

No: 20-56177

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

SANDRA QUINONES

APPELLANT

v.

COUNTY OF ORANGE, A GOVERNMENTAL ENTITY ET AL.,

APPELLEES

On Appeal from the United States District Court
For the Central District of California
Honorable James V. Selna , Judge Presiding
United States District Court No. 8:19-cv-00666-JVS-KES

APPELLANTS EXCERPTS OF RECORD

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SANDRA QUINONES

No: 20-56177

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA – SOUTHERN DIVISION

SANDRA QUINONES, individually
and as successor in interest to BABY
QUINONES, deceased,

Plaintiffs,

v.

COUNTY OF ORANGE and DOES 1-
10, inclusive,

Defendants.

Case No.: 8:20-CV-00666-JVS (KESx)
Assigned to: Hon. James V. Selna
Crt. Rm: 10C
Magistrate Judge: Karen E. Scott
Crt. Rm: 6D

**JUDGMENT RE: DISMISSAL
WITH PREJUDICE**

Action Date: 4/6/20
Trial Date: 5/11/21


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JUDGMENT

The Court has granted Defendant County of Orange's Motion to Dismiss Plaintiff's First Amended Complaint and ruled that Plaintiff's claims are time barred by the statute of limitations. (Dkt. 24.) The parties have also entered into and filed the requested stipulation dismissing specified claims. (Dkt. 25.) Therefore, this action is hereby dismissed in its entirety with prejudice.

IT IS SO ORDERED AND ADJUDGED

Dated: October 09, 2020



Honorable James V. Selna, District Judge

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. SACV 20-00666JVS(KESx) Date Sept. 30, 2020

Title Sandra Quinones v. County of Orange et al

Present: The
Honorable

James V. Selna, U.S. District Court Judge

Lisa Bredahl

Not Present

Deputy Clerk

Court Reporter

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Not Present

Not Present

Proceedings: [IN CHAMBERS] Order Regarding Regarding County of Orange's Request for Judicial Notice and Motion to Dismiss

Sandra Quinones ("Quinones") filed a First Amended Complaint ("FAC") on July 15, 2020. FAC, Dkt. No. 19. The County of Orange ("County") moved to dismiss the Complaint, claiming that it was time-barred and that no tolling of the statute of limitations applied. Mot., Dkt. No. 20. Quinones opposed the motion. Opp'n, Dkt. No. 21. County replied. Reply, Dkt. No. 22.

For the following reasons, the Court **GRANTS** the County's request for judicial notice. The Court also **GRANTS** the County's motion to dismiss as Quinones' claims are time-barred. Per the parties' briefing papers, the Court requests that Quinones and the County also file their agreed-to stipulations.

I. BACKGROUND

1. Factual Background

Quinones, who was pregnant, alleges that on March 28, 2016, while in custody in the Orange County Jail, her water broke and she pushed the call button in her cell for two hours without any response. FAC. ¶ 18, Dkt. No. 20. DOE Defendant officers, employed by the County, failed to call an ambulance, electing instead to transport Quinones to the hospital on a non-emergency basis. *Id.* ¶ 20. Quinones alleges that DOE Defendants also stopped at Starbucks rather than transporting her directly to the hospital. *Id.* After Quinones was hospitalized, her unborn baby died. *Id.* ¶ 21.

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	SACV 20-00666JVS(KESx)	Date	Sept. 30, 2020
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Quinones then remained in custody until approximately April 14, 2016, and as a result, suffers from severe and extreme post-traumatic stress disorder. Id. ¶ 25. Since her release, Quinones has been placed back into custody numerous times. Id. According to Quinones, the “constant back and forth between jail and the streets [has] made it impossible for [] [her] to take care of [] [her] affairs.” Id.

2. Procedural Background

Quinones had previously filed her claims on September 9, 2019 as an added plaintiff in Mark Moon, et al. v. County of Orange, et al. (the “Moon Action”), but her complaint was dismissed, severed into a separate and independent lawsuit, and for statute of limitations purposes - deemed filed on September 9, 2019 - the date on which Quinones first appeared. See Mark Moon, et al. v. County of Orange et al., 8:19-cv-00258 JVS(DFMx). Quinones then first filed the Complaint on April 6, 2020. See generally Compl., Dkt. No. 1.

Quinones’ first asserted causes of action on behalf of her baby and herself: (1) a violation of 42 U.S.C. § 1983 for deliberate indifference to her medical needs; and (2) a violation of Cal. Civ. Code § 52.1 for wrongful death. See Compl. ¶¶ 1, 11-12, Dkt. No. 1.

County moved to dismiss the Complaint. Dkt. No. 13. The Court granted County’s motion to dismiss on July 15, 2020, but granted Quinones 30 days leave to amend her claims. Dkt. No. 19.

Quinones timely refiled, alleging five claims under 42 U.S.C. § 1983 (for denial of medical care, substantive due process, failure to train, unconstitutional custom, practice, or policy, and ratification) and four state law claims (for failure to summon medical care under Cal. Gov’t Code § 845.6, the Bane Act under Cal. Code § 52.1, intentional infliction of emotional distress, and negligent infliction of emotional distress).

After informing Quinones of its intent to move to dismiss the first amended complaint, Quinones and County met and conferred and agreed that “[s]hould the Court deny the County’s Motion with respect to the statute of limitations, the Parties will stipulate” to dismissing the State Law Claims, the “Baby” designation, and to the

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. SACV 20-00666JVS(KESx) Date Sept. 30, 2020

Title Sandra Quinones v. County of Orange et al

County's immunity for the Seventh, Eighth, and Ninth claims. Opp'n at 6, Dkt. No. 22.

II. LEGAL STANDARD

Under Rule 12(b)(6), a defendant may move to dismiss for failure to state a claim upon which relief can be granted. A plaintiff must state "enough facts to state a claim to relief that is plausible on its face." Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007). A claim has "facial plausibility" if the plaintiff pleads facts that "allow[] the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009).

In resolving a 12(b)(6) motion under Twombly, the Court must follow a two-pronged approach.

First, the Court must accept all well-pleaded factual allegations as true, but "[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice." Iqbal, 556 U.S. at 678. Nor must the Court "'accept as true a legal conclusion couched as a factual allegation.'" Id. at 678-80 (quoting Twombly, 550 U.S. at 555).

Second, assuming the veracity of well-pleaded factual allegations, the Court must "determine whether they plausibly give rise to an entitlement to relief." Id. at 679. This determination is context-specific, requiring the Court to draw on its experience and common sense, but there is no plausibility "where the well-pleaded facts do not permit the court to infer more than the mere possibility of misconduct." Id.

For purposes of ruling on a Rule 12(b)(6) motion, the court must "accept factual allegations in the complaint as true and construe the pleadings in the light most favorable to the nonmoving party." Manzarek v. St. Paul Fire & Marine Ins. Co., 519 F.3d 1025, 1031 (9th Cir.2008). However, courts "are not bound to accept as true a legal conclusion couched as a factual allegation." Iqbal, 556 U.S. at 678 (quoting Twombly, 550 U.S. at 555).

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	SACV 20-00666JVS(KESx)	Date	Sept. 30, 2020
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III. DISCUSSION

A. Request for Judicial Notice

Because factual challenges have no bearing under Rule 12(b)(6), generally, the Court may not consider material beyond the pleadings in ruling on a motion to dismiss. Lee v. City of Los Angeles, 250 F.3d 668, 688 (9th Cir. 2001), overruled on other grounds, Galbraith v. Cnty. of Santa Clara, 307 F. 3d 1119, 1125 (9th Cir. 2002). There are, however, three exceptions to this rule that do not demand converting the motion to dismiss into one for summary judgment. Lee, 250 F.3d at 688. First, pursuant to Federal Rule of Evidence 201, the Court may take judicial notice of matters of public record, but it “cannot take judicial notice of disputed facts contained in such public records.” Khoja v. Orexigen Therapeutics, Inc., 899 F.3d 988, 999 (9th Cir. 2018), cert. denied sub nom. Hagan v. Khoja, 139 S. Ct. 2615, 204 L. Ed. 2d 264 (2019) (citing Lee, 250 F.3d at 689); see Fed. R. Evid. 201(b). Second, the Court also may take judicial notice of documents attached to or “properly submitted as part of the complaint.” Lee, 250 F.3d at 688. Third, if the documents are “not physically attached to the complaint,” they may still be considered if the documents’ “authenticity . . . is not contested” and the documents are necessarily relied upon by the complaint. Id.; United States v. Corinthian Colleges, 655 F.3d 984, 998–99 (9th Cir. 2011). “However, if the document merely creates a defense to the well-pled allegations in the complaint, then that document did not necessarily form the basis of the complaint” and cannot be incorporated by reference. Khoja, 899 F.3d at 1002

The County asks the Court to take notice of a Minute Order of the Superior Court of the State of California, County of Orange Probation Department in Case No. 16NF0789, titled People v. Quinones, Sandra Teresa, for April 14, 2016, and a Superior Court of the State of California, County of Orange Advisement and Waiver of Rights for a Felony Guilty Plea (hereinafter “Plea Form”) in Case No. 16NF0789, titled People v. Quinones, Sandra Teresa, filed April 14, 2016. See RJN, Dkt. No. 20-3.

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. SACV 20-00666JVS(KESx) Date Sept. 30, 2020
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The Court takes judicial notice of these documents because they are a matter of public record, not subject to reasonable dispute.

B. Motion to Dismiss¹

Pursuant to Federal Rule of Civil Procedure 12(b)(6), the County moves to dismiss Quinones' causes of action arguing that the statute of limitations has expired. Mot. at 2, Dkt. No. 21.

i. Applicable Statute of Limitations

Quinones raises both federal and state law claims. State law governs the length of the applicable statute of limitations period for Section 1983 claims. Pouncil v. Tilton, 704 F.3d 568, 573 (9th Cir. 2012) (“[F]or an action under 42 U.S.C. § 1983, the federal courts look to the law of the state in which the action arose and apply the state law of limitations governing an analogous cause of action.”). The statute of limitations for Section 1983 claims arising in California is two years. Maldonado v. Harris, 370 F.3d 945, 954-55 (9th Cir. 2004). A Section 1983 claim accrues, for the purposes of the starting of the running of the limitations period, when the plaintiff “knows or has reason to know of the injury that is the basis of the action.” Belanus v. Clark, 796 F.3d 1021, 1025 (9th Cir. 2015)

For Quinones' state law claims, the applicable statute of limitations is six months. Curtis T. v. Cty. of Los Angeles, 123 Cal. App. 4th 1405, 1415 (2004).

