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Attorneys for Plaintiffs THERESA CHAVIRA, individually and as successor in interest to Decedent Richard Alexander Herrera, Jr., and RICHARD ALEXANDER HERRERA, individually and as successor in interest to Decedent Richard Alexander Herrera, Jr.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

THERESA CHAVIRA, individually and
as successor in interest to Decedent
Richard Alexander, Jr., and RICHARD
ALEXANDER HERRERA, individually
and as successor in interest to Decedent
Richard Alexander Herrera, Jr.,

Plaintiffs,

v.

CITY OF WEST COVINA and
MICHAEL CHANG,

Defendants

THERESA CHAVIRA, individually and
as successor in interest to Decedent
Richard Alexander, Jr., and RICHARD
ALEXANDER HERRERA, individually

Case No.: 2:24-cv-08464-SB-PVC
Consolidated with Case No.
2:25-cv-09201-SB-PVC

**CONSOLIDATED FIRST
AMENDED COMPLAINT FOR
DAMAGES**

1. Violation of Right to Substantive Due Process of Law – Interference with Familial Relationship (U.S. Const. Amends. 9 & 14 via 42 § 1983)
2. Violation of Right to be free from the Use of Excessive / Unreasonable Force (U.S. Const. Amend. 4 via 42 § 1983)

1 and as successor in interest to Decedent
2 Richard Alexander Herrera, Jr.,

3 Plaintiffs,

4 v.

5 EXODUS RECOVERY, INC. dba
6 EXODUS RECOVERY URGENT
7 CARE CENTER (UCC) MLK, JAVIER
8 MENDEZ, DEAN ROSADO, CURTIS
9 SWANCY and DOES 1 through 10,
inclusive,

10 Defendants.

3. Failure to Provide Medical Care to
Arrestee / Civil Protective Custody
Detainee / Condition of Confinement
(U.S. Const. Amend. 14 via 42 §
1983)

4. Violation of Substantive Due Process
of Law – Deprivation of Life (U.S.
Const. Amend. 14 via 42 § 1983)

5. Violation of Substantive Due Process
of Law – State Created Danger
Doctrine (U.S. Const. Amend. 14 via
42 U.S.C. 42 § 1983)

6. Municipal (*Monell*¹) Liability – via
Unlawful Custom, Practice and/or
Policy (42 U.S.C. § 1983) /
Municipal and (*Monell*²) Liability –
via Inadequate Training (42 U.S.C. §
1983)

7. Wrongful Death (Cal. Civil Proc.
Code § 377.60)

8. Negligence (Cal. Civil § 1714)

9. Violation of Cal. Gov't Code § 845.6
– Failure to Provide Immediate
Medical Care

10. Battery

11. Cal. Civil Code § 52.1;

**UNITED STATES DISTRICT
JUDGE STANLEY BLUMENFELD,
JR.**

¹ *Monell v. Dept. of Social Services*, 436 U.S. 658 (1978).

² *Monell v. Dept. of Social Services*, 436 U.S. 658 (1978).

1
2 **COME NOW** plaintiffs Theresa Chavira, individually and as successor in
3 interest to decedent Richard Alexander, Jr., and Richard Alexander Herrera,
4 individually and as successor in interest to decedent Richard Alexander Herrera, Jr.,
5 and hereby allege and complain as follows:
6

7
8 **JURISDICTIONAL ALLEGATIONS**

9 1. As this action is brought pursuant to 42 U.S.C. § 1983, this court has
10 jurisdiction over this case under its federal question jurisdiction pursuant to 28
11 U.S.C. § 1331.
12

13 2. As the incidents complained of in this action occurred in the County
14 of Los Angeles, State of California, within the territorial jurisdiction of this court,
15 venue properly lies in this court pursuant to 28 U.S.C. § 1391(b)(2).
16

17 3. As plaintiffs' claims brought under California state law arise out of
18 the same transactions and occurrences, and out of a common nucleus of operative
19 facts as the plaintiffs' federal question claims, this court has jurisdiction over
20 plaintiffs' California State law claims under its Supplemental Jurisdiction under 28
21 U.S.C. § 1367, and otherwise pursuant to *United Mine Workers of America v.*
22 *Gibbs*, 383 U.S. 715 (1966).
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25 4. Plaintiffs timely filed their California Government Tort Claims for
26 Damages with defendant City of West Covina, and plaintiffs filed this instant
27 lawsuit within six months of the rejection of their Claims.
28

GENERAL ALLEGATIONS

5. Plaintiff Theresa Chavira, (hereinafter “CHAVIRA”), is a natural person, who, at all times complained of in this action, resided in the County of Los Angeles, State of California. CHAVIRA was also the legal and natural mother of decedent Richard Alexander Herrera, Jr., (hereinafter referred to as “HERRERA JR.” or “JUNIOR”). CHAVIRA sues in her individual capacity as the mother of JUNIOR, and also as successor in interest to JUNIOR. CHAVIRA seeks both survival³ and wrongful death damages under federal and under California state law.

6. Plaintiff Richard Alexander Herrera, formerly known as Richard Alexander Herrera, Sr. when plaintiffs’ son, JUNIOR was alive (hereinafter referred to as “HERRERA SR.” or “SENIOR”), is a natural person, who, at all times complained of in this action, resided in the County of Los Angeles, State of California. SENIOR is also the legal and natural father of plaintiffs’ decedent Richard Alexander Herrera, Jr. (“JUNIOR”) and sues in his individual capacity as the father of JUNIOR, and also as successor in interest to JUNIOR. HERRERA seeks both survival⁴ and wrongful death damages under federal and under

³ Including Hedonic Damages.

⁴ Including Hedonic Damages.

1 California state law.

2 7. JUNIOR died intestate on September 25, 2023, as a direct and proximate
3 result of the conduct of the defendant(s) complained of in this action.
4

5 8. Defendant City of West Covina, hereinafter also referred to as
6 “CITY”, is a municipal entity located in the State of California, within the
7 territorial jurisdiction of this court. Defendant CITY includes a department of
8 CITY, the West Covina Police Department.
9

10 9. Defendant Michael Chang, hereinafter also referred to as “CHANG”
11 or “defendant CHANG” or “defendant Chang” or “defendant Michael Chang” is,
12 and at all times complained of herein was, a sworn police officer and a California
13 Certified Peace Officer with the West Covina Police Department, and at all times
14 complained of herein was employed by the West Covina Police Department. At all
15 times complained of herein, CHANG was acting as an individual person under the
16 color of state law, in his individual capacity, and was acting in the course of and
17 within the scope of his employment with defendant CITY.
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21 10. Defendant EXODUS RECOVERY, INC. dba Exodus Recovery
22 Urgent Care Center (UCC) MLK, hereinafter referred to as “EXODUS
23 RECOVERY” or “defendant EXODUS RECOVERY” or “EXODUS” or
24 “defendant EXODUS”, owned and operated an Urgent Care psychiatric facility
25 located at 12021 Wilmington Ave, Los Angeles, California 90059, doing business
26 as and/or otherwise known as Mental Health Urgent Care Exodus and/or Martin
27
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1 Luther King Urgent Care and/or MLK Behavioral Health Center and/or Exodus
2 Recovery at MLK, Exodus Recovery, Inc. and/or Urgent Care Center (UCC) MLK
3 and/or EXODUS RECOVERY INC. MLK-ICC.
4

5 11. Defendant Javier Mendez, hereinafter referred to as “MENDEZ” or
6 “defendant MENDEZ”, is an individual person who was at all times complained of
7 herein acting as an individual person under the color of state law, and acting in the
8 course of and within the scope of his employment with defendant EXODUS
9 RECOVERY, INC. as a Security Officer for that hospital/psychiatric facility,
10 located at 12021 Wilmington Ave, Los Angeles, California 90059.
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13 12. Defendant DEAN ROSADO, hereinafter referred to as “ROSADO” or
14 “defendant ROSADO”, is an individual person who was at all times complained of
15 herein acting as an individual person under the color of state law, and acting in the
16 course of and within the scope of his employment with defendant EXODUS
17 RECOVERY as a Supervising Security Officer for that hospital/psychiatric
18 facility, located at 12021 Wilmington Ave, Los Angeles, California 90059.
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21 13. Defendant CURTIS SWANCY, hereinafter referred to as
22 “SWANCY” or “defendant SWANCY”, is an individual person who was at all
23 times complained of herein acting as an individual person under the color of state
24 law, and acting in the course of and within the scope of his employment with
25 defendant EXODUS RECOVERY, INC., located at 12021 Wilmington Ave, Los
26 Angeles, California 90059.
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1 14. Defendants DOES 1 through 2, inclusive, are Sworn Police Officers
2 and California Certified Peace Officers and/or Investigators and/or Special Officers
3 and/or Dispatchers and/or some other Public Officer, Public Official or employee
4 of defendant CITY⁵ and/or otherwise employed by the West Covina Police
5 Department⁶, who in some way committed some or all of the tortious actions and
6 constitutional violations complained of in this action, and/or are otherwise
7 responsible for and liable to plaintiffs for the acts complained of in this action,
8 whose identities are, and remain unknown to plaintiffs, who will amend their
9 complaint to add and to show the actual names of said DOE defendants when
10 ascertained by plaintiffs.
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14 15. At all times complained of herein, DOES 1 and 2 were acting as
15 individual persons acting under the color of state law, pursuant to their authority as
16 Sworn Police Officers and California Certified Peace Officers and/or Investigators
17 and/or Special Officers and/or a Dispatchers and/or Supervisors (i.e. Sergeants,
18 Lieutenants, Captains, Commanders, etc.) some other Public Officer, Public
19 Official or employee of defendant CITY⁷ and/or were otherwise employed by the
20 West Covina Police Department⁸, and were acting in the course of and
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26 ⁵ And/or some other public entity.

27 ⁶ And/or some other law enforcement agency.

28 ⁷ And/or some other public entity.

⁸ And/or some other law enforcement agency.

1 within the scope of their employment with defendant CITY⁹.

2 16. Defendants DOES 3 and 4 are Sworn Police Officers and/or Certified
3 California Peace Officers and/or the West Covina City Manager or the West
4 Covina Police Department Chief of Police and/or his/her Assistant Chiefs and/or
5 Deputy Chiefs and/or Commanders and/or Captains and/or Lieutenants and/or
6 Sergeants and/or other Supervisory personnel and/or policy making and/or final
7 policy making officials, employed by West Covina Police Department¹⁰ and/or
8 defendant CITY¹¹, who are in some substantial way liable and responsible for, or
9 otherwise proximately caused and/or contributed to the occurrences complained of
10 by plaintiffs in this action, such as via Supervisory Liability (i.e. failure to properly
11 supervise, improperly directing subordinate officers, approving actions of
12 subordinate officers), via Bystander Liability (failing to intervene in and stop
13 unlawful actions of their subordinates and/or other officers), and such as by
14 creating and/or causing the creation of and/or contributing to the creation of the
15 policies and/or practices and/or customs and/or usages of the West Covina Police
16 Department¹² for, *inter alia*,: 1) failing to adequately provide or to summon
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26 ⁹ And/or some other public entity.

27 ¹⁰ And/or some other law enforcement agency.

28 ¹¹ And/or some other public entity.

¹² And/or some other public entity.

1 immediate and/or emergency medical care to their arrestees, detainees, Civil
2 Protective Custody detainees, Custodial Inmates and others in the Custody of the
3 West Covina Police Department¹³; 2) failing to properly train West Covina Police
4 Department police officers to recognize when arrestees, Civil Protective Custody
5 detainees, Custodial Inmates and others in the Custody of the West Covina Police
6 Department¹⁴ are in need of immediate and/or emergency medical care; 3) failing
7 to properly train West Covina Police Department police officers to provide or to
8 summon immediate and/or emergency medical care to arrestees, detainees, Civil
9 Protective Custody detainees, Custodial Inmates and others in the Custody of the
10 West Covina Police Department¹⁵ who are in apparent need of such immediate
11 and/or emergency medical care, 4) using excessive force against persons in the
12 custody of West Covina Police Department police officers, including arrestees.
13 Civil Protective Custody detainees, jail inmates and other persons in police
14 custody; 3) otherwise creating the unlawful conditions of confinement, and 5)
15 fabricating evidence to cover-up tortious and/or felonious and/or otherwise
16 criminal misconduct by West Covina Police Department¹⁶ police officers.
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26 ¹³ And/or some other law enforcement agency.

27 ¹⁴ And/or some other law enforcement agency.

28 ¹⁵ And/or some other law enforcement agency.

¹⁶ And/or some other law enforcement agency.

1 17. Accordingly, defendants 3 and 4 are liable to plaintiffs via
2 Supervisory Liability (e.g., failure to properly supervise, improperly directing
3 subordinate officers and/or approving unconstitutional actions of subordinate
4 officers), Supervisory Bystander Liability (failing to intervene in and stop unlawful
5 actions of their subordinates and/or other officers), and/or by creating and/or
6 contributing to the creation of the policies, practices, customs, and/or usages of the
7 City of West Covina¹⁷ for:

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10
11 a) Having a longstanding custom and practice of failing to train West
12 Covina Police Department¹⁸ Police Officers / Custodial Officers /
13 Special Officers / other jail personnel on how to recognize when to
14 arrestees, detainees, jail inmates, Civil Protective Custody
15 detainees, Custodial inmates and others in the custody of the West
16 Covina Police Department¹⁹ are in medical distress and who would
17 appear to a reasonably well-trained peace officer / custodial officer
18 / special officer, other West Covina Public Officer, to be in serious /
19 acute medical distress, and how to recognize when such persons are in
20 need of emergency and/or immediate medical care due to their being
21 in recognizable medical distress, including persons who suffer from
22 asthma, and who are suffering from asthma attacks and are otherwise
23 having difficulty breathing from their asthmatic condition;
24
25 b) Having a longstanding custom and practice of West Covina Police
26 Department²⁰ Police Officers / Custodial Officers / Special
27 Officers / other jail personnel of failing to provide and/or to
28 summon immediate and/or emergency medical care to and/or for

¹⁷ And/or some other public entity.

¹⁸ And/or some other law enforcement agency.

¹⁹ And/or some other law enforcement agency.

²⁰ And/or some other law enforcement agency.

1 arrestees, detainees, jail inmates, Civil Protective Custody
2 detainees, Custodial Inmates and others in the Custody of the West
3 Covina Police Department²¹ who would appear to a reasonably
4 well-trained peace officer / custodial officer / special officer to be
5 in serious / acute medical distress, and who would appear to a
6 reasonably well-trained peace officer / custodial officer / special
officer to be in need of emergency and/or immediate medical care;

- 7 c) Having a longstanding custom and practice of failing to properly
8 train West Covina Police Department²² Police Officers / Custodial
9 Officers / Special Officers / Public Officers and other jail
10 personnel on how to recognize when arrestees, detainees, Civil
11 Protective Custody Detainees, jail inmates, custodial Inmates and
12 others in the custody of the West Covina Police Department²³ are
13 suffering from severe medical distress situations that require
14 immediate and/or emergency medical attention and care; and
15
16 d) Having a longstanding custom and practice of Using Excessive /
17 Unreasonable Force upon Arrestees, Detainees, Civil Protective
18 Custody Detainees, Custodial Inmates and others in the Custody of
19 the West Covina Police Department²⁴, such as by cinching down
20 handcuffs too tightly, and such as by keeping persons in the
21 custody of the West Covina Police Department as Civil Protective
22 Custody Detainees handcuffed, when, under the circumstances due
23 to such persons being in medical distress a reasonably well-trained
24 peace officer would believe that keeping such Civil Protective
25 Custody Detainees handcuffed would create a fair probability that
26 keeping such persons so handcuffed could or would result in
27 serious physical harm to such persons, including causing breathing
28 problems, and possibly death.

26 ²¹ And/or some other law enforcement agency.

27 ²² And/or some other law enforcement agency.

28 ²³ And/or some other law enforcement agency.

²⁴ And/or some other law enforcement agency.

1 18. At all times complained of herein, DOES 3 and 4 were acting as
2 individual persons acting under the color of state law, pursuant to their authority as
3 the West Covina City Manager or the West Covina Police Department Chief of
4 Police and/or his/her Assistant Chiefs and/or Deputy Chiefs and/or Commanders
5 and/or Captains and/or Lieutenants and/or Sergeants and/or other Supervisory
6 personnel, and/or policy making and/or final policy making officials, employed by
7 West Covina Police Department²⁵ and/or defendant CITY²⁶ and/or policy making
8 and/or final policy making officials with the West Covina Police Department²⁷,
9 and/or some other public official(s) with defendant CITY²⁸, and were acting in the
10 course of and within the scope of their employment with defendant CITY²⁹.
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14 19. Defendants DOES 5 and 6 are Security Officers who were at all times
15 complained of herein were employed as Security Officers employed by defendant
16 EXODUS RECOVERY, INC. at its psychiatric hospital facility located at 12021
17 Wilmington Ave, Los Angeles, California 90059.
18

20 20. Defendants DOES 7 and 8 are other officers and/or agents and/or
21 other employees of defendant EXODUS RECOVERY, INC. who were at all times
22 complained of herein were employed as officers and/or agents and/or other
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26 ²⁵ And/or some other law enforcement agency.

27 ²⁶ And/or some other public entity.

28 ²⁷ And/or some other law enforcement agency.

²⁸ And/or some other public entity.

²⁹ And/or some other public entity.

1 employees of EXODUS RECOVERY, INC.

2 21. At all times complained of herein, defendants DOES 9 and 10 were
3 Owners and/or Officers and/or Directors and/or Managers and/or high-ranking
4 employees and policy-making officials with defendant EXODUS RECOVERY,
5 INC.
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7 22. At all times complained of herein, defendants DOES 5 through 10,
8 inclusive, were acting as individual persons acting under the color of state law,
9 pursuant to their authority as Owners and/or Officers and/or Directors and/or
10 Managers and/or high-ranking employees and policy-making officials and/or other
11 agents and/or other employees of defendant EXODUS RECOVERY, INC., and
12 were acting in the course of and within the scope of their control of and/or
13 management of and/or employment / agency / officer status with defendant
14 EXODUS RECOVERY, INC.
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18 23. Moreover, defendants DOES 9 and 10 maintained and/or created and/or
19 contributed to the creation of the policies, customs and practices of defendant
20 EXODUS RECOVERY, INC.
21

22 24. At all times complained of herein, defendants DOES 9 and 10 are in
23 some substantial way liable and responsible for, or otherwise proximately caused
24 and/or contributed to the occurrences complained of by plaintiffs in this action,
25 such as via Supervisory Liability (i.e. failure to properly supervise, improperly
26 directing subordinate officers, approving actions of subordinate officers), via
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1 Bystander Liability (failing to intervene in and stop unlawful actions of their
2 subordinates and/or other officers), and such as by creating and/or causing the
3 creation of and/or contributing to the creation of the policies and/or practices
4 and/or customs and/or usages of the EXODUS RECOVERY, INC. for, *inter alia*,:

- 6 a) failing to adequately provide or to summon immediate and/or
7 emergency medical care to their 5150³⁰ Civil Protective Custody
8 detainees
- 9 b) failing to properly train defendant EXODUS RECOVERY, INC.
10 Security Officers to recognize when Civil Protective Custody
11 detainees are in serious medical distress and/or in extremis
- 12 c) failing to properly train defendant EXODUS RECOVERY, INC.
13 Security Officers to render and/or summon emergency medical care
14 when Civil Protective Custody detainees are in serious medical
15 distress and/or in extremis, other than merely calling 9-1-1, such as by
16 taking any such Civil Protective Custody detainees in need of
17 emergency medical care or otherwise in extremis, to the hospital that
18 is located right next to the Urgent Care Center (UCC) MLK and/or
EXODUS RECOVERY INC. MLK-ICC facility where the September
25, 2023 subject incident took place.

19 25. Accordingly, as a result of the actions and omissions of defendants
20 DOES 9 through 10, inclusive, defendant EXODUS RECOVERY, INC.:

- 21
- 22 a) Had/has a longstanding custom and practice of failing to train
23 defendant EXODUS RECOVERY, INC. agents, officers and
24 employees, including Security Officers, on how to recognize when
25 detainees, arrestees and Civil Protective Custody detainees,
custodial inmates and others in the custody of the EXODUS
- 26

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28 ³⁰ Cal. Welf & Inst Code § 5150.

1 RECOVERY, INC. facility and/or are otherwise in the custody of
2 the police at the EXODUS RECOVERY, INC. facility, are in
3 medical distress and who would appear to a reasonably well-
4 trained Security Officer or other EXODUS RECOVERY, INC.
5 agent, officer or employee on how to recognize when such persons
6 are in need of emergency and/or immediate medical care due to their
7 being in recognizable/apparent/obvious medical distress, including
8 persons who suffer from asthma, and who are suffering from asthma
attacks and are otherwise having difficulty breathing from their
asthmatic condition;

9 b) Had/has a longstanding custom and practice of failing to provide
10 and/or to summon immediate and/or emergency medical care to
11 and/or for arrestees, detainees, Civil Protective Custody detainees,
12 Custodial Inmates and others in the custody of the EXODUS
13 RECOVERY, INC. facility and/or are otherwise in the custody of
14 the police at the EXODUS RECOVERY, INC. facility, who would
15 appear to a reasonably well-trained Security Officer and/or other
16 agents, officers or employees of EXODUS RECOVERY, INC. to
be in serious/acute medical distress and who appear to be in need of
emergency and/or immediate medical care;

17 c) Had/has a longstanding custom and practice of failing to provide or
18 to summon immediate or emergency medical treatment for or for
19 arrestees, detainees, Civil Protective Custody Detainees, Custodial
20 Inmates and others in the custody of police officers at the
21 EXODUS RECOVERY, INC. facility or were/are otherwise in the
22 custody of the EXODUS RECOVERY, INC. facility who would
23 appear to a reasonably well-trained Security Officer and/or other
24 agents, officers or employees of EXODUS RECOVERY, INC. to
25 be in serious/acute medical distress and/or medical extremis, and who
26 appear to be in need of emergency and/or immediate medical care,
27 and of only calling 9-1-1 for such persons suffering any such medical
28 emergencies, and not taking them to the hospital right next door to the
EXODUS RECOVERY, INC. facility and/or not getting medical
help from that hospital facility that is right next door to the
EXODUS RECOVERY, INC. facility where the September 25,
CONSOLIDATED FIRST AMENDED COMPLAINT FOR DAMAGES

2023 incident complained of in this action;

- d) Had/has a longstanding custom and practice of failing to train its Security Officers and other Exodus Recovery, Inc./EXODUS RECOVERY personnel to recognize when Arrestees, Detainees, Civil Protective Custody Detainees, Custodial Inmates and others in the Custody of various police agencies are suffering from severe medical distress situations that require immediate and/or emergency medical attention and care; and
- e) Had/has a longstanding custom and practice of allowing and confining persons in physical positions that are or resemble “reverse hangings” or other forms of positional asphyxia when persons are handcuffed behind their backs and are made to sit on chairs in positions that restrict the handcuffed person’s breathing/ability to breathe; and
- f) Failed to have wheelchairs and/or gurneys onsite to transport patients to the hospital next door to the EXODUS RECOVERY, INC. facility emergency department³¹ across the street from the facility.

26. Plaintiffs are presently unaware of the identities of DOES 1 through 10, inclusive, and will amend their complaint to add and to show the actual names of said DOE defendants when made known to plaintiffs.

27. In addition to the above and foregoing, defendants CHANG, MENDEZ and DOES 1 through 10, inclusive, acted pursuant to a conspiracy, agreement and understanding and common plan and scheme to deprive the plaintiffs CHAVIRA and SENIOR and their decedent, JUNIOR, of their federal

³¹ Or other department of said hospital.

1 Constitutional and statutory rights, and California constitutional and statutory state
2 law rights, as complained of in this action.

3
4 28. Moreover, defendants CHANG, MENDEZ and DOES 1 through 10,
5 inclusive³², acted in joint and concerted action to so deprive the plaintiffs of those
6 rights as complained of herein; all in violation of 42 U.S.C. § 1983, and otherwise
7 in violation of United States (Constitutional and statutory) law and California
8 (Constitutional and statutory) state law.

9
10 29. Said conspiracy/agreement/understanding/plan/scheme/joint action/
11 concerted action, above-referenced, was a proximate cause of the violation of the
12 plaintiffs' federal and state constitutional and statutory rights, as complained of
13 herein.
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16 **FIRST CAUSE OF ACTION**
17 **VIOLATION OF 42 U.S.C. § 1983**
18 **INTERFERENCE WITH PARENT-CHILD RELATIONSHIP**
19 **IN VIOLATION OF SUBSTANTIVE DUE PROCESS OF LAW**
20 **(U.S. Const. Amend 14)**
21 **(By Plaintiffs Theresa Chavira and Richard Alexander Herrera, Individually,**
22 **Against Defendants CHANG, EXODUS RECOVERY, INC., JAVIER**
23 **MENDEZ and DOES 1 through 10, inclusive)**

24
25
26 30. Plaintiffs hereby reallege and incorporate by reference the allegations
27 set forth in paragraphs 1 through 29, inclusive, above, as if set forth in full herein.
28

³² And other persons, private persons acting under the color of state law in joint and concerted and conspiratorial actions with defendant Michael Chang and with DOES 1 through 6, inclusive, to deprive JUNIOR and to deprive plaintiff of their federal constitutional rights and their rights under California state law.

1 31. On the afternoon of September 25, 2023, plaintiffs' decedent,
2 JUNIOR³³, was suffering from a mental health crisis when he falsely accused
3 SENIOR of using his credit card without his permission.
4

5 32. In addition, also on the afternoon of September 25, 2023 while
6 JUNIOR was accusing SENIOR of the unauthorized use of his credit card,
7 JUNIOR menaced SENIOR with an aluminum baseball bat; swinging the bat back
8 and forth but never actually striking SENIOR with the bat.
9

10 33. In response to JUNIOR menacing SENIOR with the baseball bat in
11 at their temporary residence, the Five Star Inn in West Covina, California,
12 SENIOR called 9-1-1 with the intent of having JUNIOR taken into Civil Protective
13 Custody pursuant to Cal. Welf & Inst Code § 5150, for a 72-hour Mental Health
14 Hold/Confinement in a Mental Health Facility.
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17 34. In response to SENIOR's 9-1-1 call for service, defendant West
18 Covina Police Department police officer Michael Chang (hereinafter referred to as
19 "CHANG") and West Covina Police Department police officer Jeremy Weaver
20 arrived at the Five Star Inn and spoke with SENIOR.
21

22 35. SENIOR advised CHANG and Officer Jeremy Weaver that JUNIOR
23 had menaced SENIOR with an aluminum baseball bat by swinging it in SENIOR's
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³³ Richard Alexander Herrera, Jr.

1 direction³⁴, but did not actually hit him with the bat.

2 36. Thereafter, West Covina Police Department police officers Cpl.
3 Kenney Benitez, Sgt. Abel Hernandez, Kevin Kroneberger and other West Covina
4 Police Department police officers arrived at the scene at the Five Star Inn and were
5 advised by CHANG and Officer Jeremy Weaver about JUNIOR menacing
6 SENIOR with an aluminum baseball bat.
7

8 37. Defendant CHANG and said other West Covina Police Department
9 police officers then arrested JUNIOR by approaching the hotel room at the Five
10 Star Inn where JUNIOR, SENIOR and CHAVIRA resided, and where JUNIOR
11 was located inside of. When JUNIOR opened the door of his hotel room, said
12 police officers grabbed JUNIOR, handcuffed him, took him downstairs from his
13 hotel room, and CHANG placed JUNIOR in the back seat of a West Covina Police
14 Department patrol vehicle.
15

16 38. Although SENIOR had repeatedly requested that CHANG, Officer
17 Jeremy Weaver and the other West Covina Police Department police officers³⁵
18 take JUNIOR into Civil Protective Custody for a 72-hour mental health
19 hold/confinement at a Mental Health Facility and not to take him to jail, CHANG
20 denied SENIOR's request and told SENIOR that he would not be taking JUNIOR
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27 ³⁴ And swung it very close to SENIOR's person.

28 ³⁵ Cpl. Kenney Benitez, Sgt. Abel Hernandez and Kevin Kroneberger.

1 into custody at all unless SENIOR agreed to have JUNIOR arrested and taken to
2 jail for an assault upon SENIOR.

3
4 39. Moreover, prior to September 25, 2023, CHANG, Officer Jeremy
5 Weaver and most of the other West Covina Police Department officers were
6 familiar with JUNIOR, as they had taken him into Civil Protective Custody
7 pursuant to Cal. Welf & Inst Code § 5150 several times prior to September 25,
8 2023.

