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7 UNITED STATES DISTRICT COURT  
8  
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 KRISTIN HART, individually and as co-  
12 successor-in-interest to Decedent KYLE  
13 HART; E.H., individually and as co-  
14 successor-in-interest to Decedent KYLE  
15 HART;

16 Plaintiffs,

17 v.

18 CITY OF REDWOOD CITY, a municipal  
19 corporation; DAN MULHOLLAND,  
20 individually and in his capacity as Chief of  
21 Police for the CITY OF REDWOOD CITY;  
22 ROMAN GOMEZ, individually and in his  
23 official capacity as a Police Officer for the  
24 CITY OF REDWOOD CITY; LEILA  
25 VELEZ, individually and in her official  
26 capacity as a Police Office for the CITY OF  
27 REDWOOD CITY; and DOES 1-50,  
28 inclusive,

26 Defendants.

CASE NO.:

COMPLAINT FOR DAMAGES -

JURY TRIAL DEMANDED

1  
2 **INTRODUCTION**

3 On December 10, 2018, Defendant Redwood City Police Officer ROMAN GOMEZ  
4 wrongfully shot and killed Kyle Hart. Defendant Officer GOMEZ fired five shots, shooting Mr.  
5 HART three times. At the time, Mr. HART was in the midst of a serious mental health crisis  
6 and had already suffered serious self-inflicted, but non-fatal, visible injuries. Defendant  
7 GOMEZ’s use of lethal force interfered with fellow Redwood City Police Officer Leila Velez’s  
8 contemporaneous efforts to use less-lethal force on Mr. HART. Mr. HART was killed in the  
9 backyard of his own home, located at 450 Lincoln Avenue, Redwood City, CA 94061, at a  
10 time when he was no danger to the public or anyone but himself. As a result of Defendant  
11 GOMEZ’s wrongful use of unreasonable force, Mr. Hart suffered severe emotional and  
12 physical pain prior to his death. Mr. HART’s wife, Plaintiff KRISTIN HART, was outside  
13 their home at the time and was subjected to the contemporaneous experience of hearing  
14 Defendant GOMEZ shoot and kill her husband. Due to this trauma, Mrs. HART suffered  
15 severe emotional distress, as did her children, Plaintiffs W.H. and E.H.  
16  
17  
18

19 When Mrs. HART called the police the morning of December 10, 2018, she told  
20 dispatch that Mr. HART was attempting self-harm with a knife and did not pose a threat to  
21 anyone other than himself. Defendant Officers GOMEZ and VELEZ were aware of this  
22 information when they arrived on scene, yet still elected to pursue and immediately rush Mr.  
23 HART, who was in his backyard, in violation of reasonable police standards and training.  
24 Defendant GOMEZ shot and killed Mr. HART less than a minute after arriving at the Hart’s  
25 home. Nether Defendant GOMEZ nor Defendant VELEZ attempted any de-escalation efforts,  
26 and neither Defendant Officer responded to Mr. HART in any manner that took into  
27 consideration the obvious fact that he was in the midst of a mental health crisis and a danger  
28

1 only to himself. Indeed, both Defendants were aware of this information and simply ignored it.  
2 According to statements made by Officer VELEZ following the shooting, she saw that Mr. Hart  
3 had a deep knife wound on his throat clearly visible to her at the time the Defendant Officers  
4 arrived. Moreover, after shooting Mr. Hart, Officers GOMEZ and VELEZ failed to administer  
5 emergency medical care, and instead handcuffed Mr. HART, leaving him on the ground to  
6 bleed out.  
7

### 8 **JURISDICTION**

9 1. This action arises under Title 42 of the United States Code, Section 1983. Jurisdiction  
10 is conferred upon this Court by Title 28 of the United States Code, Sections 1331 and 1343. The  
11 unlawful acts and practices alleged herein occurred in Redwood City, California, which is  
12 within this judicial district.  
13

### 14 **PARTIES**

15 2. Decedent KYLE HART (hereinafter “Decedent”) was an individual residing in the State  
16 of California. Decedent died intestate. Decedent did not file any legal actions prior to his death.  
17 To the extent that this action seeks to recover damages for the violation of rights personal to  
18 Decedent, this action is maintained by his Co-Successors-in-Interest.  
19

