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22 Representative of The Estate of John Horton

23 SUPERIOR COURT OF THE STATE OF CALIFORNIA

24 COUNTY OF LOS ANGELES

25 HELEN JONES, individually and as a
26 Personal Representative of THE ESTATE
27 OF JOHN HORTON,

28 Plaintiff,

v.

COUNTY OF LOS ANGELES; LOS
ANGELES COUNTY SHERIFF
DEPARTMENT; CHRISTOPHER
KIDDER, WILLIAM PENHOLLOW,
CLIFF YATES; JOHN HORTON, SR.
and DOES 1-51, inclusive,

Defendants.

CASE NUMBER BC 431634

SECOND AMENDED COMPLAINT:

- 1) WRONGFUL DEATH (Cal. Code Civ. P. §377.60);
- 2) VIOLATION OF CIVIL CODE SECTIONS 43, 51.7 AND 52.1(b);
- 3) NEGLIGENCE (California Common Law); and
- 4) NEGLIGENT SUPERVISION, HIRING AND RETENTION (California Common Law).

JURY TRIAL 08-04-15

FSC 07-28-2015

DEPARTMENT 32

FILED
Superior Court of California
County of Los Angeles

APR 28 2015

Sherri R. Carter, Executive Officer/Clerk
By M. Soto, Deputy
Moses Soto

 ORIGINAL

04/29/2015

1 **COME NOW** the Plaintiffs HELEN JONES individually and as a Personal
2 Representative of the ESTATE OF JOHN HORTON who amends this Complaint
3 pursuant to the Court's Order of April 8, 2015, and the parties agreement with the Second
4 Amended Complaint to be filed by 4-28-15, and who hereby allege the following allegations
5 and facts in support of their Amended Complaint against all Defendants, and DOE
6 Defendants 1 through 51, Inclusive, (Doe 51 is being added pursuant to the Court's Order
7 and Doe 51 is hereby designated at John Horton Sr., a nominal defendant). Plaintiffs hereby
8 demand a speedy jury trial on all causes of action stated herein against the named
9 Defendants herein as follows:

10 **JURISDICTION AND VENUE**

11 1. This Court has personal jurisdiction over the defendants because they are
12 either government entities operating within the County of Los Angeles or individuals
13 employed by government entities operating within Los Angeles County and/or are located
14 in the County of Los Angeles in State of California, and have already appeared in these
15 proceeding and acceded to the Curt's jurisdiction.

16 2. Venue is proper in this county in accordance with Section 395 et seq.
17 of the California Code of Civil Procedure because (a) the defendants, or some of them,
18 reside in Los Angeles County and/or (b) the injury occurred in Los Angeles County and/or
19 they are doing business in Los Angeles County, California.

20 3. This case has been filed in the Central District of Los Angeles County
21 because it involves civil rights violations and under the local rules breach of contract causes
22 of action may be filed in the Central District of the Los Angeles County Superior Court.

23 4. All other pleadings and Amendments previously filed in this case by
24 Plaintiffs include the declaration of Helen Jones pursuant to California Code of Civil
25 Procedure Sections 377.11 et seq. are hereby incorporated by reference as if set forth in full.

26 **PLAINTIFFS**

27 5. Plaintiff **HELEN JONES** is a competent adult over the age of 18 years
28 and resides in Los Angeles County. Additionally **HELEN JONES** brings this action as the

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1 Personal Representative of the ESTATE OF JOHN HORTON. Plaintiff HELEN
2 JONES is the *biological* mother of John Horton, deceased. Helen Jones is the sole heir
3 and the successor in interest to the estate of John Horton, and the *biological father of*
4 *John Horton, JOHN HORTON SR.* is hereby named as *DOE 51 as a nominal*
5 *Defendant* and has waived any rights or interest in this action and/or the proceeds or rights
6 he may have had as to John Horton and the estate of John Horton. John Horton Sr., *DOE*
7 *51 is the biological* father of John Horton, has specially abandoned any claims and/or
8 rights to any wrongful death action or any other action as to the Estate of John Horton or as
9 to his son John Horton. John Horton Sr. is now DOE 51 in this action. *As a nominal*
10 *Defendant DOE 51 John Horton Sr. is being named so as to foreclose his rights to*
11 *bring any action against any of the Defendants or other Doe Defendants in this*
12 *action.*

13 DEFENDANTS

14 6. At all times mentioned herein Defendant County of Los Angeles was and
15 is a public entity and municipal corporation, duly organized and existing under and by virtue
16 of the laws of the State of California. Defendants Christopher Kidder, William Penhollow
17 and Clifford Yates, all of whom are Los Angeles County Sheriffs, previously Answered
18 Plaintiff's Complaint and are still Defendants in this action. It is further alleged that on or
19 about March 29, 2009, and into the morning hours of March 30, 2009, Defendants Yates,
20 Penhollow and Kidder were all working as uniformed Los Angeles County Sheriffs at Men's
21 Central Jail, which is a jail facility under the control and supervision of the Los Angeles
22 County Sheriff's Department, located in Los Angeles County, California, in an industrial part
23 of Los Angeles City.