9
10 40. SENIOR reminded CHANG of that fact; of CHANG's and the other
11 West Covina Police Department police officers' prior Section 5150 Civil
12 Protective Custody seizures of JUNIOR in the past.

13
14 41. However, CHANG would not budge, and insisted that either CHANG
15 arrest JUNIOR and take him to jail for an assault of SENIOR, or he would not take
16 JUNIOR into custody at all.

17
18 42. After repeatedly pleading with CHANG to take JUNIOR into Civil
19 Protective Custody for a 72-hour mental health hold/confinement at a Mental
20 Health Facility³⁶, SENIOR finally acceded to CHANG's condition to take JUNIOR
21 into custody and agreed that CHANG could take JUNIOR to the West Covina
22 Police Department pursuant to an arrest of JUNIOR for assaulting SENIOR.
23
24

25
26
27
28 ³⁶ Pursuant to Cal. Welf & Inst Code § 5150.

1 43. However, when SENIOR finally acceded to CHANG's condition to
2 take JUNIOR into custody pursuant to an arrest of JUNIOR for assaulting
3 SENIOR³⁷, SENIOR also advised CHANG that JUNIOR suffered from a medical
4 condition called ectodermal dysplasia³⁸, that JUNIOR had no sweat glands and
5 needed to be constantly hydrated with liquids to drink, and that JUNIOR had
6 severe breathing problems from asthma and that JUNIOR needed to use his inhaler
7 frequently to help him breathe.
8

9
10 44. Pursuant to CHANG's³⁹ arrest of JUNIOR, CHANG drove JUNIOR
11 to the West Covina Police Department and booked him for assaulting SENIOR.
12

13 45. During the booking process at the West Covina Police Department
14 station jail, JUNIOR was questioned by CHANG and the Jailer there, Officer
15 Lopez, about his medical condition, and JUNIOR informed CHANG and the
16 booking officer(s)⁴⁰ that he had asthma and needed to frequently use his inhaler
17 that JUNIOR had in his pants pocket when he was arrested and taken to jail by
18 CHANG.
19
20
21
22
23

24 ³⁷ For menacing SENIOR with the bat; not actually striking SENIOR.

25 ³⁸ JUNIOR suffered from a disease known as ectodermal dysplasia; a rare disorder that affects
26 the skin, sweat glands, hair, teeth, and nails. Ectodermal dysplasia occurs when the outer layer of
27 tissue (ectoderm) of the embryo does not develop normally. In JUNIOR's case, although he was
28 37 years old at the time of his death on September 25, 2023, he was 4 feet 11 inches tall, had no
hair anywhere on his body, no teeth and a deformed face and ears.

³⁹ And the other West Covina Police Department police officers.

⁴⁰ Including Officer Lopez.

1 46. CHANG took JUNIOR's inhaler for his asthma from JUNIOR's pants
2 pocket when he searched JUNIOR at the West Covina Police Department station
3 jail, and placed in JUNIOR's asthma inhaler into and with JUNIOR's personal
4 property at the West Covina Police Department jail.
5

6 47. When CHANG, Jailer Lopez and DOES 1 and 2 questioned JUNIOR
7 about his medical conditions pursuant to his being medical cleared for booking at
8 the West Covina Police Department, JUNIOR told CHANG, Jailer Lopez and
9 DOES 1 and 2 that he had no sweat glands and constantly needed to drink water
10 and carbonated beverages, and, that he suffered from asthma and needed to
11 frequently use his asthma inhaler that CHANG found on JUNIOR's person when
12 CHANG searched JUNIOR pursuant to his arrest of him.
13
14

15 48. Moreover, persons who suffer from ectodermal dysplasia, like
16 JUNIOR, have stunted growth and deformed facial features, along with a total lack
17 of any body (and scalp) hair and no teeth⁴¹.
18

19 49. Accordingly, while JUNIOR was at the West Covina Police
20 Department on September 25, 2023 defendants CHANG and DOES 1 and 2
21 mocked and taunted JUNIOR about his physical appearance; causing JUNIOR to
22 suffer severe mental and emotional pain, suffering and distress.
23
24

25
26
27 ⁴¹ In fact, JUNIOR, had stunted growth (he was 4' 11" tall) and deformed facial features, along
28 with a total lack of any body (and scalp) hair, and no teeth.

1 50. Moreover, in response to being mocked and taunted by CHANG,
2 DOES 1 and 2 and other West Covina Police Department police officers, JUNIOR
3 began yelling at, and swearing at CHANG, Jailer Lopez and the other West Covina
4 Police Department officers at the jail, and wrapped his shirt around his neck in a
5 feigned suicide gesture.
6

7 51. While at the West Covina Jail, it was apparent and obvious to
8 CHANG, Jailer Lopez, DOES 1 and 2 and the other West Covina Police
9 Department officers at the jail that JUNIOR was not only in need of immediate
10 psychiatric treatment, but that he was also in need of immediate medical treatment,
11 as he told defendants CHANG, Jailer Lopez and the other West Covina Police
12 Department officers at the jail that he was having difficulty breathing from his
13 asthma condition.
14
15
16

17 52. As shown above, SENIOR had also informed CHANG and West
18 Covina Police Department police officers Officer Jeremy Weaver, Cpl. Kenney
19 Benitez, Sgt. Abel Hernandez, Kevin Kroneberger, that JUNIOR suffered from
20 asthma and associated breathing problems and needed to frequently use his inhaler.
21

22 53. Moreover, at approximately 4:00 p.m. on September 25, 2023,
23 JUNIOR's mother, plaintiff CHAVIRA, called the West Covina Police Department
24 and spoke to the Officer Lopez ("LOPEZ"), the Jailer at the West Covina Police
25 Department jail, and a West Covina Police Department Supervisor, and notified
26 them of JUNIOR's medical condition and medical needs, including needing to give
27
28

1 him lots of water and carbonated beverages because of his overheating problems
2 from his ectodermal dysplasia condition, and to make sure that he had with him
3 and needed to use his asthma inhaler, as JUNIOR was presently suffering from
4 breathing problems from his asthma condition, and that JUNIOR needed to
5 immediately be taken to a hospital immediately for medical treatment.
6

7
8 54. Officer LOPEZ and the West Covina Police Department Supervisor
9 told CHAVIRA that they would be taking JUNIOR to a hospital as soon as
10 JUNIOR had made it through the booking process at the West Covina Police
11 Department, and for her to call back at 6:00 p.m.
12

13 55. At approximately 6:06 p.m. on September 25, 2023, CHANG drove
14 JUNIOR to Emanate Health Inter-Community Hospital in Covina⁴², for medical
15 care and otherwise for a Civil Protective Custody 72-hour Mental Health
16 Hold/Confinement hold pursuant to Cal. Welf & Inst Code § 5150.
17

18 56. CHANG escorted JUNIOR inside of Emanate Health Inter-
19 Community Hospital for his badly needed immediate medical treatment and mental
20 health examination and treatment and spoke with the hospital staff there in the
21 admissions area.
22

23
24 57. CHANG decided to retaliate against JUNIOR for his protesting
25
26
27

28 ⁴² Located at 210 W. San Bernardino Road, Covina.

1 CHANG's and DOES 1 and 2's treatment of him at West Covina Police
2 Department jail, by deliberately failing to tell the Intake / Admissions hospital staff
3 there⁴³ that JUNIOR was suffering from an acute medical condition, and about his
4 overheating and his acute breathing problems.
5

6 58. As a result of CHANG deliberately failing to tell the Intake /
7 Admissions hospital staff there⁴⁴ that JUNIOR was suffering from an acute
8 medical condition, his overheating and his acute breathing problems, and only
9 telling the Intake / Admissions hospital staff at Emanate Health Inter-Community
10 Hospital that JUNIOR had only been taken there for a Civil Protective Custody
11 psychiatric hold and examination pursuant to Cal. Welf & Inst Code § 5150, the
12 Intake / Admissions hospital staff at Emanate Health Inter-Community Hospital
13 told CHANG that there would be a several-hour delay in admitting JUNIOR
14 pursuant to Cal. Welf & Inst Code § 5150 to have him psychiatrically examined to
15 be cleared for being taken back into custody and housed at the West Covina Police
16 Department Jail⁴⁵.
17
18
19
20

21 59. As CHANG did not want to wait several hours to take JUNIOR back
22 to jail, notwithstanding JUNIOR's obvious need for emergency medical treatment
23 for JUNIOR's obvious acute medical condition and JUNIOR's inability to breathe
24
25
26

27 ⁴³ At Emanate Health Inter-Community Hospital.

28 ⁴⁴ At Emanate Health Inter-Community Hospital.

⁴⁵ And/or at the Los Angeles County Jail.

1 sufficiently due to his asthma condition, CHANG decided to take JUNIOR to
2 another hospital, far away from Emanate Health Inter-Community Hospital; LAC-
3 USC Medical Center⁴⁶, located at 1983 Marengo Street, Los Angeles, California.
4

5 60. Moreover, during the drive of JUNIOR by CHANG from the West
6 Covina Police Department to Emanate Health Inter-Community Hospital, and
7 thereafter during the drive from Emanate Health Inter-Community Hospital to
8 LAC-USC Medical Center, JUNIOR was constantly complaining to CHANG that
9 he was having difficulty breathing, as he was, in fact, having great difficulty
10 breathing due to his asthma condition.
11
12

13 61. However, notwithstanding JUNIOR constantly complaining to
14 CHANG that he was having difficulty breathing and that he needed to use his
15 asthma inhaler, CHANG failed and refused to provide JUNIOR's inhaler to him,
16 telling JUNIOR to "Stop playing games".
17

18 62. Again, when CHANG and JUNIOR finally reached LAC-USC
19 Medical Center, rather than CHANG telling the Admissions / Intake staff at LAC-
20 USC Medical Center Hospital that JUNIOR was in need of immediate medical
21 treatment for his asthma condition due to his inability to breathe, CHANG told the
22 hospital staff there that JUNIOR was only being taken to the hospital for a
23
24

25
26
27 ⁴⁶ Los Angeles County – University of Southern California Medical Center, now known as Los
28 Angeles General Medical Center.

1 psychiatric hold and examination pursuant to Cal. Welf & Inst Code § 5150.

2 63. As a result of CHANG refusing to tell the Admissions / Intake staff at
3 LAC-USC Medical Center Hospital that JUNIOR was in need of immediate
4 medical treatment for his asthma condition, his inability to breathe, and as a result
5 of CHANG telling the Admissions / Intake staff at LAC-USC Medical Center
6 Hospital that JUNIOR was only being taken to the hospital for a psychiatric hold
7 and examination pursuant to Cal. Welf & Inst Code § 5150, the Admissions /
8 Intake staff at LAC-USC Medical Center Hospital did not provide immediate
9 emergency medical treatment to and for JUNIOR, and they told CHANG to take
10 JUNIOR to EXODUS RECOVERY URGENT CARE CENTER (UCC) MLK⁴⁷,
11 hereinafter referred to as “MLK EXODUS RECOVERY CENTER” at 12021
12 Wilmington Avenue, Los Angeles, California; an approximately one-hour drive
13 from LAC-USC Medical Center.

14 64. The total drive from the West Covina Police Department to the
15 Emanate Intercommunity Hospital, to LAC-USC Medical Center, to MLK
16 EXODUS RECOVERY CENTER took approximately two hours; depriving
17 JUNIOR of badly needed emergency medical care for his acute asthma condition
18 for almost two additional hours, which exacerbated JUNIOR’s breathing problem
19
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28 ⁴⁷ Owned and operated by EXODUS RECOVERY, INC.

1 and exacerbating JUNIOR's medical condition, distress and suffering.

2 65. Throughout the entirety of that journey that CHANG took JUNIOR on
3 from the West Covina Police Department to the Emanate Intercommunity Hospital
4 to LAC-USC Medical Center to eventually take JUNIOR to MLK EXODUS
5 RECOVERY CENTER, JUNIOR was complaining to CHANG that he was not
6 able to breathe and to give JUNIOR his inhaler, and CHANG failed and refused to
7 provide JUNIOR's inhaler to him, or to take him to a closer hospital or emergency
8 medical facility, or even to a neighborhood Urgent Care facility, or to even call 9-
9 1-1 for him or to otherwise call for paramedics for him; causing JUNIOR to be in
10 medical extremis.
11

12
13
14 66. Once CHANG arrived with JUNIOR at MLK EXODUS RECOVERY
15 CENTER, a Mental Health Urgent Care Facility, it became even more obvious to
16 CHANG that JUNIOR was suffering from a serious medical issue; to wit, his
17 problems with not being able to breathe.
18

19
20 67. CHANG then took JUNIOR into MLK EXODUS RECOVERY
21 CENTER, a locked Mental Health Urgent Care Facility, and kept JUNIOR
22 confined in the locked hospital Entrance Hallway there, while still handcuffed
23 behind his back, as CHANG filled-in/authored a completed a 5150 72-hour hold
24
25
26
27
28

1 Petition and Declaration⁴⁸ in order to confine JUNIOR in the MLK EXODUS
2 RECOVERY CENTER facility; a locked psychiatric facility.

3
4 68. Among other serious medical issues, while in the entrance hallway at
5 EXODUS RECOVERY prior to being admitted into the main hospital Security /
6 Admissions area of the hospital, JUNIOR began suffering from a full-on acute
7 asthma attack; something that was obvious to CHANG, and something that would
8 have been obvious to any reasonably well-trained police officer and even to a lay
9 person.
10

11
12 69. It was obvious to CHANG that JUNIOR was visibly gasping for every
13 breath that he tried to take, but CHANG refused to take JUNIOR's handcuffs off of
14 him; something that obviously made it more difficult for JUNIOR to breathe.

15
16 70. CHANG did not take JUNIOR to a regular medical hospital, nor did
17 they call for paramedics or alert the medical staff or the Security Staff or anyone
18 else at MLK EXODUS RECOVERY CENTER that JUNIOR was experiencing
19 very serious trouble breathing.
20

21 71. CHANG was in possession of JUNIOR's inhaler, but failed to provide
22 it to him, while JUNIOR was visibly and obviously gasping for air and in very
23 serious medical extremis and severe medical distress.
24

25
26
27
28 ⁴⁸ Pursuant to Cal. Welf & Inst Code § 5150.

1 72. Pursuant to that full-on acute asthma attack JUNIOR began scooting
2 and crawling on the floor in the MLK EXODUS RECOVERY CENTER facility
3 locked Entrance Hallway, begging for his inhaler, and telling CHANG that he
4 could not breathe.
5

6 73. While JUNIOR was writhing on the floor of the locked Entrance
7 Hallway at the MLK EXODUS RECOVERY CENTER facility, an MLK
8 EXODUS RECOVERY CENTER facility Security Officer, defendant DOE 1,
9 entered the locked entrance area from the Security / Admissions area of the
10 facility, and saw JUNIOR writhing on the floor, gasping for air and begging for
11 medical help and care.
12
13

14 74. Even though CHANG just stood in the hallway, watching JUNIOR
15 buck his chest and head and back and writhe on the floor in very obvious medical
16 distress, because CHANG told the MLK EXODUS RECOVERY CENTER
17 Security Officer defendant DOE 1 that JUNIOR was faking that condition, that he
18 was “playing games”, the EXODUS RECOVERY Security Officer, defendant
19 DOE 1, picked JUNIOR up off of the floor and walked him over to the chair in the
20 locked entrance hallway, and sat JUNIOR down on the chair.
21
22

23 75. Notwithstanding his being placed on the chair and taken up off of the
24 floor of the locked entrance hallway, still handcuffed, JUNIOR kept gasping for air
25 and kept begging CHANG for his inhaler.
26
27

28 76. It was obvious to defendant DOE 1 as well as to CHANG that
CONSOLIDATED FIRST AMENDED COMPLAINT FOR DAMAGES

1 JUNIOR had great trouble breathing and was in great medical distress and in
2 extremis.

3
4 77. Notwithstanding his being placed on the chair and taken up off of the
5 floor of the locked Entrance Hallway, still handcuffed, JUNIOR kept gasping for
6 air and kept begging CHANG for his inhaler.

7
8 78. After JUNIOR was now sitting on the Entrance Hallway chair, while
9 still suffering and gasping for air for approximately seven minutes, CHANG
10 stopped filling out the 5150 form and offered JUNIOR his inhaler by holding it up
11 in front of JUNIOR's mouth for approximately 11 seconds.

12
13 79. JUNIOR tried to reposition himself to place his mouth on the inhaler,
14 that CHANG claims to have been a refusal by JUNIOR to use his inhaler⁴⁹, and
15 placed JUNIOR's inhaler back in the plastic bag that he carried the inhaler inside
16 of, and placed that plastic bag containing the inhaler on top of the lockbox in the
17 locked Entrance Hallway at the MLK EXODUS RECOVERY CENTER facility.

18
19
20 80. Almost immediately following CHANG placing the plastic bag
21 containing the inhaler on top of the lockbox in the Entrance Hallway, within a few
22 seconds JUNIOR stood-up from sitting on the Entrance Hallway chair and again
23 asked CHANG for his inhaler, saying to CHANG "Come on, I'll be able to take it
24
25
26
27

28 ⁴⁹ CHANG claims that JUNIOR refused his inhaler when offered the same at that time.
CONSOLIDATED FIRST AMENDED COMPLAINT FOR DAMAGES

1 this time.”

2 81. In response to that request by JUNIOR to CHANG to now allow
3 JUNIOR to inhale from his inhaler, CHANG stated to JUNIOR: “I already put it
4 away. I’m done with your games.”
5

6 82. Shortly after CHANG refused to provide JUNIOR with his asthma
7 inhaler, JUNIOR began to panic further and continued to gasp for air and
8 continued to tell CHANG that he could not breathe.
9

10 83. While gasping for air and writhing on the floor in the Entrance
11 Hallway, JUNIOR continued to beg CHANG for his inhaler.
12

13 84. However CHANG just stood over JUNIOR and ignored his pleas.

14 85. Moreover, notwithstanding JUNIOR’s repeatedly begging CHANG
15 for JUNIOR’s inhaler, CHANG just continued to ignore JUNIOR’s pleas for his
16 inhaler, telling JUNIOR that he was done with his games, and that he would not
17 permit him to use his inhaler.
18

19 86. When CHANG then told JUNIOR that he was not going to provide
20 JUNIOR’s inhaler to him, JUNIOR stood-up from the chair in the Entrance
21 Hallway and attempted to walk to the door that led from the Entrance Hallway
22 into the Security / Admissions area of the MLK EXODUS RECOVERY CENTER
23
24
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1 facility to beg⁵⁰ for help with his inability to breathe from someone at the MLK
2 EXODUS RECOVERY CENTER facility.

3
4 87. However, when CHANG saw JUNIOR walk toward the doorway to
5 the admissions area to hail help through the window in the hallway that looked into
6 the Security / Admissions area, CHANG grabbed JUNIOR and tossed JUNIOR
7 down onto the floor of the entrance hallway area; preventing JUNIOR from
8 obtaining help breathing, to save his life.

9
10 88. Moreover, although JUNIOR's difficulty breathing was becoming
11 more severe and more obvious, CHANG also failed and refused to summon
12 emergency medical care for JUNIOR by asking the MLK EXODUS RECOVERY
13 CENTER facility staff for medical care for JUNIOR or for them to summon
14 medical care for JUNIOR, or to otherwise summon medical care for JUNIOR on
15 CHANG's cellphone or on his police radio.

16
17 89. JUNIOR had been obviously suffering from an asthma attack, and
18 having been deprived of his inhaler, as he laid at the foot of CHANG; gasping for
19 air and begging for his inhaler.

20
21 90. JUNIOR was on the verge of death, laying at CHANG's feet, when
22
23
24
25

26 ⁵⁰ That is beg from the Security Staff who were sitting on the other side of window that allow the
27 Security Staff to see into the entrance hallway, and, there, DOES 2 and 3 saw JUNIOR on the
28 other side of that window begging them for help. However, DOES 2 and 3 ignored JUNIOR's
plea for medical help to them.

1 CHANG reached for his cell phone; not the lifesaving inhaler, but his cell phone.

2 91. Then, after approximately 12 minutes of JUNIOR being in obvious
3 extremis from his asthma condition in the Entrance Hallway, CHANG then began
4 taking “selfies” with his cellphone with JUNIOR on the floor in the background, as
5 JUNIOR laying and writhing on the floor, literally dying, slowly suffocating from
6 the lack of oxygen.
7

8 92. Moreover, CHANG failed to place JUNIOR in a recovery position
9 to avoid/prevent him from suffocating from positional asphyxia.
10

11 93. Approximately 15 minutes after CHANG took JUNIOR into the
12 Entrance Hallway of EXODUS RECOVERY, JUNIOR became unresponsive and
13 stopped moving and appeared to stop breathing as he was laying on his back.
14

15 94. When JUNIOR appeared to stop breathing it was blatantly obvious
16 that JUNIOR appeared to stop breathing and that he was unresponsive and
17 completely stopped moving as he was laying flat on his back on the floor in the
18 Entrance Hallway, still handcuffed with his hands behind his back.
19

20 95. Even then CHANG did not alert anyone or provide or seek medical
21 care for JUNIOR, nor did CHANG begin chest compressions or call for medical
22 assistance for JUNIOR or render medical assistance for JUNIOR, and merely stood
23 over JUNIOR’s motionless and nonresponsive body.
24

25 96. Then after 2 minutes and 31 seconds after JUNIOR appeared to
26 completely stop breathing, and appeared completely motionless and unresponsive
27

1 on the floor of the Entrance Hallway, defendant MLK EXODUS RECOVERY
2 CENTER Security Officer Javier Mendez came into the Entrance Hallway.

3
4 97. CHANG told defendant Security Officer Javier Mendez that JUNIOR
5 was faking his condition, that he was “playing games”, and asked defendant Javier
6 Mendez to help him bring JUNIOR out of the Entrance Hallway and into the
7 Security / Intake / Admissions area of the MLK EXODUS RECOVERY CENTER
8 facility.
9

10 98. Defendant Javier Mendez could see that JUNIOR appeared not to be
11 breathing and appeared to be completely nonresponsive by that point in time⁵¹.
12

13 99. Nonetheless, defendant Javier Mendez agreed to help CHANG drag
14 JUNIOR’s seemingly lifeless body out of the Entrance Hallway and into the
15 Security / Intake / Admissions Desk area of the MLK EXODUS RECOVERY
16 CENTER facility.
17

18 100. It was obvious to both defendant Security Officer Javier Mendez and
19 CHANG that JUNIOR appeared to not be breathing and was completely
20 nonresponsive⁵² when they examined him in the Entrance Hallway, and while they
21
22
23
24

25 ⁵¹ However, defendant Javier Mendez believed that he heard some sort of sounds coming from
26 JUNIOR; sounds that may have been indicative of extremely depressed or extremely strained
breathing or belching.

27 ⁵² However, defendant Javier Mendez believed that he heard some sort of sounds coming from
28 JUNIOR; sounds that may have been indicative of extremely depressed or extremely strained
breathing or belching.

1 were dragging his totally limp body into the Security / Intake / Admissions area of
2 the MLK EXODUS RECOVERY CENTER facility.

3
4 101. CHANG and defendant Javier Mendez also at least tacitly⁵³ agreed to
5 conceal the fact that JUNIOR was not breathing and was completely nonresponsive
6 when they dragged him into the Security / Intake / Admissions area of the
7 EXODUS RECOVERY facility, to avoid any blame for his seemingly lifeless
8 condition, and when they dragged JUNIOR's seemingly lifeless body into the
9 Security / Intake / Admissions Desk area from the Entrance Hallway, they both
10 actively and in concert positioned JUNIOR in a joint effort to conceal JUNIOR's
11 medical condition from the other Security Officers and other MLK EXODUS
12 RECOVERY CENTER personnel at the Security / Intake / Admissions Desk area.

13
14
15
16 102. Once in the Security / Intake / Admissions Desk area defendants
17 CHANG and Javier Mendez placed JUNIOR's seemingly lifeless body in a chair
18 in that area, right in front of the Security / Intake / Admissions Desk and the MLK
19 EXODUS RECOVERY CENTER staff minding the same, and lifted JUNIOR's
20 now seemingly lifeless body up to a position that made JUNIOR appear to be
21 sitting upright in a chair, to make it appear that he was still alive⁵⁴.

22
23
24 103. When the MLK EXODUS RECOVERY CENTER staff asked
25
26
27

28 ⁵³ Or otherwise reached an understanding and agreement.

⁵⁴ Including holding his torso up and pulling his legs out as if he was sitting normally.

1 CHANG about JUNIOR's condition, CHANG told them that JUNIOR was "just
2 playing games"; all in the presence of defendant Javier Mendez and the other MLK
3 EXODUS RECOVERY CENTER staff members. However, it was apparent to
4 defendant Javier Mendez that JUNIOR was by that point in time not breathing, and
5 that he was dying.
6

7
8 104. Defendant CHANG then kept holding onto JUNIOR's limp body,
9 propping him up on the chair in the admissions area across from the Security /
10 Intake / Admissions Desk⁵⁵.
11

12 105. When CHANG eventually stopped propping JUNIOR's body up,
13 JUNIOR's upper body folded over, and his head was hanging down between his
14 legs. Bn
15

16 106. Thereafter, CHANG continued to tell the MLK EXODUS
17 RECOVERY CENTER staff that JUNIOR was "playing games"; acting as if he
18 was dead, which by that time he apparently was or was on the verge of death.
19

20 107. JUNIOR's seemingly lifeless body remained folded over in the chair
21 for several additional approximately five minutes while CHANG and the
22 EXODUS RECOVERY staff⁵⁶ stood by and did nothing to help JUNIOR.
23

24 108. Rather than ask anyone at the MLK EXODUS RECOVERY
25
26

27 ⁵⁵ Like the movie "Weekend at Bernie's".
28 ⁵⁶ Including Javier Mendez.

1 CENTER facility to help JUNIOR or to otherwise provide or to seek emergency
2 medical treatment for JUNIOR, CHANG just stood next to the now seemingly
3 lifeless body of JUNIOR and acted as if JUNIOR was faking being dead, and
4 telling the hospital staff that JUNIOR was faking being nonresponsive and faking
5 not breathing by holding his breath, and just waited for someone from the MLK
6 EXODUS RECOVERY CENTER to check on JUNIOR to admit him as a
7
8 psychiatric patient at the MLK EXODUS RECOVERY CENTER facility.
9

10 109. Defendant Javier Mendez, however, knew otherwise; that JUNIOR
11 was dying or by that time even possibly dead or on death's doorstep.
12

13 110. Although defendant Javier Mendez knew that JUNIOR was dying, he
14 nonetheless assisted defendant CHANG in at least attempting to convince the other
15 staff members at MLK EXODUS RECOVERY CENTER that JUNIOR was
16
17 faking.

18 111. For approximately five minutes defendants Security Officers Dean
19 Rosado and Curtis Swancy saw what appeared to be JUNIOR's seemingly lifeless
20 body being dragged into the Security / Intake / Admissions Desk area, propped up
21 in a chair right in front of the Security / Intake / Admissions Desk, right in front of
22 them, and just stood and sat there and watched JUNIOR either dead or dying, and
23 did nothing about it; failing to provide or to summon emergency medical care for
24 JUNIOR.
25
26

27 112. After approximately five minutes of JUNIOR being brought into the
28 CONSOLIDATED FIRST AMENDED COMPLAINT FOR DAMAGES

1 MLK EXODUS RECOVERY CENTER Security / Intake / Admissions Desk area
2 Charge Nurse Lucy Mesue, R.N. came into the Security / Intake / Admissions
3 Desk area to check on JUNIOR's vitals so that he could be admitted into the MLK
4 EXODUS RECOVERY CENTER mental health facility on a 5150⁵⁷ 72-hour
5 psychiatric Civil Protective Custody detention.
6

7
8 113. When Registered Nurse Lucy Mesue attempted to take JUNIOR's
9 blood-pressure she saw that JUNIOR was unresponsive and not breathing, so she
10 told CHANG to remove the handcuffs from JUNIOR.
11

12 114. When CHANG took the handcuffs off of JUNIOR's wrists, he placed
13 JUNIOR on the floor flat on his back and began chest compressions on JUNIOR.
14

15 115. This took place beginning approximately seven minutes after JUNIOR
16 had been brought into the Security / Intake / Admissions area of EXODUS
17 RECOVERY from the Entrance Hallway of the MLK EXODUS RECOVERY
18 CENTER facility.
19

20 116. The chest compressions by CHANG were unsuccessful in bringing
21 JUNIOR back to life, as were continued chest compressions on JUNIOR by MLK
22 EXODUS RECOVERY CENTER staff, and even after a defibrillator was used on
23 JUNIOR in an attempt to revive him.
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28 ⁵⁷ Cal. Welf & Inst Code § 5150.

