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6 SUPERIOR COURT OF CALIFORNIA
7 FOR THE COUNTY OF RIVERSIDE
8 UNLIMITED CIVIL

9 RANDALL WILSON,) CASE NO. CVRI2103735
10 Plaintiff,)
11 vs.) **FIRST AMENDED COMPLAINT FOR**
12 CALIFORNIA HIGHWAY PATROL and) **DAMAGES:**
13 DOES 1 through 75,) [AMOUNT DEMANDED EXCEEDS \$25,000]
14 Defendants.)

15
16 Plaintiff, RANDALL WILSON (“Wilson” and/or “Plaintiff”) alleges:

17
18 **FIRST CAUSE OF ACTION**

19 **(Personal Injury/Negligence Against All Defendants)**

20 1. Plaintiff is unaware of the true names and capacities, whether corporate, associate,
21 individuals, or otherwise, of defendants sued herein as DOES 1 through 75, inclusive, and Plaintiff
22 will amend this complaint when the true names and capacities of these defendants have been
23 ascertained. Plaintiff is informed and believes, and thereon alleges, that said fictitiously-named
24 defendants are responsible in some manner for the injuries and damages to Plaintiff, as herein alleged.
25 Each reference in this complaint to “defendant” or “defendants” or to a specially named defendant
26 refers also to all defendants sued under fictitious names.

27 2. Plaintiff is informed and believes, and upon such information and belief alleges, that at
28 all times herein mentioned, defendants, and each of them, were the agents, servants, and employees of
their co-defendants and were, as such, acting within the course, scope, purpose and authority of said

1 agency and employment that each and every defendant, as aforesaid, when acting as a principal, was
2 negligent in the selection and/or hiring of each and every other defendant as an agent, servant, and
3 employee, and/or ratified the actions complained of herein.

4 3. Plaintiff is informed and believes and on this basis alleges that each of the defendants
5 designated as a DOE is responsible in some manner for the events and happenings herein referred to
6 and that their conduct caused the damages sustained by Plaintiff as herein alleged, either through the
7 conduct of the defendants or through the conduct of their agents and permissive user.

8 4. Plaintiff is informed and believes and on this basis alleges that at all times herein
9 mentioned, each of the DOE defendants was acting as the agent, servant and employee of the other
10 defendants herein, and was acting within the scope of the agency and employment concerned.

11 5. Plaintiff is informed and believes and on this basis alleges that defendants
12 CALIFORNIA HIGHWAY PATROL ("CHP") and DOES 1 through 75 were and are individuals,
13 business entities, and/or government entities, or employees of government entities, duly organized and
14 existing under the laws of the State of California, residing in or doing business in Riverside County,
15 California.

16 6. Plaintiff is informed and believes and on this basis alleges that, as public entities,
17 Defendants, CHP and DOES 1 through 75 are statutorily liable for injuries proximately caused by an
18 act or omission of an employee acting within the scope of their employment if said act or omission
19 would have given rise to a cause of action against that employee as provided in *California Government*
20 *Code* §815.2.

21 7. Plaintiff is informed and believes and on this basis alleges that public employees are
22 statutorily liable for injury caused by their act or omission to the same extent as a private person would
23 be as provided by *California Government Code* §820(a).

24 8. Defendant, CHP is a public entity upon which Plaintiff has timely served government
25 claims pursuant to *California Government Code* §905 and 910, et seq., to which Defendant has not
26 responded. Accordingly, Plaintiff has standing to bring suit for monetary damages against these public
27 entities.

28 9. Plaintiff contends that defendants, and each of them, and/or its employees negligently

1 and carelessly committed, or omitted, acts, so as to cause injury and damage to Plaintiff as follows:

2 10. Plaintiff is informed and believes and on this basis alleges that on or about August 12,
3 2019, DOES 1 through 10, in the course and scope of their employment with the CHP as Officers,
4 pulled over a vehicle traveling on Interstate 15 in the city of Moreno Valley, County of Riverside,
5 being operated by an Aaron Luther (“Luther”). Prior to stopping the vehicle, Luther exited the
6 Eucalyptus off ramp on Interstate 15 and stopped his vehicle on Eucalyptus Avenue, west of Interstate
7 15 in the city of Moreno Valley, County of Riverside.

8 11. Plaintiff is informed and believes and on this basis alleges that Defendants, CHP and
9 DOES 1 through 10, determined that it was necessary to impound the vehicle and, as a result,
10 contacted Valley Wide Tow to accomplish the impound. Plaintiff was employed as a tow truck
11 operator with Valley Wide Tow at the time and was called out to the scene of the traffic stop.

