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**ENDORSED
FILED
ALAMEDA COUNTY
OCT 28 2010
CLERK OF THE SUPERIOR COURT
M. Salcido, Deputy**

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8 **SUPERIOR COURT OF CALIFORNIA**
9 **COUNTY OF ALAMEDA**
10 **(UNLIMITED JURISDICTION)**

11
12 THE PEOPLE OF THE STATE OF
CALIFORNIA
13 Plaintiff,
14 CITY OF OAKLAND, a Municipal
15 Corporation,
16 Plaintiff and Real Party in Interest
17 v.
18 GERALD DUGAS, PAUL ROUSSEAU,
RAQUEL SHARP, TERRY WILLIAMS,
19 individuals, and DOES 1 through 20,
inclusive,
20 Defendants.
21

Case No. **RG10544005**

**COMPLAINT FOR CIVIL PENALTIES
AND DAMAGES FOR VIOLATION OF
CALIFORNIA CIVIL CODE §52.1 AND
PROPERTY DAMAGE
(WILLFUL MISCONDUCT)**

22 1. City of Oakland (hereinafter "City"), a municipal corporation and a
23 chartered city, as Plaintiff and Real Party in Interest, alleges against Defendants Gerald
24 Dugas (hereinafter "Defendant DUGAS"), Paul Rousseau (hereinafter "Defendant
25 ROUSSEAU"), Raquel Sharp (hereinafter "Defendant SHARP"), Terry Williams
26 (hereinafter "Defendant WILLIAMS"), and DOES 1 through 20, inclusive the following:

INTRODUCTION

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2. This action arises out of Defendants' injurious activities in Oakland, California. Around July 8, 2010, the City, and many of the businesses located therein, feared that a riot could potentially ensue following the announcement of the verdict in the case of *People v. Mehserle*. Previously, on January 5, 2009, following the shooting of Oscar Grant by former BART officer Johannes Mehserle, chaos erupted in Oakland as some individuals exploited the tragic shooting and death of Oscar Grant as a means to commit deplorable acts of vandalism, looting, and violence throughout the City. In 2010, considering the possibility of incidents similar to the types that occurred in 2009, the City braced itself and sought to protect its employees by, for instance, releasing them from work early on July 8, 2010 upon discovering that the verdict would be announced that day; many Oakland businesses boarded their windows and, similarly, released their workers early; and Oakland police officers and aiding officers and law enforcement personnel from various agencies patrolled and secured the streets for what would prove to be an evening in which the City would again be under attack by those seeking to destroy it and steal from its local businesses.

3. As feared, following the announcement that Johannes Mehserle was convicted of involuntary manslaughter and amidst peaceful demonstrators of the type that the City supports, numerous individuals, including the named Defendants, rioted and engaged in dangerous, destructive and illegal acts in the City.

4. As a result of the commission of vandalism on City property and looting of an Oakland business during a riot, the City brings this civil lawsuit against Defendants.

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PARTIES

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5. Plaintiff and Real Party in Interest City of Oakland is a municipal corporation and a chartered city organized and existing under the laws of the State of California. The City brings this action in the name of the People of the State of California for its First Cause of Action: Violation of the Bane Act (California Civil Code Section 52.1); and in its own name and on its own behalf for its Second Cause of Action: Property Damage (Willful Misconduct).

6. Defendant DUGAS is an individual residing in Castro Valley, California.

7. Defendant ROUSSEAU is an individual residing in Oakland, California.

8. Defendant SHARP is an individual residing in Oakland, California.

9. Defendant WILLIAMS is an individual residing in Oakland, California.

10. "DOES 1 through 20" are fictitious names. Their true names and capacities are unknown to the City. When their true names and capacities are ascertained, the City will amend this complaint by inserting their true names and capacities. The City is informed and believes, and based on that information and belief alleges, that each of the defendants designated as a DOE is legally responsible in some manner for interfering by threats, intimidation, or coercion with the exercise or enjoyment by an individual or individuals of rights secured by the Constitution or laws of the State of California; or damage to City property.

JURISDICTION

11. This Court has jurisdiction over this matter because the acts complained of occurred in Oakland, California in Alameda County.

