

**FILED**

**OCT 02 2024**

CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

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Self-Represented

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

DENNIS ALLUMS,

Plaintiff,

v.

CITY OF OAKLAND,

Defendant

Case No.: 3:24-cv-06272-TLT

OBJECTION TO REPORT AND  
RECOMMENDATION AND REQUEST FOR  
PERMISSION TO FILE AMENDED  
COMPLAINT

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OBJECTION TO REPORT AND RECOMMENDATION AND REQUEST FOR PERMISSION TO FILE AMENDED

1 **Dennis Allums, Plaintiff**  
2 **v.**  
3 **City of Oakland, Defendant**

4 **Case No.: 24-cv-06272-TLT**  
5

6 **UNITED STATES DISTRICT COURT**  
7 **NORTHERN DISTRICT OF CALIFORNIA**

8 **OBJECTION TO REPORT AND RECOMMENDATION AND REQUEST FOR**  
9 **PERMISSION TO AMEND COMPLAINT**

10 **Filed:** October 1, 2024

11 **Judge:** Honorable TRINA I. THOMPSON

12 **I. INTRODUCTION**

13 Plaintiff Dennis Allums, proceeding pro se, respectfully requests an extension of time  
14 to file an amended complaint in the above-captioned case. Plaintiff seeks this  
15 extension in response to the "ORDER TO REASSIGN CASE TO A DISTRICT  
16 JUDGE: REPORT AND RECOMMENDATION TO DISMISS COMPLAINT"  
17 issued by Magistrate Judge Laurel Beller on September 18, 2024 (Case No. 24-cv-  
18 06272-LB). Plaintiff requests that the Court grant an additional 30 days to file an  
19 amended complaint, which will include proposed changes to streamline the  
20 allegations, provide specific legal citations, and clarify the relief sought. For the  
21 record, the plaintiff has paid the filing fee today, on 10/01/2024. Either way he needs  
22 to amend the complaint something that is almost standardly granted as opposed to the  
23 Judges strange recommendation of dismissal with prejudice of a complaint that was  
24 just filed.

25 **Plaintiff's Medical Illnesses:**

26 Plaintiff suffered numerous medical illnesses after the January 22, 2022, event resulting in him, a  
27 man who hadn't been in the hospital in 35 years immediately suffering several strokes, holes in  
28 his heart, nonfunctioning aorta valve as well as the opposing valve being replaced, three blood  
29 clots as well as numerous other ailments. To save his life he had numerous surgeries and was  
30 hospitalized in intensive care for two months and rehab for one month where he learned to walk  
31 again.

32 The plaintiff, unknown to most, also suffered numerous brain damage due to three cardiac arrest  
33 he suffered within 24 hours of arrival at the university of San Francisco medical center. The  
34 damage brain was kept secret as he wanted to work in real estate if he recovered but due to so  
35 many problems remembering, he scheduled an appointment with a neurologist on 10/02/2024 a  
36 month ago that just happens to be the same deadline to file this opposition to the judges  
37 recommendation.

1 Proof of the brain problems is everywhere in his life today including on the front page of his  
2 recent suit as he could not remember where he lived when he wrote it and put in an inaccurate  
3 home address resulting in him not receiving the courts order recommending dismissal with  
4 prejudice until today, one day before the deadline. No surviving member of the Oakland Police  
5 Department's many abuses has ever suffered this number of medical problems immediately all  
6 after the January 24, 2022 continuing to today and is the reason he didn't respond sooner. He  
7 never received the order.

## 8 **II. STATEMENT OF FACTS**

9 Plaintiff filed the original complaint alleging violations of civil rights by the City of Oakland and  
10 its Police Department. The complaint centers on Plaintiff's status as a victim of a hate crime, the  
11 Oakland Police Department's refusal to document the Plaintiff as a victim, and ongoing failures  
12 that have resulted in harm. The Court recommended dismissal under Rule 8 of the Federal Rules  
13 of Civil Procedure, citing the need for a "short and plain statement of the claim" (Fed. R. Civ. P.  
14 8(a)).

15 Since the issuance of the Court's order, Plaintiff has reviewed the case and prepared a draft of  
16 proposed amendments that more precisely and concisely outline the claims, citing specific legal  
17 provisions and specifying the relief sought. Plaintiff is now seeking leave from the Court to  
18 amend the complaint in accordance with these proposed changes.

