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DEBORAH MOLLER

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

DEBORAH MOLLER., an
individual and successor-in-interest
of BRET BREUNIG, deceased;

Plaintiff,

v.

COUNTY OF SAN BERNARDINO,
a public entity; UNIDENTIFIED
DEPUTIES, individuals; CITY OF
REDLANDS, a public entity;
UNIDENTIFIED OFFICERS,
individuals; LOMA LINDA
UNIVERSITY MEDICAL
CENTER, a non-profit corporation;
UNIDENTIFIED HEALTH CARE
PROFESSIONALS, individuals; and
KENNETH BREUNIG, a nominal
Defendant,

Defendants.

Case No.: 5:22-cv-01306-DSF-MARx

**THIRD AMENDED COMPLAINT
FOR DAMAGES FOR:**

- 1) Failure to Protect (42 U.S.C. § 1983)**
- 2) Due Process—Interference with Parent/Child Relationship (42 U.S.C. § 1983)**
- 3) Due Process—State Created Danger (42 U.S.C. § 1983)**
- 4) Due Process – Special Relationship (42 U.S.C. § 1983)**
- 5) Monell Claim (42 U.S.C. § 1983)**
- 6) Violation of EMTALA (42 U.S.C. § 1395dd)**
- 7) Violation of California Health and Safety Code § 1317**
- 8) Negligence**

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- 9) Bane Act Violation (Civil Code § 52.1)**
- 10) Violation of California’s Public Records Act (Cal. Gov’t Code §§ 6250, et seq.)**

DEMAND FOR JURY TRIAL

DECLARATION OF DEBORAH MOLLER

COMES NOW, Plaintiff, DEBORAH MOLLER, an individual and successor-in-interest of BRET BREUNIG deceased, for her claims against Defendants, COUNTY OF SAN BERNARDINO, a public entity; BREANA FITE, an individual, UNIDENTIFIED DEPUTIES, individuals; UNIDENTIFIED OFFICERS, individuals; LOMA LINDA UNIVERSITY MEDICAL CENTER, a non-profit corporation; and UNIDENTIFIED HEALTH CARE PROFESSIONALS, individuals, and each of them, complains and alleges as follows:

INTRODUCTION

1. This civil rights action seeks compensatory and punitive damages from Defendants for violating various rights under state law and the United States Constitution in connection with the death of BRET BREUNIG during and after he was taken into custody on or about August 18, 2021, and released while BRET BREUNIG was unable to care for himself, and was a danger to himself and to others.

PARTIES

2. At all relevant times, Plaintiff, DEBORAH MOLLER (hereinafter “Plaintiff”), an individual and successor-in-interest of BRET BREUNIG, deceased (hereinafter “Decedent”), is and was a resident of the County of San Bernardino, State of California. Plaintiff is the natural mother of Decedent. Decedent died without issue, and thus Plaintiff has the superior right to bring this lawsuit as an individual and

1 as a successor-in-interest pursuant to California Code of Civil Procedure §§ 377.11,
2 377.30.

3 3. At all times herein relevant, Plaintiff is informed and believes, Defendant
4 COUNTY OF SAN BERNARDINO (“COUNTY”), is and was a duly organized
5 public entity, form unknown, existing under the laws of the State of California.

6 4. At all times herein relevant, Defendant BREANA FITE (“FITE”) is and was
7 an individual employed as a Sheriff’s Deputy with Defendant COUNTY.

8 5. At all times herein mentioned, Defendant COUNTY has possessed the power
9 and authority to adopt policies and prescribe rules, regulations and practices affecting
10 the San Bernardino Sheriff’s Department (“SBSD”), and particularly said
11 Department’s Patrol, Internal Investigations and Training, and Personnel Divisions
12 and other operations and subdivisions presently unidentified to Plaintiff, and their
13 tactics methods, practices, customs and usages.

14 6. At all times herein relevant, Plaintiff is informed and believes, Defendant
15 LOMA LINDA UNIVERSITY MEDICAL CENTER (hereinafter “LOMA LINDA”),
16 is and was a nonprofit public benefit corporation existing under the laws of the State
17 of California.

18 7. The true names of defendants UNIDENTIFIED HEALTH CARE
19 PROFESSIONALS are unknown to Plaintiff, who therefore sues these defendants by
20 such fictitious names as Defendant LOMA LINDA refused to properly identify said
21 deputies as alleged *infra*. Plaintiff will seek leave to amend this complaint to show
22 the true names and capacities of these defendants when they have been ascertained.
23 Each of the UNIDENTIFIED HEALTH CARE PROFESSIONALS are health-care
24 professionals who are responsible in some manner for the conduct and liabilities
25 alleged herein.

26 8. The true names of defendants UNIDENTIFIED DEPUTIES and
27 UNIDENTIFIED OFFICERS are unknown to Plaintiff, who therefore sues these
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1 defendants by such fictitious names as Defendant COUNTY refused to properly
2 identify said deputies as alleged *infra*. Plaintiff will seek leave to amend this
3 complaint to show the true names and capacities of these defendants when they have
4 been ascertained. Each of the UNIDENTIFIED DEPUTIES and UNIDENTIFIED
5 OFFICERS are responsible in some manner for the conduct and liabilities alleged
6 herein.

7 9. At all relevant times, COUNTY was the employer of Defendants FITE,
8 UNIDENTIFIED DEPUTIES (hereinafter the "Responding Deputies") and
9 UNIDENTIFIED OFFICERS (hereinafter the "Responding Officers"), and said
10 individuals were employees and agents of COUNTY.

11 10. At all relevant times, Defendants FITE, Responding Deputies and Responding
12 Officers, and each of them, were duly authorized employees and agents of COUNTY,
13 who were acting under color of law within the course and scope of their respective
14 duties as Peace Officers and with the complete authority and ratification of their
15 principal, Defendant COUNTY, which is additionally liable in respondeat superior
16 pursuant to section 815.2 of the California Government Code for the acts of said
17 Defendants which are alleged herein.

18 11. At all times relevant, Defendants FITE, Responding Deputies and Responding
19 Officers, and each of them, were duly appointed officers and/or employees or agents
20 COUNTY, subject to oversight and supervision by COUNTY's elected and non-
21 elected officials.

22 12. In doing the acts and failing and omitting to act as hereinafter described,
23 Defendants FITE, Responding Deputies and Responding Officers, and each of them,
24 were acting on the implied and actual permission and consent of COUNTY.

25 13. At all times herein relevant, Defendant COUNTY was the employer and/or
26 principal of Defendant FITE and the Responding Deputies and Responding Officers
27 herein, and/or were and are legally responsible for the acts, omissions, and conduct of
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1 FITE and the Responding Deputies and Responding Officers herein, within the
2 meaning of Government Code §§ 815.2(a), 815.4, 820(a), among other provisions,
3 and are liable to Plaintiff by reason thereof.

4 14. At all times herein relevant, Defendants FITE, Responding Deputies and
5 Responding Officers, and each of them, were and are legally responsible for their acts,
6 omissions, and conduct that gives rise to this lawsuit, within the meaning of
7 Government Code § 820(a), among other provisions, and are liable to Plaintiff by
8 reason thereof.

9 15. Defendants FITE, Responding Deputies, Responding Officers,
10 UNIDENTIFIED HEALTH CARE PROFESSIONALS, and each of them, did the
11 acts and omissions hereinafter alleged willfully, intentionally, maliciously, in bad faith
12 and with knowledge that their conduct violated well established and settled law and
13 constituted a willful and conscious disregard for the rights and safety of Decedent.

