

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

Cyndy Day-Wilson, Esq. (CSB# 135045)

628 H Street

Eureka, CA 95501

TELEPHONE NO.: (707) 798-5048

FAX NO. (Optional): (707) 343-8284

ATTORNEY FOR (Name): Rory Kalin

## SUPERIOR COURT OF CALIFORNIA, COUNTY OF HUMBOLDT

STREET ADDRESS: 825 5th Street

MAILING ADDRESS:

CITY AND ZIP CODE: Eureka, CA 95501

BRANCH NAME:

CASE NAME:

Kalin v. Elvine-Kreis, et al.

FOR COURT USE ONLY

FILED

MAR 06 2020

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF HUMBOLDT

CIN

## CIVIL CASE COVER SHEET

☒ **Unlimited** (Amount demanded exceeds \$25,000) ☐ **Limited** (Amount demanded is \$25,000)

## Complex Case Designation

☐ Counter ☐ Joinder  
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER:

CV2000357

JUDGE:

DEPT.:

Items 1-6 below must be completed (see instructions on page 2).

## 1. Check one box below for the case type that best describes this case:

## Auto Tort

- ☐ Auto (22)  
☐ Uninsured motorist (46)

## Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

- ☐ Asbestos (04)  
☐ Product liability (24)  
☐ Medical malpractice (45)

## Other PI/PD/WD (23)

## Non-PI/PD/WD (Other) Tort

- ☐ Business tort/unfair business practice (07)  
☒ Civil rights (08)  
☐ Defamation (13)  
☐ Fraud (16)  
☐ Intellectual property (19)  
☐ Professional negligence (25)  
☐ Other non-PI/PD/WD tort (35)

## Employment

- ☐ Wrongful termination (36)  
☐ Other employment (15)

## Contract

- ☐ Breach of contract/warranty (06)  
☐ Rule 3.740 collections (09)  
☐ Other collections (09)  
☐ Insurance coverage (18)  
☐ Other contract (37)

## Real Property

- ☐ Eminent domain/Inverse condemnation (14)  
☐ Wrongful eviction (33)  
☐ Other real property (26)

## Unlawful Detainer

- ☐ Commercial (31)  
☐ Residential (32)  
☐ Drugs (38)

## Judicial Review

- ☐ Asset forfeiture (05)  
☐ Petition re: arbitration award (11)  
☐ Writ of mandate (02)  
☐ Other judicial review (39)

Provisionally Complex Civil Litigation  
(Cal. Rules of Court, rules 3.400-3.403)

- ☐ Antitrust/Trade regulation (03)  
☐ Construction defect (10)  
☐ Mass tort (40)  
☐ Securities litigation (28)  
☐ Environmental/Toxic tort (30)  
☐ Insurance coverage claims arising from the above listed provisionally complex case types (41)

## Enforcement of Judgment

- ☐ Enforcement of judgment (20)

## Miscellaneous Civil Complaint

- ☐ RICO (27)  
☐ Other complaint (not specified above) (42)

## Miscellaneous Civil Petition

- ☐ Partnership and corporate governance (21)  
☐ Other petition (not specified above) (43)

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

- a. ☐ Large number of separately represented parties d. ☐ Large number of witnesses  
b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court  
c. ☐ Substantial amount of documentary evidence f. ☐ Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☒ punitive

## 4. Number of causes of action (specify): 7

5. This case ☐ is ☒ is not a class action suit.

## 6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: March 6, 2020

Cyndy Day-Wilson, Esq.

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

## NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

# SUMMONS (CITACION JUDICIAL)

**NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):**  
GREGORY J. ELVINE-KREIS

**YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

RORY KALIN

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**FILED**

CIN

MAR 06 2020

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF HUMBOLDT

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. ¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:  
(El nombre y dirección de la corte es): Humboldt County Superior Court  
825 5th Street  
Eureka, CA 95501

CASE NUMBER: (Número del Caso):

CV2000357

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: (El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Cyndy Day-Wilson, Esq., DW Law 628 H Street Eureka, CA 95501, Phone: (707) 798-5048

KIM M. BARTLESON

CINDY C.

DATE: March 6, 2020  
(Fecha)

Clerk, by  
(Secretario)

, Deputy  
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010).)

