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155 Filbert Street, Ste 208, Oakland, CA 94607

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15 **UNITED STATES DISTRICT COURT**  
16 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

17 MELINA ARMSTEAD individually and as  
18 the personal representative of the ESTATE  
19 OF MILES ARMSTEAD;; A.A., a minor,  
20 individually by and through her guardian ad  
21 litem, MELINA ARMSTEAD;; I.L. a  
22 minor, individually by and through her  
23 guardian ad litem MELINA ARMSTEAD,

24 Plaintiffs,

25 vs.

26 COUNTY OF ALAMEDA, a municipal  
27 corporation; CITY OF OAKLAND, a  
28 municipal corporation; ALEJANDRO  
PADILLA, in his individual capacity as a  
police officer for the CITY OF OAKLAND;  
ERIC GOMES in his individual capacity as  
a probation officer for the COUNTY OF  
ALAMEDA; ADRIANA MANZANO-  
FARRELL, in her individual capacity as a  
probation officer and supervisor for the  
COUNTY OF ALAMEDA; and DOES 1-  
50, inclusive.

Defendants.

Case No.: 3:21-cv-05257-LB

THIRD AMENDED COMPLAINT FOR  
DAMAGES  
(42 U.S.C. § 1983)

JURY TRIAL DEMANDED

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**INTRODUCTION**

1  
2 1. Mr. Miles Armstead was a father, husband, and beloved member of his community. Miles  
3 had five children, including a stepdaughter from his new marriage to wife Mrs. Melina Armstead,  
4 who, at the time of his death, was pregnant with their first child together.

5  
6 2. Mr. and Mrs. Armstead began building a new chapter of their lives when they purchased a  
7 home at 2901 - 76<sup>th</sup> Avenue in the City of Oakland, California. However, this house, once filled  
8 with happiness and love, turned into a place of torment, fear, and ultimately death.

9  
10 3. The elation the young family experienced when they embarked on homeownership quickly  
11 soured approximately two years after the Armsteads moved in when their neighbor Mr. Jamal  
12 Thomas began a relentless campaign of terror and harassment against the family. Mr. Thomas  
13 terrorized the Armsteads with broken windows, verbal threats, physical attacks, and eventually  
14 killed Mr. Armstead due to the failures of the Oakland Police Department, the County of Alameda,  
15 and the Armsteads' neighboring landlord who permitted, emboldened, and ultimately not only  
16 placed the Armsteads in harm's way but significantly increased the danger and fanned the  
17 homicidal flames burning in Mr. Thomas' mind.

18  
19 **JURISDICTION AND VENUE**

20  
21 4. This action arises under Title 42 of the United States Code, Section 1983. Jurisdiction is  
22 conferred upon this Court by Title 28 of the United States Code, Sections 1331 and 1343. The  
23 unlawful acts and practices alleged herein occurred in the City of Oakland, in Alameda County,  
24 California, which is within this judicial district.

25 **PARTIES**

26  
27 5. Decedent MILES ARMSTEAD (hereinafter "DECEDENT") was an individual residing in  
28 the State of California.

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1 6. Plaintiff MELINA ARMSTEAD (hereinafter “Plaintiff”) is readily recognizable as an  
2 African American, a competent adult, a resident of California, and a citizen of the United States.  
3 Plaintiff MELINA ARMSTEAD was lawfully married to Decedent MILES ARMSTEAD at the  
4 time of his death and survives him. Plaintiff MELINA ARMSTEAD is the personal representative  
5 of the ESTATE OF MILES ARMSTEAD (Estate of Miles Armstead, Alameda County Probate  
6 Court Case No.: RP20085173). Plaintiff MELINA ARMSTEAD brings these claims individually on  
7 behalf of Decedent Miles Armstead who is readily recognizable as an African American and  
8 pursuant to California Code of Civil Procedure §§377.20 et seq. and 377.60 et seq., which provide  
9 for survival and wrongful death actions. The wrongful death and survival claims survive the death  
10 of MILES ARMSTEAD; both arise from the same wrongful act or neglect of another; and such  
11 claims are properly joined pursuant to California Code of Civil Procedure §377.62. Plaintiff also  
12 brings her claims on the basis of 42 USC §§1983 and 1988, the United States Constitution, and  
13 federal civil rights law.  
14

