

1 **RODNEY S. DIGGS, Esq. (SBN 274459)**

Email: rdiggs@imwlaw.com

2 **IVIE McNEILL WYATT PURCELL & DIGGS.**

3 **A Professional Law Corporation**

444 South Flower Street, Suite 3200

Los Angeles, California 90071

Telephone: (213) 489-0028

Facsimile: (213) 489-0552

5 Attorneys for Plaintiff, JERMAINE PETIT

6
7 **UNITED STATES DISTRICT COURT**

8
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 ASHLYN PETIT, as Successor-in-
11 Interest to JERMAINE PETIT,
12 deceased,

13 Plaintiff,

14 vs.

15
16
17 CITY OF LOS ANGELES, a
18 municipal entity; OFFICER DARYL
19 GLOVER, JR.; SERGEANT BRETT
20 HAYHOE; and DOES 1 through 10,
inclusive,

21 Defendants.

CASE NO.: 2:23-CV-00789-ODW-PVC

**FIRST AMENDED COMPLAINT
FOR DAMAGES**

- 1. **Violations Of Civil Rights (42 U.S.C. § 1983) (Based On Unreasonable Use Of Excessive And Deadly Force)**
- 2. **Violations Of Civil Rights (42 U.S.C. § 1983) (Based On Unconstitutional Policy, Practice, Or Custom)**
- 3. **Denial Of Medical Care (42 U.S.C. § 1983)**
- 4. **Assault/Battery (Cal Government Code §§ 815.2(A), 820(A); Cal. Civil Code § 43)**
- 5. **Negligence (Cal Government Code §§ 815.2(A), 820(A))**
- 6. **Violation Of The Bane Act (Cal. Civ. § 52.1)**
- 7. **Intentional Infliction Of Emotional Distress**
- 8. **Violation Of 42 U.S.C. §12101 Et Seq. (Ada)**

DEMAND FOR JURY TRIAL

JURISDICTION AND VENUE

1
2 1. This Court has original jurisdiction under 28 U.S.C. §§ 1331 and
3 1343(a)(3)-(4) because this action is brought to redress deprivations of
4 constitutional rights protected by the Fourth Amendment and to the United States
5 Constitution, and by 42 U.S.C. § 1983. This Court has supplemental jurisdiction
6 under 28 U.S.C. § 1367(a).

7 2. Venue is proper in this Court under 28 U.S.C. § 1391(b)(1)-(2)
8 because Defendants are believed to reside in this judicial district and all
9 incidents, events, and occurrences giving rise to this action occurred in this
10 judicial district.

PARTIES

11
12 3. Plaintiff ASHYLN PETIT is Successor-in-Interest to decedent
13 JERMAINE PETIT and is entitled to bring certain causes of action herein alleged
14 pursuant to § of the California Code of Civil Procedure. (Attached hereto is a
15 declaration designating Plaintiff ASHYLN PETIT as successor-in-interest to
16 decedent JERMAINE PETIT, furnished herewith pursuant to § 377.32 of the
17 California Code of Civil Procedure, and is a true and correct copy of the death
18 certificate for decedent JERMAINE PETIT. Plaintiff is the biological daughter of
19 JERMAINE PETIT.

20 4. Defendant CITY OF LOS ANGELES (hereinafter “Defendant
21 CITY” is, and at all relevant times mentioned herein was, a municipal entity or
22 political subdivision of the United States, organized and existing under the laws
23 of the State of California.

24 5. Defendant OFFICER DARYL GLOVER (hereinafter “OFFICER
25 GLOVER”), and at all relevant times mentioned herein was, a resident of the
26 County of Los Angeles and/or the City of Los Angeles. Defendant OFFICER
27 GLOVER is sued in his individual and official capacity.

28 6. Defendant SERGEANT BRETT HAYHOE (hereinafter
“SERGEANT HAYHOE”) is, and at all relevant times mentioned herein was, a

1 resident of the County of Los Angeles and/or the City of Los Angeles. Defendant
2 SERGEANT HAYHOE is sued in his individual and official capacity.

3 7. Plaintiff is informed, believes, and thereon alleges that Defendants
4 OFFICER GLOVER and SERGEANT HAYHOE (hereinafter collectively
5 “Defendant OFFICERS”) are, and at all relevant times mentioned herein were,
6 individuals residing in the County of Los Angeles, City of Los Angeles, and the
7 State of California. At all times relevant to the acts and omissions alleged herein,
8 the Defendant OFFICERS were police officers employed by Defendant CITY
9 and the Los Angeles Police Department and were acting under color of state law
10 and within the course and scope of their employment with Defendant CITY and
11 the Los Angeles Police Department.

12 8. On or about September 30, 2022, a timely Claim for Damages was
13 submitted to Defendant CITY, in substantial compliance with California
14 Government Code § 910, et seq. As of the date of the filing of this Complaint,
15 said Claim for Damages has been deemed rejected by operation of law.

16 9. Plaintiff is unaware of the true names and capacities of those
17 Defendants named herein as DOE Defendants. Plaintiff will amend this
18 Complaint to allege said Defendants’ true names and capacities when that
19 information becomes known to him. Plaintiff is informed, believes, and thereon
20 alleges that these DOE Defendants are legally responsible and liable for the
21 incident, injuries, and damages hereinafter set forth, and that each of said DOE
22 Defendants proximately caused the injuries and damages by reason of negligent,
23 careless, deliberately indifferent, intentional, willful, or wanton misconduct,
24 including the negligent, careless, deliberately indifferent, intentional, willful, or
25 wanton misconduct in creating and otherwise causing the incidents, conditions,
26 and circumstances hereinafter set forth, or by reason of direct or imputed
27 negligence or vicarious fault or breach of duty arising out of the matters herein
28 alleged. Plaintiff will seek leave to amend this Complaint to set forth said true
names and identities of the unknown named DOE Defendants when they are

1 ascertained.

2 10. Each of the individual Defendants sued herein is sued both in his or
3 her individual and personal capacity, as well as in his or her official capacity.

4 11. Plaintiff is informed, believes, and thereon alleges that at all times
5 herein mentioned, each of the Defendants was the agent and/or employee and/or
6 co-conspirator of each of the remaining Defendants, and in doing the things
7 hereinafter alleged, was acting within the scope of such agency, employment,
8 and/or conspiracy and with the permission and consent of other co-Defendants.

9 **FACTS COMMON TO ALL CAUSES OF ACTION**

10 12. This Complaint arises out of an officer-involved shooting of 39-year-
11 old JERMAINE PETIT that occurred during evening hours of Monday, July 18,
12 2022, on or around the area of Bronson Avenue and Martin Luther King Blvd., in
13 the City of Los Angeles, County of Los Angeles, and State of California. At
14 approximately 7:20 p.m., on July 18, 2022, MR. PETIT, an African American
15 male and veteran of the United States Air Force, who suffers from post-traumatic
16 stress disorder and schizophrenia, was standing and/or walking near the area of
17 Bronson Avenue and Martin Luther King Blvd., when Defendant OFFICERS,
18 while acting under the color of state law and within the course and scope of their
19 employment with Defendant CITY and the Los Angeles Police Department,
20 negligently assessed the circumstances presented to them, and violently
21 confronted MR. PETIT without having probable cause or reasonable suspicion to
22 believe that MR. PETIT had committed a crime, or would commit a crime in the
23 future.

