1 2 3 4 5	Mark W. Kelsey, SB#295818 Law Offices of Mark W. Kelsey 877 Ygnacio Valley Rd, Ste. 208 Walnut Creek, CA 94596 (ph) 925.476.5761; (fax) 925.476.5771 mark@markwkelseylaw.com Attorney for Plaintiff									
6 7	UNITED STATES DISTRICT COURT									
8	NORTHERN DISTRICT OF CALIFORNIA									
9										
10 11	CHRISTOPHER ROBERT FLORES	Case No.:	4:15-cv-03515							
12	Plaintiff									
13	VS.	COMPLA								
14	ALAMEDA COUNTY SHERIFF'S	COMPLAINT FOR DAMAGES AND FOR DECLARATORY AND INJUNCTIVE								
15	DEPARTMENT	RELIEF, UNDER 42 U.S.C. § 1983								
16	AND									
17 18	JOHN AND JANE DOES NUMBERS 1 THROUGH 10, (SHERIFF'S OFFICERS AT SANTA RITA JAIL), in their official and	JURY TRIAL DEMANDED								
19	individual capacities									
20	Defendants									
21		moli								
22	COMPLAINT									
24	Plaintiff CHRISTOPHER ROBERT FLORES, for his complaint against Defendants									
25										
26	ALAMEDA COUNTY SHERIFF'S DEPARTM	ENT and JO	HN and JANE DOES Numbers 1							
27	through 10, states as follows:									
28										
Control of the Contro										

# **INTRODUCTION**

- 1. This is an action for money damages and injunctive relief brought pursuant to 42 U.S.C. §§ 1983 and 1988, and under the Eighth Amendment to the United States Constitution, against ALAMEDA COUNTY SHERIFF'S DEPARTMENT, and against JOHN AND JANE DOE OFFICERS NUMBERS 1 THROUGH 10, each in their official and individual capacities.
- 2. Plaintiff alleges that each and every Defendant violated Plaintiff's right under the Eighth Amendment to be free from cruel and unusual punishment by acting with deliberate indifference towards the medical needs of Plaintiff, and that these acts were done under the color of state authority.

#### JURISDICTION AND VENUE

- 3. This court has original jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343 over Plaintiff's cause of action, arising under the Constitution of the United States and 42 U.S.C. § 1983.
- 4. Venue lies in the United States District Court for the Northern District of California because, under 28 U.S.C. § 1391(b)(2), a substantial part of the events, acts, or omissions giving rise to Plaintiff's claims occurred in Alameda County, California.

# **PARTIES**

- Plaintiff CHRISTOPHER ROBERT FLORES is an adult citizen and resident of Alameda County, California.
- 6. Defendant ALAMEDA COUNTY SHERIFF'S DEPARTMENT is a law enforcement agency of the State of California, located in the County of Alameda.

28

Defendant Sheriff's Officers JOHN AND JANE DOES NUMBERS 1 7. THROUGH 10 were each employed and assigned to duties at Santa Rita Jail, a branch of the Alameda County Sheriff's Department, when the relevant acts and omissions occurred. Their true identities are unknown to Plaintiff at this time, but they are expected to be ascertained through discovery. They are each sued in their official and individual capacities.

# FACTUAL BACKGROUND

- 8. On or about July 6, 2015, Plaintiff CHRISTOPHER ROBERT FLORES was placed into the custody of Defendant ALAMEDA COUNTY SHERIFF'S DEPARTMENT and JOHN AND JANE DOES NUMBERS 1 THROUGH 10, by the Emeryville Police Department.
- Before Plaintiff was delivered into Defendants' custody at Santa Rita Jail, Plaintiff 9. informed two Emoryville Police Department officers (Detective Jason Krimsky and Sergeant Bosetti) that Plaintiff suffers from a seizure condition—Acquired Epilepsy, due to a Traumatic Brain Injury (TBI) — that requires twice-daily doses of anti-seizure medication (Lamictal), and that without this medication he would suffer a seizure. Plaintiff's statements to this effect were documented in the Emeryville Police Report from the night of his arrest.
- Plaintiff's Acquired Epilepsy condition was caused by TBI suffered during a 10. brutal attack upon Plaintiff's skull with a tire iron in 1997 by individuals who were later prosecuted and convicted for crimes related to the attack.
- Upon his arrival at Santa Rita Jail, and repeatedly thereafter, Plaintiff informed 11. Sheriff's Deputies JOHN DOES NUMBERS 1 THROUGH 10 (inclusive) that he requires twicedaily anti-seizure medication, but Plaintiff was told simply that "no nurse is on duty."

12. Each Defendant acted with deliberate indifference towards the medical needs	of
Plaintiff by failing, despite Plaintiff's repeated requests, to provide the necessary anti-seizure	)
medication until after a Grand Mal seizure had occurred while Plaintiff was in Defendants'	
custody.	

13. As a direct and proximate result of the acts and omissions described above,
Plaintiff suffered a *Grand Mal* seizure, resulting in severe physical, physiological, psychological,
mental, and emotional damages.

