

## RELEASE AGREEMENT

IN CONSIDERATION of non-monetary matters attached hereto as Exhibit A, and a valid draft for THREE MILLION FOUR HUNDRED FIFTY THOUSAND DOLLARS AND ZERO CENTS (\$3,450,000.00) payable to Law Offices of Dale K. Galipo Trust Account for the benefit of Stephany Borges, the undersigned individually and as successor-in-interest to Daren Borges, as well as all and each of his heirs, executors, administrators, successors, agents, and assigns, (collectively "Releasor"), hereby forever and fully releases, and discharges the COUNTY OF HUMBOLDT, and each of its officers, directors, supervisors, members, shareholders, employees, including the named defendants in the below-referenced Action, including but not limited to DAVID SWIM, TIM HAMMER, TERRI BITTNER, TIM HERSHBERGER, MICHAEL DOWNEY, former employees, subcontractors, predecessors, successors, affiliates, and related entities including any liability insurance carriers for the parties herein released (all collectively "Releasees"), in accordance with California Code of Civil Procedure Section 877, of and from all claims, demands, losses, debts, costs, liens, actions and causes of action of every kind and nature, injuries, damages (including but not limited to physical and mental damages), attorney fees and costs incurred before and during this action, known or unknown arising out of or in any way connected with the transactions, occurrences, injuries, events, and death of Daren Borges that form the subject matter of the claims filed against Releasees as more fully alleged and described, in Borges et al v. City of Eureka et al the United States District Court, Eastern District of California, Case No. 4:15-cv-00846-YGR (the "the County claims").

The undersigned hereby agrees, represents and warrants:

1. The liability for all such claims is denied by the parties herein released, and this final compromise and settlement thereof shall never be treated as an admission of liability, an admission of fact for any purpose whatsoever, or responsibility at any time for any purpose by the parties. It is the intention and desire of the parties to settle and dispose of any and all claims to avoid the further expense, inconvenience, distraction, uncertainty and burden of protracted litigation.

2. The provisions of §1542 of the Civil Code of the State of California are hereby expressly waived, and the undersigned understand that said section provides:

*"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."*

3. This Release is intended to, and the undersigned warrants, that it will dispose of all liability of the parties released to the undersigned and to all and each of the heirs, executors, administrators, and assigns of the undersigned and to any other person or entity that might now or in the future have a claim against the parties released as a result of the injuries claimed by the undersigned involving the Actions, including any claim for attorney fees and costs arising from the Action.

4. The undersigned agrees that the Judgment entered October 30, 2017, Docket Entry No. 268, may be vacated, an amended judgment may entered omitting DAVID SWIM, TIM HAMMER, TERRI BITTNER, attached hereto as Exhibit B, and to immediately file a dismissal with prejudice of the Action of defendants DAVID SWIM, TIM HAMMER, TERRI BITTNER, all parties shall bear their own costs and attorney fees. Upon receipt of the above monetary consideration, the undersigned authorizes a Satisfaction of Judgment reflecting payment in full.

5. That the undersigned accepts full and complete responsibility for any taxes, liens, or assessments of any nature, including but not limited to, any bankruptcy, debtor, medical liens, attorney fees or costs, administrative fees, or restitution fees. The undersigned will indemnify and save harmless the parties herein released from any loss, claim, expense, demand or cause of action of any kind or character through the assertion by any stranger, or previously unknown heirs of decedent, hereto of a claim or claims connected with the subject matter of this Release and from any loss incurred directly or indirectly by reason of the falsity or inaccuracy of any representation herein by the undersigned.

6. That the undersigned hereby agrees that the disbursement of the aforementioned monetary consideration to the above-identified payees constitutes full and complete payment of the judgment, inclusive of post-judgment interest, attorney fees and costs, and agrees and authorizes a Satisfaction of Judgment to be filed. Payment shall be issued within 60 days upon execution of this Release.

7. That the United States District Court of the Northern District of California shall reserve jurisdiction over this matter to enforce the terms of this Release.

8. The above-mentioned sum and attached non-monetary terms are the entire and only consideration for this Release. In all other respects, each party shall bear their own respective attorney fees and costs, if any.

9. This Release constitutes the entire agreement among the parties, and constitutes the complete, final, and exclusive embodiment of their agreement with respect to the subject matter hereof. The terms of this Release are contractual and not a mere recital. This Release is executed without reliance upon any promise, warranty, or representation by any party or any of

its representatives other than those expressly contained herein, and each party has carefully read this Release, and signs the same of their own free will.

10. This Release shall be deemed to have been entered into and should be construed and enforced in accordance with the laws of the State of California as applied to contracts made and to be performed entirely within California.

11. It is agreed that all parties to this Release shared equally in drafting the same and that none of the parties shall be considered the sole drafting party. It is further agreed that the rule of interpreting ambiguities against the drafting party shall not apply to the interpretation of this Release.

