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8 Attorneys for Plaintiffs

9 Nicole Lynn Lowe; Brant I. Lowe. Sandra Jean Susnara; Individually and as  
10 Successor in Interest of Nathaniel Lee Lowe; Nathaniel Lee Lowe, Deceased through  
11 his Successor in Interest, Sandra Jean Susnara.

12 **UNITED STATES DISTRICT COURT**

13 **EASTERN DISTRICT OF CALIFORNIA**

14 NICOLE LYNN LOWE; BRANT I. LOWE;  
15 SANDRA JEAN SUSNARA, individually  
16 and as Successor in Interest of NATHANIEL  
17 LEE LOWE; NATHANIEL LEE LOWE  
18 DECEASED, through his Successor in  
19 Interest, SANDRA JEAN SUSNARA;

20 Plaintiffs,

21 vs.

22 COUNTY OF BUTTE through its Dept of  
23 Probation and Sheriff's Dept; KORY L.  
24 HONEA, Individually and in his official  
25 capacity as Butte County Sheriff; ROBERT  
26 BURTON, Individually and in his official  
27 capacity as Warden of DVI; MARIANA  
28 DOMINGUEZ; CALIFORNIA FORENSIC  
MEDICAL GROUP, INC; WELLPATH  
HOLDINGS, INC; TAYLOR FITHIAN,  
M.D.; JOHN BAKER, M.D.; HEATHER  
BROOKS, LFMT; Corrections Staff and  
Supervisors,

Defendants.

**CASE NO:**

**COMPLAINT FOR DAMAGES  
AND DEMAND FOR JURY  
TRIAL**

- 1. 42 U.S.C. § 1983 – Civil Rights Violations
- 2. 42 U.S.C. § 1983 – Supervisory Liability
- 3. 42 U.S.C. § 1983 – Monell
- 4. California Civil Code § 52.1 (b) – State Civil Rights Violations
- 5. 42 U.S.C. §12132, 28 C.F.R. §35, et seq., and 29 U.S.C. § 794, et seq. – A.D.A. and Rehabilitation Act Violations
- 6. California Govt Code §845.6 – Failure to Summon Medical Care
- 7. Negligence
- 8. Medical Negligence
- 9. Substantive Due Process
- 10. California Govt Code §845.6 – Failure to Summon Medical Care
- 11. 42 U.S.C. § 1983 – Civil Rights Violations
- 12. 42 U.S.C. § 1983 – Civil Rights Violations
- 13. Medical Negligence

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2 Plaintiffs, by and through their attorneys, CURD, GALINDO & SMITH, LLP,  
3 submit the following Complaint against Defendants, and state as follows:

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**JURISDICTION**

1. This Complaint is a civil rights wrongful death/survival action arising under 42 U.S.C. §§ 1983 and 1988, and the Fourth, Eighth and Fourteenth Amendments to the United States Constitution, the Americans with Disabilities Act (“ADA”) – 42 U.S.C. § 12132 and 28 C.F.R. §35, et seq., the Rehabilitation Act (“RA”) – 29 U.S.C. § 794, et seq., and the laws and Constitution of the State of California. Jurisdiction is conferred upon this Court by 28 U.S.C. §§ 1331 and 1343. Plaintiffs further invoke the supplemental jurisdiction of this Court pursuant to 28 U.S.C. § 1367, to hear and decide claims arising under state law. The amount in controversy herein, excluding interest and costs, exceeds the minimum jurisdictional limit of this Court.

**INTRADISTRICT ASSIGNMENT**

2. A substantial part of the events and/or omissions complained of herein occurred in the CDCR of San Joaquin, California, and this action is properly assigned to the Sacramento Division of the United States District Court for the Eastern District of California.

**PARTIES AND PROCEDURE**

3. Plaintiff, SANDRA JEAN SUSNARA, the biological mother of NATHANIEL LEE LOWE brings these claims individually for wrongful death and violation of her personal rights, and as successor in interest for NATHANIEL LEE

1 LOWE NATHANIEL LEE LOWE pursuant to California Code of Civil Procedure  
2 §§ 377.10 et seq and attaches hereto as **Exhibit A** the Statement in compliance with  
3  
4 CCP §§ 377.32.

5 4. NICOLE LYNN LOWE , is the adult biological daughter of NATHANIEL  
6 LEE LOWE .

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8 5. BRANT I. LOWE , is the biological adult son of NATHANIEL LEE  
9 LOWE .

10 6. Plaintiffs all reside in the County of Tehama, State of California and all  
11 bring their claims under state and federal law.

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13 7. Plaintiff SANDRA JEAN SUSNARA, the biological mother of  
14 NATHANIEL LEE LOWE , NATHANIEL LEE LOWE , brings the survival action  
15 pursuant to California Code of Civil Procedure §§ 377.20 et seq. All Plaintiffs also  
16 bring claims pursuant to California Code of Civil Procedure §§ 377.60 et seq. for  
17 wrongful death and claims for violations of their personal federal constitutional rights  
18 of familial association. All Plaintiffs bring their claims individually, and Plaintiff  
19 SANDRA JEAN SUSNARA, as parent who received financial/economic support  
20 from, NATHANIEL LEE LOWE NATHANIEL LEE LOWE, brings claims for  
21 wrongful death, and survival claims, on the basis of 42 U.S.C. §§ 1983 and 1988, the  
22 United States Constitution, federal and state civil rights law, and California law.  
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1           8. CALIFORNIA DEPARTMENT OF CORRECTIONS AND  
2 REHABILITATION, ("CDCR") is a California state agency which operates the  
3 correctional facility at DEUEL VOCATIONAL INSTITUTE, ("DVI,") where  
4 NATHANIEL LEE LOWE NATHANIEL LEE LOWE was incarcerated for less  
5 than three (3) days at the time of the events giving rise to this litigation.  
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8           9. Defendant Warden Robert Burton, ("BURTON") was during the relevant  
9 periods employed by CDCR as the Warden of California State Prison-DVI ("CSP-  
10 DVI".) He was responsible for the promulgation of the policies and procedures and  
11 allowance of the practices/customs pursuant to which the acts of the employees of  
12 CSP-DVI alleged herein were committed. Defendant BURTON was charged by law  
13 and was responsible for the administration of CSP- DVI and was responsible for the  
14 supervision, training and hiring of persons, agents and employees working within  
15 said CSP, including prison staff, correctional officers, MTA'S, nurses, doctors,  
16 physician assistants, medical staff, and mental health staff, inclusive. Defendant  
17 BURTON is being sued in their individual and official capacities.  
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21           10. All or part of the wrongful acts and omissions complained of herein  
22 against defendants, on information and belief, occurred in San Joaquin CDCR,  
23 California.  
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25           11. On March 26, 2020 a proper and timely tort claim was presented to the  
26 STATE OF CALIFORNIA and CALIFORNIA DEPT OF CORRECTIONS and  
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1 REHABILITATION on behalf of Plaintiffs and NATHANIEL LEE LOWE ,  
2 pursuant to Government Code § 910 et seq., and this action was thereafter timely  
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4 filed within all applicable statutes of limitation. The claims were denied on April 27,  
5 2020.

6           12. Despite Plaintiffs' timely and proper requests through their counsel, and  
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8 without any legitimate basis, CDCR Defendants have refused to produce  
9 NATHANIEL LEE LOWE 's inmate records that would have provided additional  
10 facts for this Complaint and would have identified specific individuals responsible for  
11 violations of NATHANIEL LEE LOWE 's rights. The true names or capacities,  
12 whether individual, corporate, associate, or otherwise, of Defendants named herein as  
13 DOES 1 through 10 are unknown to Plaintiffs, who therefore sue said Defendants by  
14 said fictitious names. Plaintiffs will amend this Complaint to show said Defendants'  
15 true names and capacities when the same have been ascertained. Plaintiffs are  
16 informed, believe, and thereon allege that all Defendants sued herein as DOES are in  
17 some manner responsible for the acts, omissions, and injuries alleged herein.

18           13. Plaintiffs allege, on information and belief, that each of the Defendants  
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20 sued herein were wrongfully, deliberately indifferently, unreasonably, negligently,  
21 and/or otherwise responsible in some manner for the events and happenings as  
22 hereinafter described, and proximately caused injuries and damages to Plaintiffs  
23 and/or NATHANIEL LEE LOWE . Further, one or more DOE Defendants was at all  
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1 material times responsible for the hiring, training, supervision, and discipline of other  
2 defendants, including both the individually named and DOE Defendants.

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4 14. Plaintiffs are informed, believe, and thereon allege that each of the  
5 Defendants was at all material times an agent, servant, employee, partner, joint  
6 venturer, co-conspirator, and/or alter ego of the remaining Defendants, and in doing  
7 the things hereinafter alleged, was acting within the course and scope of that  
8 relationship. Plaintiffs are further informed, believe, and thereon allege that each of  
9 the Defendants herein gave consent, aid, and assistance to each of the remaining  
10 Defendants, and ratified and/or authorized the acts or omissions of each Defendant as  
11 alleged herein, except as may hereinafter be otherwise, specifically alleged. At all  
12 material times, each Defendant was an integral participant, jointly and fundamentally  
13 engaged in constitutionally violative, unlawful, and/or tortious activity, resulting in  
14 the deprivation of Plaintiffs' and NATHANIEL LEE LOWE 's constitutional rights  
15 and other actionable harm.

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17 15. Defendants CALIFORNIA FORENSIC MEDICAL GROUP, INC;  
18 herein after (CFMG) and WELLPATH HOLDINGS, INC; (WELLPATH) are health  
19 care providers employed by a Butte County, a government entity and are state actors  
20 for 42 U.S.C. § 1983 purposes acting under color of law when treating inmates and/or  
21 implementing policies and practices regarding provision of medical care. West v.  
22 Atkins, 487 U.S. 42, 54 (1988). CFMG is a California corporation licensed to and  
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1 doing business in the State of California, as a contracted provider of medical and  
2 mental health services to BUTTE COUNTY, Sheriff HONEA and its jail system. It  
3 had a business address in Monterey County and in San Diego County, and since  
4 October 1, 2018, in Nashville, Tennessee as Wellpath. . On information and belief,  
5 CFMG and its employees and agents are and were at all material times responsible  
6 for making and executing policies, procedures, and training related to the medical  
7 care and/or mental health care of detainees and prisoners in the COUNTY OF  
8 BUTTE jails, including, but not limited to, properly assessing and classifying  
9 inmates, properly assessing and addressing the mental health needs of inmates, and  
10 properly assessing and treating the serious medical and mental health needs of  
11 inmates, including suicide prevention, observation of suicidal and potentially suicidal  
12 inmates, mental illness, and emotional disturbance.

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17 16. At all material times, CFMG and WELLPATH were owned and  
18 controlled by H.I.G. Capital and CFMG acts on behalf of H.I.G. and was and is  
19 responsible for the hiring, retaining, training, and supervising of the conduct,  
20 policies and practices of its employees and agents of CFMG, including DOES 1-10.

