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7
8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**

10 **JAMES STEINLE**, individually and as
heir to **KATHRYN STEINLE**, deceased;
11 **ELIZABETH SULLIVAN**, individually,
and as heir to **KATHRYN STEINLE**,
12 deceased; and **JAMES STEINLE** and
ELIZABETH SULLIVAN, as co-
13 representatives of the Estate of **KATHRYN**
STEINLE,

14 Plaintiffs,

15 v.

16 **THE UNITED STATES OF AMERICA**,
a governmental entity; **CITY AND**
17 **COUNTY OF SAN FRANCISCO**, a
governmental entity; **ROSS MIRKARIMI**,
18 an individual; and **JUAN FRANCISCO**
LOPEZ-SANCHEZ, an individual.

19 Defendants.

CASE NO.

COMPLAINT FOR DAMAGES:

1. **GENERAL NEGLIGENCE –
WRONGFUL DEATH (Cal. Govt.
Code §§ 815.2(a) and 820(a))**
2. **PUBLIC ENTITY NEGLIGENCE –
WRONGFUL DEATH (Cal. Evid.
Code § 669)**
3. **NEGLIGENCE – SURVIVOR
CAUSE OF ACTION**
4. **DEPRIVATION OF FEDERAL
CIVIL RIGHTS (48 U.S.C. § 1983)**

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1 **I. INTRODUCTION**

2 1. Plaintiffs Kathryn Steinle, deceased, and James Steinle and Elizabeth Sullivan,
3 individually, as heirs to Kathryn Steinle, and as co-representatives of the Estate of Kathryn Steinle
4 (collectively "**PLAINTIFFS**"), bring this action under the Federal Tort Claims Act, 28 U.S.C.
5 § 1346(b), 1402(b), 2401(b), and 2671-2680 ("**FTCA**"), and the California Government Tort
6 Claims Act, California Government Code §§ 810 *et seq.* ("**CGTCA**"), against the City and County
7 of San Francisco ("**CCSF**"), Ross Mirkarimi ("**MIRKARIMI**"), and the United States of America
8 ("**USA**") for their failures to perform mandatory duties and/or for the unconstitutional and/or
9 negligent acts and/or omissions of their officers, officials, agents and/or employees that resulted in
10 the fatal shooting of Kathryn Steinle ("**KATE**") by Juan Francisco Lopez-Sanchez ("**LOPEZ-**
11 **SANCHEZ**"), an undocumented immigrant and seven-time felon who was recently released from
12 **CCSF** custody and who was in possession of a stolen .40 caliber government-issued firearm and
13 used that weapon on July 1, 2015, at approximately 6:30 p.m., to shoot and kill **KATE** while she
14 was walking with her father, James Steinle ("**JAMES**"), on Pier 14 of the Embarcadero in
15 San Francisco.

16 2. This tragic series of events was initiated when in March of 2015, **CCSF** and the
17 Sheriff of **CCSF** at the time, **MIRKARIMI**, issued a memo creating and/or approving an official
18 policy eliminating all communication regarding undocumented immigrants with U.S. Immigration
19 and Customs Enforcement ("**ICE**") in direct contravention of federal and/or state law and in excess
20 of their authority as public entities, agencies and/or officials ("**The March Memo**"). Within weeks
21 of **The March Memo**, **LOPEZ-SANCHEZ**, an undocumented immigrant and career drug felon
22 with at least seven prior felony convictions including heroin possession and narcotics
23 manufacturing, arrived into **CCSF** custody after serving a federal prison sentence for felony re-
24 entry into the United States. Because of **The March Memo**, **LOPEZ-SANCHEZ** was released
25 from **CCSF** custody without any notification to **ICE**, and this is despite **ICE** sending an
26 immigration detainer request to **CCSF** wherein **ICE** specifically asked to be notified of **LOPEZ-**
27 **SANCHEZ**'s release.

1 3. The situation was further exacerbated when ICE and/or an ICE officer, official,
2 agent, and/or employee, with an awareness of CCSF's custody of **LOPEZ-SANCHEZ** and of
3 CCSF's new policy pursuant to The March Memo, failed to affirmatively intervene, detain and/or
4 deport **LOPEZ-SANCHEZ** upon release from CCSF custody.

5 4. **KATE**'s fate was sealed when a U.S. Department of the Interior, Bureau of Land
6 Management Ranger failed to properly secure and/or store a government-issued firearm while it
7 was left in an unoccupied vehicle in a high auto-theft neighborhood in the City and County of San
8 Francisco, California. Due to this failure, **LOPEZ-SANCHEZ** was able to gain access to the
9 firearm, which he then used to shoot and kill **KATE**.

10 5. This tragedy was a by-product of the abuse of authority by **MIRKARIMI** and
11 **CCSF**; the failure of ICE officials, officers and/or agents to carry out their required duties; and the
12 failure of BLM officials, officers and/or agents to properly secure government issued firearms,
13 which in combination, served to provide the means and opportunity for a repeat drug felon
14 **LOPEZ-SANCHEZ** to secure a gun and kill **KATE**. **KATE**'s death was both foreseeable and
15 preventable had the law enforcement agencies, officials and/or officers involved simply followed
16 the laws, regulations and/or procedures which they swore to uphold.

17 **II. JURISDICTION AND VENUE**

18 6. **CCSF** and **USA**, and each of them, were served with an administrative claim
19 pursuant to the FTCA and/or the CGTCA on or around August 31, 2015. **PLAINTIFFS** received
20 only one response from U.S. Immigration and Customs Enforcement on January 15, 2016, wherein
21 the claim was denied.

22 7. This Court has jurisdiction over all causes of action asserted against the federal
23 government pursuant to 28 U.S.C. § 1346. Additionally, this Court has jurisdiction over all other
24 claims pursuant to 28 U.S.C. § 1367 because all of the claims arise from a common nucleus of
25 operative facts that are so intertwined that they cannot be reasonably separated.

26 8. Venue is proper pursuant to 28 U.S.C. § 1402 because at all times relevant, all of
27 the **PLAINTIFFS** resided in this district and all of the wrongful acts and/or omissions complained
28 of herein occurred in this judicial district.

