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10 **UNITED STATES DISTRICT COURT**  
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 ERIK TALAVERA;

13 Plaintiff,

14 V.

15 COUNTY OF SAN DIEGO; DAVID  
16 LOVEJOY, in his individual capacity;  
17 JONATHON YOUNG, in his individual  
18 capacity; BILL GORE, in his individual  
19 capacity; KELLY MARTINEZ, in her  
20 individual capacity; and DOES 1-25,

21 Defendants.

Case No.: '23CV2162 WQHDDL

**COMPLAINT FOR DAMAGES FOR:**

1. **42 U.S.C. § 1983: Excessive Force**
2. **42 U.S.C. § 1983: Excessive Force – Failure to Train (*Monell*)**
3. **42 U.S.C. § 1983: Excessive Force – Policy (*Monell*)**
4. **42 U.S.C. § 1983: Excessive Force – Ratification (*Monell*)**
5. **42 U.S.C. § 1983: Ratification of Excessive Force**
6. **Battery**
7. **Assault**
8. **Cal. Civil Code § 52.1 (Bane Act)**
9. **Negligence**
10. **Negligent Hiring, Retention, Training, and Supervision**
11. **Intentional Infliction of Emotional Distress**

**DEMAND FOR JURY TRIAL**

**COMPLAINT FOR DAMAGES**

22 Comes now, Plaintiff Erik TALAVERA for his complaint against Defendants  
23 COUNTY OF SAN DIEGO, David LOVEJOY, Johnathan YOUNG, Bill GORE,  
24 Kelly MARTINEZ, and DOES 1-25, inclusive, and hereby alleges as follows:

1 **INTRODUCTION**

2 1. On February 16, 2022, San Diego Sheriff’s Deputy David Lovejoy  
3 stopped Erik Talavera on a residential street in El Cajon on suspicion of a  
4 nonviolent property crime and immediately aimed his firearm at Mr. Talavera.  
5 Another Deputy, Jonathon Young, arrived and did the same.

6 2. The deputies screamed contradictory commands to “not move” and to  
7 “get on the ground.” Mr. Talavera got on the ground and set a knife next to him.

8 3. Both deputies could see Mr. Talavera was surrendering and had only  
9 a knife, but nonetheless opened fire without warning. Pausing his gunfire, Lovejoy  
10 could see there was only a knife on the pavement and that Mr. Talavera was  
11 grievously wounded. Still, Lovejoy chose to shoot Mr. Talavera two more times.

12 4. Other law enforcement was already on the scene and none of them  
13 fired their weapons or believed Mr. Talavera posed a threat. As deputies took up  
14 positions behind Lovejoy and Young, one stated the obvious - “It’s a knife.”

15 5. Neither Lovejoy nor Young offered any explanation of the shooting at  
16 the scene. Young immediately evaded questions by repeatedly telling a supervisor,  
17 “No comment.” Instead, Lovejoy and Young turned off their cameras, rode with  
18 other deputies to the Sheriff’s station where they worked, took the opportunity to  
19 speak to one another without being recorded, and reviewed the limited camera  
20 footage from the shooting. Only then did both claim for the first time to have  
21 believed Mr. Talavera had a gun.

22 6. That claim was false.

23 7. Doctors found sixteen gunshot wounds, including four in Mr.  
24 Talavera’s back. It is a miracle Mr. Talavera is alive. Yet, Mr. Talavera’s life  
25 remains in jeopardy more than 18 months later. His wounds require profound  
26 medical care and will continue to require intervention for the rest of his life. He has  
27 suffered and will suffer for the rest of his life. He will never be the same.  
28

1 8. This action by Erik Talavera seeks damages – the only available  
2 measure of justice – for defendants’ repeated violations of his rights under the  
3 United States Constitution as well as state and federal law.

4 **JURISDICTION AND VENUE**

5 9. This Court has original jurisdiction pursuant to 28 U.S.C. §§ 1331 and  
6 1343(a)(3)-(4) because Plaintiff asserts claims arising under the laws of the United  
7 States including 42 U.S.C. § 1983 as well as the United States Constitution.

8 10. This Court has supplemental jurisdiction over Plaintiff’s claims  
9 arising under state law pursuant to 28 U.S.C. § 1367(a), because those claims are  
10 so related to the federal claims that they form part of the same case or controversy  
11 under Article III of the United States Constitution.

12 11. Venue is proper in this Court under 28 U.S.C. § 1391(b) because  
13 Defendants reside in this district and all incidents, events, and occurrences giving  
14 rise to this action occurred in this district.

15 12. On or about March 14, 2022, and July 26, 2022, Plaintiff presented to  
16 the COUNTY OF SAN DIEGO his Claim for Damages based on the acts,  
17 omissions, damages, and injuries herein complained of in relation to the deputies’  
18 shooting, pursuant to Government Code § 911.2. The COUNTY rejected the claim  
19 on May 31, 2023.

20 13. Mr. Talavera has satisfied the claim presentment requirements under  
21 California law and has timely filed suit here.

22 **PARTIES AND RELEVANT PERSONS**

23 14. At all relevant times, Plaintiff, Erik Talavera, was an individual  
24 residing in the County of San Diego, California. He is a kind, warm-hearted 33-  
25 year-old man. Before sheriff deputies tried to take his life, Mr. Talavera loved  
26 playing with his dogs, working as a mechanic and roofer, and boating with friends  
27  
28

1 near his home in Lakeside,  
2 California. The defendants  
3 took those things from Mr.  
4 Talavera. He cannot do those  
5 activities anymore and may  
6 never be healthy enough to do  
7 them again. Today, Mr.  
8 Talavera is still a kind, warm-  
9 hearted man. But his mobility  
10 is limited, and he depends  
11 upon his fiancée, relatives,  
12 medical professionals, and  
13 neighbors for daily care and to  
14 meet his basic needs.



15 15. Defendant  
16 COUNTY OF SAN DIEGO

17 (hereinafter, “the COUNTY”) is and was at all relevant times a duly organized  
18 public entity operating pursuant to the general laws of California. The COUNTY  
19 is a chartered subdivision of the State of California with the capacity to be sued.  
20 The COUNTY is responsible for the actions, omissions, policies, procedures,  
21 practices, and customs of its various agents and agencies, including the County of  
22 San Diego Sheriff’s Department (hereinafter “SHERIFF”) and its agents and  
23 employees.

24 16. The Regional Auto Theft Task Force (“RATT”) is a task force  
25 operating in San Diego County and, within the COUNTY, operated by the  
26 COUNTY. COUNTY employees, Sheriff’s Deputies, and other law enforcement  
27 agencies participate in RATT. RATT is not named separately as a defendant here.  
28 However, the COUNTY is responsible (and vicariously liable) for its employees’

1 participation, leadership, supervision, policies, training, actions, omissions,  
2 nonfeasance, and malfeasance in connection with RATT within the scope of their  
3 employment by the COUNTY.

4 17. Defendant BILL GORE (hereinafter “GORE”) was the Sheriff for the  
5 San Diego County Sheriff’s Department just prior to the shooting, retiring on  
6 February 3, 2022. As Sheriff, GORE was a final policymaker for the SHERIFF and  
7 COUNTY on matters relating to the Sheriff’s Department, the San Diego County  
8 Jail, and its deputies, employees, and agents. He was also responsible for the  
9 County’s compliance with state and federal laws and constitutions and for the  
10 training and supervision of County employees and agents. He was responsible for  
11 the supervision and control of deputies who are or were employed by the SHERIFF,  
12 under his command and/or who reported to her, including the members of RATT  
13 and other defendant SHERIFF deputies named herein.

14 18. Defendant KELLY MARTINEZ (hereinafter “MARTINEZ”) was the  
15 Undersheriff for the San Diego County Sheriff’s Department and the Acting Sheriff  
16 at the time of the shooting. In her capacity as Undersheriff and Acting Sheriff,  
17 Martinez was a final policymaker for the Sheriff’s Department and for the County  
18 on matters relating to the Sheriff’s Department, the San Diego County Jail, and its  
19 deputies, employees, and agents. She was also responsible for the County’s  
20 compliance with state and federal laws and constitutions and for the training and  
21 supervision of County employees and agents. She was responsible for the  
22 supervision and control of deputies who are or were employed by the SHERIFF,  
23 under her command and/or who reported to her, including the members of RATT  
24 and other defendant SHERIFF deputies named herein.

