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14 **UNITED STATES DISTRICT COURT**
15 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

16 N.M., Successor-in-Interest to Decedent MIKEL
17 MCINTYRE, by and through his Guardian Ad
18 Litem CAS'SIUS HUDSON; BRIGETT
19 MCINTYRE, an individual,

20 Plaintiffs,

21 vs.

22 CITY OF RANCHO CORDOVA, a municipal
23 corporation; COUNTY OF SACRAMENTO, a
24 municipal corporation; and DOES 1-25,
25 inclusive, individually and in their official
26 capacity as police officers for the CITY of
27 RANCHO CORDOVA and COUNTY OF
28 SACRAMENTO; and DOES 26-50, inclusive,
individually and in their official capacity as
employees for the Sacramento County Sheriff's
Department and/or Rancho Cordova Police
Department,

Defendants.

CASE NO.:

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

JURY TRIAL DEMANDED

INTRODUCTION

1
2 1. This case arises out of the May 8, 2017 wrongful death of 32-year old Mikel McIntyre.
3 Defendants County of Sacramento Sheriff’s Department and Rancho Cordova Police Department
4 Officers shot Mr. McIntyre to death after ignoring his mother Brigett McIntyre’s multiple attempts to
5 secure mental health care for Mr. McIntyre the day of the shooting. Ms. McIntyre contacted
6 emergency services two times earlier that day, imploring responding personnel that her son was
7 displaying overt symptoms of an undiagnosed mental illness and in the throes of mental health crisis.
8 On both occasions, City of Rancho Cordova Fire and/or Police personnel arrived at her home and
9 inexplicably refused to provide him mental health care or place him under a ‘5150’ involuntary
10 psychiatric hold, despite Ms. McIntyre’s pleas to help her son.

11 2. Later that day, Mr. McIntyre and Ms. McIntyre went to a shopping center to retrieve
12 some clothing for Mr. McIntyre. Mr. McIntyre continued to experience overt signs of mental distress.
13 Mr. McIntyre’s bizarre behavior prompted his mother to call out to onlookers for help. Once again,
14 Rancho Cordova Police Department Officers responded to the scene. A yet-to-be-identified Rancho
15 Cordova Police Department Officer confronted Mr. McIntyre. Mr. McIntyre attempted to run away.
16 According to witnesses, the yet-to-be-identified Rancho Cordova Police Officer fell during the
17 pursuit, hit his head, and then opened fire on Mr. McIntyre as he fled. Mr. McIntyre ran onto a nearby
18 roadway where yet-to-be-identified City of Rancho Cordova Police Officers and/or Sacramento
19 Sheriff’s Department Deputies shot him the back as he ran away from them unarmed and not posing
20 an immediate threat.

21 3. This civil rights and wrongful death action seeks compensatory and punitive damages
22 from Defendants for violating the Fourth and Fourteenth Amendment under the United States
23 Constitution, the Americans with Disabilities Act and state law in connection with the death of Mikel
24 McIntyre, who died as a result of the unlawful and/or negligent conduct by the officer and deputies of
25 the City of Rancho Cordova Police Department and/or County of Sacramento Sheriff’s Department.
26 This action is maintained on behalf of Decedent, by his child and successor-in-interest, N.M., by and
27 through his Guardian Ad Litem Cas’ Sius Hudson; and Brigett McIntyre brings forth her own
28 individual claim for the loss of her familial relationship with her son.

JURISDICTION

1
2 4. This action arises under Title 42 of the United States Code, § 1983. Title 28 of the
3 United States Code, §§ 1331 and 1343 confers jurisdiction upon this Court. The unlawful acts and
4 practices alleged herein occurred in the City of Rancho Cordova, California, which is within the
5 judicial district of this Court. This Court also has supplemental jurisdiction over Plaintiffs' state law
6 causes of action under 28 U.S.C. § 1367.

