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Attorney for Plaintiffs

UNITES STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

ELIZABETH JIMINEZ, individually,  
and as successor in interest of  
FERNANDO GEOVANNI LLANEZ,  
deceased; FERNANDO LLANEZ,  
individually, and as successor in  
interest of FERNANDO GEOVANNI  
LLANEZ, deceased,

Plaintiffs,

vs.

THE UNITED STATES OF  
AMERICA; CHULA VISTA POLICE  
DEPARTMENT, a public entity; CITY  
OF CHULA VISTA, a public entity;  
RONALDO RICARDO GONZALEZ,  
an individual; MARCUS OSORIO, an  
individual; CHRIS BARONI, an  
individual; ANGELA SANCHEZ, an  
individual; MICHAEL BURBANK,  
an individual; JEREMY DORN, an  
individual; ANTHONY  
CASTELLANOS, an individual;  
MARK MEREDITH, an individual;  
and DOES 1-100, inclusive,

Defendants.

CASE NO. **'17CV1205 BTM AGS**

**PLAINTIFFS' COMPLAINT FOR  
DAMAGES**

- 1. Violation of Federal Civil Rights  
[42 USC §§ 1983]**
- 2. Bivens Claim Pursuant to Bivens  
v. Six Unknown Named Fed.  
Narcotics Agents**
- 3. Wrongful Death [C.C.P § 377.60]  
A. Assault and Battery;  
B. Negligence;**
- 4. Wrongful Death/Survival  
(Federal Tort Claims  
Act/GC§815.2(a)) – Battery**
- 5. Wrongful Death/Survival  
(Federal Tort Claims Act) –  
Negligence**

**JURY TRIAL DEMANDED**

1 COME NOW, PLAINTIFFS ELIZABETH JIMINEZ AND FERNANDO  
2 LLANEZ, DO HEREBY ALLEGE AND COMPLAIN AS FOLLOWS:

3 1. Jurisdiction is vested in this court under 28 U.S.C. section 1343,  
4 subdivisions 27 (a)(3) and (a)(4), for violations of the Civil Rights Enforcement  
5 Act, as amended, including 42 U.S.C. sections 1983 and 1985, and sections 1331  
6 and 1367, subdivision (a). Jurisdiction is also vested in this Court under the  
7 ancillary jurisdiction of the Court.

8 2. Venue is proper in the Southern District of California and the  
9 County of San Diego because the incidents alleged here occurred in this District.

10  
11 **PARTIES**

12 3. Plaintiff, ELIZABETH JIMINEZ is a surviving parent of Decedent  
13 FERNANDO GEOVANNI LLANEZ, and a Successor in Interest to the Estate  
14 of FERNANDO GEOVANNI LLANEZ and at all times mentioned herein was  
15 an individual residing in Los Angeles County, State of California. ELIZABETH  
16 JIMINEZ, individually, is an 'heir at law' of Decedent FERNANDO  
17 GEOVANNI LLANEZ, as that term is defined by the California Code of Civil  
18 Procedure Section 377.60(a) and elsewhere and has legal standing to maintain an  
19 action for wrongful death based upon the death of her son, FERNANDO  
20 GEOVANNI LLANEZ, under California Code of Civil Procedure section  
21 377.60. Plaintiff ELIZABETH JIMINEZ may maintain causes of action under  
22 42 U.S.C. §1983 and as a Federal Wrongful Death Action (28 U.S.C. §2680, et  
23 seq.) and recover damages for loss of financial support and the value of the  
24 decedent's life under cases interpreting 42 U.S.C. section 1983.

25 4. Plaintiff, FERNANDO LLANEZ is a surviving parent of Decedent  
26 FERNANDO GEOVANNI LLANEZ, and a Successor in Interest to the Estate  
27 of FERNANDO GEOVANNI LLANEZ and at all times mentioned herein was  
28 an individual residing in Los Angeles County, State of California. FERNANDO

1 LLANEZ, individually, is an 'heir at law' of Decedent FERNANDO  
2 GEOVANNI LLANEZ, as that term is defined by the California Code of Civil  
3 Procedure Section 377.60(a) and elsewhere and has legal standing to maintain an  
4 action for wrongful death based upon the death of his son, FERNANDO  
5 GEOVANNI LLANEZ, under California Code of Civil Procedure section  
6 377.60. Plaintiff FERNANDO LLANEZ may maintain causes of action under  
7 42 U.S.C. §1983, as a Federal Wrongful Death Action (28 U.S.C. §2680, et seq.)  
8 and recover damages for loss of financial support and the value of the decedent's  
9 life under cases interpreting 42 U.S.C. §1983.

10 5. Defendant AGENT RONALDO RICARDO GONZALEZ is and at  
11 all times mentioned herein was, an Agent employed by the Defendant UNITED  
12 STATES OF AMERICA (Hereinafter, "USA"), who was acting within the  
13 course and scope of his employment as an Agent acting as a member of the  
14 "ROAD KILL TEAM" and employed by the UNITED STATES  
15 DEPARTMENT OF HOMELAND SECURITY, who was acting within the  
16 course and scope of his employment at the time he undertook the activities  
17 alleged herein and was, at all times herein mentioned, acting as a federal agent  
18 under color of federal law, and representative of every other defendant.

19 6. Defendant AGENT MARCUS OSORIO is and at all times  
20 mentioned herein was, an Agent employed by the Defendant USA, who was  
21 acting within the course and scope of his employment as an Agent acting as a  
22 member of the "ROAD KILL TEAM" and employed by the UNITED STATES  
23 DEPARTMENT OF HOMELAND SECURITY, who was acting within the  
24 course and scope of his employment at the time he undertook the activities  
25 alleged herein and was, at all times herein mentioned, acting as a federal agent  
26 under color of federal law, and representative of every other defendant.

27 7. Defendant AGENT CHRIS BARONI is and at all times mentioned  
28 herein was, an Agent employed by the Defendant USA, who was acting within

1 the course and scope of his employment as an Agent acting as a member of the  
2 "ROAD KILL TEAM" and employed by the UNITED STATES  
3 DEPARTMENT OF HOMELAND SECURITY, who was acting within the  
4 course and scope of his employment at the time he undertook the activities  
5 alleged herein and was, at all times herein mentioned, acting as a federal agent  
6 under color of federal law, and representative of every other defendant.

7 8. Defendant AGENT ANGELA SANCHEZ is and at all times  
8 mentioned herein was, an Agent employed by the Defendant USA, who was  
9 acting within the course and scope of his employment as an Agent acting as a  
10 member of the "ROAD KILL TEAM" and employed by the UNITED STATES  
11 DEPARTMENT OF HOMELAND SECURITY, who was acting within the  
12 course and scope of his employment at the time he undertook the activities  
13 alleged herein and was, at all times herein mentioned, acting as a federal agent  
14 under color of federal law, and representative of every other defendant.