25 19. David LOVEJOY (hereinafter “LOVEJOY”) is and was, at all  
26 relevant times, a Deputy Sheriff employed by the SHERIFF and COUNTY.  
27 LOVEJOY was stationed at the SHERIFF’s Lakeside substation. LOVEJOY  
28 performed the relevant acts within the course and scope of his employment for the



1 COUNTY. He performed those acts under the color and pretense of the laws of the  
2 State of California, to wit, the statutes, ordinances, regulations, policies, customs,  
3 and usages of the COUNTY as well as the statutes and regulations of the State of  
4 California. At all relevant times, LOVEJOY acted with the complete authority and  
5 ratification of his principal, Defendant COUNTY. LOVEJOY is sued in his  
6 individual capacity for damages.

7 20. Jonathon YOUNG (hereinafter “YOUNG”) is and was, at all relevant  
8 times, a Deputy Sheriff employed by the SHERIFF and COUNTY. YOUNG was  
9 assigned to the SHERIFF’s Lakeside substation. At all times relevant to this action,  
10 YOUNG was also a Field Training Officer with responsibilities for training other  
11 Sheriff’s deputies. YOUNG performed the relevant acts within the course and  
12 scope of his employment for the COUNTY. He performed those acts under the  
13 color and pretense of the laws of the State of California, to wit, the statutes,  
14 ordinances, regulations, policies, customs, and usages of the COUNTY as well as  
15 the statutes and regulations of the State of California. At all relevant times,  
16 LOVEJOY acted with the complete authority and ratification of his principal,  
17 Defendant COUNTY. YOUNG is sued in his individual capacity for damages.

18 21. Jeff Peterson (hereinafter “Peterson”) is not named personally as a  
19 party here. However, Peterson is a Deputy Sheriff employed by the SHERIFF and  
20 COUNTY. Peterson was, at all relevant times, assigned to RATT. Peterson’s  
21 actions, decisions, and omissions herein were within the course and scope of his  
22 employment for the COUNTY. Peterson acted at all relevant times under the color  
23 and pretense of law with the complete authority and ratification of his principal,  
24 Defendant COUNTY. Although he is not sued individually, the COUNTY is  
25 responsible (and vicariously liable) for Peterson’s actions, omissions, nonfeasance,  
26 and malfeasance.

27 22. Bianca Dinero (hereinafter “Dinero”) is not named personally as a  
28 party here. However, Dinero is a Deputy Sheriff employed by the SHERIFF and

1 COUNTY at the Santee substation. Dinero’s actions, decisions, and omissions  
2 herein were within the course and scope of her employment for the COUNTY.  
3 Dinero acted at all relevant times under the color and pretense of law with the  
4 complete authority and ratification of her principal, Defendant COUNTY.  
5 Although she is not sued individually, the COUNTY is responsible (and vicariously  
6 liable) for Dinero’s actions, omissions, nonfeasance, and malfeasance.

7 23. James Balderson (hereinafter “Balderson”) is not named personally as  
8 a party here. However, Balderson is a Deputy Sheriff employed by the SHERIFF  
9 and COUNTY. Balderson is a Sergeant and supervisor assigned to RATT.  
10 Balderson was, at all relevant times, assigned to RATT. Balderson’s actions,  
11 decisions, and omissions herein were within the course and scope of his  
12 employment for the COUNTY. Balderson acted at all relevant times under the color  
13 and pretense of law with the complete authority and ratification of his principal,  
14 Defendant COUNTY. Although he is not sued individually, the COUNTY is  
15 responsible (and vicariously liable) for Balderson’s actions, omissions,  
16 nonfeasance, and malfeasance.

17 24. Does 1-15 are other COUNTY employees whose actions or inaction  
18 contributed to Mr. TALAVERA’s injuries. Does 11-15 are managerial,  
19 Supervisorial, and policymaking employees of the SHERIFF who oversaw policies  
20 and procedures, training, supervision, and discipline of deputies, including  
21 LOVEJOY and YOUNG and those working with RATT. Does 16-25 are others  
22 whose actions or inaction contributed to Mr. TALAVERA’s injuries. The true  
23 names of defendants Does 1-25, inclusive, are unknown to Plaintiff at this time,  
24 who therefore sue these defendants by such fictitious names. Plaintiff will seek  
25 leave to amend this complaint to show the true names and capacities of these  
26 defendants when they have been ascertained. Each of the fictitious named  
27 defendants is responsible in some manner for the conduct and liabilities alleged  
28 herein. Does 1-15 performed the relevant acts within the course and scope of their

1 employment for the COUNTY. They performed those acts under the color and  
2 pretense of the laws of the State of California, to wit, the statutes, ordinances,  
3 regulations, policies, customs, and usages of the COUNTY as well as the statutes  
4 and regulations of the State of California.

### 5 **GENERAL ALLEGATIONS**

6 25. As set forth below, the COUNTY is directly liable for damages under  
7 federal law pursuant to *Monell v. Department of Soc. Svcs.*, 436 U.S. 658 (1978)  
8 and its progeny. The COUNTY is vicariously liable for damages under Plaintiff's  
9 state law claims, given Plaintiff's allegations that the people who committed the  
10 acts and omissions complained of herein were acting in the course and scope of  
11 their employment for the COUNTY at the time that the acts and omissions occurred.

12 26. Pursuant to Cal. Govt. Code § 815.2(a), COUNTY is vicariously liable  
13 for the nonfeasance and malfeasance of the individual defendants, and Does 1-15,  
14 inclusive. The individual defendants and Does 1-15, inclusive, are liable for their  
15 nonfeasance and malfeasance pursuant to Cal. Civ. Code § 820(a). COUNTY is  
16 also liable pursuant to Cal. Govt. Code § 815.6.

17 27. Pursuant to California Government Code § 815.2, the COUNTY is  
18 vicariously liable to Plaintiff for all of the following causes of action by virtue of  
19 the fact that GORE, MARTINEZ, LOVEJOY, YOUNG, Peterson, Dinero,  
20 Balderson, and Does 1-15, acting within the scope of their employment, are liable.  
21 Plaintiff makes no claim for punitive damages against the COUNTY.

### 22 **RATT'S DANGEROUS "STING" OPERATION TO CATCH SOMEONE** 23 **SUSPECTED OF TRAILER THEFT**

24 28. In February 2022, RATT owned a cargo trailer equipped with a GPS  
25 monitoring device that it used for sting operations.

26 29. Specifically, RATT had a policy and practice of parking the trailer,  
27 monitoring it via GPS-device, waiting to see if anyone would take it, then  
28 attempting to arrest whoever they found moving it.



1           30. By their nature, law enforcement has a level of control over sting  
2 operations. That control enables law enforcement to mitigate risks and maximize  
3 the evidentiary value of its investigative work and resources.

4           31. However, members of RATT understood that operations using the  
5 trailer faced numerous problems, obstacles, and frustrations.

6           32. Rather than address its issues, RATT unreasonably chose to take  
7 shortcuts and risks that should not, and ordinarily would not, be necessary in a sting  
8 operation.

9           33. For example:

- 10           a. Balderson, a supervisor on RATT, and others, were concerned the  
11 trailer could be moved to a location where law enforcement would  
12 have to obtain a warrant to conduct a search or follow up investigation.
- 13           b. RATT members understood that although they could get such a  
14 warrant approved, the additional paperwork was frustrating. To avoid  
15 that paperwork, RATT unreasonably chose a more dangerous course  
16 for all involved and for the public. Rather than risk needing a warrant,  
17 RATT sought, wherever possible, to arrest whoever moved the trailer  
18 before it could be unhitched.
- 19           c. RATT never knew whether, when, or where the bait trailer might  
20 move. Thus, RATT knew it might move to unfamiliar places where  
21 RATT had no local law enforcement contacts or effective means of  
22 communication. But, once again, RATT took few, if any, steps to  
23 mitigate these risks. Instead, RATT personnel chose to operate  
24 countywide and develop *ad hoc* communication fixes while the trailer  
25 was moving and as they simultaneously raced to catch it.
- 26           d. Despite reasonable options for doing so, RATT made no effort to  
27 collect evidence that could support a future arrest without  
28 necessitating a cross-town race through traffic.

