

May 24, 2024

CITY CLERK
450 Civic Center Plaza, 3rd Floor
Richmond, CA 94804

**RE: Request for Endorsed Copy Verifying Administrative Claim Received –
Burris, Nisenbaum, Curry, and Lacy, LLP**

Our clients: Kwesi Guss
Date of Incident: May 5, 2024

Dear Claims Division,

This is to inform you that Burris Nisenbaum Curry & Lacy, LLP, represents Kwesi Guss. Our client was involved in an encounter with Richmond Police Department officers on May 5, 2024, at 10:10 p.m., at or near Joe's Market located at 95 W Macdonald Ave., Richmond, CA 94801.

We have attached a copy of a completed claim form, which includes a detailed addendum. We have sent you two copies of the form. We request that you send us back one endorsed copy verifying the time and date that our claim was received. We have enclosed a self-addressed stamped envelope for your convenience. If you have any questions, please contact us immediately.

Very truly yours,



John L. Burris
Attorney

Burris, Nisenbaum, Curry, and Lacy, LLP

ATTACHMENT "A – ASSAULT AND BATTERY CLAIM"

Claimant objects to your Claim Form because it requires information which constitutes an invasion of the Claimant's privacy. Moreover, the information is not required to be provided by the Claimant under California Government Code Section 910. For example, California Government Code Section 910 does not require that the Claimant provide their home and work numbers, driver's license number, date of birth, auto insurance name and policy number, a diagram of the location of the incident, any statements by the Claimant as to their reasons "for believing the County is liable for your damages, "or a description" of all damages which you believe you have incurred as a result of the incident." For the purposes of this document "CLAIMANT" means the individual claimant, claimants plural, and all plaintiffs and parties in interest represented by BURRIS, NISENBAUM, CURRY & LACY, LLP. Therefore, Claimant submits the following information in support of his/her Claim pursuant to Government Code Section 910:

CLAIMANT'S NAME: KWESI GUSS

ADDRESS TO WHICH ALL NOTICES ARE TO BE SENT: BURRIS, NISENBAUM, CURRY, AND LACY, LLP, Airport Corporate Centre, 7677 Oakport Street, Suite 1120, Oakland, CA 94621

CLAIMANT TELEPHONE NUMBER: C/O BURRIS, NISENBAUM, CURRY, AND LACY, LLP (510) 839-5200

PLEASE NOTE: COUNSEL REPRESENTS CLAIMANTS AND ALL CONTACT SHOULD BE MADE WITH HIS OR HER ATTORNEY ONLY.

DATE AND TIME OF INCIDENT: 05/05/2024 at 10:10 p.m.

LOCATION OF INCIDENT: at or near Joe's Market located at 95 W Macdonald Ave., Richmond, CA 94801

THE FOLLOWING PROVIDES A GENERAL DESCRIPTION OF THE INDEBTEDNESS, OBLIGATION, INJURY, DAMAGES OR LOSS INCURRED SO FAR AS IT MAY BE KNOWN AT THE TIME OF PRESENTATION OF THE CLAIM" AND "THE NAME OR NAMES OF THE PUBLIC EMPLOYEE OR EMPLOYEES CAUSING THE INJURY, DAMAGES, OR LOSS, IF KNOWN: [Per Government Code Section 910]. For the purposes of this claim, "AGENCY" is defined by and refers to the municipal, county, or state entity, which governs the RICHMOND POLICE DEPARTMENT.

DESCRIPTION OF INCIDENT:

On May 5, 2024, at 10:10 p.m., Claimant, Kwesi Guss ("Guss") was at or near Joe's Market located at 95 W Macdonald Ave., Richmond, CA 94801, when multiple members of the Richmond Police Department violently assaulted him while he exercised his First Amendment Right under the United States Constitution and Article 1 § 2 of the California Constitution, in peacefully filming an arrest.

