

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

GREENE BROILLET & WHEELER, LLP
LAWYERS
100 WILSHIRE BOULEVARD, SUITE 2100
P.O. BOX 2131
SANTA MONICA, CALIFORNIA 90407-2131
TEL. (310) 576-1200
FAX. (310) 576-1220

(SPACE BELOW FOR FILING STAMP ONLY)

BRUCE A. BROILLET, State Bar No. 63910
SCOTT H. CARR, State Bar No. 156664
ALAN VAN GELDER, State Bar No. 221820
TAYLOR RAYFIELD, State Bar No. 272300

Attorneys for Plaintiffs

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

LOUISE OLIN, an individual;
CHRISTOPHER OLIN, an individual;
GEOFFREY OLIN, an individual; THE
ESTATE OF MILTON OLIN, JR., by and
through the successor in interest, LOUISE
OLIN,

Plaintiffs,

vs.

COUNTY OF LOS ANGELES, a government
entity; LOS ANGELES COUNTY SHERIFF'S
DEPARTMENT, a government entity;
DEPUTY ANDREW WOOD, an individual;
and DOES 1-100, inclusive,

Defendants.

CASE NO. BC551857

[Assigned for All Purposes to the Honorable
Elia Weinbach, Dept. 92]

**FIRST AMENDED COMPLAINT FOR
DAMAGES AND DEMAND FOR JURY
TRIAL**

- 1. NEGLIGENCE
- 2. SURVIVAL ACTION –
WRONGFUL DEATH

**[AMOUNT IN CONTROVERSY
EXCEEDS \$25,000.00]**

Complaint Filed: July 16, 2014
FSC Date: December 30, 2015
Trial Date: January 19, 2016

COME NOW the plaintiffs, LOUISE OLIN, CHRISTOPHER OLIN, GEOFFREY OLIN,
and THE ESTATE OF MILTON OLIN, JR., by and through the successor in interest, LOUISE
OLIN, and for causes of action against the defendants, and each of them, complain and allege as
follows:

///

///

GENERAL ALLEGATIONS

1
2 1. On December 8, 2013 MILTON OLIN, JR. (hereinafter OLIN) was struck and killed
3 by a vehicle driven by LOS ANGELES COUNTY SHERIFF'S DEPUTY ANDREW WOOD.
4 (Hereinafter DEPUTY WOOD) At all times mentioned herein, OLIN was a resident of the
5 County of Los Angeles.

6 2. Plaintiff LOUISE OLIN is the surviving spouse of OLIN. She is also the successor in
7 interest of the ESTATE OF OLIN. Plaintiffs CHRISTOPHER OLIN and GEOFFREY OLIN are
8 the sole surviving children of OLIN. At all times mentioned herein, Plaintiffs are and continue to
9 be residents of the County of Los Angeles.

10 3. The true names and/or capacities, whether individual, corporate, associate or otherwise
11 of Defendants DOES 1 through 100, inclusive, and each of them, are unknown to plaintiffs, who
12 therefore sues said Defendants by such fictitious names. Plaintiffs are informed and believe, and
13 thereupon allege, that each of the Defendants named herein as DOES are legally responsible,
14 negligently or in some other actionable manner, for the events and happenings hereinafter referred
15 to and proximately caused the death of OLIN as hereinafter alleged. The Plaintiffs will seek leave
16 of Court to amend this Complaint to assert the true names and/or capacities of such fictitiously
17 named Defendants when the same have been ascertained.

18 4. Plaintiffs are informed and believe, and thereupon allege, that at all times mentioned
19 herein, Defendants, and each of them, including DOES 1 through 100, inclusive, and each of
20 them, were the agents, servants, employees and/or joint venturers of the codefendants, and were,
21 as such, acting within the course, scope and authority of said agency, employment and or venture,
22 and that each and every defendant, as aforesaid, when acting as a principal, was negligent in the
23 selection and hiring of each and every other defendant as an agent, employee and/or joint venturer.

24 5. Plaintiffs are informed and believe, and thereupon allege, that at all times mentioned
25 herein Defendant COUNTY OF LOS ANGELES was and is a public entity, duly organized and
26 existing under the laws of the State of California and situated in the County of Los Angeles.

27 6. Plaintiffs are informed and believe, and thereupon allege, that at all times mentioned
28 herein Defendant LOS ANGELES COUNTY SHERIFF'S DEPARTMENT was an agency and

1 department of Defendant COUNTY OF LOS ANGELES. Defendants LOS ANGELES COUNTY
2 and LOS ANGELES COUNTY SHERIFF'S DEPARTMENT are hereinafter referred to
3 collectively as the COUNTY.

