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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ROXANNE MORALES, individually; SESELIE
MCKNIGHT, individually and as successor-in-
interest to Decedent AUGUSTINE MORALES;

Plaintiffs,

v.

CITY OF SACRAMENTO, a municipal
corporation; JEREMIAH JARVIS, in his individual
capacity as a law enforcement officer for the CITY
OF SACRAMENTO; and DOES 1-50, inclusive.

Defendants.

Case No.:

COMPLAINT FOR DAMAGES
(42 U.S.C §1983)

JURY TRIAL DEMANDED

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INTRODUCTION

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2 1. On the evening of November 14, 2020, Augustine Morales was attending a boxing event
3 held in a Sacramento warehouse. At some point, an unidentified individual brandished a gun
4 inside the warehouse, while Mr. Morales was outside of the warehouse.

5 2. Sacramento Police Department Sergeant Jeremiah Jarvis happened to be nearby when the
6 gunman inside the warehouse began firing shots. Before Sgt. Jarvis could get inside the
7 warehouse to ascertain who was firing the shots, he encountered Mr. Morales hiding behind a car
8 with his back turned to the officer. Mr. Morales had drawn his legally registered, unloaded
9 firearm in self-defense and was holding it by his side as he hid from the shooter.

10 3. Sgt. Jarvis approached Mr. Morales from behind and was absolutely silent: he did not
11 identify himself as law enforcement, give any commands or issue any warnings to Mr. Morales.
12 In short, Sgt. Jarvis never gave Mr. Morales a chance. Sgt. Jarvis shot Mr. Morales several times
13 in the back. The first screenshot below is taken from Sgt. Jarvis' body-worn camera footage
14 when he fired and the second screenshot is from the warehouse's security camera footage. Both
15 images show that Mr. Morales' arms were at his side when Sgt. Jarvis shot.





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13 4. Mr. Morales had not even turned in Sgt. Jarvis’ general direction before he was shot and
14 appeared completely unaware of the officer’s presence. Mr. Morales dying words to Sgt. Jarvis
15 were — “I didn’t shoot nobody, I didn’t shoot nobody.” It is a true and damning statement. The
16 officer let the unidentified gunman who opened fire into a crowd of people go free and shot an
17 innocent man in the back.

18 5. Tragically, Mr. Morales was pronounced dead soon after. Plaintiffs are now forced to live
19 without a loving son, father, and brother.

20 **JURISDICTION**

21 6. This action arises under Title 42 of the United States Code, Section 1983. Title 28 of the
22 United States Code, Sections 1331 and 1343 confers jurisdiction upon this Court. The unlawful
23 acts and practices alleged herein occurred in SACRAMENTO, California, which is within this
24 judicial district. Title 28 United States Code Section 1391(b) confers venue upon this Court.

25 **PARTIES**

7. Decedent AUGUSTINE MORALES was a resident of Sacramento County and a citizen

1 of the United States.

2 8. Plaintiff ROXANNE MORALES is a competent adult and sues in her individual
3 capacity. Plaintiff ROXANNE MORALES is the biological mother of Decedent. Plaintiff
4 ROXANNE MORALES brings these claims individually on the basis of 42 USC §§1983 and
5 1988, the United States Constitution, and federal civil rights law. Plaintiff also brings these
6 claims as Private Attorney General, to vindicate not only their rights, but also others' civil rights
7 of great importance.

8 9. Plaintiff SESELIE MCKNIGHT is a competent adult and sue both in her individual
9 capacity and as co-successor-in-interest to Decedent AUGUSTINE MORALES. Plaintiff
10 SESELIE MCKNIGHT is the biological daughter of Decedent. Decedent AUGUSTINE
11 MORALES died unmarried. Plaintiff SESELIE MCKNIGHT brings these claims individually
12 and on behalf of Decedent AUGUSTINE MORALES pursuant to California Code of Civil
13 Procedure §§377.20 et seq. and 377.60 et seq., which provide for survival and wrongful death
14 actions. The wrongful death and survival claims survive the death of AUGUSTINE
15 MORALES.; both arise from the same wrongful act or neglect of another; and such claims are
16 properly joined pursuant to California Code of Civil Procedure §377.62. Plaintiff also brings her
17 claims on the basis of 42 USC §§1983 and 1988, the United States Constitution, and federal
18 civil rights law. Plaintiff also brings these claims as Private Attorney General, to vindicate not
19 only their rights, but also others' civil rights of great importance.
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21 10. Defendant CITY OF SACRAMENTO (“Defendant City”) is and at all times herein
22 mentioned a municipal entity duly organized and existing under the laws of the State of
23 California that manages and operates the SACRAMENTO POLICE DEPARTMENT.

