

1 by a fellow prison inmate. The unprovoked attack occurred in a common area of the Special Offender
2 Unit at the DOC's Monroe Correctional Complex in Monroe, Washington. The attacker was Benjamin
3 Cory Price. The defendant officers of the DOC knew, prior to the attack, individually and collectively,
4 that Price was mentally unstable and posed an immediate threat to other offenders. The defendant
5 officers knew that Price had a history of viciously killing, attempting to kill, and threatening to kill
6 others without provocation. The defendant officers knew that Price suffered from extreme mental
7 illness and that, when unstable or off baseline, he desired to kill others and to act on those desires. The
8 defendant officers knew that, as of the date of the murder, Price needed to be segregated from others
9 and that failing to do so posed a grave and imminent threat to other offenders. The defendant officers
10 knew that permitting Price to mingle among other offenders created a high likelihood of danger (in
11 form of death or serious bodily injury) to all those with whom he might come in contact. Despite this
12 knowledge and information, the DOC's officers failed to segregate Price and instead permitted him to
13 share common areas with other offenders, including the decedent, Mr. Powell, in such a way that
14 presented a substantial risk of serious bodily harm or death to them. By doing so, the defendant officers
15 were deliberately indifferent to Mr. Powell's constitutional and civil rights. This is an action, brought
16 pursuant to federal law, by the personal representative of Mr. Powell's estate, as well as his father
17 individually, for damages arising from the foreseeable and preventable attack and killing described
18 herein.

23 JURISDICTION AND VENUE

24 2. This Court has original jurisdiction over the plaintiffs' civil rights claims under 42
25 U.S.C. § 1983, pursuant to 28 U.S.C. § 1331 (federal question) and 28 U.S.C. § 1343.
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1 3. Venue is proper in this jurisdiction under 28 U.S.C. § 1391(b) because all of the events
2 that support the plaintiffs' allegations occurred in this judicial district and because the defendants reside
3 in this judicial district.
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5 **PARTIES**

6 4. Plaintiff, the Estate of Gordon ("Casey") Powell (the Estate), was duly formed in the
7 King County Superior Court under Cause No. 16-4-00177-4 SEA. Plaintiff, Stephanie Powell Leisure,
8 is the court-appointed personal representative for the Estate and the sister of the decedent. As personal
9 representative for the Estate, Ms. Leisure is qualified to bring the current action and assert the claims
10 alleged herein on behalf of the Estate including all claims arising under 42 U.S.C. § 1983.
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12 5. Gordon Clay Powell Sr. is the father of Casey Powell. He is a resident of Lewis County,
13 Washington. He and his son lived together for many years, including the years leading up to his
14 incarceration at the DOC in the fall of 2014. Mr. Powell Sr. is entitled to assert claims in his own
15 individual capacity for the loss of the society and companionship of his son under 42 U.S.C. § 1983
16 and so asserts those claims as alleged herein.
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18 6. Defendant Gary Barnes is an individual residing in this judicial district. At all times
19 relevant hereto, Defendant Barnes was an officer with the Washington State Department of Corrections
20 and was acting within the course and scope of his employment. All acts and omissions of Defendant
21 Barnes were done under color of state law and under the authority of his position as an officer with the
22 DOC.
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24 7. Defendant BreeAnn Caraway is an individual residing in this judicial district. At all
25 times relevant hereto, Defendant Caraway was an officer with the Washington State Department of
26 Corrections and was acting within the course and scope of her employment. All acts and omissions of
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1 Defendant Caraway were done under color of state law and under the authority of her position as an
2 officer with the DOC.

