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7
8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10 EASTERN DIVISION
11

12 CONSTANTINO JOSHUA ACEVEDO
13 III, an individual,

14 Plaintiff,

15 vs.

16 COUNTY OF RIVERSIDE; CHAD
BIANCO, an individual; VICTORIA
17 VARISCO-FLORES, an individual;
ALYSSA VERNAL, an individual;
18 RICHARD FRANSIK, an individual and
DOES 1-10, inclusive,

19 Defendants.
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21
22

Case No.:

COMPLAINT

- 1. Unreasonable Search and Seizure – Excessive Force (42 U.S.C. § 1983)
- 2. Unreasonable Search and Seizure – Failure to Intervene (42 U.S.C. § 1983)
- 3. Fourteenth Amendment – Denial of Medical Care (42 U.S.C. § 1983)
- 4. *Monell* Liability – Unconstitutional Custom, Practice, or Policy [42 U.S.C. § 1983]
- 5. *Monell* Liability – Failure to Train [42 U.S.C. § 1983]
- 6. *Monell* Liability – Ratification [42 U.S.C. § 1983]

DEMAND FOR JURY TRIAL

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COMPLAINT FOR DAMAGES

1. Plaintiff CONSTANTINO JOSHUA ACEVEDO III for his complaint against Defendants COUNTY OF RIVERSIDE and DOES 1-10, inclusive, alleges as follows:

INTRODUCTION

2. This civil rights action seeks compensatory and punitive damages from Defendants for violating various rights under the United States Constitution in connection with the arrest by members of the Riverside County Sheriff’s Department and imprisonment by members of the Riverside County Sheriff’s Department of Plaintiff CONSTANTINO JOSHUA ACEVEDO III.

PARTIES

3. At all relevant times, PLAINTIFF was an individual residing in the County of San Bernardino, California. At all times relevant, PLAINTIFF is and was a male of Hispanic and Native American heritage. At all times relevant, PLAINTIFF has and is diagnosed with Aspergers, which is a disease that places PLAINTIFF on the autism spectrum.

4. Defendant CHAD BIANCO (“BIANCO”) is an individual and the Sheriff of Defendant COUNTY OF RIVERSIDE. BIANCO is sued in his individual capacity and in his official capacity.

5. Defendant VICTORIA VARISCO-FLORES (“VARISCO-FLORES”) is an individual and the correctional captain at the Robert Presley Detention Center, which is owned and operated by the COUNTY. VARISCO-FLORES is sued in her individual capacity and in her official capacity.

6. Defendant ALYSSA VERNAL (“VERNAL”) is an individual and the correctional captain at the Larry D. Smith Correctional facility, which is owned and operated by the COUNTY. VERNAL is sued in her individual capacity and in her official capacity.

1 7. Defendant RICHARD FRANSIK (“FRANSIK”) is an individual and the
2 lieutenant in charge of the Norco branch of the Riverside County Sheriff’s Department.
3 FRANSIK is sued in his individual capacity and in his official capacity.

4 8. At all times relevant, Defendant COUNTY OF RIVERSIDE (“COUNTY”)
5 is and was a duly organized public entity, form unknown, existing under the laws of the
6 State of California. At all relevant times, COUNTY was the employer of Defendants
7 DOES 1-10, who were various COUNTY Sheriff’s deputies; supervisory officers;
8 and/or managerial, supervisory, and policymaking employees of the COUNTY Sheriff’s
9 department. On information and belief, at all times relevant, DOES 1-10 were residents
10 of the County of Riverside, California. DOES 1-10 are sued in their individual capacity
11 for damages only.

12 9. At all times relevant, Defendants DOES 1-10 were duly authorized
13 employees and agents of COUNTY, who were acting under color of law within the
14 course and scope of their respective duties as sheriff’s deputies and with the complete
15 authority and ratification of their principal, Defendant COUNTY.

16 10. At all relevant times, Defendants DOES 1-10 were duly appointed deputies
17 and/or employees or agents of COUNTY, subject to oversight and supervision by the
18 COUNTY’s elected and non-elected officials.

19 11. In doing the acts and failing and omitting to act as hereinafter described,
20 Defendants DOES 1-10 were acting on the implied and actual permission and consent of
21 the COUNTY.

22 12. At all times mentioned herein, each and every COUNTY defendant was the
23 agent of each and every other COUNTY defendant, and had the legal duty to oversee and
24 supervise the hiring, conduct and employment of each and every COUNTY defendant.

