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County of San Diego
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Clerk of the Superior Court
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SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

BENITO LEO MILLETE; JUDITH I MILLETE
PLAINTIFFS,
VS.
CHULA VISTA POLICE DEPARTMENT, AND CITY OF CHULA VISTA AND DOES 1 THROUGH 100, INCLUSIVE.
DEFENDANTS.

CASE NO.: 37-2022-00017223-CU-CR-CTL
1.COMPLAINT FOR VIOLATION OF CIVIL RIGHTS 42 U.S.C. 1983 (fourth, fifth, and 14th amendment)
2. INTENTIONAL INFLECTION OF MENTAL DISTRESS
3. CONVERSION
4. UNLAWFUL DETENTION AND EXCESSIVE FORCE
5. NEGLIGENCE
6. ASSAULT

I GENERAL FACTUAL BACKGROUND

1. Plaintiffs held rights secured by the Constitution or laws of the United States, and defendants, City of Chula Vista (CCV), Chula Police Department (CVPD) police officers were acting under the color of the law. This is a complaint by plaintiffs seeking damages arising out of a claim for

1 violation of 42 U.S.C. §1983 to recover damages for, unlawful detention, and excessive force,
2 intentional infliction of mental distress, conversion, negligence, and assault. This Court has
3 authority under 42 U.S.C. §1983, over individuals such as plaintiffs to recover damages resulting
4 from the violations of their civil rights, including physical, mental, and emotional injuries.
5 Plaintiffs filed an administrative claim against the City of Chula Vista and received a right to sue
6 letter. Defendants were police officers for the City of Chula Vista (CCV) and Chula Vista Police
7 Department. The City of Chula Vista Police Department police officers entered the plaintiffs'
8 home with guns, armed, wearing bullet proof vests as they entered plaintiffs' home located in
9 Chula Vista, California on May 7, 2021, July 1, 2021, and October 19, 2021. Police officers
10 stated they were looking for Larry Millete's guns. The police officers searched plaintiffs' home
11 and seized their property. CCV police officers claim a valid search warrant. The CCV police
12 officers took guns belonging to Larry Millete's guns and Larry Millete's Lexus, Rubicon, Jeep
13 among others. Plaintiffs had resided in the home for over 10 years. Police officers went to the
14 grandchildren' school and unlawfully detained them from 9:00 am to 5:30 pm. without the
15 plaintiffs' consent. CCV Police officers had custody of the children for over eight hours without
16 the presence of an adult and without the plaintiffs' consent.

21 II 22 PARTIES

23 2. Defendant Chula Vista Police Department, (CVPD) is a local law enforcement
24 department of the City of Chula Vista, California (CCV). At all relevant times herein Plaintiffs
25 Judith and Benito Leo were residents of the City of Chula, California

26 3. Plaintiffs were residents of the County of San Diego, California.

27 4. Plaintiffs are informed and believe the police officers were acting within the course and scope
28 of their employment with the City of Chula Vista (CCV)

1 5. The true names and capacities of the Defendants named herein as Does 1 through 100,
2 inclusive, whether individual, corporate, associate, or otherwise are unknown to Plaintiff who
3 therefore sues such defendants by fictitious names under California Code of Civil Procedure §
4 474. Plaintiffs are informed and believe that Doe Defendants are California residents. Plaintiffs
5 will amend this Complaint to show such true names and capacities when they have been
6 determined. Each defendant was an agent of the other Defendants and ratified the conduct of the
7 other Defendants.

8 III

9 FIRST CAUSE OF ACTION 10 VIOLATION OF CIVIL RIGHTS in VIOLATION OF 42 USC 1983

11 6. The allegations or paragraphs 1-5 are realleged and incorporated by reference as though
12 set forth herein.

13 7. On May 7, 2021, the CCV police officers entered plaintiffs' residence dressed in bullet-
14 proof vests and carried loaded guns. The CCV police officers entered the plaintiffs' home they
15 had a search warrant. However, CCV police officers used excessive force and unlawfully
16 entered the plaintiffs' grandchildren's bedroom and did not wait for the plaintiffs to give them a
17 key to the door. The police officers just forced their way in the plaintiffs' grand daughters'
18 bedroom pointing their guns at them. Plaintiffs' grandchildren were in shock and terror.
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21 8. CCV Police officers unlawfully detained the plaintiffs and their three grandchildren, grandson
22 age 5, granddaughters, ages 9 and 11. CCV police officers told the plaintiffs and the three
23 grandchildren to go to the kitchen and not to leave the kitchen. Afterwards, the CCV police
24 officers demanded that the plaintiffs go outside in the back yard. The plaintiffs and the
25 grandchildren were in the back yard for about two hours. Neighbors and the media and others
26 were staring at plaintiffs and their grandchildren. Plaintiffs were embarrassed, humiliated
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1 shocked, and very upset at the CCV police officers' conduct. Plaintiffs were intimidated, and
2 their sense of dignity, and civil rights were violated.