24 7. Plaintiffs are informed and believe and thereupon allege, that at all times
25 relevant herein Defendants Does 1-50 were residents of the County of Los Angeles, State of
26 California, and were Sheriffs Deputies, sergeants, captains, lieutenants, commanders and
27 chiefs of Sheriffs, and/or civilian employee agents, policy makers and representatives of the
28 Los Angeles County Sheriff Department, as well as employees, agents and representatives of

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1 Defendant County of Los Angeles at the time of this incident. It is further alleged that the
2 individual Defendants, and each of them were assigned to the Men's Central Jail [hereinafter
3 MCJ] and working within there in their official capacity as Los Angeles County Sheriffs and
4 were under the supervision, guidance, oversight and control of the Los Angeles County
5 Sheriff's Department. On the night of March 29, 2009, Defendants Penhollow, Kidder and
6 Yates were all working at MCJ and during their shifts at MCJ which spanned from the
7 evening hours of March 29, 2009, into the morning hours of March 30, 2009, they were in
8 charge of and/or supervising and/or in control of the 3300 cell block of the third floor
9 wherein John Horton was housed in solitary confinement in a closet-sized cell with no
10 windows, no furniture except a metal bed protruding out from the wall, a metal toilet in this
11 very dimly lit cell. Plaintiff is informed and believes and thereon alleges that in March of
12 2009, the 3000 Boys were known to have a number of their members working as Los Angeles
13 County Sheriffs Deputies on the third floor of the MCS and had instilled a culture and creed
14 wherein they dominated the Sheriffs deputies working in the 3000 cell blocks of the third
15 floor at MCJ including the 3300 cell block.

16 8. At all times relevant herein Defendants, and Does 1-50, inclusive, and each
17 of them, were acting under color of law, to wit, under the color of the statutes, ordinances,
18 regulations, policies, customs, practices and usages of defendant County of Los Angeles, its
19 police department, and the State of California. It is further alleged that Defendants Yates,
20 Penhollow and Kidder abused their authority as Sheriffs and acted under color of law when
21 they participated in, played a part in, knew about and/or otherwise were aware of or knew
22 that John Horton while housed in the 3300 cell block of MCJ was beaten, abused physically
23 or otherwise had inflicted upon his person serious bodily injury at their hands or others on
24 or about March 29, 2009 through March 30, 2009, and despite such knowledge or awareness
25 of John Horton suffering from serious bodily injury at their hands or others, which they all
26 knew about or should have known about, failed to take reasonable action to summon
27 medical care for John Horton, and as such failed to summon immediate medical care for
28 John Horton and as such same created liability for the County, the Sheriff's Department and

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1 all other Defendants under Section 845.6 of the Government claims act. The Sheriffs
2 Department, acting through their deputy agents, is also responsible for the failure to
3 summons immediate medical care for John Horton who was gravely injured by the Sheriff's
4 Department's agent deputies who were acting in their official capacity and under the color of
5 law also in MCJ, which the Sheriff's Department knew or should have known that the
6 Sheriffs Defendant Deputies were members of, affiliated with, controlled by, dominated by
7 and/or under the influence of the 3000 Boys Sheriff's gang made up of a number of
8 Sheriff's Deputies from the Los Angeles County Sheriff's Department all working at the
9 MCJ. The 3000 Boys were carrying on with and/or instilled an unwritten Code of
10 Retribution to be followed by all Sheriff's Deputies working in the 3000 cell blocks wherein
11 any inmate who had laid hands on, assaulted, defended themselves against, disobeyed, and or
12 otherwise did not comply with Sheriffs deputies working on the 3000 floor of the MCJ
13 would be subject to physical assault, beatings, physical retaliations or otherwise dealt with by
14 Sheriffs Deputies while they were on duty in such a manner so as to instill fear, intimidation
15 and/or subjugation of the inmates at MCJ. It is further alleged that supervisors and
16 management personnel of the Sheriffs at MCJ all knew about, participated in, should have
17 known and/or allowed this culture of physical brutality and intimidation to fester, thrive,
18 spread and/or exist in MCJ hereby creating and/or reinforcing the unwritten Code of
19 Retribution to exist, and which did exist at the time of John Horton's death on March 30,
20 2009 in MCJ.

21 9. At all times mentioned herein Defendant Los Angeles County Sheriff
22 Department was and is a public entity and an organization of unknown entity, duly
23 organized and existing under and by virtue of the laws of the State of California.

24 10. Plaintiff is informed and believes, and thereupon alleges that at all times
25 relevant herein, Doe defendants 1 through 10, inclusive, were supervisors and policy makers
26 for the County of Los Angeles.

27 11. The Plaintiffs sue the fictitious Defendants DOES 1 through 50,
28 inclusive pursuant to the California Code of Civil Procedure, Section 474, because their true

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1 names and/or capacities and or other facts showing them liable are not presently known.
2 Plaintiffs request the Court's leave to amend this First Amended Complaint to set forth the
3 true names and capacities of such Defendants when ascertained by the Plaintiffs who further
4 allege that each of the said Defendants and Does are responsible in some manner for the
5 occurrences herein alleged, and that the damages herein alleged were proximately caused by
6 this conduct. It is further alleged that the Los Angeles County Sheriff's Department failed
7 their duties to the citizens of Los Angeles County by allowing a center for torture and cruel
8 and unusual punishment of the inmates a MCJ, including John Horton, all in violation of of
9 the rights bestowed upon al person in California under the California and United States
10 Constitutions.

