

# CLAIM AGAINST THE CITY AND COUNTY OF SAN FRANCISCO

Before completing this form please read the instructions on the back. Untimely claims will be returned. Please submit this form and supporting documentation to the **Controller's Office, Claims Division, 1390 Market Street, 7<sup>th</sup> Floor, San Francisco, CA 94102** in person or by mail.

\* = REQUIRED \*\* = REQUIRED IF KNOWN

<b>1. Claimant's Name and Home Address (Please Print Clearly)</b> * James Steinle, Elizabeth Sullivan & the Estate of Kathryn Steinle (see address for notice)	<b>2. Send Official Notices and Correspondence to:</b> * Frank Pitre of Cotchett, Pitre & McCarthy LLP 840 Malcolm Road, Suite 200
City _____ State <b>CA</b> Zip _____ Telephone <small>Daytime</small> _____ <small>Evening</small> _____ <small>Cellular</small> _____	city <b>Burlingame</b> State <b>CA</b> Zip <b>94010</b> Telephone <small>Daytime</small> <b>(650) 697-6000</b> <small>Evening</small> _____ <small>Cellular</small> _____

<b>3. Date of Birth</b>	<b>4. Social Security Number</b>	<b>5. Date of Incident</b> * 07/01/2015	<b>6. Time of Incident (AM or PM)</b> ** Approx. 6:30 PM
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<b>7. Location of Incident or Accident</b> ** Pier 14, Embarcadero, San Francisco	<b>8. Claimant Vehicle License Plate #, Type, Mileage, and Year</b> ** N/A
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**9. Basis of Claim.** State in detail all facts and circumstances of the incident. Identify all persons, entities, property and City departments involved. State why you believe the City is responsible for the alleged injury, property damage or loss.  
 \* See attachment with supporting exhibits.

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Name, I.D. Number and City Department of City Employee who allegedly caused injury or loss	Type of City Vehicle	Vehicle License Number and Bus or Train Number
** Sheriff Ross Mirkarimi, SFSD	** N/A	** N/A

**10. Description of Claimant's injury, property damage or loss**  
 \* See attachment with supporting exhibits.

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**11. Amount of Claimant's property damage or loss and method of computation. Attach supporting documentation. (See Instructions)**

<b>ITEMS</b>	
* See exhibits D & E to attachment.	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
<b>TOTAL AMOUNT</b>	<b>\$ _____</b>

Court Jurisdiction: Limited (up to \$25,000)   
 Unlimited (over \$25,000)

12. Witnesses (if any) Name	Address	Telephone
1. _____	_____	_____
2. _____	_____	_____

<b>13.</b> *	<b>Date</b> 8/31/15
Signature of Claimant or Representative	attorney for claimant
Print Name Frank M. Pitre	Relationship to Claimant

**Do Not Write In This Space**

**CRIMINAL PENALTY FOR PRESENTING A FALSE OR FRAUDULENT CLAIM IS IMPRISONMENT OR FINE OR BOTH. (PENAL CODE §72)**

**ATTACHMENT WITH SUPPORTING EXHIBITS  
TO GOVERNMENT CLAIM AGAINST CCSF, SFSD & MIRKARIMI**

**I. INTRODUCTION**

CLAIMANTS James Steinle and Elizabeth Sullivan, individually and as heirs to Kathryn Steinle, deceased, and the Estate of Kathryn Steinle (collectively “CLAIMANTS”), bring this action under the California Government Tort Claims Act against the City and County of San Francisco (“CCSF”), the San Francisco Sheriff’s Department (“SFSD”), and Sheriff Ross Mirkarimi (“MIRKARIMI”) (collectively “RESPONDENTS”) for their combined negligence and/or refusal to carry out mandatory duties to report convicted felons that are undocumented immigrants to Immigration Customs and Enforcement (“ICE”); as well as their issuance and/or enforcement of Orders in flagrant violation of federal and state mandates, which exceeded their legal authority as public entities, agencies and/or officials. Whether singularly, and/or in combination, their wrongful conduct set in motion the tragic series of events which foreseeably led to the death of KATHRYN STEINLE (“KATE”) on July 1, 2015, at approximately 6:30 p.m., when she was fatally shot while walking with her father, JAMES STEINLE, on Pier 14 of the Embarcadero in San Francisco.

**A. STATEMENT OF CCSF MAYOR ED LEE**

The Mayor of CCSF, Ed Lee, has publicly acknowledged the culpability of RESPONDENTS’ for KATE’s death stating:



This is a tragic incident that never should have happened. San Francisco’s Sanctuary City ordinance *allows for communication with federal law enforcement regarding convicted felons*. The primary responsibility of our law enforcement agencies in San Francisco is to protect the public. *Communicating with federal law enforcement agencies in these cases is simply common sense and in the best interest of public safety*. Once again, *there is nothing in our Sanctuary City law that prohibits such communication.*<sup>1</sup>

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<sup>1</sup> Cestone, Vince, “Pier 14 Shooting: San Francisco Mayor Ed Lee Responds to Sheriff Ross Mirkarimi’s Criticism,” KRON4.com, p. 2 (July 10, 2015 at 4:00 PM) available at: <http://kron4.com/2015/07/10/pier14shooting-sanfranciscomayoredleerespondstosheriffrossmirkarimiscriticism/>.