20 3. Plaintiff KRISTIN HART is a competent adult. Plaintiff KRISTIN HART sues in her  
21 individual capacity and as a co-successor-in-interest. Plaintiff KRISTIN HART is the wife of  
22 Decedent KYLE HART. Plaintiff KRISTIN HART brings these claims individually and on  
23 behalf of Decedent KYLE HART pursuant to California Code of Civil Procedure §§377.20 *et*  
24 *seq.* which provide for survival and wrongful death actions. Both the wrongful death and  
25 survival claims survive the death of KYLE HART; both arise from the same wrongful act or  
26 neglect of another, and such claims are properly joined pursuant to California Code of Civil  
27 Procedure §377.62. Plaintiff also brings her claims on the basis of 42 USC §§1983 and 1988,  
28

1 the United States Constitution, and federal civil rights law. Plaintiff also brings these claims as  
2 Private Attorney General, to vindicate not only her rights, but others' civil rights of great  
3 importance.

4  
5 4. Plaintiff E.H., a minor, by and through her guardian ad litem KRISTIN HART, sues in  
6 her individual capacity and as co-successor-in-interest to Decedent KYLE HART. Plaintiff E.H.  
7 is the biological daughter of Decedent KYLE HART. Plaintiff brings these claims individually  
8 and on behalf of Decedent KYLE HART pursuant to California Code of Civil Procedure  
9 §§377.20, *et seq.* which provide for survival and wrongful death actions. Both the wrongful  
10 death and survival claims survive the death of KYLE HART; both arise from the same wrongful  
11 act or neglect of another, and such claims are properly joined pursuant to California Code of  
12 Civil Procedure §377.62. Plaintiff also brings her claims on the basis of 42 USC §§1983 and  
13 1988, the United States Constitution, and federal civil rights law. Plaintiff also brings these  
14 claims as Private Attorney General, to vindicate not only her rights, but others' civil rights of  
15 great importance.  
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17  
18 5. Plaintiff W.H., a minor, by and through his guardian ad litem KRISTIN HART, sues in  
19 his individual capacity and as co-successor-in-interest to Decedent KYLE HART. Plaintiff W.H.  
20 is the biological son of Decedent KYLE HART. Plaintiff brings these claims individually and  
21 on behalf of Decedent KYLE HART pursuant to California Code of Civil Procedure §§377.20,  
22 *et seq.* which provide for survival and wrongful death actions. Both the wrongful death and  
23 survival claims survive the death of KYLE HART; both arise from the same wrongful act or  
24 neglect of another, and such claims are properly joined pursuant to California Code of Civil  
25 Procedure §377.62. Plaintiff also brings his claims on the basis of 42 USC §§1983 and 1988,  
26 the United States Constitution, and federal civil rights law.  
27  
28

1 6. Plaintiff also brings these claims as Private Attorney General, to vindicate not only their  
2 rights, but others' civil rights of great importance. Defendant CITY OF REDWOOD CITY  
3 ("hereinafter REDWOOD CITY") is, and at all times herein mentioned, a municipal entity duly  
4 organized and existing under the laws of the State of California that manages and operates the  
5 REDWOOD CITY POLICE DEPARTMENT, and any involved yet-to-be identified police  
6 officers.  
7

8 7. At all times mentioned herein, Defendant DAN MOLHULLAND ("MOLHULLAND")  
9 was employed by Defendant REDWOOD CITY as Chief of Police for REDWOOD CITY.  
10 Plaintiffs contend that Defendant MOLHULLAND was personally on notice of the  
11 unconstitutional deficiencies in Defendant REDWOOD CITY's policies, practices, and training  
12 regarding the use of force, police response to mentally impaired subjects, police response to  
13 subjects in mental health crisis, and the reasonable continuing use of available less-lethal  
14 alternatives that would render lethal force unreasonable, but with deliberate indifference failed  
15 to correct said unconstitutional deficiencies.  
16  
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18 8. At all times mentioned herein, Defendant ROMAN GOMEZ ("GOMEZ") was  
19 employed by Defendant REDWOOD CITY as a police officer. He is being sued individually  
20 and in his official capacity as a police officer for the City. Plaintiffs contend Defendant  
21 GOMEZ who was present at the scene of the subject-incident and fired his lethal handgun and  
22 shot Decedent multiple times, killing him, used excessive force unrelated to a legitimate law  
23 enforcement purpose and with reckless disregard for Decedent KYLE HART's rights, was an  
24 integral participant in the use of unreasonable force against Decedent KYLE HART, failed to  
25 intervene in the use of unreasonable force against Decedent KYLE HART, and was negligent.  
26  
27

