

1 Gregory B. Thomas (SBN 239870)  
E-mail: gthomas@bwslaw.com  
2 Temitayo O. Peters (SBN 309913)  
E-mail: tpeters@bwslaw.com  
3 BURKE, WILLIAMS & SORENSEN, LLP  
1999 Harrison Street, Suite 1650  
4 Oakland, CA 94612-3520  
Tel: 510.273.8780 Fax: 510.839.9104

5 Attorneys for Defendant  
6 COUNTY OF ALAMEDA (sued herein  
as "ALAMEDA COUNTY")  
7

8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10

11 THE ESTATE OF MAURICE MONK,  
brought by personal representative,  
12 NIA'AMORE MONK; NIA'AMORE  
MONK, an individual,

13 Plaintiffs,

14 KYSE MONK, a minor, through a guardian,  
15 KANDI STEWART,

16 Plaintiff Intervenor,

17 v.

18 ALAMEDA COUNTY, a municipal  
corporation; WELLPATH COMMUNITY  
19 CARE, LLC, a corporation; and DOES 1-  
50, inclusive,

20 Defendants.  
21

Case No. 3:22-cv-04037-TSH

**DEFENDANT COUNTY OF ALAMEDA'S  
ANSWER TO INTERVENOR'S  
COMPLAINT FOR DAMAGES; DEMAND  
FOR JURY TRIAL**

22  
23 Defendant COUNTY OF ALAMEDA ("Defendant") answers Plaintiff Intervenor KYSE  
24 MONK's Complaint in Intervention ("INTERVENOR") and alleges as follows:

25 **INTRODUCTION**

26 1. In response to Paragraph 1, Defendant admits that Mr. Maurice Monk  
27 ("Decedent") was arrested on October 11, 2021 for trespassing on AC Transit Property and for an  
28 outstanding misdemeanor warrant for criminal threats after he was disruptive and refused to exit

1 an Alameda County Transit Bus. Defendant further admits that Decedent was incarcerated in  
2 Santa Rita Jail (“SRJ”) after his arrest on October 11, 2021. Defendant also admits that on  
3 November 14, 2021, Mr. Monk’s sister, Elvira Monk, sent jail staff a copy of a verification  
4 indicating that Decedent had been started on injectable Haldol Decanoate 50 mg on October 6,  
5 2021. Except as admitted herein, Defendant lacks sufficient knowledge or information to form a  
6 belief as to the truth of the remaining allegations in Paragraph 1, and on that basis denies each and  
7 every remaining allegation.

8 2. In response to Paragraph 2, Defendant admits that jail staff found Decedent laying  
9 unresponsive in his cell on November 15, 2021 and that he was forty-five years old when he died.  
10 Defendant also admits that Decedent died in custody just over one month after he was booked  
11 into SRJ for the final time on October 11, 2021. Defendant admits that Decedent’s sister, Elvira  
12 Monk, provided jail staff with a medical record for Decedent on November 14, 2021 and that  
13 another SRJ inmate also died on November 15, 2021. Defendant denies that Decedent’s death  
14 was the “57th death to occur” at SRJ since 2014. Except as admitted and denied herein,  
15 Defendant lacks sufficient knowledge or information to form a belief as to the truth of the  
16 remaining allegations in Paragraph 2, and on that basis denies each and every remaining  
17 allegation.

18 **JURISDICTION AND VENUE**

19 3. In response to Paragraph 3, Defendant admits that this Court has jurisdiction over  
20 this lawsuit and that INTERVENOR’s claims are asserted under 42 U.S.C. § 1983 and various  
21 provisions of the U.S. Constitution. Except as admitted herein, Defendant denies each and every  
22 remaining allegation.

23 **PARTIES**

24 4. In response to Paragraph 4, Defendant admits that Decedent was forty-five years  
25 old when he died on November 15, 2021. Except as admitted herein, Defendant lacks sufficient  
26 knowledge or information to form a belief as to the truth of the remaining allegations in  
27 Paragraph 4, and on that basis denies each and every remaining allegation.

28 ///





1           16.     In response to Paragraph 16, Defendant admits that on November 14, 2021,  
2 Decedent's sister, Elvira Monk, sent jail staff a copy of a verification indicating that Decedent  
3 had started on injectable Haldol Decanoate 50 mg on October 6, 2021. Defendant denies that Ms.  
4 Monk made any further efforts to contact jail staff any other time during Decedent's final  
5 incarceration. Except as admitted or denied herein, Defendant lacks sufficient knowledge or  
6 information to form a belief as to the truth of the remaining allegations in Paragraph 16, and on  
7 that basis denies each and every remaining allegation.

