

BURRELL GOVERNMENT TORT CLAIM AGAINST THE CITY OF VALLEJO
ATTACHMENT "A"

Claimant objects to your Claim Form because it requires information which constitutes an invasion of the Claimant's privacy. Moreover, the information is not required to be provided by the Claimants under California Government Code Section 910. For example, California Government Code Section 910 does not require that the Claimant's provide their home and work numbers, driver's license number, date of birth, auto insurance name and policy number, a diagram of the location of the incident, any statements by the Claimants as to their reasons "for believing the City is liable for your damages, "or a description" of all damages which you believe you have incurred as a result of the incident." For the purposes of this document "CLAIMANT" means the individual claimant, claimants plural, and all plaintiffs and parties in interest represented by the LAW OFFICES OF JOHN BURRIS. Therefore, Claimant submits the following information in support of his/her Claim pursuant to Government Code Section 910:

CLAIMANT'S NAMES: Adrian Burrell

CLAIMANT'S ADDRESS: 7677 Oakport Street, Suite 1120, Oakland, California 94621

CLAIMANT'S TELEPHONE NUMBER: C/O LAW OFFICES OF JOHN L. BURRIS, ESQ.
(510) 839-5200

ADDRESS TO WHICH ALL NOTICES ARE TO BE SENT: LAW OFFICES OF JOHN L. BURRIS, Airport Corporate Centre, 7677 Oakport Street, Suite 1120, Oakland, CA 94621

PLEASE NOTE: COUNSEL REPRESENTS CLAIMANTS AND ALL CONTACT SHOULD BE MADE WITH THEIR ATTORNEY ONLY.

DATE AND TIME OF INCIDENT: January 22, 2019, at approximately 3:30 p.m.

LOCATION OF INCIDENT: Byron Street, Vallejo, California.

THE FOLLOWING PROVIDES A GENERAL DESCRIPTION OF THE INDEBTEDNESS, OBLIGATION, INJURY, DAMAGES OR LOSS INCURRED SO FAR AS IT MAY BE KNOWN AT THE TIME OF PRESENTATION OF THE CLAIM" AND "THE NAME OR NAMES OF THE PUBLIC EMPLOYEE OR EMPLOYEES CAUSING THE INJURY, DAMAGES, OR LOSS, IF KNOWN: [Per Government Code Section 910]. For the purposes of this claim, "AGENCY" is defined by and refers to the municipal, county, or state entity, which governs the City of Vallejo, California.

DESCRIPTION OF INCIDENT:

On January 22, 2019, at approximately 3:00 p.m., Claimant Adrian Burrell was inside of his home, on the 100 block of Bryon Street, in Vallejo, California. Mr. Burrell was awaiting the arrival of his cousin Michael Walton.

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Mr. Burrell was inside of his home when he noticed Mr. Walton had pulled into the driveway of his home on his motorcycle while a Vallejo Police Department SUV was parked directly in front of his home facing oncoming traffic. Mr. Burrell walked outside of his home to see what was going on.

When Mr. Burrell came outside he saw a police officer (later identified as Vallejo Police Officer David McLaughlin) standing in the door jam of his patrol car, pointing a gun at Mr. Walton. Mr. Walton was still wearing his helmet and Mr. Burrell immediately called out to Officer McLaughlin to notify him that Mr. Walton likely could not hear him due to the helmet. Officer McLaughlin aggressively told Mr. Burrell to go back into his house. At this point Mr. Burrell was standing on his porch, a minimum of 40 feet away away from Officer McLaughlin who was still standing in the street but next to the curb in front of the home.

Mr. Burrell declined to go back into the house as he was rightfully located on his own property while remaining an objectively safe distance away from the officer. Mr. Burrell began using his cellular phone to record what he perceived to be a potentially deadly situation.

Officer McLaughlin approached Mr. Walton from behind while he aiming his gun at the motorcyclist. Officer McLaughlin again told Mr. Burrell to get back and again he declined. At this time Mr. Burrell was located on his raised porch, approximately 33 feet away from Officer McLaughlin. Officer McLaughlin again told Mr. Burrell to 'get back' although Mr. Burrell had not left the confines of his porch.

Officer McLaughlin threatened to handcuff and place Mr. Burrell into his patrol car. Then, Officer McLaughlin turned his back to Mr. Walton, whom he had been holding at gunpoint, holstered his gun and rushed towards the porch where Mr. Burrell was still standing, leaving Mr. Walton unattended.

Officer McLaughlin accused Mr. Burrell of interfering and physically took hold of Mr. Burrell. Next, Officer McLaughlin violently threw Mr. Burrell into the outside wall of the house, then swung him around causing Mr. Burrell to hit his head against a wooden pillar.

