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14 **UNITES STATES DISTRICT COURT**
15 **SOUTHERN DISTRICT OF CALIFORNIA**

16 ELIZABETH JIMINEZ, individually,
17 and as successor in interest of
18 FERNANDO GEOVANNI LLANEZ,
19 deceased; FERNANDO LLANEZ,
20 individually, and as successor in
21 interest of FERNANDO GEOVANNI
22 LLANEZ, deceased,

23 Plaintiffs,

24 vs.

25 THE UNITED STATES OF
26 AMERICA; CHULA VISTA POLICE
27 DEPARTMENT, a public entity; CITY
28 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.

28 ///

1 18. Plaintiffs are informed and believe that Defendant DOES 1-100 are
2 supervisors, officers and/or staff of the CITY and/or USA and are fictitiously
3 named individuals whose true names are unknown at this time to Plaintiffs. The
4 true names and capacities of DOES 1-100 are unknown to plaintiffs, who
5 therefore sue said defendants by such fictitious names and will amend this
6 complaint to allege their true names and capacities when ascertained. Plaintiffs
7 are informed and believe and based thereon alleges that each of the fictitious
8 named defendants are responsible for the acts complained of herein.

9 19. At all relevant times herein, each of the Defendants was an agent,
10 servant, or employee of each of the remaining Defendants acting under color of
11 state and/or federal law, and was at all times acting within the time, purpose or
12 scope of said agency or employment, and was acting with the express or implied
13 knowledge, permission or consent of the remaining Defendants, and each of
14 them. Each of the Defendants held out the other as its authorized representative
15 and each of the Defendants ratified the conduct of its agents. At all times herein
16 mentioned, DOES 1-100 were and are Defendants whose identity is unknown at
17 this time who supervised, controlled, or were in some manner responsible for the
18 activities alleged herein and proximately caused Plaintiffs' damages.

19 **INTRODUCTION**

20 20. Federal and California law enforcement personnel physically
21 transported 2,000 pounds of marijuana across the U.S. Border crossing at
22 Tijuana, Baja California on June 2, 2016, and stored the marijuana for 12 days
23 with the intent to sell the marijuana for approximately \$200,000.00 to fund the
24 operations of their respective agencies. The marijuana was believed to have been
25 worth over \$1,000,000.00. Nevertheless, the Defendants tried repeatedly to sell
26 it for only \$200,000.00. After two failed attempts to sell the marijuana, a third
27 buyer was convinced to purchase the marijuana. Plaintiff was hired to drop off
28 and pick up a rental van in exchange for \$500.00 and believed the van would

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