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23 17. Defendant TAYLOR FITHIAN, M.D., (“FITHIAN”) as well as certain  
24 DOE DEFENDANTS include, but are not limited to, CFMG employees and agents,  
25 acting within the course and scope of their employment with CFMG (and within the  
26 course and scope of their employment by BUTTE COUNTY by virtue of CFMG’s  
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1 contract with BUTTE COUNTY) who were responsible for properly assessing and  
2 classifying inmates, properly assessing and addressing the medical needs of inmates,  
3 properly assessing and addressing the mental health needs of inmates, properly  
4 assessing and treating the serious medical needs of inmates, providing appropriate  
5 observation and a treatment plan for serious medical needs, including suicide  
6 prevention, care and treatment for mental illness and emotional disturbance,  
7 monitoring inmates, and summoning medical care when it was needed.  
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10 18. Plaintiffs are informed and believe and thereon allege that Defendant Dr.  
11 FITHIAN, at all material times, lived and worked in Monterey County, and  
12 performed telepsychiatry services at BUTTE COUNTY jails remotely, from  
13 Monterey, California. In addition, Defendant FITHIAN oversees all statewide jail  
14 operations for CFMG, and sets policies and procedures for all operations, from  
15 Monterey County, California.  
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18 19. On information and belief, CFMG and its President, officer, director,  
19 employee and managing agent Defendant TAYLOR FITHIAN, M.D., are responsible  
20 for making and enforcing policies, procedures, and training related to the medical and  
21 mental health care of prisoners and detainees in Defendant BUTTE COUNTY jail,  
22 including: assessing inmates for possible suicide risk; instituting appropriate suicide  
23 precautions; approving housing classification; instituting appropriate observation to  
24 prevent suicide; instituting appropriate treatment plans for the serious mental health  
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1 needs of inmates; communicating about an inmate's suicide risk with custodial staff,  
2 health care professionals, and outside facilities; and, ensuring compliance with court  
3 orders requiring the transfer of the inmate.  
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5         20. Defendant TAYLOR FITHIAN, M.D., is a physician licensed to practice  
6 medicine in the State of California, a Board certified psychiatrist, and an officer,  
7 director, managing agent, employee and/or agent of Defendant CALIFORNIA  
8 FORENSIC MEDICAL GROUP, INCORPORATED, overseeing the provision of  
9 medical and psychiatric care at Defendant BUTTE COUNTY jail. Defendant  
10 FITHIAN was responsible for overseeing and providing medical and mental health  
11 care to prisoners and detainees, and for instituting appropriate policies, procedures,  
12 and training concerning suicide-risk assessment and prevention protocols, and was  
13 acting within the course and scope of that employment. On information and belief,  
14 Defendant FITHIAN was ultimately responsible for CFMG's provision of medical  
15 and mental health care to inmates at the jail, including assessing inmates for possible  
16 suicide risk, instituting appropriate suicide-prevention programs, and complying with  
17 court orders requiring the transfer of inmates to inpatient psychiatric facilities. At all  
18 material times, Defendant FITHIAN was the highest policy-making official for  
19 Defendant CFMG. In addition, Defendant FITHIAN was at all times responsible for  
20 staffing the CFMG medical and psychiatric services at BUTTE COUNTY jail,  
21 including but not limited to making sure that only properly licensed and credentialed  
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1 health care providers provide care, and that no provider work outside his or her scope  
2 of practice or licensure.

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4 21. Defendant JOHN BAKER, M.D. (hereinafter “Dr. BAKER”), at all  
5 times mentioned herein was an employee and/or agent of CFMG/Wellpath and  
6 BUTTE COUNTY. Dr. BAKER was and is a mental health care practitioner and/or  
7 psychiatrist responsible for psychiatric care, treatment and orders and to ensure  
8 delivery of mental health care by subordinate mental health staff providing  
9 mental health treatment and supervision to NATHANIEL LEE LOWE and was  
10 responsible for the mental health care of NATHANIEL LEE LOWE. With wanton  
11 disregard and deliberate indifference he ordered NATHANIEL LEE LOWE be taken  
12 off suicide watch. He is sued in his individual capacity. At all times mentioned herein  
13 he was acting under color of law.  
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17 22. Defendant HEATHER BROOKS, LMFT (hereinafter BROOKS), at all  
18 times mentioned herein was an employee and/or agent of CFMG/Wellpath and  
19 BUTTE COUNTY. BROOKS was and is a mental health care practitioner and she  
20 was a licensed marriage and family therapist who had the duty for psychiatric care,  
21 treatment and orders and to ensure delivery of mental health care by subordinate  
22 mental health staff providing mental health treatment to NATHANIEL LEE LOWE  
23 and was responsible for the mental health care of NATHANIEL LEE LOWE. With  
24 wanton disregard and deliberate indifference she ordered NATHANIEL LEE LOWE  
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1 be taken off suicide watch. She is sued in her individual capacity. At all times  
2 mentioned herein she was acting under color of law.  
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4 23. Defendant MARIANA DOMINGUEZ, CDCR psychologist, (hereinafter  
5 DOMINGUEZ), at all times mentioned herein was an employee and/or agent of  
6 CDCR. DOMINGUEZ was and is a mental health care practitioner and she held  
7 herself out as a licensed psychologist who had the duty for psychiatric care, treatment  
8 and orders and to ensure delivery of mental health care by subordinate mental  
9 health staff providing mental health treatment to NATHANIEL LEE LOWE. She was  
10 responsible for screening patients for admission to DVI and arranging for their  
11 admission. She acted in a tortious and/or constitutionally violative fashion in her  
12 screening and was responsible for the mental health care of NATHANIEL LEE  
13 LOWE. With wanton disregard and deliberate indifference she performed an  
14 evaluation of NATHANIEL LEE LOWE which failed to discover his true mental  
15 condition. She is sued in her individual capacity. At all times mentioned herein she  
16 was acting under color of law.  
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21 24. Defendant SHERIFF KORY L. HONEA (hereinafter “Sheriff  
22 HONEA”), was and is the Sheriff and administrator of the Butte County jail and  
23 custodian of the pre-trial detainees within it, along with DOES 1-10, who were  
24 deputies, sergeants, captains, lieutenants, commanders and undersheriffs and/or  
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1 civilian employee agents, policy makers and/or agents and representatives of  
2 COUNTY and the correctional staff.

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4 25. Defendant SHERIFF HONEA was charged by law and was responsible  
5 with the administration of defendant BUTTE COUNTY and its employees, and for  
6 the supervision, training and hiring of persons, agents and employees working  
7 within the county jail, including the sworn officers and deputies, as well as the  
8 civilian staff and DOES 1-10, inclusive.

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10 26. Sheriff HONEA is sued in his personal and individual capacity as a  
11 supervisory official for his own culpable action or inaction in the training,  
12 supervision, or control of his subordinates, or for his acquiescence in the  
13 constitutional deprivations which this Complaint alleges, or for conduct that showed a  
14 reckless or callous indifference to the rights of mentally ill inmates. Sheriff  
15 HONEA's affirmative conduct involves his failure to ensure enforcement of policies,  
16 rules, or directives that set in motion a series of acts by others which he knew or  
17 reasonably should have known, would cause others to inflict the constitutional  
18 injury. Sheriff HONEA failed to adequately monitor the administration  
19 of the contract with CFMG/Wellpath even though he had been repeatedly alerted to  
20 the facts of this unconstitutional conduct and knew the jail had become unsafe for  
21 those with serious mental health needs like NATHANIEL LEE LOWE.  
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1           27. Defendants, COUNTY OF BUTTE through its Dept of Probation and  
2 Sheriff's Dept; KORY L. HONEA, Individually and in his official capacity as Butte  
3 County Sheriff,, Corrections Staff and Supervisors, and DOES 1 through 20.  
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5           28. At all material times, each Defendant acted under color of the laws,  
6 statutes, ordinances, and regulations of the State of California.  
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8           29. On May 8, 2020 a proper and timely tort claim was presented to BUTTE  
9 COUNTY on behalf of Plaintiffs and NATHANIEL LEE LOWE , pursuant to  
10 Government Code § 910 et seq., and this action was thereafter timely filed within all  
11 applicable statutes of limitation. The claims were denied on June 22, 2020.  
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13           30. This complaint may be pled in the alternative, pursuant to Rule 8(d)(2)  
14 of the Federal Rules of Civil Procedure.  
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16           31. Defendants are sued under Title 42 U.S.C. § 1983 for violations of the  
17 First, Fourth, Eighth and Fourteenth Amendments of the United States Constitution,  
18 the Americans with Disabilities Act, 42 U.S.C. § 12131 (2), § 504 of the  
19 Rehabilitation Act of 1973, California state law, the California Tort Claims Act, and  
20 the Government Code for the acts and omissions of public employees Defendants,  
21 and each of them, who at the time they caused Plaintiffs' and NATHANIEL LEE  
22 LOWE 's injuries, damages and death were duly appointed, qualified and acting  
23 officers, employees, and/or agents of BUTTE COUNTY, CFMG/Wellpath, CDCR  
24 and acting within the course and scope of their employment and or agency.  
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1           32. Each of the Defendants caused and is responsible for the unlawful  
2           conduct and resulting harm by, inter alia, personally participating in the conduct, or  
3           acting jointly and in concert with others who did so, by authorizing, acquiescing,  
4           condoning, acting, omitting or failing to take action to prevent the unlawful conduct,  
5           by promulgating or failing to promulgate policies and procedures pursuant to which  
6           the unlawful conduct occurred, by failing and refusing to initiate and maintain  
7           adequate training, supervision and staffing with deliberate indifference to Plaintiffs’  
8           rights, by failing to maintain proper and adequate policies, procedures and protocols,  
9           by failing to ensure NATHANIEL LEE LOWE was given effective medical and  
10           mental health care, and by ratifying and condoning the unlawful conduct performed  
11           by agents and officers, deputies, medical providers and employees under their  
12           direction and control.  
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17           33. Whenever and wherever reference is made in this Complaint to any act  
18           by Defendants, such allegations and references shall also be deemed to mean the acts  
19           and failures to act of each Defendant individually, jointly or severally.  
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**GENERAL ALLEGATIONS**

**(a) Deliberate Indifference and Failure to Provide NATHANIEL LEE LOWE Reasonable Mental Health Care and Supervision.**

25           31. On or about September 9, 2019, as a result of his mental illness,  
26           NATHANIEL LEE LOWE experienced hallucinations, paranoia and suffered a  
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1 breakdown. He expressed bizarre behavior, was ranting and became delusional  
2 and paranoid.

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4 32. NATHANIEL LEE LOWE was arrested by Chico Police and  
5 incarcerated as a pretrial detainee at BUTTE COUNTY jail operated by the COUNTY  
6 and overseen by Sheriff HONEA.

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8 33. At the point of processing NATHANIEL LEE LOWE, into the BUTTE  
9 COUNTY jail, Sheriff HONEA, TAYLOR FITHIAN, M.D., CFMG/Wellpath,  
10 BROOKS, BAKER and their employees, agents, and DOES 1-10 all knew or should  
11 have known about NATHANIEL LEE LOWE's pre-trial detainee status of  
12 incapacitating mental illness. At booking, records show that he was noted to be  
13 suicidal, depressed, hearing voices and incapacitated by his mental illness. Initially, he  
14 was placed in a psychiatric observation cell, which should be the highest priority  
15 safety precautions unit, where inmates are to be closely and continuously observed by  
16 custody and medical staff for suicide attempts, self-harm or harming others.

