

# UNIVERSITY OF CALIFORNIA, DAVIS

BERKELEY • DAVIS • IRVINE • LOS ANGELES • MERCED • RIVERSIDE • SAN DIEGO • SAN FRANCISCO

KING HALL CIVIL RIGHTS CLINIC  
ONE SHIELDS AVENUE, BLDG. TB-30  
DAVIS CALIFORNIA 95616  
TELEPHONE: (530) 752-5440  
FAX: (530) 752-5788



SANTA BARBARA • SANTA CRUZ

## Explanation of Amendment

November 19, 2021

I sent a government claim against the City of Rialto on behalf of Esteban Hernandez ("Claimant") by certified mail on November 6, 2021. The return receipt indicates the City received the claim on November 9, 2021. Claimant, through the undersigned, received notice on November 16, 2021 that the claim had been rejected because it was not signed by Claimant or his Agent. The omission of counsel's signature was inadvertent. I simply forgot to sign the document.

Pursuant to California Government Code section 910.6, Claimant is entitled to amend the original government claim because the City has not yet taken final action, and the amendment relates to the same occurrence giving rise to the original claim. Indeed, the amended claim is identical to the original claim and is amended only to include counsel's signature.

I declare under penalty of perjury that the foregoing true and correct.

Executed this 19th day of November, 2021, at Davis, California

A handwritten signature in cursive script, reading "Carter C. White", written over a horizontal line.

Carter C. White  
*Attorney for Claimant*  
*Esteban Hernandez*

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**CITY OF RIALTO  
LIABILITY  
CLAIM FOR DAMAGES  
TO PERSON OR PROPERTY**

CITY CLERK'S DATE STAMP

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1. Claims for death, injury to person, or to personal property must be filed not later than six (6) months after the occurrence (Gov. Code §911.2).
2. Claims for damages to real property must be filed not later than one (1) year after the occurrence (Gov. Code §911.2).
3. READ ENTIRE CLAIM FOR BEFORE FILING
4. ATTACH SEPARATE SHEETS, IF NECESSARY, TO GIVE FULL DETAILS

**RETURN TO:**

**Rialto City Clerk's Office**

Mail: 150 S. Palm Ave., Rialto, CA 92376

Address: 290 W. Rialto Ave., Rialto, CA 92376

**CLAIMANT INFORMATION:**

Esteban Hernandez

FULL NAME

302 West Merrill Ave., Apt. 211, Rialto, CA 92376

HOME ADDRESS INCLUDING CITY, STATE & ZIP

N/A

BUSINESS ADDRESS INCLUDING CITY, STATE & ZIP

ADDRESS AT WHICH CLAIMANT DESIRES TO RECEIVE  
NOTICES OR COMMUNICATIONS REGARDING THIS CLAIM  
(if different from home address provided above):

11/10/1975

DATE OF BIRTH

( )

HOME TELEPHONE NO.

( ) N/A

BUSINESS TELEPHONE NO.

Carter C. White, UC Davis Civil Rights Clinic

One Shields Ave., TB-30, Davis, CA 95616

1. WHEN DID DAMAGE OR INJURY OCCUR? DATE: May 15, 2021 TIME: 12:05 ☐ AM ☒ PM

2. PLACE OF ACCIDENT (OCCURRENCE) BE SPECIFIC – Describe fully and (if applicable) locate on diagram on reverse side of this sheet.  
Where appropriate, give street names and addresses, measurements and landmarks.

See attachment.

3. HOW DID DAMAGE OR INJURY OCCUR?

See attachment.

4. WERE POLICE AT THE SCENE? ☒ YES ☐ NO WERE PARAMEDICS AT THE SCENE? ☐ YES ☒ NO

5. WHAT PARTICULAR ACT OR OMISSION DO YOU CLAIM CAUSED THE INJURY OR DAMAGES? Give the name of the city/town employee causing the injury or damage, if known.

See attachment.

