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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

ROSE DIAZ; and DIMAS DIAZ, individually;  
EDITH DIAZ, JESSE DIAZ; DAVID CHASE  
DIAZ and D.A.D., a minor by and through her  
guardian ad litem Alexis Marie Olivarez,  
individually and as co-successors-in-interest to  
Decedent DIMAS DIAZ JR.,

Plaintiffs,

vs.

COUNTY OF VENTURA, a municipal  
corporation; NOEL JUAREZ, individually and  
in his official capacity as a sheriff's deputy for  
the Ventura County Sheriff's Department and  
DOES 1-50, inclusive, individually and in their  
official capacities as agents for the Ventura  
County Sheriff's Department; and BRIAN  
GREEN, individually and in his official capacity

CASE NO.:

COMPLAINT FOR DAMAGES  
(42 U.S.C. Section 1983 and pendent tort  
claims)

JURY TRIAL DEMANDED

1 as a California Highway Patrol Officer for the  
2 California Highway Patrol and DOES 51-65,  
3 inclusive, individually and in their official  
4 capacities as California Highway Patrol Officers,

Defendants.

### **INTRODUCTION**

5  
6 1. This case arises out of the wrongful death of Dimas “Juno” Diaz Jr. On January 12,  
7 2019, just before noon, a phone call was made to dispatch concerning a domestic dispute between  
8 Isabelle Brilata and Juno. During the call, Brilata put law enforcement on notice that Juno was not  
9 armed and not known to have any weapons. Shortly thereafter, multiple Ventura County Sheriff’s  
10 deputies arrived on the scene and engaged in an approximate twenty (20) minute vehicle pursuit of  
11 Juno towards and onto Highway 101 in Calabasas, California. During the short pursuit, Juno crashed  
12 his car against a guardrail on the Highway. Juno then reportedly struggled to get out of the car. At or  
13 around the same time, multiple California Highway Partol (hereinafter “CHP”) officers and Ventura  
14 County Sheriff’s Deputies surrounded Juno with their weapons trained on him. After Juno got out of  
15 his car, he stood behind his car door.

16 2. Suddenly, without warning or legal justification, Ventura County Sheriff’s Deputy  
17 NOEL JUAREZ (hereinafter “NOEL JUAREZ”) and California Highway Patrol Officer BRIAN  
18 GREEN (hereinafter “BRIAN GREEN”) began to fire their service weapons at Decedent. In the  
19 moments before his death, video recordings of the incident reveal an officer yelling “Less lethal! Less  
20 lethal!”

21 3. Juno was pronounced dead at the scene of the incident.

22 4. This civil rights and wrongful death action seeks compensatory and punitive damages  
23 against Defendants for violating various rights under the United States Constitution and California  
24 state law in connection with the fatal police shooting of the Decedent, Dimas Diaz Jr.

### **JURISDICTION AND VENUE**

25  
26 5. This action arises under Title 42 of the United States Code, § 1983. Title 28 of the  
27 United States Code, §§ 1331 and 1343 confers jurisdiction upon this Court. The unlawful acts and  
28

1 practices alleged herein occurred in the City of Calabasas, County of Los Angeles, California, which  
2 is within the judicial district of this Court.

3 6. The Supplemental Jurisdiction of this court is invoked pursuant to 28 U.S.C. §  
4 1367 over the State law claims which are so related to federal claims in the action that they form part  
5 of the same case or controversy under Article III of the Constitution of the United States of America.

6 7. Venue is proper in this Court under 28 U.S.C. § 1391(b) because Defendants are  
7 believed to reside in this district and all incidents, events, and occurrences giving rise to this action  
8 occurred in this district.

9 **PARTIES**

10 8. Decedent Dimas Diaz Jr. (hereinafter "Decedent") was an individual residing in the  
11 State of California. Decedent died intestate. Decedent did not file any legal actions prior to his death.  
12 To the extent that this action seeks to recover damages for the violation of rights personal to  
13 Decedent, this action is maintained by his Co-Successors-in-Interest.

14 9. Plaintiff EDITH DIAZ (hereinafter "Plaintiff EDITH DIAZ") is and was at all times  
15 herein mentioned the spouse of Decedent. Plaintiff EDITH DIAZ sues in her individual capacity and  
16 as a Co-Successor-in-Interest to Decedent.

