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PLAINTIFF'S STATEMENT OF THE CASE

Plaintiff Joshua Gibson Booty suffered injury when Defendants County of Orange, and its employees, officers, directors, agents, representatives, deputies, designates, and/or contractors employed excessive force against him by maliciously and sadistically assaulting, beating, tasing and defaming him. He was under arrest at the time, but he was not a prisoner. Orange County Sheriff's deputies beat Mr. Booty and used an electroshock weapon or Taser against him while escorting him in the Central Jail Complex as a show of force and to punish him. Mr. Booty went limp and fell to the floor where the beating and the use of the Taser continued and was enhanced. Defendants' beating and use of an electroshock weapon or Taser resulted in severe trauma to Mr. Booty's body and the fracturing of his orbital bones in his skull leading to loss of vision and other injuries. Mr. Booty was transported, in shackles, to the Anaheim Medical Center for medical treatment. At Anaheim Medical Center, Mr. Booty, still in shackles and handcuffed, was further handcuffed to the hospital bed where he remained for several hours in severe and excruciating pain prior to the provision of medical care. While at the hospital, Mr. Booty was denied water and food.

Subsequent to the beating and the use of the Taser, Defendants defamed and unjustly harmed Mr. Booty's reputation and good name in a statement or statements that were made public. These

statements were included in, for example, a February 15, 2008 Los Angeles Times article (See Exhibit "A") and a statement released to TMZ (See Exhibit "B").

Defendants County of Orange, Deputy T. Boyne, Deputy D. Gregor, Deputy R. Egbert, Deputy J. McLennan, Deputy S. Yannizzi, Deputy K. Trautman and Deputy D. Scrivener are named defendants in Mr. Booty's complaint. Plaintiff intends to file an amended complaint to include claims for violations of the Plaintiff's civil rights under 42 U.S.C. §1983, defamation, libel and intentional infliction of emotional distress (in addition to the Plaintiff's current claims).

County of Orange's Public Statements Regarding Josh Booty and the February 13, 2008 Incident

Subsequent to the beating and the use of the Taser on the Plaintiff, Defendants defamed and unjustly harmed Mr. Booty's reputation and good name in a statement or statements that were made public. These statements were included in, for example, a February 15, 2008 Los Angeles Times article written by Dave McKibben and titled "Taser Used on Former Ballplayer After Arrest" (See Exhibit "A") and a statement released to TMZ (See Exhibit "B"). The Los Angeles Times article - - which is just an example of the type of media reports, on a national basis, regarding Mr. Booty and the incident involving the defendants - - included the following language:

"Josh Booty, the brother of USC quarterback John David Booty, was subdued with a Taser after being arrested early Wednesday in Santa Ana on suspicion of driving under the influence, authorities said Thursday.

Booty, a former professional baseball and football player, was shocked with the stun gun after being

"uncooperative and belligerent" while being booked into Orange County Jail, said Sheriff's Department spokesman Jim Amormino.

During the struggle about 3:30 a.m. Wednesday, Amormino said, Booty hit his eye on the ground or a table and suffered a black eye. He was taken to a hospital for treatment, Amormino said.

He was later cited and released from jail.

Amormino said "a clearly intoxicated" Booty was required to undress so he could be searched when he arrived at the jail. After the search, deputies told him to pick up his clothing, and he became uncooperative, Amormino said.

"We tried to restrain him, he pulled away, and he was throwing his arms out," Amormino said. "Eventually we had to use the Taser to contain him. After the second Taser, he became cooperative and returned to his cell."

The incident lasted less than two minutes.

Amormino said Booty, who is 6 feet 2 and weighs 215 pounds, later apologized to the deputies.

Booty was pulled over for speeding by the California Highway Patrol on the 55 Freeway near Baker Street.

Booty, 32, was a first-round draft pick of the Florida Marlins baseball team. According to Baseball Almanac, he had 26 at bats for the Marlins in three years and a .269 batting average.

He did not return phone calls seeking comment.

After quitting baseball, he enrolled at Louisiana State University in 1999 to play football and later became a quarterback for the Cleveland Browns. He has worked as a freelance contributor to FoxSports.com."

