

1 JOHN L. BURRIS, Esq./ State Bar #69888
2 BENJAMIN NISENBAUM, Esq./State Bar #222173
3 LAW OFFICES OF JOHN L. BURRIS
4 Airport Corporate Centre
5 7677 Oakport Street, Suite 1120
6 Oakland, California 94621
7 Telephone: (510) 839-5200 Facsimile: (510) 839-3882
8 John.burris@johnburrislaw.com
9 bnisenbaum@hotmail.com; ben@johnburrislaw.com

10 Attorneys for Plaintiffs
11 TAUN HALL and MILES HALL

12 UNITED STATES DISTRICT COURT
13 FOR THE NORTHERN DISTRICT OF CALIFORNIA

14 TAUN HALL, individually and as co-successor-)
15 in-interest to Decedent MILES HALL; SCOTT)
16 HALL, individually and as co-successor-in-)
17 interest to Decedent MILES HALL,)

18 Plaintiffs,)

19 vs.)

20 CITY OF WALNUT CREEK, a municipal)
21 corporation; TOM CHAPLIN , individually and)
22 in his capacity as Chief of Police for the CITY)
23 OF WALNUT CREEK; HOLLY CONNERS,)
24 individually, and in her capacity as a police)
25 officer for the CITY OF WALNUT CREEK;)
26 MATT SMITH, individually and in his capacity)
27 as a police officer for the CITY OF WALNUT)
28 CREEK; MELISSA MURPHY, individually and)
in her capacity as a police officer for the CITY)
OF WALNUT CREEK; KC HSIAO,)
individually and in his capacity as a police)
officer for the CITY OF WALNUT CREEK;)
TAMMY KEAGY, individually and in her)
capacity as a police officer for the CITY OF)
WALNUT CREEK; and, Walnut Creek police)
officers DOES 1-25, inclusive,)

Defendants.)

Case No.

**COMPLAINT FOR DAMAGES FOR
VIOLATION OF CIVIL RIGHTS AND
WRONGFUL DEATH.**

JURY TRIAL DEMANDED

1 INTRODUCTION

2 On June 2, 2018, Defendants responded to a young man they knew suffered from
3 schizoaffective disorder (a severe psychiatric disorder), who possessed a gardening tool, by shooting
4 and killing him as he ran around and past them, never threatening the Defendants or anyone else
5 when he was shot. Tragically, the young man’s family had been working with Defendant CITY OF
6 WALNUT CREEK Police Department in an effort to get help for their son, Decedent MILES HALL,
7 and only called the police at the advice of Defendant TAMMY KEAGY, a mental health resource
8 officer who they had been working with, in a joint effort to get Mr. HALL hospitalized and further
9 evaluated for medication. Shockingly, the Defendants all had Taser ERD’s on their person, and
10 Defendant KEAGY held one in her hands, when Defendants KC HSIAO and MELISSA MURPHY
11 shot and killed Decedent. No one attempted to use their taser, and as shown on the videos of the
12 incident, the officers, against all legitimate police training, used tactics of escalation in confronting
13 Mr. HALL as opposed to de-escalation, Mr. HALL was not threatening, and when Mr. HALL ran at
14 the instigation of the threatening conduct of Defendants, he ran in a zig zagging manner around the
15 Defendants, not at them. In fact, as shown on the video of the shooting, the two officers who fired,
16 including one officer with only a year of experience, actually rotated clockwise to their right
17 approximately 90 degrees to shoot Mr. HALL as he ran past them. There was no one in the area that
18 he was running to, and Mr. HALL posed no significant threat of imminent harm to anyone when
19 Defendants killed him.

20
21 JURISDICTION

22 1. This action arises under Title 42 of the United States Code, Sections 1983 and 12132.
23 Jurisdiction is conferred upon this Court by Title 28 of the United States Code, Sections 1331 and
24 1343. The unlawful acts and practices alleged herein occurred in the City of Walnut Creek, County
25 of Contra Costa, California, which is within this judicial district.

