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13 A.D.P., ESTATE OF DIANE L. PIMENTEL,  
14 MARIA PILAR RIVERA, SUMMER  
PIMENTEL, MATTHEW PIMENTEL,  
TRAVIS PIMENTEL, and DEREK PIMENTEL

15 UNITED STATES DISTRICT COURT  
16 EASTERN DISTRICT OF CALIFORNIA  
17 FRESNO DIVISION

18 ESTATE OF NICHOLAS A. PIMENTEL,  
19 A.D.P., ESTATE OF DIANE L. PIMENTEL,  
20 MARIA PILAR RIVERA, SUMMER PIMENTEL,  
MATTHEW PIMENTEL, TRAVIS PIMENTEL,  
and DEREK PIMENTEL,

21 Plaintiffs,

22 vs.

23 CITY OF CERES, CERES POLICE  
24 DEPARTMENT, BRENT SMITH, DARREN  
VENN, ROSS BAYS, and DOE 1 to 50,

25 Defendants.

Case No.

**COMPLAINT FOR VIOLATION OF  
CIVIL AND CONSTITUTIONAL RIGHTS**

**DEMAND FOR JURY TRIAL**

1 **INTRODUCTION**

2 This action involves the death of NICHOLAS A. PIMENTEL, who was shot and killed by law  
3 enforcement officers DARREN VENN and ROSS BAYS, employed by the CITY OF CERES, CERES  
4 POLICE DEPARTMENT, and Chief of Police BRENT SMITH.

5 **JURISDICTION & VENUE**

6 1. This Court has jurisdiction over the claims asserted herein pursuant to 28 U.S.C. § 1331  
7 (in that they arise under the United States Constitution); 28 U.S.C. § 1343(a)(3) (in that the action is  
8 brought to address deprivations, under color of state authority, of rights, privileges, and immunities  
9 secured by the United States Constitution). This Court has supplemental jurisdiction of the state law  
10 claims under 28 U.S.C. § 1367.

11 2. Venue is proper in the United State District Court for the Eastern District of California  
12 pursuant to 28 U.S.C. § 1391(b) because Defendants are located in the Eastern District of California and  
13 because many of the acts and/or omissions described herein occurred in the Eastern District of California.

14 3. Intradistrict venue is proper in the Fresno Division of the Eastern District of California  
15 pursuant to E.D. Cal. L.R. 120(d) because the claims asserted herein arise from acts and/or omissions  
16 which occurred in the County of Stanislaus, California.

17 **EXHAUSTION**

18 4. ESTATE OF NICHOLAS A. PIMENTEL, A.D.P., ESTATE OF DIANE L. PIMENTEL,  
19 MARIA PILAR RIVERA, and SUMMER PIMENTEL filed a government claim with the CITY OF  
20 CERES and CERES POLICE DEPARTMENT regarding the claims asserted herein. The government  
21 claim was rejected as a matter of law.

22 **PARTIES**

23 5. Plaintiff ESTATE OF NICHOLAS A. PIMENTEL (“NICHOLAS A. PIMENTEL”), the  
24 decedent, brings this action pursuant to Cal. Code Civ. Proc. § 377.30. Plaintiff A.D.P. bring this action  
25 on behalf of Plaintiff ESTATE OF NICHOLAS A. PIMENTEL, as the successor-in-interest. Plaintiff  
26 A.D.P.’s declaration regarding his status as NICHOLAS A. PIMENTEL’s successor-in-interest, pursuant  
27 to Cal. Code Civ. Proc. § 377.32, is attached hereto.

28 6. Plaintiff A.D.P. is a resident of the State of California, County of Stanislaus. Plaintiff

1 A.D.P. is a minor and proceeds through his guardian ad litem. Plaintiff A.D.P. brings this action (a) on  
2 behalf of Plaintiff ESTATE OF NICHOLAS A. PIMENTEL as successor-in-interest, in his  
3 representative capacity; and (b) on behalf of himself, in his individual capacity. Prior to his death,  
4 NICHOLAS A. PIMENTEL shared a close relationship and special bond with his son, Plaintiff A.D.P.,  
5 and their relationship presupposed deep attachments, commitments, and distinctively personal aspects of  
6 their lives.

7 7. Plaintiff ESTATE OF DIANE L. PIMENTEL (“DIANE L. PIMENTEL”) brings this  
8 action pursuant to Cal. Code Civ. Proc. § 377.30. DIANE L. PIMENTEL died on November 6, 2017.  
9 Prior to his death, NICHOLAS A. PIMENTEL shared a close relationship and special bond with his  
10 mother, DIANE L. PIMENTEL, and their relationship presupposed deep attachments, commitments, and  
11 distinctively personal aspects of their lives. Plaintiffs SUMMER PIMENTEL, MATTHEW PIMENTEL,  
12 TRAVIS PIMENTEL, and DEREK PIMENTEL bring this action on behalf of Plaintiff ESTATE OF  
13 DIANE L. PIMENTEL, as the successors-in-interest. Plaintiffs SUMMER PIMENTEL, MATTHEW  
14 PIMENTEL, TRAVIS PIMENTEL, and DEREK PIMENTEL’s declaration regarding their status as  
15 DIANE L. PIMENTEL’s successors-in-interest, pursuant to Cal. Code Civ. Proc. § 377.32, is attached  
16 hereto.

17 8. Plaintiff MARIA PILAR RIVERA is a resident of the State of California, County of  
18 Stanislaus. Prior to his death, NICHOLAS A. PIMENTEL shared a close relationship and special bond  
19 with his domestic partner, Plaintiff MARIA PILAR RIVERA, and their relationship presupposed deep  
20 attachments, commitments, and distinctively personal aspects of their lives.

21 9. Plaintiff SUMMER PIMENTEL is a resident of the State of Florida, County of Marion.  
22 Prior to his death, NICHOLAS A. PIMENTEL shared a close relationship and special bond with his  
23 sister, Plaintiff SUMMER PIMENTEL, and their relationship presupposed deep attachments,  
24 commitments, and distinctively personal aspects of their lives.

25 10. Plaintiff MATTHEW PIMENTEL is a resident of the State of California, County of  
26 Stanislaus. Prior to his death, NICHOLAS A. PIMENTEL shared a close relationship and special bond  
27 with his brother, Plaintiff MATTHEW PIMENTEL, and their relationship presupposed deep  
28 attachments, commitments, and distinctively personal aspects of their lives.

1 11. Plaintiff TRAVIS PIMENTEL is a resident of the State of California, County of  
2 Stanislaus. Prior to his death, NICHOLAS A. PIMENTEL shared a close relationship and special bond  
3 with his brother, Plaintiff TRAVIS PIMENTEL, and their relationship presupposed deep attachments,  
4 commitments, and distinctively personal aspects of their lives.

5 12. Plaintiff DEREK PIMENTEL is a resident of the State of California, County of  
6 Stanislaus. Prior to his death, NICHOLAS A. PIMENTEL shared a close relationship and special bond  
7 with his brother, Plaintiff DEREK PIMENTEL, and their relationship presupposed deep attachments,  
8 commitments, and distinctively personal aspects of their lives.

9 13. Defendant CITY OF CERES is a “public entity” within the definition of Cal. Gov. Code §  
10 811.2.

11 14. Defendant CERES POLICE DEPARTMENT is a “public entity” within the definition of  
12 Cal. Gov. Code § 811.2.

13 15. Defendant BRENT SMITH is, and at all times material herein was, a law enforcement  
14 officer and the Chief of Police of Defendants CITY OF CERES and CERES POLICE DEPARTMENT,  
15 acting within the scope of that employment and under color of state law. Defendant BRENT SMITH is  
16 sued in his individual capacity.

17 16. Defendant DARREN VENN is, and at all times material herein was, a law enforcement  
18 officer employed by Defendants CITY OF CERES and CERES POLICE DEPARTMENT, acting within  
19 the scope of that employment and under color of state law. Defendant DARREN VENN is sued in his  
20 individual capacity.

21 17. Defendant ROSS BAYS is, and at all times material herein was, a law enforcement officer  
22 employed by Defendants CITY OF CERES and CERES POLICE DEPARTMENT, acting within the  
23 scope of that employment and under color of state law. Defendant ROSS BAYS is sued in his individual  
24 capacity.

25 18. Defendants DOE 1 to 50 are and/or were agents or employees of Defendants CITY OF  
26 CERES and/or CERES POLICE DEPARTMENT, and acted within the scope of that agency or  
27 employment and under color of state law. The true and correct names of Defendants DOE 1 to 50 are not  
28 now known and, as a result, they are sued by their fictitious names and true and correct names will be

1 substituted when ascertained.

2 **GENERAL ALLEGATIONS**

3 19. At all times relevant herein, all wrongful acts described were performed under color of  
4 state law and/or in concert with or on behalf of those acting under the color of state law.