PARTIES

7
8 5. Decedent, MIKEL MCINTYRE, was an individual residing in County of Contra
9 Costa, in the State of California. Decedent was unmarried and died intestate. Decedent did not file
10 any legal actions prior to his death. To the extent that this action seeks to recover damages for the
11 violation of rights personal to MIKEL MCINTYRE, this action is maintained by his Successor-in-
12 Interest, minor N.M., by and through his Guardian Ad Litem CAS'SIUS HUDSON. Said Plaintiff is
13 the only surviving child of MIKEL MCINTYRE and the person with standing to bring this action.

14 6. Plaintiff N.M. (hereinafter "Plaintiff N.M."), is and was at all times herein mentioned
15 the biological son of Decedent MIKEL MCINTYRE. Plaintiff N.M. sues through his Guardian Ad
16 Litem CAS'SIUS Hudson, as the Successor-in-Interest to Decedent MIKEL MCINTYRE.

17 7. Plaintiff BRIGETT MCINTYRE (hereinafter "Plaintiff Brigett McIntyre"), is and was
18 at all times herein mentioned the mother of Decedent MIKEL MCINTYRE and a citizen of the
19 United States. Plaintiff Brigett McIntyre is acting in her individual capacity as the biological mother
20 of Decedent MIKEL MCINTYRE. MIKEL MCINTYRE's biological father predeceased him.

21 8. Defendant CITY OF RANCHO CORDOVA (hereinafter "City") is a municipal
22 corporation, duly organized and existing under the laws of the State of California. Under its authority,
23 the City operates the Rancho Cordova Police Department.

24 9. Defendant COUNTY OF SACRAMENTO (hereinafter "County") is a municipal
25 corporation, duly organized and existing under the laws of the State of California. Under its authority,
26 the County operates the Sacramento County Sheriff's Department.

27 10. Plaintiffs are ignorant of the true names and capacities of Defendants DOES 1 through
28 25, inclusive, and therefore sue these defendants by such fictitious names. Plaintiffs allege

1 Defendants DOES 1 through 25, and each of them were negligent and deliberately indifferent to
2 MIKEL MCINTYRE's medical and mental health needs and safety, failed to take measures to get
3 him medical help, violated his civil rights, wrongfully caused his death, and/or encouraged, directed,
4 enabled and/or ordered other defendants to engage in such conduct. Each defendant proximately
5 caused injuries and damages because of their negligence, breach of duty, negligent supervision,
6 management or control, violations of public policy. Plaintiffs further allege that the DOE Defendants
7 violated Plaintiff's Fourth Amendment right to be free from unreasonable searches and seizures,
8 including excessive and unwarranted force, in addition to the Fourteenth Amendment rights to
9 familial association and companionship and caused the wrongful death of MIKEL MCINTYRE.
10 Plaintiffs will amend this Complaint to state the names and capacities of DOES 1 through 25,
11 inclusive, when they have been ascertained.

12 11. Plaintiffs are ignorant of the true names and capacities of Defendants DOES 26
13 through 50, inclusive, and therefore sue these defendants by such fictitious names. Plaintiffs are
14 informed and believe and thereon allege that each Defendant so named was employed by Defendant
15 City and/or County at the time of the conduct alleged herein. Plaintiffs allege that each of
16 Defendants DOES 26-50 were responsible for the training, supervision and/or conduct of the police
17 officers and/or agents involved in the conduct alleged herein. Plaintiffs allege that each of
18 Defendants DOES 26 through 50 was also responsible for and caused the acts and injuries alleged
19 herein. Plaintiffs will amend this Complaint to state the names and capacities of DOES 26 through
20 50, inclusive, when they have been ascertained.

21
22 **ADMINISTRATIVE PREREQUISITES**

23 12. Plaintiffs are required to comply with an administrative tort claim requirement under
24 California law. Plaintiffs have exhausted all administrative remedies pursuant to California
25 Government Code Section 910. Plaintiffs filed Claims with the City of Rancho Cordova and the
26 County of Sacramento. City of Rancho Cordova rejected Plaintiffs' claim on February 22, 2018.
27 County of Sacramento did not reject Plaintiffs claim and more than 45 days has passed since the
28 claim was filed. All claims are ripe for litigation.

