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5 **UNITED STATES DISTRICT COURT**
6 **FOR THE DISTRICT OF NEVADA**

7 K.C., a minor, by and through her
guardian *ad litem* Carolina Navarro;
8 A.S., a minor, by and through her
guardian *ad litem* Araceli Saenz; K.C.,
9 by and through her guardian *ad litem*
10 Amber Neubert; JACQUELINE
11 LAWRENCE; KEITH CHILDRESS,
12 SR., in each case individually and as
successor in interest to Keith Childress,
13 Jr., deceased; and JACQUELINE
14 LAWRENCE as administrator of the
ESTATE OF KEITH CHILDRESS, JR.,

15
16 **Plaintiffs,**

17 vs.

18 LAS VEGAS METROPOLITAN
19 POLICE DEPARTMENT, UNITED
20 STATES OF AMERICA
DEPARTMENT OF JUSTICE;
21 ROBERT BOHANON; BLAKE
22 WALFORD; JAMES LEDOGAR; and
DOES 1-10, inclusive,

23 **Defendants.**

Case No.

COMPLAINT FOR DAMAGES

1. Unreasonable Search and Seizure—
Excessive Force (42 U.S.C. § 1983)
2. Unreasonable Search and Seizure—
Denial of Medical Care (42 U.S.C.
§ 1983)
3. Substantive Due Process—(42
U.S.C. § 1983)
4. Municipal Liability for
Ratification—(42 U.S.C. § 1983)
5. Municipal Liability for Failure to
Train—(42 U.S.C. § 1983)
6. Municipal Liability for
Unconstitutional Custom, Practice,
or Policy—(42 U.S.C. § 1983)
7. Battery (Wrongful Death)
8. Negligence (Wrongful Death)
9. Wrongful Death (Federal Tort
Claims Act—28 U.S.C. §1346(b))
10. Supervisory Liability—(*Bivens*)
11. Unreasonable Search and Seizure—
Excessive Force (*Bivens*)
12. Substantive Due Process—(*Bivens*)

DEMAND FOR JURY TRIAL

1 **COMPLAINT FOR DAMAGES**

2 Jacqueline Lawrence as administrator of the ESTATE OF KEITH
3 CHILDRESS, JR.; K.C., a minor, by and through her *guardian ad litem* Carolina
4 Navarro; A.S., a minor, by and through her *guardian ad litem* Araceli Saenz; K.C.,
5 by and through her *guardian ad litem* Amber Neubert; JACQUELINE
6 LAWRENCE; and KEITH CHILDRESS, SR., in each case individually and as
7 successor in interest to Keith Childress, Jr., deceased, bring this Complaint against
8 Defendants LAS VEGAS METROPOLITAN POLICE DEPARTMENT, UNITED
9 STATES DEPARTMENT OF JUSTICE MARSHALS SERVICE, ROBERT
10 BOHANON, BLAKE WALFORD, JAMES LEDOGAR, and DOES 1-10,
11 inclusive, and allege as follows:

12 **INTRODUCTION**

13 1. This civil rights, state tort, federal, and *Bivens* action seeks
14 compensatory and punitive damages from Defendants for violating various rights
15 under the United States Constitution, the Federal Tort Claims Act, and state law in
16 connection with the fatal police shooting of Plaintiffs’ father and son, Keith
17 Childress, Jr., on December 31, 2015.

18 2. The policies and customs behind shootings of civilians such as Keith
19 Childress, Jr. are fundamentally unconstitutional and constitute a menace of major
20 proportions to the public. Accordingly, insofar as Plaintiffs herein seek by means of
21 this civil rights action to hold accountable those responsible for the killing of Keith
22 Childress, Jr. and to challenge the unconstitutional policies and practices of the Las
23 Vegas Metropolitan Police Department and the United States Department of Justice
24 Marshals Service, this civil rights action is firmly in the public interest.

25
26 **PARTIES**

27 3. At all relevant times, decedent Keith Childress, Jr. (“DECEDENT”)
28 was an individual residing in Laveen, Arizona.

1 4. Plaintiff JACQUELINE LAWRENCE (“LAWRENCE”) is in the
2 process of being appointed the special administrator of the ESTATE OF KEITH
3 CHILDRESS, JR. (“ESTATE”). The ESTATE seeks survival damages under
4 federal and state law.

5 5. Plaintiff K.C. is a minor individual residing in Escondido, California
6 and is the natural born child of DECEDENT. K.C. sues by and through her
7 guardian *ad litem* Carolina Navarro both in her individual capacity as the child of
8 DECEDENT and in a representative capacity as a successor in interest to
9 DECEDENT. K.C. seeks both survival and wrongful death damages under federal
10 and state law.

11 6. Plaintiff A.S. is a minor individual residing in Escondido, California
12 and is the natural born child of DECEDENT. A.S. sues by and through her guardian
13 *ad litem* Araceli Saenz both in her individual capacity as the child of DECEDENT
14 and in a representative capacity as a successor in interest to DECEDENT. A.S.
15 seeks both survival and wrongful death damages under federal and state law.

16 7. Plaintiff K.C. is a minor individual residing in Laveen, Arizona and is
17 the natural born child of DECEDENT. K.C. sues by and through her guardian *ad*
18 *litem* Amber Neubert both in her individual capacity as the child of DECEDENT
19 and in a representative capacity as a successor in interest to DECEDENT. K.C.
20 seeks both survival and wrongful death damages under federal and state law.

21 8. Plaintiff JACQUELINE LAWRENCE is an individual residing in
22 Laveen, Arizona and is the natural mother of DECEDENT. JACQUELINE
23 LAWRENCE seeks both survival and wrongful death damages under federal and
24 state law.

25 9. Plaintiff KEITH CHILDRESS, SR. (“CHILDRESS”) is an individual
26 residing in Moreno Valley, California and is the natural father of DECEDENT.
27 LAWRENCE seeks both survival and wrongful death damages under federal and
28 state law.

1 10. Defendant ROBERT BOHANON (“BOHANON”) is a sergeant or
2 police officer for the Las Vegas Metropolitan Police Department (“LVMPD”). At
3 all relevant times, BOHANON was acting under color of law within the course and
4 scope of his duties as a sergeant or police officer for the LVMPD. At all relevant
5 times, BOHANON was acting with the complete authority and ratification of his
6 principals, LVMPD. Defendant BOHANON is sued individually.

7 11. Defendant BLAKE WALFORD (“WALFORD”) is a sergeant or police
8 officer for the LVMPD. At all relevant times, WALFORD was acting under color
9 of law within the course and scope of his duties as a sergeant or police officer for
10 the LVMPD. At all relevant times, WALFORD was acting with the complete
11 authority and ratification of his principal, LVMPD. Defendant WALFORD is sued
12 individually.

