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28 FIRST AMENDED COMPLAINT AND JURY DEMAND

1  
2 **IN THE UNITED STATES DISTRICT COURT**  
3 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**  
4 **WESTERN DIVISION**

5 Ruben Martinez and Maria Martinez, )

6 Plaintiffs, )

Case No. CV 20-10559-  
PA(KSx)

7 )  
8 )  
9 v. )

**FIRST AMENDED  
COMPLAINT AND  
DEMAND FOR JURY  
TRIAL**

10 City of Los Angeles, Anthony Razo, Salvador )  
11 Lizarraga, William Eagleson, Gilbert Silva )  
12 (#27345), Jesus Linn (#23502), and Marilyn )  
13 Droz, )  
14 )

15 Defendants.  
16

17 Plaintiffs Ruben and Maria Martinez, by and through their attorneys, the law  
18 firms of Neufeld, Scheck & Brustin, LLP, Angela Barry, a Prof. Law Corp., and  
19 the Law Offices of Ian Wallach, P.C., allege as follows:  
20

21 **INTRODUCTION**

22  
23 1. Plaintiff Ruben Martinez spent more than 12 years wrongfully imprisoned for  
24 crimes he did not commit: a string of five armed robberies between 2005 and  
25 2007 at an Earl Scheib Paint and Body location on South Soto Street in Boyle  
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28 FIRST AMENDED COMPLAINT AND JURY DEMAND

1 Heights, Los Angeles. In 2018 and 2019, spurred by a former L.A. County  
2 sheriff's deputy convinced of Martinez's innocence, the prosecution conducted  
3 a thorough reinvestigation and concluded Martinez was innocent. Los Angeles  
4 District Attorney Jackie Lacey admitted "my office not only lost faith in the  
5 conviction but also we believe that Mr. Martinez is in fact innocent of the  
6 crimes." Based on a motion from the prosecution, the California Superior Court  
7 declared him factually innocent.  
8

- 9  
10 2. It is shocking that Martinez was ever convicted given the stark differences  
11 between him and the true perpetrator. The actual robber had an intimate  
12 knowledge of the layout and operating procedures of the South Soto Earl  
13 Scheib, a cash-only, discount auto body shop. Not only did Martinez lack any  
14 connection to the South Soto Street location, he never worked at an Earl Scheib  
15 anywhere. Unlike the robber, who was missing a front tooth, stood 5'10" or  
16 taller, wore his hair medium length, and spoke fluent Spanish, Martinez had all  
17 his teeth, was shorter, never had medium-length hair, and could barely speak  
18 Spanish. Unsurprisingly, given his innocence, no physical or forensic evidence  
19 ever implicated him; the perpetrator's fingerprints, taken at the scene, excluded  
20 him. He also had an alibi for each robbery.  
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- 1 3. Martinez’s wrongful conviction was not an accident but rather the result of  
2 police misconduct. Defendants, Los Angeles Police Department (LAPD)  
3 officers, were desperate for an arrest and became fixated on Martinez by  
4 happenstance. To build a case against him despite his innocence, Defendants  
5 fabricated false evidence, obtained false identifications using coercion or  
6 suggestion, and buried evidence that exculpated him.  
7  
8
- 9 4. Defendant Anthony Razo is no stranger to fabricating evidence against Latinos.  
10 Eight months after Martinez’s sentencing, Razo falsified police reports claiming  
11 his BMW had been set on fire and two Latinos with shaved heads had shot him  
12 in the arm. In fact, as he later admitted in a guilty plea to felony insurance  
13 fraud, Razo torched his own BMW for insurance money and shot *himself* in the  
14 arm. The “two Latinos with shaved heads” were a complete fabrication.  
15  
16
- 17 5. True to form, Razo and his fellow Defendants fabricated evidence to falsely  
18 inculcate Martinez. First, Defendants created a composite sketch that looked  
19 remarkably like police photographs of Martinez and used suggestion or  
20 coercion to cause two eyewitnesses, who had never seen the perpetrator’s face  
21 because he had been masked, to adopt the images as truthful representations of  
22 their own recollection. Next, Defendants used coercion or suggestion to cause  
23 eyewitnesses to make false, tentative identifications of Martinez from photo  
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1 arrays. Finally, when one witness told the others to identify Martinez at an  
2 in-person line-up, Defendants either encouraged this direct suggestion or  
3 affirmatively concealed it.  
4

- 5 6. Defendants also suppressed exculpatory evidence from the prosecution,  
6 Martinez, and the jury. Among other things, they buried information suggesting  
7 that the robberies were an inside job carried out by someone with a close  
8 connection to a current or former employee of the South Soto Earl Scheib—  
9 information that would have exonerated Martinez, who had no connection to  
10 the shop. And they suppressed any evidence that would have shown that the  
11 “identifications” of Martinez were caused by improper suggestion or coercion.  
12  
13 7. During Martinez’s first trial, two of the prosecution’s key eyewitnesses  
14 truthfully admitted that Martinez was not the robber. These admissions, coupled  
15 with Martinez’s alibi defense and the weakness of the prosecution’s case,  
16 resulted in a hung jury. The judge declared a mistrial on November 27, 2007.  
17  
18 8. At the retrial, Defendants’ falsified composite sketch became the key piece of  
19 evidence against Martinez. Without knowing it was a complete fabrication, the  
20 prosecution argued to the jury that Martinez’s resemblance to the sketch proved  
21 his guilt. In reality, the sketch resembled Martinez only because of Defendants’  
22 misconduct. The jury never learned that the sketch and the purported  
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1 identifications of Martinez were false and fabricated or that Defendants had  
2 used improper coercion or suggestion to obtain them.

3  
4 9. On April 11, 2008, the innocent Martinez was convicted of nine counts of  
5 robbery with personal use of a firearm and was sentenced to forty-seven years  
6 and eight months in prison.

7  
8 10. Defendants' misconduct caused Maria Martinez, Ruben's wife who had  
9 testified in support of his alibi, to lose more than 12 years of her husband's  
10 companionship.

11  
12 11. Throughout appeals and post-conviction proceedings, Ruben and Maria  
13 Martinez fought ceaselessly to exonerate Ruben. Maria reached out to a former  
14 colleague from the L.A. County Sheriff's Department, who became convinced  
15 of Ruben's innocence. Their tireless advocacy led the L.A. County District  
16 Attorney's Conviction Review Unit (CRU) to reinvestigate and concede  
17 Ruben's innocence. On a motion from the prosecution, the L.A. Superior Court  
18 vacated Ruben's conviction, dismissed his indictment, and found him factually  
19 innocent. Thanks to tireless efforts of himself and his wife, Ruben Martinez was  
20 the first person the CRU exonerated without the advocacy of a postconviction  
21 attorney. He was released on November 12, 2019, after spending nearly twelve  
22 and a half years wrongfully incarcerated for crimes he did not commit.  
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**PARTIES**

1  
2 12. Plaintiff **Ruben Martinez** lives in Whittier, California. Martinez was  
3  
4 wrongfully incarcerated from his arrest in 2007 until his release in 2019.

5 13. Plaintiff **Maria Martinez** lives in Whittier, California. She was deprived the  
6  
7 company of her husband, Plaintiff Ruben Martinez, during his wrongful  
8  
9 incarceration.

10 14. Defendant **City of Los Angeles** is a municipality incorporated in the State of  
11  
12 California. The City of Los Angeles was responsible for the training,  
13  
14 supervision, and discipline of individual Defendants and for the policies and  
15 practices regarding police investigations that were used in this case.