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20 34. NATHANIEL LEE LOWE reported that he had attempted suicide before  
21 and that he was wanting to take his life again. While at BUTTE COUNTY jail,  
22 NATHANIEL LEE LOWE requested to be placed in a mental hospital. His  
23 psychiatric and mental illness history was documented in Defendants' jail records  
24 beginning on September 9, 2019.  
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1           35.     NATHANIEL LEE LOWE was immediately placed on Suicide Watch.  
2 His medications at the BUTTE COUNTY jail included Haloperidol, (Haldol);  
3 Benztropine (Cogentin); and Lorazepam (Ativan), to treat psychotic disorders, which  
4 all defendants knew or should have known per their own files and records. Haldol  
5 specifically has a black box warning issued by the FDA, the most serious of warnings  
6 concerning its side effects when administered to agitated patients, such as  
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8 NATHANIEL LEE LOWE.  
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10           36.     Medical records document that during the weeks preceding  
11 NATHANIEL LEE LOWE's suicide, Defendants had repeated and ample notice of his  
12 ongoing deteriorating mental health condition and threats of suicide. He was an  
13 acutely suicidal inmate: he engaged in self-injurious behavior, reported voices were  
14 telling him to kill himself, slammed his head against the wall, tied a noose made of  
15 sheets and threatened suicide. At different times NATHANIEL LEE LOWE asked for  
16 medications, or to be placed in a mental hospital. National Minimal Correctional  
17 Health Care Standards indicate that he should have been placed in continual  
18 observation by medical and custodial staff as he had a critical need for urgent mental  
19 health care and treatment that required a higher level of care and treatment than  
20 Defendants could provide in jail.  
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25           37.     BUTTE COUNTY, TAYLOR FITHIAN, M.D., CFMG/Wellpath,  
26 BROOKS, BAKER defendants and DOES 1-10 acted with deliberate indifference to  
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1 NATHANIEL LEE LOWE's medical needs: they maintained incompetent staff, were  
2 understaffed, allowed non-physician staff to make medical decisions and issue  
3 medical orders; on September 16, 2019, he was discontinued from suicide watch level  
4 1 (one) safety precautions and rehoused alone in a cell they knew or reasonably should  
5 have known to be poorly designed and contraindicated for NATHANIEL LEE  
6 LOWE; Defendants failed to provide adequate, competent and timely safety checks  
7 and to provide treatment, security, supervision and/or access to indicated needed  
8 mental health care abandoning his care and treatment, thus enabling and contributing  
9 to his death.

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13 38. Sheriff HONEA and DOES 1-10 failed to provide NATHANIEL LEE  
14 LOWE reasonable security and safety and acted with deliberate indifference to  
15 NATHANIEL LEE LOWE's safety and security when they made the deliberate  
16 choice to remove a suicidal mentally ill inmate and upon his transfer to State prison  
17 failed to alert DVI that NATHANIEL LEE LOWE was suicidal and needed  
18 observation. They failed to take adequate measures to protect NATHANIEL LEE  
19 LOWE and failed to inform CDCR-DVI of his suicidal ideation and mental condition.  
20 The jail lacked sufficient and adequate number of safety cells or beds to house  
21 mentally ill and suicidal inmates such as NATHANIEL LEE LOWE, and defendants  
22 knew or should have known, that after repeated efforts by NATHANIEL LEE LOWE  
23 to harm himself while in jail, his housing was in violation of Title 24 and Title 15.  
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1           39. Sheriff HONEA and DOES 1-10 acted with deliberate indifference and  
2 ignored these hazards, thus contributing to and enabling NATHANIEL LEE LOWE's  
3 death. Between September 9, 2019 and September 16, 2019, the noted contact with  
4 NATHANIEL LEE LOWE is the passing out of medication and his need for suicide  
5 watch. As foreseeable, given Defendants' deliberate indifference to  
6 NATHANIEL LEE LOWE's health care, on September 16, 2019, was taken off  
7 suicide watch and on November 11, 2019 he hanged himself.

10                           **(b) Defendant Supervisors Had Knowledge of Inadequacy of**  
11                           **Suicide Prevention and Delivery of Mental Health Care at**  
12                           **Butte County Jail and Failed to Take Corrective Action.**

14           40. Prior to November 11, 2019, BUTTE COUNTY, and TAYLOR FITHIAN,  
15 M.D., CFMG/Wellpath, BAKER, BROOKS, SHERIFF HONEA knew or should have  
16 known of a history of years of notice of ongoing failure to provide inmates indicated  
17 and timely reasonable medical/mental health care, knew or should have known of  
18 inadequate and/or incompetent staffing, insufficient and inadequate cells and beds,  
19 incompetent and inadequate provision of health care and delivery thereof, denying  
20 access to outside the jail facility hospital or other mental health programs, failure to  
21 take corrective measures, including ignoring prior reports and recommendations not to  
22 rehire CFMG, ignoring judicial orders to abate or take corrective action regarding care  
23 to the mentally ill, notice from quality assurance and death reviews, from litigation

1 alleging failure to provide reasonable medical and mental health care, and from  
2 publications of endemic, ongoing and unabated risks of injury or death to inmates. The  
3 number of lawsuits against CFMG throughout the state and the evidence available  
4 from those actions is troubling and demonstrative of Defendants' years of deliberate  
5 indifference to known ongoing hazards to ill detainees and their failure to take  
6 corrective action.  
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9 41. On November 11, 2019, at approximately 2:37 am, inmate NATHANIEL  
10 LEE LOWE CDCR # BK7966 was found dead in his cell F-210 of the Deuel  
11 Vocational Institution (DVI) located at 23500 S. Kasson Rd., Tracy, CA.  
12

13 42. The hanging was investigated by Deputy Coroner Investigator Donough  
14 and CDCR Lt. Jimenez and assigned case number: DVI-PRG3-19-11-0287.  
15

16 43. NATHANIEL LEE LOWE used his shoelaces to hang himself.

17 44. Nathaniel Lee Lowe (Nathan) age 44 was a hardworking, loving father  
18 and son, but the stress and heartache after the Paradise Camp Fire of Northern  
19 California caused Nathan severe anxiety, depression and altered his mental status. The  
20 Camp Fire was the deadliest and most destructive wildfire in California history and  
21 the most expensive natural disaster in the world in 2018 in terms of insured losses.  
22 Named after Camp Creek Road, its place of origin, the fire started on November 8,  
23 2018, in Northern California's Butte County.  
24  
25  
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28

1           45.     During the fires NATHANIEL LEE LOWE witnessed things that no one  
2 should ever have to experience. NATHANIEL LEE LOWE saw women and children  
3 burning in their homes and on the street. He heard people yelling and screaming for  
4 help, he wanted to help but the flames and heat prevented him from rescuing them.  
5 Those images and voices stuck in his mind and in the early hours of July 7, 2019 he  
6 believed he saw and heard his girlfriend and mother screaming and burning inside  
7 their home. In an effort to save them, NATHANIEL LEE LOWE broke out the  
8 windows of the house and tore down walls, but he then realized it was a hallucination.  
9 Neither his girlfriend nor mother were in the house nor was the house on fire.

13           46.     The Chico Police arrived and arrested NATHANIEL LEE LOWE. He  
14 was booked, processed and spent the night in the Chico jail. While in jail he could still  
15 hear the voices, screaming and yelling for help. NATHANIEL LEE LOWE was  
16 released the next day and with his family he sought treatment at Tehama County  
17 Mental Health Office for his condition.

20           47.     On September 9, 2019, NATHANIEL LEE LOWE believed his girlfriend  
21 was being kidnapped and tortured. He drove around Chico looking for her. He stopped  
22 vehicles, ran into stores but could not find her. While driving around he spotted her in  
23 a truck and he began to follow the truck. NATHANIEL LEE LOWE believed his  
24 girlfriend was being held against her will and he was determined to stop the pain.  
25 Chico Police were called as NATHANIEL LEE LOWE began to chase a random truck

1 believing his girlfriend was being kidnapped. The Chico Police were able to stop  
2 NATHANIEL LEE LOWE's truck. NATHANIEL LEE LOWE jumped out of the  
3 truck and began to run. The police were able to catch and arrest him. NATHANIEL  
4 LEE LOWE was clearly hallucinating again. Chico Police processed NATHANIEL  
5 LEE LOWE and he was booked, booking number 19-006638 into Butte County Jail as  
6 inmate number 123997. NATHANIEL LEE LOWE was charged with assault with a  
7 deadly weapon (the truck). While at Butte County Jail NATHANIEL LEE LOWE was  
8 assessed by the jail medical staff.  
9  
10  
11

12 48. On September 10, 2019 Butte County classification officers and Butte  
13 County Jail nurse, Harjot Rai, R.N. determined that NATHANIEL LEE LOWE  
14 suffered from schizophrenia and was suicidal. Harjot Rai, R.N. placed NATHANIEL  
15 LEE LOWE on suicide watch and suicide prevention measures were taken at the jail.  
16

17 49. On September 12, 2019 a noose made from the bed sheets was found in  
18 NATHANIEL LEE LOWE's cell. He expressed that he wanted to take his life.  
19

20 50. On September 13, 2019 NATHANIEL LEE LOWE continued to wish he  
21 were dead. He continued to suffer from hallucinations.  
22

23 51. On September 16, 2019 he was discharged from suicide watch and suicide  
24 prevention by defendants, HEATHER BROOKS and JOHN BAKER, M.D.  
25

26 52. On November 8, 2019 NATHANIEL LEE LOWE was transferred from  
27 Butte County Jail to California Department of Corrections and Rehabilitation (CDCR)  
28

1 at Deuel Vocational Institution in Tracy, California. NATHANIEL LEE LOWE was  
2 placed in general population as BUTTE COUNTY JAIL failed to advise CDCR of  
3 NATHANIEL LEE LOWE's mental illness and suicide ideation.  
4

5 53. On November 11, 2019 NATHANIEL LEE LOWE hanged himself using  
6 his shoelaces. While at Butte County Jail NATHANIEL LEE LOWE was diagnosed  
7 with a mental illness and disability and medical impairments that limited and/or  
8 substantially limited his mental, medical, or physical health condition as defined under  
9 the ADA, 42 U.S.C. § 12131 (2), and under Section 504 of the Rehabilitation Act  
10 ("RA") of 1973, 29 U.S.C. § 794, 28 C.F.R. 42.540 (k); as such, NATHANIEL LEE  
11 LOWE qualified as an individual with a mental and physical disability under  
12 California law and NATHANIEL LEE LOWE met the essential eligibility  
13 requirements of CDCR programs to provide access to medical and mental health care  
14 services for its inmate patients in STATE prison.  
15  
16  
17

18 54. Defendants ROBERT BURTON, MARIANA DOMINGUEZ and  
19 CDCR Correctional officers and corrections staff and supervisors DOES 1 through 10,  
20 failed to review NATHANIEL LEE LOWE's prior medical history which indicated  
21 his suicide watch classification.  
22  
23

24 55. Defendants ROBERT BURTON and other supervisory Correctional  
25 officers at CDCR failed to properly supervise the subordinate correctional officers to  
26 ensure that the subordinate correctional officers were properly performing their duties.  
27  
28

1           56. Defendants ROBERT BURTON and other CDCR supervisory  
2 Correctional officers were responsible for the health and safety of NATHANIEL LEE  
3  
4 LOWE because he was in their custody, they had “stripped [him] of virtually every  
5 means of self-protection and foreclosed [his] access to outside aid.” *Farmer* at 833.

6           57. Defendants ROBERT BURTON and other CDCR supervisory  
7  
8 Correctional officers may not delegate the constitutional duties that they owed to  
9 NATHANIEL LEE LOWE to subordinate employees.

