



San Francisco Superior Courts  
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Case Number: CGC-06-459169

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COMPLAINT

RAYMOND J MILLER VS. CITY AND COUNTY OF SAN FRANCISCO et al

001C01834305

**Instructions:**

Please place this sheet on top of the document to be scanned.

1 LAW OFFICE OF NORMAN NEWHOUSE  
2 NORMAN NEWHOUSE, No. 104746  
3 483 Seaport Court, Suite 103  
4 Redwood City, CA 94063  
5 Telephone: 650-365-8534  
6 Facsimile: 650-365-1218

7 Attorney for Plaintiff  
8 RAYMOND J. MILLER

**FILED**  
San Francisco County Superior Court

JUL 17 2007

GORDON PARK-LI, Clerk  
By: Dennis Brady  
Deputy Clerk

9 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**  
10 **IN AND FOR THE COUNTY OF SAN FRANCISCO-UNLIMITED**

11 RAYMOND J. MILLER, an individual

12 Plaintiff,

13 v.

14 CITY AND COUNTY OF SAN  
15 FRANCISCO, CITY AND COUNTY OF  
16 SAN FRANCISCO POLICE  
17 DEPARTMENT, POLICE SGT. RICHARD  
18 PATE, POLICE SGT. SHEA, POLICE  
19 OFFICER COLEMAN, POLICE OFFICER  
20 RIGHTMIRE, POLICE OFFICER FUNG,  
21 POLICE OFFICER CALAUNAN,  
22 OFFICER JOHNSON AND DOES 1 TO 50,  
23 Inclusive

24 Defendants.

) Case No.: CGC-06-459169

) **AMENDED COMPLAINT FOR**  
) **ASSAULT, BATTERY, USE OF**  
) **EXCESSIVE FORCE BY A POLICE**  
) **OFFICER, AND VIOLATION OF CIVIL**  
) **RIGHTS**

) **DEMAND FOR JURY TRIAL**

25 **PLAINTIFF RAYMOND J. MILLER ALLEGES:**

26 1. Plaintiff is and was at all times mentioned herein a citizen of the State of California,  
27 County of San Francisco.

28 2. The amount in controversy exceeds \$50,000.00, exclusive of interest and costs.

3. All Defendants must be sued in San Francisco County. The claim arose in San  
Francisco County. The Plaintiff resides in San Francisco County.





1 18. As a proximate result of the acts of Defendants, Plaintiff was injured in his health,  
2 strength and activity, sustaining injury to his body and shock and injury to his nervous system and  
3 person and, among others, sustained emotional and physical distress, highly unpleasant emotional  
4 reactions, including fright, shock, nervousness, anxiety, worry, horror, grief, mortification,  
5 humiliation, embarrassment, indignity, apprehension, fear and terror, all of which injuries have  
6 caused Plaintiff to suffer extreme and severe physical pain and mental anguish. These injuries will  
7 result in some permanent disability to Plaintiff all to his general damages in a sum unknown at this  
8 time.

9  
10 **FIRST CAUSE OF ACTION**  
**FOR ASSAULT BY PEACE OFFICER**

11 19. Plaintiff hereby re-alleges and incorporates by reference herein as though fully set  
12 forth, paragraphs 1 through 18 of this complaint.

13 20. Defendants committed a battery on Plaintiff by touching Plaintiff for causing Plaintiff  
14 to be touched with the intent to harm or offend him. Plaintiff did not consent to the touching.

15 21. Plaintiff was harmed and offended by Defendants conduct. A reasonable person in  
16 Plaintiff's situation would have been offended by the touching.

17 **SECOND CAUSE OF ACTION**  
18 **FOR BATTERY BY A PEACE OFFICER**

19 22. Plaintiff hereby re-alleges and incorporates by reference herein as if fully set forth,  
20 Paragraphs 1 through 21 of this Complaint.

21 23. Defendants, and each of them, harmed Plaintiff by using unreasonable force to arrest  
22 him. Defendants intentionally touched or caused Plaintiff to be touched. Plaintiff did not consent to  
23 the use of that force. Plaintiff was harmed and Defendants use of unreasonable force was a  
24 substantial factor in causing Plaintiff's harm.

25 **THIRD CAUSE OF ACTION**  
26 **FOR VIOLATION OF CIVIL RIGHTS**

27 30. Plaintiff hereby re-alleges and incorporates by reference herein as if fully set forth,  
28 Paragraphs 1 through 29 of this Complaint.

