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3 **UNITED STATES DISTRICT COURT**  
4  
5 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

6 MELINA ARMSTEAD individually and as Co-Successors-  
7 in-Interest to Decedent MILES ARMSTEAD; A.A.  
8 individually and as Co-Successor-in-Interest to Decedent  
9 MILES ARMSTEAD by and through her Guardian Ad Litem  
0 MELINA ARMSTEAD; I.L. individually and as Co-  
1 Successor-in-Interest to Decedent MILES ARMSTEAD by  
2 and through her Guardian Ad Litem MELINA ARMSTEAD,

3 Plaintiffs,

4 vs.

5 COUNTY OF ALAMEDA, a municipal corporation; CITY  
6 OF OAKLAND, a municipal corporation; JESSIE  
7 CHAMBERS, an individual and DOES 1-50, inclusive.

8 Defendants.

Case No.:

COMPLAINT FOR DAMAGES  
(42 U.S.C § 1983)

JURY TRIAL DEMANDED

9 **INTRODUCTION**

10 1. Mr. Miles Armstead was a father, husband, and beloved member of his community.

11 Miles had three children, including a stepdaughter from his new marriage to wife Mrs. Melina

12 Armstead, who, at the time of his death, was pregnant with their first child together.

1 2. Mr. and Mrs. Armstead began building a new chapter of their lives when they purchased  
2 a home at 2901 - 76<sup>th</sup> Avenue in the City of Oakland, California. However, this house, once  
3 filled with happiness and love, turned into a place of torment, fear and ultimately death.  
4

5 3. The elation the young family experienced when they embarked on homeownership  
6 quickly soured approximately two years after the Armstead's moved in when their neighbor Mr.  
7 Jamal Thomas began a relentless campaign of terror and harassment against the Armsteads. The  
8 couple suffered broken window's, verbal threats, physical attacks, and eventually death due to  
9 the failures of the Oakland Police Department, the County of Alameda and the Armstead's  
10 neighbors who permitted, emboldened and ultimately not only placed the Armstead's in harm's  
11 way but significantly increased the danger and fanned the homicidal flames burning in Mr.  
12 Thomas' mind.  
13

14 **JURISDICTION AND VENUE**

15  
16 4. This action arises under Title 42 of the United States Code, Section 1983. Jurisdiction is  
17 conferred upon this Court by Title 28 of the United States Code, Sections 1331 and 1343. The  
18 unlawful acts and practices alleged herein occurred in the City of Oakland, in Alameda County,  
19 California, which is within this judicial district.  
20

21 **PARTIES**

22 5. Decedent MILES ARMSTEAD (hereinafter "DECEDENT") was an individual residing  
23 in the State of California.

24 6. Plaintiff MELINA ARMSTEAD (hereinafter "Plaintiff") is a competent adult, a resident  
25 of California, and a citizen of the United States. Plaintiff MELINA ARMSTEAD was lawfully  
married to Decedent MILES ARMSTEAD at the time of his death and survives him. Plaintiff  
MELINA ARMSTEAD brings these claims individually on behalf of Decedent Miles Armstead

1 pursuant to California Code of Civil Procedure §§377.20 et seq. and 377.60 et seq., which  
2 provide for survival and wrongful death actions. The wrongful death and survival claims survive  
3 the death of MILES ARMSTEAD; both arise from the same wrongful act or neglect of another;  
4 and such claims are properly joined pursuant to California Code of Civil Procedure §377.62.  
5 Plaintiff also bring her claims on the basis of 42 USC §§1983 and 1988, the United States  
6 Constitution, and federal civil rights law.  
7

8 7. Plaintiff A.A. (hereinafter “Plaintiff A.A.”), is and was at all times herein mentioned the  
9 biological minor daughter of Decedent Miles Armstead. Plaintiff A.A. brings this action by and  
10 through her Guardian Ad Litem MELINA ARMSTEAD, as Co-Successor-in-Interest to  
11 Decedent MILES ARMSTEAD.

