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6 Attorneys for Plaintiffs, KAREN SUTHERLAND, mother of deceased; ERICA
7 BELATTI, GUARDIAN AD LITEM FOR SHAYNE SUTHERLAND JR., son of
8 deceased; and DEMETRIA SUTHERLAND, daughter of the deceased.

9 **UNITED STATES DISTRICT COURT**
10 **EASTERN DISTRICT OF CALIFORNIA**

11 KAREN SUTHERLAND, as mother of
12 decedent; ERICA BELATTI, Guardian
13 Ad Litem for SHAYNE SUTHERLAND
14 JR., son of decedent, and as a successor
15 in interest to the deceased; and
16 DEMETRIA SUTHERLAND, daughter
17 of decedent, and as a successor in interest
18 to the deceased,

16 Plaintiffs,

17 vs.

18 CITY OF STOCKTON; OFFICER
19 RONALD ZALUNARDO, in his
20 individual and official capacity;
21 OFFICER JOHN AFANASIEV, in his
22 individual and official capacity; CHIEF
23 ERIC JONES, in his individual, and
24 official capacity; and DOES 1-5,
25 inclusive.

26 Defendants.

Case No.:

COMPLAINT FOR DAMAGES

1. Unreasonable Search and Seizure-
Excessive Force (42 U.S.C. § 1983)
2. Deprivation of Life Without Due
Process (42 U.S.C. § 1983)
3. Municipal Liability for
Unconstitutional Custom, Practice,
or Policy (42 U.S.C. § 1983)
4. Interference with Parent-Child
Relationship (42 U.S.C. § 1983)
5. Wrongful Death (Cal. Civ. Proc.
Code § 377.60)
6. Assault and Battery
7. Negligence
8. Violation of Bane Civil Rights Act
(Civil Code § 52.1)

DEMAND FOR JURY TRIAL

26 PLAINTIFFS KAREN SUTHERLAND, the mother of deceased (hereinafter
27 “KAREN SUTHERLAND” or “MS. SUTHERLAND”), ERICA BELATTI, Guardian
28 Ad Litem for SHAYNE SUTHERLAND JR., son of deceased (hereinafter

1 “SUTHERLAND JR.”), and DEMETRIA SUTHERLAND, daughter of deceased
2 (hereinafter “DEMETRIA”), (collectively “PLAINTIFFS”) upon information and belief,
3 allege as follows:
4
5

6 INTRODUCTION

7 1. PLAINTIFFS KAREN SUTHERLAND, the mother of deceased, ERICA
8 BELATTI, mother of and Guardian Ad Litem for, SHAYNE SUTHERLAND JR. (Shayne
9 Jr.), son of deceased, and DEMETRIA SUTHERLAND (Demetria), daughter of deceased
10 (collectively known as “PLAINTIFFS”) bring this lawsuit to seek justice for Mr.
11 SUTHERLAND who was recklessly killed by DEFENDANTS OFFICER RONALD
12 ZALUNARDO (hereinafter “OFFICER ZALUNARDO”) and OFFICER JOHN
13 AFANASIEV (hereinafter “OFFICER AFANASIEV”) of the Stockton Police Department
14 (“SPD”) on October 8, 2020. At the time of the killing, Mr. SUTHERLAND was
15 unarmed, handcuffed, restrained and not threatening anyone. DEFENDANTS OFFICER
16 ZALUNARDO and OFFICER AFANASIEV recklessly used excessive force causing Mr.
17 SUTHERLAND’s death by forcing him on the ground, applying force with a police baton
18 and/or body weight to his neck and shoulder area while he was in a prone position. Then,
19 without justification, improperly restraining him and continuing applying full body weight
20 and while Mr. SUTHERLAND was in medical distress causing positional asphyxiation.
21 Mr. SUTHERLAND begged for his life and informed the Officers they were killing him
22 but they continued asphyxiating him in the handcuffed, prone position against all
23 acceptable police standards and training. Based on information and belief,
24 DEFENDANTS OFFICER ZALUNARDO and OFFICER AFANASIEV used excessive
25 force and recklessly caused the death of Mr. SUTHERLAND. DEFENDANTS OFFICER
26 ZALUNARDO and OFFICER AFANASIEV also failed to intervene and stop the
27 unjustified use of excessive force.
28

1 2. DEFENDANT CITY OF STOCKTON (“CITY”) by summarily rejecting
2 PLAINTIFFS’ claim for damages, has proved unwilling to accept responsibility for the
3 wrongs committed by its Officers.
4

5 3. DEFENDANT POLICE CHIEF ERIC JONES (“CHIEF JONES” OR
6 “DEFENDANT JONES”) has failed to impose adequate discipline on his officers who
7 committed killings, or who committed other types of excessive force, creating a culture of
8 impunity within the SPD that encourages such violence and incidents of unreasonable
9 force against the public.

10 4. This civil rights action seeks compensatory and punitive damages from
11 DEFENDANTS for violating various rights under the United States Constitution and
12 California State laws in connection with the fatal killing, excessive force, and improper
13 restraining of Mr. SUTHERLAND on October 8, 2020.

14 5. DEFENDANTS OFFICER ZALUNARDO and OFFICER AFANASIEV
15 piled on top of Mr. SUTHERLAND as he was lying face down in a prone position while
16 DEFENDANTS OFFICER ZALUNARDO and/or OFFICER AFANASIEV applied the
17 force of a police baton and/or body weight to Mr. SUTHERLAND while handcuffed,
18 whereby the combination of all DEFENDANTS OFFICER ZALUNARDO and OFFICER
19 AFANASIEV’s actions, caused Mr. SUTHERLAND’s death. PLAINTIFFS are aware of
20 the individual officers’ names involved in the participation of the harm to PLAINTIFFS,
21 however they are unaware of the individuals officers specific roles at this time.
22 DEFENDANTS OFFICER ZALUNARDO and OFFICER AFANASIEV and
23 DEFENDANTS OFFICER DOES 1-5 are all employed by the Stockton Police
24 Department. Mr. SUTHERLAND was unarmed, handcuffed, restrained and not
25 threatening anyone. The killing was completely unnecessary, unreasonable, and
26 unjustified. DEFENDANTS OFFICER ZALUNARDO and OFFICER AFANASIEV’s
27 actions leave KAREN SUTHERLAND, his mother, without a son, and Mr.
28 SUTHERLAND JR., his son, and DEMETRIA, his daughter, fatherless. DEFENDANTS

1 OFFICER ZALUNARDO and OFFICER AFANASIEV are directly liable for
2 PLAINTIFFS' injuries under federal law pursuant to 42 U.S.C. § 1983. PLAINTIFFS
3 bring this lawsuit, seeking justice.

