

ATTACHMENT “A – EXCESSIVE FORCE & WRONGFUL DEATH”

Claimant objects to your Claim Form because it requires information which constitutes an invasion of the Claimant’s privacy. Moreover, the information is not required to be provided by the Claimant under California Government Code Section 910. For example, California Government Code Section 910 does not require that the Claimants provide their home and work numbers, driver’s license number, date of birth, auto insurance name and policy number, a diagram of the location of the incident, any statements by the Claimants as to their reasons “for believing the City is liable for your damages, “or a description” of all damages which you believe you have incurred as a result of the incident.” For the purposes of this document “CLAIMANT” means the individual claimant, claimants plural, and all plaintiffs and parties in interest represented by the LAW OFFICES OF JOHN BURRIS. Therefore, Claimant submits the following information in support of his/her Claim pursuant to Government Code Section 910:

CLAIMANT’S NAME: Gabriela Covarrubias, Jose Jaime and Jose Angel Madrigal

ADDRESS TO WHICH ALL NOTICES ARE TO BE SENT: LAW OFFICES OF JOHN L. BURRIS, Airport Corporate Centre, 7677 Oakport Street, Suite 1120, Oakland, CA 94621

CLAIMANT TELEPHONE NUMBER: C/O LAW OFFICES OF JOHN L. BURRIS, ESQ. (510) 839-5200

PLEASE NOTE: COUNSEL REPRESENTS CLAIMANT AND ALL CONTACT SHOULD BE MADE WITH HIS ATTORNEY ONLY.

DATE AND TIME OF INCIDENT:

Contact, Detention and Arrest of Christian Madrigal by City of Fremont Police Department Officers began on June 9, 2019;

Use of Force against Christian Madrigal by City of Fremont Police Officers occurred on June 10, 2019;

Contact and Incarceration of Christian Madrigal by Alameda County Sherriff’s Deputies at Santa Rita Jail occurred on June 10, 2019;

Christian Madrigal was pronounced dead on June 15, 2019 at Eden Medical Center.

LOCATION OF INCIDENT: Arrest by City of Fremont Police Officers at 4101 Eggers Drive, Fremont, CA 94536; Fremont Police Department/Detention Facility and Alameda County Sheriff Department’s Santa Rita Jail.

THE FOLLOWING PROVIDES A GENERAL DESCRIPTION OF THE INDEBTEDNESS, OBLIGATION, INJURY, DAMAGES OR LOSS INCURRED SO FAR AS IT MAY BE KNOWN AT THE TIME OF PRESENTATION OF THE CLAIM” AND “THE NAME OR NAMES OF THE PUBLIC EMPLOYEE OR EMPLOYEES CAUSING THE INJURY,

DAMAGES, OR LOSS, IF KNOWN: [Per Government Code Section 910]. For the purposes of this claim, “AGENCY” is defined by and refers to the City of Fremont, its officers, agents, and employees, which governs the Fremont Police Department, Alameda County, its officers, agents, and employees, which governs the Alameda County Sheriff’s Office, Santa Rita Jail and its officers, agents, and employees.

DESCRIPTION OF INCIDENT:

On the morning of June 10, 2019, the Madrigal family called 911 asking for medical assistance in placing 20-year-old Christian Madrigal on a 5150 psychiatric hold for his mental health crisis. When Fremont Police arrived, Christian’s stepfather, Jose Jaime (“Jaime”), informed the officers that Christian had just been released from the Santa Clara Valley Psychiatric Unit and needed to return to it. Santa Clara Valley Psychiatric Unit had informed Jaime that if Christian’s erratic behavior didn’t resolve, he would have to be brought back for further mental health treatment.

Jaime further explained that Christian wasn’t willing to go voluntarily and that the family needed assistance in getting him back to the mental health facility. Despite being aware of this information, the Fremont police arrested Christian and later beat and choked him at their police department.

Later that day, Christian’s mother and stepfather went to the Fremont Police Department to check in on their son. They were informed that Christian had been transferred to Santa Rita Jail. However, they were not informed that several Fremont Police Officers had used force against Christian, beat him, placed in him in a figure four, put him in a chokehold, WRAP device and further abused him.

At Santa Rita Jail, deputies continued abuse Christian even though his parents explained his mental health history and need for psychiatric treatment. They also denied his parents access to Christian. Alameda County deputies and supervisors had a policy against chaining inmates to the door but the supervisor on duty, after being informed of the internal policy, decided to chain Christian to the door of his cell despite the policy prohibiting it. As a result, Christian attempted to hang himself with the very chains the deputies used to restrain him. Ultimately the deputies were forced to send Christian to the hospital due to the severity of the injuries that Fremont officers and Alameda deputies caused.

Doctors discovered bruises all over his chest, abdomen, back, legs, feet, arms, shoulders and neck. Doctors informed Christian’s parents that there were lacerations to his liver and spleen, intra-abdominal bleeding and pulmonary contusions. Christian also suffered significant brain damage due to lack of oxygen. Because of the internal organ damage and the amount of bruising, the doctors believed law enforcement officers had severely beaten him. Hospital scans and tests determined that there was no brain activity and he was pronounced dead on June 15, 2019.

