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9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**

YVETTE FELARCA, FRANCISCO
11 ALVARADO-ROSAS, CHRISTOPHER
ANDERSON, JOSHUA ANDERSON,
12 HONEST CHUNG, MORGAN CRAWFORD,
YANIA ESCOBAR, JOSEPH FINTON,
13 HAYDEN HARRISON, LOUIS HELM,
JACQUELYN KINGKADE, JULIE KLINGER,
14 BENJAMIN LYNCH, MAXIMILIAN
MCDONALD, ANTHONY MORREALE,
15 LIANA MULHOLLAND, COLLEEN MICA
STUMPF, JUSTIN TOMBOLESI, ERICK
16 URIBE, SACHINTHYA WAGAARACHCHI,
TARO YAMAGUCHI-PHILLIPS, COLLEEN
17 YOUNG

18 Plaintiffs,
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21
22
23
24

CASE NO.: 4:11-cv-05719-YGR

**THIRD AMENDED COMPLAINT
FOR VIOLATION OF CIVIL
RIGHTS AND DAMAGES**

JURY TRIAL DEMANDED

1 vs.

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5 ROBERT J. BIRGENEAU, then-Chancellor of
6 the University of California-Berkeley, in his
7 individual capacity; GEORGE BRESLAUER,
8 then-Executive Vice Chancellor and Provost of
9 the University of California-Berkeley, in his
10 individual capacity; CLAIRE HOLMES,
11 Associate Vice Chancellor for Public Affairs and
12 Communications for the University of California-
13 Berkeley, in her individual capacity; HARRY LE
14 GRANDE, Vice Chancellor for Student Affairs of
15 the University of California-Berkeley, in his
16 individual capacity; DAN MOGULOF, Executive
17 Director of Communications and Public Affairs
18 of the University of California-Berkeley, in his
19 individual capacity; LINDA WILLIAMS,
20 Associate Chancellor of the University of
21 California-Berkeley, in her individual capacity;
22 MITCHELL CELAYA, then-Chief of the
23 University of California Police Department at
24 Berkeley, in his individual capacity; CAPTAIN
STEPHEN RODERICK, a police officer for the
University of California Police Department at
Berkeley, in his individual capacity;
LIEUTENANT ERIC TEJADA, a police officer
of the University of California Police Department
at Berkeley, in his individual capacity;
LIEUTENANT MARC DECOULODE, a police
officer for the University of California Police
Department, in his individual capacity;
SERGEANT JEWELL #26, a police officer for
the University of California Police Department, in
his individual capacity; SERGEANT SUEZAKI
#18, a police officer for the University of
California Police Department, in his individual
capacity; SERGEANT TUCKER #13, a police
officer for the University of California Police
Department, in his individual capacity;
SERGEANT WILLIAMS #14, a police officer
for the University of California Police
Department, in his individual capacity;

1 CORPORAL BRASHEAR #47, a police officer
for the University of California Police
2 Department, in his individual capacity; OFFICER
KASISKE #36, a police officer for the University
3 of California Police Department, in his individual
capacity; OFFICER SAMANTHA LACHLER, a
4 police officer for the University of California
Police Department, in her individual capacity;
5 OFFICER ODYNIIEC #79, a police officer for the
University of California Police Department, in his
6 individual capacity; OFFICER B. TINNEY #63,
a police officer for the University of California
7 Police Department, in his individual capacity;
OFFICER WONG #88, a police officer for the
8 University of California Police Department, in his
individual capacity; OFFICER T. ZUNIGA #73, a
9 police officer for the University of California
Police Department, in his individual capacity;
10 LIEUTENANT MADIGAN, a police officer for
the Alameda County Sheriff's Office, in his
11 individual capacity; SERGEANT RODRIGUES.,
a police officer for the Alameda County Sheriff's
12 Office, in his individual capacity; OFFICER
ARMIJO, a police officer for the Alameda
13 County Sheriff's Office, in his individual
capacity; OFFICER BUCKHOUT, a police
14 officer for the Alameda County Sheriff's Office,
in his individual capacity; OFFICER
15 BUSCHHUETER, a police officer for the
Alameda County Sheriff's Office, in his
16 individual capacity; OFFICER GARCIA, a police
officer for the Alameda County Sheriff's Office,
17 in his individual capacity; OFFICER
OBICHERE, a police officer for the Alameda
18 County Sheriff's Office, in his individual
capacity; OFFICER WILSON, a police officer for
19 the Alameda County Sheriff's Office, in his
individual capacity; and DOES 18-100, inclusive,
20
21 Defendants.

22
23 Pursuant to the Federal Rules of Civil Procedure, the plaintiffs, by and through
24 their attorneys, Scheff, Washington and Driver, P.C., state as follows:

INTRODUCTION

1. At the University of California at Berkeley (UC Berkeley) on November 9, 2011, a mass mobilization of thousands of students and community members marched, rallied and set up protest tents in defense of the integrity of the University as a public institution, against fee hikes and the privatization of public education, for increasing black, Latina/o, and Native American student enrollment and to show their support for the aims of greater social equality embodied by the Occupy movement. Every aspect of the student protest actions was peaceful. Entire university departments cancelled classes, and dozens of professors and graduate student instructors held teach-outs in solidarity with the students' demands and their right to express their solidarity with the national Occupy movement.
2. The express purposes of this demonstration ran counter to the policies of defendants Chancellor Robert Birgeneau and Executive Vice Chancellor and Provost George Breslauer. Birgeneau had published a report and an opinion piece advocating student tuition hikes and maintaining state and federal public funding for a "limited" number of public universities on the basis of matching donations to those universities made from private sources. Furthermore, Birgeneau and defendant George Breslauer had brokered a ten-year \$500-million-dollar deal with British Petroleum (BP) in 2007, in which BP has veto power over research proposals coming out of an energy research institute established at UCB and intellectual-property rights over research produced in that institute until 2017. Breslauer himself sat on the UC Berkeley-BP Governance Board. The protests opposed all of these policies.

- 1 3. Upon the basis of the specific facts set forth below and upon well-founded
2 information and belief, on November 9, 2011 defendant Chancellor Birgeneau,
3 defendant Executive Vice Chancellor and Provost George Breslauer, defendant
4 University of California Police Department (UCPD) Chief Mitchell Celaya,
5 defendant UCPD Captain Stephen Roderick, defendant UCPD Lieutenant Eric
6 Tejada, defendant Lieutenant Marc DeCoulode, defendant Sergeant Suezaki,
7 defendant Sergeant Tucker, defendant Sergeant Williams, defendant Alameda
8 County Sheriff's Office (ACSO) Lieutenant Madigan, and defendant Sergeant
9 Rodrigues ordered the police to attack peaceful protesters without lawful
10 authority and in whole or in part because of the purposes of the protest. These
11 defendants thus directly caused the police to use the excessive force and false
12 arrests that violated the plaintiffs' constitutional rights.
- 13 4. Upon the basis of the specific facts set forth below and upon well-founded
14 information and belief, the defendant Birgeneau and the members of UC
15 Berkeley's "Crisis Management Executive Team" (CMET)—defendants
16 Breslauer, Celaya, Vice Chancellor for Student Affairs Harry LeGrande,
17 Associate Chancellor Linda Williams, and Associate Vice Chancellor for Public
18 Affairs and Communications Claire Holmes—had all met and consulted before
19 and throughout November 9, 2011 to plan and set in motion the police actions for
20 that day. (Birgeneau and the members of the CMET are collectively referred
21 hereafter as the "Defendant Administrators".)
- 22 5. A meeting of the CMET attended by the Defendant Administrators held on
23 November 3, 2011 created a planned response to the November 9, 2011 protest
24 action that authorized police to use batons to disperse the protest and to remove

1 any tents set up on the UCB campus. On November 9, 2011 the Defendant
2 Administrators had direct knowledge of or observed police using excessive force
3 and committing false arrests, and they did not stop them. The Defendant
4 Administrators made a set of decisions that resulted in more-brutal police actions
5 that evening and that vastly expanded the scope of false arrests undertaken by the
6 police.

- 7 6. The Administrator Defendants planned for, ordered or concurred in the police
8 attack against peaceful protesters November 9, 2011 because of the protesters'
9 defense of affordable, public education and their association with the popular
10 "Occupy Wall Street" movement.
- 11 7. The Defendant Administrators worked closely with other UCB administrators
12 and students to discourage student speech directed against the UC Regents and
13 administration and replace it with speech directed at legislators in Sacramento.
- 14 8. The defendants carried out a policy November 9, 2011 that was aimed at
15 repressing protest in support of public education, and was not aimed at
16 preventing camping. In consultation with the CMET, defendant Celaya
17 formulated an operational plan, conveyed to the defendant police officers by his
18 subordinates, that censored student speech by prohibiting students and others
19 from even stepping onto campus if they possessed "signage," sound
20 amplification equipment, or camping material. On the afternoon of November 9,
21 the police violently attacked a peaceful student protest action because the student
22 erected tents as a symbol of what they were striving to achieve. When the tents
23 were removed, the police continued to jab and club students with their batons to
24 disperse the student protesters. The Defendant Administrators made the decision

late in the afternoon of Wednesday November 9, to sanction escalated police violence and false arrests to take down any tents erected on Sproul plaza by students that afternoon or evening.

9. The Defendant Administrators' pretextual "no encampment" policy was in fact a no-tents policy aimed at denying students the right to express their support for the Occupy movement. The Defendant Administrators, as state actors, by using police force to tear down any tents at their first appearance with no relationship in time or in practice to camping or creating an encampment, exercised prior restraint against the First Amendment rights of the students to express their solidarity with the Occupy movement and its foremost symbol: tents.

10. The Defendant Administrators changed their "no encampment" policy into a no "tent " policy on the afternoon of November 9. The Defendant Administrators announced to a peaceful mass student gathering and decision meeting that they would tolerate tarps and 24/7 student encampment of Sproul so long as no tents were present. Tarps yes, tents no. The alleged health and safety concerns of the Defendant Administrators were clearly no more than a pretext for censoring the students' message which ran counter to the privatization measures espoused by and undertaken by the administration.

11. The administration's excessive use of force, false arrest, prior restraint against speech, and speech censorship policies of November 9 enforced through their "no encampment" policy stand in complete contrast to the toleration of a long-term protest encampment in May 2010 in front of California Hall, which included tents, sleeping bags and tarps. The defendants Birgeneau, Breslauer, Williams, Holmes, and Celaya (who held the exact same titles then as they did on

November 9, 2011) allowed that encampment because it promoted a political message these five defendants agreed with: opposition to an anti-immigrant Arizona law. (Similarly, previous UC-Berkeley Chancellor Robert Berdahl had allowed a long-term encampment protesting for Ethnic Studies programs, and previous Chancellor I. Michael Heyman had allowed a protest tent city on UC Berkeley's Sproul Plaza to protest South African apartheid.)

12. The Defendant Administrators had already had experience ending long-term encampments with relatively little incident, employing a method of negotiation. When force was employed, the Defendant Administrators ended the encampments in the middle of the night to minimize the number of students assaulted by the police. In May 2010, defendants Birgeneau, Breslauer, Williams, Holmes, and Celaya ended an encampment in front of Birgeneau's office at California Hall with little incident. The only demonstration at which students were forced to end their short-lived occupation through the employment of force was the occupation of Wheeler Hall in 2009. The Wheeler Hall occupation was also both a part of a larger UC student movement and stood against fee hikes and privatization.

13. In Defendant Birgeneau's response to plaintiffs' interrogatories, Birgeneau stated his contributions to the November 3, 2011 CMET meeting, where he made policy determinations toward the planned protest. There, he expressed concern toward the "encampments" pertained solely to the political content of the action: its supposed affiliation with Occupy Oakland and "outside anarchists." Birgeneau further clarified his basis for taking measures against the protest in his

1 response to interrogatories: “Specifically, we could not take the chance that any
2 student protest would be taken over by outside anarchists.”

3 14. In defining his policies according to the political affiliation of the protesters or
4 their potential political affiliations and leadership, Birgeneau’s admission makes
5 clear that police should take measures against the protest regardless of the
6 lawfulness or unlawfulness of the protest activities, and regardless of whether
7 those activities are a form of protected speech.

8 15. In the neighboring city of Oakland, protesters had set up a peaceful encampment
9 that organized its own sanitation and ensured the safety of its participants. The
10 Oakland city government took measures, including providing portable toilets, to
11 assist in sanitation.

12 16. Protest organizers planned an encampment at UC-Berkeley November 9, 2011 to
13 protest the UC Regents’ consideration of a 70% fee hike at their upcoming
14 meeting November 15, 2011.

15 17. The brutal “no encampment” policy implemented November 9, 2011 was simply
16 a pretext for the Defendant Administrators to have a public demonstration of
17 brutality to send a chilling message that speech challenging the Defendant

18 Administrators’ support of privatization of UC Berkeley would not be tolerated.
19 18. The Defendant Administrators lacked legal authority for the attack they
20 authorized. No camping was taking place at the times of the two police attacks
21 described below. UC Berkeley’s own “Berkeley Campus Regulations
22 Implementing University Policies” state that the site of the protest tents, Sproul
23 Plaza, for the hours between 6:00 a.m. and 12:00 midnight “may be used without
24 reservation for discussion or public expression which does not require or involve
sound amplification equipment.” The two police raids occurred at approximately

1 3:30pm in the afternoon and 9:30pm in the evening. None of the plaintiffs who
2 were beaten or arrested by the defendant police officers were connected to any
3 specific tent, let alone to camping.

