

**JOHN L. BURRIS, Esq. SBN 69888**  
**ADANTE D. POINTER, Esq. SBN 236229**  
**LATEEF H. GRAY, Esq, SBN 250055**  
**MELISSA C. NOLD, Esq. SBN 301378**  
**LAW OFFICES OF JOHN L. BURRIS**

Airport Corporate Centre  
7677 Oakport Street, Suite 1120  
Oakland, California 94621  
Telephone: (510) 839-5200  
Facsimile: (510) 839-3882  
john.burris@johnburrislaw.com  
adante.pointer@johnburrislaw.com  
lateef.gray@johnburrislaw.com  
melissa.nold@johnburrislaw.com

Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

C.R., co-successor-in-interest to Decedent Rakeem Rucks, by and through his Guardian Ad Litem Beverly McIntosh; I.R., co-successor-in-interest to Decedent Rakeem Rucks, by and through her Guardian Ad Litem Beverly McIntosh; R.R., co-successor-in-interest, by and through her Guardian Ad Litem Beverly McIntosh; J.R., by and through her Guardian Ad Litem Jasmine Williams; and Debra Moore, individually,

Plaintiffs,

v.

CITY OF ANTIOCH, a municipal corporation; RICK SMITH, individually and in his official capacity as a police sergeant for the CITY OF ANTIOCH; CHRIS KIDD, individually and in his official capacity as police officer for the CITY OF ANTIOCH; CASEY BROGDEN, individually and in his official capacity as police officer for the CITY OF ANTIOCH; THOMAS SMITH, individually and in his official capacity as police officer for the CITY OF ANTIOCH; BRIAN ROSE, individually and in his official capacity of Police Detective with the CITY OF ANTIOCH; and DOES 1-50, inclusive, individually, jointly and severally,

Defendants.

CASE NO.: 3:16-cv-03742

COMPLAINT FOR WRONGFUL DEATH AND VIOLATION OF CIVIL RIGHTS AND DAMAGES

JURY TRIAL DEMANDED

1 **INTRODUCTION**

2 1. This case arises out of the wrongful death of RAKEEM RUCKS, a thirty-four  
3 (34) year-old man who was experiencing a psychiatric disturbance. Mr. Rucks called 911 in the  
4 midst of a hallucination, to report that he believed he was being chased by people carrying guns.  
5 Despite calling for help and being in obvious distress, Mr. Rucks was nevertheless handcuffed,  
6 thrown on the ground and held down by four City of Antioch Police Department officers, who  
7 forced his body into the dry earth for over ten (10) minutes. Witnesses report the officers forcefully  
8 placed their knees onto Mr. Rucks’ neck and back, while Mr. Rucks repeatedly cried out that he  
9 could not breathe. The Officers continued to smother Mr. Rucks, until he took his last breath and  
10 died face down in the dirt.

11 2. The present action is brought on behalf of Decedent Rakeem Rucks’ four  
12 devastated minor children and his grieving mother.

13 **JURISDICTION**

14 3. This action arises under Title 42 of the United States Code, Section 1983. Title 28 of  
15 The United States Code, Sections 1331 and 1343 confers jurisdiction upon this Court. The unlawful  
16 acts and practices alleged herein occurred in Antioch, California, which is within this judicial district.  
17 Title 28 United States Code Section 1391(b) confers venue upon this Court.

18 **PARTIES**

19 4. Decedent, RAKEEM RUCKS (hereinafter “DECEDENT RUCKS”), was an individual  
20 residing in the County of Contra Costa, State of California. Decedent Rucks was unmarried at the  
21 time of his death and died intestate. Decedent Rucks was readily identifiable as African American.  
22 Decedent Rucks did not file any legal actions prior to his death. Decedent Rucks has four surviving  
23 minor children.

24 5. Plaintiff C.R. sues in his individual capacity, through his Guardian Ad Litem  
25 BEVERLY JOHNSON, as Decedent RUCKS’s child and in a representative capacity as co-  
26 successor-in-interest to Decedent RUCKS pursuant, to California Code of Civil Procedure Sections  
27 377.30.and 377.60 and California Probate Code Section 6402.  
28

1 6. Plaintiff I.R. sues in her individual capacity, through her Guardian Ad Litem  
2 BEVERLY JOHNSON, as Decedent RUCKS's child and in a representative capacity as co-  
3 successor-in-interest to Decedent RUCKS, pursuant to California Code of Civil Procedure Sections  
4 377.30.and 377.60 and California Probate Code Section 6402.

