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U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

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9
10 UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12)
ALEJANDRA GUERRERO, Individually;)
13 M.G., a minor, by and through)
Alejandra Guerrero, her mother and)
14 guardian ad litem; A.K.G., a minor, by)
and through Alejandra Guerrero, her)
15 mother and guardian ad litem; N.G., a)
minor, by and through Alejandra)
16 Guerrero, her mother and guardian ad)
litem,)
17)
Plaintiffs,)
18)
v.)
19)
CITY OF SIMI VALLEY; TASER)
20 INTERNATIONAL, INC., an Arizona)
Corporation, and DOES 1 through 10,)
21 Inclusive,)
22)
Defendants.)
23)
24)
25)

CASE NO. CV08-03648 MMM (CTx)

FIRST AMENDED COMPLAINT FOR PERSONAL
INJURIES FOR WRONGFUL DEATH BASED
UPON:

1) BATTERY
2) NEGLIGENCE
3) VIOLATION OF CIVIL RIGHTS (42
USC §1983)
4) NEGLIGENCE - PRODUCT
LIABILITY
5) STRICT PRODUCTS LIABILITY

26 DEMAND FOR JURY TRIAL

26 COMES NOW Plaintiff, ALEJANDRA GUERRERO, Individually, M.G., a minor, A.K.G., a
27 minor, and N.G., a minor (hereinafter collectively referred to as "Plaintiffs"), and allege against
28 Defendants, and each of them as follows:

1 designated as doe is legally responsible in some manner for the events and happenings hereafter
2 alleged.

3 7. At all times herein mentioned Defendants, and each of them, were the agent and
4 employee of each other and were at all times acting within the scope and purpose of such
5 agency and employment and with the consent and permission of each other; that each act or
6 omission of a Defendant as alleged herein was expressly and impliedly ratified by each of the
7 other Defendants.

8 8. Pursuant to California Code of Civil Procedure Section 377.60, Plaintiffs
9 ALEJANDRA GUERRERO, the spouse of Reymundo Guerrero, deceased (hereinafter referred to
10 as "Decedent"), and M.G., A.K.G., N.G., the natural children of Decedent, are the proper parties
11 entitled to maintain a wrongful death action for the damages sustained as a result of the wrongful
12 death of Decedent.

13 9. Prior to the death of Decedent, Plaintiffs lived with Decedent and were totally
14 dependent on him for their support and maintenance. At all times prior to his death, Decedent
15 was a faithful and dutiful husband and father to Plaintiffs.

16 10. Defendants DOES 1 through 7, inclusive, as public employees are liable for their
17 acts and/or omissions alleged in this complaint pursuant to California Government Code §820,
18 which provides that ". . . a public employee is liable for injury caused by an act or omission to
19 the same extent as a private person".

20 11. Defendant Simi Valley, as a public entity is also vicariously liable for the acts
21 and/or omissions alleged in this complaint against Defendants DOES 1 through 7, inclusive,
22 pursuant to California Government Code §815.2, which provides that "A public entity is liable
23 for injury proximately caused by an act or omission of an employee of the public entity within
24 the scope of his employment if the act or omission would, apart from this section, have given rise
25 to a cause of action against that employee . . .".

26 12. On or about November 5, 2007, Plaintiffs mailed claims to Defendant Simi Valley
27 for the injuries, losses and damages suffered and incurred by them by reason of the events and
28 occurrences described herein, all in compliance with the requirements of the California

1 Government Code. On or about December 27, 2007, Defendant Simi Valley mailed notice of
2 rejection of Plaintiffs' claims in their entirety.

3 13. Plaintiffs are informed and believe, and based thereon allege, that prior to May 15,
4 2007, Defendant Simi Valley acquired "taser devices" from Defendant Taser Intl, DOES 8
5 through 10, for use by Defendant Simi Valley's law enforcement personnel, including the "taser
6 devices" which were used on Decedent in the incident involved in this matter set forth below.

7 14. On or about May 15, 2007, Decedent was the driver of a vehicle traveling in the
8 vicinity of the 800 block of Chelsea Court in the City of Simi Valley, County of Ventura, State of
9 California.

10 15. At that time and place, Defendants DOES 1 through 7, inclusive, while operating
11 Simi Valley police vehicles, ordered Decedent to pull over, stop his vehicle and get out of his car,
12 and attempted to place Decedent under arrest.