PRELIMINARY ALLEGATIONS

1
2 13. The City of Rancho Cordova and the County of Sacramento are public entities and are
3 being sued under Title 42 U.S.C. § 1983 for Monell liability; 42 U.S.C. § 12132, for violations of the
4 Americans with Disabilities Act; and under the theory of Respondeat Superior, for all actions taken
5 by Defendant agents of the City of Rancho Cordova and County of Sacramento. Defendant DOES 1-
6 25 and DOES 26-50 are being sued under Title 42 U.S.C. § 1983, for violations of the Fourth and
7 Fourteenth Amendments of the United States Constitution; 42 U.S.C. § 12132, for violations of the
8 Americans with Disabilities Act; in addition to violations of California state law, the California Tort
9 Claims Act, and the Government Code for the acts and omissions of Defendants DOES 1-25, and
10 each of them, who at the time they caused Plaintiffs' and Decedent MIKEL MCINTYRE's injuries,
11 damages and death were duly appointed, qualified and acting officers, employees, and/or agents of
12 City and County and acting within the course and scope of their employment and/or agency.

13 14. Plaintiffs allege that the conduct of each defendant deprived Decedent MIKEL
14 MCINTYRE of his constitutional right to life and caused Decedent MIKEL MCINTYRE to suffer
15 grievous harm and physical, psychological, and mental injuries prior to his death, and ultimately
16 caused his death while he was in the custody of Defendants.

17 15. Each of the Defendants caused and is responsible for the unlawful conduct and
18 resulting harm by, inter alia, personally participating in the conduct, or acting jointly and in concert
19 with others who did so, by authorizing, acquiescing, condoning, acting, omitting or failing to take
20 action to prevent the unlawful conduct, by promulgating or failing to promulgate policies and
21 procedures pursuant to which the unlawful conduct occurred, by failing and refusing to initiate and
22 maintain proper and adequate policies, procedures and protocols, and by ratifying and condoning the
23 unlawful conduct performed by agents and officers, deputies, medical providers and employees under
24 their direction and control.

25 16. Whenever and wherever reference is made in this Complaint to any act by Defendants
26 DOES 1-25 and DOES 26-50, such allegations and references shall also be deemed to mean the acts
27 and failures to act of each DOE Defendants individually, jointly or severally.
28

FACTUAL ALLEGATIONS

1
2 17. On May 8, 2017, at approximately 12:00 p.m., Decedent, Mikel McIntyre, showed up
3 to the home of his great aunt, in Sacramento, California. Mr. McIntyre was disheveled, barefoot and
4 wearing only a pair of cutoff trousers which were several sizes too small. He was incoherent and
5 unable to recognize his family members, who were also present at the home. He was clearly
6 experiencing a mental health crisis. Mr. McIntyre was joined at the residence by his mother, Brigett
7 McIntyre, and other family members. His family was deeply concerned by his sudden and
8 unexplained mental deficit. Alarmed by the abnormal behavior, Ms. Bridget McIntyre, Mikal's
9 mother, contacted emergency services to obtain mental health treatment for her son. Ms. McIntyre
10 recorded video footage of her son's bizarre behavior, in an attempt to document him while he was
11 symptomatic.

12 18. Shortly thereafter, yet-to-be-identified Defendant City of Rancho Cordova Fire and/or
13 Police Department personnel arrived at the home. The first responders inexplicably refused to
14 provide any mental health care for Mr. McIntyre despite Ms. McIntyre's pleas for help. Ms. McIntyre
15 informed them that her son was displaying bizarre dissociative symptoms such as failing to
16 recognize his family members and talking about people flying. Ms. McIntyre also informed the first
17 responders that her son had no known pre-existing history of mental illness and that she believed he
18 was experiencing a mental health crisis. Nevertheless, the first responders refused to directly provide
19 or work to facilitate any mental health care for Mr. McIntyre and left the home.

