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

STEPHEN CLARK; SE'QUETTE CLARK; A.C., a minor, by and through his Guardian Ad Litem, RAJNEESH MANNI; C.C., a minor, by and through his Guardian Ad Litem, RAJNEESH MANNI; SEQUITA EDDY THOMPSON; and TOMMY LEE THOMPSON,

Plaintiffs,

vs.

CITY OF SACRAMENTO; TERRENCE MERCADEL; JARED ROBINET; and DOES 1-10, inclusive,

Defendants.

Case No.

COMPLAINT FOR DAMAGES

1. Unreasonable Search and Seizure— Detention and Arrest (42 U.S.C. § 1983)
2. Unreasonable Search and Seizure— Excessive Force (42 U.S.C. § 1983)
3. Unreasonable Search and Seizure— Denial of Medical Care (42 U.S.C. § 1983)
4. Substantive Due Process—(42 U.S.C. § 1983)
5. Municipal Liability for Unconstitutional Custom, Practice, or Policy (42 U.S.C. § 1983)
6. Municipal Liability— Failure to Train (42 U.S.C. § 1983)
7. False Arrest/False Imprisonment
8. Battery (Wrongful Death)
9. Negligence (Wrongful Death)
10. Negligent Infliction of Emotional Distress
11. Violation of Bane Act (Cal. Civil Code § 52.1)

DEMAND FOR JURY TRIAL

COMPLAINT FOR DAMAGES

1. Plaintiffs STEPHEN CLARK, SE'QUETTE CLARK, A.C., a minor, by and through his Guardian Ad Litem, RAJNEESH MANNI, C.C., a minor, by and through his Guardian Ad Litem, RAJNEESH MANNI, SEQUITA EDDY THOMPSON, and TOMMY LEE THOMPSON for their complaint against Defendants CITY OF SACRAMENTO, TERRENCE MERCADEL, JARED ROBINET, and Does 1-10, inclusive, allege as follows:

1 **INTRODUCTION**

2 2. This civil rights action seeks compensatory and punitive damages from
3 Defendants for violating various rights under the United States Constitution and
4 state law in connection with the fatal police shooting of the DECEDENT, Stephon
5 Clark.

6 **PARTIES**

7 3. At all relevant times, Stephon Clark (“DECEDENT”) was an individual
8 residing in the County of Sacramento, California.

9 4. Plaintiff A.C. is a minor individual residing in the County of Sacramento,
10 California, and is the natural born son to DECEDENT. A.C. sues by and through
11 his natural grandfather and Guardian Ad Litem, RAJNEESH MANNI. A.C. sues
12 both in his individual capacity as the son of DECEDENT and in a representative
13 capacity as a successor-in-interest to DECEDENT. A.C. seeks both survival and
14 wrongful death damages under federal and state law.

15 5. Plaintiff C.C. is a minor individual residing in the County of Sacramento,
16 California, and is the natural born son to DECEDENT. C.C. sues by and through
17 his natural grandfather and Guardian Ad Litem, RAJNEESH MANNI. C.C. sues
18 both in his individual capacity as the son of DECEDENT and in a representative
19 capacity as a successor-in-interest to DECEDENT. C.C. seeks both survival and
20 wrongful death damages under federal and state law.

21 6. Plaintiff SE’QUETTE CLARK is an individual residing in Sacramento
22 County, California and was at all relevant times the natural mother of DECEDENT.
23 SE’QUETTE CLARK sues in her individual capacity and seeks wrongful death
24 damages under federal and state law.

25 7. Plaintiff STEPHEN CLARK is an individual residing in Sacramento County,
26 California and was at all relevant times the natural father of DECEDENT.
27 STEPHEN CLARK sues in his individual capacity and seeks wrongful death
28 damages under federal and state law.

1 8. Plaintiff SEQUITA EDDY THOMPSON is an individual residing in
2 Sacramento County, California and was at all relevant times the natural
3 grandmother of DECEDENT. SEQUITA EDDY THOMPSON sues in her
4 individual capacity and seeks negligent infliction of emotional distress damages
5 under state law.

6 9. Plaintiff TOMMY LEE THOMPSON is an individual residing in Sacramento
7 County, California and was at all relevant times the natural grandfather of
8 DECEDENT. TOMMY LEE THOMPSON sues in his individual capacity and
9 seeks negligent infliction of emotional distress damages under state law.

10 10. At all relevant times, Defendant CITY OF SACRAMENTO (“CITY”) is
11 and was a duly organized public entity, form unknown, existing under the laws of
12 the State of California. At all relevant times, CITY was the employer of
13 Defendants TERRENCE MERCADAL, JARED ROBINET and DOES 1-4, who
14 were CITY police officers, DOES 5-6, who were CITY police officers’
15 supervisory officers, and DOES 7-10, who were managerial, supervisory, and
16 policymaking employees of the CITY Police Department. On information and
17 belief, at all relevant times, TERRENCE MERCADAL, JARED ROBINET and
18 DOES 1-10 were residents of the County of Sacramento, California. TERRENCE
19 MERCADAL, JARED ROBINET and DOES 1-10 are sued in their individual
20 capacity for damages only.

21 11. At all relevant times, Defendants TERRENCE MERCADAL, JARED
22 ROBINET and DOES 1-10 were duly authorized employees and agents of CITY,
23 who were acting under color of law within the course and scope of their respective
24 duties as police officers and with the complete authority and ratification of their
25 principal, Defendant CITY.

26 12. At all relevant times, Defendants TERRENCE MERCADAL, JARED
27 ROBINET and DOES 1-10 were duly appointed officers and/or employees or
28

1 agents of CITY, subject to oversight and supervision by CITY's elected and non-
2 elected officials.

3 13. In doing the acts and failing and omitting to act as hereinafter described,
4 Defendants TERRENCE MERCADAL, JARED ROBINET and DOES 1-10 were
5 acting on the implied and actual permission and consent of CITY.

