SCOTT LAW FIRM 1388 SUTTER STREET, SUITE 715 SAN FRANCISCO, CA 94109

1 2 3 4 5 6 7 8 9	John H. Scott, SBN 72578 Lizabeth N. de Vries, SBN 227215 <b>SCOTT LAW FIRM</b> 1388 Sutter Street, Suite 715 San Francisco, California 94109 Tel.: (415) 561-9601; (415) 561-9603 / Fax: (41 E-mails: john@scottlawfirm.net liza@scottlawfirm.net liza@scottlawfirm.net Izaak D. Schwaiger, SBN 267888 130 Petaluma Avenue, Suite 1A Sebastopol, CA 95472 Tel. (707) 595-4414 / Fax: (707) 851-1983 E-mail: <u>izaak@izaakschwaiger.com</u> Attorneys for the Plaintiffs CHRISTOPHER WR And MARNI WROTH		
10 11	UNITED STATES DISTRICT COURT		
11	Northern Distri	CT OF CALIFORNIA	
12	MORTHERN DISTRICT OF CALIFORNIA		
13			
15	CHRISTOPHER WROTH and MARNI	Case No. 3:17-cv-05339-JST	
16	WROTH,	STIPULATION AND <del>[PROPOSED]</del> ORDER FOR PLAINTIFFS TO FILE A FIRST	
17	Plaintiffs, v.	AMENDED COMPLAINT FOR DAMAGES	
18	v. CITY OF ROHNERT PARK, DAVID SITTIG-		
19	WATTSON, SEAN HUOT, and DOES 1-25, inclusive.		
20	Defendants.		
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	STIPULATION AND [ <del>PROPOSED]</del> ORDER FOR PLAINTIFFS TO FILE FIRST AMENDED COMPLAINT FOR DAMAGES		

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1	WHEREAS Plaintiffs Christopher Wroth and Marni Wroth filed a complaint on	
2	September 14, 2017, Case. No. 3:17-cv-05339-JST, which alleged constitutional violations	
3	relating to the death of their son, Branch Wroth, while in the custody of the defendants; and	
4	WHEREAS during the course of discovery, Plaintiffs identified Officer Matt Huot,	
5	Officer Mike Werle, and Sergeant Eric Matzen as integral participants in these constitutional	
6	violations;	
7	IT IS HEREBY STIPULATED by and between the parties hereto, through their attorneys	
8	of record, that Plaintiffs CHRISTOPHER WROTH and MARNI WROTH may file a First	
9	Amended Complaint, attached hereto as Exhibit 1.	
10		
11	Dated: June 14, 2018SCOTT LAW FIRM	
12	By: /s/John Houston Scott	
13	John Houston Scott	
14	Attorneys for Plaintiffs	
15	Dated: June 14, 2018SCHWAIGER LAW FIRM	
16		
17	By: <u>/s/Izaak D. Schwaiger</u> Izaak D. Schwaiger	
18	Attorneys for Plaintiffs	
19	Dated: June 14, 2018 GEARY SHEA O'DONNELL	
20	GRATTAN & MITCHEL, P.C.	
20		
	By: <u>/s/Raymond J. Fullerton</u> Raymond J. Fullerton	
22 23	Attorneys for Defendants	
23 24		
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	STIPULATION AND [ <del>PROPOSED]</del> ORDER FOR PLAINTIFFS TO FILE FIRST AMENDED COMPLAINT FOR DAMAGES	
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1	ELECTRONIC CASE FILING ATTESTATION		
2	I, John Houston Scott, am the ECF user whose identification and password are being used		
-3	to file the foregoing documents. Pursuant to Civil Local Rule 5.1(i), I hereby attest that		
4	concurrence in the filing of these documents has been obtained from each of its signatories.		
5	Dated: June 14, 2018 SCOTT LAW FIRM		
6			
7	By: /s/John Houston Scott		
8	John Houston Scott Attorneys for Plaintiffs		
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12	[ <del>PROPOSED]</del> ORDER		
13	Pursuant to the stipulation of the parties, and good cause appearing therefore, the Court		
14	GRANTS plaintiffs CHRISTOPHER WROTH AND MARNI WROTH leave to file a First		
15	Amended Complaint within ten (10) calendars days of the date of this Order.		
16	IT IS SO ORDERED.		
17	$\mathbf{O}$		
18	Dated: June 18, 2018 THE HONORABLE JON S. TIGAR		
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	STIPULATION AND [ <del>PROPOSED]</del> ORDER FOR PLAINTIFFS TO FILE FIRST AMENDED COMPLAINT FOR DAMAGES		

