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18 Attorneys for Plaintiffs, ESTATE OF AMILCAR PEREZ LOPEZ, by and through
 19 successors in interest, JUAN PEREZ and MARGARITA LOPEZ PEREZ; JUAN
 20 PEREZ, individually; MARGARITA LOPEZ PEREZ, individually

21 **UNITED STATES DISTRICT COURT**
 22 **NORTHERN DISTRICT OF CALIFORNIA**

23 ESTATE OF AMILCAR PEREZ) **CASE NO. 3:15-cv-01846 HSG**
 24 LOPEZ, by and through successors in)
 25 interest, JUAN PEREZ and) **STIPULATION OF THE PARTIES**
 26 MARGARITA LOPEZ PEREZ;) **FOR LEAVE TO FILE SECOND**
 27 JUAN PEREZ, individually;) **AMENDED COMPLAINT**
 28 MARGARITA LOPEZ PEREZ,)
 individually;)
 Plaintiffs,)
 vs.)
)

1 CHIEF OF POLICE GREG SUHR;)
2 CITY AND COUNTY OF SAN)
3 FRANCISCO; SAN FRANCISCO)
4 POLICE DEPARTMENT; OFFICER)
5 CRAIG TIFFE (Badge No. 1312);)
6 OFFICER ERIC REBOLI (Badge No.)
7 1651), and DOES 1 to 10,)
8)
9 Defendants.)
10)
11)
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TO CLERK OF THE COURT:

IT IS HEREBY STIPULATED by the parties, Plaintiffs ESTATE OF AMILCAR PEREZ LOPEZ, by and through successors in interest, JUAN PEREZ and MARGARITA LOPEZ PEREZ; JUAN PEREZ, individually; MARGARITA LOPEZ PEREZ, individually (hereinafter collectively “Plaintiffs”), by and through Plaintiffs’ attorneys of record, Arnolando Casillas and Denisse O. Gastélum, and Defendants CITY AND COUNTY OF SAN FRANCISCO, SAN FRANCISCO POLICE DEPARTMENT), GREG SUHR, CRAIG TIFFE, and ERIC REBOLI (hereinafter collectively “Defendants”), by and through their attorney of record, Peter J. Keith and Elizabeth Pederson, that Plaintiffs shall be granted leave to file Plaintiffs’ Second Amended Complaint in the form attached hereto as Exhibit “1”. The parties, by and through their respective attorneys of record, also hereby stipulate that the attached proposed Second Amended Complaint (Exhibit “1”) be deemed to be the amended pleading and that it be deemed filed and served as of the date the order is signed.

The parties, by and through their respective attorneys of record, further stipulate that Defendants shall be given thirty (30) days as of the date the order is signed to file and serve a responsive pleading.

1 The parties, by and through their respective attorneys of record, further
2 stipulate that Defendants' Motion to Dismiss Plaintiffs' First Amended Complaint,
3 currently set for hearing on January 21, 2016 at 2:00 p.m. at Courtroom 15, 18th
4 Floor, 450 Golden Gate Avenue, San Francisco CA 94102, be taken off calendar as
5 moot.

6 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.
7

8 Dated: December 2, 2015

CASILLAS & ASSOCIATES

9 By: /s/ Denisse O. Gastélum

10 ARNOLDO CASILLAS

11 DENISSE O. GASTÉLUM

12 Attorneys for Plaintiffs, ESTATE OF
13 AMILCAR PEREZ LOPEZ, by and through
14 successors in interest, JUAN PEREZ and
15 MARGARITA LOPEZ PEREZ; JUAN
16 PEREZ, individually; MARGARITA LOPEZ
17 PEREZ, individually

16 Dated: December 2, 2015

DENNIS J. HERRERA

17 City Attorney

18 CHERYL ADAMS

19 Chief Trial Deputy

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20 ELIZABETH PEDERSON

21 Deputy City Attorneys

22 By: /s/ Peter J. Keith

23 PETER J. KEITH

24 Attorneys for Defendants

25 CITY AND COUNTY OF SAN FRANCISCO
26 (including SAN FRANCISCO POLICE
27 DEPARTMENT), GREG SUHR, CRAIG
28 TIFFE, and ERIC REBOLI

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19 successors in interest, JUAN PEREZ and MARGARITA LOPEZ PEREZ; JUAN
20 PEREZ, individually; MARGARITA LOPEZ PEREZ, individually

21 **UNITED STATES DISTRICT COURT**
22 **NORTHERN DISTRICT OF CALIFORNIA**

23 ESTATE OF AMILCAR PEREZ) **CASE NO. 3:15-cv-01846 HSG**
24 LOPEZ, by and through successors in)
25 interest, JUAN PEREZ and) **SECOND AMENDED COMPLAINT**
26 MARGARITA LOPEZ PEREZ;) **FOR DAMAGES**
27 JUAN PEREZ, individually;)
28 MARGARITA LOPEZ PEREZ,) 1. Excessive Force/Unreasonable
individually;) Seizure (42 U.S.C. § 1983)
2. Municipal Liability for
Plaintiffs,) Unconstitutional Customs and
Practices (42 U.S.C. § 1983)
vs.) 3. Supervisory Liability for
Ratification and Failure to Train,
Supervise, and Discipline (42
CHIEF OF POLICE GREG SUHR;) U.S.C. § 1983)
CITY AND COUNTY OF SAN)

| | | |
|---|----------------------------------|---|
| 1 | FRANCISCO; SAN FRANCISCO) | |
| 2 | POLICE DEPARTMENT; OFFICER) | 4. Interference with Familial Integrity |
| 3 | CRAIG TIFFE (Badge No. 1312);) | Substantive Due Process Violation |
| 4 | OFFICER ERIC REBOLI (Badge No.) | (42 U.S.C. § 1983) |
| 5 | 1651), and DOES 1 to 10,) | 5. Assault & Battery |
| 6 |) | 6. Wrongful Death |
| 7 | Defendants.) | 7. Survivorship |
| 8 |) | |

