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8 ESTATE OF RICHARD OSAKI

9 **UNITED STATES DISTRICT COURT**
10
11 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

12 ESTATE OF RICHARD OSAKI, by)
13 and through his successors in interests;)
14 E.I.O., individually and as a successor)
15 in interest, represented by and through)
16 their guardian ad litem, CLAUDIA)
17 VILLEGES; N.A.O.1., individually)
18 and as a successor in interest,)
19 represented by and through their)
20 guardian ad litem, CLAUDIA)
21 VILLEGES; N.A.O.2., individually)
22 and as a successor in interest,)
23 represented by and through their)
24 guardian ad litem, CLAUDIA)
25 VILLEGES; STANLEY OSAKI,)
26 individual,)

20 Plaintiffs,

21 v.

22 SAN BERNARDINO COUNTY)
23 SHERIFF'S DEPARTMENT; a public)
24 entity; SAN BERNARDINO)
25 COUNTY, a public entity; SHERIFF)
26 SHANNON D. DICUS, individually;)
27 and DOES 1 through 10, individually,)

26 Defendants.

CASE NO.: 5:24-cv-00838

COMPLAINT FOR DAMAGES

- 1. Failure to Protect from Harm, Fourteenth Amendment Violation (42 U.S.C. § 1983);
- 2. Failure to Provide Medical Care, Fourteenth Amendment Violation (42 U.S.C. § 1983);
- 3. Deprivation of the Right to Familial Relationship with Decedent (42 U.S.C. § 1983);
- 4. Municipal Liability – Unconstitutional Policies, Customs, Practices
- 5. Supervisory Liability (42 U.S.C. § 1983);
- 6. Negligence – Wrongful Death;
- 7. Negligence – Medical Malpractice;
- 8. Violation of California Government Code §845.6;
- 9. Violation of California Civil Code §52.1 (Tom Bane Act);

DEMAND FOR JURY TRIAL

1 **JURISDICTION AND VENUE**

2 1. This action is brought pursuant to 42 U.S.C. §§ 1983 and 1988, and the
3 Fourth and Fourteenth Amendments to the United States Constitution, and the laws and
4 Constitution of the State of California. Jurisdiction is conferred upon this Court by 28
5 U.S.C. §§ 1331 and 1343.

6 2. This Court has the authority to grant the requested declaratory relief
7 pursuant to 28 U.S.C. §§ 2201, as well as Federal Rules of Civil Procedure 57,
8 including pursuant to the Court’s inherent equitable powers.

9 3. Venue is proper within the Central District of California pursuant to 28
10 U.S.C. § 1391(b)(1) and (2) because all Defendants reside within this district and the
11 events and omissions giving rise to Plaintiffs’ claims occurred within this district.

12 4. Plaintiffs have complied with the California Tort Claims Act requirements
13 with respect to their claims arising under state law.

14 5. With respect to these supplemental state claims, Plaintiffs request that this
15 Court exercise supplemental jurisdiction pursuant to 28 U.S.C. § 1367 over such claims
16 as they arise from the same facts and circumstances which underlie the federal claims.

17 **PARTIES**

18 6. Plaintiffs E.I.O, N.A.O.1., and N.A.O.2., were the natural children of
19 RICHARD OSAKI (hereafter “OSAKI”), and at all times relevant hereto were
20 residents of San Bernardino County, California. Plaintiffs E.I.O, N.A.O.1., and
21 N.A.O.2. bring these claims pursuant to California Code of Civil Procedure §§ 377.20
22 *et seq.* and 377.60 *et seq.*, which provide for survival and wrongful death actions.
23 Plaintiffs E.I.O N.A.O.1., and N.A.O.2. also bring these claims individually and on
24 behalf of decedent RICHARD OSAKI on the basis of 42 U.S.C. § 1983 and § 1988,
25 the United States Constitution, federal and state civil rights law and California law.
26 Plaintiffs E.I.O, N.A.O.1., and N.A.O.2. also bring these claims as a Private Attorney
27 General, to vindicate not only their rights, but others’ civil rights of great importance.

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1 7. Plaintiff STANLEY OSAKI, and at all times relevant hereto was a
2 resident of San Bernardino County, California. Plaintiff STANLEY OSAKI is
3 RICHARD OSAKI’s father and brings these claims in his individual capacities and
4 seeks wrongful death damages.

5 8. Defendant SAN BERNARDINO COUNTY (hereinafter also
6 “COUNTY”) owns, operates, manages, directs and controls Defendant SAN
7 BERNARDINO COUNTY SHERIFF’S DEPARTMENT (hereinafter also “SBSD”),
8 also a separate public entity, which employs other Doe Defendants in this action. At all
9 times relevant to the facts alleged herein, Defendant COUNTY was responsible for
10 assuring that the actions, omissions, policies, procedures, practices and customs of its
11 employees, including SBSB employees complied with the laws and the Constitutions
12 of the United States and of the State of California. Defendant COUNTY, through
13 SBSB, is and was responsible for ensuring the protection and safety of all persons
14 incarcerated at the SBSB correctional facilities and detention centers, including the
15 SAN BERNARDINO COUNTY’s West Valley Detention Center (WVDC).

16 9. Defendant SHERIFF SHANNON D. DICUS (hereinafter also “DICUS”),
17 at all times mentioned herein, was the Sheriff of Defendant SAN BERNARDINO
18 COUNTY, the highest position in the COUNTY Jails. As Sheriff, Defendant DICUS
19 is and was responsible for the hiring, screening, training, retention, supervision,
20 discipline, counseling, and control of all COUNTY Jails’ employees and/or agents.
21 Defendant DICUS is and was charged by law with oversight and administration of the
22 COUNTY Jails, including ensuring the safety of the inmates housed therein. Defendant
23 DICUS also is and was responsible for the promulgation of the policies and procedures
24 and allowance of the practices/customs pursuant to which the acts of the COUNTY
25 Jails alleged herein were committed. Defendant DICUS is being sued in his individual
26 and official capacities.

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1 10. At all relevant times, DOES 1-10, inclusive, were individuals employed
2 as employees/deputies with the defendant SBSD, acting within the course and scope of
3 that employment, under color of law.

4 11. Plaintiffs are ignorant of the true names and capacities of Defendants DOES
5 1 through 10 (“DOE Defendants”) and therefore sue these Defendants by such fictitious
6 names. Plaintiffs are informed and believe and thereon allege that each Defendant so
7 named is responsible in some manner for the injuries and damages sustained by Plaintiffs
8 as set forth herein. Plaintiffs will amend their complaint to state the names and capacities
9 of each DOE Defendant when they have been ascertained.

10 12. The identities, capacities, and/or nature of involvement of the defendants
11 sued as DOES 1 through 10 are presently unknown to the Plaintiffs who therefore sue
12 these defendants by fictitious names. Plaintiffs are informed, believe, and thereupon
13 allege that DOES 1 through 10 include individual law enforcement personnel and
14 medical personnel employed by the SBSD and the COUNTY Correctional Health
15 Services, and that they were involved in some manner and are legally responsible for
16 the wrongful acts and conduct alleged herein. Plaintiffs will amend this complaint to
17 substitute the DOE Defendants’ true names and capacities when they have been
18 ascertained. Plaintiffs are informed, believe, and thereupon allege that each DOE
19 defendant is a resident of California. Upon information and belief, DOES 1 through 10
20 were and still are residents of SAN BERNARDINO COUNTY, California. DOES 1
21 through 10 are sued in both their individual and official capacities.

