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11 **UNITED STATES DISTRICT COURT**  
12 **SOUTHERN DISTRICT OF CALIFORNIA**

14 S.R. NEHAD, an individual, K.R.  
15 NEHAD, an individual, ESTATE OF  
FRIDOON RAWSHAN NEHAD,

16 Plaintiffs,

17 v.

18 NEAL N. BROWDER, an individual,  
19 CITY OF SAN DIEGO, a municipality,  
and DOES 1 through 10, inclusive,

20 Defendants.

**CASE NO. 15-CV-1386-WQHNL**  
**FIRST AMENDED COMPLAINT**  
**FOR:**

(1) **DEPRIVATION OF CIVIL**  
**RIGHTS UNDER 42 U.S.C. § 1983**  
**(FOURTH AMENDMENT);**

(2) **DEPRIVATION OF CIVIL**  
**RIGHTS UNDER 42 U.S.C. § 1983**  
**(FOURTEENTH AMENDMENT);**

(3) **DEPRIVATION OF CIVIL**  
**RIGHTS (CAL. CIV. CODE § 52.1)**

(4) **ASSAULT AND BATTERY;**

(5) **NEGLIGENCE; AND**

(6) **WRONGFUL DEATH.**

**DEMAND FOR JURY TRIAL**

1 Plaintiffs S.R. Nehad and K.R. Nehad (the “Nehads”) and the Estate of  
2 Fridoon Rawshan Nehad (the “Estate”) (collectively, “Plaintiffs”) allege as follows:

3 **INTRODUCTION**

4 1. On April 30, 2015, Fridoon Rawshan Nehad (“Fridoon”) was shot to  
5 death by Defendant Neal N. Browder. Browder was acting under color of authority,  
6 in his capacity as a San Diego police officer. Fridoon was unarmed.

7 2. The shooting was captured on a surveillance video owned by a private  
8 business named KECO, Inc. (the “KECO Video”). KECO has the video of the  
9 shooting and provided a copy to the San Diego Police Department (“SDPD”).

10 3. Individuals have seen the KECO Video. One of them called the video  
11 “shocking” and stated that Browder appeared to shoot Fridoon “hastily,” at a  
12 moment when Fridoon’s walking cadence noticeably changed from normal to a  
13 near-stop.

14 4. Browder was wearing a body camera but it was not activated when the  
15 shooting occurred. On information and belief, he did not activate the body camera  
16 because he did not want anyone to see the shooting (he did not know about the  
17 KECO Video).

18 5. Based on accounts of individuals who have seen the KECO Video,  
19 Plaintiffs believe that Fridoon’s shooting was unjustified. They bring this action for  
20 violation of their civil rights under 42 U.S.C. § 1983 and the Fourth and Fourteenth  
21 Amendments to the United States Constitution, as well as applicable state law.

22 6. Before filing this case, Plaintiffs tried to obtain the KECO Video from  
23 the SDPD, to no avail: the SDPD refused to provide the video and told Plaintiffs to  
24 file a lawsuit if they wanted to see it. Plaintiffs also tried to obtain a copy of the  
25 video from KECO, but KECO said it would only produce the video if it receives a  
26 subpoena.

27 7. Thus, on June 24, 2015, Plaintiffs filed this case and they sought leave  
28 to serve a subpoena for the video on KECO. Defendants agreed that Plaintiffs

1 should receive leave to serve the KECO subpoena and the parties are preparing a  
2 joint motion to that effect. Defendants also agreed to provide Plaintiffs with all the  
3 videos and documents from the SDPD’s investigation of the shooting as soon as  
4 possible, pursuant to a protective order.

5 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

6 8. Pursuant to section 910 of the California Government Code, Plaintiffs  
7 filed administrative claims with the City of San Diego (“City”). The claims were  
8 denied on July 14, 2015, as the City failed to act on them within the 45-day time  
9 period.

10 **PARTIES, JURISDICTION AND VENUE**

11 9. The Estate is Fridoon’s probate estate. Under Section 377.20 of the  
12 California Code of Civil Procedure, the Estate has standing to bring claims for  
13 Fridoon’s pre-death pain and suffering. For jurisdictional purposes, and since  
14 Fridoon’s death occurred in California, the Estate resides in California.

15 10. Plaintiff S.R. Nehad is a United States citizen. She is Fridoon’s mother  
16 and resides in San Diego, California. Plaintiff K.R. Nehad is a United States  
17 citizen. He is Fridoon’s father and resides in San Diego, California.

18 11. Defendant Neal N. Browder is a United States citizen. He resides in  
19 Temecula, California.

