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9  
10 **UNITED STATES DISTRICT COURT**

11 **CENTRAL DISTRICT OF CALIFORNIA**

12 TOMMY MARK FRANKS, JR.,

13 Plaintiff,

14 vs.

15 COUNTY OF SAN BERNARDINO,  
16 TYLER LOUP, and DOES 1 through 10,  
17 INCLUSIVE,

18 Defendants.

19 Case No.:

20 COMPLAINT FOR DAMAGES FOR  
21 VIOLATION OF FEDERAL  
22 CONSTITUTIONAL RIGHTS  
23 UNDER COLOR OF STATE LAW  
24 (42 U.S.C. § 1983) CLAIM FOR  
25 UNREASONABLE SEIZURE OF  
26 PERSON (U.S. CONST. AMEND 4);  
27 CLAIM FOR USE OF  
28 UNREASONABLE FORCE UPON  
PERSON (U.S. CONST. AMEND 4),  
CLAIM FOR VIOLATION OF FIRST  
AMENDMENT; *MONELL* CLAIM  
FOR FAILURE TO TRAIN.

JURY TRIAL DEMANDED

COMPLAINT FOR DAMAGES

1 COMES NOW plaintiff TOMMY MARK FRANKS, JR., and shows this  
2 honorable court the following:

3 **JURISDICTIONAL ALLEGATIONS**

4 1. As this action is brought under 42 U.S.C. § 1983, this court has  
5 jurisdiction over this case under its federal question jurisdiction pursuant to 28  
6 U.S.C. § 1331.

7 2. As the incidents complained of in this action occurred in the County  
8 of San Bernardino, State of California, within the territorial jurisdiction of this  
9 court, venue properly lies in this court pursuant to 28 U.S.C. § 1391(b)(2).

10 **GENERAL ALLEGATIONS**

11 3. Plaintiff Tommy Mark Franks, Jr., hereinafter referred to as  
12 “TOMMY” and/or “plaintiff” and/or “Tommy Franks” is a natural person, who, at  
13 all times complained of in this action, resided in the State of Arizona.

14 4. Defendant County of San Bernardino, hereinafter also referred to as  
15 “COUNTY”, is a political subdivision of the State of California and is a municipal  
16 entity, located within the territorial jurisdiction of this Honorable Court.

17 5. Defendant Tyler Loup, hereinafter referred to as “LOUP”, is a  
18 sworn peace officer and deputy sheriff with the County of San Bernardino  
19 Sheriff’s Department, who, at all times complained of in this action was acting as  
20 an individual person under the color of state law, and was acting in the course of  
21 and within the scope of his employment with the San Bernardino County Sheriff’s  
22 Department and defendant County of San Bernardino.

23 6. Defendants DOES 1 through 6, inclusive, are sworn peace officers  
24 and/or deputy sheriffs and/or supervisors and/or investigators and/ Special  
25 Officers and/or a dispatchers and/or some other public officer, public official or  
26 employee of defendant County of San Bernardino and/or some other public entity,  
27 who in some way committed some or all of the tortious actions (and constitutional  
28 violations) complained of in this action, and/or are otherwise responsible for and

1 liable to plaintiffs for the acts complained of in this action, whose identities are,  
2 and remain unknown to plaintiff, who will amend his complaint to add and to  
3 show the actual names of said DOE defendants when ascertained by plaintiff.

4 7. At all times complained of herein, DOES 1 through 6, inclusive, were  
5 acting as individual persons acting under the color of state law, pursuant to their  
6 authority as sworn peace officers and/or deputy sheriffs and/or Special Officers  
7 and/or Supervisors (i.e. Sergeants, Lieutenants, Captains, Commanders, etc.)  
8 and/or dispatchers and/or public officers, employed by defendant County of San  
9 Bernardino and/or some other public entity, and were acting in the course of and  
10 within the scope of their employment with defendant County of San Bernardino.