11 12. The reason why plaintiff is ignorant of the true names and capacities of
12 Defendants sued herein as Does 1 through 50, inclusive, is that same have been
13 unascertainable as of the date of filing of the instant First Amended Complaint (except as to
14 Doe's brought in previously), as many of these Does may be Sheriffs Deputies and/or
15 civilian employee agents, policy makers and representatives of Defendants County of Los
16 Angeles and/or Los Angeles County Sheriff Department, and as such many of their records
17 are protected by state statute and can only reasonably be ascertained through the discovery
18 process. It is further alleged that the Los Angeles County Sheriff's Department and/or the
19 County of Los Angeles allowed a criminal enterprise to exist and/o thrive in the MCJ made
20 up of Los Angeles County Sheriff's Deputies who have instilled and/or allowed to exist a
21 reign of terror and intimidation in the MCJ so such an extent that the FBI and other
22 government agencies have and still are investigating various Sheriff's Deputies and others
23 related to this ongoing criminal gang enterprise run by Los Angeles County Sheriff's
24 Deputies including the 3000 Boys and other Sheriff's Deputies gang operating under the
25 color of law in the Los Angeles County Sheriff's Department.

26 13. At all times relevant hereto said defendants were acting within the scope
27 and course of their employment as officers, sergeants, captains, lieutenants, commanders and
28 chiefs of police, and/or civilian employees, policy makers and representatives of the County

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1 of Los Angeles, The Los Angeles County Sheriff Department, a department and subdivision
2 of Defendant County of Los Angeles, and the wrongful acts hereinafter described flow from
3 the very exercise of their authority and/or abuse of their authority. Each defendant was also
4 acting as an employee, agent and representative of each and every other defendant herein,
5 and in doing the acts herein alleged were acting with the permission, consent, ratification and
6 authority of their co-defendants. The Defendants, and each of them, failed to render and/or
7 provide and/or facilitate medical assistance to John Horton as needed, requested, and/or
8 ordered by the Judge in the underlying criminal proceedings all of which the Defendants,
9 and each of them, had notice of and/or were on notice [constructive or actual] of based on
10 John Horton's physical, mental, and/or other conditions requiring that he receive immediate
11 emergency medical care. It is further alleged that despite knowing or being on notice of or
12 otherwise inflicting upon the person of John Horton severe physical and/or mental trauma
13 the Defendants, and each of them, failed to render, call for or otherwise facilitate emergency
14 medical care to and/or for John Horton and same was a substantial factor in the demise of
15 John Horton. It is further alleged that during the course of this litigation while taking
16 depositions of Los Angeles County Sheriff's Deputies, said deputies testified and/or related
17 to Plaintiffs' counsel that they were under orders of their superiors not to cooperate and/or
18 participate in the FBI's investigation of the Los Angeles County Sheriff's Department.

19 **GOVERNMENT CLAIM FILED**

20 14. Pursuant to Government Code Sections 905 and 910, et seq., Plaintiff
21 timely filed her Government Claim for Damages on August 6, 2009. Said claim was denied
22 by the County of Los Angeles on September 4, 2009. Thus, Plaintiff timely filed this
23 lawsuit. Plaintiff set forth in the Government Claim language to the effect that if the
24 Government entity or individual were unable to ascertain the basis or scope of the claims
25 against them or reason to believe that they were not a proper party then they should so
26 notify Plaintiffs' counsel. Plaintiffs' counsel was not notified by any of the Defendants that
27 they had any issues with the Government claims. The Court of Appeals ruled that the
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1 Government Claim filed in this case was sufficient to apprise the Defendants of the claims
2 being brought against them in this action.

3 15. Plaintiff further alleges that Defendants, and each of them, intentionally
4 conspired to conceal, and did conceal, the true facts surrounding this incidents leading up to
5 and those surrounding the death of John Horton and the circumstances related thereto, and
6 thereby attempting to prevent Plaintiff from obtaining the knowledge and information
7 necessary to submit the instant complaint on a timely basis. It is further alleged that the
8 Defendants Yates, Penhollow, Kidder and others in furtherance of the criminal enterprise
9 and of the 3000 Boys and other Sheriff's gangs concealed, covered, fabricated evidence,
10 and/or otherwise failed to disclose how John Horton was really killed in his jail cell in the
11 3300 cell block of the MCJ on or about March 29, 2009, through March 30, 2009. It is
12 further alleged that the Los Angeles County Sheriff's Department failed to properly
13 investigate, overlooked evidence, and/or was otherwise influenced not to arrive at the
14 conclusion that John Horton was murdered in cell despite there being evidence that was
15 made available or could have been discovered with a thorough and proper homicide
16 investigation by the Los Angeles County Sheriff's Department. It is further alleged that the
17 Sheriff's homicide detectives were aware that there was no petechial hemorrhaging in John
18 Horton's eyes. This is especially relevant to this case because a petechial hemorrhage is a
19 form of mild hemorrhage which causes distinctive markings known as petechiae. These
20 markings take the form of small red to purple spots which can vary in size and distribution
21 from a few tiny markings to an array which may look like a rash or abrasion. Petechiae can
22 be caused by a variety of situations and conditions, and they can play a role in both forensic
23 science and medical diagnosis. This condition emerges when the capillaries near the surface
24 of the body burst, causing small red marks to appear near the site of the rupture. The marks
25 may persist for several days before fading away as the body heals itself, and they can be
26 indicative of a number of medical issues.