**B. STATEMENT OF SENATOR DIANNE FEINSTEIN**

Mayor Ed Lee’s reprimand of **RESPONDENTS’** failure to notify, communicate and/or cooperate with ICE was echoed by high ranking federal public officials such as Senator Dianne Feinstein and representatives of ICE. Senator Feinstein, who serves as the Vice Chairman of the U.S. Senate Select Committee on Intelligence, stated:



I have been looking into the circumstances related to the tragic killing of Kathryn Steinle. The suspect has been convicted of 10 crimes, including four drug felonies, and Immigration and Customs Enforcement had filed what is known as a detainer asking the San Francisco Sheriff’s Department to hold Mr. Sanchez for deportation. *The Sheriff’s Department failed to respond to that detainer and did not notify ICE when the individual was released. I strongly believe that an undocumented individual, convicted of multiple felonies and with a detainer request from ICE, should not have been released.* We should focus on deporting convicted criminals, not setting them loose on our streets.<sup>2</sup>

**C. STATEMENT OF IMMIGRATION CUSTOMS AND ENFORCEMENT**

An official spokesperson for ICE, Gillian Christensen, pointedly commented:



*If the local authorities had merely notified [U.S. Immigration and Customs Enforcement] that they were about to release this individual into the community, ICE could have taken custody of him and had him removed from the country — thus preventing this terrible tragedy.*<sup>3</sup>

**D. STATEMENT OF JAMES STEINLE**

The statement of **KATE**’s father to the Members of the United States Senate makes clear the gravity of what happened:

**James Steinle:** Everywhere Kate went throughout the world she shined the light of a good citizen of the United States of America. *Unfortunately, due to disjointed laws and basic incompetence on many levels, the U.S. has suffered a self-inflicted wound. I say this because the alleged murderer is an undocumented immigrant who had been convicted of seven felonies*

<sup>2</sup> United States Senator Dianne Feinstein, “Feinstein Calls on San Francisco to Join DHS Immigration Program,” (July 7, 2015) available at: <http://www.feinstein.senate.gov/public/index.cfm/pressreleases?ID=12df46ad07874083934b857b64ed6d23>.

<sup>3</sup> Brooks, Jon, “Kate Steinle Shooting Puts San Francisco Immigration Policy Under Microscope,” KQED News, p. 3 (July 6, 2015) available at: <http://ww2.kqed.org/news/2015/07/06/kate-steinle-shooting-opens-can-of-worms-on-san-francisco-immigration-policy>.

*in the U.S. and already deported five times. Yet in March of this year he was released from jail and allowed to stay here because of those legal loopholes. It's unbelievable to see so many Americans that have been killed by undocumented immigrant felons in recent years.*<sup>4</sup>

## II. PARTIES

### A. CLAIMANTS

**Kathryn (“KATE”) Steinle**, deceased, was at all times relevant to this claim a resident of the City and County of San Francisco. **KATE** was the daughter of James Steinle and Elizabeth Sullivan.

**James (“JAMES”) Steinle** is, and at all times relevant to this claim was, a resident of Livermore, California. **JAMES** was the father of **KATE**, and is a proper personal representative and heir pursuant to Code of Civil Procedure section 337.60(a).

**Elizabeth (“LIZ”) Sullivan** is, and at all times relevant to this claim was, a resident of Livermore, California. **LIZ** was the mother of **KATE**, and is a proper personal representative and heir pursuant to Code of Civil Procedure section 337.60(a).

Both **JAMES** and **LIZ**, by virtue of the premises, are lawfully entitled to initiate this claim in their individual capacity, as well as on behalf of the **ESTATE OF KATHRYN STEINLE (“ESTATE”)** in pursuit of a survival action arising out of her death.

### B. RESPONDENTS

**CCSF** is an incorporated municipality and public entity responsible for the safety and welfare of residents and/or visitors of San Francisco.

**SFSD** is a public agency of **CCSF** responsible for protecting the public, operating the system of county jails, managing supervised release programs, and providing security and law enforcement in **CCSF**.

**MIRKARIMI** is an individual who serves as an executive, agent, representative and/or employee of **SFSD** who is responsible for establishing, providing and/or enforcing policy, practices and/or procedures for operating the county jails, managing the supervised release of

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<sup>4</sup> Video and transcript of the hearing: <http://www.cspan.org/video/?3272401/hearingimmigrationenforcement>.

convicted felons into the community, and providing security and law enforcement, all for the purpose of promoting public safety and deterring crime.

### **III. FACTUAL BACKGROUND**

#### **A. THE DEATH OF KATHRYN STEINLE**

On July 1, 2015, at approximately 6:30 p.m. a repeat convicted felon and undocumented immigrant named Juan Inez Garcia-Zarate, a.k.a. Juan Francisco Lopez-Sanchez (“LOPEZ-SANCHEZ”) discharged one bullet from a .40 caliber SIG Sauer handgun. That bullet struck **KATE** in the chest piercing her aorta. Just moments before the shooting, **KATE** and her father **JAMES** had been walking together along the San Francisco waterfront nearby Pier 14.

**KATE**’s father **JAMES** came to her aid immediately after she was shot by **LOPEZ-SANCHEZ**. **JAMES** held **KATE** in his arms while she struggled to survive, enduring significant physical and emotional pain. **JAMES** attempted to keep **KATE** alive by performing emergency cardiopulmonary resuscitation (“CPR”) while he waited for medical assistance to arrive. **JAMES** held her head as she fought for her life and begged for his help. Despite **JAMES**’ best efforts, and those of the emergency responders who were called to **KATE**’s aid, **KATE** succumbed to her injuries approximately two (2) hours later at San Francisco General Hospital. At the time of her death, **KATE** was a kind, smart and hard-working thirty-two year old woman, a loving daughter and sister, and committed to socially just causes. See attached Exhibit A.

#### **B. JUAN FRANCISCO LOPEZ-SANCHEZ’S PRIOR CRIMINAL HISTORY**

In stark contrast to **KATE**, **LOPEZ-SANCHEZ** had been convicted of seven felonies, four being serious drug felonies, and was deported five times prior to the shooting. Indeed, on the date in question, **LOPEZ-SANCHEZ** admitted to being under the influence of narcotics, including but not limited to, marijuana and sleeping pills. He also claims he does not remember any of the events that took place, and witnesses observed **LOPEZ-SANCHEZ** acting bizarrely moments before the killing of **KATE**. This senseless shooting is consistent with the aberrant, erratic, and uncontrolled nature of an individual addicted to controlled substances, including heroin, and is a foreseeable act that falls in line with the pattern and practice of misuse and abuse of controlled substances

exhibited by LOPEZ-SANCHEZ's prior convictions, including the manufacture, possession and/or sale of heroin.