DEMAND FOR JURY TRIAL

COMPLAINT FOR DAMAGES

COME NOW Plaintiffs ESTATE OF AMILCAR PEREZ LOPEZ, by and through successors in interest, JUAN PEREZ and MARGARITA LOPEZ PEREZ, and JUAN PEREZ, and MARGARITA LOPEZ PEREZ, individually, and allege as follows:

INTRODUCTION

1. This civil rights action seeks to establish the true and unequivocal facts surrounding the shooting and killing of Amilcar Perez Lopez by Officer Craig Tiffe and Officer Eric Reboli of the San Francisco Police Department. This civil rights action further seeks to establish the violations of fundamental rights under the United States Constitution in connection with the killing of Amilcar Perez Lopez on or about February 26, 2015.

2. Amilcar was a humble and hardworking young man, who wanted nothing more in life than to provide for his parents. His death has been a profound and unimaginable loss to his parents, the present Plaintiffs.

3. Without justification or cause, Defendants Officer Tiffe and Officer Reboli shot and killed Amilcar when they shot five (5) rounds of ammunition into the back of his body and one round into the back of his head as Amilcar ran away from them. This coldblooded shooting was absolutely unjustified and it is Plaintiffs' goal

1 to show that the cowardly killing of Amilcar was a senseless and unwarranted act of
2 police abuse.

3 **JURISDICTION AND VENUE**

4 4. This civil action is brought for the redress of alleged deprivations of
5 constitutional rights as protected by 42 U.S.C. §§ 1983, 1985, 1986, 1988, the Fourth
6 and Fourteenth Amendments of the United States Constitution. Jurisdiction is
7 founded on 28 U.S.C. §§ 1331, 1343, and 1367.

8 5. Venue is proper in this Court under 28 U.S.C. § 1391(b), because
9 Defendants reside in, and all incidents, events, and occurrences giving rise to this
10 action occurred in the City and County of San Francisco, California.

11 6. With respect to Plaintiffs' supplemental state claims, Plaintiffs request
12 that this Court exercise supplemental jurisdiction over such claims as they arise from
13 the same facts and circumstances which underlie the federal claims.

14 **PARTIES**

15 7. Decedent Amilcar Perez Lopez was an individual residing in the City
16 and County of San Francisco, California. The claims made by the ESTATE OF
17 AMILCAR PEREZ LOPEZ, are brought by Juan Perez and Margarita Perez Lopez,
18 the successors in interest to the Estate of Amilcar Perez Lopez pursuant to California
19 Code of Civil Procedure § 377.32.

20 8. Plaintiffs JUAN PEREZ and MARGARITA PEREZ LOPEZ, are and
21 were, at all times relevant hereto, the natural father and mother of decedent Amilcar
22 Perez Lopez.

23 9. Defendant CITY AND COUNTY OF SAN FRANCISCO (hereinafter
24 "SAN FRANCISCO") is and was, at all relevant times hereto, a public entity, duly
25 organized and existing under and by virtue of the laws of the State of California, with
26 the capacity to sue and be sued. Defendant SAN FRANCISCO is responsible for the
27 actions, omissions, policies, procedures, practices and customs of its various agents
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1 and agencies. SAN FRANCISCO owns, operates, manages, directs and controls
2 Defendant SAN FRANCISCO POLICE DEPARTMENT (hereinafter also “SFPD”),
3 also a separate public entity, which employs other Doe Defendants in this action. At
4 all times relevant to the facts alleged herein, Defendant SAN FRANCISCO was
5 responsible for assuring that the actions, omissions, policies, procedures, practices
6 and customs of its employees, including SFPD employees, complied with the laws
7 and the Constitutions of the United States and of the State of California.

8 10. Defendant Chief of Police GREG SUHR (hereinafter “CHIEF SUHR”)
9 is and was, at all relevant times hereto, an individual and the Chief of Police of the
10 San Francisco Police Department.

11 11. Defendant Officer CRAIG TIFFE (hereinafter “TIFFE”) is a police
12 officer working for the San Francisco Police Department. Defendant TIFFE is sued
13 in his official and individual capacity. At all times relevant to the present action,
14 Defendant TIFFE was acting under the color of law, to wit, under the color of the
15 statutes, ordinances, regulations, policies, customs, and usages of Defendant SAN
16 FRANCISCO, as well as under the color of the statutes and regulations of the State of
17 California.

18 12. Defendant Officer ERIC REBOLI (hereinafter “REBOLI”) is a police
19 officer working for the San Francisco Police Department. Defendant REBOLI is
20 sued in his official and individual capacity. At all times relevant to the present
21 action, Defendant REBOLI was acting under the color of law, to wit, under the color
22 of the statutes, ordinances, regulations, policies, customs, and usages of Defendant
23 SAN FRANCISCO, as well as under the color of the statutes and regulations of the
24 State of California.

25 13. At all relevant times, each of DOES 1 through 10 were employees of the
26 SFPD. At all times relevant herein, each of DOES 1 through 10 was an employee
27 and/or agent of Defendant SAN FRANCISCO and he or she acted under color of law,
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1 to wit, under the color of the statutes, ordinances, regulations, policies, customs, and
2 usages of Defendant SAN FRANCISCO and the SFPD, as well as under the color of
3 the statutes and regulations of the State of California.

4 14. At all relevant times, each of the Defendants DOES 1 through 10 was
5 acting within his or her capacity as an employee, agent, representative and/or servant
6 of SAN FRANCISCO and is sued in their individual capacities.

7 15. On information and belief, at all relevant times, Defendants TIFFE and
8 REBOLI, and DOES 1 through 10, inclusive, were residents of the City of San
9 Francisco, California.