1           31. Defendants, and each of them, used or caused to be used, force in arresting Plaintiff.  
2 The force used by Defendants was excessive and not reasonably necessary under the circumstances  
3 to arrest Plaintiff.

4           32. The force used by Defendants was in excess of what a reasonable law enforcement  
5 officer would have considered reasonably necessary under the same or similar circumstances. the  
6 individual Defendants were acting or purporting to act in the performance of their official duties.

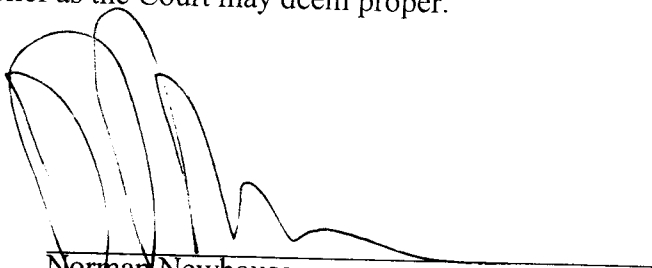
7           33. Plaintiff was harmed. Defendants use of excessive force was a substantial factor in  
8 causing Plaintiff's harm.

9  
**PRAYER FOR RELIEF**

10           WHEREFORE, Plaintiff prays for judgment against the City of San Francisco and the San  
11 Francisco Police Department as follows:

- 12           1. For all medical costs, past and future, according to proof
- 13           2. For general damages in the amount of \$200,000.00;
- 14           3. For attorney's fees;
- 15           4. For all damages to which Plaintiff is entitled under the California Code of Civil  
16 Procedure §52.1.
- 17           5. For cost of suit herein; and
- 18           6. For all such other and further relief as the Court may deem proper.

19  
20  
21  
22 Dated: July 16, 2007

  
Norman Newhouse  
Attorney for Plaintiff Raymond J. Miller

1 **Miller v. City of San Francisco, et al.**  
2 San Francisco County Superior Court No.: CGC-06-459169

3 **PROOF OF SERVICE**  
4 (Business Practice to Entrust Deposit to Others)  
5 (C.C.P. Section 1013a(3))

6 I, Ana Molina declare:

7 I am employed in the County of San Mateo, California. I am over the age of 18 years, and not  
8 a party to the within action. My business address is 483 Seaport Court, Suite 103, Redwood City,  
9 California 94063.

10 On the date stated below, at my place of business at Redwood City, California, I caused to be  
11 served, in the manner indicated below, the within: **AMENDED COMPLAINT FOR ASSAULT,  
12 BATTERY, USE OF EXCESSIVE FORCE BY A POLICE OFFICER, AND VIOLATION OF  
13 CIVIL RIGHTS** on the interested parties in said action by placing true copies thereof, enclosed in a  
14 sealed envelope, addressed as follows:

15 Dennis J. Herrera, Esq.  
16 City Attorney  
17 Joanne Hooper, Esq.  
18 Chief Trial Deputy  
19 Kathleen M. Policy, Esq.  
20 Deputy City Attorney  
21 Fox Plaza  
22 1390 Market Street, Sixth Floor  
23 San Francisco, CA 94102-5408  
24 Telephone: 415/554-4274  
25 Facsimile: 415/554-3837

26  (BY REGULAR MAIL) I caused such envelopes with postage thereon fully prepaid to be placed  
27 in the U.S. Mail at Redwood City, California.

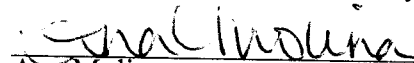
28  (BY CERTIFIED MAIL-RETURN RECEIPT REQUESTED) I caused such envelopes with  
postage thereon fully prepaid to be placed in the U.S. Mail at Redwood City, California.

(BY FEDERAL EXPRESS OVERNIGHT MAIL) I caused such envelope(s) to be delivered by  
hand to the office(s) of the addressee(s).

(BY PERSONAL DELIVERY) I caused such envelope(s) to be delivered by hand to the office(s)  
of the addressee(s).

(BY FACSIMILE) I served the foregoing documents by facsimile transmission to the number  
shown above for each interested party, pursuant to California Rules of Court Section 2003(3) and  
no notice of error was received.

I declare under penalty of perjury under the laws of the State of California that the foregoing is  
true and correct. Executed on July 16, 2007 in the City of Redwood City, County of San Mateo,  
California.

  
Ana Molina