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14 UNITED STATES DISTRICT COURT  
15 NORTHERN DISTRICT OF CALIFORNIA

16 CYNTHIA PETERS and MARK PARR,

17 Plaintiffs,

18 vs.

19 CITY OF RICHMOND, ACTING CHIEF  
20 TERRY HUDSON, individually and in his  
21 official capacity; ACTING INTERIM CHIEF  
22 EUGENE MCBRIDE, individually and in his  
23 official capacity; CHIEF CHRIS MAGNUS, in  
24 his official capacity; SGT. HECTOR  
25 ESPARZA, individually; OFFICER LLAMAS,  
26 individually; OFFICER D. HARRIS, individually,  
27 LT. THREEETS, individually, and DOES 1  
28 through 50,

Defendants.

CASE NO.:

**COMPLAINT FOR DAMAGES  
(Violation of Civil Rights)**

JURY TRIAL DEMANDED

**JURISDICTION AND VENUE**

1. This complaint alleges violations of the constitutional rights of CYNTHIA PETERS AND MARK PARR. The complaint seeks remedies pursuant to Title 42, United States Code, section 1983. Jurisdiction is conferred upon the United States District Court by Title 28, United States Code, sections 1331 and 1343. The actions giving rise to defendants' liability, as alleged in this complaint, occurred in Richmond,

1 State of California.

2 2. Plaintiffs hereby demand a jury trial in this action.

3 **IDENTIFICATION OF PARTIES**

4 3. At all times material to this Complaint, Plaintiff CYNTHIA PETERS was a  
5 resident of the Northern District of California and of full age.

6 4. At all times material to this Complaint, Plaintiff MARK PARR was a  
7 resident of the Northern District of California and of full age.

8 5. Defendant CITY OF RICHMOND is a public entity, duly organized and  
9 existing under the laws of the State of California. Defendant CITY OF RICHMOND  
10 includes the Richmond Police Department. At all times material to this Complaint, the  
11 Richmond Police Department was supervised, controlled and staffed by defendant  
12 CITY OF RICHMOND, its officers, agents and employees.

13 6. For some period of time, including but not limited to December 1, 2005,  
14 EUGENE MCBRIDE was the Acting Interim Chief of Police of the City of Richmond.  
15 As Acting Interim Chief of Police, ACTING INTERIM CHIEF MCBRIDE was an official  
16 with final policy-making authority regarding the supervision, discipline, and training of  
17 Police Officers for the CITY OF RICHMOND. ACTING INTERIM CHIEF MCBRIDE is  
18 being sued in his individual and official capacities.

19 7. At all times relevant to this Complaint, TERRY HUDSON was the Acting  
20 Chief of Police of the City of Richmond. As Acting Chief of Police, ACTING CHIEF  
21 HUDSON was an official with final policy-making authority regarding the supervision,  
22 discipline, and training of Police Officers for the CITY OF RICHMOND. ACTING  
23 CHIEF HUDSON is being sued in his individual and official capacities.

24 8. In approximately January, 2006, defendant CHIEF CHRIS MAGNUS  
25 became the Chief of Police of the City of Richmond. CHIEF MAGNUS is being sued in  
26 his official capacity.

27 9. At all times relevant to this Complaint, Defendant SGT. HECTOR  
28 ESPARZA was a Police Officer employed by the Richmond Police Department who

1 was acting under color of law. SGT. ESPARZA is being sued in his individual  
2 capacity.

3 10. At all times relevant to this Complaint, Defendant OFFICER LLAMAS  
4 was a Police Officer employed by the Richmond Police Department who was acting  
5 under color of law. OFFICER LLAMAS is being sued in his individual capacity.

6 11. At all times relevant to this Complaint, Defendant OFFICER D. HARRIS  
7 was a Police Officer employed by the Richmond Police Department who was acting  
8 under color of law. OFFICER HARRIS is being sued in his individual capacity.