Here, based on the Complaint, Quinones knew or had reason to know of her alleged injuries on March 28, 2016. FAC ¶ 18. As a result, Quinones' claims accrued on

¹At the outset, the Court notes the results of the parties' meet and confer, specifically, that “[d]uring the meet and confer, Plaintiff acknowledged that Baby Quinones should be dismissed from the FAC due to the Court's prior order dismissing Baby Quinones with prejudice, Plaintiff acknowledged that there was no government claim submitted and that Plaintiff cannot pursue state law claims, and Plaintiff acknowledged that Government Code § 844.6 immunity bars the Seventh, Eighth, and Ninth Claims for Relief against the County of Orange.” Mot. at 3-4, Dkt. No. 21; Opp'n at 6, Dkt. No. 22. Therefore, the Court reviews the primary issue at play: whether the statute of limitations for Quinones' claims has expired.

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. SACV 20-00666JVS(KESx) Date Sept. 30, 2020

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that date, and the statute of limitations expired six months and two years later, respectively, for the state and federal law claims. Quinones did not file her Complaint until September 9, 2019. Thus, Quinones' Complaint is untimely, unless she can plead facts to show she is entitled to tolling.

ii. Whether the Statute of Limitations has tolled²

"If a person entitled to bring an action [] at the time the cause of action accrued either under the age of majority or lacking the legal capacity to make decisions, the time of the disability is not part of the time limited for the commencement of the action."³ Cal. Civ. Code § 352(a).

Mental incapacity is one such circumstance where Section 352 would apply. United States v. Brockamp, 519 U.S. 347, 348 (1997) ("[mental disability], we assume, would permit a court to toll the statutory limitations period"); Laws v. Lamarque, 351 F.3d 919, 924 (9th Cir. 2003). However, "the fact that a plaintiff was mentally impaired is not, by itself, sufficient to warrant tolling." Bates v. Del Valle, No. 2:19-CV-07495-GW-JDE, 2019 WL 8883340, at *4 (C.D. Cal. Dec. 30, 2019), "[T]he basic question ... is whether [Plaintiff was] sufficiently aware of the nature or effects of [her] acts to be able to comprehend such business transactions as the hiring of an attorney and the instigation of a legal action." See Hsu v. Mt. Zion Hosp., 259 Cal.App.2d 562, 66 Cal.Rptr. 659, 666 (1968). Therefore, Section 352 applies only where an individual is "incapable of caring for [her] property or transacting business or understanding the nature or effects of [her] acts." Estate of Stern v. Tuscan Retreat, Inc., 725 F. App'x 518, 521 (9th Cir. 2018).

The Court agrees with County that Quinones fails to claim that at the time her claims accrued on March 29, 2016, she lacked legal capacity to make decisions. Memo.

²Because Section 1983 claims look to state law concerning tolling the statute of limitations, the Court analyzes whether the state of limitations has tolled under California law, *not* federal law. The applicable standard is that set forth in California Civil Code Section 352 and not the two-pronged federal law test.

³Because Section 352 requires that a Plaintiff lack legal capacity at the time accrues, the Court focuses its analysis on whether Quinones lacked legal capacity on March 28, 2016.

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. SACV 20-00666JVS(KESx) Date Sept. 30, 2020

Title Sandra Quinones v. County of Orange et al

Pts. & Auth. at 17, Dkt. No. 21-1. Quinones argues that such a position is “callous” and “ignores the trauma experienced by [Quinones].” Opp’n at 2, Dkt. No. 22. However, Quinones does not dispute that her claims accrued on March 28, 2016. *Id.* at 3. Nor does she adduce any factual basis to say she was incapacitated at the time it accrued. *See generally* Opp’n, Dkt. No. 22. Rather, Quinones contends that as a result of the incident, “[she] suffers from, and was diagnosed with, severe and extreme post-traumatic stress disorder and depression.” Opp’n at 4, Dkt. No. 22 (citing FAC ¶ 15). Quinones adds that her homelessness, inability to function and take care of her affairs, severe anxiety, mental coping disorder, and post-incident mental health evaluations that demonstrate she has “difficulty with cognition and comprehension . . . Lacks response when asked questions. . . . and answers questions inappropriately” indicate she lacks capacity as well. FAC ¶ 25.

Even if Quinones did adduce this facts during the relevant time period, they would be insufficient to warrant tolling. *Snyder v. Boy Scouts of Am., Inc.*, 205 Cal. App. 3d 1318 (Cal. Ct. App. 1988) (holding that “‘post-traumatic syndrome’ does not constitute insanity under the statute”). While the Court sympathizes with Quinones, the alleged claims within her Complaint do not entitle her to tolling the statute of limitations. *Moore v. Baca*, No. CV 10-4033 DDP JPR, 2011 WL 7658279, *4 (C.D. Cal. Dec. 15, 2011), *report and recommendation adopted*, 2012 WL 1155859 (C.D. Cal. July 21, 2010) (“The only fact alleged in the FAC relevant to Plaintiff’s potential entitlement to equitable tolling is that Plaintiff ‘is developmentally disabled and illiterate.’ This single allegation, even when accepted as true, is not sufficient to show that Plaintiff is entitled to tolling. Plaintiff does not plead any additional facts to suggest the statute of limitations should be tolled under either California Code of Civil Procedure section 352(a) or California’s equitable tolling rules. Thus, Plaintiff’s claims are time barred based on the facts as pled in the FAC, and the FAC should be dismissed”).

Quinones’ opposition and Complaint simply fail to set forth facts that would suggest she lacked legal capacity at the time her claims accrued. *Abels v. Bank of Am.*, No. CV 11-0208 PJH, 2011 WL 1362074, *1 (N.D. Cal. Apr. 11, 2011) (“To the extent, moreover, that plaintiff attempts to plead around the statute of limitations by alleging equitable tolling, plaintiff fails to sufficiently allege facts that would establish a plausible claim for equitable tolling”).

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. SACV 20-00666JVS(KESx) Date Sept. 30, 2020

Title Sandra Quinones v. County of Orange et al

The Court also briefly examines County's claim that Quinones' guilty plea counsels against a finding that she lacked legal capacity at the time her claims against the County accrued. The County argues that just over two weeks after the incident, on April 14, 2016, Quinones appeared before an Orange County Superior Court Judge and pled guilty. Memo. Pts. & Auth. at 20, Dkt. 21-1. At the time, she was advised of her legal and constitutional rights, and the Court found that she intelligently and voluntarily waived the same. *Id.* While a submission of a guilty plea at the time is significant evidence to counsel against a finding of legal incapacity, it is also clear to this Court that a finding now that Quinones lacked legal capacity during this period could call into question her guilty plea. See e.g., *Rodriguez v. Walker*, No. 1:09CV01376JLT HC, 2010 WL 3075654, at *4 (E.D. Cal. Aug. 5, 2010) ("Based upon the petition's claim that Petitioner was insane at the time he entered his guilty plea in the underlying conviction, it seems likely that Petitioner will seek to claim entitlement to equitable tolling based upon his alleged lack of mental capacity during the running of the one-year period.").

IV. CONCLUSION

For the foregoing reasons, the Court **GRANTS** the County's request for judicial notice. The Court also **GRANTS** the County's motion to dismiss as Quinones' claims are time-barred. Per the parties' briefing papers, the Court requests that Quinones and the County also file their agreed-to stipulations

IT IS SO ORDERED.

Initials of Preparer

_____: 0
lmb

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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION

SANDRA QUINONES, Individually
and for BABY,

Plaintiffs,

vs.

COUNTY OF ORANGE, a
Governmental Entity; and DOES 1-50.

Defendants.

Case No. 8:20 CV-00666-JVS (KESx)
Assigned to: Hon. James V. Selna
Crt. Rm: 10C
Magistrate Judge: Karen E Scott
Crt. Rm: 6D

**PLAINTIFF'S OPPOSITION TO
DEFENDANT'S MOTION TO DISMISS
THE COMPLAINT; AND MEMORANDUM
OF POINTS AND AUTHORITIES IN
SUPPORT THEREOF**

DATE: September 28, 2020
TIME: 1:30 p.m.
DEPT: 10C

Complaint Filed: 4/29/20
Trial Date: 5/11/21

Plaintiffs submit the following Memorandum of Points and Authorities in support
of their Opposition to Defendant's Motion to Dismiss:

1 **I. INTRODUCTION.**

2 The action arises out of the March 29, 2016 death of Plaintiff Sandra Quinones’
 3 (“Ms. Quinones”) baby while an inmate at the Orange County Jail. While Ms. Quinones
 4 was in labor, Defendant County of Orange (“the County”) Jail Guards ignored her pleas
 5 for help for hours. When they finally decided to transport her to the hospital, they decided
 6 to stop at Starbucks first while she waited in the van in labor and bleeding from her
 7 vagina. Ms. Quinones filed the Complaint on September 9, 2019 almost 3 and a half
 8 years after the incident. Ms. Quinones contends that the statute of limitations was tolled
 9 for a number of reasons including, but not limited to, her incarceration and mental illness.

10 The County’s Motion to Dismiss ignores the detailed facts plead by Ms. Quinones
 11 regarding her mental incapacity she suffered as a result of the incident to the present such
 12 that the statute of limitations should be tolled. In fact, it appears the County believes Ms.
 13 Quinones must be in a coma for tolling to apply as it contends that because “she was
 14 aware of the situation with her pregnancy, the need to call for assistance and getting to the
 15 hospital” *during the incident* she must have been capable to make decisions *after the*
 16 *incident* regarding pursuing her claims against the County. This callous position ignores
 17 the obvious trauma experienced by Ms. Quinones, and documented in County records, as
 18 a result of County employees caring more about their caffeine fix than Ms. Quinones’ and
 19 her baby’s health. Interestingly, the County completely ignores the allegation that Ms.
 20 Quinones was threatened by County employees to not bring a claim as or she would be
 21 charged for the death of her baby. FAC, ¶ 15.

22 The County also provides zero applicable authority supporting its position that Ms.
 23 Quinones’ guilty plea destroys her claims for tolling as a matter of law. In fact, the
 24 County provides authority indicating that there must be more—like a compliant from Ms.
 25 Quinones akin to the claim presentation requirement under the Tort Claim Act—for
 26 equitable tolling to be barred. Nevertheless, sufficient facts exist in paragraph 15 of the
 27 FAC such that a Motion to Dismiss is the wrong method to address the applicability of
 28 equitable tolling. *Supermail Cargo, Inc. v. United States* (9th Cir. 1995) 68 F.3d 1204,

1206–07.

In short, accepting Ms. Quinones’ allegations as true and construing them in the light most favorable to her, Ms. Quinones respectfully requests that the Court deny the County’s Motion to Dismiss as to the statute of limitations issue on the grounds that equitable tolling applies such that her claims be resolved on their face. “[T]he equitable tolling doctrine fosters the policy of the law of this state which favors avoiding forfeitures and allowing good faith litigants their say in court.” *Addison v. State of Cal.* (1978) 21 Cal. 3d 313, 321.

