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CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
LOS ANGELES

BY \_\_\_\_\_

8 Attorneys for Plaintiffs  
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10

11 **UNITED STATES DISTRICT COURT**  
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 BARBARA WILLIAMS and E. PAUL }  
14 WILLIAMS, individually and as }  
15 successors-in-interest of }  
16 BARTHOLOMEW P. WILLIAMS }

Case No.: EOCV13-408-JGB  
(Pls)

COMPLAINT AND DEMAND FOR  
JURY TRIAL

17 Plaintiffs,  
18 v.  
19 STATE OF CALIFORNIA;  
20 CALIFORNIA STATE UNIVERSITY  
21 SAN BERNARDINO; POLICE CHIEF  
22 JIMMIE BROWN, individually; and  
23 DOES 1-10, individually

{ (1) Unreasonable Use of Deadly Force  
(42 U.S.C. § 1983);  
(2) Deprivation of Life Without Due  
Process (42 U.S.C. § 1983);  
(3) Interference with Parent-Child  
Relationship (42 U.S.C. § 1983);  
(4) Discrimination on Basis of  
Disability in Violation of ADA (42  
U.S.C. § 12101 et seq.);  
(5) Wrongful Death (Cal. Civ. Proc.  
Code § 377.60);  
(6) Violation of California Civil Code  
§§ 51, 51.7, 52, and 52.1;  
(7) Battery; and  
(8) Negligence.

24  
25 Defendants.  
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1                   Barbara Williams and E. Paul Williams (“Plaintiffs”), upon information and  
2 belief, allege the following:

3                   **INTRODUCTION**

4                   1. This case challenges the unjustified shooting and killing of Plaintiffs’ son  
5 Bartholomew P. Williams (“Mr. Williams”) by unknown officers of the California  
6 State University San Bernardino Police Department (“CSU SBPD”). Mr. Williams  
7 was bipolar and was registered with Cal State San Bernardino as a disabled  
8 student. At the time of the shooting, Mr. Williams was unarmed and experiencing  
9 an episode of psychological distress. Defendants were on notice that Mr. Williams  
10 was a disabled student and had previously exhibited signs of psychological stress.  
11 Plaintiffs are informed and believe and thereon allege that Defendants went to Mr.  
12 Williams’s residence at student housing to perform a psychological intervention.  
13 Rather than encountering Mr. Williams in a manner designed to assist and  
14 accommodate him, Defendants engaged in the unnecessary use of force, which  
15 unnecessarily and unreasonably escalated to deadly force. CSU SBPD officers shot  
16 Mr. Williams numerous times and killed him. The use of deadly force against Mr.  
17 Williams was both unconstitutional and violated clearly established law that would  
18 have been known to any reasonable police officer.

19                   **JURISDICTION AND VENUE**

20                   2. This case arises under 42 U.S.C. § 1983 and California law. This Court  
21 has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331. This  
22 Court has subject matter jurisdiction over Plaintiffs’ supplemental state law claims  
23 pursuant to 28 U.S.C. § 1367.

24                   3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and (e) in  
25 that (1) unlawful actions challenged herein occurred in the Central District and (2)  
26 all of the parties reside in the Central District.  
27

## THE PARTIES

4. Plaintiffs Barbara Williams and Paul Williams bring this action individually and as heirs and the sole successors-in-interest to their son Bartholomew P. Williams (“Mr. Williams”). Plaintiffs assert all survival claims and rights under California law, which survive Mr. Williams’s death pursuant to California Code of Civil Procedure §§ 377.30 and 377.60, and any survival claims they may bring under 42 U.S.C. § 1983 in their capacities as the successors-in-interest to their son.

5. At all relevant times, Mr. Williams was a resident of San Bernardino, California. Plaintiffs are residents of Apple Valley, California.

6. Plaintiffs are informed and believe and thereon allege that at all relevant times defendant State of California was a government entity and that defendant California State University San Bernardino (“CSU San Bernardino”) is a University organized under the laws of the State of California. By virtue of 42 U.S.C. § 12202, Defendant State of California is not entitled to immunity from suit under the Eleventh Amendment for Plaintiffs’ claims for violations of the Americans with Disabilities Act.