On the date of the incident, Guss heard police sirens while standing outside Joe's Market. A driver who led the Richmond Police on a high-speed chase, stopped in front of Joe's Market. Four Richmond Police SUVs immediately drove behind the stopped car. The driver and the passenger exited the car with their hands raised. Guss started recording the police encounter. An unidentified officer asked Guss to move off the road and onto the sidewalk, Guss complied and continued to exercise his right to film and comment on the officers' conduct. Sergeant Alexander Caine ("Sgt. Caine") drove another Richmond Police SUV next to Guss. Inexplicably, instead of heading towards the occupants of the stopped car, Caine ran around the back of his SUV and into Guss, who was standing on the sidewalk next to the SUV's passenger side. Sgt. Caine yelled, "Get out of the fucking way," as he violently pushed Guss, while running towards the occupants of the stopped vehicle. Guss replied, "Shut yo' bitch ass up." Without just cause, Caine turned back towards Guss and asked him, "What was that?" Sgt. Caine pushed Guss again, striking him in the chest with his palms. The impact of Sgt. Caine's strikes forced Guss to move backward several steps. Sgt. Caine pushed Guss three more times. A female bystander intervened by physically placing herself between Sgt. Caine and Guss. After the bystander intervened, Sgt. Caine finally stopped pushing Guss. A second Richmond Police officer, Nicholas Remick #1829 ("Remick") ran over and continued the assault. Sgt. Caine and Remick grabbed Guss, handcuffed him, and kicked him in his ankle, forcing him to the ground, placed their knees on Guss' back and ribs, which forced the handcuffs deeper into Guss' skin. The two officers then pushed Guss' face into the ground. Sgt. Caine placed Guss in the back of a patrol car. Sgt. Caine opened the door of the patrol car that Guss' back was exposed to, and pulled on Guss' handcuffed arms to the point that they pierced through his skin. After ten minutes, the officers transferred Guss to another patrol car.

The officers took Guss to the Richmond Police Department station. At the station, the officers told Guss that they detained him for obstruction of justice and resisting arrest. The officers released Guss approximately one hour later. After his release, Guss went to the emergency room at Kaiser Permanente Richmond Medical Center, and West County Health Center Family Medicine. As a result of the incident, Guss received a diagnosis and treatment for a head injury, lower back pain, wrist pain, pain and bruising to his ribs, as well as acute stress disorder. Guss' pain has continued to linger. Guss' encounter with the Richmond Police Department and his subsequent injuries affected his employment as a professional cowboy, training horses, riding in rodeos, and leading horseback riding lessons for children.

Caine has had several sustained complaints while serving as a K9 handler. The current use of force shows that Richmond Police Department failed to remediate Caine and he felt the impunity to commit more uses of force.

DESCRIPTION OF CLAIM:

Claimant alleges that the conduct of individual employees, agents, and/or servants of the CITY OF RICHMOND constitute State statutory violations, which might include but are not limited to assault, battery, false imprisonment, negligence, negligent hiring, and intentional infliction of emotional distress, and negligent infliction of emotional distress.

Claimant alleges those individual employees, agents and/or servants of the CITY OF

RICHMOND are responsible for Claimant's injuries, and acts and/or omissions committed within the course or scope of employment under the theory of respondeat superior. Respondeat superior liability includes but is not limited to, negligent training, supervision, control and/or discipline.

Individual employees, agents, and/or servants of the CITY OF RICHMOND, include but are not limited to, the chief of police, sheriff, or an individual of comparable title, in charge of law enforcement for the CITY OF RICHMOND, and DOES 1-100, and/or each of them, individually and/or while acting in concert with one another.

Claimant alleges the appropriate offenses listed below.

Claimant alleges a violation of his California Constitution Article 1 § 2 right to freedom of speech and assembly. Claimant contends that the right to film officers and make statements about their conduct is protected speech.

Claimant alleges that assault included, but was not limited to, conduct causing claimants to reasonably fear a harmful offensive touching upon claimant's person.

Claimant alleges that battery included, but was not limited to, conduct resulting in a harmful offensive touching upon claimant's person in a manner foreseeable likely to cause injury.

Claimant alleges that false imprisonment included, but was not limited to, acts or omissions causing claimants to be confined or restricted to an area without means of escape while claimants were aware of the confinement.

Claimant alleges that negligence included, but was not limited to, breach of duty upon failing to exercise due care by placing claimant at risk of serious physical injury.

Claimant alleges that negligent hiring included, but was not limited to, breach of duty upon failing to exercise due care by hiring individuals likely to cause physical injury to citizens while acting under color of law in an official capacity.

Claimant alleges Malicious Prosecution, included, but not limited to the officers' act of bringing illegitimate charges that were eventually dismissed.

Claimant alleges that intentional infliction of emotional distress included, but was not limited to, outrageous acts or omissions with the intent to causing emotional distress to another individual. The intentional conduct resulted in Claimant's physical injuries.

Claimant alleges violation of California Section 52.1. The conduct alleged herein constitutes a violation of Claimant's civil rights with threats, intimidation, and coercion.