24 13. Prior to the time in which Defendant OFFICERS violently
25 confronted MR. PETIT, a 9-1-1 call was placed by an unknown caller who
26 alleged that a black male suspect with dreadlock was looking inside his garbage
27 can and was armed with a black semi-automatic gun. The 9-1-1 caller did not
28 mention that the suspect threatened or aimed this allege weapon at him.

14. During the time in which Defendant OFFICERS approached MR.

1 PETIT, MR. PETIT was not committing a crime.

2 15. MR. PETIT was walking and/or trotting away from Defendant
3 OFFICERS and DOE Officers.

4 16. Defendant OFFICERS and DOE Officers repeatedly commanded for
5 MR. PETIT to “take his hands out of his pocket.” And “...what’s that in your
6 f**king hand?” MR. PETIT complied with Defendant OFFICERS and DOE
7 Officers’ commands, showed them his hands, revealed to the officers that he was
8 not in possession of a firearm, or any weapon, and continued walking and/or
9 trotting.

10 17. After MR. PETIT show the officers his hands, an unknown officer,
11 possibly Defendant OFFICER GLOVER’s partner, acknowledged and verbally
12 informed Defendant OFFICERS, including DOE Officers, that “it’s not a gun,
13 bro,” which is heard on officer body worn cameras.

14 18. Without warning, and despite the unknown officer’s confirmation
15 that MR. PETIT is unarmed with a gun or with any weapon at all, Defendant
16 OFFICERS proceeded towards MR. PETIT and used unreasonable, excessive
17 and deadly force by discharging their department-issued firearm at MR. PETIT
18 inflicting multiple gunshot wounds to MR. PETIT’s person, including the back of
19 MR. PETIT, which caused MR. PETIT to break his jaw as he fall face-forward
20 onto the ground.

21 19. Defendant OFFICER GLOVER used his department-issued firearm
22 and shot MR. PETIT multiple times, including his back, as MR. PETIT was
23 trotting away from Defendant OFFICER GLOVER and DOE officers.

24 20. Simultaneously, Defendant SERGEANT HAYHOE, who was
25 operating his patrol vehicle and driving parallel to MR. PETIT, used his
26 department-issued firearm and shot from inside of his patrol vehicle at MR.
27 PETIT, inflicting gunshot wounds to MR. PETIT’s person.

28 21. Multiple video surveillance views of the incident show MR. PETIT
hands as he is trotting away from the officers. MR. PETIT is clearly unarmed.

1 22. Following the use of unreasonable, deadly and excessive force, the
2 involved Defendant OFFICERS denied medical care to MR. PETIT in a manner
3 that demonstrated deliberate indifference to his constitutional rights. The denial
4 of any medical care caused MR. PETIT extreme physical and emotional pain and
5 suffering.

6 23. At no time during the course of these events did MR. PETIT pose
7 any reasonable or credible threat of death or serious bodily injury Defendant
8 OFFICER OFFICERS, who shot him, nor did he do anything to justify the force
9 used against him, and the same was, excessive, unnecessary, and unlawful. Prior
10 to and during the time in which he was shot, MR. PETIT posed no immediate
11 threat of death or serious bodily injury to Defendant OFFICERS, nor to any other
12 person. Prior to and during the time in which he was shot, MR. PETIT made no
13 aggressive movements, furtive gestures, or physical movements which would
14 suggest to a reasonable police officer that he had the will, or the ability, to inflict
15 substantial bodily harm upon any individual. Prior to and during the time in
16 which Defendant OFFICERS shot MR. PETIT, the Defendant OFFICERS, who
17 fired, were not faced with any circumstances which would have led a reasonable
18 police officer to believe that MR. PETIT posed an immediate threat of death or
19 serious bodily injury to any person.

20 **FIRST CAUSE OF ACTION**

21 **(By Plaintiff Against the Defendant OFFICERS for Violations of Civil
22 Rights [42 U.S.C. § 1983])**

23 **(Based on Unreasonable Use of Excessive and Deadly Force)**

24 24. Plaintiff incorporates herein by reference all prior paragraphs of this
25 Complaint as though fully set forth herein.

26 25. This cause of action is brought on behalf of decedent JERMAINE
27 PETIT, by and through Plaintiff ASHLYN PETIT, in her capacity as successor-
28 in-interest to JERMAINE PETIT, who would, but for his death, be entitled to
bring this cause of action, and is set forth herein to redress the deprivation, under

1 color of statue, ordinance, regulation, policy, custom, practice, and/or usage, of
2 right, privileges, and/or immunities secured to JERMAINE PETIT by the Fourth
3 Amendment to the Constitution of the United States, including, but not limited to,
4 the right to be free from unreasonable governmental seizures of his person.

5 26. Plaintiff is informed, believes, and thereon alleges that at all times
6 mentioned herein, Defendant CITY employed the individual Defendants named
7 herein, including Defendant OFFICERS. Defendant CITY provided its individual
8 employees and agents, including Defendant OFFICERS with official badges and
9 identification cards that designated and described the bearers as employees of
10 Defendant CITY and the Los Angeles Police Department.

11 27. Plaintiff is informed, believes, and thereon alleges that at all times
12 relevant to the acts and omissions alleged herein, Defendant OFFICERS were
13 employed by Defendant CITY and the Los Angeles Police Department, and were
14 acting under color of state law and within the course and scope of their
15 employment with Defendant CITY and the Los Angeles Police Department.

16 28. At approximately 7:20 p.m., on July 18, 2022, MR. PETIT, an
17 African American male and veteran of the United States Air Force, who suffers
18 from Post-Traumatic Stress Disorder and Schizophrenia, was standing and/or
19 walking near the area of Bronson Avenue and Martin Luther King Blvd., when
20 Defendant OFFICERS, while acting under the color of state law and within the
21 course and scope of their employment with Defendant CITY and the Los Angeles
22 Police Department, negligently assessed the circumstances presented to them, and
23 violently confronted MR. PETIT without having probable cause or reasonable
24 suspicion to believe that MR. PETIT had committed a crime, or would commit a
25 crime in the future.

26 29. Prior to the time in which Defendant OFFICERS violently confronted
27 MR. PETIT, a 9-1-1 call was placed by an unknown caller who alleged that a
28 black male suspect with dreadlock was looking inside his garbage can and was
armed with a black semi-automatic gun. The 9-1-1 caller did not mention that the

1 suspect threatened or aimed this allege weapon at him.

2 30. During the time in which Defendant OFFICERS approached MR.
3 PETIT, MR. PETIT was not committing a crime.

4 31. MR. PETIT was walking and/or trotting away from Defendant
5 OFFICERS and DOE Officers.

6 32. Defendant OFFICERS and DOE Officers repeatedly commanded for
7 MR. PETIT to “take his hands out of his pocket.” And “...what’s that in your
8 f**king hand?” MR. PETIT complied with Defendant OFFICERS and DOE
9 Officers’ commands, showed them his hands, revealed to the officers that he was
10 not in possession of a firearm, or any weapon, and continued walking and/or
11 trotting.

12 33. After MR. PETIT show the officers his hands, an unknown officer,
13 possibly Defendant OFFICER GLOVER’s partner, acknowledged and verbally
14 informed Defendant OFFICERS, including DOE Officers, that “it’s not a gun,
15 bro,” which is heard on officer body worn cameras.