3 8. Defendant Keri Walters is an individual residing in this judicial district. At all times
4 relevant hereto, Defendant Walters was an officer with the Washington State Department of
5 Corrections and was acting within the course and scope of her employment. All acts and omissions of
6 Defendant Walters were done under color of state law and under the authority of her position as an
7 officer with the DOC.
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9 9. Defendant Jeremy Seeley is an individual residing in this judicial district. At all times
10 relevant hereto, Defendant Seeley was an officer with the Washington State Department of Corrections
11 and was acting within the course and scope of his employment. All acts and omissions of Defendant
12 Seeley were done under color of the state law and under the authority of his position as an officer with
13 the DOC.
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15 10. Defendant Tom Talbot is an individual residing in this judicial district. At all times
16 relevant hereto, Defendant Talbot was an officer with the Washington State Department of Corrections
17 and was acting within the course and scope of his employment. All acts and omissions of Defendant
18 Talbot were done under color of state law and under the authority of his position as an officer with the
19 DOC.
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21 11. Defendant Kevin Browne is an individual residing in this judicial district. At all times
22 relevant hereto, Defendant Browne was an officer with the Washington State Department of
23 Corrections and was acting within the course and scope of his employment. All acts and omissions of
24 Defendant Browne were done under color of state law and under the authority of his position as an
25 officer with the DOC.
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1 12. Defendant Andrew Herbert is an individual residing in this judicial district. At all times
2 relevant hereto, Defendant Herbert was an officer with the Washington State Department of
3 Corrections and was acting within the course and scope of his employment. All acts and omissions of
4 Defendant Herbert were done under color of state law and under the authority of his position as an
5 officer with the DOC.
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7 13. Defendant Cameron Johnson is an individual residing in this judicial district. At all
8 times relevant hereto, Defendant Johnson was an officer with the Washington State Department of
9 Corrections and was acting within the course and scope of his employment. All acts and omissions of
10 Defendant Johnson were done under color of state law and under the authority of his position as an
11 officer with the DOC.
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13 14. Defendant Kelsey Meyer is an individual residing in this judicial district. At all times
14 relevant hereto, Defendant Meyer was an officer with the Washington State Department of Corrections
15 and was acting within the course and scope of her employment. All acts and omissions of Defendant
16 Meyer were done under color of state law and under the authority of her position as an officer with the
17 DOC.
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19 15. Plaintiff anticipates that there will be other individual defendants, not currently known
20 by name, who were employed by and/or were agents of the DOC and who bear liability for the
21 allegations herein. Because plaintiffs do not currently know the names of all such individuals, they are
22 identified in this complaint as John and Jane Does 1-XX, and plaintiff may seek to amend this
23 complaint to add them as individual defendants as discovery and investigation progress. All acts and
24 omissions of John and Jane Does 1-XX were done within the course and scope of their employment,
25 under color of state law, and under the authority of their positions as officers with the DOC.
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FACTUAL ALLEGATIONS

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2 16. The DOC is responsible for administering adult corrections programs operated by the
3 State of Washington including 12 adult prisons located statewide. The DOC confines more than 15,000
4 offenders within its prison facilities. Among the DOC's prisons is the Monroe Correctional Complex,
5 located in Monroe, Washington.
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7 17. The majority of those confined at the DOC are non-violent offenders serving sentences
8 of less than 10 years who generally pose little or no threat to their fellow offenders. A small minority
9 of prisoners, however, present an extraordinary danger of serious harm to their fellow offenders and
10 others. One such offender was Benjamin Cory Price ("Price").
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12 18. In late 2006, Price brutally killed a woman named Dawn Ruger by breaking her neck with
