

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

ANDREW HARRIS, an individual,  
  
Plaintiff,

No.

vs.

COMPLAINT FOR INJURIES

JAMES CHRISTOPHER TOOMEY and  
JANE DOE TOOMEY and the marital  
community; CENTRAL PROTECTION,  
INC., a Washington Corporation;  
MAGNOLIA PATROL ASSOCIATION,  
LLC, a Washington Corporation;  
MAGNOLIA PATROL ASSOCIATION,  
NPO, a Washington non-profit  
organization;  
  
Defendants.

Plaintiff, by and through his attorneys of record, Michael A. Maxwell of Maxwell Graham, P.S., alleges the following cause of action:

**I. IDENTIFICATION OF PARTIES**

1.1 Plaintiff is resident of King County, Washington.

1.2 Defendant James Christopher Toomey (“Toomey”) is a currently a resident of Pierce County, WA. His acts and omissions that are referenced in this Complaint occurred in King County, WA. As of the time of this filing, it is unknown whether Toomey is married. Toomey’s spouse, if he is indeed married, is referred to as “Jane Doe Toomey”.

1.3 Defendant Central Protection, Inc. (“Central Protection”) is incorporated in Washington and does business in King County, WA.

1.4 Defendant Magnolia Patrol Association, LLC is incorporated in Washington and does business in King County, WA.



1 1.5 Defendant Magnolia Patrol Association, NPO is incorporated in Washington and  
2 does business in King County, WA.

3 1.6 Both Defendants “Magnolia Patrol Association, LLC” and “Magnolia Patrol  
4 Association, NPO” are hereinafter referred to as “MPA” or “Magnolia Patrol Association.”

## 5 **II. JURISDICTION AND VENUE**

6 2.1 All acts and omissions of Defendants as herein complained of occurred within  
7 King County, Washington.

8 2.2 Plaintiff’s cause of action sounds in Washington law.

9 2.3 The King County Superior Court has jurisdiction over all parties and over the  
10 subject matter of this complaint.

11 2.4 Venue is proper in King County Superior Court pursuant to RCW 4.12 et seq.

## 12 **III. FACTS AND CIRCUMSTANCES**

13 3.1 On March 02, 2016 Defendant Toomey was working within the scope of his  
14 employment on behalf of Defendant Central Protection, Inc.

15 3.2 All of the acts and omissions of Defendant Toomey as alleged in this Complaint  
16 on March 02, 2016 were within the scope of Toomey’s employment on behalf of Defendant Central  
17 Protection.

18 3.3 Defendant Central Protection is vicariously liable for the acts and omissions of  
19 Defendant Toomey on March 02, 2016 to the same extent as Defendant Toomey because of  
20 Toomey’s status as an employee of Defendant Central Protection.

21 3.4 Defendant Central Protection employed Toomey to work as a private security  
22 guard in the Magnolia neighborhood of Seattle on March 02, 2016 pursuant to a contract between  
23 Central Protection and MPA.

24 3.5 Defendant MPA paid or agreed to pay Defendant Central Protection for private  
25 security services prior to March 02, 2016.

26 3.6 Defendant Toomey acted as the agent of MPA on March 02, 2016 pursuant to the  
contract between MPA and Central Protection.

3.7 Defendant MPA is liable for the acts and omissions of Defendant Toomey on  
March 02, 2016 to the same extent as Defendant Toomey because of Toomey’s status as an agent  
of Defendant MPA.

1           3.8 Toomey was arraigned for domestic violence assault in 2003, and his ex-wife  
2 obtained a restraining order against him. Subsequently, Toomey forged a letter on the letterhead of  
3 a local attorney's office, purportedly from a lawyer at that firm, in an attempt to bypass the no-  
4 contact order against him. Toomey pled guilty to one felony count of forgery and one gross  
5 misdemeanor count of violating a no-contact order in April 2004.

6           3.9 Toomey was also convicted of misdemeanors for negligent driving in 1993 and  
7 unlawful discharge of a firearm in 1997.

8           3.10 Toomey was arrested and charged with two counts of fourth-degree assault in  
9 Tacoma after using pepper spray on two teenagers. On November 05, 2014 Toomey approached  
10 two teens who he thought were smoking marijuana, a legal substance, at the Aladdin-Camelot  
11 Apartments in Tacoma. Toomey was then working as an armed security guard for Windward  
12 Security. The teens ran and Toomey chased them. The teens taunted him for not being a police  
13 officer. Toomey tried to handcuff one teen and then got kicked, so he pepper-sprayed one teen in  
14 the face. Toomey slammed one teen's head into the ground. One teen told Toomey that Toomey  
15 was abusing his power and that he, the teen, could not breathe but Toomey told him to shut up and  
16 continued to hit him, apply weight, and grab his hair and slam his head to the ground. Toomey  
17 was charged with two counts of assault in the fourth degree, one count for each teenage victim.  
18 Under an agreement with the court dated July 16, 2015, Toomey's trial on the charges was deferred  
19 until 2017. In the meantime, Toomey was required to attend anger-management classes, and have  
20 "law abiding behavior" and "no similar incidents." The case was continued until 2017 on condition  
21 that Toomey meet certain requirements, including committing no law violations.