15 9. Defendant TECHINCAL ENFORCEMENT OFFICER MICHAEL  
16 BURBANK is and at all times mentioned herein was, an Agent employed by the  
17 Defendant USA, who was acting within the course and scope of his employment  
18 as an Agent acting as a member of the "ROAD KILL TEAM" and employed by  
19 the UNITED STATES DEPARTMENT OF HOMELAND SECURITY, who  
20 was acting within the course and scope of his employment at the time he  
21 undertook the activities alleged herein and was, at all times herein mentioned,  
22 acting as a federal agent under color of federal law, and representative of every  
23 other defendant.

24 10. Defendant AGENT JEREMY DORN is and at all times mentioned  
25 herein was, an Agent employed by the Defendant USA, who was acting within  
26 the course and scope of his employment as an Agent acting as the supervisor of  
27 the "ROAD KILL TEAM" and employed by the UNITED STATES  
28 DEPARTMENT OF HOMELAND SECURITY, who was acting within the

1 course and scope of his employment at the time he undertook the activities  
2 alleged herein and was, at all times herein mentioned, acting as a federal agent  
3 under color of federal law, and representative of every other defendant.

4 11. Defendant AGENT ANTHONY CASTELLANOS is and at all  
5 times mentioned herein was, an Agent employed by the Defendant USA, who  
6 was acting within the course and scope of his employment as an Agent acting as  
7 the supervisor of the "ROAD KILL TEAM" and employed by the UNITED  
8 STATES DEPARTMENT OF HOMELAND SECURITY, who was acting  
9 within the course and scope of his employment at the time he undertook the  
10 activities alleged herein and was, at all times herein mentioned, acting as a  
11 federal agent under color of federal law, and representative of every other  
12 defendant.

13 12. Defendant OFFICER MARK MEREDITH is and at all times  
14 mentioned herein was, an Agent employed by the Defendant CITY OF CHULA  
15 VISTA, who was acting within the course and scope of his employment as an  
16 Officer acting as a member of the "ROAD KILL TEAM" and employed by the  
17 CITY OF CHULA VISTA POLICE DEPARTMENT, who was acting within  
18 the course and scope of his employment at the time he undertook the activities  
19 alleged herein and was, at all times herein mentioned, acting as a California law  
20 enforcement officer under color of state and federal law, and representative of  
21 every other defendant.

22 13. Plaintiffs are informed and believe that Defendant CITY OF  
23 CHULA VISTA (Hereinafter, "CITY"), is an incorporated municipality doing  
24 business in the State of California with its principal place of business in San  
25 Diego County, and the employer of one or more of the individual officers named  
26 as Defendants in this action.

27 14. Plaintiffs are informed and believe and thereon allege that  
28 Defendant CHULA VISTA POLICE DEPARTMENT (Hereinafter "CVPD") is

1 a public entity existing within the State of California, County of San Diego.  
2 Plaintiffs are informed and believe that Defendant CVPD is and was the official  
3 police agency for the CITY, at all times mentioned herein, and is the employer  
4 of one or more of the individual officers named as Defendants in this action.

5 15. Plaintiffs are informed and believe and thereon allege that the  
6 HOMELAND SECURITY INVESTIGATIONS UNIT in the DEPARTMENT  
7 OF IMMIGRATIONS AND CUSTOMS ENFORCEMENT is an investigative  
8 agency within the UNITED STATES DEPARTMENT OF HOMELAND  
9 SECURITY of the Defendant USA. Plaintiffs are informed and believe that the  
10 HOMELAND SECURITY INVESTIGATIONS UNIT (HSI) is and was an  
11 official law enforcement agency for the USA, at all times mentioned herein, and  
12 the USA is/was the employer of one or more individual Agents named in this  
13 action, including, but not limited to, AGENTS GONZALEZ, OSORIO,  
14 BARONI, SANCHEZ, BURBANK, DORN, CASTELLANOS and DOES 1-  
15 100.

16 16. Plaintiffs are informed and believe and thereon allege that the  
17 DRUG ENFORCEMENT AGENCY (DEA) is an investigative agency of the  
18 Defendant USA. Plaintiffs are informed and believe that the DEA is and was an  
19 official law enforcement agency for the USA, at all times mentioned herein, and  
20 the USA is/was the employer of one or more individual Agents named in this  
21 action.

22 17. Plaintiffs are informed and believe and thereon allege that the  
23 UNITED STATES CUSTOMS AND BORDER PROTECTION (CBP) is an  
24 investigative agency of the Defendant USA. Plaintiffs are informed and believe  
25 that the CBP is and was an official law enforcement agency for the USA, at all  
26 times mentioned herein, and the USA is/was the employer of one or more  
27 individual Agents named in this action.

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1 contain money to satisfy a debt to the person that hired him, with no knowledge  
2 that any illegal items were in the vehicle. When plaintiff arrived to pick up the  
3 van, AGENT GONZALEZ went to open the door of the van and instantly ran  
4 away from the van with the only set of keys. Plaintiff LLANEZ gave chase to  
5 recover the keys and drew a taser to stop the fleeing individual despite being out  
6 of effective range for the taser. AGENT GONZALEZ was surrounded by  
7 concealed law enforcement personnel and was running towards cover when he  
8 stopped, drew his concealed firearm in an ankle holster and shot Plaintiff  
9 LLANEZ four times, the final, and only fatal shot was into the mid back of  
10 Plaintiff LLANEZ when he was on the ground and presenting no threat  
11 whatsoever. The shooting occurred 33 seconds after AGENT GONZALEZ first  
12 encountered Plaintiff LLANEZ and AGENT GONZALEZ never identified  
13 himself as a law enforcement officer. Plaintiff LLANEZ died without ever  
14 knowing he had been shot by an officer.

15 **FACTUAL ALLEGATIONS**

16 21. On or about November 11, 2006, DEFENDANT AGENT  
17 RONALDO RICARDO GONZALEZ (AGENT GONZALEZ) was hired by  
18 HSI. Prior to the date of hire AGENT GONZALEZ worked as a contractor for  
19 the DEA since 2001 in a law enforcement capacity and was a member of the  
20 United States Armed Forces prior to entering law enforcement and stated he has  
21 "a great deal of experience dealing with crime and narcotics in general. And I  
22 know that anytime you're dealing with people who are involved in those circles  
23 there's always a potential for danger."

24 22. On or about June 2, 2016, AGENT GONZALEZ received  
25 authorization from his supervisor and thereafter he and other HSI Agents  
26 coordinated with the DEA and CBP to transport "jump" 2,000 pounds of  
27 Marijuana with a value AGENT GONZALEZ believed to have been  
28 approximately \$1,000,000.00 across the United States Border through the

1 Tijuana Border Crossing. HSI, CBP and the DEA expected to receive  
2 \$200,000.00 for transporting the marijuana across the border and stored the  
3 marijuana on HSI property in the possession of law enforcement personnel.

4 23. On or about June 6, 2016 a tactical plan was developed by HSI for  
5 the transfer of the marijuana for the Home Depot/Walmart parking lot near Palm  
6 Avenue in San Diego.