24 11. Defendant JEREMIAH JARVIS was, and at all times herein, is a police officer for the
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1 City of Sacramento and is sued in his individual capacity.

2 12. Plaintiffs are ignorant of the true names and/or capacities of defendants sued herein as

3 DOES 1 through 50, inclusive, and therefore sue said defendants by such fictitious names.

4 Plaintiffs will amend this complaint to allege the true names and capacities when ascertained.

5 Plaintiffs believe and allege that each of the DOE defendants is legally responsible and liable for

6 the incident, injuries and damages hereinafter set forth. Each defendant proximately caused

7 injuries and damages because of their negligence, breach of duty, negligent supervision,

8 management or control, violation of public policy, and false arrests. Each defendant is liable for

9 his/her personal conduct, vicarious or imputed negligence, fault, or breach of duty, whether

10 severally or jointly, or whether based upon agency, employment, ownership, entrustment,

11 custody, care or control or upon any other act or omission. Plaintiffs will ask leave to amend

12 this complaint subject to further discovery.

13
14 13. In doing the acts alleged herein, Defendants and each of them, acted within the course
15 and scope of their employment for CITY OF SACRAMENTO.

16 14. In doing the acts and/or omissions alleged herein, Defendants, and each of them, acted
17 under color of authority and/or under color of law.

18 15. Due to the acts and/or omissions alleged herein, Defendants, and each of them, acted as
19 the agent, servant, and employee and/or in concert with each of said other Defendants herein.

20 16. Plaintiffs served timely government tort claims which were rejected by operation of law.

21 **FACTUAL ALLEGATIONS**

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23 17. On the night of November 14, 2020, Augustine Morales was one of many attendees at
24 “Gunz Down, Gloves Up: Northside Edition”, a community anti-gun violence event with food,

1 music, and an unsanctioned boxing match. The event was hosted in a North Sacramento
2 warehouse that is accessible from Juliese Avenue.

3 18. The event had not received the necessary legal approval from the California State
4 Athletic Commission or the City of Sacramento, nor did it comply with the applicable COVID-
5 19 restrictions that had been implemented. Nevertheless, the Sacramento Police Department did
6 not shut down the event.

7 19. At some point, an unidentified individual brandished a firearm, causing many attendees
8 to flee. Mr. Morales was outside the warehouse, hiding behind cars parked at the venue.

9 20. Footage from the body-worn camera (BWC) of Sacramento Police Department Sergeant
10 Jeremiah Jarvis showed that he was on-scene for several minutes attempting to ascertain the
11 nature of the event.

12 21. Eventually, an attendee told Sgt. Jarvis, “There’s somebody in there with a gun.” When
13 Sgt. Jarvis asked the attendee what the gunman looked like, the man told him it was a “Mexican
14 guy.” The man then urgently told the officer, “Go in there, go in there” in reference to the
15 warehouse, indicating that the unidentified gunman was inside the building.

16 22. As Sgt. Jarvis walked toward the warehouse, gunfire erupted from inside the warehouse.
17 Sgt. Jarvis ran towards the building with his weapon drawn.

18 23. Sgt. Jarvis then encountered Mr. Morales outside the warehouse hiding from the gunman
19 behind a car with his back to the officer. Mr. Morales had drawn his legally registered firearm in
20 self-defense and was holding it by his side.

21 24. Sgt. Jarvis briefly glimpsed the gun in Mr. Morales’ hands. Mr. Morales was slowly
22 backing away from the gunman inside the warehouse with his hands at his side when Sgt. Jarvis
23 ran up behind him.

24 25. Sgt. Jarvis was silent - he did not identify himself as law enforcement, give any
25 commands or issue any warnings to Mr. Morales. In short, Sgt. Jarvis never gave Mr. Morales a

1 chance. Instead, in total disregard to the fact that Sgt. Jarvis had been told the gunman was inside
2 the warehouse, BWC footage showed that he immediately began firing into the back of Mr.
3 Morales. Sgt. Jarvis did not even stop running before he began shooting, but continued firing as
4 he moved around Mr. Morales in a circular path.

