

1 Jerry L. Steering (SBN 122509)  
 2 LAW OFFICES OF JERRY STEERING  
 3 4063 Birch Street, Suite 100  
 4 Newport Beach, California 92660  
 5 (949) 474-1849  
 6 (949) 474-1883 Fax  
 7 jerrysteering@yahoo.com  
 8 Attorney for Plaintiff Lu Ann V. Barrio, individually and as successor in interest  
 9 to Jonathan Wayne Barrio

8 **UNITED STATES DISTRICT COURT**  
 9  
 10 **CENTRAL DISTRICT OF CALIFORNIA**

11 LU ANN V. BARRIO, individually and  
 12 as successor in interest to  
 13 Jonathan Wayne Barrio,  
 14 Plaintiff,  
 15 vs.  
 16 COUNTY OF SAN BERNARDINO,  
 17 and DOES 1 through 10, INCLUSIVE,  
 18 Defendants.

Case No.:  
 COMPLAINT FOR DAMAGES FOR  
 VIOLATION OF FEDERAL  
 CONSTITUTIONAL RIGHTS  
 UNDER COLOR OF STATE LAW  
 (42 U.S.C. § 1983) CLAIM FOR USE  
 OF UNREASONABLE FORCE UPON  
 PERSON (U.S. CONST. AMEND 4)<sup>1</sup>,  
 CLAIM FOR UNREASONABLE  
 SEIZURE OF PERSON (U.S. CONST.  
 AMEND 4)<sup>2</sup>; CLAIM FOR  
 INTERFERENCE / DEPRIVATION  
 OF PARENT - CHILD  
 RELATIONSHIP (U.S. CONST.  
 AMEND 14); CLAIM FOR  
 DEPRIVATION OF LIFE (U.S.  
 CONST. AMEND 9 and 14); CLAIM  
 AGAINST LOCAL GOVERNING  
 BODY FOR FAILURE TO TRAIN;  
 CLAIM AGAINST OFFICIAL

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27 <sup>1</sup> Via Cal. Civ. Proc. Code § 377.30.

28 <sup>2</sup> Via Cal. Civ. Proc. Code § 377.30.

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POLICY, PRACTICE OR CUSTOM;  
CALIFORNIA STATE LAW CLAIMS  
FOR WRONGFUL DEATH (CAL.  
CIV. PROC. CODE § 377.60, VIA §  
377.30); VIOLATION OF BANE ACT  
(CAL. CIV. CODE § 52.1);  
BATTERY, ASSAULT, FALSE  
ARREST / FALSE IMPRISONMENT,  
NEGLIGENCE

JURY TRIAL DEMANDED

**COMES NOW** plaintiff LU ANN V. BARRIO, individually and as  
successor in interest to Jonathan Wayne Barrio, and shows this honorable court  
the following:

**JURISDICTIONAL ALLEGATIONS**

1. As this action is brought under 42 U.S.C. § 1983, this court has  
jurisdiction over this case under its federal question jurisdiction pursuant to 28  
U.S.C. § 1331.

2. As the incidents complained of in this action occurred in the County  
of San Bernardino, State of California, within the territorial jurisdiction of this  
court, venue properly lies in this court pursuant to 28 U.S.C. § 1391(b)(2).

3. As plaintiff’s claims brought under California state law arise out of  
the same transactions and occurrences and out of a common nucleus of operative  
facts as the plaintiff’s federal questions claims, this court has jurisdiction over the  
plaintiff’s California state law claims under its Supplemental Jurisdiction pursuant

1 to 28 U.S.C. § 1367, and otherwise pursuant to *United Mine Workers of America*  
2 *v. Gibbs*, 383 U.S. 715 (1966).  
3

4 4. Plaintiff LU ANN V. Barrio, individually and as successor in interest  
5 to plaintiff’s decedent Jonathan Wayne Barrio, timely filed her Claim For  
6 Damages against the County of San Bernardino on June 5, 2017, pursuant to the  
7 California Tort Claims Act, Cal. Gov’t. Code § 900 et seq., and said claim has  
8 been denied by defendant County of San Bernardino on or about June 13, 2017,  
9  
10 less than six months prior to the filing of this instant action.  
11

12 **GENERAL ALLEGATIONS**  
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14 5. Plaintiff Lu Ann V. Barrio, hereinafter referred to as “LU ANN  
15 BARRIO” and/or “plaintiff” and/or “Lu Ann Barrio” is a natural person, who, at  
16 all times complained of in this action, resided in the County of San Bernardino,  
17 State of California. Plaintiff Lu Ann Barrio was the legal and natural mother of  
18 plaintiff’s decedent, Jonathan Wayne Barrio and is the successor in interest in this  
19 action pursuant to Cal. Civ. Proc. Code § 337.30.  
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22 6. Plaintiff’s decedent, Jonathan Wayne Barrio, died intestate on  
23 December 23, 2016 at Ridgecrest Regional Hospital in Ridgecrest, California, and  
24 at all times complained of was a resident of the State of California.  
25

26 7. Defendant County of San Bernardino, hereinafter also referred to as  
27 “County of San Bernardino” or “COUNTY”, is a political subdivision of the State  
28

1 of California and is a municipal entity, located within the territorial jurisdiction of  
2 this Honorable Court.