LOPEZ-SANCHEZ's prior criminal convictions and/or deportations, include but are not limited to the following:

1. **Convicted** of felony heroin possession on or about, February 2, 1993;
2. **Convicted** of felony narcotics manufacturing on or about, May 12, 1993;
3. **Convicted** of felony heroin possession on or about, November 2, 1993;
4. **Convicted** of misdemeanor imitation controlled substance on or about, June 9, 1994;
5. **Convicted** of a controlled substance violation and aggravated felony on or about, June 10, 1994;
6. **Deported** to Mexico on or about, June 20, 1994;
7. **Convicted** of felony heroin possession on or about, July 11, 1996;
8. **Deported** to Mexico on or about, April 4, 1997;
9. **Deported** to Mexico on or about, February 2, 1998;
10. **Convicted** of felony re-entry on or about, September 3, 1998;
11. **Deported** to Mexico on or about, March 6, 2003;
12. **Convicted** of criminal re-entry and violation of supervised release on or about, November 7, 2003;
13. **Deported** to Mexico on or about, June 29, 2009; and

14. **Convicted** of felony re-entry and probation violations on or about, May 12, 2011.

LOPEZ-SANCHEZ was arrested and charged with the murder of KATE on July 6, 2015. From his jail cell, he candidly told a KGO-TV reporter that *he came to San Francisco because of its status as a Sanctuary City.*<sup>5</sup>

**C. THE SANCTUARY CITY LAW WAS NEVER INTENDED TO VITIATE MANDATORY DUTIES OF NOTIFYING, COMMUNICATING AND/OR COOPERATING WITH ICE IN THE DETENTION AND/OR DEPORTATION OF REPEAT CONVICTED FELONS**

CCSF passed the City and County of Refuge ordinance, commonly referred to as the Sanctuary City law, in 1989 for the purpose of encouraging the reporting of crime among immigrants, and *certainly not to encourage the harboring of known felons*. The law prohibits the use of CCSF funds and/or resources “to assist in the enforcement of federal immigration law or to gather or disseminate information regarding the immigration status of individuals” *unless required by federal or state law*. Notably, *the Sanctuary City law was amended in 1992 to explicitly allow for reporting to and/or cooperating with federal immigration officials when an individual has been convicted of a felony committed in violation of the laws of the State of California, such as what occurred here*.

The Supreme Court has recognized that the public interest in enforcement of immigration laws is significant. *See United States v. Martinez-Fuerte*, 428 U.S. 543, 556-58 (1976); *United States v. Brignoni-Ponce*, 422 U.S. 873, 878-79 (1975); *Almeida-Sanchez v. United States*, 413 U.S. 266, 276 (1973) (Powell, J., concurring); *Blackie's House of Beef, Inc. v. Castillo*, 659 F.2d 1211, 1221 (D.C. Cir. 1981).

Congress agrees, as demonstrated by passage of 8 U.S.C. 1373(a) in 1996, which proscribes that *a local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending information to immigration enforcement officials*.

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<sup>5</sup> Mahhubani, Rhea, “Mayor Ed Lee Chimes in on Pier 14 Murder, Backs San Francisco’s Sanctuary Policy,” NBC Bay Area, p. 2 (July 7, 2015 at 10:28 AM) available at: <http://www.nbcbayarea.com/news/local/Mayor-Edwin-Lee-Weighs-In-on-Pier-14-Shooting-311848241.html>.

This statute has been held by the courts to *invalidate all restrictions on the voluntary exchange of immigration information between public entities and federal immigration authorities*. See *Bologna v. City and County of San Francisco* (2011) 192 CA 4th 429, 438.

The State of California agrees as well, especially when the undocumented immigrant is a felon and/or drug offender. According to California Health and Safety Code section 11369, government officials “shall notify the appropriate agency of the United States having charge of deportation matters” when a suspected undocumented immigrant is arrested for a drug offense. Furthermore, California Government Code section 7282.5 goes so far as to allow government officials to cooperate with ICE and/or detain an undocumented immigrant based solely on one prior felony conviction.

**D. RESPONDENTS BRAZENLY IGNORED HISTORY AND STATISTICS**

**1. The Bologna Murders**

**RESPONDENTS**, and each of them, knew and/or should have known of the foreseeable dangerous consequences of their failure to notify and/or cooperate with immigration enforcement officials regarding undocumented immigrants convicted of felonies in correctional custody. In 2008 when **CCSF** officials, employees, and/or agents released a known undocumented immigrant felon who had committed numerous violent crimes and drug offenses onto the streets without notifying and/or cooperating with immigration enforcement officials, the felon proceeded to fatally shoot three innocent bystanders, Mr. Bologna and his two teenage sons.

**2. Since the Bologna Murders Statistically Significant Evidence of Crime By Undocumented Convicted Felons Mounted**

Around this same time, several government agencies were researching, publishing, and/or discussing the violent and statistically significant recidivism rate of undocumented immigrant felons. Indeed, in July of 2012, the United States House Judiciary Committee found that from 2008 to 2011, 46,734 undocumented immigrant criminals were released from jail and/or prison and went



on to commit 1,000 major criminal offenses and violent crimes—almost one a day for three years.<sup>6</sup> Altogether, undocumented immigrant criminals had a recidivism rate of 16%.<sup>7</sup> In March of 2011, the United States Government Accountability Office (“GAO”) made a report to Congress finding that “our study population of about 249,000 criminal aliens were arrested about 1.7 million times, averaging about 7 arrests per criminal alien . . .”<sup>8</sup> The GAO had released a similar report in 2005 finding the average arrest rate to be even higher, at 8 per criminal alien.<sup>9</sup> Recidivism among undocumented immigrant criminals is not new either. From 1955 to 2010, 28% of criminal aliens were arrested between 6 to 10 times.<sup>10</sup>

## **E. THE MARCH 2015 MEMO FROM MIRKARIMI**

### **1. Mirkarimi Issues March Memo**

Despite the Bologna murders, the well-known statistics on the violent recidivism of undocumented immigrant felons and well-established federal law prohibiting all restrictions on voluntary communication with immigration enforcement officials, **MIRKARIMI** issued a memorandum on March 13, 2015 (“The March Memo”) directly contravening federal and state law by prohibiting **SFSD** staff from providing and/or reporting to ICE representatives any and all information and/or access to information on undocumented immigrants in **SFSD** custody, including but not limited to: citizenship/immigration status of any inmate, access to inmates in jail, and release dates and/or times. Per The March Memo, the only **SFSD** staff with authority to provide and/or report the aforementioned to ICE was **MIRKARIMI**. See attached Exhibit B. Prior to the March Memo, **SFSD** staff had a policy, procedure, and/or routine of notifying and/or cooperating with ICE regarding undocumented immigrant felons in custody as part of “*longstanding [SFSD] Department policies and procedures designed to safeguard law abiding citizens.*” See attached Exhibit C.