16 15. At all relevant times, Defendant **Anthony Razo** was employed by the Los  
17  
18 Angeles Police Department (“LAPD”), acting under color of law and in his  
19  
20 individual capacity within the scope of employment pursuant to the statutes,  
21  
22 ordinances, regulations, policies, customs, and usage of City of Los Angeles  
23  
24 and the State of California. Upon information and belief, he is entitled to  
25 indemnification under statute and by contract. He is sued in his individual  
26  
27 capacity.

28 16. At all relevant times, Defendant **Salvador Lizarraga** was employed by the Los  
Angeles Police Department (“LAPD”), acting under color of law and in his

1 individual capacity within the scope of employment pursuant to the statutes,  
2 ordinances, regulations, policies, customs, and usage of City of Los Angeles  
3 and the State of California. Upon information and belief, he is entitled to  
4 indemnification under statute and by contract. He is sued in his individual  
5 capacity.  
6

7  
8 17. At all relevant times, Defendant **William Eagleson** was employed by the Los  
9 Angeles Police Department (“LAPD”), acting under color of law and in his  
10 individual capacity within the scope of employment pursuant to the statutes,  
11 ordinances, regulations, policies, customs, and usage of City of Los Angeles  
12 and the State of California. Upon information and belief, he is entitled to  
13 indemnification under statute and by contract. He is sued in his individual  
14 capacity.  
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17  
18 18. At all relevant times, Defendant **Gilbert Silva (#27345)** was employed by the  
19 Los Angeles Police Department (“LAPD”), acting under color of law and in his  
20 individual capacity within the scope of employment pursuant to the statutes,  
21 ordinances, regulations, policies, customs, and usage of City of Los Angeles  
22 and the State of California. Upon information and belief, he is entitled to  
23 indemnification under statute and by contract. He is sued in his individual  
24 capacity.  
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1 At all relevant times, Defendant **Jesus Linn (#23502)** was employed by the Los  
2 Angeles Police Department (“LAPD”), acting under color of law and in his  
3 individual capacity within the scope of employment pursuant to the statutes,  
4 ordinances, regulations, policies, customs, and usage of City of Los Angeles  
5 and the State of California. Upon information and belief, he is entitled to  
6 indemnification under statute and by contract. He is sued in his individual  
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8  
9 capacity.

10  
11 19. At all relevant times, Defendant **Marilyn Droz** was employed as a contractor  
12 by the Los Angeles Police Department (“LAPD”), acting under color of law and  
13 in her individual capacity within the scope of employment pursuant to the  
14 statutes, ordinances, regulations, policies, customs, and usage of City of Los  
15 Angeles and the State of California. Upon information and belief, she is entitled  
16 to indemnification under statute and by contract. She is sued in her individual  
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18  
19 capacity.

20  
21 **FACTS**

22 **The Robberies**

23 20. On December 29, 2005, at around 5:20 p.m., a heavy-set Hispanic man with a  
24 missing top front tooth, medium-length hair parted down the middle, and a  
25 mustache robbed an Earl Scheib Paint and Body, one of a chain of cash-only  
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1 discount body shops, on South Soto Street in Boyle Heights, Los Angeles. The  
2 perpetrator demonstrated inside knowledge of the layout and operations of the  
3 South Soto location. Juan Carlos Rodriguez, the manager and sole eyewitness,  
4 described the perpetrator's face in detail to the police.  
5

6 21. Exactly one year later—on December 29, 2006—the assailant returned and  
7 robbed the South Soto Earl Scheib for a second time. During that robbery, the  
8 assailant concealed his face under a sock-like painter's mask, like the ones worn  
9 by painters at the Earl Scheib. The mask covered everything but the robber's  
10 eyes and the bridge of his nose.  
11  
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13 22. Although the robber's face was obscured by the mask, Rodriguez recognized  
14 him as the same robber from a year earlier—he had the same clothes, stature,  
15 demeanor, mannerisms, and inside knowledge of the South Soto Earl Scheib.  
16 After the robbery, Rodriguez described the robber's face, which he had not seen  
17 in a year, and inaccurately told police that the robber had a gap in his front  
18 teeth, not that he was *missing* a tooth.  
19  
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22 23. The same assailant robbed the South Soto Earl Scheib three more times within  
23 the next year: on March 9, May 18, and May 31, 2007. During each of these  
24 robberies, the robber concealed his face and hair. During the third and fourth  
25 robberies, he wore the same sock-like painter's mask that covered everything  
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1 below the bridge of his nose and above his eyebrows. During the fifth robbery,  
2 he wore a hat and red bandana that concealed all but his eyes.

3  
4 24. Although there were multiple witnesses present for these last four robberies,  
5 none saw the robber's face. Only Rodriguez, who saw the perpetrator during the  
6 first robbery, ever saw him unmasked.

7  
8 25. Yet, it was clear to the victims that the same perpetrator committed every  
9 robbery. While they could not recognize his face, employees recognized him by  
10 his build, clothes, voice, and familiarity with the South Soto Earl Scheib.

11  
12 26. The perpetrator seemed to know the Earl Scheib like the back of his hand. He  
13 knew where the safe was located and the dates and times when the location was  
14 likely to have the most cash on hand—payday, when employees routinely  
15 cashed their paychecks out from the safe. The perpetrator also knew that the  
16 auto body painter at the Earl Scheib was paid more relative to other employees,  
17 knew where he was stationed, and specifically sought him out during the  
18 robberies.  
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22 **Martinez becomes a suspect after Defendants' investigation stalls.**

23  
24 27. By the third robbery, on March 9, Defendants had heard from witnesses that the  
25 perpetrator had an inside connection to this Earl Scheib, given his familiarity  
26 with the store's layout and operations. Despite this information, Defendants had  
27

1 not identified a suspect and faced mounting pressure to stop the string of  
2 robberies. Defendants Silva and Linn were the robbery detectives assigned to  
3 conduct the follow-up investigation.  
4

5 28. Two days after the third robbery, police arrested Ruben Martinez in an  
6 unrelated incident when they swept up all the Latino men in his building while  
7 chasing a shoplifter. Despite Martinez’s lack of involvement in the shoplifting,  
8 an officer interviewed him while he was detained.  
9

10 29. An officer noticed that Martinez had physical characteristics that fit the police’s  
11 theory of the “Earl Scheib bandit.” Although Martinez had all of his teeth, short  
12 hair, and was shorter than the real perpetrator, he was Latino, heavysset,  
13 mustached, and had a noticeable gap tooth—loosely fitting the second  
14 description Rodriguez had given of the robber.  
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18 30. The officer also reported that Martinez had worked at an auto body shop for ten  
19 years, a fact superficially consistent with the theory that the robber worked at  
20 the Earl Scheib. But Martinez had never worked at an Earl Scheib, let alone the  
21 South Soto location. He had worked off-and-on for a high-end auto body shop  
22 in Pomona many years before his interrogation but was employed by a metal  
23 manufacturer as a temporary unskilled laborer at the time of his arrest.  
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1 31. Defendant Silva was the lead investigator for the unrelated shoplifting  
2 investigation, and Defendant Linn was also assigned to that investigation. Both  
3 Silva and Linn were present at the Jail Division on March 12, 2007,  
4  
5 interviewing other suspects in the investigation when Martinez was interviewed  
6  
7 by the uniformed officer. Defendant Silva determined that Martinez was not  
8  
9 involved in the shoplifting incident, but Silva and Linn were aware of the “Earl  
10  
11 Scheib bandit” given their involvement in the March 9 robbery investigation  
and believed Martinez fit their theory of the case.