5 7. Plaintiff R.R. sues in her individual capacity, through her Guardian Ad Litem  
6 BEVERLY JOHNSON, as Decedent RUCKS's child and in a representative capacity as co-  
7 successor-in-interest to Decedent RUCKS, pursuant to California Code of Civil Procedure Sections  
8 377.30.and 377.60 and California Probate Code Section 6402.

9 8. Plaintiff J.R. sues in her individual capacity, through her Guardian Ad Litem  
10 JASMINE WILLIAMS, as Decedent RUCKS's child and in a representative capacity as co-  
11 successor-in-interest to Decedent RUCKS, pursuant to California Code of Civil Procedure Sections  
12 377.30.and 377.60 and California Probate Code Section 6402.

13 9. At all times mentioned herein, Plaintiff DEBRA MOORE (hereinafter  
14 "PLAINTIFF MOORE"), has been and is a resident of Vallejo, California. PLAINTIFF MOORE is  
15 the biological mother of Decedent RUCKS. Decedent RUCKS's father preceded him in death.

16 10. At all times mentioned herein, Defendant CITY OF ANTIOCH (hereinafter "CITY")  
17 is a municipal corporation, existing under the laws of the State of California. The City of Antioch  
18 Police Department operates under the supervision of the CITY OF ANTIOCH.

19 11. At all times mentioned herein, Defendant RICK SMITH, (hereinafter "DEFENDANT  
20 R. SMITH"), was a Police Sergeant for the City of Antioch Police Department, and is sued  
21 individually and in his official capacity.

22 12. At all times mentioned herein, Defendant CHRIS KIDD, (hereinafter  
23 "DEFENDANT KIDD"), was a Police Officer for the City of Antioch Police Department, and is sued  
24 individually and in his official capacity.

25 13. At all times mentioned herein, Defendant CASEY BROGDEN, (hereinafter  
26 "DEFENDANT BROGDEN"), was a Police Officer for the City of Antioch Police Department, and  
27 is sued individually and in his official capacity.

28 14. At all times mentioned herein, Defendant THOMAS SMITH, (hereinafter  
"DEFENDANT T. SMITH"), was a Police Officer for the City of Antioch Police Department, and is  
sued individually and in his official capacity.

15. At all times mentioned herein, Defendant BRIAN ROSE, (hereinafter

1 “DEFENDANT ROSE”), was a Police Detective for the City of Antioch Police Department, and is  
2 sued individually and in his official capacity.

3 16. Plaintiffs are ignorant of the true names and/or capacities of defendants sued herein as  
4 DOES 1 through 50, inclusive, and therefore sue said defendants by such fictitious names. Plaintiffs  
5 will amend this complaint to allege their true names and capacities when ascertained. Plaintiffs  
6 believe and allege that each of the DOE defendants is legally responsible and liable for the incident,  
7 injuries and damages hereinafter set forth. Each defendant proximately caused injuries and damages  
8 because of their negligence, breach of duty, negligent supervision, management or control, violation  
9 of public policy and/or use of excessive force. Each defendant is liable for his/her personal conduct,  
10 vicarious or imputed negligence, fault, or breach of duty, whether severally or jointly, or whether  
11 based upon agency, employment, ownership, entrustment, custody, care or control or upon any other  
12 act or omission. Plaintiffs will ask leave to amend their complaint subject to further discovery.

13 17. In engaging in the conduct alleged herein, Defendant police officers acted under the  
14 color of law and in the course and scope of their employment with City of Antioch Police  
15 Department. In engaging in the conduct described herein, Defendant police officers exceeded the  
16 authority vested in them as police officers under the United States and California Constitutions, and  
17 as employees of City of Antioch Police Department.

18 18. For State causes of action related to Federal claims, Plaintiffs are required to comply  
19 with an administrative claim requirement under California law. Plaintiffs timely filed a Government  
20 Tort Claim with the City of Antioch, notifying the City of Antioch of Plaintiffs’ intent to file a  
21 lawsuit against the City of Antioch and the involved Officers.