1 **III. PARTIES**

2 **A. Plaintiffs and Decedent**

3 9. Kathryn Steinle (“**KATE**”), deceased, was at all times relevant to this claim a
4 resident of the City and County of San Francisco. **KATE** was the daughter of James Steinle and
5 Elizabeth Sullivan. At the time of her death, **KATE** was a kind, smart and hard-working 32 year
6 old woman, a loving daughter and sister, and committed to socially just causes.

7 10. James Steinle (“**JAMES**”) is a natural person who is, and at all times relevant to
8 this claim was, a resident of Livermore, California. **JAMES** was the father of **KATE**, and is a
9 proper personal representative and heir pursuant to Code of Civil Procedure § 337.60(a).

10 11. Elizabeth Sullivan (“**LIZ**”) is a natural person who is, and at all times relevant to
11 this claim was, a resident of Livermore, California. **LIZ** was the mother of **KATE**, and is a proper
12 personal representative and heir pursuant to Code of Civil Procedure § 337.60(a).

13 **B. Defendants**

14 12. The City and County of San Francisco (“**CCSF**”) is an incorporated municipality
15 and public entity responsible for the safety and welfare of residents and/or visitors of San
16 Francisco. The San Francisco Sheriff’s Department (“**SFSD**”) is a **CCSF** public agency
17 responsible for protecting the public, operating the system of county jails, managing supervised
18 release programs, and providing security and law enforcement in **CCSF**.

19 13. Ross Mirkarimi (“**MIRKARIMI**”) is an individual who, at all times relevant,
20 served as Sheriff of **CCSF** and was responsible for establishing, providing and/or enforcing policy,
21 practices and/or procedures for operating the county jails, managing the supervised release of
22 convicted felons into the community, and providing security and law enforcement, all for the
23 purpose of promoting public safety and deterring crime.

24 14. The United States of America (“**USA**”) is the federal government, who is the proper
25 defendant pursuant to 28 U.S.C. § 2679(b)(1) for claims for money damages arising from or out of
26 a negligent or wrongful act and/or omission of any federal employee committed within the course
27 and scope of their employment. The United States Department of Homeland Security is a cabinet
28 department of the **USA** with Immigration and Customs Enforcement (“**ICE**”) acting as its law

1 enforcement agency. ICE, through its officers, officials, agents and/or employees, is responsible
2 for enforcing the nation's immigration laws and ensuring the departure of undocumented
3 immigrants from the United States. Further, the United States Department of the Interior, Bureau
4 of Land Management ("BLM") helps administer, maintain and oversee certain public lands owned
5 or in the possession of USA. BLM, acting through its Office of Law Enforcement & Security, also
6 functions as a federal law enforcement agency of USA. Pursuant to that role, BLM has uniformed
7 rangers that enforce laws and regulations that govern BLM lands and resources. BLM rangers
8 carry firearms, defensive equipment, make arrests, execute search warrants, complete reports and
9 testify in court.

10 15. Juan Inez Garcia-Zarate, a.k.a. Juan Francisco Lopez-Sanchez ("**LOPEZ-**
11 **SANCHEZ**") is an individual who, at all times relevant, was residing in the City and County of
12 San Francisco, California, and was arrested and criminally charged by the San Francisco District
13 Attorney with the murder of **KATE**.

14 **C. Agency and Concert of Action**

15 16. At all times herein mentioned, Defendants, and each of them, hereinabove, were the
16 agents, servants, employees, partners, aiders and abettors, co-conspirators, and/or joint venturers of
17 each of the other Defendants named herein and were at all times operating and acting within the
18 purpose and scope of said agency, service, employment, partnership, enterprise, conspiracy, and/or
19 joint venture, and each Defendant has ratified and approved the acts of each of the remaining
20 Defendants. Each of the Defendants aided and abetted, encouraged, and rendered substantial
21 assistance to the other Defendants in breaching their obligations to Plaintiffs, as alleged herein. In
22 taking action to aid and abet and substantially assist the commission of these wrongful acts and
23 other wrongdoings complained of, as alleged herein, each of the Defendants acted with an
24 awareness of his/her/its primary wrongdoing and realized that his/her/its conduct would
25 substantially assist the accomplishment of the wrongful conduct, wrongful goals, and wrongdoing.

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1 **IV. STATEMENT OF THE RELEVANT FACTS**

2 **A. The Death of Kathryn Steinle**

3 17. On July 1, 2015, at approximately 6:30 p.m. **LOPEZ-SANCHEZ**, a repeat
4 convicted felon and undocumented immigrant, used a stolen government-issued .40 caliber SIG
5 Sauer handgun to shoot **KATE** in the chest, piercing her aorta.

6 18. **KATE** and her father, **JAMES**, had been walking together along the San Francisco
7 waterfront nearby Pier 14 of the Embarcadero when she was shot. **JAMES** held **KATE** in his arms
8 while she struggled to survive, and attempted to keep **KATE** alive by performing emergency
9 cardiopulmonary resuscitation. **JAMES** held her as she fought for her life and begged for his help,
10 crying, "Help me Daddy!" with her last words.

11 19. Despite **JAMES**' best efforts, and those of the emergency responders who were
12 called to **KATE**'s aid, **KATE** succumbed to her injuries approximately two (2) hours later at
13 San Francisco General Hospital.

14 **B. Juan Francisco Lopez Sanchez's Prior Criminal History**

15 20. **LOPEZ-SANCHEZ** had been convicted of at least seven felonies, four being
16 serious drug felonies, and was deported at least five times prior to the shooting of **KATE**. Indeed,
17 on the date in question, **LOPEZ-SANCHEZ** admitted to being under the influence of narcotics,
18 including but not limited to, marijuana and sleeping pills. He also claims he does not remember
19 any of the events that took place, and witnesses observed **LOPEZ-SANCHEZ** acting bizarrely
20 moments before the shooting of **KATE**.