12 32. Martinez had recently gotten married to his deeply religious wife, Maria, and  
13  
14 had settled into family life. He had a steady stream of temporary employment  
15  
16 and was well-liked by his colleagues and supervisors. He did not own a car and  
17  
18 commuted to and from work each day by bus or carpool. He was at work during  
many of the daytime robberies and has time records proving it.

19 33. But, desperate to close the investigation, Defendants built a false case against  
20  
21 Martinez based on the superficial similarities, real or imagined, he shared with  
22  
23 the perpetrator.  
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**Defendants use coercion and suggestion to create a fabricated composite sketch that strongly resembles Martinez.**

34. Defendants Razo, Eagleson, Lizarraga—along with Defendants Silva and Linn—worked together to close the two-year investigation of the Earl Scheib robberies. Eagleson was the detective in charge of the case; Razo and Lizarraga did much of the legwork, including preparing and showing photo arrays, obtaining the arrest warrant, and searching Martinez’s home. Lizarraga and Eagleson co-drafted the comprehensive final report of the investigation.

35. Razo was comfortable with fabricating criminal allegations against Latinos and lying in police reports. Months after Martinez’s conviction, Razo set his own BMW on fire for insurance money and falsified police and insurance reports to pay off his debts. Later that month, Razo shot himself in the arm and falsely reported to the police that “two Latinos with shaved heads” had done it.

36. Charged with five felony counts, Razo pleaded guilty to felony insurance fraud and a misdemeanor count of filing a false police report. He admitted that he had set his own BMW on fire and shot himself—the “two Latinos with shaved heads” were a complete fabrication.

1 37. Following this playbook, Razo and his colleagues fabricated police reports and  
2 other inculpatory evidence and suppressed exculpatory evidence to build a false  
3 case against Martinez.  
4

5 38. In April 2007, Defendant Marilyn Droz, a sketch artist, created a composite  
6 sketch that bore a striking resemblance to police photographs of Martinez’s face  
7 and mouth—including his mustache and gap tooth.  
8

9 39. Droz and Defendants Lizarraga and Eagleson later falsely reported that the  
10 sketch was based on descriptions given by Earl Scheib employees William  
11 Hernandez and Pedro Sanchez. But Hernandez and Sanchez never saw the  
12 perpetrator’s face, could not describe it, and had told the police that the  
13 perpetrator wore a sock-like painter’s hood that covered all but his eyes and the  
14 bridge of the nose. Nonetheless, the composite sketch purported to depict  
15 perpetrator’s full face—including his nose, mustache, and mouth—in a hood  
16 that covered only the ears and hair. The composite included an inset drawing of  
17 lips, a mustache, and a gap-tooth.  
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22 40. In ordinary police practice in 2007, police artists drafted their sketches with  
23 Identikit, a standardized set of pre-drawn facial features, or a similar product. A  
24 witness would generally describe a suspect’s facial features, and the sketch  
25 artist would assemble those features from pre-drawn examples. The sketch artist  
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1 would then tweak the composite so it looked more like the witness's  
2 recollection of the suspect's face and less like an assemblage of generic facial  
3 features. On information and belief, this was the standard practice of LAPD  
4 sketch artists in 2007.

6 41. Here, Droz broke from that standard practice and drew the purported sketch of  
7 the Earl Scheib bandit from individual photographs, not an Identikit. She and  
8 other Defendants including, on information and belief, Linn and Silva, showed  
9 those photographs to Hernandez and Sanchez. The resulting sketch closely  
10 tracked photographs that police had of Martinez.  
11

13 42. The resemblance was no accident but the result of police misconduct. Either  
14 Droz or other Defendants including, on information and belief, Linn and Silva  
15 used coercion or suggestion to cause the witnesses to describe the perpetrator  
16 based on photos of Hernandez, or Droz simply based her "composite" on photos  
17 of Martinez and Defendants used coercion or suggestion to cause the witnesses  
18 to adopt it as their own work.  
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22 43. Hernandez, in particular, was susceptible to police influence. Defendants were  
23 investigating him as a suspect in the Earl Scheib robberies and, upon  
24 information and belief, used their suspicions as leverage to cause him to falsely  
25 identify Martinez.  
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1 44. In written and oral reports to the prosecution, Defendants deliberately  
2 misrepresented that Sanchez and Hernandez independently and separately  
3 contributed to the composite drawing. Defendants affirmatively concealed their  
4 misconduct from the prosecution by deliberately omitting the facts that the  
5 drawing was based on photographs of Martinez.  
6

7  
8 **After a fourth robbery, Defendants fabricate identifications of Martinez**  
9 **through coercion and suggestion in photo line-ups.**  
10

11 45. The Earl Schieb was robbed for a fourth time on May 18. Defendant Linn was  
12 the detective contacted by the uniformed officers who responded to the scene.  
13

14 46. On May 23, five days after the fourth robbery, Defendants Razo and Lizarraga  
15 showed photo arrays to at least three witnesses—Hernandez, Sanchez, and  
16 Edward Mendez. None of those witnesses ever saw more than the robber’s eyes  
17 and could not identify him by his face. Nevertheless, Razo and Lizarraga  
18 reported that all three witnesses tentatively identified Martinez—the innocent  
19 person police already suspected—from a close-up photograph of his face,  
20 without suggestion or prompting of any kind from them.  
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23 47. In reality, Defendants Razo and Lizarraga caused these false tentative  
24 identifications through coercion or suggestion and falsely reported that these  
25 identifications were proper, suppressing any mention of their misconduct.  
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1 48. Defendants recognized that the tentative identifications were insufficient to  
2 satisfy the probable cause requirement needed to arrest Martinez. Consequently,  
3 Defendant Eagleson and other Defendants traveled to Rodriguez's house to get  
4 Rodriguez to make a positive identification of Martinez. Rodriguez, like  
5 Hernandez, Sanchez, and Mendez, succumbed to police suggestion or coercion  
6 and made a false, tentative identification of Martinez. Defendants Eagleson,  
7 Lizarraga, and Razo fabricated written and oral reports to the prosecution  
8 claiming that Rodriguez made this tentative identification on his own and  
9 deliberately suppressed any evidence of police coercion or suggestion.  
10  
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13 **Following the fifth robbery, Defendants use suggestion and coercion to cause**  
14 **Rodriguez to make a false, positive identification.**  
15

16 49. On May 31, shortly after the fifth robbery, Defendant Eagleson and other  
17 Defendants returned to Rodriguez with a new photo array. Using suggestion,  
18 coercion, or other impermissible tactics, Eagleson improperly steered  
19 Rodriguez toward Martinez's photo, and Rodriguez incorrectly identified  
20 Martinez as the robber.  
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23 50. Eagleson improperly bolstered Rodriguez's identification of Martinez by telling  
24 him, falsely, that Martinez had been arrested for the recent robbery of a  
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1 neighboring check-cashing business. Eagleson's additional suggestion  
2 improperly increased Rodriguez's confidence in his false identification.