7. Plaintiffs are informed and believe and thereon allege that at all relevant times, Defendant Brown was the Chief of Police of CSU San Bernardino's University Police Department (CSU SBPD) and is responsible for supervising all CSU San Bernardino officers and for maintaining and implementing the policies regarding the use of force by the CSU SBPD and is directly responsible for Plaintiffs' damages. Defendant Brown is sued in his individual capacity on all claims and in his individual and official capacity only with respect to Plaintiffs' claims for violation of the Americans with Disabilities Act.

8. Plaintiffs are informed and believe and thereon allege that at all relevant times Does 1-10 were duly authorized CSU SBPD employees and agents, acting under color of law within the course and scope of their respective duties as CSU

1 SBPD officers and with the complete authority and ratification of Defendant CSU  
2 San Bernardino. The true names of Does 1-10 are unknown to Plaintiffs. Plaintiffs  
3 will seek leave to amend this complaint to show the true names and capacities of  
4 these Defendants when they have been ascertained. Each of the fictitious  
5 Defendants is responsible for some part of the conduct and liabilities alleged  
6 herein.

7 9. Plaintiffs are informed and believe and thereon allege that each Defendant  
8 is, and at all times mentioned, was the agent, employee, representative, successor  
9 and/or assignee of each other Defendant. Each Defendant, in doing the acts, or in  
10 omitting to act as alleged in this Complaint, was acting within the scope of his or  
11 her actual or apparent authority, or the alleged acts and omissions of each  
12 Defendant agent subsequently were ratified and adopted by each other Defendant  
13 as principal. Plaintiffs are informed and believe and thereon allege that each of the  
14 individual Defendants were in some way responsible for the constitutional  
15 violations and torts alleged in this Complaint.

16 10. Plaintiffs are informed and believe and thereon allege that all defendants,  
17 at all times relevant to the allegations herein, acted under the color of state law.  
18 Each non-government entity defendant is sued in his or her individual capacity  
19 only (except for Plaintiffs' ADA claims, in which all defendants are sued in their  
20 individual and official capacities). Liability under California law for all  
21 government employees is based upon, among other things, California Civil Code  
22 Sections 43, 51, 51.7, 52, 52.1, 377.30, and 377.60; Government Code Section  
23 815.2; and Penal Code Sections 149, 240 and/or 242. Liability under federal law  
24 for all government entity employees is based upon 42 U.S.C. § 1983 and upon the  
25 Americans with Disabilities Act. Liability for the State of California and CSU San  
26 Bernardino is based upon the Americans with Disabilities Act (42 U.S.C. § 12101  
27 *et seq.*). Plaintiffs timely filed a tort claim with Defendant CSU San Bernardino  
28 and have complied with the requirements of the California Tort Claim Act.

11. In committing the acts alleged in this Complaint, Defendants acted knowingly, maliciously, and with reckless or callous disregard for the constitutional rights of Plaintiffs and of Plaintiffs' son Mr. Williams, justifying an award of punitive damages under Federal and California law against each individual defendant.

## **FACTUAL ALLEGATIONS**

12. On December 8, 2012, unknown police officers employed by CSU SBPD shot and killed 38-year-old Bartholomew Williams near or at CSU San Bernardino University housing in the vicinity of the 1500 block of W. North Park Avenue.

13. The officers were not carrying Tasers, as CSU SBPD does not issue Tasers to its officers.

14. Mr. Williams was bipolar and was registered with CSU San Bernardino as a disabled student who received reasonable accommodations, psychological treatment, and medication from the school.

15. At the time of the shooting, Mr. Williams was unarmed and possibly suffering through an episode of psychological distress. The use of deadly force in this case was unreasonable and excessive given that CSU San Bernardino knew Mr. Williams was a disabled student. Defendants CSU SBPD officers failed to use proper procedures in responding to a situation involving a mentally or emotionally disturbed person and failed to summon and wait for the arrival of proper mental health officials or a crisis intervention team and failed to summon and wait for the arrival of Mr. Williams's family, relatives and/or friends who could have helped to defuse the situation. Instead, the officers escalated the level of tension and violence, and their use of deadly force was excessive and unreasonable under the circumstances.

