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8 RYAN SALSBURY, MATTHEW LONG,
9 EFREN GARCIA VILLASEÑOR, EVAN PAYNE,
10 LAUREN VALENCIA,
11 HERMAN KAHN, JASON MEGGS
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16 **UNITED STATES COURT OF APPEALS**
17 **FOR THE NINTH CIRCUIT**
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20 **RYAN SALSBURY, et al.,**) **CASE NO. 04-16074**
21) **DISTRICT COURT # CV 02-00693 MHP**
22 **Plaintiffs,**) **(Consolidated with CV-02-1528 MHP)**
23)
24 **vs.**) **APPELLANTS' DESIGNATION OF**
25) **RECORD ON APPEAL**
26 **CITY OF BERKELEY; BERKELEY**)
27 **POLICE DEPARTMENT; et al.**)
28)
29 **Defendants.**)
30)
31 _____)
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33 PLAINTIFFS/APPELLANTS HEREBY DESIGNATION THE FOLLOWING
34 PORTIONS OF THE DISTRICT COURT RECORD FOR CONSIDERATION ON
35 APPEAL:
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37 As to CV-02-1528 MHP:

Filing Date	#	Docket Text
03/29/2002	1	COMPLAINT , <i>No summons issued</i> against all defendants (Filing fee \$150 receipt number 4405543). Filed by Ryan Salsbury. (mh,) (Entered: 03/29/2002)
04/10/2002		Summons Issued as to all defendants. (tn) (Entered: 04/11/2002)
05/01/2002	4	NOTICE of Related Case to C-02-0693-MHP by Herman Kahn, Matthew Long, Jason Meggs, Evan Payne, Ryan Salsbury, John Tange, Lauren Valencia, Efren Garcia Villasenor. (tn,) (Entered: 05/02/2002)

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2 As to CV 02-0693MHP:

Filing Date	#	Docket Text
02/08/2002	1	COMPLAINT <i>for violation of civil rights, false arrest, intentional infliction of emotional distress, violation of civil code section 51.7. negligence, violation of B & P Code Section 17200; summons issued</i> against Bernard Allen, Berkeley Police Department, City of Berkeley, Cynthia Harris, Wes Hester, William Pittman (Filing fee \$150.00 receipt number 4405291). Filed by Jason Meggs, Ryan Salsbury. (gba,) (Entered: 02/12/2002)
06/03/2002	6	ORDER by Chief Judge Marilyn H. Patel RELATING CASE C02-693 with member case C02-1528 CRB (E-File). (gba) (Entered: 06/05/2002)
10/02/2003	18	STIPULATION AND ORDER by Chief Judge Marilyn H. Patel that the summary judgment motion hearing date is hereby continued to 1/12/04 at 2:00 p.m. If counsel is not available on this date the matter will be deemed submitted on the papers. (gba, COURT STAFF) (Entered: 10/07/2003)
12/08/2003	19	NOTICE OF MOTION for Summary Judgment ; filed by Bernard Allen, Cynthia Harris, Wes Hester, William Pittman. Motion Hearing set for 1/12/2004 02:00 PM.