The Defendants engaged in an unprovoked, unjustified, malicious and sadistic use of force against Mr. Booty by unjustly assaulting, punching, kicking and using an electroshock weapon or Taser on him. Further, it appears that, and in attempting to engage in damage control and crisis management subsequent to the brutal attack on Mr. Booty, the County of Orange thought it appropriate to release the aforementioned statements. A further analysis of the County of Orange's statements is useful:

1. According to Defendant County of Orange, and as made clear in Mr. Amormino's public statements, Mr. Booty was "uncooperative and belligerent."
 - a. The video released by Defendant County of Orange clearly demonstrates that Mr. Booty was cooperative and was not belligerent with the Defendants. In fact, the video makes clear that Mr. Booty was assaulted, grabbed and slammed into a wall where he was then punched and kicked by Deputies; additionally, an electroshock weapon or Taser was used on the Plaintiff. Mr. Booty was cooperative. Mr. Booty was not belligerent.
2. During the struggle about 3:30 a.m. Wednesday, Amormino said, Booty hit his eye on the ground or a table and suffered a black eye. He was taken to a hospital for treatment, Amormino said.
 - a. Mr. Booty suffered a fracture of his orbital bones in his skull; such injuries are caused by a direct impact to the face most commonly, and for example, by direct facial trauma to an automobile dashboard or steering wheel during a motor vehicle accident. Because a great deal of force is required to cause these fractures,

they often occur with extensive injuries to other facial bones, and sometimes injuries to the brain. Mr. Booty did not just suffer a “black eye” as a result of somehow and inadvertently when he “hit his eye on the ground or a table and suffered a black eye.” The defendants maliciously and sadistically beat Mr. Booty by punching and kicking him and by using such excessive and traumatic force on his face resulting in a fracture of his orbital bones. This was the result of a malicious and sadistic attack on the part of the Defendants.

3. Amormino said "a clearly intoxicated" Booty was required to undress so he could be searched when he arrived at the jail. After the search, deputies told him to pick up his clothing, and he became uncooperative, Amormino said.
 - a. The Plaintiff will provide testimony from witnesses that were traveling with Mr. Booty in the vehicle that was the subject of the DUI controverting and contradicting Mr. Amormino’s statements. Moreover, the California Highway Patrol Officers that initially pulled over and arrested Mr. Booty made it clear to him that, in fact, he was being very cooperative with him during the arrest and car ride to the Orange County Central Jail Complex; such behavior is in stark contrast to the purported “clearly intoxicated” comments describing Mr. Booty made by County of Orange.
 - b. Mr. Booty was entirely cooperative with the Sheriff Deputies. In fact, the Deputies made sadistic and malicious comments to Mr. Booty including the following:

- i. "The Price is Wrong Bitch"
 1. Mr. Booty was married to Rachel Reynolds, former "Price is Right" spokesperson. It is likely that the Deputies' comments, "The Price is Wrong Bitch" was a reference to Mr. Booty's former wife.
 - ii. "Take your shoes off Pussy Mother Fucker"
 - iii. "Big Pussy Mother Fucker"
4. "We tried to restrain him, he pulled away, and he was throwing his arms out," Amormino said.
 - a. The relevant video shows Deputies picking up and grabbing Mr. Booty while he was sitting on a bench and then proceeding to slam him into a wall/counter where the brutal attack continued. Mr. Booty did not pull away. Mr. Booty did not engage in "throwing his arms out."
5. "Eventually we had to use the Taser to contain him. After the second Taser, he became cooperative and returned to his cell."
 - a. The use of the Electroshock weapon or Taser was a continuation of the sadistic and malicious beating that Mr. Booty was forced to endure by the Defendants. Mr. Booty was cooperative. My Booty was not belligerent. The Defendants unjustly and unlawfully punched, kicked and used a Taser against Mr. Booty during the brutal and vicious attack.

6. Amormino said Booty, who is 6 feet 2 and weighs 215 pounds, later apologized to the deputies.
 - a. Fearing for his own safety as a result of the sadistic and malicious use of force by the Defendants, Mr. Booty attempted to reason and appease with the Deputies, including pleading with the Defendants to refrain from punching, kicking and continuing to use a Taser on him. With its public statements, the County of Orange clearly attempted to absolve itself from the sadistic and malicious use of force against Mr. Booty during the brutal attack; such crisis management and damage control was not only untruthful but it has had a devastating impact on the Plaintiff's personal and professional life.

Gousse vs. City of Los Angeles, Case No. BC 252804

In attempting to engage in a financial resolution of this matter, Plaintiff offers *Gousse vs. City of Los Angeles*, Case No. BC 252804 as a contextual framework from which settlement negotiations can be structured.

In 2003, a jury in Los Angeles awarded a University of Miami urology surgeon and professor \$33 million after finding the Los Angeles Police Department and Budget Rent-a-Car Co. liable for hand, wrist and shoulder injuries the doctor suffered during a 2001 traffic stop. Urological reconstructive surgeon Dr. Angelo E. Gousse sued the Los Angeles Police Department, the City of Los Angeles, and Budget Rent-A-Car Corporation on June 21, 2001, for violation of his civil rights and negligence.

