioning, or condoning a policy, custom or practice, under which the
6 wrongful or illegal acts hereinafter complained of occurred. By reason of this policy,
7 custom or practice, the City is liable for the damages hereinafter complained of.
8

9 7. Defendant Chief Charlie Beck, is and was, at all times relevant to this
10 action, the LAPD police chief and a policymaker for his department. He is sued in his
11 official capacity.
12

13 8. Defendant Commander Andrew Smith, was the field commander
14 directing the operations that give rise to this action. He is sued in both his individual
15 and official capacities in that he was delegated the policy making authority by
16 Defendant Chief Beck for these incidents.
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19 9. Defendant Captain Jeff Bert was the field commander at the 6th and
20 Hope incident. He is sued in both his individual and official capacities in that he was
21 delegated the policy making authority by Defendant Chief Beck for this incident.
22

23 10. Defendant Garcia (LAPD officer #33024) was the investigating officer
24 tasked with determining which protesters to prosecute from these incidents and
25 presenting the case for prosecution to the City Attorney's office. He or she is sued in
26 his/her individual capacity, and in his/her official capacity to the extent that he or she
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1 was delegated policy-making authority as to how to determine which protesters to
2 prosecute.

3
4 11. Plaintiff is informed and believes, and based thereon alleges, that at all
5 times mentioned below, each Defendant was the principal, agent, representative,
6 partner, or co-conspirator of the remaining Defendants, and each other, and that in
7 doing the acts alleged, each of the Defendants were acting within the course and
8 scope of their agency, employment, partnership, conspiracy, or other authorized
9 relationship with the other Defendants and with the permission and ratification of
10 Defendants. Whenever and wherever reference is made in this Complaint to any acts
11 of Defendants, such allegations and references shall also be deemed to mean the acts
12 of each Defendant acting individually, jointly or severally.

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16 12. Plaintiff is informed and believes and based thereon alleges that the
17 Defendants were engaged in a conspiracy to violate Plaintiff's constitutional and other
18 rights, and to chill Plaintiff's exercise of those rights, and were acting as co-
19 conspirators with that aim in mind. In committing the acts herein alleged, the
20 individual Defendants acted knowingly, maliciously, and with reckless or callous
21 disregard for Plaintiff's constitutional and other rights, which justifies an award of
22 punitive damages against each individual Defendant.

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26 **V. STATEMENT OF FACTS**

27 **A. Background: Patricia Beers**
28

1 13. Plaintiff Patricia Beers has attended numerous large-scale protests in the
2 Los Angeles area. She is active on Twitter under the name “PMbeers”, where she has
3 nearly 10,000 followers, and on UStream as PMBeers, where her livestream videos of
4 protests and other activist-related events have captured over 330,000 total views. She
5 also posts under the Twitter name LAPeoplesMedia, an account which also boasts
6 nearly 10,000 followers.
7
8

9 **B. Background: November 2014 Ferguson Protests**

10 14. In late November 2014, news broke that a grand jury had failed to indict
11 Darren Wilson, a white police officer in Ferguson, Missouri, after he shot and killed a
12 young black man named Michael Brown. Nationwide protests followed in numerous
13 cities, including Los Angeles.
14
15

16 15. On Wednesday, November 26, 2014, a crowd of peaceful protesters,
17 including Plaintiff, began to gather in front of the federal courthouse on Temple and
18 Spring Street starting at 3:00 pm in protest over the grand jury’s failure to indict
19 Wilson for the killing of Michael Brown.
20
21

22 16. At the conclusion of the rally at the Federal Courthouse, the protesters
23 peacefully marched to the LAPD Headquarters on 1st Street. LAPD officers
24 monitored and traveled alongside the march.
25

26 17. From LAPD Headquarters, Plaintiff and the other demonstrators
27 marched through part of downtown Los Angeles. At approximately 7:00 p.m., the
28 demonstrators marched south on Flower street and attempted to turn west on 7th

1 Street. LAPD officers formed a line on 7th Street to the west of the demonstrators
2 and in front of Figueroa Street and prevented the demonstrators from continuing
3 west on 7th Street.
4

5 18. Soon thereafter, LAPD officers formed a line at Flower and 7th,
6 preventing the demonstrators from heading east on 7th and cutting off all access to
7 Flower Street. These two lines blocked all access to both Flower and Figueroa Streets,
8 kettling the protesters on the single block of 7th Street.
9

10 19. Once LAPD established the line at 7th and Flower and kettled the
11 protesters, the LAPD officers at 7th and Figueroa moved their line to the east,
12 pushing the demonstrators east and concentrating them on the eastern portion of the
13 block of 7th Street between Figueroa and Flower.
14
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16 20. According to subsequent media reports, LAPD Captain Jeff Bert issued
17 a dispersal order around this time. See, e.g., “L.A. files few charges in Ferguson police
18 shooting protests despite mass arrests”” LOS ANGELES TIMES, July 29, 2015:
19 <http://www.latimes.com/local/crime/la-me-lapd-mass-arrests-20150716-story.html>.
20
21