12. It is hereby agreed that if, after the date of execution hereof, any provision of this Release is held to be illegal, or unenforceable under present or future laws effective during the term of this Release, such provision shall be fully severable. In lieu thereof, there shall be added a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, or enforceable.

13. That the undersigned negotiated and agreed to the terms of this Release in good faith, has carefully reviewed this Release, and understands the terms and conditions it contains, has been advised of the right to consult any attorney or representative of his choosing to review this Release.

This document may be executed in counterparts which, when so executed, shall be deemed an original, and this document and all signed counterparts shall constitute one and the same instrument. A facsimile, telecopy or other reproduction of this Agreement may be executed by one or more parties hereto, and an executed copy of this Agreement may be delivered by one or more parties hereto by facsimile or similar electronic transmission device

pursuant to which the signature of or on behalf of such party can be seen, and such execution and delivery shall be considered valid, binding and effective for all purposes. At the request of any party hereto, all parties hereto agree to execute an original of this Agreement as well as any facsimile, telecopy or other reproduction hereof.

I, the undersigned, have read the foregoing Release and acknowledge my understanding and agreement of the contents. **IN WITNESS WHEREOF**, I hereby execute this agreement on the date indicated below.

Dated: May 4, 2018

Stephany Borges  
Stephany Borges, individually and as  
successor in interest to Daren Borges

APPROVED AS TO FORM.

Law Office of Dale K. Galipo

Dated: \_\_\_\_\_

\_\_\_\_\_  
Dale K. Galipo  
Attorneys for Plaintiff Stephany Borges,  
individually and as successor in interest to Daren  
Borges

PORTER SCOTT, PC

Dated: \_\_\_\_\_

\_\_\_\_\_  
John R. Whitefleet  
Attorneys for Defendants

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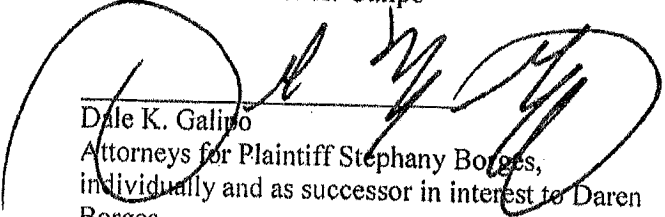
Dated: \_\_\_\_\_

Stephany Borges, individually and as  
successor in interest to Daren Borges

APPROVED AS TO FORM.

Law Office of Dale K. Galipo

Dated: 05-07-18

  
Dale K. Galipo  
Attorneys for Plaintiff Stephany Borges,  
individually and as successor in interest to Daren  
Borges

PORTER SCOTT, PC

Dated: 5/7/18

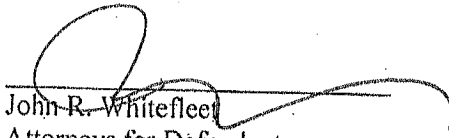
  
John R. Whitefleet  
Attorneys for Defendants

Exhibit A.  
Non-Monetary Consideration

1. Upon execution of this Release by Plaintiff, no party will pursue an appeal of the County Claims, or any portion thereof.
2. That the Humboldt County Sheriff's Department will:
  - a. Implement mandatory periodic training regarding pre-booking screening of arrestees for methamphetamine toxicity by incorporating said training into the outline for existing Briefing Refresher Training on medical receiving screening.
  - b. Implement training regarding excited delirium into the existing medical issues training course provided to jail staff annually.
  - c. Modify the sobering cell policy to incorporate the IMQ Standards on Substance Abuse.
  - d. Enact a policy that the department will document, on an annual basis, that correctional staff has received training in departmental policies and procedures related to sobering cells, safety cells, use of restraints, suicide prevention, uncooperative or violent arrestees in the pre-booking procedures and the handling of mentally disordered inmates.
  - e. Enact a policy ensuring all jail staff receive Medical Issues training prior to completion of field training program.

Exhibit B

Amended Judgment

Pursuant to the Stipulation of the parties, and good cause appearing, NOW THEREFORE IT IS ORDERED, ADJUDGED AND DECREED that: Plaintiff Stephany Borges shall recover the sum of \$2,500,000.00 from Defendant County of Humboldt.

IT IS ALSO ORDERED, ADJUDGED AND DECREED that Plaintiff shall take nothing from Defendants Terri Bittner, Tim Hammer, David Swim, Timothy Hershberger, and Michael Downey, and all claims against said defendants are dismissed.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Honorable Yvonne Gonzalez Rogers  
United States District Court

APPROVED AS TO FORM:

PORTER SCOTT PC

By: \_\_\_\_\_  
John R. Whitefleet  
Attorneys for County Defendants