16. Plaintiffs are informed and believe and thereon allege that the officers

1 and employees of CSU SBPD were negligently and inadequately trained, hired,  
2 retained and/or supervised regarding the use of force and regarding proper  
3 procedures for responding to situations involving emotionally or mentally  
4 disturbed persons, including:

- 5 a. Failing to provide adequate training and supervision to  
6 officers with respect to constitutional limits on the use of  
7 force;
- 8 b. Failing to provide adequate discipline, training, and  
9 supervision to officers with a propensity for violence or a  
10 history of violence and unconstitutional actions;
- 11 c. Failing to provide adequate training and supervision to  
12 officers with respect to the proper procedures to be  
13 followed in dealing with mentally disturbed or agitated  
14 persons in need of medical or psychological treatment.

15  
16 17. Before his death, Mr. Williams was a bright, extroverted, and  
17 intellectually curious young man who was pursuing his Masters degree at CSU San  
18 Bernardino. He had friends in all walks of life. Mr. Williams was very close to his  
19 parents and family. His death has been devastating to his parents and family.

20 18. Barbara and Paul Williams are the parents and next of kin to the  
21 decedent Mr. Williams.

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## **FIRST CLAIM FOR RELIEF**

## **Unreasonable Use of Deadly Force**

(42 U.S.C. § 1983)

**(By Plaintiffs in their capacities as successors-in-interest to Bartholomew Williams)**

**(Against Defendant Brown and DOES 1-10)**

19. Plaintiffs repeat and reallege each and every allegation in paragraphs 1-18 of this Complaint with the same force and effect as if fully set forth herein.

20. Defendants' use of deadly force was both excessive and unreasonable under the circumstances. Defendants' unjustified shooting and killing of Mr. Williams deprived him of his rights under the Fourth and Fourteenth Amendments. Plaintiffs, as Mr. Williams's successors-in-interest, have the right and standing to assert Mr. Williams's claim for this violation of his Fourth and Fourteenth Amendment rights.

21. Defendants' unlawful use of deadly force caused Mr. Williams extreme pain and suffering, and loss of his life, earning capacity and his relationship with his parents, friends, and family. Defendants' actions also deprived Plaintiffs of the life-long love, companionship, support, society, care, and sustenance of their son Mr. Williams, and they will continue to be so deprived for the remainder of their lives.

22. As a result of their conduct, Defendants are liable for Mr. Williams's injuries and death, either because they were integral participants in the excessive force, or because they failed to intervene to prevent these violations, or because they permitted a policy and practice of conscious disregard of and reckless indifference to Constitutional rights.

23. The claim against Defendant Brown is based upon Plaintiffs' allegations that CSU SBPD's policies or customs were a cause of Mr. Williams's death given that these policies failed to provide adequate training and supervision to officers

1 with respect to constitutional limits on the use of force; failed to provide adequate  
2 discipline, training, and supervision to officers with a propensity for violence or a  
3 history of violence and unconstitutional actions; and failed to provide adequate  
4 training and supervision to officers with respect to the proper procedures to be  
5 followed in dealing with mentally disturbed or agitated persons in need of medical  
6 or psychological treatment.

7       24. As a direct and legal result of Defendants' acts and omissions, Plaintiffs  
8 suffered damages, including, without limitation, loss of enjoyment of life; pain and  
9 suffering; emotional distress; funeral expenses; attorneys' fees; costs of suit; other  
10 pecuniary losses not yet ascertained; and the loss of Mr. Williams's love, affection,  
11 society, and companionship.

12       25. Plaintiffs are informed and believe and thereon allege that the acts of the  
13 individual Defendants were willful, malicious, intentional, reckless and/or were  
14 done in willful and conscious disregard of Mr. Williams's rights, justifying the  
15 awarding of punitive and exemplary damages in an amount to be determined at the  
16 time of trial.

17       26. Plaintiffs bring this claim as successors-in-interest to Mr. Williams, and  
18 seek both survival and wrongful death damages under federal law for the violation  
19 of Mr. Williams's rights. Plaintiffs also seek attorney fees under this claim.

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## SECOND CLAIM FOR RELIEF

## **Deprivation of Life Without Due Process**

(42 U.S.C. § 1983)

**(By Plaintiffs in their capacities as successors-in-interest to Bartholomew Williams)**

**(Against Defendant Brown and DOES 1-10)**

27. Plaintiffs repeat and reallege each and every allegation in paragraphs 1-26 of this Complaint with the same force and effect as if fully set forth herein.