13 16. Despite Decedent's acquiescence and compliance with Defendants DOES 1
14 through 7's requests, directions, and orders, Defendants 1 through 7, without cause or
15 justification, used unreasonable and excessive force on Decedent, including but not limited to,
16 multiple and repeated use of "taser devices" and other weapons, and physically battered
17 Decedent, through aggressive and unwarranted actions, including, but not limited to, violently
18 attacking, beating, striking, punching, kicking, electronically shocking, restraining and choking
19 Decedent, all of which caused personal injuries and ultimately resulted in the death of
20 Decedent.

21 FIRST CAUSE OF ACTION

22 WRONGFUL DEATH - BATTERY

23 (Against Defendants Simi Valley and DOES 1 through 7)

24 17. Plaintiffs reallege and incorporate by reference each and every allegation
25 contained in paragraphs 3 through 16 of the common allegations as if fully set forth herein.

26 18. In committing said acts, Defendants, and each of them, acted wrongfully and with
27 the intent to contact, and did cause a harmful contact with, and the death of, Decedent.

28 ///

1 United States.

2 34. The acts and conduct of Defendants DOES 1 through 7, and each of them, were
3 each ratified by Defendant Simi Valley.

4 35. Defendant Simi Valley, as the employer of Defendants DOES 1 through 7, is
5 vicariously liable for the acts and conduct of Defendants DOES 1 through 7 pursuant to
6 Government Code §815.2.

7 36. As a substantial cause of the acts and conduct of Defendants, and each of them,
8 and the resultant wrongful death of Decedent, Plaintiffs, and each of them, have suffered general
9 damages including, without limitation, pecuniary losses resulting from the loss of love, support,
10 society, comfort, affection, attention, presence, companionship, protection, services and support
11 of Decedent.

12 37. As a further substantial cause of the acts and conduct of Defendants, and each of
13 them, and the resultant wrongful death of Decedent, Plaintiff Alejandra Guerrero has suffered
14 additional general damages including a loss of consortium with Decedent.

15 38. As a further substantial cause of the acts and conduct of Defendants, and each of
16 them, Plaintiff Alejandra Guerrero has incurred medical and related expenses in the care and
17 treatment of Decedent prior to his death.

18 39. As a further substantial cause of the acts and conduct of Defendants, and each of
19 them, and the resultant wrongful death of Decedent, Plaintiff Alejandra Guerrero has incurred
20 funeral and burial expenses.

21 40. The aforementioned acts of Defendants DOES 1 through 7, and each of them,
22 were intentional, wilful, outrageous, wanton, malicious and oppressive, by reason of which
23 Defendants DOES 1 through 7, and each of them, ought to pay exemplary damages.

24 FOURTH CAUSE OF ACTION

25 NEGLIGENCE - PRODUCT LIABILITY

26 (Against Defendants Taser Intl and DOES 8 through 10)

27 41. Plaintiffs reallege and incorporate by reference each and every allegation
28 contained in paragraphs 3 through 16 of the common allegations, paragraphs 18 and 19 of the

1 first cause of action, and paragraphs 25 and 26 of the second cause of action, as if fully set forth
2 herein.

3 42. Defendants Taser Intl and DOES 8 through 10, and each of them, so negligently
4 and carelessly designed, manufactured, constructed, assembled, distributed, sold, provided
5 warnings, or entirely failed to provide warnings for the "taser devices", and component parts
6 thereof, which were used on Decedent, that said "taser devices" were dangerous and unsafe for
7 their intended uses.

8 43. As a substantial cause of the negligence by Defendants, and each of them, and the
9 resultant wrongful death of Decedent, Plaintiffs, and each of them, have suffered general
10 damages including, without limitation, pecuniary losses resulting from the loss of love, support,
11 society, comfort, affection, attention, presence, companionship, protection, services and support
12 of Decedent.

13 44. As a further substantial cause of the negligence by Defendants, and each of them,
14 and the resultant wrongful death of Decedent, Plaintiff Alejandra Guerrero has suffered
15 additional general damages including a loss of consortium with Decedent.

16 45. As a further substantial cause of the negligence by Defendants, and each of them,
17 Plaintiff Alejandra Guerrero has incurred medical and related expenses in the care and treatment
18 of Decedent prior to his death.

19 46. As a further substantial cause of the negligence by Defendants, and each of them,
20 and the resultant wrongful death of Decedent, Plaintiff Alejandra Guerrero has incurred funeral
21 and burial expenses.