[SEAL]

COPY

**NOTICE TO THE PERSON SERVED:** You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):  
under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)  
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)  
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)  
☐ other (specify):
4. ☐ by personal delivery on (date)

CYNDY DAY-WILSON, ESQ. [SBN 135045]  
DW LAW  
628 H Street  
Eureka, CA 95501  
Telephone: (707) 798-5048  
Facsimile: (707) 343-8284  
cdaywilson@daywilsonlaw.com

Attorney for PLAINTIFF  
RORY KALIN

**FILED**

MAR 06 2020

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF HUMBOLDT

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF HUMBOLDT**

RORY KALIN, an individual,

Plaintiff,

v.

GREGORY J. ELVINE-KREIS, an individual,  
and DOES 1 through 10, inclusive,

Defendants.

Case No.: **CV2000357**

**COMPLAINT FOR DAMAGES;**

- 1. BATTERY;**
- 2. ASSAULT;**
- 3. RALPH CIVIL RIGHTS ACT  
(VIOLATION OF CAL. CIV. CODE  
SECTION 51.7);**
- 4. INTERFERENCE WITH  
EXERCISE OF CIVIL RIGHTS  
(CAL. CIV. CODE SECTION 52.1);**
- 5. INTENTIONAL INFLICTION OF  
EMOTIONAL DISTRESS;**
- 6. NEGLIGENT INFLICTION OF  
EMOTIONAL DISTRESS; and**
- 7. NEGLIGENCE.**

**JURY TRIAL DEMANDED**

## INTRODUCTION

Plaintiff, Rory Kalin, ("Plaintiff") is an individual residing in Humboldt County, California. Plaintiff is employed as a Deputy Public Defender for the County of Humboldt. While attending a Memorial Day event, which included other public defenders from his office, Plaintiff was verbally and physically attacked by an attendee - the Defendant, Gregory J. Elvine-Kreis, ("Defendant"). Defendant also resides in Humboldt County and is a sitting judge on the Superior Court of the County of Humboldt and a former member of the Humboldt County Public Defender's Office. Plaintiff was subjected to comments by Defendant about his Jewish heritage - being called "Jew-boy" repeatedly while both parties were in attendance at a group event on a boat on Lake Shasta. Defendant acted on his statements by then throwing the Plaintiff, fully clothed, without provocation or warning, off of the boat into Lake Shasta. Plaintiff was not only humiliated in front of his office colleagues, but Defendant's actions caused injury and exacerbated a traumatic brain injury suffered by Plaintiff just a month prior. Plaintiff also lost personal property in the lake.

In addition, Defendant, Plaintiff's immediate supervisor Luke Brownfield, and Marek Reavis, the County's Public Defender, took steps to impose an adverse employment action against Plaintiff within weeks following the incident in order to silence the Plaintiff.

## PARTIES AND JURISDICTION

1. Plaintiff, Rory Kalin, is an individual who at all relevant times mentioned herein and currently, resides in the County of Humboldt, State of California.

2. Defendant, Gregory Elvine-Kreis, is an individual who at all relevant times mentioned herein and currently, reside in the County of Humboldt, State of California.

3. The true names and capacities of the Defendants sued herein as DOES 1 through 10, inclusive, are currently unknown to Plaintiff, who therefore sues said Defendants by such fictitious names. Plaintiff is informed and believes, and based thereon alleges, that each of the Defendants designated herein as a DOE is legally responsible in some manner for the events and happenings referred to herein and caused injury and damage to Plaintiff. Plaintiff will seek leave

1 of court to amend this Complaint to show the true names and capacities of the Defendants  
2 designated herein as DOES when their names have been ascertained. Wherever in this  
3 Complaint reference is made to "Defendants", such allegation shall be deemed to mean the acts  
4 of Defendants acting individually, jointly, and/or severally.

#### 5 **VENUE**

6 4. Venue properly lies in this County in that both the Plaintiff and the Defendant(s)  
7 all reside in this County.

#### 8 **GENERAL ALLEGATIONS AS TO ALL CAUSES OF ACTION**

9 5. Plaintiff has been employed by the County of Humboldt as a Deputy Public  
10 Defender ("Deputy PD") since October of 2017. As a Deputy PD, Plaintiff has provided legal  
11 defense services to the indigent of Humboldt County when they have been charged with a crime.