28 9. At all times mentioned herein, Defendant LEILA VELEZ ("VELEZ") was employed by  
Defendant REDWOOD CITY as a police officer. She is being sued individually and in her

1 official capacity as a police officer for the City. Plaintiffs contend Defendant VELEZ, who was  
2 present at the scene of the subject-incident and deployed a Taser on Decedent KYLE HART,  
3 was an integral participant in the use of unreasonable force against Decedent KYLE HART,  
4 failed to intervene in the use of unreasonable force against Decedent KYLE HART, and was  
5 negligent.  
6

7 10. Plaintiffs are ignorant of the true names and/or capacities of Defendants sued herein as  
8 DOES 1 through 50, inclusive, and therefore sue said Defendants by such fictitious names.  
9 Plaintiffs will amend this Complaint to allege the true names and capacities when ascertained.  
10

11 11. Plaintiffs allege Defendants DOES 1 through 25 are REDWOOD CITY police officers  
12 and violated Decedent's civil, rights, wrongfully caused his death, and/or encouraged, directed,  
13 enable and/or ordered other Defendants to engage in such conduct. Plaintiffs further allege that  
14 the Defendants DOES 1 through 25 violated Plaintiffs' Fourteenth Amendment rights to  
15 familial association and companionship and caused the wrongful death of Decedent. Plaintiffs  
16 will amend this Complaint to state the names and capacities of DOES 1 through 25, inclusive,  
17 when they have been ascertained.  
18

19 12. Plaintiffs are ignorant of the true names and capacities of Defendants DOES 26 through  
20 50 inclusive, and therefore sue these Defendants by such fictitious names. Plaintiffs are informed  
21 and believe and thereon allege that each Defendant so named was employed by Defendant  
22 REDWOOD CITY at the time of the conduct alleged herein. Plaintiffs allege that each of  
23 Defendants DOES 26 through 50 were responsible for the training, supervision, and/or conduct  
24 of the Defendant Officers and/or agents involved in the conduct herein. Plaintiffs allege that  
25 each of Defendants DOES 26 through 50 was also responsible for and caused the acts and  
26 injuries alleged herein. Plaintiffs will amend this Complaint to state the names and capacities of  
27 DOES 1 through 25, inclusive, when they have been ascertained.  
28

1 13. In engaging in the conduct described herein, Defendants and each of them, acted within  
2 the course and scope of their employment for REDWOOD CITY. In engaging in the conduct  
3 described herein, Defendant police officers exceeded the authority vested in them as police  
4 officers under the United States and California Constitutions and as police officers employed by  
5 Defendant REDWOOD CITY.  
6

7 14. Plaintiffs timely filed an administrative claim with Defendant CITY OF REDWOOD  
8 CITY regarding the subject-incident killing of Mr. Hart on August 28, 2020. On June 4, 2020,  
9 the parties entered a tolling agreement regarding all potential claims arising from the subject-  
10 incident killing of Mr. Hart. The tolling agreement provided that Plaintiffs would have 6 months  
11 to file a lawsuit from the expiration of the tolling agreement. The tolling agreement expired on  
12 December 1, 2020. Pursuant to the California Tort Claims Act, these claims are now timely  
13 brought within 6 months of the expiration of said tolling agreement.  
14

15 **STATEMENT OF FACTS**

16 15. On December 10, 2018 at approximately 8:49 a.m., Plaintiff KRISTIN HART called  
17 911 to request emergency help because her husband, Decedent KYLE HART, was cutting  
18 himself with a kitchen knife. Mrs. HART informed dispatch that Mr. HART was not a threat to  
19 herself, their children, or anyone else.  
20

21 16. Approximately four minutes later, Defendants ROMAN GOMEZ and LEILA VELEZ  
22 responded to the scene in their capacity as Officers of the Redwood City Police Department.  
23 Defendants GOMEZ and VELEZ were aware at the time that they were called to the scene  
24 because Decedent KYLE HART was attempting self-harm with a knife. There was no report of  
25 any criminal activity, and no indication whatsoever that Mr. HART was threatening anyone but  
26 himself.  
27  
28

1 17. Upon arriving at the scene at 8:54:07, Defendants GOMEZ and VELEZ encountered  
2 Plaintiff KRISTIN HART, who led them around the side of the house towards the backyard,  
3 where Mr. HART was located.

