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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ANA PATRICIA FERNANDEZ,)	CASE NO. 2:20-cv-9876-DMG-PD
)	
Plaintiff,)	DEFENDANTS JOHN ROTH AND
)	WYAT WALDRON'S MEMORANDUM
vs.)	OF LAW IN SUPPORT OF MOTION
)	FOR SUMMARY JUDGMENT OR
LOS ANGELES COUNTY; et al.,)	PARTIAL SUMMARY JUDGMENT
)	
Defendants.)	Date: April 5, 2024
)	Time: 2:00 p.m.
)	Place: Courtroom 8C
)	Judge: Hon. Dolly M. Gee
)	

Defendants JOHN ROTH and WYATT WALDRON, hereby submits the following
as its Memorandum of Law in support of its Motion for Summary Judgment or Partial
Summary Judgment.

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FACTUAL ASSERTIONS

The Plaintiff, Ana Fernandez sues Deputies Roth and Waldron for an alleged violation of the Federal Civil Rights Act (42 U.S.C. Section 1983). Specifically, the Plaintiff alleges that the deputies violated the Plaintiff's Fourth Amendment by damaging property seized by the Los Angeles County Sheriff's Department. In addition, the Plaintiff's First Amended Complaint (FAC) alleges state law claims against the defendants for: negligence, breach of a bailment, trespass to chattels, declaratory relief and punitive damages.

In June 2018, the Los Angeles County Sheriff's Department (LASD) executed three (3) warrants for the seizure of firearms from the Plaintiff's husband, Manuel Fernandez, who was a person prohibited from owning firearms under California law. On the date of the initial search, the deputies were expecting to recover the 42 firearms registered to Mr. Fernandez, however, when they arrived at the location, they discovered more than 400 firearms and firearm related items. As a result of the three searches, the LASD seized 517 items of evidence, the overwhelming majority being firearms and firearm components.

Manuel Fernandez passed away before the criminal charges against him resolved. After his death, the court ruled that Plaintiff Ana Fernandez was entitled to recover the seized items. Ms. Fernandez claims that Deputies Roth and Waldron are liable for damaging the firearms at the time of the seizures.

PROCEDURAL HISTORY

The Plaintiff filed her First Amended Complaint on October 12, 2021, alleging causes of action against the County of Los Angeles and several individual deputies and

employees including Sheriff's Deputies Wyatt Waldron and John Roth. The County of Los Angeles and each of the individual employees filed a motions to dismiss the FAC. On September 28, 2022, the court issued a ruling granting and denying the Motions to Dismiss, in part. The Court permitted the Plaintiff leave to file a SAC. The Plaintiff opted not to file an SAC. [Docket No. 54].

Thus, pursuant to the Court's order of September 28, 2022, the following claims survived the Motion to Dismiss this action: 1) Plaintiff's claim against the County of Los Angeles for violating the Fourth Amendment by imposing a fee before releasing the firearms to a rightful, non-indicted owner; 2) Plaintiff's claims against Defendants Roth and Waldron for violating the Fourth Amendment by damaging her property during the initial seizures; 3) state law claims against the County and Defendants Roth and Waldron; and 4) Plaintiff's request for declaratory relief, inasmuch as it derives from her remaining claims. [Docket No. 53].

MEMORANDUM OF LAW

I. UNDER THE SUMMARY JUDGMENT STANDARD THE DEFENDANTS ARE ENTITLED TO JUDGMENT IN THEIR FAVOR

At the summary judgment stage, facts must be viewed in light most favorable to the nonmoving party only if there is a genuine dispute as to those facts. *Fed. Rules iv, Proc.* 56(c). Summary judgment is appropriate when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. *Fed. R. Civ. P. 56(a)*. The moving party has the initial burden of identifying the portions of the pleadings and record that it believes demonstrate the absence of an issue of material fact. *See Celotex*

1 Corp. v. Catrett, 477 U.S. 317, 323 (1986). Where the non-moving party bears the burden
2 of proof at trial, the moving party need not produce evidence negating or disproving every
3 essential element of the non-moving party's case. Id. at 325. Instead, the moving party need
4 only prove there is an absence of evidence to support the non-moving party's case. Id.; In
5 re Oracle Corp. Sec. Litig., 627 F.3d 376, 387 (9th Cir. 2010). The non-moving party has
6 the burden of identifying with reasonable particularity the evidence that precludes
7 summary judgment. Id. If the non-moving party fails to make this showing, then “[t]he
8 moving party is entitled to a judgment as a matter of law.” Celotex, 477 U.S. at 323.