17 10. Plaintiff JESSE DIAZ (hereinafter "Plaintiff JESSE DIAZ") is and was at all times  
18 herein mentioned the biological son of Decedent. Plaintiff JESSE DIAZ sues in his individual  
19 capacity and as a Co-Successor-in-Interest to Decedent.

20 11. Plaintiff DAVID CHASE DIAZ (hereinafter "Plaintiff DAVID CHASE DIAZ") is  
21 and was at all times herein mentioned the biological son of Decedent. Plaintiff DAVID CHASE  
22 DIAZ sues in his individual capacity and as a Co-Successor-in-Interest to Decedent.

23 12. Plaintiff D.A.D. (hereinafter "Plaintiff D.A.D.") is and was at all times herein  
24 mentioned the minor biological daughter of Decedent. Plaintiff D.A.D. sues in her individual capacity  
25 and as a Co-Successor-in-Interest to Decedent. D.A.D. brings her claims through her guardian ad  
26 litem, Alexis Marie Olivarez.

1           13. Plaintiff ROSE DIAZ (hereinafter “Plaintiff ROSE DIAZ”) is and was at all times  
2 herein mentioned the biological mother of Decedent. Plaintiff ROSE DIAZ sues in her individual  
3 capacity.

4           14. Plaintiff DIMAS DIAZ SR. (hereinafter “Plaintiff Dimas Diaz Sr.”) is and was at all  
5 times herein mentioned the biological father of Decedent. Plaintiff Dimas Diaz Sr sues in his  
6 individual capacity.

7           15. Defendant COUNTY OF VENTURA (hereinafter “County”) is an incorporated public  
8 entity duly authorized and existing as such in and under the laws of the State of California; and at all  
9 times herein mentioned, Defendant County has possessed the power and authority to adopt policies  
10 and prescribe rules, regulations and practices affecting the operation of the Ventura County Sheriff’s  
11 Department and its tactics, methods, practices, customs and usage. At all relevant times, Defendant  
12 County was the employer of NOEL JUAREZ, individually and as a peace officer.

13           16. Defendant NOEL JUAREZ (hereinafter “Defendant NOEL JUAREZ”) individually  
14 and in his official capacity as a Ventura County Sheriff’s deputy violated Decedent’s civil rights,  
15 wrongfully caused his death, and/or encouraged, directed, enabled and/or ordered order defendants to  
16 engage in such conduct. Plaintiffs further allege that Defendant NOEL JUAREZ violated Plaintiffs’  
17 Fourteenth Amendment rights to familial association and companionship and caused the wrongful  
18 death of Decedent.

19           17. Defendant BRIAN GREEN (hereinafter “Defendant BRIAN GREEN”), individually  
20 and in his official capacity as a California Highway Patrol officer, violated Decedent’s civil rights,  
21 wrongfully caused his death, and/or encouraged, directed, enabled and/or ordered order defendants to  
22 engage in such conduct. Plaintiffs further allege that Defendant NOEL JUAREZ violated Plaintiffs’  
23 Fourteenth Amendment rights to familial association and companionship and caused the wrongful  
24 death of Decedent.

25           18. Plaintiffs are ignorant of the true names and capacities of Defendants DOES 1 through  
26 50, inclusive, and therefore sue these defendants by such fictitious names. Plaintiffs allege  
27 Defendants DOES 1 through 25 are Ventura County Sheriff’s Deputies and violated Decedent's civil  
28 rights, wrongfully caused his death, and/or encouraged, directed, enabled and/or ordered other

1 defendants to engage in such conduct. Plaintiffs further allege that the Defendants DOE Ventura  
2 County Sheriff's Department deputies violated Plaintiffs' Fourteenth Amendment rights to familial  
3 association and companionship and caused the wrongful death of Decedent. Plaintiffs will amend this  
4 Complaint to state the names and capacities of DOES 1 through 25, inclusive, when they have been  
5 ascertained.