7 24. On or about June 7, 2016, HSI attempted to deliver the marijuana to  
8 a buyer named Juan, but a Confidential Informant known as MIGUEL (CI)  
9 informed HSI that Juan did not have the money available. AGENT GONZALEZ  
10 told the CI that "we need to make sure they have the money available. Because  
11 we're not gonna be playing any games that you guys can take the dope and come  
12 back later with the money."

13 25. After the original buyer Juan no longer wanted the marijuana in the  
14 possession of HSI, the CI was told by an individual named Sergio, a broker that  
15 there was another interested buyer, but this buyer was completely unknown to  
16 AGENT GONZALEZ.

17 26. HSI directives stated that the OPERATION ROAD KILL was to  
18 interact only with "Known Drug Trafficking Organizations" for the transfer of  
19 the marijuana in their possession.

20 27. On June 13, 2016 AGENT GONZALEZ was feeling pressure from  
21 his team because he had them on stand-by all weekend for a new transaction.  
22 Again, AGENT GONZALEZ was told by the CI that the second buyers could  
23 not secure the money and the transaction was cancelled.

24 28. AGENT GONZALEZ informed the CI to tell Sergio the broker that  
25 if the transaction was not completed by 1:00 P.M. on Monday, June 13, 2016,  
26 then there would be no sale at all. The CI called AGENT GONZALEZ at 1:00  
27 P.M. and stated "we got a new buyer. But they have to go to L.A. to get the  
28 money and then they will come back."

1           29. AGENT GONZALEZ scheduled the transaction for the next day  
2 with the Case Agent, AGENT MARCUS OSORIO (AGENT OSORIO).

3           30. AGENT GONZALEZ told the CI to relay to Sergio the broker that  
4 they needed to provide AGENT GONZALEZ with a vehicle to transfer the  
5 drugs to the provided vehicle so they can take the drugs after the transportation  
6 fees had been paid. AGENT GONZALEZ had already identified Sergio and  
7 stated he could have arrested him at any time. (xx1283 CV G)

8           31. Unbeknownst to AGENT GONZALEZ, Sergio the Broker was  
9 negotiating with Damian Martinez for the sale and neither was part of a  
10 KNOWN DRUG TRAFFICKING ORGANIZATION. Damian was in turn  
11 coordinating the actions of several other individuals, some of which had no idea  
12 they were involved in a drug transaction. Plaintiff LLANEZ was one of the  
13 parties that was unaware the transaction involved drugs.

14           32. Damian hired Decedent FERNANDO GEOVANNI LLANEZ for  
15 \$500.00 to drop off a van in the morning, and then later the same day pick up the  
16 van after a debtor of Damian had deposited a repayment.

17           33. Damian was the third buyer engaged by HSI in an attempt to sell  
18 the marijuana, and LLANEZ dropped off the van and left the keys under the  
19 passenger seat at the Terra Nova Shopping Center near the intersection of  
20 Interstate 5 and East H Street in Chula Vista, California.

21           34. The CI informed AGENT GONZALEZ about the location of the  
22 van and AGENT GONZALEZ, along with OFFICER MARK MEREDITH  
23 (OFFICER MEREDITH0, AGENT ANTHONY CASTELLANOS (AGENT  
24 CASTELLANOS) and AGENT OSORIO pick up the van at approximately 8:45  
25 A.M., June 14, 2016. AGENT CASTALLANOS drives the van to a secure  
26 location to check for tracking devices and later to load the marijuana on the HSI  
27 property where it has been stored since HSI personnel "jumped" (transported) it  
28 from Mexico. At the time the van is taken, Sergio the broker is the only person

1 known to AGENT GONZALEZ regarding the purchase of the marijuana that is  
2 scheduled to take place.

3 35. Sergio wanted the van dropped off back at the same location it was  
4 picked up, but HSI personnel would not allow dropping the van where suspects  
5 are requesting. The buyers appeared ready to cancel the transaction but AGENT  
6 GONZALEZ stated that he *needed* to get this deal to happen. Despite having no  
7 tactical plan for the new location, HSI selected the shopping center near  
8 Interstate 125 and East H Street in Chula Vista, California. The time was  
9 approximately noon and the shopping center was in the middle of lunch hour  
10 with numerous bystanders. AGENT CASTELLANOS parked the drug laden van  
11 close to the occupied portion of the shopping center despite having an  
12 abandoned Albertson's store with dozens of empty parking spaces 100 feet away  
13 from the parking location selected by HSI personnel. After the van was in place,  
14 AGENT GONZALEZ arrived in the parking lot in another vehicle and informed  
15 the CI to inform Sergio about the location of the van.

16 36. AGENT GONZALEZ had an Under Cover (UC) team on scene of  
17 approximately six people that were strictly responsible for the safety of AGENT  
18 GONZALEZ, AGENT CASTELLANOS and the CI. In addition to the UC  
19 Cover Team, there were San Diego County Sheriff Deputies from the Border  
20 Crime Suppression Team (BCST) on the scene to follow the vehicle that had  
21 been loaded by HSI personnel with 2000 pounds of marijuana. Additionally,  
22 there was a helicopter that was observing the transaction, as well as one or more  
23 officers from the Chula Vista Police Department. The helicopter pilot asked  
24 AGENT JEREMY DORN if the event was to be video recorded and DORN  
25 stated no.

26 37. AGENT CASTELLANOS had never been involved in an  
27 undercover purchase of drugs before June 14, 2016, was new to the HSI team  
28 and was a last-minute addition to the undercover team on that date because two

1 other more experienced undercover agents were not available. AGENT  
2 GONZALEZ briefed AGENT CASTELLANOS regarding the plan with Sergio  
3 the Broker in that AGENT GONZALEZ would be doing the negotiations and  
4 AGENT CASTELLANOS would be the driver.

5 38. AGENT GONZALEZ contacted the CI and confirmed that Sergio  
6 the Broker was supposed to arrive with two other individuals that had \$200,000  
7 order to purchase what AGENT GONZALEZ believed to have been \$1,000,000  
8 worth of marijuana. Sergio arrived at the Starbucks and met with AGENT  
9 GONZALEZ on or about 1:00 P.M. on June 14, 2016. Prior to this meeting,  
10 none of the buyers had inspected the quality of the marijuana placed in the truck  
11 by HSI personnel.

12 39. Sergio and AGENT GONZALEZ spoke for approximately 20  
13 minutes before the buyers arrived in the parking lot. Sergio recommended that  
14 only AGENT GONZALEZ approach the buyers. AGENT CASTELLANOS  
15 remained seated as the two men approached the individuals described as buyers,  
16 described by AGENT GONZALES as two young Hispanic males and refers to  
17 them as "kids" and that he was taken aback in the sense of how young they  
18 were.

19 40. The two young males state to AGENT GONZALEZ that they need  
20 to see the marijuana first before they buy it. AGENT GONZALEZ tells one of  
21 the males to open the passenger door and open a package to inspect the  
22 marijuana. Upon return from inspecting the van, they buyer informs AGENT  
23 GONZALEZ that the marijuana was too yellow. AGENT ANGELA SANCHEZ  
24 (AGENT SANCHEZ) was monitoring the concealed listening device and texted  
25 AGENT GONZALEZ and relayed that the large bags had better quality  
26 marijuana and for the buyers to inspect the large bags.