27 **FACTUAL ALLEGATIONS COMMON TO MORE THAN ONE CAUSE OF**
28 **ACTION**

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(JOHN HORTON HOUSED AT L.A. COUNTY JAIL)

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2 16. In or around March 2009, John Horton was incarcerated at Men's Central
3 Jail by the Los Angeles County Sheriff's Department, under the care of Los Angeles County
4 Sheriff Department, and they impliedly were required to provide a safe housing environment
5 for John Horton and/or render or summons emergency medical should John Horton require
6 same. All Sheriffs, were employees, agents and/or servants of Los Angeles County Sheriff
7 Department and the County of Los Angeles, acting under color of authority.

8 17. On or about March 16, 2009, based upon his obvious mental health state
9 of distress and other medical factors, John Horton was court ordered to the medical unit of
10 Men's Central Jail for at least the beginning of the two or three weeks it would take to
11 arrange a transfer to fire camp. The Los Angeles County Sheriff's Department was made
12 aware of John Horton's mental condition and/or medical condition and the Court's medical
13 order. The Los Angeles County Sheriff's Department failed to properly administer, follow
14 and/or implement the Court's medical order, and as a result thereof John Horton was never
15 provided the care and treatment as requested/ordered by the Court.

16 18. It is further alleged that the Sheriffs deputies and Sergeants and/or other
17 Sheriffs deputies, managements and/or others were involved in an altercation with John
18 Horton in the MCJ system wherein John Horton was encountered by said Defendants or
19 other Sheriff's Deputies and was engaged in an altercation with same wherein the Sheriffs
20 hit, beat and/or otherwise pummeled John Horton causing him to be restrained and then
21 restrained in a gurney under the control of the Sheriffs and taken to an isolated room
22 wherein John Horton while in severe pain, mental suffering and/or a battered conditions
23 was video taped and interviewed in a room with several Sheriffs in Men's Central Jail
24 regarding the altercation with the Sheriffs and thereby and thereafter was publically marked
25 by the Sheriffs in MCJ and thereafter became a further target for retaliation and/or
26 retribution by the Sheriff's Department personnel at Men's Central Jail. Thereafter on or
27 about March 29 or 30, 2009, the Sheriff's Department, their personnel, Kidder, Yates,
28 Penhollow and other Deputies all conspired to and in fact did commit a homicide on the

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1 person of John Horton in his cell on the 3300 block of MCJ or cover up same in MCJ by
2 inflicting numerous blows to his body in various parts and thereby causing a rupture of
3 internal organs and other life taking blows and thereby caused the death of John Horton.

4 19. After inflicting this brutal beating to John Horton in his solitary
5 confinement jail cell in the 3300 cell Block of Men's Central Jail, the Sheriffs Deputies and
6 Christopher Kidder and William Penhollow and the Sergeant Cliff Yates and/or others
7 Sheriff's personnel failed to summon and/or render medical care to John Horton thereby
8 causing and/or allowing his death. Thereafter said perpetrators and/or conspirators staged
9 the fabricated hanging of John Horton in his cell by putting a make shift hangman's noose
10 around his neck and attaching it to a vent in the wall, binding his hands and feet and then
11 propping his body sitting on his bunk and leaning forward off his bunk all in an attempt to
12 cover up the homicide of John Horton. However, the Sheriff murderers failed to realize that
13 if one hang's themselves and is affixiated thereby there would be petechialing of John
14 Horton's eyes, which there was not according to the autopsy report and the forensic
15 pathology experts of John Horton's legal team, namely Dr. Silvia Comparini and Dr. John
16 Misset.

17 20. Thereafter in an ongoing cover up of this killing of John Horton and other
18 atrocities in MVJ, the Sheriff's Department and their personnel including all of the
19 Defendants, undertook a course of conduct to hide, obfuscate, manufacture or otherwise
20 attempt to quash all evidence related to the Sheriff's Department in various beatings of
21 inmates at Men's Central Jail, the illegal dereliction of their duties in conducting bed checks
22 of inmates in the jails, the cover up of the Sheriff gangs epidemic including the 3000 Boys
23 and other Sheriff affiliated gangs all engaged in criminal enterprise

24 **(LOS ANGELES COUNTY SHERIFF'S FAIL TO FOLLOW THE COURT'S**
25 **ORDER)**

26 21. The Los Angeles County Sheriff's Department intentionally choose to
27 secret John Horton in solitary confinement in downtown Los Angeles in the Men's Central
28 jail for a number of days before his life was taken. During that time, he spent nearly every

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1 hour of every day in a closet-sized cell with no windows, no furniture save a bed, and a lamp
2 that produced very little light and/or was subjected to ongoing harassment, physical abuse,
3 mental harassment, emotional abuse and/or other outrageous conduct/actions directed at
4 him by the Los Angeles County Sheriffs charged with his custody and care.

5 22. During this time, Plaintiff Helen Jones was not permitted to see her son
6 despite making numerous requests and attempts to see him. The denial to permit John
7 Horton's mother visitation with him was without any justification whatsoever. John Horton
8 was not permitted any visitors, and was prohibited from making any phone calls during the
9 time the Los Angeles County Sheriff's Department had control over him while the Court's
10 medical order was in effect. It is further alleged that the Defendants, and each of them,
11 orchestrated this isolation of John Horton so that they could subject him to the Sheriff's
12 Deputies Code of Retribution and as such all was in furtherance of the criminal enterprise of
13 the Sheriff's gang and the ongoing criminal conspiracy to control of the MCJ system and
14 other criminal conduct and activities run by and/or controlled by the Sheriff gangs.