3 9. Plaintiffs and the grandchildren were shocked, trembling, shaken, scared, and uncomfortable
4 because they were intimidated by the CCV police officers' actions.
5

6 10. Plaintiffs had to wait for many hours in panic and fear.

7 11. As a proximate result of the intentional and malicious conduct defendants' actions or
8 omissions, plaintiffs suffered humiliation, severe mental distress, anxiety, and emotional
9 anguish, together with loss of monies, attorney fees, inconveniences, and extraordinary expenses
10 in an amount to be proved at trial.
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12 12. Wherefore, plaintiffs pray for judgment as hereinafter provided.

13 IV
14 SECOND CAUSE OF ACTION
15 INTENTIONAL INFLICTION OF MENTAL DISTRESS

16 13. Plaintiffs allege and incorporates paragraphs 1 through 12, as though fully set forth herein.

17 14. The conduct of defendants on May 7, 2021, July 1, 2021, , and October 10, 2021 was
18 intentional and extreme and done for the purpose of causing intentional infliction of mental
19 distress on July 1, 2021. CCV police officers knocked on the plaintiffs 'door. When plaintiff
20 Benito Leo opened it, there were various law enforcement officers outside including CCV police,
21 homeland security, FBI and NCIS. Plaintiff Benito Leo asked for a search warrant, and a
22 detective by the name of Sandra told plaintiff Benito Leo to read it. Plaintiff Benito Leo politely
23 asked if he could get his reading glasses. A police officer followed plaintiff Benito Leo, pushed
24 him and yelled at plaintiff Benito Leo to show him his hands. Plaintiff Benito Leo fell, and when
25 plaintiff Benito Leo looked to his left, Lt. Peak and Detective Sandra saw Plaintiff Benito Leo, as
26 a CCV police officer pointing a gun at him (Bonito Leo). Plaintiffs Judith and Benito Leo were
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1 in fear and shock for all the unnecessary, excessive force, inappropriate, unjust and hostile
2 treatment of the CCV police officers toward them. The police officers showed no respect or
3 compassion for the three grandchildren, who were traumatized by the multiple searches of their
4 home. The search warrant was for electronics, and they took all cellphones, i-pads, computers,
5 all electronics including plaintiff Benito Leo' heart monitor.

7 15. Furthermore, on September 17, 2021, around 11:00 a.m. Plaintiff Benito Leo went to Arroyo
8 Vista Elementary School to pick up his grandson Lazarus Millete. He was informed that his
9 grandson had been taken by the CCV police officers. Plaintiffs were worried. When they went to
10 pick up their grand daughters, plaintiffs were worried even more, because they were not at the
11 usual pick-up spot. Plaintiffs went to the office to find out where they were. Plaintiffs were told
12 by the clerk that about 9:00 a.m. police took them. The CCV police officers did not return the
13 three children until 5:30 p.m.

15 16. The conduct of the CCV police officers in picking up the grandchildren from their school
16 without consent of the plaintiffs was not only unlawful, but was intentional, extreme, and
17 outrageous conduct.

19 17. The outrageous, severe, and intentional conduct of defendants was done with a reckless
20 disregard of the probability of causing plaintiffs' emotional distress. Plaintiffs suffered severe or
21 extreme emotional distress. Defendants had the intent to inflict severe emotional distress;
22 defendants' conduct was so outrageous and extreme and went beyond bounds of decency.
23 Defendants have caused plaintiffs anxiety, stress, mental distress, emotional distress which has a
24 negative effect on plaintiffs' physical and mental and emotional health.

26 18. As a proximate result of the intentional and malicious conduct defendants' actions or
27 omissions, plaintiffs suffered humiliation, severe mental distress, anxiety, and emotional
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1 anguish, together with loss of monies, attorney fees, inconveniences, and extraordinary expenses
2 in an amount to be proved at trial.

3 19. Wherefore, plaintiffs pray for judgment as hereinafter provided.
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6 V
7 THIRD CAUSE OF ACTION
8 CONVERSION

9 20. Plaintiffs allege and incorporates paragraphs 1 through 19, as though fully set forth
10 herein.