3  
4 8. Defendants DOES 1 through 6, inclusive, are sworn peace officers  
5 and/or deputy sheriffs and/or supervisors and/or investigators and/ Special  
6 Officers and/or a dispatchers and/or some other public officer, public official or  
7 employee of defendant County of San Bernardino, who in some way committed  
8 some or all of the tortious actions (and constitutional violations) complained of in  
9 this action, and/or are otherwise responsible for and liable to plaintiffs for the acts  
10 complained of in this action, whose identities are, and remain unknown to  
11 plaintiff, who will amend her complaint to add and to show the actual names of  
12 said DOE defendants when ascertained by plaintiff.  
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16 9. At all times complained of herein, DOES 1 through 6, inclusive, were  
17 acting as individual person acting under the color of state law, pursuant to their  
18 authority as sworn peace officers and/or deputy sheriffs and/or Special Officers  
19 and/or Supervisors (i.e. Sergeants, Lieutenants, Captains, Commanders, etc.)  
20 and/or dispatchers, employed by defendant County of San Bernardino, and were  
21 acting in the course of and within the scope of their employment with defendant  
22 County of San Bernardino.  
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26 10. Defendants DOES 7 through 10, inclusive, are sworn peace officers  
27 and/or Supervisors and/or Commanders and/or Captains and/or Lieutenants and/or  
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1 Sergeants and/or Detectives and/or other Supervisory personnel (such as) and/or  
2 policy making and/or final policy making officials, employed by the County of  
3 San Bernardino, who are in some substantial way liable and responsible for, or  
4 otherwise proximately caused and/or contributed to the occurrences complained of  
5 by plaintiff in this action, such as via supervisory liability (i.e. failure to properly  
6 supervise, improperly directing subordinate officers, approving actions of  
7 subordinate officers), via bystander liability (failing to intervene in and stop  
8 unlawful actions of their subordinates and/or other officers), and such as by  
9 creating and/or causing the creation of and/or contributing to the creation of the  
10 policies and/or practices and/or customs and/or usages of the County of San  
11 Bernardino for: 1) for wrongfully killing persons; 2) for using excessive /  
12 unreasonable force on persons; 3) for unlawfully seizing persons; 4) for unlawful  
13 searching and seizing persons and their personalty / property; 5) for falsely  
14 arresting and falsely imprisoning persons; 6) for fabricating / destroying /  
15 concealing / altering / withholding evidence in criminal and civil actions, and for  
16 otherwise “framing” persons in criminal actions, in order to falsely and  
17 maliciously, oppressively convict innocent persons, to protect them and other  
18 deputy sheriffs and supervisory personnel from civil, administrative and criminal  
19 liability; 7) for interfering with persons’ and/or otherwise violating persons’  
20 constitutionally protected right to free speech; 8) for covering-up unlawful and  
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COMPLAINT FOR DAMAGES

1 tortious conduct by County of San Bernardino personnel, and were a proximate  
2 cause of the very same California state law, and federal and state constitutional  
3 violations complained above, and complained of by the plaintiff in this action.  
4

5 11. Plaintiff is presently unaware of the identities of DOES 1 through 10,  
6 inclusive, and will amend his complaint to add and to show the actual names of  
7 said DOE defendants, when ascertained by plaintiff.  
8

9 12. At all times complained of herein, DOES 7 through 10, inclusive,  
10 were acting were acting as individual persons acting under the color of state law,  
11 pursuant to their authority as Deputy Sheriffs and/or Supervisory Officers,  
12 Commanders and/or Captains and/or Lieutenants and/or Sergeants and/or other  
13 Supervisory personnel and/or policy making and/or final policy making officials,  
14 employed by the County of San Bernardino, and/or some other public official(s)  
15 with County of San Bernardino, and were acting in the course of and within the  
16 scope of their employment with defendant County of San Bernardino.  
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21 13. At all times complained of herein, defendants DOES 7 through 10,  
22 inclusive, were acting as individual persons under the color of state law; under and  
23 pursuant to their status and authority as peace officers and/or Supervisory peace  
24 officers (as described herein, above and below), and/or policy making peace  
25 officers, with defendant County of San Bernardino.  
26  
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28 14. Moreover, at all times complained of herein, defendants DOES 1

1 through 10, inclusive, were acting pursuant to, or otherwise contributed to the  
2 creation and maintenance of, the customs, policies, usages and practices of the  
3 County of San Bernardino, for, inter alia: : 1) for wrongfully killing persons; 2)  
4 for using excessive / unreasonable force on persons; 3) for unlawfully seizing  
5 persons; 4) for unlawful searching and seizing persons and their personalty /  
6 property; 5) for falsely arresting and falsely imprisoning persons; 6) for  
7 fabricating / destroying / concealing / altering / withholding evidence in criminal  
8 and civil actions, and for otherwise “framing” persons in criminal actions, in order  
9 to falsely and maliciously, oppressively convict innocent persons, to protect them  
10 and other deputy sheriffs and supervisory personnel from civil, administrative and  
11 criminal liability; 7) for interfering with persons’ and/or otherwise violating  
12 persons’ constitutionally protected right to free speech; 8) for covering-up  
13 unlawful and tortious conduct by County of San Bernardino personnel, and were a  
14 proximate cause of the very same California state law, and federal and state  
15 constitutional violations complained above, and complained of by the plaintiff in  
16 this action.  
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23           15. In addition to the above and foregoing, defendants DOES 1 through  
24 6, inclusive, acted pursuant to a conspiracy, agreement and understanding and  
25 common plan and scheme to deprive the plaintiff LU ANN BARRIO of her  
26 federal Constitutional and statutory rights, as complained of in this action, and  
27  
28

COMPLAINT FOR DAMAGES

1 acted in joint and concerted action to so deprive plaintiff LU ANN BARRIO of  
2 those rights as complained of herein; all in violation of 42 U.S.C. § 1983, and  
3 otherwise in violation of United States (Constitutional and statutory) law.  
4

5 16. Said conspiracy / agreement / understanding / plan / scheme / joint  
6 action / concerted action, above-referenced, was a proximate cause of the  
7 violation of the plaintiff LU ANN BARRIO federal and state constitutional and  
8 statutory rights, as complained of herein.  
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11 **FIRST CAUSE OF ACTION**  
12 **UNREASONABLE FORCE ON PERSON UNDER**  
13 **FOURTH AMENDMENT TO UNITED STATES CONSTITUTION**  
14 **[42 U.S.C. § 1983]**  
15 **(FEDERAL SURVIVALSHIP CLAIM**  
16 **VIA CAL. CIV. PROC. CODE § 377.30)**  
17 **(By Plaintiff LU ANN BARRIO, Individually and as Successor in Interest to**  
18 **Jonathan Wayne Barrio, Against All Defendants)**

19 17. Plaintiff hereby realleges and incorporates by reference the  
20 allegations set forth in paragraphs 1 through 16, inclusive, above, as if set forth in  
21 full herein.

