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Attorneys for Plaintiffs Stacey Berbereia, individually and on behalf
of the Estate of Albert Hanson, Daniel Hanson and Kimberly Niz

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA – FRESNO DIVISION

STACEY BERBEREIA, individually and on
behalf of the ESTATE OF ALBERT HANSON,
JR., DANIEL HANSON, and KIMBERLY
NIZ,

Plaintiffs,

v.

COUNTY OF KINGS; DEPUTY TAYLOR
LOPES; DETECTIVE MARIUS
BARSTECEANU; DEPUTY THOMAS
OLSON; UNKNOWN LAW ENFORCEMENT
OFFICERS,

Defendants.

Case No.

**COMPLAINT FOR DAMAGES AND
WRONGFUL DEATH**

42 U.S.C. § 1983
Fourth Amendment
Substantive Due Process
Municipal Liability
Negligence
Battery
Wrongful Death

JURY TRIAL DEMANDED

TO THE HONORABLE COURT:

Plaintiffs Stacey Berbereia, individually and on behalf of the Estate of Albert Hanson, Jr.,
Daniel Hanson, and Kimberly Niz, through their undersigned counsel, hereby make the
following allegations against the defendants, and each of them:

JURISDICTION AND VENUE

1. This Court has original jurisdiction over this action pursuant to 28 U.S.C. §§
1331, 1343, and 1367, as it presents federal civil rights claims against state actor defendants

Complaint

and a municipal defendant, and a related supplemental state law claims.

2. This Court has venue over this action pursuant to 28 U.S.C. § 1391(b)(2), as all of the underlying actions took place in this judicial district. Plaintiffs are informed and believe that venue is also proper under 28 U.S.C. § 1391(b)(1).

3. Plaintiffs fulfilled all prerequisites to filing suit, including submitting a timely claim for damages under California law and filing this action, as required, within six months of the denial of said claim.

PARTIES

4. Plaintiff Stacey Berbereaia (hereinafter “Berbereaia”) is an adult resident of the County of Tulare. Berbereaia is one of three surviving children of Albert Hanson, Jr., (hereinafter “Albert”), who died on April 26, 2015.

5. Berbereia also is the successor in interest and legal representative of the Estate of Albert Hanson, Jr.. Attached as Exhibit A is the declaration required by California Code of Civil Procedure §377.32.

6. Plaintiff Daniel Hanson (hereinafter “D. Hanson”) is an adult resident of the County of Tulare. Daniel Hanson is the son of Albert Hanson, Jr..

7. Plaintiff Kimberly Niz (hereinafter “Niz”) is an adult resident of the County of Kern. Kimberly Niz is the daughter of Albert Hanson, Jr..

8. Albert Hanson, Jr. (hereinafter “Mr. Hanson”) died on April 26, 2015, at the age of 76 years old. Albert was a widower and a resident of Tulare County. Albert was also a diabetic.

9. Defendant County of Kings is and at all times mentioned herein a municipal corporation, duly authorized to operate under the laws of the State of California. Under its supervision, the County of Kings operates the Kings County Sheriff's Office County of Kings (hereinafter "KCSO"). Kings County is primarily responsible for funding and supervising the Kings County Sheriff's Office, which is the law enforcement agency with primary jurisdiction for investigating the alleged incident underlying this case.

10. Defendant Deputy Taylor Lopes (hereinafter “Deputy Lopes”) is a member of

1 the Kings County Sheriff's Office, specifically the Special Weapons and Tactics ("SWAT")
2 unit. At all times alleged herein, Officer Lopes was acting under color of law. Officer Lopes is
3 sued in his personal capacity for purposes of compensatory relief.

4 11. Defendant Detective Marius Barsteceanu (hereinafter "Detective Barsteceanu")
5 is a member with the Kings County Sheriff's Office, specifically the SWAT unit. At all times
6 alleged herein, Detective Barsteceanu was acting under color of law. Detective Barsteceanu is
7 sued in his personal capacity for purposes of compensatory relief.