9 12. At all times relevant to this Complaint, Defendant LT. ARNOLD  
10 THREETS was a Police Officer employed by the Richmond Police Department who  
11 was acting under color of law. LT. THREETS is being sued in his individual capacity

12 13. Plaintiffs are ignorant of the true names and capacities of defendants  
13 DOES 1 through 50, and therefore sue these defendants by such fictitious names.  
14 Plaintiffs are informed and believe and thereon allege that each DOE defendant is  
15 responsible in some manner for the injuries and damages suffered by plaintiffs as  
16 described in this complaint. Plaintiffs will amend their complaint to state the true  
17 names and capacities of defendants DOES 1 through 50 when they have been  
18 ascertained. Any reference in this complaint to "defendant," "defendants," or to an  
19 individually-named defendant also refers to defendants DOES 1 through 50.

20 14. Each defendant sued in this complaint acted as the agent or employee of  
21 every other defendant.

## 22 **FACTS GIVING RISE TO THE COMPLAINT**

23 15. On July 27, 2005, Plaintiffs lived with their 1 ½ year old pit bull "Blu" in a  
24 sixplex at 28 6<sup>th</sup> Street in Richmond, California. Plaintiffs bought Blu for \$120 when he  
25 was three weeks old. Plaintiffs' apartment was the only one of the apartments in the  
26 building with access to the back yard. The yard was surrounded by a 6' wrought iron  
27 fence.

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1           16. On July 27<sup>th</sup>, Plaintiffs arrived home from work at approximately 5:45  
2 p.m. As they drove up to their apartment complex, they saw three officers standing in  
3 front of it. Plaintiffs opened the gate to the south of the building and drove into the  
4 backyard, locking the gate behind them.

5           17. Plaintiff MARK PARR let Blu out into the yard and started working in the  
6 garden. At one point Blu started barking and running toward the gate to the south of  
7 the building, and Plaintiff PARR looked up to see a police officer looking through the  
8 fence. Plaintiff PARR asked the officer if he could help him, and the officer responded  
9 “no.”

10           18. Several minutes later, Plaintiff CYNTHIA PETERS heard the front gate to  
11 the north of the building open. She looked out her kitchen window and saw Blu  
12 coming around the side of the building, heading toward the open gate. She yelled for  
13 Blu to stay, and for the police officer she could see had opened the gate to shut it so  
14 her dog wouldn't get out, and she ran outside. But instead of pulling the gate closed,  
15 the officer pushed it all the way open and backed away, luring the dog out. Plaintiff  
16 PETERS yelled at the officers (by now she could see two others) as she ran to her  
17 dog, “he's not vicious. He doesn't bite.” But before she could reach Blu, she heard a  
18 shot, and reached the front of the house to find her dog lying dead in her front yard  
19 while the officers continued shooting him at least 10 more times. Plaintiffs are  
20 informed and believe and on this basis allege that Defendants SGT. ESPARZA,  
21 OFFICER LLAMAS, and OFFICER HARRIS are among the police officers who shot  
22 their dog.

23           19. At the sound of the shots and Plaintiff PETERS' cries, Plaintiff PARR  
24 came running. When he saw his dog lying on the ground he raised his hands and  
25 cried, “Why'd you shoot my dog?” The next thing he knew, police officers pointed their  
26 guns at him, kicked and punched him, and threw him to the ground. They handcuffed  
27 him and put him into the back of a police car for approximately 45 minutes. They then  
28 transported him to the police station where he was cited for a violation of PC 148,  
“obstructing peace officers,” and released after spending approximately 3 hours in jail.

1 When Plaintiff PARR appeared in court, no charges had been filed. Plaintiffs are  
2 informed and believe and on this basis allege that Defendants SGT. ESPARZA,  
3 OFFICER LLAMAS, and OFFICER HARRIS are among the police officers who pointed  
4 guns at, used excessive force against, and illegally detained Plaintiff PARR.