10           58. As a result, Defendants ROBERT BURTON and other CDCR  
11  
12 supervisory correctional officers’ actions and inactions (deliberate indifference) were  
13 a direct cause of NATHANIEL LEE LOWE’s death.

14           59. As a direct and proximate cause of the CDCR supervisory correctional  
15  
16 officers’ actions, NATHANIEL LEE LOWE suffered injury, trauma, physical pain,  
17 and a horrific death.

18           60. NATHANIEL LEE LOWE was denied the benefits of the services,  
19  
20 programs, and activities of CDCR, and was denied accommodation for his disabilities,  
21 which deprived him of safety, necessary care, and mental health and medical health  
22 programs and services, which would have provided planning and delivery of  
23 treatment, follow-up, and supervision. This denial of accommodation, programs, and  
24 services was the result of his disability in that he was discriminated against because he  
25 was mentally ill, at risk of assault by other inmates, and gravely disabled, in that he  
26  
27

1 suffered from conditions in which a person, as a result of a mental disorder, is unable  
2 to provide for his basic personal needs for food, clothing, or shelter and is unable to  
3 advocate for himself; and, NATHANIEL LEE LOWE had mental impairments that  
4 substantially limited one or more of his major life activities.  
5

6           61. As a result of the acts and misconduct of all defendants, NATHANIEL  
7 LEE LOWE died, and Plaintiffs have suffered, are now suffering, and will continue to  
8 suffer damages and injuries as alleged above. Plaintiffs have suffered loss of love and  
9 society and claim damages for the wrongful death of their son, husband, and father.  
10 Plaintiffs sustained serious and permanent injuries and are entitled to damages,  
11 penalties, costs, and attorneys' fees as set forth in the ADA.  
12

13           62. Based on these violations Plaintiffs request the following relief against  
14 each and every Correctional officers and corrections staff and supervisors' and DOES  
15 1 through 10 herein, jointly and severally:  
16

17           63. All Defendants' deliberate indifference for NATHANIEL LEE LOWE 's  
18 serious medical needs, their denial of necessary and appropriate medical and  
19 psychiatric care, their failure to provide competent mental health care and treatment,  
20 their failure to transfer NATHANIEL LEE LOWE for inpatient psychiatric  
21 hospitalization in direct violation of a court order and/or their failure to admit him to  
22 appropriate hospital, their reckless disregard for his high risk of suicide which resulted  
23 in his death.  
24  
25  
26  
27



1           64.       As a direct and proximate result of each Defendants' acts and/or  
2 omissions as set forth above, all Plaintiffs sustained the following injuries and  
3  
4 damages, past and future, including, but not limited to:

- 5           a. Wrongful death of NATHANIEL LEE LOWE;
- 6           b. Loss of support and familial relationships, including loss of love,  
7           companionhip, comfort, affection, society, services, solace, and moral  
8           support;
- 9           c. Emotional distress from the violations of their personal Constitutional  
10           rights, including grief, sorrow, anxiety, sleeplessness, humiliation, and  
11           indignity;
- 12           d. Loss of enjoyment of life;
- 13           e. All other legally cognizable special and general damages, including  
14           financial support;
- 15           f. Violations of state and federal constitutional rights; and,
- 16           g. All damages and penalties recoverable under 42 U.S.C. §§ 1983 and  
17           1988, California Civil Code §§ 52 and 52.1, and as otherwise allowed  
18           under California and United States statutes, codes, and common law.

19           65.       As a direct and proximate result of each Defendants' acts and/or  
20 omissions as set forth above, Plaintiffs SANDRA JEAN SUSNARA, as Successors in  
21  
22  
23  
24  
25  
26  
27  
28

1 Interest of NATHANIEL LEE LOWE NATHANIEL LEE LOWE, sustained the  
2 following injuries and damages, past and future, including, but not limited to:

- 3
- 4 a. Hospital and medical expenses incurred by NATHANIEL LEE LOWE;
- 5 b. Coroner's fees, funeral, and burial expenses;
- 6 c. NATHANIEL LEE LOWE'S loss of life, pursuant to federal civil rights  
7 law;
- 8
- 9 d. NATHANIEL LEE LOWE'S conscious pain and suffering, pursuant to  
10 federal civil rights law; and,
- 11
- 12 e. All damages and penalties recoverable under 42 U.S.C. §§ 1983 and  
13 1988, California Civil Code § 52, and as otherwise allowed under  
14 California and United States statutes, codes, and common law.  
15

16 **FIRST CAUSE OF ACTION**

17 **(42 U.S.C. § 1983)**

18 **(Against COUNTY OF BUTTE through its Dept of Probation and Sheriff's**  
19 **Dept; KORY L. HONEA, Individually and in his official capacity as Butte**  
20 **County Sheriff; TAYLOR FITHIAN, M.D., CALIFORNIA FORENSIC**  
21 **MEDICAL GROUP, INC; WELLPATH HOLDINGS, INC; JOHN BAKER,**  
22 **M.D.; HEATHER BROOKS, LFMT)**

23 66. Plaintiffs re-allege and incorporate by reference each and every  
24 allegation contained in this complaint, as though fully set forth here.

25 67. Individual defendants, COUNTY OF BUTTE through its Dept of  
26 Probation and Sheriff's Dept; KORY L. HONEA, Individually and in his official  
27 capacity as Butte County Sheriff; TAYLOR FITHIAN, M.D., CALIFORNIA

1 FORENSIC MEDICAL GROUP, INC; WELLPATH HOLDINGS, INC; JOHN  
2 BAKER, M.D.; HEATHER BROOKS, LFMT deprived NATHANIEL LEE LOWE, a  
3 pre-trial detainee of the rights, privileges and immunities secured by the Fourth  
4 and Fourteenth Amendment of the United States Constitution, by subjecting him, or  
5 through their deliberate indifference, allowing others to subject him, to delay and  
6 denial of medical or mental health care and/or access thereto for a serious but treatable  
7 medical or mental health condition.  
8

9  
10 68. These Defendants knew or should have known that NATHANIEL LEE  
11 LOWE had suicidal ideations or behaviors as set forth above; Defendants knew or  
12 must have known that NATHANIEL LEE LOWE could not care for himself; he  
13 could not seek outside jail medical care, nor advocate for his urgently needed  
14 psychiatric intervention, and/or appropriate suicide observation protocols. Defendants  
15 ignored their duty of care to NATHANIEL LEE LOWE , with their actions and  
16 inactions they caused lapses and a lack of continuum of indicated care and treatment  
17 and indicated appropriate housing, which they knew or should have known, would  
18 cause or worsen his already deteriorating mental health condition.  
19  
20  
21

22 69. These Defendants knew or must have known that NATHANIEL LEE  
23 LOWE 's medical or mental health condition was serious but treatable and that  
24 NATHANIEL LEE LOWE required access and delivery to urgently needed  
25 medical/mental health care, and they further had a duty to provide NATHANIEL LEE  
26  
27  
28

1 LOWE reasonable security and indicated housing to accommodate his mental health  
2 condition. These Defendants knew or should have known that if not treated,  
3  
4 NATHANIEL LEE LOWE 's mental health would continue to deteriorate, worsen and  
5 cause him harm and/or death.

6           70. Sheriff HONEA and DOES 1-10, failed to promulgate and implement  
7  
8 policies, procedures, and practices to ensure that NATHANIEL LEE LOWE was  
9 housed in an indicated and appropriate housing unit pursuant to the laws of the State  
10 of California, pursuant to their duty and responsibility to provide appropriate housing,  
11 safety, security and observation to ensure NATHANIEL LEE LOWE 's safety and  
12 security at all times, and that the deputies responsible to monitor, observe and provide  
13 for NATHANIEL LEE LOWE 's security and safety at all times did so competently.  
14  
15

16           71. TAYLOR FITHIAN, M.D, JOHN BAKER, M.D. and HEATHER  
17 BROOKS, LFMT provided medical care and treatment to NATHANIEL LEE LOWE  
18 . Dr. BAKER was directly responsible for the direct patient care for  
19 NATHANIEL LEE LOWE . TAYLOR FITHIAN, M.D, JOHN BAKER, M.D. and  
20 HEATHER BROOKS, LFMT were deliberate indifference to the serious psychiatric  
21 and medical needs of NATHANIEL LEE LOWE .  
22  
23

24           72. Dr. BAKER was Butte County Jail's supervising psychiatrist and directly  
25 responsible to ensure that NATHANIEL LEE LOWE was properly provided  
26 competent psychiatric medical and nursing care and treatment, but he failed to take  
27

1 action and acted with deliberate indifference to NATHANIEL LEE LOWE 's care and  
2 treatment or lack thereof.

3  
4 73. HEATHER BROOKS, LFMT is the Butte County jail psychiatric therapist  
5 and also responsible for NATHANIEL LEE LOWE 's his direct written orders and  
6 patient care and treatment, and is responsible for his deliberate indifference to the  
7  
8 serious psychiatric and medical needs of NATHANIEL LEE LOWE .

9 74. TAYLOR FITHIAN, M.D, Dr. BAKER and HEATHER BROOKS, LFMT  
10 knew and were familiar with NATHANIEL LEE LOWE 's acute psychiatric condition  
11 and knew and/or should have known he was a high risk of suicide, hearing voices that  
12 told him to kill himself that he attempted hanging himself with bed sheets and  
13 attempting to harm himself since being processed into the BUTTE COUNTY JAIL.  
14  
15

16 75. As a result of these Defendants' deliberate indifference and/or reckless  
17 disregard for NATHANIEL LEE LOWE 's security, safety, wellbeing, and  
18 appropriate and indicated housing and observation and/or transfer to a higher level of  
19 care and their disregard and ignoring of said inadequate and incompetent conditions  
20 for NATHANIEL LEE LOWE 's needed medical care and treatment, NATHANIEL  
21 LEE LOWE suffered damages as set forth.  
22  
23

24 76. By the actions and omissions described above, defendants and each of them,  
25  
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28

1 violated 42 U.S.C. § 1983, depriving Plaintiffs of the following clearly-established  
2 and well-settled constitutional rights protected by the Fourth and Fourteenth  
3

4 Amendments to the U .S. Constitution:

5 a. The right to be free from an unreasonable ongoing seizure as a pretrial  
6 detainee as secured by the Fourth and Fourteenth Amendments;

7  
8 b. The right to be free from deliberate indifference to his serious medical  
9 needs while in custody as a pretrial detainee as secured by the Fourteenth  
10 Amendment;

11  
12 c. The right to be free from wrongful government interference with  
13 familial relationships, and Plaintiffs' right to companionship, society  
14 and support of each other, as secured by the First and Fourteenth Amendments.  
15

16 77. Defendants subjected Plaintiffs to their wrongful conduct, depriving  
17 Plaintiffs of rights described herein, knowingly, maliciously, and with conscious and  
18 reckless disregard for the rights and safety of Plaintiffs (individually and on behalf of  
19 NATHANIEL LEE LOWE ).  
20

21 78. Defendants subjected Plaintiffs to their wrongful conduct, depriving  
22 Plaintiffs of rights described herein, knowingly, maliciously, and with conscious and  
23 reckless disregard for whether the rights and safety of Plaintiffs and others would be  
24 violated by their acts and/or omissions.  
25  
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1 79. As a direct and proximate result of the foregoing, Plaintiffs sustained  
2 serious and permanent injuries and are entitled to damages, penalties, costs and  
3 attorney fees as more specifically stated above.  
4