8 12. Defendant Deputy Thomas Olson (hereinafter "Deputy Olson") is a member of
9 the Kings County Sheriff's Office. At all times alleged herein, Deputy Olson was acting under
10 color of law. Deputy Olson is sued in his personal capacity for purposes of compensatory
11 relief.

12 13. Plaintiffs are ignorant of the true names and/or capacities of defendants sued
13 herein as Unknown Law Enforcement Officers, and therefore sue said defendants by such
14 fictitious names. Plaintiffs will amend this complaint to allege these defendants' true names and
15 capacities when ascertained. Plaintiffs believe and allege that each of these fictitious defendants
16 is legally responsible and liable for the incident, injuries and damages hereinafter set forth.

17 STATEMENT OF FACTS

18 14. On April 26, 2015, Mr. Hanson's day had started uneventfully. Mr. Hanson
19 stopped by D. Hanson's house and seemed normal and in good spirits. That afternoon, Mr.
20 Hanson decided to go squirrel shooting, as he frequently did with permission of certain
21 landowners.

22 15. While on his way to go squirrel shooting, plaintiffs are informed and believe that
23 Mr. Hanson had a diabetic episode and pulled off the road near the area of 7th Avenue and
24 Kansas Avenue in Kings County. Mr. Hanson stopped his vehicle near the west bank of a canal
25 approximately 200 yards south of Kansas Avenue.

26 16. While Mr. Hanson had firearms in his vehicle, he at no point during the incidents
27 described herein used a firearm or brandished a firearm at anyone. Instead, Mr. Hanson
28 remained in the driver's seat of his vehicle and reasonably appeared to be someone who was

1 either ill or emotionally distressed.

2 17. In apparent response to a citizen report, the Kings County Sheriff's Office
3 dispatched deputies to the location of Mr. Hanson's vehicle. A California Highway Patrol
4 helicopter also went to the scene.

5 18. The CHP helicopter positioned itself over Mr. Hanson's vehicle in order to see
6 into the cab area. The CHP helicopter personnel communicated their observations to the Kings
7 County Sheriff's personnel on the ground. According to reports of the incident, CHP helicopter
8 personnel reported a person in the driver's seat of the vehicle who was possibly sleeping.

9 19. Deputy Alvarez ordered Mr. Hanson to exit the vehicle with his hands up.
10 According to CHP helicopter reports, Mr. Hanson remained in the vehicle with his hands on the
11 steering wheel. During this time Deputy Alvarez reported that he was able to a person in the
12 driver's seat but nothing else.

13 20. Officer Alvarez requested backup and waited for additional units to arrive. Not
14 long thereafter, Sergeant Milton arrived and took command of the scene. Mr. Hanson remained
15 inside the vehicle in the driver's seat. Sergeant Milton ordered the SWAT unit to respond.

16 21. Not long thereafter, Detective Barsteceanu arrived in an armored vehicle and
17 took command of the scene. Once the SWAT unit took command of the scene, earlier Kings
18 County Sheriff's personnel were moved to the perimeter of the scene.

19 22. Once the SWAT unit took control of the scene, things quickly escalated,
20 although Mr. Hanson presented no more of a threat then than he had previously. Mr. Hanson
21 remained largely unresponsive in his vehicle. Mr. Hanson never attempted to exit his vehicle
22 armed, and he was never observed to wield a firearm inside the vehicle in a manner indicating
23 he was an imminent threat.

24 23. Despite the plethora of tactical options and strategic advantages possessed by the
25 law enforcement personnel on scene, deadly force was exercised as the first and only
26 considered option, and in the absence of any apparent justification. Several SWAT unit
27 members, including Detective Barsteceanu, Deputy Lopes, Deputy Olson, and Unknown Law
28 Enforcement Officers, fired a total of 47 shots, 11 of which struck Mr. Hanson. Mr. Hanson

1 died at the scene without any effort made to tend to his injuries.