12 8. Plaintiff I.L. (hereinafter “Plaintiff I.L.”), is and was at all times herein mentioned the  
13 minor legal dependent of Decedent MILES ARMSTEAD. Plaintiff I.L. brings this action by and  
14 through her Guardian Ad Litem MELINA ARMSTEAD, as Co-Successor-in-Interest to  
15 Decedent MILES ARMSTEAD.  
16

17 9. Defendant CITY OF OAKLAND (hereinafter “CITY”) is a municipal corporation, duly  
18 authorized to operate under the laws of the State of California. Under its supervision, the CITY  
19 OF OAKLAND operates the Oakland Police Department (“OPD”). The CITY OF OAKLAND  
20 maintains respondeat superior liability for the actions of its employees.  
21

22 10. Defendant ALAMEDA COUNTY (“COUNTY”) is a municipal corporation, duly  
23 authorized to operate under the laws of the State of California. Under its supervision  
24 ALAMEDA COUNTY operates the ALAMEDA COUNTY SHERIFF’S OFFICE, SANTA  
25 RITA JAIL and the ALAMEDA COUNTY PROBATION DEPARTMENT.

1 11. Defendant JESSIE CHAMBERS (hereinafter “Defendant JESSIE CHAMBERS”) is and  
2 was the homeowner of 2907 76<sup>th</sup> Ave, Oakland, CA 94605. At all times mentioned herein, Jessie  
3 Chambers was an individual who owned, managed and/or maintained 2907 - 76<sup>th</sup> Ave in the City  
4 of Oakland, California. He is being sued in his individual capacity.

5  
6 12. Defendant JAMES THOMAS (hereinafter “Defendant JAMES THOMAS”) is and was  
7 an individual, who initially lawfully resided at 2907 - 76<sup>th</sup> Ave, Oakland, CA 94605 and was  
8 later evicted from the 2907 – 76<sup>th</sup> Avenue address. After being evicted he returned to the  
9 property and began residing at the property with the permission and/or tacit consent of the 2907  
10 – 76<sup>th</sup> Avenue property’s owners. He is being sued in his individual capacity.

11 13. Plaintiffs are ignorant of the true names and/or capacities of defendants sued herein as  
12  
13 DOES 1 through 50, inclusive, and therefore sues said defendants by such fictitious  
14 names. Plaintiffs will amend this complaint to allege their true names and capacities  
15 when ascertained. Plaintiffs believe and allege that each of the DOE defendants is legally  
16 responsible and liable for the incident, injuries and damages hereinafter set forth. Each  
17 defendant proximately caused injuries and damages because of their negligence, breach  
18 of duty, negligent supervision, management or control, violation of public policy. Each  
19 defendant is liable for his/her personal conduct, vicarious or imputed negligence, fault, or  
20 breach of duty, whether severally or jointly, or whether based upon agency, employment,  
21 ownership, entrustment, custody, care or control or upon any other act or omission.  
22 Plaintiffs will ask leave to amend her complaint subject to further discovery.

23  
24 14. In engaging in the conduct alleged herein, defendant police officers acted under the color  
25 of Law and in the course and scope of their employment with OPD and/or Alameda  
County. In engaging in the conduct described herein, Defendant law enforcement

1 officers exceeded and/or failed to reasonably exercise the authority vested in them as law  
2 enforcement officers, under the United States and California Constitutions, and as  
3 employees of OPD and County.

4  
5 15. For state law causes of action related to Federal claims, Plaintiff is required to comply  
6 with Administrative claim filing requirements under California law. Plaintiff filed a  
7 Government Tort Claim with the OPD and County, notifying them of Plaintiffs' claims  
8 for damages. The City and County rejected the claims.

9 16.

10 **STATEMENT OF FACTS**

11 17. Miles and Melina Armstead moved into their home on 2901 - 76<sup>th</sup> Avenue in the City of  
12 Oakland, California in October of 2017. At the time, they had a cordial relationship with their  
13 next door neighbors who were long-time tenants of 2907 - 76<sup>th</sup> Ave. The relationship between  
14 the two family's changed for the worse when the tenants were evicted from the 2907 - 76<sup>th</sup> Ave  
15 property in August 2019.

16 18. One of the long-time tenants of 2907 - 76<sup>th</sup> Avenue, Mr. Jamal Thomas came back to the  
17 property as a squatter in October 2019. On information and belief Mr. Thomas had obvious  
18 mental health issues which contributed to him experiencing violent, uncontrollable yet persistent  
19 outbursts. On information and belief his mental health issues and violent outbursts were known  
20 not only to his fellow family members that lived with him at the property but also to the  
21 property's owners who rented out the home to Mr. Thomas and his family.