22           3.11 Employing a criminal such as Toomey as a private security guards is not an isolated  
23 occurrence for Central Protection. Instead, employing criminal as private security guards is the  
24 habit, routine, or practice of Central Protection. As of March 02, 2016, at least seven of Central  
25 Protection's then 24 employees (including Toomey) had criminal records, including charges of  
26 sexual assault, domestic violence, resisting arrest, and driving under the influence of drugs or  
alcohol.

          3.12 Denis Kurdija, the Central Protection owner, was arrested for sexual assault after a  
former employee at the Belltown nightclub he owns, the Sarajevo Lounge, called 911 late one  
night in 2013. Kurdija invited the woman and a female friend to his apartment near the club,  
invited her into his bedroom, locked the door and threw her on the bed and tried to kiss and feel

1 her up. The victim told police she told Kurdija “no” and tried to leave, but he grabbed her by the  
2 throat, told her to leave and not contact him again, and then shoved her away by the throat. Later  
3 that night the woman and her friend returned to Sarajevo Lounge to find their friends. At that point  
4 Kurdija grabbed her again by the throat and told security to escort her from the club. She called  
5 police shortly thereafter. Kurdija was arrested for assault and released for \$3,000 bail. He pled  
6 guilty to a misdemeanor, which allowed him to stay out on probation as long as he went to  
7 treatment and didn’t violate the terms of his probation. He completed probation and his case was  
8 dismissed. Kurdija pled guilty to carrying a concealed gun without a license in 2010. He was also  
9 charged with using drug paraphernalia in Snohomish County in 2008, but that charge was dropped.

10 3.13 One Central Protection employee (“Mr. A.”) was charged in 1997 with resisting  
11 arrest and being a minor in possession of alcohol, as well as unlawful possession of a weapon, in  
12 Lynnwood. (He pled guilty to the latter charge and the former was eventually dismissed). Also that  
13 year, he was charged separately with possession of marijuana and drug paraphernalia. In 2001 he  
14 was caught driving with a suspended license and paid a fine. In 2008 Mr. A. was charged with  
15 driving under the influence, which was later reduced to negligent driving. In 2013 Mr. A. was  
16 convicted of another driving under the influence. Because it was his second offense Mr. A. was  
17 given a suspended year-long sentence with three weeks in jail and was required to wear an ankle  
18 bracelet, go through an alcohol assessment and treatment, use an ignition interlock device on his  
19 car, and attend a victims’ impact panel. He was put on work release and ordered not to use drugs  
20 or alcohol on October 14, 2015. Mr. A. violated those terms, testing positive for cocaine on  
21 December 1, 2015, which landed him back in jail. He was hired for patrol by Central Protection.

22 3.14 Another Central Protection employee (“Mr. B.”) was charged with driving under  
23 the influence in 2001 and required to undergo a drug and alcohol assessment as a condition of his  
24 release before trial. After failing to go in for his assessment and then failing to show up in court a  
25 warrant was issued for his arrest and he bailed out for \$1,000. He pled guilty to driving under the  
26 influence but failed to appear again. He failed to show up a third time, was booked in the Issaquah  
jail, and bonded out for \$5,000. He was sentenced and required to complete a six-month drug  
treatment program, go to Alcoholics Anonymous meetings, use an ignition interlock device,  
undergo periodic drug and alcohol tests, and pay a \$1,355 fine. He never paid the fine which was  
still in collections ten years later when the case was dismissed. In 2004 Mr. B was again charged  
with driving under the influence in Renton, and pled guilty to negligent driving with the condition

1 that he would attend Alcoholics Anonymous meetings and undergo alcohol evaluation. In 2007,  
2 Mr. B. was charged in Kirkland with driving with a suspended license and again repeatedly failed  
3 to show up for court, resulting in multiple warrants for his arrest and escalating bail after he failed  
4 to show up to serve his 30-day jail sentence. He was convicted and sentenced with the  
5 requirements that he install an ignition interlock device in his car, abstain from alcohol and drugs,  
6 undergo an assessment for alcohol dependence, and other conditions, which he failed to complete.  
7 Eventually, he served jail time, agreed to go through a 12-month treatment program and attend  
8 Alcoholics Anonymous meetings, but also failed repeatedly to comply with those requirement,  
9 according to Kirkland court records. He also failed again, repeatedly, to show up in court, boosting  
10 his bail at one point to \$15,000. That case was finally closed in 2013 after Mr. B completed his  
11 required jail time. In 2012, Mr. B was jailed again in Renton for failing to have the required  
12 ignition interlock device and for driving with a suspended license (which had been suspended two  
13 years earlier for unpaid tickets) after causing an accident and leaving the scene; Mr. B was also  
14 ticketed for following too closely and for having no insurance.