16 34. Without warning, and despite the unknown officer’s confirmation
17 that MR. PETIT is unarmed with a gun or with any weapon at all, Defendant
18 OFFICERS proceeded towards MR. PETIT and used unreasonable, excessive
19 and deadly force by discharging their department-issued firearm at MR. PETIT
20 inflicting multiple gunshot wounds to MR. PETIT’s person, including the back of
21 MR. PETIT, which caused MR. PETIT to break his jaw as he fall face-forward
22 onto the ground.

23 35. Defendant OFFICER GLOVER used his department-issued firearm
24 and shot MR. PETIT multiple times, including his back, as MR. PETIT was
25 trotting away from Defendant OFFICER GLOVER and DOE officers.

26 36. Simultaneously, Defendant SERGEANT HAYHOE, who was
27 operating his patrol vehicle and driving parallel to MR. PETIT, used his
28 department-issued firearm and shot from inside of his patrol vehicle at MR.
PETIT, inflicting gunshot wounds to MR. PETIT’s person.

1 37. Multiple video surveillance views of the incident show MR. PETIT
2 hands as he is trotting away from the officers. MR. PETIT is clearly unarmed.

3 38. Following the use of unreasonable, deadly and excessive force, the
4 involved Defendant OFFICERS denied medical care to MR. PETIT in a manner
5 that demonstrated deliberate indifference to his constitutional rights. The denial
6 of any medical care caused MR. PETIT extreme physical and emotional pain and
7 suffering.

8 39. Both prior to and during the time in which he was shot, MR. PETIT
9 was not carrying any kind of weapon on his person and posed no reasonable or
10 credible threat of violence to Defendant OFFICERS, nor to any other individual.
11 Both prior to and during the time in which he was shot, MR. PETIT made no
12 aggressive movements, no furtive gestures, and no physical movements which
13 would suggest to a reasonable police officer that he was armed with any kind of
14 weapon, or had the will, or the ability to inflict substantial harm against any
15 individual. Both prior to and during the time in which Defendant OFFICERS shot
16 MR. PETIT, Defendant OFFICERS were not faced with any circumstances
17 which would have led a reasonable police officer to believe that MR. PETIT
18 posed the risk of death or serious bodily injury to any person.

19 40. At all times mentioned herein, the Defendant OFFICERS acted under
20 color and pretense of law, and under color of the statutes, ordinances, regulations,
21 policies, practices, customs, and/or usages of the State of California and
22 Defendant CITY. Defendant OFFICERS deprived MR. PETIT of the rights,
23 privileges, and/or immunities secured to him by the Fourth Amendment to the
24 United States Constitution and the laws of the United States, including, but not
25 limited to, the right to be free from unreasonable governmental seizures of his
26 person.

27 41. Plaintiff had the right to be free from unreasonable governmental
28 seizures of his person, a right which was secured to Plaintiff by the provisions of
the Fourth Amendment to the United States Constitution, and by 42 U.S.C. §

1 1983. All of these interests were implicated by the wrongful conduct of
2 Defendant OFFICERS, which proximately caused Plaintiff to suffer severe
3 gunshot wounds to his person.

4 42. Plaintiff is informed, believes, and thereon alleges that in
5 unreasonably seizing his person, as described in the foregoing paragraphs of this
6 Complaint, Defendant OFFICERS acted outside the scope of their jurisdiction
7 and without authorization of law, and acted willfully, maliciously, knowingly,
8 with reckless disregard for and callous indifference to the known consequences of
9 their acts and omissions, and purposefully with the intent to deprive MR. PETIT
10 of his constitutionally protected rights and privileges, and did in fact violate MR.
11 PETIT's constitutionally protected rights and privileges, thereby warranting
12 punitive and exemplary damages against Defendant OFFICERS in an amount to
13 be proven at trial.

14 43. As a direct and proximate result of the wrongful, intentional, and
15 malicious acts and omissions of Defendant OFFICERS, MR. PETIT was placed
16 in great fear for his life and physical wellbeing and has suffered and continues to
17 suffer extreme and severe mental and physical anguish, as well as great mental
18 and physical pain and injury, all to his damage in a sum to be determined at trial.

19 44. As a further direct and proximate result of the wrongful, intentional,
20 and malicious acts and omissions of Defendant OFFICERS, MR. PETIT was
21 required to employ, and did in fact employ, physicians and surgeons to examine,
22 treat, and care for him, and has incurred expenses for emergent medical services,
23 treatment, and care and other medical services, treatment, and care in an amount
24 according to proof at trial.

25 45. Plaintiff is entitled to and hereby demands costs, attorney's fees, and
26 expenses pursuant to 42 U.S.C. § 1988.

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1 **SECOND CAUSE OF ACTION**

2 **(By Plaintiff, Against Defendant CITY OF LOS ANGELES for Violations of**
3 **Civil Rights [42 U.S.C. § 1983])**

4 **(Based on Unconstitutional Policy, Practice, or Custom)**

5 46. Plaintiff incorporates herein by reference all prior paragraphs of this
6 Complaint as though fully set forth herein.

7 47. This cause of action is brought on behalf of decedent JERMAINE
8 PETIT, by and through Plaintiff ASHLYN PETIT, in her capacity as successor-
9 in-interest to JERMAINE PETIT, who would, but for his death, be entitled to
10 bring this cause of action, and is set forth herein to redress the deprivation, under
11 color of statue, ordinance, regulation, policy, custom, practice, and/or usage, of
12 right, privileges, and/or immunities secured to JERMAINE PETIT by the Fourth
13 Amendment to the Constitution of the United States, including, but not limited to,
14 the right to be free from unreasonable governmental seizures of his person.

15 48. Plaintiff is informed, believes, and thereon alleges that at all times
16 mentioned herein, Defendants CITY employed the individual Defendants named
17 herein, including Defendant OFFICERS. Defendant CITY provided its individual
18 employees and agents, including Defendant OFFICERS, with official badges and
19 identification cards that designated and described the bearers as employees of
20 Defendant CITY and the Los Angeles Police Department.

21 49. Plaintiff is informed, believes, and thereon alleges, that at all times
22 relevant to the acts and omissions alleged herein, Defendant OFFICERS were
23 employed by Defendant CITY and the Los Angeles Police Department and were
24 acting under color of state law and within the course and scope of their
25 employment with Defendant CITY and the Los Angeles Police Department.

26 50. As set forth in the foregoing paragraphs of this Complaint, Defendant
27 OFFICERS, while acting under color of state law and within the course and
28 scope of their employment with Defendant CITY and the Los Angeles Police
Department, violated the Fourth Amendment rights of MR. PETIT by acts which

1 included, but were not limited to, using excessive and unreasonable force against
2 MR. PETIT. As described in this Complaint, the unreasonable and excessive
3 force used against of MR. PETIT was an unconstitutional display of an
4 unreasonable seizure, and of the use of excessive force, which violated MR.
5 PETIT' Fourth Amendment right to be free from unreasonable governmental
6 seizures of his person.