II. LAW AND ARGUMENT.

A. **The Statute of Limitations Is Tolled For Ms. Quinones’ Claim Due To Mental Incapacity.**

Ms. Quinones agrees that the statute of limitations on her section 1983 claims is 2 years, as provided by applicable state law for personal injury torts. She does not dispute that her claim accrued at the moment County guards went to Starbucks and left her in the back of the jail van instead of taking her to the hospital while she was bleeding and in labor. She also agrees that the statute was tolled while she was in custody at the Orange County Jail. However, she disagrees that the tolling stopped upon her release on April 14, 2016.

Equitable tolling of a limitations period is appropriate where extraordinary circumstances outside the plaintiff’s control made it impossible for her to timely assert her claim. *Stoll v. Runyon* (1999) 165 F.3d 1238, 1242. Mental incapacity and the effect it has upon the ability to file a lawsuit is one such circumstance. *Walker v. Pac. Mar. Assoc.* 2009 WL 1068886, at *2; *see also United States v. Brockamp* (1997) 519 U.S. 347, 348 (“[mental disability], we assume, would permit a court to toll the statute of limitations period”); *Laws v. Lamarque* (9th Cir. 2003) (finding mental incompetence may warrant equitable tolling for the period the prisoner was incompetent if he can show the incompetency in fact caused the filing delay). California Code of Civil Procedure section 352(a) allows for the tolling of the statute of limitations “if a person entitled to bring an

1 action . . . is, at the time the cause of action accrued either under the age of minority or
 2 lacking the legal capacity to make decisions . . .” “This tolling provision has been held
 3 applicable to one who is incapable of caring for his or her property or transacting business
 4 or understanding the nature or effects of his or her acts. *Flores v. Flores*, 2015 WL
 5 251855, at *3 (citing *Tzolov v. Int’l Jet Leasing, Inc.* (1991) 232 Cal. App. 3d 117).
 6 “Actual psychiatric illness does not need to be present to trigger tolling under section
 7 352(a), ‘only some mental condition which renders the plaintiff incapable.’” *Wilson*,
 8 *supra*, *3.

9 In *Valentine v. City of Concord* 2016 WL 2851661 Defendant filed a Motion to
 10 Dismiss on the grounds that the statute of limitations had expired. Plaintiff contended that
 11 the statute of limitations was equitably tolled pursuant to California law and Code of Civil
 12 Procedure section 352(a) “on account of his ‘mental problems’ arising from [the incident
 13 which gave rise to the action] including depression and PTSD” and his subsequent
 14 homelessness. *Id.* at *3. The Court denied Defendant’s Motion to Dismiss and held “[a]t
 15 this stage, Plaintiff has put forth enough allegations to establish that he lacked the capacity
 16 to make decisions and that his mental incompetence was caused by Defendant’s conduct.”
 17 *Id.* at *4.

18 Here, like *Valentine*, Ms. Quinones alleges that “[a]s a result of the incident, [she]
 19 suffers from, and was diagnosed with, severe and extreme post-traumatic stress disorder
 20 and depression.” FAC, ¶ 15. In fact, “[p]ost-incident mental health evaluations
 21 conducted by COUNTY employees revealed that [Ms. Quinones] has ‘difficulty with
 22 cognition and comprehension . . . lacks response when asked questions, . . . and answers
 23 questions inappropriately.” *Ibid.* She was quoted by these same employees on multiple
 24 occasions she believes “someone else is controlling her mind.” *Ibid.* Those same
 25 employees noted that Ms. Quinones “is constantly in tears and has no interest in doing
 26 anything—let alone getting out of bed---as a result of the incident.” *Ibid.* She also alleges
 27 that as a result of the trauma from the incident, she was homeless and unable to “take care
 28 of her affairs.” *Ibid.* Like *Valentine*, Defendant’s Motion should be denied as Ms.

Quinones has adequately pled mental incapacity from the moment of the incident to the present such that equitable tolling applies. Furthermore, if that was not enough, Ms. Quinones was threatened by Defendant employees not to bring an action regarding their conduct which further buttresses her claim for equitable tolling. *Id.* “[Defendant] is not entitled to benefit from [the effects of its own] . . . outrageous acts.” *Stoll, supra*, 165 F.3d at 1242.

B. Defendant’s Motion To Dismiss Is Not The Appropriate Method To Challenge Plaintiff’s Claim That Her Mental Incapacity Tolls The Statute Of Limitations

“Because the applicability of the equitable tolling doctrine often depends on matters outside the pleadings, it ‘is not generally amenable to resolution on a Rule 12(b)(6) motion.’” *Supermail Cargo, Inc., supra*, 68 F.3d at 1206–07; *quoting Cervantes v. City of San Diego* (9th Cir.1993) 5 F.3d 1273, 1276. “A motion to dismiss based on the running of the statute of limitations period may be granted only ‘if the assertions of the complaint, read with the required liberality, would not permit the plaintiff to prove that the statute was tolled.’” *Id.* at 1207; *quoting Jablon v. Dean Witter & Co.* (9th Cir. 1980) 614 F.2d 677, 682. “In fact, a complaint cannot be dismissed unless it appears beyond doubt that the plaintiff can prove no set of facts that would establish the timeliness of the claim. *Ibid.* Here, sufficient facts exist in the First Amended Complaint such that the County cannot establish “beyond doubt” that Ms. Quinones cannot prove she is entitled to equitable tolling. Paragraph 15 of the FAC specifically alleges the mental incapacity required for equitable tolling and tolling under Code of Civil Procedure section 352. As such, the County’s Motion should be denied.

C. Plaintiff’s Guilty Plea Alone Is Not Enough For Section 352 Or Equitable Tolling To Not Apply

Glaringly missing from the Opposition is any authority supporting the County’s purported assertion that Ms. Quinones’ guilty plea—and the guilty plea alone—defeats Ms. Quinones’ section 352 or equitable tolling claims. In fact, the County’s own

1 authority, *Whitaker v. LaRoche*, lists a number of facts—in addition to a guilty plea—as to
 2 why tolling did not apply such as “engag[ing] lawyers” and making a complaint with the
 3 police department regarding the same conduct which was the subject of his action. 2018
 4 WL 6601850 at *6.

5 Here, Ms. Quinones did not engage any lawyers as she was represented by a Public
 6 Defender. *See* Defendant’s Request for Judicial Notice, Exhibit A. She also did not file
 7 any complaints—other than the instant one—as evidenced by her failure to comply with
 8 the Tort Claims Act. *See* Section IV.C. of Defendant’s Motion. Rather, as alleged in the
 9 FAC, her mental incapacity was substantial and pervasive from the moment County
 10 employees cared more about their coffee than the life of a mother and her unborn baby.

11 **D. The Parties Are In Agreement Regarding The Remaining Issues**
 12 **Identified In The County’s Motion**

13 As stated in the County’s Motion, Ms. Quinones is in agreement regarding the
 14 State Law Claims, the “Baby” Designation and County Immunity for the Seventh, Eighth
 15 and Ninth Claims. Should the Court deny the County’s Motion with respect to the statute
 16 of limitations, the Parties will stipulate to these issues such that the case will be at issue.

17 **III. CONCLUSION.**

18 For the reasons stated above, Ms. Quinones respectfully requests that the Court
 19 deny the County’s Motion to Dismiss with respect to the Statute of Limitations argument
 20 and allow Ms. Quinones leave to amend to remedy the remaining issues.

21 DATED: September 4, 2020

Respectfully submitted,

24 /s/ Nicholas Kohan
 25 NICHOLAS KOHAN
 26 ATTORNEYS FOR PLAINTIFF

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
 COUNTY OF ORANGE)
 _____)

I am employed in the County of Orange, State of California. I am over the age of 18 years and not a party to the within action; my business address is: 1101 Dove Street, Suite 220, Newport Beach, California 92660.

On **September 4, 2020** I served the foregoing document(s) described as: **PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION TO DISMISS THE COMPLAINT; AND MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF** in Case No. 8:20 CV-00666-JVS (KESx) on the interested party(s) in this action by placing a true copy thereof, enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Newport Beach, California, addressed as follows and/or by one of the methods of service as follows:

Zachary Schwartz, Esq.
 Koeller, Nebeker, Carlson & Haluck, LLP
 3 Park Plaza, Suite 1500
 Irvine, CA 92614-8558
 Tel: 949-864-3400
 Fax: 949-864-9000
 E-mail: zachary.schwartz@knchlaw.com

Attorney for Defendant County of Orange

BY MAIL: I am readily familiar with this firm's practice of collection and processing of correspondence for mailing with the United States Postal Service, and that the correspondence shall be deposited with the United States Postal Service the same day in the ordinary course of business pursuant to C.C.P. § 1013(a).

BY FAX: In addition to service by mail as set forth above, a copy of said document(s) were also delivered via facsimile transmission to the addressee's fax number listed above pursuant to C.C.P. § 1013(e).

BY ELECTRONIC MAIL: In addition to service by mail as set forth above, a copy of said document(s) was also delivered by Electronic transmission as a courtesy copy only to the email addresses of record, unless there exists a prior agreement for service via electronic mail. If such an agreement exists, service by electronic mail is deemed complete.

X BY ELECTRONIC TRANSFER TO THE CM/ECF SYSTEM: On this date, I electronically uploaded a true and correct copy in Adobe "pdf" format the above listed document(s) to the United States District Court's Case Management and Electronic Case Filing (CM/ECF) system.

PROOF OF SERVICE

1 After the electronic filing of a document, service is deemed complete upon receipt of the Notice of
2 Electronic Filing ("NEF") by the registered CM/ECF users.

3 I declare that the foregoing is true and correct. Executed on **September 4, 2020** at Newport Beach,
4 California.

5 /s/ Yvette Barriga

6 Yvette Barriga
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**UNITED STATES DISTRICT COURT FOR THE
CENTRAL DISTRICT OF CALIFORNIA**

SANDRA QUINONES, individually and
as successor in interest to BABY
QUINONES, deceased,

Plaintiffs,

vs.

COUNTY OF ORANGE; and DOES 1-
10, inclusive,

Defendants.