6 14. At all times mentioned herein, each and every CITY defendant was the
7 agent of each and every other CITY defendant and had the legal duty to oversee
8 and supervise the hiring, conduct and employment of each and every CITY
9 defendant.

10 15. The true names of defendants DOES 1 through 10, inclusive, are unknown
11 to Plaintiffs, who therefore sue these defendants by such fictitious names. Plaintiffs
12 will seek leave to amend this complaint to show the true names and capacities of
13 these defendants when they have been ascertained. Each of the fictitious named
14 defendants is responsible in some manner for the conduct and liabilities alleged
15 herein.

16 16. On September 4, 2018, Plaintiffs served their claims for damages with
17 CITY pursuant to applicable sections of the California Government Code.

18 17. On October 19, 2018, CITY rejected Plaintiffs' claims for damages by
19 operation of law.

20 18. By the time of filing this Complaint, CITY has not issued its findings as to
21 whether TERRENCE MERCADAL and JARED ROBINET's were found to be
22 within policy, whether they will be disciplined or not and whether CITY has
23 ratified their use of deadly force against DECEDENT. Accordingly, Plaintiffs
24 reserve the right to amend this Complaint once the CITY has issued its findings as
25 to the involved officers' use of deadly force.

26 **JURISDICTION AND VENUE**

27 19. This civil action is brought for the redress of alleged deprivations of
28 constitutional rights as protected by 42 U.S.C. §§ 1983, 1985, 1986, 1988, and the

1 Fourth and Fourteenth Amendments of the United States Constitution. Jurisdiction
2 is founded on 28 U.S.C. §§ 1331, 1343, and 1367.

3 20. Venue is proper in this Court under 28 U.S.C. § 1391(b), because
4 Defendants reside in, and all incidents, events, and occurrences giving rise to this
5 action occurred in the County of Sacramento, California.

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

8 21. Plaintiffs repeat and reallege each and every allegation in paragraphs 1
9 through 20 of this Complaint with the same force and effect as if fully set forth
10 herein.

11 22. On or about March 18, 2018, DECEDENT was at his family's residence
12 located on the 7500 block of 29th Street, in the Meadowview neighborhood of
13 Sacramento, California.

14 23. While at his residence located on the 7500 block of 29th Street, Officers
15 TERRENCE MERCADAL and JARED ROBINET discharged their firearms at
16 DECEDENT approximately twenty (20) times, striking him approximately eight
17 (8) times, including multiple shots to his back, causing DECEDENT serious
18 physical injury and eventually killing him.

19 24. Officers TERRENCE MERCADAL and JARED ROBINET fired
20 approximately twenty (20) gunshots at DECEDENT, including shots as he was
21 going to the ground and shots after he had already went down to the ground.

22 25. At the time of the shooting, DECEDENT was unarmed, with nothing but a
23 cell phone in his hand.

24 26. At the time of the shooting DECEDENT posed no immediate threat of death
25 or serious physical injury to either Officers TERRENCE MERCADAL or JARED
26 ROBINET, or any other person, especially since he was unarmed and since he was
27 going to the ground or already on the ground when he was shot, including multiple
28 shots to his back.

1 27. Both Officers TERRENCE MERCADAL and JARED ROBINET did not
2 give DECEDENT a verbal warning that deadly force would be used prior to
3 shooting DECEDENT multiple times, despite it being feasible to do so and they did
4 not issue appropriate commands to DECEDENT. Further, the involved officers did
5 not announce themselves as police prior to the shooting.

6 28. DECEDENT never verbally threatened anyone prior to being fatally shot by
7 Officers TERRENCE MERCADAL and JARED ROBINET. Further,
8 DECEDENT was not suspected of committing any serious crime, the involved
9 officers did not observe him commit any crime, the involved officers had no
10 information that DECEDENT was armed with a weapon, and there was no
11 information that DECEDENT had physically injured anyone.

12 29. The involved officers shot DECEDENT even though he was not an
13 immediate threat of death or serious bodily injury to the officers or anyone else and
14 there were other less than lethal options available. Officers TERRENCE
15 MERCADAL and JARED ROBINET did not show a reverence for human life.
16 The involved officers are responsible for every single shot they fired and this was
17 not an immediate defense of life situation.

18 30. On information and belief, Defendants TERRENCE MERCADAL and
19 JARED ROBINET had no information that DECEDENT had committed a felony.

20 31. After striking DECEDENT approximately eight (8) times, TERRENCE
21 MERCADAL and JARED ROBINET did not provide or summons timely medical
22 attention for DECEDENT, who was bleeding profusely and had obvious serious
23 injuries, and TERRENCE MERCADAL and JARED ROBINET also did not allow
24 and prevented responding medical personnel on-scene to timely render medical
25 aid/assistance to DECEDENT.

26 32. Plaintiff SE'QUETTE CLARK was dependent on DECEDENT, including
27 financially dependent.
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1 33. Plaintiff STEPHEN CLARK was dependent on DECEDENT, including
2 financially dependent.

3 **FIRST CLAIM FOR RELIEF**

4 **Unreasonable Search and Seizure—Detention and Arrest (42 U.S.C. §**
5 **1983)**

6 (By Plaintiffs A.C. and C.C. against Defendants Terrence Mercadal, Jared
7 Robinet and Does 1-4)

8 34. Plaintiffs repeat and reallege each and every allegation in paragraph 1
9 through 33 of this Complaint with the same force and effect as if fully set forth
10 herein.

11 35. Defendants TERRENCE MERCADAL, JARED ROBINET and DOES 1-4
12 caused DECEDENT to be detained and they attempted to arrest DECEDENT in
13 violation of his right to be secure in his person against unreasonable searches and
14 seizures as guaranteed to DECEDENT under the Fourth Amendment to the United
15 States Constitution and applied to state actors by the Fourteenth Amendment.

