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SUPERIOR COURT OF CALIFORNIA
COUNTY OF FRESNO

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15 CHANNEL CENTENO
16 HERIBERTA CENTENO,
17 JOSE CENTENO, individually

18 Plaintiffs,

19 v.

20 CITY OF FRESNO, ZEBULON PRICE,
21 FELIPE MIGUEL LUCERO,
22 and DOES I THROUGH 10,
23 Inclusive,

24 Defendants.

CASE NO:

16 CE CG 00897

COMPLAINT FOR DAMAGES:

1. Wrongful Death
2. Unreasonable Search and Seizure-Excessive Force (42 U.S.C. § 1983)
3. Substantive Due Process-(42 U.S.C. § 1983)
4. Municipal Liability for Unconstitutional Custom, Practice, or Policy-(42 U.S.C. § 1983)

DEMAND FOR JURY TRIAL

PLAINTIFF'S COMPLAINT FOR DAMAGES

16CECG00897

CFL

Civil Complaint filed

242326



1 **COMPLAINT FOR DAMAGES**

2 CHANNEL CENTENO, individually and as successor in interest to FREDDY
3 MARTIN CENTENO, decedent. HERIBERTA CENTENO, and, JOSE CENTENO
4 individually, for their Complaint against Defendants CITY OF FRESNO, ZEBULON
5 PRICE, and FELIPE MIGUEL LUCERO and DOES 1-10, inclusive, allege as follows:

6 **INTRODUCTION**

7 1. This state tort and Federal civil rights action seeks compensatory and punitive
8 damages from Defendants for violating various rights under state law and the United
9 States Constitution in connection with the fatal police shooting of FREDDY
10 CENTENO, (hereinafter also referred to as, "DECEDENT"), on September 3, 2015.

11 2. Defendants ZEBULON PRICE, FELIPE MIGUEL LUCERO, proximately
12 caused DECEDENT's and Plaintiffs' injuries by firing the shots that killed
13 DECEDENT, by integrally participating or failing to intervene in the shooting, and by
14 engaging in other acts and/ or omissions around the time of the shooting that resulted
15 in his death.

16 3. Defendants CITY OF FRESNO (Hereinafter also referred to as "CITY") and
17 DOES 6-10 also proximately caused DECEDENT's and Plaintiffs' injuries and are
18 liable under state law and under principles set forth in Monell v. Department of Social
19 Services, 436 U.S. 658 (1978).

20 4. The policies and customs behind shootings of civilians such as FREDDY
21 CENTENO are fundamentally unconstitutional and constitute a menace of major
22 proportions to the public. Accordingly, insofar as Plaintiffs herein seek by means of this
23 civil rights action to hold accountable those responsible for the killing of FREDDY
24 CENTENO and to challenge the CITY's unconstitutional policies and practices, this
25 civil rights action is firmly in the public interest.

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PARTIES

5. At all relevant times, decedent FREDDY CENTENO was an individual residing in the CITY OF FRESNO, California.

6. Plaintiff CHANNEL CENTENO, hereinafter also referred to as 'CHANNEL CENTENO, is an adult individual residing in the CITY OF FRESNO, California and is the natural born child of DECEDENT. CHANNEL CENTENO sues both in her individual capacity as the child of DECEDENT and in a representative capacity as a successor-in-interest to DECEDENT pursuant to California Civil Code § 377.32. CC seeks both survival and wrongful death damages under federal and state law.

7. Plaintiff JOSE CENTENO is the natural father of DECEDENT, FREDDY CENTENO, and he hereby sues in his individual capacity as the father of DECEDENT.

8. Plaintiff HERIBERTA CENTENO is an individual residing in the CITY OF FRESNO, California and is the mother of DECEDENT, and she hereby sues in her individual capacity as the mother of DECEDENT.

9. Defendants, ZEBULON PRICE, (hereinafter also referred to as "PRICE") and FELIPE MIGUEL LUCERO, (hereinafter referred to as "LUCERO") are Police OFFICERS for the CITY of FRESNO Police Department, (hereinafter referred to as "CITY"), and were acting under color of law within the course and scope of their duties as Police OFFICERS for the CITY. Said defendants were acting with the complete authority and ratification of their principal, Defendant CITY.