10 16. The true names of Defendants DOES 1 through 10, inclusive, are
11 unknown to Plaintiff, who therefore sues these Defendants by such fictitious names.
12 Plaintiff will seek leave to amend this Complaint to show the true names and
13 capacities of these Defendants when they have been ascertained. Each of the
14 fictitiously named Defendants is responsible in some manner for the conduct and
15 liabilities alleged herein.

16 17. Defendants DOES 6 through 10 were also duly appointed police officers,
17 sergeants, lieutenants, detectives, or other supervisors, officials, executives and/or
18 policymakers of SFPD, a department and subdivision of Defendant SAN
19 FRANCISCO, and at all times mentioned herein said Defendants were acting in the
20 course and scope of their employment with Defendant SAN FRANCISCO, which is
21 liable under the doctrine of *respondeat superior* pursuant to California Government
22 Code § 815.2.

23 18. Defendants DOES 1 through 3 are supervisory employees for
24 Defendant SAN FRANCISCO who were acting under color of law within the course
25 and scope of their duties as police officers for Defendant SAN FRANCISCO.
26 Defendants DOES 1 through 3 were acting with the complete authority and
27 ratification of their principal, Defendant SAN FRANCISCO.
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1 19. Defendants DOES 4 through 10 are managerial, supervisory, and
2 policymaking employees of Defendant SAN FRANCISCO, who were acting under
3 color of law within the course and scope of their duties as managerial, supervisory,
4 and policymaking employees for Defendant SAN FRANCISCO. Defendants DOES 9
5 and 10 were acting with the complete authority and ratification of their principal,
6 Defendant SAN FRANCISCO.

7 20. Each of the Defendants caused and is responsible for the unlawful
8 conduct and resulting by, inter alia, personally participating in the conduct, or acting
9 jointly and in concert with others who did so; by authorizing, acquiescing or failing to
10 take action to prevent the unlawful conduct; by promulgating policies and procedures
11 pursuant to which the unlawful conduct occurred; by failing and refusing, with
12 deliberate indifference to Plaintiffs' rights, to initiate and maintain adequate
13 supervision and/or training; and, by ratifying the unlawful conduct that occurred by
14 agents and peace officers under their direction and control. Whenever and wherever
15 reference is made in this Complaint to any act by a Defendant, such allegation and
16 reference shall also be deemed to mean the acts and failures to act of each Defendant
17 individually, jointly and severally. They are sued in their individual and official
18 capacities and in some manner are responsible for the acts and omissions alleged
19 herein. Plaintiffs will ask leave of this Court to amend this Complaint to allege such
20 name and responsibility when that information is ascertained. Each of the
21 Defendants is the agent of the other.

22 **FACTS COMMON TO ALL CLAIMS FOR RELIEF**

23 21. Plaintiffs reallege and incorporate the foregoing paragraphs as if set
24 forth herein.

25 22. Amilcar Perez Lopez was born on July 27, 1994, and was only 20 years
26 old at the time of his death. He was five feet and three inches tall and weighed 131
27 pounds.

1 23. On or about February 26, 2015, at approximately 9:54 p.m., Amilcar
2 Perez Lopez was walking to his apartment when he was confronted by a man, who
3 began following and taunting him. An altercation ensued between the man and
4 Amilcar. The altercation subsided and Amilcar began walking northbound on the
5 east sidewalk of Folsom Street. As he walked home, Officer TIFFE and Officer
6 REBOLI surreptitiously rushed at Amilcar from behind. One of the officers grabbed
7 Amilcar Perez Lopez and secured a bear-hug hold around Amilcar’s petite upper
8 body. Because TIFFE and REBOLI wore civilian clothing, and did not identify
9 themselves, Amilcar was not able to determine that the men were police officers.
10 Amilcar broke free by wriggling out from the officer’s hold. Amilcar fled toward the
11 street between two vehicles parked at the east curb of Folsom Street.

12 24. As he fled from them, TIFFE and REBOLI pointed their firearms at the
13 small undersized 20-year-old male running away from them. One of the officers shot
14 five bullets into Amilcar’s back and the other officer fired one bullet into the back of
15 Amilcar’s head. Amilcar had run only a couple of feet before he was shot and killed
16 in cold blood by Officer TIFFE and Officer REBOLI.

17 25. That same evening, CHIEF SUHR, alongside other SFPD officers,
18 supervisors and officials, arrived at the scene and began their investigation of the
19 shooting. Throughout the entire investigation, Amilcar’s body lay dead on the street
20 as blood and brain matter seeped from his remains. At the conclusion of the
21 investigation, CHIEF SUHR declared to a local news station while holding his right
22 hand up near his face and clasping his hand as if holding a knife that Amilcar had
23 “lunged at the officer with a knife overhead. [The officer] fired five shots. The
24 original initiating officer fired one.”

25 26. In the following days, CHIEF SUHR and various SFPD officers,
26 supervisors and officials conducted further investigations into the shooting of
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1 Amilcar Perez Lopez. An autopsy was also performed by the City and County of San
2 Francisco Office of the Medical Examiner.

3 27. Notwithstanding the unequivocal physical evidence from the autopsy
4 clearly indicating that Amilcar Perez Lopez had been shot in the back and the
5 corroborating statements from two eye witnesses, CHIEF SUHR falsely declared at a
6 town hall meeting on March 2, 2015, that “the officers were approximately 5 to 6 feet
7 away when the suspect charged at one of the officers with the knife raised over head.
8 Both officers discharged their firearms.” CHIEF SUHR went as far as to present a
9 diagram to indicate the SFPD’s official and false version of the shooting. CHIEF
10 SUHR knowingly misinterpreted the facts in a concerted effort to cover up the
11 cowardly acts of Officer TIFFE and Officer REBOLI.

