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9 OTTO PIPPENGER and DIMITRIOS PHILLIOU

10 UNITED STATES DISTRICT COURT
11
12 NORTHERN DISTRICT OF CALIFORNIA

13 SAVE CCSF COALITION, OTTO
14 PIPPENGER, and DIMITRIOS PHILLIOU,

15 Plaintiffs,

16 v.

17 SFPD OFFICER OLIVER LIM; SFCCDPD
18 SGT. CARLOS GAYTAN; OFFICER
19 JULIE TORRES #63; OFFICER IGOR
20 BOYKO; OFFICER E. MCGLASTON;
21 OFFICER M. EDAIS; SGT. DON
22 QUINTANA; LT. JASON WENDT;
23 SFCCDPD CHIEF ANDRE' L. BARNES;
24 SFPD SGT. JOSHUA KUMLI; SFPD
CHIEF GREG SUHR; CHANCELLOR
ARTHUR TYLER; CITY AND COUNTY
OF SAN FRANCISCO; SAN FRANCISCO
COMMUNITY COLLEGE DISTRICT; and
DOES 1-50, inclusive;

Defendants.

No. 3:14-cv-05286 SI

**CIVIL RIGHTS COMPLAINT
FOR DAMAGES AND
INJUNCTIVE RELIEF**

42 U.S.C. § 1983

Jury Trial Demanded

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Save CCSF Coalition, et al., v. Lim, et al., Case No. 3:14-cv--05286 SI 1

1 **INTRODUCTION**

- 2 1. This is a civil rights action for damages and injunctive relief arising from a violent
3 and unnecessary attack on a student protest at City College of San Francisco (CCSF)
4 by the San Francisco Police (SFPD), and San Francisco Community College District
5 Police (SFCCDPD), when plaintiffs OTTO PIPPENGER and DIMITRIOS
6 PHILLIOU were brutalized and arrested.
- 7 2. On March 13, 2014, plaintiff SAVE CCSF COALITION, a student – faculty – staff
8 organization, held a demonstration on campus calling for the resignation of Special
9 Trustee Robert Agrella and the reversal of a new tuition policy the college
10 administration had put in place in response to the Accrediting Commission for
11 Community and Junior Colleges (ACCJC)'s decision to terminate CCSF's
12 accreditation. After a rally, the students marched to the administration building,
13 Conlan Hall, to demand a meeting with defendant CHANCELLOR ARTHUR
14 TYLER.
- 15 3. Plaintiffs, who were and are CCSF students, attended the demonstration in order to
16 express their views on the accreditation crisis and changes being made at their
17 college.
- 18 4. In contrast to the college’s past practice, defendant CHANCELLOR ARTHUR
19 TYLER called in SFPD and SFCCDPD and instructed them to keep the protesters out
20 of Conlan Hall, although Conlan Hall was open at the time, with staff and students
21 inside. To the students’ surprise, when the demonstrators attempted to enter Conlan
22 Hall, SFPD and SFCCDPD officers responded with violence, shoving and hitting
23 numerous students without cause.
- 24 5. Defendants SFCCDPD SGT. CARLOS GAYTAN hit plaintiff OTTO PIPPENGER
repeatedly, breaking both of his wrists. Defendant SFPD OFFICER OLIVER LIM
slammed OTTO to the ground and punched OTTO in the back of the head as he lay

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1 on the floor, causing a concussion. SGT. GAYTAN, and defendant SFCCDPD
2 OFFICERS JULIE TORRES #63, IGOR BOYKO, and E. MCGLASTON then
3 carried OTTO upstairs by his fractured wrists.

4 6. Defendants SFCCDPD OFFICER M. EDAIS, SGT. DON QUINTANA, and/or
5 DOES 1-50, slammed plaintiff DIMITRIOS PHILLIOU to the ground, choked him,
6 and kneeled on his leg, which was healing from knee surgery. Defendant M. EDAIS,
7 assisted by defendant LT. JASON WENDT, applied pepper spray to DIMITRIOS’
8 eyes at close range, causing DIMITRIOS excruciating pain, and SGT. QUINTANA
9 applied water to DIMITRIOS’ face in such a way as to spread the pepper spray all
10 over his body including his genital area, causing him further pain.