22 However, as reported by the Los Angeles Times, Captain Bert concedes that the
23 dispersal order was inadequate.
24

25 21. After approximately ten to fifteen minutes of kettling the demonstrators
26 on 7th Street, LAPD officers then opened the police line on Flower and 7th Streets to
27 allow the demonstrators to proceed north on Flower. The LAPD continued to block
28

1 Flower to the South and 7th to the east and west. With northbound on Flower as the
2 only option, Plaintiff and the other demonstrators proceeded in that direction.
3

4 22. When the demonstrators attempted to head west on Wilshire Boulevard,
5 the LAPD blocked the intersection of Wilshire and Figueroa. The demonstrators
6 continued north on Lebanon Street, an alley-like street that runs north-south from 7th
7 to 6th Streets between Figueroa and Flower Streets. When Lebanon Street came to a
8 dead end at 6th Street, the demonstrators turned west on 6th Street.
9

10 23. LAPD formed another line at the intersection of 6th and Figueroa
11 Streets, blocking Figueroa Street on the south side of the intersection and 6th Street
12 on the west side of the intersection. LAPD officers in full “tactical” or “riot” gear
13 were seen running north up Figueroa toward the police line and demonstrators.
14 Having come from the east and without access to the south or west, the
15 demonstrators turned north up Figueroa.
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19 24. One block up, at 5th and Figueroa, the LAPD formed lines at the
20 intersection blocking 5th Street to the west and Figueroa to the north. LAPD officers,
21 including the officers in full “tactical” or “riot” gear, continued up Figueroa from the
22 south. The only direction open to the protesters was east on 5th Street. The
23 demonstrators went east.
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26 25. At 5th and Flower Streets, LAPD officers instructed demonstrators to
27 continue east on 5th Street. But when the demonstrators began to head east on 5th
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1 Street, a separate group of LAPD officers in full “tactical” or “riot” gear was jogging
2 toward them from the east on 5th Street.

3
4 26. Without other options, the demonstrators proceeded through the
5 walkways of the Central Library, the only avenue of dispersal open to them by the
6 LAPD, who knew that this route would lead to the marchers being kettled in the cul-
7 de-sac at 6th and Hope. LAPD officers closed in around the bushes on the north and
8 west sides of the Library. The demonstrators proceeded through the walkways around
9 the Central Library to the south side of the building where Hope Street dead-ends at
10 Library building, just north of 6th Street.

11
12
13 27. LAPD officers then kettled the demonstrators on Hope Street between
14 6th Street and the Central Library. Throughout all of this time, since the failed
15 attempt to give a dispersal order some distance away, no further attempt was made to
16 give a dispersal order of any type. Some of the demonstrators requested but were
17 denied permission to leave. Approximately fifteen minutes after they were trapped on
18 Hope Street, without any instruction or information, the LAPD announced that all of
19 the demonstrators were under arrest.

20
21
22 28. Officers arrested approximately 130 individuals, including Plaintiff, at 6th
23 Street and Hope that evening. Each was arrested on charges of misdemeanor Failure
24 to Disperse pursuant to Penal Code § 409.

25
26
27 29. Officers separated the demonstrators, including Plaintiff, into small
28 groups and each group was processed on-site by two LAPD officers. The officers

1 photographed Plaintiff, collected and recorded her name, searched her, handcuffed
2 her with zip-ties, and loaded her onto a bus.

3
4 30. Along with other demonstrators, Plaintiff was then transported to jail.

5 31. Plaintiff was incarcerated for several hours, despite the fact that she was
6 entitled to release on her own recognizance (“OR”) immediately upon completion of
7 booking pursuant to California Penal Code § 853.6.

8
9 32. LAPD Lieutenant Andy Neiman was quoted in the media as saying all
10 demonstrators who were unable to post bail would be held until they were able to
11 appear in court early the following week. Commander Andy Smith was reported to
12 have told news media that, while LAPD would typically release individuals with
13 similar charges on OR, “In this case, because these people are part of a protest that is
14 continuing, they will not be released on their own recognizance.” After holding
15 Plaintiff for an extended period of time, she was finally released OR only because
16 Chief Beck decided to let the demonstrators go at that time.

17
18 33. Penal Code § 853.6 imposes a mandatory requirement to release
19 misdemeanor violators on their own recognizance either before or immediately after
20 booking unless individualized probable cause exists to believe that one or more
21 exceptions to the statute exists as a basis to deny OR release. By statute, keeping
22 individuals in custody beyond booking requires law enforcement to prepare a specific
23 form and note the applicable exception to mandatory release. There was no
24 reasonable basis to believe that Plaintiff came within any of these enumerated
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1 exceptions, but no individual assessment was made and no forms were completed at
2 the time of Plaintiff's booking noting the reason for not releasing her immediately.
3
4 Plaintiff was denied the individualized assessment of criminal liability that is the
5 hallmark of due process and had her liberty unlawfully restricted as a result of a
6 deliberate decision by Defendant City to ignore the explicit command of Penal Code §
7
8 853.6.