2 FIRST CAUSE OF ACTION

3 Violation of Fourth Amendment of the United States Constitution

4 (42 U.S.C. §1983)

5 (On Behalf of the Estate of Albert Hanson Against All Individual Defendants)

6 24. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 23 of this
7 complaint.

8 25. The individual defendants, acting under color of law, committed the above-
9 described conduct that violated Mr. Hanson's rights, as provided for under the Fourth
10 Amendment to the United States Constitution, to be free from excessive and/or arbitrary and/or
11 unreasonable use of deadly force against him.

12 26. Mr. Hanson was forced to endure great conscious pain and suffering because of
13 the Defendants' conduct before his death.

14 27. Mr. Hanson did not file a legal action before his death.

15 28. Mr. Hanson's estate, represented by Berbereaia, is the sole successor in interest of
16 Mr. Hanson's claims damages for the conscious pain and suffering incurred, as provided for
17 under 42 U.S.C. §1983.

18 29. Defendants acted under color of law by shooting and killing Mr. Hanson without
19 lawful justification and subjecting decedent to excessive force thereby depriving him of certain
20 constitutional protected rights, including, but not limited to, the right to be free from
21 unreasonable searches and seizures, as guaranteed by the Fourth Amendment to the United
22 States Constitution.

23 WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

24 SECOND CAUSE OF ACTION

25 Violations of Civil Rights to Familial Relationship

26 (42 U.S.C. §1983)

27 (On Behalf of Plaintiffs Berbereaia, D. Hanson and Niz All Individual Defendants)

28 30. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 29 of this

Complaint

1 complaint.

2 31. The individual defendants, acting under color of law, and without due process of
3 law, deprived Plaintiffs of their substantive due process rights to continued familial relations
4 without government interference.

5 32. The individual defendants specifically committed this misconduct by using
6 unreasonable, unjustified and excessive deadly force against Mr. Hanson, which caused injuries
7 resulting in his death, as alleged hereinabove.

8 33. These individual defendants also attempted to conceal their misconduct and hide
9 the true cause of Mr. Hanson's demise to deprive Plaintiffs of their rights to seek redress in
10 violation of their rights, privileges, and immunities secured by the Fourteenth Amendment to
11 the United States Constitution.

12 34. The individual defendants' misconduct in these respects was the proximate cause
13 of injury to Plaintiffs.

14 WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

15 THIRD CAUSE OF ACTION

16 Municipal Liability

17 (42 U.S.C. §1983)

18 (On Behalf of All Plaintiffs Against Defendant Kings County)

19 35. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 34 of this
20 complaint.

21 36. Plaintiffs are informed and believe and thereon allege that Kings County's
22 offending customs, policies, and/or practices were the moving force behind the constitutional
23 violations set forth in the foregoing causes of action.

24 37. Plaintiffs are specifically informed and believe that Kings County, through the
25 Kings County Sheriff's Office, has failed to train, investigate, discipline, or supervise its SWAT
26 unit members, most of whom have been involved in repeated unreasonable uses of deadly or
27 injurious force. Notwithstanding any formal written policies that ostensibly exist, SWAT unit
28 members are permitted as a practical matter to use deadly force with impunity, with no

1 meaningful scrutiny, consequences or changes made in how the SWAT unit responds to
2 incidents. Plaintiffs are also informed and believe that these illicit customs, policies and/or
3 practices have been condoned and ratified by those in final decisionmaking positions.
4 Plaintiffs anticipate supplementing the bases for municipal liability as discovery proceeds.

5 WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

6 FOURTH CAUSE OF ACTION

7 Negligence

8 (California Common Law)

9 (On Behalf of the Estate of Albert Hanson Against All Defendants)

10 38. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 37 of this
11 complaint.

12 39. The use of deadly and excessive force against Mr. Hanson, as alleged
13 hereinabove, occurred at a time when the defendants, and each of them, had a duty to use
14 deadly force in a reasonably careful manner.