22  
23 19. On Thanksgiving Day of 2019, Jamal frantically banged on the front door of the  
24 Armstead's home yelling unintelligibly as he tried to break in. Unfortunately, this was just the  
25 first incident in a six-month sequence of increasingly harassing and threatening behavior directed  
at the Armstead family. Initially, the persistent pattern of threats and harassment consisted of

1 taunts, verbal threats, door knocking, door bell ringing and other nuisance type behavior. The  
2 Armstead's faithfully called and reported the incidents to the police. Nevertheless, Oakland  
3 Police Officers failed to make an arrest, detain and/or curb the behavior. Instead, Officers  
4 complained they were understaffed, overworked and the family's pleas for help were not high  
5 priorities. Officers encouraged the Armstead family to contact the 2907 – 76<sup>th</sup> Avenue property  
6 owners to have Mr. Thomas evicted and/or removed from the property or in the alternative to  
7 have the property properly secured so as to prevent him from living on it.

8  
9 20. The 2907 – 76<sup>th</sup> Avenue property's owners failed to take reasonable efforts to secure the  
10 property from trespassers, squatters and/or persons who were accessing and living on the  
11 property. Mr. Thomas took advantage of the owner's indifference and continued to use the  
12 property as a launching pad for his increasingly more frequent, volatile and threatening reign of  
13 terror against the Armstead's.

14 21. For example, on or about the evening of December 20, 2019, as Melina Armstead sat in  
15 her living room holding her child in her arms, a large rock flew through the home's bay front  
16 window, shattering the glass. Glass shards flew everywhere. Mrs. Armstead was struck by one of  
17 the shards causing her to bleed profusely and necessitating that she be transported to the hospital  
18 via ambulance.

19 22. Oakland Police were called and informed Ms. Armstead that there was nothing they  
20 could about the rock throwing incident and considered it a simple incident of "vandalism."  
21 Undaunted by the Armstead's frequent calls for service to the police, the police subsequent  
22 delayed and/or disinterested response and lack of action, Mr. Thomas pressed on.

23 23. Ms. Armstead knew that Jamal Thomas was the perpetrator, as he had continuously  
24 harassed the Armstead's by ringing their doorbell several times during the day and night, then  
25 running away, as well as knocking on their windows. However, despite being armed with this  
information, Oakland Police Officers failed to even question Jamal Thomas.

1 24. Between December 2019 and February 26, 2020 Jamal Thomas continued to harass and  
2 threaten the Armstead's and in turn they continued to call the police for help. Each time Oakland  
3 Police were called their response times became longer, and their efforts lessened. On at least one  
4 occasion the Armstead's did not receive a response to their call for service until two days later.

5 25. The Armstead's were advised by Oakland Police Officers to use the emergency button on  
6 their home alarm system for a faster response time. The Armstead's followed this advice, to no  
7 avail or benefit. Instead, with each incident going unchecked while alarms blared, Mr. Thomas  
8 became more emboldened and believed he was above the law and hence stepped up the  
9 frequency and ferocity of his attacks against the essentially abandoned and defenseless family.  
10

11 26. Oakland Police also advised and encouraged the Armstead's to seek a protective order  
12 against Mr. Thomas as his attacks were unrelenting. The Armstead's did as they were directed  
13 and filed for a protective order against Mr. Thomas. One of the couple's neighbors served Mr.  
14 Thomas with a copy of the restraining order on their behalf. This only served to worsen the  
15 situation. Mr. Thomas went on to break the family's windows 14 times. The couple called police  
16 approximately 20 times for help during this time span. They also recounted their harrowing  
17 experiences to the new owners of 2907 – 76<sup>th</sup> Avenue and appealed to them to secure the  
18 property from Mr. Thomas and/or prevent him from using the property as his home base. The  
19 couple's please seemingly fell on deaf ears.

20 27. Indeed, one day Mr. Armstead saw Mr. Thomas speaking to his probation officer. Mr.  
21 Armstead called out to the probation officer. The two later talked and Mr. Armstead told him  
22 about all the terror and fright his family had been enduring at the hands of Mr. Thomas. The  
23 Probation Officer assured Mr. Armstead he would take care of it and see to it that the Armstead's  
24 did not have to put up with Mr. Thomas' terrifying and threatening antics. Mr. Armstead  
25 followed up on at least 2 occasions in an attempt to find out what was being done since Mr.  
Thomas continued to harass the family. The Probation Officer failed to properly supervise,

1 manage and/or construct and/or enforce appropriate supervision protocols for Mr. Thomas in  
2 light of the information Mr. Armstead reported and/or the information readily available to them  
3 about Mr. Thomas conduct which was conspicuously spiraling out of control.

4 28. At some point in time Mr. Thomas was arrested and brought into Alameda County  
5 Sheriff Department custody at Santa Rita Jail. While in custody, Mr. Thomas was served with a  
6 copy of the restraining order and informed he was in custody due to his continued and persistent  
7 harassment of the Armstead family. This foreseeably fanned the flames of his rage.