6 19. Plaintiffs are ignorant of the true names and capacities of Defendants DOES 26  
7 through 50, inclusive, and therefore sue these defendants by such fictitious names. Plaintiffs are  
8 informed and believe and thereon allege that each Defendant so named was employed by Defendant  
9 County at the time of the conduct alleged herein. Plaintiffs allege that each of Defendants DOES 26-  
10 50 were responsible for the training, supervision and/or conduct of the sheriff's deputies and/or  
11 agents involved in the conduct alleged herein. Plaintiffs allege that each of Defendants DOES 26  
12 through 50 was also responsible for and caused the acts and injuries alleged herein. Plaintiffs will  
13 amend this Complaint to state the names and capacities of DOES 26 through 50, inclusive, when they  
14 have been ascertained.

15 20. Plaintiffs are ignorant of the true names and capacities of Defendants DOES 51  
16 through 65, inclusive, individually and in their official capacities as CHP officers and therefore sue  
17 these defendants by such fictitious names. Plaintiffs allege Defendants DOES 51 through 65 violated  
18 Decedent's civil rights, wrongfully caused his death, and/or encouraged, directed, enabled and/or  
19 ordered other defendants to engage in such conduct. Plaintiffs further allege that the Defendants  
20 DOES 51-65 violated Plaintiffs' Fourteenth Amendment rights to familial association and  
21 companionship and caused the wrongful death of Decedent. Plaintiffs will amend this Complaint to  
22 state the names and capacities of DOES 51 through 65, inclusive, when they have been ascertained.

23 **PRELIMINARY ALLEGATIONS**

24 21. The County of Ventura is a public entity and is being sued under Title 42 U.S.C. §  
25 1983 for violations of the Fourteenth Amendments of the United States Constitution, California state  
26 law, the California Tort Claims Act, and the Government Code for the acts and omissions of  
27 Defendant NOEL JUAREZ and Defendants Ventura County Sheriff's Department DOES 1-25, and  
28 each of them, who at the time they caused Plaintiffs' and Decedent's injuries, damages and death

1 were duly appointed, qualified and acting officers, employees, and/or agents of County and acting  
2 within the course and scope of their employment and/or agency.

3 22. Plaintiffs also allege that Defendant BRIAN GREEN and Defendant DOES 51-65,  
4 individually and in their official capacities as California Highway Patrol officers, caused Plaintiffs'  
5 and Decedent's injuries, damages and death.

6 23. Plaintiffs allege that the conduct of each defendant deprived Decedent of his  
7 constitutional right to life and caused Decedent to suffer grievous harm prior to his death.

8 24. Each of the Defendants caused and is responsible for the unlawful conduct and  
9 resulting harm by, inter alia, personally participating in the conduct, or acting jointly and in concert  
10 with others who did so, by authorizing, acquiescing, condoning, acting, omitting or failing to take  
11 action to prevent the unlawful conduct, by promulgating or failing to promulgate policies and  
12 procedures pursuant to which the unlawful conduct occurred, by failing and refusing to initiate and  
13 maintain proper and adequate policies, procedures and protocols, and by ratifying and condoning the  
14 unlawful conduct performed by agents and officers under their direction and control.

15 25. Whenever and wherever reference is made in this Complaint to any act by Defendant  
16 NOEL JUAREZ, Defendant BRIAN GREEN as well as Defendants DOES 1-50 and DOES 51-65,  
17 such allegations and references shall also be deemed to mean the acts and failures to act of each DOE  
18 Defendants individually, jointly or severally.

19 **ADMINISTRATIVE PREREQUISITES**

20 26. Plaintiffs are required to comply with an administrative tort claim requirement under  
21 California law. Plaintiffs filed a claim against the County of Ventura and the California Highway  
22 Patrol on March 19, 2019. Plaintiffs have exhausted all administrative remedies pursuant to  
23 California Government Code Section 910.

24 **GENERAL ALLEGATIONS**

25 27. On January 12, 2019, just before noon, a phone call was made to dispatch concerning  
26 a domestic dispute between Isabelle Brilata and Decedent.