22 18. On the afternoon of December 23, 2016, plaintiff’s decedent,  
23 Jonathan Wayne Barrio was contacted/confronted at the residence of plaintiff LU  
24 ANN BARRIO, 83408 Argus Avenue in unincorporated community of Trona, San  
25 Bernardino County, California by said unidentified San Bernardino County  
26 Sheriff’s Department deputy sheriffs, defendant DOES 1 through 6, inclusive.  
27  
28



1 19. During said law enforcement contact by said unidentified San  
2 Bernardino County Sheriff’s Department deputy sheriffs, defendant DOES 1  
3 through 6, inclusive, attempted to arrest and handcuff plaintiff’s decedent,  
4 Jonathan Wayne Barrio for claimed suspected intoxication.  
5

6 20. During said arrest/seizure of plaintiff’s decedent, Jonathan Wayne  
7 Barrio, said defendant San Bernardino County Sheriff’s Department deputy  
8 sheriffs DOES 1 through 6, inclusive, hogtied<sup>3</sup> plaintiff’s decedent Jonathan  
9 Wayne Barrio and placed him in the back of a patrol car in the prone position  
10 while hogtied.  
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13 21. As a result of being placed into the back of a patrol car prone and  
14 hogtied by said defendants DOES 1 through 6, inclusive, plaintiff’s decedent,  
15 Jonathan Wayne Barrio, was placed into a dangerous situation and was left on his  
16 abdomen and chest in the prone position in the back of a patrol car, impairing his  
17 ability to breathe as a consequence of positioning his immobilized body.  
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20 22. Moreover, after being placed on his abdomen and chest in the prone  
21 position in the back of a patrol car hogtied by defendant DOES 1 through 6,  
22 inclusive, further caused plaintiff’s decedent Jonathan Wayne Barrio “positional  
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28 <sup>3</sup> Otherwise known as “hobbling” or the Total Appendage Restraint Position (“TARP”).

1 asphyxia” due to chest compression and caused plaintiff’s decedent the inability to  
2 breathe, leading to the suffocation death of plaintiff’s decedent Jonathan Wayne  
3 Barrio.  
4

5 23. After plaintiff’s decedent, Jonathan Michael Barrio, stopped  
6 breathing while hogtied in the back of a patrol car by defendant DOES 1 through  
7 6, inclusive, he was then taken to Ridgecrest Regional Hospital in Ridgecrest,  
8 Kern County, California, where he was pronounced dead from his injuries.  
9

10 24. Said deadly hogtying of plaintiff’s decedent Jonathan Wayne Barrio  
11 by said DOE defendants, above-referenced, also caused Jonathan Wayne Barrio to  
12 suffer severe physical injury, and severe mental, emotional and physical pre-death  
13 distress, pain and suffering; in an amount to be proven at trial, in excess of  
14 \$10,000,000.00.  
15

16 25. Said deadly hogtying of Jonathan Wayne Barrio by said DOE  
17 defendants, above-referenced, was done by said defendant deputy sheriffs, without  
18 reasonable cause to believe that Jonathan Wayne Barrio was either armed or  
19 dangerous, and without probable cause to believe that he committed a crime,  
20 without any belief that said manner of restraint was either reasonable or non-  
21 lethal, and with notice and knowledge that the hogtying / hobbling of Jonathan  
22 Barrio could easily suffocate him.  
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27 26. Accordingly, said hogtying and death of Jonathan Wayne Barrio was  
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1 done in violation of his right to be free from the use of unreasonable force upon  
2 his person under the Fourth Amendment to the United States Constitution.  
3

4 27. Said hogtying and death of Jonathan Wayne Barrio by said DOE  
5 defendants, above-referenced, also caused plaintiff's decedent Jonathan Wayne  
6 Barrio and his successor in interest, plaintiff LU ANN BARRIO, to suffer great  
7 and severe pre-death pain and suffering, horror and severe mental and emotional  
8 distress substantial special damages, including but not limited to, lost wages /  
9 profits and other income that plaintiff's decedent Jonathan Wayne Barrio would  
10 have earned / made / acquired during his lifetime, the loss of Jonathan Wayne  
11 Barrio's home and the other property of Jonathan Wayne Barrio, funeral and  
12 burial expenses, hospital and other medical expenses and costs, and other special  
13 damages; all in an amount to be shown at trial, in excessive of \$10,000,000.00.  
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18 28. Said deadly hogtying of Jonathan Wayne Barrio by said DOE  
19 defendants, above-referenced, was done maliciously and in reckless disregard of  
20 Jonathan Wayne Barrio's constitutional rights; sufficient for an award of punitive  
21 damages against said DOE defendants; in an amount to be shown at trial, in  
22 excessive of \$10,000,000.00.  
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25 **SECOND CAUSE OF ACTION**  
26 **UNREASONABLE SEIZURE OF PERSON UNDER**  
27 **FOURTH AMENDMENT**  
28 **[42 U.S.C. § 1983]**  
**(FEDERAL SURVIVALSHIP CLAIM)**

COMPLAINT FOR DAMAGES

1                                   **VIA CAL. CIV. PROC. CODE § 377.30)**  
2                                   **(By Plaintiff LU ANN BARRIO, Individually and as Successor in Interest to**  
3                                   **Jonathan Wayne Barrio Against All Defendants)**

4                   29.    Plaintiffs hereby re-allege and incorporate by reference the  
5                   allegations set forth in paragraphs 1 through 28, inclusive, above, as though set  
6                   forth in full herein.

7  
8                   30.    As shown above, plaintiff LU ANN BARRIO is the natural mother of  
9                   her son, Jonathan Wayne Barrio, who died unmarried and intestate; and plaintiff is  
10                  the successor in interest to plaintiff's decedent Jonathan Wayne Barrio.

11  
12                  31.    As shown above, said DOE defendants, killed plaintiff's decedent  
13                  Jonathan Wayne Barrio on December 23, 2016.

