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7 Attorneys for Plaintiff AMAURIE JOHNSON

9 UNITED STATES DISTRICT COURT  
 10 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

12 AMAURIE JOHNSON, an individual,  
 13 Plaintiff,

14 v.

15 CITY OF LA MESA, a municipal  
 16 entity, MATT DAGES, an individual,  
 17 and DOES 1-6, inclusive,  
 18 Defendants.

Case No.: '20CV1461 JM RBB

**COMPLAINT FOR:**

1. Arrest Without Probable Cause  
– 42 U.S.C. section 1983
2. Negligence
3. Excessive Force – 42 U.S.C.  
section 1983
4. Violence Because of Race – The  
Ralph Act Civil Code §51.7
5. Excessive Force – The Bane Act  
Civil Code §52.1
6. *Monell* Liability

1 COMES NOW, Plaintiff AMAURIE JOHNSON, by and through his  
2 attorney of record, THE LAW OFFICE OF TROY P. OWENS, JR., A.P.C., by  
3 Troy P. Owens, Jr., Esq., and alleges as follows:

4 **I.**

5 **JURISDICTION AND VENUE**

6 1. The United States District Court, in and for the Southern District of  
7 California, has original jurisdiction over the civil rights cause of action pled herein  
8 under 42 U.S.C. § 1983, and pursuant to 28 U.S.C. § 1343(a)(3), and by the federal  
9 questions raised therein pursuant to 28 U.S.C. § 1331. Venue of this controversy is  
10 proper in the Southern District of California pursuant to 28 U.S.C. 1391(b)(2)  
11 because a substantial part of the events or omissions giving rise to the claims  
12 herein occurred in the Southern District of California.

13 **II.**

14 **GENERAL ALLEGATIONS**

15 2. At all times relevant to this Complaint, plaintiff AMAURIE  
16 JOHNSON, was an individual residing in San Diego County, California.

17 3. At all times relevant to this Complaint, Defendant CITY OF LA  
18 MESA was a municipal corporation, incorporated in 1912, under the general laws  
19 of the state of California, which derives its municipal authority from the general  
20 laws of the state of California in respects not governed by city ordinance.

21 4. At all times relevant to this Complaint, defendant MATT DAGES was  
22 employed by the CITY OF LA MESA as a La Mesa Police Officer and was an  
23 individual and a resident of San Diego County, California.

24 5. Plaintiff is ignorant of the true names, identities, and capacities of  
25 DOES 1 through 10, inclusive. Therefore, plaintiff sues these defendants under the  
26 fictitious designations of DOES 1 through 10. Plaintiff will amend this complaint  
27 once their identities have been ascertained as well as the facts giving rise to their  
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1 liability.

2 **III.**

3 **FACTS**

4 6. On Wednesday, May 27, 2020, Plaintiff AMAURIE JOHNSON  
5 (hereafter “Mr. JOHNSON”) was a 23-year-old black male who was standing in  
6 front of the parking lot to “The District.” “The District” is a luxury apartment  
7 complex in the City of La Mesa. Mr. JOHNSON had just arrived at the premises to  
8 visit friends who are residents of “The District.” Mr. JOHNSON’s friends were  
9 returning from a local store.

10 7. Defendant MATT DAGES (hereafter “Officer DAGES”), along with  
11 a team of other La Mesa Police Officers, were performing enforcement at a nearby  
12 trolley station.

13 8. Officer DAGES walked away from the trolley station, crossed a street,  
14 and approached Mr. JOHNSON who was standing in front of the apartment  
15 complex waiting for his friends.

16 9. Officer DAGES asked Mr. JOHNSON why he was standing in front  
17 of the complex. Mr. JOHNSON explained to Officer DAGES that he was waiting  
18 for his friends to arrive. Officer DAGES asked Mr. JOHNSON if he was smoking  
19 weed and Mr. JOHNSON said he was not. Officer DAGES told Mr. Johnson that  
20 he didn’t believe him and ordered him to get his friends on the phone. Mr.  
21 JOHNSON complied and called his friends. As Mr. JOHNSON’s call was in  
22 progress, his friends pulled up to the scene and stopped their vehicle.