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<sup>6</sup> Goodlatte, Bob, “House Judiciary Report Finds Administration’s Lax Immigration Policies are Deadly,” (July 31, 2012) available at: <http://judiciary.house.gov/index.cfm/2012/7/housejudiciaryreportfindsadministrationslaximmigrationpoliciesaredeadly>.

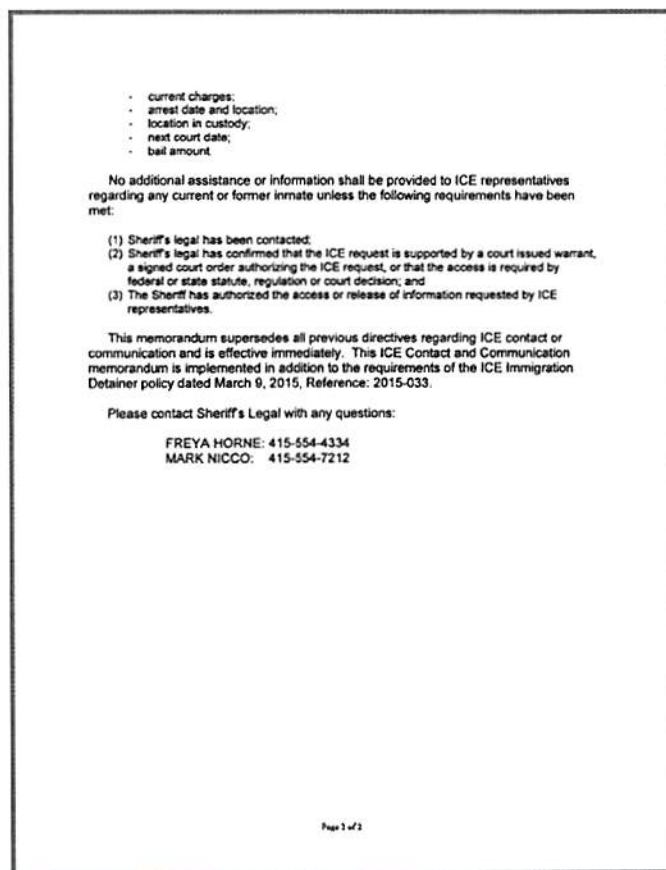
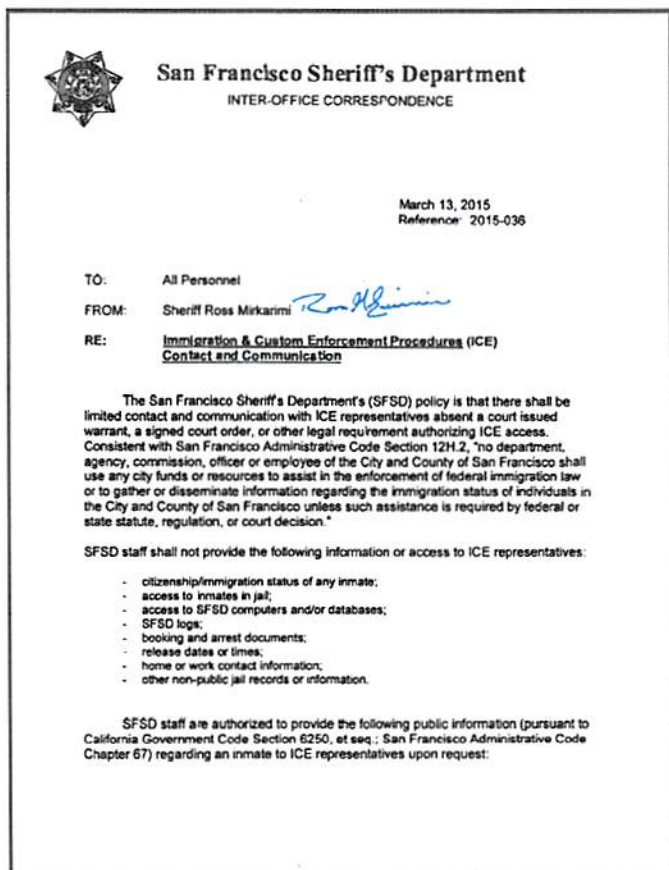
<sup>7</sup> *Id.*

<sup>8</sup> GAO-11-187, “Criminal Alien Statistics: Information on Incarcerations, Arrests, and Costs,” US Govt. Accountability Office, p. 17 (March 2011) available at: <http://www.gao.gov/assets/320/316959.pdf>.

<sup>9</sup> *Id.*

<sup>10</sup> *See Id.* at figure 8, “Number of Arrests and Offenses per Criminal Alien from August 1955 to April 2010”.

On or around March 26, 2015, just two weeks after The March Memo was issued, Mr. Lopez-Sanchez finished serving a forty-six month sentence at Victorville federal prison in Southern California and was released to **SFSD** custody on an outstanding felony sale of marijuana warrant. The San Francisco District Attorney dismissed charges the next day.



## 2. The Detainer Request

On or around March 27, 2015, ICE sent a detainer request to **SFSD** requesting notification at least forty-eight hours prior to Mr. Lopez-Sanchez's release, so as to allow for ICE to detain, initiate removal proceedings, and/or deport the seven-time felon. **RESPONDENTS released Mr. Lopez-Sanchez from custody on April 15, 2015 without notifying, communicating and/or cooperating with ICE!** Less than three months later, **KATE** was shot and killed by **LOPEZ-SANCHEZ**.