14  
15                  32.    Also as shown above, said defendants detained plaintiff's decedent  
16                  Jonathan Wayne Barrio in the absence of reasonable suspicion of criminal conduct  
17                  by him, and otherwise seized him in an unreasonable manner by hogtying him,  
18                  placing him in a prone position in the back of a patrol car, and suffocating him to  
19                  death.  
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22                  33.    Accordingly, the defendants' seizure of Jonathan Wayne Barrio was  
23                  an unlawful and unreasonable seizure of him under the Fourth Amendment to the  
24                  United States Constitution.  
25

26                  34.    Said unreasonable seizure of Jonathan Wayne Barrio by said DOE  
27                  defendants, above-referenced, also caused plaintiff's decedent Jonathan Wayne  
28

1 Barrio and his mother, plaintiff and successor in interest, LU ANN BARRIO, to  
2 suffer substantial general damages such as severe mental and emotional distress,  
3 pain and suffering, severe physical injuries, and special damages, including but  
4 not limited to, lost wages / profits and other income that Jonathan Wayne Barrio  
5 would have earned / made / acquired during his lifetime, the loss of Jonathan  
6 Wayne Barrio's home and other property of Jonathan Wayne Barrio, funeral and  
7 burial expenses, hospital and other medical expenses and costs, and other special  
8 damages; all in an amount to be shown at trial, in excessive of \$10,000,000.00.  
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12 35. Said unreasonable seizure of Jonathan Wayne Barrio by said DOE  
13 defendants, above-referenced, was done maliciously and in reckless disregard of  
14 Jonathan Wayne Barrio's constitutional rights; sufficient for an award of punitive  
15 damages against said DOE defendants; in an amount to be shown at trial, in  
16 excessive of \$10,000,000.00.  
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19 **THIRD CAUSE OF ACTION**  
20 **LOSS OF PARENT- CHILD RELATIONSHIP WITHOUT DUE PROCESS**  
21 **OF THE LAW UNDER FOURTH AND FOURTEENTH AMENDMENT**  
22 **[42 U.S.C. § 1983]**  
23 **(By Plaintiff LU ANN BARRIO, Individually, Against All Defendants)**

24 36. Plaintiffs hereby re-allege and incorporate by reference the  
25 allegations set forth in paragraphs 1 through 35, inclusive, above, as though set  
26 forth in full herein.

27 37. The unlawful killing of plaintiff's deceased, Jonathan Wayne Barrio,  
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COMPLAINT FOR DAMAGES

1 by DOES 1 through 6, inclusive, deprived the plaintiff / mother LU ANNE  
2 BARRIO of her Parent – Child Relationship with her son Jonathan Wayne Barrio,  
3  
4 guaranteed to her under the Fourteenth Amendment to the United States  
5 Constitution. As shown above, plaintiff LU ANN BARRIO is the successor in  
6  
7 interest to plaintiff’s decedent Jonathan Wayne Barrio.

8 38. The use of unreasonable force upon Jonathan Wayne Barrio that  
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10 resulted in the unlawful killing of him by DOES 1 through 6, inclusive, was done  
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12 intentionally, was done in a manner that constituted the use of unreasonable force,  
13  
14 and was done in a manner that constituted a deliberate indifference to and reckless  
15  
16 disregard of Jonathan Wayne Barrio’s life and to said Child – Parent Relationship,  
17  
18 and constituted outrageous behavior that is shocking to the conscience.

19 39. The unlawful killing of plaintiff’s deceased, Jonathan Wayne Barrio,  
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21 by DOES 1 through 6, inclusive, above-referenced, also caused plaintiff LU ANN  
22  
23 BARRIO to suffer the loss of her son Jonathan Wayne Barrio’s society, solace and  
24  
25 comfort, companionship, as well as caused her to suffer great mental, emotional  
26  
27 and distress, pain and suffering in an amount to be shown at trial, in excess of  
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\$10,000,000.00.

40. The unlawful killing of Jonathan Wayne Barrio by DOES 1 through  
6, inclusive, above-referenced, was done maliciously and in reckless disregard of  
plaintiff’s constitutional rights, sufficient for an award of punitive damages

1 against said defendants (save COUNTY); all in an amount to be shown at trial, in  
2 excess of \$10,000,000.00.  
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4 **FOURTH CAUSE OF ACTION**  
5 **DEPRIVATION OF LIFE WITHOUT DUE PROCESS OF LAW UNDER**  
6 **FOURTEENTH AMENDMENT**

7 **[42 U.S.C. § 1983]**

8 **(FEDERAL SURVIVALSHIP CLAIM**  
9 **VIA CAL. CIV. PROC. CODE § 377.30)**

10 **(By Plaintiff LU ANN BARRIO, Individually and as Successor in Interest to**  
11 **Jonathan Wayne Barrio, Against all Defendants)**

12 41. Plaintiff hereby re-alleges and incorporates by reference the  
13 allegations set forth in paragraphs 1 through 40, inclusive, above, as if set forth in  
14 full herein.

15 42. As shown above, Jonathan Wayne Barrio was unlawfully and  
16 unjustifiably hogtied, placed in a prone position in the back of a patrol car and  
17 causing him to be suffocated to death, with malice, by said DOE defendants on  
18 December 23, 2016.

19 43. Plaintiff's decedent Jonathan Wayne Barrio's unlawful killing was  
20 done without the due process of the laws of the United States of America and of  
21 the State of California.

22 44. Said denial of plaintiff's decedent Jonathan Wayne Barrio's right not  
23 to be deprived of his life without due process of the laws caused Jonathan Wayne  
24 Barrio and plaintiff LU ANN BARRIO, individually and as successor in interest  
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COMPLAINT FOR DAMAGES

1 to Jonathan Wayne Barrio, to suffer severe physical and mental and emotional  
2 pain, suffering and injury, as well as lost wages / profits, the loss of his enjoyment  
3 of life, medical bills and expenses, funeral bills and expenses, and other special  
4 and general damages; all in an amount to be proven and trial, in excess of  
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6 \$10,000,000.00.  
7

8 45. Moreover, as actions and omissions of said defendants were done  
9 with deliberate indifference to his physical safety and to his very life, and were  
10 done intentionally, maliciously recklessly, sadistically, oppressively,  
11 outrageously, and with deliberate indifference and a reckless disregard of  
12 Jonathan Wayne Barrio's constitutional rights, and LU ANN BARRIO, as  
13 successor in interest to Jonathan Wayne Barrio, is entitled to an award of punitive  
14 damages against said defendants (save COUNTY), in an amount to be shown at  
15 trial in an amount in excess of \$10,000,000.00.  
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19 **FIFTH CAUSE OF ACTION**  
20 **CLAIM AGAINST LOCAL GOVERNING BODY DEFENDANTS BASED**  
21 **ON FAILURE TO TRAIN**  
22 **[42 U.S.C. § 1983]**  
23 **(By Plaintiff LU ANN BARRIO, Individually and as Successor in Interest to**  
24 **Jonathan Wayne Barrio, Against Defendant COUNTY and DOES 7 through**  
25 **10, inclusive)**

26 46. Plaintiff hereby realleges and incorporates by reference the  
27 allegations set forth in paragraphs 1 through 45, inclusive, above, as if set forth in  
28 full herein.



