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**FILED**

2007 AUG 20 10 3: 11

K. TORRE, CLERK OF THE SUPERIOR COURT  
COUNTY OF CONTRA COSTA, CALIF.

BY: \_\_\_\_\_  
S. KNIGGEN, Deputy Clerk

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 COUNTY OF CONTRA COSTA

11 PETER MARTIN QUICHIS

12 Plaintiff,

13 vs.

14 CITY OF ANTIOCH, a municipal  
15 corporation; ANTIOCH POLICE  
16 DEPARTMENT, an entity of unknown form;  
17 APD OFFICER KEVIN KOLLO, in his  
18 official and individual capacities; APD  
19 OFFICER MARTINEZ, in his official and  
20 individual capacities; and DOES 1-20,  
21 inclusive,

22 Defendants.

Case No.: **C07-01829**

COMPLAINT FOR DAMAGES

- Unreasonable Search and Seizure
- Violation of Due Process
- False Arrest and Imprisonment
- Assault and Battery
- Intentional Infliction of Emotional Distress
- Negligence
- Violation of Bane Civil Rights Act
- Violation of Ralph Civil Rights Act

JURY TRIAL DEMANDED

PER LOCAL RULES 5 THIS  
CASE IS ASSIGNED TO  
DEPT. \_\_\_\_\_

**BY FAX**

23 Plaintiff alleges:

24 **PARTIES AND JURISDICTION**

25 1. Plaintiff PETER MARTIN QUICHIS is, and at all times herein mentioned was, an  
26 individual with his residence in the City of Brentwood, County of Contra Costa, State of  
27 California.

28 2. Defendant CITY OF ANTIOCH is, and at all times herein mentioned was, a  
municipal corporation duly organized and existing under the laws of the State of California.

3. Defendant ANTIOCH POLICE DEPARTMENT ("APD") is, and at all times herein  
mentioned was, a department within the City of Antioch, which is owned and operated by it.

1           4. Defendant APD OFFICER KEVIN KOLLO (Badge # 2990) is, and at all times  
2 herein mentioned was, an employee of the APD, acting under the color of law within the scope  
3 of his employment, who participated in the execution of the police misconduct complained of  
4 herein.

5           5. Defendant APD OFFICER MARTINEZ is, and at all times herein mentioned was,  
6 an employee of the APD, acting under the color of law within the scope of his employment, who  
7 participated in the execution of the police misconduct complained of herein. Plaintiff does not  
8 know Officers Martinez' first name.

9           6. Plaintiff does not presently know the true names and capacities of the defendants  
10 sued herein as DOES 1-20, inclusive. Plaintiff will seek leave of the court to amend this  
11 complaint to allege said defendants' true names and capacities as soon as plaintiff ascertains  
12 them. Plaintiff is informed and believes and therefore alleges that each of the Doe defendants is  
13 legally responsible and liable for the injuries and damages hereinafter set forth, and that each of  
14 said defendants proximately caused said injuries and damages by reason of their negligence,  
15 breach of duty, negligent supervision, management or control, violation of constitutional and  
16 legal rights, or by reason of other personal, vicarious or imputed negligence, fault, or breach of  
17 duty, whether severally or jointly, or whether based upon agency, employment, or control upon  
18 any act or omission. Plaintiff will ask leave to amend this complaint to insert further charging  
19 allegations when such facts are ascertained.

20           7. Each of the defendants, including defendants DOES 1 through 20, caused and is  
21 responsible for the below-described unlawful conduct and resulting injuries by, among other  
22 things, personally participating in the unlawful conduct or acting jointly or conspiring with  
23 others who did so; by authorizing, acquiescing in or setting in motion policies, plans or actions  
24 that led to the unlawful conduct; by failing to take action to prevent the unlawful conduct; by  
25 failing and refusing with deliberate indifference to plaintiff's rights to initiate and maintain  
26 adequate training and supervision; and by ratifying the unlawful conduct that occurred by agents  
27 and officers under their direction and control, including failing to take remedial or disciplinary  
28 action.



1           18. Some of those in the parking lot were drinking alcoholic beverages in the parking  
2 lot, though plaintiff was not.

3           19. Defendant Kollo, driving a police car, twice circled the block and on his second  
4 pass entered the parking lot.

5           20. Officer Kollo parked next to plaintiff and his companions, exited his car,  
6 approached plaintiff directly, and asked plaintiff for identification.