27 41. The two young males did not approve of the quality of the  
28 marijuana, but a deal to reduce the price from \$200,000 to \$150,000 was agreed

1 upon by AGENT GONZALEZ. The buyers wanted the van moved to the same  
2 shopping center where the van was picked up, but AGENT JEREMY DORN  
3 refused to change the location of the van.

4 42. A driver dropped off LLANEZ that was tasked with retrieving a  
5 loaned van by Damien Martinez in exchange for \$500. LLANEZ was given a  
6 taser by Damien in the event the delivery driver tried to injure LLANEZ or steal  
7 the van.

8 43. Unbeknownst to LLANEZ, the van was full of marijuana and that  
9 the delivery driver was an under-cover Federal Agent.

10 44. LLANEZ approached the van and met AGENT GONZALEZ at  
11 approximately 1:56 P.M. on June 14, 2016.

12 45. Approximately 23 seconds later, AGENT GONZALEZ can be  
13 heard, on his under-cover recording, inserting a key into the driver's side door  
14 and immediately withdrawing the key and running.

15 46. AGENT GONZALEZ went to unlock the driver's door of the van  
16 when he suddenly took the only set of keys and ran around the front of the van.  
17 LLANEZ was not as quick and agile as AGENT GONZALEZ and drew the  
18 taser while running after AGENT GONZALEZ attempting to stop him from  
19 stealing the only set of keys to the van.

20 47. Approximately 10 seconds after withdrawing the key and running,  
21 AGENT GONZALEZ can be heard on his under-cover recording shooting  
22 LLANEZ four times.

23 48. AGENT GONZALEZ never announced he was a federal agent or  
24 any other form of law enforcement officer. He was surrounded by his support  
25 team of at least nine law enforcement personnel and was running away from the  
26 van with the only set of keys. Despite having out-run the individual trying to  
27 stop him from stealing the keys to the van, and being out of range of the taser,  
28 AGENT GONZALEZ stopped and drew his firearm from his ankle holster and

1 shot LLANEZ four times. The first three shots fired by AGENT GONZALEZ  
2 hit LLANEZ in: a finger of his left hand that lodged a bullet in the sinus cavity  
3 of his right cheek; his right front tooth and the bullet lodged in his tongue; and in  
4 the web of flesh between his thumb and index finger of his right hand that  
5 destroyed the taser he was holding. All of which were non-fatal injuries.

6 49. AGENT GONZALEZ' fourth and only fatal shot was while  
7 pointing in a downwards direction and into the back of FERNANDO  
8 GEOVANNI LLANEZ while he was on the ground, and no longer a threat.

9 50. Approximately 35 seconds after the last shot was fired, AGENT  
10 GONZALEZ was picked up in a truck driven by AGENT CHRIS BARONI and  
11 TECHINICAL ENFORCEMENT OFFICER MICHAEL BURBANK.

12 51. Upon entering the vehicle, and within 45 seconds of firing his last  
13 shot, AGENT GONZALEZ stated to AGENTS BARONI and BURBANK he  
14 believed he had been tasered.

15 52. Two minutes and ten seconds after firing his last shot at Plaintiff  
16 LLANEZ, AGENT GONZALEZ asked AGENT BURBANK to check his back  
17 for any injuries which AGENT BURBANK could not find.

18 53. Two minutes and nineteen seconds after firing his last shot at  
19 Plaintiff LLANEZ, AGENT GONZALEZ stated: "I think I killed that guy" to  
20 which AGENT BARONI responded "Don't worry about it... You're good  
21 man... Don't worry about it... Remember, uh, no fuckin', no statements, none of  
22 that shit. Actually, you know what, we'll just probably ya, you want to take him  
23 to the hospital. You want to go to the hospital dude? \* \* \* Fuck dude,  
24 everybody's fuckin' safe, fuck those guys."

25 54. AGENT BURBANK stated: "everything we say right now is being  
26 recorded" on AGENT GONZALEZ' recorder. Seventeen seconds later the  
27 recorder was turned off.

28 ///

1           55. Despite believing he had mortally injured Plaintiff LLANEZ, none  
2 of the AGENTS in the vehicle attempted to call for medical help for Plaintiff  
3 LLANEZ.

4           56. Upon arriving at the hospital, there was no indication of any injury  
5 or discoloration to AGENT GONZALEZ' back to indicate he had been hit by a  
6 taser.

7           57. At the scene of the shooting, there was fired ammunition consisting  
8 of brass from four .40 Caliber, Smith and Wesson ammunition on the ground  
9 along with the keys to the van, all of which were located approximately fifty feet  
10 to the East of the van and adjacent to the scene of the shooting. The taser was  
11 destroyed by two of the bullets fired by AGENT GONZALEZ. The taser's Anti-  
12 Felon Identification (AFID) confetti, that deploys when a taser is fired, was  
13 found with the shattered pieces of the taser several yards behind the body of  
14 Plaintiff LLANEZ and very far from any location associated with AGENT  
15 GONZALEZ' path as he ran from the van with the only set of keys.

16           58. On June 14, 2016, at or near 2310 Proctor Valley Road, in the City  
17 of Chula Vista, at approximately 1:56 P.M., defendant AGENT RONALDO  
18 RICARDO GONZALEZ, acting within the course and scope of his duties as an  
19 employee of HSI and acting as a representative of the USA, intentionally and/or  
20 negligently, fatally shot Decedent FERNANDO GEOVANNI LLANEZ, four  
21 times, with his firearm, with the final shot into FERNANDO GEOVANNI  
22 LLANEZ' back while he was on the ground and unarmed.

23           59. The activities undertaken by the Defendant AGENT RONALDO  
24 RICARDO GONZALEZ, and Does 1-100, constituted an inappropriate seizure  
25 of the person under the Fourth Amendment of the United States Constitution as  
26 Decedent FERNANDO GEOVANNI LLANEZ was clearly unarmed when he  
27 was fatally shot.

28 ///

1           60. The repeated discharge of his firearm on Decedent FERNANDO  
2 GEOVANNI LLANEZ constituted further unconstitutional violations of  
3 decedent's civil rights, in that they were excessive force in violation of the  
4 Fourth and Fourteenth Amendments of the United States Constitution.

5           61. The actions of Defendant AGENT RONALDO RICARDO  
6 GONZALEZ, and Does 1-100, were in violation of the Fourth and Fourteenth  
7 Amendments of the United States Constitution and the actions undertaken by  
8 Defendants AGENT RONALDO RICARDO GONZALEZ, and Does 1-100,  
9 constituted an unjustified seizure of his person, deprivation of his liberty  
10 interest, excessive force and were in violation of decedent's civil rights under  
11 color of law under 42 U.S.C. § 1983 and other sections of the United States  
12 Code as more fully set forth herein.