1           47. As shown above, when defendants DOES 1 through 10, inclusive,  
2 deprived plaintiff Jonathan Wayne Barrio of his particular rights under the United  
3 States Constitution, they were acting under the color of state law.  
4

5           48. The injury and death of Jonathan Wayne Barrio arose under the  
6 circumstances which constitute a usual and recurring situation with which said  
7 deputy sheriffs must deal, and the training policies of defendant COUNTY and  
8 DOES 1 through 10, inclusive, were not adequate to train their deputy sheriffs and  
9 other sworn peace officer / public officer personnel to handle these usual and  
10 recurring situations, to wit; defendant COUNTY and DOES 1 through 10,  
11 inclusive, failed to properly train its deputy sheriffs and other sworn peace officer  
12 / public officer personnel to not to: 1) hogtie<sup>4</sup> persons and place them in the prone  
13 position in the back of a patrol car, thereby putting an arrestee in a dangerous  
14 position of positional / restraint asphyxia and creating the risk of unnecessary  
15 death; especially someone suspected of being under the influence of illicit drugs;  
16 2) unlawfully kill persons; 3) use excessive / unreasonable force on persons; 4)  
17 unlawfully seize persons; 5) unlawfully search persons; 6) falsely arrest and  
18 falsely imprison persons; 7) unlawfully seizing private property; 8) eject persons  
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28 <sup>4</sup> Otherwise known as the “Total Appendage Restraint Position” or “TARP.”

1 from their private residences; 8) unlawfully search and damage private residences;  
2 9) interfere with persons' and/or otherwise violating persons' constitutionally  
3 protected right to free speech; 10) interfere with persons' rights to remain in their  
4 private residences and 11) cover-up unlawful and tortious conduct by the San  
5 Bernardino County Sheriff's Department personnel complained above, and  
6 complained of by the plaintiff in this action, because of such failure to so properly  
7 train said defendants and their other personnel.  
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11 49. Defendants COUNTY and DOES 1 through 10, inclusive, were  
12 deliberately indifferent to the obvious consequences of their failure to train their  
13 deputy sheriffs and other sworn peace officer / public officer personnel  
14 adequately; and;  
15

16 50. The failure of defendants COUNTY and DOES 1 through 10,  
17 inclusive, to provide such adequate training caused the deprivation of plaintiff's  
18 rights by the defendants COUNTY and DOES 1 through 10, inclusive; that is, the  
19 defendants' failure to train was so closely related to the deprivation of plaintiff's  
20 rights as to be the moving force that caused the ultimate injury.  
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23 51. The San Bernardino County Sheriff's Department's failure to train  
24 their deputy sheriffs not to hogtie / hobble arrestees and place them in the prone  
25 position in the back of a patrol car thereby putting arrestees in a dangerous  
26 position of positional / restraint asphyxia and creating the risk of unnecessary  
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1 death demonstrates a deliberate indifference to the constitutional rights of its  
2 citizens.

3  
4 52. As a direct and proximate result of the actions of defendants  
5 COUNTY and DOES 1 through 10, inclusive, as complained of herein, also  
6 caused plaintiff's decedent Jonathan Wayne Barrio and his successor in interest,  
7 plaintiff LU ANN BARRIO, to suffer severe physical injury and physical pain and  
8 suffering (including pre-death pain and suffering by Jonathan Barrio), and severe  
9 horror and mental and emotional distress, pain and suffering (including pre-death  
10 pain and suffering by Jonathan Barrio), the loss of the solace, society and comfort  
11 and relationship with Jonathan Barrio, and substantial special damages, including  
12 but not limited to, lost wages / profits and other income that plaintiff's decedent  
13 Jonathan Wayne Barrio would have earned / made / acquired during his lifetime,  
14 the loss of Jonathan Wayne Barrio's home and the other property of Jonathan  
15 Wayne Barrio, funeral and burial expenses, hospital and other medical expenses  
16 and costs, and other special damages; all in an amount to be shown at trial, in  
17 excessive of \$10,000,000.00.

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24 **SIXTH CAUSE OF ACTION**  
25 **CLAIM AGAINST LOCAL GOVERNING BODY DEFENDANTS BASED**  
26 **ON OFFICIAL POLICY, PRACTICE, OR CUSTOM**  
27 **[42 U.S.C. § 1983]**  
28 **(By Plaintiff LU ANN BARRIO, Individually and as Successor in Interest to**  
**Jonathan Wayne Barrio, Against Defendant COUNTY)**

COMPLAINT FOR DAMAGES

1           53. Plaintiff hereby realleges and incorporates by reference the  
2 allegations set forth in paragraphs 1 through 52, inclusive, above, as if set forth in  
3 full herein.  
4

5           54. As shown above, the actions of defendants COUNTY and DOES 1  
6 through 10, inclusive, deprived the plaintiff's decedent Jonathan Wayne Barrio of  
7 his particular rights under the United States Constitution and under the California  
8 Constitution, as described above. They also deprived plaintiff LU ANN BARRIO  
9 of her particular rights under the United States Constitution and under the  
10 California Constitution, as described above.  
11  
12

13           55. At all times complained of herein, defendants COUNTY and DOES  
14 1 through 10, inclusive, created, promulgated and were acting pursuant to the  
15 policies, customs, usages and practices of the San Bernardino County Sheriff's  
16 Department: 1) for hogtying<sup>5</sup> persons and placing them in the prone position in  
17 the back of a patrol car, thereby putting an arrestee in a dangerous position of  
18 positional / restraint asphyxia and creating the risk of unnecessary death; 2) for  
19 unlawfully killing persons; 3) for using excessive / unreasonable force on persons;  
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21 4) for unlawfully seizing persons; 5) for falsely arresting and falsely imprisoning  
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28 <sup>5</sup> Otherwise known as the "Total Appendage Restraint Position" or "TARP."

