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8 Attorneys for Plaintiff LAURIE E. ALLEN, individually and successor in interest
 9 to Keith W. Allen, decedent

10 **UNITED STATES DISTRICT COURT**
 11 **EASTERN DISTRICT OF CALIFORNIA**
 12

13 LAURIE E. ALLEN, individually and as
 14 successor in interest of Keith W. Allen,
 15 deceased,

16 *Plaintiff,*

17 v.

18 CALIFORNIA HIGHWAY PATROL; and
 19 DOE CHP OFFICERS 1-10, each an
 20 individual, inclusive

21 *Defendants.*
 22

) Case No.
)
) **COMPLAINT FOR**
) **DAMAGES:**
)
) 1. Unreasonable Search and
) Seizure—Excessive Force (42
) U.S.C. § 1983)
) 2. Unreasonable Search and
) Seizure—Denial of Medical
) Care (42 U.S.C. § 1983)
) 3. Substantive Due Process—
) (42 U.S.C. § 1983)

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 24 **JURY TRIAL DEMANDED**
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1 Plaintiff LAURIE E. ALLEN (the "Plaintiff or "MRS. ALLEN"),
2 individually and as successor in interest of Keith W. Allen, deceased upon
3 information and belief alleges the following:

4 **INTRODUCTION**

5 1. This civil rights action seeks compensatory and punitive damages for
6 the death of Keith W. Allen ("MR. ALLEN") at the hands of one or more
7 California Highway Patrol officers on September 5, 2011. Plaintiff is the surviving
8 spouse of MR. ALLEN.

9 2. Each Defendant proximately caused Plaintiff's and decedent's injuries
10 and is liable directly, by integrally participating or failing to intervene in the
11 actions or inactions that caused the death of MR. ALLEN, by engaging in other
12 acts and/or omissions around the time of the death that resulted in the death of MR.
13 ALLEN, or under principles of supervisory liability.

14 **JURISDICTION AND VENUE**

15 3. This case arises under 42 U.S.C. §1983 and 1988. This Court has
16 subject matter jurisdiction over Plaintiff's federal question and civil rights claims
17 pursuant to 28 U.S.C. §§ 1331 and 1343.

18 4. Venue is proper in this Court because the events, occurrences, acts
19 and omissions giving rise to this action occurred in the County of Sacramento,
20 California.

21 **PARTIES**

22 5. At all relevant times, decedent MR. ALLEN was an individual
23 residing in the County of Sacramento, California. He died on September 5, 2011
24 after an apparent altercation with certain DOE California Highway Patrol officers.
25 MR. ALLEN would have been the plaintiff in the survival causes of action alleged
26 herein if he had lived.

27 6. Plaintiff MRS. ALLEN is the surviving wife of decedent MR.
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1 ALLEN and a successor in interest to MR. ALLEN. She brings causes of action in
2 her own behalf and as successor in interest to MR. ALLEN. As soon as practicable
3 after filing this Complaint, MRS. ALLEN will execute and file the declaration
4 required by California Code of Civil Procedure Section 377.32.

5 7. At all relevant times, Defendant CALIFORNIA HIGHWAY
6 PATROL (“CHP”) is and was a duly organized public entity, form unknown,
7 existing under the laws of the State of California. At all relevant times, CHP was
8 the employer of Defendants DOE CHP OFFICERS 1-8, who are or were CHP
9 officers, and DOE CHP OFFICERS 9-10, who are or were CHP supervisory
10 officers.

11 8. Defendant DOE CHP OFFICERS 1-8 are or at all relevant times
12 were, highway patrol officers employed by CHP and State of California, acting
13 under color of law within the course and scope of their duties and offices and with
14 ratification by the CHP and one or more of DOE CHP OFFICERS 9-10. Plaintiff
15 alleges on information and belief that each of such DOE CHP OFFICERS 1-8 is
16 responsible in some manner and to some extent liable for the injuries alleged
17 herein. The true names and/or capacities of such DOE CHP OFFICERS 1-8 are
18 unknown to Plaintiff at this time. Plaintiff will seek to amend this Complaint to
19 show the true names and capacities of these defendants when they have been
20 ascertained. Defendant DOE CHP OFFICERS 1-8 are sued in their individual
21 capacities.