4 7. Plaintiffs are informed and believe, and thereupon allege, that at all times mentioned
5 herein DEPUTY WOOD was and is an employee of the COUNTY. Plaintiffs are informed and
6 believe, and thereupon allege, that DEPUTY WOOD was and is a public employee and is liable
7 for Plaintiffs' injuries pursuant to California *Government Code* § 820(a). Plaintiffs sue defendant
8 DEPUTY WOOD in his individual and official capacities.

9 8. Defendant COUNTY is vicariously liable for any and all wrongful acts hereinafter
10 complained of, committed by any of its individual employees, including DEPUTY WOOD, and
11 DOES 1 through 100, inclusive, pursuant to California *Government Code* § 815.2(a).

12 9. Plaintiffs are informed and believe, and thereupon allege, that at all times mentioned
13 herein Defendants COUNTY, DEPUTY WOOD, and DOES 1 through 100, inclusive, were acting
14 for and on behalf of each of the other Defendants as their agents, servants, representatives,
15 employees, joint venturers and/or co-conspirators; that all acts, conduct, and omissions herein
16 alleged were perpetrated while said Defendants were acting within the authorized course, scope,
17 and purpose of said agency, employment, joint venture and/or conspiracy; that all acts, conduct or
18 omissions were subsequently ratified by the respective principals and the benefits thereof accepted
19 by said principals; and that each Defendant as aforesaid, while acting as a principal, was negligent
20 in the selection, hiring, training, and/or supervision of each and every other Defendant as its agent,
21 servant and/or employee.

22 10. At all times mentioned herein, Defendants, COUNTY, DEPUTY WOOD, and DOES 1
23 through 100, inclusive, were acting under color of the laws, statutes, ordinances, regulations,
24 customs and usages of the State of California and County of Los Angeles, pursuant to their official
25 authority and their policies, procedures, practices and/or customs established by directives and/or
26 other acts of COUNTY OF LOS ANGELES and/or LOS ANGELES COUNTY SHERIFF'S
27 DEPARTMENT.
28

1 11. On or about April 13, 2014, Plaintiffs presented the Defendants COUNTY and
2 DEPUTY WOOD, a written claim for damages, pursuant to California *Government Code* §§ 905
3 and 910, *et seq.* A true and correct copy of said claim is attached hereto as Exhibit "1" and
4 incorporated herein as though fully set forth by this reference.

5 12. Although Defendants COUNTY and DEPUTY WOOD were given an opportunity
6 under the law to respond to Plaintiffs' claim for damages, Defendants COUNTY and DEPUTY
7 WOOD failed to provide a timely response to the Plaintiffs' claims for damages. As such,
8 Plaintiffs are left with no choice but to file this lawsuit.

9 13. On or about December 8, 2013, DEPUTY WOOD was driving a COUNTY vehicle
10 that was owned by Defendant COUNTY. At all times while DEPUTY WOOD was driving the
11 COUNTY vehicle he was operating within the course and scope of employment of Defendants
12 COUNTY and DOES 1-100. On December 8, 2013 DEPUTY WOOD negligently, carelessly,
13 recklessly, or in some other actionable manner operated the COUNTY vehicle on the 22000 Block
14 of Mulholland Hwy, in the County of Los Angeles, State of California.

15 14. On or about December 8, 2013, OLIN was lawfully riding his bicycle on the 22000
16 Block of Mulholland Hwy in the County of Los Angeles, State of California.

17 15. On or about December 8, 2013, OLIN was riding his bicycle on the 22000 Block of
18 Mulholland Hwy, when he was struck and killed as a result of the negligence of Defendants
19 DEPUTY WOOD, COUNTY, and DOES 1-100.

20 16. According to an April 2013 press release issued by the COUNTY the COUNTY wrote,
21 "Distracted driving is a serious traffic safety concern that puts everyone on the road at risk. In
22 recent years, hundreds have been killed and thousands seriously injured in California as a result of
23 collisions that involved at least one driver who was distracted. Nationally, an estimated 3,331
24 died in 2011."