14 16. At all times mentioned herein, each and every defendant was the agent of each
15 and every other defendant and had the legal duty to oversee and supervise the hiring,
16 conduct and employment of each and every defendant herein.

17 17. Prior to the commencement of this action, Plaintiff presented a government
18 tort claim with COUNTY in full and timely compliance with the California Tort
19 Claim Act. Said claim has been expressly denied or denied by operation of law by
20 COUNTY. Plaintiff has complied with the requirements of the Government Code for
21 the timely filing of formal claims with COUNTY.

22 18. At all times herein relevant, nominal Defendant KENNETH BREUNIG, an
23 individual and the father of decedent, is and was a resident in the State of California,
24 and is joined herein as a nominal defendant in accordance with California Code of
25 Civil Procedure section 382.

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1 **JURISDICTION AND VENUE**

2 19. This civil action is brought for the redress of alleged deprivations of
3 constitutional rights as protected by the U.S. Constitution, the Fourteenth
4 Amendment, and 42 U.S.C. § 1983. Jurisdiction is founded on 28 U.S.C. §§ 1331,
5 1367.

6 20. Venue is proper in this Court under 28 U.S.C. § 1391(b), because Defendants
7 reside in, and all incidents, events, and occurrences giving rise to this action occurred
8 in County of San Bernardino, State of California.

9 **FACTS COMMON TO ALL CLAIMS FOR RELIEF**

10 21. Plaintiff re-alleges and incorporates herein by reference each and every
11 allegation and statement contained in the prior paragraphs, as though fully set forth
12 herein.

13 22. On information and belief, on August 18, 2021, Decedent presented to LOMA
14 LINDA and to UNIDENTIFIED HEALTH CARE PROFESSIONALS seeking
15 emergency medical treatment. On information and belief, Decedent was then
16 suffering from an acute emergency medical condition requiring emergency medical
17 care, including but not limited to an infection impacting his left foot and leg. On
18 information and belief, the infection, as well as a prior surgery from which Decedent
19 had not yet recovered, impinged Decedent’s ability to ambulate.

20 23. On information and belief, Decedent did not receive an appropriate medical
21 screening evaluation under EMTALA or other statutory law, in that it, among other
22 things:

- 23 a. was not calculated to identify critical medical condition(s);
- 24 b. did not provide the same level of screening to Decedent that other,
25 substantially similar patients received,
- 26 c. on information and belief, did not meet LOMA LINDA’s internal
27 procedures for a screening examination, and;

1 d. did not afford Decedent the processes and remedies that were within the
2 emergency room’s capabilities.

3 24. On information and belief, Decedent was thereafter forcibly removed from
4 LOMA LINDA’s property, in that, among other things, LOMA LINDA called for
5 SBSB and Redlands Police Department (“RPD”) officers and deputies to remove
6 Decedent from the premises.

7 25. On information and belief, on or about 11:30 a.m. on August 18, 2021,
8 Defendants FITE, Responding Officers and Responding Deputies arrived at LOMA
9 LINDA and did in fact forcibly remove Decedent from the premises.

10 26. At or immediately prior to the time Defendants FITE, Responding Officers
11 and Responding Deputies made contact with Decedent, he was visibly impaired, was
12 visibly in need of medical attention, could not take care of himself, and was a danger
13 to his own safety and to the safety of others.

14 27. Additionally, Responding Officers and Responding Deputies had made
15 contact with Decedent on multiple occasions in the several days prior to August 18,
16 2021, and were thus aware of the fact that Decedent posed a danger to himself or
17 others by virtue of this prior contact.

18 28. On information and belief, at the time Defendants FITE, Responding Deputies
19 and/or Responding Officers arrested Decedent, he was not wearing any clothing
20 except for a hospital gown and blanket, and was not wearing any shoes. Decedent also
21 did not have any personal effects, including any money or a cell phone, and was
22 without any medical device such as crutches to help him ambulate, despite the injuries
23 and trauma to his right leg.

24 29. At or about that same time, Defendants FITE, Responding Deputies and
25 Responding Officers arrested Decedent and drove away with Decedent in custody in
26 Defendant FITE’s, Responding Deputies’ and/or Officers’ patrol vehicle. Defendant
27 FITE’s, Responding Deputies’ and/or Officers’ custodial duties required them to take
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1 Decedent to the station for booking and to maintain Decedent in custody there until he
2 was no longer a danger to his own safety and the safety of others, and/or required
3 them to take Decedent to an appropriate medical facility for medical attention.

4 30. Instead of doing so, Defendants FITE, Responding Deputies and/or
5 Responding Officers dropped Decedent off at or near the train crossing at or near the
6 intersection of Alessandro Road and San Timoteo Canyon Road in Redlands,
7 California when he was still visibly unable to care for himself. There are no public
8 services available in and around this area. And, there are no hospitals and/or medical
9 providers in and around this area.

10 31. On information and belief, at the time Defendants FITE, Responding Deputies
11 and/or Responding Officers dropped Decedent off at or near the train crossing, a train
12 was approaching or in the process of traversing the train crossing.

13 32. On information and belief, almost immediately thereafter, Decedent, while
14 being in a state unable to take care of himself, wandered onto the train crossing where
15 he was struck by the passing train, ultimately leading to Decedent's death.

16 33. On August 18, 2021, Defendants FITE, Responding Deputies and/or
17 Responding Officers knew that Decedent was a danger to his own safety and the
18 safety of others, knew that Decedent must be kept in custody until he was no longer a
19 danger, or transferred to an appropriate medical facility, and knew that Decedent
20 would face great bodily harm and death if Decedent was not so treated. Yet in reckless
21 disregard of that knowledge, Defendants FITE, Responding Deputies and/or
22 Responding Officers released Decedent even though a reasonable person in their
23 position(s) would have appreciated the high degree of risk and harm involved.
24 Defendants FITE, Responding Deputies and Responding Officers were deliberately
25 indifferent to the substantial risk of harm that Decedent faced.

26 34. Subsequent to Decedent's death, Plaintiff, the biological mother of Decedent,
27 called SBSB and RPD to obtain information regarding Decedent's death.
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1 35. Plaintiff is informed and believes and thereon alleges Defendants Responding
2 Deputies, Responding Deputies, FITE, and COUNTY quickly reached a meeting of
3 minds to cover up their illegal behavior and conspired with one another to fabricate
4 facts and details regarding Decedent's incident, withhold and/or destroy evidence of
5 the incident, and put themselves in the best possible but false light, attempting to
6 justify their failures as alleged herein, all in violation of Decedent's and Plaintiff's
7 rights against this manner of misconduct under California and federal law.

8 36. The aforementioned incident caused Decedent's death and caused him to
9 suffer pre-death pain and suffering and loss of life, and Plaintiff to suffer damages, all
10 to be proven at the time of trial.

11 **FACTS RELATED TO PLAINTIFF'S PUBLIC RECORDS ACT REQUEST**

12 37. Prior to the filing of this action, Plaintiff attempted to obtain records from
13 LOMA LINDA, and COUNTY pertaining to Decedent's death. However, Plaintiff
14 was denied records or, at best, provided heavily redacted and incomplete records
15 regarding COUNTY and LOMA LINDA's interaction(s) with Decedent in and around
16 the time of his death.

17 38. Plaintiff made further inquiries regarding the relevant documents, but was told
18 that further documents would not, or could not, be produced.