16 36. As a result of the conduct of TERRENCE MERCADAL, JARED
17 ROBINET and DOES 1-4, they are liable for DECEDENT's injuries because they
18 were integral participants to the violations of DECEDENT's rights.

19 37. The DECEDENT was detained without reasonable suspicion by
20 TERRENCE MERCADAL and JARED ROBINET and they attempted to arrest
21 DECEDENT without probable cause.

22 38. The conduct of TERRENCE MERCADAL, JARED ROBINET and DOES
23 1-4 was willful, wanton, malicious, and done with reckless disregard for the rights
24 and safety of DECEDENT and therefore warrants the imposition of exemplary and
25 punitive damages as to TERRENCE MERCADAL, JARED ROBINET and DOES
26 1-4.

27 39. Accordingly, Defendants TERRENCE MERCADAL, JARED ROBINET
28 and DOES 1-4, are each liable to Plaintiffs for compensatory and punitive damages,

1 including both survival damages and wrongful death damages, under 42 U.S.C. §
2 1983.

3 40. Plaintiffs also seek attorney fees under this claim.

4 **SECOND CLAIM FOR RELIEF**

5 **Unreasonable Search and Seizure—Excessive Force (42 U.S.C. § 1983)**

6 (By Plaintiffs A.C. and C.C. against Defendants Terrence Mercadal, Jared Robinet
7 and Does 1-4)

8 41. Plaintiffs repeat and reallege each and every allegation in paragraphs 1
9 through 40 of this Complaint with the same force and effect as if fully set forth
10 herein.

11 42. TERRENCE MERCADAL and JARED ROBINET's unjustified shooting
12 deprived DECEDENT of his right to be secure in his persons against unreasonable
13 searches and seizures as guaranteed to DECEDENT under the Fourth Amendment
14 to the United States Constitution and applied to state actors by the Fourteenth
15 Amendment.

16 43. The unreasonable use of force by Defendants TERRENCE MERCADAL
17 and JARED ROBINET deprived the DECEDENT of his right to be secure in his
18 person against unreasonable searches and seizures as guaranteed to DECEDENT
19 under the Fourth Amendment to the United States Constitution and applied to state
20 actors by the Fourteenth Amendment.

21 44. As a result, DECEDENT suffered extreme mental and physical pain and
22 suffering, loss of enjoyment of life and eventually suffered a loss of life and of
23 earning capacity. Plaintiffs have also been deprived of the life-long love,
24 companionship, comfort, support, society, care, and sustenance of DECEDENT,
25 and will continue to be so deprived for the remainder of their natural lives.
26 Plaintiffs are also claiming funeral and burial expenses and a loss of financial
27 support.
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1 45. As a result of the conduct of TERRENCE MERCADAL and JARED
2 ROBINET, they are liable for DECEDENT's injuries because they were integral
3 participants in the excessive force.

4 46. The use of deadly force was excessive because this was not an immediate
5 defense of life situation, the involved officers did not give a verbal warning that
6 deadly force would be used despite it being feasible to do so, there were no
7 commands given and there were other reasonable options available other than
8 shooting and killing DECEDENT.

9 47. This use of deadly force was excessive and unreasonable under the
10 circumstances, especially since DECEDENT was unarmed and he was going to the
11 ground or he was already on the ground for the many of the gunshots, including
12 shots to his back and shots from behind. The involved officers also fired twenty
13 (20) shots striking DECEDENT approximately eight (8) times. Defendants'
14 actions thus deprived DECEDENT of his right to be free from unreasonable
15 searches and seizures under the Fourth Amendment and applied to state actors by
16 the Fourteenth Amendment.

17 48. The conduct of TERRENCE MERCADAL and JARED ROBINET was
18 willful, wanton, malicious, and done with reckless disregard for the rights and
19 safety of DECEDENT and therefore warrants the imposition of exemplary and
20 punitive damages as to Defendants TERRENCE MERCADAL and JARED
21 ROBINET.

22 49. Plaintiffs bring this claim as successors-in-interest to the DECEDENT and
23 seek both survival and wrongful death damages for the violation of DECEDENT's
24 rights.

25 50. Plaintiffs also seek attorney fees under this claim.
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1 **THIRD CLAIM FOR RELIEF**

2 **Unreasonable Search and Seizure—Denial of Medical Care (42 U.S.C. § 1983)**

3 (By Plaintiffs A.C. and C.C. against Defendants Terrence Mercadal, Jared Robinet
4 and Does 1-4)

5 51. Plaintiffs repeat and reallege each and every allegation in paragraphs 1
6 through 50 of this Complaint with the same force and effect as if fully set forth
7 herein.

8 52. The denial of medical care by Defendants TERRENCE MERCADAL and
9 JARED ROBINET deprived DECEDENT of his right to be secure in his person
10 against unreasonable searches and seizures as guaranteed to DECEDENT under the
11 Fourth Amendment to the United States Constitution and applied to state actors by
12 the Fourteenth Amendment.

13 53. As a result, DECEDENT suffered extreme mental and physical pain and
14 suffering and eventually suffered a loss of life and earning capacity. Plaintiffs have
15 also been deprived of the life-long love, companionship, comfort, support, society,
16 care, and sustenance of DECEDENT, and will continue to be so deprived for the
17 remainder of their natural lives. Plaintiffs are also claiming funeral and burial
18 expenses and a loss of financial support.

19 54. Defendants TERRENCE MERCADAL and JARED ROBINET knew that
20 failure to provide timely medical treatment to DECEDENT could result in further
21 significant injury or the unnecessary and wanton infliction of pain, but disregarded
22 that serious medical need, causing DECEDENT great bodily harm and death.