7           21. Plaintiff replied that he did not have identification.

8           22. Kollo moved closer to plaintiff and plaintiff, intimidated, asked, “what happened?”

9           23. Officer Kollo ordered plaintiff to turn around and place his hands on his head.  
10 Plaintiff complied.

11          24. Plaintiff asked inquisitively and not sarcastically, “what’s goin’ on?”

12          25. Kollo snarled, “you trying to be tough in front of your friends?” and shouted, “lock  
13 your fingers.”

14          26. Plaintiff asked, “what did I do wrong?” Officer Kollo yelled, “I’m not gonna ask  
15 again.”

16          27. Plaintiff quickly locked his fingers and asserted, “I’m not resisting arrest.”

17          28. As soon as plaintiff locked his fingers, Officer Kollo threw plaintiff to the ground,  
18 pushing his shoulder and head into the ground. Kollo immediately applied a choke hold,  
19 prompting plaintiff to scream until his oxygen supply was cut off.

20          29. Officer Kollo next slammed plaintiff’s head again against the ground.

21          30. Having securely pinned plaintiff, defendant Kollo next handcuffed plaintiff so tight  
22 that plaintiff could not feel his hands.

23          31. Officer Kollo picked plaintiff up off the ground, patted him down, and pushed him  
24 towards the police vehicle.

25          32. At some point during this encounter, defendant Martinez approached the scene in  
26 another police car.

27          33. Officer Martinez opened the rear door of the police vehicle and Officer Kollo threw  
28 plaintiff into the back seat.

1           34. Officer Kollo entered the car on the driver's side. Kollo closed the door and told  
2 plaintiff, "you're not so tough now, you little bitch."

3           35. Officer Martinez, from the passenger-side rear door, pushed plaintiff against the  
4 opposite-side door, slamming plaintiff's head against the car door causing further injury to  
5 plaintiff's head where Kollo had previously slammed him into the ground.

6           36. Officer Martinez called plaintiff a "little piece of shit" and then closed the door to  
7 the police car.

8           37. The handcuffs on plaintiff's wrist were clamped so tight that they were causing  
9 plaintiff excruciating pain and plaintiff screamed for the handcuffs to be loosened.

10          38. Plaintiff passed in and out of consciousness for what seemed to him to be thirty  
11 minutes.

12          39. When plaintiff woke up Kollo asked, "where's the weed at?"

13          40. Plaintiff replied that he didn't have anything.

14          41. Plaintiff observed Officer Kollo, and an officer that resembled Officer Martinez,  
15 searching plaintiff's vehicle, which was parked in the Delta View Apartments parking lot.

16          42. Plaintiff's friend, Jackie, asked one of the officers for plaintiff's vehicle keys so that  
17 she could move the car after the officers were done searching the vehicle. Officer Martinez  
18 refused to give the keys to Jackie.

19          43. After Officer Martinez' refusal, Officer Kollo began driving to the police station,  
20 leaving Martinez behind.

21          44. While en route to the police station, plaintiff asked defendant Kollo, "why do you  
22 have to do this to me?"

23          45. Kollo answered, "you should have cooperated."

24          46. Officer Kollo continued driving and, after a brief pause, told plaintiff, "I'm gonna  
25 take you to the woods, you little spic."

26          47. Upon arrival to the police station, Kollo removed Quichis from the police car and  
27 patted him down.

28

1           48. Kollo took plaintiff to a small room with a window, where plaintiff lost  
2 consciousness.

3           49. Officer Kollo and another officer, a large white or Latino man, entered and Kollo  
4 asked plaintiff to take his shirt off.

5           50. As Kollo began taking plaintiff's handcuffs off, plaintiff looked to the other side,  
6 away from the defendant. Officer Kollo said, "I'm gonna beat you up more if you keep looking  
7 to the side."

8           51. Plaintiff told defendant that Kollo has aggravated an injury that plaintiff had in his  
9 lower back, calling it a "disability." Officer Kollo responded that plaintiff was "gonna have  
10 more disabilities if [he didn't] stop looking to the side." Kollo smiled and laughed after making  
11 this comment.

12           52. The officer with Officer Kollo started laughing and said that if he had caught  
13 plaintiff instead of Kollo he "would have got [plaintiff] more fucked up."

14           53. Plaintiff asked to use the restroom. He was allowed to do so and was returned to the  
15 same room.

16           54. Plaintiff was again patted down. Kollo asked him to take off his shirt and shoes and  
17 to sit down. Plaintiff complied.