10 In this case, the deputies are entitled to summary Judgment. Regarding
11 the Fourth Amendment claim, the deputies are entitled to qualified immunity as their
12 conduct was reasonable under the Fourth Amendment, and there is no evidence to prove
13 that they violated any clearly established law. The Plaintiff can offer no evidence to prove
14 that deputies Roth and Waldron breached a duty of care owed to her, nor that their actions
15 were the proximate cause of her alleged damages. The Plaintiff will offer no evidence to
16 prove her claim for breach of a bailment. The Plaintiff will offer no evidence to prove her
17 claim for trespass to chattels. Because the Plaintiff’s claims fail, she is not entitled to
18 declaratory relief.

21 **II. DEPUTIES ROTH AND WALDRON ARE ENTITLED TO QUALIFIED**
22 **IMMUNITY FOR THE PLAINTIFF’S CLAIM FOR PROPERTY DAMAGE**
23 **UNDER THE FOURTH AMENDMENT**

25 Qualified immunity shields federal and state officials from money damages unless
26 the Plaintiff pleads facts showing (1) that the official violated a constitutional right, and (2)
27

1 that the right was “clearly established” at the time of the challenged conduct.” Kirkpatrick
2 v. City of Washoe, 792 F.3d 1184, 1193 (9th Cir. 2015). The Plaintiff “bears the burden of
3 showing that the rights alleged were clearly established.” Shafer v City of Santa Barbara,
4 868 F.3d 1110, 1118 (9th Cir. 2017).

5 The Supreme Court has mandated a two-step process resolving government
6 officials' qualified immunity claims. The court must decide whether the facts that a
7 plaintiff has alleged or shown make out a violation of a constitutional right, and the court
8 must decide whether the right at issue was “clearly established” at the time of defendant's
9 alleged misconduct. Qualified immunity is applicable unless the official's conduct violated
10 a clearly established constitutional right. Pearson v. Callahan, (2009) 555 U.S. 223, 232.
11 The court has the discretion to determine the sequence in which these two steps are
12 analyzed. Id. at p. 236.

13 “Clearly established” for qualified immunity purposes means that the contours of
14 the right must be sufficiently clear that a reasonable official would understand that what he
15 is doing violates that right. His very action need not previously have been held unlawful,
16 but in the light of per-existing law its unlawfulness must be apparent. Anderson v.
17 Creighton, 483 U.S. 635, 640 (1987). “Because qualified immunity is ‘an immunity from
18 suit rather than a mere defense to liability ... it is effectively lost if a case is erroneously
19 permitted to go to trial.’” Mitchell v. Forsyth, 472 U.S. 511, 526 (1985). “Indeed, we have
20 made clear that the ‘driving force’ behind creation of the qualified immunity doctrine was
21 a desire to ensure that ‘insubstantial claims’ against government officials [will] be resolved
22 prior to discovery.” Anderson, at p. 640, n.2. “Accordingly, ‘we repeatedly have stressed
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1 the importance of resolving immunity questions at the earliest possible stage in litigation.”
2 Hunter v. Bryant, 502 U.S. 224, 227 (1991).

3 In this case, Deputies Roth and Waldron are entitled to qualified immunity because
4 they did not engage in unreasonable conduct in violation of the Fourt Amendment.
5 However, if it is found that their conduct violated the Fourth Amendment, they are still
6 entitled to qualified immunity as their conduct did not violate any clearly established law
7 of which a reasonable office should have known.
8