5 26. At the time he was shot, Mr. Morales appeared completely unaware of the sergeant's
6 presence and remained facing the opposite direction of the sergeant without any movements
7 suggesting that he was turning in his direction.

8 27. Sgt. Jarvis shot Mr. Morales numerous times in the back. Mr. Morales was dying between
9 two cars, but managed to tell the sergeant, "I didn't shoot nobody, I didn't shoot nobody." Mr.
10 Morales's registered firearm had fallen under one of the nearby cars. When Sgt. Jarvis
11 commanded Mr. Morales to "drop the gun", Mr. Morales immediately did so. He slid the gun
12 across the pavement to Sgt. Jarvis, further demonstrating to the officer that he was not a threat,
13 even after being shot.

14 28. Mr. Morales' firearm, a Smith & Wesson 9 mm pistol, was legally registered to him. It is
15 a factual impossibility that Mr. Morales fired the shots heard by Sgt. Jarvis; the magazine of his
16 firearm was found near his car, approximately 75 feet away. The weapon also had a magazine
17 safety which prevent it from being able to fire a chambered round without the magazine.
18 Furthermore, none of the shell casings at the scene came from Mr. Morales' firearm, and a
19 gunshot residue test taken on Mr. Morales found that he had not fired a weapon.

20 29. After Sgt. Jarvis repeatedly shot him, Mr. Morales remained on the ground, bleeding out,
21 for more than two minutes, while the officer stood over him with his gun drawn and attendees
22 walked past. At least one attendee stepped over Mr. Morales in an attempt to get into his vehicle.

23 30. Tragically, Mr. Morales soon succumbed to the gunshot wounds and was pronounced
24 dead on November 14, 2020, after being transported to UC Davis Medical Center.
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DAMAGES

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2 31. As a direct and proximate result of each of the Defendant’s unreasonable and excessive
3 force, Decedent and Plaintiffs suffered injuries, emotional distress, fear, terror, anxiety,
4 humiliation, and loss of sense of security, dignity, and pride as United States Citizens.

5 32. As a direct and proximate result of each Defendant’s acts and/or omissions as set forth
6 above, Plaintiffs sustained the following injuries and damages, past and future, among others.

- 7 a. Wrongful death of AUGUSTINE MORALES;
- 8 b. Hospital and medical expenses;
- 9 c. Coroner’s fees, funeral and burial expenses;
- 10 d. Loss of familial relationships, including loss of love, companionship, comfort,
11 affection, society, services, solace, and moral support;
- 12 e. Pain and Suffering, including emotional distress (by all Plaintiffs, based on
13 individual §1983 claim for loss of familial association);
- 14 f. AUGUSTINE MORALES’ conscious pain and suffering, pursuant to federal civil
15 rights law (Survival claims);
- 16 g. AUGUSTINE MORALES’ loss of life, pursuant to federal civil rights law; and
- 17 h. Violation of constitutional rights;
- 18 i. All damages, penalties, and attorneys’ fees and costs recoverable under 42 U.S.C.
19 §§ 1983, 1988; California Civil Code §§ 52, 52.1, California Code of Civil
20 Procedure § 1021.5, and as otherwise allowed under California and United States
21 statutes, codes, and common law.
22

23 33. The conduct of Defendants CITY OF SACRAMENTO, JEREMIAH JARVIS and DOES
24 1-50 was malicious, wanton, oppressive, and in reckless disregard of the rights and safety of
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1 AUGUSTINE MORALES, Plaintiffs, and the public. Plaintiffs are therefore entitled to an
2 award of punitive damages against Defendant JEREMIAH JARVIS and DOES 1-50.

3 **CAUSES OF ACTION**

4 **FIRST CAUSE OF ACTION**

5 **(Fourth Amendment – Excessive Force under 42 U.S.C. Section 1983)**

6 *(Plaintiff MCKNIGHT as successor-in-interest to Decedent’s survival claim against Defendant
7 JARVIS)*

8 34. Plaintiff hereby re-alleges and incorporates by reference each and every paragraph of
9 this Complaint.

10 35. When Defendant Jarvis shot Decedent, Decedent was not a credible threat, as he was
11 facing away from the Defendant and hiding behind a car from an unknown gunman.

12 Defendant’s conduct deprived Decedent of his right to be secure in his person against
13 unreasonable searches and seizures as guaranteed to Decedent under the Fourth Amendment to
14 the United States Constitution.

15 36. As a result of this misconduct, Defendant Jarvis is liable for Decedent’s injuries.