25 17. The April 2013 COUNTY press release went on to state that studies have shown that
26 engaging in electronic communication while driving delays a driver's reaction time "just as
27 severely as having a blood alcohol content of a legally drunk driver." The April 2013 COUNTY
28 press release also noted that distraction caused by drivers using electronic communication devices

1 can result in “inattention blindness” which the COUNTY described as “when the brain isn’t seeing
2 what is clearly visible” because the driver’s focus is on completing the communication and not on
3 the road. The April 2013 COUNTY press release compared drivers distracted by electronic
4 communication devices to zombies and drunk drivers.

5 18. In order for a driver to send an electronic message via an electronic communication
6 device, the driver naturally takes his eyes off the road for a significant period of time. The driver
7 naturally splits his attention between the road and the electronic communication that he is trying to
8 compose, send, receive, and/or read. Studies have shown that the combination of the driver taking
9 his eyes off the road and/or splitting attention between the road and the electronic communication
10 turns the driver into the equivalent of a drunk driver and turns the driver into a public safety
11 hazard.

12 19. As a Los Angeles County Deputy Sheriff driving a patrol car, DEPUTY WOOD was
13 well aware of the dangers of driving while distracted as a result of engaging in electronic
14 communication. He was well aware that driving while distracted as a result of engaging in
15 electronic communication makes the distracted driver as dangerous as a drunk driver and creates a
16 risk of serious injury and death. In his deposition of August 14, 2015 in this case, DEPUTY
17 WOOD admitted that prior to December 8, 2013 he knew that texting while driving created a
18 danger equivalent to drunken driving. DEPUTY WOOD admitted in the same deposition that
19 prior to December 8, 2013 he considered it to be “common knowledge” that texting while driving
20 created a danger equivalent to drunken driving. In fact, County Sheriffs were trained that in order
21 to protect public safety, they were to identify, stop, and ticket drivers who were engaged in
22 electronic communication while driving.

23 20. DEPUTY WOOD struck and killed OLIN in the early afternoon of December 8, 2013.
24 At the time DEPUTY WOOD struck and killed OLIN, both weather and visibility conditions were
25 excellent. DEPUTY WOOD had ample opportunity to see and perceive OLIN for a considerable
26 distance prior to striking OLIN.

27 21. According to statements made by DEPUTY WOOD, prior to striking OLIN on
28 December 8, 2013 he left a call for service at Calabasas High School located on Mulholland

1 Highway and drove east on Mulholland Highway toward Agoura Hills. The distance between
2 Calabasas High School and the area east of the high school where DEPUTY WOOD struck OLIN
3 is more than half a mile. Furthermore, eastbound on Mulholland Highway, there is only one lane
4 of traffic. Mulholland Highway is a popular location for cyclists. As such Mulholland Highway
5 has a clearly marked and clearly visible dedicated bicycle lane for cyclists riding eastbound on
6 Mulholland Highway. The dedicated bicycle lane for eastbound Mulholland Highway covered the
7 over half a mile distance between Calabasas High School and the area east of the high school
8 where DEPUTY WOOD struck OLIN. As such, after leaving Calabasas High School and
9 traveling eastbound on Mulholland Highway, DEPUTY WOOD knew for over a half a mile that
10 there was a dedicated lane for cyclists and that DEPUTY WOOD knew that if he distracted
11 himself with electronic communication devices while driving that he would create a danger to
12 cyclists using the dedicated bicycle lane.

13 22. Shortly after striking and killing OLIN, DEPUTY WOOD was interviewed by Los
14 Angeles County Sheriff's Deputy Selnick. In his interview with Deputy Selnick, DEPUTY WOOD
15 falsely stated that he had observed OLIN traveling eastbound in the bicycle lane and that OLIN
16 had suddenly swerved into DEPUTY WOOD's lane of travel. DEPUTY WOOD claimed that
17 OLIN then tried to swerve back into the bicycle lane but then suddenly swerved a second time
18 back into DEPUTY WOOD's lane of travel. DEPUTY WOOD then claimed that he tried to
19 swerve to avoid OLIN but was unable to avoid hitting OLIN.

20 23. On December 16, 2013 DEPUTY WOOD met with Los Angeles County Sheriff Sgt.
21 Jakl. In this interview DEPUTY WOOD told Sgt. Jakl a different story about his collision with
22 OLIN. DEPUTY WOOD falsely claimed that OLIN had suddenly appeared in DEPUTY
23 WOOD's lane in front of DEPUTY WOOD's vehicle. DEPUTY WOOD told Sgt. Jakl that he did
24 not recall what he was doing inside his patrol vehicle or where he was looking just prior to
25 colliding with OLIN.