8 29. The Armstead's were advised that Mr. Thomas was finally in custody. They requested as  
9 is their right on Marcy's Law to be informed of the status of the criminal prosecution against Mr.  
10 Thomas and his custody status.

11 30. Mr. Thomas was released from custody within a day or so of being served with the  
12 restraining order by County Jail staff. Neither the County nor the City informed the Armstead's  
13 Mr. Thomas was released from custody or to be on high alert for his return. Foreseeably and  
14 tragically, he returned to the very property he had called home for the last 20 plus years, right  
15 beside the Armstead family home.

16 31. As Mr. Armstead was doing some yard work, Mr. Thomas appeared, cursed and  
17 threatened him and began chasing after Mr. Armstead. Mr. Thomas then pulled out a gun and  
18 shot and killed Mr. Armstead.  
19

20  
21 **DAMAGES**

22 32. As a direct and proximate result of each of the Defendant's negligence, Decedent and  
23 plaintiffs suffered injuries, emotional distress, fear, terror, anxiety, and loss of sense of security  
24 and dignity as United States Citizens.  
25

33. As a direct and proximate result of each Defendant's acts and/or omissions as set forth  
above, Plaintiffs sustained the following injuries and damages, past and future, among others.



- 1 a. Wrongful death of Miles Armstead;
- 2 b. Hospital and medical expenses;
- 3 c. Coroner's fees, funeral and burial expenses;
- 4 d. Loss of familial relationships, including loss of love, companionship, comfort,
- 5 affection, society, services, solace, and moral support;
- 6
- 7 e. Pain and Suffering including emotional distress
- 8 f. Miles Armstead's loss of life, pursuant to federal civil rights law; and
- 9 g. Violation of constitutional rights;
- 10 h. All damages, penalties, and attorneys' fees and costs recoverable under 42 U.S.C.
- 11 §§ 1983, 1988; California Civil Code §§ 52, 52.1, California Code of Civil
- 12 Procedure § 1021.5, and as otherwise allowed under California and United States
- 13 statutes, codes, and common law.
- 14

15 **FIRST CAUSE OF ACTION**

16 (Wrongful Death CCP §§377.60, 377.61)

17 (*Plaintiffs against DOES 1-50*)

18 34. Plaintiffs hereby re-allege and incorporate by reference herein each and every paragraph  
19 of this Complaint.

20 35. The failure of Oakland Police Officers to arrest and imprison Defendant Jamal Thomas or  
21 to take reasonable steps to make Miles Armstead secure from assault following Defendant  
22 Thomas' violation of his Pretrial Release Order and Release Agreement, proximately caused the  
23 death of Miles Armstead and the injures and damages sustained by Plaintiffs.

24 Wherefore, Plaintiffs pray for damages as set forth below.

25

**SECOND CAUSE OF ACTION**

(Violation of Marsy's Law (Cal Const., Art. I §§28 b))

(*PLAINTIFFS against Defendants ALAMEDA COUNTY, CITY OF OAKLAND, and DOES 1-50*)

1  
2 36. Plaintiffs hereby re-allege and incorporate by reference herein each and every paragraph  
3 of this Complaint.

4 37. Plaintiffs were the victim of a crime and entitled to the protections as provided by the  
5 California Constitution Article I §§28 b. which provides that victims of a crime are:

6 a. to be given reasonable notice regarding the arrest and/or release of the defendant  
7 and;

8 b. to be informed of the conviction, sentence, and other disposition of the defendant.  
9

10 38. On information and belief, Plaintiffs expected to be notified when Jamal Thomas was  
11 arrested on February 26, 2020 and released from custody on February 28, 2020.

12 39. Defendants' failure to notify Plaintiffs enabled Jamal Thomas to continue to harass,  
13 annoy and threaten Plaintiffs.

14 40. As a direct and proximate result of Defendants violation of Plaintiffs' rights under the  
15 California Constitution, Plaintiff sustained injuries and damages and are entitled to relief as set  
16 forth above including punitive damages against Defendants and Does 1-50, and including all  
17 damages allowed by California Civil Code §§ 52, 52.1, and California law, not limited to costs,  
18 attorney's fees, treble damages, and civil penalties.

19 **THIRD CAUSE OF ACTION**

20 (Negligent Hiring, Retention, Training, Supervision and Discipline)

21 (*PLAINTIFFS against Defendants CITY OF OAKLAND, ALAMEDA COUNTY, and DOES 1-*  
22 *50*)

23 41. Plaintiffs hereby re-allege and incorporate by reference herein each and every paragraph  
24 of this Complaint.