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

17 **SECOND CAUSE OF ACTION**

18 **Violation of Plaintiff’s 14th Amendment Rights**

19 *(Plaintiffs Against Defendant JARVIS)*

20 37. Plaintiffs hereby re-allege and incorporate each and every paragraph in this Complaint
21 as fully set forth here.

22 38. Defendant Jarvis’ use of deadly force when he shot Mr. Morales in the back as he hid
23 from an active shooter was done without providing a verbal warning. Defendant Jarvis’s use of
24 deadly force was in reckless disregard for Decedent’s right to be free from excessive force.

25 Furthermore, the Defendant’s decision to repeatedly shoot Mr. Morales in the back without any

1 attempt to de-escalate the situation shocks the conscience. Once Mr. Morales fell to the ground
2 and was bleeding to death, Defendant Jarvis failed to stop his cruelty. Mr. Morales was in
3 obvious desperate need of medical attention, gasping to the Defendant that he had not shot
4 anyone while he struggled to breathe. Instead of helping him, Defendant Jarvis simply watched
5 him bleed out on the ground as he lay motionless for approximately two minutes. Defendant's
6 conduct violated the Fourteenth Amendment on several basis including, but not limited to:

- 7 a. Plaintiffs' individual Fourteenth Amendment right to familial association with
8 Decedent Augustine Morales
- 9 b. Decedent Augustine Morales' right to medical attention for his serious medical
10 needs
- 11 c. Decedent Augustine Morales' right to due process protection given the fact that
12 Defendant Jarvis' conduct shocked the conscience when he shot Decedent
13 Augustine Morales in the back repeatedly before announcing the presence of
14 law enforcement or issuing any commands.

15
16 39. As a direct and proximate result of Defendant Jarvis' conduct as described above,
17 Plaintiffs are entitled to damages, penalties, costs, and attorneys' fees as set forth in paragraphs
18 above.

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

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21 **THIRD CAUSE OF ACTION**
22 **Supervisory and Municipal Liability for Unconstitutional Custom or Policy (Monell)–42**
23 **U.S.C. section 1983**
(Plaintiffs both as successor-in-interest to Decedent's survival claim and individually against
24 *Defendant CITY OF SACRAMENTO and DOES 1-50)*

25 40. Plaintiffs hereby re-allege and incorporate each and every paragraph in this Complaint
as fully set forth here.

1 41. Plaintiffs are informed and believe and therein alleges that the CITY OF
2 SACRAMENTO Police Department exhibits a pattern and practice of using excessive force
3 and misconduct against citizens and despite these incidents, none of the Officers are ever
4 found in violation of department policy or disciplined, even under the most questionable of
5 circumstances. CITY OF SACRAMENTO Police Department's failure to discipline or retrain
6 the Defendant Officers is evidence of an official policy, entrenched culture and posture of
7 deliberate indifference toward protecting citizen's rights and the resulting deaths and injuries
8 is a proximate result of the CITY OF SACRAMENTO Police Department's failure to properly
9 supervise its Officers and ratify their unconstitutional conduct. Plaintiff is informed, believe
10 and therein allege that the following instances are examples of the CITY OF
11 SACRAMENTO'S pattern and practice of condoning misconduct by failure to discipline:

- 12 a. On March 28, 2018 Sacramento Officers shot and killed Stephon Clark, alleging
13 that he was armed, when it turned out all he had was a cell phone.¹
- 14 b. On March 6, 2017, Sacramento Officers Ismael Villegas, Casey Dionne and
15 Michael Hight chased an unarmed, John Hernandez, (who had been essentially
16 loitering in front of a convenient store) into a hospital hallway where they tased,
17 beat and used their body weight to compress Hernandez until he asphyxiated.
18 Two witnesses testified that they had overheard Officer Villegas tell Hernandez
19 he was going to "fuck [him] up" with a baton raised in his hand. The officers put
20 Mr. Hernandez into a coma. *John Hernandez, et al. v. City of Sacramento*, (E.D.
21 2017) Case No: 2:17-cv-02311-JAM-DB.