22 9. Defendant DOE CHP OFFICERS 9-10 are or at all relevant times
23 were employed by CHP and State of California, acting under color of law within
24 the course and scope of their duties and offices and with ratification by CHP and/or
25 its officers or agents. Plaintiff is informed and believes and thereon alleges that
26 each of such DOE CHP OFFICERS 9-10 was responsible in some way for the
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1 administering of CHP and/or for the making, overseeing and implementing of
2 policies, practices and/or customs of CHP, including the training, supervision,
3 discipline or screening of certain of DOE CHP OFFICERS 1-8, such that each of
4 such DOE CHP OFFICERS 9-10 is responsible in some manner and to some
5 extent liable for the injuries alleged herein. The true names and/or capacities of
6 such DOE CHP OFFICERS 9-10 are unknown to Plaintiff at this time. Plaintiff
7 will seek to amend this Complaint to show the true names and capacities of these
8 defendants when they have been ascertained. Defendant DOE CHP OFFICERS 9-
9 10 are sued in their individual capacities.

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11 10. Plaintiff is informed and believes and thereon alleges that each
12 Defendant is, and at all relevant times was, the agent, employee, representative,
13 successor, and/or assignee of each other Defendant. Each Defendant, in doing the
14 acts, or in omitting to act as alleged herein, was acting within the scope of his or
15 her actual and apparent authority or the alleged acts and omissions of each
16 Defendant as agent subsequently were ratified and adopted by each other
17 Defendant as principal.

18 11. Each Defendant was acting under color of state law and within the
19 scope of his or her employment to the extent such Defendant acted or omitted to
20 act as alleged herein.

21 12. Defendant DOE CHP OFFICERS 1-8 are directly liable for
22 Plaintiff's and decedent's injuries under federal law pursuant to 42 U.S.C. § 1983.

23 13. Defendant DOE CHP OFFICERS 9-10 are liable for Plaintiff's and
24 decedent's injuries under federal law under principles of 42 U.S.C. § 1983
25 supervisory liability because, in their role as supervisors, they acted, or failed to
26 act, in a manner that was deliberately indifferent to Plaintiff's (and decedent's)
27 constitutional rights, based on their knowledge of and acquiescence in
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1 unconstitutional conduct that caused MR. ALLEN's death and Plaintiff's injuries.
2 *Starr v. Baca* (9th Cir. 2011) 652 F.3d 1202.

3 **STATEMENT OF FACTS**

4 14. On information and belief, and according to medical reports, at some
5 point on September 5, 2011, MR. ALLEN died while in custody of certain DOE
6 CHP OFFICERS 1-8, apparently after an altercation of some sort. He was
7 allegedly stopped by said DOE CHP OFFICERS 1-8 for throwing rocks and
8 thereupon collapsed and fell into a nonresponsive state.

9 15. MR. ALLEN was transported to Mercy San Juan Medical Center, and
10 shortly thereafter declared deceased. The intake notes from the emergency
11 responders indicate that MR. ALLEN had "no visible trauma," yet photos taken in
12 the aftermath of MR. ALLEN's death clearly show bruising and evidence of
13 trauma in several areas of his face.

14 16. The coroner's report describes abrasions and contusions of MR.
15 ALLEN's face, torso and extremities, and concludes the cause of death to be
16 "methamphetamine intoxication while under police custody."

17 17. Despite repeated efforts, MRS. ALLEN has been unsuccessful in her
18 efforts to obtain information from the CHP regarding the death of her husband.

19 **FIRST CLAIM FOR RELIEF**

20 **Unreasonable Search and Seizure—Excessive Force (42 U.S.C. § 1983)**

21 **(Against all Defendants)**

22 18. Plaintiff repeats and realleges each and every allegation in
23 paragraphs 1 through 17 of this Complaint with the same force and effect as if fully
24 set forth herein.

25 19. Defendants unjustified actions resulting in MR. ALLEN's death
26 deprived MR. ALLEN of his right to be secure in his person against unreasonable
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1 searches and seizures as guaranteed to MR. ALLEN under the Fourth Amendment
2 to the United States Constitution and applied to state actors by the Fourteenth
3 Amendment.

4 20. As a result, MR. ALLEN suffered extreme pain and suffering and
5 eventually suffered a loss of life and of earning capacity. Plaintiff has also been
6 deprived of the life-long love, companionship, comfort, support, society, care, and
7 sustenance of MR. ALLEN, and will continue to be so deprived for the remainder
8 of her natural life. Plaintiff also is claiming funeral and burial expenses and a loss
9 of financial support.

10 21. The beating, excessive force or other unjustified conduct perpetrated
11 against MR. ALLEN by Defendants was excessive and unreasonable, especially
12 since MR. ALLEN was only alleged to have been throwing rocks and not injuring
13 passerby or cops or anyone else.

14 22. The conduct of Defendants was willful, wanton, malicious, and done
15 with reckless disregard for the rights and safety of MR. ALLEN and therefore
16 warrants the imposition of exemplary and punitive damages as to such Defendants.

17 23. Plaintiff's claims against Defendant DOE CHP OFFICERS 1-8 are
18 based on principles of direct liability described paragraph 12.