10. Defendants DOES 1-5 are supervisory officers for the CITY who were acting under color of law within the course and scope of their duties as Police OFFICERS for the CITY. DOES 6-8 were acting with the complete authority and ratification of their principal, Defendant CITY.

11. Defendants DOES 9-10 are managerial, supervisory, and policymaking employees of the CITY, who were acting under color of law within the course and scope of their duties as managerial, supervisory, and policymaking employees for the

1 was unarmed and he posed no threat to any of the individual defendants, or any other
2 person.

3 **FIRST CLAIM FOR RELIEF**

4 **Wrongful Death**

5 **As Against Defendants CITY OF FRESNO, ZEBULON PRICE,**
6 **FELIPE MIGUEL LUCERO and DOES 1 THROUGH 10,**

7 29. Plaintiffs reallege and incorporate the foregoing paragraphs as if set forth herein.

8 30. This cause of action arises under the general laws and Constitution of the State
9 of California, including sections 815.2 and 820 of the Government Code.

10 31. Defendants PRICE, LUCERO and DOES 1 through 10, while working as Police
11 officers for the CITY OF FRESNO POLICE DEPARTMENT, and acting within the
12 course and scope of their duties, employed negligent tactics and intentionally and/or
13 without due care shot decedent FREDDY CENTENO. The shooting resulted from
14 said Defendants' unsafe and negligent pre-shooting tactics as well as their careless,
15 wrongful and excessive use of force under the circumstances that they encountered at
16 the time of the shooting. As a result of these intentional acts and/or negligence, decedent
17 FREDDY CENTENO suffered serious injuries and lost his life. Defendants PRICE,
18 LUCERO and DOES 1 through 10, had no legal or reasonable justification for their
19 actions or subjective belief that such force was lawful.

20 32. As a direct and proximate result of the conduct of Defendants PRICE, LUCERO
21 and DOES 1 through 10, as alleged above, FREDDY CENTENO suffered serious
22 injuries and lost his life. Plaintiffs have been deprived of the life-long comfort, society,
23 support and care of FREDDY CENTENO, and will continue to be so deprived for the
24 remainder of their natural lives. Plaintiffs were further forced to pay funeral and burial
25 expenses as a result of the conduct of Defendants.

26 33. Defendant CITY is vicariously liable for the wrongful acts of Defendants PRICE,
27 LUCERO and DOES 1 through 10, pursuant to California Government Code § 815.2,

1 which provides that a public entity is liable for the injuries caused by its employees
2 within the scope of the employment if the employee's act would subject him to liability.
3 34. Defendants PRICE, LUCERO and DOES 1 through 10 received inadequate
4 training from the CITY in the proper use of firearms and tactics, including the proper
5 and safe tactics for dealing with suspects that are mentally or emotionally unstable,
6 emotionally distraught and otherwise psychologically incapacitated, as well as suspects
7 that are under the influence of alcohol. As a direct and proximate result of this failure
8 to provide such adequate firearms and tactics training to Defendants PRICE, LUCERO
9 and DOES 1 through 10, the shooting of FREDDY CENTENO occurred, causing the
10 present Plaintiffs the losses and injuries herein complained of.

11 35. At no time, either prior to the employment of Defendants PRICE, LUCERO and
12 DOES 1 through 10, or to the assignment of these Defendants to duties whereby it was
13 foreseeable that said Defendants would be required to use their firearm, did Defendant
14 CITY take reasonable steps to ascertain whether Defendants PRICE, LUCERO and
15 DOES 1 through 10 were psychologically capable of performing such duties and
16 whether they had a propensity towards violence or toward over-reaction in typical
17 encounters with the public. To the contrary, Defendant CITY was aware of various
18 instances where Defendants PRICE, LUCERO and DOES 1 through 10 unnecessarily
19 and recklessly drew their firearms. Despite knowledge of such propensity, the
20 Defendant CITY failed to take action to discipline or train these Defendants to correct
21 this propensity. Instead, Defendant CITY carelessly allowed Defendants PRICE,
22 LUCERO and DOES 1 through 10 to continue to encounter members of the public in
23 the course of their duties. As a direct and proximate result of this failure to use due
24 caution and care in the selection, training, and retention of Defendants PRICE,
25 LUCERO and DOES 1 through 10, FREDDY CENTENO lost his life, causing the
26 present Plaintiffs the losses and injuries complained of herein.