Dr. Gousse alleged that police misconduct during a traffic stop and later, at the Rampart Police Station, *caused permanent injuries* precluding him from performing certain types of surgeries.

As is the case with Dr. Gousse, the Defendants' conduct has caused permanent injuries to Plaintiff Joshua Gibson Booty both as a result of the brutal attack, itself, and Defendant County of Orange's public statements regarding the attack.

The Defendants brutal attack and Defendant County of Orange's public statements have had a devastating impact on the Plaintiff's personal and professional life. Some background on the Plaintiff will be revelatory.

JOSHUA GIBSON BOOTY

Joshua Gibson Booty (born April 29, 1975 in Starkville, Mississippi) is a National Football League quarterback and former Major League Baseball third baseman. He is currently a free agent after being waived by the Oakland Raiders. He is the older brother of Houston Texans and University of Southern California Quarterback John David Booty. Mr. Booty is one of the very few athletes to have been a professional athlete, at the highest level, in both professional baseball (Major League Baseball Florida Marlins) and professional football (NFL Seattle Seahawks; Cleveland Browns; Oakland Raiders).

As a high school athlete at Evangel Christian Academy in Shreveport, Louisiana, Mr. Booty was named to the All-Time National High School All-American team by Dick Butkus along with Joe Namath and John Elway. As quarterback for the football team, he threw for 11,700 yards and 126 touchdowns, becoming the first high school player in history to throw for

more than 10,000 yards (all this despite missing the last four games of his senior year due to a broken hand). As a result of his performance Mr. Booty was named the USA Today Offensive Player of the Year and was named the National High School Player of the Year by at least six associations, including Parade and the Football News. As a shortstop for his high school baseball team, he was a four-time All-State choice at shortstop. As a senior, he batted .429 with 20 intentional walks, 25 stolen bases, and 12 home runs with only 70 at bats. He was also the starting shortstop for the U.S. Junior Olympic National Team that won the silver medal. He was a USA Today All-American shortstop and Mr. Booty won a silver medal in the 1993 U.S. Olympic Festival. He was the 5th pick overall in the 1994 Major League Baseball Draft by the Florida Marlins.

Highly recruited by major college football programs from across the country, Mr. Booty decided to sign with the Marlins for a then-record \$1.6 million signing bonus.

Mr. Booty was the fifth pick overall in the 1st round of the Major League Baseball Amateur Draft (1994). Mr. Booty was voted the Minor League Defensive Player of the Year in 1997 for the Portland Sea Dogs. He was a part of the 1997 World Series Champion Florida Marlins and has a World Series Championship ring.

In 1999, Mr. Booty went to the Louisiana State University (LSU) to play football for LSU's football team. During his two years at LSU, he completed 49.3% of his passes for 3,951 yards and 24 touchdowns.

The Plaintiff was taken as the 177th pick (6th round) of the 2001 NFL Draft by the Seattle Seahawks. Mr. Booty played with the Cleveland Browns and the Oakland Raiders.

“Josh Booty Inc.”

Prior to the February 13, 2008 incident - - and leveraging his experience as a collegiate and professional athlete (Major League Baseball & NFL), his experience on the semi-professional golf tour and his personal contacts and relationships - - Mr. Booty began the process of embarking on the next stage of his career in sports.

At the time of the February 13, 2008 incident, Mr. Booty was an NFL free agent and was represented by Athletes First, one of the leading sports agencies in the United States. Mr. Booty was, and with Athletes First, pursuing professional opportunities in the NFL while, simultaneously, pursuing a career in sports broadcasting.

At the time of the February 13, 2008 incident - - and including his sports representation by Athletes First - - Mr. Booty was in the process of finalizing a relationship with one of a number of sports broadcasting agencies, including Headline Media Management, one of the leading talent sports broadcasting representation firms in the United States and globally.

It is the Plaintiff’s position, and exceptionally credible witnesses (experts and otherwise [including current and former Head Coaches at the NFL and NCAA Division I level]) will testify that, at the time of the February 13, 2008 incident, Mr. Booty had the potential to return to the NFL. Additionally, it is the Plaintiff’s position, and exceptionally credible witnesses (experts and otherwise [including nationally regarded sports and media experts]) will testify that, at the time of the February 13, 2008 incident, Mr. Booty had the potential to embark on a major career in sports broadcasting.

The February 13, 2008 incident and related public statements made by Defendant County of Orange devastated Mr. Booty's potential return to the NFL and his potential as a professional sports broadcaster.

As a result of Defendants' conduct, Joshua Gibson Booty suffered horrific injuries during and subsequent to the brutal attack which is the subject matter of this litigation. Additionally, Mr. Booty's career in sports and media has been devastated by Defendant's untrue and self serving public statements.