15  
16 7. Plaintiff A.A. (hereinafter “Plaintiff A.A.”), is and was at all times herein mentioned the  
17 biological minor daughter of Decedent Miles Armstead. Plaintiff A.A. brings this action by and  
18 through her Guardian Ad Litem MELINA ARMSTEAD, as Co-Successor-in-Interest to Decedent  
19 MILES ARMSTEAD and individually pursuant to California Code of Civil Procedure §§377.20 et  
20 seq. and 377.60 et seq., which provide for survival and wrongful death actions. The wrongful death  
21 and survival claims survive the death of MILES ARMSTEAD; both arise from the same wrongful  
22 act or neglect of another; and such claims are properly joined pursuant to California Code of Civil  
23 Procedure §377.62. Plaintiff also bring her claims on the basis of 42 USC §§1983 and 1988, the  
24 United States Constitution, and federal civil rights law.  
25

26 8. Plaintiff I.L. (hereinafter “Plaintiff I.L.”), is and was at all times herein mentioned the  
27 minor legal dependent of Decedent MILES ARMSTEAD. Plaintiff I.L. brings this action by and  
28

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1 through her Guardian Ad Litem MELINA ARMSTEAD, as Co-Successor-in-Interest to Decedent  
2 MILES ARMSTEAD and individually pursuant to California Code of Civil Procedure §§377.20 et  
3 seq. and 377.60 et seq., which provide for survival and wrongful death actions. The wrongful death  
4 and survival claims survive the death of MILES ARMSTEAD; both arise from the same wrongful  
5 act or neglect of another; and such claims are properly joined pursuant to California Code of Civil  
6 Procedure §377.62. Plaintiff also bring her claims on the basis of 42 USC §§1983 and 1988, the  
7 United States Constitution, and federal civil rights law.  
8

9 9. Plaintiff ESTATE OF MILES ARMSTEAD is a legal entity that carries forth the survival  
10 claims of DECEDENT MILES ARMSTEAD and for which Plaintiff MELINA ARMSTEAD has  
11 been appointed the personal representative per Alameda County Probate Court Case No.:  
12 RP20085173.

13 10. Defendant CITY OF OAKLAND (hereinafter “CITY”) is a municipal corporation, duly  
14 authorized to operate under the laws of the State of California. Under its supervision, the CITY OF  
15 OAKLAND operates the Oakland Police Department (“OPD”). The CITY OF OAKLAND  
16 maintains respondent superior liability for the actions of its employees.  
17

18 11. Defendant ALAMEDA COUNTY (“COUNTY”) is a municipal corporation, duly  
19 authorized to operate under the laws of the State of California. Under its supervision ALAMEDA  
20 COUNTY operates the ALAMEDA COUNTY SHERIFF’S OFFICE, SANTA RITA JAIL and the  
21 ALAMEDA COUNTY PROBATION DEPARTMENT.  
22

23 12. Defendant JESSIE CHAMBERS (hereinafter “Defendant JESSIE CHAMBERS”) is and  
24 was the homeowner of 2907 76<sup>th</sup> Ave, Oakland, CA 94605. At all times mentioned herein, Jessie  
25 Chambers was an individual who owned, managed and/or maintained 2907 - 76<sup>th</sup> Ave in the City of  
26 Oakland, California. He is being sued in his individual capacity.  
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1 13. Defendant JAMAL THOMAS (hereinafter “Defendant JAMAL THOMAS”) is and was an  
2 individual, who initially lawfully resided at 2907 - 76<sup>th</sup> Ave, Oakland, CA 94605 and was later  
3 evicted from the 2907 – 76<sup>th</sup> Avenue address. After being evicted he returned to the property and  
4 began residing at the property with the permission and/or tacit consent of the 2907 – 76<sup>th</sup> Avenue  
5 property’s owners. He is being sued in his individual capacity.  
6

7 14. Defendant ALEJANDRO PADILLA is being sued in his individual capacity as a law  
8 enforcement officer for the CITY OF OAKLAND. At all times herein mentioned he was employed  
9 and acting within the scope of his employment for the CITY OF OAKLAND.

10 15. Defendant ERIC GOMES is being sued in his individual capacity as a probation officer for  
11 the COUNTY OF ALAMEDA. At all times herein mentioned he was employed and acting within  
12 the scope of his employment for the COUNTY OF ALAMEDA.  
13

14 16. Defendant ADRIANA MANZANO-FARRELL is being sued in her individual capacity  
15 probation officer for the COUNTY OF ALAMEDA. At all times herein mentioned she was  
16 employed and acting within the scope of her employment for the COUNTY OF ALAMEDA.