22 19. Plaintiffs contend that the City of Antioch is liable for all state law causes of action  
23 under the theory of Respondeat Superior, wherein damages occurred while City of Antioch  
24 employees were engaged in the performance of their job duties.

25  
26 STATEMENT OF FACTS

27 20. On June 25, 2015, at approximately 12:30 p.m., Decedent Rucks, was at Delta Pines  
28 apartment complex, located at 2301 Sycamore Drive, in Antioch, California.

1 21. Decedent Rucks was experiencing a psychiatric disturbance and called 911, in the midst of a  
2 hallucination, to report that he believed he was being chased by several people with guns.

3 22. Defendant City of Antioch Police Department Officers, Defendant Kidd and  
4 Defendant Brogden arrived at the apartment complex and contacted Decedent Rucks. Defendant  
5 Brogden noticed that Decedent Rucks was rambling about being afraid for his life and sweating  
6 profusely, with temperatures exceeding 100 degrees that day. Decedent Rucks appeared to be in  
7 Defendant Brogden's words 'hallucinating.' Though Decedent Rucks was compliant with Defendant  
8 Brogden's verbal commands, Defendant Brogden thereafter handcuffed Decedent Rucks.

9 23. As the Officers walked a fully compliant Decedent Rucks to their patrol car, Defendant Kidd,  
10 inexplicably and without legal justification, leg swept Decedent Rucks and took him to the ground.

11 24. Over the next 5 minutes, Defendant Kidd held Decedent Rucks' lower body down in  
12 the dirt. Defendant Brogden held Decedent Rucks' upper body down in the dirt. Defendant R. Smith  
13 and Defendant T. Smith thereafter arrived and joined in the unwarranted and excessive use of force  
14 against a man in obvious medical and mental distress.

15 25. Witnesses observed Decedent Rucks being held on the ground by at least four (4)  
16 Officers. One of the Officers dug his knee into Decedent Rucks' neck and another Officer used their  
17 knee to press down into Decedent Rucks' back. An eyewitness heard Decedent Rucks crying out, "I  
18 can't breathe!" The Officers were heard responding to Decedent Rucks' pleas by telling him that he  
19 was "fine" and to "calm down."

20 26. After holding Decedent Rucks handcuffed and face down in the dirt for approximately  
21 10-12 minutes, Defendant Kidd noticed that Decedent Rucks was breathing heavily, and no longer  
22 making any noise. Despite these obvious signs of distress, the four Defendant Officers continued to  
23 hold Decedent Rucks' face down in the dirt.

24 27. During the incident, Defendant T. Smith observed Decedent Rucks inhaling dirt.  
25 Nevertheless, the Defendant Officers continued to press Decedent Rucks' face and chest down into  
26 the dirt. Foreseeably, Decedent Rucks became unresponsive and lost consciousness.

27 28. Decedent Rucks died as a result of being restrained in such a way that restricted his ability to  
28 breathe was restricted, while being held face down in the dirt.

1 29. To add insult to injury, on January 21, 2016, City of Antioch Detective Brian Rose,  
2 testified at the Contra Costa County Coroner's Inquest into the death of Decedent Rucks. On  
3 information and belief, Defendant Rose attempted to conceal important eyewitness information from  
4 the jury. Specifically, Detective Rose failed to relay an eyewitness' account of Decedent Rucks  
5 telling the officers he could not breathe and only testified about witnesses who provided derogatory  
6 and inflammatory information about the Decedent. It was only after Inquest Hearing Officer Matthew  
7 Guichard posed questions submitted to him in writing by Plaintiffs' Counsel, did Detective Rose  
8 finally reveal the fact there were independent eyewitness to the incident, which contradicted the  
9 Defendants' version of events. Detective Rose gave damning testimony indicating a witness saw  
10 Officers using their knees to forcefully push Decedent Rucks' face into the dirt, while he cried out he  
11 "couldn't breathe" in a scenario eerily reminiscent of Eric Garner who was choked to death by New  
12 York Police Officers on video. Decedent Rucks' mom broke down sobbing during the Detective  
13 Rose's heartbreaking testimony. It was only after being called back to the witness stand was  
14 Detective Rose forced to finally tell the jury about the eyewitnesses.