19 24. Plaintiff's claims against Defendant DOE CHP OFFICERS 9-10 are
20 based on the principles of supervisory liability and conduct described in paragraph
21 13.

22 25. Plaintiff brings her claim as successor-in-interest to MR. ALLEN, and
23 seeks both survival and wrongful death damages for the violation of MR.
24 ALLEN's rights and her rights.

25 26. Plaintiff also seeks attorneys fees under this claim.
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1 33. Plaintiff's claims against Defendant DOE CHP OFFICERS 9-10 are
2 based on the principles of supervisory liability and conduct described in paragraph
3 13.

4 34. Plaintiff brings this claim as successor-in-interest to MR. ALLEN,
5 and seeks both survival and wrongful death damages for the violation of MR.
6 ALLEN's rights and her rights

7 35. Plaintiff also seeks attorneys fees under this claim.

8 **THIRD CLAIM FOR RELIEF**

9 **Substantive Due Process (42 U.S.C. § 1983)**

10 **(Against all Defendants)**

11 36. Plaintiff repeats and realleges each and every allegation in
12 paragraphs 1 through 35 of this Complaint with the same force and effect as if fully
13 set forth herein.

14 37. MRS. ALLEN had a cognizable interest under the Due Process Clause
15 of the Fourteenth Amendment of the United States Constitution to be free from
16 state actions that deprive her of life, liberty, or property in such a manner as to
17 shock the conscience, including but not limited to, unwarranted state interference
18 in Plaintiff's familial relationship with her husband, MR. ALLEN.

19 38. The aforementioned actions of Defendants, along with other
20 undiscovered conduct, shock the conscience, in that such Defendants acted with
21 deliberate indifference to the constitutional rights of MR. ALLEN and Plaintiff,
22 and with purpose to harm unrelated to any legitimate law enforcement objective.

23 39. As a result of the use of excessive force by Defendant, MR. ALLEN
24 died, and such Defendants acted under color of state law.
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1 40. Defendants thus violated the substantive due process rights of MRS.
2 ALLEN to be free from unwarranted interference with her familial relationship
3 with MR. ALLEN.

4 41. As a direct and proximate cause of the acts of Defendants, MR.
5 ALLEN experienced severe pain and suffering and lost his life and earning
6 capacity. Plaintiff suffered extreme and severe mental anguish and pain and has
7 been injured in mind and body. Plaintiff has also been deprived of the life-long
8 love, companionship, comfort, support, society, care, and sustenance of MR.
9 ALLEN, and will continue to be so deprived for the remainder of her natural life.
10 Plaintiff also is claiming funeral and burial expenses and a loss of financial
11 support.

12 42. The conduct of Defendants was willful, wanton, malicious, and done
13 with reckless disregard for the rights and safety of MR. ALLEN and Plaintiff and
14 therefore warrants the imposition of exemplary and punitive damages as to such
15 Defendants.

16 43. Plaintiff's claims against Defendant DOE CHP OFFICERS 1-8 are
17 based on principles of direct liability described paragraph 12.

18 44. Plaintiff's claims against Defendant DOE CHP OFFICERS 9-10 are
19 based on the principles of supervisory liability and conduct described in paragraph
20 13.

21 45. Plaintiff brings this claim individually and as a successor-in-interest to
22 MR. ALLEN, and seeks both survival and wrongful death damages for the
23 violation of her rights and MR. ALLEN's rights.

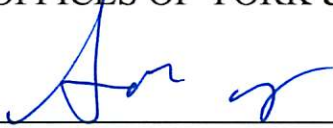
24 46. Plaintiff also seeks attorneys fees under this claim.
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1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff requests entry of judgment in her favor and against
3 Defendants, as follows:

- 4 A. For compensatory damages, including both survival damages
- 5 and wrongful death damages under federal and state law, in the
- 6 amount to be proven at trial;
- 7 B. For funeral and burial expenses, and loss of financial support;
- 8 C. For punitive damages against the individual defendants in an
- 9 amount to be proven at trial;
- 10 D. For interest;
- 11 E. For reasonable costs of this suit and attorneys' fees; and
- 12 F. For such further other relief as the Court may deem just, proper,
- 13 and appropriate.
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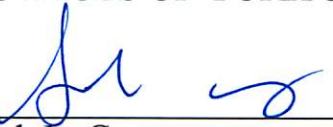
15 DATED: September 3, 2013 LAW OFFICES OF YORK & GARVEY

16
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18 By 
19 Sarah L. Garvey
Attorney for Plaintiff

20 **DEMAND FOR JURY TRIAL**

21 Plaintiff hereby demands a trial by jury.

22
23 DATED: September 3, 2013 LAW OFFICES OF YORK & GARVEY

24
25 By 
26 Sarah L. Garvey
27 Attorney for Plaintiff
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