23 10. Mr. JOHNSON tried to walk away from Officer DAGES and end  
24 their interaction. Officer DAGES refused to allow Mr. JOHNSON to leave. Officer  
25 DAGES pushed Mr. JOHNSON to prevent him from going to his friends. Officer  
26 DAGES then grabbed Mr. JOHNSON by the jersey that Mr. JOHNSON was  
27 wearing and held him in place. Mr. JOHNSON explained that Officer DAGES had  
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1 no right to keep him detained and that he is leaving. Officer DAGES violently  
2 grabbed Mr. JOHNSON's arm, forcefully jerked Mr. JOHNSON's body, and  
3 aggressively pushed Mr. JOHNSON into a seated position. Officer DAGES kept  
4 control of Mr. JOHNSON by placing him in an arm-bar.

5 11. Mr. JOHNSON again tried to get up and go to his friends, asserting  
6 his right to leave as Officer DAGES had no authority to detain him. Officer  
7 DAGES repeatedly pushed Mr. JOHNSON down onto a concrete bench. This time,  
8 several other officers that were at the nearby trolley station had come to serve as  
9 backup for Officer DAGES. A backup officer [DOES 1] assisted Officer DAGES  
10 in handcuffing Mr. JOHNSON.

11 12. Officer DAGES then claims that Mr. JOHNSON "smacked" him. Mr.  
12 JOHNSON immediately denies doing this and reminds Officer DAGES that the  
13 entire interaction is on film. Several bystanders were recording the video on their  
14 cellular phones.

15 13. Officer DAGES arrested Mr. JOHNSON and drove him from the  
16 scene to the La Mesa Police Department. Officer DAGES issued Mr. JOHNSON a  
17 citation for Assault on a Peace Officer in violation of California Penal Code  
18 §243(b), and resisting/obstructing/delaying a Peace Officer in violation of  
19 California Penal Code §148(a). Officer DAGES then told Mr. JOHNSON to leave  
20 the police station.

21 14. On June 3, 2020, the City of La Mesa held a press conference about  
22 the incident. The Chief of the La Mesa Police Department stated that Mr.  
23 JOHNSON was contacted for a smoking in public at the platform area.

24 15. On the date of the incident, Mr. JOHNSON was never on the trolley  
25 platform. Mr. JOHNSON was not smoking. Mr. JOHNSON had no smoking  
26 paraphernalia on his person at the time of his arrest. There was no smoke on, or  
27 around, Mr. JOHNSON.  
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1 the moving force that caused general or non-economic damage to Mr. JOHNSON  
2 including physical pain, suffering, and emotional distress.

3 22. The conduct of Officer DAGES constituting false arrest, justifies the  
4 imposition of punitive damages against him in order to punish him for his conduct,  
5 and to deter him from engaging in similar conduct in the future, because the  
6 conduct was malicious, oppressive and/or in reckless disregard of Mr.  
7 JOHNSON's rights. The conduct was malicious because it was accompanied by ill  
8 will, spite and/or for the purpose of injuring Mr. JOHNSON. The conduct was  
9 oppressive because it injured and/or damaged Mr. JOHNSON and/or violated Mr.  
10 JOHNSON's rights with unnecessary harshness and/or severity, and it was a  
11 misuse or abuse of the authority or power by the defendant. The conduct was with  
12 a conscious disregard of Mr. JOHNSON's rights because, under the circumstances,  
13 it reflected a complete indifference to Mr. JOHNSON's safety or rights.  
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15 **VI.**

16 **SECOND CAUSE OF ACTION**

17 **Negligence**

18 **[Against the CITY OF LA MESA, Officer DAGES and DOES 1]**

19 Mr. JOHNSON incorporates by reference all prior allegations pled in this  
20 complaint.

21 23. Officer DAGES and DOES 1 had a duty to Mr. JOHNSON under  
22 California law to exercise ordinary care and prudence in their conduct and actions  
23 so as not to cause harm or injury to others, including Mr. JOHNSON.