11 8. Defendants DOES 7 through 10, inclusive, are sworn peace officers  
12 and/or Supervisors and/or Commanders and/or Captains and/or Lieutenants and/or  
13 Sergeants and/or Detectives and/or other Supervisory personnel (such as) and/or  
14 policy making and/or final policy making officials, such as the elected Sheriff of  
15 San Bernardino County, the Undersheriff of San Bernardino County, the Assistant  
16 Sheriff for San Bernardino County, and other top-level policy making personnel ,  
17 employed by the County of San Bernardino, who are in some substantial way  
18 liable and responsible for, or otherwise proximately caused and/or contributed to  
19 the occurrences complained of by plaintiffs in this action, such as via supervisory  
20 liability (i.e. failure to properly supervise, improperly directing subordinate  
21 officers, approving actions of subordinate officers), via bystander liability (failing  
22 to intervene in and stop unlawful actions of their subordinates and/or other  
23 officers), and such as by creating and/or causing the creation of and/or  
24 contributing to the creation of the policies and/or practices and/or customs and/or  
25 usages of the County of San Bernardino for: 1) for wrongfully arresting persons;  
26 2) for using excessive / unreasonable force on persons; 3) order persons to  
27 produce identification without a warrant, probable cause, or reasonable suspicion  
28 of criminality afoot, under threat of arrest; 4) for unlawfully seizing and searching

1 persons; 5) for unlawful searching and seizing persons and their personalty /  
2 property; 6) for falsely arresting and falsely imprisoning persons; 7) for  
3 fabricating / destroying / concealing / altering / withholding evidence in criminal  
4 and civil actions, and for otherwise “framing” persons in criminal actions, in order  
5 to falsely and maliciously, oppressively convict innocent persons, to protect them  
6 and other deputy sheriffs, public officers and supervisory personnel from civil,  
7 administrative and criminal liability; 8) for interfering with persons’ and/or  
8 otherwise violating persons’ constitutionally protected right to free speech; 9) for  
9 covering-up unlawful and tortious conduct by County of San Bernardino  
10 personnel, and were a proximate cause of the very same federal constitutional  
11 violations complained above, and complained of by the plaintiff in this action.

12 9. Plaintiff is presently unaware of the identities of DOES 1 through 10,  
13 inclusive, and will amend his complaint to add and to show the actual names of  
14 said DOE defendants, when ascertained by plaintiff.

15 10. At all times complained of herein, DOES 7 through 10, inclusive,  
16 were acting were acting as individual persons acting under the color of state law,  
17 pursuant to their authority as Deputy Sheriffs and/or Supervisory Officers,  
18 Commanders and/or Captains and/or Lieutenants and/or Sergeants and/or other  
19 Supervisory personnel and/or policy making and/or final policy making officials,  
20 employed by the County of San Bernardino and/or some other public entity,  
21 and/or some other public official(s) with the County of San Bernardino, and were  
22 acting in the course of and within the scope of their employment with defendant  
23 the County of San Bernardino.

24 11. At all times complained of herein, defendants DOES 7 through 10,  
25 inclusive, were acting as individual persons under the color of state law; under and  
26 pursuant to their status and authority as peace officers and/or Supervisory peace  
27 officers (as described herein, above and below), and/or policy making peace  
28 officers, with defendant County of San Bernardino.

1           12. Moreover, at all times complained of herein, defendants DOES 1  
2 through 10, inclusive, were acting pursuant to, or otherwise contributed to the  
3 creation and maintenance of, the customs, policies, usages and practices of the  
4 County of San Bernardino, for, inter alia: : 1) for wrongfully arresting persons; 2)  
5 for using excessive / unreasonable force on persons; 3) order persons to produce  
6 identification without a warrant, probable cause, or reasonable suspicion of  
7 criminality afoot; 4) for unlawfully seizing persons; 5) for unlawful searching and  
8 seizing persons and their personalty / property; 6) for falsely arresting and falsely  
9 imprisoning persons; 7) for fabricating / destroying / concealing / altering /  
10 withholding evidence in criminal and civil actions, and for otherwise “framing”  
11 persons in criminal actions, in order to falsely and maliciously, oppressively  
12 convict innocent persons, to protect them and other deputy sheriffs and  
13 supervisory personnel from civil, administrative and criminal liability; 8) for  
14 interfering with persons’ and/or otherwise violating persons’ constitutionally  
15 protected right to free speech; 9) for covering-up unlawful and tortious conduct by  
16 the County of San Bernardino personnel, and were a proximate cause of the very  
17 same federal constitutional violations complained above, and complained of by  
18 the plaintiffs in this action.