11 7. Defendants then arrested both of the plaintiffs, without probable cause, and
12 transported them to the San Francisco Jail, where they were incarcerated from mid
13 afternoon until early morning the next day.

14 8. Meanwhile, defendants allowed student protesters to enter Conlan Hall and hold a sit-
15 in overnight, which was entirely peaceful and without incident. The students left the
16 building of their own accord the following morning.

17 9. On March 14, 2014, CHANCELLOR ARTHUR TYLER issued a public statement,
18 which he caused to be disseminated to at least 85,000 people, falsely stating that the
19 students had engaged in “violent outbursts”, that one of the plaintiffs “was found
20 hiding in a restroom” and “threatened the officers”, and that one of the plaintiffs “was
21 witnessed striking an SFPD police officer”. None of this was true.

22 10. Defendants’ actions deprived plaintiffs of their rights to freedom of speech and
23 freedom of association; to be free from unreasonable searches and seizures; to be free
24 from the use of excessive and/or arbitrary force; to be free from unreasonable,
summary punishment; to equal protection of the laws and to due process of law; all
guaranteed by the United States and California Constitutions.

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1 **II. JURISDICTION AND VENUE**

2 11. This action seeks damages and injunctive relief under 42 U.S.C. § 1983. This Court
3 has jurisdiction over the action under 28 U.S.C. §§ 1331 and 1343. It has
4 supplemental jurisdiction over the state law claims under 28 U.S.C. § 1367.

5 12. Venue properly lies within this District under 28 U.S.C. § 1391(b). The named
6 defendants perform their official duties in this District, and the events and omissions
7 giving rise to plaintiffs' claims occurred in this District.

8 13. Plaintiffs PIPPENGER and PHILLIOU, the plaintiffs who are seeking damages, have
9 filed administrative claims with the City and County of San Francisco, and with the
10 San Francisco Community College District, in compliance with California
11 Government Code §§ 910 et seq. The claims have been denied.

12 **III. INTRADISTRICT ASSIGNMENT**

13 14. Pursuant to Local Rule 3-2, this action may properly be assigned to the San Francisco
14 or Oakland divisions of this Court.

15 **IV. THE PARTIES**

16 **Plaintiffs**

17 15. Plaintiff SAVE CCSF COALITION is an unincorporated association of students,
18 staff, faculty and community members that advocates to preserve CCSF as a college
19 that offers affordable and quality education that is open and accessible and that
20 addresses the needs of the diverse community in San Francisco. SAVE CCSF
21 COALITION formed in response to the ACCJC's July, 2012, decision to terminate
22 CCSF's accreditation, and changes in the college's governance and policies, cuts to
23 programs and services, layoffs and pay cuts which went into effect following this
24 decision. Plaintiff SAVE CCSF COALITION sponsored the demonstration where
25 plaintiffs OTTO PIPPENGER, DIMITRIOS PHILLIOU and other students were

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1 subjected to excessive force by defendants, and this has chilled freedom of speech for
2 the members of SAVE CCSF COALITION. Plaintiff SAVE CCSF Coalition wishes
3 to continue to protest and speak out on campus without fear of police violence,
4 wrongful arrests, or college disciplinary sanction. SAVE CCSF COALITION is a
5 plaintiff for injunctive and declaratory relief only.

6 16. Plaintiffs OTTO PIPPENGER and DIMITRIOS PHILLIOU are adult residents of the
7 State of California, and students at City College of San Francisco (CCSF), the college
8 comprising the SAN FRANCISCO COMMUNITY COLLEGE DISTRICT.

9 **Defendants**

10 17. Defendant OFFICER OLIVER LIM was a San Francisco Police Officer at the time of
11 the subject incident, who participated in the police conduct complained of.

12 18. Defendants SGT. CARLOS GAYTAN; SGT. DON QUINTANA; OFFICER
13 TORRES #63; OFFICER IGOR BOYKO; OFFICER E. MCGLASTON; and
14 OFFICER M. EDAIS were SFCCDPD Police Officers and Sergeants at the time of
15 the subject incident, who participated in the police conduct complained of.