24 24. Officer DAGES and DOES 1 breached the duty they owed to Mr.  
25 JOHNSON to exercise ordinary care by arresting Mr. JOHNSON for doing  
26 nothing more than standing by an apartment complex. Officer DAGES and DOES  
27 1 had special training to identify whether someone was in violation of California  
28 law and knew, or should have known, that Mr. JOHNSON was not.



1 force against Mr. JOHNSON was the moving force that caused general or non-  
2 economic damages to Mr. JOHNSON, including past physical pain, past and future  
3 suffering, and emotional distress. Officer DAGES' and DOES 1-6's use of  
4 unreasonable and excessive force against Mr. JOHNSON was the moving force  
5 that caused special or economic damages to Mr. JOHNSON, including future  
6 medical expenses.

7 29. The conduct of Officer DAGES and DOES 1-6, constituting the use of  
8 excessive force, justifies the imposition of punitive damages against Officer  
9 DAGES and DOES 1-6 to punish them for their conduct, and to deter them from  
10 engaging in similar conduct in the future, because the conduct was malicious,  
11 oppressive and/or in reckless disregard of Mr. JOHNSON's rights. The conduct  
12 was malicious because it was accompanied by ill will, spite and/or for the purpose  
13 of injuring Mr. JOHNSON. The conduct was oppressive because it injured and/or  
14 damaged Mr. JOHNSON and/or violated Mr. JOHNSON's rights with unnecessary  
15 harshness and/or severity, and it was a misuse or abuse of the authority or power  
16 by the defendant. The conduct was with a conscious disregard of Mr. JOHNSON's  
17 rights because, under the circumstances, it reflected a complete indifference to Mr.  
18 JOHNSON's safety or rights.  
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20 **VIII.**

21 **FOURTH CAUSE OF ACTION**

22 **Violence Because of Race – The Ralph Act – Civil Code §51.7**

23 **[Against Officer DAGES and DOES 1-6]**

24 Mr. JOHNSON incorporates by reference all prior allegations pled in this  
25 complaint.

26 30. Officer DAGES and DOES 1, whether or not acting under color of  
27 state law, interfered with Mr. JOHNSON's right to be free from any violence, or  
28 intimidation by threat of violence, committed against him because of political



1 affiliation or on account of his race.

2 31. Mr. JOHNSON is a black male that was wearing athletic gear and  
3 standing in front of a luxury apartment complex. Officer DAGES contacted Mr.  
4 JOHNSON for those reasons alone, despite the deceptive reasons claimed later.

5 32. Officer DAGES refused to believe that the black man in athletic gear  
6 would have friends that live in a luxury apartment complex. Officer DAGES  
7 challenged Mr. JOHNSON to call his friends to prove his reason for being there.  
8 This conduct was done on reasons rooted in the fact that Mr. JOHNSON is black.

9 33. Officer DAGES and DOES 1-6 intentionally interfered with Mr.  
10 JOHNSON's right to be free from any violence, or intimidation by threat of  
11 violence, committed against him because of political affiliation, or on account of  
12 his race, by Officer DAGES' repeated pushing Mr. Johnson, placing him in an arm  
13 bar, pushing his body onto concrete, and being strong-armed by two officers in  
14 order to be handcuffed. The force was used without cause, when Mr. JOHNSON  
15 was not an immediate threat to the safety of the officers or others. The force used  
16 against Mr. JOHNSON far outweighed any governmental interest in the use of  
17 force.  
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19 34. The violence, or intimidation by threat of violence, was committed  
20 against Mr. JOHNSON because of his race. This is demonstrated by the way  
21 Officer DAGES treated other white citizens present differently. Officer DAGES  
22 did not approach any of the white citizens and demand that they justify their  
23 presence. Officer DAGES did not think that Mr. JOHNSON belonged solely  
24 because of his race. That was the basis for initiating the entire encounter, and the  
25 reason that force was used to continue the unlawful encounter.

