

**BAUM HEDLUND ARISTEI GOLDMAN** PC  
CONSUMER ATTORNEYS

Washington, D.C. Office  
2101 L Street, N.W.  
Suite 800  
Washington, D.C. 20037-1526  
Office (202) 466-0513  
Fax (202) 466-0527

10940 Wilshire Boulevard, 17th Floor  
Los Angeles, CA 90024  
Office (310) 207-3233  
Fax (310) 820-7444  
www.baumhedlundlaw.com

Philadelphia Office  
1500 Market Street  
12th Floor East Tower  
Philadelphia, PA 19102-2100  
Office (215) 665-5659  
Fax (215) 569-8228

June 24, 2020

City Clerk  
200 N. Main Street, 3rd Floor  
Los Angeles, CA 90012

Re: Cal. Gov't. Code § 910 *et seq.* Claim for Damages

To the City Clerk:

This letter is submitted pursuant to California Government Code Section 910 *et seq.* The claim for damages is presented by and on behalf of CJ Montano, an individual, against the City of Los Angeles ("City") and Doe Police Officers 1 through 100. Please direct all correspondence regarding this matter to Mr. Montano's undersigned counsel.

On or about May 30, 2020, Mr. Montano, a Marine Corps Veteran, attended an organized demonstration at Pan Pacific Park to exercise his right to peacefully protest the Minneapolis Police Department's murder of George Floyd and decry police misconduct nationwide. Pan Pacific Park is located at 7600 Beverly Boulevard in what is known as the Fairfax District of the City of Los Angeles. At all relevant times, the conduct complained of herein occurred in the streets of the City and County of Los Angeles.

Mr. Montano arrived at Pan Pacific Park at approximately 12:45 pm where he joined the demonstration to listen to speakers from Black Lives Matter Los Angeles and various other grassroots organizations. At approximately 1:00 pm, Mr. Montano followed the group of demonstrators by taking to the City streets in peaceful protest. The group traveled west on Beverly Boulevard and Mr. Montano and others would often stop at intersections, take a knee, and chant the names of George Floyd, Breonna Taylor, Ahmaud Arbery, and others. Near the intersection of Beverly Boulevard and La Cienega Boulevard, the group split into two and Mr. Montano continued with the group that proceeded northwest towards West Hollywood. The demonstration remained peaceful.

Shortly thereafter, Mr. Montano and the group of demonstrators that he was with entered the City of West Hollywood and were stopped by a skirmish line of Los Angeles County Sheriff's Department ("LASD") deputies on foot on San Vicente Boulevard between Santa



Monica Boulevard and Melrose Avenue. On information and belief, these deputies are assigned to the Los Angeles County Sheriff's Department, West Hollywood Station. The deputies began to indiscriminately yell at Mr. Montano and the group of protesters to "keep it moving ... get out of the street ... move out of the way" while they advanced on the crowd with batons in hand. Mr. Montano witnessed, and video recorded a LASD Sargent brandishing his service weapon, without any justification, and for the apparent purpose of threatening, frightening, and intimidating unarmed peaceful protesters.

At this point, Mr. Montano and the group turned southeast and returned to Beverly Boulevard where they proceeded east towards the Fairfax District. Upon returning to Beverly Boulevard, Mr. Montano witnessed Los Angeles Police Department ("LAPD") officers and LASD deputies firing "less-lethal" projectiles at peaceful protesters, without regard to their proximity to petrol stations, and also observed the targeting of clearly identifiable volunteer medics, protesters, and civilian automobiles.

Close to the CBS parking lot (occupied entirely by law enforcement personnel) at the intersection of Beverly Boulevard and Fairfax Avenue, Mr. Montano encountered a large group of protesters. Based on information and belief, law enforcement personnel were ordered to and did divide the demonstrators into two groups, with Mr. Montano following a crowd east on Beverly Boulevard. Once Mr. Montano was positioned between N. Curson Avenue and The Grove Dr./Stanley Avenue, law enforcement personnel in command gave orders to form a skirmish line made up of LAPD officers and LASD deputies at the intersection of Beverly Boulevard and The Grove Dr./Stanley Ave. LASD deputies were also ordered to take up positions on the roof of the nearby "Etz Jacob Congregation" armed with conventional rifles and "less lethal" weapons that were aimed at the group of demonstrators. Mr. Montano observed more than 50 officers and deputies positioned close to the intersection over time.