16 19. Defendant SGT. JOSHUA KUMLI was a San Francisco Police Sergeant, and
17 defendant CHIEF GREG SUHR was the Chief of Police for the City and County of
18 San Francisco, at the time of the subject incident, who participated in the supervision
19 of the police conduct complained of.

20 20. Defendant LT. JASON WENDT was a SFCCDPD Lieutenant and defendant CHIEF
21 ANDRE' L. BARNES was the Chief of Police for the San Francisco Community
22 College District, at the time of the subject incident, who participated in the
23 supervision of the police conduct complained of. LT. WENDT also directly
24 participated in the police conduct complained of.

25 21. Defendant CHANCELLOR ARTHUR TYLER was the Chancellor of City College
26 of San Francisco at the time of the subject incident, who gave orders which led to the

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1 unconstitutional police conduct complained of, and disseminated false information
2 about plaintiffs to retaliate against and deter their First Amendment expression.

3 22. Defendant CITY AND COUNTY OF SAN FRANCISCO is, and at all times herein
4 mentioned was, a municipal corporation duly organized and existing under the laws of
5 the State of California.

6 23. Defendant SAN FRANCISCO COMMUNITY COLLEGE DISTRICT is, and at all
7 times herein mentioned was, a subdivision of the State of California as part of the
8 state community college system, organized under the laws of the State of California.

9 24. All of the individual defendants are being sued in their individual and official
10 capacities.

11 25. Plaintiffs are ignorant of the true names and/or capacities of defendants sued herein
12 as DOES 1 through 50, inclusive, and therefore sue said defendants by such fictitious
13 names. Plaintiffs will amend this complaint to allege their true names and capacities
14 when ascertained. The DOE defendants include other individuals who supervised
15 and/or participated in the conduct complained of herein. Plaintiffs are informed and
16 believe and therefore allege that each of the Doe defendants is legally responsible and
17 liable for the incident, injuries and damages hereinafter set forth, and that each of said
18 defendants proximately caused said incidents, injuries and damages by reason of their
19 negligence, breach of duty, negligent supervision, management or control, violation of
20 constitutional and legal rights, or by reason of other personal, vicarious or imputed
21 negligence, fault, or breach of duty, whether severally or jointly, or whether based
22 upon agency, employment, or control or upon any other act or omission. Plaintiffs
23 will ask leave to amend this complaint to insert further charging allegations when
24 such facts are ascertained.

25 26. In doing the acts alleged herein, defendants, and each of them, acted within the
26 course and scope of their employment.

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1 27. In doing the acts and/or omissions alleged herein, defendants, and each of them,
2 acted under color of authority and/or under color of law.

3 28. In doing the acts and/or omissions alleged herein, defendants, and each of them,
4 acted as the agent, servant, employee and/or in concert with each of said other
5 defendants.

6 **V. FACTUAL ALLEGATIONS**

7 29. Plaintiffs OTTO PIPPENGER, age 20, and DIMITRIOS PHILLIOU, age 21,
8 attended the SAVE CCSF COALITION rally to express their concerns over the loss
9 of accreditation and changes in tuition and other policies at CCSF. The rally began
10 about noon on March 13, 2014, at Ram Plaza at the CCSF Ocean Ave. main campus.
11 From Ram Plaza the students marched to Conlan Hall, intending to demand a meeting
12 with CHANCELLOR TYLER and if that was refused, to conduct a peaceful sit-in
13 there. A year earlier, students had held a peaceful sit-in at Conlan Hall without any
14 intervention by the police or administration.

15 30. Conlan Hall was open, with students and staff inside, but to the students' surprise,
16 defendant CHANCELLOR TYLER, and/or DOES 1-50, called in SFPD and
17 SFCCDPD and ordered Conlan Hall closed to the Save CCSF protesters.

18 31. When the demonstrators attempted to enter Conlan Hall, officers from both police
19 agencies, acting in concert with one another, responded with unnecessary and
20 excessive force, shoving and hitting numerous students.