20 12. The SDPD is an agency of Defendant City of San Diego, a  
21 municipality. The City is responsible for the actions of the SDPD and its officers.

22 13. Plaintiffs are ignorant of the true names and capacities of Defendants  
23 sued herein as Does 1 through 10 and therefore sue those unknown Defendants by  
24 such fictitious names. Plaintiffs will amend this Complaint to allege said  
25 Defendants’ true names and capacities when ascertained. Plaintiffs are informed  
26 and believe that each of the fictitiously named Defendants is responsible in some  
27 manner for the occurrences alleged herein, and that Plaintiffs’ injuries were  
28 proximately caused by the acts and/or omissions of said fictitiously named

1 Defendants.

2 **JURISDICTION AND VENUE**

3 14. This is a civil suit brought under the Civil Rights Act, 42 U.S.C. §  
4 1983, for violations of Plaintiffs' rights under the United States Constitution. This  
5 Court has subject matter jurisdiction over the parties and this action pursuant to 28  
6 U.S.C. § 1343(a)(3) and 28 U.S.C. § 1331. It has supplemental jurisdiction over the  
7 state law claims under 28 U.S.C. § 1367 and principles of pendent jurisdiction.

8 15. This suit seeks compensatory and punitive damages against all  
9 Defendants as permitted by law.

10 16. Venue is proper in this Court because the events or omissions that gave  
11 rise to the causes of action herein occurred in San Diego, California, within the  
12 Southern District of California.

13 **FACTS**

14 **A. Fridoon and His Family**

15 17. Fridoon was born in 1973 and grew up in Afghanistan. He was an  
16 intelligent, kind, thoughtful and creative person. He had a loving and happy  
17 childhood. But it was interrupted by the Russian invasion of Afghanistan and the  
18 internal civil war after the Russians left.

19 18. The civil war pitted the Afghan government against groups called the  
20 Mujahideen (some of these groups would later form the Taliban). Fridoon was  
21 drafted into the Afghan army when he was a teenager. While serving, he was  
22 captured by one of the Mujahideen groups. He spent nearly two months in captivity  
23 and was only released after his mother met face-to-face with the kidnappers and  
24 pleaded for the release of her son.

25 19. Fridoon did not talk much about the war. He likely was tortured. The  
26 Mujahideen had a well-documented practice of torturing prisoners of war.

27 20. After his release, Fridoon still was in grave danger of persecution by  
28 the Mujahideen (which opposed the government). To save his life, his family got

1 him out of Afghanistan and into refuge in Germany. He was a teenager at the time.

2 21. Fridoon spent the next 14 years in Germany, isolated from his family.  
3 He saw his parents just a few times. He did not see his siblings (six sisters) at all.

4 22. In 1991, the Nehads immigrated to the United States, settling in San  
5 Diego. They became American citizens. Their daughters attended school and have  
6 jobs and careers in the U.S. in medicine, law and business. Fridoon finally joined  
7 them in 2003.

8 23. Fridoon suffered from Post-Traumatic Stress Disorder (“PTSD”). He  
9 also was diagnosed with schizophrenia and bipolar disorder.

10 24. Fridoon battled against his illnesses. He was intelligent, learning new  
11 languages (German and French) and taking classes on computer programming,  
12 linguistics and literature. He became a permanent resident of the United States and  
13 obtained a work permit. He tried to improve his life, but sometimes had manic  
14 episodes. He was arrested and, in 2008, went to jail for burglary.

15 25. Fridoon was loved. His family spent years and countless hours trying  
16 to help him cope with his PTSD and illness. At times, it was difficult.

17 26. Fridoon was receiving treatment for his PTSD and mental illness. But  
18 he still had manic episodes. During one episode, he became upset with his mother  
19 and sister, who called the police. The police recommended that the Nehads get a  
20 restraining order.

21 27. The police told the Nehads that getting a restraining order would help  
22 Fridoon get into a shelter in Oceanside, which he had visited. The Nehads trusted  
23 the police and followed their advice.

24 **B. Fridoon’s Shooting**

25 28. On April 29-30, 2015, Fridoon was walking in downtown San Diego.

26 29. Officer Browder responded to a 911 call from an adult bookstore  
27 employee. He arrived at the store around midnight.

28 30. According to a KECO employee who saw the KECO Video, Fridoon

1 was walking in the alley behind the bookstore when Browder arrived in his police  
2 car. He was about 15 to 20 feet away from the police car when Browder stepped out  
3 of his car and, within seconds, fired his side arm, hitting Fridoon with at least one  
4 shot. Fridoon died later at UCSD Medical Center.