23 55. After shooting DECEDENT multiple times, TERRENCE MERCADAL and
24 JARED ROBINET did not timely summon or provide timely medical attention for
25 DECEDENT, who was bleeding profusely and had obvious serious injuries, and
26 TERRENCE MERCADAL and JARED ROBINET also did not allow and
27 prevented responding medical personnel on-scene to timely render medical
28 aid/assistance to DECEDENT.

1 56. The conduct of Defendants TERRENCE MERCADAL and JARED
2 ROBINET was willful, wanton, malicious, and done with reckless disregard for the
3 rights and safety of DECEDENT and therefore warrants the imposition of
4 exemplary and punitive damages as to Defendants TERRENCE MERCADAL and
5 JARED ROBINET.

6 57. Plaintiffs bring this claim as successors-in-interest to DECEDENT and seek
7 both survival and wrongful death damages for the violation of DECEDENT's
8 rights.

9 58. Plaintiffs also seek attorney's fees under this claim.

10 **FOURTH CLAIM FOR RELIEF**

11 **Substantive Due Process (42 U.S.C. § 1983)**

12 (By Plaintiffs A.C., C.C., Stephen Clark and Se'Quette Clark against Defendants
13 Terrence Mercadal, Jared Robinet and Does 1-4)

14 59. Plaintiffs repeat and reallege each and every allegation in paragraphs 1
15 through 58 of this Complaint with the same force and effect as if fully set forth
16 herein.

17 60. A.C. had a cognizable interest under the Due Process Clause of the
18 Fourteenth Amendment of the United States Constitution to be free from state
19 actions that deprive him of life, liberty, or property in such a manner as to shock the
20 conscience, including but not limited to, unwarranted state interference in
21 Plaintiff's familial relationship with his father, DECEDENT.

22 61. C.C. had a cognizable interest under the Due Process Clause of the
23 Fourteenth Amendment of the United States Constitution to be free from state
24 actions that deprive him of life, liberty, or property in such a manner as to shock the
25 conscience, including but not limited to, unwarranted state interference in
26 Plaintiff's familial relationship with his father, DECEDENT.

27 62. SE'QUETTE CLARK had a cognizable interest under the Due Process
28 Clause of the Fourteenth Amendment of the United States Constitution to be free

1 from state actions that deprive her of life, liberty, or property in such a manner as to
2 shock the conscience, including but not limited to, unwarranted state interference in
3 Plaintiff's familial relationship with her son, DECEDENT.

4 63. STEPHEN CLARK had a cognizable interest under the Due Process Clause
5 of the Fourteenth Amendment of the United States Constitution to be free from
6 state actions that deprive him of life, liberty, or property in such a manner as to
7 shock the conscience, including but not limited to, unwarranted state interference in
8 Plaintiff's familial relationship with his son, DECEDENT.

9 64. As a result of the excessive force by TERRENCE MERCADAL and
10 JARED ROBINET, DECEDENT died. Plaintiffs A.C., C.C., SE'QUETTE
11 CLARK and STEPHEN CLARK were thereby deprived of their constitutional right
12 of familial relationship with DECEDENT.

13 65. TERRENCE MERCADAL and JARED ROBINET, acting under color of
14 state law, thus violated the Fourteenth Amendment rights of A.C., C.C.,
15 SE'QUETTE CLARK and STEPHEN CLARK to be free from unwarranted
16 interference with their familial relationship with DECEDENT.

17 66. The aforementioned actions of TERRENCE MERCADAL and JARED
18 ROBINET, along with other undiscovered conduct, shock the conscience, in that
19 they acted with deliberate indifference to the constitutional rights of DECEDENT
20 and Plaintiffs A.C., C.C., SE'QUETTE CLARK and STEPHEN CLARK with
21 purpose to harm unrelated to any legitimate law enforcement objective.

22 67. Defendants TERRENCE MERCADAL and JARED ROBINET, acting
23 under color of state law, thus violated the Fourteenth Amendment rights of
24 DECEDENT and Plaintiffs.

25 68. As a direct and proximate cause of the acts of TERRENCE MERCADAL
26 and JARED ROBINET, Plaintiffs suffered extreme and severe mental anguish and
27 pain and have been injured in mind and body. Plaintiffs have also been deprived of
28 the life-long love, companionship, comfort, support, society, care and sustenance of

1 DECEDENT, and will continue to be so deprived for the remainder of their natural
2 lives. Plaintiffs are also claiming funeral and burial expenses and a loss of
3 financial support.

4 69. As a result of the conduct of TERRENCE MERCADAL and JARED
5 ROBINET, they are liable for DECEDENT'S injuries because they were integral
6 participants in the denial of due process.

7 70. The conduct of TERRENCE MERCADAL and JARED ROBINET was
8 willful, wanton, malicious, and done with reckless disregard for the rights and
9 safety of DECEDENT and Plaintiffs and therefore warrants the imposition of
10 exemplary and punitive damages as to Defendants TERRENCE MERCADAL and
11 JARED ROBINET.

12 71. Plaintiffs bring this claim individually and seek wrongful death damages for
13 the violation of Plaintiffs' rights.

14 72. Plaintiffs also seek attorney fees under this claim.

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16 **FIFTH CLAIM FOR RELIEF**

17 **Municipal Liability for Unconstitutional Custom or Policy (42 U.S.C. § 1983)**

18 (By Plaintiffs A.C., C.C., Stephen Clark and Se'Quette Clark against Defendants
19 Does 5-10 and City)

20 73. Plaintiffs repeat and reallege each and every allegation in paragraphs 1
21 through 72 of this Complaint with the same force and effect as if fully set forth
22 herein.