9 **A. THERE IS NO EVIDENCE OF A FOURTH AMENDMENT**
10 **VIOLATION COMMITTED BY THESE DEFENDANTS.**

11 The Fourth Amendment prohibits only those searches and seizures that are
12 “unreasonable.” U.S. Const. amend. IV. A seizure of property occurs when there is “some
13 meaningful interference with an individual's possessory interests in that property.” Soldal
14 v. Cook County, 506 U.S. 56, 61 (1992) (quoting United States v. Jacobsen, 466 U.S. 109,
15 113, (1984)). A reasonable seizure of property does not violate the Fourth Amendment. To
16 assess reasonableness, courts “must balance the nature and quality of the intrusion on the
17 individual's Fourth Amendment interests against the importance of the governmental
18 interests alleged to justify the intrusion.” *Id.* at 125.
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20 In determining whether such a seizure comports with the Fourth Amendment, “the
21 touchstone ... is reasonableness.” United States v. Kriesel, 508 F.3d 941, 947 (9th
22 Cir.2007) (quoting Samson v. California, 547 U.S. 843, 855 n. 4 (2006)). The “general
23 Fourth Amendment approach” requires courts to examine the totality of the circumstances
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1 to determine whether a search or seizure is reasonable. United States v. Knights, 534 U.S.
2 112, 118, (2001) (citation omitted).

3 In this case, the Plaintiff alleges that the deputies violated the Fourth Amendment
4 by damaging the firearms at the time of the initial seizures. The Plaintiff will offer no such
5 evidence of a violation.
6

7 During the first Caprock Lane search on June 14, 2018, the deputies were prepared
8 to find the 42 firearms listed in the AFS database as belonging to Manuel Fernandez. It
9 quickly became clear to the deputies that Fenandez had hundreds of firearms. During the
10 course of this first search, deputies recovered nearly 400 firearms from Fernandez's
11 residence. [SUF, No. 7]. There were waist-high piles of boxes, shoes, scopes, clothing,
12 papers, collectors' items, knives and guns (concealed and unconcealed) in every crevice,
13 corner and compartment. The firearms were haphazardly stored, thrown about in different
14 piles, and buried under piles and layers of debris, household items. As the deputies
15 removed layers of debris, they uncovered more and more firearms. [SUF, No. 78]. Deputy
16 Waldron pulled firearms from the debris, cleared them and passed the, off to other deputies
17 to load them for transport. [SUF, No. 82].
18

19 Sheriff's Department's protocol for a seizure of this magnitude is to have the
20 Central Property and Evidence unit (CPE) in Whittier, CA arrive, take possession of the
21 evidence and process it at the warehouse. [SUF No. 10]. When contacted by the Palmdale
22 Station, CPE did not have the time or the manpower to retrieve the guns and process them
23 on June 14, 2018, so the deputies and staff at Palmdale Station had to transport and process
24 the weapons at the station. [SUF, No. 11]. Because CPE would not be coming out to take
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1 possession of the firearms, Deputy Waldron came up with the best game plan that they
2 could - to start cataloging and processing the firearms at the scene [SUF, No. 12]. Deputy
3 Waldron handled about 20-30 firearms passing them over to other deputies to write out the
4 serial numbers, makes, models and other information. He also went through the stacks of
5 firearms in the garage recovering them and passing them to other deputies were delegated
6 to identify the firearms and load them into the back seats of the patrol cars and the station-
7 owned pick-up truck for transport to the Palmdale Station. [SUF, No.13]

9 During the seizures, Deputy Waldron handled the Fernandez firearms in the same
10 way as any other property. The firearms were cleared to make sure they were loaded and
11 walked to the person to load them. For handguns, a zip tie was placed through the
12 magazine well and the slide and then the handgun was placed in an envelope. The firearm
13 was stored in a trunk for transport back to the station. [SUF, No. 84]. Because of the
14 volume of long guns, they had to be transported in a truck and in a convoy of patrol cars. It
15 took two hours to load the firearms into the truck and vehicles. The firearms were
16 transported to the station in a convoy with patrol cars behind the truck to ensure nothing
17 would happen to them. [SUF, No. 85].

20 During the second Caprock Lane search, deputies seized nearly 100 additional
21 firearms from locations which were so bombarded with layers of debris that they were
22 missed during the first search. [SUF, No. 87]. Every item that Deputy Roth handled was
23 handled with care and due regard for the property seized. [SUF, No. 88]. In order to
24 transport the firearms Deputy Roth placed the handguns into manilla envelopes, then into a
25 receptacle to prevent them from sliding or moving around. Long guns were laid down with
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1 towels, blankets or cardboard placed between them to prevent damage. [SUF, No. 89]. At
2 Palmdale station, the firearms were carefully removed from the patrol cars and the pick-up
3 truck, then carefully laid out on the station outside covered patio which was the only
4 location large enough to encompass all of the evidence. Each weapon was placed on the
5 ground and facing in a direction where one could observe that there was no live ammunition
6 round in the chamber. The firearms were arranged by category and photographed. The
7 firearms were all uniform, all even and were set down with care. [SUF, 90].

