

Assigned for all purposes to: Spring Street Courthouse, Judicial Officer: Kristin Escalante

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**LAW OFFICES OF
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Attorneys for PLAINTIFF,
ALMOG PERETZ

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES –CENTRAL DISTRICT

ALMOG PERETZ, an individual,

PLAINTIFF,

vs.

SAN DIEGO GUNS, CHABAD OF
CALIFORNIA, CHABAD OF POWAY,
MERKOS L'INYONEI CHINUCH; JOHN
EARNEST and DOES 1 through 100,
inclusive,

DEFENDANTS

) Case No. **19STCV43908**

) **COMPLAINT FOR:**

- 1. **NEGLIGENCE – GUN STORE DEFENDANT**
- 2. **NEGLIGENCE – PREMISE DEFENDANTS**
- 3. **PREMISES LIABILITY – PREMISE DEFENDANTS**
- 4. **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**
- 5. **BATTERY**

1 PLAINTIFF, ALMOG PERETZ (hereinafter collectively referred to as “PLAINTIFF”),
2 alleges as follows:

3
4 **PARTIES**

- 5 1. PLAINTIFF ALMOG PERETZ is an adult male and was a resident of the City of San
6 Diego, California during all the time relevant hereto.
- 7 2. At all relevant times, Defendant CHABAD OF CALIFORNIA (“CHABAD OF
8 CALIFORNIA“), was a California corporation with minimum contacts in the State of
9 California, duly licensed and incorporated under the laws of California, and believed to be
10 the owner, co-owner, or manager of the Chabad of Poway, located at 741 Gayley Ave, Los
11 Angeles, CA 90024.
- 12 3. At all relevant times, Defendant MERKOS L’INYONEI CHINUCH (“CHABAD
13 INTERNATIONAL“), was a New York corporation with minimum contacts in the State
14 of California, duly licensed and incorporated under the laws of New York, and believed to
15 be the owner, co-owner, or manager of the Chabad of Poway, located at 741 Gayley Ave,
16 Los Angeles, CA 90024.
- 17 4. At all relevant times, Defendant CHABAD OF POWAY (“CHABAD OF POWAY“), was
18 a California corporation with minimum contacts in the State of California, duly licensed
19 and incorporated under the laws of California, and believed to be the owner, co-owner, or
20 manager of the Chabad of Poway, located at 16934 Chabad Way, Poway, CA 92064.
- 21 5. At all relevant times, Defendant SAN DIEGO GUNS (“SAN DIEGO GUNS“), was a
22 California corporation with minimum contacts in the State of California, duly licensed and
23 incorporated under the laws of California, and believed to be the owner, co-owner, or
24 manager of the San Diego Guns store located at 5995 Mission Gorge Rd C, San Diego, CA
25 92120.
- 26 6. At all relevant times, Defendant JOHN EARNEST (“EARNEST”), was an individual
27 residing in the County of San Diego, State of California.
- 28 7. PLAINTIFF is ignorant of the true names and capacities of Doe Defendants 1

- 1 through 100, inclusive, and therefore sues these defendants by such fictitious names.
- 2 8. PLAINTIFF will amend this complaint to allege their true names and capacities when
3 ascertained.
- 4 9. PLAINTIFF is informed and believes and thereon alleges that each of the fictitiously
5 named defendants are responsible in some manner for the occurrences herein alleged, and
6 that PLAINTIFF's injuries as herein alleged were proximately caused by the acts and/or
7 omissions of said fictitiously named defendants.
- 8 10. At all times relevant herein, the individual defendants, Does 1 through 20, and each of them
9 were owners, operators, employees, or authorized agents of Defendant, SAN DIEGO
10 GUNS, and at all times mentioned herein were acting within the course and scope of their
11 employment or agency for Defendant, SAN DIEGO GUNS, which is liable in respondeat
12 superior for the PLAINTIFF's injuries.
- 13 11. At all times relevant herein, the individual defendants, Does 21 through 40, and each of
14 them were owners, operators, employees, or authorized agents of Defendant, CHABAD
15 OF CALIFORNIA, and at all times mentioned herein were acting within the course and
16 scope of their employment or agency for Defendant, CHABAD OF CALIFORNIA, which
17 is liable in respondeat superior for the PLAINTIFF's injuries.
- 18 12. At all times relevant herein, the individual defendants, Does 41 through 60, and each of
19 them were owners, operators, employees, or authorized agents of Defendant, CHABAD
20 OF POWAY, and at all times mentioned herein were acting within the course and scope of
21 their employment or agency for Defendant, CHABAD OF POWAY, which is liable in
22 respondeat superior for the PLAINTIFF's injuries.
- 23 13. At all times relevant herein, the individual defendants, Does 61 through 75, and each of
24 them were owners, operators, employees, or authorized agents of Defendant, "CHABAD
25 INTERNATIONAL", and at all times mentioned herein were acting within the course and
26 scope of their employment or agency for Defendant, CHABAD OF POWAY, which is
27 liable in respondeat superior for the PLAINTIFF's injuries.
- 28

