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12 Attorneys for Plaintiffs

13 **UNITED STATES DISTRICT COURT**  
14 **EASTERN DISTRICT OF CALIFORNIA**

15 G.M., individually and as co-successor-in-  
16 interest to Decedent CHRISTOPHER  
17 MURPHY, by and through his Guardian-Ad-  
18 Litem KRISTINA COMPHER; C.M.,  
19 individually and as co-successor-in-interest to  
20 Decedent CHRISTOPHER MURPHY, by and  
21 through his Guardian-Ad-Litem KRISTINA  
22 COMPHER; and A.M., individually and as co-  
23 successor-in-interest to Decedent  
24 CHRISTOPHER MURPHY, by and through her  
25 Guardian-Ad-Litem KRISTINA COMPHER,  
26 individually,

27 Plaintiffs,

28 v.

ADAM POOLE, individually; MICHAEL  
SIMPSON, individually; and DOES 1-25,  
inclusive, individually, jointly and severally,

Defendants.

CASE NO.:

COMPLAINT FOR VIOLATION OF CIVIL  
RIGHTS

JURY TRIAL DEMANDED

**INTRODUCTION**

1. This case arises out of the wrongful death of CHRISTOPHER MURPHY, who was victim of unwarranted and egregious excessive force by Defendant California Highway Patrol Officers ADAM POOLE, MICHAEL SIMPSON and additional yet-to-be-identified officers.

1 2. In the late evening of December 8, 2016, Decedent CHRISTOPHER  
2 MURPHY was involved in a vehicle collision on Interstate 5, in Sacramento, California.  
3 After narrowly escaping the fiery wreck, Mr. Murphy was contacted by Defendant  
4 California Highway Patrol Officers POOLE, SIMPSON, and additional yet-to-be-  
5 identified officers, as he was wandering and disoriented in the roadway. Instead of  
6 offering the injured man the obvious necessary medical care he needed, Defendants  
7 opted to choke, handcuff, hog-tie and tase Christopher Murphy multiple times, until he  
8 became unresponsive. Christopher Murphy died as a result of actions of Defendants  
9 unwarranted and excessive force.

10 3. Decedent CHRISTOPHER MURPHY left behind five traumatized young children.

### 11 JURISDICTION

12 4. This action arises under Title 42 of the United States Code, Section 1983. Title 28 of  
13 The United States Code, Sections 1331 and 1343 confers jurisdiction upon this Court. The unlawful  
14 acts and practices alleged herein occurred in Sacramento, California, which is within this judicial  
15 district. Title 28 United States Code Section 1391(b) confers venue upon this Court.

### 16 PARTIES

17 5. Decedent, Christopher Murphy (hereinafter "MURPHY"), was a resident of California and  
18 United States Citizen. Decedent Christopher Murphy was unmarried at the time of his death and died  
19 intestate. Decedent Christopher Murphy did not file any legal actions prior to his death. Decedent has  
20 five surviving minor children and one surviving biological parent, Kathy Fenter.

21 6. Plaintiff, G.M., a minor, sues in his individual capacity through his Guardian-Ad-  
22 Litem KRISTINA COMPHER, as Decedent Christopher Murphy's child and in a representative  
23 capacity as co-successor-in-interest to Decedent pursuant to California Code of Civil Procedure  
24 Sections 377.30. and 377.60 and California Probate Code Section 6402, by and through his Guardian-  
25 Ad-Litem KRISTINA COMPHER.

26 7. Plaintiff, C.M., a minor, sues in his individual capacity through her Guardian-Ad-  
27 Litem KRISTINA COMPHER, as Decedent Christopher Murphy's child and in a representative  
28 capacity as co-successor-in-interest to Decedent pursuant to California Code of Civil Procedure

1 Sections 377.30.and 377.60 and California Probate Code Section 6402, by and through her Guardian-  
2 Ad-Litem KRISTINA COMPHER.

3 8. Plaintiff, A.M., a minor, sues in his individual capacity through her Guardian-Ad-  
4 Litem KRISTINA COMPHER, as Decedent Christopher Murphy's child and in a representative  
5 capacity as co-successor-in-interest to Decedent pursuant to California Code of Civil Procedure  
6 Sections 377.30.and 377.60 and California Probate Code Section 6402, by and through her Guardian-  
Ad-Litem KRISTINA COMPHER.

