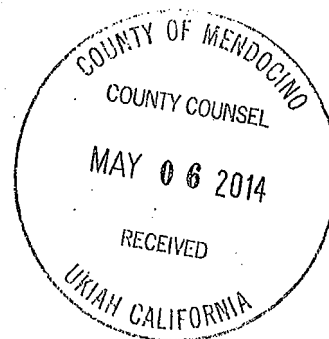


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Attorneys for Plaintiff
JANA MILLER



SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF MENDOCINO

—o0o—

UNLIMITED CIVIL CASE

JANA MILLER individually and as Successor in)	Case No.: SC UK CVPT 1362425
Interest to DAVID K. MILLER, deceased,)	
Plaintiff,)	SECOND AMENDED COMPLAINT
vs.)	FOR DAMAGES: SURVIVAL ACTION
COUNTY OF MENDOCINO, LEILA LAMUN;)	(CCP §§ 377.20, 377.30) and
and DOES 1 through 30, inclusive,)	WRONGFUL DEATH ACTION (CCP §
Defendants.)	377.60)

Plaintiff JANA MILLER alleges:

FIRST CAUSE OF ACTION
SURVIVAL ACTION (CCP §§ 377.20, 377.30)

1. Plaintiff JANA MILLER was the Conservator of DAVID K. MILLER, and brought the original Complaint in this case on behalf of DAVID K. MILLER in her capacity as Conservator of DAVID K. MILLER. JANA MILLER is the mother of DAVID K. MILLER and, having filed a Declaration of Successor in Interest in this action pursuant to Code of Civil

1 Procedure § 377.32, is the Successor in Interest to the pending action of DAVID K. MILLER,
2 and brings this action pursuant to Code of Civil Procedure §§ 377.20 and 377.30.

3 2. On September 30, 2013, DAVID K. MILLER died as a result of the injuries
4 caused by the negligence and omissions of defendants as herein alleged. DAVID K. MILLER,
5 died intestate and left no surviving spouse, domestic partner or issue. Plaintiff, JANA
6 MILLER, is a person entitled to the property of DAVID K. MILLER by intestate succession,
7 and has filed a Declaration of Successor in Interest to Decedent, DAVID K. MILLER in this
8 pending action, pursuant to CCP §377.32.

9 3. Prior to his death, DAVID K. MILLER obtained leave of court pursuant to an
10 order granting him relief from the provisions of Government Code § 945.4, and thereby
11 satisfied all conditions precedent to his state law claims, and filed the original Complaint for
12 Damages in this case against the Defendants identified herein on August 29, 2013.

13 4. Plaintiff JANA MILLER, as Successor in Interest to the claims of DAVID K.
14 MILLER, brings this First Amended Complaint to state, *inter alia*, a survivor action to the
15 claims of DAVID K. MILLER as alleged in the original Complaint for Damages filed in this
16 case, and re-alleges herein the claims that survive the original Complaint for Damages.

17 5. Plaintiff is ignorant of the true names and capacities of defendants sued herein
18 under DOES 1 through 30, inclusive, and therefore sues these defendants by such fictitious
19 names. Plaintiff will amend this complaint to allege their true name and capacities when
20 ascertained. Plaintiff is informed and believes, and thereon alleges that each of the fictitiously
21 named defendants is negligently responsible in some manner for the occurrences herein
22 alleged, and that plaintiff's injuries as herein alleged were proximately caused by the
23 negligence of these defendants. Any reference in this complaint to "Defendant," "Defendants,"
24 or to an individually named Defendant also refers to Defendants DOES 1 through 30.

25

7

1 6. At all times herein mentioned, Defendants LEILA LAMUN and DOES 1 through
2 5, and each of them, were nurses licensed to practice nursing and medicine under the laws of
3 the State of California and were engaged in the practice of nursing and medicine in Mendocino
4 County, California, and were acting in the course and scope of their duties as employees of
5 Defendant COUNTY OF MENDOCINO.

6 7. At all times mentioned herein, Defendants DOES 6 through 15, were physicians
7 licensed to practice medicine under the laws of the State of California and were engaged in the
8 practice of medicine in Mendocino County, California.

9 8. At all times mentioned herein, Defendants DOES 16 through 20 were business
10 entities organized under the laws of the State of California and licensed to do business in
11 Mendocino County.

12 9. At all times Does 21 through 30 were employees of the COUNTY OF
13 MENDOCINO employed as deputy sheriffs in charge of the inmates at the Mendocino County
14 jail in Ukiah.

15 10. At all times mentioned in this First Amended Complaint, each of the Defendants
16 was the agent and employee of each of the other Defendants and, in doing the things hereinafter
17 alleged, were acting in the and scope of their agency and employment with the permission and
18 consent of each of the Defendants.

19 11. JANA MILLER was the Conservator of DAVID K. MILLER, duly authorized by
20 the Superior Court of California in and for the County of Marin as of August 29, 2012, and on
21 August 29, 2013 filed the Complaint for Damages in this case on behalf of DAVID K.
22 MILLER who at all times herein until his death on September 30, 2013 was incompetent as a
23 result of mental illness preceding the matters alleged herein and also as a result of brain injuries
24 proximately caused by the actions and omissions of the defendants as set forth in this First
25 Amended Complaint.

1 12. Defendant COUNTY OF MENDOCINO is a public entity duly organized and
2 existing under the laws of the State of California. Defendant COUNTY OF MENDOCINO is
3 authorized by law to establish certain departments responsible for enforcing the laws and
4 protecting the welfare of the people of COUNTY OF MENDOCINO. At all times mentioned
5 Defendant COUNTY OF MENDOCINO was responsible for overseeing the operation,
6 management and supervision of the Mendocino County Health and Human Services Agency
7 and its Mental Health Branch and the Mendocino County jail and the employees of
8 MENDOCINO COUNTY and of the Health and Human Services Agency who provided mental
9 health services at the MENDOCINO COUNTY jail. Defendant COUNTY OF MENDOCINO
10 is liable under Government Code Section 815.2 (a) for the negligent acts and omissions and
11 breaches of duties of these aforementioned employees as described herein. Defendant
12 COUNTY OF MENDOCINO is liable under Government Code Section 815.6 for failure of its
13 employees to discharge mandatory duties to provide appropriate medical care for DAVID K.
14 MILLER required by Government Code Section 845.6 as described herein. Defendant
15 COUNTY OF MENDOCINO is liable for breach of duties of its jail employees to assist and
16 protect DAVID K. MILLER while keeping him in custody and when releasing him from jail as
17 described herein.

18 13. On March 14, 2012, at Mendocino County Mental Health Services in Fort Bragg,
19 DAVID K. MILLER was found by to be bipolar with schizoaffective disorder or bipolar with
20 psychotic features, his thought processes were delusional and bizarre, and he had run out of
21 antipsychotic medication, Zyprexa. On March 26, 2012 he was arrested for trespassing on
22 motel premises in Fort Bragg and was noted by the arresting officers to be irrational, and spoke
23 in mumbles. The arrest report also states that DAVID K. MILLER had told the motel
24 proprietor that his friend was staying in room 104 of the motel and was going to sign the room
25 over to him so he could stay there; although the proprietor said that there was no one staying in

1 room 104. DAVID K. MILLER was transported from Fort Bragg to the jail in Ukiah where a
2 deputy requested the Mendocino County Health and Human Services Agency Mental Health
3 Branch to see him due to his "bizarre behavior." He was seen in the jail by Defendants nurse
4 LILA LAMUN and DOES 1 through 20 on March 28, 2012 who noted that he had direct,
5 unblinking eye contact, and that he had to be directed to dress in layers because he was cold or
6 to make his bed with sheets and a blanket that were in his bag. Defendants LAMUN and
7 DOES 1 through 20 determined that DAVID K. MILLER was to be seen by a physician at the
8 next physician's visit.

9 14. Pursuant to their special relationship of physician/patient, DAVID K. MILLER's
10 vulnerability and dependence on them for health treatment, LEILA LAMUN and Defendant
11 DOES 1 through 20 owed affirmative duties of reasonable care to examine, diagnose, treat,
12 care for and assist DAVID K. MILLER, and to comply with the Policies and Procedures for
13 mental health care providers at the Mendocino County jail in Ukiah.

14 15. From, during and after the time DAVID K. MILLER was in the custody of
15 Defendants in the Mendocino County jail in Ukiah, Mendocino County, DAVID K. MILLER
16 was mentally ill, incompetent, in obvious need of mental health care, gravely disabled and
17 unable to care for himself, and a was a danger to himself. From and during the time DAVID K.
18 MILLER was in Defendants' custody, Defendants LAMUN and DOES 1 through 20 were
19 required by Policy and Procedures established by the Health and Human Services Agency
20 Mental Health Branch of COUNTY OF MENDOCINO to provide medical services for
21 mentally ill inmates including, but not limited to: psychiatric evaluation; an individual
22 treatment plan to meet the treatment needs of the inmate during the inmate's incarceration;
23 transferring inmates needing psychiatric care beyond the on-site capabilities to an off-site
24 facility as deemed necessary; maintenance of progress notes reflecting data demonstrating the
25 presence of the inmate's diagnosis and related current level of functioning impairments and/or

1 probability of related deterioration in level of functioning; providing interventions designed to
2 significantly diminish the inmate's impairment or prevent significant deterioration in
3 functioning; continuity of care for the inmate from admission to discharge while in the facility,
4 including referral to community care when indicated; evaluating the inmate's need for aftercare
5 services enabling the inmate to achieve an optimal level of function prior to the time of
6 discharge, ascertaining the inmate's prescription medications, physician/psychiatrists, treating
7 facilities; and diagnosis if possible of any inmate on psychotropic medication by a psychiatrist
8 or physician within 7 days.

9 16. When undertaking to provide treatment of DAVID K. MILLER, Defendants
10 LAMUN and DOES 1 through 20 failed to reasonably and properly provide those services
11 required by the Policies and Procedures of the COUNTY OF MENDOCINO by failing to
12 properly evaluate DAVID K. MILLER, failing to develop an individual treatment plan to meet
13 DAVID K. MILLER's treatment needs during his incarceration, failing to evaluate him
14 concerning his need for placement in an off-site facility and transfer him to a facility for
15 psychiatric care beyond the jail's capabilities, failing to diagnose him, failing to provide
16 intervention to significantly diminish his mental impairment or prevent significant deterioration
17 in his functioning, failing to provide continuity of care for him from admission to discharge
18 while in the jail, failing to exercise discretion whether to confine him for mental health care,
19 failing to evaluate his need for aftercare services prior to the time of his discharge and failing to
20 ascertain his prescription medications, physician/psychiatrists and treating facilities. In
21 addition, said Defendants failed to exercise the proper degree of knowledge and skill that is
22 ordinarily possessed and exercised by nurses and physicians in similar circumstances by failing
23 to properly examine, diagnose, treat, and care for DAVID K. MILLER, failing to alert the jail
24 employees to hold him in custody to ensure that he received the evaluation by a physician after
25 said Defendants had determined that he needed to be seen by a physician, by their deliberate

1 indifference to the probability that he would be released at risk of harm in a deteriorated mental
2 condition if he were not provided treatment prior to his release or confined to a facility, and by
3 failing to take action to ensure that he would receive care that would diminish his mental
4 impairment prior to his release.

5 17. As a legal result of negligent omissions, breaches of standards of care and failures
6 to discharge duties by Defendants LAMUN and DOES 1 through 20 as set forth above, at the
7 time DAVID K. MILLER was released from jail on March 29, 2012, he had mentally
8 deteriorated, was gravely disabled, disoriented and unable to realize and avoid highway danger,
9 such that on March 31, 2012 he walked on the roadway surface of U.S. Highway 101 in Willits,
10 and was struck by a car, sustaining brain injuries and numerous fractures and internal injuries
11 which caused his death on September 30, 2013.

12 18. From, during and after the time DAVID K. MILLER was in the custody of
13 Defendants in the Mendocino County jail in Ukiah, Mendocino County, DAVID K. MILLER
14 was mentally ill, incompetent, in obvious need of mental health care, gravely disabled and
15 unable to care for himself, and a was a danger to himself. At all times herein Defendants, and
16 each of them, knew or should have known that DAVID K. MILLER was in need of immediate
17 mental health care. Pursuant to their special relationship of jailer/inmate, DAVID K.
18 MILLER's vulnerability and dependence on Defendants for protection and Defendants' control
19 over DAVID K. MILLER'S welfare, Defendants COUNTY OF MENDOCINO by its jail
20 employees owed affirmative duties of reasonable care for DAVID K. MILLER'S health and to
21 protect DAVID K. MILLER while in custody and upon his release. Pursuant to Cal. Gov.
22 Code § 845.6 Defendant COUNTY OF MENDOCINO through its jail employees had a duty to
23 monitor, check and respond to persons under their custody, supervision and control,
24 particularly DAVID K. MILLER and summon needed mental health care for him.

25

1 19. From and during the time DAVID K. MILLER was in the custody of Defendants
2 COUNTY OF MENDOCINO and DOES 20 through 30, said Defendants negligently, in breach
3 their duties to act with reasonable care toward David Miller, and in breach of duties under
4 Government Code § 845.6, failed to reasonably discharge the duty to summon medical care for
5 DAVID K. MILLER, failed to hold him in custody for mental evaluation by a physician after
6 Defendants LAMUN and DOES 1 through 20 had determined that he needed to be seen by a
7 physician and failed to exercise discretion whether to confine DAVID K. MILLER for mental
8 illness.

9 20. On or about March 29, 2012, Defendants COUNTY OF MENDOCINO through
10 its jailer employees, DOES 26 through 30, negligently implemented a court order to release
11 DAVID K. MILLER, in breach of their duties owed to DAVID K. MILLER, by releasing him
12 into a situation of foreseeable peril made dangerous by his mental condition, with deliberate
13 indifference to his medical needs, before he was seen by the physician who was scheduled to
14 see him in the jail, without summoning medical care, without notifying the court of his severe
15 mental illness, without notifying relatives of his mental condition at the time of his release, and
16 by failing to assist him with means of transportation or wherewithal to get home, shelter or
17 assistance when releasing him 57 miles from Fort Bragg.

18 21. As a legal result of each Defendant's negligent omissions, breaches of standards
19 of care and failures to discharge their duties as set forth herein, DAVID K. MILLER mentally
20 deteriorated and was incapable of taking care of himself, such that on March 31, 2012, he
21 walked on the roadway surface of U.S. Highway 101 in Willits, disoriented and oblivious to
22 danger, and was struck by a car, sustaining brain injuries and numerous fractures and internal
23 injuries which caused his death on September 30, 2013.

24 22. As a further legal result of the negligence of defendants, and each of them,
25 DAVID K. MILLER incurred medical, hospital, and related expenses prior to his death.

1 23. On March 19, 2013, DAVID K. MILLER duly served Defendant LEILA LAMUN
2 with a Notice to Bring Action on Professional Negligence regarding the matter herein alleged,
3 in compliance with Code of Civil Procedure Section 364.

4 Wherefore Plaintiff prays for judgment as hereinafter set forth.

5 **SECOND CAUSE OF ACTION**
6 **WRONGFUL DEATH**

7 24. Plaintiff JANA MILLER, individually, refers to and by this reference
8 incorporates herein the allegations stated in paragraphs 1 through 18 and 20 above.

9 25. Decedent DAVID K. MILLER did not have any children or spouse or domestic
10 partner during his life, and JANA MILLER, his mother, brings this wrongful death action as
11 the person entitled to the property of DAVID K. MILLER by intestate succession, pursuant to
12 Code of Civil Procedure § 377.60(a).

13 26. Plaintiff, JANA MILLER, is informed and believes that the only other person who
14 could be a plaintiff in this wrongful death cause of action is THOMAS MILLER, the father of
15 DAVID K. MILLER, however, THOMAS MILLER has expressly declined to join in this
16 Wrongful Death Cause of Action and in the First Cause of Action herein, the Survival Action.

17 27. By reason of the Defendants' conduct as alleged herein, plaintiff JANA
18 MILLER has lost the love, comfort, companionship, care, society, services, benefits,
19 and support of the decedent, her son, DAVID K. MILLER.

20 28. By reason of the Defendants' conduct as alleged herein, plaintiff, JANA
21 MILLER has been compelled to incur expenses for funeral and burial of the decedent,
22 her son, DAVID K. MILLER.

23 WHEREFORE, plaintiff prays for judgment as follows:

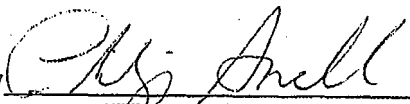
24 Damages for survival action:

25 1. For medical, hospital and related expenses according to proof;

- 1 2. For costs of suit herein incurred;
- 2 3. For such other and further relief as the Court may deem proper.
- 3 Damages for wrongful death action:
- 4 1. For general damages according to proof.
- 5 2. For funeral and burial expenses.
- 6 3. For costs of suit herein incurred.
- 7 4. For such other and further relief as the Court may deem proper.

8 Dated: May 5, 2014

RAGGHIANI FREITAS, LLP

9
10 By 
11 PHILIP C. SNELL
12 Attorney for Plaintiffs

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PROOF OF SERVICE

I am employed in the County of Marin, State of California. I am over the age of 18 and not a party to the within action. My business address is 1101 Fifth Avenue, Suite 100, San Rafael, CA 94901.

On May 5, 2014, I served the foregoing document described as:

**SECOND AMENDED COMPLAINT FOR DAMAGES: SURVIVAL ACTION AND
WRONGFUL DEATH ACTION**

by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Douglas Losak, Deputy
Office of the County Counsel
County of Mendocino – Administration Center
501 Low Gap Road, Room 1030
Ukiah, CA 95482

X **By Mail:** I am readily familiar with the firm's practice of collecting and processing correspondence for mailing. Correspondence so collected and processed is deposited with the United States Postal Service that same day with postage thereon fully prepaid at San Rafael, California, in the ordinary course of business. I placed each envelope for collection and mailing following ordinary business practices.

— **By Facsimile:** I caused said document to be transmitted by facsimile to

— **By Personal Delivery:** I personally delivered each envelope to the offices of the addressee(s).

— **By Federal Express:** I caused each envelope to be delivered to Federal Express for overnight courier service to the offices of the addressee(s).

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

Executed on May 5, 2014, at San Rafael, California.

Jennifer L. Page, CCLS

FILED
JUN 25 2015

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
EUREKA DIVISION

RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KENNETH WAYNE ELLER

Plaintiff

No. C 15--1905 NJV (PR)

Amendment of complaint

V.

MENDOCINO COUNTY SHERIFFS
OFFICE,

Defendants.

Plaintiff alleges that M.C.S.O. medical staff (Claire Teske- program manager), refuses to provide him with painkillers prescribed to him by his primary doctor (Dr. Jensen- Willits Ca.), showing deliberate indifference to his cronic pain he is suffering, due to a broken jaw and broken teeth that he has recently suffered. Theese meds were given to him during his previous incarceration at the jail by medical staff and there is no reason he should not be recieving them now. Plaintiff moves the court to add this as an amendment to his orignal complaint as well as adding Claire Teske as a defendant. Due to his belief that this denial of his meds is a result of a policy that M.C.S.O has adopted he asks that the sheriffs office remain a defendant

5/24/2015

Kenneth Eller

Kenneth Wayne Eller

Inmate
Name (print) KENNETH W ELLER

A# 26176
Mendocino County Sheriff's Office
Corrections Division
951 Low Gap Road
Ukiah, CA 95482

RETURN TO SENDER

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U.S. POSTAGE PITNEY BOWES
ZIP 95482 \$ 000.48⁰
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MENDOCINO COUNTY
OUTGOING MAIL

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIF.
EUREKA DIVISION

IA

Legal Mail

EUREKA CA 95501

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95482@3797

Attention

"PLEASE NOTE" This Amended letter
CAME BACK TO ME, AS YOU CAN SEE
I mailed it within the time limits

Kenny

1 **JOHN L. BURRIS ESQ., SBN 69888**
2 **BENJAMIN NISENBAUM, ESQ., SBN 222173**
3 **JAMES COOK, ESQ., SBN 300212**
4 **LAW OFFICES OF JOHN L. BURRIS**
5 Airport Corporate Centre
6 7677 Oakport Street, Suite 1120
7 Oakland, California 94621
8 Telephone: (510) 839-5200
9 Facsimile: (510) 839-3882

10 Attorneys for Plaintiffs

11 **UNITED STATES DISTRICT COURT**
12 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

13 VICTORIA LEE DALBEC; JASON JAY
14 HAVRANEK; JOELLE BURGESS; KARA
15 MARZAN,

16 Plaintiffs,

17 vs.

18 COUNTY OF MENDOCINO, a municipal
19 corporation; KAITLYN OLSON, individually
20 and in her capacity as a Corrections Deputy for
21 the COUNTY OF MENDOCINO;
22 CALIFORNIA FORENSIC MEDICAL GROUP
23 INC., and DOES 1-50, inclusive,

24 Defendants.

CASE NO.: 3:16-cv-02414 WHO

FIRST-AMENDED COMPLAINT FOR
DAMAGES

(42 U.S.C §§ 1983, 1988; and pendent tort
claims)

JURY TRIAL DEMANDED

INTRODUCTION

1. This is an action for damages brought pursuant to Title 42 U.S.C §§ 1983 and 1988,
the First, Fourth, and Fourteenth Amendments to the United States Constitution, and under California
state law. This action is against the COUNTY OF MENDOCINO, Mendocino County Sheriff's

1 Corrections Deputy KAITLYN OLSON, CALIFORNIA FORENSIC MEDICAL GROUP INC., and
2 DOES 1-50.

3 **JURISDICTION**

4 2. This action arises under Title 42 of the United States Code, Section 1983. Jurisdiction
5 is conferred upon this Court by Title 42 of the United States Code, Section 1331 and 1343 and 42
6 U.S.C. Section 12188(a). This Court also has supplemental jurisdiction over Plaintiffs' state law
7 causes of action under 28 U.S.C. Section 1367.

8 **PARTIES**

9 3. Decedent, GLORIA BURGESS, was an individual residing in the State of California.
10 Decedent was unmarried at the time of her death and died intestate.

11 4. Plaintiff VICTORIA LEE DALBEC ("DALBEC") is the daughter of Decedent
12 GLORIA BURGESS and is a resident of the State of California. Plaintiff DALBEC brings these
13 claims individually and as a co-successor in interest for Decedent GLORIA BURGESS.

14 5. Plaintiff JASON JAY HAVRANEK ("HAVRANEK") is the son of Decedent
15 GLORIA BURGESS and is a resident of the State of California. Plaintiff HAVRANEK brings these
16 claims individually and as a co-successor in interest for Decedent GLORIA BURGESS.

17 6. Plaintiff JOELLE BURGESS ("BURGESS") is the daughter of Decedent GLORIA
18 BURGESS and is a resident of the State of California. Plaintiff BURGESS brings these claims
19 individually and as a co-successor in interest for Decedent GLORIA BURGESS.

20 7. Plaintiff KARA MARZAN ("MARZAN") is the daughter of Decedent GLORIA
21 BURGESS and is a resident of the State of California. Plaintiff MARZAN brings these claims
22 individually and as a co-successor in interest for Decedent GLORIA BURGESS.

23 8. CALIFORNIA FORENSIC MEDICAL GROUP, INC. ("CFMG") was at all times
24 herein mentioned a corporation licensed to do business in California. Defendant CFMG provided
25 medical and nursing care to prisoners and detainees in Mendocino County jails, pursuant to contract
26 with the COUNTY. CFMG and its employees and agents are responsible for making and enforcing
27 policies, procedures, and training relating to the medical care of prisoners and detainees in Defendant
28 COUNTY jails, including providing reasonable medical care to prisoners and detainees.

1 9. COUNTY OF MENDOCINO ("COUNTY") is a political subdivision of the State of
2 California. The Mendocino County Sheriff's Office is an administrative subdivision of the
3 COUNTY; accordingly, all Sheriff's Office employees are employees of the COUNTY.

4 10. At all times herein mentioned, Defendant, KAITLYN OLSON (hereinafter
5 "OLSON"), at all times mentioned herein, was a Corrections Deputy for the Mendocino County
6 Sheriff's Office, and is sued in her individual capacity only, based on actions she took as a
7 Corrections Deputy of the Mendocino County Sheriff's Office.

8 11. Plaintiffs are ignorant of the true names and capacities of Defendants DOES 1 through
9 50, inclusive, and therefore sues these defendants by such fictitious names. Plaintiffs are informed
10 and believe and thereon allege that each defendant so named is responsible in some manner for the
11 injuries and damages sustained by Plaintiffs as set forth herein. Plaintiffs will amend their complaint
12 to state the names and capacities of DOES 1-50, inclusive, when they have been ascertained.

13 **ADMINISTRATIVE PREREQUISITES**

14 12. Plaintiffs are required to comply with an administrative tort claim requirement under
15 California law. Plaintiffs have exhausted all administrative remedies pursuant to California
16 Government Code Section 910. Plaintiffs filed an administrative claim with the COUNTY OF
17 MENDOCINO on October 10, 2015. The claim was rejected by the COUNTY OF MENDOCINO on
18 November 3, 2015.

19 **FACTUAL ALLEGATIONS**

20 13. Decedent GLORIA BURGESS was in custody as in inmate at Mendocino County Jail,
21 a jail located in the County of Mendocino and operated by the Mendocino County Sheriff's Office, a
22 municipal agency of COUNTY, when she died in the medical isolation unit on April 10, 2015, of
23 medical complications related to renal failure caused and/or exacerbated by untreated and/or
24 negligent-treatment of her life-threatening medical condition. At the time of Decedent's death,
25 Defendant COUNTY had been aware that Decedent required medical treatment. Decedent GLORIA
26 BURGESS was placed in medical isolation specifically because of her medical history of chronic
27 renal failure. Even still, Defendants failed to treat Decedent after they were on notice that Decedent
28 required immediate and continuous medical care.

1 14. In spite of knowledge about Decedent's life threatening medical condition,
2 Defendant COUNTY unreasonably failed to monitor Decedent. The Defendant Deputies failed to
3 conduct call checks according to their protocol. The checks for the medical isolation unit were
4 supposed to be conducted every fifteen minutes. Without regard for Decedent BURGESS' life
5 threatening medical condition, her last cell check took place forty minutes before Defendant Deputy
6 OLSON found her dead. In addition COUNTY failed to reasonably ensure that CFMG provided
7 reasonable medical services and care to Decedent.

8 15. While COUNTY contracted for medical care to be provided to its inmates by CFMG,
9 neither COUNTY, CFMG provided the required medical services and care of which they were
10 subjectively aware. Said Defendants were deliberately indifferent to Decedent's known medical
11 needs, and acted with subjective recklessness in disregarding Decedent's known medical needs, even
12 under the awareness that Decedent could die as a consequence of her medical condition. Defendant
13 deputies failed to provide Decedent GLORIA BURGESS the appropriate access to the medicines
14 required for her life threatening medical condition. Defendant COUNTY and CFMG staff, of
15 CFMG's failed to reasonably provide the necessary medical services and care, and unreasonably
16 failed to provide reasonable medical services and care to Decedent by means other than through
17 CFMG and unreasonably failed to compel CFMG to provide Decedent reasonable medical services
18 and care, proximately causing Decedent's death.

19 16. Plaintiffs allege that COUNTY was aware and on notice substantially prior to the
20 subject-incident that CFMG, and/or its alter ego companies with whom Defendant COUNTY also
21 contracted for the provision of medical services and care to jail inmates, had a significant history of
22 negligence, malpractice, and deliberate indifference in providing and/or failing to provide medical
23 services and care to jail inmates, including jail inmates in Mendocino County Jail, resulting in serious
24 harm or death to inmates requiring medical services and care. In spite of such notice, COUNTY
25 continued to contract with CFMG to provide medical services and care to inmates in COUNTY jails
26 without providing reasonable oversight of CFMG to reasonably ensure that CFMG were providing
27 reasonable medical services and care to COUNTY jail inmates, proximately causing Decedent's
28 death.

19. Alternatively or concurrently, Decedent's death was the proximate result of Defendant COUNTY'S failure to implement and enforce generally accepted, lawful policies and procedures at the jail, and allowing and/or ratifying the deliberate indifference to the serious medical needs of inmates. These substantial failures reflect Defendant COUNTY'S policies implicitly ratifying and/or authorizing the deliberate indifference to serious medical needs and the failure to reasonably train, instruct, monitor, supervise, investigate, and discipline deputy sheriffs employed by Defendant COUNTY.

23 21. At all material times, and alternatively, the actions and omissions of each Defendant
24 were conscience-shocking, reckless, deliberately indifferent to Decedent's and Plaintiffs' rights,
25 grossly negligent, negligent, and objectively unreasonable.