19           13. In addition to the above and foregoing, defendants DOES 1 through 6,  
20 inclusive, acted pursuant to a conspiracy, agreement and understanding and  
21 common plan and scheme to deprive the plaintiff Tommy Franks of his federal  
22 Constitutional and statutory rights, as complained of in this action, and acted in  
23 joint and concerted action to so deprive plaintiff of those rights as complained of  
24 herein; all in violation of 42 U.S.C. § 1983, and otherwise in violation of United  
25 States (Constitutional and statutory) law.

26           14. Said conspiracy / agreement / understanding / plan / scheme / joint  
27 action / concerted action, above-referenced, was a proximate cause of the  
28 violation of the plaintiff Tommy Franks’ federal and state constitutional and

1 statutory rights, as complained of herein.

2 **FIRST CAUSE OF ACTION**  
3 **UNREASONABLE SEIZURE OF PERSON UNDER FOURTH**  
4 **AMENDMENT TO THE UNITED STATES CONSTITUTION**  
5 **[42 U.S.C. § 1983]**  
6 **(By Plaintiff TOMMY FRANKS, against Defendants LOUP and DOES 1**  
7 **through 6, inclusive)**

8 15. Plaintiff hereby realleges and incorporate by reference the allegations  
9 set forth in paragraphs 1 through 14, inclusive, above, as if set forth in full herein.

10 16. On February 6, 2019, plaintiff Tommy Franks was a commercial  
11 truck driver delivering a load of goods to WinCo Foods; a supermarket located at  
12 19047 Bear Valley Road in the Town of Apple Valley, San Bernardino County,  
13 California.

14 17. After parking his semi tractor-trailer rig in the loading dock, plaintiff  
15 then walked around to the front of the store to notify the manager of the delivery  
16 of the load. Plaintiff also purchased some muffins from the store and was walking  
17 back to his big rig with his clipboard in hand.

18 18. As plaintiff was walking back to his truck, defendant LOUP and/or  
19 DOES 1 and/or 2 rolled up on plaintiff in his patrol car, and plaintiff was  
20 unlawfully detained by San Bernardino County Sheriff's Department deputy  
21 sheriff(s), defendants LOUP and/or DOES 1 and/or 2.

22 19. Plaintiff was told he was "loitering" and was asked for identification  
23 by defendants LOUP and/or DOES 1 and/or 2. Plaintiff was merely walking back  
24 to his big-rig to deliver his load to Winco Foods and was not loitering in any  
25 fashion.

26 20. At all times complained of herein, there was not any reasonable  
27 suspicion of any criminality afoot of plaintiff, for defendants LOUP and/or DOES  
28 1 and/or 2 to detain the plaintiff, nor was there any reason to initiate contact with  
plaintiff.

COMPLAINT FOR DAMAGES

1           21. Said deputy sheriff(s)' unlawful detention of the plaintiff was not  
2 justified at its inception, and was not reasonably related in scope to the  
3 circumstances which justified the interference with plaintiff's business / work of  
4 delivering goods to a supermarket in the first place, rendering the unlawful  
5 detention constitutionally unreasonable.

6           22. After being unlawfully detained by defendants LOUP and/or DOES 1  
7 and/or 2 without any reasonable suspicion of criminality afoot, plaintiff was told  
8 by defendants LOUP and/or DOES 1 and/or 2 that plaintiff was required to  
9 produce identification because he was "loitering"; something that was not true.

10           23. When defendants LOUP and/or DOES 1 and/or 2 asked plaintiff to  
11 produce identification, plaintiff refused, and verbally protested his unlawful  
12 detention and the unlawful demand for identification without any reasonable  
13 suspicion of criminality afoot of the plaintiff.