9 34. This action was in keeping with the City's unlawful policy of denying OR
10 release to individuals arrested for engaging in civil disobedience. According to LAPD
11 Deputy Chief Perez, who first announced this policy during the Occupy protests in
12 Los Angeles in 2011, the decision was made to deny OR release to those engaged in
13 First Amendment activity to "teach people a lesson."
14

15
16 35. Such a basis for a blanket decision to deny Plaintiff's liberty and detain
17 her without justification for a prolonged time violates Plaintiff's First, Fourth, and
18 Fourteenth Amendment rights, and was done with the specific and deliberate intent to
19 interfere with the exercise of Plaintiff's rights to assembly and due process.
20

21
22 **C. Subsequent Targeting of Journalists and "Leaders" by Defendants**

23 36. Plaintiff routinely attended and livestreamed the Ferguson protests in
24 Los Angeles, often daily, for a period of weeks or months. Some protests drew
25 thousands; others merely dozens. Plaintiff attended nearly all of them, livestreaming
26 for the benefit of those who could not participate but wanted to be involved. Plaintiff
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1 has written and disseminated numerous pieces online that openly criticize the Los
2 Angeles Police Department and police in general.

3
4 37. On information and belief, Jasmyne Cannick is a social commentator
5 who has been published in the Los Angeles Times on civil rights issues, and has
6 received numerous honors such as Most Influential African American In Los Angeles
7 Under 40 by Wave Newspaper; 25 Women Shaping The World by Essence Magazine;
8 Southern California's Seven Women of Vision by KCET; 40 People Under 40 by The
9 Advocate Magazine; and 2015 LA's Most Fascinating People by LA Weekly. She
10 worked on the political campaigns of Bernard Parks, Curren Price, and Herb Wesson
11 Jr., among others, and was an on-air contributor to NPR. She is a current on-air
12 contributor at KJLH-FM, a media consultant to the Crenshaw Legal Clinic, and a
13 public affairs consultant for the City of Inglewood. Ms. Cannick has published her
14 writing online, and has been openly critical of the Los Angeles Police Department in
15 her writing.

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20 38. On information and belief, Linda Daitsman is an activist with the
21 Revolutionary Communist Party ("RCP"), a well-known presence at many protests
22 around the country. Daitsman routinely attended protests in the Los Angeles area,
23 was outspoken in her challenges of police and the criminal justice system, and
24 occasionally used bullhorns at protests which she brought with her. When Daitsman
25 attended protests, she routinely wore shirts with logos and slogans of the RCP, and
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1 otherwise identified herself as a member of the RCP, which on information and belief
2 is known to LAPD leadership as an organization highly critical of the police.

3
4 39. On information and belief, the vast majority, if not all, of the remaining,
5 uncharged, protesters were not known to the LAPD or CAO as protesters or
6 journalists as of the time that charges were filed against Plaintiff, Cannick, and
7
8 Daitsman.

9 40. The CAO filed charges against only three of the more than one hundred
10 and thirty individuals who were arrested in that location: Daitsman, Cannick, and
11
12 Plaintiff.

13 41. Daitsman and Plaintiff were charged with violating California Penal
14 Code § 647(c), which prohibits maliciously blocking traffic. Cannick was charged
15 with violating California Penal Code § 148, which prohibits resisting, delaying, or
16 obstructing police officers.
17

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19 42. On information and belief, the CAO dismissed both Daitsman's and
20 Cannick's charges after months of prosecuting them.

21
22 43. Plaintiff was tried and acquitted on December 15, 2015, constituting a
23 favorable termination on the merits under the law.

24 44. On information and belief, none of the three cases arising out of the
25 November 26, 2014 Ferguson protests were filed as genuine efforts by the CAO to
26 punish and deter criminal activity, but were instead unconstitutional and malicious
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1 attempts by the CAO and LAPD together to punish and deter First Amendment
2 activity.

3
4 45. On information and belief, the CAO is unduly influenced by political
5 pressure from the LAPD. Although a Deputy City Attorney may determine that a
6 given charge against a defendant is weak, unwarranted, or otherwise mitigated by
7 other circumstances, the longstanding custom and practice at the CAO is to first find
8 out how the arresting officer “feels” about the proposed disposition, and refuse to
9 exercise prosecutorial discretion if the arresting officer does not agree.
10

11
12 46. On information and belief, the LAPD improperly influenced and/or
13 pressured the CAO to target Daitsman, Cannick, and Plaintiff, and the CAO did so,
14 thereby failing in its duty to exercise independent prosecutorial judgment in
15 determining whether to file charges at all, which charges to file, and against which
16 defendants.
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18
19 47. On information and belief, Defendant Garcia was the investigating
20 officer assigned to these incidents, and conducted interviews and other investigations
21 into whether to file charges against Plaintiff. On information and belief, at the time
22 Defendant Garcia recommended filing charges against Plaintiff, Defendant Garcia
23 had received information that led him/her to believe that Plaintiff was responsible for
24 leading and organizing the protesters and/or publicly criticizing the LAPD and police
25 in general, and that belief was the primary or sole factor in Defendant Garcia’s
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1 recommendation to the CAO to prosecute Plaintiff. Defendant Garcia was directly
2 responsible for the unlawful targeting of Plaintiff's First Amendment activity.