Case Number: 8:20-cv-00666-JVS-
(KES)

**FIRST AMENDED COMPLAINT
FOR DAMAGES**

1. Fourteenth Amendment – Denial of Medical Care (42 U.S.C. §1983)
2. Fourteenth Amendment – Substantive Due Process (42 U.S.C. §1983)
3. Municipal Liability – Failure to Train (42 U.S.C. §1983)
4. Municipal Liability – Unconstitutional Custom, Practice, or Policy (42 U.S.C. §1983)
5. Municipal Liability – Ratification (42 U.S.C. § 1983)
6. Failure to Summon Medical Care (Cal. Gov't Code §845.6) (including wrongful death)
7. Bane Act (Cal. Code §52.1) (including wrongful death)
8. Intentional Infliction of Emotional Distress
9. Negligent Infliction of Emotional Distress

DEMAND FOR JURY TRIAL

1 **FIRST AMENDED COMPLAINT FOR DAMAGES**

2 COME NOW, Plaintiff Sandra QUINONES, individually and as successor-in-
3 interest to Baby QUINONES deceased, for their First Amended Complaint against
4 Defendants County of Orange (including its Orange County Sheriff's Department
5 ("OCSD") and its Orange County Women's Jail ("OCWJ") and DOES 1-10, and
6 hereby allege as follows:

7 **JURISDICTION AND VENUE**

- 8 1. This Court has original jurisdiction pursuant to 28 U.S.C. §1331 and
9 1343(a)(3)-(4) because Plaintiffs assert claims arising under the laws of the United
10 States including 42 U.S.C. §1983 and the Fourteenth Amendment of the United States
11 Constitution. Plaintiffs filed a timely claim under Government Code Section 911.2 *et*
12 *al.*, and bring pendant actions under California state law. This Court has supplemental
13 jurisdiction over Plaintiffs' claims arising under state law pursuant to 28 U.S.C.
14 §1367(a), because those claims are so related to the federal claims that they form part
15 of the same case or controversy under Article III of the United States Constitution.
- 16 2. Venue is proper in this Court because the parties reside in, and all incidents,
17 events, and occurrences giving rise to this action occurred in the County of Orange,
18 California.
- 19 3. The survival claims in this action are joined with the individual wrongful death
20 claims pursuant to CCP § 377.62, as all claims arise out of the same wrongful acts or
21 neglect.

22 **INTRODUCTION**

- 23
- 24 4. This civil rights and state tort action seeks compensatory and punitive damages
25 from Defendants (including the County of Orange, its OCSD and its OCWJ, the
26 OCWJ staff and the County's involved deputies) for violating various rights under the
27 United States Constitution and California law in connection with the in-custody death

1 of Plaintiff's child, Baby Quinones (deceased), and the denial of medical care to
2 Plaintiff Sandra Quinones, on March 29, 2016.

3 PARTIES

4 5. At all relevant times, Plaintiff Sandra Quinones ("QUINONES") was an
5 individual residing in the County of Orange, California and was the natural mother of
6 Baby Quinones ("Baby Quinones" or "DECEDENT"), deceased. QUINONES sues in
7 her individual capacity as the mother of DECEDENT and in a representative capacity
8 as a successor-in-interest to DECEDENT. QUINONES also sues in her individual
9 capacity for the violations of her own rights. QUINONES seeks compensatory
10 damages under federal and state law for the violations of her own rights and for the
11 emotional distress inflicted upon her, as well as survival and wrongful death damages
12 for the violations of Baby Quinones' rights and the emotional distress inflicted upon
13 Baby Quinones.

14 6. At all relevant times, Defendant COUNTY OF ORANGE ("COUNTY") is and
15 was a duly organized public entity existing under the laws of political subdivision for
16 the State of California with the capacity to be sued. COUNTY is responsible for the
17 actions, omissions, policies, procedures, practices, and customs of its various agents
18 and agencies, and employees, the OCSD and its agents and employees, and the OCWJ
19 and its agents and employees. At all relevant times, Defendant COUNTY was
20 responsible for assuring that the actions, omissions, policies, procedures, practices,
21 and customs of the COUNTY and its employees and agents complied with the laws of
22 the United States and the State of California. At all relevant times, COUNTY was the
23 employer of all individual Defendants.

24 7. Defendants DOES 1-6 are correctional officers or deputies, guards, jail nurses
25 and/or other jail medical professionals, and other staff working for the OCWJ and the
26 COUNTY. At all relevant times, DOES 1-6 were acting under color of state law
27 within the course and scope of their duties as correctional officers for the OCWJ. At

1 all relevant times, DOES 1-6 were acting with the complete authority and ratification
2 of their principal, Defendant COUNTY.

3 8. Defendants DOES 7-10 (“SUPERVISORY DOES”) are managerial,
4 supervisorial, and policymaking employees of the OCWJ, who were acting under
5 color of law within the course and scope of their duties as managerial, supervisorial,
6 and policymaking employees for the OCWJ and employees of the COUNTY. DOES
7 7-10 were acting with the complete authority and ratification of their principal,
8 Defendant COUNTY.

9 9. On information and belief, DOES 1-10 were residents of the County of Orange.

10 10. In doing the acts and failing and omitting to act as hereinafter described,
11 Defendants DOES 1-6 were acting on the implied and actual permission and consent
12 of Defendants DOES 7-10, and DOES 7-10 are sued under a theory of *respondeat*
13 *superior*.

14 11. In doing the acts and failing and omitting to act as hereinafter described,
15 Defendants DOES 1-10 were acting on the implied and actual permission and consent
16 of the COUNTY.

17 12. The true names and capacities, whether individual, corporate, association or
18 otherwise, of Defendants DOES 1-10, inclusive, are unknown to Plaintiffs, who
19 otherwise sues these Defendants by such fictitious names. Plaintiffs will seek leave
20 to amend their complaint to show the true names and capacity of these Defendants
21 when they have been ascertained. Each of the fictitiously-named Defendants is
22 responsible in some manner for the conduct or liabilities alleged herein.

23 13. At all times mentioned herein, each and every defendant was the agent of each
24 and every other defendant and had the legal duty to oversee and supervise the hiring,
25 conduct, and employment of each and every defendant.

1 14. All of the acts complained of herein by Plaintiffs against Defendants were done
2 and performed by said Defendants by and through their authorized agents, servants,
3 and/or employees, all of whom at all relevant times herein were acting within the
4 course, purpose, and scope of said agency, service, and/or employment capacity.
5 Moreover, Defendants and their agents ratified all of the acts complained of herein.

6 15. DOES 1-10 are sued in their individual capacities.

7 16. Plaintiffs filed a comprehensive and timely claim for damages with the County
8 of Orange pursuant to applicable sections of the California Government Code.
9

10 **FACTS COMMON TO ALL CLAIMS FOR RELIEF**

11 17. Plaintiffs repeat and re-allege each and every allegation in paragraph 1 through
12 17 of this Complaint with the same force and effect as if fully set forth herein.

13 18. On March 29, 2016, QUINONES was in custody in the OCWJ and was 6
14 months pregnant. Her water broke and she pushed the call button in her cell with no
15 response for two hours.

16 19. QUINONES had informed Defendants and DOES 1-6 that she was pregnant
17 and had been on “pregnant” status since entering the OCWJ months earlier.

18 20. Defendants and DOES 1-6 failed to call an ambulance and decided to transport
19 QUINONES to the hospital on a non-emergency basis. Moreover, Defendants and
20 DOES 1 – 6 did not provide any medical treatment and, instead, stopped for
21 Starbucks on the way to the hospital and made QUINONES wait in the back of a van
22 bleeding and in labor instead of transporting QUINONES directly to the hospital.

23 21. QUINONES and Baby Quinones were hospitalized and Baby Quinones died at
24 the hospital.

25 22. To add insult to injury, Defendants continued to attempt to force QUINONES
26 to take her pre-natal vitamins ever morning despite direct knowledge of the death of
27 Baby Quinones.

23. Baby Quinones was born alive and did not perish as a result of a miscarriage. Baby Quinones died after leaving QUINONES' body.

24. Each of the named Defendants were integral participants in the denial of medical care, the negligent treatment of QUINONES and Baby Quinones, and other violations of QUINONES' and Baby Quinones' rights, and/or failed to intervene to prevent these violations.

25. QUINONES remained in custody until approximately April 14, 2016. As a result of the incident, QUINONES suffers from, and was diagnosed with, severe and extreme post-traumatic stress disorder and depression. QUINONES was also told by DOES 1-10 during the incident that she did not deserve to have a baby and to not make an issue out of the incident as it was her fault, and if she does, she will be prosecuted for the death of the baby. On multiple occasions since April 14, 2016, QUINONES has been placed back in COUNTY custody due to her homelessness. This constant back and forth between jail and the streets made it impossible for even a mentally stable individual to take care of their affairs—let alone QUINONES who suffers from debilitating PTSD and depression after being forced to wait in the car bleeding and in labor while COUNTY employees stopped at Starbucks before taken to the hospital to deal with that medical condition. Relatedly, QUINONES' homelessness stems from her inability to function and take care of her affairs after the incident as a result of the severe emotional harm in combination with her mental impairments and DOES 1-10 implied threats. QUINONES essential lives on the goodwill of passersby as shelters will not admit her due to her mental incapacity and instability. Post-incident mental health evaluations conducted by COUNTY employees revealed that QUINONES has “difficulty with cognition and comprehension, . . . lacks response when asked questions, . . . and answers questions inappropriately.” QUINONES was also quoted multiple times as stating she believes “someone else is controlling her mind.” Additionally, her mental health records are

1 riddled with references to PTSD, severe depression, severe anxiety, severe mental
 2 coping disorder and observations that QUINONES is constantly in tears and has no
 3 interest in doing anything—let alone getting out of bed—as a result of the incident.
 4 QUINONES continues to be homeless with zero means to complete any independent
 5 act of daily living due to her mental impairment and emotional harm caused by the
 6 incident. Only when a shelter volunteer who repeatedly refused QUINONES entry to
 7 the shelter due to the volatility of her mental disorders and knew her story read an
 8 article about a similar case against Defendant COUNTY was QUINONES provided
 9 assistance to bring the instant action.

10 **FIRST CLAIM FOR RELIEF**

11 **Fourteenth Amendment – Denial of Medical Care (42 U.S.C. §1983)**

12 (By Plaintiff QUINONES, individually and as a successor-in-interest to
 13 DECEDENT, against Defendants DOES 1-10)

14 26. Plaintiffs hereby re-allege and incorporate by reference paragraphs 1 through 24
 15 of this Complaint as if fully set forth herein.

16 27. The Fourteenth Amendment’s Due Process Clause of the United States
 17 Constitution protects pretrial detainees from conditions of confinement or failures to
 18 prevent harm that amount to punishment without due process, including where prison
 19 officials are deliberately indifferent to inmates’ medical needs. 42 U.S.C. § 1983
 20 provides a private right of action for conduct which violates this right. The failure to
 21 provide such care constitutes a form of punishment imposed on persons not convicted
 22 of a crime, which is impermissible. *Bell v. Wolfish*, 441 U.S. 520 (1979).

23 28. Pursuant to the Fourteenth Amendment, QUINONES and Baby Quinones were
 24 entitled to receive necessary medical attention while in the care and custody of the
 25 COUNTY/OCWJ.

26 29. At all relevant times, DOES 1-10 were acting under color of state law.

27 30. DOES 1-10 had actual knowledge of QUINONES’ pregnancy and “pregnant”

1 status when QUINONES was in custody at the OCWJ, since the time that she was
2 booked at the OCWJ on April 29, 2018, and had actual knowledge that QUINONES
3 was in labor and was delivering Baby Quinones on March 29, 2016.

4 31. Early in the day on March 29, 2016, QUINONES contacted DOES 1-6,
5 including a jail nurse, through the emergency button in her cell, in order to alert
6 Defendants that she was having contractions. QUINONES told DOES 1-6 that she
7 needed to go to the hospital and see a doctor. DOES 1-6, including the guard on
8 duty, ignored this information and failed to summon medical aid. However,
9 QUINONES pressed the emergency button for two hours before anyone, including
10 DOES 1-6, responded to her calls for emergency aid.