5 20. On or about Sunday, October 22, 2017, at approximately 1:00 a.m., NICHOLAS A.  
6 PIMENTEL and Plaintiff MARIA PILAR RIVERA occupied a vehicle. NICHOLAS A. PIMENTEL  
7 operated the vehicle and sat in the driver's seat and Plaintiff MARIA PILAR RIVERA sat in the  
8 passenger seat.

9 21. NICHOLAS A. PIMENTEL allegedly drove through a "Stop" sign without completely  
10 coming to a stop in the unincorporated area of Stanislaus County, located between the City of Modesto  
11 and the City of Ceres.

12 22. A law enforcement vehicle drove behind NICHOLAS A. PIMENTEL's vehicle and  
13 activated flashing lights.

14 23. NICHOLAS A. PIMENTEL and Plaintiff MARIA PILAR RIVERA were within a few  
15 blocks of their residence.

16 24. NICHOLAS A. PIMENTEL decided that he would attempt to reach his residence before  
17 pulling over.

18 25. The law enforcement vehicle following behind NICHOLAS A. PIMENTEL's vehicle was  
19 joined by other law enforcement vehicles.

20 26. The law enforcement vehicles following NICHOLAS A. PIMENTEL's vehicle were  
21 driven and/or occupied by Defendants DARREN VENN, ROSS BAYS, and DOE 1 to 25.

22 27. One of the law enforcement vehicles, operated by Defendant DOE 1, performed a Pursuit  
23 Intervention Technique ("PIT") maneuver on NICHOLAS A. PIMENTEL's vehicle, causing it to spin-  
24 out.

25 28. On information and belief, Defendants DOE 26 to 50 ordered, authorized, or otherwise  
26 provided permission to Defendant DOE 1 to execute the PIT maneuver.

27 29. The vehicle occupied by NICHOLAS A. PIMENTEL and Plaintiff MARIA PILAR  
28 RIVERA came to a rest approximately in the vicinity of the intersections of Imperial Avenue and Ustick

1 Road.

2 30. NICHOLAS A. PIMENTEL's vehicle was non-operational.

3 31. Within moments of NICHOLAS A. PIMENTEL's vehicle coming to a stop, Defendants  
4 DARREN VENN, ROSS BAYS, and DOE 1 to 25 began shooting at NICHOLAS A. PIMENTEL's  
5 vehicle, without prior warning, provocation, and any reasonable fear of risk or threat to themselves or to  
6 others.

7 32. Inside of the vehicle, as the shots were being fired, NICHOLAS A. PIMENTEL covered  
8 Plaintiff MARIA PILAR RIVERA to protect her from being shot.

9 33. NICHOLAS A. PIMENTEL was shot several times. Plaintiff MARIA PILAR RIVERA  
10 was not shot.

11 34. After the hail of bullets ceased, NICHOLAS A. PIMENTEL told Plaintiff MARIA PILAR  
12 RIVERA that he loved her.

13 35. Defendants DARREN VENN, ROSS BAYS, and DOE 1 to 25 ripped open the doors of  
14 the vehicle.

15 36. Plaintiff MARIA PILAR RIVERA was pulled from the vehicle, arrested, and placed in the  
16 backseat of a law enforcement vehicle.

17 37. NICHOLAS A. PIMENTEL's body was pulled from the vehicle and left on the street.

18 38. NICHOLAS A. PIMENTEL required immediate medical treatment for the multiple  
19 gunshot wounds he sustained.

20 39. On information and belief, medical attention was not immediately summoned or provided,  
21 following the shooting.

22 40. On information and belief, following the shooting, Defendants DOE 1 to 25 made an  
23 unlawful entry into the home of NICHOLAS A. PIMENTEL and Plaintiff MARIA PILAR RIVERA and  
24 conducted an unlawful search therein for pre-textual evidence that might justify the shooting.

25 41. On information and belief, Defendants DOE 26 to 50 ordered, authorized, or otherwise  
26 provided permission to Defendants DOE 1 to 25 to execute the unlawful entry and search for pre-textual  
27 evidence.

**MUNICIPAL & SUPERVISORY LIABILITY ALLEGATIONS**

42. Defendant BRENT SMITH, acting as Chief of Police, was a final policy-making authority for Defendants CITY OF CERES and CERES POLICE DEPARTMENT as it relates to the training, supervision, and discipline of law enforcement officers acting under his command. *See* Cal. Gov. Code § 38630(a) (“The police department of a city is under the control of the chief of police.”).

43. Defendants DOE 26 to 50 are/were policy-making authorities, based on a delegation of authority, for Defendants CITY OF CERES and CERES POLICE DEPARTMENT as it relates to the training, supervision, and discipline of law enforcement officers acting under their command.

44. Defendants CITY OF CERES, CERES POLICE DEPARTMENT, BRENT SMITH, and DOE 26 to 50, acting under color of state law and as policy-making authorities, knew or should have known that subordinate law enforcement officers under their command, including Defendants DARREN VENN, ROSS BAYS, and DOE 1 to 25, were inadequately trained, supervised, or disciplined resulting from either the lack of proper training, pursuant to policy, or the result of the lack of policy concerning the use of excessive and unreasonable force against persons contacted.

45. Defendants CITY OF CERES, CERES POLICE DEPARTMENT, BRENT SMITH, and DOE 26 to 50 were or should have been on notice of these policies, customs, or practices, or the inadequacy of the policies, customs, or practices, through multiple sources, including multiple past instances of use of excessive and unreasonable force by law enforcement officers under their command:

- i) Multiple settlements paid by or on behalf of Defendants CITY OF CERES, CERES POLICE DEPARTMENT, and/or their employees to settle litigation. *See Moseley v. City of Ceres*, E.D. Cal. Case No. 1:08-cv-00809-OWW-GSA (settlement of claims alleging that officers shot an unarmed fleeing man in his shoulder and lower back, as he was trying to climb a fence, and then, when he turned with his hands raised to surrender, the officers continued shooting, striking him in the arm and abdomen); *Garcia v. City of Ceres*, E.D. Cal. Case No. 1:08-cv-01720-LJO-SKO (settlement of claims alleging that officers unlawfully entered a residence, repeatedly struck, battered and assaulted multiple occupants, and falsely arrested the occupants); *Jimenez v. City of Ceres*, E.D. Cal. Case No. 1:13-cv-01200-LJO-SMS (\$312,500 settlement to resolve claims alleging officer



1 falsely arrested and broken the arm of a woman by slamming her forcefully against a  
2 patrol vehicle while she was handcuffed); *Cadwell v. City of Ceres*, E.D. Cal. Case No.  
3 1:98-cv-06451-DLB (settlement of claims alleging that officer fatally shot an unarmed,  
4 fleeing parolee in the back).

5 ii) Prior incidents, complaints, and/or pending litigation against Defendants CITY OF  
6 CERES, CERES POLICE DEPARTMENT, and/or their employees. *See S.T. v. City of*  
7 *Ceres*, E.D. Cal. Case No. 1:16-cv-01713-LJO-BAM (pending litigation alleging officers  
8 fatally shot an unarmed, non-threatening man who ran away from officers after they  
9 attempted to unlawfully detain him and failed to timely summon medical care following  
10 the shooting); *Moland v. City of Ceres*, E.D. Cal. Case No. 1:16-cv-01073-LJO-SKO &  
11 Stanislaus Cnty. Super. Ct. Case No. 2020043 (pending litigation alleging officer fatally  
12 shot a non-threatening man); *Lopez v. City of Ceres*, E.D. Cal. Case No. 1:18-cv-00354-  
13 AWI-BAM (pending litigation alleging officers pulled a passenger from a vehicle and  
14 violently slammed him to the ground, without cause).

15 iii) Prior incidents, complaints, and/or litigation involving Defendant DARREN VENN. *See*  
16 *Buckhanan v. Fisher*, E.D. Cal. Case No. 1:03-cv-06749-LJO (settlement of claims  
17 alleging Defendant DARREN VENN did nothing to prevent his partner's assaulting,  
18 threatening, and pistol-whipping a non-threatening person); *Brittson v. City of Ceres*, E.D.  
19 Cal. Case No. 1:04-cv-05368-LJO-DLB (settlement of claims alleging Defendant  
20 DARREN VENN, with other officers, falsely arrested and used excessive force, including  
21 a taser, against a non-threatening disabled person).

22 46. Defendants CITY OF CERES, CERES POLICE DEPARTMENT, BRENT SMITH, and  
23 DOE 26 to 50 were or should have been on notice regarding the need to discontinue, modify, and/or  
24 implement new and different versions of policies, customs, or practices because the inadequacies were so  
25 obvious and likely to result in the violation of persons' rights.