4 6. DEFENDANTS DOES 1-5 proximately caused Mr. SUTHERLAND's and
5 the PLAINTIFFS' injuries by integrally participating or failing to intervene in the
6 excessive force, and by engaging in other acts/ or omissions around the time of the
7 excessive force, restraint, and application of police baton and/or body weight on Mr.
8 SUTHERLAND while prone and defenseless, pleading for relief, that resulted in Mr.
9 SUTHERLAND's death, including, using unreasonable use of excessive force against
10 him. DEFENDANTS DOES 1-5 are directly liable for PLAINTIFFS' injuries under
11 federal law pursuant to 42 U.S.C. § 1983.

12 7. DEFENDANT CITY, POLICE CHIEF ERIC JONES, DEFENDANTS
13 OFFICER ZALUNARDO and OFFICER AFANASIEV and DOES 1-5 also proximately
14 caused Mr. SUTHERLAND's and PLAINTIFFS' injuries and are liable under state and
15 federal law and under principles set forth in *Monell v. Department of Social Services*, 436
16 U.S. 658 (1978) and by ratifying the unconstitutional actions of the DEFENDANTS
17 OFFICER ZALUNARDO and OFFICER AFANASIEV and DOES 1-5 officers' actions
18 and/or maintaining a policy or custom that is the "moving force" behind the
19 unconstitutional deprivations alleged below.

20 8. The policies and customs of engaging in unreasonable excessive force,
21 unnecessary restraint, physical strikes, and the use of police baton and/or body weight to
22 neck and/or shoulder while Mr. SUTHERLAND lay on the ground are fundamentally
23 unconstitutional and constitute a menace of major proportions to the public. Accordingly,
24 insofar as PLAINTIFFS herein seek by means of this civil rights action to hold
25 accountable those responsible for the killing of Mr. SUTHERLAND and to challenge the
26 CITY's unconstitutional policies and practices, this civil rights action is firmly in the
27 public interest.

28 **JURISDICTION**

1 9. Jurisdiction of this Court is invoked under 28 U.S.C. §§ 1331. This action
2 at law for money damages arises under 42 U.S.C. § 1983 and the United States
3 Constitution, the laws of the State of California, and common law principles to redress a
4 deprivation under color of state law of rights, privileges and immunities secured to
5 Plaintiffs by said statutes, and by the First, Fourth, and Fourteenth Amendments of the
6 United States Constitution.

7 10. The incidents complained of occurred in California in the City of Stockton.
8 On October 8, 2020, at approximately 7:10 a.m., DEFENDANTS OFFICER
9 ZALUNARDO and OFFICER AFANASIEV of the Stockton Police Department caused
10 the death of Decedent MR. SUTHERLAND by applying lethal force with a police baton
11 and/or body weight on top of him while handcuffed lying flat on his stomach, using
12 excessive force, improperly restraining him when he was surrendering and in the prone
13 position, pleading that he could not breathe.

14
15 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

16 11. At all times herein mentioned, PLAINTIFF KAREN SUTHERLAND, the
17 mother of deceased, is a resident of the the state of California

18 12. At all times herein mentioned, PLAINTIFF, SHAYNE SUTHERLAND JR.,
19 the son of the deceased, through ERICA BELATTI, his Guardian Ad Litem, is a resident
20 of the state of California.

21 13. At all times herein mentioned, PLAINTIFF DEMETRIA SUTHERLAND,
22 the daughter of the deceased, through ERICA BELATTI, her Guardian Ad Litem, is a
23 resident of the state of California.

24 14. At all times herein mentioned decedent, SHAYNE ALLEN SUTHERLAND,
25 was a resident of the City of Stockton, in the State of California.

26 15. DEFENDANT CITY is and was a duly organized public entity; form
27 unknown, existing as such under the laws of the State of California. At all relevant times,
28 CITY was the employer of DEFENDANT CHIEF ERIC JONES, DEFENDANTS

1 OFFICER ZALUNARDO and OFFICER AFANASIEV and DOES 1-5, who were either
2 CITY officers, or managerial, supervisory, and policymaking employees of the CITY
3 police department are sued in their individual capacity for damages only.

4 16. At all relevant times, DEFENDANTS OFFICER ZALUNARDO and
5 OFFICER AFANASIEV DEFENDANTS and DOES 1-5 were duly authorized employees
6 and agents of the CITY, who were acting under color of law within the course and scope
7 of their respective duties as CITY police officers and with the complete authority and
8 ratification of their principal, DEFENDANT CITY.

9 17. At all relevant times, DEFENDANTS OFFICER ZALUNARDO and
10 OFFICER AFANASIEV, and DEFENDANTS DOES 1-5 were duly appointed CITY
11 officers and/or employees or agents of the CITY, subject to oversight and supervision by
12 CITY's elected and non-elected officials.

13 18. In doing the acts and failing and omitting to act as hereinafter described,
14 DEFENDANTS OFFICER ZALUNARDO and OFFICER AFANASIEV, and DOES 1 to
15 5 were acting on the implied and actual permission and consent of CITY.

16 19. DEFENDANTS OFFICER ZALUNARDO and OFFICER AFANASIEV
17 were, at all relevant times, the officers that fatally caused MR. SUTHERLAND's death
18 while employed by the City of Stockton. Based on information and belief,
19 DEFENDANTS OFFICER ZALUNARDO and OFFICER AFANASIEV were present
20 and improperly restrained Mr. SUTHERLAND when he was handcuffed in the prone
21 position lying flat on his stomach, applied excessive and lethal force with a police baton
22 and/or body weight to his neck and shoulders without justification, and failed to intervene
23 and stop the unjustified use of excessive and deadly force.

24 20. DOES 1 to 5 were each duly appointed, qualified and acting ranking officers,
25 officials and employees of the Stockton Police Department and DEFENDANT CITY, also
26 charged by law with the supervision, management, control, operation, and administration
27 of the Stockton Police Department and CITY. Each said DEFENDANT was acting within
28 the course and scope of their said employment and under the color of state law, and as the

1 employee, agent and representative of each other DEFENDANT.

2 21. PLAINTIFFS are informed and believe and thereon allege that each of the
3 DEFENDANTS designated as a DOE are intentionally and negligently responsible in
4 some manner for the events and happenings herein referred to, and thereby proximately
5 caused injuries and damages as herein alleged. The true names and capacities of DOES
6 1-5, inclusive, and each of them, are not now known to PLAINTIFFS who therefore sue
7 said DEFENDANTS by such fictitious names, and PLAINTIFFS will seek leave to amend
8 this complaint to show their true names and capacities when the same have been
9 ascertained.