17 17. Plaintiffs are ignorant of the true names and/or capacities of defendants sued herein as  
18 DOES 1 through 50, inclusive, and therefore sues said defendants by such fictitious names.  
19 Plaintiffs will amend this complaint to allege their true names and capacities when ascertained.  
20 Plaintiffs believe and allege that each of the DOE defendants is legally responsible and liable for the  
21 incident, injuries and damages hereinafter set forth. Each defendant proximately caused injuries  
22 and damages because of their negligence, breach of duty, negligent supervision, management or  
23 control, or violation of public policy. Each defendant is liable for his/her personal conduct,  
24 vicarious or imputed negligence, fault, or breach of duty, whether severally or jointly, or whether  
25 based upon agency, employment, ownership, entrustment, custody, care or control or upon any  
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1 other act or omission. Plaintiffs will ask leave to amend their complaint subject to further  
2 discovery.

3 18. In engaging in the conduct alleged herein, defendant police officers, sheriff’s deputies  
4 and/or probation officials acted under the color of Law and in the course and scope of their  
5 employment with OPD and/or Alameda County. In engaging in the conduct described herein,  
6 Defendant law enforcement officers exceeded and/or failed to reasonably exercise the authority  
7 vested in them as law enforcement officers, under the United States and California Constitutions,  
8 and as employees of OPD and County.

10 19. For state law causes of action related to Federal claims, Plaintiffs are required to comply  
11 with Administrative claim filing requirements under California law. Plaintiffs filed a Government  
12 Tort Claim with the OPD and County, notifying them of Plaintiffs’ claims for damages. The City  
13 and County rejected the Claims.

14 **STATEMENT OF FACTS**

15  
16 20. Miles and Melina Armstead moved into their home on 2901 - 76<sup>th</sup> Avenue in the City of  
17 Oakland, California in October of 2017. At the time, they had a cordial relationship with their next-  
18 door neighbors who were long-time tenants of 2907 - 76<sup>th</sup> Ave. The relationship between the two  
19 families changed for the worse when the tenants were evicted from the 2907 - 76<sup>th</sup> Ave. property in  
20 August 2019.

21 21. One of the long-time tenants of 2907 – 76<sup>th</sup> Avenue, Mr. Jamal Thomas, came back to the  
22 property as a squatter in October 2019. On information and belief Mr. Thomas had obvious mental  
23 health issues which contributed to him experiencing violent, uncontrollable yet persistent outbursts.  
24 Defendant Jamal Thomas’ mental health issues and violent outbursts were known not only to his  
25 fellow family members that lived with him at the property but also to the property’s owners who  
26 rented out the home to Mr. Thomas and his family.  
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1 22. On Thanksgiving Day of 2019, Jamal frantically banged on the front door of the Armsteads’  
2 home yelling unintelligibly as he tried to break in. Unfortunately, this was just the first incident in a  
3 six-month sequence of increasingly harassing and threatening behavior directed at the Armstead  
4 family. Initially, the persistent pattern of threats and harassment consisted of taunts, verbal threats,  
5 door knocking, doorbell ringing and other nuisance type behavior. The Armsteads faithfully called  
6 and reported the incidents to the police. Nevertheless, Defendant Officers working for the Oakland  
7 Police Department failed to make an arrest, detain, and/or curb the behavior.

8 23. Instead, when Oakland Officers arrived, they complained they were understaffed,  
9 overworked and the family’s pleas for help were not high priorities. Oakland Officers made these  
10 comments outside of the Armstead home, well within earshot of Mr. Thomas, who had taken up  
11 residence next door. On information and belief, Mr. Thomas heard the Defendant Officers discount  
12 the severity of the situation, implicitly communicating to him that he could continue his harassment  
13 with impunity. Indeed, Defendant City of Oakland’s police officer commonly minimized residential  
14 crimes and communicated that they would not be able to help.

15 24. Between December 2019 and February 26, 2020, each time Oakland Police were called their  
16 response times became longer, and in conformance with their practice - their efforts lessened. On at  
17 least one occasion the Armsteads did not receive a response to their call for service until two days  
18 later. Defendant Officers’ decisions not to question and/or arrest Mr. Thomas for the assaults and  
19 crimes emboldened Mr. Thomas further.