## **F. PUBLIC ACKNOWLEDGMENT OF CULPABILITY**

### **1. CCSF Mayor Ed Lee and SFDSA Lay Blame on Mirkarimi**

In response to this terrible tragedy, Mayor Ed Lee courageously released a statement on July 6, 2015 acknowledging that "[t]his is a tragic incident that never should have happened. San Francisco's Sanctuary City ordinance allows for communication with federal law enforcement regarding convicted felons. *The primary responsibility of our law enforcement agencies in San Francisco is to protect the public. Communicating with federal law enforcement agencies in these cases is simply common sense and in the best interest of public safety.* Once again, *there is nothing in our Sanctuary City law that prohibits such communication.*"<sup>11</sup> Furthermore, in a televised statement on July 8, 2015 the Mayor rhetorically told KRON-4 reporters, "*I begin by saying, could a simple phone call with the sheriff letting them know the release of someone in custody...have prevented this?*"<sup>12</sup>

Mayor Ed Lee's statements were amplified by the San Francisco Deputy Sheriffs' Association ("SFDSA") in a July 13, 2015 grievance letter to MIRKARIMI wherein SFDSA asserts, "as evidenced by the tragic death of Kathryn Steinle on July 1<sup>st</sup>, the Department's *refusal to coordinate, much less cooperate, with federal law enforcement agencies recklessly compromises the safety of sworn personnel, citizens, and those who merely come to visit the San Francisco area.*" See attached Exhibit C.

### **2. ICE Confirms That Kate's Death Was Easily Preventable By Providing Notice**

In a statement by ICE spokeswoman Gillian Christensen, ICE corroborated RESPONDENTS' wrongdoing saying, "*[i]f the local authorities had merely notified [U.S. Immigration and Customs Enforcement] that they were about to release this individual into the community, ICE could have taken custody of him and had him removed from the country —*

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<sup>11</sup> Cestone, Vince, "Pier 14 Shooting: San Francisco Mayor Ed Lee Responds to Sheriff Ross Mirkarimi's Criticism," KRON4.com, p. 2 (July 10, 2015 at 4:00 PM) available at: <http://kron4.com/2015/07/10/pier14shooting-sanfranciscomayoredleerespondstosheriffrossmirkarimiscriticism/>.

<sup>12</sup> Estacio, Terisa, "Pier 14 Shooting: San Francisco Mayor Ed Lee Speaks About Sanctuary Law," KRON4.com, p. 2 (July 8, 2015 at 5:25 PM) available at: <http://kron4.com/2015/07/08/pier14shooting-sanfranciscomayoredleespeaksaboutsanctuarylaw/>.

*thus preventing this terrible tragedy. . . . ICE places detainers on aliens arrested on criminal charges to ensure dangerous criminals are not released from prisons or jails into our communities. We're not asking local law enforcement to do our job . . . all we're asking is that they notify us when a serious foreign national criminal offender is being released to the street so we can arrange to take custody.*"<sup>13</sup>

**3. Senator Feinstein – A Leading San Franciscan and Expert in Matters of Domestic Security – Cites the Failure of SFSD to Notify, Communicate and/or Cooperate with ICE**

Senator Dianne Feinstein, Vice Chairman of the U.S. Senate Select Committee on Intelligence, agreed in her official statement, "*I have been looking into the circumstances related to the tragic killing of Kathryn Steinle. The suspect has been convicted of 10 crimes, including four drug felonies, and Immigration and Customs Enforcement had filed what is known as a detainer asking the San Francisco Sheriff's Department to hold Mr. Sanchez for deportation. The Sheriff's Department failed to respond to that detainer and did not notify ICE when the individual was released. I strongly believe that an undocumented individual, convicted of multiple felonies and with a detainer request from ICE, should not have been released. We should focus on deporting convicted criminals, not setting them loose on our streets.*"<sup>14</sup>

**IV. LIABILITY**

**A. FAILURE TO PERFORM MANDATORY DUTIES**

**CLAIMANTS** allege, that at all times herein mentioned, **RESPONDENTS**, and each of them, were under a mandatory constitutional duty to comply with 8 U.S.C. 1373(a) according to the Supremacy Clause under Article VI, clause 2 of the United States Constitution. **RESPONDENTS**, and each of them, at all times mentioned, were under a mandatory statutory duty to comply with California Health and Safety Code § 11369 according to California Government Code § 815.

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<sup>13</sup> *Supra*, at fn. 3.

<sup>14</sup> *Supra*, at fn. 2.

The aforementioned mandatory duties were breached when: (a) **RESPONDENTS**, and each of them, issued the March Memo prohibiting all **SFSD** staff from notifying, communicating, cooperating, assisting, and/or providing information to ICE; and (b) when **RESPONDENTS**, and each of them, failed to notify, communicate, cooperate, assist, and/or provide information to ICE regarding the release of Mr. Lopez-Sanchez from **SFSD** custody.

As a direct and legal result of said violations and of the aforementioned acts and/or omissions by **RESPONDENTS**, decedent **KATE** was shot, severely injured and later died.

As a direct and legal result of said violations and of the aforementioned acts and/or omissions by **RESPONDENTS**, **JAMES** contemporaneously witnessed his daughter being shot and struggling for life while in his arms.

As a direct and legal result of said violations and of the aforementioned acts and/or omissions by **RESPONDENTS**, **JAMES** suffered severe emotional distress.

As a direct and legal result of said violations and of the aforementioned acts and/or omissions by **RESPONDENTS**, **CLAIMANTS** suffered the damages as set forth below.

## **B. GENERAL NEGLIGENCE**

**CLAIMANTS** allege, that at all times herein mentioned, **RESPONDENTS**, and each of them, acted negligently, carelessly, recklessly, and/or unlawfully in failing to notify, communicate, cooperate, assist, and/or provide information to ICE regarding the release of Mr. Lopez-Sanchez from **SFSD** custody. **RESPONDENTS'** actions were not discretionary, as these acts and/or omissions directly violated clearly established state and federal laws.

