

1. **Plaintiff (name or names):** Mara Tobis Clarke
alleges causes of action against **defendant (name or names):**
California Highway Patrol, Pinole Police Department, San Pablo Police Department, Aaron Ray Marks, William P. Ware

2. This pleading, including attachments and exhibits, consists of the following number of pages: 5

3. Each plaintiff named above is a competent adult

a. ☐ **except** plaintiff (name):

(1) ☐ a corporation qualified to do business in California.

(2) ☐ an unincorporated entity (describe):

(3) ☐ a public entity (describe):

(4) ☐ a minor ☐ an adult

(a) ☐ for whom a guardian or conservator of the estate or a guardian ad litem has been appointed.

(b) ☐ other (specify):

(5) ☐ other (specify):

b. ☐ **except** plaintiff (name):

(1) ☐ a corporation qualified to do business in California.

(2) ☐ an unincorporated entity (describe):

(3) ☐ a public entity (describe):

(4) ☐ a minor ☐ an adult

(a) ☐ for whom a guardian or conservator of the estate or a guardian ad litem has been appointed.

(b) ☐ other (specify):

(5) ☐ other (specify):

☐ Information about additional plaintiffs who are not competent adults is shown in Attachment 3.

SHORT TITLE:

Mara Tobis Clarke vs. California Highway Patrol, et al.

CASE NUMBER:

24CV099261

4. ☐ Plaintiff (*name*):
is doing business under the fictitious name (*specify*):

and has complied with the fictitious business name laws.
5. Each defendant named above is a natural person
- a. ☒ **except** defendant (*name*): California Highway Patrol
- (1) ☐ a business organization, form unknown.
(2) ☐ a corporation.
(3) ☐ an unincorporated entity (*describe*):

(4) ☒ a public entity (*describe*):
Police Department
(5) ☐ other (*specify*):
- c. ☒ **except** defendant (*name*): Pinole Police Department
- (1) ☐ a business organization, form unknown.
(2) ☐ a corporation.
(3) ☐ an unincorporated entity (*describe*):

(4) ☒ a public entity (*describe*):
Police Department
(5) ☐ other (*specify*):
- b. ☒ **except** defendant (*name*): San Pablo Police Department
- (1) ☐ a business organization, form unknown.
(2) ☐ a corporation.
(3) ☐ an unincorporated entity (*describe*):

(4) ☒ a public entity (*describe*):
Police Department
(5) ☐ other (*specify*):
- d. ☐ **except** defendant (*name*):
- (1) ☐ a business organization, form unknown.
(2) ☐ a corporation.
(3) ☐ an unincorporated entity (*describe*):

(4) ☐ a public entity (*describe*):

(5) ☐ other (*specify*):
- ☐ Information about additional defendants who are not natural persons is contained in Attachment 5.
6. The true names of defendants sued as Does are unknown to plaintiff.
- a. ☒ Doe defendants (*specify Doe numbers*): 20 were the agents or employees of other
named defendants and acted within the scope of that agency or employment.
- b. ☐ Doe defendants (*specify Doe numbers*): are persons whose capacities are unknown to
plaintiff.
7. ☐ Defendants who are joined under Code of Civil Procedure section 382 are (*names*):
8. This court is the proper court because
- a. ☐ at least one defendant now resides in its jurisdictional area.
b. ☐ the principal place of business of a defendant corporation or unincorporated association is in its jurisdictional area.
c. ☒ injury to person or damage to personal property occurred in its jurisdictional area.
d. ☐ other (*specify*):
9. ☒ Plaintiff is required to comply with a claims statute, **and**
- a. ☒ has complied with applicable claims statutes, **or**
b. ☐ is excused from complying because (*specify*):

SHORT TITLE:

Mara Tobis Clarke vs. California Highway Patrol, et al.

CASE NUMBER:

24CV099261

10. The following causes of action are attached and the statements above apply to each (*each complaint must have one or more causes of action attached*):

- a. ☒ Motor Vehicle
- b. ☒ General Negligence
- c. ☐ Intentional Tort
- d. ☐ Products Liability
- e. ☐ Premises Liability
- f. ☒ Other (*specify*):
Violation of Vehicle Code §17004.7.