20 19. Approximately 20 minutes after fire and police personnel left the scene, Ms. McIntyre
21 contacted emergency services a second time and asked the police to place her son on a 5150 hold.
22 Yet-to be-identified Rancho Cordova Police Department Officers arrived at the home, once again
23 refused to place Mr. McIntyre on a 5150 hold and shortly thereafter left the home.

24 20. Later that same day Mikel and his mother went to a nearby shopping center. Mr.
25 McIntyre continued to display troublesome signs of an active mental health crisis. Ms. McIntyre
26 called out to onlookers and asked them to call the police in an effort to obtain assistance for her son.

1 21. Rancho Cordova Police Department Officers arrived and contacted Mikel McIntyre
2 and Ms. McIntyre. Ms. McIntyre for the third time relayed her concerns for her son's active mental
3 health crisis and the need for him to receive medical or mental health care.

4 22. Mr. McIntyre, still in the throes of a mental health crisis, fled from the officer. The
5 yet-to-be identified officer pursued Mr. McIntyre. Eye witnesses report that the officer fell onto the
6 ground, hitting his head on a rock. The yet-to-be-identified officer opened fire on Mr. McIntyre as he
7 continued to run away. Meanwhile, Sacramento County Sheriff's Deputies responded to the scene
8 and pursued Mr. McIntyre onto a nearby roadway. While in pursuit, one or more yet-to-be-identified
9 Sacramento Sheriff's Department Deputies shot Mr. McIntyre from behind multiple times, despite
10 him being unarmed and running away from the Deputies. Mr. McIntyre died as a result of the
11 Defendant Officers use of excessive deadly force.

12 23. Mr. McIntyre leaves behind a family, including his mother and minor child, who are
13 reeling from his untimely and preventable death.

14 24. The actions and omissions of DOE Defendants Rancho Cordova Department Officers
15 and DOE Sacramento County Sheriff's Deputies were objectively unreasonable under the
16 circumstances, without legal justification or other legal right, done under color of law, within the
17 course and scope of their employment as law enforcement officers and/or public officials, and
18 pursuant to unconstitutional customs, policies and procedures of City, County and/or other
19 jurisdictions.

20 25. Plaintiffs are informed and believe and thereon allege that City, County and DOES 26-
21 50, inclusive, breached their duty of care to the public in that they have failed to discipline DOES 1-
22 25. Their failure to discipline DOES 1-25 inclusive, demonstrates the existence of an entrenched
23 culture, policy or practice of promoting, tolerating and/or ratifying with deliberate indifference the
24 making of improper detentions and arrests, the use of excessive and/or deadly force and the
25 fabrication of official reports to cover up DOES 1-25's inclusive, misconduct.

26 26. Plaintiffs are informed and believe and thereon allege that members of the Rancho
27 Cordova Department and County of Sacramento Sheriff's Department, including, but not limited to
28 DOES 1-25 and DOES 26-50 and/or each of them, have individually and/or while acting in concert

1 with one another, engaged in a repeated pattern and practice of using excessive, arbitrary and/or
2 unreasonable force against individuals, including, but not limited to Decedent, MIKEL MCINTYRE.

3 27. Plaintiffs are informed, believe and therein allege that City and County knew or had
4 reason to know by way of actual or constructive notice of the aforementioned policy, culture, pattern
5 and/or practice and the complained of conduct and resultant injuries/violations.

6 28. At all material times, and alternatively, the actions and omissions of each Defendant
7 were conscience-shocking, reckless, deliberately indifferent to Decedent's and Plaintiffs' rights,
8 negligent, and objectively unreasonable.

9 29. Before filing this action, Plaintiffs made requests for the investigatory records in
10 relation to the death of Decedent MIKEL MCINTYRE and the names of the shooting officers.
11 However, no response pursuant to the requests has been received.