22 13. At all relevant times, DOES 7 and 8 were managerial, supervisory,
23 training, and/or policymaking employees of Defendant COUNTY correctional health
24 services. At the time of the incident, DOES 7 and 8 were acting under color of law within
25 the course and scope of their duties as employees for the COUNTY correctional health
26 services. They had supervisory authority over DOES 1-10, and the COUNTY
27 correctional health services employees at the COUNTY Jails. DOES 7 and 8 were acting
28 with the complete authority and ratification of their principal, Defendant

1 COUNTY.

2 14. At all relevant times, DOES 9 and 10 were managerial, supervisory,
3 training, and/or policymaking employees of Defendant COUNTY. At the time of the
4 incident, DOES 9 and 10 were acting under color of law within the course and scope of
5 their duties as employees for the SBSB and/or the COUNTY. They had supervisory
6 authority over DOES 1-10, and the employees of the SBSB. DOES 9 and 10 were acting
7 with the complete authority and ratification of their principal, Defendant COUNTY.

8 15. Each of the defendants, including the DOE defendants, caused, and is
9 responsible for, the unlawful conduct and resulting injuries suffered by Plaintiffs by,
10 among other things, personally participating in the unlawful conduct, acting jointly, or
11 conspiring with others who did so; by ordering, authorizing, acquiescing in, or setting
12 in motion policies, plans, or actions that led to the unlawful conduct, by failing to take
13 action to prevent the unlawful conduct; by failing and refusing to initiate and maintain
14 adequate training and supervision; by failing to enact policies to address the
15 constitutional rights of protesters despite the obvious need for such a policy; and by
16 ratifying the unlawful conduct that occurred by agents and officers under their direction
17 and control, including failing to take remedial or disciplinary action.

18 16. Plaintiffs are informed and believe and thereon allege that each of the
19 Defendants was at all material times an agent, servant, employee, partner, joint venturer,
20 co-conspirator, and/or alter ego of the remaining Defendants, and in doing the things
21 herein alleged, was acting within the course and scope of that relationship. Plaintiffs are
22 further informed and believe and thereon allege that each of the Defendants herein gave
23 consent, aid, and assistance to each of the remaining Defendants, and ratified and/or
24 authorized the acts or omissions of each Defendant as alleged herein, except as may be
25 hereinafter specifically alleged. At all material times, each Defendant was jointly
26 engaged in tortious activity and an integral participant in the conduct described herein,
27 resulting in the deprivation of Plaintiffs' and decedent RICHARD OSAKI's
28 constitutional rights and other harm.

1 17. Plaintiffs are informed, believe, and thereupon allege that, at all times
2 relevant hereto, Defendants, and each of them, acted as the agents, servants, and
3 employees of each of the other defendants.

4 18. In doing each of the acts and/or omissions alleged herein, Defendants, and
5 each of them, acted within the course and scope of their employment.

6 19. In doing each of the acts and/or omissions alleged herein, Defendants, and
7 each of them, acted under color of authority and/or under the color of law.

8 **FACTUAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

9 20. Decedent RICHARD OSAKI had been in custody at the San Bernardino
10 County jail, West Valley Detention Center since June 6, 2022.

11 21. Upon RICHARD OSAKI's initial placement at WVDC, he was enrolled
12 in a drug detox protocol program, which alerted SBSB to his prior drug use and the
13 necessity for heightened care and monitoring.

14 22. Upon information and belief, despite being on notice of RICHARD
15 OSAKI's need for heightened care and monitoring, SBSB deputies DOES 1 – 10
16 housed RICHARD OSAKI in a cell, module, or facility known for housing other
17 inmates with a propensity for drug use and drug proliferation with the COUNTY's
18 WVDC.

19 23. On April 10, 2023, RICHARD OSAKI was discovered unresponsive in
20 the day room shower at WVDC, lying on the floor with vomit on his mouth. Upon
21 information and belief, RICHARD OSAKI displayed signs of medical distress that
22 were obvious to SBSB deputies DOES 1 - 10 responsible for ensuring RICHARD
23 OSAKI's care and safety. Upon information and belief, the signs of medical distress
24 that RICHARD OSAKI displayed were nausea, vomiting, shortness of breath, low
25 blood pressure, choking on his vomit, and collapsing while gasping for air. However,
26 SBSB deputies DOES 1 - 10 at WVDC were indifferent to RICHARD OSAKI's
27 immediate medical needs and failed to summon immediate medical care for RICHARD
28 OSAKI.

1 24. Upon information and belief, SBSB deputies DOES 1 - 10 responsible for
2 RICHARD OSAKI delayed their response in calling for paramedics, wasting precious
3 time that could have been used to save RICHARD OSAKI's life.

4 25. Paramedics were eventually summoned and RICHARD OSAKI was
5 transported to Kaiser Foundation Hospital Fontana (KFHF) where he arrived without
6 a pulse. KFHF medical staff performed advanced cardiac life-saving measures,
7 including CPR, intubation, and administration of Narcan.

8 26. Upon information and belief, KFHF medical staff's efforts to save
9 RICHARD OSAKI's life were too late because of SBSB deputies DOES 1 – 10's
10 indifference to the medical emergency RICHARD OSAKI suffered on April 10, 2023,
11 and because of their unreasonable delay in responding to RICHARD OSAKI's medical
12 emergency.

13 27. RICHARD OSAKI was pronounced dead by KFHF Dr. Ibrahim Mansour
14 at 8:08 a.m. on April 10, 2023.

15 28. Decedent RICHARD OSAKI was a healthy forty-four (43) year-old man
16 with no prior history of disease or other medical complications. Accordingly, the
17 circumstances of RICHARD OSAKI's death are not consistent with natural causes.
18 With particular concern for the SBSB's reticence about the details of Decedent
19 RICHARD OSAKI's death, the present claimants are informed, believe, and thereon
20 allege that Decedent RICHARD OSAKI's death was a product of reckless exposure to
21 preventable dangers and/or cruel or unusual conditions of confinement in the SAN
22 BERNARDINO COUNTY WVDC, deliberate indifference to manifest medical needs,
23 exposure to violence, exposure to hazard, or some combination thereof.

24 29. Upon information and belief, knowing that RICHARD OSAKI was
25 experiencing a serious health condition, Defendants DOES 1-10, inclusive, and each
26 of them, deliberately failed to immediately address RICHARD OSAKI's medical
27 needs.

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1 30. Upon information and belief, COUNTY’s medical and custody staff had
2 an opportunity to observe the clear signs of RICHARD OSAKI’s dire medical needs.
3 However, despite these express signs, the COUNTY medical and custody staff were
4 indifferent to RICHARD OSAKI ’s health and safety.

5 31. Upon information and belief, due to the COUNTY Jails patterns and
6 practices of not conducting proper and timely Title 15 welfare and safety checks,
7 RICHARD OSAKI’s dire need for emergency medical intervention went unnoticed by
8 the SAN BERNARDINO COUNTY WVDC custody, medical and mental health staff,
9 who were responsible for monitoring and ensuring the welfare of all inmates, including
10 Decedent RICHARD OSAKI.

11 **FIRST CLAIM FOR RELIEF**

12 **Failure to Protect from Harm,**

13 **Violation of the Fourteenth Amendment to the United States Constitution**

14 **(Survival Action – 42 U.S.C. § 1983)**

15 **By Plaintiffs Estate of RICHARD OSAKI As Against DOES 1 through 10**

16 32. Plaintiffs reallege and incorporate herein by reference each of the
17 preceding paragraphs of this complaint, and any subsequent paragraphs.

18 33. Pretrial detainees such as RICHARD OSAKI have a Fourteenth
19 Amendment due process right to be free from harm. *See Castro v. County of Los*
20 *Angeles*, 833 F.3d 1060 (9th Cir. 2016) (en banc); *see also Gordon v. County of*
21 *Orange*, 888 F.3d 1118, 1124–25 (9th Cir. 2018).