5 **SECOND CAUSE OF ACTION**  
6 **FAILURE TO TRAIN AND SUPERVISE (42 U.S.C. § 1983)**  
7 **BY PLAINTIFFS AGAINST DEFENDANTS BUTTE COUNTY;**  
8 **HONEA; DR. BAKER, TAYLOR FITHIAN, M.D., CFMG/Wellpath**  
9 **AND DOES IN THEIR INDIVIDUAL CAPACITY**

10 80. Furthermore, on or before November 11, 2019, Defendants Sheriff HONEA,  
11 Dr. BAKER, COUNTY OF BUTTE and DOES 1-10 failed to properly train, assign,  
12 supervise, and guide their staff and medical personnel assigned to the BUTTE  
13 COUNTY JAIL, including but not limited to CFMG/Wellpath and DOES 1-10, to take  
14 immediate measures to ensure that a mentally ill and suicidal pre-trial detainee like  
15 NATHANIEL LEE LOWE , be referred to a hospital or psychiatric facility for the  
16 care and treatment of the mentally disordered, or to any other available public or  
17 private treatment facility that will promote NATHANIEL LEE LOWE 's speedy  
18 restoration to mental competence.  
19

20  
21 81. Defendants Sheriff HONEA, Dr. BAKER, COUNTY OF BUTTE and  
22 DOES 1-10 acted with deliberate indifference to their responsibility and duty to  
23 NATHANIEL LEE LOWE , and their actions and/or inactions in failing to supervise  
24 their subordinates to take adequate measure to protect inmates, such as NATHANIEL  
25 LEE LOWE , upon release from suicide watch; maintained an insufficient and  
26  
27  
28

1 inadequate number of safety cells/or beds, to house mentally ill inmates like  
2 NATHANIEL LEE LOWE to keep them safe; maintained insufficient and inadequate  
3 monitoring and surveillance of safety cells, such as the one where they housed  
4 NATHANIEL LEE LOWE ; they were deliberately indifferent to the design and  
5 location of the cell where NATHANIEL LEE LOWE was housed in violation of Title  
6  
7  
8 15 and 24 of the Cal. Administrative Code.

9 82. TAYLOR FITHIAN, M.D and each of the CFMG/Wellpath supervisors,  
10 managers, directors, executives' acts and/or omissions and failure to supervise their  
11 subordinates were taken with deliberate indifference to the medical care of inmates,  
12 such as NATHANIEL LEE LOWE , as set forth above.

14 83. TAYLOR FITHIAN, M.D and each of the CFMG/Wellpath Defendants and  
15 DOES 1-10 failed to supervise the medical-mental health services for detainees and  
16 knew or should have known Butte County Jail suffered from overcrowding,  
17 inadequate and/or incompetent medical staffing, as set forth above. Thereby  
18 violating the constitutional rights of patient-inmates' state and federal laws and  
19 departmental policy and procedure.

22 84. Defendants subjected Plaintiffs to their wrongful conduct, depriving  
23 Plaintiffs of rights described herein, knowingly, maliciously, and with conscious and  
24 reckless disregard for whether the rights and safety of Plaintiffs and others would be  
25 violated by their acts and/or omissions.  
26  
27



1 85. As a direct and proximate result of the foregoing, Plaintiffs sustained serious  
2 and permanent injuries and are entitled to damages, penalties, costs and attorney fees  
3 as more specifically stated above.  
4

5 **THIRD CAUSE OF ACTION**  
6 **Municipal Liability for Unconstitutional Custom or Policy**  
7 **(42 USC §1983)-MONELL**  
8 **(BY ALL PLAINTIFFS AGAINST DEFENDANTS**  
9 **BUTTE COUNTY; TAYLOR FITHIAN, M.D.; ROBERT BURTON and**  
10 **CFMG/Wellpath;)**

11 86. Plaintiffs reallege each and every paragraph in this Complaint as if fully set  
12 forth here.

13 87. As supervisors, Defendants SHERIFF HONEA, CFMG MEDICAL  
14 DIRECTOR TAYLOR FITHIAN, M.D.; ROBERT BURTON, in his individual and  
15 official capacity, and DOES 6-10, each permitted and failed to prevent the  
16 unconstitutional acts of other Defendants and individuals under their supervision and  
17 control, and failed to properly supervise such individuals, with deliberate indifference  
18 to the rights and serious medical needs of NATHANIEL LEE LOWE. Each of these  
19 supervising Defendants either directed his or her subordinates in conduct that violated  
20 Decedent's rights, OR set in motion a series of acts and omissions by his or her  
21 subordinates that the supervisor knew or reasonably should have known would  
22 deprive Decedent of rights, OR knew his or her subordinates were engaging in acts  
23 likely to deprive Decedent of rights and failed to act to prevent his or her subordinate  
24  
25  
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27  
28

1 from engaging in such conduct, OR disregarded the consequence of a known or  
2 obvious training deficiency that he or she must have known would cause subordinates  
3 to violate Decedent's rights, and in fact did cause the violation of Decedent's rights.  
4 (See, Ninth Circuit Model Civil Jury Instruction 9.4). Furthermore, each of these  
5 supervising Defendants is liable in their failures to intervene in their subordinates'  
6 apparent violations of Decedents' rights.  
7  
8

9 88. At all times herein mentioned, Defendants BUTTE COUNTY and CFMG  
10 and Wellpath, and each of them, maintained a longstanding, pervasive, custom,  
11 pattern, and/or practices, and each defendant knew that the following custom, pattern,  
12 practice or policies posed this risk of harm. Some of these customs, patterns,  
13 practices or policies include, but are not limited to, the following:  
14

15  
16 a. To deny inmates at the COUNTY'S jail access to medical/psychiatric  
17 attention, continuity of care and/or access to a higher level of care not available at the  
18 jail for seriously ill inmates;  
19

20 b. To fail to properly classify, house and/or monitor inmates suffering from  
21 mental health disabilities in compliance with statutory mandates;  
22

23 c. To fail to provide medical or mental health care for inmates with serious  
24 psychiatric/medical needs;

25 d. To fail to maintain appropriate, competent and sufficient indicated medical  
26 and mental health staffing;  
27  
28

1 e. To fail to use appropriate National and State accepted jail minimum  
2 standards, procedures and practices for handling suicidal mentally ill and/or  
3 emotionally disturbed persons;  
4

5 f. To fail to institute, require, and enforce proper and adequate training  
6 supervision, policies, procedures and practices concerning handling mentally ill  
7 and/or emotionally disturbed inmates at the County Jail;  
8

9 g. To fail to comply with their own policies and procedures and/ to fail  
10 to supervise to ensure implementation thereof;  
11

12 h. To fail to maintain competent and adequate supervision and training  
13 of medical and custodial staff regarding mentally ill and suicidal inmates;  
14

15 i. CFMG/Wellpath placed their financial interests and profits before their  
16 duty and responsibility to provide sufficient and competent medical/mental health  
17 care staff to patient/inmates; and  
18

19 j. To cover-up violations of constitutional rights by any or all of the  
20 following:

21 1. To allow, tolerate, and/or encourage a “code of silence” among law  
22 enforcement officers and sheriff department personnel, and CFMG/Wellpath  
23 personnel whereby an officer or member of the department and/or  
24 CFMG/Wellpath medical staff working in the correctional system under contract,  
25  
26  
27  
28

1 does not provide adverse information against a fellow deputy or member of the  
2 department or co-worker of CFMG/Wellpath; and,

3  
4 2. to use or tolerate inadequate, deficient, and improper  
5 procedures for handling, investigating, and reviewing complaints of misconduct,  
6 including claims made under California Government Code § 910 et seq.

7  
8 89. The unconstitutional customs and practices of Defendants were approved,  
9 tolerated and/or ratified by policy making officers for BUTTE COUNTY and  
10 CFMG/Wellpath.

11  
12 90. The aforementioned customs, policies, practices, and procedures were a  
13 moving force and/or a proximate cause of the deprivations of Plaintiffs' clearly-  
14 established and well-settled constitutional rights in violation of 42 U.S.C. §1983, as  
15 more fully set forth above.

16  
17 91. As a direct and proximate result of the unconstitutional above alleged  
18 actions, omissions, customs, policies, practices and procedures as described above,  
19 Plaintiffs sustained serious and permanent injuries and are entitled to damages as set  
20 forth above.

21  
22 92. Plaintiffs also seek punitive damages against CFMG/Wellpath pursuant to 42  
23 U.S.C. § 1983 and all applicable California Law.

24  
25 //

26  
27 //



1 c. Decedent's rights and liberty interests, as an incapacitated criminal defendant,  
2 to freedom from incarceration and to timely, restorative treatment, as secured by  
3 the Fourteenth Amendment to the United States Constitution and the California  
4 Constitution, Article 1, Section 7;

5  
6 d. Plaintiff's right to be free from wrongful government interference with  
7 familial relationships and Plaintiffs' right to companionship, society, and  
8 support of each other, as secured by the First and Fourteenth Amendments;

9  
10 e. The right to enjoy and defend life and liberty; acquire, possess, and protect  
11 property; and pursue and obtain safety, happiness, and privacy, as secured by  
12 the California Constitution, Article 1, Section 1;

13  
14 f. The right to protection from bodily restraint, harm, or personal insult, as  
15 secured by California Civil Code § 43; and Decedent's right to medical care as  
16 required by California Government Code §845.6.

17  
18 95. Separate from, and above and beyond, Defendants' attempted interference,  
19 interference with, and violation of Plaintiff's and Decedent's rights, Defendants  
20 violated Plaintiff's and Decedent's rights by the following conduct, among other  
21 conduct, constituting threat, intimidation, or coercion:  
22

23  
24 a. Intentionally and with deliberate indifference, depriving and/or  
25 preventing NATHANIEL LEE LOWE from receiving necessary, life-saving  
26 medical and/or psychiatric care and treatment;  
27

1           b.       Intentionally and with deliberate indifference, ordering and/or  
2 continuing NATHANIEL LEE LOWE's punitive housing in a segregated  
3 and/or disciplinary cell, under conditions of solitary confinement for long  
4 stretches of time, without necessary, life-saving medical and/or psychiatric care  
5 and treatment;  
6

7  
8           c.       Continuing deliberate indifference to his serious psychiatric and medical  
9 needs, and while NATHANIEL LEE LOWE was powerless to provide for such  
10 needs himself;  
11

12           d.       Intentionally and with deliberate indifference, causing NATHANIEL  
13 LEE LOWE to languish in jail without necessary medical, psychiatric,  
14 pharmacological care, or even the required treatment plan, when he was  
15 obviously unable to care for his own needs, and after a court had determined he  
16 was unable to care for his own needs and was a serious threat to himself;  
17

18           e.       Intentionally and with deliberate indifference, doing and/or permitting  
19 subparagraphs (a) – (d) when it was also obvious that in doing so, Decedent's  
20 life was likely to end needlessly, and Plaintiff's rights as Decedent's mother  
21 also would be violated. To the extent this claim is based on a violation of  
22 Decedent's rights, it is asserted as a survival claim. To the extent that the  
23 violations of rights were done to Plaintiff SANDRA JEAN SUSNARA, it is  
24 asserted as a wrongful death claim. To the extent the violations were done to  
25  
26  
27  
28

1 both Decedent and Plaintiff, it is asserted as both survival and wrongful death.