- 4 19. Between 11:30am and 2:00pm, police officers, under the direction of the
5 Administrator Defendants and defendants Celaya, DeCoulode, Tejada, and
6 Madigan, ejected students from campus for having “signage,” “amplification
7 equipment,” or camping equipment.
8 20. At around 2:00pm, in a democratic assembly, students voted overwhelmingly
9 456 to 1 to set up an encampment to support free speech, public education, and
10 oppose the upcoming 70% fee hike by the UC Regents.
11 21. Before a police raid at around 3:30pm, Defendant Lieutenant Eric Tejada
12 declared the entire protest an “unlawful assembly” because there was “camping.”
13 22. The defendant police officers of the University of California Police Department
14 (UCPD) and the Alameda County Sheriff’s Office (ACSO) used shocking,
15 unconscionable violence against students with little relation to any tents:
16 peaceful protesters were forcefully jabbed in their chests, stomachs, and groins,
17 clubbed in the face, yanked by their hair, and beaten while lying on the ground.
18 Even after the police secured access to and/or destroyed students’ tents, they
19 continued to viciously beat people.
20 23. This shocking police violence was witnessed by many people and captured in
21 numerous videos. After the police’s afternoon violence, the video footage was
22 posted on YouTube and instantly went viral. Thousands of people who saw the
23 videos were outraged by the police’s brutality and inspired by the protesters’
24 courage. In the space of hours, thousands of people were moved to mobilize to
Sproul Plaza to join the students and add themselves to the peaceful protest in an

1 expression of solidarity with the aims and means of the movement to support
2 free speech and public education.

3 24. During a second police raid in the evening, Defendant Lieutenant Eric Tejada, in
4 an announcement that was not heard by vast majority of protesters including the
5 plaintiffs, admonished the crowd for “camping.” In the violent police action that
6 followed, certain defendant police officers arrested and falsely imprisoned thirty-
7 four people—including Francisco Alvarado-Rosas, Julie Klinger, Anthony
8 Morreale, Sachintha Wagaarachchi, and Taro Yamaguchi-Phillips—who were
9 standing around the protest tents. None of the thirty-four arrested were ever
10 alleged by the District Attorney to have committed any wrongdoing.

11 25. On March 13, 2012, defendant Chancellor Birgeneau announced his resignation.
12 Since then, defendant Executive Vice Chancellor and Provost George Breslauer
13 and defendant UCPD Chief Celaya left their respective positions. Their
14 departures followed their loss of legitimacy and authority as a result of their
15 actions on November 9, 2011.

16 26. The plaintiffs in this suit—fifteen men and seven women—were physically and
17 emotionally injured and denied their constitutional rights as a result of the
18 defendants’ police attack on November 9, 2011.

19 27. The plaintiffs assert that the Defendant Administrators violated plaintiffs’ First
20 Amendment rights by carrying out this attack because of the protesters’ demands,
21 which included ending the fee hikes, preserving the University of California as a
22 public university open to all, and ending the policies that defendants Birgeneau
23 and Breslauer had advocated, defended and implemented: policies that are
24 leading UC Berkeley to become an even more segregated, elite institution that is
more beholden to private donors and can no longer brook the exercise of
democratic rights.

- 1 28. The twenty-two plaintiffs assert that the Defendant Administrators and defendant
2 police officers violated their Fourth Amendment rights by authorizing and/or
3 using excessive force in attacking a peaceful protest.
4 29. The five plaintiffs who were arrested on November 9, 2011 assert that certain
5 defendants ordered and/or carried out the arrests of plaintiffs for supposedly
6 violating orders that had no legal basis, of which they had no notice, and with
7 which they could not comply.
8 30. The plaintiffs bring this suit to achieve justice for themselves and to protect the
9 right of all students everywhere to exercise their rights to free speech and
10 assembly, free of police violence and brutality.
11 31. The plaintiffs further bring this action to assure that UC Berkeley remains a
12 public university. This means that it is open to all, including all Californians, that
13 it serve the public, and that it be a center for critical inquiry and academic
14 freedom. California must not have its leading public university degraded into a
15 segregated intellectual backwater that compromises free speech and academic
16 freedom to serve private interests.

JURISDICTION AND VENUE

- 16 32. This is a claim made under the First, Fourth, and Fourteenth Amendments to the
17 U.S. Constitution, 42 USC §1983. This Court has subject matter jurisdiction
18 under 28 USC §1331 and 28 USC §1343(3).
19 33. The United States District Court for the Northern District of California is a
20 proper venue for this action because a substantial part of the events giving rise to
21 this action occurred in that district.

INTRADISTRICT ASSIGNMENT

- 22 34. A substantial part of the events that give rise to this claim occurred in Alameda
23 County, making assignment to the Oakland Division appropriate under Civil L.R.
24 3-2(d).

PARTIES

35. The plaintiff Yvette Felarca is a national organizer with the Coalition to Defend Affirmative Action, Integration, and Immigrant Rights and Fight for Equality By Any Means Necessary (BAMN). She graduated from the UC-Berkeley Graduate School of Education and was a teacher at Martin Luther King Jr. Middle School in Berkeley at the time of the events that gave rise to this claim.
36. The plaintiff Francisco Alvarado-Rosas was in his first year in the graduate program at UC-Berkeley's School of Social Welfare at the time of the events that gave rise to this claim.
37. The plaintiff Christopher Anderson is an alumnus of UC-Berkeley, with a B.A. in Peace and Conflict Studies, concentration in Human Rights. He was a UCB senior at the time of the events that gave rise to this claim.
38. The plaintiff Joshua Anderson was a first-year graduate student at UC-Berkeley's English Department at the time of the events that gave rise to this claim.
39. The plaintiff Honest Chung was a senior majoring in History at UC-Berkeley with a degree at the time of the events that gave rise to this claim.
40. The plaintiff Morgan Crawford has graduated from UC-Berkeley with a degree in Rhetoric, and was a senior at UC-Berkeley at the time of the events that gave rise to this claim.
41. The plaintiff Yania Escobar was a UC Berkeley senior majoring in Interdisciplinary Studies at the time of the events that gave rise to this claim.
42. The plaintiff Joseph Finton was a junior majoring in Film at UC-Berkeley at the time of the events that gave rise to this claim.
43. The plaintiff Hayden Harrison was a fourth-year student at Berkeley City College at the time of the events that gave rise to this claim.
44. The plaintiff Louis Helm is a graduate of the University of Michigan and a resident of Berkeley, California.
45. The plaintiff Jacquelyn Kingkade was a junior majoring in Philosophy at UC-Berkeley at the time of the events that gave rise to this claim.

- 1 46. The plaintiff Julie Klinger was a third-year graduate student at UC-Berkeley's
2 Geography Department at the time of the events that gave rise to this claim.
3 47. The plaintiff Benjamin Lynch is an organizer with BAMN and an assistant research
4 physicist at UC Berkeley.
5 48. The plaintiff Maximilian McDonald was a junior at UC-Berkeley at the time of the
6 events that gave rise to this claim.
7 49. The plaintiff Anthony Morreale has graduated from UC-Berkeley with a degree in
8 Anthropology. He was a senior at UCB at the time of the events that gave rise to
9 this claim.
10 50. The plaintiff Liana Mulholland is an organizer with BAMN and a graduate of the
11 University of Michigan.
12 51. The plaintiff Colleen Mica Stumpf was a senior majoring in Peace and Conflict
13 Studies at UC-Berkeley at the time of the events that gave rise to this claim.
14 52. The plaintiff Justin Tombolesi was a junior majoring in History at UC-Berkeley at
15 the time of the events that gave rise to this claim.
16 53. The plaintiff Erick Uribe has graduated from UC Berkeley with a degree in
17 Environmental Science, Policy, and Management. He was a senior at UCB at the
18 time of the events that gave rise to this claim.
19 54. The plaintiff Sachintha Wagaarachchi was a senior majoring in Engineering
20 Physics at UC-Berkeley at the time of the events that gave rise to this claim.
21 55. The plaintiff Taro Yamaguchi-Phillips was a junior at UC-Berkeley at the time of
22 the events that gave rise to this claim.
23 56. The plaintiff Colleen Young was a senior majoring in Anthropology with a minor in
24 Native American Studies at UC Berkeley at the time of the events that gave rise to
this claim.
57. The defendant Robert J. Birgeneau was the Chancellor of the University of
California-Berkeley (UC-Berkeley) at all times relevant to this case and is joined in
his individual capacity.
58. The defendant George Breslauer was the Executive Vice Chancellor and Provost
of UC-Berkeley and part of the "Crisis Management Team" (CMT) charged with

1 overseeing campus response to protests at all times relevant to this case and is
2 joined in his individual capacity.
3 59. The defendant Claire Holmes was the Associate Vice Chancellor for Public Affairs
4 and Communications of UC-Berkeley and part of the CMT at all times relevant to
5 this case, and is joined in her individual capacity.
6 60. The defendant Harry Le Grande was the Vice Chancellor of Student Affairs of
7 UC-Berkeley and part of the CMT at all times relevant to this case and is joined in
8 his individual capacity.
9 61. The defendant Linda Williams was the Associate Chancellor of UC-Berkeley and
10 part of the CMT at all times relevant to this case and is joined in her individual
11 capacity.
12 62. The defendant Mitchell Celaya was the Chief of the University of California Police
13 Department (UCPD) at UC-Berkeley at all times relevant to this case and is joined
14 in his individual capacity.
15 63. The defendant Captain Stephen Roderick was the incident commander over field
16 operations by UCPD and the Alameda County Sheriff's Office (ACSO) at all
17 times relevant to this case and is joined in his individual capacity.
18 64. The defendant Lieutenant Eric Tejada was a superior officer to all lower-ranking
19 UCPD officers at all times relevant to this case and is joined in his individual
20 capacity.
21 65. The defendant Lieutenant Marc DeCoulode was a superior officer to all lower-
22 ranking UCPD officers at all times relevant to this case and is joined in his
23 individual capacity.
24 66. The defendant Sergeant Jewell #26 was a UCPD officer at all times relevant to
this case and is joined in his individual capacity.
67. The defendant Sergeant Suezaki #18 was a UCPD officer at all times relevant to
this case and is joined in his individual capacity.
68. The defendant Sergeant Tucker #13 was a UCPD officer at all times relevant to
this case and is joined in his individual capacity.

- 1 69. The defendant Sergeant Joey Williams #14 was a UCPD officer at all times
2 relevant to this case and is joined in his individual capacity.
- 3 70. The defendant Corporal Brashear #47 was a UCPD officer at all times relevant to
4 this case and is joined in his individual capacity.
- 5 71. The defendant Officer Kasiske #36 was a UCPD officer at all times relevant to
6 this case and is joined in his individual capacity.
- 7 72. The defendant Officer Samantha Lachler was a UCPD officer at all times
8 relevant to this case and is joined in her individual capacity.
- 9 73. The defendant Officer Odyniec #79 was a UCPD officer at all times relevant to
10 this case and is joined in his individual capacity.
- 11 74. The defendant Officer B. Tinney #63 was a UCPD officer at all times relevant to
12 this case and is joined in his individual capacity.
- 13 75. The defendant Officer Wong #88 was a UCPD officer at all times relevant to this
14 case and is joined in his individual capacity.
- 15 76. The defendant Officer Zuniga #73 was a UCPD officer at all times relevant to
16 this case and is joined in his individual capacity.
- 17 77. The defendant Lieutenant Madigan was the Alameda County Sheriff's Office
18 (ACSO) commander over all ACSO officers at UC-Berkeley at all times relevant
19 to this case and is joined in his individual capacity.
- 20 78. The defendant Sergeant Rodrigues is a police officer with the ACSO and is
21 joined in his individual capacity.
- 22 79. The defendant Officer Armijo is a police officer with the ACSO and is joined in
23 his individual capacity.
- 24 80. The defendant Officer Buckhout is a police officer with the ACSO and is joined
in his individual capacity.
81. The defendant Officer Buschhueter is a police officer with the ACSO and is
joined in his individual capacity.
82. The defendant Officer Garcia is a police officer with the ACSO and is joined in
his individual capacity.
83. The defendant Officer Obichere is a police officer with the ACSO and is joined
in his individual capacity.

- 1 84. The defendant Officer Wilson is a police officer with the ACSO and is joined in
2 his individual capacity.
3 85. DOES 18 through 100, inclusive, the identity and number of whom are presently
4 unknown to the plaintiffs, were police officers employed by defendant UC-
5 Berkeley, UCPD or ACSO acting within the course and scope of their
6 employment, and were directly involved in the actions causing injury to plaintiffs
7 at all times relevant to this case.
8 86. At the time of the incidents causing injury to plaintiffs November 9-10, 2011, the
9 defendants were acting under color of state law.