10 22. At all times mentioned herein, each and every DEFENDANT was the agent
11 of each and every other DEFENDANT and had the legal duty to oversee and supervise
12 the hiring, conduct, and employment of each and every DEFENDANT.

13 23. On April 6, 2021, PLAINTIFFS timely filed a timely claim for damages with
14 CITY pursuant to applicable sections of the California Government Code.

15 24. On July 1, 2021, PLAINTIFFS received a letter from the CITY stating that
16 the claim for damages was rejected by operation of law on May 24, 2021.

17 **FACTS COMMON TO ALL CAUSES OF ACTION**

18 25. On October 8, 2020, at around 7:10 a.m., DEFENDANTS OFFICER
19 ZALUNARDO and OFFICER AFANASIEV arrived in the vicinity of an AM/PM store
20 within the 10700 block of Trinity Parkway, Stockton, CA 95219 in the City of Stockton,
21 CA responding to a 911 call initially made by Mr. SUTHERLAND and followed up by a
22 call to the AM/PM store. The officers were equipped with body cams which captured their
23 unnecessary use of excessive force and callous conduct. However, only one of those body
24 cams has been released to the public.

25 26. Mr. SUTHERLAND initially called 911 while at the AM/PM store in an
26 attempt to have a taxicab pick him up. He indicated that he was not an employee of the
27 store, and the call was disconnected. The 911 operator then called the AM/PM store and
28 an employee answered and said there was no emergency, that Mr. SUTHERLAND had

1 been trying to order a taxi and was inside the store merely distracting the customers and
2 standing near or around the register.

3 27. Upon their arrival, Mr. SUTHERLAND was inside the store and an officer
4 approached him and commanded him to go outside and keep his hands where the officers
5 could see them. Mr. SUTHERLAND complied and calmly walked out of the store. Once
6 outside of the store, an officer commanded Mr. SUTHERLAND to place his hands above
7 his head and to spread his legs wide. Mr. SUTHERLAND continued to comply peacefully
8 to the commands. An officer grabbed Mr. SUTHERLAND's hands behind his back and
9 searched his person. Mr. SUTHERLAND continued to peacefully comply and posed no
10 threat to the officers.

11 28. An officer asked Mr. SUTHERLAND what the problem was and why they
12 were called on him. Mr. SUTHERLAND stated he did not know. The officer then
13 instructed Mr. SUTHERLAND to sit on the concrete outside the store, and Mr.
14 SUTHERLAND peacefully complied with the command. As the officer asked questions,
15 Mr. SUTHERLAND continued to speak with the officer in a nonthreatening and obedient
16 manner and tone.

17 29. After an officer asked Mr. SUTHERLAND what Motel 6 he stayed at, Mr.
18 SUTHERLAND stood up and took a few steps. Without giving Mr. SUTHERLAND any
19 commands, an officer violently and abruptly tackled him to the ground. As an officer
20 applied the full force of his body weight, the other officer aggressively handcuffed Mr.
21 SUTHERLAND who cried out in pain and said he was sorry and called for help and
22 pleaded with the officers not to hurt him. Instead, an officer lied on top of Mr.
23 SUTHERLAND as officers aggressively handcuffed Mr. SUTHERLAND. While in
24 handcuffs, an officer forced his arm and/or baton into Mr. SUTHERLAND's neck,
25 shoulder and back, applying his body weight on Mr. SUTHERLAND while he was
26 handcuffed, subdued, and in the prone position. The other officer also applied force and
27 called in the incident. While on the ground face down, Mr. SUTHERLAND screamed in
28 pain that he was unable to breathe, pleaded with the officers not to kill him, and for help

1 that never arrived. The officers simply told Mr. SUTHERLAND to relax as they continued
2 to apply deadly force to Mr. SUTHERLAND relentlessly for approximately **three (3)**
3 **minutes that resulted in his loss of life.** Mr. Sutherland gasped that he was “already
4 dead” as the Officers continued to apply unnecessary and excessive force.

5 30. Although Mr. SUTHERLAND, showed no resistance and was totally
6 compliant while in handcuffs lying on his stomach, the officers continued to apply lethal
7 force and refused to provide aid or relief despite his pleas.

8 31. Despite Mr. SUTHERLAND being in handcuffs flat on his stomach face
9 down to the ground in the prone position and pleading for help, DEFENDANTS
10 OFFICER ZALUNARDO and OFFICER AFANASIEV continued shoving Mr.
11 SUTHERLAND into the ground while one of the officers had his full body weight on Mr.
12 SUTHERLAND’S back. The officers kept Mr. SUTHERLAND faced down while
13 handcuffed and under force and in a position known to cause death by restraint
14 asphyxiation.

15 32. Even after Mr. SUTHERLAND was handcuffed, the body cam footage
16 shows Mr. SUTHERLAND in the prone position face down, struggling to breathe for
17 nearly three more minutes with officers continuing to unnecessarily apply pressure to his
18 back, neck and shoulders. Further, during this period Mr. SUTHERLAND’s body
19 continued to tense and he showed obvious signs of struggling to breathe and respiratory
20 distress.

21 33. Even after Mr. SUTHERLAND laid motionless and rendered incapacitated
22 DEFENDANTS OFFICER ZALUNARDO and OFFICER AFANASIEV delayed and
23 thereby failed to adequately provide any type of first aid that could help Mr.
24 SUTHERLAND.

25 34. DEFENDANT CITY is well aware of the dangers involved in applying a
26 police baton and/or body weight to a person handcuffed and lying face down in the prone
27 position, however, the CITY continues to allow its OFFICERS to utilize this reckless
28

1 tactic. Moreover, as noted in a Police Mag article, authored by Lawrence E. Heiskell¹,
2 dated September 9, 2019, “Multiple cases of death by positional asphyxia have been
3 associated with the hog tied or prone restraint position. The risk of positional asphyxia is
4 further compounded when a suspect with predisposing medical conditions becomes
5 involved in a violent struggle with an officer. This is especially true when the physical
6 restraint includes the use of behind-the-back handcuffing combined with placing the
7 individual in a stomach down position. Many law enforcement and health personnel are
8 now taught to avoid restraining people face-down or to do so only for a very short period
9 of time.”