20 25. Over the period of less than six months, Plaintiff and Decedent made – at minimum –  
21 twenty-three 911 calls to the Oakland Police department reporting Defendant Jamal Thomas’  
22 violent felonies that he committed on an almost weekly basis resulting in Oakland officers making  
23 just eleven calls for service and related police reports despite the Armsteads were reporting that Mr.  
24 Thomas broke into their house, threw stones and bricks through their windows, severely injured  
25 Melina Armstead while she was pregnant, repeatedly violated the restraining order the Armsteads  
26 had against Mr. Thomas and threatened to burn down their house. The harassment and assaults grew  
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1 more dangerous and was so dismal that the Armsteads literally boarded up their newly purchased  
2 home in an effort to protect themselves from Mr. Thomas.



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14 26. To that point – on February 26, 2020 Oakland Officer Alejandro Padilla<sup>1</sup> responded to the  
15 Armstead home in response to calls that Thomas was threatening to burn down Miles Armstead’s  
16 house with his family inside. By this time, OPD had documented 10 calls for service for Thomas  
17 attacking the family at the residence, three officer responses and police reports were produced  
18 describing violent acts including an incident wherein Melina sustained serious injuries – while  
19 pregnant – from broken glass that struck her during one of Thomas’ attacks.

20  
21 27. Despite the documented felony behavior, when Ofc. Padilla arrived on scene, and spotted  
22 Jamal Thomas and Miles Armstead outside the Armstead home, his comments and actions further  
23 stoked and encouraged the fire of aggression Jamal Thomas had formed against the Armstead  
24 Family.

25  
26 28. When Ofc. Padilla arrived, Miles had a baseball bat in hand to keep Jamal Thomas from  
27 attacking his family and his home while Jamal Thomas threatened to burn down the house. Body

28  
<sup>1</sup> Officer Padilla has a documented history of being associated with racist and misogynistic comments and complaints that were reported to OPD by citizens.



1 camera evidence showed that when Ofc. Padilla exited his vehicle he ordered Jamal Thomas and  
 2 Miles to separate. While doing so, Miles complained to Ofc. Padilla that Jamal had threatened his  
 3 family. Ofc. Padilla told them that they were “acting like 12-year-old girls, both of you guys!”  
 4 Miles quickly responded that Jamal had been terrorizing his family. Ofc. Padilla proceeded to berate  
 5 Miles saying that although Miles was 15 years older than Ofc. Padilla, Miles did not know how to  
 6 follow simple instructions. In response, Jamal Thomas knowingly smiled acknowledging Ofc.  
 7 Padilla’s comments and obviously interpreting them as assurances that officers were not going to  
 8 intervene on Miles’ behalf:



20

21 29. When Miles objected that the officer did not know the history of Jamal Thomas’ attacks on  
 22 his family, Ofc. Padilla affirmatively *lied* and said he knew all about it. But then seconds later – out  
 23 of earshot of Miles but **directly in front of Jamal Thomas** – he told his partner that he had no clue  
 24 about the history. These affirmative comments further ossified Defendant Thomas’ belief that law  
 25 enforcement officers were not going to intervene on the Armsteads’ behalf.

26 30. In fact, Defendant Padilla simply suggested Jamal Thomas to go back down the street after  
 27 hearing the story from his fellow officer of how Thomas had been threatening to burn down the  
 28 house and attacked his wife and family. Defendant Padilla nonchalant attitude caused him to avoid

1 using police dispatch or his mobile terminal to access the prior documented felony police reports  
 2 describing how Thomas had injured Melina Armstead and routinely threw rocks through the  
 3 family's windows and consistently threatened the family.

4 31. Foreseeably, just a few days later, Jamal Thomas returned to the house throwing rocks  
 5 through the windows. Mr. Armstead secured a restraining order but – following Ofc. Padilla's  
 6 comments – Jamal Thomas did not care. Thomas' attacks became more bold and more violent  
 7 throwing rocks and bricks through the Armsteads' house weekly until he shot and killed Miles  
 8 Armstead on May 1, 2020.

9 32. However before Jamal Thomas shot and killed Miles, he was taken into custody briefly then  
 10 released on Pretrial Release under the supervision of the County of Alameda Probation department  
 11 in March 2020. There are five levels of pretrial release and Jamal Thomas was placed on the highest  
 12 risk, most severe pretrial release which required that his Alameda Probation Officer keep weekly  
 13 contact with him to assure he was compliant with the Armsteads' restraining order and all laws or  
 14 be taken back into custody.