11 32. Rather than provide QUINONES with emergency medical treatment consistent
12 with her status at the moment they finally responded to the emergency calls,
13 COUNTY, including DOES 1 to 6, decided to transport QUINONES to the hospital
14 on a non-emergent basis. In a blatant showing of indifference for QUINONES and
15 Baby Quinones, COUNTY including DOES 1 to 6 decided to stop for Starbucks
16 instead of transporting Quinones directly to the hospital.

17 33. DOES 1-10 failed to take reasonable measures to abate the severe medical risk
18 to QUINONES and Baby Quinones, despite obvious consequences of not treating
19 QUINONES' and Baby Quinones' conditions and not assisting with the serious
20 medical need that was labor, delivery, and postpartum care to both QUINONES and
21 Baby Quinones. By not treating QUINONES' medical needs related to her
22 pregnancy, labor and delivery, and by not providing care to Baby Quinones and not
23 assisting with his delivery, Defendants caused QUINONES' injuries and Baby
24 Quinones' death.

25 34. Defendants knew that failure to provide timely medical treatment to
26 QUINONES and Baby Quinones could result in serious medical complications and
27 death, but disregarded that serious medical emergency, directly causing QUINONES

1 and Baby Quinones great bodily harm and death.

2 35. Defendants' conduct "shocks the conscience" and was done with deliberate
3 indifference to QUINONES' and Baby Quinones's medical needs, medical condition,
4 rights to life, health, and to their child-parent relationship. The indifference to
5 QUINONES' and Baby Quinones's medical needs as alleged above were obvious,
6 serious, and substantial. Defendants' acts and omissions as alleged above served no
7 legitimate penological purpose.

8 36. As a direct and proximate result of the aforementioned conduct, QUINONES
9 and Baby Quinones suffered serious physical injuries (including death and pre-death
10 pain and suffering as to Baby Quinones) and emotional distress, mental anguish, and
11 pain.

12 37. Defendants are liable for the denial of medical care to QUINONES and Baby
13 Quinones, and for QUINONES' injuries and Baby Quinones's injuries and death,
14 either because they were integral participants in the denial of medical care, or because
15 they failed to intervene to prevent these violations.

16 38. The conduct of Defendants was willful, wanton, malicious, and done with an
17 evil motive and intent and with a reckless disregard for the rights and safety of
18 QUINONES and Baby Quinones, and therefore warrants the imposition of exemplary
19 and punitive damages as to DOES 1-10.

20 39. Plaintiff QUINONES brings this claim as successors in interest to Baby
21 Quinones and seek survival damages under this claim, including for Baby Quinones'
22 pre-death pain and suffering and loss of enjoyment of life. Plaintiff QUINONES also
23 brings this claim in her individual capacity for the denial of medical care to
24 QUINONES that resulted in her serious physical injuries and emotional distress
25 stemming from the physical injuries. Plaintiffs also seek reasonable costs and
26 attorney's fees under 42 U.S.C §1988 on this claim.

27

SECOND CLAIM FOR RELIEF

Fourteenth Amendment – Substantive Due Process, Interference with Familial Relations (42 U.S.C. § 1983)

(By Plaintiff QUINONES, individually, against Defendants COUNTY and DOES 1-10)

40. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1 through 38 of this Complaint with the same force and effect as if fully set forth herein.

41. Plaintiffs 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 their familial relationship with their son, Baby Quinones.

42. At all relevant times, Defendants DOES 1-10 acted under color of state law.

43. As alleged above, Defendants had actual knowledge of QUINONES' pregnancy, contractions, labor, and delivery, as follows: OCWJ staff had familiarity with QUINONES and QUINONES' "pregnant" status for months. Despite Defendants having actual knowledge of QUINONES' pregnancy even prior to QUINONES' first emergency call on March 29, 2016, QUINONES was not properly and adequately medically screened, nor was she properly evaluated while she was in distress on that day.

44. On March 29, 2016, QUINONES informed Defendants through her cell's emergency call button that she was in pain and having contractions. QUINONES also requested multiple times that she be taken to the hospital to see a doctor. After the first emergency call was placed, DOES 1-6 ignored QUINONES' request for aid and failed to summon any aid. Over two hours passed before anyone evaluated QUINONES and QUINONES was not taken to the hospital on an emergency basis or provided with any medical attention, despite her requests to be taken to the hospital

1 and despite her obvious medical condition.

2 45. These actions and omissions on the part of Defendants were sufficiently
3 harmful to evidence deliberate indifference to QUINONES' and Baby Quinones'
4 constitutional rights and serious medical needs, and the indifference to QUINONES'
5 and Baby Quinones' serious and obvious medical needs as alleged above was
6 substantial. These actions and omissions on the part of Defendants was so egregious,
7 so outrageous, that they may be fairly said to shock the conscience. Defendants thus
8 violated the substantive due process rights of Plaintiffs to be free from unwarranted
9 interference with their familial relationship with Baby Quinones, DECEDENT, her
10 child.

11 46. As a direct and proximate result of the aforementioned conduct, Baby Quinones
12 suffered injuries, including pain and suffering, and then died. Plaintiff has been
13 deprived of the life-long love, companionship, comfort, support, society, care, and
14 sustenance of Baby Quinones, and will continue to be so deprived for the remainder
15 of her natural lives.

16 47. The conduct of Defendants was willful, wanton, malicious, and done with an
17 evil motive and intent and a reckless disregard for the rights and safety of Baby
18 Quinones and Plaintiff, and therefore warrants the imposition of exemplary and
19 punitive damages as to the individual Defendants.

20 48. Plaintiff brings this claim in her individual capacity and seek wrongful death
21 damages under this claim for the interference with their familial relationship with
22 Baby Quinones. Plaintiff also seeks reasonable costs, funeral and burial expenses,
23 and attorney's fees under 42 U.S.C §1988.

THIRD CLAIM FOR RELIEF

Supervisory and Municipal Liability – Failure to Train – (42 U.S.C. §1983 and *Monell*)

(By Plaintiff QUINONES, individually and as a successor-in-interest to
DECEDENT, against Defendants COUNTY and DOES 7-10)

49. Plaintiff repeats and re-allege each and every allegation in paragraphs 1 through 47 of her Complaint with the same force and effect as if fully set forth herein.

50. Defendants DOES 1-6 acted under color of law.

51. The acts of Defendants as set forth above deprived Baby Quinones and Plaintiff of their particular rights under the United States Constitution, including Plaintiff's constitutional rights to be free from interference with her familial relationship with her son, Baby Quinones, as well as Baby Quinones's and QUINONES' constitutional right to timely and adequate medical attention.

52. The training policies of Defendant COUNTY were not adequate to train its employees to handle the usual and recurring situations with which they must deal.

53. Defendant COUNTY was deliberately indifferent to the obvious consequences of its failure to train its OCJW staff members adequately, including with respect to the provision of medical care to inmates, the housing of inmates in a safe environment, the health of inmates (particularly female inmates and pregnant inmates), and the risks of pregnancy, labor, and delivery.

54. The failure of Defendants COUNTY and DOES 7-10 to provide adequate training caused the deprivation of Plaintiff's and Baby Quinones' rights by Defendants DOES 1-6; that is, the defendant's failure to train is so closely related to the deprivation of the Plaintiff's rights as to be the moving force that caused the ultimate injury.

55. By reason of the aforementioned acts and omissions, Plaintiff has suffered loss of the love, companionship, affection, comfort, care, society, training, guidance, and past and future support of Baby Quinones, and QUINONES suffered serious physical injuries and emotional distress relating to the physical injuries. Accordingly, Defendants DOES 7-10 each are liable to Plaintiff for compensatory damages under 42 U.S.C. § 1983.

56. Plaintiff QUINONES brings this claim both individually and as successors in interest to Baby Quinones. Plaintiff QUINONES seeks damages for the violations of her constitutional rights, including her constitutional right to medical care and her constitutional right to be free from interference with her familial relationship with her son, Baby Quinones. Plaintiff additionally seeks survival damages for the violations of Baby Quinones' constitutional rights, including his constitutional right to medical care and his constitutional right to be free from interference with his familial relationship with the mother, QUINONES. Plaintiff further seeks attorney's fees and costs under this claim.

FOURTH CLAIM FOR RELIEF

Supervisory and Municipal Liability – Unconstitutional Custom or Policy – (42 U.S.C. §1983 and *Monell*)

(By Plaintiff QUINONES, individually and as a successor-in-interest to DECEDENT, against Defendants COUNTY and DOES 7-10)

57. Plaintiff hereby re-alleges and incorporates by reference paragraph 1 through 55 of this Complaint as if fully set forth herein.

58. Defendants acted under color of state law.

59. Defendants DOES 1-10 acted pursuant to an expressly adopted official policy or a longstanding practice or custom of the COUNTY.

60. The acts of Defendants as set forth above deprived Baby Quinones and Plaintiff of their particular rights under the United States Constitution, including Plaintiff's constitutional rights to be free from interference with their familial relationship with her child, Baby Quinones, as well as Baby Quinones' and QUINONES' constitutional right to timely and adequate medical attention.

61. On information and belief, Defendants DOES 1-6 were not disciplined, reprimanded, retrained, suspended, or otherwise penalized in connection with the denial of medical care that resulted in QUINONES' serious physical injuries and Baby Quinones' death.

62. Defendants DOES 1-10, together with other COUNTY policymakers and supervisors, respectively, maintained, inter alia, the following unconstitutional customs, practices, and policies:

- a) Failing to provide or summon adequate medical treatment to inmates in need of medical treatment, including that relating to pregnancy, and, relatedly, providing inadequate training regarding providing and/or summoning medical treatment for inmates who have serious and obvious medical needs;
- b) Treating inmates as if no one cares whether they live or die, and, relatedly, providing inadequate training regarding treating inmates as human beings;
- c) Providing an insufficient number of medical staff to handle female reproductive issues in the jail, and, relatedly, providing inadequate training regarding handling female reproductive issues in the jail;
- d) Failing to timely transport inmates who are in labor to the hospital and, relatedly, providing inadequate training regarding when to send pregnant inmates/inmates in labor to the hospital at the appropriate time;
- e) Employing and retaining employees whom Defendants COUNTY and

DOES 7-10 at all times material herein knew or reasonably should have known had dangerous propensities for ignoring inmates' medical needs and not providing any attention and/or treatment to female inmates in labor;

- f) Failing to adequately discipline Defendant COUNTY officers, guards and other employees including DOES 1-6, for the above-referenced categories of misconduct, including "slaps on the wrist" discipline that is so slight as to be out of proportion to the magnitude of the misconduct, and other inadequate discipline that is tantamount to encouraging misconduct;
- g) Announcing that unjustified in-custody deaths and injuries to inmates in the jail are "within policy," including deaths that were later determined in court to be unconstitutional and unjustified.