21 21. **LOPEZ-SANCHEZ**'s prior criminal convictions and/or deportations, include but
22 are not limited to the following:

- 23 a. **Convicted** of felony heroin possession on or about, February 2, 1993;
- 24 b. **Convicted** of felony narcotics manufacturing on or about, May 12, 1993;
- 25 c. **Convicted** of felony heroin possession on or about, November 2, 1993;
- 26 d. **Convicted** of misdemeanor imitation controlled substance on or about,
27 June 9, 1994;

- 1 e. **Convicted** of a controlled substance violation and aggravated felony on or
- 2 about, June 10, 1994;
- 3 f. **Deported** to Mexico on or about, June 20, 1994;
- 4 g. **Convicted** of felony heroin possession on or about, July 11, 1996;
- 5 h. **Deported** to Mexico on or about, April 4, 1997;
- 6 i. **Deported** to Mexico on or about, February 2, 1998;
- 7 j. **Convicted** of felony re-entry on or about, September 3, 1998;
- 8 k. **Deported** to Mexico on or about, March 6, 2003;
- 9 l. **Convicted** of criminal re-entry and violation of supervised release on or
- 10 about, November 7, 2003;
- 11 m. **Deported** to Mexico on or about, June 29, 2009; and
- 12 n. **Convicted** of felony re-entry and probation violations on or about, May 12,
- 13 2011.

14 22. On or around March 26, 2015, **LOPEZ-SANCHEZ** finished serving a 46 month
15 sentence at Victorville federal prison in Los Angeles. *Pursuant to a request made by SFSD,*
16 **LOPEZ-SANCHEZ** was released to SFSD custody to appear for an outstanding felony warrant
17 for the sale of marijuana. Charges were dismissed and/or dropped the following day, but for
18 reasons unknown, SFSD continued to hold **LOPEZ-SANCHEZ** in custody until April 15, 2015 --
19 19 days after all criminal charges had been extinguished.

20 23. **LOPEZ-SANCHEZ** was arrested and charged with the murder of **KATE** on
21 July 6, 2015.

22 C. **The Sanctuary City Law was Never Intended to Halt Notification,**
23 **Communication and/or Cooperation with ICE in the Detention and/or**
24 **Deportation of Repeat Convicted Felons**

25 24. **CCSF** passed the City and County of Refuge ordinance, commonly referred to as
26 the Sanctuary City law, in 1989 for the purpose of encouraging the reporting of crime among
27 immigrants, and certainly not to encourage the harboring of known felons. The law prohibits the
28 use of **CCSF** funds and/or resources “to assist in the enforcement of federal immigration law or to

1 gather or disseminate information regarding the immigration status of individuals” **unless**
 2 **required by federal or state law.** Notably, **the Sanctuary City law was amended in 1992 to**
 3 **explicitly allow for reporting information to and/or cooperating with federal immigration**
 4 **officials when an individual has been previously convicted of a felony,** and there is no
 5 requirement that the felony be serious or violent or have occurred in the past seven years.¹

6 25. This is why CCSF Mayor Ed Lee courageously released a statement on July 6,
 7 2015 following the death of KATE acknowledging that “[t]his is a tragic incident that never
 8 should have happened. **San Francisco’s Sanctuary City ordinance allows for communication**
 9 **with federal law enforcement regarding convicted felons.** The primary responsibility of our law
 10 enforcement agencies in San Francisco is to protect the public. Communicating with federal law
 11 enforcement agencies in these cases is simply common sense and in the best interest of public
 12 safety. Once again, **there is nothing in our Sanctuary City law that prohibits such**
 13 **communication.**”²

14 26. The laws of the State of California reflect the same approach toward undocumented
 15 immigrant felons and/or drug offenders. According to California Health and Safety Code § 11369,
 16 government officials “shall notify the appropriate agency of the United States having charge of
 17 deportation matters” when a suspected undocumented immigrant is arrested for a drug offense.
 18 Furthermore, California Government Code § 7282.5 goes so far as to allow government officials to
 19 cooperate with ICE and/or detain an undocumented immigrant based solely on one prior felony
 20 conviction.

23 ¹ According to San Francisco Administrative Code Chapter 12H.2-1 (a.k.a. Sanctuary City Law): “[N]othing in this
 24 Chapter shall preclude any City and County department, agency, commission, officer or employee from (a) **reporting**
 25 **information** to the INS regarding an individual who has been booked at any county jail facility, and who **has**
 26 **previously been convicted of a felony** committed in violation of the laws of the State of California, which is still
 27 considered a felony under state law; (b) **cooperating with an INS request for information** regarding an individual
 28 who **has been convicted of a felony** committed in violation of the laws of the State of California, which is still
 considered a felony under state law; or (c) **reporting information** as required by federal or state statute, regulation or
 court decision, regarding an individual who **has been convicted of a felony** committed in violation of the laws of the
 State of California, which is still considered a felony under state law.”

² Cestone, Vince, “Pier 14 Shooting: San Francisco Mayor Ed Lee Responds to Sheriff Ross Mirkarimi’s Criticism,”
 KRON4.com, p. 2 (July 10, 2015 at 4:00 PM) available at: [http://kron4.com/2015/07/10/
 pier14shootingsanfranciscomayoredleerespondstosheriffrossmirkarimiscriticism/](http://kron4.com/2015/07/10/pier14shootingsanfranciscomayoredleerespondstosheriffrossmirkarimiscriticism/).

1 27. Congress also mandated the free flow of communication with immigration
2 enforcement officials pursuant to 8 U.S.C. § 1373(a) which passed in 1996, and proscribes that a
3 local government entity or official may not prohibit, or in any way restrict, any government entity
4 or official from sending information to immigration enforcement officials. This statute has been
5 held by the courts to invalidate all restrictions on the voluntary exchange of immigration
6 information between public entities and federal immigration authorities.

7 **D. In Addition to Transgressing Local, State, and/or Federal Law, Mirkarimi**
8 **and CCSF Brazenly Ignored History and Statistics**

9 **1. The Bologna Murders Notified CCSF and Mirkarimi of the Risk that**
10 **Undocumented Convicted Felons Posed**

11 28. In 2008, CCSF released a known undocumented immigrant felon who had
12 previously committed violent crimes and drug offenses onto the streets without notifying and/or
13 cooperating with immigration enforcement officials, and the felon proceeded to fatally shoot three
14 innocent bystanders, Mr. Bologna and his two teenage sons. This was a highly publicized incident
15 that also led to a lawsuit against CCSF, which made it to the court of appeal and was decided on
16 January 31, 2011. Notably, MIRKARIMI served as a San Francisco County Supervisor at that
17 time and less than a year later was elected to SFSD Sheriff.