22 34. Defendants DOES 1 through 10 were on notice that their conduct as well
23 as their deficient policies, procedures, and practices alleged herein created a substantial
24 risk of serious harm to an inmate in decedent RICHARD OSAKI’s position.

25 35. Upon information and belief, Defendants DOES 1 through 10
26 intentionally chose to place RICHARD OSAKI among other inmates known to
27 Defendants for their drug use and facilitation of drug activities within WVDC. This
28 decision was made despite Defendants' awareness of the risks posed to RICHARD

1 OSAKI by these hazardous conditions. Each Defendant could have taken action to
2 prevent unnecessary harm to decedent RICHARD OSAKI but refused or failed to do
3 so.

4 36. By policy, procedure, and practice Defendants DOES 1 through 10
5 deliberately disregarded the hazards and risks posed to persons incarcerated/detained
6 at the SAN BERNARDINO COUNTY's WVDC, as alleged above. Defendants failed
7 to take any reasonable steps to mitigate the obvious and well-known risks of harm that
8 were attendant to housing decedent RICHARD OSAKI at the SAN BERNARDINO
9 COUNTY's WVDC, which included exposure to fentanyl.

10 37. Defendants DOES 1 through 10's failure to conduct the required safety
11 check of decedent RICHARD OSAKI's housing unit on the date leading to his death
12 evidences deliberate indifference to the risk of harm to decedent RICHARD OSAKI.

13 38. Upon information and belief, Defendants SHERIFF DON DICUS and
14 DOES 8 through 10 ratified Defendants DOES's failure to conduct safety checks and
15 falsification of logs.

16 39. As a direct and proximate result of Defendants' conduct, the civil rights
17 of RICHARD OSAKI, as protected by the Fourteenth Amendment of the United States
18 Constitution were violated. Further, decedent RICHARD OSAKI experienced physical
19 pain, severe emotional distress, and mental anguish, as well as loss of his life and other
20 damages alleged herein.

21 40. Defendants subjected decedent RICHARD OSAKI to their wrongful
22 conduct, depriving RICHARD OSAKI of rights described herein, knowingly,
23 maliciously, and with conscious and reckless disregard for whether the rights and safety
24 of RICHARD OSAKI and others would be violated by their acts and/or omissions.

25 41. As a direct and proximate result of Defendants' acts and/or omissions as
26 set forth above, RICHARD OSAKI, through Plaintiffs herein, sustained injuries and
27 damages.

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1 42. The conduct of Defendants entitles Plaintiffs to punitive damages and
2 penalties allowable under 42 U.S.C. § 1983 and as provided by law. Plaintiffs do not
3 seek punitive damages against Defendants COUNTY.

4 43. Plaintiffs are also entitled to reasonable costs and attorneys' fees under 42
5 U.S.C. § 1988, and other applicable United States and California codes and laws.

6 **SECOND CLAIM FOR RELIEF**

7 **Failure to Provide Medical Care,**

8 **Violation of the Fourteenth Amendment to the United States Constitution**

9 **(Survival Action – 42 U.S.C. § 1983)**

10 **By Plaintiff Estate of RICHARD OSAKI As Against DOES 1 through 10**

11 44. Plaintiffs reallege and incorporate herein by reference each of the
12 preceding paragraphs of this complaint, and any subsequent paragraphs.

13 45. Pretrial detainees such as RICHARD OSAKI have a Fourteenth
14 Amendment due process right to needed medical care. *See Castro v. County of Los*
15 *Angeles*, 833 F.3d 1060 (9th Cir. 2016) (en banc); *see also Gordon v. County of*
16 *Orange*, 888 F.3d 1118, 1124–25 (9th Cir. 2018).

17 46. By the actions and omissions described above, Defendants DOES 1
18 through 10, as alleged herein, violated 42 U.S.C. § 1983, depriving decedent
19 RICHARD OSAKI, through Plaintiffs herein, of the following clearly established and
20 well-settled constitutional rights protected by the Fourth and Fourteenth Amendments
21 to the United States Constitution: Decedent's right to be free from deliberate
22 indifference to RICHARD OSAKI's serious medical and mental health needs while in
23 custody.

24 47. Despite RICHARD OSAKI's need for medical care, Defendants DOES 1
25 through 10, failed to provide RICHARD OSAKI with any medical care. Worse yet,
26 even after it was reasonably obvious that RICHARD OSAKI was experiencing a
27 medical emergency due to not being able to breathe and choking on his vomit,
28 Defendants DOES 1 through 10, were further deliberately indifferent to RICHARD

1 OSAKI’s medical needs, and ignored RICHARD OSAKI’s immediate need for
2 medical care. On April 10, 2023, RICHARD OSAKI was found unresponsive lying in
3 the shower of the day room with vomit on his mouth.

4 48. By the actions and omissions described above, Defendants DOES 1
5 through 10, as alleged herein, including but not limited to their failure to provide
6 decedent RICHARD OSAKI with appropriate emergency medical and mental health
7 care, along with the acts and/or omissions of Defendants in failing to train, supervise,
8 and/or promulgate appropriate policies and procedures to provide emergency medical
9 and mental health care and life-saving care to persons in their custody, constituted
10 deliberate indifference to RICHARD OSAKI’s serious medical and mental health
11 needs, health, and safety.

12 49. As a direct and proximate result of Defendants’ conduct, the civil rights
13 of RICHARD OSAKI, as protected by the Fourteenth Amendment of the United States
14 Constitution were violated. Further, decedent RICHARD OSAKI experienced physical
15 pain, severe emotional distress, and mental anguish, as well as loss of his life and other
16 damages alleged herein.

17 50. Defendants subjected RICHARD OSAKI to their wrongful conduct,
18 depriving Decedent of rights described herein, knowingly, maliciously, and with
19 conscious and reckless regard for whether the rights and safety of RICHARD OSAKI
20 and others would be violated by their acts and/or omissions.

21 51. As a direct and proximate result of Defendants’ acts and/or omissions as
22 set forth above, Decedent, through Plaintiffs herein, sustained injuries and damages.

23 52. The conduct of Defendants entitles Plaintiffs to punitive damages and
24 penalties allowable under 42 U.S.C. § 1983 and as provided by law. Plaintiffs do not
25 seek punitive damages against Defendants COUNTY.

26 53. Plaintiffs are also entitled to reasonable costs and attorneys’ fees under 42
27 U.S.C. § 1988, and other applicable United States and California codes and laws.

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THIRD CLAIM FOR RELIEF

**Deprivation of the Right to Familial Relationship with Decedent,
Violation of the Fourteenth Amendment to the United States Constitution
(42 U.S.C. § 1983)**

**By Plaintiffs E.I.O, N.A.O.1, N.A.O.2., and STANLEY OSAKI, individually, As
Against DOES 1 through 10**

54. Plaintiffs reallege and incorporate herein by reference each of the preceding paragraphs of this complaint, and any subsequent paragraphs.

55. The aforementioned acts and/or omissions of Defendants DOES 1 through 10 in being deliberately indifferent to decedent RICHARD OSAKI's protection, safety, and serious medical and mental health needs, violating decedent RICHARD OSAKI's constitutional rights, and their failure to train, supervise, and/or take other appropriate measures to prevent the acts and/or omissions that caused the untimely and wrongful death of RICHARD OSAKI deprived Plaintiffs E.I.O, N.A.O.1, N.A.O.2., and STANLEY OSAKI, of their liberty interests in the familial relationship in violation of their substantive due process rights as defined by the Fourteenth Amendments of the Constitution.