27 28. Shortly thereafter, multiple VPD officers arrived on the scene and engaged in a short  
28 vehicle pursuit of Decedent on Highway 101 in Calabasas, California. During the short pursuit,

1 Decedent crashed his car against a guardrail on the Highway. Decedent then struggled to get out of  
2 the car.

3 29. At or around the same time, multiple CHP officers and Ventura County Sheriff's  
4 Deputies surrounded Decedent with their weapons trained on him. After Decedent got out of his car,  
5 he stood behind his car door.

6 30. Suddenly, without warning or legal justification, Defendant NOEL JUAREZ and  
7 Defendant BRIAN GREEN began to fire their service weapons at Decedent's person, striking  
8 Decedent multiple times and continued to do so while Decedent was laying defenseless on the  
9 ground.

10 31. Decedent was pronounced dead at the scene.

11 32. Despite Decedent's apparent injuries and pleas for help, Defendant NOEL JUAREZ  
12 and Defendant BRIAN GREEN, DOES 1-25, as well as DOES 51-65 refused to render aid to  
13 Decedent. Decedent died as a result of his injuries.

14 33. Decedent's death was proximately caused by the injuries he suffered at the hands of  
15 Defendant NOEL JUAREZ, Defendant BRIAN GREEN, DOES 1-25, as well as DOES 51-65.

16 34. Plaintiffs allege that reasonable sheriff's deputies and officers in the Defendants'  
17 positions would have clearly been on notice that Decedent did not pose a threat of harm to anyone at  
18 the time that he was shot to death.

19 35. The actions and omissions of Defendant NOEL JUAREZ, Defendant BRIAN  
20 GREEN, DOES 1-25, and DOES 51-65 was without legal justification or other legal right, done  
21 under color of law, within the course and scope of their employment as law enforcement officers  
22 and/or public officials, and pursuant to unconstitutional customs, policies and procedures of County  
23 and/or other jurisdictions.

24 36. Plaintiffs are informed and believe and thereon allege that County and Defendant  
25 DOES 26-50, inclusive, breached their duty of care to the public in that they have failed to discipline  
26 DOES 1-25. Their failure to discipline DOES 1-25 inclusive, demonstrates the existence of an  
27 entrenched culture, policy or practice of promoting, tolerating and/or ratifying with deliberate  
28

1 indifference the making of improper detentions and arrests, the use of excessive and/or deadly force  
2 and the fabrication of official reports to cover up DOES 1-25's inclusive, misconduct.

3 37. At all material times, and alternatively, the actions and omissions of each Defendant  
4 were conscience-shocking, reckless, deliberately indifferent to Decedent's and Plaintiffs' rights,  
5 negligent, and objectively unreasonable.

6 **MONELL ALLEGATIONS**

7 38. Based upon the principles set forth in *Monell v. New York City Department of Social*  
8 *Services*, 436 U.S. 658 (1978), County is liable for all injuries sustained by Plaintiffs as set forth  
9 herein. County bears liability because its policies, practices and/or customs were a cause of Decedent's  
10 death and Plaintiffs' injuries. County and its officials maintained or permitted one or more of the  
11 following official policies or customs:

- 12 a) Failure to provide adequate training and supervision to sheriff's deputies with respect  
13 to constitutional limits on the use of deadly force;
- 14 b) Failure to provide adequate training and supervision to sheriff's deputies with respect  
15 to constitutional limits on use of force, arrest, search, and detention;
- 16 c) Failure to adequately discipline or retrain deputies involved in misconduct;
- 17 d) Selection, retention, and assignation of deputies with demonstrable propensities for  
18 excessive force, violence, dishonesty, and other misconduct;
- 19 e) Encouragement of sheriff's deputies in the belief that they can violate the rights of  
20 persons, such as Plaintiffs, with impunity, and that such conduct will not adversely  
21 affect their opportunities for promotion and other employment benefits.;
- 22 f) Ratification by the highest levels of authority of the specific unconstitutional acts  
23 alleged in this complaint and, in particular, the ratification of the unjustified shooting  
24 of Decedent.

25 **DAMAGES**

26 39. As a consequence of Defendants' violation of Plaintiffs' federal civil rights under 42  
27 U.S.C. §1983 and the Fourth and Fourteenth Amendments, Plaintiffs were mentally, and emotionally  
28 injured and damaged as a proximate result of Decedent's wrongful death, including but not limited



1 to: Plaintiffs' loss of familial relations, Decedent's society, comfort, protection, companionship, love,  
2 affection, solace, and moral support and financial support.