SCOTT LAW FIRM 1388 SUTTER STREET, SUITE 715 SAN FRANCISCO, CA 94109

## Exhibit 1

1	John Houston Scott (SBN 72578) Lizabeth N. de Vries (SBN 227215)			
2	SCOTT LAW FIRM 1388 Sutter Street, Suite 715			
3	San Francisco, CA 94109 Tel: (415) 561-9601			
4	Fax: (415) 561-9609 john@scottlawfirm.net			
5	liza@scottlawfirm.net			
6	Izaak D. Schwaiger (SBN 267888)			
7	130 Petaluma Avenue, Suite 1A Sebastopol, CA 95472			
8	Tel. (707) 595-4414			
9	Fax: (707) 851-1983 E-mail: <u>izaak@izaakschwaiger.com</u>			
10	Attorneys for Plaintiffs CHRISTOPHER WROTH			
11	AND MARNI WROTH			
12				
13	UNITED STATES	S DISTRICT COURT		
14	Northern Disti	RICT OF CALIFORNIA		
15				
16	CHRISTOPHER WROTH and MARNI WROTH,	Case No. 3:17-cv-05399-JST		
17	Plaintiffs,	FIRST AMENDED COMPLAINT FOR DAMAGES		
18	V.			
19	CITY OF ROHNERT PARK, DAVID	(42 U.S.C. § 1983) Jury Trial Demanded		
20	SITTIG-WATTSON, SEAN HUOT, MATT HUOT, MIKE WERLE, ERIC MATZEN and	JUKY I KIAL DEMANDED		
21	DOES 1-25,			
22	Defendants.			
23	PLAINTIFFS CHRISTOPHER WROT	H and MARNI WROTH complain of Defendants		
24	and alleges as follows:			
25	JURISDICTION AND VENUE			
26	1. This action arises under 42 U.S.	C. §1983. Jurisdiction is conferred by virtue of 28		
27	U.S.C. §§ 1331 and 1343.			
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	FIRST AMENDED COMPLAINT FOR DAMAGES			

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- SCOTT LAW FIRM 1388 SUTTER STREET, SUITE 715 SAN FRANCISCO, CA 94109
- 1 2. The conduct alleged herein occurred in Sonoma County. Venue of this action lies 2 in the United States District Court for the Northern District of California. 3 PARTIES 3. Plaintiffs Christopher Wroth and Marni Wroth reside in Mount Shasta, County of 4 Siskiyou, California. They are the parents of the deceased, Branch Wroth. 5 4. 6 Defendant City of Rohnert Park is a public entity situated in the State of California and organized under the laws of the State of California. 7 5. Defendant David Sittig-Wattson is and was a police officer employed by the City 8 9 of Rohnert Park. He acted in the course and scope of his employment, and under color of state law, at all times mentioned herein. 10 6. Defendant Sean Huot is and was a police officer employed by the City of Rohnert 11 Park. He acted in the course and scope of his employment, and under color of state law, at all 12 times mentioned herein. 13 7. Defendant Matt Huot is and was a police officer employed by the City of Rohnert 14 Park. He acted in the course and scope of his employment, and under color of state law, at all 15 times mentioned herein. 16 8. Defendant Mike Werle is and was a police officer employed by the City of 17 Rohnert Park. He acted in the course and scope of his employment, and under color of state law, 18 at all times mentioned herein. 19 9. Defendant Eric Matzen is and was a sergeant employed by the City of Rohnert 20 Park. He acted in the course and scope of his employment, and under color of state law, at all 21 times mentioned herein. 22 10. Plaintiffs also do not presently know the true names and capacities of defendants 23 DOES 1 through 25, inclusive, and therefore sues them by these fictitious names. Plaintiffs are 24 informed and believe that DOES 1 through 25, and each of them, were responsible in some 25 manner for the acts or omissions alleged herein. Plaintiffs will seek leave to amend this 26 Complaint to add their true names and capacities when they have been ascertained. 27 28

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11. In doing the acts and/or omissions alleged herein, defendants and each of them acted under color of authority and/or under color of state law, and, in concert with each other.

## STATEMENT OF FACTS

12. On May 12, 2017, Officer Sittig-Wattson was called to the Budget Inn in the City of Rohnert Park to check on the welfare of Branch Wroth, who was reportedly acting strangely. Upon contact, Branch Wroth appeared to be and was in need of medical treatment. Officer Sittig-Wattson enquired of Branch what was the matter. Branch responded, "I'm having a meltdown." Branch was in an obvious state of mental and emotional distress, but remained passive and cooperative. Instead of providing or obtaining emergency medical care for Branch, Officer Sittig-Wattson elected to perform a warrant check. He discovered an outstanding warrant for Mr. Wroth and determined to take him into police custody rather than address his obvious medical needs. This encounter was recorded by body camera video which is in the possession of the parties.