Claimant alleges violation of California Section 51.7. The conduct alleged herein constitutes a violation of Claimant to be subjected to force or violence because of his race

and/or gender.

Claimant will allege other causes of action subject to continuing discovery.

DESCRIBE INJURY OR DAMAGE:

Claimant has, or may have in the future, claims for general damages, including, but not limited to, claims for pain, suffering and emotional distress in amounts to be determined according to proof.

Claimant may have and/or may continue to have in the future, claims for special damages, including, but not limited to, claims for medical and related expenses, lost wages, damage to career, damage to educational pursuits, damage to property and/or other special damages in amounts to be determined according to proof.

Claimant may have, and/or may continue to have in the future, damages for permanent mental injuries, permanent mental scarring and/or other psychological disabilities in an amount according to proof.

NAME OF PUBLIC EMPLOYEE(S) BELIEVED TO HAVE CAUSED INJURY OR DAMAGE:

RICHMOND POLICE DEPARTMENT officers Sergeant Alexander Caine, FNU Remick, and DOES 1-100.

DEMAND FOR PRESERVATION OF EVIDENCE:

Claimant does hereby demand that the CITY OF RICHMOND including, but not limited to, the appropriate city or county law enforcement agency, its employees, servants and/or attorneys, maintain and preserve all evidence, documents and tangible materials which relate in any manner whatsoever to the subject matter of this Claim, including until the completion of any and all civil and/or criminal litigation arising from the events which are the subject matter of this Claim. This demand for preservation of evidence includes, but is not limited to, a demand that all public safety entities preserve all tapes, logs and/or other tangible materials of any kind until the completion of any and all civil and criminal litigation arising from the subject matter of this claim.

AMOUNT OF CLAIM:

This claim is in excess of \$25,000. Jurisdiction is designated as "unlimited", and jurisdiction would be in the United States District Court and/or Superior Court of the State of California.

Very truly yours,



John L. Burris
Attorney

Burris, Nisenbaum, Curry, and Lacy, LLP**CERTIFICATE OF SERVICE***Kwesi Guss v. City of Richmond***STATE OF CALIFORNIA, COUNTY OF ALAMEDA:**

I am a citizen of the United States and employed in the county aforesaid; I am over the age of eighteen years, and not a party to the within action; My business address is 7677 Oakport Street, Suite 1120, Oakland, California 94621. On the date below, I served on the named parties and / or counsel of record:

CITY CLERK 450 Civic Center Plaza, 3rd Floor Richmond, CA 94804	City on Notice
---	----------------

The following documents in the manner checked below:

ADMINISTRATIVE CLAIM, CLAIM FORM, REQUEST FOR ADMINISTRATIVE CLAIM RECEIVED

- ☐ **(VIA MAIL – CCP §§ 1013(a), 2015.5)** By placing a true copy thereof enclosed in a sealed envelope(s), addressed as above, and placing each for collection and mailing on that date following ordinary business practices. I am readily familiar with my firm's business practice of collection and processing of correspondence for mailing with the U.S. Postal Service at Oakland, California, with postage thereon fully prepaid, that same day in the ordinary course of business.
- ☒ **(VIA PERSONAL DELIVERY – CCP §§ 1011, 2015.5)** By placing a true copy thereof enclosed in a sealed envelope(s), addressed as above, and causing each envelope(s) to be hand delivered on that day by _____, in the ordinary course of my firm's business practice.
- ☐ **(VIA E-MAIL OR ELECTRONIC TRANSMISSION – CCP §§ 1013(e), 2015.5, CRC 2008)** Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the document to be sent to the persons at the e-mail address(es) or the facsimile number listed above. I am readily familiar with my firm's business practice of collection and processing of correspondence via facsimile transmission(s) and any such correspondence would be transmitted in the ordinary course of business. The facsimile transmission(s) was reported as complete and without error, and a copy of the transmission report is attached.
- ☐ **(VIA OVERNIGHT MAIL/ COURIER – CCP §§ 1013(c), 2015.5)** By placing a true copy thereof enclosed in a sealed envelope(s), addressed as above, and placing each for collection by overnight mail service or overnight courier service. I am familiar with my firm's business practice of collection and processing of correspondence for overnight mail or overnight courier service, and my correspondence placed for collection for overnight delivery would, in the ordinary course of business, be delivered to an authorized courier or driver authorized by the overnight mail carrier to receive documents, with delivery fees paid or provided for, that same day, for delivery on the following business day.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made. Executed on May 24, 2024, in Oakland, California.

X

Clerk - Law Offices of John Burris