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¹ "Officers who killed Stephon Clark reveal new details about the night he died"
<https://www.cnn.com/2019/03/07/us/sacramento-stephon-clark-shooting/index.html>

- 1 c. The City of Sacramento paid \$550,000 in the case of Nandi Cain, where, in April
2 2017, Sacramento Police Officer Anthony Figueroa choke slammed Nandi Cain
3 and punched him in the face several times for jaywalking.²
- 4 d. On July 11, 2016, Sacramento Officers Tennis and Loyoza tried to hit a
5 mentally ill person, Joseph Mann, two times with their police vehicle, before
6 getting out of their car and shooting Joseph Mann to death. Both officers left the
7 force following the incident.³
- 8 e. On July 21, 2020 Sacramento officers shot and killed another young man,
9 Jeremy Southern, at a state college campus once while he was standing and a
10 second time in the back while Southern was bleeding out and dying on the
11 ground.

12 42. Despite having such notice, Plaintiff is informed and believes and thereon alleges that
13 Defendants, and Does 1-50, and/or each of them, approved, ratified, condoned, encouraged
14 and/or tacitly authorized the continuing pattern and practice of misconduct and/or civil rights
15 violations by said officers. Sacramento Police Officers shot unarmed Decedent Jeremy
16 Southern because they had the unreasonable fear that the already injured Decedent could
17 crawl 10-15 feet to a gun, pick it up, and fire at officers who had already secured a position of
18 cover.
19

20 43. Plaintiff is further informed and believes and thereon alleges that as a result of the
21 deliberate indifference, reckless and/or conscious disregard of the misconduct by Defendants
22 and Does 1-50, and/or each of them, encouraged these officers to continue their course of
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25 ² “Man beaten by Sacramento cop after jaywalking stop settles his case for more than money”
<https://www.sacbee.com/latest-news/article208138724.html>

³ “Controversial shooting of black man by Sacramento police ends with officers leaving force”
<https://www.sacbee.com/news/local/crime/article180804391.html>

1 misconduct, resulting in the violation of Decedent's and Plaintiff's rights as alleged herein.

2 44. As against Defendant CITY OF SACRAMENTO, DOES 1-50 in his/their capacity as
3 police officer(s) for the City of Sacramento, Plaintiff further alleges that the acts and/or
4 omissions alleged in the Complaint herein are indicative and representative of a repeated
5 course of conduct by members of the CITY OF SACRAMENTO POLICE DEPARTMENT
6 tantamount to a custom, policy or repeated practice of condoning and tacitly encouraging the
7 abuse of police authority, and disregard for the constitutional rights of citizens. This is
8 reinforced by the fact that the officers in the aforementioned excessive force incidents s well
9 as the one underlying this complaint have not been disciplined and/or re-trained.

10 45. The unconstitutional actions and/or omissions of Does 1-50, as well as other officers
11 employed by or acting on behalf of Defendant CITY OF SACRAMENTO on information and
12 belief, were pursuant to the following customs, policies, practices, and/or procedures of the
13 Sacramento Police Department stated in the alternative, which were directed, encouraged,
14 allowed, and/or ratified by policy making officers for CITY OF SACRAMENTO:

- 15
- 16 a. To cover-up violations of constitutional rights by any or all of the
- 17 following:
- 18 i. by failing to properly investigate and/or evaluate complaints or
- 19 incidents of excessive and unreasonable force;
- 20 ii. by ignoring and/or failing to properly and adequately investigate and
- 21 discipline unconstitutional or unlawful police activity; and
- 22 iii. by allowing, tolerating, and/or encouraging police officers to: fail to
- 23 file complete and accurate police reports; file false police reports;
- 24 make false statements; intimidate, bias and/or "coach" witnesses to
- 25 give false information and/or to attempt to bolster officers' stories;
- and/or obstruct or interfere with investigations of unconstitutional or
unlawful police conduct, by withholding and/or concealing material
information;

- 1 b. To allow, tolerate, and/or encourage a “code of silence” among law
2 enforcement officers and police department personnel, whereby an officer
3 or member of the department does not provide adverse information against
4 a fellow officer or member of the department; and,
- 5 c. To use or tolerate inadequate, deficient, and improper procedures for
6 handling, investigating, and reviewing complaints of officer misconduct
7 made under California Government Code § 910 et seq.;
- 8 d. To fail to have and enforce necessary, appropriate, and lawful policies,
9 procedures, and training programs to prevent or correct the
10 unconstitutional conduct, customs, and procedures described in this
11 Complaint, with deliberate indifference to the rights and safety of Plaintiff
12 and the public, and in the face of an obvious need for such policies,
13 procedures, and training programs to prevent recurring and foreseeable
14 violations of rights of the type described herein.

