

PICCUTA LAW GROUP, LLP
Charles Tony Piccuta, Esq. (#258333)
Charles Albert Piccuta, Esq. (#56010)
400 West Franklin Street
Monterey, CA 93940
Telephone: (831) 920-3111
Facsimile: (831) 920-3112
charles@piccutalaw.com

Attorneys for Plaintiff
Luciano Reyes

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

10	LUCIANO REYES,)	
11)	
11	Plaintiff,)	
12)	CASE NO.:
12	v.)	
13)	COMPLAINT FOR VIOLATION OF
13	COUNTY OF MONTEREY, a local governing)	CIVIL RIGHTS AND RELATED STATE
14	body and GREG WISE, individually,)	LAW CLAIMS
15)	
15	Defendants.)	JURY TRIAL DEMANDED
16)	

Plaintiff, Luciano Reyes, by counsel, alleges as follows:

INTRODUCTION

This action arises from the unlawful arrest, use of excessive force and discrimination against Plaintiff, Luciano Reyes (“Reyes”), by Deputy Greg Wise (“Wise”) of the Monterey County Sheriff’s Office. On the morning of July 2, 2016, a land use dispute arose between Reyes and a neighbor named Dennis Blomquist (“Blomquist”). Specifically, the dispute was over a water rights easement. For reasons that are unknown, Wise decided to take the civil matter into his own hands. Wise then accompanied Blomquist to the property on which Reyes resided and worked as the caretaker for the owners.

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1 10. During the July 1st phone call, the owner of the Property also explained to Reyes
2 that Blomquist had been upset that the flow meter had been installed. The Owner was concerned
3 that Blomquist may break or remove the meter.

4 11. At approximately 9:05 a.m. on July 2nd, 2016, Blomquist sent Reyes a text
5 message informing Reyes that he was heading for the Spring.

6 12. As instructed by the owner of the Property, Reyes responded by text message to
7 Blomquist and directed Blomquist to go to the front gate of the Property, where Reyes would let
8 him in.

9 13. Reyes then drove to the front gate of the Property to meet Blomquist and to let
10 him in. Shortly after, Blomquist sent Reyes a text message asserting that he would enter the
11 Property from a different point of entry.

12 14. Reyes responded by text message to Blomquist and informed Blomquist that he
13 would need to enter the Property through the front gate.

14 15. By approximately 10:06 a.m., Reyes had received no further communication or
15 contact from Blomquist. At that time, Reyes sent a text message to Blomquist asking him if he
16 still intended to come onto the Property. Blomquist responded that he would be coming shortly.

17 16. Reyes then contacted the owner of the Property to discuss Blomquist's previously
18 stated intention to enter the Property from a point other than the front gate. In response, the
19 owner of the Property advised that to avoid any potential conflict, Reyes may tell Blomquist to
20 enter from another point if Blomquist so desired.

21 17. At approximately 10:27 a.m., Blomquist sent a text message to Reyes stating that
22 he was heading to the front gate. Reyes responded by text and informed Blomquist that he could
23 use an alternate entrance if he wished. Blomquist replied that he would go to the front gate.

24 18. Blomquist arrived at the front gate to the Paraiso Property at approximately 10:30
25 a.m. on July 2nd, 2016, accompanied by his wife, Yvette Blomquist. As they arrived, Reyes was
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1 standing on the Paraiso Property behind the partially opened gate. Reyes then walked through
2 the gate to open it the rest of the way to allow the Blomquists to enter the Paraiso Property.

3 19. As the Blomquists approached the front gate, Mrs. Blomquist was waiving a piece
4 of paper at Reyes and screaming at him to read it.

5 20. Following the Blomquists was Monterey County Sheriff's Deputy Wise, who
6 arrived at the Property in his patrol car seconds after the Blomquists. Wise's patrol unit was
7 driven toward the Property at a high rate of speed and he braked aggressively as he brought his
8 patrol unit to a stop on the public road directly in front of the gate to the Property.

9 21. Wise then immediately exited his vehicle holding a piece of paper and began
10 yelling at Reyes that he was improperly denying Blomquist access to the Spring. Wise was
11 infuriated and aggressive. His face was bright red as he yelled and ordered Reyes to read the
12 paper.
13

14 22. Wise's irrational and confrontational behavior, led Reyes to immediately fear for
15 his safety. Reyes stepped back onto the Property which was his legal residence and place of
16 employment. Reyes then pulled the gate shut.
17

18 23. While standing behind the closed gate, Reyes explained to Wise that he was the
19 caretaker of the Paraiso Property and that he would call the owner of the Property, to clear up
20 any misunderstandings.
21

22 24. As Reyes attempted to telephone the owner, Wise—without a warrant, probable
23 cause, consent or any other lawful authority—opened the gate and charged onto the Property
24 with his taser drawn.

25 25. Reyes immediately dropped to his knees while holding his cellular phone to his
26 ear with one hand and raising his other hand in the air.

27 26. Wise continued to aggressively approach Reyes. Wise then seized Reyes' phone
28 and threw it to ground, preventing Reyes from completing his call to the owner.

1 27. After Wise seized Reyes' cell phone, Reyes dropped from his knees to his
2 stomach with his legs and arms spread out.