As a direct and legal result of said violations and of the aforementioned acts and/or omissions by **RESPONDENTS**, decedent **KATE** was shot, severely injured and later died.

As a direct and legal result of said violations and of the aforementioned acts and/or omissions by **RESPONDENTS**, **JAMES** contemporaneously witnessed his daughter being shot and struggling for life while in his arms.

As a direct and legal result of said violations and of the aforementioned acts and/or omissions by **RESPONDENTS**, **JAMES** suffered severe emotional distress.

As a direct and legal result of said violations and of the aforementioned acts and/or omissions by **RESPONDENTS, CLAIMANTS** suffered the damages as set forth below.

**C. 42 U.S.C. § 1983**

**CLAIMANTS** allege, that at all times herein mentioned, **KATE** possessed a constitutional right to not be deprived of life or liberty without due process. Through the March Memo, which was not reviewed, presented, approved, and/or voted on by a governing body, **RESPONDENTS** espoused a policy that abridged and/or lowered the safety and security conferred on **KATE** and other residents and visitors of **CCSF** under federal and/or state laws without due process and/or proper governmental purpose. By prohibiting the notification to ICE necessary for detention, deportation and/or removal of undocumented convicted felons, the March Memo deprived **KATE** of life and liberty without due process, as required under the Constitution. The March Memo amounts to deliberate indifference to federal and/or state law which safeguarded **KATE's** constitutional rights and is the moving force behind the constitutional violation of her rights.

As a direct and legal result of said violations and of the aforementioned acts and/or omissions by **RESPONDENTS**, decedent **KATE** was shot, severely injured and later died.

As a direct and legal result of said violations and of the aforementioned acts and/or omissions by **RESPONDENTS, JAMES** contemporaneously witnessed his daughter being shot and struggling for life while in his arms.

As a direct and legal result of said violations and of the aforementioned acts and/or omissions by **RESPONDENTS, JAMES** suffered severe emotional distress.

As a direct and legal result of said violations and of the aforementioned acts and/or omissions by **RESPONDENTS, CLAIMANTS** suffered the damages as set forth below.

**V. DAMAGES**

As a direct and legal result of the combined wrongful acts of **RESPONDENTS**, and each of them, hereinafter set forth, **CLAIMANTS** have suffered substantial economic and non-economic losses and damages as set forth herein below.

As a further direct and legal result of the combined wrongful acts of **RESPONDENTS**, **CLAIMANTS** have incurred funeral expenses and burial expenses on behalf of **KATE** in the amount of \$ 1,923.00. See Exhibit D attached.

As a further direct and legal result of the combined wrongful acts of **RESPONDENTS**, **CLAIMANT ESTATE** incurred medical expenses for care and treatment prior to **KATE**'s death. The **ESTATE** seeks recovery of said expenses in an amount to be established by appropriate proof. See Exhibit E attached for medical bills received to date.

As a further direct and legal result of the combined wrongful acts of **RESPONDENTS**, **CLAIMANT JAMES** has and/or will incur medical expenses for his care and treatment related to witnessing the death of **KATE**. **JAMES** seeks recovery of said expenses in an amount to be established by appropriate proof.

As a further direct and legal result of the combined wrongful acts of **RESPONDENTS**, **CLAIMANT JAMES** has and will suffer extreme emotional distress including nervousness, grief, anxiety, worry, mortification, shock, indignity, apprehension, terror or ordeal in an amount to be determined.

As a further direct and legal result of the combined wrongful acts of **RESPONDENTS**, **CLAIMANTS JAMES** and **LIZ** have suffered loss of love, society, solace, companionship, comfort, care, assistance, protection, affection, society, moral support in an amount to be determined.

**CLAIMANTS** hereby submit their claim for damages.

Dated: August 31, 2015

**COTCHETT, PITRE & McCARTHY, LLP**

By: 

FRANK M. PITRE  
ALISON E. CORDOVA  
*Attorneys for Plaintiffs*

# **EXHIBIT A**



## EXHIBIT A – BIOGRAPHY OF KATE



Kate was born in Pleasanton, California and graduated from Amador Valley High School in 2001. She was strong, outspoken and a free-spirit. She was also very close with her family, spending quality time with them regularly and always putting them first. After graduating from California Polytechnic, San Luis Obispo with a bachelor's degree in communication studies, Kate traveled to Europe, China, Japan, Africa and Dubai, where she lived for a short-time period as well.

Through her travels, she was inspired by different cultures and people she came across. For Kate, traveling was not about sight-seeing. She loved to meet new people, know the cultures, and engross herself in the lives of others, especially those less fortunate. She also

became a passionate advocate and strong supporter of the protection and preservation of wildlife and animals, best exemplified by her support of the Performing Animal Welfare Society, a non-profit organization that creates sanctuaries for abandoned or abused performing animals and victims of the exotic animal trade.

After traveling, she settled down in San Francisco and pursued a thriving career in medical sales. She also volunteered on a regular basis with the Challenged Athletes Foundation (“CAF”), a non-profit that works with athletes with physical challenges and supports their athletic endeavors by providing sports opportunities that lead to success in sports and life. As best said by the President of CAF, “what always impressed me about Katie was how genuinely she engaged herself with challenged athletes, how genuinely interested she was in their life, their tragedy, and guided them on how best to deal with that.”

As the aforementioned makes clear, Kate had a profound effect on every life she touched, commonly referred to as the “Kate Effect.”

# **EXHIBIT B**



# San Francisco Sheriff's Department

INTER-OFFICE CORRESPONDENCE

March 13, 2015  
Reference: 2015-036

TO: All Personnel

FROM: Sheriff Ross Mirkarimi 

RE: **Immigration & Custom Enforcement Procedures (ICE)**  
**Contact and Communication**

The San Francisco Sheriff's Department's (SFSD) policy is that there shall be limited contact and communication with ICE representatives absent a court issued warrant, a signed court order, or other legal requirement authorizing ICE access. Consistent with San Francisco Administrative Code Section 12H.2, "no department, agency, commission, officer or employee of the City and County of San Francisco shall use any city funds or resources to assist in the enforcement of federal immigration law or to gather or disseminate information regarding the immigration status of individuals in the City and County of San Francisco unless such assistance is required by federal or state statute, regulation, or court decision."