3  
4 51. Eagleson met frequently with Rodriguez during the ensuing months to reinforce  
5 the false identification, repeatedly telling Rodriguez that he had picked the right  
6 suspect. During trial, Eagleson drove Rodriguez to court and continued to  
7 improperly influence him by telling him he had picked the right suspect.  
8

9 52. Eagleson falsely reported in written and oral reports to the prosecution that  
10 Rodriguez had identified Martinez spontaneously without police suggestion. He  
11 intentionally suppressed evidence that the identification was, in fact, the  
12 product of police coercion and suggestion and deliberately suppressed the fact  
13 that he improperly bolstered Rodriguez's identification by falsely telling him  
14 that Martinez had robbed the check-cashing store.  
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17  
18 **Now armed with fabricated evidence as probable cause, Defendants arrest**  
19 **Martinez for crimes he did not commit.**

20  
21 53. Based solely on Rodriguez's false identification and other fabricated evidence,  
22 Defendants arrested Martinez on June 1, 2007, and searched his house.  
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1 Defendants found no incriminating evidence in his house because there was  
2 none—Martinez had nothing to do with the Earl Scheib robberies.

3 **Defendants encourage or condone direct suggestion during an in-person line-**  
4 **up.**

5  
6 54. With Martinez in custody, Defendants conducted an in-person line-up with at  
7  
8 least seven current and former Earl Scheib employees who witnessed the  
9 robberies. Mendez, the Earl Scheib manager who replaced Rodriguez, refused  
10 to attend. He said that he wouldn't be able to identify the robber because he  
11 never saw the perpetrator's face.

12  
13 55. Common police practice in 2007 required witnesses to be kept separate during  
14 line-up procedures so that they would not improperly influence each other.  
15 Defendants, however, kept all of the witnesses together in one room, allowing  
16 them to talk to each other while the line-up took place in a separate room. On  
17 information and belief, those defendants included Razo and Eagleson.

18  
19 56. Rodriguez had earlier identified Martinez due to police suggestion, and his  
20 "identification" had repeatedly been reinforced by Eagleson, who improperly  
21 and falsely told him that Martinez had committed other robberies. Through this  
22 and other suggestion by Defendants, Rodriguez misidentified Martinez as the  
23 robber.  
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1 57. Afterward, Defendants sent Rodriguez to rejoin the other witnesses, and he told  
2 them to pick Martinez, describing his appearance. Defendants either  
3 deliberately instructed Rodriguez to tell the other witnesses to identify Martinez  
4 or were aware that he did so and did nothing to stop him. Defendants did not  
5 document anywhere that Rodriguez told the other witnesses which suspect to  
6 pick.  
7  
8

9 58. Two other witnesses, Pedro Sanchez and Chris Devora, succumbed to improper  
10 suggestion by both Rodriguez and Defendants and incorrectly identified  
11 Martinez as the robber. Neither witness had ever seen the robber's face and  
12 only identified Martinez because Rodriguez and the police told them which  
13 suspect to select. Defendants affirmatively concealed this misconduct from the  
14 prosecution.  
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18 59. Despite improper suggestion from Rodriguez and Defendants, however, most  
19 of the witnesses refused to falsely identify Martinez. Of the seven or more  
20 witnesses to view the in-person line-up, only three made identifications.  
21 William Hernandez, who had participated in the false composite sketch of  
22 Martinez and had purportedly identified Martinez from a photo array, truthfully  
23 denied recognizing the robber.  
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**Defendants suppress exculpatory evidence.**

1  
2 60. Defendants also suppressed exculpatory evidence that would have undermined  
3 the prosecution of Martinez.  
4

5 61. During each robbery, the perpetrator showed an uncanny knowledge of the  
6 South Soto Earl Scheib's layout and operations. He timed the robberies to  
7 coincide with the Earl Scheib payroll dates knowing that the shop kept  
8 additional cash on hand because most employees cashed their paychecks out  
9 from the safe. The robber also knew that the shop's painter made more money  
10 than the other employees and individually sought him out during the robberies.  
11 The perpetrator knew where the safe was kept and where the employees,  
12 including the higher-paid painter, were assigned to work. Because of this  
13 apparent inside knowledge, the witnesses believed the robberies were an inside  
14 job, committed by someone with close ties to a former or current employee of  
15 this branch.  
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20 62. Witnesses reported their suspicions to Defendants, and Defendants began  
21 investigating Hernandez as a possible suspect. The investigation was  
22 abandoned, however, after Defendants built the false case against Martinez,  
23 who had no ties to the South Soto Earl Scheib or any other location. The police  
24 file omits any mention of the crime being an inside job or of the investigation of  
25  
26  
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1 Hernandez. Defendants deliberately suppressed this information from written  
2 and oral reports to the prosecution to avoid detracting from the case against  
3 Martinez.  
4

5 63. Also missing from the police file is any record of running a license plate  
6 number taken by witnesses from the perpetrator's vehicle. In 2007, it was  
7 common practice in the LAPD to run suspect license plates, and the task could  
8 be accomplished by computer in a matter of seconds. But because Martinez did  
9 not own a car—and, more importantly, had no involvement in the Earl Scheib  
10 robberies—the suspect license plate could not be connected to him. Rather than  
11 reporting the exculpatory results of the license plate check, however,  
12 Defendants did not include them anywhere in the police file.  
13  
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15

16 **Despite the introduction of falsified identifications, the first trial ends in a**  
17 **hung jury.**  
18

19 64. Despite Defendants' investigative misconduct, the evidence at the first trial  
20 strongly suggested his innocence. No physical or forensic evidence implicated  
21 Martinez. Of the eleven or more robbery victims, only five were asked to  
22 identify Martinez, and two of those witnesses denied that he was the  
23 perpetrator. Hernandez, the only witness present for four of the five robberies,  
24 truthfully testified that the perpetrator had a different height and build than  
25  
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28

1 Martinez. Earl Scheib manager Eddie Mendez agreed, testifying that the  
2 perpetrator was taller than Martinez.

3  
4 65. Martinez presented a vigorous defense, including credible evidence of his alibi  
5 through the testimony of his former employers and his wife, Maria.

6  
7 66. The only evidence of Martinez's guilt was the "identifications" from Rodriguez,  
8 Sanchez, and Devora, who, unknown to the prosecution, defense, or jury, had  
9 each identified Martinez through police suggestion or coercion.

10  
11 67. Hernandez and Mendez's admissions that Martinez was not the perpetrator,  
12 coupled with the lack of physical evidence and the strength of Martinez's alibis,  
13 caused the jury to hang. On November 27, 2007, the judge declared a mistrial.  
14

15 **Defendants' misconduct causes Martinez's conviction at his re-trial.**

16 68. At the retrial, Defendants' false and fabricated evidence tipped the scales  
17 against Martinez. In place of Hernandez, who exculpated Martinez in the first  
18 trial, the case hinged on the fabricated composite sketch Defendants had falsely  
19 attributed to Hernandez. Unaware that Defendants had improperly influenced  
20 the sketch to make it resemble their then suspect, Martinez, the prosecution  
21 presented the sketch as the work of eyewitnesses, arguing that Martinez's  
22 resemblance to it proved his guilt. Based on Defendants' fabrications, the jury  
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1 believed that it had been drawn using descriptions from Hernandez and  
2 Sanchez.