12
13 **DAMAGES**

14 30. As a consequence of Defendants' violation of Plaintiffs' federal civil rights under 42
15 U.S.C. §1983 and the Fourth and Fourteenth Amendments, Plaintiffs were mentally, and emotionally
16 injured and damaged as a proximate result of Decedent's wrongful death, including but not limited
17 to: Plaintiffs' loss of familial relations, Decedent's society, comfort, protection, companionship, love,
18 affection, solace, along with moral and financial support.

19 31. Plaintiffs seek both survival and wrongful death damages, pursuant to C.C.P. Sections
20 377.60 and 377.61 and Probate Code Section 6402(b), for the violation of both Decedent's and their
21 rights. Additionally, Plaintiffs are entitled to the reasonable value of funeral and burial expenses
22 pursuant to C.C.P. §§ 377.60 and 377.61 and loss of financial support.

23 32. Plaintiff N.M, Successor-in-Interest, by and through his Guardian Ad Litem Cas'Sius
24 Hudson, is further entitled to recover damages incurred by Decedent before he died as a result of
25 being deprived without due process of his right to life, and to any penalties or punitive damages to
26 which Decedent would have been entitled to recover had he lived, including damages incurred by
27 Decedent consisting of pain and suffering he endured as a result of the violation of his civil rights.

28 33. Plaintiffs found it necessary to engage the services of private counsel to vindicate the

1 rights of Decedent and Plaintiffs' rights under the law. Plaintiffs are therefore entitled to an award of
2 attorneys' fees and/or costs pursuant to statute(s) in the event that he is the prevailing party in this
3 action under 42 U.S.C. § 1983 and 1988.

4
5 **FIRST CAUSE OF ACTION**

6 **(42 U.S.C. section 1983)**

7 **(Survival Action: Violation of Decedent's Civil Rights)**

8 (Plaintiff N.M., Successor-in-Interest, by and through his Guardian Ad Litem CAS'SIUS
9 HUDSON against Defendants DOES 1-25)

10 34. Plaintiff hereby re-alleges and incorporates by reference herein paragraphs 1 through
11 33 of this Complaint.

12 35. The foregoing claim for relief arose in Decedent's favor, and Decedent would have
13 been the Plaintiff with respect to this claim if he had lived.

14 36. Defendants individually and as peace officers deprived Decedent MIKEL
15 MCINTYRE of his right to be secure in his person against unreasonable searches and seizures as
16 guaranteed to Decedent under the Fourth Amendment of the United States Constitution and applied
17 to state actors by the Fourteenth Amendment.

18 37. As a result, Decedent suffered a loss of life and of earning capacity for which Plaintiff
19 is entitled to recover damages.

20 38. As a result of the conduct of Defendants, individually and as peace officers, they are
21 liable for Decedent's injuries, either because they were integral participants in the use of excessive
22 deadly force against Decedent or because they failed to intervene to prevent these violations.

23 39. Defendants, individually and as peace officers, knew or should have known that
24 failure to provide timely medical treatment to Decedent could result in further significant injury or
25 the unnecessary and wanton infliction of pain, but disregarded that serious medical need, causing him
26 great bodily harm and death.

27 40. The conduct of Defendants, individually and as peace officers, was willful, wanton,
28 malicious, and done with reckless disregard for the rights and safety of Decedent and therefore
warrants the imposition of exemplary and punitive damages as to Defendants.

WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

SECOND CAUSE OF ACTION
(42 U.S.C. § 1983)

(Violation of Plaintiffs' 14th Amendment Rights/Right to Familial Relationship)

(Plaintiff N.M., Successor-in-Interest, by and through his Guardian Ad Litem CAS'SIUS
HUDSON and BRIGETT MCINTYRE against Defendants DOES 1-25)

41. Plaintiffs hereby re-allege and incorporate by reference herein paragraphs 1 through
40 of this Complaint.

42. As a legal cause of Defendants, acting under color of law, acts and/or inactions,
Plaintiffs were deprived of their constitutional rights to a familial relationship, and whose deliberate
indifference caused injuries which resulted in Decedent's death, all in violation of rights, privileges,
and immunities secured by the Fourth and Fourteenth Amendments to the United States Constitution.

WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

THIRD CAUSE OF ACTION
(42 U.S.C. Section 1983)

(Monell - Municipal Liability for Unconstitutional Custom or Policy)

(Plaintiff N.M., Successor-in-Interest, by and through his Guardian Ad Litem CAS'SIUS
HUDSON against Defendants CITY, COUNTY and DOES 26-50)

43. Plaintiff hereby re-alleges and incorporates by reference herein paragraphs 1 through
42 of this Complaint.

44. On information and belief Defendants' DOES 1-25 conduct, individually and as peace
officers was ratified by City's and County's Police and/or Sheriff Department supervisorial officers
DOES 26-50.

45. On information and belief, Defendants 1-25 were not disciplined for the killing of
Decedent MIKEL MCINTYRE.

46. On and for some time prior to May 8, 2017, (and continuing to the present day)
Defendants, individually and as peace officers, deprived Plaintiffs and Decedent MIKEL

1 MCINTYRE of the rights and liberties secured to them by the Fourth and Fourteenth Amendment to
2 the United States Constitution, in that said defendants and their supervising and managerial
3 employees, agents, and representatives, acting with gross negligence and with reckless and deliberate
4 indifference to the rights and liberties of the public in general, and of Plaintiffs and Decedent MIKEL
5 MCINTYRE, and of persons in their class, situation and comparable position in particular, knowingly
6 maintained, enforced and applied an official recognized custom, policy, and practice of:

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

1
2 f. By ratifying the intentional misconduct of Defendants and other officers who are
3 Police Officers of City and County;

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

11
12 h. By failing to properly investigate claims of unlawful detention and excessive force
13 by City and County Police Officers.

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

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

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

1 50. Furthermore, the policies practices, and customs implemented and maintained and still
2 tolerated by Defendants, individually and as peace officers; were affirmatively linked to and were
3 significantly influential force behind the injuries of Decedent and Plaintiffs.

4 51. By reason of the aforementioned acts and omissions of Defendants, individually and
5 as peace officers, Plaintiffs were caused to incur funeral and related burial expenses, loss of gifts and
6 benefits and loss of financial support.

7 52. By reason of the aforementioned acts and omissions of Defendants, individually and
8 as peace officers, Plaintiffs have suffered loss of love, companionship, affection, comfort, care,
9 society, and future support.

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

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

13
14 **FOURTH CAUSE OF ACTION**

15 **(Violation of 42 U.S.C. § 12132)**

16 (Plaintiff N.M., Successor-in-Interest, by and through his Guardian Ad Litem CAS'SIUS
17 HUDSON against Defendants CITY, COUNTY, DOES 1-25 and DOES 26-50)

18
19 54. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 53 of
20 this complaint.

21 55. As against Defendant CITY, COUNTY and/or DOES 26-50 in their capacity as official
22 policy-maker(s) for the City of Rancho Cordova and County of Sacramento. Plaintiffs further alleges
23 that said defendants failed to train, supervise, and or discipline Defendant DOES 1-25: in recognizing
24 symptoms of disability under Title II of the Americans With Disabilities Act and from excluding
25 qualified individuals, such as Decedent MIKEL MCINTYRE, from participating in or denying
26 benefits and services provided by Defendant CITY and Defendant COUNTY; or from otherwise
27 discriminating against such qualified individuals with symptoms of disability recognized under Title
28 II of the Americans with Disabilities act, resulting in the use of force against MIKEL MCINTYRE,

1 during the course of the subject-incident, which ultimately resulted in his death.

2 56. As against Defendant DOES 1-25, at the time Defendant DOES 1-25 and DOES 26-50
3 made contact with Decedent MIKEL MCINTYRE they knew and/or had reason to know he was
4 experiencing a mental crisis. Defendants were aware of Decedent's disability and the symptoms and
5 manifestations of such disability, and yet Defendant DOES 1-25 inexplicably decided against
6 transporting or providing medical or mental health care to Decedent. As a result, Decedent's mental
7 health crisis continued. Defendant Officers failed to provide reasonable accommodations during their
8 encounters with Decedent by failing to contact an emergency medical services provider to transport
9 him to the hospital, taking additional time to communicate and/or attempt to deescalate the situation.
10 The Defendant's actions or lack thereof produced the ultimate incident and subsequent fatal pursuit
11 of Decedent.