21 32. Defendant SFCCDPD SGT. CARLOS GAYTAN struck OTTO's wrists at least
22 seven times, fracturing both wrists.

23 33. Defendant SFPD OFFICER OLIVER LIM body slammed OTTO to the ground. As
24 OTTO lay on the floor, restrained, defendant LIM punched him in the back of the
head, smashing his face into the ground and giving him a concussion.

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1 34. Defendants GAYTAN, LIM and DOES 1-50 used other excessive force on OTTO,
2 and then defendant SFCCDPD SGT. GAYTAN and defendant SFCCDPD
3 OFFICERS JULIE TORRES #63, IGOR BOYKO, and E. MCGLASTON carried
4 OTTO upstairs by his fractured wrists.

5 35. Defendants detained OTTO in Vice Chancellor Fabienne McPhail Naples' office.
6 OTTO repeatedly asked them to call his mother, but defendant OFFICER TORRES
7 and Vice Chancellor Naples refused to. When a nearby faculty member offered to call
8 OTTO'S mother for him, Vice Chancellor Naples told her not to do so.

9 36. Defendants failed to provide OTTO medical attention.

10 37. Defendants caused OTTO to be booked into the San Francisco Jail for resisting or
11 interfering with an officer (Cal. Penal Code, § 148) and battery on a peace officer
12 (Cal. Penal Code, § 243). Despite his parents posting bail, OTTO remained in jail
13 from mid afternoon on March 13 until approximately 6am on March 14.

14 38. After the demonstration was largely over, plaintiff DIMITRIOS PHILLIOU
15 encountered defendants SFCCDPD OFFICER M. EDAIS, SGT. DON QUINTANA,
16 and DOES 1-50 in a hallway at Conlan Hall. Defendants told DIMITRIOS that he
17 was under arrest and proceeded to take him to the ground and choke him, pushing his
18 face into the ground. One of the defendants kneeled on DIMITRIOS' legs.

19 DIMITRIOS was recovering from knee surgery and defendants' weight on his legs
20 caused him severe pain. Defendants twisted his arms and used other excessive force
21 on him. Defendant EDAIS, assisted by defendant LT. WENDT, pepper sprayed him
22 in the eyes at close range, causing excruciating pain. SGT. QUINTANA then applied
23 water to DIMITRIOS' face in such a way as to spread the pepper spray all over his
24 body, including his genital area, causing him further agony.

39. Defendants then arrested DIMITRIOS for interfering or resisting an officer (Cal. Pen.
Code, §148), and remaining on campus after being notified that consent to remain has

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1 been withdrawn (Cal. Pen. Code, §626.4(d)), both misdemeanors. Defendants SGT.
2 QUINTANA and DOES 1-50 transported DIMITRIOS to San Francisco General
3 Hospital and then booked him into jail, despite the fact that citation and release for
4 misdemeanors is mandatory under California Penal Code section 853.6 and no
5 exception applied. DIMITRIOS was incarcerated in jail from approximately 3pm on
6 March 13, to 3am March 14, before finally being released with a citation.

7 40. On March 14, 2014, CHANCELLOR ARTHUR TYLER issued a public statement,
8 which he caused to be disseminated to at least 85,000 people, falsely stating that the
9 students had engaged in “violent outbursts”, that a student, impliedly DIMITRIOS,
10 “was found hiding in a restroom” and “threatened the officers”, and that a student,
11 impliedly OTTO, “was witnessed striking an SFPD police officer”. None of this was
12 true. Members of the college administration also made statements to the effect that
13 OTTO, DIMITRIOS and other members of SAVE CCSF COALITION would be
14 subjected to college disciplinary sanctions related to the demonstration.

15 41. OTTO and DIMITRIOS were forced to retain counsel to defend them from the
16 potential criminal charges, but neither of them was ever charged with any crime as a
17 result of this incident.

18 42. At no time did OTTO or DIMITRIOS present a threat or do anything to justify the
19 force that defendants used on them.

20 43. At no time did OTTO or DIMITRIOS violate California Penal Code sections 148,
21 243, 626.4, or any other law, and there was no probable cause to believe either of
22 them had violated the law.