10 **STATEMENT OF FACTS**

11 For two weeks leading up to November 9, 2011, the Defendant Administrators planned
12 to break up a peaceful demonstration that solidarized with the Occupy movement

- 13 87. Defendant Chancellor Robert Birgeneau established the “Crisis Management
14 Executive Team” (CMET) to have “executive immediate oversight and direction
15 during emergencies involving protests and similar disturbances as required” in
16 close consultation with Birgeneau himself. Among its members were defendants
17 Linda Williams, George Breslauer, Mitchell Celaya, Claire Holmes, and Harry
18 Le Grande.
19 88. On October 24, 2011 at 10:04am, defendant Le Grande forwarded to CMET
20 members information that an encampment in solidarity with the burgeoning
21 Occupy Wall Street movement was planned for UC-Berkeley November 9, 2011.
22 89. As early as mid-October 2011, members of the CMET had been discussing this
23 possibility: defendant Williams responded to Le Grande: “Well. I predicted this
24 just last week.”
90. Thirty-eight minutes after Le Grande first received the information, defendant
University of California Police Department (UCPD) Lieutenant Mark
DeCoulode requested that UCPD of UC-San Francisco lend UCPD of UCB more

1 police officers. One hour after that, defendant Claire Holmes notified the CMET
2 that they would meet on October 26, 2011.

3 91. As early as October 27, 2011, defendant Claire Holmes made clear in an email to
4 a colleague that she was intent on diverting criticism away from UC
5 administration's actions (fee hikes, privatization, etc.) by combating the
6 "misunderstanding" that UC is still publicly funded.

7 92. As early as October 31, 2011, defendant and Executive Vice Chancellor and
8 Provost George Breslauer emailed a colleague saying he was "in charge of the
9 campus [on November 9, 2011], as the Chancellor will be in Asia" and that he
10 would be enforcing a "'no encampment' policy" and would need "to make a lot
11 of decisions that day."

12 93. On November 2, 2011, defendant Claire Holmes set up six conference calls on
13 November 9 and 10, 2011—to be held at 10:00am, 1:00pm, and 4:00pm each day
14 —to discuss the developments during the protests. These conference calls would
15 include defendants Breslauer, Holmes, Williams, and Celaya of the CMET.

16 94. On November 2, 2011, Linda Williams sent a document to Claire Holmes titled
17 "Protest Overview" that states the UC administration's policy "Pitching of tents
18 (encampments) are not allowed" and designates defendant Breslauer as "senior
19 leader responsible for decision-making."

20 95. On November 3, 2011, the CMET convened. This meeting was attended by
21 defendants Robert Birgeneau, Linda Williams, George Breslauer, Mitchell
22 Celaya, and Claire Holmes. The CMET agreed not to allow tents on the campus
23 on November 9, 2011. They also discussed scenarios, how to handle media
24 coverage, and delegation of roles including who would serve as back-ups if the
day went long.

96. On November 6, 2011, defendants Claire Holmes and Linda Williams were
working with a student delivering a speech November 9, 2011 to make his

1 speech promote student activism “at the state level” as opposed to activism
2 aimed at the campus administration.
3 97. On November 7, 2011, an email signed by defendant then-Chancellor Birgeneau
4 to the campus community was “embargoed” so that defendants Birgeneau,
5 Holmes, Le Grande, and Breslauer could vet its contents.
6 98. On November 8, 2011, defendant Dan Mogulof sent an email to a colleague
7 expressing contempt toward the Occupy Movement and student protesters who
8 criticized the UC administration: “Well, we are, once again, battening down the
9 hatches for another protest. This time ‘round it’s our pals in that ‘Occupy’
10 movement who will be descending on the campus with the stated intention of
11 setting up an encampment on Lower Sproul. (Not gonna happen if we have
12 anything to say about it.) I can’t tell you how draining and frustrating this stuff
13 is, and I’d love to put them all on a slow boat to Sacramento.”
14 99. Before November 9, 2011, defendant Celaya developed an operational and
15 tactical plan for police actions for November 9, 2011, and shared this document
16 with the other Defendant Administrators for their review and approval.
17 100. On November 9, 2011, defendants Breslauer, Le Grande, Williams, Holmes, and
18 Celaya worked together to employ the UCPD and ACSO to enforce their “no
19 encampment” policy.
20 Defendant administrators’ activity, UCPD’s and ACSO’s ejection of students with tents
21 and other free-speech material, and peaceful student protest on November 9, 2011
22 101. On November 9, 2011, at 11:33am, defendant Chancellor Birgeneau emailed
23 defendant Breslauer and asked him to “keep me up to date.” At 11:46am, she
24 emailed defendant Holmes and asked her to “please send me updates every hour
or two.” The defendant members of the CMET already were in close
consultation. Defendant Holmes worked from her “hotel office” for the day.
102. For the day, pursuant to defendant Celaya’s operational plan, the UCPD had
activated an Emergency Operations Center/Departmental Operations Center

(DOC), equipped with police radio and telephone and able to monitor the internet, to serve as a command center for police operations for the day. This DOC was located in Room 37 Sproul Hall. Representatives from the administration, specifically from campus public affairs (headed by defendants Claire Holmes and Dan Mogulof) and student affairs (headed by defendant Le Grande), were at this DOC.

103. The morning of November 9, 2011, defendant UCPD Captain Roderick briefed defendant UCPD police officers, and, via defendant ACSO Lieutenant Madigan, briefed defendant ACSO police officers. He ordered that all tents must be removed immediately, and to take a “proactive approach” to find anyone on campus with camping equipment or “unauthorized signage.” Over the next hours, several people were ejected from campus, and one student was arrested, for having “sign and sound amplification devices.”

104. At noon on November 9, 2011, thousands of UC-Berkeley students and community members engaged in a peaceful rally and march. The demonstration was in solidarity with the national “Occupy” movement against economic inequality and for democracy. The protesters called for an end to fee/tuition increases, cuts, and privatization at UC-Berkeley and for taxing the banks, corporations, and billionaires to finance public higher education. The mood of the demonstration was positive and festive.

105. Many of the protesters were also critical of defendant Robert J. Birgeneau’s advocacy, defense, and implementation of measures that make UC-Berkeley resemble more and more a private university—relying on private funding for academic departments, relying on steeply-rising student tuition to cover operating costs, and making the university more responsive to private interests

1 than to public interests—and his and other defendant administrators’ violent
2 repression of student free speech defending public education in the past.
3 106. Defendants Breslauer, Le Grande, Holmes, and Williams viewed the noon rally
4 at Sproul Plaza. They themselves saw that the vast majority of participants were
5 UCB students, faculty, staff.
6 107. At 12:33pm, defendant Mogulof objects to a draft UCB press release that quotes
7 a student opposing “privatization,” stating, “We’re not going to give a platform
8 to people who claim we are privatizing. But, happy to have quotes that support
9 the broader, Sacramento-centric focus that the ASUC has endorsed,” and
10 proposing alternative language.
11 108. After a short march, protesters held a mass meeting (“general assembly”) on
12 Sproul Plaza and discussed a set of printed resolutions.
13 109. At 2:07pm, a member of the CMET shared with other CMET members a
14 photograph of resolutions from the general assembly declaring the demands and
15 aims of the protest.
16 110. By 2:45pm, the protesters had voted 456 to 1 to set up a tent encampment in
17 solidarity with the Occupy Wall Street movement and to promote their demands.
18 111. Due to defendant Birgeneau’s previous tolerant response to protest tents on
19 campus, many of the protesters on November 9, 2011 believed that they would
20 be able peacefully to set up protest tents after the march. In May 2010, students
21 had had a peaceful encampment that included sleeping bags and tarps in front of
22 Birgeneau’s office at California Hall. At the time, defendants Birgeneau,
23 Breslauer, Le Grande, Williams, Holmes, and Celaya had the same positions they
24 would also have on November 9, 2011.
112. Other cities and universities, including the neighboring city of Oakland at the
time of the November 9 protest, were permitting the “Occupy” movement to set
up encampments.

1 113. Organizers planned to set up protest tents on the grassy lawn in front of Sproul
2 Hall. Students and staff exit Sproul Hall via the stairs in front of Sproul Hall and
3 do not use this grassy lawn. This area did not block foot traffic and it is not used
4 for staging events. The protest tents would not have interfered with academic or
5 university activities in any way.
6 114. Several students brought protest tents and supplies and tried to erect the protest
7 tents on the southeast corner of the northern grassy lawn in front of Sproul Hall.
8 115. At 2:55pm, defendant Breslauer sent a picture with the full text of the resolutions
9 the student protesters had adopted to Birgeneau.
10 116. At 3:00pm – one hour before the CMET’s scheduled conference call –
11 defendants Breslauer, Le Grande, Celaya, Holmes, and Williams, and two other
12 CMET members Phyllis Hoffman and Chris Patti, held an emergency face-to-
13 face meeting at California Hall. From there, they set in motion and supervised
14 the police actions that soon followed.
15 117. A handful of police officers tried to seize the protest tents from the students.
16 Protesters gathered and chanted to protest the police action. The officers left the
17 scene.
18 118. Protesters continued to erect protest tents, and the mood was calm and peaceful.
19 About four protest tents were erected on the lawn.
20 Afternoon raid
21 119. At about 3:10pm, police officers from UCPD and ACSO were briefed by
22 defendant Captain Roderick of a tactical plan to use toward the peaceful student
23 protest.
24 120. Police officers arrived at the protest from the north and from the south. The
northern officers acted under field command of defendants Captain Roderick,
then Lieutenant DeCoulode, then ACSO Sergeant Rodrigues and UCPD Sergeant
Williams and UCPD Sergeant Tucker. The southern officers acted under the field
command of defendants Captain Roderick, Lieutenant Tejada, then UCPD

1 Sergeant Suezaki. Protesters gathered around the protest tents, some of them
2 linking arms.
3 121. Dozens of police, which included officers from the University of California
4 Police Department (UCPD) and the Alameda County Sheriff's Office (ACSO)
5 approached the protesters from the north and from the south. The police were
6 wearing riot gear, including helmets.
7 122. At about 3:30 pm, under orders from the defendants Birgeneau, Breslauer,
8 Celaya, Roderick, Tejada, DeCoulode, Madigan, Suezaki, Williams, Tucker, and
9 Rodrigues, the police forcefully attacked students, pushing with the broad side of
10 their batons, jabbing students with the ends of their batons in students' stomachs,
11 chests, ribs, legs, backs, and groins, using overhand strikes and headlocks, and
12 yanking people out by their hair and arresting them.
13 123. During the afternoon raid, the police arrested about seven protesters.
14 124. At no point during the afternoon or evening raids did protesters attack police.
15 Students chanted "Peaceful protest," "Stop beating students," and "Shame."
16 125. The police grabbed and indiscriminately arrested people who were standing
17 between them and the tents, even when these individuals had nowhere else to go,
18 because the mass of people behind them pinned them between the people behind
19 them and the police in front of them.
20 126. Within a few minutes, the police had secured control of the tents and started
21 dismantling them. However, the police continued to beat students for several
22 more minutes. Another tent was erected in the middle of the protest, but at about
23 3:55pm the police ignored it and left the scene.
24 127. Afterward, protesters set up more protest tents in the same area on the grassy
lawn and convened another General Assembly to discuss what to do next.
128. Defendant Breslauer viewed the protest at or around this point, and returned to
the CMET meeting at California Hall to discuss further actions. Defendants Le
Grande, Holmes, Williams, and Celaya met with leaders of the student

1 government and got first-hand accounts of what had occurred on Sproul Plaza,
2 while Breslauer consulted defendant Birgeneau in Tokyo.
3 129. At 4:28pm, Breslauer gave a detailed report via email to Birgeneau of the
4 afternoon police raid, reporting the use of batons and “people watching and
5 screaming at police.”
6 130. Defendants Le Grande, Holmes, Williams, and Celaya returned to Breslauer’s
7 office and continued their CMET meeting.
8 131. Some time after the afternoon police attack, defendant Lieutenant Tejada
9 reviewed video footage of the afternoon attack from within the DOC in Room 37
10 of Sproul Hall.
11 132. During the period after the afternoon police attack, Claire Holmes, as Associate
12 Vice Chancellor for Public Affairs and Communications, and her staff handled
13 media messaging and fielded the frequent inquiries from the media.
14 133. At 5:36 pm, defendant Chancellor Birgeneau, in an email to defendants
15 Breslauer, Le Grande, Williams, and Claire Holmes, stated: “It is critical that we
16 do not back down on our no encampment policy. Otherwise, we will end up in
17 Quan land.”
18 134. The CMET agreed on allowing students to have an encampment, but not to have
19 tents.
20 135. By 6:00pm, the CMET had been informed by email that a graduate student was
21 in urgent care and that a professor was injured by police.
22 136. At or around 6:15 pm, defendants Le Grande, Holmes, and Williams went to the
23 General Assembly and read a statement, declaring that the administration would
24 allow protesters to have an encampment on Sproul Plaza, but they could not have
protest tents. If they were to not comply with these restrictions, the
administration would send in police after issuing a ten-minute warning.
137. The General Assembly discussed the administration’s proposal. At or around
7:00 pm, nearly four hundred students voted overwhelmingly to keep the
encampment.

1 138. Close to 7:00 pm, a colleague advised Breslauer against clearing the tents, saying
2 he did not believe the police could be trusted to act without violence, to which
3 Breslauer replied that “[t]he level of social inequality in our society is obscene
4 and entrenched; so their main issue does not have a visible end-point of
5 resolution.”

6 139. By 7:22pm, the CMET had received information that all the arrestees from the
7 afternoon raid were UCB students and a professor.

8 Evening raid

9 140. At around 7:10pm, more officers from ACSO and the Oakland Police
10 Department arrived under the command of defendant UCPD Captain Roderick
11 and defendant ACSO Lieutenant Madigan.