13 12. Defendant JAMES LEDOGAR (“LEDOGAR”) is a sergeant or police
14 officer for the LVMPD. At all relevant times, LEDOGAR was acting under color of
15 law within the course and scope of his duties as a sergeant or police officer for the
16 LVMPD. At all relevant times, LEDOGAR was acting with the complete authority
17 and ratification of his principal, LVMPD. Defendant LEDOGAR is sued
18 individually.

19 13. At all relevant times, Defendant United States Department of Justice
20 Marshals Service (“DOJMS”) is and was a duly organized public entity, form
21 unknown, existing under the laws of the United States of America. Defendant
22 DOJMS is a component of the United States Department of Justice, an agency
23 established in the Executive Branch of the United States government, with the
24 capacity to be sued. At all relevant times, DOJMS was the employer of Defendants
25 DOJMS DOES (DOES 4-6) and DOJMS DOE SUPERVISORS (DOES 7-8).

26 14. At all relevant times, Defendant Las Vegas Metropolitan Police
27 Department (“LVMPD”) is and was a duly organized public entity, form unknown,
28 existing under the laws of the State of Nevada. Defendant LVMPD is a chartered

1 subdivision of the State of Nevada with the capacity to be sued. At all relevant
2 times, Defendant LVMPD was responsible for assuring that the actions, omissions,
3 policies, procedures, practices, and customs of the LVMPD and its employees and
4 agents complied with the laws of the United States and of the State of Nevada. At
5 all relevant times, LVMPD was the employer of Defendants LVMPD DOE
6 OFFICERS (DOES 1-3) and LVMPD DOE SUPERVISORS (DOES 9-10).

7 15. Defendants DOES 1-3 (“LVMPD DOE OFFICERS”) are sergeants or
8 police officers for the LVMPD. At all relevant times, LVMPD DOE OFFICERS
9 were acting under color of law within the course and scope of their duties as
10 sergeants or police officers for the LVMPD. At all relevant times, LVMPD DOE
11 OFFICERS were acting with the complete authority and ratification of their
12 principal, Defendant LVMPD. LVMPD DOE OFFICERS are sued individually.

13 16. In doing the acts and failing and omitting to act as hereinafter
14 described, Defendants LVMPD DOE OFFICERS were acting on the implied and
15 actual permission and consent of Defendants LVMPD and LVMPD DOE
16 SUPERVISORS (DOES 9-10).

17 17. Defendants DOES 4 – 6 (“DOJMS DOE DEPUTIES”) are deputies for
18 the DOJMS. At all relevant times, DOJMS DOE DEPUTIES were acting under
19 color of law within the course and scope of their duties as deputies for the DOJMS.
20 At all relevant times, DOJMS DOE DEPUTIES were acting with the complete
21 authority and ratification of their principal, Defendant DOJMS. DOJMS DOE
22 DEPUTIES are sued individually.

23 18. In doing the acts and failing and omitting to act as hereinafter
24 described, Defendants DOJMS DOE DEPUTIES were acting on the implied and
25 actual permission and consent of Defendants DOJMS and DOJMS DOE
26 SUPERVISORS (DOES 9-10).

27 19. Defendants DOES 7 – 8 (“DOJMS DOE SUPERVISORS”) are
28 managerial, supervisory, and policymaking employees for the DOJMS. At all

1 relevant times, DOJMS DOE SUPERVISORS were acting under color of law within
2 the course and scope of their duties as managerial, supervisory, and policymaking
3 employees for the DOJMS. At all relevant times, DOJMS DOE SUPERVISORS
4 were acting with the complete authority and ratification of their principal, Defendant
5 DOJMS.

6 20. Defendants DOES 9 – 10 (“LVMPD SUPERVISORIAL DOES”) are
7 managerial, supervisory, and policymaking employees for the LVMPD who were
8 acting under color of law within the course and scope of their duties as managerial,
9 supervisory, and policymaking employees for the LVMPD. LVMPD
10 SUPERVISORIAL DOES were acting with the complete authority and ratification
11 of their principal, Defendant LVMPD. At all relevant times, LVMPD was the
12 employer of Defendants LVMPD SUPERVISORIAL DOES.

13 21. The true names and capacities, whether individual, corporate,
14 association or otherwise of Defendants DOES 1-10, inclusive, are unknown to
15 Plaintiffs, who otherwise sue these Defendants by such fictitious names. Plaintiffs
16 will seek leave to amend this complaint to show the true names and capacity of
17 these Defendants when they have been ascertained. Each of the fictitiously-named
18 Defendants is responsible in some manner for the conduct or liabilities alleged
19 herein.

20 22. At all times mentioned herein, each and every DOJMS Defendant was
21 the agent of each and every other DOJMS Defendant and had the legal duty to
22 oversee and supervise the hiring, conduct, and employment of each and every
23 DOJMS Defendant.

24 23. At all times mentioned herein, each and every LVMPD Defendant was
25 the agent of each and every other LVMPD Defendant and had the legal duty to
26 oversee and supervise the hiring, conduct, and employment of each and every
27 LVMPD Defendant.

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1 24. All of the acts complained of herein by Plaintiffs against Defendants
2 were done and performed by said Defendants by and through their authorized
3 agents, servants, and/or employees, all of whom at all relevant times herein were
4 acting within the course, purpose, and scope of said agency, service, and/or
5 employment capacity. Moreover, Defendants and their agents ratified all of the acts
6 complained of herein.

7 25. DECEDENT died as a direct and proximate result of the actions of
8 Defendants BOHANON, WALFORD, LVMPD DOE OFFICERS, and DOJMS
9 DOE DEPUTIES. Defendants BOHANON, WALFORD, LVMPD DOE
10 OFFICERS, and DOJMS DOE DEPUTIES are directly liable for Plaintiffs' and
11 DECEDENT's injuries under state and federal law pursuant to 42 U.S.C. § 1983, the
12 Federal Tort Claims Act, *Bivens v. Six Unknown Named Agents*, 403 U.S. 388
13 (1971), and the Nevada Revised Statutes.

14 26. Defendants LVMPD, DOJMS, LVMPD DOE SUPERVISORS, and
15 DOJMS DOE SUPERVISORS are vicariously liable for Plaintiffs' and
16 DECEDENT's injuries under Nevada law and under the doctrine of *respondeat*
17 *superior* because their employees and agents caused DECEDENT's death and
18 Plaintiffs' injuries.

19 27. Defendants LVMPD and LVMPD DOE SUPERVISORS are also
20 directly liable for Plaintiffs' and DECEDENT's injuries for municipal liability under
21 *Monell v. Social Services of New York*, 436 U.S. 658 (1978) and its progeny.

22 28. Defendants DOJMS and DOJMS DOE SUPERVISORS are also
23 directly liable for Plaintiffs' and DECEDENT's injuries for supervisory liability
24 under *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971) and its progeny.

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1 **JURISDICTION AND VENUE**

2 29. This civil action is brought for the redress of alleged deprivations of
3 constitutional rights as protected by 42 U.S.C. §§ 1983, 1985, 1986, 1988, and the
4 Fourth and Fourteenth Amendments of the United States Constitution. Jurisdiction
5 is founded on 28 U.S.C. §§ 1331, 1343, and 1367.