63. By reason of the aforementioned acts and omissions, Plaintiff has suffered loss of the love, companionship, affection, comfort, care, society, training, guidance, and past and future support of Baby Quinones, and QUINONES suffered serious physical injuries and emotional distress relating to the physical injuries. Accordingly, Defendants DOES 7-10 each are liable to Plaintiff for damages under 42 U.S.C. § 1983.

64. Defendants DOES 7-10, together with various other officials, whether named or unnamed, had either actual or constructive knowledge of the deficient policies, practices and customs alleged in the paragraphs above. Despite having knowledge as stated above, these defendants condoned, tolerated and through actions and inactions thereby ratified such policies. Said defendants also acted with deliberate indifference to the foreseeable effects and consequences of these policies with respect to the

1 constitutional rights of Baby Quinones, Plaintiff, and other individuals similarly
2 situated.

3 65. By perpetrating, sanctioning, tolerating and ratifying the outrageous conduct
4 and other wrongful acts, DOES 7-10 acted with intentional, reckless, and callous
5 disregard for the life of Baby Quinones and for Baby Quinones's and Plaintiff's
6 constitutional rights. Furthermore, the policies, practices, and customs implemented,
7 maintained, and still tolerated by Defendants COUNTY and DOES 7-10 were
8 affirmatively linked to and were a significantly influential force behind the injuries of
9 Baby Quinones and Plaintiff.

10 66. Further, the following cases demonstrate a pattern and practice of the COUNTY
11 maintaining unconstitutional customs, practices and policies, including an
12 unconstitutional custom and policy of failing to provide medical treatment and/or
13 ignoring basic care such that inmate and/or the baby died during or closely after
14 labor. These cases also show a pattern and practice of the COUNTY ratifying
15 unjustified and unconstitutional in-custody deaths:

- 16 1. Baby Doe; May 12, 2019;
- 17 2. Baby Doe; December 1, 2018;
- 18 3. Infant Jane Doe; November 12, 2018;
- 19 4. Infant Jane Doe; August 11, 2018;
- 20 5. Fetus of inmate Jane Doe; June 15, 2017;
- 21 6. Lauren M.'s Fetus; April 12, 2012.

22 67. Plaintiff QUINONES brings this claim both individually and as successor in
23 interest to Baby Quinones. Plaintiff QUINONES seeks damages for the violations of
24 her consitutional rights, including her constitutional right to medical care and her
25 consitutional right to be free from interference with her familial relationship with her
26 child, Baby Quinones. Plaintiff additionally seeks survival damages for the
27 violations of Baby Quinones's constitutional rights, including his constitutional right

1 to medical care and his consitutional right to be free from interference with his
 2 familial relationship with his mother, QUINONES, and including for Baby
 3 Quinones's pre-death pain and suffering. Plaintiff further seeks attorney's fees and
 4 costs under this claim.

5 **FIFTH CLAIM FOR RELIEF**

6 **Supervisory and Municipal Liability – Ratification – (42 U.S.C. §1983 and** 7 ***Monell*)**

8 (By Plaintiff QUINONES, individually and as a successor-in-interest to
 9 DECEDENT, against Defendants COUNTY and DOES 7-10)

10 68. Plaintiff repeats and re-alleges each and every allegation in paragraphs 1
 11 through 66 of her Complaint with the same force and effect as if fully set forth herein.

12 69. Defendants acted under color of state law.

13 70. The acts of Defendants as set forth above deprived Baby Quinones and Plaintiff
 14 of their particular rights under the United States Constitution, including Plaintiff's
 15 constitutional rights to be free from interference with their familial relationship with
 16 their son, Baby Quinones, as well as Baby Quinones's and QUINONES'
 17 constitutional right to timely and adequate medical attention.

18 71. Upon information and belief, a final policymaker, acting under color of law,
 19 who had final policymaking authority concerning the acts of Defendants DOES 1-6,
 20 ratified (or will ratify) the acts of Defendants DOES 1-6 and the bases for them. Upon
 21 information and belief, the final policymaker knew of and specifically approved of
 22 (or will specifically approve of) Defendants' acts, including a determination that
 23 Defendants' acts were "within policy."

24 72. On information and belief, Defendants DOES 1-6 were not disciplined,
 25 reprimanded, retrained, suspended, or otherwise penalized in connection with the
 26 denial of medical care to QUINONES and Baby Quinones, which resulted in
 27 QUINONES' injuries and Baby Quinones's death.

73. The following cases demonstrate a pattern and practice of the COUNTY maintaining unconstitutional customs, practices and policies, including an unconstitutional custom and policy of failing to provide medical treatment and/or ignoring basic care such that inmate and/or the baby died during or closely after labor. These cases also show a pattern and practice of the COUNTY ratifying unjustified and unconstitutional in-custody deaths:

1. Baby Doe; May 12, 2019;
2. Baby Doe; December 1, 2018;
3. Infant Jane Doe; November 12, 2018;
4. Infant Jane Doe; August 11, 2018;
5. Fetus of inmate Jane Doe; June 15, 2017;
6. Lauren M.'s Fetus; April 12, 2012.

74. By reason of the aforementioned acts and omissions, Plaintiff has suffered loss of the love, companionship, affection, comfort, care, society, training, guidance, and past and future support of Baby Quinones, and QUINONES suffered serious physical injuries and emotional distress relating to the physical injuries. Accordingly, Defendants DOES 7-10 each are liable to Plaintiff for compensatory damages under 42 U.S.C. § 1983.

75. Plaintiff QUINONES brings this claim both individually and as successor in interest to Baby Quinones. Plaintiff QUINONES seeks damages for the violations of her constitutional rights, including her constitutional right to medical care and her constitutional right to be free from interference with her familial relationship with her son, Baby Quinones. Plaintiff additionally seeks survival damages for the violations of Baby Quinones's constitutional rights, including his constitutional right to medical care and his constitutional right to be free from interference with his familial relationship with his parent, QUINONES, and including for Baby Quinones's pre-

1 death pain and suffering. Plaintiff further seek attorney's fees and costs under this
2 claim.

3 **SIXTH CLAIM FOR RELIEF**

4 **Failure to Summon Medical Care (Cal. Gov. Code §845.6) (including wrongful** 5 **death)**

6 (By Plaintiff QUINONES, individually and as a successor-in-interest to
7 DECEDENT, against all Defendants)

8 76. Plaintiff repeats and re-alleges each and every allegation in paragraphs 1
9 through 74 of this Complaint with the same force and effect as if fully set forth
10 herein.

11 77. Pursuant to California Government Code Section 845.6, a public employee, and
12 the public entity where the employee is acting within the scope of his employment, is
13 liable if the employee knows or has reason to know that the inmate is in need of
14 immediate medical care and he fails to take reasonable action to summon such
15 medical care.

16 78. On March 29, 2016, QUINONES informed Defendants through her cell's
17 emergency call button that she was in pain and having contractions. QUINONES
18 also requested multiple times that she be taken to the hospital to see a doctor. After
19 the first emergency call was placed, DOES 1-6 ignored QUINONES' request for aid
20 and failed to summon any aid. Over two hours passed before anyone evaluated
21 QUINONES and QUINONES was not taken to the hospital on an emergency basis or
22 provided with any medical attention, despite her requests to be taken to the hospital
23 and despite her obvious medical condition.

24 79. QUINONES' and Baby Quinones's medical emergencies were obvious.
25 Defendants are not entitled to immunity where the inmate or person in the care of
26 Defendants is in obvious need of medical care.
27

1 80. Despite Defendants' actual knowledge that QUINONES and Baby Quinones
2 were in need of immediate medical care as alleged above, Defendants failed to: (1)
3 conduct a proper medical assessment of QUINONES and Baby Quinones; (2)
4 summon immediate emergency medical assistance for QUINONES and Baby
5 Quinones, both before and after labor; (3) monitor and supervise the progression of
6 QUINONES' contractions and subsequent labor; and (4) recognize and identify the
7 urgency of the situation in order to summon proper medical care and/or timely
8 transport QUINONES and Baby Quinones to a hospital for medical care; (5) provide
9 any medical attention.

10 81. The COUNTY is vicariously liable for the wrongful acts of all named
11 Defendants pursuant to Section 815.2(a) of the California Government Code, which
12 provides that a public entity is liable for the injuries caused by its employees within
13 the scope of employment if the employee's act would subject him or her to liability.
14 California Government Code Section 820(a) states that except as otherwise provided
15 by statute (including Section 820.2), a public employee is liable by his act or
16 omission to the same extent as a private person. Pursuant to California Government
17 Code Section 844.6, a public employee or the government entity is not immune from
18 liability for injury proximately caused by its employee's negligent conduct, and
19 specifies that a public entity has a duty to pay a judgment. Moreover, a public
20 employee, and the public entity where the employee is acting within the scope of his
21 employment, is liable if the employee knows or has reason to know that the inmate is
22 in need of immediate medical care and he fails to take reasonable action to summon
23 such medical care.

24 82. As a direct and proximate result of the aforementioned conduct, Baby Quinones
25 suffered injuries, including pain and suffering, and then died, and QUINONES
26 suffered serious physical injuries and emotional distress relating to the physical
27 injuries. As another direct and proximate cause of the acts of Defendants, Plaintiff

1 has suffered emotional distress and mental anguish and have been deprived of the
 2 life-long love, companionship, comfort, support, society, care and sustenance of Baby
 3 Quinones, and will continue to be so deprived for the remainder of their natural lives.

4 83. The conduct of the individual defendants was malicious, wanton, oppressive,
 5 and accomplished with a conscious disregard for the rights of Baby Quinones and
 6 Plaintiffs, entitling Plaintiff to an award of exemplary and punitive damages.

7 84. Plaintiff QUINONES brings this claim individually as the parents of Baby
 8 Quinones and as successors in interest to Baby Quinones for the violations of Baby
 9 Quinones's rights. Plaintiff QUINONES also brings this claim individually for the
 10 violation of her right to medical care and seeks compensatory damages on her own
 11 behalf. Plaintiff seeks survival damages for the violations of Baby Quinones's right
 12 to medical care, and Plaintiff seeks wrongful death damages under this claim,
 13 including for the Plaintiff's loss of Baby Quinones's love, companionship, guidance,
 14 advice, and support. Plaintiff also seeks reasonable costs, funeral and burial
 15 expenses, and attorney's fees on this claim.

16 SEVENTH CLAIM FOR RELIEF

17 **Bane Act (Cal. Gov. Code §52.1) (including wrongful death)**

18 (By Plaintiff QUINONES, individually and as a successor-in-interest to
 19
 20 DECEDENT, against all Defendants)

21 85. Plaintiff repeats and re-alleges each and every allegation in paragraphs 1
 22 through 83 of this Complaint with the same force and effect as if fully set forth
 23 herein.