22 FIFTH CAUSE OF ACTION

23 STRICT PRODUCT LIABILITY

24 (Against Defendants Taser Intl and DOES 8 through 10)

25 47. Plaintiffs reallege and incorporate by reference each and every allegation
26 contained in paragraphs 3 through 16 of the common allegations, paragraphs 18 and 19 of the
27 first cause of action, and paragraphs 25 and 26 of the second cause of action, and paragraph 42
28 of the fourth cause of action as if fully set forth herein.

1 48. At all times herein mentioned in this complaint, the “taser devices” which were
2 used on Decedent, and their component parts, were defective as to design, manufacture, and
3 warnings, rendering the “taser devices” and their component parts to be in a defective and
4 dangerous condition and as such the “taser devices” were unsafe for their intended uses.

5 49. The aforementioned Defendants Taser Intl, DOES 8 through 10, and each of
6 them, placed said “taser devices” on the market in conscious disregard of the safety of those
7 upon whom they would be used notwithstanding the probable dangerous consequences of their
8 use, of which they were aware or should have been aware, and deliberately failed to avoid those
9 consequences.

10 50. As a substantial cause of the acts and conduct of Defendants, and each of them,
11 and the resultant wrongful death of Decedent, Plaintiffs, and each of them, have suffered general
12 damages including, without limitation, pecuniary losses resulting from the loss of love, support,
13 society, comfort, affection, attention, presence, companionship, protection, services and support
14 of Decedent.

15 51. As a further substantial cause of the acts and conduct of Defendants, and each of
16 them, and the resultant wrongful death of Decedent, Plaintiff Alejandra Guerrero has suffered
17 additional general damages including a loss of consortium with Decedent.

18 52. As a further substantial cause of the acts and conduct of Defendants, and each of
19 them, Plaintiff Alejandra Guerrero has incurred medical and related expenses in the care and
20 treatment of Decedent prior to his death.

21 53. As a further substantial cause of the acts and conduct of Defendants, and each of
22 them, and the resultant wrongful death of Decedent, Plaintiff Alejandra Guerrero has incurred
23 funeral and burial expenses.

24 WHEREFORE, Plaintiffs prays for judgment against Defendants, and each of them, as
25 follows:

26 ON THE FIRST, SECOND, FOURTH AND FIFTH CAUSES OF ACTION:

- 27 1. For general damages according to proof;
- 28 2. For medical and related expenses for Plaintiff Alejandra Guerrero, according to

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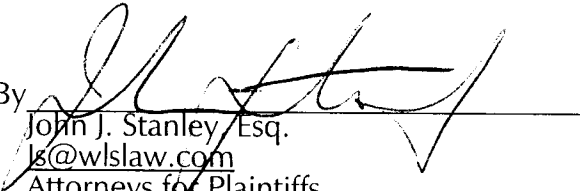
- proof;
- 3. For funeral and burial expenses for Plaintiff Alejandra Guerrero, according to proof;
- 4. For interest on all economic damages in the legal amount from May 15, 2007 to the date of judgment;
- 5. For costs of suit incurred herein; and
- 6. For such other and further relief as the Court deems just and proper.

ON THE THIRD CAUSE OF ACTION:

- 1. For general damages according to proof;
- 2. For medical and related expenses for Plaintiff Alejandra Guerrero, according to proof;
- 3. For funeral and burial expenses for Plaintiff Alejandra Guerrero, according to proof;
- 4. For interest on all economic damages in the legal amount from May 15, 2007 to the date of judgment;
- 5. For exemplary damages against Defendants DOES 1 through 7, inclusive;
- 6. For reasonable attorney's fees, pursuant to 42 U.S.C. §1988;
- 7. For costs of suit incurred herein; and
- 8. For such other and further relief as the Court deems just and proper.

Dated: July 7, 2008

Wegman, Levin & Stanley

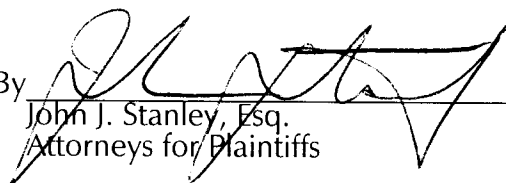
By 
 John J. Stanley, Esq.
 js@wslaw.com
 Attorneys for Plaintiffs

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1 DEMAND FOR JURY TRIAL

2 Plaintiffs hereby demand a jury trial as provided by Rule 38(a) of the Federal Rules of Civil
3 Procedure.

4 Wegman, Levin & Stanley

5
6 By  _____
7 John J. Stanley, Esq.
8 Attorneys for Plaintiffs

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