26 24. In his deposition of August 14, 2015, DEPUTY WOOD told a third story. He testified
27 that he did not recall anything prior to the impact with OLIN and did not even know that what he
28 hit was a human being until he stopped his car, exited his car, and saw OLIN's body in the road.

1 25. DEPUTY WOOD's story that OLIN was in DEPUTY WOOD's lane of travel was
2 neither truthful nor accurate. DEPUTY WOOD was so distracted by electronic communication
3 that DEPUTY WOOD had entered into the bicycle lane and struck OLIN while OLIN was
4 traveling inside the bicycle lane. DEPUTY WOOD was so distracted by electronic
5 communication that he was no longer paying attention to the steering of his vehicle, causing the
6 vehicle to move from the lane of travel and into the dedicated bicycle lane.

7 26. According to witnesses in a vehicle traveling behind DEPUTY WOOD, DEPUTY
8 WOOD never applied his brakes nor took any other evasive action that indicated he saw or was
9 trying to avoid striking OLIN.

10 27. DEPUTY WOOD intentionally distracted himself from his duties as driver by
11 engaging in electronic communication in his vehicle in conscious disregard of public safety and
12 for the safety of OLIN. He willfully took his attention off the road for such an extended period of
13 time in conscious disregard of public safety and of the safety of OLIN that he was effectively
14 driving blind or drunk.

15 28. After the death of OLIN, the Sheriff's Department indicates that it downloaded
16 information from DEPUTY WOOD's vehicle to determine DEPUTY WOOD's speed and location
17 prior to and immediately after striking OLIN. According to the Sheriff's Department, the vehicle
18 recorded DEPUTY WOOD's speed approximately every ten seconds. According to the Sheriffs'
19 Department, these were the speeds and times for DEPUTY WOOD's vehicle. Time is denoted by
20 hour, minute, and second. Speed is denoted at miles per hour (MPH).

- 21 a. 13:04:02/0 MPH
- 22 b. 13:04:12/19 MPH
- 23 c. 13:04:22/41 MPH
- 24 d. 13:04:33/44 MPH
- 25 e. 13:04:43/44 MPH
- 26 f. 13:04:53/40 MPH
- 27 g. 13:05:03/48 MPH

28

1 h. 13:05:13/08 MPH

2 i. 13:05:23/0 MPH

3 29. According to the Sheriff's Department, the Sheriff's Department concluded that
4 DEPUTY WOOD struck OLIN in the bicycle lane at approximately 13:05.

5 30. Both COUNTY and Plaintiffs subpoenaed evidence and took testimony from Verizon
6 Wireless regarding DEPUTY WOOD's personal cell phone, a Samsung Galaxy 3. The Samsung
7 Galaxy 3 has the ability to send and receive text messages and emails, as well as make phone calls.
8 The Verizon Wireless records show a text message sent from DEPUTY WOOD's cell phone to his
9 wife's cell phone at 13:04:54.

10 31. DEPUTY WOOD claimed in his deposition that the last text message he sent prior to
11 striking OLIN was a message he sent to his wife. He took the position that any such message
12 would have been sent while his vehicle was not moving.

13 32. However, the Verizon Wireless records show a text message being sent from DEPUTY
14 WOOD's cell phone to the cell phone of his wife at 13:04:54. As noted in Paragraph 27(f),
15 DEPUTY WOOD's vehicle was traveling approximately 40 MPH one second earlier and, as noted
16 in Paragraph 27(g), approximately 48 MPH nine seconds later.

17 33. In order for DEPUTY WOOD to send an electronic text message, DEPUTY WOOD
18 naturally and intentionally would have taken his eyes off the road for a significant period of time.

19 34. According to the data the Sheriff's Department claims it obtained from DEPUTY
20 WOOD's car, DEPUTY WOOD received an electronic message from another law enforcement
21 officer on his Mobile Digital Computer (MDC) at or about 13:04:40. Typically, when a message
22 of this nature is received by the MDC, it makes an audible noise to alert the driver the message has
23 arrived.

24 35. At the time of his collision with OLIN, the Sheriff's Department believes that
25 DEPUTY WOOD was trying to type an electronic text message on his MDC to respond to the
26 message he received at 13:04:40. The Sheriff's Department came to this conclusion by looking at
27 what it claims to be an incomplete message from DEPUTY WOOD on his MDC. According to
28

1 the Sheriff's Department, DEPUTY WOOD began but was unable to complete his response on the
2 MDC due to the incident.