27 36. Defendant CITY, and DOES 6 through 10, also negligently retained Defendants

1 PRICE, LUCERO and DOES 1 through 5, when it was known or should have been
2 known by the CITY, and DOES 6 through 10, that said Defendants had on prior
3 occasions created violent confrontations leading to serious injury or death.

4 37. At the time of the death of FREDDY CENTENO, Defendants CITY, and DOES
5 6 through 10, negligently and carelessly had in place, and had ratified customs and
6 practices which permitted their police officers while on duty and while off duty to shoot
7 persons unjustifiably, unreasonably and in violation of civil rights.

8 38. Said policies, procedures, customs and practices also called for Defendants
9 CITY, and DOES 6 through 10, not to meaningfully discipline, prosecute or in any way
10 deal with or respond to known incidents, complaints, and instances of the deliberate and
11 reckless creation of violent confrontations by police officers of CITY.

12 38. Other systemic deficiencies which indicated, and continue to indicate, a careless
13 and negligent disregard by Defendants CITY, and DOES 6 through 10, to the violations
14 of the civil rights by the police officers of the CFPD, include:

- 15 a. preparation of investigative reports designed to vindicate the use of
16 firearms, regardless of whether such acts were justified,
- 17 b. preparation of investigative reports which uncritically rely solely on the
18 word of police officers involved in the aforementioned confrontations and which
19 systematically fail to credit testimony by non-sheriff witnesses,
- 20 c. preparation of investigative reports which omit factual information and
21 physical evidence which contradicts the accounts of the involved police officers,
- 22 d. issuance of public statements exonerating deputies and other personnel
23 involved in such incidents prior to the completion of investigations of such
24 incidents, and,
- 25 e. failing to enact and implement training as to the safe handling of suspects
26 who are mentally or emotionally unstable, emotionally distraught and otherwise
27 psychologically incapacitated.

1 39. Said negligent customs and practices of Defendants CITY, and DOES 6 through
2 10, evidenced a deliberate indifference to the unnecessary shooting of persons such as
3 FREDDY CENTENO by the failure to change, correct, revoke, or rescind said customs
4 and practices, and tactic and weapons training in light of prior knowledge by said
5 Defendants of indistinguishably similar incidents of contact with persons who are
6 mentally or emotionally unstable, emotionally distraught and otherwise psychologically
7 incapacitated where tactics and firearm use caused death or serious bodily injury to such
8 persons.

9 40. The foregoing acts, omissions, and systemic deficiencies are practices and
10 customs of Defendants CITY, and DOES 6 through 10 caused Defendants PRICE, and
11 LUCERO, to be unaware of the rules and laws governing permissible use of firearms
12 while on duty and off duty and to believe that firearm discharges are entirely within the
13 discretion of the officer and that improper discharges would not be honestly and
14 properly investigated, all with the foreseeable result that Defendants' deputies would use
15 deadly force in situations where such force is neither necessary, reasonable nor legal,
16 thereby violating the civil rights of the citizens of this state.

17 41. As a result of the aforementioned negligent and intentional acts, omissions,
18 systematic deficiencies, customs and practices of Defendants CITY, and DOES 6
19 through 10, Defendants PRICE, and LUCERO shot FREDDY CENTENO without
20 justification, thereby killing him.

21 42. As a further result of the aforementioned negligent and intentional acts,
22 omissions, systematic deficiencies, customs and practices of Defendants CITY, the
23 present Plaintiffs have lost the love, affection, society, support and moral support of
24 FREDDY CENTENO.