12 28. Defendants TIFFE and REBOLI killed Amilcar Perez Lopez without
13 justification. The shooting and killing of Amilcar Perez Lopez was without
14 provocation, cause or necessity as Amilcar Perez Lopez did not pose a threat or
15 represent a danger of any nature to anyone, including Defendants TIFFE and
16 REBOLI, at the time of the shooting. Amilcar Perez Lopez was running away from
17 what he believed were two unfamiliar men threatening to hurt him. He was shot in
18 the back as he fled from the officers. Accordingly, the shooting and killing of
19 Amilcar Perez Lopez was unjustified and this use of force was unwarranted and
20 excessive under the circumstances.

21 29. Defendants SAN FRANCISCO and CHIEF SUHR were long aware of
22 the propensity of their police officers, including Defendants TIFFE and REBOLI, to
23 callously and recklessly use excessive force against members of the public,
24 particularly targeting minority groups, and to engage in deceitful misconduct:

- 25 a. In 2009, a federal lawsuit was filed against Defendants TIFFE and
26 REBOLI by plaintiff, David Magana. The lawsuit alleged that on March
27 30, 2008, Defendants TIFFE and REBOLI beat Magana repeatedly in
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1 the head with a baton causing him to bleed profusely. The lawsuit
2 alleged federal civil rights violations, as well as state claims for assault
3 and battery and the negligent training and supervision by the SAN
4 FRANCISCO and the SFPD. The lawsuit resolved in a settlement.

5 b. As far back as 2004, REBOLI demonstrated unfitness to work as a peace
6 officer when he beat a man unconscious in an elevator while serving as a
7 security guard at the Sir Francis Drake Hotel, located in San Francisco.
8 The SAN FRANCISCO, SFPD, and CHIEF SUHR were aware of this
9 attack having conducted a background check on REBOLI.

10 c. Currently, 13 SFPD officers are being investigated for racist and
11 homophobic text messages targeting African- Americans, Latinos,
12 Asians and homosexuals. These acts further evidence the racist and
13 extremist culture existing amongst SFPD police officers.

14 d. In February of 2015, a video surfaced capturing SFPD Officer Raymond
15 Chu hit and kick a homeless man sleeping on a public bus.

16 e. In January of 2015, D'Paris Williams, a college student, was severely
17 beaten by SFPD police officers Gregory Skaug, Milen Banegas and
18 Theodore Polvina. The officers brutally beat D'Paris for riding his bike
19 on a sidewalk in Valencia Gardens.

20 f. In January 2015, a video captured an unnamed SFPD officer shoving a
21 handicapped man sitting on a wheelchair into the street.

22 g. On October 7, 2014, O'Shaine K. Evans was unlawfully shot and killed
23 by SFPD officer David Goff. O'Shaine K. Evans was sitting in his
24 vehicle when he was shot seven times.

25 h. In March of 2014, Alejandro Nieto was unlawfully shot and killed by
26 several unnamed SFPD police officers. Similar to the investigation
27 surrounding the shooting and killing of Amilcar Perez Lopez, the
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1 investigation into the shooting of Alejandro Nieto uncovered physical
2 evidence contradicting the SFPD's version of events. A lawsuit is
3 pending regarding this incident.

- 4 i. In February of 2014, federal indictments were filed against six SFPD
5 officers for constitutional rights violations, extortion, perjury, and
6 falsification of police reports. These acts targeted members of several
7 San Francisco communities, including Mission District where Amilcar
8 Perez Lopez was shot and killed.
- 9 j. On February 7, 2013, Kevin Clark, an 18-year old college student, was
10 brutally beaten by numerous unnamed SFPD police officers.
- 11 k. On July 16, 2013, Kenneth Harding was unlawfully shot and killed by
12 SFPD police officers Matthew Lopez and Richard Hastings for allegedly
13 failing to pay a \$2.00 transit fare.
- 14 l. In February of 2012, video footage captured an unnamed SFPD officer
15 repeatedly punching a subdued suspect. Despite the video footage,
16 SFPD Sergeant Michael Andraychak ratified the conduct during a press
17 conference.
- 18 m. In March of 2011, SFPD Officer Razzak was found guilty as a result of
19 an FBI investigation regarding unlawful searches and seizures which
20 were captured of footage.
- 21 n. In May of 2008, SAN FRANCISCO reached a settlement with
22 kindergarten teacher, Kelly Medora, as a result of the excessive force
23 used against her person by SFPD Officer Christopher Damonte.
- 24 o. The San Francisco Chronicle, held a series of articles titled "*Use of*
25 *Force*" which documented use-of-force incidents by SFPD police
26 officers. The series reports that a core group of roughly 100 officers,
27 out of a force of 2,200, is accountable for 25 percent of the uses of force
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1 logged between 1996 and 2004. The series further reports that in any
2 given year, two-thirds to three-quarters of the department's officer's
3 report using no force at all.

4 **FIRST CLAIM FOR RELIEF**

5 **Excessive Force/Unreasonable Seizure**

6 **42 U.S.C. § 1983**

7 **As Against Defendants C. TIFFE, E. REBOLI, and DOES 1 through 10**

8 30. Plaintiffs reallege and incorporate the foregoing paragraphs as if set
9 forth herein.

10 31. Defendants TIFFE and REBOLI's actions described herein violated
11 Plaintiff AMILCAR PEREZ LOPEZ's rights under the Fourth Amendment to the
12 United States Constitution incorporated and made applicable to states and
13 municipalities by the Due Process Clause of the Fourteenth Amendment, by
14 subjecting Amilcar Perez Lopez to unreasonable searches and seizures of his person.

15 32. At the time Amilcar Perez Lopez was shot and killed, he was not
16 engaging in any assaultive or threatening conduct. Under the totality of the relevant
17 circumstances that existed, Amilcar Perez Lopez posed no danger or threat to
18 Defendants TIFFE and REBOLI, or anyone else. The shooting and killing of Amilcar
19 Perez Lopez was unreasonable under the circumstances in every respect.