1 persons; 6) for fabricating / destroying / concealing / altering evidence in criminal  
2 and civil actions, and for otherwise “framing” persons in criminal actions, in order  
3 to falsely and maliciously, oppressively convict innocent persons, to protect them  
4 and other deputy sheriffs and supervisory personnel from civil, administrative and  
5 criminal liability; 10) for interfering with persons’ and/or otherwise violating  
6 persons’ constitutionally protected right to free speech; 7) for interfering with  
7 persons’ child-parent / parent – child relationship; 8) for covering-up unlawful and  
8 tortious conduct by the San Bernardino County Sheriff’s Department personnel,  
9 and were a proximate cause of the very same California state law, and federal and  
10 state constitutional violations complained above, and complained of by the  
11 plaintiff in this action.  
12  
13  
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15

16           56. Said actions of said defendants were done by them under the color of  
17 state law.  
18

19           57. As a proximate result of said defendants creating, promulgating and  
20 acting pursuant to said policies, customs, usages and practices of defendant  
21 COUNTY and DOES 1 through 10, inclusive, above-described, said individual  
22 defendants committed said actions complained of above.  
23  
24

25           58. As a direct and proximate result of the actions of defendant  
26 COUNTY and DOES 1 through 10, inclusive, as complained of herein, also  
27 caused plaintiff’s decedent Jonathan Wayne Barrio and his successor in interest,  
28

1 plaintiff LU ANN BARRIO, caused plaintiff's decedent Jonathan Wayne Barrio  
2 and his successor in interest, plaintiff LU ANN BARRIO, to suffer severe horror  
3 and mental and emotional distress, pain and suffering (including pre-death pain  
4 and suffering by Jonathan Barrio), great physical injury pain and suffering, the  
5 loss of the solace, society and comfort and relationship with Jonathan Barrio, and  
6 substantial special damages, including but not limited to, lost wages / profits and  
7 other income that plaintiff's decedent Jonathan Wayne Barrio would have earned /  
8 made / acquired during his lifetime, the loss of Jonathan Wayne Barrio's home  
9 and the other property of Jonathan Wayne Barrio, funeral and burial expenses,  
10 hospital and other medical expenses and costs, and other special damages; all in  
11 an amount to be shown at trial, in excessive of \$10,000,000.00.  
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16 **SEVENTH CAUSE OF ACTION**

17 **Wrongful Death<sup>6</sup>**

18 **[Direct Liability Action]**

19 **(By Plaintiff LU ANN BARRIO Against all Defendants)**

20 59. Plaintiff hereby realleges and incorporates by reference the  
21 allegations set forth in paragraphs 1 through 58, inclusive, above, as if set forth in  
22 full herein.  
23

24 60. As shown above, plaintiff LU ANN BARRIO, is the natural and legal  
25  
26  
27

28 <sup>6</sup> Based on California state law; Cal. Civ. Proc. Code § 377.60 *et seq.*

1 mother of plaintiff's decedent Jonathan Wayne Barrio. She is the sole heir of the  
2 plaintiff's decedent, Jonathan Wayne Barrio, and is entitled to inherit from  
3 Jonathan Wayne Barrio via intestate succession under California state law.

4  
5 61. Also as shown above, said San Bernardino County Sheriff's  
6 Department deputy sheriffs (defendants DOES 1 through 10, inclusive)  
7 negligently, wrongfully, unlawfully and unjustifiably killed Jonathan Wayne  
8 Barrio, or otherwise proximately caused his death. Therefore, said defendant  
9 COUNTY is liable to plaintiff LU ANN BARRIO for the wrongful death of  
10 Jonathan Wayne Barrio pursuant to Cal. Civ. Proc. Code § 377.30.

11  
12 62. As a direct and proximate result of the actions of defendant  
13 COUNTY and DOES 1 through 10, inclusive, as complained of herein, also  
14 caused plaintiff LU ANN BARRIO, to suffer the loss, society, comfort and  
15 support of her son, Jonathan Wayne Barrio, and to suffer substantial special  
16 damages, including but not limited to, lost wages / profits and other income that  
17 plaintiff's decedent Jonathan Wayne Barrio would have given plaintiff during his  
18 lifetime, the loss of Jonathan Wayne Barrio's home and the other property of  
19 Jonathan Wayne Barrio, funeral and burial expenses, hospital and other medical  
20 expenses and costs, and other special damages; all in an amount to be shown at  
21 trial, in excessive of \$10,000,000.00.

22  
23 63. The actions by said defendants were committed maliciously and  
24

1 oppressively and constituted despicable conduct; sufficient for an award of  
2 punitive / exemplary damages against all defendants and each of them, save  
3 defendant COUNTY, in an amount to be proven at trial in excess of  
4 \$10,000,000.00.  
5

6  
7 **EIGHTH CAUSE OF ACTION**  
8 **Violation of Cal. Civil Code § 52.1**

9 **Under California State Law**

10 **(By Plaintiff LU ANN BARRIO, as Successor in Interest to Jonathan Wayne**  
11 **Barrio, Against All Defendants)**

12 64. Plaintiff hereby realleges and incorporates by reference the  
13 allegations set forth in paragraphs 1 through 63, inclusive, above, as if set forth in  
14 full herein.