9 The magnitude of the search and seizure at Caprock Lane on June 14, 2018 was
10 greater than any seizure the deputies or staff had experienced. [SUF, No. 4]. To seize that
11 magnitude of firearms from a single source was a unique set of circumstances for the
12 deputies. The second largest firearm seizure conducted by Deputy Waldron was for 15
13 firearms. The greatest number of firearms that the Central Property custodian has seen was
14 approx. 100 firearms received during a gun buyback program. [SUF, No. 15]

16 Plaintiff, Ana Fernandez will offer no evidence of the condition of the firearms
17 prior to the June 2018, and is unaware of whether her husband's collection of firearms was
18 new or used. [SUF, No. 72, 73]. The Plaintiff cannot identify which, if any, of the seized
19 firearms were allegedly damaged by the sheriff's department. [SUF, No. 74].

21 Based on these facts, there is no evidence that the Deputies Roth or Waldron were
22 unreasonable in their seizure of the Fernandez firearms, nor that their actions caused
23 damage to the firearms. Under the totality of the circumstances, the deputies were faced
24 with a highly unusual seizure where they recovered 10 times the number of firearms that
25 they were seeking. The deputies followed the protocols and requested CPE custodians to
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1 retrieve the evidence. When that option was not available, the deputies loaded the firearms
2 into the pickup truck and a convoy of radio cars and transported them to the station as best
3 they could.

4 There is no evidence that Deputies Roth or Waldron's conduct was unreasonable
5 under the unique circumstances they faced, nor that they damaged any firearms in the
6 process.
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8 Because there is no Fourth Amendment violation, the deputies are entitled to
9 qualified immunity, and summary judgment on this claim.

10 **B. THERE IS NO EVIDENCE THAT THE DEPUTIES VIOLATED THE**
11 **CLEARLY ESTABLISHED LAW.**
12

13 Even if the deputies had violated the Fourth Amendment, they are still entitled to
14 qualified immunity.

15 Whether a law enforcement official entitled to the protection of qualified
16 immunity may be held personally liable for the alleged unlawful action will depend on the
17 "objective legal reasonableness" of the action, which must be assessed in light of the laws
18 or "legal rules" that were "clearly established" at the time the action occurred. *Anderson*,
19 483 U.S. at 639–40. The Court specifically held that "[t]he contours of the right must be
20 sufficiently clear that a reasonable official would understand that what he is doing violates
21 that right." *Id.* A defendant violates an individual's clearly established rights only when
22 "the state of the law" at the time of an incident provided "fair warning" to the defendant
23 that his or her conduct was unconstitutional. *Tolan v. Cotton*, 572 U.S. 650, 656, (2014)
24 (quoting *Hope v. Pelzer*, 536 U.S. 730, 741, (2002))
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1 The Fourth Amendment “right” of which this the Plaintiff complains is the alleged
2 damage to the firearms at the time of the seizure. “[O]fficers executing search warrants on
3 occasion must damage property in order to perform their duty.” Dalia v. United States, 441
4 U.S. 238, 258 (1979). “Destruction of property that is not reasonably necessary to
5 effectively execute a search warrant may violate the Fourth Amendment.” Tarpley v.
6 Greene, 684 F.2d 1 (D.C.Cir.1982). Rather, only unnecessarily destructive behavior,
7 beyond that necessary to execute a warrant effectively, violates the Fourth Amendment.
8 Mena v. City of Simi Valley, 226 F.3d 1031, 1041 (9th Cir.2000) (“officers executing a
9 search warrant occasionally must damage property in order to perform their duty.”). “The
10 general touchstone of reasonableness which governs Fourth Amendment analysis, ...
11 governs the method of execution of [a search] warrant.” U.S. v. Ramirez, 523 U.S. 65, 71
12 (1998) (“[e]xcessive or unnecessary destruction of property in the course of a search may
13 violate the Fourth Amendment, even though the entry itself is lawful.”); see Liston v.
14 County of Riverside, 120 F.3d 965, 979 (9TH Cir .1997) (“only unnecessarily destructive
15 behavior, beyond that necessary to execute a warrant effectively, violates the Fourth
16 Amendment”). Therefore, the touchstone of conduct during a search is “reasonableness.”