7 51. Plaintiff is informed, believes, and thereon alleges that Defendant
8 OFFICERS' unreasonable and excessive force that used against MR. PETIT, a
9 man who posed no immediate threat of death or serious bodily to Defendant
10 OFFICERS nor to any other person, demonstrated that the training policies of
11 Defendant CITY were not adequate to train Los Angeles Police Department
12 officers to handle the usual and recurring situations with which they must deal, as
13 evidenced by the following specific acts and omissions of Defendant OFFICERS
14 in their response to the incident that occurred on July 18, 2022:

- 15 a. The tactical standard of care for law enforcement agencies similarly
16 situated to the Los Angeles Police Department is for law enforcement
17 officers/deputies employed by such agencies to utilize additional
18 officers, departmental personnel, and/or departmental resources to
19 assist them when approaching and/or attempting to detain and/or
20 arrest suspects and/or potential detainees and/or arrestees whom the
21 officers believe may possibly pose a threat to the safety of the
22 officers or third parties. Prior to and during the time in which
23 Defendant OFFICERS used unreasonable and excessive force against
24 MR. PETIT, they acted in flagrant contravention of this well-
25 established standard of care.
- 26 b. The tactical standard of care for law enforcement agencies similarly
27 situated to the Los Angeles Police Department is for law enforcement
28 officers employed by such agencies, whenever possible, to issue
commands and warnings that are clear and intelligible to suspects

1 and/or potential detainees and/or arrestees prior to using deadly force.
2 Prior to and during the time in which Defendant OFFICERS used
3 unreasonable and excessive force against MR. PETIT, they acted in
4 flagrant contravention of this well-established standard of care.

5 c. The tactical standard of care for law enforcement agencies similarly
6 situated to the Los Angeles Police Department is for law enforcement
7 officers employed by such agencies to use all available forms of
8 cover and concealment when confronted with the possibility of using
9 deadly force. Prior to and during the time in which Defendant
10 OFFICERS used unreasonable and excessive force against MR.
11 PETIT, they acted in flagrant contravention of this well-established
12 standard of care.

13 d. The tactical standard of care for law enforcement agencies similarly
14 situated to the Los Angeles Police Department is for law enforcement
15 officers employed by such agencies to keep a safe distance from
16 suspects and/or potential detainees and/or arrestees whom the officers
17 believe may possibly pose a threat to their safety so as to obtain the
18 tactical advantage of distance from a potential threat. Prior to and
19 during the time in which Defendant OFFICERS used unreasonable
20 and excessive force against MR. PETIT, they acted in flagrant
21 contravention of this well-established standard of care.

22 e. The tactical standard of care for law enforcement agencies similarly
23 situated to the Los Angeles Police Department is for law enforcement
24 officers employed by such agencies to use cover, concealment,
25 distance, additional departmental personnel, available illumination,
26 and available communication to accurately assess the level of the
27 threat posed by a suspect and/or potential detainee and/or arrestee
28 prior to using deadly force. Prior to and during the time in which
Defendant OFFICERS used unreasonable and excessive force against

1 MR. PETIT, they acted in flagrant contravention of this well-
2 established standard of care.

3 f. The tactical standard of care for law enforcement agencies similarly
4 situated to the Los Angeles Police Department is for law enforcement
5 officers employed by such agencies to attempt to control an incident
6 by using time, distance, communication, and available resources in
7 an effort to de-escalate the situation, reduce the intensity of the
8 encounter, and enable the officers to have additional options to
9 mitigate the need to use force. Prior to and during the time in which
10 Defendant OFFICERS used unreasonable and excessive force against
11 MR. PETIT, they acted in flagrant contravention of this well-
12 established standard of care.

13 g. The tactical standard of care for law enforcement agencies similarly
14 situated to Los Angeles Police Department is for law enforcement
15 officers employed by such agencies to fire in controlled bursts when
16 using deadly force so as to avoid exposing persons and property to
17 unnecessary fire. Prior to and during the time in which Defendant
18 OFFICERS used unreasonable and excessive force against MR.
19 PETIT, they acted in flagrant contravention of this well-established
20 standard of care.

21 52. Plaintiff is informed, believes, and thereon alleges that prior to May
22 3, 2021, Defendant OFFICERS received training and instruction in police tactics
23 and procedures from Defendant CITY and the Los Angeles Police Department in
24 ways which included, but were not limited to, their attendance at a police
25 academy, their attendance at department briefings, their attendance at mandatory
26 and voluntary training seminars, their attendance at roll call at their station(s)
27 prior to their assigned shift(s), their receipt of departmental policy and training
28 manuals, their receipt of departmental training bulletins, and their receipt of
departmental correspondence, including electronic mail.

1 53. Plaintiff is informed, believes, and thereon alleges, that on and before
2 July 18, 2022, encounters with persons like MR. PETIT were common among
3 Los Angeles Police Department officers similarly situated to Defendant
4 OFFICERS, and such encounters were a recurring situation faced by Los Angeles
5 Police Department officers similarly situated to Defendant OFFICERS.

6 54. Plaintiff is informed, believes, and thereon alleges that the persons
7 responsible for training Defendant OFFICERS, including, but not limited to, their
8 field training officers, watch commanders, shift commanders, training officers,
9 firearms instructors, defensive tactics instructors, sergeants, captains, lieutenants,
10 higher-ranking officers, and authorized policymakers and decision makers within
11 the Los Angeles Police Department, the identities of whom are presently
12 unknown to Plaintiff, knew, or in the exercise of reasonable diligence should
13 have known, that the obvious consequence of the failure to implement, institute,
14 enact, communicate, teach, and/or cause the above-referenced tactical training to
15 be taught to Defendant OFFICERS, and officers similarly situated to Defendant
16 OFFICERS would be that persons who do not pose an immediate threat of death
17 or serious bodily injury to the officers/deputies, or others, such as MR. PETIT
18 would suffer constitutional deprivations from the unreasonable and excessive use
19 of force.

20 55. Plaintiff is informed, believes, and thereon alleges that
21 notwithstanding the fact that the training personnel responsible for training
22 Defendant OFFICERS knew, or in the exercise of reasonable diligence should
23 have known, that the obvious consequence of the failure to implement, institute,
24 enact, communicate, teach, and/or cause the above-referenced tactical training to
25 be taught to Defendant OFFICERS and officers similarly situated to Defendant
26 OFFICERS would be that persons who do not pose an immediate threat of death
27 or serious bodily to the officers or others, such as MR. PETIT, would suffer
28 constitutional deprivations from the unreasonable and excessive use of force, said
training personnel, and each of them, deliberately and consciously failed to

1 provide adequate tactical training in the above-enumerated areas.

2 56. Plaintiff is informed, believes, and thereon alleges that Defendant
3 CITY was deliberately indifferent to the obvious consequences of its failure to
4 adequately train Los Angeles Police Department officers, including Defendant
5 OFFICERS.

6 57. Plaintiff is informed, believes, and thereon alleges that the failure of
7 Defendant CITY and the Los Angeles Police Department training personnel
8 responsible for training Los Angeles Police Department officers, including
9 Defendant OFFICERS, to provide adequate training to Los Angeles Police
10 Department officers, including Defendant OFFICERS, caused MR. PETIT to
11 suffer Fourth Amendment violations resulting from the unreasonable and
12 excessive use of force, and is so closely related to the deprivation of MR.
13 PETIT's Fourth Amendment rights as to be the moving force that caused the
14 ultimate injury.

15 58. Upon information and belief, a final policymaker has determined (or
16 will determine) that the acts of Defendant OFFICERS were "within policy."

17 59. On information and belief, Defendant OFFICERS were not
18 disciplined, reprimanded, retrained, suspended, or otherwise penalized in
19 connection with MR. PETIT' injuries.

20 60. As a direct and proximate result of the wrongful, intentional, and
21 malicious acts and omissions of Defendant OFFICERS, MR. PETIT was severely
22 injured on July 18, 2022, and suffered great mental and physical pain, suffering,
23 anguish, fright, nervousness, anxiety, grief, shock, humiliation, indignity,
24 embarrassment, and apprehension, all to his damage in a sum to be determined at
25 trial.