11 21. On May 7, 2021, and continuing defendants intentional interfered with the property of
12 plaintiffs with the intent to deprive the plaintiffs of their personal property. Defendants
13 wrongfully seized plaintiffs' personal property and destroyed many things plaintiffs owned. The
14 CCV police officers left plaintiffs' home in ruins; caused dishwasher to flood the kitchen.
15 Plaintiffs had ownership or right to the personal property at the time that the CCV police officers
16 converted it as discussed herein, which also includes all electronics such as computers, iPad,
17 heart monitor, and cannon camera. CCV Police department continues to hold on to plaintiffs'
18 properties for no good reason, just to deprive plaintiffs from the use, enjoyment, security and
19 protection of the personal property.
20

21 22. The aforementioned conduct of CCV police officers constitutes conversion with the intent on
22 the part of defendants of thereby depriving plaintiffs of property or legal rights or otherwise
23 causing injury and was despicable conduct that subjected plaintiffs to a cruel and unjust hardship
24 in conscious disregard of plaintiffs' rights, so as to justify an award of exemplary and punitive
25 damages.
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27 23. On or about October 19, 2021, various CCV law enforcement agencies searched the
28 residence again, broke doors, walls, and broke a pipe in the kitchen, leaving all personal property

1 in complete disarray. The CCV police officers took the new iPads the plaintiffs had purchased
2 for the children to use for school, since the children's old devices were seized by the police
3 officers and never returned to them. Expensive armor suits and Halloween masks for the children
4 were taken as well. The police officers did not provide any list of items they took.

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6 24. As a proximate result of the intentional and malicious conduct defendants' actions or
7 omissions, plaintiffs suffered humiliation, severe mental distress, anxiety, and emotional
8 anguish, together with loss of monies, attorney fees, inconveniences, and extraordinary expenses
9 in an amount to be proved at trial.

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11 25. Wherefore plaintiffs pray for damages as herein provided.

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VI
FOURTH CAUSE OF ACTION
UNLAWFUL DETENTION AND EXCESSIVE FORCE

26. Plaintiffs allege and incorporate, paragraph 1 through 25 as though fully set forth herein

27. On or about October 19, 2021, around 11:30 a.m. on the way to pick up their grandson
from Arroyo Vista Elementary School, plaintiffs were stopped by more than six motor vehicles
(SUVs). Then there were more or less fifteen heavily armed officers wearing U.S. Marshall vests
got out of the car and approached the plaintiffs. Plaintiff Benito Leo asked why they were
stopped, and they told plaintiffs it was for an investigation. Plaintiffs further inquired of who
they were. The police officer told plaintiffs they were U. S. Marshall, FBI, and NCIS and
Homeland Security. Shortly afterwards two Chula Vista police cars arrived. Two Chula Vista
police officers got out of their vehicle, approached plaintiffs and asked plaintiffs to get out of
their vehicle. The two CCV police officers patted plaintiffs down and searched their vehicle.
Plaintiff Benito Leo informed CCV police officers that he had to pick up his grandson. CCV
police officers said, okay but plaintiffs had to go with them to the police station right afterwards.

1 Detective Rosario informed plaintiffs that their son Larry Millete was arrested and that plaintiffs
2 cannot go home because there is an ongoing search at their house (place of residence). Plaintiffs
3 and the grandchildren went to the CCV police station and stayed there as they waited for the
4 police to search their house. Detective Jesse Vicente did not call plaintiffs to let them know that
5 they could go back to until past midnight. Only the plaintiffs went back to their house because
6 the children were still sleeping, when plaintiffs went back to the house, they saw that the house
7 was in complete disarray. Every time the house is searched doors and locks were broken,
8 everything completely left opened, disorganized, completely trashed.

11 28. As a proximate result of excessive force and unlawful detention, and the intentional and
12 malicious conduct defendants' actions or omissions, plaintiffs suffered humiliation, severe
13 mental distress, insomnia, loss of privacy, and violation of constitutional rights and freedom,
14 anxiety, and emotional anguish, together with loss of monies, attorney fees, inconveniences, and
15 extraordinary expenses in an amount to be proved at trial.

17 29. Wherefore, plaintiffs pray for judgment as hereinafter provided.

18 VII

19 FIFTH CAUSE OF ACTION FOR NEGLIGENCE

20 30. Plaintiffs allege and incorporates paragraphs 1 through 29, as though fully set forth
21 herein.