15 33. On March 11, 2020, Defendant Gomes actually made contact with Thomas *directly in front*  
 16 *of the Armstead's house in violation of the restraining order on file.* Up to that point, Thomas had  
 17 not reported per the pretrial release and so Gomes should have filed a revocation report and taken  
 18 him into custody for that alone. Instead, Gomes handed Thomas an appointment slip and told him to  
 19 come into the office without any remonstrations – *then released him.*

20 34. Then, Miles Armstead – who was watching from across the street – came over and  
 21 explained to Defendant Gomes that Thomas had violated the restraining order he had against him,  
 22 that he lived just across the street, that Thomas had a campaign of felonies, attacks and assaults  
 23 against them.

24 35. Defendant Gomes then *reviewed* the restraining order and confirmed that not only had  
 25 Defendant Thomas violated the order but also listed his residence as a backyard within 100 yards of  
 26 Armstead's home in further violation of the order and his pretrial release terms. Defendant Gomes  
 27  
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1 called his supervisor, Defendant Manzano-Farrell, who made the affirmative action to direct him to  
2 release Thomas. Defendant Gomes then contacted Thomas again – the same day - to let Thomas  
3 know that he was in violation but made the affirmative action to *release him*, letting him know he  
4 could violate the restraining order without fear of arrest and refused to file the revocation report  
5 further hardening Thomas’ belief that law enforcement would not intervene on his campaign of  
6 terror and emboldened him further.

7  
8 36. In fact, Defendant Gomes and his Supervisor Defendant Manzano-Farrell made the  
9 following affirmative actions: (1) refused to file a revocation report after learning Thomas was not  
10 checking in; (2) repeatedly released Thomas after violations; (3) refused to file a revocation report  
11 after learning that Thomas had cited his residence within a distance in violation of the Armsteads  
12 confirmed residence; (4) confronted and communicated to Thomas that it was permissible for him  
13 to live within the 100 yards of the restraining order; (4) refused to document interactions with  
14 Thomas; (5) refused to require Thomas to contact Gomes from March 11, 2020 to May 1, 2020 on a  
15 weekly basis; (6) refused to file a revocation report even after learning a Ramey warrant was issued  
16 for Defendant Thomas in April 2020.

17  
18 37. Most shockingly, Defendants Gomes & Manzano-Farrell had permitted Thomas – who was  
19 on the *highest risk* tier of the Pretrial Release – to go *completely uncontacted* or even file a  
20 revocation report until they *learned for the first time* of Defendant Thomas’ whereabouts when  
21 OPD inquired for his contact information because he had shot and killed Miles nearly 8 weeks later  
22 at the exact location they had last contacted him *in violation of his Pretrial Release* but released him  
23 communicating to him that he was permitted to live within 100 yards of the Armsteads (despite  
24 knowing it violated the restraining order).

25  
26 38. Indeed, for their part, the Armsteads had become so desperate from the lack of intervention  
27 from law enforcement and the dismissing and even belittling reactions from the officers to their  
28 reports, injuries, distress and restraining orders that they actually *had sold their house*. Miles was

1 literally cleaning up the front yard of the house he had sold in fear of Jamal Thomas when Thomas  
2 chased him down and shot him in front of it.

3 39. On information and belief, the actions taken by Defendant Oakland Officers in responding  
4 to the Armsteads' 911 calls—namely, making statements that discounted the severity of the crimes  
5 and expressed that they were not a priority for the Oakland Police Department within earshot of  
6 Jamal Thomas—were in accordance with and motivated by several policies and/or customs of the  
7 Defendant City of Oakland and the Oakland Police Department. These policies and/or customs  
8 include, but are not limited to, the following:

- 9
- 10 a. Permitting officers to inform parties reporting crime that the Oakland Police  
11 Department is overextended and does not prioritize certain categories of crimes  
12 without ensuring that the crime suspect is not privy to the conversation;
  - 13 b. Delegating an amount of tasks and responsibilities to on-duty officers that is so  
14 excessive that officers cannot prioritize responding to legitimate reports of violent  
15 crime and/or complete follow-up investigations of such reports;
  - 16 c. Categorizing calls involving chronic disputes between neighbors—particularly those  
17 that also implicate issues of mental health and/or involve threats of violence—as a  
18 low priority and dedicating few resources to initially responding to and following up  
19 on such calls;
  - 20 d. Allocating insufficient resources to investigating and following up on 911 calls that  
21 involve repeated and targeted harassment of individuals by criminal suspects who are  
22 experiencing mental health issues, particularly when the instances of harassment are  
23 increasing in frequency and level of violence; and
  - 24 e. Underfunding and mismanaging the Oakland Police Emergency Communications  
25 Center to such a degree that emergency responders, including but not limited to  
26 officers of the Oakland Police Department, are frequently unable to timely respond  
27 to 911 calls—an issue of which Defendant City of Oakland has been aware since at  
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least 2017, when the Oakland City Auditor identified critical flaws in the communication center’s funding and operations.<sup>2</sup>