6. GIVE TOTAL AMOUNT OF CLAIM Include estimate of amount of any prospective injury or damage \$ See Attachment

HOW WAS THE ABOVE AMOUNT COMPUTED? Be specific, list doctor bills, repair estimates, etc. **Please attach 2 estimates.**

**DAMAGES INCURRED TO DATE:**

Item/Date: \_\_\_\_\_

Amount: \$ \_\_\_\_\_

Item/Date: \_\_\_\_\_

Amount: \$ \_\_\_\_\_



TOTAL AMOUNT CLAIMED AS OF PRESENTATION OF THIS CLAIM:

\$ \_\_\_\_\_

ESTIMATED PROSPECTIVE DAMAGES, AS FAR AS KNOWN:

Item/Date: \_\_\_\_\_

Amount: \$ \_\_\_\_\_

Item/Date: \_\_\_\_\_

Amount: \$ \_\_\_\_\_

TOTAL ESTIMATED AMOUNT PROSPECTIVE DAMAGES:

\$ \_\_\_\_\_

7. WITNESSES TO DAMAGE OR INJURY List all persons known to have information (attach additional pages, if necessary)

NAME: Angel Reyes (see police report)

NAME: Vazquez (see police report)

ADDRESS: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE: ( ) \_\_\_\_\_

TELEPHONE: ( ) \_\_\_\_\_

8. IF INJURED, PROVIDE NAME, CONTACT INFORMATION AND DATE/TIME DOCTOR(S) OR HOSPITAL(S) VISITED:

NAME: Arrowhead Regional Medical Center

NAME: \_\_\_\_\_

ADDRESS: 400 N Pepper Ave, Colton, California 92324

ADDRESS: \_\_\_\_\_

TELEPHONE: (909) 580-1000

TELEPHONE: ( ) \_\_\_\_\_

DATE: May 15, 2021 TIME: 12:52 ☐ AM ☒ PM

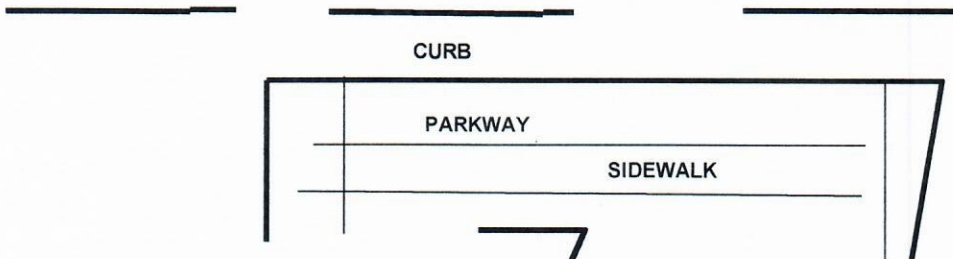
DATE: \_\_\_\_\_ TIME: \_\_\_\_\_ ☐ AM ☐ PM

9. PLEASE READ THE FOLLOWING CAREFULLY:

For all vehicle accident claims, place on the following diagram, the names of streets, including NORTH, EAST, SOUTH AND WEST directions. Indicate place of accident by "X" and by showing house numbers or distances to street corners.

If a city/town vehicle was involved, designate by letter "A" location of the City/Town vehicle when you first saw it, and by "B" location of yourself or your vehicle when you first saw City/Town vehicle; location of City/Town vehicle at time of accident by "A-1" and location of yourself or your vehicle at the time of the accident by "B-1" and the point of impact by "X".

NOTE: IF THE DIAGRAM BELOW DOES NOT FIT THE SITUATION, PLEASE ATTACH A PROPER DIAGRAM SIGNED BY THE CLAIMANT.



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I HAVE READ THE FOREGOING CLAIM AND KNOW THE CONTENTS THEREOF; AND CERTIFY THAT THE SAME IS TRUE OF MY OWN KNOWLEDGE EXCEPT AS TO THOSE MATTERS WHICH ARE HEREIN STATED UPON MY INFORMATION AND BELIEF; AND AS TO THOSE MATTERS I BELIEVE THEM TO BE TRUE.