15 65. As shown above, defendants DOES 1 through 10, inclusive, used the  
16 threat of force and actual use of unreasonable force and violence against plaintiff's  
17 decedent Jonathan Wayne Barrio, to punish him and to attempt to get him to stop  
18 him from verbally protesting and verbally challenging their actions and to chill  
19 him from doing so in the future, that were being perpetrated against him.  
20

21 66. Also as shown above, said defendants used unreasonable force and  
22 violence against the plaintiff's decedent Jonathan Wayne Barrio because of his  
23 protests of their actions perpetrated against him and for sadistic reasons.  
24

25 67. The actions of defendant deputy sheriffs DOES 1 through 10,  
26 inclusive, above-described, were done in retaliation for plaintiff's decedent  
27  
28



1 Jonathan Wayne Barrio’s exercise of his First Amendment rights to freedom of  
2 speech and to petition the government for redress of grievances, and to chill, deter  
3 and prevent further verbal protests and complaints by the plaintiff’s decedent  
4 Jonathan Wayne Barrio to said defendant deputy sheriffs about their mistreatment  
5 of the plaintiff’s decedent Jonathan Wayne Barrio, as well as plaintiff’s decedent  
6 Jonathan Wayne Barrio exercising their Fourth Amendment right to be secure in  
7 his person and his property.  
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11 68. Said actions by said defendants constitute the use of actual  
12 unreasonable / excessive force and violence, and the threatened use of force and  
13 violence against the plaintiff’s decedent Jonathan Wayne Barrio for his exercise of  
14 his First Amendment rights to freedom of speech and to petition the government  
15 for redress of grievances, and to chill, deter and prevent further verbal protests and  
16 complaints by the plaintiff’s decedent Jonathan Wayne Barrio to said defendant  
17 deputy sheriffs about their mistreatment of the plaintiff’s decedent Jonathan  
18 Wayne Barrio, as well as exercising his Fourth Amendment right to be secure in  
19 his person and their property.  
20  
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22

23 69. Moreover, as shown above, said defendant deputy sheriffs falsely  
24 arrested and falsely imprisoned plaintiff’s decedent Jonathan Wayne Barrio, using  
25 actual force and violence against the plaintiff’s decedent Jonathan Wayne Barrio,  
26 as well as threats of same.  
27  
28

1           70. Said defendant deputy sheriffs, interfered with, and/or attempted to  
2 interfere with, by use of threats, intimidation, and coercion, the exercise or  
3 enjoyment by plaintiff's decedent Jonathan Wayne Barrio of the rights secured by  
4 the Constitution and laws of the United States, and of the rights secured by the  
5 California Constitution and otherwise by California law, in violation of California  
6 Civil Code §52.1.  
7

8  
9           71. Said defendants DOES 1 through 10 are liable to plaintiff's decedent  
10 Jonathan Wayne Barrio, LU ANN BARRIO as successor in interest, for said  
11 violations of their constitutional rights, pursuant to California Civil Code § 52.1,  
12 and California Government Code §§815.2(a), 815.6, 820, 820.8.  
13  
14

15           72. As a direct and proximate result of the actions of defendant  
16 COUNTY and DOES 1 through 10, inclusive, as complained of herein, also  
17 caused plaintiff's decedent Jonathan Wayne Barrio to suffer great physical injury  
18 and physical pain and suffering, and substantial special damages, including but  
19 not limited to, lost wages / profits and other income that plaintiff's decedent  
20 Jonathan Wayne Barrio would have earned / made / acquired during his lifetime,  
21 the loss of Jonathan Wayne Barrio's home and the other property of Jonathan  
22 Wayne Barrio, funeral and burial expenses, hospital and other medical expenses  
23 and costs, and other special damages; all in an amount to be shown at trial, in  
24 excessive of \$10,000,000.00.  
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28



1 the plaintiff's decedent Jonathan Wayne Barrio, nor probable cause to believe that  
2 the plaintiff's decedent Jonathan Wayne Barrio had committed a crime.

3  
4 78. Defendants COUNTY and DOES 1 through 10, inclusive, are liable  
5 to plaintiffs for their false arrests / false imprisonments pursuant to Cal. Gov't  
6 Code §§ 815.2(a), 815.6, 820, 820.4 and 820.8.  
7

8 79. As a direct and proximate result of the actions of defendant  
9 COUNTY and DOES 1 through 10, inclusive, as complained of herein, also  
10 caused plaintiff's decedent Jonathan Wayne Barrio suffered great physical and  
11 mental and emotional injury, pain and suffering, and substantial special damages,  
12 including but not limited to, lost wages / profits and other income that plaintiff's  
13 decedent Jonathan Wayne Barrio would have earned / made / acquired during his  
14 lifetime, the loss of Jonathan Wayne Barrio's home and the other property of  
15 Jonathan Wayne Barrio, funeral and burial expenses, hospital and other medical  
16 expenses and costs, and other special damages; all in an amount to be shown at  
17 trial, in excessive of \$10,000,000.00.  
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22 80. The actions by said defendants were committed maliciously and  
23 oppressively and constituted despicable conduct; sufficient for an award of  
24 punitive / exemplary damages against all defendants and each of them, save  
25 defendant COUNTY, in an amount to be proven at trial in excess of  
26 \$10,000,000.00.  
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**TENTH CAUSE OF ACTION**

**Battery**

**Under California State Law**

**(By Plaintiff LU ANN BARRIO, as Successor In Interest to Jonathan Wayne Barrio, Against All Defendants)**

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81. Plaintiff hereby realleges and incorporates by reference the allegations set forth in paragraphs 1 through 80, inclusive, above, as if set forth in full herein.

82. The actions committed by COUNTY and DOES 1 through 10, inclusive, above-described, constituted unjustified non-consensual use of unlawful force and violence upon the plaintiff's decedent Jonathan Wayne Barrio, and constituted a battery of him by COUNTY and DOES 1 through 10, inclusive, under California state law.

83. Defendants COUNTY and DOES 1 through 10, and each of them, are liable to the plaintiff's decedent Jonathan Wayne Barrio for said batteries of him, pursuant to Cal. Government Code §§ 815.2(a), 815.6, 820, 820.8 and otherwise pursuant to the common-law.