27 22. Plaintiffs were physically, mentally, and emotionally injured and damaged as a
28 proximate result of Decedent Burgess' wrongful death, including, but not limited to, the loss of

1 Decedent's familial relationships, comfort, protection, companionship, love, affection, solace, and
2 moral support. In addition to these damages, Plaintiffs are entitled to recover for the reasonable value
3 of funeral and burial expenses.

4 23. As a further direct and proximate result of the negligence and deliberate indifference
5 of defendants, and each of them, Plaintiffs have been deprived of Decedent Burgess' financial
6 support.

7 24. Each individual Defendant acted recklessly or with callous indifference to Decedent
8 Burgess' life threatening medical condition and to Plaintiffs' constitutional rights. Plaintiffs, as
9 decedent's successors in interest, are therefore entitled to an award of punitive damages against said
10 individual Defendants.

11 25. Plaintiffs found it necessary to engage the services of private counsel to vindicate their
12 rights, and the rights of decedent, under the law. Plaintiffs are therefore entitled to recover all
13 attorneys' fees incurred in relation to this action pursuant to Title 42 United States Code section
14 1988.

15 **FIRST CAUSE OF ACTION**

16 **(42 U.S.C. § 1983)**

17 **(PLAINTIFFS DALBEC, HAVRANEK, BURGESS, and MARZAN Against**
18 **DEFENDANTS CFMG, OLSON and DOES 1-50)**

19 26. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 25 of this
20 Complaint.

21 27. By the actions and omissions described above, Defendants violated 42 U.S.C. § 1983,
22 depriving Plaintiffs of the following clearly established and well-settled constitutional rights
23 protected by the Fourteenth Amendments to the United States Constitution:

- 24 a. The right to be free from deliberate indifference to Decedent's serious
25 medical needs while in custody as secured by the Fourteenth Amendment; and
26 b. The right to be free from wrongful government interference with familial
27 relationships and Plaintiffs' right to companionship, society, and support of
28 each other, as secured by the First, Fourth, and Fourteenth Amendments, and
as secured by California Code of Civil Procedure §§ 377.20 et seq. and
377.60 t seq.

7 30. The conduct of Defendants entitles Plaintiffs to punitive damages and penalties
8 allowable under 42 U.S.C. § 1983 and California Code of Civil Procedure §§ 377.20 et seq., and
9 other state and federal law.

11 **SECOND CAUSE OF ACTION**
12 *(Monell - 42 U.S.C. § 1983)*
13 **(PLAINTIFFS DALBEC, HAVRANEK, BURGESS, and MARZAN Against DEFENDANTS**
CFMG, COUNTY, and DOES 26-50)

16 32. The unconstitutional actions and/or omissions of Defendants DOES 26-50, as well as
17 other officers employed by or acting on behalf of the Defendants COUNTY and/or CFMG, on
18 information and belief, were pursuant to the following customs, policies, practices, and/or procedures
19 of the COUNTY and/or CFMG, stated in the alternative, which were directed, encouraged, allowed,
20 and/or ratified by policymaking officers for the COUNTY and its Sheriff's Office, and/or CFMG:

- FIRST AMENDED COMPLAINT FOR DAMAGES - 7

1 d. To cover up violations of constitutional rights by any or all of the following:

2 i. By failing to properly investigate and/or evaluate complaints or
3 incidents of the handling persons with life threatening medical conditions;

4 ii. By ignoring and/or failing to properly and adequately investigate
5 and/or investigate and discipline unconstitutional or unlawful law
6 enforcement activity; and

7 iii. By allowing, tolerating, and/or encouraging law enforcement officers
8 to: fail to file complete and accurate reports; file false reports; make
9 false statements; intimidate, bias and/or "coach" witnesses to give
10 false information and/or to attempt to bolster officers' stories; and/or
11 obstruct or interfere with investigations of unconstitutional or
12 unlawful law enforcement conduct by withholding and/or concealing
13 material information;

14 e. To allow, tolerate, and/or encourage a "code of silence" among law
15 enforcement officers and sheriff's department personnel, whereby an officer
16 or member of the sheriff's department does not provide adverse information
17 against a fellow officer or member of the department; and

18 f. To use or tolerate inadequate, deficient, and improper procedures for
19 handling, investigating, and reviewing complaints of officer misconduct,
20 including claims made under California Government Code §§ 910 et seq.

21 33. Defendants CFMG, COUNTY, and DOES 26-50 failed to properly hire, train, instruct,
22 monitor, supervise, evaluate, investigate, and discipline Defendants DOES 1-25, and other
23 COUNTY, Sheriff's Office, and CFMG personnel, with deliberate indifference to Plaintiffs'
24 constitutional rights, which were thereby violated as described above.

25 34. The unconstitutional actions and/or omissions of Defendants OLSON and DOES 1-25
26 and other Sheriff's Office personnel, as described above, were approved, tolerated, and/or ratified by
27 policymaking officers for the COUNTY and its Sheriff's Office, including by Defendant CFMG.
28 Plaintiffs are informed and believe and thereon allege that the details of this incident have been
revealed to the authorized policymakers within the COUNTY, the Mendocino County Sheriff's
Office, and CFMG, and that such policymakers have direct knowledge of the fact that the death of
GLORIA BURGESS was not justified, but rather represented an unconstitutional display of
deliberate indifference to serious medical needs. Notwithstanding this knowledge, the authorized

1 policymakers within the COUNTY, its Sheriff's Office, and CFMG have approved of DOES 1-25's
2 conduct and decisions in this matter, and have made a deliberate choice to endorse such conduct and
3 decisions, and the basis for them, that resulted in the death of GLORIA BURGESS. By so doing, the
4 authorized policymakers within the COUNTY and its Sheriff's Office have shown affirmative
5 agreement with the individual Defendants' actions and have ratified the unconstitutional acts of the
6 individual Defendants.

7 35. The aforementioned customs, policies, practices, and procedures; the failures to
8 properly and adequately hire, train, instruct, monitor, supervise, evaluate, investigate, and discipline;
9 and the unconstitutional orders, approvals, ratification, and toleration of wrongful conduct of
10 Defendants DOES 1-25 were a moving force and/or a proximate cause of the deprivations of
11 Plaintiffs' clearly established and well-settled constitutional rights in violation of 42 U.S.C. § 1983.

12 36. Defendants subjected Plaintiffs to their wrongful conduct, depriving Plaintiffs of rights
13 described herein, knowingly, maliciously, and with conscious and reckless disregard for whether the
14 rights and safety of Plaintiffs and others would be violated by their acts and/or omissions.

15 37. As a direct and proximate result of the unconstitutional actions, omissions, customs,
16 policies, practices, and procedures of Defendants COUNTY, and DOES 1-25 as described above,
17 Plaintiffs sustained serious and permanent injuries and are entitled to damages, penalties, costs, and
18 attorneys fees as set forth above in this Complaint.

19
20 **THIRD CAUSE OF ACTION**
21 **(Negligence)**

22 **(PLAINTIFFS DALBEC, HAVRANEK, BURGESS, and MARZAN Against**
23 **DEFENDANTS CFMG, OLSON and DOES 1-50)**

24 38. Plaintiffs re-allege and incorporate by reference herein paragraphs 1 through 37 of this
25 Complaint.

26 39. The present action is brought pursuant to section 820 and 815.2 of the California
27 Government Code. Pursuant to section 820 of the California Government Code, as public employees,
28 DOES 1-50 are liable for injuries caused by their acts or omissions to the same extent as a private
person.

1 40. At all times, each Defendant owed Plaintiffs the duty to act with due care in the
2 execution and enforcement of any right, law, or legal obligation.

3 41. At all times, each Defendant owed Plaintiffs the duty to act with reasonable care.

4 42. These general duties of reasonable care and due care owed to Plaintiffs by all
5 Defendants include but are not limited to the following specific obligations:

- 6 a. To provide, or cause to be provided, prompt and appropriate medical care for
7 Decedent;
- 8 b. To refrain from unreasonably creating danger or increasing Decedent's risk of harm;
- 9 c. To refrain from abusing their authority granted them by law;
- 10
- 11 d. To refrain from violating Plaintiffs' rights as guaranteed by the United States and
12 California Constitutions, as set forth above, and as otherwise protected by law.

13 43. Additionally, these general duties of reasonable care and due care owed to Plaintiffs
14 by Defendants CFMG and DOES 1-50 include but are not limited to the following specific
15 obligations:

- 16 a. To properly and reasonably hire, supervise, train, retain, investigate, monitor,
17 evaluate, and discipline each person (i) who was responsible for providing
18 medical care for Decedent, (ii) who was responsible for the
19 safe and appropriate jail custody of Decedent, (iii) who denied Decedent
20 medical attention or access to medical care and treatment;
- 21 b. To properly and adequately hire, investigate, train, supervise, monitor,
22 evaluate, and discipline their employees and/or agents to ensure that those
23 employees/agents act at all times in the public interest and in conformance
24 with the law;
- 25 c. To institute and enforce proper procedures and training for prevention and
26 treatment of life threatening medical conditions, to coordinate inmate assessment,
27 placement, and care with the jail physicians and nursing staff,
28 and jail corrections staff;
- d. To make, enforce, and at all times act in conformance with policies and
 customs that are lawful and protective of individual rights, including
 Plaintiffs';
- e. To refrain from making, enforcing, and/or tolerating the wrongful policies
 and customs set forth above.

1
2 44. Defendants, through their acts and omissions, breached each and every one of the
3 aforementioned duties owed to Plaintiffs, by failing to treat Decedent's medical condition.

4 45. As a direct and proximate result of Defendants' negligence, decedent and therefore
5 plaintiff sustained injuries and damages, and against Defendants CFMG, OLSON, and DOES 1-50
6 are entitled to relief as set forth in this Complaint, and punitive damages against all individual
7 Defendants.

8 WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

9
10 **FOURTH CAUSE OF ACTION**
11 **(Violation of California Government Code § 845.6)**
12 **(PLAINTIFFS DALBEC, HAVRANEK, BURGESS, and MARZAN Against**
13 **DEFENDANTS CFMG, COUNTY, OLSON and DOES 1-50)**

14 46. Plaintiffs re-allege and incorporate by reference herein paragraphs 1 through 45 of this
15 Complaint.

16 47. Defendant OLSON and DOES 1-50 knew or had reason to know that Decedent was in
17 need of immediate and higher level medical care, treatment, observation and monitoring. Defendants
18 failed to monitor Decedent GLORIA BURGESS according to protocol. Each such individual
19 defendant, employed by and acting within the course and scope of his/her employment with
20 Defendant COUNTY, knowing and/or having reason to know this, failed to take reasonable action to
21 summon care and treatment for the Decedent in violation of California Government Code § 845.6.

22 48. As legal cause of the aforementioned acts of all Defendants, Plaintiffs were injured as
23 set forth above, and their losses entitle them to all damages allowable under California law. Plaintiffs
24 sustained serious and permanent injuries and are entitled to damages, penalties, costs, and attorney
25 fees under California law.

26 **JURY DEMAND**

27 49. Plaintiffs hereby demands a jury trial in this action.

28 **PRAYER**

WHEREFORE, Plaintiffs pray for relief, as follows:

1. For general damages according to proof;

2. For punitive damages and exemplary damages in amounts to be determined according to proof as to defendants DOES 1 through 50 and/or each of them;
3. For reasonable attorney's fees pursuant to 42 U.S.C. §1988;
4. For cost of suit herein incurred; and
5. Declaratory and injunctive relief, including but not limited to the following:
 - i. An order requiring Defendants to institute and enforce appropriate and lawful policies and procedures for handling persons with serious medical needs.
 - ii. An order prohibiting Defendants and their sheriff's from engaging in the "code of silence as may be supported by the evidence in this case.
 - iii. An order requiring Defendants to train all medical professionals concerning generally accepted and proper tactics and procedures for the care and treatment of persons with serious medical needs.
6. For such other and further relief as the Court deems just and proper.

LAW OFFICES OF JOHN L. BURRIS

Dated: August 09, 2016

/s/ Benjamin Nisenbaum
Benjamin Nisenbaum Esq.
Attorney for Plaintiffs

FILED

MAR 2 1983

CLERK SUSAN PASOONG
NORTHERN U.S. DISTRICT COURT
(Middle Branch) DISTRICT OF CALIFORNIA

COMPLAINT BY A PRISONER UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983

Name: France Michael
(Last) (First)

Prisoner Number: 6601

Institutional Address: 951 Low Gap Rd
Ukiah CA 95482

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Michael Ray France
(Enter your full name.)

vs.

Mendocino County Sheriff's Office
Captain Timothy Pearce, Lt. Bednar
Deputy Bwoida - Deputy Siderakis
(Enter the full name(s) of the defendant(s) in this action.)

(PR)

Case No. _____
(Provided by the clerk upon filing)

COMPLAINT UNDER THE
CIVIL RIGHTS ACT,
42 U.S.C. § 1983

CV16 1058

PSG

I. Exhaustion of Administrative Remedies.

Note: You must exhaust available administrative remedies before your claim can go forward. The court will dismiss any unexhausted claims.

A. Place of present confinement Mendocino County Jail

B. Is there a grievance procedure in this institution? YES ☒ NO ☐

C. If so, did you present the facts in your complaint for review through the grievance procedure? YES ☒ NO ☐

D. If your answer is YES, list the appeal number and the date and result of the appeal at each level of review. If you did not pursue any available level of appeal, explain why.

1. Informal appeal: I was told by Sgt. Studer in his IA
Investigative Interview that the captain's response was
"The matter will be investigated"...

2. First formal level: It was sent up the chain of command to the
Second level. I filed the grievance the day after the
Incident.

3. Second formal level: Lt. Bednar on 1-4-16, Response: "I wrote"
This matter is being reviewed and considered for investigation
through the Internal Affairs process." he then beat and said I was
Treated.

4. Third formal level: This matter is being investigated.

E. Is the last level to which you appealed the highest level of appeal available to you?

YES ☒ NO ☐

F. If you did not present your claim for review through the grievance procedure, explain why.

I presented the facts through the grievance procedure here which is lousy at
best, but was not at all satisfied with there lack of deliberate
Indifference towards the situation which was extremely wrong.

II. Parties.

A. Write your name and present address. Do the same for additional plaintiffs, if any.

Michael Ray France @ 951 low Gap Road (Jail) Ukiah CA, 95482.

*Secondary Address: Michael Ray France, c/o Jan Cole Wilson
104 North School Street, Ukiah, CA 95482

B. For each defendant, provide full name, official position and place of employment.

Captain. Timothy Pearce Facility commander @ County Jail

Lieutenant Bednar Second in command @ County Jail

Corrections Deputy S. Siderakis Deputy @ County Jail

Corrections Deputy J. Warden Deputy @ County Jail

all are currently employed here by the Mendocino
County Sheriff's Office.

III. Statement of Claim.

State briefly the facts of your case. Be sure to describe how each defendant is involved and to include dates, when possible. Do not give any legal arguments or cite any cases or statutes. If you have more than one claim, each claim should be set forth in a separate numbered paragraph.

On the Date of 1-1-16 at Shiftchange Between 7:30am and 9:00pm, I was sleeping, Deputy Weida and Deputy Sidonick came into my cell, woke me up making Assautive, challenging and Disrespectful comments saying "to Antagonize me". I Asked them to Please leave my cell. Officers continued to be verbally challenging and combative. They then walked out and closed the door, I then Asked them to just leave me alone, they violated policy, opened my door back up with a threatening combative challenge Assaulting me, Forcing me to try to defend myself, when my safety was threatened then two on one they used closed fists attacking me, battered me all the way to the back of the cell not using any draining. It was a two on one fight with my just trying to block all the punches, then I was thrown to the floor, I was kicked in the face kneed, my arms were trying to protect my face, my arms were pulled away continued →

IV. Relief.

Your complaint must include a request for specific relief. State briefly exactly what you want the court to do for you. Do not make legal arguments and do not cite any cases or statutes.

-CIVIL JUSTICE-Monetary Relief totaling the amount of 6.5 million dollars.

Removed of those who are responsible for this.

Better health care.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed on: 2-9-16
Date

Michael Force
Signature of Plaintiff

III. STATEMENT OF CLAIM

continued

1 From my Face, so I could not cover up. where upon I was repeatedly
 2 punched, Knead and Kicked In the Face over 20⁺ times. All of
 3 this was seen and heard By two witnesses and captured on 2
 4 different cameras. Deputy. S. Siderakis and Deputy. J. Woida gave me
 5 two black eyes, Bloody Nose, Serious Facial Injuries, Swelling Contusions.
 6 And my ~~my~~ Ankle was Intentionally twisted and Fractured to the
 7 point it was Black and Swollen 8 times its normal size, a month
 8 later (now). It is still Bruised and Swollen, causing Severe pain.
 9 I was Refused Adequate medical treatment, Nurses told me they
 10 were ordered By officers to Do Nothing For me. another officer. came
 11 and took Photos of my extensive Injuries, After my Bloody Shirt
 12 was traded out. No Actual Disciplinary was given out to these two
 13 Deputy's. when they should have been Fired At the least. Administration
 14 has shown a lack of deliberate Indifference and gross negligence
 15 and by doing so has encouraged such violent treatment of Inmates
 16 and even condoned and covered up such conduct. Captain. Pearce
 17 and LT. Bednar continue to Abuse there authority here and keep
 18 Inmates Safe and Secure From violent, officers such as. Pearce knew
 19 before hand About both officers propensity for violence and
 20 Numerous Altercations but did nothing But condone and encourage
 21 this behavior. They knew About both Deputy's Records, and there
 22 Socratic enjoyment in Attacking Inmates. The Two eye witnesses
 23 gave Audio testimony to go along with the DVE evidence. Testimony
 24 was taken By SGT. Studor in his Internal Affairs investigation.
 25 Both witnesses are Disgusted in the facility and administration and R-
 26 more than willing to testify. as well as myself. I was Tortured
 27 and humiliated and caused physical, emotional and
 28 psychological Pain of untold magnitude.

III. STATEMENT OF CLAIM
(continued)

1 Everything I say is true and correct to the best of
2 my knowledge, and ability.

3
4 2-9-16

Michael Ray France ^{DOB} (9-27-88)

Michael Ray France

☐ SAN FRANCISCO/OAKLAND ☒ SAN JOSE ☐ EUREKA

Michael Ray Franco #1663
911 Low Gap Road (NCSO)
Ukiah, CA 95402

RECEIVED

FEB 26 2016

SUSAN SOONG
CLERK US DISTRICT
NORTHERN DISTRICT OF CA
SAN JOSE

SAN JOSE COUNTY JAIL
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OFFICE

Northern District

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San Jose,

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Legal mail only

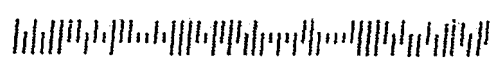
Case 1:16-cv-01068-1-P-G-A Document 1-1



PORT
OF CALIFORNIA

New Case

*Attorney at Law, U.S. District Court
District of California
First Street, Room 2112
San Francisco, CA 94133-3905*



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FEB 17 2016

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Melodie Hughes
P.O. Box 207
Willits, California 95490
707-651-2773
madmadmel61@yahoo.com

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

**IVIN DAVID SLATER, deceased,
By and through Melodie Hughes, .
his mother; and
MELODIE HUGHES**

Plaintiff

vs

**COUNTY OF MENDOCINO;
SHERIFF THOMAS ALLMAN, in his
individual capacity;
CALIFORNIA FORENSIC MEDICAL
GROUP; and
DR. TAYLOR FITHIAN;
JOEY DeMARCO #1176
DEPUTY CHERA #2675
and DOES 1 – 100**

Defendants

CASE: CV 15 1794 N.J.V.

SECOND AMENDED COMPLAINT

- 1. Failure to Provide Medical Care in violation of Eighth and Fourteenth Amendments (42 U.S.C. 1983);**
- 2. Deprivation of Substantive Due Process in violation of First and Fourteenth Amendments (42 U.S.C. 1983);**
- 3. Failure to Furnish Medical Care (42 U.S.C. 1983);**
- 4. Negligent Supervision, Training, Hiring, and Retention;**
- 5. Negligence;**
- 6. Wrongful Death.**

DEMAND FOR JURY TRIAL

INTRODUCTION

1
2
3 1. On March 22, 2014, Ivin Slater was arrested at approximately 9:49 p.m. for possession of
4 heroin and a violation of probation. Bail was not allowed due to this violation.

5 2. During Ivin's stay at the Mendocino County Jail he was suffering from heroin withdrawal.
6 The arresting deputies were very much aware of this and promised myself, Melodie Hughes, "They
7 would get him the help he needed."

8 3. Throughout this lawsuit, Plaintiff seeks to hold Defendants accountable for refusing to
9 provide adequate medical care, which led to Ivin Slater's untold suffering, unnecessary harm, and a
10 painful suffering of lingering death.

11 **JURISDICTION**

12 4. This Complaint seeks damages for the violation of Civil Rights, privileges, and immunities
13 guaranteed by the First, Eighth, and Fourteenth Amendments of the United States Constitution, pursuant
14 to 42 U.S.C. 1983 and 1988, as well as for violations of California State Law.

15 5. Plaintiffs invoke the pendent jurisdiction of this Court.

16 6. This Court has jurisdiction over this lawsuit pursuant to 28 U.S.C. 1331 and 1343.

17 7. This Court has supplemental jurisdiction over the state law claims asserted herein pursuant to
18 28 U.S.C. 1367, because the claims form part of the same case or controversy arising under the United
19 States Constitution and federal law.

20 **VENUE**

21 8. Plaintiffs' claims, alleged herein, arose in the County of Mendocino, California pursuant to 28
22 U.S.C. 1391(b)(2).

23 9. Rule 3 of the Federal Rules of Civil Procedure and Local Rule 3-2(e), authorizes assignment
24 to this division because a substantial part of the events or omissions giving rise to Plaintiffs' claims
25 occurred in the counties served by this division.

26 ///

27 ///

28 ///

///

PARTIES

10. Plaintiff, Melodie Hughes, brings claims on behalf of Ivin David Slater, deceased, her son. Ivin Slater was born in Mendocino County on October 22, 1987, was living in Mendocino County, and died in Mendocino County. This matter is based on violations of Ivin Slater's rights under the United States Constitution and California State Law.

11. Plaintiff, Melodie Hughes, is the mother of Ivin Slater, and resides in Mendocino County. She is suing individually for civil rights violations under the First and Fourteenth Amendments and California State Law.

12. Defendant, County of Mendocino, is a public entity, dully organized and existing under the laws of the State of California. Under its authority, Defendant County of Mendocino operates and manages Mendocino County Jail and is and was at all relevant times mentioned herein responsible for the actions and/or interactions and the policies, procedures, and practices/customs of the Mendocino County Sheriff's Office and Mendocino County Jail, and its entity's respective employees and/or agents. Mendocino County Sheriff's Office operates Mendocino County Jail, and is and was responsible for ensuring the provision of medical services to all Mendocino County Jail inmates. Mendocino County Sheriff's Office also operates the office at the Coroner.

13. Defendant Thomas Allman is, and was at all relevant times mentioned herein, the Sheriff-Coroner of the County of Mendocino, the highest position in the Mendocino County Sheriff's Office. As Sheriff-Coroner, Defendant Thomas Allman was responsible for the hiring, screening, training, retention, supervision, discipline, counseling, and control of all Mendocino County Sheriff's Office custodial employees and/or agents. Defendant Allman is and was charged by law with the administration of the Mendocino County Jail, and is responsible for safety and security of inmates housed at the jail. Defendant Allman also is and was responsible for the promulgation of the policies, procedures, and allowance of the practices/customs pursuant to which the acts of the Mendocino County Sheriff's Office alleged herein were committed. Defendant Thomas Allman is also charged with oversight of the Coroner's Division of the Mendocino County Sheriff's Office. Defendant Allman is being sued in his individual capacity. At all times referenced herein and relevant hereto, Thomas Allman was acting within the course and scope of his employment with the County of Mendocino.

14. Defendant California Forensic Medical Group (CFMG) is a California corporation, headquarters based in Monterey, California. CFMG is a private for-profit correctional health care provider that services approximately sixty-five (65) correctional facilities in twenty-seven (27)

Case: CV 15 1794 N.J.V.

1 California counties. The County of Mendocino contracts with CFMG to provide medical and dental
2 services for the Mendocino County Jail. At all times relevant herein, CFMG was responsible for the
3 health services provided to Ivin Slater during his detention in the Mendocino County Jail, and was
4 acting within the course and scope of its employment with the County of Mendocino.

5 15. Defendant Taylor Fithian is, and was at all relevant times mentioned herein, the co-founder,
6 President, and Medical Director for the Defendant California Forensic Medical Group. Defendant
7 Fithian is a Board-certified psychiatrist and oversees the delivery of medical, mental health and dental
8 care in all CFMG served facilities, including standards of medical care and utilization review.
9 Defendant Fithian is and was responsible for the promulgation of the policies and procedures and the
10 allowance of the practices/customs pursuant to which the acts of California Forensic Medical Group
11 alleged herein were committed. Defendant Fithian is being sued in his individual capacity. At all times
12 relevant hereto and referenced herein, Defendant Fithian was acting in the course and scope of his
13 employment with California Forensic Medical Group.

14 16. Deputy Joey DeMarco #1176 is being sued in his individual capacity. Deputy DeMarco is
15 and was a deputy in the Mendocino County Sheriffs Office. Defendant DeMarco was the arresting
16 officer on March 22, 2014. At this time he had a lengthy conversation with Melodie Hughes, Plaintiff.
17 He looked her square in the eye and "Promised to get Ivin the help he needed." Ivin needed heroin
18 detox, but DeMarco failed to follow through and make good his promise. He merely dropped Ivin Slater
19 off at the Mendocino County Jail and never gave it another thought.

20 17. Deputy Chera #2675 is being sued in his individual capacity. Defendant Chera was the
21 Intake Officer on duty the night of March 22, 2014. Chera failed to complete medical screening and call
22 for a nurse. No mention of heroin detox.

23 **EXHAUSTION OF PRE-LAW SUIT PROCEDURES FOR STATE LAW CLAIMS**

24 18. Plaintiff filed governmental Tort Claims with Defendant County of Mendocino on behalf of
25 Melodie June Hughes on September 10, 2014. By correspondence dated October 23, 2014, the County
26 of Mendocino rejected the governmental Tort Claims.

27 (Exhibit #1)

28 ///

///

///

Case: CV 15 1794 N.U.V.

FACTUAL ALLEGATIONS

19. County of Mendocino, Mendocino County Sheriff's Office, and California Forensic Medical Group, have been on notice that their provisions of medical care to inmates at the Mendocino County Jail is inadequate and results in needless harm and suffering since at least 2001.

(Exhibit #2)

20. California Forensic Medical Group, Taylor Fithian, and the counties they provide correctional facility medical services to have numerous lawsuits for:

- a. Failure to provide Necessary medical treatments to inmates upon their arrival at the jail.
- b. Failure to provide care in emergency situations.
- c. Failure to diagnose and refer to outside specialists when necessary.
- d. Failure to maintain adequate, accurate, and complete medical records.

21. Deputy Joey DeMarco ID#1176 and Verdote arrested Ivin Slater on March 22, 2014, for possession of heroin and a probation violation no-bail warrant.

(Exhibit #3)

22. Deputies DeMarco and Verdote were very much aware of Ivin's heroin habit and his need for medical care and detox treatment. They assured us "he would get the help he needed."

(Exhibit #4 and #5)

23. Deputy DeMarco does not indicate need for heroin detox on Pre-booking record. Paperwork is also incomplete.

(Exhibit #6)

24. Deputy Chera ID#2675 completed the Medical Booking Screening paperwork. There are two (2) copies, one unsigned and one signed by a nurse. No referral indicated, no mention of heroin detox.

(Exhibit #7 and #8)

25. Ivin Slater was not evaluated for a full twenty-four (24) hours. He was then allegedly put on California Forensic Medical Group Withdrawal Protocol.

(Exhibit #9 and #10)

26. According to an inmate statement, Ivin Slater became extremely sick in the first 24 hours. He was vomiting and had diarrhea. He was unable to take care of himself, laying in his own excrement. Ivin was unable to get up to get meals. This is documented from statement of cell-mate Mike England.

(Exhibit #11)

1 27. Ivin Slater requested to see medical on at least one occasion.

2 (Exhibit #12)

3 28. While Ivin Slater got worse, numerous other inmates helped wash him up and continuously
4 asked officers and the nurses for help, only to be told "mind your own business"; "It's not our job"; and
5 "the next shift has it".

6 (Exhibit #13)

7 29. When Ivin Slater was given medication or a suppository, he was unable to keep pills down,
8 or administer them.

9 (Exhibit #13)

10 30. California Forensic Medical Group failed continuously to follow protocol, check vitals, and
11 complete patient charts.

12 (Exhibit #14, #15, #16, and #17)

13 31. The officers and nurses on duty continued lack of attention and interest in Ivin Slater's
14 condition, forced inmates to sound the panic alarm.