# **COUNT I**

# 42 U.S.C. § 1983, against Defendant ALEMEDA COUNTY SHERIFF'S DEPT.

- 14. Plaintiff re-alleges and incorporates by reference ¶ 1 through 13.
- 15. Plaintiff claims damages under 42 U.S.C. § 1983 for the injuries set forth above against Defendant ALAMEDA COUNTY SHERIFF'S DEPARTMENT due to violation, under color of state law, of Plaintiff's constitutional right under the Eighth Amendment to the Constitution of the United States to be free from cruel and unusual punishment.

#### **COUNT II**

# 42 U.S.C. § 1983, against John and Jane Doe Defendants 1 through 10

- 16. Plaintiff re-alleges and incorporates by reference ¶¶ 1 through 13.
- 17. Plaintiff claims damages under 42 U.S.C. § 1983 for the injuries set forth above against Defendants ALAMEDA COUNTY SHERIFF'S DEPARTMENT and JOHN AND JANE DOES NUMBERS 1 THROUGH 10, due to violation, under color of state law, of Plaintiff's constitutional right under the Eighth Amendment to be free from cruel and unusual punishment.

## PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this court:

- A. Enter judgment in favor of Plaintiff and against each and every Defendant;
- B. Award Plaintiff compensatory and punitive damages against each and every Defendant in the amount of one million dollars (\$1,000,000.00);
- C. Declare the acts and/or omissions of Defendants unconstitutional under the Eighth Amendment;
- D. Make an appropriate injunctive order to Defendant ALAMEDA COUNTY SHERIFF'S DEPARTMENT to establish appropriate procedures for handling inmates with epilepsy and related seizure disorders;
- E. Award Plaintiff's counsel reasonable attorney's fees and costs pursuant to 42 U.S.C. § 1988 and any other applicable provisions of law; and
- F. Grant to Plaintiff such other and further relief as may be just and proper under the circumstances.

# **DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a jury trial, pursuant to the Seventh Amendment to the Constitution of the United States, as to all claims for damages.

Respectfully submitted on this \_\_\_\_\_day of July, 2015.

Mark W. Kelsey, Counsel for Plaintiff

## **VERIFICATION**

(Verification of Pleading and Declaration under Penalty of Perjury)

CASE TITLE: Christoper Robert Flores v. Alameda County Sheriff's Department, et. al.

- I, Christopher Robert Flores, hereby declare:
  - 1. I am the Plaintiff in the above-entitled matter.
  - 2. I have read the foregoing complaint and know the contents thereof.
  - 3. The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and, as to those matters, I believe them to be true.

Executed on this 30th day of July, 2015, at Alameda County, California.

I declare under penalty of perjury that the foregoing is true and correct.

Signature of Rlaintiff, Christopher Robert Flores

JS 44 (Rev. 12/12) Cand rev (1/15/13)