84. As a direct and proximate result of the actions of defendant COUNTY and DOES 1 through 10, inclusive, as complained of herein, also caused plaintiff's decedent Jonathan Wayne Barrio to suffer great physical and mental and emotional injury, pain and suffering, and to suffer substantial special damages, including but not limited to, lost wages / profits and other income that

COMPLAINT FOR DAMAGES

1 plaintiff's decedent Jonathan Wayne Barrio would have earned / made / acquired  
2 during his lifetime, the loss of Jonathan Wayne Barrio's home and the other  
3 property of Jonathan Wayne Barrio, funeral and burial expenses, hospital and  
4 other medical expenses and costs, and other special damages; all in an amount to  
5 be shown at trial, in excessive of \$10,000,000.00.  
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7

8 85. The actions by said defendants were committed maliciously and  
9 oppressively and constituted despicable conduct; sufficient for an award of  
10 punitive / exemplary damages against all defendants and each of them, save  
11 defendant COUNTY, in an amount to be proven at trial in excess of  
12 \$10,000,000.00.  
13  
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15 **ELEVENTH CAUSE OF ACTION**

16 **Assault**

17 **Under California State Law**

18 **(By Plaintiff LU ANN BARRIO as Successor in Interest to Jonathan Wayne  
19 Barrio, Against All Defendants)**

20 86. Plaintiffs hereby re-allege and incorporate by reference the  
21 allegations set forth in paragraphs 1 through 85, inclusive, above, as if set forth in  
22 full herein.

23 87. The actions committed by COUNTY and DOES 1 through 10,  
24 inclusive, above-described, constituted an assault of plaintiff's decedent Jonathan  
25 Wayne Barrio under California state law, as said plaintiffs were unlawfully placed  
26 in reasonable fear of receiving an imminent violent injury by defendants  
27  
28

COMPLAINT FOR DAMAGES

1 COUNTY and DOES 1 through 10, inclusive.

2 88. Defendants COUNTY and DOES 1 through 10, inclusive, and each  
3 of them, are liable to under California state law for said assaults of plaintiffs,  
4 pursuant to Cal. Government Code §§ 815.2(a), 815.6, 820 and 820.8, pursuant to  
5 the California Constitution, and otherwise pursuant to the common law.  
6  
7

8 89. As a direct and proximate result of the actions of defendant  
9 COUNTY and DOES 1 through 10, inclusive, as complained of herein, also  
10 caused plaintiff's decedent Jonathan Wayne Barrio and his successor in interest,  
11 plaintiff LU ANN BARRIO, to suffer great physical and mental and emotional  
12 injury, pain and suffering, and to suffer substantial special damages, including but  
13 not limited to, lost wages / profits and other income that plaintiff's decedent  
14 Jonathan Wayne Barrio would have earned / made / acquired during his lifetime,  
15 the loss of Jonathan Wayne Barrio's home and the other property of Jonathan  
16 Wayne Barrio, funeral and burial expenses, hospital and other medical expenses  
17 and costs, and other special damages; all in an amount to be shown at trial, in  
18 excessive of \$10,000,000.00.  
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23 90. The actions by said defendants were committed maliciously and  
24 oppressively and constituted despicable conduct; sufficient for an award of  
25 punitive / exemplary damages against all defendants and each of them, save  
26 defendant COUNTY, in an amount to be proven at trial in excess of  
27  
28

1 \$10,000,000.00.

2 **TWELFTH CAUSE OF ACTION**

3 **Negligence**

4 **Under California State Law**

5 **(By Plaintiff LU ANN BARRIO, Individually and as Successor in Interest to**  
6 **Jonathan Wayne Barrio, Against All Defendants)**

7 91. Plaintiff hereby realleges and incorporates by reference the  
8 allegations set forth in paragraphs 1 through 89, inclusive, above, as if set forth in  
9 full herein.

10  
11 92. Said San Bernardino County Sheriff's Department deputy sheriffs  
12 (defendants DOES 1 through 10, inclusive) owed the plaintiff's decedent Jonathan  
13 Wayne Barrio a duty to use due care regarding the safety and well-being of his  
14 person.

15  
16 93. As shown above, said San Bernardino County Sheriff's Department  
17 deputy sheriffs (defendants DOES 1 through 10, inclusive) breached their duty of  
18 care to the plaintiff's decedent Jonathan Wayne Barrio when they hogtied him,  
19 placed him in the prone position and suffocated him to death, causing fatal injuries  
20 to plaintiff's decedent Jonathan Wayne Barrio.

21  
22  
23 94. As a direct and proximate result of the actions of defendant COUNTY  
24 and DOES 1 through 10, inclusive, as complained of herein, also caused  
25 plaintiff's decedent Jonathan Wayne Barrio to suffer great physical, emotional and  
26 mental injury, pain and suffering, and to suffer substantial special damages,  
27  
28

COMPLAINT FOR DAMAGES



1 including but not limited to, lost wages / profits and other income that plaintiff's  
2 decedent Jonathan Wayne Barrio would have earned / made / acquired during his  
3 lifetime, the loss of Jonathan Wayne Barrio's home and the other property of  
4 Jonathan Wayne Barrio, funeral and burial expenses, hospital and other medical  
5 expenses and costs, and other special damages; all in an amount to be shown at  
6 trial, in excessive of \$10,000,000.00.  
7

8  
9 95. The actions by said defendants were committed maliciously and  
10 oppressively and constituted despicable conduct; sufficient for an award of  
11 punitive / exemplary damages against all defendants and each of them, save  
12 defendant COUNTY, in an amount to be proven at trial in excess of  
13 \$10,000,000.00.  
14

15  
16 **WHEREFORE**, plaintiffs pray for judgment as follows:  
17

18 a) For a judgment against all defendants for compensatory damages in  
19 an amount in excess of \$10,000,000.00, trebled via Cal. Civil Code § 52.1;  
20

21 b) For a judgment against all defendants, except defendant County of  
22 San Bernardino for punitive / exemplary damages in an amount in excess of  
23 \$10,000,000.00;  
24

25 c) For an award of reasonable attorney's fees and costs;

26 d) For a trial by jury; and

27 e) For such other and further relief as this honorable court deems just  
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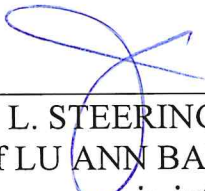
COMPLAINT FOR DAMAGES

1 and equitable.

2

3 Dated: December 11, 2017

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JERRY L. STEERING, Attorney for  
plaintiff LU ANN BARRIO, individually  
and as successor in interest to plaintiff's  
decedent, Jonathan Wayne Barrio

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