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FILED
ALAMEDA COUNTY
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16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
17 **FOR THE COUNTY OF ALAMEDA**

19 AMBROSE AGU, Individually and as
20 Successor-in-Interest to the ESTATE OF TED
21 AGU; and EMILIA AGU, Individually,

21 Plaintiffs,

22 v.

23 THE REGENTS OF THE UNIVERSITY OF
24 CALIFORNIA and DOES 1 through 50,
25 Inclusive,

25 Defendant.

CASE NO. RG14735588
[Assigned to Hon. Stephen Kaus, Dept. 514]

**SECOND AMENDED COMPLAINT FOR
WRONGFUL DEATH AND SURVIVAL
ACTION DAMAGES:**

- 1. NEGLIGENCE (Respondeat Superior)
- 2. NEGLIGENT HIRING/
RETENTION/SUPERVISION/
TRAINING

DEMAND FOR JURY TRIAL

28 COMES NOW Plaintiffs, AMBROSE AGU, Individually and as Successor-in-Interest to

ORIGINAL

FAXED

1 the ESTATE OF TED AGU; and EMILIA AGU, Individually, ("Plaintiffs"), for causes of action
2 against Defendant, THE REGENTS OF THE UNIVERSITY OF CALIFORNIA ("Defendant")
3 and DOES 1 through 50, inclusive, who complain and allege as follows:

4 GENERAL ALLEGATIONS

5 1. This case is about the unnecessary death of Ted Agu ("AGU"), who was a 21 year
6 old student-athlete and a member of the University of California Berkeley ("UCB") football team.
7 Tragically, his death not only could have, but should have, been prevented. This young student-
8 athlete lost his life because of the reckless and negligent behavior of UCB football trainers and
9 coaches in orchestrating, conducting and subjecting AGU to a lethal conditioning drill for a player
10 with known sickle cell trait. As a result, his mother and father are without their youngest son and
11 his siblings are without their younger brother. This wrongful death case is being brought by
12 AGU's family against the entity whose actions and inactions caused young AGU's premature
13 death.

14 2. On February 7, 2014, AGU was a member of the UCB Golden Bears football team
15 participating in a conditioning drill in the vicinity of Memorial Stadium.

16 3. At all relevant times, as a member of the UCB football team, AGU was under the
17 direction, control, and supervision of the Defendant, their agents, employees, and officers, known
18 and unknown.

19 4. AGU was placed in a conditioning drill that was extremely intense and egregiously
20 inappropriate, given his medical condition. When AGU experienced difficulty, he was pushed to
21 the point of exhaustion and, inexcusably, beyond.

22 5. During the course of the conditioning drill, AGU experienced exhaustion,
23 dizziness, shortness of breath, loss of balance, and other signs of extreme fatigue that were clearly
24 symptomatic of the sickling process, and yet all such signs were ignored by the UCB trainers and
25 coaches.

26 6. UCB coaches and trainers observed AGU experiencing exhaustion, dizziness,
27 shortness of breath, loss of balance, and other signs of extreme fatigue, but notwithstanding his
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1 condition, the coaches/trainers did not come to his assistance.

2 7. It was only after AGU struggled and encountered obvious difficulties for a
3 significant period of time that intervention occurred and he was put on a cart and taken back
4 towards the stadium where he collapsed for the last time. Emergency personnel came to the scene
5 and transported AGU to Alta Bates Medical Center in Berkeley, where he was pronounced dead.

6 8. At all times herein relevant, Plaintiff AMBROSE AGU was and is a resident of
7 Kern County in the State of California and is the surviving father of AGU.

8 9. At all times herein relevant, Plaintiff EMILIA AGU was and is a resident of Kern
9 County in the State of California and is the surviving mother of AGU.

10 10. Plaintiff THE ESTATE OF TED AGU is represented by and through its Successor-
11 in-Interest AMBROSE AGU pursuant to California *Code of Civil Procedure* § 377.60.

12 11. At all relevant times, Defendant THE REGENTS OF THE UNIVERSITY OF
13 CALIFORNIA was and is a public entity duly organized and existing under and by virtue of the
14 laws of the State of California and authorized to do, and is doing, business in the State of
15 California with its principal place of business in Alameda County in the State of California.