3
4 48. As part of an ongoing plan and pattern of suppressing dissent and
5 undermining the momentum of protests, the LAPD and the CAO intentionally
6 cooperated to select and target Plaintiff and others that appeared to be "leaders" of
7 the protest movement, whether in real life or online, and intentionally and maliciously
8 filed criminal charges against them without probable cause in order to deter them
9 from future First Amendment activity.
10

11
12 49. On information and belief, the purpose of the LAPD and CAO's
13 campaign against visible "leaders" of protest movements is to suppress free speech,
14 punish Plaintiff and the others discussed herein for their First Amendment protest
15 and filming activities, and deter other reasonable people from taking prominent roles
16 in protest movements, whether online or in the streets.
17
18

19 **D. Monell Claim**

20 50. The City, through Chief Charlie Beck and the LAPD, has failed to train
21 its officers in the constitutional response to peaceful demonstrations as revealed by
22 the above allegations. The City is well aware of its constitutional duties in light of the
23 settlement agreements discussed below in *National Lawyers Guild v. City of Los Angeles*
24 and *MIWON v. City of Los Angeles*, as well as other agreements entered into on these
25 issues over the years. The need for training and discipline to enforce constitutional
26 guarantees in such circumstances is obvious. The City has known of the deficiencies
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28

1 in its training since at least 2000 and entered into settlement agreements in June 2005
2 and June 2009, each time agreeing to revised policies and training, yet the City has
3 failed to promulgate adequate policies effecting the terms of its settlement agreements
4 and/or to train its command staff and officers on the revised policies, if any exist.
5

6 51. The City maintains a policy, practice, and/or custom of unlawfully
7 retaliating against those who criticize the City, particularly the police, including by
8 targeting them for increased monitoring, by arresting them without probable cause, by
9 filing unjustified criminal charges against them, and by punishing those that have been
10 convicted of crimes more harshly than others.
11

12 52. Even as of June 11, 2016, the Los Angeles Police Department was still
13 monitoring Cannick and Plaintiff's online activity for no legally justifiable reason. On
14 that date, Gisselle Espinoza, who on information and belief works for the LAPD,
15 emailed eleven other LAPD employees with an "update" in which someone reported
16 that as of 11:30 a.m. that day, Cannick had tweeted about an officer-involved shooting
17 in South Los Angeles. The update further indicated that the post had garnered eight
18 "retweets" and two "likes," and noted that PMBeers and LAPeoplesMedia had been
19 two of the retweets; no other accounts were specifically noted in that "update." On
20 information and belief, the City has a policy and custom of monitoring and targeting
21 those who outspokenly criticize police or the government, and who seek to exercise
22 their First Amendment rights of assembly and petitioning the government for redress
23 of grievances.
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1 53. The City also maintains a policy, practice, and/or custom of unlawfully
2 permitting the Los Angeles Police Department to influence its prosecutorial decisions,
3 rather than exercising independent prosecutorial discretion to reduce or dismiss
4 charges, or to offer lenient plea bargains to defendants under appropriate
5 circumstances regardless of whether the arresting officer agrees.
6

7
8 54. The violation of constitutional and/or statutory rights herein
9 complained of resulted from a policy, practice, and/or custom of the City and was
10 directed, approved and/or ratified by City officials who are policymakers for the City.
11

12 i. National Lawyers Guild v. City of Los Angeles Settlement Agreement

13
14 55. In June, 2005, the City of Los Angeles entered into a settlement
15 agreement in *National Lawyers Guild, et al. v. City of Los Angeles, et al.*, CV 01-6877 FMC
16 (CWx), an action arising from the disruption of lawful assemblies and use of unlawful
17 force during the Democratic National Convention (“DNC”) in Los Angeles in 2000
18 and a subsequent demonstration on October 22, 2000. The settlement provided for
19 important changes in the policy and practices of the LAPD as applied to
20 demonstrations. At least three of those provisions were violated by the LAPD’s
21 actions at Beverly and Alvarado as alleged above.
22

23
24 56. Under the terms of the settlement in *National Lawyers Guild*, prior to
25 declaring an unlawful assembly, the LAPD Incident Commander should evaluate the
26 feasibility of isolating and arresting those responsible for any unlawful conduct, and if
27 feasible, take action only against those individuals.
28

1 i. MIWON v. City of Los Angeles Settlement Agreement

2 57. On May 1, 2007, the LAPD assaulted a peaceful, permitted immigration
3 march in MacArthur Park. The attack on the demonstrators was without warning. No
4 dispersal order was given until more than three minutes into the police action and,
5 even then, the dispersal order was grossly inadequate, given from helicopters in
6 English to a largely Spanish-speaking assembly. During the course of litigating the
7 *MIWON* action, the LAPD conceded that it had not fully implemented training and
8 policy orders regarding the *NLG* settlement two years earlier. In fact, no policy
9 changes were ever finalized.
10