12 6. Plaintiff suffered a traumatic brain injury in April of 2019 when he was struck on  
13 the head by a golf ball hit by a third party. He was examined in the emergency room and released,  
14 but unfortunately the extent of his injuries (from the golf ball and the shove into Lake Shasta) did  
15 not manifest until June of 2019 when he was hospitalized for nine (9) days, began suffering from  
16 seizures, increased anxiety and panic attacks. Plaintiff was subsequently placed on medical leave  
17 by his doctors.

18 7. Prior to his medical leave, Plaintiff was a highly valued member of the County of  
19 Humboldt Public Defender's Office. His evaluations were always "above average" and  
20 "outstanding." This changed, however, when he was subjected to harassment and discrimination  
21 by Defendant who maintains a relationship with the Public Defender's Office, in particular with  
22 Plaintiff's immediate supervisor, Luke Brownfield. Mr. Brownfield not only ignored the  
23 harassment and discrimination but also took part in an effort to cover it up, demote Plaintiff, and  
24 to damage his reputation and career. In addition, the Public Defender, Mr. Reavis, took part in  
25 this effort by harassing Plaintiff while he was in the hospital, violating his right of privacy while  
26 in the hospital, making false statements about Plaintiff to his colleagues and the Humboldt County  
27 Bench, and took steps to demote and terminate Plaintiff while he was on medical leave.

8. On May 25, 2019, at Antlers RV Park and Campground in Shasta County, California, Plaintiff was attacked physically and verbally by Defendant Gregory J. Elvine-Kreis. A group had gathered at Antlers RV Park for the Memorial Day weekend. The get-together had been arranged by the wife of Plaintiff's Supervising Attorney, Luke Brownfield. Many of the attendees were employed in the Public Defender's Office, as well as their spouses, families, and other acquaintances.

9. The verbal and physical attacks occurred while Plaintiff was on a boat that had been rented from the Antlers RV Park by Mr. Brownfield. The boat held approximately 25 people.

10. Plaintiff observed Defendant drinking large quantities of alcohol and becoming belligerent and intoxicated. During this time, Plaintiff also observed the Defendant acting inappropriately with women, making inappropriate remarks about women, and flirting with other men's wives.

11. About 30 minutes into the boat ride, Defendant began calling Plaintiff a "Jew Boy" and making fun of his Jewish heritage loudly, in a demeaning and unwelcome manner. He laughed loudly while making these statements. Defendant also referred to Plaintiff as "Jew-boy" while speaking to Plaintiff's wife.

12. Plaintiff stayed silent because Defendant is a judge that he regularly appears before in Humboldt Superior Court. Even more troubling is the fact that Mr. Brownfield, Plaintiff's supervisor, stayed silent and did not intervene with regard to the discriminatory and harassing comments concerning Plaintiff's Jewish heritage.

13. Defendant then took his attack on Plaintiff a step further by shoving him into Lake Shasta off the stern side of the boat. This was an intentional shove and Plaintiff had no time to react. This physical contact was offensive, unwelcome, and without warning.

14. Plaintiff was fully clothed when he was shoved into the lake by Defendant - wearing full length pants, a long sleeve shirt, and shoes. Immediately prior to being shoved off

1 the boat into the lake, Defendant made fun of Plaintiff's clothing telling him that he was "dressed  
2 like an old man."

3 15. Plaintiff was understandably shocked and embarrassed at what had just happened.  
4 When the boat arrived back at shore, Plaintiff went to his tent where he remained until after  
5 Defendant had left the next morning. While in the tent Plaintiff experienced a severe anxiety and  
6 panic attack as a result of Defendant's action.

7 16. Plaintiff's wife was also shocked at what had just happened and began to cry.  
8 Defendant then began to harass Plaintiff's wife - telling her that he wanted to see Plaintiff, but  
9 she asked him to leave Plaintiff alone as he was very upset.

10 17. Several hours later, after returning to shore, Defendant asked Plaintiff's wife,  
11 "where is your girlfriend?" referring to Plaintiff as "girlfriend," when he was looking for Plaintiff  
12 at a gathering later that day.

13 18. Plaintiff had personal belongings in his pockets when Defendant shoved him into  
14 the lake. Plaintiff's cell phone was completely ruined and he had to purchase a replacement  
15 iPhone and lost a lot of important information. This was also a phone Plaintiff used for work.

