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9 Attorneys for Plaintiff

10 UNITED STATES DISTRICT COURT
11 FOR THE DISTRICT OF NEVADA

12 * * *

13 KEN SMITH, an individual,
14 Plaintiff,
15 vs.

CASE NO.: 3:12-CV-00475-MMD-WGC

16 HUMBOLDT COUNTY, a political
subdivision of the State of Nevada,
17 SERGEANT LEE DOVE, an individual,
18 Defendants.

COMPLAINT AND JURY DEMAND

19 Plaintiff for his complaint against Defendants complains and avers as follows:

- 20 1. Plaintiff is a citizen residing in Colorado.
- 21 2. On December 16, 2013, Plaintiff was traveling in Humboldt County where he was
- 22 stopped by Defendant Sergeant Lee Dove of the Humboldt County Sheriff's office.
- 23 3. The purported reason for the stop was exceeding the speed limit.
- 24 4. During the stop, a warrant check pulled up a Ken Smith who was not Plaintiff.

25 The warrant was for a Ken Smith who was identified on information available to the Deputy
26 as African-American with a different birth date. Plaintiff made available to Dove his passport
27 and driver's license. Plaintiff is Caucasian and has a different birth date than the Ken Smith
28

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1 on the warrant. Plaintiff should have been cited for speeding and let go, if there was probable
2 cause for speeding violations.

3 5. Later, Plaintiff was “unarrested”. As a condition for the release of himself and
4 his vehicle he was given a form to sign surrendering and waiving claim to \$13,800.00 in cash
5 which the officers had seized from his vehicle. With his liberty in the air, Plaintiff had no choice
6 but to sign the document. The deputies also retained Plaintiff’s firearm, a 40 caliber Ruger,
7 although the form did not relinquish Plaintiff’s right to the firearm.

8 6. As a result of the foregoing conduct, Plaintiff has suffered and will continue to
9 suffer emotional distress, mental anguish, embarrassment, humiliation, harm to reputation,
10 fear of law enforcement, loss of \$13,800.00 in cash and the use thereof, loss of the firearm,
11 its value and enjoyment of the use thereof, all in sums to be proved at trial.

12 7. The conduct of Dove was done with malice and oppression, and deliberate
13 indifference to the rights of Plaintiff. As a result, Dove is liable to Plaintiff for punitive damages.

14
15 FIRST CLAIM FOR RELIEF

16 8. Plaintiff refers to and by such reference incorporates herein each, every and all
17 averments contained in paragraphs 1-7 hereinabove as though fully set forth at this point.

18 9. Dove violated Plaintiff’s right to be free from unreasonable searches and
19 seizures under the Fourth Amendment to the United States Constitution by stopping him
20 without reasonable suspicion or probable cause, by searching his vehicle incident to that
21 unlawful stop/arrest without a warrant or probable cause, by seizing his property without
22 justification or probable cause, and by arresting Plaintiff and detaining him against his will
23 without probable cause or a warrant. This conduct subjects Dove to liability under 42 U.S.C.
24 §1983 for all of the aforementioned damages as well as reasonable attorneys fees and costs
25 of suit pursuant to 42 U.S.C. §1988.

26 SECOND CLAIM FOR RELIEF

27 10. Plaintiff refers to and by such reference incorporates herein each, every and all
28 averments contained in paragraphs 1-9 hereinabove as though fully set forth at this point.

1 11. The conduct of Dove is part of a pattern and practice known to and deliberately
2 approved by policymakers of Humboldt County, including the Sheriff, the District Attorney and
3 the Board of County Commissioners.

4 12. Such conduct is approved as a means of providing funding to the County for
5 purposes to be determined in the course of discovery in this action. This custom is established
6 by anecdotal evidence that this is a continuing pattern, and that in one recent week Dove,
7 made three to four such stops. It is also based upon the filing made by attorney Ohlson on
8 behalf of Tan Nguyen in this Court. As such, Dove's conduct is part of a custom or policy of
9 Humboldt County, subjecting Humboldt County to liability to Plaintiff under 42 U.S.C. §1983,
10 for the Fourth Amendment violations.

11 THIRD CLAIM FOR RELIEF

12 13. Plaintiff refers to and by such reference incorporates herein each, every and all
13 averments contained in paragraphs 1-12 hereinabove as though fully set forth at this point.

14 14. Dove, with the intent to permanently deprive Plaintiff of his gun and cash,
15 exercised dominion and control over said property without consent, privilege or justification,
16 subjecting Dove to liability for the tort of conversion.

17 15. As a result, Plaintiff is entitled to the reasonable value of said property plus
18 interest and punitive damages.

19 16. Defendant Humboldt County is liable for Dove's conversation because it
20 authorized and ratified it.

21 FOURTH CLAIM FOR RELIEF

22 17. Plaintiff refers to and by such reference incorporates herein each, every and all
23 averments contained in paragraphs 1-16 hereinabove as though fully set forth at this point.

24 18. Dove and Humboldt County, in exercising dominion and control over Plaintiff's
25 property undertook a fiduciary duty to Plaintiff not to withhold from him funds and property that
26 was duly his.

27 19. Defendants breached their fiduciary duty to Plaintiff by acting in their own interest
28 to the detriment of Plaintiff via use of their power of office to intimidate and coerce Plaintiff into

1 relinquishing property under threat of loss of liberty, subjecting Defendants to liability for the
2 aforementioned damages.

3 FIFTH CLAIM FOR RELIEF

4 20. Plaintiff refers to and by such reference incorporates herein each, every and all
5 averments contained in paragraphs 1-19 hereinabove as though fully set forth at this point.

6 21. The aforementioned conduct subjects Defendants to liability for the tort of false
7 arrest, for the same damages.

8 SIXTH CLAIM FOR RELIEF

9 22. Plaintiff refers to and by such reference incorporates herein each, every and all
10 averments contained in paragraphs 1-21 hereinabove as though fully set forth at this point.

11 23. The aforementioned conduct subjects Defendants to liability for the tort of false
12 imprisonment.

13 WHEREFORE, Plaintiff prays for judgment in his favor and against Defendants, jointly
14 and severally, for all relief prayed for herein, and such other and further relief as the Court
15 deems just and proper.

16 DATED this 21st of February, 2014.

17 CAVANAUGH-BILL LAW LLC

18 LAW OFFICE OF
19 JEFFREY A. DICKERSON

20 /S/ Jeffrey A. Dickerson
21 JEFFREY A. DICKERSON

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