15 3.15 A different Central Protection employee (“Mr. C.”) was arrested and charged with  
16 domestic violence assault and issued a no-contact order in 1998; that case was dismissed when the  
17 woman who accused Mr. C. of domestic violence declined to testify against him and asked to have  
18 the order withdrawn.

19 3.16 Central Protection employee (“Mr. D.) was arrested in 2010 for driving under the  
20 influence while speeding, and pled guilty to reckless driving in 2011. As a condition of his plea,  
21 his license was suspended and he was subsequently charged with driving with a suspended license.  
22 In a separate case in Kitsap County Mr. D. was charged with malicious mischief in 2011 and pled  
23 guilty to a lesser misdemeanor charge.

24 3.17 Another Central Protection employee, (“Mr. E.”) was the subject of a sexual-  
25 assault protection order by an ex-girlfriend, who was 14 at the time. Mr. E. was then 18 years of  
26 age. The complainant alleged that Mr. E. was harassing her and her family and would not leave  
her alone. In the request for the order, which was granted after a Snohomish County Superior Court  
judge determined that “by a preponderance of the evidence that a sexual assault has occurred,” the  
parents said they had ordered the girl not to see the older teenager because of the “age gap and his  
academic, legal ... history [ellipsis in original]” and that he had manipulated her emotionally and  
given her an sexually transmitted disease. In statements supporting the protection order, the girl’s

1 friends described him as “dangerous,” threatening, and verbally abusive. Also in 2011, Mr. E. was  
2 charged with resisting arrest and with being a minor in possession of alcohol—specifically, a bottle  
3 of vodka he had set down on the pavement outside a large party in Marysville.

4 3.18 On March 02, 2016 The Magnolia Patrol Association’s website stated the reason  
5 private security guards are a good alternative to the police is because they don’t have to follow  
6 constitutional restraints binding upon police officers:

7 Private security firms have more authority on private property than  
8 police,” the MPA site says. “In addition, private security firms represent  
9 the property owners. The police, even off duty on special assignment,  
10 represent the City, County or State they work for. The police, even off  
11 duty, have to follow the guidelines set forth in the 4th and 14th  
12 Amendments of the US Constitution.

13 The police cannot stop anyone to ask if they live on property, what they  
14 are doing, etc. This is a violation of a person’s Constitutional Rights  
15 which could open the police or property owner up for a civil suit. The  
16 police are not allowed to speak to anyone unless they have a reasonable  
17 suspicion that a crime may be afoot. Further, they must be able to  
18 articulate this suspicion in clear language. Private security can interact  
19 with anyone at any time [b]ecause they do not represent the Government  
20 and the Constitution does not apply to private security.

21 3.19 Central Protection Toomey has a history of harassing Mr. Harris for being  
22 homeless. On March 29, 2015 Central Protection employees surprised Mr. Harris while sleeping  
23 in Discovery Park, beating the outside with sticks and yelling at him to be gone by the next  
24 night. Harris called the police and the Central Protection employees left before the police  
25 arrived.

26 3.20 At 11:00 a.m. on March 02, 2016 Andrew Harris was inside his car that was  
legally parked on the parking strip on 27<sup>th</sup> Ave West, a public street. Harris was parked west  
of the intersection with West Commodore Way, Seattle, WA. The window on Harris’ vehicle  
was open one to two inches.

3.21 Unannounced and uninvited, Toomey drove the H2 Hummer which was issued  
to him by Central Protection and parked it near the Harris vehicle. Toomey was wearing a  
uniform issued to him by Central Protection and was armed with a pistol, handcuffs and pepper  
spray.

1           3.22 Toomey exited his Hummer and approached the Harris vehicle. Toomey banged  
2 on the window of the Harris vehicle with his fist, awakening Harris.

3           3.23 Toomey lied to Harris, yelling that Harris was illegally parked. Toomey ordered  
4 Harris to “leave right now” and threatened to send Harris to jail if Harris did not comply.

5           3.24 Toomey did not explain his theory for why he believes that sitting in a parked  
6 car, whether legally parked or not, is an offense which merits incarceration. Nor did he explain  
7 his theory for how he, as a private citizen, could effectuate incarcerating Harris.

8           3.25 Not wanting to engage Toomey, Harris rolled up his car window.

9           3.26 Toomey then grabbed the outside handle of Harris’s car door and forced the door  
10 open on Harris’s car. Harris tried to pull his door shut but was not strong enough. Toomey  
11 then positioned his body between the body of Harris’s car and the open car door and continued  
12 to yell that Harris was “illegally parked” and “going to jail.”

13           3.27 Harris continued to pull on his car door in an attempt to close it. He yelled back,  
14 “No, no what are you doing? You can't open my door. Let me close my door. This isn't right,  
15 this isn't okay!!”

16           3.28 Realizing that Toomey would not relent Harris reached for his cell phone in  
17 order to film the encounter in case Toomey would deny in the future that he had wrongfully  
18 accosted Harris.

19           3.29 Toomey then returned to his Hummer and watched Harris.

20           3.30 Harris then unrolled his window and lit a cigarette and watched Toomey.