18 **2. Since the Bologna Murders Statistically Significant Evidence of Crime**
19 **By Undocumented Convicted Felons Mounted, Thereby, Heightening**
20 **the Risks Posed**

21 29. Around this same time, several government agencies were researching, publishing,
22 and/or discussing the violent and statistically significant recidivism rate of undocumented
23 immigrant felons. Indeed, in July of 2012, the United States House Judiciary Committee found that
24 from 2008 to 2011, 46,734 undocumented immigrant criminals were released from jail and/or
25 prison and went on to commit 1,000 major criminal offenses and violent crimes—almost one a day
26 for three years.³ Altogether, undocumented immigrant criminals had a recidivism rate of 16%.⁴ In

27 ³ Goodlatte, Bob, “House Judiciary Report Finds Administration’s Lax Immigration Policies are Deadly,” (July 31,
28 2012) available at: [_http://judiciary.house.gov/index.cfm/2012/7/housejudiciaryreportfindsadministrationslaximmigrationpoliciesaredeadly](http://judiciary.house.gov/index.cfm/2012/7/housejudiciaryreportfindsadministrationslaximmigrationpoliciesaredeadly).

⁴ *Id.*

1 March of 2011, the United States Government Accountability Office (“GAO”) made a report to
 2 Congress finding that “our study population of about 249,000 criminal aliens were arrested about
 3 1.7 million times, averaging about 7 arrests per criminal alien . . .”⁵ The GAO had released a
 4 similar report in 2005 finding the average arrest rate to be even higher, at 8 per criminal alien.⁶
 5 Recidivism among undocumented immigrant criminals is not new either. From 1955 to 2010, 28%
 6 of criminal aliens were arrested between 6 to 10 times.⁷

7 **E. Mirkarimi Created Official Policy that Directly Contradicted Federal Law,**
 8 **Surpassed his Authority and Discretion as a Public Official, and Directly Led**
 9 **to the Release of Lopez-Sanchez onto the Streets of San Francisco**

10 30. As Sheriff of CCSF, MIRKARIMI issued a memorandum on March 13, 2015 (“
 11 The March Memo”) mandating an agency-wide official policy prohibiting SFSD staff from
 12 providing and/or reporting information on undocumented immigrants in custody to ICE, regardless
 13 of the criminal, violent, drug, and/or mental health history of the individual. This included not
 14 providing ICE with any information on citizenship/immigration status, release date, and/or release
 15 time.

16 31. Pursuant to The March Memo, the only person with authority to provide and/or
 17 report the aforementioned information to ICE was MIRKARIMI himself, thereby putting himself
 18 in control of all communication with ICE. On or around the same time, MIRKARIMI made it
 19 known to ICE that he would not contact them under any circumstances, effectively foreclosing all
 20 contact, communication, notification and/or coordination with ICE regarding undocumented
 21 immigrant felons.

22 32. According to the San Francisco Sheriff’s Deputies Association, the official,
 23 longstanding policy and procedure of SFSD prior to The March Memo was for all SFSD deputies,
 24 employees, and/or staff to freely provide information to ICE regarding undocumented immigrant
 25 felons in custody in order to safeguard law abiding citizens.

26
 27 ⁵ GAO-11-187, “Criminal Alien Statistics: Information on Incarcerations, Arrests, and Costs,” US Govt.
 28 Accountability Office, p. 17 (March 2011) available at: <http://www.gao.gov/assets/320/316959.pdf>.

⁶ *Id.*

⁷ See *Id.* at figure 8, “Number of Arrests and Offenses per Criminal Alien from August 1955 to April 2010”.

1 33. Approximately two weeks after The March Memo was issued, **LOPEZ-**
2 **SANCHEZ** was brought into SFSD custody on or around March 26, 2015.

3 34. On or around March 27, 2015, ICE sent a detainer request to SFSD for **LOPEZ-**
4 **SANCHEZ**.

5 35. Immigration detainer requests are issued pursuant to §§ 236 and 287 of the
6 Immigration and Nationality Act and Chapter 1 of the Code of Federal Regulations, 8 C.F.R.
7 § 287.7. An immigration detainer request asks the receiving agency to perform two tasks in regard
8 to an undocumented immigrant in custody: (1) to notify ICE forty-eight (48) hours prior to the
9 release of the undocumented immigrant so that ICE can assume custody; and (2) to detain the
10 individual until the time at which ICE can assume custody of the undocumented immigrant.

11 36. Despite this request, **MIRKARIMI and CCSF, and each of them, released**
12 **LOPEZ-SANCHEZ from custody on April 15, 2015 without contacting, notifying,**
13 **communicating and/or cooperating with ICE.** This is also despite detaining **LOPEZ-**
14 **SANCHEZ** for nineteen (19) days after all criminal charges were dropped, providing ample time
15 to coordinate with ICE. Less than three months later, **KATE** was shot and killed by **LOPEZ-**
16 **SANCHEZ**.

17 37. In a statement by ICE spokeswoman Gillian Christensen, ICE corroborated that if
18 **MIRKARIMI** and **CCSF**, and each of them, had simply contacted, notified, communicated and/or
19 cooperated with ICE, **LOPEZ-SANCHEZ** would have been detained and deported: “[i]f the local
20 authorities had merely notified [U.S. Immigration and Customs Enforcement] that they were about
21 to release this individual into the community, ICE could have taken custody of him and had him
22 removed from the country — thus preventing this terrible tragedy.”⁸

23 **F. An ICE Officer, Official, Agent, and/or Employee Failed to Detain and Deport**
24 **Lopez-Sanchez Upon His Release from SFSD Custody**

25 38. On or around February 12, 2015, **MIRKARIMI** met with U.S. Department of
26 Homeland Security Deputy Director Alejandro Mayorkas during which time **MIRKARIMI**

27
28 ⁸ Brooks, Jon, “Kate Steinle Shooting Puts San Francisco Immigration Policy Under Microscope,” KQED News, p. 3
(July 6, 2015) available at: <http://ww2.kqed.org/news/2015/07/06/kate-steinle-shooting-opens-can-of-worms-on-san-francisco-immigration-policy>.

1 informed USA (and by extension, ICE) that SFSD would not honor ICE detainer requests and/or
 2 notify ICE of the pending release of any undocumented immigrant unless a judicial order or
 3 warrant was issued for deportation. Therefore, ICE was aware prior to the release of **LOPEZ-**
 4 **SANCHEZ** that unless affirmative steps were taken, SFSD would as a matter of course permit the
 5 unsupervised release of undocumented immigrant felons that were in SFSD custody and would do
 6 so without giving ICE any forewarning or notification.