1 117. Moreover, any reasonably well-trained Security Officer, and for that
2 matter, any reasonable adult, including defendants DOES 5 through 10, inclusive,
3 and MENDEZ, SWANCY and ROSADO would have recognized that JUNIOR
4 was in extreme and severe medical distress, especially his labored breathing, his
5 begging for medical help. However, they all just stood there and watched JUNIOR
6 slowly die right in front of them, doing nothing provide or to summon emergency
7 medical assistance for JUNIOR.
8

9
10 118. Moreover, defendant Javier Mendez took JUNIOR's property bag
11 from CHANG that contained JUNIOR's inhaler for his asthma condition, and
12 Javier Mendez knew that JUNIOR had been complaining that he could not breathe,
13 and that he was begging for his inhaler, and yet failed to provide JUNIOR with his
14 inhaler.
15

16
17 119. Accordingly, defendant Javier Mendez acting in joint, concerted and
18 conspiratorial action with CHANG to hide JUNIOR's severe and obvious medical
19 condition and distress, in extremis, from the other personnel at the MLK EXODUS
20 RECOVERY CENTER facility, in an effort to deprive JUNIOR of the emergency
21 medical care that he was begging for since he arrived at the MLK EXODUS
22 RECOVERY CENTER facility.
23

24
25 120. As a direct and proximate result of defendant Javier Mendez' and
26 CHANG's actions in hiding JUNIOR's severe and ultimately fatal condition, and
27

1 as a direct and proximate result of their failure to provide⁵⁸ and/or summon
2 emergency medical care for JUNIOR, at approximately 7:50 p.m. on September
3 25, 2025 JUNIOR was pronounced dead at the MLK EXODUS RECOVERY
4 CENTER facility by paramedics.
5

6 121. MLK Hospital was a regular hospital for regular medical treatment
7 and was approximately one hundred or so feet from the MLK EXODUS
8 RECOVERY CENTER facility, and defendants CHANG, MENDEZ, RESADO,
9 SWANCY and DOES 5 through 10, inclusive, could have simply taken JUNIOR
10 to that hospital on the other side of the interior roadway from the MLK EXODUS
11 RECOVERY CENTER facility to get medical attention and treatment for
12 JUNIOR.
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15 122. In addition, the entire time that JUNIOR was in the MLK EXODUS
16 RECOVERY CENTER facility Entrance Hallway, an ambulance with ambulance
17 attendants was parked on the other side of the Entrance Hallway door, and those
18 ambulance attendants / paramedics could have provided the necessary immediate
19 medical assistance that could have and likely would have saved JUNIOR's life.
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22 123. Defendant CHANG, defendant Javier Mendez and DOES 1 through
23 10, inclusive, owed to JUNIOR a duty to protect his health and safety under both
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28 ⁵⁸ Such as by allowing JUNIOR to inhale from his inhaler.

1 federal constitutional and California state law, and nonetheless said defendants: 1)
2 unreasonably refused/failed to provide JUNIOR with his inhaler, 2) unreasonably
3 kept JUNIOR handcuffed even though it was obvious that JUNIOR being
4 handcuffed restricted JUNIOR's ability to breathe, 3) told the staff at all three
5 hospitals that JUNIOR was faking his medical distress/playing games, depriving
6 him of emergency medical treatment from those hospital facilities⁵⁹, 4) failed to
7 place JUNIOR in the recovery position once JUNIOR was on or was otherwise
8 propelled to the floor in the entrance hall of the MLK EXODUS RECOVERY
9 CENTER facility, 5) failed to provide/obtain/summon medical care for JUNIOR at
10 the MLK EXODUS RECOVERY CENTER facility, 6) dragged JUNIOR from the
11 Entrance Hallway at the MLK EXODUS RECOVERY CENTER facility into the
12 Security / Intake / Admissions area and propping him up on a chair to create the
13 appearance that JUNIOR was alive and/or responsive in some way and/or not in
14 extremis, preventing and/or further delaying the application of life-saving
15 measures to be taken to save JUNIOR's life⁶⁰ by the staff at MLK EXODUS
16 RECOVERY CENTER, 7) telling the hospital staff at the MLK EXODUS
17 RECOVERY CENTER facility that JUNIOR was faking/"playing games" and not
18 in medical distress/in extremis, preventing and/or further delaying the application
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27 ⁵⁹ Also resulting in it taking two hours to get from the West Covina Police Department to MLK
EXODUS.

28 ⁶⁰ Such as Cardio Pulmonary Resuscitation, chest compressions and defibrillation.

1 of life-saving measures to be taken to save JUNIOR's life⁶¹, 8) placing JUNIOR on
2 a chair and propping him up to make it appear that JUNIOR was not in extremis or
3 otherwise dying, 9) failing to perform chest compressions or to perform other
4 emergency medical measure on JUNIOR after he became nonresponsive, and 10)
5 not seeking or summoning medical treatment or help or care for JUNIOR.
6

7
8 124. As a result of the actions of CHANG and defendants Javier Mendez
9 and DOES 1 through 10, inclusive⁶², JUNIOR died AT the MLK EXODUS
10 RECOVERY CENTER facility on September 25, 2023.
11

12 125. These actions and omissions by defendants CHANG, Javier Mendez
13 and DOES 1 through 10, inclusive, were outrageous and intentional, or at least so
14 grossly reckless that said conduct was done with full knowledge of the likelihood
15 of JUNIOR dying as a result of those actions and omissions, and with a deliberate
16 indifference to JUNIOR suffering serious medical injury and death.
17

18 126. Defendants CHANG, Javier Mendez and DOES 1 through , inclusive,
19 were deliberately indifferent to that serious risk of serious physical harm posed to
20 JUNIOR by their conduct complained of above, and said defendants knew of it and
21 disregarded it by failing to take reasonable measures to address it.
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24 127. In addition, defendants CHANG, Javier Mendez and DOES 1 through
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27 ⁶¹ Such as Cardio Pulmonary Resuscitation, chest compressions and defibrillation.

28 ⁶² And of Javier Mendez.

1 10, inclusive, were deliberately indifferent to that serious medical need and acute
2 medical distress, including the likelihood of death faced by JUNIOR, and said
3 defendants knew of it and disregarded it by failing to take reasonable measures to
4 address it, all in violation of plaintiffs' decedent's rights under the Fourteenth
5 Amendment to the United States Constitution.
6

7
8 128. In addition to the above and foregoing, as shown above, defendants
9 Javier Mendez and DOES 5 through 10, inclusive, were employees of MLK
10 EXODUS RECOVERY CENTER who were acting in the course of and within the
11 scope of their employment with defendant EXODUS RECOVERY, INC.
12

13 129. Moreover, as shown above, defendants Javier Mendez and DOES 5
14 through 10, inclusive⁶³, acted in joint, concerted and conspiratorial action with
15 defendant CHANG to so deprive the plaintiffs of their federal constitutional rights,
16 including their 14th Amendment⁶⁴ right of familial association; specifically their
17 parent-child relationship with JUNIOR.
18

19
20 130. Moreover, JUNIOR was still in the custody of and control of
21 defendant CHANG as a Civil Protective Custody Detainee⁶⁵, and as one in police
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25 ⁶³ And other persons, private persons acting under the color of state law in joint and concerted
26 and conspiratorial actions with defendant Michael Chang and with DOES 1 through 6, inclusive,
27 to deprive JUNIOR and to deprive plaintiff of their federal constitutional rights and their rights
28 under California state law.

⁶⁴ U.S. Const. Amend. 14.

⁶⁵ Pursuant to Cal. Welf & Inst Code § 5150.

1 custody on several criminal charges, and defendants CHANG, Javier Mendez and
2 EXODUS RECOVERY, INC. (via MLK EXODUS RECOVERY CENTER) were
3 legally obligated to keep JUNIOR confined in custody at the MLK EXODUS
4 RECOVERY CENTER for the police; for defendant CHANG on the underlying
5 criminal charges such that when JUNIOR was to be released on his 72-hour Civil
6 Protective Custody hold, defendant CHANG and the West Covina Police
7 Department planned on and intended to take him back into regular police custody
8 on the criminal charges that JUNIOR was arrested on; several arrest warrants and
9 the alleged assault of his father, plaintiff SENIOR.
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13 131. Moreover, as shown above and below, the actions an omission of
14 defendants Javier Mendez and DOES 1 through 6, inclusive, were so intertwined
15 and interdependent⁶⁶ with the actions and omissions of defendants West Covina
16 Police Department police officer CHANG and DOES 1 and 2 as to constituted
17 state action by them, sufficient for liability under 42 U.S.C. § 1983 against
18 defendants Javier Mendez and DOES 1 and 2.
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21 132. Moreover, shown above and below, the policies and longstanding
22 customs and practices of defendant EXODUS RECOVERY, INC. / MLK
23 EXODUS RECOVERY CENTER, were a proximate and direct cause of the
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27 ⁶⁶ Including acting in joint and concerted and conspiratorial actions to deprive JUNIOR and
28 ultimately the plaintiffs of their federal constitutional rights.

1 federal constitutional violations by defendants Javier Mendez and DOES 1 and 2,
2 to wit: 1) deferring to the police as to whether to seek medical treatment /
3 emergency medical care for 5150 Civil Protective Custody detainees, 2) not
4 permitting MLK EXODUS RECOVERY CENTER Security Officers to take Civil
5 Protective Custody detainees to the MLK Hospital that was not more than 150 feet
6 away from where JUNIOR perished, and not permitting MLK EXODUS
7 RECOVERY CENTER Security Officers to obtain any emergency medical care
8 for Civil Protective Custody detainees other than allowing them to call 9-1-1 / call
9 paramedics.
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13 133. As a direct and proximate result of the actions and omissions of
14 defendants CHANG, EXODUS RECOVERY, INC., Javier Mendez and DOES 1
15 through 6, inclusive, complained of above, plaintiffs CHAVIRA and SENIOR
16 suffered the loss of their Parent-Child Relationship, the loss of the love, affection,
17 solace, financial support, comfort and companionship that plaintiffs enjoyed from
18 their Parent-Child Relationship with JUNIOR, as well as severe depression, mental
19 and emotional pain, suffering and distress, the physical manifestation of that
20 mental and emotional pain suffering and distress, a terrible feeling of emptiness,
21 and deep and never-ending sorrow from the loss of their son, JUNIOR all along
22 with the loss of their income that they would have obtained from JUNIOR's
23 contribution to their monthly rent, and also suffered funeral and burial expenses,
24 hospital and other medical expenses and costs, and other special damages; all in an
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1 amount to be shown at trial, in excess of \$30,000,000.00 for each plaintiff.

2 134. In addition, the actions and omissions by defendants CHANG,
3 EXODUS RECOVERY, INC., Javier Mendez and DOES 1 through 6, inclusive,
4 constitute conduct by said defendants that was done maliciously and in reckless
5 disregard of plaintiffs' and of plaintiffs' decedent JUNIOR's and federal
6 constitutional rights, sufficient for an award of punitive damages against and
7 defendants EXODUS RECOVERY, INC., Javier Mendez and DOES 1 through 6,
8 inclusive, in an amount in excess of \$30,000,000.00 against each defendant for
9 each plaintiff.
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13 **SECOND CAUSE OF ACTION**
14 **VIOLATION OF 42 U.S.C. § 1983**
15 **EXCESSIVE/UNREASONABLE USE OF FORCE UPON PERSON**
16 **(U.S. Const. Amend. 4)**
17 **(By Plaintiffs Theresa Chavira and Richard Alexander Herrera as Successors**
18 **In Interest to Richard Alexander Herrera, Jr., Against Defendants CHANG**
19 **and DOES 1 and 2)**

20 135. Plaintiffs hereby reallege and incorporate by reference the allegations
21 set forth in paragraphs 1 through 134 inclusive, above, as if set forth in full herein.

22 136. At all times complained of in this action, defendants CHANG and
23 DOES 1 through 2, inclusive, were acting under the color of state law and within
24 the course and scope of their employment with CITY.

25 137. The actions of defendants CHANG and DOES 1 through 2, inclusive,
26 as complained above herein, constituted a violation of JUNIOR's rights under the
27 Fourth Amendment to the United States Constitution to be free from the use of
28

1 unlawful, unreasonable and excessive force upon his person.

2 138. Specifically, when defendant CHANG continued to keep JUNIOR in
3 handcuffs when he was obviously suffering from respiratory distress, JUNIOR'S
4 continued restraint by being handcuffed caused him severe pain and suffering,
5 greatly interfered with JUNIOR's breathing, was an unreasonable restraint of
6 JUNIOR under the circumstances, and contributed to his medical emergency and
7 ultimately to his death.
8

9 139. Additionally, defendant CHANG used unreasonable and excessive
10 force when he grabbed on to JUNIOR to prevent him from asking for help and
11 threw him down onto the floor of the Entrance Hallway of the MLK EXODUS
12 RECOVERY CENTER facility.
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16 140. Plaintiffs bring this claim for the use of excessive/unreasonable force
17 upon JUNIOR by CHANG as the Successors in Interest to JUNIOR, and seek
18 survival damages pursuant to Cal. Civ. Proc. Code § 377.30, including physical,
19 mental and emotional pre-death pain and suffering, JUNIOR's loss of life and loss
20 of enjoyment of his life⁶⁷, Wrongful Death damages for the violation of JUNIOR's
21 rights⁶⁸, and other special and general damages and expenses in an amount to be
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27 ⁶⁷ Hedonic damages.

28 ⁶⁸ Hedonic damages.

1 proven at trial which is in excess of \$30,000,000.00, and plaintiffs as JUNIOR's
2 Successors In Interest are entitled that award of said damages to JUNIOR, standing
3 in JUNIOR's shoes in this action.
4

5 141. The actions by said defendants CHANG and DOES 1 through 2,
6 inclusive were committed maliciously, oppressively and in reckless disregard of
7 JUNIOR's constitutional rights, sufficient for an award of punitive/exemplary
8 damages against all defendants and each of them, save defendant CITY, in an
9 amount to be proven at trial in excess of \$30,000,000.00.
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13 **THIRD CAUSE OF ACTION**

14 **Violation of 42 U.S.C. 42 § 1983**

15 **Pre-Trial Detainee's / Civil Protective Custody Detainee's Claim Re**
16 **Conditions of Confinement - Failure to Provide Medical Care**
17 **(U.S. Const. Amend. 14)**

18 **(By Plaintiffs Theresa Chavira and Richard Alexander Herrera as Successors**
19 **In Interest to Richard Alexander Herrera, Jr. Against Defendants CHANG**
20 **EXODUS RECOVERY, INC., JAVIER MENDEZ and DOES 1 through 10,**
21 **Inclusive)**

22 142. Plaintiffs hereby reallege and incorporate by reference the allegations
23 set forth in paragraphs 1 through 141, inclusive, above, as if set forth in full herein.
24

25 143. As set forth above, on September 25, 2023 plaintiffs' decedent
26 JUNIOR was taken into custody at the West Covina Police Department Jail where
27 he was incarcerated as a pretrial detainee-inmate in that facility.
28

144. Also as set forth above, while at the West Covina Police Department
Jail, JUNIOR was showing obvious signs of needing immediate medical attention,

1 including the need for a constant supply of water and an acute need for his inhaler
2 for his asthma condition.

3
4 145. Also as set forth above, while at the West Covina Police Department
5 Jail, JUNIOR was showing obvious signs of needing immediate psychiatric
6 attention as he feigned attempting suicide at the West Covina Police Department
7 jail and otherwise acted like a person who as a result of a mental disorder was a
8 danger to himself.

9
10 146. Also as set forth above, pursuant to Cal. Welf & Inst Code § 5150
11 CHANG took JUNIOR from the West Covina Police Department jail into Civil
12 Protective Custody to place him on a 72-hour hold at a psychiatric hospital/facility
13 for a psychiatric examination.

14
15 147. Also as set forth above, throughout the entirety of CHANG taking
16 JUNIOR from the West Covina Police Department jail/station to Emanate
17 Intercommunity Hospital, and then to LAC-USC Medical Center, and then to the
18 MLK EXODUS RECOVERY CENTER, JUNIOR was constantly complaining to
19 CHANG that he could not breathe, all while JUNIOR was still in the custody of
20 and control of CHANG as an arrestee and as Civil Protective Custody Detainee⁶⁹,
21 and as one otherwise in police custody on several criminal charges.
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28 ⁶⁹ Pursuant to Cal. Welf & Inst Code § 5150 and otherwise pursuant to the duty to provide
medical care for serious medical needs of an arrestee / pre-trial detainee / jail inmate.

1 148. Accordingly, CHANG owed JUNIOR a legal, moral and ethical duty
2 to obtain and to summon and to otherwise provide medical care for JUNIOR for
3 his serious and obvious medical condition⁷⁰, and breached that constitutionally
4 mandated legal duty of care to JUNIOR, including: 1) unreasonably
5 refusing/failing to provide JUNIOR with his inhaler, 2) unreasonably keeping
6 JUNIOR handcuffed even though it was obvious that JUNIOR being handcuffed
7 severely restricted JUNIOR's ability to breathe, 3) telling the staff at all three
8 hospitals that JUNIOR was faking his medical distress/playing games, depriving
9 him of emergency medical treatment from those hospital facilities⁷¹, 4) failing to
10 place JUNIOR in the recovery position once JUNIOR was on or was otherwise
11 thrown to the floor by CHANG in the Entrance Hallway of the MLK EXODUS
12 RECOVERY CENTER facility, 5) failing to provide/obtain/summon medical care
13 for JUNIOR at while driving from hospital to hospital, ultimately arriving at the
14 MLK EXODUS RECOVERY CENTER facility, 6) refusing to administer
15 JUNIOR's asthma inhaler to him, 7) failing to provide and/or to summon
16 immediate medical care for JUNIOR while JUNIOR was in the Entrance Hallway
17 of the MLK EXODUS RECOVERY CENTER, 8) dragging JUNIOR, along with
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26 ⁷⁰ Pursuant to the duty to provide medical care for serious medical needs of an arrestee / pre-trial
27 detainee / jail inmate.

28 ⁷¹ Also resulting in it taking two hours to get from the West Covina Police Department to MLK
EXODUS.

1 defendant Javier Mendez from the Entrance Hallway at the MLK EXODUS
2 RECOVERY CENTER facility into the Security / Intake / Admissions area and
3 then along with defendant Javier Mendez propping him up on a chair to create the
4 appearance that JUNIOR was alive and/or responsive in some way, preventing
5 and/or further delaying others from providing emergency medical care and/or the
6 application of life-saving measures to be taken to save JUNIOR's life⁷², and 9)
7 telling the hospital staff at the EXODUS RECOVERY facility that JUNIOR was
8 faking/"playing games" and not in medical distress/in extremis, preventing and/or
9 further delaying the application of life-saving measures to be taken to save
10 JUNIOR's life⁷³.
11
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14 149. Moreover, while CHANG had custody of JUNIOR at the MLK
15 EXODUS RECOVERY CENTER⁷⁴, and when JUNIOR was on the floor of the
16 entrance area while have severe trouble breathing defendants Javier Mendez and
17 DOES 1 through 3, inclusive, saw JUNIOR on the floor of the entrance hallway,
18 begging for medical attention/emergency medical care, and notwithstanding the
19 obviousness of JUNIOR being in medical extremis from his inability to breathe
20 and otherwise due to his asthma and ectodermal dysplasia condition, defendants
21 Javier Mendez and DOES 1 through 3, inclusive, witnessed CHANG intentionally
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27 ⁷² Such as Cardio Pulmonary Resuscitation, chest compressions and defibrillation.

28 ⁷³ Such as Cardio Pulmonary Resuscitation, chest compressions and defibrillation.

⁷⁴ As described above.

1 depriving JUNIOR of his life-saving inhaler and of immediate medical
2 attention/care to save his life.

3
4 150. As also shown above, while keeping JUNIOR unreasonably restrained
5 in handcuffs and failing to give/obtain/summon medical care for JUNIOR while
6 JUNIOR was telling CHANG and defendants Javier Mendez and DOES 1 through
7 3, inclusive, that he was having great difficulty breathing and needed to inhale
8 from his inhaler, and while JUNIOR was in obvious severe medical
9 distress/extremis from not being able to breathe, defendants CHANG and Javier
10 Mendez and DOES 1 through 3, inclusive, failed to render and/or to summon
11 emergency medical care for JUNIOR.
12

13
14 151. Also as set forth above, defendant Javier Mendez saw that JUNIOR
15 was lying flat on his back on the entrance hallway floor while handcuffed behind
16 his back, appearing nonresponsive and appearing not to be breathing⁷⁵; in obvious
17 need of immediate medical care.
18

19
20 152. However, notwithstanding defendant Javier Mendez seeing JUNIOR
21 in extremis and knowing that JUNIOR was on the verge of death, defendant Javier
22 Mendez agreed to CHANG's request to him to carry JUNIOR into the Security /
23 Intake / Admissions area and to prop JUNIOR up in a chair in that area to create
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27 ⁷⁵ However, defendant Javier Mendez believed that he heard some sort of sounds coming from
28 JUNIOR; sounds that may have been indicative of extremely depressed or extremely strained
breathing or belching.

1 the impression to the other MLK EXODUS RECOVERY CENTER staff /
2 employees that JUNIOR was not in extremis or not dead of dying, instead of
3 summoning emergency medical care for JUNIOR.
4

5 153. Moreover, as CHANG was placing JUNIOR in the custody of the
6 MLK EXODUS RECOVERY CENTER facility pursuant to Cal. Welf & Inst Code
7 § 5150, defendants Javier Mendez and DOES 1 through 6, inclusive owed
8 JUNIOR a duty to provide and/or summon medical care for JUNIOR when he
9 appeared to be in serious medical extremis; a condition that said defendants knew
10 that JUNIOR was obviously in.
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12

13 154. Moreover, as shown above, defendant Javier Mendez assisted
14 CHANG in hiding JUNIOR's serious medical condition by assisting CHANG in
15 picking JUNIOR's nonresponsive limp and motionless⁷⁶ body up off of the floor of
16 the entrance hallway of the MLK EXODUS RECOVERY CENTER facility and
17 dragged the nonbreathing nonresponsive⁷⁷ body of JUNIOR and dragged his body
18 into the Security / Intake / Admissions area, and propped JUNIOR's seemingly
19 lifeless body up in a chair that they placed him in, directly across from the Security
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25 ⁷⁶ However, defendant Javier Mendez believed that he heard some sort of sounds coming from
26 JUNIOR; sounds that may have been indicative of extremely depressed or extremely strained
breathing or belching.

27 ⁷⁷ However, defendant Javier Mendez believed that he heard some sort of sounds coming from
28 JUNIOR; sounds that may have been indicative of extremely depressed or extremely strained
breathing or belching.

1 / Intake / Admissions desk; all in plain view of defendants MLK EXODUS
2 RECOVERY CENTER Security Officers Curtis Swancy and Dean Rosado.

3
4 155. Moreover, as shown above, defendant Javier Mendez assisted
5 CHANG in hiding JUNIOR's serious medical condition by remaining silent when
6 CHANG was telling the MLK EXODUS RECOVERY CENTER facility staff in
7 the Security / Intake / Admissions area, including defendant Dean Rosado and
8 Curtis Swancy, that JUNIOR was "playing games" and was faking his being limp,
9 unconscious and nonresponsive, and that he was holding his breath, all while
10 defendant Javier Mendez knew that JUNIOR had by this time stopped breathing⁷⁸,
11 was actually nonresponsive, and was either dead or dying.
12

13
14 156. Moreover, defendant Javier Mendez knew that by CHANG telling the
15 staff at the MLK EXODUS RECOVERY CENTER facility that JUNIOR was
16 "playing games" and was faking his being limp, unconscious and nonresponsive,
17 and that he was holding his breath, that CHANG was inducing/causing the MLK
18 EXODUS RECOVERY CENTER staff to forego providing medical care and/or
19 summoning emergency medical care for JUNIOR, which they did.
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22 157. Any reasonable well-trained police officer and Security Officer under
23 the circumstances would have understood the high degree of risk involved, making
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27 ⁷⁸ However, defendant Javier Mendez believed that he heard some sort of sounds coming from
28 JUNIOR; sounds that may have been indicative of extremely depressed or extremely strained
breathing or belching.

1 the consequences of defendants CHANG's and Javier Mendez's and DOES 1
2 through 3, inclusive's failure to provide and/or summon immediate medical care
3 for JUNIOR ultimately resulted in his death via cardiac arrest from his inability to
4 breathe.

5
6 158. Moreover, CHANG and defendants Javier Mendez and DOES 1
7 through 6, inclusive, did not take reasonable available measures to abate or reduce
8 the risk of serious harm to JUNIOR, such as by providing JUNIOR of his life
9 saving inhaler, by taking the handcuffs off of JUNIOR to allow him to breath more
10 easily, by failing to place JUNIOR in the recovery position while JUNIOR was on
11 the floor of the entrance area of the EXODUS RECOVERY facility, and to provide
12 and/or obtain/summon immediate emergency medical care for JUNIOR.

13
14 159. Moreover, after JUNIOR became unresponsive at the MLK EXODUS
15 RECOVERY CENTER facility CHANG and defendants Javier Mendez and DOES
16 1 through 6, inclusive, still failed to take reasonable available measures to abate or
17 reduce the risk of serious harm to JUNIOR, to wit; providing and/or obtaining
18 and/or summoning emergency/immediate medical care for JUNIOR, such as
19 calling for paramedics and/or other medical personnel to attend to JUNIOR, and
20 such as giving JUNIOR Cardiopulmonary Resuscitation and/or defibrillation
21 and/or chest compressions to JUNIOR, and/or taking JUNIOR to MLK Hospital
22 that was not more than 150 feet away from where JUNIOR perished.

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24 160. Defendant CHANG and defendants Javier Mendez and DOES 1
25 CONSOLIDATED FIRST AMENDED COMPLAINT FOR DAMAGES
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1 through 6, inclusive's failure to take those reasonable available measures to abate
2 or reduce the risk of serious harm to JUNIOR, described above, resulted in the pre-
3 death physical, mental and emotional pain, suffering and distress to JUNIOR, and
4 eventually resulted in JUNIOR's death from cardiac arrest from oxygen
5 deprivation.
6

7
8 161. Moreover, as shown above, at all times complained of herein,
9 defendants Javier Mendez and DOES 1 through 6, inclusive, were acting in the
10 course of and within the scope of their employment with MLK EXODUS
11 RECOVERY CENTER / EXODUS RECOVERY, INC., and were acting pursuant
12 to the policies, longstanding customs and practices of EXODUS RECOVERY /
13 EXODUS RECOVERY, INC.; to wit, to defer to the police regarding the provision
14 of emergency medical care to MLK EXODUS RECOVERY CENTER 5150
15 detainees, including the failure to provide emergency medical treatment for
16 JUNIOR.
17

18
19 162. Moreover, those policies, longstanding customs and practices of MLK
20 EXODUS / EXODUS RECOVERY, INC., above-described, were a proximate
21 cause of the constitutional violations committed by defendants Javier Mendez and
22 DOES 1 through 6, inclusive, that ultimately resulted in the death of JUNIOR on
23 September 25, 2025.
24

25
26 163. Defendants CHANG, Javier Mendez and DOES 1 through 6,
27 inclusive's actions and omissions complained of above constituted the violation of
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1 JUNIOR's rights under the Fourteenth Amendment to the United States
2 Constitution to receive medical care for his serious medical needs.

3
4 164. In addition, as a direct and proximate result of CHANG's and
5 defendants Javier Mendez and DOES 1 through 6, inclusive's actions and
6 omissions, plaintiffs' decedent JUNIOR also suffered lost wages/profits and other
7 income that plaintiffs' decedent JUNIOR would have earned/made/acquired during
8 his lifetime, the hedonic damages to JUNIOR caused by the loss of JUNIOR's
9 life⁷⁹, funeral and burial expenses, hospital and other medical expenses and costs,
10 and other special damages; all of said injuries and damages to JUNIOR totaling an
11 amount to be shown at trial, in excess of \$30,000,000.00.
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15 165. Moreover, CHANG's and defendants Javier Mendez' and DOES 1
16 through 6, inclusive's conduct described above was done maliciously and in
17 reckless disregard plaintiffs' decedent JUNIOR's federal constitutional rights,
18 sufficient for an award of punitive damages against defendants MLK EXODUS
19 RECOVERY CENTER / EXODUS RECOVERY, INC., Javier Mendez and DOES
20 1 through 6, inclusive, in an amount in excess of \$30,000,000.00, and plaintiffs as
21 JUNIOR's successors in interest are entitled to an award of said damages that
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28 ⁷⁹ That is, the value of decedent's life to him.