21           3.31 Toomey then started his Hummer, made a U turn on 27<sup>th</sup> Avenue West, drove  
22 past Harris approximately 40 yards, and then parked his Humvee in front of a blue two story  
23 office building in the corner of 27th and West Fort St.

24           3.32 Mistrustful of Toomey’s motivations, Harris then started his vehicle and made  
25 a U-Turn, driving westbound on 27<sup>th</sup> Avenue West and then parked behind Toomey's Humvee.

26           3.33 After parking behind Toomey's Humvee, Harris exited his vehicle and  
approached Toomey's Humvee on foot.

          3.34 As Harris approached, Toomey exited his vehicle.

          3.35 Harris addressed Toomey stating "Hey there, I wondering if I could talk to you  
for a second?"



1           3.36 Harris then asked Toomey, "Just out of curiosity, I was wondering what the fuck  
2 makes you think it's okay to walk up and bang on my window like that? What makes you think  
3 it's alright to open my door?"

4           3.37 Toomey responded "Sir, I work for a private security company who has been  
5 hired by Magnolia residents to patrol the neighborhood to observe and report suspicious  
6 behavior."

7           3.38 Toomey then motioned towards the blue office building and said, "Some people  
8 from this building called and said your car had been parked outside for several hours and they  
9 asked me to check it out. You were sleeping in your car and therefore that was suspicious."

10          3.39 Harris responded "Okay, I've got that, but what I'm really wondering is, at what  
11 point did you think it was okay for you to walk up to my car and pound on the window. What  
12 made you think it was alright to open my fucking car door and start shouting at me?"

13          3.40 Toomey again stated that he had been hired by neighborhood residents to patrol,  
14 watching for suspicious behavior and also that employees from the blue building had called and  
15 asked him to check out my car. He said that Harris was sleeping and therefore suspicious.

16          3.41 Harris responded "Okay, I understand." Harris then asked again what made  
17 Toomey think it was alright to pound on Harris's window and open the door of Harris's car.  
18 Harris told Toomey that harassment can be a crime in certain circumstances. He stated to  
19 Toomey that if he was being singled out for harassment specifically because he was sleeping in  
20 his car, Toomey's acts could be interpreted as felony harassment. Harris then stated "You do  
21 realize that harassment is a crime, correct?"

22          3.42 Toomey responded that workers in the blue building had called to report Harris's  
23 car and that Toomey was required to check it out.

24          3.43 Harris grew frustrated with Toomey's refusal to answer his question why  
25 Toomey believed that he was justified in banging on Harris's window, opening Harris's door,  
26 and harassing Harris. Harris then said, "So, you're basically saying you've been hired by  
neighborhood residents to harass people?"

          3.44 Toomey responded "Yes."

          3.45 Harris said, "Oh, that's just great. Do you care if I record this on my cell phone?"

          3.46 Toomey responded, "Sure!!"



1           3.47   Harris then reached into his coat pocket and retrieved his Android cell phone.  
2   Holding the phone parallel to the ground and at waist height, he brought up the icon screen and  
3   selected, "Camera". Not realizing at first that the camera was set to take still photos, Harris  
4   pushed the icon for record, but instead accidentally took a photo of ground. Correcting his  
5   mistake he swiped the icon for video and said, "Okay, there we go." As Harris moved his thumb  
6   back to the record button Toomey slapped the phone out of Harris's hand. The phone landed  
7   on the ground and broke apart into its three component pieces. The back of the phone, broke  
8   free and remained near Harris' feet. The battery slid on the ground approximately two feet  
9   underneath the Humvee. The glass face of the phone slid underneath the passenger side of the  
10   Hummer coming to rest on the ground near the passenger side door.

11           3.48   Harris exclaimed "What the fuck?"

12           3.49   Toomey reached down and momentarily placed his hand on what appeared to be  
13   a chrome semi-automatic firearm with a light blue pistol grip.

14           3.50   Rather than drawing his firearm, Toomey retrieved a cylindrical object from  
15   behind his belt.

16           3.51   Incorrectly guessing that the cylindrical object was a taser Harris stated "What,  
17   are you going to tase me now?"

18           3.52   Harris dropped to his hands and knees to retrieve the pieces of his cell phone.  
19   As he reached for the battery of his cell phone Toomey said, "Hey, what are you doing?" and  
20   directed a stream of pepper spray at Harris. This pepper spray struck Harris while Harris was  
21   still on his hands and knees.

22           3.53   Harris then rose to his feet and began walking towards his car with his back to  
23   Toomey.

24           3.54   Toomey then walked up directly behind Harris and reached over Harris's left  
25   shoulder with his (Toomey's) left hand, in which Toomey was holding the canister of pepper  
26   spray. Holding the canister of pepper spray approximately one inch from Harris's left eye,  
27   Toomey for the second time directed pepper spray at Harris. This time Toomey directed the  
28   spray into Harris's left eye, injuring and partially blinding Harris.

29           3.55   Harris then yelled out, "Whoa, what the fuck, man?"