# Case4:15-cv-0351**5CHWWL COVERNSHEF**iled07/30/15 Page1 of 1

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

purpose of initiating the civil d	ocket sheet. (SEE INSTRUC	TIONS ON NEXT PAG	E OF THIS	FORM.)							
I. (a) PLAINTIFFS				DEFENDANTS	3						
Christopher Robert Flores				Alameda County Sheriff's Department, et.al.							
				b b operation, of al.							
	of First Listed Plaintiff A			County of Residence	of First List	ed Defendant	Alameda,	CA			
(E.	XCEPT IN U.S. PLAINTIFF CA	ASES)		County of Residence of First Listed Defendant Alameda, CA (IN U.S. PLAINTIFF CASES ONLY)				-			
				NOTE:				LOCATI	ON OF		
(-)				NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.							
(c) Attorneys (Firm Name,	Address, and Telephone Number	er) (Tr. 1, 005, 47)	C FM (1)	Attorneys (If Known)							
277 Vanasia V	f Mark W. Kelsey	(1el. 925-476	0-5/61	)							
Wolnut Crook	Valley Rd., Ste. 208	8									
Walnut Creek,	CA 94390										
II. BASIS OF JURISDICTION (Place an "X" in One Box Only)  III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff											
		one Bast only)	1111. 01	(For Diversity Cases Only)	IIICII AL	I ANTIES (Pa	ace an "X" in One . and One Box fo.				
Plaintiff	Federal Question (U.S. Government No.	t a Party)	Ci		TF DEF	Incorporated or Pr		PTF	ĎEF		
	,		0.	inzon of this state	<b>.</b>	of Business In T		□ 4	<b>4</b>		
☐ 2 U.S. Government	☐ 4 Diversity		Ci	tizen of Another State	2 🗆 2	Incorporated and I	Principal Place	□ 5	<b>□</b> 5		
Defendant	(Indicate Citizenship	of Parties in Item III)		- Constitution of the Cons		of Business In		<b>—</b> -	<b></b> <i>J</i>		
			Ci	tizen or Subject of a	3 🔲 3	Foreign Nation		□ 6	<b>□</b> 6		
				Foreign Country							
IV. NATURE OF SUIT	$\Gamma$ (Place an "X" in One Box (	Only)									
CONTRACT		RTS		FORFEITURE/PENALTY	BAN	KRUPTCY	OTHER S	TATUTI	ES		
☐ 110 Insurance ☐ 120 Marine	PERSONAL INJURY  310 Airplane	PERSONAL INJ	1	625 Drug Related Seizure		al 28 USC 158	☐ 375 False Cla				
130 Miller Act	315 Airplane Product	265 Personal Injur Product Liabi		of Property 21 USC 881 690 Other	423 With	drawal SC 157	400 State Rea	apportion	ment		
140 Negotiable Instrument	Liability	☐ 367 Health Care/	nty	000 Other	280	SC 137	410 Antitrust 430 Banks an		α		
150 Recovery of Overpayment	320 Assault, Libel &	Pharmaceutica			PROPER	TY RIGHTS	☐ 450 Commer	ce	5		
& Enforcement of Judgment  151 Medicare Act	Slander 330 Federal Employers'	Personal Injur Product Liabil			☐ 820 Copy		460 Deportati				
☐ 152 Recovery of Defaulted	Liability	☐ 368 Asbestos Pers			830 Paten		470 Racketee	er Influenc Organizati			
Student Loans	340 Marine	Injury Produc	t				480 Consume		Ous		
(Excludes Veterans)  153 Recovery of Overpayment	☐ 345 Marine Product Liability	Liability PERSONAL PROF	EDTV 🗆	LABOR		SECURITY	☐ 490 Cable/Sa	t TV			
of Veteran's Benefits	☐ 350 Motor Vehicle	370 Other Fraud	-	710 Fair Labor Standards Act	☐ 861 HIA (☐ 862 Black	1395ff) Lung (923)	850 Securities Exchang		dities/		
☐ 160 Stockholders' Suits ☐ 190 Other Contract	355 Motor Vehicle	371 Truth in Lend		720 Labor/Management	☐ 863 DIW	C/DIWW (405(g))	☐ 890 Other Sta	atutory Ac	ctions		
195 Contract Product Liability	Product Liability  360 Other Personal	☐ 380 Other Persona Property Dam:		Relations 740 Railway Labor Act	□ 864 SSID □ 865 RSI (4		891 Agricultu	ıral Acts			
☐ 196 Franchise	Injury	☐ 385 Property Dam	age	751 Family and Medical	1003 K31 (4	+03(g))	893 Environn 895 Freedom	of Inform	atters		
	362 Personal Injury - Medical Malpractice	Product Liabil		Leave Act			Act		tation		
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETIT		790 Other Labor Litigation 791 Employee Retirement	EEDEDA	L TAX SUITS	896 Arbitratio		1		
210 Land Condemnation	440 Other Civil Rights	Habeas Corpus:		Income Security Act	Manager Commence of the Commen	(U.S. Plaintiff	☐ 899 Administ	rative Pro			
220 Foreclosure	441 Voting	463 Alien Detained		# H		fendant)	Agency I		out of		
☐ 230 Rent Lease & Ejectment ☐ 240 Torts to Land	442 Employment 443 Housing/	510 Motions to Va Sentence	cate		□ 871 IRS—		☐ 950 Constitut		f		
245 Tort Product Liability	Accommodations	☐ 530 General			26 03	SC 7609	State Stat	utes			
290 All Other Real Property	445 Amer. w/Disabilities			IMMIGRATION							
	Employment 446 Amer. w/Disabilities	Other:  540 Mandamus &		462 Naturalization Application							
	Other	550 Civil Rights	Other  L	465 Other Immigration Actions							
	448 Education	555 Prison Conditi					THE PROPERTY OF THE PROPERTY O				
		560 Civil Detainee Conditions of	-				Autologica				
		Confinement									
V. ORIGIN (Place an "X" in	One Box Only)				L		L				
1 Original 2 Ren	noved from 📙 3 Rem				sferred from	☐ 6 Multidist	trict				
Proceeding Stat	te Court Appe	ellate Court	Re	opened Anot (speci	her District	Litigation					
	Cite the U.S. Civil Stotu	to under which was a	Cili (	and the second s							
VI. CAUSE OF	42 U.S.C. § 1983	te under which you a	re ming (	Do not cite jurisdictional statui	tes unless dive	rsity):					
ACTION	Brief description of cause:										
	Deliberate Indifference		Sheriff's l	Deputies while Plaintiff was	s in county ia	il (8th Amendmen	nt).				
VII. REQUESTED IN	☐ CHECK IF THIS IS			DEMANDS 1, DOD, DO		IECK YES only i		omplain <sup>1</sup>	t:		
COMPLAINT: UNDER RULE 23, F.R.Cv.P. One Mallion JURY DEMAND: Yes No											
VIII. RELATED CASE	(S)							mand ×10	-		
IF ANY	(See instructions):										
		JUDGE			DOCKET	NUMBER					
X. DIVISIONAL ASSIGNMENT (Civil L.R. 3-2)											
Place an "X" in One Box Only)  () SAN FRANCISCO/OAKLAND () SAN JOSE () EUREKA											
DATE 7 70 15		SIGNATURE OF ATT			7	//	() LUINI	-4 M			