5 31. The KECO employee who saw the video, Wesley Doyle, provided a  
6 declaration about what he remembers about the KECO Video. Doyle said the  
7 shooting was “unprovoked” and “shocking.” Browder did not take any time to  
8 communicate with Fridoon and did not use any other (non-deadly) measures against  
9 Fridoon. He did not even get into a police shooting stance. He appeared to shoot  
10 Fridoon “hastily,” at a moment when Fridoon’s walking cadence noticeably changed  
11 from normal to a near-stop. Doyle’s declaration is attached to this First Amended  
12 Complaint as **Exhibit “A”** and incorporated by reference.

13 **C. The SDPD Cover-Up and the KECO Video**

14 32. Fridoon was not armed. Nonetheless, the SDPD tried to “spin” the  
15 story against Fridoon, falsely suggesting to his family and the media that he had a  
16 knife. The SDPD also falsely claimed that Fridoon was threatening Browder when,  
17 in fact, Fridoon was shot at a distance of at least 15 feet and just after Browder  
18 arrived at the scene.

19 33. Browder was wearing a body camera that night. But it was not  
20 activated at the time of the shooting. It should have been: the SDPD’s body camera  
21 policy required that Browder “shall” activate his camera before he confronted  
22 Fridoon and continue recording until the contact was concluded. Browder violated  
23 that policy.

24 34. The SDPD recognized that its original body camera policy was  
25 deficient. For example, it did not require, or even suggest, that police officers tell  
26 the public they were recording the encounter. And it did not impose any  
27 requirements on supervisors to train their officers or monitor their use of the  
28 cameras. One week after the shooting of Fridoon, the SDPD changed its policy.



1 41. Plaintiffs repeat and re-allege the allegations contained in the preceding  
2 paragraphs of this Complaint, as though set forth fully herein.

3 42. This cause of action is brought pursuant to 42 U.S.C. § 1983 and the  
4 Fourth and Fourteenth Amendments of the United States Constitution.

5 43. Under section 377.20 of the California Code of Civil Procedure, the  
6 Estate is Fridoon's successor-in-interest and has standing to assert a claim for  
7 Fridoon's pre-death damages.

8 44. Defendant Browder shot and killed Fridoon. Shooting a weapon is the  
9 use of deadly force. Plaintiffs allege that deadly force was not warranted: Fridoon  
10 did not have a weapon and was not threatening Browder, or anyone else, with  
11 deadly force.

12 45. In the process, Browder violated Fridoon's right to be free from  
13 excessive force as secured by the Fourth and Fourteenth Amendments.

14 46. Browder acted under color of law and within the course and scope of  
15 his employment with the City of San Diego and the SDPD in deploying excessive  
16 force against Fridoon.

17 47. Browder's actions directly and proximately caused injury to Fridoon, as  
18 he was mortally wounded and endured pain and suffering in the time before he died.

19 48. As a result of Browder's actions, the Estate is entitled to damages in an  
20 amount to be proven at trial.

21 49. Browder acted in knowing violation of Fridoon's legal and  
22 constitutional rights and without good faith, so punitive damages are warranted.

### 23 **SECOND CAUSE OF ACTION**

24 **(Deprivation of Civil Rights Under 42 U.S.C. § 1983 (Fourteenth Amendment))**

25 **(By the Nehads Against Browder)**

26 50. Plaintiffs repeat and re-allege the allegations contained in the preceding  
27 paragraphs of this Complaint, as though set forth fully herein.

28 51. This cause of action is brought pursuant to 42 U.S.C. § 1983 and the

1 Fourteenth Amendment of the United States Constitution.

2 52. Defendant Browder shot and killed Fridoon. Shooting a weapon is the  
3 use of deadly force. Plaintiffs allege that deadly force was not warranted: Fridoon  
4 did not have a weapon and was not threatening Browder, or anyone else, with  
5 deadly force.

6 53. In the process, Browder violated the Nehads' liberty interest in the  
7 companionship of their eldest child and only son, a right secured by the Fourteenth  
8 Amendment.

9 54. Browder acted under color of law and within the course and scope of  
10 his employment with the City of San Diego and the SDPD in deploying excessive  
11 force against Fridoon.

12 55. Browder's actions directly and proximately caused injury to the  
13 Nehads, as the shooting killed Fridoon and deprived the Nehads of the  
14 companionship of their eldest child and only son.

15 56. As a result of Browder's actions, the Nehads are entitled to damages in  
16 an amount to be proven at trial.

17 57. Browder acted in knowing violation of the Nehads' legal and  
18 constitutional rights and without good faith, so punitive damages are warranted.