13. Officer Sean Huot arrived as backup. The officers attempted to handcuff Mr. Wroth for the purpose of taking him into custody. A struggle ensued and Officer Sittig-Wattson began punching and elbowing Branch repeatedly. Both officers began kneeing Branch in his abdomen. Officer Sittig-Wattson then fired his taser into Branch's back as Mr. Wroth called out, "Help me, help me!" The two officers forced Branch to the floor and Officer Sittig-Wattson delivered a second application of the taser to his body. In less than a minute Branch was tasered seven times.

14. Officer Sean Huot placed handcuffs around one of Branch's wrists as he lay
facedown on the ground. About that time Officers Matt Huot, Mike Werle, and Sgt. Matzen
arrived on scene and handcuffed Branch behind his back. Officer Matt Huot kneeled on top of
Branch's shoulders. Officer Wattson called out, "Hit him," and Officer Werle began beating
Branch with his service flashlight as Mr. Wroth called out, "Mom! Dad!"

25 15. Sgt. Matzen forced Branch's legs into a figure-four pain compliance hold as he lay
 26 on the floor face down and handcuffed with the weight of the other officers crushing his upper

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body. Branch cried for help as his face was forced straight down into the carpet. He cried out, "I can't breathe!" The five officers continued to suffocate him to death.

16. As a result of said acts and omissions, Branch Wroth died while in the custody and under the control of Defendants David Sittig-Wattson, Sean Huot, Matt Huot, Mike Werle, and Eric Matzen.

## STATEMENT OF DAMAGES

12. As a result of the acts and/or omissions of Defendants, and each of them, Plaintiffs suffered the loss of the familial association of their son, including society, comfort, and affection, in amounts to be determined according to proof.

13. As a result of the acts and/or omissions of Defendants, and each of them, the Plaintiffs suffered the loss of the services and economic support of their son in amounts to be determined according to proof.

14. The acts and/or omissions of Defendants David Sittig-Wattson, Sean Huot, Matt Huot, Mike Werle, and Eric Matzen were willful, wanton, reckless, malicious, oppressive and/or done with a conscious or reckless disregard for the rights of the decedent and the plaintiffs, who seek punitive and exemplary damages against these individuals according to proof.

15. Plaintiffs have retained private counsel to represent them in this matter and are entitled to an award of attorneys' fees.

## FIRST CAUSE OF ACTION (42 U.S.C. SECTION 1983) [DEPRIVATION OF FAMILIAL RELATIONSHIP]

16. Plaintiffs hereby re-allege and incorporate by reference as though fully set forth herein all prior paragraphs of this Complaint.

17. By and through the acts and omissions alleged herein, Defendants David Sittig-25 Wattson, Sean Huot, Matt Huot, Mike Werle, Eric Matzen, and DOES 1-25, deprived Plaintiffs of 26 the familial relationship with their son thereby violating said Plaintiffs' rights under the First and 27 28

1	Fourteenth Amendments of the United States Constitution. The defendants acted with deliberate		
2	indifference and/or a purpose to harm Branch Wroth thus causing his death.		
3	WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.		
4	SECOND CAUSE OF ACTION		
5	[42 U.S.C. §1983 – RATIFICATION AGAINST CITY OF ROHNERT PARK]		
6	18. All allegations set forth in this Complaint are hereby incorporated by reference.		
7	19. Brian Masterson, Director of Public Safety, had final policymaking authority for		
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9	the City of Rohnert Park concerning the acts police officers within his chain of command.		
10	20. Plaintiffs allege on information and belief that Masterson ratified the acts and		
11	omissions of Defendants David Sittig-Wattson, Sean Huot, Matt Huot, Mike Werle, and Eric		
12	Matzen. He reviewed and specifically approved their acts and omissions alleged herein and the		
13	reasons for them.		
14	WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.		
15	<u>Prayer</u>		
16	1. For compensatory damages according to proof;		
17	2. For general damages according to proof;		
18	3. For an award of punitive and exemplary damages against individual defendants		
19	according to proof;		
20	4. For costs and attorneys' fees; and		
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22	5. For such other relief as the Court may deem proper.		
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	FIRST AMENDED COMPLAINT FOR DAMAGES		

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1	JURY TRIAL DEMAND		
2		Plaintiffs hereby request a jury trial on all issues so triable.	
3		r familing hereby request a jury that on an issues so thable.	
4		SCOTT LAW FIRM	
5 6	, , , , , , , , , , , , , , , , , , ,	<u>/s/ John Houston Scott</u> John Houston Scott Attorney for Plaintiff	
7	,	SCHWAIGER LAW FIRM	
8	Dated: June 14, 2018	/s/ Izaak David Schwaiger	
9		Izaak David Schwaiger Attorney for Plaintiff	
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