10 35. Based on information and belief prior to using excessive force,
11 DEFENDANTS OFFICER ZALUNARDO and OFFICER AFANASIEV gave no verbal
12 command or warning prior to applying the force of a police baton and/or body weight on
13 Mr. SUTHERLAND. Despite Mr. SUTHERLAND complying with DEFENDANTS
14 OFFICER ZALUNARDO and OFFICER AFANASIEV’s commands to walk calmly out
15 of the store, raise his hands above his head, and sit down to answer questions on the
16 pavement outside an active store, prior to the excessive use of force with a police baton
17 and/or body weight to Mr. SUTHERLAND while handcuffed face down on the ground,
18 DEFENDANTS OFFICER ZALUNARDO and OFFICER AFANASIEV did not issue
19 any further warnings to Mr. SUTHERLAND that they would prevent him from the ability
20 to breathe as he pleaded to be allowed to live, that he was sorry, and the he could not
21 breath. Nor did they give him any commands other than to relax while suffering extreme
22 pain and loss of breath as required by Police Officer Standard Training (POST), California
23 law and Constitutional limits on the use of force.

24 36. DEFENDANTS OFFICER ZALUNARDO and OFFICER AFANASIEV
25

26 ¹ Lawrence Heiskell, MD, FACEP, FAAFP is an emergency physician and a veteran
27 reserve police officer with the Palm Springs (CA) Police Department. He is the founder
28 and medical director of the International School of Tactical Medicine.
<https://www.policemag.com/524139/how-to-prevent-positional-asphyxia>

1 took no steps to intervene and/or prevent the killing of Mr. SUTHERLAND.

2 37. Upon information and belief, while being under the force of a police baton
3 and/or body weight while improperly restrained and handcuffed and face down on the
4 ground, Mr. SUTHERLAND was in distress, and in obvious and critical need of
5 emergency medical care and treatment. DEFENDANTS OFFICER ZALUNARDO and
6 OFFICER AFANASIEV did not timely summon medical care or permit medical
7 personnel to treat Mr. SUTHERLAND but instead continued to deprive his body and lungs
8 of badly need oxygen. The delay of medical care to Mr. SUTHERLAND caused him
9 extreme physical and emotional pain and suffering, and was, on information and belief, a
10 contributing cause of Mr. SUTHERLAND's death.

11 Furthermore, renowned pathologist Dr. Bennet I. Omalu, in an independent autopsy,
12 ruled Mr. SUTHERLAND's death a homicide. According to Dr. Omalu, he notes the
13 numerous contusions on Mr. SUTHERLAND's head, cheek, lip, chin, jaw, shoulder,
14 elbow, thigh and back. His opinion is that the 29 year old Shayne Allen Sutherland, died
15 as a result of Restraint Asphyxiation. **FIRST CAUSE OF ACTION**

16 Unreasonable Search and Seizure—Excessive Force (42 U.S.C. § 1983)
17 (On Behalf of Plaintiffs Shayne Jr. and Demetria Against All Defendants)

18 38. PLAINTIFF(S) repeat and re-allege each and every allegation in the above
19 paragraphs of this Complaint with the same force and effect as if fully set forth herein.

20 39. DEFENDANTS OFFICER ZALUNARDO and OFFICER AFANASIEV's
21 unjustified and improper restraining and use of force, including, but not limited to,
22 applying force with a police baton and/or body weight to Mr. SUTHERLAND's neck and
23 shoulder, was both excessive and unreasonable under the circumstances.
24 DEFENDANTS' unjustified killing of Mr. SUTHERLAND deprived him of his right to
25 be secure in his person against unreasonable searches and seizures as guaranteed to Mr.
26 SUTHERLAND under the Fourth Amendment to the United States Constitution and
27 applied to state actors by the Fourteenth Amendment. Shayne JR., as a son of decedent,
28 and Demetriaas a daughter of decedent, have the right and standing to assert Mr.

1 SUTHERLAND's claim for his violation of his Fourth and Fourteenth Amendment rights.

2 40. DEFENDANTS OFFICER ZALUNARDO and OFFICER AFANASIEV's
3 use of force was both excessive and unreasonable, especially because Mr.
4 SUTHERLAND had surrendered, was restrained in handcuffs and lying on his stomach
5 face down on the ground and posed no immediate threat of death or serious bodily injury
6 to the officers or others at the time of their application of lethal force with a police baton
7 and/or body weight.

8 41. DEFENDANTS OFFICER ZALUNARDO and OFFICER AFANASIEV's
9 unlawful use of excessive force caused Mr. SUTHERLAND to suffer extreme pain and
10 suffering, loss of enjoyment of life, earning capacity, his relationship with his family and
11 friends, and his untimely death when he was fatally asphyxiated and improperly restrained
12 by DEFENDANTS OFFICER ZALUNARDO and OFFICER AFANASIEV who were
13 acting under the color of law and as employees of the SPD. DEFENDANTS OFFICER
14 ZALUNARDO and OFFICER AFANASIEV, inclusive, integrally participated in or
15 failed to intervene in the fatal application of force with a police baton and/or body weight
16 on Mr. SUTHERLAND while he lied flat on his stomach and handcuffed.

17 42. DEFENDANTS OFFICER ZALUNARDO and OFFICER AFANASIEV's
18 improper restraining, use of police baton and body weight on Mr. SUTHERLAND causing
19 him to plead for the ability to breathe while face down in the ground and use of force
20 violated their training, Post requirements and California and Federal law.

21 43. As a direct and legal result of the aforesaid acts and omissions of
22 DEFENDANTS, and each of them, Mr. SUTHERLAND was deprived of his liberty and
23 life without warrant or justification.

24 44. As a result of their conduct, DEFENDANTS are liable for Mr.
25 SUTHERLAND's injuries either because they were integral participants in the excessive
26 use of force, or because they failed to intervene to prevent those violations.

27 45. As a direct and legal result of the aforesaid acts and omissions of
28 DEFENDANTS, and each of them, PLAINTIFFS suffered damages, including, without

1 limitation, loss of enjoyment of life, pain and suffering, physical injuries and sickness,
2 medical expenses, funeral and burial expenses, attorneys' fees, costs of suit, other
3 pecuniary losses not yet ascertained and the continued loss of Mr. SUTHERLAND's love,
4 affection, society, support, guidance, and companionship for the remainder of their lives.

5 46. PLAINTIFFS are informed and believe and thereon allege that the acts of the
6 individual DEFENDANTS were committed by each of them knowingly, willfully and
7 maliciously, with the intent to harm, injure, vex, harass and oppress PLAINTIFFS with a
8 conscious disregard of PLAINTIFFS' health and safety and constitutional rights and by
9 reason thereof, PLAINTIFFS seek punitive and exemplary damages from all
10 DEFENDANTS, and each of them, (except DEFENDANT CITY) in an amount as proved.