15 23. On or about March 30, 3009, Does 11 through 20 ("Doe Sheriffs"), for no
16 justified reason and for no lawful justification, physically abused, assaulted, emotionally
17 abused, and/or facilitated the staged hanging death of John Horton after he had been kept in
18 solitary confinement for a period of time in Men's Central Jail.

19 24. Plaintiff Helen Jones attempted to visit with her son John Horton during
20 this time, however she was told he was unavailable and was not informed that at the times
21 she attempted to visit her son around this time period he was already either dead or hanging
22 in his jail cell. Plaintiffs allege that at no time was John Horton a threat to himself, anyone,
23 and/or the Sheriffs, and facilitating his death under these conditions was unnecessary,
24 unreasonable, unjustified.

25 25. Defendants, and each of them, negligently, carelessly, recklessly with
26 deliberate indifference and/or in any other actionable manner, hired, employed, retained,
27 trained, supervised, assigned, controlled, and failed to adequately supervise, manage,
28 discipline Sheriffs, and/or civilian employee agents, policy makers and representatives,

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1 including the members of the Los Angeles County Sheriff Department, even though
2 Defendants, and each of them, knew, or in the exercise of reasonable diligence should have
3 known, that all said Sheriffs had a propensity for using unnecessary, unreasonable and/or
4 excessive and deadly force, and were otherwise vicious and unfit to be given the
5 responsibilities of law enforcement Sheriffs and/or had not properly been cleared for duty.

6 26. Nevertheless, Defendants, and each of them, negligently, carelessly,
7 recklessly, and/or with a wanton disregard and deliberate indifference for the public safety
8 of an identifiable class of victims, including claimant, employed, managed, trained and
9 supervised said Sheriffs, including the members of the Los Angeles County Sheriff
10 Department, proximately causing the severe injuries to Plaintiff.

11 27. The policy and procedure of the Los Angeles County Sheriffs Department,
12 as implemented and approved, was a substantial factor in causing the death of John.
13 Plaintiff allege that the above described acts and/or omissions are part of a policy, custom
14 and practice of Defendants, and each of them.

15 28. The above-described acts and omissions were carried out by and through
16 Defendants' Sheriffs, agents, servants and/or employees, including the members of the Los
17 Angeles County Sheriff Department, who negligently, carelessly, recklessly, intentionally
18 and/or wantonly assaulted or caused to be assaulted, battered John, and/or used excessive
19 deadly force against him and/or allowed his death which was preventable had the Sheriffs
20 been adequately trained, supervised and/or managed, while in the course and scope of said
21 agency, service and/or employments. Their actions and/or omissions were the proximate
22 cause of John's death.

23 29. By housing John in solitary confinement, the Sheriffs who monitored John
24 and kept him housed there, including members of the Los Angeles County Sheriff
25 Department, and, therefore, Defendants Los Angeles County Sheriff Department, and the
26 County of Los Angeles, through their agents, voluntarily undertook a duty to protect John.

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1 30. Therefore, a special relationship existed between Plaintiff and Defendants,
2 which gave rise to a duty to protect Plaintiff. Defendants breached that duty by the
3 wrongful acts described herein.

4 31. Plaintiff further alleges that Defendants, and each of them, had actual
5 notice of Los Angeles County Sheriff Department Sheriffs' propensities for using excessive
6 force and wrongfully house individuals in solitary confinement for no justified reason and
7 for no lawful justification. Despite having said knowledge, Defendants, and each of them,
8 armed these Los Angeles County Sheriff Department Sheriffs with a badge and a gun,
9 thereby creating an opportunity for them to use excessive force, creating and/or increasing
10 the risk to the public at large, including Plaintiff and her son.

11 32. Plaintiff further alleges that by hiring these Sheriffs, whom Defendants
12 knew had the above mentioned propensities, and confronting them with the public,
13 including Plaintiff, Defendants engaged in affirmative conduct, and contributed to,
14 increased, or created the risk of harm to Plaintiff, which ultimately resulted in John Horton
15 being killed in his cell.

16 33. Plaintiff further alleges that Respondent County of Los Angeles, and Does
17 Sheriffs, and each of them, violated her rights under the Fourth Amendment right to be free
18 from excessive force and the Fourteenth amendment right of enjoyment of a parental
19 relationship, as well as Cal. Civ. Code § 51.7 and 52.1(b), by interfering with their right of
20 protection from discrimination against them based on their race, color, national ancestry
21 and/or national origin.

22 34. The policy and procedure of the Los Angeles County Sheriff Department,
23 as implemented and approved, and the policy and procedures of County of Los Angeles
24 were a substantial factor in causing the death of John. Plaintiff alleges that the above
25 described acts and/or omissions are part of a policy, custom and practice of Defendants,
26 and each of them.

27 35. Plaintiff further alleges that by providing facilities and security at the mens
28 central jail, the officers, including members of the Los Angeles County Sheriff Department

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1 and, personnel or others from the County of Los Angeles, Defendants Los Angeles County
2 Sheriff Department, and the County of Los Angeles through their agents, voluntarily
3 undertook a duty to protect Plaintiff. Therefore, special relationship existed between
4 Plaintiff and Defendants, which gave rise to a duty to protect Plaintiff. Defendants breached
5 that duty by the wrongful acts described herein.

6 36. Defendants Los Angeles County Sheriff Department, and the County of
7 Los Angeles and their agents, employees, supervisors and officers, negligently entrusted the
8 security of these incarcerated individuals to these officers, despite having advanced
9 knowledge that they were unfit to be placed back in the field, thereby increasing the risk of
10 harm to the public at large as well as an identifiable group of victims, including the Plaintiff.