8           17.     In response to Paragraph 17, Defendant admits that Decedent had been diagnosed  
9 with schizophrenia. Defendant further admits that on November 14, 2021, Decedent's sister,  
10 Elvira Monk, sent jail staff a copy of a verification indicating that Decedent had started on  
11 injectable Haldol Decanoate 50 mg on October 6, 2021. Except as admitted herein, Defendant  
12 lacks sufficient knowledge or information to form a belief as to the truth of the remaining  
13 allegations in Paragraph 17, and on that basis denies each and every remaining allegation.

14           18.     In response to Paragraph 18, Defendant admits that Decedent's in-custody medical  
15 records indicate prior, pre-incarceration prescriptions for high blood pressure, diabetes, and  
16 mental disorders. Defendant further admits that Decedent was classified as Administrative  
17 Separation during his final incarceration at SRJ and housed in a single-person cell. Defendant  
18 denies that Decedent was housed in solitary confinement during his final incarceration at SRJ.  
19 Defendant also denies that Decedent was not provided any of his prescribed medications during  
20 his final incarceration. Except as admitted herein, Defendant lacks sufficient knowledge or  
21 information to form a belief as to the truth of the remaining allegations in Paragraph 18, and on  
22 that basis denies each and every remaining allegation.

23           19.     In response to Paragraph 19, Defendant admits that Decedent was found  
24 unresponsive in his cell on November 15, 2021 at around 7:35 p.m. approximately 35 days after  
25 he was incarcerated at SRJ. Defendant further admits that SRJ custody and medical personnel  
26 provided life-saving measures to Decedent on November 15, 2021. Defendant further admits that  
27 Decedent was pronounced dead after the paramedics arrived at around 8:12 p.m. Except as  
28 admitted herein, Defendant denies each and every remaining allegation.



1 36. In response to Paragraph 36, Defendant denies each and every allegation.

2 **THIRD CAUSE OF ACTION**

3 (Violation of the Bane Act (Cal. Civ. Code § 52.1))

4 (*Against All Defendants*)

5 37. In response to Paragraph 37, Defendant re-alleges and incorporates by reference  
6 herein all responses previously asserted above.

7 38. In response to Paragraph 38, Defendant denies each and every allegation.

8 39. In response to Paragraph 39, Defendant denies each and every allegation.

9 40. In response to Paragraph 40, Defendant denies each and every allegation.

10 41. In response to Paragraph 41, including subparagraphs (a)-(e), Defendant denies  
11 each and every allegation.

12 42. In response to Paragraph 42, Defendant denies each and every allegation.

13 **DEMAND FOR JURY TRIAL**

14 43. In response to paragraph 43, Defendant hereby demands a jury trial.

15 **PRAYER FOR RELIEF**

16 Defendant denies that INTERVENOR is entitled to any of the relief for which he prays,  
17 and Defendant accordingly denies all the allegations contained in INTERVENOR’s Prayer for  
18 Relief.

19 Except as specifically admitted herein, Defendant denies each and every allegation in  
20 INTERVENOR’s Complaint. Defendant reserves the right to amend this Answer and assert  
21 additional defenses based on further investigation and discovery.

22 **AFFIRMATIVE DEFENSES**

23 Defendant alleges the following affirmative defenses with respect to the claims alleged in  
24 INTERVENOR’s Complaint, without assuming the burden of proof where the burden of proof  
25 rests on Plaintiff. Defendant also hereby gives notice that it intends to rely upon such other and  
26 further defenses as may become available or apparent during pretrial proceedings in this action  
27 and hereby reserves any right to amend this answer and to assert all such defenses.

28 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**FIRST AFFIRMATIVE DEFENSE**

INTERVENOR’s claims, and each of them, as set forth in the Complaint, are barred because INTERVENOR has failed to state any claim upon which relief can be granted in that negligence in diagnosing or treating a medical condition does not state a valid claim for a federal civil rights violation. *Parratt v. Taylor*, 451 U.S. 527 (1981).

**SECOND AFFIRMATIVE DEFENSE**

INTERVENOR’s claims, and each of them, as set forth in the Complaint, are barred or limited by the applicable statutes of limitations under either federal or California law.

**THIRD AFFIRMATIVE DEFENSE**

Defendant is not liable to INTERVENOR, in whole or in part, because the losses or harm that INTERVENOR has allegedly suffered were not caused by any act or omission of Defendant.

**FOURTH AFFIRMATIVE DEFENSE**

INTERVENOR failed to give notice to Defendant in connection with the filing of certain of the claims that require notice.

**FIFTH AFFIRMATIVE DEFENSE**

Defendant at all times acted in good faith and with reasonable grounds for believing that they had not violated federal or California law.

**SIXTH AFFIRMATIVE DEFENSE**

The Complaint, and each cause of action thereof, is barred because INTERVENOR failed to notify Defendant of the alleged statutory violations at the time such violations allegedly occurred, which prevented Defendant from taking any action to remedy such alleged violations.