26 47. On information and belief, additional evidence and information related to Defendants  
27 CITY OF CERES, CERES POLICE DEPARTMENT, BRENT SMITH, and DOE 26 to 50's policies,  
28 customs, or practices will be sought and obtained during the course of this litigation. On information and



1 belief, although access to the existence or absence of internal policies, customs, or practices prior to  
2 discovery is necessarily limited, Defendants CITY OF CERES, CERES POLICE DEPARTMENT,  
3 BRENT SMITH, and DOE 26 to 50 have access to and/or knowledge of past and subsequent events and  
4 to statements of internal policies, customs, or practices at issue and, in some respects, may be in sole  
5 possession of evidence and facts needed to support or refute these claims.

6 **FIRST CLAIM**

7 **Unreasonable Force**

8 **(Fourth and Fourteenth Amendments to the U.S. Constitution; 42 U.S.C. § 1983)**

9 48. The First Claim is asserted by Plaintiffs ESTATE OF NICHOLAS A. PIMENTEL and  
10 MARIA PILAR RIVERA against Defendants CITY OF CERES, CERES POLICE DEPARTMENT,  
11 BRENT SMITH, DARREN VENN, ROSS BAYS, and DOE 1 to 50.

12 49. Plaintiffs ESTATE OF NICHOLAS A. PIMENTEL and MARIA PILAR RIVERA  
13 reallege and incorporate the allegations of the preceding paragraphs 1 to 47, to the extent relevant, as if  
14 fully set forth in this Claim.

15 50. Defendants DARREN VENN, ROSS BAYS, and DOE 1 to 25, acting or purporting to act  
16 in the performance of their official duties as law enforcement officers, used excessive and unreasonable  
17 force against NICHOLAS A. PIMENTEL and Plaintiff MARIA PILAR RIVERA, and/or failed to  
18 intercede and/or were integral participants to the use of excessive and unreasonable force against  
19 NICHOLAS A. PIMENTEL and Plaintiff MARIA PILAR RIVERA, in violation of their rights secured  
20 by the Fourth and Fourteenth Amendments of the U.S. Constitution.

21 51. Defendants CITY OF CERES, CERES POLICE DEPARTMENT, BRENT SMITH, and  
22 DOE 26 to 50, acting under color of state law and as policy-making authorities, knew or should have  
23 known that law enforcement officers under their command, including Defendants DARREN VENN,  
24 ROSS BAYS, DOE 1 to 25, were inadequately trained, supervised, or disciplined resulting from either  
25 the lack of proper training, pursuant to policy, or the result of the lack of policy concerning the use of  
26 excessive and unreasonable force against persons contacted, resulting in the violation of NICHOLAS A.  
27 PIMENTEL and Plaintiff MARIA PILAR RIVERA's rights secured by the Fourth and Fourteenth  
28 Amendments of the U.S. Constitution.

1 52. Defendants BRENT SMITH, DARREN VENN, ROSS BAYS, and DOE 1 to 50's actions  
2 and inactions were motivated by evil motive or intent, involved reckless or callous indifference to  
3 NICHOLAS A. PIMENTEL and Plaintiff MARIA PILAR RIVERA's rights secured by the Fourth and  
4 Fourteenth Amendments of the U.S. Constitution, or were wantonly or oppressively done.

5 53. As a direct and proximate result of Defendants CITY OF CERES, CERES POLICE  
6 DEPARTMENT, BRENT SMITH, DARREN VENN, ROSS BAYS, and DOE 1 to 50's actions and  
7 inactions, Plaintiffs ESTATE OF NICHOLAS A. PIMENTEL and MARIA PILAR RIVERA suffered  
8 injuries entitling them to receive compensatory damages against Defendants CITY OF CERES, CERES  
9 POLICE DEPARTMENT, BRENT SMITH, DARREN VENN, ROSS BAYS, and DOE 1 to 50, and  
10 punitive damages against Defendants BRENT SMITH, DARREN VENN, ROSS BAYS, and DOE 1 to  
11 50.

12 WHEREFORE, Plaintiffs ESTATE OF NICHOLAS A. PIMENTEL and MARIA PILAR  
13 RIVERA pray for relief as hereunder appears.

14 **SECOND CLAIM**

15 **False Arrest/Imprisonment**

16 **(Fourth and Fourteenth Amendments to the U.S. Constitution; 42 U.S.C. § 1983)**

17 54. The Second Claim is asserted by Plaintiff MARIA PILAR RIVERA against Defendants  
18 DARREN VENN, ROSS BAYS, and DOE 1 to 25.

19 55. Plaintiff MARIA PILAR RIVERA realleges and incorporates the allegations of the  
20 preceding paragraphs 1 to 41, to the extent relevant, as if fully set forth in this Claim.

21 56. Defendants DARREN VENN, ROSS BAYS, and DOE 1 to 25, acting or purporting to act  
22 in the performance of their official duties as law enforcement officers, falsely arrested Plaintiff MARIA  
23 PILAR RIVERA, without a warrant and without probable cause, and/or failed to intercede and/or were  
24 integral participants to the false arrest of Plaintiff MARIA PILAR RIVERA, in violation of her rights  
25 secured by the Fourth and Fourteenth Amendments of the U.S. Constitution.

26 57. Defendants DARREN VENN, ROSS BAYS, and DOE 1 to 25's actions and inactions  
27 were motivated by evil motive or intent, involved reckless or callous indifference to Plaintiff MARIA  
28 PILAR RIVERA's rights secured by the Fourth and Fourteenth Amendments of the U.S. Constitution, or

1 were wantonly or oppressively done.

2 58. As a direct and proximate result of Defendants DARREN VENN, ROSS BAYS, and DOE  
3 1 to 25's actions and inactions, Plaintiff MARIA PILAR RIVERA suffered injuries entitling her to  
4 receive compensatory and punitive damages against Defendants DARREN VENN, ROSS BAYS, and  
5 DOE 1 to 25.

6 WHEREFORE, Plaintiff MARIA PILAR RIVERA prays for relief as hereunder appears.

7 **THIRD CLAIM**

8 **Unreasonable Entry/Search**

9 **(Fourth and Fourteenth Amendments to the U.S. Constitution; 42 U.S.C. § 1983)**

10 59. The Third Claim is asserted by Plaintiffs ESTATE OF NICHOLAS A. PIMENTEL and  
11 MARIA PILAR RIVERA against Defendants DOE 1 to 50.

12 60. Plaintiffs ESTATE OF NICHOLAS A. PIMENTEL and MARIA PILAR RIVERA  
13 reallege and incorporate the allegations of the preceding paragraphs 1 to 41, to the extent relevant, as if  
14 fully set forth in this Claim.

15 61. Defendants DOE 1 to 50, acting or purporting to act in the performance of their official  
16 duties as law enforcement officers, entered and/or searched NICHOLAS A. PIMENTEL and Plaintiff  
17 MARIA PILAR RIVERA's residence, without a warrant and without justification, and/or failed to  
18 intercede and/or were integral participants to the entry and/or search of NICHOLAS A. PIMENTEL and  
19 Plaintiff MARIA PILAR RIVERA's residence, in violation of their rights secured by the Fourth and  
20 Fourteenth Amendments of the U.S. Constitution.

21 62. Defendants DOE 1 to 50's actions and inactions were motivated by evil motive or intent,  
22 involved reckless or callous indifference to NICHOLAS A. PIMENTEL and Plaintiff MARIA PILAR  
23 RIVERA's rights secured by the Fourth and Fourteenth Amendments of the U.S. Constitution, or were  
24 wantonly or oppressively done.

25 63. As a direct and proximate result of Defendants DOE 1 to 50's actions and inactions,  
26 Plaintiffs ESTATE OF NICHOLAS A. PIMENTEL and MARIA PILAR RIVERA suffered injuries  
27 entitling them to receive compensatory and punitive damages against Defendants DOE 1 to 50.

28 WHEREFORE, Plaintiffs ESTATE OF NICHOLAS A. PIMENTEL and MARIA PILAR

1 RIVERA pray for relief as hereunder appears.

2 **FOURTH CLAIM**

3 **Right of Familial Association, Companionship, and Society**

4 **(Fourteenth Amendment to the U.S. Constitution; 42 U.S.C. § 1983)**

5 64. The Fourth Claim is asserted by Plaintiffs A.D.P. and ESTATE OF DIANE L.  
6 PIMENTEL against Defendants DARREN VENN, ROSS BAYS, and DOE 1 to 25.

7 65. Plaintiffs A.D.P. and ESTATE OF DIANE L. PIMENTEL reallege and incorporate the  
8 allegations of the preceding paragraphs 1 to 41, to the extent relevant, as if fully set forth in this Claim.