15 30. Plaintiffs are informed and believe, and herein allege that Detective Rose fully  
16 intended to omit key contradictory eyewitness information for the purpose of concealing Decedent  
17 Rucks' true cause of death at the hands of City of Antioch Police Officers. The jury thereafter  
18 determined that Decedent Rucks' death was an accident and that he did not die of natural causes.

19 31. Plaintiffs are informed and believe and thereon allege the City of Antioch, and DOES  
20 26-50, inclusive, breached their duty of care to the public in that they have failed to discipline  
21 Defendant Officers KIDD, R. SMITH, BROGDEN, T. SMITH, ROSE and DOES 1-25 inclusive, for  
22 their respective misconduct and involvement in the incident described herein. Their failure to  
23 discipline Defendant Officers KIDD, R. SMITH, BROGDEN, T. SMITH, ROSE and Does 1-25  
24 inclusive, demonstrates the existence of an entrenched culture, policy or practice of promoting,  
25 tolerating and/or ratifying with deliberate indifference, the use of excessive and/or deadly force and  
26 the fabrication of official reports to cover up Defendants' KIDD, R. SMITH, BROGDEN, T. SMITH,  
27 ROSE and Does 1-25 inclusive, misconduct.

28 32. Plaintiffs are informed, believe and thereon allege that City of Antioch Police

1 Detective ROSE attempted to cover up Defendant Officers' conduct by omitting important  
2 eyewitness accounts from his Coroner's Inquest testimony. Detective ROSE did not relay the  
3 important information to the jury and had actually been released from the witness stand when  
4 Plaintiff's counsel brought the gross omission to the attention of the hearing officer, who  
5 subsequently asked Detective ROSE about the multiple eyewitnesses. Only after a direct inquiry into  
6 the eyewitnesses, did ROSE finally admit that there was an eyewitness who reported that Decedent  
7 was saying that he could not breathe, while the officers held Decedent Rucks' to the ground by  
8 placing their knees in Decedent Rucks' back and neck, immediately prior to his death. Plaintiff is  
9 informed, believes and thereon alleges that Detective ROSE's actions were intended to cover up the  
10 true events surrounding Decedent Rucks' death, in an attempt to justify Defendant Officers'  
11 unreasonable and outrageous use of deadly force.

12 33. Plaintiffs are informed, believe and thereon allege that members of the  
13 Antioch Police Department, including, but not limited to Defendant Officers and DOES  
14 1-25 inclusive and/or each of them, have individually and/or while acting in concert with  
15 one another used excessive, arbitrary and/or unreasonable force against decedent, Rucks.

16 34. Plaintiffs are further informed, believe and therein allege that as a matter of  
17 official policy –rooted in an entrenched posture of deliberate indifference to the  
18 constitutional rights of persons who live, work or visit the City of Antioch, Antioch  
19 Police Department has allowed persons to be abused by its Police Officers including  
20 Defendant Officers KIDD, R. SMITH, BROGDEN, T. SMITH, ROSE and DOES 1-25  
21 and/or each of them, individually and/or while acting in concert with one another.

22 35. Plaintiffs are informed, believe and therein allege that City of Antioch Police Officers  
23 exhibit a pattern and practice of using excessive and/or deadly force against citizens.

24 36. Plaintiffs are informed, believe and therein allege that City of Antioch knew, had  
25 reason to know by way of actual or constructive notice of the aforementioned policy, culture, pattern  
26 and/or practice and the complained of conduct and resultant injuries/violations.

27 37. Plaintiffs are ignorant of the true names and capacities of Defendants DOES 1 through  
28



1 50, inclusive, and therefore sue these Defendants by such fictitious names. Plaintiffs are informed,  
2 believes, and thereon alleges that each Defendant so named is responsible in some manner for the  
3 injuries and damages sustained by Plaintiffs as set forth herein. Plaintiffs will amend their complaint  
4 to state the names and capacities of DOES 1-50, inclusive, when they have been ascertained.

5  
6 DAMAGES

7 38. As a consequence of Defendants' violation of Decedent's federal civil rights  
8 under 42 U.S.C. §1983 and the Fourth and Fourteenth Amendments, Plaintiffs were mentally and  
9 emotionally injured and damaged as a proximate result of Decedent's wrongful death, including but  
10 not limited to: All Plaintiffs' loss of familial relations, Decedent's society, comfort, protection,  
11 companionship, love, affection, solace, and moral support and financial support.