3 36. DEPUTY WOOD's collision with OLIN was proximately caused by prolonged
4 distraction as a result of electronic communication. DEPUTY WOOD was spending such a
5 prolonged time being distracted by electronic communication that DEPUTY WOOD was aware of
6 the probable harm that would be caused by driving a vehicle in excess of 40 miles per hour on
7 Mulholland Highway under a period of prolonged distraction. DEPUTY WOOD's prolonged
8 distraction by electronic communication prior to striking OLIN is supported by evidence,
9 including but not limited to:

- 10 a. Data the Sheriff's Department claims it obtained from DEPUTY WOOD's vehicle
11 after the collision with OLIN. (Hereinafter Vehicle Data.) The Vehicle Data
12 purports to show in ten second intervals prior to the collision with OLIN, DEPUTY
13 WOOD's speed and location.
- 14 b. The Verizon Wireless billing records for DEPUTY WOOD's cell phone.
- 15 c. Pictures and measurements collected by the Sheriff's Department after the collision
16 with OLIN of Deputy Wood's vehicle, the roadway, OLIN's body, and OLIN's
17 cycle. (Hereinafter Scene Evidence.)
- 18 d. The portion of Mulholland Highway that runs eastbound between Calabasas High
19 School and the scene of the collision between DEPUTY WOOD and OLIN.

20 37. OLIN did not suddenly appear on Mulholland Highway prior to the collision. OLIN's
21 path on Mulholland Highway took him eastbound past Calabasas High School. He was easily
22 visible to DEPUTY WOOD if DEPUTY WOOD was actually looking at the road ahead and
23 paying attention. Based on the Vehicle Data, the Scene Evidence, the visibility conditions, and
24 condition of eastbound Mulholland Highway between Calabasas High School and the scene of the
25 collision between DEPUTY WOOD and OLIN, DEPUTY WOOD had a minimum of twenty
26 seconds to observe OLIN. Based on the Vehicle Data, the Scene Evidence, the visibility
27 conditions, and condition of eastbound Mulholland Highway between Calabasas High School and
28 the scene of the collision between DEPUTY WOOD and OLIN, DEPUTY WOOD did not see

1 OLIN because DEPUTY WOOD intentionally took his eyes/concentration off the road for a
2 prolonged period of time, even though OLIN was in DEPUTY WOOD's view for a period of time
3 greater than twenty seconds.

4 38. The text message that DEPUTY WOOD sent to his wife at 13:04:54 was during the
5 period of twenty seconds in which OLIN would have been clearly visible to DEPUTY WOOD if
6 DEPUTY WOOD was actually looking at and paying attention to the road ahead. If DEPUTY
7 WOOD had not sent that text message, he could have easily seen and avoided OLIN.

8 39. DEPUTY WOOD's distraction as a result of electronic communication is also
9 evidenced by examining the timeline of electronic communications prior to his collision with
10 OLIN. According to the Sheriff's Department, WOOD's MDC received a message at 13:04:40.
11 The message was even accompanied by an audible beep. Yet DEPUTY WOOD was so distracted
12 by sending a personal text message on his personal cell phone to his wife, that, according to the
13 Sheriff's Department data, he ignored the message on his MDC for over 14 seconds so that he
14 could finish texting his wife at 13:04:54.

15 40. At the time DEPUTY WOOD became distracted by electronic communication he was
16 driving in excess of 40 miles per hour. When DEPUTY WOOD made the intentional choice to
17 take his eyes/attention off the road for a prolonged period of time, DEPUTY WOOD knew that his
18 actions would result in probable harm. He knew he was traveling in excess of 40 miles per hour in
19 a multi-ton vehicle on a one lane road with a dedicated bicycle lane. He knew from prior
20 experience that engaging in electronic communication turned him into a drunk driver. When
21 DEPUTY WOOD intentionally kept his eyes/attention off the road for such a prolonged period of
22 time, DEPUTY WOOD knew he was intentionally driving blind.

23 41. The fact that DEPUTY WOOD had intentionally taken his attention off the road to
24 engage in electronic communications was a substantial factor in causing the death of OLIN.
25 DEPUTY WOOD was such a distracted driver that he allowed his vehicle to move from its lane of
26 travel into the bicycle lane occupied by OLIN and hit OLIN.