15 (Exhibit #11 and #13)

16 32. California Forensic Medical Group never sought a Doctor's opinion, or call for an ambulance
17 while Ivin Slater was in jail.

18 33. Inmates said Ivin's condition by the time he was released "looked like a puppy dying of
19 parvo." He was in worse condition than ever.

20 34. After 3 or 4 days of heroin detox, Ivin should have been getting a little better, not worse.
21 Even this did not alarm jail staff, with continued disregard and negligence.

22 35. There was a no-bail warrant hold on Ivin Slater for violation of probation, and I was not
23 allowed to post bail. Yet, on March 26, 2014, Ivin Slater was OR'd. Probation was not present.

24 (Exhibit #18, #19, and #20)

25 36. Ivin Slater was released from Mendocino County Jail on March 26, 2014.

26 (Exhibit #21)

27 37. Ivin Slater had one foot in the grave when he left jail. Ivin was extremely dehydrated, weak,
28 and in constant pain.

38. In the end, Ivin Slater was suffering, almost delirious, he just wanted to go home to his
mother. The last two (2) hours of Ivin's life he did not use heroin.

Case: CV 15 1794 N.J.V.

1 39. Melodie Hughes has suffered great mental strain and anxiety over this horrible ordeal. Ivin
2 left her five (5) days earlier in the custody of the Mendocino County Sheriff's Department. They
3 promised Melodie Hughes that Ivin would get the help he needed and wanted. Ms. Hughes was actually
4 relieved. Five days later he returned, looking like he aged 30 years. Melodie Hughes had no idea what
5 was wrong, and was in shock at his condition. Melodie Hughes planned to feed him and then take him
6 to the hospital, but time ran out.

7 (Exhibit #5)

8 40. Autopsy results claim death due to heroin intoxication, but overlooks the fact that Ivin had
9 several tears in his gastric bag and the area is autolyzed.. Ivin's peritoneal cavity contained air and 600
10 ml fluid with food particles floating in it. This is evidence that he may have died from a perforated
11 stomach.

12 (Exhibit #22)

13 41. Defendant DeMarco started this horrible chain of events when he promised Plaintiff Hughes,
14 looked her straight in the eye, that he would make sure Ivin Slater got the medical care he needed to get
15 off heroin. He lied. What kind of person does that? DeMarco did nothing, said nothing. He is guilty of
16 depraved indifference and worse.

17 42. This charade was continued by officers at the jail and medical staff of California Forensic
18 Medical Group. Not by one or two negligent acts; instead it went on for 4 (four) day. All the while
19 Plaintiff Slater is getting progressively worse. How do people, claiming to be doing their job, not see
20 how horribly sick Slater was? The inmates saw it.

21 43. The County of Mendocino and Sheriff Allman ignored numerous warnings of negligent
22 medical care at the jail. There has been numerous other deaths at the jail because of this.

23 44. The practices and policies of California Forensic Medical Group to provide the least amount
24 of medical care possible is well known throughout the state. Staff is encouraged to turn a blind eye to
25 anything that might cost them money. What they do is unconscionable, negligent and downright
26 criminal.

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Case: CV 15 1794 N.J.V.

1 ///

2 **CLAIMS FOR RELIEF**

3 **FIRST CLAIM FOR RELIEF**

4 **Deliberate Indifference to Serious Medical Needs and Failure to Protect from Harm**
5 **in Violation of the Eighth and Fourteenth Amendments to the United States Constitution**
6 **(Survival Action – 42 U.S.C. § 1983).**

7 **(Against All Defendants)**

8 45. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 44 as though fully set
9 forth therein.

10 46. Defendants failed to provide Ivin Slater with necessary and appropriate medical care.

11 47. Defendants DOE 1-100, medical staff and officers on duty failed to respond to Ivin Slater's
12 increasing distress, failed to request or summon a more qualified doctor to attend to Ivin.

13 48. Defendants Mendocino County and Sheriff Thomas Allman failed to heed Grand Jury reports
14 of inadequate medical care policies, continuing to employ California Forensic Medical Group as its
15 medical provider for the jail.

16 49. Defendants Mendocino County, Sheriff Thomas Allman, and California Forensic Medical
17 Group failed to ensure appropriate policies, procedures and practices were in place to guide all
18 employees for medical emergencies, and failed to provide adequate training.

19 50. Mendocino County, Sheriff Allman, the county sheriff's office and all jail employees had a
20 duty to protect Mr. Slater from harm, and failed to do so.

21 51. Defendants Taylor Fithian and California Forensic Medical Group, a for-profit company with
22 numerous lawsuits for inadequate care; continue to practice inadequate policies and procedures in
23 identifying inmates in need of medical care and providing appropriate medical treatment.

24 52. Defendants have consistently failed to meet their constitutional obligation to provide
25 adequate medical care in their jail despite notice of significant and dangerous problems, evidences
26 "Deliberate Indifference" in the provision of medical care.

27 53. Defendants' acts and/or omissions as alleged herein constitute Deliberate Indifference to Ivin
28 Slater's serious medical needs, health and safety.

54. As a direct and proximate result of Defendant's conduct, Ivin Slater suffered physical pain,
emotional distress, a slow painful lingering death, and loss of life.

///

1 55. The aforementioned acts and/or omission of Defendants Thomas Allman, in an individual
2 capacity, the officers and medical staff on duty, California Forensic Medical Group, and Taylor Fithian
3 were willful, wanton, malicious and oppressive, thereby justifies an award to Plaintiffs of exemplary and
4 punitive damages to punish the wrongful conduct alleged herein and to deter such conduct in the future.

5
6 **SECOND CLAIM FOR RELIEF**

7 **Deprivation of Substantive Due Process Rights in Violation of First and Fourteenth Amendments**
8 **of the United States Constitution – Loss of Parent/Child Relationship (42 U.S.C. §1983)**
9 **(Against all Defendants)**

10 56. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 55 as fully set forth
11 therein.

12 57. The aforementioned acts/or omissions of Defendants Doe 1-100, on duty nurses and jail
13 personnel, in being deliberately indifferent to Ivin Slater's serious medical needs, health and safety, and
14 their failure to act on or take appropriate measures violates Ivin Slater's constitutional rights and in turn
15 led to his lingering death; deprived Plaintiff Melodie Hughes of their liberty interest in the parent/child
16 relationship in violation of their due process rights as defined by the First and Fourteenth Amendments
17 of the United States Constitution.

18 58. The aforementioned acts or omissions of Defendants Thomas Allman, California Forensic
19 Medical Group, and Taylor Fithian in being deliberately indifferent to the medical needs of Ivin Slater
20 and his health and safety, violating Ivin Slater's constitutional rights, and their failure to train and
21 supervise employees and/or to take other appropriate measures to prevent the acts or omissions that led
22 to the wrongful death of Ivin Slater; deprived Plaintiff Melodie Hughes of their liberty – interest in the
23 parent-child relationship in violation of their substantive due process rights as defined by the First and
24 Fourteenth Amendments of the United States Constitution.

25 59. The continuing decision of Defendant County of Mendocino to employ California Forensic
26 Medical Group and Taylor Fithian to administer and provide medical care for Mendocino County Jail
27 inmates; despite warnings by several Grand Jury reports, mounting complaints and several other deaths
28 of inmates due to inadequate and non-existent medical services; the County acted with deliberate
indifference to the medical needs of Ivin Slater and all other inmates thus leading to the untimely death
of Ivin Slater, violating his constitutional rights, and deprived Plaintiff Melodie Hughes of their liberty

1 interest in the parent-child relationship in violation of their substantive due process rights as defined by
2 the First and Fourteenth Amendments of the United States Constitution.

3 60. As a direct and proximate result of aforementioned acts and/or omissions of Defendants,
4 Plaintiff suffered injuries as alleged herein.

5 61. The aforementioned acts and/or omissions were willful, wanton, malicious, and oppressive,
6 thereby justifying an award to Plaintiff of exemplary and punitive damages to punish the wrongful
7 conduct alleged herein and to deter such conduct in the future.

8
9 **THIRD CLAIM FOR RELIEF**

10 **Failure to Furnish/Summon Medical Care.**

11 **(Survival Action – California State Law)**

12 **(Against All Defendants)**

13 62. Plaintiff re-alleges and incorporates by reference paragraphs 1 – 61 as though fully set forth
14 herein.

15 63. The County of Mendocino and Mendocino County Jail had a duty to provide Ivin Slater with
16 medical care as in California Government Code 844.6 and 845.6.

17 64. All Defendants, (Does 1-100) officers and nurses, on duty the duration of Ivin Slater's stay in
18 Mendocino County Jail exhibited blatant disregard, and depraved indifference for not providing or
19 summoning someone who could provide the attention Ivin Slater needed. This is a case of the elephant
20 in the room. How could anyone not notice what several inmates described as "a puppy dying of parvo".

21 65. The alleged conduct of Defendants was committed within the course and scope of their
22 employment.

23 66. County of Mendocino, Thomas Allman, California Forensic Medical Group, and Taylor
24 Fithian are liable for continuing to allow the practices they employ with regard to medical services in
25 county jail.

26 67. The aforementioned acts and/or omissions are willful, wanton, malicious and oppressive,
27 thereby justifying and award to Plaintiff of exemplary and punitive damages to punish the wrongful
28 conduct alleged herein and to deter such conduct in the future.

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FOURTH CLAIM FOR RELIEF

Negligent Supervision, Training, Hiring and Retention

(Survival Action – California State Law)

(Against Defendants Sheriff Allman, California Forensic Medical Group,

Taylor Fithian, and any officer in a supervisory position)

68. Plaintiffs re-allege and incorporate by reference paragraphs 1 - 67 as though fully set forth herein.

69. Defendants had a duty to hire, supervise, train and retain employees and/or agents so that employees and/or agents would refrain from the conduct and/or omissions alleged herein.

70. Defendants breached this duty causing the conduct alleged herein. Such breach constitutes negligence under California Stat Law, including California Government Code 815.2(a).

71. As a direct and proximate result of Defendants failure, Plaintiffs, Ivin Slater and Melodie Hughes, suffered injuries and damages alleged herein.

FIFTH CLAIM FOR RELIEF

Negligence

(Survival Actions – California State Law)

(Against All Defendants)

72. Plaintiffs re-allege and incorporate by reference paragraphs 1 thru 71, as though fully set forth herein.

73. Defendants, (Does 1-100) nurses and officers failed to comply with a minimum professional standard in the provision of medical care to Ivin Slater. They failed to assess him in a timely manor, failed to re-evaluate his progress, failed to provide and administer meds and suppositories, or even food and drink. They could not even complete paperwork and records. They never thought about bringing in a doctor or calling for an ambulance.

74. Defendants Thomas Allman, California Forensic Medical Group, Taylor Fithian and any supervisors failed to adopt even a minimum standard of policies, procedures and training for all staff. There in lies the problem: THERE IS NO MEDICAL CARE AT THE MENDOCINO COUNTY JAIL!

75. Together, these Defendants acted negligently and improperly breached their respective duties, and as a direct and proximate result, Plaintiffs suffered injuries and damages as alleged herein.

1 Such breach constitutes negligence under California State Law, including California Government Code
2 815.2(a).

3 76. The negligent conduct of Defendants was committed within the course and scope of their
4 employment.

5 77. The afore mentioned acts and/or omissions of Defendant Thomas Allman, in his individual
6 capacity, California Forensic Medical Group and Taylor Fithian were willful, wanton, malicious, and
7 oppressive, thereby justifying an award to Plaintiff of exemplary and punitive damages to punish the
8 wrongful conduct alleged herein and to deter such conduct in the future.

9 /

SIXTH CLAIM FOR RELIEF

Wrongful Death

California Code Civil Process 377.60

(Against All Defendants)

12 78. Plaintiffs re-allege and incorporate by reference paragraphs 1 - 77. As though fully set forth
14 herein.

15 79. Ivin Slater's death was a direct and proximate result of the aforementioned wrongful and/or
16 negligent acts and/or omissions of Defendants. Defendants' acts and/or omissions thus were also a
17 direct and proximate cause of Plaintiffs injuries and damages, as alleged herein.

18 80. As a direct and proximate result of Defendants' wrongful and/or negligent acts and/or
19 omissions, Plaintiff suffered the loss of the services, society, care and protection of the decedent, as well
20 as the loss of the present value of his future services to his mother. Plaintiff is further entitled to recover
prejudgment interest.

21 81. The aforementioned acts and/or omissions of Defendants Thomas Allman, in an individual
22 capacity; California Forensic Medical Group and Taylor Fithian were willful, wanton, malicious and
23 oppressive, thereby justifying an award to Plaintiff of exemplary and punitive damages to punish the
24 wrongful conduct alleged herein and to deter such conduct in the future.

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Case: CV 15 1794 N.C.V.

PRAYER FOR RELIEF

Wherefore, Plaintiff prays for the following relief:

1. Issue an injunction ordering the County of Mendocino to cease and desist their use of California Forensic Medical Group's "alleged medical services";
2. Issue an injunction ordering County of Mendocino to find and put in place medical services for the Mendocino County Jail, preferably from local sources that will better address inmates' needs;
3. Issue an injunction ordering County of Mendocino to research and develop a safe place that inmates and the greater public can use for Heroin Detox; to address the growing population of young adults in Mendocino County that are being ravaged by heroin addiction;
4. For compensatory general and special damages against each Defendant, jointly and severally, in an amount to be proven at trial;
5. For damages related to loss of family relations as to Plaintiff Melodie Hughes, \$2,000,000.00;
6. General damages, including damages for physical and emotional pain, emotional distress, hardship, suffering, shock, worry, anxiety, sleeplessness, illness, trauma and suffering the loss of the services, society, care and protection of the decedent, as well as the loss of economic security; in the amount of \$3,000,000.00.
7. Prejudgment interest;
8. For punitive and exemplary damages against each individual named Defendant in an amount appropriate to punish Defendant(s) and deter others from engaging in similar misconduct;
9. For costs of suit and reasonable attorney fees and costs pursuant to 42 U.S.C. 1988, and as otherwise authorized by statute or law;
10. For restitution as the Court deems just and proper;
11. For such other relief, including injunctive and/or declaratory relief, as the Court may deem proper.

Plaintiff demands trial by jury in this action.

Dated: 2-14-2016

Respectfully Submitted,


Melodie Hughes

Amended Complaint

COMPLAINT BY A PRISONER UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983

Name: Kramer Terry L
(Last) (First) (Middle Initial)

Prisoner Number: 54266

Institutional Address: 951 Low Gap Road
Ukiah Ca, 95482

FILED

DEC 23 2015

UNITED STATES DISTRICT COURT

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NORTHERN DISTRICT OF CALIFORNIA

Terry Leo Kramer #54266
(Enter your full name.)

vs.

Mendocino, et al.

(Enter the full name(s) of the defendant(s) in this action.)

Case No. 15-3780 HSG (PR)
(Provided by the clerk upon filing)

COMPLAINT UNDER THE
CIVIL RIGHTS ACT,
42 U.S.C. § 1983

I. Exhaustion of Administrative Remedies.

Note: You must exhaust available administrative remedies before your claim can go forward. The court will dismiss any unexhausted claims.

A. Place of present confinement Mendocino County Jail

B. Is there a grievance procedure in this institution? YES ☒ NO ☐

C. If so, did you present the facts in your complaint for review through the grievance procedure? YES ☒ NO ☐

D. If your answer is YES, list the appeal number and the date and result of the appeal at each level of review. If you did not pursue any available level of appeal, explain why.

1. Informal appeal: _____

1 2. First formal level: _____

2
3
4 3. Second formal level: _____

5
6
7 4. Third formal level: _____

8
9
10 E. Is the last level to which you appealed the highest level of appeal available to you?

11 YES ☒ NO ☐

12 F. If you did not present your claim for review through the grievance procedure, explain why.

13
14
15
16 **II. Parties.**

17 A. Write your name and present address. Do the same for additional plaintiffs, if any.

18 Terry Leo Kramer
19 951 Low Gap Road Ukiah CA 95482
20

21 B. For each defendant, provide full name, official position and place of employment.

22 Medvin MD Mendocino County Jail
23 RN John's RN Mendocino County Jail
24 Tom Allman Sheriff Mendocino County Jail
25 T Pearce Captain Mendocino County Jail
26 California Forensic Medical Group Contractor
27 Mendocino County Jail
28 Clair Teske RN Mendocino County Jail

1 **III. Statement of Claim.**

2 State briefly the facts of your case. Be sure to describe how each defendant is involved
and to include dates, when possible. Do not give any legal arguments or cite any cases or
3 statutes. If you have more than one claim, each claim should be set forth in a separate
numbered paragraph.

4 *See page's 1-5*
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16 **IV. Relief.**

17 Your complaint must include a request for specific relief. State briefly exactly what you
want the court to do for you. Do not make legal arguments and do not cite any cases or
18 statutes.

19 *I want to be compensated for my pain and*
20 *suffering to the amount of 11.3 million.*
21 *Changes need to be made so we are*
22 *not forced to suffer under inhumane conditions*
23 *here at the Mendocino County Jail.*

24 I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

25 Executed on:

11-17-2015

Date

Terry Kramer

Signature of Plaintiff

Doctor Medvins committed these acts while acting under the color of ~~law~~ state law violating my Eighth Amendment rights by his deliberate indifference to my serious medical needs causing cruel and unusual punishment.

On 5-27-2015 I was injured due to a fall while having a seizure because doctor Medvins took away my seizure meds...

And because my left shoulder was severely damaged he ordered an x-ray and because this did not show the damage the injury went untreated and uncared for unless I had 2100 "cash, check or money order" to pay for the MRI, that would and still could show how truly damaged I am and it could be seen clearly how much pain I must be in. I am forced to remain suffering for over six months now as the jail doctor Medvins went so far out of his way to order LVN Carfi to not even give me so much as an aspirin. He intentionally forced me to undergo undue pain and suffering while he acted under the color of state law.

Then while I was being transported in a county van while being taken to court the driver "Dyche" had to slam on the break's and my same left shoulder was further damaged and as I attempted to get

care for this damage doctor Medvins has refused to see me after a number of attempts, by me to receive care so for the past six months I have been forced to go on living in extreme agony because the jail doctor Medvins is seeing that I intentionally suffer because he has complete control here in the Mendocino County Jail so he is giving staff orders to uncare for many of us who are then forced to undergo unnecessary pain and suffering as we are subjected to inhumane care and are quite literally tortured because of this.

I am also a chronic migraine sufferer and have been for years and as I went out on a pass to the county clinic for care a doctor prescribed me Excedrin, Migraids and my seizure med's Neurontin, that I've been taking for many years, but doctor Medvins denied these, Aspirin and Neurontin by telling me, "outside doctors have no privileges here," intentionally causing me to suffer as I have been forced to suffer for over 11 months now...

I have a right to be free from the infliction of cruel and unusual punishments as guaranteed by the Eighth Amendment.

#3

Violation of Eighth Amendment rights have been found. When there is an intentional denial of medical care, or when a prison official's conduct indicates deliberate indifference to the medical needs of prisoners.

Sheriff Tom Allman

I spoke to him about my shoulder injury and my medical needs and he continued to let me he abused violating my Fifth and Fourteenth Amendment rights that state, ... The due process right has been couched in terms of prisoner's right to be free from an abuse on the part of discretion on the part of prison administrators, ...

Captain Pearce I also informed in writing that I was severely injured and I needed care but I was being denied and he informed me in writing that I needed 2100 cash check or money order for the MRI that would show how damaged I am. To deprive me of access to care shows he is personally involved in the deprivation of my civil rights.

The person I believed to be Clair Teske at this time I have now been informed is one RN John's who still refuses to tell

#4

me her name beyond "nurse".

This RN Johns has intentionally caused me to suffer in countless ways both physically and mentally by her intentional actions to deprive me of adequate medical care. She has told me in writing a number of times I can ^{buy} Motrin 200 mg from canteen for any of my pain needs at five packs a week as my history well clearly show I am a chronic pain sufferer and to force me to remain in pain under these inadequate conditions proves cruel and unusual punishment in violation of my rights to reasonable medical care.

All these peoples are acting under the color of state law West v. Atkins 487 U.S. 42, 48 (1988)

My rights secured by the Constitution or laws of the United States are being violated.

Mendocino County who is holding me is the entity governing these held policies that amounts to deliberate indifference to the plaintiff's Constitutional rights and said policies are the moving force behind the Constitutional violations Plummer v. School Dist. #40 county of

#5

Yamhill 130 F.3d 432, 438 (9 Cir 1997)
see *Montell v. Dept of Social Services*,
436 U.S. 658, 690 (1978)

California Forensic Medical Group
who contracts with the state to
provide a service acts under the color
of State law as they bear an affirmative
obligation to provide medical care to
prisoners; see *West*, 487 U.S. at 55-56
(1988). CMFG is therefore obligated to provide
care that is protected by the Eighth
Amendment of the Constitution.

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SAB FRAHCO INC. 2010

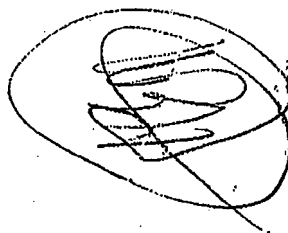
21 DEC 23 15 1945

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Susan Song Clark
 U.S. District Court
 450 Madison Ave
 P.O. Box 36066
 New York, N.Y. 10017-0680

Legal Mail



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8 Attorneys for Plaintiff
9 **JULIAN MURPHY**, a minor, by and through Steven Murphy,
10 the duly appointed Guardian of the person and estate of Julian Murphy

11 UNITED STATES DISTRICT COURT

12 NORTHERN DISTRICT OF CALIFORNIA

13 JULIAN MURPHY, a minor, by and
14 through Steven Murphy, the duly
15 appointed Guardian of the person and
16 estate of Julian Murphy,

17 Plaintiff,

18 vs.

19 COUNTY OF MENDOCINO; CALIFORNIA
20 FORENSIC MEDICAL GROUP; TAYLOR
21 FITHIAN, M.D.; and DOES 1 through
22 100, all in their individual and official
23 capacities.

24 Defendants.

Case No.: 1:15-cv-04624-NJV

**SECOND AMENDED COMPLAINT FOR
CIVIL RIGHTS VIOLATIONS PURSUANT
TO 42 U.S.C. §1983; WRONGFUL DEATH;
AND STATE LAW CLAIMS
[DEMAND FOR JURY TRIAL]**

25 **INTRODUCTION**

26 This is an action resulting from the wrongful death of Shane Allen Murphy, a 36 year
27 old inmate of Mendocino County Adult Detention Facility in Ukiah, California, with a medical
28 history of mental health conditions. Mr. Murphy died in custody on October 8, 2014.
Plaintiff, JULIAN MURPHY, is the minor child of decedent, Shane Allen Murphy.

///

///

1 Plaintiff is suing for violations of civil rights pursuant to 42 U.S.C. section 1983 for
2 wrongful death pursuant to California Code of Civil Procedure section 377.60 et seq.,
3 associated survival actions pursuant to California Code of Civil Procedure section 377.20 et
4 seq. and associated causes of action under the California Government Code.

5 **JURISDICTION AND VENUE**

6 1. This case is brought pursuant to 42 U.S.C. §1983. Jurisdiction is based on 28
7 U.S.C. §§ 1331. With respect to those claims brought pursuant to California law, plaintiff has
8 complied with the administrative claim requirements. The court has supplemental
9 jurisdiction over plaintiff's state claims pursuant to 28 U.S.C. §1367.

10 2. The claims alleged herein arose in the City of Fort Bragg and County of
11 Mendocino, State of California. Therefore, venue is proper in the Northern District of
12 California pursuant to 28 U.S.C. § 1391(b)(2).

13 **DEMAND FOR JURY TRIAL**

14 3. Plaintiff demands a jury trial.

15 **EXHAUSTION OF PRE-LAWSUIT PROCEDURES**

16 4. Plaintiff JULIAN MURPHY, a minor, by and through Steven Murphy, the duly
17 appointed Guardian of the person and estate of Julian Murphy, on behalf of himself, filed
18 governmental tort claims with the City of Fort Bragg and Defendant COUNTY OF
19 MENDOCINO as a pre-requisite to the state law claims alleged herein on April 6, 2015 and
20 March 19, 2015, respectively. By correspondence dated April 21, 2015, defendant COUNTY
21 OF MENDOCINO rejected plaintiff's governmental tort claims.

22 **PARTIES**

23 5. Plaintiff JULIAN MURPHY, a minor, is the son of Shane Allen Murphy. He is
24 suing for the wrongful death of his father and his resulting loss and for the violation of Shane
25 Allen Murphy's Fourteenth Amendment rights. JULIAN MURPHY, at all times mentioned is, a
26 citizen of the United States of America. He resides in the County of Glenn during the events
27 described herein.

28 ///

1 6. Defendant COUNTY OF MENDOCINO ("COUNTY") is a public entity duly
2 organized and existing under the laws of the State of California, with the capacity to sue and
3 be sued. Defendant COUNTY is responsible for the actions, omissions, policies, procedures,
4 practices and customs of its various agents and agencies, and is sued in accord with the
5 California Tort Claims Act, Government Code 910 et seq., for the acts and omissions of public
6 employees DOES 1 through 100, and each of them. At all times relevant to the facts alleged
7 herein, defendant COUNTY was responsible for assuring that the actions, omissions, policies,
8 procedures, practices and customs of their employees and agents, DOES 1 through 100,
9 complied with the laws of the State of California and the Constitution of the United States.
10 Plaintiff is informed and believes that defendant COUNTY is responsible for administering the
11 jail facilities and for making, overseeing, and implementing the policies, practices and
12 customs challenged herein relating to the operation of Mendocino County Adult Detention
13 Facility. The Mendocino County Adult Detention Facility is located at 951 Low Gap Road,
14 Ukiah, California 95482.

15 7. Plaintiff is informed and believes and thereon alleges that Defendant
16 CALIFORNIA FORENSIC MEDICAL GROUP is a California corporation, with a principal place of
17 business in Monterey County, that has contracted with COUNTY OF MENDOCINO to provide
18 medical services to the Mendocino County Adult Detention Facility since 1990.

19 8. Plaintiff is informed and believes and thereon alleges that Defendant TAYLOR
20 FITHIAN, M.D., an individual, with a principal place of business in Monterey County, is the
21 president and Chief of Behavioral Health Services for defendant CALIFORNIA FORENSIC
22 MEDICAL GROUP.

23 9. Defendant DOES 1-50 were at all relevant times alleged herein, were
24 employees of COUNTY OF MENDOCINO and/or CALIFORNIA FORENSIC MEDICAL GROUP in
25 charge of assisting administration and operation of the Mendocino County Adult Detention
26 Facility; making policies and/or ensuring constitutionally adequate policies were implemented
27 and followed; commanding relevant watches; and supervising, training, and disciplining staff
28 members.

1 10. Defendant DOES 51-100 were at all relevant times alleged herein, COUNTY OF
2 MENDOCINO and/or CALIFORNIA FORENSIC MEDICAL GROUP employees and others,
3 including, but not limited to, staff of the jail, or medical personnel contracted or otherwise
4 retained by the COUNTY OF MENDOCINO, who were involved in the wrongful death of
5 Shane Allen Murphy, and any resultant investigation into his death.

6 11. The true names and identities of Defendants DOE 1 through DOE 100 are
7 presently unknown to Plaintiff. Plaintiff alleges on information and belief that each of
8 Defendants DOE 1 through DOE 100 were employed or contracted by the COUNTY OF
9 MENDOCINO and/or CALIFORNIA FORENSIC MEDICAL GROUP at the time of the conduct
10 alleged herein. Plaintiff alleges on information and believe that each of the Defendants DOE
11 1 through DOE 100 were responsible for the training, supervision and/or conduct of the
12 FBPD, jail employees, and/or agents involved in the conduct alleged herein. Plaintiff alleges
13 that each of Defendants DOE 1 through DOE 100 were responsible for and caused the acts
14 and injuries alleged herein. Plaintiff alleges that each of the DOE defendants is legally
15 responsible and liable for the incident, injuries and damages hereinafter set forth. Each
16 defendant proximately caused injuries and damages because of their negligence, breach of
17 duty, negligent supervision, management or control, violation of public policy, and arrest.
18 Each defendant is liable for his or her personal conduct, vicarious or imputed negligence,
19 fault or breach of duty, whether severally or jointly, or whether based upon agency,
20 employment, ownership, entrustment, custody, care, control, or upon any other act or
21 omission. Plaintiff will ask leave to amend this Complaint subject to further discovery.

22 12. Plaintiff will seek to amend this Complaint as soon as the true names and
23 identities of Defendants DOE 1-100 have been ascertained.

24 13. In doing the acts alleged herein, Defendants, and each of them acted within
25 the course and scope of their employment.

26 14. In doing acts and/or omissions alleged herein, Defendants, and each of them,
27 acted under color of authority and/or under color of law.