3  
4 69. The tentative identifications obtained by Defendants through suggestion and  
5 coercion were also used at trial. The reliability of Sanchez’s supposed  
6 identification of Martinez was bolstered by the police report claiming that he  
7 tentatively identified Martinez from a photo array. Mendez, who testified at the  
8 first trial that Martinez was not the perpetrator, was examined at the second trial  
9 about his purported tentative photo-array identification. The prosecution was  
10 unaware, nor did the jury ever learn, that those “identifications” were caused by  
11 improper suggestion or coercion.  
12  
13  
14

15 70. The only other evidence of Martinez’s guilt were the three false and fabricated  
16 “identifications” from Rodriguez, Sanchez, and Devora. But each of these  
17 witnesses had only identified Martinez based on undisclosed suggestion or  
18 coercion.  
19

20  
21 71. Martinez again maintained his innocence and presented evidence from two  
22 former supervisors, his wife Maria, and another family member supporting his  
23 alibi.  
24

25 72. Nevertheless, on April 11, 2008, the jury convicted Martinez on the basis of the  
26 Defendants’ fabricated composite sketch, the fabricated identifications from the  
27

1 photo and physical line-ups, and the in-court identifications. Neither the defense  
2 nor the jury ever learned that the falsified “identifications” were the product of  
3 police misconduct and that none of the witnesses had actually provided  
4 genuine, unsuggested, and uncoerced identifications of Martinez. Nor did the  
5 jury learn that the real perpetrator had an inside connection to Earl Scheib or  
6 that Defendants had affirmatively buried that lead from the prosecution and  
7 defense once they fixated on Martinez as a suspect.  
8

9  
10  
11 73. Despite his innocence, on May 20, 2008, Ruben Martinez was sentenced to  
12 serve forty-seven years and eight months in prison.

13  
14 **Martinez fights for 11 years to prove his innocence, and the CRU finally**  
15 **reinvestigates and exonerates him.**

16 74. Martinez spent the next 11 years fighting to prove his innocence. He brought  
17 direct appeals and collateral challenges in both state and federal courts. All of  
18 his applications were denied.  
19

20 75. Though Martinez remained in prison, he had a powerful advocate outside its  
21 walls—his wife, Maria. Maria convinced her former colleague, Catherine Wills,  
22 a retired deputy sheriff with the L.A. County Sheriff’s Department, of Ruben’s  
23 innocence.  
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1 76. Together, Wills and Maria compiled a thick binder of evidence exonerating  
2 Ruben and passed it on to the L.A. County prosecutor's newly established  
3 CRU.  
4

5 77. The CRU conducted its own reinvestigation and gathered yet more proof that  
6 Martinez was wrongfully convicted. The CRU interviewed Martinez's former  
7 employers and colleagues and uncovered documentary evidence, including  
8 timecards and paystubs, that definitively proved Martinez's alibi.  
9

10 78. Based on this evidence, the CRU concluded that Martinez was actually  
11 innocent, and, on November 1, 2019, the prosecution moved to vacate  
12 Martinez's conviction, admitting that it "not only lost faith in his conviction but  
13 also was convinced Mr. Martinez is, in fact, innocent of the crimes."  
14

15 79. The District Attorney continued to say that "Mr. Martinez's case serves as a  
16 stark reminder to all of us: Despite our best efforts, we don't always get it  
17 right."  
18

19 80. On November 12, 2019, L.A. County Superior Court Judge William Ryan  
20 vacated Mr. Martinez's conviction, dismissed his case with prejudice, and  
21 found him factually innocent of the crimes for which he was convicted. On that  
22 day, for the first time in more than 12 years, Martinez walked free.  
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**DAMAGES**

1  
2  
3 81. Plaintiff Ruben Martinez lost more than 12 years of his life incarcerated for a  
4 crime he did not commit. He spent that time separated from his wife, Plaintiff  
5 Maria Martinez. Both Plaintiffs lost more than 12 years of spousal love,  
6 support, and physical intimacy. They must now restart their life together despite  
7 the unimaginable experience of wrongful incarceration.  
8

9  
10 82. As a direct result of Defendants’ intentional, bad faith, willful, wanton,  
11 reckless, or deliberately indifferent acts and omissions, Martinez sustained  
12 injuries and damages, which continue to date and will continue into the future,  
13 including: loss of freedom for more than 12 years; physical pain and suffering;  
14 severe mental anguish; emotional distress; loss of family relationships; severe  
15 psychological damage; loss of property; legal expenses; loss of income and  
16 career opportunities; humiliation, indignities, and embarrassment; degradation;  
17 permanent loss of natural psychological development; and restrictions on all  
18 forms of personal freedom including but not limited to diet, sleep, personal  
19 contact, educational opportunity, vocational opportunity, athletic opportunity,  
20 personal fulfillment, sexual activity, family relations, reading, television,  
21 movies, travel, enjoyment, and expression, for which he is entitled to monetary  
22 relief.  
23  
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1 83. Additionally, the emotional pain and suffering caused by losing those years has  
2 been substantial. During his incarceration, Martinez was stripped of the various  
3 pleasures of basic human experience, from the simplest to the most important,  
4 which all free people enjoy as a matter of right. Among other losses, Martinez  
5 was separated from his loving wife, Maria, after only five months' marriage.  
6 When they married, Ruben was 37 and Maria was 46. When Ruben was freed,  
7 he was 49 and Maria was 59. Martinez was also unable to visit his mother as  
8 she passed away and could not attend her funeral. He also lost three uncles and  
9 a 14-year-old nephew during his incarceration and could not attend their  
10 funerals either. He missed his sister's wedding and numerous family births.  
11 Martinez also missed out on the ability to share holidays and other life events  
12 with loved ones, the opportunity to spend time with his new wife, to have a  
13 family, and the fundamental freedom to live one's life as an autonomous human  
14 being.  
15  
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20 84. Maria Martinez, likewise, was wrongfully deprived of the company and support  
21 of her husband during his more than 12 years of wrongful incarceration. During  
22 that time, she could not share her most important life experiences, including  
23 holidays, births, funerals, and other life events, with her beloved husband. She  
24 suffered persistent anxiety and panic attacks, causing her significant distress  
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1 and lost time at work. She was also deprived of his financial support while he  
2 was incarcerated and unable to work.

3  
4 **FEDERAL CLAIMS**

5  
6 **COUNT I**

7 **42 U.S.C. § 1983 Claim for Deprivation of Liberty Without Due Process of**  
8 **Law and Violation of Right to a Fair Trial Under the Fourteenth Amendment**  
9 **Based on Fabrication of False Evidence Against Defendants Razo, Eagleson,**  
10 **Lizarraga, Silva, Linn, and Droz**

11  
12  
13 85. Plaintiff hereby incorporates each of the allegations of this Complaint as if fully  
14 set forth herein, and further alleges as follows:

15  
16 86. Defendants fabricated false evidence of Martinez’s guilt, thereby violating  
17 Martinez’s right to a fair trial and causing him to be deprived of his liberty  
18 without due process of law. Defendants caused this false evidence to be used  
19 against Martinez in his prosecution and at trial and failed to disclose to either  
20 the prosecution or defense that this evidence was false and fabricated.  
21  
22

23 87. Among this fabricated evidence was a composite sketch created by Droz that  
24 closely resembled police photos of Martinez. Droz, Lizarraga, and Eagleson  
25 falsely attributed the composite to descriptions given spontaneously and without  
26  
27

1 police misconduct by two eyewitnesses. In fact, Defendants had used coercion  
2 or suggestion to cause the witnesses to adopt the composite sketch as their own  
3 work. In a written report, Lizarraga and Eagleson falsely stated that the  
4 composite sketch was created from witness descriptions, not photographs of  
5 Martinez.  
6

7  
8 88. Defendants also obtained false and fabricated tentative eyewitness  
9 identifications through suggestion, coercion, or other improper means:

- 10  
11 a. Defendants including Razo, Eagleson, and Lizarraga used suggestion  
12 or coercion to cause Rodriguez, Hernandez, Mendez, and Sanchez to  
13 make tentative identifications of Martinez from a photo array.  
14  
15 b. Defendants including Eagleson used suggestion or coercion to cause  
16 Rodriguez to make a positive identification of Martinez from a photo  
17 array and improperly bolstered Rodriguez's identification by falsely  
18 telling him that Martinez had been involved in other robberies,  
19 including the recent robbery of a neighboring check-cashing store.  
20  
21 c. Defendants including Razo, Eagleson, Lizarraga, or others fabricated  
22 three false identifications of Martinez from a live line-up from  
23 Rodriguez, Sanchez, and Devora. Defendants either instructed  
24 Rodriguez to tell Sanchez and Devora which suspect to pick from the  
25  
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1 line-up or were aware that he did so and took no action to stop the  
2 ensuing false identifications.