15 46. Defendants CITY OF SACRAMENTO and DOES 26-50 failed to properly train,
16 instruct, monitor, supervise, evaluate, investigate, and discipline Does 1-25, and other SPD
17 personnel, with deliberate indifference to Plaintiff’s and Decedent’s constitutional rights,
18 where were thereby violated as described above.

19 47. The unconstitutional actions and/or omissions of Defendant DRAKE WALKER ,Does
20 1-25, and other SPD personnel, as described above, were approved, tolerated and/or ratified
21 by policy-making officers for the SPD. Plaintiff is informed and believes and thereupon
22 alleges, the details of this incident have been revealed to the authorized policy makers within
23 the City of Sacramento and the SPD, and that such policy makers have direct knowledge of
24 the fact that the killing of Jeremy Southern was not justified, but rather represented an
25 unconstitutional use of unreasonable, excessive, and deadly force. Notwithstanding this
knowledge, the authorized policy makers within the City of Sacramento and SPD have
approved Officer Drake’s shooting of Jeremy Southern, and have made a deliberate choice to
endorse the shooting of Jeremy Southern and the basis for that shooting. By doing so, the
authorized policy makers within the City of Sacramento and the SPD have shown affirmative

1 agreement with the actions of Does 1-25, and have ratified the unconstitutional acts of Does 1-
2 25.

3 48. The aforementioned customs, policies, practices, and procedures, the failures to
4 properly and adequately train, instruct, monitor, supervise, evaluate, investigate, and
5 discipline, as well as the unconstitutional orders, approvals, ratification and toleration of
6 wrongful conduct of Defendant City of Sacramento and Does 26-50, were a moving force
7 and/or a proximate cause of the deprivations of Plaintiff's clearly-established and well-settled
8 constitutional rights in violation of 42 U.S.C. §1983, as more fully set forth in Cause of
9 Action 1-3, above.

10 49. Defendants subjected Plaintiff and Decedent to their wrongful conduct, depriving
11 Plaintiff and Decedent of rights described herein, knowingly, maliciously, and with conscious
12 and reckless disregard for whether the rights and safety of Plaintiff and Decedent and others
13 would be violated by their acts and/or omissions.

14 50. As a direct and proximate result of the unconstitutional actions, omissions, customs,
15 policies, practices and procedures of Defendants City of Sacramento and Does 26-50 as
16 described above, plaintiff sustained serious and permanent injuries and are entitled to
17 damages, penalties, costs and attorneys' fees as set forth in paragraphs 21-23 above.

18 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.
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20 **FOURTH CAUSE OF ACTION**

21 **(Violation of CALIFORNIA CIVIL CODE § 52.1 "The Bane Act")**

22 *(Plaintiffs individually and as Plaintiff McKnight as successors-in-interest to Decedent's
23 survival claim against Defendants CITY OF SACRAMENTO and JARVIS)*

24 51. Plaintiffs hereby re-allege and incorporate each and every paragraph in this Complaint
25 as fully set forth here.

52. Plaintiffs bring this "Bane Act" claim individually for direct violation of their own

1 rights (familial association claim) and Decedent's rights (right to be free from excessive
2 force), and Plaintiffs bring this Bane Act claim as a survival claim pursuant to California Code
3 of Civil Procedure §377.20 *et seq.* for violation of Decedent's rights.

4 53. By their conduct described herein, Defendants, acting in concert/conspiracy, as
5 described above, violated Plaintiffs' and rights under California Civil Code §52.1, and the
6 following clearly-established rights under the United States Constitution and the California
7 Constitution:

- 8 a. Decedent's right to be free from unreasonable searches and seizures as secured
9 by the Fourth Amendment to the United States Constitution and by Article I,
10 §13 of the California Constitution;
- 11 b. Decedent's right to be free from excessive and unreasonable force in the course
12 of arrest or detention, as secured by the Fourth Amendment to the United States
13 Constitution and by Article 1, § 13 of the California Constitution;
- 14 c. Decedent's right to medical attention for his serious medical need under the
15 Fourteenth Amendment;
- 16 d. All Plaintiff's right to be free from wrongful government interference with
17 familial relationships, and Plaintiffs' and Decedent's right to companionship
18 and society with each other, as secured by the First and Fourteenth
19 Amendments to the United States Constitution.