28 ///

15. Due to the acts and/or omissions alleged herein, Defendants, and each of them, acted as the agent, servant, and employee and/or in concert with each of said other Defendants herein.

PRELIMINARY ALLEGATIONS

16. The COUNTY OF MENDOCINO is a public entity and is sued under Title 42 U.S.C. §1983 for violations of the Eighth and/or Fourteenth Amendments of the United States Constitution, California state law, the California Tort Claims Act, and the Government Code for the acts and omissions of the individual defendants and public employees, DOES 1-100, and each of them, who at the time they caused Plaintiff's and Shane Allen Murphy's injuries, damages, and death were duly appointed, qualified, and acting officers, employees, and/or agents of COUNTY and acting within the course and scope of their employment and or agency.

17. Plaintiff alleges that the conduct of each defendant deprived Shane Allen Murphy of his constitutional right to life, his constitutional right to medical and mental health care for his serious but treatable medical and mental health needs, and caused Shane Allen Murphy to suffer grievous harm, emotional and physical injuries prior to his death, and ultimately caused his death while he was in the custody of the defendants.

18. Each of the Defendants caused and is responsible for the unlawful conduct and resulting harm by, *inter alia*, personally participating in the conduct, or acting jointly and in concert with others who did so, by authorizing acquiescing, condoning, acting, omitting or failing to take action to prevent the unlawful conduct, respondeat superior, by promulgating or failing to promulgate policies and procedures pursuant to which the unlawful conduct occurred, by failing and refusing to initiate and maintain adequate training, supervision and staffing with deliberate indifference to Shane Allen Murphy's rights, by failing to maintain proper and adequate policies, procedures and protocols, and by ratifying and condoning the unlawful conduct performed by agents and officers, deputies, medical providers and employees under their direction and control.

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GENERAL ALLEGATIONS

19. Shane Allen Murphy was 36 years old on October 8, 2014, the day of his death. He died while in custody at Mendocino County Adult Detention Facility in Ukiah, California.

20. He had been incarcerated at Mendocino County Adult Detention Facility in Ukiah, California since his arrest on October 6, 2014 for allegedly carrying a concealed weapon, while under the influence.

21. Prior to this death, Shane Allen Murphy had a medical history of mental health conditions, including, but not limited to, anxiety, panic attacks, and depression.

22. Shortly before his arrest, Shane Allen Murphy was under a doctor's care for mental health conditions and had been prescribed medications to treat the aforementioned mental health conditions.

23. At the time of his arrest, it was apparent and known to defendants, and officers of Fort Bragg Police Department, including, but not limited to, Officer McLaughlin and Officer Brandon Lee, that Shane Allen Murphy was suicidal and in need of mental health care.

24. Plaintiff is informed and believes that the arresting officers, Officer McLaughlin and Officer Brandon Lee knew the Shane Allen Murphy's possession of a firearm was for the purpose of Shane Allen Murphy taking his own life that morning based on his own statements and actions. As a result, the arresting officers knew or should have known that Shane Allen Murphy was suicidal at the time of his arrest and deliberately failed to obtain reasonable medical care for him.

25. Plaintiff is informed and believes that the arresting officers, Officer McLaughlin and Officer Brandon Lee transported Shane Allen Murphy to jail without obtaining necessary medical and mental health care.

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1 26. Plaintiff is informed and believes that the arresting officers took Shane Allen
2 Murphy into custody and failed to inform personnel at the Mendocino County Adult Detention
3 Facility of the circumstances of his arrest, pursuant to policies and procedures in place for
4 arresting and transporting officers, to arrestees coming into the facility, which would have
5 triggered suicide precautions and necessary mental health evaluations.

6 27. Plaintiff is informed and believes that Officer McLaughlin and Officer Brandon
7 Lee knew at the time of the arrest that Shane Allen Murphy was a heightened suicide risk
8 and failed to take reasonable measures at the time of his arrest to prevent harm from
9 occurring.

10 28. Plaintiff is informed and believes that Defendant COUNTY OF MENDOCINO
11 contracts with defendant CALIFORNIA FORENSIC MEDICAL GROUP to provide medical care
12 to arrestees and inmates of the Mendocino County Adult Detention Facility.

13 29. Defendant COUNTY OF MENDOCINO, Defendant CALIFORNIA FORENSIC
14 MEDICAL GROUP, and Defendant TAYLOR FITHIAN, M.D. all oversee health care at
15 Mendocino County Adult Detention Center.

16 30. Plaintiff is informed and believes that DEFENDANT COUNTY OF MENDOCINO,
17 DEFENDANT CALIFORNIA FORENSIC MEDICAL GROUP, and DEFENDANT TAYLOR FITHIAN,
18 M.D., along with unknown jail personnel, failed in staffing a qualified medical and/or mental
19 health professional at the jail to evaluate the mental health for incoming inmates.

20 31. Plaintiff is informed and believes that defendant COUNTY OF MENDOCINO,
21 Defendant CALIFORNIA FORENSIC MEDICAL GROUP, and Defendant TAYLOR FITHIAN,
22 M.D., along with unknown jail personnel have continued to allow uncredentialed staff,
23 including licensed vocational nurses to perform intake medical assessments and/or mental
24 health assessments on patients without any appropriate clinical supervision by a registered
25 nurse, physician, or otherwise proper health care professional despite prior and subsequent
26 similar incidents of jail suicide.

27 32. Plaintiff is informed and believes that jail personnel failed to conduct a medical
28 assessment of Shane Allen Murphy when he was booked into the Mendocino County Adult

1 Detention Facility and failed to follow proper protocols in assessing his medical and mental
2 health status.

3 33. Plaintiff lacks personal knowledge about the circumstances surrounding the
4 alleged suicide by hanging death of his father, Shane Allen Murphy.

5 34. On information and belief, Shane Allen Murphy was found by other inmates
6 hanging by his neck in his holding cell.

7 35. On information and belief, Shane Allen Murphy was not provided with adequate
8 medical and psychiatric care upon his arrest and later, while he was in jail.

9 36. Plaintiff alleges on information and belief that Defendants have allowed
10 conditions at Mendocino County Adult Detention Facility to deteriorate causing an
11 environment where health care is ignored and inmate safety is disregarded.

12 37. Plaintiff alleges on information and belief that Defendants, with deliberate
13 indifference, gross negligence, and reckless disregard to the safety, security, and
14 constitutional and statutory rights of plaintiff, maintained, enforced, tolerated, permitted,
15 acquiesced in, and applied policies, practices, or customs and usages that caused the death
16 of Shane Allen Murphy.

17 38. Plaintiff alleges on information and belief that defendants failed to train,
18 supervise, and discipline officers, employees, and/or agents regarding the safety and
19 protection of inmates with mental health conditions.

20 39. Plaintiff alleges on information and belief that defendants failed to comply with
21 Mendocino County Sheriff's Office – Corrections Division Policy and Procedures Manual,
22 specifically related to mental health care, inmate classification, suicide prevention, and
23 inmate walk through checks.

24 40. Plaintiff alleges on information and belief that defendants failed to comply with
25 Mendocino County Adult Detention Facilities' policies and procedures pertaining to mental
26 health care and Title 15 of the California Code of Regulations, Minimum Standards for Local
27 Detention Facilities, Art. 10.

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1 41. Plaintiff alleges on information and belief that defendants failed to place Shane
2 Allen Murphy on suicide watch in an appropriate safety cell to allow observation with a
3 camera.

4 42. Plaintiff alleges on information and belief that defendants have been on
5 deliberately indifferent to the deteriorating conditions at the jail due to an increasing number
6 of jail suicides and other mental health related injuries and fatalities within the past 5 years.

7 43. Plaintiff alleges on information and belief that defendants improperly classified
8 Shane Allen Murphy under the Mendocino County Sheriff's Office Corrections Division Policy
9 and Procedures Manual while he was a pre-trial arrestee in conscious disregard for his
10 safety.

11 44. Plaintiff alleges on information and believe that defendants were trained or
12 should have been trained under the Mendocino County Sheriff's Office Corrections Division
13 Policy and Procedures Manual on risk factors of suicide.

14 45. Shane Allen Murphy should have been classified as a "high risk inmate" due to
15 his arrest on alcohol related charges and exhibiting other warning signs of suicidal
16 tendencies.

17 46. Plaintiff is informed and believes that the County jail staff had actual
18 knowledge of Shane Allen Murphy's immediate and serious medical needs and did not
19 provide him with care.

20 47. Plaintiff is informed and believes that defendant Mendocino County's
21 employees and/or agents at the jail failed to inquire of City of Fort Bragg's arresting and/or
22 transporting officers if there were indications of suicide as required under Mendocino County
23 Sheriff's Office Corrections Division Policy and Procedures Manual.

24 48. Plaintiff is informed and believes that defendant Mendocino County's
25 employees and/or agents at the jail failed to implement and enforce generally accepted,
26 lawful policies and procedures of the jail, and allowing or ratifying deliberate indifference to
27 the serious medical / psychiatric needs of inmates or arrestees. These substantial failures
28 reflect Defendant County's policies implicitly or directly ratifying and/or authorizing the

1 deliberate indifference to serious medical needs and the failure to reasonably train, instruct,
2 monitor, supervise, investigate, and discipline County employees and/or agents as to
3 inmates' and arrestees' medical needs.

4 49. Shane Allen Murphy's death was the direct result of the Defendants failure to
5 investigate, properly staff the facility, supervise and discipline its employees, officers, and
6 officials notwithstanding the fact that they were on notice of Murphy's mental health
7 condition.

8 50. Plaintiff JULIAN MURPHY was physically, mentally, emotionally, and financially
9 injured and damaged as, a proximate result of Shane Allen Murphy's wrongful death,
10 including, but not limited to, the loss of decedent's familial relationships, comfort, protection,
11 companionship, love, affection, solace, and moral support. In addition to these damages,
12 Plaintiff is entitled to recover for the reasonable value of funeral and burial expenses.

13 51. All of the individual defendants were acting under color of authority as
14 employees and/or agents of the COUNTY.

15 52. Their actions were the proximate cause of the damages, specifically, Shane
16 Allen Murphy suffered damages, including but not limited to, wrongful death, and his son,
17 plaintiff, JULIAN MURPHY, lost the support of his father.

18 53. The Defendants' deliberate indifference to the serious medical needs of Shane
19 Allen Murphy resulted in his suffering and untimely wrongful death.

20 54. As a result, plaintiff JULIAN MURPHY has lost the lifelong love and
21 companionship of his father. Plaintiff also suffered special and general damages, according
22 to proof at trial.

23 55. Plaintiff is Shane Allen Murphy's successor-in-interest under Code of Civil
24 Procedure section 377.20 et seq.

25 56. Plaintiff Julian Murphy, a minor, by and through Steven Murphy, the duly
26 appointed guardian of the person and estate of Julian Murphy, individually and as successor-
27 in-interest of the estate of Shane Allen Murphy, Deceased has filed the required declaration
28 under Code of Civil Procedure section 377.32. See attached as Exhibit A to this Complaint.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

42 U.S.C. Section 1983

Violation of 8th and/or 14th Amendment to the Constitution

Failure to Provide Medical Care

**(Against CALIFORNIA FORENSIC MEDICAL GROUP, TAYLOR FITHIAN, M.D. and
DOES 1 through 100)**

57. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 56 as though fully set forth herein.

58. Defendants failed to provide Shane Allen Murphy with appropriate medical care during and after his arrest and detention. Defendants violated Shane Allen Murphy's constitutionally protected rights by engaging in various acts, including but not limited to:

- a) Failing to provide Shane Allen Murphy adequate, timely treatment for his mental health condition;
- b) Failing to medically clear Shane Allen Murphy prior to placement in the Mendocino County Adult Detention Facility;
- c) Failure to restrain Shane Allen Murphy for his safety and protection against harming himself;
- d) Failure to monitor and/or place Shane Allen Murphy on suicide watch while detained in the Mendocino County Adult Detention Facility;
- e) Failure to evaluate or assess Shane Allen Murphy for mental health conditions or suicidal ideation;
- f) Failure to maintain life-saving equipment in working order;
- g) Failure to summon emergency medical services or medical care under Government Code section 845.6;
- h) Failure to supervise while in custody;
- i) Failure to determine Shane Allen Murphy's medication needs during arrest, intake, and/ or detention.

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59. Plaintiff JULIAN MURPHY claims damages as a result, according to proof at trial.

60. As a result of these individual Defendants' conduct and deliberate indifference to the serious medical, mental, and physical health conditions and constitutional rights of Shane Allen Murphy, JULIAN MURPHY suffered loss of society, comfort, companionship, solace, love, affection, and services of his father, incurred funeral and burial expenses, and continues to suffer these damages.

61. By virtue of 42 U.S.C. Section 1988, Plaintiff is entitled to and demand an award of reasonable attorneys' fees and costs according to proof.

62. Each individual Defendant acted recklessly or with callous indifference to Shane Allen Murphy's mental and physical condition and constitutional rights, and should be assessed punitive damages.

WHEREFORE, Plaintiff prays for relief as set forth below.

SECOND CAUSE OF ACTION

42 U.S.C. Section 1983

Violation of the Fourteenth Amendment to the Constitution

Failure to Adequately Staff and Supervise

Mendocino County Adult Detention Facility

(Against CALIFORNIA FORENSIC MEDICAL GROUP, TAYLOR FITHIAN, M.D. and DOES 1 through 100)

63. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 62 as fully set forth herein.

64. Plaintiff is informed and believes that Defendants maintained a policy, custom or practice of understaffing the Mendocino County Adult Detention Facility with supervisory custody personnel.

65. Plaintiff is informed and believes that Defendants' policy, custom or practices of under staffing the jail facility with supervisory custody personnel was the moving force behind the violation of Shane Allen Murphy's constitutional rights.

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1 66. Defendants knew or should have known that the policy, custom or practice of
2 under staffing the jail facility with properly trained supervisors would cause grievous injury to
3 Shane Allen Murphy in violation of his constitutional rights.

4 67. As a proximate result of the conduct of Defendants, plaintiff JULIAN MURPHY
5 suffered personal injury and emotional distress and incurred general damages for the
6 deprivation of Shane Allen Murphy's constitutional rights.

7 WHEREFORE, Plaintiff prays for relief as set forth below.

8 **THIRD CAUSE OF ACTION**
9 **42 U.S.C. Section 1983**
10 **Violation of the Fourteenth Amendment to the Constitution**
11 **Failure to Adequately Train Jail Staff**
12 **(Against COUNTY OF MENDOCINO and DOES 1 THROUGH 100)**
13 **(*Monell* Claim)**

14 68. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 69 as
15 though full set forth herein.

16 69. Plaintiff is informed and believes that Defendants maintained a policy, custom
17 or practice of under staffing the jail facility with sufficiently trained custody personnel.

18 70. Plaintiff is informed and believes that defendants' policy, custom, or practices
19 or under staffing the jail facility with sufficiently trained custody personnel was the moving
20 force behind the violation of Shane Allen Murphy's constitutional rights.

21 71. Plaintiff is informed and believes, and on that basis alleges, that Defendants
22 failed to properly train custody personnel, including but not limited to members of the
23 Mendocino County Adult Detention Facility on the proper procedures for inmate safety, use
24 of restraints, summoning medical care, emergency medical situations, mental health intake,
25 mental health evaluation, medication administration, suicide prevention, suicide watch, as
26 well as the care and treatment of those inmates, such as Shane Allen Murphy, with known
27 mental health conditions and provision of medical care.

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72. Defendants knew or should have known that the policy, custom, or practice of failing to adequately train jail staff would cause grievous injury to Shane Allen Murphy in violation of his constitutional rights.

73. As a proximate result of the conduct of defendants, JULIAN MURPHY suffered personal injury and emotional distress and incurred general damages for the deprivation of Shane Allen Murphy's constitutional rights.

WHEREFORE, Plaintiff prays for relief as set forth below.

FOURTH CAUSE OF ACTION
42 U.S.C. Section 1983
Violation of 14th Amendment to the Constitution
Policy Denying Medical Care
(Against CALIFORNIA FORENSIC MEDICAL GROUP, TAYLOR FITHIAN, M.D. and
DOES 1 through 100)

74. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 73 as though fully set forth herein.

75. Plaintiff is informed and believes that Defendants maintained a policy, custom or practice of under staffing the jail facility with properly trained and supervised medical staff.

76. Plaintiff is informed and believes that defendants maintained a policy, custom, or practice of denying prisoners access to medical care.

77. Plaintiff is informed and believes that defendants maintained a policy, custom, or practice of failing to ensure that lifesaving equipment was available, maintained, and in good working order.

78. Plaintiff is informed and believes that defendants' policies, customs, and /or practices of understaffing and failing to properly supervise medical staff, failing to provide access to care, and failing to maintain life-saving equipment was the moving force behind the violation of Shane Allen Murphy's constitutional rights.

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1 79. Defendants knew or should have known that these policies, customs, or
2 practices would cause grievous injury to Shane Allen Murphy in violation of his constitutional
3 rights.

4 80. As a proximate result of the conduct of defendants, JULIAN MURPHY suffered
5 personal injury and emotional distress and incurred general damages for the deprivation of
6 Shane Allen Murphy's constitutional rights.

7 WHEREFORE, Plaintiff prays for relief as set forth below.

8 **FIFTH CAUSE OF ACTION**
9 **(42 U.S.C. Section 1983 – Violation of Decedent's Right to Personal Safety and**
10 **Security)**
11 **(Against CALIFORNIA FORENSIC MEDICAL GROUP, TAYLOR FITHIAN, M.D. and**
12 **DOES 1 through 100)**

13 81. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 80 as
14 though fully set forth herein.

15 82. The Fourteenth Amendment to the United States Constitution provides that
16 persons held in custody in jails have the right to enjoy personal safety and security and that
17 defendants had a corresponding duty to take reasonable precautions to ensure decedent
18 Shane Allen Murphy's physical safety and security while he was in custody.

19 83. Defendants, and each of them, breached their duty, thereby proximately
20 causing him injury and death in violation of Decedent's Fourteenth Amendment Rights.

21 WHEREFORE, Plaintiff prays for relief as set forth below.

22 **SIXTH CAUSE OF ACTION**
23 **(42 U.S.C. Section 1983 – Violation of Plaintiff's Rights to Enjoy Continued Family**
24 **Relations)**
25 **(Against CALIFORNIA FORENSIC MEDICAL GROUP, TAYLOR FITHIAN, M.D. and**
26 **DOES 1 through 100)**

27 84. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 83 as
28 though fully set forth herein.

85. The Fourteenth Amendment to the United States Constitution protects the
rights of children and parents to enjoy continued family relations with each other.

1 86. By proximately causing the death of Decedent, Defendants, and each of them,
2 violated the rights of Plaintiff to enjoy the continued companionship and society of Decedent
3 and the right of the minor plaintiff to enjoy the financial support, guidance and protection of
4 his father.

5 WHEREFORE, Plaintiff prays for relief as set forth below.

6 **SEVENTH CAUSE OF ACTION**
7 **Wrongful Death**
8 **(California Code of Civil Procedure Sections 377.60)**
9 **(Against All Defendants herein and DOES 1 through 100)**

10 87. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 86 as
11 though fully set forth herein.

12 88. At all times mentioned, all Defendants and DOES 1- 100 inclusive, were subject
13 to a duty of care to avoid causing unnecessary physical harm and death to persons in their
14 custody. The wrongful conduct of Defendants, as set forth herein, did not comply with the
15 standard of care to be exercised by reasonable persons, proximately causing JULIAN
16 MURPHY to suffer injuries and damages as set forth herein.

17 89. Pursuant to Government Code Section 815.2(a), Defendants COUNTY and
18 CITY, CALIFORNIA FORESENIC MEDICAL GROUP and TAYLOR FITHIAN, M.D. are vicariously
19 liable to plaintiff for injuries and damages suffered as alleged herein, incurred as a proximate
20 result of the aforementioned wrongful conduct of its officers, employees and/or agents.

21 90. As a direct consequence of Defendants' acts, Plaintiff has been damaged and
22 harmed.

23 91. As a proximate result of the acts, customs, policies, patterns and practices of
24 Defendants alleged herein, JULIAN MURPHY suffered personal injury and wrongful death of
25 his father, Shane Allen Murphy. Plaintiff JULIAN MURPHY has suffered emotional distress and
26 incurred both special and general damages for the deprivation of his constitutional rights.

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1 WHEREFORE, Plaintiff prays for relief as set forth below.

2 **EIGHTH CAUSE OF ACTION**
3 **Negligent Training, Supervision and Discipline**
4 **(Against CALIFORNIA FORENSIC MEDICAL GROUP, TAYLOR FITHIAN, M.D. and**
5 **DOES 1 through 100)**

6 92. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 91 as
7 though fully set forth herein.

8 93. Defendants had a mandatory duty of care to properly and adequately train,
9 retrain, supervise, and discipline its staff at Mendocino County Adult Detention Facility so as
10 to avoid unreasonable risk of harm to its citizens. Defendants failed to take necessary,
11 proper, or adequate measures in order to prevent the violation of Plaintiff's rights and
12 prevent his injury.

13 94. Defendants owed a special duty of care under the law to Shane Allen Murphy,
14 and his son, plaintiff, Julian Murphy.

15 95. Defendants breached a duty of care to plaintiff by failing to train, retrain,
16 supervise, and discipline its officers, staff, agents, contractors, and medical personnel within
17 Mendocino County Adult Detention Facility.

18 96. As a proximate result of the failure to train, retain, supervise, and discipline its
19 officers, staff, agents, contractors, and medical personnel within Mendocino County Adult
20 Detention Facility, Plaintiff has been damaged and harmed, according to proof at trial.

21 WHEREFORE, Plaintiff prays for relief as set forth below.

22 **NINTH CAUSE OF ACTION**
23 **California Government Code Sections 844.6 and 845.6**
24 **(Against CALIFORNIA FORENSIC MEDICAL GROUP, TAYLOR FITHIAN, M.D. and**
25 **DOES 1 through 100)**

26 97. Plaintiff re-alleges and incorporates by this reference Paragraphs 1 through 96
27 as though fully set forth herein.

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98. Pursuant to California Government Code section 845.6, these Defendants had a duty to monitor, check, and respond to the persons under their custody, supervision, and control.

99. Defendants knew or had reason to know that Shane Allen Murphy was in need of immediate medical care, and on-going follow up medical care, and failed to take reasonable action to summon such medical care.

100. As a result of Defendants breach of said duty to take reasonable action to summon such medical care to Shane Allen Murphy, Plaintiff suffered damages as set forth herein.

TENTH CAUSE OF ACTION
Survival Action
(California Code of Civil Procedure Sections 377.20)
(Against All Defendants herein and DOES 1 through 100)

101. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 100 as though fully set forth herein.

102. At all times mentioned, all Defendants and DOES 1- 100 inclusive, were subject to a duty of care to avoid causing unnecessary physical harm and death to persons in their custody. The wrongful conduct of Defendants, as set forth herein, did not comply with the standard of care to be exercised by reasonable persons, proximately causing Shane Allen Murphy to suffer injuries and damages as set forth herein.

103. Defendants owed Shane Allen Murphy a duty of care to provide him immediate medical and mental health care. Defendants CFMG and Dr. Taylor Fithian and their employees breached this duty, causing the conduct alleged herein. Such breach constituted negligent hiring, supervision, training and retention under the laws of the State of California.

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1 104. The conduct of Defendant CFMG, Dr. Fithian, and their employees alleged
2 herein, including but not limited to the facts that Defendants knew or had reason to know
3 that Shane Allen Murphy was in need of immediate medical and mental health care.
4 Defendants CFMG and Dr. Fithian had a duty to hire, supervise, train, and retrain employees
5 and/or agents so that employees and/or agents refrain from the conduct and/or omissions
6 alleged herein.

7 105. Defendant County had a duty to supervise and train or retrain CFMG, Dr.
8 Fithian, or CFMG employees to prevent the conduct and/or omissions alleged herein.

9 106. Defendant County had knowledge of the conduct and/or omissions alleged
10 herein and continued to maintain their contract or relationship with CFMG and Dr. Fithian, to
11 the detriment of Shane Allen Murphy.

12 107. Defendants failed to timely and appropriately respond to Shane Allen Murphy's
13 expressions of suicidal ideation.

14 108. Pursuant to Government Code Section 815.2(a), Defendants COUNTY,
15 CALIFORNIA FORENSIC MEDICAL GROUP and TAYLOR FITHIAN, M.D. and DOES 1-100 are
16 vicariously liable to Shane Allen Murphy for injuries and damages suffered as alleged herein,
17 incurred as a proximate result of the aforementioned wrongful conduct of its officers,
18 employees and/or agents. At all times mentioned, defendants were in the course and scope
19 of their employment.

20 109. As a direct consequence of Defendants' acts and breach of duty, Shane Allen
21 Murphy and Julian Murphy suffered injury and damages cause great pain and leading to his
22 death, as alleged herein.

23 110. As a proximate result of the acts, customs, policies, patterns and practices of
24 Defendants alleged herein, Shane Allen Murphy suffered personal injury and wrongful death.
25 As a result, Plaintiff has incurred both special and general damages for the deprivation of
26 Shane Allen Murphy's constitutional rights, according to proof at trial.

27 WHEREFORE, Plaintiff prays for relief as set forth below.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff JULIAN MURPHY prays for relief as follows:

1. For General Damages in the sum of \$25,000,000 (Twenty Five Million Dollars);
2. For Special Damages according to proof;
3. For punitive damages against the appropriate defendants;
4. For funeral and burial expenses according to proof;
5. For damages for future lost earnings and lost earning capacity according to proof;
6. For other losses in an amount according to proof;
7. For costs of suit;
8. For attorneys' fees and costs pursuant to 42 U.S.C. §1988, and as otherwise authorized by statute or law;
9. For declaratory relief as the court deems appropriate including revision of the defendants' policies related to the handling and restraining of prisoners with mental health conditions, suicide prevention, and ensuring that medical and custody staffing levels are maintained at constitutional standards, and ensuring that sufficient and effective supervision and oversight over jail operations are in place;
10. For such other relief as the Court deems proper.

DATED: July 19, 2016.

Law Offices of Stephen A. Mason

By /s/
Stephen A. Mason
Attorney for Plaintiff JULIAN MURPHY, a minor, by
and through Steven Murphy, the duly appointed
Guardian of the person and estate of Julian Murphy

JURY DEMAND

Plaintiff hereby demands a jury trial in this action.

DATED: July 19, 2016.

Law Offices of Stephen A. Mason

By _____/s/_____

Stephen A. Mason

Attorney for Plaintiff

JULIAN MURPHY, a minor, by and through Steven
Murphy, the duly appointed Guardian of the person
and estate of Julian Murphy

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Attorneys for Plaintiff James Neuroth

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JAMES NEUROTH, Individually and as)
Successor in Interest of Decedent STEVEN)
KELLOGG NEUROTH,)

Plaintiff,)
vs.)

MENDOCINO COUNTY, a public entity;)
MENDOCINO COUNTY SHERIFF-)
CORONER THOMAS D. ALLMAN,)
individually; CORRECTIONS CAPTAIN TIM)
PEARCE; SERGEANT LORI KNAPP;)
DEPUTY FRANK MASTERSON; DEPUTY)
CRAIG BERNARDI; DEPUTY MICHAEL)
GRANT; DEPUTY JEANETTE HOLUM;)
DEPUTY ROBERT PAGE; DEPUTY)
CHRISTINE DE LOS SANTOS; CITY OF)
WILLITS, a public entity; WILLITS POLICE)
OFFICER KEVIN LEEF; CALIFORNIA)
FORENSIC MEDICAL GROUP,)
INCORPORATED, a California corporation;)
TAYLOR FITHIAN, M.D.; JENNIFER L.)
CAUDILLO, L.V.N., and COUNTY)
DEPUTIES DOES 9-20, and DOES 23-35,)
individually, jointly, and severally,)

Defendants.)

Case No. 1:15-CV-03226-NJV

THIRD AMENDED COMPLAINT
FOR DAMAGES AND DEMAND
FOR JURY TRIAL

1 Plaintiff, by and through his attorneys, HADDAD & SHERWIN LLP, for his Third
2 Amended Complaint against Defendants, states as follows:

3 **JURISDICTION**

4 1. This is a civil rights wrongful death/survival action arising under 42 U.S.C. §§ 1983
5 and 1988, and the Fourth and Fourteenth Amendments to the United States Constitution, and the
6 laws and Constitution of the State of California. Jurisdiction is conferred upon this Court by 28
7 U.S.C. §§ 1331 and 1343. Plaintiff further invokes the supplemental jurisdiction of this Court
8 pursuant to 28 U.S.C. § 1367, to hear and decide claims arising under state law. The amount in
9 controversy herein, excluding interest and costs, exceeds the minimum jurisdictional limit of this
10 Court.

11 **INTRADISTRICT ASSIGNMENT**

12 2. A substantial part of the events and/or omissions complained of herein occurred in
13 the County of Mendocino, California, and this action is properly assigned to the Oakland or San
14 Francisco Division of the United States District Court for the Northern District of California.