23 44. As a result of defendants’ acts and omissions as alleged herein, OTTO sustained a
24 serious concussion and post concussion syndrome, fractures to both wrists, bruises,
and post traumatic stress disorder. These injuries changed OTTO’s life. Over the next
several months, he suffered from vomiting, severe headaches, visual disturbances,

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1 nightmares and sleep disturbances, flashbacks, fatigue, difficulty reading, difficulty
2 concentrating, fear and anxiety, pain, and limited use of his wrists. These symptoms
3 interfered with OTTO's schoolwork and his internship with the faculty union, and his
4 grades dropped. Although his cognitive symptoms have improved, OTTO is still
5 affected by the head injury and PTSD to this day. In addition, OTTO still suffers wrist
6 pain on a daily basis, and his exercise, leisure, work and school activities are limited
7 by the wrist injuries.

8 45. As a result of defendants' acts and omissions as described herein, DIMITRIOS
9 suffered pain, bruises, and an exacerbation of his pre-existing knee injury that
10 continues to limit his activities.

11 46. OTTO, DIMITRIOS, and SAVE CCSF COALITION want to engage in, and
12 associate with, similar peaceable expressive activity in the future, but are concerned
13 that they and the COALITION members may again be subjected to unlawful violence
14 and arrest, or that they may be subject to college disciplinary sanction, should they do
15 so.

16 **VI. REQUISITES FOR RELIEF**

17 47. Plaintiff is informed and believe that the violations of the plaintiffs' constitutional
18 and lawful rights complained of herein were caused by customs, policies, directives,
19 practices, acts and omissions of authorized policy makers of the SAN FRANCISCO
20 COMMUNITY COLLEGE DISTRICT and the CITY AND COUNTY OF SAN
21 FRANCISCO; including defendants CHANCELLOR ARTHUR TYLER and
22 SFCCDPD CHIEF ANDRE' L. BARNES; SFPD CHIEF GREG SUHR; and other
23 supervisory officials of the SFCCDPD, SFPD, and the SAN FRANCISCO
24 COMMUNITY COLLEGE DISTRICT and the CITY AND COUNTY OF SAN
25 FRANCISCO, who encouraged, authorized, directed, condoned, and ratified the
26 unconstitutional and unlawful conduct complained of herein. Said customs, policies

27 **COMPLAINT**

1 and practices include, but are not limited to the use of excessive force and wrongful
2 arrests to deter First Amendment activity; the failure to maintain adequate policies,
3 and to adequately train, supervise and control officers concerning the policing of
4 demonstrations and other expressive activities; concerning use of force and use of
5 force reporting; concerning the probable cause requirement for arrest; concerning the
6 cite and release requirement for misdemeanor arrests; and/or other customs, policies
and/or practices subject to continuing discovery.

7 48. Plaintiff is informed and believes that Defendants BARNES, SUHR, WENDT,
8 GAYTAN, QUINTANA, KUMLI, TYLER, and DOES 1-50 and/or each of them,
9 caused the violation of the plaintiffs' constitutional rights as a result of their
10 supervisory malfeasance and/or deliberate indifference to the need for more or
11 different training, supervision and/or discipline of the SFCCDPD and SFPD personnel
12 assigned to the subject incident, including, but not limited to, defendants LIM,
TORRES, BOYKO, MCGLASTON, EDAIS, and DOES 1-50, and/or each of them,
to prevent the foreseeable violation of plaintiffs' constitutional rights.

13 49. As a direct and proximate result of the conduct of defendants described herein,
14 plaintiffs have been denied their constitutional, statutory and legal rights as stated
15 below, and plaintiffs OTTO PIPPENGER and DIMITRIOS PHILLIOU have suffered
16 general and special damages, including but not limited to, pain, suffering, emotional
17 distress, fear, anxiety, disabilities, medical and related expenses, lost wages, damage
18 to career and/or loss of earning capacity, costs of defense, bail costs, and other
damages in amounts according to proof.