6 30. Venue is proper in this Court under 28 U.S.C. § 1391(b) because all
7 incidents, events, and occurrences giving rise to this action occurred in the City of
8 Las Vegas, Nevada.

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

11 31. Plaintiffs repeat and reallege each and every allegation in paragraphs 1
12 through 30 of this Complaint with the same force and effect as if fully set forth
13 herein.

14 32. On December 31, 2015, at approximately 2:00 p.m. on that date, at or
15 around 8335 Gilden Crown Court in Las Vegas, Nevada, DECEDENT sustained
16 injuries, including but not limited to pain and suffering, loss of enjoyment of life,
17 and death when he was shot by Defendants BOHANON and WALFORD and
18 thereafter Defendant LEDOGAR released a police dog upon him. DOJMS DOE
19 DEPUTIES and LVMPD DOE OFFICERS inclusive, integrally participated in or
20 failed to intervene in the shooting.

21 33. Prior to BOHANON, WALFORD, LEDOGAR, and LVMPD DOE
22 OFFICERS' arrival at the scene, DOJMS DOE DEPUTIES erroneously provided
23 false information to LVMPD that DECEDENT was wanted for attempted murder.
24 DECEDENT was not wanted for attempted murder.

25 34. DECEDENT was unarmed at all relevant times. DECEDENT was not
26 holding a weapon or anything that looked like a weapon. The only thing
27 DECEDENT had in his hand at the time of or immediately prior to the shooting was
28 his cell phone. Defendants BOHANON and WALFORD opened fire even though

1 DECEDENT was unarmed and even though there were residences in the
2 background.

3 35. Upon information and belief, after being shot, DECEDENT was
4 immobile, bleeding profusely, and in obvious and critical need of emergency
5 medical care and treatment. Despite DECEDENT's physical state, Defendant
6 LEDOGAR released a police dog upon DECEDENT. Defendants did not timely
7 summon medical care or permit medical personnel to treat DECEDENT. The delay
8 of medical care to DECEDENT caused DECEDENT extreme physical and
9 emotional pain and suffering, and was a contributing cause of DECEDENT's death.

10 36. The use of deadly force against DECEDENT was excessive and
11 objectively unreasonable under the circumstances, especially because DECEDENT
12 did not pose an immediate threat of death or serious bodily injury to anyone at the
13 time of the shooting and was unarmed at all relevant times. The shooting was done
14 with a purpose to harm unrelated to any legitimate law enforcement objective and
15 demonstrated a deliberate indifference to the health and safety of the DECEDENT.

16 37. Plaintiffs were dependent on DECEDENT, including financially
17 dependent, to some extent, for the necessities of life.

18 38. Plaintiffs K.C., by and through her guardian *ad litem* Carolina Navarro,
19 A.S., by and through her guardian *ad litem* Araceli Saenz, and K.C., by and through
20 her guardian *ad litem* Amber Neubert, are DECEDENT's successors in interest and
21 succeed to DECEDENT's interest in this action as the biological children of
22 DECEDENT.

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FIRST CLAIM FOR RELIEF

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

(By Plaintiffs LAWRENCE as administrator of the ESTATE OF KEITH CHILDRESS, JR., K.C., A.S., and K.C. against Defendants BOHANON, WALFORD, LEDOGAR, and LVMPD DOE OFFICERS)

39. Plaintiffs repeat and reallege each and every allegation in paragraphs 1 through 37 of this Complaint with the same force and effect as if fully set forth herein.

40. Defendants BOHANON’S and WALFORD’S unjustified shooting and LEDOGAR’S release of a police dog on DECEDENT after the shooting deprived DECEDENT of his right to be secure in his person against unreasonable searches and seizures as guaranteed to DECEDENT under the Fourth Amendment to the United States Constitution and applied to state actors by the Fourteenth Amendment.

41. Defendants LVMPD DOE OFFICERS integrally participated or failed to intervene.

42. The shooting was excessive and unreasonable, especially because DECEDENT posed no immediate threat of death or serious bodily injury at the time of the shooting and was unarmed at all relevant times.

43. The release of the police dog on DECEDENT after the shooting was excessive and unreasonable, especially because DECEDENT had been shot, was immobile, was bleeding profusely on the ground, and posed no immediate threat of serious harm or bodily injury at the time the police dog was released.

44. As a result of the excessive force, DECEDENT suffered extreme pain and suffering and eventually suffered a loss of life and of earning capacity.

45. Defendants’ shooting of DECEDENT violated their training.

46. As a result of their misconduct, Defendants BOHANON, WALFORD, LEDOGAR, and LVMPD DOE OFFICERS, each are liable for DECEDENT’S and Plaintiffs’ injuries, either because they were integral participants in the shooting or

1 because they failed to intervene to prevent these violations.

2 47. The conduct of Defendants BOHANON, WALFORD, LEDOGAR,
3 LVMPD DOE OFFICERS was willful, wanton, malicious, and done with reckless
4 disregard for the rights and safety of DECEDENT and therefore warrants the
5 imposition of exemplary and punitive damages as to individual Defendants
6 BOHANON, WALFORD, LEDOGAR, and LVMPD DOE OFFICERS.

7 48. Plaintiffs K.C., by and through her guardian *ad litem* Carolina
8 Navarro, A.S., by and through her guardian *ad litem* Araceli Saenz, K.C., by and
9 through her guardian *ad litem* Amber Neubert, and LAWRENCE as the pending
10 administrator of the ESTATE OF KEITH CHILDRESS, JR., bring this claim as
11 successors in interest to DECEDENT and seek both survival and wrongful death
12 damages under this claim, including pain and suffering and loss of enjoyment of
13 life. Plaintiffs also claim funeral and burial expenses, loss of financial support, and
14 attorneys' fees under this claim.

15
16 **SECOND CLAIM FOR RELIEF**

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

18 (By Plaintiffs LAWRENCE as administrator of the ESTATE OF KEITH
19 CHILDRESS, JR., K.C., A.S., and K.C. against Defendants BOHANON,
20 WALFORD, LEDOGAR, and LVMPD DOE OFFICERS)

21 49. Plaintiffs repeat and reallege each and every allegation in paragraphs 1
22 through 46 of this Complaint with the same force and effect as if fully set forth
23 herein.

24 50. The denial of medical care by Defendants BOHANON, WALFORD,
25 LEDOGAR, and LVMPD DOE OFFICERS deprived DECEDENT of his right to be
26 secure in his person against unreasonable searches and seizures as guaranteed to
27 DECEDENT under the Fourth Amendment to the United States Constitution and
28 applied to state actors by the Fourteenth Amendment.

1 51. As a result, DECEDENT suffered extreme pain and suffering and
2 eventually suffered a loss of life and earning capacity.