2 96. Defendant COUNTY is vicariously liable pursuant to Cal. Gov. Code  
3 section 815.2.  
4

5 97. As a direct and proximate result of Defendants' violation of California  
6 Civil Code § 52.1 and of Plaintiff's and Decedent's rights under the United States and  
7 California Constitutions and law, Plaintiff sustained injuries and damages, and  
8 against each Defendant named in this County is entitled to relief as set forth above,  
9 and punitive damages against all individual Defendants, including all damages and  
10 penalties allowed by California Civil Code §§ 52 and 52.1 and California law, three  
11 times actual damages, and attorneys' fees.  
12  
13

14 **FIFTH CAUSE OF ACTION**  
15 **(VIOLATION OF TITLE II - ADA, REHABILITATION ACT AND THE**  
16 **CALIFORNIA UNRUH ACT AGAINST DEFENDANT BUTTE COUNTY;**  
17 **CFMG/WELLPATH & ROBERT BURTON in his official capacity.)**  
18 **(42 U.S.C. § 12132 & 29 U.S.C. § 794)**

19 98. Plaintiffs re-allege and incorporate by reference the allegations  
20 contained in this complaint, as though fully set forth herein.  
21

22 99. At all material times NATHANIEL LEE LOWE was a "qualified  
23 individual" with a mental illness and disability and medical impairments that limited  
24 and/or substantially limited his ability to care for himself and control his mental,  
25 medical, or physical health condition as defined under the ADA, 42 U.S.C. § 12131  
26 (2), and under Section 504 of the Rehabilitation Act ("RA") of 1973, 29 U.S.C. § 794,  
27  
28



1 28 C.F.R. 42.540 (k); and Cal. Civ. Code §§ 51 et seq., 52, 54, 54.1, Cal. Gov't Code  
2 § 12926, as such, NATHANIEL LEE LOWE qualified as an individual with a mental  
3  
4 and physical disability under California law and NATHANIEL LEE LOWE met the  
5 essential eligibility requirements of BUTTE COUNTY programs to provide access to  
6 medical and mental health care services for its inmate patients in BUTTE COUNTY's  
7  
8 jails while they are in custody.

9       100. BUTTE COUNTY's; CFMG's and CDCR's jail and mental health  
10 services are places of public accommodation and are covered entities for purposes of  
11 enforcement of the ADA, 42 U.S.C. §12181 (7)(F), and the Rehabilitation Act, 29  
12 U.S.C. § 794, as explicated by the regulations promulgated under each of these laws.  
13 Further, on information and belief, BUTTE COUNTY receives federal assistance and  
14  
15 funds.

16  
17       101. BUTTE COUNTY JAIL, CFMG, CDCR are local government, and/or  
18 department or agency thereof, both fall within the definition of "program or activity"  
19 covered by the Rehabilitation Act, 29 U.S.C. Section 794(b). CDCR is also within the  
20 mandate of the RA that no person with a disability may be "excluded from the  
21 participation in, be denied the benefits of, or be subjected to discrimination under any  
22  
23 program or activity." 29 U.S.C. § 794.  
24

25       102. Defendants are mandated to "develop an effective, integrated,  
26 comprehensive system for the delivery of all services to persons with mental  
27  
28

1 disabilities and developmental disabilities . . .” and to ensure "that the personal and  
2 civil rights" of persons who are receiving services under its aegis are protected.

3  
4 103. Congress enacted the ADA upon a finding, among other things, that  
5 “society has tended to isolate and segregate individuals with disabilities” and that such  
6 forms of discrimination continue to be a “serious and pervasive social problem.” 42  
7 U.S.C. § 12101 (a)(2).  
8

9 104. Defendants are mandated under the ADA not to discriminate against any  
10 qualified individual “on the basis of disability in the full and equal enjoyment of the  
11 goods, services, facilities, privileges, advantages, or accommodations of any place of  
12 public accommodation.” 42 U.S.C. § 12182 (a).  
13

14 105. The ADA, 42 U.S.C. § 12182(b)(1)(A)(iii), provides in pertinent part  
15 that: “[i]t shall be discriminatory to afford an individual or class of individuals, on the  
16 basis of a disability or disabilities of such individual or class, directly, or through  
17 contractual licensing, or other arrangements, with a good, service, facility, privilege,  
18 advantage, or accommodation *that is different or separate* from that provided to other  
19 individuals.” *Id.* (emphasis added).  
20  
21

22 106. Defendants violated the ADA, RA, and discriminated against  
23 NATHANIEL LEE LOWE and Plaintiffs, violating their ADA, RA, and state  
24 protected rights by: (a) creating and maintaining a number of programs and services to  
25 protect the mentally disabled that operate in conjunction with the STATE’s designated  
26  
27  
28

1 mental health hospitals such as BUTTE COUNTY and facilities for persons who  
2 qualify under Penal Code § 1370 (a)(2) or Welfare and Institutions Code 5150; and (b)  
3  
4 Defendants failed to provide services or to accommodate NATHANIEL LEE LOWE  
5 with access to the programs and services of BUTTE COUNTY or State designated  
6 mental health hospitals and facilities for persons who qualify for access and services  
7  
8 under Penal Code § 1370 (a)(2) or Welfare and Institutions Code 5150; (c) Defendants  
9 failed to provide services or accommodate NATHANIEL LEE LOWE as indicated  
10 and with appropriate classification and monitoring for a person in their sole and  
11  
12 exclusive custody who they knew was mentally disabled and at risk for assault, (d)  
13 Defendants failed to provide reasonable accommodations to people in custody with  
14  
15 mental disabilities at their hospitals, clinics, and prisons and, instead, providing a  
16  
17 quality of care and service that is different, separate, inferior, and worse than the  
18  
19 service provided to other individuals with the same disabilities; (e) Defendants  
20  
21 deprived NATHANIEL LEE LOWE , a qualified individual with a disability, the  
22  
23 opportunity to participate in or benefit from the aid, benefit, or services of BUTTE  
24  
25 COUNTY, in violation of 28 C.F.R. § 35.130(b)(1)(i); (f) by reason of NATHANIEL  
26  
27 LEE LOWE 's mental disabilities, Defendants did not afford him an opportunity to  
28  
29 participate in or benefit from the aid, benefits, and services that are equal to those  
30  
31 afforded to other, non-disabled individuals by Defendants, in violation of 28 C.F.R. §  
32  
33 35.130(b)(1)(ii); (g) on the basis of NATHANIEL LEE LOWE 'S disability, BUTTE

1 COUNTY failed to provide him an aid, benefit, or service that was as effective in  
2 affording equal opportunity to obtain the same result, to gain the same benefit, and to  
3 reach the same level of achievement as provided to other individuals in the same  
4 situation, in violation of 28 C.F.R. §35.130(b)(1)(iii); (g) the Defendants limited  
5 NATHANIEL LEE LOWE , a qualified individual with a disability, in the enjoyment  
6 of rights, privileges, advantages, or opportunities enjoyed by others receiving the aid,  
7 benefit, or service of which NATHANIEL LEE LOWE was denied, in violation of 28  
8 C.F.R. §35.130(b)(1)(vii). Further, by refusing or obstructing NATHANIEL LEE  
9 LOWE 's admission to special programs, Defendants deprived him of the necessary  
10 treatment and benefits for his serious medical needs.  
11  
12  
13

14 107. NATHANIEL LEE LOWE was denied the benefits of the services,  
15 programs, and activities of BUTTE COUNTY, and was denied accommodation for his  
16 disabilities, which deprived him of safety, necessary care, and mental health and  
17 medical health programs and services, which would have provided planning and  
18 delivery of treatment, follow-up, and supervision. This denial of accommodation,  
19 programs, and services was the result of his disability in that he was discriminated  
20 against because he was mentally ill, at risk of assault by other inmates, and gravely  
21 disabled, in that he suffered from conditions in which a person, as a result of a mental  
22 disorder, is unable to provide for his basic personal needs for food, clothing, or shelter  
23  
24  
25  
26  
27  
28

1 and is unable to advocate for himself; and, NATHANIEL LEE LOWE had mental  
2 impairments that substantially limited one or more of his major life activities.

3  
4 108. As a result of the acts and misconduct of the Defendants complained of  
5 herein, NATHANIEL LEE LOWE died, and Plaintiffs have suffered, are now  
6 suffering, and will continue to suffer damages and injuries as alleged above. Plaintiffs  
7  
8 have suffered loss of love and society and claim damages for the wrongful death of  
9 their son and father in an amount not yet ascertained, but to be proven. Plaintiffs  
10 sustained serious and permanent injuries and are entitled to damages, penalties, costs,  
11 and attorneys' fees as set forth in the ADA and RA above.

12  
13 **SIXTH CAUSE OF ACTION**  
14 **(VIOLATION OF CALIFORNIA GOVERNMENT CODE § 845.6)**  
15 **PLAINTIFF AGAINST DEFENDANTS BUTTE COUNTY; SHERIFF**  
16 **HONEA, TAYLOR FITHIAN, M.D.; JOHN BAKER, M.D; HEATHER**  
17 **BROOKS, LFMT and CFMG/Wellpath DOES 1-10**

18 109. Plaintiffs re-allege and incorporate by reference the allegations  
19 contained in this complaint, as though fully set forth herein.

20 110. Defendants BUTTE COUNTY; SHERIFF HONEA, TAYLOR  
21 FITHIAN, M.D.; JOHN BAKER, M.D, HEATHER BROOKS, LFMT and  
22 CFMG/Wellpath and Does 6-10 knew or had reason to know that NATHANIEL LEE  
23 LOWE was in need of immediate and a higher level medical and psychiatric care,  
24 treatment, and observation and monitoring, that he required special housing and  
25 security – including being placed on suicide  
26

1 watch and on suicide precautions – for his own safety and well-being, and each  
2 Defendant failed to take reasonable action to summon and/or to provide NATHANIEL  
3 LEE LOWE access to such medical care and treatment and/or provide him housing  
4 accommodations necessary for him under such circumstances. Each such individual  
5 Defendant, employed by and acting within the course and scope of his or her  
6 employment with Defendant COUNTY, CDCR, CFMG, knowing and/or having  
7 reasons to know this, failed to take reasonable action to summon and/or provide  
8 NATHANIEL LEE LOWE access to such care, treatment, and medically appropriate  
9 housing in violation of California Government Code § 845.6.

13 111. As a proximate cause of the aforementioned acts and omissions of – and  
14 attributable under Government Code sections 845.6 and 815.2 to – all Defendants,  
15 Plaintiffs were injured as set forth above and is entitled to all damages allowable under  
16 California law. Plaintiffs sustained serious and permanent injuries and are entitled to  
17 damages, penalties, costs, and attorneys’ fees as set forth herein.

20 **SEVENTH CAUSE OF ACTION**  
21 **(NEGLIGENCE-Wrongful Death)**  
22 **(Plaintiffs Against Defendants SHERIFF HONEA; CALIFORNIA FORENSIC**  
23 **MEDICAL GROUP, INC; WELLPATH HOLDINGS, INC;**  
24 **JOHN BAKER, M.D.; HEATHER BROOKS, LFMT; DOES 1-10)**

24 112. Plaintiffs re-allege and incorporate by reference the allegations  
25 contained in this complaint, as though fully set forth herein.

1           113. At all times, each Defendants owed Plaintiffs the duty to act with due  
2 care in the execution and enforcement of any right, law, or legal obligation.