26 35. Officer DAGES' and DOES 1-6's use of violence or threat of  
27 violence against Mr. JOHNSON by using unreasonable and excessive force against  
28 Mr. JOHNSON was the moving force that caused general or non-economic

1 damages to Mr. JOHNSON including past physical pain, past and future suffering,  
2 and emotional distress and special or economic damages to Mr. JOHNSON  
3 including future medical expenses.

4 36. Due to Officer DAGES' and DOES 1-6's use of violence or  
5 intimidation by threat of violence against Mr. JOHNSON because of his race, Mr.  
6 JOHNSON is entitled to a statutory civil penalty of \$25,000 for each violation of  
7 California Civil Code §51.7 pursuant to California Civil Code §52.

8 37. The conduct of Officer DAGES and DOES 1-6, constituting the use of  
9 excessive force, justifies the imposition of punitive damages against Officer  
10 DAGES and DOES 1-6 to punish them for their conduct, and to deter them from  
11 engaging in similar conduct in the future, because the conduct was malicious,  
12 oppressive and/or in reckless disregard of Mr. JOHNSON's rights. The conduct  
13 was malicious because it was accompanied by ill will, spite and/or for the purpose  
14 of injuring Mr. JOHNSON. The conduct was oppressive because it injured and/or  
15 damaged Mr. JOHNSON and/or violated Mr. JOHNSON's rights with unnecessary  
16 harshness and/or severity, and it was a misuse or abuse of the authority or power  
17 by the defendant. The conduct was with a conscious disregard of Mr. JOHNSON's  
18 rights because, under the circumstances, it reflected a complete indifference to Mr.  
19 JOHNSON's safety or rights.  
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21 **IX.**

22 **FIFTH CAUSE OF ACTION**

23 **Excessive Force – The Bane Act – Civil Code §52.1**

24 **[Against Officer DAGES and DOES 1-6]**

25 Mr. JOHNSON incorporates by reference all prior allegations pled in this  
26 complaint.

27 38. Officer DAGES and DOES 1-6, whether or not acting under color of  
28 state law, interfered by threat, intimidation, or coercion, or attempted to interfere

1 by threat, intimidation, or coercion, with Mr. JOHNSON's exercise and/or  
2 enjoyment of his rights secured by the Fourth Amendment to the Constitution of  
3 the United States to be free from unreasonable searches and seizures caused by the  
4 use of objectively unreasonable and excessive force against Mr. JOHNSON. The  
5 force is evidenced by Officer DAGES' repeated pushing Mr. Johnson, placing him  
6 in an arm bar, pushing his body onto concrete, and being strong-armed by two  
7 officers in order to be handcuffed. The force was used without cause, when Mr.  
8 JOHNSON was not an immediate threat to the safety of the officers or others. The  
9 force used against Mr. JOHNSON far outweighed any governmental interest in the  
10 use of force.

11 39. Officer DAGES' and DOES 1-6's use of violence or threat of  
12 violence against Mr. JOHNSON by using unreasonable and excessive force against  
13 Mr. JOHNSON was the moving force that caused general or non-economic  
14 damages to Mr. JOHNSON including past physical pain, past and future suffering,  
15 and emotional distress and special or economic damages to Mr. JOHNSON  
16 including future medical expenses.

17 40. The conduct of Officer DAGES and DOES 1-6, constituting the use of  
18 excessive force justifies in the imposition of punitive damages against Officer  
19 DAGES and DOES 1-6 to punish them for their conduct, and to deter them from  
20 engaging in similar conduct in the future, because the conduct was malicious,  
21 oppressive and/or in reckless disregard of Mr. JOHNSON's rights. The conduct  
22 was malicious because it was accompanied by ill will, spite and/or for the purpose  
23 of injuring Mr. JOHNSON. The conduct was oppressive because it injured and/or  
24 damaged Mr. JOHNSON and/or violated Mr. JOHNSON's rights with unnecessary  
25 harshness and/or severity, and it was a misuse or abuse of authority or power by  
26 the defendants. The conduct was with a conscious disregard of Mr. JOHNSON's  
27 rights because, under the circumstances, it reflected a complete indifference to Mr.  
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1 JOHNSON's safety or rights.