**EIGHTH AFFIRMATIVE DEFENSE**

The Complaint fails to state a claim against Defendant upon which attorneys’ fees or costs can be awarded.

**NINTH AFFIRMATIVE DEFENSE**

Defendant does not have supervisory liability or vicarious liability for any act or omission alleged in INTERVENOR’s Complaint.

///



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**TENTH AFFIRMATIVE DEFENSE**

This Complaint is barred by the relevant portions of the California Government Code, including, but not limited to, sections 815, 815.2, 818.2, 820.2, 820.4, 820.6, 820.8, 821, 844.6, 845.6, 855.6, 855.8, 856, and 856.4.

**ELEVENTH AFFIRMATIVE DEFENSE**

Defendant did not deprive INTERVENOR of any right, privilege or immunity guaranteed by the Constitution, the laws of the United States, and the laws of California.

**TWELFTH AFFIRMATIVE DEFENSE**

Defendant alleges that the Complaint fails to state a cause of action for violation of 42 U.S.C. § 1983 under *Monell v. Department of Social Services in the City of New York*, 436 U.S. 658 (1978). There can be no recovery for a federal civil rights violation when there is no constitutional deprivation occurring pursuant to governmental custom or policy. *Id.*

**THIRTEENTH AFFIRMATIVE DEFENSE**

Defendant alleges that at all relevant times, Defendant and their agents or employees acted within the scope of their discretion, with due care and good faith fulfillment of their responsibilities in accordance with applicable Court orders, statutes, rules, regulations, and established and lawful policies and procedures, within the bounds of reason under all circumstances known to them, and with the good faith belief that their actions comported with all applicable federal and state laws, and they are therefore immune from liability.

**FOURTEENTH AFFIRMATIVE DEFENSE**

Defendant alleges that INTERVENOR did not state a claim for deliberate indifference to a serious medical or mental health need because a difference in opinion as to the need to pursue one course of treatment over another is insufficient as a matter of law to establish deliberate indifference, and INTERVENOR cannot show that the course of treatment chosen was medically unacceptable under the circumstances. *Jackson v. McIntosh*, 90 F.3d 330 (9th Cir. 1996); *Sanchez v. Vild*, 891 F.2d 240, 242 (9th Cir. 1989).

**FIFTEENTH AFFIRMATIVE DEFENSE**

Defendant alleges that it is not responsible for the alleged acts or omissions of its

1 employees under a respondeat superior theory of liability. *Bd. of Cty. Comm'rs v. Brown*, 520  
2 U.S. 397, 403 (1997).

3 **SIXTEENTH AFFIRMATIVE DEFENSE**

4 Defendant alleges that INTERVENOR has failed to plead that each Government-official  
5 defendant has violated the Constitution through his or her own conduct, and they therefore may  
6 not be held liable. *Ashcroft v. Iqbal*, 556 U.S. 662, 676 (2009); *Starr v. Baca*, 652 F.3d 1202,  
7 1207 (9th Cir. 2011).

8 **SEVENTEENTH AFFIRMATIVE DEFENSE**

9 Defendant alleges that INTERVENOR's claims, and each of them, are barred in whole or  
10 in part by the doctrine of qualified immunity.

11 **EIGHTEENTH AFFIRMATIVE DEFENSE**

12 Defendant alleges that the acts and conduct of Defendant, who were at all times herein  
13 government officials or government entities performing discretionary functions, did not violate  
14 clearly established statutory or constitutional rights of INTERVENOR of which a reasonable  
15 person would have known. Furthermore, Defendant reasonably believed in good faith that its acts  
16 and conduct were constitutional. *Harlow v. Fitzgerald*, 457 U.S. 800, 812 (1982); *Smiddy v.*  
17 *Varney*, 665 F.2d 261, 266 (9th Cir. 1981).

18 **DEMAND FOR JURY TRIAL**

19 Defendant hereby demands a trial before a jury on all issues presented by INTERVENOR'S  
20 Complaint for Damages triable to a jury.

21 ///  
22 ///  
23 ///  
24 ///  
25 ///  
26 ///.  
27 ///  
28 ///

1 WHEREFORE, Defendant prays as follows:

2 1. That INTERVENOR take nothing by way of his Complaint for Damages and that  
3 judgment be rendered in Defendant’s favor;

4 2. That Defendant be awarded its costs of suit incurred in defense of this action;

5 3. That Defendant be awarded its attorney’s fees and litigation expenses incurred in  
6 defense of this action; and

7 4. For such other relief as the Court deems proper.

8

9 Dated: February 24, 2023

BURKE, WILLIAMS & SORENSEN, LLP

10

11

By: /s/ Temitayo O. Peters  
Gregory B. Thomas  
Temitayo O. Peters  
Attorneys for Defendant  
COUNTY OF ALAMEDA (sued herein as  
“ALAMEDA COUNTY”)

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28