## 19 **III. LEGAL ARGUMENT**

20 Federal Rule of Civil Procedure 15(a)(2) states that "the court should freely give leave [to  
21 amend] when justice so requires." In pro se cases, courts often afford plaintiffs additional  
22 opportunities to amend complaints to ensure that legitimate claims are not dismissed due to  
23 technical deficiencies (See *Foman v. Davis*, 371 U.S. 178, 182 (1962)).

24 Here, Plaintiff requests permission to amended complaint that will address the Court's concerns  
25 by simplifying the claims, referencing specific legal violations (e.g., 42 U.S.C. § 1983, the  
26 Fourteenth Amendment), and outlining the relief sought. This proposed amendment is intended  
27 to comply with Rule 8(a)'s requirements for a short and plain statement and will offer a clearer  
28 presentation of the factual allegations and legal basis for the claims.

## 29 **IV. REQUEST FOR RELIEF**

30 Plaintiff respectfully requests the following relief from the Court:

- 31 1. Permission to amend the complaint in accordance with the proposed changes outlined in  
32 this motion, specifically to:
- 33 ○ Provide a more concise summary of the facts supporting Plaintiff's claim.
  - 34 ○ Reference the specific legal provisions under which relief is sought (e.g., 42  
35 U.S.C. § 1983, the Fourteenth Amendment).
  - 36 ○ Clearly state the specific relief requested, including an order to amend the police  
37 report, compensatory damages, and injunctive relief for policy changes within the  
38 Oakland Police Department.

## 39 **V. EXAMPLE OF PROPOSED AMENDED COMPLAINT OR NEW COMPLAINT**

1

**-Start-****2 Amended Claim Summary**

3 The plaintiff, an African American, was the victim of a violent hate crime on January 24, 2022 in  
4 Oakland, California. During the incident, the suspect hurled racial slurs and threatened the  
5 plaintiff, escalating to an attempted stabbing. Despite being the primary victim of this hate crime,  
6 the Oakland Police Department (“OPD”) failed to document the plaintiff’s victim status in the  
7 official police report, refused to provide assistance, and neglected its duty under both federal and  
8 state law. These actions constitute a violation of the plaintiff’s civil rights under 42 U.S.C. §  
9 1983 and other related statutes. This ongoing failure has caused the plaintiff emotional distress,  
10 medical complications, and deprivation of services and support available to hate crime victims.

**11 Legal Claims and Violations****12 1. Violation of Civil Rights – Failure to Report Hate Crime (42 U.S.C. § 1983;  
13 Fourteenth Amendment - Equal Protection Clause):**

- 14 ○ **Facts:** On [date], the plaintiff was attacked by a suspect who used racial slurs and  
15 made threats based on race. Despite the severity and racially motivated nature of  
16 the attack, OPD refused to document the plaintiff as a victim in the police report  
17 at the scene and has continued to omit this information for over two years.
- 18 ○ **Legal Violation:** This constitutes a violation of the plaintiff’s rights under 42  
19 U.S.C. § 1983, which allows individuals to sue for civil rights violations,  
20 including failure to provide equal protection under the law (U.S. Const. amend.  
21 XIV, § 1). The failure to document the plaintiff as a hate crime victim has  
22 deprived him of access to resources and legal protections afforded to hate crime  
23 victims.
- 24 ○ **Relief Sought:** The plaintiff seeks a court order directing OPD to amend the  
25 police report to include him as the primary victim of the hate crime and monetary  
26 damages for the emotional distress and harm caused by the deprivation of his  
27 rights.

**28 2. Failure to Provide Medical Aid (42 U.S.C. § 1983; Fourteenth Amendment - Due  
29 Process Clause; Cal. Gov’t Code § 845.6):**

- 30 ○ **Facts:** After the attack, OPD officers refused to provide or summon medical aid  
31 to the plaintiff despite visible injuries. The plaintiff was forced to find his way to  
32 the nearest BART station to seek help independently.
- 33 ○ **Legal Violation:** This refusal constitutes a failure of the officers’ duty to provide  
34 medical care under California law (Cal. Gov’t Code § 845.6) and violates the Due  
35 Process Clause of the Fourteenth Amendment by depriving the plaintiff of his  
36 liberty interest in bodily integrity and access to medical assistance in emergencies.
- 37 ○ **Relief Sought:** The plaintiff seeks compensatory damages for the physical harm  
38 and emotional distress resulting from the lack of medical aid.