5 20. Shortly after the incident, Plaintiff PETERS contacted a member of the  
6 Richmond City Council to complain about what had occurred at her home on July 27,  
7 2005. The council member, in turn, initiated an inquiry at the Richmond Police  
8 Department.

9 21. In early August, Plaintiff PETERS gave signed statements of five  
10 eyewitnesses to the shooting of her dog and the assault on Plaintiff PARR to LT.  
11 THREETS, who was the supervisor of the Richmond Police Department's Professional  
12 Standards Unit. These statements made clear that her dog had not acted  
13 aggressively and it had not been necessary for the officers to shoot her dog, and that  
14 the officers had arrested and detained Mark Parr without probable cause to believe  
15 that he had committed a crime.

16 22. On August 12, 2005, INTERIM CHIEF T. HUDSON wrote a  
17 memorandum to the Mayor of Richmond and Members of the Richmond City Council  
18 in which he stated, "This incident was investigated as per the appropriate Richmond  
19 Police Department Operations Manual section and all parties involved interviewed."  
20 He concluded: "Under Richmond Police Department Operations Manual Section  
21 302.11, Subsection C, it is the policy of this Department to resort to the use of a  
22 firearm under law when it reasonably appears to be necessary to stop a dangerous  
23 animal that he/she believes is a threat to himself/herself or others. The officers were  
24 justified in their weapons discharge concerning this incident."

25 23. In a letter dated December 1, 2005, ACTING CHIEF MCBRIDE informed  
26 Plaintiff PETERS that her "allegation of excessive force by Sergeant Esparza, Officer  
27 Llamas and Officer D. Harris was cleared as not sustained. This means there was  
28 insufficient evidence to sustain the complaint." He informed her that her allegation that

1 the officers unnecessarily shot her dog “was cleared as exonerated. This means that  
2 the actions taken by the officers was justified.”

3 24. At no time before concluding that Plaintiffs’ complaints were “cleared as  
4 not sustained” did the Richmond Police Department interview Plaintiffs or the other  
5 witnesses identified in the statements Plaintiff PETERS provided to LT. THREEETS.

6 25. Plaintiffs appealed the denial of their complaint to the Richmond Police  
7 Commission. On February 1, 2006, the Commission found “Policy Failure.”  
8 Specifically, it found that the Richmond Police Department’s policy regarding police  
9 officers shooting dogs was deficient and in need of review and revision. The  
10 Commission did not address Plaintiffs’ complaints of the use of excessive force,  
11 informing CYNTHIA PETERS that because she did not file her appeal within 45 days  
12 of the incident, it was powerless to do so.

13 26. Plaintiffs are informed and believe and on that basis allege that  
14 defendants CITY OF RICHMOND, CHIEF MAGNUS, ACTING INTERIM CHIEF  
15 MCBRIDE, ACTING CHIEF HUDSON and DOES 1 through 50 failed to adequately  
16 train, supervise, and discipline the police officers of the City of Richmond with respect  
17 to the use of force, lawful arrest, and when it is permissible to shoot a dog.

18 27. Plaintiffs are informed and believe and on that basis allege that  
19 defendants CITY OF RICHMOND, CHIEF MAGNUS, ACTING INTERIM CHIEF  
20 MCBRIDE, ACTING CHIEF HUDSON and DOES 1 through 50 had actual and/or  
21 constructive knowledge that the failure to adequately train, supervise, and discipline  
22 police officers would cause violations of citizen’s personal and constitutional rights  
23 such as those that occurred in this case.

### 24 **DAMAGES**

25 28. Plaintiffs CYNTHIA PETERS and MARK PARR were physically,  
26 mentally, emotionally, and financially injured and damaged as a proximate result of  
27 defendants’ conduct. Plaintiffs have also suffered the violation of their constitutional  
28 rights, and loss of the sense of security, dignity, and pride as citizens and residents of

1 the United States of America.