19 **THIRD CAUSE OF ACTION**

20 **(Deprivation of Civil Rights Under Cal. Civil Code § 52.1)**

21 **(By Plaintiffs Against Browder and the City)**

22 58. Plaintiffs repeat and re-allege the allegations contained in the preceding  
23 paragraphs of this Complaint, as though set forth fully herein.

24 59. The Fourth and Fourteenth Amendments to the U.S. Constitution, and  
25 Article I, section 13 of the California Constitution, guarantee (a) an individual's  
26 right to be free from excessive force and (b) a parent's right to the companionship of  
27 his/her child. By engaging in the acts alleged above, Defendants denied those rights  
28 to Plaintiffs, thus giving rise to claims for damages pursuant to California Civil

1 Code section 52.1.

2 60. As a direct and proximate result of Defendants' actions, as alleged  
3 herein, Plaintiffs were injured as set forth above and are entitled to damages,  
4 including compensatory and punitive damages, in an amount to be proven at trial  
5 and in excess of the jurisdictional amount required by this Court.

6 61. As Fridoon's successor-in-interest, the Estate is entitled to claim  
7 Fridoon's pre-death damages. The Nehads have standing to claim damages for  
8 Defendants' violations of their Fourteenth Amendment rights.

9 62. In conducting himself as alleged herein, Browder was acting within the  
10 course and scope of his employment with Defendant City of San Diego. Thus, the  
11 City is responsible for Browder's actions.

12 63. In doing the foregoing wrongful acts, Defendants acted in reckless and  
13 callous disregard for Plaintiffs' constitutional rights. The wrongful acts, and each of  
14 them, were willful, oppressive, fraudulent and malicious, thus warranting the  
15 imposition of punitive damages against each individual Defendant in an amount  
16 adequate to punish the wrongdoers and deter future misconduct.

#### 17 **FOURTH CAUSE OF ACTION**

#### 18 **(Assault and Battery)**

#### 19 **(By the Estate Against Browder and the City)**

20 64. Plaintiffs repeat and re-allege the allegations contained in the preceding  
21 paragraphs of this Complaint, as though set forth fully herein.

22 65. As an actual and proximate result of Browder's wrongful acts,  
23 conducted without due care in the execution and enforcement of the law, Fridoon  
24 was placed in great fear for his life and physical well-being.

25 66. As an actual and proximate result of Browder's wrongful acts, Fridoon  
26 suffered physical pain and suffering before he died, in an amount that will be proven  
27 at trial and in excess of the jurisdictional amount required by this Court. As  
28 Fridoon's successor-in-interest, the Estate is entitled to claim those damages.



1 (Wrongful Death)

2 (By Plaintiffs Against Browder and the City)

3 74. Plaintiffs repeat and re-allege the allegations contained in the preceding  
4 paragraphs of this Complaint, as though set forth fully herein.

5 75. At all times mentioned herein, Browder owed Fridoon – and the  
6 Nehads – a duty of care to avoid causing unnecessary physical harm and distress in  
7 the execution and enforcement of the law.

8 76. In conducting himself as alleged herein, Browder breached this duty of  
9 care.

10 77. As an actual and proximate result of Browder’s acts, as alleged herein,  
11 conducted without due care in the execution and enforcement of the law, Fridoon  
12 was killed and the Nehads were deprived of the companionship and support of their  
13 son.

14 78. Under section 377.60 of the California Code of Civil Procedure, as an  
15 actual and proximate result of Browder’s acts, Plaintiffs suffered damages in an  
16 amount to be proven at trial and in excess of the jurisdictional amount required by  
17 this Court.

18 79. In conducting himself as alleged herein, Browder was acting within the  
19 course and scope of his employment with the SDPD. Thus, the City is responsible  
20 for Browder’s actions.

21 **PRAYER FOR RELIEF**

22 **WHEREFORE**, Plaintiffs pray for judgment as follows:

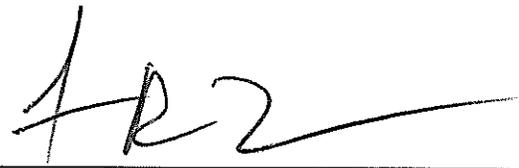
23 1. For damages in an amount to be proven at trial, including general  
24 damages, special damages and punitive damages;

25 2. For attorneys’ fees, costs and interest, as allowed by law; and for such  
26 other and further relief as the Court deems just and proper.

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DATED: July 23, 2015

MILLER BARONDESS, LLP

By:   
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**DEMAND FOR JURY TRIAL**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure and Local Rule 38.1, Plaintiffs hereby demand a trial by jury.

DATED: July 23, 2015

MILLER BARONDESS, LLP

By:   
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LOUIS R. MILLER  
Attorneys for Plaintiffs