12 39. Plaintiffs I.R., C.R., and R.R., by and through their Guardian Ad Litem Beverly  
13 McIntosh and Plaintiff J.R., by and through her Guardian Ad Litem Jasmine Williams, bring this claim  
14 as co-successors-in-interest to Decedent Rucks and seek both survival and wrongful death damages,  
15 pursuant to C.C.P. Sections 377.60 and 377.61 and Probate Code Section 6402(b), for the violation of  
16 both Decedent's and their rights. Additionally, Plaintiffs are entitled to the reasonable value of funeral  
17 and burial expenses pursuant to C.C.P. §§ 377.60 and 377.61 and loss of financial support.

18 40. Plaintiffs I.R., C.R., and R.R., by and through their Guardian Ad Litem Beverly  
19 McIntosh; and Plaintiff J.R., by and through her Guardian Ad Litem Jasmine Williams, are further  
20 entitled to recover damages incurred by Decedent Rucks before he died as a result of being smothered,  
21 without due process of his right to life, and to any penalties or punitive damages to which Decedent  
22 would have been entitled to recover had he lived, including damages incurred by Decedent, consisting  
23 of pain and suffering he endured, during the time he struggled for his life, as a result of the violation of  
24 his civil rights.

25 41. Plaintiffs found it necessary to engage the services of private counsel to vindicate the  
26 rights of Decedent and Plaintiffs' rights under the law. Plaintiffs are therefore entitled to an award of  
27 attorney's fees and/or costs pursuant to statute(s) in the event that they are the prevailing parties in this  
28 action under 42 U.S.C. § 1983, 1985-86 and 1988.



**FIRST CAUSE OF ACTION**

**Violation of Fourth Amendment of the United States Constitution**

**(42 U.S.C. §1983)**

(Plaintiffs I.R., C.R., and R.R., by and through their Guardian Ad Litem Beverly McIntosh; Plaintiff J.R., by and through her Guardian Ad Litem Jasmine Williams, Against Defendants KIDD, R. SMITH, BROGDEN, T. SMITH and DOES 1-25)

42. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 41 of this Complaint as though fully set forth.

43. Defendants KIDD, R. SMITH, BROGDEN, T. SMITH, and DOES 1-25’s above-described conduct violated Decedent’s right, as provided for under the Fourth Amendment to the United States Constitution, to be free from excessive and/or arbitrary and/or unreasonable use of deadly force against him.

44. DECEDENT RUCKS was forced to endure great conscious pain and suffering because of the Defendants’ conduct before his death;

45. DECEDENT RUCKS did not file a legal action before his death;

46. Plaintiffs I.R., R.R., and C.R., by and through their Guardian Ad Litem Beverly McIntosh and Plaintiff J.R., by and through her Guardian Ad Litem Jasmine Willams, are co-successors-in-interest of DECEDENT RUCKS and bring claims for damages for the conscious pain and suffering incurred by DECEDENT RUCKS, as provided for under 42 U.S.C. §1983.

47. Defendants KIDD, R. SMITH, BROGDEN, T. SMITH, and DOES 1-25 acted under color of law by killing Decedent without lawful justification and subjecting Decedent to excessive force thereby depriving the Decedent of certain constitutionally protected rights, including, but not limited to:

- a. The right to be free from unreasonable searches and seizures, as guaranteed by the Fourth Amendment to the United States Constitution;

WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.



1 Antioch officials, including high-ranking police supervisors and DOES 26 through 50, and/or each of  
2 them, knew and/or reasonably should have known about the repeated acts of unconstitutional use of  
3 force by Antioch Police Officers.

4 52. Despite having such notice, Plaintiffs are informed and believe and thereon  
5 Allege that City of Antioch and DOES 26-50, and/or each of them, approved, ratified,  
6 condoned, encouraged, sought to cover up, and/or tacitly authorized the continuing  
7 pattern and practice of misconduct and/or civil rights violations by the Antioch Police  
8 Department, which brought about Defendants KIDD, R. SMITH, BROGDEN, T. SMITH,  
9 and DOES 1-25 unlawfully smothering DECEDENT RUCKS to death.