16 12. California Government Code section 905.6 exempts THE REGENTS OF THE
17 UNIVERSITY OF CALIFORNIA from claim-filing provisions of the Tort Claims Act.

18 13. Plaintiffs are informed and believe, and thereupon allege, that at all times
19 mentioned herein, Defendant THE REGENTS OF THE UNIVERSITY OF CALIFORNIA was
20 and is established under Article IX, Section 9 of the California Constitution to govern the affairs
21 of its various campuses, including UCB.

22 14. Plaintiffs are informed and believe, and thereupon allege, that as a public entity,
23 Defendant THE REGENTS OF THE UNIVERSITY OF CALIFORNIA has a statutory duty and is
24 statutorily liable for injuries proximately caused by an act or omission of an employee of the
25 public entity within the scope of his employment if the act or omission would have given rise to a
26 cause of action against that employee or his personal representative, as provided in Government
27 Code Section 815.2(a).

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1 15. Plaintiffs are informed and believe, and thereupon allege, that public employees
2 have a statutory duty and are statutorily liable for injury caused by their act or omission to the
3 same extent as a private person would be, as provided by Government Code Section 820(a).

4 16. Plaintiffs are informed and believe, and thereupon allege, that ROBERT
5 JACKSON and DAMON HARRINGTON, acting within the course and scope of their
6 employment with THE REGENTS OF THE UNIVERSITY OF CALIFORNIA and UCB, and
7 whose duties include supervising, assisting, teaching and assisting in the supervision and control
8 and safety of student athletes at UCB, such as AGU and others similarly situated, and, in
9 particular, developing, planning, organizing, and executing the subject conditioning drill in a
10 reasonably safe manner, thereby establishing a special relationship with students, such as AGU
11 and others similarly situated, had a heightened duty of care to take reasonable steps to protect
12 UCB student athletes, such as AGU.

13 17. Plaintiffs are informed and believe, and thereupon allege, that Defendant THE
14 REGENTS OF THE UNIVERSITY OF CALIFORNIA is liable for any breach of said duty by its
15 employees, agents, servants and/or joint venturers under the legal theory of respondeat superior, as
16 provided under California Government Code Sections 815.2 and 820.

17 18. Plaintiffs are informed and believe, and thereupon allege, that at all times
18 mentioned herein, Defendant THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, and its
19 employees including athletic trainer ROBERT JACKSON and coach DAMON HARRINGTON
20 and DOES 1 through 50, inclusive, having invited AGU onto the campus property and play
21 football for UCB and having enrolled him as a student in exchange for the payment of tuition, had
22 a special relationship existing with AGU, as an invitee, to take reasonable protective measures,
23 especially with a student athlete with known sickle cell trait, to ensure his safety and otherwise
24 protect him from reasonably foreseeable dangerous conduct and to warn him as to such reasonably
25 foreseeable dangerous conduct during conditioning sessions, practice and play.

26 19. Plaintiffs are informed and believe, and thereupon allege, that at all times herein
27 relevant, ROBERT JACKSON was and is a resident of Alameda County, and was employed as an
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1 athletic trainer at UCB. At all relevant times, athletic trainer ROBERT JACKSON was acting
2 within the course and scope of his employment by UCB.

3 20. Prior to becoming employed by Cal Berkeley, athletic trainer ROBERT JACKSON
4 was involved in the remarkably similar death of another college football player with sickle cell
5 trait. Specifically, on March 18, 2008, ROBERT JACKSON was employed as an athletic trainer
6 for the University of Central Florida ("UCF") football team in Orlando, Florida.

7 21. Like AGU, one of the UCF football players, Ereck Plancher, had sickle cell trait.

8 22. During a difficult conditioning session on that date, Ereck Plancher began to
9 struggle and exhibit signs of sickling. Despite these difficulties, athletic trainer ROBERT
10 JACKSON failed to intervene and detect the nature of these difficulties, allowed Ereck to continue
11 the session, and otherwise failed to follow proper procedures for treating a struggling athlete with
12 sickle cell trait. Ultimately, Ereck Plancher died.

13 23. As a result, Plancher's family filed a lawsuit against the UCF Athletics Association
14 and, after a three (3) week jury trial in Orange County, Florida, a verdict was rendered against the
15 UCF Athletics Association in the amount of \$10 million. A subsequent Amended Judgment was
16 entered awarding attorneys' fees, costs, and interest. The matter is presently pending before the
17 Florida Supreme Court and the amount of the asserted indebtedness is approximately \$15 million
18 at the present time.