JUNIOR would be entitled to.

FOURTH CAUSE OF ACTION

Violation Of 42 U.S.C. § 1983

Deprivation Of Life Without Due Process Of Law

(U.S. Const. Amend. 14)

**(By Plaintiffs Theresa Chavira and Richard Alexander Herrera as Successors
In Interest to Richard Alexander Herrera, Jr. Against Defendants CHANG,
EXODUS RECOVERY, INC., JAVIER MENDEZ and DOES 1 through 10,
inclusive)**

166. Plaintiffs hereby reallege and incorporate by reference the allegations set forth in paragraphs 1 through 165, inclusive, above, as if set forth in full herein.

167. As set forth above, on September 25, 2023 plaintiffs' decedent JUNIOR, was taken into custody at the West Covina Police Department Jail where he was incarcerated as a pretrial detainee - inmate in that facility.

168. As set forth above, while at the West Covina Police Department Jail, JUNIOR was showing obvious signs of needing immediate medical attention.

169. CHANG and defendants and DOES 1 through 6, inclusive, were also put on notice of JUNIOR's medical condition, especially his serious and severe asthma condition, and yet CHANG and defendants Javier Mendez and DOES 1 through 6, inclusive, failed to provide JUNIOR with any medical care, including failing to allow him to inhale from JUNIOR's inhaler, causing JUNIOR to slowly suffocate and the physical, mental and emotional pain, suffering and distress accompanying that slow suffocation, and ultimately causing JUNIOR's death.

1 170. Moreover, while at the EXODUS RECOVERY facility, CHANG and
2 defendants Javier Mendez and DOES 1 through 6, inclusive, intentionally deprived
3 JUNIOR of his life saving inhaler and refused/failed to provide or obtain or
4 summons emergency medical care for JUNIOR, notwithstanding that CHANG and
5 defendants Javier Mendez and DOES 1 through 6, inclusive, knew that JUNIOR
6 was slowly suffocating from his inability to breathe from his asthma condition and
7 his other medical problems, including his ectodermal dysplasia condition.
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10 171. Also as set forth above, as a result of the actions and omissions of
11 CHANG and defendants and Javier Mendez and DOES 1 through 6, inclusive
12 shown above, said defendants knew that JUNIOR faced a substantial risk of
13 suffering serious and severe medical harm, as well as facing a serious medical
14 need.
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17 172. Moreover, as shown above, defendant CHANG and defendants and
18 Javier Mendez and DOES 1 through 6, inclusive, knew that JUNIOR was in
19 extremis and on the verge of death, and nonetheless failed to attend to JUNIOR,
20 and failed to administer or to obtain or to summon medical care for him, or even to
21 provide his inhaler to him to allow JUNIOR to breathe, by: 1) unreasonably
22 refusing/failing to provide JUNIOR with his inhaler, 2) unreasonably keeping
23 JUNIOR handcuffed even though it was obvious that JUNIOR being handcuffed
24 restricted JUNIOR's ability to breathe, 3) telling the staff at all three hospitals that
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1 JUNIOR was faking his medical distress/playing games, depriving him of
2 emergency medical treatment from those hospital facilities⁸⁰, 4) failing to place
3 JUNIOR in the recovery position once JUNIOR was on or was otherwise propelled
4 to the floor in the entrance hall of the EXODUS RECOVERY facility, 5) failing to
5 provide/obtain/summon medical care for JUNIOR at the EXODUS RECOVERY
6 facility, 6) dragging JUNIOR from the Entrance Hallway at the MLK EXODUS
7 RECOVERY CENTER facility into the Security / Admission / Intake area and
8 propping him up on a chair to create the appearance that JUNIOR was alive and/or
9 responsive in some way, preventing and/or further delaying the application of life-
10 saving measures to be taken to save JUNIOR's life⁸¹, 7) telling the hospital staff at
11 the MLK EXODUS RECOVERY CENTER facility that JUNIOR was faking
12 / "playing games" and not in medical distress/in extremis, preventing and/or
13 further delaying the application of life-saving measures to be taken to save
14 JUNIOR's life⁸², and 8) failing to perform chest compressions on JUNIOR after he
15 became nonresponsive.

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22 173. As a result of the actions and omissions of defendants CHANG and
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26 ⁸⁰ Also resulting in it taking two hours to get from the West Covina Police Department to MLK
27 EXODUS.

28 ⁸¹ Such as Cardio Pulmonary Resuscitation, chest compressions and defibrillation.

⁸² Such as Cardio Pulmonary Resuscitation, chest compressions and defibrillation.

DOES 1 through 6, inclusive shown above, said defendants knew that JUNIOR faced a substantial risk of suffering serious and severe medical harm, as well as facing a serious medical need.

174. Accordingly, CHANG and defendants Javier Mendez and DOES 1 through 6, inclusive, used excessive/unreasonable force and were deliberately indifferent to JUNIOR's obvious medical needs, as said defendants knew of those medical needs and disregarded them by failing to take reasonable measures to address them.

175. Moreover, as set forth above, CHANG requested that defendants Javier Mendez assist him in picking up and dragging JUNIOR's seemingly lifeless body from the entrance hallway into the Security / Admission / Intake area at the MLK EXODUS RECOVERY CENTER facility, and thereafter to assist CHANG in propping up JUNIOR's unconscious and seemingly lifeless body up onto a chair right in front of the Security / Admission / Intake area, and positioned JUNIOR's body to appear that he was alive and sitting in the chair on his own accord.

176. Moreover, Javier Mendez knew that when he and CHANG looked over and picked up JUNIOR off of the floor of the entrance area of the MLK EXODUS RECOVERY CENTER facility, that JUNIOR was in extremis, that he was unconscious, that he was not or barely breathing, and that he was in extremis and was in great need of immediate and emergency medical attention and care, lest

1 he die.

2 177. However, for whatever reason, maybe Javier Mendez' yearning to be
3 a police officer, defendant Javier Mendez decided to accede to CHANG's request
4 to Javier Mendez to help him drag JUNIOR into the Security / Admission / Intake
5 area at MLK EXODUS RECOVERY CENTER, and thereafter to assist CHANG
6 in propping up JUNIOR's unconscious and seemingly lifeless body up onto a chair
7 right in front of the Security / Admission / Intake area, and positioned JUNIOR's
8 body to appear that he was alive and sitting in the chair on his own accord.
9

10 178. Moreover, when CHANG and Javier Mendez dragged JUNIOR's
11 apparently lifeless body into the Security / Admission / Intake area and propped
12 him up on a chair, CHANG was telling the Security Officers and other EXODUS
13 RECOVERY personnel that JUNIOR was "playing games" and faking being
14 unconscious and in extremis, Javier Mendez knew otherwise, but remained silent;
15 assisting CHANG in concealing JUNIOR's actual medical condition, the same
16 being in extremis and either by that time dead or slowly dying.
17

18 179. Those false statements by CHANG that JUNIOR was "playing
19 games" and faking being unconscious and in extremis, along with CHANG along
20 with defendant Javier Mendez in propping up JUNIOR in a chair in the Security /
21 Admission / Intake area caused the other Security Officers and the other personnel
22 at the Security/Admission/Intake area desk did not provide or summon emergency
23 medical care for defendants Javier Mendez and DOES 1 through 6, inclusive, as
24

1 complained of above, that resulted in the death of plaintiffs' decedent JUNIOR.

2 180. The actions of CHANG and defendants Javier Mendez and DOES 1
3 through 6, inclusive, were done with a deliberate indifference to plaintiffs'
4 decedent JUNIOR's life and were done in a manner that shocks the conscience; all
5 in violation of plaintiffs' decedent JUNIOR's right to his life under the Fourteenth
6 Amendment to the United States Constitution.
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9 181. Moreover, as shown above, at all times complained of herein,
10 defendants Javier Mendez and DOES 1 through 6, inclusive, were acting in the
11 course of and within the scope of their employment with MLK EXODUS
12 RECOVERY CENTER / EXODUS RECOVERY, INC., and were acting pursuant
13 to the policies, longstanding customs and practices of MLK EXODUS
14 RECOVERY CENTER / EXODUS RECOVERY, INC. to wit: 1) deferring to the
15 police as to whether to seek medical treatment / emergency medical care for 5150
16 Civil Protective Custody detainees, 2) not permitting MLK EXODUS
17 RECOVERY CENTER Security Officers to take Civil Protective Custody
18 detainees to the MLK Hospital that was not more than 150 feet away from where
19 JUNIOR perished, and not permitting MLK EXODUS RECOVERY CENTER
20 Security Officers to obtain any emergency medical care for Civil Protective
21 Custody detainees other than allowing them to call 9-1-1 / call paramedics.
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24 182. Moreover, those policies, longstanding customs and practices of MLK
25 EXODUS / EXODUS RECOVERY, INC. were a proximate cause of the
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1 constitutional violations committed by defendants Javier Mendez and DOES 1
2 through 6, inclusive, that ultimately resulted in the death of JUNIOR on September
3 25, 2025.
4

5 183. As a direct and proximate result of defendants CHANG, Javier
6 Mendez and DOES 1 through 6, inclusive's⁸³ actions and omissions complained of
7 above, plaintiffs' decedent JUNIOR suffered the loss of his life; his hedonic
8 damages, including loss of the rest of his natural life, and his right to the enjoyment
9 of the rest of his life, his lost income/profits and all of those joys, achievements and
10 love that he would have experienced, but for said defendants CHANG, Javier
11 Mendez' and DOES 1 through 6, inclusive's conduct complained of above, in the
12 amount of \$30,000,000.00, and plaintiffs as JUNIOR's successors in interest are
13 entitled to an award of said damages to JUNIOR.
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17 184. The conduct by defendants CHANG, Javier Mendez and DOES 1
18 through 6, inclusive, was done maliciously and in reckless disregard plaintiffs'
19 decedent JUNIOR's federal constitutional rights, sufficient for an award of
20 punitive damages against defendants CHANG, EXODUS RECOVERY, INC.,
21 Javier Mendez and DOES 1 through 6, inclusive, in an amount in excess of
22 \$30,000,000.00, and plaintiffs as JUNIOR's successors in interest are entitled to an
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28 ⁸³ On behalf of, and pursuant to the police, customs and practices of EXODUS RECOVERY, INC.

award of said damages to JUNIOR as they now stand in his shoes in this action.

FIFTH CAUSE OF ACTION
VIOLATION OF 42 U.S.C. § 1983
VIOLATION OF DUE PROCESS OF LAW⁸⁴
U.S. CONST. AMENDS 9⁸⁵ & 14
(State Created Danger Doctrine)

**(By Plaintiffs Theresa Chavira and Richard Alexander Herrera as Successors
In Interest to Richard Alexander Herrera, Jr. Against Defendants CHANG,
EXODUS RECOVERY, INC., JAVIER MENDEZ and
DOES 1 through 10, inclusive)**

185. Plaintiffs hereby reallege and incorporate by reference the allegations set forth in paragraphs 1 through 184, inclusive, above, as if set forth in full herein.

186. The actions of CHANG and defendants Javier Mendez and DOES 1 through 6, inclusive, complained of above, were done intentionally, were done in a manner which constituted deliberate indifference to JUNIOR's safety and constituted outrageous behavior that is shocking to the conscience.

187. As set forth above, defendants Javier Mendez and DOES 1 through 6, inclusive, saw JUNIOR laying nonresponsive and unconscious on the floor in the Entrance Hallway, with CHANG standing over JUNIOR, who appeared in extremis and on the verge of death, and nonetheless failed to attend to JUNIOR,

⁸⁴ And otherwise one of those "Rights Retained by the People" under the Ninth Amendment to the United States Constitution.

⁸⁵ As one of those "Rights Retained by the People" under the Ninth Amendment to the United States Constitution.

1 and failed to administer or to obtain or to summon medical care for him.

2 188. Moreover, as shown above, defendants Javier Mendez then acceded to
3 CHANG's request to help him carry JUNIOR's seemingly lifeless and limp body
4 from the Entrance Hallway at the MLK EXODUS RECOVERY CENTER facility
5 into the Security / Admission / Intake, and thereafter acceded to CHANG's request
6 to prop JUNIOR's unconscious and seemingly lifeless and limp body up into a
7 sitting position in a chair directly across from the desk at the Security / Admission /
8 Intake area to make it appear that JUNIOR was alive and not in extremis, when
9 Javier Mendez knew that JUNIOR was in extremis, and by that point in time or
10 already had suffered a cardiac arrest or was close to so suffering from a cardiac
11 arrest.
12

13 189. Moreover, as shown above, when CHANG told the other Security
14 Officers and the other staff at EXODUS RECOVERY at the Security / Admission /
15 Intake area that JUNIOR really wasn't in extremis and that he was "playing
16 games" and was faking being unconscious and nonresponsive, defendant Javier
17 Mendez remained silent and failed to contradict CHANG's false statements,
18 causing the other Security Officers and the other personnel at the Security /
19 Admission / Intake area not to believe that JUNIOR was in extremis and was not in
20 need of immediate emergency medical care, and, therefore, they failed to provide
21 or to summon immediate emergency medical care for JUNIOR.
22

23 190. Accordingly, the combined actions of CHANG and Javier Mendez
24 CONSOLIDATED FIRST AMENDED COMPLAINT FOR DAMAGES
25

1 created a dangerous condition of danger and harm to JUNIOR that he would have
2 not been in save those combined actions of CHANG and Javier Mendez.

3
4 191. As a proximate result of this dangerous situation that was created by
5 CHANG and Javier Mendez that JUNIOR would not have otherwise faced,
6 JUNIOR suffered a cardiac arrest and died in the Security / Admission / Intake
7 area of the MLK EXODUS RECOVERY CENTER facility on September 25,
8 2023.

9
10 192. Moreover, as shown above, at all times complained of herein,
11 defendants Javier Mendez and DOES 1 through 6, inclusive, were acting in the
12 course of and within the scope of their employment with MLK EXODUS
13 RECOVERY CENTER / EXODUS RECOVERY, INC., and were acting pursuant
14 to the policies, longstanding customs and practices of EXODUS RECOVERY /
15 EXODUS RECOVERY, INC. to wit: 1) deferring to the police as to whether to
16 seek medical treatment / emergency medical care for 5150 Civil Protective
17 Custody detainees, 2) not permitting MLK EXODUS RECOVERY CENTER
18 Security Officers to take Civil Protective Custody detainees to the MLK Hospital
19 that was not more than 150 feet away from where JUNIOR perished, and not
20 permitting MLK EXODUS RECOVERY CENTER Security Officers to obtain any
21 emergency medical care for Civil Protective Custody detainees other than allowing
22 them to call 9-1-1 / call paramedics.
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28 193. Moreover, those policies, longstanding customs and practices of MLK
CONSOLIDATED FIRST AMENDED COMPLAINT FOR DAMAGES

1 MLK EXODUS RECOVERY CENTER / EXODUS RECOVERY, INC. were a
2 proximate cause of the constitutional violations committed by defendants Javier
3 Mendez and DOES 1 through 6, inclusive, that ultimately resulted in the death of
4 JUNIOR on September 25, 2025.
5

6
7 194. Accordingly, by defendants CHANG's, Javier Mendez' and DOES 1
8 through 6, inclusive's affirmative actions created a dangerous situation for
9 JUNIOR that JUNIOR would not have otherwise faced that resulted in severe
10 medical distress, injury and ultimately, death to JUNIOR.
11

12
13 195. Moreover, the creation of that dangerous situation by defendants
14 CHANG's Javier Mendez' and DOES 1 through 6, inclusive's affirmative actions
15 directly and proximately caused JUNIOR to suffer severe medical distress, pain
16 and suffering, and ultimately, his death.
17

18
19 196. The actions of defendants Javier Mendez and DOES 1 through 6,
20 inclusive, as complained of above, that resulted in pre-death physical, mental and
21 emotional pain, suffering and distress suffered by JUNIOR, and the loss of
22 JUNIOR's life, were done with a deliberate indifference to plaintiffs' decedent
23 JUNIOR's life and were done in a manner with a deliberate indifference to
24 JUNIOR's physical well-being and to his life that shocks the conscience; all in
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1 violation of plaintiffs' decedent JUNIOR's right to not to be deprived of health and
2 his life under the Fourteenth Amendment to the United States Constitution.

3
4 197. As a direct and proximate result of defendants CHANG, Javier
5 Mendez' and DOES 1 through 6, inclusive's actions and omissions complained of
6 above, plaintiffs' decedent JUNIOR suffered pre-death physical, mental and
7 emotional pain, suffering and distress suffered by JUNIOR, and the loss of
8 JUNIOR's life, his hedonic damages, including loss of the rest of his natural life,
9 and his right to the enjoyment of the rest of his life, his lost income/profits and all
10 of those joys, achievements and love that he would have experienced, but for said
11 defendants CHANG's, Javier Mendez' and DOES 1 through 6, inclusive's conduct
12 complained of above, in the amount of \$30,000,000.00, and plaintiffs as JUNIOR's
13 successors in interest are entitled to an award of said damages standing in JUNIOR
14 shoes.

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19 198. The conduct by defendants CHANG, Javier Mendez DOES 1 through
20 6, inclusive, was done maliciously and in reckless disregard plaintiffs' decedent
21 JUNIOR's federal constitutional rights, sufficient for an award of punitive
22 damages against defendants CHANG and DOES 1 through 6, inclusive, in an
23 amount in excess of \$30,000,000.00, and plaintiffs as JUNIOR's successors in
24 interest are entitled to an award of said damages to JUNIOR.

SIXTH CAUSE OF ACTION

Violation of 42 U.S.C. 42 § 1983

**Claims for Municipal / Employer Liability (Monell Liability⁸⁶) via Policy
Created By Longstanding Custom & Practice and Via Failure to Properly
Train Officers / Security Officers / Employees**

**(By Plaintiffs Theresa Chavira and Richard Alexander Herrera, Individually
and as Successors In Interest to Richard Alexander Herrera, Jr. Against
Defendants CITY, EXODUS RECOVERY, INC. and DOES 3 through 4 and
7 through 10, inclusive)**

199. Plaintiffs hereby reallege and incorporate by reference the allegations
set forth in paragraphs 1 through 198, inclusive, above, as if set forth in full herein.

200. As set forth above, defendants DOES 3 through 4, inclusive, are
supervisors and policy-making officials⁸⁷, including the Chief of Police, his/her
Assistant Chiefs, Commanders, Captains, Lieutenants, Sergeants, Detectives
and/or other Supervisory personnel employed by the West Covina Police
Department / CITY⁸⁸ and/or the West Covina City Executive Officer and/or City
Manager and/or Members of the West Covina City Council, whose actions and/or
omissions proximately caused some or all of the tortious actions complained of in
this action, whose identities are presently unknown to plaintiffs.

201. Moreover, DOES 3 through 4, inclusive, and their predecessors in
office failed to properly train its West Covina Police Department police officers

⁸⁶ *Monell v. Department of Soc. Svcs.*, 436 U.S. 658 (1978).

⁸⁷ Including the County Board of Supervisors and the County Executive Officer.

⁸⁸ And/or some other public entity.

1 and supervisors on how to recognize the signs and symptoms of persons in medical
2 distress, including persons who are having difficulty breathing, including persons
3 afflicted with asthma, and persons suffering from asthma flare-ups and asthmatic
4 attacks.
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6 202. Moreover, DOES 3 through 4, inclusive, and their predecessors in
7 office failed to properly train its West Covina Police Department police officers
8 and supervisors on the necessity to provide an inhaler to someone suffering
9 difficulty breathing, especially someone having trouble breathing from asthma or
10 otherwise having an acute asthma attack/episode, and to otherwise provide and/or
11 obtain and/or summon medical treatment for persons in medical distress, especially
12 someone suffering an asthmatic attack/episode, or persons suffering from other
13 forms of medical distress, including persons who are otherwise having difficulty
14 breathing.
15

16 203. Moreover, defendant CITY has a longstanding custom and practice
17 that is so entrenched as to have the effect of actual written policy for:
18

- 19 a) Having a longstanding custom and practice of failing to train West
20 Covina Police Department⁸⁹ Police Officers / Custodial Officers /
21 Special Officers / other jail personnel on how to recognize when to
22 Arrestees, Detainees, Civil Protective Custody Detainees, Custodial
23 Inmates and others in the Custody of the West Covina Police
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28 ⁸⁹ And/or some other law enforcement agency.

1 Department⁹⁰ are in medical distress and who would appear to a
2 reasonably well-trained peace officer / custodial officer / special
3 officer, other West Covina Public Officer to be in serious / acute
4 medical distress, and how to recognize when such persons are in need of
5 emergency and/or immediate medical care due to their being in
6 recognizable medical distress, including persons who suffer from asthma
7 and who are suffering from asthma attacks and are otherwise having
8 difficulty breathing from their asthmatic condition;

9 b) Having a longstanding custom and practice of West Covina Police
10 Department⁹¹ Police Officers / Custodial Officers / Special Officers /
11 other jail personnel of failing to provide and/or to summon immediate
12 and/or emergency medical care to and/or for Arrestees, Detainees,
13 Civil Protective Custody Detainees, Custodial Inmates and others in
14 the Custody of the West Covina Police Department⁹² who would
15 appear to a reasonably well-trained peace officer / custodial officer /
16 special officer, other West Covina Public Officer to be in serious /
17 acute medical distress and who appear to be in need of emergency and/or
18 immediate medical care;

19 c) Having a longstanding custom and practice of failing to train West
20 Covina Police Department⁹³ Police Officers / Custodial Officers /
21 Special Officers / Public Officers and other jail personnel on how to
22 recognize when Arrestees, Detainees, Civil Protective Custody
23 Detainees, Custodial Inmates and others in the Custody of the West
24 Covina Police Department⁹⁴ are suffering from severe medical distress
25 situations that require immediate and/or emergency medical attention
26 and care; and

27 d) Having a longstanding custom and practice of Using Excessive /
28 Unreasonable Force upon Arrestees, Detainees, Civil Protective

⁹⁰ And/or some other law enforcement agency.

⁹¹ And/or some other law enforcement agency.

⁹² And/or some other law enforcement agency.

⁹³ And/or some other law enforcement agency.

⁹⁴ And/or some other law enforcement agency.

1 Custody Detainees, Custodial Inmates and others in the Custody of
2 the West Covina Police Department⁹⁵, such as by cinching down
3 handcuffs too tightly, and such as by keeping persons in the custody
4 of the West Covina Police Department as Civil Protective Custody
5 Detainees handcuffed, when, under the circumstances due to such
6 persons being in medical distress a reasonably well-trained peace
7 officer would believe that keeping such Civil Protective Custody
8 Detainees handcuffed would create a fair probability that keeping
9 such persons so handcuffed could or would result in serious physical
10 harm to such persons, including causing breathing problems, and
11 possibly causing death.

12 204. As set forth above, while in custody at the MLK EXODUS
13 RECOVERY CENTER facility JUNIOR was subjected to excessive force by
14 CHANG and DOES 1 through 2, inclusive, contributing to JUNIOR's death.

15 205. Moreover also as set forth above, JUNIOR was showing obvious
16 signs of needing immediate medical attention that defendant CHANG did or at
17 least reasonably should have recognized, as JUNIOR was constantly complaining
18 to defendant CHANG that he could not breathe, as defendant CHANG was told by
19 SENIOR that JUNIOR suffered from severe asthma and was in need of his inhaler,
20 as when defendant CHANG searched JUNIOR he found an asthma inhaler on
21 JUNIOR's person in his pants pocket, as when JUNIOR was booked at the West
22 Covina Police Department JUNIOR told the Jailer there, Officer Lopez, and told
23 defendant CHANG that he suffered from asthma, and as when JUNIOR was in
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28 ⁹⁵ And/or some other law enforcement agency.

1 custody and at the West Covina Police Department that JUNIOR's mother,
2 plaintiff CHAVIRA, called the West Covina Police Department and spoke to Jailer
3 Lopez and a police department Supervisor at the Jail and told them that JUNIOR
4 suffered from asthma and had a medical condition known as ectodermal dysplasia
5 that caused JUNIOR to overheat due to his not having any sweat glands.
6

7
8 206. However, notwithstanding the above and foregoing, defendant
9 CHANG claimed and claims to this day to have not believed that JUNIOR was not
10 able to breathe, apparently from his lack of proper training on how to recognize
11 when someone is suffering from breathing difficulties from asthma or otherwise
12 suffering from an asthmatic attack.
13

14 207. Alternatively, defendant CHANG did recognize that JUNIOR was
15 suffering from extreme medical distress/extremis, but due to his lack of proper
16 training on how to provide and/or obtain and/or summon emergency medical care
17 for persons suffering from medical distress/extremis from persons suffering from
18 an inability to breathe such as JUNIOR during the September 25, 2023 incident
19 complained of, JUNIOR suffered severe physical, mental and emotional pre-death
20 pain and suffering, and ultimately his death. Moreover, JUNIOR suffered severe
21 physical, mental and emotional injury, pain and suffering, including having his
22 ability to breathe impaired from being handcuffed while he was suffering from an
23 asthma attack, and from having his handcuffs cinched down excessively tight.
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28 208. As a proximate result of the actions and omissions of defendants

DOES 3 through 4, inclusive shown above, defendants CHANG did not know, or at least claims to not have known that JUNIOR was in acute medical distress/extremis, and, therefore committed the actions and omissions shown in paragraph 148, above. Moreover, as a result of defendant DOES 3 and 4's and defendant CITY's failure to properly train defendant CHANG and his fellow West Covina police department police officers on non-painful handcuffing techniques and how handcuffing one suffering from problems in breathing can suffer breathing impairment from being handcuffed behind their back, JUNIOR suffered extreme physical, mental and emotional injury, pain suffering and distress, including JUNIOR's death.

209. Accordingly, as a proximate result of the actions and omissions of defendants DOES 3 through 4, inclusive shown above, JUNIOR suffered severe physical, mental and emotional distress from his severe inability to breathe, that ultimately resulted in JUNIOR's death, all in violation of his constitutional rights complained of in plaintiffs' First, Second, Third, Fourth and Fifth Causes of Action shown and complained of above; all in violation of 42 U.S.C. § 1983.

210. Also as set forth above, defendants DOES 7 through 10, inclusive, are high ranking Managers, Officers, Supervisory Personnel and/or owners of defendant EXODUS RECOVERY, INC., who are policy making persons with that corporation.

211. As a result of the actions and omissions of defendants DOES 7
CONSOLIDATED FIRST AMENDED COMPLAINT FOR DAMAGES

1 through 10, inclusive, defendant EXODUS RECOVERY, INC.:

- 2 a) Had a longstanding custom and practice of failing to train defendant
3 EXODUS RECOVERY, INC. agents, officers and employees on how to
4 recognize when Arrestees and Civil Protective Custody Detainees ,
5 Custodial Inmates and others in the Custody of the police at the
6 EXODUS RECOVERY, INC. facility are in medical distress and who
7 would appear to a reasonably well-trained Security Officer or other
8 EXODUS RECOVERY, INC. agent, officer or employee on how to
9 recognize when such persons are in need of emergency and/or immediate
10 medical care due to their being in recognizable medical distress, including
11 persons who suffer from asthma and who are suffering from asthma attacks
12 and are otherwise having difficulty breathing from their asthmatic condition;
- 13 b) Had a longstanding custom and practice of failing to provide and/or to
14 summon immediate and/or emergency medical care to and/or for Arrestees,
15 Detainees, Civil Protective Custody Detainees, Custodial Inmates and
16 others in the Custody of police agencies who would appear to a
17 reasonably well-trained Security Officer and/or other agents, officers or
18 employees of EXODUS RECOVERY, INC. to be in serious/acute medical
19 distress and who appear to be in need of emergency and/or immediate
20 medical care;
- 21 c) Had a longstanding custom and practice of failing to provide or to
22 summons immediate or emergency medical treatment for or for
23 Arrestees, Detainees, Civil Protective Custody Detainees, Custodial
24 Inmates and others in the Custody of police agencies who would appear
25 to a reasonably well-trained Security Officer and/or other agents, officers
26 or employees of EXODUS RECOVERY, INC. to be in serious/acute
27 medical distress and who appear to be in need of emergency and/or
28 immediate medical care;
- d) Had a longstanding custom and practice of failing to train its Security
Officers and other Exodus Recovery, Inc./EXODUS RECOVERY
personnel to recognize when Arrestees, Detainees, Civil Protective
Custody Detainees, Custodial Inmates and others in the Custody of
various police agencies are suffering from severe medical distress

1 situations that require immediate and/or emergency medical attention and
2 care; and

3 e) Had a longstanding custom and practice of allowing and confining
4 persons in physical positions that are or resemble “reverse hangings” or
5 other forms of positional asphyxia when persons are handcuffed behind
6 their backs and are made to sit on chairs in positions that restrict the
handcuffed person’s breathing/ability to breathe.