- f. Permitting Oakland Police Officers to respond to citizen’s reports of crime, take reports from the complaining citizen and then fail to advise, warn, detain and/or arrest the criminal suspect that their conduct was unlawful, violative and/or harassing, instead informing the offending party that they did not take their violative conduct seriously.
- g. Reacting slower, less fervently and refusing to enforce the same criminal procedures when protecting minority families.

40. On information and belief, Defendant County’s inadequate supervision and enforcement of basic pretrial obligations that required their probation officers and supervisors to file revocation reports, led to the shooting and killing of Miles Armstead. Moreover, the failure of high-ranking County probation department supervisors to require their subordinates to enforce pretrial release infractions, document their interactions with probationers and maintain adequate contact with their probationers.

41. On information and belief, it was a widespread policy, training and practice to allow for probation officers fail to document, enforce or file revocation reports of their probationers failure to meet pretrial release conditions.

**DAMAGES**

42. As a direct and proximate result of each of the Defendants’ negligence, Decedent and plaintiffs suffered injuries, emotional distress, fear, terror, anxiety, and loss of sense of security and dignity as United States Citizens.

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<sup>2</sup>2019-2020 Alameda County Grand Jury Final Report; *Oakland 9-1-1 Communications Center—A Center in Crisis*, Executive Summary; <https://cao-94612.s3.amazonaws.com/documents/CPSM-Oakland-CFS-Report-Dec-2020.pdf>

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1 43. As a direct and proximate result of each Defendant’s acts and/or omissions as set forth  
2 above, Plaintiffs sustained the following injuries and damages, past and future, among others.

- 3 a. Wrongful death of Miles Armstead;
- 4 b. Hospital and medical expenses;
- 5 c. Coroner’s fees, funeral and burial expenses;
- 6 d. Loss of familial relationships, including loss of love, companionship, comfort,
- 7 affection, society, services, solace, and moral support;
- 8 e. Pain and Suffering including emotional distress
- 9 f. Miles Armstead’s loss of life, pursuant to federal civil rights law; and
- 10 g. Violation of constitutional rights;
- 11 h. All damages, penalties, and attorneys’ fees and costs recoverable under 42 U.S.C. §§
- 12 1983, 1988; California Civil Code §§ 52, 52.1, California Code of Civil Procedure §
- 13 1021.5, and as otherwise allowed under California and United States
- 14 statutes, codes, and common law.

15  
16  
17 **CAUSES OF ACTION**

18 **FIRST CAUSE OF ACTION**

19 (Negligence & Wrongful Death CCP §§377.60, 377.61)

20 *(PLAINTIFFS against Defendants PADILLA, GOMES, MANZANO-FARRELL, THOMAS,*  
21 *CHAMBERS, COUNTY, CITY, and DOES 1-50)*

22 44. Plaintiffs hereby re-allege and incorporate by reference herein each and every paragraph of  
23 this Complaint.

24 45. The failure of Defendant Oakland Police Officers and County Probation Officers to arrest  
25 and imprison Defendant Jamal Thomas or to take reasonable steps to make Miles Armstead secure  
26 from assault following Defendant Thomas’ violation of his Pretrial Release Order and Release  
27 Agreement, proximately caused the death of Miles Armstead and the injures and damages sustained  
28 by Plaintiffs.

1 46. Defendant CITY and COUNTY is vicariously liable for the wrongful acts and omissions of  
2 its employees and agents pursuant to Cal. Gov. Code section 815.2.

3 Wherefore, Plaintiffs pray for damages as set forth below.

4  
5 **SECOND CAUSE OF ACTION**

6 (Fourteenth Amendment - Due Process-State Created Danger under 42 U.S.C. §1983)  
7 (*PLAINTIFFS against Defendants PADILLA, GOMES, MANZANO-FARRELL, CITY, COUNTY*  
8 *and DOES 1-50*)

9 47. Plaintiffs hereby re-allege and incorporate by reference herein each and every paragraph of  
10 this Complaint.