26 PARTIES

27 2. Plaintiff herein, TAUN HALL, is and was at all times herein mentioned a citizen of
28 the United States residing in the City of Walnut Creek in California. She is the mother and Co-

1 Successor-in-Interest to Decedent MILES HALL, who died intestate, unmarried and without issue.
2 Decedent MILES HALL was a qualified individual with a recognized disability pursuant to 42
3 United States Code, Section 12132.

4 3. Plaintiff herein, SCOTT HALL, is and was at all times herein mentioned a citizen of
5 the United States residing in the City of Walnut Creek in California. He is the father and Co-
6 Successor-in-Interest to Decedent MILES HALL, who died intestate, unmarried and without issue.
7 Decedent MILES HALL was a qualified individual with a recognized disability pursuant to 42
8 United States Code, Section 12132.

9 3. Defendant CITY OF WALNUT CREEK (“CITY”) is a municipal corporation, duly
10 organized and existing under the laws of the State of California. Under its authority, the City
11 operates the Walnut Creek Police Department. Defendant CITY is being sued directly under section
12 1983 *Monell* and under 42 U.S.C. section 12132 for violation of the Americans with Disabilities Act
13 (ADA). Defendant CITY is also being sued under California state law with liability for the torts of
14 its employees pursuant to *respondeat superior*.

15 4. At all times mentioned herein, Defendant TOM CHAPLIN (“CHAPLIN”) was
16 employed by defendant CITY as Chief of Police for the CITY. He is being sued in his official
17 capacity as Chief of Police for the CITY. Plaintiffs contend that Defendant CHAPLIN was
18 personally on notice of the Unconstitutional deficiencies in Defendant CITY’s policies, practices and
19 training regarding the use of force, police response to mentally impaired subjects, and the reasonable
20 continuing use of available less-lethal alternatives that would render lethal force unreasonable, but
21 with deliberate indifference failed to correct said Unconstitutional deficiencies.

22 5. At all times mentioned herein, Defendant HOLLY CONNERS (“CONNERS”) was
23 employed by Defendant CITY as a police officer. She is being sued individually and in her official
24 capacity as a police officer for the City. Plaintiffs contend Defendant CONNERS, who was a
25 Sergeant present at and with responsibility for the scene of the subject-incident and responsibility for
26 supervising the conduct of other Defendant Officers at the scene of the subject-incident, was an
27 integral participant in the subject-incident and with deliberate indifference failed to reasonably
28

1 supervise defendant officers and failed to intervene to prevent the use of unreasonable force against
2 Decedent MILES HALL despite having the reasonable opportunity to do so, and was negligent.

3 6. At all times mentioned herein, Defendant TAMMY KEAGY (“KEAGY”) was
4 employed by Defendant CITY as a police officer. She is being sued individually and in her official
5 capacity as a police officer for the City. Plaintiffs contend Defendant KEAGY, a former member of
6 the Mental Health Evaluation Team and a then-current member of the County of Contra Costa Crisis
7 Negotiation Team had previously coordinated police response with Plaintiffs TAUN and SCOTT
8 HALL to Decedent MILES HALL for the purpose of conducting safe Mental Health Evaluations of
9 Decedent MILES HALL, and that Defendant KEAGY undertook an affirmative duty by inducing
10 Plaintiff TAUN and SCOTT HALL to rely on reasonably conduct by herself and other CITY police
11 employees to safely respond to Decedent MILES HALL. Plaintiffs contend Defendant KEAGY was
12 at the scene of the subject-incident, armed with a taser deployed, and did not fire her taser, either
13 because Decedent MILES HALL was not a sufficient threat for a Taser to be fired, or because
14 Defendants KC HSIAO and MELISSA MURPHY fired their handguns prematurely, and
15 unreasonably, before Defendant KEAGY could fire her Taser. Plaintiffs further contend Defendant
16 KEAGY was an integral participant in the use of Unreasonable Force against Decedent MILES
17 HALL and failed to intervene in the use of unreasonable force by Defendants HSIAO and MURPHY
18 and was negligent.

19 7. At all times mentioned herein, Defendant MATT SMITH (“SMITH”) was employed
20 by Defendant CITY as a police officer. He is being sued individually and in his official capacity as a
21 police officer for the City. Plaintiffs contend Defendant SMITH who was present at the scene of the
22 subject-incident and fired a less-lethal bean bag shotgun at Decedent, was an integral participant in
23 the use of unreasonable force against Decedent MILES HALL, failed to intervene in the use of
24 unreasonable force against Decedent MILES HALL, and was negligent.