7 39. After issuing the immigration detainer request to SFSD on March 27, 2015 for
 8 **LOPEZ-SANCHEZ**, ICE officers, officials, agents and/or employees failed to take any action to
 9 affirmatively detain and/or deport **LOPEZ-SANCHEZ**, including but not limited to, failing to
 10 obtain a judicial order or warrant for deportation. As a result, **LOPEZ-SANCHEZ** was not
 11 deported and instead allowed to roam the streets of CCSF and shoot **KATE**.

12 **G. A Ranger of the Bureau of Land Management Failed to Secure a .40 Caliber**
 13 **Government-Issued Firearm**

14 40. All BLM rangers are equipped with government-issued firearms.

15 41. BLM rangers are also required to attend special firearm training held by the Federal
 16 Law Enforcement Training Center (“FLETC”). After FLETC training is complete, BLM rangers
 17 complete a second field training and evaluation program where they learn the job in several duty
 18 locations across the western States. Annual and quarterly training is also required for firearms,
 19 defensive tactics, physical fitness, and other job skills.

20 42. The Department of the Interior Departmental Manual, Part 446, Chapter 10 requires
 21 that: “Each law enforcement officer is responsible for ensuring the security of his/her assigned
 22 firearm and other defensive equipment while on or off duty.”

23 43. Further, BLM’s Manual Handbook 1112-2 on Safety and Health for Field
 24 Operations, Topic 17.6 requires that “[a]ll firearms, when not in active use, shall be stored in a
 25 secure place, out of sight, under lock and key. Firearms will be unloaded prior to storage,” and
 26 Topic 17.5 requires that “Bureau employees are prohibited at all times from using Government-
 27 owned vehicles or equipment for the express or incidental purpose of hunting, shooting, or
 28 transporting of game, hunters, firearms, or ammunition.”

1 44. On or around June 27, 2015, a BLM Ranger left a loaded and government-issued
2 .40 caliber SIG Sauer P239 handgun unlocked in an unattended vehicle parked in the downtown
3 area of San Francisco. The firearm was left in a backpack in plain sight of passersby's and within
4 reach of someone smashing a window of the vehicle. The firearm was stolen from the vehicle, and
5 less than five (5) days later it was used to kill KATE.

6 45. On or around July 10, 2015, the .40 caliber SIG Sauer handgun was retrieved from
7 the water just off of Pier 14 of the Embarcadero in San Francisco. After comparing the ballistics
8 from the handgun that was found to the round that killed KATE, the San Francisco Police
9 Department's forensic crime laboratory confirmed that it was the gun used by LOPEZ-
10 SANCHEZ to shoot and kill KATE. BLM also confirmed that it was same handgun that had been
11 taken from the Ranger's vehicle.

12 **V. CAUSES OF ACTION**

13
14 **FIRST CAUSE OF ACTION**
GENERAL NEGLIGENCE – WRONGFUL DEATH

15 **(Cal. Govt. Code §§ 815.2(a) and 820(a))**

16 **(Against All Defendants by Plaintiffs JAMES and LIZ individually and as heirs of KATE)**

17 46. **PLAINTIFFS** hereby re-allege and incorporate by reference each and every
18 allegation contained above as if fully set forth in detail herein.

19 **A. Defendants Mirkarimi and CCSF**

20 47. **PLAINTIFFS** allege, that at all times relevant herein, **MIRKARIMI** and **CCSF**,
21 and each of them, acted negligently, carelessly, recklessly, and/or unlawfully by including but not
22 limited to: (1) creating and/or issuing The March Memo; (2) mandating an official policy
23 forbidding all employees from contacting ICE regarding undocumented immigrants; (3) ignoring
24 ICE's immigration detainer request; and/or (4) failing to notify, communicate, cooperate, assist,
25 and/or provide information to ICE regarding the release of **LOPEZ-SANCHEZ** from **SFSD**
26 custody.

27 48. The aforementioned acts and/or omissions by **MIRKARIMI** and **CCSF**, and each
28 of them, were not the result of the exercise of discretion as **MIRKARIMI** and **CCSF** are not

1 vested with discretion to contravene federal law and/or state law, including but not limited to
2 8 U.S.C. § 1373(a), California Health and Safety Code § 11369, and/or California Government
3 Code § 7282.5.

4 49. Further, the aforementioned acts and/or omissions by **MIRKARIMI** and **CCSF**,
5 and each of them, did not pertain to a decision whether to release **LOPEZ-SANCHEZ** nor to any
6 terms and conditions of **LOPEZ-SANCHEZ**'s release, but rather involved ministerial acts and/or
7 omissions in the implementation of the decision to release **LOPEZ-SANCHEZ**.

8 50. **PLAINTIFFS** allege, that at all times relevant herein, **MIRKARIMI** and **CCSF**,
9 and each of them, were on notice of the potentially violent and tragic consequences of the failure
10 to report undocumented immigrants with prior felonies to ICE for several reasons, including but
11 not limited to: (1) the Bologna murders and resulting lawsuit; and/or (2) well-published statistics
12 regarding the recidivism rate of undocumented immigrant felons. Further, it was reasonably
13 foreseeable that an undocumented immigrant with a twenty-two year criminal record that consisted
14 of seven felony offenses, including the possession, manufacture, and/or sale of narcotics, would
15 continue to engage in criminal behaviors, including violent acts, once released from custody.

16 51. As a direct and legal result of the wrongful acts and/or omissions of **MIRKARIMI**
17 and **CCSF**, and each of them, ICE was not given the opportunity to take custody of **LOPEZ-**
18 **SANCHEZ**, and he was released into the City and County of San Francisco where he obtained a
19 firearm and pursued a criminal course of conduct, killing **KATE**.

20 52. As a further direct and legal result of the wrongful acts and/or omissions of
21 **MIRKARIMI** and **CCSF**, and each of them, **JAMES** contemporaneously witnessed his daughter
22 being shot and struggling for life while in his arms, and thereby suffered extreme emotional
23 distress, including nervousness, grief, anxiety, worry, mortification, shock, indignity,
24 apprehension, terror or ordeal, all in an amount to be determined.