3  
4           114. At all times, each Defendants owed Plaintiffs the duty to act with  
5 reasonable care. These general duties of reasonable care and due care owed to  
6 Plaintiffs by all Defendants include but are not limited to the following specific  
7 obligations:  
8

9           a. To provide, or have provided sufficient, competent, prompt and appropriate  
10 psychiatric/medical care to NATHANIEL LEE LOWE ;

11  
12           b. To provide safe and appropriate jail custody for NATHANIEL LEE LOWE  
13 including reasonable classification, monitoring, and housing;

14           c. To use generally accepted law enforcement and jail procedures that are  
15 reasonable and appropriate for Plaintiff's status as a mentally ill, suicidal and/or  
16 emotionally disturbed person;

17  
18           d. To refrain from abusing their authority granted them by law;

19  
20           e. To refrain from violating Plaintiffs' rights guaranteed by the United States  
21 and California Constitutions, as set forth above, and as otherwise protected by law.

22  
23           115. Additionally these general duties of reasonable care and due care owed  
24 to Plaintiffs by Defendants and each them including DOES 1-10, include but are not  
25 limited to the following specific obligations:

26  
27           a. To properly and reasonably hire, supervise, train, retain, investigate,

1 monitor, evaluate, and discipline each person (i) who was responsible for providing  
2 psychiatric/medical care for NATHANIEL LEE LOWE ; (ii) who was responsible for  
3 the safe and appropriate jail custody of NATHANIEL LEE LOWE ; (iii) who was  
4 responsible for properly and reasonably classifying, housing, and monitoring  
5 NATHANIEL LEE LOWE ; (iv) who denied NATHANIEL LEE LOWE medical  
6 attention or access to medical care and treatment; and/or (vi)who failed to summon  
7 necessary and appropriate medical care;  
8  
9

10           b. To properly and adequately hire, supervise, train, retain, investigate,  
11 monitor, evaluate, and discipline their employees, agents, and/or law enforcement  
12 officers to ensure that those employees/agents/officers act at all times in the public  
13 interest and in conformance with law;  
14

15           c. To make, enforce, and at all times act in conformance with policies and  
16 customs that are lawful and protective of individual rights, including Plaintiffs'  
17 rights.  
18

19           d. To refrain from making, enforcing, and/or tolerating the wrongful policies  
20 and customs set forth herein.  
21

22           116. By the acts and omissions set forth more fully in the paragraphs above,  
23 Defendants acted negligently and breached their duty of due care owed to  
24 NATHANIEL LEE LOWE , which foreseeably resulted in the suffering of damages  
25 by NATHANIEL LEE LOWE and Plaintiffs of the loss of their father/son.  
26  
27



1 117. Defendants, through their acts and omissions, breached the  
2 aforementioned duties owed to NATHANIEL LEE LOWE and Plaintiffs.

3  
4 118. Defendant BUTTE COUNTY is vicariously liable pursuant to California  
5 Government Code section 815.2.

6 119. As a direct and proximate result of Defendants' negligence, Plaintiffs  
7 sustained injuries and damages, and against each and every Defendant are entitled to  
8 relief as described above.  
9

10 **EIGHTH CAUSE OF ACTION**  
11 **(MEDICAL NEGLIGENCE-Wrongful Death)**  
12 **(Plaintiffs Against Defendants BUTTE COUNTY, CALIFORNIA FORENSIC**  
13 **MEDICAL GROUP, INC; WELLPATH HOLDINGS, INC;**  
14 **JOHN BAKER, M.D.; HEATHER BROOKS, LFMT; DOES 1-10)**

15 120. Plaintiffs re-allege and incorporate by reference the allegations  
16 Contained in this complaint, as though fully set forth herein.  
17

18 121. NATHANIEL LEE LOWE was under the care and treatment of  
19 Defendants JOHN BAKER, M.D. and HEATHER BROOKS, LFMT,  
20 CFMG/WELLPATH, and BUTTE COUNTY who were required to examine, treat,  
21 monitor, prescribe for and care for him and to provide him with medical attention for  
22 the mentally ill and psychiatric services and treatment. Defendants JOHN BAKER,  
23 M.D. and HEATHER BROOKS, LFMT, CFMG/WELLPATH, and BUTTE  
24 COUNTY DOES 1-10, and DOES 1-10, acting within the scope and course of their  
25 employment with Defendants BUTTE COUNTY and CFMG/Wellpath negligently,  
26  
27  
28

1 carelessly and unskillfully cared for, attended, handled, controlled; failed to monitor  
2 and follow-up; abandoned; failed to classify, failed to appropriately diagnose and/or  
3 refer NATHANIEL LEE LOWE to specialist mental/medical care providers;  
4 negligently failed to provide physician, psychiatric, psychological care; carelessly  
5 failed to detect, monitor, and follow-up with his condition; and negligently, carelessly  
6 and unskillfully failed to possess and exercise that degree of skill and knowledge  
7 ordinarily possessed and exercised by others in the same profession and in the same  
8 locality as Defendants for the benefit of their patient and dependent pre-trial detainee  
9 NATHANIEL LEE LOWE .

10  
11  
12  
13 122. Defendant supervisors and each of them failed to supervise, train and  
14 monitor their subordinates, to maintain proper supervision, classification and staffing,  
15 to timely refer NATHANIEL LEE LOWE for medical, hospital and/or psychiatric  
16 care, failed to provide adequate and competent staffing, and to ensure the care and  
17 treatment ordered for NATHANIEL LEE LOWE was provided.  
18

19  
20 123. Plaintiffs further allege that other presently unknown supervisory  
21 personnel named as DOE defendants, including agents and employees of BAKER,  
22 BROOKS, CFMG/Wellpath and BUTTE COUNTY, and defendants themselves,  
23 failed to conduct appropriate investigatory procedures, and/or follow policies and  
24 protocols, including but not limited to involuntary mental health treatment and  
25 transfer, implementing interventions and assessment re: increased risk of suicidal  
26  
27  
28

1 behaviors, evaluation and documentation for risk factors so appropriate interventions  
2 may be initiated, to determine the need to obtain medical and psychiatric services  
3 for NATHANIEL LEE LOWE while in Defendants' care, custody, and control.  
4

5 124. As a direct and legal result of the aforesaid negligence and carelessness  
6 of Defendants' actions and omissions, Plaintiffs sustained injuries and damages, and  
7  
8 against these Defendants, and each of them, are entitled to compensatory damages as  
9 described above and as applicable to this claim for Medical Negligence, to be  
10 proven at time of trial.  
11

12 **NINTH CAUSE OF ACTION**  
13 **WRONGFUL DEATH - DENIAL OF SUBSTANTIVE DUE PROCESS**  
14 **RIGHT TO FAMILIAL RELATIONSHIP (42 U.S.C. § 1983)**  
15 **BY SANDRA JEAN SUSNARA, individually; NICOLE LYNN LOWE;**  
16 **BRANT I. LOWE; AGAINST ALL DEFENDANTS.**

17 125. Plaintiffs reallege each and every paragraph in this Complaint as if fully  
18 set forth herein.  
19

20 126. All of the acts of Defendants and the persons involved were done under  
21 color of state law.  
22

23 127. The acts and omissions of each Defendant deprived SANDRA JEAN  
24 SUSNARA, NICOLE LYNN LOWE, and BRANT I. LOWE of rights, privileges, and  
25 immunities secured by the Constitution and laws of the United States, including but  
26 not limited to the Fourteenth Amendment by, among other things, depriving Plaintiffs  
27 of their right to a familial relationship with their son/father NATHANIEL LEE LOWE  
28

1 without due process of law by their deliberate indifference in denying NATHANIEL  
2 LEE LOWE access to medical and mental health care.

3  
4 128. The Defendants and the other involved agents and employees acted  
5 pursuant to expressly adopted official policies or longstanding practices or customs of  
6 BUTTE COUNTY and CFMG/Wellpath. These include policies and longstanding  
7 practices or customs of failing to provide persons in pretrial custody who are  
8 mentally ill access to medical and mental health care as stated above and incorporated  
9 herein.  
10

11  
12 129. In addition, the training policies of BUTTE COUNTY and  
13 CFMG/WELLPATH Defendants were not adequate to train its deputies, agents and  
14 employees to handle the usual and recurring situations with which they must deal  
15 with, including but not limited to encounters with individuals in pretrial custody with  
16 mental illness. These defendants and each of them knew that its failure to adequately  
17 train its deputies, agents and employees to interact with individuals suffering from  
18 mental illness and/or withdrawing from drug addiction made it highly predictable  
19 that its deputies, agents and employees would engage in conduct that would deprive  
20 persons such as NATHANIEL LEE LOWE , and thus Plaintiffs SANDRA JEAN  
21 SUSNARA, NICOLE LYNN LOWE, and BRANT I. LOWE, of their rights. These  
22 Defendants were thus deliberately indifferent to the obvious consequences of their  
23 failure to train their deputies, agents and employees adequately.  
24  
25  
26  
27  
28

1           130. Defendants BUTTE COUNTY and CFMG's/Wellpath's official policies  
2 and/or longstanding practices or customs, including but not limited to its training  
3 policies, caused the deprivation of the constitutional rights of Plaintiffs SANDRA  
4 JEAN SUSNARA, NICOLE LYNN LOWE, and BRANT I. LOWE, and  
5 NATHANIEL LEE LOWE by each individual Defendant's official policies and/or  
6 longstanding practices or customs are so closely related to NATHANIEL LEE LOWE  
7 's injuries and death and thus the deprivation of the rights of Plaintiffs  
8 SANDRA JEAN SUSNARA, NICOLE LYNN LOWE, and BRANT I. LOWE, as to  
9 be the moving force causing those injuries.

13           131. Sheriff HONEA, a final policymaker for BUTTE COUNTY , ratified the  
14 actions and omissions of the medical staff Defendants and the other involved officers  
15 in that he had knowledge of and made a deliberate choice to approve their unlawful  
16 acts and omissions.

18           132. As a direct and proximate result of the foregoing wrongful acts,  
19 Defendants, and each of them, Plaintiffs sustained general damages, including grief,  
20 emotional distress and pain and suffering, loss of comfort and society, in an amount  
21 in accordance with proof.