3  
4 89. The criminal case against Martinez was weak, and the only evidence against  
5 him was the foregoing false evidence fabricated by Defendants. Had evidence  
6 of Defendants' misconduct been disclosed, it would have cast doubt on the only  
7 evidence presented as to Martinez's guilt, would have been used at trial to  
8 impeach Defendants and other witnesses, and would have demonstrated the  
9 invalidity of Defendants' entire investigation. Defendants' actions, individually  
10 and cumulatively, played a direct and decisive role in the jury's guilty verdict  
11 and were highly prejudicial to Martinez's defense. In consequence, without the  
12 false evidence that Defendants fabricated, or had Defendants' misconduct been  
13 disclosed, Martinez's trial would most likely have had a different result.  
14  
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17

18 90. The foregoing acts and omissions were deliberate, reckless, wanton, cruel,  
19 motivated by evil motive or intent, done in bad faith, or involved callous  
20 indifference to Martinez's federally protected constitutional rights. These acts  
21 were perpetrated while Defendants were acting in their capacities as employees  
22 or agents of the City of Los Angeles and under color of state law. No  
23 reasonable officer would have believed this conduct was lawful in 2007 and  
24 2008.  
25  
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27



1 91. As a direct and proximate result of Defendants’ actions, Martinez was wrongly  
2 arrested, detained, and charged with armed robbery with special allegations;  
3 prosecuted, convicted, and sentenced to forty-seven years and eight months in  
4 prison; incarcerated for more than 12 years, and suffered the other grievous  
5 injuries and damages set forth above.  
6

7  
8 **COUNT II**

9  
10 **42 U.S.C. § 1983 Claim for Deprivation of Liberty Without Due Process of**  
11 **Law and Violation of Right to a Fair Trial Under the Fourteenth Amendment**  
12 **Based on Withholding Material Exculpatory and Impeachment Evidence**  
13 **Against Defendants Razo, Eagleson, Lizarraga, Silva, Linn, and Droz**  
14

15 92. Plaintiff hereby incorporates each of the allegations of this Complaint as if fully  
16 set forth herein, and further alleges as follows:  
17

18 93. Defendants Razo, Eagleson, Lizarraga, and Droz deprived Martinez of his right  
19 to a fair trial by withholding material exculpatory and impeachment evidence  
20 from prosecutors and the defense in violation of the Constitution and *Brady v.*  
21 *Maryland*, 373 U.S. 83 (1963) and its progeny.  
22

23 94. Defendants Razo, Eagleson, Lizarraga, and Droz either directly participated or  
24 knew about the fabrication of false inculpatory evidence and concealment of  
25 exculpatory evidence described herein and intentionally failed to disclose it to  
26  
27

1 prosecutors and the defense. Defendants' misconduct in withholding material  
2 exculpatory and impeachment evidence included but is not limited to:

- 3
- 4 a. Withholding from prosecutors and the defense information that the
- 5 Earl Scheib robberies were an inside job perpetrated by a disgruntled
- 6 employee or with the assistance of a current employee;
- 7
- 8 b. Withholding from prosecutors and the defense information that Razo,
- 9 Eagleson, and Lizarraga had investigated Hernandez as the perpetrator
- 10 of the crimes;
- 11
- 12 c. Withholding from prosecutors and the defense the true circumstances
- 13 of the drafting of the composite sketch and falsely reported that it was
- 14 based on descriptions from Hernandez and Sanchez;
- 15
- 16 d. Withholding from prosecutors and the defense that Razo, Eagleson,
- 17 and Lizarraga had used suggestion or coercion to cause Hernandez,
- 18 Sanchez, Mendez, and Rodriguez to make tentative identifications of
- 19 Martinez from a photo array;
- 20
- 21 e. Withholding from prosecutors and the defense that Eagleson had used
- 22 suggestion or coercion to cause Rodriguez to make a false
- 23 identification of Martinez from a second photo array and that
- 24
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1 Eagleson had improperly bolstered that identification by falsely telling  
2 Rodriguez that Martinez had committed other robberies;

3  
4 f. Withholding from prosecutors and the defense that Eagleson, Razo, or  
5 Lizarraga used suggestion or coercion to cause Rodriguez to falsely  
6 identify Martinez from a line-up;

7  
8 g. Withholding from prosecutors and the defense that the witnesses had  
9 been kept in the same room and allowed to communicate during the  
10 in-person line-up and that Rodriguez had told them which suspect to  
11 choose, either based on instructions from Eagleson, Razo, or  
12 Lizarraga, or with their knowledge and consent; and

13  
14  
15 h. Withholding evidence of Defendants' misconduct throughout the  
16 investigation, which undermined their credibility and the reliability of  
17 the investigation as a whole.  
18

19 95. The criminal case against Martinez was weak, and the only evidence against  
20 him was the false evidence fabricated by Defendants. Had any of this  
21 suppressed exculpatory or impeachment evidence been disclosed, Martinez  
22 would never have been wrongly convicted.  
23

24  
25 96. The foregoing acts and omissions were deliberate, reckless, wanton, cruel,  
26 motivated by evil motive or intent, done in bad faith, or involved callous  
27

1 indifference to Martinez’s federally protected constitutional rights. These acts  
2 were perpetrated while Defendants were acting in their capacities as employees  
3 or agents of the City of Los Angeles and under color of state law. No  
4 reasonable officer in 2007 and 2008 would have believed the foregoing conduct  
5 was lawful.  
6

7  
8 97. As a direct and proximate result of Defendants’ actions, Martinez was wrongly  
9 arrested, detained, and charged with armed robbery; prosecuted, convicted, and  
10 sentenced to forty-seven years and eight months in prison; incarcerated for  
11 more than 12 years, and suffered the other grievous injuries and damages set  
12 forth above.  
13  
14

15 **COUNT III**

16  
17 **42 U.S.C. § 1983 Claim for Malicious Prosecution and Violation of the Fourth**  
18 **and Fourteenth Amendments Against Defendants Razo, Eagleson, Lizarraga,**

19 **Silva, Linn, and Droz**

20  
21 98. Plaintiff hereby incorporates each of the allegations of this Complaint as if fully  
22 set forth herein, and further alleges as follows:  
23

24 99. Defendants Razo, Eagleson, Lizarraga, and Droz caused criminal proceedings  
25 to be brought against Martinez without probable cause and without any  
26 reasonable belief in guilt. Martinez is completely innocent of the Earl Scheib  
27

1 robberies. As Defendants knew, the sole basis for the criminal action against  
2 Martinez was the false evidence that Defendants fabricated. No reasonable  
3 officer in 2007 or 2008 would have believed that fabricated evidence provided  
4 probable cause to arrest, and no reasonable officer in 2007 or 2008 would have  
5 believed that an arrest without probable cause was justified.  
6