13 his bare hands and/or by strangling her to death. He then hid her body in a remote area of Whatcom
14 County. Approximately 18 months later, Price walked into the Whatcom County Sheriff's Office,
15 confessed to the murder of Ms. Ruger, and led officers to her decomposed remains. He was
16 subsequently diagnosed with paranoid schizophrenia and/or other serious mental illnesses. Price was
17 criminally charged with murder, entered a plea of first degree manslaughter, and was sentenced to 12
18 years in state prison. Following the sentence, Price was delivered to the custody of the DOC to serve
19 his sentence and has been in DOC custody ever since.
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21 19. On April 18, 2011, Price attempted to kill again while confined at the DOC's Stafford
22 Creek Correctional Center. On that date, Price attempted to strangle another offender to death with a
23 piece of bed sheet. In admitting to the attack, Price stated, among other delusions, that he believed the
24 other offender was "the devil" and that it was his role to kill him. After the attempted killing on April
25 18, 2011, Price was transferred to the Monroe Correctional Complex, Special Offender Unit in Monroe,
26 Washington for mentally ill offenders.
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1 20. From the beginning of his confinement at the DOC and throughout his incarceration,
2 Price gave numerous additional indications that he was violently psychotic and that he would likely
3 attempt to kill another person if not stabilized. The DOC, through its officers, including the individual
4 defendants herein, were aware of Price's homicidal history as well as the nature of his mental diagnoses
5 and extreme violent tendencies. It was well known, including by the individual defendants herein, that
6 Price was extremely dangerous—particularly during periods when he was “off baseline.” Prison staff
7 and other offenders were afraid of him. Physicians and mental health providers were afraid of him.
8 The DOC collected and amassed a file on Price confirming his homicidal history, mental illness, and
9 violent tendencies. Information indicating Price's dangerousness was freely shared among staff,
10 including the individual defendants herein. When Price was unstable or off baseline, he was required
11 to be removed from the general population and placed in restrictive environments (or close observation
12 areas) as a means of ensuring the safety of other offenders from Price. These placements would be of
13 varying duration, after which he would be moved back into the general population once stabilized.
14 From approximately 2011 to 2014, Price was periodically noted to be highly unstable and dangerous.
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18 21. In 2014 and 2015, Price's symptoms of mental instability, violence, and dangerousness
19 to others became increasingly apparent. He was removed for placement in the close observation area
20 in March 2014, July 2014, and again, in February 2015. The bases for these placements included
21 concerns for his ever increasing aggressiveness and dangerousness to others including off-baseline
22 behavior where he demonstrated elevated levels of expressed emotions, fervent delusional beliefs, a
23 refusal or inability to calm down when infected with a desire to kill or hurt, and an inability or refusal
24 to engage in normal dialogue or interaction with others. During periods where he was off-baseline,
25 Price was even more dangerous than usual and possessed by a nearly uncontrollable urge to murder.
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1 22. The DOC, through its officers, including the defendant officers, knew, or should have
2 known, that Price, who was a large and strong individual, was easily capable of carrying out his desire
3 to kill, even with his bare hands. At times, Price even made his desires apparent. During the time
4 leading up to his killing of Mr. Powell, Price made numerous statements indicating that he was
5 suffering from paranoid delusions, including consistently referring to himself as the “Arch Angel
6 Michael” and the leader of “God’s Angels”—statements consistent with his delusional belief that he
7 was assigned to carry out murders of people he viewed as being in league with “the devil.” He
8 demanded an audience with law enforcement and made statements indicating an intent to kill others at
9 random as a means of gaining the attention of the police. In the weeks, days, and hours leading up to
10 the fatal assault that is the subject of this case, Price would walk around common areas with his fists
11 clenched while opening and closing his eyes rapidly, yell at other offenders randomly for no apparent
12 reason, pound on the walls of his cell with his fists, make delusional statements, and pace back and
13 forth in an aggressive and pre-occupied state, among other off-baseline behaviors.