Without warning and for no justifiable reason, LAPD officers and LASD deputies<sup>1</sup> were ordered by their superiors to fire tear gas into the crowd. Mr. Montano felt pain in his eyes, mouth, and nose from the tear gas, his eyes began to water, and he had difficulty seeing. Mr. Montano was able to treat the effects of tear gas with liquid antacid and assisted fellow protesters affected by the gas with locating and applying milk. The skirmish line of LAPD officers and LASD deputies was ordered to advance on Mr. Montano and the group of demonstrators (east on Beverly Boulevard) but would also retreat from the demonstrators (west on Beverly Boulevard). Suddenly and without warning, LAPD officers and LASD deputies began firing

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<sup>1</sup> The identities of Doe Police Officers 1 through 100, all LAPD officers and Doe LASD Deputies 101 through 200 who were in command of the described skirmish lines, who gave the orders to fire upon the peaceful protesters, and the individual(s) who fired at Mr. Montano and other peaceful protesters are known only to the LAPD and LASD and as such are unknown by Mr. Montano at this time. Mr. Montano will identify the individuals involved as soon as that information becomes known.

rubber bullets and other “less lethal” ammunition, maliciously and with full knowledge that these weapons have the potential to cause grave injury and even death, specifically targeting Mr. Montano and other individuals, while continuously deploying tear gas canisters into the crowd.

At no point did LAPD officers or LASD deputies give any orders to Mr. Montano or the other protesters to disperse or clear the streets. Mr. Montano remained kneeling in the intersection, approximately 30 feet from the skirmish line and – with his hands up – shouted along with other demonstrators “hands up, don’t shoot” and “I can’t breathe.”

On at least one occasion, Mr. Montano attempted to negotiate with the officers and deputies holding the skirmish line by positioning himself between the line and urging them to cease pointing firearms at demonstrators in an effort to ease tensions between protesters and law enforcement. It appeared that a small number of demonstrators had thrown water bottles at the skirmish line of officers and deputies, and Mr. Montano thought he could mediate the situation by speaking to those demonstrators and telling them to stop. Mr. Montano spoke to one of the law enforcement personnel, believing him to be someone in command, and requested that the skirmish line not open fire so that Mr. Montano could take up position in the middle of the street to communicate with certain protesters, and was informed that Mr. Montano was free to do so. However, as Mr. Montano approached the group of protesters, law enforcement personnel specifically targeted and fired upon him, hitting him with multiple foam/sponge bullets.

Subsequently, LAPD and LASD officers aimed their weapons directly at Mr. Montano and simultaneously fired upon him, hitting him directly on his hip and on his stomach, with two rubber bullet projectiles. He then took shelter behind a billboard located on the sidewalk to protect himself from further rubber bullets and other projectiles. After a couple of minutes, Mr. Montano re-emerged alone from his position and walked to the center of the street with his hands up, clearly communicating that he was unarmed and that his intentions were peaceful. Almost immediately upon reaching the center of the street, law enforcement personnel aimed their weapons at Mr. Montano, specifically targeting his head and fired, with the apparent intention of causing maximum harm. Mr. Montano was hit directly on the left side of his head with a rubber bullet projectile. Upon impact, Mr. Montano grabbed his head and fell downward injuring his tailbone.

Immediately after being struck in the head, Mr. Montano started bleeding profusely, lost all vision in his left eye, felt ringing in his ears, and pain radiating throughout his head. While he was on the ground, LAPD officers and LASD deputies continued to fire projectiles and tear gas into the crowd. Other demonstrators rushed to assist Mr. Montano, applied gauze, and wrapped his head wound while other demonstrators attempted to call for emergency services. The demonstrators that helped Mr. Montano were unable to place outgoing calls, and as a result, helped carry Mr. Montano away from the area. Ultimately, someone drove Mr. Montano to Cedars-Sinai, the nearest hospital.