12 12. Plaintiff is informed and believes and on this basis alleges that Defendants, CHP and
13 DOES 1 through 10, in compliance with their policies and procedures, negligently conducted an
14 inventory search of the vehicle prior to impound, negligently completing their CHP 180 Vehicle
15 Report Form, reflecting that there were no firearms present in the vehicle.

16 13. Plaintiff is informed and believes and on this basis alleges that upon his arrival at the
17 scene of the stop, Defendants, CHP and DOES 1 through 10, provided Plaintiff with their CHP 180
18 Vehicle Report Form, confirming that there were no firearms present in the vehicle. Furthermore,
19 upon Plaintiff’s arrival at the scene of the stop, Defendants, CHP and DOES 1 through 10, negligently
20 were allowing Luther to retrieve his belongings from the vehicle, placing those belongings on the curb.

21 14. Plaintiff is informed and believes and on this basis alleges that after Luther’s retrieval
22 of his belongings from the vehicle, Defendants, CHP and DOES 1 through 10 provided Plaintiff the
23 key to the vehicle for his completion of the impound. Plaintiff relying on the representations of
24 Defendants, CHP and DOES 1 through 10 that there were no firearms present in the vehicle and
25 following the direction/order of Defendants, undertook the process of the impound of the vehicle.

26 15. Plaintiff is informed and believes and on this basis alleges that thereafter he entered the
27 vehicle and noticed a firearm on the front seat. At that time, Luther was still present immediately
28 outside the vehicle, negligently not being controlled or detained by Defendants, CHP and DOES 1

1 through 10.

2 16. Plaintiff is informed and believes and on this basis alleges that Plaintiff thereafter exited
3 the vehicle and attempted to obtain Defendants, CHP and DOES 1 through 10's attention by gesturing
4 that there was a firearm present. Unfortunately, Luther noticed Plaintiff's gesturing, retrieved the
5 firearm from the front seat of the vehicle and started shooting, killing one officer and injuring two (2)
6 others.

7 17. Plaintiff is informed and believes and on this basis alleges that at that time and place,
8 each of the defendants were negligent in not only failing to accurately inventory the vehicle, if actually
9 even completed at all, but also in allowing Luther access to the vehicle after they removed him from
10 the vehicle endangering Plaintiff and the public. Furthermore, Defendants were negligent in not
11 controlling and/or detaining Luther while Plaintiff was present.

12 18. Plaintiff is informed and believes and on this basis alleges that as a proximate result of
13 the negligence of each of the defendants, Plaintiff was injured in his health, strength and activity,
14 sustaining permanent bodily injury and damage and shock to his mental and nervous system, which
15 injuries have caused and continue to cause great mental, physical and emotional pain and suffering, all
16 to Plaintiff's damage in an amount according to proof at trial.

17 19. Plaintiff is informed and believes and on this basis alleges that as a proximate result of
18 the negligence of each of the defendants, Plaintiff has incurred and will continue to incur medical,
19 hospital and other related expenses, all to Plaintiff's damage in an amount according to proof at trial.

20 20. Plaintiff is informed and believes and on this basis alleges that as a proximate result of
21 the negligence of each of the defendants, Plaintiff has suffered a loss or diminution of his wages or
22 income, all to Plaintiff's damage in a sum according to proof at trial. As a further, direct and proximate
23 result of the negligence of defendants, Plaintiff has suffered, and will in the future suffer, loss of
24 earnings and earning capacity, the exact amount of which is unknown to Plaintiff at this time, all to his
25 further damage in an amount which will be proven at the time of trial.

26 21. Plaintiff was injured in his health, strength and activity, sustaining injury to his nervous
27 system and person, all of which injuries have caused and continue to cause Plaintiff great mental,
28 physical and nervous pain and suffering. Plaintiff has incurred and will continue to incur medical and
related expenses all to his damage in an amount which will be proven at the time of trial.

1 22. As a direct and proximate result of the negligence of defendants, and each of them,
2 Plaintiff has sustained personal injuries to his general damage in an amount beyond the jurisdictional
3 minimum of the Superior Court, and also special damages, reasonably and necessarily incurred and to
4 be incurred in the future in amounts unknown for medical and incidental expenses and loss of time
5 from his employment, usual activities, and property damage.

6 23. Plaintiff further alleges that all of these injuries will result in some future permanent
7 disability, all to Plaintiff's damage in an amount which will be proven at the time of trial.

8 24. Plaintiff is informed and believes and on this basis alleges that Plaintiff made a timely
9 Government Claim which was served by mail on or about January 23, 2020, pursuant to *California*
10 *Government Code* §910, et seq.. A copy of the Claim is attached hereto as Exhibit A.