15 **PARTIES AND PROCEDURE**

16 3. Plaintiff JAMES NEUROTH is the brother of Decedent STEVEN NEUROTH and a
17 resident of the State of California. Plaintiff JAMES NEUROTH brings these claims individually
18 and as successor in interest for Decedent STEVEN NEUROTH pursuant to California Code of Civil
19 Procedure §§ 377.10 et seq. Decedent STEVEN NEUROTH had no children, and his parents are
20 deceased, making his brother, Plaintiff JAMES NEUROTH, entitled to intestate succession as his
21 next of kin.

22 4. Plaintiff brings these claims pursuant to California Code of Civil Procedure §§
23 377.20 et seq. and 377.60 et seq., which provide for survival and wrongful death actions. Plaintiff
24 also brings his claims individually and on behalf of Decedent STEVEN NEUROTH on the basis of
25 42 U.S.C. §§ 1983 and 1988, the United States Constitution, federal and state civil rights law, and
26 California law.

1 5. Defendant COUNTY OF MENDOCINO ("COUNTY") is a public entity, duly
2 organized and existing under the laws of the State of California. Under its authority, the COUNTY
3 operates the Mendocino County Sheriff's Office (MCSO).

4 6. Defendant SHERIFF-CORONER THOMAS D. ALLMAN ("ALLMAN"), at all
5 times mentioned herein, was employed by Defendant COUNTY as Sheriff-Coroner for the
6 COUNTY, and he was acting within the course and scope of that employment. In that capacity,
7 Defendant ALLMAN was a policy making official for the COUNTY OF MENDOCINO. Further,
8 Defendant ALLMAN was ultimately responsible for the provision of medical care to inmates at the
9 jails, including assessing inmates for possible mental health needs, and all CFMG policies,
10 procedures, and training related thereto. He is being sued individually.

11 7. Defendant CORRECTIONS CAPTAIN TIM PEARCE ("PEARCE"), at all times
12 mentioned herein, was employed by Defendant COUNTY as Captain and Commander of the
13 Corrections Division, including the jail, for the COUNTY, and he was acting within the course and
14 scope of that employment. In that capacity, Defendant PEARCE was a policy making official for
15 the COUNTY OF MENDOCINO. Further, Defendant PEARCE was responsible for the general
16 management and control of the Corrections Division, with primary authority and responsibility for
17 the operations, staff assignments, program development, personnel supervision and training,
18 maintenance and auxiliary inmate services at the jail, subordinate only to the Sheriff and/or
Undersheriff.

19 8. Defendant SERGEANT LORI KNAPP ("KNAPP"), at all times mentioned herein,
20 was employed by Defendant COUNTY as a sergeant and supervisor at the jail, and was acting
21 within the course and scope of that employment.

22 9. Defendant DEPUTY FRANK MASTERSON ("MASTERSON"), at all times
23 mentioned herein, was employed by Defendant COUNTY as a corrections deputy at the jail, and
24 was acting within the course and scope of that employment.

25 10. Defendant DEPUTY CRAIG BERNARDI ("BERNARDI"), at all times mentioned
26 herein, was employed by Defendant COUNTY as a corrections deputy at the jail, and was acting
27 within the course and scope of that employment.

1 11. Defendant DEPUTY MICHAEL GRANT ("GRANT"), at all times mentioned
2 herein, was employed by Defendant COUNTY as a corrections deputy at the jail, and was acting
3 within the course and scope of that employment.

4 12. Defendant DEPUTY JEANETTE HOLUM ("HOLUM"), at all times mentioned
5 herein, was employed by Defendant COUNTY as a corrections deputy at the jail, and was acting
6 within the course and scope of that employment.

7 13. Defendant DEPUTY ROBERT PAGE ("PAGE"), at all times mentioned herein, was
8 employed by Defendant COUNTY as a corrections deputy at the jail, and was acting within the
9 course and scope of that employment.

10 14. Defendant DEPUTY CHRISTINE DE LOS SANTOS ("DE LOS SANTOS"), at all
11 times mentioned herein, was employed by Defendant COUNTY as a corrections deputy at the jail,
12 and was acting within the course and scope of that employment.

13 15. Defendant CITY OF WILLITS is a public entity, duly organized and existing under
14 the laws of the State of California. Under its authority, the CITY operates the Willits Police
15 Department.

16 16. Defendant WILLITS POLICE OFFICER KEVIN LEEF ("LEEF"), at all times
17 mentioned herein, was employed by Defendant CITY OF WILLITS as a police officer, and was
18 acting within the course and scope of that employment. Defendants MENDOCINO COUNTY,
19 CITY OF WILLITS, and OFFICER KEVIN LEEF intentionally concealed the extent and nature of
20 LEEF'S involvement in STEVEN NEUROTH'S death, and LEEF'S abusive and torturous
21 mistreatment of STEVEN NEUROTH while he was in psychiatric crisis. Plaintiff only discovered
22 LEEF'S misconduct and the extent of LEEF'S involvement after the COUNTY produced
23 disclosures in this matter on or about March 31, 2016.

24 17. Defendant COUNTY DEPUTIES DOES 9-20 were each at all times herein
25 mentioned deputy sheriffs employed by Defendant COUNTY, and each was acting within the
26 course and scope of that employment.

27 18. In engaging in the conduct described herein, Defendant COUNTY DEPUTIES
28 DOES 9-20 acted under the color of law and in the course and scope of their employment with the
COUNTY.

1 19. Defendant CALIFORNIA FORENSIC MEDICAL GROUP, INC. ("CFMG"), was at
2 all times herein mentioned, a California corporation licensed to do business in California.
3 Defendant CFMG provided medical and nursing care to prisoners and detainees in Mendocino
4 County jails, pursuant to contract with the COUNTY OF MENDOCINO. On information and
5 belief, CFMG and its employee and agent Defendant TAYLOR FITHIAN, M.D., are responsible
6 for making and enforcing policies, procedures, and training related to the medical care of prisoners
7 and detainees in Defendant COUNTY OF MENDOCINO's jails, including assessing inmates for
8 mental health needs.

9 20. Defendant TAYLOR FITHIAN, M.D. ("FITHIAN") was at all times herein
10 mentioned a physician licensed to practice medicine in the State of California, an employee and/or
11 agent of Defendant CFMG, working as the medical director of Defendant COUNTY's jails
12 responsible for overseeing and providing medical care to prisoners and detainees, and he was acting
13 within the course and scope of that employment. In that capacity, Defendant FITHIAN was a
14 policy making official for CFMG. On information and belief, Defendant FITHIAN was ultimately
15 responsible for CFMG's provision of medical care to inmates at the jails, including assessing
16 inmates for possible mental health needs, and all CFMG policies, procedures, and training related
17 thereto.

18 21. Defendant JENNIFER CAUDILLO, L.V.N. ("CAUDILLO") was at all times herein
19 mentioned employed by Defendant CFMG as a licensed vocational nurse in Defendant COUNTY
20 OF MENDOCINO's jails, and was acting within the course and scope of that employment. On
21 information and belief, Defendant CAUDILLO performed the intake medical assessment on
22 Decedent when he was booked into jail, and failed to follow appropriate protocols for assessing,
23 monitoring, and treating Decedent STEVEN NEUROTH, including failing to summon medical care
24 for Decedent STEVEN NEUROTH despite his exhibiting symptoms consistent with having a
25 medical and/or mental-health emergency requiring immediate transfer to a hospital for inpatient
26 emergency and psychiatric treatment.

27 22. Plaintiff is ignorant of the true names and capacities of Defendant DOES 9-20, 23-35
28 ("REMAINING DEFENDANT DOES") and therefore sues these Defendants by such fictitious
names. Plaintiff is informed and believes and thereon alleges that each Defendant so named is

1 responsible in some manner for the injuries and damages sustained by Plaintiff as set forth herein.
2 Plaintiff will amend his complaint to state the names and capacities of remaining DOE
3 DEFENDANTS when they have been ascertained.

4 23. Plaintiff is informed and believes and thereon alleges that each of the Defendants
5 was at all material times an agent, servant, employee, partner, joint venturer, co-conspirator, and/or
6 alter ego of the remaining Defendants, and in doing the things herein alleged, was acting within the
7 course and scope of that relationship. Plaintiff is further informed and believes and thereon alleges
8 that each of the Defendants herein gave consent, aid, and assistance to each of the remaining
9 Defendants, and ratified and/or authorized the acts or omissions of each Defendant as alleged
10 herein, except as may be hereinafter specifically alleged. At all material times, each Defendant was
11 jointly engaged in tortious activity and an integral participant in the conduct described herein,
12 resulting in the deprivation of Plaintiff's and Decendent's constitutional rights and other harm.

13 24. The acts and omissions of all DEFENDANTS as set forth herein, except for
14 Defendants CITY OF WILLITS and OFFICER LEEF, were at all material times pursuant to the
15 actual customs, policies, practices and procedures of the COUNTY, the Mendocino County
16 Sheriff's Office and/or CFMG. The acts and omissions of Defendant WILLITS POLICE OFFICER
17 KEVIN LEEF were at all material times pursuant to the actual customs, policies, practices and
18 procedures of the CITY OF WILLITS and the Willits Police Department.

19 25. At all material times, each Defendant acted under color of the laws, statutes,
20 ordinances, and regulations of the State of California and either Mendocino County or the City of
21 Willits.

22 26. Plaintiff timely and properly filed a tort claim pursuant to California Government
23 Code sections 910 et seq., and this action is timely filed within all applicable statutes of limitation.

24 27. This complaint may be pled in the alternative pursuant to Federal Rule of Civil
25 Procedure 8(d).

26 28. This Third Amended Complaint is being filed pursuant to the District Court's
27 "Amended Order on Motion to Dismiss," dated January 29, 2016, to reflect the rulings already
28 made in that order (Doc. 39). Further, Plaintiff, and all named Defendants herein, have additional
facts supporting Plaintiff's claims that Plaintiff is precluded from stating in this amended complaint

1 due to Defendants' improper confidentiality designations over documents and audio and video
2 recordings produced in this matter, and which presently are the subject of Plaintiff's motion
3 challenging confidentiality designations (Doc. 55).

4 **GENERAL ALLEGATIONS**

5 29. Plaintiff realleges each and every paragraph in this complaint as if fully set forth
6 here.

7 30. STEVEN NEUROTH was a mentally ill man, having been diagnosed with paranoid
8 schizophrenia, schizo-affective disorder, and depression. When STEVEN NEUROTH died, he was
9 fifty-five years old; he was about 5'9" tall, and he weighed about 156 lbs.

10 31. On or about June 10, 2014, at approximately 10:00 p.m., Willits Police Department
11 Officer Andrade and Defendant Officer LEEF contacted STEVEN NEUROTH in public, who was
12 in a psychiatric crisis, paranoid and delusional, and told the officers that an unknown person was
13 after him, and that all the traffic in Willits was going to hurt him. Plaintiff is informed and believes
14 and thereon alleges Defendant Officer LEEF believed that taking a person who is "5150" (in
15 psychiatric crisis and either unable to care for himself or a danger to himself or others pursuant to
16 Welfare and Institutions Code § 5150) to jail is always preferable to taking them to a hospital for
17 emergency psychiatric care, and further he would rather take STEVEN NEUROTH to the
18 MENDOCINO COUNTY jail than sit at a hospital with STEVEN NEUROTH. Plaintiff is
19 informed and believes and thereon alleges that Defendant COUNTY's refusal to provide any
20 psychiatric inpatient acute care anywhere within the COUNTY creates a disincentive for law
21 enforcement officers within the COUNTY to take people suffering from psychiatric emergencies to
22 a hospital for needed treatment, as the officers must transport the person several miles outside the
23 county and wait with him or her until admission. Defendant COUNTY'S deliberate indifference
24 and reckless disregard for the wellbeing of mentally ill patients within the COUNTY causes
25 mentally ill persons in psychiatric crisis to be taken to MENDOCINO COUNTY jail, instead of to a
26 hospital where they can receive emergency and necessary psychiatric treatment. Officer Andrade
27 and Defendant LEEF discussed having a family member come to pick up STEVEN NEUROTH,

1 and STEVEN told them to call his brother, Plaintiff JAMES NEUROTH. Officers Andrade and
2 LEEF instead arrested STEVEN NEUROTH on suspicion that he was under the influence of a
3 controlled substance in violation of California Health & Safety Code § 11550(a). According to the
4 officers' report(s), STEVEN NEUROTH was "extremely paranoid," "believed someone was out to
5 'kill him,'" and "was going through a psychosis state." Once STEVEN NEUROTH was in the
6 officers' patrol car, he told them that there were "snakes" on the patrol car's floor, and "started to
7 scream." On information and belief, when Defendant LEEF was transporting STEVEN
8 NEUROTH, Defendant LEEF intentionally provoked, agitated, and terrorized STEVEN
9 NEUROTH, including by repeatedly yelling, "snakes!" and causing STEVEN NEUROTH's mental
10 disturbance and paranoia to further escalate. Defendant Officer LEEF transported STEVEN
11 NEUROTH to the Mendocino County jail, where he was booked and held as a pretrial detainee. At
12 the time of booking, Decedent did not have any apparent physical injuries. On information and
13 belief, Defendant LEEF did not inform jail staff that STEVEN NEUROTH's paranoid, aggravated,
14 and disoriented mental condition was due in part to LEEF's intentional provocation and mental
15 torture of STEVEN NEUROTH before bringing him to the jail. LEEF's emotional abuse and
16 intentional provocation of STEVEN NEUROTH made it much more difficult for STEVEN
17 NEUROTH to understand or follow lawful directions.

18 32. On information and belief, Defendant LEEF knew or must have known that
19 STEVEN NEUROTH was in need of emergency psychiatric care, known as a "5150 hold," because
20 STEVEN NEUROTH was a danger to himself due to his mental disturbance and impairment.
21 Because the COUNTY closed its psychiatric health facility in 1999 as described in more detail
22 herein, and as Defendant SHERIFF ALLMAN has been quoted, "In Mendocino County, since there
23 is no inpatient psychiatric facility where this 72-hour holding can occur, this assessment, called a
24 5150, often means a trip to the county jail," Defendant LEEF chose to transport and book STEVEN
25 NEUROTH for a minor crime at the jail, rather than take STEVEN NEUROTH to a psychiatric
26 facility in another county as required for his serious psychiatric needs.

1 33. At about 11:40 p.m. on the day of STEVEN NEUROTH'S arrest, on information and
2 belief, Defendant JENNIFER CAUDILLO, L.V.N., and possibly other named Defendants and/or
3 remaining DOES, performed the jail's intake medical and mental health assessment on STEVEN
4 NEUROTH. As a matter of California law, as a Licensed Vocational Nurse, Defendant
5 CAUDILLO was not competent and was not permitted by her license to conduct an intake medical
6 or mental health assessment on an inmate, including STEVEN NEUROTH. According to the
7 Coroner's Investigator's Report, Defendant CAUDILLO took STEVEN NEUROTH's vital signs.
8 Defendant CAUDILLO noted that STEVEN NEUROTH's heart beat was 129 beats per minute,
9 which indicated that he was suffering from tachycardia, given that a healthy adult heart normally
10 beats 60–100 times per minute. Defendant CAUDILLO further noted both that STEVEN
11 NEUROTH's blood pressure was 151/92, whereas normal blood pressure is less than 120/80, and
12 that his respiration rate was 18 breaths per minute, whereas the respiration rate for a normal adult is
13 12 breaths per minute. Defendant CAUDILLO noted that STEVEN NEUROTH was "very
14 paranoid." Defendant CAUDILLO and any other Defendant involved in STEVEN NEUROTH's
15 intake had actual knowledge that STEVEN NEUROTH was in extreme medical and psychiatric
16 distress and in need of emergency medical/psychiatric care, and she/they decided not to provide or
17 request such necessary care for STEVEN NEUROTH, and she/they decided not to secure, or
18 request, such necessary treatment for STEVEN NEUROTH in a hospital.

19 34. On information and belief, Defendants CAUDILLO and the remaining DOE
20 DEFENDANTS knew and/or must have known that STEVEN NEUROTH had serious medical and
21 psychiatric needs requiring emergency treatment, care, and hospitalization, and that with deliberate
22 indifference to such needs, Defendant CAUDILLO and/or remaining DOES caused STEVEN
23 NEUROTH to be deprived of such necessary, life-saving medical and psychiatric care.

24 35. At approximately 11:30 p.m. on June 10, 2014, while jail and CFMG staff had actual
25 knowledge that STEVEN NEUROTH was apparently psychotic, paranoid, and suffering from
26 serious medical/psychiatric needs, Defendants were deliberately indifferent to those serious
27 medical/psychiatric needs, and denied STEVEN NEUROTH necessary medical and/or psychiatric
28

1 care, including necessary emergency care. Defendants were deliberately indifferent to STEVEN
2 NEUROTH's safety and medical/psychiatric needs in their jail placement, assessment, and custody
3 decisions. On information and belief, due to such deliberate indifference, STEVEN NEUROTH's
4 medical/psychiatric condition deteriorated, and on information and belief, STEVEN NEUROTH
5 became unable to care for himself or to understand and follow the commands and directives of jail
6 personnel.

7 36. When STEVEN NEUROTH allegedly acted paranoid and was briefly uncooperative
8 but not aggressive or threatening in any way, Defendants LEEF, KNAPP, MASTERSON,
9 BERNARDI, GRANT, HOLUM, PAGE, and DE LOS SANTOS used a high level of injurious
10 force against STEVEN NEUROTH that was sufficient to cause his death. On information and
11 belief, such injurious force was used against STEVEN NEUROTH in the Sobering Cell and then
12 continued after he was carried out in handcuffs and leg restraint shackles and placed in Safety Cell
13 No. 2. On information and belief, among other uses of force, Defendants MASTERSON and
14 BERNARDI participated in slamming STEVEN NEUROTH to the floor of the Sobering Cell while
15 he was still handcuffed. In the Sobering Cell, Defendants MASTERSON and BERNARDI, were
16 quickly joined by Defendants LEEF, KNAPP, GRANT, and HOLUM, who integrally participated
17 in the uses of force against STEVEN NEUROTH, including painful control holds, improper
18 restraint impairing STEVEN NEUROTH'S ability to breathe, and other significant force. In the
19 Sobering Cell and Safety Cell No. 2, Defendants LEEF, KNAPP, MASTERSON, BERNARDI,
20 GRANT, HOLUM, PAGE, and DE LOS SANTOS integrally participated in the use of very high
21 levels of force against STEVEN NEUROTH over more than sixteen minutes, including multiple
22 closed fist strikes, control holds, pain compliance holds including "figure 4" leg restraints and wrist
23 locks, and very substantial compression to STEVEN NEUROTH's neck and back impairing his
24 respiration. On information and belief, at one point while Defendants were applying great
25 concerted force on STEVEN NEUROTH's legs and joints with a "figure 4" pain compliance hold, a
26 female Defendant threatened to the effect, "Your leg is going to break if you move it." Defendant
27 KNAPP also threatened STEVEN NEUROTH with her Taser. Most of this concerted force against
28

1 STEVEN NEUROTH was done while he was already fully restrained in both handcuffs and leg
2 shackles. Before and during the time that Defendants used and permitted the use of such extreme
3 and unnecessary force, STEVEN NEUROTH was repeatedly pleading with Defendants not to hurt
4 him or kill him with statements such as, "I'm not a bad guy," "Please don't hurt me, please don't
5 hurt me, please don't hurt me," "God help me," "Please don't let me die," and "Please don't kill me,
6 please don't kill me." Defendants killed STEVEN NEUROTH, who never posed an immediate
7 threat to anyone to justify the high level of injurious force used and permitted against him in the jail.

8 37. Additionally, on information and belief, Defendants LEEF, KNAPP, MASTERSON,
9 BERNARDI, GRANT, HOLUM, PAGE, and DE LOS SANTOS subjected STEVEN NEUROTH
10 to improper and excessive restraint, leading to restraint associated asphyxia (or positional asphyxia)
11 and death. During this entire incident over sixteen minutes, after Defendants slammed STEVEN
12 NEUROTH to the floor, Defendants LEEF, KNAPP, MASTERSON, BERNARDI, GRANT,
13 HOLUM, PAGE, and DE LOS SANTOS improperly restrained STEVEN NEUROTH in a prone,
14 face down position, contrary to generally accepted law enforcement and corrections standards (*see*,
15 *Drummond v. City of Anaheim*, 343 F.3d 1052, 1056-57 (9th Cir. 2003), *cert. den.* 542 U.S. 918
16 (2004)), in violation of Defendants' own training, and in violation of MCSO's written policies and
17 procedures. Section 1058 of Title 15 of the California Code of Regulations provides that restraints
18 should not be used as a substitute for treatment. On information and belief, for several minutes,
19 with our without Defendant PAGE involved, Defendants KNAPP, MASTERSON, BERNARDI,
20 GRANT, HOLUM, and DE LOS SANTOS used their combined weight to press STEVEN
21 NEUROTH to the floor while he was laying prone, on his stomach. Defendants KNAPP,
22 MASTERSON, BERNARDI, GRANT, HOLUM, PAGE, and DE LOS SANTOS continued to
23 apply great pressure to STEVEN NEUROTH's back until he became silent, motionless and limp,
24 then Defendants left STEVEN NEUROTH face down with his hands still resting on his own lower
25 back, released from handcuffs. Defendants exited the cell to get their stories straight to prepare to
26 write their reports. STEVEN NEUROTH never moved again from that prone position, his hands

1 still resting, limp, on his own back, in which Defendants left him prone on the floor of the Safety
2 Cell.

3 38. Plaintiff is informed and believes and thereon alleges that asphyxiation of individuals
4 during restraint is well documented and generally accepted such that reasonable law enforcement
5 agencies as a matter of routine train their peace officer personnel in avoiding asphyxiation of
6 individuals during restraint. On information and belief, Defendants LEEF, KNAPP,
7 MASTERSON, BERNARDI, GRANT, HOLUM, PAGE, and DE LOS SANTOS, and possibly
8 remaining DOE Defendants, violated such generally accepted standards and training, among other
9 ways, by restraining and leaving STEVEN NEUROTH restrained in a prone position, lying face
10 down, and/or otherwise impairing STEVEN NEUROTH's respiration by their use of pressure and
11 improper restraints.

12 39. According to the official Mendocino County autopsy, injuries that DEFENDANTS
13 caused to STEVEN NEUROTH in the jail included:

- 14 • Blunt force injuries (contusions, abrasions, avulsions), widespread;
- 15 • Fracture, essentially non-displaced, of the left fifth rib at the costochondral junction;
- 16 • General visceral passive hyperemia (organ injuries);
- 17 • Petechiae, epicardial, focal; and other serious physical injuries.

18 STEVEN NEUROTH did not have these injuries when he entered the Mendocino County Jail. Due
19 to DEFENDANTS' deliberate indifference to his serious medical/psychiatric needs, and the
20 excessive and unreasonable force used by LEEF, KNAPP, MASTERSON, BERNARDI, GRANT,
21 HOLUM, PAGE, and DE LOS SANTOS, STEVEN NEUROTH suffered severe injuries, and died
22 on June 11, 2014, at approximately 12:46 a.m.

23 40. In addition to the foregoing evidence of the use of unjustified, injurious force on
24 STEVEN NEUROTH, Defendants LEEF, KNAPP, MASTERSON, BERNARDI, GRANT,
25 HOLUM, PAGE, and DE LOS SANTOS, and possibly remaining DOE Defendants, also caused
26 further trauma to STEVEN NEUROTH as noted in the autopsy performed by the COUNTY's
27
28

Office of the Sheriff-Coroner, Defendant THOMAS D. ALLMAN, on or about June 12, 2014, all evidence of their use of a very high degree of unnecessary force on STEVEN NEUROTH:

- Head and Front Torso

- 1" x 0.75" contusion covering the right zygoma (cheekbone);
- 2" irregular area of slight contusions on the right lateral clavicular line in the skin overlying the lateral pectoralis muscle;
- 0.25" slight abrasion on the mid right rib cage;
- 0.5" contusion overlying the right anterior superior iliac spine (pelvis);
- 0.75" contusion in a contralateral position to the right anterior superior iliac spine;
- 1.5" faint contusion on the abdominal wall;
- 1.25" contusion lateral to the left mid clavicular line over the inferior most rib cage;
- 0.5" rounded contusion slightly above and to the side of the 1.25" contusion described immediately above;
- 0.75" rounded contusion slightly above and to the side of the 1.25" contusion described above;

- Back and Buttocks

- 1.375" diagonally oriented linear abrasion near the right mid scapular line at the inferior extent of the rib cage;
- 1.5" contusion near the right mid scapular line at the inferior extent of the rib cage;
- 0.5" contusion in the skin overlying the mid right scapula;
- 0.25" contusion in the skin of the inferior lateral aspect of the right buttock;

- Right Upper Extremity

- 1.75" contusion in the proximal portion of the distal third of the right arm;
- 1" vertical linear abrasion in the proximal portion of the distal third of the

right arm;

- 0.5" faint contusion in the ventrolateral mid portion of the right forearm;
- 1.75" contusion, bearing a 0.5" abrasion and a milder 0.75" abrasion on the ventrolateral aspect of the right distal most forearm;
- 0.5" minimal abrasion just distal to the junction of approximately the middle and distal thirds of the right forearm ventrolaterally;
- 2" x 0.75" contusion with a 0.5" horizontal mild abrasion and a 0.125" punctate abrasion on the right hand, overlying the proximal second metacarpal and extending to the wrist;
- 1" region of irregular punctate abrasions between the right second and third metacarpals just proximal to the metacarpophalangeal joints;
- 0.75" contusion (lying adjacent to the previously described contusion) on the dorsolateral aspect of the right forearm at the junction of the middle and distal thirds;
- 0.5" abrasion near the head of the right radius dorsomedially
- 1.25" area containing three irregular abrasions near the head of the right radius dorsomedially;
- 1" contusion with dorsally situated abrasions of up to 0.125" on the medial aspect of the right wrist at the base of the thenar eminence;
- 0.5" abrasion of the dorsal/dorsomedial aspect in the proximal portion of the proximal third of the right arm;
- 0.375" faint contusion on the medial aspect of the right elbow.

• Left Upper Extremity

- 0.375" and 0.25" minimal abrasions on the medial aspect of the proximal most portion of the left arm;
- 0.375" region of abrasions just proximal to the olecranon, on the distal most portion of the dorsum of the left arm;

- 2" irregular contusion with abrasion, one linear and 1.25" long, on the dorsal aspect of the proximal most left arm;
- 1" mild contusion on the anterior aspect of the left arm in the mid portion of the distal third;
- 2.25" contusion, with a slight abrasion, on the lateral aspect of the proximal portion of the distal third of the left forearm, curling about the radius.
- 0.75" contiguous region of contusion, with mild abrasions, immediately distal to the 2.25" contusion described immediately above;
- 1" irregular contusion, slightly abraded, on the lateral aspect of the left wrist near the head of the radius;
- 0.2" by up to 0.75" contusion on the dorsum of the left wrist joint;
- 0.5" contusion, with slight abrasion, between the proximal-most portions of the proximal phalanges of the left third and fourth fingers.
- Right Lower Extremity
 - 0.625" irregular region of abrasion on the medial aspect of the right knee;
 - 0.75" region of linear contusion in the distal portion of the distal third of the medial aspect of the right leg;
 - 1.25" contusion, with mild avulsion of the epidermis not associated with bleeding, overlying the right medial malleolus;
 - 0.5" irregular abrasion on the anterolateral aspect of the proximal most right leg;
- Left Lower Extremity
 - 0.25" area of very minimal punctate abrasions and mild contusions beginning on the medial aspect of the left knee and extending distally for about 3".
 - 1" slightly diagonal linear abrasion immediately dorsal to the region immediately described;
 - 1.75" region of contusion, with a 0.5" abrasion with minimal avulsions, on

1 the anterior aspect of the left leg in the mid distal third;

2 ○ 0.75" contusion on the superior aspect of the left hallux

3 • Internal

4 ○ 50 mm region of petechiae in the epicardium of the posterior aspect of the
5 heart.

6 41. Defendants LEEF, KNAPP, MASTERSON, BERNARDI, GRANT, HOLUM,
7 PAGE, and DE LOS SANTOS, and possibly remaining DOE Defendants, grossly violated the
8 generally accepted training and standards for proper and safe restraint of a person, and for use of
9 force, in their misconduct against STEVEN NEUROTH. Plaintiff also alleges that the extreme
10 physical injuries to STEVEN NEUROTH—especially the injuries to Decedent's torso and neck—
11 are all evidence of an extremely high degree of force, of improper restraint, and of wanton and
12 willful violations of STEVEN NEUROTH's and Plaintiff's Constitutional rights.