27 42. There was no need for DEPUTY WOOD to take his eyes or attention off the road to
28 engage in electronic messaging on his personal cell phone or on the MDC. Nothing would have

1 required DEPUTY WOOD to engage in electronic messaging while moving. DEPUTY WOOD
2 had plenty of time to pull off the road and bring his vehicle to rest in a location that would allow
3 him to safely engage in electronic messaging.

4 43. Instead of taking the time to find a location where it was safe to engage in electronic
5 messaging, DEPUTY WOOD, in conscious disregard of public safety and with prior knowledge
6 that his actions would endanger the public, decided to gamble with public safety and engaged in
7 electronic messaging while driving. Even though DEPUTY WOOD knew that engaging in
8 electronic messaging while driving would turn him into the equivalent of a drunk driver, DEPUTY
9 WOOD willfully and intentionally chose to unnecessarily gamble that he would not kill anyone.

10 44. DEPUTY WOOD was well aware that he acted in conscious disregard of public safety
11 and that his conscious disregard of public safety caused the death of OLIN. DEPUTY WOOD's
12 consciousness of this guilt is evidenced by the fact that he fabricated a story that OLIN swerved
13 into his lane of travel. His consciousness of guilt is also evidenced by the fact that he failed to
14 disclose that he was engaged in electronic messaging while moving before and at the time of his
15 collision with OLIN. DEPUTY WOOD now claims he does not remember what happened before
16 he struck OLIN, even though he created an elaborate but false story about OLIN's movements
17 before the impact.

18 45. Shortly after the death of OLIN, representatives of the OLIN family instructed
19 COUNTY to preserve all evidence related to OLIN's death, including DEPUTY WOOD's
20 personal cell phone. COUNTY and DEPUTY WOOD knew of the significance of DEPUTY
21 WOOD's cell phone as a piece of evidence, even without a letter from representatives of OLIN.
22 Shortly after OLIN's death, COUNTY and DEPUTY WOOD both examined DEPUTY WOOD's
23 personal cell phone, including its text messages. Shortly after OLIN's death, and before the filing
24 of this lawsuit, COUNTY subpoenaed Verizon Wireless to obtain data about the cell phone.

25 46. Despite knowing the importance of the DEPUTY WOOD personal cell phone as a
26 piece of evidence in this matter, DEPUTY WOOD intentionally took no steps to preserve the cell
27 phone or the electronic messages stored on the cell phone. Despite knowing the importance of the
28 DEPUTY WOOD personal cell phone as a piece of evidence in this matter, COUNTY

1 intentionally took no steps to preserve the cell phone or the electronic messages stored on the cell
2 phone. Neither the COUNTY nor DEPUTY WOOD took pictures of the cell phone or the
3 electronic messages found on the cell phone.

4 47. DEPUTY WOOD claims that the personal cell phone he was using on the date of
5 OLIN's death has been destroyed. DEPUTY WOOD claims that he accidentally destroyed his cell
6 phone sometime prior to the COUNTY completing its investigation into the death of OLIN.
7 DEPUTY WOOD took no steps to try to retrieve data from the smashed cell phone. He simply
8 threw the phone away.

9 48. DEPUTY WOOD's conduct is all the more outrageous and reprehensible given that
10 DEPUTY WOOD was well aware of the dangers posed by driving while engaged in electronic
11 communication. The conduct is all the more outrageous and reprehensible given the claims by the
12 COUNTY that Sheriff's Deputies on patrol are on the lookout for drivers engaging in electronic
13 communication while driving.

14 49. The above-described conduct of DEPUTY WOOD was carried out with a conscious
15 disregard of Plaintiffs' rights and of the safety of the public as a whole and, therefore, subjects
16 DEPUTY WOOD to an award of punitive/exemplary damages in an amount sufficient to punish
17 DEPUTY WOOD and to make an example of him.

18
19 **FIRST CAUSE OF ACTION**

20 **Negligence Pursuant to Gov. Code §§ 820(a) & 815.2(a)**

21 **[Against all Defendants and DOES 1-100]**

22 50. Plaintiffs re-allege and incorporate herein by reference, as though fully set forth at
23 length, all of the allegations and statements contained in paragraphs 1 through 43, inclusive.