11 58. On June 24, 2009, the federal district court approved and entered a
12 Structural Relief Order as part of the settlement of a class action lawsuit brought on
13 behalf of all those subjected to the LAPD's May Day action. Through this settlement,
14 the LAPD agreed that it would not obstruct the use of sidewalks by protestors and,
15 significantly, that, where practicable, the LAPD would consider facilitating
16 demonstrations that may temporarily block traffic. This latter provision is consistent
17 with established law in the Ninth Circuit, recognizing the need for local agencies to
18 accommodate "spontaneous" protests in the streets, particularly in response to
19 allegations of police misconduct.
20

21 59. The *MIWON* order also set out requirements to declare an unlawful
22 assembly: an amplified loudspeaker system with an officer at the far side of the crowd
23 to record the officer; if there is no serious violence occurring, the order shall be made
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1 repeatedly over a period of time, including an “objectively reasonable” period of time
2 to disperse and identification of “a clear and safe route” to follow to disperse. The
3 order should be given so that it is heard by the entire crowd. These requirements were
4 not met in this instance.
5

6 60. 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 Beck, 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 on the declaration of an unlawful assembly and the use of
12 motorcycles as a crowd control tool, are aware of the unlawful policies, practices, and
13 customs of the City and the LAPD which resulted in the settlement in *National*
14 *Lanyers Guild v. City of Los Angeles* in June, 2005. Moreover, Chief Beck and his
15 delegated command staff are aware that the use of unlawful dispersal orders to break
16 up lawful protests, in particular, is a custom so ingrained in the marrow of the LAPD
17 that it was critical to take all steps necessary to ensure that official policy was
18 implemented in a manner sufficient to address the deeply rooted custom to violate
19 First Amendment rights in the specific ways identified in the *National Lanyers Guild*
20 settlement agreement. The failure to take such steps directly lead to the injuries
21 suffered by the Plaintiff. On information and belief, Plaintiff alleges that this did not
22 occur.
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1 61. Chief Beck, as well as those members of his command staff officers to
2 whom he has delegated his responsibility to enact and implement lawful policies on
3 the declaration of an unlawful assembly, are aware of the unlawful policies, practices,
4 and customs of the City and the LAPD which resulted in the settlements in *NLG* and
5 *MIWON*. Moreover, Chief Beck and his delegated command staff are aware that the
6 use of unlawful dispersal orders to break up lawful protests is a custom so ingrained in
7 the marrow of the LAPD that it was critical to take all steps necessary to ensure that
8 official policy was implemented in a manner sufficient to address the deeply rooted
9 custom to violate First Amendment rights in the specific ways identified in the
10 settlement agreements. The failure to take such steps directly lead to the injuries
11 suffered by the Plaintiff. This failure amounted to an “acquiescence in the
12 constitutional deprivations of which [the] complaint is made” and deliberate
13 indifference to the rights of persons with whom the police come into contact, and
14 constituted a conscious choice by the City not to properly train its law enforcement
15 personnel on these issues.

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21 62. The City, through Chief Beck and his command staff to whom he
22 delegated decision-making, also knew from the recent litigation involving the Occupy-
23 protest arrests, *Aichele v. City of Los Angeles*, that it violated the plaintiffs right to due
24 process and deprived them of their liberty interest in violation of Penal Code § 853.6
25 based on their perceived association with the protest.
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1 63. On information and belief, Chief Beck delegated final responsibility and
2 authority to persons within his command staff to act as the final policy maker in
3 declaring the assembly unlawful at the November 26 and 28, 2014 marches. The
4 persons who made these decisions, including Defendant Commander Andrew Smith,
5 acted as the delegated policy maker for the City of Los Angeles on these issues. There
6 was no time, opportunity, or procedure for anyone to review or revise the decisions
7 made by these delegated policy makers prior to their final implementation.
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10 **E. Damages Sustained As Result of Defendants' Conduct**

11
12 64. Plaintiff was forced to prepare for and attend a trial on charges that were
13 frivolous and malicious, and brought for political purposes rather than legitimate
14 exercises of government authority to punish and deter criminal behavior.
15

16 65. Plaintiff experienced significant emotional distress and anxiety at the
17 possibility of being convicted of a crime she did not commit, and also experienced
18 fear and anxiety at being targeted by the Los Angeles Police Department. She was
19 distressed that she was being singled out on account of her exercise of her
20 constitutional rights.
21
22

23 **V. CLAIMS**

24 **FIRST CLAIM FOR RELIEF**

25 **(Retaliatory Arrest in Violation of First Amendment)**

26 **(Against Defendants City of Los Angeles, Chief Beck, Commander Smith,**

27 **Captain Bert, and Does 1-20)**
28

1 66. Plaintiff realleges and incorporates by reference herein each and every
2 allegation set forth in paragraphs 1 through 56.