3 40. Plaintiffs seek both survival and wrongful death damages, pursuant to C.C.P. Sections  
4 377.60 and 377.61 and Probate Code Section 6402(b), for the violation of both Decedent's and their  
5 rights. Additionally, Plaintiffs are entitled to the reasonable value of funeral and burial expenses  
6 pursuant to C.C.P. §§ 377.60 and 377.61 and loss of financial support.

7 41. Plaintiffs are further entitled to recover damages incurred by Decedent before he died  
8 as a result of being deprived without due process of his right to life, and to any penalties or punitive  
9 damages to which Decedent would have been entitled to recover had he lived, including damages  
10 incurred by Decedent consisting of pain and suffering he endured as a result of the violation of his  
11 civil rights.

12 42. Plaintiffs found it necessary to engage the services of private counsel to vindicate the  
13 rights of Decedent and Plaintiffs' rights under the law. Plaintiffs are therefore entitled to an award of  
14 attorneys' fees and/or costs pursuant to statute(s) in the event that they are the prevailing party in this  
15 action under 42 U.S.C. § 1983, and 1988.

16  
17  
18  
19 **FIRST CAUSE OF ACTION**

20 **(42 U.S.C. section 1983)**

21 **(Excessive Force)**

22 **(Plaintiffs EDITH DIAZ, DAVID CHASE DIAZ, JESSE DIAZ, and D.A.D. by and**  
23 **through Alexis Marie Olivarez against Defendants NOEL JUAREZ, BRIAN**  
24 **GREEN, DOES 1-25, and DOES 51-65)**

25 43. Plaintiffs hereby re-allege and incorporate by reference herein paragraphs 1 through  
26 42 of this Complaint.

27 44. The foregoing claim for relief arose in Decedent's favor and Decedent would have  
28 been the Plaintiff with respect to this claim if he had lived.

45. Defendant(s) unjustified shooting deprived Decedent of his right to be secure in his  
person against unreasonable searches and seizures as guaranteed to Decedent under the Fourth

1 Amendment to the United States Constitution and applied to state actors by the Fourteenth  
2 Amendment.

3 46. As a result, Decedent suffered extreme pain and suffering and eventually suffered a  
4 loss of life and of earning capacity. Plaintiff has also been deprived of the life-long love,  
5 companionship, comfort, support, society, care, and sustenance of Decedent, and will continue to be  
6 so deprived for the remainder of her natural life.

7 47. This use of deadly force was excessive and unreasonable under the circumstances,  
8 especially since Decedent never injured or attempted to injure any officer or any other person.  
9 Moreover, the gunshots were heard at a time it appeared Decedent was on the ground. Defendants'  
10 actions thus deprived Decedent of his right to be free from unreasonable searches and seizures under  
11 the Fourth Amendment and applied to state actors by the Fourteenth Amendment.

12 48. The conduct of Defendants was willful, wanton, malicious, and done with reckless  
13 disregard for the rights and safety of Decedent.

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

15  
16 **SECOND CAUSE OF ACTION**

17 **(42 U.S.C. section 1983)**

18 **(Denial of Medical Care)**

19 **(Plaintiffs EDITH DIAZ, DAVID CHASE DIAZ, JESSE DIAZ, and D.A.D. by and**  
20 **through Alexis Marie Olivarez against Defendants NOEL JUAREZ, BRIAN GREEN,**  
21 **DOES 1-25, and DOES 51-65)**

22 49. Plaintiffs hereby re-allege and incorporate by reference herein paragraphs 1 through  
23 48 of this Complaint.

24 50. The foregoing claim for relief arose in Decedent's favor and Decedent would have  
25 been the Plaintiff with respect to this claim if he had lived.

26 51. The denial of medical care by Defendants deprived Decedent of his right to be secure  
27 in his person against unreasonable searches and seizures as guaranteed to Decedent under the Fourth  
28 Amendment to the United States Constitution and applied to state actors by the Fourteenth  
Amendment.