19 50. The individual defendants' acts were willful, wanton, malicious and oppressive and
20 done with conscious disregard and deliberate indifference for plaintiff's rights and
21 safety, justifying an award of punitive damages.

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1 51. Defendants' policies, practices, customs, conduct and acts alleged herein have
2 resulted and will continue to result in irreparable injury to the plaintiffs, including but
3 not limited to violations of their constitutional and statutory rights. Plaintiffs have no
4 plain, adequate or complete remedy at law to address the wrongs described herein.
5 The individual plaintiffs and the members of SAVE CCSF COALITION intend in the
6 future to exercise their constitutional rights of freedom of speech and association by
7 engaging in demonstrations and expressive activities at CCSF. Defendants' conduct
8 described herein has created fear, anxiety and uncertainty among plaintiffs and the
9 members of SAVE CCSF COALITION with respect to their exercise now and in the
10 future of these constitutional rights. Plaintiffs therefore seek injunctive relief from this
11 court, to ensure that plaintiffs, the members of SAVE CCSF COALITION, and
12 persons similarly situated will not suffer violations of their rights from defendants'
13 illegal and unconstitutional policies, customs and practices as described herein.

14 52. An actual controversy exists between plaintiffs and defendants in that plaintiffs
15 contend that the policies, practices and conduct of defendants alleged herein are
16 unlawful and unconstitutional, whereas plaintiffs are informed and believe that
17 defendants contend that said policies, practices and conduct are lawful and
18 constitutional. Plaintiffs seek a declaration of rights with respect to this controversy.

19 53. Plaintiffs have incurred, and will continue to incur, attorneys' fees and costs in
20 amounts to be determined according to proof.
21
22

23 COMPLAINT

1 **VII. CLAIMS FOR RELIEF**

2 **ONE - VIOLATION OF FOURTH AMENDMENT (42 U.S.C. § 1983)**

3 54. Plaintiffs re-allege and incorporate by reference the preceding paragraphs of this
4 Complaint.

5 55. Defendants' above-described conduct violated plaintiffs' rights to be free from
6 unreasonable detention and citation without probable cause, under the Fourth
7 Amendment to the United States Constitution.

8 **TWO - VIOLATION OF FIRST AMENDMENT (42 U.S.C. § 1983)**

9 56. Plaintiffs re-allege and incorporate by reference the preceding paragraphs of this
10 Complaint.

11 57. Defendants' above-described conduct violated plaintiffs' rights to freedom of speech,
12 freedom of association, and freedom of the press, under the First Amendment to the
13 United States Constitution.

14 **THREE - VIOLATION OF FOURTEENTH AMENDMENT (42 U.S.C. § 1983)**

15 58. Plaintiffs re-allege and incorporate by reference the preceding paragraphs of this
16 Complaint.

17 59. Defendants' above-described conduct violated plaintiffs' rights to not be deprived of
18 liberty without due process of law, and to equal protection of the laws, and to personal
19 liberty and freedom of movement, under the Fourteenth Amendment to the United
20 States Constitution.

21 **FOUR – CALIFORNIA EDUCATION CODE § 66301**

22 60. Plaintiffs re-allege and incorporate by reference the preceding paragraphs of this
23 Complaint.

24 61. California Education Code § 66301 codifies an absolute prohibition on a community
college administrator or governing board enforcing a restriction on student expression

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1 that, when engaged in outside campus, is protected by the First Amendment to the
2 United States Constitution or Section 2 of Article I of the California Constitution.

3 62. Defendants SAN FRANCISCO COMMUNITY COLLEGE DISTRICT and
4 CHANCELLOR ARTHUR TYLER have failed to adequately train SFCCDPD
5 personnel concerning respecting freedom of speech on campus, has imposed
6 unreasonable restrictions on student expression by subjecting student protesters to
7 violence and wrongful arrests and by threatening to impose disciplinary sanctions on
8 plaintiffs OTTO and DIMITRIOS and members of plaintiff SAVE CCSF
9 COALITION, in violation of California Education Code § 66301.