20 54. Defendants used unlawful, excessive and deadly force which violates the Fourth
21 Amendment and also violates the Bane Act. Defendants' use of unlawful force against
22 Decedent, in and of itself, satisfies the "by threat, intimidation, or coercion" requirement of
23 the Bane Act.

24 55. Further, any volitional violation of rights done with reckless disregard for those rights
25 also satisfies the "by threat, intimidation, or coercion" requirement of the Bane Act. All of
26 Defendants' violations of duties and rights were volitional, intentional acts, done with reckless
27 disregard for Plaintiffs' rights; none was accidental or merely negligent.

56. Alternatively, Defendants violated Plaintiffs' and Decedent's rights by the following

1 conduct constituting threat, intimidation, or coercion that was above and beyond any lawful
2 seizure or use of force:

- 3 a. Using excessive, unreasonable, and unjustified force against Decedent without
4 ever issuing commands or identifying themselves as law enforcement;

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

6 **FIFTH CAUSE OF ACTION**

7 **(Battery — Violation of CALIFORNIA PENAL CODE § 242)**

8 *(Plaintiff MCKNIGHT as successor-in-interest to Decedent's survival claim against*
9 *Defendants CITY OF SACRAMENTO and JARVIS)*

10 57. Plaintiff hereby re-alleges and incorporates each and every paragraph in this Complaint
11 as fully set forth here.

12 58. Defendant Jarvis, while working as an officer of the Sacramento Police Department,
13 and acting within the course and scope of his duties, intentionally shot Decedent in the back
14 without identifying himself as an officer, issuing any commands or otherwise attempting to
15 de-escalate the situation.

16 59. As a result of Defendant Jarvis's shooting, Decedent suffered fatal physical injuries.
17 Defendant Jarvis did not have legal justification for using deadly force against Decedent. The
18 use of deadly force while carrying out his official duties was an unreasonable use of force and
19 thus constituted battery.

20 60. Defendant City of Sacramento is vicariously liable, pursuant to California Government
21 Code §815.2, for the violation of rights by its employees and agents.

22 61. As a direct and proximate result of Defendant Jarvis' assault and battery of
23 AUGUSTINE MORALES, Decedent sustained injuries and damages, and is entitled to relief
24 as set forth above.

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

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**SIXTH CAUSE OF ACTION
(Negligence – Wrongful Death & Survival Action)**

(Plaintiff MCKNIGHT as successor-in-interest to Decedent’s survival claim against Defendant CITY OF SACRAMENTO and JARVIS)

62. Plaintiff hereby re-alleges and incorporates each and every paragraph in this Complaint as fully set forth here.

63. At all times, Defendants owed Plaintiff and Decedent the duty to act with due care in the execution and enforcement of any right, law, or legal obligation.

64. At all times, Defendants owed Plaintiff and Decedent the duty to act with reasonable care.

65. These general duties of reasonable care and due care owed to Plaintiff by Defendants include, but not are limited to, the following specific obligations:

- a. to refrain from using excessive and/or unreasonable force against AUGUSTINE MORALES;
- b. to refrain from unreasonably creating the situation where force, including but not limited to deadly force, is used;
- c. to refrain from abusing their authority granted them by law; and
- d. to refrain from violating Plaintiff’s and Decedent’s rights guaranteed by the United States and California Constitutions, as set forth above, and as otherwise protected by law.

66. Defendants, through their acts and omissions, breached each and every one of the aforementioned duties owed to Plaintiffs and Decedent.

67. Defendant CITY OF SACRAMENTO is vicariously liable for the wrongful acts and omissions of its employees and agents pursuant to Cal. Gov. Code §815.2.

1 68. As a direct and proximate result of Defendants' negligence, Decedent and Plaintiffs
2 sustained injuries and damages, and, against each and every Defendant, is entitled to relief as set
3 forth above and per Code of Civil Procedure §§377.20 et seq. and 377.60 et seq., which provide
4 for survival and wrongful death actions.

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

6
7 **JURY DEMAND**

8 69. Plaintiffs hereby demand a jury trial in this action.