1 52. As a result, Decedent suffered extreme pain and suffering and eventually suffered a  
2 loss of life and earning capacity. Plaintiffs have also been deprived of the life-long love,  
3 companionship, comfort, support, society, care, and sustenance of Decedent, and will continue to be  
4 so deprived for the remainder of her natural life.

5 53. Defendants knew that failure to provide timely medical treatment to Decedent could  
6 result in further significant injury or the unnecessary and wanton infliction of pain, but disregarded  
7 that serious medical need, causing Decedent great bodily harm and death.

8 54. The conduct of Defendants was willful, wanton, malicious, and done with reckless  
9 disregard for the rights and safety of Decedent.

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

11 **THIRD CAUSE OF ACTION**

12 **(42 U.S.C. § 1983)**

13 **(Violation of Plaintiffs' 14<sup>th</sup> Amendment Rights/Right to Familial Relationship)**  
14 **(All Plaintiffs against Defendants NOEL JUAREZ, BRIAN GREEN, DOES 1-25, and**  
15 **DOES 51-65)**

16 55. Plaintiffs hereby re-allege and incorporate by reference herein paragraphs 1 through  
17 54 of this Complaint.

18 56. Plaintiffs had a cognizable interest under the Due Process Clause of the Fourteenth  
19 Amendment of the United States Constitution to be free from state actions that deprive them of life,  
20 liberty, or property in such a manner as to shock the conscience, including but not limited to,  
21 unwarranted state interference in Plaintiffs' familial relationship with Decedent.

22 57. Decedent had a cognizable interest under the Due Process Clause of the Fourteenth  
23 Amendment of the United States Constitution to be free from state actions that deprive him of his right  
24 to life, liberty, or property in such a manner as to shock the conscience.

25 58. As a result of the excessive force by Defendants, Decedent died. Plaintiffs were  
26 thereby deprived of their constitutional right of familial relationship with Decedent.

27 59. Defendants, acting under color of state law, thus violated the Fourteenth Amendment  
28 rights of Plaintiffs to be free from unwarranted interference with their familial relationship with  
Decedent.



1           68.     On and for some time prior to January 12, 2019 (and continuing to the present day)  
2 Defendants, individually and as peace officers, deprived Plaintiffs and Decedent of the rights and  
3 liberties secured to them by the Fourth and Fourteenth Amendment to the United States Constitution,  
4 in that said defendants and their supervising and managerial employees, agents, and representatives,  
5 acting with gross negligence and with reckless and deliberate indifference to the rights and liberties of  
6 the public in general, and of Plaintiff and Decedent, and of persons in their class, situation and  
7 comparable position in particular, knowingly maintained, enforced and applied an official recognized  
8 custom, policy, and practice of:

- 9           a)     Employing and retaining as police officers and other personnel, including  
10                Defendants, individually and as peace officers; who at all times material herein  
11                knew or reasonably should have known had dangerous propensities for abusing  
12                their authority and for mistreating citizens by failing to follow written County  
13                Department policies, including the use of excessive and deadly force;
- 14           b)     Of inadequately supervising, training, controlling, assigning, and disciplining  
15                County deputies, and other personnel, including Defendants who County knew or  
16                in the exercise of reasonable care should have known had the aforementioned  
17                propensities and character traits, including the propensity for violence and the use  
18                of excessive force;
- 19           c)     Of inadequately supervising, training, controlling, assigning, and disciplining  
20                County Police officers, and other personnel, including Defendants in responding to  
21                individuals who were mentally impaired or disabled;
- 22           d)     By maintaining grossly inadequate procedures for reporting, supervising,  
23                investigating, reviewing, disciplining and controlling the intentional misconduct  
24                by Defendants who are deputies of County;
- 25           e)     By failing to discipline County officers' conduct, including but not limited to,  
26                unlawful detention and excessive and deadly force;
- 27           f)     By ratifying the intentional misconduct of Defendants and other officers who are  
28                deputies of County;

1 g) By having and maintaining an unconstitutional policy, custom and practice of  
2 detaining and arresting individuals without probable cause or reasonable suspicion,  
3 and using excessive force, including deadly force, which also is demonstrated by  
4 inadequate training regarding these subjects. The policies, customs and practices  
5 of Defendants were done with a deliberate indifference to individuals' safety and  
6 rights; and

7 h) By failing to properly investigate claims of unlawful detention and excessive force  
8 by County deputies.