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19 The Plaintiff will offer no evidence that Deputy Roth or Deputy Waldron
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 Plaintiff Ana Fernandez has no knowledge of how many handguns or long guns
were in her husband’s possession in June 2018. [SUF, No. 63]. The Plaintiff will offer no
evidence of the condition of the firearms prior to the June 2018, and is unaware of whether
her husband’s collection of firearms was new or used. [SUF, No. 72-73]. The Plaintiff

1 cannot identify which, if any, of the seized firearms were allegedly damaged by the
2 sheriff's department. [SUF, No. 74]. The Plaintiff has no knowledge of the value of seized
3 firearms prior to the seizure. [SUF No. 68]. She has no receipts, no appraisals, and no
4 evidence of insurance or insured value of the firearms prior to the seizure. [SUF Nos. 64-
5 65].

6
7 The undisputed evidence shows that firearms owned by Mr. Fernandez were not in
8 pristine condition at the time of the seizure. Manuel Fernandez would shoot the firearms in
9 his possession, and they were not maintained as collectors' items. [SUF, No. 70]. Many of
10 the firearms were kept in the garage without air conditioning in the Agua Dulce desert.
11 [SUF No. 71]. While the Plaintiff has no knowledge of the condition of the firearms at the
12 time of the seizure, the deputies do have such knowledge. Deputy Roth observed that the
13 majority of the firearms were old, not well cared for, and simply strewn about on the
14 property. [SUF, No. 76]. Deputy Waldron observed that most of the guns, especially the
15 older wood grain stocks, all contained scratches or dings in them prior to their transport to
16 the Palmdale Station. [SUF, No. 77]. The overwhelming majority of the long guns and
17 rifles had damage (scratches/nicks) to the barrels and stocks, some of the stocks were split.
18 Many of the guns were covered with packing grease and gauze. The property custodian
19 often had to clear off debris or other things affixed to a firearm in order to find the serial
20 number or other identifying information. [SUF, No. 75].
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24 Prior to their seizure, the firearms were maintained at the Caprock Lane and
25 Sweetwater residences in "hoarder-like conditions," as reflected by the pre-search video
26 recordings attached as Exhibit 18 to this motion. During the first Caprock Lane search,
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1 deputies recovered nearly 400 firearms from Fernandez's residence. There were waist-high
2 piles of boxes, shoes, scopes, clothing, papers, collectors' items, knives and guns
3 (concealed and unconcealed) in every crevice, corner and compartment. The firearms were
4 haphazardly stored, thrown about in different piles, and buried under piles and layers of
5 debris, household items. As the deputies removed layers of debris, they uncovered more
6 and more firearms. [SUF, No. 78]. Dozens of guns and gun parts were stored in the garage
7 stacked inside of Rubbermaid trash cans. [SUF, No. 79]. Ninety percent of the firearms
8 retrieved were not stored in a box, safe, or any other kind of protective case. [SUF, No.
9 80]. Outside of the garage were numerous inoperable vehicles, and the garage was packed
10 from floor to ceiling with so many items that one could not park or even traverse in the
11 area. [SUF, No. 81]. Deputy Roth observed the deputies making their way systematically
12 through the piles of clothes, shoes, papers, clothes, knives and guns. The deputies were
13 pulling firearms from the layers of trash, rubbish and collectable items. [SUF, No. 83].

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16 The Sweetwater location was also kept in "hoarder-like conditions" with weapons
17 haphazardly stored and maintained. [SUF, No. 86]. The conditions and the storage of the
18 firearms at Sweetwater were captured in the pre-search video footage attached as Exhibit
19 19 to this motion.

20
21 During the seizure at Caprock #1 and Sweetwater, Deputy Waldron handled the
22 Fernandez firearms in the same way as any other property. The firearms were cleared to
23 make sure they were loaded and walked to the person to load them. For handguns, a zip tie
24 was placed through the magazine well and the slide and then the handgun was placed in an
25 envelope. The firearm was stored in a trunk for transport back to the station. [SUF, No.
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1 84]. Because of the volume of long guns, they had to be transported in a truck and inside a
2 convoy of patrol cars. The firearms were transported to the station with patrol cars behind
3 the tuck to ensure nothing would happen to the firearms. [SUF, No. 85].