7  
8 100. Defendants also continued the prosecution against Martinez on the basis of  
9 this false and fabricated inculpatory evidence and suppressed material  
10 exculpatory evidence, thereby subjecting Martinez to an ongoing seizure in  
11 violation of the Fourth and Fourteenth Amendments.  
12

13 101. The criminal proceedings against Martinez were initiated with malice.  
14 Defendants Razo, Eagleson, Lizarraga, and Droz caused the charges against  
15 Martinez to be filed by knowingly providing the prosecution misinformation,  
16 concealing exculpatory evidence, and otherwise engaging in wrongful and bad  
17 faith conduct that caused the initiation of the legal proceedings against Martinez  
18 when they knew there was no probable cause.  
19  
20  
21

22 102. Defendants initiated the action against Martinez for the purpose of denying  
23 Martinez's constitutional rights, including his right to be free from unreasonable  
24 searches and seizures, and his right to not be deprived of liberty without due  
25 process of law.  
26  
27  
28

1 103. As a direct and proximate result of Defendants’ actions, Martinez was  
2 wrongly arrested, detained, and charged with armed robbery; prosecuted,  
3 convicted, and sentenced to forty-seven years and eight months in prison;  
4 incarcerated for more than 12 years, and suffered the other grievous injuries and  
5 damages set forth above.  
6

7  
8 104. The criminal proceedings against Martinez terminated in his favor. The  
9 prosecution conceded Martinez’s innocence and moved to vacate his conviction  
10 and dismiss the indictment. On November 12, 2019, the Superior Court  
11 dismissed all charges against Martinez and found that he was factually innocent  
12 of the crimes.  
13  
14

15 **COUNT IV**

16  
17 **42 U.S.C. § 1983 Civil Rights Conspiracy Claim Against Defendants Razo,**  
18 **Eagleson, Lizarraga, Silva, Linn, and Droz**  
19

20 105. Plaintiff hereby incorporates each of the allegations of this Complaint as if  
21 fully set forth herein, and further alleges as follows:  
22

23 106. Defendants Razo, Eagleson, Lizarraga, Droz, and others yet unknown agreed  
24 among themselves and others, including Juan Carlos Rodriguez, to act in  
25 concert to deprive Martinez of his clearly established constitutional rights as  
26 protected by the Fourth and Fourteenth Amendments, including his right not to  
27

1 be deprived of liberty without due process of law and to be free from illegal  
2 seizure.

3  
4 107. As described in detail above, in furtherance of the conspiracy, Defendants  
5 Razo, Eagleson, Lizarraga, Droz, and others, including Rodriguez, engaged in  
6 and facilitated numerous overt acts in furtherance of the conspiracy, including  
7  
8 but not limited to, the following misconduct:

- 9 a. Defendants, including but not limited to Razo, Eagleson, Lizarraga,  
10 and Droz acted in concert to fabricate a composite sketch drawn from  
11 a photograph of Martinez and falsely attributed to two eyewitnesses;  
12  
13 b. Defendants, including but not limited to Razo, Eagleson, and  
14 Lizarraga, acted in concert to fabricate false tentative or positive  
15 eyewitness identifications of Martinez from Rodriguez, Hernandez,  
16 Mendez, Sanchez, and Devora using suggestion or coercion. They  
17 also acted in concert to fabricate police reports falsely representing  
18 that these identifications were made immediately and unequivocally  
19 when, in fact, none of the witnesses made an identification without  
20 unlawful suggestion;  
21  
22 c. Defendants, including but not limited to Eagleson, Razo, and  
23 Lizarraga, acted in concert with Rodriguez to suggest to other  
24  
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1 witnesses that Martinez was guilty and that they should identify him  
2 during the in-person line-up; and

3  
4 d. Defendants, including but not limited to Razo, Eagleson, and  
5 Lizarraga, acted in concert to suppress evidence that the Earl Scheib  
6 robberies were an inside job perpetrated by a disgruntled former  
7 employee or with the help of a current employee. They also worked in  
8 concert to suppress evidence that Hernandez had been investigated as  
9 a suspect.  
10  
11

12 108. No reasonable officer in 2007 or 2008 would have believed this conduct was  
13 lawful. As a direct and proximate result of Defendants' actions, Martinez was  
14 wrongly arrested, detained, and charged with armed robbery; prosecuted,  
15 convicted, and sentenced to forty-seven years and eight months in prison;  
16 incarcerated for more than 12 years, and suffered the other grievous injuries and  
17 damages set forth above.  
18  
19

20  
21 **COUNT V**

22 **42 U.S.C. § 1983 Supervisory Liability Claim**

23 **Against Defendants Does 1–5**  
24

25 109. Plaintiff hereby incorporates each of the allegations of this Complaint as if  
26 fully set forth herein, and further allege as follows:  
27

28 FIRST AMENDED COMPLAINT AND JURY DEMAND



1 110. Martinez’s wrongful arrest, confinement, prosecution, trial, conviction, and  
2 incarceration was caused by the unconstitutional action and inaction of LAPD  
3 supervisors Does 1–5 acting in their individual capacities and under color of  
4 law.  
5

6 111. Because of Defendant Does’ failure to supervise, discipline, or train Razo,  
7 Eagleson, Lizarraga, and Droz, Martinez was deprived of his clearly established  
8 rights under the Fourth and Fourteenth Amendments. No reasonable officer in  
9 2007 or 2007 would have believed this conduct was lawful.  
10  
11

12 112. Defendant Does knowingly refused to terminate the wrongful prosecution of  
13 Martinez, which they knew or should have known had been initiated based on  
14 the coerced, fabricated, or suggested identifications and false and fabricated  
15 evidence. As a result, Defendant Does knew or reasonably should have known  
16 that Martinez’s constitutional rights to be free from unreasonable seizure and  
17 not to be deprived of liberty without due process of law would be violated.  
18  
19

20 113. Defendant Does culpably failed to adequately train, supervise, or control  
21 their subordinates, Razo, Eagleson, Lizarraga, and Droz, who obtained coerced,  
22 fabricated, or suggested identifications, and suppressed exculpatory  
23 information.  
24  
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1 114. Defendant Does violated Martinez’s constitutional rights by acquiescing in  
2 the deprivation of Martinez’s constitutional rights by their subordinates, and by  
3 showing a reckless and callous indifference to Martinez’s rights.  
4

5 115. Defendant Does’ failure to train, supervise, or control their subordinates,  
6 their indifference to the actions of their subordinates, and their indifference to  
7 Martinez’s rights, encouraged and permitted their subordinates to fabricate  
8 inculpatory evidence and to fail to document and to disclose exculpatory  
9 evidence.  
10

11  
12 116. The actions and omissions of Defendant Does in their individual capacities,  
13 caused Martinez to be wrongly arrested, detained, and charged with armed  
14 robbery; prosecuted, convicted, and sentenced to forty-seven years and eight  
15 months in prison; incarcerated for more than 12 years, and suffered the other  
16 grievous injuries and damages set forth above.  
17  
18

19 **COUNT VI**

20 **42 U.S.C. § 1983 Failure to Intervene Against Defendants Razo, Eagleson,**  
21 **Lizarraga, Silva, Linn, Droz, and Does**  
22

23 117. Plaintiff hereby incorporates each of the allegations of this Complaint as if  
24 fully set forth herein, and further allege as follows:  
25  
26  
27

1 118. By their conduct and under color of state law, Defendants, acting within the  
2 scope of their employment, had opportunities to intervene on behalf of Martinez  
3 to prevent his malicious prosecution and deprivation of liberty without due  
4 process of law, but with deliberate indifference, declined to do so. No  
5 reasonable officer in 2007 or 2008 would have believed this conduct was  
6 lawful. Defendants' failures included but are not limited to:  
7