4  
5 18. Defendants immediately escalated the situation by charging into the backyard of the  
6 Hart's home at 8:54:20. According to statements made by Defendant VELEZ following the  
7 shooting, Mr. HART had a deep cut in his throat that was visible to the officers when the  
8 defendant officers first saw him.

9  
10 19. Upon encountering Mr. HART in his backyard, Defendants GOMEZ and VELEZ did  
11 not attempt to deescalate the situation. They did not introduce themselves or try to talk to Mr.  
12 HART. They did not employ any crisis-intervention tactics they may have been trained to use.  
13 Instead, 16 seconds after entering the backyard, Defendant GOMEZ shot five bullets at Mr.  
14 HART in quick succession, hitting him three times and losing the other two bullets in the  
15 apartment building behind the Hart's home.

16  
17 20. In the 16-second interval between entering the backyard and shooting Mr. HART,  
18 Defendants GOMEZ and VELEZ claimed that they walked along the side of the house,  
19 determined that Mr. HART still possessed the knife, shouted at him to put down the knife, and  
20 unsuccessfully attempted to use a Taser on him. Both Defendants had walked into the backyard  
21 and could have reasonably changed their location. No one was in danger in the backyard other  
22 than Mr. HART. Mr. HART did not threaten the Defendants. Defendants had multiple  
23 reasonable less lethal alternatives to lethal force, including re-deployment of the taser, cover,  
24 de-escalation tactics, changing their location, but made no effort to use these obvious reasonable  
25 alternatives apart from Defendant VELEZ's use of the Taser. Instead, while Defendant Officer  
26 VELEZ was attempting to redeploy the Taser, Defendant Officer GOMEZ interfered with that  
27 effort by suddenly firing five shots from his gun, killing Mr. HART.  
28



1 21. Plaintiff KRISTIN HART was outside the Hart's home after leading Defendant Officers  
2 to the backyard when Defendant GOMEZ shot Mr. Hart and contemporaneously heard her  
3 husband being killed by Defendant Officers. Plaintiffs W.H. and E.H. were inside the Hart's  
4 home and were contemporaneously aware of their father being killed by Defendant GOMEZ  
5 accompanied by Defendant VELEZ. Plaintiffs suffered extreme emotional distress as a  
6 consequence of the contemporaneous experience of Mr. Hart's killing by Defendants'  
7 intentional and negligent misconduct.  
8

9 22. Defendants GOMEZ and VELEZ failed to administer medical aid to Mr. HART after  
10 shooting him, despite Defendant VELEZ's statement that they could hear him struggling to  
11 breath. Instead, they handcuffed him and waited for the paramedics to arrive, leaving Mr.  
12 HART to bleed out and die.  
13

14  
15 **DAMAGES**  
16

17 23. Plaintiffs were physically, mentally, emotionally, and financially injured and damaged  
18 as a proximate result of Decedent KYLE HART's wrongful death, including, but not limited to,  
19 the loss of Decedent's familial relationships, comfort, protection, companionship, love,  
20 affection, solace, and moral support. In addition to these damages, Plaintiffs are entitled to  
21 recover for the reasonable value of funeral and burial expenses, pursuant to C.C.P. §§377.60 and  
22 377.61.  
23

24 24. Plaintiffs are entitled to recover wrongful death damages pursuant to C.C.P. §§377.60  
25 and 377.61 and Probate Code §6402(b).  
26

27 25. Pursuant to C.C.P. §§377.30, 377.32, and 377.34, Plaintiffs are further entitled to  
28 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

1 punitive damages to which Decedent would have been entitled to recover, had he lived.  
2 Plaintiffs are further entitled to recover for Decedent's own pain and suffering and emotional  
3 distress incurred as a consequence of Defendants' Section 1983 violations, preceding  
4 Decedent's death for violation of Decedent's U.S. Constitutional rights under section 1983.  
5

6 26. Plaintiff Kristen Hart suffered severe and extreme emotional distress by hearing the  
7 wrongful killing of her husband, as described herein. Plaintiffs W.H. and E.H. also suffered  
8 severe and extreme emotional distress by hearing the wrongful killing of their father, of which  
9 they were contemporaneously aware.  
10

11 27. The conduct of Defendants was malicious, wanton, and oppressive. Plaintiffs are  
12 therefore entitled to an award of punitive damages against said individual Defendants.