14           24. At the time of plaintiff's unlawful detention, defendants LOUP  
15 and/or DOES 1 and/or 2 knew exactly what plaintiff was doing behind the  
16 supermarket—delivering a load to Winco Foods—because defendants LOUP  
17 and/or DOES 1 and/or 2 could see the manifest on the clipboard being held in  
18 plaintiff's hand and the name of plaintiff's employer (which is the same company  
19 emblazoned on the side of plaintiff's 18-wheel truck); and it would be patently  
20 obvious to anyone that plaintiff was working his job and had a legitimate reason to  
21 be walking behind the store to perform his job.

22           25. After asking for a Sergeant / Supervisor three times to come to the  
23 scene of the subject incident, defendants LOUP and/or DOES 1 and/or 2 then  
24 proceeded to grab plaintiff's clipboard and the muffins he was carrying from  
25 plaintiff's hands.

26           26. Defendants LOUP and/or DOES 1 and/or 2 then unlawfully  
27 handcuffed the plaintiff Tommy Marks. Plaintiff was told by defendants LOUP  
28 and/or DOES 1 and/or 2 that he was being arrested for a violation of California

1 Penal Code section 148(a)(1)<sup>1</sup> for refusing to identify himself.

2 27. When defendants LOUP and/or DOES 1 and/or 2 handcuffed the  
3 plaintiff, the handcuffs were ratcheted down so tightly that plaintiff's wrists were  
4 in excruciating pain and suffering, in showing of unreasonable / excessive force.  
5 Said use of excessive force by DOES 1 and/or 2 was done in retaliation of  
6 plaintiff's verbal protests, as shown below.

7 28. Plaintiff was then placed in the back of a Sheriff's Department patrol  
8 car in handcuffs for approximately 20-30 minutes, until a Sergeant / Supervisory  
9 officer DOE 7, arrived at the scene.

10 29. However, before being taken to jail, plaintiff continued his verbal  
11 protests of being falsely arrested, and said Sergeant / Supervisory officer DOE 7  
12 told plaintiff that he was an "idiot," and that he would "back up" any of his  
13 subordinate officers—even in the event of a false arrest such as plaintiff's—and  
14 further ratified his subordinate(s)' unconstitutional conduct.

15 30. Plaintiff was then taken to jail by defendants LOUP and/or DOES 1  
16 and/or 2 where he spent the night in jail, before being released from jail the  
17 following morning on his own recognizance, thereby missing work opportunities  
18 and wages for the time of his incarceration.

19 31. Thereafter, on June 11, 2019, plaintiff was criminally prosecuted for  
20 a violation of California Penal Code section 148(a)(1)—resisting, delaying or  
21 obstructing a peace officer in the lawful performance of his/her duties—a  
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24  
25 <sup>1</sup> Which states in its entirety: "148. (a) (1) Every person who willfully resists, delays, or  
26 obstructs any public officer, peace officer, or an emergency medical technician, as defined in  
27 Division 2.5 (commencing with Section 1797) of the Health and Safety Code, in the discharge or  
28 attempt to discharge any duty of his or her office or employment, when no other punishment is  
prescribed, shall be punished by a fine not exceeding one thousand dollars (\$1,000), or by  
imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment."  
Cal. Penal Code sec. 148(a)(1).



1 misdemeanor; *People of the State of California v. Tommy Mark Franks, Jr.*; San  
2 Bernardino County Superior Court Case Number MVI19005170.

3 32. Thereafter, on September 27, 2019 the San Bernardino County  
4 District Attorney's Office moved the San Bernardino County Superior Court to  
5 dismiss said misdemeanor criminal action against the plaintiff on the ground of  
6 insufficiency of the evidence.

7 33. Moreover, said use of excessive force by said defendants LOUP  
8 and/or DOES 1 and/or 2 was done to plaintiff Tommy Franks as retaliation for his  
9 verbal protests of said defendant(s) violating his rights under the Fourth  
10 Amendment to the Constitution, without any justification other than to punish,  
11 deter, and chill his free speech and the free exercise of his rights guaranteed under  
12 the First and Fourth Amendments to the United States Constitution.