11 **FIRST CAUSE OF ACTION**

12 **(WRONGFUL DEATH)**

13 **(Cal. Code Civ. P. §377.60)**

14 **(Against All Defendants)**

15 37. The allegations of every other paragraph of this Complaint are hereby
16 incorporated by reference as if set forth in full.

17 38. Prior to his death, John Horton supported Helen Jones and helped in
18 paying for the day-to-day living expenses. Plaintiff was dependent upon John Horton for
19 the necessities of life.

20 39. As a direct and proximate result of the aforesaid conduct of the
21 Defendants, and each of them, and the resultant death of John Horton, Plaintiff has suffered
22 loss of earnings and earnings capacity, pain and suffering, have incurred liability for funeral
23 and burial expenses, and sustained mental injuries, including, but not limited to, loss of love,
24 affection, comfort, care, companionship, and support, loss of financial support, in an
25 amount to be determined, all to her damage in the sum in excess of the limited jurisdiction
26 of this Court.

27 40. Plaintiff further suffered loss of the reasonable pecuniary value of future
28 earnings of John Horton, and Plaintiff will continue to incur such liability and sustain such

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1 damages for an indefinite time in the future, all to her special damage and amounts presently
 2 unascertained and Plaintiff will pray leave that when said amounts are ascertained, she may
 3 be permitted to amend to insert the same herein with appropriate allegations.

4 41. The conduct of Defendants and DOES sheriffs, and each of them,
 5 described herein above, was done within the course and scope of their employment, agency
 6 and/or service with Defendants County of Los Angeles and/or Los Angeles County Sheriff
 7 Department, and under color of their authority, and Defendants County of Los Angeles
 8 and/or Los Angeles County Sheriff Department, and each of them, are, therefore,
 9 vicariously liable for same under Government Code §§815.2, 815.3 and 820.

10 42. The aforementioned acts of Defendants and DOE Defendants were done
 11 by them knowingly, intentionally, and maliciously, for the purpose of harassment,
 12 oppression and inflicting injury upon Plaintiff and decedent, and in reckless, wanton and
 13 callous disregard of their safety, security and Civil Rights. By reason thereof, Plaintiff claims
 14 exemplary and punitive damages from said Defendants in an amount according to proof at
 15 trial.

16 **SECOND CAUSE OF ACTION**

17 **(VIOLATION OF CIVIL CODE SECTIONS §§ 43, 51, 51.7 and 52.1(b))**

18 **(Against Defendants Kidder, Penhollow and Yates)**

19 43. The allegations of every other paragraph of this are hereby incorporated by
 20 reference as if set forth in full.

21 44. The use of force by the Defendants Kidder, Penhollow and Yates and the
 22 conduct of Defendants Kidder, Penhollow and Yates, and each of them, was
 23 unconstitutional, without cause or justification, excessive and illegal, and VIOLATED
 24 Plaintiff's civil rights under Cal Civ. Code §§43, 51, 51.7 and 52.1(b), as well as John
 25 Horton's rights prior to his death..

26 45. At all times relevant to this action there existed between Plaintiff and each
 27 Defendant Kidder, Penhollow and/or Yates, a professional, service and/or business
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1 relationship which was facilitated, encouraged and promoted by virtue of defendants'
2 positions as police officers of the Los Angeles County Sheriff Department.

3 46. On the aforementioned date defendant officers' legal authority over John
4 Horton by virtue of their status and position as police officers, John was incapable of
5 resisting or defending himself against defendants' conduct and actions.

6 47. The policy and procedure of the Los Angeles County Sheriff Department,
7 as implemented and approved, and the policy and procedures of County of Los Angeles
8 were a substantial factor in causing the death of John Horton. Plaintiff alleges that the
9 above described acts and/or omissions are part of a policy, custom and practice of
10 Defendants Kidder, Penhollow and Yates, and each of them.

11 48. The conduct of Defendants Kidder, Penhollow and Yates and DOE
12 Defendants, and each of them, described herein above, was done within the course and
13 scope of their employment, agency and/or service with Defendants County of Los Angeles
14 and/or Los Angeles County Sheriff Department, and under color of their authority.

15 49. Plaintiff further alleges that by providing jailer services, the officer
16 Defendants Kidder, Penhollow and Yates, as well as members of the Los Angeles County
17 Sheriff Department, and, personnel or others from the County of Los Angeles, Defendants
18 Los Angeles County Sheriff Department, and the County of Los Angeles through their
19 agents, voluntarily undertook a duty to protect John Horton. Therefore, special relationship
20 existed between Plaintiff, John and Defendants Kidder, Penhollow and Yates, which gave
21 rise to a duty to protect Plaintiff. Defendants Kidder, Penhollow and Yates breached that
22 duty by the wrongful acts described herein.

23 50. Plaintiff and John Horton is/was members of the African American race
24 of persons residing in and around the City of Los Angeles. Plaintiff alleges that the actions
25 of defendants towards Plaintiff were motivated by their racial animus towards African
26 American persons.

27 51. Plaintiff further alleges that Defendants Kidder, Penhollow and Yates, and
28 each of them, violated her rights under the Fourth Amendment right to be free from

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1 excessive force and the Fourteenth amendment right of enjoyment of a parental relationship,
2 as well as Cal. Civ. Code § 43, 51, 51.7 and 52.1(b), by interfering with their right of
3 protection from discrimination against them based on their race, color, national ancestry
4 and/or national origin.