18           55. The officers left and plaintiff again lost consciousness.

19           56. Officer Kollo returned to the room, waking plaintiff to return his shirt and shoes.

20           57. Defendant told plaintiff that he would then have his booking photo taken and told  
21 plaintiff not to upset the woman who was to be taking the photo.

22           58. Kollo told plaintiff to get up and when plaintiff did so, plaintiff fell to the floor.

23           59. The booking woman, a black woman who was pleasant toward plaintiff, approached  
24 him where he lay, and took his fingerprints while plaintiff was on the floor.

25           60. Plaintiff asked the booking woman if he could go to the hospital.

26           61. The booking woman responded, "let's finish this first so you can go."

27           62. The booking woman took plaintiff's pictures while he was on the floor.  
28



1 78. Plaintiff is required to comply with the Tort Claims Statute and filed a Notice of  
2 Claim against the City of Antioch on January 8, 2007.

3 79. On February 13, 2007, the City of Antioch rejected plaintiff's claim.

4 **FIRST CAUSE OF ACTION**  
5 **UNREASONABLE SEARCH AND SEIZURE**  
6 **Violation of California Constitution, Article I, Section 13**  
7 **(against all Defendants)**

8 80. Plaintiff hereby incorporates by reference paragraphs 1-79 above as though fully set  
9 forth herein.

10 81. Plaintiff was legally present at 3915 Delta View Boulevard and was not engaged in  
11 any illegal activities.

12 82. Plaintiff's failure to produce identification upon request does not constitute an  
13 illegal activity or rise to the level of justifying a search, nor a seizure of plaintiff's person or  
14 vehicle.

15 83. The amount of force used to unreasonably detain plaintiff was excessive as plaintiff  
16 complied with all of defendant Kollo's requests.

17 84. In doing the aforementioned acts, defendants, and each of them, violated plaintiff's  
18 rights to be free from unreasonable searches and seizures and excessive force under article I,  
19 section 13 of the California Constitution.

20 85. As a direct and proximate result of this unreasonable search and seizure and use of  
21 excessive force, plaintiff suffered extreme emotional distress, mental anguish, and physical pain,  
22 suffering, and lost wages, as alleged herein.

23 86. Under Government Code § 820(a), the individual officer defendants are liable for  
24 their own misconduct.

25 87. Under Government Code § 815.2(a), the public entity employers are vicariously  
26 liable for conduct performed by the individual officers within the scope and course of their  
27 employment.

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2 **SECOND CAUSE OF ACTION**  
3 **DUE PROCESS**

4 **Violation of California Constitution, Article I, Section 7(a)**  
5 **(Against all defendants; Declaratory and Injunctive Relief only)**

6 88. Plaintiff hereby incorporates by reference paragraphs 1-87 above as though fully set  
7 forth herein.

8 89. Defendants' above-described conduct violated plaintiff's right not to be deprived of  
9 property or liberty without due process of law under article I, section 7(a) of the California  
10 Constitution.

11 **THIRD CAUSE OF ACTION**  
12 **FALSE ARREST/IMPRISONMENT**  
13 **Violation of California Constitution, Article I, Section 13**  
14 **(against all Defendants)**

15 90. Plaintiff hereby incorporates by reference paragraphs 1-89 above as though fully set  
16 forth herein.

17 91. On or about July 15, 2006, plaintiff was seized and arrested by defendants Officer  
18 Kollo and Officer Martinez when plaintiff had not committed any crime or public offense.

19 92. Defendants Officer Kollo and Officer Martinez intentionally restrained plaintiff and  
20 delivered him to the City Jail where he was imprisoned for approximately three hours.

21 93. Plaintiff did not consent to the detention.

22 94. In doing the aforesaid acts, defendants, and each of them, violated plaintiff's right  
23 to be free from unreasonable seizures of his person under article I, section 13 of the California  
24 Constitution.

25 95. As a direct and proximate result of this unreasonable seizure of his person, plaintiff  
26 suffered extreme emotional distress, mental anguish, and physical pain, suffering, and lost  
27 wages, as is more fully set forth below.

28 96. Under Government Code § 820(a), the individual officer defendants are liable for  
their own misconduct.

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1 **EIGHTH CAUSE OF ACTION**  
2 **NEGLIGENCE**  
3 **(against Defendants Does 1-20, APD and City of Antioch)**

4 129. Plaintiff hereby incorporates by reference paragraphs 1-128 above as though fully  
5 set forth herein.

