

STATE OF NEW MEXICO  
FIRST JUDICIAL DISTRICT COURT  
COUNTY OF SANTA FE

TRENTON WARD,

Plaintiff,

v.

No. D-101-CV-2017-03395

NEW MEXICO STATE POLICE;  
ALEJANDRO ROMERO; JOEL  
GONZALEZ; and JOHN DOES 1  
through 3,

Case assigned to Thomson, David K.

Defendants.

### **COMPLAINT**

1. Plaintiff Trenton Ward brings this complaint against Defendants New Mexico State Police, Alejandro Romero, Joel Gonzalez, and John Does 1 through 3 to remedy violations of the New Mexico Tort Claims Act, NMSA 1978, §§ 41-4-1 to -27 (1976, as amended 1981), including assault and battery, violations of Article II, Sections 10 and 17 of the New Mexico Constitution, and negligent training and supervision. In support thereof, Mr. Ward states as follows:

### **JURISDICTION AND VENUE**

2. The Court has jurisdiction over this action pursuant to NMSA 1978, § 41-4-18(A).

3. On April 25, 2017, Mr. Ward properly and timely gave notice of impending litigation to the Risk Management Division, State of New Mexico.

4. Venue is proper pursuant to NMSA 1978, § 41-4-18(B).

## **PARTIES**

5. Mr. Ward is a citizen of the State of New Mexico and a resident of Bernalillo County. He is also a senior in his fourth year at the University of New Mexico (“UNM”), where he majors in political science.

6. The New Mexico State Police (“NMSP”) is a division of the New Mexico Department of Public Safety and provides law enforcement services for New Mexico.

7. Alejandro Romero is a NMSP officer. At the time of the events described herein, NMSP Officer Romero served as the rank of Patrolman.

8. Joel Gonzalez is also a NMSP officer. At the time of the events described herein, NMSP Officer Gonzalez served as the rank of Sergeant and supervised NMSP Officer Romero.

9. John Does 1 through 3 are individuals employed by the NMSP and were involved in the violation of Mr. Ward’s rights.

## **FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS**

10. On January 27, 2017, Milo Yiannaopoulos delivered a speech entitled “America Deserves Borders” at UNM’s Student Union Building, a stop on his nationwide, self-titled “Dangerous Faggot Tour” of colleges and universities.

11. Yiannaopoulos is a right-wing provocateur known for criticizing feminism, social justice, political correctness, and illegal immigration.

12. The UNM College Republicans invited Yiannaopoulos to UNM to give him a platform to provide viewpoints that UNM students might not be exposed to in their classes.

13. UNM Acting President Chaouki Abdallah suspended a portion of a university speaking-event fee policy, which would have imposed a \$3400 on the UNM College Republicans to cover part of the security costs for the free-speech event. Among the colleges

and universities that Yiannaopoulos visited on his tour, UNM was one of the few institutions to waive a security fee.

14. Several student grounds and many individual students, including Mr. Ward, opposed (i) Yiannaopoulos's views, (ii) Yiannaopoulos's university-sanctioned presence on campus, (iii) Acting President Abdallah's suspension of the speaking-event fee, and (iv) the cost that UNM would incur because of Yiannaopoulos's presence.

15. According to KUNM record requests, this cost totaled nearly \$81,000, and UNM covered less than a quarter of it.

16. In light of similar speaking engagements that Yiannaopoulos gave at the University of California at Berkeley and the University of Washington, UNM expected a large attendance at the event, as well as student protests at or near the event site.

17. Conforming to these expectations, approximately 500 to 600 persons attended Yiannaopoulos's speech, and several hundred more, including several student groups, gathered outside the Student Union Building to protest. Protesters held signs proclaiming "White supremacy is inexcusable" and "Immigrants are welcome, fascists are not." The protesters chanted anti-white-supremacy slogans and other slogans, such as "Peaceful Protest, Not a Riot."

#### **New Mexico State Police deployed an "Emergency Response Team"**

18. Anticipating hundreds of students to attend and to protest the speech, on January 27, 2017, the NMSP, the Bernalillo County Sheriff's Department, the Albuquerque Police Department, and the UNM Police Department deployed scores of law enforcement officers to form an Emergency Response Team ("ERT") and, thereby, create a large security presence at the on-campus event site.