4 During the second Caprock Lane search, deputy Roth and his team seized nearly 100
5 additional firearms from locations which were so bombarded with layers of debris that they
6 were missed during the first search and handled the items with care. [SUF, No. 87, 88].

7
8 At Palmdale station, the firearms were carefully removed from the patrol cars and
9 the pickup truck, then carefully laid out on the station outside covered patio which was the
10 only location large enough to encompass all of the evidence. Each weapon was placed on
11 the ground and facing in a direction where one could observe that there was no live
12 ammunition round in the chamber. The firearms were arranged by category and
13 photographed. The firearms were all uniform, all even and were set down with care. [SUF,
14 No. 90]. The firearms were then moved a few at a time from the patio and taken into the
15 evidence room to start the process of booking them into evidence. The evidence room at
16 the station is a pretty small room, so the deputies stored the firearms as best they could
17 with the secured space that they had. [SUF, No. 91]. For an unprecedented seizure of this
18 magnitude adjustments were made to LASD's standard procedure based on the totality of
19 the circumstances. [SUF, No. 92].
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22 Based on the undisputed facts, the Plaintiff will offer no evidence that the firearms
23 were unnecessarily damaged at the time of their seizure, and certainly no evidence that
24 they were damaged by Deputy Roth or Deputy Waldron.
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1 As there is no evidence of a violation of clearly established law, Deputies Roth and
2 Waldron are entitled to qualified immunity and summary judgment on the Fourth
3 Amendment claim.

4 **III. PLAINTIFF WILL PROVIDE NO EVIDENCE TO PROVE HER CLAIM**
5 **FOR NEGLIGENCE AGAINST THE DEPUTIES**
6

7 In order to prove facts sufficient to support a finding of negligence, a plaintiff must
8 show that the defendant had a duty to use due care, that the defendant breached that duty,
9 and that the breach was the proximate or legal cause of the resulting injury.” Nally v.
10 Grace Community Church (1988) 47 Cal.3d 278, 292. The Plaintiff will offer no evidence
11 to prove that Deputies Roth and Waldron breached a duty of care owed to her when seizing
12 the firearms, nor that they were the proximate cause of any alleged damage to the firearms.
13

14 As set forth in Section II above, the deputies used due care when handling the
15 overwhelmingly large number of firearms. During the seizures, Deputy Waldron handled
16 the Fernandez firearms in the same way as any other property. The firearms were cleared
17 to make sure they were loaded and walked to the person to load them. For handguns, a zip
18 tie was placed through the magazine well and the slide and then the handgun was placed in
19 an envelope. The firearm was stored in a trunk for transport back to the station. [SUF, No.
20 84]. Because of the volume of long guns, they had to be transported in a truck and in a
21 convoy of patrol cars. It took two hours to load the firearms into the truck and vehicles.
22 The firearms were transported to the station in a convoy with patrol cars behind the truck to
23 ensure nothing would happen to them. [SUF, No. 85].
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1 Every item that Deputy Roth handled was handled with care and due regard for the
2 property seized. [SUF, No. 88]. In order to transport the firearms Deputy Roth placed the
3 handguns into manilla envelopes, then into a receptacle to prevent them from sliding or
4 moving around. Long guns were laid down with towels, blankets or cardboard placed
5 between them to prevent damage. [SUF, No. 89]
6

7 Plaintiff Ana Fernandez has no knowledge of how many handguns or long guns
8 were in her husband's possession in June 2018. [SUF, No. 63]. She will offer no evidence
9 of the condition of the firearms prior to the June 2018. [SUF, No. 72-73]. She cannot
10 identify which, if any, of the seized firearms were allegedly damaged by the sheriff's
11 department. [SUF, No. 74]. She has no knowledge of the value of the seized firearms prior
12 to the seizure. [SUF No. 68]. She has no receipts, no appraisals, and no evidence of
13 insurance or insured value of the firearms prior to the seizure. [SUF Nos. 64-].
14