11 **SECOND CAUSE OF ACTION**

12 **(Gross Negligence/Willful and Reckless Disregard for the Safety of Others)**

13 25. Plaintiff repeats, realleges and incorporates by reference each and every allegation
14 contained in paragraphs 1 through 24, as if set forth fully herein.

15 26. Plaintiff is informed and believes and thereon alleges that defendants, and each of them,
16 were grossly negligent in it's hiring and supervision of it's employees as herein alleged and the
17 plaintiff was seriously, severely and permanently injured as a direct and proximate result of the
18 responding CHP officers in not only failing to accurately inventory the vehicle, if actually even
19 completed at all, but also in allowing Luther access to the vehicle after they removed him from the
20 vehicle endangering Plaintiff and the public. Furthermore, Defendants were grossly negligent in not
controlling and/or detaining Luther while Plaintiff was present.

21 27. Plaintiff is informed and believes and thereon alleges that the conduct of defendants, and
22 each of them, as herein alleged was extreme and rises to the level of both a want of even a scant care
23 and an extreme departure from the ordinary standard of conduct by, including but not limited to, the
24 fact that defendants and their responding CHP officers not only failed to accurately inventory the
25 vehicle, if actually even completed at all, but also in allowing Luther access to the vehicle after they
26 removed him from the vehicle in a blatant disregard for the safety of the Plaintiff and the public.

27 WHEREFORE, Plaintiff prays for damages against all defendants as follows:

28 1. Reimbursement of all medical, hospital and other expenses according to proof;

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- 2. General damages according to proof;
- 3. Special damages according to proof;
- 4. For loss of earnings, past and future, according to proof;
- 5. For loss of income from impaired earning capacity, past and future, according to proof;
- 6. All costs of suit herein;
- 7. Pre-judgment interest pursuant to California Civil Code section 3291 and California Code of Civil Procedure section 998 according to proof; and
- 8. Such other and further relief as the court deems just and proper.

Dated: October 29, 2021

THE PUCCIO LAW FIRM
By: 
Domenic Puccio II, Esq.
Attorneys for Plaintiff, RANDALL WILSON

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EXHIBIT "A"

CLAIMANT INFORMATION

| | | | |
|---|---|---------------------------------------|---------------------|
| LAST NAME Wilson | FIRST NAME Randall | MIDDLE INITIAL S | |
| INMATE OR PATIENT IDENTIFICATION NUMBER (if applicable) | BUSINESS NAME(if applicable) | | |
| TELEPHONE NUMBER 9515458701 | EMAIL ADDRESS fishingtime1990@gmail.com | | |
| MAILING ADDRESS 36652 Deauville rd | CITY winchester | STATE ca | ZIP 92596 |
| IS THE CLAIMANT UNDER 18 YEARS OF AGE? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | INSURED NAME(Insurance Company Subrogation) | | |
| IS THIS AN AMENDMENT TO A PREVIOUSLY EXISTING CLAIM? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | EXISTING CLAIM NUMBER (if applicable) | EXISTING CLAIMANT NAME(if applicable) | |

ATTORNEY OR REPRESENTATIVE INFORMATION

| | | | |
|------------------|---------------|----------------|-----|
| LAST NAME | FIRST NAME | MIDDLE INITIAL | |
| TELEPHONE NUMBER | EMAIL ADDRESS | | |
| MAILING ADDRESS | CITY | STATE | ZIP |

CLAIM INFORMATION

| | |
|---|--------------------------------------|
| STATE AGENCIES OR EMPLOYEES AGAINST WHOM THE CLAIM IS FILED California Highway Patrol | DATE OF INCIDENT 8/12/2019 |
| LATE CLAIM EXPLANATION (Required, if incident was more than six months ago) | |

| | |
|--|---|
| DOLLAR AMOUNT OF CLAIM 150,000 | CIVIL CASE TYPE(Required, if amount is more than \$10,000) <input type="checkbox"/> Limited (\$25,000 or less) <input checked="" type="checkbox"/> Non-Limited (over \$25,000) |
|--|---|

DOLLAR AMOUNT EXPLANATION
loss of wages, counseling

INCIDENT LOCATION
eucalyptus west of 215 off ramp

SPECIFIC DAMAGE OR INJURY DESCRIPTION

P.T.S.D. mental stress, inability to work, loss of wages

CIRCUMSTANCES THAT LED TO DAMAGE OR INJURY

see attachment

EXPLAIN WHY YOU BELIEVE THE STATE IS RESPONSIBLE FOR THE DAMAGE OR INJURY

STATE OF CALIFORNIA
GOVERNMENT CLAIM

DGS ORIM 006 (Rev. 08/19)