26 61. As a further direct and proximate result of the wrongful, intentional,
27 and malicious acts and omissions of Defendant OFFICERS, MR. PETIT was
28 required to employ, and did in fact employ, health care providers and/or medical
practitioners to examine, treat, and care for him and incurred expenses for

1 emergent medical services and medical treatment and care in an amount
2 according to proof at trial.

3 62. By perpetrating, sanctioning, tolerating and ratifying the outrageous
4 conduct and other wrongful acts, Defendant OFFICERS acted with intentional,
5 reckless, and callous disregard towards MR. PETIT and his constitutional rights.
6 Furthermore, the policies, practices, and customs implemented, maintained, and
7 still tolerated by Defendant OFFICERS were affirmatively linked to and were a
8 significantly influential force behind the injuries of MR. PETIT.

9 63. Plaintiff is entitled to and hereby demands costs, attorney's fees, and
10 expenses pursuant to 42 U.S.C. § 1988.

11 **THIRD CAUSE OF ACTION**

12 **(By Plaintiff Against All DEFENDANTS, Inclusive)**

13 **DENIAL OF MEDICAL CARE (42 U.S.C. § 1988)**

14 64. Plaintiff incorporates herein by reference all prior paragraphs of this
15 Complaint as though fully set forth herein.

16 65. At all times relevant to the acts and omissions herein alleged,
17 Defendants, and each of them, were employed by the Defendant CITY as law
18 enforcement officers and were acting under color of law and in the course and
19 scope of their employment with the CITY's Police Department.

20 66. The denial of medical care by Defendant OFFICERS and DOES 1-10
21 ("DOES or DOE OFFICERS") deprived MR. PETIT of his right to be secure in his
22 person against unreasonable searches and seizures as guaranteed to him under the
23 Fourth Amendment to the United States Constitution and applied to state actors by
24 the Fourteenth Amendment.

25 67. Plaintiff is informed, believes, and thereon alleges that when
26 Defendant OFFICERS, and DOES, who were employed as police officers of the
27 Defendant CITY, arrived they had no information that MR. PETIT had threatened
28 or was a threat to anyone or had committed any crime, Defendants, and each of
them, had no information sufficient to establish reasonable suspicion to detain MR.

1 PETIT and/or probable cause to suspect that MR. PETIT had engaged, was
2 engaging, or was about to engage in any crime.

3 68. Plaintiff is informed, believes, and thereon alleges that it was apparent
4 or should have been apparent to Defendants, and each of them, MR. PETIT was
5 not a threat.

6 69. Plaintiff is informed, believes, and thereon alleges and contrary to
7 Defendants' training, including training regarding appropriate use of excessive
8 force, they negligently assessed the circumstances presented to them, and then
9 violently confronted MR. PETIT purposely or negligently unnecessarily
10 aggravating and escalating the situation before them.

11 70. Without warning, Defendant OFFICERS proceeded to assault and
12 batter MR. PETIT by acts which included, but were not limited to, repeatedly and
13 unjustifiably discharging their department-issued firearm at the person of MR.
14 PETIT, inflicting several gunshot wounds to his person, when MR. PETIT did
15 nothing to justify the force used against him, and the same was excessive, deadly,
16 unnecessary, and unlawful.

17 71. Following the use of unreasonable, excessive and deadly force, the
18 involved Defendant OFFICERS and DOES denied medical care to MR. PETIT in a
19 manner that demonstrated deliberate indifference to his constitutional rights. The
20 denial of medical care to MR. PETIT caused MR. PETIT extreme physical and
21 emotional pain and suffering.

22 72. At no time during the course of these events did MR. PETIT pose any
23 reasonable or credible threat of death or serious bodily injury to Defendant DOES,
24 nor did he do anything to justify the force used against him, and the same was
25 excessive, deadly, unnecessary, and unlawful. Both prior to and during the time in
26 which he was assaulted and battered, MR. PETIT posed no immediate threat of
27 death or serious bodily injury to Defendant OFFICERS, and DOES, nor to any
28 other individual.

73. Both prior to and during the time in which he was assaulted and

1 battered, MR. PETIT made no aggressive movements, no furtive gestures, never
2 pointed a weapon at any Defendant OFFICERS, and DOES 1 through 10, and
3 made no physical movements which would suggest to a reasonable police officer
4 that he had the will, or the ability to inflict bodily harm against any individual.

5 74. Both prior to and during the time in which Defendant OFFICERS, and
6 DOES assaulted and battered MR. PETIT, Defendants were not faced with any
7 circumstances which would have led a reasonable police officer to believe that
8 MR. PETIT posed an immediate threat of death or bodily injury to any person.

9 75. Following the aforementioned conduct, DEFENDANT OFFICERS,
10 and DOES 1-10 knew or should have known that failure to provide timely medical
11 treatment to MR. PETIT could result in further significant injury or the
12 unnecessary and wanton infliction of pain but disregarded that serious medical
13 need demonstrating deliberate indifference and delayed and/or prevented medical
14 providers from providing treatment to MR. PETIT, causing him further great
15 bodily harm and pain.

16 76. As a result, MR. PETIT suffered severe and ongoing mental, physical,
17 and emotional pain and suffering including, but not limited to, physical pain, grief,
18 anguish, fear, anxiety, trauma, loss of enjoyment of life, etc. in an amount
19 according to proof at trial.

20 77. As a result of the misconduct of DEFENDANT OFFICERS, and
21 DOES 1-10, they are liable for MR. PETIT's injuries, either because they were
22 integral participants in the denial of medical care, or because they failed to
23 intervene to prevent these violations.

24 78. As a further proximate result of the above-described conduct of the
25 Defendants, and each of them, and the use of unreasonable and excessive force
26 against MR. PETIT, MR. PETIT has incurred medical expenses in an amount
27 according to proof at trial.

28 79. The conduct of DOES 1-10 was willful, wanton, malicious, and done
with reckless disregard for the rights and safety of MR. PETIT and therefore

1 warrants the imposition of exemplary and punitive damages as to each and every
2 aforementioned Defendant.

3 80. Plaintiff also seeks and is entitled to reasonable attorneys' fees under
4 this claim pursuant to 42 U.S.C. § 1988.

5 **FOURTH CAUSE OF ACTION**

6 **(By Plaintiff Against All DEFENDANTS for Battery/Assault**

7 **[Cal. Gov't Code §§ 815.2 (a), 820(a); Cal. Civ. Code § 43])**

8 81. Plaintiff incorporates herein by reference all prior paragraphs of this
9 Complaint as though fully set forth herein.

10 82. All claims asserted herein against the Defendant CITY is presented
11 pursuant to the Defendant CITY's vicarious liability for acts and omissions of
12 municipal employees undertaken in the course and scope of their employment
13 pursuant to California Government Code §§ 815.2(a) and 820(a).

14 83. At approximately 7:20 p.m., on July 18, 2022, MR. PETIT, an African
15 American male and veteran of the United States Air Force, who suffers from post-
16 traumatic stress disorder and schizophrenia, was standing and/or walking near the
17 area of Bronson Avenue and Martin Luther King Blvd., when Defendant
18 OFFICERS, while acting under the color of state law and within the course and
19 scope of their employment with Defendant CITY and the Los Angeles Police
20 Department, negligently assessed the circumstances presented to them, and
21 violently confronted MR. PETIT without having probable cause or reasonable
22 suspicion to believe that MR. PETIT had committed a crime, or would commit a
23 crime in the future.