10 63. Defendants have violated plaintiffs' rights to the exercise of free expression under
11 California Education Code § 66301, which ensures that plaintiffs may exercise their
12 rights on campus in the same manner that they would be guaranteed the exercise of
13 those rights by the First Amendment in any off-campus public fora.

14 **FIVE – FALSE ARREST**

15 64. Plaintiffs re-allege and incorporate by reference the preceding paragraphs of this
16 Complaint.

17 65. Plaintiffs OTTO PIPPENGER and DIMITRIOS PHILLIOU were detained and cited
18 without reasonable suspicion and without probable cause to believe that they
19 committed any crime or violation.

20 **SIX - FALSE IMPRISONMENT**

21 66. Plaintiffs re-allege and incorporate by reference the preceding paragraphs of this
22 Complaint.

23 67. Defendants' act of intentionally imprisoning plaintiffs OTTO PIPPENGER and
24 DIMITRIOS PHILLIOU in the San Francisco Jail, rather than citing and releasing
plaintiffs, in violation of Penal Code section 853.6, constituted false imprisonment.

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1 **SEVEN - VIOLATION OF CALIFORNIA CIVIL CODE § 51.7**

2 68. Plaintiffs re-allege and incorporate by reference the preceding paragraphs of this
3 Complaint.

4 69. Defendants' above-described conduct violated plaintiffs' rights to be free from
5 violence and intimidation by threat of violence because of their actual or perceived
6 political affiliation and/or viewpoint, in violation of California Civil Code § 51.7.

7 **EIGHT - VIOLATION OF CALIFORNIA CIVIL CODE § 52.1**

8 70. Plaintiffs re-allege and incorporate by reference the preceding paragraphs of this
9 Complaint.

10 71. Defendants' above-described conduct constituted interference, and attempted
11 interference, by threats, intimidation and coercion, with plaintiffs' peaceable exercise
12 and enjoyment of rights secured by the Constitution and laws of the United States and
13 the State of California, in violation of California Civil Code § 52.1.

14 **NINE – NEGLIGENCE**

15 72. Plaintiffs re-allege and incorporate by reference the preceding paragraphs of this
16 Complaint.

17 73. Defendants have a duty of care to plaintiffs to ensure that defendants did not cause
18 unnecessary or unjustified harm to plaintiffs, to provide medical intervention and
19 attention to plaintiffs, and a duty of care to hire, train, supervise and discipline police
20 officers so as not to cause harm to plaintiffs and to prevent violations of plaintiffs'
21 constitutional, statutory and common law rights.

22 74. The above-described acts and omissions of defendants breached the duty of care
23 defendants owed to plaintiffs.

24 **VIII. JURY TRIAL DEMAND**

Plaintiffs hereby demand a jury trial.

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1 **IX. PRAYER FOR RELIEF**

2 WHEREFORE, plaintiffs prays for judgment against defendants, and each of
3 them, as follows:

4 PLAINTIFFS OTTO PIPPENGER and DIMITRIOS PHILLIOU:

- 5 1. For general and special damages to be determined according to proof;
- 6 2. For punitive damages against the individual defendants, and/or each of them, to
7 be determined according to proof;
- 8 3. For statutory damages and exemplary damages pursuant to Cal. Civil Code §§
9 52 and 52.1, to be determined according to proof, and to a \$25,000 civil penalty per
10 violation pursuant to Cal. Civil Code § 52;
- 11 4. For pre- and post-judgment interest as permitted by law;

12 ALL PLAINTIFFS:

- 13 1. For preliminary and permanent injunctive relief restraining defendants from
14 engaging in the unlawful and unconstitutional actions complained of above;
- 15 2. For a declaratory judgment that defendants' conduct complained of herein
16 violated plaintiffs' rights under the Constitution and laws of the United States and
17 California;
- 18 3. For attorneys' fees pursuant to 42 U.S.C. § 1988 and Cal. Civil Code §§ 52 and
19 52.1, and/or other authorities, to be determined according to proof;
- 20 4. For costs of suit;
- 21 5. For such other and further relief as the Court may deem just and proper.

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23 *Save CCSF Coalition, et al., v. Lim, et al.*, Case No. 3:14-cv--05286 SI 16

24