24 86. California Civil Code Section 52.1 ("the Bane Act") prohibits any person from
 25 intentionally violating a person's constitutional rights. An intent to violate a person's
 26 civil rights is demonstrated by a reckless disregard for the person's constitutional
 27 rights.

1 87. During the course of this incident, Defendants and DOES 1-10 intentionally
2 violated QUINONES' and Baby Quinones's civil rights as alleged above, including
3 by failing to provide QUINONES and Baby Quinones with the necessary medical aid
4 and treatment and by interfering with their constitutional rights to medical care.

5 88. On information and belief, QUINONES reasonably believed and understood
6 that the acts committed by Defendants (including Defendants' denial of medical
7 attention) were intended to discourage her from exercising her civil rights, to retaliate
8 against her for invoking such rights, or to prevent her from exercising such rights.

9 89. The conduct of Defendants as alleged above was a substantial factor in causing
10 Plaintiff and Baby Quinones harms, losses, injuries, and damages.

11 90. The COUNTY is vicariously liable for the wrongful acts of all named
12 Defendants pursuant to section 815.2(a) of the California Government Code, which
13 provides that a public entity is liable for the injuries caused by its employees within
14 the scope of the employment if the employee's act would subject him or her to
15 liability.

16 91. As a direct and proximate result of the aforementioned conduct, Baby Quinones
17 suffered injuries, including pain and suffering, and then died, and QUINONES
18 suffered serious physical injuries and emotional distress relating to the physical
19 injuries. As another direct and proximate cause of the acts of Defendants, Plaintiff
20 has suffered emotional distress and mental anguish and have been deprived of the
21 life-long love, companionship, comfort, support, society, care and sustenance of Baby
22 Quinones, and will continue to be so deprived for the remainder of their natural lives.

23 92. The conduct of the individual defendants was malicious, wanton, oppressive,
24 and accomplished with a conscious disregard for the rights of Baby Quinones and
25 Plaintiffs, entitling Plaintiff to an award of exemplary and punitive damages.
26
27

93. Plaintiff QUINONES brings this claim individually as the parent of Baby Quinones and as successors in interest to Baby Quinones for the violations of Baby Quinones's rights. Plaintiff QUINONES also brings this claim individually for the violation of her right to medical care and seeks compensatory damages on her own behalf. Plaintiff seeks survival damages for the violations of Baby Quinones's right to medical care, and Plaintiff seeks wrongful death damages under this claim, including for the Plaintiff's loss of Baby Quinones's love, companionship, guidance, advice, and support. Plaintiff also seeks reasonable costs, funeral and burial expenses, and attorney's fees on this claim, including treble damages under Cal. Civ. Code §52 *et seq.*

EIGHTH CLAIM FOR RELIEF

Intentional Infliction of Emotional Distress

(By Plaintiff QUINONES, individually and as a successor-in-interest to DECEDENT, against all Defendants)

94. Plaintiff repeats and re-alleges each and every allegation in paragraphs 1 through 92 of this Complaint with the same force and effect as if fully set forth herein.

95. As alleged above, Defendants were aware that QUINONES was pregnant, having contractions, and in active labor. By actively ignoring her requests for aid and medical attention up to and even during labor and delivery of Baby Quinones, Defendants forced QUINONES to proceed through labor and childbirth on her own. The extent to which Defendants failed to provide medical care to QUINONES and Baby Quinones was extreme and outrageous conduct with the intention of causing, or reckless disregard of the possibility of causing, emotional distress to Plaintiff QUINONES and to Baby Quinones.

96. As an actual and direct result of such conduct, Defendants caused Plaintiff QUINONES and Baby Quinones to suffer severe emotional distress, including

1 but not limited to suffering, anguish, fright, horror, nervousness, grief, anxiety,
2 worry, shock, and humiliation.

3 97. As a result of their misconduct, Defendant DOES 1-10 are liable for Plaintiff
4 QUINONES' and Baby Quinones's severe emotional distress, either because they
5 were integral participants in the intentional infliction of emotional distress and/or
6 because they failed to intervene to prevent the intentional denial of medical care that
7 caused the emotional distress.

8 98. Defendant COUNTY is vicariously liable for the wrongful acts of Defendant
9 DOES 1-10, inclusive, pursuant to California Government Code § 815.2(a), which
10 provides that a public entity is liable for the injuries caused by its employees within
11 the scope of the employment if the employee's act would subject him or her to
12 liability.

13 99. The conduct of Defendants alleged above was willful, wanton, malicious, and
14 done with reckless disregard for the rights and safety of Plaintiff QUINONES and
15 Baby Quinones, and therefore warrants the imposition of exemplary and punitive
16 damages (as to the individual defendants) in an amount according to proof.

17 100. Plaintiff QUINONES brings this claim in her individual capacity and also
18 as a successor-in-interest to Baby Quinones. Plaintiff QUINONES seeks
19 compensatory damages for the emotional distress that Defendants intentionally
20 inflicted upon her, as well as survival damages for the emotional distress that
21 Defendants intentionally inflicted upon Baby Quinones. Plaintiff also seeks
22 punitive damages under this claim.

23 **NINTH CLAIM FOR RELIEF**

24 **Negligent Infliction of Emotional Distress**

25 (By Plaintiff QUINONES, individually and as a successor-in-interest to
26 DECEDENT, against all Defendants)

27 101. Plaintiff repeats and re-alleges each and every allegation in paragraphs 1

1 through 99 of this Complaint with the same force and effect as if fully set forth
2 herein.

3 102. Plaintiff QUINONES is the mother of Baby Quinones, and QUINONES was
4 present at the scene of the incident when Defendants failed to summon medical care
5 for herself and Baby Quinones, resulting in the death of Baby Quinones.

6 103. Plaintiff QUINONES was contemporaneously aware that Baby Quinones was
7 being harmed at the time that Defendants were refusing to provide medical care or
8 transport her to a hospital for care. Specifically, QUINONES witnessed the delivery
9 of Baby Quinones, who was alive at the time of delivery, and QUINONES observed
10 and perceived the harm to and death of Baby Quinones, which was caused by the
11 failure of Defendants DOES 1-10 to provide medical care during the labor and
12 delivery of Baby Quinones.

13 104. Baby Quinones was also contemporaneously aware that his mother,
14 QUINONES, was being harmed during the labor and delivery—harm that was caused
15 by the failure of Defendants DOES 1-10 to provide medical care during the labor and
16 delivery of Baby Quinones.

17 105. The harm to and death of Baby Quinones in front of Plaintiff QUINONES, as
18 well as the harm to QUINONES in front of Baby Quinones, which were caused by
19 the failure of Defendants to render prompt medical care and treatment to QUINONES
20 and Baby Quinones, was negligent.

21 106. As an actual and direct result of said conduct, Defendant DOES 1-10,
22 inclusive, caused QUINONES and Baby Quinones to suffer pain, emotional
23 distress, and other damages, either because they were integral participants in the
24 denial of medical care to QUINONES and Baby Quinones and/or because they
25 failed to intervene to prevent these violations.

26 107. Defendant COUNTY is vicariously liable for the wrongful acts of
27 Defendant DOES 1-10 pursuant to California Government Code § 815.2(a),

1 which provides that a public entity is liable for the injuries caused by employees
 2 within the scope of employment if the employee's act would subject him or her
 3 to liability.

4 108. Plaintiff QUINONES brings this claim in her individual capacity and also
 5 as a successor-in-interest to Baby Quinones. Plaintiff QUINONES seeks
 6 compensatory damages for the emotional distress that Defendants negligently
 7 inflicted upon her, as well as survival damages for the emotional distress that
 8 Defendants negligently inflicted upon Baby Quinones.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiff requests entry of judgment in her favor and against
 11 Defendants County of Orange and Does 1-10, inclusive, as follows: (a) For
 12 compensatory damages in an amount to be proven at trial, including compensatory
 13 damages, survival damages and wrongful death damages under federal and state law;
 14 (b) For funeral and burial expenses; (c) For Baby Quinones's pre-death pain and
 15 suffering, and loss of enjoyment of life according to proof at trial; (d) For punitive
 16 damages against the individual Defendants in an amount to be proven at trial; (e) For
 17 statutory damages; (f) For interest; (g) For reasonable attorney's fees, including
 18 litigation expenses; (h) For costs of suit; and (i) For such further other relief as the
 19 Court may deem just, proper, and appropriate.

20
 21 Respectfully Submitted,

22
 23 KOHAN BABLOVE LLP

24
 25 Dated: August 14, 2020

By: /s/ Nicholas P. Kohan
 Nicholas P. Kohan
 Attorney for Plaintiffs

JURY DEMAND

Plaintiffs hereby demand a trial by jury on all issues.

Respectfully Submitted,

KOHAN BABLOVE LLP

Dated: August 14, 2020

By: /s/ Nicholas P. Kohan
Nicholas P. Kohan
Attorney for Plaintiffs

Richard P. Herman SBN: 053743
PRISONERS RIGHTS UNION
P. O. Box 53114
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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION

Sandra Quinones, Individually and as
successor in interest to Baby Quinones,
deceased,

Plaintiff,

vs.

County of Orange, and DOES 1-50,
Inclusive,

Defendants.

CASE NO: 8:20-CV-00666- JVS (KESx)

Assigned for all Purposes:
Honorable James V. Selna

PLAINTIFFS' NOTICE OF APPEAL

Notice is hereby given that Plaintiff Sandra Quinones, Individually and as
successor in interest to Baby Quinones, deceased in the above named case, hereby
appeals to the United States Court of Appeals for the 9th Circuit from a Judgment
entered in this action on the 9th day of October 2020.

PLAINTIFFS NOTICE OF APPEAL

DATED: November 6, 2020

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "R.P. Herman", is positioned above a horizontal line.

RICHARD P. HERMAN
Prisoners Rights Union
NICHOLAS KOHAN

PLAINTIFFS NOTICE OF APPEAL

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE

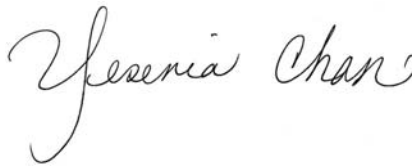
I am employed in the aforesaid County of Orange, State of California;

I am over the age of 18 and not a party to the within action; my address is
P. O. Box 53114, Irvine, California 92619. On November 6, 2020, I served the foregoing
document, described as **Notice of Appeal** on the interested parties in this action. I certify that all
participants in the case are registered CM/ECF users and that service will be accomplished by
the CM/ECF system.

Zachary Schwartz Esq
Koeller, Nebeker, Carlson & Haluck, LLP
3 Park Plaza Suite 1500
Irvine, CA 92614-8558
Telephone: 949-864-3400
Facsimile: 949-864-9000
Email: zachary.schwartz@knchlaw.com

(X) BY EMAIL: I caused all of the pages of the above-entitled document to be sent to the
recipient noted at their email address indicated.

(X) I declare under penalty of perjury under the laws of the State of California that I am
employed in the office of a member of the bar of this court at whose direction the service was
made and that the above is true and correct. Executed on November 6, 2020 in Rancho Santa
Margarita, California.