11. Plaintiff has suffered (*check all that apply*)

- a. ☒ wage loss.
- b. ☐ loss of use of property.
- c. ☒ hospital and medical expenses.
- d. ☒ general damage.
- e. ☐ property damage.
- f. ☒ loss of earning capacity.
- g. ☐ other damage (*specify*):

12. ☐ The damages claimed for wrongful death and the relationships of plaintiff to the deceased are

- a. ☐ listed in Attachment 12.
- b. ☐ as follows:

13. The relief sought in this complaint is within the jurisdiction of this court.

14. **Plaintiff prays** for judgment for costs of suit; for such relief as is fair, just, and equitable; and for

- a. (1) ☒ compensatory damages.
- (2) ☐ punitive damages.
- b. The amount of damages is (*in cases for personal injury or wrongful death, you must check (1)*):
- (1) ☒ according to proof.
- (2) ☐ in the amount of: \$

15. ☒ The paragraphs of this complaint alleged on information and belief are as follows (*specify paragraph numbers*):
2, 3, 4.

Date: January 24, 2025

David S. Ratner

(TYPE OR PRINT NAME)



(SIGNATURE OF PLAINTIFF OR ATTORNEY)

SHORT TITLE:
Mara Tobis Clarke vs. California Highway Patrol, et al.

CASE NUMBER:
24CV099261

First _____ **CAUSE OF ACTION—Motor Vehicle**
(number)

ATTACHMENT TO ☒ Complaint ☐ Cross - Complaint

(Use a separate cause of action form for each cause of action.)

Plaintiff (name): Mara Tobis Clarke

MV- 1. Plaintiff alleges the acts of defendants were negligent; the acts were the legal (proximate) cause of injuries and damages to plaintiff; the acts occurred

on (date): February 22, 2024

at (place):

Intersection of Filbert and 18th Street in West Oakland, California

MV- 2. DEFENDANTS

- a. ☒ The defendants who operated a motor vehicle are (names):
Aaron Ray Marks

☒ Does 1 _____ to 20 _____

- b. ☒ The defendants who employed the persons who operated a motor vehicle in the course of their employment are (names):
California Highway Patrol; Pinole Police Department; San Pablo Police Department

☒ Does 1 _____ to 20 _____

- c. ☒ The defendants who owned the motor vehicle which was operated with their permission are (names):
William P. Ware

☒ Does 1 _____ to 20 _____

- d. ☐ The defendants who entrusted the motor vehicle are (names):

☐ Does _____ to _____

- e. ☐ The defendants who were the agents and employees of the other defendants and acted within the scope of the agency were (names):

☐ Does _____ to _____

- f. ☐ The defendants who are liable to plaintiffs for other reasons and the reasons for the liability are
☐ listed in Attachment MV-2f ☐ as follows:

☐ Does _____ to _____

SHORT TITLE:
Mara Tobis Clarke vs. California Highway Patrol, et al.

CASE NUMBER:
24CV099261

Second

(number)

CAUSE OF ACTION—General Negligence

Page 5

ATTACHMENT TO ☒ Complaint ☐ Cross - Complaint

(Use a separate cause of action form for each cause of action.)

GN-1. Plaintiff (*name*): Mara Tobis Clarke

alleges that defendant (*name*): California Highway Patrol, Pinole Police Dept., San Pablo Police Dept., Mr. Marks, Mr. Ware

☒ Does 1 to 20

was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant negligently caused the damage to plaintiff

on (*date*): February 22, 2024

at (*place*): Intersection of Filbert and 18th Street in West Oakland, California

(*description of reasons for liability*):