13 34. Furthermore, the actions of defendants LOUP and/or DOES 1 and/or  
14 2, as complained above herein, constituted a violation of plaintiff Tommy Franks'  
15 rights under the Fourth Amendment to the United States Constitution to be free  
16 from the use of unlawful and unreasonable and excessive force upon his person.

17 35. Lastly, as shown above, by said unlawful detention and arrest of the  
18 plaintiff, the actions of defendants LOUP and/or DOES 1 and/or 2 constituted an  
19 unlawful and false arrest of plaintiff Tommy Franks, and constituted an unlawful  
20 and unreasonable seizure of his person, in violation of the Fourth Amendment to  
21 the United States Constitution.

22 36. As a direct and proximate result of the actions of defendants LOUP  
23 and DOES 1 through 10, inclusive, plaintiff Tommy Franks was: 1) substantially  
24 physically, mentally and emotionally injured, 2) incurred attorney's fees and  
25 expenses, and 3) incurred other special and general damages and expenses  
26 associated costs, including lost wages / profits; all in an amount to be proven at  
27 trial which is in excess of \$3,000,000.00.

28 37. The actions of said defendants, and each of them, as complained of

1 herein, were committed maliciously, oppressively and in reckless disregard of  
2 plaintiff Tommy Franks' constitutional rights, sufficient for an award of punitive /  
3 exemplary damages against said defendants, in an amount to be proven at trial, in  
4 excess of \$3,000,000.00.

5 **SECOND CAUSE OF ACTION**  
6 **UNREASONABLE USE OF FORCE ON PERSON UNDER**  
7 **FOURTH AMENDMENT TO THE UNITED STATES CONSTITUTION**  
8 **[42 U.S.C. § 1983]**  
9 **(By Plaintiff Tommy Franks, Against Defendants LOUP and DOES 1**  
10 **through 6, inclusive)**

11 38. Plaintiff hereby realleges and incorporates by reference the  
12 allegations set forth in paragraphs 1 through 37, inclusive, above, as if set forth in  
13 full herein.

14 39. As shown above, on February 6, 2019, when defendant DOES 1  
15 and/or 2 unlawfully detained, falsely arrested and handcuffed plaintiff, the  
16 handcuffs were ratcheted down so tightly that plaintiff's wrists were in great pain  
17 and suffering, in a showing of unreasonable / excessive force.

18 40. Moreover, as shown above, said use of excessive force by said  
19 defendants LOUP and/or DOES 1 and/or 2 was done to plaintiff Tommy Franks  
20 as retaliation for his verbal protests of said defendant(s) violating his rights under  
21 the Fourth Amendment to the Constitution without any justification other than to  
22 punish, deter, and chill his free speech and the free exercise of his rights  
23 guaranteed under the First and Fourth Amendments to the United States  
24 Constitution.

25 41. The actions of defendants LOUP and DOES 1 and/or 2, as  
26 complained above herein, constituted a violation of plaintiff Tommy Franks'  
27 rights under the Fourth Amendment to the United States Constitution to be free  
28 from the use of unlawful and unreasonable and excessive force upon his person.

42. As a direct and proximate result of the actions of defendants LOUP

COMPLAINT FOR DAMAGES

1 and DOES 1 through 10, inclusive, and the unlawful seizures by said defendants  
2 upon the plaintiff Tommy Franks was: 1) substantially physically, mentally and  
3 emotionally injured, 2) incurred attorney’s fees and expenses, and 3) incurred  
4 other special and general damages and expenses associated costs, including lost  
5 wages / profits; all in an amount to be proven at trial which is in excess of  
6 \$3,000.000.00.

7 43. The actions of said defendants, and each of them, as complained of  
8 herein, were committed maliciously, oppressively and in reckless disregard of  
9 plaintiff Tommy Franks’ constitutional rights, sufficient for an award of punitive /  
10 exemplary damages against said defendants, in an amount to be proven at trial, in  
11 excess of \$3,000,000.00.