13 28. Plaintiffs found it necessary to engage the services of private counsel to vindicate their  
14 rights, and the rights of Decedent, under the law. Plaintiffs are therefore entitled to recover all  
15 attorneys' fees incurred in relation to this action pursuant to Title 42 United States Code §1988.  
16

17  
18 **CAUSES OF ACTION**

19 **FIRST CAUSE OF ACTION**  
20 (42 U.S.C. §1983

21 Plaintiffs as successor-in-interests to Decedent Kyle Hart against Defendants GOMEZ and  
22 VELEZ and DOES 1-25)  
23

24 29. Plaintiffs hereby re-allege and incorporate by reference herein paragraphs 1 through 28  
25 of this Complaint.

26 30. Defendants GOMEZ and VELEZ and DOES 1-25 acted under color of law by killing  
27 Decedent without lawful justification and subjecting Decedent to excessive force thereby  
28 depriving Plaintiffs and the Decedent of certain constitutionally protected rights, including, but  
not limited to::

- 1 a. The right to be free from unreasonable searches and seizures by Defendant  
2 GOMEZ's use of excessive force in unreasonably shooting and killing Decedent  
3 in violation of the Fourth Amendment.  
4

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

7 SECOND CAUSE OF ACTION

8 (42 U.S.C. Section 1983

9 Fourteenth Amendment Violations of Plaintiffs' Civil Rights to Familial Relationship –  
10 Plaintiffs against Defendants GOMEZ and VELEZ and DOES 1-25)

11 31. Plaintiffs reallege and incorporate by reference herein paragraphs 1 through 30 of this  
12 Complaint.

13 32. Defendants GOMEZ and VELEZ, acting under color of law, and without due process of  
14 law deprived Plaintiffs of their right to a familial relationship with Decedent by use of  
15 unreasonable, unjustified deadly force and violence, causing injuries which resulted in  
16 Decedent's death, all without provocation, in violation of the Fourteenth Amendment to the  
17 United States Constitution. Defendants GOMEZ and VELEZ acted maliciously with an intent to  
18 harm Decedent KYLE HART unrelated to legitimate law enforcement purposes in killing  
19 Decedent, given all of the options short of lethal force that were available to them.  
20

21 33. Defendants GOMEZ and VELEZ, acting under color of law, and without due process of  
22 law deprived Plaintiffs of their right to a familial relationship with Decedent by their deliberate  
23 indifference to Decedent's serious medical needs after being shot by Defendant GOMEZ, in  
24 violation of the Fourteenth Amendment to the United States Constitution.  
25

26 WHEREFORE, Plaintiffs pray for relief as herein set forth.  
27  
28

THIRD CAUSE OF ACTION  
(*Monell* - 42 U.S.C. §1983)

Plaintiffs individually and as co-successors-in-interest to Decedent, against Defendants  
REDWOOD CITY, MOLHULLAND, and DOES 26-50)

34. Plaintiffs hereby re-allege and incorporate by reference herein paragraphs 1-33 of this  
Complaint.

35. Plaintiffs are informed and believe and thereon allege that high-ranking REDWOOD  
CITY officials, including Chief MOLHULLAND and DOES 26-50, and/or each of them, knew  
and/or reasonably should have known that their police officers, including Defendants VELEZ  
and GOMEZ, were either untrained or improperly trained in the use of force in the following  
areas:

a. That reasonable and available less-lethal weapons are required to be used against  
subjects who do not pose an imminent threat of serious injury or harm even if one less-lethal  
weapon has been used unsuccessfully, and that the initial unsuccessful use of a less-lethal  
weapon is not a basis to legally justify the use of lethal force where the subject continues to not  
present an imminent threat of serious injury or harm;

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

1 c. That the failure of a subject, especially one who is known or appears to be suffering  
2 from a mental impairment, to comply with orders while not presenting an imminent threat of  
3 serious injury or harm, does not justify the use of lethal force.  
4

5 36. These policy, practice, and training failures were a substantial factor and moving  
6 force in the violation of Decedent KYLE HART's rights, culminating in his shooting death on  
7 December 10, 2018, by Defendant Officers.