		(aaa, Court Staff) (Filed on 12/8/2003) (Entered: 12/12/2003)
12/08/2003	20	MEMORANDUM OF POINTS AND AUTHORITIES in Support re [19] OF MOTION FOR SUMMARY JUDGMENT; filed by Bernard Allen, City of Berkeley, Cynthia Harris, Wes Hester, William Pittman. (Related document(s)[19]) (aaa, Court Staff) (Filed on 12/8/2003) (Entered: 12/12/2003)
12/08/2003	21	Declaration of Officer Matthew Meredith in Support of [19] MOTION FOR SUMMARY JUDGMENT; filed by Bernard Allen, City of Berkeley, Cynthia Harris, Wes Hester, William Pittman. (Related document(s)[19]) (aaa, Court Staff) (Filed on 12/8/2003) (Entered: 12/12/2003)
12/08/2003	22	Declaration of Officer Roderick Roe in Support of [19] MOTION FOR SUMMARY JUDGMENT; filed by Bernard Allen, City of Berkeley, Cynthia Harris, Wes Hester, William Pittman. (Related document(s)[19]) (aaa, Court Staff) (Filed on 12/8/2003) (Entered: 12/12/2003)
12/08/2003	23	Declaration of Officer Jitendra Singh in Support of [19] MOTION FOR SUMMARY JUDGMENT; filed by Bernard Allen, City of Berkeley, Cynthia Harris, Wes Hester, William Pittman. (Related document(s)[19]) (aaa, Court Staff) (Filed on 12/8/2003) (Entered: 12/12/2003)
12/08/2003	24	Declaration of Seargent Wesley Hester in Support of [19] MOTION FOR SUMMARY JUDGMENT; filed by Bernard Allen, City of Berkeley, Cynthia Harris, Wes Hester, William Pittman. (Related document(s)[19]) (aaa, Court Staff) (Filed on 12/8/2003) (Entered: 12/12/2003)
12/08/2003	25	Declaration of Gary Romano in Support of [19] MOTION FOR SUMMARY JUDGMENT; filed by Bernard Allen, City of Berkeley, Cynthia Harris, Wes Hester, William Pittman. (Related document(s)[19]) (aaa, Court Staff) (Filed on 12/8/2003) (Entered: 12/12/2003)
12/08/2003	26	Declaration of Matthew J. Orebic in Support of [19] MOTION FOR SUMMARY JUDGMENT; filed by Bernard Allen, City of Berkeley, Cynthia Harris, Wes Hester, William Pittman. (Related document(s)[19]) (aaa, Court Staff) (Filed on 12/8/2003) (Entered: 12/12/2003)
12/08/2003	28	EXHIBIT A to all plaintiff's depositions (Video Excerpts) to defendants' summary judgment motion AND EXHIBIT B re [19] filed by Bernard Allen, City of Berkeley, Cynthia Harris, Wes Hester, William Pittman. (Related document(s)[19]) (gba, COURT STAFF) (Filed on 12/8/2003) (Entered: 12/15/2003)
12/11/2003	29	CERTIFICATE OF SERVICE by Bernard Allen, City of Berkeley, Cynthia Harris, Wes Hester, William Pittman re [25] Declaration in Support, [19] MOTION for Summary Judgment, [26] Declaration in Support, [20] Memorandum in Support, [21] Declaration in Support, [28] Exhibits,, [22] Declaration in Support, [23] Declaration in Support, [24] Declaration in Support (gba, COURT STAFF) (Filed on 12/11/2003) (Entered: 12/15/2003)
12/12/2003	<u>27</u>	STIPULATION to Extend Deadlines and continue hearing date by Ryan Salsbury. (Attachments: # <u>1</u> Proposed Order Proposed Order on Stipulation to extend)(Hildes, Lawrence) (Filed on 12/12/2003) (Entered: 12/12/2003)
12/12/2003	31	REQUEST for reinstating of electronic filing, pursuant to General Order 45 by Jason Meggs, Ryan Salsbury. (gba, COURT STAFF) (Filed on 12/12/2003) (Entered: 12/12/2003)