1 14. At all times relevant herein, the individual defendants, Does 76 through 85, and each of
2 them were owners, operators, employees, or authorized agents of Defendant, “JOHN
3 EARNEST”, and at all times mentioned herein were acting within the course and scope of
4 their employment or agency for Defendant, JOHN EARNEST.

5 15. At all times relevant herein, the individual defendants, Does 86 through 100, and each of
6 them were unknown to PLAINTIFF, and were responsible in full or part for the injuries
7 suffered by PLAINTIFF as alleged in the foregoing complaint.

8
9 **FACTS COMMON TO ALL CAUSES OF ACTION**

10 16. On or around April 27, 2019, PLAINTIFF was lawfully inside of a Chabad synagogue
11 (Synagogue) owned, run, or managed in some capacity by CHABAD OF CALIFORNIA,
12 “CHABAD INTERNATIONAL” and/or CHABAD OF POWAY, located at or around
13 16934 Chabad Way, Poway, CA 92064.

14 17. It was at this time that the shooting (“Shooting”) which is the subject of this complaint
15 occurred

16 18. On this date, the Synagogue had significantly more people than usual, due to the Passover
17 Holiday.

18 19. There were no security guards hired to protect the Synagogue during the time of the
19 “Shooting”.

20 20. There were no gates protecting the Synagogue during the time of the “Shooting”.

21 21. A front door (“Door”) leading to the lobby of the Synagogue was propped open during the
22 time of the “Shooting”.

23 22. At some point during this time, EARNEST drove a vehicle onto a street adjacent to the
24 Synagogue.

25 23. EARNEST walked through the “Door”.

26 24. EARNEST began to fire an AR-15 Rifle into the synagogue prior to, and as, he entered the
27 Synagogue.

28 25. EARNEST subsequently shot and killed a congregant, Lori Gilbert-Kaye.

- 1 26. EARNEST subsequently shot and wounded Rabbi Yisroel Goldstein.
- 2 27. Rabbi Yisroel Goldstein was the founder and/or manager of Defendant CHABAD OF
- 3 POWAY, during the “Shooting”.
- 4 28. At some point during this time, PLAINTIFF, who was in an adjacent room, heard gunshots
- 5 coming from the direction of the entrance of the Synagogue.
- 6 29. PLAINTIFF looked up and saw EARNEST firing a rifle in his direction.
- 7 30. PLAINTIFF heard bullets flying past him and saw large amounts of smoke.
- 8 31. PLAINTIFF immediately picked up a toddler from the ground, grabbed the hand of his eight
- 9 year old niece and brought them to safety through a rear entrance.
- 10 32. As he was running, PLAINTIFF was hit by bullets and/or bullet fragments that were shot
- 11 from the rifle held by EARNEST.
- 12 33. On or around this time, PLAINTIFF’s eight year old niece was also hit by bullets and/or
- 13 bullet fragments.
- 14 34. PLAINTIFF yelled out to the large group of children that were playing in the yard behind
- 15 the Synagogue and ordered them to run to safety in a nearby home.
- 16 35. EARNEST retreated when his rifle eventually jammed.
- 17 36. EARNEST later stated that he committed the attack because he believes that Jews are
- 18 “destroying the white race”.
- 19 37. EARNEST purchased his rifle from Defendant SAN DIEGO GUNS on or around April
- 20 13, 2019.
- 21 38. EARNEST was 19 years old at the time of the purchase (“Purchase”) of the rifle which he
- 22 used in the “Shooting”.
- 23 39. EARNEST did not present an unexpired and/or valid hunting license at the time of the
- 24 “Purchase”.
- 25 40. The State of California had not granted EARNEST a valid hunting license at the time of
- 26 the “Purchase”
- 27 41. EARNEST had not served in the military on or before the date of the “Purchase”
- 28 42. EARNEST had not served in law enforcement on or before the date of the “Purchase”.