3
4 67. By their conduct, including by arresting, searching, and holding Plaintiff
5 without the benefit of OR release, and other conduct described above, Defendants
6 retaliated against Plaintiff based on her exercise of rights protected by the First
7 Amendment to the United States Constitution, which deprived her of those rights. At
8 all relevant times, Defendants acted under color of law. At all relevant times,
9 Defendants, and each of them, conspired with each other, Doe Defendants 1-100 and
10 the City to harm Plaintiff, to punish her for exercising her rights, and to intimidate her
11 into ceasing her speech and political activity.
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14 68. Defendants' conduct deprived Plaintiff of her rights, causing her
15 damages in an amount to be proven at trial. Plaintiff also experienced significant
16 emotional distress as a result of Defendants' actions, including fear of physical injury
17 by members of the Los Angeles Police Department when she attended subsequent
18 protests; fear of being unlawfully arrested again in violation of her rights; and fear of
19 being targeted and accused of additional crimes she had not committed. Plaintiff is
20 entitled to compensation for the emotional distress she experienced as a result of
21 Defendants' conduct.
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25 69. Plaintiff is entitled to recover her costs and reasonable attorney's fees
26 incurred in prosecuting this claim for relief.
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1 70. Defendants' unlawful actions were done willfully, maliciously, and with
2 the specific intent to deprive Plaintiff of her rights. They were also done with malice,
3 fraud, and oppression, entitling Plaintiff to punitive damages against defendants sued
4 in their individual capacities, as provided by law.
5

6 71. Plaintiff is entitled to injunctive relief preventing all Defendants from
7 similar unlawful conduct in the future.
8

9 72. Defendant City of Los Angeles is liable for monetary and injunctive
10 relief for this constitutional violation under *Monell v. Department of Social Services*, 436
11 U.S. 658, 690 (1978) because the action implemented or executed a policy statement,
12 ordinance, regulation, or decision officially adopted and promulgated by the city's
13 officials or policymakers.
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17
18 **SECOND CLAIM FOR RELIEF**

19 **(Retaliatory Prosecution in Violation of First Amendment)**

20 **(Against All Defendants)**
21

22 73. Plaintiff realleges and incorporates by reference herein each and every
23 allegation set forth in paragraphs 1 through 63.
24

25 74. By prosecuting only those individuals perceived to have the ability to
26 lead demonstrators or to effectively publicize the movement – Plaintiff being one of
27 those three individuals – Defendants retaliated against Plaintiff based on her exercise
28 of rights protected by the First Amendment to the United States Constitution, which

1 deprived her of those rights. As to the Defendants that were not directly responsible
2 for filing or pursuing malicious charges against Plaintiff, they were otherwise integrally
3 involved in providing false statements to prosecutors, and maliciously or recklessly
4 made false reports to prosecutors that proximately caused Plaintiff's prosecution, or
5 caused the prosecutor to act contrary to his or her independent judgment. At all
6 relevant times, Defendants acted under color of law. At all relevant times,
7 Defendants, and each of them, conspired with each other, Doe Defendants 1-20 and
8 the City to harm Plaintiff, to punish her for exercising her rights, and to intimidate her
9 into ceasing her speech and political activity.

10
11
12
13 75. Defendants' conduct deprived Plaintiff of her rights, causing her
14 damages in an amount to be proven at trial. Plaintiff also experienced significant
15 emotional distress as a result of Defendants' actions, including fear of being
16 unlawfully targeted and accused of additional crimes she had not committed; and
17 stress and anxiety over having to defend herself against a malicious charge and the
18 possibility of being sentenced to jail for a crime she had not committed. Plaintiff is
19 entitled to compensation for the emotional distress she experienced as a result of
20 Defendants' conduct.

21
22
23
24 76. Plaintiff is entitled to recover her costs and reasonable attorney's fees
25 incurred in prosecuting this claim for relief.

26
27 77. Defendants' unlawful actions were done willfully, maliciously, and with
28 the specific intent to deprive Plaintiff of her rights. They were also done with malice,

1 fraud, and oppression, entitling Plaintiff to punitive damages against individual
2 defendants, as provided by law.

3
4 78. Plaintiff is entitled to injunctive relief preventing all Defendants from
5 similar unlawful conduct in the future.

6
7 79. Defendant City of Los Angeles is liable for monetary and injunctive
8 relief for this constitutional violation under *Monell v. Department of Social Services*, 436
9 U.S. 658, 690 (1978) because the action implemented or executed a policy statement,
10 ordinance, regulation, or decision officially adopted and promulgated by the city's
11 officials or policymakers.

12
13 **THIRD CLAIM FOR RELIEF**

14
15 **(Unreasonable Seizure in Violation of Fourth Amendment)**

16 **(Against Defendants City of Los Angeles, Chief Beck, Commander Smith,**

17
18 **Captain Bert, Does 1-20)**

19 80. Plaintiff realleges and incorporates by reference herein each and every
20 allegation set forth in paragraphs 1 through 70.