15 Based on the undisputed facts, the Plaintiff has no evidence to prove that Deputy
16 Roth or Deputy Waldron breached a duty of care owed to her when seizing the firearms.
17 The evidence reflects that the deputies actually treated the Fernandez firearms with more
18 care than Mr. Fernandez treated them. In addition, the Plaintiff's claim that the deputies
19 damaged the firearms is not supported by any admissible evidence but is merely
20 speculation. Nor can the Plaintiff offer evidence that Deputy Roth or Waldron's conduct
21 was the proximate cause of action any damage to the firearms as she had no knowledge of
22 their pre-search condition.
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25 Based on the foregoing, the County of Los Angeles is entitled to summary judgment
26 in its favor on the Plaintiff's claim for negligence.
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**IV. THE PLAINTIFF CANNOT PREVAIL ON HER CAUSE OF ACTION
FOR BREACH OF A BAILMENT CONTRACT**

The Plaintiff's Fourth Claim is for Breach of Bailment under California law. "The FAC alleges that the defendants, as bailees failed to adequately care for the firearms, transporting and storing them in a way that tremendous damage resulted to them." [FAC, para. 125 (Ex. 1)]. The Plaintiff cannot prove the elements of a bailment claim against the defendant.

"A bailment relationship is said to arise where an owner, while retaining title, delivers personalty to another for some particular purpose upon an express or implied contract. The relationship includes a return of the goods to the owner or a subsequent disposition in accordance with his instructions." *Lionberger v. United States*, 371 F.2d 831, 840 (Ct.Cl.1967); *see also* 19 Williston on Contracts § 53:1 (4th ed. 2012) (defining a bailment as "a delivery of personalty for some particular purpose, or on mere deposit, upon a contract, express or implied, that after the purpose has been fulfilled it shall be redelivered to the person who delivered it, or otherwise dealt with according to his directions, or kept until he reclaims it, as the case may be." (international quotation marks omitted). *Kam-Almaz v. United States*, 682 F.3d 1364, 1368 (Fed. Cir. 2012)

The Plaintiff in this case will offer no evidence to prove the required elements of a bailment. First, the Plaintiff did not voluntarily "deliver" the firearms to the County of Los Angeles, it is undisputed that they were involuntarily "seized" from her husband pursuant to several warrants. *See Goudy & Stevens, Inc. v. Cable Marine, Inc.*, 924 F.2d 16, 18 (1st Cir.1991).

1 The Plaintiff will offer no evidence of an express contract or agreement between her
2 and the defendants with regard to the firearms seized.

3 The plaintiff will offer no evidence of the mutual intent required for an implied-in-
4 fact contract. A seizure, essentially by definition, lacks mutual intent. Kam-Almaz, 682
5 F.3d at 1368. Thus, a seizure pursuant to the government's authority to police the border
6 generally will not give rise to an implied-in-fact bailment contract. See Llamera v. United
7 States, 15 Cl.Ct. 593, 597 (1988).

9 Further, because the Plaintiff did not voluntarily deliver the firearms to the County,
10 she has no evidence of any valid consideration necessary for a bailment contract. See
11 Llamera, 15 Cl.Ct. at 598. “The ‘purely unilateral act’ of seizing a person's personal
12 property does not evidence intent to enter into a bailment contract.” Kam-Almaz v. United
13 States, 682 F.3d at p. 1369.

15 The Plaintiff will offer no evidence of any promise, representation, statement, or
16 assertion by the Deputy Roth or Deputy Waldron that would have created an express
17 implied-in-fact bailment contract with her. Finally, as with The Plaintiff’s claim for
18 negligence, *supra*, the Plaintiff will offer no evidence to prove that the firearms were not
19 returned to her in the same condition as when they were seized.

21 Therefore, the County of Los Angeles is entitled to summary judgment on the
22 Plaintiffs’ claim for bailment.

23
24 **V. THE PLAINTIFF CANNOT PROVE HER CLAIM FOR TRESPASS TO**
25 **CHATTELS AGAINST THE DEFENDANTS**

26 *////*

1 The Plaintiff's fifth claim is for Trespass to Chattels. It is alleged that the damage to
2 the seized firearms was an intentional and substantial interference with the Plaintiff's
3 enjoyment of her property. (FAC, para. 131). The Plaintiff will offer no evidence to prove
4 this claim.