9 66. Defendants DARREN VENN, ROSS BAYS, and DOE 1 to 25, acting or purporting to act  
10 in the performance of their official duties as law enforcement officers, used excessive and unreasonable  
11 force against NICHOLAS A. PIMENTEL, or failed to intercede and/or were integral participants to the  
12 use of excessive and unreasonable force against NICHOLAS A. PIMENTEL, in violation of his rights  
13 secured by the Fourth and Fourteenth Amendments of the U.S. Constitution, thereby depriving and  
14 interfering with Plaintiffs A.D.P. and DIANE L. PIMENTEL's constitutionally-protected right of  
15 familial association, companionship, and society with their parent/child, in violation of their Fourteenth  
16 Amendment rights protected by the U.S. Constitution.

17 67. Defendants DARREN VENN, ROSS BAYS, and DOE 1 to 25's actions and inactions  
18 were motivated by evil motive or intent, involved reckless or callous indifference to Plaintiffs A.D.P. and  
19 DIANE L. PIMENTEL's rights secured by the Fourteenth Amendment of the U.S. Constitution, or were  
20 wantonly or oppressively done.

21 68. As a direct and proximate result of Defendants DARREN VENN, ROSS BAYS, and DOE  
22 1 to 25's actions and inactions, Plaintiffs A.D.P. and ESTATE OF DIANE L. PIMENTEL suffered  
23 injuries entitling them to receive compensatory and punitive damages against Defendants DOE 1 to 25.

24 WHEREFORE, Plaintiffs A.D.P. and ESTATE OF DIANE L. PIMENTEL pray for relief as  
25 hereunder appears.

**FIFTH CLAIM**

**Right of Association, Companionship, and Society**

**(First and Fourteenth Amendments to the U.S. Constitution; 42 U.S.C. § 1983)**

69. The Fifth Claim is asserted by Plaintiffs A.D.P., ESTATE OF DIANE L. PIMENTEL, MARIA PILAR RIVERA, SUMMER PIMENTEL, MATTHEW PIMENTEL, TRAVIS PIMENTEL, and DEREK PIMENTEL against Defendants DARREN VENN, ROSS BAYS, and DOE 1 to 25.

70. Plaintiffs A.D.P., ESTATE OF DIANE L. PIMENTEL, MARIA PILAR RIVERA, SUMMER PIMENTEL, MATTHEW PIMENTEL, TRAVIS PIMENTEL, and DEREK PIMENTEL reallege and incorporate the allegations of the preceding paragraphs 1 to 41, to the extent relevant, as if fully set forth in this Claim.

71. Defendants DARREN VENN, ROSS BAYS, and DOE 1 to 25, acting or purporting to act in the performance of their official duties as law enforcement officers, used excessive and unreasonable force against NICHOLAS A. PIMENTEL, or failed to intercede and/or were integral participants to the use of excessive and unreasonable force against NICHOLAS A. PIMENTEL, in violation of his rights secured by the Fourth and Fourteenth Amendments of the U.S. Constitution, thereby depriving and interfering with Plaintiffs A.D.P., DIANE L. PIMENTEL, MARIA PILAR RIVERA, SUMMER PIMENTEL, MATTHEW PIMENTEL, TRAVIS PIMENTEL, and DEREK PIMENTEL's constitutionally-protected right of association, companionship, and society with their parent/child/ domestic partner/sibling, in violation of their First and Fourteenth Amendment rights protected by the U.S. Constitution.

72. Defendants DARREN VENN, ROSS BAYS, and DOE 1 to 25's actions and inactions were motivated by evil motive or intent, involved reckless or callous indifference to Plaintiffs A.D.P., DIANE L. PIMENTEL, MARIA PILAR RIVERA, SUMMER PIMENTEL, MATTHEW PIMENTEL, TRAVIS PIMENTEL, and DEREK PIMENTEL's rights secured by the First and Fourteenth Amendments of the U.S. Constitution, or were wantonly or oppressively done.

73. As a direct and proximate result of Defendants DARREN VENN, ROSS BAYS, and DOE 1 to 25's actions and inactions, Plaintiffs A.D.P., ESTATE OF DIANE L. PIMENTEL, MARIA PILAR RIVERA, SUMMER PIMENTEL, MATTHEW PIMENTEL, TRAVIS PIMENTEL, and DEREK

1 PIMENTEL suffered injuries entitling them to receive compensatory and punitive damages against  
2 Defendants DOE 1 to 25.

3 WHEREFORE, Plaintiffs A.D.P., ESTATE OF DIANE L. PIMENTEL, MARIA PILAR  
4 RIVERA, SUMMER PIMENTEL, MATTHEW PIMENTEL, TRAVIS PIMENTEL, and DEREK  
5 PIMENTEL pray for relief as hereunder appears.

6 **SIXTH CLAIM**

7 **Unreasonable Force**

8 **(Article I, § 13 of the California Constitution; Cal. Gov. Code §§ 815.2(a), 820(a))**

9 74. The Sixth Claim is asserted by Plaintiffs ESTATE OF NICHOLAS A. PIMENTEL and  
10 MARIA PILAR RIVERA against Defendants CITY OF CERES, CERES POLICE DEPARTMENT,  
11 BRENT SMITH, DARREN VENN, ROSS BAYS, and DOE 1 to 50.

12 75. Plaintiffs ESTATE OF NICHOLAS A. PIMENTEL and MARIA PILAR RIVERA  
13 reallege and incorporate the allegations of the preceding paragraphs 1 to 47, to the extent relevant, as if  
14 fully set forth in this Claim.

15 76. Defendants DARREN VENN, ROSS BAYS, and DOE 1 to 25, acting or purporting to act  
16 in the performance of their official duties as law enforcement officers, used excessive and unreasonable  
17 force against NICHOLAS A. PIMENTEL and Plaintiff MARIA PILAR RIVERA, and/or aided and  
18 abetted the use of excessive and unreasonable force against NICHOLAS A. PIMENTEL and Plaintiff  
19 MARIA PILAR RIVERA, in violation of their rights secured by art. I, § 13 of the California  
20 Constitution.

21 77. Defendants CITY OF CERES, CERES POLICE DEPARTMENT, BRENT SMITH, and  
22 DOE 26 to 50, acting under color of state law and as policy-making authorities, knew or should have  
23 known that law enforcement officers under their command, including Defendants DOE 1 to 25, were  
24 inadequately trained, supervised, or disciplined resulting from either the lack of proper training, pursuant  
25 to policy, or the result of the lack of policy concerning the use of excessive and unreasonable force  
26 against persons contacted, resulting in the violation of NICHOLAS A. PIMENTEL and Plaintiff MARIA  
27 PILAR RIVERA's rights secured by art. I, § 13 of the California Constitution.

28 78. Defendants CITY OF CERES and CERES POLICE DEPARTMENT are indirectly and

1 vicariously liable, through the principles of *respondeat superior*, for injuries proximately caused by acts  
2 or omissions of their employees acting within the scope of their employment, including Defendants  
3 BRENT SMITH, DARREN VENN, ROSS BAYS, and DOE 1 to 50.

4 79. Defendants BRENT SMITH, DARREN VENN, ROSS BAYS, and DOE 1 to 50's actions  
5 and inactions constituted oppression, fraud, and/or malice resulting in great harm to NICHOLAS A.  
6 PIMENTEL.

7 80. As a direct and proximate result of Defendants CITY OF CERES, CERES POLICE  
8 DEPARTMENT, BRENT SMITH, DARREN VENN, ROSS BAYS, and DOE 1 to 50's actions and  
9 inactions, Plaintiffs ESTATE OF NICHOLAS A. PIMENTEL and MARIA PILAR RIVERA suffered  
10 injuries entitling it to receive compensatory damages against Defendants CITY OF CERES, CERES  
11 POLICE DEPARTMENT, BRENT SMITH, DARREN VENN, ROSS BAYS, and DOE 1 to 50, and  
12 punitive damages against Defendants BRENT SMITH, DARREN VENN, ROSS BAYS, and DOE 1 to  
13 50.

14 WHEREFORE, Plaintiffs ESTATE OF NICHOLAS A. PIMENTEL and MARIA PILAR  
15 RIVERA pray for relief as hereunder appears.

16 **SEVENTH CLAIM**

17 **False Arrest/Imprisonment**

18 **(Article I, § 13 of the California Constitution; Cal. Gov. Code §§ 815.2(a), 820(a))**

19 81. The Seventh Claim is asserted by Plaintiff MARIA PILAR RIVERA against Defendants  
20 CITY OF CERES, CERES POLICE DEPARTMENT, DARREN VENN, ROSS BAYS, and DOE 1 to  
21 25.

22 82. Plaintiff MARIA PILAR RIVERA realleges and incorporates the allegations of the  
23 preceding paragraphs 1 to 41, to the extent relevant, as if fully set forth in this Claim.