24 51. At all times mentioned herein, Defendants, and each of them, owned, operated,
25 controlled, maintained, serviced, repaired, altered, managed, improved, monitored, and/or were
26 otherwise responsible for the COUNTY vehicle operated by DEPUTY WOOD, and therefore
27 owed a duty to persons, including Plaintiffs and OLIN, to own, maintain operate, control, service,
28 repair, alter, manage, improve, monitor and/or otherwise be responsible for the vehicle in a

1 reasonably safe manner so as not to expose members of the general public, including Plaintiffs and
2 OLIN, to unreasonable and substantial risk of harm and/or injury.

3 52. At all times mentioned herein, Defendants, and each of them, had a duty to properly
4 train, control, supervise, and/or monitor its employees, including but not limited to DEPUTY
5 WOOD, so as to prevent a dangerous, defective, unsafe and/or hazardous condition subjecting
6 Plaintiffs and OLIN to unreasonable and substantial risk of injury or harm. Said duty consisted in
7 part, but is not limited to, the duty to hire and train qualified drivers to operate the COUNTY
8 vehicle, duty to monitor and/or control the driving of COUNTY vehicles in public, and duty to
9 ensure that the personnel responsible for controlling the COUNTY vehicle drive in an appropriate
10 and safe manner.

11 53. At all times mentioned herein DEPUTY WOOD and his respective supervisors and/or
12 managers, and each of them, were the agents, servants, and employees of defendants COUNTY
13 and DOES 1-100, and were acting within the course and scope of their employment, thereby
14 making Defendant COUNTY vicariously liable for the injuries proximately caused by the acts or
15 omissions of DEPUTY WOOD, and his respective supervisors and/or managers, pursuant to
16 California *Government Code* § 815.2. Plaintiffs are informed and believe, and thereupon allege,
17 that the Defendants COUNTY and DOES 1-100 inclusive, and each of them, are public entities
18 within the meaning of California *Government Code* § 815.2

19 54. At all times mentioned herein, Defendant DEPUTY WOOD and DOES 1-100,
20 inclusive, and each of them, were peace officers, obligated to use the utmost care and diligence for
21 the safety of persons.

22 55. Plaintiffs are informed and believe, and thereupon allege, that Defendants COUNTY,
23 DEPUTY WOOD, and DOES 1 through 100, inclusive, negligently, carelessly, recklessly, and/or
24 intentionally breached the above-described duties.

25 56. As a direct and proximate result of the wrongful acts, conduct, or omissions of
26 Defendants, and each of them, which proximately caused the death of OLIN, Plaintiffs have been
27 deprived of love, affection, care, society, service, comfort, support, right to support,
28 companionship, solace, moral support, expectations of future support, and counseling, as well as

1 other benefits and assistance of OLIN, and have sustained pecuniary loss in an amount to be
2 proven pursuant to *Code of Civil Procedure* § 425.10.

3 57. As a further direct and proximate result of the wrongful acts, conduct or omissions of
4 Defendants, and each of them, which proximately caused the death of OLIN, Plaintiffs have
5 incurred funeral, burial, and medical expenses in an amount to be proven pursuant to *Code of Civil*
6 *Procedure* § 425.10.

7
8 **SECOND CAUSE OF ACTION**

9 **Survival Cause of Action**

10 **[Against All Defendants and DOES 1-100]**

11 58. Plaintiffs re-allege and incorporate herein by reference each and every allegation and
12 statement contained in paragraphs 1 through 51, inclusive.

13 59. As a legal result of the aforesaid negligence of the Defendants, and DOES 1 through
14 100, inclusive, each of them, OLIN suffered injuries and subsequently died on or about December
15 8, 2013.

16 60. As a direct and proximate result of the conduct of the Defendants, and each of them,
17 including DOES 1 through 100, inclusive, as aforesaid, the ESTATE OF OLIN was required to
18 and did employ the services of emergency personnel, to care for and treat OLIN, and did incur
19 expenses the exact amount of which expenses will be stated according to proof, pursuant to
20 California *Code of Civil Procedure*, § 425.10.

21 61. As a further direct and proximate result of the wrongful acts, conduct or omissions of
22 Defendants, and each of them, which proximately caused the death of OLIN, Plaintiffs have
23 incurred funeral, burial, and medical expenses in an amount to be proven pursuant to *Code of Civil*
24 *Procedure* § 425.10.