20 33. These actions violated Amilcar Perez Lopez's right to be free from
21 unreasonable searches and seizures as guaranteed under the Fourth Amendment to the
22 United States Constitution.

23 34. The violation of Plaintiffs' Fourth Amendment rights occurred pursuant
24 to a policy, custom, or practice, maintained by SAN FRANCISCO of subjecting
25 private citizens to unreasonable searches and seizures in violation of the Fourth
26 Amendment to the United States.

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1 35. Defendants' conduct violated clearly established constitutional or other
2 rights, of which Defendants knew, or of which reasonable public officials should
3 have known, rendering Defendants liable to Plaintiffs under 42 U.S.C. § 1983.

4 36. The unauthorized, unwarranted killing of Amilcar Perez Lopez was
5 willful and done with a deliberate disregard for the rights and safety of Amilcar Perez
6 Lopez, and therefore warrants the imposition of punitive damages as to Defendants
7 TIFFE and REBOLI.

8 37. After being shot by Defendants TIFFE and REBOLI, Amilcar Perez
9 Lopez endured great physical and emotional pain and suffering.

10 38. Accordingly, Defendants TIFFE and REBOLI are liable to Plaintiff for
11 compensatory damages pursuant to 42 U.S.C. § 1983.

12 **SECOND CLAIM FOR RELIEF**

13 **Municipal Liability for Unconstitutional Customs and Practices**

14 **42 U.S.C. § 1983**

15 **As Against Defendant CITY AND COUNTY OF SAN FRANCISCO,**
16 **SAN FRANCISCO POLICE DEPARTMENT and DOES 1 through 10**

17 39. Plaintiffs reallege and incorporate the foregoing paragraphs as if set
18 forth herein.

19 On and before February 26, 2015, and prior to the killing of Amilcar Perez
20 Lopez, Defendants SAN FRANCISCO, SFPD and Does 1 through 10, and each of
21 them, were aware that Defendants TIFFE and REBOLI had engaged in a custom and
22 practice of callous and reckless use of firearms and other misconduct, as summarized
23 in the paragraphs above.

24 40. Defendants SAN FRANCISCO, SFPD and Does 1 through 10, and each
25 of them, acting with deliberate indifference to the rights and liberties of the public in
26 general, and of the present Plaintiffs, and of persons in Amilcar Perez Lopez's class,

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1 situation and comparable position in particular, knowingly maintained, enforced and
2 applied customs and practices of:

- 3 a. Encouraging, accommodating, or ratifying the shooting of residents; the
4 use of excessive and unreasonable force, including deadly force;
- 5 b. Encouraging, accommodating, or facilitating a “code of silence” among
6 SFPD officers/supervisors, pursuant to which false reports were
7 generated and excessive and unreasonable force was covered up;
- 8 c. Employing and retraining, as police officers and other personnel,
9 including individuals such as Defendants TIFFE and REBOLI, who said
10 Defendants knew or reasonably should have known had dangerous
11 propensities for abusing their authority and for mistreating members of
12 the public;
- 13 d. Inadequately supervising, training, and disciplining SFPD police
14 officers, including Defendants TIFFE and REBOLI, who said
15 Defendants knew or in the exercise of reasonable care should have
16 known had the aforementioned propensities and character traits;
- 17 e. Maintaining grossly inadequate procedures for reporting, supervising,
18 investigating, reviewing, disciplining and controlling intentional
19 misconduct by officers;
- 20 f. Assigning police officers with known histories of misconduct, including
21 criminal conduct, in accord with SFPD custom of assigning these police
22 officers to come into contact with members of the public;
- 23 g. Ratifying wrongful conduct by police officers and supervisors which
24 result in serious injuries and death to members of the public, civil
25 litigation judgments and settlements by failing to implement corrective
26 action to prevent repetition of the wrongful conduct; and
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1 h. Failing to discipline, investigate and take corrective actions against
2 SFPD police officers for misconduct, including, but not limited to,
3 unlawful detention, excessive force and false reports.

4 41. By reason of the aforementioned customs and practices, Plaintiffs were
5 severely injured and subjected to pain and suffering as alleged above in the First
6 Claim for Relief.

7 42. Defendants SAN FRANCISCO, SFPD and Does 1 through 10, with
8 various other officials, whether named or unnamed, had either actual or constructive
9 knowledge of the deficient policies, practices and customs alleged in the paragraphs
10 above. Despite having knowledge as stated above these Defendants condoned,
11 tolerated and through actions and inactions thereby ratified such customs and
12 practices. Said Defendants also acted with deliberate indifference to the foreseeable
13 effects and consequences of these policies with respect to the constitutional rights of
14 Plaintiffs and other individuals similarly situated.

15 43. Plaintiffs are informed and believe and thereon allege that Defendants
16 TIFFE and REBOLI each had a history and propensity for acts of the nature
17 complained of herein and manifested such propensity prior to and during their
18 employment and/or agency with Defendant SAN FRANCISCO. Plaintiffs are further
19 informed and believe and thereon allege that Defendants SAN FRANCISCO, SFPD,
20 and Does 1 through 10, knew, or in the exercise of reasonable care should have
21 known, of such prior history and propensity at the time such individuals were hired
22 and/or during the time of their employment. These Defendants' disregard of this
23 knowledge and/or failure to adequately investigate and discover and correct such
24 facts caused the violation of Plaintiffs' constitutional rights.

25 44. The policies, practices, and customs implemented and maintained and
26 still tolerated by Defendants SAN FRANCISCO, SFPD and Does 1 through 10, and
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1 each of them, were affirmatively linked to and were a significantly influential force
2 behind the injuries of Plaintiffs.

3 45. By reason of the aforementioned acts and omissions, Amilcar Perez
4 Lopez was shot and killed by Defendants TIFFE and REBOLI.