56. All of the acts of Defendant DOES 1 through 10 and the persons involved were done under color of state law.

57. The acts and omissions of each Defendants deprived Plaintiffs E.I.O, N.A.O.1, N.A.O.2., and STANLEY OSAKI, of rights, privileges, and immunities secured by the Constitution and laws of the United States, including but not limited to the Fourteenth Amendment by, among other things, depriving Plaintiffs of their rights to a familial relationship with decedent RICHARD OSAKI without due process of law by their deliberate indifference in denying RICHARD OSAKI protection and safety while incarcerated at the SAN BERNARDINO COUNTY's WVDC and access to medical care while suffering a medical emergency at the SAN BERNARDINO COUNTY's WVDC.

1 58. Defendants DOES 1 through 10 and the other involved agents and
2 employees acted pursuant to expressly adopted official policies or longstanding
3 practices or customs of the COUNTY and SBSD. These include policies and
4 longstanding practices or customs of failing to provide persons in pretrial custody who
5 are experiencing medical emergencies access to medical care as stated above and
6 incorporated herein.

7 59. In addition, the training policies of the COUNTY and SBSD were not
8 adequate to train its deputies, agents and employees to handle the usual and recurring
9 situations with which they must deal with, including but not limited to encounters with
10 individuals in custody who are experiencing medical emergencies. These Defendants
11 and each of them knew that its failure to adequately train its COUNTY custody,
12 medical and mental health staff, including other agents and employees, to interact with
13 individuals suffering from medical emergencies made it highly predictable that its
14 custody, medical and mental health staff would engage in conduct that would deprive
15 persons such as decedent RICHARD OSAKI, and thus Plaintiffs of their rights. These
16 Defendants were thus deliberately indifferent to the obvious consequences of their
17 failure to train their deputies, agents and employees adequately.

18 60. Defendants COUNTY and SBSD's official policies and/or longstanding
19 practices or customs, including but not limited to its training policies, caused the
20 deprivation of the constitutional rights of Plaintiffs E.I.O, N.A.O.1, N.A.O.2., and
21 STANLEY OSAKI, and decedent RICHARD OSAKI by each individual Defendant's
22 official policies and/or longstanding practices or customs are so closely related to
23 RICHARD OSAKI's injuries and death and thus the deprivation of the rights of
24 Plaintiffs as to be the moving force causing those injuries.

25 61. Defendant SHERIFF DON DICUS, a final policymaker for the COUNTY
26 and SBSD, ratified the actions and omissions of Defendants DOES 1 through 10, all of
27 whom were custody, medical and mental health staff at the COUNTY Jails, including
28 the SAN BERNARDINO COUNTY WVDC, in that he had knowledge of and made a

1 deliberate choice to approve their unlawful acts and omissions.

2 62. As a direct and proximate result of Defendants’ conduct, the civil rights
3 of RICHARD OSAKI, as protected by the Fourteenth Amendment of the United States
4 Constitution were violated. Further, decedent RICHARD OSAKI experienced physical
5 pain, severe emotional distress, and mental anguish, as well as loss of his life and other
6 damages alleged herein.

7 63. Defendants subjected Decedent to their wrongful conduct, depriving
8 Decedent of rights described herein, knowingly, maliciously, and with conscious and
9 reckless disregard for whether the rights and safety of Decedent and others would be
10 violated by their acts and/or omissions.

11 64. As a direct and proximate result of Defendants’ acts and/or omissions as
12 set forth above, Plaintiffs sustained injuries and damages.

13 65. The conduct of Defendants entitles Plaintiffs to punitive damages and
14 penalties allowable under 42 U.S.C. § 1983 and as provided by law. Plaintiffs do not
15 seek punitive damages against Defendants COUNTY.

16 66. Plaintiffs are also entitled to reasonable costs and attorneys’ fees under 42
17 U.S.C. § 1988, and other applicable United States and California codes and laws.

18 **FOURTH CLAIM FOR RELIEF**

19 **Municipal Liability – Unconstitutional Policies, Customs, Practices**

20 *(Monell - 42 U.S.C. § 1983)*

21 **By Plaintiffs ESTATE OF RICHARD OSAKI As Against Defendants COUNTY**
22 **OF SAN BERNARNINO and SAN BERNARNINO COUNTY SHERIFF’S**
23 **DEPARTMENT**

24 67. Plaintiffs reallege and incorporate herein by reference each of the
25 preceding paragraphs of this complaint, and any subsequent paragraphs.

26 68. At all times relevant hereto, the SBSB and COUNTY custody, medical
27 and mental health staff were required to adhere to and enforce the following policies
28 and procedures:

- 1 a. To deny pretrial detainees and other inmates access to timely, appropriate,
2 competent, and necessary care for serious medical needs, requiring such
3 inmates in crisis to remain untreated in jail instead of providing for their
4 emergency medical needs;
- 5 b. To allow and encourage deputies doing regular cell checks on inmates,
6 including in safety cells, to fail to document their actual observations of
7 the inmate's condition and status, in violation of San Bernadino County's
8 written policies and state law;
- 9 c. To allow and encourage inadequate and incompetent medical care for jail
10 inmates and arrestees;
- 11 d. To hire, retain and contract for obviously inadequate medical care for jail
12 inmates and arrestees, including creating financial incentives for custodial
13 and medical personnel not to send inmates with emergency medical needs
14 to a hospital;
- 15 e. To allow, encourage, and require medical staff, including licensed
16 vocational nurses and registered nurses, to work outside their legal scope
17 of practice and without appropriate supervision;
- 18 f. To fail to train custody staff that medical staff, including licensed
19 vocational nurses, are not competent to assess or decide inmates' medical
20 conditions, medical needs, or whether the inmate should be permitted to
21 remain in the jail versus being sent to a hospital;
- 22 g. To allow, encourage, and require unlicensed, incompetent, inadequately
23 trained and/or inadequately supervised staff to assess inmates' medical
24 condition, needs, and treatment, including to decide whether or not to
25 provide inmates with necessary emergency care and hospitalization;
- 26 h. To fail to institute, require, and enforce proper and adequate training,
27 supervision, policies, and procedures concerning handling persons in
28 medical crisis;

- 1 i. To cover up violations of constitutional rights by any or all of the
2 following:
 - 3 i. By failing to properly investigate and/or evaluate incidents of
4 violations of rights, including by unconstitutional medical care at
5 the jail;
 - 6 ii. By ignoring and/or failing to properly and adequately investigate
7 and/or investigate and discipline unconstitutional or unlawful
8 conduct by custodial and medical personnel;
 - 9 iii. By turning a blind eye to custodial and medical personnel who
10 direct, aid, and/or assist with the distribution of hazards, including
11 illicit drugs, into San Bernardino County jails; and
 - 12 iv. By allowing, tolerating, and/or encouraging custodial and medical
13 personnel to: fail to file complete and accurate reports; file false
14 reports; make false statements; and/or obstruct or interfere with
15 investigations of unconstitutional or unlawful conduct by
16 withholding and/or concealing material information;
- 17 j. To allow, tolerate, and/or encourage a “code of silence” among law
18 enforcement officers, SBSB personnel, custodial personnel and medical
19 personnel at the jail whereby an officer or member of the SBSB or medical
20 staff does not provide adverse information against a fellow officer, or
21 member of the SBSB or the medical staff;
- 22 k. To fail to have and enforce necessary, appropriate, and lawful policies,
23 procedures, and training programs to prevent or correct the
24 unconstitutional conduct, customs, and procedures described in
25 subparagraphs (a) through (j) above, with deliberate indifference to the
26 rights and safety of pretrial detainees, such as Decedent, and in the face of
27 an obvious need for such policies, procedures, and training programs.