25 13. The true names of defendants DOES 1 through 10, inclusive, are unknown
26 to PLAINTIFF, who therefore sues these defendants by such fictitious names.
27 PLAINTIFF will seek leave to amend this complaint to show the true names and
28 capacities of these defendants when they have been ascertained. Each of the fictitiously

1 named defendants is responsible in some manner for the conduct and liabilities alleged
2 herein.

3 **JURISDICTION AND VENUE**

4 14. This civil action is brought for the redress of alleged deprivations of
5 constitutional rights as protected by 42 U.S.C. §§ 1983, 1985, 1986, 1988, and the Fourth
6 Amendment of the United States Constitution. Jurisdiction is founded on 28 U.S.C. §§
7 1331, 1343, and 1367.

8 15. Venue is proper in this Court under 28 U.S.C. § 1391(b), because
9 Defendants reside in, and all incidents, events, and occurrence giving rise to this action
10 occurred in the County of Riverside, California.

11 **FACTS COMMON TO ALL CLAIMS FOR RELIEF**

12 16. Plaintiff repeats and realleges each and every allegation in paragraphs 1
13 through 15 of this complaint with the same force and effect as though fully set forth
14 herein.

15 17. On September 22, 2021, PLAINTIFF, unbeknownst to himself, was
16 suffering from severe kidney failure. Severe kidney failure can manifest in a variety of
17 ways, including delirium and hallucinations.

18 18. On September 22, 2021, PLAINTIFF was experiencing these symptoms.
19 PLAINTIFF left his home in Fontana with a friend, Andy, in order to get some “fresh
20 air.” Andy drove himself and PLAINTIFF to Norco, California to visit some shops.

21 19. At some point while PLAINTIFF was riding with Andy through Norco,
22 PLAINTIFF decided to exit Andy’s car and begin to walk on the side of the road.
23 PLAINTIFF was not threatening himself or anyone around him.

24 20. Concerned for PLAINTIFF’s safety given his erratic behavior, Andy called
25 PLAINTIFF’s father, who instructed Andy to call 911 and inform them that PLAINTIFF
26 may be suffering from a mental health crisis and needed help. Andy called 911 and
27 informed them of the same.
28

1 21. Sometime later, Sheriffs, including DOES 1-5, arrived at the intersection of
2 Mountain Ave and Second Street in Norco, California. Andy had been slowly following
3 PLAINTIFF while PLAINTIFF walked on the side of the road. When the police officers
4 arrived, they separated Andy and PLAINTIFF and would not let Andy help PLAINTIFF.

5 22. Despite being informed that PLAINTIFF was possibly suffering from a
6 mental health crisis, the deputies confronted Plaintiff on the side of the road. PLAINTIFF
7 was not resistant to the deputies.

8 23. On information and belief, the involved Sheriff's deputies unilaterally
9 escalated the situation involving PLAINTIFF when they, on September 22, 2021, without
10 warning, attempted to place PLAINTIFF in handcuffs, beat, and tased PLAINTIFF.

11 24. PLAINTIFF was struck multiple times with hands, feet, knees, and batons
12 by deputies despite no criminal activity afoot.

13 25. PLAINTIFF was tased multiple times by deputies despite no criminal
14 activity afoot.

15 26. During the incident, it was obvious, or it should have been obvious to an
16 objectively reasonable deputy, that PLAINTIFF was experiencing and having a mental
17 health crisis.

18 27. On information and belief, the involved deputies did not give PLAINTIFF a
19 verbal warning that force would be used before using force against him.

20 28. There were other reasonable alternatives available to the involved deputies
21 which were not exhausted prior to using extreme and potentially deadly force against
22 PLAINTIFF. Further, the involved deputies escalated the situation which led to the use of
23 potentially deadly force against PLAINTIFF.

24 29. On September 22, 2021, after beating and tasing PLAINTIFF multiple times,
25 the deputies arrested PLAINTIFF for one count of California Penal Code § 69, a felony.

26 30. After arresting PLAINTIFF, the deputies took PLAINTIFF, who was
27 battered, bloody, and bruised, to Riverside Community Hospital. PLAINTIFF was
28 examined briefly and released back to the deputies, who took him to the Robert Presley

1 Detention Center, located at 4000 Orange Street, Riverside, CA 92501, owned and
2 operated by COUNTY.

3 31. PLAINTIFF's parents were notified of his arrest and incarceration. Despite
4 posting bail immediately, Defendants COUNTY and DOES 6-10 attempted to then move
5 PLAINTIFF to the Larry D. Smith Correctional Facility, located at 1627 Hargrave Street,
6 Banning, CA 92220, which is also owned and operated by COUNTY. PLAINTIFF's
7 parents were not timely notified of this attempted move.