1           3.56 Harris tried to break free of Toomey and find refuge in his car. However,  
2 Toomey was too fast and too strong. Reaching over Harris' left shoulder Toomey for the third  
3 time directed pepper spray into Harris's face.

4           3.57 Harris broke free and grabbed his driver's side door and opened it 3-4 inches,  
5 but Toomey pushed the weight of his body against Harris, pinning Harris against the side of the  
6 door. Toomey again reached over Harris's left shoulder and for the fourth time directed pepper  
7 onto Harris. He directed the spray into Harris' eyes and face from a distance of one inch.

8           3.58 Harris pleaded with Toomey to stop. Harris was still pinned against his car door  
9 and was initially unable to escape. After a few moments of enduring the spray Harris slid to  
10 the right and escaped and ran around the back of his vehicle to his passenger side door. Toomey  
11 chased Harris.

12           3.59 Harris, although nearly blinded by the pepper spray, was able to locate his  
13 passenger side door and tried to open it. However, Toomey again pinned Harris against the car  
14 with his body and pinned Harris's door shut.

15           3.60 Toomey then directed pepper spray for a fifth time onto Harris, this time directly  
16 into Harris's face, holding his arm over Harris' left hand shoulder with the canister an inch  
17 distance from Harris's eyes.

18           3.61 Harris yelled at Toomey to stop and pushed away and escaped. Harris ran  
19 around the back of his car, again towards the drivers side door. Toomey chased Harris as he  
20 ran.

21           3.62 As soon as Harris reached the drivers side door, Toomey once again pinned  
22 Harris against the door with Toomey's body. Harris tried to escape by crawling into his drivers  
23 side window which was rolled down. Harris partially entered his car with his head, arms and  
24 shoulders inside the open window.

25           3.63 Toomey then threw the canister of pepper spray onto Harris's drivers seat.  
26 Harris picked up the canister with his left hand.

          3.64 Toomey said, "Hey, hey, what are you doing?"

          3.65 Harris then handed the canister to Toomey over his left shoulder, saying, "Here,  
fucking knock it off, just stop."

          3.66 Toomey grabbed the pepper spray and for the sixth time directed pepper spray  
at Harris.

1 3.67 Harris shouted "Oh, my God!! What? What do you want?"

2 3.68 Toomey then replied, "I want to handcuff you."

3 3.69 Wanting to end the pepper spray attack Harris said, "Fine, handcuff me then!!"

4 3.70 Harris then placed his hands behind his back. Toomey then handcuffed Harris  
and escorted Harris to the Humvee.

5 3.71 When they reached Toomey's Humvee Toomey said to Harris, "Well, you're  
6 going to jail now."

7 3.72 Harris then replied "For what!?"

8 3.73 Toomey then said, "Assault."

9 3.74 Toomey then called 911. In the first of his two 911 calls, Toomey said he  
10 approached Harris' car after two local workers complained that a man was smoking drugs of  
11 some kind in the parked silver Toyota Celica, and that when he approached the car, "there is a  
12 white male inside, he's got some blankets and stuff over him, and he is smoking some sort of—  
13 I don't know if it's meth or crack but he's using drugs in the vehicle, and he's just been camped  
out here for quite some time."

14 3.75 Harris did not possess, use or smoke or drugs in his vehicle on March 02, 2016.

15 3.76 In the first 911 call Toomey told the dispatcher Harris told him to leave him  
16 alone and "call the police, so I said OK, so I walked back to my patrol vehicle here"—the  
17 Hummer Toomey used to patrol Magnolia—"and I'm calling you guys." He also accused Harris  
18 of "throwing out beer cans and different debris" around his car. "He's been sitting here for  
hours doing some kind of drugs," Toomey said.

19 3.77 In the second 911 a few minutes later, Toomey can be heard yelling at Harris,  
20 "You attacked me!" before telling the dispatcher that he was sitting in his Central Protection  
21 Hummer down the block from Harris when Harris drove up, "whipped open my door, yelling  
22 and cussing at me, saying that I had no right to watch him and bother him and call the police  
23 on him—and then he grabs his phone, grabs me out of the car and he tried to start a fight with  
me," causing Toomey to pepper-spray and handcuff Harris and detain him until police arrived.

24 3.78 After Toomey ended his call to the 911 dispatch Harris said to Toomey "You're  
25 fucking insane. You're actually going to try to lie to the Police and have me arrested? That's  
26 just fucking insane." "You just fucked up so badly. You don't remember me do you? I work at



1 the 76 Station in the Village. I've waited on you in the store 6 or 7 times. I work at the Liquor  
2 Store, too. You don't remember me?"

3 3.79 Toomey responded "Nope."

4 3.80 Harris then said "Oh, man. You're going to be in so much trouble. I've lived in  
5 this neighborhood for almost 20 years, everyone knows me. I might as well have grown up  
6 here, I've lived here for so long. When the Police arrive, they're going to know me. I have to  
7 call them all the time to the store." "Nobody is going to believe you."

8 3.81 The pain became unbearable and Harris said "I need help right now, I need an  
9 ambulance, right now."

10 3.82 Toomey said "They always send first responders when there's pepper spray  
11 involved."