I CERTIFY (OR DECLARE) UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

SIGNATURE OF CLAIMANT OR AGENT

Carter C. White

November 19, 2021

TYPE OR PRINT NAME

DATE

Attorney

RELATIONSHIP TO CLAIMANT

NOTE: PRESENTATION OF A FALSE CLAIM IS A FELONY (CA PENAL CODE 72)  
RETURN CLAIM TO: RIALTO CITY CLERK'S OFFICE - 150 S. PALM AVE., RIALTO, CA 92376

Attachment

**ESTEBAN HERNANDEZ'S AMENDED GOVERNMENT  
CLAIM AGAINST CITY OF RIALTO & RIALTO POLICE  
DEPARTMENT**

**(a) Name of Claimant**

Esteban Hernandez  
302 West Merrill Avenue  
Apt #211  
Rialto, CA 92376

**(b) Address Where Notices To Be Sent**

Carter C. White  
UC Davis King Hall Civil Rights Clinic  
One Shields Avenue, Bldg. TB-30  
Davis, California 95616

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**(c) Date, Place, and Circumstances Giving Rise to the Claims**

On May 15, 2021, around 12:05pm, Esteban Hernandez ("Claimant") was violently attacked in the parking lot of his auto shop by a customer, Mendoza, who was apparently dissatisfied with work Claimant had performed on his car. Mendoza pushed, punched, and threatened Claimant, forcing Claimant to retrieve his clip remover—a tool used in working on cars—to defend himself. Despite Claimant pleading with Mendoza to stop, Mendoza continued to advance, attempting to punch Claimant repeatedly and yelling at Claimant to "stab [him], go ahead" and to "do something." After Mendoza successfully punched Claimant for a second time, Claimant returned a punch to Mendoza's nose in self-defense and said, "get away from my shop or I'll call the police." Feeling intimidated by Mendoza, Claimant decided to leave the auto shop and began walking away to go to his car.

After walking around the block to get to his car, Claimant noticed that police arrived on the scene, so he called the auto shop and asked to speak with the police. Claimant spoke with Officer Jesus Guevara and informed Officer Guevara that he was the victim in the incident and had left the scene after being assaulted and threatened. However, Officer Guevara maintained that Claimant was the aggressor and chastised him for leaving. Officer Guevara told Claimant he was going to put a warrant out for Claimant's arrest. Officer Guevara then hung up on Claimant. Claimant tried to call back twice but no one answered.

Claimant then began walking back to the shop, traveling south on Cactus Avenue near Second Street, and was stopped by Officer Mariah Carrillo. She told Claimant to sit on the curb and cross his legs. Claimant immediately complied. Several minutes later, Officer Anthony Taramona arrived. Claimant asked Officer Taramona if he was the person Claimant had spoken to on the phone, and Officer Taramona replied only by asking "why did you leave the scene?" It was at or around this time when Officer Guevara and a John Doe Fourth Officer arrived on the



scene.

Officer Taramona then told Claimant to put his hands on his head. Officer Taramona simultaneously extended his hand toward Claimant and flicked his fingers upward, gesturing for Claimant to stand up. Claimant immediately complied, placing his hands on his head with his fingers interlocked, standing up, and facing Officer Taramona. Then, without any further commands or warning, Officer Taramona moved 180 degrees behind Claimant, reached in between Claimant's left arm and his head, over his shoulder, and began violently choking Claimant. The chokehold was similar to a "rear naked chokehold"—a martial arts chokehold applied from an opponent's back.

Claimant asked Officer Taramona why he was being choked and begged Officer Taramona to relax his grip. Officer Taramona only gripped tighter. Claimant's hands remained behind his head with his fingers interlocked until Officer Taramona commanded Claimant to put his hands behind his back. Despite being in severe pain and losing consciousness from lack of oxygen, Claimant replied, "I'll do it" and complied with the command, putting his hands behind his lower back.