15 40. The defendants, either acting directly, or vicariously through its employees or
16 agents, breached this duty.

17 41. The defendants' breach of this duty proximately caused the Plaintiff's damages,
18 as requested herein. These injuries and damages are compensable under California law.

19 WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

20 FIFTH CAUSE OF ACTION

21 Battery

22 (California Common Law)

23 (On Behalf of the Estate of Albert Hanson Against All Defendants)

24 42. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 41 of this
25 complaint.

26 43. The use of deadly and excessive force against Mr. Hanson, as alleged
27 hereinabove, was harmful and offensive contact to which he did not consent.

28 44. The defendants, either acting directly, or vicariously through its employees or

1 agents, were responsible for this harmful, offensive, unconsented contact.

2 45. The defendants' harmful, offensive, unconsented contact proximately caused the
3 Plaintiff's damages, as requested herein. These injuries and damages are compensable under
4 California law.

5 WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

6 SIXTH CAUSE OF ACTION

7 Wrongful Death

8 (California Code of Civil Procedure 377.60 et seq.)

9 (On Behalf of Plaintiffs Berbereia, D. Hanson and Niz Against All Defendants)

10 46. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 45 of this
11 complaint.

12 47. As alleged in the Fourth and Fifth Causes of Action, the named defendants have
13 committed intentional or negligent misconduct under California state law that caused the
14 untimely and wrongful death of Mr. Hanson and deprived the surviving Plaintiffs of their
15 beloved father.

16 48. As a direct and proximate result of this misconduct, the surviving Plaintiffs
17 suffered the injuries and damages as requested herein. These injuries and damages are
18 compensable under California law.

19 WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

20 PRAYER

21 WHEREFORE, Plaintiff prays for relief, as follows:

22 1. For general damages in a sum to be determined at trial;

23 2. For special damages, including but not limited to past, present, and/or future
24 wage loss, income and support, medical expenses and other special damages in a sum to be
25 determined according to proof;

26 3. For funeral and burial expenses according to proof;

27 4. For punitive damages and exemplary damages in amounts to be determined
28 according to proof as to the individual Defendants and each of them;

5. Any and all permissible statutory damages;
6. For reasonable attorney's fee pursuant to 42 U.S.C. §1988 and U.S.C. §794A;
7. For cost of suit herein incurred.
8. For prejudgment interest.
9. For such other relief as the Court may deem proper.

DEMAND FOR JURY TRIAL

Plaintiffs demand a trial by jury, consistent with their rights under the Seventh Amendment and other applicable law.

Dated: March 15, 2016

/s/ Kevin G. Little

Kevin G. Little

Attorneys for Plaintiffs Stacey Berbereaia,
individually and on behalf of the Estate of Albert
Hanson, Daniel Hanson and Kimberly Niz

CODE OF CIVIL PROCEDURE 377.32 DECLARATION OF STACY BERBEREIA

The undersigned, Stacey Berbereaia, hereby declares as follows under penalty of perjury:

1. The decedent's true name was Albert George Hanson, Jr. and he was my father.

2. The decedent died on April 26, 2015 in Kings County California. A true and correct copy of his death certificate is attached hereto.

3. No proceeding is now pending in California for administration of the decedent's estate. The decedent's estate was not of a size for which formal probate administration was required under California Probate Code § 13100. Most of the decedent's assets had been placed in trust prior to his death.

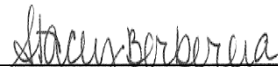
4. I am one of the decedent's surviving daughters, heir and his successor in interest (as defined in Section 377.11 of the California Code of Civil Procedure) and succeed to the decedent's interest in this action or proceeding.