7 9. At all times mentioned herein, Defendant, ADAM POOLE, (hereinafter  
8 "POOLE"), was a Police Officer for the California Highway Patrol, and is sued in his individual  
9 capacity.

10 10. At all times mentioned herein, Defendant, MICHAEL SIMPSON, (hereinafter  
11 "SIMPSON"), was a Police Officer for the California Highway Patrol, and is sued in his individual  
12 capacity.

13 11. Plaintiffs are ignorant of the true names and/or capacities of defendants sued herein as  
14 DOES 1 through 25, inclusive, and therefore sue said defendants by such fictitious names. Plaintiffs  
15 will amend this complaint to allege their true names and capacities when ascertained. Plaintiffs  
16 believe and allege that each of the DOE defendants is legally responsible and liable for the incident,  
17 injuries and damages hereinafter set forth. Each defendant proximately caused injuries and damages  
18 because of their negligence, breach of duty, negligent supervision, management or control, violation  
19 of public policy and/or use of excessive force. Each defendant is liable for his/her personal conduct,  
20 vicarious or imputed negligence, fault, or breach of duty, whether severally or jointly, or whether  
21 based upon agency, employment, ownership, entrustment, custody, care or control or upon any other  
22 act or omission. Plaintiffs will ask leave to amend her complaint subject to further discovery.

23 12. In engaging in the conduct alleged herein, Defendants acted under the color of  
24 law and in the course and scope of his employment with California Highway Patrol. In engaging in  
25 the conduct described herein, Defendant police officers exceeded the authority vested in them as  
26 police officers, under the United States and California Constitutions, and as employees of the State of  
27 California.

28 13. For State causes of action related to Federal claims, Plaintiffs are required to comply

1 with an administrative claim requirement under California law. Plaintiffs timely filed a Government  
2 Tort Claim with State of California, noticing Defendants of Plaintiffs' intent to file a lawsuit against  
3 the involved Officers.

4 14. Plaintiffs are ignorant of the true names and capacities of Defendants DOES 1 through  
5 50, inclusive, and therefore sue these Defendants by such fictitious names. Plaintiffs are informed,  
6 believe, and thereon allege that each Defendant so named is responsible in some manner for the  
7 injuries and damages sustained by Plaintiffs as set forth herein. Plaintiffs will amend their complaint  
8 to state the names and capacities of DOES 1-50, inclusive, when they have been ascertained.

9  
10 **STATEMENT OF FACTS**

11 15. On December 8, 2016, at approximately 11:30 p.m., Decedent Christopher Murphy  
12 was involved in a fiery, rollover car accident, on Interstate 5 North, near Power Line Road, in  
13 Sacramento, California.

14 16. Mr. Murphy climbed out of his overturned vehicle, which was on fire. Mr. Murphy  
15 was physically injured and disoriented after escaping the wreckage. California Highway Patrol  
16 Officers, Defendants Adam Poole, Michael Simpson and additional yet-to-be-identified officers  
17 arrived at the scene of the rollover accident and found Mr. Murphy wandering in the roadway.

18 17. Instead of providing Mr. Murphy emergency medical care, a yet-to-be-identified  
19 officer placed Mr. Murphy in a choke hold. Then, Defendants Poole and Simpson handcuffed, hog-  
20 tied and tased Mr. Murphy multiple times, in addition to using other unknown and excessive force on  
21 the injured man. As a direct result of Defendants' actions, including interference with Mr. Murphy's  
22 ability to breathe, Mr. Murphy became unresponsive and lost vital signs of life.

23 18. Lifesaving measures were unsuccessful and Mr. Murphy died as a result of the  
24 Defendants' excessive and unwarranted force.

25 19. After the incident, California Highway Patrol did not release a public statement  
26 regarding Mr. Murphy's death. Two weeks after Mr. Murphy's death, after succumbing to public  
27 pressure, California Highway Patrol agent/spokesman Rodney Fitzhugh reported that Mr. Murphy was  
28 tased with the taser in 'drive stun' mode, which does not release a significant electrical current.