19. In the early evening of January 27th, NMSP Officer Romero was assigned to the ERT.

20. Although law enforcement officers were deployed to a student protest at a public research university, NMSP officers and other officers were outfitted in full ERT gear (colloquially, “riot gear”), armed with batons and shotguns capable of firing rubber buckshot. Some officers were on horseback.

21. After arriving on campus, NMSP ERT members created a “skirmish line:



22. NMSP Officer Romero was a member of this “skirmish line.”

**Mr. Ward attended the protest on UNM’s campus and exercised his New Mexico constitutional right to speech.**

23. At the time of the Yiannaopoulos speech, Mr. Ward was a UNM student and resided on campus.

24. Mr. Ward attended the protest of the Yiannaopoulos speech, to protest (i) Yiannaopoulos’s views, (ii) Yiannaopoulos’s university-sanctioned presence on campus, (iii)

Acting President Abdallah's suspension of the speaking-event fee, (iv) UNM's creation of an unsafe environment, (v) the costs that UNM would incur because of Yiannaopoulos's presence, and (vi) the police response, which Mr. Ward viewed as disproportionate, intimidating, and unnecessarily militarized.

25. While attending the protest, Mr. Ward witnessed police officers deploy tear gas and push an elderly man to the ground.

26. Motivated by what he had witnessed, Mr. Ward wanted to convey to other students that they should not allow the disproportionate police presence on UNM's campus to intimate or chill their protest.

27. Thus, Mr. Ward approached the skirmish line, keeping a distance of more than an arm's length from the police officers forming the line.

28. Mr. Ward then proceeded to walk down the skirmish line, placing his middle finger a foot from the plexiglass cover of each NMSP Officers' ERT riot-gear masks and contemporaneously stating: "Fuck You."

29. After "giving the finger" to several officers in the skirmish line, Mr. Ward then "gave the finger" to NMSP Officer Romero, who is standing to the far right in this frame:



30. Mr. Ward's speech, although impudent, is nevertheless protected by Article II, Section 17 of the New Mexico Constitution. *See, e.g., Benavidez v. Shutiva*, 2015-NMCA-065, ¶ 36, 350 P.3d 1234, 1248–49.

31. After Mr. Ward proceeded past NMSP Officer Romero, NMSP Officer Romero stepped forward and outside of the skirmish line and, with his baton, attacked Mr. Ward, striking him in the middle of the back.



32. The blow that NMSP Officer Romero inflicted on Mr. Ward caused Mr. Ward to lose his balance. As Mr. Ward fell, he covered his neck in an attempt to protect himself from NMSP Officer Romero's attack.



33. As Mr. Ward fell, NMSP Officer Romero and other officers comprising the ERT struck him again, pushed him to the ground, and arrested him.

34. Unlike other officers forming the skirmish line who did not respond to Mr. Ward's protected speech by attacking him, before January 27, 2017, NMSP Officer Romero did not receive adequate or proper training regarding the appropriate method by which law enforcement officers, particularly NMSP officers, should respond to constitutionally protected speech in the context of a student protest.

35. After his arrest, Mr. Ward's hands were zip-tied, and he was placed in a prisoner transport van, where he remained for approximately seven to eight hours.

36. Mr. Ward was booked into the city detention center, and he was released early the next morning.

37. As a consequence of being struck to the ground by NMSP Officer Romero, Mr. Ward's back was bruised and he suffered pain and soreness.

38. On January 27, 2017, the State filed a criminal complaint against Mr. Ward in Bernalillo County Metropolitan Court, charging him with assault upon a peace officer, in violation of NMSA 1978, § 30-22-21.

39. On April 18, 2017, the Honorable Vidalia Chavez, Judge for the Bernalillo County Metropolitan Court, dismissed with prejudice the criminal complaint against Mr. Ward.

**Count I**  
**Assault and Battery**

40. Mr. Ward incorporates by reference the preceding paragraphs of this Complaint as though fully set forth herein.

41. NMSP Officer Romero struck Mr. Ward in such a manner as to cause Mr. Ward imminent fear of being struck and suffering great bodily harm.