12 57. The aforementioned conduct of Defendant DOES 1-25 and DOES 26-50, in failing to
13 make reasonable accommodations for Decedent denied him the benefits of Defendant CITY and
14 Defendant COUNTY's programs and activities, and/or discriminated against Decedent by reason of
15 his recognized disability.

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

17
18 **FIFTH CAUSE OF ACTION**

19 **(C.C.P. Section 377.60 and 377.61)**

20 **(Wrongful Death- Negligence)**

21 (Plaintiff N.M., Successor-in-Interest, by and through his Guardian Ad Litem CAS'SIUS
22 HUDSON against Defendants CITY, COUNTY, DOES 1-25 and DOES 26-50)

23
24 58. Plaintiff re-alleges and incorporates by reference herein paragraphs 1 through 57 of
25 this Complaint, except for any and all allegations of intentional, malicious, extreme, outrageous,
26 wanton, and oppressive conduct by defendants, and any and all allegations requesting punitive
27 damages.

1 59. Defendants' negligent actions and/or negligent failure to act within the scope and
2 course of their employment with Defendant City and Defendant County, as set forth herein-above
3 proximately caused the death of Decedent MIKEL MCINTYRE.

4 60. As an actual and proximate result of said Defendants' negligence, and the death of
5 Decedent, Plaintiffs have sustained pecuniary loss resulting from the loss of comfort, society,
6 attention, services, and support of their father, decedent, in an amount according to proof at trial.

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

9 62. Pursuant to California C.C.P. Sections 377.60 and 377.61, Plaintiffs have brought this
10 action, and claim damages from said Defendants for the wrongful death of decedent, and the resulting
11 injuries and damages.

12 WHEREFORE, Plaintiffs pray for relief as hereinafter set forth

13
14 **SIXTH CAUSE OF ACTION**

15 **(Violation of CALIFORNIA CIVIL CODE §52.1)**

16 (Plaintiff N.M., Successor-in-Interest, by and through his Guardian Ad Litem CAS'SIUS
17 HUDSON against Defendants DOES 1-25)

18
19 63. Plaintiff hereby re-alleges and incorporates by reference herein paragraphs 1 through
20 62 of this Complaint.

21 64. Defendants' above-described conduct constituted interference, and attempted
22 interference, by threats, intimidation and coercion, with Decedent MIKEL MCINTYRE'S peaceable
23 exercise and enjoyment of rights secured by the Constitution and laws of the United States and the
24 State of California, in violation of California Civil Code §52.1.

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

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

1 set forth above, and their losses entitle them to all damages allowable under California law. Plaintiffs
2 sustained serious and permanent injuries and are entitled to damages, penalties, costs, and attorney
3 fees under California law.

4
5 **JURY DEMAND**

6 72. Plaintiffs hereby demand a jury trial in this action.

7
8 **PRAYER**

9 WHEREFORE, Plaintiffs pray for relief, as follows:

- 10 1. For general damages in a sum to be determined according to proof;
11 2. For special damages, including but not limited to, past, present and/or future wage
12 loss, income and support, medical expenses and other special damages in a sum to be
13 determined according to proof;
14 3. For punitive damages against Defendant DOES 1-25 in a sum to be determined
15 according to proof;
16 4. For reasonable attorney's fees pursuant to 42 U.S.C. § 1988;
17 5. For any and all statutory damages allowed by law;
18 6. For funeral and burial expenses according to proof;
19 7. For cost of suit herein incurred; and
20 8. For such other and further relief as the Court deems just and proper.

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22 **Law Offices of John L. Burris**

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24 Dated: June 25, 2018

25 /s/ John L. Burris
26 **John L. Burris**