5. I am authorized to act on behalf of the decedent with respect to the decedent's interest in the action or proceeding.

6. No other person has a superior right to commence this proceeding for the decedent.

7. If called to testify as to the foregoing, I could truthfully and competently testify as to the above-stated facts.

Date: March 14, 2016


Stacey Berbereaia

COUNTY OF KINGS

HEALTH DEPARTMENT
HANFORD, CALIFORNIA

3052015088826

CERTIFICATE OF DEATH

3201516000277

STATE FILE NUMBER 3052015088826		STATE OF CALIFORNIA USE BLACK INK ONLY / NO ERASURES, WHITEOUTS OR ALTERATIONS VS-1 (REV 3/05)		LOCAL REGISTRATION NUMBER 3201516000277	
1. NAME OF DECEDENT - FIRST (Given) ALBERT		2. MIDDLE GEORGE		3. LAST (Family) HANSON JR.	
AKA. ALSO KNOWN AS - Include full AKA (FIRST, MIDDLE, LAST)		4. DATE OF BIRTH mm/dd/ccyy 01/14/1939		5. AGE Yrs. 76 F UNDER ONE YEAR: Months Days IF UNDER 24 HOURS: Hours Minutes 6. SEX M	
9. BIRTH STATE/FOREIGN COUNTRY SD		10. SOCIAL SECURITY NUMBER 5 [REDACTED] 28		11. EVER IN U.S. ARMED FORCES? ☒ YES ☐ NO ☐ UNK	
12. MARITAL STATUS/SRDP* (at Time of Death) WIDOWED		7. DATE OF DEATH mm/dd/ccyy 04/26/2015		8. HOUR (24 Hour) 1720	
13. EDUCATION - Highest Level/Degree (see worksheet on back) HS GRADUATE ☐ YES ☒ NO		14/15. WAS DECEDENT HISPANIC/LATINO/SPANISH? (If yes, see worksheet on back) ☒ YES ☐ NO		16. DECEDENT'S RACE - Up to 3 races may be listed (see worksheet on back) CAUCASIAN	
17. USUAL OCCUPATION - Type of work for most of life. DO NOT USE RETIRED CONTROLLER		18. KIND OF BUSINESS OR INDUSTRY (e.g., grocery store, road construction, employment agency, etc.) PRODUCE		19. YEARS IN OCCUPATION 30	
20. DECEDENT'S RESIDENCE (Street and number, or location) 249 E. LA VIDA					
21. CITY VISALIA		22. COUNTY/PROVINCE TULARE		23. ZIP CODE 93277	
24. YEARS IN COUNTY 35		25. STATE/FOREIGN COUNTRY CA			
26. INFORMANT'S NAME, RELATIONSHIP KIMBERLY NIZ, DAUGHTER		27. INFORMANT'S MAILING ADDRESS (Street and number, or rural route number, city or town, state and zip) 6018 PEARL RIDGE DR., BAKERSFIELD, CA 93313			
28. NAME OF SURVIVING SPOUSE/SRDP - FIRST -		29. MIDDLE -		30. LAST (BIRTH NAME) -	
31. NAME OF FATHER/PARENT - FIRST ALBERT		32. MIDDLE GEORGE		33. LAST HANSON SR.	
34. BIRTH STATE SD		35. NAME OF MOTHER/PARENT - FIRST GLADYS		36. MIDDLE SOPHIE	
37. LAST (BIRTH NAME) SANDERS		38. BIRTH STATE SD			
39. DISPOSITION DATE mm/dd/ccyy 05/05/2015		40. PLACE OF FINAL DISPOSITION RES: DAN HANSON 4327 W. MISSION CT., VISALIA, CA 93277			
41. TYPE OF DISPOSITION(S) CR/RES		42. SIGNATURE OF EMBALMER ▶ NOT EMBALMED		43. LICENSE NUMBER	
44. NAME OF FUNERAL ESTABLISHMENT MILLER MEMORIAL CHAPEL		45. LICENSE NUMBER FD65		46. SIGNATURE OF LOCAL REGISTRAR ▶ MICHAEL L. MAC LEAN, MD	
47. DATE mm/dd/ccyy 05/05/2015					