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SECOND CLAIM FOR RELIEF

Unreasonable Search and Seizure-Excessive Force (42 U.S.C. § 1983)

(Against Defendants ZEBULON PRICE, and FELIPE MIGUEL LUCERO)

43. Plaintiffs repeat and reallege each and every allegation in paragraphs 1 through 42 of this Complaint with the same force and effect as if fully set forth herein.

44. Defendants PRICE, and LUCERO's unjustified shooting deprived Plaintiffs have lost the love, affection, society, support and moral support of decedent FREDDY CENTENO of his right to be secure in his person against unreasonable searches and seizures as guaranteed to Decedent under the Fourth Amendment to the United States Constitution and applied to state actors by the Fourteenth Amendment.

45. As a result, FREDDY CENTENO suffered extreme pain and suffering and eventually suffered a loss of life and of earning capacity. Plaintiffs have also been deprived of the life-long love, companionship, comfort, support, society, care, and sustenance of Decedent, and will continue to be so deprived for the remainder of their natural lives. Plaintiffs claim funeral and burial expenses and a loss of financial support.

46. The shooting was excessive and unreasonable, especially because FREDDY CENTENO had not threatened to cause physical injury to PRICE, LUCERO, or any other person.

47. Defendants PRICE, and LUCERO's discharge of their firearms and lethal use of deadly force-violated their training, was willful, wanton, malicious, and done with reckless disregard for the rights and safety of Decedent, and therefore warrants the imposition of exemplary and punitive damages as to individual Defendants PRICE, and LUCERO.

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THIRD CLAIM FOR RELIEF

Substantive Due Process (42 U.S.C. § 1983)

(Against Defendants PRICE, LUCERO

and DOES 1 Through 5)

48. Plaintiffs repeat and reallege each and every allegation in paragraphs 1 through 47 of this Complaint with the same force and effect as if fully set forth herein.

49. Plaintiff CHANNEL CENTENO had a cognizable interest under the Due Process Clause of the Fourteenth Amendment of the United States Constitution to be free from state actions that deprive her of life, liberty, or property in such a manner as to shock the conscience, including but not limited to unwarranted state interference in Plaintiffs familial relationship with her father, Decedent.

50. JOSE CENTENO and HERIBERTA CENTENO as the parents of FREDDY CENTENO had a cognizable interest under the Due Process Clause of the Fourteenth Amendment of the United States Constitution to be free from state actions that deprive them of life, liberty, or property in such a manner as to shock the conscience, including but not limited to unwarranted state interference in Plaintiffs familial relationship with their son, Decedent.

51. Decedent had a cognizable interest under the Due Process Clause of the Fourteenth Amendment to the United States Constitution to be free from state actions that deprive him of his right to life, liberty, or property in such a manner as to shock the conscience.

52. The aforementioned actions of PRICE, and LUCERO shocks the conscience, in that they acted with deliberate indifference to the constitutional rights of Decedent and Plaintiffs, and with purpose to harm unrelated to any legitimate law enforcement objective.

53. Defendants PRICE, and LUCERO thus violated the substantive due process rights of Plaintiffs to be free from unwarranted interference with their familial

1 relationship with Decedent.

2 54. As a direct and proximate cause of the acts of PRICE, and LUCERO, FREDDY
3 CENTENO experienced severe pain and suffering for 23 days and lost his life and
4 earning capacity. Plaintiffs suffered extreme and severe mental anguish and pain and
5 have been injured in mind and body. Plaintiffs have also been deprived of the life-long
6 love, companionship, comfort, support, society, care, and sustenance of Decedent,
7 FREDDY CENTENO, and will continue to be so deprived for the remainder of their
8 natural lives. Plaintiffs are also claiming funeral and burial expenses and a loss of
9 financial support.

10 55. The conduct of PRICE, and LUCERO was willful, wanton, malicious, and done
11 with reckless disregard for the rights and safety of FREDDY CENTENO and Plaintiffs
12 and therefore warrants the imposition of exemplary and punitive damages as to
13 Defendants PRICE, and LUCERO only.