25 53. As a further direct and legal result of the wrongful acts and/or omissions of
26 **MIRKARIMI** and **CCSF**, and each of them, Plaintiffs **JAMES** and **LIZ**, suffered and continue to
27 suffer loss of love, society, solace, companionship, comfort, care, assistance, protection, affection,
28 society, and moral support, all in an amount to be determined.

1 54. As a further direct and legal result of the wrongful acts and/or omissions of
2 **MIRKARIMI** and **CCSF**, and each of them, Plaintiffs **JAMES** and **LIZ** incurred funeral and
3 burial expenses, all in an amount to be determined.

4 **B. Defendant USA – BLM**

5 55. **PLAINTIFFS** allege, that at all times relevant herein, a BLM Ranger acted
6 negligently, carelessly, recklessly, and/or unlawfully in the course and scope of his/her
7 employment by including but not limited to: (1) failing to properly secure his/her firearm and/or
8 ammunition; (2) failing to properly store his/her firearm and/or ammunition; (3) leaving his/her
9 firearm and/or ammunition in plain view; (4) leaving his/her firearm and/or ammunition in close
10 enough proximity to the window of a vehicle that a passerby could smash the window and obtain
11 the firearm and/or ammunition; (5) leaving the firearm loaded with ammunition while not in use
12 and/or in an unattended vehicle; (6) failing to carry the firearm on his/her person at all times;
13 and/or (7) using a vehicle to transport a firearm and/or ammunition.

14 56. **PLAINTIFFS** allege, that at all times relevant herein, a BLM Ranger knew or
15 should have known that leaving a loaded, unlocked, and/or unsecured firearm in an unattended
16 vehicle could result in theft of the firearm, especially in a dense, highly-populated location with a
17 high rate of auto break-ins. Further, it was reasonably foreseeable that a loaded firearm, once
18 stolen, would be used to pursue a criminal course of conduct.

19 57. The aforementioned wrongful acts and/or omissions of the BLM Ranger were not
20 the result of the exercise of discretion vested in the BLM Ranger as he/she does not have the
21 discretion to disregard mandatory duties proscribed by BLM and/or U.S. Department of the
22 Interior manuals and/or handbooks.

23 58. As a direct and legal result of the wrongful acts and/or omissions of the BLM
24 Ranger, **LOPEZ-SANCHEZ** was allowed to gain access to a loaded weapon that he used to kill
25 **KATE**.

26 59. As a further direct and legal result of the wrongful acts and/or omissions of the
27 BLM Ranger, **PLAINTIFFS** suffered the damages as herein above set forth.

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1 **C. Defendant USA – ICE**

2 60. **PLAINTIFFS** allege, that at all times relevant herein, an ICE officer, official,
3 agent, and/or employee acted negligently, carelessly, recklessly, and/or unlawfully in the course
4 and scope of his/her employment by including but not limited to: (1) failing to detain **LOPEZ-**
5 **SANCHEZ**; (2) failing to deport **LOPEZ-SANCHEZ**; (3) failing to obtain a judicial order or
6 warrant for the deportation of **LOPEZ-SANCHEZ**; and/or (4) failing to take custody of **LOPEZ-**
7 **SANCHEZ** during the nineteen days he was held in SFSD custody after all criminal charges were
8 dropped.

9 61. **PLAINTIFFS** allege, that at all times relevant herein, ICE officers, officials,
10 agents, and/or employees knew or should have known that SFSD would not notify ICE prior to the
11 unsupervised release of **LOPEZ-SANCHEZ**. ICE officers, officials, agents, and/or employees
12 further knew or should have known that **LOPEZ-SANCHEZ** had a long criminal history of felony
13 offenses and deportations. It was reasonably foreseeable that an undocumented immigrant with a
14 22 year criminal record that consisted of seven felony offenses would continue to engage in
15 criminal behaviors, including violent acts, once released from custody.

16 62. The aforementioned wrongful acts and/or omissions of the ICE officer, official,
17 agent, and/or employee were not the result of the exercise of discretion vested in the ICE officer,
18 official, agent, and/or employee as he/she does not have the discretion to disregard mandatory
19 duties defined by federal statutes.

20 63. As a direct and legal result of the wrongful acts and/or omissions of the ICE officer,
21 official, agent and/or employee, **LOPEZ-SANCHEZ** was not deported and allowed to reside in
22 the City and County of San Francisco where he gained access to a loaded weapon that he used to
23 kill **KATE**.

24 64. As a further direct and legal result of the wrongful acts and/or omissions of the ICE
25 officer, official agent, and/or employee, **PLAINTIFFS** suffered the damages as herein above set
26 forth.

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1 after that individual becomes eligible for release from custody only if the continued detention of
2 the individual on the basis of the immigration hold would not violate any federal, state, or local
3 law, or any local policy, and only under any of the following circumstances: . . . the individual has
4 been convicted of a felony punishable by imprisonment in the state prison.”

5 71. The aforementioned statutes were intended to protect against the type of harm
6 suffered by **PLAINTIFFS**, and **KATE** was one of the class of persons for whose protection the
7 aforementioned statutes were adopted.

8 72. The aforementioned mandatory duties was breached when **MIRKARIMI** and
9 **CCSF**, and each of them, mandated an official policy forbidding all SFSD deputies, employees,
10 and/or staff from contacting and/or cooperating with ICE regarding undocumented immigrants in
11 SFSD custody, including drug felons with long criminal histories.

12 73. As a direct and legal result of the wrongful acts and/or omissions of **MIRKARIMI**
13 and **CCSF**, and each of them, ICE was not given the opportunity to take custody of **LOPEZ-**
14 **SANCHEZ**, and he was released into the City and County of San Francisco where he later killed
15 **KATE**.

16 74. As a further direct and legal result of the wrongful acts and/or omissions of
17 **MIRKARIMI** and **CCSF**, and each of them, **PLAINTIFFS** suffered the damages as herein above
18 set forth.

19 B. **Defendant USA – BLM**

20 75. **PLAINTIFFS** allege, that at all times relevant herein, BLM Rangers had a
21 mandatory duty to (a) secure firearms in a lockable, hard-side, gun case that is pre-approved by the
22 State Firearms Officer; (b) ensure that all firearms are unloaded at all times except when actually
23 needed; and (c) not use government-owned vehicles for the express or incidental purpose of
24 transporting firearms and/or ammunition, all pursuant to the Department of the Interior
25 Departmental Manual, Part 446, Chapter 10 and BLM’s Manual Handbook 1112-2 on Safety and
26 Health for Field Operations, Topics 17.5 and 17.6.