12 **THIRD CAUSE OF ACTION**  
13 **VIOLATION OF RIGHT TO FREE SPEECH / PETITION TO REDRESS**  
14 **UNDER THE FIRST AMENDMENT TO THE UNITED STATES**  
15 **CONSTITUTION**  
16 **[42 U.S.C. § 1983]**  
17 **(By Plaintiff Tommy Franks Against Defendants LOUP and DOES 1 through**  
18 **10, inclusive)**

19 44. Plaintiff hereby realleges and incorporates by reference the  
20 allegations set forth in paragraphs 1 through 43, inclusive, above, as if set forth in  
21 full herein.

22 45. As shown above, defendants LOUP and/or DOES 1 and/or 2,  
23 unlawfully detained and falsely arrested plaintiff on a bogus charge of a violation  
24 of Cal. Penal Code § 148(a)(1).

25 46. As shown above, when plaintiff Tommy Franks’ verbal protests to  
26 defendants LOUP and/or DOES 1 and/or 2, were protests of plaintiff being  
27 unlawfully detained, being ordered to produce his identification under threat of  
28 arrest, and being falsely arrested for refusing to identify himself by defendants  
LOUP and/or DOES 1 and/or 2, plaintiff Tommy Franks was engaged in a

1 constitutionally protected free speech under the First Amendment to the United  
2 States Constitution.

3 47. Also, as shown above, plaintiff continued his verbal protests of being  
4 falsely detained and arrested, and the Patrol Sergeant / Supervisory officer who  
5 arrived at the scene of the arrest incident complained of, DOE 7, told plaintiff that  
6 he was an “idiot,” and that he would “back-up” any of his subordinate officers—  
7 even in the event of a false arrest such as plaintiff’s—and further ratified his  
8 subordinate(s)’ unconstitutional conduct.

9 48. Furthermore, defendants LOUP and/or DOES 1 and/or DOE 2 and  
10 DOE 7 knew that the plaintiff Tommy Franks had not committed a crime, yet said  
11 defendant(s) arrested the plaintiff without either probable cause to believe that he  
12 committed a crime, or a warrant.

13 49. Moreover, defendants LOUP and/or DOE 1 and/or DOE 2 and DOE  
14 7’s actions against the plaintiff Tommy Franks would chill a person of ordinary  
15 firmness from continuing to engage in that protected activity.

16 50. Plaintiff Tommy Franks’ protected activity was a substantial or  
17 motivating factor in the defendants LOUP’s and/or DOE 1’s and/or DOE 2’s and  
18 DOE 7’s decision to unlawfully detain and falsely arrest plaintiff Tommy Franks.  
19 Said retaliation by said defendants was committed by snatching him from the rear  
20 of the aforementioned store as he was working his job, grabbing plaintiff Tommy  
21 Franks’ wrists / hands and handcuffing his wrists too tightly and talking him to  
22 jail.

23 51. As a direct and proximate result of the actions of defendants LOUP  
24 and/or DOE 1 and/or DOE 2 and DOE 7, inclusive, plaintiff Tommy Franks was:  
25 1) substantially physically, mentally and emotionally injured, 2) incurred  
26 attorney’s fees and expenses, and 3) incurred other special and general damages  
27 and expenses associated costs, including lost wages / profits; all in an amount to  
28 be proven at trial which is in excess of \$3,000.000.00.

1 52. The actions of said defendants, and each of them, as complained of  
2 herein, were committed maliciously, oppressively and in reckless disregard of  
3 plaintiff Tommy Franks' constitutional rights, sufficient for an award of punitive /  
4 exemplary damages against said defendants, in an amount to be proven at trial, in  
5 excess of \$3,000,000.00.

6 **FOURTH CAUSE OF ACTION**  
7 **[VIOLATION OF 42 U.S.C. § 1983]**  
8 **Claim Against Local Governing Body Defendants**  
9 **Based On Failure To Train**  
10 **(By Plaintiff Tommy Franks Against Defendants COUNTY and DOES 7**  
11 **through 10, inclusive)**

11 53. Plaintiff hereby realleges and incorporate by reference the allegations  
12 set forth in paragraphs 1 through 52 inclusive, above, as if set forth in full herein.