12 141. At around 8:30pm, defendant Captain Roderick gave a strategic briefing to
13 Lieutenant Madigan, Lieutenant Celaya, Lieutenant DeCoulode and others
14 regarding a tactical plan to employ against the student protest. During a briefing
15 of the police officers immediately prior to deployment, defendant Chief Celaya
16 addressed the group in the basement of Sproul Hall.

17 142. By about 9:30 pm, hundreds of protesters had once again gathered around the
18 protest tents.

19 143. A large police force approached from the north in riot gear, along with another
20 large force in riot gear stepping out of Sproul Hall’s front doors and approaching
21 the protest tents from the south. Defendant Chief Celaya observed and
22 supervised the operation from the balcony of the nearby Martin Luther King
23 Student Union. The northern officers acted under field command of defendants
24 Captain Roderick, then Lieutenant Tejada and Lieutenant DeCoulode, then
ACSO Sergeant Rodrigues and UCPD Sergeant Williams and UCPD Sergeant
Tucker.

144. These police included officers from the UCPD, ACSO, and the Oakland Police
Department (OPD).

1 145. Defendant UCPD Lieutenant Eric Tejada made an announcement through a small
2 bullhorn that was barely audible to the police and the crowd. He said that
3 camping was unlawful and to “put down the tents now.” The vast majority of
4 protesters, including all the plaintiffs who were present that evening, could not
5 make out the words that were being said. Within seconds, and without a ten-
6 minute warning, police can to march onto the protest in a threatening, militaristic
7 manner.

8 146. The police marched forward, beat people, and made arrests. Police officers
9 arrested plaintiffs Francisco Alvarado-Rosas, Julie Klinger, Anthony Morreale,
10 Sachintha Wagaarachchi and Taro Yamaguchi-Phillips.

11 147. The police forced their way to the protest tents with even more brutality than in
12 the afternoon, pushing and jabbing people with their batons and using overhand
13 strikes, sometimes aiming at and hitting people’s heads. Numerous protesters fell
14 under the crush of the police assault and blows.

15 148. The police action created mass panic among protesters, who tripped over each
16 other in their rush to avoid the police beating.

17 149. Police beat and kicked people who were lying on the ground and yanked them
18 behind the police line for arrest.

19 150. The police again indiscriminately arrested people, even when these individuals
20 had nowhere else to go because of the crush of people behind them.

21 151. The police secured access to the protest tents and began to dismantle them. They
22 now stood between the tents and chanting protesters.

23 152. The police attacked these protesters for an extended period of time, beating
24 people.

153. During the evening raid, the police arrested about thirty-four protesters.

154. Over the course of the police violence, students hurried to Sproul Plaza from
across campus to defend the protesters. Over two thousand people amassed in
Sproul Plaza, and the police ceased their attack.

1 155. The protesters amassing in Sproul Plaza voted overwhelmingly to hold a
2 university-wide strike on November 15, 2011 to defend public education and
3 protest the university's police brutality against peaceful protesters.
4 156. The next day, November 10, 2011, defendants Birgeneau, Breslauer, and Le
5 Grande sent out an email to the campus community defending the violent police
6 actions of November 9.
7 157. In the face of continuing protests and calls for his resignation, on November 22,
8 2011 defendant Chancellor Birgeneau publicly admitted, in writing, his role in
9 causing injury to protesters: "I sincerely apologize for the events of November
10 9th at UC Berkeley and extend my sympathies to any of you who suffered an
11 injury during these protests. As Chancellor, I take full responsibility for these
12 events and will do my very best to ensure that this does not happen again."
13 158. The accounts of individual plaintiffs who suffered such injuries are detailed
14 further below.
15 Yvette Felarca
16 159. Yvette Felarca is a prominent activist, national organizer with the Coalition to
17 Defend Affirmative Action, Integration, and Immigrant Rights and Fight for
18 Equality By Any Means Necessary (BAMN), a graduate of UC Berkeley's
19 School of Education, and a teacher at Berkeley's Martin Luther King Jr. Middle
20 School.
21 160. During the afternoon raid, Ms. Felarca was linking arms with other protesters
22 facing north. She was not initially in the front; however, when people in front of
23 her were attacked and retreated into the crowd, she found herself in front of the
24 crowd.
161. Ms. Felarca pleaded with officers in front of her not to use violence. Ms. Felarca
said, "This is our university. You don't want to do this, you know you don't. This
is stupid. We are doing nothing wrong."

1 162. The following events occurred after the police had secured access to the tents and
2 started destroying them.
3 163. Defendant Sergeant Williams and Officer Zuniga jabbed Ms. Felarca with their
4 batons. While doing so, they acted under the command of defendants Captain
5 Roderick, then Lieutenant DeCoulode, then Sergeant Williams and Sergeant
6 Tucker.
7 164. Some time later, suddenly and out of nowhere, defendant Sergeant Williams
8 forcefully jabbed Ms. Felarca in the stomach with the end of his baton. The rest
9 of the line of police joined in, jabbing and beating protesters. Williams,
10 defendant Officer Zuniga and defendant Officer Tinney forcefully jabbed Ms.
11 Felarca.
12 165. The police seemed to focus their batons on Ms. Felarca.
13 166. Ms. Felarca was hit in the collar bone and throat. Her throat hurt very badly.
14 After the jab to her stomach, she turned sideways to protect her stomach. The
15 police continued to jab her in the midsection.
16 167. Around Ms. Felarca, people were screaming in terror and pain.
17 168. Ms. Felarca was hit in the right side area of her abdomen. When she went to the
18 hospital later, she was told her liver was beneath that injured area. She was also
19 hit a few inches above that, in her lower right rib area. Her left front rib area, left
20 side ribs, and left back ribs were hit multiple times.
21 169. Her left hand and fingers were hit, and her right hand was hit when the police
22 officer was striking the person to her right with whom she was linking arms.
23 170. Ms. Felarca, upset and crying, backed away from the front. She was in so much
24 pain that she felt like she was going to vomit.
171. She spent a long time in the back of the protest shaking and trying not to throw
up.

1 172. She suffered multiple contusions on her ribs and midsection. When she coughed,
2 it hurt so much that she almost passed out, which also made her panic because
3 she was afraid that if she did not cough she could not breathe.

4 173. For days, she felt extreme pain lying down. She could not sleep through the night
5 for the first two nights because of the pain, and was only able to sleep afterward
6 because of medication she got from the hospital. As of November 29, 2011 when
7 this action was initially filed, she felt pain sitting and standing in certain
8 positions.

9 174. As of November 29, 2011, she still could not lie down on either one of her sides
10 because of the pain. She felt extremely exhausted hours before her usual time to
11 go to sleep. She could only cough partially, particularly because of the sharp and
12 excruciating pain. She could not finish a sneeze because of the sharp pain,
13 especially in her left back ribs.

14 175. For weeks, she cried almost daily as a result of the incident. When she was
15 examined by the doctor, she began to shake and sob uncontrollably.

16 Francisco Alvarado-Rosas

17 176. During the evening raid, Francisco Alvarado-Rosas was linking arms as part of
18 the group of protesters facing north, in the front and closest to Sproul Hall.

19 177. Earlier that evening, he had received a text message about the afternoon incident.
20 He had already planned to attend the protest but was motivated to participate
21 even more because of the administration's attack on free speech.

22 178. He had arrived at about 6:00 pm and began to read and study.
23
24

1 179. Vice Chancellor of Student Affairs Harry Le Grande had announced that
2 protesters had until 10:00 pm to remove the tents, and that if they did not the
3 police would show up, give a ten-minute warning, and remove the tents by force.

4 180. At around 9:30 pm, the police showed up in full riot gear.

5 181. As the police moved forward, Mr. Alvarado-Rosas turned to his friend and told
6 her everything would be okay because she seemed scared. Then, out of nowhere,
7 he felt a pain in his ribs.

8 182. The police line was close to him and the other protesters, and he fell to the front.
9 He kept feeling random baton jabs. The police kept screaming at him "Move!
10 Move! Move!" but this was impossible because he was on the ground and they
11 kept beating him down with their batons.

12 183. Mr. Alvarado-Rosas screamed at the police that he could not move because they
13 were hitting him.

14 184. The police demanded that he remove his hands from his face, but he did not
15 because he was afraid they would strike him in the face.

16 185. He heard an officer yell to arrest him. Two officers grabbed Mr. Alvarado-Rosas
17 and pulled him behind the police line.

18 186. The officers who beat and arrested him acted under the field command of
19 defendant Captain Roderick, defendants Lieutenant Tejada and Lieutenant
20 DeCoulode, and Sergeant Williams.

21 187. The police brought out zip ties, confiscated Mr. Alvarado-Rosas' backpack, and
22 took him to the UCPD station beneath Sproul Hall.

23 188. Mr. Alvarado-Rosas was detained there for about an hour, as the police brought
24 more people in.

1 189. The police transported Mr. Alvarado-Rosas and other protesters to the Oakland
2 jail.

3 190. The police booked protesters.

4 191. One arrestee was a man who was in a lot of pain and could barely walk due to
5 the police violence. The police made fun of him and called him a “cry baby.”

6 192. They released Mr. Alvarado-Rosas after several hours.

7 Christopher Anderson

8 193. During the afternoon raid, Christopher Anderson was linking arms as part of the
9 group of protesters facing north, in the front.

10 194. A line of riot police wearing helmets approached him and began beating him and
11 other protesters around him.

12 195. An unidentified officer repeatedly jabbed Mr. Anderson in the left arm and rib
13 with the point of his baton. As the line of officers shifted, a second officer and
14 later a third officer jabbed Mr. Anderson repeatedly. The officers who struck him
15 were defendant Officer Buschhueter (acting under the command of defendant
16 ACSO Sergeant Rodrigues), and defendants Officer Lachler and Officer Wong
17 (who acted under the command of defendants Sergeant Williams and Sergeant
18 Tucker). All these officers acted under the field command of defendant Captain
19 Roderick, then defendant Lieutenant DeCoulode, and the police had already
20 begun destroying the tents.

21 196. During a lull in the police violence, Mr. Anderson's left leg was positioned a few
22 inches farther forward than his right. Defendant Officer Wong demanded that Mr.
23 Anderson move his leg and said that if he didn't, "I'll fuck you up."

24 197. Officer Wong swung his baton using both hands and hit Mr. Anderson repeatedly
on the shin. A woman adjacent to Mr. Anderson tried to use her leg to protect
him; the officer pushed her leg away and continued to strike Mr. Anderson's shin
over and over.

1 198. Some time later, the line of police attacked the protesters again, this Officer
2 Wong now hitting Mr. Anderson with tremendous force. By this point, Mr.
3 Anderson had been struck about fifteen times.
4 199. After the afternoon raid, Mr. Anderson felt great pain in his shin, and there were
5 a couple of raised bumps and a couple of cuts on his shin. He felt severe pain in
6 his left arm and left ribs.
7 200. During the evening raid, Mr. Anderson joined the group of protesters facing
8 north, about five feet west from the hedge lining Sproul Hall.
9 201. As the line of police walked parallel to the hedge and forced its way through the
10 crowd, various officers jabbed Mr. Anderson with their batons.
11 202. Mr. Anderson also saw protesters falling down in front of him and on top of each
12 other—the police continued to beat these people and pulled them out for arrest.
13 203. Defendant Officer Obichere of the Alameda County Sheriff's Office, who was
14 muscular, tall and appeared to weigh over 250 pounds, and defendant Officer
15 Armijo, focused on Mr. Anderson and hit him with tremendous force about five
16 times with increasing intensity. In addition to jabs, this officer used overhand
17 swings and struck Mr. Anderson's leg as well. Obichere and Armijo acted under
18 the field command of defendants Captain Roderick, then Lieutenant Tejada and
19 Lieutenant DeCoulode.
20 204. Defendant Obichere or Armijo used both hands and struck Mr. Anderson with the
21 broad side of his baton twice directly in the face, in his upper gum and nose area.
22 Mr. Anderson felt blood running out of his nose.
23 205. Feeling dazed because of the blow to his face, Mr. Anderson stumbled westward,
24 along the gap between protesters and officers, to escape.
206. Some time later, Mr. Anderson rejoined the group of protesters facing north,
farther to the west from where he had stood previously. He stood near Officer
Obichere, who began hitting another protester. Defendant UCPD Officer Miceli
and defendant ACSO Sergeant Rodrigues jabbed Mr. Anderson forcefully and

1 repeatedly with their batons at least seven times. These officers acted under the
2 field command of defendants Captain Roderick, then Lieutenant Tejada and
3 Lieutenant DeCoulode
4 207. Mr. Anderson, overwhelmed and in pain from the accumulated blows, left the
front of the crowd.
5 208. Mr. Anderson had bruises all over his upper body.
Joshua Anderson
6 209. During the afternoon raid, Joshua Anderson was part of the crowd facing the
7 police to the north.
8 210. Most, if not all, of the events below occurred after the police had already secured
access to the tents and started destroying them.
9 211. There was a very small young woman in front of Mr. Anderson who was being
10 savagely beaten and who was crying from pain. When Mr. Anderson covered her
11 with his arm and body to shield her, his arm and hand were beaten even more
12 viciously. During a lull in the police violence, Mr. Anderson asked her if she
13 wanted to go backward into the crowd and she said yes; he took her place at the
14 front of the crowd.
15 212. The police attacked, they beat Mr. Anderson in the chest, jabbed him in the
stomach and smacked his arms with their batons.
16 213. There was a pause in the beating for about one minute. Mr. Anderson linked arms
17 with fellow protestors.
18 214. During the next police attack, Mr. Anderson tripped and fell toward Sproul Hall.
19 At this point, he was beaten with batons. He was right on the hedge lining the
20 building. He heard defendant ACSO Officer Buckhout behind him say “Alright,
21 motherfucker,” and this officer put his arm around Mr. Anderson’s neck,
22 obstructing his breathing, and used his other arm to hold him around the waist.
23 Buckhout was under the field command of Captain Roderick, then Lieutenant
24 DeCoulode, then Sergeant Rodrigues.

