

1 John Burton, State Bar No. 86029
jb@johnburtonlaw.com
2 THE LAW OFFICES OF JOHN BURTON
128 North Fair Oaks Avenue
3 Pasadena, California 91103
Telephone: (626) 449-8300
4 Facsimile: (626) 448-4417

5 Attorneys for Plaintiffs Miguel Hernandez
and Anna Hernandez
6

7
8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
10

11 MIGUEL HERNANDEZ and
12 ANNA HERNANDEZ,

13 Plaintiffs,

14 v.

15 COUNTY OF LOS ANGELES, LOS
ANGELES COUNTY SHERIFF'S
16 DEPARTMENT, and DOES 1-10,

17 Defendants.
18

Case No. 2:16-cv-2606

**COMPLAINT FOR DAMAGES FOR
42 U.S.C. § 1983 – DEPRIVATION OF
THE RIGHTS OF PLAINTIFFS
UNDER THE FOURTEENTH
AMENDMENT TO FAMILIAL
RELATIONSHIPS WITH THEIR
SON**

DEMAND FOR JURY TRIAL

19
20
21
22 **JURISDICTION AND VENUE**

23 1. This case arises under 42 U.S.C. § 1983. Accordingly, subject matter
24 jurisdiction is conferred upon this Court by 28 U.S.C. §§ 1331 and 1343.

25 2. Plaintiffs' claims arise out of a course of conduct involving officials of the
26 Los Angeles County Sheriff's Department in the County of Los Angeles, State of
27 California, and within this judicial district.
28

PARTIES

3. Plaintiffs Miguel Hernandez and Anna Hernandez are husband and wife and are the parents of Miguel A. Hernandez, deceased. They are Hispanic.

4. Defendant County of Los Angeles is a political subdivision of the State of California, and in doing the acts alleged was acting as such, rather than as an “arm of the state” for Eleventh-Amendment immunity purposes. Defendant Los Angeles County Sheriffs Department (“LASD”) is an independent entity subject to suit.

5. Does 1 to 10 are unnamed because their identities have yet to be ascertained.

6. Each Doe defendant acted under color of law and within the scope of his or her agency and employment.

CLAIM FOR RELIEF

7. As alleged above, Plaintiffs are husband and wife and are the parents of Miguel A. Hernandez, who was 39 years old. On January 14, 2016, between 7:30 and 8:00 in the evening, Miguel was lawfully driving his own car on Shangri-La Drive in Santa Clarita. A Los Angeles County Deputy Sheriff, whose identity is unknown to Plaintiffs, effected a traffic stop as Miguel was turning left onto Nathan Hill Drive. There was no reasonable suspicion or probable cause for the traffic stop.

8. After complying by stopping the car, Miguel opened the door and got out to ask the deputy why he had been stopped, as there was no apparent reason for the traffic stop. Miguel had nothing in his hands and was not belligerent. The deputy ordered Miguel to get back in the car. As Miguel turned to comply with the instruction to get back in the car the deputy fired one shot from his pistol, which struck Miguel, who then dropped to ground. The deputy then placed body weight on Miguel rather than applying first aid. Medical aid was not summoned promptly.

9. By the time medical responders arrived and transported Miguel to the hospital it was too late to save his life.

1 10. Plaintiffs had cognizable interests under the Due Process Clause of the
2 Fourteenth Amendment of the United States Constitution to be free from state actions
3 that deprive them of life, liberty, or property in such a manner as to shock the
4 conscience, including but not limited to, unwarranted state interference in their familial
5 relationship with their son, Decedent.

6 11. Specifically, the following conduct of the Doe Defendants shocks the
7 conscience:

- 8 (a) shooting at an unarmed person;
- 9 (b) shooting at a non-dangerous person;
- 10 (c) shooting at that person when that person did not pose a threat;
- 11 (d) applying pressure to the body of someone who has just been shot;
- 12 (e) failing to summon medical care promptly;
- 13 (f) integrally participating in or failing to intervene in the above misconduct; and
- 14 (g) all of the above acts together.

15 12. Defendants' conduct, as alleged above, was unrelated to any legitimate law
16 enforcement purpose. The conduct both shocks the conscience and demonstrates a
17 deliberate indifference to the rights of decedent's immediate family.

18 13. Based on the foregoing, defendants deprived Plaintiffs of their rights to
19 familial relationships without due process of law in violation of the Fourteenth
20 Amendment by use of unreasonable, unjustified force and violence, causing injuries
21 which resulted in the decedent's death, all without provocation, and all in violation of
22 rights, privileges, and immunities secured by the Fourth and Fourteenth Amendments
23 to the United States Constitution.

24 14. As a proximate result of the foregoing wrongful acts of defendants, and
25 each of them, plaintiffs sustained general damages, including grief, emotional distress
26 and pain and suffering and loss of comfort and society, and special damages, including
27 loss of support, in an amount in accordance with proof.

28

8 WHEREFORE, Plaintiffs request relief as follows, and according to proof,
9 against each defendant:

- 10 1. General and compensatory damages in an amount according to proof;
11 2. Special damages in an amount according to proof;
12 3. Exemplary and punitive damages against each Doe defendant, not against
13 the County of Los Angeles or LASD, in an amount according to proof;
14 4. Costs of suit, including attorneys' fees under 42 U.S.C. § 1988; and,
15 5. Such other relief as may be warranted or as is just and proper.

17 Dated: April 14, 2016 THE LAW OFFICES OF JOHN BURTON

19 By: /s/John Burton
20 John Burton
Attorneys for Plaintiffs

Plaintiffs demand trial by jury.

24 | Dated: April 14, 2016 THE LAW OFFICES OF JOHN BURTON

26 By: /s/ John Burton
27 John Burton
Attorneys for Plaintiffs