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1 **FACTUAL BACKGROUND**

2 12. On or about July 8, 2010, the two owners of the business JC Jewelry
3 located at 1940 Broadway in Oakland, California (hereinafter "JC Jewelry") were present
4 at JC Jewelry. That night, unnamed individuals broke the security gate, kicked in the front
5 door window, broke and shattered the glass display window, broke into JC Jewelry and
6 proceeded to steal the owners' jewelry located therein. The owners were in extreme
7 distress as a result, felt highly threatened and intimidated, feared for their personal safety,
8 and feared for the safety of their property. In an attempt to protect themselves and retain
9 exclusive possession of their property, the owners sought to fend off over 200 individuals
10 during the looting activity. An unidentified intruder punched one of the owners in the face
11 during the looting activity, unnamed persons tried to drag one of the owners outside, and
12 unnamed individuals threw chairs at the owners. The owners suffered over \$50,000.00 in
13 property loss.

14 13. On or about July 8, 2010, at approximately 11:20 p.m., an OPD
15 officer was advised by officers that Defendant DUGAS was looting a jewelry store located
16 at 19th and Broadway – namely, JC Jewelry. Upon searching Defendant DUGAS following
17 his arrest, the officer recovered one unlawfully removed piece of jewelry – gold teeth
18 jewelry with diamonds – from Defendant's pocket.

19 14. On or about July 8, 2010, at approximately 9:40 p.m., an OPD officer
20 observed and videotaped Defendant ROUSSEAU and an unknown male as Defendant
21 ROUSSEAU held a white can of spray paint and spray painted the phrase "keys pear" on
22 the City's street curb located in front of 1760 Broadway in Oakland, California. Shortly
23 afterwards, Defendant ROUSSEAU and the unknown individual covered their faces with
24 their hands, walked towards the officer, and attempted to grab the camera out of his hand.
25 Defendant ROUSSEAU swung his fist at the officer twice and missed. Subsequently, in
26 the midst of a riot, Defendant ROUSSEAU and unknown individuals began to chase the

1 officer until the officer found a police line. Defendant ROUSSEAU was arrested for, inter
2 alia, vandalism.

3 15. On or about July 8, 2010, an OPD officer observed Defendant
4 SHARP vandalize the City's property using red spray paint. Surrounded by multiple
5 observers, Defendant SHARP spray painted the City's property at two locations near City
6 Hall. At one time, Defendant SHARP spray painted the City's property close to and
7 simultaneously with an unnamed individual also illegally engaged in spray painting the
8 City's property. Defendant SHARP spray painted an unidentified phrase on the ground at
9 Frank H. Ogawa Plaza in Oakland and also the words "Fuck Racist . . ." on a cement
10 structure located at Frank H. Ogawa Plaza. She was arrested for vandalism.

11 16. On or about July 8, 2010, at approximately 10:57 p.m., an OPD
12 captain observed Defendant WILLIAMS inside of JC Jewelry. Defendant WILLIAMS
13 entered JC Jewelry through the broken security gate and smashed out windows during the
14 occurrence of the rioting activity. The OPD team pursued Defendant WILLIAMS after the
15 Defendant and approximately seven unnamed individuals fled the scene, and an officer
16 succeeded in catching Defendant WILLIAMS and taking him into custody. Upon
17 searching the Defendant, an officer found five gold teeth pieces that appeared new and
18 unused and that Defendant unlawfully removed from JC Jewelry. Defendant WILLIAMS
19 stated that he felt stupid for stealing gold teeth when he already had some in his mouth.

20
21 **FIRST CAUSE OF ACTION FOR VIOLATION OF THE BANE ACT AGAINST**
22 **DEFENDANTS DUGAS, WILLIAMS, AND DOES 1 THROUGH 20**
23 **(California Civil Code § 52.1)**

24 17. The City incorporates by reference the allegations of paragraphs 1
25 through 16 as though fully set forth herein.