1 43. On or around December 9, 2014, A Federal Judge ruled that CHABAD OF CALIFORNIA
2 violated the federal False Claims Act with false statements and certifications in connection
3 with money it obtained through the Nonprofit Security Grant Program, which provides
4 funding for security upgrades to eligible nonprofits.

5 44. Although CHABAD OF CALIFORNIA originally owed the government only
6 \$272,495.00, the court ruled that they pay a total of \$844,985.

7 45. The increased amounts were primarily due to penalties resulting from CHABAD OF
8 CALIFORNIA's fraudulent statements and misuse of government funds that were meant
9 for security but were used for other purposes.

10 46. Therefore, CHABAD OF CALIFORNIA paid over half a million dollars in money that
11 comes from its congregants' donations because of its failure to properly manage its security
12 funds and protect its congregants' safety.

13 47. On or around May of 2018, CHABAD OF POWAY applied for a US Federal Grant in
14 order to upgrade its security.

15 48. CHABAD OF POWAY applied for the US Federal Grant because it believed that it was at
16 risk of an antisemitic attack on its congregants.

17 49. On or around September of 2018, CHABAD OF POWAY was granted approximately
18 \$150,000.00 by the US Federal government to be used for security upgrades.

19 50. On or around March of 2019, CHABAD OF POWAY received the US Federal
20 Government funds.

21 51. CHABAD OF POWAY and CHABAD OF CALIFORNIA knew that on the day of the
22 "Shooting" there would significantly more people present than usual, due to the Passover
23 holiday.

24 52. CHABAD OF POWAY did not hire a security guard to protect its congregants on the day
25 of the "Shooting".

26 53. CHABAD OF POWAY did not lock its doors on the day of the "Shooting".

27 54. CHABAD OF POWAY did not install any safety mechanisms to be in place on the day of
28 the "Shooting".

1 55. CHABAD OF CALIFORNIA could have instructed CHABAD OF POWAY to spend the
2 Federal Grant money on security to protect the congregants on the day of the “Shooting”
3 but did not do so.
4

5 **FIRST CAUSE OF ACTION**

6 **NEGLIGENCE – GUN STORE DEFENDANTS**

7 **(Against Defendants SAN DIEGO GUNS and DOES 1 through 30)**
8

9 56. PLAINTIFF re-alleges and incorporates by reference every allegation contained in this
10 Complaint as though set forth herein in full.

11 57. Prior to the mass shooting, EARNEST purchased a semi-automatic AR-15 rifle.

12 58. Upon information and belief, the rifle EARNEST used in the “Shooting” was designed,
13 manufactured, marketed, distributed and/or sold by Defendants SAN DIEGO GUNS and
14 DOES 1 through 30 (Collectively “GUN DEFENDANTS”)

15 59. “GUN DEFENDANTS” committed acts and omissions, which collectively and generally
16 constituted negligence. Defendants had a duty to exercise ordinary care, meaning the
17 degree of care that would be used by a company of ordinary prudence under the same or
18 similar circumstances.

19 60. Defendants breached such duty in a manner including, but not limited to, selling the AR-
20 15 rifle to EARNEST when they knew or should have known that he was not legally
21 allowed to purchase the AR-15 Rifle due to his age.

22 61. Defendants knew or should have known that in California, an individual under the age of
23 21 cannot legally purchase an AR-15 Rifle unless that individual qualifies under an
24 enumerated exception.

25 62. Defendants knew or should have known that EARNEST was 19 years old on the day of the
26 purchase of the AR-15 Rifle.

27 63. Defendants knew or should have known that EARNEST did not meet any of the exceptions
28 that would allow him to purchase an AR-15 Rifle legally under California law.

1 64. As a direct result of “GUN DEFENDANTS” negligence, a woman was killed, and several
2 other were wounded, including PLAINTIFF.

3
4 **SECOND CAUSE OF ACTION**

5 **NEGLIGENCE**

6 **PREMISE DEFENDANTS**

7 **(Against Defendants CHABAD OF CALIFORNIA, “CHABAD**
8 **INTERNATIONAL”, CHABAD OF POWAY and DOES 31 through 60)**

9
10 65. Plaintiff re-alleges and incorporates by reference every allegation contained in this
11 Complaint as though set forth herein in full.