16 19. The Public Defender's Office uses a group text message system for  
17 communications and Plaintiff was without the ability to see his office communications until he  
18 could purchase a new phone. Additionally, Plaintiff's car keys, wallet and prescription  
19 medication were also in his pants pocket when he was attacked and those items went into the  
20 lake as well.

21 20. After Plaintiff and the public defenders who attended the Memorial Day get-  
22 together all returned to work, Plaintiff was treated differently by his office management, including  
23 Mr. Brownfield. Plaintiff also was not treated with the same respect among his colleagues the  
24 following work week - his colleagues and management distanced themselves from him.

25 21. Within weeks of Defendant verbally and physically attacking Plaintiff, Plaintiff's  
26 supervisor Luke Brownfield (a close personal friend of the Defendant), along with other  
27 management, made false accusations against Plaintiff that allegedly came from the bench that

1 Defendant sits on. These accusations resulted in an adverse employment action against Plaintiff  
2 without any due process, despite his consistent objection and in direct contrast to his excellent  
3 performance reviews and recent promotion.

4 22. In addition, just weeks after Defendant threw Plaintiff off the boat, the impacts  
5 from being hit in the head with a golf ball, exacerbated by the shove off of the boat, manifested  
6 into seizures and increased anxiety and panic attacks while Plaintiff was hospitalized for nine (9)  
7 days.

8 23. Plaintiff remains on medical leave from his position as a Deputy Public Defender  
9 at the County of Humboldt.

#### 11 FIRST CAUSE OF ACTION – BATTERY

12 24. Plaintiff realleges and incorporates the allegations contained within paragraphs 1  
13 through 23 herein.

14 25. As alleged herein, the Defendant, in performing the acts described, acted with the  
15 intent to make a harmful and offensive contact with Plaintiff's person.

16 26. At all relevant times, Plaintiff found the contact by Defendant to be offensive to  
17 his person and dignity. At no time did Plaintiff consent to any of the acts by Defendant.

18 27. As a result of Defendant's acts as herein described, Plaintiff was physically  
19 harmed and/or experienced offensive contact with his person.

20 28. As a direct and proximate result of Defendant's unlawful conduct as alleged  
21 herein, Plaintiff has suffered physical injury, exacerbation of his underlying medical condition,  
22 severe emotional distress, panic and anxiety attacks, humiliation, embarrassment, mental and  
23 emotional distress, economic harm and other consequential damages, all in an amount according  
24 to proof at trial.

25 29. The aforementioned conduct by Defendant was willful, wanton, and malicious. At  
26 all relevant times, Defendant acted with conscious disregard of the Plaintiff's rights and feelings.  
27 Defendant also acted with the knowledge of, or with reckless disregard for, the fact that their

1 conduct was certain to cause injury and/or humiliation to the Plaintiff. Plaintiff is further  
2 informed and believes that Defendant intended to cause fear, physical injury and/or pain and  
3 suffering to the Plaintiff. By virtue of the foregoing, the Plaintiff is entitled to recover punitive  
4 and exemplary damages from Defendant according to proof at trial.

5  
6 **SECOND CAUSE OF ACTION – ASSAULT**

7 30. Plaintiff realleges and incorporates the allegations contained within paragraphs 1  
8 through 29 herein.

9 31. As a result of Defendant's acts, Plaintiff was in fact, placed in great apprehension  
10 of imminent harmful and offensive contact with his person.

11 32. In performing the acts alleged herein, Defendant acted with the intent of making  
12 contact with Plaintiff's person.

13 33. At no time did Plaintiff consent to any of the acts by Defendant as alleged herein.

14 34. Defendant's conduct as described herein, caused Plaintiff to be apprehensive that  
15 Defendant would subject him to further intentional acts that were offensive and harmful contact  
16 and demonstrated that at all times material herein, Defendant had a present ability to subject  
17 Plaintiff to an intentional and harmful touching.

18 35. As a direct and proximate result of Defendant's unlawful conduct as alleged  
19 herein, Plaintiff has suffered physical injury, exacerbation of his underlying medical condition,  
20 severe emotional distress, humiliation, embarrassment, anxiety and panic attacks, mental and  
21 emotional distress and anxiety, and economic harm, all in an amount according to proof at trial.