8 37. Despite having such notice, Plaintiffs are informed and believe and thereon allege that  
9 Defendants REDWOOD CITY, MOLHULLAND, and DOES 1-50, and/or each of them,  
10 approved, ratified, condoned, encouraged and/or tacitly authorized the continuing pattern and  
11 practice of misconduct and/or civil rights violations by Redwood City Police Department officers.  
12

13 38. Plaintiffs are further informed and believe and thereon allege that as a result of the  
14 deliberate indifference, reckless and/or conscious disregard of the misconduct by Defendants  
15 GOMEZ and VELEZ, and DOES 1-50, each of them, and the policy, practice and training  
16 deficiencies identified herein, Defendants MOLHULLAND, DOES 1-25, and/or each of them,  
17 encouraged these Officers to continue their course of misconduct, resulting in the violation of the  
18 Plaintiffs' rights as alleged herein.  
19

20 39. The aforementioned acts and/or omissions and/or deliberate indifference by high  
21 ranking City of Redwood City officials, including, Chief MULHOLLAND, high-ranking City of  
22 Redwood City Police Department supervisors, Defendants DOES 1-25, and each of them  
23 resulted in the deprivation of Plaintiffs' constitutional rights including, but not limited to, the  
24 following:  
25

- 26 a. The right to be free from unreasonable searches and seizures, as guaranteed by  
27 the Fourth and Fourteenth Amendments to the United States Constitution;  
28

1           b. The right not to be deprived of life or liberty without due process of law, as  
2           guaranteed by the Fifth and Fourteenth Amendments to the United States  
3           Constitution;

4  
5           40. Said rights are substantive guarantees under the Fourth, Fifth, and/or Fourteenth  
6 Amendments to the United States Constitution, and under 42 U.S.C. section 12132.

7           41. This incident is only the latest to a collection and trend of excessive force incidents  
8 committed by officers of the Redwood City Police Department who are not facing any  
9 punishment as a result of their dangerous and unjustifiable actions. For example:

10           a. In *Naranjo v. City of Redwood City*, 2019 U.S. Dist. LEXIS 138528 \*1 (N.D.  
11 Cal. 2019), Redwood City police officers held an unarmed, naked woman and  
12 her 15-year-old son at gunpoint in their own home during the execution of a  
13 search warrant.

14           b. In *Burns v. City of Redwood City*, 737 F. Supp. 2d 1047 (N.D. Cal. 2010), five  
15 Redwood City officers tackled a man to the ground while he was in the midst of  
16 a diabetic shock. The officers used pepper spray, nunchakus, and a steel baton  
17 on the man as he endured the medical emergency.

18           c. In August of 2018, Redwood City police officers killed Ramzi Saad, a man in  
19 the midst of a mental health crisis. The officers deployed Tasers on Mr. Saad  
20 multiple times and pinned him to the ground with three officers on top of him.<sup>1</sup>

21           42. As against Defendant REDWOOD CITY, Defendants GOMEZ and VELEZ, and/or  
22 DOES 1-50 in his/her/their capacity as police officer(s) for REDWOOD CITY, Plaintiffs  
23  
24

25  
26  
27  
28  
<sup>1</sup> <https://www.ktvu.com/news/ia-report-redwood-city-officer-who-killed-ramzi-saad-in-august-acted-in-dept-policy>

1 further allege that the acts and/or omissions alleged in the Complaint herein are indicative and  
2 representative of a repeated course of conduct by members of the Redwood City Police  
3 Department tantamount to a custom, policy or repeated practice of condoning and tacitly  
4 encouraging the abuse of police authority, and disregard for the constitutional rights of citizens.  
5 Plaintiffs further allege that these acts and/or omissions illustrate that officers of the Redwood  
6 City Police Department are improperly trained in responding to health crises, particularly  
7 mental health crises.  
8