13 42. Defendants LEEF, KNAPP, MASTERSON, BERNARDI, GRANT, HOLUM,
14 PAGE, and DE LOS SANTOS, and possibly remaining DOE Defendants, on information and
15 belief, were present and integral participants in their joint conduct to severely beat, punch, choke,
16 improperly restrain, contort, threaten, and brutalize STEVEN NEUROTH. On information and
17 belief, Defendants' uses of unnecessary and excessive force against STEVEN NEUROTH lasted
18 over sixteen minutes before he died. Each Defendant deputy/officer used, or caused the use of,
19 extreme and/or deadly force against STEVEN NEUROTH, causing severe injuries and deadly
20 trauma to him, including but not limited to as described above. On information and belief, at the
21 time Defendants used such force and restraints on STEVEN NEUROTH, as described herein,
22 STEVEN NEUROTH never struck or kicked any deputy/officer, and did not pose an immediate
23 threat to any person. Decedent STEVEN NEUROTH was severely mentally ill, suffering from
24 psychosis, was weak and thin, and was vastly outnumbered by deputies. Further, STEVEN
25 NEUROTH had been arrested for a non-serious, non-violent crime, and Defendants failed to use
26 available less-forceful alternatives to the force and restraints used.

1 43. Defendants LEEF, KNAPP, MASTERSON, BERNARDI, GRANT, HOLUM,
2 PAGE, and DE LOS SANTOS, and possibly remaining DOE Defendants, on information and
3 belief, were integral participants in brutalizing, beating, striking, choking, threatening, applying
4 excessive control holds, and unreasonably restraining Decedent STEVEN NEUROTH, and under
5 federal law and generally accepted law enforcement standards and training, each was responsible
6 for the totality of force used in his/her presence. Further, each of these Defendant deputies/officers
7 failed to intervene to stop, prevent, or report the use of excessive and unreasonable force and
8 restraint by other deputies/officers, in violation of the law and generally accepted law enforcement
9 standards and training.

10 44. The type and amount of force Defendants LEEF, KNAPP, MASTERSON,
11 BERNARDI, GRANT, HOLUM, PAGE, and DE LOS SANTOS, and possibly remaining DOE
12 Defendants, used against STEVEN NEUROTH as described herein, including multiple blows to
13 STEVEN NEUROTH's body, improper control holds, crushing force applied to his back, neck, and
14 head, and restriction of STEVEN NEUROTH's airways, neck, and back areas, amounted to the use
15 of deadly force under the circumstances. The use of deadly force was not justified or lawful under
16 the circumstances.

17 45. Alternatively, or concurrently, Defendants LEEF, KNAPP, MASTERSON,
18 BERNARDI, GRANT, HOLUM, PAGE, and DE LOS SANTOS', and possibly remaining DOE
19 Defendants', own excessive, unreasonable, reckless, and provocative actions created a risk of harm
20 to STEVEN NEUROTH, created the situation in which Defendants used extreme and otherwise
21 unnecessary force, and caused an escalation of events leading to STEVEN NEUROTH's death.

22 46. Defendants LEEF, KNAPP, MASTERSON, BERNARDI, GRANT, HOLUM,
23 PAGE, and DE LOS SANTOS', and possibly remaining DOE Defendants' unreasonable restraint
24 and use of excessive force against STEVEN NEUROTH was done at least in part because of
25 STEVEN NEUROTH's untreated serious medical needs and/or psychiatric condition and disability.

26 47. Following Defendants LEEF, KNAPP, MASTERSON, BERNARDI, GRANT,
27 HOLUM, PAGE, and DE LOS SANTOS', and possibly remaining DOE Defendants' use of
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1 extreme and deadly force against STEVEN NEUROTH, he was transferred to Ukiah Valley
2 Medical Center where he died, after cardiac arrest, at about 12:46 a.m. on June 11, 2014.

3 48. During and after their uses of excessive force and violation of STEVEN
4 NEUROTH's rights, Defendants LEEF, KNAPP, MASTERSON, BERNARDI, GRANT, HOLUM,
5 PAGE, and DE LOS SANTOS, and possibly remaining DOE Defendants, violated their duty to
6 intervene to stop such violations of STEVEN NEUROTH'S rights, and they engaged in a code of
7 silence to cover up such violations of rights. The Ninth Circuit has explained that a law
8 enforcement "code of silence" has been described as consisting of a single rule: "an officer does not
9 provide adverse information against a fellow officer." *Blair v. City of Pomona*, 223 F.3d 1074,
10 1081 (9th Cir.2000) (taking judicial notice of the *Report of the Independent Commission on the Los*
11 *Angeles Police Department* 168 (1991) (the Christopher Commission Report)). Defendants LEEF,
12 KNAPP, MASTERSON, BERNARDI, GRANT, HOLUM, PAGE, and DE LOS SANTOS, and
13 possibly remaining DOE Defendants, failed to report their own and other officers' uses of force
14 both in their written reports and when interviewed in official investigations of this incident.
15 Further, Defendants' official accounts of this incident, and the uses of force deployed or observed,
16 fail to account for the severe and widespread physical injuries and trauma found on STEVEN
17 NEUROTH's body.

18 49. On behalf of the MCSO, Defendants SERGEANT KNAPP and CORRECTIONS
19 CAPTAIN PEARCE officially approved Defendant Deputy DE LOS SANTOS' refusal to be
20 interviewed by investigators for the District Attorney and/or the MCSO concerning her involvement
21 and observations in this incident, and Defendants KNAPP and PEARCE officially approved
22 Defendant DE LOS SANTOS' intentional destruction of her own official written report concerning
23 this incident that she wrote within hours of STEVEN NEUROTH's death. Defendants' failure to
24 intervene and report misconduct in this incident, involving no less than seven deputies and a police
25 officer, with the explicit approval of supervisors including SERGEANT KNAPP, and the jail
26 commander, CORRECTIONS CAPTAIN PEARCE, is strong evidence of a widespread custom
27 within the Mendocino County Jail of a code of silence.

1 50. Defendants' conduct herein, including but not limited to their decision(s) to deny
2 Decedent necessary medical care; failure to provide competent medical care and treatment; failure
3 to provide him access and delivery to a hospital for the care and treatment for his life-threatening
4 medical emergency; failure to provide any inpatient psychiatric treatment facility within the entire
5 county; the manner in which they treated and incarcerated him, and their other acts and omissions
6 under these circumstances, were contrary to generally accepted reasonable jail and medical
7 procedures and standards, failed to comply with the appropriate standard of care, and contributed to
8 the wrongful death of STEVEN NEUROTH.

9 51. Plaintiff is informed and believes and thereon alleges that Defendants COUNTY,
10 ALLMAN, CFMG, and FITHIAN failed to have a qualified and competent medical and/or mental-
11 health professional conduct intake and mental-health evaluations on inmate patients, with deliberate
12 indifference to the inmate patients' serious medical and mental-health needs. Furthermore, Plaintiff
13 is informed and believes and thereon alleges that Defendants COUNTY, ALLMAN, CFMG, and
14 FITHIAN allowed, and continue to allow, un-credentialed staff, including Licensed Vocational
15 Nurses, to perform intake medical assessments and/or mental health assessments on patients without
16 any appropriate clinical supervision by a Registered Nurse, physician, or otherwise properly
17 licensed and credentialed health care provider, in violation of California law and generally accepted
18 national standards. Plaintiff is informed and believes and thereon alleges that COUNTY,
19 ALLMAN, CFMG, and FITHIAN allowed, and continue to allow, un-credentialed staff to perform
20 medical and mental-health assessments because it costs significantly less money than paying for
21 properly licensed staff to do the work.

22 52. CFMG, a for-profit corporation, is the largest private provider of correctional
23 healthcare in the State of California, stating on its website that it currently has contracts covering 27
24 counties with 65 facilities that have an average daily population of 16,000 inmates. Its contract
25 alone with MENDOCINO COUNTY has brought it several million dollars in profits. CFMG holds
26 itself out as offering a complete health care delivery system for MENDOCINO COUNTY inmates
27 that complies with California law, while knowingly violating the law governing patient assessments
28

1 and allowing incompetent and uncredentialed people to do medical and mental health assessments
2 on patients beyond their legal scope of practice.

3 53. CFMG holds itself and its officers, directors, and managing agents out as experts in
4 the field of correctional healthcare. Yet, CFMG has been criticized for its inadequate health care
5 provided to inmates throughout the State of California. A January 17, 2015, article in the
6 *Sacramento Bee* entitled, "California for-Profit Company Faces Allegations of Inadequate Inmate
7 Care," reported that CFMG's population-adjusted rate of deaths in custody is 50% higher than non-
8 CFMG counties.

9 54. Plaintiff is informed and believes and thereon alleges that CFMG must pay for
10 inpatient hospital treatment for Mendocino County jail inmates, creating a disincentive for CFMG
11 to refer jail inmates such as STEVEN NEUROTH off-site for necessary, emergency inpatient
12 hospitalization or psychiatric treatment.

13 55. Plaintiff is further informed and believes and thereon alleges that CFMG allows
14 uncredentialed Licensed Vocational Nurses (LVN's) to perform the work of Registered Nurses
15 (RN's) and higher level care providers, in order to save money, since CFMG pays LVN's
16 significantly less than it pays RN's. CFMG only provides one Registered Nurse, Monday through
17 Friday from 8:00 a.m. until 4:00 p.m., and one RN Manager Monday through Friday from 7:00 a.m.
18 until 3:00 p.m., and the rest of the time may provide uncredentialed LVN's working outside their
19 scope of practice, to care for the serious medical needs of patients in the Mendocino County Jail.

20 56. The California Nurse Practice Act, Cal. Bus. & Prof. Code § 2732 provides, "No
21 person shall engage in the practice of nursing, as defined in Section 2725, without holding a license
22 which is in an active status issued under this chapter except as otherwise provided in this act." The
23 licensed referred to is that for a Registered Nurse. *Id.*

24 57. Cal. Bus. & Prof. Code § 2795 provides that it is unlawful for any person "to practice
25 or to offer to practice nursing in this state unless the person holds a license in an active status." Cal.
26 Bus. & Prof. Code § 2799 provides that violation of the provisions of the chapter is a misdemeanor.

27 Cal. Bus. & Prof. Code § 2725(b) defines the practice of nursing:

28 The practice of nursing within the meaning of this chapter means those functions,
including basic health care, that help people cope with difficulties in daily living
that are associated with their actual or potential health or illness problems or the

1 treatment thereof, and that require a substantial amount of scientific knowledge or
2 technical skill, including all of the following:

3 (1) Direct and indirect patient care services that ensure the safety, comfort,
4 personal hygiene, and protection of patients, and the performance of disease
5 prevention and restorative measures

6 (2) Direct and indirect patient care services, including, but not limited to, the
7 administration of medications and therapeutic agents, necessary to implement a
8 treatment, disease prevention, or rehabilitative regimen ordered by and within the
9 scope of licensure of a physician, dentist, podiatrist, or clinical psychologist, as
10 defined by Section 1316.5 of the Health and Safety Code.

11 (3) The performance of skin tests, immunization techniques, and the withdrawal of
12 human blood from veins and arteries.

13 (4) Observation of signs and symptoms of illness, reactions to treatment, general
14 behavior, or general physical condition, and *(A) determination of whether the signs,
15 symptoms, reactions, behavior, or general appearance exhibit abnormal characteristics,
16 and (B) implementation, based on observed abnormalities, of appropriate reporting, or
17 referral, or standardized procedures, or changes in treatment regimen in accordance with
18 standardized procedures, or the initiation of emergency procedures.*

19 Cal. Bus. & Prof. Code § 2725(b)(emphasis added).

20 58. In contrast, 16 Cal. Code Regs. § 2518.5(a) sets forth the scope of a LVN's practice:

21 The licensed vocational nurse performs services requiring technical and manual
22 skills which include the following:

23 (a) Uses and practices basic assessment (data collection), participates in
24 planning, executes interventions in accordance with the care plan or treatment plan,
25 and contributes to evaluation of individualized interventions related to the care plan
26 or treatment plan.

27 16 CCR § 2518.5 (emphasis added).

28 59. The California Medical Board's IMQ Health Care Accreditation Standards state that
even *Registered Nurses* who are involved in a jail's mental health program act under the supervision
of a physician and "must have evidence of advanced post-graduate training in mental health." The
IMQ Standards note: "Mental health programs that rely solely on psychiatric technicians, registered
nurses without special university education qualifications or national certification, and non-licensed
staff to provide on-site evaluation and counseling services do not meet this essential accreditation
standard."

60. Yet, CFMG allows unsupervised LVN's to provide independent mental health
assessments without any appropriate clinical supervision. CFMG's staffing pattern only provides

1 for one unsupervised psychiatric RN, licensed clinical social worker, or marriage and family
 2 therapist Monday through Friday from 8:00 a.m. to 4:00 p.m., and otherwise has no licensed mental
 3 health clinicians on site at the Mendocino County Jail. CFMG will only provide up to 8 hours per
 4 week, *in toto*, of remote “telepsychiatry” for all of the Mendocino County jail inmates’ psychiatric
 5 needs combined, and only one medical director/physician for a total of 8 hours per week.
 6 Otherwise, uncredentialed, unsupervised, and unqualified health care workers are left alone to care
 7 for inmates in the jail. Defendant MENDOCINO COUNTY deliberately contracted for this
 8 unqualified and incompetent care of its jail inmates, with deliberate indifference on the part of the
 9 COUNTY, ALLMAN, CFMG and FITHIAN to the serious medical and mental health needs of
 10 inmates, including STEVEN NEUROTH.

11 61. Furthermore, Defendant COUNTY does not even have an inpatient psychiatric
 12 facility in which to house mentally ill, gravely disabled people in a psychiatric crisis, like STEVEN
 13 NEUROTH. Defendant COUNTY failed to accommodate STEVEN NEUROTH’S mental illness
 14 and disability, by deliberately indifferently failing to provide for appropriate inpatient psychiatric
 15 treatment for its residents, including STEVEN NEUROTH.

16 62. A January 29, 2016, article in the *Independent Coast Observer* [“ICO”] entitled,
 17 “Sheriff Spearheads Initiative to Fund Mental Health Center,” noted that Defendant COUNTY
 18 closed its psychiatric health facility in 1999 and contracted with other counties such as Yolo County
 19 and Solano County for 72-hour inpatient psychiatric holds pursuant to Cal. Welf. & Inst. Code §
 20 5150. However, Defendant ALLMAN acknowledged that being housed 100 miles from home and
 21 family is not beneficial to the patient. (ICO, 1/29/16, p. 12).

22 63. Moreover, law enforcement officers in MENDOCINO COUNTY must sit with the
 23 mentally ill patient in a hospital emergency room, sometimes for hours, to wait for the patient to be
 24 transported to Yolo or Solano County, which creates a disincentive for officers to choose to admit a
 25 patient pursuant to § 5150, and incentivizes arresting them for minor crimes related to their mental
 26 illness so they can be taken to jail instead.

27 64. In a December 4, 2015, article entitled “‘Jail No Place for Mentally Ill’ Says
 28 Mendocino County Sheriff,” the ICO noted, “According to Allman, because there’s no in-patient
 mental health facility in Mendocino County, the county jail has become the de facto place to put

1 people who are mentally ill and need to be dealt with in a crisis situation. ...In Mendocino County,
2 since there is no inpatient psychiatric facility where this 72-hour holding can occur, this assessment,
3 called a 5150, often means a trip to the county jail.” (ICO, 12/4/15, pp. 1, 8).

4 65. According to the National Institute of Mental Health, 18% of all adults in the United
5 States have had at least one mental illness in 2014, the year STEVEN NEUROTH was killed.
6 ([http://www.nimh.nih.gov/health/statistics/prevalence/any-mental-illness-ami-among-us-](http://www.nimh.nih.gov/health/statistics/prevalence/any-mental-illness-ami-among-us-adults.shtml)
7 [adults.shtml](http://www.nimh.nih.gov/health/statistics/prevalence/any-mental-illness-ami-among-us-adults.shtml)). According to the United States Department of Justice, Bureau of Justice Statistics’
8 2006 report entitled “Mental Health Problems of Prison and Jail Inmates,” 64.2% of inmates in local
9 jail populations have at least one mental health problem.
10 (<http://www.bjs.gov/content/pub/pdf/mhppji.pdf>, p. 3, Table 2).

11 66. Defendant ALLMAN acknowledges that “We really, truly don’t want mental health
12 patients in our jail[.] Jail isn’t the place for them in Mendocino County.” (ICO, 12/4/15, p. 8).
13 Defendant ALLMAN also acknowledges, “Without a shadow of a doubt, mental health is the
14 number one public safety issue in Mendocino County.” (ICO, 11/27/15, p. 1). Despite these facts,
15 Defendant COUNTY fails to provide for the serious medical and mental health needs of its
16 residents, causing the jailing of mentally ill, nonviolent people in psychiatric crisis -- like STEVEN
17 NEUROTH – with deliberate indifference to their serious medical needs. Defendant COUNTY
18 then contracts with CFMG for inadequate assessment and care for the mentally ill taken to its jails,
19 including allowing un-credentialed Licensed Vocational Nurses to perform the work of Registered
20 Nurses and Psychiatric Registered Nurses, in violation of California law and regulations.

21 67. STEVEN NEUROTH’s death was the proximate result of all Defendants’
22 deliberately indifferent failure to summon and/or provide care and treatment for STEVEN
23 NEUROTH’s serious medical/psychiatric needs, and the unreasonable seizure and restraint, use of
24 excessive force, and Defendants’ conduct without a legitimate law enforcement purpose.

25 68. Alternatively or concurrently, STEVEN NEUROTH’s death was the proximate
26 result of Defendant COUNTY’s, ALLMAN’s, and PEARCE’s failure to reasonably train and
27 require their Deputy Sheriffs to use only proper and reasonable force when necessary under the
28 circumstances, failure to implement and enforce generally accepted, lawful policies and procedures
at the jail, and allowing and/or ratifying excessive and unreasonable force and restraint, permitting

1 and fostering a code of silence at the jail, and deliberate indifference to the serious
2 medical/psychiatric needs of inmates. These substantial failures reflect Defendant COUNTY's
3 policies implicitly or directly ratifying and/or authorizing the deliberate indifference to serious
4 medical needs and the use of excessive and unreasonable force and restraint by its deputy sheriffs,
5 and the failure to reasonably train, instruct, monitor, supervise, investigate, and discipline deputy
6 sheriffs employed by Defendants COUNTY, ALLMAN, and PEARCE in the use of force and
7 inmates' medical needs.

8 69. Alternatively or concurrently, Decedent's death was the proximate result of
9 Defendant CFMG and FITHIAN's failure to reasonably staff, train, supervise, and equip their
10 medical and mental healthcare staff in the proper and reasonable care of mentally ill, and/or
11 emotionally disturbed inmates; failure to implement and enforce generally accepted, lawful policies
12 and procedures at the jail; and deliberate indifference to the serious medical/psychiatric needs of
13 inmates. These substantial failures reflect Defendant CFMG's policies implicitly ratifying and/or
14 authorizing the deliberate indifference to serious medical needs by its medical and mental
15 healthcare staff and the failure to reasonably train, instruct, monitor, supervise, investigate, and
16 discipline medical and mental healthcare staff employed by Defendant CFMG in the handling of
17 mentally ill, and/or emotionally disturbed inmates.

18 70. At all material times, and alternatively, the actions and omissions of each Defendant
19 were intentional, wanton, and/or willful, conscience-shocking, reckless, malicious, deliberately
20 indifferent to Decedent's and Plaintiff's rights, done with actual malice, grossly negligent, negligent,
21 and objectively unreasonable.

22 71. As a direct and proximate result of each Defendant's acts and/or omissions as set
23 forth above, to the extent permitted and pled by the various legal claims set forth below, Plaintiff
24 sustained the following injuries and damages, past and future, among others:

- 25 a. Wrongful death of STEVEN NEUROTH, pursuant to Cal. Code of Civ. Proc.
26 § 377.60 et. seq.;

- b. Loss of support and familial relationships, including loss of love, companionship, comfort, affection, society, services, solace, and moral support, pursuant to Cal. Code of Civ. Proc. § 377.60 et. seq.;
- c. STEVEN NEUROTH's Hospital and medical expenses, pursuant to Cal. Code of Civ. Proc. § 377.20 et. seq.;
- d. STEVEN NEUROTH's Coroner's fees, funeral and burial expenses, pursuant to Cal. Code of Civ. Proc. § 377.20 et. seq.;
- e. Violation of STEVEN NEUROTH's constitutional rights, pursuant to Cal. Code of Civ. Proc. § 377.20 et. seq. and federal civil rights law;
- f. STEVEN NEUROTH's loss of life, pursuant to federal civil rights law;
- g. STEVEN NEUROTH's conscious pain, suffering, and disfigurement, pursuant to federal civil rights law;
- h. All damages and penalties recoverable under 42 U.S.C. §§ 1983 and 1988, and as otherwise allowed under California and United States statutes, codes, and common law.

FIRST CAUSE OF ACTION
(42 U.S.C. § 1983) – Survival Claim
AGAINST DEFENDANTS LEEF, KNAPP, MASTERSON, BERNARDI, GRANT, HOLUM,
PAGE, DE LOS SANTOS, CAUDILLO, AND REMAINING DOES

72. Plaintiff realleges each and every paragraph in this complaint as if fully set forth here.

73. Plaintiff brings the claims in this cause of action as survival claims permissible under federal and California law, including Cal. Code of Civ. Proc. Section 377.20 et. seq.

74. By the actions and omissions described above, Defendants LEEF, KNAPP, MASTERSON, BERNARDI, GRANT, HOLUM, PAGE, DE LOS SANTOS, CAUDILLO, AND REMAINING DOES violated 42 U.S.C. § 1983, depriving Decedent STEVEN NEUROTH, through Plaintiff herein, of the following clearly established and well-settled constitutional rights protected by the Fourth and Fourteenth Amendments to the United States Constitution:

- a. Decedent's right to be free from excessive and unreasonable force and restraint in the course of seizure and as a pretrial detainee, as secured by the Fourth and/or Fourteenth Amendments; and

- b. Decedent's right to be free from deliberate indifference to STEVEN NEUROTH's serious medical needs while in custody as a pretrial detainee as secured by the Fourth and/or Fourteenth Amendments.

75. Defendants subjected Decedent to their wrongful conduct, depriving Decedent of rights described herein, knowingly, maliciously, and with conscious and reckless disregard for whether the rights and safety of Decedent and others would be violated by their acts and/or omissions.

76. As a direct and proximate result of Defendants' acts and/or omissions as set forth above, Decedent, through Plaintiff herein, sustained injuries and damages as set forth above at ¶ 71.

77. The conduct of Defendants entitles Plaintiff to punitive damages and penalties allowable under 42 U.S.C. § 1983 and as provided by law. Plaintiff does not seek punitive damages against Defendant COUNTY.

78. Plaintiff is also entitled to reasonable costs and attorneys' fees under 42 U.S.C. § 1988, and other applicable United States and California codes and laws.

SECOND CAUSE OF ACTION
(Monell - 42 U.S.C. § 1983) – Survival Claim
AGAINST DEFENDANTS COUNTY AND CFMG

79. Plaintiff realleges each and every paragraph in this complaint as if fully set forth here.

80. Plaintiff brings the claims in this cause of action as survival claims permissible under federal and California law, including Cal. Code of Civ. Proc. Section 377.20 et. seq.

81. The unconstitutional actions and/or omissions of Defendants LEEF, KNAPP, MASTERSON, BERNARDI, GRANT, HOLUM, PAGE, DE LOS SANTOS, CAUDILLO, AND REMAINING DOES, as well as other officers employed by or acting on behalf of the Defendants COUNTY and/or CFMG, on information and belief, were pursuant to the following customs, policies, practices, and/or procedures of Defendants COUNTY and/or CFMG, stated in the

1 alternative, which were directed, encouraged, allowed, and/or ratified by policymaking officers for
2 Defendant COUNTY and its Sheriff's Office, and/or Defendant CFMG:

- 3 a. To deny inmates access to appropriate, competent, and necessary care for
4 serious medical and psychiatric needs, including but not limited to failing to
5 provide any inpatient psychiatric facilities within the entire County of
6 Mendocino, and requiring mentally ill County residents in crisis to be taken
7 to jail instead of providing for their serious psychiatric needs;
- 8 b. To allow Licensed Vocational Nurses to perform intake medical and mental
9 health assessments without clinical supervision by a Registered Nurse or
10 physician, and otherwise to contract for inadequate and incompetent medical
11 and mental health care for jail inmates;
- 12 c. To allow, encourage, and require unlicensed, incompetent, inadequately
13 trained and/or inadequately supervised staff to assess inmates' medical and
14 psychiatric condition, needs, and treatment, including to decide whether or
15 not to provide inmates with necessary emergency care and hospitalization;
- 16 d. To use or tolerate the use of excessive and/or unjustified force, including
17 deputies' failures to intervene in excessive force and violations of rights by
18 other deputies, and improper prone restraint of inmates increasing the risk of
19 injury and death by restraint associated asphyxia;
- 20 e. To use or tolerate the use of unlawful deadly force;
- 21 f. To engage in or tolerate unreasonable seizures and restraints;
- 22 g. To fail to institute, require, and enforce proper and adequate training,
23 supervision, policies, and procedures concerning seizures and the use of
24 control holds and restraint techniques, including avoiding asphyxiation of
25 subjects being restrained by deputy sheriffs and avoiding blows and uses of
26 force to a subject's head and/or neck during altercations absent justification;
- 27 h. To fail to use appropriate and generally accepted law enforcement procedures
28 for handling mentally ill and/or emotionally disturbed persons;
- i. To fail to institute, require, and enforce proper and adequate training,
supervision, policies, and procedures concerning handling mentally ill and/or
emotionally disturbed persons;
- j. To fail to use appropriate and generally accepted jail procedures for handling
and housing mentally ill and/or emotionally disturbed persons, including, but
not limited to, the standards of the National Commission on Correctional
Health Care Standards for Health Services in Jails, and Title 15 of the
California Code of Regulations;

- 1 k. To cover up violations of constitutional rights by any or all of the following:
- 2 i. By failing to properly investigate and/or evaluate complaints or
- 3 incidents of excessive and unreasonable force, unlawful seizures,
- 4 and/or handling of mentally ill and/or emotionally disturbed
- 5 persons;
- 6 ii. By ignoring and/or failing to properly and adequately investigate
- 7 and/or investigate and discipline unconstitutional or unlawful law
- 8 enforcement activity; and
- 9 iii. By allowing, tolerating, and/or encouraging law enforcement
- 10 officers to: fail to file complete and accurate reports; file false
- 11 reports; make false statements; intimidate, bias and/or “coach”
- 12 witnesses to give false information and/or to attempt to bolster
- 13 officers’ stories; and/or obstruct or interfere with investigations of
- 14 unconstitutional or unlawful law enforcement conduct by
- 15 withholding and/or concealing material information;
- 16 l. To allow, tolerate, and/or encourage a “code of silence” among law
- 17 enforcement officers and sheriff’s office personnel, whereby an officer or
- 18 member of the sheriff’s office does not provide adverse information against a
- 19 fellow officer or member of the MCSO;
- 20 m. To use or tolerate inadequate, deficient, and improper procedures for
- 21 handling, investigating, and reviewing complaints of officer misconduct,
- 22 including claims made under California Government Code §§ 910 et seq.
- 23 n. To fail to have and enforce necessary, appropriate, and lawful policies,
- 24 procedures, and training programs to prevent or correct the unconstitutional
- 25 conduct, customs, and procedures described in this Complaint and in
- 26 subparagraphs (a) through (m) above, with deliberate indifference to the
- 27 rights and safety of Decedent, of Plaintiff and the public, and in the face of an
- 28 obvious need for such policies, procedures, and training programs.

82. Defendants COUNTY and CFMG, through their employees and agents, and through their policy-making supervisors, ALLMAN, PEARCE, FITHIAN, and remaining DOES, failed to properly hire, train, instruct, monitor, supervise, evaluate, investigate, and discipline Defendants LEEF, KNAPP, MASTERSON, BERNARDI, GRANT, HOLUM, PAGE, DE LOS SANTOS, CAUDILLO, AND REMAINING DOES, and other COUNTY, Sheriff’s Office, and CFMG

1 personnel, with deliberate indifference to Plaintiff's, Decedent's, and others' constitutional rights,
2 which were thereby violated as described above.