9        28. Defendants acted within the course and scope of their duties as CSU  
10 SBPD officers when they intentionally shot and killed Mr. Williams. Mr. Williams  
11 was unarmed and alone. The officers' actions deprived Mr. Williams of his life  
12 without due process of law.

13        29. Defendants' deprivation of Mr. Williams's life without due process of  
14 law caused him extreme pain and suffering, and loss of life, earning capacity and  
15 his relationship with his parents, friends, and family. Defendant's actions also  
16 deprived Plaintiffs of the life-long love, companionship, support, society, care, and  
17 sustenance of their son Mr. Williams, and they will continue to be so deprived for  
18 the remainder of their lives.

19       30. As a result of their conduct, Defendants are liable for Mr. Williams's  
20      injuries, either because they were integral participants in the deprivation of life  
21      without due process, or because they failed to intervene to prevent these violation,  
22      or because they permitted a policy and practice of conscious disregard of and  
23      reckless indifference to Constitutional rights.

24       31. The claim against Defendant Brown and other unknown CSU SBPD  
25 employees is based upon Plaintiffs' allegations that CSU SBPD's policies or  
26 customs were a cause of the injuries suffered by Mr. Williams given that these  
27 policies failed to provide adequate training and supervision to officers with respect  
28 to constitutional limits on the use of force; failed to provide adequate discipline,

training, and supervision to officers with a propensity for violence or a history of violence and unconstitutional actions; and failed to provide adequate training and supervision to officers with respect to the proper procedures to be followed in dealing with mentally ill persons in need of medical or psychological treatment.

32. As a direct and legal result of Defendants' acts and omissions, Plaintiffs suffered damages, including, without limitation, loss of enjoyment of life; pain and suffering; emotional distress; funeral expenses; attorneys' fees; costs of suit; other pecuniary losses not yet ascertained; and the loss of Mr. Williams's love, affection, society, and companionship.

33. Plaintiffs are informed and believe and thereon allege that the acts of the individual Defendants were willful, malicious, intentional, reckless, and/or were done in willful and conscious disregard of Mr. Williams's rights, justifying the awarding of punitive and exemplary damages in an amount to be determined at the time of trial.

34. Plaintiffs bring this claim as successors-in-interest to Mr. Williams, and seek both survival and wrongful death damages under federal law for the violation of Mr. Williams's rights. Plaintiffs also seek attorneys' fees under this claim.

### THIRD CLAIM FOR RELIEF

## Interference with Parent-Child Relationship

(42 U.S.C. § 1983)

**(By Plaintiffs in their individual capacities)**

**(Against Defendant Brown and DOES 1-10)**

35. Plaintiffs repeat and reallege each and every allegation in paragraphs 1-34 of this Complaint with the same force and effect as if fully set forth herein.

36. By wrongfully shooting and killing Mr. Williams while he was unarmed, Defendants deprived Plaintiffs of their Fourteenth Amendment right of familial relationship with Mr. Williams.

1       37. Defendants' interference with the parent-child relationship caused Mr.  
2 Williams extreme pain and suffering, and loss of his life, earning capacity and his  
3 relationship with his parents, friends, and family. Defendants' actions also  
4 deprived Plaintiffs of the life-long love, companionship, support, society, care, and  
5 sustenance of their son Mr. Williams, and they will continue to be so deprived for  
6 the remainder of their lives.

7       38. As a result of their conduct, Defendants are liable for Mr. Williams's  
8 injuries, either because they were integral participants in the interference with the  
9 parent-child relationship, or because they failed to intervene to prevent these  
10 violations.

11       39. The claim against Defendant Brown is based upon Plaintiffs' allegations  
12 that CSU SBPD policies or customs were a cause of Mr. Williams's death given  
13 that these policies failed to provide adequate training and supervision to officers  
14 with respect to constitutional limits on the use of force; failed to provide adequate  
15 discipline, training, and supervision to officers with a propensity for violence or a  
16 history of violence and unconstitutional actions; and failed to provide adequate  
17 training and supervision to officers with respect to the proper procedures to be  
18 followed in dealing with mentally disturbed or agitated persons in need of medical  
19 or psychological treatment.