8 32. While he was in the custody of the COUNTY, PLAINTIFF repeatedly asked
9 for assistance. PLAINTIFF was obviously suffering from a mental health issue, yet the
10 COUNTY and DOES 6-10 did not provide any care or treatment for him and in fact
11 placed him in a general holding cell with at least thirty (30) other arrestees.

12 33. Further, PLAINTIFF was clearly suffering from some kind of physical
13 ailment, and beyond that was bleeding and bruised from the brutal beat down he suffered
14 at the hands of the Norco Police Officers. Despite repeated requests for help, the
15 COUNTY and DOES 6-10 refused to offer PLAINTIFF any medical assistance.

16 34. As a result of the beating suffered by PLAINTIFF at the hands of DOES 1-5,
17 PLAINTIFF suffered a head injury, scratches, and a black eye, on top of other bruises
18 and injuries consistent with multiple taser applications.

19 35. Shortly after his release, it was discovered that PLAINTIFF was suffering
20 from extreme kidney failure and required emergency medical treatment to stabilize his
21 condition.

22 36. Plaintiff is informed and believes and hereon alleges that Defendant
23 COUNTY has in place specific mental health protocols and units that are to be used to
24 de-escalate situations involving people suffering from mental health crises. Plaintiff is
25 further informed and believes and thereon alleges that Defendants DOES 1-5 did not at
26 any point call for this mental health unit or any other mental health services, despite
27 being aware that PLAINTIFF was suffering from a mental health crisis.

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I.

FIRST CLAIM FOR RELIEF

Unreasonable Search and Seizure – Excessive Force (42 U.S.C. § 1983)

(By PLAINTIFF against DOES 1-5)

37. Plaintiff repeats and realleges each and every allegation in paragraphs 1 through 36 of this Complaint with the same force and effect as if fully set forth herein.

38. DOES 1-5's unjustified beating and tasing of PLAINTIFF deprived PLAINTIFF of his right to be secure in his persons against unreasonable searches and seizures as guaranteed to PLAINTIFF under the Fourth Amendment to the United States Constitution and applied to state actors by the Fourteenth Amendment.

39. The unreasonable use of force by Defendants DOES 1-5 deprived PLAINTIFF of his right to be secure in his person against unreasonable searches and seizures as guaranteed to PLAINTIFF under the Fourth Amendment to the United States Constitution and applied to state actors by the Fourteenth Amendment.

40. As a result, PLAINTIFF suffered extreme mental and physical pain and suffering, emotional distress, and loss of enjoyment of life.

41. As a result of the conduct of DOES 1-5, they are liable for PLAINTIFF's injuries, either because they were integral participants in the excessive force, or because they failed to intervene to prevent these violations.

42. This use of excessive and potentially deadly force was unreasonable under the circumstances, especially since it should have been obvious that PLAINTIFF was having a mental health crisis, and no one was in any danger from PLAINTIFF when he was tased and beaten. In fact, Plaintiff was all alone and a threat to no other person. Defendants' actions thus deprived PLAINTIFF of his right to be free from unreasonable searches and seizures under the Fourth Amendment and applied to state actors by the Fourteenth Amendment.

1 43. The conduct of DOES 1-5 was willful, wanton, malicious, and done with
2 reckless disregard for the rights and safety of PLAINTIFF and therefore warrants the
3 imposition of exemplary and punitive damages as to Defendants DOES 1-5.

4 44. PLAINTIFF also seeks attorney fees under this claim.

5 **II.**

6 **SECOND CLAIM FOR RELIEF**

7 **Unreasonable Search and Seizure – Failure to Intervene**

8 (By Plaintiff against DOES 1-5)

9 45. Plaintiff repeats and realleges each and every allegation in paragraphs 1
10 through 44 of this Complaint with the same force and effect as if fully set forth herein.

11 46. DOES 1-5's unjustified beating and tasing of PLAINTIFF deprived
12 PLAINTIFF of his right to be secure in his persons against unreasonable searches and
13 seizures as guaranteed to PLAINTIFF under the Fourth Amendment to the United States
14 Constitution and applied to state actors by the Fourteenth Amendment.