		12/15/2003)
12/16/2003	32	STIPULATION to continue response and reply deadlines and hearing date on summary judgment motion by Jason Meggs, Ryan Salsbury. (gba, COURT STAFF) (Filed on 12/16/2003) (Entered: 12/17/2003)
12/16/2003	33	ORDER by Chief Judge Marilyn H. Patel that plaintiffs' response to defendants motion for summary judgment will be 2/2/04. Defendants' deadline to reply to plaintiffs' response will be 2/9/04. The new hearing date in this matter will be 2/23/04 at 2:00 p.m. (gba, COURT STAFF) (Filed on 12/16/2003) (Entered: 12/17/2003)
12/18/2003	34	ORDER by Chief Judge Marilyn H. Patel: setting hearing date and briefing schedule. The hearing on defendants' motion for summary judgment is hereby scheduled for 2/23/04 at 2:00 p.m. Plaintiffs must file their opposition brief no later than 2/2/04. Defendants must file their reply brief no later than 2/9/04. The current hearing date, 1/12/04, is hereby vacated. (gba, COURT STAFF) (Filed on 12/18/2003) (Entered: 12/19/2003)
12/18/2003		Motion Hearing set for 2/23/2004 02:00 PM. (gba, COURT STAFF) (Filed on 12/18/2003) (Entered: 12/19/2003)
01/22/2004	35	ORDER by Chief Judge Marilyn H. Patel granting plaintiff's request for reinstating of electronic filing. (gba, COURT STAFF) (Filed on 1/22/2004) (Entered: 01/22/2004)
01/26/2004	<u>36</u>	STIPULATION AND ORDER resetting motion for summary judgment to 3/15/2004 at 2:00 pm; No further continuances; Signed by Judge Marilyn Hall Patel on 1/23/2004. (awb, COURT-STAFF) (Filed on 1/26/2004) (Entered: 01/26/2004)
02/23/2004	<u>40</u>	MOTION for Leave to File Excess Pages filed by Ryan Salsbury. (Attachments: # <u>1</u> Signature Page (Declarations/Stipulations) declaration# <u>2</u> Proposed Order # <u>3</u> Proof of service)(Hildes, Lawrence) (Filed on 2/23/2004) (Entered: 02/23/2004)
02/23/2004	<u>41</u>	MOTION for Summary Judgment (Response) filed by Ryan Salsbury. Motion Hearing set for 3/15/2004 02:00 PM. (Attachments: # <u>1</u> Declaration# <u>2</u> Declaration# <u>3</u> Declaration# <u>4</u> Declaration# <u>5</u> Declaration# <u>6</u> Declaration# <u>7</u> Declaration# <u>8</u> Declaration# <u>9</u> Declaration# <u>10</u> Declaration)(Hildes, Lawrence) (Filed on 2/23/2004) (Entered: 02/23/2004)
02/23/2004	<u>42</u>	RESPONSE in Support of opposition to Defendants Summary Judgment Motion filed by Ryan Salsbury. (Hildes, Lawrence) (Filed on 2/23/2004) (Entered: 02/23/2004)
02/24/2004	<u>43</u>	Ex Parte Application By Defendant City of Berkeley to Reject Plaintiffs' Opposition to The Summary Judgment Motion as Untimely And Too Lengthy, or, in the Alternative, Extend The Reply Brief Due Date From March 1 to March 4, 2004 filed by Bernard Allen, Berkeley Police Department, City of Berkeley, Cynthia Harris, Wes Hester, William Pittman. (Orebic, Matthew) (Filed on 2/24/2004) (Entered: 02/24/2004)
02/26/2004	<u>45</u>	MEMORANDUM AND ORDER by Judge Marilyn Hall Patel denying <u>40</u> Plaintiff's Motion for Leave to File Excess Pages; vacating hearing on <u>41</u> Defendant's Motion for Summary Judgment; and granting <u>43</u> defendant's Ex Parte Application to strike opposition; Motion deemed