5 46. Accordingly, Defendant SAN FRANCISCO is liable to Plaintiffs for
6 compensatory damages pursuant to 42 U.S.C. § 1983.

7 **THIRD CLAIM FOR RELIEF**

8 **Supervisory Liability for Ratification and**
9 **Failure to Train, Supervise and Discipline**

10 **42 U.S.C. § 1983**

11 **As Against Defendant CHIEF GREG SUHR, and DOES 1 through 10**

12 47. Plaintiffs reallege and incorporate the foregoing paragraphs as if set
13 forth herein.

14 48. On and before February 26, 2015, and prior to the killing of Amilcar
15 Perez Lopez, Defendant CHIEF SUHR and Does 1 through 10, and each of them,
16 were aware that Defendants TIFFE and REBOLI had engaged in a custom and
17 practice of callous and reckless use of firearms and other misconduct, as summarized
18 in the paragraphs above.

19 49. Defendant CHIEF SUHR and Does 1 through 10 are sued in their
20 individual and personal capacities as supervisors and line officers on duty at the time
21 of the shooting of Amilcar Perez Lopez, and for their ongoing duties as supervisors
22 responsible for the investigation of the shooting and killing of Amilcar Perez Lopez
23 by Defendants TIFFE and REBOLI.

24 50. As described in more detail in the paragraphs above, Defendant CHIEF
25 SUHR was presented with physical evidence unequivocally confirming that all six
26 shots entering the back of Amilcar's upper torso and head, and despite this glaring
27 example of excessive force, and in light of the circumstances, CHIEF SUHR ratified
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1 the conduct of Defendants TIFFE and REBOLI to ensure that said Defendants did not
2 receive any meaningful discipline.

3 51. CHIEF SUHR is sued in his individual and personal capacity. CHIEF
4 SUHR knew or reasonably could have known, of his subordinates' ongoing
5 constitutional violations, use of excessive force on members of the public, failure to
6 investigate incidents involving use of force. CHIEF SUHR failed to act to prevent
7 these acts and he acquiesced, condoned or ratified a custom, practice or policy of
8 ongoing misconduct by his subordinates, including Defendants TIFFE and REBOLI.
9 CHIEF SUHR is sued in his individual capacity for his own culpable action or
10 inaction in the training, supervisor, or control of his subordinates. CHIEF SUHR is
11 also sued for his acquiescence in the constitutional deprivations as alleged herein
12 and/or conduct that showed a reckless or callous indifference to the rights of persons
13 by implementation of policies, rules or directives. CHIEF SUHR's actions and/or
14 inactions set in motion a series of acts by others, which he knew or reasonably should
15 have known, would cause others to inflict the constitutional violations alleged herein

16 52. Plaintiffs are informed and believe and thereon allege that prior to the
17 incident alleged herein, on or before February 26, 2015, and subsequent hereto,
18 CHIEF SUHR knew or reasonably should have known, that SAN FRANCISCO
19 police officers, including Defendants TIFFE and REBOLI, in the course and scope of
20 their employment under color of law, committed similar acts of using unjustified
21 excessive and deadly force, failure to investigate officer misconduct and violation of
22 constitutional rights, which wrongful conduct resulted in ongoing use of excessive
23 force against members of the public.

24 53. Defendants CHIEF SUHR and Does 1 through 10, and each of them,
25 acting with deliberate indifference to the rights and liberties of the public in general,
26 and of the present Plaintiffs, and of persons in Amilcar Perez Lopez's class, situation
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1 and comparable position in particular, knowingly maintained, enforced and applied
2 customs and practices of:

- 3 a. Ratifying wrongful conduct by police officers and supervisors which
4 result in serious injuries and death to members of the public, civil
5 litigation judgments and settlements by failing to implement corrective
6 action to prevent repetition of the wrongful conduct;
- 7 b. Failing to discipline, investigate and take corrective actions against
8 SFPD police officers for misconduct, including, but not limited to,
9 unlawful detention, excessive force and false reports;
- 10 c. Ratifying investigative reports and diagrams designed to vindicate the
11 use of force against members of the public, regardless of whether such
12 acts were justified;
- 13 d. Ratifying investigative reports and diagrams which uncritically rely
14 solely on the word of officers involved in the aforementioned
15 confrontations and which systematically fail to credit testimony by non-
16 officer witnesses;
- 17 e. Ratifying investigative reports and diagrams which omit factual
18 information and physical evidence which contradicts the accounts of the
19 involved officers, including contradictory physical evidence revealed
20 from autopsy reports;
- 21 f. Issuing false public statements exonerating officers and other personnel
22 involved in such incidents even after being presented with contradictory
23 reliable physical evidence, such as autopsy reports;
- 24 g. Employing and retraining, as police officers and other personnel,
25 including individuals such as Defendants TIFFE and REBOLI, who said
26 Defendants knew or reasonably should have known had dangerous
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1 propensities for abusing their authority and for mistreating members of
2 the public; and

3 h. Inadequately supervising, training, controlling, assigning, and
4 disciplining SFPD police officers, including Defendants TIFFE and
5 REBOLI, who said Defendants knew or in the exercise of reasonable
6 care should have known had the aforementioned propensities and
7 character traits.

8 54. By reason of the aforementioned customs and practices, Plaintiffs were
9 severely injured and subjected to pain and suffering as alleged above in the First
10 Claim for Relief.

11 55. By reason of the aforementioned acts and omissions, Amilcar Perez
12 Lopez was shot and killed by Defendants TIFFE and REBOLI.

13 56. Accordingly, Defendant SAN FRANCISCO is liable to Plaintiffs for
14 compensatory damages pursuant to 42 U.S.C. § 1983, and Defendant CHIEF SUHR
15 is liable to Plaintiffs for punitive damages pursuant to 42 U.S.C. § 1983.