1 215. During this time, Mr. Anderson could barely breathe. Sergeant Williams started
2 jabbing him and tried to hit him in the genitals, but he missed and hit about two
3 inches away; Williams hit him at the very top of his inner left thigh. Sergeant
4 Williams acted under the field command of Captain Roderick, then Lieutenant
5 DeCoulode.
6 216. Mr. Anderson was then let go by Buckhout. Mr. Anderson rejoined the group of
7 protesters.
8 217. Later, three officers—defendants Sergeant Williams, Officer Brashear, and
9 Officer Odyniec—singled him out and started to beat him all together. At the
10 same time, Anderson was being pulled towards the hedge. He fell into the bush
11 and they continued to beat him while he was down. In one-second intervals three
12 police officers hit him, one after another in a continuous rhythm of violent jabs.
13 This lasted about twenty seconds. He fell back in the bush and was on the
14 ground, when Sergeant Williams hit him on the leg. The officers in this
15 paragraph acted under the field command of Captain Roderick, then Lieutenant
16 DeCoulode, then Sergeant Williams and Sergeant Tucker.
17 218. The officers had hit Anderson hard on his leg right on his pants pocket, in which
18 was a key. The police strike left a dark black spot on his leg, which had now
19 turned yellow. He was hit so hard on the leg, that the key in his pocket was bent
20 into the shape of the baton. During the second attack, he was hit on the back of
21 the head numerous times. Mr. Anderson then limped away from the scene of the
22 mass assault.
23 219. After another lull, defendants Sergeant Tucker and defendant Officer Tinney
24 forcefully pushed Mr. Anderson and other protesters backward. Tucker and
Tinney acted under the field command of defendants Captain Roderick, then
Lieutenant DeCoulode. The violent shoving of these officers and other officers

1 under the command of Sergeant Tucker and Sergeant Rodrigues forced Mr.
2 Anderson to fall to the ground.
3 220. As of the time this lawsuit was originally filed, November 29, 2011, Anderson
4 had contusions on most of his ribs. His stomach and back continued to hurt
5 badly. He had been hit very hard in the face, causing the side of his eye and
6 cheek to swell up. It had swollen up so much that he could see the side of his
7 face out of the corner of his eye.
8 221. Mr. Anderson's hand was swollen that day, and it still hurt as of November 29,
9 2011. He could not touch anything with his left hand without feeling pain.
10 Honest Chung
11 222. During the evening raid, Honest Chung was linking arms with other protesters in
12 the front row. He was standing near the tree at the southern end of the grassy
13 lawn.
14 223. When the line of police approached, one unidentified officer singled out Mr.
15 Chung and jabbed away at him with the end of a baton. This officer hit him three
16 to five times, paused a few seconds, then jabbed him seven to eight more times.
17 This officer was under the field command of Captain Roderick, then Lieutenant
18 Tejada and Lieutenant DeCoulode, then Sergeant Williams.
19 224. Later in the police assault, Officer Tinney jabbed Mr. Chung forcefully and
20 repeatedly with his baton, causing Mr. Chung to reel back. Mr. Chung was being
21 hit so hard, that a soda can in his backpack burst. Officer Tinney acted under the
22 field command of Captain Roderick, then Lieutenant DeCoulode, then Sergeant
23 Williams.
24 225. After being hit so many times, Mr. Chung stopped linking arms with his
neighbors. He found that he could hardly breathe and was in extreme pain.
226. Still receiving blows, Mr. Chung tried to lean back. He collapsed from the force
of the blows. People behind him dragged him back into safety. A large man
picked him up and carried him to the middle of Sproul Plaza.

1 227. Several people surrounded Mr. Chung and asked where he was hurt. He felt most
2 of the pain in his forearm and left rib, and it hurt to breathe. When one person
3 asked if Mr. Chung needed medical attention, Mr. Chung could not give a
4 coherent answer.
5 228. He was able to walk, but he had to keep his left arm as immobile as possible and
6 use his right arm to hold his rib.
7 229. Another person drove Mr. Chung to the hospital.
8 Morgan Crawford
9 230. During the afternoon raid, Morgan Crawford was linking arms as part of the
10 group of protesters facing north, in the front.
11 231. The police advanced and continuously tried to force students back. The officers
12 pushed with the broad side of their batons and jabbed with the end of their
13 batons, focusing on arms, ribs, abdomens, stomachs, and groins.
14 232. Some of the officers appeared to enjoy what they were doing.
15 233. The police from north and south of the tents secured access to the tents and
16 started destroying them.
17 234. Defendant Officer Lachler jabbed Mr. Crawford, aiming for his groin. She acted
18 under the field command of defendants Captain Roderick, then Lieutenant
19 DeCoulode, then Sergeant Williams and Sergeant Tucker.
20 235. The police attack went on for several minutes. People were screaming that they
21 were hurt.
22 236. Mr. Crawford felt terrified and angry that he and others would be attacked by
23 people who should be protecting him.
24 237. Mr. Crawford left the scene and returned during the evening. The mood was
positive, and there was music.
238. Protesters started yelling that the police were coming. Mr. Crawford linked arms
with the group of protesters facing north and was standing in the front. Officers
in ACSO uniforms marched toward them in formation wearing riot gear,
thrusting their batons forward in rhythm, chanting "Move! Move!"
239. Mr. Crawford felt terrified but was unable to move back because there were so
many people behind him.

1 240. The police began jabbing Mr. Crawford and those around him. He was getting hit
2 even harder than during the afternoon. He and other protesters were telling the
3 police they could not move back, but the police continued to jab and push them.
4 241. There appeared to be a second wave of officers that arrived who were a lot more
5 ruthless in attacking Mr. Crawford and those around him. They were beating
6 people on any part of their bodies they could. Mr. Crawford had the wind
7 knocked out of him.
8 242. He heard screams in front of him and saw a barrage of batons in front of him,
9 with camera lights flashing. Mr. Crawford felt like he was in a war zone.
10 243. Defendant Obichere and Defendant Armijo assaulted Mr. Crawford, using jabs
11 and overhand strikes. They whacked the side of his leg. This was crippling
12 painful. Mr. Crawford doubled over. Obichere and Armijo acted under the field
13 command of defendants Captain Roderick, then Lieutenant Tejada and
14 Lieutenant DeCoulode.
15 244. Mr. Crawford turned around and retreated into the crowd. As he was leaving, he
16 could feel Obichere and Armijo continuing to hit him in the back with batons.
17 245. It was only after leaving the crowd, inside of which he was supported by those
18 around him, that Mr. Crawford realized he could hardly stand. A couple of
19 friends had to carry him home on their shoulders.
20 246. The side of his leg was very swollen. Red welts in the shape of batons were on
21 the side of his legs. He had massive contusions on his leg and could barely walk.
22 247. Going to bed that night, he could not get his mind off the protest and continued
23 to hear screaming.
24 248. As of November 29, 2011, Mr. Crawford still had to walk on crutches.
249. He had suffered from anxiety and depression since November 9, and he had an
anxiety attack on November 11. As of November 29, 2011, he felt anxious
around large groups of people. If he heard a group of people scream, his mind
went back to the terror of that night.
Yania Escobar

1 250. During the evening raid, Yania Escobar was linking arms with other protesters, in
2 the front row facing police.
3 251. An unidentified officer jabbed Ms. Escobar repeatedly in the right lower
4 abdomen. This officer acted under the field command of defendants Captain
5 Roderick, then Lieutenant Tejada and Lieutenant DeCoulode, then Sergeant
6 Williams.
7 252. Ms. Escobar saw brutality all around her. One officer swung his baton and hit the
8 back of a man's knees, knocking him down, and hit him more while he was on
9 the ground.
10 253. Police pushed Ms. Escobar and others backward, forcing Ms. Escobar to trip
11 over the protest tent that was right behind her. While she was on the ground, the
12 officer continued to jab her with a baton.
13 254. Another protester pulled Ms. Escobar out for her safety.
14 255. Ms. Escobar left, took a breath for a little while, and went back to join the
15 protest.
16 256. A line of police now stood between where protest tents used to be and Sproul
17 Hall.
18 257. Ms. Escobar saw protesters chanting "Shame, shame," "Shame on you," and
19 "Stop beating students."
20 258. Soon after this, the police started beating protesters again. An unidentified officer
21 hit Ms. Escobar in her right breast and rib area. This officer acted under the field
22 command of defendants Captain Roderick, then Lieutenant Tejada and
23 Lieutenant DeCoulode.
24 259. As of the day this action was initially filed on November 29, 2011, Ms.
Escobar's lower right abdomen hurt when touched.
Joseph Finton
260. During the evening, Joseph Finton was linking arms with a group of people
surrounding the tents.
261. He saw police approach from the north, reach the tents and destroy them.
262. He ended up in the front of the group, linking arms with other protesters, facing
police officers. He was standing on the concrete about ten to fifteen feet away

1 from the tree that is on the southern end of the grassy lawn, and was facing
2 Sproul Hall.
3 263. The police continued to beat people. There was no way for Mr. Finton and others
4 to step back.
5 264. Defendant Officer Garcia continuously jabbed him with the end of his baton, in
6 his legs and in his chest. Garcia acted under the field command of defendants
7 Captain Roderick, then Lieutenant Tejada and Lieutenant DeCoulode, then
8 Sergeant Rodrigues.
9 265. Mr. Finton saw Garcia hit other protesters as well, including in particular a
10 woman to Finton's right who was crying the whole time.
11 266. Finton told Garcia that he was going to file a complaint against him. Garcia
12 continued to jab Finton some more.
13 267. A friend to Finton's right got knocked over by the baton blows. When Finton
14 tried to help him up, Garcia continued to hit him.
15 268. Garcia jabbed Finton, completely unprovoked and for no good reason, about five
16 times.
17 269. After getting beaten repeatedly, Finton had to leave because he could not take it
18 anymore.
19 270. His chest and legs hurt, and the pain got worse the next day. He had bruises on
20 his chest and legs. He walked with a limp.
21 Hayden Harrison
22 271. During the afternoon raid, Hayden Harrison was linking arms as part of the
23 group of protesters facing north, in the front. He was trying to take pictures of
24 what happened.
272. When police made an announcement over a megaphone, Mr. Harrison could not
hear it, even though he was in the front.
273. Five to ten minutes later, the police started hitting people along the front of the
crowd.
274. Most, if not all, of what follows occurred after the police had secured access to
the tents and started destroying them.

1 275. First, police pushed Mr. Harrison with their batons, but soon all the police along
2 the line were jabbing people hard and aggressively in their stomachs, including
3 Mr. Harrison.
4 276. Defendant Officer Samantha Lachler was trying to hit him in the groin with the
5 edge of her baton. She did hit his groin and it hurt very badly. He had nausea and
6 a stomach ache for several hours afterward. Lachler acted under the field
7 command of defendants Captain Roderick, then Lieutenant DeCoulode, then
8 Sergeant Williams and Sergeant Tucker.
9 277. Mr. Harrison was hit over ten times, mostly in his stomach and front hip area, by
10 different officers.
11 278. The officers were ordering him and others to move back, but this was impossible
12 because of the crowd behind them.
13 Louis Helm
14 279. During the evening raid, Louis Helm was linking arms with other protesters, in
15 the front and facing police. He was standing near the tree at the southern end of
16 the grassy lawn.
17 280. Most, if not all, of what happened below occurred after the police had secured
18 access to and started destroying the protest tents.
19 281. The police pushed Mr. Helm and those around him backward. An unidentified
20 officer was jabbing Mr. Helm in the ribs. This officer acted under the field
21 command of defendants Captain Roderick, then Lieutenant Tejada and
22 Lieutenant DeCoulode, then Sergeant Williams.
23 282. The police were telling people to move back. Even if Mr. Helm had tried to, he
24 could not because there were so many people behind him.
283. Officers hit and tackled the person next to Mr. Helm and were pulling this
protester out. During this, they also grabbed Mr. Helm by his arm and backpack.
They were pulling so hard that the top straps of Mr. Helm's backpack broke and
they ripped off his backpack. These officers acted under the field command of

1 defendants Captain Roderick, then Lieutenant Tejada and Lieutenant DeCoulode,
2 then Sergeant Williams.
3 284. Two unidentified officers attacked Mr. Helm and hit him repeatedly. He was
4 struck at least four times in the ribs and stomach, and also struck on his legs.
5 285. Mr. Helm buckled a little and his body lowered. The officers continued to strike
6 him, aiming for his head. One baton struck his right eye, just outside of the
7 socket.
8 286. Mr. Helm lifted his left arm above his head to shield himself. The officers hit his
9 raised arm three or four times. When an officer hit his elbow, Mr. Helm lost
10 feeling in his hand.
11 287. Later, the officers continued to hit Mr. Helm's ribs.
12 288. These officers acted under the field command of defendants Captain Roderick,
13 then Lieutenant Tejada and Lieutenant DeCoulode, then Sergeant Williams.
14 289. As of November 29, 2011 when this action was initially filed, Mr. Helm had
15 injuries across his body and bruises on both of his legs.
16 Jacquelyn Kingkade
17 290. During the afternoon raid, Jacquelyn Kingkade was linking arms as part of the
18 group of protesters facing north.
19 291. Protesters were linking arms, and engaged in conversations, and the line of
20 police was just standing there. She does not remember the police giving any
21 warning of what they were going to do and how, or that they were going to be so
22 violent.
23 292. Suddenly, the police attacked people, jabbing people with the ends of their sticks.
24 Ms. Kingkade tried to slip back, but there were too many people behind her.
293. An unidentified officer hit Ms. Kingkade in the chest. She was terrified and
thought they would break her ribs, and she could not get out. This officer acted
under the field command of defendants Captain Roderick, then Lieutenant
Madigan, then Lieutenant DeCoulode, then Sergeant Rodrigues.