23 74. On and for some time prior to March 18, 2018 (and continuing to the
24 present date) Defendants DOES 5-10, deprived Plaintiffs and DECEDENT of the
25 rights and liberties secured to them by the Fourth and Fourteenth Amendments to
26 the United States Constitution, in that said defendants and their supervising and
27 managerial employees, agents, and representatives, acting with gross negligence
28 and with reckless and deliberate indifference to the rights and liberties of the public

1 in general, and of Plaintiffs and DECEDENT, and of persons in their class,
2 situation and comparable position in particular, knowingly maintained, enforced
3 and applied an official recognized custom, policy, and practice of:

- 4 (a) Employing and retaining as police officers and other personnel,
5 including TERRENCE MERCADAL and JARED ROBINET whom
6 Defendants DOES 5-10, at all times material herein knew or reasonably
7 should have known had dangerous propensities for abusing their
8 authority and for mistreating citizens by failing to follow written CITY
9 Police Department policies;
- 10 (b) Of inadequately supervising, training, controlling, assigning, and
11 disciplining CITY Police Officers, and other personnel, who Defendant
12 CITY knew or in the exercise of reasonable care should have known
13 had the aforementioned propensities and character traits;
- 14 (c) By failing to adequately train officers, including TERRENCE
15 MERCADAL and JARED ROBINET, and failing to institute
16 appropriate policies, regarding the use of excessive force, including
17 deadly force;
- 18 (e) By having and maintaining an unconstitutional policy, custom, and
19 practice of using excessive force, including deadly force, which also is
20 demonstrated by inadequate training regarding these subjects. The
21 policies, customs, and practices of DOES 5-10 and CITY, were done
22 with a deliberate indifference to individuals' safety and rights; and
- 23 (f) Of totally inadequately training CITY Police Officers, TERRENCE
24 MERCADAL and JARED ROBINET, with respect to shooting
25 unarmed individuals, including, but not limited to, individuals holding
26 cell phones.
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1 75. By reason of the aforementioned policies and practices of Defendants DOES
2 5-10, DECEDENT was severely injured and subjected to pain and suffering and
3 lost his life.

4 76. Defendants DOES 5-10, together with various other officials, whether
5 named or unnamed, had either actual or constructive knowledge of the deficient
6 policies, practices and customs alleged in the paragraphs above. Despite having
7 knowledge as stated above these defendants condoned, tolerated and through
8 actions and inactions thereby ratified such policies. Said defendants also acted with
9 deliberate indifference to the foreseeable effects and consequences of these policies
10 with respect to the constitutional rights of DECEDENT, Plaintiffs, and other
11 individuals similarly situated.

12 77. By perpetrating, sanctioning, tolerating and ratifying the outrageous conduct
13 and other wrongful acts, Defendants DOES 5-10, acted with an intentional,
14 reckless, and callous disregard for the life of DECEDENT, and DECEDENT's and
15 Plaintiffs' constitutional rights. Defendants DOES 5-10, each of their actions were
16 willful, wanton, oppressive, malicious, fraudulent, and extremely offensive and
17 unconscionable to any person of normal sensibilities.

18 78. Furthermore, the policies, practices, and customs implemented and
19 maintained and still tolerated by Defendants DOES 5-10, were affirmatively linked
20 to and were a significantly influential force behind the injuries of DECEDENT and
21 Plaintiffs.

22 79. By reason of the aforementioned acts and omissions of Defendants DOES 5-
23 10, Plaintiffs were caused to medical expenses, incur funeral and related burial
24 expenses, and loss of financial support.

25 80. By reason of the aforementioned acts and omissions of Defendants DOES 5-
26 10, Plaintiffs have suffered loss of love, companionship, affection, comfort, care,
27 society, and future support.

28

1 81. Accordingly, Defendants DOES 5-10, each are liable to Plaintiffs for
2 compensatory damages under 42 U.S.C. § 1983.

3 82. Plaintiffs seek wrongful death and survival damages under this claim.

4 83. Plaintiffs also seek attorney fees under this claim.

5 **SIXTH CLAIM FOR RELIEF**

6 **Municipal Liability – Failure to Train (42 U.S.C. § 1983)**

7 (By Plaintiffs A.C., C.C., Stephen Clark and Se’Quette Clark against
8 Defendants Does 5-10 and City)

9 84. Plaintiffs repeat and reallege each and every allegation in paragraphs 1
10 through 83 of this Complaint with the same force and effect as if fully set forth
11 herein.

12 85. While acting under the color of state law and within the course and
13 scope of their employment as police officers for the CITY police department,
14 TERRENCE MERCADAL and JARED ROBINET’s shooting of DECEDENT, who
15 was unarmed with nothing in his hand but a cell phone, deprived DECEDENT of his
16 rights and liberties secured to him by the Fourth and Fourteenth Amendments,
17 including his right to be free from unreasonable search and seizure.

18 86. The training policies of the defendant CITY police department were not
19 adequate to train its police officers, including but not limited to, TERRENCE
20 MERCADAL and JARED ROBINET, with regards to using deadly force. As a
21 result, CITY police officers, including TERRENCE MERCADAL and JARED
22 ROBINET, are not able to handle the usual and recurring situations with which they
23 must deal, including making contact with unarmed individuals holding a cell phone.
24 These inadequate training policies existed prior to the date of this incident and
25 continue to this day.

26 87. The Defendant CITY police department was deliberately indifferent to
27 the known or obvious consequences of its failure to train its police officers, including
28 TERRENCE MERCADAL and JARED ROBINET, adequately with regards to using

1 deadly force. This inadequate training includes failing to teach officers to give a
2 verbal warning when feasible prior to using deadly force, to give commands when
3 feasible prior to using deadly force, to take cover when the officers believe an
4 individual is armed, to distinguish cell phones from guns, to announce themselves as
5 police and to use less than lethal options, prior to resorting to the use of deadly force.

6 88. CITY was aware that failure to implement some sort of training with
7 regards to their officers' use of deadly force and dealing with unarmed suspects,
8 including suspects with cell phones in their hands, would result in continuing to have
9 numerous unreasonable officer involved shootings of unarmed individuals annually.