14 56. Plaintiffs CHANNEL CENTENO, JOSE CENTENO, and HERIBERTA
15 CENTENO, bring this claim in each case individually, and in each case seek death
16 damages for the violation of their constitutional rights to a familiar relationship with
17 DECEDENT. Plaintiffs also seek attorney fees under this claim.

18 **FOURTH CLAIM FOR RELIEF**

19 **Municipal Liability for Unconstitutional Custom or Policy**

20 **(42 U.S.C. § 1983) (Against Defendants CITY and DOES 6-10)**

21 57. Plaintiffs repeat and reallege each and every allegation in paragraphs 1 through
22 56 of this Complaint with the same force and effect as if fully set forth herein.

23 58. On information and belief, Defendants PRICE, and LUCERO's unjustified
24 shooting of FREDDY CENTENO was found to be within CFPD policy.

25 59. On information and belief, Defendants PRICE, and LUCERO's unjustified
26 shooting of FREDDY CENTENO was ratified by CFPD supervisory officers.

27 60. On information and belief, Defendants PRICE, and LUCERO were not

1 disciplined for the unjustified shooting DECEDENT.

2 61. On and for some time prior to September 3, 2015 (and continuing to the present
3 date), Defendants CITY and DOES 6-10, acting with gross negligence and with
4 reckless and deliberate indifference to the rights and liberties of the public in general,
5 and of Plaintiffs and DECEDENT, and of persons in their class, situation and
6 comparable position in particular, knowingly maintained, enforced and applied an
7 official recognized custom, policy, and practice of:

8 (a) Employing and retaining as police officers and other personnel, including
9 defendant's PRICE, and LUCERO, whom Defendants CITY and DOES 6-10
10 at all times material herein knew or reasonably should have known had
11 dangerous propensities for abusing their authority and for mistreating citizens by
12 failing to follow written CFPD policies, including the use of excessive force;

13 (b) Of inadequately supervising, training, controlling, assigning, and
14 disciplining CITY Police OFFICERS and other personnel, including defendants
15 PRICE, and LUCERO, whom Defendants CITY and DOES 6-10 knew or in the
16 exercise of reasonable care should have known had the aforementioned
17 propensities and character traits, including the propensity for violence and the use
18 of excessive force;

19 (c) By maintaining grossly inadequate procedures for reporting, supervising,
20 investigating, reviewing, disciplining and controlling the intentional misconduct
21 of Defendants PRICE, and LUCERO, who are Police OFFICERS and/or agents
22 of CITY;

23 (d) By failing to discipline CITY Police OFFICERS' and/or agents' conduct,
24 including but not limited to, unlawful detention and excessive force;

25 (e) By ratifying the intentional misconduct of PRICE, LUCERO, and other
26 Police OFFICERS and/or agents, who are Police OFFICERS and/or agents of
27 CITY;

1 (f) By having and maintaining an unconstitutional policy, custom, and
2 practice of detaining and arresting individuals without probable cause or
3 reasonable suspicion, and using excessive force, including deadly force, which
4 also is demonstrated by inadequate training regarding these subjects. The
5 policies, customs, and practices of Defendants CITY and DOES 6-10 were
6 maintained with a deliberate indifference to individuals' safety and rights; and
7 (g) By failing to properly investigate claims of unlawful detention and
8 excessive force by CITY Police OFFICERS.

9 62. By reason of the aforementioned policies and practices of Defendants CITY and
10 DOES 6-10, DECEDENT was severely injured and subjected to pain and suffering and
11 lost his life.

12 63. Defendants CITY and DOES 6-10, together with various other officials, whether
13 named or unnamed, had either actual or constructive knowledge of the deficient
14 policies, practices and customs alleged in the paragraphs above. Despite having
15 knowledge as stated above, these defendants condoned, tolerated and through actions
16 and inactions thereby ratified such policies. Said defendants also acted with deliberate
17 indifference to the foreseeable effects and consequences of these policies with respect
18 to the constitutional rights of FREDDY CENTENO, Plaintiffs, and other individuals
19 similarly situated.