19 24. That case and verdict received national attention and UCB knew or should have
20 known of ROBERT JACKSON's involvement in Ereck Plancher's death.

21 25. Given athletic trainer's ROBERT JACKSON's history, UCB was negligent in
22 hiring/retaining Mr. Jackson and (a) failing to adequately ensure that Mr. Jackson knew the proper
23 procedures to follow for a struggling athlete with sickle cell trait and (b) allowing Mr. Jackson to
24 be the most experienced athletic trainer at the conditioning session that led to AGU's death.

25 26. Plaintiffs are informed and believe, and thereupon allege, that at all times herein
26 relevant, Coach DAMON HARRINGTON was and is a resident of Alameda County, and was
27 employed as a strength and conditioning coach at UCB. At all relevant times, Coach DAMON
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1 HARRINGTON was acting within the course and scope of his employment by UCB.

2 27. HARRINGTON was never interviewed before being hired by Defendant. Indeed,
3 Defendant never ascertained what his qualifications were or knowledge was in the strength and
4 conditioning field.

5 28. Further, it was widely known that after HARRINGTON was hired by Defendant,
6 he conducted "punishment drills" with the Cal football players prior to AGU's death which were
7 very difficult and designed to punish the players.

8 29. At all times relevant to the allegations contained herein, and more particularly on or
9 about February 7, 2014, Defendant THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
10 governed, operated, controlled, and/or managed UCB in Berkeley, California. As part of those
11 operations, Defendant THE REGENTS OF THE UNIVERSITY OF CALIFORNIA provided for,
12 managed, and organized athletic teams, including the UCB Golden Bears football team, of which
13 Decedent AGU was a member at all times relevant to the allegations of this Complaint.

14 30. Plaintiffs are further informed and believe, and thereon allege, that Defendant THE
15 REGENTS OF THE UNIVERSITY OF CALIFORNIA, including DOES 1 through 50, inclusive,
16 were agents, servants, employees, successors in interest, and/or joint venturers of their co-
17 defendants, and were, as such, acting within the course, scope, and authority of said agency,
18 employment and/or venture, and that each and every defendant, as aforesaid, when acting as a
19 principal, was negligent in the selection of each and every other defendant as an agent, servant,
20 employee, successor in interest, and/or joint venturer.

21 31. The true names and capacities, whether individual, plural, corporate, partnership,
22 associate, or otherwise, of DOES 1 through 50, inclusive, are unknown to Plaintiffs who therefore
23 sue said defendants by such fictitious names. The full extent of the facts linking such fictitiously
24 sued defendants is unknown to Plaintiffs. Plaintiffs are informed and believe, and thereupon
25 allege, that each of the defendants designated herein as a DOE was, and is, negligent, or in some
26 other actionable manner, responsible for the events and happenings hereinafter referred to, and
27 thereby negligently, or in some other actionable manner, legally and proximately caused the
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1 hereinafter described injuries and damages to Plaintiffs. Plaintiffs will hereafter seek leave of the
2 Court to amend this Complaint to show the defendants' true names and capacities after the same
3 have been ascertained.

4 32. Plaintiffs are further informed and believe, and thereon allege, that Defendant THE
5 REGENTS OF THE UNIVERSITY OF CALIFORNIA and DOES 1 through 50, inclusive, were
6 acting in concert with each other by assisting, facilitating, encouraging and otherwise condoning
7 THE REGENTS OF THE UNIVERSITY OF CALIFORNIA's negligent and reckless conduct and
8 as such are equally liable for THE REGENTS OF THE UNIVERSITY OF CALIFORNIA's
9 negligent and reckless behavior.

10 33. UCB is a member institution of the National Collegiate Athletic Association
11 ("NCAA") and had the responsibility to operate the football program in a safe manner and to
12 protect the health and safety of its student athletes.

13 34. As a member institution of the NCAA, Defendant THE REGENTS OF THE
14 UNIVERSITY OF CALIFORNIA and UCB and its coaches and staff owe special and heightened
15 duties to their athletes, such as AGU, when conducting conditioning sessions, practices and
16 games. This is particularly true for student-athletes with known sickle cell trait like AGU.