9 **PRAYER**


10 WHEREFORE, Plaintiffs pray for relief, against each and every Defendant, jointly and
11 severally, as follows:

- 12 1. For general damages in a sum to be proven at trial;
- 13 2. For special damages, including but not limited to, past, present and/or future wage
14 loss, income and support, medical expenses and other special damages in a sum to
15 be determined according to proof;
- 16 3. For punitive damages against DEFENDANT JARVIS and DOES 1-25 in a sum
17 according to proof;
- 18 4. All other damages, penalties, costs, interest, and attorney fees as allowed by 42
19 U.S.C. §§ 1983 and 1988, Cal. Code of Civ. Proc. §§ 377.20 et seq., 377.60 et
20 seq., 1021.5, Cal. Civil Code §§ 52 et seq., 52.1, and as otherwise may be allowed
21 by California and/or federal law;
- 22 5. For cost of suit herein incurred; and
- 23 6. For such other and further relief as the Court deems just and proper.
- 24
- 25 /

Date: November 10, 2021

Respectfully submitted,

POINTER & BUELNA, LLP
LAWYERS FOR THE PEOPLE



PATRICK BUELNA
COUNSEL FOR PLAINTIFFS

POINTER & BUELNA, LLP
LAWYERS FOR THE PEOPLE
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CIVIL COVER SHEET

The JS-CAND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

ROXANNE MORALES, individually; SESELIE MCKNIGHT, individually and as successor-in-interest to Decedent AUGUSTINE MORALES

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Adante Pointer; Patrick Buelna. Tel: 510-929-5400 Pointer & Buelna, LLP. 1901 Harrison St., Ste 1140, Oakland, CA 94612

DEFENDANTS

CITY OF SACRAMENTO, a municipal corporation; JEREMIAH JARVIS, in his individual capacity as a law enforcement officer for the CITY OF SACRAMENTO; and DOES 1-50, inclusive.

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, HABEAS CORPUS, OTHER, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation-Transfer
8 Multidistrict Litigation-Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 42 USC 1983

Brief description of cause: Excessive Force

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P. DEMAND \$

CHECK YES only if demanded in complaint: JURY DEMAND: X Yes No

VIII. RELATED CASE(S), IF ANY (See instructions):

JUDGE Senior Judge Morrison C. England, Jr DOCKET NUMBER 2:21-cv-01619-MCE-JDP

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)

(Place an "X" in One Box Only) SAN FRANCISCO/OAKLAND SAN JOSE EUREKA-MCKINLEYVILLE

DATE 11/10/2021

SIGNATURE OF ATTORNEY OF RECORD

/s/Patrick Buelna

Case 2:21-cv-02093-TLN-DB Document 1-1 Filed 11/10/21 Page 2 of 2
INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-CAND 44

Authority For Civil Cover Sheet. The JS-CAND 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the “defendant” is the location of the tract of land involved.)
- c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section “(see attachment).”
- II. Jurisdiction.** The basis of jurisdiction is set forth under Federal Rule of Civil Procedure 8(a), which requires that jurisdictions be shown in pleadings. Place an “X” in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- (1) United States plaintiff. Jurisdiction based on 28 USC §§ 1345 and 1348. Suits by agencies and officers of the United States are included here.
 - (2) United States defendant. When the plaintiff is suing the United States, its officers or agencies, place an “X” in this box.
 - (3) Federal question. This refers to suits under 28 USC § 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 - (4) Diversity of citizenship. This refers to suits under 28 USC § 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS-CAND 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an “X” in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an “X” in one of the six boxes.
- (1) Original Proceedings. Cases originating in the United States district courts.
 - (2) Removed from State Court. Proceedings initiated in state courts may be removed to the district courts under Title 28 USC § 1441. When the petition for removal is granted, check this box.
 - (3) Remanded from Appellate Court. Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 - (4) Reinstated or Reopened. Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 - (5) Transferred from Another District. For cases transferred under Title 28 USC § 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 - (6) Multidistrict Litigation Transfer. Check this box when a multidistrict case is transferred into the district under authority of Title 28 USC § 1407. When this box is checked, do not check (5) above.
 - (8) Multidistrict Litigation Direct File. Check this box when a multidistrict litigation case is filed in the same district as the Master MDL docket. Please note that there is no Origin Code 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC § 553. Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an “X” in this box if you are filing a class action under Federal Rule of Civil Procedure 23.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS-CAND 44 is used to identify related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- IX. Divisional Assignment.** If the Nature of Suit is under Property Rights or Prisoner Petitions or the matter is a Securities Class Action, leave this section blank. For all other cases, identify the divisional venue according to Civil Local Rule 3-2: “the county in which a substantial part of the events or omissions which give rise to the claim occurred or in which a substantial part of the property that is the subject of the action is situated.”
- Date and Attorney Signature.** Date and sign the civil cover sheet.