19 39. On May 26, 2022, Plaintiff submitted a California Public Records Act
20 ("CPRA", Gov't Code §§ 6250, et seq.) request to the San Bernardino County
21 Sheriff's Department and the San Bernardino County Coroner requesting, among
22 other things: (1) all incident, contact, and reports concerning Decedent; (2) all
23 probable cause declarations or reports related to Decedent's arrest or contact; (3) all
24 photographs of Decedent's arrest or contact; (4) all videos concerning the arrest or
25 contact of Decedent, including body camera videos and MVARs; (5) all evidence
26 gathered by Deputies; (6) the identity of the Deputies who contacted Decedent; (7) the
27 identity of the Deputies who arrested Decedent; (8) all custody logs of Decedent; (9)

1 all booking evidence of Decedent; (10) all documents evidencing Decedent’s release
2 from custody; (11) the identity of the Deputies who released Decedent from custody;
3 (12) the time in which Decedent was released from custody; and, (13) all witness
4 statements related to the incident. Plaintiff’s request fully complied with the CPRA.

5 40. Defendant COUNTY provided a response to Plaintiff’s CPRA request on or
6 about August 30, 2022, but failed to provide any documents regarding the subject
7 incident save several “call summaries and arrest information” regarding the Decedent.
8 Defendant COUNTY wrongfully asserted objections and claimed exemptions with
9 respect to all other documents requested by Plaintiff, and failed to produce them.

10 41. On information and belief, Plaintiff believes that other individuals are legally
11 responsible for the death of Decedent, but due to Defendant’s failure to properly
12 comply with the California Public Records Act, Plaintiff was precluded from properly
13 identifying other culpable individuals.

14 **FIRST CLAIM FOR RELIEF**

15 **Failure to Protect (42 U.S.C. § 1983)**

16 **(Against FITE, Responding Deputies and Officers)**

17 42. Plaintiff re-alleges and incorporates herein by reference each and every
18 allegation and statement contained in paragraphs 21 through 41, as though fully set
19 forth herein.

20 43. Plaintiff brings this claim as the successor-in-interest of Decedent pursuant to
21 Code of Civil Procedure Sections 377.11, 377.30.

22 44. The actions and inactions of Defendants FITE, Responding Deputies and/or
23 Responding Officers, as described above, deprived Decedent of the following clearly
24 established rights under the United States Constitution, including, but not limited to
25 the right to be protected while in custody as secured by the Fourth and Fourteenth
26 Amendments, the right to be free from unlawful, reckless, deliberately indifferent, and
27 conscience shocking failure to provide safe conditions of confinement as secured by
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1 the Fourteenth Amendment, and the right to procedural and substantive due process as
2 secured by the Fourteenth Amendment.

3 45. During all times mentioned herein, Defendants FITE, Responding Deputies
4 and Responding Officers, separately and in concert, acted under color and pretense of
5 law, under color of the statutes, ordinances, regulations, policies, practices, customs
6 and usages of their principals, Defendant COUNTY. Each of the individual
7 Defendants named herein, separately and in concert, deprived Decedent of the rights,
8 privileges and immunities secured to him by the Fourth and Fourteenth Amendments
9 to the United States Constitution, and by the laws of the United States.

10 46. The above acts of omissions of Defendants FITE, Responding Deputies and
11 Responding Officers were undertaken while under color of state law and resulted in
12 the violation of Decedent's constitutional rights, as stated herein.

13 47. The actions of Defendants FITE, Responding Deputies and Responding
14 Officers, and each of them, deprived Decedent of his right to be free from state actions
15 that shock the conscience under the Fourteenth Amendment's Due Process Clause.

16 48. As a result of the conduct of Defendants FITE, Responding Deputies and
17 Responding Officers, and each of them, they are liable for Decedent's harm and death,
18 either because they were integral participants in the violations described herein, or
19 because they failed to intervene to prevent these violations. Defendants' actions
20 and/or omissions were the direct and proximal cause of Decedent's damages and
21 death.

22 49. As a direct and proximate result of the death of Decedent by the above-
23 described conduct of Defendants FITE, Responding Deputies and Responding
24 Officers, the Decedent sustained general damages, including pre-death pain and
25 suffering, and loss of enjoyment of life and other hedonic damages in an amount
26 according to proof at trial.

1 50. The conduct of Defendants FITE, Responding Deputies and Responding
2 Officers was willful, wanton, malicious and done with an evil motive and intent and a
3 reckless disregard for the rights and safety of Decedent, and therefore warrants the
4 imposition of exemplary and punitive damages as to Defendants.

5 51. Accordingly, Defendants FITE, Responding Deputies and Responding
6 Officers are liable to Plaintiff for compensatory and punitive damages under 42
7 U.S.C. § 1983.

8 **SECOND CLAIM FOR RELIEF**

9 **Due Process—Interference with Parent/Child Relationship (42 U.S.C. § 1983)**
10 **(Against FITE, Responding Deputies and Officers)**

11 52. Plaintiff re-alleges and incorporates herein by reference each and every
12 allegation and statement contained in paragraphs 21 through 41, as though fully set
13 forth herein.

14 53. This claim arises under 42 U.S.C. § 1983 and the United States Constitution,
15 the laws of the State of California, and common law principles to redress a deprivation
16 under color of state law of rights, privileges and immunities secured to Plaintiff by
17 said statutes, and by the Fourteenth Amendment of the United States Constitution Due
18 Process Clause.

19 54. Parents and children possess a constitutionally protected liberty interest in
20 companionship and society with each other.

21 55. Defendants FITE, Responding Deputies and Responding Officers, and each of
22 their, actions and inactions deprived Plaintiff of both procedural due process and
23 substantive due process as guaranteed to the Plaintiff under the Fourteenth
24 Amendment of the United States Constitution when Defendants FITE, Responding
25 Deputies' and Responding Officers' actions and inactions proximately caused
26 Decedent's death. Defendants FITE, Responding Deputies' and Responding Officers'
27 actions and inactions did not further any legitimate state interest and were oppressive
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1 and shock the conscience under the Fourteenth Amendment’s Due Process Clause and
2 were done with deliberate indifference to Plaintiff’s right to be free from state actions.

3 56. The above acts of omissions of Defendants FITE, Responding Deputies and
4 Responding Officers were undertaken while under color of state law and resulted in
5 the violation of Plaintiff’s constitutional rights, as stated herein.

6 57. The actions of Defendants FITE, Responding Deputies and Responding
7 Officers, and each of them, deprived Plaintiff of her right to be free from state actions
8 that shock the conscience under the Fourteenth Amendment’s Due Process Clause.

9 58. As a result of the conduct of Defendants FITE, Responding Deputies and
10 Responding Officers, and each of them, they are liable for Decedent’s harm and death,
11 either because they were integral participants in the violations described herein, or
12 because they failed to intervene to prevent these violations. Defendants’ actions
13 and/or omissions were the direct and proximal cause of Decedent’s death and
14 Plaintiff’s damages.

15 59. As a direct and proximate result of the death of Decedent by the above-
16 described conduct of Defendants FITE, Responding Deputies and Responding
17 Officers, Plaintiff has sustained substantial non-economic damages of pain and
18 suffering and emotional distress resulting from the loss of the love, companionship,
19 comfort, affection, society, attention, services, and moral support damages of this
20 Decedent in an amount according to proof at trial.

21 60. The conduct of Defendants FITE, Responding Deputies and Responding
22 Officers was willful, wanton, malicious and done with an evil motive and intent and a
23 reckless disregard for the rights and safety of Decedent and the rights of Plaintiff, and
24 therefore warrants the imposition of exemplary and punitive damages as to
25 Defendants.