2 X.

3 SIXTH CAUSE OF ACTION

4 *Monell Liability*

5 [CITY OF LA MESA]

6 Mr. JOHNSON incorporates by reference all prior allegations pled in this  
7 complaint.

8 41. Defendant CITY OF LA MESA has created a *de facto* policy and  
9 atmosphere of lawlessness and discrimination, encouraging excessive force by its  
10 officers by failing to supervise, review, and discipline its officers' use of force  
11 against citizens. Based on information and belief, the CITY OF LA MESA had  
12 knowledge of excessive force used by its officers for which the CITY OF LA  
13 MESA routinely ignored and failed to meaningfully investigate and discipline its  
14 officers, and failed to take any meaningful action on complaints made on  
15 governmental claim forms such as the one submitted by Mr. JOHNSON. This  
16 failure to supervise, investigate, and discipline officers that had government tort  
17 claims act complaints filed against them has created an attitude of lawlessness  
18 regarding the use of force within the police force and its longstanding practice has  
19 made the conduct of Officer DAGES and DOES 1-6 standard operating procedure  
20 and custom within the La Mesa Police Department.

21 42. Defendant CITY OF LA MESA's *de facto* policy and atmosphere of  
22 lawlessness and discrimination, encouraging excessive force by its officers, by  
23 failing to supervise, review, and discipline its officers' use of force against citizens,  
24 and failure to investigate citizen complaints of excessive force, thereby creating an  
25 atmosphere condoning use of force because officers knew there would be no  
26 repercussion or discipline, was the moving force behind the damage done to Mr.  
27 JOHNSON.  
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1           43. Defendant CITY OF LA MESA’s *de facto* policy and atmosphere of  
2 lawlessness has resulted in over 142 use of force incidents from 2016 to 2020.  
3 Only 23 of these use of force incidents resulted in discussions with the officers.  
4 Only two of these use of force incidents prompted further investigation. This  
5 includes a 2018 incident in which La Mesa Police Officer Scott Wulfing repeatedly  
6 slammed a handcuffed teenage girl. Officer Wulfing is reportedly still employed  
7 and without discipline as a result of that incident.

8           44. Defendant CITY OF LA MESA’s *de facto* policy and atmosphere of  
9 lawlessness is well-known to its citizenry. There have been days of protesting by  
10 those who demand that change take place and that officers be held accountable.  
11 Defendant CITY OF LA MESA is well aware of the atmosphere and has pledged  
12 transparency and appropriate action. Previous pledges of this nature have gone  
13 unfulfilled.

14           45. As a result of the CITY OF LA MESA’s custom and policy regarding  
15 the use of force, Mr. JOHNSON has sustained damages. He has sustained general  
16 or non-economic damages, including past physical pain, past and future suffering,  
17 and emotional distress and special or economic damages to Mr. JOHNSON  
18 including future medical expenses.  
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22           WHEREFORE, plaintiff AMAURIE JOHNSON, prays for relief as follows:

- 23           1. General damages according to proof at the time of trial;  
24           2. Special damages according to proof at the time of trial;  
25           3. Attorney fees pursuant to 42 U.S.C. § 1988,  
26           4. Attorney fees pursuant to California Civil Code §52.a(h),  
27           5. Punitive damages against MATT DAGES and DOES 1-6,  
28           6. Costs of suit incurred herein and interest; and

1           7.     Any further equitable or legal relief that this Court deems just and  
2 appropriate.

3  
4 DATED: July 29, 2020

THE LAW OFFICE OF TROY P. OWENS, JR.

5  
6           /s/ TROY P. OWENS, JR., ESQ.  
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