11 48. Plaintiffs and Decedent relied on Defendant CITY, COUNTY, *PADILLA, GOMES,*  
12 *MANZANO-FARRELL,* and DOES 1-50 to provide protection from the harassment, threats, harm,  
13 and annoyance from Jamal Thomas.

14 49. Defendant Doe Officers affirmatively placed Plaintiffs and Decedent in a position of  
15 increased danger by taking the following actions in line with the pattern and practice of their  
16 Department:

- 17 a. telling the Armsteads that their pleas for help were not a high priority while they
- 18 were within earshot of where Mr. Thomas lived;
- 19 b. encouraging Jamal Thomas to attack the Armsteads by belittling the violent
- 20 interactions, telling Thomas to simply walk down the street, calling him a “girl” for
- 21 complaining about the threats and violence to his family, lying to Miles and
- 22 admitting the lie in a dismissive way in front of Thomas
- 23 c. failing to enforce any and all of the pretrial conditions, informing Thomas that he
- 24 was not going to be arrested despite acknowledging the violation
- 25 d. refusing to follow up with the pretrial conditions violations or requirements
- 26 e. declining to properly investigate claims of harassment made by Plaintiffs;
- 27
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- f. electing not to arrest Jamal Thomas for his assault on Plaintiff Melina Armstead; and
- g. electing not to notify Plaintiffs and Decedent of Thomas' release from custody.

50. Furthermore, Mr. Thomas' probation officer, who is both a Defendant Doe Officer and employee of Defendant County of Alameda, affirmatively placed Plaintiffs and Decedent in a position of increased danger by waving off Mr. Armstead in front of Mr. Thomas when he tried to inform the officer of Mr. Thomas' probation violations and subsequently communicating to Mr. Thomas that his actions were not serious.

51. Defendant Doe Officers' comments within earshot of Defendant Thomas that discounted the severity of his actions, established that the Armsteads' repeated calls for helps were not a priority to the Oakland Police Department, and indicated that there was no reason to expect a prompt officer response to future 9-1-1 calls regarding Thomas' conduct effectively placed Plaintiffs in a more dangerous position than which Defendants found them because they communicated to Jamal Thomas that he could continue escalating his pattern of harassing Plaintiffs without meaningful law enforcement intervention.

52. Similarly, Defendant County of Alameda probation officer Eric Gomes' conduct— waving away Mr. Armstead as he tried to report Thomas' criminal harassment and communicating to Thomas that he would not be found in violation of his probation for his actions—also placed Plaintiffs in a more dangerous position than which they were originally dealing with because his conduct served as yet affirmation to Thomas from law enforcement that he would not face any meaningful consequences for harassing the Armstead family.

53. It was reasonably foreseeable that such comments, made by both Defendant CITY police officers and a Defendant COUNTY probation officer, would increase Defendant Thomas' level of harassment and harm towards Plaintiffs and Decedent because they made clear that he need not fear criminal prosecution or meaningful legal intervention with his harassment of the Armstead family.

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1 54. Defendant DOES 1-50’s deliberate indifference towards the increased danger to the  
2 Armstead family presented by Defendant Thomas upon hearing the Defendant Doe Officers’  
3 comments resulted in Decedent’s death.

4 55. The actions by Defendant DOES 1-50 in their roles as Oakland Police Officers were  
5 informed by and in accordance with Defendant CITY’S policies and/or customs as described above  
6 in paragraph 35(a-f) of this Complaint. Defendant CITY maintained said policies and/or customs  
7 with deliberate indifference to the inevitable civil rights violations that would result from them.  
8

9 56. As Defendant CITY’S policies and/or customs were the motivating factor behind the  
10 Defendant Doe Officers’ unconstitutional conduct, Defendant CITY is also liable for Plaintiffs’  
11 injuries.

12 WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

13 **THIRD CAUSE OF ACTION**  
14 **(Supervisory and Municipal Liability for Unconstitutional Custom or Policy (Monell)—42**  
15 **U.S.C. section 1983)**  
16 *(Plaintiffs against Defendant CITY & COUNTY)*

17 57. Plaintiffs hereby re-allege and incorporate by reference each and every paragraph of this  
18 Complaint.