1 294. She had a bruise on her chest, and it hurt to breathe afterward. She also had
2 bruises all over her legs because the police were pushing protesters into each
3 other. She could not walk fast at all and had to hunch over.
4 295. As of November 29, 2011 when this action was initially filed, she felt anxious
5 when she was in large crowds and remembered the feeling of being trapped. She
6 got anxious when she saw police because she no longer knew whether they
7 would hit people for no reason.
8 Julie Klinger
9 296. During the evening raid, Julie Klinger was linking arms in the group of protesters
10 facing north.
11 297. Before the police attacked her and those around her, Ms. Klinger did not hear an
12 order to disperse.
13 298. Ms. Klinger had heard about the police violence during the afternoon. She and
14 others around her advised people to stay calm.
15 299. The police marched toward the protesters, screaming at them to “move away.”
16 300. Most, if not all, of what happened below occurred after the police had secured
17 access to the tents and started destroying them.
18 301. Ms. Klinger told the officers she had nowhere to go, with the police in front of
19 her and protesters behind her.
20 302. The police pushed Ms. Klinger and those around her, hitting them with the broad
21 side of their batons and later using forward jabs with the sharp ends of their
22 buttons.
23 303. The officer in front of her, a tall white male, hit her in the middle of her chest,
24 pushing the wind out of her. She felt intense pain, like she was being crushed.
304. The police struck Ms. Klinger and others around her repeatedly. This continued
for some minutes.
305. Some of the police were so angry that they fogged up their masks. Ms. Klinger
saw an elderly man and his wife near her get knocked down.
306. The police threw Ms. Klinger to the ground and dragged her several feet.
Defendant Sergeant Jewell put her hands in plastic zip-ties, stood her up, and led
her to the basement of Sproul Hall to be detained with the other arrestees.

1 307. The officers who beat her and arrested her acted under the field command of
2 defendants Captain Roderick, then Lieutenant Tejada and Lieutenant DeCoulode,
3 then Sergeant Williams.

4 308. Ms. Klinger was cuffed for hours in the basement while they took down people's
5 information. Her handcuffs were particularly tight and cut off her circulation.

6 309. The police transported Ms. Klinger and other protesters to the Oakland jail,
7 where they booked protesters.

8 310. Ms. Klinger was released after several hours.

9 Benjamin Lynch

10 311. During the afternoon raid, Benjamin Lynch was part of the group of protesters
11 facing to the north, two or three people back from the front.

12 312. The police secured access to the tents and started destroying them.

13 313. The police north of the tents attacked students, and the people in front of Mr.

14 Lynch were getting beaten pretty badly. Some of them turned sideways to avoid
15 the brunt of the baton jabs.

16 314. A person to his right in the front had to go back. Mr. Lynch was now in the front.

17 315. The police were both feinting to hit and hitting. Mr. Lynch turned sideways, his

18 right forearm extended slightly outward, to avoid the brunt of the baton blows.

19 316. Defendant Sergeant Williams did an overhand swing, swinging his baton

20 downward at a diagonal, striking Mr. Lynch on his right forearm. Williams acted

21 acted under the field command of defendants Captain Roderick, then Lieutenant

22 DeCoulode.

23 317. The baton had broken skin, and the wound bled.

24 318. Afterward, Mr. Lynch felt throbbing, intense pain. The area Williams had struck

swelled outward about an inch above the rest of his arm. Periodically, he would

feel a shooting pain go down his forearm.

319. Minutes later, he began applying ice to ease the swelling.

320. His forearm was very swollen and bruised, and it was difficult to move his

forearm due to the pain, and it hurt to touch it. Over the next several days, the

1 swelling spread across and covered much of his forearm. It took a week for the
2 swelling to go down.
3 321. As of the day this action was initially filed on November 29, 2011, he could not
4 rest on his forearm, and it was still tender.
5 Maximilian McDonald
6 322. During the afternoon raid, Maximilian McDonald was part of a group of
7 protesters near the protest tents, facing the steps of Sproul Hall.
8 323. A line of police stood in front of Mr. McDonald and protesters. They pushed
9 forward and started grabbing people and yanking them behind the police line.
10 324. As Mr. McDonald held up his fingers in “peace” signs, an officer shoved him
11 backward with his baton and pinned him with the baton to his neck. This officer
12 acted under the field command of defendants Captain Roderick, then Sergeant
13 Suezaki.
14 325. The police reached the tents, secured a perimeter around them, and started
15 destroying them. Mr. McDonald stood in a peaceful group of students on the far
16 side of the police, away from the tents.
17 326. Suddenly, the police advanced and started jabbing Mr. McDonald and others
18 around him with the points of their batons. A tall, Latino officer with ACSO
19 jabbed Mr. McDonald repeatedly. This officer acted under the field command of
20 defendants Captain Roderick, then Sergeant Suezaki.
21 Anthony Morreale
22 327. During the evening raid, Anthony Morreale was part of the group of protesters
23 facing north.
24 328. Previously, on his way to the tents, he saw that police had a speaker facing
Sproul Hall steps and that the speaker was not working at the time. By the time
the police attacked Mr. Morreale and those around him, he had heard no
dispersal order and had not seen any police officers make an announcement.
329. Before the police made contact with Mr. Morreale and those around him, he saw
an old woman plead with police. An officer knocked her flat on her back, and

1 when an old man protested this mistreatment, officers started to jab him in the
2 torso with the ends of their batons.
3 330. Police officers jabbed Mr. Morreale and those around him. Defendant Officer
4 Obichere and Officer Armijo jabbed him in the chest, torso, and stomach. These
5 officers acted under the field command of defendants Captain Roderick,
6 Lieutenant Madigan, then Lieutenant Tejada and Lieutenant DeCoulode.
7 331. The police were yelling "Move!" as they did this, but Mr. Morreale had nowhere
8 to go.
9 332. A tall, white male officer was jabbing a woman to Mr. Morreale's right, a petite
10 woman about five feet six inches tall, repeatedly with his baton. Mr. Morreale
11 told the officer to stop. In response, defendant Officer Obichere jabbed Mr.
12 Morreale repeatedly.
13 333. A few protesters managed to escape by running to the left, between officers and
14 the protesters. Officers hit these individuals too. One officer used the broad side
15 of his baton and clubbed a man directly in his face as he tried to leave.
16 334. At one point, the officers simultaneously started to target protesters' legs. An
17 unidentified officer in front of Mr. Morreale went underneath his leg and struck
18 his testicles. Mr. Morreale reeled from the blow. The officer then grabbed him
19 and threw him to the ground behind the police line. This officer acted under the
20 field command of defendants Captain Roderick, then Lieutenant Tejada and
21 Lieutenant DeCoulode, then Sergeant Williams.
22 335. An officer jumped and landed on Mr. Morreale's back.
23 336. A police officer handcuffed him and led him to the basement of Sproul Hall.
24 337. In Morreale's arrest report since obtained by plaintiffs, defendant Officer George
Hallett is listed as his arresting officer.
338. Morreale and the other protesters were taken to Glenn Dyer Jail, where they were
processed.
339. Mr. Morreale was released at about 5:00 am.
340. Mr. Morreale was bruised and was sore in his ribs for days after the incident.
Liana Mulholland

1 341. During the afternoon raid, Liana Mulholland was linking arms as part of the
2 group of protesters facing north. The police had already secured access to the
3 tents and started destroying them.
4 342. The police attacked the crowd. Ms. Mulholland turned backward toward the
5 crowd.
6 343. She could not see because her back was turned, but she could feel the batons
7 hitting people in the front through their bodies.
8 344. After this attack, Ms. Mulholland ended up in the front and was linking arms.
9 345. While she and other protesters stood peacefully, the line of police suddenly
10 started ramming people with batons.
11 346. Defendants Sergeant Williams and Officer Tinney rammed batons into Ms.
12 Mulholland's abdomen. She lost her balance and fell down, and her glasses
13 almost fell off.
14 347. She got up again with the help of another protester. She was hit again twice in
15 the right breast and in her abdomen just below her ribs.
16 348. Sergeant Williams and Officer Tinney acted under the field command of
17 defendants Captain Roderick, then Lieutenant DeCoulode, then Sergeant
18 Williams and Sergeant Tucker.
19 349. These blows hurt a lot, and she was terrified that she would get badly injured,
20 knowing that an Iraq veteran in the Occupy Oakland movement was hospitalized
21 after getting a lacerated spleen from baton blows.
22 350. Another protester yelled toward her, "Let her through!" Ms. Mulholland left the
23 front of the group.
24 351. As she left the front, she found it extremely difficult to breathe, but another
protester accompanied her the whole way. This person sat with her while she
rested against a wall. She had to use her asthma inhaler before she could breathe
again and was in extreme pain. She asked the person to get painkillers. Other
people approached her out of concern.
352. The night of November 9, she had a huge bruise on her right upper arm that was
dark purple and about four inches across and two inches down.

1 353. Her right side hurt below the ribs. Three days after November 9, a spotted purple
2 bruise appeared there.
3 354. The blow to her abdomen, which was the most painful, showed a light yellow
4 and purple bruise two days later. The pain there felt deeper, as if something
5 internal was bruised.
6 355. For days, she found it difficult to walk, cough, or bend over. Four days later, she
7 still had to move slowly and carefully to avoid the pain.
8 356. On November 21, 2011, Ms. Mulholland was diagnosed with a cracked rib.
9 Colleen Mica Stumpf
10 357. During the afternoon raid, Colleen Mica Stumpf was linking arms as part of the
11 group of protesters facing north.
12 358. When police approached, she held up her hands in peace signs.
13 359. An unidentified officer from ACSO pushed into Ms. Stumpf, while a second
14 officer jabbed her repeatedly with a baton. This officer acted under the field
15 command of defendants Captain Roderick, then Lieutenant Madigan, then
16 Lieutenant DeCoulode, then Sergeant Rodrigues.
17 360. Ms. Stumpf continued to raise peace signs and was pleading, "Please don't hurt
18 us. We are nonviolent. Please don't do this." One of the officers clubbed her
19 forearm to the bone.
20 361. The police ripped a sign out of her hands, and at one point the police pushed into
21 her so hard that they trampled on her feet and almost knocked her over.
22 362. All around her, she saw a woman jabbed repeatedly, a woman knocked into a
23 metal pump in the bushes and beaten further, and a man who was sobbing
24 clubbed repeatedly in the stomach.
363. Ms. Stumpf was hurt so badly that she visited Urgent Care that afternoon. She
had a large bruise on her right arm covering the entire outer side. She also had a
large welt on her forearm, where she was clubbed to the bone. She also had
muscle strain around her right shoulder from being yanked by the police, and red
marks around her wrist.