17 **FIRST CAUSE OF ACTION**

18 **(Wrongful Death and Survival Action Sounding in Negligence under a theory of Respondeat**
19 **Superior Against Defendant THE REGENTS OF THE UNIVERSITY OF CALIFORNIA**
20 **and DOES 1 through 50, Inclusive)**

21 35. Plaintiffs re-allege and incorporate herein by reference each and every allegation
22 and statement contained in the prior paragraphs.

23 36. AGU was placed under unreasonable physical distress by Defendant and died on
24 February 7, 2014.

25 37. Plaintiffs are informed and believe, and thereon allege, that at all times mentioned
26 herein, Defendant owed a duty of care to all reasonably foreseeable people, including Decedent
27 AGU and Plaintiffs, to plan, organize, and execute the conditioning drill in a reasonably safe
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1 manner and also owed a duty of care to AGU not to increase the risks of sports participation by a
2 student-athlete with known sickle cell trait.

3 38. Plaintiffs allege that THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
4 breached its statutory duty to AGU under California Government Code Sections 815.2 and 820
5 and is therefore liable to Plaintiffs under the legal theory of respondeat superior.

6 39. Plaintiffs are informed and believe, and thereon allege, that Defendant's said
7 careless, negligent, reckless and unlawful conduct in regards to the events surrounding the
8 conditioning drill was the direct, legal and proximate cause of the fatal injuries sustained by
9 Decedent AGU and the damages to Plaintiffs as herein alleged.

10 40. The aforementioned subject incident giving rise to this wrongful death and survival
11 action caused Decedent AGU to suffer various traumatic injuries. As a legal, direct and proximate
12 result of the conduct of said Defendant, Decedent AGU suffered pre-death physical injuries,
13 mental anguish, terror, anxiety and unconsciousness.

14 41. Plaintiffs are informed and believe, and thereon allege, that at all times mentioned
15 herein, Defendant THE REGENTS OF THE UNIVERSITY OF CALIFORNIA and DOES 1
16 through 50, inclusive, carelessly, negligently, recklessly and with conscious disregard for the
17 welfare and safety of others, including Decedent AGU, organized and executed the conditioning
18 drill so as to legally and proximately cause the death of AGU.

19 42. As a legal, direct and proximate result of the reckless and negligent conduct of
20 Defendant THE REGENTS OF THE UNIVERSITY OF CALIFORNIA and DOES 1 through 50,
21 inclusive, Plaintiffs have sustained damages resulting from the loss of love, affection, society,
22 service, comfort, support, right of support, expectations of future support and counseling,
23 companionship, solace and mental support, as well as other benefits and assistance of Decedent
24 AGU, all to their general damages in a sum in excess of the jurisdictional limits of this Court,
25 which will be stated according to proof, pursuant to Section 425.10 of the California *Code of Civil*
26 *Procedure*.

27 43. As a legal, direct and proximate result of the conduct of Defendant THE
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1 REGENTS OF THE UNIVERSITY OF CALIFORNIA and DOES 1 through 50, inclusive,
2 Plaintiffs will be deprived of the financial support and assistance of Decedent AGU, the exact
3 amount of such losses to be stated according to proof, pursuant to Section 425.10 of the *California*
4 *Code of Civil Procedure*.

5 **SECOND CAUSE OF ACTION**

6 **(Wrongful Death and Survival Action Sounding in Negligent**

7 **Hiring/Retention/Supervision/Training Against Defendant THE REGENTS OF THE**
8 **UNIVERSITY OF CALIFORNIA and DOES 1 through 50, Inclusive)**

9 44. Plaintiffs re-allege and incorporate herein by reference each and every allegation
10 and statement contained in the prior paragraphs.

11 45. The REGENTS OF THE UNIVERSITY OF CALIFORNIA and UCB had a duty to
12 protect its student athletes, like AGU, from harm, which includes an obligation to exercise
13 ordinary care in hiring, training, supervising, and discharging school personnel and coaches.

14 46. The REGENTS OF THE UNIVERSITY OF CALIFORNIA and UCB hired an
15 athletic trainer (JACKSON) and coach (HARRINGTON) who were unfit to perform the job duties
16 and responsibilities for which they were hired and whose unfitness and/or incompetence harmed
17 AGU.