26 18. The City brings this action in the name of the People of the State of

1 California pursuant to California Civil Code section 52.1(a).

2 19. On or about July 8, 2010, Defendant DUGAS interfered with the JC
3 Jewelry owners' exercise and enjoyment of rights secured by section 654 of the California
4 Civil Code and Article 1, Section 1 of the California Constitution, specifically the statutory
5 and constitutional right to exclusively possess one's property; and interfered with the
6 owners' right to be free from conversion. At all times mentioned herein, and in particular
7 on or about July 8, 2010, the owners were, and still are, the owners of JC Jewelry and
8 entitled to the possession of the jewelry located therein. Defendant interfered with the
9 owners' property rights by intimidation and threat of violence. Particularly, the City is
10 informed and believes, and therefore alleges, that Defendant DUGAS entered JC Jewelry
11 during a riot and unlawfully removed the owners' jewelry therein at a time when the
12 owners were present at JC Jewelry, terrified, and attempting to defend themselves and
13 retain possession of their property. Defendant DUGAS took the property from the owners'
14 possession and converted the same to his own use.

15 20. As a direct and proximate result of Defendant DUGAS' actions, the
16 owners of JC Jewelry suffered economic and emotional harm, which were caused by
17 Defendant's unlawful removal of the owners' property during a riot and the owners' fear of
18 physical harm.

19 21. Defendant DUGAS' actions violated California Civil Code section
20 52.1.

21 22. In doing the acts alleged in this complaint, Defendant DUGAS knew
22 or should have known that his actions were likely to injure JC Jewelry's owners. The City
23 is informed and believes, and therefore alleges, that Defendant DUGAS intended to cause
24 injury to the owners and acted with a willful and conscious disregard of the owners' rights
25 as secured by California Civil Code section 52.1. According to California Civil Code
26 section 52.1(a), the City is entitled to bring this action to protect the owners' rights. Thus,

1 the City is therefore entitled to impose a civil penalty pursuant to California Civil Code
2 section 52.1(a) and, if recovered, award the penalty to JC Jewelry's owners.

3 23. On or about July 8, 2010, Defendant WILLIAMS interfered with the
4 JC Jewelry owners' exercise and enjoyment of rights secured by section 654 of the
5 California Civil Code and Article 1, Section 1 of the California Constitution, specifically the
6 statutory and constitutional right to exclusively possess one's property; and interfered with
7 the owners' right to be free from conversion. At all times mentioned herein, and in
8 particular on or about July 8, 2010, the owners were, and still are, the owners of JC
9 Jewelry and entitled to the possession of the jewelry located therein. Defendant interfered
10 with the owners' rights by intimidation and threat of violence. Particularly, the City is
11 informed and believes, and therefore alleges, that Defendant WILLIAMS entered JC
12 Jewelry and, while multiple individuals looted JC Jewelry, unlawfully removed the owners'
13 jewelry therein at a time when the owners were present at JC Jewelry, terrified, and
14 attempting to defend themselves and retain possession of their property. Defendant
15 WILLIAMS took the property from the owners' possession and converted the same to his
16 own use.

17 24. As a proximate result of Defendant WILLIAMS' actions, the owners of
18 JC Jewelry suffered economic and emotional harm, which were caused by Defendant's
19 unlawful removal of the owners' property during looting activity within the store and the
20 owners' fear of physical harm.

21 25. Defendant WILLIAMS' actions violated California Civil Code section
22 52.1.

23 26. In doing the acts alleged in this complaint, Defendant WILLIAMS
24 knew or should have known that his actions were likely to injure JC Jewelry's owners. The
25 City is informed and believes, and therefore alleges, that Defendant WILLIAMS intended
26 to cause injury to the owners of JC Jewelry and acted with a willful and conscious

1 disregard of the owners' rights as secured by California Civil Code section 52.1.
2 According to California Civil Code section 52.1(a), the City is entitled to bring this action to
3 protect the owners' rights. Thus, the City is therefore entitled to impose a civil penalty
4 pursuant to California Civil Code section 52.1(a) and, if recovered, award the penalty to
5 JC Jewelry's owners.

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7 **SECOND CAUSE OF ACTION FOR PROPERTY DAMAGE AGAINST DEFENDANTS**
8 **ROUSSEAU, SHARP, AND DOES 1 THROUGH 20**
9 **(WILLFUL MISCONDUCT)**

10 27. The City incorporates by reference the allegations of paragraphs 1
11 through 26 as though fully set forth herein.