1 364. Ms. Stumpf was emotionally traumatized, in a state of shock and depressed after
2 the incident. She was terrified that people who are supposed to protect her could
3 attack students totally unprovoked and could beat her again at any time.
4 Justin Tombolesi
5 365. During the afternoon raid, Justin Tombolesi was linking arms with the group of
6 protesters facing north.
7 366. When the line of police approached, an unidentified officer from ACSO slammed
8 Mr. Tombolesi three times in the stomach and four times in the ribs with a baton.
9 367. The police started pushing into Mr. Tombolesi and those around him and hit him
10 a few more times.
11 368. A second police officer shifted over and was now in front of Mr. Tombolesi. This
12 second officer hit Mr. Tombolesi in the ribs and in the chest several times. The
13 police continued to push against protesters.
14 369. Mr. Tombolesi talked to this second officer, asking why he was doing this and
15 saying that protesters were not trying to harm them.
16 370. A few minutes later, a third officer came up to Mr. Tombolesi and hit him in the
17 ribs about eight more times, and in the chest at least four times. These three
18 officers acted under the field command of defendants Captain Roderick, then
19 Lieutenant Madigan, then Lieutenant DeCoulode, then Sergeant Rodrigues.
20 371. Mr. Tombolesi was being pushed by the police toward Sproul Hall, where police
21 were yanking people out to be arrested.
22 372. Mr. Tombolesi saw another protester, plaintiff Joshua Anderson, caught in a
23 headlock being beaten by police. After Mr. Anderson was released, Mr.
24 Tombolesi linked arms with him and another protester.
373. A few minutes later, defendant Corporal Brashear and defendant Officer Odyniec
came up to Mr. Tombolesi and hit him, perhaps ten times, with jabs into his
ribcage and his chest.
374. During this, Mr. Tombolesi and his neighbor became separated from the rest of
the crowd. Here, he was hit many more times by defendants Brashear, Odyniec,
and Sergeant Williams, even after Mr. Tombolesi had fallen over. These officers

1 were acting under the field command of defendants Captain Roderick, then
2 Lieutenant DeCoulode, then Sergeant Williams and Sergeant Tucker.
3 375. After the beatings, Mr. Tombolesi was exhausted and sore. Any contact with his
4 chest, ribs, or stomach would cause paralyzing pain. When walking around, he
5 had to bend over to avoid the pain.
6 376. He had trouble breathing. The night of November 9, he had horrible coughs that
7 lasted all night.
8 377. The brutality he experienced himself and that he witnessed against others left
9 him emotionally traumatized. As of the day this action was initially filed
10 November 29, 2011, he had been in shock and did not feel like he could go to
11 class or focus on school.
12 Erick Uribe
13 378. During the afternoon raid, Erick Uribe was linking arms with protesters facing
14 north, in the front.
15 379. The police unleashed an onslaught of blows against the crowd, jabbing people in
16 their stomachs, torsos, legs, and heads. Mr. Uribe was pushed backward and
17 struck full force in his legs, stomach, and chest.
18 380. At one point, an officer jabbed a baton into Mr. Uribe's chest with strong and
19 steady pressure, making it difficult to breathe and move. This officer acted under
20 the field command of defendants Captain Roderick, then Lieutenant DeCoulode,
21 then Sergeant Rodrigues.
22 381. At one point, the police unleashed a full attack on the students. Defendants
23 Corporal Brashear, Sergeant Williams, and Officer Tinney jabbed Mr. Uribe
24 repeatedly with tips of their batons. These officers acted under the field
command of defendants Captain Roderick, then Lieutenant DeCoulode, then
Sergeant Williams and Sergeant Tucker.
382. Mr. Uribe saw one protester being hit while on the ground, and so he reached out
to try to block the protester from the blows. He was struck hard on the hand by
Sergeant Williams.

1 383. The police aggressively pushed forward again. Defendants Sergeant Tucker and
2 Officer Zuniga jabbed Mr. Uribe hard and forcefully with jabs and overhand
3 strikes. These officers acted under the field command of defendants Captain
4 Roderick, then Lieutenant DeCoulode, then Sergeant Williams and Sergeant
5 Tucker.
6 384. Mr. Uribe was also present during the evening raid and was part of a crowd
7 surrounding the protest tents.
8 385. The police marched forward in military-style formation, jabbing their batons
9 forward and yelling "Move! Move!"
10 386. Mr. Uribe witnessed more brutality. He saw protesters grabbed from the crowd,
11 thrown to the floor, and struck numerous times before being arrested. Students
12 who were trying to leave the protest by leaving along the gap between the
13 officers and protesters, would be hit by police, too. One student carrying a
14 camera was dazed and seemed unable to stand. Mr. Uribe and other protesters
15 held him up and luckily he was not struck again.
16 387. When some people were thrown to the ground, Mr. Uribe tried to help them
17 stand up. One time while doing this, he was struck with a powerful baton thrust
18 in the chest by Officer Tinney, which pushed Mr. Uribe back and knocked off his
19 glasses. Officer Tinney acted under the field command of defendants Captain
20 Roderick, then Lieutenant Tejada and Lieutenant DeCoulode, then Sergeant
21 Williams.
22 388. While he tried to pick up his glasses, he was struck again, this time by a baton
23 blow to the mouth that also caused cutting inside of his mouth. At this point, he
24 left.
389. As a result of the police attack in the afternoon, a giant welt formed on his left
hand. The bump was purple and about size of a golf ball. It took days for the
swelling to subside.

1 390. From the attacks that day, his chest was sore for two days. His ribs were tender
2 and bruised. He was heavily bruised in his legs. His right arm was swollen and
3 sore due to overhead, downward strikes from the officers. His chest and stomach
4 were sore for at least three days.

5 Sachinthya Wagaarachchi

6 391. During the evening raid, Sachinthya Wagaarachchi was linking arms in the
7 northern group of protesters, in the second line from the front.

8 392. An officer said something through a megaphone, but it was inaudible.

9 393. The line of police approached and started hitting protesters, aiming for people's
10 stomachs and aiming around people's arms to get at vulnerable parts of people's
11 bodies.

12 394. Around Mr. Wagaarachchi, people fell. The police grabbed some of the people
13 who fell.

14 395. Mr. Wagaarachchi had nowhere to go: people were behind him, and the police
15 were hitting people in front of him.

16 396. Mr. Wagaarachchi noticed three well-built, tall officers in front of him. Two of
17 the officers visibly looked like they were enjoying it as they hit people.

18 397. The police start hitting Mr. Wagaarachchi. He turned around, and an officer
19 grabbed him by the backpack and shoved him behind the police line. He was
20 thrown about ten feet and fell to the ground.

21 398. The police who beat and arrested Mr. Wagaarachchi acted under the field
22 command of defendants Captain Roderick, then Lieutenant Tejada and
23 Lieutenant DeCoulode, then Sergeant Williams.

1 399. Police officers put metal handcuffs on Wagaarachchi and led him to the
2 basement, where he stayed for about two hours.
3 400. While being transported to Glenn Dyer Jail, the officers on the bus told people
4 they would likely stay through the weekend. (The protest was on a Wednesday.)
5 401. He was detained at Glenn Dyer Jail. As he waited in the cell, the pain in his arm
6 got more severe. He was released at about 2:30 am.
7 402. His elbow was swollen outward about a centimeter, and there was swelling on
8 the back of his hand. He could not move his arm for a couple of days after
9 November 9.

10 Taro Yamaguchi-Phillips

11 403. When Taro Yamaguchi-Phillips arrived at about 9:00 pm, he saw that tents were
12 set up on the grass and protesters were gathered around them. The mood was
13 jovial and peaceful, and people were studying and playing music.
14 404. During the evening raid, was linking arms with protesters who were standing
15 around the protest tents.
16 405. There was no ten-minute warning. Mr. Yamaguchi-Phillips heard nothing before
17 the police acted.
18 406. Police were in front of him, as he stood toward the back.
19 407. He heard yelling, and found that police were behind him, having broken through
20 people on the other side of the tents.
21 408. He and the protesters around him were now stuck between two lines of angry riot
22 police with nowhere to go.
23
24

1 409. The police began striking Mr. Yamaguchi-Phillips and other protesters with
2 batons. First, they jabbed them in the torso while chanting "Move!" Then the
3 police began swinging their batons overhand at people.

4 410. Around him, people were constantly screaming. Officers began targeting Mr.
5 Yamaguchi-Phillips and swinging their batons on his arm. The police who beat
6 and would soon arrest Mr. Wagaarachchi acted under the field command of
7 defendants Captain Roderick, then Lieutenant Tejada and Lieutenant DeCoulode.

8 411. The officers grabbed and pulled at his hair, which was long.

9 412. Defendant Lieutenant Marc DeCoulode grabbed his hair and slammed him to the
10 ground. His glasses flew away.

11 413. Police handcuffed Mr. Yamaguchi-Phillips. Police officers led him to the
12 basement of Sproul Hall.

13 414. In Yamaguchi-Phillips' arrest report since obtained by plaintiffs, defendant
14 Officer George Hallett is listed as his arresting officer.

15 415. Around Yamaguchi-Phillips in the basement of Sproul Hall, the restraints varied
16 by race: black and Latina/o people had metal handcuffs, white people had thick
17 plastic handcuffs, and Asian American people had thin plastic handcuffs.

18 416. After being searched and documented, the arrestees were transported to Glenn
19 Dyer Jail. The officers constantly insinuated they would unavoidably be in jail
20 until the next Monday (these events were on Wednesday), that there would be
21 huge bails that no one could afford, and that they would be taken to a rough jail
22 and put in the general population.

23 417. The arrestees were put in a holding cell for several hours. The entire time, he and
24 the other arrestees did not know what they were being arrested for.

1 418. Mr. Yamaguchi-Phillips was released after 5:00 am.

2 419. He returned to Sproul and could not find his backpack, books, and school
3 supplies. His glasses were smashed.

4 420. For a long time after November 9, 2011, he had bruises and pain in his arm.

5 421. Because of the hair pulling, he had a constant headache and some of his hair fell
6 out.

7 Colleen Young

8 422. During the evening raid, Colleen Young was linking arms with protesters who
9 were standing around the protest tents.

10 423. A line of police attacked protesters on the other side of which Ms. Young was
11 standing. When those protesters collapsed, Ms. Young and those around her
12 turned around and linked arms facing the police. The police walked past the
13 protest tents and started attacking Ms. Young and those around her.

14 424. Ms. Young was wearing her backpack in front of her chest to protect herself from
15 blows. Officers in front of her, including defendants Officer Garcia, Officer S. G.
16 Wilson, hit her repeatedly with batons. One officer hit her backpack and aimed
17 around the backpack, jabbing her in her breast, waist, and hips with great force.
18 Garcia acted under the field command of defendants Captain Roderick, then
19 Lieutenant Madigan, then Sergeant Rodrigues.

20 425. Ms. Young and those around her were pushed to the ground in a big pile, of
21 which she was at the bottom.

22 426. Ms. Young screamed for help. People trying to help her were pushed away by
23 police so they could not help her. She was on the steps near the concrete and was
24 worried she would get her head crushed.

25 427. She felt pain afterward in her ribs and in her back. She suffered contusions on
her right breast, right hip, upper and lower legs, and ankle.

COUNT ONE
Violation of First Amendment of the United States Constitution
(42 U.S.C. §1983)

428. The allegations of the preceding paragraphs are repeated as if fully set forth herein.

429. Upon information and belief, on November 9, 2011 defendant Chancellor Birgeneau, through a chain of command that included defendant Executive Vice Chancellor and Provost George Breslauer, and defendant University of California Police Department (UCPD) Chief Mitchell Celaya, ordered the police to attack peaceful protesters, thus causing (1) the shocking, unconscionable excessive force against the twenty-two plaintiffs to this action Yvette Felarca, Francisco Alvarado-Rosas, Christopher Anderson, Joshua Anderson, Honest Chung, Morgan Crawford, Yania Escobar, Joseph Finton, Hayden Harrison, Louis Helm, Jacquelyn Kingkade, Julie Klinger, Benjamin Lynch, Maximilian McDonald, Anthony Morreale, Liana Mulholland, Colleen Mica Stumpf, Justin Tombolesi, Erick Uribe, Sachintha Wagaarachchi, Taro Yamaguchi-Phillips and Colleen Young; and (2) the false arrests of plaintiffs Francisco Alvarado-Rosas, Julie Klinger, Anthony Morreale, Sachintha Wagaarachchi, and Taro Yamaguchi-Phillips.

430. Beginning October 24, 2011, defendants Chancellor Birgeneau, Executive Vice Chancellor and Provost George Breslauer, UCPD Chief Mitchell Celaya, Vice Chancellor for Student Affairs Harry Le Grande, Executive Director of Communications and Public Affairs Dan Mogulof, Associate Chancellor Linda Williams, and Associate Vice Chancellor for Public Affairs and Communications

Claire Holmes, planned the police response to the peaceful protest encampment planned for November 9, 2011.

431. These defendants' ordering and/or authorization of violent police action was motivated by their opposition to the content of the plaintiffs' speech, its expression of solidarity with the Occupy movement and its foremost symbol: tents. The protest of November 9, 2011 ran counter to defendant Birgeneau's openly-espoused policies of tuition hikes and privatization, policies that Birgeneau's hand-picked staff—including defendants Breslauer, Holmes, Le Grande, Mogulof, Williams, and Celaya—were committed to implementing.

432. The "no encampment" policy was a pretext for violating the plaintiffs' civil rights. There was no camping at the time of the events leading to this action.

433. In May 2010, the defendants Birgeneau, Breslauer, Le Grande, Mogulof, Williams, Holmes and Celaya, while in the same administrative positions they would hold on November 9, 2011, tolerated a long-term encampment that had a political message they agreed with: opposition to an anti-immigrant law in Arizona.

434. The defendants Birgeneau, Breslauer, Celaya, Roderick, Madigan, Tejada, and DeCoulode ordered forcible assaults against protestors because of their opposition to the demands of the protest.

435. On November 9, 2011, at 6:56 P.M., the defendant George Breslauer sent an email to a faculty colleague asserting that the University had to remove the protestors because of the nature of their demands. In particular, he stated, in relevant part, that "[t]he level of social inequality in our society is obscene and

1 entrenched; so [the protestors'] main issue does not have a visible end-point of
2 resolution.”

3 436. The defendants Holmes, Le Grande, Mogulof, Williams, and Holmes concurred
4 in, witnessed or had knowledge of, and did not stop the forcible assaults because
5 of their opposition to the demands of the protest.

6 437. The defendants' orders to break up the November 9 protest by force
7 discriminated against the plaintiffs on the basis of the content of their speech and
8 thus violated their right to freedom of speech as protected by the First
9 Amendment to the United States Constitution.