1. On February 22, 2024, Ms. Tobis Clarke left her office in the evening to return home. Ms. Tobis Clarke was driving on 18th Street in West Oakland when a car being pursued by California Highway Patrol ("CHP") ran a stop sign at the intersection of Filbert and 18th Street crashing into her County vehicle. Ms. Tobis Clarke had the right of way and did not have a stop sign. The suspect vehicle, owned by William P. Ware, driven by Aaron Ray Marks, hit the front passenger wheel well and the passenger door of Ms. Tobis Clarke's vehicle. Ms. Tobis Clarke and her vehicle were then pushed across two lanes of traffic and hit the curb and a car that was parked on 18th Street. Ms. Tobis Clarke's County vehicle was totaled after all airbags were deployed, windows shattered, and heavy extensive damage to the vehicle. The impact to the vehicle, and thus to Ms. Tobis Clarke's body, was so significant that Ms. Tobis Clarke's earring flew out of her ear and her hair tie flew out of her hair.
2. On information and belief, the police chase of the suspect vehicle started in the City of Pinole, approximately seven (Pinole, San Pablo, Richmond, El Cerrito, Albany, Berkeley, Oakland) cities away. At the time of the accident officers on scene explained that the chase was due to a failure to yield by the suspect. The Pinole Police report states the chase started due to a felony warrant and the officers pursued the suspect. The suspect vehicle failed to pull over his vehicle and a police chase ensued from Pinole during rush hour traffic, down Highway 580, coming into West Oakland and throughout West Oakland city streets eventually ending their pursuit when the suspect's vehicle struck Ms. Tobis Clarke's vehicle.
3. On information and belief, CHP chose to pursue the suspect negligently and recklessly through the city streets of Oakland.
4. On information and belief, when Pinole Police and San Pablo Police backed off their pursuit due to unsafe conditions, California Highway Patrol continued their pursuit, endangering the public and officers alike, acting indifferent to the risks when the other agencies acted more responsibly.
5. Ultimately, Ms. Tobis Clarke paid the price for the California Highway Patrol's reckless pursuit. Ms. Tobis Clarke was involved in a motor vehicle collision that was without a doubt preventable had a pursuit not taken place through city streets. Ms. Tobis Clarke suffered and continues to suffer from psychical, psychological and emotional distress injuries due to the preventable collision, as well as damages including, but not limited to, wage loss, hospital and medical expenses, general damage, and loss of earning capacity as Ms. Tobis Clarke is unable to work and find enjoyment in her life.
6. Based on information and belief, the police officers involved in the pursuit did not receive proper training mandated by Vehicle Code §17004.7.
7. The Municipal Defendants are not entitled to "qualified immunity" pursuant to Vehicle Code 17004.7 because each of them failed to promulgate and adopt a written policy on, or adopt, or enforce a written policy for vehicular pursuits.
8. The Municipal Defendants are not entitled to qualified immunity because if they promulgated a policy for police pursuits the policy did not comply with the requirements of Vehicle Code §17004.7(c)(1-12).
9. The police officers operated their vehicles recklessly and dangerously with wanton disregard for the safety of people in violation of Vehicle Code §23103(a).

Page 1 of 1

1
2
3
4
5
6
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8
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PROOF OF SERVICE

I, Halsey Volker, declare:

At the time of service, I was over 18 years of age and not a party to this action. My business mailing address is 1148 Alpine Road, Suite 201, Walnut Creek, CA 94596.

On January 29, 2025, I served the following document(s) on the parties in the within action:

PLAINTIFF MARA TOBIS CLARKE'S FIRST AMENDED COMPLAINT

X

BY E-MAIL: Based on the parties' agreement to accept service by e-mail, the court's order and/or Local Rules ordering mandatory e-filing of all documents for this type of case, Civil Procedure Code section 1010.6, and California Rules of Court, Rule 2.251(c)(3), I attached the document(s) to an e-mail message, and invoked the send command to transmit the e-mail message to the person(s) at the e-mail address(es) listed below. I did not receive within a reasonable time after the transmission any electronic message or other indication that the transmission was unsuccessful.


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City of San Pablo and City of Pinole

I declare under penalty of perjury under the laws of the State of California that the foregoing is a true and correct statement, and this certificate was executed on January 29, 2025.



Halsey Volker