10 89. The failure of the Defendant CITY police department to provide
11 adequate training with regards using deadly force, caused the deprivation of the
12 Plaintiff's rights by TERRENCE MERCADAL and JARED ROBINET. In other
13 words, the Defendant's failure to train is so closely related to the deprivation of the
14 Plaintiffs' rights as to be the moving force that caused the ultimate injury.

15 90. By failing to provide adequate training to CITY's police officers,
16 including TERRENCE MERCADAL and JARED ROBINET, Defendants DOES 5-
17 10, acted with an intentional, reckless, and callous disregard for the life of
18 DECEDENT, and DECEDENT's and Plaintiffs' constitutional rights. Defendants
19 DOES 5-10, each of their actions were willful, wanton, oppressive, malicious,
20 fraudulent, and extremely offensive and unconscionable to any person of normal
21 sensibilities.

22 91. By reason of the aforementioned acts and omissions of Defendants
23 DOES 5-10, Plaintiffs were caused to incur medical expenses, incur funeral and
24 related burial expenses, and loss of financial support.

25 92. By reason of the aforementioned acts and omissions of Defendants
26 DOES 5-10, Plaintiffs have suffered loss of love, companionship, affection, comfort,
27 care, society, and future support.

28

1 93. Accordingly, Defendants DOES 5-10, each are liable to Plaintiffs for
2 compensatory damages under 42 U.S.C. § 1983.

3 94. Plaintiffs seek wrongful death and survival damages under this claim.

4 95. Plaintiffs also seek statutory attorney fees under this claim.
5

6 **SEVENTH CLAIM FOR RELIEF**

7 **False Arrest/False Imprisonment (Cal. Govt. Code § 820 and California**
8 **Common Law)**
9 **(Wrongful Death)**

10 (By Plaintiffs A.C., C.C., Stephen Clark and Se'Quette Clark against Defendants
11 Terrence Mercadal, Jared Robinet, Does 1-4 and City)

12 96. Plaintiffs repeat and reallege each and every allegation in paragraphs 1
13 through 95 of this Complaint with the same force and effect as if fully set forth
14 herein.

15 97. Defendants TERRENCE MERCADAL and JARED ROBINET, while
16 working as police officers for CITY, and acting within the course and scope of their
17 duties, intentionally deprived DECEDENT of his freedom of movement by use of
18 force, threats of force and unreasonable duress when Defendants TERRENCE
19 MERCADAL and JARED ROBINET shot DECEDENT multiple times and killed
20 him. Defendants TERRENCE MERCADAL and JARED ROBINET intentionally
21 shot at DECEDENT in order to detain him. Defendants TERRENCE MERCADAL
22 and JARED ROBINET also detained DECEDENT without reasonable suspicion.
23 There was an attempt by TERRENCE MERCADAL and JARED ROBINET to arrest
24 DECEDENT without probable cause.

25 98. DECEDENT did not knowingly or voluntarily consent to his detention
26 or attempted arrest. On information and belief DECEDENT did not feel that he was
27 free to leave as he lay dying on the ground. By shooting and killing DECEDENT,
28 Defendants TERRENCE MERCADAL and JARED ROBINET, deprived

1 DECEDENT, who was unarmed, of his liberty without justification. Further,
2 Defendants TERRENCE MERCADAL and JARED ROBINET did not have
3 probable cause to believe that DECEDENT, specifically, had committed any crime.

4 99. The conduct against DECEDENT by Defendants TERRENCE
5 MERCADAL and JARED ROBINET, by shooting multiple shots at DECEDENT,
6 was a substantial factor in causing the harm of DECEDENT, namely his death.

7 100. CITY is vicariously liable for the wrongful acts of Defendants
8 TERRENCE MERCADAL and JARED ROBINET pursuant to section 815.2(a) of
9 the California Government Code, which provides that a public entity is liable for the
10 injuries caused by its employees within the scope of the employment if the
11 employee's act would subject him or her to liability.

12 101. The conduct of Defendants TERRENCE MERCADAL and JARED
13 ROBINET was malicious, wanton, oppressive, and accomplished with a conscious
14 disregard for the rights of DECEDENT, entitling Plaintiffs to an award of exemplary
15 and punitive damages.

16 102. Plaintiffs are seeking both survival and wrongful death damages under
17 this claim.

18
19 **EIGHTH CLAIM FOR RELIEF**

20 **Battery (Cal. Govt. Code § 820 and California Common Law)**

21 (Wrongful Death)

22 (By Plaintiffs A.C., C.C., Stephen Clark and Se'Quette Clark against Defendants
23 Terrence Mercadal, Jared Robinet, Does 1-4 and City)

24 103. Plaintiffs repeat and reallege each and every allegation in paragraphs 1
25 through 102 of this Complaint with the same force and effect as if fully set forth
26 herein.

27 104. TERRENCE MERCADAL and JARED ROBINET, while working as
28 police officers for the CITY Police Department, and acting within the course and

1 scope of their duties, intentionally shot DECEDENT multiple times, including shots
2 to his back, shots while DECEDENT was going to the ground and shots after
3 DECEDENT had already went down to the ground, striking DECEDENT eight
4 times. Further, DECEDENT was unarmed at the time of the shooting with nothing
5 in his hands but a cell phone and the involved officers did not give any verbal
6 warning or commands prior to shooting DECEDENT. The use of deadly force was
7 also unreasonable because there were clearly less than lethal options available. As a
8 result of the actions of TERRENCE MERCADAL and JARED ROBINET,
9 DECEDENT suffered severe mental and physical pain and suffering, loss of
10 enjoyment of life and ultimately died from his injuries and lost earning capacity.
11 TERRENCE MERCADAL and JARED ROBINET had no legal justification for
12 using force against DECEDENT and said Defendants' use of force while carrying
13 out their officer duties was an unreasonable use of force, especially since
14 DECEDENT was unarmed when he was fatally shot without verbal warning,
15 including shots as DECEDENT was going down to the ground and shots after he had
16 already went down to the ground. As a direct and proximate result of Defendants'
17 conduct as alleged above, Plaintiffs suffered extreme and severe mental anguish and
18 pain and have been injured in mind and body. Plaintiffs also have been deprived of
19 the life-long love, companionship, comfort, support, society, care and sustenance of
20 DECEDENT, and will continue to be so deprived for the remainder of their natural
21 lives. Plaintiffs are also claiming funeral and burial expenses and a loss of financial
22 support.