3 52. Defendants BOHANON, WALFORD, LEDOGAR, and LVMPD DOE
4 OFFICERS knew that failure to provide timely medical treatment to DECEDENT
5 could result in further significant injury or the unnecessary and wanton infliction of
6 pain, but disregarded that serious medical need, causing DECEDENT great bodily
7 harm and death.

8 53. Defendants' failure to timely provide medical treatment to
9 DECEDENT was a violation of their training.

10 54. As a result of their misconduct, Defendants BOHANON, WALFORD,
11 LEDOGAR, and LVMPD DOE OFFICERS each are liable for DECEDENT's and
12 Plaintiffs' injuries, either because they were integral participants in the shooting or
13 because they failed to intervene to prevent these violations.

14 55. The conduct of Defendants BOHANON, WALFORD, LEDOGAR, and
15 LVMPD DOE OFFICERS was willful, wanton, malicious, and done with reckless
16 disregard for the rights and safety of DECEDENT and therefore warrants the
17 imposition of exemplary and punitive damages as to individual Defendants
18 BOHANON, WALFORD, LEDOGAR, and LVMPD DOE OFFICERS.

19 56. Plaintiffs K.C., by and through her guardian *ad litem* Carolina Navarro,
20 A.S., by and through her guardian *ad litem* Araceli Saenz, K.C., by and through her
21 guardian *ad litem* Amber Neubert, and LAWRENCE as the pending administrator of
22 the ESTATE OF KEITH CHILDRESS, JR., bring this claim as successors in
23 interest to DECEDENT and seek both survival and wrongful death damages under
24 this claim, including pain and suffering and loss of enjoyment of life. Plaintiffs also
25 claim funeral and burial expenses, loss of financial support, and attorneys' fees
26 under this claim.

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1 including but not limited to unwarranted state interference in his familial
2 relationship with her father, DECEDENT.

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

8 63. Plaintiff CHILDRESS had a cognizable interest under the Due Process
9 Clause of the Fourteenth Amendment of the United States Constitution to be free
10 from state actions that deprive him of life, liberty, or property in such a manner as to
11 shock the conscience, including but not limited to unwarranted state interference in
12 his familial relationship with his son, DECEDENT.

13 64. The aforementioned actions of BOHANON, WALFORD, LEDOGAR,
14 and LVMPD DOE OFFICERS, along with other undiscovered conduct, shock the
15 conscience, in that they acted with deliberate indifference to the constitutional rights
16 of DECEDENT and Plaintiffs, and with purpose to harm unrelated to any legitimate
17 law enforcement objective.

18 65. As a direct and proximate cause of the acts of BOHANON,
19 WALFORD, LEDOGAR, and LVMPD DOE OFFICERS, DECEDENT
20 experienced severe pain and suffering and lost his life and earning capacity.

21 66. BOHANON, WALFORD, LEDOGAR, and LVMPD DOE OFFICERS
22 thus violated the substantive due process rights of Plaintiffs to be free from
23 unwarranted interference with their familial relationship with DECEDENT.

24 67. Plaintiffs have suffered extreme and severe mental anguish and pain
25 and have been injured in mind and body. Plaintiffs have also been deprived of the
26 life-long love, companionship, comfort, support, society, care, and sustenance of
27 DECEDENT, and will continue to be so deprived for the remainder of their natural
28 lives.

1 75. The acts of Defendants BOHANON, WALFORD, LEDOGAR, and
2 LVMPD DOE OFFICERS deprived DECEDENT and Plaintiffs of their particular
3 rights under the United States Constitution.

4 76. Upon information and belief, a final policymaker, acting under color of
5 law, who had final policymaking authority concerning the acts of Defendants
6 BOHANON, WALFORD, LEDOGAR, and LVMPD DOE OFFICERS, ratified (or
7 will ratify) Defendants BOHANON, WALFORD, LEDOGAR, and LVMPD DOE
8 OFFICERS' acts and the bases for them. Upon information and belief, the final
9 policymaker knew of and specifically approved of (or will specifically approve of)
10 Defendants BOHANON'S, WALFORD'S, LEDOGAR'S, and LVMPD DOE
11 OFFICERS' acts.

12 77. Upon information and belief, a final policymaker has determined (or
13 will determine) that the acts of Defendants BOHANON, WALFORD, LEDOGAR,
14 and LVMPD DOE OFFICERS were "within policy."

15 78. On information and belief, Defendants BOHANON, WALFORD,
16 LEDOGAR, and LVMPD DOE OFFICERS were not disciplined, reprimanded,
17 retrained, suspended, or otherwise penalized in connection with DECEDENT'S
18 death.

19 79. By reason of the aforementioned acts and omissions, Plaintiffs have
20 suffered loss of the love, companionship, affection, comfort, care, society, training,
21 guidance, and past and future support of DECEDENT. The aforementioned acts and
22 omissions also caused DECEDENT'S pain and suffering, loss of enjoyment of life,
23 and death.

24 80. Accordingly, Defendants LVMPD and LVMPD DOE SUPERVISORS
25 each are liable to Plaintiffs for compensatory damages under 42 U.S.C. § 1983.

26 81. Plaintiffs K.C., by and through her guardian *ad litem* Carolina Navarro,
27 A.S., by and through her guardian *ad litem* Araceli Saenz, K.C., by and through her
28 guardian *ad litem* Amber Neubert, and LAWRENCE as the pending administrator of

1 the ESTATE OF KEITH CHILDRESS, JR., bring this claim as successors in
2 interest to DECEDENT and seek both survival and wrongful death damages under
3 this claim, including pain and suffering and loss of enjoyment of life. Plaintiffs also
4 claim funeral and burial expenses, loss of financial support, and attorneys' fees
5 under this claim.

6
7 **FIFTH CLAIM FOR RELIEF**

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

9 (By Plaintiffs LAWRENCE as administrator of the ESTATE OF KEITH
10 CHILDRESS, JR., K.C., A.S., and K.C. against Defendants LVMPD and LVMPD
11 DOE SUPERVISORS)

12 82. Plaintiffs repeat and reallege each and every allegation in paragraphs 1
13 through 79 of their Complaint with the same force and effect as if fully set forth
14 herein.

15 83. Defendants BOHANON, WALFORD, LEDOGAR, and LVMPD DOE
16 OFFICERS acted under color of law.

17 84. The acts of Defendants BOHANON, WALFORD, LEDOGAR, and
18 LVMPD DOE OFFICERS deprived DECEDENT and Plaintiffs of their particular
19 rights under the United States Constitution.

20 85. The training policies of Defendant CITY were not adequate to train its
21 deputies to handle the usual and recurring situations with which they must deal.

22 86. Defendant CITY was deliberately indifferent to the obvious
23 consequences of its failure to train its officers adequately.

24 87. The failure of Defendant CITY to provide adequate training caused the
25 deprivation of Plaintiffs' rights by Defendants BOHANON, WALFORD,
26 LEDOGAR, and LVMPD DOE OFFICERS; that is, the LVMPD'S failure to train is
27 so closely related to the deprivation of the Plaintiffs' rights as to be the moving
28 force that caused the ultimate injury.