- e. RATT did not place the trailer under persistent surveillance or equip it with motion-sensitive cameras.
- f. RATT did not require members to remain in the area around it.
- g. RATT did not share access to the real-time GPS-monitoring applications or alerts with local law enforcement in whose area they were operating.
- h. Instead, RATT chose to leave the trailer unattended and planned to handle any follow-on investigations both spontaneously and on their own.
- i. RATT deliberately set up the GPS tracking software so that it would not alert them unless and until the trailer was moved a significant distance. Thus, RATT personnel intentionally placed themselves on a delayed notification system.
- j. Having taken no preemptive precautionary and investigative steps, this delayed notification increased the necessity for RATT to treat movement alerts as an emergency necessitating a hurried and unplanned response.

34. The officers on RATT had been given radios that did not communicate directly with Sheriff's Dispatch, necessitating the use of cellphones and attempts to relay communication.

35. The use of two communication channels was dangerous and reckless and contributed to the unnecessarily dangerous operation.

36. These choices by COUNTY personnel, and others relating to RATT's bait-trailer operation, placed expedience above safety and efficacy. Although sting operations lend themselves to control and safety, COUNTY personnel failed to take reasonable safety precautions.

37. Instead, the COUNTY's personnel planned for its sting operation to entail a frantic, uncoordinated vehicle chase across uncertain jurisdictions.

1 38. Nonetheless, COUNTY personnel also failed to establish effective  
2 means of communicating with local law enforcement in the areas where RATT  
3 might chase the trailer.

4 39. The COUNTY's employees involved in RATT knew of its trailer  
5 operation's risks and embraced a policy of taking unnecessary risks at the expense  
6 of safety and efficacy.

7 40. On February 16, 2022, the foregoing risks and other similarly  
8 unreasonable risks stemming from the COUNTY's mismanagement of the bait-  
9 trailer operation, contributed to the circumstances of Mr. TALAVERA's shooting.

10 **THE SHERIFFS' FRANTIC, CONFUSED EFFORT TO FIND THEIR GPS-**  
11 **TRACKED TRAILER**

12 41. On or about February 1, 2022, a RATT detective unhitched and parked  
13 an empty cargo trailer in the community of Lakeside, California.

14 42. RATT chose this location even though it could not effectively  
15 communicate over the radio with the closest Sheriff's sub-station.

16 43. On February 16, 2022, at around 10:13 p.m. the trailer's GPS-device  
17 triggered electronic alerts to RATT personnel.

18 44. A RATT detective promptly notified other members of RATT that the  
19 trailer was traveling southbound on highway 67 – out of Lakeside, California.

20 45. Rather than following the trailer until it was parked, securing the area  
21 around the trailer and suspect, and then making the arrest themselves – one of the  
22 few practices RATT had adopted to try to make the operation safer – RATT  
23 deviated from its normal practice in still another dangerous way.

24 46. Specifically, RATT personnel chose to immediately call for assistance  
25 from SHERIFF deputies, creating the circumstances for a vehicle chase and traffic  
26 stop by an agency with whom RATT could not effectively communicate in real-  
27 time.

1           47. Even though their earliest indications were that the trailer was leaving  
2 Lakeside at highway speeds, Balderson and/or Peterson chose to contact SHERIFF  
3 deputies from the Lakeside substation.

4           48. RATT's lack of communication planning initially prevented  
5 Balderson and/or Peterson from being able to communicate directly with the  
6 substation.

7           49. Realizing Peterson was attempting and failing to communicate  
8 something to the Lakeside substation, Dinero contacted Peterson over a cellphone.

9           50. Rather than alter course by handling any arrest themselves, seeking  
10 assistance from law enforcement with whom RATT could communicate directly,  
11 or seeking assistance from law enforcement operating in the area where the trailer  
12 traveled, Peterson persisted in his effort to enlist the Lakeside substation in RATT's  
13 chase efforts.

14           51. Peterson accepted Dinero's help in relaying information from RATT  
15 personnel on their radios, to Dinero over her cellphone, to SHERIFF deputies from  
16 Lakeside over their radios.

17           52. RATT knew of the foregoing communication issues before it placed  
18 the trailer in Lakeside, but unreasonably chose to ignore its attendant risks.

19           53. By relaying messages through multiple intermediaries, Balderson  
20 and/or Peterson caused LOVEJOY, YOUNG, and other COUNTY employees to  
21 join in the pursuit of the trailer despite their inability to directly communicate in  
22 real-time about the trailer's whereabouts, appearance, occupants, or information  
23 from subsequent investigation.

24           54. At the same time, because the trailer had been abandoned and  
25 otherwise unmonitored, RATT personnel were not prepared to respond themselves.

26           55. Instead, several RATT personnel stopped what they were each doing  
27 miles away and the entire team raced across town to try to catch up.  
28

1           56. The GPS informed RATT personnel that the trailer was in a cul-de-  
2 sac in El Cajon, where Decker Street and Decker Court intersect.

3           57. RATT detectives Snyder and Pauu caught up with the trailer there,  
4 followed quickly by other members of RATT who took up positions around the  
5 trailer on the short street.

6           58. Once they arrived, RATT personnel noted that the trailer was hooked  
7 up to a white van and was backing up to turn around in the cul-de-sac.

8           59. They observed the van, trailer, and suspects for more than a minute  
9 and likely multiple minutes.

10          60. But RATT personnel communications from the scene were truncated,  
11 altered, and delayed in reaching SHERIFF deputies from Lakeside, including  
12 LOVEJOY and YOUNG.

13          61. Because they lacked effective means of communicating, SHERIFF  
14 deputies did not know the trailer's location or the appearance of the vehicle towing  
15 it.

16          62. As RATT personnel in unmarked vehicles turned onto Decker Street  
17 to investigate, responding SHERIFFs deputies drove past the trailer's location and  
18 in the wrong direction.

19          63. RATT personnel did not observe any dangerous or erratic behavior  
20 among the suspects, nor did they observe any weapons. But on-scene RATT  
21 personnel lacked any means of directly communicating their observations to deputy  
22 SHERIFFs who were in pursuit.

23          64. While the SHERIFFs outside of RATT struggled to find the location,  
24 two suspects left. RATT was unable to communicate their departure to the  
25 SHERIFFs or describe the departing vehicle to others capable of responding.

26          65. Instead, responding SHERIFF deputies from Lakeside frantically  
27 searched the neighborhood and waited for pieces of information.  
28



1           66.   Ultimately, LOVEJOY arrived at Decker Street in the first marked law  
2 enforcement vehicle after several minutes driving with lights and sirens at a high  
3 rate of speed.

4           67.   However, even though the details were known to RATT in the minutes  
5 before LOVEJOY arrived, LOVEJOY first learned to be on the lookout for a white  
6 van just as he turned the corner onto Decker Street and saw a white van matching  
7 the description he received seconds earlier.

8           68.   Unable to pause and consider his decisions because of the frantic  
9 nature of the operation, LOVEJOY initiated a traffic stop while his vehicle was  
10 facing head-on with the white van.

11           **LOVEJOY AND YOUNG SHOT MR. TALAVERA MORE THAN A**  
12           **DOZEN TIMES AS HE FOLLOWED THEIR COMMANDS TO GET ON**  
              **THE GROUND.**

13           69.   Upon exiting his vehicle, LOVEJOY chose not to activate his body  
14 worn camera.

15           70.   LOVEJOY did not know who had stolen the trailer or how the van  
16 was involved in any offense, if at all.

17           71.   Nonetheless, without justification, LOVEJOY immediately drew his  
18 firearm and pointed it at Erik Talavera.

19           72.   On information and belief, LOVEJOY’s decision to immediately draw  
20 his firearm and aim it at Mr. Talavera without provocation or justification was the  
21 result of COUNTY policy and training which unreasonably and unnecessarily  
22 instructs SHERIFF deputies to perform “hot stops” – traffic stops in which deputies  
23 immediately aim firearms at the driver of a vehicle without any basic determination  
24 whether there is justification or necessity for the use or threatened use of deadly  
25 force.

26           73.   Mr. Talavera did not flee.