25 42. Defendant CITY OF OAKLAND, through its supervision of employees DOES 1-50 had  
a duty of care to properly and adequately hire, train, retain, supervise, and discipline its police  
officers so as to avoid unreasonable risk of harm it's citizens.

1 43. Defendants negligently failed to take necessary, proper or adequate measures in order to  
2 prevent the violation of Decedent's and Plaintiffs' rights, the death of Decedent and injuries and  
3 damages to Decedent and Plaintiffs.

4 44. Decedent's and Plaintiff's injuries were a foreseeable and proximate cause of the  
5 negligence and indifference of the Defendants to the practices and customs described herein.  
6

7 **FOURTH CAUSE OF ACTION**

8 (Fourteenth Amendment - Due Process-State Created Danger under )

9 42 U.S.C. §1983)

10 (*PLAINTIFFS against Defendants CITY OF OAKLAND, ALAMEDA COUNTY, and DOES 1-*  
11 *50*)

12 45. Plaintiffs hereby re-allege and incorporate by reference herein each and every paragraph  
13 of this Complaint.

14 46. Plaintiffs relied on Defendants to provide protection from the harassment, threats,  
15 harm, and annoyance from Jamal Thomas.

16 47. Defendants affirmatively placed Plaintiffs in a position of danger when they failed to:

- 17 a. respond to calls for service;
- 18 b. properly investigate claims of harassment made by Plaintiffs;
- 19 c. arrest Jamal Thomas; and
- 20 d. notify Plaintiff of Thomas' release from custody.

21 48. It was reasonably foreseeable that an increase of law enforcement interaction without  
22 detention would increase the level of harassment and harm towards Plaintiffs by Jamal Thomas

23 49. By not arresting Jamal Thomas for prior instances of harassment, and by releasing him  
24 from custody, Defendants exposed Plaintiffs to danger that they would not have otherwise faced.

25 50. Defendants deliberate indifference towards Plaintiffs calls to service resulted in  
Decedent's death.

**FIFTH CAUSE OF ACTION**  
**(Negligence)**  
*(PLAINTIFFS against JESSIE CHAMBERS)*

1  
2  
3       47. Plaintiff hereby re-alleges and incorporates by reference each and every  
4 paragraph of this Complaint.

5       48. At all times herein mentioned, Defendant JESSIE CHAMBERS and Does 1-50  
6 had a duty to use reasonable care to protect Plaintiffs from unnecessary physical harm and  
7 distress caused by Jamal Thomas.

8       49. At all times herein mentioned, Defendant JESSIE CHAMBERS was the owners  
9 of the real property located at 2907 76<sup>th</sup> Ave., Oakland, California.

10       50. Defendants, by way of permitting Jamal Thomas to live in said real property  
11 created a special relationship between Defendant and Jamal Thomas.

12       51. Defendant was informed on numerous occasions by Plaintiffs that Jamal Thomas  
13 was staying in said real property, that Jamal Thomas posed an active and continuing risk of  
14 physical and emotional harm to Plaintiffs, and that Jamal Thomas had a history of perpetrating  
15 acts of physical and emotional harm against Plaintiffs.

16       52. Defendant was aware that Jamal Thomas presented a real and active threat of  
17 physical and emotional harm to Plaintiffs while living on said real property, yet negligently  
18 failed to take reasonable steps to protect Plaintiffs against such danger, such as contacting law  
19 enforcement to have Jamal Thomas removed from said real property.

20       53. As a direct and proximate result of Defendant's negligence, Plaintiffs sustained  
21 injuries and damages, and against each and is entitled to relief as set forth above.  
22

**JURY DEMAND**

23  
24  
25       51. Plaintiffs hereby demand a jury trial in this action.

**PRAYER**

Wherefore, Plaintiffs pray for relief, as follows:

1. For general damages in a sum according to proof;
2. For special damages in a sum according to proof;
3. For reasonable attorney's fees against all Defendants pursuant to the Code of Civil Procedure section 1021.5;
4. For any and all statutory damages allowed by law;
5. For cost of suit against all Defendants, and
6. For such other and further relief as the Court deems just and proper.

Date: July 7, 2021

Respectfully submitted,

**POINTER & BUELNA, LLP  
LAWYERS FOR THE PEOPLE**

/s/ Adanté Pointer  
ADANTÉ POINTER  
COUNSEL FOR PLAINTIFFS