12 3.83 After another approximately five minutes the Fire Department arrived.

13 3.84 Harris said to the Fire Fighters, "Oh my God. Thank God you're here, I'm in so  
14 much pain." Harris then sat down on the ground with the intention of freeing his hands.

15 3.85 Toomey then grabbed Harris by the shoulders saying, "Hey, hey what are you  
16 doing?"

17 3.86 Harris shook his shoulders back and forth and said, "Get your fucking hands off  
18 me."

19 3.87 Toomey then returned to his Humvee

20 3.88 Harris then pulled his legs through the loop of his arms to bring his hands in  
21 front of him, though they were still handcuffed.

22 3.89 One of the fire fighters remarked about Harris's ability to pull his legs through  
23 the loop of his arms saying, "Wow, that was really impressive."

24 3.90 The fire fighters then escorted Harris to the fire engine where he sat on the back  
25 bumper. They tended to Harris's injuries flushing his eyes and face with a solution.

26 3.91 Harris asked the fire fighters to release the handcuffs and one of the Firefighters  
said, "I'm sorry, but that's between you and him."

3.92 Toomey then walked toward the fire fighters from his Humvee and said "I'm  
sorry, I just want to check to see if you're injured. This an old bottle of pepper spray and  
sometimes it just doesn't work. Are you hurt?"



1           3.93   Harris then said "Get the fuck away from me, you piece of shit. You know that  
2 I'm hurt. You know that I'm hurt. Get away from me."

3           3.94   Toomey then returned to his vehicle.

4           3.95   15 to 20 minutes later the responding police officers arrived including Officer  
5 James Norton, whom Harris recognized. Officer Norton approached Toomey and Officer Yahia  
6 approached Harris who was still receiving medical treatment at the back of the back of the fire  
7 engine.

8           3.96   Harris asked Officer Yahia to remove the handcuffs. Officer Norton and Officer  
9 Yahia then spoke and then Officer Yahia walked over with a key and removed the handcuffs.

10          3.97   Officer Yahia then inquired as to what had occurred and Harris recounted the  
11 event. The Officer Yahia and Harris then walked back to Officer Norton's patrol vehicle. Officer  
12 Yahia asked Harris, "He (referring to Toomey) slapped your phone so hard that it flew over to  
13 the passenger side of his vehicle?" Harris affirmed. Officer Norton asked again, "So, I'm kind  
14 of confused, because your phone is on the passenger side of the Humvee, you were on the  
15 drivers side?"

16          3.98   Harris explained to the Officer that he had been on the drivers side when Toomey  
17 slapped the phone out of Harris's hand.

18          3.99   The account that Toomey provided the 911 dispatch, i.e., Toomey approaches  
19 Harris, Harris is smoking crack or meth from some kind of pipe, Harris screams at Toomey and  
20 tells him to go away, Toomey calls the police only to be attacked again by Harris a few minutes  
21 later—contradicts what Toomey told the police when they arrived, as documented in the  
22 original police report and on the dashcam video. In that account, Toomey approached Harris  
23 and found him sleeping or passed out and unresponsive, and was "concerned" enough "for  
24 [Harris'] welfare" (according to the police report) to tap on his window to see if he was okay,  
25 causing Harris to fly into an rage and curse him out, then follow Toomey to his car and attack  
26 him:

My name is James Toomey and I work for Central Protection Security Company. I am currently contracted by the City of Magnolia to conduct a security patrol 3-days per week. During my security patrol they have instructed me to patrol the entire City of Magnolia and look for any suspicious vehicles/RV's and follow all deliveries made by UPS/FEDEX etc to make sure no one is following to steal packages. They

1 also have me checking homes of residents who are gone on  
2 vacation, making sure their home is secure.

3 When I witness anything suspicious during my patrols I call  
4 it into 911. On March 03<sup>rd</sup> 2016 an Incident had happened  
5 where I had called police twice, but when the police arrived I  
6 was so shook-up that I don't believe I had explained  
7 everything and they never had me write a police/ incident  
8 report to file. So I would like to give a copy of my "Security  
9 Incident report" that I wrote right after this Incident had  
10 happened. A copy was given to the Magnolia Patrol executive  
11 director who is the one whom is in charge of the City of  
12 Magnolia's contract with Central Protection. Plus of course  
13 my Company "Central Protection also has a copy of the  
14 Incident. Below I have copy and pasted my Incident report so  
15 you will be able to fully understand as to exactly what had  
16 happened.

11 ( INCIDENT REPORT 911 Police & Fire department)

12 While beginning patrol through 27th street I was flagged down by two  
13 males in a car with reflective vests on (Assuming workers from one of  
14 the Companies back here off of 27th ) They pointed down and informed  
15 me of an Old Silver Toyota had been parked on the side by Commodore  
16 for several hours and a white male inside possibly smoking some sort of  
17 drugs out of a glass bubble pipe. I thanked them for the information and  
18 told them I would check it out. I immediately saw the vehicle when i  
19 turned on 27th side of the street "27th " before hitting Commodore. I  
20 drove past it several times attempting to see who was inside and what  
21 they were doing.