27           74.   LOVEJOY did not radio that he had initiated a hot stop or request  
28 backup. Instead, LOVEJOY kept his firearm aimed at Mr. Talavera.

1           75. LOVEJOY yelled for Mr. Talavera to “Get on the fucking ground,”  
2 and then immediately yelled “don’t move.”

3           76. Mr. Talavera did not threaten LOVEJOY, other law enforcement, or  
4 members of the public, nor was there reason to believe Mr. Talavera posed any  
5 threat of violence. However, as Mr. Talavera stood in the street, he became  
6 confused by LOVEJOY’s contradictory commands, and the sudden traffic stop and  
7 threats.

8           77. Within a few seconds, YOUNG arrived in his patrol vehicle behind  
9 LOVEJOY’s vehicle.

10           78. Only as the additional blue and red lights turned the corner onto  
11 Decker behind him did LOVEJOY finally moved to turn on his body worn camera.

12           79. YOUNG observed LOVEJOY with his firearm drawn and radioed that  
13 a hot stop was in progress.

14           80. YOUNG followed LOVEJOY’s lead by drawing his own weapon and  
15 pointing it at Mr. Talavera.

16           81. Both officers yelled contradictory commands.

17           82. YOUNG yelled “Get on the ground.”

18           83. LOVEJOY yelled “Don’t move.”

19           84. At that time, Mr. Talavera was surrounded by RATT members who  
20 had donned equipment indicating they were law enforcement and begun closing in  
21 around him.

22           85. Deputies LOVEJOY and YOUNG were approximately 40 feet from  
23 Mr. Talavera and had multiple bright lights directed at Mr. Talavera in addition to  
24 the ambient streetlight.

25           86. All the members of law enforcement who were present remained a  
26 safe distance away from Mr. Talavera, from which Mr. Talavera could not  
27 meaningfully endanger them with a knife.

28

1 87. LOVEJOY and YOUNG were able to see Mr. Talavera clearly,  
2 including his hands and what, if anything, he was holding.

3 88. Both deputies could see Mr. Talavera was surrounded by law  
4 enforcement.

5 89. Having resolved to follow commands and surrender to the deputies,  
6 Mr. Talavera followed both LOVEJOY's and YOUNG's commands to get on the  
7 ground in the middle of the street.

8 90. Mr. Talavera also placed a small knife on the ground next to him as  
9 he moved to get on the ground.

10 91. LOVEJOY could see Mr. Talavera was holding a knife.

11 92. LOVEJOY tracked Mr. Talavera in the crosshairs of his firearm as Mr.  
12 Talavera moved to lay on the ground.

13 93. Before any gunshots, Mr. Talavera had both hands on the ground with  
14 his legs outstretched.

15 94. Mr. Talavera's body was moving towards, or in, a laying position on  
16 the ground when the deputies fired their guns.

17 95. At no time did Mr. Talavera do anything to provoke the use of deadly  
18 force. Mr. Talavera did not threaten any member of law enforcement, nor would a  
19 reasonable deputy interpret Mr. Talavera's conduct as a threat of violence or as  
20 endangering anyone.

21 96. At no time did Mr. Talavera move towards the deputies or anyone else.

22 97. In the seconds before he was shot, Mr. Talavera remained  
23 approximately 40 feet away from LOVEJOY and YOUNG.

24 98. Mr. Talavera was encircled by law enforcement without any  
25 apparently means of escape.

26 99. None of the deputies present issued any warning that they may use  
27 deadly force.

28

1           100. None of the deputies or RATT members had a reasonable basis for  
2 believing deadly force was necessary.

3           101. Neither LOVEJOY nor YOUNG had any reasonable basis for  
4 believing Mr. Talavera had a firearm.

5           102. Both LOVEJOY and YOUNG could see that Mr. Talavera had a knife  
6 in his hand, which he was setting down as he moved to lay down.

7           103. Defendants LOVEJOY and YOUNG were not in an emergency  
8 situation, and each had time to deliberate before firing their weapons.

9           104. Nonetheless, as Mr. Talavera moved to lay down as instructed,  
10 LOVEJOY opened fire on Mr. Talavera.

11           105. There was no reasonable basis for LOVEJOY to use deadly force.

12           106. On information and belief, YOUNG followed LOVEJOY's lead.

13           107. Without any reasonable basis for doing so, YOUNG also opened fire  
14 after LOVEJOY fired multiple rounds at Mr. Talavera.

15           108. On information and belief, notwithstanding YOUNG's personal  
16 perceptions to the contrary, YOUNG opened fire based upon an assumption  
17 LOVEJOY had a legitimate basis for initiating the shooting.

18           109. YOUNG's shooting was sympathetic gunfire, also known as  
19 contagious shooting, induced by LOVEJOY's initial gunfire.

20           110. Sympathetic gunfire is a concept widely understood in law  
21 enforcement in which one person's gunfire can induce instinctive gunfire by others.

22           111. Sympathetic gunfire does not always occur, but it poses a commonly  
23 recognized risk of excessive shooting unless deputies resist it.

24           112. Here, LOVEJOY's decision to fire contributed to YOUNG's use of  
25 deadly force because YOUNG acted, in part, on instinct and immediately once he  
26 heard another person's gunfire.

27           113. There was no reasonable basis for YOUNG to use deadly force.  
28

1 114. Other than LOVEJOY and YOUNG, no other law enforcement  
2 officials shot at Mr. Talavera.

3 115. All other law enforcement officials present recognized there was no  
4 threat of harm or danger justifying the use or threatened use of deadly force.

5 116. Most, if not all, of the rounds YOUNG and LOVEJOY fired either hit  
6 Mr. Talavera directly or ricocheted off the ground and hit him causing grievous  
7 injuries, pain, and suffering.

8 117. After an initial volley of gunfire by LOVEJOY, the knife lay on the  
9 ground in front of Mr. Talavera.

10 118. Mr. Talavera's body rolled on the ground and his arms were limp.

11 119. Even if there had been a legitimate or reasonable basis for initially  
12 firing their weapons, which there was not, LOVEJOY and YOUNG continued to  
13 fire for longer than necessary to incapacitate Mr. Talavera.

14 120. LOVEJOY and YOUNG could see the knife was no longer in Mr.  
15 Talavera's hand and that Mr. Talavera was hit by their initial volley and did not  
16 pose any threat.

17 121. Nonetheless, both deputies continued to fire their weapons causing  
18 additional injuries and suffering.

19 **LOVEJOY SHOT MR. TALAVERA AGAIN AS HE LAY HELPLESSLY**  
20 **WOUNDED ON THE GROUND**

21 122. After shooting Mr. Talavera more than a dozen times, the deputies  
22 paused their gunfire.

23 123. The knife lay on the ground a few feet in front of Mr. Talavera in plain  
24 view of LOVEJOY and YOUNG.

25 124. LOVEJOY and YOUNG perceived it to be a knife as it lay in front of  
26 Mr. Talavera on the ground.

27 125. Mr. Talavera lay on his stomach, moaning in obvious pain from  
28 having been repeatedly hit by the deputies' gunfire.



1 126. The deputies yelled for Mr. Talavera to put his hands up and/or out.

2 127. Mr. Talavera reached for the knife.

3 128. LOVEJOY and YOUNG knew Mr. Talavera could not use the knife  
4 to threaten or endanger anyone because of, among other things, Mr. Talavera's  
5 position, distance, and obvious injuries.

6 129. Nonetheless, LOVEJOY opened fire again and shot Mr. Talavera  
7 again when Mr. Talavera grabbed the knife as he lay prone.

8 130. These subsequent, wholly unnecessary, gunshots caused additional  
9 injuries and suffering.

10 131. YOUNG, who observed Mr. Talavera reach for the item in front of  
11 him, held his fire.

12 132. Sympathetic gunfire is an incident in which a second shooter fires  
13 their gun without necessarily identifying a personal need to shoot, a target, or the  
14 original shooter.

15 133. Law enforcement agencies can train personnel to reduce sympathetic  
16 gunfire.

17 134. When LOVEJOY continued shooting, YOUNG held his fire because  
18 he understood that there was no lawful basis for YOUNG to fire upon Mr. Talavera.

19 135. LOVEJOY ceased fire after a few rounds.