25 8. At all times mentioned herein, Defendant KC HSIAO (“HSIAO”) was employed by
26 Defendant CITY as a police officer. He is being sued individually and in his official capacity as a
27 police officer for the City. Plaintiffs contend Defendant HSIAO who was present at the scene of the
28 subject-incident and fired his lethal handgun and shot Decedent multiple times killing him, used

1 excessive force unrelated to a legitimate law enforcement purpose and with reckless disregard for
2 Decedent MILES HALL's rights, was an integral participant in the use of unreasonable force against
3 Decedent MILES HALL, failed to intervene in the use of unreasonable force against Decedent
4 MILES HALL, and was negligent.

5 9. At all times mentioned herein Defendant MELISSA MURPHY ("MURPHY") was
6 employed by Defendant CITY as a police officer. She is being sued individually and in her official
7 capacity as a police officer for the City. Plaintiffs contend Defendant MURPHY who was present at
8 the scene of the subject-incident and fired her lethal handgun and shot Decedent multiple times
9 killing him, used excessive force unrelated to a legitimate law enforcement purpose and with reckless
10 disregard for Decedent MILES HALL's rights, was an integral participant in the use of unreasonable
11 force against Decedent MILES HALL, failed to intervene in the use of unreasonable force against
12 Decedent MILES HALL, and was negligent.

13 10. Plaintiffs contend each and every Defendant Officer present at the scene, including
14 Defendants CONNERS, KEAGY, SMITH, HSIAO, and MURPHY violated 42 U.S.C. 12132
15 (Americans with Disabilities Act) in failing to provide reasonable accommodations for Decedent
16 MILES HALL's known disability when it was reasonable to provide such accommodations, no
17 exigency existed to preclude the provision of such accommodations, and such accommodations
18 would have resulted in either no force or much less significant than lethal force being used against
19 Decedent MILES HALL. Defendant CITY is liable under 42 U.S.C. 12132 for its employees'
20 violations of the Americans with Disabilities Act.

21 11. Plaintiff contend each and every officer at the scene was also armed with Taser ERD,
22 a less-lethal weapon that controls subjects by delivering an electric charge that causes Neuromuscular
23 Disruption, rendering a subject unable to physically resist an officers' efforts to control them.

24 11. Plaintiff is ignorant of the true names and capacities of Defendants DOES 1 through
25 25, inclusive, and therefore sues these defendants by such fictitious names. Plaintiff is informed and
26 believes and thereon alleges that each Defendant so named is responsible in some manner for the
27 injuries and damages sustained by Plaintiffs as set forth herein. Plaintiffs will amend their complaint
28 to state the names and capacities of DOES 1-25, inclusive, when they have been ascertained.

1 reasonable, and when Defendants all could have reasonably used Tasers if force became necessary.
2 Defendant KEAGY arrived at the scene shortly before the shooting. Defendant KEAGY had been in
3 direct contact with Mr. HALL's parents and had coordinated with them in effort to use this incident
4 to effect a Welfare and Institutions Code section 5150 hold, in order for Mr. HALL to be evaluated
5 for treatment. The strategy developed jointly by Defendant KEAGY and TAUN and SCOTT HALL,
6 since Mr. HALL denied his own obvious mental illness, was to use an incident in which Mr. HALL
7 began manifesting symptoms of his mental illness, including making delusional, possibly
8 hallucinogenic statements, and exhibiting irrational conduct out of touch with reality, to get a police
9 response to Mr. HALL in order to have a 5150 conducted, and then have Mr. HALL be detained for
10 psychiatric evaluations and treatment. In order to detain someone against their will on a 5150, the
11 person must present a threat of harm to oneself, others, or be unable to care for oneself, by reason of a
12 mental disability.