24 84. Prior to the time in which Defendant OFFICERS violently confronted
25 MR. PETIT, a 9-1-1 call was placed by an unknown caller who alleged that a black
26 male suspect with dreadlock was looking inside his garbage can and was armed
27 with a black semi-automatic gun. The 9-1-1 caller did not mention that the suspect
28 threatened or aimed this allege weapon at him.

85. Prior to and during the time in which Defendant OFFICERS

1 approached MR. PETIT, MR. PETIT was not committing a crime.

2 86. MR. PETIT was walking and/or trotting away from Defendant
3 OFFICERS and DOE Officers.

4 87. Defendant OFFICERS and DOE Officers repeatedly commanded for
5 MR. PETIT to “take his hands out of his pocket.” And “...what’s that in your
6 f**king hand?” MR. PETIT complied with Defendant OFFICERS and DOE
7 Officers’ commands, showed them his hands, revealed to the officers that he was
8 not in possession of a firearm, or any weapon, and continued walking and/or
9 trotting.

10 88. After MR. PETIT show the officers his hands, an unknown officer,
11 possibly Defendant OFFICER GLOVER’s partner, acknowledged and verbally
12 informed Defendant OFFICERS, including DOE Officers, that “it’s not a gun,
13 bro,” which is heard on officer body worn cameras.

14 89. Without warning, and despite the unknown officer’s confirmation
15 that MR. PETIT is unarmed with a gun or with any weapon at all, Defendant
16 OFFICERS proceeded towards MR. PETIT and used unreasonable, excessive
17 and deadly force by discharging their department-issued firearm at MR. PETIT
18 inflicting multiple gunshot wounds to MR. PETIT’s person, including the back of
19 MR. PETIT, which caused MR. PETIT to break his jaw as he fall face-forward
20 onto the ground.

21 90. Defendant OFFICER GLOVER used his department-issued firearm
22 and shot MR. PETIT multiple times, including his back, as MR. PETIT was
23 trotting away from Defendant OFFICER GLOVER and DOE officers.

24 91. Simultaneously, Defendant SERGEANT HAYHOE, who was
25 operating his patrol vehicle and driving parallel to MR. PETIT, used his
26 department-issued firearm and shot from inside of his patrol vehicle at MR.
27 PETIT, inflicting gunshot wounds to MR. PETIT’s person.

28 92. Multiple video surveillance views of the incident show MR. PETIT
hands as he is trotting away from the officers. MR. PETIT is clearly unarmed.

1 93. Following the use of unreasonable, deadly and excessive force, the
2 involved Defendant OFFICERS denied medical care to MR. PETIT in a manner
3 that demonstrated deliberate indifference to his constitutional rights. The denial of
4 any medical care caused MR. PETIT extreme physical and emotional pain and
5 suffering.

6 94. Plaintiff is informed, believes, and thereon alleges, that in assaulting
7 and battering him, as described in the foregoing paragraphs of this Complaint, the
8 Defendant OFFICERS acted outside the scope of their jurisdiction and without
9 authorization of law, and acted willfully, maliciously, knowingly, with reckless
10 and conscious disregard and callous indifference to the known consequences of
11 their acts and omissions, and purposefully with the intent to deprive Plaintiff of his
12 protected rights and privileges, and did in fact violate the aforementioned rights
13 and privileges, thereby warranting punitive and exemplary damages against the
14 Defendant OFFICERS in an amount to be proven at trial.

15 95. As a direct and proximate result of the wrongful, intentional, and
16 malicious acts and omissions of Defendant OFFICERS, MR. PETIT was placed in
17 great fear for his life and physical wellbeing and has suffered and continues to
18 suffer extreme and severe mental and physical anguish, as well as great mental and
19 physical pain and injury, all to his damage in a sum to be determined at trial.

20 96. As a further direct and proximate result of the wrongful, intentional,
21 and malicious acts and omissions of Defendant OFFICERS, MR. PETIT was
22 required to employ, and did in fact employ, physicians and surgeons to examine,
23 treat, and care for him, and has incurred expenses for emergent medical services,
24 treatment, and care and other medical services, treatment, and care in an amount
25 according to proof at trial.

26 **FIFTH CAUSE OF ACTION**

27 **(By Plaintiff Against All DEFENDANTS for Negligence**

28 **[Cal. Gov't Code §§ 815.2 (a), 820(a); Cal. Civ. Code § 43])**

97. Plaintiff incorporates herein by reference all prior paragraphs of this

1 Complaint as though fully set forth herein.

2 98. All claims asserted herein against the Defendant CITY is presented
3 pursuant to the Defendant CITY’s vicarious liability for acts and omissions of
4 municipal employees undertaken in the course and scope of their employment
5 pursuant to California Government Code §§ 815.2(a) and 820(a).

6 99. At approximately 7:20 p.m., on July 18, 2022, MR. PETIT, an African
7 American male and veteran of the United States Air Force, who suffers from post-
8 traumatic stress disorder and schizophrenia, was standing and/or walking near the
9 area of Bronson Avenue and Martin Luther King Blvd., when Defendant
10 OFFICERS, while acting under the color of state law and within the course and
11 scope of their employment with Defendant CITY and the Los Angeles Police
12 Department, negligently assessed the circumstances presented to them, and
13 violently confronted MR. PETIT without having probable cause or reasonable
14 suspicion to believe that MR. PETIT had committed a crime, or would commit a
15 crime in the future.

16 100. Prior to the time in which Defendant OFFICERS violently confronted
17 MR. PETIT, a 9-1-1 call was placed by an unknown caller who alleged that a black
18 male suspect with dreadlock was looking inside his garbage can and was armed
19 with a black semi-automatic gun. The 9-1-1 caller did not mention that the suspect
20 threatened or aimed this allege weapon at him.

21 101. During the time in which Defendant OFFICERS approached MR.
22 PETIT, MR. PETIT was not committing a crime.

23 102. MR. PETIT was walking and/or trotting away from Defendant
24 OFFICERS and DOE Officers.

25 103. Defendant OFFICERS and DOE Officers repeatedly commanded for
26 MR. PETIT to “take his hands out of his pocket.” And “...what’s that in your
27 f**king hand?” MR. PETIT complied with Defendant OFFICERS and DOE
28 Officers’ commands, showed them his hands, revealed to the officers that he was
not in possession of a firearm, or any weapon, and continued walking and/or

1 trotting.

2 104. After MR. PETIT show the officers his hands, an unknown officer,
3 possibly Defendant OFFICER GLOVER’s partner, acknowledged and verbally
4 informed Defendant OFFICERS, including DOE Officers, that “it’s not a gun,
5 bro,” which is heard on officer body worn cameras.

6 105. Without warning, and despite the unknown officer’s confirmation
7 that MR. PETIT is unarmed with a gun or with any weapon at all, Defendant
8 OFFICERS proceeded towards MR. PETIT and used unreasonable, excessive
9 and deadly force by discharging their department-issued firearm at MR. PETIT
10 inflicting multiple gunshot wounds to MR. PETIT’s person, including the back of
11 MR. PETIT, which caused MR. PETIT to break his jaw as he fall face-forward
12 onto the ground.

13 106. Defendant OFFICER GLOVER used his department-issued firearm
14 and shot MR. PETIT multiple times, including his back, as MR. PETIT was
15 trotting away from Defendant OFFICER GLOVER and DOE officers.