19 58. Plaintiffs are informed and believe and therein allege that the Defendant CITY and the  
20 Oakland Police Department have policies and/or customs as outlined in paragraph 35(a-f) of this  
21 Complaint.

22 59. Plaintiffs are informed and believe and therein allege that the Defendant CITY maintains the  
23 policies and/or customs identified in paragraph 35(a-e) even when it is clear that such policies and  
24 customs will lead to the violations of the public’s constitutional rights.

25 60. Despite having such notice, Plaintiff is informed and believes and thereon alleges that  
26 Defendant CITY and DOES 1-50 approved, ratified, condoned, encouraged, and/or tacitly  
27 authorized the policies and/or customs identified in paragraph 35(a-e) with deliberate indifference  
28

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1 to the inevitable violations of individuals’ constitutional rights that would occur because of these  
2 policies and/or customs.

3 61. As a direct and proximate result of the unconstitutional actions, omissions, customs,  
4 policies, practices, and procedures of Defendants DOES 1-50 and CITY as described above,  
5 Plaintiffs and Decedent suffered severe and permanent injuries and are entitled to damages,  
6 penalties, costs, and attorneys’ fees as set forth in paragraphs 36-37.  
7

8 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

9 **FOURTH CAUSE OF ACTION**  
10 **(Violation of CALIFORNIA CIVIL CODE §52.1)**  
11 *(Plaintiffs against Defendants PADILLA, GOMES, MANZANO-FARRELL, CITY, COUNTY, and*  
12 *DOES 1-50)*

12 62. Plaintiffs hereby re-allege and incorporate by reference each and every paragraph of this  
13 Complaint.

14 63. By their conduct described herein, Defendants and Does 1-50, acting in concert/conspiracy,  
15 as described above, violated Plaintiff’s rights under California Civil Code §52.1, and the  
16 following clearly-established rights under the United States Constitution and the California  
17 Constitution:  
18

- 19 a. Plaintiff’s rights under the Fourteenth Amendment;

20 64. Defendant CITY and COUNTY is vicariously liable for the wrongful acts and omissions of  
21 its employees and agents pursuant to Cal. Gov. Code section 815.2.

22 65. As a direct and proximate result of Defendants' violation of California Civil Code §52.1 and  
23 of Plaintiffs’ rights under the United States and California Constitutions, Plaintiff sustained  
24 injuries and damages  
25

26 66. Plaintiffs are entitled to relief as set forth above, including punitive damages against  
27 Defendants and Does 1-50, and including all damages allowed by California Civil Code §§  
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52, 52.1, and California law, not limited to costs, attorneys fees, treble damages, and civil penalties.

WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

**FIFTH CAUSE OF ACTION**  
(FOURTEENTH AMENDMENT – Equal Protection)  
*(PLAINTIFFS against Defendants PADILLA, GOMES, MANZANO-FARRELL, and DOES 1-50)*

67. Plaintiffs hereby re-allege and incorporate by reference herein each and every paragraph of this Complaint.

68. The failure of Oakland Police Officers and County Probation Officers to arrest and imprison Defendant Jamal Thomas or to take reasonable steps to make Miles Armstead secure from assault following Defendant Thomas’ violation of his Pretrial Release Order and Release Agreement, proximately caused the death of Miles Armstead and the injures and damages sustained by Plaintiffs.

69. Defendants failed to protect Plaintiffs because they were readily recognizable as an African American family and refused to enforce basic criminal statutes to protect them.

Wherefore, Plaintiffs pray for damages as set forth below.

**JURY DEMAND**

70. Plaintiffs hereby demand a jury trial in this action.

**PRAYER**

Wherefore, Plaintiffs pray for relief, as follows:

1. For general damages in a sum according to proof;
2. For special damages in a sum according to proof;
3. For punitive damages against Padilla, Gomes, Manzano-Farrell and Does 1-50;
4. For reasonable attorney’s fees against all Defendants pursuant to the Code of Civil Procedure 52.1 and 42 USC 1983;
5. For any and all statutory damages allowed by law;

- 1           6. For cost of suit against all Defendants, and
- 2           7. For such other and further relief as the Court deems just and proper.

3  
4 Date: April 3, 2023

Respectfully submitted,

5  
6           **POINTER & BUELNA, LLP**  
7           **LAWYERS FOR THE PEOPLE**

8           /s/ Patrick Buelna  
9           PATRICK BUELNA  
10          COUNSEL FOR PLAINTIFFS

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