24 83. Defendants DARREN VENN, ROSS BAYS, and DOE 1 to 25, acting or purporting to act  
25 in the performance of their official duties as law enforcement officers, falsely arrested Plaintiff MARIA  
26 PILAR RIVERA, without a warrant and without probable cause, and/or aided and abetted the false arrest  
27 of Plaintiff MARIA PILAR RIVERA, in violation of her rights secured by art. I, § 13 of the California  
28 Constitution.



1 84. Defendants CITY OF CERES and CERES POLICE DEPARTMENT are indirectly and  
2 vicariously liable, through the principles of *respondeat superior*, for injuries proximately caused by acts  
3 or omissions of their employees acting within the scope of their employment, including Defendants  
4 DARREN VENN, ROSS BAYS, and DOE 1 to 25.

5 85. Defendants DARREN VENN, ROSS BAYS, and DOE 1 to 25's actions and inactions  
6 constituted oppression, fraud, and/or malice resulting in great harm to Plaintiff MARIA PILAR  
7 RIVERA.

8 86. As a direct and proximate result of Defendants DARREN VENN, ROSS BAYS, and DOE  
9 1 to 25's actions and inactions, Plaintiff MARIA PILAR RIVERA suffered injuries entitling her to  
10 receive compensatory damages against Defendants CITY OF CERES, CERES POLICE  
11 DEPARTMENT, DARREN VENN, ROSS BAYS, and DOE 1 to 25, and punitive damages against  
12 Defendants DARREN VENN, ROSS BAYS, and DOE 1 to 25.

13 87. WHEREFORE, Plaintiff MARIA PILAR RIVERA prays for relief as hereunder appears.

14 EIGHTH CLAIM

15 Unreasonable Entry/Search

16 (Article I, § 13 of the California Constitution; Cal. Gov. Code §§ 815.2(a), 820(a))

17 88. The Eighth Claim is asserted by Plaintiffs ESTATE OF NICHOLAS A. PIMENTEL and  
18 MARIA PILAR RIVERA against Defendants CITY OF CERES, CERES POLICE DEPARTMENT, and  
19 DOE 1 to 50.

20 89. Plaintiffs ESTATE OF NICHOLAS A. PIMENTEL and MARIA PILAR RIVERA  
21 reallege and incorporate the allegations of the preceding paragraphs 1 to 41, to the extent relevant, as if  
22 fully set forth in this Claim.

23 90. Defendants DOE 1 to 50, acting or purporting to act in the performance of their official  
24 duties as law enforcement officers, entered and/or searched NICHOLAS A. PIMENTEL and Plaintiff  
25 MARIA PILAR RIVERA's residence, without a warrant and without justification, and/or aided and  
26 abetted the entry and/or search of NICHOLAS A. PIMENTEL and Plaintiff MARIA PILAR RIVERA's  
27 residence, in violation of their rights secured by art. I, § 13 of the California Constitution.

28 91. Defendants CITY OF CERES and CERES POLICE DEPARTMENT are indirectly and

1 vicariously liable, through the principles of *respondeat superior*, for injuries proximately caused by acts  
2 or omissions of their employees acting within the scope of their employment, including Defendants DOE  
3 1 to 50.

4 92. Defendants DOE 1 to 50's actions and inactions constituted oppression, fraud, and/or  
5 malice resulting in great harm to NICHOLAS A. PIMENTEL and Plaintiff MARIA PILAR RIVERA.

6 93. As a direct and proximate result of Defendants DOE 1 to 50's actions and inactions,  
7 Plaintiffs ESTATE OF NICHOLAS A. PIMENTEL and MARIA PILAR RIVERA suffered injuries  
8 entitling them to receive compensatory damages against Defendants CITY OF CERES, CERES POLICE  
9 DEPARTMENT, and DOE 1 to 50, and punitive damages against Defendants DOE 1 to 50.

10 94. WHEREFORE, Plaintiffs ESTATE OF NICHOLAS A. PIMENTEL and MARIA PILAR  
11 RIVERA pray for relief as hereunder appears.

12 NINTH CLAIM

13 Bane Act

14 (Cal. Civ. Code § 52.1(b); Cal. Code Civ. Proc. § 377.30; Cal. Gov. Code §§ 815.2(a), 820(a))

15 95. The Ninth Claim is asserted by Plaintiffs ESTATE OF NICHOLAS A. PIMENTEL,  
16 A.D.P., ESTATE OF DIANE L. PIMENTEL, MARIA PILAR RIVERA, SUMMER PIMENTEL,  
17 MATTHEW PIMENTEL, TRAVIS PIMENTEL, and DEREK PIMENTEL against Defendants CITY  
18 OF CERES, CERES POLICE DEPARTMENT, BRENT SMITH, DARREN VENN, ROSS BAYS, and  
19 DOE 1 to 50.

20 96. Plaintiffs ESTATE OF NICHOLAS A. PIMENTEL, A.D.P., ESTATE OF DIANE L.  
21 PIMENTEL, MARIA PILAR RIVERA, SUMMER PIMENTEL, MATTHEW PIMENTEL, TRAVIS  
22 PIMENTEL, and DEREK PIMENTEL reallege and incorporate the allegations of the preceding  
23 paragraphs 1 to 92, to the extent relevant, as if fully set forth in this Claim.

24 Unreasonable Force

25 97. Defendants DARREN VENN, ROSS BAYS, and DOE 1 to 25, acting or purporting to act  
26 in the performance of their official duties as law enforcement officers, intentionally and/or with reckless  
27 or deliberate indifference, used excessive and unreasonable force against NICHOLAS A. PIMENTEL  
28 and Plaintiff MARIA PILAR RIVERA, or failed to intercede in, were integral participants to, and/or

1 aided and abetted the use of excessive and unreasonable force against NICHOLAS A. PIMENTEL and  
2 Plaintiff MARIA PILAR RIVERA, in violation of their rights secured by the Fourth and Fourteenth  
3 Amendments of the U.S. Constitution and art. I, § 13 of the California Constitution.

4 98. Defendants CITY OF CERES, CERES POLICE DEPARTMENT, BRENT SMITH, and  
5 DOE 26 to 50, acting under color of state law and as policy-making authorities, intentionally and/or with  
6 reckless or deliberate indifference, knew or should have known that law enforcement officers under their  
7 command, including Defendants DARREN VENN, ROSS BAYS, and DOE 1 to 25, were inadequately  
8 trained, supervised, or disciplined resulting from either the lack of proper training, pursuant to policy, or  
9 the result of the lack of policy concerning the use of excessive and unreasonable force against persons  
10 contacted, resulting in the violation of NICHOLAS A. PIMENTEL and Plaintiff MARIA PILAR  
11 RIVERA's rights secured by the Fourth and Fourteenth Amendments of the U.S. Constitution and art. I,  
12 § 13 of the California Constitution.

13 99. Defendants CITY OF CERES and CERES POLICE DEPARTMENT are indirectly and  
14 vicariously liable, through the principles of *respondeat superior*, for injuries proximately caused by acts  
15 or omissions of their employees acting within the scope of their employment, including Defendants  
16 BRENT SMITH, DARREN VENN, ROSS BAYS, and DOE 1 to 50.

17 100. Defendants BRENT SMITH, DARREN VENN, ROSS BAYS, and DOE 1 to 50's actions  
18 and inactions constituted oppression, fraud, and/or malice resulting in great harm to NICHOLAS A.  
19 PIMENTEL and Plaintiff MARIA PILAR RIVERA.

20 101. As a direct and proximate result of Defendants CITY OF CERES, CERES POLICE  
21 DEPARTMENT, BRENT SMITH, DARREN VENN, ROSS BAYS, and DOE 1 to 50's actions and  
22 inactions, Plaintiffs ESTATE OF NICHOLAS A. PIMENTEL and MARIA PILAR RIVERA suffered  
23 injuries entitling them to receive compensatory damages and statutory penalties against Defendants  
24 CITY OF CERES, CERES POLICE DEPARTMENT, BRENT SMITH, DARREN VENN, ROSS  
25 BAYS, and DOE 1 to 50, and punitive damages against Defendants BRENT SMITH, DARREN VENN,  
26 ROSS BAYS, and DOE 1 to 50.

27 False Arrest/Imprisonment

28 102. Defendants DARREN VENN, ROSS BAYS, and DOE 1 to 25, acting or purporting to act

1 in the performance of their official duties as law enforcement officers, intentionally and/or with reckless  
2 or deliberate indifference, falsely arrested Plaintiff MARIA PILAR RIVERA, without a warrant and  
3 without probable cause, or failed to intercede, were integral participants, and/or aided and abetted the  
4 false arrest of Plaintiff MARIA PILAR RIVERA, in violation of her rights secured by the Fourth and  
5 Fourteenth Amendments of the U.S. Constitution and art. I, § 13 of the California Constitution.