23 105. CITY is vicariously liable for the wrongful acts of TERRENCE
24 MERCADAL and JARED ROBINET pursuant to section 815.2(a) of the California
25 Government Code, which provides that a public entity is liable for the injuries caused
26 by its employees within the scope of the employment if the employee's act would
27 subject him or her to liability.

28

1 106. The conduct of TERRENCE MERCADAL and JARED ROBINET was
2 malicious, wanton, oppressive, and accomplished with a conscious disregard for the
3 rights of Plaintiffs and DECEDENT, entitling Plaintiffs, individually and as
4 successors-in-interest to DECEDENT, to an award of exemplary and punitive
5 damages.

6 107. Plaintiffs bring this claim both individually and as successors-in-
7 interest to DECEDENT, and seek both survival and wrongful death damages.

8 **NINTH CLAIM FOR RELIEF**

9 **Negligence (Cal. Govt. Code § 820 and California Common Law)**

10 (Wrongful Death)

11 (By Plaintiffs A.C., C.C., Stephen Clark and Se'Quette Clark against all
12 Defendants)

13 108. Plaintiffs repeat and reallege each and every allegation in paragraphs 1
14 through 107 of this Complaint with the same force and effect as if fully set forth
15 herein.

16 109. The actions and inactions of the Defendants were negligent, including
17 but not limited to:

- 18 (a) the failure to properly and adequately train employees, including
19 TERRENCE MERCADAL and JARED ROBINET, with regards to the
20 use of force, including deadly force;
21 (b) the failure to properly and adequately assess the need to detain, arrest,
22 and use force, including deadly force against DECEDENT;
23 (c) the negligent tactics and handling of the situation with DECEDENT,
24 including pre-shooting negligence;
25 (d) the negligent detention, arrest, and use of force, including deadly force,
26 against DECEDENT;
27 (e) the failure to provide and or summons prompt medical care to
28 DECEDENT;

- 1 (f) shooting an unarmed individual who had nothing in his hands but a cell
- 2 phone;
- 3 (g) failure to train with regards to objects easily distinguishable from guns;
- 4 (h) the failure to give a verbal warning or any kind of command prior to
- 5 shooting; and
- 6 (i) the failure to properly train and supervise employees, both professional
- 7 and non-professional, including TERRENCE MERCADAL and
- 8 JARED ROBINET.

9 110. As a direct and proximate result of defendants' conduct as alleged
10 above, and other undiscovered negligent conduct, DECEDENT was caused to suffer
11 severe pain and suffering and ultimately died and lost earning capacity. Also as a
12 direct and proximate result of defendants' conduct as alleged above, Plaintiffs
13 suffered extreme and severe mental anguish and pain and have been injured in mind
14 and body. Plaintiffs also have been deprived of the life-long love, companionship,
15 comfort, support, society, care and sustenance of DECEDENT, and will continue to
16 be so deprived for the remainder of their natural lives. Plaintiffs also are claiming
17 funeral and burial expenses and a loss of financial support under this claim.

18 111. CITY is vicariously liable for the wrongful acts of TERRENCE
19 MERCADAL and JARED ROBINET pursuant to section 815.2 of the California
20 Government Code, which provides that a public entity is liable for the injuries caused
21 by its employees within the scope of the employment if the employee's act would
22 subject him or her to liability.

23 112. Plaintiffs bring this claim individually and as successors-in-interest to
24 DECEDENT, and seek both survival and wrongful death damages.

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TENTH CLAIM FOR RELIEF

Negligent Infliction of Emotional Distress

(Cal. Govt. Code § 829 and California Common Law)

(By Sequita Eddy Thompson and Tommy Lee Thompson against Defendants Terrence Mercadal, Jared Robinet, Does 1-4 and City)

113. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1-112 of this Complaint with the same force and effect as if fully set forth herein.

114. TERRENCE MERCADAL and JARED ROBINET negligently caused physical injury and death to DECEDENT when TERRENCE MERCADAL and JARED ROBINET discharged their firearms at DECEDENT, striking him multiple times and eventually killing him. The use of deadly force by TERRENCE MERCADAL and JARED ROBINET was excessive, unreasonable and TERRENCE MERCADAL and JARED ROBINET were negligent in discharging their firearms at DECEDENT, including pre-shooting negligent conduct, actions, inactions and tactics.

115. SEQUITA EDDY THOMPSON was present at the scene, which is her residence, when TERRENCE MERCADAL and JARED ROBINET fatally discharged their firearms at DECEDENT and SEQUITA EDDY THOMPSON was aware that DECEDENT was being injured.

116. TOMMY LEE THOMPSON was present at the scene, which is his residence, when TERRENCE MERCADAL and JARED ROBINET fatally discharged their firearms at DECEDENT and TOMMY LEE THOMPSON was aware that DECEDENT was being injured.

117. As a result of being present at the scene and perceiving her grandson, DECEDENT, being fatally shot by TERRENCE MERCADAL and JARED ROBINET, SEQUITA EDDY THOMPSON suffered serious emotional distress, including but not limited to, suffering anguish, fright, horror, nervousness, grief, anxiety, worry, shock, humiliation, and shame.