SFSD staff shall not provide the following information or access to ICE representatives:

- citizenship/immigration status of any inmate;
- access to inmates in jail;
- access to SFSD computers and/or databases;
- SFSD logs;
- booking and arrest documents;
- release dates or times;
- home or work contact information;
- other non-public jail records or information.

SFSD staff are authorized to provide the following public information (pursuant to California Government Code Section 6250, et seq.; San Francisco Administrative Code Chapter 67) regarding an inmate to ICE representatives upon request:

- **current charges;**
- **arrest date and location;**
- **location in custody;**
- **next court date;**
- **bail amount.**

**No additional assistance or information shall be provided to ICE representatives regarding any current or former inmate unless the following requirements have been met:**

- (1) Sheriff's legal has been contacted;**
- (2) Sheriff's legal has confirmed that the ICE request is supported by a court issued warrant, a signed court order authorizing the ICE request, or that the access is required by federal or state statute, regulation or court decision; and**
- (3) The Sheriff has authorized the access or release of information requested by ICE representatives.**

**This memorandum supersedes all previous directives regarding ICE contact or communication and is effective immediately. This ICE Contact and Communication memorandum is implemented in addition to the requirements of the ICE Immigration Detainer policy dated March 9, 2015, Reference: 2015-033.**

**Please contact Sheriff's Legal with any questions:**

**FREYA HORNE: 415-554-4334  
MARK NICCO: 415-554-7212**

# **EXHIBIT C**

# RLS RAINS LUCIA STERN, PC

Peter A. Hoffmann  
Attorney at Law  
PHoffmann@RLSlawyers.com

July 13, 2015

**VIA ELECTRONIC MAIL, FACSIMILE & FIRST CLASS MAIL**

Sheriff Ross Mirkarimi  
San Francisco Sheriff's Department  
City Hall, Room 456  
1 Carlton Goodlett Place  
San Francisco, CA 94102

**Re: Grievance and Demand to Meet & Confer regarding ICE Procedures Directives**

Dear Sheriff Mirkarimi:

On behalf of the San Francisco Deputy Sheriffs' Association ("SFDSA" or "Association"), please accept this correspondence as a formal grievance and demand to initiate the meet and confer process concerning the San Francisco Sheriff's Department's ("Department") March 9, 2015 directive titled "Immigration & Custom Enforcement Procedures (ICE)" and its subsequent directive titled "Immigration & Custom Enforcement Procedures (ICE) Contact and Communication" issued on March 13, 2015.

As evidenced by the tragic death of Kate Steinle on July 1<sup>st</sup>, the Department's refusal to coordinate, much less cooperate, with federal law enforcement agencies recklessly compromises the safety of sworn personnel, citizens, and those who merely come to visit the San Francisco area. Given that the Department unilaterally implemented these changes without discussing the matter during its monthly labor-management meetings with the Association, much less satisfied its meet and confer obligations with the SFDSA as required by Article I.G. ("Negotiation Responsibility") of the Memorandum of Understanding ("MOU") between the City & County of San Francisco ("CCSF") and sections 3504-3505 of the Meyers-Milias-Brown Act ("MMBA") (Government Code section 3500 *et seq.*), the Association hereby demands that the Department immediately rescind the directives and comply with its statutory and contractual obligations to meet and confer in good faith before seeking to implement any changes to longstanding Department policies and procedures designed to safeguard law abiding citizens. Moreover, it is the Association's sincere belief that any changes that the Department might pursue should honor Ms. Steinle's life by correcting the Department's flawed philosophy so that the people of San Francisco – citizens, visitors, and employees alike – are safer in the future. Alternatively, should

Sheriff Ross Mirkarimi

**Re: Grievance and Demand to Meet & Confer regarding ICE Procedures Directives**

July 13, 2015

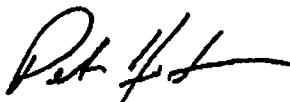
Page 2

the Department adhere to your directives to limit future communications with ICE, the SFDSA believes that only the sheriff – and not deputized personnel – should review and personally approve (or deny) each ICE Immigration Detainer, ICE Administrative Warrant, ICE Internal Order to Detain or Release, ICE entries in NCIC, and other requests from ICE.

Thank you for your prompt attention to this important matter. The Association looks forward to your written response on or before July 24, 2015.

Respectfully,

**RAINS LUCIA STERN, PC**



Peter A. Hoffmann

PAH:my

cc: Eugene Cerbone, SFDSA President  
Martin Gran, Employee Relations Director  
Jim Bickert, RLS



# **EXHIBIT D**

# GRAHAM - HITCH MORTUARY

4167 First Street  
Pleasanton, CA 94566  
(925)846-5624

July 17, 2015

Mr. James Reeder Steinle  
1389 Vailwood Court  
Pleasanton, CA 94566

The Funeral Service for Kathryn Michelle Steinle

We sincerely appreciate the confidence you have placed in us and will continue to assist you in every way we can. Please feel free to contact us if you have any questions in regard to this statement.

THE FOLLOWING IS AN ITEMIZED STATEMENT OF THE SERVICES, FACILITIES, AUTOMOTIVE EQUIPMENT, AND MERCHANDISE THAT YOU SELECTED WHEN MAKING THE FUNERAL ARRANGEMENTS.

<b>Special Charges</b>	
Direct Cremation	1,595.00
<b>Total Special Charges</b>	<u>1,595.00</u>
<b>Merchandise</b>	
Alternative Container	100.00
<b>Total Merchandise Selected</b>	<u>100.00</u>

AT THE TIME FUNERAL ARRANGEMENTS WERE MADE, WE ADVANCED CERTAIN PAYMENTS TO OTHERS AS AN ACCOMMODATION. THE FOLLOWING IS AN ACCOUNTING FOR THOSE CHARGES.