5 52. As a direct and proximate result of Defendants Kidder, Penhollow and
6 Yates' actions, Plaintiff sustained the damages described herein above.

7 53. The aforementioned acts of Defendants Kidder, Penhollow and Yates and
8 DOE Defendants were done by them knowingly, intentionally, and maliciously, for the
9 purpose of harassment, oppression and inflicting injury upon Plaintiff and decedent, and in
10 reckless, wanton and callous disregard of their safety, security and Civil Rights. By reason
11 thereof, Plaintiff claims exemplary and punitive damages from said Defendants in an amount
12 according to proof at trial.

13 **THIRD CAUSE OF ACTION**

14 **(NEGLIGENCE)**

15 **(California Common Law)**

16 **(Against All Defendants except for Clifford Yates)**

17 54. The allegations of every other paragraph of this are hereby incorporated by
18 reference as if set forth in full.

19 55. Defendants County of Los Angeles, Los Angeles County Sheriff
20 Department, and each of them, owed Plaintiff and John Horton a duty to maintain safety at
21 the Men's Central Jail and while John was incarcerated at the Men's Central Jail. Moreover,
22 Defendants County of Los Angeles and Los Angeles County Sheriff Department, and each
23 of them, had a duty to take reasonable precautions to protect John from violent acts of third
24 parties.

25 56. It was foreseeable that violence and injury would occur if Defendants, and
26 each of them, allowed a mentally ill inmate to be subjected to the horrendous conditions of
27 the Men's Central Jail that John was subjected to.

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1 57. Defendants, and each of them, breached their duty of care to John
2 Horton, by, including but not limited to, failing to protect John Horton, failing to provide
3 adequate security at the Men's Central Jail, failing to provide adequate housing conditions at
4 the Men's Central Jail, and failing to warn Plaintiff, John Horton and other inmates that the
5 conditions at Men's Central Jail were so dangerous for mentally ill inmates.

6 58. As a direct and proximate result of the negligence, carelessness and
7 unlawful conduct of defendants, and each of them, as aforesaid, and by reason of the
8 collision so negligently caused by said defendants, and each of them, John Horton was killed,
9 all of which said injuries have caused, continue to cause, and will in the future cause this
10 plaintiff great physical and emotional pain and suffering to Plaintiff and John before his
11 death; Plaintiff is informed and believes, and therefore alleges, that said injuries are
12 permanent in nature, all to their damage in a sum according to proof.

13 59. As a direct and proximate result of the negligence, carelessness,
14 recklessness, wantonness and unlawfulness of defendants, and each of them, and the
15 resulting incident, as aforesaid, Plaintiff, sustained severe and serious injury to their person,
16 all to Plaintiff damage in a sum within the jurisdiction of this Court and to be shown
17 according to proof.

18 60. As a direct and proximate result of Defendants' conduct, Plaintiff has
19 loss of income, has suffered humiliation, mental anguish, pain and suffering and great
20 expense.

21 61. The conduct of Defendants Does 1 through 100, and each of them,
22 described herein above, was done within the course and scope of their employment, agency
23 and/or service with Defendants County of Los Angeles and/or Los Angeles County Sheriff
24 Department, and under color of their authority, and Defendants County of Los Angeles
25 and/or Los Angeles County Sheriff Department, and each of them, are, therefore,
26 vicariously liable for same under Government Code §§815.2, 815.3 and 820.

27 62. Plaintiff suffered emotional distress as a legal result of the conduct by
28 Defendants of which Plaintiff complains. Plaintiff suffered mental distress, suffering and

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1 anguish as a legal result of Defendants' outrageous conduct, reacting to this purported
2 compromise with humiliation, embarrassment, anger, disappointment and worry, all of
3 which is substantial and enduring. Plaintiff will seek leave to amend this complaint to state
4 the amount or will proceed according to proof at trial.

5 **FOURTH CAUSE OF ACTION**

6 **(NEGLIGENT SUPERVISION, HIRING AND RETENTION)**

7 **(California Common Law)**

8 **(Against Defendant Yates)**

9 63. The allegations of every other paragraph of this are hereby incorporated by
10 reference as if set forth in full.

11 64. Defendant Clifford Yates, knew, or in the exercise of due care should have
12 known, that DOE Defendants, and each of them, had a propensity, character trait, and
13 practice, while purporting to act under color of law, for dishonesty, deception, abuse of
14 authority, harassment, excessive, unnecessary and unreasonable force and violence against
15 inmates.

16 65. As alleged herein, Defendant Clifford Yates, and/or his managerial
17 employees/agents/employees knew or reasonably should have known, that employees of
18 Defendants, individually and together in varying combinations, were engaging in the conduct
19 set forth above.

20 66. Defendant Clifford Yates knew or should have known that employees,
21 including but not limited to and DOE Defendants 1 through 100, had a previous history of
22 engaging in unlawful and/or negligent conduct that could cause injury to John Horton,
23 Plaintiff and others, and failed to do anything to prevent such injury.

24 67. At all relevant times, Defendant Clifford Yates, and/or his
25 agents/employees knew or reasonably should have known that the conduct and omissions
26 set forth above violated Plaintiff and John Horton's rights under federal and state law.