15 47. The unreasonable use of force by Defendants DOES 1-5 deprived
16 PLAINTIFF of his right to be secure in his person against unreasonable searches and
17 seizures as guaranteed to PLAINTIFF under the Fourth Amendment to the United States
18 Constitution and applied to state actors by the Fourteenth Amendment.

19 48. Furthermore, each of Defendants DOES 1-5 had a duty to intervene in
20 unconstitutional uses of excessive force against PLAINTIFF, and each of them failed to
21 do so.

22 49. As a result, PLAINTIFF suffered extreme mental and physical pain and
23 suffering, emotional distress, and loss of enjoyment of life.

24 50. As a result of the conduct of DOES 1-5, they are liable for PLAINTIFF's
25 injuries because they failed to intervene in each of the other defendants unconstitutional
26 acts.

27 51. The use of excessive and potentially deadly force by DOES 1-5 was
28 unreasonable under the circumstances, especially since it should have been obvious that

1 PLAINTIFF was having a mental health crisis, and no one was in any danger from
2 PLAINTIFF when he was tased and beaten. Defendants' actions thus deprived
3 PLAINTIFF of his right to be free from unreasonable searches and seizures under the
4 Fourth Amendment and applied to state actors by the Fourteenth Amendment.

5 52. The conduct of DOES 1-5 was willful, wanton, malicious, and done with
6 reckless disregard for the rights and safety of PLAINTIFF and therefore warrants the
7 imposition of exemplary and punitive damages as to Defendants DOES 1-5.

8 53. Plaintiff also seeks attorney fees under this claim.

9 **III.**

10 **THIRD CLAIM FOR RELIEF**

11 **Fourteenth Amendment – Denial of Medical Care**

12 (By PLAINTIFF against Defendants DOES 6-10)

13 54. Plaintiff repeats and realleges each and every allegation in paragraphs 1
14 through 53 of this complaint with the same force and affect as though fully set forth
15 herein.

16 55. On September 22, 2021, after the beating and tasing of PLAINTIFF by
17 DOES 1-5, PLAINTIFF was taken to Riverside County Hospital and briefly examined,
18 but was not treated. PLAINTIFF was not given any treatment or medicine while he was
19 in Riverside County Hospital, despite obviously suffering from numerous lacerations,
20 head injuries, a black eye, and being in shock from being tased multiple times.

21 56. Other than this brief visit to Riverside Community Hospital, PLAINTIFF
22 received no other treatment for the injuries he suffered at the hands of DOES 1-5.

23 57. After being released from Riverside Community Hospital, PLAINTIFF was
24 taken to the Robert Presley Detention Center and was held in a cell with approximately
25 thirty (30) other arrestees overnight.

26 58. At some point, PLAINTIFF was improperly transferred to the Larry D.
27 Smith Correctional Facility in Banning, CA, despite his bail already being posted.
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1 PLAINTIFF was wrongfully held at the Smith Correctional Facility until he was released
2 at midnight on September 24, 2021.

3 59. Despite numerous pleas for help to DOES 8-10, PLAINTIFF was left in the
4 cell with no further treatment for his quickly deteriorating mental and physical health.

5 60. On information and belief, DOES 8-10 were deliberately indifferent to
6 PLAINTIFF's medical needs while he was being held in the Robert Presley Detention
7 Center and Larry D. Smith Correctional Facility and the same DOES 8-10 willfully and
8 wantonly denied medical care to PLAINTIFF, who was clearly and obviously suffering
9 from a mental health crisis.

10 61. The denial of medical care to PLAINTIFF from September 22, 2021 until
11 midnight on September 24, 2021 put PLAINTIFF at substantial risk of suffering serious
12 harm and permanent disabilities.

13 62. As a direct and proximate result of the decisions of the COUNTY and 6-10,
14 and due to PLAINTIFF's conditions of confinement, PLAINTIFF suffered further serious
15 injuries and substantial physical and emotional pain and suffering.

16 63. Defendants DOES 8-10 did not take reasonable available measures to abate
17 or reduce the risk of serious harm, even though a reasonable officer under the
18 circumstances would have understood the high degree of risk involved, making the
19 consequences of defendants' conduct obvious.