13 11. TAUN and SCOTT HALL, in coordination with Defendant KEAGY, previously
14 effected one such 5150 of Mr. HALL a couple of months prior to Mr. HALL's death, resulting in a
15 psychiatric diagnosis of Schizoaffective disorder. In that prior incident, Walnut Creek police officers
16 used a less-lethal bean-bag shotgun to gain control of Decedent as he ran toward a neighbor's pool.
17 Even following his release from the 5150, Mr. HALL, as many people in his condition do, continued
18 to deny his mental illness. TAUN and SCOTT HALL knew that he would need further treatment,
19 and that he would be unwilling to get that treatment voluntarily. Working with Defendant KEAGY,
20 they reasonably relied on her representations that Walnut Creek police officers would respond to
21 Plaintiff when they called them again, in a manner that took into consideration his known mental
22 impairment. Defendant KEAGY made it clear to TAUN and SCOTT HALL that when they made a
23 call to Walnut Creek police 911 to respond to their son, they would have to inform dispatch that their
24 son was "threatening", or the police would likely not respond to the call. When they did make the
25 call to police 911 on the instant occasion on June 2, 2019, Defendant KEAGY personally called
26 TAUN HALL back, and they confirmed for the purpose of effecting the 5150 that they felt threatened
27 and that Mr. HALL could be a danger to others. Defendant KEAGY told TAUN and SCOTT HALL
28 that she was on her way to the scene. They had left their home after Mr. HALL became more

1 agitated, telling his family that the gardening rod was his “staff from god” and that this was his home
2 now and they needed to leave. TAUN and SCOTT HALL left to avoid further exacerbating the
3 situation and made the call to 911.

4 12. Shortly after talking to Defendant KEAGY, Plaintiffs TAUN HALL and SCOTT
5 HALL were called by a neighbor who reported that Mr. Hall was banging on her door and was now
6 in the middle of the street. Mr. HALL spoke with another neighbor while in the street, who felt no
7 threat from Mr. HALL, while Mr. HALL showed that neighbor the gardening rod and explained to
8 him that it was his staff from god. Mr. HALL wore a red bandana over his face.

9 13. Defendants CONNORS, HSIAO, MURPHY, and SMITH arrived and exited their
10 patrol cars. They were lined up spread across the street and adjacent rocky area. One of the officers
11 had a weapon with an orange stock on the bottom of it (likely Defendant SMITH). Mr. HALL began
12 jogging, and one of his shoes came off. Mr. HALL then stopped and took off his other shoe, which
13 he threw onto some rocks. Mr. Hall then began running a “juking” pattern toward the officers, as if
14 trying to get past them. At some point around this time, Defendant KEAGY arrived and approached
15 the scene on foot, with her Taser ERD in her hand. Plaintiffs allege the only de-escalation tactics
16 used by Defendants were giving commands to “stop,” “drop it,” and making the statement “Oh my
17 gosh, this is ridiculous.”

18 14. Plaintiffs contend that each officer present possessed not only their firearms, but also
19 less lethal weapons, including Taser ERD which are designed to stun or incapacitate a person from a
20 distance, and are the appropriate weapon of choice in a situation like the one involving Mr. HALL.

21 15. Defendant fired a less-lethal bean bag shotgun while Mr. HALL ran in a zig-zag
22 manner. The bean bag shotgun did not disable Mr. HALL. Mr. HALL continued to run to his left,
23 which was to the right of the Defendants from their perspective. He did not run directly at them. As
24 Mr. Hall passed the defendants, the defendants rotated approximately 90 degrees clockwise, to their
25 right, and Defendants HSIAO (who had four years of police experience) and MURPHY (who had
26 one year of police experience) began shooting Mr. HALL with their handguns. Mr. HALL had not
27 taken any threatening action against any of the officers or anyone else. Approximately six gunshots
28 were fired. Mr. HALL fell to the ground after being shot.

1 16. No Tasers were fired. Plaintiffs contend that at most less-lethal force was reasonable
2 under these circumstances, and every reasonable officer would know that lethal force was
3 unreasonable, because Mr. HALL was not actively threatening anyone and no one was in imminent
4 risk of serious harm or death, except Mr. HALL from the Defendants. Every reasonable officer would
5 have perceived Mr. HALL as running to get past the officers, not running at them or otherwise
6 threatening them.

