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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 ANA PATRICIA FERNANDEZ, an
11 individual,

12 Plaintiff,

13 v.

14 LOS ANGELES COUNTY, THE LOS
15 ANGELES COUNTY SHERIFF'S
16 DEPARTMENT, WYATT WALDRON,
17 an individual, JOHN ROTH, an
18 individual, SUSAN O'LEARY BROWN,
19 an individual, ALEX VILLANUEVA, in
20 his Official Capacity as Sheriff of Los
21 Angeles County, RICHARD LEON, an
22 individual, MURRAY JACOB, an
23 individual, DAVID ROACH, an
24 individual, SALVADOR MORENO IV,
25 an individual, JASON AMES, an
26 individual, KYLE DINGMAN, an
27 individual, NICHOLAS SAYLOR, an
28 individual, and DOES 8-10,

Defendants.

Case No.: 2:20-cv-09876-DMG (PD)

**[PROPOSED] ORDER DENYING
DEFENDANTS COUNTY OF LOS
ANGELES, LOS ANGELES COUNTY
SHERIFF'S DEPARTMENT, AND
SHERIFF ALEX VILLANUEVA'S
MOTION TO DISMISS PLAINTIFF'S
FIRST AMENDED COMPLAINT**

24 Defendants County of Los Angeles, the Los Angeles County Sheriff's Department,
25 and Sheriff Alex Villanueva's Motion to Dismiss Plaintiff's First Amended Complaint
26 came on for hearing before this Court on January 14, 2022. Having reviewed Defendants'
27 motion, the parties' memoranda, and all papers on file, and having heard the argument of
28 counsel, the Court hereby finds the following:

1 1. The Eighth Amendment protects the people from, among other things, the
2 imposition of excessive fines. U.S. Const. amend. VIII. “Two questions are pertinent
3 when determining whether the Excessive Fines Clause has been violated: (1) is the
4 statutory provision a fine, i.e., does it impose punishment? and (2) if so, is the fine
5 excessive?” *Wright v. Riveland*, 219 F.3d 905, 915 (9th Cir. 2000). Plaintiff has alleged
6 sufficient facts as to both prongs to survive a motion to dismiss.

7 First, “a civil sanction that cannot fairly be said solely to serve a remedial purpose,
8 but rather can only be explained as also serving either retributive or deterrent purposes, is
9 punishment, as we have come to understand the term.” *Austin v. United States*, 509 U.S.
10 602, 610 (1993). Because Plaintiff has alleged that Defendants recovered more than their
11 administrative costs through the enforcement of the administrative fee as applied to
12 Plaintiff, Plaintiff has sufficiently pleaded that the purported fee is not serving a solely
13 remedial purpose and is thus a punitive fine subject to the limitations of the Eighth
14 Amendment.

15 “Once a statute is deemed to be punitive and is thus a ‘fine’ within the meaning of
16 the Excessive Fines Clause, we must turn to the question of whether the fine is excessive.”
17 *Wright*, 219 F.3d at 916. The Supreme Court has ruled that a fine violates the Eighth
18 Amendment’s excessiveness standard if it is grossly disproportional to the crime
19 committed. *United States v. Bajakajian*, 524 U.S. 321, 337 (1998). Plaintiffs has
20 sufficiently alleged that the fine was “grossly disproportional to the crime committed”
21 here because Plaintiff has committed no crime.

22 For these reasons, Plaintiff has met her burden to allege with sufficient particularity
23 that Defendants violated her rights under the Excessive Fines Clause of the Eighth
24 Amendment.

25 2. The Fourth Amendment protects “[t]he right of the people to be secure in
26 their persons, houses, papers, and effects, against unreasonable search and seizures[.]”
27 U.S. Const. amend. IV. The Supreme Court has long held that “[a] seizure lawful at its
28 inception can nevertheless violate the Fourth Amendment because the manner of

1 execution unreasonably infringes possessory interests protected by the Fourth
2 Amendment[.]” *United States v. Jacobsen*, 466 U.S. 109, 124 (1984). Indeed, “[a] seizure
3 is justified under the Fourth Amendment only to the extent that the government’s
4 justification holds force. Thereafter, the government must cease the seizure or secure a
5 new justification.” *Brewster v. Beck*, 859 F.3d 1194, 1197 (9th Cir. 2017). If it cannot, a
6 seizure reasonable at its inception becomes an unreasonable one. *Id.* at 1196-97.

7 Here, Plaintiff has properly pleaded that the initial lawful seizure ran its course and
8 Defendants no longer had justification to retain possession of the firearms once Plaintiff’s
9 husband, Manuel Fernandez, died and ownership of the seized firearms passed to Plaintiff.
10 She has also alleged that the continued seizure of her property was unreasonable because
11 Defendants’ only remaining justification for withholding the property was Defendants’
12 unreasonable demand that Plaintiff pay an excessive and unlawful fee. Viewing those
13 allegations in the light most favorable to Plaintiff as required at this early stage, Plaintiff
14 has met her burden to allege with sufficient particularity that Defendants’ delay in
15 returning her property violated her rights under the Fourth Amendment.

16 Additionally, damage to or destruction of seized property is a “meaningful
17 interference” constituting a seizure under the Fourth Amendment. *Jacobsen*, 466 U.S. at
18 124-25. “Law enforcement activities that unreasonably damage or destroy personal
19 property, thereby ‘seizing’ it within the meaning of the Fourth Amendment, may give rise
20 to liability under [section] 1983.” *Newsome v. Erwin*, 137 F. Supp. 2d 934, 941 (S. D.
21 Ohio 2000). Here, Plaintiff alleges that significant damage was done to her firearms while
22 they were in Defendants’ custody. She further alleges that she has photographs
23 documenting the poor storage of her property by Defendants and that the damage led to
24 the collection losing over \$90,000 in value at auction. Plaintiff has sufficiently pleaded
25 this aspect of her Fourth Amendment claim.

26 3. Plaintiff has sufficiently pleaded that both the Defendants’ administrative fee
27 and their customs in handling seized property, as applied to Plaintiff’s circumstances,
28 violated Plaintiff’s rights under the Fourth and Eighth Amendments to the United States

1 Constitution. Plaintiff has thus satisfied the requirements set by *Monell v. Department of*
2 *Social Services*, 436 U.S. 658 (1978).

3 4. Lastly, because Plaintiff has sufficiently pleaded her constitutional claims,
4 this court has supplemental jurisdiction over her state-level claims and can issue
5 declaratory relief.

6 THEREFORE, IT IS HEREBY ORDERED that Defendants County of Los
7 Angeles, the Los Angeles County Sheriff's Department, and Sheriff Alex Villanueva's
8 Motion to Dismiss Plaintiff's First Amended Complaint is DENIED in its entirety.
9 Defendant shall file a responsive pleading within seven (7) days of this Order.

10 **IT IS SO ORDERED.**

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12 Dated: _____

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14 HON. DOLLY M. GEE
15 United States District Court Judge
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