12 66. At all relevant times, Defendants CHABAD OF CALIFORNIA, “CHABAD
13 INTERNATIONAL” CHABAD OF POWAY and DOES 31-60 (“PREMISE
14 DEFENDANTS”), had a duty of reasonable care in the protection and safeguarding of
15 persons on the Chabad of Poway premises which hosted the Passover prayer services on
16 April 27, 2019.

17 67. Based upon information and belief, “PREMISE DEFENDANTS” knew or should have
18 known of the dangers that existed on their property.

19 68. “PREMISE DEFENDANTS” knew or should have known of the dangers that existed on
20 their property because they knew or should have known:

- 21 1. Synagogues have historically been subject to violent antisemitic attacks
- 22 2. Synagogues in the United States regularly receive threats of violence
- 23 3. A synagogue in Pittsburgh had suffered an antisemitic shooting approximately 6
24 months prior to the “Shooting” in which approximately 11 people were killed.
- 25 4. Anti-Semitic crimes in California increased by 21 percent in 2018 according to the
26 California Department of Justice.

1 5. Months prior to the “Shooting”, a home approximately 6 miles from the Chabad of
2 Poway was the subject of an antisemitic attack, an attack which was recognized
3 with a community candlelight vigil.

4 69. “PREMISE DEFENDANTS” showed that they knew of the dangers that existed on their
5 property of an attack similar to the “Shooting” in statements that they made to the Federal
6 Government as part of their receiving a US Federal Grant that is only granted to non-profit
7 organizations at high risk of an attack similar to the “Shooting”.

8 70. Plaintiff believes, and based thereon, alleges, that “PREMISE DEFENDANTS” breached
9 their duty of reasonable care in the hosting of the Passover prayer services on April 27,
10 2019 in the manners including but not limited to:

- 11 1. Failing to secure the premises with a gate or similar barrier.
- 12 2. Failing to lock the front door.
- 13 3. Leaving the front door propped open.
- 14 4. Failing to hire a security guard.
- 15 5. Failing to provide adequate security measures in case of emergency;
- 16 6. Failing to properly train and supervise employees with an appropriate plan of action
17 in case of an emergency.
- 18 7. Failing to utilize funds meant exclusively for security for their intended purpose.

19 71. “PREMISE DEFENDANTS” are further liable for the negligence of their employees
20 pursuant to the doctrine of respondeat superior, and the negligence of their agents under
21 the doctrine of Vicarious Liability.

22 72. At all relevant times, “PREMISE DEFENDANTS” knew or should have known that it was
23 reasonably foreseeable that a breach of their duties to keep the Chabad of Poway synagogue
24 reasonably safe in the aforementioned manner(s) could result in catastrophic injury to
25 congregants such as Plaintiff.

26 73. As a direct and proximate result of “PREMISE DEFENDANTS” negligence, Plaintiff
27 was seriously injured and suffered extreme trauma to his body.

1 74. As a further direct and proximate result of “PREMISE DEFENDANTS” negligence,
2 Plaintiff suffered pain, medical expenses, distress, and other economic and non-economic
3 damages in amounts in excess of the jurisdictional limits of this Court.
4

5 **THIRD CAUSE OF ACTION**

6 **NEGLIGENCE – PREMISES LIABILITY**

7 **PREMISE DEFENDANTS**

8 **(Against Defendants CHABAD OF CALIFORNIA, “CHABAD**
9 **INTERNATIONAL”, CHABAD OF POWAY and DOES 31 through 60)**
10

11 75. PREMISE DEFENDANTS owned, leased, controlled, maintained, managed and/or
12 operated the subject premises.

13 76. Defendants, and each of them, owed a duty to act as reasonable operators and building
14 owners and to ensure to a reasonable extent the safety of the users of the subject property,
15 such as PLAINTIFF.

16 77. The deficiencies of the Synagogue described herein constituted a dangerous condition
17 presenting an unreasonable risk of harm to Plaintiff. The dangerous conditions include, but
18 are not limited to, those described above, particularly the lack of security measures, and
19 posed a severe risk of injury.