1 61. Accordingly, Defendants FITE, Responding Deputies and Responding
2 Officers are liable to Plaintiff for compensatory and punitive damages under 42
3 U.S.C. § 1983.

4 **THIRD CLAIM FOR RELIEF**

5 **Due Process—State Created Danger (42 U.S.C. § 1983)**

6 **(Against FITE, Responding Deputies and Officers)**

7 62. Plaintiff re-alleges and incorporates herein by reference each and every
8 allegation and statement contained in paragraphs 21 through 41, as though fully set
9 forth herein.

10 63. Plaintiff brings this claim as an individual and the successor-in-interest of
11 Decedent pursuant to Code of Civil Procedure Sections 377.11, 377.30, 377.62.

12 64. This claim arises under 42 U.S.C. § 1983 and the United States Constitution,
13 the laws of the State of California, and common law principles to redress a deprivation
14 under color of state law of rights, privileges and immunities secured to Decedent and
15 to Plaintiff by said statutes, and by the Fourteenth Amendment of the United States
16 Constitution Due Process Clause.

17 65. Defendants FITE, Responding Deputies' and Responding Officers' actions
18 placed Decedent in an actual, particularized danger by creating and exposing
19 Decedent to the danger as alleged herein which Decedent would not have faced but for
20 Defendants' actions.

21 66. By Defendants FITE's, Responding Deputies' and Responding Officers' acts
22 and omissions, Defendants acted with deliberate indifference to the known and
23 obvious danger to Decedent's health and safety.

24 67. As a result of the conduct of Defendants FITE, Responding Deputies and
25 Responding Officers, and each of them, they are liable for Decedent's harm and death,
26 either because they were integral participants in the violations described herein, or
27 because they failed to intervene to prevent these violations. Defendants' actions
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1 and/or omissions were the direct and proximal cause of Decedent's death and
2 Plaintiff's damages.

3 68. As a direct and proximate result of the death of Decedent by the above-
4 described conduct of Defendants FITE, Responding Deputies and Responding
5 Officers, the Decedent sustained general damages, including pre-death pain and
6 suffering, and loss of enjoyment of life and other hedonic damages in an amount
7 according to proof at trial, and Plaintiff has sustained substantial non-economic
8 damages of pain and suffering and emotional distress resulting from the loss of the
9 love, companionship, comfort, affection, society, attention, services, and moral
10 support damages of this Decedent in an amount according to proof at trial.

11 69. The conduct of Defendants FITE, Responding Deputies and Responding
12 Officers was willful, wanton, malicious and done with an evil motive and intent and a
13 reckless disregard for the rights and safety of Decedent and the rights of Plaintiff, and
14 therefore warrants the imposition of exemplary and punitive damages as to
15 Defendants.

16 70. Accordingly, Defendants FITE, Responding Deputies and Responding
17 Officers are liable to Plaintiff for compensatory and punitive damages under 42
18 U.S.C. § 1983.

19 **FOURTH CLAIM FOR RELIEF**

20 **Due Process—Special Relationship (42 U.S.C. § 1983)**

21 **(Against FITE, Responding Deputies and Officers)**

22 71. Plaintiff re-alleges and incorporates herein by reference each and every
23 allegation and statement contained in paragraphs 21 through 41, as though fully set
24 forth herein.

25 72. Plaintiff brings this claim as an individual and the successor-in-interest of
26 Decedent pursuant to Code of Civil Procedure Sections 377.11, 377.30, 377.62.

1 73. This claim arises under 42 U.S.C. § 1983 and the United States Constitution,
2 the laws of the State of California, and common law principles to redress a deprivation
3 under color of state law of rights, privileges and immunities secured to Decedent and
4 to Plaintiff by said statutes, and by the Fourteenth Amendment of the United States
5 Constitution Due Process Clause.

6 74. Defendants FITE, Responding Deputies and Responding Officers entered into
7 a special relationship with Decedent by, *inter alia*, taking him into custody on August
8 18, 2021.

9 75. Defendants FITE, Responding Deputies and Responding Officers failed to
10 provide Decedent with adequate medical care while in their custody.

11 76. By Defendants FITE's, Responding Deputies' and Responding Officers' acts
12 and omissions, Defendants acted with deliberate indifference to the known and
13 obvious danger to Decedent's health and safety.

14 77. As a result of the conduct of Defendants FITE, Responding Deputies and
15 Responding Officers, and each of them, they are liable for Decedent's harm and death,
16 either because they were integral participants in the violations described herein, or
17 because they failed to intervene to prevent these violations. Defendants' actions
18 and/or omissions were the direct and proximal cause of Decedent's death and
19 Plaintiff's damages.

20 78. As a direct and proximate result of the death of Decedent by the above-
21 described conduct of Defendants FITE, Responding Deputies and Responding
22 Officers, the Decedent sustained general damages, including pre-death pain and
23 suffering, and loss of enjoyment of life and other hedonic damages in an amount
24 according to proof at trial, and Plaintiff has sustained substantial non-economic
25 damages of pain and suffering and emotional distress resulting from the loss of the
26 love, companionship, comfort, affection, society, attention, services, and moral
27 support damages of this Decedent in an amount according to proof at trial.
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1 79. The conduct of Defendants FITE, Responding Deputies and Responding
2 Officers was willful, wanton, malicious and done with an evil motive and intent and a
3 reckless disregard for the rights and safety of Decedent and the rights of Plaintiff, and
4 therefore warrants the imposition of exemplary and punitive damages as to
5 Defendants.

6 80. Accordingly, Defendants FITE, Responding Deputies and Responding
7 Officers are liable to Plaintiff for compensatory and punitive damages under 42
8 U.S.C. § 1983.

9 **FIFTH CLAIM FOR RELIEF**

10 ***Monell Claim (42 U.S.C. § 1983)***

11 **(Against Defendant COUNTY)**

12 81. Plaintiff re-alleges and incorporates herein by reference each and every
13 allegation and statement contained in paragraphs 21 through 41, as though fully set
14 forth herein.

15 82. Defendant COUNTY is and at all times herein mentioned has been a public
16 entity and incorporated municipality duly authorized and existing as such in and under
17 the laws of the State of California; and at all times herein mentioned, Defendants
18 COUNTY and SBSB possessed the power and authority to adopt policies and
19 prescribe rules, regulations and practices affecting the operation of the COUNTY and
20 SBSB and its tactics, methods, practices, customs and usages related to internal
21 investigations, personnel supervision and records maintenance and the proper
22 application of their powers of arrest by its rank and file, generally.

23 83. At all times herein mentioned, Defendants FITE, Responding Deputies and
24 Responding Officers, and each of them, were employees of the SBSB acting under the
25 COUNTY's direction and control, who knowingly and intentionally promulgated,
26 maintained, applied, enforced and suffered the continuation of policies, customs,
27 practices and usages in violation of the Fourth and Fourteenth Amendments
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1 respectively to the United States Constitution, which customs, policies, practices and
2 usages at all times herein mentioned encouraged the employment, deployment and
3 retention of persons as peace officers who have a propensity for failing to protect
4 citizens in custody, failing to provide safe conditions of confinement, dishonesty,
5 cover-up, bias, and numerous other serious abuses of their duties as peace officers in
6 the employment of the SBSD and COUNTY.