13 54. As shown above, when defendants LOUP and/or DOE 1 and/or DOE  
14 2 and DOE 7, inclusive, deprived plaintiff Tommy Franks of his particular rights  
15 under the United States Constitution, they were acting under the color of state law.

16 55. The training policies of defendants COUNTY and DOES 7 through  
17 10, inclusive, were not adequate to train their deputy sheriffs and other sworn  
18 peace officer personnel to handle the usual and recurring situations with which  
19 they must deal with as sworn peace officers, to wit; defendants COUNTY and  
20 DOES 7 through 10, inclusive, failed to train its deputy sheriffs: 1) not to handcuff  
21 persons so tightly so as to injure them and to cause them great pain, suffering and  
22 injury from their doing so; 2) that it is not a crime in the State of California for a  
23 person to refuse or to fail to identify themselves to a peace officer, even if that  
24 peace officer had sufficient legal grounds to detain them, and that it is not a  
25 violation of Cal. Penal Code § 148(a)(1) for failing / refusing to do so; 3) that  
26 retaliation against civilians for their verbal protest of police actions is proscribed  
27 by the First Amendment to the United States Constitution and cannot criminalized  
28

1 by the state / government; and 4) that failing to immediately comply with police  
2 orders, is not a violation of Cal. Penal Code § 148(a)(1).

3 56. Moreover, the San Bernardino County Sheriff's Department does not  
4 train its deputy sheriffs and other sworn peace officer personnel that it is not a  
5 crime in the State of California to refuse to identify oneself to a peace officer.  
6 Accordingly, defendants COUNTY and DOES 7 through 10, inclusive, were  
7 deliberately indifferent to the obvious consequences of their failure to train their  
8 deputy sheriffs and other sworn peace officer personnel adequately to follow  
9 California state law; especially regarding arresting civilians for "resistance  
10 offenses" such as violation of Cal. Penal Code §§ 69, 71, 148(a)(1), 240/241(c),  
11 242/ 243(b) etc.

12 57. The failure of defendants COUNTY and DOES 7 through 10,  
13 inclusive, to provide adequate training caused the deprivation of plaintiffs' rights  
14 by defendants LOUP and/or DOE 1 and/or DOE 2 and DOES 7 through 10,  
15 inclusive; that is, the defendants' failure to train is so closely related to the  
16 deprivation of plaintiff's rights as to be the moving force that caused the ultimate  
17 injury.

18 58. As a direct and proximate result of the actions of defendants LOUP  
19 and DOES 1 through 10, inclusive, and the unlawful seizures by said defendants  
20 upon the plaintiff Tommy Franks was: 1) substantially physically, mentally and  
21 emotionally injured, 2) incurred attorney's fees and expenses, and 3) incurred  
22 other special and general damages and expenses associated costs, including lost  
23 wages / lost profits; all in an amount to be proven at trial which is in excess of  
24 \$3,000.000.00.

25 59. The actions of said defendants, and each of them, as complained of  
26 herein, were committed maliciously, oppressively and in reckless disregard of  
27 plaintiff Tommy Franks' constitutional rights, sufficient for an award of punitive /  
28 exemplary damages against said defendants, in an amount to be proven at trial, in

1 excess of \$3,000,000.00.  
2

3 **WHEREFORE**, plaintiff prays for judgment as follows:

4 a) For a judgment against all defendants for compensatory damages in  
5 an amount in excess of \$3,000,000.00;

6 b) For a judgment against all defendants, save defendant County of San  
7 Bernardino, for punitive damages in an amount in excess of \$3,000,000.00;

8 c) For an award of reasonable attorney's fees and costs;

9 d) For a trial by jury; and

10 e) For such other and further relief as this honorable court deems just  
11 and equitable.

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15 JERRY L. STEERING, ATTORNEY FOR  
16 PLAINTIFF TOMMY MARK FRANKS, JR.  
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