1 However, Mr. Fitzhugh's claims are belied by fire and medical records. In official reports,  
2 Sacramento Fire Department first responders indicate that when they arrived on scene Mr. Murphy  
3 had taser barbs all over his body, front and back. Plaintiffs contend that Taser barbs being found on a  
4 person's body are only the product of the Taser being used in dart mode, as opposed to drive-stun  
5 mode. Further, hospital records reveal that Mr. Murphy arrived at the emergency room with taser  
6 barbs still inbedded in his flesh. Toxicology reports indicate that Mr. Murphy was not under the  
7 influence of drugs or alcohol at the time of his death.

8 20. Decedent Christopher Murphy leaves behind five devastated children.

9 21.

10 **DAMAGES**

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

16 23. Plaintiffs C.M., A.M. and G.M., by and through their Guardian-Ad-Litem Kristina  
17 Compher, bring this claim as co-successors-in-interest to Decedent and seek both survival and wrongful  
18 death damages, pursuant to C.C.P. Sections 377.60 and 377.61 and Probate Code Section 6402(b), for  
19 the violation of both Decedent's and their rights. Additionally, Plaintiffs are entitled to the reasonable  
20 value of funeral and burial expenses pursuant to C.C.P. §§ 377.60 and 377.61 and loss of financial  
21 support.

22 24. Plaintiffs C.M., A.M., and G.M., by and through their Guardian-Ad-Litem Kristina  
23 Compher, are further entitled to recover damages incurred by Decedent before he died as a result of  
24 being tased to death, without due process of his right to life, and to any penalties or punitive damages  
25 to which Decedent would have been entitled to recover had he lived, including damages incurred by  
26 Decedent consisting of pain and suffering he endured as a result of the violation of his civil rights.

27 25. Plaintiffs found it necessary to engage the services of private counsel to vindicate the  
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1 rights of Decedent and Plaintiffs 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 they are the prevailing parties in this  
3 action under 42 U.S.C. § 1983 and 1988.

4  
5 **FIRST CAUSE OF ACTION**

6 **(Violation of Fourth Amendment of the United States Constitution)**

7 **(42 U.S.C. §1983)**

8 (Plaintiffs C.M., A.M. and G.M., as co-successor-in-interest to Decedent CHRISTOPHER  
9 MURPHY, by and through their Guardian-Ad-Litem Kristina Compher Against Defendants POOLE,  
10 SIMPSON AND DOES 1-25, inclusive)

11 26. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 24 of this  
12 Complaint.

13 27. Defendant POOLE, SIMPSON and DOES 1-25's above-described conduct violated  
14 Decedent's right, as provided for under the Fourth Amendment to the United States Constitution, to  
15 be free from excessive and/or arbitrary and/or unreasonable use of deadly force against him.

16 28. Decedent was forced to endure great conscious pain and suffering because of  
17 Defendant POOLE and SIMPSON's conduct before his death.

18 29. Decedent did not file a legal action before his death.

19 30. Plaintiffs C.M., G.M., and A.M., by and through their Guardian-Ad-Litem Kristina  
20 Compher, as co-successors-in-interest of CHRISTOPHER MURPHY, claim damages for the  
21 conscious pain and suffering incurred by CHRISTOPHER MURPHY, as provided for under 42  
22 U.S.C. §1983.

23 31. Defendants POOLE, SIMPSON and DOES 1-25 acted under color of law by  
24 killing Decedent without lawful justification and subjecting Decedent to excessive force, thereby  
25 depriving Decedent of certain constitutionally protected rights, including, but not limited to:

- 26 a. The right to be free from unreasonable searches and seizures, as guaranteed by the  
27 Fourth Amendment to the United States Constitution;

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

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**SECOND CAUSE OF ACTION**  
**(Violations of Plaintiffs' Fourteenth Amendment Rights to Familial Relationship)**  
**(42 U.S.C. § 1983)**

(G.M., C.M. and A.M., as co-successor-in-interest to Decedent CHRISTOPHER MURPHY, by and through their Guardian-Ad-Litem Kristina Compher Against Defendants POOLE, SIMPSON and DOES 1-25)

32. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 30 of this Complaint.