11 **SECOND CAUSE OF ACTION**

12 Deprivation of Life Without Due Process-(42 U.S.C. § 1983)

13 (All Plaintiffs Against All Defendants)

14 47. PLAINTIFF(S) repeat and re-allege each and every allegation in the above
15 paragraphs of this Complaint with the same force and effect as if fully set forth herein.

16 48. DEFENDANTS OFFICER ZALUNARDO and OFFICER AFANASIEV
17 acted under color of state law within the course and scope of their duties as SPD officers
18 when they wrongfully killed Mr. SUTHERLAND who posed no imminent threat of
19 danger to DEFENDANTS or anyone else. Mr. SUTHERLAND posed no threat when
20 SPD Officers unjustifiably used excessive force when they improperly restrained him and
21 applied the force of a police baton and/or body weight thereby causing his death.

22 49. PLAINTIFFS have a cognizable interest under the Substantive Due Process
23 Clause of the Fourth and Fourteenth Amendments of the United States Constitution to be
24 free from state actions that deprive them of life, liberty or property in such a manner as to
25 shock the conscience or act with deliberate indifference,, including but not limited to,
26 snuffing the life out of Shayne Sutherland when he was prone, handcuffed and subdued
27 causing an unwarranted state interference in their relationship with Mr. SUTHERLAND.

28 50. As a result of the excessive force by DEFENDANTS OFFICER

1 ZALUNARDO and OFFICER AFANASIEV and acting under color of state law,
2 DEFENDANTS OFFICER ZALUNARDO and OFFICER AFANASIEV improperly
3 restrained and applied force while he lied face down on his stomach in handcuffs,
4 including, but not limited to, a police baton and/or body weight to Mr. SUTHERLAND's
5 neck and shoulders while he pleading to breathe, thereby depriving him of his life without
6 due process of law. DEFENDANTS' actions also caused Mr. SUTHERLAND extreme
7 pain and suffering, loss of life, earning capacity and his relationship with his family, and
8 friends. PLAINTIFFS have thereby been deprived of their constitutional right of a familial
9 relationship with Mr. SUTHERLAND for the rest of their lives.

10 51. DEFENDANTS OFFICER ZALUNARDO and OFFICER AFANASIEV's
11 actions, shocked the conscience, and because they had time to deliberate and sit Mr.
12 Sutherland up, while handcuffed, DEFENDANTS acted with deliberate indifference to
13 PLAINTIFFS' constitutional rights, and with the purpose to harm unrelated to any
14 legitimate law enforcement objective.

15 52. As a legal result of their conduct, DEFENDANTS are liable for Mr.
16 SUTHERLAND's injuries, either because they were integral participants in the
17 deprivation of life without due process, or they failed to intervene to prevent those
18 violations.

19 53. The claim against DEFENDANT CITY, DEFENDANT JONES,
20 DEFENDANTS OFFICER ZALUNARDO and OFFICER AFANASIEV, DOES 1-5 are
21 based upon PLAINTIFFS' allegations that CITY's policies, practices or customs were a
22 cause of the injuries suffered by Mr. SUTHERLAND and PLAINTIFFS herein, and as set
23 forth above.

24 54. As a direct and legal result of DEFENDANTS' acts and omissions,
25 PLAINTIFFS suffered damages, including, without limitation, loss of enjoyment of life,
26 pain and suffering, physical injuries and sickness, emotional distress, medical expenses,
27 funeral and burial expenses, attorneys' fees, costs of suit, other pecuniary losses not yet
28 ascertained and the loss of Mr. SUTHERLAND's love, affection, society, support, and

1 companionship.

2 55. PLAINTIFFS are informed and believe and thereon allege that the acts of the
3 individual DEFENDANTS were willful, wanton, malicious, intentional, oppressive and
4 done with willful and conscious disregard of PLAINTIFFS' rights, welfare and safety of
5 those of Mr. SUTHERLAND, justifying the awarding of punitive and exemplary damages
6 in an amount to be determined at time of trial.

7 56. PLAINTIFFS, KAREN SUTHERLAND, as the mother of the decedent, and
8 Erica Belloti, as Guardian ad Litem for SHAYNE JR., the son of the decedent, and
9 DEMETRIA the daughter of the decedent bring this claim as the mother, son, and
10 daughter of Mr. SUTHERLAND and also seek attorneys' fees under this claim.

11 **THIRD CAUSE OF ACTION**

12 Municipal Liability for Unconstitutional Custom or Policy (42 U.S.C. § 1983)

13 (Against All Defendants)

14 57. PLAINTIFF(S) repeat and re-allege each and every allegation in the above
15 paragraphs of this Complaint with the same force and effect as if fully set forth herein.

16 58. Based upon the principles set forth in *Monell v. New York City Department*
17 *of Social Services*, 436 U.S. 658 (1978), and by ratifying the unconstitutional actions of
18 the DEFENDANTS OFFICER ZALUNARDO and OFFICER AFANASIEV and DOES
19 1-5 officers' actions and/or maintaining a policy or custom that is the "moving force"
20 behind the unconstitutional deprivations alleged below, on and for some time prior to
21 October 8, 2020 (and continuing to the present date), DEFENDANTS CITY, CHIEF
22 JONES, DEFENDANTS OFFICER ZALUNARDO and OFFICER AFANASIEV, and
23 DOES 1-5, acting with gross negligence and with reckless and deliberate indifference to
24 the rights and liberties of the public in general, and of PLAINTIFFS and Mr.
25 SUTHERLAND, and of persons in their class, situation and comparable position in
26 particular, knowingly maintained, enforced and applied an official recognized custom,
27 policy, and practice of:

28 a. Failure to provide adequate training and supervision to police officers with

1 respect to constitutional limits on the use of excessive force;

2 b. Employing and retaining as police officers and other personnel, including
3 DEFENDANTS OFFICER ZALUNARDO and OFFICER AFANASIEV, whom
4 DEFENDANTS CHIEF JONES, CITY and DOES 1-5 at all times material herein
5 knew or reasonably should have known had dangerous propensities for abusing
6 their authority and for mistreating citizens by failing to follow written SPD policies,
7 including the use of excessive force;

8 c. Of inadequately supervising, training, controlling, assigning, and disciplining
9 CITY police officers and other personnel, including DEFENDANTS OFFICER
10 ZALUNARDO and OFFICER AFANASIEV, whom DEFENDANTS CHIEF
11 JONES, CITY and DOES 1-5 knew or in the exercise of reasonable care should
12 have known had the aforementioned propensities and character traits, including the
13 propensity for violence and the use of excessive force;