**39 3. Failure to Charge Assailant with a Hate Crime (42 U.S.C. § 1983; California Penal  
40 Code § 422.55):**

- 1           ○ **Facts:** Despite the plaintiff and other African Americans being victims of racially  
2 motivated threats and violence, the OPD refused to charge the assailant with a  
3 hate crime, as defined under California Penal Code § 422.55.
- 4           ○ **Legal Violation:** The OPD's failure to investigate and charge the suspect under  
5 hate crime statutes reflects discriminatory treatment against African American  
6 victims, violating the plaintiff's rights to equal protection under the Fourteenth  
7 Amendment and California's statutory protections for hate crime victims.
- 8           ○ **Relief Sought:** The plaintiff requests a court order compelling OPD to reopen the  
9 case, investigate the incident as a hate crime, and require improved training for  
10 officers in recognizing and prosecuting hate crimes.

11 **4. Ongoing Exclusion from the Police Report – Continuing Violation of Civil Rights**  
12 **(42 U.S.C. § 1983):**

- 13           ○ **Facts:** For over two years, the plaintiff has been continuously excluded from the  
14 official police report, resulting in an ongoing denial of recognition and support.
- 15           ○ **Legal Violation:** The ongoing exclusion perpetuates the violation of the plaintiff's  
16 civil rights under 42 U.S.C. § 1983, as it denies the plaintiff the equal protection  
17 and due process afforded to crime victims under both federal and state laws.
- 18           ○ **Relief Sought:** The plaintiff seeks injunctive relief compelling OPD to  
19 immediately amend the police report and damages for the emotional and financial  
20 harm caused by this exclusion.

21 **5. Municipal Liability for Inadequate Training (Monell v. Department of Social**  
22 **Services, 436 U.S. 658 (1978)):**

- 23           ○ **Facts:** OPD has a history of inadequate training and failure to investigate and  
24 document hate crimes, as evidenced by its handling of the plaintiff's case. OPD's  
25 actions and omissions reflect an official policy or custom of indifference toward  
26 the civil rights of African American individuals.
- 27           ○ **Legal Violation:** Under Monell, a municipality can be held liable for civil rights  
28 violations resulting from its policies, customs, or failure to train its officers.  
29 OPD's systematic neglect of its duty to document hate crimes constitutes an  
30 actionable policy of discrimination.
- 31           ○ **Relief Sought:** The plaintiff seeks declaratory and injunctive relief requiring OPD  
32 to implement new training and policy reforms, as well as compensatory damages  
33 for the harm caused by its discriminatory practices.

34 **Overall Relief Sought**

35 The plaintiff seeks the following relief:

- 36 1. An order directing OPD to include the plaintiff as the primary victim of a hate crime in  
37 the official police report.
- 38 2. Compensatory and punitive damages for emotional distress, physical harm, and the  
39 deprivation of his civil rights.
- 40 3. Injunctive relief mandating policy changes and training for OPD in handling hate crimes  
41 and providing aid to victims.
- 42 4. Attorney's fees and costs pursuant to 42 U.S.C. § 1988.

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## Why This Version Is More Effective

- **Conciseness:** The claims are summarized in a clear and structured manner, focusing on the specific violations of the plaintiff's rights.
- **Legal Citations:** Relevant legal provisions (42 U.S.C. § 1983, the Fourteenth Amendment, California Penal Code, Monell) are explicitly cited to frame the factual allegations within a legal context.
- **Specific Relief:** The relief sought is directly connected to the violations described, outlining the remedies the plaintiff seeks from the court.
- **Plain Language:** The complaint is rewritten in a way that simplifies complex events and legal concepts, making it accessible while still being thorough.