20 136. LOVEJOY ceased fire, in part, during his second volley because he  
21 understood Mr. Talavera did not have a gun with which Mr. Talavera might still  
22 pose a danger to the deputies. When LOVEJOY ceased firing, LOVEJOY knew  
23 Mr. Talavera was still holding the object he had reached for.

24 137. LOVEJOY ceased fire because, by then, he understood the object was  
25 not a gun.

26 138. Once additional uniformed law enforcement was on the scene other  
27 than those who shot him, Mr. Talavera dropped the knife and returned to following  
28 commands.

1           139. Other deputies ran to the sound of gunfire and took up additional firing  
2 positions.

3           140. Upon arrival, another deputy standing near Deputy Young could see  
4 the item in Mr. Talavera’s hand and stated, “It’s a knife.”

5           141. As a result of their recklessness and total disregard for the safety of  
6 those around them, including Mr. Talavera, LOVEJOY or YOUNG also shot a  
7 member of the National City Police Department, Rowdy Pauu.

8           142. Mr. Pauu has also filed suit against Deputies LOVEJOY and YOUNG,  
9 in United States District Court for the Southern District of California in case  
10 number 23-cv-0961.

11           **LOVEJOY, YOUNG, AND LAW ENFORCEMENT COLLEAGUES**  
12           **IMMEDIATELY PROTECTED THEMSELVES**

13           143. Before leaving the scene, SHERIFF Deputy Aaron Brooke took  
14 statements from YOUNG and LOVEJOY.

15           144. YOUNG and LOVEJOY both answered questions about the shooting.

16           145. No one at the scene of the shooting asked them for an explanation of  
17 why they had shot.

18           146. Nor did either LOVEJOY or YOUNG offer a justification for the  
19 shooting to anyone at the scene.

20           147. At the scene, neither LOVEJOY nor YOUNG claimed to have  
21 believed they saw Mr. Talavera with a gun.

22           148. Brooke asked YOUNG twice whether any shots had been fired at  
23 YOUNG and YOUNG responded both times to his fellow deputy, “No Comment.”

24           149. Brooke advised YOUNG to wait for his lawyer before discussing the  
25 incident.

26           150. Little effort was made to segregate YOUNG and LOVEJOY before  
27 they could be interviewed in detail.

28

1           151. Rather, Brooke told YOUNG and LOVEJOY to go to the Lakeside  
2 SHERIFF's Substation and wait in a room together to be interviewed.

3           152. YOUNG and LOVEJOY arrived at the substation and began to  
4 interact before even entering the building.

5           153. YOUNG and LOVEJOY also interacted inside the substation, before  
6 they were interviewed.

7           154. YOUNG and LOVEJOY's interactions after leaving the scene of the  
8 shooting were not audio recorded.

9           155. Nor were the interactions video recorded.

10           156. Immediately after shooting Mr. Talavera, YOUNG asked if he could  
11 turn off his body worn camera and stop recording his post-shooting conversations.

12           157. Brooke told YOUNG he could turn it off once he got to a patrol car to  
13 be taken to the station.

14           158. YOUNG followed that guidance.

15           159. LOVEJOY turned off his camera before leaving the scene.

16           160. The COUNTY does not maintain any recordings of LOVEJOY and  
17 YOUNG interacting on the night of the shooting after they left the scene.

18           161. On information and belief, the foregoing failure to segregate YOUNG  
19 and LOVEJOY as well as the failure to maintain recordings was consistent with a  
20 COUNTY policy and practice of failing to seriously investigate (and failing to  
21 effectively cooperate with investigations of) use of force incidents, enabling its  
22 employees to fabricate justifications for unjustified violence, and thereby ratifying  
23 unjustified violence by SHERIFF deputies.

24           162. After reviewing available video, interacting with YOUNG, and  
25 speaking to others, LOVEJOY eventually claimed to have believed Mr. Talavera  
26 had a gun.

1           163. After reviewing available video, interacting with LOVEJOY, and  
2 speaking to others, YOUNG claimed to have confused LOVEJOY’s gunfire for  
3 shooting by Mr. Talavera.

4           164. Both claims were false.

5           165. LOVEJOY claimed after the incident that, prior to YOUNG’s arrival  
6 or the commencement of any body worn camera footage, Mr. Talavera threw up  
7 his hands and repeatedly said, “Just shoot me.”

8           166. Such behavior and comments, even if they had occurred, did not  
9 endanger LOVEJOY, other members of law enforcement, or third-party bystanders.

10           167. Insofar as Mr. Talavera behaved in the seconds before he was shot in  
11 the manner LOVEJOY describes, his behavior was indicative of mental illness  
12 and/or depression.

13           168. Mr. Talavera was not aggressive, did not exhibit aggressive body  
14 language, and did not threaten LOVEJOY or YOUNG.

15           169. Both deputies had near-immediate access to less-lethal means of  
16 subduing a noncompliant suspect, including tasers, pepper sprays, batons, and bean  
17 bag weapons.

18           170. Insofar as they believed Mr. Talavera’s behavior merited violent  
19 intervention, YOUNG and LOVEJOY had opportunities to consider or utilize less  
20 dangerous means but failed to do so.

21           **PRIOR EXCESSIVE FORCE INCIDENTS AND CHARGES AGAINST**  
22           **VICTIMS OF SHERIFF VIOLENCE**

23           171. The SHERIFF has a history of failing to train, failing to supervise, and  
24 failing to discipline deputies in a manner that would prevent them from using  
25 excessive force in the manner they did against Mr. Talavera.

26           172. In effect, the SHERIFF has cultivated or failed to prevent an  
27 organizational culture of employing excessive force such that its deputies  
28 understand the SHERIFF and COUNTY will ratify even their worst excesses and

1 pursue unjust criminal charges against their victims to attempt to protect  
2 themselves from liability.

3 173. For example, in 2010, a SHERIFF deputy named Jason Philpot  
4 (hereinafter “Philpot”) was involved in the unjustified beating of a man who was  
5 protesting the mistaken detention of his brother.

6 174. The COUNTY filed charges against his victim, which were dismissed  
7 at a preliminary hearing.

8 175. Three months after that incident, Philpot repeatedly punched a man in  
9 his own home, fracturing his eye socket.

10 176. Deputy Philpot instigated, and the COUNTY pursued, a false criminal  
11 case against the victim for resisting an officer and the man was acquitted in a jury  
12 trial.

13 177. Philpot maintained a Myspace page, which included his name and his  
14 MySpace moniker ‘Knuckle Sandooch.’

15 178. Philpot’s page included a drawing of a police officer with the  
16 following message: “I’m going to kick your ass AND GET AWAY WITH IT.”  
17 Also on the page was a photo of a handgun, entitled “Music.” Deputy Philpot listed  
18 his occupation as “Waste Management” below a photograph of a deputy choking a  
19 man.

20 179. Philpot was not sanctioned or seriously investigated.

21 180. Rather, the COUNTY and SHERIFF promoted him to the SHERIFF’s  
22 Training Division, to teach recruits and other deputies defensive tactics and use of  
23 force.

24 181. He served in that division during LOVEJOY and YOUNG’s training.

25 182. In 2017, Philpot medically retired after a man shot him in self-defense.

26 183. In Officer Pauu’s lawsuit, he recounts numerous other incidents of  
27 excessive force by the SHERIFF during LOVEJOY and YOUNG’s service. *See*  
28 *Pauu v. County of San Diego et al.*, S.D. Cal. Case No. 3:23-cv-00961-TWR,



1 Docket No. 1 ¶¶ 51-63. Plaintiff incorporates those paragraphs and allegations here  
2 by reference.

3 184. Whereas these incidents, and other similar incidents, put the  
4 COUNTY on notice of serious problems among its SHERIFF deputies and a  
5 concrete risk of continuing excessive force issues, the COUNTY did not institute  
6 new training, testing, evaluations, retraining, stricter or more effective investigation  
7 protocols, or serious disciplinary measures to curb the SHERIFF's culture of using  
8 excessive force.

9 185. Before he shot Mr. Talavera, the COUNTY was specifically aware  
10 that LOVEJOY was prone to using excessive force during traffic stops, willing to  
11 violently retaliate against members of the public for perceived disrespect, willing  
12 to lie to justify violations of the Fourth Amendment, had demonstrated poor  
13 judgment, and exhibited a total lack of concern for the safety of others while  
14 exercising his authority as a SHERIFF deputy.