At approximately 6:30 pm, Mr. Montano arrived at the Intensive Care Unit (ICU) at Cedars-Sinai and he was triaged and given emergency medical treatment for his injuries. When the bleeding finally stopped, Mr. Montano received 7-8 staples on his forehead, as hospital staff reported that they could see his skull beneath the skin torn open by the rubber bullet, and he received a CT scan of his brain. Mr. Montano did not recover any

vision in his eye until approximately 45 minutes after being shot in the head.

Hospital staff informed Mr. Montano that he had suffered a brain bleed and that he was at risk of seizures and serious infection. He was prescribed, among other things, pain killers, anti-seizure medication, and upon discharge a cane to prevent him from losing his balance as a result of his serious brain injury. Mr. Montano spent 4 days at Cedars-Sinai, 2 of which were spent in the hospital's ICU.

While the full extent of Mr. Montano's injuries are still being evaluated by medical professionals, as a direct and proximate result of his being shot by law enforcement personnel with rubber bullets, Mr. Montano suffered a serious laceration to his head, a brain bleed, and an injury to his tail bone. As a further direct and proximate result, Mr. Montano continues to experience, *inter alia*, hearing loss, recurrent dizziness – particularly when turning his head – nausea when riding in automobiles, mental confusion and inability to comprehend social cues, significantly reduced proficiency in understanding written and spoken language, is easily disturbed when hearing music (which causes great distress given that he is currently enrolled as a music student at the Los Angeles Recording School), and suffers from significant emotional trauma and post-traumatic stress disorder.

On the night he suffered these devastating injuries, at approximately 7:00 pm, the City implemented the first citywide curfew that continued to be enforced over a series of days. The citywide curfew on May 30, 2020 did not go into effect until 8:00 pm, well after Mr. Montano was indiscriminately fired upon by the LAPD and LASD.

The City's policies, practice, and/or custom and the actions of City employees in this instance violated Mr. Montano's rights under state and federal common and statutory law, giving rise to claims for relief under Cal. Civ. Code § 52.1 *et seq.*; state law claims of assault, battery, false arrest, intentional infliction of emotional distress, negligence, and negligent failure to hire, train, supervise, and discipline employees, negligent, careless and reckless, and intentional violations of LAPD policy and training, and vicarious liability; federal causes of action pursuant to 42 U.S.C. § 1983 for violations of Claimant's rights under the First, Fourth, and Fourteenth Amendments to the United States Constitution and claims under the analogous provisions of the California Constitution, including but not limited to Cal. Const. Article 1, §§ 2, 3, 7, 13.

As a direct and proximate consequence of the negligent, reckless, intentional and malicious acts and conduct of the City and County themselves and by and through LAPD and LASD leadership, command personnel in the field, and individual officers and deputies, whose names are currently unknown, Mr. Montano intends to file suit and will seek general and special damages, including but not limited to past and future physical and emotional pain and suffering, past and future medical expenses, past and future loss of earnings and earning capacity, and punitive and exemplary damages as might be permitted by law, in an amount to be determined at trial, as well as declaratory and injunctive relief. Mr. Montano intends to seek attorney's fees and costs, and interest as permitted by law. Mr. Montano's damages exceed the minimum of \$25,000.00 for Unlimited Jurisdiction in the Los Angeles Superior Court.

If this claim fails to comply in any respect with any requirement of Cal. Gov't Code §§ 910 or 910.2, you are required to provide written notice of the deficiency pursuant to § 910.8.

Sincerely,

By: 

Pedram Esfandiary, Esq.

[pesfandiary@baumhedlundlaw.com](mailto:pesfandiary@baumhedlundlaw.com)

Monique Alarcon, Esq.

[malarcon@baumhedlundlaw.com](mailto:malarcon@baumhedlundlaw.com)

Timothy Loranger, Esq.

[tloranger@baumhedlundlaw.com](mailto:tloranger@baumhedlundlaw.com)

BAUM, HEDLUND, ARISTEI, & GOLDMAN, P.C.

10940 Wilshire Boulevard, 17th Floor

Los Angeles, CA 90024

Telephone: (310) 207-323