5 A trespass to chattels cause of action "lies where an intentional interference with the
6 possession of personal property has proximately caused injury." Thrifty-Tel, Inc. v.
7 Bezenek, 46 Cal. App. 4th 1559, 1566 (1996). The tort of trespass to chattels allows
8 recovery for interferences with possession of personal property 'not sufficiently important
9 to be classed as conversion, and so to compel the defendant to pay the full value of the
10 thing with which he has interfered.'" Intel Corp. v. Hamidi, 30 Cal.4th 1342, 1350 (Cal.
11 2003) (citation omitted). "Though not amounting to conversion, the defendant's
12 interference must, to be actionable, have caused some injury to the chattel or to the
13 plaintiff's rights in it." *Id.* Trespass to chattels is "an occasional remedy for minor
14 interferences, resulting in some damage, but not sufficiently serious or sufficiently
15 important to amount to the greater tort of conversion." Jamgotchian v. Slender, 170
16 Cal.App.4th 1384, 1400-01 (2009); Thrifty-Tel, Inc., 46 Cal.App.4th at p. 1566-67.

17 The Plaintiff will offer no evidence that the acts of Deputy Roth or Deputy Waldron
18 were the proximate cause of any injury or damage to the seized firearms. As set forth in
19 detail under section II, prior to the firearms in question were maintained in deplorable
20 conditions, buried under debris piled 5-feet high, kept in an unconditioned garage in the
21 Agua Dulce desert, the firearms were damaged prior to the seizure.

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1 Plaintiff Ana Fernandez has no knowledge of how many handguns or long guns
2 were in her husband's possession in June 2018. [SUF, No. 63]. The Plaintiff is unaware of
3 the condition of the firearms prior to the June 2018. [SUF, No. 72-73]. The Plaintiff cannot
4 identify which, if any, of the seized firearms were allegedly damaged by the sheriff's
5 department. [SUF, No. 74]. The Plaintiff has no knowledge of the value of the seized
6 firearms prior to the seizure. [SUF No. 68]. She has no receipts, no appraisals, and no
7 evidence of insurance or insured value of the firearms prior to the seizure. [SUF Nos. 64-].
8 She has no evidence to support claim for trespass to chattels.
9

10 Based on the foregoing, the defendants are entitled to summary judgment on the
11 Plaintiffs' claim for trespass to chattels.
12

13 **VI. THE PLAINTIFF IS NOT ENTITLED TO DECLARATORY RELIEF**

14 The Declaratory Judgment Act, codified as 28 U.S.C. § 2201(a), provides in
15 pertinent part:
16

17 In a case of actual controversy within its jurisdiction ... any court of the
18 United States, upon the filing of an appropriate pleading, may declare the
19 rights and other legal relations of any interested party seeking such
20 declaration, whether or not further relief is or could be sought. Any such
21 declaration shall have the force and effect of a final judgment or decree and
22 shall be reviewable as such.

23 The DJA's operation "is procedural only." Aetna Life Ins. Co. of Hartford, Conn. v.
24 Haworth, 300 U.S. 227, 240, (1937). A DJA action requires a district court to "inquire
25 whether there is a case of actual controversy within its jurisdiction." American States Ins.
26 Co. v. Kearns, 15 F.3d 142, 143-144 (9th Cir.1994).
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1 In the instant case, the Plaintiff's request for declaratory relief is derivative of her
2 other claims. Because the Plaintiff's claims fail as a matter of law, the Plaintiff is not
3 entitled to declaratory relief.


4 **CONCLUSION**

5 Deputies John Roth and Wyatt Waldron are entitled to summary judgment of all
6 claims on the ground that there are no triable issues of fact remaining in this case. The
7 deputies are entitled to qualified immunity on the Plaintiff's Claim under the Fourth
8 Amendment. In addition, the Plaintiff cannot prove the essential elements of her state law
9 claims and the Plaintiff is not entitled to declaratory relief.
10

11 DATED: March 6, 2024

Respectfully submitted,

LOGAN MATHEVOSIAN & HUR LLP

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13
14 By: 
15 AMBER A. LOGAN
16 Attorneys for Defendants,
17 Deputies Roth and Waldron
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