6 130. Defendants APD, the City of Antioch, and DOES 1-20 had a duty of care to the  
7 Plaintiff and to the public to use reasonable care in their hiring, training, supervision, discipline  
8 and retention of the defendant officers.

9 131. Defendants, and each of them, breached this duty of care to the plaintiff and the  
10 public in their hiring, supervision, training, discipline, and retention of the defendant officers  
11 who committed the torts and constitutional violations described above.

12 132. As a direct and proximate result of the negligence of these defendants, plaintiff  
13 suffered extreme emotional distress, mental anguish, and physical pain, suffering, and lost  
14 wages, as is more fully set forth below.

15 133. Under Government Code § 820(a), the individual officer defendants are liable for  
16 their own misconduct.

17 134. Under Government Code § 815.2(a), the public entity employers are vicariously  
18 liable for conduct performed by the individual officers within the scope and course of their  
19 employment.

20 **NINTH CAUSE OF ACTION**  
21 **NEGLIGENCE**  
22 **(against all Defendants)**

23 135. Plaintiff hereby incorporates by reference paragraphs 1-134 above as though fully  
24 set forth herein.

25 136. Defendants Officer Kollo and Officer Martinez had a duty of care to the plaintiff  
26 and the general public to protect life and property through the enforcement of laws, ordinances,  
27 and California's Constitution. .

28 137. Defendants Officer Kollo and Officer Martinez had a duty of care to the plaintiff to  
not unnecessarily or unreasonably inflict bodily injury upon plaintiff during the course of their  
official duties.

1 138. Defendants, and each of them, breached the duty of care to the plaintiff to protect  
2 plaintiff through the enforcement of laws, ordinances, and California's Constitution, as described  
3 above and more fully set forth below.

4 139. As a direct and proximate result of the negligence of these defendants, plaintiff  
5 suffered extreme emotional distress, mental anguish, and physical pain, suffering, and lost  
6 wages, as is more fully set forth below.

7 140. Under Government Code § 820(a), the individual officer defendants are liable for  
8 their own misconduct.

9 141. Under Government Code § 815.2(a), the public entity employers are vicariously  
10 liable for conduct performed by the individual officers within the scope and course of their  
11 employment.

12  
13 **TENTH CAUSE OF ACTION**  
14 **BANE CIVIL RIGHTS ACT**  
15 **Violation of California Civil Code Section 52.1**  
16 **(against all Defendants)**

17 142. Plaintiff hereby incorporates by reference paragraphs 1-141 above as though fully  
18 set forth herein.

19 143. Under article I, section 13 of the California Constitution, plaintiff has the right to be  
20 free from unreasonable searches and seizures and the use of excessive force.

21 144. Under article I, section 7(a) of the California Constitution, plaintiff has the right to  
22 be free from deprivation of life, liberty, or property without due process of law or denied equal  
23 protection of the laws;

24 145. Defendants' above-described conduct constituted interference with, and attempted  
25 interference, by threats, intimidation, and coercion, with plaintiff's peaceable exercise and  
26 enjoyment of these rights secured by the Constitution, in violation of California Civil Code §  
27 52.1.

28 146. As a direct and proximate result of defendants' interference with plaintiff's  
constitutional rights, plaintiff suffered extreme emotional distress, mental anguish, physical pain,  
suffering, and lost wages, and incurred attorney fees, as is more fully set forth below.





- 1 5) Treble damages for each violation of the Ralph Civil Rights Act, as
- 2 provided by §§ 52(a) & 52.1;
- 3 6) Reasonable attorney's fees;
- 4 7) Costs of suit incurred herein;
- 5 8) That this Court issue an order requiring defendants to show cause why they
- 6 should not be enjoined, as hereinafter set forth;
- 7 9) That this Court issue a preliminary injunction, and a permanent injunction,
- 8 enjoining defendants and their agents, servants, and employees, and all persons
- 9 acting under and in concert with, or for them, from continuing to violate the
- 10 statutory and constitutional rights of citizens to be free from unreasonable
- 11 searches and seizures; and
- 12 10) All other compensatory, equitable and declaratory relief as this Court deems just.

13  
14 Dated: \_\_\_\_\_

8/20/07

BRIGHTLINE DEFENSE PROJECT



Joshua Arce, Esq.  
Attorney for Plaintiff  
PETER MARTIN QUICHIS