22 36. The aforementioned conduct by Defendant was willful, wanton, and malicious. At  
23 all relevant times, Defendant acted with conscious disregard of Plaintiff's right and feelings.  
24 Defendant also acted with the knowledge of, or with reckless disregard for, the fact that his  
25 conduct was certain to cause injury and/or humiliation to the Plaintiff. Plaintiff is informed and  
26 believes that Defendant intended to cause fear, physical injury and/or pain and suffering to the  
27

1 Plaintiff. By virtue of the foregoing, Plaintiff is entitled to recover punitive and exemplary  
2 damages from Defendant according to proof at trial.

3  
4 **THIRD CAUSE OF ACTION – RALPH CIVIL RIGHTS ACT (VIOLATION OF CAL.**  
5 **CIV. CODE SECTION 51.7)**

6 37. Plaintiff realleges and incorporates the allegations contained within paragraphs 1  
7 through 36 herein.

8 38. California Civil Code Section 51.7(a) states “all persons within the jurisdiction of  
9 this state have the right to be free from any violence, or intimidation by threat of violence,  
10 committed against their persons or property because of political affiliation, or on account of any  
11 characteristic listed or defined in subdivision (b) or (e) of Section 51...or because another person  
12 perceives them to have one or more of those characteristics.”

13 39. At all times mentioned herein, Plaintiff had the right to be free from any violence,  
14 or intimidation by threat of violence, committed against his person on account of his religion.

15 40. As alleged herein, Defendant subjected Plaintiff to violence, and/or intimidation  
16 by threats of violence, against his person on account of his religion and denied Plaintiff his right  
17 to be free from any violence, or intimidation by threat of violence, committed against his person on  
18 account of his religion.

19 41. In doing so, Defendant violated the civil rights of Plaintiff, as set forth in the Ralph  
20 Civil Rights Act, which is codified at California Civil Code Section 51.7.

21 42. As a direct and proximate result of Defendant’s unlawful conduct as alleged  
22 herein, Plaintiff has suffered physical injury, exacerbation of his underlying medical condition,  
23 severe emotional distress, humiliation, embarrassment, panic and anxiety attacks, mental and  
24 emotional distress and anxiety, all in an amount according to proof at trial.

25 43. As a direct and proximate result of Defendant’s unlawful conduct as alleged  
26 herein, Plaintiff has suffered economic harm and other consequential damages, all in an amount  
27 according to proof at trial.

1           44.     The aforementioned conduct by Defendant was willful, wanton, and malicious. At  
2 all relevant times, Defendant acted with conscious disregard of Plaintiff's rights and feelings.  
3 Defendant also acted with the knowledge of, or with reckless disregard for, the fact that his  
4 conduct was certain to cause injury and/or humiliation to the Plaintiff. By virtue of the foregoing,  
5 Plaintiff is entitled to recover punitive and exemplary damages from Defendant according to proof  
6 at trial.

7           45.     In addition to and/or in lieu of Plaintiff's election, Plaintiff is entitled to receive  
8 and hereby seeks statutory damages pursuant to California Civil Code Section 52(b), including  
9 actual and exemplary damages.

10          46.     Pursuant to California Civil Code Section 52(b)(3), Plaintiff has incurred, and will  
11 continue to incur, attorney's fees in the prosecution of this action and therefore demands such  
12 reasonable attorneys' fees and costs as set by the Court.

13  
14                   **FOURTH CAUSE OF ACTION - INTERFERENCE WITH EXERCISE OF**  
15                   **CIVIL RIGHTS (CAL. CIV. CODE SECTION 52.1)**

16          47.     Plaintiff realleges and incorporates the allegations contained within paragraphs 1  
17 through 46 herein.

18          48.     California Civil Code Section 52.1, the Bane Act, provides that it is unlawful to  
19 interfere with the exercise or enjoyment of any rights under the Constitution and the laws of this  
20 state and the United States by use or attempted use of threats, intimidation or coercion.

21          49.     Section 51.7 of the Civil Code guarantees the rights to persons in California to be  
22 free from assault, battery, and/or violence or threats of violence based on his or her religion.

23          50.     Section 43 of the California Civil Code guarantees the right of every person the  
24 right of protection from bodily restraint or harm, personal insult, from defamation, and from  
25 injury to his personal relations.

26          51.     As alleged herein, Defendant intentionally interfered with or attempted to interfere  
27 with Plaintiff's clearly established rights guaranteed under the United States and California laws,

1 including but not limited to Plaintiff's right of protection from battery, assault, and religious  
2 violence by threats, intimidation, and coercion.