Christian leaves behind a grieving mother, father, stepfather and two brothers.

Christian suffered pain, suffering, emotional distress and injuries. His successors-in-interest and family suffered the loss of his relationship.

DESCRIPTION OF CLAIM:

Claimant alleges that the conduct of individual employees, agents, and/or servants of AGENCY constitute State statutory violations, which might include but are not limited to assault, battery, false imprisonment, negligence, negligent hiring, and intentional infliction of emotional distress, and negligent infliction of emotional distress.

Claimant alleges those individual employees, agents and/or servants of AGENCY are responsible for Claimant's injuries, and acts and/or omissions committed within the course or scope of employment under the theory of respondeat superior. Respondeat superior liability includes but is not limited to, negligent training, supervision, control and/or discipline.

Individual employees, agents, and/or servants of the AGENCY, include but are not limited to, the chief of police, sheriff, or an individual of comparable title, in charge of law enforcement for AGENCY, and DOES 1-100, and/or each of them, individually and/or while acting in concert with one another.

Claimant alleges the appropriate offenses listed below:

Claimant alleges that assault included, but was not limited to, conduct causing decedent to reasonably fear a harmful offensive touching upon claimant's person.

Claimant alleges that battery included, but was not limited to, conduct resulting in a harmful offensive touching upon decedent's person in a manner foreseeable likely to cause injury.

Claimant alleges that false imprisonment included, but was not limited to, acts or omissions causing decedent to be confined or restricted to an area without means of escape while decedent was aware of the confinement.

Claimant alleges that false arrest included, but not limited to, acts that placed decedent under wrongful arrest without a warrant, actually caused claimant harm and the arresting person(s) were a substantial factor in causing that harm.

Claimant alleges that negligence included, but was not limited to, breach of duty upon failing to exercise due care by placing decedent at risk of serious physical injury.

Claimant alleges that negligent hiring included, but was not limited to, breach of duty upon failing to exercise due care by hiring individuals likely to cause physical injury to citizens while acting under color of law in an official capacity.

Claimant alleges that intentional infliction of emotional distress included, but was not limited to, outrageous acts or omissions with the intent to causing emotional distress to another individual. The intentional conduct resulted in decedent's physical injuries.

Claimant alleges violation of California Civil Code Section 52.1, for actions by law enforcement personnel, whether or not acting under color of law, which interfere by threats, intimidation, or coercion, or attempts to interfere by threats, intimidation, or coercion, with the exercise or enjoyment by any individual or individuals of rights secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of this state.

Claimant alleges violation of California Civil Code Section 51.7, for acts of violence, or intimidation by threat of violence, committed against decedent's person because of decedent's race, color, and/or ancestry. Claimant intends to pursue civil penalties pursuant to Ca. Civil Code Sections 52(a) & 52 (b).

Claimants allege wrongful death and survival causes of action for the officers' unreasonable and negligent uses of force against Christian Madrigal which resulted in extreme emotional distress, loss of care and comfort and all other damages available per state statute.

Claimants will allege other causes of action subject to continuing discovery.

DESCRIBE INJURY OR DAMAGE:

Claimant and/or decedent has, or may have in the future, claims for general damages, including, but not limited to, claims for pain, suffering and emotional distress in amounts to be determined according to proof.

Claimant and/or decedent may have and/or may continue to have in the future, claims for special damages, including, but not limited to, claims for medical and related expenses, lost wages, damage to career, damage to educational pursuits, damage to property and/or other special damages in amounts to be determined according to proof.

Claimant and/or decedent may have, and/or may continue to have in the future, damages for permanent mental injuries, permanent mental scarring and/or other psychological disabilities in an amount according to proof.

NAME OF PUBLIC EMPLOYEE(S) BELIEVED TO HAVE CAUSED INJURY OR DAMAGE:

The City of Fremont, its officers, agents, and employees, which governs the Fremont Police Department and Alameda County, its officers, agents, and employees, which governs the Alameda County Sheriff's Office, Santa Rita Jail and its officers, agents, and employees.

DEMAND FOR PRESERVATION OF EVIDENCE:

Claimant does hereby demand that AGENCY including, but not limited to, the appropriate city or county law enforcement agency, its employees, servants and/or attorneys, maintain and preserve all evidence, documents and tangible materials which relate in any manner whatsoever to the subject matter of this Claim, including until the completion of any and all civil and/or criminal litigation arising from the events which are the subject matter of this Claim. This demand for preservation of evidence includes, but is not limited to, a demand that all public safety entities preserve all tapes, logs, videos, body cameras, digital recordings, medical records, photographs and/or other tangible materials of any kind until the completion of any and all civil and criminal litigation arising from the subject matter of this claim.

AMOUNT OF CLAIM:

This claim is in excess of \$25,000. Jurisdiction is designated as “unlimited” and jurisdiction would be in the Superior Court of the State of California, Alameda County.

DATED: 9/9/2019

Regards,

Adanté D. Pointer, Esq.

THE LAW OFFICES OF JOHN L. BURRIS