12 28. The City alleges that Defendant ROUSSEAU engaged in willful
13 misconduct in the injury to the City's property.

14 29. Defendant ROUSSEAU had a legal duty to not damage property
15 belonging to the City.

16 30. Defendant ROUSSEAU breached his legal duty of care by spray
17 painting the phrase "keys pear" with spray paint on the City's street curb located in front of
18 1760 Broadway in Oakland and thus damaging the City's property.

19 31. Defendant ROUSSEAU's breach of his legal duty of care by spray
20 painting the City's property was the proximate and legal cause of the injury to the City's
21 property.

22 32. Defendant ROUSSEAU had actual or constructive knowledge that the
23 City's property would be damaged as a result of spray painting it.

24 33. Defendant ROUSSEAU had actual or constructive knowledge that the
25 injury to the City's property was a probable result of the danger of his act of spray painting
26 it.

1 34. Defendant ROUSSEAU consciously failed to act to avoid the danger
2 by intentionally spray painting the City's property.

3 35. The City suffered damages as a direct and proximate result of
4 Defendant ROUSSEAU's willful misconduct. The City was required to expend monetary
5 funds to repair the property that Defendant ROUSSEAU damaged with the spray paint.
6 The full amount of damage is not now known to the City, and the City will amend this
7 complaint to state the full amount of damage when it is ascertained.

8 36. Defendant ROUSSEAU damaged the City's property intentionally *and*
9 with malice. Therefore, the City is entitled to punitive damages pursuant to California Civil
10 Code section 3294(a).

11 37. The City alleges that Defendant SHARP also engaged in willful
12 misconduct in the injury to the City's property.

13 38. Defendant SHARP had a legal duty to not damage property belonging
14 to the City.

15 39. Defendant SHARP breached her legal duty of care by spray painting
16 the City's property at Frank H. Ogawa Plaza in Oakland with red spray paint and thus
17 damaging the City's property.

18 40. Defendant SHARP's breach of her legal duty of care by spray painting
19 the City's property was the proximate and legal cause of the injury to the City's property.

20 41. Defendant SHARP had actual or constructive knowledge that the
21 City's property would be damaged as a result of spray painting it.

22 42. Defendant SHARP had actual or constructive knowledge that the
23 injury to the City's property was a probable result of the danger of her act of spray painting
24 it.

25 43. Defendant SHARP consciously failed to act to avoid the danger by
26 intentionally spray painting the City's property.

1 44. The City suffered damages as a direct and proximate result of
2 Defendant SHARP's willful misconduct. The City was required to expend monetary funds
3 to repair the property that Defendant SHARP damaged with the red spray paint. The full
4 amount of damage is not now known to the City, and the City will amend this complaint to
5 state the full amount of damage when it is ascertained.

6 45. Defendant SHARP damaged the City's property intentionally *and* with
7 malice. Therefore, the City is entitled to punitive damages pursuant to California Civil
8 Code section 3294(a).

9 **DEMAND FOR RELIEF**

10 **WHEREFORE, PLAINTIFFS REQUEST THAT THIS COURT ORDER, ADJUDGE AND**
11 **DECREE AS FOLLOWS:**

12 46. That Defendants ROUSSEAU, SHARP, and DOES 1 through 20 pay
13 special damages for property damage in an amount to be determined.

14 47. That Defendants ROUSSEAU, SHARP, and DOES 1 through 20 pay
15 punitive damages pursuant to California Civil Code section 3294(a).

16 48. That Defendants DUGAS, WILLIAMS, and DOES 1 through 20 pay
17 \$25,000 to each JC Jewelry owner individually in statutory civil penalties pursuant to
18 California Civil Code section 52.1(a).

19 49. That the City have such further and other relief as the Court deems
20 proper.

21 Dated: October 28, 2010

22 JOHN A. RUSSO, City Attorney
23 JAMES F. HODGKINS, Supervising Trial Attorney
24 ROCIO V. FIERRO, Senior Deputy City Attorney
25 TIVONNA D. STERN, Attorney

26 By: 
Attorneys for Plaintiff
CITY OF OAKLAND