9 69. By reason of the aforementioned policies and practices of Defendants, individually  
10 and as peace officers, Decedent was severely injured and subjected to pain and suffering and lost his  
11 life and earning capacity for which Plaintiffs are entitled to recover damages.

12 70. Defendants, individually and as peace officers, together with various other officials,  
13 whether named or unnamed, had either actual or constructive knowledge of the deficient policies,  
14 practices and customs alleged in the paragraphs above. Despite having knowledge as stated above  
15 these defendants condoned, tolerated and through actions and inactions thereby ratified such policies.  
16 Said defendants also acted with deliberate indifference to the foreseeable effects and consequences of  
17 these policies with respect to the constitutional rights of Decedent, Plaintiffs, and other individuals  
18 similarly situated.

19 71. By perpetrating, sanctioning, tolerating and ratifying the outrageous conduct and other  
20 wrongful acts, Defendants, individually and as peace officers; acted with an intentional, reckless, and  
21 callous disregard for the life of Decedent. Each of their actions were willful, wanton, oppressive,  
22 malicious, fraudulent, and extremely offensive and unconscionable to any person of normal  
23 sensibilities.

24 72. Furthermore, the policies practices, and customs implemented and maintained and still  
25 tolerated by Defendants, individually and as peace officers; were affirmatively linked to and were  
26 significantly influential force behind the injuries of Decedent and Plaintiffs.

1 73. By reason of the aforementioned acts and omissions of Defendants, individually and  
2 as peace officers, Plaintiffs were caused to incur funeral and related burial expenses, loss of gifts and  
3 benefits and loss of financial support.

4 74. By reason of the aforementioned acts and omissions of Defendants, individually and  
5 as peace officers, Plaintiffs have suffered loss of love, companionship, affection, comfort, care,  
6 society, and future support.

7 75. Accordingly, Defendants, individually and as peace officers, each are liable to  
8 Plaintiffs for compensatory damages under 42 U.S.C. § 1983.

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

10 **FIFTH CAUSE OF ACTION**  
11 **(C.C.P. Section 377.60 and 377.61)**  
12 **(Wrongful Death- Negligence)**

13 **(Plaintiffs EDITH DIAZ, DAVID CHASE DIAZ, JESSE DIAZ, and D.A.D. by and**  
14 **through Alexis Marie Olivarez against Defendants NOEL JUAREZ, BRIAN GREEN,**  
15 **DOES 1-25, and DOES 51-65)**

16 76. Plaintiff re-alleges and incorporates by reference herein paragraphs 1 through 75 of  
17 this Complaint, except for any and all allegations of intentional, malicious, extreme, outrageous,  
18 wanton, and oppressive conduct by defendants, and any and all allegations requesting punitive  
19 damages.

20 77. Defendants shot and killed Decedent despite the absence of a threat to a defendant  
21 officer or any other person. Because Decedent died intestate. Plaintiffs are the proper persons to sue  
22 for his wrongful death under California state law.

23 78. Defendants' negligent actions and/or negligent failure to act within the scope and  
24 course of their employment with Defendant County, as set forth herein-above proximately caused the  
25 death of Decedent.

26 79. As an actual and proximate result of said Defendants' negligence, and the death of  
27 Decedent, Plaintiffs have sustained pecuniary loss resulting from the loss of comfort, society,  
28 attention, services, and support of her father, Decedent, in an amount according to proof at trial.

79. As a further actual and proximate result of said Defendants' negligence, Plaintiffs  
have incurred funeral and burial expenses, in an amount according to proof at trial.

1 81. Pursuant to California C.C.P. Sections 377.60 and 377.61, Plaintiffs have brought this  
2 action, and claim damages from said Defendants for the wrongful death of Decedent, and the resulting  
3 injuries and damages.

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

5 **SIXTH CAUSE OF ACTION**  
6 **(Violation of California Civil Code §52.1)**  
7 **(Plaintiffs EDITH DIAZ, DAVID CHASE DIAZ, JESSE DIAZ, and D.A.D. by and**  
8 **through Alexis Marie Olivarez against Defendants NOEL JUAREZ, BRIAN**  
9 **GREEN, DOES 1-25, and DOES 51-65)**

10 82. Plaintiffs hereby re-allege and incorporate by reference herein paragraphs 1 through  
11 81 of this Complaint.