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1 69. The unconstitutional actions and/or omissions of Defendants DOES 1
2 through 10, as well as other officers employed by or acting on behalf of the COUNTY
3 and SBSB, on information and belief, were pursuant to the following customs, policies,
4 practices, and/or procedures of the COUNTY and the SBSB, stated in the alternative,
5 which were directed, encouraged, allowed, and/or ratified by policymaking officers for
6 the COUNTY and SBSB, including SHERIFF DON DICUS:

- 7 a. To fail to properly and adequately hire, train, supervise, and monitor
8 custodial and medical personnel at the jails;
- 9 b. To fail to use appropriate and generally accepted law enforcement
10 procedures for handling persons in medical crisis;
- 11 c. To fail to institute, require, and enforce proper and adequate training,
12 supervision, policies, and procedures concerning handling persons in
13 medical crisis;
- 14 d. To cover up violations of constitutional rights by any or all of the
15 following:
- 16 i. By failing to properly investigate and/or evaluate complaints or
17 incidents of handling of persons in medical crisis;
- 18 ii. By ignoring and/or failing to properly and adequately investigate
19 and/or discipline unconstitutional or unlawful law enforcement
20 activity; and
- 21 iii. By allowing, tolerating, and/or encouraging law enforcement
22 officers to: fail to file complete and accurate reports; file false
23 reports; make false statements; intimidate, bias and/or “coach”
24 witnesses to give false information and/or to attempt to bolster
25 officers’ stories; and/or obstruct or interfere with investigations of
26 unconstitutional or unlawful law enforcement conduct by
27 withholding and/or concealing material information;

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- 1 e. To allow, tolerate, and/or encourage a “code of silence” among law
2 enforcement officers whereby an officer does not provide adverse
3 information against a fellow law enforcement officer;
- 4 f. To allow, tolerate, and/or encourage a “code of silence” among custodial
5 and medical personnel at the COUNTY jails whereby custodial and
6 medical personnel does not provide adverse information against a fellow
7 staffer;
- 8 g. To fail to have and enforce necessary, appropriate, and lawful policies,
9 procedures, and training programs to prevent or correct the
10 unconstitutional conduct, customs, and procedures described in
11 subparagraphs (a) through (g) above, with deliberate indifference to the
12 rights and safety of pretrial detainees, such as Decedent, and in the face of
13 an obvious need for such policies, procedures, and training programs.

14 70. Defendants COUNTY and SBSB, through their employees and agents,
15 and through their policy-making supervisors, SHERIFF DON DICUS and DOES 8
16 through 10, failed to properly hire, train, instruct, monitor, supervise, evaluate,
17 investigate, and discipline Defendants DOES 1 through 10, and other COUNTY and
18 SBSB personnel, with deliberate indifference to the constitutional rights of decedent
19 RICHARD OSAKI, Plaintiffs and others in similar positions, as described above, and
20 therefore, those rights thereby violated.

21 71. The unconstitutional actions and/or omissions of Defendants DOES 1
22 through 10, and other SBSB custody and medical staff, as described above, were
23 approved, tolerated, and/or ratified by policymaking officers for the COUNTY and
24 SBSB, including Defendants SHERIFF DON DICUS and DOES 8 through 10.
25 Plaintiffs are informed and believe and thereon allege that the details of this incident
26 have been revealed to the authorized policymakers within the COUNTY and SBSB,
27 and that such policymakers have direct knowledge of the fact that the death of
28 RICHARD OSAKI was the result of deliberate indifference to his rights to be protected

1 and safe while in the custody of the COUNTY/SBSD, and his rights to have access to
2 medical care when suffering a medical emergency. Notwithstanding this knowledge,
3 the authorized policymakers within the COUNTY and SBSB have approved of the
4 conduct and decisions of Defendants DOES 1 through 10 in this matter, and have made
5 a deliberate choice to endorse such conduct and decisions, and the basis for them, that
6 resulted in the death of RICHARD OSAKI By so doing, the authorized policymakers
7 within the COUNTY and SBSB have shown affirmative agreement with the individual
8 Defendants' actions and have ratified the unconstitutional acts of the individual
9 Defendants. Furthermore, Plaintiffs are informed and believe, and thereupon allege,
10 that Defendants SHERIFF DON DICUS and DOES 8 through 10, and other policy-
11 making officers for the COUNTY and SBSB were and are aware of a pattern of
12 misconduct and injury caused by COUNTY Jails custody and medical staff similar to
13 the conduct of Defendants described herein, but failed to discipline culpable custody
14 and medical staff and failed to institute new procedures and policy within the
15 COUNTY and SBSB.

16 72. The aforementioned customs, policies, practices, and procedures; the
17 failures to properly and adequately hire, train, instruct, monitor, supervise, evaluate,
18 investigate, and discipline; and the unconstitutional orders, approvals, ratification, and
19 toleration of wrongful conduct of Defendants COUNTY and SBSB were a moving
20 force and/or a proximate cause of the deprivations of decedent RICHARD OSAKI's
21 clearly established and well-settled constitutional rights in violation of 42 U.S.C. §
22 1983. Defendants subjected decedent RICHARD OSAKI to their wrongful conduct,
23 depriving decedent RICHARD OSAKI of rights described herein, knowingly,
24 maliciously, and with conscious and reckless disregard for whether the rights and safety
25 of decedent RICHARD OSAKI, Plaintiff and others would be violated by their acts
26 and/or omissions.

27 73. As a direct and proximate result of the unconstitutional actions, omissions,
28 customs, policies, practices, and procedures of Defendants COUNTY and SBSB, as

1 described above, decedent RICHARD OSAKI suffered serious injuries and death,
2 Plaintiff is entitled to damages, penalties, costs, and attorneys' fees against Defendants
3 COUNTY and SBSD.

4 74. As a direct and proximate result of Defendants' conduct, the civil rights
5 of RICHARD OSAKI, as protected by the Fourteenth Amendment of the United States
6 Constitution were violated. Further, decedent RICHARD OSAKI experienced physical
7 pain, severe emotional distress, and mental anguish, as well as loss of his life and other
8 damages alleged herein.

9 75. Defendants subjected Decedent to their wrongful conduct, depriving
10 Decedent of rights described herein, knowingly, maliciously, and with conscious and
11 reckless disregard for whether the rights and safety of Decedent and others would be
12 violated by their acts and/or omissions.

13 76. As a direct and proximate result of Defendants' acts and/or omissions as
14 set forth above, Plaintiffs sustained injuries and damages.

15 77. The conduct of Defendants entitles Plaintiffs to punitive damages and
16 penalties allowable under 42 U.S.C. § 1983 and as provided by law. Plaintiffs do not
17 seek punitive damages against Defendants COUNTY.

18 78. Plaintiffs are also entitled to reasonable costs and attorneys' fees under 42
19 U.S.C. § 1988, and other applicable United States and California codes and laws.

20 **FIFTH CLAIM FOR RELIEF**

21 **Supervisory Liability,**

22 **(42 U.S.C. § 1983)**

23 **By Plaintiff Estate of RICHARD OSAKI As Against Defendants SHERIFF DON**
24 **DICUS, and DOES 7 through 10**

25 79. Plaintiffs reallege and incorporate herein by reference each of the
26 preceding paragraphs of this complaint, and any subsequent paragraphs.

27 80. At all material times, SHERIFF DON DICUS and DOES 8 through 10
28 had the duty and responsibility to constitutionally hire, train, instruct, monitor,

1 supervise, evaluate, investigate, staff, and discipline the other Defendants employed by
2 their respective agencies in this matter, as well as all employees and agents of the
3 COUNTY and SBSD.

4 81. Defendants SHERIFF DON DICUS, and DOES 7 through 10 failed to
5 properly hire, train, instruct, monitor, supervise, evaluate, investigate, and discipline
6 the respective employees of their agencies, including Defendants DOES 1 through 10,
7 and other COUNTY and SBSD personnel, with deliberate indifference to Plaintiffs',
8 decedent RICHARD OSAKI's, and others' constitutional rights, which were thereby
9 violated as described above.