3 83. The unconstitutional actions and/or omissions of Defendants LEEF, KNAPP,
4 MASTERSON, BERNARDI, GRANT, HOLUM, PAGE, DE LOS SANTOS, CAUDILLO, AND
5 REMAINING DOES, and other Sheriff's Office personnel, as described above, were approved,
6 tolerated, and/or ratified by policymaking officers for the COUNTY and its Sheriff's Office,
7 including Defendants ALLMAN and PEARCE, and by CFMG and FITHIAN. Plaintiff is informed
8 and believes and thereon alleges that the details of this incident have been revealed to the authorized
9 policymakers within the COUNTY, the Mendocino County Sheriff's Office, and CFMG, and that
10 such policymakers have direct knowledge of the fact that the death of STEVEN NEUROTH was
11 not justified, but represented unconstitutional uses of unreasonable, excessive and deadly force, and
12 deliberate indifference to serious medical needs. Notwithstanding this knowledge, the authorized
13 policymakers within the COUNTY, its Sheriff's Office, and CFMG have approved of the conduct
14 and decisions of Defendants LEEF, KNAPP, MASTERSON, BERNARDI, GRANT, HOLUM,
15 PAGE, DE LOS SANTOS, CAUDILLO, AND REMAINING DOES in this matter, and have made
16 a deliberate choice to endorse such conduct and decisions, and the basis for them, that resulted in
17 the death of STEVEN NEUROTH. By so doing, the authorized policymakers within the COUNTY
18 and its Sheriff's Office have shown affirmative agreement with the individual Defendants' actions
19 and have ratified the unconstitutional acts of the individual Defendants. Furthermore, Plaintiff is
20 informed and believes, and thereupon alleges, that DEFENDANTS ALLMAN, PEARCE,
21 FITHIAN and other policy-making officers for the COUNTY and CFMG were and are aware of a
22 pattern of misconduct and injury caused by COUNTY law enforcement officers and CFMG
23 employees similar to the conduct of Defendants described herein, but failed to discipline culpable
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1 law enforcement officers and employees and failed to institute new procedures and policy within
2 the COUNTY and CFMG.

3 84. The aforementioned customs, policies, practices, and procedures; the failures to
4 properly and adequately hire, train, instruct, monitor, supervise, evaluate, investigate, and
5 discipline; and the unconstitutional orders, approvals, ratification, and toleration of wrongful
6 conduct of Defendants COUNTY and CFMG were a moving force and/or a proximate cause of the
7 deprivations of Decedent's clearly established and well-settled constitutional rights in violation of
8 42 U.S.C. § 1983, as more fully set forth above at ¶ 74.
9

10 85. Defendants subjected Decedent to their wrongful conduct, depriving Decedent of
11 rights described herein, knowingly, maliciously, and with conscious and reckless disregard for
12 whether the rights and safety of Decedent, Plaintiff and others would be violated by their acts and/or
13 omissions.

14 86. As a direct and proximate result of the unconstitutional actions, omissions, customs,
15 policies, practices, and procedures of Defendants COUNTY and CFMG, as described above,
16 Decedent and Plaintiff sustained serious and permanent injuries and Plaintiff is entitled to damages,
17 penalties, costs, and attorneys' fees against Defendants COUNTY and CFMG as set forth above in
18 ¶¶ 75-78, including punitive damages against Defendant CFMG.
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21 **THIRD CAUSE OF ACTION**
22 **(Supervisory Liability - 42 U.S.C. § 1983) – Survival Claim**
AGAINST DEFENDANTS ALLMAN, PEARCE, FITHIAN, AND REMAINING DOES

23 87. Plaintiff realleges each and every paragraph in this complaint as if fully set forth
24 here.

25 88. Plaintiff brings the claims in this cause of action as survival claims permissible under
26 federal and California law, including Cal. Code of Civ. Proc. Section 377.20 et. seq.
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1 89. At all material times, Defendants ALLMAN, PEARCE, FITHIAN, and
2 REMAINING DOES, had the duty and responsibility to constitutionally hire, train, instruct,
3 monitor, supervise, evaluate, investigate, and discipline the other Defendants in this matter, as well
4 as all employees and agents of the Mendocino County Sheriff's Office and/or CFMG.

5 90. Defendants COUNTY, ALLMAN, PEARCE, CFMG, FITHIAN, and REMAINING
6 DOES failed to properly hire, train, instruct, monitor, supervise, evaluate, investigate, and discipline
7 Defendants LEEF, KNAPP, MASTERSON, BERNARDI, GRANT, HOLUM, PAGE, DE LOS
8 SANTOS, CAUDILLO, AND REMAINING DOES, and other COUNTY, Sheriff's Office, and
9 CFMG personnel, with deliberate indifference to Plaintiff's, Decedent's, and others' constitutional
10 rights, which were thereby violated as described above.

11 91. The unconstitutional customs, policies, practices, and/or procedures of Defendants
12 COUNTY and/or CFMG, stated in the Second Cause of Action herein, were directed, encouraged,
13 allowed, and/or ratified by policymaking officers for Defendant COUNTY and its Sheriff's Office,
14 and/or Defendant CFMG, including Defendants ALLMAN, PEARCE, FITHIAN, and
15 REMAINING DOES, with deliberate indifference to Plaintiff's, Decedent's, and others'
16 constitutional rights, which were thereby violated as described above.

17 92. The unconstitutional actions and/or omissions of Defendants Defendants LEEF,
18 KNAPP, MASTERSON, BERNARDI, GRANT, HOLUM, PAGE, DE LOS SANTOS,
19 CAUDILLO, AND REMAINING DOES, and other Sheriff's Office personnel, as described above,
20 were approved, tolerated, and/or ratified by policymaking officers for the COUNTY and its
21 Sheriff's Office, including Defendants ALLMAN and PEARCE, and by CFMG and FITHIAN.
22 Plaintiff is informed and believes and thereon alleges that the details of this incident have been
23 revealed to Defendants ALLMAN, PEARCE, and FITHIAN, and that such Defendant-policymakers
24 have direct knowledge of the fact that the death of STEVEN NEUROTH was not justified, but
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1 represented an unconstitutional use of unreasonable, excessive and deadly force, and deliberate
2 indifference to serious medical needs. Notwithstanding this knowledge, on information and belief,
3 Defendants ALLMAN, PEARCE, and FITHIAN have approved of the conduct and decisions of
4 Defendants LEEF, KNAPP, MASTERSON, BERNARDI, GRANT, HOLUM, PAGE, DE LOS
5 SANTOS, CAUDILLO, AND REMAINING DOES in this matter, and have made a deliberate
6 choice to endorse such conduct and decisions, and the basis for them, that resulted in the death of
7 STEVEN NEUROTH. By so doing, Defendants ALLMAN, PEARCE, and FITHIAN have shown
8 affirmative agreement with the individual Defendants' actions and have ratified the unconstitutional
9 acts of the individual Defendants. Furthermore, Plaintiff is informed and believes, and thereupon
10 alleges, that Defendants ALLMAN, PEARCE, FITHIAN and other policy-making officers for the
11 COUNTY and CFMG were and are aware of a pattern of misconduct and injury, and a code of
12 silence, caused by COUNTY law enforcement officers and CFMG employees similar to the conduct
13 of Defendants described herein, but failed to discipline culpable law enforcement officers and
14 employees and failed to institute new procedures and policy within the COUNTY and CFMG.
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17 93. The aforementioned customs, policies, practices, and procedures; the failures to
18 properly and adequately hire, train, instruct, monitor, supervise, evaluate, investigate, and
19 discipline; and the unconstitutional orders, approvals, ratification, and toleration of wrongful
20 conduct of Defendants COUNTY, ALLMAN, PEARCE, FITHIAN, CFMG, and REMAINING
21 DOES were a moving force and/or a proximate cause of the deprivations of Decedent's clearly
22 established and well-settled constitutional rights in violation of 42 U.S.C. § 1983, as more fully set
23 forth above at ¶ 74.
24

25 94. Defendants subjected Decedent to their wrongful conduct, depriving Decedent of
26 rights described herein, knowingly, maliciously, and with conscious and reckless disregard for
27
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1 whether the rights and safety of Decedent, Plaintiff and others would be violated by their acts and/or
2 omissions.

3 95. As a direct and proximate result of the unconstitutional actions, omissions, customs,
4 policies, practices, and procedures of Defendants ALLMAN, PEARCE, FITHIAN, and
5 REMAINING DOES as described above, Plaintiff sustained serious and permanent injuries and is
6 entitled to damages, penalties, costs, and attorneys' fees as set forth above in ¶¶ 75-78, and punitive
7 damages against Defendants ALLMAN, PEARCE, FITHIAN, and REMAINING DOES in their
8 individual capacities.
9

10 **FOURTH CAUSE OF ACTION**
11 **(Violation of Civil Code § 52.1) – Survival Claim**
12 **AGAINST DEFENDANTS LEEF, KNAPP, MASTERSON, BERNARDI, GRANT, HOLUM,**
13 **PAGE, DE LOS SANTOS, CAUDILLO, AND REMAINING DOES, ALLMAN, PEARCE,**
14 **FITHIAN, AND CFMG**

15 96. Plaintiff realleges each and every paragraph in this complaint as if fully set forth
16 here.

17 97. Plaintiff brings the claims in this cause of action as survival claims permissible under
18 California law, including Cal. Code of Civ. Proc. Section 377.20 et. seq.

19 98. By their acts, omissions, customs, and policies, DEFENDANTS LEEF, KNAPP,
20 MASTERSON, BERNARDI, GRANT, HOLUM, PAGE, DE LOS SANTOS, CAUDILLO, and
21 REMAINING DOES, ALLMAN, PEARCE, FITHIAN, and CFMG, each Defendant acting in
22 concert/conspiracy, as described above, and by threat, intimidation, and/or coercion, interfered with,
23 attempted to interfere with, and violated STEVEN NEUROTH'S rights under California Civil Code
24 § 52.1 and under the United States Constitution and California Constitution as follows:

- 25 a. The right to be free from excessive and unreasonable force and restraint in
26 the course of a seizure as secured by the Fourth and/or Fourteenth
27 Amendments to the United States Constitution and by the California
28 Constitution, Article 1, §§ 7 and 13;

- b. The right to be free from deliberate indifference to STEVEN NEUROTH's serious medical needs while in custody as a pretrial detainee as secured by the Fourth and/or Fourteenth Amendments to the United States Constitution and by California Constitution, Article 1, §§ 7 and 13;
- c. The right to enjoy and defend life and liberty; acquire, possess, and protect property; and pursue and obtain safety, happiness, and privacy, as secured by the California Constitution, Article 1, § 1;
- d. The right to protection from bodily restraint, harm, or personal insult, as secured by California Civil Code § 43; and
- e. The right to medical care as required by California Government Code § 845.6.

99. Separate from, and above and beyond, Defendants' attempted interference, interference with, and violation of STEVEN NEUROTH'S rights as described above, Defendants violated Decedent's rights by the following conduct constituting threats, intimidation, or coercion:

- a. With deliberate indifference to STEVEN NEUROTH's serious medical needs, suffering, and risk of grave harm including death, depriving STEVEN NEUROTH of necessary, life-saving care for his medical and/or psychiatric needs;
- b. Threatening STEVEN NEUROTH with violence in the absence of any threat presented by Mr. NEUROTH, or any justification whatsoever;
- c. Using deliberately reckless and provocative tactics on STEVEN NEUROTH in violation of generally accepted law enforcement training and standards, and in violation of STEVEN NEUROTH's rights;
- d. Threatening violence against STEVEN NEUROTH, with the apparent ability to carry out such threats, in violation of Civ. Code § 52.1(j);
- e. Causing STEVEN NEUROTH to be subjected to multiple blows, strikes, painful joint control holds, choking, crushing, and other injurious force without justification;
- f. Restraining STEVEN NEUROTH in a manner well-known to impair and obstruct his ability to breathe;
- g. Causing STEVEN NEUROTH to be subjected to violence, and threat of violence, because of his disability(ies) and medical/psychiatric condition;
- h. Violating STEVEN NEUROTH's rights to be free from excessive force and deliberate indifference to his serious medical needs; and

- i. Instituting and maintaining the unconstitutional customs, policies, and practices described herein, when it was obvious that in doing so, individuals such as STEVEN NEUROTH would be subjected to violence, threat, intimidation, and coercion, as Decedent was here.

100. As a direct and proximate result of Defendants' violation of California Civil Code § 52.1 and of Decedent's rights under the United States and California Constitutions, Plaintiff (as successor in interest for Decedent) sustained injuries and damages, and against each and every Defendant is entitled to relief as set forth above at ¶¶ 75-78, and punitive damages against all individual Defendants, including all damages allowed by California Civil Code §§ 52 and 52.1 and California law, not limited to costs attorneys' fees, and civil penalties.

FIFTH CAUSE OF ACTION
(Negligence) – Survival and Wrongful Death Claims
AGAINST DEFENDANTS LEEF, KNAPP, MASTERSON, BERNARDI, GRANT, HOLUM,
PAGE, DE LOS SANTOS, AND REMAINING DOES

101. Plaintiff realleges each and every paragraph in this complaint as if fully set forth here.

102. Plaintiff brings the claims in this cause of action as survival claims permissible under California law, including Cal. Code of Civ. Proc. Section 377.20 et. seq., and as wrongful death claims permissible under California law, including Cal. Code of Civ. Proc. Section 377.60 et. seq.

103. At all times, Defendants LEEF, KNAPP, MASTERSON, BERNARDI, GRANT, HOLUM, PAGE, DE LOS SANTOS, and REMAINING DOES owed Plaintiff and Decedent the duty to act with due care in the execution and enforcement of any right, law, or legal obligation.

104. At all times, these Defendants owed Plaintiff and Decedent the duty to act with reasonable care.

105. These general duties of reasonable care and due care owed to Plaintiff and Decedent by these Defendants include but are not limited to the following specific obligations:

- a. To summon necessary and appropriate medical care for STEVEN NEUROTH;
- b. To refrain from using excessive and/or unreasonable force against STEVEN NEUROTH;
- c. To refrain from unreasonably creating the situation where force, including but not limited to deadly force, is used;
- d. To refrain from unreasonably creating danger or increasing STEVEN NEUROTH's risk of harm;
- e. To use generally accepted law enforcement procedures and tactics that are reasonable and appropriate for STEVEN NEUROTH's status as a mentally ill and/or emotionally disturbed person with serious medical needs;
- f. To refrain from abusing their authority granted them by law;
- g. To provide necessary mental health care, including but not limited to providing inpatient emergency psychiatric care within Mendocino County;
- h. To refrain from violating Plaintiff's rights as guaranteed by the United States and California Constitutions, as set forth above, and as otherwise protected by law.

106. Defendants LEEF, KNAPP, MASTERSON, BERNARDI, GRANT, HOLUM, PAGE, DE LOS SANTOS, and REMAINING DOES, through their acts and omissions, breached each and every one of the aforementioned duties owed to Plaintiff and Decedent.

107. As a direct and proximate result of these Defendants' negligence, Plaintiff and Decedent sustained injuries and damages, and against each and every Defendant named in this cause of action in their individual capacities are entitled to relief as set forth above at ¶¶ 75-78, including punitive damages against such individual Defendants.

SIXTH CAUSE OF ACTION
(Assault and Battery) – Survival and Wrongful Death Claims
AGAINST DEFENDANTS LEEF, KNAPP, MASTERSON, BERNARDI, GRANT, HOLUM,
PAGE, DE LOS SANTOS, AND REMAINING DOES

108. Plaintiff realleges each and every paragraph in this complaint as if fully set forth here.

1 109. Plaintiff brings the claims in this cause of action as survival claims permissible under
2 California law, including Cal. Code of Civ. Proc. Section 377.20 et. seq., and as wrongful death
3 claims permissible under California law, including Cal. Code of Civ. Proc. Section 377.60 et. seq.

4 110. Defendants LEEF, KNAPP, MASTERSON, BERNARDI, GRANT, HOLUM,
5 PAGE, DE LOS SANTOS, and REMAINING DOES, placed STEVEN NEUROTH in immediate
6 fear of death and severe bodily harm, and killed him by beating, battering, choking, and crushing
7 him without just provocation or cause, constituting assault and battery.

8 111. Defendants' conduct was neither privileged nor justified under statute or common
9 law.
10

11 112. As a direct and proximate result of these Defendants' assault and battery of STEVEN
12 NEUROTH, Plaintiff and Decedent sustained injuries and damages and are entitled to relief as asset
13 forth above at ¶¶ 75-78, including punitive damages against Defendants LEEF, KNAPP,
14 MASTERSON, BERNARDI, GRANT, HOLUM, PAGE, DE LOS SANTOS, and REMAINING
15 DOES, in their individual capacities.
16

17 **SEVENTH CAUSE OF ACTION**
18 **(Violation of California Government Code § 845.6) – Survival and Wrongful Death Claims**
19 **AGAINST DEFENDANTS LEEF, KNAPP, MASTERSON, BERNARDI, GRANT, HOLUM,**
20 **PAGE, DE LOS SANTOS, AND REMAINING DOES, and COUNTY**

21 113. Plaintiff realleges each and every paragraph in this complaint as if fully set forth
22 here.

23 114. Plaintiff brings the claims in this cause of action as survival claims permissible under
24 California law, including Cal. Code of Civ. Proc. Section 377.20 et. seq., and as wrongful death
25 claims permissible under California law, including Cal. Code of Civ. Proc. Section 377.60 et. seq.

26 115. Defendants LEEF, KNAPP, MASTERSON, BERNARDI, GRANT, HOLUM,
27 PAGE, DE LOS SANTOS, and REMAINING DOES knew or had reason to know that STEVEN
28 NEUROTH was in need of immediate medical care and treatment, including being transferred for

1 emergency inpatient hospitalization, and each failed to take reasonable action to summon immediate
2 medical care and treatment. Each such individual defendant, employed by and acting within the
3 course and scope of his/her employment with Defendant COUNTY, knowing and/or having reason
4 to know of STEVEN NEUROTH's need for immediate medical care and treatment, failed to take
5 reasonable action to summon such care and treatment in violation of California Government Code §
6 845.6.

7
8 116. Defendant COUNTY is vicariously liable for the violations of state law and conduct
9 of its officers, deputies, employees, and agents, including individual named defendants, under
10 California Government Code sections 815.2 and 845.6.

11 117. As legal cause of the aforementioned acts of these DEFENDANTS, Plaintiff and
12 Decedent were injured as set forth above, and their losses entitle Plaintiff to all damages allowable
13 under California law. Plaintiff (individually and as Successor in Interest for Decedent) sustained
14 serious and permanent injuries and is entitled to damages, penalties, costs, and attorney fees under
15 California law as set forth in ¶¶ 75-78, above, and punitive damages against these Defendants in
16 their individual capacities.
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19 **EIGHTH CAUSE OF ACTION**
20 **(Intentional Infliction of Emotional Distress) – Survival Claim**
21 **AGAINST DEFENDANTS LEEF and CITY OF WILLITS**

22 118. Plaintiff realleges each and every paragraph in this complaint as if fully set forth
23 here.

24 119. Plaintiff brings the claims in this cause of action as survival claims permissible under
25 California law, including Cal. Code of Civ. Proc. Section 377.20 et. seq.,

26 120. Before STEVEN NEUROTH was booked into the jail, Defendant LEEF
27 intentionally caused STEVEN NEUROTH to suffer severe emotional distress by Defendant LEEF's
28 outrageous conduct, including but not limited to abusing his authority, taking advantage of

1 STEVEN NEUROTH's mental and psychological disabilities, impairments, and vulnerabilities,
2 such as repeatedly yelling "Snakes!" while STEVEN NEUROTH was handcuffed and locked in his
3 police car and under the paranoid belief that there were deadly snakes in the car. In this conduct,
4 Defendant LEEF found pleasure in tormenting and terrorizing STEVEN NEUROTH, apparently
5 enjoying STEVEN NEUROTH's screams of fright and panic that Defendant LEEF deliberately
6 caused, over and over again. On information and belief, while Defendant LEEF was yelling,
7 "snakes!" to deliberately terrorize STEVEN NEUROTH, Defendant LEEF laughed and bragged to
8 another member of his police department to the effect: "I yelled and he freaked out. Yelled.
9 Because he was starting to get a little kinky back there. So what I like to do is say snakes very loud
10 and he jumps and it freaks him. It's pretty funny." Defendant LEEF did so while STEVEN
11 NEUROTH was in his custody and care, after Defendant LEEF already had determined that
12 STEVEN NEUROTH was in a psychotic state and unable to care for himself. Further, by this
13 intentional, extreme, and outrageous conduct, Defendant LEEF caused STEVEN NEUROTH to
14 further decompensate, becoming more paranoid, more fearful, more disoriented, and more at risk of
15 being subjected to unnecessary force in the jail.
16
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18 121. Despite Plaintiff's lawful pre-suit requests for such information to both the CITY OF
19 WILLITS and MENDOCINO COUNTY, Defendants concealed the information in the preceding
20 paragraph from Plaintiff until March 31, 2016, when such information was first provided in
21 Defendant COUNTY's initial disclosures in this matter.
22

23 122. Defendant CITY OF WILLITS is vicariously liable for Defendant LEEF's torturous
24 and tortious conduct pursuant to California Government Code § 815.2.

25 123. As legal cause of the aforementioned acts of Defendants LEEF and CITY OF
26 WILLITS, Decedent suffered severe emotional distress, and as Decedent's Successor in Interest,
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1 Plaintiff is entitled to all damages allowable under California law as set forth in ¶¶ 75-78, above,
2 and punitive damages against Defendant LEEF in his individual capacity.
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RELIEF REQUESTED

WHEREFORE, Plaintiff respectfully requests the following relief against each and every Defendant herein, jointly and severally:

- a. Compensatory and exemplary damages in an amount according to proof and which is fair, just, and reasonable;
- b. Punitive damages under 42 U.S.C. § 1983 and California law in an amount according to proof and which is fair, just, and reasonable;
- c. All other damages, penalties, costs, interest, and attorneys' fees as allowed by 42 U.S.C. §§ 1983 and 1988; California Code of Civil Procedure §§ 377.20 et seq., 377.60 et seq., and 1021.5; California Civil Code §§ 52 et seq., 52.1; and as otherwise may be allowed by California and/or federal law;
- d. Such further relief, according to proof, that this Court deems appropriate and lawful.

JURY DEMAND

Plaintiff hereby demands a jury trial in this action.

Dated: June 8, 2016

HADDAD & SHERWIN LLP

/s/ Michael J. Haddad

MICHAEL J. HADDAD
Attorneys for Plaintiff

COUNTY OF MENDOCINO
CLERK OF SUPERIOR COURT

17 FEB 24 PM 2 08

EXECUTIVE OFFICE

PERMITS
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9 in her personal capacity, and as executor of the
10 estate of Earl Ward, Deceased; KEVIN WARD;
11 and INA WARD, surviving heir of JEFF WARD,
12 Deceased

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10 MARGARET WARD, in her personal
11 capacity, and as executor of the estate of Earl
12 Ward, Deceased, KEVIN WARD and INA
13 WARD, surviving heir of JEFF WARD,
14 Deceased,

14 Plaintiffs,

15 v.

16 THE COUNTY OF MENDOCINO, a
17 municipal corporation, SHERIFF THOMAS
18 D. ALLMAN, individually and in his official
19 capacity as Sheriff of THE COUNTY OF
20 MENDOCINO, LORRIE KNAPP, MICHAEL
21 GRANT, CALIFORNIA FORENSIC
22 MEDICAL GROUP, INC, DR. MICHAEL
23 MEDVIN, DR. MARVIN TROTTER and
24 DOES 1 THROUGH 50, INCLUSIVE

21 Defendants.

Case No. 3:17-cv-00911

PLAINTIFFS' COMPLAINT FOR:

- 1) VIOLATION OF 42 USC §
1983: FOURTEENTH
AMENDMENT
- 2) VIOLATION OF 42 USC §
1983: SUPERVISOR
LIABILITY
- 3) ELDER ABUSE
- 4) WRONGFUL DEATH BASED
ON MEDICAL NEGLIGENCE

AND

DEMAND FOR JURY TRIAL

24 Plaintiffs MARGARET WARD, KEVIN WARD and INA WARD (collectively "Plaintiffs")
25 allege generally against Defendants THE COUNTY OF MENDOCINO, SHERIFF THOMAS D.
26 ALLMAN, individually and in his official capacity as Sheriff of THE COUNTY OF MENDOCINO,
27 CALIFORNIA FORENSIC MEDICAL GROUP, INC, ("CFMG") DR. MICHAEL MEDVIN, DR.
28 MARVIN TROTTER and DOES 1-50 (collectively "Defendants") as follows:

INTRODUCTION

1. On the evening of March 20, 2016, Earl Ward, a 77 year-old retired police officer, high school basketball coach and Navy veteran, was taken into custody by the Mendocino County Sheriff's Department. Mr. Ward was suffering from dementia which made him prone to confusion and uncontrollable rages. On the night of his arrest Mr. Ward's wife of 46 years, MARGARET WARD, had called officers to assist her with her husband. After officers arrested Mr. Ward he was transferred to the Mendocino County Jail in Ukiah where he remained in custody until April 16, 2016. During his time in custody Mr. Ward's medical needs were recklessly neglected, he showed a marked decline in mental health, fell repeatedly and was allowed to become severely malnourished and dehydrated. On April 16th Mr. Ward was found lying on the floor of his jail cell in pain, highly disoriented and suffering from several spine fractures, multiple broken ribs, internal bleeding, a partially collapsed lung, dehydration and acute kidney failure. The orthopedic injuries Mr. Ward suffered in the Mendocino County Jail required surgery, which led to complications and ultimately to Mr. Ward's death on May 30, 2016.

2. This was not the first incident in the Mendocino County Jail in which a mentally ill man was mistreated and died. For example, on or about June 11, 2014 a schizophrenic man, Steven Kellogg Neuroth, died in the same facility after being improperly cared for and restrained.

PARTIES AND JURISDICTION

3. Mr. Ward died on May 30, 2016 and was survived by his wife, Plaintiff MARGARET WARD, and two sons: Plaintiff KEVIN WARD, a Jeff Ward, who post-deceased Mr. Ward.

4. Plaintiff INA WARD is Jeff Ward's surviving wife and heir and brings survival claims on behalf of Jeff Ward's Estate.

5. There are no known heirs or potential heirs to Mr. Ward's estate who have not either joined as plaintiffs in this action or waived their claims.

6. Mr. Ward was born on November 18, 1938. At all times relevant to this complaint Mr. Ward was an "elder" within the meaning of California Welfare and Institutions Code section 15610.27.

//

1 7. MARGARET WARD was married to Mr. Ward for 46 years and lived with him at the
2 time of Mr. Ward's death and has been named as the executor of Mr. Ward's estate by the Mendocino
3 County Superior Court on September 29, 2016 (Case No. CVPB 16-26682). Accordingly,

4 MARGARET WARD has and is asserting standing to bring the claims described herein as follows:

- 5 a. MARGARET WARD has standing to bring a survival actions under both state and
6 federal law as Mr. Ward's successor in interest pursuant to California Code of Civil
7 Procedure section 377 *et seq.* and brings this survival action on behalf of Mr. Ward's
8 estate.
- 9 b. As executor of Mr. Ward's estate MARGARET WARD is Mr. Ward's personal
10 representative within the meaning California Code of Civil Procedure section 377.60,
11 and therefore has standing to and does pursue a California a state wrongful death cause
12 of action on behalf of all persons who have such claims.
- 13 c. In losing her husband, Mr. Ward, MARGARET WARD has standing to assert her own
14 individual Federal claims under 42 U.S.C. §§ 1983 and 1988 for the loss of a liberty
15 interest under the Fourteenth Amendment of the United States Constitution.

16 8. KEVIN WARD is the surviving son of Mr. Ward and in losing his father has standing
17 and does assert his personal claims under 42 U.S.C. §§ 1983 and 1988 for the loss of a liberty interest
18 under the Fourteenth Amendment of the United States Constitution.

19 9. INA WARD is the surviving spouse of Mr. Ward's son, Jeff Ward. Jeff Ward survived
20 Mr. Ward, but died prior to the initiation of this action. In life Jeff Ward had a personal claim under 42
21 U.S.C. §§ 1983 and 1988 for the loss of a liberty interest under the Fourteenth Amendment of the
22 United States Constitution which survives. INA WARD has standing to bring a survival actions under
23 both state and federal law as Jeff Ward's successor in interest pursuant to California Code of Civil
24 Procedure section 377 *et seq.* and brings this survival action on behalf of Jeff Ward's estate.

25 10. Defendant THE COUNTY OF MENDOCINO is a public entity established by the laws
26 of the Constitution of the State of California, and owns, operates, manages, directs, and controls the
27 Mendocino County Jail and the Mendocino County Sheriff's department, also a public entity, which
28 employs the other defendants in this action. THE COUNTY OF MENDOCINO is within the Northern

1 District of California. Plaintiffs submitted a California Government Code 910 *et seq.* claim to THE
2 COUNTY OF MENDOCINO on September 19, 2016, which was rejected on October 4, 2016.

3 11. Defendant SHERIFF THOMAS D. ALLMAN was employed by Defendant THE
4 COUNTY OF MENDOCINO as Sheriff for THE COUNTY OF MENDOCINO. He is being sued in
5 his individual and official capacity as Sheriff for THE COUNTY OF MENDOCINO.