7 84. Defendant COUNTY knowingly maintains and permits official *sub-rosa*
8 policies or customs of permitting the occurrence of the kinds of wrongs set forth
9 above, by deliberate indifference to widespread police abuses, failing and refusing to
10 fairly and impartially investigate, discipline or prosecute officers who commit acts of
11 failing to protect citizens in custody, failing to provide safe conditions of confinement,
12 dishonesty, cover-up, bias, and crimes under color of law, each ratified and approved
13 by SBSD.

14 85. For example, Defendant COUNTY has a county-wide policy of allowing
15 deputies to give members of the public “courtesy rides” in the back of their patrol
16 cars. On information and belief, this policy is not written, but is taught by “word-of-
17 mouth” from one deputy to another via their field training officer.

18 86. On information and belief, Defendant COUNTY is aware of, and allows, its
19 Deputies to use the “courtesy ride” policy to transport persons who are disabled,
20 mentally incompetent, having a mental health crisis, under the influence of controlled
21 substances, or otherwise unable to take care of themselves or present a danger to
22 themselves or others, to locations other than a hospital or COUNTY facility. On
23 information and belief, the COUNTY is aware of, and allows, its Deputies to transport
24 such persons to unsuitable locations which by their nature pose a danger to such
25 persons, and which increase the risk of danger to themselves or others.

1 87. Additionally, such use of the “courtesy ride” policy fails to provide such
2 detainees with adequate medical care or safe conditions of confinement, in violation
3 of the United States Constitution.

4 88. This use of the “courtesy ride” policy, which is known to Defendant
5 COUNTY, and who thereby ratifies and approves of such policy, has actually led to
6 the death and injury of others by virtue of the fact that impaired persons have been
7 transported to an unsuitable location which has resulted in that person’s ultimate
8 injury and/or death, or have been denied adequate medical care.

9 89. As a non-exclusive example, on or about July 1, 2019, deputies employed by
10 Defendant COUNTY, while acting within the course and scope of their employment,
11 arrested Clifton Pleasant, Sr., after receiving reports that Mr. Pleasant was acting
12 strangely, was disturbing the peace, and was likely under the influence of heavy drugs.
13 Rather than take Mr. Pleasant to a COUNTY facility or to a hospital, deputies
14 provided him a “courtesy ride” and deposited him on public street, near a low-budget
15 motel and a freeway on-ramp. Deputies did not stay to ensure that Mr. Pleasant was
16 able to access any services at that location or provide him with adequate medical care.
17 And, Mr. Pleasant later died after being hit by a car on the freeway.

18 90. On information and belief, Defendants FITE, Responding Officers and
19 Responding Deputies were transporting Decedent, and deposited Decedent at or near
20 the train crossing at or near the intersection of Alessandro Road and San Timoteo
21 Canyon Road in Redlands, California, pursuant to the “courtesy ride” policy.

22 91. On information and belief, COUNTY is actually aware that its Deputies’ use
23 of the “courtesy ride” policy has led to the injury or death of multiple individuals, yet
24 Defendant COUNTY has done nothing to amend, revoke, or otherwise change the
25 “courtesy ride” policy, and has moreover failed to adequately supervise, investigate,
26 or discipline Deputies who have injured or killed persons by virtue of an unsafe or
27 improper use of the “courtesy ride” policy, thereby failing to curb its improper use.

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1 92. Additionally, Defendant COUNTY has a county-wide policy of falsifying
2 CAD documents and other reports to obfuscate how Deputies truly use the “courtesy
3 ride” policy and hide the existence of such practice from members of the public. On
4 information and belief, this policy is not written, but is taught by “word-of-mouth”
5 from one deputy to another via their field training officer.

6 93. For example, by virtue of this policy Deputies routinely make entries into
7 CAD logs and other reports indicating that a person has been “dropped off” at a
8 hospital or mental health facility when in fact that person has not been “dropped off”
9 at that location. In fact, such persons are instead “dropped” off at unsuitable and
10 dangerous locations such as in the instance of the subject incident.

11 94. In this case, Defendant FITE indicated in official records that Decedent had
12 been “dropped off” at Redlands Community Hospital when in fact he was “dropped
13 off” at or near the intersection of Alessandro Road and San Timoteo Canyon Road in
14 Redlands, California.

15 95. On information and belief, the falsifying of records associated with “courtesy
16 rides” is actually known to Defendant COUNTY, and who thereby ratifies and
17 approves of such policy. On information and belief, Defendant COUNTY has done
18 nothing to amend, revoke, or otherwise change this policy, and has moreover failed to
19 adequately supervise, investigate, or discipline Deputies who have falsified official
20 records pertaining to their use of the “courtesy ride” policy, thereby failing to curb
21 such untruthful reporting practices.

22 96. Defendant COUNTY has a custom and policy of failing to adequately
23 investigate instances in which Deputies have falsified official reports to obfuscate
24 their use of the “courtesy ride” policy, and further has a custom and policy of failing
25 to adequately discipline such persons. Furthermore, Defendant COUNTY fosters a
26 system of abuse in which it encourages Deputies to not report improper conduct by
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1 their fellow officers, and encourages a system of silence in which Deputies do not
2 come forward with evidence of such abuse.

3 97. Finally, Defendant COUNTY has a custom and policy of failing to properly
4 respond to CPRA requests or other valid and legal requests for information by
5 members of the public with respect to incidences involving “courtesy rides.” For
6 example, in this case, as further set forth below, Defendant COUNTY failed and
7 refused, and continues to fail and refuse, to provide documents responsive to a valid
8 CPRA request. And, Defendant COUNTY failed and refused to provide documents
9 responsive to a valid CPRA request with respect to the “courtesy ride” provided to
10 Mr. Pleasant in and around July 1, 2019. With respect to Mr. Pleasant’s case,
11 Defendant COUNTY failed to ever produce the RIPA form associated with Deputies’
12 first contact with Mr. Pleasant, despite admitting that such a form was filled-out with
13 respect to the incident.

14 98. On and for some time prior to August 18, 2021 (and continuing to the present
15 date), Defendant COUNTY, deprived Decedent and Plaintiff of the rights and liberties
16 secured to them by the Fourth and Fourteenth Amendments to the United States
17 Constitution, in that said defendant and their supervising and managerial employees,
18 agents, and representatives, acting with gross negligence and with reckless and
19 deliberate indifference to the rights and liberties of the public in general, of Decedent
20 and Plaintiff, and of persons in their class, situation and comparable position in
21 particular, knowingly maintained, enforced and applied an official recognized
22 COUNTY custom, policy, and practice of, or ratified, directed, encouraged, and/or
23 allowed the following:

- 24 (a) Defendant COUNTY had knowledge, prior to and since this incident, of
25 repeated allegations of misconduct toward detainees and arrestees;
26 specifically, COUNTY knew Defendants Responding Deputies and
27 Responding Officers, and each of them, had in the past and since
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1 Decedent's incident, committed similar acts of failing to protect citizens
2 in custody, failing to provide safe conditions of confinement, falsifying
3 reports, suppressing evidence, and dishonesty, thereby enabling
4 Defendants to continue to violate the constitutional rights of the Decedent
5 and Plaintiff in 2021 and thereafter;

6 (b) Defendant COUNTY had knowledge, prior to and since this incident, of
7 similar allegations of failing to protect citizens in custody, failing to
8 provide safe conditions of confinement, falsifying reports, suppressing
9 evidence, and dishonesty by Defendants, and refused to enforce
10 established administrative procedures to insure the rights of detainees and
11 arrestees;