13           62. Plaintiffs allege that Defendants AGENT RONALDO RICARDO  
14 GONZALEZ, and Does 1-100, acted in violation of the United States  
15 Constitution and that Decedent FERNANDO GEOVANNI LLANEZ's  
16 constitutional rights were violated. Defendants CVPD, HSI, DEA, CBP,  
17 AGENT RONALDO RICARDO GONZALEZ, and Does 1-100, and each of  
18 them, acted in violation of decedent's constitutional rights under the Fourth and  
19 Fourteenth Amendments to the United States constitution. Decedent was  
20 subjected to an excessive amount of force where he had committed no criminal  
21 act, engaged in no suspicious criminal activity, and was seized without probable  
22 cause by Defendants AGENT RONALDO RICARDO GONZALEZ, and Does  
23 1-100, while acting under color of law, pursuant to their actual and apparent  
24 authority.

25           63. As a result of the repeated unconstitutional actions of Defendants,  
26 and each of them, FERNANDO GEOVANNI LLANEZ died. Plaintiffs  
27 therefore have suffered, and continue to suffer, devastating and overwhelming

28 ///

1 severe emotional distress, disgust, shock, anger, fright, nervousness and terror.  
2 Plaintiffs have further suffered economic and non-economic damages.

3 64. Plaintiff ELIZABETH JIMINEZ and FERNANDO LLANEZ filed  
4 their Government Claim for monetary damages pursuant to California  
5 Governmental Code §910 et seq. and all provisions of the Government Code  
6 against the Defendants on December 14, 2016, with the CVPD & HSI, within  
7 the six (6) month deadline from the date of the subject incident involving  
8 decedent, on June 14, 2016.

9 65. The office of the City Attorney for the City of Chula Vista sent  
10 formal notice of rejection of Ms. CASTILLO's and Mr. LLANEZ' claim. The  
11 Complaint on behalf of Ms. CASTILLO and Mr. LLANEZ' was filed on June  
12 13, 2017, within the six (6) month deadline from the date of rejection of the  
13 claim. As such, Ms. CASTILLO's lawsuit is timely filed.

14 66. On June 6, 2017, both plaintiffs filed their Federal Government  
15 Tort Claim Forms (Standard Form 95), for monetary damages against  
16 defendants HSI, DEA, and CBP (USA), within the two (2) year deadline from  
17 the date of the subject incident involving decedent, on June 14, 2016.

18 **FIRST CAUSE OF ACTION**

19 **VIOLATION OF FEDERAL CIVIL RIGHTS UNDER 42 U.S.C. § 1983**

20 **(By Plaintiffs Against Defendants AGENT GONZALEZ, AGENT DORN,**  
21 **AGENT OSORIO, AGENT BARONI, AGENT SANCHEZ, AGENT**  
22 **BURBANK, AGENT CASTELLANOS, OFFICER MEREDITH,**  
23 **and Does 1-100, inclusive)**

24 67. Plaintiffs reallege and hereby incorporate by reference the  
25 allegations contained in all other paragraphs, inclusive, of this Complaint.

26 68. This cause of action is to redress a deprivation, under color of  
27 authority, statute, ordinance, regulation, policy, custom; practice or usage of a  
28 right, privilege and immunity secured to Plaintiffs by the Fourth and Fourteenth

1 Amendments to the United States Constitution and the Constitution and laws of  
2 the State of California.

3 69. Defendants AGENT GONZALEZ, AGENT DORN, AGENT  
4 OSORIO, AGENT BARONI, AGENT SANCHEZ, AGENT BURBANK,  
5 AGENT CASTELLANOS, OFFICER MEREDITH and Does 1-100, and each  
6 of them, owed a duty of ordinary care to avoid harm to Decedent FERNANDO  
7 GEOVANNI LLANEZ.

8 70. Plaintiffs contend and herein allege that Defendants AGENT  
9 GONZALEZ, AGENT DORN, AGENT OSORIO, AGENT BARONI, AGENT  
10 SANCHEZ, AGENT BURBANK, AGENT CASTELLANOS, OFFICER  
11 MEREDITH and Does 1-100, and each of them, breached these aforementioned  
12 duties, either negligently or intentionally, in relation to all their interactions with  
13 Decedent FERNANDO GEOVANNI LLANEZ, on June 14, 2016, including,  
14 but not limited to, the use of a firearm upon Decedent, failing to protect  
15 Decedent, failing to render timely first aid to Decedent, and fatally shooting  
16 Decedent multiple times, while unarmed.

17 71. Plaintiffs contend and herein allege that the aforementioned  
18 negligent/intentional breach of their duties by Defendants AGENT  
19 GONZALEZ, AGENT DORN, AGENT OSORIO, AGENT BARONI, AGENT  
20 SANCHEZ, AGENT BURBANK, AGENT CASTELLANOS, OFFICER  
21 MEREDITH and DOES 1-100 constituted violations of the civil rights of  
22 Decedent FERNANDO GEOVANNI LLANEZ, in contravention of 42 U.S.C.  
23 §1983 of the Fourth and Fourteenth Amendments of the Constitution of the  
24 United States and the laws of the State of California. Plaintiffs further contend  
25 and allege that Defendants AGENT GONZALEZ, AGENT DORN, AGENT  
26 OSORIO, AGENT BARONI, AGENT SANCHEZ, AGENT BURBANK,  
27 AGENT CASTELLANOS, OFFICER MEREDITH and DOES 1-100's  
28 ///

1 disregard of Decedent's aforementioned civil rights was done by either actual  
2 malice or deliberate indifference to Decedent's civil rights.

3 72. Plaintiffs contend and herein allege that Defendants AGENT  
4 GONZALEZ, AGENT DORN, AGENT OSORIO, AGENT BARONI, AGENT  
5 SANCHEZ, AGENT BURBANK, AGENT CASTELLANOS, OFFICER  
6 MEREDITH and DOES 1-100's intentional use of a firearm upon and failure to  
7 render first aid to Decedent FERNANDO GEOVANNI LLANEZ were the legal  
8 cause of his death on June 14, 2016.

9 73. On or about June 14, 2016, Defendants AGENT GONZALEZ,  
10 AGENT DORN, AGENT OSORIO, AGENT BARONI, AGENT SANCHEZ,  
11 AGENT BURBANK, AGENT CASTELLANOS, OFFICER MEREDITH and  
12 DOES 1-100, and each of them, violated decedent's civil rights under the Fourth  
13 and Fourteenth Amendments of the United States Constitution prohibiting  
14 unlawful search and seizure and violation of due process of law. The violation  
15 was under color of state and federal law. Defendants AGENT GONZALEZ,  
16 AGENT DORN, AGENT OSORIO, AGENT BARONI, AGENT SANCHEZ,  
17 AGENT BURBANK, AGENT CASTELLANOS, OFFICER MEREDITH and  
18 DOES 1-100, and each of them, acted in violation of the Fourth and Fourteenth  
19 Amendments of the United States Constitution, when decedent was subjected to  
20 excessive force and killed.