19 The vehicle unfortunately had tinted windows – So tinted that I couldn't  
20 see inside while driving past. So I ended up driving behind the vehicle  
21 and took pictures of the license plate and make of vehicle.

21 It was a Silver Toyota Celica License plate # [REDACTED]

22 After taking the pictures I got out to investigate who was inside the  
23 vehicle and what they were doing. I got out and walked up to the driver's  
24 side window, I immediately saw a white male with blankets over him and  
25 what looked like some sort of glass pipe.

24 I knocked on the window and said, "Sir Hello, Sir are you okay? At first  
25 the male didn't move at all, and I thought to myself hopefully he didn't  
26 overdose or something. So I continued to knock and yell out, "Hello sir,  
are you okay, hello?"

I then got worried about the male because no matter how many times I  
knocked or called out to him he never even moved. So now I was worried



1 if he was even alive. So I figured to try to see if his driver's side door was  
2 unlocked and attempting to do a Health & Welfare check on the male but  
3 right as I grabbed the door handle he jumped up and came to and gave me  
4 the finger and told me to " FUCK OFF and told me to leave him alone!"  
5 I then informed him that the people from the businesses had reported you  
6 and want you to leave because they stated that they saw you doing drugs  
7 and you've been here for several hours. That's the only reason I am even  
8 checking on you, because the City of Magnolia has contracted security to  
9 patrol the entire City and to investigate any suspicious RV's or vehicles.  
10 Plus I was very concerned about your welfare because you didn't move  
11 at all.

12 He didn't care nor listen to me he just continued to give me the "finger"  
13 while cussing me out. So I left and walked back to my patrol vehicle and  
14 called 911.

15 911 Operator asked if I would be waiting or in the area when Officers  
16 arrive. I said, Yes I'm patrolling but will still be in the area if needed.

17 I then left and drove up 27th a couple blocks and parked on the side while  
18 updating my report. I continued to watch the Silver Toyota from my Rear  
19 view mirror.

20 All of a sudden the male started pulling around and raced up directly  
21 behind me. I immediately got scared about what he was about to do. As  
22 he was walking up to my driver's side door he was yelling and cursing  
23 saying, "MOTHER FUCKERS I'VE FUCKING HAD IT YOU  
24 MOTHER FUCKERS HARASSING ME!" As he was yelling this he  
25 grabbed my door and ripped it open and started to grab me pulling me out  
26 while cursing me I then knocked his hands away from me and pulled out  
my pepper spray and started to spray his face. I was in complete fear for  
my life at this moment. He then stumbled towards his vehicle and then  
turned towards me yelling and screaming again attempting to grab me. I  
pepper sprayed him again and turned him around to handcuff him.

I handcuffed him and called 911 again. This time to update them that now  
the suspicious male that I had just reported to police just several minutes  
ago drove up behind me and ripped open my door and attacked me. I  
informed them that I had pepper sprayed him and currently have him in  
handcuffs.

911 operator sent Fire Department to clean the pepper spray off the males  
face and sent Police officers. Fire Department arrived on scene and asked  
what had happened. They washed the males face off and then we all  
waited for police officers to arrive.

Police officers finally arrived after about a 35 min wait. They asked me  
as to what happened, after I explained they walked over and interviewed  
the male. The Police officers then explained to me that they have called  
their supervisor to come down, because it was my word against his word,





1 and the male in question was saying completely different things. Officers  
2 said, "It was a He said/She said incident.

3 Officer Norton # 7436

4 Case # 16-74839

5 The Police Supervisor stated to the male and I that we were free to go and  
6 they are not arresting anyone and they were just going to turn this report  
7 into the King County prosecutor to see if anything would be filed. Before  
8 leaving scene I was informed that the male is homeless and lives in his  
9 vehicle and currently works at the Shell Gas Station in Magnolia directly  
10 across from the Starbucks off of McGraw.

11 I left scene and made contact with Executive Director of Magnolia Patrol  
12 Joe Villarino & Central Protection Security Manager Denis.

13  
14  
15 3.100 Toomey told the officers in the video "He was getting right up on me, so I  
16 grabbed him and we kind of wrestled right here," "And then I grabbed my pepper spray and I  
17 sprayed him and he was like, 'Oh my god! I can't believe you pepper-sprayed me!' Blah, blah,  
18 blah. ... And so I handcuffed him and then I called you guys."

19 3.101 After hearing Toomey's second version of events, the officers who arrived on  
20 the scene told Toomey that he had no legal authority to pepper-spray Harris, handcuff him, and  
21 detain him against his will. "If I'm being attacked? Citizen's arrest!" Toomey responds.

22 3.102 Harris then waited at the front of the squad car. Officer Norton approached  
23 Harris and said, "I know you, you work at the Liquor Store, right?"

24 3.103 Harris affirmed. Officer Norton then leaned towards Harris and said, referring  
25 to Toomey, "I have no reason to believe that a word of what this guy is telling me is true." He  
26 then indicated that he was inclined to arrest Toomey and asked if I would like to press charges.  
Harris affirmed.