16 **FOURTH CLAIM FOR RELIEF**

17 **Interference with Familial Integrity**

18 **Substantive Due Process Violation**

19 **42 U.S.C. § 1983**

20 **As Against Defendants C. TIFFE, E. REBOLI, CHIEF GREG SUHR,**
21 **CITY AND COUNTY OF SAN FRANCISCO, SAN FRANCISCO POLICE**
22 **DEPARTMENT and DOES 1 through 10**

23 57. Plaintiffs reallege and incorporate the foregoing paragraphs as if set
24 forth herein.

25 58. The present claim is brought pursuant to 42 U.S.C. § 1983, for violation
26 of the right of familial integrity guaranteed by the Fourteenth Amendment of the
27 United States Constitution.

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1 59. As alleged above, the shooting and killing of Amilcar Perez Lopez was
2 unreasonable under the circumstances of the encounter between Amilcar Perez Lopez
3 and Defendants TIFFE and REBOLI. As such, the shooting and killing of Amilcar
4 Perez Lopez violated the constitutional limits on police use of deadly force in
5 violation of the Fourth Amendment’s limits on unreasonable seizures.

6 60. At the same time, the shooting and killing of Amilcar Perez Lopez by
7 Defendants TIFFE and REBOLI violated the rights of Plaintiffs JUAN PEREZ and
8 MARGARITA PEREZ LOPEZ to be free from police interference in their
9 relationship with Amilcar Perez Lopez.

10 61. The unreasonable conduct of Defendants TIFFE and REBOLI was the
11 direct and proximate cause of the death of Amilcar Perez Lopez. As a result of the
12 unreasonable conduct of Defendants TIFFE and REBOLI, Plaintiffs lost Amilcar
13 Perez Lopez, as well as his love, affection, society and moral support.

14 62. The unreasonable conduct of these Defendants was willful and done
15 with a deliberate disregard for the rights and safety of Amilcar Perez Lopez and the
16 present Plaintiffs and therefore warrants the imposition of punitive damages as to
17 Defendants TIFFE and REBOLI.

18 63. Accordingly, Defendants CITY AND COUNTY OF SAN FRANCISCO
19 and DOES 1 through 10 are liable to Plaintiffs for compensatory damages pursuant to
20 42 U.S.C. § 1983.

21 **FIFTH CLAIM FOR RELIEF**

22 **ASSAULT & BATTERY**

23 **Against Defendants C. TIFFE, E. REBOLI,**

24 **CITY AND COUNTY OF SAN FRANCISCO, SAN FRANCISCO POLICE**

25 **DEPARTMENT and DOES 1 through 10**

26 64. Plaintiffs reallege and incorporate the foregoing paragraphs as if set
27 forth herein.

28 ///

1 71. Plaintiffs reallege and incorporate the foregoing paragraphs as if set
2 forth herein.

3 72. This cause of action arises under the general laws and Constitution of the
4 State of California. Plaintiffs have complied with the California Tort Claims Act
5 requirements.

6 73. Defendants TIFFE and REBOLI, while working as police officers of the
7 SFPD, and acting within the course and scope of their duties, employed negligent
8 tactics and intentionally and/or without due care shot Amilcar Perez Lopez. The
9 shooting resulted as a result of Defendants TIFFE and REBOLI’s unsafe, improper
10 and negligent tactics. As a result of these intentional acts and negligence, Amilcar
11 Perez Lopez suffered serious injuries and lost his life. Defendants TIFFE and
12 REBOLI had no legal or reasonable justification for their actions.

13 74. As a direct and proximate result of the conduct of Defendants REBOLI
14 and TIFFE, Amilcar Perez Lopez lost his life. Plaintiffs have been deprived of the
15 life-long love, affection, comfort, and society of Amilcar Perez Lopez, and will
16 continue to be so deprived for the remainder of their natural lives. Plaintiffs were
17 further caused to pay funeral and burial expenses as a result of the conduct of
18 Defendants REBOLI and TIFFE.

19 75. Defendants CITY AND COUNTY OF SAN FRANCISCO and SAN
20 FRANCISCO POLICE DEPARTMENT are vicariously liable for the wrongful,
21 intentional and/or negligent acts of Defendants REBOLI and TIFFE, and DOES 1
22 through 10, pursuant to California Government Code § 815.2, which provides that a
23 public entity is liable for the injuries caused by its employees within the scope of the
24 employment if the employee’s act would subject him or her to liability.

25 **SEVENTH CLAIM FOR RELIEF**
26 **SURVIVORSHIP**

1 **Against Defendants C. TIFFE, E. REBOLI, CITY AND COUNTY OF SAN**
2 **FRANCISCO, SAN FRANCISCO POLICE DEPARTMENT and DOES 1**
3 **through 10**

4 76. Plaintiffs reallege and incorporate the foregoing paragraphs as if set
5 forth herein.

6 77. This cause of action arises under the general laws and Constitution of the
7 State of California. Plaintiffs have complied with the California Tort Claims Act
8 requirements.

9 78. Plaintiffs Estate of Amilcar Perez Lopez, by and through successors in
10 interest, Juan Perez and Margarita Perez Lopez, and Juan Perez and Margarita Perez
11 Lopez, are the legal heirs and successors in interest of Amilcar Perez Lopez, and the
12 present claim is brought by them as the legal heirs and successors in interest of
13 Amilcar Perez Lopez as permitted by of the California Code of Civil Procedure §
14 377.30.

15 79. On February 26, 2015, Amilcar Perez Lopez lost his life and causes of
16 action arose in his favor before he died. Amilcar Perez Lopez would have been a
17 Plaintiff in this action, had Defendants TIFFE and REBOLI not shot and killed him.