101. PLACE OF DEATH OPEN FIELD		102. IF HOSPITAL, SPECIFY ONE ☐ IP ☐ ER/OP ☐ DOA		103. IF OTHER THAN HOSPITAL, SPECIFY ONE Hospice ☐ Nursing Home/LTC ☐ Decedent's Home ☒ Other	
104. COUNTY KINGS		105. FACILITY ADDRESS OR LOCATION WHERE FOUND (Street and number, or location) 6800 KANSAS AVENUE		106. CITY HANFORD	
107. CAUSE OF DEATH Enter the chain of events --- diseases, injuries, or complications --- that directly caused death. DO NOT enter terminal events such as cardiac arrest, respiratory arrest, or ventricular fibrillation without showing the etiology. DO NOT ABBREVIATE. (A) MULTIPLE PENETRATING AND PERFORATING GUN SHOT WOUNDS (B) (C) (D) 108. DEATH REPORTED TO CORONER? ☒ YES ☐ NO 109. BIOPSY PERFORMED? ☐ YES ☒ NO 110. AUTOPSY PERFORMED? ☒ YES ☐ NO 111. USED IN DETERMINING CAUSE? ☒ YES ☐ NO		112. OTHER SIGNIFICANT CONDITIONS CONTRIBUTING TO DEATH BUT NOT RESULTING IN THE UNDERLYING CAUSE GIVEN IN 107 NONE		113. WAS OPERATION PERFORMED FOR ANY CONDITION IN ITEM 107 OR 112? (If yes, list type of operation and date.) NO	
114. I CERTIFY THAT TO THE BEST OF MY KNOWLEDGE DEATH OCCURRED AT THE HOUR, DATE, AND PLACE STATED FROM THE CAUSES STATED. Decedent Attended Since Decedent Last Seen Alive (A) mm/dd/ccyy (B) mm/dd/ccyy		115. SIGNATURE AND TITLE OF CERTIFIER ▶		116. LICENSE NUMBER	
117. DATE mm/dd/ccyy		118. TYPE ATTENDING PHYSICIAN'S NAME, MAILING ADDRESS, ZIP CODE			
119. I CERTIFY THAT IN MY OPINION DEATH OCCURRED AT THE HOUR, DATE, AND PLACE STATED FROM THE CAUSES STATED. MANNER OF DEATH ☐ Natural ☐ Accident ☒ Homicide ☐ Suicide ☐ Pending Investigation ☐ Could not be determined		120. INJURED AT WORK? ☐ YES ☒ NO ☐ UNK		121. INJURY DATE mm/dd/ccyy 04/26/2015	
122. HOUR (24 Hours) 1720					
123. PLACE OF INJURY (e.g., home, construction site, wooded area, etc.) OPEN FIELD					
124. DESCRIBE HOW INJURY OCCURRED (Events which resulted in injury) DECEDENT WAS SHOT DURING INCIDENT WITH LAW ENFORCEMENT.					
125. LOCATION OF INJURY (Street and number, or location, and city, and zip) 6800 BLOCK OF KANSAS AVE, HANFORD, CA 93230					
126. SIGNATURE OF CORONER / DEPUTY CORONER JEREMIAH L GILSON		127. DATE mm/dd/ccyy 05/04/2015		128. TYPE NAME, TITLE OF CORONER / DEPUTY CORONER JEREMIAH L GILSON, DEPUTY CORONER	
STATE REGISTRAR		A B C D E		FAX AUTH.# CENSUS TRACT	

CERTIFIED COPY OF VITAL RECORDS
STATE OF CALIFORNIA, COUNTY OF KINGS

This is a true and exact reproduction of the document officially registered and placed on file in the OFFICE OF KINGS COUNTY DEPARTMENT OF PUBLIC HEALTH.

DATE ISSUED

JUN 01 2015

MICHAEL L. MAC LEAN, M.D., M.S.
HEALTH OFFICER

PINC0 (REV) 01/13

This copy not valid unless prepared on an engraved border, displaying the date, seal and signature of the Health Officer.

ANY ALTERATION OR ERASURE VOIDS THIS CERTIFICATE