3.104 The video shows an officer telling Harris, "I don't know why he handcuffed  
you. ... We haven't dealt with these people [Central Protection security guards]. They don't  
have the authority to do anything."

3.105 Officer Norton then offered that he would have to call his Supervisor to drive  
over from Ballard in order to place Toomey under arrest. They waited for approximately 10  
minutes for Officer Norton's supervisor to arrive. There was discussion among the three  
arriving officers. Officer Norton then informed Harris that they would be calling a Sergeant  
from the West Precinct, located near downtown Seattle to confirm Toomey's arrest. Another  
10 or so minutes passed before Sergeant Giese arrived.

1 3.106 Upon arrival, Sergeant Giese approached Harris and informed him that  
2 because his account of events differed from Toomey's account, the Sergeant was simply going  
3 to have Officer Norton write a report, which would be forward to prosecuting attorney's for a  
4 decision.

5 3.107 The Sergeant told Harris that based on what happened, he would probably be  
6 able to get a judge to grant a temporary restraining order against Toomey.

7 3.108 Toomey then exited his vehicle. At that point the faceplate of Harris's phone  
8 that had slid under the passenger side of Toomey's Humvee was still on the ground one to 1 1/2  
9 feet distance from the passenger's door.

10 3.109 The Sergeant released both Toomey and Harris from the scene. As Toomey  
11 drove away, Harris asked Officer Norton if he could retrieve his phone. When they walked over  
12 to the side of the road where the glass face place had been Officer Norton and Harris observed  
13 that the phone was gone. Harris explained to Officer Norton that his partner had observed the  
14 phone and the phone was now missing. Officer Norton then contacted his colleague to request  
15 information on the phone. His partner indicated that the phone had been present, but was now  
16 lost. Harris asked the Sergeant and Officer Norton to check the blue office building from which  
17 Toomey had claimed he had been contacted. There was a "For Sale" sign in front of the building  
and the building was empty.

#### 18 **IV. CAUSES OF ACTION**

##### 19 a. Plaintiff's causes of action against Defendant Toomey only.

20 4.1 Plaintiff's injuries were proximately caused by Defendant Toomey's intentional  
assault and battery, willful misconduct, and wanton misconduct.

21 4.2 Plaintiff's injuries were proximately caused by Defendant Toomey's negligent  
22 infliction of bodily and emotional distress.

23 4.3 Plaintiff's injuries were caused by Defendant Toomey's unlawful and intentional  
24 restraint, confinement, and detention of Plaintiff, compelling Plaintiff to somewhere handcuffed  
against his will, constituting the tort of false imprisonment.

25 4.4 Toomey stole the faceplate portion of Plaintiff's cell phone which was last seen  
26 under the Central Protection Humvee and converted it to his own use. Toomey is liable to

1 Plaintiff for the telephone and its content, including the data stored on it under the doctrine of the  
2 tort of conversion.

3 4.5 By slapping the cell phone out of Plaintiff's hand, causing the cell phone to break,  
4 Toomey is liable to Plaintiff for the wanton, reckless, intentional, or negligent destruction of  
5 personal property.

6 4.6 Toomey's intention in slapping the cell phone out of Plaintiff's hand, and in  
7 stealing and converting the faceplate of the phone for his own purposes was to intentionally spoil  
8 evidence that Plaintiff could and would use against Toomey.

9 b. Plaintiff's causes of action against Defendant Central Protection only.

10 4.7 Defendant Central Protection is liable to Plaintiff for the full extent of his injuries  
11 and harms under the doctrine of respondeat superior for the tortious conduct of Defendant  
12 Toomey.

13 4.8 Defendant Central Protection was negligent in its decision to hire Defendant  
14 Toomey. Such negligence was a proximate cause of Plaintiff's injuries.

15 4.9 Defendant Central Protection was negligent in its supervision and training of  
16 Defendant Toomey. Such negligence was a proximate cause of Plaintiff's injuries.

17 c. Plaintiff's causes of action against Defendant MPA only.

18 4.10 Defendant MPA is liable to Plaintiff for the full extent of his injuries and harms  
19 under the doctrine of agency for the tortious conduct of Defendant Toomey.

20 4.11 By encouraging Toomey to act without the restraints required of law enforcement  
21 by the United States and Washington constitutions, Defendant MPA is liable to Plaintiff under  
22 the doctrines of aiding and abetting Toomey and conspiracy with Toomey.

23 **V. DAMAGES**

24 5.1 As the direct and proximate result of said conduct, Plaintiff suffered physical and  
25 emotional injuries and consequent pain and suffering and loss of property.

26 **VI. CR 30(b)(8) VIDEO DEPOSITION NOTICE**

Defendants are hereby placed on notice of the depositions taken by the Plaintiff in this  
action will be videotaped.

**VII. PRAYER FOR RELIEF**

WHEREFORE, the Plaintiff prays as follows:

1. Judgment for money damages to be proven at time of trial;