21 74. The actions of Defendants AGENT GONZALEZ, AGENT DORN,  
22 AGENT OSORIO, AGENT BARONI, AGENT SANCHEZ, AGENT  
23 BURBANK, AGENT CASTELLANOS, OFFICER MEREDITH and DOES 1-  
24 100, as aforesaid, violated the Fourth and Fourteenth Amendments of the United  
25 States Constitution and violated 42 U.S.C. § 1983. The violation of Decedent's  
26 civil rights directly and proximately caused the injuries and damages to  
27 Plaintiffs as more fully set forth below.

28 75. The false and illegal seizure and use of excessive force of

1 FERNANDO GEOVANNI LLANEZ was in violation of his civil rights to be  
2 free from the unreasonable search and seizure of his person, to be free from the  
3 loss of his physical liberty interest, and denial of substantive due process under  
4 the Fourth and Fourteenth Amendments of the United States Constitution. In  
5 addition, in taking the aforesaid action Defendants AGENT GONZALEZ,  
6 AGENT DORN, AGENT OSORIO, AGENT BARONI, AGENT SANCHEZ,  
7 AGENT BURBANK, AGENT CASTELLANOS, OFFICER MEREDITH and  
8 DOES 1-100, and each of them, violated FERNANDO GEOVANNI LLANEZ's  
9 civil rights, by being deliberately indifferent to FERNANDO GEOVANNI  
10 LLANEZ'S physical security, as set forth in *Wood v. Ostrander*, 879 F.2d 583.

11 76. Defendants AGENT GONZALEZ, AGENT DORN, AGENT  
12 OSORIO, AGENT BARONI, AGENT SANCHEZ, AGENT BURBANK,  
13 AGENT CASTELLANOS, OFFICER MEREDITH and DOES 1-100, and each  
14 of their, actions as aforesaid directly and proximately caused injuries and  
15 damages to Plaintiffs, as more fully set forth below.

16 77. On or about June 14, 2016, Defendants AGENT GONZALEZ,  
17 AGENT DORN, AGENT OSORIO, AGENT BARONI, AGENT SANCHEZ,  
18 AGENT BURBANK, AGENT CASTELLANOS, OFFICER MEREDITH and  
19 DOES 1-100 violated FERNANDO GEOVANNI LLANEZ's and Plaintiffs'  
20 Civil Rights by using a degree of physical coercion which was not objectively  
21 reasonable under the circumstances. FERNANDO GEOVANNI LLANEZ was  
22 reacting to a theft of a vehicle with non-lethal force. He was shot three times and  
23 no longer could have posed a threat, when he was executed by AGENT  
24 GONZALEZ' shot into his mid back when on the ground. Decedent had not  
25 committed a crime. Defendants AGENT GONZALEZ, and DOES 1-100's use  
26 of excessive force was unreasonable and in violation of FERNANDO  
27 GEOVANNI LLANEZ' and Plaintiffs' civil rights under the Fourth and  
28 Fourteenth Amendments of the United States Constitution to be free from an

1 unreasonable seizure of his person and to be free from a loss of physical liberty.  
2 Defendants AGENT GONZALEZ, and DOES 1-100's use of excessive force  
3 was in violation of FERNANDO GEOVANNI LLANEZ's and Plaintiffs' Fourth  
4 and Fourteenth Amendment Rights.

5 78. Defendants AGENT GONZALEZ, and DOES 1-100's use of  
6 excessive force was unreasonable and in violation of FERNANDO GEOVANNI  
7 LLANEZ'S and Plaintiffs' civil rights and violated the Fourteenth Amendment  
8 to the United States Constitution as their actions were sadistic and malicious and  
9 did not further any legitimate legal purpose.

10 79. Each of the Defendants AGENT GONZALEZ, AGENT DORN,  
11 AGENT OSORIO, AGENT BARONI, AGENT SANCHEZ, AGENT  
12 BURBANK, AGENT CASTELLANOS, OFFICER MEREDITH and DOES 1-  
13 100 named herein, is individually liable for the violation of Decedent  
14 FERNANDO GEOVANNI LLANEZ'S and Plaintiffs' Civil Rights apart and  
15 aside from the customs, policies and practices of USA, CITY and/or CVPD,  
16 HSI, DEA, CBP.

17 80. As a direct and proximate result of the conduct of Defendants  
18 AGENT GONZALEZ, AGENT DORN, AGENT OSORIO, AGENT BARONI,  
19 AGENT SANCHEZ, AGENT BURBANK, AGENT CASTELLANOS,  
20 OFFICER MEREDITH and DOES 1-100, and each of them, Decedent  
21 FERNANDO GEOVANNI LLANEZ suffered the following injuries and  
22 damages for which Plaintiffs may recover:

23 A. Violation of Decedent FERNANDO GEOVANNI LLANEZ'S  
24 Constitutional Rights under the Fourth and Fourteenth Amendments to the  
25 United States Constitution to be free from unreasonable search and seizure of his  
26 person, deprivation of life and liberty and denial of due process of law;

27 B. Loss of the life of FERNANDO GEOVANNI LLANEZ including the  
28 value of his life;

1 C. Conscious physical pain, suffering and emotional trauma during the  
2 incident.

3 81. As a direct and proximate result of the actions of Defendants  
4 AGENT GONZALEZ, AGENT DORN, AGENT OSORIO, AGENT BARONI,  
5 AGENT SANCHEZ, AGENT BURBANK, AGENT CASTELLANOS,  
6 OFFICER MEREDITH and DOES 1-100, and each of them, Plaintiffs have also  
7 suffered the following injuries, including but not limited to:

8 A. Loss of love, aide, comfort and society due to the death of Decedent  
9 FERNANDO GEOVANNI LLANEZ, according to proof;

10 B. Loss of economic support of Decedent FERNANDO GEOVANNI  
11 LLANEZ; and

12 C. Funeral and burial expenses according to proof.

13 82. The conduct of Defendants AGENT GONZALEZ, AGENT DORN,  
14 AGENT OSORIO, AGENT BARONI, AGENT SANCHEZ, AGENT  
15 BURBANK, AGENT CASTELLANOS, OFFICER MEREDITH and DOES 1-  
16 100, was reckless and acted with callous indifference to the federally protected  
17 rights of FERNANDO GEOVANNI LLANEZ and Plaintiffs. Defendants  
18 AGENT GONZALEZ, AGENT DORN, AGENT OSORIO, AGENT BARONI,  
19 AGENT SANCHEZ, AGENT BURBANK, AGENT CASTELLANOS,  
20 OFFICER MEREDITH and DOES 1-100, and each of them, engaged in  
21 despicable conduct by using unreasonable and excessive force and was  
22 malicious and in reckless and conscious disregard for the rights and individual  
23 safety of Plaintiffs. As such, Plaintiffs ELIZABETH JIMINEZ and  
24 FERNANDO LLANEZ are entitled to punitive damages in accord with  
25 constitutionally permitted limits to punish and make an example of the  
26 individual defendant officers and agents.