20       40. As a direct and legal result of Defendants' acts and omissions, Plaintiffs  
21 suffered damages, including, without limitation, loss of enjoyment of life; pain and  
22 suffering; emotional distress; funeral expenses; attorneys' fees; costs of suit; other  
23 pecuniary losses not yet ascertained; and the loss of Mr. Williams's love, affection,  
24 society, and companionship.

25       41. Plaintiffs are informed and believe and thereon allege that the acts of the  
26 individual Defendants were willful, malicious, intentional, reckless and/or were  
27 done in willful and conscious disregard of Mr. Williams's rights, justifying the  
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1 awarding of punitive and exemplary damages in an amount to be determined at the  
2 time of trial.

3 42. Plaintiffs bring this claim in their individual capacity for wrongful death  
4 damages and other remedies available to them under federal law.

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6 **FOURTH CLAIM FOR RELIEF**

7 **Discrimination on Basis of Disability in Violation of Americans with  
8 Disabilities Act  
9 (42 U.S.C. § 12101 *et seq.*)**

10 **(By Plaintiffs in their capacity as successors in interest to Bartholomew  
11 Williams)**

12 **(Against All Defendants)**

13 43. Plaintiffs repeat and reallege each and every allegation in paragraphs 1-  
14 42 of this Complaint with the same force and effect as if fully set forth herein.

15 44. At all relevant times, Mr. Williams suffered from a “disability” within  
16 the meaning and scope of 42 U.S.C. §12102 as a result of his mental and emotional  
17 instability. Accordingly, Mr. Williams was a member of the class of persons  
18 protected by 42 U.S.C. §12132, which makes it unlawful for a public entity to  
19 discriminate against an individual with a disability or to deny the benefits of the  
20 services, programs, or activities of a public entity to a person with a disability.

21 45. As alleged herein, Plaintiffs are informed and believed and thereon  
22 allege that defendants discriminated against Mr. Williams because of his mental  
23 disability and denied him the benefits of public services, programs and activities as  
24 a result of his mental disability by, among other things, their failure to provide  
25 proper and reasonable training to CSU SBPD officers regarding how to respond to  
26 mentally or emotionally ill persons and by their failure to respond reasonably in  
27 dealing with a mentally ill person who was experiencing an episode of  
28 psychological distress.

1       46. The acts and omissions of defendants, and each of them, as aforesaid,  
2 were in violation of 42 U.S.C. §12101 *et seq.* Said statutes impose certain duties  
3 upon defendants, and each of them, concerning discrimination against persons,  
4 such as Mr. Williams, on the basis of mental disability. Said statutes were intended  
5 to prevent the type of injury and damage set forth herein. Mr. Williams was a  
6 member of the class of persons intended to be protected by said statutes. Moreover,  
7 Defendant State of California is not entitled to immunity from suit under the  
8 Eleventh Amendment for this cause of action by virtue of 42 U.S.C. §12202.

9       47. As a direct and legal result of Defendants' acts and omissions, Plaintiffs  
10 suffered damages, including, without limitation, loss of enjoyment of life; pain and  
11 suffering; emotional distress; funeral expenses; attorneys' fees; costs of suit; other  
12 pecuniary losses not yet ascertained; and the loss of Mr. Williams's love, affection,  
13 society, and companionship.

14       48. Plaintiffs are informed and believes, and thereon alleges, that the  
15 defendants, and each them, by engaging in the aforementioned acts and/or in  
16 ratifying such acts, engaged in willful, malicious, intentional, oppressive and  
17 despicable conduct, and acted with willful and conscious disregard of the rights,  
18 welfare, and safety of Plaintiffs and Plaintiffs' decedent, thereby justifying the  
19 award of punitive and exemplary damages (except against the government entity  
20 defendants) in an amount to be determined at trial.

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## **FIFTH CLAIM FOR RELIEF**

## Wrongful Death

**(Cal. Civ. Proc. Code § 377.60)**

(By Plaintiffs in their individual capacities as heirs of Bartholomew Williams)

**(Against Defendant Brown and DOES 1-10)**

49. Plaintiffs repeat and reallege each and every allegation in paragraphs 1-48 of this Complaint with the same force and effect as if fully set forth herein.