12 (c) Defendants COUNTY and SBSB refused to adequately discipline
13 individual officers and employees found to have committed similar acts
14 of failing to protect citizens in custody, failing to provide safe conditions
15 of confinement, and misconduct;

16 (d) Defendants COUNTY and SBSB refused to competently and impartially
17 investigate allegations of failing to protect citizens in custody, failing to
18 provide safe conditions of confinement, and misconduct alleged to have
19 been committed by Department employees;

20 (e) Defendants COUNTY and SBSB reprimanded, threatened, intimidated,
21 demoted and fired officers who courageously reported unlawful acts by
22 other officers;

23 (f) Defendants COUNTY and SBSB covered up acts of misconduct and
24 abuse by COUNTY officers and sanctioned a code of silence by and
25 among officers and management;
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- 1 (g) Defendants COUNTY and SBSB knew of and sanctioned the custom and
2 practice of failing to protect citizens in custody, failing to provide safe
3 conditions of confinement, and misconduct;
- 4 (h) Defendants COUNTY and SBSB failed to adequately supervise the
5 actions of officers under their control and guidance;
- 6 (i) Defendant COUNTY and SBSB historically condone and encourage
7 systemic conspiracy of silence among its employees for the purpose of
8 concealing and further wrongful and illegal conduct by its employees;
9 and,
- 10 (j) Defendants COUNTY and SBSB fostered and encouraged an atmosphere
11 of lawlessness, abuse and misconduct, which by August 18, 2021, and
12 thereafter, represented the unconstitutional policies practices and customs
13 of the COUNTY and SBSB.

14 99. By reason and pursuant to the aforesaid policies, practices, customs, and
15 usages of Defendants COUNTY and the SBSB, the Decedent sustained general
16 damages, including pre-death pain and suffering, and loss of enjoyment of life and
17 other hedonic damages in an amount according to proof at trial, and Plaintiff has
18 sustained substantial non-economic damages of pain and suffering and emotional
19 distress resulting from the loss of the love, companionship, comfort, affection, society,
20 attention, services, and moral support damages of this Decedent in an amount
21 according to proof at trial.

22 100. Defendants COUNTY and SBSB, together with various other officials,
23 whether named or unnamed, had either actual or constructive knowledge of the
24 deficient policies, practices and customs alleged in the paragraphs above. Despite
25 having knowledge as stated above these defendants condoned, tolerated and through
26 actions and inactions thereby ratified such policies. Said defendants also acted with
27 deliberate indifference to the foreseeable effects and consequences of these policies
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1 with respect to the constitutional rights of Decedent and Plaintiff, and other
2 individuals similarly situated.

3 101. By perpetrating, sanctioning, tolerating and ratifying the outrageous conduct
4 and other wrongful acts, Defendants COUNTY and SBSB acted with an intentional,
5 reckless, and callous disregard for the well being of Decedent and Plaintiff and their
6 constitutional as well as human rights. Defendants COUNTY and SBSB and each of
7 their actions were willful, wanton, oppressive, malicious, fraudulent, and extremely
8 offensive and unconscionable to any person of normal sensibilities.

9 102. Furthermore, the policies, practices, and customs implemented and maintained
10 and still tolerated by Defendants COUNTY and SBSB were affirmatively linked to
11 and were a significantly influential force and moving force behind Decedent's death
12 and Plaintiff's damages.

13 103. By reason of the aforesaid policies, customs, practices and usages, Decedent's
14 Fourth and Fourteenth Amendments to the United States Constitution were violated
15 along with Plaintiff's Fourteenth Amendment rights. Said customs, policies, practices
16 and usages at all times herein mentioned violated constitutional rights including those
17 of Decedent and Plaintiff.

18 104. Accordingly, Defendant COUNTY is liable to Plaintiff for compensatory
19 damages under 42 U.S.C. § 1983.

20 **SIXTH CLAIM FOR RELIEF**

21 **Violation of EMTALA (42 U.S.C. § 1395dd)**

22 **(Against Defendant LOMA LINDA UNIVERSITY MEDICAL CENTER)**

23 105. Plaintiff re-alleges and incorporates herein by reference each and every
24 allegation and statement contained in paragraphs 21 through 41, as though fully set
25 forth herein.

26 106. On information and belief, Defendant LOMA LINDA is licensed by the State of
27 California to provide emergency room services. The hospital holds itself out to the
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1 public as providing emergency services. As such, Defendant LOMA LINDA is a
2 participating hospital covered by EMTALA.

3 **Failure to Screen**

4 107. Under EMTALA’s statutory and regulatory provisions, Defendant LOMA
5 LINDA had a duty to provide an appropriate emergency screening examination to all
6 patients who come into its emergency room seeking examination or treatment, without
7 regard to their ability to pay for emergency medical services or any other factor.

8 108. Specifically, EMTALA provides, in 42 U.S.C. § 1395dd(a):

9 “[i]n the case of a hospital that has a hospital emergency department, if any
10 individual (whether or not eligible for benefits under this subchapter) comes to
11 the emergency department and a request is made on the individual’s behalf for
12 examination or treatment for a medical condition, the hospital must provide for
13 an appropriate medical screening examination within the capability of the
14 hospital’s emergency department...to determine whether or not an emergency
15 medical condition...exists”

16 109. On information and belief, Defendant LOMA LINDA and UNIDENTIFIED
17 HEALTH CARE PROFESSIONALS failed to provide Decedent with an appropriate
18 emergency screening examination on August 18, 2021. Rather, Defendant LOMA
19 LINDA and UNIDENTIFIED HEALTH CARE PROFESSIONALS wrongfully had
20 Decedent forcefully removed from their property prior to him receiving any
21 appropriate medical screening examination, despite the fact that Defendant LOMA
22 LINDA and UNIDENTIFIED HEALTH CARE PROFESSIONALS were or should
23 have been aware of Decedent’s need for emergent treatment.

24 **Disparate Treatment**

25 110. On information and belief. Decedent did not receive any appropriate medical
26 screening examination prior to being forcibly removed from LOMA LINDA’s
27 premises. On information and belief, Decedent received materially different treatment
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1 than other individuals presenting with the same or similar condition(s), in that like
2 individuals received appropriate medical screening examinations and Decedent did
3 not.

4 111. On information and belief, LOMA LINDA has standardized policies and
5 procedures, and screening protocols, which govern the medical screening examination
6 to be provided to persons who present to the emergency department in the same or
7 similar condition as Decedent. On information and belief, Defendant LOMA LINDA
8 did not follow its own screening protocol, policy and/or procedure with respect to
9 Decedent. Specifically, Plaintiff is informed and believes that Defendant LOMA
10 LINDA and UNIDENTIFIED HEALTH CARE PROFESSIONALS failed to provide
11 Decedent the medical screening examination called for under Defendant's own
12 policies and procedures.

13 112. As a direct and proximate result of the death of Decedent by the above-
14 described conduct of Defendants LOMA LINDA and UNIDENTIFIED HEALTH
15 CARE PROFESSIONALS, Plaintiff has sustained substantial economic damages and
16 non-economic damages of pain and suffering resulting from the loss of the love,
17 companionship, comfort, affection, society, attention, services, moral support, and
18 wrongful death damages of this Decedent in an amount according to proof at trial.

19 113. As a direct and proximate result of the death of Decedent by the above-
20 described conduct of Defendant LOMA LINDA and UNIDENTIFIED HEALTH
21 CARE PROFESSIONALS, the Decedent sustained economic damages and general
22 damages, including pre-death pain and suffering, and loss of enjoyment of life and
23 other hedonic damages up to and including the time he was contacted by Deputies as
24 alleged herein, in an amount according to proof at trial.