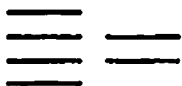
<b>Cash Advances</b>	
Certified Death Certificates	210.00
DCA fee	8.50
<b>Total Cash Advances</b>	<u>218.50</u>
<b>Total Sales Tax</b>	9.50
<b>Total Contract</b>	1,923.00
07/17/15 Payment	1,923.50
07/17/15 Overpayment Refund	-0.50
<b>TOTAL AMOUNT DUE</b>	0.00

The unpaid balance over 1 days is subjected to a 1 % service charge per month - 12 % per annum.

Page: 1 of 1

**PAID**

# **EXHIBIT E**



Blue Cross and Blue Shield of Minnesota and Blue Plus are nonprofit independent licensees of the Blue Cross and Blue Shield Association

P.O. Box 64560  
St. Paul, MN 55164-0560

KATHRYN STEINLE  
570 BEALE ST APT 402  
SAN FRANCISCO CA 94105-2024

# Explanation of Health Care Benefits

CHECK # 0003402670 PAGE 0001 OF 0001  
THIS IS NOT A BILL. This is an explanation of the claim processed based on your plan benefits in effect when the service was performed. Please keep this form for your tax records.

See reverse side for Complaint/Appeal, Fraud and other important information.

Easily find a provider, see your claims, your plan, health programs and wellness info all in one place. Visit the myBlueCross online member center. Sign in at [www.bluecrossmn.com/mdt](http://www.bluecrossmn.com/mdt)

Year to Date Deductible 500.00

Contact: For Customer Service - Please Call:

NO LOCAL NBR OR TOLL FREE 1-888-832-7360

Patient ID	Group/Policy	Date Received	Date Processed	Claim Number
XZ8777372	MEDTRONIC INC OMDT030F1	07/13/15	07/17/15	5196414207000
Subscriber/Member Name		KATHRYN STEINLE		
Patient Name		KATHRYN STEINLE		
Provider		SFGH MED GRPDEPT OF ANESTHESIA		
Patient Control Number		519000294I3H0		
Dates of Service	From 07/01/15 To 07/01/15	From	From	From
Description	SURG/ANEST	To	To	To
Charges	4,395.00			
Provider Responsibility Amount				
Allowed Amount	4,395.00			
Amount Paid By Other Insurance				
Deductible Amount	500.00			
Copay Amount				
Coinsurance Amount	779.00			
Paid Amount	3,116.00			
Patient Noncovered Amount				
Amount You Owe	1,279.00			
Notes ID	1			

### Notes

1 MEDTRONIC HRA PLAN PARTICIPANTS: THE TOTAL AMOUNT YOU OWE WILL BE DEDUCTED FROM YOUR HRA BALANCE, PROVIDED THE EXPENSES MEET THE TERMS AND CONDITIONS OF THE PLAN. IF YOUR HRA BALANCE IS ZERO, YOU ARE RESPONSIBLE FOR PAYING THE PROVIDER WHEN BILLED.

Total Charges	4,395.00
Total Benefit Amount	3,116.00
Total Amount Paid by Other Insurance	0.00
Total Amount You Owe	1,279.00

Are you up to date with your preventive care? Many plans cover preventive services that will not result in a cost when you use an in network provider. Preventive care can include check-ups, screenings, and immunizations. For more information, go to: <http://www.bluecrossmn.com/Pages/mn/en-us/preventive-care>



# Explanation of Health Care Benefits

PAGE 0001 OF 0001  
3420 0101000002015:

**THIS IS NOT A BILL.** This is an explanation of the claim processed based on your plan benefits in effect when the service was performed. Please keep this form for your tax records.

Blue Cross and Blue Shield of Minnesota and Blue Plan are nonprofit independent members of the Blue Cross and Blue Shield Association  
P.O. Box 64560  
St. Paul, MN 55164-0560

See reverse side for Complaint/Appeal, Fraud and other Important Information.

**KATHRYN STEINLE**  
570 BEALE ST APT 402  
SAN FRANCISCO CA 94105-2024



Easily find a provider, see your claims, your plan, health programs and wellness info all in one place. Visit the myBlueCross online member center. Sign in at [www.bluecrossmn.com/mdt](http://www.bluecrossmn.com/mdt)

Year to Date Deductible	500.00
Contact: For Customer Service - Please Call:	
NO LOCAL NBR	OR TOLL FREE 1-888-832-7360

Patient ID	Group/Policy	Date Received	Date Processed	Claim Number
XZ8777372	HEDTRONIC INC ONDT030F1	07/10/15	07/17/15	5196421151000
Subscriber/Member Name		KATHRYN STEINLE		
Patient Name		KATHRYN STEINLE		
Provider		SAN FRANCISCO FIRE DEPART		
Patient Control Number		4JLHNV4-254863		
Dates of Service		From 07/01/15 To 07/01/15	From	From
Description		AMBULANCE		
Charges		2,044.00		
Provider Responsibility Amount				
Allowed Amount		2,044.00		
Amount Paid By Other Insurance				
Deductible Amount				
Copay Amount				
Coinsurance Amount		408.80		
Paid Amount		1,635.20		
Patient Noncovered Amount				
Amount You Owe		408.80		
Notes ID		1		

### Notes

1 MEDTRONIC HRA PLAN PARTICIPANTS: THE TOTAL AMOUNT YOU OWE WILL BE DEDUCTED FROM YOUR HRA BALANCE, PROVIDED THE EXPENSES MEET THE TERMS AND CONDITIONS OF THE PLAN. IF YOUR HRA BALANCE IS ZERO, YOU ARE RESPONSIBLE FOR PAYING THE PROVIDER WHEN BILLED.

Total Charges	2,044.00
Total Benefit Amount	1,635.20
Total Amount Paid by Other Insurance	0.00
Total Amount You Owe	408.80

Are you up to date with your preventive care? Many plans cover preventive services that will not result in a cost when you use an in network provider. Preventive care can include check-ups, screenings, and immunizations. For more information, go to [www.bluecrossmn.com/healthcare](http://www.bluecrossmn.com/healthcare)