7 17. Police officers are required to comply with the Americans with Disabilities Act and
8 provide reasonable accommodation to people with disabilities, including in the course of making an
9 arrest or detention, even against an armed subject, barring some emergency reason that would make
10 compliance impractical. In this situation, the police response was set up specifically to respond to
11 Mr. Hall's psychiatric disability, to get him treatment for it, and to help him, not to kill him.
12 Plaintiffs allege that the officers involved in this incident failed to reasonably accommodate Mr.
13 Hall's known psychiatric disability, that they used lethal force against him unreasonably, and that
14 they were negligent in their tactical response to Mr. Hall. Plaintiffs further allege that each officer
15 who fired gunshots at Decedent acted with reckless disregard for the violation of Mr. Hall's
16 Constitutional and Statutory rights.

17
18 18. Plaintiffs further allege that the shooting of Plaintiff was the proximate result of
19 Defendant CITY's failure to reasonably train their police officers in the proper and reasonable use of
20 force and in failing to provide reasonable accommodations under the Americans with Disabilities Act
21 for Qualified Individuals when making arrests, conducting 5150s and/or using force. Plaintiffs further
22 allege that these substantial failures reflect Defendant CITY's policies implicitly ratifying and/or
23 authorizing the use of excessive force by its police officers and the failure to reasonably train police
24 officers employed by Defendant CITY in compliance with the ADA in making arrests, detentions, or
25 conducting 5150s.

26 19. The shooting and killing of Decedent MILES HALL described herein was brutal,
27 malicious, and done without just provocation or cause, proximately causing Plaintiff's injuries and
28 resulting damages.

DAMAGES

20. Plaintiffs were physically, mentally, emotionally, and financially injured and damaged as a proximate result of Decedent MILES HALL's wrongful death, including, but not limited to, the loss of decedent's familial relationships, comfort, protection, companionship, love, affection, solace, and moral support. In addition to these damages, Plaintiffs are entitled to recover for the reasonable value of funeral and burial expenses, pursuant to C.C.P. Sections 377.60 and 377.61.

21. Plaintiffs are entitled to recover wrongful death damages pursuant to C.C.P. Sections 377.60 and 377.61 and Probate Code Section 6402(b).

22. Pursuant to C.C.P. Sections 377.30, 377.32, and 377.34, plaintiffs are further entitled to recover for damages incurred by decedent before he died as the result of being assaulted and battered, for deprivation without due process of decedent's right to life, and to any penalties or punitive damages to which decedent would have been entitled to recover, had he lived. Plaintiffs are further entitled to recover for Decedent's own pain and suffering and emotional distress incurred as a consequence of Defendants' section 1983 violations, preceding Decedent's death.

23. The conduct of the defendant officers was malicious, wanton, and oppressive. Plaintiffs are therefore entitled to an award of punitive damages against said individual defendants.

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

FIRST CAUSE OF ACTION

(42 U.S.C. Section 1983)

(Against Defendant Officers CONNORS, HSIAO, MURPHY, KEAGY, SMITH, and DOES 1-10)

25. Plaintiff hereby re-alleges and incorporates by reference herein paragraphs 1 through 24 of this Complaint.

26. In doing the acts complained of herein, Defendants CONNORS, HSIAO, MURPHY, KEAGY, SMITH, and DOES 1-10, inclusive, and/or each of them, acted under color of law to deprive Plaintiffs of certain constitutionally protected rights, including, but not limited to:

- 1 a. The right to be free from unreasonable searches and seizures, as guaranteed by the
2 Fourth and Fourteenth Amendments to the United States Constitution;
3
4 b. The right not to be deprived of life or liberty without due process of law, as guaranteed
5 by the Fifth and Fourteenth Amendments to the United States Constitution;
6
7 27. Said rights are substantive guarantees under the First, Fourth, Fifth and/or Fourteenth
8 Amendments to the United States Constitution.

9 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

10 SECOND CAUSE OF ACTION
11 (42 U.S.C. section 1983)
(Against Defendants CITY, CHAPLIN and DOES 11-25)

12 28. Plaintiff hereby re-alleges and incorporates by reference herein paragraphs 1 through
13 27 of this Complaint.