1 88. By reason of the aforementioned acts and omissions, Plaintiffs have
2 suffered loss of the love, companionship, affection, comfort, care, society, training,
3 guidance, and past and future support of DECEDENT. The aforementioned acts and
4 omissions also caused DECEDENT's pain and suffering, loss of enjoyment of life,
5 and death.

6 89. Accordingly, Defendants LVMPD and LVMPD DOE SUPERVISORS
7 each are liable to Plaintiffs for compensatory damages under 42 U.S.C. § 1983.

8 90. Plaintiffs K.C., by and through her guardian *ad litem* Carolina Navarro,
9 A.S., by and through her guardian *ad litem* Araceli Saenz, K.C., by and through her
10 guardian *ad litem* Amber Neubert, and LAWRENCE as the pending administrator of
11 the ESTATE OF KEITH CHILDRESS, JR., bring this claim as successors in
12 interest to DECEDENT and seek both survival and wrongful death damages under
13 this claim, including pain and suffering and loss of enjoyment of life. Plaintiffs also
14 claim funeral and burial expenses, loss of financial support, and attorneys' fees
15 under this claim.

16
17 **SIXTH CLAIM FOR RELIEF**

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

19 (By Plaintiffs LAWRENCE as administrator of the ESTATE OF KEITH
20 CHILDRESS, JR., K.C., A.S., and K.C. against Defendants LVMPD and LVMPD
21 DOE SUPERVISORS)

22 91. Plaintiffs repeat and reallege each and every allegation in paragraphs 1
23 through 88 of their Complaint with the same force and effect as if fully set forth
24 herein.

25 92. Defendants BOHANON, WALFORD, LEDOGAR, and LVMPD DOE
26 OFFICERS acted under color of law.

1 93. Defendants BOHANON, WALFORD, LEDOGAR, and LVMPD DOE
2 OFFICERS acted pursuant to an expressly adopted official policy or a longstanding
3 practice or custom of the Defendant LVMPD.

4 94. On information and belief, Defendants BOHANON, WALFORD,
5 LEDOGAR, and LVMPD DOE OFFICERS were not disciplined, reprimanded,
6 retrained, suspended, or otherwise penalized in connection with DECEDENT's
7 death.

8 95. Defendants LVMPD, BOHANON, WALFORD, LEDOGAR, and
9 LVMPD DOE OFFICERS, together with other LVMPD policymakers and
10 supervisors, maintained, inter alia, the following unconstitutional customs, practices,
11 and policies:

- 12 (a) Using excessive force, including excessive deadly force;
13 (b) Providing inadequate training regarding the use of deadly force;
14 (c) Employing and retaining as police officers individuals such as
15 Defendants BOHANON, WALFORD, LEDOGAR, and LVMPD
16 DOE OFFICERS, whom Defendant LVMPD at all times
17 material herein knew or reasonably should have known had
18 dangerous propensities for abusing their authority and for using
19 excessive force;
20 (d) Inadequately supervising, training, controlling, assigning, and
21 disciplining LVMPD deputies and other personnel, including
22 Defendants BOHANON, WALFORD, LEDOGAR, and LVMPD
23 DOE OFFICERS, whom Defendant LVMPD knew or in the
24 exercise of reasonable care should have known had the
25 aforementioned propensities and character traits;
26 (e) Maintaining grossly inadequate procedures for reporting,
27 supervising, investigating, reviewing, disciplining and
28 controlling misconduct by LVMPD officers;

- 1 (f) Failing to adequately discipline LVMPD officers for the above-
2 referenced categories of misconduct, including “slaps on the
3 wrist,” discipline that is so slight as to be out of proportion to the
4 magnitude of the misconduct, and other inadequate discipline
5 that is tantamount to encouraging misconduct;
- 6 (g) Announcing that unjustified shootings are “within policy,”
7 including shootings that were later determined in court to be
8 unconstitutional;
- 9 (h) Even where shootings are determined in court to be
10 unconstitutional, refusing to discipline, terminate, or retrain the
11 officers involved;
- 12 (i) Encouraging, accommodating, or facilitating a “blue code of
13 silence,” “blue shield,” “blue wall,” “blue curtain,” “blue veil,”
14 or simply “code of silence,” pursuant to which police officers do
15 not report other officers’ errors, misconduct, or crimes. Pursuant
16 to this code of silence, if questioned about an incident of
17 misconduct involving another officer, while following the code,
18 the officer being questioned will claim ignorance of the other
19 officers’ wrongdoing; and
- 20 (j) Maintaining a policy of inaction and an attitude of indifference
21 towards soaring numbers of police shootings, including by
22 failing to discipline, retrain, investigate, terminate, and
23 recommend officers for criminal prosecution who participate in
24 shootings of unarmed people.

25 96. By reason of the aforementioned acts and omissions, Plaintiffs have
26 suffered loss of the love, companionship, affection, comfort, care, society, training,
27 guidance, and past and future support of DECEDENT. The aforementioned acts and
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1 omissions also caused DECEDENT's pain and suffering, loss of enjoyment of life,
2 and death.

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

11 98. By perpetrating, sanctioning, tolerating and ratifying the outrageous
12 conduct and other wrongful acts, LVMPD DOE SUPERVISORS acted with
13 intentional, reckless, and callous disregard for the life of DECEDENT and for
14 DECEDENT's and Plaintiffs' constitutional rights. Furthermore, the policies,
15 practices, and customs implemented, maintained, and still tolerated by Defendants
16 LVMPD and LVMPD DOE SUPERVISORS were affirmatively linked to and were
17 a significantly influential force behind the injuries of DECEDENT and Plaintiffs.

18 99. Accordingly, Defendants LVMPD and LVMPD DOE SUPERVISORS
19 each are liable to Plaintiffs for compensatory damages under 42 U.S.C. § 1983.

20 100. Plaintiffs K.C., by and through her guardian *ad litem* Carolina Navarro,
21 A.S., by and through her guardian *ad litem* Araceli Saenz, K.C., by and through her
22 guardian *ad litem* Amber Neubert, and LAWRENCE as the pending administrator of
23 the ESTATE OF KEITH CHILDRESS, JR., bring this claim as successors in
24 interest to DECEDENT and seek both survival and wrongful death damages under
25 this claim, including pain and suffering and loss of enjoyment of life. Plaintiffs also
26 claim funeral and burial expenses, loss of financial support, and attorneys' fees
27 under this claim.

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SEVENTH CLAIM FOR RELIEF

Battery (wrongful death)

(By all Plaintiffs against Defendants LVMPD, BOHANON, WALFORD,
LEDOGAR, and LVMPD DOE OFFICERS)

101. Plaintiffs repeat and reallege each and every allegation in paragraphs 1 through 98 of this Complaint with the same force and effect as if fully set forth herein.