15 186. On information and belief, based upon his work history and the  
16 COUNTY's training and disciplinary programs, the COUNTY was also aware  
17 LOVEJOY would continue to use excessive force in his work absent any serious  
18 discipline, retraining, or other intervention.

19 187. For example, on October 1, 2020, LOVEJOY performed a traffic stop  
20 of an innocent bystander without justification.

21 188. During the stop, the woman was compliant and asked reasonable  
22 questions about the basis for the stop.

23 189. In response, LOVEJOY grabbed the woman by the wrist and sought  
24 to violently drag her from her vehicle.

25 190. When the woman sought to record LOVEJOY on her phone,  
26 LOVEJOY smacked the phone from her hand, damaging it, and proceeded to drag  
27 her from the car by her hair.

28 191. In the process, LOVEJOY ripped several braids from her hair.

1 192. There was no justification for LOVEJOY’s violence, all of which was  
2 excessive.

3 193. When other deputies arrived on the scene, consistent with the  
4 SHERIFF’s culture and policy embracing excessive force, they failed to reasonably  
5 investigate the woman’s injuries or LOVEJOY’s use of force.

6 194. LOVEJOY falsely claimed to have stopped her because a brake light  
7 was out, but her brake lights were functioning.

8 195. Thereafter, LOVEJOY knowingly held her in custody without  
9 justification and in handcuffs for several hours.

10 196. Throughout that period, deputies ignored her pleas and complaints of  
11 pain.

12 197. After having ensured her car would be towed, he abandoned her late  
13 at night at a trolley station and mocked her for lacking a phone or wallet – both of  
14 which he knew had been in her unlawfully seized car.

15 198. Within days, the woman LOVEJOY had assaulted, Shynita Phillips  
16 Abu, filed a complaint with the SHERIFF about LOVEJOY’s conduct. By January  
17 7, 2022, Ms. Abu had filed a lawsuit against LOVEJOY for excessive force in S.D.  
18 Cal. Case No. 3:21-cv-01622-BTM. Still, the COUNTY and SHERIFF took no  
19 meaningful remedial action against LOVEJOY – who proceeded to shoot Mr.  
20 Talavera the following month.

21 199. On information and belief, COUNTY employees were aware that both  
22 LOVEJOY and YOUNG had used improper or excessive force in prior incidents.

23 200. The COUNTY took no remedial action to prevent their continued use  
24 of excessive force like that employed against Mr. Talavera.

25 **MR. TALAVERA’S HEALTH DETERIORATED IN COUNTY CUSTODY**

26 201. After he was nearly killed, Mr. Talavera remained in the custody of  
27 the SHERIFF throughout most of 2022 because of charges stemming from the  
28 trailer theft.

1           202. From February through July, Mr. Talavera’s wounds, surgeries, and  
2 unstable medical condition required he remain in hospitals where he was shackled  
3 to the bed and under constant guard by the SHERIFF.

4           203. After months of suffering, fear, and pain, Mr. Talavera slowly  
5 regained portions of his health – such as his ability to stand and walk.

6           204. However, on the eve of his possible release from SHERIFF custody at  
7 the hospital to pretrial release, Mr. Talavera was suddenly transported to San Diego  
8 County’s Central Jail.

9           205. From admission until his release on December 4, 2023, Mr. Talavera’s  
10 pain, suffering, and deteriorating health were exacerbated by the SHERIFF’s  
11 failure to provide adequate care and accommodation.

12           206. For example, Mr. Talavera experienced extreme pain and discomfort  
13 when standing or attempting to walk and could only walk a few, short agonizing  
14 steps without the aid of durable medical equipment.

15           207. Nonetheless when Mr. Talavera was transported to Superior Court for  
16 pre-arranged court hearings and moved between cells and locations, the SHERIFF  
17 failed to afford him a wheelchair or even a walker.

18           208. These failures caused him unnecessary pain, suffering, and  
19 embarrassment.

20           209. Similarly, Mr. Talavera continued to have open wounds in his gut  
21 from the shooting.

22           210. His digestive system has been permanently injured and he requires  
23 wound care, colostomy bags, and related wound dressings.

24           211. These open wounds are a source of persistent pain, difficulty, and  
25 embarrassment for Mr. Talavera, but they also pose obvious and urgent medical  
26 risks.

27           212. Still, the SHERIFF failed to provide Mr. Talavera with appropriate  
28 medical dressings, bags, sealants, and other care for his wounds.

1           213. These failures led to infections and injury, unnecessary pain, suffering,  
2 and embarrassment.

3           214. The COUNTY also failed to provide reasonable treatment for Mr.  
4 Talavera’s post-traumatic stress disorder.

5           215. Mr. Talavera, for his part, pled guilty to being involved in the trailer  
6 theft and a misdemeanor offense relating to the knife.

7           216. Specifically, Mr. Talavera and a COUNTY prosecutor jointly agreed  
8 Mr. Talavera be released from jail with a sentence of probation in exchange for his  
9 admission to the trailer theft and a misdemeanor offense in which he “exhibited a  
10 weapon, to wit a knife, in a rude manner while not acting in self-defense and prone,  
11 to a person in [his] presence.”

12           217. Mr. Talavera’s misdemeanor plea was based upon his admission that,  
13 after being unjustly shot more than a dozen times by LOVEJOY and YOUNG and  
14 while laying prone, it was rude for Mr. Talavera to curse them and exhibit the knife.

15           218. However, Mr. Talavera’s exhibiting a knife and being rude after both  
16 deputies tried to kill him did not justify any of LOVEJOY’s or YOUNG’s gunfire  
17 before or after.

18           219. Nor does this suit call into question Mr. Talavera’s guilty plea such  
19 that any claim herein could be barred by *Heck v. Humphrey*, 512 U.S. 477 (1994).

20           220. In early December 2022, COUNTY employees at the Central Jail  
21 informed Mr. Talavera that he would be released.

22           221. COUNTY employees told Mr. Talavera they would arrange for an  
23 ambulance to transport him to a hospital where his wounds could be treated and  
24 where they could arrange for long-term care.

25           222. Instead, staff at the Central Jail suddenly released Mr. Talavera to the  
26 street without anything medically necessary to meet his immediate needs, such as  
27 a wheelchair, his many prescription drugs, or prescriptions to obtain his urgently  
28 needed prescription drugs.

1 223. The moment he was released, Mr. Talavera lacked prescription pain  
2 medications he had been taking, resulting in wholly unnecessary suffering and  
3 exacerbating the injuries the COUNTY had already caused several months earlier.

4 224. This action seeks compensation for Mr. Talavera’s pain, suffering,  
5 anguish, permanent injuries, and lasting trauma as a result of defendants’ failure to  
6 comply with the Constitution, State, and Federal Law.

7 225. Ultimately, the defendants failed to exhibit rudimentary human  
8 decency to Mr. Talavera from the moment they encountered him near their GPS-  
9 tracked cargo trailer to the moment the COUNTY kept him from receiving or  
10 taking medications and equipment he needed for wounds the COUNTY inflicted.

11 **PLAINTIFF’S CAUSES OF ACTION**

12 **I. FIRST CAUSE OF ACTION**  
13 **Excessive Force in Violation of the Fourth Amendment**  
14 **(pursuant to 42 U.S.C. § 1983) against LOVEJOY and YOUNG**

15 226. Plaintiff realleges all prior paragraphs and incorporates the same  
16 herein by reference.

17 227. LOVEJOY and YOUNG each violated Mr. Talavera’s Fourth  
18 Amendment rights when they aimed their firearms at Mr. Talavera, failed to issue  
19 any warning that the use of deadly force was imminent, and when they discharged  
20 their firearms at Mr. Talavera.

21 228. Each separate gunshot LOVEJOY and YOUNG fired was a violation  
22 of Mr. Talavera’s Fourth Amendment right to be free from excessive force.

23 229. Insofar as any gunfire was permissible under the Fourth Amendment,  
24 which it was not, then each subsequent shot constituted excessive force, was  
25 unreasonable, and violated the Fourth Amendment.

