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individually and as the personal representative of
5 James Hanlon McDonough Daniels, deceased

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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

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STEPHANIE N. McDONOUGH,
individually and as the personal
representative of James Hanlon
McDonough Daniels, deceased,

Plaintiff,

vs.

COUNTY OF VENTURA, VENTURA
COUNTY SHERIFF'S
DEPARTMENT, SENIOR DEPUTY
VINCENT CAMOU, and DOES 1
through 10, inclusive,

Defendants.

CASE NO.:
COMPLAINT FOR DAMAGES FOR:
1. 42 U.S.C. § 1983 –
WRONGFUL DEATH
2. 42 U.S.C. § 1983 – SURVIVAL
ACTION;
3. 42 U.S.C. § 1983 –
DEPRIVATION OF THE
RIGHTS OF PLAINTIFFS' TO
FAMILIAL RELATIONSHIPS
WITH THE DECEDENT
4. CAL. CIV. CODE § 52.1;
5. ASSAULT and BATTERY; and
6. NEGLIGENCE

DEMAND FOR JURY TRIAL

JURISDICTION

1. Jurisdiction is conferred upon this Court by 28 U.S.C. § 1331 (federal question) and §1343(3) (civil rights). The state law claims for relief are within the supplemental jurisdiction of the Court, pursuant to 28 U.S.C. § 1367.

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1 VENUE

2 2. Plaintiff's claims herein arise out of an incident involving Ventura County
3 Sheriff's Deputies, in the County of Ventura, State of California, and within this judicial
4 district.

5 PARTIES

6 3. Plaintiff, Stephanie N. McDonough, is a competent adult who appears here
7 individually and as the personal representative of James Hanlon McDonough Daniels,
8 deceased. She is the mother of the decedent.

9 4. Defendant, County of Ventura, is a County operating pursuant to its Charter.
10 It is a local government entity and is not an arm of the State of California for Eleventh
11 Amendment purposes. Defendant, Ventura County Sheriff's Department, is a public agency
12 subject to suit. It is a local government entity and is not an arm of the State of California for
13 Eleventh Amendment purposes.

14 5. Defendant Senior Deputy Vincent Camou is a Ventura County Deputy Sheriff.
15 In doing the acts herein alleged, Senior Deputy Camou acted within the course and scope
16 of his agency and employment, and under color of state law.

17 6. Plaintiff sues defendants DOES 1 to 10 by such fictitious names because their
18 true identities are presently unknown to plaintiff. Upon ascertaining the true identity of a
19 defendant Doe, plaintiff will amend this Complaint or seek leave to do so by inserting the
20 true name in lieu of the fictitious name. Plaintiff is informed and believes, and on the basis
21 of such information and belief alleges, that each defendant Doe herein is in some manner
22 responsible for the injuries and damages herein alleged.

23 FACTS

24 A. General Allegations on Policy and Practice

25 7. Plaintiff is informed and believes, and on the basis of such information and
26 belief alleges, that defendants County of Ventura, Ventura County Sheriff's Department, and
27 DOES 1 through 10, with deliberate indifference, gross negligence, and reckless disregard
28 for the safety, security, and constitutional and statutory rights of the decedent, plaintiff, and

1 all persons similarly situated, maintained, enforced, tolerated, permitted, acquiesced in, and
2 applied policies, practices, or customs and usages of, among other things;

3 a) Subjecting citizens to unreasonable uses of force against their persons;

4 b) Selecting, retaining, and assigning deputies with demonstrable
5 propensities for excessive force, violence, and other misconduct;

6 c) Failing to adequately train, supervise, and control deputies in the arts of
7 law enforcement, including, without limitation, the taking into custody of persons such as
8 plaintiff's decedent, who are perhaps emotionally upset, but not otherwise engaged in
9 criminal activity, without seriously injuring or killing them;

10 d) Failing to adequately discipline officers involved in misconduct; and

11 e) Condoning and encouraging officers in the belief that they can violate
12 the rights of persons such as the decedent in this action with impunity, and that such
13 conduct will not adversely affect their opportunities for promotion and other employment
14 benefits.

15 8. Plaintiff is informed and believes, and on the basis of such information and
16 belief alleges, that defendants County of Ventura, Ventura County Sheriff's Department, and
17 DOES 1 through 10, ordered, authorized, acquiesced in, tolerated, permitted or maintained
18 custom and usages permitting the other defendants herein to engage in the unlawful and
19 unconstitutional actions, policies, practices, and customs or usages set forth in the foregoing
20 paragraphs. Defendants' conduct as alleged herein constitutes a pattern of constitutional
21 violations based either on a deliberate plan by defendants or on defendants' deliberate
22 indifference, gross negligence, or reckless disregard to the safety, security, and rights of
23 plaintiff and her decedent.