14 d. By maintaining grossly inadequate procedures for reporting, supervising,
15 investigating, reviewing, disciplining and controlling the intentional misconduct
16 by CITY of Stockton Police Officers, including DEFENDANTS OFFICER
17 ZALUNARDO and OFFICER AFANASIEV, who are police officers and/or
18 agents of CITY;

19 e. By failing to meaningfully investigate and adequately discipline
20 DEFENDANTS OFFICER ZALUNARDO and OFFICER AFANASIEV and/or
21 other SPD officers, including but not limited to, lethal application of force with a
22 police baton and/or body weight, improper restraining, and excessive force;

23 f. By ratifying the intentional misconduct of DEFENDANTS OFFICER
24 ZALUNARDO and OFFICER AFANASIEV, and other officers and/ or agents,
25 who are officers and/or agents of CITY;

26 g. By having and maintaining an unconstitutional policy, custom, and practice
27 of improper restraining, use police batons and body weight to a restrained individual
28 on his stomach on the ground, and using excessive force, which also is demonstrated

1 by inadequate training regarding these subjects. The policies, customs, and
2 practices of DEFENDANTS CHIEF JONES, CITY and DOES 1-5 were maintained
3 with a deliberate indifference to individuals' safety and rights;

4 h. By failing to properly investigate claims of unlawful and lethal application
5 of force with a police baton and/or body weight while handcuffed and lying flat on
6 one's stomach facing the ground, and excessive force by CITY officers; and other
7 SPD officers; and

8 i. Condonation and encouragement of officers in the belief that they can violate
9 the rights of persons such as Mr. SUTHERLAND with impunity, and that such
10 conduct will not adversely affect their opportunities for promotion and other
11 employment benefits.

12 59. By reason of the aforementioned policies and practices of DEFENDANTS
13 CHIEF JONES, CITY, DEFENDANTS OFFICER ZALUNARDO and OFFICER
14 AFANASIEV and DOES 1-5, Mr. SUTHERLAND was severely injured and subjected to
15 pain and suffering and lost his life.

16 60. DEFENDANTS CHIEF JONES, CITY and DOES 1-5, together with various
17 other officials, whether named or unnamed, had either actual or constructive knowledge
18 of the deficient policies, practices and customs alleged in the paragraphs above. Despite
19 having knowledge as stated above, these DEFENDANTS condoned, tolerated and through
20 actions and inactions thereby ratified such policies. Said DEFENDANTS also acted with
21 deliberate indifference to the foreseeable effects and consequences of these policies with
22 respect to the constitutional rights of Mr. SUTHERLAND, PLAINTIFFS, and other
23 individuals similarly situated.

24 61. By perpetrating, sanctioning, tolerating and ratifying the outrageous conduct
25 and other wrongful acts, DEFENDANTS CHIEF JONES, CITY, and DOES 1-5 acted
26 with intentional, reckless, and callous disregard for the life of Mr. SUTHERLAND and
27 for Mr. SUTHERLAND's and PLAINTIFFS' constitutional rights. Furthermore, the
28 policies, practices, and customs implemented, maintained, and still tolerated by

1 DEFENDANTS CHIEF JONES, CITY and DOES 1-5 were affirmatively linked to and
2 were a significantly influential force behind the injuries of Mr. SUTHERLAND and
3 PLAINTIFFS.

4 62. The actions of each of DEFENDANTS DOES 1-5 were willful, wanton,
5 oppressive, malicious, fraudulent, and extremely offensive and unconscionable to any
6 person of normal sensibilities, and therefore warrants the imposition of exemplary and
7 punitive damages as to DEFENDANTS DOES 1-5 and any other individual as allowed
8 by law.

9 63. By reason of the aforementioned acts and omissions of DEFENDANTS
10 CHIEF JONES, CITY and DOES 1-5, PLAINTIFFS have suffered loss of love,
11 companionship, affection, comfort, care, society, and they will continue to be so deprived
12 for the remainder of their lives.

13 64. Accordingly, DEFENDANTS CHIEF JONES, CITY and DOES 1-5 each are
14 liable to PLAINTIFFS for compensatory damages under 42 U.S.C. § 1983.

15 65. PLAINTIFFS also seek attorney fees under this claim.

16 **FOURTH CAUSE OF ACTION**

17 Interference with Parent-Child Relationship (42 U.S.C. § 1983)

18 (Against All Defendants)

19 71. PLAINTIFF(S) repeat and re-allege each and every allegation in the above
20 paragraphs of this Complaint with the same force and effect as if fully set forth herein.

21 72. By wrongfully killing Mr. SUTHERLAND by lethal application of force
22 with a police baton and/or body weight on an individual handcuffed and lying flat on his
23 stomach face down to the ground when he was unarmed and surrendering,
24 DEFENDANTS deprived PLAINTIFF KAREN SUTHERLAND of her Fourteenth
25 Amendment right to a familial relationship with Mr. SUTHERLAND. DEFENDANTS
26 acted with deliberate indifference to PLAINTIFF KAREN SUTHERLAND's rights
27 and/or their unlawful conduct shocks the conscience.

28 73. DEFENDANTS' interference with the parent-child relationship caused Mr.

1 SUTHERLAND extreme pain and suffering, loss of life and earning capacity.
2 DEFENDANTS' actions also deprived PLAINTIFF KAREN SUTHERLAND of the life-
3 long love, companionship, support, society, care, and sustenance of her son Mr.
4 SUTHERLAND, and she will continue to be so deprived for the remainder of her life.

5 74. As a result of their conduct, DEFENDANTS are liable for Mr.
6 SUTHERLAND's injuries and loss of life, either because they were integral participants
7 in the interference with the parental-child relationship, or because they failed to intervene
8 to prevent these violations.

9 75. The claim against DEFENDANTS CITY, CHIEF JONES, DEFENDANTS
10 OFFICER ZALUNARDO and OFFICER AFANASIEV, and Does 1-5 is based upon
11 PLAINTIFF KAREN SUTHERLAND's allegations that CITY's policies, practices or
12 customs were a cause of the injuries suffered by Mr. SUTHERLAND and PLAINTIFF
13 KAREN SUTHERLAND herein, as set forth above.

14 76. As a direct and legal result of DEFENDANTS' acts and omissions,
15 PLAINTIFF KAREN SUTHERLAND suffered damages, including, without limitation,
16 loss of earnings and earning capacity, loss of enjoyment of life, pain and suffering,
17 physical injuries and sickness, medical expenses, funeral and burial expenses, attorneys'
18 fees, costs of suit, other pecuniary losses not yet ascertained and the loss of Mr.
19 SUTHERLAND's love, affection, society, support, and companionship.