27 68. At all times material herein, said defendants, and each of them, knew, or
28 with reasonable care should have known, that the afore described traits of character,

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1 practices and propensities of Defendants and DOE Defendants, and each of them, made
2 them unfit to serve as peace officers, and were likely to cause harm and injury to suspects.
3 Notwithstanding such knowledge, Defendant Clifford Yates negligently and carelessly
4 employed and retained and failed to properly supervise, train and control Defendants and
5 DOE Defendants, and each of them, as peace officers and assigned said defendants to duties
6 which enabled each of them to use excessive, unnecessary and unreasonable force while
7 purporting to act under the color of law.

8 69. At all relevant times, Defendant Clifford Yates, and/or his
9 agents/employees knew or reasonably should have known that unless they intervened to
10 protect plaintiff, and to adequately supervise, prohibit, control, regulate, discipline, and/or
11 otherwise penalize the conduct of DOES 1 through 100 as set forth above, the remaining
12 defendants and employees perceived the conduct and omissions as being ratified and
13 condoned.

14 70. At all relevant times, the negligent failure of Defendant Clifford Yates to
15 protect plaintiff, and to supervise, prohibit, control, regulate, discipline, and/or otherwise
16 penalize adequately the conduct and omissions of the other employees violated plaintiff's
17 rights under state statutes and common law, as alleged herein.

18 71. The conduct of Defendant Clifford Yates and Does 1 through 100, and
19 each of them, described herein above, was done within the course and scope of their
20 employment, agency and/or service with Defendants County of Los Angeles and/or Los
21 Angeles County Sheriff Department, and under color of their authority, and Defendants
22 County of Los Angeles and/or Los Angeles County Sheriff Department, and each of them,
23 are, therefore, vicariously liable for same under Government Code §§815.2, 815.3 and 820.

24 72. As a result of the conduct of defendants, and each of them towards
25 Plaintiff, Plaintiff have sustained and suffered and continue to suffer personal injuries as
26 elsewhere alleged herein.

27 PRAYER

28 WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

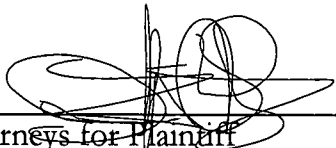
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1. For general and special damages in an as yet unascertained amount but within the jurisdiction of the Superior Court according to proof at time of trial, plus interest thereon at the maximum legal rate;
2. For pre-Judgment interest, as recoverable;
3. For punitive damages against the individual defendants in their individual capacity;
4. For pain and suffering;
5. Exemplary damages, as against each police officer, supervisor, and policy maker defendant in an amount sufficient to deter and to make an example of those defendants;
6. For incidental damages according to proof;
7. For prejudgement interest according to proof;
8. A civil penalty of \$25,000 pursuant to CAL CIV. CODE §52(b)(2);
9. For costs of suit, including reasonable attorney's fees and expenses of litigation as provided by State laws, including but not limited to California Civil Code § 52; and
10. For such other and further relief as the court deems proper.

Dated: April 28, 2015

THE LAW OFFICES OF DENNIS P. WILSON
THE LUTI LAW FIRM
LAW OFFICES OF LISA L. MAKI

By  _____
Attorneys for Plaintiff
Helen Jones, individually and as a Personal Representative of The Estate of John Horton

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DEMAND FOR JURY TRIAL

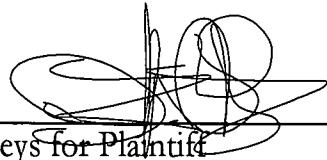
Plaintiff hereby demands trial by jury on all issues so triable in the Complaint.

Dated: April 28, 2015

THE LAW OFFICES OF DENNIS P. WILSON

THE LUTI LAW FIRM

LAW OFFICES OF LISA L. MAKI

By  _____
Attorneys for Plaintiff

Helen Jones, individually and as a Personal Representative of The Estate of John Horton

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1 **PROOF OF SERVICE**

2 I am employed in the County of Los Angeles, State of California. I am over the age of 18
3 years and not a party to this action. My business address is The Luti Law Firm, 7095 Hollywood Boulevard,
4 # 351, Hollywood, CA 90028.

5 On **April 28, 2015**, I served the following document described as:

6 **PLAINTIFF'S SECOND AMENDED COMPLAINT**

7 by serving a true copy of the above-described document in the following manner:

8 **BY U.S. MAIL**


9 I am familiar with the office practice of The Luti Law Firm for collecting and processing
10 documents for mailing with the United States Postal Service. Under that practice, documents are deposited
11 with The Luti Law Firm personnel responsible for depositing documents with the United States Postal
12 Service; such documents are delivered to the United States Postal Service on that same day in the ordinary
13 course of business, with postage thereon fully prepaid. I deposited in The Luti Law Firm's interoffice mail a
14 sealed envelope or package containing the above-described document and addressed as set forth below in
15 accordance with the office practice of The Luti Law Firm for collecting and processing documents for
16 mailing with the United States Postal Service:

17
18 Thomas C. Hurrel, Esq.
19 Hurrell Cantrall LLP
20 700 S. Flower Street, Suite 900
21 Los Angeles, CA 90017

22 J. Edwin Rathbun, Jr., Esq.
23 Seki, Nishimura & Watase, LLP
24 605 West Olympic Blvd., Suite 900
25 Los Angeles, CA 90015

26 I declare that I am employed in the office of a member of the Bar of, or permitted to
27 practice before, this Court at whose direction the service was made and declare under penalty of perjury
28 under the laws of the State of California that the foregoing is true and correct.

Executed on **April 28, 2015**, at Los Angeles, California.

04/29/2015

Anthony Luti