26 230. As a direct and foreseeable result of LOVEJOY and YOUNG’s  
27 unreasonable and excessive uses of force, Mr. Talavera suffered physical pain,  
28 several emotional distress, mental anguish, and grievous, lasting mental and



1 physical injuries which will impact nearly every aspect of his life for the  
2 foreseeable future.

3 231. Mr. Talavera therefore suffered special and general damages,  
4 including pain and suffering, along with further damages in an amount to be shown  
5 according to proof at trial.

6 232. In using the force described above, LOVEJOY and YOUNG acted  
7 with malice, fraud, and oppression. They willfully, wantonly, and recklessly  
8 disregarded Mr. Talavera's constitutional rights. As such, their actions justify an  
9 award of exemplary and punitive damages in an amount to be determined at the  
10 time of trial.

11 233. Plaintiff further seeks attorney's fees and costs under this claim.

12 **II. SECOND CAUSE OF ACTION**  
13 **Municipal Liability - Failure to Train (pursuant to 42 U.S.C. § 1983) against**  
14 **the COUNTY.**

15 234. Plaintiff realleges all prior paragraphs and incorporates the same  
16 herein by reference.

17 235. The training policies of COUNTY were inadequate to train its  
18 deputies to handle the usual and recurring situations with which they must deal.  
19 This includes training policies that were inadequate with respect to alternatives to  
20 deadly force, sympathetic gunfire, de-escalation, handling situations involving  
21 persons having a mental crisis or who are mentally ill, communicating with  
22 suspects, issuing warnings, giving clear commands, and the use of deadly force.

23 236. The COUNTY was deliberately indifferent to the obvious  
24 consequences of its failure to train deputies adequately.

25 237. The failure of COUNTY to provide adequate training caused the  
26 deprivation of Mr. Talavera's rights, that is, the failure to train is so closely related  
27 to the deprivation of Mr. Talavera's rights as to be the moving force that caused  
28 the ultimate injury.





1           257. The COUNTY was deliberately indifferent to the obvious  
2 consequences of their ratification of excessive force as well as LOVEJOY and  
3 YOUNG’s use of excessive force specifically.

4           258. On information and belief, LOVEJOY and YOUNG have not been  
5 reprimanded, subject to retraining, or otherwise faced any professional  
6 consequence for their unlawful use of deadly force against Mr. Talavera and others  
7 because their supervisors have affirmed, ratified, condoned, and encouraged their  
8 behavior.

9           259. The COUNTY was responsible for LOVEJOY and YOUNG’s  
10 unconstitutional acts against Mr. Talavera by virtue of their willful ratification and  
11 encouragement of the same.

12           260. LOVEJOY and YOUNG used deadly force against Mr. Talavera, in  
13 part, because they understood such conduct would not result in professional  
14 sanction and was, on the contrary, encouraged. The COUNTY’s ratification of  
15 violence by deputies was so closely related to the deprivation of Mr. Talavera’s  
16 rights as to be the moving force that caused the ultimate injury.

17           261. Because of the aforementioned acts and omissions, Mr. Talavera  
18 suffered damages in an amount to be shown according to proof at trial.

19           262. The COUNTY is liable for the deprivation of Mr. Talavera’s  
20 constitutional rights under *Monell v. Department of Social Services of the City of*  
21 *New York*, 436 U.S. 658 (1978), and its progeny, which hold that municipal entities  
22 may be held liable for violations of Constitutional rights committed by its  
23 employees because its policy resulted in the deprivation of Mr. Talavera’s  
24 constitutional rights.

25           263. The COUNTY is liable for compensatory damages.

26           264. Plaintiff further seeks attorney’s fees and costs under this claim.  
27  
28





1           283. As a direct and foreseeable result of LOVEJOY’s and YOUNG’s use  
2 of force, Mr. Talavera suffered grievous mental and physical injuries.

3           284. Mr. Talavera suffered general and special damages, along with further  
4 damages in an amount to be shown according to proof at the time of trial.

5           285. These defendants’ conduct was a substantial factor in causing Mr.  
6 Talavera’s injuries.

7           286. Because these defendants acted in the scope of their employment, the  
8 COUNTY is vicariously liable for the harm proximately caused by their conduct  
9 pursuant to California Government Code § 815.2.

10           287. On information and belief, LOVEJOY and YOUNG acted with malice,  
11 fraud, and oppression in using force as they did and committing multiple batteries  
12 upon Mr. Talavera. As such, their actions justify an award of exemplary and  
13 punitive damages in an amount to be determined at the time of trial.

14                                   **VII. SEVENTH CAUSE OF ACTION**  
15                                   **Assault against LOVEJOY, YOUNG, and the COUNTY**

16           288. Plaintiff realleges all prior paragraphs and incorporates the same  
17 herein by reference.

18           289. LOVEJOY and YOUNG threatened to use unreasonable and  
19 excessive force on Mr. Talavera in a manner which was tortious.

20           290. LOVEJOY and YOUNG threatened to shoot Mr. Talavera without  
21 just cause, which constituted a threat to touch Mr. Talavera in a harmful or  
22 offensive manner.

23           291. It reasonably appeared to Mr. Talavera that LOVEJOY and YOUNG  
24 were about to carry out the threat and attempted to carry out that threat.

25           292. LOVEJOY and YOUNG acted intending to cause harmful or  
26 offensive contact with Mr. Talavera.

27           293. Mr. Talavera did not consent to LOVEJOY and YOUNG’s threatened  
28 harmful or offensive conduct.



1 294. As a direct and foreseeable result of LOVEJOY’s and YOUNG’s  
2 threatened uses of force, Mr. Talavera suffered grievous mental and physical  
3 injuries.

4 295. Mr. Talavera suffered general and special damages, along with further  
5 damages in an amount to be shown according to proof at the time of trial.

6 296. These defendants’ conduct was a substantial factor in causing Mr.  
7 Talavera’s harm.

8 297. Because these defendants acted in the scope of their employment, the  
9 COUNTY is vicariously liable for the harm proximately caused by their conduct  
10 pursuant to California Government Code § 815.2.

11 298. On information and belief, in threatening the force described above,  
12 LOVEJOY and YOUNG acted with malice, fraud, and oppression. As such, their  
13 actions justify an award of exemplary and punitive damages in an amount to be  
14 determined at the time of trial.

15 **VIII. EIGHTH CAUSE OF ACTION**  
16 **Violation of the Bane Act (Cal. Civ. Code § 52.1) against LOVEJOY,**  
17 **YOUNG, and the COUNTY**

18 299. Plaintiff realleges all prior paragraphs and incorporates the same  
19 herein by reference.

20 300. When LOVEJOY and YOUNG shot Mr. Talavera they interfered with  
21 his civil rights to be free from unreasonable searches and seizures, to due process,  
22 to equal protection of the laws, and to be free from unreasonable and excessive  
23 force by law enforcement.

24 301. LOVEJOY and YOUNG intentionally interfered with Mr. Talavera’s  
25 rights by threat, intimidation, and coercion.

26 302. LOVEJOY and YOUNG acted violently against Mr. Talavera to  
27 prevent him from exercising his rights. In doing so, they intended to deprive Mr.  
28 Talavera of the enjoyment of his rights.

1 303. As a direct and foreseeable result of LOVEJOY’s and YOUNG’s  
2 tortious conduct, Mr. Talavera suffered grievous mental and physical injuries.

3 304. Mr. Talavera suffered general and special damages, along with further  
4 damages in an amount to be shown according to proof at the time of trial.

5 305. LOVEJOY and YOUNG’s conduct was a substantial factor in causing  
6 Mr. Talavera’s harm.

7 306. Because these defendants acted in the scope of their employment, the  
8 COUNTY is vicariously liable for the harm proximately caused by their conduct  
9 pursuant to California Government Code § 815.2.

10 307. On information and belief, LOVEJOY and YOUNG tortiously denied  
11 Mr. Talavera the enjoyment of his rights while acting with malice, fraud, and  
12 oppression. As such, their actions justify an award of exemplary and punitive  
13 damages in an amount to be determined at the time of trial.

14 **IX. NINTH CAUSE OF ACTION**  
15 **Negligence against LOVEJOY, YOUNG, DOES 1-25 and the COUNTY**

16 308. Plaintiff realleges all prior paragraphs and incorporates the same  
17 herein by reference.