21
22 81. On April 14, 2015, Defendants unreasonably seized Plaintiff,
23 unreasonably searched her, and falsely detained and arrested her without probable
24 cause and without legal authority when Defendants could not reasonably have
25 believed that she had committed or was about to commit a crime or public offense, in
26 violation of her Fourth Amendment rights, causing her damages in an amount to be
27
28

1 proven at trial. At all times in doing the acts complained of herein, Defendants acted
2 under color of law.

3
4 82. Plaintiff also experienced significant emotional distress as a result of
5 Defendants' actions, including distress at being searched, handcuffed, and kept in jail
6 without justification; and other forms of emotional distress. Plaintiff is entitled to
7 compensation for the emotional distress she experienced as a result of Defendants'
8 conduct.

9
10
11 83. Plaintiff is entitled to recover her costs and reasonable attorney's fees
12 incurred in prosecuting this claim for relief.

13
14 84. Defendants' unlawful actions were done willfully, maliciously, and with
15 the specific intent to deprive Plaintiff of her rights. They were also done with malice,
16 fraud, and oppression, entitling Plaintiff to punitive damages against Defendants, as
17 provided by law.

18
19 85. Plaintiff is entitled to injunctive relief preventing all Defendants from
20 similar unlawful conduct in the future.

21
22 86. Defendant City of Los Angeles is liable for monetary and injunctive
23 relief for this constitutional violation under *Monell v. Department of Social Services*, 436
24 U.S. 658, 690 (1978) because the action implemented or executed a policy statement,
25 ordinance, regulation, or decision officially adopted and promulgated by the city's
26 officials or policymakers.

27
28
FOURTH CLAIM FOR RELIEF

1 **(Malicious Prosecution in Violation of Fourth Amendment)**

2 **(Against All Defendants)**

3
4 87. Plaintiff realleges and incorporates by reference herein each and every
5 allegation set forth in paragraphs 1 through 77.

6 88. Defendants maliciously filed a criminal charge of intentionally blocking
7 traffic against Plaintiff, or, as to the Defendants that were not directly responsible for
8 filing malicious charges, they were otherwise integrally involved in providing false
9 statements to prosecutors, and maliciously or recklessly made false reports to
10 prosecutors that proximately caused Plaintiff's prosecution, or caused the prosecutor
11 to act contrary to his or her independent judgment.

12 89. On December 18, 2015, a jury acquitted Plaintiff of the charge,
13 constituting a legal termination of the proceeding favorable to Plaintiff.

14 90. Defendants did not have a suspicion founded on circumstances
15 sufficiently strong to warrant a reasonable person to believe the charges were true; in
16 other words, Defendants did not have probable cause to institute these criminal
17 charges against Plaintiff. Defendants did so regardless, with malice, with the purpose
18 of denying Plaintiff equal protection and her right to free speech, free assembly, right
19 of petition, and right to be free from unreasonable seizures, because of Plaintiff's
20 involvement in the Ferguson protest movement and online leadership in documenting
21 protests and discontent. At all times in doing the acts complained of herein,
22 Defendants acted under color of law.
23
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1 91. Defendants unreasonably seized Plaintiff by maliciously prosecuting her
2 in violation of her Fourth Amendment rights, causing her damages in an amount to
3 be proven at trial.
4

5 92. Plaintiff also experienced significant emotional distress as a result of
6 Defendants' actions, including fear of going to jail or being fined; distress at being
7 prosecuted for exercising her constitutional rights; worry for the welfare of her son if
8 she were to be jailed as a result of the prosecution; and other forms of emotional
9 distress. Plaintiff is entitled to compensation for the emotional distress she
10 experienced as a result of Defendants' conduct.
11

12 93. Plaintiff is entitled to recover her costs and reasonable attorney's fees
13 incurred in prosecuting this claim for relief.
14

15 94. Defendants' unlawful actions were done willfully, maliciously, and with
16 the specific intent to deprive Plaintiff of her rights. They were also done with malice,
17 fraud, and oppression, entitling Plaintiff to punitive damages against Defendants, as
18 provided by law.
19

20 95. Plaintiff is entitled to injunctive relief preventing all Defendants from
21 similar unlawful conduct in the future.
22

23 96. Defendant City of Los Angeles is liable for monetary and injunctive
24 relief for this constitutional violation under *Monell v. Department of Social Services*, 436
25 U.S. 658, 690 (1978) because the action implemented or executed a policy statement,
26
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1 ordinance, regulation, or decision officially adopted and promulgated by the city's
2 officials or policymakers.
3

4
5 **FIFTH CLAIM FOR RELIEF**

6 **(Violation of Fourteenth Amendment – Selective Prosecution/Deprivation of**
7
8 **Equal Protection)**
9 **(Against All Defendants)**

10
11 97. Plaintiff realleges and incorporates by reference herein each and every
12 allegation set forth in paragraphs 1 through 87.