24           133. In doing the foregoing wrongful acts and omissions, Defendants, and  
25 each of them, acted in reckless and callous disregard for the constitutional rights of  
26

1 Plaintiffs SANDRA JEAN SUSNARA, NICOLE LYNN LOWE, and BRANT I.  
2 LOWE, and NATHANIEL LEE LOWE . The wrongful acts, and each of them,  
3 were willful, oppressive, fraudulent, and malicious, thus warranting the award of  
4 punitive damages against each individual Defendant (but not the entity Defendant) in  
5 an amount adequate to punish the wrongdoers and deter future misconduct.  
6

7  
8 **TENTH CAUSE OF ACTION**  
9 **(VIOLATION OF CALIFORNIA GOVERNMENT CODE § 845.6)**  
10 **(Plaintiffs Against Defendants Burton in his Individual Capacity;**  
11 **Mariana Dominguez, DOES 1-10)**

11 125. Plaintiffs re-allege and incorporate by reference the allegations  
12 contained in this complaint, as though fully set forth herein.  
13

14 126. Pursuant to California Government Code §§ 844.6 and 845.6, these  
15 Defendants had a duty to monitor, check and respond to the persons under their  
16 custody, supervision and control.  
17

18 127. Plaintiffs Against Defendant, Warden Burton and DOES 1-10 knew or  
19 had reason to know that NATHANIEL LEE LOWE, even before he arrived at DVI  
20 that he was in need of immediate and a higher level of medical care, as his records  
21 from BUTTE COUNTY JAIL should have been transferred to CDCR and DVI  
22 before November 8, 2018. Defendants failed to take reasonable steps and actions to  
23 summon and/or to provide him access to such medical care and treatment for him  
24 under such circumstances. Each such individual Defendant, employed by and acting  
25 within the course and scope of his or her employment with CDCR knowing and/or  
26  
27  
28

1 having reasons to know this, failed to take reasonable action to summon and/or  
2 provide NATHANIEL LEE LOWE access to such care, treatment, and medically  
3 appropriate housing in violation of California Government Code § 845.6.  
4

5 128. On November 8, 2019 Mariana Dominguez performed a mental  
6 evaluation and based on NATHANIEL LEE LOWE 'S condition Maria Dominguez  
7 knew or should have known of NATHANIEL LEE LOWE 's suicidal ideation and  
8 failed to provide medical attention for NATHANIEL LEE LOWE .  
9

10 129. As a proximate cause of the aforementioned acts and omissions of  
11 defendants under Government Code sections 845.6 and 815.2, Plaintiffs were  
12 injured as set forth above and are entitled to all damages allowable under California  
13 law. Plaintiff sustained serious and permanent injuries and is entitled to damages,  
14 penalties, costs, and attorneys' fees as set forth above.  
15  
16

17 **ELEVENTH CAUSE OF ACTION**  
18 **(42 U.S.C. § 1983)**  
19 **(Against MARIANA DOMINGUEZ)**

20 130. Plaintiffs re-allege and incorporate by reference each and every  
21 allegation contained in this complaint, as though fully set forth here.  
22

23 131. Individual MARIANA DOMINGUEZ failed to review NATHANIEL  
24 LEE LOWE records from his prior facility, BUTTE COUNTY JAIL, and as a result  
25 deprived NATHANIEL LEE LOWE of the rights, privileges and immunities  
26 secured by the Fourth and Fourteenth Amendment of the United States Constitution,  
27  
28

1 by subjecting him, or through their deliberate indifference, allowing others to subject  
2 him, to delay and denial of medical or mental health care and/or access thereto for a  
3 serious but treatable medical or mental health condition.  
4

5       132. This Defendants knew or should have known that NATHANIEL LEE  
6 LOWE had suicidal ideations or behaviors as set forth above; Defendants knew or  
7 must have known that NATHANIEL LEE LOWE could not care for himself; he  
8 could not seek outside jail medical care, nor advocate for his urgently needed  
9 psychiatric intervention, and/or appropriate suicide observation protocols. Defendants  
10 ignored their duty of care to NATHANIEL LEE LOWE , with their actions and  
11 inactions they caused lapses and a lack of continuum of indicated care and treatment  
12 and indicated appropriate housing, which they knew or should have known, would  
13 cause or worsen his already deteriorating mental health condition.  
14  
15

16       133. This Defendant knew or must have known that NATHANIEL LEE  
17 LOWE 's medical or mental health condition was serious but treatable and that  
18 NATHANIEL LEE LOWE required access and delivery to urgently needed  
19 medical/mental health care, and they further had a duty to provide NATHANIEL LEE  
20 LOWE reasonable security and indicated housing to accommodate his mental health  
21 condition. These Defendants knew or should have known that if not treated,  
22 NATHANIEL LEE LOWE 's mental health would continue to deteriorate, worsen and  
23 cause him harm and/or death.  
24  
25  
26  
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28



1           134.    MARIANA DOMINGUEZ performed a psychological examination of  
2 NATHANIEL LEE LOWE . The examination was so poorly conducted that  
3  
4 NATHANIEL LEE LOWE , who clearly was suicidal and had expressed it just weeks  
5 before was misdiagnosed by MARIANA DOMINGUEZ. DOMINGUEZ was directly  
6 responsible for the direct misdiagnosis and was deliberate indifference to the  
7  
8 serious psychiatric and medical needs of NATHANIEL LEE LOWE .

9           135.    As a result of DOMINGUEZ'S deliberate indifference and/or reckless  
10 disregard for NATHANIEL LEE LOWE 's security, safety, wellbeing, and  
11  
12 appropriate and indicated housing and observation and/or transfer to a higher level of  
13 care and her disregard and ignoring of said inadequate and incompetent conditions for  
14 NATHANIEL LEE LOWE 's needed medical care and treatment, NATHANIEL LEE  
15  
16 LOWE suffered damages as set forth.

17           136.    By the actions and omissions described above, defendants and each of  
18 them, violated 42 U.S.C. § 1983, depriving Plaintiffs of the following clearly-  
19  
20 established and well-settled constitutional rights protected by the Fourth and  
21 Fourteenth Amendments to the U .S. Constitution:

22           137.    a.    The right to be free from an unreasonable ongoing seizure as a  
23  
24 pretrial detainee as secured by the Fourth and Fourteenth Amendments;

1           138.    b.     The right to be free from deliberate indifference to his serious  
2 medical needs while in custody as a pretrial detainee as secured by the Fourteenth  
3 Amendment;  
4

5           139.    c.     The right to be free from wrongful government interference with  
6 familial relationships, and Plaintiffs' right to companionship, society and support of  
7 each other, as secured by the First and Fourteenth Amendments.  
8

9           140.    As a direct and proximate result of the foregoing, Plaintiffs sustained  
10 serious and permanent injuries and are entitled to damages, penalties, costs and  
11 attorney fees as more specifically stated above.  
12

13                                   **TWELFTH CAUSE OF ACTION**  
14                                   **(42 U.S.C. § 1983) Failure to Protect**  
15                                   **((Plaintiffs Against Defendants Burton in his Individual Capacity;**  
16                                   **Correctional Staff DOES 1-10)**

17           141.    Plaintiffs re-allege and incorporates by reference the allegations  
18 contained in this complaint, as though fully set forth herein.  
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20           142.    At all material times, Defendants owed NATHANIEL LEE LOWE the  
21 duty to review his criminal and medical records which should have been sent from  
22 BUTTE COUNTY JAIL to CDCR and DVI prior to NATHANIEL LEE LOWE  
23 arriving at DVI on November 8, 2019. The Defendants' failure to review such records  
24 was an act of deliberate indifference which deprived NATHANIEL LEE LOWE of  
25 the medical care he needed.  
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1           143. At all material times, Defendants Burton in his Individual Capacity;  
2 and Correctional Staff DOES 1-10 were responsible to perform Title 15 safety checks  
3 which defendants failed to perform on November 11, 2019.

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5           144. Defendants Burton in his Individual Capacity; and Correctional Staff  
6 DOES 1-10 defendants and DOES 1-10 acted with deliberate indifference to  
7 NATHANIEL LEE LOWE 's safety by failing to provide and perform the required  
8 TITLE 15 safety checks; Defendants failed to provide adequate, competent and  
9 timely safety checks and to provide treatment, security, supervision and/or access to  
10 indicated needed mental health care abandoning his care and treatment, thus enabling  
11 and contributing to his death.

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13           145. These general duties of reasonable care and due care owed to  
14 NATHANIEL LEE LOWE by all Defendants include, but are not limited, to the  
15 following specific obligations:  
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- 17  
18           a. To provide safe and appropriate prison custody for NATHANIEL LEE  
19 LOWE, including reasonable classification, monitoring, and housing,  
20 including placing him in an adequately monitored cell away from violent  
21 and combative inmates;  
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23           b. To obey Court Orders for the care and safety of inmates, such as  
24 NATHANIEL LEE LOWE;  
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26           c. To summon necessary and appropriate medical care for NATHANIEL  
27

1 LEE LOWE ;

- 2 d. To use generally accepted law enforcement and prison procedures that  
3 are reasonable and appropriate for Plaintiffs' status as a mentally ill  
4 and/or emotionally disturbed person;  
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6 e. To refrain from abusing their authority granted to them by law; and,  
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8 f. To refrain from violating Plaintiffs' and NATHANIEL LEE LOWE 's  
9 rights guaranteed by the United States and California Constitutions, as  
10 set forth above, and as otherwise protected by law.  
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12 146. By the acts and omissions set forth more fully in the paragraphs above,  
13 Defendants acted negligently and breached their duty of due care owed to  
14 NATHANIEL LEE LOWE, which foreseeably resulted in the suffering of damages by  
15 NATHANIEL LEE LOWE and Plaintiffs.  
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17 **THIRTEENTH CAUSE OF ACTION**  
18 **(MEDICAL NEGLIGENCE-Wrongful Death)**  
19 **(Plaintiffs Against Defendants MARIANA DOMINGUEZ; DOES 1-10)**

20 147. Plaintiffs re-allege and incorporate by reference the allegations  
21 Contained in this complaint, as though fully set forth herein.  
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23 148. NATHANIEL LEE LOWE was examined by MARIANA  
24 DOMINGUEZ. She negligently performed a psychological exam of NATHANIEL  
25 LEE LOWE and failed to review his records from BUTTE COUNTY. MARIANA  
26 DOMINGUEZ and DOES 1-10, acting within the course and scope of her  
27

1 employment with CDCR/DVI negligently, carelessly and unskillfully cared for,  
2 attended, handled, controlled; failed to monitor and follow-up; abandoned; failed to  
3 classify, failed to appropriately diagnose and/or refer NATHANIEL LEE LOWE to  
4 specialist mental/medical care providers; negligently failed to provide physician,  
5 psychiatric, psychological care; carelessly failed to detect, monitor, and follow-up  
6 with his condition; and negligently, carelessly and unskillfully failed to possess and  
7 exercise that degree of skill and knowledge ordinarily possessed and exercised by  
8 others in the same profession and in the same locality as Defendants for the benefit of  
9 their patient and dependent pre-trial detainee NATHANIEL LEE LOWE. As a direct  
10 and legal result of the aforesaid negligence and carelessness of Defendants' actions  
11 and omissions, Plaintiffs sustained injuries and damages, and against these  
12 Defendants, and each of them, are entitled to compensatory damages as described  
13 above and as applicable to this claim for Medical Negligence, to be proven at time  
14 of trial.  
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20 **PRAYER FOR RELIEF**

21 WHEREFORE, Plaintiffs respectfully request the following relief against each  
22 and every Defendant herein, jointly and severally:

- 23 1. Compensatory damages in an amount according to proof, which is fair,  
24 just, and reasonable;
- 25 2. Punitive damages under 42 U.S.C. § 1983, federal law, and California  
26 law, in an amount according to proof and which is fair, just, and  
27 reasonable against the individual Defendants only;

1 3. All other damages, penalties, costs, interest, and attorneys' fees as  
2 allowed by 42 U.S.C. §§ 1983 and 1988; California Code of Civil  
3 Procedure §§ 377.20 et seq., 377.60 et seq., and 1021.5; the ADA; the  
4 RA; California Civil Code §§ 52 et seq., 52.1; and as otherwise may be  
allowed by California and/or federal law;

5 4. For such other and further relief as the Court deems just and proper.

6 **JURY TRIAL DEMAND**

7 Plaintiffs hereby respectfully demand a jury trial in this action, pursuant to  
8 Rule 38 of the Federal Rules of Civil Procedure.

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10 Dated: September 30, 2020

**CURD, GALINDO & SMITH LLP**

11 /s/ Alexis Galindo

12 ALEXIS GALINDO

13 Attorneys for Plaintiffs  
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