3 52. As a direct and proximate result of Defendant's unlawful conduct as alleged  
4 herein, Plaintiff has suffered physical injury, exacerbation of is underlying medical condition,  
5 severe emotional distress, humiliation, embarrassment, panic and anxiety attacks, mental and  
6 emotional distress and anxiety, all in an amount according to proof at trial.

7 53. As a direct and proximate result of Defendant's unlawful conduct as alleged  
8 herein, Plaintiff has suffered economic harm and other consequential damages, all in an amount  
9 according to proof at trial.

10 54. The aforementioned conduct by Defendant was willful, wanton, and malicious. At  
11 all relevant times, Defendant acted with conscious disregard of Plaintiff's rights and feelings.  
12 Defendant also acted with the knowledge of, or with reckless disregard for, the fact that his  
13 conduct was certain to cause injury and/or humiliation to the Plaintiff. By virtue of the foregoing,  
14 Plaintiff is entitled to recover punitive and exemplary damages from Defendant according to proof  
15 at trial.

16 55. In addition to and/or in lieu of Plaintiff's election, Plaintiff is entitled to receive  
17 and hereby seeks statutory damages pursuant to California Civil Code Section 52(b), including  
18 actual and exemplary damages.

19 56. Pursuant to California Civil Code Section 52(b)(3), Plaintiff has incurred, and will  
20 continue to incur, attorneys' fees in the prosecution of this action and therefore demands such  
21 reasonable attorney's fees and costs as set by the Court.

22  
23 **FIFTH CAUSE OF ACTION – INTENTIONAL INFLICTION OF EMOTIONAL**  
24 **DISTRESS**

25 57. Plaintiff realleges and incorporates the allegations contained within paragraphs 1  
26 through 56 herein.

57. Defendant's unlawful conduct as alleged herein was outrageous and done with malice against Plaintiff.

58. Defendant intended to cause Plaintiff emotional distress or did so with reckless disregard of the probability that Plaintiff would suffer emotional distress as a result of the unlawful conduct.

59. Plaintiff did in fact suffer severe emotional distress as set forth herein.

60. As a direct and proximate result of Defendant's unlawful conduct as alleged herein, Plaintiff has suffered physical injury, exacerbation of his underlying medical condition, severe emotional distress, humiliation, embarrassment, panic and anxiety attacks, mental and emotional distress and anxiety, all in an amount according to proof at trial.

61. As a direct and proximate result of Defendant's unlawful conduct as alleged herein, Plaintiff has suffered economic harm and other consequential damages, all in an amount according to proof at trial.

62. The aforementioned conduct by Defendant was willful, wanton, and malicious. At all relevant times, Defendant acted with conscious disregard of Plaintiff's rights and feelings. Defendant also acted with the knowledge of, or with reckless disregard for, the fact that his conduct was certain to cause injury and/or humiliation to the Plaintiff. By virtue of the foregoing, Plaintiff is entitled to recover punitive and exemplary damages from Defendant according to proof at trial.

**SIXTH CAUSE OF ACTION – NEGLIGENT INFLICTION OF EMOTIONAL  
DISTRESS**

63. Plaintiff realleges and incorporates the allegations contained within paragraphs 1 through 62 herein.

64. Defendant owed a duty of care to Plaintiff to act in compliance with the law as alleged herein.

65. Defendant breached his duty of care to Plaintiff as set forth herein.

1           66.    As set forth above, Defendant's actions were at least negligent toward Plaintiff.

2           67.    Plaintiff did in fact suffer severe emotional distress as set forth herein.

3           68.    As a direct and proximate result of Defendant's unlawful conduct as alleged  
4 herein, Plaintiff has suffered physical injury, exacerbation of his underlying medical condition,  
5 severe emotional distress, humiliation, embarrassment, panic and anxiety attacks, mental and  
6 emotional distress and anxiety, all in an amount according to proof at trial.

7           69.    As a direct and proximate result of Defendant's unlawful conduct as alleged  
8 herein, Plaintiff has suffered economic harm and other consequential damages, all in an amount  
9 according to proof at trial.

10          70.    The aforementioned conduct by Defendant was willful, wanton, and malicious. At  
11 all relevant times, Defendant acted with conscious disregard of Plaintiff's rights and feelings.  
12 Defendant also acted with the knowledge of, or with reckless disregard for, the fact that his  
13 conduct was certain to cause injury and/or humiliation to the Plaintiff. By virtue of the foregoing,  
14 Plaintiff  
15 is entitled to recover punitive and exemplary damages from Defendant according to proof at trial.