8       50. Defendants shot and killed Mr. Williams despite the fact that he was  
9 unarmed. Furthermore, CSU San Bernardino knew that Mr. Williams was a  
10 disabled student. CSU San Bernardino also knew that Mr. Williams was  
11 experiencing an episode of psychological distress. As such, when CSU San  
12 Bernardino police officers and employees responded to Mr. Williams campus  
13 housing, they should have done so in a manner designed to minimize the  
14 possibility of the use of any force. Instead, Defendants confronted Mr. Williams  
15 with the use of unnecessary and excessive force causing his death.

16        51. Given that Mr. Williams died intestate, unmarried, and without issue,  
17 Plaintiffs are the proper persons to sue for his wrongful death under California  
18 state law.

19        52. As the sole heirs of their son, Plaintiffs assert wrongful death actions  
20 against Defendant Brown and Does 1-10 pursuant to C.C.P. §§ 377.60 *et seq.* This  
21 claim is based upon the fact that Defendants' negligent, reckless and wrongful acts  
22 and omissions, as alleged herein, were a direct and legal cause of Mr. Williams's  
23 death and the resulting damages to Plaintiffs. As a result of their conduct,  
24 Defendants are liable for Plaintiffs' injuries, either because they were integral  
25 participants in the wrongful conduct, or because they failed to intervene to prevent  
26 these violations.

27 53. Plaintiffs are informed and believe and thereon allege that the acts of the  
28 individual Defendants were willful, malicious, intentional, reckless and/or were

1 done in willful and conscious disregard of Mr. Williams's rights, justifying the  
2 awarding of punitive and exemplary damages in an amount to be determined at the  
3 time of trial.

4        54. As a direct and legal result of Defendants' acts and omissions, Plaintiffs  
5 suffered damages, including, without limitation, loss of enjoyment of life; pain and  
6 suffering; emotional distress; funeral expenses; attorneys' fees; costs of suit; other  
7 pecuniary losses not yet ascertained; and the loss of Mr. Williams's love, affection,  
8 society, and companionship.

9       55. Plaintiffs bring this claim in their individual capacity for survival and  
10      wrongful death damages and other remedies available to them under state law.

## **SIXTH CLAIM FOR RELIEF**

## Violation of California Civil Code §§ 51, 51.7, 52, and 52.1

**(By Plaintiffs in their individual capacities and in their capacity as successors-in-interest to Bartholomew Williams**

**(Against Defendant Brown and DOES 1-10)**

17 56. Plaintiffs repeat and reallege each and every allegation in paragraphs 1-  
18 55 of this Complaint with the same force and effect as if fully set forth herein.

19       57. Plaintiffs are informed and believed and thereon allege that Defendant  
20 Brown and Defendant Does 1-10 discriminated against and used violence towards  
21 Mr. Williams because of his mental disability; interfered with Mr. Williams's  
22 rights under state and federal law and under the state and federal constitutions; and  
23 denied him the benefits of public services, programs and activities as a result of his  
24 mental disability by, among other things, their failure to provide proper and  
25 reasonable training to CSU SBPD officers regarding how to respond to mentally or  
26 emotionally ill persons and by their failure to respond reasonably in dealing with a  
27 mentally ill person who was experiencing an episode of psychological distress.

58. As a direct and legal result of Defendants' acts and omissions, Plaintiffs suffered damages, including, without limitation, loss of enjoyment of life; pain and suffering; emotional distress; funeral expenses; attorneys' fees; costs of suit; other pecuniary losses not yet ascertained; and the loss of Mr. Williams's love, affection, society, and companionship.

59. Plaintiffs are informed and believe and thereon allege that the aforementioned acts of Defendants, and each of them were willful, malicious, intentional, oppressive and despicable and/or were done in willful and conscious disregard of the rights, welfare and safety of Plaintiffs, thereby justifying the awarding of punitive and exemplary damages in an amount to be determined at time of trial.

## SEVENTH CLAIM FOR RELIEF

## Battery

(By Plaintiffs as successors-in-interest to Bartholomew Williams)

(Against DOES 1-10)

60. Plaintiffs repeat and reallege each and every allegation in paragraphs 1-59 of this Complaint with the same force and effect as if fully set forth herein.