33. Defendants POOLE, SIMPSON and DOES 1-25, acting under color of state law, and without due process of law, deprived Plaintiffs of their rights to a familial relationship by seizing Decedent by use of unreasonable, unjustified, deadly force and violence, causing injuries which resulted in Decedent's death, all without provocation and further attempted to conceal their extraordinary use of force and hide the true cause of Decedent's demise in order to deprive Plaintiffs of their rights to seek redress in violation of their rights, privileges, and immunities secured by the Fourteenth Amendment to the United States Constitution.

WHEREFORE, Plaintiffs prays for relief as hereinafter set forth.

**THIRD CAUSE OF ACTION**  
**(Violation of Plaintiffs' State Statutory Rights)**  
**(Violation of California Civil Code § 52.1)**

(G.M., C.M. and A.M., as co-successor-in-interest to Decedent CHRISTOPHER MURPHY, by and through their Guardian-Ad-Litem Kristina Compher Against Defendants POOLE, SIMPSON and DOES 1-25)

34. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 32 of this Complaint.

35. Defendants POOLE, SIMPSON and DOES 1-25 above-described conduct constituted interference, and attempted interference, by threats, intimidation and coercion, with Decedent Christopher Murphy's peaceable exercise and enjoyment of rights secured by the Constitution and laws of the United States and the State of California, in violation of California Civil Code §52.1.

36. Under the provisions of California Civil Code § 52(b), Defendants are liable for punitive damages for each violation of California Civil Code § 52.1, reasonable attorney's fees and an additional \$25,000.

1 37. As a proximate result of Defendant's wrongful conduct, Decedent suffered as  
2 hereinafter set forth below.

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

4 **FOURTH CAUSE OF ACTION**  
5 **(Wrongful Death – Negligence)**  
6 **(C.C.P. §§ 377.60 and 377.61)**

7 (G.M., C.M. and A.M., as co-successor-in-interest to Decedent CHRISTOPHER MURPHY, by and  
8 through their Guardian-Ad-Litem Kristina Compher Against Defendants POOLE, SIMPSON and  
9 DOES 1-25)

10 38. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 36 of  
11 this Complaint, except for any and all allegations of intentional, malicious, extreme, outrageous,  
12 wanton, and oppressive conduct by Defendants, and any and all allegations requesting punitive  
13 damages.

14 39. Defendants POOLE, SIMPSON and DOES 1-25 inclusive, by and through their  
15 respective agents and employees, proximately caused the death of Decedent Christopher Murphy,  
16 on December 8, 2016, as a result of their negligent conduct and/or negligent failure to act, as set  
17 forth herein.

18 40. As an actual and proximate result of said Defendant's negligence, and the  
19 death of Decedent, Plaintiffs have sustained pecuniary loss resulting from the loss of comfort,  
20 society, attention, services, and support of their loved one, Decedent, in an amount according to proof  
21 at trial.

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

24 42. Pursuant to California C.C.P. §§ 377.60 and 377.61, Plaintiffs have brought  
25 this action, and claim damages from said Defendants for the wrongful death of Decedent, and the  
26 resulting injuries and damages.

27 WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.  
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**FIFTH CAUSE OF ACTION**

**(Assault And Battery)**

(G.M., C.M. and A.M., as co-successor-in-interest to Decedent CHRISTOPHER MURPHY, by and through their Guardian-Ad-Litem Kristina Compher Against Defendants POOLE, SIMPSON and DOES 1-25)

43. Plaintiffs re-allege and incorporates by reference paragraphs 1 through 41 of this Complaint.

44. Defendants' above-described conduct constituted assault and battery.

WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

**JURY DEMAND**

45. Plaintiffs hereby demand a jury trial in this action.

**PRAYER**

WHEREFORE, Plaintiffs pray for relief, as follows:

1. For general damages in a sum to be determined according to proof;
2. For special damages, including but not limited to, past, present and/or future wage loss, income and support, medical expenses and other special damages in a sum to be determined according to proof;
3. For punitive damages and exemplary damages against POOLE, SIMPSON and DOES 1-25 in amounts to be determined according to proof;
4. For reasonable attorney's fees pursuant to 42 U.S.C. §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.

**LAW OFFICE OF JOHN BURRIS**

Dated: November 15, 2017

/s/ John L. Burris

**John L. Burris**  
Attorneys for Plaintiffs