7
8 f) Had a longstanding custom and practice of deferring to the police as to
9 whether to seek medical treatment / emergency medical care for 5150
Civil Protective Custody detainees; and

10
11 g) Had a longstanding actual policy, and a custom and practice of not
12 permitting MLK EXODUS RECOVERY CENTER Security Officers to
13 take Civil Protective Custody detainees to the MLK Hospital that was not
14 more than 150 feet away from where JUNIOR perished, and not
15 permitting MLK EXODUS RECOVERY CENTER Security Officers to
16 obtain any emergency medical care for Civil Protective Custody
17 detainees other than allowing them to call 9-1-1 / call paramedics.

18 212. Moreover, defendants DOES 9 through 10, inclusive, and their
19 predecessors in office failed to properly train its Security Officers and supervisors
20 on how to recognize the signs and symptoms of persons in medical distress,
21 including persons who are having difficulty breathing, including persons afflicted
22 with asthma, and persons suffering from asthma flare-ups and asthmatic attacks.

23 213. Moreover also as set forth above, JUNIOR was showing obvious
24 signs of needing immediate medical attention that defendants Javier Mendez and
25 DOES 5 through 10, inclusive, and did or at least reasonably should have
26 recognized that JUNIOR was in severe medical distress while he was at EXODUS
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1 RECOVERY, INC. as:

- 2
- 3 a) JUNIOR was constantly complaining that he could not breathe,
- 4 and was bucking his chest and writhing on the floor of first the
- 5 Entrance Hallway at the MLK EXODUS RECOVERY CENTER
- 6 facility;
- 7 b) Thereafter when JUNIOR was unconscious and nonresponsive
- 8 lying on his back and did not appear to be breathing in the entrance
- 9 hallway;
- 10 c) Thereafter when defendant Javier Mendez assisted CHANG in
- 11 picking-up what appeared to be JUNIOR's lifeless body in the
- 12 entrance hallway and dragged JUNIOR's seemingly lifeless body
- 13 into the Security/Admissions/Intake area of the MLK EXODUS
- 14 RECOVERY CENTER facility;
- 15 d) Thereafter when CHANG and defendant Javier Mendez then
- 16 propped up JUNIOR on a chair in that area, and held JUNIOR
- 17 upright in the chair by CHANG holding up JUNIOR's upper body
- 18 in that chair; and
- 19 e) Thereafter when CHANG let go of JUNIOR's upper body and
- 20 JUNIOR keeled over with his head down between his knees, all
- 21 with JUNIOR's hands handcuffed behind his back.

22 214. Due to MLK EXODUS RECOVERY CENTER's / EXODUS

23 RECOVERY, INC.'s failure to train its Security Officers and other personnel to

24 recognize when persons are in medical extremis, the defendants to this action,

25 including Curtis Swancy, Dean Rosado, and even alternatively Javier Mendez, as

26 well as the other MLK EXODUS RECOVERY CENTER / EXODUS

27 RECOVERY, INC. staff present at the Security/Admission/Intake area failed to

28 CONSOLIDATED FIRST AMENDED COMPLAINT FOR DAMAGES

1 recognize that JUNIOR was in medical distress, in extremis, and, therefore, failed
2 to provide and/or to summon immediate / emergency medical care for JUNIOR,
3 resulting in JUNIOR's death.
4

5 215. Accordingly, as a proximate result of the actions and omissions of
6 defendants MLK EXODUS RECOVERY CENTER / EXODUS RECOVERY,
7 INC. and DOES 7 through 10, inclusive, to wit, their failure to train its Security
8 Officers and other personnel to recognize when persons are in medical extremis,
9 and defendant MLK EXODUS RECOVERY CENTER / EXODUS RECOVERY
10 policy to not take JUNIOR to the MLK Hospital for emergency medical
11 treatment⁹⁶ 150 feet away from the area of the MLK EXODUS RECOVERY
12 CENTER were JUNIOR perished, JUNIOR was not provided immediate /
13 emergency medical care/treatment, and died from that lack of care.
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16

17 216. Accordingly, as a proximate result of the actions and omissions of
18 defendants CITY and DOES 7 through 10, inclusive, their failure to train West
19 Covina Police Department police officers on recognizing when person like
20 JUNIOR were in medical distress/extremis from not being able to breathe
21 sufficiently, and/or their failure to train West Covina Police Department police
22 officers on how to provide and/or to obtain and/or to summon medical care for
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⁹⁶ Or to summon medical care from that facility for JUNIOR.

1 person suffering medical distress from an inability to sufficiently breathe, and
2 defendant MLK EXODUS RECOVERY CENTER's / EXODUS RECOVERY,
3 INC.'s policy to not take JUNIOR to the MLK Hospital for emergency medical
4 treatment⁹⁷, plaintiffs CHAVIRA and SENIOR suffered the loss of their Parent-
5 Child Relationship, the loss of the love, affection, solace, comfort and
6 companionship that plaintiffs enjoyed from their Parent-Child Relationship with
7 JUNIOR, as well as severe depression, mental and emotional pain, suffering and
8 distress, the physical manifestation of that mental and emotional pain suffering and
9 distress, a terrible feeling of emptiness, and deep and never-ending sorrow from
10 the loss of their son, JUNIOR all along with the loss of their income that they
11 would have obtained from JUNIOR's contribution to their monthly rent, and also
12 suffered funeral and burial expenses, hospital and other medical expenses and
13 costs, and other special damages; all in an amount to be shown at trial, in excess of
14 \$30,000,000.00 for each plaintiff.

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20 217. Also, as a direct and proximate result of the actions and omissions of
21 defendant CITY, by and through DOES 7 through 10, inclusive, plaintiffs'
22 decedent JUNIOR also suffered severe physical, mental and emotional distress,
23 pain and suffering. lost wages/profits and other income that plaintiffs' decedent
24

25
26
27
28 ⁹⁷ Or to summon medical care from that facility for JUNIOR.

1 JUNIOR would have earned/ made/acquired during his lifetime, the hedonic
2 damages to JUNIOR caused by the loss of JUNIOR life, funeral and burial
3 expenses, hospital and other medical expenses and costs, and other special
4 damages; all of said injuries and damages to JUNIOR totaling an amount to be
5 shown at trial, in excess of \$30,000,000.00, and plaintiffs as JUNIOR's successors
6 in interest are entitled to an award of said damages to JUNIOR.
7

8
9 218. Moreover, the conduct of defendant MLK EXODUS RECOVERY
10 CENTER's / EXODUS RECOVERY, INC. in creating those policies, custom and
11 practices complained of above, was done maliciously and in reckless disregard
12 plaintiffs' and decedent JUNIOR's federal constitutional rights, sufficient for an
13 award of punitive damages against defendants 7 through 10, inclusive and
14 EXODUS RECOVERY, INC. s in an amount in excess of \$30,000,000.00.
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18 **SEVENTH CAUSE OF ACTION**

19 **California State Law Claim for Wrongful Death**

20 **Cal. Civ. Proc. Code § 377.60**

21 **(By Plaintiffs Theresa Chavira and Richard Alexander Herrera, Individually,**
22 **Against Defendants CITY, CHANG, EXODUS RECOVERY, INC., JAVIER**
23 **MENDEZ, DEAN ROSADO, CURTIS SWANCY and**
24 **DOES 1 through 10, inclusive)**

25 219. Plaintiffs hereby reallege and incorporate by reference the allegations
26 set forth in paragraphs 1 through 218, inclusive, above, as if set forth in full herein.

27 220. As set forth above, on September 25, 2023 plaintiffs' decedent
28 JUNIOR, was arrested and taken into custody at the West Covina Police

1 Department Jail where he was incarcerated as a pretrial detainee - inmate in that
2 facility.

3
4 221. Also as set forth above, at approximately 6:06 p.m., defendants
5 CHANG and DOES 1 through 6, inclusive, drove JUNIOR to Emanate Health
6 Inter-Community Hospital in Covina⁹⁸, for medical care and otherwise for a Civil
7 Protective Custody 72-hour Mental Health Hold/Confinement hold pursuant to
8 Cal. Welf & Inst Code § 5150.

9
10 222. Also as set forth above, defendant CHANG escorted JUNIOR to
11 inside of Emanate Health Inter-Community Hospital for his badly needed
12 immediate medical treatment and mental health examination and treatment and
13 spoke with the hospital staff there in the admissions area.

14
15 223. Also as set forth above, defendant CHANG decided to retaliate
16 against JUNIOR for protesting his treatment by the West Covina Police
17 Department officers, including that treatment by defendants CHANG and DOES 1
18 through 6, inclusive, by refusing/failing to have JUNIOR provided emergency
19 medical treatment at Emanate Health Inter-Community Hospital⁹⁹, and by
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25 ⁹⁸ Located at 210 W. San Bernardino Road, Covina.

26 ⁹⁹ By telling the hospital staff there that JUNIOR was only being brought to that hospital
27 pursuant to Cal. Welf & Inst Code § 5150 and not for medical reasons, and/or that JUNIOR was
28 not in need of emergency or other medical treatment and that he was faking (“playing games”)by
feigning not being able to breathe, or alternatively, that defendant CHANG failed to tell the
hospital staff at Emanate Intercommunity Hospital that JUNIOR was complaining that he could

1 continuing to deprive him of badly needed immediate medical care and psychiatric
2 care by driving him all of the way to LAC-USC Medical Center¹⁰⁰, located at 1983
3 Marengo Street, Los Angeles, California.
4

5 224. Also as set forth above, moreover, during the drive of JUNIOR by
6 defendants CHANG and DOES 1 through 6, inclusive, from the West Covina
7 Police Department to Emanate Health Inter-Community Hospital, and thereafter
8 during the drive from Emanate Health Inter-Community Hospital to LAC-USC
9 Medical Center, JUNIOR was constantly complaining to defendant CHANG that
10 he was having difficulty breathing.
11
12

13 225. Also as set forth above, notwithstanding JUNIOR constantly
14 complaining to defendant CHANG that he was having difficulty breathing and that
15 he needed to use his asthma inhaler, defendant CHANG failed and refused to
16 provide JUNIOR's inhaler to him or to otherwise provide emergency medical care
17 to him or to obtain or summon emergency medical care for him or to him to a
18 medical facility to provide emergency medical care for JUNIOR.
19
20

21 226. Also as set forth above, rather than have JUNIOR admitted and/or
22 provided emergency medical care at LAC-USC Medical Center hospital for his
23

24
25
26 not breathe and that JUNIOR was in medical distress/extremis and was in need of immediate
27 medical care.

28 ¹⁰⁰ Los Angeles County – University of Southern California Medical Center, now known as Los Angeles General Medical Center.

1 badly needed immediate medical treatment, defendant CHANG decided to
2 continue to retaliate against JUNIOR by refusing/failing to have him admitted him
3 or otherwise treating him¹⁰¹ at LAC-USC Medical Center for medical treatment for
4 his obvious acute and severe medical distress, and continued to deny him his
5 inhaler, and decided to delay JUNIOR's badly needed medical care by taking him
6 to Martin Luther King Exodus Recovery Hospital at 12021 Wilmington Avenue,
7 Los Angeles, California; an approximately one hour drive from LAC-USC Medical
8 Center.

9
10
11 227. Also as set forth above, the total drive from the West Covina Police
12 Department to Emanate Intercommunity Hospital, to LAC-USC Medical Center, to
13 MLK EXODUS RECOVERY CENTER took approximately two hours.

14
15 228. Also as set forth above, throughout the entirety of that journey¹⁰²
16 JUNIOR was complaining to defendant CHANG that he was not able to breathe
17 and was asking CHANG to give JUNIOR his inhaler, and defendant CHANG
18 failed and refused to provide JUNIOR's inhaler to him, or to take him to a closer
19
20

21
22
23 ¹⁰¹ By telling the hospital staff there that JUNIOR was only being brought to that hospital
24 pursuant to Cal. Welf & Inst Code § 5150 and not for medical reasons, and/or that JUNIOR was
25 not in need of emergency or other medical treatment and that he was faking ("playing games") by
26 feigning not being able to breathe, or alternatively, that defendant CHANG failed to tell the
27 hospital staff at LAC-USC Medical Center that JUNIOR was complaining that he could not
28 breathe and that JUNIOR was in medical distress/extremis and was in need of immediate
medical care.

¹⁰² from the West Covina Police Department to Emanate Intercommunity Hospital, to LAC-USC
Medical Center, to MLK EXODUS RECOVERY CENTER.

1 hospital or emergency medical facility, even a neighborhood Urgent Care facility,
2 or to otherwise obtain or summon emergency medical care for JUNIOR; causing
3 JUNIOR to be in medical extremis with its accompanying physical, mental and
4 emotional, injury, pain, suffering and distress.
5

6 229. Also as set forth above, once defendants CHANG and DOES 1 and 2
7 arrived with JUNIOR at EXODUS RECOVERY, a Mental Health Urgent Care
8 Facility, it became even more obvious that JUNIOR was suffering from a serious
9 medical issue; to wit, his problems with not being able to adequately breathe.
10

11 230. Also as set forth above, defendant CHANG inclusive, took JUNIOR,
12 into MLK EXODUS RECOVERY CENTER, a locked Mental Health Urgent Care
13 Facility, and kept JUNIOR confined in a locked Entrance Hallway, while still
14 handcuffed behind his back, as CHANG filled-out/authored a completed a 5150
15 72-hour hold Petition and Declaration¹⁰³ in order to confine JUNIOR in the MLK
16 EXODUS RECOVERY CENTER facility; a locked psychiatric facility.
17

18 231. Also as set forth above, among other serious medical issues, while in
19 the Entrance Hallway at MLK EXODUS RECOVERY CENTER prior to being
20 admitted into the main hospital admissions area, JUNIOR began suffering from a
21 more severe and more acute asthma attack.
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28 ¹⁰³ Pursuant to Cal. Welf & Inst Code § 5150.

1 232. Also as set forth above, it was obvious to defendant CHANG that
2 JUNIOR was visibly gasping for every breath that he tried to take, but defendant
3 CHANG refused to take JUNIOR's handcuffs off of him; something that obviously
4 made it more difficult for JUNIOR to breathe.
5

6 233. Also as set forth above, defendants CHANG did not take JUNIOR to
7 a regular medical hospital, nor did he call for paramedics or alert the medical staff
8 or the Security Staff or anyone else at MLK EXODUS RECOVERY CENTER that
9 JUNIOR was suffering from a serious medical emergency; to wit; very serious
10 trouble breathing from asthma.
11
12

13 234. Also as set forth above, defendant CHANG was in possession of
14 JUNIOR's inhaler, but failed to provide it to him, while JUNIOR was visibly and
15 obviously gasping for air and in very serious and very obvious medical extremis
16 and medical distress.
17

18 235. Also as set forth above, JUNIOR began scooting and crawling on the
19 floor in the MLK EXODUS RECOVERY CENTER locked Entrance Hallway,
20 begging for his inhaler, and telling defendant CHANG that he could not breathe.
21

22 236. Also as set forth above, while JUNIOR was writhing on the floor of
23 the locked Entrance Hallway at MLK EXODUS RECOVERY CENTER, an MLK
24 EXODUS RECOVERY CENTER Security Officer entered the locked entrance
25 area from the Security/Admissions/Intake area of the facility, and saw JUNIOR
26 writhing on the floor and gasping for air.
27
28

1 237. Also as set forth above, even though defendant CHANG just stood in
2 the entrance hallway, watching JUNIOR buck his chest and head and back and
3 writhe on the floor in very obvious medical distress, the MLK EXODUS
4 RECOVERY CENTER Security Officer picked JUNIOR up off of the floor and
5 walked him over to the chair in the locked entrance hallway, and sat JUNIOR
6 down on the chair.
7
8

9 238. The EXODUS RECOVERY Security Officer only didn't summon
10 MLK EXODUS RECOVERY CENTER medical staff to provide emergency
11 medical care to JUNIOR at that time because defendant CHANG told him that
12 JUNIOR was faking and "playing games" that he was in medical distress, and that
13 he really was not.
14
15

16 239. Also as set forth above, notwithstanding his being placed on the chair
17 and taken up off of the floor of the locked entrance hallway, still handcuffed,
18 JUNIOR kept gasping for air and kept begging defendant CHANG for his inhaler.
19

20 240. Also as set forth above, after JUNIOR was now sitting on the
21 Entrance Hallway chair, while still suffering and gasping for air for approximately
22 seven minutes, defendant CHANG stopped filling out the 5150 form and offered
23 JUNIOR his inhaler by holding it up in front of JUNIOR's mouth for
24 approximately 11 seconds.
25

26 241. Also as set forth above, JUNIOR tried to reposition himself to place
27
28

1 his mouth on the inhaler, that defendant CHANG claims to have been a refusal by
2 JUNIOR to use his inhaler¹⁰⁴, and placed JUNIOR's inhaler back in the plastic bag
3 that he carried the inhaler inside of, and placed that plastic bag containing the
4 inhaler on top of the lockbox in the locked Entrance Hallway at the MLK
5 EXODUS RECOVERY CENTER facility.
6

7
8 242. Also as set forth above, almost immediately following defendant
9 CHANG placing the plastic bag containing the inhaler on top of the lockbox in the
10 hallway, within a few seconds JUNIOR stood up from sitting on the hallway chair
11 again asked defendant CHANG for his inhaler, saying to defendant CHANG
12 "Come on, I'll be able to take it this time."
13

14 243. Also as set forth above, in response to that request by JUNIOR to
15 defendant CHANG to now allow JUNIOR to inhale from his inhaler, defendant
16 CHANG stated: "I already put it away. I'm done with your games."
17

18 244. Also as set forth above, shortly after defendant CHANG refused to
19 provide JUNIOR with his asthma inhaler, JUNIOR began to panic further and
20 continued to gasp for air and continued to tell defendant CHANG that he could not
21 breathe.
22

23 245. Also as set forth above, while gasping for air and writhing on the
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28 ¹⁰⁴ CHANG claims that JUNIOR refused his inhaler when offered the same at that time.
CONSOLIDATED FIRST AMENDED COMPLAINT FOR DAMAGES

1 floor, JUNIOR continued to beg defendant CHANG for his inhaler. However,
2 defendant CHANG just stood over JUNIOR and ignored his pleas.

3
4 246. Also, as set forth above, moreover, notwithstanding JUNIOR's
5 repeatedly begging defendant CHANG for JUNIOR's inhaler, defendant CHANG
6 just continued to ignore JUNIOR's pleas for his inhaler, telling JUNIOR that he
7 was done with his games, and that he would not permit him to use his inhaler.
8

9 247. Also as set forth above, when defendant CHANG then told JUNIOR
10 that he was not going to provide JUNIOR's inhaler to him to inhale from, JUNIOR
11 stood up from the chair in the entrance way hallway and attempted to walk to the
12 door that led from the entrance hallway into the Security / Admission / Intake area
13 of the MLK EXODUS RECOVERY CENTER facility, to beg for help from
14 someone at the MLK EXODUS RECOVERY CENTER facility with his inability
15 to breathe; for emergency medical care.
16
17

18 248. Also as set forth above, however, when defendant CHANG saw
19 JUNIOR walk toward the doorway to the admissions area to beg for help through
20 the window in the hallway that looked into the Security / Admission / Intake area,
21 defendant CHANG grabbed JUNIOR and threw JUNIOR down onto the floor of
22 the Entrance Hallway area; preventing JUNIOR from obtaining help breathing; to
23 save his life.
24
25

26 249. Also as set forth above, although JUNIOR's difficulty breathing was
27 becoming more severe and more obvious defendant CHANG also failed and
28

1 refused to provide emergency medical care to JUNIOR (i.e. to give him his
2 inhaler), or to obtain or summon emergency medical care for JUNIOR, such as by
3 asking the MLK EXODUS RECOVERY CENTER staff for emergency medical
4 care for JUNIOR, or to otherwise summon medical care for JUNIOR on defendant
5 CHANG's cellphone or on his police radio, or even by taking JUNIOR across the
6 parking lot to the regular medical (MLK) hospital that was a one minute walk from
7 the Entrance Hallway of MLK EXODUS RECOVERY CENTER.
8

9
10 250. Also as set forth above, JUNIOR had been obviously suffering from
11 an asthma attack, and having been deprived of his inhaler, he laid at the foot of
12 defendant CHANG; gasping for air and begging for his inhaler.
13

14 251. Also as set forth above, JUNIOR was on the verge of death, laying at
15 defendant CHANG's feet, when defendant CHANG reached for his cell phone, not
16 the lifesaving inhaler, but his cell phone.
17

18 252. Also as set forth above, then, after approximately 12 minutes of
19 JUNIOR being in obvious extremis from his asthma condition, defendant CHANG
20 then began taking "selfies" with his cellphone with JUNIOR on the floor in the
21 background, as JUNIOR laying and writhing on the floor, literally dying, slowly
22 suffocating from the lack of oxygen.
23

24 253. Also as set forth above, after approximately 15 minutes after
25 defendant CHANG took JUNIOR into the entrance hallway of MLK EXODUS
26 RECOVERY CENTER, JUNIOR became unresponsive and stopped moving and
27
28

1 appeared to stop breathing¹⁰⁵ as he was laying flat on his back, still handcuffed
2 with his hands underneath him, under his back.

3
4 254. Also as set forth above, defendant CHANG then failed to place
5 JUNIOR in a recovery position to avoid/prevent him suffocating from positional
6 asphyxia after defendant CHANG saw JUNIOR laying on his back, handcuffed
7 and motionless.

8
9 255. Also as set forth above, even then defendant CHANG did not alert
10 anyone or provide¹⁰⁶ or seek medical care for JUNIOR¹⁰⁷, nor did defendant
11 CHANG begin chest compressions or call for medical assistance for JUNIOR or
12 render medical assistance for JUNIOR; defendant CHANG merely standing over
13 JUNIOR's motionless and nonresponsive body.

14
15 256. Also as set forth above, then after 2 minutes and 31 seconds after
16 JUNIOR appeared to stopped breathing¹⁰⁸ and was completely motionless and
17 unresponsive on the floor of the entrance hallway, EXODUS RECOVERY
18 Security Officer Javier Mendez came into the entrance hallway.
19
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21
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24 ¹⁰⁵ CHANG claims that he saw JUNIOR's diaphragm area expanding and contracting, indicating
25 that at that point in time in the Entrance Hallway that JUNIOR was still breathing.

26 ¹⁰⁶ Administering JUNIOR's inhaler.

27 ¹⁰⁷ i.e. calling 9-1-1 or the Fire Department or summoning hospital staff from either MLK
28 EXODUS RECOVERY CENTER or from MLK Hospital next door to that facility.

¹⁰⁸ CHANG claims that he saw JUNIOR's diaphragm area expanding and contracting, indicating
that at that point in time in the Entrance Hallway that JUNIOR was still breathing. The video
seems to show otherwise but it's difficult to tell from the video.

1 257. Also as set forth above, defendant CHANG asked defendant MLK
2 EXODUS RECOVERY CENTER Security Officer Javier Mendez to help him
3 bring JUNIOR out of the entrance hallway and into the Security / Admission /
4 Intake area of MLK EXODUS RECOVERY CENTER.
5

6 258. Also as set forth above, defendant CHANG and Javier Mendez then
7 dragged JUNIOR's handcuffed body by holding up his handcuffed wrists and
8 literally dragging JUNIOR's seemingly lifeless body out of the Entrance Hallway
9 and into the Security / Admission / Intake Desk area of the MLK EXODUS
10 RECOVERY CENTER, with JUNIOR's legs dragging on the floor and with
11 JUNIOR's head drooping down.
12

13 259. Also as set forth above, it was obvious to both defendant MLK
14 EXODUS RECOVERY CENTER Security Officer Javier Mendez and defendant
15 CHANG that JUNIOR was not then breathing¹⁰⁹ and was completely
16 nonresponsive¹¹⁰ when they examined him in the Entrance Hallway, and while they
17 were dragging his totally limp body into the Security / Admission / Intake area of
18 the MLK EXODUS RECOVERY CENTER facility.
19

20 260. Also as set forth above, defendant CHANG and Javier Mendez also
21
22
23
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25
26 ¹⁰⁹ However, defendant Javier Mendez believed that he heard some sort of sounds coming from
27 JUNIOR; sounds that may have been indicative of extremely depressed or extremely strained
28 breathing or belching.

¹¹⁰ CHANG claims that he saw JUNIOR's diaphragm area expanding and contracting, indicating
that at that point in time in the Entrance Hallway that JUNIOR was still breathing.

1 concealed the fact that JUNIOR was not breathing and was completely
2 nonresponsive when they dragged him into the Security / Admission / Intake area
3 of MLK EXODUS RECOVERY CENTER facility, to avoid any blame for his
4 condition.
5

6 261. Also as set forth above, once in the Security / Admission / Intake
7 Desk area CHANG and Javier Mendez placed JUNIOR's seemingly lifeless body
8 in a chair in the Security / Admission / Intake area, right in front of the
9 Security / Admission / Intake Desk and the MLK EXODUS RECOVERY
10 CENTER staff minding the same, and lifted JUNIOR's now seemingly lifeless
11 body up to a position that made JUNIOR appear to be sitting in a chair, to make it
12 appear that he was still alive¹¹¹.
13
14

15 262. Also as set forth above, when the MLK EXODUS RECOVERY
16 CENTER staff asked CHANG about JUNIOR's condition, defendant CHANG told
17 them that JUNIOR was "just playing games"; all in the presence of Javier Mendez
18 and the other MLK EXODUS RECOVERY CENTER staff members; causing
19 them to believe that JUNIOR really was not in medical distress/extremis or dead,
20 and resulting in the EXODUS RECOVERY Security Officers, Nurses and other
21 staff members of EXODUS RECOVERY not providing emergency medical
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28 ¹¹¹ Including holding his torso up and pulling his legs out as if he was sitting normally.
CONSOLIDATED FIRST AMENDED COMPLAINT FOR DAMAGES

1 services or to or for JUNIOR and not obtaining or summoning emergency medical
2 services for or life reviving services/measures¹¹² for JUNIOR.

3
4 263. Also as set forth above, defendant CHANG then kept holding onto
5 JUNIOR's limp body, propping him up on the chair in the admissions area across
6 from the admissions desk; again to convey the impression to the MLK EXODUS
7 RECOVERY CENTER staff that that JUNIOR really was not in medical
8 distress/extremis or dead, and resulting in the MLK EXODUS RECOVERY
9 CENTER Security Officers, Nurses and other staff members of EXODUS
10 RECOVERY not providing emergency medical services to or for JUNIOR and not
11 obtaining or summoning emergency medical services for or life reviving
12 services/measures¹¹³ for JUNIOR.

13
14
15 264. Also as set forth above, when defendant CHANG eventually stopped
16 propping JUNIOR's body up, JUNIOR's upper body folded over and his head was
17 hanging between his legs, on his lap.

18
19 265. Also as set forth above, thereafter, defendant CHANG continued to
20 tell the MLK EXODUS RECOVERY CENTER staff that JUNIOR was "playing
21 games"; acting as if he was dead, which by that time he apparently was.

22
23 266. Also as set forth above, JUNIOR's lifeless body remained folded over
24

25
26
27
28 ¹¹² Such as CPR or mouth to mouth resuscitation or the use of a defibrillator.

¹¹³ Such as CPR or mouth to mouth resuscitation or the use of a defibrillator.

1 in the chair for several additional minutes while defendant CHANG and the MLK
2 EXODUS RECOVERY CENTER staff stood by and did nothing to help JUNIOR.

3
4 267. Also as set forth above, rather than ask anyone at MLK EXODUS
5 RECOVERY CENTER to help JUNIOR or to otherwise provide or to seek
6 emergency medical treatment for JUNIOR, defendant CHANG just stood next to
7 the now lifeless body of JUNIOR and act as if JUNIOR was faking being dead,
8 and waited for someone from MLK EXODUS RECOVERY CENTER to check on
9 JUNIOR to admit him as a psychiatric patient at MLK EXODUS RECOVERY
10 CENTER.
11
12

13 268. Also as set forth above, MLK EXODUS RECOVERY CENTER
14 Charge Nurse Lucy Mesue, R.N. eventually came into the Security / Admission /
15 Intake area to check on JUNIOR's vital signs so that he could be admitted into the
16 MLK EXODUS RECOVERY CENTER mental health facility for a 5150 hold.
17

18 269. Also as set forth above, when Lucy Mesue came into the Security /
19 Admission / Intake area defendant CHANG also told her that JUNIOR was
20 "playing games"; faking being dead or being in extremis.
21

22 270. Also as set forth above, when the nurse Lucy Mesue then attempted
23 to take JUNIOR's blood-pressure she saw that JUNIOR was unresponsive and not
24 breathing, so she told defendant CHANG to remove the handcuffs from JUNIOR.
25

26 271. Also as set forth above, when defendant CHANG took the handcuffs
27
28

1 off of JUNIOR's wrists, CHANG placed JUNIOR on the floor flat on his back and
2 began chest compressions on JUNIOR.