Yesenia Chan

ACCO,(DFMx),APPEAL,CLOSED,DISCOVERY,MANADR,RELATED-P

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA (Southern Division - Santa Ana)
CIVIL DOCKET FOR CASE #: 8:20-cv-00666-JVS-KES**

Sandra Quinones v. County of Orange et al
Assigned to: Judge James V. Selna
Referred to: Magistrate Judge Karen E. Scott
Related Case: 8:19-cv-00258-JVS-DFM
Case in other court: 9th CCA, 20-56177
Cause: 42:1983 Civil Rights Act

Date Filed: 04/06/2020
Date Terminated: 09/30/2020
Jury Demand: Plaintiff
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff

Sandra Quinones
Individually and for Baby

represented by **Nicholas P Kohan**
Kohan and Bablove
1101 Dove Street Suite 220
Newport Beach, CA 92660
949-535-1341
Fax: 949-535-1449
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Richard Paul Herman
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Email: rherman@richardphermanlaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

County of Orange
a Governmental Entity

represented by **Zachary M Schwartz**
Koeller Nebeker Carlson and Haluck LLP
3 Park Plaza Suite 1500
Irvine, CA 92614
949-864-3400
Fax: 949-864-9000
Email: zachary.schwartz@knchlaw.com
ATTORNEY TO BE NOTICED

Defendant

Does
1-10, inclusive

Date Filed	#	Docket Text
04/06/2020	<u>1</u>	COMPLAINT Receipt No: ACACDC-25985830 - Fee: \$400, filed by Plaintiff Sandra Quinones. (Attorney Richard Paul Herman added to party Sandra Quinones(pty:pla)) (Herman, Richard) (Entered: 04/06/2020)
04/06/2020	<u>2</u>	Request for Clerk to Issue Summons on Complaint (Attorney Civil Case Opening) <u>1</u> filed by Plaintiff Sandra Quinones. (Herman, Richard) (Entered: 04/06/2020)
04/06/2020	<u>3</u>	CIVIL COVER SHEET filed by Plaintiff Sandra Quinones. (Herman, Richard) (Entered: 04/06/2020)
04/06/2020	<u>4</u>	NOTICE of Interested Parties filed by Plaintiffs Sandra Quinones, identifying County of Orange, a Governmental Entity; and DOES 1-50.. (Herman, Richard) (Entered: 04/06/2020)
04/07/2020	<u>5</u>	NOTICE OF ASSIGNMENT to District Judge David O. Carter and Magistrate Judge Douglas F. McCormick. (car) (Entered: 04/07/2020)
04/07/2020	<u>6</u>	NOTICE TO PARTIES OF COURT-DIRECTED ADR PROGRAM filed. (car) (Entered: 04/07/2020)
04/07/2020	<u>7</u>	21 DAY Summons Issued re Complaint (Attorney Civil Case Opening) <u>1</u> as to Defendant County of Orange. (car) (Entered: 04/07/2020)
04/07/2020	<u>8</u>	INITIAL STANDING ORDER FOLLOWING ASSIGNMENT OF CIVIL CASE TO JUDGE CARTER. (kd) (Entered: 04/07/2020)
04/08/2020	<u>9</u>	ORDER TO REASSIGN CASE Pursuant General Order 19-03 (identical case) by Judge Jesus G. Bernal, Case Management and Assignment Committee Chair. Case transferred to the calendar of Judge James V. Selna and Magistrate Judge Karen E. Scott for all further proceedings. All discovery matters are transferred to Magistrate Judge Karen E. Scott. Case number now reads as 8:20-cv-00666-JVS(KES). (jgu) (Entered: 04/09/2020)
04/10/2020	<u>10</u>	INITIAL ORDER FOLLOWING FILING OF COMPLAINT ASSIGNED TO JUDGE SELNA (lb) (Entered: 04/10/2020)
04/20/2020	<u>11</u>	Order Setting Rule 26(f) Scheduling Conference set for 7/6/2020 at 10:30 am before Judge James V. Selna. Counsel shall file the Joint Rule 26 Meeting Report, with the completed Exhibit A, by 6/29/2020. (lb) (Entered: 04/20/2020)
05/03/2020	<u>12</u>	PROOF OF SERVICE Executed by Plaintiff Sandra Quinones, upon Defendant County of Orange served on 4/16/2020, answer due 5/7/2020. Service of the Summons and Complaint were executed upon Clerk of the Board of Supervisors authorized agent to accept service for the County of Orange in compliance with Federal Rules of Civil Procedure by method of service not specified.Original Summons NOT returned. <i>Served by U.S. Mail Pursuant to FRCP 5(b)(c)</i> . (Herman, Richard) (Entered: 05/03/2020)
06/16/2020	<u>13</u>	NOTICE OF MOTION AND MOTION to Dismiss COMPLAINT filed by Defendant County of Orange. Motion set for hearing on 7/20/2020 at 01:30 PM before Judge James V. Selna. (Attachments: # <u>1</u> Memorandum, # <u>2</u> Memorandum Request for Judicial Notice, # <u>3</u> Declaration, # <u>4</u> Proposed Order) (Attorney Zachary M Schwartz added to party County of Orange(pty:dft)) (Schwartz, Zachary) (Entered: 06/16/2020)
06/29/2020	<u>14</u>	JOINT REPORT Rule 26(f) Discovery Plan ; estimated length of trial 5-7 Days, filed by Defendant County of Orange.. (Attachments: # <u>1</u> Exhibit)(Schwartz, Zachary) (Entered: 06/29/2020)
06/29/2020	<u>15</u>	Opposition to Defendant's Motion to Dismiss Complaint re: NOTICE OF MOTION AND MOTION to Dismiss COMPLAINT <u>13</u> filed by Plaintiff Sandra Quinones. (Kohan,

		Nicholas) (Entered: 06/29/2020)
07/02/2020	<u>16</u>	ORDER FOR JURY TRIAL SETTING DATES; PREPARATION FOR TRIAL; AND GOVERNING ATTORNEY AND PARTY CONDUCT AT TRIAL before Judge James V. Selna. (See Document for Details and Deadlines) (lb) (Entered: 07/02/2020)
07/02/2020	<u>17</u>	MINUTES [IN CHAMBERS] ORDER RE SCHEDULING DATES by Judge James V. Selna: The Court has read and considered the parties Rule 26(f) Report and sets the following dates: Jury Trial May 11, 2021 at 8:30 a.m. Final PreTrial Conference April 26, 2021 at 11:00 a.m. Discovery Cut-off January 25, 2021. Expert Discovery Cut-off February 22, 2021. Law and Motion Cut-off March 22, 2021 at 1:30 p.m. The Court orders that any settlement discussions shall be completed not later than February 15, 2021. [See document for details and deadlines.] The Scheduling Conference set for July 6, 2020 at 10:30 a.m. is VACATED. (es) (Entered: 07/02/2020)
07/06/2020	<u>18</u>	REPLY REPLY BRIEF IN SUPPORT OF MOTION NOTICE OF MOTION AND MOTION to Dismiss COMPLAINT <u>13</u> filed by Defendant County of Orange. (Schwartz, Zachary) (Entered: 07/06/2020)
07/15/2020	<u>19</u>	MINUTES [IN CHAMBERS] Minute Order Regarding Motion to Dismiss by Judge James V. Selna: For the foregoing reasons, the Court GRANTS the motion to dismiss. Quinones has thirty (30) days to amend her pleading to address the deficiencies identified in this Order. (see document for details.) (es) (Entered: 07/15/2020)
08/14/2020	<u>20</u>	First AMENDED COMPLAINT against Defendants All Plaintiffs amending Complaint (Attorney Civil Case Opening) <u>1</u> , filed by Plaintiff Sandra Quinones(Kohan, Nicholas) (Entered: 08/14/2020)
08/28/2020	<u>21</u>	NOTICE OF MOTION AND MOTION to Dismiss PLAINTIFF'S FIRST AMENDED COMPLAINT filed by DEFENDANT County of Orange. Motion set for hearing on 9/28/2020 at 01:30 PM before Judge James V. Selna. (Attachments: # <u>1</u> Memorandum, # <u>2</u> Supplement Request for Judicial Notice, # <u>3</u> Declaration, # <u>4</u> Proposed Order) (Schwartz, Zachary) (Entered: 08/28/2020)
09/04/2020	<u>22</u>	OPPOSITION to NOTICE OF MOTION AND MOTION to Dismiss PLAINTIFF'S FIRST AMENDED COMPLAINT <u>21</u> filed by Plaintiff Sandra Quinones. (Kohan, Nicholas) (Entered: 09/04/2020)
09/14/2020	<u>23</u>	RESPONSE IN SUPPORT of NOTICE OF MOTION AND MOTION to Dismiss PLAINTIFF'S FIRST AMENDED COMPLAINT <u>21</u> filed by Defendant County of Orange. (Schwartz, Zachary) (Entered: 09/14/2020)
09/30/2020	<u>24</u>	MINUTES [IN CHAMBERS] Order Regarding Regarding County of Orange's Request for Judicial Notice and Motion to Dismiss by Judge James V. Selna: For the following reasons, the Court GRANTS the County's request for judicial notice. The Court also GRANTS the County's motion to dismiss as Quinones' claims are time-barred. Per the parties' briefing papers, the Court requests that Quinones and the County also file their agreed-to stipulations. [Refer to order for details.] (MD JS-6. Case Terminated) (es) (Entered: 09/30/2020)
10/09/2020	<u>25</u>	Joint STIPULATION to Dismiss Case filed by Defendant County of Orange.(Schwartz, Zachary) (Entered: 10/09/2020)
10/09/2020	<u>26</u>	JUDGMENT RE: DISMISSAL WITH PREJUDICE by Judge James V. Selna. The Court has granted Defendant County of Orange's Motion to Dismiss Plaintiff's First Amended Complaint and ruled that Plaintiff's claims are time barred by the statute of limitations. (Dkt. 24.) The parties have also entered into and filed the requested stipulation dismissing

		specified claims. (Dkt. 25.) Therefore, this action is hereby dismissed in its entirety with prejudice. (es) (Entered: 10/09/2020)
11/06/2020	<u>27</u>	NOTICE OF APPEAL to the 9th Circuit Court of Appeals filed by Plaintiff Sandra Quinones. Appeal of Judgment, <u>26</u> . (Appeal Fee - \$505 Fee Paid, Receipt No. ACACDC-28897312.) (Attachments: # <u>1</u> Exhibit Judgment)(Herman, Richard) (Entered: 11/06/2020)
11/09/2020	<u>28</u>	NOTIFICATION from Ninth Circuit Court of Appeals of case number assigned and briefing schedule. Appeal Docket No. 20-56177 assigned to Notice of Appeal to 9th Circuit Court of Appeals <u>27</u> as to plaintiff Sandra Quinones. (es) (Entered: 11/10/2020)

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