- 8
- 9 a. Failing to intervene to prevent or stop the fabrication of a false  
10 composite sketch of Martinez drawn from a photograph and falsely  
11 attributed to descriptions by two eyewitnesses;  
12
  - 13 b. Failing to intervene to prevent or stop the fabrication of eyewitness  
14 identifications;  
15
  - 16 c. Failing to intervene to prevent or stop the suggestion or coercion used  
17 to obtain those identifications;  
18
  - 19 d. Failing to intervene to prevent or stop the fabrication of reports on  
20 those false and fabricated eyewitness identifications; and  
21
  - 22 e. Failing to intervene to prevent or stop the concealment and  
23 suppression of exculpatory evidence.  
24

25 119. These Defendants' failures to intervene violated Martinez's clearly  
26 established constitutional right not to be deprived of liberty without due process  
27

1 of law as guaranteed by the Fourth and Fourteenth Amendments. No reasonable  
2 officer or investigator in 2007 or 2008 would have believed that failing to  
3 intervene to prevent Defendants from fabricating inculpatory evidence,  
4 concealing and withholding exculpatory evidence, or causing Martinez to be  
5 arrested and prosecuted without probable cause, were lawful.  
6  
7

8 120. These Defendants' acts and omissions, as described in the preceding  
9 paragraphs, were the direct and proximate cause of Martinez's injuries.  
10 Defendants knew, or should have known, that their conduct would result in  
11 Martinez's wrongful arrest, prosecution, conviction, and incarceration.  
12

13 121. As a direct and proximate result of Defendants' failure to intervene,  
14 Martinez was wrongly arrested, detained, and charged with armed robbery;  
15 prosecuted, convicted, and sentenced to forty-seven years and eight months in  
16 prison; incarcerated for more than 12 years, and suffered the other grievous  
17 injuries and damages set forth above.  
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**CALIFORNIA LAW CLAIMS**

**COUNT VII**

**Claim Under California State Law on Behalf of Both Ruben and Maria  
Martinez for Loss of Consortium Against Defendants Razo, Eagleson,  
Lizarraga, Silva, Linn, Droz, and Does**

122. Plaintiff hereby incorporates each of the allegations of this Complaint as if fully set forth herein, and further allege as follows:

123. Ruben and Maria Martinez had been married only five months before Defendants caused Ruben to be wrongfully arrested for the Earl Scheib robberies—crimes he did not commit. Ruben and Maria Martinez remained married after his arrest and to this day.

124. Defendants, through negligence or intentional misconduct caused Ruben to be wrongfully prosecuted for crimes he did not commit. Defendants fabricated evidence and suppressed exculpatory evidence causing Ruben to be incarcerated for more than 12 years. Had it not been for Defendants’ negligence or intentional misconduct, Ruben would not have been incarcerated for that period of time.

125. During Ruben’s more than 12-year-long incarceration, both Ruben and Maria lost the consortium of one another. Although newlywed, they were

1 unable to live together as spouses and enjoy each other’s emotional support and  
2 companionship. Defendants’ misconduct proximately caused this loss.

3  
4 126. On December 17, 2019, Ruben Martinez submitted a claim for damages to  
5 the City of Los Angeles under California Government Code § 910. On January  
6 3, 2020, Maria Martinez submitted a claim for damages to the City of Los  
7 Angeles under California Government Code § 910. The City of Los Angeles did  
8 not provide written notice rejecting either claim under California Government  
9 Code § 913. Forty-five days have elapsed since Ruben and Maria Martinez  
10 submitted their claims.  
11  
12

13 **COUNT VIII**

14  
15 **Claim Under California State Law, Cal. Gov. Code § 815.2, for Respondeat**  
16 **Superior and Vicarious Liability Against the City of Los Angeles**  
17

18 127. Plaintiff hereby incorporates each of the allegations of this Complaint as if  
19 fully set forth herein, and further allege as follows:  
20

21 128. Martinez suffered the aforementioned injuries as a proximate result of the  
22 misconduct of the individual Defendants.  
23

24 129. During all relevant times, Defendants were employees or contractors of the  
25 Los Angeles Police Department and the City of Los Angeles.  
26  
27

1 130. Defendants’ tortious conduct was undertaken while carrying out routine  
2 investigative functions. The conduct was reasonably expected by, and in fact  
3 foreseen by, Defendants’ employer.  
4

5 131. The acts and omissions of Defendants that proximately caused Martinez’s  
6 injuries were within the scope of Defendants’ employment with the Los  
7 Angeles Police Department and the City of Los Angeles.  
8

9 132. On December 17, 2019, Ruben Martinez submitted a claim for damages to  
10 the City of Los Angeles under California Government Code § 910. On January  
11 3, 2020, Maria Martinez submitted a claim for damages to the City of Los  
12 Angeles under California Government Code § 910. The City of Los Angeles did  
13 not provide written notice rejecting either claim under California Government  
14 Code § 913. Forty-five days have elapsed since Ruben and Maria Martinez  
15 submitted their claims.  
16  
17  
18

19 **COUNT IX**

20  
21 **Claim Under California State Law, Cal. Gov. Code § 825, Against City of Los**  
22 **Angeles**  
23

24 133. Plaintiff hereby incorporates each of the allegations of this Complaint as if  
25 fully set forth herein, and further alleges as follows:  
26  
27

1 134. California law provides that public entities are directed to pay any tort  
2 judgment for compensatory damages for which employees are liable within the  
3 scope of their employment activities.  
4

5 135. At all relevant times, the Defendants were employees or contractors of the  
6 City of Los Angeles Police Department and the City of Los Angeles who acted  
7 within the scope of their employment in committing the misconduct described  
8 herein.  
9

10 **JURY DEMAND**

11  
12 136. Pursuant to the Seventh Amendment of the United States Constitution,  
13 Martinez requests a jury trial on all issues and claims set forth in this  
14 Complaint.  
15

16 **PRAYER FOR RELIEF**

17  
18 WHEREFORE, Martinez demands judgment jointly and severally against  
19 Defendants as follows:  
20

21 A. That the Court award compensatory damages to him and against the  
22 Defendants, jointly and severally, in an amount to be determined at trial but that  
23 exceeds the jurisdictional limits of all lower courts that would otherwise have  
24 jurisdiction over this action;  
25  
26  
27



1 B. That the Court award punitive damages to him, and against all individual  
2 Defendants, in an amount to be determined at trial, that will deter such conduct by  
3 Defendants in the future;  
4

5 C. For a trial by jury;

6 D. For pre-judgment and post-judgment interest and recovery of his costs,  
7 including reasonable attorneys' fees pursuant to 42 U.S.C. § 1988 for all 42 U.S.C.  
8 § 1983 claims; and  
9

10 E. For any and all other relief to which he may be entitled.  
11  
12

13 Respectfully submitted,  
14

15 Dated: May 17, 2021

16 /s/ Katie McCarthy  
17 NICK BRUSTIN  
18 ANNA BENVENUTTI HOFFMANN  
19 KATIE MCCARTHY  
20 JULIAN CLARK  
21 Neufeld Scheck & Brustin, LLP

22 /s/ Ian Wallach  
23 IAN WALLACH  
24 The Law Offices of Ian Wallach, P.C

25 /s/ Angela Berry  
26 ANGELA BERRY  
27 Angela Berry, a Prof. Law Corp

28 *Attorneys for Plaintiffs Ruben &  
Maria Martinez*