3
4 272. This took place beginning approximately seven minutes after JUNIOR
5 had been brought into the Security / Admission / Intake area of the MLK
6 EXODUS RECOVERY CENTER facility from the Entrance Hallway of that
7 facility.
8

9 273. In addition, others took over performing chest compressions on
10 JUNIOR.
11

12 274. However, the chest compressions were not successful in bringing
13 JUNIOR back to life.

14 275. Moreover, the MLK EXODUS RECOVERY CENTER staff
15 continued performing chest compressions on JUNIOR that were also unsuccessful.
16

17 276. Moreover, the MLK HOSPITAL staff summoned the paramedics,
18 who used the defibrillator on JUNIOR in an attempt to revive him, but those efforts
19 were also unsuccessful, and JUNIOR remained dead.
20

21 277. Moreover, defendants CHANG's entire course of conduct as
22 described above, and in driving JUNIOR around Los Angeles County for
23 psychological services when it would have been obvious to any well trained police
24 officer that depriving JUNIOR of his inhaler, keeping him handcuffed when it
25 became obvious that doing so placed JUNIOR in extremis, failing to give JUNIOR
26 his inhaler, failing to provide emergency medical care to him or to obtain/summon
27
28

1 medical care for JUNIOR, not placing JUNIOR in a recovery position on the floor
2 in the entrance hallway, telling the MLK EXODUS RECOVERY CENTER staff
3 that JUNIOR was “playing games” and faking being in medical distress/in
4 extremis, propping JUNIOR up in a chair in the Security / Admission / Intake and
5 then failing to timely begin chest compressions was outrageous, and apparently
6 intentional, or at least so grossly reckless conduct that was done with full
7 knowledge of the likelihood of JUNIOR dying as a result of those actions and
8 omissions, and with a deliberate indifference to JUNIOR suffering serious medical
9 injury and death.

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13 278. As a result of the actions of defendant CHANG and defendants Javier
14 Mendez and DOES 1 through 6, inclusive JUNIOR faced a substantial risk of
15 serious harm, including death, as well as facing a serious medical need.

16
17 279. Defendants CHANG, Javier Mendez and DOES 1 through 6,
18 inclusive¹¹⁴, were deliberately indifferent to that serious risk of serious physical
19 harm posed to JUNIOR by their conduct complained of above, and said defendants
20 knew of it and disregarded it by failing to take reasonable measures to address it.
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23 280. In addition, defendants CHANG, Javier Mendez and DOES 1 through
24 6, inclusive, owed JUNIOR a legal duty to care for his health and well being, as
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26
27
28 ¹¹⁴ And Javier Mendez.

1 JUNIOR was first in CHANG's custody as a Civil Protective Custody detainee and
2 an arrestee, and thereafter in both defendant CHANG's and in defendant Javier
3 Mendez', defendant Dean Rosado and defendant Curtis Swancy's custody as a
4 Civil Protective Custody detainee in a locked facility.
5

6
7 281. Moreover, notwithstanding CHANG's claims to defendants Javier
8 Mendez, defendant Dean Rosado and defendant Curtis Swancy that JUNIOR was
9 faking being dead or non-responsive, that it nonetheless was obvious that JUNIOR
10 was either dead or in extremis when he was dragged into the Security / Admission /
11 Intake area by Javier Mendez and CHANG, and propped up in the chair in that
12 area, and then slumped over.
13
14

15 282. Moreover, said defendants were at least grossly negligent and were
16 deliberately indifferent to that serious medical need and acute medical distress,
17 including the likelihood of death faced by JUNIOR, and said defendants knew of it
18 and disregarded it by failing to take reasonable measures to address it, and said
19 actions and omissions of defendants CHANG and DOES1 through 6, inclusive,
20 and defendants Javier Mendez, defendant Dean Rosado and defendant Curtis
21 Swancy caused the Wrongful Death of JUNIOR under Cal. Civ. Proc. Code §
22 377.60. Also said defendants owed JUNIOR a duty of care to summon medical
23 help / emergency medical care for JUNIOR as they were Security Officers in a
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1 locked psychiatric facility and JUNIOR was not free to leave their custody and had
2 to rely on said defendants for his safety and well being.
3

4 283. Also as set forth above, defendants CHANG and DOES 1 through 6,
5 inclusive, were also put on notice of JUNIOR's medical condition and medical
6 distress and failed to provide him with his inhaler, failed to provide JUNIOR any
7 immediate/emergency medical care, failed to obtain/summon emergency medical
8 care for JUNIOR, breaching the duty of care that defendants CHANG and DOES 1
9 through 6, inclusive, owed to JUNIOR.
10
11

12 284. Alternatively, defendants CHANG was grossly negligent in not
13 recognizing that JUNIOR was in serious medical distress and in extremis due to his
14 inability to adequately breathe, and not recognizing that that JUNIOR had become
15 truly nonresponsive at the EXODUS RECOVERY facility, and in negligently
16 believing that JUNIOR was faking being in medical distress/extremis and then
17 faking being nonresponsive, also breached the duty of care that they owed to
18 JUNIOR¹¹⁵, and ultimately caused JUNIOR to go into cardiac arrest and to die.
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22 285. Also, alternatively, defendants Javier Mendez and Dean Rosado and
23 Curtis Swancy should have known the JUNIOR was suffering a severe and acute
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28 ¹¹⁵ As any reasonably well-trained police officer would have recognized that JUNIOR was in
severe and acute medical distress/extremis.

1 medical crisis and that he needed immediate medical attention, and yet they failed
2 to summon medical care for him, notwithstanding CHANG's claims that JUNIOR
3 was faking being unconscious and in extremis or dead.
4

5 286. Accordingly, the actions and omissions of defendants CHANG and
6 defendants Javier Mendez and Dean Rosado and Curtis Swancy
7 DOES 1 through 6, were a proximate cause of the death of plaintiffs' decedent
8 JUNIOR on September 25, 2023, and made them liable to plaintiffs, individually,
9 for the wrongful death JUNIOR pursuant to Cal. Civ. Proc. Code § 377.60.
10

11 287. Moreover, defendants EXODUS RECOVERY, INC. and CHANG
12 and DOES 1 through 6, inclusive, and defendant CITY are liable to plaintiffs by
13 way of Cal. Gov't Code §§ 815.2 and 820.
14

15 288. As set forth above, once CHANG arrived with JUNIOR at EXODUS
16 RECOVERY, INC. it would have been obvious to anyone who observed JUNIOR
17 that he was suffering from a serious medical issue; to wit, his problems with not
18 being able to adequately breathe.
19

20 289. Also as set forth above, CHANG inclusive, took JUNIOR, into MLK
21 EXODUS, a locked Mental Health Urgent Care Facility, and kept JUNIOR
22 confined in a locked hallway, while still handcuffed behind his back, as CHANG
23 filled-in/authored a completed a 5150 72-hour hold Petition and Declaration⁴⁹ in
24 order to confine JUNIOR in EXODUS RECOVERY; a locked psychiatric facility.
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1 290. Also as set forth above, among other serious medical issues, while in
2 the entrance hallway at EXODUS RECOVERY prior to being admitted into the
3 main hospital admissions area, JUNIOR began suffering from a more severe and
4 more acute asthma attack.
5

6 291. Also as set forth above, it was obvious to CHANG and to defendants
7 DOES 1 and Javier Mendez that JUNIOR was visibly gasping for every breath that
8 he tried to take, but CHANG refused to take JUNIOR's handcuffs off of him;
9 something that obviously made it more difficult for JUNIOR to breathe.
10

11 292. Also as set forth above, CHANG was in possession of JUNIOR's
12 Inhaler in the entrance hallway at MLK EXODUS RECOVERY CENTER, but
13 failed to provide it to him, while JUNIOR was visibly and obviously gasping for
14 air and in very serious and very obvious medical extremis and medical distress.
15
16

17 293. Also as set forth above, JUNIOR began scooting and crawling on the
18 floor in the MLK EXODUS RECOVERY CENTER locked Entrance Hallway,
19 begging for his inhaler, and telling CHANG that he could not breathe.
20

21 294. Also as set forth above, while JUNIOR was writhing on the floor of the
22 locked entrance hallway at MLK EXODUS RECOVERY CENTER, an MLK
23 EXODUS RECOVERY CENTER Security Officer entered the locked entrance
24 area from the Security / Admission / Intake area of the facility, and saw JUNIOR
25 writhing on the floor and gasping for air.
26
27

28 295. Also as set forth above, even though CHANG just stood in the entrance

1 hallway, watching JUNIOR buck his chest and head and back and writhe on the
2 floor in very obvious medical distress, the MLK EXODUS RECOVERY CENTER
3 EXODUS RECOVERY Security Officer, DOE 1, picked JUNIOR up off of the
4 floor and walked him over to the chair in the locked entrance hallway, and sat
5 JUNIOR down on the chair.
6

7
8 296. The MLK EXODUS RECOVERY CENTER Security Officer however,
9 didn't summon MLK EXODUS RECOVERY CENTER medical staff or any other
10 emergency medical service / emergency medical provider to provide emergency
11 medical care to JUNIOR, notwithstanding that it was or reasonably should have
12 been obvious to defendant DOE 1, that JUNIOR was suffering from severe
13 breathing problems, and was in need of immediate emergency medical care.
14

15
16 297. Also as set forth above, notwithstanding his being placed on the chair
17 and taken up off of the floor of the locked entrance hallway, still handcuffed,
18 JUNIOR kept gasping for air and kept begging CHANG for his inhaler.
19

20 298. Also as set forth above, after JUNIOR was now sitting on the entrance
21 hallway chair, while still suffering and gasping for air for approximately seven
22 minutes, CHANG stopped filling out the 5150 form and offered JUNIOR his
23 inhaler by holding it up in front of JUNIOR's mouth for approximately 11 seconds.
24

25 299. Also as set forth above, JUNIOR tried to reposition himself to place his
26 mouth on the inhaler, that CHANG claims to have been a refusal by JUNIOR to
27 use his inhaler, and placed JUNIOR's inhaler back in the plastic bag that he carried
28

1 the inhaler inside of, and placed that plastic bag containing the inhaler on top of the
2 lockbox in the locked entrance hallway at the EXODUS RECOVERY facility.

3
4 300. Also as set forth above, almost immediately following CHANG
5 placing the plastic bag containing the inhaler on top of the lockbox in the hallway,
6 within a few seconds JUNIOR stood up from sitting on the hallway chair again
7 asked CHANG for his inhaler, saying to defendant CHANG “Come on, I’ll be able
8 to take it this time.”
9

10 301. Also as set forth above, in response to that request by JUNIOR to
11 CHANG to now allow JUNIOR to inhale from his inhaler, defendant CHANG
12 stated: “I already put it away. I’m done with your games.”
13

14 302. Also as set forth above, shortly after CHANG refused to provide
15 JUNIOR with his asthma inhaler, JUNIOR began to panic further and continued to
16 gasp for air and continued to tell CHANG that he could not breathe.
17

18 303. Also as set forth above, while gasping for air and writhing on the floor,
19 JUNIOR continued to beg CHANG for his inhaler. However, CHANG just stood
20 over JUNIOR and ignored his pleas.
21

22 304. Also, as set forth above, moreover, notwithstanding JUNIOR’s
23 repeatedly begging CHANG for JUNIOR’s inhaler, CHANG just continued to
24 ignore JUNIOR’s pleas for his inhaler, telling JUNIOR that he was done with his
25 games, and that he would not permit him to use his inhaler.
26
27

28 305. Also as set forth above, when CHANG then told JUNIOR that he was

1 not going to provide JUNIOR's inhaler to him to inhale from, JUNIOR
2 stood up from the chair in the entrance hallway and attempted to walk to the door
3 that led from the entrance hallway into the admissions area of the MLK EXODUS
4 RECOVERY CENTER facility to beg for help from someone at the MLK
5 EXODUS RECOVERY CENTER facility with his inability to breathe; for
6 emergency medical care.
7
8

9 306. Also as set forth above, however, when CHANG saw JUNIOR walk
10 toward the doorway to the admissions area to hail help through the window in the
11 hallway that looked into the Security / Admission / Intake area, CHANG grabbed
12 JUNIOR and threw JUNIOR down onto the floor of the entrance hallway area;
13 preventing JUNIOR from obtaining help for his breathing; to save his life.
14
15

16 307. Also as set forth above, moreover, although JUNIOR's difficulty
17 breathing was becoming more severe and more obvious CHANG also failed and
18 refused to provide emergency medical care to JUNIOR (i.e. to give him his
19 inhaler), or to obtain or summon emergency medical care for JUNIOR, such as by
20 asking the EXODUS RECOVERY hospital staff for medical care for JUNIOR, or
21 to otherwise summon medical care for JUNIOR on defendant CHANG's cellphone
22 or on his police radio, or even by taking JUNIOR across the parking lot to the
23 regular medical hospital that was a one minute walk from the entrance hallway of
24 MLK EXODUS RECOVERY CENTER.
25
26

27 308. Also as set forth above, JUNIOR had been obviously suffering from an
28

1 asthma attack, and having been deprived of his inhaler, he laid at the foot of
2 defendant CHANG; gasping for air and begging for his inhaler.

3
4 309. Also as set forth above, JUNIOR was on the verge of death, laying at
5 CHANG's feet, when CHANG reached for his cell phone, not the lifesaving
6 inhaler, but his cell phone.

7
8 310. Also as set forth above, then, after approximately 12 minutes of
9 JUNIOR being in obvious extremis from his asthma condition, CHANG then
10 began taking "selfies" with his cellphone with JUNIOR on the floor in the
11 background, as JUNIOR laying and writhing on the floor, literally dying, slowly
12 suffocating from the lack of oxygen.

13
14 311. Also as set forth above, after approximately 15 minutes after CHANG
15 took JUNIOR into the entrance hallway of EXODUS RECOVERY, JUNIOR
16 became unresponsive and stopped moving and breathing as he was laying on his
17 back, on top of his hands handcuffed behind his back.

18
19 312. Also as set forth above, moreover, CHANG then failed to place
20 JUNIOR in a recovery position to avoid/prevent him suffocating from positional
21 asphyxia after CHANG saw JUNIOR laying on his back, handcuffed and
22 motionless.

23
24
25 313. Also as set forth above, even then CHANG did not alert anyone or
26 provide or seek medical care for JUNIOR, nor did CHANG begin chest
27 compressions or call for medical assistance for JUNIOR or render medical
28

1 assistance for JUNIOR; CHANG merely standing over JUNIOR's motionless and
2 nonresponsive body.

3
4 314. Also as set forth above, then 2 minutes and 31 seconds after JUNIOR
5 stopped breathing and was completely motionless and unresponsive on the floor of
6 the entrance hallway, defendant EXODUS RECOVERY Security Officer Javier
7 Mendez came into the entrance hallway. to have CHANG complete the 5150
8 Declaration form, to have it approved, and so JUNIOR could be taken into the
9 Admission/Intake/Security Desk area to be admitted as a patient for a 72-hour
10 5150 Civil Protective Custody hold.
11
12

13 315. When defendant Javier Mendez had also entered the entrance area
14 hallway to have CHANG complete the 5150 Declaration, Javier Mendez observed
15 JUNIOR on sitting up on the floor, gasping for breath, and begging for medical
16 assistance; begging for his inhaler.
17

18 316. Thereafter, approximately four minutes later defendant Javier Mendez
19 returned to the entrance hallway from the Security / Admission / Intake Desk area
20 and saw that JUNIOR was apparently unconscious, laying on his back with his
21 hands handcuffed behind him, and not seeming to be breathing.
22

23 317. When defendant EXODUS RECOVERY Security Officer Javier
24 Mendez saw JUNIOR laying motionless and nonresponsive on his back with his
25 hands handcuffed behind and underneath him, defendant Javier Mendez knew, or
26 reasonably should have known that JUNIOR was either suffering from a cardiac
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1 arrest, or, that if JUNIOR did have a pulse, that he still nevertheless in extremis, on
2 the verge of death.

3
4 318. CHANG then asked defendant Javier Mendez to help him pick up
5 JUNIOR from the floor and help him carry JUNIOR out of the entrance hallway
6 and into the Admission/Intake/Security area of EXODUS RECOVERY.

7
8 319. Also as set forth above, CHANG and Javier Mendez then each lifted
9 one of JUNIOR's wrists to pick up JUNIOR's limp, nonresponsive and seemingly
10 nonbreathing body and picked him up off of the floor of the entrance hallway of
11 MLK EXODUS RECOVERY CENTER.

12
13 320. By that point in time, defendant Javier Mendez knew or reasonably
14 should have known that JUNIOR was either suffering from a cardiac arrest, or, that
15 if JUNIOR did have a pulse, that he still nevertheless in extremis, on the verge of
16 death.

17
18 321. Nonetheless, defendant Javier Mendez still acceded to CHANG's
19 request to him to carry and drag JUNIOR's seemingly lifeless body out of the
20 entrance hallway and into the Security / Admission / Intake Desk area of the MLK
21 EXODUS RECOVERY CENTER facility.

22
23 322. Also as set forth above, it was obvious to both defendant EXODUS
24 RECOVERY Security Officer Javier Mendez and CHANG, that JUNIOR was not
25 breathing and was completely nonresponsive when they examined him in the
26 entrance hallway, and while they were dragging his totally limp body into the
27

1 Admission/Intake/Security area of the MLK EXODUS RECOVERY CENTER
2 facility they were acutely aware that by that point in time that JUNIOR had
3 suffered a cardiac arrest and was then dying, or, if not a cardiac arrest that JUNIOR
4 was still in extremis and on the verge of death, and was in need of immediate
5 medical attention, in this case to save his life.
6

7
8 323. Also as set forth above, CHANG and defendant Javier Mendez also
9 concealed the fact that JUNIOR was not breathing and had apparently suffered a
10 cardiac arrest, or if he did have a pulse, that JUNIOR was in extremis, on the verge
11 of death, and was completely nonresponsive when they dragged him into the
12 Security / Admission / Intake area of the EXODUS RECOVERY facility, to avoid
13 any blame or liability for their failure to summon immediate emergency medical
14 care for JUNIOR.
15
16

17 324. Also as set forth above, once in the Security / Admission / Intake Desk
18 area CHANG and defendant Javier Mendez placed JUNIOR's seemingly lifeless
19 body in a chair in that area, right in front of the Security / Admission / Intake Desk
20 and the EXODUS RECOVERY staff minding the same, and lifted JUNIOR's now
21 seemingly lifeless body up from the floor and placed JUNIOR in a position that
22 made JUNIOR appear to be sitting in a chair, to make it appear that he was still
23 alive and breathing, and not in extremis, or the verge of death.
24
25

26 325. Also as set forth above, when CHANG and defendant Javier Mendez
27 placed JUNIOR on the chair, they pulled his legs out to a seemingly normal
28

1 vertical knee bend while sitting position, while CHANG pulled and held
2 JUNIOR's upper torso up with JUNIOR's Back to the chairback to attempt to
3 make it appear that JUNIOR was breathing and not in acute medical distress and in
4 extremis.
5

6 326. Moreover, at that time and thereafter while JUNIOR appeared to be
7 sitting in the chair across from the Security / Admission / Intake Desk and the
8 MLK EXODUS RECOVERY CENTER staff standing and sitting at that desk area,
9 including defendants MLK EXODUS RECOVERY CENTER Security Officers
10 Curtis Swancy and Dean Rosado, JUNIOR's upper body was being held up by
11 CHANG to at least attempt to make it look like JUNIOR was still alive, and
12 breathing, and not in extremis, and not on the verge of death.
13
14

15 327. Moreover, defendant CHANG told defendants MLK EXODUS
16 RECOVERY CENTER Security Officers Curtis Swancy and Dean Rosado, and
17 the other MLK EXODUS RECOVERY CENTER staff at or in the vicinity of the
18 Admission/Intake/Security Desk, that JUNIOR was "just playing games"; implying
19 that JUNIOR was faking being in medical distress and in extremis; causing them to
20 believe or to at least to doubt that JUNIOR was in medical distress and in extremis,
21 and at least causing them to doubt that JUNIOR was in need of immediate
22 emergency medical care.
23
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25 328. Moreover, defendant Javier Mendez remained silent when CHANG
26 made those false and misleading statements to defendants MLK EXODUS
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28

1 RECOVERY CENTER Security Officers Curtis Swancy and Dean Rosado, and
2 the other MLK EXODUS RECOVERY CENTER staff members at or in the
3 vicinity of the Security / Admission / Intake Desk, that JUNIOR was “just playing
4 games”, implying that JUNIOR was faking being in medical distress and in
5 extremis.
6

7
8 329. Defendant Javier Mendez remained silent to assist CHANG conceal
9 CHANG’s and Javier Mendez’ nonfeasance in failing to provide and/or to summon
10 emergency medical care for JUNIOR long ago.
11

12 330. Moreover, defendant Javier Mendez knew that CHANG’s statement
13 that JUNIOR was “just playing games”, implying that JUNIOR was faking being
14 in medical distress and in extremis, was a knowingly made false statement, to hide,
15 conceal and cover-up their nonfeasance in failing to provide medical care to
16 JUNIOR (i.e. JUNIOR’s inhaler⁵³) and in failing to summon emergency medical
17 care for JUNIOR.
18

19
20 331. Those knowingly made false statements by CHANG, that JUNIOR was
21 “just playing games”, implying that JUNIOR was faking being in medical distress
22 and in extremis, caused defendants MLK EXODUS RECOVERY CENTER
23 Security Officers Curtis Swancy and Dean Rosado, and the other MLK EXODUS
24 RECOVERY CENTER staff members at or in the vicinity of the Security /
25 Admission / Intake Desk to forego providing emergency medical care for or
26 summoning medical care for JUNIOR.
27
28

1 332. Also as set forth above, CHANG then kept holding onto JUNIOR's
2 limp body, propping him up on the chair in the admissions area across from the
3 admissions desk; again to convey the impression to the EXODUS RECOVERY
4 staff that that JUNIOR really was not in medical distress/extremis or dead, and
5 resulting in EXODUS RECOVERY Security Officers Curtis Swancy and Dean
6 Rosado and the Nurses and other staff members of the EXODUS RECOVERY
7 staff to continue to not provide or to summon emergency medical services to or for
8 JUNIOR, and not obtaining or summoning emergency medical services for or life
9 reviving services/measures for JUNIOR, even though they either knew or should
10 have known that JUNIOR was not faking. However, they did not want to oppose or
11 challenge CHANG, as he was a police officer.
12

13 333. Also as set forth above, when CHANG eventually stopped propping
14 JUNIOR's body up, JUNIOR's upper body folded over and his head was hanging
15 between his legs, on his lap.
16

17 334. Also as set forth above, thereafter, CHANG continued to tell the
18 EXODUS RECOVERY staff that JUNIOR was "playing games"; acting as if he
19 was dead, which by that time he apparently was or was on the verge of being dead.
20

21 335. Also as set forth above, JUNIOR's lifeless body remained folded over
22 in the chair for several additional minutes while CHANG and the MLK EXODUS
23 RECOVERY CENTER Security Officers Curtis Swancy, Javier Mendez and Dean
24

1 Rosado and the Nurses and other staff members of the EXODUS RECOVERY
2 staff just stood by and did nothing to help JUNIOR.

3
4 336. However, JUNIOR was in such bad physical condition that
5 notwithstanding the lies by CHANG that JUNIOR was essentially faking being in
6 extremis, a reasonably well-trained Psychiatric Treatment Facility Security Officer
7 would have recognized that JUNIOR was not faking and that JUNIOR was either
8 dead or in extremis, on the verge of death.

9
10 337. Moreover, any reasonably well-trained Security Guard would have
11 known that a person who is handcuffed with his hands behind him, and seated on a
12 chair and bent over has his breathing severely restricted; something that JUNIOR
13 must have endured if he was alive when he was bent over while sitting in the chair.

14
15 338. Also as set forth above, rather than ask anyone at MLK EXODUS
16 RECOVERY CENTER to help JUNIOR or to otherwise provide or to seek
17 emergency medical treatment for JUNIOR, CHANG just stood next to the now
18 lifeless body of JUNIOR and acted as if JUNIOR was faking being dead, and
19 waited for someone from MLK EXODUS RECOVERY CENTER to check on
20 JUNIOR to admit him as a psychiatric patient at the MLK EXODUS RECOVERY
21 CENTER facility.

22
23 339. Also as set forth above, MLK EXODUS RECOVERY CENTER
24 Charge Nurse Lucy Mesue, R.N. eventually came into the Security / Admission /
25

1 Intake area to check on JUNIOR's vital signs so that he could be admitted into the
2 EXODUS RECOVERY mental health facility for a 5150 hold.

3
4 340. Also as set forth above, when Lucy Mesue came into the Security /
5 Admission / Intake area CHANG also told her that JUNIOR was "playing
6 games"; faking being dead or being in extremis.

7
8 341. Also as set forth above, when the nurse Lucy Mesue then attempted to
9 take JUNIOR's blood-pressure she saw that JUNIOR was unresponsive and not
10 breathing, so she told CHANG to remove the handcuffs from JUNIOR.

11
12 342. Also as set forth above, when CHANG took the handcuffs off of
13 JUNIOR's wrists, CHANG and Lucy Mesue placed JUNIOR on the floor flat on
14 his back and began chest compressions on JUNIOR.

15
16 343. This took place beginning approximately seven minutes after JUNIOR
17 had been brought into the admissions/patient intake area of EXODUS
18 RECOVERY from the entrance hallway of that facility.

19
20 344. In addition, others took over performing chest compressions on
21 JUNIOR.

22
23 345. However, the chest compressions were not successful in saving
24 JUNIOR's life.

25
26 346. Moreover, the MLK HOSPITAL staff continued performing chest
27 compressions on JUNIOR that were also unsuccessful.

1 347. Moreover, the MLK HOSPITAL staff summoned the paramedics, who
2 used the defibrillator on JUNIOR in an attempt to revive him, but those efforts
3 were also unsuccessful, and JUNIOR remained dead.
4

5 348. Moreover, CHANG's entire course of conduct as described above, in
6 driving JUNIOR around Los Angeles County for psychological services when it
7 would have been obvious to any well trained police officer that depriving JUNIOR
8 of his inhaler, keeping him handcuffed when it became obvious that doing so
9 placed JUNIOR in extremis, failing to give JUNIOR his inhaler, failing to provide
10 emergency medical care to him or to obtain/summon medical care for JUNIOR,
11 not placing JUNIOR in a recovery position on the floor in the entrance hallway,
12 telling the EXODUS RECOVERY defendant Security Officers and staff that
13 JUNIOR was "playing games" and faking being in medical distress/in extremis,
14 propping JUNIOR up in a chair in the Security / Admission / Intake area, allowing
15 JUNIOR to sit on a chair in a folded over position, failing to call paramedics,
16 failing to take JUNIOR to and/or to getting medical help from the MLK Hospital
17 on the other side of the parking lot, and then failing to timely begin chest
18 compressions was outrageous, and apparently intentional, or at least so grossly
19 reckless conduct that was done with full knowledge of the likelihood of JUNIOR
20 dying as a result of those actions and omissions, and with a deliberate indifference
21 to JUNIOR suffering serious medical injury and death.
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1 349. As a result of the actions of defendants CHANG and Javier Mendez,
2 Curtis Swancy, Dean Rosado and DOES 1 through 6, inclusive, JUNIOR faced a
3 substantial risk of serious harm, including death, as well as facing a serious
4 medical need.
5

6 350. Defendants Javier Mendez, Curtis Swancy, Dean Rosado and DOES 1
7 through 6, inclusive, were deliberately indifferent to that serious risk of serious
8 physical harm posed to JUNIOR by their conduct complained of above, and said
9 defendants knew of it and disregarded it by failing to take reasonable measures to
10 address it.
11
12

13 351. In addition, defendants EXODUS RECOVERY, INC., Javier Mendez,
14 Curtis Swancy, Dean Rosado and DOES 1 through 6, inclusive owed JUNIOR and
15 plaintiffs a duty to use due care toward JUNIOR while he was at their MLK
16 EXODUS RECOVERY CENTER facility, and said defendants breached their duty
17 of care that they owed to JUNIOR and the plaintiffs as set forth above and below.
18
19

20 352. In addition, defendants Javier Mendez, Curtis Swancy, Dean Rosado
21 and DOES 1 through 6, inclusive, were at least grossly negligent and were
22 deliberately indifferent to that serious medical need and acute medical distress,
23 including the likelihood of death faced by JUNIOR, and said defendants knew of it
24 and disregarded it by failing to take reasonable measures to address it, and said
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1 actions and omissions of defendants EXODUS RECOVERY, INC.¹¹⁶, Javier
2 Mendez, Curtis Swancy, Dean Rosado and DOES 1 through 6, inclusive, directly
3 and proximately caused the Wrongful Death of JUNIOR under Cal. Civ. Proc.
4 Code § 377.60 and were a substantial factor in causing JUNIOR's death on
5 September 25, 2023.
6

7 353. Also as set forth above, defendants EXODUS RECOVERY, INC.¹¹⁷,
8 Javier Mendez, Curtis Swancy, Dean Rosado and DOES 1 through 6, inclusive,
9 were also put on notice of JUNIOR's medical condition and medical distress and
10 failed to provide him with his inhaler, failed to provide JUNIOR any
11 immediate/emergency medical care, kept JUNIOR seated in a chair folded over,
12 failed to provide/obtain/summon emergency medical care for JUNIOR, breaching
13 the duty of care that defendants CHANG and DOES 1 through 6, inclusive, owed
14 to JUNIOR.
15

16 354. Alternatively, defendants CHANG was grossly negligent in not
17 recognizing that JUNIOR was in serious medical distress and in extremis due to his
18 inability to adequately breathe, and not recognizing that that JUNIOR had become
19 truly nonresponsive at the EXODUS RECOVERY facility, and in negligently
20 believing that JUNIOR was faking being in medical distress/extremis and then
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27 ¹¹⁶ Via MLK EXODUS RECOVERY CENTER.