102. Defendants BOHANON, WALFORD, and LEDOGAR, while working as sergeants, officers, agents and/or deputies for the LVMPD and acting within the course and scope of their duties, intentionally shot DECEDENT multiple times and released a police dog on DECEDENT after he was shot. LVMPD DOE OFFICERS also while working as sergeants, officers, agents and/or deputies for the LVMPD and acting within the course and scope of their duties, integrally participated or failed to intervene in the shooting.

103. As a result of the actions of BOHANON, WALFORD, LEDOGAR, and LVMPD DOE OFFICERS, DECEDENT suffered severe pain and suffering and ultimately died from his injuries and also lost his earning capacity. BOHANON, WALFORD, LEDOGAR, and LVMPD DOE OFFICERS had no legal justification for using deadly force against DECEDENT, and said Defendants' use of force while carrying out their duties as sergeants or officers for the LVMPD was an unreasonable use of force under the circumstances.

104. As a direct and proximate result of the conduct of BOHANON, WALFORD, LEDOGAR, and LVMPD DOE OFFICERS as alleged above, Plaintiffs and DECEDENT suffered extreme and severe mental anguish and pain and have been injured in mind and body.

105. The aforementioned wrongful acts, conduct, and use of excessive force were unconstitutional.

1 106. Defendant LVMPD is vicariously liable for the wrongful acts of
2 BOHANON, WALFORD, LEDGOAR, and LVMPD DOE OFFICERS because
3 under Nevada law, a public entity is liable for the injuries caused by its employees
4 within the scope of the employment if the employee's act would subject him or her
5 to liability.

6 107. The conduct of BOHANON, WALFORD, LEDOGAR, and LVMPD
7 DOE OFFICERS was malicious, wanton, oppressive, and accomplished with a
8 conscious disregard for the rights of Plaintiffs and DECEDENT, entitling Plaintiffs,
9 in each case individually and as a successor-in-interest to DECEDENT, to an award
10 of exemplary and punitive damages as to BOHANON, WALFORD, LEDOGAR,
11 and LVMPD DOE OFFICERS.

12 108. Plaintiffs LAWRENCE and CHILDRESS bring this claim individually
13 and seek both survival and wrongful death damages under this claim based on their
14 financial dependency on DECEDENT.

15 109. Plaintiffs K.C., by and through her guardian *ad litem* Carolina Navarro,
16 A.S., by and through her guardian *ad litem* Araceli Saenz, K.C., by and through her
17 guardian *ad litem* Amber Neubert, and LAWRENCE as the pending administrator of
18 the ESTATE OF KEITH CHILDRESS, JR., bring this claim as successors in
19 interest to DECEDENT and seek both survival and wrongful death damages under
20 this claim, including pain and suffering and loss of enjoyment of life. Plaintiffs also
21 claim funeral and burial expenses, loss of financial support, and attorneys' fees
22 under this claim.

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EIGHTH CLAIM FOR RELIEF

Negligence (wrongful death)

(By all Plaintiffs against Defendants LVMPD, BOHANON, WALFORD,
LEDOGAR, and LVMPD DOE OFFICERS)

110. Plaintiffs repeat and reallege each and every allegation in paragraphs 1 through 106 of this Complaint with the same force and effect as if fully set forth herein.

111. The actions and inactions of Defendants were negligent and reckless, including but not limited to:

- (a) the failure to properly and adequately assess the need to detain, arrest, and use force or deadly force against DECEDENT;
- (b) the negligent tactics and handling of the situation with DECEDENT, including pre-shooting negligence;
- (c) the negligent detention, arrest, and use of force, including deadly force, against DECEDENT;
- (d) the failure to provide prompt medical care to DECEDENT;
- (e) the failure to properly train and supervise employees, both professional and non-professional, including BOHANON, WALFORD, LEDOGAR, and LVMPD DOE OFFICERS;
- (f) the failure to ensure that adequate numbers of employees with appropriate education and training were available to meet the needs of and protect the rights of DECEDENT.

112. As a direct and proximate result of Defendants' conduct as alleged above, and other undiscovered negligent conduct, DECEDENT was caused to suffer severe pain and suffering and ultimately died and lost earning capacity. Also as a direct and proximate result of Defendants' conduct as alleged above, Plaintiffs suffered extreme and severe mental anguish and pain and have been injured in mind and body. Plaintiffs also have been deprived of the life-long love, companionship,

1 comfort, support, society, care and sustenance of DECEDENT, and will continue to
2 be so deprived for the remainder of their natural lives.

3 113. The aforementioned wrongful acts, conduct, and use of excessive force
4 were unconstitutional.

5 114. The LVMPD is vicariously liable for the wrongful acts of LVMPD
6 DOE OFFICERS because a public entity is liable for the injuries caused by its
7 employees within the scope of the employment if the employee's act would subject
8 him or her to liability.

9 115. Plaintiffs LAWRENCE and CHILDRESS bring this claim individually
10 and seek both survival and wrongful death damages under this claim based on their
11 financial dependency on DECEDENT.

12 116. Plaintiffs K.C., by and through her guardian *ad litem* Carolina Navarro,
13 A.S., by and through her guardian *ad litem* Araceli Saenz, K.C., by and through her
14 guardian *ad litem* Amber Neubert, and LAWRENCE as the pending administrator of
15 the ESTATE OF KEITH CHILDRESS, JR., bring this claim as successors in
16 interest to DECEDENT and seek both survival and wrongful death damages under
17 this claim, including pain and suffering and loss of enjoyment of life. Plaintiffs also
18 claim funeral and burial expenses, loss of financial support, and attorneys' fees
19 under this claim.

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1 **NINTH CLAIM FOR RELIEF**

2 **Wrongful Death**

3 **(Federal Tort Claims Act—28 U.S.C. §1346(b))**

4 (By all Plaintiffs against Defendants DOJMS DOE DEPUTIES; DOJMS
5 DOE SUPERVISORS; and DOJMS)

6 117. Plaintiffs repeat and reallege each and every allegation in paragraphs 1
7 through 112 of this Complaint with the same force and effect as if fully set forth
8 herein.

9 118. DOJMS DOE DEPUTIES, while working as deputies for the DOJMS
10 and acting within the course and scope of their duties, integrally participated or
11 failed to intervene in the unlawful and unjustified shooting of DECEDENT.

12 119. As a result of the actions and inactions of DOJMS DOE DEPUTIES,
13 DECEDENT suffered severe pain and suffering and ultimately died from his
14 injuries and also lost his earning capacity.

15 120. As a direct and proximate result of the conduct of DOJMS DOE
16 DEPUTIES as alleged above, Plaintiffs have suffered loss of the love,
17 companionship, affection, comfort, care, society, training, guidance, and past and
18 future support of DECEDENT. The aforementioned acts and omissions also caused
19 DECEDENT's pain and suffering, loss of enjoyment of life, and death.

20 121. Plaintiffs LAWRENCE and CHILDRESS bring this claim individually
21 and seek both survival and wrongful death damages under this claim based on their
22 financial dependency on DECEDENT.