20 77. PLAINTIFF KAREN SUTHERLAND is informed and believes and thereon
21 alleges that the acts of the individual DENDANTS were willful, malicious, intentional,
22 oppressive, reckless and/or were done in willful and conscious disregard of PLAINTIFF
23 KAREN SUTHERLAND's rights, welfare and safety and those of her son, justify the
24 awarding of punitive and exemplary damages in an amount to be determined at time of
25 trial.

26 78. PLAINTIFF KAREN SUTHERLAND also seeks attorneys' fees under this
27 claim.

28 ///

1 **FIFTH CAUSE OF ACTION**

2 Wrongful Death (Cal. Civ. Proc. Code § 377.60)

3 (On Behalf of Plaintiffs Shayne Jr. and Demetria Against All Defendants)

4 79. PLAINTIFF(S) repeat and re-allege each and every allegation in the above
5 paragraphs of this Complaint with the same force and effect as if fully set forth herein.

6 80. DEFENDANTS OFFICER ZALUNARDO and OFFICER AFANASIEV,
7 killed Mr. SUTHERLAND despite the absence of an imminent threat of death or physical
8 injury to themselves or others. Mr. SUTHERLAND was unarmed and posed no threat to
9 the officer’s safety or to the safety of others. Mr. SUTHERLAND died intestate and
10 unmarried. PLAINTIFFS SHAYNE JR. and DEMETRIA as Mr. SUTHERLAND’s son
11 and daughter respectively, through their Guardiand Ad Litem, are the proper persons to
12 sue for his wrongful death under California state law.

13 81. PLAINTIFFS SHAYNE JR. and DEMETRIA assert wrongful death actions
14 against all DEFENDANTS pursuant to C.C.P. §§ 377.60 *et seq.* Per California Probate
15 Code Section 6402 (b), PLAINTIFFS are, “... The issue of the decedent...” This claim is
16 based upon the fact that DEFENDANTS’ negligent, reckless and wrongful acts and
17 omissions, as alleged herein, were a direct and legal cause of Mr. SUTHERLAND’s death
18 and the resulting damages to PLAINTIFFS SHAYNE JR. and DEMETRIA. As a result
19 of their conduct, DEFENDANTS are liable for PLAINTIFFS SHAYNE SUTHERLAND
20 JR. and DEMETRIA SUTHERLAND’s injuries, either because they were integral
21 participants in the wrongful conduct, or because they failed to intervene to prevent these
22 violations.

23 82. The civil rights violations alleged herein, as well as DEFENDANTS’ other
24 tortious acts and omissions, and negligence under California Civil Code Section 1714
25 form the basis for this cause of action.

26 83. PLAINTIFFS SHAYNE SUTHERLAND JR. and DEMETRIA
27 SUTHERLAND are informed and believe and thereon allege that the acts of the individual
28 DEFENDANTS were willful, malicious, intentional, oppressive, reckless and/or were

1 done in willful and conscious disregard of PLAINTIFFS' rights, welfare and safety and
2 those of their father, justifying the awarding of punitive and exemplary damages in an
3 amount to be determined at time of trial.

4 84. As a direct and legal result of DEFENDANTS' acts and omissions,
5 PLAINTIFFS suffered damages, including, without limitation, loss of earnings and
6 earning capacity, support and benefits, loss of enjoyment of life, pain and suffering,
7 physical injuries and sickness, medical expenses, funeral and burial expenses, attorneys'
8 fees, costs of suit, other pecuniary losses not yet ascertained and the loss of Mr.
9 SUTHERLAND's support, love, affection, society, guidance, services, and
10 companionship.

11 85. PLAINTIFFS SHAYNE SUTHERLAND JR. and DEMETRIA
12 SUTHERLAND seek both survival and wrongful death damages and all other damages
13 and remedies available under state law.

14 **SIXTH CAUSE OF ACTION**

15 Assault and Battery

16 (On Behalf of Plaintiffs Shayne Jr. and Demetria Against All Defendants)

17 86. PLAINTIFF(S) repeat and re-allege each and every allegation in the above
18 paragraphs of this Complaint with the same force and effect as if fully set forth herein.

19 87. DEFENDANTS OFFICER ZALUNARDO and OFFICER AFANASIEV,
20 while working as police officers for the SPD COUNTY, and acting within the course and
21 scope of their duties, intentionally used unreasonable force against Mr. SUTHERLAND,
22 including but not limited to, improperly restraining and applying a police baton and/or
23 body weight on him when he posed no threat to the officers or anyone else while face
24 down on the ground pleading to breathe. Upon information and belief, Mr.
25 SUTHERLAND was struggling for breath under the Officers' excessive force for
26 approximately three (3) minutes. DEFENDANTS OFFICER ZALUNARDO and
27 OFFICER AFANASIEV, had no legal justification for using excessive force against Mr.
28 SUTHERLAND as this use of force was unnecessary and unreasonable.

1 88. DEFENDANTS' assault and battery caused Mr. SUTHERLAND extreme
2 pain and suffering, and loss of life and earning capacity. DEFENDANTS' actions also
3 deprived PLAINTIFFS of the life-long love, companionship, support, society, care and
4 they will continue to be so deprived for the remainder of their lives.

5 89. As a direct and legal result of DEFENDANTS' acts and omissions,
6 PLAINTIFFS suffered damages, including, without limitation, loss of earnings and
7 earning capacity, loss of enjoyment of life, pain and suffering, physical injuries and
8 sickness, emotional distress, medical expenses, funeral and burial expenses, attorneys'
9 fees, costs of suit, other pecuniary losses not yet ascertained and the loss of Mr.
10 SUTHERLAND's love, affection, society, support and companionship.

11 90. PLAINTIFFS are informed and believe and thereon allege that the acts of
12 the individual DEFENDANTS were willful, malicious, intentional, oppressive, reckless
13 and/or were done in willful and conscious disregard of the rights, welfare and safety of
14 Mr. SUTHERLAND, thereby justifying the awarding of punitive and exemplary damages
15 in an amount to be determined at time of trial.

16 91. As a result of their conduct, DEFENDANTS are liable for Mr.
17 SUTHERLAND's injuries, either because they were integral participants in the assault
18 and battery, or because they failed to intervene to prevent these violations, or under the
19 doctrine of *respondeat superior*.