14 29. Plaintiff is informed and believes and thereon alleges that high ranking City of Walnut
15 Creek officials, including Chief CHAPLIN, high ranking police supervisors, DOES 11 through 25,
16 and/or each of them, knew and/or reasonably should have known about the repeated acts of misconduct
17 by Defendant Officers CONNORS, HSIAO, MURPHY, KEAGY, SMITH, and DOES 1-10, and/or
18 each of them.
19

20 30. Plaintiff is further informed and believes and thereon alleges that high ranking City of
21 Walnut Creek officials, including Chief CHAPLIN, high ranking police supervisors, DOES 11-25,
22 and/or each of them, knew and/or reasonably should have known that their police officers, including
23 Defendants CONNORS, HSIAO, MURPHY, KEAGY, SMITH, and DOES 1-10, were either untrained
24 or improperly trained in the use of force in the following areas:
25

26 a. That reasonable available less lethal weapons are required to be used against subjects
27 who do not pose an imminent threat of serious injury or harm even if one less-lethal weapon has been
28

1 used unsuccessfully, and that the initial unsuccessful use of a less-lethal weapon is not a basis to legally
2 justify the use of lethal force where the subject continues to not present an imminent threat of serious
3 injury or harm;

4
5 b. That where reasonable opportunities for de-escalation of potentially threatening subjects
6 exist, including the reasonable re-deployment and/or re-location of police officers; the use of effective
7 communication that is not confrontational, escalating, or demanding; reasonably creating time and
8 distance to help de-escalate, to allow the use of effective communication, and to allow the continuing
9 opportunity to use less-lethal weapons, they must be employed to defuse a potential threat in place of
10 lethal force.

11
12 c. That the failure of a subject, especially one who is known or appears to be suffering
13 from a mental impairment, to comply with orders while not presenting an imminent threat of serious
14 injury or harm, does not justify the use of lethal force.

15
16 d. That subjects suffering from a known mental disability must be provided reasonable
17 accommodations under the ADA by police officers in the course of effecting an arrest, detention or
18 other seizure, if such accommodations are practical and reasonable under the circumstances, that would
19 mitigate or eliminate any threat or danger to the subject as well as those posed by the subject.

20
21 31. These policy, practice and training failures were a substantial factor and moving force
22 in the violation of Mr. HALL's rights, culminating in his shooting death on June 2, 2109 by Defendant
23 Officers.

24
25 32. Despite having such notice, Plaintiff is informed and believes and thereon alleges that
26 Defendants CITY, CHAPLIN and DOES 11-25, and/or each of them, approved, ratified, condoned,
27 encouraged and/or tacitly authorized the continuing pattern and practice of misconduct and/or civil
28 rights violations by Walnut Creek Police Department officers.

1 32. Plaintiff is further informed and believes and thereon alleges that as a result of the
2 deliberate indifference, reckless and/or conscious disregard of the misconduct by CONNORS, HSIAO,
3 MURPHY, KEAGY, SMITH, and DOES 1-10, each of them, and the policy, practice and training
4 deficiencies identified herein, Defendants CHAPLIN, DOES 11-25, and/or each of them, encouraged
5 these officers to continue their course of misconduct, resulting in the violation of the Plaintiffs' rights
6 as alleged herein.
7

8 33. The aforementioned acts and/or omissions and/or deliberate indifference by high
9 ranking City of Walnut Creek officials, including, Chief CHAPLIN, high ranking City of Walnut Creek
10 Police Department supervisors, Defendants DOES 11-25, and each of them resulted in the deprivation
11 of Plaintiff's constitutional rights including, but not limited to, the following:
12

- 13 a. The right to be free from unreasonable searches and seizures, as guaranteed by the Fourth
14 and Fourteenth Amendments to the United States Constitution;
- 15 b. The right not to be deprived of life or liberty without due process of law, as guaranteed by
16 the Fifth and Fourteenth Amendments to the United States Constitution;
- 17 c. The rights of Qualified Individuals, including Decedent MILES HALL, under the
18 Americans with Disabilities Act to be provided reasonable accommodations.
19

20 34. Said rights are substantive guarantees under the Fourth, Fifth and/or Fourteenth
21 Amendments to the United States Constitution, and under 42 U.S.C. section 12132.
22

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

24 FOURTH CAUSE OF ACTION
25 (Violation of 42. U.S.C. section 12132)
26 (Against Defendant CITY OF WALNUT CREEK herein)

27 35. Plaintiffs hereby realleges and incorporates by reference herein paragraphs 1 through
28 34 of this Complaint.