		unopposed; Defendants need not file a reply brief (awb, COURT-STAFF) (Filed on 2/26/2004) (Entered: 02/26/2004)
02/27/2004	<u>46</u>	MOTION for Reconsideration re <u>45</u> Order on Motion for Leave to File Excess Pages,, Order on Motion for Summary Judgment,, Order on Ex Parte Application, filed by Ryan Salsbury. (Attachments: # <u>1</u> Declaration# <u>2</u> Proposed Order)(Hildes, Lawrence) (Filed on 2/27/2004) (Entered: 02/27/2004)
02/27/2004	47	Supplemental Declaration of Jason Meggs in support of plaintiffs opposition to defendants' motion for summary judgment filed by Jason Meggs, Ryan Salsbury. (gba, COURT STAFF) (Filed on 2/27/2004) (Entered: 03/01/2004)
02/27/2004	48	EXHIBIT X to plaintiffs' response to defendants' motion for summary judgment (Video Tape) filed by Jason Meggs, Ryan Salsbury. (gba, COURT STAFF) (Filed on 2/27/2004) (Entered: 03/01/2004)
03/02/2004	<u>49</u>	AFFIDAVIT in Opposition Defendants' Opposition To Plaintiffs' Motion For Reconsideration filed by Bernard Allen, Berkeley Police Department, City of Berkeley, Cynthia Harris, Wes Hester, William Pittman. (Attachments: # <u>1</u> Declaration of Matthew J. Orebic in Opposition to Plaintiffs' Motion For Reconsideration# <u>2</u> # <u>3</u> # <u>4</u>)(Orebic, Matthew) (Filed on 3/2/2004) (Entered: 03/02/2004)
03/02/2004	<u>50</u>	Reply Memorandum re <u>46</u> MOTION for Reconsideration re <u>45</u> Order on Motion for Leave to File Excess Pages,, Order on Motion for Summary Judgment,, Order on Ex Parte Application, filed by Ryan Salsbury. (Attachments: # <u>1</u> Declaration# <u>2</u> Declaration)(Hildes, Lawrence) (Filed on 3/2/2004) (Entered: 03/02/2004)
03/05/2004	<u>51</u>	ORDER by Judge Marilyn Hall Patel denying <u>46</u> Plaintiff's Motion for leave to file a motion for Reconsideration (awb, COURT-STAFF) (Filed on 3/5/2004) (Entered: 03/05/2004)
04/27/2004	<u>52</u>	MEMORANDUM AND ORDER by Judge Marilyn Hall Patel granting <u>41</u> defendants' Motion for Summary Judgment (awb, COURT-STAFF) (Filed on 4/27/2004) (Entered: 04/27/2004)
04/28/2004	<u>53</u>	AMENDED MEMORANDUM AND ORDER granting <u>41</u> defendants' MOTION for Summary Judgment; Remaining fourth amendment claim is DISMISSED; Signed by Judge Marilyn Hall Patel on 4/27/2004. (awb, COURT-STAFF) (Filed on 4/28/2004) (Entered: 04/28/2004)
05/05/2004	<u>54</u>	NOTICE by Ryan Salsbury Notice of Appeal (Hildes, Lawrence) (Filed on 5/5/2004) (Entered: 05/05/2004)
05/06/2004		NOTICE OF APPEAL as to <u>53</u> Order, <u>52</u> Order on Motion for Summary Judgment by Jason Meggs, Ryan Salsbury. ****ENTRY MADE FOR DOCKETING PURPOSES, ERRONEOUS EVENT USED IN DOCUMENT # 54**** (gba, COURT STAFF) (Filed on 5/6/2004) (Entered: 05/06/2004)

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Respectfully Submitted: June 1, 2004

LAWRENCE A. HILDES,
ATTORNEY FOR PLAINTIFFS/APPELLANTS
RYAN SALSBURY, MATTHEW LONG,
EFREN GARCIA VILLASEÑOR, EVAN PAYNE,
LAUREN VALENCIA, HERMAN KAHN, JASON MEGGS

1 **PROOF OF SERVICE**

2
3 Lawrence A. Hildes certifies as follows:
4

5 I am over the age of 18 years, and not a party to this action. I
6 am a citizen of the United States. My business address is P.O.
7 Box 5405, Bellingham, WA 98227
8

9 On June 1, 2004 I served the following documents(s) described as
10 follows:
11

12 PLAINTIFFS' DESIGNATION OF RECORD ON APPEAL
13 on the following persons(s) in this action at the following
14 addresses:
15

16 Matthew Orebic, City Attorney's Office
17 Berkeley City Hall
18 2180 Milvia Street,
19 Berkeley, CA 94704
20

21 (BY MAIL) by placing a true copy of the above documents in
22 a sealed envelope with postage fully prepaid in the mail at
23 Berkeley, California, addressed to the person(s) above at the
24 above address
25

26 (BY PERSONAL SERVICE) by personal delivery to the address
27 listed above.
28

29 (BY FACSIMILE) by causing such document(s) to be faxed to the
30 person(s) listed above by transmitting said document(s) from
31 facsimile machine no. (510) 540-4821 to facsimile machine no.
32 _____
33

34 (STATE) I Declare under penalty of perjury under the laws of
35 the State of California that the above is true and correct.
36

37 (FEDERAL) I Declare that I am a member of the bar of the
38 court at whose direction the service was made, or allowed as
39 counsel by that Bar as Counsel Pro-Hac Vice.
40

41 Executed on June 1, 2004 at Bellingham, WA.
42
43
44

45 _____
Lawrence A. Hildes