28 ¹¹⁷ Via MLK EXODUS RECOVERY CENTER.

1 faking being nonresponsive, also breached the duty of care that they owed to
2 JUNIOR59, and ultimately caused JUNIOR to go into cardiac arrest and to die.

3
4 355. Accordingly, the actions and omissions of defendants EXODUS
5 RECOVERY, INC.¹¹⁸, CITY, CHANG, Javier Mendez, Curtis Swancy, Dean
6 Rosado and DOES 1 through 6, were a proximate cause of the death of plaintiffs'
7 decedent JUNIOR on September 25, 2023, and made them liable to plaintiffs,
8 individually, for the wrongful death JUNIOR pursuant to Cal. Civ. Proc. Code §
9 377.60.
10

11
12 356. Moreover, defendants CITY, EXODUS RECOVERY, INC., Javier
13 Mendez, Curtis Swancy, Dean Rosado and DOES 1 through 6, inclusive, are liable
14 to plaintiffs by way of Cal. Gov't Code §§ 815.2 and 820.
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16 357. As a direct and proximate result of the actions and omissions of
17 defendants CHANG, Javier Mendez, Curtis Swancy, Dean Rosado and DOES 1
18 through 6, inclusive, complained of above, plaintiffs CHAVIRA and SENIOR
19 suffered the loss of their Parent-Child Relationship, the loss of the love, affection,
20 solace, financial support, comfort and companionship that plaintiffs enjoyed from
21 their Parent-Child Relationship with JUNIOR, all along with the loss of their
22 income that they would have obtained from JUNIOR's contribution to their
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28 ¹¹⁸ Via MLK EXODUS RECOVERY CENTER.

1 monthly rent, and also suffered funeral and burial expenses, hospital and other
2 medical expenses and costs, and other special damages; all in an amount to be
3 shown at trial, in excess of \$30,000,000.00.
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5 358. The actions and omissions by defendants CHANG and Javier Mendez
6 described above, also constitutes conduct by defendants CHANG and DOES 1
7 through 6, inclusive, and defendant Javier Mendez that was done maliciously and
8 oppressively, in reckless disregard of plaintiffs' and of plaintiffs' decedent
9 JUNIOR's rights, sufficient for an award of punitive damages against defendants
10 CHANG and DOES 1 through 6, inclusive, and Javier Mendez in an amount in
11 excess of \$30,000,000.00 against each defendant for each plaintiff.
12
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15 **EIGHTH CAUSE OF ACTION**

16 **California State Law Claim for Negligence**

17 **Cal. Civil Code § 1714**

18 **(By Plaintiffs Theresa Chavira and Richard Alexander Herrera, Individually**
19 **and as Successors In Interest to Richard Alexander Herrera, Jr. Against**
20 **Defendants CHANG, CITY, EXODUS RECOVERY, INC., JAVIER**
21 **MENDEZ, DEAN ROSADO, CURTIS SWANCY and DOES 1 through 10,**
22 **inclusive)**

23 359. Plaintiffs hereby reallege and incorporate by reference the allegations
24 set forth in paragraphs 1 through 358, inclusive, above, as if set forth in full herein.

25 360. As set forth above, on September 25, 2023 plaintiffs' decedent
26 JUNIOR, was arrested and taken into custody at the West Covina Police
27 Department Jail where he was incarcerated as a pretrial detainee - inmate in that
28 facility.

1 361. Also as set forth above, defendant CHANG transported JUNIOR from
2 the West Covina Police Department Jail to Emanate Intercommunity Hospital, and
3 thereafter to LAC-USC Medical Center, and thereafter to EXODUS RECOVERY,
4 to take JUNIOR to a locked psychiatric facility for a 72-hour Civil Protective
5 Custody hold/psychiatric examination pursuant to Cal. Welf & Inst Code § 5150.
6

7 362. Also as set forth above, while defendant CHANG was transporting
8 JUNIOR from hospital to hospital to hospital, JUNIOR was showing obvious signs
9 of needing immediate medical attention that defendant CHANG did or at least
10 reasonably should have recognized, as JUNIOR was constantly complaining to
11 defendant CHANG that he could not breathe, as defendant CHANG was told by
12 SENIOR that JUNIOR suffered from severe asthma and was in need of his inhaler,
13 as when defendant CHANG searched JUNIOR that defendant CHANG found an
14 asthma inhaler on JUNIOR's person, as when JUNIOR was booked at the West
15 Covina Police Department that he told the Jailer there, Officer Lopez, and told
16 defendant CHANG that he suffered from asthma, as when JUNIOR was in custody
17 and at the West Covina Police Department that JUNIOR's mother, plaintiff
18 CHAVIRA, called the West Covina Police Department and spoke to Jailer Lopez
19 and a police department Supervisor at the Jail and told them that JUNIOR suffered
20 from asthma and had a medical condition known as ectodermal dysplasia that
21 caused JUNIOR to overheat due to his not having any sweat glands.
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28 363. Moreover, at MLK EXODUS RECOVERY CENTER, JUNIOR was
CONSOLIDATED FIRST AMENDED COMPLAINT FOR DAMAGES

1 bucking his chest and his head up and down and back and forth, was squirming on
2 the floor, was gasping for breath, was begging for his inhaler, and was otherwise
3 exhibiting signs and symptoms of being in severe and acute medical distress and
4 extremis, eventually including writhing on the floor, and thereafter becoming
5 completely motionless and unresponsive.
6

7
8 364. Moreover, also as set forth above, defendant CHANG was grossly
9 negligent by: 1) unreasonably refusing/failing to provide JUNIOR with his inhaler,
10 2) unreasonably keeping JUNIOR handcuffed even though it was obvious that
11 JUNIOR being handcuffed restricted JUNIOR's ability to breathe, 3) telling the
12 staff at all three hospitals that JUNIOR was faking his medical distress/playing
13 games, depriving him of emergency medical treatment from those hospital
14 facilities¹¹⁹, 4) failing to place JUNIOR in the recovery position once JUNIOR was
15 on or was otherwise propelled to the floor in the entrance hall of the MLK
16 EXODUS RECOVERY CENTER facility, 5) failing to provide/obtain/summon
17 medical care for JUNIOR at the EXODUS RECOVERY facility, 6) dragging
18 JUNIOR from the entrance hallway at the EXODUS RECOVERY facility into the
19 Security/Admission/Intake area and propping him up on a chair to create the
20 appearance that JUNIOR was alive and/or responsive in some way, preventing
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28 ¹¹⁹ Also resulting in it taking two hours to get from the West Covina Police Department to MLK
EXODUS.

1 and/or further delaying the application of life-saving measures to be taken to save
2 JUNIOR's life¹²⁰, 7) telling the hospital staff at the EXODUS RECOVERY facility
3 that JUNIOR was faking/"playing games" and not in medical distress/in extremis,
4 preventing and/or further delaying the application of life-saving measures to be
5 taken to save JUNIOR's life¹²¹, and 8) failing to even call 9-1-1 or for other
6 emergency medical care for JUNIOR after he became nonresponsive.
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9 365. These acts of negligence/gross negligence by defendant CHANG
10 constituted a breach of the duty of due care that defendant CHANG owed to
11 JUNIOR pursuant to Cal. Civil Code § 1714.
12

13 366. Accordingly, these actions and omissions of and by defendant
14 CHANG were a proximate cause of the severe pre-death pain, suffering and
15 distress that JUNIOR suffered during the September 25, 2023 incident complained
16 of in this action, and made CITY and CHANG liable to plaintiffs, individually and
17 as successors-in-interest to plaintiffs' decedent JUNIOR pursuant to Cal. Civil
18 Code § 1714.
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21 367. Accordingly, these actions and omissions of and by defendant
22 CHANG were also proximate JUNIOR's death, making CHANG and defendant
23 CITY liable to plaintiffs individually, pursuant to Cal. Gov't Code § 815.2 and
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28 ¹²⁰ Such as Cardio Pulmonary Resuscitation, chest compressions and defibrillation.

¹²¹ Such as Cardio Pulmonary Resuscitation, chest compressions and defibrillation.

1 820, and pursuant to Cal. Civil Code § 1714.

2 368. Moreover, these actions by CHANG were a proximate cause of the
3 severe pre-death pain, suffering and distress that JUNIOR suffered during the
4 September 25, 2023 incident complained of in this action, and made CITY and
5 CHANG liable to plaintiffs, individually and as successors-in-interest to plaintiffs'
6 decedent JUNIOR pursuant to Cal. Civil Code § 1714.
7

8 369. Also as set forth above, then 2 minutes and 31 seconds after JUNIOR
9 stopped breathing and was completely motionless and unresponsive on the floor of
10 the entrance hallway, defendant MLK EXODUS RECOVERY CENTER Security
11 Officer Javier Mendez came into the entrance hallway. to have CHANG complete
12 the 5150 Declaration form, to have it approved, and so JUNIOR could be taken
13 into the Admission/Intake/Security Desk area to be admitted as a patient for a 72-
14 hour 5150 Civil Protective Custody hold.
15

16 370. When defendant Javier Mendez had also entered the entrance area
17 hallway to have CHANG complete the 5150 Declaration, Javier Mendez observed
18 JUNIOR on sitting up on the floor, gasping for breath, and begging for medical
19 assistance; begging for his inhaler.
20

21 371. Thereafter, approximately four minutes later defendant Javier Mendez
22 returned to the entrance hallway from the Admission/Intake/Security Desk area
23 and saw that JUNIOR was apparently unconscious, laying on his back with his
24 hands handcuffed behind him, and not seeming to be breathing.
25

1 372. When defendant MLK EXODUS RECOVERY CENTER Security
2 Officer Javier Mendez saw JUNIOR laying motionless and nonresponsive on his
3 back with his hands handcuffed behind and underneath him, defendant Javier
4 Mendez knew, or reasonably should have known that JUNIOR was either suffering
5 from a cardiac arrest, or, that if JUNIOR did have a pulse, that he still nevertheless
6 in extremis, on the verge of death.
7

8
9 373. CHANG then asked defendant Javier Mendez to help him pick up
10 JUNIOR from the floor and help him carry JUNIOR out of the entrance hallway
11 and into the Admission/Intake/Security area of EXODUS RECOVERY.
12

13 374. Also as set forth above, CHANG and Javier Mendez then each lifted
14 one of JUNIOR's wrists to pick up JUNIOR's limp, nonresponsive and seemingly
15 nonbreathing body and picked him up off of the floor of the entrance hallway of
16 MLK EXODUS RECOVERY CENTER; dragging him with JUNIOR'S feet and
17 legs dragging on the floor, hanging from JUNIOR's limp body.
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19
20 375. By that point in time, defendant Javier Mendez knew or reasonably
21 should have known that JUNIOR was either suffering from a cardiac arrest, or, that
22 if JUNIOR did have a pulse, that he still nevertheless in extremis, on the verge of
23 death.
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25 376. Nonetheless, defendant Javier Mendez still acceded to CHANG's
26 request to him to carry and drag JUNIOR's seemingly lifeless body out of the
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1 entrance hallway and into the Admission/Intake/Security Desk area of the
2 EXODUS RECOVERY facility.

3
4 377. Also as set forth above, it was obvious to both defendant MLK
5 EXODUS RECOVERY CENTER Security Officer Javier Mendez and CHANG,
6 that JUNIOR was not breathing¹²² and was completely nonresponsive¹²³ when they
7 examined him in the entrance hallway, and while they were dragging his totally
8 limp body into the Security / Admission / Intake area of the MLK EXODUS
9 RECOVERY CENTER facility they were acutely aware that by that point in time
10 that JUNIOR had suffered a cardiac arrest and was then dying, or, if not a cardiac
11 arrest that JUNIOR was still in extremis and on the verge of death, and was in need
12 of immediate medical attention, in this case to save his life.

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14
15 378. Also as set forth above, CHANG and defendant Javier Mendez also
16 concealed the fact that JUNIOR was not breathing and had apparently suffered a
17 cardiac arrest, or if he did have a pulse, that JUNIOR was in extremis, on the verge
18 of death, and was completely nonresponsive when they dragged him into the
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26 ¹²² However, defendant Javier Mendez believed that he heard some sort of sounds coming from
27 JUNIOR; sounds that may have been indicative of extremely depressed or extremely strained
28 breathing or belching.

¹²³ CHANG claims that he saw JUNIOR's diaphragm area expanding and contracting, indicating
that at that point in time in the Entrance Hallway that JUNIOR was still breathing.

1 Security / Admission / Intake area of the EXODUS RECOVERY facility, to avoid
2 any blame or liability for their failure to summon immediate emergency medical
3 care for JUNIOR.
4

5 379. Also as set forth above, once in the Security / Admission / Intake Desk
6 area CHANG and defendant Javier Mendez placed JUNIOR's seemingly lifeless
7 body in a chair in that area, right in front of the Security / Admission / Intake Desk
8 and the MLK EXODUS RECOVERY CENTER staff minding the same, and lifted
9 JUNIOR's now seemingly lifeless body up from the floor and placed JUNIOR in a
10 position that made JUNIOR appear to be sitting in a chair, to make it appear that he
11 was still alive⁶⁰ and breathing, and not in extremis, or the verge of death.
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14 380. Also as set forth above, when CHANG and defendant Javier Mendez
15 placed JUNIOR on the chair, they pulled his legs out to a seemingly normal
16 vertical knee bend while sitting position, while CHANG pulled and held
17 JUNIOR's upper torso up with JUNIOR's Back to the chairback to attempt to
18 make it appear that JUNIOR was breathing and not in acute medical distress and in
19 extremis.
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21

22 381. Moreover, at that time and thereafter while JUNIOR appeared to be
23 sitting in the chair across from the Security / Admission / Intake Desk and the
24 MLK EXODUS RECOVERY CENTER staff standing and sitting at that desk area,
25 including defendants MLK EXODUS RECOVERY CENTER Security Officers
26 Curtis Swancy and Dean Rosado, JUNIOR's upper body was being held up by
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28

1 CHANG to at least attempt to make it look like JUNIOR was still alive, and
2 breathing, and not in extremis, and not on the verge of death.

3
4 382. Moreover, defendant CHANG told defendants MLK EXODUS
5 RECOVERY CENTER Security Officers Curtis Swancy and Dean Rosado, and
6 the other MLK EXODUS RECOVERY CENTER staff at or in the vicinity of the
7 Security / Admission / Intake Desk, that JUNIOR was “just playing games”;
8 implying that JUNIOR was faking being in medical distress and in extremis;
9 causing them to believe or to at least to doubt that JUNIOR was in medical distress
10 and in extremis, and at least causing them to doubt that JUNIOR was in need of
11 immediate emergency medical care.
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13
14 383. Moreover, defendant Javier Mendez remained silent when CHANG
15 made those false and misleading statements to defendants MLK EXODUS
16 RECOVERY CENTER Security Officers Curtis Swancy and Dean Rosado, and
17 the other MLK EXODUS RECOVERY CENTER staff members at or in the
18 vicinity of the Security / Admission / Intake Desk, that JUNIOR was “just playing
19 games”, implying that JUNIOR was faking being in medical distress and in
20 extremis.
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24 384. Defendant Javier Mendez remained silent to assist CHANG conceal
25 CHANG’s and Javier Mendez’ nonfeasance in failing to provide and/or to summon
26 emergency medical care for JUNIOR long ago.
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1 385. Moreover, defendant Javier Mendez knew that CHANG's statement
2 that JUNIOR was "just playing games", implying that JUNIOR was faking being
3 in medical distress and in extremis, was a knowingly made false statement, to hide,
4 conceal and cover-up their nonfeasance in failing to provide medical care to
5 JUNIOR (i.e. JUNIOR's inhaler) and in failing to summon emergency medical
6 care for JUNIOR.
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9 386. Those knowingly made false statements by CHANG, that JUNIOR
10 was "just playing games", implying that JUNIOR was faking being in medical
11 distress and in extremis, caused defendants MLK EXODUS RECOVERY
12 CENTER Security Officers Curtis Swancy and Dean Rosado, and the other MLK
13 EXODUS RECOVERY CENTER staff members at or in the vicinity of the
14 Security / Admission / Intake Desk to forego providing emergency medical care
15 for or summoning medical care for JUNIOR.
16
17

18 387. Also as set forth above, CHANG then kept holding onto JUNIOR's
19 limp body, propping him up on the chair in the admissions area across from the
20 admissions desk; again to convey the impression to the MLK EXODUS
21 RECOVERY CENTER staff that that JUNIOR really was not in medical
22 distress/extremis or dead, and resulting in MLK EXODUS RECOVERY CENTER
23 Security Officers Curtis Swancy and Dean Rosado and the Nurses and other staff
24 members of the EXODUS RECOVERY staff to continue to not provide or to
25 summon emergency medical services to or for JUNIOR, and not obtaining or
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1 summoning emergency medical services for or life reviving services/measures⁶⁴
2 for JUNIOR.

3
4 388. Also as set forth above, when CHANG eventually stopped propping
5 JUNIOR's body up, JUNIOR's upper body folded over and his head was hanging
6 between his legs, on his lap.

7
8 389. Also as set forth above, thereafter, CHANG continued to tell the MLK
9 EXODUS RECOVERY CENTER staff that JUNIOR was "playing games"; acting
10 as if he was dead, which by that time he apparently was or was on the verge of
11 being dead.

12
13 390. Also as set forth above, JUNIOR's lifeless body remained folded over
14 in the chair for several additional minutes while CHANG and the MLK EXODUS
15 RECOVERY CENTER Security Officers Curtis Swancy, Javier Mendez and Dean
16 Rosado and the Nurses and other staff members of the MLK EXODUS
17 RECOVERY CENTER staff stood by and did nothing to help JUNIOR.

18
19 391. However, JUNIOR was in such bad physical condition that
20 notwithstanding the lies by CHANG that JUNIOR was essentially faking being in
21 extremis, a reasonably well-trained Psychiatric Treatment Facility Security Officer
22 would have recognized that JUNIOR was not faking and that JUNIOR was either
23 dead or in extremis, on the verge of death.

24
25 392. Moreover, any reasonably well-trained Security Officer would have
26 known that a person who is handcuffed with his hands behind him, and seated on a
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1 chair and bent over has his breathing severely restricted; something that JUNIOR
2 must have endured if he was alive when he was bent over while sitting in the chair.

3
4 393. Also as set forth above, rather than ask anyone at EXODUS
5 RECOVERY to help JUNIOR or to otherwise provide or to seek emergency
6 medical treatment for JUNIOR, CHANG just stood next to the now lifeless body
7 of JUNIOR and acted as if JUNIOR was faking being dead, and waited for
8 someone from MLK EXODUS RECOVERY CENTER to check on JUNIOR to
9 admit him as a psychiatric patient at MLK EXODUS RECOVERY CENTER.
10

11
12 394. Also as set forth above, MLK EXODUS RECOVERY CENTER
13 Charge Nurse Lucy Mesue, R.N. eventually came into the Security / Admission /
14 Intake area to check on JUNIOR's vital signs so that he could be admitted into the
15 MLK EXODUS RECOVERY CENTER mental health facility for a 5150 hold.
16

17 395. Also as set forth above, when Lucy Mesue came into the
18 Security / Admission / Intake area CHANG also told her that JUNIOR was
19 "playing games"; faking being dead or being in extremis.
20

21 396. Also as set forth above, when the nurse Lucy Mesue then attempted to
22 take JUNIOR's blood-pressure she saw that JUNIOR was unresponsive and not
23 breathing, so she told CHANG to remove the handcuffs from JUNIOR.
24

25 397. Also as set forth above, when CHANG took the handcuffs off of
26 JUNIOR's wrists, CHANG and Lucy Mesue placed JUNIOR on the floor flat on
27 his back and began chest compressions on JUNIOR.
28

1 398. This took place beginning approximately seven minutes after JUNIOR
2 had been brought into the admissions/patient intake area of MLK EXODUS
3 RECOVERY CENTER from the Entrance Hallway of that facility.
4

5 399. In addition, others took over performing chest compressions on
6 JUNIOR.
7

8 400. However, the chest compressions were not successful in saving
9 JUNIOR's life.

10 401. Moreover, the MLK HOSPITAL staff continued performing chest
11 compressions on JUNIOR that were also unsuccessful.
12

13 402. Moreover, the MLK EXODUS RECOVERY CENTER staff
14 summoned the paramedics, who used the defibrillator on JUNIOR in an attempt to
15 revive him, but those efforts were also unsuccessful, and JUNIOR remained dead.
16

17 403. Moreover, CHANG's entire course of conduct as described above, in
18 driving JUNIOR around Los Angeles County for psychological services when it
19 would have been obvious to any well trained police officer that depriving JUNIOR
20 of his inhaler, keeping him handcuffed when it became obvious that doing so
21 placed JUNIOR in extremis, failing to give JUNIOR his inhaler, failing to provide
22 emergency medical care to him or to obtain/summon medical care for JUNIOR,
23 not placing JUNIOR in a recovery position on the floor in the entrance hallway,
24 telling the defendant MLK EXODUS RECOVERY CENTER Security Officers
25 and staff that JUNIOR was "playing games" and faking being in medical
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1 distress/in extremis, propping JUNIOR up in a chair in the Security / Admission /
2 Intake allowing JUNIOR to sit on a chair in a folded over position, failing to call
3 paramedics, failing to take JUNIOR to and/or to getting medical help from the
4 MLK Hospital on the other side of the street, and then failing to timely begin chest
5 compressions was outrageous, and apparently intentional, or at least so grossly
6 reckless conduct that was done with full knowledge of the likelihood of JUNIOR
7 dying as a result of those actions and omissions, and with a deliberate indifference
8 to JUNIOR suffering serious medical injury and death.
9
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12 404. As a result of the actions of defendants Javier Mendez, Curtis
13 Swancy, Dean Rosado and DOES 1 through 6, inclusive, JUNIOR faced a
14 substantial risk of serious harm, including death, as well as facing a serious
15 medical need.
16

17 405. Defendants Javier Mendez, Curtis Swancy, Dean Rosado and DOES 1
18 through 6, inclusive, were deliberately indifferent to that serious risk of serious
19 physical harm posed to JUNIOR by their conduct complained of above, and said
20 defendants knew of it and disregarded it by failing to take reasonable measures to
21 address it.
22

23
24 406. In addition, defendants EXODUS RECOVERY, INC., Javier Mendez,
25 Curtis Swancy, Dean Rosado and DOES 1 through 6, inclusive owed JUNIOR and
26 plaintiffs a duty to use due care toward JUNIOR while he was at their MLK
27 EXODUS RECOVERY CENTER facility, and said defendants breached their duty
28

1 of care that they owed to JUNIOR and the plaintiffs as set forth above and below.

2 407. In addition, defendants Javier Mendez, Curtis Swancy, Dean Rosado
3 and DOES 1 through 6, inclusive, were at least grossly negligent and were
4 deliberately indifferent to that serious medical need and acute medical distress,
5 including the likelihood of death faced by JUNIOR, and said defendants knew of it
6 and disregarded it by failing to take reasonable measures to address it, and said
7 actions and omissions of defendants Javier Mendez, Curtis Swancy, Dean Rosado
8 and DOES 1 through 6, inclusive, directly and proximately caused the Wrongful
9 Death of JUNIOR.
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13 408. These acts of negligence/gross negligence by defendants EXODUS
14 RECOVERY, INC., Javier Mendez, Curtis Swancy, Dean Rosado and DOES 1
15 through 6, inclusive, constituted a breach of the duty of due care that said
16 defendants owed to JUNIOR pursuant to Cal. Civil Code § 1714.
17

18 409. Accordingly, these actions and omissions of and by defendants
19 EXODUS RECOVERY, INC., Javier Mendez, Curtis Swancy, Dean Rosado and
20 DOES 1 through 6, inclusive, were a proximate cause of the severe pre-death pain,
21 suffering and distress that JUNIOR suffered during the September 25, 2023
22 incident complained of in this action, and made defendants EXODUS
23 RECOVERY, INC., Javier Mendez, Curtis Swancy, Dean Rosado and DOES 1
24 through 6, inclusive, liable to plaintiffs, individually and as successors-in-interest
25 to plaintiffs' decedent JUNIOR, pursuant to Cal. Civil Code § 1714.
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1 410. As a direct and proximate result of the actions and omissions of
2 defendants CHANG, CITY, EXODUS RECOVERY, INC., Javier Mendez, Dean
3 Rosado, Curtis Swancy and DOES 1 through 6, inclusive, complained of above,
4 plaintiffs CHAVIRA and SENIOR suffered the loss of their Parent-Child
5 Relationship, the loss of the love, affection, solace, comfort and companionship
6 that plaintiffs enjoyed from their Parent-Child Relationship with JUNIOR, as well
7 as severe depression, mental and emotional pain, suffering and distress, the
8 physical manifestation of that mental and emotional pain suffering and distress, a
9 terrible feeling of emptiness, and deep and never-ending sorrow from the loss of
10 their son, JUNIOR all along with the loss of their income that they would have
11 obtained from JUNIOR's contribution to their monthly rent, and also suffered
12 funeral and burial expenses, hospital and other medical expenses and costs, and
13 other special damages; all in an amount to be shown at trial, in excess of
14 \$30,000,000.00.

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19 411. In addition, as a direct and proximate result of the actions and
20 omissions of defendants CHANG, CITY, EXODUS RECOVERY, INC., Javier
21 Mendez, Dean Rosado, Curtis Swancy and DOES 1 through 6, inclusive, as
22 complained of above, plaintiffs' decedent JUNIOR suffered severe pre-death pain
23 and suffering, severe pre-death mental and emotional injuries, pain and suffering,
24 other general and special damages, as well as his death on September 25, 2023, as
25 well as the loss of his life (hedonic damages), as well as lost wages/profits and

1 other income that plaintiffs' decedent JUNIOR would have earned/made/acquired
2 during his lifetime, the hedonic damages to JUNIOR caused by the loss of
3 JUNIOR's life, and other special damages; all of said injuries and damages to
4 JUNIOR totaling an amount to be shown at trial, in excess of \$30,000,000.00.
5

6 **NINTH CAUSE OF ACTION**

7 **California State Law Claim for Violation of Cal. Gov't Code § 845.6**

8 **Failure to Provide Immediate Medical Care**

9 **(By Plaintiffs Theresa Chavira and Richard Alexander Herrera, as Successors**
10 **In Interest to Richard Alexander Herrera, Jr. Against Defendants CHANG,**
11 **CITY, EXODUS RECOVERY, INC., JAVIER MENDEZ, DEAN ROSADO,**
12 **CURTIS SWANCY and DOES 1 through 10, inclusive)**

13 412. Plaintiffs hereby reallege and incorporate by reference the allegations
14 set forth in paragraphs 1 through 411, inclusive, above, as if set forth in full herein.

15 413. As set forth above, on September 25, 2023 plaintiffs' decedent
16 JUNIOR was arrested and taken into custody at the West Covina Police
17 Department Jail where he was incarcerated as a pretrial detainee - inmate in that
18 facility.