1 56. As against Defendant CITY, Plaintiffs further allege that said defendants failed to
2 train, supervise, and or discipline Defendants CONNORS, HSIAO, MURPHY, KEAGY, SMITH,
3 and DOES 1-10, and/or each of them, in recognizing symptoms of disability under title II of the
4 Americans With Disabilities Act; from excluding qualified individuals such as Decedent MILES
5 HALL from participation in or denial of benefits of services provided by Defendant CITY, or in
6 otherwise discriminating against such qualified individuals with symptoms of disability recognized
7 under title II of the Americans with Disabilities act, resulting in the shooting death of Decedent
8 MILES HALL during the course of the subject-incident and plaintiffs' resulting damages.
9

10
11 57. At the time Defendant Officers responded to Decedent MILES HALL, Mr. Hall was
12 not threatening anyone, but was talking with a neighbor about his "staff from god." Defendants made
13 no effort to determine if Mr. Hall was actually threatening anyone, holding anyone against their will,
14 or to make significant efforts at de-escalation. Defendants were on clear notice of Mr. HALL's
15 mental disability, both by information provided by dispatch, Mr. HALL's prior history known to the
16 Walnut Creek Police Department, and the fact that his mental disability was obvious to anyone who
17 observed him by looking at him and listening to him, as was the fact that Mr. Hall was not actually
18 threatening anyone. Instead of providing the reasonable accommodations required under the ADA,
19 such as de-escalation, defendants employed tactics of escalation, including shouting commands,
20 pointing weapons at Mr. Hall, and threatening him. All training in de-escalation tactics against a
21 person suffering from a disability like schizoaffective disorder dictates that such escalation tactics are
22 counter-productive and should be expected to escalate the situation, and potentially cause the person
23 with the mental disability to misperceive the situation as a threat, and cause the person to run or even
24 potentially attack officers (Plaintiffs contend the video shows Mr. Hall did not attack officers, but ran
25 around them to run past them) instead of comply with police orders. Defendants did not observe
26
27
28

1 Decedent attack or threaten anyone, were aware of Plaintiff's disability and the symptoms and
2 manifestations of Plaintiff's recognized disability, and shot him as he ran around and past them (even
3 turning to their right, clockwise, 90 degrees, to shoot Mr. Hall), and failed to use further reasonable
4 less lethal alternative beyond the bean bag shotgun, such as tasers. The aforementioned conduct of
5 Defendant Officers excluded Plaintiff from participation in, denied Plaintiff the benefits of Defendant
6 CITY OF WALNUT CREEK's programs and activities, and/or discriminated against Decedent
7 MILES HALL.
8

9 58. The exclusion, denial of benefits, and/or discrimination against Plaintiff was by reason
10 of Plaintiff's recognized disability.
11

12 59. WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

13 FIFTH CAUSE OF ACTION

14 (14th Amendment Substantive Due Process- Right to Familial Relationship)
15 (Against Defendants CONNORS, HSIAO, MURPHY, SMITH, and DOES 1-10)

16 60. Plaintiffs realleges and incorporates by reference herein paragraphs 1 through 59 of
17 this Complaint.

18 61. Defendants CONNORS, HSIAO, MURPHY, SMITH, and DOES 1-10, acting under
19 color of law, and without due process of law deprived Plaintiffs of their right to a familial
20 relationship with Decedent by use of unreasonable, unjustified deadly force and violence, causing
21 injuries which resulted in decedent's death, all without provocation, in violation of the Fourteenth
22 Amendment to the United States Constitution. Defendants CONNORS, HSIAO, MURPHY, SMITH,
23 and DOES 1-10 acted with an intent to harm Decedent unrelated to legitimate law enforcement
24 purposes in killing Decedent.
25

26 63. As a proximate result of defendants' conduct, Plaintiffs suffered damages as
27 hereinafter set forth.
28

WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

SIXTH CAUSE OF ACTION

(Assault and Battery)

(Plaintiffs as Co-Successors-in-Interest to Decedent MILES HALL, against Defendants CONNORS, HSIAO, MURPHY, SMITH, and DOES 1-10)

64. Plaintiffs reallege and incorporate by reference herein paragraphs 1 through 63 of this Complaint.

65. Defendants CONNORS, HSIAO, MURPHY, SMITH, and DOES 1-10, inclusive, placed Mr. Hall in immediate fear of death and severe bodily harm by attacking and battering him without any just provocation or cause.