18 47. Under Government Code Section 815.2, the REGENTS OF THE UNIVERSITY
19 OF CALIFORNIA is thus vicariously liable for JACKSON's and HARRINGTON's negligence.

20 48. Plaintiffs are informed and believe, and thereupon allege, that at all times herein
21 relevant, ROBERT JACKSON was and is a resident of Alameda County, and was employed as an
22 athletic trainer at UCB. At all relevant times, athletic trainer ROBERT JACKSON was acting
23 within the course and scope of his employment by UCB.

24 49. Prior to becoming employed by Cal Berkeley, athletic trainer ROBERT JACKSON
25 was involved in the remarkably similar death of another college football player with sickle cell
26 trait. Specifically, on March 18, 2008, ROBERT JACKSON was employed as an athletic trainer
27 for the University of Central Florida football team in Orlando, Florida.

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1 50. Like AGU, one of the UCF football players, Ereck Plancher, had sickle cell trait.

2 51. During a difficult conditioning session on that date, Ereck Plancher began to
3 struggle and exhibit signs of sickling. Despite these difficulties, athletic trainer ROBERT
4 JACKSON failed to intervene and detect the nature of these difficulties, allowed Ereck to continue
5 the session, and otherwise failed to follow proper procedures for treating a struggling athlete with
6 sickle cell trait. Ultimately, Ereck Plancher died.

7 52. As a result, Plancher's family filed a lawsuit against the UCF Athletics Association
8 and, after a three (3) week jury trial in Orange County, Florida, a verdict was rendered against the
9 UCF Athletics Association in the amount of \$10 million. A subsequent Amended Judgment was
10 entered awarding attorneys' fees, costs, and interest. The matter is presently pending before the
11 Florida Supreme Court and the amount of the asserted indebtedness is approximately \$15 million
12 at the present time.

13 53. That case and verdict received national attention and the UCB and Defendant THE
14 REGENTS OF THE UNIVERSITY OF CALIFORNIA knew or should have known of ROBERT
15 JACKSON's involvement in Ereck Plancher's death and his knowledge of student-athletes with
16 sickle cell trait like AGU.

17 54. Given athletic trainer's ROBERT JACKSON's history, UCB and Defendant THE
18 REGENTS OF THE UNIVERSITY OF CALIFORNIA were negligent in hiring/retaining Mr.
19 Jackson and (a) failing to adequately ensure that Mr. Jackson knew the proper procedures to
20 follow for a struggling athlete with known sickle cell trait and (b) allowing Mr. Jackson to be the
21 most experienced athletic trainer at the conditioning session that led to AGU's death.

22 55. Public schools like UCB have a special relationship with their student athletes, like
23 AGU, and have a duty to supervise students, including during athletic practice and play. UCB and
24 THE REGENTS OF THE UNIVERSITY OF CALIFORNIA owed AGU a duty of care based on
25 the special relationship between the university and AGU during conditioning sessions such as the
26 one AGU was engaged in at the time of his death.

27 56. Specifically, Defendant, THE REGENTS OF THE UNIVERSITY OF
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- 1 CALIFORNIA owed a heightened duty to its student athletes, including AGU, to supervise,
2 develop, plan, and execute a conditioning drill that was reasonably safe and that would not
3 endanger the lives of its players. The Defendant breached this duty by, among other things:
- 4 a. Placing AGU into and requiring his participation, as a known sickle cell
5 trait student athlete, in a strenuous and extremely difficult conditioning drill;
 - 6 b. Failing to provide sufficient rest periods during the conditioning drill;
 - 7 c. Allowing and/or encouraging players who exhibited physical distress to
8 continue with the conditioning drill;
 - 9 d. Failing to provide adequate medical and emergency personnel and adequate
10 medical equipment during the conditioning drill;
 - 11 e. Failing to provide proper supervisors during the conditioning drill who
12 should recognize when a player is in physical distress;
 - 13 f. Negligently organizing and executing the conditioning drill;
 - 14 g. Failing to timely call for appropriate emergency assistance in a timely
15 manner;
 - 16 h. Failure of the training staff to appropriately administer medical assistance to
17 AGU in a timely manner;
 - 18 i. Failing to maintain an adequate emergency plan;
 - 19 j. Failing to provide its players with known sickle cell trait with proper access
20 to water and other fluids;
 - 21 k. Failing to identify symptoms of overexertion in AGU, who was known to
22 have sickle cell trait, thereby allowing AGU to continue in a potentially lethal conditioning drill;
 - 23 l. Failing to monitor AGU, a known sickle cell trait athlete, during extreme
24 conditioning drills;
 - 25 m. Increasing the risks of sports participation by a student-athlete with known
26 sickle cell trait;
 - 27 n. Failing to properly instruct, educate, train, and supervise its coaches and
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1 athletic training staff; and

2 o. Failing to have timely medical care available.