20 64. By perpetrating, sanctioning, tolerating and ratifying the outrageous conduct and
21 other wrongful acts, Defendants DOES 6-10 acted with intentional, reckless, and
22 callous disregard for the life of FREDDY CENTENO and for FREDDY CENTENO
23 and Plaintiffs' constitutional rights. Furthermore, the policies, practices, and customs
24 implemented, maintained, and still tolerated by Defendants CITY and DOES 6-10 were
25 affirmatively linked to and were a significantly influential force behind the injuries of
26 FREDDY CENTENO and Plaintiffs.

27 65. The actions of each of Defendants DOES 6-10 were willful, wanton, oppressive,

1 malicious, fraudulent, and extremely offensive and unconscionable to any person of
2 normal sensibilities, and therefore warrants the imposition of exemplary and punitive
3 damages as to Defendants DOES 6-10.

4 66. By reason of the aforementioned acts and omissions of Defendants CITY and
5 DOES 6-10, Plaintiffs were caused to incur funeral and related burial expenses, and
6 loss of financial support.

7 67. By reason of the aforementioned acts and omissions of Defendants CITY and
8 DOES 6-10, Plaintiffs have suffered loss of love, companionship, affection, comfort,
9 care, society, and future support.

10 68. Accordingly, Defendants CITY and DOES 6-10 each are liable to Plaintiffs for
11 compensatory damages under 42 U.S.C. § 1983.

12 69. Plaintiffs seek both wrongful death damages and survival damages under this
13 claim. Plaintiffs also seek attorney fees under this claim.

14
15 **PRAYER FOR RELIEF**

16 WHEREFORE, Plaintiffs request entry of judgment in their favor and against
17 Defendants the CITY OF FRESNO, City of Fresno Police officers, PRICE, LUCERO,
18 and Does 1-10, inclusive, as follows:

- 19 A. For compensatory damages, including both survival damages and wrongful death
20 damages under federal and state law, in the amount to be proven at trial;
21 B. For funeral and burial expenses, and loss of financial support;
22 C. For punitive damages against the individual defendants in an amount to be
23 proven at trial;
24 D. For interest;
25 E. For reasonable costs of this suit and attorneys' fees; and,
26 F. For such further other relief as the Court may deem just, proper, and appropriate.

1 DATED: March 17, 2016

GUIZAR, HENDERSON & CARRAZCO, L.L.P.

2
3 By
4 HUMBERTO GUIZAR Esq.,
5 Attorney For Plaintiffs,
6 HERBERTA CENTENO,
7 JOSE CENTENO

8 DATED: March 17, 2016

LAW OFFICES OF CRISTOBAL GALINDO, P.C.

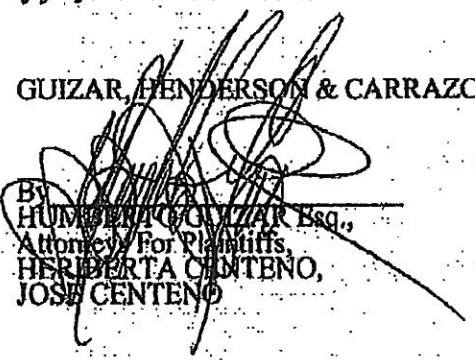
9 By
10 CRISTOBAL GALINDO Esq.,
11 Attorneys For Plaintiff
12 CHANNEL CENTENO,
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27

1 **DEMAND FOR JURY TRIAL**

2 Plaintiffs hereby demand a trial by jury.

3
4 DATED: March 17, 2016

GUIZAR, HENDERSON & CARRAZCO, L.L.P.

5
6 By 
7 HUMBERTO GUIZAR Esq.,
8 Attorney For Plaintiffs,
HERIBERTA CENTENO,
JOSE CENTENO

9
10 DATED: March 17, 2016

LAW OFFICES OF CRISTOBAL GALINDO, P.C.

11
12 By 
13 CRISTOBAL GALINDO Esq.,
14 Attorneys For Plaintiff
CHANNEL CENTENO