27 83. Plaintiffs are entitled to an award of attorneys' fees, costs and  
28 expenses under 42 U.S.C. Section 1988 due to Defendants AGENT

1 GONZALEZ, AGENT DORN, AGENT OSORIO, AGENT BARONI, AGENT  
2 SANCHEZ, AGENT BURBANK, AGENT CASTELLANOS, OFFICER  
3 MEREDITH and DOES 1-100's violations of Decedent FERNANDO  
4 GEOVANNI LLANEZ'S and Plaintiffs' Civil Rights.

5 **SECOND CAUSE OF ACTION**

6 **(DEPRIVATION OF CIVIL RIGHTS UNDER COLOR OF LAW)**

7 **[BIVENS ACTION]**

8 **[Bivens v. Six Unknown Named Federal Narcotics Agents,**

9 **403 U.S. 388 (1971)]**

10 **(Plaintiffs Against Defendants AGENT GONZALEZ, AGENT DORN,**  
11 **AGENT OSORIO, AGENT BARONI, AGENT SANCHEZ, AGENT**  
12 **BURBANK, AGENT CASTELLANOS, and Does 1-100, inclusive)**

13 84. Plaintiffs reallege and hereby incorporate by reference the  
14 allegations contained in all other paragraphs, inclusive, of this Complaint.

15 85. Bivens established that "compensable injury to a constitutionally  
16 protected interest [by federal officials alleged to have acted under color of  
17 federal law] could be vindicated by a suit for damages invoking the general  
18 federal question jurisdiction of the federal courts [pursuant to 28 U.S.C. §  
19 1331]." *Butz v. Economou*, 438 U.S. 478, 486 (1978). "Actions under §1983 by  
20 a federal actor under Bivens." *Van Strum v. Lawn*, 940 F.2d 406, 409 (9th Cir.  
21 1991).

22 86. Plaintiffs bring this Fourth Amendment claim based on excessive  
23 force in the shooting death of Plaintiffs' Decedent at the hands of defendants  
24 AGENT GONZALEZ, AGENT DORN, AGENT OSORIO, AGENT BARONI,  
25 AGENT SANCHEZ, AGENT BURBANK, AGENT CASTELLANOS, and  
26 Does 1-100, among others.

27 87. At all times relevant, plaintiffs assert that defendants AGENT  
28 GONZALEZ, AGENT DORN, AGENT OSORIO, AGENT BARONI, AGENT

1 SANCHEZ, AGENT BURBANK, AGENT CASTELLANOS, and Does 1-100  
2 were employed by the USA and acted under the color of federal law in carrying  
3 out the wrongful conduct complained of herein.

4 88. Plaintiffs assert that defendants AGENT GONZALEZ, AGENT  
5 DORN, AGENT OSORIO, AGENT BARONI, AGENT SANCHEZ, AGENT  
6 BURBANK, AGENT CASTELLANOS, and Does 1-100 acted under the color  
7 of law in violating Plaintiffs' Decedent's constitutional right to be free from  
8 deprivation of life and liberty and unreasonable seizure. Defendant AGENT  
9 GONZALEZ, while acting under color of federal law, used unreasonable deadly  
10 force, which deprived Decedent of his federal civil rights provided by the Fourth  
11 Amendment to the Constitution, which resulted in Decedent's death.

12 89. Defendant AGENT GONZALEZ deprived Decedent of his 4th  
13 Amendment rights to be free from unreasonable seizure and to be free from  
14 deprivation of his life and liberty, when defendant AGENT GONZALEZ used  
15 unreasonable and excessive deadly force when he shot Decedent, while  
16 Decedent was unarmed and on the ground, ultimately killing Decedent.

17 90. As a direct result of defendants AGENT GONZALEZ, AGENT  
18 DORN, AGENT OSORIO, AGENT BARONI, AGENT SANCHEZ, AGENT  
19 BURBANK, AGENT CASTELLANOS, and Does 1-100's unlawful, deliberate  
20 conduct, Plaintiffs have suffered irreparable injuries, including, but not limited  
21 to, the loss of love, aid and comfort of their son, for which they should receive  
22 compensation.

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**THIRD CAUSE OF ACTION  
(WRONGFUL DEATH (C.C.P. § 377.60))**

**COUNT ONE**

**[Assault and Battery]**

**(By Plaintiffs Against Defendants AGENT GONZALEZ,  
and/or Does 1-100, inclusive)**

91. Plaintiffs reallege and hereby incorporate by reference the allegations contained in all other paragraphs, inclusive, of this Complaint.

92. On or about June 14, 2016, Decedent FERNANDO GEOVANNI LLANEZ was standing alongside a white van located in a shopping center parking lot in Chula Vista, posing no threat to anyone, nor breaking any law.

93. Thereafter, Defendant AGENT GONZALEZ, in the course and scope of his employment with Defendants USA and HSI, seized, shot multiple times, and assaulted and battered, unarmed Decedent FERNANDO GEOVANNI LLANEZ when he was on the ground. Plaintiffs are informed and believe and thereon allege that Defendant AGENT GONZALEZ, unnecessary, intentional and unsafe discharging of his firearm at Decedent FERNANDO GEOVANNI LLANEZ resulted in his death.

94. Defendant AGENT GONZALEZ, and Does 1-100, intended to cause, and did cause, Plaintiffs to suffer serious physical and emotional harm as the result of the intentional and unnecessary application of force to Decedent FERNANDO GEOVANNI LLANEZ.

95. Defendant AGENT GONZALEZ, and Does 1-100, and each of them, are therefore liable for battery upon Decedent FERNANDO GEOVANNI LLANEZ. Additionally, the USA and/or HSI are responsible for the conduct of their employees on a theory of respondeat superior.

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1           101. Each of the individual defendants and the municipal defendants  
2 acted in concert and without authorization of law and each of the individual  
3 defendants, separately and in concert, acted willfully, knowingly, negligently  
4 with reckless disregard and callous indifference, and purposely with the intent to  
5 deprive Plaintiffs of their rights and privileges, and did in fact violate the  
6 aforementioned rights and privileges.

7           102. As a direct and proximate result of the actions of Defendants  
8 AGENT GONZALEZ, and/or Does 1-100, and each of them, Plaintiffs have also  
9 suffered the following injuries, including but not limited to:

10           A. Loss of love, aide, comfort and society due to the death of Decedent  
11 FERNANDO GEOVANNI LLANEZ, according to proof;

12           B. Loss of economic support of Decedent FERNANDO GEOVANNI  
13 LLANEZ; and

14           C. Funeral and burial expenses according to proof.

15                           **FOURTH CAUSE OF ACTION**  
16                   **(WRONGFUL DEATH/SURVIVAL PURSUANT TO THE**  
17                   **FEDERAL TORT CLAIMS ACT BASED ON BATTERY)**  
18                   **(Plaintiffs against defendant USA)**

19           103. Plaintiffs reallege and hereby incorporate by reference the  
20 allegations contained in all other paragraphs, inclusive, of this Complaint.