66. These defendants' conduct was neither privileged nor justified under statute or common law.

67. As a proximate result of defendants' conduct, Plaintiffs suffered damages as hereinafter set forth.

WHEREFORE, Plaintiffs prays for relief as hereinafter set forth.

SEVENTH CAUSE OF ACTION

(Violation of Civil Code Section 52.1)

(Plaintiffs as Co-Successors-in-Interest to Decedent MILES HALL against Defendants CONNORS, HSIAO, MURPHY, SMITH, and DOES 1-10)

68. Plaintiffs reallege and incorporates by reference herein paragraphs 1 through 67 of this Complaint.

69. The conduct of Defendants CONNORS, HSIAO, MURPHY, SMITH, and DOES 1-10, inclusive, as described herein, acting in the course and scope of their employment for Defendant CITY, violated California Civil Code Section 52.1, in that they interfered with Decedent MILES HALL's exercise and enjoyment of his civil rights, through use of wrongful and excessive force, and failure to make any proper or reasonable arrest of said Plaintiff, all accomplished through force, threats, intimidation, and coercion.

1 74. As a proximate result of Defendants' negligent conduct, Plaintiff suffered severe
2 physical injury, severe emotional and mental distress, injury having a traumatic effect on Plaintiff's
3 emotional tranquility, and suffered damages.

4
5 NINTH CAUSE OF ACTION
6 (Wrongful Death)
7 (Against all Defendants)

8 75. Plaintiffs TAUN HALL and SCOTT HALL and incorporate by reference herein
9 paragraphs 1 through 74 of this complaint.

10 76. The wrongful conduct of Defendants, as set forth herein, did not comply with the
11 standard of care to be exercised by reasonable persons and was a battery, proximately causing
12 plaintiffs and plaintiff's decedent to suffer injuries and damages as set forth herein. Pursuant to
13 Government Code Section 815.2(a), Defendant CITY is vicariously liable to said Plaintiffs for
14 injuries and damages suffered as alleged herein, incurred as a proximate result of the aforementioned
15 wrongful conduct of Defendants.

16
17 77. As a proximate result of Defendants' conduct as set forth herein, Plaintiffs suffered
18 severe physical injury, severe emotional and mental distress, injury having a traumatic effect on
19 Plaintiffs' emotional tranquility, loss of care, comfort, society, familial support, financial support, and
20 damages. Plaintiffs are entitled to recover wrongful death damages.

21
22 WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

23 JURY DEMAND

24 78. Plaintiffs hereby demand a jury trial in this action.

25 PRAYER

26 WHEREFORE, Plaintiff prays for relief, as follows:

- 27 1. For general damages in a sum according to proof;
28 2. For special damages in a sum according to proof;
 3. For punitive damages in a sum according to proof;

- 1 4. For injunctive relief enjoining Defendant CITY OF WALNUT CREEK;
- 2 5. For violation of California Civil Code Sections 52 and 52.1, statutory damages, and
- 3 reasonable attorney's fees;
- 4 6. For reasonable attorney's fees pursuant to 42 U.S.C. Section 1988 and 29 U.S.C.
- 5 Section 794a;
- 6 7. For the costs of suit herein incurred; and
- 7 8. For such other and further relief as the Court deems just and proper.
- 8
- 9
- 10

11 Dated: September 11, 2019

LAW OFFICES OF JOHN L. BURRIS

13 /s/ JOHN L. BURRIS

14 John L. Burris, Esq.

15 Benjamin Nisenbaum, Esq.

16 Attorney for Plaintiffs TAUN HALL and MILES
17 HALL