1 118. As a result of being present at the scene and perceiving his grandson,
2 DECEDENT, being fatally shot by TERRENCE MERCADAL and JARED
3 ROBINET, TOMMY LEE THOMPSON suffered serious emotional distress,
4 including but not limited to, suffering anguish, fright, horror, nervousness, grief,
5 anxiety, worry, shock, humiliation, and shame.

6 119. On information and belief, any ordinary reasonable person would be
7 unable to cope with seeing their grandson fatally shot multiple times by the police,
8 especially at their own residence.

9 120. CITY is vicariously liable for the wrongful acts of Defendants
10 TERRENCE MERCADAL and JARED ROBINET, inclusive, pursuant to section
11 815.2(a) of the California Government Code, which provides that a public entity is
12 liable for the injuries caused by its employees within the scope of the employment if
13 the employee's act would subject him or her to liability.

14 121. SEQUITA EDDY THOMPSON and TOMMY LEE THOMPSON
15 bring this claim individually and seek damages under this claim as individuals.

16
17 **ELEVENTH CLAIM FOR RELIEF**

18 **Violation of Bane Act (Cal. Civil Code § 52.1)**

19 (By Plaintiffs A.C. and C.C. against Defendants Terrence Mercadal, Jared Robinet
20 and Does 1-4)

21 122. Plaintiffs repeat and reallege each and every allegation in paragraphs 1
22 through 121 of this Complaint with the same force and effect as if fully set forth
23 herein.

24 123. California Civil Code, Section 52.1 (the Bane Act), prohibits any
25 person from interfering with another person's exercise or enjoyment of his
26 constitutional rights by threats, intimidation, or coercion (or by the use of
27 unconstitutionally excessive force).
28

1 124. Conduct that violates the Fourth Amendment violates the California
2 Bane Act.

3 125. Defendants TERRENCE MERCADAL and JARED ROBINET's use
4 of deadly force was excessive and unreasonable under the circumstances, especially
5 since DECEDENT was unarmed with nothing but a cell phone in his hand when he
6 was fatally shot. Further, the involved officers did not give a verbal warning or any
7 commands prior to fatally shooting DECEDENT, despite being feasible to do so and
8 some of the gunshots occurred as DECEDENT was going to the ground and after he
9 had already went down to the ground. Defendants' actions thus deprived
10 DECEDENT of his right to be free from unreasonable searches and seizures under
11 the Fourth Amendment and applied to state actors by the Fourteenth Amendment.

12 126. The DECEDENT was detained without reasonable suspicion and
13 TERRENCE MERCADAL and JARED ROBINET attempted to arrest DECEDENT
14 without probable cause. Defendants' actions thus deprived DECEDENT of his right
15 to be free from unreasonable searches and seizures under the Fourth Amendment and
16 applied to state actors by the Fourteenth Amendment.

17 127. TERRENCE MERCADAL and JARED ROBINET intentionally
18 violated DECEDENT's rights under § 1983 by detaining DECEDENT without
19 reasonable suspicion, by attempting to arrest DECEDENT without probable cause,
20 and by using excessive deadly force against DECEDENT, including but not limited
21 to, shooting the unarmed DECEDENT without warning, including shots to his back
22 and shots from behind. Further, these acts by TERRENCE MERCADAL and
23 JARED ROBINET demonstrate that they had a reckless disregard for
24 DECEDENT's constitutional rights.

25 128. At the time of the shooting DECEDENT did not pose an immediate
26 threat of death or serious bodily injury and DECEDENT never verbally threatened
27 anyone prior to the shooting. There is direct and circumstantial evidence that
28 TERRENCE MERCADAL and JARED ROBINET intentionally violated

1 DECEDENT's rights under § 1983 by unlawfully detaining him, by attempting to
2 unlawfully arrest him and by fatally shooting DECEDENT multiple times, including
3 shots to his back, shots from behind, shots while he was going to the ground and
4 shots after he had already went down to the ground.

5 129. TERRENCE MERCADAL and JARED ROBINET, while working as
6 police officers for the CITY Police Department, and acting within the course and
7 scope of their duties, interfered with or attempted to interfere with the rights of
8 DECEDENT to be free from unreasonable searches and seizures, to equal protection
9 of the laws, to access to the courts, and to be free from state actions that shock the
10 conscience, by threatening or committing acts involving violence, threats, coercion,
11 or intimidation. DECEDENT, an African-American male, was also racially profiled
12 by the involved officers.

13 130. DECEDENT was caused to suffer extreme mental and physical pain
14 and suffering and eventually suffered a loss of life and of earning capacity. Plaintiffs
15 have also been deprived of the life-long love, companionship, comfort, support,
16 society, care, and sustenance of DECEDENT, and will continue to be so deprived for
17 the remainder of their natural lives. Plaintiffs are also claiming funeral and burial
18 expenses and a loss of financial support.

19 131. The conduct of TERRENCE MERCADAL and JARED ROBINET was
20 a substantial factor in causing the harms, losses, injuries, and damages of
21 DECEDENT and Plaintiffs.

22 132. CITY is vicariously liable for the wrongful acts of TERRENCE
23 MERCADAL and JARED ROBINET pursuant to section 815.2(a) of the California
24 Government Code, which provides that a public entity is liable for the injuries caused
25 by its employees within the scope of the employment if the employee's act would
26 subject him or her to liability.

27 133. The conduct of TERRENCE MERCADAL and JARED ROBINET was
28 malicious, wanton, oppressive, and accomplished with a conscious disregard for the

1 rights of DECEDENT entitling Plaintiffs to an award of exemplary and punitive
2 damages.

3 134. Plaintiffs bring this claim as successors-in-interest to the DECEDENT,
4 and seek survival damages for the violation of DECEDENT's rights.

5 135. The Plaintiffs also seek attorney fees under this claim.

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DATED: January 28, 2019

BEN CRUMP LAW, PLLC

/s/ Ben Crump

Ben Crump
Attorney for Plaintiffs