10
11 **COUNT TWO**
12 **Excessive Force in Violation of Fourth Amendment of the United States Constitution**
13 **(42 U.S.C. §1983)**

14 438. The allegations of the preceding paragraphs are repeated as if fully set forth
15 herein.

16 439. Upon information and belief, on November 9, 2011 defendant Chancellor
17 Birgeneau, through a chain of command that included defendant Executive Vice
18 Chancellor and Provost George Breslauer, and defendant University of California
19 Police Department (UCPD) Chief Mitchell Celaya, ordered the police to attack
20 peaceful protesters, thus causing the shocking, unconscionable excessive force
21 against the twenty-two plaintiffs in this action Yvette Felarca, Francisco
22 Alvarado-Rosas, Christopher Anderson, Joshua Anderson, Honest Chung,
23 Morgan Crawford, Yania Escobar, Joseph Finton, Hayden Harrison, Louis Helm,
24 Jacquelyn Kingkade, Julie Klinger, Benjamin Lynch, Maximilian McDonald,
Anthony Morreale, Liana Mulholland, Colleen Mica Stumpf, Justin Tombolesi,

1 Erick Uribe, Sachintha Wagaarachchi, Dan Wilbur, Taro Yamaguchi-Phillips,
2 and Colleen Young.
3 440. Beginning October 24, 2011, defendants Chancellor Birgeneau, Executive Vice
4 Chancellor and Provost George Breslauer, UCPD Chief Mitchell Celaya, Vice
5 Chancellor for Student Affairs Harry Le Grande, Executive Director of
6 Communications and Public Affairs Dan Mogulof, Associate Chancellor Linda
7 Williams, and Associate Vice Chancellor for Public Affairs and Communications
8 Claire Holmes, planned a violent police response to the peaceful protest
9 encampment planned for November 9, 2011. They concurred in, witnessed and
10 did not stop the forcible assaults against the twenty-two plaintiffs named above.
11 441. As set forth in the previous paragraph, the plaintiffs believe and thus assert that
12 the defendants Breslauer, Celaya, Le Grande, Mogulof, Williams, and Holmes
13 witnessed and did not stop the unlawful assaults upon the twenty-two plaintiffs
14 listed above. In addition, on November 9, 2011, the defendants Breslauer,
15 Holmes, and Celaya all sent emails to colleagues asserting that they had
16 personally witnessed some or all of the police actions on that day.
17 442. Yvette Felarca received excessive force from defendants Officer Zuniga,
18 Sergeant Williams, and Officer Tinney, who acted under the orders of defendants
19 Chief Celaya, Captain Roderick, Lieutenant DeCoulode, and Sergeant Williams
20 and Sergeant Tucker.
21 443. Francisco Alvarado-Rosas received excessive force from officers, who acted
22 under the orders of defendants Chief Celaya, Captain Roderick, Lieutenant
23 Tejada, Lieutenant DeCoulode, and Sergeant Williams.
24 444. Christopher Anderson received excessive force from defendant Officer
Buschhueter, who acted under the orders of defendants Chief Celaya, Captain

1 Roderick, and Lieutenant Madigan, and Sergeant Rodrigues. Mr. Anderson also
2 received excessive force from defendants Officer Lachler and Officer Wong, who
3 acted under the orders of defendants Chief Celaya, Captain Roderick, Lieutenant
4 DeCoulode, and Sergeant Williams and Sergeant Tucker. Mr. Anderson also
5 received excessive force from defendants Officer Miceli (who acted under the
6 orders of defendants Chief Celaya, Captain Roderick, Lieutenant Tejada,
7 Lieutenant DeCoulode, and Sergeant Williams) and Sergeant Rodrigues (who
8 acted under the orders of defendants Chief Celaya, Captain Roderick, and
9 Lieutenant Madigan).

10 445. Joshua Anderson received excessive force from defendant Officer Buckhout,
11 who acted under the orders of defendants Chief Celaya, Captain Roderick,
12 Lieutenant DeCoulode, and Sergeant Rodrigues. Mr. Anderson also received
13 excessive force from defendants Sergeant Williams, Corporal Brashear, Officer
14 Odyniec, Officer Tinney, and Sergeant Tucker, who acted under the orders of
15 defendants Chief Celaya, Captain Roderick, Lieutenant DeCoulode, and Sergeant
16 Williams and Sergeant Tucker.

17 446. Honest Chung received excessive force from defendant Officer Tinney, who
18 acted under the orders of defendants Chief Celaya, Captain Roderick, Lieutenant
19 Tejada, Lieutenant DeCoulode, and Sergeant Williams.

20 447. Morgan Crawford received excessive force during the afternoon from Officer
21 Lachler, who acted under the orders of defendants Chief Celaya, Captain
22 Roderick, Lieutenant DeCoulode, and Sergeant Williams and Sergeant Tucker.
23 Mr. Crawford received excessive force during the evening from defendants
24 Officer Obichere and Officer Armijo, who acted under the orders of defendants

Chief Celaya, Captain Roderick, Lieutenant Madigan, Lieutenant Tejada, and Lieutenant DeCoulode.

448. Yania Escobar received excessive force from officers who acted under the orders of defendants Chief Celaya, Captain Roderick, Lieutenant Tejada, Lieutenant DeCoulode, and Sergeant Williams.

449. Joseph Finton received excessive force from defendant Officer Garcia, who acted under the orders of defendants Chief Celaya, Captain Roderick, Lieutenant Madigan, Lieutenant Tejada, and Lieutenant DeCoulode.

450. Hayden Harrison received excessive force from defendant Officer Lachler, who acted under the orders of defendants Chief Celaya, Captain Roderick, Lieutenant DeCoulode, and Sergeant Williams.

451. Louis Helm received excessive force from officers who acted under the orders of defendants Chief Celaya, Captain Roderick, Lieutenant Tejada, Lieutenant DeCoulode, and Sergeant Williams.

452. Jacquelyn Kingkade received excessive force from officers who acted under the orders of defendants Chief Celaya, Captain Roderick, Lieutenant Madigan, Lieutenant DeCoulode, and Sergeant Rodrigues.

453. Julie Klinger received excessive force from officers who acted under the orders of defendants Chief Celaya, Captain Roderick, Lieutenant Tejada, Lieutenant DeCoulode, and Sergeant Williams.

454. Benjamin Lynch received excessive force from defendants Sergeant Williams, who acted under the orders of defendants Chief Celaya, Captain Roderick, and Lieutenant DeCoulode.

- 1 455. Max McDonald received excessive force from officers who acted under the
2 orders of defendants Chief Celaya, Captain Roderick, Lieutenant Madigan, and
3 Sergeant Suezaki.
- 4 456. Anthony Morreale received excessive force from defendants Officer Obichere
5 and Officer Armijo, who acted under the orders of defendants Chief Celaya,
6 Captain Roderick, Lieutenant Madigan, Lieutenant Tejada, and Lieutenant
7 DeCoulode.
- 8 457. Liana Mulholland received excessive force from defendants Sergeant Williams
9 and Officer Tinney, who acted under the orders of defendants Chief Celaya,
10 Captain Roderick, Lieutenant DeCoulode, and Sergeant Williams and Sergeant
11 Tucker.
- 12 458. Colleen Mica Stumpf received excessive force from officers who acted under the
13 orders of defendants Chief Celaya, Captain Roderick, Lieutenant Madigan, and
14 Lieutenant DeCoulode, and Sergeant Rodrigues.
- 15 459. Justin Tombolesi received excessive force from officers who acted under the
16 orders of defendants Chief Celaya, Captain Roderick, Lieutenant Madigan, and
17 Sergeant Rodrigues. Mr. Tombolesi also received excessive force from Officer
18 Odyniec, Corporal Brashear, and Sergeant Williams, who acted under the orders
19 of defendants Chief Celaya, Captain Roderick, Lieutenant DeCoulode, and
20 Sergeant Williams and Sergeant Tucker.
- 21 460. Erick Uribe received excessive force from defendants Corporal Brashear,
22 Sergeant Williams, Officer Tinney, Sergeant Tucker, and Officer Zuniga during
23 the afternoon, when these officers acted under the orders of defendants Chief
24 Celaya, Captain Roderick, Lieutenant DeCoulode, Sergeant Williams, and

1 Sergeant Tucker. Erick Uribe received excessive force from Officer Tinney
2 during the evening, when Tinney acted under the orders of defendants Chief
3 Celaya, Captain Roderick, Lieutenant Tejada, Lieutenant DeCoulode, and
4 Sergeant Williams.

5 461. Sachintha Wagaarachchi received excessive force from officers who acted
6 under the orders of defendants Chief Celaya, Captain Roderick, Lieutenant
7 Tejada, Lieutenant DeCoulode, and Sergeant Williams.

8 462. Taro Yamaguchi-Phillips received excessive force from officers who acted under
9 the orders of defendants Chief Celaya, Captain Roderick, Lieutenant Tejada,
10 Lieutenant DeCoulode, and Sergeant Williams.

11 463. Colleen Young received excessive force from defendants Officer Garcia and
12 Officer S. G. Wilson, who acted under the orders of defendants Chief Celaya,
13 Captain Roderick, Lieutenant Madigan, Lieutenant Tejada, and Lieutenant
14 DeCoulode.

15 464. In addition, the defendants Does 1-100 used excessive force against various
16 plaintiffs acting under the orders of defendants Chief Celaya and Lieutenant
17 Madigan.

18 465. The defendant officers attacked people for purposes that had no reasonable
19 relation to preventing camping. They attacked many people even after the police
20 had secured access to and/or destroyed the protest tents.

21 466. The defendants' above-described conduct violated the plaintiffs' rights under the
22 Fourth Amendment to the United States Constitution to be free from excessive
23 force.
24

COUNT THREE

**False Arrest (“Seizure”) in Violation of Fourth Amendment
of the United States Constitution
(42 U.S.C. §1983)**

467. The allegations of the preceding paragraphs are repeated as if fully set forth herein.

468. Upon information and belief, on November 9, 2011 defendant Chancellor Birgeneau, through a chain of command that included defendant Executive Vice Chancellor and Provost George Breslauer and defendant University of California Police Department (UCPD) Chief Mitchell Celaya, ordered the police to attack peaceful protesters, thus causing the false arrests of the plaintiffs Francisco Alvarado-Rosas, Julie Klinger, Anthony Morreale, Sachintha Wagaarachchi, and Taro Yamaguchi-Phillips in violation of their Fourth Amendment rights.

469. Beginning October 24, 2011, defendants Chancellor Birgeneau, Executive Vice Chancellor and Provost George Breslauer, UCPD Chief Mitchell Celaya, Vice Chancellor for Student Affairs Harry Le Grande, Executive Director of Communications and Public Affairs Dan Mogulof, Associate Chancellor Linda Williams, and Associate Vice Chancellor for Public Affairs and Communications Claire Holmes, planned a violent police response to the peaceful protest encampment planned for November 9, 2011 that led to the arrests. They had no legal basis for targeting tents, regardless of relation to the time of day and whether they were associated with camping, and simply because they expressed solidarity with the Occupy movement. They set in motion the false arrests of plaintiffs Alvarado-Rosas, Klinger, Morreale, Wagaarachchi, and Yamaguchi-Phillips.

1 470. During a second police raid in the evening, defendant Lieutenant Eric Tejada
2 admonished the crowd for “camping” through a small bullhorn that was barely
3 audible to the police and the crowd. He gave no ten-minute warning. Defendants
4 Chief Celaya, Captain Roderick, Lieutenant Madigan, Lieutenant Tejada, and
5 Lieutenant DeCoulode then ordered police to disperse and arrest members of the
6 crowd.

7 471. In the violent police action that followed, defendant Sergeant Jewell and other
8 officers of the UCPD and ACSO arrested and falsely imprisoned plaintiffs
9 Alvarado-Rosas, Klinger, Morreale, Wagaarachchi, and Yamaguchi-Phillips.

10 472. The five plaintiffs who were arrested were not camping and were violating no
11 laws or regulations.

12 473. These five plaintiffs had not heard any order to leave. They were physically
13 unable to leave the scene.

14 474. These five plaintiffs were held in Glenn Dyer Jail for several hours.

15 475. None of these five plaintiffs were ever charged with any wrongdoing stemming
16 from November 9, 2011.

17 476. On April 16, 2012, the District Attorney issued a public statement dismissing the
18 charges against the vast majority of November 9 protesters.

19 477. The above-cited police actions constitute false arrest (“Seizure”) in violation of
20 the plaintiffs’ Fourth Amendment rights under 42 U.S.C. sec. 1983.

21 **JURY DEMAND**

22 478. Plaintiffs hereby demand a jury trial in this action.

23
24 **PRAYER**

1 WHEREFORE, plaintiffs pray for relief, as follows:

- 2 1. For general damages of \$7.5 million;
- 3 2. For punitive damages and exemplary damages of \$7.5 million;
- 4 3. For reasonable attorney's fees pursuant to 42 U.S.C. §1988;
- 5 4. For costs of suit herein incurred; and
- 6 5. For such other and further relief as the Court deems just and proper.

7 By Plaintiffs' Attorneys,
8 SCHEFF, WASHINGTON & DRIVER, P.C.

9 BY: /s/ Ronald Cruz
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16 *Admitted *pro hac vice*

17 Dated: July 10, 2014

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BY: /s/ Ronald Cruz
Ronald Cruz (State Bar No. 267038)
July 10, 2014