20 64. Defendants' conduct constituted unnecessary and wanton infliction of pain
21 and was done with a willful, wanton, and conscious disregard for Plaintiff's constitutional
22 rights, and therefore warrants the imposition of exemplary and punitive damages as to
23 Defendants DOES 8-10.

24 65. Plaintiff also seeks attorney fees under this claim.

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1 IV.

2 **FOURTH CLAIM FOR RELIEF**

3 ***Monell Liability – Unconstitutional Custom, Practice, or Policy***

4 (By PLAINTIFF against Defendants COUNTY, BIANCO, VARISCO-FLORES,
5 VERNAL, and FRANSIK)

6 66. Plaintiff repeats and realleges each and every allegation in paragraphs 1
7 through 65 of this complaint with the same force and affect as though fully set forth
8 herein.

9 67. At all relevant times, Defendants DOES 1 through 10, inclusive, acted under
10 color of law and within the course and scope of their employment with the COUNTY.

11 68. The acts of Defendants DOES 1 through 10, inclusive, as described above,
12 deprived PLAINTIFF of his particular rights under the United States Constitution.

13 69. On information and belief, Defendant COUNTY’s Sheriff’s department has
14 a longstanding practice of escalation during police contacts with citizens, especially when
15 the citizen may be suffering a mental health crisis.

16 70. Pursuant to this practice, on information and belief, COUNTY’s Sheriff’s
17 department deliberately use excessive force in order to “break” mentally ill citizens and
18 subject them to unconstitutional practices rather than engaging with them in a way that
19 takes into account the mental illness they are suffering.

20 71. On information and belief, PLAINTIFF alleges that this practice is rampant
21 and pervasive throughout COUNTY’s Sheriff’s department, and that it is generally
22 accepted to be the custom of Sheriff’s Deputies, specifically those at the Norco branch, to
23 use excessive and unconstitutional force to arrest persons suffering from mental health
24 crises like PLAINTIFF.

25 72. PLAINTIFF is informed and believes and thereon alleges that the COUNTY
26 is aware that its deputies have a custom and practice to use excessive force when
27 arresting mentally ill persons and has defendant multiple lawsuits related to this pervasive
28 policy, custom, or practice.

1 73. PLAINTIFF is informed and believes that COUNTY has not disciplined
2 those deputies who engage in this unconstitutional policy, custom, or practice to use
3 excessive force in arresting mentally ill individuals.

4 74. The COUNTY's Sheriff's deputies' policy, custom, or practice of using
5 excessive force in arresting mentally ill persons was the cause in fact of the deprivation
6 of Plaintiff's civil rights when he was tased and beaten while being arrested on
7 September 22, 2021.

8 75. DOES 1-5, employees and agents of Defendant COUNTY, operated under
9 color of law when they intentionally, willfully, and wantonly deprived PLAINTIFF of his
10 constitutional rights.

11 76. Further, on information and belief, Defendant COUNTY's Sheriff's
12 Department has a longstanding practice of denying medical care to arrestees, especially
13 those arrestees who are suffering from mental health crises.

14 77. Pursuant to this practice, on information and belief, COUNTY's Sheriff's
15 deputies deliberately and expressly deny medical care to persons arrested and held in the
16 County facilities, even if they request medical attention or are otherwise in obvious need
17 of medical care.

18 78. On information and belief, PLAINTIFF alleges that this practice is rampant
19 and pervasive throughout the COUNTY's Sheriff's department and that Sheriff's
20 deputies are even ordered to withhold medical care indefinitely from arrestees regardless
21 of their condition.

22 79. PLAINTIFF is informed and believes and thereon alleges that the COUNTY
23 is aware that its Sheriff's Deputies have a custom and practice to deny medical care to
24 inmates and arrestees, like PLAINTIFF, and has defended multiple lawsuits related to
25 this pervasive policy, custom, or practice.

26 80. PLAINTIFF is informed and believes that COUNTY has not disciplined
27 those officers who engage in this unconstitutional policy, custom, or practice to use
28 excessive force in arresting mentally ill individuals.

1 81. The COUNTY’s Sheriff’s deputies policy, custom, or practice of using
2 excessive force in arresting mentally ill persons was the cause in fact of the deprivation
3 of PLAINTIFF’s civil rights when he was denied medical care despite obviously
4 suffering from multiple wounds due to being tased and beaten, while also suffering from
5 a mental health crisis, on September 22, 2021 through his release.