25 62. The above-described conduct of DEPUTY WOOD was carried out with a conscious
26 disregard of Plaintiffs' rights and of the safety of the public as a whole and, therefore, subjects
27 DEPUTY WOOD to an award of punitive/exemplary damages in an amount sufficient to punish
28 DEPUTY WOOD and to make an example of him.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

WHEREFORE, Plaintiffs pray judgment against defendants, and each of them, as follows:

1. For general damages for the loss of love, affection, care, society, service, comfort, support, right to support, companionship, solace, moral support, expectations of future support and counseling, as well as other benefits and assistance of OLIN, which will be stated according to proof, which sum is in excess of \$50,000;
2. For funeral and burial expenses, according to proof;
3. For emergency personal expenses, according to proof;
4. For costs of suit incurred herein;
5. For prejudgment interest, according to proof, from each and every Defendant;
6. For damages for Plaintiffs' other economic losses, according to proof;
7. As to Defendant DEPUTY WOOD, for an award of exemplary/punitive damages, in an amount properly calculated to punish said Defendant for his conscious disregard for the safety of others, and to deter any such conscious disregard for the safety of others in the future; and
8. For such other and further relief as this Court may deem just and proper.

DATED: November 2, 2015

GREENE BROILLET & WHEELER, LLP



Bruce A. Broillet, Esq.
Alan Van Gelder, Esq.
Taylor Rayfield, Esq.
Attorneys for Plaintiffs

DEMAND FOR JURY

PLAINTIFFS hereby demand a trial of all causes of action by jury.

DATED: November 2, 2015

GREENE BROILLET & WHEELER, LLP



Bruce A. Broillet, Esq.
Alan Van Gelder, Esq.
Taylor Rayfield, Esq.
Attorneys for Plaintiffs

GREENE BROILLET & WHEELER, LLP
P.O. BOX 2131
SANTA MONICA, CA 90407-2131

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 PROOF OF SERVICE
2 (C.C.P. 1013A, 2015.5)

3 **STATE OF CALIFORNIA**

4 I am employed in the county of Los Angeles, State of California. I am over the age of
5 eighteen years and not a party to the within action; my business address is 100 Wilshire Boule-
6 vard, 21st Floor, Santa Monica, California 90401.

7 On November 2, 2015 I served the foregoing document, described as **FIRST AMENDED**
8 **COMPLAINT FOR DAMAGES AND DEMAND FOR JURY TRIAL** on the interested parties
9 in this action.

10 by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the
11 attached mailing list.

12 X by placing the original X a true copy enclosed in sealed envelopes addressed as
13 follows:

14 X **BY MAIL.**

15 I deposited such envelope in the mail at Santa Monica, California. The
16 envelope was mailed with postage thereon fully prepaid.

17 X As follows: I am "readily familiar" with the firm's practice of collection and
18 processing correspondence for mailing. Under that practice it would be deposited with
19 U.S. postal service on that same day with postage thereon fully prepaid at Santa
20 Monica, California in the ordinary course of business. I am aware that on motion of the
21 party served, service is presumed invalid if postal cancellation date or postage meter
22 date is more than one day after date of deposit for mailing in affidavit.

23 Executed on November 2, 2015 at Santa Monica, California.

24 **BY FACSIMILE.** I faxed a copy of the above-described document to the interested
25 parties as set forth on the attached service list.

26 **BY FEDERAL EXPRESS (PRIORITY OVERNIGHT)** I caused to be deposited such
27 envelope in the Federal Express Depository at Santa Monica, California.

28 X **BY E-MAIL OR ELECTRONIC TRANSMISSION.** I caused the document(s) to be
sent to the person(s) at the e-mail address(es) listed on the Service List. I did not receive, within a
reasonable time after transmission, any electronic message or other indication that the
transmission was unsuccessful.

Executed on November 2, 2015 at Santa Monica, California.

 X (State) I declare under penalty of perjury under the laws of the State of California that the
above is true and correct.

26 **Robert Gersten**
27 **Name**


27 **Signature**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SERVICE LIST

Louise Olin, et al. v. County of Los Angeles, et al.
Case No. BC551857 (Los Angeles Superior Court – Central)

<p><u>BY EMAIL & MAIL</u> Brian K. Stewart, Esq. Catherine M. Mathers, Esq. Michael Gelfound, Esq. COLLINS COLLINS MUIR + STEWART LLP 1100 El Centro Street South Pasadena, CA 91030 Tel: (626) 243-1100 Fax: (626) 243-1111 Email: bstewart@ccmslaw.com cmathers@ccmslaw.com mgelfound@ccmslaw.com</p>	<p><u>Attorneys for Defendants:</u> COUNTY OF LOS ANGELES and DEPUTY ANDREW WOOD</p>
---	--