Officer Taramona then began punching Claimant in the back of the head, maintaining his grip on Claimant's neck. Claimant began going in and out of consciousness. Officer Taramona then swept Claimant's feet out from under him, controlling Claimant's body solely through the hold on his neck, causing Claimant's face to turn red. One of the final things Claimant remembers is being slammed to the pavement on his left side, his face and shoulder scraping the concrete, and yelling at Officer Taramona to "get off." Claimant felt the officers were going to kill him.

While Claimant was going in and out of consciousness, Officer Taramona delivered two front kicks to Claimant's abdomen. At the same time, despite Claimant's distress and understandable distractedness, Officer Guevara purported to "warn" Claimant that he was going to deploy his taser by sparking it in Claimant's direction. Claimant did not see any warnings. Claimant came to while being tased and yelled out, "I'm dying." Claimant saw shiny wire resembling a taser both in front of him coming from Officer Guevara and behind him coming from Officer Carrillo's direction. This led Claimant to believe he was being simultaneously tased by both officers.

Officer Guevara put his foot on Claimant's back to assist Officer Taramona in placing Claimant in handcuffs. Claimant was arrested and placed in leg restraints by Officer Taramona. Claimant remembers yelling obscenities resulting from the pain and confusion he felt, and eventually being in an ambulance. Claimant was transferred to Arrowhead Regional Medical Center.

#### **(d) Description of Injury, Damage, or Loss Incurred**

Claimant was subject to excessive force resulting in injuries resulting from the lack of oxygen, beating, and electrical shocks. His injuries included taser penetration marks breaking the skin on his upper back and lower abdomen, a laceration to his right ear, a bruised and swollen



left cheek bone, and cuts, redness, and scratches on his knees elbows, neck, and face. He further suffered neck pain from being lifted off the ground by his neck, and shoulder pain from being slammed to the ground.

Claimant also continues to experience severe emotional distress as a result of the incident—namely, symptoms similar to PTSD including, but not limited to fright, anguish, shock, humiliation, nervousness, and anxiety. Claimant has experienced reoccurring nightmares about the incident and wakes up yelling in fright. Those living in the same household as Claimant noticed his recurrent nightmares.

Claimant was wrongfully arrested and charged with felony resisting an officer, as well as misdemeanor exhibiting a deadly weapon, and misdemeanor battery. Claimant was wrongfully incarcerated for approximately five months and three weeks before the felony charge was dismissed. The District Attorney is continuing to pursue the misdemeanor charges.

**(e) Responsible Parties**

Rialto Police Department law enforcement officers Anthony Taramona, Mariah Carrillo, Jesus Guevara, and a John Doe Fourth Officer, each acting within the scope of their agency or employment as a law enforcement officer for the City of Rialto and Rialto Police Department, are directly responsible for Claimant's injuries.

The Rialto Police Department's Chief of Police Mark Kling and the John Doe Lieutenant on duty on May 15<sup>th</sup>, 2021, as well as those Rialto Police Department employees responsible for the policies, customs, or practices, as well as the training, supervision, or discipline, governing Officers Taramona, Carrillo, Guevara, and John Doe Fourth Officer's conduct are also directly responsible for actions or inactions that resulted in Claimant's injuries, including but not limited to negligent supervision and training.

Multiple unknown City of Rialto and Rialto Police Department employees and/or agents are responsible for actions or inactions that resulted in Claimant's injuries, as described above.

The City of Rialto and Rialto Police Department are indirectly and vicariously responsible, through the doctrine of *respondeat superior*, for the actions and inactions of their employees and agents, including Officers Taramona, Carrillo, Guevara, and John Doe Fourth Officer, Chief Kling, and John Doe Lieutenant, as described above.

**(f) Damages and Jurisdiction**

The amount claimed exceeds \$10,000. (Cal. Gov. Code § 910(f)). If filed in a Superior Court of California, the action would qualify for Unlimited Civil Case Jurisdiction, as the amount in controversy would exceed \$25,000.

635G  
U.C. Davis School of Law  
Civil Rights Clinic  
One Shields Ave., Bldg. TB-30  
Davis, CA 95616-8821

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