23 122. Plaintiffs K.C., by and through her guardian *ad litem* Carolina Navarro,
24 A.S., by and through her guardian *ad litem* Araceli Saenz, K.C., by and through her
25 guardian *ad litem* Amber Neubert, and LAWRENCE as the pending administrator of
26 the ESTATE OF KEITH CHILDRESS, JR., bring this claim as successors in
27 interest to DECEDENT and seek both survival and wrongful death damages under
28 this claim, including pain and suffering and loss of enjoyment of life. Plaintiffs also

1 claim funeral and burial expenses, loss of financial support, and attorneys' fees
2 under this claim.

3
4 **TENTH CLAIM FOR RELIEF**

5 **Supervisory Liability**

6 ***(Bivens Action)***

7 (By Plaintiffs LAWRENCE as administrator of the ESTATE OF KEITH
8 CHILDRESS, JR., K.C., A.S., and K.C. against Defendants DOJMS and
9 DOJMS DOE SUPERVISORS)

10 123. Plaintiffs repeat and reallege each and every allegation in paragraphs 1
11 through 118 of this Complaint with the same force and effect as if fully set forth
12 herein.

13 124. DOJMS DOE DEPUTIES integrally participated or failed to intervene
14 in the shooting of DECEDENT, thereby violating DECEDENT's right to be free
15 from unreasonable searches and seizures, excessive force, and conscience-shocking
16 behavior pursuant to the Fourth and Fourteenth Amendments to the United States
17 Constitution.

18 125. On information and belief, Defendants DOJMS DOE DEPUTIES'
19 participation in the unjustified shooting of DECEDENT was found to be within
20 DOJMS policy.

21 126. On information and belief, Defendants DOJMS DOE DEPUTIES'
22 participation in the unjustified shooting of DECEDENT was ratified by DOJMS
23 DOE SUPERVISORS.

24 127. On information and belief, DOJMS DOE DEPUTIES were not
25 disciplined for their participation in the unjustified shooting DECEDENT.

26 128. On and for some time prior to December 31, 2015 (and continuing to
27 the present date), Defendants DOJMS, DOJMS DOE DEPUTIES, and DOJMS
28 SUPERVISORIAL DOES, acting with gross negligence and with reckless and

1 deliberate indifference to the rights and liberties of the public in general, and of
2 Plaintiffs and DECEDENT, and of persons in their class, situation and comparable
3 position in particular, knowingly maintained, enforced and applied an official
4 recognized custom, policy, and practice of:

- 5 (a) Employing and retaining as federal deputies and other personnel,
6 including DOJMS DOE DEPUTIES, whom Defendants DOJMS
7 and DOJMS DOE SUPERVISORS at all times material herein
8 knew or reasonably should have known had propensities for
9 providing erroneous or false information, and dangerous
10 propensities for abusing their authority and for mistreating
11 citizens by failing to follow written DOJMS policies;
- 12 (b) Of inadequately supervising, training, controlling, assigning, and
13 disciplining DOJMS deputies and other personnel, including
14 DOJMS DOE DEPUTIES, whom Defendants DOJMS and
15 DOJMS DOE SUPERVISORS knew or in the exercise of
16 reasonable care should have known had the aforementioned
17 propensities and character traits;
- 18 (c) By maintaining grossly inadequate procedures for reporting,
19 supervising, investigating, reviewing, disciplining and
20 controlling the negligent or intentional misconduct by
21 Defendants DOJMS DOE DEPUTIES, who are deputies and/or
22 agents of DOJMS;
- 23 (d) By failing to discipline DOJMS deputies and/or agents for
24 negligent or intentional misconduct;
- 25 (e) By ratifying the negligent or intentional misconduct of DOJMS
26 DOE DEPUTIES and other DOJMS deputies and/ or agents with
27 respect to the use of deadly force;
- 28

1 (f) By having and maintaining an unconstitutional policy, custom,
2 and practice of reporting erroneous and/or false information,
3 which also is demonstrated by inadequate training regarding
4 these subjects. The policies, customs, and practices of
5 Defendants DOJMS and DOJMS DOE SUPERVISORS were
6 maintained with a deliberate indifference to individuals' safety
7 and rights; and

8 (g) By failing to properly investigate claims of erroneous or false
9 reporting by DOJMS deputies.

10 129. By reason of the aforementioned policies and practices of Defendants
11 DOJMS DOE DEPUTIES, DOJMS, and DOJMS DOE SUPERVISORS,
12 DECEDENT was severely injured and subjected to pain and suffering and lost his
13 life.

14 130. Defendants DOJMS and DOJMS DOE SUPERVISORS, together with
15 various other officials, whether named or unnamed, had either actual or constructive
16 knowledge of the deficient policies, practices and customs alleged in the paragraphs
17 above. Despite having knowledge as stated above, these defendants condoned,
18 tolerated and through actions and inactions thereby ratified such policies. Said
19 defendants also acted with deliberate indifference to the foreseeable effects and
20 consequences of these policies with respect to the constitutional rights of
21 DECEDENT, Plaintiffs, and other individuals similarly situated.

22 131. By perpetrating, sanctioning, tolerating and ratifying the outrageous
23 conduct and other wrongful acts, Defendants DOJMS DOE DEPUTIES, DOJMS
24 DOE SUPERVISORS acted with intentional, reckless, and callous disregard for the
25 life of DECEDENT and for DECEDENT's and Plaintiffs' constitutional rights.
26 Furthermore, the policies, practices, and customs implemented, maintained, and still
27 tolerated by Defendants DOJMS and DOJMS DOE SUPERVISORS were
28

1 affirmatively linked to and were a significantly influential force behind the injuries
2 of DECEDENT and Plaintiffs.

3 132. The actions of each of Defendants DOJMS DOE DEPUTIES and
4 DOJMS DOE SUPERVISORS were willful, wanton, oppressive, malicious,
5 fraudulent, and extremely offensive and unconscionable to any person of normal
6 sensibilities, and therefore warrants the imposition of exemplary and punitive
7 damages as to Defendants DOJMS DOE SUPERVISORS.

8 133. By reason of the aforementioned acts and omissions of Defendants,
9 Plaintiffs were caused to incur funeral and burial expenses, loss of financial support,
10 loss of love, companionship, affection, comfort, care, society, and future support.

11 134. Accordingly, Defendants DOJMS and DOJMS DOE SUPERVISORS
12 each are liable to Plaintiffs for compensatory damages under *Bivens v. Six Unknown*
13 *Agents*, 403 U.S. 388 (1971).

14 135. Plaintiffs K.C., by and through her guardian *ad litem* Carolina Navarro,
15 A.S., by and through her guardian *ad litem* Araceli Saenz, K.C., by and through her
16 guardian *ad litem* Amber Neubert, and LAWRENCE as the pending administrator of
17 the ESTATE OF KEITH CHILDRESS, JR., bring this claim as successors in
18 interest to DECEDENT and seek both survival and wrongful death damages under
19 this claim, including pain and suffering and loss of enjoyment of life. Plaintiffs also
20 claim funeral and burial expenses, loss of financial support, and attorneys' fees
21 under this claim.