24 B. Allegations Regarding the Death of Mr. Daniels.

25 9. On April 8, 2003, at approximately 5:00 p.m., the Ventura County Sheriff's
26 Department received a 911 call regarding a man (19-year old decedent, James Hanlon
27 McDonough Daniels) who appeared to be cutting himself with a knife in the area of the
28 intersection of Moorpark Road and Wilbur Road in Thousand Oaks, California. Deputies

1 from the Ventura County Sheriff's Department responded to the intersection and located
2 Mr. Daniels who was on foot. When the deputies attempted to contact Mr. Daniels, he ran
3 from them. Mr. Daniels appeared to be in a trance-like state and was non-responsive to
4 commands given him according to every deputy who came in contact with him during this
5 incident.

6 10. Several deputies pursued Mr. Daniels on foot and in vehicles. They saw that
7 Mr. Daniel's had an artist's "exacto" knife and was cutting his left wrist. At no time during
8 the entirety of this incident, culminating in the decedent's death, did Mr. Daniels threaten
9 any of the deputies with bodily harm. Mr. Daniels remained completely silent and
10 expressionless at all times.

11 11. During the course of this incident, various deputies, including Senior Deputy
12 Todd Welty and Deputy Jason Fuller, attempted to use non-lethal force to subdue Mr.
13 Daniels but their attempts were unsuccessful. Senior Deputy Todd Welty shouted several
14 times and broadcast on his radio the words "less lethal" to the other deputies, indicating that
15 non-lethal force should be used to subdue Mr. Daniels.

16 12. Several Sheriff's Deputies, including defendant, Senior Deputy Vincent Camou,
17 continued to follow Mr. Daniels in an attempt to subdue him. As Mr. Daniels walked down
18 a driveway approaching the Daland Swim Club, Senior Deputy Camou surmised that Mr.
19 Daniels posed a threat to the occupants of the Swim Club, despite the fact that Mr. Daniels
20 had made no verbal threats nor evidenced threatening gestures towards anyone at the Swim
21 Club nor, for that matter, any of the Sheriff's Deputies. Mr. Daniel's back was to the
22 Senior Deputy Camou as the Deputy fired his service revolver a total of eight times at Mr.
23 Daniels, striking Mr. Daniels in the back and fatally wounding him.

24 C. Allegations Regarding Damages.

25 13. Plaintiff has lost support, decedent's care, comfort and society, and has
26 sustained emotional distress, all in amounts in accordance with proof. Plaintiff has incurred
27 burial and other related expenses. The decedent sustained general damages, including the
28 loss of enjoyment of his life, in an amount in accordance with proof.

1 award of punitive damages against each individual defendant (but not the entity defendants,
2 which are immune from such damages) in an amount adequate to punish the wrongdoers
3 and deter future misconduct.

4 **FOURTH CLAIM FOR RELIEF**

5 (Cal. Civ. Code § 52.1)

6 28. The United States Constitution, Amendment IV, and the Cal. Const. Art. I
7 § 13 guarantee the right of persons to be free from excessive force and arrests without
8 probable cause. Defendants, by engaging in the wrongful conduct alleged herein, denied
9 these rights to the decedent and plaintiff, thus giving rise to claims for damages pursuant to
10 Cal. Civ. Code § 52.1.

11 29. As a direct and proximate cause of the aforementioned acts of defendants,
12 decedent and plaintiff were injured as set forth above, and are entitled to statutory damages
13 under Cal. Civ. Code § 52, as well as compensatory and punitive damages according to
14 proof.

15 **FIFTH CLAIM FOR RELIEF**

16 (Assault and Battery)

17 30. Defendants assaulted and battered the decedent, causing his death.

18 31. As a direct and proximate cause of the aforementioned acts of defendants,
19 decedent and plaintiff were injured as set forth above, and are entitled to compensatory and
20 punitive damages according to proof.

21 **SIXTH CLAIM FOR RELIEF**

22 (Negligence and Gross Negligence)

23 32. By virtue of the foregoing, defendants owed decedent and plaintiff a duty of due
24 care, and that duty was breached by defendants' negligence and gross negligence, and failure
25 to exercise due care in dealing with the decedent on April 8, 2003.

26 32. As a direct and proximate cause of the aforementioned acts of defendants,
27 decedent and plaintiff were injured as set forth above, and are entitled to compensatory
28 damages according to proof.

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PRAYER

WHEREFORE, plaintiff prays for judgment as follows:

On All Causes of Action

- a) Compensatory general and special damages in accordance with proof;
- b) Costs of suit necessarily incurred herein; and
- c) For such other and further relief as the Court deems just or proper.

On the First, Second, Third, and Fourth Causes of Action

- d) Reasonable attorney's fees and expenses of litigation;

On the Fourth Cause of Action

- e) Statutory damages;

On the First, Second, Third, Fourth and Fifth Causes of Action

f) Exemplary damages against the individual defendants in an amount sufficient to make an example of the individual defendants and to deter future misconduct.

DATED: April 7, 2005

WILLIAMSON & KRAUSS

By: _____
PETER M. WILLIAMSON
Attorneys for Plaintiff
STEPHANIE N. McDONOUGH