10 82. As supervisors, Defendants SHERIFF DON DICUS, and DOES 7 through
11 10 each permitted and failed to prevent the unconstitutional acts of other Defendants
12 and individuals under their supervision and control, and failed to properly supervise
13 such individuals, with deliberate indifference to the rights to safety and protections
14 while incarcerated at SAN BERNARDINO COUNTY WVDC and the rights to the
15 serious medical and mental health needs of decedent RICHARD OSAKI Supervising
16 Defendants either directed his or her subordinates in conduct that violated Decedent's
17 rights, or set in motion a series of acts and omissions by his or her subordinates that the
18 supervisor knew or reasonably should have known would deprive decedent RICHARD
19 OSAKI of rights, or knew his or her subordinates were engaging in acts likely to
20 deprive decedent RICHARD OSAKI of rights and failed to act to prevent his or her
21 subordinate from engaging in such conduct, or disregarded the consequence of a known
22 or obvious training deficiency that he or she must have known would cause
23 subordinates to violate decedent RICHARD OSAKI's rights, and in fact did cause the
24 violation of decedent RICHARD OSAKI's rights. (*See*, Ninth Circuit Model Civil Jury
25 Instruction 9.4). Furthermore, each of these supervising Defendants is liable in their
26 failures to intervene in their subordinates' apparent violations of decedent RICHARD
27 OSAKI' rights.

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1 83. The unconstitutional customs, policies, practices, and/or procedures of
2 Defendants COUNTY and SBSB, as stated herein, were directed, encouraged, allowed,
3 and/or ratified by policymaking officers for Defendants COUNTY and SBSB,
4 including Defendants SHERIFF DON DICUS, and DOES 7 through 10, respectively,
5 with deliberate indifference to Plaintiff's, decedent RICHARD OSAKI's, and others'
6 constitutional rights, which were thereby violated as described above.

7 84. The unconstitutional actions and/or omissions of Defendants DOES 1
8 through 10, and other COUNTY and SBSB personnel, as described above, were
9 approved, tolerated, and/or ratified by policymaking officers for the COUNTY and
10 SBSB, including Defendants SHERIFF DON DICUS, and DOES 7 through 10.

11 85. Plaintiff is informed and believes and thereon alleges that the details of
12 this incident have been revealed to Defendants SHERIFF DON DICUS, and DOES 7
13 through 10 and that such Defendant-policymakers have direct knowledge of the fact
14 that the death of decedent RICHARD OSAKI was not justified or necessary, but
15 represented deliberate indifference to his rights to be protected and safe while in the
16 COUNTY's custody and his rights to his serious medical and mental health needs, as
17 set forth above. Notwithstanding this knowledge, on information and belief,
18 Defendants SHERIFF DON DICUS and DOES 7 through 10 have approved and
19 ratified of the conduct and decisions of Defendants DOES 1 through 10 in this matter,
20 and have made a deliberate choice to endorse such conduct and decisions, and the basis
21 for them, that resulted in the death of RICHARD OSAKI By so doing, Defendants
22 SHERIFF DON DICUS and DOES 7 through 10 have shown affirmative agreement
23 with the individual Defendants' actions and have ratified the unconstitutional acts of
24 the individual Defendants.

25 86. Furthermore, Plaintiffs are informed and believe, and thereupon allege,
26 that Defendants SHERIFF DON DICUS, and DOES 7 through 10 and other
27 policymaking officers for the COUNTY and SBSB were and are aware of a pattern of
28 misconduct and injury, and a code of silence, caused by COUNTY and SBSB custody,

1 medical and mental health staff personnel similar to the conduct of Defendants
2 described herein, but failed to discipline culpable law enforcement officers and
3 employees and failed to institute new procedures and policy within the COUNTY and
4 SBSD.

5 87. The aforementioned customs, policies, practices, and procedures; the
6 failures to properly and adequately hire, train, instruct, monitor, supervise, evaluate,
7 investigate, and discipline; and the unconstitutional orders, approvals, ratification, and
8 toleration of wrongful conduct of Defendants SHERIFF DON DICUS, and DOES 7
9 through 10 were a moving force and/or a proximate cause of the deprivations of
10 decedent RICHARD OSAKI's clearly established and well-settled constitutional rights
11 in violation of 42 U.S.C. § 1983, as more fully set forth above.

12 88. Defendants subjected decedent RICHARD OSAKI to their wrongful
13 conduct, depriving decedent RICHARD OSAKI of rights described herein, knowingly,
14 maliciously, and with conscious and reckless disregard for whether the rights and safety
15 of decedent RICHARD OSAKI and others would be violated by their acts and/or
16 omissions.

17 89. As a direct and proximate result of the unconstitutional actions, omissions,
18 customs, policies, practices, and procedures of Defendants SHERIFF DON DICUS,
19 and DOES 7 through 10 as described above, Plaintiff sustained serious and permanent
20 injuries and is entitled to damages, penalties, costs, and attorneys' fees.

21 **SIXTH CLAIM FOR RELIEF**

22 **Negligence – Wrongful Death**

23 **By Plaintiffs E.I.O N.A.O.1., N.A.O.2, and, STANLEY OSAKI As Against All**
24 **Defendants**

25 90. Plaintiffs reallege and incorporate herein by reference each of the
26 preceding paragraphs of this complaint, and any subsequent paragraphs.

27 91. The present claim for relief is brought pursuant to Cal. Gov. Code §§
28 815.2 and 820. Under Section 820 of the Government Code, as public employees,

1 Defendants DOES 1-10, inclusive, are liable for injuries caused by their acts or
2 omissions to the same extent as private persons. Under Section 815.2 of the
3 Government Code, as public entities, Defendants COUNTY and SBSB are liable for
4 injuries caused by the acts or omissions of their employees committed within the course
5 and scope of their employment. This cause of action is not alleging direct liability
6 against Defendants COUNTY and SBSB, only vicarious liability. *See* Gov. Code, §
7 815.2, subds. (a), (b); *Zelig v. County of Los Angeles* (2002) 27 Cal.4th 1112, 1128.

8 92. At all times, Defendants DOES 1 through 10 owed Plaintiffs the duty to
9 act with due care in the execution and enforcement of any right, law, or legal obligation.

10 93. At all times, these Defendants owed Plaintiffs the duty to act with
11 reasonable care.

12 94. These general duties of reasonable care and due care owed to Plaintiffs by
13 these Defendants include but are not limited to the following specific obligations:

- 14 a. To summon, or transport Decedent to, necessary and appropriate
15 emergency medical and mental health care;
- 16 b. To refrain from unreasonably creating danger or increasing Decedent's
17 risk of harm;
- 18 c. To use generally accepted law enforcement procedures and tactics that are
19 reasonable and appropriate for Decedent's status as a person in medical
20 and mental health crisis with serious medical and mental health needs;
- 21 d. To conduct state-mandated safety and welfare checks of inmates in the
22 custody of the COUNTY Jails, which included the SAN BERNARDINO
23 COUNTY WVDC;
- 24 e. To refrain from abusing their authority granted them by law; and
- 25 f. To refrain from violating Plaintiffs' and Decedent's rights as guaranteed
26 by the United States and California Constitutions, as set forth above, and
27 as otherwise protected by law.

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1 95. Defendants and DOES 1 through 10, through their acts and omissions,
2 breached each and every one of the aforementioned duties owed to Plaintiffs and
3 decedent RICHARD OSAKI.

4 96. Defendants COUNTY and SBSD are vicariously liable for the violations
5 of state law and conduct of their officers, deputies, employees, and agents, including
6 individual named defendants, under California Government Code § 815.2.

7 97. As a direct and proximate result of these Defendants' negligence,
8 Plaintiffs and decedent RICHARD OSAKI sustained injuries and damages, and against
9 each and every Defendant named in this claim for relief in their individual capacities
10 are entitled to relief, including punitive damages against such individual Defendants.