6 103. Defendants CITY OF CERES and CERES POLICE DEPARTMENT are indirectly and  
7 vicariously liable, through the principles of *respondeat superior*, for injuries proximately caused by acts  
8 or omissions of their employees acting within the scope of their employment, including Defendants  
9 DARREN VENN, ROSS BAYS, and DOE 1 to 25.

10 104. Defendants DARREN VENN, ROSS BAYS, and DOE 1 to 25's actions and inactions  
11 constituted oppression, fraud, and/or malice resulting in great harm to Plaintiff MARIA PILAR  
12 RIVERA.

13 105. As a direct and proximate result of Defendants DARREN VENN, ROSS BAYS, and DOE  
14 1 to 25's actions and inactions, Plaintiff MARIA PILAR RIVERA suffered injuries entitling her to  
15 receive compensatory damages and statutory penalties against Defendants CITY OF CERES, CERES  
16 POLICE DEPARTMENT, DARREN VENN, ROSS BAYS, and DOE 1 to 25, and punitive damages  
17 against Defendants DARREN VENN, ROSS BAYS, and DOE 1 to 25.

18 Unreasonable Entry/Search

19 106. Defendants DOE 1 to 50, acting or purporting to act in the performance of their official  
20 duties as law enforcement officers, intentionally and/or with reckless or deliberate indifference, entered  
21 and/or searched NICHOLAS A. PIMENTEL and Plaintiff MARIA PILAR RIVERA's residence, without  
22 a warrant and without justification, or failed to intercede, were integral participants, and/or aided and  
23 abetted the entry and/or search of NICHOLAS A. PIMENTEL and Plaintiff MARIA PILAR RIVERA's  
24 residence, in violation of their rights secured by the Fourth and Fourteenth Amendments of the U.S.  
25 Constitution and art. I, § 13 of the California Constitution.

26 107. Defendants CITY OF CERES and CERES POLICE DEPARTMENT are indirectly and  
27 vicariously liable, through the principles of *respondeat superior*, for injuries proximately caused by acts  
28 or omissions of their employees acting within the scope of their employment, including Defendants DOE

1 1 to 50.

2 108. Defendants DOE 1 to 50's actions and inactions constituted oppression, fraud, and/or  
3 malice resulting in great harm to NICHOLAS A. PIMENTEL and Plaintiff MARIA PILAR RIVERA.

4 109. As a direct and proximate result of Defendants DOE 1 to 50's actions and inactions,  
5 Plaintiffs ESTATE OF NICHOLAS A. PIMENTEL and MARIA PILAR RIVERA suffered injuries  
6 entitling them to receive compensatory damages and statutory penalties against Defendants CITY OF  
7 CERES, CERES POLICE DEPARTMENT, and DOE 1 to 50, and punitive damages against Defendants  
8 DOE 1 to 50.

9 Right of Familial Association, Companionship, and Society

10 110. Defendants DARREN VENN, ROSS BAYS, and DOE 1 to 25, acting or purporting to act  
11 in the performance of their official duties as law enforcement officers, used excessive and unreasonable  
12 force against NICHOLAS A. PIMENTEL, or failed to intercede and/or were integral participants to the  
13 use of excessive and unreasonable force against NICHOLAS A. PIMENTEL, in violation of his rights  
14 secured by the Fourth and Fourteenth Amendments of the U.S. Constitution and art. I, § 13 of the  
15 California Constitution, recklessly or with deliberate indifference interfering with Plaintiffs A.D.P. and  
16 DIANE L. PIMENTEL's constitutionally-protected right of familial association, companionship, and  
17 society with their parent/child, in violation of their Fourteenth Amendment rights protected by the U.S.  
18 Constitution and art. I, § 7(a) of the California Constitution.

19 111. Defendants CITY OF CERES and CERES POLICE DEPARTMENT are indirectly and  
20 vicariously liable, through the principles of *respondeat superior*, for injuries proximately caused by acts  
21 or omissions of their employees acting within the scope of their employment, including Defendants  
22 DARREN VENN, ROSS BAYS, and DOE 1 to 25.

23 112. Defendants DARREN VENN, ROSS BAYS, and DOE 1 to 25's actions and inactions  
24 constituted oppression, fraud, and/or malice resulting in great harm to Plaintiffs A.D.P. and DIANE L.  
25 PIMENTEL.

26 113. As a direct and proximate result of Defendants DARREN VENN, ROSS BAYS, and DOE  
27 1 to 25's actions and inactions, Plaintiffs A.D.P. and ESTATE OF DIANE L. PIMENTEL suffered  
28 injuries entitling them to receive compensatory damages and statutory penalties against Defendants

1 CITY OF CERES, CERES POLICE DEPARTMENT, and DOE 1 to 25, and punitive damages against  
2 Defendants DOE 1 to 25.

3 Right of Association, Companionship, and Society

4 114. Defendants DARREN VENN, ROSS BAYS, and DOE 1 to 25, acting or purporting to act  
5 in the performance of their official duties as law enforcement officers, used excessive and unreasonable  
6 force against NICHOLAS A. PIMENTEL, or failed to intercede in, were integral participants to, and/or  
7 aided and abetted the use of excessive and unreasonable force against NICHOLAS A. PIMENTEL, in  
8 violation of his rights secured by the Fourth and Fourteenth Amendments of the U.S. Constitution and  
9 art. I, § 13 of the California Constitution, recklessly or with deliberate indifference interfering with  
10 Plaintiffs A.D.P., DIANE L. PIMENTEL, MARIA PILAR RIVERA, SUMMER PIMENTEL,  
11 MATTHEW PIMENTEL, TRAVIS PIMENTEL, and DEREK PIMENTEL's constitutionally-protected  
12 right of association, companionship, and society with their parent/child/domestic partner/sibling, in  
13 violation of their First and Fourteenth Amendment rights protected by the U.S. Constitution and art. I, §§  
14 1 and 7(a) of the California Constitution.

15 115. Defendants CITY OF CERES and CERES POLICE DEPARTMENT are indirectly and  
16 vicariously liable, through the principles of *respondeat superior*, for injuries proximately caused by acts  
17 or omissions of their employees acting within the scope of their employment, including Defendants  
18 DARREN VENN, ROSS BAYS, and DOE 1 to 25.

19 116. Defendants DARREN VENN, ROSS BAYS, and DOE 1 to 25's actions and inactions  
20 constituted oppression, fraud, and/or malice resulting in great harm to Plaintiffs A.D.P., DIANE L.  
21 PIMENTEL, MARIA PILAR RIVERA, SUMMER PIMENTEL, MATTHEW PIMENTEL, TRAVIS  
22 PIMENTEL, and DEREK PIMENTEL.

23 117. As a direct and proximate result of Defendants DARREN VENN, ROSS BAYS, and DOE  
24 1 to 25's actions and inactions, Plaintiffs A.D.P., ESTATE OF DIANE L. PIMENTEL, MARIA PILAR  
25 RIVERA, SUMMER PIMENTEL, MATTHEW PIMENTEL, TRAVIS PIMENTEL, and DEREK  
26 PIMENTEL suffered injuries entitling them to receive compensatory damages and statutory penalties  
27 against Defendants CITY OF CERES, CERES POLICE DEPARTMENT, and DARREN VENN, ROSS  
28 BAYS, and DOE 1 to 25, and punitive damages against Defendants DARREN VENN, ROSS BAYS,

1 and DOE 1 to 25.

2 WHEREFORE, Plaintiffs ESTATE OF NICHOLAS A. PIMENTEL, A.D.P., ESTATE OF  
3 DIANE L. PIMENTEL, MARIA PILAR RIVERA, SUMMER PIMENTEL, MATTHEW PIMENTEL,  
4 TRAVIS PIMENTEL, and DEREK PIMENTEL pray for relief as hereunder appears.

5 **TENTH CLAIM**

6 **Assault/Battery**

7 **(Cal. Code Civ. Proc. § 377.30; Cal. Gov. Code §§ 815.2(a), 820(a))**

8 118. The Tenth Claim is asserted by Plaintiffs ESTATE OF NICHOLAS A. PIMENTEL and  
9 MARIA PILAR RIVERA against Defendants CITY OF CERES, CERES POLICE DEPARTMENT,  
10 DARREN VENN, ROSS BAYS, and DOE 1 to 25.

11 119. Plaintiffs ESTATE OF NICHOLAS A. PIMENTEL and MARIA PILAR RIVERA  
12 realleges and incorporates the allegations of the preceding paragraphs 1 to 41, to the extent relevant, as if  
13 fully set forth in this Claim.