DEPARTMENT OF GENERAL SERVICES
OFFICE OF RISK AND INSURANCE MANAGEMENT

| AUTOMOBILE CLAIM INFORMATION | | |
|--|-----------------------------------|-------------------------------|
| DOES THE CLAIM INVOLVE A STATE VEHICLE? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | VEHICLE LICENSE NUMBER (if known) | STATE DRIVER NAME (if known) |
| HAS A CLAIM BEEN FILED WITH YOUR INSURANCE CARRIER? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | INSURANCE CARRIER NAME | INSURANCE CLAIM NUMBER |
| HAVE YOU RECEIVED AN INSURANCE PAYMENT FOR THIS DAMAGE OR INJURY? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | AMOUNT RECEIVED (if any) | AMOUNT OF DEDUCTIBLE (if any) |

NOTICE AND SIGNATURE

I declare under penalty of perjury under the laws of the State of California that all the information I have provided is true and correct to the best of my information and belief. I further understand that if I have provided information that is false, intentionally incomplete, or misleading I may be charged with a felony punishable by up to four years in state prison and/or a fine of up to \$10,000 (Penal Code section 72).

| | | |
|---|----------------------------------|-------------------|
| SIGNATURE  | PRINTED NAME Randall s Wilson | DATE 1/23/2020 |
|---|----------------------------------|-------------------|

INSTRUCTIONS

- Include a check or money order for \$25, payable to the State of California.
 - \$25 filing fee is not required for amendments to existing claims.
- Confirm all sections relating to this claim are complete and the form is signed.
- Attach copies of any documentation that supports your claim. Do not submit originals.

Mail the claim form and all attachments to:
Office of Risk and Insurance Management
Government Claims Program
P.O. Box 989052, MS414
West Sacramento, CA 95798-9052

Claim forms can also be delivered to:
Office of Risk and Insurance Management
Government Claims Program
707 3rd Street, 1st Floor
West Sacramento, CA 95605
1-800-955-0045

Department of General Services Privacy Notice on Information Collection

This notice is provided pursuant to the Information Practices Act of 1977, California Civil Code Sections 1798.17 & 1798.24 and the Federal Privacy Act (Public Law 93-579).

The Department of General Services (DGS), Office of Risk and Insurance Management (ORIM), is requesting the information specified on this form pursuant to Government Code Section 905.2(c).

The principal purpose for requesting this data is to process claims against the state. The information provided will/may be disclosed to a person, or to another agency where the transfer is necessary for the transferee-agency to perform its constitutional or statutory duties, and the use is compatible with a purpose for which the information was collected and the use or transfer is accounted for in accordance with California Civil Code Section 1798.25.

Individuals should not provide personal information that is not requested.

The submission of all information requested is mandatory unless otherwise noted. If you fail to provide the information requested to DGS, or if the information provided is deemed incomplete or unreadable, this may result in a delay in processing.

Department Privacy Policy

The information collected by DGS is subject to the limitations in the Information Practices Act of 1977 and state policy ([see State Administrative Manual 5310-5310.7](#)). For more information on how we care for your personal information, please read the [DGS Privacy Policy](#).

Access to Your Information

ORIM is responsible for maintaining collected records and retaining them for 5 years. You have a right to access records containing personal information maintained by the state entity. To request access, contact:

DGSORIM
Public Records Officer
707 3rd St., West Sacramento, CA 95605
(916) 376-5300

Circumstances that led to damage or injury:

Got a chp call dispatched to me. Went to call when I arrived, I noticed two officers were there letting the owner of the vehicle getting his belongings out of the bed and placing them on the curb. I put my tow truck in front owners' vehicle, I put my tow truck bed down to get ready to pull the vehicle up on to the bed. As I got finished with that I went and spoke to the officers. The owner of vehicle was still taking stuff out of the cab now this went on for around 25-30 minutes. I received the chp 180 which said nothing in vehicle and went to the tow truck to put it inside. The officer went to the car and told the guy we need to get going. The owner asked me what the fees were going to be I said I'm only going to charge one hour instead of the hour and a quarter I was there already there for. I got the key to vehicle got inside vehicle noticed what looked like a rifle it was covered so I wasn't all the way sure. The owner leaned in from passenger side said something I don't recall what but I got out of vehicle just in case walked to the bed of the truck and made a gun sign gesture to officers so it would not get the owner of vehicles attention but when I got out it did and just after the officer noticed what I was doing it was too late the owner had taken rifle out of the truck and started shooting at this point I took off running.

Explain why you believe the state is responsible for damage or injury:

I believe the state is responsible because both officers looked inside the vehicle. My chp 180 said nothing in vehicle. The owner of vehicle was a known criminal and should have been in hand cuffs and sitting on the curb not going in and out of vehicle. They should have looked through the vehicle better and located the gun.