11 **SEVENTH CLAIM FOR RELIEF**

12 **Negligence – Medical Malpractice**

13 **By Plaintiff ESTATE OF RICHARD OSAKI As Against All Defendants**

14 98. Plaintiffs reallege and incorporate herein by reference each of the
15 preceding paragraphs of this complaint, and any subsequent paragraphs.

16 99. The present claim for relief is brought pursuant to Cal. Gov. Code §§
17 815.2 and 820. Under Section 820 of the Government Code, as public employees,
18 Defendants DOES 1-10, inclusive, are liable for injuries caused by their acts or
19 omissions to the same extent as private persons. Under Section 815.2 of the
20 Government Code, as public entities, Defendants COUNTY and SBSD are liable for
21 injuries caused by the acts or omissions of their employees committed within the course
22 and scope of their employment. This cause of action is not alleging direct liability
23 against Defendants COUNTY and SBSD, only vicarious liability. *See* Gov. Code, §
24 815.2, subds. (a), (b); *Zelig v. County of Los Angeles* (2002) 27 Cal.4th 1112, 1128.

25 100. Decedent RICHARD OSAKI was under the care and treatment of
26 Defendants DOES 1 through 10, all of whom were COUNTY medical staff assigned
27 to the COUNTY Jails, including the SAN BERNARDINO's WVDC, who were
28 required to examine, treat, monitor, prescribe for and care for him and to provide him

1 with medical attention when he suffered a medical emergency. These Defendants,
2 acting within the scope and course of their employment with Defendants COUNTY
3 and SBSB, negligently, carelessly and unskillfully cared for, attended, handled,
4 controlled; failed to monitor and follow-up; abandoned; failed to classify, failed to
5 appropriately diagnose and/or refer decedent RICHARD OSAKI to specialist medical
6 care providers; negligently failed to provide physician care; negligently failed to
7 provide psychiatry care; carelessly failed to detect, monitor, and follow-up with his
8 condition; and negligently, carelessly and unskillfully failed to possess and exercise
9 that degree of skill and knowledge ordinarily possessed and exercised by others in the
10 same profession and in the same locality as Defendants for the benefit of their patient
11 and dependent detainee RICHARD OSAKI

12 101. Defendants DOES 1 through 10, all of whom were COUNTY medical
13 staff assigned to the COUNTY Jails failed to properly monitor RICHARD OSAKI on
14 April 10 2023, before RICHARD OSAKI was found unresponsive in the dayroom
15 shower.

16 102. It was more than evident on April 10 2023, that RICHARD OSAKI's
17 situation was dire and he needed immediate medical care. RICHARD OSAKI needed
18 immediate care to address the medical emergency he was experiencing as he struggled
19 to breathe and choked on his vomit, eventually losing consciousness and collapsing to
20 the floor. Instead of providing the appropriate medical care, Defendants DOES 1
21 through 10, and each of them, failed to take reasonable actions to summon medical care
22 for RICHARD OSAKI

23 103. Defendant supervisors and each of them failed to supervise, train and
24 monitor their subordinates, to maintain proper supervision, classification and staffing,
25 to timely provide decedent RICHARD OSAKI emergency medical and mental health
26 care, failed to provide adequate and competent staffing, and to ensure the care and
27 treatment ordered for decedent RICHARD OSAKI was provided.

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1 104. As a direct and legal result of the aforesaid negligence and carelessness of
2 Defendants’ actions and omissions, Plaintiffs sustained injuries and damages, and
3 against these Defendants, and each of them, are entitled to compensatory damages and
4 as applicable to this claim for Medical Negligence, to be proven at time of trial.

5 105. Defendants COUNTY and SBSB are vicariously liable for the violations
6 of state law and conduct of their officers, deputies, employees, and agents, including
7 individual named defendants, under California Government Code § 815.2.

8 **EIGHTH CLAIM FOR RELIEF**

9 **Violation of California Government Code § 845.6**

10 **By Plaintiff ESTATE OF RICHARD OSAKI As Against All Defendants**

11 106. Plaintiff realleges and incorporates herein by reference each of the
12 preceding paragraphs of this complaint, and any subsequent paragraphs.

13 107. The present claim for relief is brought pursuant to Cal. Gov. Code §§
14 815.2 and 820. Under Section 820 of the Government Code, as public employees,
15 Defendants DOES 1-10, inclusive, are liable for injuries caused by their acts or
16 omissions to the same extent as private persons. Under Section 815.2 of the
17 Government Code, as public entities, Defendants COUNTY and SBSB are liable for
18 injuries caused by the acts or omissions of their employees committed within the course
19 and scope of their employment. This cause of action is not alleging direct liability
20 against Defendants COUNTY and SBSB, only vicarious liability. *See Gov. Code, §*
21 *815.2, subds. (a), (b); Zelig v. County of Los Angeles (2002) 27 Cal.4th 1112, 1128.*

22 108. 115. Defendants DOES 1 through 10 knew, RICHARD OSAKI,
23 required immediate medical care and treatment. However, the Defendants Does 1
24 through 10, who were employed by Defendants COUNTY and SBSB, failed to take
25 reasonable action to summon immediate medical care and treatment after being on
26 notice that RICHARD OSAKI was unresponsive, lying on the dayroom shower floor.
27 Each individual defendant had knowledge of or reason to know about RICHARD
28 OSAKI's need for immediate medical care and treatment, yet they failed to take

1 reasonable action to summon such care and treatment. This conduct of the defendants
2 is in violation of California Government Code § 845.6.

3 109. In fact, it was more than evident on April 10, 2023, that RICHARD
4 OSAKI's medical situation was dire and he needed immediate medical care due to his
5 obvious symptoms of not being able to breathe, choking on his vomit, and gasping for
6 air and he lost consciousness and fell to the floor.

7 110. Defendants COUNTY and SBSD are vicariously liable for the violations
8 of state law and conduct of their officers, deputies, employees, and agents, including
9 individual named defendants, under California Government Code § 815.2.

10 111. As a direct and proximate result of the aforementioned acts of these
11 Defendants, decedent RICHARD OSAKI was injured as set forth above, and their
12 losses entitle Plaintiff to all damages allowable under California law. Plaintiff sustained
13 serious and permanent injuries and is entitled to damages, penalties, costs, and attorney
14 fees under California law, including punitive damages against these individual
15 Defendants.

16 **NINTH CLAIM FOR RELIEF**

17 **Violation of California Civil Code §52.1**

18 **(Tom Bane Act)**

19 **By Plaintiff ESTATE OF RICHARD OSAKI As Against All Defendants**

20 112. Plaintiffs reallege and incorporate herein by reference each of the
21 preceding paragraphs of this complaint, and any subsequent paragraphs.

22 113. The present claim for relief is brought pursuant to Civil Code § 52.1, Cal.
23 Gov. Code §§ 815.2 and 820. Under Section 820 of the Government Code, as public
24 employees, Defendants DOES 1-10, inclusive, are liable for injuries caused by their
25 acts or omissions to the same extent as private persons. Under Section 815.2 of the
26 Government Code, as public entities, Defendants COUNTY and SBSD are liable for
27 injuries caused by the acts or omissions of their employees committed within the course
28 and scope of their employment. This cause of action is not alleging direct liability

1 against Defendants COUNTY and SBSD, only vicarious liability. *See* Gov. Code, §
2 815.2, subds. (a), (b); *Zelig v. County of Los Angeles* (2002) 27 Cal.4th 1112, 1128.