**END**

## V. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court grant permission to file an amended complaint, allowing Plaintiff to make the necessary changes to comply with Rule 8 of the Federal Rules of Civil Procedure. This request is made in the interest of justice to ensure that Plaintiff's claims are fairly considered on their merits. Finally, The numerous violations alleged here by rogue officers and a rogue department are unprecedented and to simply allow these heinous racially motivated violations to go on including leaving an obvious hate crime unchecked and would shock of the bay area and the world. The plaintiff is un aware why the judge based on the magnitude of the violations would even suggest this complaint did not reach even the bare minimum of legal requirement and the citing of Judge Thomas statement from another case that it "failed to demonstrate any ground for relief" is mind bobbling even calling the following claims/complaints "frivolous".

The so called "frivolous" claims against the Oakland Police Department are as follows:

1. Not charging or reporting the clearly racist suspect of a clear hate crime against several African Americans including the only African American librarian.
2. Leaving the victim of serious crime (attempted murder?) off the police report.
3. This resulting in him being denied immediate medical and eventual victims services.
4. Locking out an African American patrons to be attacked and stabbed and possibly killed by a man who hated his race.
5. Failing to provide the required aid to an injured victim of a crime

1 6. Filling a false police report and then once realizing it was false refusing to change it thus he  
2 forever does not exist as a victim.

3 7. Refusal to charge the racist violent offenders with a hate crime.

4 8. Not investigating and warning the main Investigative Officer Colin Cameron who laughed at  
5 the request to be placed on police report then refusing to do so for over two years.

6 9. Possible bribery by officer Ron Moore who sought to negotiate the plaintiff dropping charges  
7 against officer Camron.

8 10. The decades long repeated refusal of police officers to respond to the female librarians at the  
9 library's call for assistance resulting in the plaintiff attempt to do the police job to protect the  
10 librarian almost cost him his life.

11 These are all clearly violations of the plaintiffs and other African Americans civil rights by a  
12 racist violent suspect, protected by a documented corrupt Oakland Police Department whom to  
13 this day still assist the suspect in getting away with numerous uncharged crimes against the  
14 plaintiff and other Arican Americans.

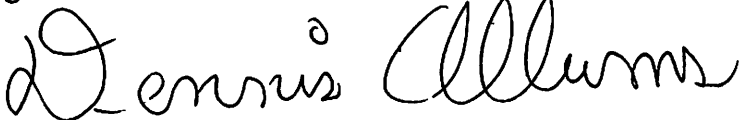
15 **Finally**, as a matter of fact, it is standard practice to allow a plaintiff to amend their complaint at  
16 least once because of the principle that cases should be decided on their merits, not on  
17 technicalities. The guiding rule for this is **Federal Rule of Civil Procedure 15(a)(2)**, which  
18 states that courts "should freely give leave [to amend] when justice so requires." This rule  
19 reflects a preference in the judicial system for resolving disputes based on the substance of the  
20 claims rather than procedural missteps.

21 The U.S. Supreme Court in **Foman v. Davis, 371 U.S. 178 (1962)**, emphasized that leave to  
22 amend should be granted unless there is a valid reason to deny it, **such as undue delay, bad**  
23 **faith, repeated failure to cure deficiencies, undue prejudice to the opposing party, or**  
24 **futility of the amendment**. This standard ensures that plaintiffs have a fair opportunity to  
25 present their case fully, especially if initial pleadings are incomplete or incorrect.

26 This is why its so strange what the Judge in my new complaint is trying to do, its standard  
27 procedure and allowable by law to allow to the plaintiff to amend but not only did he not allow  
28 it, his requesting for it to be dismissed without the opportunity to amend but he takes it a step  
29 further and recommends with prejudice. No lawyer I talked could explain this.

30 If one adds te original case your honor already two years ago before the plaintiff fell gravely ill,  
31 your honor asked the plaintiff to amend the complaint but he was sick and dying and as  
32 documented, needed numerous surgeries just to save his life and had no recollection of even  
33 filling a suit. He eventually filed a new suit which is clearly better but is considered defective for  
34 reasons that can be clearly corrected as the plaintiff now uses legal aid (fed pro). As the plaintiff  
35 demonstrated in the proposed amendment, the final amendment will be simpler and more concise  
36 or if your honor wishes, he can dismiss the complaint like before without prejudice and plaintiff

1 can write a final thorough new complaint this time with legal assistance to this most historically  
2 significant case.

3 

4 **Respectfully submitted,**  
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9 **Date:** October 1, 2024