9 WHEREFORE, Plaintiffs pray for relief as herein set forth.  
10

11 FOURTH CAUSE OF ACTION

(Fourteenth Amendment – Denial of Medical Care under 42 U.S.C. §1983

12 Plaintiffs as Co-Successors-in-interest against Defendants GOMEZ and VELEZ and DOES  
13 1-25)

14 43. Plaintiffs re-allege and incorporate by reference herein the above paragraphs of this  
15 Complaint.  
16

17 44. Defendants GOMEZ and VELEZ were deliberately indifferent to Decedent’s seriously  
18 medical needs after they shot him and before he died, as described herein. Said defendants  
19 thereby deprived Decedent of his Fourteenth Amendment substantive due process rights when  
20 he was in-custody after being shot.  
21

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

25 46. The conduct of Defendants was willful, wanton, malicious, and done with reckless  
26 disregard for the rights and safety of Decedent.  
27

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

1 FIFTH CAUSE OF ACTION  
2 (Battery – Violation of CALIFORNIA PENAL CODE §242  
3 Plaintiffs as co-successors-in-interest to Decedent KYLE HART,  
4 against Defendants CITY, GOMEZ and VELEZ and DOES 1-25)

5 47. Plaintiffs re-allege and incorporate by reference herein paragraphs 1-42 of this  
6 Complaint.

7 48. Defendants VELEZ and GOMEZ, while working as law enforcement officers for  
8 Redwood City, and acting within the course and scope of their duties, placed Mr. Hart in  
9 immediate fear of death and severe bodily harm by attacking and battering him without any just  
10 provocation or cause.

11 49. These Defendants' conduct was neither privileged nor justified under statute or common  
12 law.

13 50. Under Government Code Section 815.2(a), Defendant REDWOOD CITY is vicariously  
14 liable to said Plaintiffs for injuries and damages suffered as alleged herein, incurred as a  
15 proximate result of the aforementioned wrongful conduct of Defendants.

16 51. As a result of the actions of Defendants GOMEZ and VELEZ, Plaintiffs suffered  
17 damages as hereinafter.

18 WHEREFORE, Plaintiffs pray for relief as herein set forth.  
19  
20  
21

22 SIXTH CAUSE OF ACTION  
23 (Negligent Infliction of Emotional Distress  
24 Plaintiffs against Defendants CITY, GOMEZ and VELEZ and DOES 1-25)

25 52. Plaintiffs re-allege and incorporate by reference herein the above paragraphs of this  
26 Complaint.  
27  
28



1 53. Defendants' conduct constituted negligent and reckless disregard of the probability of  
2 causing emotional distress. Defendants GOMEZ and VELEZ knew that Plaintiffs W.H. and E.H.  
3 were inside the home, but did not try to ascertain their safety. They also knew Plaintiff  
4 KRISTIN HART was even closer, as she was outside the home after just leading them towards  
5 the backyard area. Instead, they killed Mr. Hart while Plaintiffs were within earshot.  
6

7 54. As a result of the actions of Defendants GOMEZ and VELEZ, Plaintiffs suffered severe  
8 or extreme emotional distress physical injuries. Defendants' conduct was the actual and  
9 proximate cause of the emotional distress suffered by Plaintiffs.  
10

11 55. Under Government Code Section 815.2(a), Defendant REDWOOD CITY is vicariously  
12 liable to said Plaintiffs for injuries and damages suffered as alleged herein, incurred as a  
13 proximate result of the aforementioned wrongful conduct of Defendants.  
14

15 56. As a result, Defendants are liable for intentional infliction of emotional distress  
16 violations.  
17

18 WHEREFORE, Plaintiff prays for relief as herein set forth.  
19

20 SEVENTH CAUSE OF ACTION  
(Wrongful Death  
21 Plaintiffs against Defendants CITY, GOMEZ and VELEZ and DOES 1-25)  
22

23 57. Plaintiffs re-allege and incorporate by reference herein the above paragraphs of this  
24 Complaint.  
25

26 58. The wrongful conduct of Defendants, as set forth herein, did not comply with the  
27 standard of care to be exercised by reasonable persons and was a battery, proximately causing  
28 Plaintiffs and Decedent to suffer injuries and damages as set forth herein. Pursuant to  
Government Code Section 815.2(a), Defendant REDWOOD CITY is vicariously liable to said

1 Plaintiffs for injuries and damages suffered as alleged herein, incurred as a proximate result of  
2 the aforementioned wrongful conduct of Defendants.