3 57. Plaintiffs are informed and believe, and thereupon allege, that ROBERT
4 JACKSON and DAMON HARRINGTON, acting within the course and scope of their
5 employment with THE REGENTS OF THE UNIVERSITY OF CALIFORNIA and UCB, and
6 whose duties include supervising, assisting, teaching and assisting in the supervision and control
7 and safety of student athletes at UCB, such as AGU and others similarly situated, and, in
8 particular, developing, planning, supervising, organizing, and executing the subject conditioning
9 drill in a reasonably safe manner, thereby establishing a special relationship with students, such as
10 AGU and others similarly situated, had a heightened duty of care to take reasonable steps to
11 protect UCB student athletes, such as AGU.

12 58. Plaintiffs are informed and believe, and thereupon allege, that at all times
13 mentioned herein, Defendant THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, and its
14 employees, athletic trainer ROBERT JACKSON and coach DAMON HARRINGTON, having
15 invited AGU onto the campus property and play football for UCB and having enrolled him as a
16 student in exchange for the payment of tuition, had a special relationship existing with AGU, as an
17 invitee, to take reasonable protective measures, especially with a student athlete with known sickle
18 cell trait, to ensure his safety and otherwise protect him from reasonably foreseeable dangerous
19 conduct and to warn him as to such reasonably foreseeable dangerous conduct during conditioning
20 sessions, practice and play.

21 59. Plaintiffs are informed and believe, and thereon allege, that at all times mentioned
22 herein, Defendant THE REGENTS OF THE UNIVERSITY OF CALIFORNIA and DOES 1
23 through 50, inclusive, were negligent in the hiring, retention, supervision and/or training of
24 athletic trainer ROBERT JACKSON and coach DAMON HARRINGTON in that Defendant THE
25 REGENTS OF THE UNIVERSITY OF CALIFORNIA and DOES 1 through 50, inclusive, knew
26 or should have known facts which would warn a reasonable person that athletic trainer JACKSON
27 and coach DAMON HARRINGTON presented an undue risk of harm to third persons in light of
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1 the particular work to be performed. In particular, Defendant THE REGENTS OF THE
2 UNIVERSITY OF CALIFORNIA and DOES 1 through 50, inclusive, knew or should have
3 known that athletic trainer JACKSON and coach HARRINGTON were unfit for the specific tasks
4 to be performed during the course of their employment, namely to organize and execute a
5 reasonably safe conditioning drill during their employment for UCB and Defendant THE
6 REGENTS OF THE UNIVERSITY OF CALIFORNIA.

7 60. Plaintiffs are informed and believe, and thereon allege, that at all times mentioned
8 herein, UCB and Defendant THE REGENTS OF THE UNIVERSITY OF CALIFORNIA and
9 DOES 1 through 50, inclusive, were negligent by failing to provide any or sufficient training or
10 supervision to athletic trainer JACKSON and coach HARRINGTON after hiring them, and
11 retained athletic trainer JACKSON and coach HARRINGTON as employees for a job which
12 mainly included overseeing the health, safety and welfare of student athletes like AGU.

13 61. Plaintiffs are informed and believe, and thereon allege, that at all times mentioned
14 herein, UCB and Defendant THE REGENTS OF THE UNIVERSITY OF CALIFORNIA and
15 DOES 1 through 50, inclusive, owed a heightened duty of care to their student-athletes, including
16 Decedent AGU and Plaintiffs, in the hiring, retention, supervision and training of their agents,
17 employees, servants, and/or independent contractors, which they assigned to coach and assist
18 student athletes at the school, such as AGU.