16 107. Simultaneously, Defendant SERGEANT HAYHOE, who was
17 operating his patrol vehicle and driving parallel to MR. PETIT, used his
18 department-issued firearm and shot from inside of his patrol vehicle at MR.
19 PETIT, inflicting gunshot wounds to MR. PETIT’s person.

20 108. Multiple video surveillance views of the incident show MR. PETIT
21 hands as he is trotting away from the officers. MR. PETIT is clearly unarmed.

22 109. Following the use of unreasonable, deadly and excessive force, the
23 involved Defendant OFFICERS denied medical care to MR. PETIT in a manner
24 that demonstrated deliberate indifference to his constitutional rights. The denial of
25 any medical care caused MR. PETIT extreme physical and emotional pain and
26 suffering.

27 110. Plaintiff is informed and believes, and thereon alleges, that on and
28 before July 18, 2022, Defendant OFFICERS had a duty to exercise the reasonable
and ordinary care which would be expected of similarly situated peace officers in

1 the use of deadly force, and had a duty to exercise the reasonable and ordinary care
2 which would be expected of similarly situated peace officers in the execution of
3 police tactics and procedures in approaching and/or attempting to detain civilians
4 and suspects who do not pose a risk of death or serious bodily injury to any person.
5 Notwithstanding each of these duties, Defendant OFFICERS failed to exercise
6 reasonable and ordinary care in committing the acts alleged herein, by actions and
7 inactions which include, but are not limited to: negligently failing to utilize
8 additional departmental resources during the detention of Plaintiff; negligently
9 failing to utilize available forms of cover and concealment during the detention of
10 Plaintiff; negligently failing to communicate and/or effectively communicate with
11 departmental personnel on scene and other departmental personnel and resources
12 during the detention of Plaintiff; negligently failing to utilize less lethal force
13 options and other alternatives less intrusive than deadly force during the detention
14 of Plaintiff; negligently employing a tactical response during the detention of
15 Plaintiff that resulted in the unnecessary and preventable shooting of Plaintiff;
16 negligently employing deadly force against an individual in contravention of the
17 policies of the Los Angeles Police Department; negligently failing to determine the
18 fact that Plaintiff posed no immediate threat to the safety of any person when he
19 was shot; negligently inflicting physical injury upon Plaintiff, as described herein;
20 and negligently employing deadly force against Plaintiff when the same was
21 unnecessary and unlawful. All of these negligent acts proximately caused
22 Plaintiff's injuries.

23 111. As a direct and proximate result of the negligent acts and omissions of
24 the Defendants, and each of them, Plaintiff was shot on July 18, 2022, and suffered
25 severe injuries which include, but are not limited to, gunshot wounds to his person.

26 112. As a further direct and proximate result of the negligent acts and
27 omissions of the Defendants, and each of them, Plaintiff was placed in great fear
28 for his life and physical wellbeing and has suffered and continues to suffer extreme
and severe mental anguish, as well as great mental and physical pain and injury, all

1 to his damage in a sum to be determined at trial.

2 113. As a further proximate result of the negligent acts and omissions of
3 the Defendants, and each of them, Plaintiff has been required to employ, and did in
4 fact employ, physicians and surgeons to examine, treat, and care for him, and has
5 incurred and continues to incur expenses for emergent and other medical services,
6 treatment, and care in an amount according to proof at trial.

7 **SIXTH CAUSE OF ACTION**

8 **(B By Plaintiff Against All DEFENDANTS)**

9 **VIOLATION OF THE BANE ACT (CAL. § 52.1)**

10 114. Plaintiff incorporates herein by reference all prior paragraphs of this
11 Complaint as though fully set forth herein.

12 115. All claims asserted herein against Defendant CITY is presented
13 pursuant to Defendant CITY's vicarious liability for acts and omissions of
14 municipal employees undertaken in the course and scope of their employment
15 pursuant to California Government Code §§ 815.2(a) and 820(a).

16 116. This cause of action is brought on by Plaintiff MR. PETIT, an
17 incompetent person, by and through his Guardian Ad Litem, CHARLETTE
18 BLACKWELL, and is set forth herein to redress the deprivation of rights,
19 privileges, and/or immunities secured to Plaintiff by the laws of the United States
20 and the United States Constitution, the California Constitution, and the laws of the
21 State of California, including California Civil Code § 52.1.

22 117. Defendant OFFICERS, while acting under color of state law and
23 within the course and scope of their employment with Defendant CITY and the
24 Los Angeles Police Department, interfered with or specifically intended and
25 attempted to interfere with the rights of Plaintiff to be free from unreasonable
26 seizures/detentions/arrests and unreasonable and excessive force by threatening
27 and committing acts involving violence, coercion or intimidation.

28 118. Plaintiff is informed, believes, and thereon alleges, that Defendants,
and each of them, seized, detained, arrested, and injured Plaintiff to prevent

1 Plaintiff from exercising his rights or to retaliate against Plaintiff for having
2 exercised his rights.

3 119. Defendants, and each of them, unreasonably and unlawfully placed
4 Plaintiff in handcuffs and restrained him in violation of California Civil Code
5 section 52.1(h).

6 120. Defendant CITY is vicariously liable for the wrongful acts of
7 Defendants pursuant to section 815.2 of the California Government Code, which
8 provides that a public entity is liable for the injuries caused by its employees
9 within the scope of the employment if the employee's act would subject him or her
10 to liability.

11 121. Plaintiff seeks treble damages, attorney's fees, and costs and expenses
12 for this claim pursuant to California Civil Code §§ 52 and 52.1.

13 **SEVENTH CAUSE OF ACTION**

14 **(INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

15 **(By PLAINTIFF against All Defendants))**

16 122. Plaintiff incorporates herein by reference all prior paragraphs of this
17 Complaint as though fully set forth herein.

18 123. The above acts and omissions of DEFENDANTS were done with
19 knowledge that MR. PETIT was particularly susceptible to mental and emotional
20 distress by virtue of MR. PETIT's disabilities and vulnerability.

21 124. DEFENDANTS were officers who were acting in the course and
22 scope of their employment and on behalf of Defendant CITY with all requisite
23 authority conferred upon them by Defendant CITY.

24 125. DEFENDANTS knew or had reason to know that their
25 aforementioned unprivileged acts and omissions would cause MR. PETIT severe
26 and ongoing mental and emotional distress. The above-mentioned acts were
27 committed by DEFENDANTS were extreme and outrageous with willful intention
28 and/or reckless disregard that MR. PETIT or the probability that MR. PETIT
would suffer severe emotional and mental distress as a result knowing that MR.

1 PETIT was present when the conduct occurred.

2 126. By virtue of DEFENDANTS’ positions and employment, Defendants
3 CITY knew of or reasonably should have known of, authorized, adopted, approved
4 and/or ratified DEFENDANTS’ wrongful, unlawful and unconstitutional conduct
5 before, during and/or after it occurred. Plaintiff is informed and believes and
6 thereon alleges that the aforementioned acts and omissions of DEFENDANTS was
7 willful, malicious, intentional, oppressive, knowingly false and were done in
8 willful and conscious disregard of MR. PETIT’s rights thereby justifying the award
9 of punitive damages against DEFENDANTS and each of them.

10 127. DEFENDANTS knew or should have known that severe emotional
11 distress would result from their conduct; or DEFENDANTS gave little or no
12 thought to the probable effects of their conduct.