14 23. Leading up to and including the very date of the fatal assault alleged herein, the DOC’s
15 officers, including the individuals named herein, were aware of Price’s off-baseline behavior, knew
16 that he was likely to carry out an unprovoked attack against one or more individuals at random, and
17 knew that such an attack was likely to cause serious physical injury or death. Despite this knowledge,
18 the DOC’s officers, including the individual defendants named herein, permitted Price to mingle among
19 other offenders in such a way that he could easily carry out his compulsion to kill at will. In so doing,
20 the DOC and its officers were deliberately indifferent to the Eighth Amendment rights of other
21 offenders in violation of the United States Constitution.

22 24. The victim in this case, Gordon “Casey” Powell, entered the DOC in October of 2014.
23 In the fall of 2014, Mr. Powell was arrested in Lewis County, Washington for breaking the glass front
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1 door of a distillery, stealing four bottles of liquor, and subsequently allegedly resisting arrest. He
2 pleaded guilty to second degree burglary and third degree assault and was sentenced by a Lewis County
3 judge to a prison term of five years with time served and an earliest possible release date of February
4 3, 2018. Mr. Powell was then delivered to the custody and control of the DOC. He was thereafter
5 transferred to the Monroe Correctional Complex to serve his sentence. Mr. Powell had mental health
6 issues and was therefore housed in the same Special Offender Unit at the Monroe Correctional
7 Complex as was the violent and dangerous Price.
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9 25. Both Powell and Price were housed in Pod 2 of the E-Unit, a pod that houses
10 approximately 40 offenders. Price was tall, well-built, strong and approximately 35 years of age.
11 Powell was small and frail, being approximately 5 feet 7 inches tall and 130 pounds or lighter. He was
12 also approximately 10 years older than Price. Powell was the smallest and frailest of all offenders
13 housed with Price in Pod 2 of the E-Unit, a fact which made him especially vulnerable to an unprovoked
14 attack by the homicidal Price.
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16 26. At the Monroe Correctional Complex Special Offender E Unit, offenders are generally
17 let out of their cells to walk to Dining Hall #1 at the appointed time to receive an evening meal. When
18 the offenders are finished with dinner, they walk back to their pods. When walking to and from dinner,
19 and during the designated meal time, offenders mingle with and come into close contact with all other
20 offenders who walk to and from the dining hall and who eat there. It was the duty of the individual
21 defendants to supervise offenders during these periods to protect offenders from violence at the hands
22 of other offenders.
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24 27. As of May 9, 2015, the DOC's officers, including the individual defendants herein,
25 should not have permitted Price to come into close physical contact with other offenders during meal
26 and/or other periods due to his instability and off-baseline behavior and the danger he posed to other
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1 offenders. Price needed to be segregated and closely observed until stabilized. Such segregation and
2 close observation is appropriate and required in the case of offenders, such as Price, who pose a
3 significant danger to others. The DOC's officers, including the individual defendants herein, failed,
4 however, to adequately segregate Price and/or prevent his coming into close contact with other
5 offenders. Despite their knowledge and information that Price was homicidal and unstable and that he
6 desired to kill someone, the DOC, through its officers, permitted Price to walk to and from the dining
7 hall with other offenders and eat with other offenders, during which time he could carry out his
8 compulsion to hurt and/or kill.
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11 28. On May 9, 2015, Price was clearly exhibiting his off-baseline, aggressive, delusional,
12 and dangerous behavior. Although this behavior was seen and noticed by the DOC's officers, including
13 the individual defendants herein, no action was taken to segregate Price or otherwise protect other
14 offenders from him. For example, in the early morning hours of May 9, 2015, Price was explicitly
15 noted to be "off his base line" by Defendant Walters who called and alerted other corrections officers
16 of his behavior. This off baseline behavior was also documented in the log book. Price's instability
17 indicated the likelihood of an imminent and unprovoked attack. Despite this knowledge, no action was
18 taken to segregate Price or protect other offenders from him.
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21 29. Later in the day on May 9, 2015, other defendants arrived to begin their shifts. Their
22 duties included the supervision of offenders during dinner and when such offenders are walking to and
23 from the dining area. Before beginning their shifts, these defendants were explicitly advised by other
24 officers about Price's off baseline behavior and that "Price was slipping," in reference to his
25 deteriorated mental state. Despite these warnings, defendants failed to segregate Price, instead
26 permitting him to engage in the usual contact with other offenders described above. Knowing that he
27 posed an imminent danger of serious bodily harm to other inmates, defendants allowed Price to freely
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1 mingle with other offenders during meal time. Mr. Powell was one of many offenders who was forced
2 to into close proximity with Price during this period.

3 30. During the meal period, Price continued to behave in a way that was clearly off baseline.
4 Among other things, he was acting very agitated, speaking in a loud voice in a delusional manner and/or
5 to himself, mumbling incoherently, failing to make eye contact with anyone, and failing to focus on
6 anyone. Defendants continued to recognize that Price was off baseline and that he posed an imminent
7 risk of serious bodily harm, but they still took no action to segregate him from other offenders.
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9 31. At the conclusion of the May 9th meal period referenced above, offenders, including
10 Price, Mr. Powell, and others, were returning to their cells from the dining hall. At some point before
11 4:37 p.m., Price stopped walking and stood against the wall rather than continuing to proceed towards
12 his cell. Price was waiting for Powell to come near to him, so that he could kill him. DOC officers,
13 including defendants, noticed this behavior but took no action in response to segregate him or otherwise
14 attempt to prevent an attack.
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16 32. As Mr. Powell approached the area where Price was standing and waiting, Price
17 launched an unprovoked and vicious physical attack against him. As the attack began, a terrified Mr.
18 Powell exclaimed, “What did I do?” and “Stop! Stop!” but he was almost totally incapable of defending
19 himself from the attack and could not repel it. Upon being attacked, Mr. Powell fell to the ground,
20 whereupon Price began kicking and stomping on his head in an attempt to crush his skull. Price
21 repeatedly stomped on Mr. Powell’s head with full force, in an attempt to kill him. When the attack
22 was over, Mr. Powell was unconscious and near death from trauma to his brain.
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24 33. Mr. Powell was taken to Providence Hospital in Everett where he was diagnosed with a
25 traumatic head injury and placed on life support. On May 18, 2015—approximately nine days after the
26 attack—life support was deemed to be futile and withdrawn. Mr. Powell thereafter succumbed to his
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1 injuries and died. The cause of his death was devastating trauma to his brain. In confessing to the
2 attack at a later date, Price stated, “I have been asking to talk to law enforcement. I told them I was
3 going to kill someone if I did not get help. I tried to kill him so I could talk to the Sheriff.”
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5 34. Price’s medical records, mental health records, central file records and other records
6 will further confirm his mental illness, homicidal tendencies, the extraordinary danger he posed to other
7 offenders, and information and knowledge of such by the DOC and its officers.