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SEVENTH CLAIM FOR RELIEF

California Health and Safety Code § 1317

(Against Defendant LOMA LINDA UNIVERSITY MEDICAL CENTER)

116. Plaintiff re-alleges and incorporates herein by reference each and every allegation and statement contained in paragraphs 21 through 41, as though fully set forth herein.

117. Defendant LOMA LINDA is licensed by the State of California to provide emergency room services. The hospital holds itself out to the public as providing emergency services. As such, it is subject to the requirements of California Health and Safety Code § 1317.

118. Under the statutory and regulatory provisions under California Health and Safety Code § 1317, *et seq.*, (“section 1317”) Defendants LOMA LINDA and Unidentified Health Care Professionals had a duty to provide an appropriate emergency screening examination to all patients who come into its emergency room seeking examination or treatment, without regard for their ability to pay or any other factor. Specifically, section 1317 states, in pertinent part:

- a. Emergency services and care shall be provided to any person requesting the services or care, or for whom services or care is requested, for any condition in which the person is in danger of loss of life, or serious injury or illness, at any health facility licensed under this chapter that maintains and operates an emergency department to provide emergency services to the public when the health facility has appropriate facilities and qualified personnel available to provide the services or care.
- b. In no event shall the provision of emergency services and care be based upon, or affected by, the person's ethnicity, citizenship, age, preexisting medical condition, insurance status, economic status, ability to pay for medical services, or any other characteristic listed or defined

1 in subdivision (b) or (e) of Section 51 of the Civil Code, except to the
2 extent that a circumstance such as age, sex, preexisting medical
3 condition, or physical or mental disability is medically significant to the
4 provision of appropriate medical care to the patient.

5 119. Defendants LOMA LINDA and Unidentified Health Care Professionals failed
6 to provide Decedent with an appropriate emergency screening examination. Rather,
7 Defendants LOMA LINDA and Unidentified Health Care Professionals wrongfully
8 forcefully removed Decedent from the hospital prior to him receiving any appropriate
9 medical screening examination, despite the fact that Defendants LOMA LINDA and
10 Unidentified Health Care Professionals were actually aware of Decedent's need for
11 emergent treatment.

12 120. As a direct and proximate result of the above-described conduct of Defendants
13 LOMA LINDA and Unidentified Health Care Professionals, the Decedent sustained
14 general damages, including pain and suffering and other hedonic damages, up to and
15 ceasing at the time he was contacted by Deputies as alleged herein, in an amount
16 according to proof at trial.

17 **EIGHTH CLAIM FOR RELIEF**

18 **Negligence**

19 **(Against all Defendants)**

20 121. Plaintiff re-alleges and incorporates herein by reference each and every allegation
21 and statement contained in paragraphs 21 through 41, as though fully set forth herein.

22 122. By virtue of the foregoing, Defendants FITE, Responding Deputies, Responding
23 OFFICERS, COUNTY, LOMA LINDA and UNIDENTIFIED HEALTH CARE
24 PROFESSIONALS and each of them, owed Decedent a duty of due care, and that duty
25 was breached by said Defendants' negligence and failure to exercise due care in dealing
26 with, detaining, arresting, failing to protect Decedent while in custody, failing to
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1 provide safe conditions of confinement for Decedent, and failing to meet their statutory
2 obligations with respect to Decedent.

3 123. Defendants COUNTY and LOMA LINDA possessed the power and authority to
4 hire and fire employees and based upon information and belief and negligently hired
5 Defendants FITE, Responding Deputies, Responding Officers and UNIDENTIFIED
6 HEALTH CARE PROFESSIONALS, and each of them, and entrusted them with the
7 following duties: protect citizens during detainment and arrests, protect detainees and
8 arrestees in custody, provide safe conditions of confinement of detainees and arrestees,
9 provide adequate and statutorily compliant medical screening examinations.

10 124. By virtue of the foregoing, Defendants COUNTY and LOMA LINDA owed
11 Decedent a duty of due care, and that duty was breached by said Defendants' negligent
12 and careless manner in hiring, training, supervising and retaining by, among other
13 things:

- 14 a) Failing to adequately train its officers in the detention, arrest, and
15 custody of citizens;
- 16 b) Failing to adequately train its officers to protect citizens in custody and
17 to provide safe conditions of confinement for citizens in custody;
- 18 c) Failing to adequately investigate background, training and experience as
19 a officer and his propensity for disobedience;
- 20 d) Failing to provide adequate supervisory control over the actions of its
21 officers in regard to adequate training, supervision, equipment, planning, oversight,
22 and administration;
- 23 e) Failing to control the conduct of its officers who have a known
24 propensity for disobedience and in failing to discipline its officers;
- 25 f) Failing to investigate in good faith, allegations of abuse and failing to
26 protect citizens in custody by its officers;

1 g) Failing to discipline its officers who improperly fail to protect and to
2 provide safe conditions of confinement during custody of citizens;

3 h) Sanctioning, condoning and approving a law enforcement-wide custom
4 and practice of a code of silence, cover-up and dishonesty, and

5 i) Failing to provide an adequate medical screening examination to
6 Decedent.

7 125. Defendants FITE, Responding Deputies and Responding Officers are liable to
8 Plaintiff for said negligence pursuant to California Government Code § 820(a),
9 amongst other provisions.

10 126. Defendant COUNTY is liable to Plaintiff for said negligence pursuant to
11 California Government Code §§ 815.2(a), 815.4, 820(a), amongst other provisions.

12 127. As a direct and proximate result of the actions of Defendants, as complained of
13 herein, Decedent died, and Plaintiff has sustained substantial non-economic damages
14 of pain and suffering and emotional distress resulting from the loss of the love,
15 companionship, comfort, affection, society, attention, services, and moral support
16 damages of this Decedent in an amount according to proof at trial (except as to
17 Defendant LOMA LINDA).

18 128. As a direct and proximate result of the foregoing, Plaintiff and Decedent have
19 damages as recited above and demands and is entitled to, including, but not limited to,
20 punitive damages (except as to Defendant COUNTY and Defendant LOMA LINDA
21 for punitive damages), and any other relief allowable at law or in equity.

22 129. As a direct and proximate result of the above-described conduct of Defendant
23 LOMA LINDA, Decedent sustained general damages, including pain and suffering
24 and other hedonic damages, up to and ceasing at the time he was contacted by
25 Deputies as alleged herein, in an amount according to proof at trial.

26 130. As a direct and proximate result of the above-described conduct of all other
27 Defendants (except LOMA LINDA) the Decedent sustained general damages,
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1 including pain and suffering and other hedonic damages in an amount according to
2 proof at trial.

3 **NINTH CLAIM FOR RELIEF**

4 **Bane Act Violation (Civil Code § 52.1)**

5 **(Against all Defendants)**

6 131. Plaintiff re-alleges and incorporates herein by reference each and every
7 allegation and statement contained in paragraphs 21 through 41, as though fully set
8 forth herein.

9 132. The actions of all Defendants, as complained of herein, interfered with, and/or
10 attempted to interfere with, by use of threats, intimidation, and/or coercion, the
11 exercise or enjoyment by Decedent the rights secured to him by the California
12 Constitution and otherwise by California law, in violation of California Civil Code §
13 52.1. Specifically, Defendants failed to protect Decedent while in custody, failed to
14 provide medical care, and failed to provide safe conditions of confinement of
15 Decedent when said Defendants had a legal obligation to do so. Defendants violated
16 Decedent's freedom, independence, liberty, obtaining safety and happiness, and right
17 to be free from an unreasonable seizure of his person.