10 53. Plaintiffs are further informed and believe and thereon allege that as  
11 a result of the deliberate indifference, reckless and/or conscious disregard of the misconduct by  
12 Defendants KIDD, R. SMITH, BROGDEN, T. SMITH and DOES 1-25 and/or each of them,  
13 Defendants City of Antioch and/or DOES 26-50 ratified and encouraged these officers to continue  
14 their course of misconduct.

15 54. Plaintiffs further allege that Defendants City of Antioch and DOES 26-50  
16 and/or each of them, were on notice of the Constitutional defects in their training of Antioch  
17 police officers, including, but not limited to: unlawfully using excessive force to make detentions  
18 and/or arrests.

19 55. The aforementioned acts and/or omissions and/or deliberate indifference by high  
20 ranking City of Antioch officials, including high ranking Antioch Police Department  
21 supervisors, DOES 26-50, and/or each of them resulted in the deprivation of Plaintiffs'  
22 and Decedent's constitutional rights including, but not limited to: the right to not be  
23 deprived of life, liberty or property without due process of the law, as guaranteed by the  
24 Fourteenth Amendment to the United States Constitution; and the right to be free from  
25 excessive force by police officers, as guaranteed by the Fourth Amendment to the United  
26 States Constitution.

27 WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.  
28

**FOURTH CAUSE OF ACTION**

**(Monell – Conspiracy to Violate Civil Rights)**

**(42 U.S.C. § 1985)**

(Plaintiffs I.R, C.R., and R.R., by and through their Guardian Ad Litem Beverly McIntosh; Plaintiff J.R., by and through her Guardian Ad Litem Jasmine Williams, Against Defendants ROSE, KIDD, R. SMITH, BROGDEN, T. SMITH and DOES 1-50)

56. Plaintiffs hereby re-allege and incorporate by reference paragraphs 1 through 55 of this Complaint.

57. In doing the acts complained of herein, Defendants KIDD, R. SMITH, BROGDEN, T. SMITH and DOES 1 – 50 and each of them acted in concert and conspired to violate decedent’s federal civil rights to be free from unreasonable seizures and excessive and/or arbitrary force.

58. Defendant KIDD, R. SMITH, BROGDEN, T. SMITH and DOES 1-25 and each of them had knowledge of the wrongs conspired to be done and committed and had the power to prevent or aid in preventing the commission of the same. None of the Defendants attempted to prevent and/or stop the violation of the decedent’s civil rights.

59. After the death of Decedent Rucks, Defendants KIDD, R. SMITH, BROGDEN, T. SMITH, ROSE, and does 1-50 conspired for the purpose of impeding, hindering, obstructing, and defeating, the due course of justice with regard to the true cause of Decedent Rucks’ death, with intent to deny Decedent Rucks the equal protection of the laws, by omitting important witness information, which contradicted Defendants’ version of events.

WHEREFORE, plaintiffs pray for relief as hereinafter set forth.

**FIFTH CAUSE OF ACTION**

**(Violation of Plaintiffs' State Statutory Rights)**

**(Violation of California Civil Code § 52.1)**

(Plaintiffs I.R, C.R., and R.R., by and through their Guardian Ad Litem Beverly McIntosh; Plaintiff J.R., by and through her Guardian Ad Litem Jasmine Williams; and Plaintiff Debra Moore, Against Defendants KIDD, R. SMITH, BROGDEN, T. SMITH and DOES 1-25)

60. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 59 of this Complaint as though fully set forth.

61. Defendant KIDD, R. SMITH, BROGDEN, T. SMITH and DOES 1-25 above-described conduct constituted interference, and attempted interference, by threats, intimidation and coercion, with the DECEDENT RUCK's peaceable exercise and enjoyment of rights secured by the Constitution and laws of the United States and the State of California, in violation of California Civil Code § 52.1.

62. Under the provisions of California Civil Code § 52(b), Defendants are liable for punitive damages for each violation of California Civil Code § 52.1, reasonable attorney's fees and an additional \$25,0000.

63. As a proximate result of Defendants' wrongful conduct, Plaintiffs suffered as hereinafter set forth below.

64. Plaintiffs contend that the City of Antioch is liable for all state law causes of actions, under the theory of Respondeat Superior, wherein damages occurred while City of Antioch employees were engaged in the performance of their job duties.

WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

1 **SIXTH CAUSE OF ACTION**

2 **(Negligence)**

3 (Plaintiffs I.R, C.R., and R.R., by and through their Guardian Ad Litem Beverly McIntosh; Plaintiff  
4 J.R., by and though her Guardian Ad Litem Jasmine Williams; and Plaintiff Debra Moore, Against  
5 Defendants KIDD, R. SMITH, BROGDEN, T. SMITH and DOES 1-25)

6  
7 65. Plaintiffs re-allege and incorporate by reference herein paragraphs 1 through 64 of  
8 this Complaint as though fully set forth, except for any and all allegations of intentional, malicious,  
9 extreme, outrageous, wanton, and oppressive conduct by defendants, and any and all allegations  
10 requesting punitive damages.

11 66. Defendants and DOES 1-25 inclusive, by and through their respective agents and  
12 employees, caused DECEDENT RUCKS' death and Plaintiffs' injuries, as a result of their negligent  
13 conduct and/or negligent failure to act as set-forth herein.

14 67. As an actual and proximate result of said defendants' negligence, Plaintiffs sustained  
15 pecuniary loss and pain and suffering, in an amount according to proof at trial.

16 68. Plaintiffs contend that the City of Antioch is liable for all state law causes of actions, under  
17 the theory of Respondeat Superior, wherein damages occurred while City of Antioch employees were  
18 engaged in the performance of their job duties.

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

20  
21 **SEVENTH CAUSE OF ACTION**

22 **(Assault)**

23 (Plaintiffs I.R, C.R., and R.R., by and through their Guardian Ad Litem Beverly McIntosh; Plaintiff  
24 J.R., by and though her Guardian Ad Litem Jasmine Williams; and Plaintiff Debra Moore, Against  
25 Defendants KIDD, R. SMITH, BROGDEN, T. SMITH and DOES 1-25)

26  
27 69. Plaintiffs re-allege and incorporates by reference paragraphs 1 through 68 of this  
28 Complaint as though fully set forth.

1 70. Defendants' above-described conduct constituted assault.

2 71. Plaintiffs contend that the City of Antioch is liable for all state law causes of actions,  
3 under the theory of Respondeat Superior, wherein damages occurred while City of Antioch  
4 employees were engaged in the performance of their job duties.

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

6 **EIGHTH CAUSE OF ACTION**

7 **(Battery)**

8 (Plaintiffs I.R., C.R., and R.R., by and through their Guardian Ad Litem Beverly McIntosh; Plaintiff  
9 J.R., by and though her Guardian Ad Litem Jasmine Williams; and Plaintiff Debra Moore, Against  
10 Defendants KIDD, R. SMITH, BROGDEN, T. SMITH and DOES 1-25)

11 72. Plaintiffs re-allege and incorporates by reference paragraphs 1 through 71 of this  
12 Complaint as though fully set forth.

13 73. Defendants' above-described conduct constituted battery.

14 74. Plaintiffs contend that the City of Antioch is liable for all state law causes of actions,  
15 under the theory of Respondeat Superior, wherein damages occurred while City of Antioch  
16 employees were engaged in the performance of their job duties.

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

18 **JURY DEMAND**

19 75. Plaintiffs hereby demand a jury trial in this action.  
20

21 **PRAYER**

22 WHEREFORE, Plaintiffs pray for relief, as follows:

- 23
- 24 1. For general damages in a sum to be determined according to proof;
  - 25 2. For special damages, including but not limited to, past, present and/or future  
26 wage loss, income and support, medical expenses and other special damages in a sum to be  
27 determined according to proof;
  - 28 3. For punitive and exemplary damages against Defendants KIDD, R. SMITH,



BROGDEN, T. in amounts to be determined according to proof;

4. For reasonable attorney's fees pursuant to 42 U.S.C. §1988;
5. For any and all statutory damages allowed by law;
6. For cost of suit herein incurred; and
7. For such other and further relief as the Court deems just and proper.

**LAW OFFICE OF JOHN L. BURRIS**

Dated: July 7, 2016

/s/ John L. Burris

**John L. Burris**  
Attorneys for Plaintiffs