3 59. As a proximate result of Defendants' conduct as set forth herein, Plaintiffs suffered  
4 severe physical injury, severe emotion and mental distress, injury having a traumatic effect on  
5 Plaintiffs' emotional tranquility, loss of care, comfort, society, familial support, financial  
6 support, and damages. Plaintiffs are entitled to recover wrongful death damages.  
7

8 WHEREFORE, Plaintiffs pray for relief as herein set forth.  
9  
10  
11

12 EIGHTH CAUSE OF ACTION

13 (Negligence

14 Plaintiffs as co-successors-in-interest against Defendants GOMEZ and VELEZ and  
DOES 1-25)

15 60. Plaintiffs hereby re-allege and incorporate by reference herein the above paragraphs of  
16 this Complaint, except for any and all allegations of intentional, malicious, extreme, outrageous,  
17 wanton, and oppressive conduct by Defendants, and any and all allegations requesting punitive  
18 damages.  
19

20 61. At all times, Defendants GOMEZ and VELEZ were subject to a duty of care to avoid  
21 causing unnecessary physical harm and distress to persons through their use of force and  
22 making of arrests, and to act reasonably in their pre-shooting tactics and when shooting their  
23 guns or otherwise using force. The wrongful conduct of Defendants, as set forth herein, did not  
24 comply with the standard of care to be exercised by reasonable persons, proximately causing  
25 Plaintiffs to suffer injuries and damages as set forth herein. Pursuant to Government Code  
26 Section 815.2(a), Defendant REDWOOD CITY is vicariously liable to Plaintiffs for their  
27  
28

1 injuries and damages suffered as alleged herein, incurred as a proximate result of the  
2 aforementioned wrongful conduct of Defendants.

3 62. As a proximate result of Defendants' negligent conduct, Plaintiffs suffered severe  
4 physical injury, severe emotional and mental distress, injury having a traumatic effect on  
5 Plaintiffs' emotion tranquility, and suffered damages.  
6

7 63. Under Government Code Section 815.2(a), Defendant REDWOOD CITY is vicariously  
8 liable to said Plaintiffs for injuries and damages suffered as alleged herein, incurred as a  
9 proximate result of the aforementioned wrongful conduct of Defendants.  
10

11 WHEREFORE, Plaintiffs pray for relief as herein set forth.  
12

13 NINTH CAUSE OF ACTION  
14 (Violation of California Civil Code §52.1  
15 Plaintiffs as co-successors-in-interest against Defendants GOMEZ and VELEZ and DOES  
16 1-25)

17 64. Plaintiffs re-allege and incorporate by reference herein the above paragraphs of this  
18 Complaint.

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

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

27 67. Plaintiffs are entitled to treble damages, but in no case less than \$4,000 and an award of  
28 her reasonable attorneys' fees pursuant to Civil Code §52(a).

1 68. Under the provisions of California Civil Code §52(b), Defendants are liable for punitive  
2 damages for each violation of Civil Code §52.1, reasonable attorneys' fees and an additional  
3 \$25,000.

4  
5 69. Under Government Code Section 815.2(a), Defendant REDWOOD CITY is vicariously  
6 liable to said Plaintiffs for injuries and damages suffered as alleged herein, incurred as a  
7 proximate result of the aforementioned wrongful conduct of Defendants.

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

9  
10 **JURY DEMAND**

11 70. Plaintiffs hereby demand a jury trial in this action.

12 **PRAYER**

13 WHEREFORE, Plaintiffs pray for relief, as follow:

- 14 1. For general damages in a sum according to proof;  
15 2. For special damages in a sum according to proof;  
16 3. For punitive damages in a sum according to proof;  
17 4. For reasonable attorney's fees pursuant to 42 U.S.C. Section 1988;  
18 5. For injunctive relief;  
19 6. For cost of suit herein incurred; and  
20 7. For such other and further relief as the Court deems just and proper.  
21  
22  
23

24 Dated: April 13, 2021

**LAW OFFICES OF JOHN L. BURRIS**

*/s/John L. Burris*

JOHN L. BURRIS

BEN NISENBAUM

Attorneys for Plaintiffs