19 62. As a member institution of the NCAA, Defendant THE REGENTS OF THE
20 UNIVERSITY OF CALIFORNIA and UCB and its coaches and staff, including athletic trainer
21 JACKSON and coach HARRINGTON owed special and heightened duties to their athletes, such
22 as AGU, when conducting conditioning sessions, practices and games. This is particularly true for
23 student-athletes with known sickle cell trait like AGU.

24 63. Defendant THE REGENTS OF THE UNIVERSITY OF CALIFORNIA and UCB
25 and its coaches and staff, including athletic trainer JACKSON and coach HARRINGTON had a
26 duty to protect and enhance the physical and educational well-being of their student athletes. And
27 Defendant THE REGENTS OF THE UNIVERSITY OF CALIFORNIA and UCB and its coaches

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1 and staff, including athletic trainer JACKSON and coach HARRINGTON had the responsibility to
2 protect the health of and provide a safe environment for each of its participating student-athletes.

3 64. Plaintiffs are informed and believe, and thereon allege, that at all times mentioned
4 herein, UCB and Defendant THE REGENTS OF THE UNIVERSITY OF CALIFORNIA and
5 DOES 1 through 50, inclusive, failed to act reasonably in the hiring, retention, supervision and
6 training of their agents, employees, servants and/or independent contractors, including athletic
7 trainer JACKSON and coach HARRINGTON.

8 65. Plaintiffs are informed and believe, and thereon allege, that the aforementioned
9 negligent hiring, retention, supervision and training of athletic trainer JACKSON and Coach
10 HARRINGTON by UCB and Defendant THE REGENTS OF THE UNIVERSITY OF
11 CALIFORNIA and DOES 1 through 50, inclusive, directly, legally and proximately caused or was
12 a substantial factor in causing AGU's death on February 7, 2014.

13 66. As a legal, direct and proximate result of the reckless and negligent conduct of
14 UCB and Defendant THE REGENTS OF THE UNIVERSITY OF CALIFORNIA and DOES 1
15 through 50, inclusive, Plaintiffs have sustained damages resulting from the loss of love, affection,
16 society, service, comfort, support, right of support, expectations of future support and counseling,
17 companionship, solace and mental support, as well as other benefits and assistance of Decedent
18 AGU, all to their general damages in a sum in excess of the jurisdictional limits of this Court,
19 which will be stated according to proof, pursuant to Section 425.10 of the California *Code of Civil*
20 *Procedure*.

21 67. As a legal, direct and proximate result of the conduct of UCB and Defendant THE
22 REGENTS OF THE UNIVERSITY OF CALIFORNIA and DOES 1 through 50, inclusive,
23 Plaintiffs will be deprived of the financial support and assistance of Decedent AGU, the exact
24 amount of such losses to be stated according to proof, pursuant to Section 425.10 of the *California*
25 *Code of Civil Procedure*.

26 **PRAYER FOR RELIEF**

27 WHEREFORE, Plaintiffs, AMBROSE AGU, Individually and as Successor-in-Interest to
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1 the ESTATE OF TED AGU; and EMILIA AGU, Individually, pray judgment against Defendant
2 THE REGENTS OF THE UNIVERSITY OF CALIFORNIA and DOES 1 through 50, inclusive,
3 as follows:

- 4 1. For non-economic damages suffered by Plaintiffs, including, but not limited to, loss
5 of love, affection, care, society, service, comfort, support, right to support, companionship, solace
6 or moral support, expectations of future support and counseling, other benefits and assistance of
7 Decedent AGU, in an amount in excess of the jurisdictional minimum, according to proof;
- 8 2. For economic damages suffered by Plaintiffs, related to loss of earnings and loss of
9 financial support from Decedent AGU, according to proof;
- 10 3. For hospital, medical, professional and incidental expenses suffered by Plaintiffs,
11 according to proof;
- 12 4. For prejudgment interest, according to proof;
- 13 5. For pre-trial interest, according to proof;
- 14 6. For damages for Plaintiffs' other economic losses, according to proof; and
- 15 7. For such other and further relief as this Court may deem just and proper.

16 DATED: January 8, 2015

PANISH SHEA & BOYLE LLP

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19 By:



20 Brian Panish
21 Robert Glassman

22 C. Steven Yerrid
23 **The Yerrid Law Firm**

24 Jeffrey D. Murphy
25 **Jeffrey D. Murphy, P.A.**

26 Attorneys for Plaintiffs
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