19 414. Also as set forth above, thereafter, while in custody at the MLK
20 EXODUS RECOVERY CENTER facility, JUNIOR was subjected to excessive
21 force by CHANG and DOES 1 through 6, inclusive, contributing to JUNIOR's
22 suffering and death.
23

24 415. Also as set forth above, JUNIOR was showing obvious signs of
25 needing immediate medical attention that any reasonable person and/or reasonably
26 well-trained peace officer would have recognized as an Inmate/Arrestee and Civil
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1 Protective Custody detainee being in need of immediate/emergency medical care.

2 416. Also as set forth above, while defendant CHANG was transporting
3 from hospital to hospital to hospital, JUNIOR was showing obvious signs of
4 needing immediate medical attention that defendant CHANG did or at least
5 reasonably should have recognized, as JUNIOR was constantly complaining to
6 defendant CHANG that he could not breathe, as defendant CHANG was told by
7 SENIOR that JUNIOR suffered from severe asthma and was in need of his inhaler,
8 as when defendant CHANG searched JUNIOR that defendant CHANG found an
9 asthma inhaler on JUNIOR's person, as when JUNIOR was booked at the West
10 Covina Police Department that he told the Jailer there, Officer Lopez, and told
11 defendant CHANG that he suffered from asthma, as when JUNIOR was in custody
12 and at the West Covina Police Department that JUNIOR's mother, plaintiff
13 CHAVIRA, called the West Covina Police Department and spoke to Jailer Lopez
14 and a police department Supervisor at the Jail and told them that JUNIOR suffered
15 from asthma and had a medical condition known as ectodermal dysplasia that
16 caused JUNIOR to overheat due to his not having any sweat glands.
17

18 417. Moreover, at MLK EXODUS RECOVERY CENTER JUNIOR was
19 bucking his chest and his head up and down and back and forth, was squirming on
20 the floor, was gasping for breath, was begging for his inhaler, and was otherwise
21 exhibiting signs and symptoms of being in severe and acute medical distress and
22 extremis, eventually including writhing on the floor, and thereafter becoming
23

1 completely motionless and unresponsive.

2 418. Also as set forth above, notwithstanding defendant CHANG being on
3 notice that JUNIOR was in acute and severe medical distress and in extremis,
4 defendant CHANG failed to provide immediate emergency medical care to
5 JUNIOR by: 1) failing to provide JUNIOR with immediate emergency medical
6 care, such as by failing to provide JUNIOR with his inhaler, 2) by failing to
7 otherwise provide JUNIOR with other forms of emergency/immediate medical
8 care, 3) failing to obtain or summon emergency/immediate medical care for
9 JUNIOR, 4) telling the staff at all three hospitals that JUNIOR was faking his
10 medical distress/playing games, depriving him of emergency medical treatment
11 from those hospital facilities¹²⁴, 5) dragging JUNIOR from the Entrance Hallway at
12 the MLK EXODUS RECOVERY CENTER facility into the Security / Admission /
13 Intake area and propping him up on a chair to create the appearance that JUNIOR
14 was alive and/or responsive in some way, preventing and/or further delaying the
15 application of life-saving measures to be taken to save JUNIOR's life¹²⁵, and 6)
16 telling the hospital staff at the EXODUS RECOVERY facility that JUNIOR was
17 faking/"playing games" and not in medical distress/in extremis, preventing and/or
18 further delaying the application of life-saving measures to be taken to save
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27 ¹²⁴ Also resulting in it taking two hours to get from the West Covina Police Department to MLK
EXODUS.

28 ¹²⁵ Such as Cardio Pulmonary Resuscitation, chest compressions and defibrillation.

1 JUNIOR's life¹²⁶.

2 419. Also as set forth above, then 2 minutes and 31 seconds after JUNIOR
3 stopped breathing and was completely motionless and unresponsive¹²⁷ on the floor
4 of the entrance hallway, defendant EXODUS RECOVERY Security Officer Javier
5 Mendez came into the entrance hallway. to have CHANG complete the 5150
6 Declaration form, to have it approved, and so JUNIOR could be taken into the
7 Admission/Intake/Security Desk area to be admitted as a patient for a 72-hour
8
9 5150 Civil Protective Custody hold.
10

11 420. When defendant Javier Mendez had also entered the entrance area
12 hallway to have CHANG complete the 5150 Declaration, Javier Mendez observed
13 JUNIOR on sitting on the floor, gasping for breath, and begging for medical
14 assistance; begging for his inhaler.
15
16

17 421. Thereafter, approximately four minutes later defendant Javier Mendez
18 returned to the entrance hallway from the Security / Admission / Intake Desk area
19 and saw that JUNIOR was apparently unconscious, laying on his back with his
20 hands handcuffed behind him, and not seeming to be breathing.
21

22 422. When defendant MLK EXODUS RECOVERY CENTER Security
23 Officer Javier Mendez saw JUNIOR laying motionless and nonresponsive on his
24
25

26
27 ¹²⁶ Such as Cardio Pulmonary Resuscitation, chest compressions and defibrillation.

28 ¹²⁷ CHANG claims that he saw JUNIOR's diaphragm area expanding and contracting, indicating
that at that point in time in the Entrance Hallway that JUNIOR was still breathing.

1 back with his hands handcuffed behind and underneath him, defendant Javier
2 Mendez knew, or reasonably should have known that JUNIOR was either suffering
3 from a cardiac arrest, or, that if JUNIOR did have a pulse, that he still nevertheless
4 in extremis, on the verge of death¹²⁸.

6 423. CHANG then asked defendant Javier Mendez to help him pick up
7 JUNIOR from the floor and help him carry JUNIOR out of the entrance hallway
8 and into the Security / Admission / Intake area of MLK EXODUS RECOVERY
9 CENTER.
10

11 424. Also as set forth above, CHANG and Javier Mendez then each lifted
12 one of JUNIOR's wrists to pick up JUNIOR's limp, nonresponsive and seemingly
13 nonbreathing body and picked him up off of the floor of the entrance hallway of
14 MLK EXODUS RECOVERY CENTER.
15
16

17 425. By that point in time, defendant Javier Mendez knew or reasonably
18 should have known that JUNIOR was either suffering from a cardiac arrest, or, that
19 if JUNIOR did have a pulse, that he still nevertheless in extremis, on the verge of
20 death.
21

22 426. Nonetheless, defendant Javier Mendez still acceded to CHANG's
23 request to him to carry and drag JUNIOR's seemingly lifeless body out of the
24
25
26

27 ¹²⁸ However, defendant Javier Mendez believed that he heard some sort of sounds coming from
28 JUNIOR; sounds that may have been indicative of extremely depressed or extremely strained
breathing or belching.

1 entrance hallway and into the Security / Admission / Intake area of MLK
2 EXODUS RECOVERY CENTER facility.

3
4 427. Also as set forth above, it was obvious to both defendant MLK
5 EXODUS RECOVERY CENTER Security Officer Javier Mendez and CHANG,
6 that JUNIOR was not breathing and was completely nonresponsive when they
7 examined him in the entrance hallway, and while they were dragging his totally
8 limp body into the Security / Admission / Intake area of the MLK EXODUS
9 RECOVERY CENTER facility they were acutely aware that by that point in time
10 that JUNIOR had suffered a cardiac arrest and was then dying, or, if not a cardiac
11 arrest that JUNIOR was still in extremis and on the verge of death, and was in need
12 of immediate medical attention, in this case to save his life.

13
14
15 428. Also as set forth above, CHANG and defendant Javier Mendez also
16 concealed the fact that JUNIOR was not breathing and had apparently suffered a
17 cardiac arrest, or if he did have a pulse, that JUNIOR was in extremis, on the verge
18 of death, and was completely nonresponsive when they dragged him into the
19 Security / Admission / Intake area of the EXODUS RECOVERY facility, to avoid
20 any blame or liability for their failure to summon immediate emergency medical
21 care for JUNIOR.

22
23
24 429. Also as set forth above, once in the Security / Admission / Intake
25 Desk area CHANG and defendant Javier Mendez placed JUNIOR's seemingly
26 lifeless body in a chair in that area, right in front of the Security / Admission /
27
28

1 Intake Desk and the EXODUS RECOVERY staff minding the same, and lifted
2 JUNIOR's now seemingly lifeless body up from the floor and placed JUNIOR in a
3 position that made JUNIOR appear to be sitting in a chair, to make it appear that he
4 was still alive⁶⁸ and breathing, and not in extremis, or the verge of death.
5

6 430. Also as set forth above, when CHANG and defendant Javier Mendez
7 placed JUNIOR on the chair, they pulled his legs out to a seemingly normal
8 vertical knee bend while sitting position, while CHANG pulled and held
9 JUNIOR's upper torso up with JUNIOR's Back to the chairback to attempt to
10 make it appear that JUNIOR was breathing and not in acute medical distress and in
11 extremis.
12

13
14 431. Moreover, at that time and thereafter while JUNIOR appeared to be
15 sitting in the chair across from the Security / Admission / Intake Desk and the
16 MLK EXODUS RECOVERY CENTER staff standing and sitting at that desk area,
17 including defendants MLK EXODUS RECOVERY CENTER Security Officers
18 Curtis Swancy and Dean Rosado, JUNIOR's upper body was being held up by
19 CHANG to at least attempt to make it look like JUNIOR was still alive⁶⁹, and
20 breathing, and not in extremis, and not on the verge of death.
21
22

23 432. Moreover, defendant CHANG told defendants MLK EXODUS
24 RECOVERY CENTER Security Officers Curtis Swancy and Dean Rosado, and
25 the other MLK EXODUS RECOVERY CENTER staff at or in the vicinity of the
26 Security / Admission / Intake Desk, that JUNIOR was "just playing games";
27
28

1 implying that JUNIOR was faking being in medical distress and in extremis;
2 causing them to believe or to at least to doubt that JUNIOR was in medical distress
3 and in extremis, and at least causing them to doubt that JUNIOR was in need of
4 immediate emergency medical care.
5

6 433. Moreover, defendant Javier Mendez remained silent when CHANG
7 made those false and misleading statements to defendants MLK EXODUS
8 RECOVERY CENTER Security Officers Curtis Swancy and Dean Rosado, and
9 the other EXODUS RECOVERY staff members at or in the vicinity of the Security
10 / Admission / Intake Desk, that JUNIOR was “just playing games”, implying that
11 JUNIOR was faking being in medical distress and in extremis.
12

13 434. Defendant Javier Mendez remained silent to assist CHANG conceal
14 CHANG’s and Javier Mendez’ nonfeasance in failing to provide and/or to summon
15 emergency medical care for JUNIOR long ago.
16

17 435. Moreover, defendant Javier Mendez knew that CHANG’s statement
18 that JUNIOR was “just playing games”, implying that JUNIOR was faking being
19 in medical distress and in extremis, was a knowingly made false statement, to hide,
20 conceal and cover-up their nonfeasance in failing to provide medical care to
21 JUNIOR (i.e. JUNIOR’s inhaler⁷⁰) and in failing to summon emergency medical
22 care for JUNIOR.
23

24 436. Those knowingly made false statements by CHANG, that JUNIOR
25 was “just playing games”, implying that JUNIOR was faking being in medical
26

1 distress and in extremis, caused defendants MLK EXODUS RECOVERY
2 CENTER Security Officers Curtis Swancy and Dean Rosado, and the other MLK
3 EXODUS RECOVERY CENTER staff members at or in the vicinity of the
4 Admission/Intake/Security Desk to forego providing emergency medical care for
5 or summoning medical care for JUNIOR.
6

7
8 437. Also as set forth above, CHANG then kept holding onto JUNIOR's
9 limp body, propping him up on the chair in the admissions area across from the
10 admissions desk; again to convey the impression to the MLK EXODUS
11 RECOVERY CENTER staff that that JUNIOR really was not in medical
12 distress/extremis or dead, and resulting in MLK EXODUS RECOVERY CENTER
13 Security Officers Curtis Swancy and Dean Rosado and the Nurses and other staff
14 members of the MLK EXODUS RECOVERY CENTER staff to continue to not
15 provide or to summon emergency medical services to or for JUNIOR, and not
16 obtaining or summoning emergency medical services for or life reviving
17 services/measures⁷² for JUNIOR.
18
19
20

21 438. Also as set forth above, when CHANG eventually stopped propping
22 JUNIOR's body up, JUNIOR's upper body folded over and his head was hanging
23 between his legs, on his lap.
24

25 439. Also as set forth above, thereafter, CHANG continued to tell the
26 MLK EXODUS RECOVERY CENTER staff that JUNIOR was "playing games";
27
28

1 acting as if he was dead, which by that time he apparently was or was on the verge
2 of being dead.

3
4 440. Also as set forth above, JUNIOR's lifeless body remained folded over
5 in the chair for several additional minutes while CHANG and the MLK EXODUS
6 RECOVERY CENTER Security Officers Curtis Swancy, Javier Mendez and Dean
7 Rosado and the Nurses and other staff members of the MLK EXODUS
8 RECOVERY CENTER staff stood by and did nothing to help JUNIOR.

9
10 441. However, JUNIOR was in such bad physical condition that
11 notwithstanding the lies by CHANG that JUNIOR was essentially faking being in
12 extremis, a reasonably well-trained Psychiatric Treatment Facility Security Officer
13 would have recognized that JUNIOR was not faking and that JUNIOR was either
14 dead or in extremis, on the verge of death.

15
16
17 442. Moreover, any reasonably well-trained Security Officer would have
18 known that a person who is handcuffed with his hands behind him, and seated on a
19 chair and bent over has his breathing severely restricted; something that JUNIOR
20 must have endured if he was alive when he was bent over while sitting in the chair.

21
22 443. Also as set forth above, rather than ask anyone at MLK EXODUS
23 RECOVERY CENTER to help JUNIOR or to otherwise provide or to seek
24 emergency medical treatment for JUNIOR, CHANG just stood next to the now
25 lifeless body of JUNIOR and acted as if JUNIOR was faking being dead, and
26 waited for someone from MLK EXODUS RECOVERY CENTER to check on
27
28

1 JUNIOR to admit him as a psychiatric patient at MLK EXODUS RECOVERY
2 CENTER.

3
4 444. Also as set forth above, EXODUS RECOVERY Charge Nurse Lucy
5 Mesue, R.N. eventually came into the Admissions/Security/Intake area to check on
6 JUNIOR's vital signs so that he could be admitted into the EXODUS RECOVERY
7 mental health facility for a 5150 hold.
8

9 445. Also as set forth above, when Lucy Mesue came into the
10 Admissions/Security/Intake area CHANG also told her that JUNIOR was "playing
11 games"; faking being dead or being in extremis.
12

13 446. Also as set forth above, when the nurse Lucy Mesue then attempted to
14 take JUNIOR's blood-pressure she saw that JUNIOR was unresponsive and not
15 breathing, so she told CHANG to remove the handcuffs from JUNIOR.
16

17 447. Also as set forth above, when CHANG took the handcuffs off of
18 JUNIOR's wrists, CHANG and Lucy Mesue placed JUNIOR on the floor flat on
19 his back and began chest compressions on JUNIOR. This took place beginning
20 approximately seven minutes after JUNIOR had been brought into the
21 admissions/patient intake area of EXODUS RECOVERY from the entrance
22 hallway of that facility.
23
24

25 439. In addition, others took over performing chest compressions on
26 JUNIOR.
27
28

1 448. However, the chest compressions were not successful in saving
2 JUNIOR's life.

3
4 449. Moreover, the MLK HOSPITAL staff continued performing chest
5 compressions on JUNIOR that were also unsuccessful.

6 450. Moreover, the MLK HOSPITAL staff summoned the paramedics,
7 who used the defibrillator on JUNIOR in an attempt to revive him, but those efforts
8 were also unsuccessful, and JUNIOR remained dead.

9
10 451. Moreover, CHANG's entire course of conduct as described above, in
11 driving JUNIOR around Los Angeles County for psychological services when it
12 would have been obvious to any well trained police officer that depriving JUNIOR
13 of his inhaler, keeping him handcuffed when it became obvious that doing so
14 placed JUNIOR in extremis, failing to give JUNIOR his inhaler, failing to provide
15 emergency medical care to him or to obtain/summon medical care for JUNIOR,
16 not placing JUNIOR in a recovery position on the floor in the entrance hallway,
17 telling the EXODUS RECOVERY defendant Security Officers and staff that
18 JUNIOR was "playing games" and faking being in medical distress/in extremis,
19 propping JUNIOR up in a chair in the Admissions/Security/Intake, allowing
20 JUNIOR to sit on a chair in a folded over position, failing to call paramedics,
21 failing to take JUNIOR to and/or to getting medical help from the MLK Hospital
22 on the other side of the parking lot, and then failing to timely begin chest
23 compressions was outrageous, and apparently intentional, or at least so grossly
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1 reckless conduct that was done with full knowledge of the likelihood of JUNIOR
2 dying as a result of those actions and omissions, and with a deliberate indifference
3 to JUNIOR suffering serious medical injury and death.
4

5 452. As a result of the actions of defendants Javier Mendez, Curtis Swancy,
6 Dean Rosado and DOES 1 through 6, inclusive, JUNIOR faced a substantial risk of
7 serious harm, including death, as well as facing a serious medical need.
8

9 453. Defendants Javier Mendez, Curtis Swancy, Dean Rosado and DOES 1
10 through 6, inclusive, were deliberately indifferent to that serious risk of serious
11 physical harm posed to JUNIOR by their conduct complained of above, and said
12 defendants knew of it and disregarded it by failing to take reasonable measures to
13 address it.
14

15 454. In addition, defendants EXODUS RECOVERY, INC., Javier Mendez,
16 Curtis Swancy, Dean Rosado and DOES 1 through 6, inclusive owed JUNIOR and
17 plaintiffs a duty to use due care toward JUNIOR to provide immediate medical
18 care to him while he was at their MLK EXODUS RECOVERY CENTER facility
19 pursuant to Cal. Gov't Code § 845.6 and said defendants breached their duty of
20 care that they owed to JUNIOR and the plaintiffs as set forth above and below.
21

22 455. As a proximate result of defendants EXODUS RECOVERY, INC.,
23 Javier Mendez, Curtis Swancy, Dean Rosado and DOES 1 through 6, inclusive
24 failing to provide immediate and emergency medical care to and to obtain
25 immediate medical care for plaintiffs' decedent JUNIOR, JUNIOR died on
26
27
28

1 September 25, 2023 and are liable to plaintiffs pursuant to Cal. Gov't Code §
2 845.6.

3
4 456. As a proximate result of defendants CHANG failing to provide
5 immediate and emergency medical care to and to obtain immediate medical care
6 for plaintiffs' decedent JUNIOR, JUNIOR died on September 25, 2023 and are
7 liable to plaintiff pursuant to Cal. Gov't Code §§ 815.2, 820 and 845.6.
8

9 457. Accordingly, defendants CITY, CHANG, EXODUS RECOVERY,
10 INC., MENDEZ, SWANCY, ROSADO and DOES 1 through 6, inclusive,
11 breached their duty of due care that they owed to plaintiffs' decedent JUNIOR
12 pursuant to Cal. Gov't Code § 845.6, and were deliberately indifferent to
13 JUNIOR's obvious medical needs, as said defendants knew of them and
14 disregarded them by failing to take reasonable measures to address them, to wit; to
15 immediately provide and/or obtain and/or summon immediate and emergency
16 medical care for JUNIOR.
17
18

19 458. As a direct and proximate result of the actions and omissions of
20 defendants CITY, CHANG, EXODUS RECOVERY, INC., Javier Mendez, Curtis
21 Swancy, Dean Rosado and DOES 1 through 6, inclusive, as complained of above,
22 plaintiffs' decedent JUNIOR suffered severe pre-death pain and suffering, severe
23 pre-death physical, mental and emotional injuries, pain and suffering, other general
24 and special damages, as well as his death on September 25, 2023, as well as the
25 loss of his life (hedonic damages), as well as lost wages/profits and other income
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27
28

1 that plaintiffs' decedent JUNIOR would have earned/made/ acquired during his
2 lifetime, and other special damages; all of said injuries and damages to JUNIOR
3 totaling an amount to be shown at trial, in excess of \$30,000,000.00; damages that
4 plaintiffs are entitled to now be awarded as they now step in the shoes of JUNIOR
5 in this action as his Successor in Interest.
6

7
8 459. In addition, the actions of defendants CHANG, EXODUS
9 RECOVERY, INC., Javier Mendez, Curtis Swancy, Dean Rosado and DOES 1
10 through 6, inclusive, were done maliciously and oppressively, sufficient for an
11 award of punitive damages in an amount in excess of \$30,000,000.00 in favor of
12 each plaintiff against each such defendant.
13

14 **TENTH CAUSE OF ACTION**
15 **BATTERY**

16 **Under California State Law**

17 **(By Plaintiffs Theresa Chavira and Richard Alexander Herrera, as Successors**
18 **In Interest to Richard Alexander Herrera, Jr. Against Defendants CHANG,**
19 **CITY and DOES 1 through 2, inclusive)**

20 460. Plaintiffs hereby reallege and incorporate by reference the allegations
21 set forth in paragraphs 1 through 459, inclusive, above, as if set forth in full herein.

22 461. The actions committed by defendant CHANG, above-described,
23 constituted unjustified non-consensual use of unlawful force and violence upon
24 decedent JUNIOR and an unreasonable restraint of JUNIOR, and constituted a
25 battery of him by defendant CHANG under California state law.
26

27 462. Defendants CITY, CHANG and DOES 1 through 2, and each of them,
28

1 are liable to the plaintiffs, individually for JUNIOR's death from his unreasonable
2 restraint, as JUNIOR's Successors in Interest for said batteries of JUNIOR,
3 pursuant to Cal. Gov't Code §§ 815.2(a), 820 and otherwise pursuant to the
4 common law.
5

6 463. As a direct and proximate result of the actions of defendant CHANG
7 JUNIOR suffered severe pre-death physical pain and suffering and severe pre-
8 death mental and emotional injuries, pain and suffering, other general and special
9 damages, as well as his death on September 25, 2023, as well as the loss of his life
10 (hedonic damages), as well as lost wages/profits and other income that plaintiffs'
11 decedent JUNIOR would have earned/made/acquired during his lifetime, the
12 hedonic damages to JUNIOR caused by the loss of JUNIOR's life, and other
13 special damages; all of said injuries and damages to JUNIOR totaling an amount to
14 be shown at trial, in excess of \$30,000,000.00.
15
16
17

18 464. As a direct and proximate result of the actions and omissions of
19 defendant CHANG in unreasonably restraining JUNIOR, JUNIOR died and
20 plaintiffs CHAVIRA and SENIOR suffered the loss of their Parent-Child
21 Relationship, the loss of the love, affection, solace, financial support, comfort and
22 companionship that plaintiffs enjoyed from their Parent-Child Relationship with
23 JUNIOR, as well as severe depression, mental and emotional pain, suffering and
24 distress, the physical manifestation of that mental and emotional pain suffering and
25 distress, a terrible feeling of emptiness, and deep and never-ending sorrow from
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1 the loss of their son, JUNIOR all along with the loss of their income that they
2 would have obtained from JUNIOR's contribution to their monthly rent, and also
3 suffered funeral and burial expenses, hospital and other medical expenses and
4 costs, and other special damages; all in an amount to be shown at trial, in excess of
5 \$30,000,000.00 for each plaintiff.
6

7
8 465. The actions of said defendant CHANG, and each of them, as
9 complained of herein, were committed maliciously, oppressively and in reckless
10 disregard of plaintiff JUNIOR's constitutional rights, sufficient for an award of
11 punitive / exemplary damages against said defendants, save defendant CITY, in an
12 amount to be proven at trial, in excess of \$30,000,000.00.
13

14 **ELEVENTH CAUSE OF ACTION**

15 **Violation of Cal. Civil Code § 52.1**

16 **Under California State Law**

17 **(By Plaintiffs Theresa Chavira and Richard Alexander Herrera, Individually**
18 **and as Successors In Interest to Richard Alexander Herrera, Jr. Against**
19 **Defendants CHANG, CITY and DOES 1 through 2, inclusive)**

20 466. Plaintiffs hereby reallege and incorporate by reference the allegations
21 set forth in paragraphs 1 through 465, inclusive, above, as if set forth in full herein.

22 467. Defendants CHANG while working for the CITY and acting within
23 the course and scope of his duties, intentionally committed acts of unreasonable
24 and excessive force and violence and unreasonable and here, fatal restraint of
25 JUNIOR, to wit; excessive force and unreasonable restraint of JUNIOR that would
26 also be violative of that force and restraint proscribed by the Fourth Amendment to
27
28

1 the United States Constitution without justification or excuse, as complained of
2 above.

3
4 468. Defendants CHANG and DOES 1 through 2, inclusive, interfered
5 with decedent JUNIOR's civil rights to his right to verbally protest and verbally
6 challenge defendant CHANG's actions taken against him¹²⁹, to be free from
7 unreasonable searches and seizures to due process, to equal protection of the laws,
8 to medical care, to be free from state actions that shock the conscience, and to life,
9 liberty, and property.
10

11
12 469. Defendants intentionally and spitefully committed the above acts to
13 discourage decedent JUNIOR from exercising his civil rights, to retaliate against
14 him for invoking such rights, or to prevent him from exercising such rights, which
15 they were fully entitled to enjoy.
16

17 470. Decedent JUNIOR reasonably believed and understood that the
18 violent acts committed by defendant CHANG were intended to discourage him
19 from exercising the above referenced civil rights, to retaliate against him, or
20 invoking such rights, or to prevent him from exercising such rights.
21

22 471. Plaintiffs bring this claim as successors in interest to JUNIOR, and
23 seek survival damages, including physical and mental pre-death pain and suffering,
24

25
26
27 ¹²⁹ As well as CHANG's failure to provide him with his inhaler and with emergency medical
28 care; in other words, in retaliation of JUNIOR's exercise of his right to petition under U.S.
Const. Amend 1.

1 loss of life, and loss of enjoyment of life, and wrongful death damages for the
2 violation of decedent JUNIOR's rights, as well as other special and general
3 damages and expenses in an amount to be proven at trial in excess of
4 \$30,000,000.00.
5

6 472. Defendants CITY and CHANG are liable to plaintiff for the violation
7 of JUNIOR's rights as his Successors in Interest pursuant to Cal. Civil Code § 52.1
8 and pursuant to Cal. Gov't Code §§ 815.2 and 820.
9

10 473. As a direct and proximate result of the actions and omissions of
11 defendant CHANG in unreasonably restraining JUNIOR, JUNIOR died and
12 plaintiffs CHAVIRA and SENIOR suffered the loss of their Parent-Child
13 Relationship, the loss of the love, affection, solace, financial support, comfort and
14 companionship that plaintiffs enjoyed from their Parent-Child Relationship with
15 JUNIOR, as well as severe depression, mental and emotional pain, suffering and
16 distress, the physical manifestation of that mental and emotional pain suffering and
17 distress, a terrible feeling of emptiness, and deep and never-ending sorrow from
18 the loss of their son, JUNIOR all along with the loss of their income that they
19 would have obtained from JUNIOR's contribution to their monthly rent, and also
20 suffered funeral and burial expenses, hospital and other medical expenses and
21 costs, and other special damages; all in an amount to be shown at trial, in excess of
22 \$30,000,000.00 for each plaintiff.
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28 474. The actions of said defendant CHANG, and each of them, as

1 complained of herein, were committed maliciously, oppressively and in reckless
2 disregard of plaintiff JUNIOR's constitutional rights, sufficient for an award of
3 punitive / exemplary damages against said defendants, save defendant CITY, in an
4 amount to be proven at trial, in excess of \$30,000,000.00.
5

6 **WHEREFORE**, plaintiffs pray for judgment as follows:
7

- 8 a) For a judgment against all defendants for compensatory damages
9 in an amount in excess of \$30,000,000.00 in favor of each plaintiff;
10
11 b) For a judgment against all defendants, save defendant CITY, for
12 punitive damages in an amount in excess of \$30,000,000.00 for
13 each plaintiff against each defendant;
14
15 c) For an award of reasonable Attorney's Fees and costs;
16
17 d) For a trial by jury; and
18
19 e) For such other and further relief as this honorable court deems just
20 and equitable.

21 Dated: December 8, 2025

/s/ Gregory Peacock

22 GREGORY PEACOCK, ATTORNEY FOR
23 PLAINTIFFS THERESA CHAVIRA and
RICHARD ALEXANDER HERRERA

24 Dated: December 8, 2025

/s/ Jerry L. Steering

25 JERRY L. STEERING, ATTORNEY FOR
26 PLAINTIFFS THERESA CHAVIRA and
27 RICHARD ALEXANDER HERRERA
28