22
23 **ELEVENTH CLAIM FOR RELIEF**

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

25 (By Plaintiffs LAWRENCE as administrator of the ESTATE OF KEITH
26 CHILDRESS, K.C., A.S., and K.C. against Defendants DOJMS DOE DEPUTIES)

1 136. Plaintiffs repeat and reallege each and every allegation in paragraphs 1
2 through 131 of this Complaint with the same force and effect as if fully set forth
3 herein.

4 137. Defendants DOJMS DOE DEPUTIES integrally participated or failed
5 to intervene in the shooting of DECEDENT. Defendants DOJMS DOE
6 DEPUTIES' participation in the unjustified shooting deprived DECEDENT of his
7 right to be secure in his person against unreasonable searches and seizures as
8 guaranteed to DECEDENT under the Fourth Amendment to the United States
9 Constitution and applied to state actors by the Fourteenth Amendment.

10 138. The shooting was excessive and unreasonable, especially because
11 DECEDENT posed no immediate threat of death or serious bodily injury at the time
12 of the shooting and was unarmed at all relevant times.

13 139. As a result of the shooting, DECEDENT suffered extreme pain and
14 suffering and eventually suffered a loss of life and of earning capacity.

15 140. As a result of their misconduct, Defendants DOJMS DOE DEPUTIES
16 each are liable for DECEDENT's and Plaintiffs' injuries, either because they were
17 integral participants in the shooting or because they failed to intervene to prevent
18 these violations.

19 141. The conduct of Defendants DOJMS DOE DEPUTIES was willful,
20 wanton, malicious, and done with reckless disregard for the rights and safety of
21 DECEDENT and therefore warrants the imposition of exemplary and punitive
22 damages as to individual Defendants DOJMS DOE DEPUTIES.

23 142. Plaintiffs K.C., by and through her guardian *ad litem* Carolina
24 Navarro, A.S., by and through her guardian *ad litem* Araceli Saenz, K.C., by and
25 through her guardian *ad litem* Amber Neubert, and LAWRENCE as the pending
26 administrator of the ESTATE OF KEITH CHILDRESS, JR., bring this claim as
27 successors in interest to DECEDENT and seek both survival and wrongful death
28 damages under this claim, including pain and suffering and loss of enjoyment of

1 life. Plaintiffs also claim funeral and burial expenses, loss of financial support, and
2 attorneys' fees under this claim.

3
4 **THIRTEENTH CLAIM FOR RELIEF**

5 **Substantive Due Process (*Bivens*)**

6 **(By all Plaintiffs against Defendants DOJMS DOE DEPUTIES)**

7 143. Plaintiffs repeat and reallege each and every allegation in paragraphs 1
8 through 147 of this Complaint with the same force and effect as if fully set forth
9 herein.

10 144. DECEDENT had a cognizable interest under the Due Process Clause of
11 the Fourteenth Amendment of the United States Constitution to be free from state
12 actions that deprive him of life, liberty, or property in such a manner as to shock the
13 conscience.

14 145. Plaintiff K.C., by and through her guardian *ad litem* Carolina Navarro,
15 had a cognizable interest under the Due Process Clause of the Fourteenth
16 Amendment of the United States Constitution to be free from state actions that
17 deprive her of life, liberty, or property in such a manner as to shock the conscience,
18 including but not limited to unwarranted state interference in her familial
19 relationship with her father, DECEDENT.

20 146. Plaintiff A.S. had a cognizable interest under the Due Process Clause of
21 the Fourteenth Amendment of the United States Constitution to be free from state
22 actions that deprive her of life, liberty, or property in such a manner as to shock the
23 conscience, including but not limited to unwarranted state interference in her
24 familial relationship with her father, DECEDENT.

25 147. Plaintiff K.C., by and through her guardian *ad litem* Amber Neubert,
26 had a cognizable interest under the Due Process Clause of the Fourteenth
27 Amendment of the United States Constitution to be free from state actions that
28 deprive her of life, liberty, or property in such a manner as to shock the conscience,

1 including but not limited to unwarranted state interference in his familial
2 relationship with her father, DECEDENT.

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

8 149. Plaintiff CHILDRESS had a cognizable interest under the Due Process
9 Clause of the Fourteenth Amendment of the United States Constitution to be free
10 from state actions that deprive him of life, liberty, or property in such a manner as to
11 shock the conscience, including but not limited to unwarranted state interference in
12 his familial relationship with his son, DECEDENT.

13 150. The aforementioned actions of DOJMS DOE DEPUTIES, including
14 but not limited to providing false information that DECEDENT was wanted for
15 attempted murder, along with other undiscovered conduct, shock the conscience, in
16 that they acted with deliberate indifference to the constitutional rights of
17 DECEDENT and Plaintiffs, and with purpose to harm unrelated to any legitimate
18 law enforcement objective.

19 151. As a direct and proximate cause of the acts of DOJMS DOE
20 DEPUTIES, DECEDENT experienced severe pain and suffering and lost his life
21 and earning capacity.

22 152. DOJMS DOE DEPUTIES thus violated the substantive due process
23 rights of Plaintiffs to be free from unwarranted interference with their familial
24 relationship with DECEDENT.

25 153. Plaintiffs have suffered extreme and severe mental anguish and pain
26 and have been injured in mind and body. Plaintiffs have also been deprived of the
27 life-long love, companionship, comfort, support, society, care, and sustenance of
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1 DECEDENT, and will continue to be so deprived for the remainder of their natural
2 lives.

3 154. The conduct of DOJMS DOE DEPUTIES was willful, wanton,
4 malicious, and done with reckless disregard for the rights and safety of DECEDENT
5 and Plaintiffs and therefore warrants the imposition of exemplary and punitive
6 damages as to DOJMS DOE DEPUTIES.

7 155. Plaintiffs LAWRENCE and CHILDRESS bring this claim individually
8 and seek both survival and wrongful death damages under this claim based on their
9 financial dependency on DECEDENT.

10 156. Plaintiffs K.C., by and through her guardian *ad litem* Carolina Navarro,
11 A.S., by and through her guardian *ad litem* Araceli Saenz, K.C., by and through her
12 guardian *ad litem* Amber Neubert, and LAWRENCE as the pending administrator of
13 the ESTATE OF KEITH CHILDRESS, JR., bring this claim as successors in
14 interest to DECEDENT and seek both survival and wrongful death damages under
15 this claim, including pain and suffering and loss of enjoyment of life. Plaintiffs also
16 claim funeral and burial expenses, loss of financial support, and attorneys' fees
17 under this claim.

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DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury.

DATED: December 30, 2016

LAW OFFICES OF DALE K. GALIPO
LAW OFFICE OF PETER GOLDSTEIN

By _____ */s/ Peter Goldstein* _____
Dale K. Galipo, Esq.
Peter Goldstein, Esq.
Attorneys for Plaintiffs