2 29. The conduct of defendants was malicious, wanton, and oppressive.  
3 Plaintiffs are therefore entitled to an award of punitive damages against the individually  
4 named defendants.

5 30. Plaintiffs found it necessary to engage the services of private counsel to  
6 vindicate their rights under the law. Plaintiffs are therefore entitled to recover all  
7 attorney's fees and costs incurred in relation to this action pursuant to Title 42 United  
8 States Code section 1988.

9 **FIRST CLAIM FOR RELIEF**  
10 **42 U.S.C. Section 1983**  
11 **(By Both Plaintiffs Against Defendants**  
12 **Sgt. Esparza, Officer Llamas, Officer D. Harris**  
13 **and Does 1 through 50)**

14 31. Plaintiffs CYNTHIA PETERS and MARK PARR reallege and incorporate  
15 by reference paragraphs 1 through 30 as though fully set forth in this cause of action.

16 32. As a direct and proximate result of defendants' actions and omissions,  
17 plaintiffs were deprived of their rights and privileges under the Fourth Amendment to  
18 the United States Constitution.

19 33. Defendants SGT. ESPARZA, OFFICER LLAMAS, and OFFICER D.  
20 HARRIS and DOES 1 through 50 acted under color of law in shooting plaintiffs' dog,  
21 thereby depriving plaintiffs of certain constitutionally-protected rights, including but not  
22 limited to the right to be free from the use of excessive force and the unnecessary  
23 destruction of property by law enforcement officers, as guaranteed by the fourth  
24 amendment to the United States Constitution.

25 34. Defendants acted in reckless and callous disregard for the constitutional  
26 rights of plaintiffs, and with willful oppression and malice. Plaintiffs therefore seek an  
27 award of punitive damages against defendants.

28 WHEREFORE, plaintiffs pray for relief as set forth below.





1 violations of plaintiffs' constitutional rights and the resulting damages suffered by  
2 plaintiffs.

3 WHEREFORE, plaintiffs pray for relief as set forth below.

4 **FOURTH CLAIM FOR RELIEF**  
5 **42 U.S.C. Section 1983**  
6 **(By Both Plaintiffs Against Defendants City of Richmond, Acting Interim Chief**  
7 **McBride, Acting Chief Hudson, Chief Magnus, Lt. Threets**  
8 **and DOES 1 through 50)**

9 41. Plaintiffs reallege and incorporate by reference paragraphs 1 through 40  
10 as though fully set forth in this cause of action.

11 42. Plaintiffs are informed and believe and on that basis allege that  
12 Defendants CITY OF RICHMOND, ACTING INTERIM CHIEF MCBRIDE, ACTING  
13 CHIEF HUDSON, CHIEF MAGNUS, LT. THREETS and DOES 1 through 50  
14 participated in the violation of plaintiffs' rights by failing to provide adequate training,  
15 supervision, discipline, and control of Richmond Police Officers with respect to  
16 constitutionally appropriate use of force, arrest and detention, and in ratifying the  
17 unlawful conduct of defendants SGT. ESPARZA, OFFICER LLAMAS, OFFICER D.  
18 HARRIS, and DOES 1 through 50, as described in this complaint, thereby acquiescing  
19 in the deprivation of plaintiffs' rights.

20 WHEREFORE, plaintiffs pray for relief as follows:

- 21 1. For general damages, according to proof;
- 22 2. For special damages, according to proof;
- 23 3. For pecuniary damages, according to proof;
- 24 4. For funeral and burial expenses according to proof;
- 25 5. For punitive damages against the individually-named defendants;
- 26 6. For attorneys' fees pursuant to 42 U.S.C. section 1988;
- 27 7. For costs of suit incurred herein; and
- 28 8. For such other and further relief as the court may deem just and proper.

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Dated: May 11, 2006

CASPER, MEADOWS, SCHWARTZ & COOK

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By: ANDREW C. SCHWARTZ  
Attorneys for Plaintiffs