13 128. As police officers/sheriff’s deputies, Defendants abused a position of
14 authority or a relationship that gave DEFENDANTS real or apparent power to
15 affect MR. PETIT’s interests.

16 129. As a direct and proximate result of the DEFENDANTS’ actions, MR.
17 PETIT suffered and continues to suffer severe mental and emotional distress,
18 thereby justifying an award of compensatory, special and punitive damages in an
19 amount to be proven at trial.

20 130. DEFENDANTS aforementioned conduct as a substantial factor in
21 causing MR. PETIT’s severe emotional distress.

22 **EIGHTH CAUSE OF ACTION**

23 **(By Plaintiff Against Defendant CITY)**

24 **(Violation of the Americans With Disability Act (ADA)(TITLE II) - And
25 Rehabilitation Act (RA) of 1990 42 U.S.C. 12101, et seq.**

26 131. Plaintiff incorporates herein by reference all prior paragraphs of this
27 Complaint as though fully set forth herein.

28 132. Pursuant to 42 U.S.C. § 12132, “Subject to the provisions of this title,
no qualified individual with a disability shall, by reason of such disability, be

1 excluded from participation in or be denied benefits of the services, programs, or
2 activities of a public entity, or be subjected to discrimination by any such entity.”

3 133. Under Title II of the Americans with Disability Act (“ADA”), public
4 entities are required to make reasonable modifications to avoid discrimination on
5 the basis of disability. The ADA sets an affirmative requirement to act
6 appropriately with respect to suspects with mental disabilities.

7 134. Defendants City of Los Angeles is a public entity within the meaning
8 of the ADA. 42 U.S.C. § 12131(1).

9 135. The ADA, 42 U.S.C. § 12182(b)(1)(A)(iii), provides in pertinent part
10 that “[i]t shall be discriminatory to afford an individual or class of individuals, on
11 the basis of a disability or disabilities of such individual or class, directly, or
12 through contractual licensing, or other arrangements, with a good, service, facility,
13 privilege, advantage, or accommodation that is different or separate from that
14 provided to other individuals.” (emphasis added).

15 136. MR. PETIT was a “qualified individual” with a mental illness,
16 disability and medical impairments that limited and/or substantially limited his
17 ability to care for himself and control his mental, medical or physical health
18 condition as defined under the ADA, 42 U.S.C. § 12131(2), and Section 504 of the
19 Rehabilitation Act (“RA”) of 1973, 29 U.S.C. § 794, 28 C.F.R. 42.540(k). It was
20 well documented that JERMAINE PETIT was diagnosed with schizophrenia and
21 post-traumatic stress disorder and he was unable to care for himself.

22 137. Defendant CITY is within the mandate of the RA that no person with
23 a disability may be “excluded from participation in, be denied benefits of, or be
24 subjected to discrimination under any program or activity.” 29 U.S.C. § 794.

25 138. Further, Plaintiff is informed, believes, and thereon alleges that
26 Defendant CITY receives federal financial assistance.

27 139. Under the ADA, the City of Los Angeles is mandated to “develop an
28 effective, integrated, comprehensive system for the delivery of all services to
persons with mental disabilities and developmental disabilities . . .” and to ensure

1 “that the personal and civil rights” of persons who are receiving services under its
2 aegis are protected.

3 140. Also under the ADA, the City of Los Angeles is mandated not to
4 discriminate against any qualified individual “on the basis of disability in the full
5 and equal enjoyment of the goods, services, facilities, privileges, advantages or
6 accommodations of any place of public accommodation.” 42 U.S.C. § 12182(a).
7 The ADA applies generally to police “services, programs, or activities.” 42 U.S.C.
8 § 12132. The ADA applies to arrests, other seizures, and Defendants’ contacts with
9 JERMAINE PETIT.

10 141. At all material times and as described herein, MR. PETIT (1) was an
11 individual with a disability; (2) was otherwise qualified to participate in or receive
12 the benefit of a public entity’s services, programs or activities, including the City
13 of Los Angeles’ police services, programs, or activities; (3) was either excluded
14 from participation in or denied the benefits of the City of Los Angeles’ services,
15 programs or activities or was otherwise discriminated against by the City of Los
16 Angeles; and (4) such exclusion, denial of benefits or discrimination was by reason
17 of his disability.

18 142. As described herein, Defendants failed to reasonably accommodate
19 MR. PETIT’s disability in the course of contacting and seizing him, causing him to
20 suffer greater injury in the process than other detainees or arrestees, including
21 severe gunshot wounds to his person.

22 143. As a direct and proximate result of Defendants’ violations of the ADA
23 and RA, Plaintiff sustained serious and permanent injuries and is entitled to
24 damages, penalties, costs and attorneys’ fees in an amount to be determined at trial.

25 **PRAYER FOR RELIEF**

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

- 27 1. For compensatory damages, and general and special damages, in an
28 amount according to proof at trial;
2. For statutory damages;

- 1 3. For treble damages pursuant to California Civil Code §§ 52 and 52.1;
- 2 4. For costs of suit incurred herein;
- 3 5. For attorney's fees incurred herein, as provided by law;
- 4 6. For punitive damages against the individual Defendants in their
- 5 individual capacities in an amount according to proof at trial; and
- 6 7. For such other and further relief as the Court may deem just and
- 7 proper.
- 8

9 Dated: December 6, 2024 **IVIE McNEILL WYATT PURCELL & DIGGS**

10
11 **By: /s/ Rodney S. Diggs**
12 **RODNEY S. DIGGS**
13 **Attorneys for Plaintiff, JERMAINE PETIT**
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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury.

Dated: December 6, 2024 **IVIE McNEILL WYATT PURCELL & DIGGS**

By: /s/ Rodney S. Diggs
RODNEY S. DIGGS
Attorneys for Plaintiff, JERMAINE PETIT

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DECLARATION OF ASHLYN PETIT

1
2 1. I have personal knowledge of the facts set forth in this declaration
3 and, if called as a witness, I could and would competently testify thereto under
4 oath.

5 2. On July 18, 2022, my father, JERMAINE PETIT, was shot several
6 times by Los Angeles Police Department Officers Defendant Daryl Glover and
7 Sergeant Brett Hayhoe.

8 3. On February 2, 2023, this action was brought by Plaintiff Jermaine
9 Petit, an incompetent person, by and through his Guardian Ad Litem, Charlotte
10 Blackwell. [Dkt 1].

11 4. Unfortunately, on August 4, 2024, my father passed away inside his
12 home, located at 1726 Sierra View Avenue, Lancaster, California 93535. The
13 cause and manner of his death is undetermined as there were only decedent's
14 skeletonized remains.

15 5. On November 27, 2024, the Court granted Motion for the Substitution
16 of Party, pursuant to Federal Rules of Civil Procedure 25, substituting Ashlyn Petit
17 as successor-in-interest to Plaintiff Jermaine Petit.

18 6. No proceeding is now pending in California for the administration of
19 the decedent's estate.

20 7. I am decedent's successor-in-interest (as defined in Section 377.11 of
21 the California Code of Civil Procedure), with respect to the decedent's interest in
22 the within action.

23 8. No other person has a superior right to commence the action of
24 proceeding or to be substituted for the decedent in the pending action.

25 I declare under penalty of perjury under the laws of the State of California
26 that the foregoing is true and correct.

27 ///

28 ///

1 Executed on the 3rd of December 2024, at Minneapolis, MN.

2
3 /s/ *Ashlyn Petit*
4 Declarant
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