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1 76. The Department of the Interior Departmental Manual, Part 446, Chapter 10
2 specifically states that: “Each law enforcement officer is responsible for ensuring the security of
3 his/her assigned firearm and other defensive equipment while on or off duty.”

4 77. BLM’s Manual Handbook 1112-2 on Safety and Health for Field Operations, Topic
5 17.6 specifically states that “[a]ll firearms, when not in active use, shall be stored in a secure place,
6 out of sight, under lock and key. Firearms will be unloaded prior to storage.”

7 78. BLM’s Manual Handbook 1112-2 on Safety and Health for Field Operations, Topic
8 17.5 specifically states that “Bureau employees are prohibited at all times from using Government-
9 owned vehicles or equipment for the express or incidental purpose of hunting, shooting, or
10 transporting of game, hunters, firearms, or ammunition.”

11 79. **PLAINTIFFS** allege, that at all times relevant herein, the BLM Ranger who was
12 assigned the .40 caliber SIG Sauer handgun that was later used to kill **KATE** failed to carry out
13 his/her mandatory duties by (1) failing to properly secure his/her firearm; (2) failing to properly
14 store his/her firearm; (3) leaving the firearm in plain view; (4) leaving the firearm in close enough
15 proximity to the window of a vehicle that a passerby could smash the window and grab the
16 firearm; (5) leaving the firearm loaded with lethal bullets; (6) failing to carry the firearm on his/her
17 person at all times; and/or (7) using a government-owned vehicle to transport a firearm and/or
18 ammunition.

19 80. The aforementioned manuals were intended to protect against the type of harm
20 suffered by **PLAINTIFFS**, and **KATE** was one of the class of persons for whose protection the
21 aforementioned manuals were adopted.

22 81. As a direct and legal result of the wrongful acts and/or omissions of the BLM
23 Ranger, **LOPEZ-SANCHEZ** was allowed gain access to a loaded weapon that he later used to kill
24 **KATE**.

25 82. As a further direct and legal result of the wrongful acts and/or omissions of the
26 BLM Ranger, **PLAINTIFFS** suffered the damages as herein above set forth.

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1 **C. Defendant USA – ICE**

2 83. **PLAINTIFFS** allege, that at all times relevant herein, ICE and/or ICE officers,
3 officials, agents and/or employees, and each of them, had a mandatory duty to affirmatively detain
4 and/or deport **LOPEZ-SANCHEZ**, a convicted drug felon, pursuant to 8 U.S.C. § 1226(c)(1)
5 and/or 8 U.S.C. § 1357(d).

6 84. 8 U.S.C. § 1226(c)(1) specifically states: “The Attorney General **shall take into**
7 **custody any alien** who—(A) is inadmissible by reason of having committed any offense covered
8 in section 212(a)(2), or (B) is deportable by reason of having committed any offense covered in
9 section 237(a)(2)(A)(ii), (A)(iii), (B), (C), or (D) . . . **when the alien is released**, without regard to
10 whether the alien is released on parole, supervised release, or probation, and without regard to
11 whether the alien may be arrested or imprisoned again for the same offense.”

12 85. 8 U.S.C. § 1357(d) specifically states: “In the case of an alien who is arrested by a
13 Federal, State, or local law enforcement official for a violation of any law relating to controlled
14 substances, if the official (or another official)—(1) has reason to believe that the alien may not
15 have been lawfully admitted to the United States or otherwise is not lawfully present in the United
16 States, (2) expeditiously informs an appropriate officer or employee of the Service authorized and
17 designated by the Attorney General of the arrest and of facts concerning the status of the alien, and
18 (3) requests the Service to determine promptly whether or not to issue a detainer to detain the
19 alien, the officer or employee of the Service shall promptly determine whether or not to issue such
20 a detainer. **If such a detainer is issued and the alien is not otherwise detained by Federal,**
21 **State, or local officials, the Attorney General shall effectively and expeditiously take custody**
22 **of the alien.**”

23 86. **PLAINTIFFS** allege, that at all times relevant herein, ICE and/or an ICE officer,
24 official, agent, and/or employee, and each of them, failed to carry out their mandatory duties by
25 including but not limited to: (1) failing to detain **LOPEZ-SANCHEZ**; (2) failing to deport
26 **LOPEZ-SANCHEZ**; (3) failing to obtain a judicial order or warrant for the deportation of
27

1 **LOPEZ-SANCHEZ**; and/or (4) failing to take custody of **LOPEZ-SANCHEZ** during the
2 nineteen days he was held in SFSD custody after all criminal charges were dropped.

3 87. The aforementioned statutes were intended to protect against the type of harm
4 suffered by **PLAINTIFFS**, and **KATE** was one of the class of persons for whose protection the
5 aforementioned statutes were adopted.

6 88. As a direct and legal result of the wrongful acts and/or omissions of ICE and/or an
7 ICE officer, official agent and/or employee, and each of them, **LOPEZ-SANCHEZ** was not
8 deported and allowed to reside in the County and City of San Francisco where he gained access to
9 a loaded weapon that he used to kill **KATE**.

10 89. As a further direct and legal result of the wrongful acts and/or omissions of ICE
11 and/or an ICE officer, official, agent and/or employee, and each of them, **PLAINTIFFS** suffered
12 the damages as herein above set forth.

13 WHEREFORE Plaintiffs pray for relief set forth below.

14 **THIRD CAUSE OF ACTION**
15 **NEGLIGENCE – SURVIVOR CAUSE OF ACTION**
16 **(Against All Defendants By Plaintiffs JAMES and LIZ, as co-representatives of the Estate of**
17 **KATE)**

18 90. **PLAINTIFFS** hereby re-allege and incorporate by reference each and every
19 allegation above as if fully set forth in detail herein.

20 91. On July 1, 2015 and prior to her death, the foregoing cause of action arose in
21 **KATE**'s favor. Since her death, **LIZ** and **JAMES** have served as representatives for **ESTATE**
22 and are authorized as successor in interest with respect to their interest in the property that was
23 damaged, lost or destroyed in this tragic incident, to pursue any and all legal claims for damages
24 related thereto, and to recover damages for expenses incurred related to medical and/or emergency
25 services related to this incident.