8 35. Price was subsequently charged with first degree aggravated murder by the Snohomish
9 County Prosecuting Attorney.
10

11 36. The conditions of Mr. Powell’s confinement at the DOC’s Special Offender Unit at the
12 Monroe Correctional Complex presented a substantial risk of serious harm to him, insofar as he was
13 confined in close proximity to an unstable homicidal maniac with a history of killing and a present
14 desire to kill without reason, provocation, or justification. The danger was known and appreciated by
15 the DOC through its officers, including the individual defendants herein. Prison officials, and DOC
16 officers including the individual defendants herein, were aware of the clear and present danger to Mr.
17 Powell and other offenders but disregarded the danger and failed to take appropriate steps required by
18 the Eighth Amendment of the Constitution to protect the other offenders from the dangers posed by
19 Price.
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21 37. The failure by the DOC, through its officers, including the individual defendants herein,
22 to protect Mr. Powell from the known and obvious threat presented by Price was deliberately indifferent
23 to the Eighth Amendment rights of Mr. Powell and other offenders. It was foreseeable that the failure
24 to segregate Price from other offenders and take reasonable measures to protect them from him (and
25 instead allowing Price to mingle with them in close proximity where he could freely carry out his desire
26 to kill) would lead to the death or serious bodily injury of an offender such as Mr. Powell. Mr. Powell’s
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1 death was caused by the defendants' breaches of their constitutional obligations to the offenders over
2 whom they had custody and control and to whom they were responsible, including Mr. Powell

3 38. By the unconstitutional actions and omissions of the individual defendants herein,
4 defendants violated the Fourteenth Amendment right of Gordon Powell, Sr. to the society and
5 companionship of his son.
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7 39. With regard to all alleged constitutional violations alleged herein, the individual
8 defendants acted with at least reckless disregard to plaintiffs' well-established constitutional rights.
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10 CLAIMS

11 40. Stephanie Powell Leisure, the Personal Representative for the Estate, asserts all
12 available claims under 42 U.S.C. § 1983 for the deprivation of Mr. Powell's constitutional rights under
13 the Eighth Amendment to the United States Constitution.

14 41. Mr. Powell, Sr., as the father of Mr. Powell, possesses his own independent claims under
15 42 U.S.C. § 1983 for the deprivation of the society and companionship of his son in violation of the
16 Fourteenth Amendment to the United States Constitution and asserts those claims herein on his own
17 behalf.
18

19 DAMAGES

20 42. Damages have been suffered by all plaintiffs herein. These include damages for the
21 pain and suffering experienced by Mr. Powell prior to his death, damages for Mr. Powell's loss of
22 enjoyment of life and for the loss of Mr. Powell's life, economic damages (including, but not limited
23 to, medical expenses, funeral expenses, and other claims for economic damages), and damages to Mr.
24 Powell, Sr. for his own loss of society and companionship of his son in violation of the United States
25 Constitution. To the extent any state law limitations on such damages are purported to exist, they are
26 inconsistent with the compensatory, remedial, and/or punitive purposes of 42 U.S.C. § 1983, and any
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1 such alleged state law limitations must be disregarded in favor of permitting an award of the damages
2 prayed for herein.

3 **JURY DEMAND**

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5 43. Plaintiffs demand that this matter be tried by a jury.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, the plaintiff prays that the Court award:

8 A. Compensatory damages in an amount to be proven at trial, sufficient to compensate all
9 plaintiffs for all damages under federal law including, but not limited to, damages for pre-death pain
10 and suffering, damages for loss of enjoyment of life and loss of life, economic damages, and damages
11 to Mr. Powell, Sr. for the loss of society and companionship of his son;

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13 B. Punitive damages under federal law, in an amount to be proven at trial;

14 C. A declaration that the acts of the defendants violated the United States Constitution and
15 an award of nominal damages for any such violation as deemed appropriate;

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17 D. Attorneys' fees, costs, and prejudgment interest incurred in pursuing this action as
18 provided for in 42 U.S.C. § 1988; and

19 E. Any such other relief that this Court deems just and equitable under the circumstances
20 of this case.

21
22 DATED this 8th day of March, 2016.

23 BUDGE & HEIPT, PLLC

24 /s/ *Edwin S. Budge*

25 /s/ *Erik J. Heipt*

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Attorneys for Plaintiffs