20 78. Defendants, and each of them, knew, or in the exercise of reasonable care should have
21 known that the deficiencies of the Synagogue’s security measures constituted dangerous
22 conditions and presented an unreasonable risk of harm to PLAINTIFF. PREMISE
23 DEFENDANTS, and each of them, negligently and willfully failed to take steps to either
24 make the conditions safe or suitably warn PLAINTIFF of the dangerous conditions, all of
25 which caused PLAINTIFF to be continually exposed to dangerous conditions set forth
26 above, and to suffer injuries and damages.

27 79. As a direct and proximate result of Defendants’ violations, PLAINTIFF was injured and
28 suffered economic and non-economic damages, including but not limited to past and future

1 medical expenses, loss of income, physical pain, mental suffering, loss of enjoyment of
2 life, disfigurement, physical impairment, inconvenience, grief, anxiety, humiliation, and
3 emotional distress.

4 80. The willful and deliberate failure by PREMISE DEFENDANTS to install even basic
5 security measures, when they knew the Synagogue was at high risk of an attack, were
6 oppressive and malicious within the definition of California Civil Code Section 3294 in
7 that they subjected PLAINTIFF to cruel and unjust hardship in willful and conscious
8 disregard of the rights and safety of PLAINTIFF and other congregants. Therefore
9 PLAINTIFF is entitled to recover punitive damages in an amount to be determined at trial.

10
11 **FOURTH CAUSE OF ACTION**

12 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

13 **(Against Defendants JOHN EARNEST and DOES 61 through 100)**

14
15 81. Plaintiff re-alleges and incorporates by reference every allegation contained in this
16 Complaint as though set forth herein in full.

17 82. With malicious and evil intent, EARNEST shot into a crowded synagogue, intending to
18 harm dozens of congregants at the Passover prayer services.

19 83. EARNEST'S intentional act of rapidly firing large caliber bullets into the Chabad of Poway
20 synagogue resulted in the infliction of a gunshot wound to Plaintiff, causing his severe
21 injuries.

22 84. The foregoing conduct is beyond outrageous and beyond acting with conscious disregard
23 of the probability that Plaintiff and other congregants would suffer emotional distress,
24 knowing that the foregoing persons were present when he maliciously and with evil intent,
25 rapidly fired countless bullets into the Synagogue on April 27, 2019. EARNEST'S actions
26 were extreme and exceeded all bounds of behavior tolerated in a civilized community

27 85. As a direct and proximate result of Defendant EARNEST'S intentional act, Plaintiff
28 suffered emotional distress.

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86. EARNEST’S conduct was a substantial factor in causing Plaintiff’s severe emotional distress.

FIFTH CAUSE OF ACTION

BATTERY

(Against Defendants JOHN EARNEST and DOES 61 through 100)

87. Plaintiff re-alleges and incorporates by reference every allegation contained in this Complaint as though set forth herein in full.

88. With malicious and evil intent, EARNEST shot into a crowded synagogue, intending to harm dozens of congregants at the Passover prayer services..

89. As a direct and proximate result of Defendant EARNEST’S intentional act, PLAINTIFF was seriously injured, suffered extreme trauma to his body.

90. As a further direct and proximate result of Defendant EARNEST’S intentional act, Plaintiff suffered pain, medical expenses, distress, and other economic and non-economic damages in amounts in excess of the jurisdictional limits of this Court.

PRAYER FOR RELIEF

WHEREFORE, PERETZ prays for judgment against all Defendants as follows:

1. For general damages according to proof;
2. For punitive damages according to proof;
2. For special damages according to proof;
3. For legal interest on judgment from the filing of this complaint to the date of judgment;
4. For costs of suit and attorney’s fees incurred in suit;
5. And, for any other and further relief as the Court deems just and proper.

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DATED: December 6, 2019



YONI WEINBERG, ESQ.
Attorney for ALMOG PERETZ

1 **Verification by PERETZ**

2 State of California, County of Los Angeles

3
4 I, the undersigned, declare that I have read the foregoing **VERIFIED COMPLAINT**
5 **FOR DAMAGES** and know its contents.

6
7 (X) I am a party to this action. The matters stated in the document described above are
8 true of my own knowledge and belief except as to those matters stated on information and belief,
9 and as to those matters I believe them to be true.

10 Executed on December 5, 2019 in Los Angeles, California

11
12 I declare under penalty of perjury under the laws of the State of California that the foregoing is
13 true and correct.

14
15 *ALMOG*

16 _____
17 ALMOG PERETZ, PLAINTIFF