26 92. At all times prior to this incident, Defendants, and each of them, negligently,
27 carelessly, recklessly, and/or unlawfully acted and/or failed to act, including but not limited to
28 failing to perform mandatory duties so as to cause the death of **KATE**.

1 93. As a direct and legal result of the wrongful acts and/or omissions of Defendants,
2 and each of them, on July 1, 2015, and immediately prior to KATE's death, expenses were
3 incurred for emergency and medical services.

4 94. As a further direct and legal result of the wrongful acts and/or omissions of
5 Defendants, and each of them, KATE also endured great pain and suffering from the bullet wound
6 before dying at the hospital approximately two (2) hours later.

7 WHEREFORE Plaintiffs pray for relief set forth below.

8 **FOURTH CAUSE OF ACTION**
9 **DEPRIVATION OF FEDERAL CIVIL RIGHTS**

10 **(48 U.S.C. § 1983)**

11 **(Against MIRKARIMI and CCSF By Plaintiffs JAMES and LIZ individually and as heirs of**
12 **KATE)**

13 95. PLAINTIFFS hereby re-allege and incorporate by reference each and every
14 allegation above as if fully set forth in detail herein.

15 96. PLAINTIFFS allege, that at all times herein mentioned, KATE possessed a
16 constitutional right to not be deprived of life or liberty without due process.

17 97. Through The March Memo, which was not reviewed, presented, approved, and/or
18 voted on by a governing body and/or the electorate, MIRKARIMI unilaterally mandated an
19 official policy that abridged and/or lowered the safety and security conferred on KATE under
20 federal, state, and/or local laws without due process and/or proper governmental purpose, thereby
21 creating the danger to which KATE fell victim and doing so with deliberate indifference to the
22 known or obvious danger posed by LOPEZ-SANCHEZ.

23 98. When MIRKARIMI issued The March Memo he was acting and/or purporting to
24 act in the performance of his official duties, and at all times relevant, MIRKARIMI was a
25 policymaking official of CCSF.

26 99. The March Memo became official policy of CCSF, and the failure of
27 MIRKARIMI and/or any officer, official, agent, and/or employee of SFSD to notify, contact,
28 communicate, and/or cooperate with ICE regarding LOPEZ-SANCHEZ's release from SFSD

1 custody occurred as a result of the official policy. Further, the failure was approved by
2 **MIRKARIMI** and/or **CCSF**.

3 100. By prohibiting the notification to ICE necessary for custody, detention, deportation
4 and/or removal of undocumented convicted felons, the March Memo deprived **KATE** of life and
5 liberty without due process, as required under the United States Constitution. The March Memo
6 amounts to deliberate indifference to federal, state, and/or local law which safeguarded **KATE**'s
7 constitutional rights and is the moving force behind the constitutional violation of her rights.

8 101. As a direct and legal result of the wrongful acts and/or omissions of **MIRKARIMI**
9 and **CCSF**, and each of them, **PLAINTIFFS** suffered the damages as herein above set forth.

10 WHEREFORE Plaintiffs pray for relief set forth below.

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VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray judgment against Defendants as hereinafter set forth:

1. For compensatory and general damages in an amount according to proof;
2. For past and future medical, incidental, and service expenses according to proof;
3. For pre- and post-judgment interest on all damages as allowed by the law;
4. For costs of suit incurred herein;
5. For attorney fees under existing law; and
6. For such other and further relief as the Court may deem just and proper.

Dated: May 26 2016

COTCHETT, PITRE & McCARTHY, LLP

By: 

FRANK M. PITRE
ALISON E. CORDOVA
Attorneys for Plaintiffs

VII. JURY DEMAND

Plaintiffs demand trial by jury on all issues so triable.

Dated: May 26 2016

COTCHETT, PITRE & McCARTHY, LLP

By: 

FRANK M. PITRE
ALISON E. CORDOVA
Attorneys for Plaintiffs

JS 44 (Rev. 12/12)
Cand rev (1/15/13)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
 JAMES STEINLE, individually and as heir to KATHRYN STEINLE, deceased; ELIZABETH SULLIVAN, individually, and as heir to KATHRYN STEINLE, deceased; and JAMES STEINLE and ELIZABETH SULLIVAN, as co-representatives of the Estate of KATHRYN STEINLE

(b) County of Residence of First Listed Plaintiff ALAMEDA
 (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
 FRANK M. PITRE (SBN 100077)
 ALISON E. CORDOVA (SBN 284942)
COTCHETT, PITRE & MCCARTHY, LLP
 840 Malcolm Road, Suite 200, Burlingame, CA 94010
 Telephone: (650) 697-6000 Facsimile: (650) 697-0577

DEFENDANTS
 THE UNITED STATES OF AMERICA, a governmental entity; CITY AND COUNTY OF SAN FRANCISCO, a governmental entity; ROSS MIRKARIMI, an individual; and JUAN FRANCISCO LOPEZ-SANCHEZ, an individual

County of Residence of First Listed Defendant _____
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known) _____

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff

2 U.S. Government Defendant

3 Federal Question (U.S. Government Not a Party)

4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Citizen of This State	PTF <input type="checkbox"/> 1	DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	PTF <input type="checkbox"/> 4	DEF <input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities Employment <input type="checkbox"/> 446 Amer. w/Disabilities Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding

2 Removed from State Court

3 Remanded from Appellate Court

4 Reinstated or Reopened

5 Transferred from Another District (specify)

6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
 Cal. Govt. Code §§ 815.2(a) and 820(a); Cal. Evid. Code § 669; 28 U.S.C. § 1346(b); 48 U.S.C. § 1983

Brief description of cause:
 Wrongful Death and Deprivation of Federal Civil Rights

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$ 25,000,000.00

CHECK YES only if demanded in complaint:
 JURY DEMAND: Yes No


VIII. RELATED CASE(S) IF ANY (See instructions):

JUDGE _____ DOCKET NUMBER _____

IX. DIVISIONAL ASSIGNMENT (Civil L.R. 3-2)
 (Place an "X" in One Box Only)

SAN FRANCISCO/OAKLAND SAN JOSE EUREKA

DATE: MAY 27, 2016

SIGNATURE OF ATTORNEY OF RECORD: 

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. (a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; NOTE: federal question actions take precedence over diversity cases.)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint. Class Action.** Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.