13 98. Defendants unlawfully deprived Plaintiff of her right to equal protection
14 by selectively prosecuting her and other perceived “leaders” of the protest movement
15 solely in order to target, intimidate, and retaliate against them, and to deter them from
16 future First Amendment activities, rather than prosecuting individuals based on actual
17 violations of the criminal laws or other legitimate factors in the exercise of
18 prosecutorial discretion. Defendants at all relevant times acted under color of law.
19
20

21 99. At all relevant times, Defendants conspired with each other to harm
22 Plaintiff and violate her Fourteenth Amendment right to equal protection.
23

24 100. Defendants’ conduct in fact deprived Plaintiff of her rights, also causing
25 her damages in an amount to be proven at trial.
26

27 101. Plaintiff also experienced significant emotional distress as a result of
28 Defendants’ actions, including fear of going to jail or being fined; distress at being

1 prosecuted for exercising her constitutional rights; worry for the welfare of her son if
2 she were to be jailed as a result of the prosecution; and other forms of emotional
3 distress. Plaintiff is entitled to compensation for the emotional distress she
4 experienced as a result of Defendants' conduct.

5
6 102. Plaintiff is entitled to recover her costs and reasonable attorney's fees
7 incurred in prosecuting this claim for relief.
8

9 103. Defendants' unlawful actions were done willfully, maliciously, and with
10 the specific intent to deprive Plaintiff of her rights. They were also done with malice,
11 fraud, and oppression, entitling Plaintiff to punitive damages against Defendants, as
12 provided by law.
13

14
15 104. Plaintiff is entitled to injunctive relief preventing all Defendants from
16 similar unlawful conduct in the future.
17

18 105. Defendant City of Los Angeles is liable for monetary and injunctive
19 relief for this constitutional violation under *Monell v. Department of Social Services*, 436
20 U.S. 658, 690 (1978) because the action implemented or executed a policy statement,
21 ordinance, regulation, or decision officially adopted and promulgated by the city's
22 officials or policymakers.
23

24 **SIXTH CLAIM FOR RELIEF**

25 **(Violation of Fourteenth Amendment – Deprivation of Due Process)**

26 **(Against Doe Defendants 1-20)**

1 106. Plaintiff realleges and incorporates by reference herein each and every
2 allegation set forth in paragraphs 1 through 96.

3
4 107. Defendants unlawfully deprived Plaintiff of her right to due process by
5 failing either to disclose exculpatory evidence to Plaintiff's defense counsel, or by
6 failing to present exculpatory evidence to prosecutors with discretion to charge and
7 prosecute Plaintiff, as required by *Brady v. Maryland*, 373 U.S. 83 (1963).

8
9 108. At all relevant times, Defendants conspired with each other to harm
10 Plaintiff and violate her Fourteenth Amendment right to due process.

11
12 109. Defendants' conduct in fact deprived Plaintiff of her rights, also causing
13 her damages in an amount to be proven at trial.

14
15 110. Plaintiff also experienced significant emotional distress as a result of
16 Defendants' actions, including fear of going to jail or being fined; distress at being
17 prosecuted for exercising her constitutional rights; worry for the welfare of her son if
18 she were to be jailed as a result of the prosecution; and other forms of emotional
19 distress. Plaintiff is entitled to compensation for the emotional distress she
20 experienced as a result of Defendants' conduct.

21
22
23 111. Plaintiff is entitled to recover her costs and reasonable attorney's fees
24 incurred in prosecuting this claim for relief.

25
26 112. Defendants' unlawful actions were done willfully, maliciously, and with
27 the specific intent to deprive Plaintiff of her rights. They were also done with malice,
28

1 fraud, and oppression, entitling Plaintiff to punitive damages against Defendants, as
2 provided by law.

3
4 113. Plaintiff is entitled to injunctive relief preventing all Defendants from
5 similar unlawful conduct in the future.

6
7 114. Defendant City of Los Angeles is liable for monetary and injunctive
8 relief for this constitutional violation under *Monell v. Department of Social Services*, 436
9 U.S. 658, 690 (1978) because the action implemented or executed a policy statement,
10 ordinance, regulation, or decision officially adopted and promulgated by the city's
11 officials or policymakers.

12
13 **VI. PRAYER FOR RELIEF**

14
15 Plaintiff requests that this Court enter judgment in favor of Plaintiff and against
16 each Defendant identified for each count, and for the following specific relief:

- 17
18 1. Award actual damages and all other damages that may be allowed under federal
19 law to Plaintiff;
20
21 2. Award Plaintiff costs and reasonable attorneys' fees pursuant to 42 U.S.C.
22 1988;
23
24 3. Award Plaintiff costs of suit;
25
26 4. Award Plaintiff pre- and post-judgment interest as permitted by law;
27
28 5. Award Plaintiff injunctive relief;
6. Award such other and further relief as the Court may deem just and
appropriate.

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DATED: January 27, 2017

By: /s Morgan Ricketts
Morgan Ricketts
Attorneys for Plaintiff Patricia Beers

VII. DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury.

DATED: January 27, 2017

By: /s Morgan Ricketts
Morgan Ricketts
Attorneys for Plaintiff Patricia Beers

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