14 120. Defendants DARREN VENN, ROSS BAYS, and DOE 1 to 25 intentionally touched  
15 NICHOLAS A. PIMENTEL and Plaintiff MARIA PILAR RIVERA, without consent, and that touching  
16 constituted use of excessive and unreasonable force, and/or aided and abetted in the intentional touching  
17 of NICHOLAS A. PIMENTEL and Plaintiff MARIA PILAR RIVERA.

18 121. Defendants CITY OF CERES and CERES POLICE DEPARTMENT are indirectly and  
19 vicariously liable, through the principles of *respondeat superior*, for injuries proximately caused by acts  
20 or omissions of their employees acting within the scope of their employment, including Defendants  
21 DARREN VENN, ROSS BAYS, and DOE 1 to 25.

22 122. Defendants DARREN VENN, ROSS BAYS, and DOE 1 to 25's actions and inactions  
23 constituted oppression, fraud, and/or malice resulting in great harm to NICHOLAS A. PIMENTEL and  
24 Plaintiff MARIA PILAR RIVERA.

25 123. As a direct and proximate result of Defendants DARREN VENN, ROSS BAYS, and DOE  
26 1 to 25's actions and inactions, Plaintiffs ESTATE OF NICHOLAS A. PIMENTEL and MARIA PILAR  
27 RIVERA suffered injuries entitling it to receive compensatory damages against Defendants CITY OF  
28 CERES, CERES POLICE DEPARTMENT, DARREN VENN, ROSS BAYS, and DOE 1 to 25, and



1 punitive damages against Defendants DARREN VENN, ROSS BAYS, and DOE 1 to 25.

2 WHEREFORE, Plaintiffs ESTATE OF NICHOLAS A. PIMENTEL and MARIA PILAR  
3 RIVERA pray for relief as hereunder appears.

4 **ELEVENTH CLAIM**

5 **False Arrest/Imprisonment**

6 **(Cal. Gov. Code §§ 815.2(a), 820(a))**

7 124. The Eleventh Claim is asserted by Plaintiff MARIA PILAR RIVERA against Defendants  
8 CITY OF CERES, CERES POLICE DEPARTMENT, DARREN VENN, ROSS BAYS, and DOE 1 to  
9 25.

10 125. Plaintiff MARIA PILAR RIVERA realleges and incorporates the allegations of the  
11 preceding paragraphs 1 to 41, to the extent relevant, as if fully set forth in this Claim.

12 126. Defendants DARREN VENN, ROSS BAYS, and DOE 1 to 25, acting or purporting to act  
13 in the performance of their official duties as law enforcement officers, falsely detained and arrested  
14 Plaintiff MARIA PILAR RIVERA, without a warrant and without probable cause, and/or aided and  
15 abetted in the false detention and arrest of Plaintiff MARIA PILAR RIVERA.

16 127. Defendants CITY OF CERES and CERES POLICE DEPARTMENT are indirectly and  
17 vicariously liable, through the principles of *respondeat superior*, for injuries proximately caused by acts  
18 or omissions of their employees acting within the scope of their employment, including Defendants  
19 DARREN VENN, ROSS BAYS, and DOE 1 to 25.

20 128. Defendants DARREN VENN, ROSS BAYS, and DOE 1 to 25's actions and inactions  
21 constituted oppression, fraud, and/or malice resulting in great harm to Plaintiff MARIA PILAR  
22 RIVERA.

23 129. As a direct and proximate result of Defendants DARREN VENN, ROSS BAYS, and DOE  
24 1 to 25's actions and inactions, Plaintiff MARIA PILAR RIVERA suffered injuries entitling her to  
25 receive compensatory damages against Defendants CITY OF CERES, CERES POLICE  
26 DEPARTMENT, DARREN VENN, ROSS BAYS, and DOE 1 to 25, and punitive damages against  
27 Defendants DARREN VENN, ROSS BAYS, and DOE 1 to 25.

28 WHEREFORE, Plaintiff MARIA PILAR RIVERA prays for relief as hereunder appears.

**TWELFTH CLAIM**

**Trespass**

**(Cal. Code Civ. Proc. § 377.30; Cal. Gov. Code §§ 815.2(a), 820(a))**

130. The Twelfth Claim is asserted by Plaintiffs ESTATE OF NICHOLAS A. PIMENTEL and MARIA PILAR RIVERA against Defendants CITY OF CERES, CERES POLICE DEPARTMENT, and DOE 1 to 50.

131. Plaintiffs ESTATE OF NICHOLAS A. PIMENTEL and MARIA PILAR RIVERA reallege and incorporate the allegations of the preceding paragraphs 1 to 41, to the extent relevant, as if fully set forth in this Claim.

132. Defendants DOE 1 to 50, acting or purporting to act in the performance of their official duties as law enforcement officers, intentionally, recklessly, or negligently entered Plaintiffs ESTATE OF NICHOLAS A. PIMENTEL and MARIA PILAR RIVERA's property, without a warrant, probable cause, or permission, and/or aided and abetted in the entry of Plaintiffs ESTATE OF NICHOLAS A. PIMENTEL and MARIA PILAR RIVERA's property.

133. Defendants CITY OF CERES and CERES POLICE DEPARTMENT are indirectly and vicariously liable, through the principles of *respondeat superior*, for injuries proximately caused by acts or omissions of their employees acting within the scope of their employment, including Defendants DARREN VENN, ROSS BAYS, and DOE 1 to 25.

134. Defendants DOE 1 to 50's actions and inactions constituted oppression, fraud, and/or malice resulting in great harm to NICHOLAS A. PIMENTEL and Plaintiff MARIA PILAR RIVERA.

135. As a direct and proximate result of Defendants DOE 1 to 50's actions and inactions, Plaintiffs ESTATE OF NICHOLAS A. PIMENTEL and MARIA PILAR RIVERA suffered injuries entitling them to receive compensatory damages against Defendants CITY OF CERES, CERES POLICE DEPARTMENT, and DOE 1 to 50, and punitive damages against Defendants DOE 1 to 50.

WHEREFORE, Plaintiffs ESTATE OF NICHOLAS A. PIMENTEL and MARIA PILAR RIVERA pray for relief as hereunder appears.

**THIRTEENTH CLAIM**

**Intentional Infliction of Emotional Distress**

**(Cal. Gov. Code §§ 815.2(a), 820(a))**

136. The Thirteenth Claim is asserted by Plaintiff MARIA PILAR RIVERA against Defendants CITY OF CERES, CERES POLICE DEPARTMENT, DARREN VENN, ROSS BAYS, and DOE 1 to 50.

137. Plaintiff MARIA PILAR RIVERA realleges and incorporates the allegations of the preceding paragraphs 1 to 47, to the extent relevant, as if fully set forth in this Claim.

138. Defendants BRENT SMITH, DARREN VENN, ROSS BAYS, and DOE 1 to 50, acting or purporting to act in the performance of their official duties as law enforcement officers, engaged in outrageous conduct, as described, and, as a result of that outrageous conduct, Plaintiff MARIA PILAR RIVERA did suffer severe emotional distress.

139. Defendants CITY OF CERES and CERES POLICE DEPARTMENT are indirectly and vicariously liable, through the principles of *respondeat superior*, for injuries proximately caused by acts or omissions of their employees acting within the scope of their employment, including Defendants BRENT SMITH, DARREN VENN, ROSS BAYS, and DOE 1 to 50.

140. Defendants BRENT SMITH, DARREN VENN, ROSS BAYS, and DOE 1 to 50's actions and inactions constituted oppression, fraud, and/or malice resulting in great harm to Plaintiff MARIA PILAR RIVERA.

141. As a direct and proximate result of Defendants BRENT SMITH, DARREN VENN, ROSS BAYS, and DOE 1 to 50's actions and inactions, Plaintiff MARIA PILAR RIVERA suffered injuries entitling her to receive compensatory damages against Defendants CITY OF CERES, CERES POLICE DEPARTMENT, BRENT SMITH, DARREN VENN, ROSS BAYS, and DOE 1 to 50, and punitive damages against Defendants BRENT SMITH, DARREN VENN, ROSS BAYS, and DOE 1 to 50.

WHEREFORE, Plaintiff MARIA PILAR RIVERA prays for relief as hereunder appears.

**FOURTEENTH CLAIM**

**Negligence**

**(Cal. Code Civ. Proc. § 377.30; Cal. Gov. Code §§ 815.2(a), 820(a))**

142. The Seventh Claim is asserted by Plaintiffs ESTATE OF NICHOLAS A. PIMENTEL and MARIA PILAR RIVERA against Defendants CITY OF CERES, CERES POLICE DEPARTMENT, BRENT SMITH, DARREN VENN, ROSS BAYS, and DOE 1 to 50.

143. Plaintiffs ESTATE OF NICHOLAS A. PIMENTEL and MARIA PILAR RIVERA reallege and incorporate the allegations of the preceding paragraphs 1 to 47, to the extent relevant, as if fully set forth in this Claim.