42. Mr. Ward did not assault NMSP Officer Romero, and NMSP Officer Romero's attack on Mr. Ward was not only severely disproportionate but also unnecessary.

43. NMSP Officer Romero's conduct constitutes assault and battery for which Section 41-4-12 waives immunity.

44. Mr. Ward suffered damages in the form of physical injury, pain, and suffering as a result of NMSP Officer Romero's attack.

**Count II**  
**Violation of Article II, Section 10 of the New Mexico Constitution**

45. Mr. Ward incorporates by reference the preceding paragraphs of this Complaint as though fully set forth herein.

46. NMSP Officer Romero struck Mr. Ward in such a manner as to constitute an unreasonable seizure, in violation of Mr. Ward's right under Article II, Section 10 of the New Mexico Constitution and Section 41-4-12.

47. NMSP Officer Romero's conduct constitutes a deprivation of a right protected by the New Mexico Constitution for which Section 41-4-12 waives immunity.

48. Mr. Ward suffered damages in the form of physical injury, pain, and suffering as a result of NMSP Officer Romero's attack.

**Count III**  
**Violation of Article II, Section 17 of the New Mexico Constitution**

49. Mr. Ward incorporates by reference the preceding paragraphs of this Complaint as though fully set forth herein.

50. NMSP Officer Romero struck Mr. Ward in such a manner as to constitute an unconstitutional restraint of Mr. Ward's right to speech, in violation of Mr. Ward's right under Article II, Section 17 of the New Mexico Constitution and Section 41-4-12.

51. NMSP Officer Romero's conduct constitutes a deprivation of a right protected by the New Mexico Constitution for which Section 41-4-12 waives immunity.

52. Mr. Ward suffered damages in the form of physical injury, pain, and suffering as a result of NMSP Officer Romero's attack.

**Count IV**  
**Negligent Training and Supervision**

53. Mr. Ward incorporates by reference the preceding paragraphs of this Complaint as though fully set forth herein.

54. NMSP Officer Romero was supervised or trained by NMSP Officer Gonzalez and John Does 1 through 3.

55. NMSP Officer Gonzalez and John Does 1 through 3 owed a duty to Mr. Ward to adequately train and supervise NMSP officers who were deployed to provide security at student protests occurring at UNM to properly interact with the student protesters, to perform lawful

searches and seizures, and to ensure NMSP officers' ability to respond appropriately to potentially-offensive speech protected by Article II, Section 17 of the New Mexico Constitution.

56. By failing to provide such training and supervision, NMSP Officer Gonzalez and John Does 1 through 3 breached their duty to Mr. Ward.

57. NMSP Officer Gonzalez and John Does 1 through 3's failure to adequately train and supervise NMSP Officer Romero directly and proximately caused injuries to Mr. Ward.

58. NMSP Officer Gonzalez and John Does 1 through 3's conduct gives rise to liability for which Section 41-4-12 waives immunity.

**Count V**  
**Respondeat Superior Liability**

59. Mr. Ward incorporates by reference the preceding paragraphs of this Complaint as though fully set forth herein.

60. At all times relevant to the allegations made in this Complaint, NMSP Officer Romero, NMSP Officer Gonzalez, and John Does 1 through 3 were agents and employees of the NMSP and were acting in the scope of their employment.

61. The NMSP is therefore liable to Mr. Ward under the doctrine of respondeat superior.

62. Sections 41-4-4(a) and 41-4-12 waive the NMSP's immunity from liability, under the doctrine of respondeat superior, for the conduct of NMSP Officer Romero, NMSP Officer Gonzalez, and John Does 1 through 3.

**CONCLUSION**

WHEREFORE, Mr. Ward prays that the Court enter judgment on his behalf and against Defendants Alejandro Romero, Joel Gonzalez, and John Does 1 through 3 for:

A. Compensatory damages;

- B. Past and future pain, suffering, and mental anguish;
- C. Reasonable costs and attorneys' fees and such other and further relief as this Court deems just and proper.

Respectfully submitted,

**FREEDMAN BOYD HOLLANDER  
GOLDBERG URIAS & WARD P.A.**

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