18 133. Defendants FITE, Responding Deputies and Responding Officers are liable to
19 Plaintiff for said violations of Decedent's constitutional rights, pursuant to California
20 Civil Code § 52.1, and California Government Code § 820(a), amongst other
21 provisions.

22 134. Defendant COUNTY is liable to Plaintiff for said violations of Decedent's
23 constitutional and statutory rights, pursuant to California Civil Code § 52.1, and
24 California Government Code §§ 815.2(a), 815.4, 820(a), amongst other provisions.

25 135. Defendants LOMA LINDA and Unidentified Health Care Professionals failed
26 to provide Decedent with an appropriate emergency screening examination. Rather,
27 Defendants LOMA LINDA and Unidentified Health Care Professionals wrongfully
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1 forcefully removed Decedent from the hospital prior to him receiving any appropriate
2 medical screening examination, despite the fact that Defendants LOMA LINDA and
3 Unidentified Health Care Professionals were actually aware of Decedent's need for
4 emergent treatment.

5 136. As a direct and proximate result of the actions of Defendants, as complained
6 of herein, Decedent died, and Plaintiff has sustained substantial non-economic
7 damages of pain and suffering and emotional distress resulting from the loss of the
8 love, companionship, comfort, affection, society, attention, services, and moral
9 support damages of this Decedent in an amount according to proof at trial (except as
10 to Defendant LOMA LINDA).

11 137. As a direct and proximate result of the foregoing, Plaintiff and Decedent have
12 damages as recited above and demands and is entitled to, including, but not limited to,
13 punitive damages (except as to Defendant COUNTY and Defendant LOMA LINDA
14 for punitive damages), treble compensatory damages, attorney's fees, and any other
15 relief allowable at law or in equity.

16 138. As a direct and proximate result of the above-described conduct of Defendant
17 LOMA LINDA, Decedent sustained general damages, including pain and suffering
18 and other hedonic damages, up to and ceasing at the time he was contacted by
19 Deputies as alleged herein, in an amount according to proof at trial

20 139. As a direct and proximate result of the above-described conduct of Defendants
21 (except LOMA LINDA) the Decedent sustained general damages, including pain and
22 suffering and other hedonic damages in an amount according to proof at trial.

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TENTH CLAIM FOR RELIEF

**Violation of California’s Public Records Act (Cal. Gov’t Code §§ 6250, et seq.)
(Against Defendant COUNTY)**

140. Plaintiff re-alleges and incorporates herein by reference each and every allegation and statement contained in paragraphs 21 through 41, as though fully set forth herein.

141. A California governmental entity has the duty to respond to a CPRA request made by an individual of the public.

142. Plaintiff is a member of the public and is beneficially interested in the outcome of these proceedings; he has a clear, present and substantial right to the relief sought herein. Plaintiff has no plain, speedy and adequate remedy at law other than that sought herein.

143. A member of the public who believes that public records are being improperly withheld may bring suit for mandate to enforce the CPRA. (Gov’t Code §§ 6258, 6259(a).) If the Court finds that the public official’s decision to refuse disclosure is not justified, it shall order the public official to make the records public. (*Id.* § 6259(b).)

144. Defendant COUNTY’s failure to provide a proper response to Plaintiff’s CPRA Requests and/or to produce responsive documents and names violates the California Public Records Act, which provides that “[p]ublic records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record, except as hereafter provided.” (Gov’t Code § 6253(a).)

145. Defendant COUNTY has a legal obligation to make all public records available for inspection by any member of the public upon request. Defendant COUNTY has not made a valid claim that any of the documents and information

1 sought are exempted from disclosure under proper statutory grounds for withholding
2 documents.

3 146. Defendant COUNTY has a policy and practice of not complying with the
4 CPRA.

5 147. As a result of Defendant COUNTY's violation of the CPRA, Plaintiff is
6 entitled to attorneys' fees, costs, and equitable relief from the Court to ensure
7 compliance by Defendant COUNTY with the CPRA.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiff requests entry of judgment in his favor and against
10 Defendants FITE, Responding Deputies, Responding Officers, COUNTY, LOMA
11 LINDA, and UNIDENTIFIED HEALTH CARE PROFESSIONALS as follows:

- 12 1. For general, special, hedonic, and compensatory damages in the amount to be
13 proven at trial;
- 14 2. For punitive damages in an amount to be proven at trial (save against COUNTY
15 and LOMA LINDA);
- 16 3. For interest;
- 17 4. For costs;
- 18 5. For reasonable costs of this suit and attorneys' fees pursuant to 42 U.S.C. §
19 1988;
- 20 6. For attorneys' fees pursuant to Civil Code §§ 52, 52.1;
- 21 7. Any civil penalties, including treble damages and a minimum of \$4,000.00; and,
- 22 8. For such further other relief as the Court may deem just, proper, and
23 appropriate.

24 AND WHEREFORE, Plaintiff requests entry of judgment in his favor and
25 against Defendants COUNTY as follows:

- 26 1. For reasonable costs of this suit and attorneys' fees;
- 27 2. For equitable relief to ensure compliance with the CPRA; and,

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3. For such further other relief as the Court may deem just, proper, and appropriate.

Date: January 30, 2023

CONLOGUE LAW, LLP

By: /s/Ashley M. Conlogue
Kevin S. Conlogue
Ashley M. Conlogue
Attorneys for Plaintiff
DEBORAH MOLLER

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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury.

Date: January 30, 2023

CONLOGUE LAW, LLP

By: /s/Ashley M. Conlogue _____
Kevin S. Conlogue
Ashley M. Conlogue
Attorneys for Plaintiff
DEBORAH MOLLER

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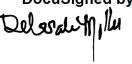
DECLARATION OF DEBORAH MOLLER

I, Deborah Moller, declare that if called as a witness, I could and would testify competently to the following, of my own personal knowledge:

1. Bret Breunig is deceased.
2. Decedent passed away on or about August 18, 2021 in County of San Bernardino, State of California.
3. No proceeding is now pending in California for administration of the Decedent’s estate.
4. I am the Decedent’s successor in interest (as defined in Section 377.11 of the California Code of Civil Procedure) and succeed to the Decedent’s interest in the action or proceeding as I am his biological mother.
5. No other person has a superior right to commence the action or proceeding or to be substituted for the Decedent in the pending action or proceeding as Decedent did not leave any issue.
6. Attached hereto as Exhibit 1 is a true and correct copy of Decedent’s death certificate and is incorporated herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on December 8, 2022, at 3:54pm DM.

DocuSigned by:

 0ED5CE56A77B4B3...

Deborah Moller

CERTIFICATION OF VITAL RECORD

COUNTY OF SAN BERNARDINO

DEPARTMENT OF PUBLIC HEALTH

351 N. MT. VIEW AVENUE, SAN BERNARDINO, CALIFORNIA 92415-0010

3052021223250

CERTIFICATE OF DEATH

3202136013455

Form containing personal data, usual residence, spouse and parent information, funeral directory, place of death, cause of death, physician's certification, and coroner's use only sections.

CERTIFIED COPY OF VITAL RECORD

STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

DATE ISSUED

OCT 19 2021

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Signature of Michael A. Sequeira, M.D.

MICHAEL A. SEQUEIRA, M.D.
COUNTY HEALTH OFFICER
REGISTRAR OF VITAL STATISTICS

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