61. Defendant Does 1-10, while working as police officers for CSU SBPD, and acting within the course and scope of their duties, intentionally shot and killed Mr. Williams. The shooting was an unreasonable use of force against Mr. Williams, to which he did not consent, and constituted battery against him.

62. Defendants' batter caused Mr. Williams extreme pain and suffering, and loss of life and earning capacity. Defendants' actions also deprived Plaintiffs of the life-long love, companionship, support, society, care, and sustenance of their son Mr. Williams, and they will continue to be so deprived for the remainder of their lives.

63. As a direct and legal result of Defendants' acts and omissions, Plaintiffs suffered damages, including, without limitation, loss of enjoyment of life; pain and suffering; emotional distress; funeral expenses; attorneys' fees; costs of suit; other pecuniary losses not yet ascertained; and the loss of Mr. Williams's love, affection, society, and companionship.

64. Plaintiffs are informed and believe and thereon allege that the acts of the individual Defendants were willful, malicious, intentional, reckless and/or were done in willful and conscious disregard of Mr. Williams's rights, justifying the awarding of punitive and exemplary damages in an amount to be determined at the time of trial.

65. As a result of their conduct, Defendants are liable for Mr. Williams's and Plaintiffs' injuries, either because they were integral participants in the battery, or because they failed to intervene to prevent these violations.

66. Plaintiffs bring this claim as successors-in-interest to Mr. Williams, and seek both survival and wrongful death damages under state law for the violation of Mr. Williams's rights.

## EIGHT CLAIM FOR RELIEF

## Negligence

**(By Plaintiffs in their capacities as successors-in-interest to Bartholomew Williams and in their individual capacities)**

(Against All Defendants)

67. Plaintiffs repeat and reallege each and every allegation in paragraphs 1-66 of this Complaint with the same force and effect as if fully set forth herein.

68. Defendants owed a duty of care to Plaintiffs and Mr. Williams, and were required to use reasonable diligence to ensure that Plaintiffs and Mr. Williams were not harmed by Defendants' acts or omissions. Defendants' actions and omissions were negligent and reckless, including but not limited to:

1 a. the failure to properly assess the need to use force or deadly force  
2 against Mr. Williams;  
3 b. the negligent tactics and handling of the situation with Mr.  
4 Williams;  
5 c. the negligent use of force, including deadly force, against Mr.  
6 Williams;  
7 d. the failure to properly train, supervise and discipline employees,  
8 including the individual Defendants;  
9 e. the negligent hiring, retention and assignment of its employees,  
10 including the individual defendants; and  
11 f. the negligent failure to equip its police officers with essential police  
12 equipment including, but not limited to Tasers.

13 69. Defendants' conduct caused Mr. Williams extreme pain and suffering,  
14 and loss of life and earning capacity. Defendants' actions also deprived Plaintiffs  
15 of the life-long love, companionship, support, society, care, and sustenance of their  
16 son Mr. Williams, and they will continue to be so deprived for the remainder of  
17 their lives.

18 70. As a result of their conduct, Defendants are liable for Mr. Williams's and  
19 Plaintiffs' injuries, either because they were integral participants in the negligence,  
20 or because they failed to intervene to prevent these violations.

21 71. Plaintiffs bring this claim as successors-in-interest to Mr. Williams, and  
22 seek both survival and wrongful death damages under state law for the violation of  
23 Mr. Williams's rights.

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## **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs request entry of judgment in their favor and against Defendants as follows:

- a. For compensatory damages, including both survival damages and wrongful death damages under federal and state law, and interest, in an amount to be determined at trial;
- b. For punitive damages against individual Defendants in an amount to be proven at trial;
- c. For reasonable costs of this suit and attorneys' fees; and
- d. For such further relief as the Court may deem just, proper, and appropriate.

Dated: March 5, 2013

**SCHONBRUN DESIMONE SEPLOW  
HARRIS HOFFMAN & HARRISON, LLP**

BY:

V. James DeSimone  
Menaka N. Fernando  
Attorneys for Plaintiffs

**DEMAND FOR JURY TRIAL**

Plaintiffs hereby respectfully demand a trial by jury.

Dated: March 5, 2013

SCHONBRUN DESIMONE SEPLOW  
HARRIS HOFFMAN & HARRISON LLP

BY

V. James DeSimone

Menaka N. Fernando

Attorneys for Plaintiffs