20 92. PLAINTIFFS bring this claim as successors-in-interest to Mr.
21 SUTHERLAND and seeks both survival and wrongful death damages under state law.
22

23 **SEVENTH CAUSE OF ACTION**

24 Negligence

25 (On Behalf of Plaintiffs Shayne Jr. and Demetria Against All Defendants)

26 93. PLAINTIFF(S) repeat and re-allege each and every allegation in the above
27 paragraphs of this Complaint with the same force and effect as if fully set forth herein.

28 94. DEFENDANTS owed a duty of care toward Mr. SUTHERLAND and were

1 required to use reasonable diligence to ensure that Mr. SUTHERLAND was not harmed
2 by DEFENDANTS' acts or omissions. DEFENDANTS' actions and omissions were
3 negligent and reckless, including but not limited to:

4 (a). the failure to properly assess and/or supervise the need to improperly restrain,
5 apply a police baton and/or body weight to the neck and shoulder, and use of excessive
6 force against Mr. SUTHERLAND;

7 (b). the negligent tactics and handling of the situation with Mr. SUTHERLAND,
8 including pre-application of body weight and/or police baton negligence;

9 (c). the negligent use of police baton and/or body weight, improper restraining, and
10 use of excessive force against Mr. SUTHERLAND;

11 (d). the failure to employ proper restraining techniques and to exercise due care.

12 (e). the failure to properly train, supervise and discipline employees, including the
13 individual DEFENDANTS;

14 (f). the failure to provide timely medical assistance to Mr. SUTHERLAND; and

15 (g). the negligent hiring, retention and assignment of its employees, including the
16 individual DEFENDANTS.

17 95. DEFENDANTS' conduct caused Mr. SUTHERLAND, without limitation,
18 extreme pain and suffering, and loss of life, enjoyment of life and earning capacity.
19 DEFENDANTS' actions also deprived PLAINTIFFS of the life-long love,
20 companionship, support, society, care, and sustenance of their father and they will
21 continue to be so deprived for the remainder of his life.

22 96. In addition, at the aforementioned date, time and place, the DEFENDANTS
23 negligently, carelessly and without reasonable care, touched and fatally battered Mr.
24 SUTHERLAND.

25 97. As a result of their conduct, DEFENDANTS are liable for Mr.
26 SUTHERLAND's injuries because they were integral participants in the negligence, or
27 because they failed to intervene to prevent these violations, or under the doctrine of
28 *respondeat superior*.

1 98. DEFENDANT CITY is vicariously liable under Government Code section
2 815.2 for the acts of its employees SPD's DEFENDANTS OFFICER ZALUNARDO and
3 OFFICER AFANASIEV, committed in the course and scope of their employment with
4 the CITY.

5 99. PLAINTIFFS bring this claim as successors-in-interest to Mr.
6 SUTHERLAND and seeks both survival and wrongful death damages under state law.

7 **EIGHTH CAUSE OF ACTION**

8 Violation of Bane Act (Cal. Civil Code § 52.1)

9 (Against All Defendants)

10 100. PLAINTIFF(S) repeat and re-allege each and every allegation in the above
11 paragraphs of this Complaint with the same force and effect as if fully set forth herein.

12 101. As alleged herein, DEFENDANTS interfered by threats, intimidation,
13 coercion, or violence with Mr. SUTHERLAND's rights under state and federal laws and
14 under the state and federal Constitution including, without limitation, the right to be free
15 from excessive force, the right to due process, and the right to bodily integrity, including
16 their rights under Civil Code Section 43, Penal Code Sections 149, 240 and 242, and his
17 rights under the First, Fourth and Fourteenth Amendments to the United States
18 Constitution and his rights under Article 1, Sections 1, 7 and/or 13 of the California
19 Constitution.

20 102. DEFENDANTS' conduct caused Mr. SUTHERLAND extreme pain and
21 suffering, and loss of life, earning capacity and his relationship with his parents, friends
22 and family. DEFENDANTS' actions also deprived PLAINTIFFS of their life-long love,
23 companionship, support, society, care, and they will continue to be so deprived for the
24 remainder of their lives.

25 103. As a result of their conduct, DEFENDANTS are liable for Mr.
26 SUTHERLAND's injuries, either because they were integral participants in the
27 misconduct, or because they failed to intervene to prevent these violations, or under the
28 doctrine of *respondeat superior*.

1 104. As a direct and legal result of DEFENDANTS' acts and omissions,
2 PLAINTIFFS suffered damages, including, without limitation, loss of earnings and
3 earning capacity, loss of enjoyment of life, pain and suffering, physical injuries and
4 sickness, emotional distress, medical expenses, funeral and burial expenses, attorneys'
5 fees, costs of suit, other pecuniary losses not yet ascertained and the loss of Mr.
6 SUTHERLAND's support, love, affection, society, guidance, services, and
7 companionship.

8 105. PLAINTIFFS are informed and believe and thereon allege that the acts of
9 the individual DEFENDANTS were willful, malicious, intentional, oppressive, reckless
10 and/or were done in willful and conscious disregard of the rights, welfare and safety of
11 PLAINTIFFS, thereby justifying the awarding of punitive and exemplary damages in an
12 amount to be determined at time of trial.

13 106. PLAINTIFFS bring this claim as successors-in-interest to Mr.
14 SUTHERLAND and seeks both survival and wrongful death damages under state law.
15 PLAINTIFFS also seeks reasonable attorneys' fees under this claim.
16

17 **PRAYER FOR RELIEF**

18 WHEREFORE, PLAINTIFFS pray for judgment against DEFENDANTS and
19 each of them, as follows:

20 AS TO EACH OF THE ACTIONS AS APPLICABLE:

- 21 1. For General Damages according to proof;
- 22 2. For Special Damages according to proof;
- 23 3. For punitive Damages as provided by law, in an amount to be proved against
24 each individual DEFENDANT (not including CITY)
- 25 4. For Attorneys' Fees and costs of suit;
- 26 5. For such other and further relief as the Court may deem proper.
- 27 6. For such other and further relief as the Court may deem just, proper, and

28 appropriate.

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Dated: **Month Day, 2021**

V. JAMES DESIMONE LAW

By: /s/ V. James DeSimone
V. James DeSimone, Esq.
Carmen D. Sabater, Esq.
Attorneys for PLAINTIFFS

1 **DEMAND FOR JURY TRIAL**

2
3 PLAINTIFFS hereby demand a trial by jury.

4
5 Dated: **Month Day, 2021**

V. JAMES DESIMONE LAW

6
7 By: /s/ V. James DeSimone
8 V. James DeSimone, Esq.
9 Carmen D. Sabater, Esq.
10 Attorneys for PLAINTIFFS

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