

COPY AM.

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR
THE CITY AND COUNTY OF SAN FRANCISCO.

Y. EIMOTO,

Plaintiff,

vs.

No. 10638

CITY AND COUNTY OF SAN FRANCISCO,
a Municipal Corporation,
Defendant.

A N S W E R .

Now comes the defendant above named and answering
the first cause of action of plaintiff's complaint on file
herein admits, avers and denies as follows, to-wit:

I

Admits that at all the times in said complaint
mentioned it was, and now is, a municipal Corporation duly
organized, acting and existing under and by virtue of the
laws of the State of California.

II

Said defendant alleges that it has no information or
belief upon the subject to enable it to answer the matters,
things and allegations set forth and contained in paragraph
2 of the first cause of action of plaintiff's complaint and
placing its denial upon such ground, defendant denies that
at any time, either at or before the times mentioned in the
complaint, plaintiff was, or ever has been, the occupant
and lessee, or occupant or lessee, of that certain building
in the City and County of San Francisco known as No. 1214

Folson Street, or that he was at any time engaged in the business of conducting and maintaining a bath-house wherein he provided and furnished baths to the general public.

III

And the defendant placing its denial upon the same grounds as particularly set forth in the foregoing paragraph denies that on the 20th day of May, 1907, or at any time within the year next preceding this action, a mob of disorderly or riotous persons collected together in the said City and County, or created any riot.

IV

And the defendant placing its denial upon the grounds set forth in paragraph II of said answer further denies that on the day or days mentioned in the complaint, or at any other time, any riotous person willfully, or unlawfully or maliciously, broke or destroyed the windows of plaintiff's building, or any other property belonging to plaintiff or used by him in his said business.

V

Defendant denies that it had any due, or any other kind of notice of the said alleged riot, if such riot ever occurred, either immediately after its breaking out, or at any other time; and the defendant denies that it did not protect plaintiff's property and denies that it neglected to protect plaintiff's property or that it made no effort to protect plaintiff's property.

VI

Defendant further denies that plaintiff was entirely without fault in the premises and that the alleged riotous acts of said alleged mob were not occasioned, or in any manner sanctioned, or permitted, by plaintiff's carelessness or negligence, but on the contrary the defendant is informed and believes and upon such information and belief alleges that the damage complained of was occasioned, aided, sanctioned and permitted by plaintiff's carelessness and by his negligence.

VII

Defendant denies that the value of plaintiff's property destroyed, broken and injured was of the sum of Seventy-five (\$75.00) Dollars, or of any greater sum than Ten (\$10.00) Dollars.

AND ANSWERING THE SECOND SEPARATE AND FURTHER cause of action stated in plaintiff's complaint, the defendant admits, avers and denies as follows:-

I

Admits that at all the times in said complaint mentioned it was, and now is, a municipal corporation duly organized, acting and existing under and by virtue of the laws of the State of California.

II

Defendant has no information or belief upon the subject sufficient to enable it to answer the matters, facts and allegations set forth in paragraph II of the second cause

of action of plaintiff's complaint, and placing its denial upon such ground denies that at, or before, any of the times mentioned in plaintiff's complaint, one M. Nakashima has been the occupant or lessee of that certain building situate in the City and County of San Francisco and known as No. 1213 Folsom Street, or that he, at any time therein, conducted the business of a restaurant, or any other kind of a business, or that he, in the conduct of said business as a restaurant keeper, provided or furnished meals for the general public.

III

And the defendant placing its denial upon the same grounds as particularly set forth in the foregoing paragraph denies that on the 20th day of May, 1907, or at any time within the year next preceding this action, a mob of disorderly or riotous persons collected together in the said City and County or created any riot.

IV

The defendant placing its denial upon the ground set forth in paragraph II of this cause of action denies that at any of the times mentioned in plaintiff's complaint or at any time, the said alleged rioters willfully, or unlawfully or maliciously or at all, broke into the said Nakashima's place of business, or carried away therefrom, or destroyed, his, the said Nakashima's goods or merchandise.

Defendant denies that it had any due or any other kind of notice of the said alleged riot, if such riot ever occurred, either immediately after its breaking out, or at any other time; and the defendant denies that it did not protect plaintiff's property and denies that it neglected to protect plaintiff's property, or that it made no effort to protect plaintiff's property.

VI

The defendant denies that the said Nakashima's goods and chattels alleged to have been destroyed or injured by the said alleged rioters were of the value of Three hundred (\$300.00) Dollars, or of any greater value than Twenty-five (\$25.00) Dollars; and defendant further denies that plaintiff's assignor sustained great or any damage by the alleged breaking into his said alleged place of business in the sum of Two hundred (\$200.00) Dollars or any other sum, or at all.

VII

Defendant further denies that plaintiff's assignor was entirely without fault in the premises and that the alleged riotous acts of said alleged mob were not occasioned or in any manner sanctioned, or permitted, by the carelessness or negligence of plaintiff's assignor, but on the contrary, the defendant is informed and believes and upon such information alleges that the damage complained of was

occasioned, aided, sanctioned and permitted by the carelessness of plaintiff's assignor, and by the negligence of said assignor, and by the failure of said plaintiff's assignor to prevent the said alleged riotous acts of said alleged mob.

VIII

Defendant has no information or belief sufficient to enable it to answer and placing its denial upon such ground defendant denies that prior to the commencement of his action, or at any other time, the said Nakashima duoy, or at all, assigned to this plaintiff his alleged cause of action against this defendant for the alleged damages herein complained of.

WHEREFORE this defendant prays judgment of this Court in its favor and that the plaintiff take nothing by his complaint, but that the defendant have judgment for its costs in its behalf herein incurred.

WM. G. BURKE
City Attorney, Attorney for the
said defendant, City and County
of San Francisco.