3 114. Plaintiffs bring the claims in this claim for relief as a survival claim
4 permissible under California law, including Cal. Code of Civ. Proc. § 377.20 *et. seq.*

5 115. By their acts, omissions, customs, and policies, Defendants, each acting
6 in concert/conspiracy, as described above, while decedent RICHARD OSAKI was in
7 custody, and by threat, intimidation, and/or coercion, interfered with, attempted to
8 interfere with, and violated RICHARD OSAKI's rights under California Civil Code §
9 52.1 and under the United States Constitution and California Constitution as follows:

- 10 a. The right to be free from objectively unreasonable treatment and
11 deliberate indifference to Decedent's serious medical needs while in
12 custody as a pretrial detainee as secured by the Fourth and/or Fourteenth
13 Amendments to the United States Constitution and by California
14 Constitution, Article 1, §§ 7 and 13;
- 15 b. The right for the familial association to be free from government
16 interference as secured by the Fourteenth Amendments to the United
17 States Constitution;
- 18 c. The right to enjoy and defend life and liberty; acquire, possess, and protect
19 property; and pursue and obtain safety, happiness, and privacy, as secured
20 by the California Constitution, Article 1, § 1; and
- 21 d. The right to emergency medical and mental health care as required by
22 California Government Code §845.6.

23 116. Defendants' violations of decedent RICHARD OSAKI's due process
24 rights with deliberate indifference, in and of themselves constitute violations of the
25 Bane Act. Alternatively, separate from, and above and beyond, Defendants' attempted
26 interference, interference with, and violation of RICHARD OSAKI's rights as
27 described above, Defendants violated RICHARD OSAKI's rights by the following
28 conduct constituting threat, intimidation, or coercion:

- 1 a. With deliberate indifference to hazards that posed a risk to pretrial
- 2 detainees, such as Decedent;
- 3 b. With deliberate indifference to Decedent’s serious medical and mental
- 4 health needs, suffering, and risk of grave harm including death, depriving
- 5 Decedent of necessary, life-saving care for her medical needs;
- 6 c. Subjecting Decedent to ongoing violations of her rights to prompt care for
- 7 her serious medical and mental health needs over days, causing immense
- 8 and needless suffering, intimidation, coercion, and threats to her life and
- 9 well-being;
- 10 d. Deliberately contracting for and causing the provision of inadequate and
- 11 incompetent medical health care to San Bernardino County jail detainees
- 12 and inmates, including detainees and inmates housed at WVDC;
- 13 e. Requiring medical and mental health staff to work outside their scope of
- 14 practice, and conduct assessments, triage, and make medical and housing
- 15 decisions for patients, including Decedent, they are not competent to
- 16 make; and
- 17 f. Instituting and maintaining the unconstitutional customs, policies, and
- 18 practices described herein, when it was obvious that in doing so,
- 19 individuals such as Decedent would be subjected to violence, threat,
- 20 intimidation, coercion, and ongoing violations of rights as Decedent was
- 21 here.

22 117. The threat, intimidation, and coercion described herein were not necessary
23 or inherent to Defendants’ violation of decedent RICHARD OSAKI’s rights, or to any
24 legitimate and lawful jail or law enforcement activity.

25 118. Further, all of Defendants’ violations of duties and rights, and coercive
26 conduct, described herein were volitional acts; none was accidental or merely
27 negligent.

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1 119. Further, each Defendant violated decedent RICHARD OSAKI's rights
2 with reckless disregard and with the specific intent and purpose to deprive her of her
3 enjoyment of those rights and of the interests protected by those rights.

4 120. Defendant COUNTY is vicariously liable for the violations of state law
5 and conduct of their officers, deputies, employees, and agents, including individual
6 named defendants, under California Government Code § 815.2.

7 121. As a direct and proximate result of Defendants' violation of California
8 Civil Code § 52.1 and of decedent RICHARD OSAKI's rights under the United States
9 and California Constitutions, Plaintiff sustained injuries and damages, and against each
10 and every Defendant is entitled to relief, including punitive damages against all
11 individual Defendants, and all damages allowed by California Civil Code §§ 52 and
12 52.1 and California law, not limited to costs attorneys' fees, and civil penalties.

13 **REQUEST FOR RELIEF**

14 Wherefore, Plaintiffs respectfully requests that the Court enter a judgment as
15 follows:


- 16 A. Wrongful death of RICHARD OSAKI, pursuant to Cal. Code of Civ.
17 Proc. § 377.60 *et. seq.*;
- 18 B. Loss of support and familial relationships, including loss of love,
19 companionship, comfort, affection, society, services, solace, and moral
20 support, pursuant to Cal. Code of Civ. Proc. § 377.60 *et. seq.*;
- 21 C. RICHARD OSAKI's coroner's fees, funeral and burial expenses,
22 pursuant to Cal. Code of Civ. Proc. § 377.20 *et. seq.*;
- 23 D. Violation of RICHARD OSAKI's constitutional rights, pursuant to Cal.
24 Code of Civ. Proc. § 377.20 *et. seq.* and federal civil rights law;
- 25 E. RICHARD OSAKI's loss of life, pursuant to federal civil rights law;
- 26 F. RICHARD OSAKI's conscious pain, suffering, and disfigurement,
27 pursuant to federal civil rights law;

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- 1 G. General Damages, including wrongful death and survival damages, in
- 2 excess of the mandatory amount for jurisdiction in the Unlimited Superior
- 3 Court;
- 4 H. Non-Economic Damages, including wrongful death and survival
- 5 damages, according to proof plus all further and proper relief;
- 6 I. Punitive damages as to individual peace officer defendants;
- 7 J. Attorney’s fees pursuant to State Law (Cal. Code Civ. Proc. § 1021.5 &
- 8 private attorney general doctrine);
- 9 K. Penalties under the Tom Bane Act;
- 10 L. Interest; and
- 11 M. All other damages, penalties, costs, interest, and attorneys’ fees as allowed
- 12 by 42 U.S.C. §§ 1983 and 1988; California Code of Civil Procedure §§
- 13 377.20 *et. seq.*, 377.60 *et. seq.*, and 1021.5; California Civil Code §§ 52
- 14 *et. seq.*, 52.1; and as otherwise may be allowed by California and/or
- 15 federal law.

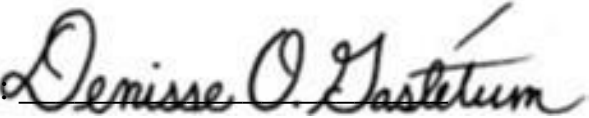
16 **Dated: April 20, 2024**

LAW OFFICES OF CHRISTIAN CONTRERAS
A PROFESSIONAL LAW CORPORATION

17
18
19 By: 
20 Christian Contreras, Esq.
21 Attorneys for Plaintiffs,
ESTATE OF RICHARD OSAKI, et al.

22 **Dated: April 19, 2024**

GASTÉLUM LAW, APC

23
24 By: 
25 Denisse O. Gastélum, Esq.
26 Attorneys for Plaintiffs,
ESTATE OF RICHARD OSAKI, et al.

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DEMAND FOR JURY TRIAL

Plaintiffs, ESTATE OF RICHARD OSAKI, E.I.O N.A.O.1., N.A.O.2, and, STANLEY OSAKI, hereby make a demand for a jury trial in this action.

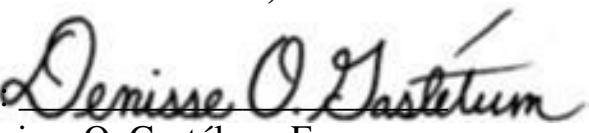
Dated: April 20, 2024

**LAW OFFICES OF CHRISTIAN CONTRERAS
A PROFESSIONAL LAW CORPORATION**

By: 
Christian Contreras, Esq.
Attorneys for Plaintiffs,
ESTATE OF RICHARD OSAKI, et al.

Dated: April 19, 2024

GASTÉLUM LAW, APC

By: 
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