21           104. This claim for relief is brought pursuant to the Decedent  
22 FERNANDO GEOVANNI LLANEZ, when AGENT GONZALEZ, while acting  
23 within the course and scope of his employment used unlawful deadly force in  
24 shooting and killing Decedent, on June 14, 2016, notwithstanding that Decedent  
25 was defenseless, when the fatal shot was fired by AGENT GONZALEZ.

26           105. Plaintiffs are informed and believe, and thereon allege, that at all  
27 times alleged in this Complaint, Defendant AGENT GONZALEZ was acting  
28 under color of law while employed as an Agent of HSI for Defendant USA. In

1 such capacity, Defendant AGENT GONZALEZ intentionally shot Decedent on  
2 or about June 14, 2016, while Defendant AGENT GONZALEZ was in the  
3 course and scope of his employment with Defendant. Plaintiffs are informed and  
4 believe and thereon allege, that while acting under color of law during the  
5 performance of his law enforcement functions, Defendant AGENT GONZALEZ  
6 had a duty to refrain from the use of excessive force in the taking into custody of  
7 decedent. In shooting decedent under such circumstances, Defendant AGENT  
8 GONZALEZ perpetrated a non-consensual touching of decedent's body.

9 106. As a direct and proximate result of the acts and omissions of  
10 Defendant AGENT GONZALEZ, while in the course and scope of his  
11 employment with Defendant USA, decedent suffered fatal injuries for which  
12 Plaintiffs now complain. Plaintiffs are informed and believe, and thereon allege,  
13 that such acts and omissions by such Defendants fall within the purview of 28  
14 U.S.C. §2680, et seq.

15 107. As a direct and proximate result of the actions of Defendants  
16 AGENT GONZALEZ and USA, Plaintiffs have suffered loss of love, aid,  
17 comfort, and society of decedent, loss of financial support, loss of value of life  
18 to himself and any and all other damages allowed under the Federal Tort Claims  
19 Act for which Plaintiffs seek compensatory damages against Defendants.

20 **FIFTH CAUSE OF ACTION**  
21 **(FOR WRONGFUL DEATH/SURVIVAL PURSUANT TO THE**  
22 **FEDERAL TORT CLAIMS ACT BASED ON NEGLIGENCE)**  
23 **(Plaintiffs against defendant USA)**

24 108. Plaintiffs reallege and hereby incorporate by reference the  
25 allegations contained in all other paragraphs, inclusive, of this Complaint.

26 109. On June 14, 2016, Defendants AGENT GONZALEZ, AGENT  
27 DORN, AGENT OSORIO, AGENT BARONI, AGENT SANCHEZ, AGENT  
28 BURBANK, AGENT CASTELLANOS, and Does 1-100 had a duty, while

1 acting in the course and scope of their employment with Defendant USA, to not  
2 violate the rights of decedent under the 4th and 14th Amendments of the United  
3 States Constitution. Defendants AGENT GONZALEZ, AGENT DORN,  
4 AGENT OSORIO, AGENT BARONI, AGENT SANCHEZ, AGENT  
5 BURBANK, AGENT CASTELLANOS, and Does 1-100 had a further duty to  
6 act with due care including, but not limited to, following appropriate policies  
7 and procedures and to not allow a situation to develop in which they would,  
8 through a lack of due care, cause the death of another human being.

9 110. On or about June 14, 2016, Defendants AGENT GONZALEZ,  
10 AGENT DORN, AGENT OSORIO, AGENT BARONI, AGENT SANCHEZ,  
11 AGENT BURBANK, AGENT CASTELLANOS, and Does 1-100 negligently or  
12 otherwise wrongfully breached their duty of due care when they placed  
13 themselves in a position such as to discharge a firearm at decedent, resulting in  
14 Decedent's death. At all times herein mentioned, Defendants AGENT  
15 GONZALEZ, AGENT DORN, AGENT OSORIO, AGENT BARONI, AGENT  
16 SANCHEZ, AGENT BURBANK, AGENT CASTELLANOS, and Does 1-100,  
17 either negligently or through other wrongful conduct, as alleged herein, caused  
18 the death of decedent when AGENT GONZALEZ shot decedent on June 14,  
19 2016.

20 111. The negligence of other wrongful conduct of Defendants AGENT  
21 GONZALEZ, AGENT DORN, AGENT OSORIO, AGENT BARONI, AGENT  
22 SANCHEZ, AGENT BURBANK, AGENT CASTELLANOS, and Does 1-100,  
23 resulted in the death of decedent and gives rise to a cause of action under the  
24 Federal Tort Claims Act, 28 U.S.C. sec. 2680, et seq. At all times herein  
25 mentioned, Defendants AGENT GONZALEZ, AGENT DORN, AGENT  
26 OSORIO, AGENT BARONI, AGENT SANCHEZ, AGENT BURBANK,  
27 AGENT CASTELLANOS, and Does 1-100 should have maintained appropriate  
28 precautions such as to not to create a condition where AGENT GONZALEZ

1 would discharge his firearm and cause the death of decedent and Defendant  
2 AGENT GONZALEZ breached these duties when he negligently or otherwise  
3 wrongfully shot decedent causing decedent's untimely death.

4 112. As a direct and proximate result of the actions of Defendants,  
5 Plaintiffs have suffered loss of love, aid, comfort, and society of decedent, loss  
6 of financial support, loss of value of life to himself and any and all other  
7 damages allowed under the Federal Tort Claims Act for which Plaintiffs seek  
8 compensatory damages against Defendants

9 WHEREFORE, Plaintiffs pray for judgment against Defendants, and each  
10 of them, for each cause of action, as follows:

11 1. For all special damages including, but not limited to, lost wages and  
12 future earning capacity;

13 2. For all general damages including, but not limited to, severe emotional  
14 distress, disgust, terror, fright, anger, anxiety, worry, nervousness, shock, loss of  
15 enjoyment of life, loss of ability to engage in normal and customary activities,  
16 loss of comfort, society, care and companionship;

17 3. For other and further special damages in a sum according to proof at the  
18 time of trial;

19 4. For other and further general damages in a sum according to proof at  
20 the time of trial;

21 5. For funeral and burial expenses of Decedent, according to proof;

22 6. For prejudgment interest according to proof;


23 7. For punitive damages against the following individuals: AGENT  
24 GONZALEZ, and/or Does 1-100, in an amount according to proof at the time of  
25 trial;

26 8. For costs of suit incurred herein;

27 9. For other and further relief as this court may deem just and proper; and  
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1           10. For legal fees, expenses and costs incurred in prosecution in the  
2 present action for violation of Civil Rights pursuant to 42 U.S.C. §1988, to the  
3 extent provided by law.

4  
5 DATED: June 13, 2017

  
Jorge I. Hernandez, Esq.  
Attorney for Plaintiffs

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7  
8  
9 **DEMAND FOR JURY TRIAL**

10           Plaintiffs hereby demand a jury trial in the instant action on all stated  
11 causes of action.

12  
13 DATED: June 13, 2017

  
Jorge I. Hernandez, Esq.  
Attorney for Plaintiffs

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