12 83. Defendants' above-described conduct constituted interference, and attempted  
13 interference, by threats, intimidation and coercion, with the Decedent's peaceable exercise and  
14 enjoyment of rights secured by the Constitution and laws of the United States and the State of  
15 California, in violation of California Civil Code §52.1.

16 84. As a direct and proximate result of Defendant's violation of Civil Code § 52.1,  
17 Decedent suffered violations of his constitutional rights, and suffered damages as set forth herein.

18 85. Plaintiffs are entitled to injunctive relief and an award of their reasonable attorney's  
19 fees pursuant to Civil Code § 52.1(h).

20 86. Plaintiffs are entitled to treble damages, but in no case less than \$4,000.00 and an  
21 award of her reasonable attorney's fees pursuant to Civil Code § 52(a).

22 87. Under the provisions of California Civil Code §52(b), Defendant is liable for punitive  
23 damages for each violation of Civil Code §52.1, reasonable attorney's fees and an additional  
24 \$25,000.00.

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

26 **SEVENTH CAUSE OF ACTION**  
27 **(Survival Action: Assault)**  
28 **(Plaintiffs EDITH DIAZ, DAVID CHASE DIAZ, JESSE DIAZ, and D.A.D. by and**  
through Alexis Marie Olivarez against Defendants NOEL JUAREZ, BRIAN  
GREEN, DOES 1-25, and DOES 51-65)



1 88. Plaintiffs hereby re-allege and incorporate by reference herein paragraphs 1 through  
2 87 of this Complaint.

3 89. Defendants caused Decedent to fear that he was going to be shot and killed.

4 90. Defendants shot Decedent without cause. Defendants' conduct was neither privileged  
5 nor justified under statute or common law.

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

7 **EIGHTH CAUSE OF ACTION**

8 (Survival Action: Battery)

9 (Plaintiffs EDITH DIAZ, DAVID CHASE DIAZ, JESSE DIAZ, and D.A.D. by and  
10 through Alexis Marie Olivarez against Defendants NOEL JUAREZ, BRIAN GREEN,  
DOES 1-25, and DOES 51-65)

11 91. Plaintiffs hereby re-allege and incorporate by reference herein paragraphs 1 through  
12 90 of this Complaint.

13 92. Defendants' conduct was neither privileged nor justified under statute or common law.

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

15 **NINTH CAUSE OF ACTION**

16 (Survival Action: Intentional Infliction of Emotional Distress)

17 (Plaintiffs EDITH DIAZ, DAVID CHASE DIAZ, JESSE DIAZ, and D.A.D. by and  
18 through Alexis Marie Olivarez against Defendants NOEL JUAREZ, BRIAN  
GREEN, DOES 1-25, and DOES 51-65)

19 93. Plaintiff hereby re-alleges and incorporates by reference herein paragraphs 1 through  
20 92 of this Complaint.

21 94. Defendants' above-described conduct was extreme, unreasonable and outrageous.

22 95. In engaging in the above-described conduct, defendant intentionally ignored or  
23 recklessly disregarded the foreseeable risk that Decedent would suffer extreme emotional distress as a  
24 result of defendants conduct.

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

26 **JURY DEMAND**

27 96. Plaintiffs hereby demand a jury trial in this action.  
28

**PRAYER**

WHEREFORE, Plaintiffs pray for relief, as follows:

1. For general damages in a sum according to proof;
2. For special damages in a sum according to proof;
3. For punitive damages in a sum according to proof as to Noel Juarez, Brian Green, DOES 1-25, and DOES 51-65;
4. For reasonable attorney's fees pursuant to 42 U.S.C. Section 1988;
5. For any and all statutory damages allowed by law;
6. For cost of suit herein incurred; and
7. For such other and further relief as the Court deems just and proper.

Dated: May 30, 2019

**LAW OFFICES OF JOHN L. BURRIS**

/s/ John L. Burris

John L. Burris

Attorney for Plaintiffs