18 80. On February 26, 2015, and for a measurable period of time before the
19 death of Amilcar Perez Lopez, personal property of his was damaged or destroyed,
20 and while alive said decedent had valid claims and causes of action to recover
21 damages for, among other things, personal property damage, and prejudgment
22 interest as allowed by law and costs of suit.

23 81. The conduct of all the Defendants as herein set forth above was tortious
24 in that, among other things, Defendants REBOLI and TIFFE deliberately shot
25 Amilcar Perez Lopez without cause or justification, or otherwise contributed to the
26 shooting as spelled out herein above.

1 82. Said conduct was the direct and proximate cause of the damages suffered
2 by decedent Amilcar Perez Lopez, as alleged above, which were sustained and
3 incurred for a measurable period of time by him before his death. Plaintiffs,
4 therefore, seek recovery for personal property damages, and all other related
5 expenses, damages, and losses, including punitive damages, as permitted by Code of
6 Civil Procedure § 377.34, against the present non-government entity Defendants,
7 according to proof at trial.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiffs requests entry of judgment in their favor and against
10 Defendants as follows:

11 A. For compensatory damages, including pre-death pain and suffering
12 damages, general damages and special damages, and statutory damages for violation
13 of the laws and Constitution of the United States and State of California, in an
14 amount to be determined at trial;

15 B. For punitive damages against Defendants C. TIFFE and E. REBOLI
16 pursuant to 42 U.S.C. § 1983, and any other applicable laws or status, in an amount
17 sufficient to deter and make an example of each non-government entity Defendant;

18 C. For prejudgment interest to be determined at trial;

19 D. For reasonable costs of this suit and attorneys' fees, including
20 attorneys' fees pursuant to 42 U.S.C. § 1988; and

21 E. For such further other relief as the Court may deem just, proper, and
22 appropriate.
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24 Dated: December 1, 2015

CASILLAS & ASSOCIATES

25
26 By /s/ Arnoldo Casillas

ARNOLDO CASILLAS

DENISSE O. GASTÉLUM

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Attorneys for Plaintiffs, ESTATE OF
AMILCAR PEREZ LOPEZ, by and through
successors in interest, JUAN PEREZ and
MARGARITA LOPEZ PEREZ; JUAN
PEREZ, individually; MARGARITA LOPEZ
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Dated: December 1, 2015

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Dated: December 1, 2015

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PEREZ, individually; MARGARITA LOPEZ
PEREZ, individually

1 **DEMAND FOR JURY TRIAL**

2 Plaintiffs ESTATE OF AMILCAR PEREZ LOPEZ, by and through successors
3 in interest, JUAN PEREZ and MARGARITA LOPEZ PEREZ, and JUAN PEREZ,
4 and MARGARITA LOPEZ PEREZ hereby demand trial by jury.

5
6 Dated: December 1, 2015

CASILLAS & ASSOCIATES

7 By /s/ Arnoldo Casillas

8 ARNOLDO CASILLAS

9 DENISSE O. GASTÉLUM

10 Attorneys for Plaintiffs, ESTATE OF
11 AMILCAR PEREZ LOPEZ, by and through
12 successors in interest, JUAN PEREZ and
13 MARGARITA LOPEZ PEREZ; JUAN
14 PEREZ, individually; MARGARITA LOPEZ
15 PEREZ, individually

16
17 Dated: December 1, 2015

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18 By /s/ Jonathan D. Melrod

19 JONATHAN D. MELROD

20 Attorneys for Plaintiffs, ESTATE OF
21 AMILCAR PEREZ LOPEZ, by and through
22 successors in interest, JUAN PEREZ and
23 MARGARITA LOPEZ PEREZ; JUAN
24 PEREZ, individually; MARGARITA LOPEZ
25 PEREZ, individually

26
27 Dated: December 1, 2015

WILLIAM M. SIMPICH, JR., ESQ.

28 By /s/ William M. Simpich

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MARGARITA LOPEZ PEREZ; JUAN

PEREZ, individually; MARGARITA LOPEZ
PEREZ, individually

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20 PEREZ, individually; MARGARITA LOPEZ PEREZ, individually

21 **UNITED STATES DISTRICT COURT**
22 **NORTHERN DISTRICT OF CALIFORNIA**

23 ESTATE OF AMILCAR PEREZ) **CASE NO. 3:15-cv-01846 HSG**
24 LOPEZ, by and through successors in)
25 interest, JUAN PEREZ and) **ORDER RE:**
26 MARGARITA LOPEZ PEREZ;) **STIPULATION OF THE PARTIES**
27 JUAN PEREZ, individually;) **FOR LEAVE TO FILE SECOND**
28 MARGARITA LOPEZ PEREZ,) **AMENDED COMPLAINT**
individually;)
)
Plaintiffs,)
)
vs.)
)

1 CHIEF OF POLICE GREG SUHR;)
2 CITY AND COUNTY OF SAN)
3 FRANCISCO; SAN FRANCISCO)
4 POLICE DEPARTMENT; OFFICER)
5 CRAIG TIFFE (Badge No. 1312);)
6 OFFICER ERIC REBOLI (Badge No.)
7 1651), and DOES 1 to 10,)
8)
9 Defendants.)
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GOOD CAUSE APPEARING AND THE PARTIES HAVING STIPULATED:

Having considered the Stipulation of the Parties to allow Plaintiffs to file their Second Amended Complaint, the Court hereby orders that Plaintiffs have leave to file their Second Amended Complaint without the need for a formal motion. The Court hereby orders Plaintiffs to e-file the attached Second Amended Complaint (Exhibit “1”) on the docket and upon e-filing it will be deemed served.

The Court further orders that Defendants shall be given thirty (30) days as of the date the order is signed to file and serve a responsive pleading.

SO ORDERED.

PURSUANT TO STIPULATION, IT IS SO ORDERED:

Dated: December 4, 2015 By: 
The Honorable Haywood S. Gilliam, Jr.
United States District Judge