18 309. COUNTY employees, including SHERIFF deputies and participants  
19 in RATT, have a duty to use reasonable care to prevent harm or injury to others.

20 310. Their duties include using appropriate strategies, using appropriate  
21 tactics, giving appropriate commands, giving warnings, ensuring sting operations  
22 do not create unreasonable risks, not using any force unless necessary, using less  
23 than lethal options when possible, and only using deadly force as a last resort.

24 311. LOVEJOY, YOUNG, Balderson, Peterson, Dinero, Does 1-25, and  
25 other COUNTY employees acting in the course of their employment breached this  
26 duty of care and were negligent and reckless.

27 312. Their acts and omissions in violation of their duty include but are not  
28 limited to:

- 1 a. using deadly force against Mr. Talavera;
- 2 b. continuing to use deadly force against Mr. Talavera;
- 3 c. failing to adequately and properly assess the need to use any force
- 4 against Mr. Talavera;
- 5 d. failing to evaluate whether less-lethal force options may be
- 6 appropriate;
- 7 e. failing to warn Mr. Talavera of the potential for deadly force;
- 8 f. failing to communicate clearly with Mr. Talavera;
- 9 g. failing to communicate with one another;
- 10 h. failing to safely employ the GPS-tracked trailer;
- 11 i. operating a sting operation without the ability to effectively
- 12 communicate with law enforcement in the area of the operation;
- 13 j. failing to properly train and supervise employees;
- 14 k. negligent communication of information during the incident;
- 15 l. failing to distinguish between a knife and a gun in relation to the
- 16 dangers posed;
- 17 m. failing to ensure an adequate number of employees were available to
- 18 safely perform an arrest during the sting operation;
- 19 n. failing to initiate the arrest in a safe manner;
- 20 o. failing to intervene and prevent LOVEJOY from continuing to use
- 21 excessive force;
- 22 p. failing to evaluate whether a hot stop was necessary or appropriate;
- 23 q. knowingly creating unnecessarily dangerous circumstances for a
- 24 traffic stop;
- 25 r. failing to evaluate whether Mr. Talavera was complying with
- 26 commands before threatening the use of and using deadly force; and
- 27 s. failing to evaluate whether Mr. Talavera posed any realistic dangers
- 28 to anyone before using deadly force.

1 313. As a direct and proximate result of defendants' breaches of their duties,  
2 Mr. Talavera suffered severe injury, pain, suffering, loss of mobility, disability,  
3 emotional distress, mental anguish, fear, lack of sleep, mental illness, depression,  
4 and anxiety.

5 314. As a direct and proximate result of defendants' breaches of their duties,  
6 Mr. Talavera has suffered general and special damages, as well as having lasting  
7 disabilities, in an amount to be proven at trial.

8 315. Because these acts occurred in the scope of employment, the  
9 COUNTY is vicariously liable for the harm proximately caused by their conduct  
10 pursuant to California Government Code § 815.2.

11 316. On information and belief, LOVEJOY and YOUNG acted with malice,  
12 fraud, and oppression. As such, their actions justify an award of exemplary and  
13 punitive damages in an amount to be determined at the time of trial.

14 **X. TENTH CAUSE OF ACTION**  
15 **Negligent Hiring, Retention, Training, and Supervision against GORE,**  
16 **MARTINEZ, DOES 11-15, and COUNTY.**

17 317. Plaintiff realleges all prior paragraphs and incorporates the same  
18 herein by reference.

19 318. MARTINEZ, GORE, and Does 11-15 had a duty to ensure that those  
20 the SHERIFF hired, retained, trained, and supervised were fit to perform their  
21 duties as law enforcement officers.

22 319. On information and belief, MARTINEZ, GORE, and Does 11-15  
23 either willfully failed to take reasonable steps to evaluate whether LOVEJOY and  
24 YOUNG were fit to perform their duties or knew LOVEJOY and YOUNG were  
25 unfit to perform their duties.

26 320. MARTINEZ, GORE, and Does 11-15 failed to reasonably train and  
27 supervise LOVEJOY and YOUNG so as to ensure they achieved adequate fitness  
28 to perform their duties.

1           321. GORE, MARTINEZ, and Does 11-15 were aware of at least one prior,  
2 justified complaint of grotesque, unnecessary violence by LOVEJOY against a  
3 member of the public for what LOVEJOY falsely claimed to be a failure to obey  
4 his commands and which demonstrated he was unfit to perform his duties.

5           322. On information and belief, GORE, MARTINEZ, and Does 11-15  
6 knew of other incidents of unlawful conduct involving LOVEJOY, YOUNG, or  
7 both as they operated out of the Lakeside Substation and failed to take reasonable  
8 steps to intervene, train, reprimand, or discipline them so that they would be  
9 reasonably fit to continue in their duties.

10           323. GORE, MARTINEZ, and Does 11-15 failed to properly supervise and  
11 discipline LOVEJOY, YOUNG, and COUNTY employees in LOVEJOY and  
12 YOUNG's chain of command for their use of excessive force prior to this incident.

13           324. GORE, MARTINEZ, and Does 11-15 knew their policies, training,  
14 and ratification of violence had cultivated and encouraged a culture of unnecessary  
15 violence among deputies, including LOVEJOY and YOUNG, which rendered  
16 many deputies, including LOVEJOY and YOUNG, unfit to faithfully perform their  
17 duties.

18           325. The foregoing action and inaction breached GORE's, MARTINEZ's,  
19 and DOES 11-15's duties to ensure those they hired, retained, trained, and  
20 supervised were fit to perform their duties.

21           326. As a direct and proximate result of GORE's, MARTINEZ's, and  
22 DOES 11-15's breach of their duties, Mr. Talavera suffered severe injury, pain,  
23 suffering, loss of mobility, disability, emotional distress, mental anguish, fear, lack  
24 of sleep, mental illness, depression, and anxiety. Mr. Talavera has suffered general  
25 and special damages, as well as having lasting disabilities, in an amount to be  
26 proven at trial.

1 327. Because these acts occurred in the scope of their employment, the  
2 COUNTY is vicariously liable for the harm proximately caused by their conduct  
3 pursuant to California Government Code § 815.2.

4 **XI. ELEVENTH CAUSE OF ACTION**  
5 **Intentional Infliction of Emotional Distress against LOVEJOY, YOUNG, and**  
6 **COUNTY**

7 328. Plaintiff realleges all prior paragraphs and incorporates the same  
8 herein by reference.

9 329. LOVEJOY and YOUNG’s conduct was outrageous.

10 330. LOVEJOY and YOUNG intended to cause Mr. Talavera emotional  
11 distress or acted in reckless disregard of the probability that Mr. Talavera would  
12 suffer emotional distress.

13 331. LOVEJOY and YOUNG’s conduct was a substantial factor in causing  
14 Mr. Talavera to suffer severe emotional distress.

15 332. Because these acts occurred in the scope of their employment, the  
16 COUNTY is vicariously liable for the harm proximately caused by their conduct  
17 pursuant to California Government Code § 815.2.

18 333. On information and belief, LOVEJOY and YOUNG acted with malice,  
19 fraud, and oppression. As such, their actions justify an award of exemplary and  
20 punitive damages in an amount to be determined at the time of trial.

21 **PRAYER FOR RELIEF**

22 Plaintiff prays for judgment against defendants as follows:

- 23 a. General, compensatory, and special damages in an amount  
24 according to proof;
- 25 b. Punitive and exemplary damages against individual defendants  
26 as set forth above;
- 27 c. Civil penalties as provided by law;
- 28 d. Attorney fees pursuant to Cal. Civil Code § 52.1(b) and Cal. Civil  
Code § 52;

- 1 e. Costs and reasonable attorney fees pursuant to 42 U.S.C. § 1988;
- 2 f. All other damages, penalties, costs, and fees as allowed by Cal.
- 3 Civ. Proc. §§ 377.20, 377.60, 1021.5;
- 4 g. Costs;
- 5 h. And for all other and further relief as the Court may deem proper.

6  
7 DATE: November 27, 2023

MCKENZIE SCOTT, PC

8  
9 By: s/ Timothy A. Scott

10 TIMOTHY A. SCOTT  
11 MARCUS S. BOURASSA  
12 Attorneys for Plaintiff  
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