3 28. Wise then grabbed Reyes by his left wrist and applied a hand/wrist lock. After
4 Wise applied this control hold he then dragged Reyes across the ground and away from his cell
5 phone.

6 29. After dragging him across the ground and with the wrist lock still applied, Wise
7 placed his taser against Reyes' forehead, neck and back without justification or reason. Wise
8 then pulled Reyes' left arm behind his back and locked his wrist at an angle while applying
9 extreme pressure and ratcheting his left hand and arm upward behind his back. This was done for
10 no other purpose than to cause Reyes discomfort, physical injury and harm.

11 30. Wise continued to pin Reyes to the ground by placing his knee on Reyes' back.
12 Wise also placed a handcuff on Reyes' left wrist in a tight and painful position.

13 31. Shortly after, another Monterey County Sheriff's Deputy arrived. The deputies
14 picked up Reyes, handcuffed him and placed him in the back seat of one of the patrol vehicles.

15 32. During the attack on Reyes, Reyes' wife, Josephine Lopez, arrived at the front
16 gate of the Property. Mrs. Lopez immediately called the owner and handed her phone to Wise,
17 who then spoke with the owner.

18 33. Approximately ten minutes after that call was concluded, Reyes was released
19 from the patrol car, escorted back onto the Property and freed from the handcuffs.

20 34. Immediately after Reyes was released, the Blomquists and Wise left the Property
21 without making any additional effort to access the Spring.

22 35. Reyes was not issued a citation nor charged with a crime for his conduct on July
23 2nd, 2016. Indeed, at no time did Reyes resist any actions of Wise other than turn his head so
24 that the Taser that Wise was pressing on his forehead could not be shot into it. Reyes took no
25 action that could be construed as insubordinate or confrontational. At no time did Reyes strike,
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1 push, kick, lunge, bite, head butt or actively resist Wise. All actions taken by Reyes were in
2 retreat for his safety and in furtherance of showing complete compliance and submission to
3 Wise.

4 36. Wise's conduct directly and proximately caused Reyes to suffer injuries and
5 damages, including past and future disability, disfigurement, loss of enjoyment of life; past and
6 future mental, physical and emotional pain and suffering; future lost earnings and past and future
7 reasonable and necessary medical care, treatment and services.

8
9 **PROCEDURAL REQUIREMENTS**

10 37. On December 28, 2016, Plaintiff mailed and faxed his Claim Against County of
11 Monterey to The Clerk of the Board of the County of Monterey. The Claim met all the
12 requirements of the California Tort Claims Act. To date, the County has failed to act and so the
13 Claim has been deemed rejected.

14
15 **FIRST CLAIM FOR RELIEF**
16 **42 U.S.C. § 1983 – Civil Action for Deprivation of Rights**
(Against Defendant Greg Wise, individually)

17 38. Plaintiff incorporates by reference the allegations contained in paragraphs 1
18 through 37 as though fully set forth herein.

19 39. Officer Wise was acting under color of law while engaging in the conduct
20 complained of herein.

21 40. Officer Wise pinned Reyes to the ground, put a knee onto his back, pressed a taser
22 against him, put him in a control hold, dragged him across the ground, handcuffed him and put
23 him in the back of a patrol car. Officer Wise's conduct constituted a seizure of Reyes' person by
24 restraining Reyes' liberty through physical force and a show of authority.

25
26 41. The force used by Officer Wise in seizing Reyes was excessive and not
27 objectively reasonable considering the facts and circumstances that confronted Officer Wise.
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1 51. Reyes was harmed, and Officer Wise's conduct was a substantial factor in causing
2 the harm.

3 WHEREFORE, Reyes prays for relief as hereinafter set forth.

4 **FOURTH CLAIM FOR RELIEF**

5 **Assault**

6 (Against Defendant Greg Wise, individually)

7 52. Plaintiff incorporates by reference the allegations contained in paragraphs 1
8 through 51 as though fully set forth herein.

9 53. Officer Wise acted with intent to cause harmful or offensive contact to Reyes and
10 threatened to touch Reyes in a harmful or offensive manner.

11 54. Reyes reasonably believed that he was about to be touched in a harmful or
12 offensive manner, and it reasonably appeared to Reyes that Officer Wise was about to carry out
13 the threat.

14 55. Reyes did not consent to Officer Wise's conduct.

15 56. Reyes was harmed, and Officer Wise's conduct was a substantial factor in causing
16 the harm.

17 WHEREFORE, Reyes prays for relief as hereinafter set forth.

18 **FIFTH CLAIM FOR RELIEF**

19 **Battery**

20 (Against Defendant Greg Wise, individually)

21 57. Plaintiff incorporates by reference the allegations contained in paragraphs 1
22 through 56 as though fully set forth herein.

23 58. Officer Wise intentionally touched Reyes when he pinned Reyes to the ground,
24 put a knee onto his back, pressed a taser against him, applied a high pressure control hold, drug
25 him across the ground, handcuffed him and forcibly put him in the back of a patrol car.

26 59. Officer Wise used excessive and unreasonable force to seize Reyes and lacked
27 probable cause to believe Reyes had committed a crime.
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