The Officer placed Mr. Burrell and Mr. Walton into a patrol car. Mr. Burrell notified Officer McLaughlin that he had a military service related injury and asked to have his handcuffs placed in the front of his body. Officer McLaughlin declined to move the handcuffs. Nevertheless, Officer McLaughlin's tone changed after he learned of Mr. Burrell's military service and shortly thereafter unhandcuffed and released Mr. Burrell from the backseat of the patrol car and ultimately thanked him for his military service.

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Later that day, Mr. Burrell sought and received medical treatment for his injuries. He was diagnosed as having suffered a concussion and complained of pain to his head, arms and shoulder.

This incident was recorded on cell phone video, which is already in the possession of the Vallejo Police Department.

DESCRIPTION OF CLAIM:

Claimant alleges that the conduct of individual employees, agents, and/or servants of AGENCY constitute State constitutional violations, which might include but are not limited to assault, battery, negligence, negligent hiring, and intentional infliction of emotional distress.

Claimant also alleges State statutory violations, which include but are not limited to assault, battery, negligence, negligent hiring, intentional infliction of emotional distress and false detention and/or arrest.

Claimant alleges those individual employees, agents and/or servants of AGENCY are responsible for Claimant's injuries, and acts and/or omissions committed within the course or scope of employment under the theory of respondeat superior. Respondeat superior liability includes but is not limited to, negligent training, supervision, control and/or discipline.

Individual employees, agents, and/or servants of the AGENCY, include but are not limited to, the chief of police, sheriff, or an individual of comparable title, in charge of law enforcement for AGENCY, and DOES 1-100, and/or each of them, individually and/or while acting in concert with one another.

Claimant alleges the appropriate offenses listed below.

Claimant alleges that assault included, but was not limited to, conduct causing Claimant to reasonably fear a harmful offensive touching upon Claimant's person.

Claimant alleges that battery included, but was not limited to, conduct resulting in a harmful offensive touching upon Claimant's person in a manner foreseeable likely to cause injury.

Claimant alleges that negligence included, but was not limited to, breach of duty upon failing to exercise due care by placing Claimant at risk of serious physical injury and unlawful detention and/or arrest.

Claimant alleges that negligent hiring included, but was not limited to, breach of duty upon failing to exercise due care by hiring individuals likely to cause physical injury to citizens while acting under color of law in an official capacity.

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Claimant alleges that intentional infliction of emotional distress included, but was not limited to, outrageous acts or omissions with the intent to causing emotional distress to another individual. The intentional conduct resulted in Claimants' physical injuries.

Claimant alleges the false detention and/or arrest included, but was not limited to, being unlawfully detained and/or arrested in such a manner that Claimant was confined, denied liberty of movement and was conscious of his confinement and/or denial of free movement.

Claimant alleges violation of California Civil Code Section 52.1, for actions by law enforcement personnel, whether or not acting under color of law, which interfere by threats, intimidation, or coercion, or attempts to interfere by threats, intimidation, or coercion, with the exercise or enjoyment by any individual or individuals of rights secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of this state.

Claimant intends to pursue civil penalties pursuant to California Civil Code Sections 52(a) and 52 (b).

Claimant will allege other causes of action subject to continuing discovery.

DESCRIBE INJURY OR DAMAGE:

Claimant has, or may have in the future, claims for general damages, including, but not limited to, claims for pain, suffering and emotional distress in amounts to be determined according to proof.

Claimant may have and/or may continue to have in the future, claims for special damages, including, but not limited to, claims for medical and related expenses, lost wages, damage to career, damage to educational pursuits, damage to property and/or other special damages in amounts to be determined according to proof.

Claimant may have, and/or may continue to have in the future, damages for permanent mental injuries, permanent mental scarring and/or other psychological disabilities in an amount according to proof.

NAME OF PUBLIC EMPLOYEE(S) BELIEVED TO HAVE CAUSED INJURY OR DAMAGE:

See description of the incident, above.

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DEMAND FOR PRESERVATION OF EVIDENCE:

Claimant does hereby demand that AGENCY including, but not limited to, the appropriate city or county law enforcement agency, its employees, servants and/or attorneys, maintain and preserve all evidence, documents and tangible materials which relate in any manner whatsoever to the subject matter of this Claim, including until the completion of any and all civil and/or criminal litigation arising from the events which are the subject matter of this Claim. This demand for preservation of evidence includes, but is not limited to, a demand that all public safety entities preserve all tapes, logs and/or other tangible materials of any kind until the completion of any and all civil and criminal litigation arising from the subject matter of this claim.

AMOUNT OF CLAIM:

This claim is in excess of \$25,000. Jurisdiction is designated as "unlimited" and jurisdiction would be in the Superior Court of the State of California for the City of Solano.

Sincerely,

/s/

Adante D. Pointer,
Attorney at Law

THE LAW OFFICE OF JOHN L. BURRIS