6 82. DOES 6-10, employees and agents of Defendant COUNTY, operated under
7 color of law when they intentionally, willfully, and wantonly deprived PLAINTIFF of his
8 constitutional rights.

9 83. On information and belief, Defendants BIANCO, VARISCO-FLORES,
10 VERNAL, and FRANSIK are aware of these unconstitutional polices, practices, and
11 customs and either implicitly or explicitly endorse the same.

12 84. As a direct and proximate result of the aforementioned conduct, PLAINTIFF
13 endured severe pain and suffering.

14 85. Accordingly, Defendants COUNTY, BIANCO, VARISCO-FLORES,
15 VERNAL, and FRANSIK are liable to PLAINTIFF for compensatory damages under 42
16 U.S.C. § 1983. Plaintiff also seeks reasonable attorneys’ fees and costs under this claim.

17 **V.**

18 **FIFTH CAUSE OF ACTION**

19 ***Monell Liability – Failure to Train***

20 (By PLAINTIFF against Defendants COUNTY, BIANCO, VARISCO-FLORES,
21 VERNAL, and FRANSIK)

22 86. Plaintiff repeats and realleges each and every allegation in paragraphs 1
23 through 85 of this complaint with the same force and effect as though fully set forth
24 herein.

25 87. At all relevant times, Defendants DOES 1 through 10, inclusive, acted under
26 color of law and within the course and scope of their employment with the COUNTY.

27 88. The acts of Defendants DOES 1 through 10, inclusive, as described above,
28 deprived PLAINTIFF of his particular rights under the United States Constitution.

1 89. On information and belief, Defendants COUNTY, BIANCO, and FRANSIK
2 failed to properly and adequately train Defendants DOES 1-5 with regard to use of force
3 generally. The training polices of Defendants COUNTY, BIANCO, and FRANSIK were
4 not adequate to train their deputies to handle the usual and recurring situations with
5 which they must deal.

6 90. On information and belief, Defendants COUNTY, BIANCO, and FRANSIK
7 failed to properly train their deputies regarding the use of force. As a result of this
8 deficient policy and deficient training, Defendants DOES 1-5 beat and tased PLAINTIFF,
9 resulting in the injuries claimed in this lawsuit.

10 91. The training polices of Defendant COUNTY are and were not adequate to
11 train its deputies to handle the usual and recurring situations with which they must deal,
12 including de-escalation techniques, mental health identification and assistance, tactical
13 communication, tactical positioning, and the use of less-than-lethal force.

14 92. Defendants COUNTY, BIANCO, and FRANSIK were deliberately
15 indifferent to the obvious consequences of failing to adequately train the Sheriff's
16 deputies.

17 93. The failure of Defendants COUNTY, BIANCO, and FRANSIK to provide
18 adequate training caused the deprivation of PLAINTIFF's rights by Defendants DOES 1-
19 5, inclusive; that is, Defendants' failure to train is so closely related to the deprivation of
20 PLAINTIFF's rights as to be the moving force that caused the ultimate injury.

21 94. Furthermore, on information and belief, Defendants COUNTY, BIANCO,
22 VARISCO-FLORES, and VERNAL failed to properly and adequately train Defendants
23 DOES 6-10 with regard to proper treatment of arrestees at the COUNTY's jail facilities,
24 including the proper giving of medical care to obviously injured arrestees. The training
25 policies of Defendants COUNTY, BIANCO, VARISCO-FLORES, and VERNAL were
26 not adequate to train their deputies to handle the usual and recurring situations with
27 which they must deal.
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1 95. On information and belief, Defendants COUNTY, BIANCO, VARISCO-
2 FLORES, and VERNAL failed to properly train their deputies regarding the
3 identification and treatment of arrestees who require medical care. As a result of this
4 deficient policy and deficient training, Defendants DOES 6-10 willfully, maliciously, and
5 wantonly denied PLAINTIFF the medical care he desperately needed and sought while in
6 the COUNTY's custody. This resulted in the prolonged suffering of PLAINTIFF and the
7 injuries claimed in this lawsuit.

8 96. The training policies of Defendant COUNTY were not adequate to train its
9 deputies to handle the usual and recurring situations with which they must deal, including
10 mental health identification and assistance, identification of wounded or unwell arrestees,
11 and proper steps to provide medical care to arrestees.

12 97. Defendants COUNTY, BIANCO, VARISCO-FLORES, and VERNAL were
13 deliberately indifferent to the obvious consequences of failing to adequately train the
14 Sheriff's deputies.