23 31. The defendants, CCV police officers of the City of Chula Vista Department and the City
24 of Chula Vista owed the plaintiff Benito Leo and plaintiff Judith a duty of due care and a duty of
25 reasonable care not to cause a reasonable at risk of harm to the plaintiffs, or a risk of harm to
26 their grandchildren. Defendants unlawfully detained the three grandchildren for over eight hours
27 without obtaining consent from the grandparents.
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1 32. The City of Chula Vista and the CCV police officers, City of Chula Vista Department, '
2 breach of duty occurred when the CCV police officers failed to observe the duty to use
3 reasonable care as required of them. Plaintiffs as alleged and discussed herein that defendants
4 CCV police officers and the City of Chula Vista and each of them violated statute 42 USC 1983.
5 The injury resulted from the occurrence the nature of which the statute was designed to prevent,
6 and plaintiffs were members of the class of persons for whose protection the statute was adopted.
7 Defendants breached their duty by pushing Plaintiff Benito Leo, pointing the gun at him; yelling
8 at him and pushing him down caused him harm.
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11 33. The CCV police officers, City of Chula Vista Police Department, and City of Chula Vista did
12 not perform or observe the duty of reasonable standard of due care. Defendants failed to conduct
13 proper investigations of the number of searches and seizures of items from the plaintiffs' place of
14 residence. The Chula Vista Police Department, the CCV police officers and City of Chula Vista
15 failed to stop or prevent the continued searches of plaintiffs' residence or to prevent a
16 continuation of the searches which occurred at all times during the day and night.
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18 34. As a result of defendants' negligence, Defendant police officers proximately caused the
19 injury to plaintiffs. The defendants failed to observe the duty of care, which was the cause of the
20 injury to plaintiffs. Plaintiffs' electronics, heart monitor was taken for no justifiable reason, many
21 of the items of the grandchildren were taken for no good reason or justification, even though the
22 grandchildren needed them for school.
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24 35. Wherefore plaintiffs pray for judgment as hereinafter provided.
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26 VIII
27 SIXTH CAUSE OF ACTION
28 ASSAULT

36. Plaintiffs allege and incorporates paragraphs 1 through 35 as though fully set forth herein.

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2 35. On or about July 1, 2021, defendants acted, intending to cause harmful or offensive conduct
3 to plaintiffs. A police officer followed plaintiff Benito Leo, pushed him; yelled at plaintiff Benito
4 Leo to show him his hands. Plaintiff Benito Leo fell after he was pushed by the police officer,
5 and when plaintiff Benito Leo looked to his left Lt. Peak and Det Sandra saw plaintiff Benito
6 Leo, as the police officer placed plaintiff Benito Leo in apprehension of bodily harm, and when
7 the police officer pointed a gun at him. Plaintiffs Judith and Benito Leo were in fear and shock
8 for all the unnecessary, excessive force, inappropriate, unjust and hostile treatment of the CCV
9 officers toward them. The police officers showed no respect or compassion for the three
10 grandchildren, who were traumatized by the multiple searches of their home. The search warrant
11 was for electronics, and they took all cellphones, i-pads, computers, all electronics including
12 plaintiff Benito Leo's heart monitor.
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15 36. That plaintiff reasonably believed that they were about to be touched in a harmful or
16 offensive manner. As set forth in paragraph 34, defendants threatened to touch plaintiff Benito
17 Leo in a harmful or an offensive manner, and it reasonably appeared to plaintiff Benito Leo that
18 the police officer was about to carry out the threat by shooting him.
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20 37. Plaintiff Benito did not consent to defendants' conduct.

21 38. That plaintiff Benito Leo was harmed, and defendants conduct was a substantial factor in
22 causing plaintiff Benito Leo harm. The CCV police officers' pointing of the gun and pushing of
23 plaintiff Benito Leo was offensive and would have offended a reasonable sense of personal
24 dignity.
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26 39. As a direct result of the conduct of the police officers' plaintiffs sustained severe emotional
27 distress, physical pain, emotional anguish, humiliation, embarrassment and other physical and
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1 emotional injuries. As a direct and legal result of defendant police officer's actions as alleged
2 herein, plaintiff Benito Leo in fact was placed in apprehension of bodily harm.

3 40. Defendants' conduct was committed maliciously, oppressively with the wrongful
4 intention, and with a willful conscious disregard of the rights of plaintiffs, justifying an award of
5 punitive damages.
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7 41. Wherefore plaintiffs pray for judgment as herein after provided.

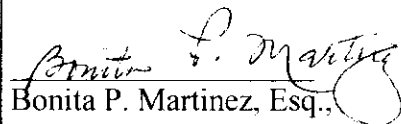
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9 IX
PRAYER FOR RELIEF

10 42. WHEREFORE, Plaintiffs requests relief as follows:

- 11 1. For damages for mental and emotional distress
- 12 2. For pain and suffering
- 13 3. General damages and non-economic damages.
- 14 4. For punitive damages as appropriate.
- 15 5. For an award of interest, including prejudgment interest at the prevailing legal rate.
- 16 6. For cost of the suit, including reasonable attorney fees required by statutes.
- 17 7 For such other and further relief as the Court may deem proper.

18 Date: 5-6-2022

19 Submitted by:

20 
Bonita P. Martinez, Esq.,

21 Attorney for Plaintiffs,
22 Benito Leo Millete, Judith I. Millete

23 JURY DEMAND

24 Plaintiffs demand trial by jury in this action.
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