6 12. Defendants LORRIE KNAPP and MICHAEL GRANT are, and at all times relevant for
7 this complaint, were, uniformed Sheriff's deputies employed by THE COUNTY OF MENDOCINO to
8 work in the Mendocino County Jail, in Ukiah, California, under the supervision of SHERIFF
9 THOMAS D. ALLMAN. They are being sued in their individual and official capacities, and as agents
10 and employees of SHERIFF THOMAS D. ALLMAN and THE COUNTY OF MENDOCINO.

11 13. CFMG is a California Corporation based in Monterrey County, California that offers
12 and manages medical services in jails and prisons throughout California including within the Northern
13 District of California. The conduct of CFMG alleged herein occurred in the Mendocino County Jail in
14 Ukiah, California.

15 14. DR. MICHAEL MEDVIN is a doctor licensed to provide medical care in California
16 with a principal place of business in Santa Rosa, California, which is within the geographic jurisdiction
17 of the Northern District of California.

18 15. DR. MARVIN TROTTER is a doctor licensed to provide medical care in California
19 with a principal place of business in Ukiah, California, which is within the geographic jurisdiction of
20 the Northern District of California.

21 16. The true names and capacities, whether individual, corporate, partnership, joint venture,
22 or otherwise of Defendants DOES 1 through 50 inclusive, are unknown to Plaintiffs who therefore sues
23 Defendants by such fictitious names; and leave of court will be asked to amend this complaint to show
24 their true names and capacities when the same have become ascertained.

25 17. Each of the Defendants named here as a DOE is legally responsible in some manner for
26 the events and happenings referred to here, and proximately and legally caused injury and damage to
27 plaintiffs as alleged here. Plaintiffs pray leave to amend this complaint when their true names have
28 been ascertained.

1 18. At all times mentioned herein, the defendants, DOES 1 through 25, inclusive, and each
2 of them, were the agents, servants and employees of the other Defendants, and at all times herein
3 mentioned, were acting within the course and scope of their agency and employment with said
4 principal and/or employer.

5 19. At all times mentioned herein, the defendants DOES 26 through 50, inclusive, and each
6 of them, were the co-joint-venturers, masters and employers of the remaining Defendants, and each of
7 them, who, at all times herein mentioned, were acting within the course and scope of their agency,
8 employment and/or joint venture.

9 20. Plaintiffs are informed and believe that at all times here mentioned, certain of the
10 Defendants DOES are the successors in interest to each of the remaining Defendants and on that basis,
11 are liable for any act, or omission of said Defendants alleged here.

12 21. At all times mentioned here, Defendants, and each of them, were the agents and
13 employees of the remaining Defendants and were at all times acting within the course and scope of said
14 agency and employment.

15 22. The acts and omissions of all Defendants (excluding DR. MICHAEL MEDVIN, and
16 DR. MARVIN TROTTER) as set forth herein were at all material times pursuant to the actual customs,
17 policies, practice and procedures of the Mendocino County Sheriff's Department, and/or THE
18 COUNTY OF MENDOCINO.

19 23. Jurisdiction and venue are proper in Northern District of California for the following
20 reasons:

- 21 a. Federal jurisdiction over the claims stated under 42 U.S.C. § 1983 is proper in this Court
22 under 28 U.S.C. § 1331, which invests federal district courts with original jurisdiction
23 over all claims arising under federal law;
24 b. Federal jurisdiction in this Court exists over the state law claims stated herein because
25 they arise out the same transaction, occurrence, or series of transactions or occurrences
26 as the claims under 42 U.S.C. § 1983.

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- 1 c. Venue is proper in the Northern District of California under 28 U.S.C. § 1391(b)(1)&(2)
2 because all known defendants reside within the district, and events and omissions
3 alleged herein occurred in Ukiah, California, which is within the confines of this district.

4 **COMMON LIABILITY ALLEGATIONS**

5 24. This case arises out of the improper incarceration, care and medical treatment of Earl
6 Ward that began on or about March 20, 2016 when Mr. Ward was held as a pretrial detainee in the
7 Mendocino County Jail, in Ukiah, California.

8 25. On March 21, 2016 Mr. Ward became agitated, was observed by Defendants hitting the
9 window within his cell and stating that he wanted to die; Defendants' employees observed that Mr.
10 Ward was confused and kept on pushing on the door of his cell; he was placed in a safety cell.

11 26. On March 22, 2016 MARGARET WARD talked with an unidentified employee of
12 defendant, CFMG, sued herein under a fictitious name and explained that over the weeks prior to his
13 arrest Mr. Ward had become confused, delusional and paranoid.

14 27. Mr. Ward continued to exhibit confusion, delusions and paranoia within the jail;
15 Defendants observed the following on March 22nd:

16 a. At 5:30 a.m. Mr. Ward was seen standing at his door, smiling, and trying to push out.

17 b. At 8:15 a.m. Mr. Ward was observed staring at the wall, holding a drinking cup on his
18 head.

19 c. At 9:30 a.m. a member of the jail staff observed that Mr. Ward appeared confused,
20 although he spoke clearly, he had what was described as a "disorganized thought
21 process."

22 28. On March 24, 2016 a social worker from the United States Department of Veteran's
23 Affairs ("VA") medical services observed that Mr. Ward was unable to articulate why he had been
24 arrested. This state of confusion was readily apparent to Defendants.

25 29. On March 28, 2016 Defendants noted that Mr. Ward refused to take his medications.

26 30. On March 28, 2016 a social worker from the VA medical services talked to Mr. Ward
27 and Mr. Ward expressed his erroneous belief that he was in Chicago.

28 //

1 31. On April 2, 2016 defendant MICHAEL GRANT observed Mr. Ward standing on his
2 bunk trying to push his window open.

3 32. Also on April 2, 2016, defendant LORRIE KNAPP observed Mr. Ward standing on his
4 bunk, and then fall backwards, possibly hitting his head.

5 33. On April 2, 2016, neither defendant GRANT nor defendant KNAPP made any efforts to
6 intervene prior to Mr. Ward's fall; their failure to do so constituted deliberate indifference to Mr.
7 Ward's medical needs.

8 34. On April 3, 2016 at 3:40 a.m. Mr. Ward was observed to have a bruise on his head with
9 dry blood and was taken to the Ukiah Valley Medical Center ("UVMC") where UVMC staff noted that
10 Mr. Ward remained asleep through is exam but "[p]atient will wake up but is not oriented to person,
11 place or time. According to deputies, this is the first time he has slept at all that they are aware of since
12 his incarceration [on March 20, 2016]."

13 35. On April 3, 2016, blood tests performed at UVMC showed that Mr. Ward had an
14 elevated Blood Urea Nitrogen, a sign of dehydration and renal failure. This information was
15 communicated to and noted in jail medical records by unidentified employees of CFMG.

16 36. On April 3, 2016 DR. MARVIN TROTTER discharged Mr. Ward back to the
17 Mendocino County Jail despite observing that "Patient does have dementia, recently residing in the jail,
18 likely had an acute episode of delirium, probably due to lack of sleep, as it is reported he had not slept
19 for a week and a half prior to presenting to the emergency room. He was on his bunk when he dozed
20 off and fell."

21 37. Defendants did not undertake adequate fall-risk protection efforts after Mr. Ward's falls
22 on April 2nd and 3rd. Failure to provide fall-risk protection after a known fall is below the standard of
23 care of a reasonable medical professional and, in light of the knowledge of Mr. Ward's propensity to
24 fall, constituted deliberate indifference to Mr. Ward's medical needs.

25 38. By placing Mr. Ward in an unsupervised cell after April 3rd and depriving him of
26 appropriate medical care, Defendants increased the danger that Mr. Ward would suffer further injury
27 beyond what he would have been exposed to either a) under appropriate medical supervision or b) had
28 he not been retained in custody.

1 39. On April 6, 2016 an unidentified Licensed Vocational Nurse ("LVN") believed to be an
2 employee of CFMG, and sued herein under a fictitious name, noted in the jail medical records that the
3 LVN observed that Mr. Ward was showing increased agitation, confusion and delusion, and was
4 continually trying to climb out of a fixed window and presented an increased fall risk.

5 40. Defendant DR. MICHEAL MEDVIN was consulted by the LVN, but Defendants did
6 not undertake adequate efforts to address Mr. Ward's declining mental health or increased risk that he
7 would continue to injure himself.

8 41. Defendants did not undertake adequate fall-risk protection efforts after observing Mr.
9 Ward's attempts to climb within this cell on April 6th. Failure to provide fall-risk protection to a
10 mentally-ill elderly patient who was known to be climbing within his cell was below the standard of
11 care of a reasonable medical professional and, in light of the knowledge of Mr. Ward's propensity to
12 fall and declining mental health, constituted deliberate indifference to Mr. Ward's medical needs.

13 42. By placing Mr. Ward in an unsupervised cell after observing his cognitive incapacity and
14 inability to care for himself or avoid injury and the depriving him of appropriate medical care,
15 Defendants increased the danger that Mr. Ward would suffer further injury beyond what he would have
16 been exposed to had he been provided appropriate medical supervision within the jail or diverted to a
17 proper custodial setting within a healthcare facility.

18 43. On April 16, 2016 Mr. Ward was found lying on the floor of his jail cell in pain and
19 highly disoriented and was taken for a further medical evaluation which revealed that Mr. Ward had
20 multiple transverse vertebral fractures, multiple broken ribs, internal bleeding, a partially collapsed
21 lung, dehydration and acute kidney failure.

22 44. The orthopedic injuries Mr. Ward suffered in the Mendocino County Jail required
23 surgery, which lead to complications and ultimately to Mr. Ward's death on May 30, 2016.

24 45. As a proximate result of Defendants' misconduct Mr. Ward and Plaintiffs suffered
25 injury including but not limited to the following:

- 26 a. Mr. Ward suffered considerable emotional distress, pain and discomfort as a result of his
27 neglect between March 20, 2015 and his death;

28 //

- 1 b. Mr. Ward incurred significant expenses to pay for the surgical, medical, rehabilitative
2 and palliative care that were necessitated by the injuries he suffered on or about April
3 16, 2016;
- 4 c. Mr. Ward lost his life;
- 5 d. Plaintiffs and/or Mr. Ward's estate incurred burial and funeral expenses;
- 6 e. Plaintiffs were deprived of Mr. Ward's services (including household services), advice,
7 training, love, companionship, comfort, affection, support, society solace, moral support
8 and Mr. Ward's contribution to Plaintiffs' household and well-being; these losses
9 constitute the loss of a liberty interest under the Fourteenth Amendment.

10 **COUNT ONE**

11 **42 USC § 1983**

12 **FOURTEENTH AMENDMENT – PERSONAL CAPACITY -**

13 **AGAINST LORRIE KNAPP, MICHAEL GRANT, SHERIFF THOMAS D. ALLMAN, CFMG,**
14 **DR. MICHAEL MEDVIN, DR. MARVIN TROTTER, AND DOES 1-50**

15 Plaintiffs as individuals and on behalf of the estates of Mr. Ward and Jeffrey Ward for a first
16 cause of action, allege against LORRIE KNAPP, MICHAEL GRANT, SHERIFF THOMAS D.
17 ALLMAN, CFMG, DR. MICHAEL MEDVIN, DR. MARVIN TROTTER, and DOES 1-50:

18 46. Plaintiffs incorporate by reference paragraph(s) 1 to 45 above, as though fully set forth
19 here.

20 47. Defendants LORRIE KNAPP, MICHAEL GRANT, SHERIFF THOMAS D.
21 ALLMAN, CFMG, DR. MICHAEL MEDVIN, DR. MARVIN TROTTER, and DOES 1-50 acting
22 under the color of state law in their individual and personal capacities, deprived Mr. Ward of the rights,
23 privileges and immunities secured by the Fourteenth Amendment to the United States Constitution, to
24 not be deprived of life without due process of law, and to be free from cruel and unusual punishment,
25 by subjecting him, or through their deliberate indifference allowing others to subject him to improper
26 medical monitoring, and a delay and denial of access to medical care for a serious but treatable medical
27 condition, leading to his death.

28 //

1 48. Defendants LORRIE KNAPP, MICHAEL GRANT, SHERIFF THOMAS D.
2 ALLMAN, CFMG, DR. MICHAEL MEDVIN, DR. MARVIN TROTTER, and DOES 1-50 knew or
3 must have known that Mr. Ward's medical condition was serious but treatable and knew or must have
4 known that he required careful monitoring, and that they further had a duty to provide Mr. Ward
5 reasonable housing to allow for monitoring of his health, yet they deliberately failed to provide for any
6 of those needs.

7 49. Defendants LORRIE KNAPP, MICHAEL GRANT, SHERIFF THOMAS D.
8 ALLMAN, CFMG, DR. MICHAEL MEDVIN, DR. MARVIN TROTTER, and DOES 1-50 acting
9 under the color of state law in their individual and personal capacities, denied Mr. Ward his Fourteenth
10 Amendment right to not be deprived of his life without due process of law by purposefully or through
11 their deliberate indifference denying and refusing proper housing, and/or provide necessary medical
12 care and treatment, and/or by delaying and denying him access to medical care and treatment for a
13 serious but treatable medical condition; and/or causing others to deny and/or delay medical care and
14 treatment to Mr. Ward.

15 50. As a result of these defendants' deliberate indifference to Mr. Ward's need for medical
16 care and treatment, and their disregard and ignoring of said conditions, Mr. Ward suffered damages,
17 pain and suffering, anxiety, confusion, disorientation, loss of life and deprivation of his constitutional
18 rights in an amount not yet ascertained but to be proven.

19 51. By the actions and omissions described above, defendants LORRIE KNAPP,
20 MICHAEL GRANT, SHERIFF THOMAS D. ALLMAN, CFMG, DR. MICHAEL MEDVIN, DR.
21 MARVIN TROTTER, and DOES 1-50 violated 42 USC § 1983, deprived Mr. Ward and Plaintiffs of
22 the following clearly-established and well-settled constitutional rights protected by the Fourteenth
23 Amendment to U.S. Constitution:

- 24 a. Mr. Ward's right to be free from deliberate indifference to his serious medical needs
25 while in custody as a pretrial detainee as secured by the Fourteenth Amendment;
26 b. The right of Mr. Ward and Plaintiffs to be free from wrongful government interference
27 with familial relationships, and right to companionship, society and support, as secured
28 by the Fourteenth Amendment.

1 c. The right of Mr. Ward's heirs under the California Wrongful Death Statutes, Cal. Code
2 of Civil Procedure § 377.60 et seq., to future support, love, care, comfort, affection,
3 society, presence, companionship, protection, and, as to MARGARET WARD, deprived
4 of consortium, and thus have suffered pecuniary loss.

5 52. Defendants subjected Mr. Ward and Plaintiffs to their wrongful conduct, depriving them
6 of the rights described herein, knowingly, maliciously, and with conscious and reckless disregard for
7 whether the rights and safety of Mr. Ward and his survivors would be violated by their acts and/or
8 omissions.

9 53. As a direct and proximate result of Defendants' acts and/or omissions as set forth above,
10 Mr. Ward, his wife and children sustained injuries and damages as set forth above.

11 54. The conduct of Defendants LORRIE KNAPP, MICHAEL GRANT, SHERIFF
12 THOMAS D. ALLMAN, CFMG, DR. MICHAEL MEDVIN, DR. MARVIN TROTTER, and DOES
13 1-50 entitles Plaintiffs to punitive damages and penalties allowable under 42 USC § 1983, Cal. Code of
14 Civil Procedure § 377.34 et seq., and other state and federal law.

15 55. Plaintiffs are also entitled to reasonable costs and attorney fees under 42 USC § 1988
16 and applicable federal and California codes and laws.

17 **COUNT TWO**

18 **42 USC § 1983**

19 **FOURTEENTH AMENDMENT - SUPERVISORY LIABILITY**
20 **AGAINST SHERIFF THOMAS D. ALLMAN AND DOES 1-50**

21 Plaintiffs as individuals and on behalf of the estates of Mr. Ward and JEFFREY WARD for a
22 second cause of action, allege against SHERIFF THOMAS D. ALLMAN and DOES 1-50:

23 56. Plaintiffs incorporate by reference paragraph(s) 1 to 55 above, as though fully set forth
24 here.

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27 //

28 //

1 57. On or before March 20, 2016, Defendant SHERIFF THOMAS D. ALLMAN, and
2 DOES 1-50 failed to properly train, assign, supervise, and guide their staff and medical personnel at the
3 Mendocino County Jail and at the Mendocino County Sheriff's Department respectively, to take
4 necessary measures to ensure the health and safety of arrested persons and to ensure that they are
5 provided with all necessary monitoring and medical care.

6 58. On or about March 20, 2016, and for some time prior thereto and since that time,
7 Defendants SHERIFF THOMAS D. ALLMAN, and DOES 1-50 have either participated in, or known
8 of, or must have known of their subordinates' deliberate indifference in failing to take immediate
9 measures to ensure that a person in custody be provided with all necessary monitoring and medical care
10 to protect his or her health and safety, subsequently causing injuries or deaths. SHERIFF THOMAS D.
11 ALLMAN's knowledge of the shortcomings of his subordinates was based in part, but not exclusively,
12 on the wrongful death in the Mendocino County Jail of a schizophrenic man, Steven Kellogg Neuroth,
13 who was improperly restrained on or about June 11, 2014 in a manner that led to Mr. Neuroth's death;
14 that prior wrongful death of a mentally ill arrestee should have, and did apprise SHERIFF THOMAS
15 D. ALLMAN of the fact that his subordinates did not have proper training in the treatment of mentally
16 ill persons in custody.

17 59. Notwithstanding the death of Steven Kellogg Neuroth, defendant SHERIFF THOMAS
18 D. ALLMAN took no steps to revise or adopt policies and procedures in order to apprise his
19 subordinates of the proper manner for treating mentally ill persons in custody, and of circumstances in
20 which mentally ill persons in custody should cannot be safely accommodated in the jail.

21 60. Furthermore, on or before March 20, 2016, defendant SHERIFF THOMAS D.
22 ALLMAN and DOES 1-50 failed to properly supervise the medical services for arrestee-prisoners, in
23 that Mendocino County Jail personnel were not trained to properly classify, house or monitor pretrial
24 detainees suffering from health conditions, including mental health conditions, failed to provide
25 appropriate care to pretrial detainees for serious but treatable medical conditions, and operated without
26 adequate safeguards, audits, or reporting requirements reviewable by supervisors.

27 //

28 //

61. Additionally, as a policy making officials for THE COUNTY OF MENDOCINO, defendants SHERIFF THOMAS D. ALLMAN, and DOES 1-50 were responsible for THE COUNTY OF MENDOCINO's unconstitutional customs, policies, practices, and procedures, as well as failures to properly hire, train, instruct, monitor, supervise, evaluate, investigate, manage, and discipline, as described above, and they ratified the misconduct and constitutional violations as described above.

62. Said acts and omissions, customs and practices by defendants SHERIFF THOMAS D. ALLMAN, and DOES 1-50 set in motion a series of acts by their subordinates that they knew or must have known would cause the subordinates to deprive Mr. Ward, the Plaintiffs and Mr. Ward's heirs of their rights as alleged above.

63. As a direct and proximate result of the actions, omissions, and practices of defendants SHERIFF THOMAS D. ALLMAN, and DOES 1-50, as described above, Mr. Ward, the Plaintiffs and Mr. Ward's heirs sustained serious and permanent injuries and are entitled to damages, penalties, costs and attorney fees as set forth above.

COUNT THREE

CAL. WEL & INST. §§ 15600 *et seq.*

ELDER ABUSE

AGAINST ALL Defendants

(EXCLUDING DR. MICHAEL MEDVIN AND DR. MICHAEL TROTTER)

Plaintiffs as individuals and on behalf of the estates of Mr. Ward and JEFFREY WARD for a third cause of action, allege against all Defendants (excluding DR. MICHAEL MEDVIN and DR. MICHAEL TROTTER):

64. Plaintiffs incorporate by reference paragraph(s) 1 to 63 above, as though fully set forth here.

65. Mr. Ward was at all times an "elder" within the meaning of California Welfare and Institutions Code section 15610.27 owing to the fact that he resided in the State of California, and was over 65 years of age.

66. Once Mr. Ward was taken into custody in the Mendocino County Jail in Ukiah, Defendants, each of them was a person "having care or custody of" Mr. Ward within the meaning of

1 California Welfare and Institutions Code section 15610.57(a) by virtue of his pretrial detention and
2 housing within their facility.

3 67. By virtue of the foregoing, Defendants, and each of them, have committed "neglect" as
4 defined in California Welfare and Institutions Code section 15610.57 by:

5 a. Their failure to provide Mr. Ward with medical care within the meaning of Section
6 15610.57(b)(2) by failing to provide appropriate mental health care including
7 supervision;

8 b. Their failure to protect Mr. Ward from health and safety hazards within the meaning
9 Section 15610.57(b)(3);

10 c. Their failure to prevent dehydration within the meaning of Section 15610.57(b)(4).

11 68. By virtue of the foregoing, and repeated sentinel events suffered by Mr. Ward between
12 March 20, 2016 and April 16, 2016 at all times during Defendants' care and/or custody of the Mr.
13 Ward, Defendants' failure to address Mr. Ward's decline and protect him from safety hazards was
14 reckless and constituted deliberate indifference to Mr. Ward's medical and mental health needs.

15 69. By virtue of the foregoing, Plaintiffs are entitled to recover Mr. Ward's pre-death pain
16 and suffering damages and attorney's fees under California Welfare and Institutions Code section
17 15657.

18 **COUNT FOUR**

19 **MEDICAL NEGLIGENCE - WRONGFUL DEATH**

20 **AGAINST ALL Defendants**

21 **(EXCLUDING SHERIFF THOMAS D. ALLMAN, LORRIE KNAPP and MICHAEL GRANT)**

22 Plaintiffs as individuals and on behalf of the estates of Mr. Ward and JEFFREY WARD for a fourth
23 cause of action, allege against all Defendants (excluding SHERIFF THOMAS D. ALLMAN, LORRIE
24 KNAPP and MICHAEL GRANT):

25 70. Plaintiffs incorporate by reference paragraph(s) 1 to 69 above, as though fully set forth
26 here.

27 71. Defendants against whom this cause of action is alleged are private parties, public
28 employees, and public agencies who were lawfully engaged in in the practice of one of the healing arts

1 and/or operated a custodial facility in which persons are entitled to medical treatment and each of
2 them had assumed responsibility for the medical care and supervision of Mr. Ward.

3 72. By virtue of the foregoing, Defendants, and each of them, owed a duty of ordinary care
4 to the Mr. Ward, to use that degree of care and skill that a reasonably prudent person and/or facility
5 would use given the Defendants' respective role, function, knowledge, training, expertise and skill and
6 to exercise prudent, reasonable judgment and care in the selection, employment and control of
7 qualified, trained, experienced nurses, nurse practitioners, nursing personnel, orderlies, assistants,
8 aides and employees under their supervision, control, direction, responsibility and authority while
9 performing services and caring for persons within the custody of THE COUNTY OF MENDOCINO
10 including, but not limited to, Mr. Ward.

11 73. The medical treatment and monitoring provided by Defendants, and each of them, and
12 by Defendants' employees, and each of them, to Mr. Ward, negligently failed to conform to the
13 standard of care both with respect to the care and treatment rendered to Mr. Ward, and with respect to
14 providing Mr. Ward with information about the risks, hazards, or other harmful consequences, that
15 might follow from the treatment and diagnosis Defendants, and each of them, planned for Mr. Ward.

16 74. At all times herein mentioned, Defendants negligently and carelessly failed to properly
17 ensure the character, quality, ability and competence of individuals, including the remaining
18 Defendants, and each of them, treating patients in said hospital, custodial facility and clinics, and as a
19 proximate result thereof, Mr. Ward died.

20 75. Before, during, and after said times, Defendants and each of them, so negligently
21 treated, and so negligently cared for Mr. Ward while he was under their care, and so negligently
22 operated, managed, maintained, selected, designed, controlled and conducted their services, activities,
23 personnel and equipment in connection with Mr. Ward's care and treatment that the same proximately
24 caused Mr. Ward's death.

25 76. Defendants and each of them breached the aforesaid duty of care by:

- 26 a. Failing to provide Mr. Ward with appropriate mental health care;
27 b. Failing to take adequate measures to prevent Mr. Ward from injuring himself, including,
28 but not limited to, taking adequate fall-risk prevention precautions;

1 c. Failing to monitor Mr. Ward's physical health to ensure that he was adequately
2 nourished and hydrated.

3 77. As a direct and legal result of the foregoing, Mr. Ward was injured in his health and
4 sustained personal injury leading to his death, and Plaintiffs, and each of them, incurred economic and
5 non-economic damages including, but not limited to, the loss of Mr. Ward's care, comfort, support
6 and society.

7 78. As a further and direct result of the foregoing, Mr. Ward required extensive medical care
8 and incurred medical expenses in a sum according to proof at trial.

9 **PRAYER FOR RELIEF**

10 Plaintiffs pray judgment against Defendants, and each of them, as follows:

- 11 1. For noneconomic damages according to proof at time of trial;
12 2. For economic damages according to proof at time of trial;
13 3. For any exemplary and/or statutory award allowable by law except under those causes
14 of action where such damages cannot be plead under California Code of Civil Procedure §
15 425.13;
16 4. For costs of suit here;
17 5. For prejudgment interest;
18 6. For attorneys' fees; and
19 7. For such further relief as the Court may deem proper.

20
21 Dated:

BRENT, FIOL & PRATT LLP

22
23
24 By: _____/s/

25 Nathaniel M. Leeds
26 Attorneys for Plaintiffs
27
28

DEMAND FOR JURY TRIAL

Plaintiffs demand a jury trial on each and all of the causes of action set forth in this Complaint.

Dated:

By: _____/s/

Nathaniel M. Leeds
Attorneys for Plaintiffs

Nathaniel M. Leeds

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Margaret Ward, Kevin Ward, and Ina Ward

DEFENDANTS

The County of Mendocino, Thomas D. Allman, Lorrie Knapp, Michael Grant, California Forensic Medical Group, Michael Medvin, Marvin Tro

(b) County of Residence of First Listed Plaintiff Mendocino

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Mendocino

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (First Name, Address, and Telephone Number)

Nathaniel Leeds of Brent, Fiol & Pratt LLP; 1000 Fourth Street, Ste. 750;
San Rafael, CA 94901
Telephone: 415-839-8370

Attorneys (If Known)

Unknown

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395m) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Copyrights <input type="checkbox"/> 460 Deposition <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS <input type="checkbox"/> Habeas Corpus: <input type="checkbox"/> 463 Alien Detainees <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (Specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTIONCite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 USC sec. 1983Brief description of cause:
Fourteenth Amendment Violation, Jail-Based Failure to Provide Medical Care and Elder Abuse**VII. REQUESTED IN COMPLAINT:**☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S)**

IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

02/22/2017

SIGNATURE OF ATTORNEY OF RECORD

Nathaniel Leeds

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

1 DAVID L. FIOL (SBN: 203546)
2 NATHANIEL M. LEEDS (SBN: 246138)
3 BRENT, FIOL & PRATT, LLP
4 1000 Fourth St., Ste. 750
5 San Rafael, CA 94901
6 Telephone: (415) 839-8370
7 Facsimile: (415) 373-4420
8 Attorneys for Plaintiffs MARGARET WARD,
9 in her personal capacity, and as executor of the
10 estate of Earl Ward, Deceased; KEVIN WARD;
11 and INA WARD, surviving heir of JEFF WARD,
12 Deceased

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA

15 MARGARET WARD, in her personal
16 capacity, and as executor of the estate of Earl
17 Ward, Deceased, KEVIN WARD and INA
18 WARD, surviving heir of JEFF WARD,
19 Deceased,

20 Plaintiffs,

21 v.

22 THE COUNTY OF MENDOCINO, a
23 municipal corporation, SHERIFF THOMAS
24 D. ALLMAN, individually and in his official
25 capacity as Sheriff of THE COUNTY OF
26 MENDOCINO, LORRIE KNAPP, MICHAEL
27 GRANT, CALIFORNIA FORENSIC
28 MEDICAL GROUP, INC, DR. MICHAEL
MEDVIN, DR. MARVIN TROTTER and
DOES 1 THROUGH 50, INCLUSIVE

Defendants.

) Case No. 3:17-cv-00911- NJV

) **PLAINTIFFS' CERTIFICATION OF**
) **INTERESTED ENTITIES OR**
) **PERSONS, PURSUANT TO LOCAL**
) **RULE 3-15**

24 Pursuant to Civil L.R. 3-15, the undersigned certifies that as of this date, other than the named parties,
25 there is no such interest to report.

26 Dated: 2/23/17

27 By: _____/s/_____

28 Nathaniel M. Leeds
Attorneys for Plaintiffs