15 98. The failure of Defendants COUNTY, BIANCO, VARISCO-FLORES, and
16 VERNAL to provide adequate training caused the deprivation of PLAINTIFF's rights by
17 Defendants DOES 6-10, inclusive; that is, Defendants' failure to train is so closely
18 related to the deprivation of PLAINTIFF's rights as to be the moving force that caused
19 the ultimate injury.

20 99. As a direct and proximate result of the aforementioned conduct, PLAINTIFF
21 endured severe pain and suffering.

22 100. Accordingly, Defendants COUNTY, BIANCO, VARISCO-FLORES,
23 VERNAL, and FRANSIK are liable to PLAINTIFF for compensatory damages pursuant
24 to 42 U.S.C. § 1983. PLAINTIFF also seeks reasonable attorneys' fees and costs under
25 this claim.

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1 VI.

2 **SIXTH CAUSE OF ACTION**

3 ***Monell Liability – Ratification***

4 (By PLAINTIFF against Defendants COUNTY, BIANCO, VARISCO-FLORES,
5 VERNAL, and FRANSIK)

6 101. Plaintiff repeats and realleges each and every allegation in paragraphs 1
7 through 100 of this complaint with the same force and effect as though fully set forth
8 herein.

9 102. At all relevant times, Defendants DOES 1 through 10, inclusive, acted under
10 color of law and within the course and scope of their employment with the COUNTY.

11 103. The acts and omissions of Defendants DOES 1 through 10, inclusive, as
12 described above, deprived PLAINTIFF of his particular rights under the United States
13 Constitution.

14 104. Upon information and belief, a final policy maker for the COUNTY, acting
15 under color of law, who had final policymaking authority concerning the acts of
16 Defendants DOES 1 through 10, inclusive, and the bases for them, ratified the acts and
17 omissions of Defendants DOES 1 through 10, inclusive, and the bases for them. Upon
18 information and belief, the final policymaker knew of and specifically approved of DOES
19 1 through 10's acts, including, but not limited to, the excessive beating and tasing done
20 against PLAINTIFF by DOES 1 through 5 and the willful and wanton denial of medical
21 care to PLAINTIFF by DOES 6 through 10.

22 105. On information and belief, the official policies with respect to the incident
23 are that Sheriff's deputies are not to use excessive force against an individual and that
24 Sheriff's deputies are not to deny medical care to individuals who are in need. The
25 actions of Defendants DOES 1 through 10, inclusive, deviated from these official
26 policies.

27 106. Upon information and belief, a final policymaker(s), including, but not
28 limited to Defendants BIANCO, VARISCO-FLORES, VERNAL, and FRANSIK, has

1 determined (or will determine) that the acts of Defendants DOES 1 through 10, inclusive,
2 were “within policy.”

3 107. By reason of the aforementioned acts and omissions, Defendants BIANCO,
4 VARISCO-FLORES, VERNAL, and FRANSIK are liable to PLAINTIFF for
5 compensatory damages under 42 U.S.C. § 1983. Plaintiff also seeks reasonable attorneys’
6 fees and costs under this claim.

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiff requests an entry of judgment in her favor and against
9 Defendants COUNTY OF RIVERSIDE, BIACNO, VARISCO-FLORES, VERNAL,
10 FRANSIK, and DOES 1-10, inclusive, as follows:

- 11 A. For Compensatory damages in the amount to be proven at trial;
12 B. For punitive damages against the individual defendants in an amount to be proven
13 at trial;
14 C. For interest;
15 D. For reasonable costs of this suit and attorneys’ fees; and
16 E. For such other further relief as the Court may deem just, proper, and appropriate.

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20 SKAPIK LAW GROUP

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22 Dated: September 20, 2023

23 By: /s/ Matthew T. Falkenstein
24 Mark J. Skapik
25 Geralyn L. Skapik
26 Blair J. Berkley
27 Matthew T. Falkenstein
28 Attorneys for Plaintiffs
CONSTANTINO JOSHUA
ACEVEDO III

JURY DEMAND

Plaintiff hereby demands a trial by jury.

SKAPIK LAW GROUP

Dated: September 20, 2023

By: /s/ Matthew T. Falkenstein
Mark J. Skapik
Geraldyn L. Skapik
Blair J. Berkley
Matthew T. Falkenstein
Attorneys for Plaintiffs
CONSTANTINO JOSHUA
ACEVEDO III

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