144. Defendants DARREN VENN, ROSS BAYS, and DOE 1 to 25 owed NICHOLAS A. PIMENTEL and Plaintiff MARIA PILAR RIVERA a duty of care and breached that duty by (i) using excessive and unreasonable force against NICHOLAS A. PIMENTEL and Plaintiff MARIA PILAR RIVERA, employing improper tactical conduct, and making improper decisions preceding the use of excessive and unreasonable force, and/or aiding and abetting in the use of excessive and unreasonable force; (ii) falsely arresting Plaintiff MARIA PILAR RIVERA, and/or aiding and abetting in the false arrest of Plaintiff MARIA PILAR RIVERA; and (iii) conducting unlawful entries and searches on NICHOLAS A. PIMENTEL and Plaintiff MARIA PILAR RIVERA's property, and/or aiding and abetting in unlawful entry and search of NICHOLAS A. PIMENTEL and Plaintiff MARIA PILAR RIVERA's property.

145. Defendants BRENT SMITH and DOE 26 to 50 owed NICHOLAS A. PIMENTEL and Plaintiff MARIA PILAR RIVERA a duty of care and breached that duty by hiring, retaining, and failing to adequately train and supervise Defendants DARREN VENN, ROSS BAYS, and DOE 1 to 25, who were incompetent or unfit, and where Defendants BRENT SMITH and DOE 26 to 50 knew or should have known that hiring, retaining, and failing to adequately train and supervise Defendants DARREN VENN, ROSS BAYS, and DOE 1 to 25 created a particular risk or hazard that caused NICHOLAS A. PIMENTEL and Plaintiff MARIA PILAR RIVERA's injuries.

146. Defendants CITY OF CERES and CERES POLICE DEPARTMENT are indirectly and vicariously liable, through the principles of *respondeat superior*, for injuries proximately caused by acts

1 or omissions of their employees acting within the scope of their employment, including Defendants  
2 BRENT SMITH, DARREN VENN, ROSS BAYS, and DOE 1 to 50.

3 147. Defendants BRENT SMITH, DARREN VENN, ROSS BAYS, and DOE 1 to 50's actions  
4 and inactions constituted oppression, fraud, and/or malice resulting in great harm to NICHOLAS A.  
5 PIMENTEL and Plaintiff MARIA PILAR RIVERA.

6 148. As a direct and proximate result of Defendants BRENT SMITH, DARREN VENN, ROSS  
7 BAYS, and DOE 1 to 50's actions and inactions, Plaintiffs ESTATE OF NICHOLAS A. PIMENTEL  
8 and MARIA PILAR RIVERA suffered injuries entitling them to receive compensatory damages against  
9 Defendants CITY OF CERES, CERES POLICE DEPARTMENT, BRENT SMITH, DARREN VENN,  
10 ROSS BAYS, and DOE 1 to 50, and punitive damages against Defendants BRENT SMITH, DARREN  
11 VENN, ROSS BAYS, and DOE 1 to 50.

12 WHEREFORE, Plaintiffs ESTATE OF NICHOLAS A. PIMENTEL and MARIA PILAR  
13 RIVERA pray for relief as hereunder appears.

14 **FIFTEENTH CLAIM**

15 **Wrongful Death**

16 **(Cal. Code Civ. Proc. § 377.60; Cal. Gov. Code §§ 815.2(a), 820(a))**

17 149. The Eighth Claim is asserted by Plaintiffs A.D.P. and MARIA PILAR RIVERA against  
18 Defendants CITY OF CERES, CERES POLICE DEPARTMENT, BRENT SMITH, DARREN VENN,  
19 ROSS BAYS, and DOE 1 to 50.

20 150. Plaintiffs A.D.P. and MARIA PILAR RIVERA reallege and incorporate the allegations of  
21 the preceding paragraphs 1 to 47, to the extent relevant, as if fully set forth in this Claim.

22 151. Defendants DARREN VENN, ROSS BAYS, and DOE 1 to 25 owed Plaintiffs A.D.P. and  
23 MARIA PILAR RIVERA a duty of care and breached that duty by using excessive and unreasonable  
24 force against NICHOLAS A. PIMENTEL, employing improper tactical conduct, and making improper  
25 decisions preceding the use of excessive and unreasonable force, causing NICHOLAS A. PIMENTEL's  
26 death.

27 152. Defendants CITY OF CERES, CERES POLICE DEPARTMENT, BRENT SMITH, and  
28 DOE 26 to 50 owed Plaintiffs A.D.P. and MARIA PILAR RIVERA a duty of care and breached that

1 duty by hiring, retaining, and failing to adequately train and supervise Defendants DOE 1 to 25, who  
2 were incompetent or unfit, and where Defendants CITY OF CERES, CERES POLICE DEPARTMENT,  
3 BRENT SMITH, and DOE 26 to 50 knew or should have known that hiring, retaining, and failing to  
4 adequately train and supervise Defendants DOE 1 to 25 created a particular risk or hazard, causing  
5 NICHOLAS A. PIMENTEL's death.

6 153. Defendants CITY OF CERES and CERES POLICE DEPARTMENT are indirectly and  
7 vicariously liable, through the principles of *respondeat superior*, for injuries proximately caused by acts  
8 or omissions of their employees acting within the scope of their employment, including Defendants  
9 BRENT SMITH, DARREN VENN, ROSS BAYS, and DOE 1 to 50.

10 154. Defendants BRENT SMITH, DARREN VENN, ROSS BAYS, and DOE 1 to 50's actions  
11 and inactions constituted oppression, fraud, and/or malice resulting in great harm to Plaintiffs A.D.P. and  
12 MARIA PILAR RIVERA.

13 155. As a direct and proximate result of Defendants CITY OF CERES, CERES POLICE  
14 DEPARTMENT, BRENT SMITH, DARREN VENN, ROSS BAYS, and DOE 1 to 50's actions and  
15 inactions, Plaintiffs A.D.P. and MARIA PILAR RIVERA suffered injuries entitling them to receive  
16 compensatory damages against Defendants CITY OF CERES, CERES POLICE DEPARTMENT,  
17 BRENT SMITH, DARREN VENN, ROSS BAYS, and DOE 1 to 50, and punitive damages against  
18 Defendants BRENT SMITH, DARREN VENN, ROSS BAYS, and DOE 1 to 50.

19 WHEREFORE, Plaintiffs A.D.P. and MARIA PILAR RIVERA pray for relief as hereunder  
20 appears.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiffs ESTATE OF NICHOLAS A. PIMENTEL, A.D.P., ESTATE OF  
23 DIANE L. PIMENTEL, MARIA PILAR RIVERA, SUMMER PIMENTEL, MATTHEW PIMENTEL,  
24 TRAVIS PIMENTEL, and DEREK PIMENTEL seek Judgment as follows:

25 1. For an award of compensatory, general, and special damages against Defendants CITY  
26 OF CERES, CERES POLICE DEPARTMENT, BRENT SMITH, DARREN VENN, ROSS BAYS, and  
27 DOE 1 to 50, according to proof at trial;

28 2. For an award of exemplary/punitive damages against Defendants BRENT SMITH,

1 DARREN VENN, ROSS BAYS, and DOE 1 to 50, in an amount sufficient to deter and to make an  
2 example of them, because their actions and/or inactions, as alleged, were motivated by evil motive or  
3 intent, involved reckless or callous indifference to constitutionally-protected rights, or were wantonly or  
4 oppressively done, and/or constituted oppression and/or malice resulting in great harm;

5 3. For an award of statutory penalties, pursuant to Cal. Civ. Code § 52.1 and any other  
6 statute as may be applicable;

7 4. For an award of reasonable attorneys' fees and costs, pursuant to 42 U.S.C. § 1988, Cal.  
8 Civ. Code § 52.1, Cal. Code Civ. Proc. § 1021.5, and any other statute as may be applicable; and

9 5. For an award of any other further relief, as the Court deems fair, just, and equitable.

10 Dated: September 5, 2018

Respectfully Submitted,

11 

12 By: \_\_\_\_\_

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MARIA PILAR RIVERA, SUMMER  
PIMENTEL, MATTHEW PIMENTEL,  
TRAVIS PIMENTEL, and DEREK PIMENTEL



**JURY TRIAL DEMAND**

A JURY TRIAL IS DEMANDED on behalf of Plaintiffs ESTATE OF NICHOLAS A. PIMENTEL, A.D.P., ESTATE OF DIANE L. PIMENTEL, MARIA PILAR RIVERA, SUMMER PIMENTEL, MATTHEW PIMENTEL, TRAVIS PIMENTEL, and DEREK PIMENTEL.

Dated: September 5, 2018

Respectfully Submitted,



By: \_\_\_\_\_

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