16  
17                   **SEVENTH CAUSE OF ACTION – NEGLIGENCE**

18          71.    Plaintiff realleges and incorporates the allegations contained within paragraphs 1  
19 through 70 herein.

20          72.    Defendant owed a duty of care to Plaintiff to act in compliance with the law as  
21 alleged herein.

22          73.    Defendant breached his duty of care to Plaintiff as set forth herein.

23          74.    As set forth above, Defendant's actions were at least negligent toward Plaintiff.

24          75.    Plaintiff did in fact suffer severe emotional distress and his condition (traumatic  
25 brain injury) was exacerbated by Defendant's actions causing additional damage to Plaintiff  
26 including economic and physical injury.

76. As a direct and proximate result of Defendant's unlawful conduct as alleged herein, Plaintiff has suffered physical injury, exacerbation of his underlying medical condition, severe emotional distress, humiliation, embarrassment, panic and anxiety attacks, mental and emotional distress and anxiety, all in an amount according to proof at trial.

77. As a direct and proximate result of Defendant's unlawful conduct as alleged herein, Plaintiff has suffered economic harm and other consequential damages, all in an amount according to proof at trial.

78. The aforementioned conduct by Defendant was willful, wanton, and malicious. At all relevant times, Defendant acted with conscious disregard of Plaintiff's rights and feelings. Defendant also acted with the knowledge of, or with reckless disregard for, the fact that his conduct was certain to cause injury and/or humiliation to the Plaintiff. By virtue of the foregoing, Plaintiff is entitled to recover punitive and exemplary damages from Defendant according to proof at trial.

**WHEREFORE**, Plaintiff prays that judgment be entered in his favor against Defendant as follows:

## PRAYER FOR RELIEF

**AS TO THE FIRST CAUSE OF ACTION:**

1. For general and special damages according to proof;
2. For punitive and exemplary damages according to proof;
3. For costs of suit incurred herein;
4. For such other and further relief as the Court may deem just and proper.

**AS TO THE SECOND CAUSE OF ACTION:**

1. For general and special damages according to proof;
2. For punitive and exemplary damages according to proof;
3. For costs of suit incurred herein;
4. For such other and further relief as the Court may deem just and proper.

**AS TO THE THIRD CAUSE OF ACTION:**

1. For general and special damages according to proof;
2. For punitive and exemplary damages according to proof;
3. For attorneys' fees and costs of suit incurred herein;
4. For additional statutory civil penalty in the sum of \$25,000.00 pursuant to Civ. Code Section 52(b);
5. For injunctive relief;
6. For such other and further relief as the Court may deem just and proper.

**AS TO THE FOURTH CAUSE OF ACTION:**

1. For general and special damages according to proof;
2. For punitive and exemplary damages according to proof;
3. For attorneys' fees and costs of suit incurred herein;
4. For additional statutory civil penalty in the sum of \$25,000.00 pursuant to Civ. Code Section 52(b);
5. For injunctive relief;
6. For such other and further relief as the Court may deem just and proper.

**AS TO THE FIFTH CAUSE OF ACTION:**

1. For general and special damages according to proof;
2. For punitive and exemplary damages according to proof;
3. For costs of suit incurred herein;
4. For such other and further relief as the Court may deems just and proper.

**AS TO THE SIXTH CAUSE OF ACTION:**

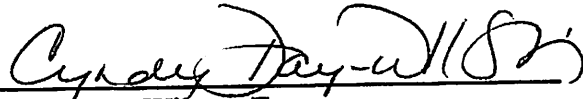
1. For general and special damages according to proof;
2. For punitive and exemplary damages according to proof;
3. For costs of suit incurred herein;
4. For such other and further relief as the Court may deems just and proper.

**AS TO THE SEVENTH CAUSE OF ACTION:**

1. For general and special damages according to proof;
2. For punitive and exemplary damages according to proof;
3. For costs of suit incurred herein;
4. For such other and further relief as the Court may deem just and proper.

Dated: March 6, 2020

LAW OFFICE OF CYNDY DAY-WILSON

  
Cyndy Day-Wilson, Esq.  
Attorney for PLAINTIFF RORY KALIN